

## **15A NCAC 02D .1210 COMMERCIAL AND INDUSTRIAL SOLID WASTE INCINERATION UNITS**

(a) Applicability. Unless exempt pursuant to Paragraph (b) of this Rule, this Rule shall apply to existing commercial and industrial solid waste incineration (CISWI) units, including energy recovery units, kilns, small remote incinerators, and air curtain incinerators that burn solid waste, pursuant to 40 CFR 60.2550 and as defined in 40 CFR 60.2875. An "existing CISWI unit" means a unit that commenced construction on or before June 4, 2010, or commenced modification or reconstruction after June 4, 2010, but no later than August 7, 2013.

(b) Exemptions. The following types of combustion units shall be exempted from this Rule:

- (1) incineration units subject to Rules 15A NCAC 02D .1203 through 15A NCAC 02D .1206 and 15A NCAC 02D .1212;
- (2) pathological waste incineration units burning 90 percent or more by weight on a calendar-quarter basis, excluding the weight of auxiliary fuel and combustion air, of pathological waste, low-level radioactive waste, or chemotherapeutic waste, as defined in 40 CFR 60.2875, if the owner or operator of the unit:
  - (A) notifies the Director that the unit qualifies for this exemption; and
  - (B) keeps records on a calendar-quarter basis of the weight of pathological waste, low-level radioactive waste, or chemotherapeutic waste burned and the weight of all other fuels and wastes burned in the unit;
- (3) small power production or cogeneration units if:
  - (A) the unit qualifies as a small power-production facility pursuant to Section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)) or as a cogeneration facility pursuant to Section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B));
  - (B) the unit burns homogeneous waste, not including refuse-derived fuel, to produce electricity, steam, or other forms of energy used for industrial, commercial, heating, or cooling purposes;
  - (C) the owner or operator of the unit notifies the Director that the unit qualifies for this exemption; and
  - (D) the owner or operator of the unit maintains the records specified in 40 CFR 60.2740(v) for a small power-production facility or 40 CFR 60.2740(w) for a cogeneration facility;
- (4) units that combust waste for the primary purpose of recovering metals;
- (5) cyclonic barrel burners;
- (6) rack, part, and drum reclamation units that burn the coatings off racks used to hold small items for application of a coating;
- (7) chemical recovery units as defined in 40 CFR 60.2875;
- (8) laboratory analysis units that burn samples of materials for the purpose of chemical or physical analysis;
- (9) air curtain incinerators that meet the requirements specified in 15A NCAC 02D .1904 and that burn only the following materials:
  - (A) 100 percent wood waste;
  - (B) 100 percent clean lumber; or
  - (C) 100 percent mixture of only wood waste, clean lumber, and/or yard waste;
- (10) sewage treatment plants that are subject to 40 CFR 60 Subpart O Standards of Performance for Sewage Treatment Plants;
- (11) space heaters that meet the requirements of 40 CFR 279.23;
- (12) soil treatment units that thermally treat petroleum contaminated soils for the sole purpose of site remediation; and
- (13) the owner or operator of a combustion unit that is subject to this Rule may petition for an exemption to this Rule by obtaining a determination that the material being combusted is;
  - (A) not a solid waste pursuant to the legitimacy criteria of 40 CFR 241.3(b)(1);
  - (B) a non-waste pursuant to the petition process submitted pursuant to 40 CFR 241.3(c); or
  - (C) a fuel that has been processed from a discarded non-hazardous secondary material pursuant to 40 CFR 241.3(b)(4).

(c) Definitions. For the purpose of this Rule, the definitions contained in 40 CFR 60.2875 shall apply in addition to the definitions in 15A NCAC 02D .1202. Solid waste is defined pursuant to 40 CFR 60.2875 and 40 CFR Part 241 Standards for Combustion of Non-Hazardous Secondary Materials (NHSM).

(d) Compliance Schedule. All CISWI units subject to this Rule shall be in compliance with this Rule no later than February 7, 2018.

(e) Emission Standards. The emission standards in this Rule shall apply to all CISWI units subject to this Rule except if 15A NCAC 02D .0524, .1110, or .1111 applies. If Subparagraph (4) of this Paragraph and 15A NCAC 02D .0524, .1110, or .1111 regulate the same pollutant, the more restrictive provision for each pollutant shall apply, notwithstanding provisions of 15A NCAC 02D .0524, .1110, or .1111 to the contrary.

- (1) CISWI units subject to this Rule, including bypass stacks or vents, must meet the emissions limits specified in Tables 6 through 9 of 40 CFR 60 Subpart DDDD. The emission limitations shall apply at all times the unit is operating, including and not limited to startup, shutdown, or malfunction.
- (2) Units that do not use wet scrubbers shall maintain opacity to less than or equal to 10 percent opacity using an averaging time of three 1-hour blocks consisting of ten 6-minute average opacity values as measured by 40 CFR 60 Appendix A-4 Test Method 9 pursuant to Table 2 of 40 CFR 60 Subpart DDDD.
- (3) Odorous Emissions. An incinerator subject to this Rule shall comply with 15A NCAC 02D .1806 for the control of odorous emissions.
- (4) Toxic Emissions. The owner or operator of a CISWI unit subject to this Rule shall demonstrate compliance with 15A NCAC 02D .1100 according to 15A NCAC 02Q .0700.

(f) Operational Standards.

- (1) The operational standards in this Rule shall not apply to any CISWI unit subject to this Rule if applicable operational standards in 15A NCAC 02D .0524, .1110, or .1111 apply.
- (2) The owner or operator of a CISWI unit subject to this Rule shall operate the CISWI unit according to the provisions in 40 CFR 60.2675.
- (3) If an air pollution control device other than a wet scrubber, activated carbon sorbent injection, selective non-catalytic reduction, fabric filter, electrostatic precipitator, or dry scrubber is used to comply with this Rule or if emissions are limited in some other manner, including mass balances, to comply with the emission standards of Subparagraph (e)(1) of this Rule, the owner or operator shall petition the EPA Administrator in accordance with the requirements in 40 CFR 60.2680 for specific operating limits that shall be established during the initial performance test and be continuously monitored thereafter.

(g) Test Methods and Procedures.

- (1) For the purposes of this Paragraph, "Administrator" in 40 CFR 60.8 means "Director."
- (2) The test methods and procedures described in 15A NCAC 02D .2600, in Tables 6 through 9 of 40 CFR 60 Subpart DDDD, in 40 CFR 60.2670(b), and in 40 CFR 60.2690 shall be used to determine compliance with emission standards in Subparagraph (e)(1) of this Rule.
- (3) Compliance with the opacity limit in Subparagraph (e)(2) of this Rule shall be determined using 40 CFR 60 Appendix A-4 Test Method 9.

(h) Initial Compliance Requirements.

- (1) The owner or operator of a CISWI unit subject to this Rule shall demonstrate initial compliance with the emission limits in Subparagraph (e)(1) of this Rule and establish the operating standards in Paragraph (f) of this Rule according to the provisions in 40 CFR 60.2700 through 40 CFR 60.2706. If an owner or operator commences or recommences combusting a solid waste at an existing combustion unit at any commercial or industrial facility, the owner or operator shall comply with the requirements of this Paragraph.
- (2) The owner or operator of a CISWI unit subject to this Rule shall conduct an initial performance test pursuant to 40 CFR 60.2670, 40 CFR 60.2690, and Paragraph (g) of this Rule. The initial performance test shall be conducted no later than 180 days after February 7, 2018, or according to 40 CFR 60.2705(b) or (c). The use of the bypass stack during a performance test shall invalidate the performance test. The initial performance test shall be used to:
  - (A) determine compliance with the emission standards in Subparagraph (e)(1) of this Rule;
  - (B) establish compliance with opacity operating limits in 40 CFR 60.2675(h);
  - (C) establish the kiln-specific emission limit in 40 CFR 60.2710(y), as applicable; and
  - (D) establish operating limits using the procedures in 40 CFR 60.2675 or 40 CFR 60.2680 and in Paragraph (f) of this Rule.
- (3) The owner or operator of a CISWI unit subject to this Rule shall also conduct:
  - (A) a performance evaluation of each continuous emissions monitoring system (CEMS) or continuous monitoring system within 60 days of installation of the monitoring system; and

- (B) an initial air pollution control device inspection no later than 180 days after February 7, 2018, pursuant to 40 CFR 60.2706.

(i) Continuous Compliance Requirements.

- (1) The owner or operator of a CISWI unit subject to this Rule shall demonstrate continuous compliance with the emission limits in Subparagraph (e)(1) of this Rule and the operating standards in Paragraph (f) of this Rule according to the provisions in 40 CFR 60.2710 through 40 CFR 60.2725.
- (2) If an existing CISWI unit that combusted a fuel or non-waste material commences or recommences combustion of solid waste, the owner or operator shall:
  - (A) be subject to the provisions of 40 CFR 60 Subpart DDDD on the first day solid waste is introduced or reintroduced into the combustion chamber, and this date constitutes the effective date of the fuel-to-waste switch;
  - (B) complete all initial compliance demonstrations for any Section 112 standards that are applicable to the facility before commencing or recommencing combustion of solid waste; and
  - (C) provide 30 days prior notice of the effective date of the waste-to-fuel switch identifying the parameters listed in 40 CFR 60.2710(a)(4)(i) through (v).
- (3) Pursuant to 40 CFR 60.2710(v), the use of a bypass stack at any time shall be an emissions standards deviation for particulate matter, hydrogen chloride, lead, cadmium, mercury, nitrogen oxides, sulfur dioxide, and dioxin/furans.
- (4) The owner or operator of a CISWI unit subject to this Rule shall conduct an annual performance test for the pollutants listed in Subparagraph (e)(1) of this Rule, including opacity and fugitive ash, to determine compliance with the emission standards in 40 CFR 60 Subpart DDDD Tables 6 through 9. The annual performance test shall be conducted according to the provisions in Paragraph (g) of this Rule. Annual performance tests shall not be required if CEMS or continuous opacity monitoring systems are used to determine compliance.
- (5) The owner or operator shall continuously monitor the operating parameters established in Paragraph (f) of this Rule and as specified in 40 CFR 60.2710(c) and 40 CFR 60.2735.
- (6) The owner or operator of an energy recovery unit subject to this Rule shall only burn the same types of waste and fuels used to establish applicability to this Rule and to establish operating limits during the performance test.
- (7) The owner or operator shall comply with the monitoring system-specific, unit-specific, and pollutant-specific provisions pursuant to 40 CFR 60.2710(e) through (j), (m) through (u), and (w) through (y).
- (8) The owner or operator shall conduct an annual inspection of air pollution control devices used to meet the emission limitations in this Rule, as specified in 40 CFR 60.2710(k).
- (9) The owner or operator shall develop and submit to the Director for approval a site-specific monitoring plan pursuant to the requirements in 40 CFR 60.2710(l). This plan shall be submitted at least 60 days before the initial performance evaluation of a continuous monitoring system. The owner or operator shall conduct a performance evaluation of each continuous monitoring system in accordance with the site-specific monitoring plan. The owner or operator shall operate and maintain the continuous monitoring system in continuous operation according to the site-specific monitoring plan.
- (10) The owner or operator shall meet all applicable monitoring system requirements specified in 40 CFR 60.2710(m) through (u) and (w) through (y).

(j) Monitoring.

- (1) The owner or operator of a CISWI unit subject to this Rule shall comply with the monitoring requirements in 15A NCAC 02D .0600 and 40 CFR 60.2730 through 60.2735.
- (2) For each continuous monitoring system required or optionally allowed pursuant to 40 CFR 60.2730, the owner or operator shall monitor and collect data according to 40 CFR 60.2735.
- (3) The owner or operator of a CISWI unit subject to this Rule shall establish, install, calibrate to manufacturers specifications, maintain, and operate:
  - (A) devices or methods for monitoring parameters used to determine compliance with the operating parameters established under Subparagraph (f)(2) of this Rule, as specified in 40 CFR 60.2730;

