

Officer will provide assistance in person or by mail.

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■ 7. Section 102.24 is amended by revising paragraph (a) to read as follows:

§ 102.24 Procedures for making requests for records.

(a) Any individual, regardless of age, who is a citizen of the United States or an alien lawfully admitted for permanent residence into the United States may submit a request to the USPTO for access to records. The request should be made either in person at 10B20, Madison Building East, 600 Dulany Street, Alexandria, Virginia, or by mail addressed to the Privacy Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313-1450.

* * * * *

PART 104—LEGAL PROCESSES

■ 8. The authority citation for 37 CFR part 104 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2), 10, 23, 25; 44 U.S.C. 3101

■ 9. Section 104.2 is amended by revising paragraphs (b) and (c) to read as follows:

§ 104.2 Address for mail and service; telephone number.

* * * * *

(b) Service by hand should be made during business hours to the Office of the General Counsel, 10B20, Madison Building East, 600 Dulany Street, Alexandria, Virginia.

(c) The Office of the General Counsel may be reached by telephone at 571-272-7000 during business hours.

PART 150—REQUESTS FOR PRESIDENTIAL PROCLAMATIONS PURSUANT TO 17 U.S.C. 902(a)(2)

■ 10. The authority citation for 37 CFR part 150 is revised to read as follows:

Authority: 35 U.S.C. 2(b)(2); E.O. 12504, 50 FR 4849; 3 CFR, 1985 Comp., p. 335.

■ 11. Section 150.6 is revised to read as follows:

§ 150.6 Mailing address.

Requests and all correspondence pursuant to these guidelines shall be addressed to: Mail Stop Congressional Relations, Director of the United States Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Dated: February 22, 2005.

Jon W. Dudas,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 05-3744 Filed 3-3-05; 8:45 am]

BILLING CODE 3510-16-U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[R03-OAR-2005-PA-0001; FRL-7880-4]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants, Commonwealth of Pennsylvania; Delegation of Authority

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving delegation of the Federal plan for commercial and industrial solid waste incinerator (CISWI) units to both the Pennsylvania Department of Environmental Protection (PADEP) and the Allegheny County Health Department (ACHD). The Federal plan establishes maximum achievable control technology (MACT) emission limits, monitoring, operating, and recordkeeping requirements for CISWI units for which construction commenced on or before November 30, 1999. PADEP and the ACHD representatives have signed separate, but similar, Memorandum of Agreements (MOA) which act as the mechanism for the transfer of EPA authority to the respective air pollution control agencies. The MOA defines policies, responsibilities, and procedures by which the Federal plan will be administered by the PADEP, and the ACHD on behalf of EPA.

DATES: This rule is effective May 3, 2005, without further notice, unless EPA receives adverse written comment by April 4, 2005. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID Number R03-OAR-2005-PA-0001 by one of the following methods:

A. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. Agency Web site: <http://www.docket.epa.gov/rmepub/> RME,

EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

C. E-mail: <http://wilkie.walter@epa.gov>.

D. Mail: R03-OAR-2005-PA-0001, Walter Wilkie, Chief, Air Quality Analysis, Mailcode 3AP22, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

E. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to RME ID No. R03-OAR-2005-PA-0001. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at <http://www.docket.epa.gov/rmepub/>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, [regulations.gov](http://www.regulations.gov) or e-mail. The EPA RME and the [Federal regulations.gov](http://www.regulations.gov) Web sites are an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the RME index at <http://www.docket.epa.gov/rmepub/>. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on

the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the PADEP submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105. Copies of the ACHD submittal are available at the Allegheny County Health Department, 3333 Forbes Avenue, Pittsburgh, Pennsylvania 15213.

