

- 18 AAC 50.540. Minor Permit: Application (effective 12/3/05)  
18 AAC 50.542. Minor Permit: Review and Issuance (effective 12/1/04) except (b)(1), (b)(2), (b)(5), and (d)  
18 AAC 50.544. Minor Permits: Content (effective 1/29/05)  
18 AAC 50.546. Minor Permits: Revisions (effective 10/1/04)  
18 AAC 50.560. General Minor Permits (effective 10/1/04) except (b)

**Article 9. General Provisions**

- 18 AAC 50.990. Definitions (effective 12/3/05)

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 62**

[EPA-R04-OAR-2006-0140-200605(a); FRL-8276-7]

**Approval and Promulgation of State Plan for Designated Facilities and Pollutants; Florida: Emissions Guidelines for Small Municipal Waste Combustion Units**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving the Clean Air Act (CAA) section 111(d)/129 State Plan submitted by the State of Florida Department of Environmental Protection (Florida DEP) for the State of Florida on November 29, 2001, and subsequently updated on March 11, 2005. The State Plan is for implementing and enforcing the Emissions Guidelines (EG) applicable to existing Small Municipal Waste Combustion (SMWC) units that commenced construction on or before August 30, 1999.

**DATES:** This direct final rule is effective April 9, 2007 without further notice unless EPA receives adverse comment by March 12, 2007. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2006-0140, by one of the following methods:

1. [www.regulations.gov](http://www.regulations.gov): Follow the on-line instructions for submitting comments.

2. *E-mail: Majumder.joydeb@epa.gov*.

3. *Fax: (404) 562-9195*.

4. *Mail: "EPA-R04-OAR-2006-0140," Regulatory Development Section, Air Planning Branch, Air, Pesticides and*

Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.

**5. Hand Delivery or Courier:** Deliver your comments to: Joydeb Majumder, Air Toxics and Monitoring Branch, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

**Instructions:** Direct your comments to Docket ID No. "EPA-R04-OAR-2006-0140." EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through [www.regulations.gov](http://www.regulations.gov) or e-mail, information that you consider to be CBI or otherwise protected. The [www.regulations.gov](http://www.regulations.gov) website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**Docket:** All documents in the electronic docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available (i.e., CBI or other information whose disclosure is restricted by statute). Certain other material, such as copyrighted material, is not placed on the Internet and will be

publicly available only in hard copy form. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. EPA requests that, if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:**

Joydeb Majumder, Air Toxics and Monitoring Branch, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9121. Mr. Majumder can also be reached via electronic mail at [Majumder.joydeb@epa.gov](mailto:Majumder.joydeb@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. Background**

On December 6, 2000, pursuant to CAA sections 111 and 129, EPA promulgated new source performance standards (NSPS) applicable to new SMWC units and EG applicable to existing SMWC units. The NSPS and EG are codified at 40 CFR part 60, subparts AAAA and BBBB, respectively. Subparts AAAA and BBBB regulate the following: Particulate matter, opacity, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxins and dibenzofurans.

For existing sources, CAA section 129(b)(2) requires states to submit to EPA for approval State Plans that implement and enforce the EG contained in 40 CFR part 60, subpart BBBB. State Plans must be at least as protective as the EG, and become Federally enforceable upon approval by EPA. Pursuant to subpart BBBB, State Plans must include the following items: An inventory of affected SMWC units including those that have ceased operation but have not been dismantled and inventory of emissions; compliance schedules for each affected SMWC unit; Good combustion practices and emission limits for affected SMWC units that are at least as protective as the emission guidelines; Stack testing, continuous emission monitoring, recordkeeping, and reporting requirements; Certification that the hearing on the State Plan was held, a list of witnesses and their organizational

affiliations, if any, appearing at the hearing, and a brief written summary of each presentation or written submission; Provision for State progress reports to EPA; Identification of enforceable State mechanisms for implementing the Emission Guidelines; and a demonstration of the State's legal authority to carry out the State Plan. The procedures for adoption and submittal of State Plans are codified in 40 CFR part 60, subpart B.

In this action, EPA is approving the State Plan for existing SMWC units submitted by Florida DEP because it meets the requirements of 40 CFR part 60, subpart BBBB.

## II. Discussion

Florida DEP's 111(d) / 129 State Plan for implementing and enforcing the EG for existing SMWC units includes the following: Public Participation—Demonstration that the Public Had Adequate Notice and Opportunity to Submit Written Comments and Attend Public Hearing; Emissions Standards and Compliance Schedules; Emission Inventories, Source Surveillance, and Reports; and Legal Authority. EPA's approval of the State Plan is based on our finding that it meets the nine requirements of 40 CFR part 60, subpart BBBB.

*Requirements (1) and (2):* Inventory of affected SMWC units, including those that have ceased operation but have not been dismantled and inventory of emissions. Florida DEP submitted an emissions inventory of all designated pollutants for existing SMWC units under their jurisdiction in the State of Florida. This portion of the State Plan has been reviewed and approved as meeting the Federal requirements for existing SMWC units.

*Requirement (3):* Compliance schedules for each affected SMWC unit. Florida DEP submitted the compliance schedule for existing SMWC units under their jurisdiction in the State of Florida. This portion of the State Plan has been reviewed and approved as being at least as protective as Federal requirements for existing SMWC units.

*Requirement (4):* Good combustion practices and emission limits for affected SMWC units that are at least as protective as the emission guidelines contained in this subpart. Florida DEP adopted good combustion practice and all emission standards and limitations applicable to existing SMWC units. These combustion practice and emission limitations have been approved as being at least as protective as the Federal requirements contained in subpart BBBB for existing SMWC units.

