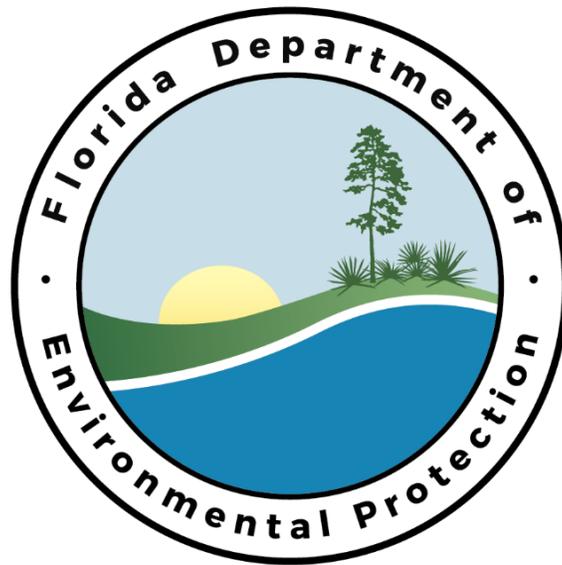


**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
PROPOSED REVISION TO FLORIDA'S SECTION 111(d)
STATE PLAN SUBMITTAL**



**COMMERCIAL AND INDUSTRIAL SOLID WASTE
INCINERATION UNITS**

May 31, 2017

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**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**REVISION TO FLORIDA’S PROPOSED SECTION 111(d) STATE PLAN
COMMERCIAL AND INDUSTRIAL SOLID WASTE INCINERATION UNITS**

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Letter of Submittal



Florida Department of Environmental Protection

Bob Martinez Center
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Rick Scott
Governor

Carlos Lopez-Cantera
Lt. Governor

Ryan E. Matthews
Interim Secretary

Via U.S. Mail and Electronic Mail

May 31, 2017

Ms. V. Anne Heard
Acting Regional Administrator
United States Environmental Protection Agency – Region 4
Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303-8909

Re: Air Program Submittal: Proposed Revision to Florida's February 6, 2014, 111(d) State Plan for Commercial and Industrial Solid Waste Incinerators

Dear Ms. Heard:

In accordance with the requirements of 40 CFR Part 60, Subpart B, and on behalf of the Secretary of the Florida Department of Environmental Protection (Department), I am pleased to submit this proposed revision to Florida's pending 111(d) State Plan for Commercial and Industrial Solid Waste Incinerator (CISWI) units that was originally submitted to EPA on February 6, 2014. This State Plan submittal proposes to revise Florida's previous submittal to incorporate the U.S. Environmental Protection Agency's (EPA) June 23, 2016, amendments to the CISWI Emission Guidelines (codified at 40 C.F.R. Part 60, Subpart DDDD), and, pursuant to the Department's authority under 40 C.F.R. § 60.2515(b), to provide for an equivalent production-based mercury emission limit for units in the waste-burning kiln subcategory.

Approval of this State Plan will enable the state to implement the Emission Guidelines for Commercial and Industrial Solid Waste Incineration Units, 40 C.F.R. Part 60, Subpart DDDD, as codified in 40 C.F.R. Part 62, Subpart K.

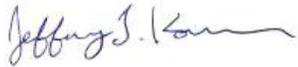
One hard copy and one electronic copy (on compact disc) of the complete submittal have been sent directly to the Air and EPCRA Enforcement Branch. The electronic copy is in a searchable format and is an exact duplicate of the hard copy.

I certify that the public notice and hearing requirements of all applicable state and federal regulations have been satisfied. A copy of the certification of publication is included with the submittal.

Ms. V. Anne Heard
May 31, 2017
Page 2 of 2

We respectfully request your approval of this proposed revision to Florida's pending CISWI 111(d) State Plan submission and the February 6, 2014, CISWI State Plan submission itself. If you have any questions, please contact Mr. Hastings Read by phone at (850) 717-9017 or by email at Hastings.Read@dep.state.fl.us.

Sincerely,



Jeffery F. Koerner, Director
Division of Air Resource Management

Enclosure

cc: Beverly Spagg, Air and EPCRA Enforcement Chief, EPA – Region 4
Ken Mitchell, Special Assistant to the Director of the Air, Pesticides and Toxics Management Division, EPA – Region 4
Jason Dressler, Environmental Engineer, EPA – Region 4
Mark Bloeth, Environmental Scientist, EPA – Region 4
Todd Russo, South Air Enforcement and Toxics Section Chief, EPA – Region 4

Executive Summary
Revision to Florida’s Proposed Section 111(d) State Plan

Emission Guidelines for Commercial and Industrial Solid Waste Incineration Units

On February 7, 2013 and June 23, 2016, the U.S. Environmental Protection Agency (EPA) amended the Code of Federal Regulations (C.F.R.), Title 40, Part 60, Subpart DDDD, Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration (CISWI) units. Developed under Sections 111 and 129 of the Clean Air Act, the Emission Guidelines of 40 C.F.R. Part 60, Subpart DDDD apply to existing CISWI units 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.

Under Section 111(d) of the Clean Air Act, any state with one or more affected CISWI units must develop and submit to the EPA a “State Plan” to implement the Emission Guidelines. 40 C.F.R. Part 60, Subparts B and DDDD specify the content and the conditions for developing and adopting a Section 111(d) State Plan. On February 6, 2014, the Florida Department of Environmental Protection (Department) submitted its proposed Section 111(d) CISWI State Plan to EPA for approval.

Pursuant to the authority specified in 40 C.F.R. § 60.2515(b), the Department is now proposing additional revisions to the pending February 6, 2014, CISWI State Plan submittal to allow CISWI units in the waste-burning kiln subcategory to comply with an alternative, but equivalent, production-based mercury emission limit of 58 pounds of mercury per million tons of clinker produced instead of the concentration-based emission limit included in EPA’s Emission Guidelines. Because the proposed alternative production-based mercury emission of 58 pounds per million tons of clinker “deviates from the format and content of the emission guidelines[,]” the Department “must demonstrate that [its] State plan is at least as protective as the emission guidelines” before the revision can be approved. *See* 40 C.F.R. § 60.2515(b). This demonstration is satisfied because EPA itself stated in the preamble to the CISWI revisions that a production-based limit of 58 pounds of mercury per million tons of clinker is equivalent to the concentration-based limit in the Emission Guidelines. *See* 78 Fed. Reg. 9,112, 9,122, Table 4 (February 7, 2013). In addition, the Department has updated the 111(d) State Plan to include the June 23, 2016 revisions to 40 C.F.R. Part 60, Subpart DDDD after EPA reconsidered certain regulatory issues.

The Department has also included in this revision additional monitoring and recordkeeping requirements that apply to waste-burning kilns that opt to comply with the alternative production-based mercury emission limit. These additional requirements are necessary for determining whether a facility is in compliance with the alternative production-based emission limit. The additional monitoring and recordkeeping requirements are cross-references to specified provisions in the National Emission Standards for Hazardous Air Pollutants (NESHAP) from the Portland Cement Manufacturing Industry (40 C.F.R. Part 63, Subpart LLL), which are used to determine compliance with that subpart’s production-based mercury emission limit. Specifically, the cross-referenced provisions are: 40 C.F.R. § 63.1348(a)(5) (requirements for demonstrating initial

compliance with production-based mercury limit); 40 C.F.R. § 63.1348(b)(7) (continuous monitoring requirements for a production-based mercury limit); 40 C.F.R. § 63.1349(b)(5) (how to calculate a facility's production-based mercury emission performance); 40 C.F.R. § 63.1350(k) (mercury emission monitoring requirements); 40 C.F.R. 63.1350(d) (clinker production monitoring requirements); 40 C.F.R. § 63.1350(n) (continuous flow rate monitoring system); and the definition of "operating day" used in 40 C.F.R. § 63.1341.

The Department developed Florida's proposed revision to its pending Section 111(d) CISWI State Plan submittal pursuant to Sections 111 and 129 of the Clean Air Act and in compliance with all of the standards and conditions of 40 C.F.R. Part 60, Subparts B and DDDD. The revision to Florida's proposed State Plan, as set forth in this submittal document, includes a revised inventory of CISWI units and the revisions to Rule 62-204.800, Florida Administrative Code (F.A.C.), which codified: (1) the June 23, 2016, revisions to 40 C.F.R. Part 60, Subpart DDDD; (2) the alternative production-based mercury limit for waste-burning kilns; and (3) the monitoring and recordkeeping requirements necessary for determining compliance with the alternative emission limit.

Once Florida's Section 111(d) State Plan is approved and codified in 40 C.F.R. Part 62, Subpart K, the Department will cite to that part of the Code of Federal Regulations as the "applicable requirement" in the Title V permits for existing CISWI emission units 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.

In addition, under Clean Air Act section 111(d), a State Plan must specify the authorities contained in the Emission Guidelines that are not granted to a state by EPA's approval of its State Plan. The CISWI Emission Guidelines (40 C.F.R. § 60.2542) specifies the authorities that cannot be granted to a state upon approval of its State Plan. Although 40 C.F.R. § 60.2542 merely cites to the non-delegable authorities in the CISWI New Source Performance Standards (codified at 40 C.F.R. Part 60, Subpart CCCC), the Department recognizes that the following authorities in 40 C.F.R. Part 60, Subpart DDDD are not granted to the state by EPA's approval of Florida's State Plan:

1. Approval of alternatives to the emission limitations in 40 C.F.R. Part 60, Subpart DDDD and operating limits established under 40 C.F.R. § 60.2675;
2. Approval of major alternatives to test methods;
3. Approval of major alternatives to monitoring;
4. Approval of major alternatives to recordkeeping and reporting;
5. Approval of specific operating limits for CISWI units that do not use a wet scrubber, fabric filter, activated carbon injection, selective noncatalytic reduction, electrostatic precipitator, or dry scrubber to comply with the applicable emission limitations pursuant to the requirements in 40 C.F.R. § 60.2680;
6. The authority to notify qualified operators that a request to continue operation of the CISWI unit has been disapproved, pursuant to the requirements in 40 C.F.R. § 60.2665(b)(2);
7. Approval of alternative opacity emission limits;
8. Performance test and data reduction waivers under 40 C.F.R. § 60.2690(j), 40 C.F.R. §§ 60.8(b)(4) and (5);
9. Determination of whether a qualifying small power production facility or cogeneration facility under 40 C.F.R. §§ 60.2555(e) or (f) is combusting homogenous waste; and

10. Approval of an alternative to any electronic reporting to the EPA required by 40 C.F.R. Part 60, Subpart DDDD.

Florida retains the authority to “deviate from the format and content of the emission guidelines” so long as the state demonstrates that its State Plan “is at least as protective as the emission guidelines,” pursuant to 40 C.F.R. § 60.2515(b). The Department recognizes, however, that any proposed changes pursuant to 40 C.F.R. § 60.2515(b) are not effective until EPA approves those changes into Florida’s CISWI State Plan, codified at 40 C.F.R. Part 62, Subpart K.

In support of the Department’s requested approval of this plan, this submittal document also includes a demonstration of legal authority, identification of enforceable mechanisms and a copy of the notice of opportunity to submit comments and request a public hearing on Florida’s revision to its proposed Section 111(d) State Plan.

Response to 40 C.F.R. Part 60, Subpart B, Criteria

§ 60.23 Adoption and Submittal of State Plans; Public Hearings

(d) Any hearing required by paragraph (c) of this section shall be held only after reasonable notice. Notice shall be given at least 30 days prior to the date of such hearing and shall include:

(1) Notification to the public by prominently advertising the date, time, and place of such hearing in each region affected.

- On January 20, 2017, the Department published in the Florida Administrative Register (F.A.R.) a notice of opportunity to submit comments and request a public hearing pursuant to 40 C.F.R. § 60.23 on Florida's revision to its Section 111(d) CISWI State Plan submittal. A public hearing was scheduled for February 22, 2017, but no hearing was requested and, therefore, no hearing was held. The "Public Participation" section of this submittal document contains a copy of the notice which appeared in the F.A.R.

(2) Availability, at the time of public announcement, of each proposed plan or revision thereof for public inspection in at least one location in each region to which it will apply.

- A copy of the January 20, 2017, F.A.R. public notice and the proposed State Plan revisions were posted on the Department's website and made available for public inspection at least 30 days prior to the scheduled hearing date. Notification of the availability of this information was also transmitted to each of the Department's district offices and the offices of each Department-approved local air pollution control program at least 30 days in advance of the scheduled hearing date. The "Public Participation" section of this submittal contains the notifications of transmittal.

(3) Notification to the Administrator.

- The Region 4 office of the EPA was notified at least 30 days in advance of the scheduled hearing date and was provided with copies of the material to be considered. The "Public Participation" section of this submittal contains the pre-hearing submittal letter.

(4) Notification to each local air pollution control agency in each region to which the plan or revision will apply.

- Notification to affected local programs occurred with the notification of availability of information for public inspection. (See response to (d)(2) above.)

(5) In the case of an interstate region, notification to any other State included in the region.

- The states of Georgia, Alabama and Mississippi were notified on January 20, 2017, of the proposed plan and of the opportunity to submit comments and request a public hearing at least 30 days in advance of the scheduled hearing date. The “Public Participation” section of this submittal contains the notifications.

§ 60.24 Emission Standards and Compliance Schedules

(a) Each plan shall include emission standards and compliance schedules.

- The Department has adopted by reference all of the emission standards and test methods of 40 C.F.R. Part 60, Subpart DDDD into Rule 62-204.800(9)(f), F.A.C., and, pursuant to the Department’s authority as specified in 40 C.F.R. § 60.2515(b), included an alternate, but equivalent, production-based mercury emission limit of 58 pounds of mercury per million tons of clinker for units in the waste-burning kiln subcategory. The incorporation by reference includes EPA’s June 23, 2016, revisions to 40 C.F.R. Part 60, Subpart DDDD. The rule became effective on October 23, 2016. A certified copy of the full text of the amended rule is included in the “Materials to be Incorporated into State Plan” section of this plan.
- By adopting all of the standards and conditions of 40 C.F.R. Part 60, Subpart DDDD by reference and providing for an alternate, but equivalent, production-based mercury emission limit of 58 pounds of mercury per million tons of clinker for units in the waste-burning kiln subcategory consistent with EPA’s statement in the preamble to the February 7, 2013, Federal Register notice, the Department has demonstrated that the emission limitations and test methods adopted by the State of Florida are at least as protective as those in the emission guidelines of 40 C.F.R. Part 60, Subpart DDDD.

§ 60.25 Emission Inventories, Source Surveillance, Reports

(a) Each plan shall include an inventory of all designated facilities, including emission data for the designated pollutants and information related to emissions as specified in appendix D to this part. Such data shall be summarized in the plan, and emission rates of designated pollutants from designated facilities shall be correlated with applicable emission standards. As used in this subpart, “correlated” means presented in such a manner as to show the relationship between measured or estimated amounts of emissions and the amounts of such emissions allowable under applicable emission standards.

- As required by 40 C.F.R. § 60.25(a), this plan includes an inventory of affected units and emissions for comparison with the federal standards. In the Source and Emission Inventory section of this plan, an inventory of affected CISWI units, the applicable emission limiting standards of 40 C.F.R. Part 60, Subpart DDDD and an inventory of emissions data are provided.
- The monitoring and correlation of compliance data will be conducted according to the conditions of 40 C.F.R. §§ 60.25(b) and (c). The Department will commence annual

progress reporting to EPA pursuant to 40 C.F.R. § 60.25(e), with the first full year after EPA approval of this plan. The manner and form of reporting will be in accordance with 40 C.F.R. § 60.25(f) and will be coordinated with EPA Region 4.

