



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2016-0591; FRL- 9955-48-Region 10]

Air Plan Approval: AK; Permitting Fees Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve state implementation plan (SIP) revisions submitted by the State of Alaska (state) Department of Environmental Conservation on February 1, 2016. The revisions implement changes to permit administration and compliance fees based on the state's fee study results. Changes include: the addition of definitions, restructuring of fee categories, rearranging and renumbering of certain fee rules, and updating cross references to align with the restructured fee rules.

DATES: This rule is effective on **[Insert date 60 days after date of publication in the Federal Register]**, without further notice, unless the EPA receives adverse comment by **[Insert date 30 days after date of publication in the Federal Register]**. If the EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R10-OAR-2016-0591 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. 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, 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: Randall Ruddick at (206) 553-1999, or ruddick.randall@epa.gov.

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

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I. Background

Section 110 of the Clean Air Act (CAA) governs the process by which a state submits air quality requirements to the EPA for approval into the State Implementation Plan (SIP). The SIP is a state’s plan to implement, maintain and enforce the National Ambient Air Quality Standards (NAAQS) set by the EPA. CAA section 110(a)(2)(L) requires SIPs to contain provisions that require payment of certain fees to the permitting authority for costs associated with permitting as well as implementing and enforcing the terms and conditions of permits issued. Alaska’s air

quality regulations, including provisions addressing the fee requirements in CAA section 110(a)(2)(L), are set forth in Alaska Administrative Code (AAC) Title 18 Environmental Conservation, Chapter 50 Air Quality Control (18 AAC 50) and many of these provisions are incorporated into Alaska's SIP. Alaska routinely submits revisions to the EPA to ensure the SIP reflects current administrative code and statutes in accordance with the CAA. On February 1, 2016, Alaska Department of Environmental Conservation (ADEC) submitted such an update to incorporate recently revised portions of 18 AAC 50 dealing with air quality permit administration fees, emission fees, and negotiated service agreements. These regulation changes are based on results of the state's 2014 Fee Study Report.

II. Analysis of Rule Updates

Most recently, on September 19, 2014, we approved into the Alaska SIP, portions of 18 AAC 50.400 that relate to the CAA requirements of section 110(a)(2)(L) (79 FR 56268). Specifically, we approved paragraphs (e), (g), (h), (i), and portions of (j) – requiring new source review permit fees and SIP-approved open burning program fees. In the revisions submitted on February 1, 2016, Alaska repealed 18 AAC 50.400 and then updated, reorganized and readopted the provision. The state requests approval of 18 AAC 50.400(d), (e), (f), (g), and (h), in general the provisions that correspond to the fee provisions previously approved in the Alaska SIP. We have reviewed the changes and approve the portions of the readopted version of 18 AAC 50.400 that contain the requirements for sources to pay new source review permit fees and SIP-approved open burning program fees. Alaska also requested approval of revisions to 18 AAC 50.230(c)(1)(I) and 18 AAC 50.260(p). We are approving these revisions because they consist solely of correcting cross references to 18 AAC 50.400 as necessary due to the reorganization and readopting of 18 AAC 50.400 mentioned above.

III. Final Action

We are approving, and incorporating by reference, into the Alaska SIP the following revised provisions, state effective September 26, 2015: 18 AAC 50.400 (except (a), (b), (c), and (i)); 18 AAC 50.230(c)(1)(I), and 18 AAC 50.260(p).

IV. Incorporation by Reference

In this rule, the EPA is approving regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, we are incorporating by reference the provisions described above in Section III. Final Action. The EPA has made, and will continue to make, these documents generally available electronically through <http://www.regulations.gov> and/or at the EPA Region 10 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

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act 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 Clean Air Act. 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 Clean Air Act; 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).

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 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).

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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of this **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that the EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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, 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: November 14, 2016.

Dennis J. McLerran,
Regional Administrator,
Region 10.

For the reasons set forth in the preamble, 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 50.230, 18 AAC 50.260, and 18 AAC 50.400 to read as follows:

§ 52.70 Identification of plan.

* * * * *

(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 50.230	Preapproved Emission Limits	9/26/15; 1/29/05	[Insert date of publication in the Federal Register], [Insert Federal Register citation]; 8/14/07, 72 FR 45378	except (d).
* * * * *				
18 AAC 50.260	Guidelines for Best Available Retrofit Technology Under the	9/26/15; 10/6/13	[Insert date of publication in the Federal Register],	

	Regional Haze Rule		[Insert Federal Register citation]; 5/27/15, 80 FR 30161	
*	*	*	*	*
18 AAC 50.400	Permit Administration Fees	9/26/15	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	except (a), (b), (c), and (i).
*	*	*	*	*

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[FR Doc. 2016-28272 Filed: 11/23/2016 8:45 am; Publication Date: 11/25/2016]