

**WEST VIRGINIA  
SECRETARY OF STATE  
JOE MANCHIN, III  
ADMINISTRATIVE LAW DIVISION**

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2002 APR 16 P 4: 16

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

Form #6

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED  
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: WV DEP - Division of Air Quality TITLE NUMBER: 45

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 18

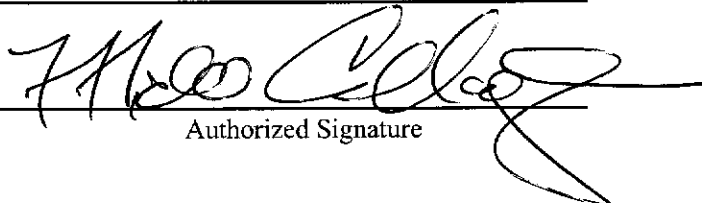
TITLE OF RULE BEING PROPOSED: "To Prevent and Control Emissions From Commercial  
and Industrial Solid Waste Incineration Units"

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) H.B. 4163

SECTION 64-3-1(h), PASSED ON March 9, 2002

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE  
FOLLOWING DATE: May 1, 2002

  
Authorized Signature

**SCANNED**

**TITLE 45  
LEGISLATIVE RULE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
DIVISION OF AIR QUALITY**

**FILED**

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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**SERIES 18  
TO PREVENT AND CONTROL EMISSIONS FROM  
COMMERCIAL AND INDUSTRIAL SOLID WASTE INCINERATION UNITS**

**§45-18-1. General.**

1.1 Scope.--This rule establishes standards of performance and emission standards for commercial and industrial solid waste incineration (CISWI) units pursuant to Sections 111 and 129 of the federal Clean Air Act as amended in 1990 (CAA). It is the intent of the Secretary to adopt these standards by reference. It is also the intent of the Secretary to adopt associated reference methods, performance specifications and other test methods which are appended to these standards.

1.2. Authority.--W.Va. Code §§22-5-1 et seq.

1.3. Filing Date. – April 16, 2002.

1.4. Effective Date. – May 1, 2002.

1.5. Incorporation by Reference.--Federal Counterpart Regulation. The Secretary has determined that a federal counterpart rule exists. In accordance with the Secretary's recommendation, and with limited exception, this rule incorporates by reference 40 CFR Part 60 Subpart CCCC and specified portions of 40 CFR Part 60 Subpart DDDD, effective July 1, 2000, as amended by the Federal Register through June 1, 2001.

**§45-18-2. Definitions.**

2.1. Unless otherwise indicated, definitions of all terms used, but not defined in this subsection, shall have the meaning given to them in 40 CFR Part 60 Subparts CCCC and DDDD. Terms not defined therein shall have the meaning given to them in the federal Clean Air Act or in 40 CFR Part 60, Subparts A and B.

2.2. "Administrator" means the Administrator of the United States Environmental Protection Agency or his or her designated representative.

2.3. "Commercial and industrial solid waste incineration (CISWI) unit" means any combustion device that combusts commercial and industrial waste as defined in this rule. The boundaries of a CISWI unit are defined as, but not limited to, the commercial or industrial solid

waste fuel feed system, grate system, flue gas system, and bottom ash. The CISWI unit does not include air pollution control equipment or the stack. The CISWI unit boundary starts at the commercial and industrial waste hopper (if applicable) and extends through two areas: (1) the combustion unit flue gas system, which ends immediately after the last combustion chamber; and (2) the combustion unit bottom ash system, which ends at the truck loading station or similar equipment that transfers the ash to final disposal and includes all ash handling systems connected to the bottom ash handling system.

2.4. "Commercial and industrial waste" means solid waste combusted in an enclosed device using controlled flame combustion without energy recovery that is a distinct operating unit of any commercial or industrial facility (including field-erected, modular, and custom built incineration units operating with starved or excess air).

2.5. "Existing" means CISWI units for which construction commenced on or before November 30, 1999. If an owner or operator of a CISWI unit makes changes that meet the definition of modification or reconstruction on or after June 1, 2001, the CISWI unit becomes subject to 40 CFR 60 Subpart CCCC and the requirements of subsection 4.3 no longer apply. If the owner or operator of a CISWI unit makes physical or operational changes to an existing CISWI unit primarily to comply with the requirements of subsection 4.3, 40 CFR 60 Subpart CCCC does not apply to that unit. Such changes do not qualify as modifications or reconstructions under 40 CFR 60 Subpart CCCC.

