

**WEST VIRGINIA  
SECRETARY OF STATE  
NATALIE E. TENNANT  
ADMINISTRATIVE LAW DIVISION**

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2012 MAY -1 PM 2:46

OFFICE WEST VIRGINIA  
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Form #6

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

AGENCY: WV Dept. of Environmental Protection - Div. of Air Quality TITLE NUMBER: 45

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 45CSR18

TITLE OF RULE BEING AMENDED: Control of Air Pollution from Combustion of Solid  
Waste

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

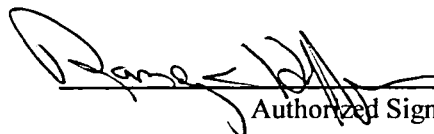
TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

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

AUTHORIZATION IS CITED IN (house or senate bill number) SB 253

SECTION §64-3-1(f), PASSED ON March 30, 2012

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE  
FOLLOWING DATE: June 1, 2012

  
Authorized Signature

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2012 MAY -1 PM 2: 46

TITLE 45  
LEGISLATIVE RULE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
AIR QUALITY

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

SERIES 18  
CONTROL OF AIR POLLUTION FROM COMBUSTION OF SOLID WASTE

§45-18-1. General.

1.1. Scope. -- This rule adopts standards of performance, and establishes emission guidelines and compliance times pursuant to Sections 111 and 129 of the federal Clean Air Act for the control of certain designated pollutants from the following categories of solid waste combustors, combustion units, incinerators and incineration units in West Virginia:

1.1.a. Large municipal waste combustors subject to the standards of performance promulgated by the United States Environmental Protection Agency (U.S. EPA) under 40 CFR Part 60, Subpart Eb;

1.1.b. Small municipal waste combustion units subject to the standards of performance promulgated by the U.S. EPA under 40 CFR Part 60, Subpart AAAA;

1.1.c. Hospital/medical/infectious waste incinerators subject to the standards of performance promulgated by the U.S. EPA under 40 CFR Part 60, Subpart Ec, or the emission guidelines and compliance times promulgated by the U.S. EPA under 40 CFR Part 60, Subpart Ce set forth in section 7;

1.1.d. Commercial and industrial solid waste incineration units subject to the standards of performance promulgated by the U.S. EPA under 40 CFR Part 60, Subpart CCCC, or the emission guidelines and compliance times promulgated by the U.S. EPA under 40 CFR Part 60, Subpart DDDD set forth in section 9;

1.1.e. Other solid waste incineration units subject to the standards of performance promulgated by the U.S. EPA under 40 CFR Part 60, Subpart EEEE, and

1.1.f. Sewage sludge incineration units subject to the standards of performance promulgated by the U.S. EPA under 40 CFR Part 60, Subpart LLLL.

1.2. This rule codifies general procedures and criteria to implement a program of specific standards of performance, emission guidelines and compliance times for solid waste combustors, combustion units, incinerators and incineration units set forth in the Code of Federal Regulations and as listed in Tables 18-1A, 18-1B, 18-2A, 18-2B and 18-1C.

1.3. Neither compliance with the provisions of this rule nor the absence of specific language to cover particular situations constitutes approval or implies consent or condonement of any emission which is released in any locality in such a manner or amount as to cause or contribute to statutory air pollution. Neither does it exempt nor excuse any person from complying with other applicable laws, ordinances, regulations, or orders of governmental entities having jurisdiction over the combustion of solid waste.

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1.4. Authority. -- W.Va. Code §22-5-4.

1.5. Filing Date. -- May 1, 2012.

1.6. Effective Date. -- June 1, 2012.

1.7. 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, Subparts Eb, Ec, AAAA, CCCC, EEEE and LLLL effective June 1, 2011.

1.8. Former Rules. -- This legislative rule amends 45CSR18 - "Control of Air Pollution from Combustion of Solid Waste" which was filed June 16, 2011, and which became effective June 16, 2011.

### **§45-18-2. Definitions.**

2.1. "Administrator" means the Administrator of the United States Environmental Protection Agency (U.S. EPA) or his or her designated representative.

2.2. "CFR" means the Code of Federal Regulations published by the Office of the Federal Register, National Archives and Records Service, General Services Administration.

2.3. "Clean Air Act" or 'CAA' means the federal Clean Air Act, as amended, 42 U.S.C. §7401 et seq.

2.4. "Commercial and industrial solid waste incineration unit" or 'CISWI unit' means any combustion unit that combusts, commercial or industrial waste, 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), and any air curtain incinerator that is a distinct operating unit of any commercial or industrial facility that does not comply with the opacity limit in Table 18-1C applicable to air curtain incinerators burning commercial or industrial waste. While not all CISWI units will include all of the following components, a CISWI unit includes, but is not limited to, the commercial or industrial solid waste feed system, grate system, flue gas system, waste heat recovery equipment, if any, and bottom ash system. 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: the combustion unit flue gas system, which ends immediately after the last combustion chamber or after the waste heat recovery equipment, if any; and the combustion unit bottom ash system, which ends at the truck loading station or similar equipment that transfers the ash to final disposal. The CISWI unit includes all ash handling systems connected to the bottom ash handling system. A CISWI unit does not include any of the fifteen types of units described in 40 CFR §60.2555, nor does it include any combustion turbine or reciprocating internal combustion engine.

2.5. "Hospital/medical/infectious waste incinerator" or 'HMIWI unit' means any device that combusts any amount of hospital waste or medical/infectious waste.

2.6. "Municipal waste combustor unit" or 'municipal waste combustor' means any setting or equipment that combusts solid, liquid, or gasified municipal solid waste including, but not limited to, field-erected incinerators (with or without heat recovery), modular incinerators (starved-air or excess-air), boilers (i.e.,

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steam generating units), furnaces (whether suspension-fired, grate-fired, mass-fired, air curtain incinerators, or fluidized bed-fired), and pyrolysis/combustion units.

2.6.a. Municipal waste combustors do not include pyrolysis/combustion units located at a plastics/rubber recycling unit as specified in 40 CFR §60.50b(m). Municipal waste combustors do not include cement kilns firing municipal solid waste as specified in 40 CFR §60.50b(p). Municipal waste combustors do not include internal combustion engines, gas turbines, or other combustion devices that combust landfill gases collected by landfill gas collection systems.

2.6.b. The boundaries of a municipal waste combustor are defined as follows. The municipal waste combustor unit includes, but is not limited to, the municipal solid waste fuel feed system, grate system, flue gas system, bottom ash system, and the combustor water system. The municipal waste combustor boundary starts at the municipal solid waste pit or hopper and extends through:

2.6.b.1. The combustor flue gas system, which ends immediately following the heat recovery equipment or, if there is no heat recovery equipment, immediately following the combustion chamber;

2.6.b.2. The combustor bottom ash system, which ends at the truck loading station or similar ash handling equipment that transfer the ash to final disposal, including all ash handling systems that are connected to the bottom ash handling system; and

2.6.b.3. The combustor water system, which starts at the feed water pump and ends at the piping exiting the steam drum or superheater.

2.7. “Other solid waste incineration unit” or “OSWI unit” means either a very small municipal waste combustion unit or an institutional waste incineration unit. Unit types listed in 40 CFR §60.2887 are not OSWI units. While not all OSWI units will include all of the following components, an OSWI unit includes, but is not limited to, the municipal or institutional solid waste feed system, grate system, flue gas system, waste heat recovery equipment, if any, and bottom ash system. The OSWI unit does not include air pollution control equipment or the stack. The OSWI unit boundary starts at the municipal or institutional waste hopper (if applicable) and extends through two areas:

2.7.a. The combustion unit flue gas system, which ends immediately after the last combustion chamber or after the waste heat recovery equipment, if any; and

2.7.b. The combustion unit bottom ash system, which ends at the truck loading station or similar equipment that transfers the ash to final disposal. The OSWI unit includes all ash handling systems connected to the bottom ash handling system.

