



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA-R03-OAR-2025-0043; FRL-11453-01-R3]

Partial Approval and Promulgation of State Plan for Designated Facilities and Pollutants; West Virginia; Control of Emissions From Existing Commercial and Industrial Solid Waste Incineration (CISWI) Units, Plan Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to partially approve revisions to the state plan for designated facilities and pollutants applicable to existing Commercial and Industrial Solid Waste Incineration (CISWI) units in the State of West Virginia (“West Virginia”). This proposed action will partially approve West Virginia’s revisions to its state plan to include rules implementing the EPA’s amended emission guidelines for CISWI units developed under sections 111(d) and 129 of the Clean Air Act (CAA). The EPA is proposing to approve the state plan in part and to amend the agency regulations in accordance with the requirements of the CAA.

DATES: Written 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-R03-OAR-2025-0043 at www.regulations.gov, or via email to talley.david@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, the 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. The 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 www.epa.gov/dockets/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT: Krystal Stankunas, Permits Branch (3AD10), Air and Radiation Division, U.S. Environmental Protection Agency, Region III, 1600 John F. Kennedy Blvd, Philadelphia, Pennsylvania 19103 at (215) 814-5271 or by email at stankunas.krystal@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The CAA section 129 requires the EPA to promulgate performance standards and emission guidelines pursuant to CAA section 111(d) for all categories of existing solid waste incineration units, including CISWI units to control certain pollutants (particulate matter, opacity (as applicable), carbon monoxide, dioxins/furans, sulfur dioxide, nitrogen oxides, hydrogen chloride, lead, mercury, and cadmium). State regulatory agencies implement the emission guidelines and compliance times using a state plan developed under CAA sections 111(d) and 129. Section 111(d) of the CAA establishes general requirements and procedures on state plan submittals for the control of designated pollutants. The regulations at 40 Code of Federal Regulations (CFR) part 60, subpart B sets forth the procedures for adoption and submittal of the state plan. Section 129(b)(2) of the CAA mandates that all state plan requirements be at least as protective as the promulgated emission guidelines. The state plan requirements implementing the emission guidelines become federally enforceable upon approval by the EPA. Such plan includes fixed final compliance dates, fixed compliance schedules, and title V permitting

requirements for all affected sources. Section 129(b)(2) of the CAA also requires that state plans be submitted to the EPA within one year after the EPA's promulgation of the emission guidelines and compliance times. Under CAA section 129(b)(3), if a state does not submit an approvable state plan within two years after the promulgation of the emission guidelines, the Federal plan applies in that state until the state has an approved state plan.

On December 1, 2000, the EPA promulgated new source performance standards (NSPS) and emission guidelines to reduce air pollution from CISWI units, which are codified at 40 CFR part 60, subparts CCCC and DDDD, respectively. *See* 65 FR 75338. EPA finalized emission limitations for CISWI units and definitions for Non-Hazardous Secondary Materials (NHSM) that are Solid Waste, both under the same publication (February 7, 2013, 78 FR 9112). This 2013 document reflects the EPA's revisions to the CISWI rule originally published at 76 FR 15704 on March 21, 2011, resulting from the EPA's reconsideration of certain issues after further public comments. The 2013 document also included final amendments to the NHSM rule. The definition of solid waste in the NHSM rule determines whether a particular incinerator is covered under another incinerator rule. Subsequently, the EPA received petitions to further reconsider certain provisions of the 2013 NSPS and emission guidelines for CISWI units. On January 21, 2015, the EPA granted reconsideration on four specific issues, and it finalized reconsideration of those issues on June 23, 2016. *See* 81 FR 40956. On April 16, 2019, 84 FR 15846, the EPA clarified and corrected the June 23, 2016 CISWI rules regarding: (1) an alternative equivalent emission limit for mercury (Hg) for waste-burning kilns, (2) timing of initial test and initial performance evaluation, (3) extension of electronic data reporting requirement, (4) non-delegated authorities, (5) demonstrating initial and continuous compliance when using a continuous emissions monitoring system (CEMS), (6) continuous opacity monitoring requirements, (7) other CEMS requirements, (8) clarification about reduced testing requirements, (9) deviation reporting requirements for continuous monitoring data, and (10) clarification of air curtain incinerator requirements (ACI), as well as corrections to typographical

errors. On October 7, 2020, 85 FR 63394. EPA updated regulations for source testing of emissions, which included revisions to 40 CFR part 60 subpart DDDD. The regulations at 40 CFR part 60, subpart DDDD sets forth the emission guidelines for existing CISWIs which include the model rule.¹

On December 11, 2024 (89 FR 100092), EPA published the Federal plan for existing CISWI units. The CISWI Federal plan applies to those states that do not have an approved state plan for existing CISWIs in place by January 10, 2025. *See* 89 FR 100092 at 100095.

