

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

FORM #6

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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

AGENCY: Division of Environmental Protection, Office of Air Quality TITLE NUMBER: 45

AMENDMENT TO AN EXISTING RULE: YES , NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 23

TITLE OF RULE BEING AMENDED: "To Prevent and Control Emissions from
Municipal Solid Waste Landfills"

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

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

AUTHORIZATION IS CITED IN (house or senate bill number) HB4223

SECTION 64-3-1(h) , PASSED ON March 11, 2000

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON

THE FOLLOWING DATE: May 1, 2000

Carrie J. Chambers
Authorized Signature



Executive Office
#10 McJunkin Road
Nitro, WV 25143-2506
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West Virginia Bureau of Environment

Cecil H. Underwood
Governor

Michael C. Castle
Commissioner

April 18, 2000

Ms. Judy Cooper
Director, Administrative Law
Division
Secretary of State's Office
Capitol Complex
Charleston, WV 25305

RE: 45CSR23 – "To Prevent and Control Emissions from Municipal
Solid Waste Landfills"

Dear Ms. Cooper:

This letter will serve as my approval to file the above-referenced rule with your office as "Notice of Final Filing and Adoption of a Legislative Rule Authorized by the West Virginia Legislature."

Your cooperation in the above request is very much appreciated. If you should have any questions or require additional information, please call Carrie Chambers in my office at 759-0515.

Sincerely,

Michael C. Castle
Commissioner

MCC:cc

cc: Karen Watson
Carrie Chambers

LEGISLATIVE HISTORY ABSTRACT 45CSR23

To Prevent and Control Emissions From Municipal Solid Waste Landfills

Bureau of Environment
Division of Environmental Protection
Office of Air Quality
House Bill 4223 Section 64-3-1(h)

6/16/99	Filed Notice of Public Hearing with Secretary of State.
6/16/99	Initial Filing with Legislative Rule-Making Review Committee.
7/14/99	Filed Notice of Extension of Public Comment Period.
7/19/99	Held Public Hearing.
7/28/99	End of Public Comment Period.
8/6/99	Agency Approved Rule Filed with Secretary of State and Legislative Rule-Making Review Committee.
10/19/99	Rule Approved by Legislative Rule-Making Review Committee with Modifications.
10/26/99	Modified Rule Filed with Secretary of State and Legislative Rule-Making Review Committee.
3/11/00	Passed the West Virginia Legislature.
4/3/00	Approved by the Governor.
4/18/00	Rule Final Filed with Secretary of State.
5/1/00	Effective Date of Rule.

FILED

APR 18 12 52 PM '00

OFFICE OF THE ATTORNEY GENERAL
SECRETARY OF STATE

45CSR23
TITLE 45
LEGISLATIVE RULE
DIVISION OF ENVIRONMENTAL PROTECTION
OFFICE OF AIR QUALITY

SERIES 23
TO PREVENT AND CONTROL EMISSIONS FROM MUNICIPAL SOLID WASTE
LANDFILLS

§45-23-1. General.

1.1. Scope.-- This rule establishes standards of performance and emission guidelines for municipal solid waste landfills pursuant to Section 111 of the federal Clean Air Act as amended in 1990 (CAA). It is the intent of the Director to adopt these standards by reference. It is also the intent of the Director to adopt associated reference methods, performance specifications and other test methods which are appended to such standards.

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

1.3. Filing Date.-- April 18, 2000

1.4. Effective Date.-- May 1, 2000

1.5. Incorporation by Reference -- Federal Counterpart Regulation. The Director has determined that a federal counterpart rule exists, in accordance with the Director's recommendation, and with limited exception, this rule incorporates by reference, 40 CFR Part 60 Subparts Cc and WWW effective July 1, 1998, as amended by the Federal Register through June 1, 1999.

1.6. Former Rules -- This legislative rule amends 45CSR23 "To Prevent and Control Emissions from Municipal Solid Waste Landfills" which was filed May 1, 1998, and which became effective May 1, 1998.

§45-23-2. Definitions.

2.1. Definitions of all terms used, but not defined in this subsection, shall have the meaning given them in 40 CFR Part 60 Subpart WWW, as amended. Terms not defined therein shall have the meaning given to them in the federal Clean Air Act, 40 CFR Subparts A and B, or this Rule.

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

2.3. "Director" shall mean the director of the division of environmental protection or such other person to whom the director has delegated authority or duties pursuant to W.Va. Code §§22-1-6 or 22-1-8.

2.4. "Existing" shall mean each MSW landfill that meets both of the following conditions: (a) commenced construction, reconstruction or modification before May 30, 1991; and (b) has accepted waste at any time since November 8, 1987, or has additional design capacity available for future waste deposition. Physical or operational changes made to an existing MSW landfill solely to comply with this rule shall not subject that landfill to the requirements of subsection 3.2.

