

Distribution, or Use” (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. This rule relates only to the adjustments to civil penalties to account for inflation. This rule is consistent with current agency practice, does not impose new substantive requirements, and therefore will not have a significant adverse effect on the supply, distribution, or use of energy.

#### List of Subjects in 33 CFR Part 326

Administrative practice and procedure, Intergovernmental relations, Investigations, Law enforcement, Navigation (water), Water pollution control, Waterways.

Dated: April 19, 2018.

**R.D. James,**

*Assistant Secretary of the Army (Civil Works).*

For the reasons set forth in the preamble, the Corps amends 33 CFR part 326 as follows:

#### PART 326—ENFORCEMENT

- 1. The authority citation for part 326 continues to read as follows:

**Authority:** 33 U.S.C. 401 *et seq.*; 33 U.S.C. 1344; 33 U.S.C. 1413; 33 U.S.C. 2104; 33 U.S.C. 1319; 28 U.S.C. 2461 note.

- 2. Amend § 326.6 by revising paragraph (a)(1) to read as follows:

#### § 326.6 Class I administrative penalties.

(a) *Introduction.* (1) This section sets forth procedures for initiation and

administration of Class I administrative penalty orders under Section 309(g) of the Clean Water Act, judicially-imposed civil penalties under Section 404(s) of the Clean Water Act, and Section 205 of the National Fishing Enhancement Act. Under Section 309(g)(2)(A) of the Clean Water Act, Class I civil penalties may not exceed \$21,394 per violation, except that the maximum amount of any Class I civil penalty shall not exceed \$53,484. Under Section 404(s)(4) of the Clean Water Act, judicially-imposed civil penalties may not exceed \$53,484 per day for each violation. Under Section 205(e) of the National Fishing Enhancement Act, penalties for violations of permits issued in accordance with that Act shall not exceed \$23,426 for each violation.

Environmental statute and U.S. Code citation	Statutory civil monetary penalty amount for violations that occurred after November 2, 2015, and are assessed on or after May 2, 2018
Clean Water Act (CWA), Section 309(g)(2)(A), 33 U.S.C. 1319(g)(2)(A)	\$21,394 per violation, with a maximum of \$53,484.
CWA, Section 404(s)(4), 33 U.S.C. 1344(s)(4) .....	Maximum of \$53,484 per day for each violation.
National Fishing Enhancement Act, Section 205(e), 33 U.S.C. 2104(e)	Maximum of \$23,426 per violation.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[EPA–R04–OAR–2018–0119; FRL–9977–22–Region 4]

#### Delegation of Authority to North Carolina and the Western North Carolina Regional Air Quality Agency of Federal Plan for Existing Sewage Sludge Incineration Units

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

**ACTION:** Final rule.

**SUMMARY:** The EPA is providing notice of and is codifying its prior approval of requests submitted by the North Carolina Department of Environmental Quality (NCDEQ), through its Division of Air Quality, and the Western North Carolina Regional Air Quality Agency (WNCRAQA) for delegation of authority to implement and enforce the Federal plan for existing affected Sewage Sludge Incineration (SSI) units. The Federal plan establishes emission limits and monitoring, operating, and recordkeeping requirements for SSI units constructed on or before October 14, 2010. NCDEQ and WNCRAQA representatives have signed separate but similar Memoranda of Agreement

(MOAs), each of which constitutes the mechanism for the transfer of authority from the EPA to each respective air pollution control agency. The MOAs and the corresponding delegations of authority were effective upon signature by the Regional Administrator on April 2, 2018. The MOAs delineate policies, responsibilities, and procedures by which the Federal plan will be administered and enforced by the NCDEQ and WNCRAQA, respectively, as well as the authorities retained by the EPA.

**DATES:** This rule is effective on June 1, 2018.

**ADDRESSES:** The EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2018–0119. The index to the docket for this action is available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at EPA Region 4, 61 Forsyth St. SW, Atlanta, Georgia. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.*, copyrighted material), and some may not be publicly available at either location (*e.g.*, confidential business information).

**FOR FURTHER INFORMATION CONTACT:** Mark Bloeth, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency Region 4, 61 Forsyth Street SW, Atlanta, Georgia, 30303–8960. Mr. Bloeth can be reached via telephone at (404) 562–9013

and via electronic mail at [bloeth.mark@epa.gov](mailto:bloeth.mark@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Section 129 of the Clean Air Act (the “CAA” or “Act”), titled “Solid Waste Combustion,” requires the EPA to develop and adopt standards for solid waste incineration units pursuant to sections 111(d) and 129 of the Act. On March 21, 2011, the EPA promulgated new source performance standards (NSPS) and emissions guidelines (EG) for SSI units located at wastewater treatment facilities designed to treat domestic sewage sludge. *See* 76 FR 15372. Codified at 40 CFR part 60, subparts LLLL and MMMM, these final rules set limits for nine pollutants under section 129 of the CAA: Cadmium (Cd), carbon monoxide (CO), hydrogen chloride (HCl), lead (Pb), mercury (Hg), nitrogen oxides (NO<sub>x</sub>), particulate matter (PM), polychlorinated dibenzo-p-dioxins and polychlorinated dibenzofurans (PCDDs/PCFDs), and sulfur dioxide (SO<sub>2</sub>). The EG apply to existing SSI units, which are those units that commenced construction on or before October 14, 2010. *See* 40 CFR 60.5060.

