

to be calculated to three decimal places; and consistency with the Postal Service's unused rate adjustment authority (bank), which is calculated to three decimal places. *Id.* at 2–3.

The Commission amends the last sentence in 39 CFR 3010.21(a) and 3010.22(b) to read, “The result is expressed as a percentage, rounded to three decimal places.” The amendment also corrects an inadvertent error in the current heading for part 3010 from “Regulation of Rules for Market Dominant Products” to “Regulation of Rates for Market Dominant Products”. *Id.* at 3.

Only two comments were submitted in response to Order No. 246. The Postal Service and the Public Representative both filed comments in support of the proposed change.<sup>2</sup>

*It is ordered:*

1. The Commission adopts the referenced amendments as final rules revising the price cap calculation in 39 CFR part 3010 and the part heading for 39 CFR part 3010. The part heading and sections affected by these revisions are set forth in their entirety, following the Secretary's signature, to provide context and clarity.

2. These rules shall take effect 30 days after publication in the **Federal Register**.

3. The Secretary shall arrange for publication of this order in the **Federal Register**.

#### List of Subjects in 39 CFR Part 3010

Administrative practice and procedure; Postal Service.

Dated: September 22, 2009.

By the Commission.

**Shoshana M. Grove,**  
*Secretary.*

■ For the reasons discussed in the preamble, the Commission amends chapter III of title 39 of the Code of Federal Regulations as follows:

#### PART 3010—REGULATION OF RATES FOR MARKET DOMINANT PRODUCTS

■ 1. The authority citation for 39 CFR part 3010 continues to read as follows:

**Authority:** 39 U.S.C. 503; 3622.

■ 2. Revise the part heading of part 3010 to read as set forth above.

■ 3. Revise § 3010.21 to read as follows:

##### § 3010.21 Calculation of annual limitation.

(a) The calculation of an annual limitation involves three steps. First, a simple average CPI-U index is

calculated by summing the most recently available 12 monthly CPI-U values from the date the Postal Service files its notice of rate adjustment and dividing the sum by 12 (Recent Average). Then, a second simple average CPI-U index is similarly calculated by summing the 12 monthly CPI-U values immediately preceding the Recent Average and dividing the sum by 12 (Base Average). Finally, the annual limitation is calculated by dividing the Recent Average by the Base Average and subtracting 1 from the quotient. The result is expressed as a percentage, rounded to three decimal places.

(b) The formula for calculating an annual limitation is as follows: Annual Limitation = (Recent Average/Base Average) – 1.

■ 4. Revise § 3010.22 to read as follows:

##### § 3010.22 Calculation of less than annual limitation.

(a) If a notice of rate adjustment is filed less than 1 year after the last Type 1-A or Type 1-B notice of rate adjustment applicable to an affected class of mail, then the annual limitation will recognize the rate increases that have occurred during the preceding 12 months. When the effects of those increases are removed, the remaining partial year limitation is the applicable restriction on rate increases.

(b) The applicable partial year limitation is calculated in two steps. First, a simple average CPI-U index is calculated by summing the 12 most recently available monthly CPI-U values from the date the Postal Service files its notice of rate adjustment and dividing the sum by 12 (Recent Average). The partial year limitation is then calculated by dividing the Recent Average by the Recent Average from the most recent previous notice of rate adjustment (Previous Recent Average) applicable to each affected class of mail and subtracting 1 from the quotient. The result is expressed as a percentage, rounded to three decimal places.

(c) The formula for calculating the partial year limitation for a notice of rate adjustment filed less than 1 year after the last notice is as follows: Partial Year Limitation = (Recent Average/Previous Recent Average) – 1.

