Mr. Walter Mugdan  
Acting Regional Administrator  
U.S. Environmental Protection Agency, Region 2  
290 Broadway, 26th Floor  
New York, NY 10007-1866  

Dear Acting Administrator Mugdan:

On behalf of the Governor of the State of New York, I am submitting for approval by the U.S. Environmental Protection Agency (EPA) a State Implementation Plan (SIP) revision to incorporate revisions to Title 6 of the New York Codes, Rules, and Regulations (NYCRR) Part 219 and Part 200.

The New York State Department of Environmental Conservation (NYSDEC) has revised 6 NYCRR Part 219, "Incinerators" with attendant revisions to 6 NYCRR Part 200, "General Provisions." DEC repealed and replaced Subpart 219-4 to better reflect the current state of cremation technology and reduce emissions of particulate matter from new crematories constructed in the state. In addition, DEC is sunsetting Subparts 219-5 and 219-6 by requiring that existing units subject to these requirements be regulated by more stringent standards under the new Subpart 219-4. DEC is also adding a new Subpart 219-10 to limit oxides of nitrogen emissions from municipal waste combustion units. Finally, DEC is making several minor changes to Subpart 219-1 and conforming changes to Section 200.9 to clarify various definitions used throughout Part 219.

A public review process was held for the proposed revisions. A “Notice of Proposed Rulemaking” that included information for three public hearings was published in the Environmental Notice Bulletin (ENB) and the New York State Register on September 25, 2019. Legislative public hearings on the proposed revisions to the regulations and the proposed subsequent submission as a SIP revision were held on December 3, 2019 in Hauppauge; December 4, 2019 in Avon; and December 6, 2019 in Albany.

The following documents are enclosed with this SIP revision:

2. Notice of proposed rulemaking, including public hearing information, as published in the ENB and State Register on September 25, 2019;
3. Newspaper proofs of publication for the proposed rulemaking;
4. Transcripts of the public hearings held in Hauppauge on December 3, 2019; in Avon on December 4, 2019; and in Albany on December 6, 2019;
5. Assessment of Public Comments for all comments received on the proposed rulemaking;
6. Certificate of Adoption dated February 12, 2020;
7. Express Terms for 6 NYCRR Part 219 and Part 200 as adopted on February 12, 2020; and

If you have any questions or concerns, please contact Mr. Christopher LaLone, Acting Director, Division of Air Resources at (518) 402-8452.

Sincerely,

J. Jared Snyder
Deputy Commissioner
Office of Climate, Air & Energy

Enclosures

c: R. Ruvo, EPA Region 2
    C. LaLone
Section 219-1.1 Definitions.

(a) For the purpose of this Part and each of the Subparts of this Part, the general definitions of Part 200 of this Title apply.

(b) For the purpose of this Part, the following definitions also apply to Subpart 219-2 through Subpart 219-6:

(1) ‘Commercial waste’. Solid waste generated by stores, offices, institutions, restaurants, warehouses, and nonmanufacturing activities at industrial facilities.

(2) ‘Dioxin equivalent’. Any combination or mix of polychlorinated dibenzo-para-dioxins and polychlorinated dibenzo furans [containing from four to eight chlorine atoms which are expressed as 2,3,7,8 tetrachlorinated dibenzo-para-dioxin equivalents using the toxic equivalency factors listed below. Standard conditions upon which these data are referenced are an absolute pressure of 760 mm mercury and 20°C at 7 percent oxygen.] as defined in
Paragraph 200.1(cx) of this Title.

<table>
<thead>
<tr>
<th>['Compound']</th>
<th>['Factor']</th>
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</thead>
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<tr>
<td>monochlorinated dibenzo-para-dioxins (all)</td>
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</tr>
<tr>
<td>trichlorinated dibenzo-para-dioxins (all)</td>
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<tr>
<td>dichlorinated dibenzo-para-dioxins (all)</td>
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</tr>
<tr>
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<tr>
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<tr>
<td>other heptachlorinated dibenzo furans</td>
<td>0.00001</td>
</tr>
<tr>
<td>octachlorinated dibenzo furans</td>
<td>0</td>
</tr>
</tbody>
</table>
(3) ‘Hospital’. Any facility which has an organized medical staff, maintains at least six 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 24 hours her admission. This definition does not include facilities maintained for the sole purpose of providing nursing or convalescent care to human patients who are generally not acutely ill but who require continuing medical supervision.

(4) ‘Hospital/medical/infectious waste incinerator’ or ‘HMIWI’ or ‘HMIWI unit’. Any device that combusts any amount of hospital waste and/or medical/infectious waste.

(5) ‘Hospital/medical/infectious waste incinerator’ or ‘HMIWI operator’. Any person who operates, controls or supervises the day-to-day operation of a HMIWI.

(6) ‘Hospital waste’. Discards generated at a hospital, except unused items returned to the manufacturer. The definition of hospital waste does not include human corpses, remains, and anatomical parts that are intended for interment or cremation.

(7) ‘Incinerator’. Any structure or furnace in which the combustion of any amount of solid waste takes place[ and type 0, 1, 2, 3, or 4 refuse is used as fuel], alone or in conjunction with fossil fuel.
(8) ‘Medical/infectious waste’. 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 that is listed below:

   (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.

   (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.

   (iii) Human blood and blood products including:

       (‘a’) liquid waste human blood;

       (‘b’) products of blood;

       (‘c’) items saturated and/or dripping with human blood; or

       (‘d’) 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.

(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 agent, such as used slides and cover slips.

(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.

(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.

(vii) Unused sharps including the following unused, discarded sharps: hypodermic needles, suture needles, syringes, and scalpel blades.
The definition of medical/infectious waste does not include hazardous waste identified or listed under the regulations in Part 373 of this Title; household waste, as defined in 40 CFR 261.4(b)(1) (see Table 1, Section 200.9 of this Title); ash from incineration of medical/infectious waste, once the incineration process has been completed; human corpses, remains, and anatomical parts that are intended for interment or cremation; and domestic sewage materials.

(9) ‘Municipal solid waste’. [All materials or substances discarded from single and multiple family dwellings, and other residential sources; similar types of materials from institutional, commercial and industrial sources; concurrently incinerated sewage sludge but not hazardous waste as defined in Part 371 of this Title.] Solid waste discarded from single and multiple family dwellings and other residential sources, similar types of materials discarded from institutional, commercial and industrial sources, and comingled biosolids. Municipal solid waste does not include hazardous waste as defined in Part 371 of this Title.

(10) ‘Municipal solid waste incineration facility’. 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.

‘Note:’ A municipal solid waste incineration facility may also be an infectious waste incineration
(11) ‘Pathological Waste’. Waste material consisting of human and animal remains, anatomical parts, and/or tissue, the bags and containers used to collect and transport the waste material, and any incidental animal bedding.

[(11)](12) ‘Private solid waste incineration facility’. Any facility, other than a municipal solid waste facility, that [burns]processes municipal solid waste, or any fuels derived from municipal solid waste using thermal destruction technologies, with or without energy recovery.

(13) ‘Solid waste’. (i) Except as described in subparagraph (iii) of this paragraph, discarded materials including solid, liquid, semi-solid, or contained gaseous material, resulting from industrial, municipal, commercial, institutional, mining or agricultural operations or from residential activities including materials that are recycled or that may have value.

(ii) A material is considered discarded if it is spent, worthless, or in excess to the generator, and is:

   (‘a’) thermally, physically, chemically or biologically processed;

   (‘b’) disposed of through discharge, deposit, injection, dumping, spilling, leaking or placement into or on any land or water so that the material or any constituent thereof may enter the environment or be emitted into the air or discharged into groundwater or surface
water; or

(‘c’) accumulated or transferred instead of or before being processed or disposed.

(iii) The following are not solid waste for the purposes of this Part:

(‘a’) materials that are intended for reuse for their original function, without processing, such as materials at a garage sale, consignment shop, textile collection location or similar venue;

(‘b’) materials that are incorporated into food products for human consumption;

(‘c’) unadulterated wood generated from sources other than construction and demolition that is burned in campfires, ceremonial burns, cooking fires, wood stoves, or other similar uses;

(‘d’) any mixture of domestic sewage and other wastes that pass through a sewer system to a publicly or privately owned treatment works for treatment;

(‘e’) industrial wastewater discharges that are point source discharges subject to permits under Environmental Conservation Law (ECL) article 17;
(‘f’) irrigation return flows;

(‘g’) materials subject to in-situ mining techniques which are not removed from the ground as part of the extraction process;

(‘h’) crumb rubber;

(‘i’) materials that are used in accordance with a determination by the department pursuant to the provisions of Section 360.12 of this Title;

(‘j’) materials that are used for artificial reefs in compliance with applicable water quality criteria;

(‘k’) material removed from the waters of the State and placed or disposed in compliance with a permit issued under ECL article 15, 24, 25, or 34 or a water quality certification issued under section 401 of the Federal Water Pollution Control Act to the extent that disposal of the material is regulated by such permit or certification. However, any disposal not regulated by such permit remains subject to regulation under Parts 360, 361, 362, 363, and 365 of this Title. Dredged or excavated material generated by a manufacturing or industrial process is industrial waste, and the treatment, storage, transfer, or disposal of the material is subject to regulation under Parts 360 to 365 of this Title; and
(‘1’) waste samples received at a laboratory or educational institution for analysis of constituents.

[(12) ‘Refuse’. All waste material, including but not limited to garbage, rubbish, incinerator residue, street cleanings, dead animals, and offal. Refuse is classified in accordance with Table 1, Appendix 2.

(13) ‘Smoke’. An air contaminant consisting of small gas-borne particles emitted by an air contamination source in sufficient number to be observable.

(14) ‘Solid waste’. (i) ‘Solid waste’ means all putrescible and nonputrescible materials or substances except as described in subparagraph (iv) of this paragraph that are discarded or rejected as being spent, useless, worthless or in excess of the owners at the time of such discard or rejection, including but not limited to garbage, refuse, industrial and commercial waste, sludges from air or water treatment facilities, rubbish, tires, ashes, contained gaseous material, incinerator residue, construction and demolition debris, discarded automobiles and offal.

(ii) A material is discarded if it is abandoned by being:

(‘a’) disposed of;

(‘b’) burned or incinerated, including being burned as a fuel for the purpose of
recovering usable energy; or

(‘c’) accumulated, stored, or physically, chemically, or biologically treated (other than burned or incinerated) instead of or before being disposed of.

(iii) A material is disposed of if it is discharged, deposited, injected, dumped, spilled, leaked, or placed into or on any land or water so that such material or any constituent thereof may enter the environment or be emitted into the air or discharged into ground water or surface water.

(iv) The following materials are not solid waste for the purposes of this Part:

(‘a’) domestic sewage;

(‘b’) any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly owned treatment works for treatment except for any material that is introduced into such system in order to avoid the provisions of Part 360 of this Title;

(‘c’) industrial wastewater discharges that are actual point source discharges subject to permit under ECL article 17. Industrial wastewaters while they are being collected, stored, or treated before discharge, and sludges that are generated by
industrial wastewater treatment are solid wastes and are regulated by Part 360 of this Title;

(`d`) irrigation return flows;

(`e`) radioactive materials which are source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954 (see section 360-1.3a of this Title);

(`f`) materials subject to ‘in-situ’ mining techniques which are not removed from the ground as part of the extraction process; and

(`g`) materials that the department has determined are being beneficially used, including the following:

1. materials that are incorporated into a manufacturing process to produce a marketable product;
2. compost that meets the criteria for Class I public distribution and agricultural usage identified in Subpart 360-5 of this Title;
3. wood chips used for mulch, landscaping, or erosion control purposes;
4. ash generated from the combustion of coal if the ash has been tested for toxicity pursuant to a testing protocol approved by the department and certified to
be nontoxic and used as follows:

(i) coal combustion bottom ash used as a traction agent on roadways, parking lots, and other driving surfaces;

(ii) coal combustion bottom ash or fly ash used as a cement substitute or aggregate in cement or concrete products; or

(iii) coal combustion bottom ash or fly ash used in situations where the ash is contained and leachate will not be generated, such as structural fill within building foundations.]

Section 219-1.2 [ Summary of applicability.] Severability

Existing Section 219-1.2 is repealed. A new Section 219-1.2 is added as follows.

Each provision of this Subpart shall be deemed severable, and in the event that any portion of this Subpart is held to be invalid, the remainder of this Subpart shall continue in full force and effect.
Existing Subpart 219-4 is repealed. A new Subpart 219-4 is proposed as follows:

Section 219-4.1 Definitions

(a) For the purpose of this Subpart, the definitions of Subpart 219-1 and Part 200 of this Title apply.

(b) For the purpose of this Subpart, the following definitions also apply:

(1) ‘Existing Cremation Unit’. An emission source used for the cremation of human or animal remains at a crematory facility that was constructed on or before the effective date of this Subpart.

(2) ‘Modified Cremation Unit’. An emission source used for the cremation of human or animal remains at a crematory facility that has been modified, as defined in Subdivision 200.1(aq) of this Chapter, after the effective date of this Subpart.

(3) ‘New Cremation Unit’. An emission source used for the cremation of human or animal remains at a crematory facility for which an application for an air permit or registration, as described in Part 201 of this Chapter, was received by the Department after the effective date of this Subpart.
Section 219-4.2 Applicability

This Subpart applies to all new, modified, and existing cremation units used for the cremation of human and animal remains.

Section 219-4.3 Particulate emissions

(a) No person may cause or allow emissions of particulates into the outdoor atmosphere from an existing cremation unit in excess of 0.08 grains per dry standard cubic foot of flue gas, corrected to seven percent oxygen.

(b) No person may cause or allow emissions of particulates into the outdoor atmosphere from a new or modified cremation unit in excess of 0.05 grains per dry standard cubic foot of flue gas, corrected to seven percent oxygen.

Section 219-4.4 Operating requirements

(a) No person may cause or allow emissions to the outdoor atmosphere having a six-minute average opacity of 10 percent or greater from any cremation unit.

(b) The owner or operator of a cremation unit must maintain a one-hour average temperature of at least 1600 degrees Fahrenheit in the secondary combustion chamber, with a minimum residence time for combustion gases of at least one second, at all times remains are being cremated.
(c) The owner or operator of a cremation unit subject to the requirements of this subpart must install, operate, calibrate, and maintain, in accordance with manufacturer's instructions, instruments for continuously monitoring and recording the temperature of the secondary (or last) combustion chamber.

(d) No person may combust materials other than human and animal remains, their associated containers, pathological waste, and incidental animal bedding in any cremation unit subject to the requirements of this Subpart unless prior written authorization has been obtained from the department.

(e) No person may cause or allow the combustion of human and animal remains in any cremation unit subject to the requirements of this Subpart unless a cremation certification form has been completed. Each cremation certification form shall contain the following information at a minimum:

(1) The name, title, and affiliation of the person providing the remains for cremation;

(2) An attestation signed by the person providing the remains for cremation attesting that the remains and their container do not contain materials prohibited from being combusted by this subpart;

(3) The name and signature of the person accepting the remains for cremation; and
(4) The date the remains were accepted for cremation.

(f) No person may cause or allow remains to be charged at a crematory facility in excess of the manufacturer’s rated hourly capacity of the cremation unit.

Section 219-4.5 Emissions testing and modeling

(a) Upon request by the Department, the owner or operator of a crematory facility must demonstrate compliance with the requirements of this subpart by either conducting onsite testing or submitting a representative stack test for an identical unit.

(b) Onsite stack testing conducted to demonstrate compliance with subdivision (a) of this section must be conducted pursuant to a Department approved testing protocol. The facility owner or operator must submit a testing protocol to the Department at least thirty days prior to the commencement of testing pursuant to Part 202 of this Chapter.

(c) Representative stack tests submitted to demonstrate compliance with subdivision (a) of this section must include the following information:

(1) A letter signed by the facility owner or operator certifying that the test report being submitted is for an identical cremation unit;

(2) A copy of the testing protocol that was used;
(3) A description of the testing methods used, including any deviations from established reference test methods;

(4) A description of all quality assurance, data reduction, and any other operating practices followed; and

(5) Testing results demonstrating compliance with the standards of this subpart in units of measurement identical to those described in this Subpart.

(d) The department may require the owner or operator of a crematory facility submitting a representative stack test to perform a stack test if the submitted test protocol or report does not meet the department’s standards for approval.

(e) The department may require the owner or operator of a crematory facility to perform an air dispersion modeling analysis using procedures acceptable to the department to evaluate the impacts of the facility on the surrounding community.

Section 219-4.6 Operator training and certification

(a) No cremation unit subject to the requirements of this subpart is permitted to operate unless it is operated under the onsite supervision of a person possessing a valid crematory operator certification issued by the department.
(b) Crematory operator certifications issued pursuant to this Section shall be valid for a period of five years from the date of issuance.

Section 219-4.7 Inspection and Maintenance

(a) The owner or operator of a crematory facility must inspect each cremation unit at that facility at least once per calendar year. The facility owner or operator shall perform all necessary repairs and routine maintenance in order to ensure that each cremation unit, monitoring device, and control device is operated and maintained in accordance with manufacturer’s instructions.

Section 219-4.8 Record keeping requirements

(a) The owner or operator of a crematory facility must maintain the following records at the facility for a period of at least five years:

(1) Continuous temperature monitoring records indicating the date and time of each cremation performed;

(2) Operator training and certification records for all operators at the facility;

(3) A record of the date, time, and cause of all malfunctions and any corrective action taken to resolve them;

(4) A record of any maintenance performed on each cremation unit, including the annual inspection required by Section 219-4.7 of this Subpart, and the routine replacement of parts
and components; and

(5) A copy of each cremation certification form created pursuant to Subdivision 219-4.4(e) of this Subpart.

(b) The owner or operator of a crematory facility must maintain the following records at the facility for the lifetime of each cremation unit installed at the facility:

(1) Manufacturer’s operating instructions for each cremation unit and any associated monitoring equipment or emissions controls; and

(2) A copy of the most recent stack test submitted to the department in order to demonstrate compliance with this subpart.

(c) The owner or operator of a crematory facility must make all records kept pursuant to this Section available to the department upon request.

Section 219-4.9 Compliance schedule

(a) The owner or operator of an existing cremation unit shall:

(1) Obtain appropriate operator certifications, as described in Section 219-4.6 of this Subpart, within 12 months of the effective date of this Subpart for each uncertified operator at the facility:
(2) Demonstrate compliance with the requirements of this Subpart no later than 60 months from the effective date of this Subpart. A demonstration of final compliance shall include the following information for each existing cremation unit:

(i) An emissions testing report, as described in Section 219-4.5 of this Subpart, indicating that each existing cremation unit meets the particulate matter limitation specified in Subdivision 219-4.3(a) of this Subpart;

(ii) Documentation indicating that each existing cremation unit is capable of meeting the requirements of this Subpart; and

(iii) Documentation of the certification status of each operator at the facility.

(3) The owner or operator of an existing cremation unit may submit a written request for a single extension to the deadline described in Paragraph (2) above. The request shall describe in detail the circumstances necessitating the extension and shall propose a projected final compliance date. The Department, in its sole discretion, shall approve or deny the request on a case by case basis.

(b) For existing cremation units that cannot meet the requirements of this Subpart, the owner or operator shall submit a written plan to the Department that describes the proposed schedule for the replacement or removal of the affected cremation unit within 60 days of becoming aware that it cannot meet the requirements of this Subpart.
Section 219-4.10 Severability

Each provision of this Subpart shall be deemed severable, and in the event that any portion of this Subpart is held to be invalid, the remainder of this Subpart shall continue in full force and effect.
SUBPART 219-5

EXISTING INCINERATORS

Existing Subpart 219-5 is repealed and reserved.
SUBPART 219-6

EXISTING INCINERATORS - NEW YORK CITY, NASSAU AND WESTCHESTER COUNTIES

Existing Subpart 219-6 is repealed and reserved.
SUBPART 219-10

REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) FOR OXIDES OF NITROGEN (NO\textsubscript{X}) AT MUNICIPAL AND PRIVATE SOLID WASTE INCINERATION UNITS

Section 219-10.1 Applicability

This Subpart applies to all new, modified and existing municipal and private solid waste incineration units.

Section 219-10.2 Control Requirements

(a) No owner or operator of a municipal or private solid waste incineration unit shall cause or allow emissions of NO\textsubscript{X} from any municipal or private solid waste incineration unit in excess of the applicable limit in Table 1 of this Subpart on a 24-hour arithmetic average basis.

Table 1 – 24-Hour Average NO\textsubscript{X} Emission Limits

<table>
<thead>
<tr>
<th>Combustion Technology</th>
<th>NO\textsubscript{X} Emission Limit (ppmv, dry corrected to 7% oxygen)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mass Burn Waterwall</td>
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</tr>
<tr>
<td>Rotary Combustor</td>
<td>170</td>
</tr>
<tr>
<td>Other Technologies</td>
<td>*</td>
</tr>
</tbody>
</table>

* See Subdivision 219-10.2(c) of this Section

(b) No owner or operator of a municipal or private solid waste incineration facility shall cause or allow emissions of NO\textsubscript{X} from any municipal or private solid waste incineration unit in
excess of the applicable limit in Table 2 of this Subpart on an annual arithmetic average basis.

Table 2 – Annual Average NO\textsubscript{x} Emission Limits

<table>
<thead>
<tr>
<th>Combustion Technology</th>
<th>NO\textsubscript{x} Emission Limit (ppmv, dry corrected to 7% oxygen)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mass Burn Waterwall</td>
<td>150</td>
</tr>
<tr>
<td>Rotary Combustor</td>
<td>150</td>
</tr>
<tr>
<td>Other Technologies</td>
<td>*</td>
</tr>
</tbody>
</table>

* See Subdivision 219-10.2(c) of this Section

(c) The owner or operator of a municipal or private solid waste incineration unit that employs a combustion technology not listed in Table 1 or Table 2 of this Section shall develop and propose a facility specific 24-hour and annual average NO\textsubscript{x} emission limitation. A proposal prepared pursuant to this Subdivision shall consider:

(i) The available NO\textsubscript{x} control technologies, the projected effectiveness of the technologies considered, and the costs for installation and operation for each of the technologies; and

(ii) The technology and the appropriate emission limit selected as RACT considering the costs for installation and operation of the technology.

(d) By January 1, 2020, the owner or operator of a facility subject to the requirements of this Subpart must submit to the Department either a complete application for a permit that incorporates the requirements of this Subpart or a RACT analysis that explains why the control technology the facility currently employs should be considered RACT for that emission source.
(e) Any facility specific NO\textsubscript{x} emissions limitation proposal made pursuant to subdivisions 219-10.2(c) or 219-10.2(d) of this Section that is approved by the Department will be recorded in the relevant Title V facility permit as the applicable NO\textsubscript{x} RACT requirement, and must be submitted to the administrator for approval as a separate SIP revision.