2.8. “Person” means any and all persons, natural or artificial, including the state of West Virginia or any other state, the United States of America, any municipal, statutory, public or private corporation organized or existing under the laws of this or any other state or country, and any firm, partnership or association of whatever nature.

2.9. “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.

2.10. "Standard Metropolitan Statistical Area" means any areas listed in OMB Bulletin No. 93-17 entitled "Revised Statistical Definitions for Metropolitan Areas" dated June 30, 1993.

2.11. "You", as used in sections 8 and 9 or 40 CFR Part 60 Subparts CCCC and DDDD, means the owner or operator of a CISWI unit.

2.12. Other words and phrases used in this rule, unless otherwise indicated, shall have the meaning ascribed to them in 40 CFR Part 60 Subparts A, B, Ce, Eb, Ec, AAAA, CCCC, DDDD, EEEE and LLLL as applicable. Words and phrases not defined therein shall have the meaning given to them in the Clean Air Act.

**§45-18-3. Adoption of Standards.**

3.1. The Secretary hereby adopts and incorporates by reference the definitions of 40 CFR Part 60, Subparts A and B, the standards of performance and definitions set forth in 40 CFR Part 60, Subparts Eb, Ec, AAAA, CCCC, EEEE and LLLL, including any applicable reference methods, performance specifications and other test methods which are appended to these standards and contained in these subparts, effective June 1, 2011.

**§45-18-4. Requirements for New Large Municipal Waste Combustors.**

4.1. Requirements for New LMWC Units. -- The owner or operator of a new LMWC unit under subsection 4.2 shall comply with all applicable standards of performance, requirements and provisions of 40 CFR Part 60 Subpart Eb, including any reference methods, performance specifications and other test methods associated with Subpart Eb. No person shall construct or operate, or cause to be constructed or operated a new LMWC unit which results in a violation of 40 CFR Part 60, Subpart Eb or this rule.

4.2. Applicability. -- The owner or operator of a LMWC unit that meets the following criteria shall be subject to the requirements for new LMWC units set forth in section 4. A new LMWC unit is a LMWC unit that either:

4.2.a. Commenced construction after September 20, 1994; or

4.2.b. Commenced modification or reconstruction after June 19, 1996.

**§45-18-5. Requirements for New Small Municipal Waste Combustion Units.**

5.1. Requirements for New SMWC Units. -- The owner or operator of a new SMWC unit under subsection 5.2 shall comply with all applicable standards of performance, requirements and provisions of 40 CFR Part 60 Subpart AAAA, including any reference methods, performance specifications and other test methods associated with Subpart AAAA. No person shall construct or operate, or cause to be constructed or operated a new SMWC unit which results in a violation of 40 CFR Part 60, Subpart AAAA or this rule.

5.2. Applicability. -- The owner or operator of a SMWC unit that meets the following criteria shall be subject to the requirements for new SMWC units set forth in section 5. A new SMWC unit is a SMWC unit that either:

5.2.a. Commenced construction after August 30, 1999; or

5.2.b. Commenced modification or reconstruction after June 6, 2001.

**§45-18-6. Requirements for New Hospital/Medical/Infectious Waste Incinerators.**

6.1. Requirements for New HMIWI Units. -- The owner or operator of a new HMIWI unit under subsection 6.2 shall comply with all applicable standards of performance, requirements and provisions of 40 CFR Part 60 Subpart Ec, including any reference methods, performance specifications and other test methods associated with Subpart Ec. No person shall construct, reconstruct, modify, or operate, or cause to be constructed, reconstructed, modified, or operated a new HMIWI unit which results in a violation of 40 CFR Part 60 Subpart Ec, or this rule.

6.2. Applicability. -- The owner or operator of a HMIWI unit that meets the following criteria shall be subject to the requirements for new HMIWI units set forth in section 6. A new HMIWI unit is a HMIWI unit that either:

6.2.a. Commenced construction after December 1, 2008; or

6.2.b. Commenced modification after April 6, 2010.

6.3. Physical or Operational Changes. Physical or operational changes made to an HMIWI unit to comply with the emission guidelines in section 7 and 40 CFR Part 60 Subpart Ce do not qualify as a reconstruction or modification under section 6 and 40 CFR Part 60 Subpart Ec.

**§45-18-7. Requirements for Existing Hospital/Medical/Infectious Waste Incinerators.**

7.1. Requirements for Existing HMIWI Units. -- The owner or operator of an existing HMIWI unit under subsection 7.2 shall comply with the applicable emission guidelines, compliance times, requirements and provisions of 40 CFR Part 60 Subpart Ce contained in this section, including any reference methods, performance specifications and other test methods associated with Subpart Ce. No person shall reconstruct, modify, or operate, or cause to be reconstructed, modified, or operated an existing HMIWI unit which results in a violation of 40 CFR Part 60 Subpart Ce, or this rule.

7.2. Applicability. -- HMIWI units that are designated facilities under subdivision 7.2.a shall be subject to the requirements for existing HMIWI units set forth in section 7.

7.2.a. Designated Facilities. -- Except as provided in subdivisions 7.2.b through 7.2.h, the designated facility to which the emissions guidelines apply is each individual HMIWI unit:

7.2.a.1. For which construction was commenced on or before June 20, 1996, or for which modification was commenced on or before March 16, 1998.

7.2.a.2. For which construction was commenced after June 20, 1996 but no later than December 1, 2008, or for which modification is commenced after March 16, 1998 but no later than April 6, 2010.

7.2.b. A combustor is not subject to this section during periods when only pathological waste,

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low-level radioactive waste, and/or chemotherapeutic waste is burned, provided the owner or operator of the combustor:

7.2.b.1. Notifies the Administrator of an exemption claim; and

7.2.b.2. Keeps records on a calendar quarter basis of the periods of time when only pathological waste, low-level radioactive waste, and/or chemotherapeutic waste is burned.

7.2.c. Any co-fired combustor is not subject to this section if the owner or operator of the co-fired combustor:

7.2.c.1. Notifies the Administrator of an exemption claim;

7.2.c.2. Provides an estimate of the relative weight of hospital waste, medical/infectious waste, and other fuels and/or wastes to be combusted; and

7.2.c.3. Keeps records on a calendar quarter basis of the weight of hospital waste and medical/infectious waste combusted, and the weight of all other fuels and wastes combusted at the co-fired combustor.

7.2.d. Any combustor required to have a permit under Section 3005 of the Solid Waste Disposal Act is not subject to this section.

7.2.e. Any combustor which meets the applicability requirements under 40 CFR Part 60, Subparts Cb, Ea, or Eb (standards or guidelines for certain municipal waste combustors) is not subject to this section.

7.2.f. Any pyrolysis unit is not subject to this section.

7.2.g. Cement kilns firing hospital waste and/or medical/infectious waste are not subject to this section.

7.2.h. Physical or operational changes made to an existing HMIWI unit solely for the purpose of complying with emission guidelines under this section are not considered a modification and do not result in an existing HMIWI unit becoming subject to the provisions of 40 CFR Part 60, Subpart Ec.

7.2.i. On or before September 15, 2000, the owner or operator of an existing HMIWI unit shall operate pursuant to a Title V permit in accordance with the requirements of 45CSR30.

7.2.j The requirements of 40 CFR §§62.12150-12152, as amended and approved on August 3, 2009, and the related provisions of 40 CFR Part 60, Subpart Ce as promulgated on September 15, 1997, shall apply to the designated facilities under paragraph 7.2.a.1 until one year after the effective date of U.S. EPA's approval of the 111(d)/129 State Plan revision for HMIWI units. Upon one year after the effective date of U.S. EPA's approval of the 111(d)/129 State Plan revision for HMIWI units, designated facilities under paragraph 7.2.a.1 are no longer subject to the requirements of 40 CFR Part 60, Subpart Ce as promulgated on September 15, 1997, but are subject to the requirements of 40 CFR Part 62, Subpart XX, as amended in accordance with the October 6, 2009 provisions of 40 CFR Part 60, Subpart Ce.

