



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R05-OAR-2018-0112; FRL-9992-19-Region 5]**

**Air Plan Approval; Ohio; Removal of Obsolete Infectious Waste  
Incinerator Regulations**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a request submitted by the Ohio Environmental Protection Agency (Ohio EPA) on January 24, 2018, to revise the Ohio State Implementation Plan (SIP) under the Clean Air Act (CAA). Ohio EPA is requesting to remove provisions under Ohio Administrative Code (OAC) Chapter 3745-75, that were approved into the Ohio SIP as part of Ohio's Hospital/Medical/Infectious Waste Incinerator (HMIWI) state plan under sections 110(d) and 129 of the Clean Air Act. In a separate action, EPA has approved Ohio EPA's request for withdrawal of its HMIWI state plan that allows the state rules to be superseded by the Federal Plan under 40 CFR part 62, subpart HHH.

**DATES:** Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2018-0112 at <http://www.regulations.gov>, or via

email to [blakley.pamela@epa.gov](mailto:blakley.pamela@epa.gov). For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the "For Further Information Contact" section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Francisco J. Acevedo, Mobile Source Program Manager, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6061, [acevedo.francisco@epa.gov](mailto:acevedo.francisco@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. What is the Background for this Action?
- II. What is EPA's Analysis of the SIP Revision?
- III. What Action is EPA Proposing to Take?
- IV. Statutory and Executive Order Reviews

**I. What is the Background for this Action?**

On September 15, 1997, EPA published emission guidelines for HMIWI under 40 CFR part 60, subpart Ce (62 FR 48348). The emission guidelines applied to existing sources only, for which construction commenced on or before June 20, 1996. States were required under sections 111(d) and 129 of the CAA to submit state plans to control emissions from existing HMIWI units. New sources constructed after this date are covered by a Federal new source performance standard.

On October 18, 2005, Ohio EPA submitted the CAA section 111(d)/129 state plan for implementing 40 CFR part 60, subpart Ce "Emission Guidelines for Existing Hospital/Medical/Infectious Waste Incinerators". The state plan was subsequently approved by EPA on July 5, 2007 (72 FR 36605) and became effective on August 6, 2007 under 40 CFR 62.8880. As part of Ohio's HMIWI state plan, OAC Chapter 3745-75, "Infectious Waste Incinerator Limitations," was amended, submitted, and approved as part of

Ohio's SIP (72 FR 36605). Subsequently, on October 6, 2009 (74 FR 51367) and April 4, 2011 (76 FR 18407), EPA promulgated final revised emission guidelines and amendments under 40 CFR part 60, subpart Ce, and on May 13, 2013, EPA promulgated a final revised 40 CFR part 62, subpart HHH Federal Plan (78 FR 28052).

On January 24, 2018, Ohio EPA submitted a request to approve the removal of all OAC Chapter 3745-75 provisions from the Ohio SIP, relying instead on the Federal Plan. Ohio EPA conducted a public hearing on this matter in Columbus, Ohio on December 7, 2017.

## **II. What is EPA's Analysis of the SIP Revision?**

On January 20, 2018, Ohio EPA rescinded rules in OAC 3745-75 that formerly regulated the operation of and the emissions from HMIWIs in Ohio. The most recent version of the rules contained in OAC 3745-75 were based on CAA sections 111(d) and 129 and identified the requirements applicable to the existing HMIWIs for which construction commenced on or before June 20, 1996. These rules were rescinded by Ohio EPA as they are no longer necessary since the state is relying on the Federal Plan. Consistent with this, on July 26, 2018 (83 FR 35422) EPA approved the withdrawal of the previously approved state plan and amendment of 40 CFR part 62 to reflect Ohio EPA's withdrawal. As part of that action, Ohio EPA certified that

there is only one HMIWI unit, as defined under 40 CFR 60.31e, currently operating in Ohio and requested that the Federal Plan 40 CFR part 62, subpart HHH apply to that HMIWI unit.

No emissions increases will result from the removal of the OAC Chapter 3745-75 provisions from the Ohio SIP. Because the rescinded OAC Chapter 3745-75 rules will be superseded by the Federal Plan, there are no CAA section 110(l) issues to address.

### **III. What Action Is EPA Proposing to Take?**

EPA is proposing to approve the revision to the Ohio SIP submitted by the Ohio EPA on January 24, 2018, because the removal of existing infectious waste incinerator requirements in OAC Chapter 3745-75 from the SIP meets all applicable requirements and would not interfere with reasonable further progress or attainment of any of the national ambient air quality standards.

### **IV. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. 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 (Public Law 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);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- 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; and

- 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).

In addition, the SIP 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).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control,  
Incorporation by reference, Nitrogen oxides, Ozone, Particulate  
matter, Volatile organic compounds.

Dated: March 25, 2019.

Cathy Stepp,  
Regional Administrator, Region 5.

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