Furthermore, if a state plan is partially approved,² the Federal plan applies to affected CISWI units in lieu of the remaining portions of the state plan until the state has a fully approved state plan. *See* 89 FR 100092 at 100095.

The EPA approved the initial West Virginia CISWI plan, and related state rule, (WV title 45, Code of State Rules, chapter 18 (WV45CSR18)), effective June 10, 2003 (68 FR 17738, April 11, 2003). The state plan approval is codified in 40 CFR part 62, subpart XX. On May 11, 2009, the West Virginia Department of Environmental Protection (WVDEP) submitted to the EPA a formal 111(d)/129 state plan revision for CISWI units as part of an effort to streamline and consolidate applicable CAA section 129 incinerator regulatory requirements under one state rule, WV45CSR18. This revision and related state rule were approved by the EPA effective October 2, 2009 (74 FR 38344, August 3, 2009).

On May 1, 2023, WVDEP submitted to the EPA a plan revision request³ in response to amendments to the existing CISWI emission guidelines at 40 CFR part 60, subpart DDDD, Emission Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units (84 FR 15846, April 16, 2019) and amendments to Test Methods and Performance Specifications for Air Emission Sources which included revisions to 40 CFR part

¹ 40 CFR 60.2560 explains that the model rule provisions are the portion of the emission guidelines that address regulatory requirements applicable to existing CISWIs.

² EPA may partially approve a state plan per 40 CFR 60.27(c).

³ On December 10, 2024, WVDEP also submitted a commitment letter as a supplement to the state's May 1, 2023 plan revision request. This letter is included in the docket and discussed below.

60 subpart DDDD (85 FR 63394, October 7, 2020). The state rule revision to WV45CSR18 adopted language equivalent to that of the model rule⁴ in order to meet the emission guidelines criteria and became effective on April 1, 2022.⁵ As discussed in more detail in the next section, it was discovered that along with an inconsistent assumption of authority reserved to the EPA Administrator at WV45CSR18 section 9.6.i. and a few errors found in WV45CSR18 section 9.13.b and table 45-18M, that sections 9.7.g.2 and 9.7.j.2 had not accounted for the amendments to the EPA Method 23-Determination of Polychlorinated Dibenzo-p-Dioxins and Polychlorinated Dibenzofurans from Stationary Sources which included revisions to 40 CFR part 60 subpart DDDD (88 FR 16732, March 20, 2023).

II. Analysis of State Submittal

The emission guidelines and compliance times are codified in 40 CFR part 60, subpart DDDD. Federal regulations require that state plans must contain specific information and the legal mechanisms necessary to implement the emission guidelines and compliance times. Under 40 CFR 60.2515 and CAA section 129(b), the specific requirements are as follows:

- Inventory of affected CISWI units, including those that have ceased operation but have not been dismantled.
- Inventory of emissions from affected CISWI units in West Virginia.⁶
- Compliance schedules for each affected CISWI unit with a final compliance date no later than February 7, 2018 or three (3) years after the effective date of state plan approval, whichever is earlier.
- Emission limitations, operator training and qualification requirements, a waste

⁴ In fact, the language of West Virginia's CISWI regulations is nearly the same as the language of the model rule.

⁵ The version of WV45CSR18 that the state submitted to the EPA on May 1, 2023 also includes rules related to other incinerator categories such as large municipal waste combustors, small municipal waste combustion units, hospital/medical/infectious waste incinerators, other solid waste incineration units, and sewage sludge incineration units. The portions of WV45CSR18 related to these categories are outside the scope of this proposed approval which is limited to the state plan for existing CISWIs.