7.3. Emissions Guidelines.

7.3.a. The owner or operator of an existing HMIWI unit shall comply with the following emissions limits as applicable:

7.3.a.1. For a designated facility set forth in paragraph 7.2.a.1 subject to the emissions guidelines as promulgated on September 15, 1997, the requirements listed in Table 18-1A, except as provided in subdivision 7.3.b;

7.3.a.2. For a designated facility set forth in paragraph 7.2.a.1 subject to the emissions guidelines as amended on October 6, 2009, the requirements listed in Table 18-1B, except as provided in subdivision 7.3.b;

7.3.a.3. For a designated facility set forth in paragraph 7.2.a.2, the more stringent of the requirements listed in Table 18-1B and Table 1A of 40 CFR Part 60, Subpart Ec, as amended October 6, 2009.

7.3.b. The owner or operator of any small HMIWI unit constructed on or before June 20, 1996, which is located more than 50 miles from the boundary of the nearest Standard Metropolitan Statistical Area and which burns less than 2,000 pounds per week of hospital waste and medical/infectious waste shall comply with emissions limits in paragraphs 7.3.b.1 and 7.3.b.2, as applicable. The 2,000 lb/week limitation does not apply during performance tests.

7.3.b.1. For a designated facility under paragraph 7.2.a.1 subject to the emissions guidelines as promulgated on September 15, 1997, the requirements listed in Table 18-2A; and

7.3.b.2. For a designated facility under paragraph 7.2.a.1 subject to the emissions guidelines as amended on October 6, 2009, the requirements listed in Table 18-2B.

7.3.c. The owner or operator of any existing HMIWI unit shall comply with the following stack opacity requirements, as applicable:

7.3.c.1. For a designated facility under paragraph 7.2.a.1 subject to the emissions guidelines as promulgated on September 15, 1997, the requirements in 40 CFR §60.52c(b)(1); and

7.3.c.2. For a designated facility under paragraph 7.2.a.1 subject to the emissions guidelines as amended on October 6, 2009 and a designated facility under paragraph 7.2.a.2, the requirements in 40 CFR §60.52c(b)(2).

7.4. Operator Training and Qualification Guidelines. -- The owner or operator of an existing HMIWI unit shall comply with the operator training and qualification requirements specified in 40 CFR §60.53c:

7.4.a. For a designated facility under paragraph 7.2.a.1, by July 28, 2001, and

7.4.b. For a designated facility under paragraph 7.2.a.2, at the time of initial facility start-up.

7.5. Waste Management Guidelines. -- The owner or operator of an existing HMIWI unit under



paragraphs 7.2.a.1 and 7.2.a.2 shall comply with the waste management plan specified in 40 CFR §60.55c within one year after the date of U.S. EPA's approval of the 111(d)/129 State Plan revision for HMIWI units under 40 CFR Part 60, Subpart Ce requirements, as revised October 6, 2009.

7.6. Inspection Guidelines.

7.6.a. The owner or operator of each small HMIWI unit subject to the emissions limits under subdivision 7.3.b and each HMIWI unit subject to the emissions limits under paragraphs 7.3.a.2 and 7.3.a.3 shall perform an initial equipment inspection within one year after the date of U.S. EPA's approval of the 111(d)/129 State Plan revision for HMIWI units under 40 CFR Part 62, Subpart XX, and the related provisions of 40 CFR Part 60, Subpart Ce, as revised October 6, 2009. The initial equipment inspection shall include the following:

7.6.a.1. Inspection of all burners, pilot assemblies, and pilot sensing devices for proper operation; cleaning of pilot flame sensor, as necessary;

7.6.a.2. Ensuring proper adjustment of primary and secondary chamber combustion air, and adjust as necessary;

7.6.a.3. Inspection of hinges and door latches and lubrication as necessary;

7.6.a.4. Inspection of dampers, fans, and blowers for proper operation;

7.6.a.5. Inspection of HMIWI unit door and door gaskets for proper sealing;

7.6.a.6. Inspection of motors for proper operation;

7.6.a.7. Inspection of primary chamber refractory lining; cleaning and repairing or replacing lining as necessary;

7.6.a.8. Inspection of incinerator shell for corrosion and hot spots;

7.6.a.9. Inspection of secondary and tertiary chamber and stack, cleaning as necessary;

7.6.a.10. Inspection of mechanical loader, including limit switches, for proper operation, if applicable;

7.6.a.11. Visual inspection of waste bed (grates), and repairing or sealing, as appropriate;

7.6.a.12. For the burn cycle that follows the inspection, documentation that the incinerator is operating properly and making any necessary adjustments;

7.6.a.13. Inspection of air pollution control device(s) for proper operation, if applicable;

7.6.a.14. Inspection of waste heat boiler systems to ensure proper operation, if applicable;

7.6.a.15. Inspection of bypass stack components;

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7.6.a.16. Ensuring proper calibration of thermocouples, sorbent feed systems and any other monitoring equipment; and

7.6.a.17. Generally observing that the equipment is maintained in good operating condition.

7.6.b. Within 10 operating days following an equipment inspection, all necessary repairs shall be completed unless the owner or operator obtains written approval from the Secretary establishing a date whereby all necessary repairs of the designated facility shall be completed.

7.6.c. The owner or operator of each small HMIWI unit subject to the emissions limits under subdivision 7.3.b and each HMIWI unit subject to the emissions limits under paragraphs 7.3.a.2 and 7.3.a.3 shall perform an equipment inspection annually (no more than 12 months following the previous annual equipment inspection), as outlined in subdivision 7.6.a.

7.6.d. The owner or operator of each small HMIWI unit subject to the emissions limits under paragraph 7.3.b.2 and each HMIWI unit subject to the emissions limits under paragraphs 7.3.a.2 and 7.3.a.3 shall perform an initial air pollution control device inspection, as applicable, within one year following approval of the 111(d)/129 State Plan revision for HMIWI units under 40 CFR Part 62, Subpart XX, and the related provisions of 40 CFR Part 60, Subpart Ce, as revised October 6, 2009. The initial air pollution control device inspection shall include the following:

7.6.d.1. Inspect air pollution control device(s) for proper operation, if applicable;

7.6.d.2. Ensure proper calibration of thermocouples, sorbent feed systems, and any other monitoring equipment; and

7.6.d.3. Generally observe that the equipment is maintained in good operating condition.

7.6.e. Within 10 operating days following an air pollution control device inspection under subdivision 7.6.d, all necessary repairs shall be completed unless the owner or operator obtains written approval from the Secretary establishing a date whereby all necessary repairs of the designated facility shall be completed.

7.6.f. The owner or operator of each small HMIWI unit subject to the emissions limits under paragraph 7.3.b.2 and each HMIWI unit subject to the emissions limits under paragraphs 7.3.a.2 and 7.3.a.3 shall perform an air pollution control device inspection, as applicable, annually (no more than 12 months following the previous annual air pollution control device inspection), as outlined in subdivision 7.6.d.

### 7.7. Compliance, Performance Testing, and Monitoring Guidelines.

7.7.a. Except as provided in subdivision 7.7.b, the owner or operator of a HMIWI unit shall comply with the requirements for compliance and performance testing listed in 40 CFR §60.56c, with the following exclusions:

7.7.a.1. For a designated facility under paragraph 7.2.a.1 subject to the emissions limits in paragraph 7.3.a.1, the test methods listed in 40 CFR §§60.56c(b)(7) and (8), the fugitive emissions testing requirements under 40 CFR §§60.56c(b)(14) and (c)(3), the CO CEMS requirements under 40 CFR §60.56c(c)(4), and the compliance requirements for monitoring listed in 40 CFR §§60.56c(c)(5)(ii) through

(v), (c)(6), (c)(7), (e)(6) through (10), (f)(7) through (10), (g)(6) through (10), and (h).