CAA section 129 also requires each state in which SSI units are operating to submit a plan to implement and enforce the EG with respect to such units. State plan requirements must be “at least as protective” as the EG and become federally enforceable upon approval by



the EPA. The procedures for adoption and submittal of state plans are codified in 40 CFR part 60, subpart B. The SSI EG include a model rule that states may use to develop their own plans.

On April 29, 2016, the EPA finalized a Federal plan that implements the EG in states that do not have an approved state plan. 81 FR 26040. 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, the EPA encourages states to either develop their own plan (the EG model rule or the Federal plan can be used as a template to reduce the effort needed to develop a plan), or to request delegation of the Federal plan, as the NCDEQ and WNCRAQA have done. State plans and requests for delegations of authority that have been approved by EPA are reflected in the Code of Federal Regulations at 40 CFR part 62, subparts B through DDD.

## II. Submittal and EPA Approval of Requests for Delegation of the Federal Plan

On December 9, 2016, and February 7, 2017, the NCDEQ and WNCRAQA, respectively, requested delegation of authority from EPA to implement and enforce the Federal plan for existing SSI units, codified at 40 CFR part 62 subpart LLL. The scope of the request from the NCDEQ included all affected facilities within the State of North Carolina, except Buncombe County and the City of Asheville. The WNCRAQA submitted a separate delegation request which included all affected facilities within Buncombe County and the City of Asheville. The delegation of authority does not apply to sources located in Indian Country.

The EPA evaluates requests for delegation of the SSI Federal plan pursuant to the provisions of the SSI Federal plan and the EPA's Delegations Manual. Pursuant to the SSI Federal plan, a state may meet its CAA section 111(d)/129 obligations by submitting an acceptable written request for delegation of the Federal plan that includes the following elements: (1) A demonstration of adequate resources and legal authority to administer and enforce the Federal plan; (2) an inventory of affected SSI units, an inventory of emissions from affected SSI units, and provisions for state progress reports (see items under 40 CFR 60.5015(a)(1), (2) and (7) from the SSI EG); (3) certification that the hearing on the state delegation request, similar to the hearing for a state plan submittal, was held, a list of witnesses and their

organizational affiliations, if any, appearing at the hearing, and a brief written summary of each presentation or written submission; and (4) a commitment to enter into a MOA with the Regional Administrator that sets forth the terms, conditions, and effective date of the delegation and that serves as the mechanism for the transfer of authority. 40 CFR 62.15865; *see also* 81 FR 26060–61. The NCDEQ and the WNCRAQA met delegation requirements (1) through (3) described above, as well as requirement (4), which is addressed below.

Pursuant to the EPA's Delegations Manual, item 7–139, *Implementation and Enforcement of 111(d)(2) and 111(d)(2)/129(b)(3) Federal Plans*, a copy of which is included in the Supporting Documents for this action, the Regional Administrator is authorized to delegate authority to implement and enforce section 111(d)/129 Federal plans to states. Whereas a state plan implementing the EG must be submitted by the state, a local agency may directly request delegation of authority to implement the SSI Federal plan with respect to sources within its jurisdiction, provided it has authority under state law to do so and has met the delegation requirements identified above. *See* 81 FR 26054–55. The requirements and limitations of a delegation agreement are set forth in item 7–139. Consistent with those requirements, the EPA prepared MOAs between the EPA and the NCDEQ and between the EPA and the WNCRAQA, each of which defines policies, responsibilities, and procedures pursuant to the SSI Federal plan by which the Federal plan will be administered by each agency. Subsequently, on January 30, 2018, Michael S. Regan, Secretary of the NCDEQ, and on January 12, 2018, David A. Brigman, Director of the WNCRAQA, signed the respective MOAs, thus agreeing to the terms and conditions of the MOAs and accepting responsibility for implementation and enforcement of the policies and procedures of the Federal plan, except for certain authorities (e.g., approval of major alternatives to test methods or monitoring) retained by the EPA. The EPA continues to retain enforcement authority along with the NCDEQ and the WNCRAQA. The MOAs, and resulting delegation of authority, became effective upon signature by the Regional Administrator on April 2, 2018.

## III. EPA Action

In this action, EPA is notifying the public of and is codifying its delegation of authority to implement and enforce

the Federal plan to the NCDEQ and WNCRAQA. The Code of Federal Regulations is being amended as indicated below.