⁶ The EPA's June 2003 approval of West Virginia's CISWI plan identified E.I. Du Pont de Nemours and Company, Washington Works ("DuPont") located in Wood County, West Virginia as the state's only existing CISWI source. West Virginia's May 1, 2023 submittal of its state plan revision continues to identify the same facility as operating the only CISWI unit, only now it is known as The Chemours Company FC, LLC, Washington Works.

management plan, and operating limits for affected CISWI units that are at least as protective as the emission guidelines contained in subpart DDDD.

- Performance testing, recordkeeping, and reporting requirements.
- Certification that the hearing on the state plan was held, a list of witnesses and organizational affiliations, if any, appearing at the hearing, and a brief written summary of each presentation or written submission.
- Provision for State progress reports to EPA.
- Identification of enforceable State mechanisms selected for implementing the emission guidelines of subpart DDDD.
- Demonstration of West Virginia's legal authority to carry out the CAA sections 111(d) and 129 state plan.

West Virginia's May 1, 2023 state plan revision established operating and emission limits for existing CISWI units and provided mechanisms for the implementation and enforcement of those limits. West Virginia adopted the emission limits, testing, monitoring, reporting and recordkeeping requirements, and other aspects of the model rule for existing CISWI units. The state plan revision addressed increments of progress, operator training, initial and continuous compliance requirements, title V requirements, and ACI requirements. The state plan revision also included definitions and a waste management plan from the model rule. The EPA is proposing to approve West Virginia rule WV45CSR18 sections 2 (specifically 2.1-2.13, 2.16, 2.18, 2.19-2.27), 9, and 13.3 and tables 45CSR18E through 18M as containing the applicable requirements that are as protective as 40 CFR part 60, subpart DDDD with the exception of provisions discussed below.

Certain provisions of WV45CSR18 are not as protective as the emission guidelines. Three of these provisions cause the state plan to be less stringent as a result of errors found in West Virginia's regulations or as a result of the intervening amendment to the emission guidelines described above in section I of this preamble. For these three provisions in the state

plan revision which the EPA is not proposing to include in the approval, the corresponding Federal plan provisions will apply until West Virginia submits and the EPA approves a fully approvable state plan. 40 CFR 60.2525(b).

There is a fourth provision which is inconsistent with certain requirements of 40 CFR part 60, subpart DDDD. This provision could be read to give authority that is reserved to the EPA Administrator to WVDEP's Secretary instead. WVDEP has addressed this inconsistency via a commitment letter dated December 10, 2024 which is discussed below, and thus the provision in question is included in the proposed partial approval.

First, West Virginia's rule 45CSR18-9 (specifically 45CSR18-9.7.g.2 and 9.7.j.2), effective April 1, 2022, did not address the EPA's updates published on and effective March 20, 2023 to 40 CFR part 60 appendix A-7 Method 23 and 40 CFR 60.2690(g) of subpart DDDD: "In 40 CFR part 60, subpart DDDD, we are revising 40 CFR 60.2690(g)(2) and (j)(2) to realign the requirement for identifying isomers to the reorganized section 11.4.2.4⁷ in the revisions of Method 23." (88 FR 16732 at 16740, March 20, 2023). In quantifying isomers for dioxins/furans performance testing, the prior model rule language specifically cited "identification criteria 2, 3, 4, and 5 in section 5.2.3.5 of Method 23," a section which the revised Method 23 no longer contains. Because West Virginia's rule copies the prior 40 CFR 60.2690(g)(2) and (j)(2) model rule language verbatim and now references particular identification criteria in a nonexistent section of Method 23,⁸ it is no longer as protective as the emission guidelines, and therefore inadequate to address the specifically referenced conditions related to test methods for dioxins/furans. Therefore, the EPA is excluding from its proposed approval 45CSR18-9.7.g and j in their entirety because sections 9.7.g.1-4 and j.1-3 set forth interrelated steps in the required testing procedures which either directly or indirectly reference

⁷ The preamble's reference to section 11.4.2.4 of the March 20, 2023 version of Method 23 is likely a typographical error as the isomer identification requirements are located at section 11.4.3.4 of Method 23 as correctly referenced in 40 CFR 60.2690(g)(2) and (j)(2).