7.7.a.2. For a designated facility under paragraphs 7.2.a.1 and 7.2.a.2 subject to the emissions limits in paragraphs 7.3.a.2 and 7.3.a.3, the annual fugitive emissions testing requirements under 40 CFR §60.56c(c)(3), the CO CEMS requirements under 40 CFR §60.56c(c)(4), and the compliance requirements for monitoring listed in 40 CFR §§60.56c(c)(5)(ii) through (v), (c)(6), (c)(7), (e)(6) through (10), (f)(7) through (10), and (g)(6) through (10). Sources subject to the emissions limits under paragraphs 7.3.a.2 and 7.3.a.3 may, however, elect to use CO CEMS as specified under 40 CFR §60.56c(c)(4) or bag leak detection systems as specified under 40 CFR §60.57c(h).

7.7.b. Except as provided in paragraphs 7.7.b.1 and 7.7.b.2, the owner or operator of a small HMIWI unit subject to the emissions limits under subdivision 7.3.b shall comply with the performance testing requirements listed in 40 CFR §60.56c. The 2,000 lb/week limitation under subdivision 7.3.b does not apply during performance tests.

7.7.b.1. For a designated facility under paragraph 7.2.a.1 subject to the emissions limits under paragraph 7.3.b.1, the test methods listed in 40 CFR §§60.56c(b)(7), (8), (12), (13) (Pb and Cd), and (14), the annual PM, CO, and HCl emissions testing requirements under 40 CFR §60.56c(c)(2), the annual fugitive emissions testing requirements under 40 CFR §60.56c(c)(3), the CO CEMS requirements under 40 CFR §60.56c(c)(4), and the compliance requirements for monitoring listed in 40 CFR §§60.56c(c)(5) through (7), and (d) through (k) do not apply.

7.7.b.2. For a designated facility under paragraph 7.2.a.2 subject to the emissions limits under paragraph 7.3.b.2, the annual fugitive emissions testing requirements under 40 CFR §60.56c(c)(3), the CO CEMS requirements under 40 CFR §60.56c(c)(4), and the compliance requirements for monitoring listed in 40 CFR §§60.56c(c)(5)(ii) through (v), (c)(6), (c)(7), (e)(6) through (10), (f)(7) through (10), and (g)(6) through (10) do not apply. Sources subject to the emissions limits under paragraph 7.3.b.2 may, however, elect to use CO CEMS as specified under 40 CFR §60.56c(c)(4) or bag leak detection systems as specified under 40 CFR §60.57c(h).

7.7.c. The owner or operator of a small HMIWI unit subject to the emissions limits under subdivision 7.3.b that is not equipped with an air pollution control device shall comply with the following compliance and performance testing requirements:

7.7.c.1. Establishment of maximum charge rate and minimum secondary chamber temperature as site-specific operating parameters during the initial performance test to determine compliance with applicable emission limits;

7.7.c.2. Following the date on which the initial performance test is completed or is required to be completed under 40 CFR §60.8, whichever date comes first, the small HMIWI unit shall not operate above the maximum charge rate or below the minimum secondary chamber temperature measured as 3-hour rolling averages (calculated each hour as the average of the previous 3 operating hours) at all times. Operating parameter limits do not apply during performance tests. Operation above the maximum charge rate or below the minimum secondary chamber temperature shall constitute a violation of the established operating parameter(s).

7.7.c.3. Operation above the maximum charge rate and below the minimum secondary chamber

temperature (each measured on a 3-hour rolling average) simultaneously shall constitute a violation of the PM, CO and dioxin/furan emission limits, except as provided in paragraph 7.7.c.4; and

7.7.c.4. The owner or operator of a small HMIWI unit may conduct a repeat performance test within 30 days of violation of applicable operating parameter(s) to demonstrate that the small HMIWI unit is not in violation of the applicable emission limit(s). Repeat performance tests conducted pursuant to this paragraph shall be conducted under process and control device operating conditions duplicating as nearly as possible those that indicated a violation under paragraph 7.7.c.3;

7.7.d. The owner or operator of a HMIWI unit subject to the emissions limits under subdivisions 7.3.a and 7.3.b shall comply with the requirements for monitoring listed in 40 CFR §60.57c, except as provided for under subdivision 7.7.e.

7.7.e. The owner or operator of a small HMIWI unit subject to the emissions limits under subdivision 7.3.b that is not equipped with an air pollution control device shall comply with the following monitoring requirements:

7.7.e.1. Installation, calibration (to manufacturer's specifications), maintenance and operation of a device for measuring and recording the temperature of the secondary chamber on a continuous basis, the output of which shall be recorded, at a minimum once every minute throughout operation;

7.7.e.2. Installation, calibration (to manufacturer's specifications), maintenance and operation of a device which automatically measures and records the date, time, and weight of each charge fed into the HMIWI unit;

7.7.e.3. The owner or operator of a HMIWI unit shall obtain monitoring data at all times during HMIWI unit operation except during periods of monitoring equipment malfunction, calibration, or repair. At a minimum, valid monitoring data shall be obtained for 75 percent of the operating hours per day and for 90 percent of the operating hours per calendar quarter that the HMIWI unit is combusting hospital waste or medical/infectious waste.

7.7.f. The owner or operator of a designated facility under paragraphs 7.2.a.1 or 7.2.a.2 subject to emissions limits under paragraphs 7.3.a.2, 7.3.a.3 or 7.3.b.2 may use the results of previous emissions tests to demonstrate compliance with the emissions limits, provided that the conditions in paragraphs 7.7.f.1 through 7.7.f.3 are met:

7.7.f.1. The designated facility's previous emissions tests shall have been conducted using the applicable procedures and test methods listed in 40 CFR §60.56c(b). Previous emissions test results obtained using EPA-accepted voluntary consensus standards are also acceptable.

7.7.f.2. The HMIWI unit at the designated facility shall currently be operated in a manner (e.g., with charge rate, secondary chamber temperature, etc.) that would be expected to result in the same or lower emissions than observed during the previous emissions test(s), and the HMIWI unit may not have been modified such that emissions would be expected to exceed (notwithstanding normal test-to-test variability) the results from previous emissions test(s).

7.7.f.3. The previous emissions test(s) shall have been conducted in 1996 or later.

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### 7.8. Reporting and Recordkeeping Guidelines.

7.8.a. Except as provided in paragraphs 7.8.a.1 and 7.8.a.2, the owner or operator of an existing HMIWI unit shall comply with the reporting and recordkeeping requirements listed in 40 CFR §§60.58c(b) through (g).

7.8.a.1. For a designated facility under paragraph 7.2.a.1 subject to emissions limits under paragraphs 7.3.a.1 or 7.3.b.1, excluding 40 CFR §§60.58c(b)(2)(ii) (fugitive emissions), (b)(2)(viii) (NO<sub>x</sub> reagent), (b)(2)(xvii) (air pollution control device inspections), (b)(2)(xviii) (bag leak detection system alarms), (b)(2)(xix) (CO CEMS data), and (b)(7) (siting documentation).

7.8.a.2. For a designated facility under paragraphs 7.2.a.1 or 7.2.a.2 subject to emissions limits under paragraphs 7.3.a.2, 7.3.a.3 or 7.3.b.2, excluding 40 CFR §§60.58c(b)(2)(xviii) (bag leak detection system alarms), (b)(2)(xix) (CO CEMS data), and (b)(7) (siting documentation).