Section 219-10.3 Compliance demonstration

(a) The owner or operator of a municipal or private solid waste incineration unit subject to this Subpart shall conduct an initial performance test within one year of the effective date of this Subpart. The initial performance test shall be conducted pursuant to a testing protocol approved by the Department and using appropriate reference test methods. The facility owner or operator must submit a testing protocol to the Department for approval at least thirty days prior to the commencement of testing pursuant to Part 202 of this Chapter.

(b) The owner or operator of a municipal or private solid waste incinerator unit subject to this Subpart shall install, calibrate, maintain, and operate a continuous emission monitoring system for measuring oxides of nitrogen discharged to the atmosphere, and shall record the output of that system.

(c) Following the date that the initial performance test required by Subdivision (a) of this Section is completed, the owner or operator of a unit subject to this Subpart shall demonstrate compliance with the applicable 24-hour oxides of nitrogen emission limit using the 24-hour daily
arithmetic average of the hourly emissions concentrations measured by the continuous emissions monitoring system. Each 1-hour average shall be:

(i) Based on at least two data points collected during that hour; and

(ii) Expressed in units of parts per million by volume on a dry basis, and corrected to seven percent oxygen using the 1-hour arithmetic average oxygen continuous monitoring system data.

(d) Following the date that the initial performance test required by Subdivision (a) of this Section is completed, the owner or operator of a unit subject to this Subpart shall demonstrate compliance with the applicable annual oxides of nitrogen emissions limit using the arithmetic average of the 24-hour daily arithmetic average emissions concentrations measured pursuant to Subdivision (c) of this Section.

(e) The owner or operator of a municipal or private solid waste incineration unit subject to this Subpart shall install, operate, calibrate, and maintain the continuous emissions monitoring system required by this Section in accordance with all applicable performance specifications, test methods, and manufacturer’s recommendations.

(f) The owner or operator of a municipal or private solid waste incineration unit subject to this Subpart shall submit an application for a permit modification to incorporate the requirements of this Subpart, as described in Subpart 201-6 of this Title, to the Department within 180 days of the completion of the initial performance test described in Subdivision (a) of this Section.
Section 219-10.4 Severability

Each provision of this Subpart shall be deemed severable, and in the event that any portion of this Subpart is held to be invalid, the remainder of this Subpart shall continue in full force and effect.
(Sections 200.1 through 200.8 remain unchanged)

Section 200.9, Table 1 is amended to read as follows:

<table>
<thead>
<tr>
<th>Reference</th>
<th>Description</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>219-1.2(b)(8)</td>
<td>40 CFR Part 261.4(b)(1) (October 17, 2018)</td>
<td>*</td>
</tr>
<tr>
<td>219-2.2(f)</td>
<td>40 CFR Part 60.58(b)(2) (July 1, 2003)</td>
<td>*</td>
</tr>
<tr>
<td>219-2.7(a)</td>
<td>40 CFR Part 60, Appendix B (July 1987) Performance Specifications 1,2 and 3, pages 822-847</td>
<td>*</td>
</tr>
<tr>
<td>219-3.8</td>
<td>40 CFR Part 60, Appendix B (July 1987) Performance Specifications 1,2 and 3, pages 822-847</td>
<td>*</td>
</tr>
<tr>
<td>219-7.2</td>
<td>40 CFR Part 60.58(d)(2) (July 1, 2003)</td>
<td>*</td>
</tr>
<tr>
<td>219-9.1</td>
<td>40 CFR Part 60, Subpart MMMM (March 21, 2011)</td>
<td>*</td>
</tr>
<tr>
<td>219-9.2</td>
<td>40 CFR Part 60, Subpart MMMM (March 21, 2011)</td>
<td>*</td>
</tr>
<tr>
<td>219-9.3</td>
<td>40 CFR Part 60, Subpart MMMM (March 21, 2011)</td>
<td>*</td>
</tr>
<tr>
<td>219-9.3(a)(1)(iv)</td>
<td>40 CFR Part 60.5175 (March 21, 2011)</td>
<td>*</td>
</tr>
<tr>
<td>219-9.3(a)(2)</td>
<td>40 CFR Part 60, Subpart MMMM (March 21, 2011)</td>
<td>*</td>
</tr>
<tr>
<td>219-9.3(b)(1)(iv)</td>
<td>40 CFR Part 60.5175 (March 21, 2011)</td>
<td>*</td>
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<tr>
<td>219-9.3(b)(5)</td>
<td>40 CFR Part 60, Subpart MMMM (March 21, 2011)</td>
<td>*</td>
</tr>
</tbody>
</table>
Public Notice

State Pollutant Discharge Elimination System (SPDES) Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity

Permit No. GP-0-17-004

The New York State Department of Environmental Conservation (NYS DEC) is issuing this notice of draft permit for modifications to the SPDES Multi-Sector General Permit (MSGP) for Stormwater Discharges Associated with Industrial Activity (GP-0-17-004).

Copies of the draft permit and draft fact sheet describing the draft changes are available on the NYSDEC webpage. http://www.dec.ny.gov/chemical/9009.html

The public comment period shall end 30 days after publication in the Department's Environmental Notice Bulletin (ENB) or the last newspaper, whichever is later. Written comments on the draft general permit must be submitted to the contact listed below, or by e-mail to Stormwater_info@dec.ny.gov

If submitting comments by e-mail, please include "Comments on the proposed MSGP 0-17-004" in the subject line.

Contact: Steven McCague, NYS DEC - Division of Water, 625 Broadway, 4th Floor, Albany, NY 12233-3505, E-mail: Stormwater_info@dec.ny.gov

Notice of Proposed Rulemaking 6 NYCCR Part 219, Incinerators

Pursuant to Sections 1-0101, 3-0301, 3-0303, 19-0103, 19-0105, 19-0107, 19-0301, 19-0302, 19-0303, 19-0305, 19-0306, 19-0311, 71-2103, 71-2105, the New York State Department of Environmental Conservation hereby gives notice of the following:

The New York State Department of Environmental Conservation (NYS DEC) is proposing several revisions to its operating requirements for human and animal crematories. These requirements are found in Title 6 of the New York Compilation of Codes, Rules and Regulations (6 NYCCR) Part 219, Incinerators (Part 219). NYS DEC is proposing to repeal and replace Subpart 219-4 to better reflect the current state of cremation technology and reduce emissions of particulate matter from new crematories constructed in the state. In addition, NYS DEC is proposing to sunset Subparts 219-5 and 219-6 by requiring that existing units subject to these requirements be regulated by more stringent standards under a new Subpart 219-4. NYS DEC is also proposing to add a new Subpart 219-10 to limit oxides of nitrogen emissions from municipal waste combustion units. Finally, NYS DEC is proposing to make several minor changes to Subpart 219-1 and conforming changes to Subpart 200.9 to clarify various definitions used throughout Part 219. Further, NYS DEC proposes to submit the Part 219 as well as the revisions to Part 200 to the United State Environmental Protection Agency (US EPA) as a revision to the State Implementation Plan (SIP) for New York State.

Documents pertaining to this proposed rulemaking can be found on the NYS DEC's website at: http://www.dec.ny.gov/regulations/propprogregulations.html#public.

Written comments on the proposed rule may be submitted until 5:00 p.m. on December 11, 2019.

For further information, contact:

Mark Lanzafame
NYSDEC - Division of Air Resources
625 Broadway
Albany, NY 12233-3250
Phone: (518) 402-8403
E-mail: airregs@dec.ny.gov

Requests for information and comments related to the SIP revision may be obtained from Robert D. Bielawa, NYS DEC - Division of Air Resources, 625 Broadway, Albany, NY 12233-3251, Phone: (518) 402-8396, E-mail: airregs@dec.ny.gov. Written statements may be submitted until 5:00 p.m. on December 11, 2019.

Hearings for the proposed rule and attendant revisions to existing rules described above will be held as follows and are scheduled in places that are reasonably accessible to persons with impaired mobility:
Date: December 3, 2019  
Time: 11:00 a.m.  
Location: Suffolk County Water Authority  
260 Motor Parkway  
Hauppauge, NY 11788

Date: December 4, 2019  
Time: 11:00 a.m.  
Location: NYS DEC - Region 8 Office  
6274 Avon-Lima Road (Routes 5 and 20), Conference Room  
Avon, NY 14414-9516

Date: December 6, 2019  
Time: 11:00 a.m.  
Location: NYSDEC  
625 Broadway, Public Assembly Room 129A/B

NYS DEC will provide interpreter services for deaf persons at no charge. Written requests for interpreter services are required and should be submitted by November 26, 2019, to Richard McAuley, NYS DEC - Division of Air Resources, 625 Broadway, Albany NY 12233-3250, Phone: (518) 402-8438, E-mail: airregs@dec.ny.gov.

Contact: Mark Lanzafame, NYSDEC - Division of Air Resources, 625 Broadway, Albany, NY 12233-3250, Phone: (518) 402-8403, E-mail: airregs@dec.ny.gov

Data Solicitation for 2020 CWA Section 303(d) List

Section 303(d) of the Federal Clean Water Act (CWA) requires States to compile every two years, a list of impaired waters that do not meet water quality standards, where designated uses are not fully supported and where a Total Maximum Daily Load (TMDL) plan is necessary to address the impairment. States are scheduled to submit their next Section 303(d) List to the United States Environmental Protection Agency (US EPA) by April 1, 2020. To support the development of the Section 303(d) Lists, States are required to assemble and consider existing, readily available water quality related data and information. New York State is currently soliciting and accepting water quality data and information that may be useful in compiling the 2020 Section 303(d) List.

Background: Water quality assessment of New York State’s waters is a continuous process. Participation and input from a wide range of state, federal and local agencies and non-governmental water quality partners (watershed groups, lake associations, academic researchers, etc.) is encouraged.

Every two years, corresponding to the development of the State’s Section 303(d) List, the public is solicited to provide water quality data and information for any waterbody or basin. This allows for a more comprehensive updating of the List. Solicited data and information may result in changes to the List or may be incorporated into water quality assessments.

In order to be included for consideration in the compiling of the 2020 CWA Section 303(d) List, data and information must be received by September 27, 2019.

Data submissions should be accompanied by a completed Waterbody Inventory/Priority Waterbodies List (WI/PWL) Assessment Worksheet, which may be found at: http://www.dec.ny.gov/chemical/36730.html. This worksheet allows for the capture of water quality information based on available data or on general observation of conditions and/or local knowledge of designated use support/non-support of a waterbody absent specific, numeric monitoring data.

Worksheet information can also be obtained by contacting: Sarah Rickard, NYS DEC - Division of Water, Bureau of Watershed Assessment and Management, 625 Broadway, 4th Floor, Albany, NY 12233-3502, Phone: (518) 402-8179. Completed WI/PWL worksheets, supporting water quality monitoring data, corresponding Quality Assurance/Quality Control (QA/QC) documentation, QA/QC results summary and a description of measures used in the collection of data should sent to the address above, or forwarded via e-mail to: 4pwlinfo@dec.ny.gov

Guidance regarding the use of water quality data and information to conduct assessments and make listing decisions is outlined in the New York State Consulated Assessment and Listing Methodology. Additional information regarding Section 303(d) List development can be found on the NYS DEC website at: http://www.dec.ny.gov/chemical/31290.html.

For questions regarding the information in this notice please contact: Sarah Rickard, NYS DEC - Division of Water, 625 Broadway, Albany, NY 12233, Phone: (518) 402-8179, E-mail: 4pwlinfo@dec.ny.gov

https://www.dec.ny.gov/enb/20190925_not0.html
Assessment of Public Comment

The New York State Department of Environmental Conservation (Department) is proposing several revisions to its operating requirements for human and animal crematories. These requirements are found in Title 9 of the New York Compilation of Codes, Rules and Regulations (6 NYCRR) Part 219, Incinerators (Part 219).

The above revisions to the proposed rule do not require any revisions to the previously published Regulatory Flexibility Analysis.

Revised Regulatory Flexibility Analysis

Since publication of a Revised Notice of Proposed Rule Making in the State Register on June 26, 2019, the proposed rule was revised as set forth in the Statement Concerning the Regulatory Impact Statement submitted herewith.

The above revisions to the proposed rule do not require any revisions to the previously published Rural Area Flexibility Analysis.

Revised Rural Area Flexibility Analysis

Since publication of a Revised Notice of Proposed Rule Making in the State Register on June 26, 2019, the proposed rule was revised as set forth in the Statement Concerning the Regulatory Impact Statement submitted herewith.

The above revisions to the proposed rule do not require any revisions to the previously published Job Impact Statement.

Revised Job Impact Statement

Since publication of a Revised Notice of Proposed Rule Making in the State Register on June 26, 2019, the proposed rule was revised as set forth in the Statement Concerning the Regulatory Impact Statement submitted herewith.

The above revisions to the proposed rule do not require any revisions to the previously published Job Impact Statement.

Assessment of Public Comment

Since publication of the Notice of Proposed Rule Making in the State Register on June 26, 2019, the State Education Department (Department) received the following comment on the proposed amendments. Below is an assessment of the public comments received.

COMMENT: Commenter, writing on behalf of an association of educator administrators, stated that certain terms referring to administrators used throughout the proposed regulation were unclear and inconsistently used. For example, Commenter stated that it was now unclear which requirements pertained to particular titles and roles. Further, Commenter stated that some sections of the regulation formerly pertaining to administrators seem to have been omitted by design or error, and there seems to be no rationale for the omissions.

DEPARTMENT RESPONSE: In response to this comment, the Department has made technical changes to the proposed regulations to clarify the use of the term “leader.”
The Department is proposing to eliminate the primary combustion chamber temperature requirement and provide for greater operator safety and greater emissions control. To ensure that crematories are properly permitted, the Department is proposing to prohibit the combustion of materials other than human and animal remains and any incidental animal bedding in a crematory. This will ensure that units burning solid waste are properly addressed by federal regulations and that potentially hazardous air pollutants generated by the combustion of solid waste are not emitted from a crematory. If the owner or operator of a crematory decides to combust solid waste, they would first need to acquire all necessary approvals from the Department.

To order to demonstrate compliance with the permitting requirements of Subpart 219-4, the owner or operator of a crematory is required to conduct a performance test, or to submit a test report for an identical unit that was tested in New York State. Since performance testing is conducted pursuant to standardized USEPA reference testing methods, it is no longer necessary for representative tests to be conducted in New York. Accordingly, the Department is proposing requirements that must be met by representative tests submitted to demonstrate compliance with this requirement, regardless of where they were conducted. A test meeting these criteria will be considered acceptable for demonstrating compliance with the proposed requirements.

Another cost impact analysis is used by Department staff to gauge the impact of a proposed facility on the surrounding community. While this analysis is appropriate in some situations, such as the installation of a crematory in a densely populated area, it is not appropriate or necessary in all cases. The Department is proposing to revise this requirement by making the ambient air impact analysis discretionary. Applicants will be required to perform and submit an analysis upon request from the Department, limiting its use to those situations where it is most appropriate.

The Department currently requires operator training and certification for all crematory operators at facilities that are subject to the requirements of Subpart 219-4, but similar training and certification is not required for facilities subject to Subparts 219-5 and 219-6. In order to ensure all crematories are operated by qualified personnel, the Department is proposing to require operator training and certification for all crematories operators. Certification is required for a period of five years, after which the operator is required to complete the renewal process.

The Department is proposing to require that the owner or operator of a crematory maintain records at the facility for a period of at least five years. This procedure is similar to recordkeeping requirements contained in other air pollution control regulations promulgated by the Department, and will assist the facility owner or operator and Department staff in determining compliance.

The Department is proposing to adopt a new Subpart 219-10 that will limit emissions of Oxides of Nitrogen (NOx) from municipal and private solid waste combustion units (MWCs) on a 24-hour average and annual average basis. This Subpart is intended to reduce emissions of NOx from MWCs by requiring the application of Reasonably Available Control Technology (RACT) based on the combustion technology employed at the facility. Compliance will be demonstrated using data recorded by continuous emissions monitoring systems and performance testing.

4. COSTS

Repealing Subparts 219-5 and 219-6 may require some facilities to upgrade their cremation unit in order to remain in compliance with proposed Subpart 219-4. The Department estimates that the cost of new human cremation equipment ranges from approximately $60,000 to $165,000, and new animal cremation equipment ranges from approximately $30,000 to $300,000. These costs vary with the size, features, and freight and installation costs of the unit.

Another potential cost is associated with preparing a permit modification application addressing new or modified equipment and any changes in regulatory applicability. The Department estimates that the costs for state facility permit and registration applications in the downstream region range from $1,600 to $7,700 per emission point and from $1,900 to $4,300 in the upstream region. The estimated cost may vary, however, depending on the nature of the project. The Department estimates that the cost of hiring a consulting firm is approximately $6,000.

The Department is sensitive to the costs of permitting for small businesses. The Small Business Environmental Assistance Program (SBEAP) provides free and confidential application processing services for small businesses that own or operate minor facilities.

The owner or operator of an existing crematory facility may also be required to perform a stack test to demonstrate that their existing equipment meets the revised requirements if such a test is not already on file with the Department, or available as a representative test from another facility. Accordingly, some facilities may incur the costs associated with this testing.
Federal, state, and local governments that own or operate a crematory may incur costs as a result of this rulemaking. These costs are equivalent to those described above for similar facilities operating in the State.

More stringent NOx emissions limitations for MWCs may increase costs at these facilities. Facilities may incur a one-time cost of approximately $80,000 to $300,000 to adjust their existing control devices and conduct an initial performance test. Additionally, affected facilities may also have an annual cost increase of approximately $300,000 resulting from the use of additional reagents to control NOx emissions.

Some affected MWC facilities do not currently operate NOx control equipment. The proposal allows these facilities to perform a NOx RACT analysis, which considers available control technologies and the cost of installation and operation with respect to the resulting emissions reductions. Affected facilities would incur costs associated with performing a RACT analysis, and may be required to purchase and install a control device. If RACT is not identified, an affected facility would be required to periodically reevaluate that conclusion until RACT can be applied.

In addition to the increased costs at MWC facilities, there may also be an increase in the tipping fee paid by local governments and other entities that contract with the MWC facilities for disposal of their solid waste. The Department anticipates that these increases, if any, will be minor in nature.

Costs associated with administration and enforcement of the proposed Part 219 will be consistent with those already incurred by the Department.

5. PAPERWORK

The proposed revisions to Part 219 are not expected to create any significant increase in the amount of paperwork for affected facilities.

6. LOCAL GOVERNMENT MANDATES

The proposed revisions to Subpart 219-4 do not create any local government mandates beyond the need for local governments operating cremation facilities to operate those facilities in a manner that is consistent with the revised requirements.

The proposed Subpart 219-10 will require one affected local government to prepare a NOx RACT analysis. This is consistent with the impacts on similar facilities operated by private industry.

7. DUPLICATION

This proposal is not intended to duplicate any state or federal regulations or statutes. The final rule will conform to the requirements of the ECL.

8. ALTERNATIVES

An alternative to this proposal is to take no action. This would allow crematories and MWCs to operate under outdated requirements, potentially increasing costs to facility owners and emissions from these facilities.

Another alternative is to make only the proposed changes to Subpart 219-4 and forego sun-setting Subparts 219-5 and 219-6. This would allow antiquated units to continue to operate under less stringent requirements. Further, operators of these units would not be required to complete operator training, potentially resulting in preventable excess emissions and other errors.

A third alternative is to require only more stringent emissions limitations than what is currently achievable in practice by the cremation industry. While this would result in a greater benefit to the environment, it is not reasonably achievable for a small business or not-for-profit organization.

9. FEDERAL STANDARDS

The proposed revisions to Part 219 do not duplicate any existing federal standards or requirements.

10. COMPLIANCE SCHEDULE

Facilities with a crematory unit that is subject to the requirements of Subpart 219-5 or 219-6 will be required to conduct emissions testing of the unit to demonstrate compliance with the revised regulation within 60 months of the effective date of the proposed revisions.

Each uncertified operator shall obtain the appropriate certification within 12 months from the effective date of the proposed revisions. The owner or operator of a crematory that cannot meet the proposed requirements must submit a written plan to the Department proposing a schedule for the replacement or removal of that unit within 60 days of becoming aware of the issue.

The owner or operator of a MWC facility must conduct an initial performance test to demonstrate compliance with the proposed NOx limits within one year of the effective date of the regulation, and apply for a permit modification within 180 days of the completion of the initial performance test.

Regulatory Flexibility Analysis

The New York State Department of Environmental Conservation (Department) is proposing several changes to its operating requirements for human and animal crematories. These requirements are found in Title 6 of the New York Compilation of Codes, Rules and Regulations (6 NYCRR) Part 219, Incinerators (Part 219). The Department is proposing to repeal and replace Subpart 219-4 to better reflect the current state of cremation technology and reduce emissions of particulate matter from new crematories constructed in the state. In addition, the Department is proposing to sunset Subparts 219-5 and 219-6 by requiring that existing units currently subject to these subparts be regulated by more stringent standards. The Department is also proposing to add a new Subpart 219-10 to limit oxides of nitrogen emissions from municipal waste combustion units. Finally, the Department is proposing to make several minor changes to Subpart 219-1 and conforming changes to Subpart 200.9 to clarify various definitions used throughout Part 219.

1. EFFECT OF RULE

There are approximately 110 crematory facilities in operation throughout the state that are subject to the requirements of existing Subparts 219-4, 219-5, and 219-6. Many of these facilities are small businesses and non-profit organizations. These entities include funeral homes, veterinary hospitals, animal shelters, and other for-profit human and animal cremation services. Additionally, some local governments own and operate cremation equipment.

There are ten municipal waste combustion (MWC) facilities in operation throughout the state that will be affected by proposed Subpart 219-10. These are large facilities that are typically located in developed areas. Nine of the affected facilities are owned and operated by private for-profit organizations. The final affected facility is owned and operated by the Oswego County Department of Solid Waste.

2. COMPLIANCE REQUIREMENTS

The owner or operator of a crematory facility subject to the proposed regulation will be required to demonstrate compliance by continuously monitoring and recording the secondary combustion chamber temperature, ensuring that the opacity of the emissions from the crematory does not exceed the specified limit, completing operator training, and maintaining operator records. Additionally, the Department may require the owner or operator of a facility to conduct or provide a stack test to demonstrate compliance with the particulate matter emission standard.

The owner or operator of a MWC facility subject to the proposed new Subpart 219-10 will be required to continuously monitor and record the concentration of oxides of nitrogen (NOx) in the exhaust gases from the facility to demonstrate compliance with the proposed emissions limitations. Some of the affected facilities may be required to complete a Reasonably Available Control Technology (RACT) analysis for NOx. Additionally, the Department may require the owner or operator of a facility to conduct a stack test to demonstrate compliance with the NOx emission standards.

3. PROFESSIONAL SERVICES

Small businesses and local governments may need professional installation or maintenance services for new or existing cremation equipment that is subject to the proposed requirements. These services would be necessary to install or upgrade any equipment that is necessary for compliance with the proposed regulation.

If stack testing is required to demonstrate compliance with the proposed requirements, the affected facility may need to contract with a stack testing firm to prepare a testing protocol, perform the testing, and submit a final report containing the necessary data.

