



**WEST VIRGINIA
SECRETARY OF STATE**

NATALIE E. TENNANT

ADMINISTRATIVE LAW DIVISION

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8/15/2012 3:34:49 PM

OFFICE OF
WEST VIRGINIA SECRETARY OF STATE

**FORM 3 -- NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY **Air Quality**

RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **45-18**

RULE NAME **Control of Air Pollution from Combustion of Solid Waste**

CITE AUTHORITY **22-5-4**

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes

Kristin A Boggs -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



Title-Series: 45-18



Rule Id: 8693



Document: 24062



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FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 1)

AGENCY **Air Quality**

RULE TYPE **Legislative** AMENDMENT TO EXISTING RULE **Yes** TITLE-SERIES **45-18**

RULE NAME **Control of Air Pollution from Combustion of Solid Waste**

CITE AUTHORITY **22-5-4**

AUTHORIZING STATUTE(S) CITATION

22-5-4

DATE FILED IN STATE REGISTER WITH NOTICE OF HEARING OR PUBLIC COMMENT PERIOD

Friday, June 29, 2012

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

**Public Notice placed on Department of Environmental Protection's web site,
distributed via the agency's mailing list, and in a Class I legal ad published in the
Charleston Newspapers.**

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED

Monday, July 30, 2012

**Kristin A Boggs -- By my signature, I certify that I am the person authorized to file legislative rules, in
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FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 2)

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ATTACH LIST OF PERSONS WHO APPEARED AT HEARING, COMMENTS RECEIVED,
AMENDMENTS, REASONS FOR AMENDMENTS.

No comments received

DATE YOU FILED IN STATE REGISTER THE AGENCY APPROVED PROPOSED LEGISLATIVE RULE
FOLLOWING PUBLIC HEARING: (BE EXACT)

Friday, August 17, 2012

NAME, TITLE, ADDRESS AND PHONE FAX EMAIL NUMBERS OF AGENCY PERSON(S) TO
RECEIVE ALL WRITTEN CORRESPONDENCE REGARDING THIS RULE

John A. Benedict, Director
601 57th Street, S.E.
Charleston, WV 25304
Phone: (304) 926-0499 ext. 1966

Fax: (304) 926-0488

John.A.Benedict@wv.gov

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IF DIFFERENT FROM ABOVE, PLEASE GIVE NAME, TITLE, ADDRESS, AND PHONE NUMBER(S) OF AGENCY PERSON(S) WHO WROTE AND OR HAS RESPONSIBILITY FOR THE CONTENTS OF THIS RULE

NA

IF THE STATUTE UNDER WHICH YOU PROMULGATED THE SUBMITTED RULES REQUIRES CERTAIN FINDINGS AND DETERMINATIONS TO BE MADE AS A CONDITION PRECEDENT TO THE PROMULGATION. GIVE THE DATE UPON WHICH YOU FILED IN THE STATE REGISTER A NOTICE OF THE TIME AND PLACE OF A HEARING FOR THE TAKING OF EVIDENCE AND A GENERAL DESCRIPTION OF THE ISSUES TO BE DECIDED.

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FORM 10 -- LEGISLATIVE QUESTIONNAIRE (Page 4)

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CITE AUTHORITY **22-5-4**

DATE OF HEARING OR COMMENT PERIOD

ON WHAT DATE DID YOU FILE IN THE STATE REGISTER THE FINDINGS AND DETERMINATIONS
REQUIRED TOGETHER WITH THE REASONS THEREFOR?

ATTACH FINDINGS AND DETERMINATIONS AND REASONS
None

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENTS ARE TRUE AND CORRECT.

Yes
**Kristin A Boggs -- By my signature, I certify that I am the person authorized to file legislative rules, in
accordance with West Virginia Code §29A-3-11 and §39A-3-2.**



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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 1)

AGENCY **Air Quality**
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CITE AUTHORITY **22-5-4**

SUMMARIZE IN A CLEAR AND CONCISE MANNER WHAT IMPACT THIS MEASURE WILL HAVE ON COSTS AND REVENUES OF STATE GOVERNMENT.

The proposed revisions to this rule should cause no additional impact on costs and revenues of state government.

Kristin A Boggs -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.



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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 2)

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 RULE NAME **Control of Air Pollution from Combustion of Solid Waste**

CITE AUTHORITY **22-5-4**

FISCAL NOTE DETAIL -- SHOW OVER-ALL EFFECT IN ITEM 1 AND 2 AND, IN ITEM 3, GIVE AN EXPLANATION OF BREAKDOWN BY FISCAL YEAR, INCLUDING LONG-RANGE EFFECT.