FOR FURTHER INFORMATION CONTACT:

James B. Topsale, P.E., at (215) 814-2190, or by e-mail at topsale.jim@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Sections 111(d) and 129 of the Clean Air Act (the "Act") require states to submit plans to control certain pollutants (designated pollutants) at existing solid waste combustor facilities (designated facilities) whenever standards of performance have been established under section 111(b) for new sources of the same type, and EPA has established emission guidelines (EG) for such existing sources. A designated pollutant is any pollutant for which no air quality criteria have been issued, and which is not included on a list published under section 108(a) or section 112(b)(1)(A) of the Act, but emissions of which are subject to a standard of performance for new stationary sources. Also, section 129 of the Act, also requires EPA to promulgate EG for solid waste combustion units that emit a mixture of air pollutants. These pollutants include organics (dioxins/furans), carbon monoxide, metals (cadmium, lead, mercury), acid gases (hydrogen chloride, sulfur dioxide, and nitrogen oxides) and particulate matter (including opacity). On December 1, 2000 (65 FR 75338), EPA promulgated new source performance standards and EG for CISWI units, 40 CFR part 60, subparts CCCC and DDDD, respectively. The designated facility to which the EG apply is each existing CISWI unit, as stipulated in subpart DDDD, that commenced construction on or before November 30, 1999. *See*, 40 CFR 60.2550 for details. State plan requirements must be "at least as protective" as the EG, and federally-enforceable upon approval by EPA. The procedures for adoption and submittal

of State plans are codified in 40 CFR part 60, subpart B. For states that fail to submit a plan, EPA is required to develop and implement a Federal plan within two years following promulgation of the EG. EPA implementation and enforcement of the Federal plan is viewed as an interim measure until States assume their role as the preferred implementers of the EG requirements stipulated in the Federal plan. Accordingly, EPA encourages States to either use the Federal plan as a template to reduce the effort needed to develop their own plan, or to simply request delegation of the Federal plan, as the PADEP and the ACHD have done.

II. Submittal and Review of Requests for Delegation by the Federal Plan

A. *PADEP*—On April 16, 2004, the PADEP requested delegation of authority from EPA to implement and enforce the Federal plan for existing CISWI units, codified at 40 CFR part 62, subpart III. The scope of the request includes all affected facilities within the geographical area of the Commonwealth of Pennsylvania, except Allegheny and Philadelphia counties. The ACHD has submitted a separate delegation request to EPA, as noted above, and the City of Philadelphia has submitted a negative declaration that no CISWI units exist within the City of Philadelphia.

Under EPA's Delegation Manual, item 7-139, the Regional Administrator is authorized to delegate implementation and enforcement of section 111(d)/129 Federal plans to State air pollution control agencies. The requirements and limitations of a delegation agreement are defined in item 7-139. Consistent with the requirements of the Delegation Manual, on October 14, 2004, EPA prepared and signed a MOA between the EPA and the PADEP that defines policies, responsibilities, and procedures pursuant to the Federal plan and the related 40 CFR 60 Subpart DDDD (Emission Guidelines), by which the Federal plan will be administered by both agencies. Subsequently, on November 24, 2004, Kathleen A. McGinty, Secretary, PADEP, signed the MOA, thus agreeing to the terms and conditions of the MOA and accepting responsibility for implementation and enforcement of the policies and procedures of the Federal plan, except for certain authorities (e.g., extension of the final compliance date and major revisions to source test methods) retained by EPA.

B. *ACHD*—On April 21, 2004, the ACHD requested delegation of authority from EPA to implement and enforce the Federal plan for existing CISWI units. As noted above, the scope of the request

includes only the geographical area of Allegheny County.

Consistent with the requirements of the Delegation Manual, on October 14, 2004, EPA prepared and signed a MOA between the EPA and the ACHD that defines policies, responsibilities, and procedures pursuant to the Federal plan and related EG. Subsequently, on October 19, 2004, Dr. Bruce W. Dixon, Director, ACHD, signed the MOA, thus agreeing to the terms and conditions of the MOA and accepting responsibility for implementation and enforcement of the policies and procedures of the Federal plan, except for certain authorities (e.g., extension of the final compliance date and major revisions to source test methods) retained by EPA.