7.8.b. The owner or operator of each HMIWI unit subject to the emissions limits under subsection 7.3 shall:

7.8.b.1. As specified in subsection 7.6, maintain records of the annual equipment inspections that are required for each HMIWI unit subject to the emissions limits under paragraphs 7.3.a.2, 7.3.a.3 and subdivision 7.3.b, and the annual air pollution control device inspections that are required for each HMIWI unit subject to the emissions limits under paragraphs 7.3.a.2, 7.3.a.3 and 7.3.b.2, any required maintenance, and any repairs not completed within 10 days of an inspection or repair date approved by the Secretary; and

7.8.b.2. Submit an annual report containing information recorded under paragraph 7.8.b.1 no later than 60 days following the year in which data were collected. Subsequent reports shall be sent no later than 12 calendar months following the previous report (once the unit is subject to permitting requirements under 45CSR30, the owner or operator shall submit these reports semiannually). The report shall be signed and certified in accordance with subdivision 7.8.c.

7.8.c. Where reports are required to be submitted to the Secretary under the terms of a permit issued pursuant to 45CSR13, 45CSR14, 45CSR19 or 45CSR30, the reports shall be signed and certified in accordance with the requirements of the applicable permitting rule. Where reports are required to be submitted to the Secretary under this rule, and no permit is in effect under 45CSR13, 45CSR14, 45CSR19 or 45CSR30, the report shall be signed by the facilities manager and shall contain a certification stating that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate and complete.

### 7.9. Compliance Times.

7.9.a. Except as provided in subdivisions 7.9.b, 7.9.c and 7.9.d, on or after July 28, 2001, the owner or operator of any existing HMIWI unit subject to the requirements of 40 CFR Part 62, Subpart XX, and the related provisions of 40 CFR Part 60, Subpart Ce as promulgated on September 15, 1997, shall be in compliance with all applicable provisions of this section.

7.9.b. No later than November 28, 2000, the owner or operator of an existing HMIWI unit required to install air pollution control equipment shall submit a compliance plan and schedule subject to the approval

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of the Secretary that meets the following criteria:

7.9.b.1. No later than July 28, 2001, a facility that plans to install air pollution control equipment other than a dry scrubber followed by a fabric filter, a wet scrubber or dry scrubber followed by a fabric filter and a wet scrubber shall submit a petition for site specific operating parameters under 40 CFR §60.56c(i) to the Administrator and the Secretary;

7.9.b.2. No later than July 28, 2001, services of an architectural and engineering firm regarding air pollution device(s) shall be obtained;

7.9.b.3. No later than January 28, 2002, design drawings of an air pollution device(s) shall be ordered;

7.9.b.4. No later than January 28, 2002, air pollution device(s) shall be ordered;

7.9.b.5. No later than July 28, 2002, site preparation for installation of the air pollution device(s) shall be initiated;

7.9.b.6. No later than April 28, 2002, initial startup of the air pollution device(s) shall be conducted;

7.9.b.7. No later than April 28, 2002, initial compliance test(s) of the air pollution device(s) shall be conducted; and

7.9.b.8. No later than September 16, 2002, the owner or operator of an existing HMIWI unit shall not allow or cause to be allowed a HMIWI unit to be operated except in compliance with all applicable provisions of this section.

7.9.c. An owner or operator of an existing HMIWI unit who submits in writing to the Secretary a request for an extension to comply beyond the compliance dates under subdivision 7.9.b, shall submit to the Secretary no later than April 28, 2001, the following information:

7.9.c.1. An analysis to support the need for an extension, including an explanation of why a time period up to three years after July 28, 2000 is not sufficient time to comply with subdivision 7.9.b;

7.9.c.2. A demonstration of the feasibility to transport the waste offsite to a commercial medical waste treatment and disposal facility on a temporary or permanent basis; and

7.9.c.3. Measurable and enforceable incremental steps of progress to be taken towards compliance with the emission limits contained in Table 18-1A, or Table 18-2A for Small Rural Units, as applicable.

7.9.d. The owner or operator of an existing HMIWI unit will be notified in writing by the Secretary of his or her decision as to whether an extension shall be granted or denied. The owner or operator shall comply with one of the following:

7.9.d.1. If the request for extension is denied, the owner or operator shall submit a compliance

plan in accordance with subdivision 7.9.b no later than 30 days after denial of the request for extension, or July 28, 2001, whichever is later; or

7.9.d.2. If the request for extension is granted, the owner or operator shall submit a compliance plan and schedule commensurate with the granted extension no later than 30 days after the date the request for extension has been granted.

7.9.d.3. If an extension is granted by the Secretary, the owner or operator shall comply in an expeditious manner with the §111(d)/129 plan requirements of Part 62, Subpart XX, §§62.12150 through 62.12152 on or before the date 3 years after U.S. EPA approval of the West Virginia §111(d)/129 plan (but not later than September 16, 2002), for the emissions guidelines as promulgated on September 15, 1997, and on or before the date 3 years after U.S. EPA approval of an amended West Virginia §111(d)/129 plan (but not later than October 6, 2014), for the emissions guidelines as amended on October 6, 2009.

7.9.e. Except as provided in subdivisions 7.9.f, 7.9.g and 7.9.h, one year after the effective date of U.S. EPA's approval of the 111(d)/129 State Plan revision for HMIWI units, the owner or operator of any existing HMIWI unit subject to the requirements of 40 CFR Part 62, Subpart XX, and the related provisions of 40 CFR Part 60, Subpart Ce as promulgated on October 6, 2009, shall be in compliance with all applicable provisions of this section.

7.9.f. No later than 120 days after the effective date of U.S. EPA's approval of the 111(d)/129 State Plan revision for HMIWI units, the owner or operator of an existing HMIWI unit required to install air pollution control equipment shall submit an expeditious compliance plan and schedule subject to the approval of the Secretary that meets the following criteria:

7.9.f.1. No later than 12 months after the effective date of U.S. EPA's approval of the 111(d)/129 State Plan revision for HMIWI units, a facility that plans to install air pollution control equipment other than a dry scrubber followed by a fabric filter, a wet scrubber or dry scrubber followed by a fabric filter and a wet scrubber shall submit a petition for site specific operating parameters under 40 CFR §60.56c(i) to the Administrator and the Secretary;

7.9.f.2. No later than 12 months after the effective date of U.S. EPA's approval of the 111(d)/129 State Plan revision for HMIWI units, services of an architectural and engineering firm regarding air pollution device(s) shall be obtained;

7.9.f.3. No later than 18 months after the effective date of U.S. EPA's approval of the 111(d)/129 State Plan revision for HMIWI units, design drawings of an air pollution device(s) shall be ordered;

7.9.f.4. No later than 18 months after the effective date of U.S. EPA's approval of the 111(d)/129 State Plan revision for HMIWI units, air pollution device(s) shall be ordered;

7.9.f.5. No later than 18 months after the effective date of U.S. EPA's approval of the 111(d)/129 State Plan revision for HMIWI units, site preparation for installation of the air pollution device(s) shall be initiated;

7.9.f.6. No later than 30 months after the effective date of U.S. EPA's approval of the 111(d)/129 State Plan revision for HMIWI units, initial startup of the air pollution device(s) shall be conducted;

7.9.f.7. No later than 30 months after the effective date of U.S. EPA's approval of the 111(d)/129 State Plan revision for HMIWI units, initial compliance test(s) of the air pollution device(s) shall be conducted; and

7.9.f.8. No later than October 6, 2014, the owner or operator of an existing HMIWI unit shall not allow or cause to be allowed a HMIWI unit to be operated except in compliance with all applicable provisions of this section.