§ 60.26 Legal Authority

(a) Each plan shall show that the State has legal authority to carry out the plan, including authority to:

- (1) Adopt emission standards and compliance schedules applicable to designated facilities.**
- (2) Enforce applicable laws, regulations, standards, and compliance schedules, and seek injunctive relief.**
- (3) Obtain information necessary to determine whether designated facilities are in compliance with applicable laws, regulations, standards, and compliance schedules, including authority to require recordkeeping and to make inspections and conduct tests of designated facilities.**
- (4) 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 amounts of emissions from such facilities; also authority for the State to make such data available to the public as reported and as correlated with applicable emission standards.**

- The Department has the authority to carry out the conditions set forth in this plan as required by 40 C.F.R. § 60.26(a). The laws that give the Department this authority are located in the Florida Statutes (F.S.) at Sections 403.031 (definitions), 403.061 (Department's powers and duties), and 403.0872 (Title V air operating permits). Subsections 403.061(6), (7), (8), and (13), F.S., give the Department the authority to obtain information and to require recordkeeping, use of monitors, etc. Most importantly, Subsection 403.061(35), F.S., gives the Department the 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), 403.131 (injunctive relief), 403.141 (civil remedies), and 403.161 (civil and criminal penalties). Finally, Section 119.07, F.S., provides the authority for making the information available to the public.
- An enforceable mechanism is a legal instrument by which the Department can enforce a set of standards and conditions. The Department has adopted 40 C.F.R. Part 60, Subpart DDDD, into Chapter 62-204, F.A.C., thereby making it an enforceable rule. The Department's mechanism for enforcing the standards and conditions of 40 C.F.R. Part 60, Subpart DDDD, is Rule 62-204.800(9)(f), F.A.C.
- The Department's statutory legal authorities under Chapter 403, F.S, are described in further detail on the following pages.

Legal Authority

Chapter 403, F.S., entitled “Environmental Control,” provides the legal framework for most of the activities of the air resource management program within the Department . Except as provided at Sections 403.8055 and 403.201, F.S., for fast-track rulemaking and the granting of variances under Chapter 403, F.S., respectively, Chapter 120, F.S., Florida’s “Administrative Procedure Act,” sets forth the procedures the Department must follow for rulemaking, variances and public meetings. The most recent version of the Florida Statutes can be found online at www.leg.state.fl.us/Statutes.

The principal sections of Chapter 403, F.S., that grant the Department authority to operate its air program are listed below. Authority to develop and update Florida’s State Implementation Plan (SIP) and 111(d) Designated Facilities Plan is expressly provided by Subsection 403.061(35), F.S., which provides that “the department shall have the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it and, for this purpose, to ... exercise the duties, powers, and responsibilities required of the state under the federal Clean Air Act, 42 U.S.C. ss. 7401 et seq.”

- 403.031 Definitions, including the definition of “regulated air pollutant” (403.031(19)).
- 403.061 Authority to promulgate plans to provide for air quality control and pollution abatement (403.061(1)); adopt rules for the control of air pollution in the state (403.061(7)); take enforcement action against violators of air pollution laws, rules and permits (403.061(8)); establish and administer an air pollution control program (403.061(9)); set ambient air quality standards (403.061(11)); monitor air quality (403.061(12)); require reports from air pollutant emission sources (403.061(13)); require permits for construction, operation, and modification of air pollutant emission sources (403.061(14)); and exercise the duties, powers, and responsibilities required of the state under the federal Clean Air Act (403.061(35)).
- 403.087 Authority to issue, deny, modify and revoke permits.
- 403.0872 Authority to establish an air operating permit program as required by Title V of the Clean Air Amendments of 1990.
- 403.0877 Authority to require engineering certification of permit applications.
- 403.121 Authority to seek judicial and administrative remedies for violations.
- 403.131 Authority to seek injunctive relief for violations.
- 403.141 Authority to find civil liability for violations.
- 403.161 Authority to assess civil and criminal penalties for violations.
- 403.182 Authority for local pollution control programs.
- 403.201 Authority to grant variances.
- 403.716 Authority to require training of medical waste incinerator operators.
- 403.8052 Authority to establish a Small Business Assistance Program for small-business sources of air pollutant emissions.

403.8055 Authority to adopt U.S. Environmental Protection Agency (EPA) standards by reference through a fast-track process.

403.814 Authority to allow use of general permits (permits-by-rule) for minor sources.

Other statutory authorities (outside of Chapter 403, F.S.) for Florida's air resource management program are as follows:

120.569 Authority of agency head to issue an emergency order in response to an immediate threat to public health, safety or welfare.

316.2935 Authority to prohibit the sale and operation of motor vehicles whose emission control systems have been tampered with and to prohibit the operation of motor vehicles that emit excessive smoke.

320.03 Authority to establish an Air Pollution Control Trust Fund and use \$1 fee on every motor vehicle license registration sold in the state for air pollution control purposes, including support of approved local air pollution control programs.

376.60 Authority to establish a fee for asbestos removal projects.

Rules adopted by the Department under its statutory authority are codified in the Florida Administrative Code (F.A.C.). The most recent versions of the F.A.C. rules can be found online at www.flrules.org. Rule chapters containing SIP or 111(d) State Plan provisions are as follows:

62-204 Air Pollution Control – General Provisions

62-210 Stationary Sources – General Requirements

62-212 Stationary Sources – Preconstruction Review

62-243 Tampering with Motor Vehicle Air Pollution Control Equipment

62-252 Gasoline Vapor Control

62-256 Open Burning

62-296 Stationary Sources – Emission Standards

62-297 Stationary Sources – Emissions Monitoring

Other air-related Department rule chapters—not part of the SIP or 111(d) State Plan—include:

62-213 Operation Permits for Major Sources of Air Pollution (Title V)

62-214 Requirements for Sources Subject to the Federal Acid Rain Program

62-257 Asbestos Program

Materials Proposed to be Incorporated into State Plan

Paragraph 62-204.800(9)(f), F.A.C., as of March 7, 2017 (Including the Technical Changes)

(f) Commercial and Industrial Solid Waste Incineration (CISWI) Units. 40 C.F.R. Part 60, Subpart DDDD, Emission Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units that Commenced Construction on or Before June 4, 2010, revised as of July 1, 2009, amended February 7, 2013, at 78 FR 9112 (<https://www.flrules.org/Gateway/reference.asp?No=Ref-03695>), amended June 23, 2016, at 81 FR 40956 (<http://www.flrules.org/Gateway/reference.asp?No=Ref-07493>), is hereby adopted and incorporated by reference subject to the following provisions (all cross-references to 40 C.F.R. 63 Subpart LLL [40 C.F.R. §§63.1340 through 1359], as amended February 12, 2013, at 78 FR 10005, as amended July 27, 2015, at Part 80 FR 44771, are adopted and incorporated by reference at paragraph 62-204.800(11)(b), F.A.C.):

1. Applicability. The applicability of paragraph 62-204.800(9)(f), F.A.C., shall be the same as set forth in 40 C.F.R. §60.2550. Units exempted from the applicability of paragraph 62-204.800(9)(f), F.A.C., shall be the same as set forth in 40 C.F.R. §60.2555. For the purposes of 40 C.F.R. §60.2550, units that begin combusting solid waste that are not subject to 40 C.F.R. 60 Subpart CCCC are considered existing sources and must comply with paragraph 62-204.800(9)(f), F.A.C.

2. Increments of Progress. The requirements for meeting increments of progress and achieving final compliance applicable to each CISWI unit subject to paragraph 62-204.800(9)(f), F.A.C., shall be the same as set forth in 40 C.F.R. §§60.2575 through 60.2615, provided that the final control plan shall be submitted no later than August 7, 2015, and the final compliance date is no later than February 7, 2018.

3. Waste Management Plan. The waste management plan requirements applicable to each CISWI unit subject to paragraph 62-204.800(9)(f), F.A.C., shall be the same as set forth in 40 C.F.R. §§60.2620 through 60.2630.

4. Operator Training and Qualification. The operator training and qualification requirements applicable to each CISWI unit subject to paragraph 62-204.800(9)(f), F.A.C., shall be the same as set forth in 40 C.F.R. §§60.2635 through 60.2665.

5. Emission Limitations and Operating Limits. The emission limitations and operating limits applicable to each CISWI unit subject to paragraph 62-204.800(9)(f), F.A.C., shall be the same as set forth in 40 C.F.R. §§60.2670 through 60.2680, except that a unit in the waste-burning kiln subcategory may instead comply with an alternative production-based mercury emission limit of 58 pounds of mercury per million tons of clinker as specified in Table 4 as published February 7, 2013 at 78 FR 9112, 9122 (<https://www.flrules.org/Gateway/reference.asp?No=Ref-03695>).

6. Performance Testing. The performance testing requirements applicable to each CISWI unit subject to paragraph 62-204.800(9)(f), F.A.C., shall be the same as set forth in 40 C.F.R. §§60.2690 and 60.2695.

7. Initial Compliance Requirements. The initial compliance requirements applicable to each CISWI unit subject to paragraph 62-204.800(9)(f), F.A.C., shall be the same as set forth in 40 C.F.R. §§60.2700 through 60.2706, except that a waste-burning kiln complying with the alternative production-based mercury emission limit in subparagraph 62-204.800(9)(f)5., F.A.C., must demonstrate initial compliance pursuant to 40 C.F.R. §63.1348(a)(5). The initial compliance test must begin on the first operating day following completion of the field testing and data collection that demonstrates that the continuous emissions monitoring system has satisfied the relevant performance acceptance criteria of Performance Specifications 12A or 12B in 40 C.F.R. Part 60 Appendix B. The notification required by 40 C.F.R. §60.2760 shall also include notification of whether an owner or operator of a unit in the waste-burning kiln subcategory intends to comply with the alternative production-based mercury emission limit in subparagraph 62-204.800(9)(f)5., F.A.C.

8. Continuous Compliance Requirements. The continuous compliance requirements applicable to each CISWI unit subject to paragraph 62-204.800(9)(f), F.A.C., shall be the same as set forth in 40 C.F.R.

§§60.2710 through 60.2725, except that a waste-burning kiln complying with the alternative production-based mercury emission limit in subparagraph 62-204.800(9)(f)5., F.A.C., must demonstrate continuous compliance with this alternative limit pursuant to the procedures of 40 C.F.R. §63.1348(b)(7), and 40 C.F.R. §63.1349(b)(5).

9. Monitoring. The monitoring requirements applicable to each CISWI unit subject to paragraph 62-204.800(9)(f), F.A.C., shall be the same as set forth in 40 C.F.R. §§60.2730 and 60.2735. A unit in the waste-burning kiln subcategory complying with the alternative production-based mercury emission limit in subparagraph 62-204.800(9)(f)5., F.A.C., must also monitor mercury pursuant to 40 C.F.R. §63.1350(k), the clinker production rate pursuant to 40 C.F.R. §63.1350(d), and the flow rate pursuant to 40 C.F.R. §63.1350(n). An owner of a waste burning kiln is not required to develop an emissions monitoring plan pursuant to 40 C.F.R. §63.1350(p)(1) through (p)(4), if the owner prepares the emissions monitoring plan required pursuant to 40 C.F.R. §60.2710(k) and (l).

10. Recordkeeping and Reporting Requirements. The recordkeeping and reporting requirements applicable to each CISWI unit subject to paragraph 62-204.800(9)(f), F.A.C., shall be the same as set forth in 40 C.F.R. §§60.2740 through 60.2800. Units in the waste-burning kiln subcategory complying with the alternative production-based mercury emission limit in subparagraph 62-204.800(9)(f)5., F.A.C., must also keep records of all data collected from the continuous flow rate monitoring system required by 40 C.F.R. §63.1350(n), all data collected from the clinker production monitoring system required by 40 C.F.R. §63.1350(d), and all calculated 30-operating day rolling average values derived from the mercury monitoring system. Units in the waste-burning kiln subcategory complying with the alternative production-based mercury emission limit in subparagraph 62-204.800(9)(f)5., F.A.C., must also report all deviations from the alternative production-based mercury limit in accordance with 40 C.F.R. §§60.2740 through 60.2800.

11. Title V Operating Permits. The Title V operating permit requirements applicable to each CISWI unit subject to paragraph 62-204.800(9)(f), F.A.C., shall be the same as set forth in 40 C.F.R. §60.2805.

12. Air Curtain Incinerators. Requirements applicable to each Air Curtain Incinerator subject to paragraph 62-204.800(9)(f), F.A.C., shall be the same as set forth in 40 C.F.R. §§60.2810 through 60.2870.

13. Definitions. The definitions applicable to each CISWI unit subject to paragraph 62-204.800(9)(f), F.A.C., shall be the same as set forth in 40 C.F.R. §60.2875. For purposes of paragraph 62-204.800(9)(f), F.A.C., the definition of the term administrator means the department, except that the EPA is the administrator for purposes of 40 C.F.R. §60.2030(c). The terms used but not defined in 40 C.F.R. Part 60, Subpart DDDD, have the meaning given to them in the Clean Air Act and in 40 C.F.R. Part 60, Subparts A, B, and CCCC. For units in the waste-burning kiln subcategory complying with the alternative production-based mercury emission limit in subparagraph 62-204.800(9)(f)5., F.A.C., the term operating day in 40 C.F.R. §63.1348(a)(5), 40 C.F.R. §63.1348(b)(7) and 40 C.F.R. §63.1349(b)(5) means any 24-hour period beginning at 12:00 midnight, during which the kiln produces any amount of clinker.

**CISWI Units Subject to 40 C.F.R. Part 60, Subpart DDDD,
Emission Guidelines and Compliance Times**

Facility Name	Pollutant	Emission Standard ^a		Emission Rate ^b		Test Date
Wheelabrator Ridge Energy, Inc. Boiler EU 01 1050216 Polk County	Carbon Monoxide	260	ppmv	178	ppmv	05/16/2013
	Dioxin/Furan (TEQ) ^c	0.12	ng/dscm	**	ng/dscm	**
	Cadmium	0.0014	mg/dscm	**	mg/dscm	**
	Hydrogen Chloride	0.2	ppmv	0.32	ppmv	09/24/2013
	Mercury	0.0022	mg/dscm	2.8E-4	mg/dscm	04/27/2010
	Nitrogen Oxides	290	ppmv	151	ppmv	05/16/2013
	Lead	0.014	mg/dscm	0.00078	lbs/hr	04/14/2015
	Particulate Matter ^d	11.0	mg/dscm	0.005	gr/dscf	07/26/2016
	Sulfur Dioxide	7.3	ppmv	132	ppmv	05/16/2013

^a Emission Standards are from the CISWI Emission Guidelines for the Energy Recovery Unit (ERU) biomass subcategory.

^b Concentration-based emission rates are expressed at 7 percent oxygen, dry basis.

^c Or an alternative D/F emission standard of 0.52 ng/dscm on a total mass basis.

^d Total particulate matter.

**Unit has not been required to test for this specific pollutant.

“ppmv” means parts per million, by volume.

“ng/dscm” means nanograms per dry standard cubic meter.

“mg/dscm” means milligrams per dry standard cubic meter.

“lbs/hr” means pounds per hour.

“gr/dscf” means grains per dry standard cubic foot.

“TEQ” means toxic equivalency.

Facility Name	Pollutant	Emission Standard ^a		Emission Rate ^b		Test Date
Titan Pennsuco 250020 Miami-Dade County	Carbon Monoxide	790	ppmv	1.66	lbs/ton	05/17/2012
	Dioxin/Furan (TEQ) ^c	0.075	ng/dscm	0.002	ng/dscm	02/18/2015
	Cadmium	0.0014	mg/dscm	**	mg/dscm	**
	Hydrogen Chloride	3	ppmv	0.32	ppmv	09/24/2013
	Mercury ^d	0.011	mg/dscm	1.45E-4	lbs/ton	2015 ^e
	Nitrogen Oxides	630	ppmv	1.83	lbs/ton	05/16/2012
	Lead	0.014	mg/dscm	0.011	lbs/hr	10/21/2004
	Particulate Matter ^f	13.5	mg/dscm	0.029	lbs/ton	08/26/2015
	Sulfur Dioxide	600	ppmv	0.02	lbs/ton	02/18/2015

^a Emission Standards are from the CISWI Emission Guidelines for the Waste-Burning Kiln subcategory.

^b Concentration-based emission rates are expressed at 7 percent oxygen, dry basis.

^c Or an alternative D/F emission standard of 1.3 ng/dscm on a total mass basis.

^d Florida has promulgated an equivalent production-based mercury emission limit of 58 pounds of mercury per million tons of clinker as an alternative limit authorized by 40 C.F.R. § 60.2515(b).