Effect Of Proposal	Current Increase/Decrease (use ' - ')	Next Increase/Decrease (use ' - ')	Fiscal Year (Upon Full Implementation)
ESTIMATED TOTAL COST	0	0	0
PERSONAL SERVICES	0	0	0
CURRENT EXPENSES	0	0	0
REPAIRS AND ALTERATIONS	0	0	0
ASSETS	0	0	0
OTHER	0	0	0
ESTIMATED TOTAL REVENUES	0	0	0

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FORM 11 -- FISCAL NOTE FOR PROPOSED RULES (Page 3)

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CITE AUTHORITY **22-5-4**

3. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT). PLEASE INCLUDE ANY INCREASE OR DECREASE IN FEES IN YOUR ESTIMATED TOTAL REVENUES.

The proposed revisions to this rule will have a minimal effect on the costs to the Division of Air Quality because they impose no additional requirements beyond current federal requirements. Costs are covered under previous cost estimates.

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CITE AUTHORITY **22-5-4**

PLEASE IDENTIFY ANY AREAS OF VAGUENESS, TECHNICAL DEFECTS, REASONS THE PROPOSED RULE WOULD NOT HAVE A FISCAL IMPACT, AND OR ANY SPECIAL ISSUES NOT CAPTURED ELSEWHERE ON THIS FORM.

NA

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FORM 12 -- BRIEF SUMMARY AND STATEMENT OF CIRCUMSTANCES (Page 1)

AGENCY **Air Quality**
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CITE AUTHORITY **22-5-4**

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN RULE AND STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE.

A.AUTHORITY: W.Va. Code §22-5-4

B.SUMMARY OF RULE:

This rule establishes standards of performance and emission guidelines for large municipal waste combustors, small municipal waste combustion units, hospital/ medical/ infectious waste incinerators, commercial and industrial solid waste incineration units, and other solid waste incineration units pursuant to Sections 111 and 129 of the federal Clean Air Act (CAA). This rule codifies general procedures and criteria to implement certain standards of performance for new stationary sources and emission guidelines for existing units promulgated by the U.S. Environmental Protection Agency (U.S. EPA) as set forth in 40 CFR Part 60. It is the intent of the Secretary to adopt these standards by reference.

C.STATEMENT OF CIRCUMSTANCES WHICH REQUIRE RULE:

The U.S. EPA approved West Virginias request for delegation of New Source Performance Standards pursuant to Section 111 of the CAA on January 8, 2002. Emission and operating requirements under Sections 111(d) and 129 of the CAA must be incorporated into a State 111(d)/129 Plan, and are federally enforceable upon approval by U.S. EPA. Upon authorization and promulgation of revisions to 45CSR18, the DAQ will submit the final rule to the U.S. EPA for approval as a part of West Virginias Section 111(d)/129 Plan and program delegation of the federal New Source Performance Standards. Promulgation of this rule by the Legislature is

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Yes

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FORM 12 -- BRIEF SUMMARY AND STATEMENT OF CIRCUMSTANCES (Page 2)

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RULE NAME **Control of Air Pollution from Combustion of Solid Waste**

CITE AUTHORITY **22-5-4**

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN RULE AND STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE.

necessary for the State to fulfill its responsibilities under the CAA.
The revised rule incorporates by reference the Standards of Performance for new Commercial and Industrial Solid Waste Incinerators, and sets forth the Emission Guidelines for existing Commercial and Industrial Solid Waste Incinerators.
D.FEDERAL COUNTERPART REGULATIONS - INCORPORATION BY REFERENCE/DETERMINATION OF STRINGENCY:
A federal counterpart to this proposed rule exists. In accordance with the Secretary's recommendation, and with limited exception, the Division of Air Quality proposes that the rule incorporate by reference the federal counterparts. Because the proposed rule incorporates by reference the federal counterpart, no determination of stringency is required.
E.CONSTITUTIONAL TAKINGS DETERMINATION:
In accordance with §22-1A-1 and 3(c,) the Secretary has determined that this rule will not result in taking of private property within the meaning of the Constitutions of West Virginia and the United States of America.
F.CONSULTATION WITH THE ENVIRONMENTAL PROTECTION ADVISORY COUNCIL:
At its June 21, 2012 meeting, the Environmental Protection Advisory Council reviewed and discussed this rule. (See attached minutes for Council's discussion).

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Yes
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45CSR18

CONTROL OF AIR POLLUTION FROM COMBUSTION OF SOLID WASTE

RESPONSE TO COMMENTS

On June 29, 2012, the Division of Air Quality (DAQ) commenced a thirty day public comment period and subsequently held a public hearing on July 30, 2012 to accept oral comments on proposed revisions to legislative rule 45CSR18. Written comments were also accepted through 6:00 PM on Monday, July 30, 2012. No commenter submitted written comments regarding proposed revisions to rule 45CSR16, and no commenter provided substantive verbal comments.