



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA-R05-OAR-2018-0113; FRL-9980-95-Region 5]

**Air Plan Approval; Ohio; Hospital/Medical/Infectious Waste
Incinerator Withdrawal for Designated Facilities and Pollutants**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving Ohio's request for withdrawal of the previously approved Hospital/Medical/Infectious Waste Incinerator (HMIWI) State Plan. The Ohio Environmental Protection Agency (OEPA) submitted its HMIWI withdrawal on January 24, 2018, certifying that there is only one HMIWI unit currently operating in the state of Ohio and requesting that the Federal Plan apply to the single source in the State. The Federal HMIWI Plan will therefore apply in Ohio.

DATES: This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2018-0113. All documents in the docket are listed on the www.regulations.gov website. Although listed in the index, some information is not publically available, i.e., Confidential Business Information (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 through www.regulations.gov or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Margaret Sieffert, Environmental Engineer, at (312) 353-1151 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Margaret Sieffert, Environmental Engineer, Environmental Protection Agency, Region 5, 77 West Jackson Boulevard (AT-18J), Chicago, Illinois 60604, (312) 353-1151, sieffert.margaret@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. Background
- II. What Action is EPA Taking?
- III. Statutory and Executive Order Reviews

I. Background

On January 24, 2018, OEPA submitted its HMIWI withdrawal, in which it certifies that there is only one HMIWI unit

currently operating in Ohio. On January 18, 2013, OEPA confirmed that two of the four HMIWI units had shut down. Since that time an additional HMIWI unit has shut down. The only remaining HMIWI unit is at Stericycle, Inc, located in Warren, OH. Because there is only one source remaining in the State, OEPA is requesting that the previously approved State Plan be withdrawn and that the Federal Plan apply to the source.

On April 3, 2018, EPA published a notice of proposed rulemaking (NPR) proposing approval of Ohio's HMIWI withdrawal. The specific details of Ohio's request and the rationale for EPA's approval are discussed in the NPR and will not be restated here. EPA did not receive any comments on the proposed action.

II. What Action is EPA Taking?

EPA is approving Ohio's request for withdrawal of a previously approved State Plan and amending 40 CFR part 62 to reflect OEPA's withdrawal. OEPA submitted its HMIWI withdrawal on January 24, 2018 certifying that there is only one HMIWI unit, as defined under 40 CFR 60.31e, currently operating in the state of Ohio and requested that the Federal Plan 40 CFR part 62, subpart HHH apply to the single source in the State. EPA understands that the extensive amendments that would be required by OEPA to revise Ohio's previously approved State Plan to make it consistent with the revisions would be disproportionate to the single affected source in Ohio, and is proposing to approve

the withdrawal and have the Federal Plan apply to the known affected source. In this action, EPA is finalizing its approval. EPA is also revising 40 CFR 62.8880 to reflect this withdrawal.

III. Statutory and Executive Order Reviews

A. General Requirements

This action is not a "significant regulatory action" under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and therefore is not subject to review by the Office of Management and Budget under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011). 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 is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because this action is not significant under E.O. 12866. This action merely approves state law as meeting Federal requirements and merely notifies the public of EPA approval for a withdrawal of a previously approved HMIWI State Plan. This action imposes no requirements beyond those imposed by the state. 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 is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law 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 withdrawal, 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 (62 FR 19885, April 23, 1997), because it approves a withdrawal.

In reviewing section 111(d)/129 plan submissions, EPA's role is to approve State choices, provided that they meet the

criteria of the Clean Air Act. With regard to withdrawals for designated facilities received by EPA from states, EPA's role is to notify the public of the approval of the State's withdrawal and revise 40 CFR part 62 accordingly. 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 withdrawal for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a section 111(d)/129 withdrawal, to use VCS in place of a section 111(d)/129 withdrawal 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. 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 action 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. 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 **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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, Administrative practice and procedure, Air pollution control, Hospital/medical/infectious waste incinerators, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: July 9, 2018.

Cathy Stepp,
Regional Administrator, Region 5.

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.*

2. Revise § 62.8880 to read as follows:

§ 62.8880 Identification of plan.

On January 24, 2018, the Ohio Environmental Protection Agency submitted a letter to EPA certifying that there is only one Hospital/Medical/Infectious Waste Incinerator unit in the State of Ohio subject to the emissions guidelines at 40 CFR part 60, subpart DDDD and requesting that the Federal Plan at 40 CFR part 62, subpart HHH apply.

[FR Doc. 2018-16002 Filed: 7/25/2018 8:45 am; Publication Date: 7/26/2018]