^e Calculated by mass balance for calendar year divided by clinker production.

^f Total particulate matter.

**Unit has not been required to test for this specific pollutant.

“ppmv” means parts per million, by volume.

“ng/dscm” means nanograms per dry standard cubic meter.

“mg/dscm” means milligrams per dry standard cubic meter.

“lbs/hr” means pounds per hour.

“lbs/ton” means pounds per ton of clinker produced.

“TEQ” means toxic equivalency.

Facility Name	Pollutant	Emission Standard ^a		Emission Rate ^b		Test Date
Argos Cement Newbery Kiln 2 0010087 Alachua County	Carbon Monoxide	790	ppmv	178	ppmv	05/16/2013
	Dioxin/Furan (TEQ) ^c	0.075	ng/dscm	0.006	ng/dscm	10/09/2012
	Cadmium	0.0014	mg/dscm	**	mg/dscm	**
	Hydrogen Chloride	3	ppmv	**	ppmv	**
	Mercury ^d	0.011	mg/dscm	9.31E-5	lbs/ton	2015 ^e
	Nitrogen Oxides	630	ppmv	1.78	lbs/ton	10/14/2015
	Lead	0.014	mg/dscm	**	mg/dscm	**
	Particulate Matter ^f	13.5	mg/dscm	0.018	lbs/ton	04/06/2014
	Sulfur Dioxide	600	ppmv	0.0003	lbs/ton	10/12/2012

^a Emission Standards are from the CISWI Emission Guidelines for the Waste-Burning Kiln subcategory.

^b Concentration-based emission rates are expressed at 7 percent oxygen, dry basis.

^c Or an alternative D/F emission standard of 1.3 ng/dscm on a total mass basis.

^d Florida has promulgated an equivalent production-based mercury emission limit of 58 pounds of mercury per million tons of clinker as an alternative limit authorized by 40 C.F.R. § 60.2515(b).

^e Calculated by mass balance for calendar year divided by clinker production.

^f Total particulate matter.

**Unit has not been required to test for this specific pollutant.

“ppmv” means parts per million, by volume.

“ng/dscm” means nanograms per dry standard cubic meter.

“mg/dscm” means milligrams per dry standard cubic meter.

“lbs/ton” means pounds per ton of clinker produced.

“TEQ” means toxic equivalency.

Facility Name	Pollutant	Emission Standard ^a		Emission Rate ^b		Test Date
Argos Cement Newbery Kiln 1 0010087 Alachua County	Carbon Monoxide	790	ppmv	1.05	lbs/ton	06/21/2016
	Dioxin/Furan (TEQ) ^c	0.075	ng/dscm	0.0075	ng/dscm	01/10/2013
	Cadmium	0.0014	mg/dscm	**	mg/dscm	**
	Hydrogen Chloride	3	ppmv	**	ppmv	**
	Mercury ^d	0.011	mg/dscm	1.25E-4	lbs/ton	2015 ^e
	Nitrogen Oxides	630	ppmv	2.3	lbs/ton	06/21/2016
	Lead	0.014	mg/dscm	**	mg/dscm	**
	Particulate Matter ^f	13.5	mg/dscm	0.034	lbs/ton	03/25/2014
	Sulfur Dioxide	600	ppmv	0.003	lbs/ton	06/12/2016

^a Emission Standards are from the CISWI Emission Guidelines for the Waste-Burning Kiln subcategory.

^b Concentration-based emission rates are expressed at 7 percent oxygen, dry basis.

^c Or an alternative D/F emission standard of 1.3 ng/dscm on a total mass basis.

^d Florida has promulgated an equivalent production-based mercury emission limit of 58 pounds of mercury per million tons of clinker as an alternative limit authorized by 40 C.F.R. § 60.2515(b).

^e Calculated by mass balance for calendar year divided by clinker production.

^f Total particulate matter.

**Unit has not been required to test for this specific pollutant.

“ppmv” means parts per million, by volume.

“ng/dscm” means nanograms per dry standard cubic meter.

“mg/dscm” means milligrams per dry standard cubic meter.

“lbs/ton” means pounds per ton of clinker produced.

“TEQ” means toxic equivalency.

Facility Name	Pollutant	Emission Standard ^a		Emission Rate ^b		Test Date
Suwannee American Cement 1210465 Suwannee County	Carbon Monoxide	790	ppmv	2.26	lbs/ton	04/26/2016
	Dioxin/Furan (TEQ) ^c	0.075	ng/dscm	0.226	ng/dscm	10/06/2016
	Cadmium	0.0014	mg/dscm	**	mg/dscm	**
	Hydrogen Chloride	3	ppmv	0.32	ppmv	09/24/2013
	Mercury ^d	0.011	mg/dscm	7.1E-5	mg/dscm	2015 ^e
	Nitrogen Oxides	630	ppmv	1.9	lbs/ton	05/16/2013
	Lead	0.014	mg/dscm	**	mg/dscm	**
	Particulate Matter ^f	13.5	mg/dscm	0.01	lbs/ton	07/31/2015
	Sulfur Dioxide	600	ppmv	0.0019	lbs/ton	04/26/2016

^a Emission Standards are from the CISWI Emission Guidelines for the Waste-Burning Kiln subcategory.

^b Concentration-based emission rates are expressed at 7 percent oxygen, dry basis.

^c Or an alternative D/F emission standard of 1.3 ng/dscm on a total mass basis.

^d Florida has promulgated an equivalent production-based mercury emission limit of 58 pounds of mercury per million tons of clinker as an alternative limit authorized by 40 C.F.R. § 60.2515(b).

^e Calculated by mass balance for calendar year divided by clinker production.

^f Total particulate matter.

**Unit has not been required to test for this specific pollutant.

“ppmv” means parts per million, by volume.

“ng/dscm” means nanograms per dry standard cubic meter.

“mg/dscm” means milligrams per dry standard cubic meter.

“lbs/ton” pounds per ton of clinker produced.

“TEQ” means toxic equivalency.

Facility Name	Pollutant	Emission Standard ^a		Emission Rate ^b		Test Date
Taminco Inc. Unit 1 1130004 Santa Rosa County	Carbon Monoxide	35	ppmv	**	ppmv	**
	Dioxin/Furan (TEQ) ^c	0.32	ng/dscm	**	ng/dscm	**
	Cadmium	0.023	mg/dscm	**	mg/dscm	**
	Hydrogen Chloride	14	ppmv	**	ppmv	**
	Mercury	0.0024	mg/dscm	**	mg/dscm	**
	Nitrogen Oxides	76	ppmv	**	ppmv	**
	Lead	0.096	mg/dscm	**	mg/dscm	**
	Particulate Matter ^d	110	mg/dscm	**	mg/dscm	**
	Sulfur Dioxide	720	ppmv	**	ppmv	**

^a Emission Standards are from the CISWI Emission Guidelines for the Energy Recovery Unit (ERU) liquids/gas subcategory.

^b Concentration-based emission rates are expressed at 7 percent oxygen, dry basis.

^c Or an alternative D/F emission standard of 2.9 ng/dscm on a total mass basis.

^d Total particulate matter.

**Unit has not been required to test for this specific pollutant.

“ppmv” means parts per million, by volume.

“ng/dscm” means nanograms per dry standard cubic meter.

“mg/dscm” means milligrams per dry standard cubic meter.

“TEQ” means toxic equivalency.

Facility Name	Pollutant	Emission Standard ^a		Emission Rate ^b		Test Date
American Cement Company LLC. Kiln EU 03 1190042 Sumter County	Carbon Monoxide	790	ppmv	145	lbs/hr	10/15/2013
	Dioxin/Furan (TEQ) ^c	0.075	ng/dscm	0.014	ng/dscm	06/23/2015
	Cadmium	0.0014	mg/dscm	**	mg/dscm	**
	Hydrogen Chloride	3	ppmv	**	ppmv	**
	Mercury ^d	0.011	mg/dscm	ND	ug/dscm	09/24/2015
	Nitrogen Oxides	630	ppmv	165	ppmv	02/24/2016
	Lead	0.014	mg/dscm	**	mg/dscm	**
	Particulate Matter ^e	13.5	mg/dscm	0.003	gr/dscf	02/09/2016
	Sulfur Dioxide	600	ppmv	0.09	lbs/hr	09/16/2016

^a Emission Standards are from the CISWI Emission Guidelines for the Waste-Burning Kiln subcategory.

^b Concentration-based emission rates are expressed at 7 percent oxygen, dry basis.

^c Or an alternative D/F emission standard of 1.3 ng/dscm on a total mass basis.

^d Florida has promulgated an equivalent production-based mercury emission limit of 58 pounds of mercury per million tons of clinker as an alternative limit authorized by 40 C.F.R. § 60.2515(b).

^e Total particulate matter.

**Unit has not been required to test for this specific pollutant.

“ppmv” means parts per million, by volume.

“ng/dscm” means nanograms per dry standard cubic meter.

“mg/dscm” means milligrams per dry standard cubic meter.

“ug/dscm” means micrograms per dry standard cubic meter.

“lbs/hr” means pounds per hour.

“gr/dscf” means grains per dry standard cubic foot.

“TEQ” means toxic equivalency.

“ND” means below detection limit.

State Administrative Materials - Chapter 62-204.800, F.A.C. (Fast-Track Adoption)
Notice of Proposed Rule (September 1, 2016)

Florida Administrative Register

Volume 42, Number 171, September 1, 2016

VPK provider. A coalition shall may execute and retain this Contract electronically in compliance with Section 668.50, F.S., The Uniform Electronic Transaction Act.

(7) Neither a coalition nor a VPK provider may omit, supplement, or amend the terms and conditions of the ~~Voluntary Prekindergarten Provider Contract or~~ Neither a coalition nor a VPK provider may include any attachments, addenda, or exhibits to the ~~Voluntary Prekindergarten Provider Contract except described in this subsection.~~ "State of Florida Statewide Voluntary Prekindergarten Provider Contract Private Provider Attachment (Form OEL-VPK 20PP)" and "State of Florida Statewide Voluntary Prekindergarten Provider Contract Public School Attachment (Form OEL-VPK 20PS)" are approved attachments to the provider contract. The coalition and VPK provider may agree to amend the provider contract if the specific type of amendment is identified on Form OEL-VPK 20A (October 2016), titled Amendment to Statewide Voluntary Prekindergarten Provider Contract, which is hereby incorporated by reference. The incorporated form is available from the Office of Early Learning, 250 Marriott Drive, Tallahassee, FL 32399 or at _____. Form OEL-VPK 20A shall be executed by both the coalition and the VPK provider.

(8) For the purpose of this subsection "individual associated with a provider" means an individual or family member of an individual who, regardless of compensation, holds a management position, oversees the operations of a provider, or is an officer, shareholder, beneficial owner or member of the board of directors of a provider. A provider shall not be eligible to contract to offer the VPK program if any of the following circumstances apply:

(a) The provider is on the United States Department of Agriculture National Disqualified List;

(b) An individual associated with the provider was or is associated with another provider that is on the United States Department of Agriculture National Disqualified List;

(c) The provider has been terminated from participation in the program due to fraud and is currently not eligible to participate in the VPK program; or

(d) An individual associated with the provider was or is associated with another provider that has been terminated from participation in the program due to fraud and is currently not eligible to participate in the VPK program.

(9) Transfer of ownership. In the event of a change of ownership, sale, sale of assets, conveyance of ownership or other transfer of ownership interest, the provider shall notify the coalition no later than 30 calendar days prior to the transfer of ownership. The coalition and the new owner shall execute a new contract for VPK services, provided the new owner

meets the eligibility requirements of Sections 1002.55, 1002.61, and 1002.63, F.S., and is not disqualified from contracting pursuant to subsection (8) of this rule.

(10) Form OEL-VPK 20B (October 2016), titled VPK Logotype Usage and Brand Guidelines, is hereby incorporated by reference. The incorporated form is available from the Office of Early Learning, 250 Marriott Drive, Tallahassee, FL 32399 or at

_____ Rulemaking Authority 1001.213, 1002.75, 1002.79 FS. Law Implemented 1002.55(3)(i), 1002.61(3)(b), 1002.63(3)(b), 1002.75(1), 1002.91(5), (7) FS. History—New 8-17-06, Amended 5-24-07, 12-21-10, Formerly 60BB-8.301, Amended 4-9-15, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Tara Huls, Bureau Chief, Voluntary Prekindergarten Education Program

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Rodney J. MacKinnon, Executive Director

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 29, 2016

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: August 8, 2016

DEPARTMENT OF ENVIRONMENTAL PROTECTION
Division of Air Resource Management

RULE NOS.: 62-204.340
RULE TITLES: Designation of Attainment, Nonattainment, and Maintenance Areas

62-204.500
62-204.800
Conformity
Federal Regulations Adopted by Reference

PURPOSE AND EFFECT: Pursuant to Executive Orders 11-01, 11-72 and 11-211, which require the Department to identify and revise rules that are unnecessary, unnecessarily burdensome, or duplicative, the Department is proposing to revise Rules 62-204.340, 62-204.500, and 62-204.800, F.A.C. The revisions will clarify and update references to area designations for National Ambient Air Quality Standards, update citations to the Code of Federal Regulations relating to conformity, amend Florida's Commercial Industrial Solid Waste Incinerator (CISWI) regulations to provide for an equivalent alternative production-based emission limit, and incorporate by reference the conformity regulations cited in Rule 62-204.500, F.A.C.

SUMMARY: The proposed rule amendments address air pollution control general provisions.

OTHER RULES INCORPORATING RULE 62-204.340, F.A.C.: 62-210.200, 62-212.500, 62-252.300, 62-296.418, and 62-296.500, F.A.C.

OTHER RULES INCORPORATING RULE 62-204.500, F.A.C.: None.

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OTHER RULES INCORPORATING RULE 62-204.800, F.A.C.: 62-204.500, 62-210.200, 62-210.300, 62-210.310, 62-310.350, 62-210.360, 62-210.370, 62-212.300, 62-212.400, 62-212.500, 62-212.720, 62-213.412, 62-213.420, 62-213.440, 62-214.100, 62-214.320, 62-214.330, 62-214.350, 62-214.360, 62-214.370, 62-214.420, 62-214.430, 62-256.700, 62-257.200, 62-257.301, 62-285.421, 62-296.100, 62-296.320, 62-296.340, 62-296.401, 62-296.402, 62-296.403, 62-296.404, 62-296.405, 62-296.408, 62-296.409, 62-296.410, 62-296.412, 62-296.414, 62-296.415, 62-296.416, 62-296.470, 62-296.501, 62-296.502, 62-296.503, 62-296.504, 62-296.505, 62-296.506, 62-296.507, 62-296.508, 62-296.510, 62-296.511, 62-296.512, 62-296.513, 62-296.514, 62-296.515, 62-296.516, 62-296.570, 62-296.600, 62-296.602, 62-296.603, 62-296.604, 62-296.701, 62-296.702, 62-296.703, 62-296.704, 62-296.705, 62-296.706, 62-296.707, 62-296.708, 62-296.709, 62-296.710, 62-296.711, 62-296.712, 62-297.310, 62-297.320, and 62-297.450, F.A.C.

EFFECT ON THOSE OTHER RULES: The revisions to Rule 62-204.340, F.A.C., will affect the applicability of Rule 62-212.500, F.A.C., in specified areas of the state designated as nonattainment in 40 CFR Part 81, §81.310, as adopted and incorporated by reference in Rule 62-204.800, F.A.C. The revisions to Rule 62-204.800, F.A.C., will have no effect on any of the other rules that reference it.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The Department has determined that amendment of this rule will not have an adverse impact on small business or likely increase regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. The Department has not prepared a statement of estimated regulatory costs (SERC). The Department has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs, or, if no SERC is required, the information expressly relied upon and described herein: The Department has determined that the amendments to these rules update and clarify obsolete or unnecessary rule language and will not increase regulatory costs for any entity. Additionally, the establishment of an equivalent alternative emission limit in Florida's CISWI rules will not increase regulatory costs. Any person who wishes to provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 403.061, FS.

