

Jim Topsale  
07/29/2004 01:12 PM

To: "Lattner, Tom" <TLattner@achd.net>  
cc: Walter Wilkie/R3IUSEPA/US@EPA  
Subject: DRAFT MOA - Delegation of the Federal Section 111(d)/129 Plan of  
CISWI Units

Tom,

In response to the subject delegation request (4121/04) from ACHD, please find attached 406 a DRAFT MOA for your review and comment. At this point in time, I am assuming that Ashland has not implemented the proposed energy recovery project as discussed in EPA's 4/27/04 letter to MACTEC, the facility's consultant.



AllegCo-MOA-ciswi.wp

Jim T.

# Memorandum of Agreement

Between  
The Allegheny County, ~~3iomasyalalsoia~~ Health Department  
and  
The United States Environmental Protection Agency, Region 3

## Commercial and Industrial Solid Waste Incineration Unit Federal Plan Delegation

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### I. GENERAL

- A. This Memorandum of Agreement (hereinafter "MOA") defines policies, responsibilities, and procedures pursuant to Subpart III of Part 62 (hereinafter "Subpart III") and provisions of Subpart DDDD of Part 60, both of Chapter I of Title 40 of the Code of Federal Regulations, by which the Commercial and Industrial Solid Waste Incineration (CISWI) Federal Plan will be administered by both the Allegheny County Health Department (hereinafter "ACHD") and the United States Environmental Protection Agency. This agreement will be maintained consistent with the Clean Air Act (hereinafter "Act") and its regulations. The provisions of this MOA include the terms, conditions, and the effective date of the delegation of the Federal Plan for CISWI (hereinafter "Federal Plan"). This MOA shall serve as a mechanism for the transfer of authority to the ACHD. The delegation of the Federal Plan to the ACHD is designed to be in effect until there are no facilities within the jurisdiction of the Federal Plan in Allegheny County, EPA publishes an acceptance to a County Plan that ACHD has submitted, or EPA withdraws delegation of the Federal Plan according to the provisions of this MOA.
- B. This agreement is entered into by the ACHD and the U.S. Environmental Protection Agency Regional Administrator, Region 3 (hereinafter "EPA"). The geographic area covered by this MOA is Allegheny County, Pennsylvania. This MOA encompasses responsibilities of all County agencies that will administer any part of the Federal Plan covered by this MOA.
- C. Nothing in this MOA shall be construed to restrict in any way EPA's authority to fulfill its oversight and enforcement responsibilities under the Act. Nothing in this MOA shall be construed to contravene any provision of Subpart 111. This MOA is in addition to, and does not contravene other agreements, as follows: New Source Review, Title V Permitting Program, State Implementation Plan Program.
- D. The EPA shall have the authority to revoke all or part of this delegation if EPA determines that the ACHD has failed to properly implement or enforce the Federal Plan.

- E. The delegation of the Federal Plan to Allegheny County shall become effective upon signature by both the ACHD and EPA.
- F. This MOA may be modified only after mutual consent of both parties for any purpose. Any revisions or modifications to this MOA must be in writing and must be signed by the ACHD and EPA.

II. Policy Statement

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- A. Each party is responsible for ensuring that the obligations under subpart III and 40 CFR Part 60, subpart DDDD, are met. Both parties agree to maintain a high level of communication, cooperation, and coordination between their respective staffs to assure successful and effective administration of the Federal Plan.
- B. The ACHD has primary responsibility for:
  - 1. Administering the Federal Plan in accordance with subpart 111, applicable State/local law, objectives of the Act, and this MOA.
  - 2. Making any changes to the delegated Federal Plan necessitated by regulatory changes.
  - 3. Sharing information with EPA regarding administration of the program.
- C. The EPA has responsibility for:
  - 1. Providing effective oversight of the Federal Plan to ensure consistency with Subpart III and this MOA and to promote national consistency in implementation of the Act.
  - 2. Providing ongoing technical and other assistance on CISWI matters as requested.
  - 3. Informing the ACHD as soon as possible about new EPA regulations and any related litigation results or settlements, new Federal standards, implementation information and related Federal policies, the effect of these new requirements, and the action needed by the ACHD.
  - 4. Informing the ACHD as soon as possible about EPA decisions to revoke any or all of the authority granted to the Health Department for delegation purposes.