III. Final Action

Pursuant to EPA's Delegation Manual and the Federal plan preamble, section VI, Implementation of the Federal Plan and Delegation, EPA is approving the requests of the PADEP and the ACHD for delegation of authority to implement and enforce the Federal plan and to adhere to the terms and conditions of the respective MOAs. While both the PADEP and the ACHD are delegated the authority to implement and enforce the Federal plan in their respective air pollution control jurisdictions, nothing in the delegation agreements shall prohibit EPA from enforcing sections 111(d) and 129 requirements of the Act or the Federal plan for CISWI units.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action simply reflects an already existing Federal requirement for state air pollution control agencies and existing CISWI units that are subject to the provisions of 40 CFR part 60, subparts B and 40 CFR part 62, subpart III, respectively. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the section 111(d)/129 plan should relevant adverse or critical comments be filed. This rule will be effective May 3, 2005, without further notice unless the Agency receives relevant adverse comments by April 4, 2005. If EPA receives adverse comments, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule did not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if

EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Statutory and Executive Order Reviews

A. General Requirements

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 (Public Law 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 state requests for 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 section 111(d)/129 plan delegation request 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 section 111(d)/129 Federal plan delegation request for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a section 111(d)/129 Federal plan delegation request, to use VCS in place of a 111(d)/129 plan 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.*).

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

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 May 3, 2005. 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, approving the PADEP and ACHD requests for delegation of the Federal plan for CISWI units, 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, Administrative practice and procedure, Air pollution control, Aluminum, Fertilizers, Fluoride, Intergovernmental relations, Paper and paper products industry, Phosphate, Reporting and recordkeeping requirements, Sulfur oxides, Sulfur acid plants, Waste treatment and disposal.

Dated: February 17, 2005.

Richard Kampf,

Acting Regional Administrator, Region III.

■ 40 CFR part 62 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 NN—Pennsylvania

■ 2. A new center heading, after § 62.9670, consisting of §§ 62.9675, 62.9676, 62.9677; and 62.9680, 62.9681, and 62.9682 is added to read as follows:

EMISSIONS FROM EXISTING COMMERCIAL INDUSTRIAL SOLID WASTE INCINERATORS (CISWI) UNITS—SECTION 111(d)/129 FEDERAL PLAN DELEGATIONS

§ 62.9675 Identification of plan—delegation of authority.

On October 14, 2004, EPA signed a Memoranda of Agreement (MOA) that defines policies, responsibilities, and procedures pursuant to 40 CFR part 62, Subpart III (the “Federal plan”) by which the Federal plan will be administered by the PADEP on behalf of EPA.

§ 62.9676 Identification of sources.

The MOA and related Federal plan apply to all affected CISWI units for which construction commenced on or before November 30, 1999.

§ 62.9677 Effective date of delegation.

The delegation became fully effective on November 24, 2004 the date the MOA was signed by the PADEP Secretary.

§ 62.9680 Identification of plan—delegation of authority.

On October 14, 2004, EPA signed a Memoranda of Agreement (MOA) that defines policies, responsibilities, and procedures pursuant to 40 CFR part 62, Subpart III (the “Federal plan”) by which the Federal plan will be administered by the Allegheny County

Health Department (ACHD) on behalf of EPA.

§ 62.9681 Identification of sources.

The MOA and related Federal plan apply to all affected CISWI units for which construction commenced on or before November 30, 1999.

§ 62.9682 Effective date of delegation.

The delegation became fully effective on October 19, 2004 the date the MOA was signed by the ACHD Director.

[FR Doc. 05-4271 Filed 3-3-05; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AT54

Endangered and Threatened Wildlife and Plants; Special Rule To Control the Trade of Threatened Beluga Sturgeon (*Huso huso*)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are promulgating a special rule under Section 4(d) of the Endangered Species Act of 1973, as amended (Act), to exempt the import and export of and foreign and interstate commerce in certain products of beluga sturgeon (*Huso huso*) from threatened species permits normally required under 50 CFR 17.32. The beluga sturgeon's historical range includes 18 countries within the watersheds of the Caspian Sea, Black Sea, Sea of Azov, and the Adriatic Sea. The species is currently known to occur only in the Caspian and Black Seas and certain rivers connected to these basins. Of the 14 countries where the species still occurs, only 11 have significant beluga sturgeon habitat in the Caspian Sea, Black Sea or Danube River and consequently these countries take responsibility for cooperative management of the species (Azerbaijan, Bulgaria, Georgia, Islamic Republic of Iran, Kazakhstan, Romania, Russian Federation, Serbia and Montenegro, Turkey, Turkmenistan, and Ukraine; hereafter referred to as the "littoral states"). Overharvest, severe habitat degradation, and other factors have led to the listing of beluga sturgeon as threatened throughout its range under the Act and in Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and