[FR Doc. E9-23321 Filed 9-25-09; 8:45 am]

**BILLING CODE 7710-FW-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 49

[EPA-R01-OAR-2009-0305; A-1-FRL-8949-8]

### Approval and Promulgation of Air Quality Implementation Plans; Mohegan Tribe of Indians of Connecticut

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a Tribal Implementation Plan (“TIP”) submitted by the Mohegan Tribe of Indians of Connecticut (“the Tribe”). This revision adds new emission units to the Tribe's TIP, while maintaining an enforceable cap on nitrogen oxide emissions from stationary sources owned by the Mohegan Tribal Gaming Authority and located within the external boundaries of the Mohegan Reservation. The revision also provides the Administrator of The Mohegan Environmental Protection Department with enforcement authority for violations of the Mohegan TIP and establishes a right of appeal to the Director of Regulation and Compliance and the Mohegan courts. This action is intended to help attain the National Ambient Air Quality Standards (NAAQS) for ground-level ozone. This action is being taken in accordance with the Clean Air Act.

**DATES:** This direct final rule will be effective November 27, 2009, unless EPA receives adverse comments by October 28, 2009. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R01-OAR-2009-0305 by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.

2. *E-mail*: [mcdonnell.ida@epa.gov](mailto:mcdonnell.ida@epa.gov).

3. *Fax*: (617) 918-0653.

4. *Mail*: “Docket Identification Number EPA-R01-OAR-2009-0305,” Ida McDonnell, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (mail code CAP), Boston, MA 02114-2023.

5. *Hand Delivery or Courier*: Deliver your comments to: Ida McDonnell, Air Permits, Toxics and Indoor Air Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One

<sup>2</sup>Initial Comments of the United States Postal Service, July 30, 2009; Public Representative Comments, August 21, 2009.

Congress Street, 11th floor, (CAP), Boston, MA 02114–2023. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

**Instructions:** Direct your comments to Docket ID No. EPA–R01–OAR–2009–0305. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through [www.regulations.gov](http://www.regulations.gov), or e-mail, information that you consider to be CBI or otherwise protected. The [www.regulations.gov](http://www.regulations.gov) website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the electronic docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure 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 [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA. EPA requests that if at all possible, you contact the contact 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 to 4:30, excluding legal holidays.

In addition, copies of the Tribe's submittal and EPA's technical support document are also available for public inspection during normal business hours, by appointment at the Mohegan Tribe, Mohegan Environmental Protection Department, 49 Sandy Desert Road, Uncasville, CT 06382, telephone number (860) 862–6112.

**FOR FURTHER INFORMATION CONTACT:** Ida E. McDonnell, Air Permits, Toxics and Indoor Air Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, 11th floor, (CAP), Boston, MA 02114–2023, telephone number (617) 918–1653, fax number (617) 918–0653, e-mail [mcdonnell.ida@epa.gov](mailto:mcdonnell.ida@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document, whenever "we," "us," or "our" is used, it means U.S. EPA, Region 1.

Organization of this document. The following outline is provided to aid in locating information in this preamble.

- I. Background and Purpose
- II. Final Action
- III. Statutory and Executive Order Reviews

**I. Background and Purpose:** The Mohegan Tribe of Indians of Connecticut ("the Tribe") submitted a Tribal Implementation Plan ("Mohegan TIP") consisting of a tribal ordinance, entitled "Area Wide NO<sub>x</sub> Emissions Limitation Regulation," establishing a limit on nitrogen oxide ("NO<sub>x</sub>") emissions from stationary sources owned by the Mohegan Tribal Gaming Authority and located within the external boundaries of the Mohegan Reservation. The TIP was submitted by the Tribe on May 4, 2005 and amended on August 22, 2007. EPA granted approval of the Mohegan TIP in a rulemaking published on November 14, 2007 (72 FR 63988).

Stationary sources owned by the Mohegan Tribal Gaming Authority have the potential to emit<sup>1</sup> NO<sub>x</sub> in major source amounts, but have actual emissions that are below the major source thresholds. The Mohegan TIP is a mechanism by which the emission limit for stationary sources owned by the Mohegan Tribal Gaming Authority located within the exterior boundaries of the Mohegan Reservation is enforceable as a practical matter. The

<sup>1</sup> Potential to emit means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design.

Mohegan TIP is the equivalent of a permit that keeps the sources in "synthetic minor" status and ensures that the source is legally prohibited from operating as a major source. In other words, even though units owned by the Mohegan Tribal Gaming Authority have the potential to emit NO<sub>x</sub> in major source amounts, they will be considered minor sources and will avoid triggering CAA major source requirements because the units collectively will be subject to an enforceable emissions limitation.

On April 17, 2009, the Tribe submitted a formal revision to the Mohegan TIP ("Revision"). The Revision includes a monthly NO<sub>x</sub> emissions limitation for new emission units, namely uncontrolled diesel generators and controlled diesel generators. The Revision also removes the classification for emergency diesel generators, as these emission units constitute uncontrolled diesel generators. The Revision contains monitoring, recordkeeping, reporting, and testing requirements for the new emission units, as needed to assure compliance with the synthetic minor limit. The inclusion of these units does not result in any increase in potential emissions at the facility because the Area Wide Limitation for NO<sub>x</sub> Emissions remains at 49 tons per year for each twelve-month rolling year.

The Revision also vests the Administrator of the Mohegan Environmental Protection Department with enforcement authority for violations of the Mohegan TIP. Specifically, the Revision provides the Administrator with the authority to assess civil penalties of up to \$25,000 per violation per day, as well as to issue cease and desist orders, for violations of the Mohegan TIP. The Mohegan Gaming Disputes Court formerly had the authority to perform these functions. Under the Revision, any entity or individual whose legal rights are affected by any decision of the Administrator regarding the enforcement of the Mohegan TIP may appeal the decision to the Director of Regulation and Compliance, and may subsequently appeal any decision of the Director of Regulation and Compliance to the Mohegan Tribal Court or Mohegan Gaming Disputes Court ("Mohegan Courts"), as appropriate.

**II. Final Action:** EPA is approving the Mohegan Tribal Implementation Plan Revision, submitted by the Mohegan Tribe of Indians of Connecticut on April 17, 2009. The Revision incorporates new emission units with associated monitoring, recordkeeping and reporting provisions for the facility

owned by the Mohegan Tribal Gaming Authority. The Revision also vests the Administrator of The Mohegan Environmental Protection Department with enforcement authority for violations of the Mohegan TIP and establishes a right of appeal to the Director of Regulation and Compliance and the Mohegan Courts.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the Proposed Rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the Mohegan TIP revision should relevant adverse comments be filed. This rule will be effective November 27, 2009 without further notice unless the Agency receives relevant adverse comments by *October 28, 2009*.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on November 27, 2009 and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

**III. Statutory and Executive Order Reviews:** Under the Clean Air Act, the Administrator is required to approve a TIP 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 TIP submissions, EPA's role is to approve tribal choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves tribal law as meeting Federal requirements and does not impose additional requirements beyond those imposed by tribal law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

- 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 (Pub. L. 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 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). Since this rule simply approves pre-existing tribal law, it does not result in any direct costs or preemption of tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Nonetheless, EPA has consulted extensively with the Mohegan Tribe concerning this proposed TIP revision. 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. 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 Clean Air Act, petitions for judicial review of

this action must be filed in the United States Court of Appeals for the appropriate circuit by *November 27, 2009*. 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 today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that 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 49

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Indians, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: August 13, 2009.

**Ira Leighton,**

*Acting Regional Administrator, EPA New England.*

■ Part 49 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

#### PART 49—[AMENDED]

■ 1. The authority citation for part 49 continues to read as follows:

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

#### Subpart D—[Amended]

■ 2. Section 49.201 is amended by revising paragraph (b) and (c) to read as follows:

##### § 49.201 Identification of plan.

\* \* \* \* \*

(b) *Incorporation by reference.* (1) Material listed in paragraph (c) of this section was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraph (c) of this section with EPA approval dates after August 13, 2009, will be incorporated by

reference in the next update to the TIP compilation.

(2) EPA Region 1 certifies that the rules/regulations provided by EPA in the TIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated tribal rules/regulations which have been approved as part of the Tribal Implementation Plan as of August 13, 2009.