2.6. "New" means CISWI units for which construction commenced after November 30, 1999 or for which modification or reconstruction is commenced on or after June 1, 2001. A CISWI unit shall not be defined as "new" if physical or operational changes to the unit are primarily to comply with the emission guidelines for existing CISWI units, as referenced in 40 CFR Part 60 Subpart DDDD, which are partially incorporated by reference in this rule. Such changes do not qualify as reconstruction or modification under 40 CFR Part 60 Subpart CCCC.

2.7. "Secretary" means the secretary of the department of environmental protection or such other person to whom the secretary has delegated authority or duties pursuant to W. Va. Code §§22-1-6 or 22-1-8.

2.8. "Solid waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1342), or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014). For purposes of this rule, the term "solid waste" does not include the waste burned in any of the fifteen (15) types of units described in 40 CFR §60.2020.

2.9. "You", as used in 40 CFR Part 60 Subparts CCCC and DDDD, means the owner or operator of a CISWI unit.

**§45-18-3. Exemptions.**

3.1. Combustion units exempt pursuant to 40 CFR §§60.2020 and 2555 shall be exempt from the requirements of this rule.

3.2. Air curtain incinerators shall be exempt from the requirements of this rule, provided that such incinerators are subject to the requirements of 45CSR6.

**§45-18-4. Requirements.**

4.1. No person may construct, reconstruct, modify, or operate, or cause to be constructed, reconstructed, modified, or operated a CISWI unit which results in a violation of this rule.

4.2. Each new CISWI unit shall comply with all of the applicable standards, requirements and provisions of 40 CFR Part 60 Subpart CCCC, including any reference methods, performance specifications and other test methods associated with Subpart CCCC, effective July 1, 2000, as amended by the Federal Register through June 1, 2001.

4.3. Each existing CISWI shall comply with the following:

4.3.a. Emission limits presented in Table 1;

4.3.b. Compliance dates specified in section 7, including increments of progress toward compliance specified in that section and 40 CFR §§60.2575 through 60.2615;

4.3.c. Waste management plan requirements specified in 40 CFR §§60.2620 through 60.2630;

4.3.d. Operator training and qualification requirements specified in 40 CFR §§60.2635 through 60.2665;

4.3.e. Emission limitations and operating limits specified in 40 CFR §§60.2670 through 60.2685;

4.3.f. Performance testing requirements specified in 40 CFR §§60.2690 through 60.2695;

4.3.g. Initial compliance requirements in 40 CFR §§60.2700 through 60.2705;

4.3.h. Continuous compliance requirements specified in 40 CFR §§60.2710 through

60.2725;

4.3.i. Monitoring requirements specified in 40 CFR §§60.2730 through 60.2735;  
and

4.3.j. Recordkeeping and reporting requirements specified in 40 CFR §§60.2740 through 60.2800.

**§45-18-5. Secretary.**

5.1. Any and all references in 40 CFR Part 60 Subparts CCCC and DDDD to the “Administrator” are amended to be the “Secretary” except in the following references which shall remain “Administrator”:

5.1.a. Where the federal regulations specifically provide that the Administrator shall retain authority and not transfer such authority to the State;

5.1.b. Where provisions occur which refer to:

5.1.b.1. alternate means of emission limitations;

5.1.b.2. alternate control technologies;

5.1.b.3. innovative technology waivers;

5.1.b.4. alternative test methods;

5.1.b.5. alternative monitoring methods;

5.1.b.6. waivers/adjustments to recordkeeping and reporting; or

5.1.b.7. applicability determinations; or

5.1.c. Where the context of the regulation clearly requires otherwise.

**§45-18-6. Permits.**

6.1. On or before December 1, 2003, existing CISWI units subject to this rule shall operate pursuant to a CAA Title V permit in accordance with the requirements of 45 CSR 30, provided that existing CISWI units may be required to apply for and obtain a Title V permit prior to that date as specified in 40 CFR §60.2805.

