

**SUMMARY:** EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Delaware. This SIP revision includes an amendment to Delaware's regulation for Volatile Organic Compounds (VOC) from Consumer and Commercial Products, Section 3.0, Portable Fuel Containers. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

**DATES:** Comments must be received in writing by January 13, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R03-OAR-2010-0435 by one of the following methods:

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

B. *E-mail:* [powers.marilyn@epa.gov](mailto:powers.marilyn@epa.gov).

C. *Mail:* EPA-R03-OAR-2010-0435, Marilyn Powers, Acting Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *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 Docket ID No. EPA-R03-OAR-2010-0435. 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.regulations.gov>, 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 <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is 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 <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 <http://www.regulations.gov> index. 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 <http://www.regulations.gov> 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 State submittal are available at the Delaware Department of Natural Resources and Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903.

**FOR FURTHER INFORMATION CONTACT:** Irene Shandruk, (215) 814-2166, or by e-mail at [shandruk.irene@epa.gov](mailto:shandruk.irene@epa.gov).

**SUPPLEMENTARY INFORMATION:** For further information, please see the information provided in the direct final action, with the same title, "Approval and Promulgation of Air Quality Implementation Plans; Delaware; Limiting Emissions of Volatile Organic Compounds from Portable Fuel Containers," that is located in the "Rules and Regulations" section of this **Federal Register** publication.

Dated: November 30, 2010.

**W.C. Early,**

*Acting Regional Administrator, Region III.*

[FR Doc. 2010-31222 Filed 12-13-10; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 63

[EPA-HQ-OAR-2008-0334; FRL-9238-6]

### National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources

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

**ACTION:** Proposed rule.

**SUMMARY:** On June 15, 2010, EPA notified Petitioners that the Agency intended to initiate the reconsideration process in response to their request for reconsideration of certain provisions in the National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources. Among the provisions that EPA is reconsidering is a requirement that certain affected sources obtain a permit. In a separate rule published today, EPA is taking final action to stay for 90 days, the requirement for certain affected sources to comply with the title V permit program. Because we believe the reconsideration process may not be completed within 90 days, we are proposing to stay the provision requiring certain sources to obtain a permit until the final reconsideration rule is published in the **Federal Register**. EPA is requesting public comment on this proposed stay.

**DATES:** *Comments.* Comments must be received on or before January 28, 2011.

*Public Hearing.* If anyone contacts EPA requesting to speak at a public hearing by December 27, 2010, a public hearing will be held on December 29, 2010. For further information on the public hearing and requests to speak, see the **ADDRESSES** section of this preamble.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2008-0334, by one of the following methods:

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

- *E-mail:* [a-and-r-Docket@epa.gov](mailto:a-and-r-Docket@epa.gov), Attention Docket ID No. EPA-HQ-OAR-2008-0334.

- *Fax:* (202) 566-9744, Attention Docket ID No. EPA-HQ-OAR-2008-0334.

- *Mail:* U.S. Postal Service, send comments to: Air and Radiation Docket and Information Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. EPA-HQ-OAR-2008-0334.

• *Hand Delivery:* In person or by courier, deliver comments to: EPA Docket Center (2822T), Room 3334, 1301 Constitution Ave., NW., Washington, DC 20004. 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 Docket ID No. EPA-HQ-OAR-2008-0334. 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.regulations.gov>, 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 <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is 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 <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. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

*Docket:* All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the EPA Docket Center, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public

Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Docket Center is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:** Mr. Randy McDonald, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Coatings and Chemicals Group (E143-01), Environmental Protection Agency, Research Triangle Park, NC 27711, telephone number: (919) 541-5402; fax number: (919) 541-0246; e-mail address: [mcdonald.randy@epa.gov](mailto:mcdonald.randy@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

The EPA published final National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources on October 29, 2009. 40 CFR part 63, subpart VVVVVV (74 FR 56008). Included in the final rule was a new provision requiring any major source that had installed a control device on a chemical manufacturing process unit after November 15, 1990, and, as a result, became an area source under CFR 40 part 63 to obtain a title V permit under 40 CFR part 70 or 40 CFR part 71. See 40 CFR 63.11494(e).

On February 12, 2010, the American Chemistry Council and the Society of Chemical Manufacturers and Affiliates (collectively referred to as "Petitioners") sought reconsideration of six provisions in the final rule, including the provision requiring certain sources to obtain a title V permit. On June 15, 2010, EPA notified Petitioners that the Agency intended to initiate the reconsideration process. EPA also separately notified Petitioners that the provision requiring certain sources to obtain a title V permit was among the provisions for which EPA would grant reconsideration.

