

requirement to reach final compliance within one year is consistent with 40 CFR 60.24(c) of subpart B. Subpart B requires final compliance to be "as expeditiously as practicable * * *" and requires increments of progress if the compliance schedule is longer than one year.

The EPA believes that many CISWI units can reach final compliance within 1 year after promulgation of the Federal plan based on their similarity to hospital medical and infectious waste incinerator (HMIWI) units. In addition, units could have used the time between the proposed rule and this promulgation of the final Federal plan to plan and begin retrofits.

The compliance schedule for CISWI units is similar to the compliance schedule for HMIWI units. Most CISWI units are similar in size to HMIWI units. In addition, CISWI units require similar controls to meet the CISWI Federal plan emission limits as HMIWI units would need to meet the HMIWI Federal plan emission limits. To determine the compliance schedule for HMIWI units, the EPA conducted case studies of eight HMIWI units that completed retrofits of the types of controls needed to meet the HMIWI Federal plan (64 FR 36430, July 6, 1999). Based on these case studies (Docket No. A-98-24, II-A-1), the EPA found that many HMIWI units can meet the requirements of the HMIWI Federal plan within 1 year. Similarly, many CISWI units could meet a 1-year schedule.

The EPA expects that some CISWI units could need more than 1 year to comply, as did some HMIWI units, due to site-specific circumstances. For units that cannot comply within 1 year, the Federal plan establishes increments of progress, as required by subpart B. The date for the first increment of progress, submittal of a final control plan, is April 5, 2004. The date for the second increment of progress, final compliance, is October 3, 2005. These increments are derived from the findings of the case studies performed to characterize the retrofit of control systems for HMIWI (Docket A-98-24, Item II-A-1). The size and design of CISWI are similar to the smaller HMIWI that were the subjects of the case studies. In particular, most units are small and controls will be ordered "off-the-shelf" as assembled packages. Thus, the EPA did not see a need for increments to address details of on-site construction and installation of control systems. Also, CISWI sites are not thought to have the problems with space and access that were concerns for HMIWI retrofits. In addition, CISWI units had the time between publication of the proposed rule and today's

publication of the final rule to begin developing the final control plan and to initiate retrofit activities.

The Federal plan does not include increments of progress for air curtain incinerators. Air curtain incinerators must comply with the requirements of the Federal plan one year after today's date. Delaying implementation for ACI would not be appropriate because there will be little or no need for the installation of control equipment on these units (primarily because control equipment is typically infeasible for ACI). Compliance with the opacity limits applicable to this class of units would primarily be achieved by good operation and maintenance practices. This approach is consistent with the requirement for completion of CISWI operator training by October 4, 2004.

VI. CISWI That Have or Will Shut Down

A. Units That Plan To Close Rather Than Comply

If you plan to permanently close your currently operating CISWI unit, you must do one of the following: (a) close by October 4, 2004, or (b) submit a legally binding closure agreement, including the date of closure, to the Administrator by April 5, 2004. The closure agreement must specify the date by which operation will cease. The closure date cannot be later than the final compliance date of the CISWI Federal plan (October 3, 2005). If you close your CISWI unit after October 4, 2004, but before October 3, 2005, then you must comply with the operator training and qualification requirements by October 4, 2004. In addition, while still in operation, your CISWI unit(s) is subject to the same requirement to apply for and obtain a title V operating permit that applies to a CISWI unit that will not be permanently closing.

B. Inoperable Units

In cases where a CISWI unit has already shut down, has been rendered inoperable, and does not intend to restart, the CISWI unit may be left off the source inventory in a State, Tribal, or this Federal plan. A CISWI unit that has been rendered inoperable would not be covered by the Federal plan. The CISWI owner or operator may do the following to render a CISWI unit inoperable: (1) Weld the waste charge door shut, (2) remove stack (and by-pass stack, if applicable), (3) remove combustion air blowers, or (4) remove burners or fuel supply appurtenances.

C. CISWI Units That Have Shut Down

CISWI units that are known to have already shut down (but are not known to be inoperable) must be included in the source inventory and identified in any State or Tribal plan submitted to the EPA.

1. Restarting Before the Final Compliance Date

If the owner or operator of an inactive CISWI unit plans to restart before the final compliance date, the owner or operator must submit a control plan for the CISWI unit and meet the applicable compliance schedule. Final compliance is required for all pollutants and all CISWI units no later than the final compliance date. (See section V.E for the discussion on compliance schedules and increments of progress.)

2. Restarting After the Final Compliance Date

Under this Federal plan, a control plan would not be needed for inactive CISWI units that restart after the final compliance date. However, before restarting, operators of CISWI units would have to complete the operator training and qualification requirements and inspection requirements (if applicable) and complete retrofit or process modifications before restarting the unit. Performance testing to demonstrate compliance would be required within 90 days after restarting. There is no need to show that the increments of progress have been met since these steps would have occurred before restart while the CISWI unit was shut down and not generating emissions. A CISWI unit operating out of compliance after the final compliance date would be in violation of the Federal plan and subject to enforcement action.

VII. Implementation of the Federal Plan and Delegation

A. Background of Authority

Under sections 111(d) and 129(b) of the CAA, the EPA is required to adopt emission guidelines that are applicable to existing solid waste incineration sources. These emission guidelines are not enforceable until the EPA approves a State or Tribal plan or adopts a Federal plan that implements and enforces them, and the State, Tribal, or Federal plan has become effective. As discussed above, the Federal plan regulates CISWI units in a State or Tribal area that does not have an EPA-approved plan in effect.

Congress has determined that the primary responsibility for air pollution prevention and control rests with State