- (B) devices or methods necessary to monitor compliance with the site-specific operating parameters established pursuant to Subparagraph (f)(3) of this Rule, as specified by 40 CFR 60.2730(c).
  - (4) To demonstrate continuous compliance with an emissions limit, a facility may substitute use of a CEMS, a continuous automated sampling system, or other device specified by 40 CFR 60.2730 for conducting the annual emissions performance test and for monitoring compliance with operating parameters, as specified by 40 CFR 60.2730.
  - (5) The owner or operator of a CISWI unit subject to this Rule with a bypass stack shall install, calibrate to manufacturers' specifications, maintain, and operate a device or method for measuring the use of the bypass stack, including date, time, and duration.
  - (6) The owner or operator of a CISWI unit subject to this Rule shall conduct all monitoring at all times the CISWI unit is operating, except during:
    - (A) monitoring system malfunctions and associated repairs specified in 40 CFR 60.2735;
    - (B) monitoring system out-of-control periods specified in 40 CFR 60.2770(o);
    - (C) required monitoring system quality assurance or quality control activities, including calibrations checks and required zero and span adjustments of the monitoring system; and
    - (D) scheduled maintenance as defined in the site-specific monitoring plan required by Subparagraph (i)(9) of this Rule.
  - (7) The data recorded during monitoring malfunctions, out-of-control periods, repairs associated with malfunctions or out-of-control periods, required quality assurance or quality control activities, and site-specific scheduled maintenance shall not be used in assessing compliance with the operating standards in Paragraph (f) of this Rule. Owners and operators of a CISWI unit subject to this Rule shall use all the data collected during all other periods, including data normalized for above-scale readings, in assessing the operation of the control device and the associated control system.
  - (8) Owners or operators of a CISWI unit subject to this Rule shall perform monitoring system repairs in response to monitoring system malfunctions or out-of-control periods and return the monitoring system to operation as expeditiously as practicable.
  - (9) Except for periods of monitoring system malfunctions or out-of-control periods, repairs associated with monitoring system malfunctions or out-of-control periods, and required monitoring system quality assurance or quality control activities, including, as applicable, calibration checks and required zero and span adjustments, failure to collect required monitoring data shall constitute a deviation from the monitoring requirements.
- (k) Deviations, Malfunctions, and Out of Control Periods.
- (1) Owners and operators of a CISWI unit subject to this Rule shall report all deviations as defined in 40 CFR 60.2875 including the following:
    - (A) a deviation from operating limits in Table 3 of 40 CFR 60 Subpart DDDD or a deviation from other operating limits established pursuant to Paragraph (f), 40 CFR 60.2675(c) through (g), or 40 CFR 60.2680, including any recorded 3-hour average parameter level that is above the established maximum operating limit or below the established minimum operating limit;
    - (B) a deviation from the emission limitations established pursuant to Tables 6 through 9 of 40 CFR 60 Subpart DDDD that is detected through monitoring or during a performance test;
    - (C) a deviation from the CISWI operator qualification and accessibility requirements established pursuant to 40 CFR 60.2635; or
    - (D) a deviation from any term or condition included in the operating permit of the CISWI unit.
  - (2) Owners and operators of a CISWI unit subject to this Rule shall submit all required deviation reports as specified by Paragraph (l) of this Rule. The deviation report shall be submitted by August 1 of the year for data collected during the first half of the calendar year (January 1 to June 30), and by February 1 of the following year for data collected during the second half of the calendar year (July 1 to December 31). In addition, the owner and operator shall report the deviation in the annual report specified by Paragraph (l) of this Rule.
  - (3) Owners and operators of a CISWI unit subject to this Rule shall report all malfunctions, as defined in 40 CFR 60.2875, in the annual report specified by Paragraph (j) and Paragraph (l) of this Rule.

- (4) Owners and operators of a CISWI unit subject to this Rule shall report all periods during which a continuous monitoring system, including a CEMS, was out of control in the annual report specified by Paragraph (j) and Paragraph (l) of this Rule.
- (l) Recordkeeping and Reporting.
- (1) The owner or operator of a CISWI unit subject to this Rule shall maintain records required by this Rule on site for a period of five years in either paper copy, electronic format that can be printed upon request, or an alternate format that has been approved by the Director.
  - (2) Combustion units that are exempt units pursuant to Paragraph (b) of this Rule shall be subject to the recordkeeping and reporting requirements in 40 CFR 60.2740(u) through 40 CFR 60.2740(w).
  - (3) The owner or operator of a CISWI unit subject to this Rule shall maintain all records required by 40 CFR 60.2740 through 60.2800.
  - (4) The owner or operator of a CISWI unit subject to this Rule shall submit the following reports with the required information and by the required due dates specified in Table 5 of 40 CFR 60, Subpart DDDD:
    - (A) the waste management plan specified in 40 CFR 60.2755;
    - (B) the initial test report specified in 40 CFR 60.2760;
    - (C) the annual report specified in 40 CFR 60.2765 and 60.2770;
    - (D) the emission limitation or operating limit deviation report specified in 40 CFR 60.2775 and 60.2780;
    - (E) the qualified operator deviation notification specified in 40 CFR 60.2785(a)(1);
    - (F) the qualified operator deviation status report, specified in 40 CFR 60.2785(a)(2);
    - (G) the qualified operator deviation notification of resuming operation specified in 40 CFR 60.2785(b).
  - (5) The owner or operator shall maintain CISWI unit operator records specified by 40 CFR 60.2660, 60.2665, and 60.2740(g) through (i). If the CISWI unit has been shut down by the Director pursuant to 40 CFR 60.2665(b)(2) due to failure to provide an accessible qualified operator, the owner or operator shall notify the Director that the operations have resumed after a qualified operator is accessible.
  - (6) The owner or operator of a CISWI unit subject to this Rule may request changing semiannual or annual reporting dates specified in this Paragraph, and the Director shall review the requested change using the procedures specified in 40 CFR 60.19(c).
  - (7) Reports shall be submitted to US EPA as specified in 40 CFR 60.2795.
    - (A) The owner or operator of the CISWI unit shall submit initial, annual, and deviation reports electronically on or before the submittal due dates specified in 40 CFR 60.2795(a) via the Compliance and Emissions Data Reporting Interface (CEDRI), which can be accessed through the EPA's Central Data Exchange (CDX) (<https://cdx.epa.gov/>). Reports required pursuant to this Rule shall be submitted electronically or in paper format and postmarked on or before the submittal due dates.
    - (B) The owner or operator shall submit results of each performance test and CEMS performance evaluation within 60 days of the test or evaluation following the procedure specified in 40 CFR 60.2795(b).
      - (i) For data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) listed on the EPA's ERT Web site ([https://www3.epa.gov/ttn/chief/ert/ert\\_info.html](https://www3.epa.gov/ttn/chief/ert/ert_info.html)) at the time of the test, the owner or operator shall submit the results of the performance test to the EPA via the CEDRI.
      - (ii) For data collected using test methods that are not supported by the EPA's ERT listed on the EPA's ERT Web site at the time of the test, the owner or operator shall submit the results of the performance test to the Director.
- (m) Operator Training and Certification.
- (1) The owner or operator of the CISWI unit subject to this Rule shall not allow the CISWI unit to operate at any time unless a fully trained and qualified CISWI unit operator is present at the facility or can be present at the facility within one hour. The trained and qualified CISWI unit operator may operate the CISWI unit directly or be the direct supervisor of one or more plant personnel who operate the unit.