### III. Program Implementation

- A. Both the EPA and the ACHD will maintain a list, included in this MOA, of contact persons involved with the implementation of the Federal Plan.
- B. The EPA and ACHD agree to participate in conference calls every 6 months or as often as needed to discuss program implementation and discuss specific issues that need resolution; either party may call the meetings to review operating procedures, resolve problems, or discuss concerns regarding program implementation. The permission level will be the EPA Office of Enforcement and Permit Review Chief, or his designee, and the ACHD Manager, Rodger C. Westman, or his designee.
- C. The ACHD agrees to do the following:
  - 1. Enforce the Federal Plan according to the provisions of subpart III, "Federal Plan Requirements for CISWI units Constructed on or Before November 30, 1999."
  - 2. Administer and oversee compliance reporting and recordkeeping requirements.
  - 3. Inspect all CISWI units at least once per fiscal year and report this information to EPA via the Air Facility Subsystem (hereinafter "AFS") with a special emphasis on updating the facility compliance status in AFS.
  - 4. Perform follow-up inspections or review of facility records to insure correction of non-major violations discovered during routine inspections.
  - 5. Review Excess Emissions Reports (EER) and stack test reports to ascertain compliance and report information concerning federal "high priority violations" to EPA via AFS with a special emphasis on updating the facility compliance status.
  - 6. Address violations detected and found to meet the definition of "High Priority Violation" in accordance with the "Timely and Appropriate Enforcement Response to High Priority Violations," June 23, 1999. As expeditiously as possible, inform EPA of minor (non-major) source facilities that may qualify as a HPV because of a consistent, long term trend of violations, or other appropriate reason.

7. Notify EPA when a facility fails to achieve timely compliance with the requirements of sections 62.14535(a)(1) through (a)(5) and 62.1457,9(c) of the Federal Plan.
8. EPA received no compliance date extension requests on or before December 3, 2003, as provided for under the Federal plan, section 62.14536. Therefore, compliance date extension requests, under section 62.14536 and related Federal plan sections, are not approvable.
9. Update the Federal Plan compliance monitoring and enforcement program in collaboration with EPA, as needed.
10. Notify EPA when RARREP proposes to transfer all or part of the delegation to any other agency, identify any new division of responsibilities among the agencies involved, and not transfer administration of that program component to the other agency until EPA approval of the delegation authority revision.

D. The EPA agrees to do the following:

*f. r., ...*

1. Provide technical support and assistance and training opportunities for interpretation of national regulations, development of technology-based requirements, and other areas as requested by ACHD.
2. Make reasonable efforts to communicate to ACHD when additional legal, technical, and financial resources may be necessary to implement new requirements of sections 111(d) and 129, as they become applicable.
3. Cooperate with ACHD by allowing appropriate flexibility when determining the most effective and expeditious means of implementing EPA policy and guidance.

#### IV. Program Overview.

- A. To assure that program requirements are met, the EPA agrees to do the following:
  1. Expeditiously review and appropriately respond to all information submitted by ACHD.
  2. Promulgate, as expeditiously as possible, Regional approval in the Federal Register of any approvable delegation agreement modification submitted by the ACHD, or initiated by EPA.

B. ACHD and EPA agree that EPA will assess ACHD's administration of the Federal Plan on a continuing basis for consistency with subpart III, Title V, New Source Review, New Source Performance Standards, and all other requirements of the Act. This assessment will be accomplished by EPA review of information submitted by ~~PADEP~~ ~~ACHD~~, and permit, compliance and enforcement overviews.