LAW IMPLEMENTED: 403.021, 403.031, 403.061, 403.087, 403.0872, FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW. (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: SEPTEMBER 26, 2016, 10:00 a.m.

PLACE: Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida, Conference Room 609

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Terri Long, (850)717-9023, E-mail: Terri.Long@dep.state.fl.us.

If you are hearing or speech impaired, please contact the agency by using the Florida Relay Service, 1 (800) 955-8771 (TDD) or 1 (800) 955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Cindy Phillips, Florida Department of Environmental Protection, Division of Air Resource Management, 2600 Blair Stone Road, MS 5500, Tallahassee, Florida 32399-2400, Telephone: (850)717-9098, E-mail: Cindy.Phillips@dep.state.fl.us.

THE FULL TEXT OF THE PROPOSED RULE IS:

62-204.340 Designation of Attainment, Nonattainment, Unclassifiable, and Maintenance Areas.

(1) Designation of Areas Meeting Ambient Air Quality Standards (Attainment Areas). As designated in 40 CFR Part 81, §81.310, and as adopted and incorporated by reference in Rule 62-204.800, F.A.C.

~~(a) All of the state except those areas designated as nonattainment under paragraph 62-204.340(2)(a), F.A.C., is designated as attainment for the air pollutant ozone.~~

~~(b) All of the state except those areas designated as nonattainment under paragraph 62-204.340(2)(b), F.A.C., or as unclassifiable under paragraph 62-204.340(3)(a), F.A.C., is designated as attainment for the air pollutant PM₁₀.~~

~~(c) All of the state except those areas designated as nonattainment under paragraph 62-204.340(2)(c), F.A.C., or as unclassifiable under paragraph 62-204.340(3)(b), F.A.C., is designated as attainment for the air pollutant sulfur dioxide.~~

~~(d) All of the state except those areas designated as nonattainment under paragraph 62-204.340(2)(d), F.A.C., is designated as attainment for the air pollutant carbon monoxide.~~

~~(e) All of the state except those areas designated as nonattainment under paragraph 62-204.340(2)(e), F.A.C., is designated as attainment for the air pollutant nitrogen dioxide.~~

(2) Designation of Areas Not Meeting Ambient Air Quality Standards (Nonattainment Areas). As designated in 40 CFR Part 81, §81.310, and as adopted and incorporated by reference in Rule 62-204.800, F.A.C.

~~(a) Ozone Nonattainment Areas. (Reserved).~~

~~(b) PM₁₀ Nonattainment Areas. (Reserved).~~

~~(e) Sulfur Dioxide Nonattainment Areas. (Reserved).~~
~~(d) Carbon Monoxide Nonattainment Areas. (Reserved).~~
~~(e) Nitrogen Dioxide Nonattainment Areas. (Reserved).~~
~~(f) Lead nonattainment Areas. (Reserved).~~
~~(g) As soon as practicable after notice of redesignation is published by the U. S. Environmental Protection Agency in the Federal Register, the Department shall publish notice of the effective date of redesignation in the Florida Administrative Register Weekly and a newspaper of general circulation in each county affected by the redesignation.~~

(3) Designation of Areas Which Cannot Be Classified as Attainment or Nonattainment (Unclassifiable Areas). As designated in 40 CFR Part 81, §81.310, and as adopted and incorporated by reference in Rule 62-204.800, F.A.C.

~~(a) All of the state except those areas designated as nonattainment under paragraph 62-204.340(2)(b), F.A.C., is designated as unclassifiable for the air pollutant PM₁₀.~~

~~(b) The following areas are designated as unclassifiable for the pollutant sulfur dioxide.~~

- ~~1. Duval County.~~
- ~~2. Escambia County.~~
- ~~3. Hillsborough County.~~
- ~~4. The Southwest corner of Pasco County.~~

~~(e) All of the state except those areas designated as nonattainment under Rule 62-204.340, F.A.C., is designated as unclassifiable for the air pollutant lead.~~

~~(4) No change.~~

~~Rulemaking Authority 403.061 FS. Law Implemented 403.021, 403.031, 403.061, 403.087 FS. History--New 3-13-96, Amended -~~

62-204.500 Conformity.

(1) General Conformity. The provisions of this rule apply to state review of all federal general conformity determinations submitted to the state pursuant to 40 C.F.R. Part ~~93~~⁵¹, Subpart ~~BW~~^{BW}, adopted and incorporated by reference at Rule 62-204.800, F.A.C. Pursuant to 40 C.F.R. Part ~~93~~⁵¹, Subpart ~~BW~~^{BW}, federal agencies are required to make conformity determinations to ensure that certain federal actions are consistent with the State Implementation Plan.

(a) Definitions. ~~In addition to the definitions in Rule 62-204.200, F.A.C.,~~ the definitions used in reviewing federal general conformity determinations shall be the definitions in 40 C.F.R. Part 93, §93.152, adopted and incorporated by reference at Rule 62-204.800, F.A.C. 51-852.

(b) Criteria. The criteria for reviewing federal general conformity determinations shall be the criteria in 40 C.F.R. Part 93, §93.158, adopted and incorporated by reference at Rule 62-204.800, F.A.C. 51-858.

(c) Procedures. The procedures for reviewing federal general conformity determinations shall be the procedures in

40 C.F.R. Part 93, §93.159, adopted and incorporated by reference at Rule 62-204.800, F.A.C. 51-859.

(d) No change.

(2) No change.

Rulemaking Authority 403.061 FS. Law Implemented 403.031, 403.061 FS. History--New 11-30-94, Amended 3-13-96, 3-23-97, 9-1-98, _____.

62-204.800 Federal Regulations Adopted by Reference.

All federal regulations cited throughout the air pollution rules of the Department are adopted and incorporated by reference in this rule. The purpose and effect of each such federal regulation is determined by the context in which it is cited. Procedural and substantive requirements in the incorporated federal regulations are binding as a matter of state law only where the context so provides.

(1) through (8) No change.

(9) Title 40, Code of Federal Regulations, Part 60, Emission Guidelines and Compliance Times.

(a) through (e) No change.

(f) Commercial and Industrial Solid Waste Incineration (CISWI) Units. 40 C.F.R. Part 60, Subpart DDDD, Emission Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units that Commenced Construction on or Before June 4, 2010, revised as of July 1, 2009, amended February 7, 2013, at 78 FR 9112 (<https://www.flrules.org/gateway/reference.asp?No=Ref-03695>), amended June 23, 2016, at 81 FR 40956 ([link](#)), is hereby adopted and incorporated by reference subject to the following provisions (all cross-references to 40 CFR 63 Subpart LLL [40 C.F.R. 63.1340 through 1359], as amended February 12, 2013, at 78 FR 10005, as amended July 27, 2015, at 80 FR 44771, are adopted and incorporated by reference at Paragraph 62-204.800(11)(b), F.A.C.):

1. through 4. No change.

5. Emission Limitations and Operating Limits. The emission limitations and operating limits applicable to each CISWI unit subject to paragraph 62-204.800(9)(f), F.A.C., shall be the same as set forth in 40 C.F.R. §§ 60.2670 through 60.2685, except that a unit in the waste-burning kiln subcategory may instead comply with an alternative production-based mercury emission limit of 58 pounds of mercury per million tons of clinker as specified in Table 4 as published February 7, 2013 at 78 FR 9112, 9122 (<https://www.flrules.org/gateway/reference.asp?No=Ref-03695>).

6. Performance Testing. The performance testing requirements applicable to each CISWI unit subject to paragraph 62-204.800(9)(f), F.A.C., shall be the same as set forth in 40 C.F.R. §§ 60.2690 and through 60.2695.

7. Initial Compliance Requirements. The initial compliance requirements applicable to each CISWI unit subject to paragraph 62-204.800(9)(f), F.A.C., shall be the same as set forth in 40 C.F.R. §§ 60.2700 through 60.2706, except that a waste-burning kiln complying with the alternative production-based mercury emission limit in subparagraph 62-204.800(9)(f)5., F.A.C., must demonstrate initial compliance pursuant to 40 C.F.R. § 63.1348(a)(5). The initial compliance test must begin on the first operating day following completion of the field testing and data collection that demonstrates that the continuous emissions monitoring system has satisfied the relevant performance acceptance criteria of Performance Specifications 12A or 12B in 40 C.F.R. 60 Appendix B. The notification required by 40 C.F.R. § 60.2760 shall also include notification of whether an owner or operator of a unit in the waste-burning kiln subcategory intends to comply with the alternative production-based mercury emission limit in subparagraph 62-204.800(9)(f)5., F.A.C.

8. Continuous Compliance Requirements. The continuous compliance requirements applicable to each CISWI unit subject to paragraph 62-204.800(9)(f), F.A.C., shall be the same as set forth in 40 C.F.R. §§ 60.2710 through 60.2725, except that a waste-burning kiln complying with the alternative production-based mercury emission limit in subparagraph 62-204.800(9)(f)5., F.A.C., must demonstrate continuous compliance with this alternative limit pursuant to the procedures of 40 C.F.R. § 63.1348(b)(7), and 40 C.F.R. § 63.1349(b)(5).

9. Monitoring. The monitoring requirements applicable to each CISWI unit subject to paragraph 62-204.800(8)(f), F.A.C., shall be the same as set forth in 40 C.F.R. §§ 60.2730 and through 60.2735. A unit in the waste-burning kiln subcategory complying with the alternative production-based mercury emission limit in subparagraph 62-204.800(9)(f)5., F.A.C., must also monitor mercury pursuant to 40 C.F.R. 63.1350(k), the clinker production rate pursuant to 40 C.F.R. § 63.1350(d), and the flow rate pursuant to 40 C.F.R. § 63.1350(n). An owner of a waste burning kiln is not required to develop an emissions monitoring plan pursuant to 40 C.F.R. § 63.1350(p)(1) through (p)(4) if the owner prepares the emissions monitoring plan required pursuant to 40 CFR § 60.2710(k) and (l).

10. Recordkeeping and Reporting Requirements. The recordkeeping and reporting requirements applicable to each CISWI unit subject to paragraph 62-204.800(9)(f), F.A.C., shall be the same as set forth in 40 C.F.R. §§ 60.2740 through 60.2800. Units in the waste-burning kiln subcategory complying with the alternative production-based mercury emission limit in subparagraph 62-204.800(9)(f)5., F.A.C., must also keep records of all data collected from the

continuous flow rate monitoring system required by 40 C.F.R. § 63.1350(n), all data collected from the clinker production monitoring system required by 40 C.F.R. § 63.1350(d), and all calculated 30-operating day rolling average values derived from the mercury monitoring system. Units in the waste-burning kiln subcategory complying with the alternative production-based mercury emission limit in subparagraph 62-204.800(9)(f)5., F.A.C., must also report all deviations from the alternative production-based mercury limit in accordance with 40 C.F.R. §§ 60.2740 through 60.2800.

11. through 12. No change.

13. Definitions. The definitions applicable to each CISWI unit subject to paragraph 62-204.800(9)(f), F.A.C., shall be the same as set forth in 40 C.F.R. §60.2875. For purposes of paragraph 62-204.800(9)(f), F.A.C., the definition of the term administrator means the department, except that the EPA is the administrator for purposes of 40 C.F.R. § 60.2030(c). The terms used but not defined in 40 C.F.R. Part 60, Subpart DDDD, have the meaning given to them in the Clean Air Act and in 40 C.F.R. Part 60, Subparts A, B, and CCCC. For units in the waste-burning kiln subcategory complying with the alternative production-based mercury emission limit in subparagraph 62-204.800(9)(f)5., F.A.C., the term operating day in 40 C.F.R. § 63.1348(a)(5), 40 C.F.R. § 63.1348(b)(7) and 40 C.F.R. § 63.1349(b)(5) means any 24-hour period beginning at 12:00 midnight during which the kiln produces any amount of clinker.

(g) through (h) No change.

(10) through (25) No change.

(26) Title 40, Code of Federal Regulations, Part 93, Determining Conformity of Federal Actions to State or Federal Implementation Plans. The following subparts of 40 C.F.R. Part 93, revised as of July 1, 2015 (link), or later as specifically indicated, are adopted and incorporated by reference. The provisions of 40 C.F.R. 93, Subpart A, Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws, revised as of July 1, 2001; amended August 6, 2002, at 67 FR 50808, are adopted and incorporated by reference.

(a) 40 C.F.R. 93, Subpart A, Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws.

(b) 40 C.F.R. Part 93, Subpart B, Determining Conformity of General Federal Actions to State or Federal Implementation Plans.

(27) No change.

Rulemaking Authority 403.061, 403.8055 FS. Law Implemented 403.031, 403.061, 403.087, 403.0872, 403.8055 FS. History—New 3-

13-96, Amended 6-25-96, 10-7-96, 10-17-96, 12-20-96, 4-18-97, 6-18-97, 7-7-97, 10-3-97, 12-10-97, 3-2-98, 4-7-98, 5-20-98, 6-8-98, 10-19-98, 4-1-99, 7-1-99, 9-1-99, 10-1-99, 4-1-00, 10-1-00, 1-1-01, 8-1-01, 10-1-01, 4-1-02, 7-1-02, 10-1-02, 1-1-03, 4-1-03, 10-1-03, 1-1-04, 4-1-04, 7-1-04, 10-1-04, 1-1-05, 4-1-05, 7-1-05, 10-1-05, 1-1-06, 4-1-06, 7-1-06, 9-4-06, 9-6-06, 1-8-07, 1-31-07, 4-2-07, 5-31-07, 7-2-07, 10-1-07, 2-1-08, 7-1-08, 10-1-08, 10-6-08, 12-1-08, 11-18-09, 6-11-10, 7-1-10, 10-1-10, 12-30-10, 12-1-11, 12-1-12, 5-22-13, 12-17-13, 1-24-14, 1-14-15, 1-7-16, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Cindy Phillips, Division of Air Resource Management
NAME OF AGENCY HEAD WHO APPROVED THE
PROPOSED RULE: Jonathan P. Steverson, Secretary
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: August 22, 2016
DATE OF NOTICE OF PROPOSED RULE
DEVELOPMENT PUBLISHED IN FAR: June 8, 2016

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
Division of Air Resource Management**

RULE NOS.:	RULE TITLES:
62-210.700	Excess Emissions
62-210.710	Emission Limits During Transient Modes of Operation

PURPOSE AND EFFECT: The purpose of this proposed rule is to add a new rule section to Chapter 62-210, F.A.C., and to revise specified provisions of Rule 62-210.700, F.A.C. Promulgation of these rules is intended to meet the legal requirements of the United States Environmental Protection Agency's Notice of Final Rule published in the Federal Register on June 12, 2015 (80 FR 33840). EPA's Final Rule has been challenged in the D.C. Circuit Court of Appeals by multiple states, including the State of Florida, in *Walter Coke, Inc. v. U.S. EPA*, USCA Case No. 15-1166.

SUMMARY: The proposed rule amendments address emission limitations during transient operating conditions at regulated facilities, including periods of startup, shutdown, and malfunction.

OTHER RULES INCORPORATING RULE 62-210.700
F.A.C.: 62-110.107, 62-212.720, 62-213.440, 62-296.401, 62-296.404, 62-296.570, 62-296.702, and 62-297.310, F.A.C.

OTHER RULES INCORPORATING RULE 62-210.710,
F.A.C.: None

EFFECT ON THOSE OTHER RULES: The effect of the revisions in Rule 62-210.700, F.A.C., will be to incorporate those changes as intended by the cross reference.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The Department has determined that this rulemaking will not have an adverse impact on small business or likely increase regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A statement of estimated

regulatory costs (SERC) has not been prepared by the Department. The Department has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs, or, if no SERC is required, the information expressly relied upon and described herein: Based on the Department's analysis, the Department has determined that this rulemaking will not increase regulatory costs for any small business and will only have a small regulatory cost for facilities that choose to prepare an air construction permit application pursuant to Rule 62-210.710, F.A.C. The Department estimates that the regulatory cost for these facilities will be less than \$200,000 in the first year of implementation. Any person who wishes to provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 403.061, FS.
LAW IMPLEMENTED: 403.021, 403.031, 403.061, 403.087, FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW. (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):
DATE AND TIME: SEPTEMBER 26, 2016, 10:00 a.m.