By letter dated October 28, 2010, Petitioners requested a stay of the requirement to comply with the title V permit program, specifically the requirement to submit a title V permit application, pending completion of the reconsideration process. Petitioners stated in their letter that they were requesting the stay because EPA has yet to initiate the reconsideration process and, "under one interpretation of EPA's [40 CFR part 70 and 40 CFR part 71] regulations, existing sources must file Title V permit applications [by] October 29, 2010." Petitioners maintained that it would be unreasonable and inequitable to require facilities to prepare and submit title V applications at the same time that EPA is reconsidering the

requirement to obtain a title V permit. As explained below, EPA believes that it is appropriate to stay the effectiveness of the requirement in 40 CFR 63.11494(e) for certain sources to obtain a title V permit during the pendency of the reconsideration process.

EPA is proposing to stay the provision in 40 CFR 63.11494(e) that requires "[a]ny source that was a major source and installed a control device on a CMPU<sup>1</sup> after November 15, 1990, and, as a result, became an area source under 40 CFR part 63 is required to obtain a permit under 40 CFR part 70 or 40 CFR part 71." We are proposing to stay the provision until after the final reconsideration rule is published in the **Federal Register**. This provision was first introduced in the final rule and represented a significant change from the proposal. Facilities had no chance to comment on this new requirement in the final rule. We are proposing to stay this provision because both the affected universe of sources and the substantive requirement could change as a result of this reconsideration process. Specifically, we will be reconsidering whether the affected sources noted above should be subject to title V, or whether they should be exempt from title V requirements. Because we cannot pre-judge the outcome of the reconsideration process, we think a limited stay during the duration of the administrative reconsideration process is appropriate so that sources are not incurring the cost associated with applying for a title V permit in advance of our final decision on the issue.

##### **II. 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). In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), or require prior consultation with State officials, as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues, as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Pursuant to the Regulatory Flexibility

<sup>1</sup> Chemical manufacturing process unit.

Act, I certify that this action will not have a significant economic impact on a substantial number of small entities. This proposed rule will not impose any new requirements on any entities because it does not impose any additional regulatory requirements. This action 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 also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997). 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 action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the October 29, 2009, **Federal Register** document.

#### List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Monitoring, Reporting and recordkeeping.

Dated: December 7, 2010.

**Lisa P. Jackson,**  
Administrator.

[FR Doc. 2010-31330 Filed 12-13-10; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[Docket No. FWS-R2-ES-2010-0041; MO 92210-0-0008]

RIN 1018-AV97

#### Endangered and Threatened Wildlife and Plants; Endangered Status for Dunes Sagebrush Lizard

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, propose to list the dunes sagebrush lizard (*Sceloporus arenicolus*), a lizard known from southeastern New Mexico and adjacent west Texas, as endangered under the Endangered Species Act of 1973, as amended. If we finalize the rule as proposed, it would extend the Act's protections to this species. We have determined that critical habitat for the dunes sagebrush lizard is prudent but not determinable at this time.

**DATES:** We will consider comments received or postmarked on or before February 14, 2011. We must receive requests for public hearings, in writing, at the address shown in the **FOR FURTHER INFORMATION CONTACT** section by January 28, 2011.

**ADDRESSES:** You may submit comments by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Search for docket FWS-R2-ES-2010-0041 and then follow the instructions for submitting comments.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS-R2-ES-2010-0041; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will post all information received on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Public Comments section below for more details).

**FOR FURTHER INFORMATION CONTACT:** Wally "J" Murphy, Field Supervisor, New Mexico Ecological Services Field Office, 2105 Osuna, NE., Albuquerque, NM 87113; by telephone 505-761-4718 or by facsimile 505-346-2542. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800-877-8339.

**SUPPLEMENTARY INFORMATION:**

### Public Comments

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other concerned governmental agencies, Native American Tribes, the scientific community, industry, or any other interested parties concerning this proposed rule. We particularly seek comments concerning:

(1) The historical and current status and distribution of the dunes sagebrush lizard, its biology and ecology, and ongoing conservation measures for the species and its habitat.

(2) Information relevant to the factors that are the basis for making a listing determination for a species under section 4(a) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), which are:

(a) The present or threatened destruction, modification, or curtailment of the species' habitat or range;

(b) Overutilization for commercial, recreational, scientific, or educational purposes;

(c) Disease or predation;

(d) The inadequacy of existing regulatory mechanisms; or

(e) Other natural or manmade factors affecting its continued existence and threats to the species or its habitat.

(3) Which areas would be appropriate as critical habitat for the species and why they should be proposed for designation as critical habitat.

(4) The reasons why areas should or should not be designated as critical habitat as provided by section 4 of the Act of 1973, including whether the benefits of designation would outweigh threats to the species that designation could cause, such that the designation of critical habitat is or is not prudent.

Please note that submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination, as section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or threatened species must be made "solely on the basis of the best scientific and commercial data available."

You may submit your comments and materials concerning this proposed rule by one of the methods listed in the **ADDRESSES** section.

If you submit a comment via <http://www.regulations.gov>, your entire