1. The ~~0-1-11~~ ~~consider~~ written ~~com~~ments that are received from regulated person ~~the public~~ and "Federal, State, and local agencies in assessing the ~~-----~~ ~~nia~~ receipt of delegation of the Federal Plan. Copies of any comments received from such sources will be provided to the ACHD within 7 working days of receipt.
2. The EPA may audit ACHD by examining its files and documents for selected facilities to determine that documents such as annual emission rate reports, increments of progress notices, copies of notices of public meetings, documents summarizing responses to public comments, construction notices, and fuel reports, as applicable, are received, processed, and enforced in a manner consistent with federal requirements. Audits will be conducted on an as needed basis and EPA will give reasonable notice to ACHD prior to initiating the audit.
3. If EPA determines that ACHD is not adequately administering or enforcing the Federal Plan, EPA will notify ACHD of the determination as soon as possible and the reasons for it. ACHD and EPA will then determine the process and time frame for correcting the deficiencies in an expeditious manner.
4. ACHD agrees to allow EPA access to all files and other requested information deemed necessary by EPA to ensure management of the delegated Federal Plan consistent with EPA policy.

V. Responsibilities of the ACHD under delegation of the Federal Plan.

A. ACHD is responsible for the following:

1. Ensure affected Allegheny county facilities comply with the CIS WI Operator Training and Qualification requirements, except the notification and reporting requirements of section 62.14625(b) of the Federal plan relating to when all qualified operators are not accessible for 2 weeks or more.

2. Ensure final compliance for each affected facility is achieved on or before October 4, 2004.

VI. Authorities not delegable to the ACHD.

A. These authorities are retained by EPA:

1. All authorities identified in section 62.14838 of the Federal plan.
2. All authorities identified in the Federal plan, sections 62.14535(b) through 62.14575 (b), relating to extension of the final compliance date or facility closure after October 4, 2004.

VII. Reporting and Transmittal of Information

- A. ACHD agrees to submit to the EPA regional Air Enforcement Branch Chief the annual progress reports on plan enforcement, as described in 40 CFR 60.25(e) and (f). ACHD shall submit the reports on an annual (calendar year) basis, commencing with the first full report period after EPA approval of the delegation request in the Federal Register.
- B. The EPA agrees to submit the following to ACHD:

<u>Description</u>	<u>Frequency</u>
A list of any compliance inspections EPA may conduct jointly with ACHD as part of its overview plan.	Annually.
Revisions to the schedule of compliance inspections.	As needed.
Copies of all EPA compliance inspection reports and data.	Ongoing basis in AFS within a reasonable time after data received.
Any transmittal letters for section 113 or 114 actions by EPA.	Within 5 working days of transmittal

- C. ACHD and EPA agree to the following procedures with respect to confidentiality of information.
1. Any information obtained or used in the administration of the Federal Plan shall be available to EPA or ACHD upon request without restriction. If the information has been submitted to the ACHD under a claim of confidentiality, the agency must submit that claim to EPA when providing the information.
  2. If any information is submitted to the ACHD under a claim of confidentiality and Pennsylvania or county statutes prohibit submitting that information to EPA, ACHD will require the source to submit the information directly to EPA.
  3. Any information obtained from ACHD or from a source and subject to a claim of confidentiality will be treated by EPA in accordance with the regulations in 40 CFR Part 2.

VIII. List of EPA contacts

- A. Bernard Turlinski, Chief, Office of Enforcement and Permits Review: (215) 814-2052
- B. Gerallyn Duke, Office of Enforcement and Permits Review: (215) 814-2084
- C. Walter Wilkie, Chief, Air Quality Analysis Branch: (215) 814-2150
- D. James Topsale, Air Quality Analysis Branch: (215) 814-2190
- E. Russell Swan, Office of Regional Counsel: (215) 814-5387

IX. List of ACHD contacts

- A. Rodger C. Westman, Manager: (412) 578 - 8103
- B. Thomas Lattner : (412) 578 - 7986
- C. [Staff or Manager] : (412) 578 - xxxx



X. Signatures

United States, United States Environmental Protection Agency, Region 3

By:

Donald S. Welsh  
Regional Administrator

Date:

Allegheny County Health Department

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By:

Rodger C. Westman  
Manager

Date: