



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2018-0810; FRL-10003-25-Region 10]

Air Plan Approval; AK: Infrastructure Requirements for the 2015 Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Whenever a new or revised National Ambient Air Quality Standard is promulgated, the Clean Air Act requires states to submit plans for the implementation, maintenance, and enforcement of such standard, commonly referred to as infrastructure requirements. On October 25, 2018, the State of Alaska submitted such a plan for the ozone standard revised on October 1, 2015. In this action, the Environmental Protection Agency (EPA) is approving the Alaska plan as meeting applicable infrastructure requirements.

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

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R10-OAR-2018-0810. All documents in the docket are listed on the <https://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., 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 at <https://www.regulations.gov>, or please contact the person listed in the FOR FURTHER INFORMATION CONTACT section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Kristin Hall (15-H13), Air and Radiation Division, EPA Region 10, 1200 Sixth Avenue (Suite 155), Seattle WA, 98101, (206) 553-6357, hall.kristin@epa.gov.

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

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I. Background

On October 25, 2018, the Alaska Department of Environmental Conservation (ADEC) made a submission addressing the infrastructure requirements of CAA section 110(a)(1) and (2) for the 2015 ozone NAAQS.¹ On October 15, 2019, we proposed to approve Alaska’s infrastructure SIP submission (84 FR 55094). The reasons for our proposed approval are included in the proposal and will not be restated here. The public comment period for the proposal closed on November 14, 2019, and we received one supportive comment. The full text of the comment may be found in the docket for this action.

II. Final Action

We are approving the Alaska SIP as meeting the following CAA section 110(a)(2) infrastructure elements for the 2015 ozone NAAQS: (A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). This action is being taken under section 110 of the CAA.

¹ Alaska’s October 25, 2018 submission addresses CAA sections 110(a)(1) and (2) infrastructure requirements for the 2015 ozone NAAQS and includes regulatory updates and permitting rule revisions for approval into the SIP. We approved the regulatory updates and permitting rule revisions in a separate rulemaking on August 29, 2019 (84 FR 45419). We are also addressing the interstate transport portion of the infrastructure requirements related to CAA section 110(a)(2)(D)(i)(I) in a separate action proposed on June 5, 2019 (84 FR 26041).

III. Statutory and Executive Order Review

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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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 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 it 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 after 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 2, 2019.

Chris Hladick,
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 (e) is amended by:

- a. Revising the entry for “III.II.D. CAA Section 110 Infrastructure Certification Documentation and Supporting Documents”; and
- b. Adding an entry for “Infrastructure Requirements – 2015 Ozone NAAQS” at the end of the table.

The revision and addition read as follows:

§ 52.70 Identification of plan.

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(e) * * *

EPA-APPROVED ALASKA NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanations
* * * * *				
State of Alaska Air Quality Control Plan: Volume III. Appendices				
Section II. State Air Quality Control Program				
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III.II.D. CAA Section 110 Infrastructure Certification Documentation and Supporting Documents	Statewide	10/25/2018	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
* * * * *				
Infrastructure Requirements – 2015 Ozone NAAQS	Statewide	10/25/2018	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	Approves SIP for purposes of CAA section 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M) for the 2015 Ozone NAAQS.

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