

requirements if the ACI burn 100 percent wood waste, 100 percent clean lumber, or 100 percent wood waste, clean lumber, and/or yard waste. The commenter asked that the EPA explain and correct the discrepancy as appropriate.

We agree that the commenter's observation was correct. The proposed regulatory language has been amended to duplicate the applicability of the EG. Further, a definition of yard waste has been included to provide clarity on the meaning of the term "yard wastes" for the purposes of this Federal plan. The term "yard wastes" as defined in the final rule for the CISWI Federal plan includes the excluded wastes listed in paragraph (1) of the definition of "wood waste" in § 62.14840 of the rule. This definition of "yard wastes" is consistent with the one previously promulgated in the NSPS for large municipal waste combustors (40 CFR Part 60 Subpart Eb). Overall, these changes will make the final rule better comport to the language in section 129(g)(1) of the CAA.

One commenter (IV-G-01) supports the rationale behind the exemption in §§ 62.14525(n)(7) and 62.2555(n)(7) which exempts "Units burning only photographic film to recover silver." However, the commenter believes that for this exemption to be effective, it should be broadened to cover photographic materials, since there is a broad range of photographic materials that are burned together to recover silver. These materials include, not only film, but paper, filters, sludges and other photosensitive materials. Accordingly, the commenter recommended changing the wording of § 62.14525(n)(7) to read as follows: "(7) Units burning only photographic materials to recover silver."

Another commenter (IV-G-04) requested a similar change to the draft rules to formalize an exemption for carbon regeneration furnaces used in the corn wet milling industry. He asked for the proposed rule to be amended to reflect the EPA's granting of a petition for exemption of these sources on September 24, 2002. To accomplish this purpose, we were asked to add language to § 62.14525(n) reading as follows: "Units burning contaminants adsorbed by spent activated carbon when the spent carbon is being regenerated for reuse in manufacturing processes."

While EPA understands the basis for both comments, in light of section 129(g) of the CAA, we do not believe that adopting additional specific exemptions in the Federal Plan is the appropriate approach. First, the appropriate mechanism for requesting exemptions beyond those expressly

provided for in the EG is the petition process described in § 60.2025 of the NSPS and § 60.2558 of the EG. Second, we do not believe that it is appropriate to list in the Federal plan each exemption that EPA approves under these provisions. We are concerned that making the requested changes would cause a discrepancy between the express applicability of the EG and the Federal plan. To avoid such discrepancies, the EPA would need to simultaneously amend the Federal plan and the EG each time we approve a new exemption under § 60.2558. However, each change in the Federal plan for new exemptions would cause the Federal plan to differ from State plans.

To appropriately account for exemptions approved under §§ 60.2025 and 60.2558, while ensuring that the Federal plan is consistent with the requirements of the EG, we have amended the final rule to include a new paragraph 62.14525(n)(8). This provision exempts from the Federal plan sources which are granted exemptions from the NSPS and EG through the petition process. Thus, in order to secure an exemption from the Federal plan requirements based on a facility's status as a chemical recovery unit, the facility need only apply for and receive an exemption under the appropriate provision of the NSPS or the EG. Accordingly, we have also re-drafted § 62.14530 to advise owners/operators of chemical recovery units not listed in paragraph 62.14525(n) of the appropriate method to request exemptions.

We received comment (IV-D-03) from an operator of CISWI units in Alaska who requested changes to the proposed rules to fit circumstances deemed unique to operation of the Alaskan pipeline. The commenter suggested that a lower size cutoff should be added to the final rule to reflect the economic impacts of installing emission controls in very remote locations. The commenter further requested outright exemption of emergency-use CISWI. The primary concern given was elimination of non-hazardous debris from the cleanup of large oil spills. The commenter noted that for large oil spill response operations, incinerators would be a valuable form of equipment to environmentally and safely dispose of large amounts of boom, sorbent pads, and personal protective equipment employed in a clean-up. He said that land-filling such materials is not a viable option because of the remote locations. He considered bagging and shipping such waste away from the locale of a spill infeasible and was not aware of any Alaskan facilities that

could handle the large volumes of oily waste they'd receive. While requesting that the EPA include in the final Federal plan an exemption for emergency use CISWI, the commenter would not object to establishment of minimal standards such as unit capacity limitations in such an exemption.

We see section 129(a) of the CAA providing discretion to consider cost, non-air health and environmental impacts and energy requirements in the establishment of emission standards for CISWI. However, the EPA may not consider such factors in establishing the minimum stringency for controls under section 129(a)(2). Moreover, Section 129 does not permit the EPA to exclude incinerators from coverage under the regulations based on the size of the incinerator unit. Finally, the emission limits for CISWI units were established in the manner prescribed by law for determining that minimal level during development of the EG. The function of this Federal plan is not to make substantive changes to those requirement, but to implement those requirements in States that do not adopt State plans. Section 129(b) requires us to include in the Federal plan all provisions of the guidelines. Thus, it would be inappropriate to change this Federal plan in the manner requested by the commenter.

B. Compliance Schedule

Two commenters (IV-D-02, IV-G-02) asked us to revise the compliance schedule for existing CISWI units subject to Federal plan to be consistent with the compliance schedule provided in the EG. Both cited section 60.2535 of the CISWI EG, wherein the regulation requires compliance "as expeditiously as practicable," or by the earlier of two dates: three years after the effective date of State plan approval or by December 1, 2005. Both noted, however, that section 62.14535 of the proposed Federal plan provides only one year after promulgation of the CISWI Federal plan for final compliance. One writer asked us to synchronize the compliance dates for CISWI units, whether they are regulated under a State plan or the Federal plan. The other expressed concern that similar units in different States may have different compliance dates. We were asked to revise the Federal plan to require compliance as expeditiously as practicable, but not later than the earlier date of December 1, 2005, or three years after promulgation of the Federal plan.

In reply, we note our expectation that schedules for combustion units subject to section 129 requirements should differ. Because compliance schedules