7.9.g. An owner or operator of an existing HMIWI unit who submits in writing to the Secretary a request for an extension to comply beyond the compliance dates under subdivision 7.9.f, shall submit to the Secretary no later than 9 months after the effective date of U.S. EPA's approval of the 111(d)/129 State Plan revision for HMIWI units, the following information:

7.9.g.1. An analysis to support the need for an extension, including an explanation of why a time period up to three years after the effective date of U.S. EPA's approval of the 111(d)/129 State Plan revision for HMIWI units is sufficient time to comply with this section, while one year after the effective date of U.S. EPA's approval of the 111(d)/129 State Plan revision for HMIWI units is not sufficient;

7.9.g.2. A demonstration of the feasibility to transport the waste offsite to a commercial medical waste treatment and disposal facility on a temporary or permanent basis; and

7.9.g.3. Measurable and enforceable incremental steps of progress to be taken towards compliance with the emission limits contained in Table 18-1B, or Table 18-2B for Small Rural Units, as applicable.

7.9.h. The owner or operator of an existing HMIWI unit will be notified in writing by the Secretary of his or her decision as to whether an extension shall be granted or denied. The owner or operator shall comply with one of the following:

7.9.h.1. If the request for extension is denied, the owner or operator shall submit a compliance plan in accordance with subdivision 7.9.f no later than 30 days after denial of the request for extension, or one year after the effective date of U.S. EPA's approval of the 111(d)/129 State Plan revision for HMIWI units whichever is later; or

7.9.h.2. If the request for extension is granted, the owner or operator shall submit a compliance plan and schedule commensurate with the granted extension no later than 30 days after the date the request for extension has been granted; and

7.9.h.3. On or before October 6, 2014, the owner or operator shall comply with the emissions guidelines for existing HMIWI units under 40 CFR Part 62, Subpart XX, and the related provisions of 40 CFR Part 60, Subpart Ce, as amended on October 6, 2009, and not allow or cause to be allowed a HMIWI unit to be operated except in compliance with all applicable provisions of this section.

**§45-18-8. Requirements for New Commercial and Industrial Solid Waste Incinerators.**

8.1. Requirements for New CISWI Units. -- The owner or operator of a commercial and industrial solid waste incineration unit (CISWI unit) under subsection 8.2 shall comply with all applicable standards of



performance, requirements and provisions of 40 CFR Part 60 Subpart CCCC, including any reference methods, performance specifications and other test methods associated with Subpart CCCC. No person shall construct, reconstruct, modify, or operate, or cause to be constructed, reconstructed, modified, or operated a new CISWI unit which results in a violation of 40 CFR Part 60 Subpart CCCC, or this rule.

8.2. **Applicability.** -- The owner or operator of a CISWI unit that is a new incineration unit as defined in 40 CFR §60.2015, is not exempt under 40 CFR §60.2020, and meets any of the following criteria shall be subject to the requirements for new CISWI units set forth in section 8:

8.2.a. A CISWI unit that commenced construction after November 30, 1999; or

8.2.b. A CISWI unit that commenced reconstruction or modification after June 1, 2001.

8.3. **Physical or Operational Changes.** -- Physical or operational changes to an incineration unit primarily to comply with the emission guidelines in section 9 and 40 CFR Part 60, Subpart DDDD do not qualify as a reconstruction or modification under section 8.

**§45-18-9. Requirements for Existing Commercial and Industrial Solid Waste Incinerators.**

9.1. **Requirements for Existing CISWI Units.** -- The owner or operator of an existing CISWI unit shall comply with the applicable emission guidelines, compliance times, requirements and provisions of 40 CFR Part 60 Subpart DDDD contained in this section, including any reference methods, performance specifications and other test methods associated with Subpart DDDD. No person shall reconstruct, modify, or operate, or cause to be reconstructed, modified, or operated an existing CISWI unit which results in a violation of the requirements for existing CISWI units set forth in section 9.

9.1.a. Emission limits contained in Table 18-1C;

9.1.b. Compliance dates specified in subsection 9.3, including increments of progress toward compliance specified in that subsection and 40 CFR §§60.2575 through 60.2615;

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

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

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

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

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

9.1.h. Continuous compliance requirements specified in 40 CFR §§60.2710 through 60.2725;

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

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

and

9.1.k. Requirements for air curtain incinerators specified in 40 CFR §§60.2810 through 60.2870.

9.2. Applicability.

9.2.a. Incineration units that meet all three criteria described in paragraphs 9.2.a.1 through 9.2.a.3 are subject to the requirements for existing CISWI units under section 9.

9.2.a.1. Incineration units that commenced construction on or before November 30, 1999;

9.2.a.2. Incineration units that meet the definition of a CISWI unit as defined in 40 CFR§60.2875;

and

9.2.a.3. Incineration units not exempt under 40 CFR§60.2555.

9.2.b. Physical or Operational Changes.

9.2.b.1. If the 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 Part 60, Subpart CCCC under section 8, and the requirements for existing CISWI units under section 9 no longer applies to that unit.

9.2.b.2. If the owner or operator of a CISWI unit makes physical or operational changes to an existing CISWI unit primarily to comply with section 9, the requirements for new CISWI units under section 8 do not apply to that unit. Such changes do not qualify as modifications or reconstructions under section 8 and 40 CFR Part 60, Subpart CCCC.

9.3. Compliance Times.

9.3.a. The Du Pont Washington Works CISWI unit in Wood County shall achieve final compliance with all applicable provisions of this rule by no later than September 30, 2003; the owner or operator of any other existing CISWI unit shall achieve final compliance with all applicable provisions of this section by no later than October 4, 2004.

**§45-18-10. Requirements for New Other Solid Waste Incineration Units.**

10.1. Requirements for New OSWI Units. -- The owner or operator of an other solid waste incineration unit (OSWI unit) under subsection 10.2 shall comply with all applicable standards of performance, requirements and provisions of 40 CFR Part 60 Subpart EEEE, including any reference methods, performance specifications and other test methods associated with Subpart EEEE. No person shall construct or operate, or cause to be constructed or operated a new OSWI unit which results in a violation of 40 CFR Part 60, Subpart EEEE or this rule.

10.2. Applicability. -- The owner or operator of a OSWI unit that meets the following criteria shall be subject to the requirements for new OSWI units set forth in section 10. A new OSWI unit is an OSWI unit that either:

10.2.a. Commenced construction after December 9, 2004; or

10.2.b. Commenced modification or reconstruction after June 16, 2006.

**§45-18-11. Requirements for New Sewage Sludge Incinerators.**

11.1. Requirements for New SSI Units. -- The owner or operator of a SSI unit under subsection 11.2 shall comply with all applicable standards of performance, requirements and provisions of 40 CFR Part 60 Subpart LLLL, including any reference methods, performance specifications and other test methods associated with Subpart LLLL. No person shall construct, reconstruct, modify, or operate, or cause to be constructed, reconstructed, modified, or operated a new SSI unit which results in a violation of 40 CFR Part 60 Subpart LLLL, or this rule.

11.2. Applicability. -- The owner or operator of a SSI unit that meets the following criteria shall be subject to the requirements for new SSI units set forth in section 11. A new SSI unit is a SSI unit that either:

11.2.a. Commenced construction after October 14, 2010; or

11.2.b. Commenced modification after September 21, 2011.

**§45-18-12. Secretary.**

12.1. Any and all references in 40 CFR Part 60 Subparts Ce, Eb, Ec, AAAA, CCCC, DDDD, EEEE, FFFF, and LLLL to the "Administrator" are amended to be the "Secretary" except in the following references which shall remain "Administrator":

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

12.1.b. Where provisions occur which refer to:

12.1.b.1. Alternate means of emission limitations;

12.1.b.2. Alternate control technologies;

12.1.b.3. Innovative technology waivers;

12.1.b.4. Alternate test methods;

12.1.b.5. Alternate monitoring methods;

12.1.b.6. Waivers/adjustments to recordkeeping and reporting; or

12.1.b.7. Applicability determinations;

12.1.b.8. The requirements of 40 CFR §60.56c(i) establishing operating parameters when using controls other than those listed in 40 CFR §60.56c(d);

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12.1.b.9. Alternative methods of demonstrating compliance under 40 CFR §60.8;

12.1.b.10. Performance test and data reduction waivers under 40 CFR §60.8(b); and

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

### **§45-18-13. Permits.**

13.1. On or before September 15, 2000, the owner or operator of existing HMIWI units shall operate pursuant to a Title V permit in accordance with the requirements of 45CSR30.