Finally, professional consulting services may be needed in cases where the facility owner or operator lacks the necessary expertise to prepare any necessary permit modification applications.

4. COMPLIANCE COSTS

Compliance costs associated with this rulemaking include stack testing, installation of monitoring equipment, preparing a permit modification, and the potential replacement of the affected emission source.

The Department estimates that the cost of new human cremation equipment ranges from approximately $60,000 to $165,000, and new animal cremation equipment ranges from approximately $30,000 to $300,000. These costs vary with the size of the unit selected, any additional features or ancillary equipment desired by the owner or operator, and freight and installation costs. While these costs may be significant for a small business or nonprofit organization, cremation equipment that was installed prior to December 1, 1988 is approaching the end of its expected thirty-year useful life. Accordingly, such a facility would likely be incurring these costs in the near future regardless of this rulemaking.

An informal survey of facility owners and operators conducted in 1996 by the New York State Environmental Facilities Corporation (EFC) determined the average cost of applying for a minor facility permit in two different regions of the state: downstate and upstate. When updated to 2016 dollars, the costs for state facility permit and registration applications in the downstate region range from $1,600 to $7,700 per emission point. In the upstate region, these costs are estimated to be $1,900 to $4,300 per emission point. Some facilities may choose to hire a consulting firm to assist with the permit application process. The Department estimates that the cost of hiring a consulting firm to prepare a consultation report may range from $3,000 to $6,000.

The Department is sensitive to the costs of permitting for small businesses. The Small Business Environmental Assistance Program
The owner or operator of an existing crematory facility may also be required to perform a stack test to demonstrate that their existing equipment meets the revised requirements if such a test is not already on file with the Department, or available as a representative test from another facility. According to some facilities may incur costs associated with this testing. The cost of testing is likely to be less burdensome than the cost of replacing the cremation unit, and therefore may provide an opportunity for crematory owners and operators to defer or eliminate the costs associated with upgrading their equipment.

Federal, state, and local governments that own or operate a human or animal crematory may also incur costs as a result of this rulemaking. These costs are equivalent to those described above for all other crematory facilities operating in the State.

The addition of more stringent NOx emissions limitations for MWCs may increase costs at these facilities. Six of the affected facilities currently employ SNCR control technology to reduce NOx emissions. Accordingly, the Department does not anticipate any capital costs associated with purchasing and installing additional control equipment at those facilities as a result of this rulemaking. Instead, these facilities may incur a one-time cost associated to purchasing and installing additional equipment, which is likely to be less burdensome than the cost of replacing the cremation unit, and therefore may provide an opportunity for crematory owners and operators to defer the costs associated with upgrading their equipment.

Accordingly, the alternative compliance schedule is not appropriate for this rulemaking. The proposed Subpart 219-10 is owned and operated by a local government. The Department anticipates that these increases, if any, will be minor in nature.

5. ECONOMIC AND TECHNOLOGICAL FEASIBILITY

The proposed standards are based on established engineering principles and stack test data collected from operating crematory facilities. The monitoring equipment and other required equipment is available from several manufacturers of cremation equipment. The proposed compliance demonstration methods have been used at crematory facilities since Part 219 was first promulgated in 1989. Accordingly, the proposed requirements are technologically feasible.

Local crematories will likely face increased fixed costs as a result of this rulemaking due to the cost of new equipment and monitoring requirements. However, these increased fixed costs will likely be offset by a number of factors. Many of the older units subject to this rulemaking are near the end of their 30 year expected life and would need to be replaced regardless of these proposed regulations. Additionally, most human and animal crematories operating in New York State are small businesses and thus eligible for compliance assistance from SBEAP. Finally, crematories face relatively low levels of local competition and are therefore able to alleviate increased costs by marking up prices without losing business. According to the resulting reduction in NOx emissions. Affected facilities would be required to perform a RACT analysis, which considers the available control technologies and the costs of installing them with respect to the resulting reduction in NOx emissions. Affected facilities would incur the costs associated with performing a RACT analysis, and may incur fixed costs associated with purchasing and installing additional control equipment that is found to be technically and economically feasible in accordance with the Department’s RACT guidance. If a technically and economically feasible control strategy is not identified by the RACT analysis, an affected facility would incur costs associated with periodically reevaluating that conclusion until RACT can be applied.

In addition to the increased costs at MWC facilities, there may also be an increase in the indirect costs to local governments and other entities that contract with MWC facilities for disposal of their solid waste. These indirect costs will likely be realized as increased tipping fees paid at the time waste is hauled to an affected facility. The Department anticipates that these increases, if any, will be minor in nature.

6. MINIMIZING ADVERSE IMPACT

In order to gauge potential adverse impacts that may have been overlooked, the Department conducted stakeholder outreach to facilities potentially affected by this regulation, including small businesses and local governments, during the development of this proposal. Potentially affected entities were encouraged to comment on the draft rulemaking, and all comments were considered during the development process.

No additional cure period or other opportunity for ameliorative action is included in this rulemaking. This proposal will not result in immediate violations or impositions of penalties for existing facilities. To help reduce immediate impacts on affected sources, Subpart 219-4 and new Subpart 219-10 include compliance schedules with extended compliance deadlines to phase in new requirements over time.

The initial review of these rules shall occur no later than the third calendar year after the year in which it is adopted.

Rural Area Flexibility Analysis

The New York State Department of Environmental Conservation (Department) is proposing several changes to its operating requirements for human and animal crematories. These requirements are found in Title 6 of the New York Compilation of Codes, Rules and Regulations (6 NYCRR) Part 219, Incinerators (Part 219). The Department is proposing to repeal and replace Subpart 219-4 to better reflect the current state of cremation technology and reduce emissions of particulate matter from new crematories constructed in the state. In addition, the Department is proposing to sunset Subparts 219-5 and 219-6 by requiring that existing units currently subject to these subparts be regulated by more stringent standards. The Department is also proposing to add a new Subpart 219-10 to limit oxides of nitrogen emissions from municipal waste combustion units. Finally, the Department is proposing to make several minor changes to Subpart 219-1 and conforming changes to Subpart 200.9 to clarify various definitions used throughout Part 219.

1. TYPES AND ESTIMATED NUMBERS OF RURAL AREAS

Crematory facilities are located in every region of the state, including several rural areas. The proposed requirements of Subpart 219-4 would apply only to each of the rural areas specifically affected. These areas include towns and villages that contain at least one human or animal crematory facility.

Municipal waste combustion units are located in various regions of the state. The majority of these facilities are located in urban areas, but one affected facility is located in a rural area.
The owner or operator of a facility subject to the replaced regulation will be required to conduct a continuous monitoring and recording the secondary combustion chamber temperature, ensuring that the opacity of the emissions from the crematory does not exceed the specified limit, completing operator training, and maintaining various records. Additionally, the Department may require the owner or operator of a facility to conduct or provide a stack test to demonstrate compliance with the particulate matter emission standard.

Businesses located in rural areas may need professional installation or maintenance services for new or existing cremation equipment and may incur further costs associated with purchasing and installing a control device. In the event that a technologist determines that the incinerator cannot provide a new device to meet the revised requirement, and conduct testing to demonstrate compliance with the new requirement, and conduct testing to demonstrate compliance with the new requirement. Additionally, some affected facilities may also have an annual cost increase of approximately $300,000 resulting from the use of additional monitoring equipment. The Department has identified approximately 110 crematory facilities in operation throughout the state. Each facility has an average of two operators, though some larger facilities have as many as seven. Accordingly, there are approximately 250 employees potentially affected by this proposal statewide.

3. COSTS

Compliance costs associated with this rulemaking include stack testing, installation of monitoring equipment, preparing a permit modification, and the potential replacement of the affected emission source. The Department estimates that the average cost of applying for a minor facility permit in the upstate region of the state is estimated to be $1,900 to $4,300 per emission point when updated to 2016 dollars. Some facilities may choose to hire a consulting firm to assist with the permit application process. The Department estimates that the cost of hiring a consulting firm is approximately $6,000. The Department does not anticipate that these costs will vary in rural areas because many consulting firms charge hourly rates or flat fees for services they provide.

The owner or operator of an existing crematory facility may also be required to perform a stack test to demonstrate that their existing equipment meets the revised requirements. The revised RACT analysis would be required to conduct a continuous monitoring and recording the secondary combustion chamber temperature, ensuring that the opacity of the emissions from the crematory does not exceed the specified limit, completing operator training, and maintaining various records. Additionally, the Department may require the owner or operator of a facility to conduct or provide a stack test to demonstrate compliance with the particulate matter emission standard.

Municipal waste combustion units affected by this proposal may need to contract with a testing firm in order to make the necessary adjustments to their existing oxides of nitrogen control equipment. If stack testing is required to demonstrate compliance with the proposed regulations, the affected facility would need to contract with a testing firm to prepare a testing protocol, perform the testing, and submit a final report containing the necessary data.

Finally, professional consulting services may be needed in cases where the facility owner or operator lacks the necessary expertise to prepare any necessary permit modification applications. All of the requirements discussed above are identical to the requirements in detected facilities located in non-rural areas.

4. MINIMIZING ADVERSE IMPACT

The Department considered the technological and economic feasibility of the proposed requirements as part of this rulemaking. It is not anticipated that there will be any impacts on facilities located in rural areas that would not be shared by a facility located in a more urban setting.

5. RURAL AREA PARTICIPATION

The Department conducted stakeholder outreach to all facilities potentially affected by this proposal, including those that are located in rural areas. Potentially affected entities were encouraged to comment on the draft rulemaking, and all comments were considered during the development of the proposed requirements.

Job Impact Statement

The New York State Department of Environmental Conservation (Department) is proposing several changes to its operating requirements for human and animal crematories. These requirements are found in Title 6 of the New York Conservation of the Environment Regulations (6 NYCRR) Part 219, Incinerators (Part 219).

The Department is proposing to repeal and replace Subpart 219-4 to better reflect the current status of incineration technology and reduce emissions of particulate matter from new crematories constructed in the state. In addition, the Department is proposing to sunset Subpart 219-5 and 219-6 by requiring that existing units currently subject to these subparts be regulated by more stringent standards. The Department is also proposing to add a new Subpart 219-10 to limit oxides of nitrogen emissions from municipal waste combustion units. Finally, the Department is proposing to make several minor changes to Subpart 219-1 and conforming changes to Subpart 200.9 to clarify various definitions used throughout Part 219.

1. NATURE OF IMPACT

The Department does not anticipate any adverse impacts to jobs and employment opportunities as a result of this rulemaking. Many existing crematory facilities may need to undertake emissions testing or replace their cremation equipment, but this is not expected to adversely impact employment opportunities. Existing municipal waste combustion units are equipped with the necessary control equipment to meet the proposed oxides of nitrogen emissions standard, and currently employ the necessary staff to implement such a change.

2. CATEGORIES AND NUMBERS AFFECTED

Human crematory facilities are typically operated by morticians and other individuals in the funeral services industry, as well as medical professionals. Animal crematories are typically operated by veterinarians and veterinary technicians, local government employees, citizens volunteering animal shelters, and others. The Department has identified approximately 110 crematory facilities in operation throughout the state. Each facility has an average of two operators, though some larger facilities have as many as seven. Accordingly, there are approximately 250 employees potentially affected by this proposal statewide.

There are 10 municipal waste combustion facilities in operation throughout the state. Each facility has approximately 30 employees. Accordingly, there are approximately 300 individuals potentially affected by this proposal statewide.

3. REGIONS OF ADVERSE IMPACT

Crematory facilities are located in every region of the state. The proposed requirements of Subpart 219-4 would apply equally to each region of the state. Accordingly, there are no regions of the state that would have disproportionate impact on jobs or employment opportunities as a result of this rulemaking.

Municipal waste combustion units are located in various regions of the state, with the highest concentration in the New York City Metropolitan Area. Accordingly, any impact on jobs would have a greater effect in that region of the state.

4. MINIMIZING ADVERSE IMPACT

The Department considered the technological and economic feasibility of the proposed requirements as part of this rulemaking. That analysis suggests that the proposed requirements will not cause or contribute to an adverse impact on jobs or employment opportunities in the state. Additionally, the Department conducted stakeholder outreach to all facilities potentially affected by this proposal, including rural areas, small busi-
nesses and local governments. Potentially affected entities were encouraged to comment on the draft rule-making, and all comments were considered during the development of the proposed requirements.

**Department of Financial Services**

**PROPOSED RULE MAKING**

**NO HEARING(S) SCHEDULED**

Licensed Cashers of Checks; Fees

I.D. No. DFS-39-19-00002-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** Amendment of section 400.11 of Title 3 NYCRR.

**Statutory authority:** Banking Law, sections 10, 14, 371, 372; Financial Services Law, sections 102, 201, 202, 301 and 302.

**Subject:** Licensed Cashers of Checks; Fees.

**Purpose:** To increase the maximum fee that may be charged by licensed check cashers.

**Text of proposed rule:** Section 400.11 is amended to read as follows:

### Statement of proposed rule

A check casher shall be permitted to charge or collect a fee for cashing a check, draft or money order not to exceed:

- **Statutory authority:** Banking Law, sections 10, 14, 371, 372; Financial Services Law, sections 102, 201, 202, 301 and 302.

- **Subject:** Licensed Cashers of Checks; Fees.

- **Purpose:** To increase the maximum fee that may be charged by licensed check cashers.

**Text of proposed rule and any required statements and analyses may be obtained from:**

George Bogdan, Department of Financial Services, 1 State Street, 20th Floor, New York, NY 10004, (212) 480-4758, email: george.bogdan@dfs.ny.gov

**Rule Making Activities**

**Data, views or arguments may be submitted to:** Same as above.

**Public comment will be received until:** 60 days after publication of this notice.

This rule was not under consideration at the time this agency submitted its Regulatory Agenda for publication in the Register.

**Regulatory Impact Statement**

1. **Statutory authority:** Financial Services Law (or “FSL”) § 102 sets forth the “purpose” and “goals” of the Financial Services Law including, as the FSL states, to “establish the maximum fees which may be charged by licensees for the purpose of meeting the needs of the communities that are served by check cashers.”

2. **Legislative objectives:** The proposed amendment adjusts the maximum fee that can be charged by licensed check cashers. Section 372(1) requires that the Superintendent prescribe the maximum fees that may be charged for cashing a check, draft or money order. Pursuant to section 400.11 of Title 3 NYCRR, the Superintendent has established a maximum percentage amount that each check casher may charge against the face amount of the check made payable to a natural person.

When imposing certain economic restrictions upon the conduct of business by check cashers pursuant to Chapter 546 of the laws of 1994, the Legislature stated as a matter of legislative intent that the check cashing industry is important and vital services to New York citizens; that the business of check cashers shall be supervised and regulated through the Department of Financial Services in such a manner as to maintain consumer confidence in such business and protect the public interest; that the licensing of check cashers shall be determined in accordance with the needs of the communities that are served by check cashers.

3. **Needs and benefits:** The setting of a maximum fee is in keeping with legislative intent in that it provides essentially for a fixed percentage return per personal check, thus promoting the stability of the check cashing industry by providing the industry with a reasonable return. However, by limiting the amount of such fees, it serves to maintain consumer confidence by preventing excessive fees particularly when the availability of alternate check cashing facilities may be limited. Consumers find benefits in using check cashers and continue to use their services in meaningful volumes. Potential benefits to consumers include: (i) a check casher may make cash immediately available to a consumer at the time a check is cashed, whereas following a deposit at a bank, funds may not be immediately available for a consumer’s use; (ii) a check casher may have services such as bill paying and wire transfers that a consumer can use immediately at the time the consumer receives cash from a check casher; (iii) extended business hours may be available at a check casher; and (iv) consumers may have a higher comfort level with fee transparency due to posted fees at check cashers. However, check cashers’ costs continue to increase and the usage of checks overall has decreased. The Department has heard industry concern that the
# INVOICE

Client Number: 020173  
Invoice Number: 881360 - 054  
Invoice Date: 09/30/19  
Net 30  

Regarding  
RICHARD MCAULEY

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| NEWSDAY TOTAL          |                 |           |              |         |       |         | $1,943.87  |

| ALBANY TIMES UNION     | INCINERATOR> R919005919 | 09/25     | 1.00 1       | 173.25  |       | 173.25  |            |
|                        |                 |           |              | 10% COMMISSION | 17.33       |          |            |
| ALBANY TIMES UNION TOTAL|               |           |              |         |       |         | $190.58    |

| BUFFALO NEWS           | INCINERATOR> R919006719 | 09/25     | 1.00 1       | 2053.80 |       | 2053.80 |            |
|                        |                 |           |              | 10% COMMISSION | 205.38       |          |            |
| BUFFALO NEWS TOTAL     |                 |           |              |         |       |         | $2,259.18  |

| SYRACUSE POST-STANDARD | INCINERATOR> R919006319 | 09/24     | 1.00 1       | 170.02  |       | 170.02  |            |
|                        |                 |           |              | 10% COMMISSION | 17.00       |          |            |
| SYRACUSE POST-STANDARD TOTAL |        |           |              |         |       |         | $187.02    |

| GLENS FALLS POST STA   | INCINERATOR> R919006419 | 09/25     | 1.00 1       | 89.06   |       | 89.06   |            |
|                        |                 |           |              | 10% COMMISSION | 8.91       |          |            |
| GLENS FALLS POST STAR* TOTAL |       |           |              |         |       |         | $97.97     |

| ROCHESTER DEMOCRAT*    | INCINERATOR> R919006519 | 09/25     | 1.00 1       | 2160.00 |       | 2160.00 |            |
|                        |                 |           |              | 10% COMMISSION | 216.00      |          |            |
| ROCHESTER DEMOCRAT* TOTAL |           |           |              |         |       |         | $2,376.00  |

**INVOICE TOTAL** $12,537.76
REMITTANCE ADVICE

NYS DEPT. OF ENV. CONSERVATION - A988
Attn: Anne Behan
625 Broadway
Albany, NY 12233-3251

Please return this page along with your remittance of $12,537.76.

Remit Payment Checks To:
Miller Advertising Agency Inc.
220 West 42nd Street - 12th Floor
New York, NY 10036

ACH and Wire Remittance To:
Bank Name: JP Morgan Chase Bank
ABA/Routing Number: 021000021
Account Number: 014003583765
Account Name: Miller Advertising Agency Inc.

Client Number 020173
Invoice Number 881360 - 054
Invoice Date 09/30/19
Terms: Net 30

Regarding
RICHARD MCAULEY
State of New York  
COUNTY OF NEW YORK  

0000144098-01  

Rubido Gonzales  

being duly sworn,  
says that he/she is the principal Clerk of the Publisher of the  

New York Post  

a daily newspaper of general circulation printed and published in the English language, in the County of New York, State of New York; that advertisement hereto annexed has been regularly published in the said "New York Post" once,  
on the 25th of September, 2019

Sworn to before me on this 25th day of September, 2019  

RICHARD C SAVIN  
NOTARY PUBLIC - STATE OF NEW YORK  
No. 01SA6301452  
Qualified in Dutchess County  
My Commission Expires May 27, 2022  

Notary Public
NOTICE OF PUBLIC HEARING
NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Pursuant to Sections 1-101, 3-301, 3-201, 3-203, 10-101, 18-105, 19-105, 19-105-19, 19-105-29, 19-105-30, 19-105-31, 31-210, 71-210, 71-213 of the Environmental Conservation Law (ECL), notice is hereby given that the New York State Department of Environmental Conservation (Department) will hold the following legislative public hearing on the proposed revisions to 6 NYCRR Part 219, subpart 4:

The New York State Department of Environmental Conservation (Department) is proposing minor revisions to its operating requirements for human and animal crematoria. These requirements are found in Title 6 of the New YorkCompilation of Codes, Rules and Regulations (6 NYCRR) Part 219, 6 NYCRR Part 219. The Department is proposing to repeal and replace Subpart 219-4 to better reflect the current state of cremation technology and reduce emissions of particulate matter from new crematoria constructed in the state. In addition, the Department is proposing to remove Subparts 219-5 and 219-6 by requiring that existing units subject to those requirements be regulated by a proposed exemption under new Subpart 219-4. The Department is also proposing to add a new Subpart 219-10 to limit certain noise and smoke emissions.

The Department will provide materials for public review on request to the Department. Written comments for the proposed revisions to existing rules described herein shall be addressed to the proposed revisions to the Department and should be submitted by November 28, 2023, to: Richard A. Seligman, 6 NYCRR, 655 Broadway, Albany, NY 12232-2150, 518-402-9434, nycrr@nysed.gov.

Pursuant to Part 677 of the New York Conservation Law, the Department has prepared a Negative Declaration stating that the proposed actions will not have a significant adverse effect on the environment. The Department solicits public comment to ensure that the proposed actions will not have a significant adverse effect on the environment. The Department will give equal weight to written and oral statements, and due consideration will be given to the cumulative record of such statements.

Requests for information and comments related to the proposed Part 219, may be obtained from: First Leader 200, 655 Broadway, Albany, NY 12232-2150; telephone: 518-402-9434, email: nycrr@nysed.gov. Written statements on the proposed rule may be submitted until 5 p.m. December 11, 2023.

Requests for information and comments related to the proposed rule may be submitted until 5 p.m. December 11, 2023.

The proposed regulation may be obtained from any of the following Department offices:

REGION 1 - 655 Broadway, 6th Floor, Albany, NY 12232-2150, Attention: Jeanne Heavey
REGION 2 - 400 Tuckahoe Road, White Plains, NY 10606, Attention: Robert van der Zee
REGION 3 - 170 State Street, Albany, NY 12237, Attention: Jeanne Heavey
REGION 4 - 1055 Vermont Street, Albany, NY 12237, Attention: Robert van der Zee
REGION 5 - 50 State Street, Albany, NY 12237, Attention: Jeanne Heavey

The Department will hold public hearings on the proposed revisions to the Department and should be submitted by November 28, 2023, to: Richard A. Seligman, 6 NYCRR, 655 Broadway, Albany, NY 12232-2150, 518-402-9434, nycrr@nysed.gov.
NEWSDAY
AFFIDAVIT OF PUBLICATION

MILLER ADVERTISING
220 WEST 42ND STREET, 12TH FLOOR
NEW YORK, NY 10036

STATE OF NEW YORK) Legal Notice No. 0021530132
:SS:
COUNTY OF SUFFOLK)

Darryl Murphy of Newsday Media Group, Suffolk County, N.Y., being duly sworn, says that such person is, and at the time of publication of the annexed Notice was a duly authorized custodian of records of Newsday Media Group, the publisher of NEWSDAY, a newspaper published in the County of Suffolk, County of Nassau, County of Queens, and elsewhere in the State of New York and other places, and that the Notice of which the annexed is a true copy, was published in the following editions/counties of said newspaper on the following dates:

Wednesday September 25, 2019 Nassau, Suffolk and Queens

SWORN to before me this 25 Day of September, 2019.