*Requirement (5):* Stack testing, continuous emission monitoring, recordkeeping, and reporting requirements. The State Plan contains requirements for stack testing, continuous emission monitoring, recordkeeping, and reporting. This portion of the State Plan has been reviewed and approved as being at least as protective as the Federal requirements for existing SMWC units. The Florida DEP State Plan also includes its legal authority to require owners and operators of designated facilities to maintain records and report on the nature and amount of emissions and any other information that may be necessary to enable Florida DEP to judge the compliance status of the facilities in the State Plan. Florida DEP also submitted its legal authority to provide for periodic inspection and testing and provisions for making reports of existing SMWC unit emissions data, correlated with emission standards that apply, available to the general public.

*Requirement (6):* Certification that the hearing on the State Plan was held, a list of witnesses and their organizational affiliations, if any, appearing at the hearing, and a brief written summary of each presentation or written submission. Florida DEP held a public hearing on November 27, 2001. The record of the hearing has been prepared and will be retained for public inspection in accordance with 40 CFR 60.23(e). The only comments received on the plan were from EPA Region 4, and certification of the hearing as required has been provided to EPA Region 4.

*Requirement (7):* Provision for State progress reports to EPA. The Florida DEP State Plan provides for progress reports of plan implementation updates to EPA on an annual basis. These progress reports will include the required items pursuant to 40 CFR part 60, subpart B. This portion of the State Plan has been reviewed and approved as meeting the Federal requirement for State Plan reporting.

*Requirement (8):* Identification of enforceable State mechanisms for implementing the Emission Guidelines. An enforcement mechanism is a legal instrument by which the Florida DEP can enforce a set of standards and conditions. The Florida DEP has adopted 40 CFR part 60, subpart BBBB, into Florida Administrative Code (F.A.C.) Chapter 62-204. Therefore, Florida DEP's mechanism for enforcing the standards and conditions of 40 CFR part 60, subpart BBBB, is Rule 62-204.800(9)(e). On the basis of this rule and the rules identified in Requirement (9) below, the State Plan is approved as

being at least as protective as the Federal requirements for existing SMWC units.

*Requirement (9):* Demonstration of the State's legal authority to carry out the State Plan. Florida DEP demonstrated legal authority to adopt emissions standards and compliance schedules for designated facilities; authority to enforce applicable laws, regulations, standards, and compliance schedules, and authority to seek injunctive relief; authority to obtain information necessary to determine whether designated facilities are in compliance with applicable laws, regulations, standards, and compliance schedules, including authority to require record keeping and to make inspections and conduct tests at designated facilities; authority to require owners or operators of designated facilities to install, maintain, and use emission monitoring devices and to make periodic reports to the State on the nature and amount of emissions from such facilities; and authority to make emissions data publicly available.

Florida DEP cites the following references for the legal authority noted above: Florida Statutes (F.S.) 403.031—Definitions, F.S. § 403.061—Department powers and duties, F.S. § 403.0872—Title V air operating permits, and F.S. § 403.8055—Authority to adopt Federal Standards by reference; and Subsections F.S. §§ 403.061(6), (7), (8), and (13) give the authority for obtaining information and for requiring recordkeeping, use of monitors. F.S. § 403.061(35) gives the department authority to exercise the duties, powers, and responsibilities required of the State under the federal Clean Air Act. The sections of the Florida Statutes that give authority for compliance and enforcement are 403.121—Judicial and administrative remedies, F.S. § 403.131—Injunctive relief, F.S. § 403.141—Civil remedies, and F.S. § 403.161—Civil and criminal penalties. Finally, F.S. § 119.07 is the authority for making the information available to the public. EPA is approving the State Plan for existing SMWC units submitted by Florida DEP because it meets the requirements of 40 CFR part 60, subpart BBBB.

## III. Final Action

In this action, EPA approves the 111(d)/129 State Plan submitted by Florida DEP for the State of Florida to implement and enforce 40 CFR part 60, subpart BBBB, as it applies to existing SMWC units. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed

rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the State Plan should adverse comments be filed. This rule will be effective April 9, 2007 without further notice unless the Agency receives adverse comments by March 12, 2007.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on April 9, 2007 and no further action will be taken on the proposed rule. Please note that if we receive adverse comment on any paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

#### Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this rule is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes,

as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing 111(d)/129 plan submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a 111(d)/129 plan submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a 111(d)/129 plan submission, to use VCS in place of a 111(d)/129 plan submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate

circuit by April 9, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This rule may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control.

Dated: January 19, 2007.

**J.I. Palmer, Jr.,**

*Regional Administrator, Region 4.*

■ Chapter I, title 40 of the Code of Federal Regulation is amended as follows:

#### PART 62—[AMENDED]

■ 1. The authority citation for part 62 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

#### Subpart K—Florida

■ 2. Subpart K is amended by adding an undesignated center heading and § 62.2390 to read as follows:

#### Air Emissions From Small Municipal Waste Combustion (SMWC) Units—Section 111(d)/129 Plan

##### § 62.2390 Identification of sources.

The Plan applies to existing Small Municipal Waste Combustion Units that Commenced Construction On or Before August 30, 1999.

[FR Doc. E7-2117 Filed 2-7-07; 8:45 am]

BILLING CODE 6560-50-P

#### GENERAL SERVICES ADMINISTRATION

#### 41 CFR Part 102-76

[FMR Amendment 2005-03; FMR Case 2005-102-8; Docket 2007-0001, Sequence 2]

RIN 3090-AI17

#### Federal Management Regulation; Real Property Policies Update; Technical Amendment

**AGENCY:** Office of Governmentwide Policy, General Services Administration.

**ACTION:** Final rule.

**SUMMARY:** This document amends the Federal Management Regulation (FMR) to correct an omission from the