

Clopidol in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(8) 227		Broiler and replacement chickens intended for use as caged layers: As in paragraph (d)(1) of this section.	Feed continuously as the sole ration; feed up to 16 weeks of age if intended for use as caged layers; withdraw 5 days before slaughter if given at the level of 0.025 percent in feed or reduce level to 0.0125 percent 5 days before slaughter.	050604
(9) 113.5 or 227		Turkeys: As an aid in the prevention of leucocytozoonosis caused by <i>Leucocytozoon smithi</i> .	For turkeys grown for meat purposes only; feed continuously as the sole ration at 0.0125 or 0.025 percent clopidol depending on management practices, degree of exposure, and amount of feed eaten; withdraw 5 days before slaughter.	050604

Dated: March 25, 2003.

**Steven D. Vaughn,**

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[FL-094-200316a; FRL-7481-8]

### Approval and Promulgation of State Plan for Designated Facilities and Pollutants: Florida

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving the sections 111(d)/129 plan submitted by the Florida Department of Environmental Protection (FDEP) for the State of Florida on November 29, 2001, for implementing and enforcing the Emissions Guidelines (EG) applicable to existing Commercial and Industrial Solid Waste Incineration (CISWI) units that commenced construction on or before November 30, 1999.

**DATES:** This direct final rule is effective June 13, 2003 without further notice, unless EPA receives adverse comments by May 14, 2003. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** All comments should be addressed to: Joydeb Majumder, EPA Region 4, Air Toxics and Management Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303-3104. Copies of materials submitted to EPA may be examined

during normal business hours at the above listed Region 4 location. Anyone interested in examining this document should make an appointment with the office at least 24 hours in advance.

**FOR FURTHER INFORMATION CONTACT:**

Joydeb Majumder at (404) 562-9121 or Heidi LeSane at (404) 562-9035.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

On December 1, 2000, pursuant to sections 111 and 129 of the Clean Air Act (Act), EPA promulgated new source performance standards (NSPS) applicable to new CISWIs and EG applicable to existing CISWIs. The NSPS and EG are codified at 40 CFR part 60, subparts CCCC and DDDD, respectively. Subparts CCCC and DDDD regulate the following: Particulate matter, opacity, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxins and dibenzofurans.

Section 129(b)(2) of the Act requires States to submit to EPA for approval State Plans that implement and enforce the EG. State Plans must be at least as protective as the EG, and become Federally enforceable upon approval by EPA. The procedures for adoption and submittal of State Plans are codified in 40 CFR part 60, subpart B. EPA originally promulgated the subpart B provisions on November 17, 1975. EPA amended subpart B on December 19, 1995, to allow the subparts developed under section 129 to include specifications that supersede the general provisions in subpart B regarding the schedule for submittal of State Plans, the stringency of the emission limitations, and the compliance schedules.

This action approves the State Plan submitted by FDEP for the State of Florida to implement and enforce subpart DDDD, as it applies to existing CISWI units only.

#### II. Discussion

FDEP submitted to EPA on November 29, 2001, the following in their 111(d)/129 State Plan for implementing and enforcing the EG for existing CISWIs under their direct jurisdiction in the State of Florida: Public Participation-Demonstration that the Public Had Adequate Notice and Opportunity to Submit Written Comments and Attend the Public Hearing; Legal Authority; Emission Limits and Standards; Compliance Schedule; Inventory of CISWI Plants/Units; CISWI Emissions Inventory; Source Surveillance, Compliance Assurance and Enforcement Procedures; Submittal of Progress Reports to EPA; and applicable State of Florida statutes and rules of the FDEP.

The approval of the Florida State Plan is based on finding that: (1) FDEP provided adequate public notice of public hearings for the EG for CISWIs, and (2) FDEP also demonstrated legal authority to adopt emission standards and compliance schedules; enforceable applicable laws, regulations, standards, and compliance schedules; the ability to seek injunctive relief; obtain information necessary to determine compliance; require record keeping; conduct inspections and tests; require the use of monitors; require emission reports of owners and operators; and make emission data publicly available.