______________________________
CHRISTOPHER LAWSON
Notary Public – State of New York
No. 01LA6348406
Qualified in Suffolk County
My Commission Expires September 26, 2020
LEGAL NOTICES

Notice is hereby given that a certificate of formation of BECAULIBEA LLC was filed with the Secretary of State of New York on May 30, 2019. The address of the LLC is 3247 108 Street, 3rd Floor, East Elmhurst, NY 11369.

Notice is hereby given that a certificate of formation of REVAL REALTY LLC was filed with the Secretary of State of New York on March 7, 2019. The address of the LLC is 36-08 108 Avenue, 2nd Floor, East Elmhurst, NY 11369.

Notice is hereby given that a certificate of formation of REVAL REALTY LLC was filed with the Secretary of State of New York on March 7, 2019. The address of the LLC is 36-08 108 Avenue, 2nd Floor, East Elmhurst, NY 11369.

The Department of Environmental Conservation has prepared a draft environmental impact statement (DEIS) for the purposes of Section 152-21 of the New York State Environmental Quality Review Act (SEQRA). The DEIS describes the potential impacts of the proposed project and is available for public review. A public hearing will be held on December 10, 2019, at 6:00 p.m. at the SUNY College of Environmental Science and Forestry, 2640 Heart Lake Road, Syracuse, NY 13210.

The Department of Environmental Conservation has prepared a draft environmental impact statement (DEIS) for the purposes of Section 152-21 of the New York State Environmental Quality Review Act (SEQRA). The DEIS describes the potential impacts of the proposed project and is available for public review. A public hearing will be held on December 10, 2019, at 6:00 p.m. at the SUNY College of Environmental Science and Forestry, 2640 Heart Lake Road, Syracuse, NY 13210.

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Tomes / R Bernard / T Duquette / P Sheehan / A Rubel of the city of Albany, being duly sworn, says that he/she is principal Clerk of THE TIMES UNION, a daily newspaper printed in the county of Albany, Town of Colonie, and Published in the County of Albany, Town of Colonie and the city of Albany, aforesaid and that notice of which a printed copy is annexed has been regularly published in the said ALBANY TIMES UNION on the following dates

09-25-2019

Sworn to before me, this 26th day of September, 2019.

Notary Public
Albany County

SUSAN QUINE
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01QU4396414
Qualified in Rensselaer County
Commission Expires August 19, 2023
Maureen Élardo of the City of Buffalo, New York, being duly sworn, deposes and says that he/she is Principal Clerk of THE BUFFALO NEWS INC., Publisher of THE BUFFALO NEWS, a newspaper published in said city, that the notice of which the annexed printed slip taken from said newspaper is a copy, was inserted and published therein 1 times, the first insertion being on 09/25/2019 and the last insertion being on 09/25/2019

Maureen Élardo

Dates Ad Ran:

Buffalo News (P1) 09/25/19

Sworn to before me this 25th day of September 2019

DEBRA M. PALKOWSKI
Notary Public, Erie County, New York

Ad ID: 1531954
NOTICE OF PUBLIC HEARING
NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Pursuant to Sections 1-0101, 3-0301, 3-0303, 19-0103, 19-0105, 19-0301, 19-0302, 19-0303, 19-0305, 19-0306, 19-0311, 71-2103, 71-2105 of the Environmental Conservation Law (ECL), notice is hereby given that the New York State Department of Environmental Conservation (Department) will hold the following legislative public hearings on the proposed revisions to 6 NYCRR Part 219, Airports.

The New York State Department of Environmental Conservation (Department) is proposing several revisions to its operating requirements for human and animal health. These requirements are found in Title 6 of the New York Compilation of Codes, Rules and Regulations (6 NYCRR) Part 219, Airports. The Department is proposing to add new Subpart 219-3 and to revise Subpart 219-2 to better reflect the current state of knowledge on chemical and biological agents from non-operational activities that may affect the health of persons and animals. The Department is also proposing to add new Subpart 219-4 to better reflect the health impacts of emerging contaminants in drinking water and to better protect the public health.

Hearings for the proposed rule revisions are scheduled as follows:

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<tr>
<td>December 3</td>
<td>11:00 am</td>
<td>Suffolk County Water Authority, 260 Motor Pkwy, Hauppauge, NY 11786</td>
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<tr>
<td>December 4</td>
<td>11:00 am</td>
<td>6245 Ave Lina Rd, (2nd and 3rd), Conference Room, Albany, NY 12217-1800</td>
</tr>
<tr>
<td>December 5</td>
<td>11:00 am</td>
<td>NYDEC, 625 Broadway, Public Assembly Room 12A/AB, Albany, NY 12233</td>
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The Department will provide interpreter services for deaf persons at no charge. Requests for interpreter services can be made and should be submitted by November 26, 2019. To request 6245 Ave Lina Rd, Conference Room, Albany, NY 12217-1800, phone, (518) 402-8414, email, airregs@dec.ny.gov.

Pursuant to Part 617 of the implementing regulations for the State Environmental Quality Review Act, the Department has prepared a Negative Declaration stating that the proposed actions will not have a significant effect on the environment.

The Department invites all persons, organizations, corporations, or governmental agencies that may be affected by the proposed revisions to attend the hearings. At each hearing, persons who wish to make a statement will be invited to speak. It is requested that oral statements also be submitted in writing. The Department will give equal weight to written and oral statements, and a cumulative record will be compiled. It is not necessary for interested parties to attend each hearing.

Requests for information and comments related to the proposed Part 219, may be obtained from:

- northeast regional office, 625 Broadway, Albany, NY 12233-3251, phone: (518) 402-8286, email: airregs@dec.ny.gov. Written statements may be submitted until 5 pm December 11, 2019.

Requests for information and comments related to the SIP revision may be obtained from Robert H. Steeves, PE., NYDEC Division of Air Resources, 625 Broadway, Albany, NY 12233-3251, phone: (518) 402-8396, email: airregs@dec.ny.gov. Written statements may be submitted until 5 pm December 11, 2019.

Written statements may be obtained from any of the following Department offices:

- Region 1 - NYDEC Region One Headquarters, SUNY Stony Brook, 50 Circle Road, Stony Brook, NY 11790-5000, Attention: George Sweeney
- Region 2 - New York City Environmental Control Board, 625 Broadway, Albany, NY 12233-3251, Attention: Ben Potter
- Region 3 - 21 South Pearl Street, Albany, NY 12207, Attention: Jeanne Sweeney
- Region 4 - 1401 Westchester Avenue, White Plains, NY 10604-3401, Attention: George Sweeney
- Region 5 - 1600 East 30th Street, New York, NY 10016, Attention: Robert H. Steeves
- Region 6 - 615 Erie Boulevard West, Syracuse, NY 13204-1401, Attention: Thomas Miller
- Region 7 - 470 First Avenue, New York, NY 10016, Attention: Yvonne Zawadzki
- Region 8 - 422 Washington Boulevard, Buffalo, NY 14215, Attention: Joanne Zawadzki
MILLER ADVERTISING AGENCY INC
220 W 42 ST 12TH FL
NEW YORK, NY 10036

Name: MILLER ADVERTISING AGENCY INC
Account Number: 1001507
INV#: 0009335285

Sales Rep: Lois Rotchford

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State of New York, County of Onondaga ss. Lois Rotchford, of the City of Syracuse, in said County, being duly sworn, doth depose and says: this person is the Principal Clerk in the office of THE POST-STANDARD, a public newspaper, published in the City of Syracuse, Onondaga County, New York and that the notice, is an accurate and true copy of the ad as printed in said newspaper, was printed and published in the regular edition and issue of said newspaper on the following days, viz.:

Post-Standard 09/24/2019

Lois Rotchford  
Principal Clerk  
An Authorized Designee of the President, Timothy R. Kennedy

Subscribed and sworn to before me, this 24th day of September 2019

Heidi A. Stephens  
NOTARY PUBLIC

FOR QUESTIONS CONCERNING THIS AFFIDAVIT, PLEASE CONTACT LOIS ROTCHFORD AT  
(315) 470-2051 OR Legals@Syracuse.com

HEIDI A. STEPHENS  
Notary Public - State of New York  
No. 01ST6290718  
Qualified in Onondaga County  
My Commission Expires: 10/7/2021
NOTICE OF PUBLIC HEARING
NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Pursuant to Sections 1-0101, 3-0301, 3-0303, 19-0103, 19-0105, 19-0107, 19-0301, 19-0302, 19-0303, 19-0305, 19-0306, 19-0311, 71-2103, 71-2105 of the Environmental Conservation Law (ECL), notice is hereby given that the New York State Department of Environmental Conservation (Department) will hold the following legislative public hearings on the proposed revisions to 6 NYCRR Part 219, Incinerators.

The New York State Department of Environmental Conservation (Department) is proposing several revisions to its operating requirements for human and animal crematories. These requirements are found in Title 6 of the New York Compilation of Codes, Rules and Regulations (6 NYCRR) Part 219, Incinerators (Part 219). The Department is proposing to repeal and replace Subpart 219-4 to better reflect the current state of cremation technology and reduce emissions of particulate matter from new crematories constructed in the state. In addition, the Department is proposing to sunset Subparts 219-5 and 219-6 by requiring that existing units subject to these requirements be regulated by more stringent standards under new Subpart 219-6. The Department is also proposing to add a new Subpart 219-10 to limit oxides of nitrogen emissions from municipal waste combustion units. Finally, the Department is proposing to make several minor changes to Subpart 219-1 and conforming changes to Subpart 200.9 to clarify various definitions used throughout Part 219. Further, the Department proposes to submit the Part 219 as well as the revisions to Part 200 to EPA as a revision to the State Implementation Plan (SIP) for New York State.

Hearings for the proposed rule and attendant revisions to existing rules described above will be held as follows and are scheduled in places that are reasonably accessible to persons with impaired mobility:

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<td>December 3, 2019</td>
<td>11:00 am</td>
<td>Suffolk County Water Authority, 260 Motor Pkwy, Hauppauge, NY 11788</td>
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<td>December 4, 2019</td>
<td>11:00 am</td>
<td>6274 Avon-Lime Rd. (Rtes. 5 and 20), Conference Room, Avon, NY 14414-3516</td>
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<td>December 6, 2019</td>
<td>11:00 am</td>
<td>NYSDEC, 625 Broadway, Public Assembly Room 129AV, Albany, NY 12233</td>
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</table>

The Department will provide interpreter services for deaf persons at no charge. Written requests for interpreter services are required and should be submitted by November 26, 2019, to Richard McAuley, NYSDEC, 625 Broadway, Albany NY 12233-3250, (518) 402-8438, airregs@dec.ny.gov.

Pursuant to Part 617 of the implementing regulations for the State Environmental Quality Review Act, the Department has prepared a Negative Declaration stating that the proposed actions will not have a significant effect on the environment.

The Department invites all persons, organizations, corporations, and government agencies that may be affected by the proposed revisions to attend the hearings. At each hearing, persons who wish to make a statement will be invited to speak, it is requested that oral statements also be submitted in writing. The Department will give equal weight to written and oral statements, and since a cumulative record will be compiled it is not necessary for interested parties to attend each hearing.

Requests for information and comments related to the proposed Part 219 may be obtained from Mark Lanzafame, P.E., NYSDEC Division of Air Resources, 625 Broadway, Albany NY 12233-3251, telephone, (518) 402-8403; email, airregs@dec.ny.gov. Written statements on the proposed rule may be submitted until 5 pm December 11, 2019.

Requests for information and comments related to the SIP revision may be obtained from Robert D. Bellows, P.E., NYSDEC Division of Air Resources, 625 Broadway, Albany, NY 12233-3251, Phone: (518) 402-8395, E-mail: airregs@dec.ny.gov. Written statements may be submitted until 5 pm December 11, 2019.

The proposed regulation may be obtained from any of the following Department offices:

REGION 1 - NYSDEC Region One Headquarters, SUNY Stony Brook, 50 Circle Road, Stony Brook, NY 11790-3409, Attention: Shaun Snie
REGION 2 - Hunters Point Plaza, 47-40 21st Street, Long Island City, NY 11101, Attention: Sam Liebich
REGION 3 - 21 South Putnam Road, New Paltz, NY 12561, Attention: George Swilker
REGION 4 - 130 North Westcott Rd., Schenectady, NY 12306, Attention: Ben Potter
REGION 5 - Hudson Street Extension, Box 220, Warrensburg NY 12885, Attention: James Coutant
REGION 6 - Watertown State Office Bldg, 317 Washington St, Watertown, NY 13601, Attention: Bob Jacobs
REGION 7 - 615 Erie Boulevard West, Syracuse, NY 13204-2400, Attention: Thomas Elter
REGION 8 - 6274 East Avon-Lima Road, Avon, NY 14414, Attention: Yuan Zeng
REGION 9 - 270 Michigan Avenue, Buffalo, NY 14202, Attention: Michael Emery
WARREN COUNTY AFFIDAVIT

STATE OF NEW YORK:

County of Warren, ss:

Kerr Ward being duly sworn,
says that (s)he is an authorized designee for Lee Enterprises, publishers of THE POST-STAR, a daily newspaper published in
Glens Falls, Warren County, State of New York, and that the printed notice attached hereto was cut from the said POST-STAR, and that the said notice was published therein, namely

NOTICE OF PUBLIC HEARING
September 25, 2019

MILLER ADVERTISING-LEGAL

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NEW YORK NY 10036

ORDER NUMBER 83962

Signed this 25th day of September, 2019

Sworn to before me this 25th day of September, 2019

JOHN R. WALSH
Notary Public - State of New York
No. 01WA6330461
Qualified in Saratoga County
My Commission Expires April 15, 2023

Section: Legals
Category: 001 Legal Notices - Warren County
PUBLISHED ON: 09/25/2019

TOTAL AD COST: 89.02
FILED ON: 9/25/2019
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STATE OF NEW YORK
COUNTY OF NEW YORK

Ambika Mohan being duly sworn hereby declares and says, that she is the Advertising Account Executive responsible for placing the attached advertisement for publication in the Rochester Democrat & Chronicle for Miller Advertising Agency, Inc; located in New York, NY, and that the NYSDEC Notice of Public Hearing (Incinerators) advertisement, of which the annexed is a true copy, has been published in the said publication on the following issue date(s):

Sept. 25, 2019

Ambika Mohan

Subscribed to and Sworn before me

This 18th day of October, 2019

Donna Perez
Notary Public

Donna Perez
Notary Public State Of New York
No. 01PE6151365
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In the Matter Of:

SUFFOLK COUNTY WATER AUTHORITY

PUBLIC HEARING

December 03, 2019
SUFFOLK COUNTY WATER AUTHORITY
PUBLIC HEARING

260 Motor Parkway
Hauppauge, New York
December 3, 2019
11:00 a.m.

Reported By: Sindee J. Baum.
MR. FONDA: Good morning. My name is Bill Fonda. I am a public participation specialist with the Department of Environmental Conservation. I have been assigned to moderate today's public hearing regarding proposed amendments to 6 NYCRR Part 219 -- crematories and incinerators. This proposed rule making establishes emission limits and operating requirements for various types of incinerators in New York State. Notice of the proposed rule making was published in the Environmental Notice Bulletin, the State Register, the New York Post and Newsday on September 25, 2019.

The purpose of today's hearing is to receive your comments on the proposed regulations. If you wish to make a statement, and haven't already done so, please complete a speaker registration card and return it to me.

Speakers are encouraged to submit lengthy statements in writing and provide only a summary of their comments here today. Please be respectful of all those wishing to speak today by keeping your comments brief.

Note that the written and oral comments are given equal weight by the Department. If you would like to submit written comments, you may do so today. You may also submit comments online through the Department's
website or by sending your comments to the
Department’s central office in Albany. I have complete
contact information for written comments here with me,
and that contact information is also available in the
notice of public hearing. Written comments must be
received by the Department by close of business,
December 11, 2019.

I will now introduce Meir Cynamon, who has
prepared a brief overview of the regulations and will
present that now.

MR. CYNAMON: Thank you. Good morning. My
name is Meir Cynamon. I am an environmental engineer in
the Division of Air Resources.

The Department is proposing to amend Part
219 "Incinerators" and part 200 "General Provisions" of
Title 6 of the Official Compilation of Codes, Rules, and
Regulations of the State of New York.

This public hearing is one of three
scheduled for the purpose of receiving statements and
comments on the Department of Environmental
Conservation’s (Department’s) proposal to repeal Subpart
219-4, repeal Subparts 219-5 and 219-6, adopt a new
219-10 and revise Subparts 219-1 and Part 200.

Subpart 219-4 currently imposes a
particulate matter emissions limitation and other
design and operating on human and animal crematories operating throughout the state. In order to better reflect the current state of the industry, the Department is proposing to repeal and replace Subpart 219-4 with up-to-date requirements that ensure all crematoriums are operated in a safe and environmentally sound manner.

The Department is also proposing to submit Subparts 219-5 and 219-6, which apply to crematoriums installed prior to January 1, 1989. Crematoriums currently subject to those subparts will be required to meet the requirements being proposed in Subpart 219-4.

Additionally, the Department is proposing to promulgate a new Subpart 219-10, which will establish an oxides of nitrogen limitation for municipal waste combustors operating in the state. This limitation is based on reasonably achievable control technology, and is consistent with other efforts taken by neighboring states in recent years.

Finally, the Department is proposing several clarifying changes to Subpart 219-1 and Part 200 as they relate to this proposal.

The Department held stakeholder meetings on February 6, 2018, and April 7, 2018, to discuss the likely elements of the proposed revisions to Part 219.
and to obtain feedback. The comments received from the stakeholder meetings, as well as additional input received during the stakeholder outreach process, were considered in developing this proposal.

In addition to providing statements at this hearing today, anyone may also submit written comments related to the proposed revisions to Part 219 and Part 200. Any statements made at this hearing today, as well as, written comments received during the public comment period, will be given equal weight and will become part of the administrative record for this rulemaking.

Anyone who wishes to obtain information or submit comments related to the proposed revisions to Part 219 or Part 200 can contact Mark Lanzafame, P.E. at NYSDEC Division of Air Resources, 625 Broadway, Albany, New York 12233-3254, telephone (518) 402-8403, e-mail air.regs@dec.ny.gov, or visit the Department's website at www.dec.ny.gov/regulations/propregulations.html.

Written comments will be accepted through 5:00 p.m., Wednesday, December 11, 2019. Thank you for attending this hearing.

MR. FONDA: Thank you, Meir.

When I call your name, you have indicated that you may not wish to speak. Please state your full name and organization, if any. Please spell your last
name for the court reporter, and please speak clearly so the court reporter is able to accurately transcribe your statement.

    I have one card, Craig Freiderich, you'd like to comment.

    MR. FREIDERICH: Not at this time.

    MR. FONDA: Would anybody else like to comment? With nobody else wishing to comment, the hearing is now closed. I will close the meeting. We will stay here for a little while, and reopen the meeting in case anybody else comes by and wishes to comment. Written comments can be sent to Mark Lanzaframe, and that address was previously given.

So thank you for attending, and I'm now closing the meeting and will open later, if some more people show up. Thank you.

With no one else being present, I will open and reclose this hearing. Thank you very much for coming.
CERTIFICATION

STATE OF NEW YORK )
COUNTY OF NASSAU ) ss.: 

I, SINDEE J. BAUM a Notary Public for and within the State of New York, do hereby certify:

That the within transcript is a true and accurate transcription of the stenographic notes of the hearing.

I further certify that I am not related to any of the parties to the action by blood or marriage and that I am in no way interested in the outcome of this hearing taken on December 3, 2019.

IN WITNESS WHEREOF, I have hereunto set my hand this 10th day of December, 2019.

SINDEE J. BAUM
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www.dec.ny.gov/regulations/

propregulations.html.
In the Matter Of:

REPEAL AND REPLACE 6 NYCRR PART 219

HEARING

December 04, 2019
NEW YORK STATE

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

IN THE MATTER OF THE PROPOSED RULEMAKING PROPOSING TO
REPEAL AND REPLACE 6 NYCRR PART 219

DATE: December 4, 2019

LOCATION: Avon, New York

RESIDING: MOLLY McBRIEDE
A.L.J. MCBRIDE: Good morning everyone. My name is Molly McBride and I'm an administrative law judge with the New York State Department of Environmental Conservation. I will be presiding over today's public comment session, regarding several revisions to Title Six of the Official Compilation of Codes, Rules and Regulations of the State of New York, part Two Nineteen. In addition, the Department is proposing to amend certain parts of Six N.Y.C.R.R. Part Two Hundred. Notice of this proposed rulemaking, was published in the State Register and the Environmental Notice Bulletin on September 25th, 2019. Notice was posted on the Department's website under Proposed Regulations and also notice was published in the New York Post, Newsday, Times Union, Buffalo News, Syracuse Post Standard, Rochester Democratic and Chronicle and the Post Star.

Public hearings for this proposed rulemaking, are scheduled for three different locations in the State. Hearings were held in the Department's Region One office on December 3rd, today in the Department's Avon office and on Friday, December 6th, the final hearing will be held at the D.E.C.'s central office, located at 625 Broadway,
Albany, New York. This public comment session is to provide an opportunity for the public to comment on the proposed rulemaking. Department Staff will be providing a brief presentation on the rulemaking prior to the public comments.

To obtain more information or to submit written comments, you may submit them to the D.E.C. Division of Air Resources. The email address is airregs@dec.ny.gov. All comments must be received by five p.m. on December 11th, 2019 to be considered. Anyone who wishes to make a statement today, must fill out a speaker card. I will call you name when it is your turn to make your comment on the record but before that, we will hear from Department Staff, regarding a summary on the proposed rulemaking.

MS. ZENG: Thank you Judge McBride. Good morning. My name is Yuan Zeng. I am Environmental Engineer in the Division of Air Resources. The Department is proposing to amend Part Two Nineteen, Incinerators and Part Two Hundred, General Provisions of Title Six of the Official Compilation of Codes, Rules and Regulations of the State of New York. The Department -- I'm sorry, this public hearing is one of three scheduled for the
purpose of receiving statements and comments on the
Department's -- the Department of Environmental
Conservation's proposal to repeal and
replace Sub-Part Two Nineteen Four, repeal Sub-Parts
Two Nineteen Five and Two Nineteen Six, adopt a new
Sub-Part Two Nineteen Ten and revise Sub-Parts Two
Nineteen One and Part Two Hundred.

Sub-Part Two Nineteen Four, currently
imposes a particular matter limitation and other
design and operating requirements of human and animal
crematories operated throughout the State. In order
to better reflect the current state of the industry,
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Part Two Nineteen Four, with up to date requirements
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The Department is also proposing to
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Six, which apply to crematories installed prior to
January 1st, 1989. Crematories currently subject to
those sub-parts, will be required to meet the
requirements being proposed in Sub-part Two Nineteen
Four.

Additionally, the Department is
proposing to promulgate -- promulgate a new Sub-Part Two Nineteen Ten, which will establish an oxidize of nitrogen limitation for municipal waste combustors operating in the State. This limitation is based on reasonably achievable control technology and is consistent with other efforts taken by neighboring states in recent years.