Flora (CITES). In our final rule listing the beluga sturgeon as threatened, we delayed the effective date of the listing for 6 months to allow time for us to promulgate a special rule under Section 4(d) of the Act. The listing became effective on October 21, 2004, yet this 4(d) rule was not yet promulgated. Therefore, we promulgated a special interim rule on October 21, 2004, to continue to allow CITES-consistent trade in all beluga sturgeon and products until this 4(d) rule was finalized and effective. When this 4(d) rule becomes effective, it will repeal the special interim rule and the Act will prohibit all trade (import, export, re-export, and foreign and interstate commerce) in beluga sturgeon and beluga sturgeon products, except as provided in the special rule or with permits under the provisions of Section 10 of the Act. This special rule initially allows littoral states 6 months from the rule's effective date to submit a suite of reports and management measures to us for review. During this initial 6-month period, imports, re-exports, and exports of, and interstate and foreign commerce in, certain beluga sturgeon caviar and meat will continue without a requirement for threatened species permits. This is intended to provide the littoral states time to submit the required documents. Similarly, we will consider making programmatic permit exemptions for commercial aquaculture facilities outside the littoral states if they meet certain criteria for: (1) Enhancing the survival of populations of wild beluga sturgeon; and (2) not threatening native aquatic fauna in the country in which the facility is located. CITES documentation will still be required for any international movement of beluga sturgeon and beluga sturgeon products, except as they may qualify for an exemption as personal or household effects.

After an initial 6 months of gathering information from the littoral states, these exemptions will occur only if the information provided fulfills certain requirements, as described below. In addition, all relevant provisions of CITES will continue to govern international trade in all beluga sturgeon products. We are allowing this conditional trade to promote the effective conservation of *Huso huso* in the littoral states, through demonstrable law enforcement and cooperative management activities.

DATES: This rule is effective March 4, 2005. The reasons for this accelerated implementation, which replaces the standard 30-day time frame, are described below in the "Background" section.

ADDRESSES: The complete file for this rule is available for inspection by appointment during normal business hours in the office of the Division of Scientific Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 750, Arlington, Virginia 22203.

Requests for copies of the regulations regarding listed wildlife and inquiries about prohibitions and permits may be addressed to: Division of Management Authority, Branch of Permits—International, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 700, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Robert R. Gabel, Chief, Division of Scientific Authority, at the above address (phone: 703-358-1708). For permitting information, contact: Tim Van Norman, Chief, Branch of Permits—International, at the address above (phone: 703-358-2104, or toll free, 1-800-358-2104).

SUPPLEMENTARY INFORMATION:

Background

The beluga sturgeon is a large fish from which highly valued beluga caviar is obtained. The species' range was reduced during the 20th Century and is now limited to the Caspian and Black Sea basins (including the Danube River upstream into Hungary). The species' historic range comprises Azerbaijan, Bosnia and Herzegovina, Bulgaria, Croatia, the Czech Republic, Georgia, Hungary, the Islamic Republic of Iran, Italy, Kazakhstan, Moldova, Romania, the Russian Federation, Slovenia, Serbia and Montenegro, Turkey, Turkmenistan, and Ukraine. Only the 11 littoral states (Azerbaijan, Bulgaria, Georgia, Islamic Republic of Iran, Kazakhstan, Romania, Russian Federation, Serbia and Montenegro, Turkey, Turkmenistan, and Ukraine) apparently have significant remaining habitat for beluga sturgeon, and these countries take responsibility for cooperative management and conservation of beluga sturgeon in the Caspian Sea and Black Sea. Hereafter the term "Black Sea" describes both the Black Sea and Sea of Azov basins, which are connected via the Kerch Strait, although the species is believed to be extremely rare or extinct in the Sea of Azov. Hereafter, the term "basin" refers to an inland sea (e.g., Black Sea or Caspian Sea) and its bordering coastal lands.

The species is threatened by habitat modification and degradation, overexploitation for trade, and limited natural reproduction. On April 21, 2004, the Service published a final rule (69 FR 21425) to list the beluga sturgeon, *Huso huso*, as threatened throughout its range