PLACE: Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida, Conference Room 609

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Terri Long, (850)717-9023, E-mail: Terri.Long@dep.state.fl.us. If you are hearing or speech impaired, please contact the agency by using the Florida Relay Service, 1 (800)955-8771 (TDD) or 1 (800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Preston McLane, Florida Department of Environmental Protection, Division of Air Resource Management, 2600 Blair Stone Road, MS 5500, Tallahassee, Florida 32399-2400, Telephone: (850)717-9089, E-mail: Preston.McLane@dep.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

62-210.700 Excess Emissions.

(1) Excess emissions resulting from startup, shutdown or malfunction of any emissions unit shall be permitted provided ~~providing~~ (1) best-operational practices to minimize emissions are adhered to and (2) the duration of excess emissions shall be minimized but in no case exceed two hours in any 24-hour period unless specifically authorized by the Department for longer duration. Excess emissions that are caused entirely or in part by poor maintenance, poor operation, or any other

Rule Certification Package (October 3, 2016)



**Florida Department of
Environmental Protection**

Bob Martinez Center
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Rick Scott
Governor

Carlos Lopez-Cantera
Lt. Governor

Jonathan P. Steverson
Secretary

October 3, 2016

Mr. Ernest Reddick
Program Administrator
Administrative Code and Register
500 South Bronough Street, Room 101
Tallahassee, Florida 32399-0250

FILED
OCT 03 2016
TALLAHASSEE, FLORIDA

Re: Certification Package for Rules 62-204.340, 62-204.500, and 62-204.800, F.A.C.
OGC No: 15-0546

Dear Mr. Reddick:

Attached is the certification package for Rules 62-204.340, 62-204.500 and 62-204.800, F.A.C. I am the attorney handling this matter and if you have any questions please contact me at 245-2194, Benjamin.Melnick@dep.state.fl.us, or by mail at Department of Environmental Protection, Office of General Counsel, MS 35, 3900 Commonwealth Blvd., Tallahassee, Florida 32399-3000. Or you may also contact Preston McLane at 717-9089, Preston.McLane@dep.state.fl.us, or by mail at Department of Environmental Protection, Division of Air Resource Management, 2600 Blair Stone Road, MS 5500, Tallahassee, Florida 32399.

Sincerely,

A handwritten signature in blue ink that reads "Benjamin M. Melnick".

Benjamin M. Melnick
Assistant General Counsel

CERTIFICATION OF DEPARTMENT OF ENVIRONMENTAL PROTECTION
ADMINISTRATIVE RULES FILED WITH THE DEPARTMENT OF STATE

2013 OCT -9 PM 1:13
FILED

I hereby certify:

- (1) That all statutory rulemaking requirements of Chapter 120, F.S., and all rulemaking requirements of the Department of State have been complied with; and
- (2) That there is no administrative determination under Section 120.56(2), F.S., pending on any rule covered by this certification; and
- (3) All rules covered by this certification are filed within the prescribed time limitations of Section 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by Section 120.54(3)(a), F.S., and
 - (a) Are filed not more than 90 days after the notice; or
 - (b) Are filed more than 90 days after the notice, but not more than 60 days after the administrative law judge files the final order with the clerk or until 60 days after subsequent judicial review is complete; or
 - (c) Are filed more than 90 days after the notice, but not less than 21 days nor more than 45 days from the date of publication of the notice of change; or
 - (d) Are filed more than 90 days after the notice, but not less than 14 nor more than 45 days after the adjournment of the final public hearing on the rule; or
 - (e) Are filed more than 90 days after the notice, but within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or
 - (f) Are filed more than 90 days after the notice, but within 21 days after the date the transcript was received by this agency; or
 - (g) Are filed not more than 90 days after the notice, not including days the adoption of the rule was postponed following notification from the Joint Administrative Procedures Committee that an objection to the rule was being considered; or
 - (h) Are filed more than 90 days after the notice, but within 21 days after a good faith written proposal for a lower cost regulatory alternative to a proposed rule is submitted which substantially accomplishes the objectives of the law being implemented; or
 - (i) Are filed more than 90 days after the notice, but within 21 days after a regulatory alternative is offered by the Small Business Regulatory Advisory Committee.

62-204.340 Designation of Attainment, Nonattainment, Unclassifiable, and Maintenance Areas.

(1) Designation of Areas Meeting Ambient Air Quality Standards (Attainment Areas). As designated in 40 C.F.R. Part 81, §81.310, and as adopted and incorporated by reference in Rule 62-204.800, F.A.C.

(a) All of the state except those areas designated as nonattainment under paragraph 62-204.340(2)(a), F.A.C., is designated as attainment for the air pollutant ozone.

(b) All of the state except those areas designated as nonattainment under paragraph 62-204.340(2)(b), F.A.C., or as unclassifiable under paragraph 62-204.340(3)(a), F.A.C., is designated as attainment for the air pollutant PM₁₀.

(c) All of the state except those areas designated as nonattainment under paragraph 62-204.340(2)(c), F.A.C., or as unclassifiable under paragraph 62-204.340(3)(b), F.A.C., is designated as attainment for the air pollutant sulfur dioxide.

(d) All of the state except those areas designated as nonattainment under paragraph 62-204.340(2)(d), F.A.C., is designated as attainment for the air pollutant carbon monoxide.

(e) All of the state except those areas designated as nonattainment under paragraph 62-204.340(2)(e), F.A.C., is designated as attainment for the air pollutant nitrogen dioxide.

(2) Designation of Areas Not Meeting Ambient Air Quality Standards (Nonattainment Areas). As designated in 40 C.F.R. Part 81, §81.310, and as adopted and incorporated by reference in Rule 62-204.800, F.A.C.

(a) ~~Ozone Nonattainment Areas. (Reserved).~~

(b) ~~PM₁₀ Nonattainment Areas. (Reserved).~~

(c) ~~Sulfur Dioxide Nonattainment Areas. (Reserved).~~

(d) ~~Carbon Monoxide Nonattainment Areas. (Reserved).~~

(e) ~~Nitrogen Dioxide Nonattainment Areas. (Reserved).~~

(f) ~~Lead nonattainment Areas. (Reserved).~~

(g) As soon as practicable after notice of redesignation is published by the U. S. Environmental Protection Agency in the Federal Register, the Department shall publish notice of the effective date of redesignation in the Florida Administrative ~~Register Weekly~~ and a newspaper of general circulation in each county affected by the redesignation.

(3) Designation of Areas Which Cannot Be Classified as Attainment or Nonattainment (Unclassifiable Areas). As designated in 40 C.F.R. Part 81, §81.310, and as adopted and incorporated by reference in Rule 62-204.800, F.A.C.

(a) All of the state except those areas designated as nonattainment under paragraph 62-204.340(2)(b), F.A.C., is designated as unclassifiable for the air pollutant PM₁₀.

(b) The following areas are designated as unclassifiable for the pollutant sulfur dioxide.

1. Duval County.
2. Escambia County.
3. Hillsborough County.
4. The Southwest corner of Pasco County.

(c) All of the state except those areas designated as nonattainment under Rule 62-204.340, F.A.C., is designated as unclassifiable for the air pollutant lead.

(4) No change.

Rulemaking Authority 403.061 FS. Law Implemented 403.021, 403.031, 403.061, 403.087 FS. History—New 3-13-96, Amended _____.

62-204.500 Conformity.

(1) General Conformity. The provisions of this rule apply to state review of all federal general conformity determinations submitted to the state pursuant to 40 C.F.R. Part ~~93.51~~, Subpart ~~BW~~, adopted and incorporated by reference at Rule 62-204.800, F.A.C. Pursuant to 40 C.F.R. Part ~~93.51~~, Subpart ~~BW~~, federal agencies are required to make conformity determinations to ensure that certain federal actions are consistent with the State Implementation Plan.

(a) Definitions. ~~In addition to the definitions in Rule 62-204.200, F.A.C.,~~ the definitions used in reviewing federal general conformity determinations shall be the definitions in 40 C.F.R. Part 93, §93.152, adopted and incorporated by reference at Rule 62-204.800, F.A.C. ~~51-852.~~

(b) Criteria. The criteria for reviewing federal general conformity determinations shall be the criteria in 40 C.F.R. Part 93, §93.158, adopted and incorporated by reference at Rule 62-204.800, F.A.C. ~~51-858.~~

(c) Procedures. The procedures for reviewing federal general conformity determinations shall be the procedures in 40 C.F.R. Part 93, §93.159, adopted and incorporated by reference at Rule 62-204.800, F.A.C. ~~51-859.~~

(d) No change.

(2) No change.

Rulemaking Authority 403.061 FS. Law Implemented 403.031, 403.061 FS. History—New 11-30-94, Amended 3-13-96, 3-23-97, 9-1-98, _____.

62-204.800 Federal Regulations Adopted by Reference.

All federal regulations cited throughout the air pollution rules of the Department are adopted and incorporated by reference in this rule. The purpose and effect of each such federal regulation is determined by the context in which it is cited. Procedural and substantive requirements in the incorporated federal regulations are binding as a matter of state law only where the context so provides.

(1) through (8) No change.

(9) Title 40, Code of Federal Regulations, Part 60, Emission Guidelines and Compliance Times.

(a) through (e) No change.

(f) Commercial and Industrial Solid Waste Incineration (CISWI) Units. 40 C.F.R. Part 60, Subpart DDDD, Emission Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units that Commenced Construction on or Before June 4, 2010, revised as of July 1, 2009, amended February 7, 2013, at 78 FR 9112 (<https://www.flrules.org/gateway/reference.asp?No=Ref-03695>), amended June 23, 2016, at 81 FR 40956 (<http://www.flrules.org/Gateway/reference.asp?No=Ref-07493>), is hereby adopted and incorporated by reference subject to the following provisions (all cross-references to 40 C.F.R. 63 Subpart LLL [40 C.F.R. 63.1340 through 1359], as amended February 12, 2013, at 78 FR 10005, as amended July 27, 2015, at 80 FR 44771, are adopted and incorporated by reference at Paragraph 62-204.800(11)(b), F.A.C.):

1. through 4. No change.

5. Emission Limitations and Operating Limits. The emission limitations and operating limits applicable to each CISWI unit subject to paragraph 62-204.800(9)(f), F.A.C., shall be the same as set forth in 40 C.F.R. §§ 60.2670 through 60.2685, except that a unit in the waste-burning kiln subcategory may instead comply with an alternative production-based mercury emission limit of 58 pounds of mercury per million tons of clinker as specified in Table 4 as published February 7, 2013 at 78 FR 9112, 9122 (<https://www.flrules.org/gateway/reference.asp?No=Ref-03695>).

6. Performance Testing. The performance testing requirements applicable to each CISWI unit subject to paragraph 62-204.800(9)(f), F.A.C., shall be the same as set forth in 40 C.F.R. §§ 60.2690 ~~and through~~ 60.2695.

7. Initial Compliance Requirements. The initial compliance requirements applicable to each CISWI unit subject to paragraph 62-204.800(9)(f), F.A.C., shall be the same as set forth in 40 C.F.R. §§ 60.2700 through 60.2706, except

that a waste-burning kiln complying with the alternative production-based mercury emission limit in subparagraph 62-204.800(9)(f)5., F.A.C., must demonstrate initial compliance pursuant to 40 C.F.R. § 63.1348(a)(5). The initial compliance test must begin on the first operating day following completion of the field testing and data collection that demonstrates that the continuous emissions monitoring system has satisfied the relevant performance acceptance criteria of Performance Specifications 12A or 12B in 40 C.F.R. 60 Appendix B. The notification required by 40 C.F.R. § 60.2760 shall also include notification of whether an owner or operator of a unit in the waste-burning kiln subcategory intends to comply with the alternative production-based mercury emission limit in subparagraph 62-204.800(9)(f)5., F.A.C.

8. Continuous Compliance Requirements. The continuous compliance requirements applicable to each CISWI unit subject to paragraph 62-204.800(9)(f), F.A.C., shall be the same as set forth in 40 C.F.R. §§ 60.2710 through 60.2725, except that a waste-burning kiln complying with the alternative production-based mercury emission limit in subparagraph 62-204.800(9)(f)5., F.A.C., must demonstrate continuous compliance with this alternative limit pursuant to the procedures of 40 C.F.R. § 63.1348(b)(7), and 40 C.F.R. § 63.1349(b)(5).

9. Monitoring. The monitoring requirements applicable to each CISWI unit subject to paragraph 62-204.800(8)(f), F.A.C., shall be the same as set forth in 40 C.F.R. §§ 60.2730 ~~and through 60.2735.~~ A unit in the waste-burning kiln subcategory complying with the alternative production-based mercury emission limit in subparagraph 62-204.800(9)(f)5., F.A.C., must also monitor mercury pursuant to 40 C.F.R. 63.1350(k), the clinker production rate pursuant to 40 C.F.R. § 63.1350(d), and the flow rate pursuant to 40 C.F.R. § 63.1350(n). An owner of a waste burning kiln is not required to develop an emissions monitoring plan pursuant to 40 C.F.R. § 63.1350(p)(1) through (p)(4) if the owner prepares the emissions monitoring plan required pursuant to 40 C.F.R. § 60.2710(k) and (l).

10. Recordkeeping and Reporting Requirements. The recordkeeping and reporting requirements applicable to each CISWI unit subject to paragraph 62-204.800(9)(f), F.A.C., shall be the same as set forth in 40 C.F.R. §§ 60.2740 through 60.2800. Units in the waste-burning kiln subcategory complying with the alternative production-based mercury emission limit in subparagraph 62-204.800(9)(f)5., F.A.C., must also keep records of all data collected from the continuous flow rate monitoring system required by 40 C.F.R. § 63.1350(n), all data collected from the clinker production monitoring system required by 40 C.F.R. § 63.1350(d), and all calculated 30-operating day rolling average values derived from the mercury monitoring system. Units in the waste-burning kiln subcategory complying with the alternative production-based mercury emission limit in subparagraph 62-204.800(9)(f)5., F.A.C., must also report all

deviations from the alternative production-based mercury limit in accordance with 40 C.F.R. §§ 60.2740 through 60.2800.

11. through 12. No change.

13. Definitions. The definitions applicable to each CISWI unit subject to paragraph 62-204.800(9)(f), F.A.C., shall be the same as set forth in 40 C.F.R. §60.2875. For purposes of paragraph 62-204.800(9)(f), F.A.C., the definition of the term administrator means the department, except that the EPA is the administrator for purposes of 40 C.F.R. § 60.2030(c). The terms used but not defined in 40 C.F.R. Part 60, Subpart DDDD, have the meaning given to them in the Clean Air Act and in 40 C.F.R. Part 60, Subparts A, B, and CCCC. For units in the waste-burning kiln subcategory complying with the alternative production-based mercury emission limit in subparagraph 62-204.800(9)(f)5., F.A.C., the term operating day in 40 C.F.R. § 63.1348(a)(5), 40 C.F.R. § 63.1348(b)(7) and 40 C.F.R. § 63.1349(b)(5) means any 24-hour period beginning at 12:00 midnight during which the kiln produces any amount of clinker.

(g) through (h) No change.

(10) through (25) No change.

(26) Title 40, Code of Federal Regulations, Part 93, Determining Conformity of Federal Actions to State or Federal Implementation Plans. The following subparts of 40 C.F.R. Part 93, revised as of July 1, 2015 (<http://www.flrules.org/Gateway/reference.asp?No=Ref-07494>), or later as specifically indicated, are adopted and incorporated by reference. The provisions of 40 C.F.R. 93, Subpart A, Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws, revised as of July 1, 2001; amended August 6, 2002, at 67 FR 50808, are adopted and incorporated by reference.

(a) 40 C.F.R. Part 93, Subpart A, Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws.

(b) 40 C.F.R. Part 93, Subpart B, Determining Conformity of General Federal Actions to State or Federal Implementation Plans.

(27) No Change.

Rulemaking Authority 403.061, 403.8055 FS. Law Implemented 403.031, 403.061, 403.087, 403.0872, 403.8055 FS.