(3) Copies of the materials incorporated by reference may be

inspected at the New England Regional Office of EPA at One Congress Street, Suite 1100, Boston, MA 02114-2023; the U.S. Environmental Protection Agency, EPA Docket Center (EPA/DC), Air and Radiation Docket and Information Center, MC 2822T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460 and the National Archives and Records Administration. If you wish to obtain material from the EPA Regional Office, please call 617-

918-1653; for materials from the docket in EPA Headquarters Library, please call the Office of Air and Radiation docket at 202-566-1742. For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

(c) EPA-approved regulations.

EPA-APPROVED MOHEGAN TRIBE OF INDIANS OF CONNECTICUT REGULATIONS

Tribal citation	Title/subject	Tribal effective date	EPA approval date	Explanations
Mohegan Tribal Resolution. 2009-28 .....	Approval of Amended Tribal Air Program Area Wide NO <sub>x</sub> Emission Limitation Regulation.	02/18/2009	09/29/09 [Insert Federal Register page number where the document begins].	Mohegan Tribal Resolution 2009-28 includes the "Area Wide NO <sub>x</sub> Emission Limitation Regulation."
Mohegan Tribal Gaming Authority Resolution MTGA 2009-07.	Confirmation and Approval of Amended Tribal Air Program "Area Wide NO <sub>x</sub> Emission Limitation Regulation."	2/18/2009	09/29/09 [Insert Federal Register page number where the document begins].	
Memorandum of Agreement.	Memorandum of Agreement dated December 26, 2006, between the Mohegan Tribe of Indians of Connecticut and the U.S. Environmental Protection Agency Region I.	12/26/06	11/14/07, 72 FR 63988..	

[FR Doc. E9-23259 Filed 9-25-09; 8:45 am]  
BILLING CODE 6560-50-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3000 and 3200

[L13100000 PP0000 LLWO310000; L1990000 PO0000 LLWO320000]

RIN 1004-AE01

Minerals Management: Adjustment of Cost Recovery Fees

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This final rule amends the Bureau of Land Management (BLM) mineral resources regulations to update some fees that cover the BLM's cost of processing certain documents relating to its mineral programs and some filing fees for mineral-related documents. These updates include fees for actions such as lease applications, name changes, corporate mergers, and lease consolidations.

DATES: This final rule is effective October 1, 2009.

ADDRESSES: You may send inquiries or suggestions to Director (630), Bureau of Land Management, MS-LS 401, 1849 C Street, NW., Washington, DC 20240; Attention: RIN 1004-AE01.

FOR FURTHER INFORMATION CONTACT: Steve Salzman, Acting Chief, Division of Fluid Minerals, (202) 452-7777, or Faith Bremner, Regulatory Affairs Analyst, (202) 452-5042. Persons who use a telecommunications device for the deaf (TDD) may leave a message for these individuals with the Federal Information Relay Service (FIRS) at 1-800-877-8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

I. Background

The BLM has specific authority to charge fees for processing applications and other documents relating to public lands under Section 304 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. 1734. In 2005, the BLM published a final cost recovery rule (70 FR 58854) establishing or revising certain fees and service charges, and establishing the method it would use to adjust those fees and service charges on an annual basis.

At 43 CFR 3000.12(a), the regulations provide that the BLM will annually

adjust fees established in Subchapter C according to changes in the Implicit Price Deflator for Gross Domestic Product (IPD-GDP), which is published quarterly by the U.S. Department of Commerce. See also 43 CFR 3000.10. Because the fee recalculations are simply based on a mathematical formula, we have changed the fees in this final rule without providing opportunity for notice and comment. This final rule will allow the BLM to update these fees and service charges by October 1 of this year, as required by the 2005 regulation. The public had an opportunity to comment on this procedure during the comment period on the original cost recovery rule, and this new rule simply administers the procedure set forth in those regulations. The Department of the Interior, therefore, for good cause finds under 5 U.S.C. 553(b)(B) and (d)(3) that notice and public comment procedures are unnecessary and that the rule may be effective less than 30 days after publication.

II. Discussion of Final Rule

BLM publishes a fee update rule each year, which becomes effective on October 1 of that year. The fee updates are based on the IPD-GDP for the 4th