

Concept

Adoption of Final Emission Guidelines for Existing Commercial and Industrial Solid Waste Incinerators (539)

Reason for Action

To revise the incinerator rules to adopt the final emission guidelines for existing Commercial and Industrial Solid Waste Incinerators.

Scope/Nature/Summary

On March 21, 2011, the United States Environmental Protection Agency (EPA) finalized revised New Source Performance Standards (NSPS) and Emissions Guidelines (EG) for Commercial and Industrial Solid Waste Incinerators (CISWI) in conjunction with the Identification of Non-Hazardous Secondary Materials (NHSM) rule. North Carolina automatically adopts the NSPS; however, rulemaking is necessary to incorporate Emissions Guidelines which apply to existing sources into the state rules.

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 EPA issued the set of rules, the agency issued a notice of reconsideration of the final rules. On May 18, 2011, EPA issued a delay of the effective date of the rules until the proceedings for judicial review of these rules were completed or the EPA completed its reconsideration of the rules, whichever was earlier. On December 23, 2011, EPA published its reconsideration proposals. Under the emissions guidelines, states were 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 EPA's delay of the effective date of the 2011 CISWI rule.

On February 7, 2013, EPA published its final action on the issues for which it granted reconsideration in December 2011 which pertain to the March 21, 2011 final rule. Subsequently, EPA received petitions to further reconsider certain provisions of the 2013 NSPS and EG for CISWI units. On January 21, 2015, EPA granted reconsideration on four specific issues and finalized the reconsideration of the CISWI NSPS and EG on June 2, 2016.

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 EPA's reconsideration process.

The amendments are proposed by staff.

Statutory Authority

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).