



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2014-0753; FRL-9921-40-Region 10]

Approval and Promulgation of Implementation Plans; Alaska: Nonattainment New Source Review

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve revisions to the Alaska State Implementation Plan (SIP) submitted by the Commissioner of the Alaska Department of Environmental Conservation (ADEC) on December 11, 2009, November 29, 2010, December 10, 2012, January 28, 2013, July 1, 2014, and October 24, 2014, to meet Clean Air Act (CAA) requirements. These revisions update Alaska's adoption by reference of the Federal preconstruction permitting regulations for large industrial (major source) facilities located in designated nonattainment areas, referred to as the Nonattainment New Source Review (major NNSR) program. The major NNSR program is designed to ensure that major stationary sources of air pollution are constructed or modified in a manner that is consistent with attainment and maintenance of the National Ambient Air Quality Standards (NAAQS).

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

ADDRESSES: The EPA has established a docket for this action under Docket Identification No.

EPA-R10-OAR-2014-0753. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information the disclosure of which 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 through <http://www.regulations.gov> or in hard copy at EPA Region 10, Office of Air, Waste, and Toxics, AWT-150, 1200 Sixth Avenue, Seattle, Washington 98101. The EPA requests that you contact the person listed in the FOR FURTHER INFORMATION CONTACT section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Donna Deneen at (206) 553-6706, deneen.donna@epa.gov, or by using the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION: Throughout this document wherever “we,” “us” or “our” is used, it is intended to refer to the EPA.

Table of Contents

- I. Background
- II. Response to Comments
- III. Final Action
- IV. Statutory and Executive Order Reviews

I. Background

The EPA proposed action on revisions to the Alaska SIP related to major NNSR in a notice of proposed rulemaking published on November 4, 2014 (79 FR 65366). In general, the revisions update the adoption by reference of 40 CFR 51.165 in 18 AAC 50.040(i), which is relied on as part of Alaska’s nonattainment area major stationary source permit provisions in 18

AAC 50.311. The revisions were submitted by ADEC on December 11, 2009, November 29, 2010, December 10, 2012, January 28, 2013, July 1, 2014, and October 24, 2014. Please see EPA's November 4, 2014 proposed rulemaking (79 FR 65366) for further explanation of the revisions and the basis for our approval.

II. Response to Comments

The EPA received one comment letter on the November 4, 2014 (79 FR 65366), proposed rule. The comment letter, submitted by ADEC, states that it supports the EPA's proposed action. The EPA acknowledges ADEC's support of this action.

III. Final Action

Provisions the EPA is Approving and Incorporating by Reference

Consistent with the discussion and analysis in the proposed rulemaking published on November 4, 2014, the EPA is approving into the SIP at 40 CFR part 52, subpart C, 18 AAC 50.040(i) and 18 AAC 50.990, as in effect on November 9, 2014. Where the same provision has been amended on multiple occasions and submitted in more than one submittal, we are approving the most recently submitted amendment to any particular provision.

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, the 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 this action does not involve technical standards; and
- does not provide the 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 the 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 as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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. The 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 CAA, 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 from 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 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: December 23, 2014.

Michelle L. Pirzadeh
Acting Regional Administrator
Region 10.

40 CFR part 52 is amended as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart C - Alaska

2. In § 52.70, the table in paragraph (c) is amended by revising entries “18 AAC 50.040” and “18 AAC 50.990” to read as follows:

§ 52.70 Identification of plan.

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(c) * * *

EPA-APPROVED ALASKA REGULATIONS AND STATUTES

State citation	Title/subject	State effective date	EPA approval date	Explanations
Alaska Administrative Code Title 18 Environmental Conservation, Chapter 50 Air Quality Control (18 AAC 50)				
18 AAC 50 Article 1. Ambient Air Quality Management				
* * * * *				
18 AAC 50.040	Federal Standards Adopted by Reference	11/9/14	[Insert Federal Register publication date] [Insert Federal Register citation];	except (a), (b), (c), (d), (e), (g), (h)(21), (j), and (k).
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18 AAC 50 Article 9. General Provisions				
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18 AAC 50.990	Definitions	11/9/14	[Insert <u>Federal</u> <u>Register</u> publication date] [Insert <u>Federal</u> <u>Register</u> citation]			
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