13.2. The owner or operator of a new HMIWI unit shall submit to the Secretary a complete application for a Title V permit in accordance with the requirements of 45CSR30 within twelve (12) months after commencing operation.

13.3. The owner or operator of an existing CISWI unit or air curtain incinerator subject to section 9 shall operate pursuant to a permit issued under §129(e) of the CAA and 45CSR30.

13.4. The owner or operator of a new CISWI unit shall operate pursuant to a CAA Title V permit in accordance with the requirements of 45CSR30.

13.5. The owner or operator of a new OSWI unit shall submit a complete application for a Title V permit in accordance with the requirements of 45CSR30 within twelve (12) months after commencing operation, provided that a new OSWI unit may be required to apply for and obtain a Title V permit prior to this date, as specified in 40 CFR §60.2967(b).

13.6. The owner or operator of a new SSI unit shall apply for and obtain a Title V permit in accordance with the requirements of 45CSR30 unless the unit meets the relevant requirements for and exemption set forth in 40 CFR §60.4780.

13.7. 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 45CSR13, 45CSR14, 45CSR19, 45CSR25 and 45CSR30.

### **§45-18-14. Exemptions.**

14.1. The exemption provisions under 40 CFR Part 60 Subparts Eb, Ec, AAAA, CCCC, EEEE and LLLL shall be incorporated in this rule.

14.2. Temporary air curtain incinerators approved by the Secretary under the requirements of 45CSR6 that are operated for the disposal of only on-site land clearing debris (as defined in 45CSR6) shall be exempt from the requirements of this rule.

14.3. Temporary incinerators approved by the Secretary under the requirements of 45CSR6 that are operated for the disposal of animal or poultry remains and related pathological waste shall be exempt from the requirements of this rule.

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14.4. Pathological waste incineration units. -- Any institutional waste incineration unit, very small municipal waste combustion unit, incinerator or combustor shall be exempt from the requirements of this rule provided:

14.4.a. The unit burns 90 percent or more by weight (on a calendar quarter basis and excluding the weight of auxiliary fuel and combustion air) of pathological waste, low-level radioactive waste, or chemotherapeutic waste;

14.4.b. The owner or operator of the unit keeps records on a calendar quarter basis of the periods of time when only pathological waste, low-level radioactive waste or chemotherapeutic waste is incinerated;

14.4.c. The unit is subject to the requirements of 45CSR6 or 45CSR25; and

14.4.d. The owner or operator of the unit notifies the Administrator and the Secretary that the unit meets these criteria.

14.5. Any incinerator or combustor subject to 40 CFR Part 60 Subparts Cb, E, Ea, O, WWW, BBBB, FFFF or MMMM shall be exempt from the requirements of this rule.

14.6. Any incinerator or combustor subject to 42 U.S.C. §6925, 45CSR25 and 33CSR20 shall be exempt from the requirements of this rule.

14.7. Any combustor subject to 40 CFR Part 63, Subpart EEE shall be exempt from the requirements of this rule.

### **§45-18-15. Effect of the Rule.**

15.1. 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.

### **§45-18-16. Inconsistency Between Rules.**

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

TABLE 18-1A

Emissions Limits for Small, Medium, and Large HMIWI at Designated Facilities as Set Forth in 45CSR§18-7.2.a.1.

Pollutant	Units (7 percent oxygen, dry basis)	Emissions Limits			Averaging Time <sup>1</sup>	Compliance Method <sup>2</sup>
		HMIWI Size				
		Small	Medium	Large		
Particulate matter	Milligrams per dry standard cubic meter (mg/dscm) (grains per dry standard cubic foot (gr/dscf))	115 (0.05)	69 (0.03)	34 (0.015)	3-run average (1-hour minimum sample time per run)	EPA Reference Method 5 of Appendix A-3 of 40 CFR Part 60, or EPA Reference Method 26A or 29 of Appendix A-8 of 40 CFR Part 60.
Carbon monoxide	Parts per million by volume (ppmv)	40	40	40	3-run average (1-hour minimum sample time per run)	EPA Reference Method 10 or 10B of Appendix A-4 of 40 CFR Part 60.
Dioxins/furans	Nanograms per dry standard cubic meter total dioxins/furans (ng/dscm) (grains per billion dry standard cubic feet (gr/10 <sup>9</sup> dscf)) or ng/dscm TEQ (gr/10 <sup>9</sup> dscf)	125 (55) or 2.3 (1.0)	125 (55) or 2.3 (1.0)	125 (55) or 2.3 (1.0)	3-run average (4-hour minimum sample time per run)	EPA Reference Method 23 of Appendix A-7 of 40 CFR Part 60.
Hydrogen chloride	ppmv or percent reduction	100 or 93%	100 or 93%	100 or 93%	3-run average (1-hour minimum sample time per run)	EPA Reference Method 26 or 26A of Appendix A-8 of 40 CFR Part 60.
Sulfur dioxide	ppmv	55	55	55	3-run average (1-hour minimum sample time per run)	EPA Reference Method 6 or 6C of Appendix A-4 of 40 CFR Part 60.
Nitrogen oxides	ppmv	250	250	250	3-run average (1-hour minimum sample time per run)	EPA Reference Method 7 or 7E of Appendix A-4 of 40 CFR Part 60.
Lead	mg/dscm (grains per thousand dry standard cubic feet (gr/10 <sup>3</sup> dscf)) or percent reduction	1.2 (0.52) or 70%	1.2 (0.52) or 70%	1.2 (0.52) or 70%	3-run average (1-hour minimum sample time per run)	EPA Reference Method 29 of Appendix A-8 of 40 CFR Part 60.
Cadmium	mg/dscm (gr/10 <sup>3</sup> dscf) or percent reduction	0.16 (0.07) or 65%	0.16 (0.07) or 65%	0.16 (0.07) or 65%	3-run average (1-hour minimum sample time per run)	EPA Reference Method 29 of Appendix A-8 of 40 CFR Part 60.
Mercury	mg/dscm (gr/10 <sup>3</sup> dscf) or percent reduction	0.55 (0.24) or 85%	0.55 (0.24) or 85%	0.55 (0.24) or 85%	3-run average (1-hour minimum sample time per run)	EPA Reference Method 29 of Appendix A-8 of 40 CFR Part 60.

<sup>1</sup>Except as allowed under 40 CFR §60.56c(c) for HMIWI equipped with CEMS.<sup>2</sup>Does not include CEMS and approved alternative non-EPA test methods allowed under 40 CFR §60.56c(b).