Finally, the Department is proposing several clarifying changes to Sub-Part Two Nineteen One and Part Two Hundred, as they relate to this proposal. The Department held stakeholder meetings on February 6th, 2018 and April 7th, 2018 to discuss the likely elements of the proposed revisions to Part Two Nineteen and to obtain feedback. The comments received from these stakeholder meetings, as well as additional input received during the stakeholder outreach process, were considered in developing this proposal.

In addition to providing statements at this hearing today, anyone may also submit written comments related to the proposed revisions to Part Two Nineteen and Part Two Hundred. Any statements made at this hearing today, as well as written comments received during the public comment period, will be
giving equal weight and will become part of the administrative record for this rulemaking. Anyone who wishes to obtain information or submit comments related to the proposed revisions to Part Two Nineteen or Part Two Hundred, may contact Mark Lanzaframe, P.E. at NYSDEC Division of Air Resources, 625 Broadway, Albany, New York, 12233-3254, television -- I'm sorry, telephone 518-402-8403; email airregs-air.regs@dec.ny.gov or visit the Department's website at www.dec.ny.gov/regulations/propregulations.html. Written comments will be accepted through five p.m. Wednesday, December 11th, 2019. Thank you for attending this hearing.

A.L.J. MCBRIDE: Thank you. We have one speaker today. Mr. Reed, you can make your comments from there if you'd like, since we have a small gathering.

MR. REED: Oh, sure. Would you like copies of --

A.L.J. MCBRIDE: Court reporter, it would be great if you can give him a copy. That would be great.

THE REPORTER: Absolutely.

MR. REED: Thanks. Thank you, Judge.
Good morning. My name is Jeffrey Reed. I'm the President of Mount Calvary Cemetery in Cheektowaga, New York, Vice President of the New York State Cemeteries Associations, which I'll refer to as NYSAC going forward and Chair of the Association's Cremation Committee.

As President of Mount Calvary, I oversee a crematory, which conducts an average of six hundred and eighty five cases a year. As an officer of NYSAC, I'm honored to represent New York's not-for-profit cemeteries of every size and location across the State of New York. This includes cemetery crematory operations, as well as stand-alone crematory operations. It also includes those currently under construction and to those which have been in service in New York, serving families for years. I've been honored to accumulate practical administrative operational expertise in crematory operations over my several years in the crematory cemetery industry.

I would like to begin by thanking you for holding this informational gathering today and for seeking the input and recommendations of the organization most impacted by this proposal, to change the operation requirements for crematories in New York.
York.

Based on the content of this proposal, we are sure that the D.E.C. in part, is responding to the rapidly rising cremation rate in New York. Several areas of the State, already witness localized cremation rates of over seventy percent. The Cremation Association of North America Statistical Report, indicates that the current statewide cremation rate, is projected to increase by two percent over a year -- over a year for the next ten years.

It is a fact that New York -- New Yorkers have dramatically shifted their attitudes towards cremation and that this option, while it may still be evolving, will be the predominant choice of disposition for human remains, that most families will look to for the years to come.

The challenge, based on the regulatory proposal before us today, is that the regulation of cemetery crematories, is shared not just by the D.E.C. and the ethical standards of our association but also with strict and separate regulatory oversight with the Department of State, Division of Cemeteries and the State Cemetery Board.

The proposed crematory regulatory
amendments language provided today, does not take into account the impact of existing statutes, related to the Department of State Enforcement and Supervision, in contrast with the D.E.C. emissions and oversight review. It is also NYSAC's understanding, that while a previous draft proposal was presented to the Department of State, the current draft, which now appears to be fast tracked for adoption, was not shared with our human -- human crematory regulators before its publication. This fact along -- this fact along -- alone, has brought deep concern to regulated non-for-profit cemeteries that have a significant quasi-governmental operational charge and responsibilities under State law.

What is clear to us and what we hope to make very clear to you, is that not all crematories are the same. There is a vast difference in operations, oversight and regulatory structure between human crematories, animal crematories, medical waste incinerators and garbage incinerators. Specifically, human crematories operated by the charge under the State law as not-for-profit entities, must operate under strict guidelines by our Division of Cemeteries regulators, in ways that this proposal does not
I am pleased to state clearly, that NYSAC appreciates the efforts made by the D.E.C. to address some of the concerns that were raised in the previous drafts of these regulations. The temperature changes to address manufacturer and industry standards, are important, as is the extended phase-in of the regulation to accommodate some of the realities of the marketplace our members operate within.

Specifically, I would like to offer some comments on the proposed regulation. Section Two Nineteen dash Four Four states, no person may combust materials, other than human and animal remains, their associated containers, pathological waste and incidental animal bedding in any cremation unit subject to the requirements of this sub-part, unless prior written authorization has been obtained from the Department.

While this assertion requirement that no such material that is present to be provided to the crematory operator is important, it adds yet another form or consent form, already required in other parts of State law.

In writing, this also sounds
appropriate. In reality, there are inherent contradictions, not the least of which is Section -- out of Section Fifteen Seventeen D of the Not-for-Profit Corporation Law, that specifically prohibits crematory personnel from opening cremation containers. Only funeral directors are allowed to open such containers. Crematory operators have no way of determining whether or not there is foreign material in a casket or combustible container and therefore, compliance with this proposal, is not within their ability to conform or to comply.

Further, while an explicit exception is made in the proposal for the inclusion of incidental animal bedding, there is no clear allowance for similar human burial items. Normally, inside of caskets, there are mattresses, bed rails, pillows, blankets and anything else a family or funeral director may place inside. None of this material will be known to the human crematory operator.

Proposed Section Two Nineteen Four Four F states, no person may cause or allow remains to be charged at a crematory facility in excess of the manufacturer's rated hourly capacity of that cremation unit. Does this mean that human crematory operators
will only be able to cremate cases at a rate stated by each manufacturer's unit or if so, will they need to help -- excuse me, if so, will they need to provide documentation?

In practical terms, the amount of cremations allowed per unit, can be different based on weight and container type. If a cemetery crematory operator has a day of light cases and they have not met their amount suggested by the manufacturer, does this mean they cannot cremate any longer? Also, if a cemetery has a busy day, does this mean they cannot offer overtime to get more cremations done, if they have not met their reported limit? If so, this proposal needs to be further addressed and does not reflect the capacity problem that already exists for human cremations in New York. In also does not address the Department of State and Department of Health requirements, for storage of remains or address contagion issues where the disposition of remains must be handled promptly.

Section Two Nineteen Four dash Eight, Paragraph Three deals with recordkeeping requirements. This section states, that operators will need to retain a record of the date, time and cause of all
malfunctions and any corrective action taken to resolve them. This section provides no definition, as to what is malfunction, nor does it provide and/or outline as to how to record this information. It also leaves an operator questioning what should be recorded, based on normal procedures, such as thermal-couple and general operational actions.

Of additional concern, is proposed Sections Two Nineteen dash Four dash Three and Two Nineteen Four dash Four, relating to emissions. NYSAC understands the concept of how D.E.C. wishes crematory operators to visually inspect what -- but what is exactly is supposed to happen if there is an issue where the six minute average opacity is exceeded. These sections are unclear and leave far too much to be interpreted.

As I expressed earlier, we are appreciative for some changes in the implementation schedule of this regulatory proposal. NYSAC remains firmly convinced that this new oversight scheme, will essentially lead to the elimination of nearly thirty percent of the existing human crematory retorts in New York. We believe that this will have an unintended consequence of merely shifting human cremations to
border states and provide a massive and negative fiscal impact on New York's highly regulated not-for-profit cemeteries.

Given this significant decrease in the number of traditional burials and the increase in cremation rates, this will mean the forced closure of many cemetery operations that rely on crematory income to sustain their operations. Without the retorts to provide this income due to forced state closure under this proposal or the long delays to install new -- new retorts, based on other agency oversight, closures will be inevitable.

This will have -- this will have the consequences that the maintenance and operations of these cemeteries, would then be transferred to the responsibility of local taxpayers. Simply put, New York's highly regulated cemeteries with crematories, would find themselves unable to come up with their share of the roughly three point five million to comply with this proposal, regardless of the implementation period.

Therefore, it is also NYSAC's position, that the D.E.C. should detail and designate a State revenue stream for New York's non-for-profit
cemeteries, to access in order to comply with this proposal, given its estimated statewide cost in the millions of dollars. Governor Cuomo frequently addresses a lack of designated revenue streams for new proposals, as the prime reason for vetoing legislative efforts. There is no reason that -- that this same rule should not be followed in such a sweeping change in the regulatory policy that has no impact -- that has no input by the Legislature.

In conclusion, NYSAC strongly encourage the D.E.C. to spend more time in development of this regulatory proposal in conjunction with their Department of State government partners, that also regulate our members. NYSAC stands ready and would be -- would welcome the opportunity to assist the D.E.C. in its efforts to meet the administrative concerns of the Department and the operational concerns and protection of our members and New York's tax payers. Thank you for this opportunity to provide this information and I too stand ready to provide any information you may require. Thank you very much.

A.L.J. MCBRIDE: Thank you very much.

MR. REED: You're welcome. Thank you.

A.L.J. MCBRIDE: Is there anyone else
in the room that would like to make a comment? All right. Let the record reflect that there's no one else in attendance who would like to make a comment on the record, so we will close this hearing. I thank you for coming out here today.

    MR. REED:  You're welcome. Thank you.

    A.L.J. MCBRIDE:  Off the record.
STATE OF NEW YORK

I, CONNOR DIX, do hereby certify that the foregoing was reported by me, in the cause, at the time and place, as stated in the caption hereeto, at Page 1 hereof; that the foregoing typewritten transcription consisting of pages 1 through 17, is a true record of all proceedings had at the hearing.

IN WITNESS WHEREOF, I have hereunto subscribed my name, this the 14th day of December, 2019.

Connor Dix

CONNOR DIX, Reporter
Exhibits

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EXHIBITATTACHMENT

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PROCEEDINGS: December 6, 2019

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

*******************************************************

In the Matter
- of -

Proposed Revisions to Part 219 (Incinerators)
of
Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (6NYCRR)

*******************************************************

12/6/2019
11:00 a.m.
DEC Office of Hearings & Mediation Services
625 Broadway
Conference Room
Albany, New York

PRESENT:

Maria E. Villa,
Department of Environmental Conservation
Office of Hearing and Mediation Services
Administrative Law Judge

Richard McAuley
Department of Environmental Conservation
Regulatory Coordinator
ALSO PRESENT:

Denise Prunier,
Chief of Permitting and Compliance Section
Bureau of Stationary Resources,
Division of Air Resources
Department of Environmental Conservation

David Fleming, Jr.
Acting Executive Director
New York State Association of Cemeteries

REPORTED BY: Suzanne T. Harrington, Shorthand Reporter
Proceedings December 6, 2019

P-R-O-C-E-E-D-I-N-G-S

ALJ VILLA: So it's 11:00 by my watch and we'll get started. I have a rather lengthy opening statement to read into the record, so we'll get started on that. Good morning. This is an administrative public hearing with a legislative format before the New York State Department of Environmental Conservation, in the matter of Department Staff's proposed revisions to Part 219 of the Official Compilation of Codes, Rules and Regulations of the State of New York or 6 NYCRR for short.

The Department proposes to make several revisions to the operating requirements for incinerators and human and animal crematories. Conforming changes to Part 200.9 will be made, and the Department proposes to submit the revised Part 219, as well as the revisions to Part 200, to EPA as a revision to the State Implementation Plan or SIP.

The purpose of this hearing is to receive comments on the proposed revisions. If you wish to make a statement, please fill out one of the cards that's over there and give it to me. The cards will be used to call the speakers in the order that I received the cards.
I am Maria Villa, serving as hearing officer for the Department.

All persons, organizations, corporations or government agencies that may be affected by the proposed rule are invited to submit either written or oral statements. All statements taken today, whether written or spoken, will be incorporated into the official record of this proceeding.

Statements are not given under oath nor will there be any cross-examination. Hearings have already been held on Long Island and in western New York and a cumulative record will be compiled of all the comments received at the three area hearing sessions.

Written statements received during the public comment period and oral statements made at hearings such as these are given equal weight. Please submit any lengthy statements in writing. If you wish, you can summarize those statements verbally. Written comments can also be submitted on or before 5:00 p.m. on December 11th, 2019.

The contact person for further information with respect to Part 219 is Mark Lanzafame, P.E. I have his contact information. That also appears in the notices of today’s hearing.

To submit written comments on the SIP
revisions, contact Robert Bielawa, P.E. of the
Division of Air Resources. I have his contact
information as well. That information appears in the
notice of hearing. If you want to send comments via
email, the address is air.reg@dec.ny.gov.

The Department Staff has provided me copies
of the notices of the hearing sessions that were
published in the September 25, 2019 edition of the
Department's Environmental Notice bulletin as well as
in the New York Register on the same date.

In addition, I have affidavits of
publication of the Notice published in the New York
Post, Newsday, the Albany Times Union, the Buffalo
News, the Glens Falls Post Star and the Rochester
Democrat and Chronicle on September 25, 2019. The
Notice was published in the September 24, 2019 edition
the Syracuse Post-Standard.

I'm now going to call upon Miss Denise
Prunier to make a brief presentation regarding the
rule. Whenever you're ready.

MS. PRUNIER: Okay. Thank you, Judge Villa.
Good morning. My name is Denise Prunier. I'm the
Chief of the Permitting and Compliance Section, Bureau
of Stationary Sources in the Division of Air
Resources. The Department is proposing to amend Part

This public hearing is one of three scheduled for the purposes of receiving statements and comments on the Department of Environmental Conservation's proposal to repeal and replace Subpart 219-4, repeal Subparts 219-5 and 219-6, adopt a new Subpart 219-10 and revise Subpart 219-1 and Part 200.

Subpart 219-4 currently imposes a particulate matter emissions limitation and other design and operating requirements on human and animal crematories operated through the state. In order to better reflect the current state of the industry, the Department is proposing to repeal and replace Subpart 219-4 with up to date requirements to ensure all crematories are operated in a safe and environmentally sound manner.

The Department is also proposing to sunset Subparts 219-5 and 219-6, which apply to crematories installed prior to January 1st, 1989. Crematories currently subject to those Subparts will be required to meet the requirements being proposed in Subpart 219-4.

Additionally, the Department is proposing to
promulgate a new Subpart 219-10 which will establish
an oxides of nitrogen limitation for municipal waste
combusters operating in the state. This limitation is
based on Reasonably Available -- Achievable Control
Technology, and is consistent with other efforts taken
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Finally, the Department is proposing several
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comments received from these stakeholder meetings, as
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stakeholder outreach process, were considered in
developing this proposal.

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related to the proposed revisions to Part 219 and Part
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Anyone who wishes to obtain information or
submit comments related to the proposed revisions to Part 219 or Part 200 may contact Mark Lanzafame, P.E. at New York State DEC, Division of Air Resources, 625 Broadway, Albany, New York 12233-3254. Telephone: (518)402-8403, e-mail: air.regs@dec.ny.gov or visit the Department's website at www.dec.ny.gov/regulations/promulgations.html. Thank you.

ALJ VILLA: Thank you. I only have one card. Is there anyone else here who wanted to speak? And hearing no response, Mr. Fleming.

MR. FLEMING: Do you want me to come up there?

ALJ VILLA: If you would, it's easier for the court reporter. Thank you.

MR. FLEMING: Good morning. My name is David Fleming. I'm the acting executive director of the New York State Association of Cemeteries, (NYSAC), which represents New York's not-for-profit cemeteries of every size and location in the Empire State. Thank you for holding this information gathering session today to secure public comment on the proposed regulations to further regulate crematories in New York.

By way of background, in addition in the
extensive policy work of NYSAC in cemetery regulation, crematory operations and consumer protections, I have a comprehensive 24 year background in general cemetery management and regulation. I have had the opportunity to represent some of New York's largest as well as some of the smallest cemeteries. I have also personally operated three upstate municipal cemeteries and have helped develop, secure regulatory approval for and construction of many of the newest crematories in New York.

During my cemetery management and advocacy career, I have published numerous cemetery articles, and my white paper on cemetery restructuring and abandonment, published by the Tug Hill Commission, is the New York industry standard.

I have been called on by local governments to handle cemetery abandonment cases and have successfully implemented the restructuring of the largest crematory/cemetery abandonment reorganization and restoration in state history.

Moreover, I have been honored to have negotiated some of the most significant changes in cemetery policy in New York which are now utilized as national models for cemetery regulation. This includes my involvement in the development and
complete rewrite of New York's cremation regulation
and operations law found in the Not-for-Profit
Corporation Law.

This rewrite of state cemetery law included
the development of crematory operator certification
requirements which have been implemented and are
administered via annual training by NYSAC, in tandem
with the Cremation Association of North America.

This technical training is done in
cooperation with DEC and the State Division of
Cemeteries. This certification program was a
pioneering effort nationally, and made New York the
only state that involved regulators directly in the
training and certification process.

The development and implementation of this
certification program and the inclusion of all
interested parties is a road map for positive cemetery
policy development. It is with this comprehensive
background and experience in mind that I seek to
provide comment on the Department's proposal to
further regulate crematories in New York.

New York's human crematory operations differ
from crematory operations in other states. In fact,
our cemetery crematories are mandated to be
not-for-profit entities and are seen as
quasi-governmental entities. Their operation involves a direct public purpose, which is why they operate under the additional regulation of Article 15 of the Not-for-Profit Corporation Law.

Human crematories themselves are also distinctly different, both in statutory operation and charge from animal crematories, medical waste incinerators and other forms of incineration equipment. Our members serve families in grief and under a state framework that provides dignity, safety and confidence in consumer protections.

For some time cremation has rapidly accelerated as a preferred disposition method chosen by the families our members serve. There are pockets of population centers in New York where cremation rates are at or exceed 70 percent for all deaths in those areas. These high numbers greatly impact general cemetery operations, as our members are also the principal providers of these services.

All human crematories in New York are cemeteries. They are not animal crematories or waste incinerators. They provide a dignified final disposition of someone's loved one.

Based on an analysis of the Department of State's own numbers, the proposed changes to Part 219
would negatively impact all, and inadvertently eliminate approximately 30 percent of all retorts operating in New York today. This is at a time when the rate of cremations is increasing and the demand for New York operators is unprecedentedly high.

The loss of crematory business for the cemeteries we represent, even for an extended period of time, even if a cemetery was able to comply with this proposal, would create a shortage of retorts for human cremations.

A retort shortage would drive volume and business to border states, where identification and consumer protections are in no way matched to those provided to New York's consumers.

Cremation operations in other states have little to no government oversight. At the same time, the driving of this service to other states will create a serious additional burden on the families who will experience an extended wait for memorial services as they await the return of their loved one's remains.

Our neighboring border states do not share our chain of custody requirements and operate devoid of the consumer protections we value in New York. Without New York's chain of custody requirements, some families may be left with legitimate concern that the
loved ones sent out of state for cremation may not be
the cremated remains an out of state operator sends
back.

The loss of New York's capacity created by
the implementation of this regulation may not be
corrected in any short period of time. The highly
regulated nature of New York's not-for-profit
crematories means that the entire development and
operation of retorts is also subject to oversight
related to any operational changes by the Department
of State through the Division of Cemeteries and the
State Cemetery Board.

This shared oversight with DEC is clearly
not taken into account in this regulatory proposal.
Section 1505-a of the Not-for-Profit Corporation Law
outlines a complex and detailed purpose for
application and approval to install, expand or add
crematories or retorts in New York. State Cemetery
Board Directive 201.16 provides further regulatory
direction on addressing changes to facilities to
accommodate new retorts and equipment.

The process modifying crematory facilities
may take more than a year to complete, assuming a
cemetery has the financial means to contemplate this
course.
Crematory operations in New York yield a low margin and are highly competitive. Prices are fixed by the State, as are the number of retorts allowed to operate in geographical areas. These are all issues regulated by the Department of State and not DEC.

Further, most of these operations have very limited financial resources. And in many instances, the limited income from cremations may be the only revenue stream keeping these not-for-profits viable. Should they fail as quasi-government operation, they become the wards of the municipalities in which they are located.

This is a very competitive marketplace. The loss of cremation operations at one facility will shift those cases to other cemetery operations, and in many instances that business will not return. This is evidenced by the fact that crematory operators keep their facility running to the best of their ability when machines are being serviced to prevent this loss in revenue and long term business.

The cost estimates outlined in this proposed regulations do not adequately reflect the actual cost of retort replacement or the overall impact on cemetery operations.

From a practical perspective, there are
cemeteries who are completely unable to take retorts out of service in their existing structure and replace them with new equipment. This is because the historic structures in which they are located may not be altered, or the building they occupy may not accommodate the configuration and installation of new equipment.

This would mean the cemetery would be forced to construct a new building to house the retorts and cremation operations. This cost alone to comply with new building standards and regulatory requirements would be significant.

Changes of equipment and these massive capital costs are issues addressed over long periods of time with cemetery operators and the Division of Cemeteries. These are not decisions that are made in the short term and paid for immediately.

I recently spoke with a crematory operator who indicated all three retorts in their facility were installed just prior to 1989 and that the proposed regulation would render their retorts obsolete. Without adequate resources to pay for the renovation to the crematory building for the new stacks and engineering, this cemetery would be put out of the cremation business entirely. The proposed regulation
would therefore be devastating to the overall financial stability of that cemetery.

Recent project approvals by the State Cemetery Board provide a more accurate picture of the cost associated with crematory replacement. A newly approved small scale crematory replacement costs just under one million dollars in the Hudson Valley. A more significant operation in western New York cost nearly three million dollars.

The cost estimates presented in this proposal are limited to retort replacement, and even at that low end, include non-human cremation equipment. The actual cost estimates need to include more than the cost of the machine. Engineers are required to evaluate structures and plan for the replacement. Walls and roofs may need to be removed to install new retorts.

Attorney's fees for the application to the State Cemetery Board are needed application production for the State Cemetery Board must be created and submitted; zoning and code requirements must also be met. The existing machines need to be decommissioned and dismantled.

All this work has significant fiscal impact on crematory operators. On top of these costs, a
cemetery may need to wait a year before approval is granted by the State Cemetery Board, given the Board's low staffing levels and the complexity of their oversight review. This is all before the waiting periods and costs associated with DEC approval to operate the systems and to comply with current regulatory requirements.

Therefore the actual cost of $160,000-$250,000 per human retort is just a fraction of the true cost of replacement, and is far more complicated than other types of incinerators regulated by DEC. While not-for-profit cemeteries provide a vital public service, this regulatory change would significantly impact a crematory operator's fiscal stability and limit their revenue source.

This proposal is outlined as an incinerator regulation. Human cremation is a totally different issue. These regulations, as drafted, reflect the DEC incinerator perspective for oversight, and reflect nearly no practical concerns of regulated human crematories dealing with multiple regulators.

Quite frankly, this regulation should be redrafted to separately account for the very unique and specific issues related to human cremation and multi-jurisdictional oversight.
Cemetery cremation involves the dignified disposition of human remains. That process sometimes includes personal items placed in the casket or container with the deceased. The language of this proposal would prohibit families from including mementos such as a child's favorite blanket, family photos, a grandmother's quilt, without creating a violation of this proposal.

