

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 62**

[AD-FRL-7430-8]

RIN 2060-AJ46

Federal Plan Requirements for Small Municipal Waste Combustion Units Constructed On or Before August 30, 1999**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: This action promulgates a Federal plan to implement emission guidelines for small municipal waste combustion (MWC) units (*i.e.*, units with a design combustion capacity of 35 to 250 tons per day of municipal waste) located in areas not covered by an approved State or tribal plan. The Federal plan is an interim action because on the effective date of an approved State plan or tribal plan, the Federal plan will no longer apply to small MWC units covered by the State or tribal plan. This Federal plan includes the same required elements as a State plan as specified in 40 CFR part 60, subpart B. These elements are: Identification of legal authority; identification of mechanisms for implementation; inventory of affected facilities; emissions inventory; emission limits; compliance schedules; public hearing requirements; reporting and recordkeeping requirements; and public progress reports.

EPA adopted emission guidelines for existing small MWC units on December 6, 2000. Existing small MWC units are those units for which construction was commenced on or before August 30, 1999. Sections 111 and 129 of the Clean Air Act (CAA) require States with existing small MWC units subject to the emission guidelines to submit plans to EPA that implement and enforce the emission guidelines. Indian tribes may submit, but are not required to submit, tribal plans to implement and enforce the emission guidelines in Indian country. State plans were due from States with small MWC units subject to the emission guidelines on December 6, 2001. States without small MWC units subject to the emission guidelines must submit a negative declaration statement by this date. Following receipt of a State plan, EPA has up to 6 months to approve or disapprove the plan. If a State with an existing small MWC unit

subject to the emission guidelines does not submit an approvable plan within 2 years of the promulgation of the emission guidelines (*i.e.*, December 6, 2002), sections 111(d) and 129 of the CAA require EPA to develop, implement, and enforce a Federal plan for small MWC units located in that State or Tribal jurisdiction. This Federal plan for small MWC units was proposed on June 14, 2001.

EFFECTIVE DATE: This rule is effective on January 31, 2003. The incorporation by reference of certain publications listed in this rule are approved by the Director of the Federal Register as of January 31, 2003.

Judicial Review: The EPA proposed this section 111(d) rule for small MWC units on June 14, 2001 (66 FR 32484). This action adopting a rule for small MWC units constitutes final administrative action concerning that proposal. Under section 307(b)(1) of the CAA, judicial review of this final rule is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by April 1, 2003. Under section 307(d)(7)(B) of the CAA, only an objection to this rule that was raised with reasonable specificity during the period for public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements established by today's final action may not be challenged separately in any civil or criminal proceeding brought by the EPA to enforce these requirements.

ADDRESSES: *Docket.* Docket No. A-2000-39 contains the supporting information for the small MWC Federal plan. Docket Nos. A-89-08, A-90-45, and A-98-18 contain the supporting information for the EPA's promulgation of emission guidelines for existing small MWC units. The dockets are available for public inspection and copying between 8:30 a.m. and 4:30 p.m., Monday through Friday, at EPA's Air and Radiation Docket and Information Center, 1301 Constitution Avenue, NW., Room B102, Washington, DC 20460. The mailing address for the Center is Air and Radiation Docket, Mail Code 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. The Center may be contacted by telephone by calling (202) 566-1742 between the hours of 7:30 a.m. and 5:30 p.m., Monday through Friday. The Center may also be contacted by fax using the fax number (202) 566-1741 and by E-mail using the E-mail address "A-and-R-Docket@epa.gov".

FOR FURTHER INFORMATION CONTACT: Mr. Lalit Banker at (919) 541-5420, Program Implementation and Review Group, Information Transfer and Program Integration Division (E143-02), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, email: banker.lalit@epa.gov. For State specific information regarding implementation of this Federal plan, contact the appropriate Regional Office as shown in table 1 of the

SUPPLEMENTARY INFORMATION section.

SUPPLEMENTARY INFORMATION: *Docket.* The docket is an organized and complete file of all the information considered by the EPA in the development of this Federal plan. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated Federal plan and their preambles, the contents of the docket will serve as the record in the case of judicial review. (See section 307(d)(7)(A) of the CAA.) The regulatory text and other materials related to this rulemaking are available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 566-1742. A reasonable fee may be charged for copying docket materials.

Public Comments. The small MWC Federal plan was proposed on June 14, 2001, and two comments were received on the proposal. The comment letters are available in docket No. A-2000-39, along with a memorandum summarizing the comment letters and EPA's responses to the comments. No requests for a public hearing were received by EPA.

Worldwide Web (WWW). A list of combustion related rules is available on the Combustion Group Web site on the EPA Technology Transfer Network Web site (TTN Web) at <http://www.epa.gov/ttn/atw/combust/list.html>. You may obtain **Federal Register** notices, supporting information, and docket indices for these combustion related rules.

Regional Office Contacts. For information regarding the implementation of the small MWC Federal plan, contact the appropriate EPA Regional Office as shown in table 1.