History–New 3-13-96, Amended 6-25-96, 10-7-96, 10-17-96, 12-20-96, 4-18-97, 6-18-97, 7-7-97, 10-3-97, 12-10-97, 3-2-98, 4-7-98, 5-20-98, 6-8-98, 10-19-98, 4-1-99, 7-1-99, 9-1-99, 10-1-99, 4-1-00, 10-1-00, 1-1-01, 8-1-01, 10-1-01, 4-1-02, 7-1-02, 10-1-02, 1-1-03, 4-1-03, 10-1-03, 1-1-04, 4-1-04, 7-1-04, 10-1-04, 1-1-05, 4-1-05, 7-1-05, 10-1-05, 1-1-06, 4-1-06, 7-1-06, 9-4-06, 9-6-06, 1-8-07, 1-31-07, 4-2-07, 5-31-07, 7-2-07, 10-1-07, 2-1-08, 7-1-08, 10-1-08, 10-6-08, 12-1-08, 11-18-09, 6-11-10, 7-1-10, 10-1-10, 12-30-10, 12-1-11, 12-1-12, 5-22-13, 12-17-13, 1-24-14, 1-14-15, 1-7-16,_____.

DETAILED STATEMENT OF FACTS AND CIRCUMSTANCES

JUSTIFYING PROPOSED RULE

Re: Rules 62-204.340, 62-204.500, and 62-204.800, Florida Administrative Code (F.A.C.)

Notice of Proposed Rulemaking: September 1, 2016

OGC No.: 15-0546

Project: Air Pollution Control – General Provisions

RECEIVED
DEPARTMENT OF ENVIRONMENTAL PROTECTION
OCT 11 11 16 19
TALLAHASSEE, FLORIDA

Introduction

Pursuant to Executive Orders 11-01, 11-72 and 11-211, which require the Department to identify and revise rules that are unnecessary, unnecessarily burdensome, or duplicative, the Department is proposing to revise two rule sections from Chapter 62-204, F.A.C. (Air Pollution Control – General Provisions): Rule 62-204.340, F.A.C. (Designation of Attainment, Nonattainment, and Maintenance Areas), and Rule 62-204.500, F.A.C. (Conformity). These revisions will update and revise outdated area designations and clarify language regarding general conformity. In addition, the Department is proposing to revise Rule 62-204.800, F.A.C. (Federal Regulations Adopted by Reference), to amend Florida's Commercial Industrial Solid Waste Incinerator (CISWI) rule to provide for an equivalent alternative production-based mercury emission limit for units in the waste-burning kiln subcategory.

Need for Rule Change

The federal National Ambient Air Quality Standards (NAAQS) designations of Attainment, Nonattainment, and Unclassifiable for Florida have been reflected, for convenience, in Rule 62-204.340, F.A.C. However, because of the lag time between the U.S. Environmental Protection Agency's (EPA's) changing of the area designations and the Department's subsequent amending of Rule 62-204.340, F.A.C., the Department believes that it would more efficient to directly cite the federal designations as found in 40 C.F.R. Part 81, §81.310, and as adopted and incorporated by reference in Rule 62-204.800, F.A.C.

The citations to federal conformity rules in Rule 62-204.500, F.A.C., have become outdated and needed to be revised to reflect the federal transfer of conformity requirements from 40 C.F.R. Part 51 Subpart W, *Determining Conformity of General Federal Actions to State or Federal Implementation Plans*, to 40 C.F.R. Part 93 Subpart B, *Determining Conformity of General Federal Actions to State or Federal Implementation Plans*. Because of this federal citation revision, 40 C.F.R. Part 93 Subpart B will also be adopted and incorporated by reference into Rule 62-204.800, F.A.C.

The Division is also revising Rule 62-204.800, F.A.C., to provide an equivalent alternative production-based mercury emission limit for waste-burning kilns subject to Florida’s CISWI rules. EPA specified in its final CISWI rule that an alternative production-based mercury emission limit of 58 pounds of mercury per million tons of clinker is equivalent to the concentration-based limit for waste-burning kilns specified in the CISWI regulations. See 78 Fed. Reg. 9,112, 9,122 (February 7, 2013). EPA’s CISWI regulations provide that a state “may deviate from the format and content of the emission guidelines” provided that the state “demonstrate that [its] State plan is at least as protective as the emission guidelines contained in this subpart.” 40 C.F.R. 60.2515(b). Because EPA specified that a production-based mercury emission limit of 58 pounds per million tons of clinker is equivalent to the concentration-based emission limit in the CISWI rules, this proposed revision to Florida’s CISWI rules meets the requirements of 40 C.F.R. 60.2515(b). The revisions to Rule 62-204.800, F.A.C., also include monitoring and recordkeeping requirements to ensure compliance with the production-based limit.

Summary of Rule Amendments

The specific rule amendments are as follows:

Rule Number	Detailed Explanation
62-204.340	Rule 62-204.340, F.A.C., will be updated to reference the Code of Federal Regulations for air quality designations. This will revise references to now obsolete historic area designations for National Ambient Air Quality Standards (NAAQS) by incorporating references to the Nonattainment Area in Hillsborough County for the 2010 Sulfur Dioxide

	(SO ₂) NAAQS, the Nonattainment Area in Nassau County for the 2010 SO ₂ NAAQS, and the Nonattainment Area in Hillsborough County for the 2008 Lead NAAQS, and clarifying previous area designations for Hillsborough County, including removal of a previous Lead Nonattainment Area designation. Statutes implemented: 403.021, 403.031, 403.061, and 403.087, F.S.
62-204.500	Rule 62-204.500, F.A.C., will be revised to update obsolete Code of Federal Regulation citations and add clarifying general conformity language. Statutes implemented: 403.021, 403.031, 403.061, and 403.087, F.S.
62-204.800	Rule 62-204.800, F.A.C., will be revised to add an equivalent alternative production-based mercury emission limit for Commercial Industrial Solid Waste Incinerators in the waste-burning kiln subcategory. Revisions will include incorporating recordkeeping and reporting requirements in order for units to demonstrate compliance with the alternative production-based mercury emission limit and incorporating recent EPA revisions to 40 C.F.R. 60 Subpart DDDD (Emissions Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units). Rule 62-204.800, F.A.C., will also be updated to incorporate by reference 40 C.F.R. 93, which is referenced in the proposed changes to Rule 62-204.500, F.A.C. Statutes implemented: 403.021, 403.031, 403.061, and 403.087, F.S.

SUMMARY OF THE RULE

Pursuant to Executive Orders 11-01, 11-72 and 11-211, which require the Department to identify and revise rules that are unnecessary, unnecessarily burdensome, or duplicative, the Department is proposing to revise two rule sections from Chapter 62-204, F.A.C. (Air Pollution Control – General Provisions): Rule 62-204.340, F.A.C. (Designation of Attainment, Nonattainment, and Maintenance Areas), and Rule 62-204.500, F.A.C. (Conformity). These revisions will update and revise outdated area designations and clarify language regarding general conformity. In addition, the Department is proposing to revise Rule 62-204.800, F.A.C. (Federal Regulations Adopted by Reference), to amend Florida’s Commercial Industrial Solid Waste Incinerator (CISWI) rule to provide for an equivalent alternative production-based mercury emission limit for units in the waste-burning kiln subcategory.

The federal National Ambient Air Quality Standards (NAAQS) designations of Attainment, Nonattainment, and Unclassifiable for Florida have been reflected, for convenience, in Rule 62-204.340, F.A.C. However, because of the lag time between the U.S. Environmental Protection Agency’s (EPA’s) changing of the area designations and the Department’s subsequent amending of Rule 62-204.340, F.A.C., the Department believes that it would more efficient to directly cite the federal designations as found in 40 C.F.R. Part 81, §81.310, and as adopted and incorporated by reference in Rule 62-204.800, F.A.C.

The citations to federal conformity rules in Rule 62-204.500, F.A.C., have become outdated and needed to be revised to reflect the federal transfer of conformity requirements from 40 C.F.R. Part 51 Subpart W, Determining Conformity of General Federal Actions to State or Federal Implementation Plans, to 40 C.F.R. Part 93 Subpart B, Determining Conformity of General Federal Actions to State or Federal Implementation Plans. Because of this federal citation revision, 40 C.F.R. Part 93 Subpart B will also be adopted and incorporated by reference into Rule 62-204.800, F.A.C.

The Division is also revising Rule 62-204.800, F.A.C., to provide an equivalent alternative production-based mercury emission limit for waste-burning kilns subject to Florida’s CISWI rules. EPA specified in its final CISWI rule that an alternative production-based mercury emission limit of 58 pounds of mercury per million tons of clinker

is equivalent to the concentration-based limit for waste-burning kilns specified in the CISWI regulations. *See* 78 Fed. Reg. 9,112, 9,122 (February 7, 2013). EPA’s CISWI regulations provide that a state “may deviate from the format and content of the emission guidelines” provided that the state “demonstrate that [its] State plan is at least as protective as the emission guidelines contained in this subpart.” 40 C.F.R. 60.2515(b). Because EPA specified that a production-based mercury emission limit of 58 pounds per million tons of clinker is equivalent to the concentration-based emission limit in the CISWI rules, this proposed revision to Florida’s CISWI rules meets the requirements of 40 C.F.R. 60.2515(b). The revisions to Rule 62-204.800, F.A.C., also include monitoring and recordkeeping requirements to ensure compliance with the production-based limit.

Summary of Rule Amendments

The specific rule amendments are as follows:

Rule Number	Detailed Explanation
62-204.340	Rule 62-204.340, F.A.C., will be updated to reference the Code of Federal Regulations for air quality designations. This will revise references to now obsolete historic area designations for National Ambient Air Quality Standards (NAAQS) by incorporating references to the Nonattainment Area in Hillsborough County for the 2010 Sulfur Dioxide (SO ₂) NAAQS, the Nonattainment Area in Nassau County for the 2010 SO ₂ NAAQS, and the Nonattainment Area in Hillsborough County for the 2008 Lead NAAQS, and clarifying previous area designations for Hillsborough County, including removal of a previous Lead Nonattainment Area designation. Statutes implemented: 403.021, 403.031, 403.061, and 403.087, F.S.
62-204.500	Rule 62-204.500, F.A.C., will be revised to update obsolete Code of Federal Regulation citations and add clarifying general conformity language. Statutes implemented: 403.021, 403.031, 403.061, and 403.087, F.S.

62-204.800	Rule 62-204.800, F.A.C., will be revised to add an equivalent alternative production-based mercury emission limit for Commercial Industrial Solid Waste Incinerators in the waste-burning kiln subcategory. Revisions will include incorporating recordkeeping and reporting requirements in order for units to demonstrate compliance with the alternative production-based mercury emission limit and incorporating recent EPA revisions to 40 C.F.R. 60 Subpart DDDD (Emissions Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units). Rule 62-204.800, F.A.C., will also be updated to incorporate by reference 40 C.F.R. 93, which is referenced in the proposed changes to Rule 62-204.500, F.A.C. Statutes implemented: 403.021, 403.031, 403.061, and 403.087, F.S.
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SUMMARY OF THE HEARING

No timely request for hearing was received by the agency and no hearing was held.

MAINE
DEPARTMENT OF REVENUE
2018 OCT -3 PM 1:19
FILED

CERTIFICATION OF MATERIALS INCORPORATED

BY REFERENCE IN RULES FILED WITH THE DEPARTMENT OF STATE

I hereby certify pursuant to Rule 1-1.013, Florida Administrative Code:

(1) That materials incorporated by reference in Rule 62-204.800 have been electronically filed with the Department of State.

(2) That because there would be a violation of federal copyright laws if the submitting agency filed the incorporated materials described below electronically, a true and complete paper copy of the incorporated materials are attached to this certification for filing. Paper copies of the incorporated materials below may be obtained at the agency by [include address(es)/location(s)].

List form number(s) and form title(s), or title of document(s) below:

40 CFR Part 60, Subpart DDDD, Published at Volume 81 of the Federal Register, Number 121, (June 23, 2016)
pp 40956-41034

40 CFR Part 93; Subparts A and B, as of July 1, 2015

Under the provision of Section 120.54(3)(e)6., F.S., the rule takes effect 20 days from the date filed with the Department of State or a later date as set out below:



Justin Wolfe

Deputy General Counsel

From: fl-rules@dos.state.fl.us
To: [Long_Terr](#)
Cc: flrules@dos.state.fl.us
Subject: 62-204.800 Reference Material for Rule Adoption Approved
Date: Monday, September 26, 2016 10:37:43 AM

Dear terril:
The reference material for rule adoption you submitted has been approved by the Administrative Code and Register Staff.
The approved material is available in the [Review/Modify Agency Reference Material](#) list (Agency Main Menu page).
Rule Number: 62-204.800
Reference Number: Ref-07493; Reference Name: 40 CFR Part 60 Subpart DDDD
Reference Number: Ref-07494; Reference Name: 40 CFR Part 93

Click [here](#) to log in.

Administrative Code and Register Staff
Florida Department of State

FILED
2016 OCT -3 PM 1:20
ADMINISTRATIVE CODE AND REGISTER STAFF
FLORIDA DEPARTMENT OF STATE

Technical Change to Rule 62-204.800, F.A.C., Package (February 27, 2017)

From: [Long, Terri](#)
To: ["Reddick, Ernest L."](#)
Cc: ["Porter, Rachel B.";](#) ["joint.admin.procedures@leg.state.fl.us";](mailto:joint.admin.procedures@leg.state.fl.us) [Read, Hastings;](#) [Wolfe, Justin G.](#)
Subject: Technical Change for Rule 62-204.800, F.A.C.
Date: Monday, February 27, 2017 10:36:00 AM
Attachments: [2-27-17 Letter Requesting Technical Corrections CISWI.pdf](#)
[62-204.800 coded copy.docx](#)

Dear Mr. Reddick:

The Department is requesting technical changes to Rule 62-204.800, F.A.C. Attached is the coded copy of Rule 62-204.800, F.A.C., showing the requested technical changes. Specifically, the Department is requesting that the following provisions be revised via technical correction:

1. Correction of typographical error in sub-subparagraph 62-204.800(9)(d)8.b., F.A.C.;
2. Correction of typographical error in sub-subparagraph 62-204.800(9)(d)10.c., F.A.C.;
3. Correction of typographical error in subparagraph 62-204.800(9)(e)4., F.A.C.;
4. Correction of typographical error in subparagraph 62-204.800(9)(f)5., F.A.C.; and
5. Correction of typographical error in subparagraph 62-204.800(9)(f)9., F.A.C.

Please let me know if you have any questions.

Thank you,

Terri Long

Florida Department of Environmental Protection

Office of Business Planning

Division of Air Resource Management

Terri.long@dep.state.fl.us

(850) 717-9023



Florida Department of Environmental Protection

Bob Martinez Center
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Rick Scott
Governor

Carlos Lopez-Cantera
Lt. Governor

Ryan E. Matthews
Interim Secretary

Via Electronic Mail

February 27, 2017

Mr. Ernest Reddick
Program Administrator
Administrative Code and Register
500 South Bronough Street, Room 101
Tallahassee, Florida 32399-0250

Re: Technical Change for Rule 62-204.800, F.A.C.

Dear Mr. Reddick:

The Department is requesting technical changes to Rule 62-204.800, F.A.C. Attached is the coded copy of Rule 62-204.800, F.A.C., showing the requested technical changes. Specifically, the Department is requesting that the following provisions be revised via technical correction:

1. Correction of typographical error in sub-subparagraph 62-204.800(9)(d)8.b., F.A.C.;
2. Correction of typographical error in sub-subparagraph 62-204.800(9)(d)10.c., F.A.C.;
3. Correction of typographical error in subparagraph 62-204.800(9)(e)4., F.A.C.;
4. Correction of typographical error in subparagraph 62-204.800(9)(f)5., F.A.C.; and
5. Correction of typographical error in subparagraph 62-204.800(9)(f)9., F.A.C.

Corrections to Sub-Subparagraphs 62-204.800(9)(d)8.b., and 62-204.800(9)(d)10.c., F.A.C., and Subparagraphs 62-204.800(9)(e)4. and 62-204.800(9)(f)9., F.A.C.

