



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2022-0660; FRL-11572-02-R4]

Air Plan Approval; Florida; Miscellaneous SIP Changes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving changes to the Florida State Implementation Plan (SIP), submitted by the Florida Department of Environmental Protection (FDEP) on April 1, 2022. The final rule revision corrects definitions, updates and removes outdated references, clarifies rule applicability in several rules within the Florida SIP, and removes methods to determine visible emissions. EPA is approving the changes because they are consistent with the Clean Air Act (CAA or Act).

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER.]

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2022-0660. All documents in the docket are listed on the regulations.gov website. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's

official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Tiereny Bell, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9088. Ms. Bell can also be reached via electronic mail at bell.tiereny@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On April 1, 2022, FDEP submitted a SIP revision to EPA regarding Chapter 62-296, Florida Administrative Code (F.A.C.), *Stationary Sources*, of the Florida SIP. In Florida's April 1, 2022, submission, the State is requesting that EPA approve changes to the following rules in the Florida SIP: Rule 62-296.320(4), *General Pollutant Emission Limiting Standards*;¹ Rule 62-296.406, *Fossil Fuel Steam Generators with Less Than 250 Million Btu Per Hour Heat Input, New and Existing Emissions Units*; Rule 62-296.602, *Primary Lead-Acid Battery Manufacturing Operations*; Rule 62-296.603, *Secondary Lead Smelting Operations*; Rule 62-296.604, *Electric Arc Furnace Equipped Secondary Steel Manufacturing Operations*; Rule 62-296.700, *Reasonably Available Control Technology (RACT) Particulate Matter*; Rule 62-296.702, *Fossil Fuel Steam Generators*; Rule 62-296.704, *Asphalt Concrete Plants*; Rule 62-296.705, *Phosphate Processing Operations*; Rule 62-296.707, *Electric Arc Furnaces*; Rule 62-296.708, *Sweat or Pot Furnaces*; Rule 62-296.711, *Materials Handling, Sizing, Screening, Crushing and Grinding Operations*; and Rule 62-296.712, *Miscellaneous Manufacturing Process Operations*.²

¹ On October 13, 2023, the State submitted a letter to EPA withdrawing its request to revise subsection (3) of Rule 62-296.320. Thus, EPA is not acting on Rule 62-296.320(3). For further information, please see the docket for this rulemaking, which includes Florida's October 13, 2023, withdrawal letter.

² On April 1, 2022, FDEP submitted a number of SIP revisions to Chapter 62-296, *Stationary Sources*. These other SIP revisions not described herein will be acted on through other rulemakings. See also, footnote 1 regarding subsection (3) of Rule 62-296.320.

Through a notice of proposed rulemaking (NPRM) published on November 28, 2023 (88 FR 83062), EPA proposed to approve the April 1, 2022, SIP submittal, which corrects definitions, updates and removes outdated references, clarifies applicability in these rules, and removes methods to determine visible emissions in Rules 62-296.320 and 62-296.406. The details of the submission, as well as EPA's rationale for changing these rules, are described in more detail in EPA's November 28, 2023, NPRM. Comments on the November 28, 2023, NPRM were due on or before December 28, 2023. EPA received one comment on the November 28, 2023, NPRM, and it supports EPA's action. No adverse comments were received.

II. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, and as discussed in Section I of this preamble, EPA is finalizing the incorporation by reference of Rule 62-296.320(4), *General Pollutant Emission Limiting Standards*, state effective on July 10, 2014;³ Rule 62-296.406, *Fossil Fuel Steam Generators with Less Than 250 Million Btu Per Hour Heat Input*, state effective on November 5, 2020; Rule 62-296.602, *Primary Lead-Acid Battery Manufacturing Operations*, state effective on July 10, 2014; Rule 62-296.603, *Secondary Lead Smelting Operations*, state effective on July 10, 2014; Rule 62-296.604, *Electric Arc Furnace Equipped Secondary Steel Manufacturing Operations*, state effective on July 10, 2014; Rule 62-296.700, *Reasonably Available Control Technology (RACT) Particulate Matter*, state effective on August 14, 2019; Rule 62-296.702, *Fossil Fuel Steam Generators*, state effective on July 10, 2014; Rule 62-296.704, *Asphalt Concrete Plants*, state effective on July 10, 2014; Rule 62-296.705, *Phosphate Processing Operations*, state effective on July 10, 2014; Rule 62-296.707, *Electric Arc Furnaces*, state effective on July 10, 2014; Rule 62-296.708, *Sweat or Pot Furnaces*, state effective on July 10, 2014; Rule 62-296.711, *Materials Handling, Sizing, Screening, Crushing and Grinding Operations*, state effective on July 10, 2014; and Rule 62-296.712, *Miscellaneous*

³ Subsections (1), (2), and (3) of Rule 62-296.320 remain in the SIP with a state effective date of March 13, 1996.

