

Concept

Commercial and Industrial Solid Waste Incinerator (CISWI) Rule Revisions (508)

Reason for Action

To revise the incinerator rules to incorporate updated federal Commercial and Industrial Solid Waste Incinerator emissions guidelines revisions

Scope/Nature/Summary

Last year US EPA promulgated revised emissions guidelines (under sections 111 and 129 of the Clean Air Act (CAA)) for Commercial and Industrial Solid Waste Incinerators (CISWI) in conjunction with the Identification of Non-Hazardous Secondary Materials (NHSM) rule (under the Resource Conservation and Recovery Act (RCRA)) and the boiler Maximum Achievable Control Technology (MACT) and Generally Available Control Technology (GACT) standards under Section 112 of the CAA. The CISWI requirements in 40 CFR 60 Subpart DDDD apply to existing incinerators, energy recovery units, and kilns that burn solid waste. The guidelines establish updated particulate matter (total and fine), opacity (as appropriate), sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, dioxins and dibenzofurans emission standards. Because some energy recovery units, such as boilers, burn secondary materials, the definition of solid waste is integral in determining whether a unit will ultimately be regulated under CISWI as an incinerator or as a boiler under the Section 112 MACT requirements. The NHSM identification rule is key in this determination because it defines what is considered solid waste for purposes of the air emissions guidelines under Section 129.

At the same time US EPA issued the set of rules, the agency said it would reconsider the group of standards. Later in 2011, US EPA published a notice staying the effective date of the rules pending completion of its reconsideration process. In December US EPA published its reconsideration proposals. Under the emissions guidelines, states are required to revise their plans to implement the CISWI requirements. On January 9, 2012, the U.S. District Court for the D.C. Circuit vacated the US EPA's delay of the effective date of the 2011 CISWI rule. Since that time EPA has continued its reconsideration efforts and is scheduled to complete the process in spring 2012.

North Carolina's rules that incorporate standards for CISWI are found in 15A NCAC 02D .1200. The state rules will need to be updated to reflect the revised emissions guidelines and changes in definitions resulting from US EPA's reconsideration process. Depending on the outcome of the reconsideration process, some sources that burn secondary material, and that would otherwise be considered boilers or process heaters and regulated under Section 112, may be considered CISWI units and regulated under Section 129. The number and types of facilities impacted will depend upon how the federal solid waste definition is revised.

The amendments are proposed by staff.

Statutory Authority

G.S. G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(4),(5); 40 CFR 60.215(a)(4).