In 2002, the Department revised Rule 62-204.800, F.A.C., by incorporating specified provisions of 40 C.F.R. Part 59. The incorporation by reference of these federal provisions was codified at subsection 62-204.800(7), F.A.C. This rulemaking resulted in the renumbering of the subsequent subsections, including renumbering subsection 62-204.800(8), F.A.C., to subsection 62-204.800(9), F.A.C.

Tec

In the four provisions for which the Department is requesting technical corrections, the Department has not updated the cross-references to reflect the renumbering of subsection 62-204.800(8), F.A.C., to subsection 62-204.800(9), F.A.C. Most of the other existing cross-references have been updated to reflect the 2002 renumbering, but these four cross-references were overlooked. The Department is requesting that the following changes be made via technical correction:

1. Sub-subparagraph 62-204.800(9)(d)8.b., F.A.C., contains a cross-reference to sub-subparagraph 62-204.800(8)(d)3.c., F.A.C. The correct cross-reference should be to sub-subparagraph 62-204.800(9)(d)3.c., F.A.C.
2. Sub-subparagraph 62-204.800(9)(d)10.c., F.A.C., contains a cross-reference to paragraph 62-204.800(8)(d), F.A.C. The correct cross-reference should be to paragraph 62-204.800(9)(d), F.A.C.
3. Subparagraph 62-204.800(9)(e)4., F.A.C., contains a cross-reference to paragraph 62-204.800(8)(e), F.A.C. The correct cross-reference should be to paragraph 62-204.800(9)(e), F.A.C.
4. Subparagraph 62-204.800(9)(f)9., F.A.C., contains a cross-reference to paragraph 62-204.800(8)(f), F.A.C. The correct cross-reference should be to paragraph 62-204.800(9)(f), F.A.C.

Correction to Subparagraph 62-204.800(9)(f)5., F.A.C.

On January 24, 2014, the Department adopted by reference the Emission Guidelines for Commercial and Industrial Solid Waste Incinerator (CISWI) units (codified at 40 C.F.R. Part 60, Subpart DDDD). Per EPA guidance, the Department adopted each subsection of 40 C.F.R. Part 60, Subpart DDDD, by referencing the subtitles of the model rules (e.g., performance testing, monitoring, definitions, etc.). This resulted in the Department adopting the subtitle section entitled “Emission Limitations and Operating Limits” into subparagraph 62-204.800(9)(f)9., F.A.C., in the following manner:

The emission limitations and operating limits applicable to each CISWI unit subject to paragraph 62-204.800(9)(f), F.A.C., shall be the same as set forth in 40 C.F.R. §§60.2670 through 60.2685.

At the time of adoption, the above language incorporated four specific federal regulations: 40 C.F.R. 60.2670, 40 C.F.R. 60.2675, 40 C.F.R. 60.2680, and 40 C.F.R. 60.2685.

On June 23, 2016, EPA revised 40 C.F.R. Part 60, Subpart DDDD. Among the changes was the removal of one of the four specific federal regulations (40 C.F.R. 60.2685), which codified the “affirmative defense provision.” *See* 81 Fed. Reg. 40,956, 40,958 (stating that EPA was “finalizing the proposed amendments to the final rule by removing the affirmative defense provision for the reasons set forth in the proposed rule.”).

The June 23, 2016 revisions were adopted by reference by the Department on October 23, 2016. As a result of the Department's adoption of the June 23, 2016 notice, 40 C.F.R. 60.2685, the "affirmative defense provision," is no longer adopted into the Florida Administrative Code. The "Emission Limitations and Operating Limits" subtitle section (i.e., 40 C.F.R. §§60.2670 through 60.2685) was not, however, updated to reflect the removal of 40 C.F.R. 60.2685. In order to reduce any confusion that might be created by referencing a provision that no longer exists in the Code of Federal Regulations or the Florida Administrative Code, the Department requests that subparagraph 62-204.800(9)(f)9., F.A.C., be revised via technical correction to read:

The emission limitations and operating limits applicable to each CISWI unit subject to paragraph 62-204.800(9)(f), F.A.C., shall be the same as set forth in **40 C.F.R. §§60.2670 through 60.2680.**

Please contact me or Justin Wolfe if there are any questions at (850) 717-9017 or (850) 245-2214 or by email: Hastings.Read@dep.state.fl.us or Justin.G.Wolfe@dep.state.fl.us
Department of Environmental Protection, Division of Air Resource Management, 2600 Blair Stone Road, MS 5500, Tallahassee, Florida 32399.

Sincerely,



Hastings Read
Environmental Administrator
Office of Business Planning
Division of Air Resource Management

Cc: Joint Administrative Procedures Committee

62-204.800 Federal Regulations Adopted by Reference.

All federal regulations cited throughout the air pollution rules of the Department are adopted and incorporated by reference in this rule. The purpose and effect of each such federal regulation is determined by the context in which it is cited. Procedural and substantive requirements in the incorporated federal regulations are binding as a matter of state law only where the context so provides.

(1) through (8) No change.

(9) Title 40, Code of Federal Regulations, Part 60, Emission Guidelines and Compliance Times.

(a) through (c) No change.

(d) Hospital/Medical/Infectious Waste Incinerators. 40 C.F.R. Part 60, Subpart Ce, Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators, revised as of July 1, 2001, is hereby adopted and incorporated by reference, subject to the following provisions:

1. through 7. No change.

8. Monitoring.

a. No change.

b. Each small hospital/medical/infectious waste incinerator subject to the emission limits under sub-subparagraph 62-204.800(9)(d)3.c.62-204.800(8)(d)3.e., F.A.C., shall comply with the monitoring requirements set forth in 40 C.F.R. §60.37e(d).

9. No change.

10. Compliance Times.

a. through b. No change.

c. Except as provided for under sub-subparagraph 62-204.800(9)(d)10.d., F.A.C., each hospital/medical/infectious waste incinerator subject to paragraph 62-204.800(9)(d), F.A.C., shall comply with all remaining requirements of paragraph 62-204.800(9)(d)62-204.800(8)(d), F.A.C., according to the schedule set forth in 40 C.F.R. §60.39e(b).

d. through e. No change.

(e) Small Municipal Waste Combustion Units. 40 C.F.R. Part 60, Subpart BBBB, Emission Guidelines and Compliance Times for Small Municipal Waste Combustion Units Constructed on or Before August 30, 1999, revised as of July 1, 2009, is hereby adopted and incorporated by reference subject to the following provisions:

1. through 3. No change.

4. Emission Limits. The emission limits on eleven pollutants applicable to each small municipal waste combustion unit subject to paragraph 62-204.800(9)(e)62-204.800(8)(e), F.A.C., shall be the same as set forth in 40 C.F.R. Part 60, Subpart BBBB.

5. through 12. No change.

(f) Commercial and Industrial Solid Waste Incineration (CISWI) Units. 40 C.F.R. Part 60, Subpart DDDD, Emission Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units that Commenced Construction on or Before June 4, 2010, revised as of July 1, 2009, amended February 7, 2013, at 78 FR 9112 (<https://www.flrules.org/Gateway/reference.asp?No=Ref-03695>), amended June 23, 2016, at 81 FR 40956 (<http://www.flrules.org/Gateway/reference.asp?No=Ref-07493>), is hereby adopted and incorporated by reference subject to the following provisions (all cross-references to 40 C.F.R. 63 Subpart LLL [40 C.F.R. §§63.1340 through 1359], as amended February 12, 2013, at 78 FR 10005, as amended July 27, 2015, at Part 80 FR 44771, are adopted and incorporated by reference at paragraph 62-204.800(11)(b), F.A.C.):

1. through 4. No change.

5. Emission Limitations and Operating Limits. The emission limitations and operating limits applicable to each CISWI unit subject to paragraph 62-204.800(9)(f), F.A.C., shall be the same as set forth in 40 C.F.R. §§60.2670 through 60.268060.2685, except that a unit in the waste-burning kiln subcategory may instead comply with an alternative production-based mercury emission limit of 58 pounds of mercury per million tons of clinker as specified in Table 4 as published February 7, 2013 at 78 FR 9112, 9122 (<https://www.flrules.org/Gateway/reference.asp?No=Ref-03695>).

6. through 8. No change.

9. Monitoring. The monitoring requirements applicable to each CISWI unit subject to paragraph 62-204.800(9)(f)62-204.800(8)(f), F.A.C., shall be the same as set forth in 40 C.F.R. §§60.2730 and 60.2735. A unit in the waste-burning kiln subcategory complying with the alternative production-based mercury emission limit in subparagraph 62-204.800(9)(f)5., F.A.C., must also monitor mercury pursuant to 40 C.F.R. §63.1350(k), the clinker production rate pursuant to 40 C.F.R. §63.1350(d), and the flow rate pursuant to 40 C.F.R. §63.1350(n). An owner of a waste burning kiln is not required to develop an emissions monitoring plan pursuant

to 40 C.F.R. §63.1350(p)(1) through (p)(4), if the owner prepares the emissions monitoring plan required pursuant to 40 C.F.R. §60.2710(k) and (l).

10. through 13. No change.

(g) through (i) No change.

(10) through (27) No change.

Rulemaking Authority 403.061, 403.8055 FS. Law Implemented 403.031, 403.061, 403.087, 403.0872, 403.8055 FS. History--New 3-13-96, Amended 6-25-96, 10-7-96, 10-17-96, 12-20-96, 4-18-97, 6-18-97, 7-7-97, 10-3-97, 12-10-97, 3-2-98, 4-7-98, 5-20-98, 6-8-98, 10-19-98, 4-1-99, 7-1-99, 9-1-99, 10-1-99, 4-1-00, 10-1-00, 1-1-01, 8-1-01, 10-1-01, 4-1-02, 7-1-02, 10-1-02, 1-1-03, 4-1-03, 10-1-03, 1-1-04, 4-1-04, 7-1-04, 10-1-04, 1-1-05, 4-1-05, 7-1-05, 10-1-05, 1-1-06, 4-1-06, 7-1-06, 9-4-06, 9-6-06, 1-8-07, 1-31-07, 4-2-07, 5-31-07, 7-2-07, 10-1-07, 2-1-08, 7-1-08, 10-1-08, 10-6-08, 12-1-08, 11-18-09, 6-11-10, 7-1-10, 10-1-10, 12-30-10, 12-1-11, 12-1-12, 5-22-13, 12-17-13, 1-24-14, 1-14-15, 1-7-16, 10-23-16, 1-13-17.

Public Participation

Notice of Opportunity to Submit Comments and Participate in Public Hearing

Florida Administrative Register

Volume 43, Number 13, January 20, 2017

For more information, you may contact: Vicky Krentz, Executive Director, FMHRC, PO Box 7848, Clearwater, FL 33758, 1(888)862-7010, vicky@fmhrc.org.

DEPARTMENT OF ENVIRONMENTAL PROTECTION
RULE NO.: RULE TITLE:

62-304.800 Caloosahatchee River Basin TMDLs.

The Department of Environmental Protection announces a workshop to which all persons are invited.

DATE AND TIME: February 21, 2017, 10:00 a.m.

PLACE: City/County Annex Bldg., Conference Room 220 (Second Floor), 1825 Hendry Street, Fort Myers, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED:

This workshop is for interested stakeholders to discuss with the department the status of TMDL development for nutrient impaired waterbodies in the Caloosahatchee River basin. The meeting will provide an opportunity for the department to present the final calibrated watershed and receiving water models, status of the impaired waters, the approach to be used for development of nutrient TMDLs, and results from modeling scenarios completed. Written comments should be directed to: Erin Rasnake, Program Administrator, Florida Department of Environmental Protection, MS 3555, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, Erin.Rasnake@dep.state.fl.us.

A copy of the agenda may be obtained by contacting: Ms. Shamyah Gibson, Department of Environmental Protection, MS 3555, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, (850)245-8449.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Ms. Shamyah Gibson, (850)245-8449. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

DEPARTMENT OF ENVIRONMENTAL PROTECTION

The Division of Air Resource Management announces a hearing to which all persons are invited.

DATE AND TIME: February 22, 2017, 10:00 a.m.

PLACE: Department of Environmental Protection, Bob Martinez Center, 2600 Blair Stone Road, Room 195, Tallahassee, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED:

Pursuant to 40 C.F.R. 60.23, the Department of Environmental Protection (DEP) announces the opportunity to offer comments and participate in a public hearing, if requested, on a proposed revision to DEP's pending Commercial Industrial Solid Waste Incinerator (CISWI) State Plan submission that was transmitted to EPA on February 6, 2014. Specifically,

DEP is proposing to revise its pending CISWI State Plan submission to include EPA's June 23, 2016 revisions to the model rules contained in 40 C.F.R. 60, Subpart DDDD and, pursuant to DEP's authority under 40 C.F.R. 60.2515(b), to provide for an equivalent production-based mercury emission limit for units in the waste-burning kiln subcategory. Once the State Plan is approved by EPA, DEP will be the agency tasked with ensuring that CISWI facilities are in compliance with applicable emissions limitations. A public hearing will be held, if requested, at the date, time, and place given above. It is not necessary that the hearing be held or attended for persons to comment on DEP's proposed revisions to Florida's pending CISWI State Plan submission. Any comments or requests for a public hearing must be submitted by letter or email to: Hastings Read, Department of Environmental Protection, Division of Air Resource Management, 2600 Blair Stone Road, MS 5500, Tallahassee, Florida 32399-2400 or Hastings.Read@dep.state.fl.us, and received no later than February 20, 2017. If no request for a public hearing is received, the hearing will be cancelled, and notice of the cancellation will be posted at the following website: <http://sharepoint.dep.state.fl.us/PublicNotices/default.aspx>.

Persons may also contact: Mr. Read at (850)717-9017 to find out if the hearing has been cancelled. The materials comprising DEP's revision to the pending State Plan submission are accessible at the website above by clicking on the February 22, 2017 hearing link or at the following website: <http://www.dep.state.fl.us/air/rules/regulatory.htm>. The materials may also be inspected during normal business hours at the DEP, Division of Air Resource Management offices, 2600 Blair Stone Road, Tallahassee, Florida, or accessed with the aid of any DEP District Air Section or DEP-approved local air pollution control office.

A copy of the agenda may be obtained by contacting: Mr. Read by letter or email at the above addresses or by calling (850)717-9017.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Ms. Terri Long at (850)717-9023 or Terri.Long@dep.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

For more information, you may contact: Ms. Long by letter or email or by calling (850)717-9023.

DEPARTMENT OF HEALTH

Board of Chiropractic Medicine

The Board of Chiropractic Medicine announces a telephone conference call to which all persons are invited.

Requests for Districts/Locals to Provide Assistance to Public

From: [Long, Terri](#)
To: [Hamilton, Shawn](#); [Strong, Greg](#); [Prather, Jeff](#); [Yeaman, Mary](#); [Smith, Jennifer K.](#); [Iglehart, Jon](#); ["Fernandez, Lorenzo"](#); [Melissa Long \(melissal@coj.net\)](#); ["campbell@epchc.org"](#); ["Renee.Parker@ocfl.net"](#); [Laxmane, Tallam@doh.state.fl.us](#); ["John.Hickey"](#); ["lee@epchc.org"](#); ["Waters, Jason"](#); ["gonzal@miamidade.gov"](#); ["asatyaf@co.pineellas.fl.us"](#)
Cc: [Read, Hastings](#)
Subject: Florida DEP - Notice of Proposed Revision to the Pending 111(d) Plan (CISWI)
Date: Friday, January 20, 2017 9:07:00 AM
Attachments: [Notice of Hearing.pdf](#)

Notice is hereby given, that pursuant to 40 CFR 60.23, the Department of Environmental Protection (DEP) is accepting comments and will hold a public hearing, if requested, on a proposed revision to the Department's pending 111(d) Commercial Industrial Solid Waste Incinerator (CISWI) State Plan. The original 111(d) CISWI State Plan was submitted on February 6, 2014. Please find the attached notice of opportunity to offer comments and request a public hearing that will be published on January 18, 2017, in the Florida Administrative Register. The public hearing, if requested, will be held February 21, 2017.