## IV. Good Cause Finding

Section 553(b) of the Administrative Procedure Act (APA) requires publication of notice of proposed rulemaking and specifies what the notice shall include. *See* 5 U.S.C. 553(b). However, the APA provides an exception from this requirement “when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.” 5 U.S.C. 553(b)(3)(B).

The EPA has found good cause for making today's action final without prior proposal and opportunity for comment because this ministerial action merely codifies EPA's delegation of authority to implement and enforce the SSI Federal plan to the NCDEQ and the WNCRAQA. This action does not alter the universe of sources regulated under the Federal plan, nor does it change the regulatory requirements applicable to those sources. In these circumstances, notice and comment procedures are unnecessary.

## V. Statutory and Executive Order Reviews

Under the CAA, the Administrator has the authority to delegate the authority to implement a Federal 111(d)/129 plan that complies with the provisions of the CAA and applicable Federal regulations. *See* 40 CFR 60.27. In reviewing 111(d)/129 Federal plan delegation requests, EPA's role is to approve state choices, provided that they meet the criteria of the CAA and of EPA's implementing regulations. Accordingly, this action merely codifies in the Code of Federal Regulations EPA's delegation of authority to implement the Federal plan and does not impose additional requirements beyond those imposed by the already-applicable Federal plan. 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 13563 (76 FR 3821, January 21, 2011);
- 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 an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997); and

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001).

In addition, this rule 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. It also does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

This action does not apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. As such, it does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

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

Environmental protection, Administrative practice and procedure, Air pollution control, Aluminum, Fertilizers, Fluoride, Intergovernmental relations, Manufacturing, Phosphate, Reporting and recordkeeping requirements, Sulfur oxides, Waste treatment and disposal.

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

Dated: April 2, 2018.

**Onis “Trey” Glenn, III,**  
*Regional Administrator, Region 4.*

40 CFR part 62 is amended as follows:

#### **PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS**

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

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

#### **Subpart II—North Carolina**

■ 2. Add an undesignated center heading and §§ 62.8362 and 62.8363 to subpart II to read as follows:

##### **Air Emissions From Existing Sewage Sludge Incinerators (SSI)—Section 111(d)/129 Plan**

##### **§ 62.8362 Identification of plan—North Carolina Department of Environmental Quality.**

(a) *Delegation of authority.* On April 2, 2018, the EPA signed a Memorandum of Agreement (MOA) that defines policies, responsibilities, and procedures pursuant to 40 CFR part 62, subpart LLL (the “Federal plan”) by which the Federal plan will be administered by the North Carolina Department of Environmental Quality (NCDEQ).

(b) *Identification of sources.* The MOA and related Federal plan apply to all affected SSI units for which construction commenced on or before October 14, 2010.

(c) *Effective date of delegation.* The delegation became fully effective on April 2, 2018, the effective date of the MOA between the EPA and the NCDEQ.

##### **§ 62.8363 Identification of plan—Western North Carolina Regional Air Quality Agency.**

(a) *Delegation of authority.* On April 2, 2018, the EPA signed a Memorandum of Agreement (MOA) that defines policies, responsibilities, and procedures pursuant to 40 CFR part 62, subpart LLL (the “Federal plan”) by which the Federal plan will be administered by the Western North Carolina Regional Air Quality Agency (WNCRAQA).

(b) *Identification of sources.* The MOA and related Federal plan apply to all affected SSI units for which construction commenced on or before October 14, 2010.

(c) *Effective date of delegation.* The delegation became fully effective on April 2, 2018, the effective date of the MOA between the EPA and the WNCRAQA.

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#### **FEDERAL COMMUNICATIONS COMMISSION**

#### **47 CFR Parts 1 and 73**

[MB Docket No. 17–106; DA 18–326]

#### **Elimination of Main Studio Rule; Petition for Partial Reconsideration**

**AGENCY:** Federal Communications Commission.

**ACTION:** Dismissal and denial of petition for partial reconsideration.

**SUMMARY:** This document dismisses and otherwise denies the Petition for Reconsideration filed by De La Hunt Broadcasting Corp. The Commission’s rules provide that a petition for reconsideration which relies on facts or arguments not previously presented to the Commission will only be granted if one of three circumstances is present, and the Media Bureau concludes that none of the specified circumstances is present here. Because this is a fact-specific inquiry, and not an issue of general applicability, a waiver request is the proper means for considering this issue, and De La Hunt states that it has already requested such a waiver from the Media Bureau.

**DATES:** May 2, 2018.

**ADDRESSES:** Federal Communications Commission, 445 12th Street SW, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Diana Sokolow, [Diana.Sokolow@fcc.gov](mailto:Diana.Sokolow@fcc.gov), of the Policy Division, Media Bureau, (202) 418–2120.