**TABLE 18-1B**  
**Emissions Limits for Small, Medium, and Large HMIWI at Designated Facilities as Set Forth in 45CSR§§18-7.2.a.1 and 7.2.a.2.**

Pollutant	Units (7 percent oxygen, dry basis)	Emissions Limits			Averaging Time <sup>1</sup>	Compliance Method <sup>2</sup>
		HMIWI Size				
		Small	Medium	Large		
Particulate matter	Milligrams per dry standard cubic meter (mg/dscm) (grains per dry standard cubic foot (gr/dscf))	66 (0.029)	46 (0.020)	25 (0.011)	3-run average (1-hour minimum sample time per run)	EPA Reference Method 5 of Appendix A-3 of 40 CFR Part 60, or EPA Reference Method 26A or 29 of Appendix A-8 of 40 CFR Part 60.
Carbon monoxide	Parts per million by volume (ppmv)	20	5.5	11	3-run average (1-hour minimum sample time per run)	EPA Reference Method 10 or 10B of Appendix A-4 of 40 CFR Part 60.
Dioxins/furans	Nanograms per dry standard cubic meter total dioxins/furans (ng/dscm) (grains per billion dry standard cubic feet (gr/10 <sup>9</sup> dscf)) or ng/dscm TEQ (gr/10 <sup>9</sup> dscf)	16 (7.0) or 0.013 (0.0057)	0.85 (0.37) or 0.020 (0.0087)	9.3 (4.1) or 0.054 (0.024)	3-run average (4-hour minimum sample time per run)	EPA Reference Method 23 of Appendix A-7 of 40 CFR Part 60.
Hydrogen chloride	ppmv	44	7.7	6.6	3-run average (1-hour minimum sample time per run)	EPA Reference Method 26 or 26A of Appendix A-8 of 40 CFR Part 60.
Sulfur dioxide	ppmv	4.2	4.2	9.0	3-run average (1-hour minimum sample time per run)	EPA Reference Method 6 or 6C of Appendix A-4 of 40 CFR Part 60.
Nitrogen oxides	ppmv	190	190	140	3-run average (1-hour minimum sample time per run)	EPA Reference Method 7 or 7E of Appendix A-4 of 40 CFR Part 60.
Lead	mg/dscm (grains per thousand dry standard cubic feet (gr/10 <sup>3</sup> dscf))	0.31 (0.14)	0.018 (0.0079)	0.036 (0.016)	3-run average (1-hour minimum sample time per run)	EPA Reference Method 29 of Appendix A-8 of 40 CFR Part 60.
Cadmium	mg/dscm (gr/10 <sup>3</sup> dscf)	0.017 (0.0074)	0.013 (0.0057)	0.0092 (0.0040)	3-run average (1-hour minimum sample time per run)	EPA Reference Method 29 of Appendix A-8 of 40 CFR Part 60.
Mercury	mg/dscm (gr/10 <sup>3</sup> dscf)	0.014 (0.0061)	0.025 (0.011)	0.018 (0.0079)	3-run average (1-hour minimum sample time per run)	EPA Reference Method 29 of Appendix A-8 of 40 CFR Part 60.

<sup>1</sup>Except as allowed under 40 CFR §60.56c(c) for HMIWI equipped with CEMS.

<sup>2</sup>Does not include CEMS and approved alternative non-EPA test methods allowed under 40 CFR §60.56c(b).

TABLE 18-2A  
Emissions Limits for Small HMIWI Which Meet the Criteria Under 45CSR§18-7.3.b.1.

Pollutant	Units (7 percent oxygen, dry basis)	HMIWI Emissions Limits	Averaging Time <sup>1</sup>	Compliance Method <sup>2</sup>
Particulate matter	mg/dscm (gr/dscf)	197 (0.086)	3-run average (1-hour minimum sample time per run)	EPA Reference Method 5 of Appendix A-3 of 40 CFR Part 60, or EPA Reference Method 26A or 29 of Appendix A-8 of 40 CFR Part 60.
Carbon monoxide	ppmv	40	3-run average (1-hour minimum sample time per run)	EPA Reference Method 10 or 10B of Appendix A-4 of 40 CFR Part 60.
Dioxins/furans	ng/dscm total dioxins/furans (gr/10 <sup>3</sup> dscf) or ng/dscm TEQ (gr/10 <sup>3</sup> dscf)	800 (350) or 15 (6.6)	3-run average (4-hour minimum sample time per run)	EPA Reference Method 23 of Appendix A-7 of 40 CFR Part 60.
Hydrogen chloride	ppmv	3,100	3-run average (1-hour minimum sample time per run)	EPA Reference Method 26 or 26A of Appendix A-8 of 40 CFR Part 60.
Sulfur dioxide	ppmv	55	3-run average (1-hour minimum sample time per run)	EPA Reference Method 6 or 6C of Appendix A-4 of 40 CFR Part 60.
Nitrogen oxides	ppmv	250	3-run average (1-hour minimum sample time per run)	EPA Reference Method 7 or 7E of Appendix A-4 of 40 CFR Part 60.
Lead	mg/dscm (gr/10 <sup>3</sup> dscf)	10 (4.4)	3-run average (1-hour minimum sample time per run)	EPA Reference Method 29 of Appendix A-8 of 40 CFR Part 60.
Cadmium	mg/dscm (gr/10 <sup>3</sup> dscf)	4 (1.7)	3-run average (1-hour minimum sample time per run)	EPA Reference Method 29 of Appendix A-8 of 40 CFR Part 60.
Mercury	mg/dscm (gr/10 <sup>3</sup> dscf)	7.5 (3.3)	3-run average (1-hour minimum sample time per run)	EPA Reference Method 29 of Appendix A-8 of 40 CFR Part 60.

<sup>1</sup>Except as allowed under 40 CFR §60.56c(c) for HMIWI equipped with CEMS.

<sup>2</sup>Does not include CEMS and approved alternative non-EPA test methods allowed under 40 CFR §60.56c(b).



**TABLE 18-2B**  
**Emissions Limits for Small HMIWI Which Meet the Criteria Under 45CSR§18-7.3.b.2.**

<b>Pollutant</b>	<b>Units</b> (7 percent oxygen, dry basis)	<b>HMIWI</b> <b>Emissions Limits</b>	<b>Averaging Time<sup>1</sup></b>	<b>Compliance Method<sup>2</sup></b>
Particulate matter	mg/dscm (gr/dscf)	87 (0.038)	3-run average (1-hour minimum sample time per run)	EPA Reference Method 5 of Appendix A-3 of 40 CFR Part 60, or EPA Reference Method 26A or 29 of Appendix A-8 of 40 CFR Part 60.
Carbon monoxide	ppmv	20	3-run average (1-hour minimum sample time per run)	EPA Reference Method 10 or 10B of Appendix A-4 of 40 CFR Part 60.
Dioxins/furans	ng/dscm total dioxins/furans (gr/10 <sup>3</sup> dscf) or ng/dscm TEQ (gr/10 <sup>2</sup> dscf)	240 (100) or 5.1 (2.2)	3-run average (4-hour minimum sample time per run)	EPA Reference Method 23 of Appendix A-7 of 40 CFR Part 60.
Hydrogen chloride	ppmv	810	3-run average (1-hour minimum sample time per run)	EPA Reference Method 26 or 26A of Appendix A-8 of 40 CFR Part 60.
Sulfur dioxide	ppmv	55	3-run average (1-hour minimum sample time per run)	EPA Reference Method 6 or 6C of Appendix A-4 of 40 CFR Part 60.
Nitrogen oxides	ppmv	130	3-run average (1-hour minimum sample time per run)	EPA Reference Method 7 or 7E of Appendix A-4 of 40 CFR Part 60.
Lead	mg/dscm (gr/10 <sup>3</sup> dscf)	0.50 (0.22)	3-run average (1-hour minimum sample time per run)	EPA Reference Method 29 of Appendix A-8 of 40 CFR Part 60.
Cadmium	mg/dscm (gr/10 <sup>3</sup> dscf)	0.11 (0.048)	3-run average (1-hour minimum sample time per run)	EPA Reference Method 29 of Appendix A-8 of 40 CFR Part 60.
Mercury	mg/dscm (gr/10 <sup>3</sup> dscf)	0.0051 (0.0022)	3-run average (1-hour minimum sample time per run)	EPA Reference Method 29 of Appendix A-8 of 40 CFR Part 60.

<sup>1</sup>Except as allowed under 40 CFR §60.56c(c) for HMIWI equipped with CEMS.

<sup>2</sup>Does not include CEMS and approved alternative non-EPA test methods allowed under 40 CFR §60.56c(b).

**TABLE 18-1C**  
**Emission Limits for Existing 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.