Our members would also be in violation of this regulation if families did include such momentos inside the sealed cremation container delivered to our operation, because Section 1517(d) of the Not-for-Profit Corporation Law prohibits us from opening the container and we have no way of knowing what is inside.

By failing to address the very specific needs of the families our members service, this proposal strips away the comfort, dignity and respect for the deceased provided by our members. By failing to allow the disposition of human remains in a way that honors those lost, this proposal equates this process with medical waste or garbage disposal.

NYSAC estimates that the minimum impact of the proposed regulation on our members would be $3,500,000. This estimation includes the lowest end
retort replacement, and assumes no other construction or administrative costs would be required to comply with building and zoning requirements. The estimation figure also assumes the existing structures are compatible with new retort installation.

Compliance with existing DEC and DOS regulations and adherence to current statutes to add retorts or crematories is already a lengthy process. This new administrative hurdle may take six months to a year for a single review to be completed by the State. This will force the elimination of a large portion of retort capacity in New York.

The elimination of many retorts for extended periods of time, especially in the state's urban areas, will also impact many religious groups that rely on existing facilities to meet the date and time requirements of their specific funeral rites.

In closing, our members provide a comforting and important service for the families of New York. The proposal as written would be a negative fiscal impact on our cemetery operators and inhibit our members from delivering the same level of care that New Yorkers value.

This is a tremendously complicated area to implement regulatory amendments. It is further
complicated by the fact that DEC's enforcement and supervision oversight is shared with the Department of State, and in some reasons, the Department of Health.

We cannot change this regulatory scheme in one aspect without negative impacting the overall regulatory landscape. All parties, all agencies, all stakeholders, along with regulating entities, must be involved in a dialogue and this process.

The fact that this has not been done, to date, is a compelling basis for stopping the implementation of this regulation as proposed, and to redraft the proposal including all parties in a constructive dialogue.

NYSAC stands ready to provide further practical information to assist in the thoughtful crafting of this regulatory proposal. I thank you for the opportunity to present this information to the Department today. Thank you.

ALJ VILLA: Thank you very much. Is there anyone -- I don't think there have been any new folks coming in. Anyone else want to make a statement on the record?

(No response.)

ALJ VILLA: Hearing no response, we'll adjourn for about ten minutes to see if anybody else
comes in, and if no one arrives we'll close the hearing. Thank you, we're off the record.

(Off the record.)

ALJ VILLA: I've got close to 11:30, I think we're going to go back on the record. Anyone else who wanted to make a statement? All right. A reminder, the public comment period will close on December 11th, 2019. Comments can be made to contacts in the notice or sent by e-mail. Once again, the e-mail address for comments is air.regs@dec.ny.gov. This hearing session is adjourned. Thank you all very much for coming.

* * *

(At which time, the proceedings in the above-entitled matter were concluded at 11:36 a.m.)
RE: DEC

AT: 625 Broadway
    Conference Room
    Albany, New York

DATE: December 6, 2019

CERTIFICATION

I, Suzanne Harrington, a Shorthand Reporter and Notary Public in and for the State of New York, do hereby certify that the foregoing record taken by me at the time and place noted in the heading hereof is a true and accurate transcript of same, to the best of my ability and belief.

Suzanne Harrington
General Comments

1. Comment: Human crematories are distinctly different, both in statutory operation and charge from animal crematories, medical waste incinerators and other forms of incineration equipment. Commenters 3, 9

Response: With respect to air pollution control, there is no statutory difference between human and animal crematories. Further, both types of operations produce similar emissions to the atmosphere from nearly identical equipment. While the Department agrees that there may be fundamental differences in the day to day business practices in each industry, from an environmental regulation standpoint they are the same.

2. Comment: Based on an analysis of Department of State’s own numbers, the proposed changes to Part 219 would negatively impact all, and inadvertently eliminate approximately 30 percent of all retorts operating in New York today. Commenter 3

Response: The intention of this regulation is to reduce emissions of particulate matter from new crematories and better reflect the current state of cremation technology. This is being done by requiring
crematories more than 30 years old to meet the standards in place for those constructed after December 1, 1988 and new crematories to meet state of the art standards. Some existing crematories already meet these standards in practice, and those who do not are being afforded 5 years to come into compliance by this proposal. The Department does not believe that this will negatively affect all crematories in New York. In addition, the Department believes that there will be benefits to the crematory operators in addition to the environment. Also please see Comments 13, 14 and 15 below.

3. Comment: This regulation should be redrafted to separately account for the unique and specific issues related to human cremation and multi-jurisdictional oversight. Commenter 3

Response: The Department understands the complex regulatory landscape for human crematories operating in the State. However, many of the issues resulting from multi-jurisdictional oversight do not impact the Department’s statutory authority and obligation to regulate sources of air pollution. Accordingly, this proposal considers the technical specifications of cremation equipment in general and not the specific business practices being conducted. This approach is identical to the Department’s long-standing regulation of this sector.

4. Comment: The Connecticut Department of Energy and Environmental Protection (DEEP) supports the proposed revisions to Part 219 concerning nitrogen oxide emissions from municipal waste combustion units. DEEP also supports the submission of these revisions to the U.S. Environmental Protection Agency as a revision to New York’s State Implementation Plan. Commenter 5

5. Comment: We are generally in favor of the Subpart 219-10 proposal and agree with the Department’s intent of utilizing a uniform approach for safeguarding New York State and neighboring state air
Response to Comments 4 and 5: The Department thanks you for your comments.

6. Comment: At the recent December 6, 2019 hearing DEC representatives indicated a stakeholder meeting was conducted in February of this year. Commenter 8

Response: The Department held no stakeholder meeting in February 2019. Rather, as the official transcript of the December 6, 2019 public hearing held in Albany, New York indicates, “The Department held stakeholder meetings on February 6, 2018 and April 7, 2018 to discuss the likely elements of the proposed revisions to Part 219 and to obtain feedback.” (see Page 7, lines 9 – 12).

Sunset of Subparts 219-5 and 219-6

7. Comment: The retrofit of crematory machinery (such as adding a thermocouple) is expensive, especially for smaller operations, but also difficult due to the lack of skilled labor in the State to perform these services. Commenter 1

Response: The Department understands that most manufacturers of cremation equipment are located outside the State which may increase the cost associated with modification of cremation equipment. However, crematory owners and operators often contract with skilled personnel to perform routine maintenance and repair of their cremation equipment. Given that the proposed compliance schedule provides 60 months (5 years) for the facility owner to achieve final compliance with this proposal, the Department believes that sufficient time has been provided to plan for the costs associated with any
necessary equipment installation.

8. Comment: The addition of a temperature recorder and operator training & certification are not an issue for units installed prior to 1989. Recorders can be installed on any cremator and are not cost prohibitive. Training & certification is already a requirement of the NY Division of Cemeteries for all crematory personnel. Commenter 2

Response: The Department thanks you for your comment.

9. Comment: There is strong concern about the cost of a “stack test”. One of our members stated that such a test had to be submitted to NYSDEC prior to the machinery even being installed. Commenter 1

Response: Stack testing of cremation equipment is important as it allows the Department to determine whether a proposed cremation unit meets the particulate matter emissions limitation described in the regulation. Under the current Section 219-4.8, the owner or operator of a crematory facility installing a new cremation unit must either conduct a stack test or submit a copy of a test report for an identical unit that was conducted in New York State. As the commenter suggests, this requirement can be costly for certain crematory operators. In order to mitigate this cost and still maintain the compliance demonstration benefit of stack testing, proposed Section 219-4.5 requires the owner or operator of a crematory facility to either perform a stack test or submit a representative stack test report for an identical unit upon request of the Department. It is important to note that the representative stack test need not have been conducted in New York so long as it meets certain criteria described in the proposal. This change allows the crematory owner or operator to submit a test report that has already been conducted, thus mitigating the cost of performing a separate test.
In the case where a stack test was already submitted at the time of construction, a new stack test would not necessarily be required to demonstrate compliance with this proposal provided the original test demonstrates compliance with the proposed particulate matter emissions limitation. However, the Department reserves the right to request a new stack test be performed pursuant to its authority under 6 NYCRR Section 202-1.1 and the proposed language of Subdivision 219-4.5(a).

10. Comment: Existing IEE Power Pak IE43 (PP) and ALL 1701 cremators are not capable of complying with the proposed requirements of 1600F in the after-chamber at 1.0 second residence time. Commenter Response: The Department understands that some older cremation equipment installed prior to January 1, 1989 may not be able to comply with the requirements of this proposal. However, as discussed in the Regulatory Impact Statement, these units are typically at or approaching the end of their 30-year expected useful life. Accordingly, many of the affected facilities would need to consider replacement of this equipment soon regardless of this proposal. To mitigate costs associated with the replacement of these units, the proposal allows for a 60-month (5 year) period for the facility owner to come into compliance with the new requirements.

11. Comment: Compliance with existing DEC and DOS regulations and adherence to current statutes to add retorts or crematories is already a lengthy process. This new administrative hurdle may take six months to a year for a single review to be completed by the State. This will force the elimination of a large portion of the retort capacity in New York. Commenters 3, 9
Response: The proposed regulation includes a compliance schedule which requires an existing crematory to demonstrate compliance with the proposed requirements 60 months (5 years) from the effective date of the proposed regulation (see proposed paragraph 219-4.9(a)(2)). In addition, the proposed regulation includes a provision allowing the Department to grant an extension to the final compliance date described above following a demonstration of cause by the crematory owner (see proposed paragraph 219-4.9(a)(3)). The extension provision allows for the crematory owner or operator to propose a final compliance date. Combined, these provisions allow for sufficient time to address the approval processes the commenter references. Further, existing cremation equipment will not be prohibited from operating during the transitional period. Accordingly, there is no immediate reduction in cremation capacity as a result of this proposal.

Crematory Operating Requirements

12. Comment: We support DEC’s recommendations. Reducing the after-chamber temperature from 1800F to 1600F will not have a negative impact on the environment. In fact, as previously noted on Page 3, Paragraphs 2 & 3 of the attached, it would result in lower PM emissions, fewer incidences of visible emissions and reduced fuel consumption. Commenter 2

13. Comment: The removal of the primary chamber temperature requirement is also beneficial and brings DEC into alignment with all the other state environmental agencies as none have a primary chamber temperature requirement. Commenter 2

14. Comment: The temperature changes to address manufacturer and industry standards are important, as is the extended phase-in of the regulation to accommodate some of the realities of the marketplace.
Response to Comments 12, 13, and 14: The Department thanks you for your support of this proposal.

15. Comment: Cremation involves the dignified disposition of human remains. That process sometimes includes personal items placed in the casket or container with the deceased. The language of this proposal would prohibit families from including mementos in the casket or container without creating a violation of this proposal. Commenters 3, 9

Response: The combustion of items other than human and animal remains, their container, and incidental animal bedding is currently prohibited by existing regulations at 6 NYCRR Section 219-4.6. This proposal rephrases the existing requirements to clarify the Department’s intent with regard to the types of materials that can be combusted in a human or animal crematory. Accordingly, there is no material change in the Department’s regulatory approach with respect to this issue.

16. Comment: There is an expressed concern related to honoring religious practices for human cremation and the varied ways our members are called on to meet particular and varied religious customs. The proposed draft regulation treats cremation the same as incineration of waste and does not specifically address these concerns. Commenters 3, 8

Response: This regulation updates air pollution emission requirements for crematories. This regulation is in no way intended to interfere with religious practices for human cremation and indeed does not do so.
17. Comment: Our members would be in violation of this regulation if families did include mementos inside the sealed cremation container delivered to our operation because Section 1517(d) of the Not-for-Profit Corporation Law prohibits crematory operators from opening the container. Commenters 3, 9

Response: The Department is aware of the prohibitions outlined in Section 1517(d) of the Not-for-Profit Corporation Law (Section 1517(d)) and the challenges they present with respect to both the existing regulation and this proposal. Accordingly, the proposed language at Subdivision 219-4.4(e) requires the person providing the remains for cremation to attest in writing that the remains and their container do not contain materials prohibited from being combusted by the proposed regulation. It is the Department’s intention that this attestation be provided by an individual who is authorized by Section 1517(d) to open the container and verify its contents.

18. Comment: Proposed Subdivision 219-4.4(f) states that no person may cause or allow remains to be charged at a crematory facility in excess of the manufacturer’s rated hourly capacity of that cremation unit. Does this mean that human crematory operators will only be able to cremate cases at a rate stated by each manufacturer’s unit? If so, will they need to provide documentation? Commenter 9

Response: Cremation equipment is rated by the manufacturer for a certain hourly capacity. Exceeding this rating may cause operational issues which cause or contribute to excess emissions. To mitigate these concerns, the language proposed at Subdivision 219-4.4(f) requires the owner or operator of a cremation unit to follow the manufacturer’s specifications for the loading of the unit. If the owner or operator is following the proper operating procedures as described by the equipment manufacturer, compliance with this requirement should not be an issue. Documentation such as the operating manual for the cremation
unit and a record of cremations performed that includes the approximate weight of the remains will be sufficient to demonstrate compliance with this requirement.

19. Comment: What exactly is supposed to happen if the 6-minute average opacity exceeds the proposed standard at Subdivision 219-4.4(a)? Commenter 9

Response: As with the current regulation, the owner or operator of a cremation unit should take appropriate corrective action immediately after becoming aware that the opacity standard at Subdivision 219-4.4(a) has been exceeded. The owner or operator should determine the cause of the excess opacity and note the malfunction in the facility’s operating records as required by proposed Paragraph 219-4.8(a)(3). Finally, the facility owner or operator should follow the notification procedures specified in 6 NYCRR Section 201-1.4 for malfunctions.

Recordkeeping and Reporting

20. Comment: The draft 219 proposal does not conform to recordkeeping requirements by the Division of Cemeteries. There should be consistency in the recordkeeping requirements and not duplicative requirements or process for retaining records. Commenter 8

Response: The Department and the Division of Cemeteries have differing statutory obligations with respect to the cremation industry. As a result, each agency requires the upkeep of records relevant to demonstrating compliance with the requirements they impose. This proposal does not specify the format of records, only their content. If a record kept pursuant to Division of Cemeteries requirements contains identical information to records required to be kept by the proposed regulation, there is no need to
duplicate the record. The Department will accept this information as part of a successful compliance demonstration.

21. Comment: Proposed Paragraph 219-4.8(a)(3) states that operators will need to retain a record of the date, time, and cause of all malfunctions and any corrective action taken to resolve them. This section provides no definition of the term ‘malfunction’, nor does it describe how to record this information.

Commenter 9

Response: The term ‘malfunction’ is defined in 6 NYCRR Paragraph 201-2.1(b)(22). The Department will clarify that in the final express terms. The required information related to a malfunction should be recorded using a method that allows it to be easily maintained by the facility and easily reviewed by Department staff during an inspection of the facility, such as in a bound log book, separate file, or in an electronic format.

NOx RACT for Municipal Waste Combustors

22. Comment: If a waste combustion unit can currently meet the proposed technology-based NOx limits or “presumptive Reasonably Available Control Technology (RACT)” limits (either with or without control technology), we do not believe there is a need to prepare and submit a NOx RACT analysis.

Commenters 4, 7

Response: The proposed language at Subdivision 219-10.2(d) indicates that the owner or operator of a facility subject to the proposed Subpart 219-10 must submit either a complete application for a permit that incorporates the proposed requirements or a RACT analysis explaining why the facility’s current
control strategy should be considered RACT. Accordingly, a facility that currently meets the proposed emission limits would not need to prepare and submit a NOx RACT analysis.

23. Comment: Subdivisions 219-10.3(a), (b), and (d) should be revised to include language related to the transition to the new requirements for units that already have continuous emissions monitors (CEMs) in place. This language should include the use of CEMs rather than performance testing to demonstrate initial compliance. Commenters 4, 6, 7

Response: The Department agrees that a performance test is not necessary for a facility which can demonstrate compliance with proposed Subpart 219-10 using an existing CEMs system. Accordingly, the language of Subdivision 219-10.3(a) has been revised to reflect this method of compliance demonstration. The language of Subdivision 219-10.3(d) has also been revised to reflect this change.

A municipal waste combustion facility which already operates CEMs for oxides of nitrogen does not need to install a new CEMs system to demonstrate compliance with this proposal. Accordingly, no additional action would be required for such a facility to demonstrate compliance with Subdivision 219-10.3(b).

24. Comment: The proposed language in Paragraphs 219-10.3(c)(1) and (2) conflicts with federal CEMs monitoring guidance at 40 CFR 60.13(h)(2) which existing waste combustors are already in compliance with. This language should be replaced with references to the federal CEMs monitoring requirements. Commenters 4, 7

Response: The proposed language in Paragraphs 219-10.3(c)(1) and (2) does not conflict with federal
CEMs monitoring guidance. The owner or operator of a facility with an existing NOx CEMs system that is using the requirements at 40 CFR 60.13(h)(2) to demonstrate compliance with the applicable federal emission standard for NOx will be deemed to be in compliance with proposed Subdivision 219-10.3(c) because the monitoring requirements at 40 CFR 60.13(h)(2) are more stringent. Accordingly, by demonstrating compliance with those requirements the facility owner or operator is also demonstrating compliance with proposed Subpart 219-10. The Department will continue to include the most stringent monitoring requirements in the facility’s Title V permit, as required by state and federal Title V permitting procedures and guidance.

25. Comment: It is not necessary to prepare a Title V permit modification application simply to incorporate new requirements. The Department has the authority to modify the permit to incorporate new requirements as described at 6 NYCRR Subdivision 621.13(a). Commenters 4, 7

Response: As suggested by the commenter, a Department initiated modification may be appropriate for certain facilities subject to this proposal. However, some facilities may need to complete an economic and technical feasibility analysis, purchase and install CEMs, or take other steps to demonstrate compliance with the proposed regulation. Accordingly, it is more appropriate for the facility owner or operator to prepare and submit a Title V permit modification that addresses the specific compliance methodology the facility will follow.

26. Comment: It needs to be clarified that the compliance calculation for the proposed 150 ppm/24-hour limit can exclude hourly averages during periods of start-up, shutdown, and malfunction as currently provided in federal New Source Performance Standards for large municipal waste combustors.

Commenter 6
27. Comment: Concentration-based emission limits are not practical during periods of start-up and shutdown because it is technically infeasible to comply with the emission rates due to the 7% oxygen correction factor. If it is intended for the RACT limit to apply during start-up, shutdown, and malfunction, an alternative limit must be provided with a compliance calculation method that does not include the 7% oxygen correction factor. Commenter 6

28. Comment: The annual average should also be exclusive of periods of start-up, shutdown, and malfunction as described in Comment 23. Commenter 6

Response to Comments 26, 27 and 28: The Department understands the technical issues that may result from including periods of start-up, shutdown, and malfunction in the calculation of the proposed 24-hour and annual NOx limits. Accordingly, the proposed language of Section 219-10.2 has been revised to exclude these periods.

29. Comment: The proposed compliance date of January 1, 2020 for the submission of a complete permit application incorporating the RACT requirements or RACT analysis cannot be achieved since the regulation has not been adopted. Commenter 6

Response: The proposed compliance date has been revised to June 30, 2021.

30. Comment: One year after the effective date of the Subpart is not sufficient time to conduct a compliance demonstration if a permit application is required to be submitted and a NOx control system needs to be engineered and installed to meet the proposed limit. The date of compliance demonstration should
instead be one year after receipt of any permits to allow sufficient time for installation and
commissioning of new NOx control systems. Commenter 6

Response: To alleviate this issue, proposed Subdivision 219-10.3(a) has been revised to indicate that the
compliance demonstration date will be one year after the issuance of a Title V permit modification to
incorporate the proposed requirements as described in proposed Subdivisions 219-10.2(d) or 219-
10.3(f), as applicable.

31. Comment: It should be clarified that the proposed 24-hour average is calculated based on a minimum of
18 valid hourly averages. This would ensure there is sufficient data to provide a representative average
in the event a CEM is offline for maintenance or repair. Commenter 6

Response: The Department agrees with this comment. The proposed language of Subdivision 219-
10.3(c) has been revised to clarify.

32. Comment: The annual NOx average should be calculated on a 365-day rolling average basis to provide
for tracking of compliance on a real time basis. Commenter 6

Response: The Department intended the annual average to be calculated on an annual rolling basis.
Accordingly, proposed Subdivisions 219-10.2(b) and 219-10.3(d) have been revised to clarify this
requirement.

33. Comment: Proposed Subdivision 219-10.3(f) appears to be redundant with proposed Subdivision 219-
10.2(d) as both Subdivisions require the submittal of a Title V permit modification. Commenter 6
Response: The commenter is correct, both Subdivisions require the submittal of a permit modification. However, both provisions may not apply to a given facility. As discussed in the response to Comment 22 above, a facility may either submit a complete application for a Title V permit modification to incorporate the requirements of this Subpart or prepare a facility specific NOx RACT analysis. Facilities that choose to prepare a NOx RACT analysis will be required to submit a complete Title V permit modification application as described in Subdivision 219-10.3(f). The language of Subdivision 219-10.3(f) has been revised to more clearly state this.

Costs to Crematories

34. Comment: The cost estimates outlined in this proposed regulation do not adequately reflect the actual cost of retort replacement. There are cemeteries who are unable to take their existing retorts out of service and replace them with new units because they are in historic structures which cannot be altered, or the building they occupy may not accommodate the configuration and installation of new equipment. This would mean the cemetery would need to construct a new building and incur the costs associated with that. These capital costs are typically addressed over long periods of time. Commenter 3

35. Comment: The cost estimates presented in this proposal are limited to retort replacement and include non-human cremation equipment. The actual cost estimates need to include more than the cost of the machine. Commenter 3

Response to Comments 34 and 35: The Department understands that some crematory owners and operators may face different challenges than others when considering the replacement of their existing
units. While these changes may affect the total cost of replacement for certain facilities, they are not universal. Further, construction costs may be different depending on factors such as geographic location or project specific parameters. Accordingly, the Department focused the cost analysis in this proposal on the only consistent cost between facilities – the retort itself. As this proposal affects both human and animal crematories, the Department must consider the costs of both human and animal cremation equipment.

Regulatory Flexibility Analysis for Small Businesses and Local Governments

36. Comment: Paragraph 2 of the Effect of Rule section and Paragraph 3 of the Economic and Technical Feasibility section incorrectly state that only one of the 10 affected municipal waste combustion facilities is owned by a local government. This does not properly account for the two facilities (MacArthur Resource Recovery Facility (RRF) and Dutchess County RRF) owned by a public entity yet operated by a separated private entity. Commenter 4

Response: Both the Islip Resource Recovery Agency (MacArthur Resource Recovery Facility) and the Dutchess County Resource Recovery Agency are public benefit corporations and not municipalities.