6.2. New CISWI units subject to this rule shall operate pursuant to a CAA Title V permit by December 1, 2003, or shall submit a complete application for a Title V permit in accordance with

the requirements of 45CSR30 within twelve (12) months after commencing operation, whichever date is later, provided that a new unit may be required to apply for and obtain a Title V permit prior to either of those dates as specified in 40 CFR §60.2242.

6.3. Nothing contained in this rule shall be construed or inferred to mean that permit requirements in accordance with applicable rules shall be in any way limited or inapplicable, including, but not limited to, the permitting requirements under 45 CSR 13, 45 CSR 14, and 45 CSR 19.

#### **§45-18-7. Compliance Dates for Existing CISWI Units.**

7.1. One year after the effective date of U.S. EPA's approval of the 111(d)/129 State Plan for Commercial and Industrial Waste Incineration Units, the owner or operator of any existing CISWI units shall be in compliance with all of the provisions of this rule, provided that existing CISWI units may comply with the following increments of progress:

7.1.a. A final control plan shall be submitted no later than one (1) year after the effective date of State Plan approval; and

7.1.b. Final compliance shall be achieved by a date not later than the earlier of:

7.1.b.1. December 1, 2005; or

7.1.b.2. Three (3) years after the effective date of State Plan approval.

#### **§45-18-8. Effect of the Rule.**

8.1. Nothing in this rule shall be construed to allow or permit the installation, establishment or construction of a new municipal or commercial solid waste facility utilizing incineration technology for the purpose of solid waste incineration in violation of W. Va. Code §22-15-19.

#### **§45-18-9. Inconsistency Between Rules.**

9.1. In the event of any inconsistency between this rule and any other existing rule of the West Virginia Department of Environmental Protection, such inconsistency shall be resolved by the determination of the Secretary and such determination shall be based upon the application of the more stringent provision, term, condition, method, or rule.

## 45 CSR 18

**TABLE 1**  
**Emission Limits for Commercial and Industrial Solid Waste Incineration Units**

<b>Air Pollutant</b>	<b>Emission Limit<sup>a</sup></b>	<b>Averaging Time</b>	<b>Performance Test Methods</b>
Cadmium	0.004 milligrams per dry standard cubic meter.	3-run average (1 hour minimum sample time per run).	Performance test (Method 29 of 40 CFR Part 60, Appendix A)
Carbon monoxide	157 parts per million by dry volume.	3-run average (1 hour minimum sample time per run).	Performance test (Method 10, 10A, or 10B, of 40 CFR Part 60, Appendix A)
Dioxins/furans (toxic equivalency basis)	0.41 nanograms per dry standard cubic meter.	3-run average (1 hour minimum sample time per run).	Performance test (Method 23 of 40 CFR Part 60, Appendix A)
Hydrogen chloride	62 parts per million by dry volume.	3-run average (1 hour minimum sample time per run).	Performance test (Method 26A of 40 CFR Part 60, Appendix A)
Lead	0.04 milligrams per dry standard cubic meter.	3-run average (1 hour minimum sample time per run).	Performance test (Method 29 of 40 CFR Part 60, Appendix A)
Mercury	0.47 milligrams per dry standard cubic meter.	3-run average (1 hour minimum sample time per run).	Performance test (Method 29 of 40 CFR Part 60, Appendix A)
Opacity	10 percent	6-minute averages	Performance test (Method 9 of 40 CFR Part 60, Appendix A)
Oxides of nitrogen	388 parts per million by dry volume.	3-run average (1 hour minimum sample time per run).	Performance test (Method 7, 7A, 7C, 7D, or 7E of 40 CFR Part 60, Appendix A)
Particulate matter	70 milligrams per dry standard cubic meter.	3-run average (1 hour minimum sample time per run).	Performance test (Method 5 or 29 of 40 CFR Part 60, Appendix A)
Sulfur dioxide	20 parts per million by dry volume.	3-run average (1 hour minimum sample time per run).	Performance test (Method 6 or 6C of 40 CFR Part 60, Appendix A)

<sup>a</sup> All emission limitations (except for opacity) are measured at 7 percent oxygen, dry basis at standard conditions.