⁸ 45CSR18-9.7.g.1 refers to 45CSR16 which by reference cites the 40 CFR part 60 test methods in effect as of June 1, 2023. That version of 40 CFR part 60 includes the version of Method 23 that contains no section 5.2.3.5 with identification criteria for dioxins/furans.

sections 9.7.g.2 and j.2. 40 CFR 62.14615a(g) and (j) of the Federal CISWI plan will apply instead as these counterparts reference the correct sections of Method 23.⁹

Second, 45CSR18-9.13.b is not as protective as the emission guidelines because it does not require certain types of ACIs to meet the minimum requirements. 45CSR18-9.13.b states that ACIs that burn only 100% wood waste, 100% clean lumber, or a 100% mixture of only wood waste, clean lumber and/or yard waste are only required to meet a limited set of requirements. 45CSR18-9.13.b corresponds to 40 CFR 60.2810(b) in the CISWI emission guidelines. Among the more limited set of requirements¹⁰ specified in 40 CFR 60.2810(b) are the ACI provisions of 40 CFR 60.2810 through 60.2870. 45CSR18-9.13 corresponds to 40 CFR 60.2810 through 60.2870. To be as protective as 40 CFR 60.2810(b), the more limited set of requirements that apply to the types of ACIs listed at 45CSR18-9.13.b should include the ACI requirements specified at 45CSR18-9.13 which include opacity standards, compliance schedules, and associated monitoring, recordkeeping, and reporting requirements. However, 45CSR18-9.13.b instead only points to increments of progress/final compliance deadlines by mistakenly referencing 45CSR18-9.3 instead of section 9.13. Therefore, 45CSR18-9.13.b does not require the ACIs that burn these types of fuel to meet requirements at 45CSR18-9.13 such as the opacity standard and is thus less protective than the emission guidelines. The EPA is excluding from its proposed approval 45CSR18-9.13.b, and the corresponding language of the Federal CISWI plan, 40 CFR 62.14740a(b), will apply instead. Since 40 CFR 62.14740a(b) references 40 CFR 62.14770a (title V) and 40 CFR 62.14740a through 62.14765a (ACI requirements – opacity limitations), these conditions of the Federal plan will also apply for these types of ACIs.

Third, there is an error in footnote c of table 45-18M. Footnote c of table 45-18M allows

⁹ Tables 45-18F and 45-18J through -18M contain emission limits for dioxins/furans and list as the corresponding compliance method performance testing based on Method 23 at 40 CFR part 60, appendix A-7. The limits and performance test methods in those tables are proposed to be approved as the version of Method 23 incorporated by reference in West Virginia's regulations at 45CSR16 is the version that includes section 11.4.3.4 which is referenced at 40 CFR 60.2690(g) and (j) of the emission guidelines as well as 40 CFR 62.14615a(g) and (j) of the Federal plan.

¹⁰ The more limited requirements referenced in 40 CFR 60.2810(b) also includes 40 CFR 60.2805 which requires title V permits for ACI units.

the use of CEMS, or for mercury, an integrated sorbent trap monitoring system in lieu of performance testing for compliance with emission limitations applicable to small, remote incinerators so long as the owner or operator complies with the CEMS or integrated sorbent trap monitoring requirements applicable per references to certain existing CISWI monitoring requirements. Specifically, footnote c of table 45-18M cross references “9.10.a through 9.10.5”;¹¹ however, 9.10.5 does not exist. The corresponding emission guidelines footnote 3 at table 9 to subpart DDDD of Part 60 references the monitoring and parameter requirements of 40 CFR 60.2730. The regulations at 40 CFR 60.2730’s monitoring and parameter requirements correspond to 45CSR18-9.10.a through -9.10.t.¹¹ To match all requirements that correspond to 40 CFR 60.2730 which is referenced in the emission guidelines at footnote 3 of Table 9 to subpart DDDD of Part 60, footnote c of Table 45-18M should reference 9.10.t instead of the nonexistent 9.10.5.¹² This means that it is unclear what requirements, other than 9.10.a, footnote c of Table 45-18M is cross-referencing as applicable—this makes this footnote less protective than the footnote in the emission guidelines. The EPA is excluding from its proposed approval footnote c of Table 45-18M to eliminate any confusion about which sections are being referenced and thus any confusion about what monitoring and parameter requirements owners and operators must follow in lieu of performance testing for small, remote incinerators. The Federal plan’s footnote 2 at Table 7 to subpart IIIa of Part 62 (and the Federal plan CFR provisions referenced therein, 40 CFR 62.14640a, 62.14665a, and 62.14640a(u)) applies instead to the “Averaging time” and “Performance test methods” columns of Table 45-18M if CEMS, or for mercury, an integrated sorbent trap monitoring system is used in lieu of performance testing for small, remote incinerators.

