

form of the EGs applicable to existing CISWIs. The EGs are at 40 CFR part 60, subpart DDDD. See 65 FR 75362 and the **Background** section.

#### **IV. Who Must Comply With the Requirements?**

All CISWIs that commenced construction on or before November 30, 1999 must comply with these requirements.

#### **V. Are Any Sources Exempt From the Requirements?**

The following incinerator source categories are exempt from the federal requirements for CISWIs:

- (1) Pathological waste incineration units.
  - (2) Agricultural waste incineration.
  - (3) Municipal Waste Combustors.
  - (4) Hospital/medical/infectious waste incineration units.
  - (5) Small power production facilities.
  - (6) Cogeneration facilities.
  - (7) Hazardous waste combustion.
  - (8) Materials recovery units.
  - (9) Air curtain incinerators.
  - (10) Cyclonic barrel burners.
  - (11) Rack, part, and drum reclamation.
  - (12) Cement kilns.
  - (13) Sewage sludge incinerators.
  - (14) Chemical recovery units.
  - (15) Laboratory analysis units.
- Please refer to 40 CFR 60.2555 for specific definitions of these incinerator source categories, and any recordkeeping or other requirements that still may need to be met.

#### **VI. By What Date Must CISWIs in New Hampshire Achieve Compliance?**

All existing CISWI units in the State of New Hampshire must comply with these requirements by December 1, 2005.

#### **VII. What Happens if a CISWI Does Not/Cannot Meet the Requirements by the Final Compliance Date?**

Any existing CISWI that fails to meet the requirements by December 1, 2005 must shut down. The unit will not be allowed to start up until the owner/operator installs the controls necessary to meet the requirements.

#### **VIII. What Options Are Available to Operators if They Cannot Achieve Compliance Within One Year of the Effective Date of the State Plan?**

If a CISWI cannot achieve compliance within one year of the effective date of EPA approval of the State Plan, the operator must agree to meet certain increments of progress until it achieves compliance. The State Rule details the increments of progress for the affected CISWI.

#### **IX. What Is a State Plan?**

Section 111(d) of the Act requires that pollutants controlled under NSPS must also be controlled at older sources in the same source category. Once an NSPS is issued, EPA then publishes an EG applicable to the control of the same pollutant from existing (designated) facilities. States with designated facilities must then develop State Plans to adopt the EGs into their body of regulations. States must also include in their State Plans other elements, such as inventories, legal authority, and public participation documentation, to demonstrate their ability to enforce the State Plans.

#### **X. What Did the State Submit as Part of Its State Plan?**

The State of New Hampshire submitted its sections 111(d)/129 State Plan to EPA for approval on August 12, 2002. The State adopted the EG requirements into the New Hampshire Code of Administrative Rules Env-A 3400, "Commercial and Industrial Solid Waste Incinerators" on May 2, 2002. The State Plan contains:

1. A demonstration of the State's legal authority to implement the State Plan.
2. New Hampshire Rule CHAPTER Env-A 3400, "Commercial and Industrial Solid Waste Incinerators" as the enforceable mechanism.
3. An inventory of the sources on page 6 of the State Plan.
4. An emissions inventory on page 6 of the State Plan.
5. Emission limits, at least as protective as the limits found under subpart DDDD, that are contained in Env-A-3403.
6. Provisions for compliance schedules that are contained in Env-A 3406.
7. Testing, monitoring, and inspection requirements that are contained in Env-A 3408 and 3409.
8. Reporting and Recordkeeping requirements that are contained in Env-A 3410.
9. Operator training and qualification requirements that are contained in Env-A 3405.
10. Requirements for the development of a Waste Management Plan that are contained in Env-A 3407.
11. A record of the public notice and hearing requirements that are contained in Appendices E and F of the State Plan.
12. Provisions for state progress reports to EPA that are contained on page 9 of the State Plan.
13. Title V permit application due date requirements that are contained in Env-A 3411 and are due on December 1, 2003.

14. A final compliance date of December 1, 2005.

#### **XI. Why Is EPA Approving New Hampshire's State Plan?**

EPA has evaluated the CISWI State Plan submitted by New Hampshire for consistency with the Act, EPA guidelines and policy. EPA has determined that New Hampshire's State Plan meets all requirements and, therefore, EPA is approving New Hampshire's Plan to implement and enforce the EGs, as it applies to existing CISWIs.

EPA's approval of New Hampshire's State Plan is based on our findings that:

- (1) NHDES provided adequate public notice of public hearings for the proposed rule-making that allows New Hampshire to carry out and enforce provisions that are at least as protective as the EGs for CISWIs, and
- (2) NHDES demonstrated legal authority to adopt emission standards and compliance schedules applicable to the designated facilities; enforce applicable laws, regulations, standards and compliance schedules; seek injunctive relief; obtain information necessary to determine compliance; require record keeping; conduct inspections and tests; require the use of monitors; require emission reports of owners and operators; and make emission data publicly available.

A detailed discussion of EPA's evaluation of the State Plan is included in the technical support document (TSD) located in the official file for this action and available from the EPA contact listed above. The State Plan meets all of the applicable approval criteria.

#### **XII. Why Does EPA Need To Approve State Plans?**

Under section 129 of the Act, EGs are not federally enforceable. Section 129(b)(2) of the Act requires states to submit State Plans to EPA for approval. Each state must show that its State Plan will carry out and enforce the emission guidelines. State Plans must be at least as protective as the EGs, and they become federally enforceable upon EPA's approval.

The procedures for adopting and submitting State Plans are in 40 CFR part 60, subpart B. EPA originally issued the subpart B provisions on November 17, 1975. EPA amended subpart B on December 19, 1995, to allow the subparts developed under section 129 to include specifications that supersede the general provisions in subpart B regarding the schedule for submittal of State Plans, the stringency of the