2.5. "Municipal solid waste landfill" or "MSW landfill" shall mean an entire disposal facility in a contiguous geographical space where household waste is placed in or on land. An MSW landfill may also receive other types of RCRA Subtitle D wastes (40 CFR §257.2) such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of an MSW landfill may be separated by access roads. An MSW landfill may be publicly or privately owned. An MSW landfill may be a new MSW landfill, an existing MSW landfill, or a lateral expansion.

2.6. "Municipal solid waste landfill emissions" or "MSW landfill emissions" shall mean gas generated by the decomposition of organic waste deposited in a MSW landfill or derived from the evolution of organic compounds in the waste.

2.7. "New" shall mean each MSW landfill that commenced construction, reconstruction, or modification on or after May 30, 1991.

2.8. "NMOC", 'Non Methane Organic Compounds' shall mean nonmethane organic compounds, as measured according to the provisions of 40 CFR 60.754.

§45-23-3. Requirements.

3.1. No person may construct, reconstruct, modify, or operate, or cause to be constructed, modified, or operated a MSW landfill which results in a violation of this rule.

3.2. Each new MSW landfill shall comply with all of the applicable standards, requirements and provisions of 40 CFR Part 60 Subpart WWW, as amended including any reference methods, performance specifications and other test methods associated with Subpart WWW, which are herein incorporated by reference with the exceptions as follows:

3.2.a. In lieu of 40 CFR 60.758(a), the following provision applies: Each owner or operator of a MSW landfill subject to the provisions of 40 CFR 60.752(b) shall keep for at least 5 years up-to-date, readily accessible, on-site records of the maximum design capacity, surface monitoring design plan, the current amount of solid waste in-place, and the year-by-year waste acceptance rate. Either paper copy or electronic format records are acceptable.

3.3. Each existing MSW landfill shall comply with all of the applicable standards, requirements and provisions of 40 CFR Part 60 Subpart Cc and 40 CFR Part 60 Subpart WWW, as referenced in 40 CFR 60 Subpart Cc, and as amended including any reference methods, performance specifications and other test methods associated with Subpart WWW, which are herein incorporated by reference with the exceptions as follows:

3.3.a. §40-60.750

3.3.b. In lieu of 40 CFR 60.752(b)(2)(i)(B), the following provision applies: The collection and control system design plan shall include any alternatives to the operational standards, test methods, procedures, compliance measures, monitoring, record keeping or reporting provisions of 40 CFR 60.753 through 40 CFR 60.758 proposed by the owner or operator. In addition, the collection and control design plan must specify:

- 3.3.b.1. The date by which contracts for control system/process modifications shall be awarded, (which shall be no later than 20 months after the date the NMOC emission rate is first calculated to meet or exceed 50 megagrams per year).
- 3.3.b.2. The date by which on-site construction or installation of the air pollution control device(s) or process changes will begin (which shall be no later than 24 months after the date the NMOC emission rate is first calculated to meet or exceed 50 megagrams per year).
- 3.3.b.3. The date by which the construction or installation of the air pollution control device(s) or process changes capable of meeting the emission standards established under 40 CFR 60.752(b)(2)(iii) will be complete (which shall be no later than 30 months after the date the NMOC emission rate is first calculated to meet or exceed 50 megagrams per year).
- 3.3.b.4. The date by which the MSW landfill will achieve compliance with 40 CFR 60.753 (which shall be no later than 30 months [except where 40 CFR 60 indicates otherwise] after the date the NMOC emission rate is first calculated to meet or exceed 50 megagrams per year).
- 3.3.b.5. The date by which the MSW landfill will demonstrate compliance with applicable requirements by conducting a performance test in accordance with procedures specified by the Director (which shall be no later than 180 days after completion of construction or installation of the air pollution control device).

3.3.c. In lieu of 40 CFR 60.758(a), the following provision applies: Each owner or operator of a MSW landfill subject to the provisions of 40 CFR 60.752(b) shall keep for at least 5 years up-to-date, readily accessible, on-site records of the maximum design capacity, surface monitoring design plan, the current amount of solid waste in-place, and the year-by-year waste acceptance rate. Either paper copy or electronic format records are acceptable.

§45-23-4. Director.

4.1. Any and all references in 40 CFR Part 60 to the "Administrator" are amended to be the "Director" except in the following references which shall remain "Administrator" as follows:

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

4.1.b. Where provisions occur which refer to:

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

4.1.b.2. alternate control technologies;

4.1.b.3. innovative technology waivers;

4.1.b.4. alternate test methods;

4.1.b.5. alternate monitoring methods;

4.1.b.6. waivers/adjustments to record keeping and reporting; or

4.1.b.7. applicability determinations; or

4.1.c. where the context of the regulation clearly requires otherwise.

§45-23-5. Permits.

5.1. 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 with the exception as follows:

5.1.a. A control system installed at a MSW landfill solely to comply with this rule and 40 CFR 60.752(b)(2)(iii), shall not be defined as a stationary source under §45-13-2.25.a. for purposes of applicability of §45-13 permit requirements.

§45-23-6. Inconsistency Between Rules.

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