Fourth, 45CSR18-9.6.1 is inconsistent with restrictions on the delegation of authority in the emission guidelines. 45 CSR18-9.6.1 requires owners or operators to submit petitions to the

¹¹ 45CSR18-9.10.u, the last subsection of -9.10, corresponds to 40 CFR 60.2735.

¹² The other footnotes c to Tables 45-18J through 45-18L all correctly reference 45CSR18-9.10.a through -9.10.t in West Virginia’s state plan revision.

WVDEP Secretary for specific operating limits if the owner or operator uses an air pollution control device other than a wet scrubber, activated carbon injection, selective noncatalytic reduction, fabric filter, an electrostatic precipitator or a dry scrubber or the limitation of emissions in some other manner, including mass balances, to comply with certain emission limitations. 45CSR18-9.6.1 could be interpreted to designate authority to the state to determine specific operating limits to be established during the initial performance test and continuously monitored thereafter. 45CSR18-9.6.1 corresponds to 40 CFR 60.2680 which gives the EPA Administrator the authority over such petitions. Moreover, 40 CFR 60.2542(e) states that this authority at 40 CFR 60.2680, among other authorities, should not be delegated to a state agency. 45CSR18-9.6.1 is also inconsistent with 9.14.e,¹³ which states that, “[t]he requirements in subdivision 9.6.1 of this rule,” remain under the authority of the EPA Administrator and not the WVDEP Secretary. The EPA has reviewed West Virginia’s commitment letter of December 10, 2024, and is proposing to find that the commitment letter and 45CSR18-9.14.e together address the inconsistency. The letter acknowledges the inconsistency between 45CSR18-9.6.1 and the Federal provisions at 40 CFR 60.2542(e), 60.2680, and inconsistency with the state plan provision at 45CSR18-9.14.e. WVDEP has also committed to forwarding any 45CSR18-9.6.1 petitions it receives to the Director of the Air and Radiation Division and the Director of the Enforcement & Compliance Assurance Division at U.S. EPA Region III within ten business days of receipt without taking any further action or making any determination on petitions submitted under 45CSR18-9.6.1.

There is one error in 45CSR18-9.13.e. for which the EPA will not be proposing exclusion from approval. 45CSR18-9.13.e corresponds to 40 CFR 60.2825 of the emission guidelines. 45CSR18-9.13.e applies to existing ACIs and describes requirements for the notification of achievement of increments of progress. The introductory language to 45CSR18-9.13.e references -9.3.e.1 through -9.3.e.3 instead of -9.13.e.1 through -9.13.e.3 but then lists after the colon the

¹³ The language of 45CSR18-9.14.e corresponds to the restrictions on delegation of authority in 40 CFR 60.2542(e).

specific requirements of 45CSR18-9.13.e.1 through -9.13.e.3 directly below the introductory language as the information that should be included in the notification of achievement. Also, while there is a 45CSR18-9.3.e, there is no -9.3.e.1 through -9.3.e.3. Nonetheless, from the context and 45CSR18-9.13.e's punctuation, the notification of achievement requirements for increments of progress are sufficiently clear. Therefore, the incorrect reference does not make West Virginia's state plan less protective than the emission guidelines. Furthermore, the statutory deadlines for the increments of progress for which notification of achievements would be required have already passed. According to the increments of progress and compliance schedules listed in Table 45-18E, which is referenced in 45CSR18-9.13.d, existing ACIs should have submitted a final control plan by February 7, 2016 and achieved final compliance by February 7, 2018 if construction commenced on or before June 4, 2010. See 42 U.S.C. 7429(b)(2). Any notifications of achievement required under 45CSR18-9.13.e. should have already occurred, and more importantly, final compliance should already have occurred. In addition, the Federal plan does not contain increments of progress as a compliance pathway, and thus there is no notification of achievement provision in the ACI requirements at 40 CFR 62.14740a through 62.14765a that correspond to the ACI requirements in the emission guidelines at 40 CFR 60.2810 through 60.2870. 89 FR 100092 at 100098, 100127 (December 11, 2024). This error is discussed here only for clarity and completeness—EPA is proposing to approve 45CSR18-9.13.e. Nonetheless, if West Virginia intends to submit revisions to the state plan in the future, EPA recommends that West Virginia correct 45CSR18-9.13.e along with any other errors identified in this proposed rulemaking.