37. Comment: Paragraph 8 of the Compliance Costs section suggests that MacArthur RRF would be required to complete a NOx RACT analysis. This should be corrected for the reasons described in Comment 36 above. Commenter 4

Response: Thank you for your comment. See response to Comment 36 above.
Miscellaneous Comments

38. Comment: Sixteen “stand-a-lone” crematories owned by funeral homes were afforded legal protection under the 1998 Anti-Combination Act to continue operating provided they a) operated the crematory or performed cremations prior to January 1, 1998, and b) filed an application with the State Cemetery Board for the operation of a crematory prior to that same date. We wanted to call your attention to this and seek your concurrence that the continued ownership of these crematories by funeral homes should not be jeopardized due to their owner’s efforts to comply with this proposal. Commenter 1

Response: The 1998 “Anti-Combination Act (chapter 560 of the Laws of 1998) largely pertains to the business relationships between cemetery corporations and funeral entities and is irrelevant to the environmental regulation of crematories.

List of Commenters

1. New York State Funeral Directors Association, Inc.
2. Matthews Environmental Solutions
3. New York State Association of Cemeteries (verbal)
4. Islip Resource Recovery Agency
5. Connecticut Department of Energy & Environmental Protection
6. Wheelabrator Technologies Inc.
7. Covanta Holding Corporation
8. New York State Association of Cemeteries (written)
9. Mr. Jeffery Reed
STATE OF NEW YORK

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

CERTIFICATE OF ADOPTION


Pursuant to the provisions of Sections 1-0101, 3-0301, 3-0303, 19-0103, 19-0105, 19-0107, 19-0301, 19-0302, 19-0303, 19-0305, 19-0306, 19-0311, 71-2103, and 71-2105 of the Environmental Conservation Law, I, Basil Seggos, Commissioner of the Department of Environmental Conservation (DEC), hereby certify that the amendments to 6 NYCRR Part 219, "Incinerators" and 6 NYCRR Part 200, "General Provisions" be adopted to read as on the attached original, and certify that this is the original thereof, as adopted by me on 2/12/20, to be effective 30 days after filing with the Department of State.

I further certify that prior notice, as required under the State Administrative Procedure Act, was published in the State Register on September 25, 2019 under Notice No. ENV-39-19-00003-P. I also further certify that prior notice of public hearings, scheduled for and held on December 3, 2019 in Hauppauge, NY, December 4, 2019 in Rochester, NY; and December 6, 2019 in Albany, NY was published in the State Register on September 25, 2019 and DEC's Environmental Notice Bulletin on September 25, 2019 and in local newspapers in the State on September 25, 2019. No other publication of prior notice was required by statute.

Basil Seggos
Commissioner
Department of Environmental Conservation

DATED: 2/12/20

Albany, New York
Section 219-1.1 Definitions.

(a) For the purpose of this Part and each of the Subparts of this Part, the general definitions of Parts 200 and 201 of this Title apply.

(b) For the purpose of this Part, the following definitions also apply to Subpart 219-2 through Subpart 219-6:

(1) ‘Commercial waste’. Solid waste generated by stores, offices, institutions, restaurants, warehouses, and nonmanufacturing activities at industrial facilities.

(2) ‘Dioxin equivalent’. Any combination or mix of polychlorinated dibenzo-para-dioxins and polychlorinated dibenzo furans [containing from four to eight chlorine atoms which are expressed as 2,3,7,8 tetrachlorinated dibenzo-para-dioxin equivalents using the toxic equivalency factors listed below. Standard conditions upon which these data are referenced are an absolute pressure of 760 mm mercury and 20°C at 7 percent oxygen.] as defined in
### [Subdivision 200.1(cx) of this Title.](#)

<table>
<thead>
<tr>
<th>‘Compound’</th>
<th>‘Factor’</th>
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</thead>
<tbody>
<tr>
<td>monochlorinated dibenzo-para-dioxins (all)</td>
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</tr>
<tr>
<td>trichlorinated dibenzo-para-dioxins (all)</td>
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<tr>
<td>dichlorinated dibenzo-para-dioxins (all)</td>
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<tr>
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<td>0.00001</td>
</tr>
<tr>
<td>octachlorinated dibenzo furans</td>
<td>0</td>
</tr>
</tbody>
</table>
(3) ‘Hospital’. Any facility which has an organized medical staff, maintains at least six 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 24 hours her admission. This definition does not include facilities maintained for the sole purpose of providing nursing or convalescent care to human patients who are generally not acutely ill but who require continuing medical supervision.

(4) ‘Hospital/medical/infectious waste incinerator’ or ‘HMIWI’ or ‘HMIWI unit’. Any device that combusts any amount of hospital waste and/or medical/infectious waste.

(5) ‘Hospital/medical/infectious waste incinerator’ or ‘HMIWI operator’. Any person who operates, controls or supervises the day-to-day operation of a HMIWI.

(6) ‘Hospital waste’. Discards generated at a hospital, except unused items returned to the manufacturer. The definition of hospital waste does not include human corpses, remains, and anatomical parts that are intended for interment or cremation.

(7) ‘Incinerator’. Any structure or furnace in which the combustion of any amount of solid waste takes place[ and type 0, 1, 2, 3, or 4 refuse is used as fuel], alone or in conjunction with fossil fuel.
(8) ‘Medical/infectious waste’. 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 that is listed below:

(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.

(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.

(iii) Human blood and blood products including:
   (‘a’) liquid waste human blood;
   (‘b’) products of blood;
   (‘c’) items saturated and/or dripping with human blood; or
   (‘d’) 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.

(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 agent, such as used slides and cover slips.

(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.

(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.

(vii) Unused sharps including the following unused, discarded sharps: hypodermic needles, suture needles, syringes, and scalpel blades.
The definition of medical/infectious waste does not include hazardous waste identified or listed under the regulations in Part [373] 371 of this Title; household waste, as defined in [Part 360 of this Title] 40 CFR 261.4(b)(1) (see Table 1, Section 200.9 of this Title); ash from incineration of medical/infectious waste[,] once the incineration process has been completed; human corpses, remains, and anatomical parts that are intended for interment or cremation; and domestic sewage materials.

(9) ‘Municipal solid waste’. [All materials or substances discarded from single and multiple family dwellings, and other residential sources; similar types of materials from institutional, commercial and industrial sources; concurrently incinerated sewage sludge but not hazardous waste as defined in Part 371 of this Title.] Solid waste discarded from single and multiple family dwellings and other residential sources, similar types of materials discarded from institutional, commercial and industrial sources, and comingled biosolids. Municipal solid waste does not include hazardous waste as defined in Part 371 of this Title.

(10) ‘Municipal solid waste incineration facility’. 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.

‘Note:’ A municipal solid waste incineration facility may also be an infectious waste incineration
(11) ‘Pathological Waste’. Waste material consisting of human and animal remains, anatomical parts, and/or tissue, the bags and containers used to collect and transport the waste material, and any incidental animal bedding.

[(11)][(12) ‘Private solid waste incineration facility’. Any facility, other than a municipal solid waste facility, that [burns]processes municipal solid waste, or any fuels derived from municipal solid waste using thermal destruction technologies, with or without energy recovery.

(13) ‘Solid waste’. (i) Except as described in subparagraph (iii) of this paragraph, discarded materials including solid, liquid, semi-solid, or contained gaseous material, resulting from industrial, municipal, commercial, institutional, mining or agricultural operations or from residential activities including materials that are recycled or that may have value.

(ii) A material is considered discarded if it is spent, worthless, or in excess to the generator, and is:

   (‘a’) thermally, physically, chemically or biologically processed;

   (‘b’) disposed of through discharge, deposit, injection, dumping, spilling, leaking or placement into or on any land or water so that the material or any constituent thereof may enter the environment or be emitted into the air or discharged into groundwater or surface
water; or

(‘c’) accumulated or transferred instead of or before being processed or disposed.

(iii) The following are not solid waste for the purposes of this Part:

(‘a’) materials that are intended for reuse for their original function, without processing, such as materials at a garage sale, consignment shop, textile collection location or similar venue;

(‘b’) materials that are incorporated into food products for human consumption;

(‘c’) unadulterated wood generated from sources other than construction and demolition that is burned in campfires, ceremonial burns, cooking fires, wood stoves, or other similar uses;

(‘d’) any mixture of domestic sewage and other wastes that pass through a sewer system to a publicly or privately owned treatment works for treatment;

(‘e’) industrial wastewater discharges that are point source discharges subject to permits under Environmental Conservation Law (ECL) article 17;
(‘f’) irrigation return flows;

(‘g’) materials subject to in-situ mining techniques which are not removed from the ground as part of the extraction process;

(‘h’) crumb rubber;

(‘i’) materials that are used in accordance with a determination by the department pursuant to the provisions of Section 360.12 of this Title;

(‘j’) materials that are used for artificial reefs in compliance with applicable water quality criteria;

(‘k’) material removed from the waters of the State and placed or disposed in compliance with a permit issued under ECL article 15, 24, 25, or 34 or a water quality certification issued under section 401 of the Federal Water Pollution Control Act to the extent that disposal of the material is regulated by such permit or certification. However, any disposal not regulated by such permit remains subject to regulation under Parts 360 to 365 of this Title. Dredged or excavated material generated by a manufacturing or industrial process is industrial waste, and the treatment, storage, transfer, or disposal of the material is subject to regulation under Parts 360 to 365 of this Title; and
(1) waste samples received at a laboratory or educational institution for analysis of constituents.

[ (12) ‘Refuse’. All waste material, including but not limited to garbage, rubbish, incinerator residue, street cleanings, dead animals, and offal. Refuse is classified in accordance with Table 1, Appendix 2.

(13) ‘Smoke’. An air contaminant consisting of small gas-borne particles emitted by an air contamination source in sufficient number to be observable.

(14) ‘Solid waste’. (i) ‘Solid waste’ means all putrescible and nonputrescible materials or substances except as described in subparagraph (iv) of this paragraph that are discarded or rejected as being spent, useless, worthless or in excess of the owners at the time of such discard or rejection, including but not limited to garbage, refuse, industrial and commercial waste, sludges from air or water treatment facilities, rubbish, tires, ashes, contained gaseous material, incinerator residue, construction and demolition debris, discarded automobiles and offal.

(ii) A material is discarded if it is abandoned by being:

(‘a’) disposed of;

(‘b’) burned or incinerated, including being burned as a fuel for the purpose of
recovering usable energy; or

(‘c’) accumulated, stored, or physically, chemically, or biologically treated (other than burned or incinerated) instead of or before being disposed of.

(iii) A material is disposed of if it is discharged, deposited, injected, dumped, spilled, leaked, or placed into or on any land or water so that such material or any constituent thereof may enter the environment or be emitted into the air or discharged into ground water or surface water.

(iv) The following materials are not solid waste for the purposes of this Part:

(‘a’) domestic sewage;

(‘b’) any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly owned treatment works for treatment except for any material that is introduced into such system in order to avoid the provisions of Part 360 of this Title;

(‘c’) industrial wastewater discharges that are actual point source discharges subject to permit under ECL article 17. Industrial wastewaters while they are being collected, stored, or treated before discharge, and sludges that are generated by
industrial wastewater treatment are solid wastes and are regulated by Part 360 of this Title;

(‘d’) irrigation return flows;

(‘e’) radioactive materials which are source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954 (see section 360-1.3a of this Title);

(‘f’) materials subject to ‘in-situ’ mining techniques which are not removed from the ground as part of the extraction process; and

(‘g’) materials that the department has determined are being beneficially used, including the following:

(1) materials that are incorporated into a manufacturing process to produce a marketable product;

(2) compost that meets the criteria for Class I public distribution and agricultural usage identified in Subpart 360-5 of this Title;

(3) wood chips used for mulch, landscaping, or erosion control purposes;

(4) ash generated from the combustion of coal if the ash has been tested for toxicity pursuant to a testing protocol approved by the department and certified to
be nontoxic and used as follows:

(i) coal combustion bottom ash used as a traction agent on roadways, parking lots, and other driving surfaces;

(ii) coal combustion bottom ash or fly ash used as a cement substitute or aggregate in cement or concrete products; or

(iii) coal combustion bottom ash or fly ash used in situations where the ash is contained and leachate will not be generated, such as structural fill within building foundations.]

Section 219-1.2  [Summary of applicability.]  Severability

Existing Section 219-1.2 is repealed. A new Section 219-1.2 is added as follows.

Each provision of this Subpart shall be deemed severable, and in the event that any portion of this Subpart is held to be invalid, the remainder of this Subpart shall continue in full force and effect.
Existing Subpart 219-4 is repealed. A new Subpart 219-4 is proposed as follows:

Section 219-4.1 Definitions

(a) For the purpose of this Subpart, the definitions of Subpart 219-1, Part 200, and Part 201 of this Title apply.

(b) For the purpose of this Subpart, the following definitions also apply:

(1) ‘Existing Cremation Unit’. An emission source used for the cremation of human or animal remains at a crematory facility that was constructed on or before the effective date of this Subpart.

(2) ‘Modified Cremation Unit’. An emission source used for the cremation of human or animal remains at a crematory facility that has been modified, as defined in Subdivision 200.1(aq) of this Chapter, after the effective date of this Subpart.

(3) ‘New Cremation Unit’. An emission source used for the cremation of human or animal remains at a crematory facility for which an application for an air permit or registration, as described in Part 201 of this Chapter, was received by the Department after the effective date of this Subpart.
Section 219-4.2 Applicability

This Subpart applies to all new, modified, and existing cremation units used for the cremation of human and animal remains.

Section 219-4.3 Particulate emissions

(a) No person may cause or allow emissions of particulates into the outdoor atmosphere from an existing cremation unit in excess of 0.08 grains per dry standard cubic foot of flue gas, corrected to seven percent oxygen.

(b) No person may cause or allow emissions of particulates into the outdoor atmosphere from a new or modified cremation unit in excess of 0.05 grains per dry standard cubic foot of flue gas, corrected to seven percent oxygen.

Section 219-4.4 Operating requirements

(a) No person may cause or allow emissions to the outdoor atmosphere having a six-minute average opacity of 10 percent or greater from any cremation unit.

(b) The owner or operator of a cremation unit must maintain a one-hour average temperature of at least 1600 degrees Fahrenheit in the secondary combustion chamber, with a minimum residence time for combustion gases of at least one second, at all times remains are being cremated.
(c) The owner or operator of a cremation unit subject to the requirements of this subpart must install, operate, calibrate, and maintain, in accordance with manufacturer's instructions, instruments for continuously monitoring and recording the temperature of the secondary (or last) combustion chamber.

(d) No person may combust materials other than human and animal remains, their associated containers, pathological waste, and incidental animal bedding in any cremation unit subject to the requirements of this Subpart unless prior written authorization has been obtained from the department.

(e) No person may cause or allow the combustion of human and animal remains in any cremation unit subject to the requirements of this Subpart unless a cremation certification form has been completed. Each cremation certification form shall contain the following information at a minimum:

(1) The name, title, and affiliation of the person providing the remains for cremation;

(2) An attestation signed by the person providing the remains for cremation attesting that the remains and their container do not contain materials prohibited from being combusted by this subpart;

(3) The name and signature of the person accepting the remains for cremation; and
(4) The date the remains were accepted for cremation.

(f) No person may cause or allow remains to be charged at a crematory facility in excess of the manufacturer’s rated hourly capacity of the cremation unit.

Section 219-4.5 Emissions testing and modeling

(a) Upon request by the Department, the owner or operator of a crematory facility must demonstrate compliance with the requirements of this subpart by either conducting onsite testing or submitting a representative stack test for an identical unit.

(b) Onsite stack testing conducted to demonstrate compliance with subdivision (a) of this section must be conducted pursuant to a Department approved testing protocol. The facility owner or operator must submit a testing protocol to the Department at least thirty days prior to the commencement of testing pursuant to Part 202 of this Chapter.

(c) Representative stack tests submitted to demonstrate compliance with subdivision (a) of this section must include the following information:

(1) A letter signed by the facility owner or operator certifying that the test report being submitted is for an identical cremation unit;

(2) A copy of the testing protocol that was used;
(3) A description of the testing methods used, including any deviations from established reference test methods;

(4) A description of all quality assurance, data reduction, and any other operating practices followed; and

(5) Testing results demonstrating compliance with the standards of this subpart in units of measurement identical to those described in this Subpart.

(d) The department may require the owner or operator of a crematory facility submitting a representative stack test to perform a stack test if the submitted test protocol or report does not meet the department’s standards for approval.

(e) The department may require the owner or operator of a crematory facility to perform an air dispersion modeling analysis using procedures acceptable to the department to evaluate the impacts of the facility on the surrounding community.

Section 219-4.6 Operator training and certification

(a) No cremation unit subject to the requirements of this subpart is permitted to operate unless it is operated under the onsite supervision of a person possessing a valid crematory operator certification issued by the department.
(b) Crematory operator certifications issued pursuant to this Section shall be valid for a period of five years from the date of issuance.

Section 219-4.7 Inspection and Maintenance

(a) The owner or operator of a crematory facility must inspect each cremation unit at that facility at least once per calendar year. The facility owner or operator shall perform all necessary repairs and routine maintenance in order to ensure that each cremation unit, monitoring device, and control device is operated and maintained in accordance with manufacturer’s instructions.

Section 219-4.8 Record keeping requirements

(a) The owner or operator of a crematory facility must maintain the following records at the facility for a period of at least five years:

(1) Continuous temperature monitoring records indicating the date and time of each cremation performed;

(2) Operator training and certification records for all operators at the facility;

(3) A record of the date, time, and cause of all malfunctions and any corrective action taken to resolve them;

(4) A record of any maintenance performed on each cremation unit, including the annual inspection required by Section 219-4.7 of this Subpart, and the routine replacement of parts
and components; and

(5) A copy of each cremation certification form created pursuant to Subdivision 219-4.4(e) of this Subpart.

(b) The owner or operator of a crematory facility must maintain the following records at the facility for the lifetime of each cremation unit installed at the facility:

(1) Manufacturer’s operating instructions for each cremation unit and any associated monitoring equipment or emissions controls; and

(2) A copy of the most recent stack test submitted to the department in order to demonstrate compliance with this subpart.

(c) The owner or operator of a crematory facility must make all records kept pursuant to this Section available to the department upon request.

Section 219-4.9 Compliance schedule

(a) The owner or operator of an existing cremation unit shall:

(1) Obtain appropriate operator certifications, as described in Section 219-4.6 of this Subpart, within 12 months of the effective date of this Subpart for each uncertified operator at the facility:
(2) Demonstrate compliance with the requirements of this Subpart no later than 60 months from the effective date of this Subpart. A demonstration of final compliance shall include the following information for each existing cremation unit:

(i) An emissions testing report, as described in Section 219-4.5 of this Subpart, indicating that each existing cremation unit meets the particulate matter limitation specified in Subdivision 219-4.3(a) of this Subpart;

(ii) Documentation indicating that each existing cremation unit is capable of meeting the requirements of this Subpart; and

(iii) Documentation of the certification status of each operator at the facility.

(3) The owner or operator of an existing cremation unit may submit a written request for a single extension to the deadline described in Paragraph (2) above. The request shall describe in detail the circumstances necessitating the extension and shall propose a projected final compliance date. The Department, in its sole discretion, shall approve or deny the request on a case by case basis.

(b) For existing cremation units that cannot meet the requirements of this Subpart, the owner or operator shall submit a written plan to the Department that describes the proposed schedule for the replacement or removal of the affected cremation unit within 60 days of becoming aware that it cannot meet the requirements of this Subpart.
Section 219-4.10 Severability

Each provision of this Subpart shall be deemed severable, and in the event that any portion of this Subpart is held to be invalid, the remainder of this Subpart shall continue in full force and effect.
SUBPART 219-5

EXISTING INCINERATORS

Existing Subpart 219-5 is repealed and reserved.
Existing Subpart 219-6 is repealed and reserved.
Revised SUBPART 219-10

REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) FOR OXIDES OF NITROGEN (NOₓ) AT MUNICIPAL AND PRIVATE SOLID WASTE INCINERATION UNITS

Section 219-10.1 Applicability

This Subpart applies to all new, modified and existing municipal and private solid waste incineration units.

Section 219-10.2 Control Requirements

(a) No owner or operator of a municipal or private solid waste incineration unit shall cause or allow emissions of NOₓ from any municipal or private solid waste incineration unit in excess of the applicable limit in Table 1 of this Subpart on a 24-hour arithmetic average basis, excluding periods of start-up, shutdown, and malfunction.

Table 1 – 24-Hour Average NOₓ Emission Limits

<table>
<thead>
<tr>
<th>Combustion Technology</th>
<th>NOₓ Emission Limit (ppmv, dry corrected to 7% oxygen)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mass Burn Waterwall</td>
<td>150</td>
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<tr>
<td>Rotary Combustor</td>
<td>170</td>
</tr>
<tr>
<td>Other Technologies</td>
<td>*</td>
</tr>
</tbody>
</table>

* See Subdivision 219-10.2(c) of this Section
(b) No owner or operator of a municipal or private solid waste incineration facility shall cause or allow emissions of NO\textsubscript{x} from any municipal or private solid waste incineration unit in excess of the applicable limit in Table 2 of this Subpart on an annual rolling average basis, excluding periods of start-up, shutdown, and malfunction.

Table 2 – Annual Average NO\textsubscript{x} Emission Limits

<table>
<thead>
<tr>
<th>Combustion Technology</th>
<th>NO\textsubscript{x} Emission Limit (ppmv, dry corrected to 7% oxygen)</th>
</tr>
</thead>
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<tr>
<td>Mass Burn Waterwall</td>
<td>150</td>
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<tr>
<td>Rotary Combustor</td>
<td>150</td>
</tr>
<tr>
<td>Other Technologies</td>
<td>*</td>
</tr>
</tbody>
</table>

* See Subdivision 219-10.2(c) of this Section

(c) The owner or operator of a municipal or private solid waste incineration unit that employs a combustion technology not listed in Table 1 or Table 2 of this Section shall develop and propose a facility specific 24-hour and annual average NO\textsubscript{x} emission limitation. A proposal prepared pursuant to this Subdivision shall consider:

(1) The available NO\textsubscript{x} control technologies, the projected effectiveness of the technologies considered, and the costs for installation and operation for each of the technologies; and

(2) The technology and the appropriate emission limit selected as RACT considering the costs for installation and operation of the technology.
(d) By June 30, 2021, the owner or operator of a facility subject to the requirements of this Subpart must submit to the Department either a complete application for a permit that incorporates the requirements of this Subpart or a RACT analysis that explains why the control technology the facility currently employs should be considered RACT for that emission source.

(e) Any facility specific NO₃ emissions limitation proposal made pursuant to subdivisions 219-10.2(c) or 219-10.2(d) of this Section that is approved by the Department will be recorded in the relevant Title V facility permit as the applicable NO₃ RACT requirement, and must be submitted to the administrator for approval as a separate SIP revision.