Manufacturing Process Operations, state effective on July 10, 2014. EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA’s approval, and will be incorporated by reference in the next update to the SIP compilation.⁴

III. Final Action

EPA is approving the changes to Rule 62-296.320(4), *General Pollutant Emission Limiting Standards*; Rule 62-296.406, *Fossil Fuel Steam Generators with Less Than 250 Million Btu Per Hour Heat Input*; Rule 62-296.602, *Primary Lead-Acid Battery Manufacturing Operations*; Rule 62-296.603, *Secondary Lead Smelting Operations*; Rule 62-296.604, *Electric Arc Furnace Equipped Secondary Steel Manufacturing Operations*; Rule 62-296.700, *Reasonably Available Control Technology (RACT) Particulate Matter*; Rule 62-296.702, *Fossil Fuel Steam Generators*; Rule 62-296.704, *Asphalt Concrete Plants*; Rule 62-296.705, *Phosphate Processing Operations*; Rule 62-296.707, *Electric Arc Furnaces*; Rule 62-296.708, *Sweat or Pot Furnaces*; Rule 62-296.711, *Materials Handling, Sizing, Screening, Crushing and Grinding Operations*; and Rule 62-296.712, *Miscellaneous Manufacturing Process Operations*, into the Florida SIP. EPA is approving these changes because they are consistent with the CAA.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve State choices,

⁴ 62 FR 27968 (May 22, 1997).

provided that they meet the criteria of the CAA. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 14094 (88 FR 21879, April 11, 2023);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose

substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

FDEP did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving EJ for people of color, low-income populations, and Indigenous peoples.

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: January 16, 2024.

Jeanne Gettle,
Acting Regional Administrator,
Region 4.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

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

Subpart K – Florida

2. In § 52.520(c), amend the table by revising the entries for “62-296.320,” “62-296.406,” “62-296.602,” “62-296.603,” “62-296.604,” “62-296.700,” “62-296.702,” “62-296.704,” “62-296.705,” “62-296.707,” “62-296.708,” “62-296.711,” and “62-296.712” to read as follows:

§ 52.520 Identification of plan.

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(c) * * *

EPA-Approved Florida Laws and Regulations

State citation (section)	Title/subject	State effective date	EPA approval date	Explanation
* * * * *				
Chapter 62-296 Stationary Sources – Emission Standards				
**	*	*	*	**
62-296.320	General Pollutant Emission Limiting Standards	7/10/2014	[Insert date of publication in Federal Register], [Insert citation of publication]	Except 62-296.320(1), (2), and (3), approved on 6/16/1999, state effective 3/13/1996.
**	*	*	*	**
62-296.406	Fossil Fuel Steam Generators with Less Than 250 million Btu per Hour Heat Input	11/5/2020	[Insert date of publication in Federal Register], [Insert citation of publication]	

**	*	*	*	**
62-296.602	Primary Lead-Acid Battery Manufacturing Operations	7/10/2014	[Insert date of publication in Federal Register], [Insert citation of publication]	
62-296.603	Secondary Lead Smelting Operations	7/10/2014	[Insert date of publication in Federal Register], [Insert citation of publication]	
62-296.604	Electric Arc Furnace Equipped Secondary Steel Manufacturing Operations	7/10/2014	[Insert date of publication in Federal Register], [Insert citation of publication]	
**	**	*	*	*
62-296.700	Reasonably Available Control Technology (RACT) Particulate Matter	8/14/2019	[Insert date of publication in Federal Register], [Insert citation of publication]	
62-296.702	Fossil Fuel Steam Generators	7/10/2014	[Insert date of publication in Federal Register], [Insert citation of publication]	
62-296.704	Asphalt Concrete Plants	7/10/2014	[Insert date of publication in Federal Register], [Insert citation of publication]	

62-296.705	Phosphate Processing Operations	7/10/2014	[Insert date of publication in Federal Register], [Insert citation of publication]	
62-296.707	Electric Arc Furnaces	7/10/2014	[Insert date of publication in Federal Register], [Insert citation of publication]	
62-296.708	Sweat or Pot Furnaces	7/10/2014	[Insert date of publication in Federal Register], [Insert citation of publication]	
62-296.711	Materials Handling, Sizing, Screening, Crushing and Grinding Operations	7/10/2014	[Insert date of publication in Federal Register], [Insert citation of publication]	
62-296.712	Miscellaneous Manufacturing Process Operations	7/10/2014	[Insert date of publication in Federal Register], [Insert citation of publication]	
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