The EPA proposes to find that West Virginia's state plan revision meets the criteria of 40 CFR part 60, subpart B except for the excluded provisions discussed above. The state provided evidence that it complied with the public notice and hearing requirements of 40 CFR 60.23. The state plan addressed emission standards and compliance schedules per 40 CFR 60.24 with the exceptions of the provisions proposed to be excluded as discussed above. West Virginia has the

legal authority to carry out the state plan per 40 CFR 60.26. The state plan revision also included an emission inventory, source surveillance requirements, and reporting requirements per 40 CFR 60.25. A more detailed discussion on the rationale and basis for this proposed partial approval is set forth in the technical support document (TSD) located in the rulemaking docket.

III. Proposed Action

The EPA is proposing to partially approve West Virginia's 111(d)/129 state plan for existing CISWI units to the extent that the provisions of the state plan are as protective as 40 CFR part 60, subpart DDDD as discussed above and are submitted in accordance with the requirements for adoption and submittal of state plans for designated facilities in 40 CFR part 60, subpart B. The EPA is excluding from this proposed approval the provisions of the state plan that are not as protective as 40 CFR part 60, subpart DDDD and do not meet certain criteria in 40 CFR part 60, subpart B—specifically, 45CSR18-9.7.g and j, 45CSR18-9.13.b, and footnote c of Table 45-18M. Additionally, the EPA is proposing to amend 40 CFR part 62, subpart XX to reflect this action. This partial approval action is based on the rationale previously discussed in this document and explained in further detail in the TSD that may be found in the docket for this action. The scope of the proposed partial approval of the CAA section 111(d)/129 state plan is limited to the provisions of 40 CFR part 60 for existing CISWI units, as referenced in the emission guidelines at subpart DDDD. Pursuant to 40 CFR 60.2542, the EPA Administrator continues to retain authority per EPA regulations at 40 CFR 60.2542(a) through (i).

IV. Incorporation by Reference

In accordance with the requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the WVDEP rules at 45CSR18 sections 2 (specific provisions), 9, and 13.3, and tables 45CSR18E through 18M regarding requirements for existing CISWI units that are proposed for approval as the state plan except for certain provisions as discussed in section II of this document. The EPA has made, and will continue to make, these materials generally available through the docket for this action, **EPA-R03-OAR-2025-0043**, at www.regulations.gov

and at the EPA Region III Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information).

V. Statutory and Executive Order Reviews

In reviewing 111d/129 state plan submissions, the EPA’s role is to approve state choices, provided that they meet the criteria of the CAA and applicable Federal regulations. Accordingly, this action merely proposes to approve state law (i.e., most of the state plan for existing CISWIs) as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. In a few instances, this action proposes to exclude from approval state law as not meeting Federal requirements, the effect of which would be to allow already promulgated Federal plan to operate in lieu of a handful of excluded state provisions.

A. Executive Order 12866: Regulatory Planning and Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

This action is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) because it does not contain any information collection activities.

D. Regulatory Flexibility Act (RFA)

This action 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.*) because EPA is merely approving state law, and there are no small entities in West Virginia regulated under the existing CISWI regulations.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate, as described in the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) and does not significantly or uniquely affect small governments.

F. Executive Order 13132: Federalism

This action does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999) because it will 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.

G. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

This action does not concern an environmental health risk or safety risk subject to Executive Order 13045 (62 FR 19885, April 23, 1997).

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA)

This action 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 it does not involve technical standards.

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Commercial and industrial solid waste units,

Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Amy Van Blarcom-Lackey,
Regional Administrator,
Region III.

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