Section 219-10.3 Compliance demonstration

(a) The owner or operator of a municipal or private solid waste incineration unit subject to this Subpart shall conduct an initial compliance demonstration within one year of the date of issuance of a permit modification issued pursuant to the requirements of this Subpart. The initial compliance demonstration shall be conducted using the continuous emissions monitoring system required by Subdivision (b) of this Section.

(b) The owner or operator of a municipal or private solid waste incinerator unit subject to this Subpart shall install, calibrate, maintain, and operate a continuous emission monitoring system for measuring oxides of nitrogen discharged to the atmosphere, and shall record the output of that system.
(c) Following the date that the initial compliance demonstration required by Subdivision (a) of this Section is completed, the owner or operator of a unit subject to this Subpart shall demonstrate compliance with the applicable 24-hour oxides of nitrogen emission limit using the 24-hour daily arithmetic average of the hourly emissions concentrations measured by the continuous emissions monitoring system.

(1) Each 1-hour average shall be:

(i) Based on at least two data points collected during that hour; and

(ii) Expressed in units of parts per million by volume on a dry basis and corrected to seven percent oxygen using the 1-hour arithmetic average oxygen continuous monitoring system data.

(2) Each 24-hour average shall be based on a minimum of 18 valid hourly averages.

(d) Following the date that the initial performance test required by Subdivision (a) of this Section is completed, the owner or operator of a unit subject to this Subpart shall demonstrate compliance with the applicable annual oxides of nitrogen emissions limit using a rolling 365 day average of the 24-hour daily arithmetic average emissions concentrations measured pursuant to Subdivision (c) of this Section.

(e) The owner or operator of a municipal or private solid waste incineration unit subject to this Subpart shall install, operate, calibrate, and maintain the continuous emissions monitoring system required by this Section in accordance with all applicable performance specifications, test methods, and manufacturer’s recommendations.
(f) The owner or operator of a municipal or private solid waste incineration unit that submitted a facility specific RACT plan as required by Subdivision 219-10.2(c) of this Subpart shall submit an application for a permit modification to incorporate the requirements of this Subpart, as described in Subpart 201-6 of this Title, to the Department within 180 days of the Department’s approval of the facility specific RACT plan.

Section 219-10.4 Severability

Each provision of this Subpart shall be deemed severable, and in the event that any portion of this Subpart is held to be invalid, the remainder of this Subpart shall continue in full force and effect.
(Sections 200.1 through 200.8 remain unchanged)

Section 200.9, Table 1 is amended to read as follows:

<table>
<thead>
<tr>
<th>Reference</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>219-1.1(b)(8)</td>
<td>40 CFR Part 261.4(b)(1) (October 17, 2018)</td>
</tr>
<tr>
<td>219-2.2(f)</td>
<td>40 CFR Part 60.58b(d)(2) (July 1, 2003)</td>
</tr>
<tr>
<td>219-2.7(a)</td>
<td>40 CFR Part 60, Appendix B (July 1987) Performance Specifications 1,2 and 3, pages 822-847</td>
</tr>
<tr>
<td>219-3.8</td>
<td>40 CFR Part 60, Appendix B (July 1987) Performance Specifications 1,2 and 3, pages 822-847</td>
</tr>
<tr>
<td>219-7.2</td>
<td>40 CFR Part 60.58(d)(2) (July 1, 2003)</td>
</tr>
<tr>
<td>219-9.1</td>
<td>40 CFR Part 60, Subpart MMMM (March 21, 2011)</td>
</tr>
<tr>
<td>219-9.3</td>
<td>40 CFR Part 60, Subpart MMMM (March 21, 2011)</td>
</tr>
<tr>
<td>219-9.3(a)(2)</td>
<td>40 CFR Part 60, Subpart MMMM (March 21, 2011)</td>
</tr>
<tr>
<td>219-9.3(b)(5)</td>
<td>40 CFR Part 60, Subpart MMMM (March 21, 2011)</td>
</tr>
</tbody>
</table>
Public Meeting Notice
Meeting of the New York Invasive Species Advisory Committee

The next meeting of the New York Invasive Species Advisory Committee (25 Non-governmental Organizations) will be held on Wednesday, March 11, 2020 from 10:00 a.m. to 2:00 p.m. at the New York Farm Bureau offices located at 159 Wolf Road, Albany NY 12205.

Once finalized, the meeting agenda will be posted to the following web page:

Contact: Dave Adams, New York State Department of Environmental Conservation (NYS DEC) - Division of Lands and Forests, Invasive Species Coordination Section, 625 Broadway, Albany, NY 12233, Phone: (518) 402-9149.

Public Notice
Notice of Adoption of 6 NYCRR Part 218, Emission Standards for Motor Vehicles and Motor Vehicle Engines

Pursuant to Sections 1-0101, 1-0303, 19-0103, 19-0105, 19-0107, 19-0301, 19-0303, 19-0305, 19-1101, 19-1103, 19-1105, 71-2103, 71-2105 of the Environmental Conservation Law (ECL) and Section 177 of the federal Clean Air Act (42 USC 7507), the New York State Department of Environmental Conservation (NYS DEC) hereby gives notice of the following:

NYS DEC is adopting amendments to Part 218 to incorporate revisions to the standards for new California certified aftermarket catalytic converters (AMCCs). The amendments prohibit the sale and installation of federal AMCC in New York State absent a waiver from NYS DEC. The amendments also include provisions pertaining to AMCC installation requirements; AMCC installer recordkeeping requirements; recordkeeping requirements for AMCC manufacturers, distributors, wholesalers, and retailers; and clarification of AMCC manufacturer reporting requirements. Further, NYS DEC will submit the Part 218 as well as the revisions to Part 200 to the United States Environmental Protection Agency (US EPA) as a revision to the State Implementation Plan (SIP) for New York State.

Documents pertaining to this rulemaking can be found on the NYS DEC's website at http://www.dec.ny.gov/regulations/propregulations.html#public.

For further information, please contact:
Jeff Marshall
NYS DEC - Division of Air Resources
625 Broadway
Albany, NY 12233-3250
Phone: (518) 402-8292
E-mail: airregs@dec.ny.gov

Notice of Adoption of 6 NYCRR Part 219, Incinerators

Pursuant to Sections 1-0101, 3-0301, 3-0303, 19-0103, 19-0105, 19-0107, 19-0301, 19-0303, 19-0305, 19-0306, 19-0311, 71-2103, 71-2105, the New York State Department of Environmental Conservation (NYS DEC) hereby gives notice of the following:

N DEC is adopting several revisions to its operating requirements for human and animal crematories. These requirements are found in Title 6 of the New York Compilation of Codes, Rules and Regulations (6 NYCRR) Part 219, Incinerators (Part 219). NYS DEC is repealing and replacing Subpart 219-4 to better reflect the current state of cremation technology and reduce emissions of particulate matter from new crematories constructed in the state. In addition, the Department is sunsetting Subparts 219-5 and 219-6 by requiring that existing units subject to these requirements be regulated by more stringent standards under a new Subpart 219-4. NYS DEC is also adding a new Subpart 219-10 to limit oxides of nitrogen emissions from municipal waste combustion units. Finally, NYS DEC is making several minor changes to Subpart 219-1 and conforming changes to Section 200.9 to clarify various definitions used throughout Part 219. Further, NYS DEC will submit Part 219 and the revisions to Part 200 to United State Environmental Protection Agency (US EPA) as a revision to the State Implementation Plan (SIP) for New York State.
Documents pertaining to this rulemaking can be found on the Department's website at http://www.dec.ny.gov/regulations/propregulations.html#public.

For further information, please contact:

Mark Lanzafame
NYS DEC - Division of Air Resources
625 Broadway
Albany, NY 12233-3250
Phone: (518) 402-8403
E-mail: air.regs@dec.ny.gov

Notice of Adoption of Amendments to 6 NYCRR Parts 370-374 and 376 of the Hazardous Waste Management Regulations

Notice is hereby given that the New York State Department of Environmental Conservation (NYS DEC) filed a Notice of Adoption with the New York State Department of State to amend 6 NYCRR Parts 370-374 and 376 of the Hazardous Waste Management Regulations to incorporate (1) federal rules from September 30, 1999 to April 8, 2015; and (2) State-initiated changes, including clarification of language and corrections of errors found in the regulations. This rule making is referred to as FedReg5.

The regulations will become effective on April 19, 2020.

The Notice of Adoption for the rule is available in the March 4, 2020 issue of the State Register. The express terms for 6 NYCRR Parts 370-374 and 376 as well as supporting documents are available on DEC's web site at https://www.dec.ny.gov/regulations/propregulations.html#recent.

For further information, please contact:

Michelle Ching
NYS DEC - Division of Materials Management
RCRA Compliance and Technical Support Section
625 Broadway
Albany, NY 12233-7256
Phone: (518) 402-8651

New York State Department of Environmental Conservation (NYS DEC) Announces 17th Annual Environmental Excellence Awards - Applications Accepted Through April 17, 2020

NYS DEC is now accepting applications for the 2020 NYS Environmental Excellence Awards program. The awards program recognizes businesses, institutions, governments, and organizations for their outstanding commitment to environmental sustainability, social responsibility, and economic viability.

This annual awards program recognizes outstanding, innovative and sustainable projects and unique partnerships. Benefits of receiving an award include statewide recognition and visibility for environmental leadership, and increased marketing, promotional and networking opportunities.

Eligible applicants include:

- Businesses (small, medium and large businesses, manufacturing, retail, agri-business, renewable energy, hospitality, sports, etc.)
- Not-for-profit organizations
- Education, health care and recreational facilities
- Local, state, federal and Indian Nation government agencies

Eligible projects must:

- Be located in New York state
- Result in measurable environmental and economic benefits beyond those achieved through standard techniques or regulatory requirements
- Be initiated within the past three years and be fully operational for at least 12 months
- Be in good standing with NYS DEC and in full compliance with the Environmental Conservation Law currently and for the previous three years. Applicants shall not be involved in any litigation against NYS DEC or with the State of New York within the past seven years.
NOTICE OF ADOPTION

Part 219 Applies to Various Types of Incinerators and Crematories Operated in New York State

I.D. No.  ENV-39-19-00003-A
Filing No.  132
Filing Date:  2020-02-13
Effective Date:  30 days after filing

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Parts 200 and 219 of Title 6 NYCRR


Purpose: This rule establishes emission limits and operating requirements for various types of incinerators and crematories operated in New York State.

Substance of final rule: The New York State Department of Environmental Conservation (Department) is proposing several revisions to its operating requirements for human and animal crematories. These requirements are found in Title 6 of the New York Compilation of Codes, Rules and Regulations (6 NYCRR) Part 219, Incinerators (Part 219).

1. Table of Section 200.9 is amended to add a reference to the definition of ‘household waste’ at 40 CFR 261.4(b)(1).

2. Paragraph 219-1.1(b)(2) is revised to remove the table of toxic equivalency factors and refer to Subdivision 200.1(c).

3. Paragraph 219-1.1(b)(7) is revised to update the definition of ‘incinerator’. Paragraph 219-1.1(b)(8) is revised to remove its definition of ‘household waste’. Paragraph 219-1.1(b)(9) is rewritten to define ‘municipal solid waste’. A new Paragraph 219-1.1(b)(11) is added to define the term ‘pathological waste’.

4. Existing Subpart 219-4 is repealed and replaced with a new Subpart 219-4. Section 219-4-1 includes definitions for various terms used throughout Subpart 219-4. Section 219-4-2 states that Subpart 219-4 applies to all new, modified, and existing cremation units. Section 219-4-3 establishes particulate matter emissions limitations for cremation units. Section 219-4-4 establishes various operating requirements for cremation units, including: an opacity limitation, a minimum secondary combustion chamber temperature and residence time, a continuous temperature monitoring and recording requirement, a prohibition on the combustion of certain materials, a requirement for the preparation of a cremation certification form, and a prohibition on the charging of remains in excess of the maximum weight of the cremation container delivered to the crematory facility because Section 218-25-9(e)(4) of the Not-for-Profit Corporation Law prohibits crematory operators from opening the container. The Department is aware of Section 1517(d) of the Not-for-Profit Corporation Law prohibiting crematory operators from opening the container.

5. Section 219-4-5 establishes a severability clause.

6. A new Subpart 219-10 is added for the regulation of Oxides of Nitrogen emissions from municipal and private solid waste combustion units. Section 219-10-1 states that Subpart 219-10 applies to all new, modified, and existing municipal and private solid waste incineration units. Section 219-10-2 establishes 24-hour and annual emissions limitations for oxides of nitrogen and describes the procedures affected facilities can use to demonstrate that they have already applied Reasonably Available Control Technology. Section 219-10-3 outlines the compliance demonstration requirements for affected facilities, including: an initial performance test and continuous emissions monitoring requirements. Section 219-10-4 adds a severability clause.

Final rule as compared with last published rule: Nonsubstantive changes were made in sections 200.9, Table 1, 219-1.1(a), (b)(2), 219-4.1(a), 219-10.2(a), (b), (c), (d), 219-10.3(a), (c), (d) and (f).

Text of rule and any required statements and analyses may be obtained from: Mark Lanzafame, P.E., NYSDEC, Division of Air Resources, 625 Broadway, Albany, NY 12233-3254, (518) 402-8403, email: airregs@dec.ny.gov

Additional matter required by statute: Pursuant to Article 8 of the State Environmental Quality Review Act, a Short Environmental Assessment Form and a Coastal Assessment Form have been prepared and are on file.

Revised Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

The edits made to the Express Terms do not require any changes to the RIS, RFA, RAFA and JIS.

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2023, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

Comments received from September 25, 2019 through 5:00 P.M., December 11, 2019

Nine commenters commented on the proposed revisions to 6 NYCRR Parts 200 and 219 (Part 219). This document summarizes those comments and the Department’s responses.

General Comments

One commenter questioned the Department’s statutory obligation to regulate the cremation industry and the approach taken in this proposal. The Department explained its statutory obligations and explained how they differ from other state agencies.

Two commenters expressed support for this proposal. The Department thanked these commenters for their support.

Sunset of Subparts 219-5 and 219-6

One commenter expressed concern regarding the potential costs of upgrades to existing equipment to comply with this proposal. Another commenter indicated that these upgrades are not cost prohibitive. The Department explained that the proposed compliance requirements allowed affected facilities 60 months (five years) to demonstrate compliance with the proposed requirements and provides for an extension of the compliance date following a demonstration of cause. The Department believes sufficient time has been provided for affected facilities to plan for any costs.

One commenter expressed concern over the cost of stack testing to demonstrate compliance with proposed Subpart 219-4, particularly where the affected facility has already submitted a stack test to the Department. The Department explained that the proposed Subpart 219-4 does not require a stack test in all cases. Further, the crematory owner or operator may be able to submit a representative stack test conducted on an identical unit. If a representative test is provided the crematory owner would not incur any testing costs.

One commenter indicated that existing IEEE Power Pak IE43 (PP) and ALL 1701 cremators cannot comply with this proposal. The Department is aware some older cremation equipment installed prior to January 1, 1989 may not be able to meet the proposed requirements. These units are typically approaching the end of their 30-year expected useful life and would need to be replaced regardless of this proposal. To ameliorate costs associated with the replacement of these units, the proposal contains a 60-month (5 year) compliance period.

Two commenters indicated that compliance with existing regulations to construct crematories is already a lengthy process and that this proposal may add additional time to that process. The Department responded that the proposed regulation allows the Department to grant an extension following a demonstration of cause. These provisions allow for sufficient time to address the approval processes the commenters reference.

Crematory Operating Requirements

Three commenters expressed support for the operating requirements contained in the proposed Subpart 219-4. The Department thanked these commenters for their support.

Two commenters expressed concern that this proposal would prohibit items other than human or animal remains from being placed in the container with the remains. The Department reminded the commenters that this practice is currently prohibited by Subpart 219-4. This proposal clarifies the types of materials that can and cannot be combusted in a crematory to clarify the requirements of Subpart 219-4.

Two commenters expressed concern related to honoring religious practices for human cremation and the varied ways crematory owners are called on to meet religious customs. The proposed regulation places no specific restrictions on religious practices. The Department responded by stating that this regulation is in no way intended to interfere with religious practices for human cremation and indeed does not do so.

Two commenters indicated that crematory owners would be in violation of the proposed regulation if families included mementos inside the sealed cremation container delivered to the crematory facility because Section 1517(d) of the Not-for-Profit Corporation Law prohibits crematory operators from opening the container.

Rule Making Activities NYS Register/March 4, 2020
One commenter indicated that If the proposed Subdivision 219-4.4(f) meant that human crematory operators would only be able to operate at a rate stated by each manufacturer, and if so, would they need to provide documentation. The Department responded by stating that cremation equipment is rated by the manufacturer for a certain capacity to avoid operational issues which may cause excess emissions. If the operator is following the proper operating procedures described by the manufacturer, compliance with this requirement would not be an issue. Documentation such as the operating manual for the cremation unit and a record of cremations including the approximate weight of the remains will be sufficient to demonstrate compliance with this requirement.

One commenter inquired what action should be taken if the 6-minute average opacity exceeds the proposed standard. The Department responded that the crematory owner should take the same actions as those that are taken under the current regulation which has an identical requirement.

Recordkeeping and Reporting

One commenter indicated that the proposed recordkeeping requirements do not conform to recordkeeping requirements by the Division of Cemeteries and that there should be consistency between the two agencies. The Department responded by stating that the Department and the Division of Cemeteries have differing statutory obligations, and therefore require records relevant to demonstrating compliance with their requirements. If a record kept pursuant to Division of Cemeteries requirements contains identical information to records required to be kept by this proposal, there is no need to duplicate the record.

One commenter indicated that Proposed Subdivision 219-4 states that operators will need to retain a record of the date, time, and cause of all malfunctions and any corrective action taken to resolve them, but no definition of malfunction is provided. The Department stated that the term ‘malfunction’ is defined in 6 NYCRR Paragraph 201-21.1(b)(22) and clarified this in the final express terms.

NOx RACT for Municipal Waste Combustors

Two commenters indicated that if a waste combustion unit currently meets the proposed technology-based NOx limits there is no need to prepare and submit a NOx RACT analysis. The Department clarified that a facility that currently meets the proposed emission limits should not need to prepare and submit a NOx RACT analysis.

Three commenters indicated that Subdivisions 219-10.3(a), (b), and (d) should be revised to include language related to the transition to the new requirements for units that already have continuous emissions monitors (CEMs). This language should include the use of CEMs rather than performance testing to demonstrate initial compliance. The Department agreed with the commenter and made the necessary changes to the express terms.

Two commenters indicated that the proposed Paragraphs 219-10.3(c)(1) and (2) conflict with federal CEMs monitoring guidance at 40 CFR 60.13(h)(2). The commenters suggested that this language be replaced with references to the federal requirements. The Department indicated that the proposed Paragraphs does not conflict with federal CEMs monitoring guidance. A facility with an existing NOx CEM system using the requirements at 40 CFR 60.13(h)(2) to demonstrate compliance with the applicable federal NOx emission standard will be deemed to be in compliance with proposed Subdivision 219-10.3(c) because the monitoring requirements at 40 CFR 60.13(h)(2) are more stringent.

Two commenters stated that it is not necessary to prepare a Title V permit modification application to incorporate new requirements because the Department has the authority to modify the permit under 6 NYCRR Subdivision 621.13(a). While the Department agrees that it has this authority, some facilities may need to complete an economic and technical feasibility analysis, purchase and install CEMs, or take other steps to demonstrate compliance with the proposed regulation. Accordingly, it is more appropriate for the facility owner or operator to prepare and submit a Title V permit modification that addresses the specific compliance methodology the facility will follow.

One commenter presented technical concerns with respect to the ability of affected facilities to meet the proposed NOx emission standards during periods of start-up, shutdown, and malfunction. The Department considered these technical issues and agreed with the commenter concerns. The proposed language of Section 219-10.2 has been revised to exclude these periods.

One commenter indicated that the proposed compliance date of January 1, 2020 cannot be achieved since the regulation has not been adopted. The Department agrees and has extended the proposed compliance date to June 30, 2021.

One commenter indicated that one year after the effective date of the Subpart is not sufficient time to conduct a compliance demonstration if a permanent modification is required to be submitted and a NOx control system needs to be engineered and installed to meet the proposed limit. The date of compliance demonstration should instead be one year after receipt of any permits. The Department agreed with the commenter’s concern and revised Subdivision 219-10.3(a) to indicate that the compliance demonstration date will be one year after the issuance of a Title V permit modification to incorporate the proposed requirements.

One commenter suggested that the proposed 24-hour average be calculated based on a minimum of 18 valid hourly averages to ensure there is sufficient data to provide a representative average in the event a CEM is offline for maintenance or repair. The Department agreed with this comment and revised Subdivision 219-10.3(c) accordingly.

One commenter suggested that the annual NOx average be calculated on a 365-day rolling average basis. The Department intended the annual average to be calculated in this way; and revised Subdivisions 219-10.2(b) and 219-10.3(d) to clarify this requirement.

One commenter indicated that proposed Subdivision 219-10.3(f) is redundant with proposed Subdivision 219-10.2(d). While both Subdivisions require the submittal of a permit modification, they may not apply to a given facility. A facility may either submit a complete application for a Title V permit modification to incorporate the proposed requirements or prepare a facility specific NOx RACT analysis. Facilities that choose to prepare a NOx RACT analysis will be required to submit a complete Title V permit modification application as described in Subdivision 219-10.3(f).

The language of Subdivision 219-10.3(f) has been revised to more clearly state this.

Costs to Crematories

One commenter indicated that the cost estimates do not adequately reflect the actual cost of retrofit replacement as some owners may need to construct new buildings to accommodate the new equipment. The commenter indicated that the cost estimates presented in this proposal include non-human cremation equipment. While these changes may affect the total cost of replacement for certain facilities, they are not universal. Construction costs may differ based on geographic location or project specific parameters. Accordingly, the Department clarified that the cost estimates do not reflect the actual cost of retort replacement as some owners may need to construct new buildings to accommodate the new equipment.

Regulatory Flexibility Analysis for Small Businesses and Local Governments (RFA)

One commenter indicated that the RFA incorrectly states that only one of the 10 affected municipal waste combustion facilities is owned by a local government. This does not properly account for the two facilities owned by a public entity yet operated by a separate private entity. The Islip Resource Recovery Agency (MacArthur Resource Recovery Facility) and the Dutchess County Resource Recovery Agency are public benefit corporations and not municipalities.

One commenter indicated that Paragraph 8 of the Compliance Costs section suggests that MacArthur RRF would be required to complete a NOx RACT analysis and that this should be corrected. The Department thanked the commenter for this comment.

Miscellaneous Comments

One commenter indicated that sixteen “stand-alone” crematories owning four funeral homes were afforded legal protection under the 1998 Anti-Combination Act to continue operating provided they met certain requirements. The commenter wanted to call attention to this and seek concurrence that the continued ownership of these crematories by funeral homes should not be jeopardized due to this proposal. The Department responded that the Anti-Combination Act largely pertains to the business relationships between cemetery corporations and funeral entities and is irrelevant to the environmental regulation of crematories.