FDEP cites the following references for the legal authority: The Florida Statutes (F.S.), sections 403.031 definitions, 403.061 powers and duties, 403.0872 Title V air operating permits, and 403.8055 authority to adopt federal

standards by reference. Subsections 403.061(6), (7), (8), and (13), F.S., gives the authority for obtaining information, requiring record keeping, and using monitors. Most importantly, subsection 403.061(35), F.S., gives FDEP the authority to exercise the duties, powers, and responsibilities required of the state under the Act. The sections of 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., is the authority for making the information available to the public.

An enforcement mechanism is a legal instrument by which the FDEP can enforce a set of standards and conditions. The FDEP has adopted 40 CFR 60, subpart DDDD, into Chapter 62–204 of the Florida Administrative Code, thereby making it an enforceable rule. Therefore, FDEP's mechanism for enforcing the standards and conditions of 40 CFR 60, subpart DDDD, is Rule 62.204.800(8)(f), F.A.C. On the basis of these statutes and rules of the State of Florida, the State Plan is approved as being at least as protective as the Federal requirements for existing CISWI units.

FDEP adopted by reference, all emission standards and limitations applicable to existing CISWI units. These standards and limitation have been approved as being at least as protective as the Federal requirements contained in subpart DDDD for existing CISWI units.

FDEP submitted the compliance schedule for CISWIs under their jurisdiction in the State of Florida. This portion of the Plan has been reviewed and approved as being at least as protective as Federal requirements for existing CISWI units.

FDEP submitted an emissions inventory of all designated pollutants for CISWI units under their jurisdiction in the State of Florida. This portion of the Plan has been reviewed and approved as meeting the Federal requirements for existing CISWI units.

FDEP includes its legal authority to require owners and operators of designated facilities to maintain records and report to their Agency the nature and amount of emissions and any other information that may be necessary to enable their Agency to judge the compliance status of the facilities in Appendix B of the State Plan. In Appendix B, FDEP also submits its legal authority to provide for periodic inspection and testing and provisions for making reports of CISWI emissions

data, correlated with emission standards that apply, available to the general public.

The State Plan outlines the authority to meet the requirements of monitoring, record keeping, reporting, and compliance assurance. This portion of the Plan has been reviewed and approved as being at least as protective as Federal requirements for existing CISWI units.

As stated in the Plan, FDEP will provide progress reports of plan implementation updates to the EPA on an annual basis. These progress reports will include the required items pursuant to 40 CFR part 60, subpart B. This portion of the plan has reviewed and approved as meeting the Federal requirement for State Plan reporting.

This action approves the State Plan submitted by FDEP for the State of Florida to implement and enforce subpart DDDD, as it applies to existing CISWI units only.

### III. Final Action

This action approves the State Plan submitted by FDEP for the State of Florida to implement and enforce subpart DDDD, as it applies to existing CISWI units only. The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the State Implementation Plan (SIP) revision should adverse comments be filed. This rule will be effective June 13, 2003 without further notice unless the Agency receives adverse comments by May 14, 2003.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on June 13, 2003, and no further action will be taken on the proposed rule.

### IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For

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

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

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the

requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

This action is not a "major rule" as defined by 5 U.S.C. section 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 13, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

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

Environmental protection, Air pollution control, Nitrogen dioxide, Particulate matter, Sulfur oxides.

Dated: March 24, 2003.

**A. Stanely Meiburg,**

*Acting, Regional Administrator, Region 4.*

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

#### PART 62—[AMENDED]

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

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

#### Subpart K—Florida

■ 2. Subpart K is amended by adding an undesignated center heading and § 62.2380 to read as follows:

#### Air Emissions From Commercial and Industrial Solid Waste Incineration (CISWI) Units—Section 111(d)/129 Plan

##### § 62.2380 Identification of sources.

The Plan applies to existing Commercial and Industrial Solid Waste Incineration Units that Commenced Construction On or Before November 30, 1999.

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