RULE SYNOPSIS

Rescission of Ohio Administrative Code Chapters 3745-75 and 3745-105
Infectious Waste Incinerator Limitations and Pathological Waste Incinerators

The Ohio EPA, Division of Air Pollution Control conducted an evaluation of the rules specified under Ohio Administrative Code (OAC) Chapter 3745-75; Infectious Waste Incinerator Limitations and OAC Chapter 3745-105; Pathological Waste Incinerators. This evaluation was conducted based upon information available to the Division regarding the number of facilities subject to the rules and in anticipation of the rule review requirements specified in Ohio Revised Code (ORC) Section 106.03.

Changes Made as a Result of Comments on the Draft Rule Amendments

A public notice of Ohio EPA’s intent to rescind the rules in OAC Chapters 3745-75 and 3745-105 was released to interested parties for a 30-day comment period that ended on March 9, 2017.

One comment was received from the regulated community in support of the proposed rule recessions.

No changes were made to the draft business impact analysis (BIA) document and Ohio EPA has not changed our intent to rescind the rules in these chapters.

A discussion of the original draft changes is included below.

Original Changes Proposed to the Rules in OAC Chapters 3745-75 and 3745-105

The following are the original justification for rescission of these rules as presented to interested parties for comment during the draft comment period. The changes discussed below will be proposed to the Joint Committee on Agency Rule Review (JCARR) unless superseded by a change discussed above.

DAPC is planning to rescind the rules specified in OAC Chapters 3745-75 and 3745-105.

Currently, there is only one facility in the state of Ohio subject to the rules specified in OAC Chapter 3745-75 (Stericycle, in Trumbull County). USEPA had proposed changes to the rules governing Stericycle’s incinerator operations at the federal level; however, DAPC does not believe that it is an appropriate use of resources to amend the existing State rules to conform to the federal revisions given that there is only one remaining facility subject to the infectious waste incinerator requirements.

During the interested party review comment period, DAPC was made aware of several facilities that are still subject to the rules specified in OAC Chapter 3745-105. While OAC Chapter 3745-105 is not part of Ohio’s State Implementation Plan, the recession
of the rules in the chapter will require DAPC to modify the permits for the affected operations at the subject facilities to incorporate the applicable federal requirements in 40 CFR Part 62, Subpart HHH. As with OAC Chapter 3745-75, DAPC does not believe that it is an appropriate use of resources to amend the existing State rules to conform to the federal revisions given that there are only several remaining facilities subject to the pathological waste incinerator requirements. Ohio EPA did not receive comments from any of the facilities that still had incinerators subject to the rules under OAC Chapter 3745-105 during the interested party review comment period.

Therefore, DAPC is proposing to rescind the rules under these OAC Chapters from State law, request that USEPA withdraw the rules under OAC Chapter 3745-75 from the State Implementation Plan, and allow the OAC Chapter 3745-75 and OAC Chapter 3745-105 rules to be superseded by the Federal Plan. The Federal Plan (40 CFR Part 62, Subpart HHH) took effect on June 12, 2013. Stericycle’s effective Title V permit does contain the applicable Federal Plan requirements for the facility’s incinerator operations.

The Division’s approach to address the hospital, medical, and infectious waste incinerators is consistent with the manner in which we addressed other incinerator categories under the Section 129 heading of the Clean Air Act. For these other categories, such as commercial/industrial and sewage sludge incinerators, we have foregone the rulemaking process, instead choosing to allow a Federal Plan to take effect, which we have the capacity to enforce under our Title V permit program authority.