- (2) Operator training and qualification shall be obtained by completing the requirements of 40 CFR 60.2635(c) by the later of:
    - (A) six months after CISWI unit startup;
    - (B) six months after an employee assumes responsibility for operating the CISWI unit or assumes responsibility for supervising the operation of the CISWI unit; or
    - (C) February 7, 2018.
  - (3) Operator qualification shall be valid from the date on which the training course is completed and the operator passes the examination required by 40 CFR 60.2635(c)(2).
  - (4) Operator qualification shall be maintained by completing an annual review or refresher course covering, at a minimum, the topics specified in 40 CFR 60.2650(a) through (e).
  - (5) Lapsed operator qualification shall be renewed by:
    - (A) completing a standard annual refresher course as specified in Subparagraph (4) of this Paragraph for a lapse less than three years; or
    - (B) repeating the initial qualification requirements as specified in Subparagraph (2) of this Paragraph for a lapse of three years or more.
  - (6) The owner or operator of a CISWI unit subject to this Rule shall:
    - (A) have documentation specified in 40 CFR 60.2660(a)(1) through (10) and (c)(1) through (c)(3) available at the facility, accessible for all CISWI unit operators, and suitable for inspection upon request;
    - (B) establish a program for reviewing the documentation specified in Part (A) of this Subparagraph with each CISWI unit operator. The initial review of the documentation specified in Part (A) of this Subparagraph shall be conducted no later than February 7, 2018, or no later than six months after an employee assumes responsibility for operating the CISWI unit or assumes responsibility for supervising the operation of the CISWI unit; and
    - (C) conduct subsequent annual reviews of the documentation specified in Part (A) of this Subparagraph no later than twelve months following the previous review.
  - (7) The owner or operator of a CISWI unit subject to this Rule shall meet one of the two criteria specified in 40 CFR 60.2665(a) and (b), if all qualified operators are temporarily not at the facility and not able to be at the facility within one hour.
- (n) Prohibited waste. The owner or operator of a CISWI subject to this Rule shall not incinerate any of the wastes listed in G.S. 130A-309.10(f1).
- (o) Waste Management Plan.
- (1) The owner or operator of a CISWI unit subject to this Rule shall submit a written waste management plan to the Director that identifies the feasibility and the methods used to reduce or separate components of solid waste from the waste stream in order to reduce or eliminate toxic emissions from incinerated waste.
  - (2) The waste management plan shall include:
    - (A) consideration of the reduction or separation of waste-stream elements such as paper, cardboard, plastics, glass, batteries, or metals and the use of recyclable materials;
    - (B) a description of how the materials listed in G.S. 130A-309.10(f1) are to be segregated from the waste stream for recycling or proper disposal;
    - (C) identification of any additional waste management measures; and
    - (D) implementation of those measures considered practical and feasible based on the effectiveness of waste management measures already in place, the costs of additional measures, the emissions reductions expected to be achieved, and the environmental or energy impacts that the measures may have.

*History Note:* 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);  
 Eff. August 1, 2002;  
 Amended Eff. June 1, 2008; January 1, 2005;  
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