The materials comprising the proposed State Plan will be posted at <http://www.dep.state.fl.us/air/rules/regulatory.htm>. Please assist any member of the public who may contact you asking to view these materials. In the event members of the public have substantive questions related to the proposed revision, please direct them to Hastings Read, hastings.read@dep.state.fl.us or (850) 717-9017.

Terri Long
Florida Department of Environmental Protection
Office of Business Planning
Division of Air Resource Management
Terri.long@dep.state.fl.us
(850) 717-9023

Notifications to Other States

From: [Long, Terri](#)
To: ["kidias_baker@dep.state.ms.us"](mailto:kidias_baker@dep.state.ms.us); ["karen.hays@dnr.state.ga.us"](mailto:karen.hays@dnr.state.ga.us); ["twg@adem.state.al.us"](mailto:twg@adem.state.al.us)
Cc: [Bead, Hastings](#)
Subject: Florida DEP - Notice of Proposed Revision to the Pending 111(d) State Plan (CISWI)
Date: Friday, January 20, 2017 9:07:00 AM
Attachments: [Notice of Hearing.pdf](#)

Notice is hereby given, that pursuant to 40 CFR 60.23, the Department of Environmental Protection (DEP) is accepting comments and will hold a public hearing, if requested, on a proposed revision to the Department's pending 111(d) Commercial Industrial Solid Waste Incinerator (CISWI) State Plan. The original 111(d) CISWI State Plan was submitted on February 6, 2014. Please find the attached notice of opportunity to offer comments and request a public hearing that will be published on January 18, 2017, in the Florida Administrative Register. The public hearing, if requested, will be held February 21, 2017.

DEP is proposing to revise its pending CISWI State Plan submission to include EPA's June 23, 2016 revisions to the model rules contained in 40 C.F.R. 60, Subpart DDDD and, pursuant to DEP's authority under 40 C.F.R. 60.2515(b), to provide for an equivalent production-based mercury emission limit for units in the waste-burning kiln subcategory.

The materials comprising the proposed State Plan will be posted at <http://www.dep.state.fl.us/air/rules/regulatory.htm>.

Terri Long
Florida Department of Environmental Protection
Office of Business Planning
Division of Air Resource Management
Terri.long@dep.state.fl.us
(850) 717-9023

Public Comments on Revision to Florida's Proposed State Plan

No public comments were received.

DEP Response to Public Comments

N/A

Pre-Hearing Submittal to EPA - Pre-Hearing Submittal Letter



Florida Department of Environmental Protection

Bob Martinez Center
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Rick Scott
Governor

Carlos Lopez-Cantera
Lt. Governor

Jonathan P. Steverson
Secretary

Via Electronic-Mail

January 20, 2017

Ms. Beverly Spagg, Chief
Air & EPCRA Enforcement Branch
United States Environmental Protection Agency - Region 4
Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, Georgia 30303-8909

Re: Air Program Pre-Hearing Submittal: Proposed Revision to Florida's February 6, 2014
111(d) State Plan for Commercial and Industrial Solid Waste Incinerators

Dear Ms. Spagg:

Notice is hereby given that, pursuant to 40 C.F.R. 60.23, the Department of Environmental Protection (Department) is accepting comments and will hold a public hearing, if requested, on a proposed revision to Florida's 111(d) State Plan submittal for Commercial Industrial Solid Waste Incinerators (CISWIs). The notice of opportunity to submit comments and request a public hearing was published on January 20, 2017, in the Florida Administrative Register. The public hearing, if requested, will be held on February 22, 2017.

This State Plan submittal proposes to revise Florida's February 6, 2014 CISWI State Plan submittal to incorporate the U.S. Environmental Protection Agency's (EPA) June 23, 2016, amendments to the CISWI Emission Guidelines (codified at 40 C.F.R. 60, Subpart DDDD), and, pursuant to the Department's authority under 40 C.F.R. 60.2515(b), to provide for an equivalent production-based mercury emission limit for units in the waste-burning kiln subcategory. DEP has identified six facilities, comprising seven units, that are subject to these regulations.

Copies of the public notice and pre-hearing State Plan submittal are enclosed. These documents are submitted to you as notification to the Administrator pursuant to the requirement of 40 C.F.R. 60.23(c).

www.dep.state.fl.us

Ms. Beverly Spagg
January 20, 2017
Page 2 of 2

Your review and comments prior to the hearing will be appreciated. The Department respectfully requests that EPA provide any comments on this submittal by February 20, 2017. If you have any questions about this proposed revision to Florida's February 6, 2014 111(d) CISWI State Plan submittal, please contact Hastings Read at (850) 717-9017 or by email at Hastings.Read@dep.state.fl.us.

Sincerely,



Preston McLane, Deputy Director
Division of Air Resource Management
Florida Department of Environmental Protection

PM/tl

cc (with State Plan package): Ken Mitchell, Jason Dressler, Mark Bloeth, and Todd Russo

Enclosures: Notice published January 20, 2017 in the Florida Administrative Register
Pre-Hearing State Plan Submittal Revising Florida's February 6, 2014 111(d) CISWI
State Plan Submittal

Materials Enclosed with Pre-Hearing Submittal

The materials listed as enclosures in the pre-hearing submittal letter are the same materials that were made available for public inspection on the regulatory projects website for the Florida Department of Environmental Protection, Division of Air Resource Management. The materials being included in Florida's 111(d) State Plan final submittal are unchanged from the materials made available for public inspection except for the evidence of the February 27, 2017, technical correction in the State Administrative Material section and additional language in the Executive Summary responding to EPA's comments regarding citation to 40 C.F.R. Part 62, Subpart K as the applicable federal requirement and delegation of authorities under the CISWI Emission Guidelines. This final submittal document has been made available on the same regulatory projects website as the pre-hearing submittal document.

EPA Comments on Pre-Hearing Submittal



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

FEB 22 2017

Mr. Hastings Read
Environmental Administrator
Division of Air Resource Management
Florida Department of Environmental Protection
2600 Blair Stone Road, MS 5500
Tallahassee, Florida 32399-2400

Dear Mr. Read:

Thank you for sending the U.S. Environmental Protection Agency Region 4 a pre-hearing copy, dated January 20, 2017, of the Florida Department of Environmental Protection's (FDEP's) proposed revisions to its Clean Air Act (CAA) Section 111(d) State Plan for Commercial and Industrial Solid Waste Incineration (CISWI) units. The pre-hearing submittal received by the EPA on January 20, 2017, proposes to revise the FDEP's CISWI State Plan submittal of February 6, 2014, in order to incorporate the EPA's June 23, 2016, amendments to the CISWI Emission Guidelines (codified at 40 C.F.R. 60, Subpart DDDD) and to provide for an equivalent production-based mercury emission limit for units in the waste-burning kiln subcategory. The FDEP has requested that any EPA comments regarding the pre-hearing submittal be provided by February 22, 2017. We are providing the following four comments:

1. FDEP's revised CISWI State Plan includes Rule 62-204.800(9)(f) of the Florida Administrative Code (F.A.C.) (the Rule), which is the enforceable mechanism used to implement the CISWI Emission Guidelines. The Rule primarily incorporates by reference (IBRs) the sections of 40 C.F.R. 60, Subpart DDDD that are applicable to affected CISWI units. The Rule also provides an alternate production-based mercury emission limit for units in the waste-burning kiln subcategory, as well as additional monitoring and recordkeeping requirements that apply to kilns that opt to comply with the alternate production-based limit.¹ IBR is an acceptable approach to crafting a State Plan; however, certain conditions must be satisfied due to the fact that the Emission Guidelines promulgated pursuant to Section 129 of the CAA are typically not written as direct requirements for designated facilities, but rather as requirements for states to follow to ensure that their state plans contain enforceable regulations that are at least as protective as the Emission Guidelines. Specifically, in order to properly IBR the CISWI Emission Guidelines a State Plan should:
 - Clearly articulate which sections of the CISWI Emission Guidelines are being incorporated, modify provisions as necessary to ensure that the rule language applies directly to affected facilities, and exclude sections that are not applicable so the affected facilities;
 - Demonstrate that the state's designated agency for implementation of the plan has the legal authority to IBR the CISWI Emission Guidelines into an enforceable state regulation for all

¹ EPA Region 4 is in the process of reviewing this alternate production-based mercury limit with EPA headquarters to confirm that your state plan is at least as protective as the emission guidelines.

designated facilities and that the rule will be implemented and enforced with respect to these designated facilities; and

- Include a commitment that all Title V permits, revisions, and renewals for affected CISWI facilities will clearly reference the appropriate State Plan approval provisions under Part 62, rather than the CISWI Emission Guidelines.

The EPA has not been able to identify a statement consistent with the third item above in either the pre-hearing CISWI State Plan revisions submitted on January 20, 2017, nor within the original CISWI State Plan submittal of February 6, 2014. It is necessary to properly reference State Plan approval provisions under Part 62 in Title V permits for the affected CISWI facilities, because the Emission Guidelines themselves are not “applicable requirements.” Specifically, once a state plan is approved by the EPA and codified at Part 62, Subpart K, the Title V permits for the affected CISWI facilities should properly reference both the appropriate provisions of the Rule and 40 CFR Part 62, Subpart K. Therefore, the EPA requests that the CISWI State Plan narrative include a commitment, as noted above, regarding the rule references that will be included in Title V permits.

2. The Rule provides the Emission Limitations and Operating Limits for affected facilities at 62-204.800(9)(f)5., F.A.C., which IBRs 40 C.F.R. §§ 60.2670–60.2685 of the CISWI Emission Guidelines. However, the referenced range appears to include a typographical error because §60.2685 does not exist within the CISWI Emission Guidelines. The Rule should reflect the correct range of sections for Emission Limitations and Operating Limits under the CISWI Emission Guidelines, which is 40 C.F.R. §§ 60.2670–60.2680.
3. The Rule provides the Monitoring provisions for affected facilities at 62-204.800(9)(f)9., F.A.C., which states in part:

“The monitoring requirements applicable to each CISWI unit subject to paragraph 62-204.800(8)(f), F.A.C., shall be the same as set forth in 40 C.F.R. §§ 60.2730 and 60.2735.”

Given that the CISWI Emission Guidelines are entirely contained within 62-204.800(9)(f), F.A.C., the reference to paragraph 62-204.800(8)(f), F.A.C., within the Rule appears to be a typographical error.

4. At 62-204.800(9)(f)13., F.A.C., the Rule defines the term “administrator” as the “department,” except that the EPA is the administrator for the purposes of 40 C.F.R. § 60.2030(c). The purpose of this exception to the replacement of the term “administrator” with the term “department,” is to ensure that the specific authorities listed at § 60.2030(c) are retained by the EPA Administrator. At 40 C.F.R. § 60.2542, the CISWI Emission Guidelines designate the authorities that will not be delegated to state, local, or tribal agencies. Rather than to list each non-delegated authority, § 60.2542 references the authorities listed at § 60.2030(c), which are contained within the Standards of Performance for CISWI Units (codified at 40 C.F.R. 60, Subpart CCCC). However, the Rule does not appear to specifically IBR 40 C.F.R. § 60.2542. In order to clearly identify the authorities that are not being delegated for the purposes of the CISWI Emission Guidelines, the Rule should also incorporate the provisions of § 60.2542.

The EPA appreciates the opportunity to provide these comments to the FDEP on its proposed revisions to the CISWI State Plan. If you have any questions regarding these comments, please feel free to contact either Mark Bloeth at 404-562-9013, or Jason Dressler at 404-562-9208.

Sincerely,

A handwritten signature in blue ink, appearing to read "Beverly Spagg". The signature is stylized with a large initial "B" and a flourish at the end.

Beverly Spagg
Chief
Air Enforcement and Toxics Branch

DEP Response to EPA Comments

On February 22, 2017, EPA submitted four comments to the Department concerning Florida's proposed revision to its February 6, 2014, 111(d) State Plan submittal for CISWIs.

EPA Comment 1: EPA made a general comment requesting that the Department make a statement in the CISWI State Plan narrative that "all Title V permits, revisions, and renewals for affected CISWI facilities will clearly reference the appropriate State Plan approval provisions under [40 C.F.R.] Part 62, rather than the CISWI Emission Guidelines." EPA stated that this statement is necessary "because the Emission Guidelines themselves are not 'applicable requirements.'" EPA further stated that "Title V permits for affected CISWI facilities should properly reference both the appropriate provisions of [Rule 62-204.800, F.A.C.] and 40 CFR Part 62, Subpart K."

Response to EPA Comment 1: The Department acknowledges that once Florida's CISWI State Plan has been approved and incorporated into 40 C.F.R. Part 62, Subpart K, that is the federal "applicable requirement" for an affected CISWI unit. As such, 40 CFR Part 62, Subpart K will be cited in Title V permits as the legal authority for permit conditions associated with existing CISWI units. The Department has included a statement in the Executive Summary to this effect.

EPA Comment 2: EPA commented that subparagraph 62-204.800(9)(f)5., F.A.C., incorporates by reference 40 C.F.R. §§ 60.2670 through 60.2685. EPA explained that the "referenced range appears to include a typographical error because §60.2685 does not exist within the CISWI Emission Guideline." EPA stated that subparagraph 62-204.800(9)(f)5., F.A.C., "should reflect the correct range of sections for Emission Limitations and Operating Limits under the CISWI Emission Guidelines, which is 40 C.F.R. §§ 60.2670-60.2680."

Response to EPA Comment 2: The Department acknowledges that subparagraph 62-204.800(9)(f)5., F.A.C., had a typographical error. The Department has corrected this error via the state's technical change process and included a revised copy of paragraph 62-204.800(9)(f), F.A.C., which has the correct range of sections for Emission Limitations and Operating Limits under the CISWI Emission Guidelines. The evidence for the technical correction can be found in the State Administrative Materials section of this document.

EPA Comment 3: EPA commented that the cross-reference to "paragraph 62-204.800(8)(f), F.A.C." in subparagraph 62-204.800(9)(f)9., F.A.C., "appears to be a typographical error."

Response to EPA Comment 3: The Department acknowledges that the cross-reference in subparagraph 62-204.800(9)(f)9., F.A.C., had a typographical error. The Department has corrected this error via the state's technical correction process and included a revised copy of paragraph 62-204.800(9)(f), F.A.C., which has the correct cross-reference in subparagraph 62-204.800(9)(f)9., F.A.C. The evidence for the technical correction can be found in the State Administrative Materials section of this document.

EPA Comment 4: EPA noted that subparagraph 62-204.800(8)(f)13., F.A.C. “defines the term ‘administrator’ as the ‘department,’ except that the EPA is the administrator for the purposes of 40 C.F.R. § 60.2030(c).” EPA explains that “[t]he purpose of this exception to the replacement of the term ‘administrator’ with the term ‘department,’ is to ensure that the specific authorities listed at §60.2030(c) are retained by the EPA Administrator.” EPA cautioned, however, that 40 C.F.R. § 60.2542 is the list of non-delegated authorities for the CISWI Emission Guidelines, not 40 C.F.R. § 60.2010, even though 40 C.F.R. § 60.2542 merely cross-references the authorities listed at 40 C.F.R. § 60.2010. EPA provided comments that because 40 C.F.R. § 60.2010(c) is not part of the CISWI Emission Guidelines, the Department should incorporate-by-reference the provision of 40 C.F.R. § 60.2542 into subparagraph 62-204.800(9)(f)13., F.A.C.

Response to EPA Comment 4: The Department acknowledges that some of the authorities granted to the EPA Administrator in the New Source Performance Standards (NSPS) and Emission Guidelines are not granted (either by delegation in the case of NSPS or by approval in the case of State Plan approval) to state air agencies. In order to resolve any ambiguity in the language in paragraph 62-204.800(9)(f), F.A.C., about what authority the Department has in its State Plan, the Department has included in the executive summary a statement acknowledging that the Department is not authorized to exercise a specific set of authorities in 40 C.F.R. Part 60, Subpart DDDD. Specifically, the Department listed the authorities in 40 C.F.R. Part 60, Subpart DDDD that are the counterparts to the authorities listed in 40 C.F.R. § 60.2030(c).