

Dated: June 6, 2017.

**Bruce Summers,**

*Acting Administrator, Agricultural Marketing Service.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R10-OAR-2017-0184, FRL-9963-65-Region 10]

### Approval and Promulgation of Implementation Plans; Alaska: Adoption Updates and Rule Revisions

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) proposes to approve state implementation plan (SIP) revisions submitted by the State of Alaska Department of Environmental Conservation (ADEC) on September 15, 2016. These revisions primarily update adoptions of Federal regulations in the Alaska SIP. The revisions also strengthen the State of Alaska's (Alaska) minor source permitting requirements and remove obsolete source-specific regulations. EPA also proposes to approve SIP revisions to Alaska's general and transportation conformity regulations submitted by ADEC on March 10, 2016. The EPA is taking action only on the conformity related portions of the March 2016 submittal. The other portions of the submittal are or will be addressed in separate actions.

**DATES:** Comments must be received on or before July 13, 2017.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R10-OAR-2017-0184, at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not electronically submit any information you consider to be Confidential Business Information (CBI) or other information the disclosure of which 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. 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, Air Planning Unit, Office of Air and Waste (OAW-150), Environmental Protection Agency, Region 10, 1200 Sixth Ave., Suite 900, Seattle, WA 98101; telephone number: (206) 553-1999; email address: [ruddick.randall@epa.gov](mailto:ruddick.randall@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document, wherever "we," "us," or "our" is used, it is intended to refer to 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 protection requirements to EPA for approval into the State Implementation Plan (SIP). The SIP is the state's plan to implement, maintain, and enforce National Ambient Air Quality Standards (NAAQS) set by EPA. Because Alaska regularly revises its state rules, and to ensure they stay consistent with Federal CAA requirements, Alaska generally submits an annual update to EPA for approval into the SIP.

On September 15, 2016, ADEC, submitted such an update. The submittal contains regulatory updates to the Alaska Administrative Code (AAC) with a state effective date of August 20, 2016. These updates to AAC Title 18, Environmental Conservation, Chapter 50, Air Quality Control (18 AAC 50) reflect updates to the adoption by reference date of certain Federal regulations, strengthen minor stationary source permitting rules, remove obsolete source-specific regulations, and adopt the Federal 2015 ozone NAAQS.

Transportation conformity is required under section 176(c) of the CAA to ensure federally supported highway, transit projects, and other activities are consistent with ("conform to") the

purpose of the SIP. Transportation conformity currently applies to areas that are designated nonattainment, and to areas that have been redesignated to attainment after 1990 (maintenance areas) with plans developed under section 175A of the CAA for the following transportation-related criteria pollutants: Ozone, particulate matter (PM<sub>2.5</sub> and PM<sub>10</sub>), carbon monoxide, and nitrogen dioxide. The transportation conformity regulation is found in 40 CFR part 93, subpart A, and in 40 CFR 51.390.

On September 27, 1995, the EPA approved the general conformity rules in Article 7 of AAC Title 18, Chapter 50 into the Alaska SIP (60 FR 49765). On December 29, 1999, EPA approved ADEC's transportation conformity rules in Article 7 of 18 AAC 50 into the Alaska SIP (64 FR 72940). On March 10, 2016, ADEC submitted a request to make two modifications to the transportation conformity regulations and one modification to the general conformity regulations, discussed below.

#### II. EPA Evaluation of Alaska SIP Revisions

##### A. Updates to Adoption by Reference

ADEC revised 18 AAC 50 to update the adoption by reference date of certain federal regulations and documents and submitted those changes to EPA for approval into the Alaska SIP. ADEC also updated citation dates at 18 AAC 50.035(a)(3) to adopt *AP-42, Compilation of Air Pollutant Emission Factors*, as updated through April 2015. Likewise, ADEC updated the adoption by reference date in 18 AAC 50.035(a)(7) to incorporate a more current version of EPA's AERSCREEN User's Guide, EPA-454/B-15-005, dated July 2015. EPA is proposing to approve Alaska's updates.

Alaska's major new source review (NSR) permitting rules for attainment and unclassifiable areas, 18 AAC 50, Article 3, largely adopt by reference the federal Prevention of Significant Deterioration of Air Quality (PSD) program regulations in 40 CFR 51.166 and 40 CFR 52.21. The most recent EPA approval of revisions to Alaska's PSD permitting program was May 19, 2016 (81 FR 31511), in which ADEC adopted by reference portions of 40 CFR 51.166 and 52.21 as in effect on December 9, 2013. ADEC recently updated 18 AAC 50.040(f) and (h) to incorporate federal revisions to portions of 40 CFR 51.166 and 52.21 as in effect on December 28, 2015. These updates ensure Alaska's PSD program is consistent with Federal requirements and therefore EPA is proposing to approve them.

Lastly, ADEC added language in 18 AAC 215(a)(3) to clarify that Alaska's adoption in 18 AAC 50.035(a) of both *Quality Assurance Handbook for Air Pollutant Measurement Systems, Volume IV* and *Meteorological Measurements Version 2.0* are applicable for meteorological monitoring work in Alaska. EPA is proposing to approve the Alaska's clarification.

#### B. Revisions to Permitting Requirements Source Test Reports

ADEC's September 15, 2016 SIP submittal revises 18 AAC 50.345(o) to reduce the number of paper copies of source test reports required to be submitted from two copies to one copy for both minor and Title V permitted sources. This reduces paperwork, resource requirements, and associated costs without negatively affecting compliance with environmental regulations. EPA is proposing to approve Alaska's revision.

#### Minor Source Baseline Date

A minor source baseline date is based on a trigger date set in federal major source permitting regulations. The baseline date is calculated as the date on which the first complete PSD permit application is received after the EPA trigger date, which for fine particulate matter (PM<sub>2.5</sub>) is October 20, 2011. ADEC, utilizing 40 CFR 52.21(b)(14)(ii), determined a minor source PM<sub>2.5</sub> baseline date for the South Central Alaska Intrastate Air Quality Control Region of October 15, 2015, and incorporated this date into Table 2 of 18 AAC 50.020. Emissions changes at sources in the South Central Alaska Intrastate Air Quality Control Region after this baseline date, consume the region's PM<sub>2.5</sub> PSD increment. We are proposing to approve Alaska's incorporation of this minor source baseline date into their SIP as consistent with CAA requirements.

#### Minor Source Permitting Applicability

EPA originally approved Alaska's minor NSR program into the SIP on July 5, 1983 (48 FR 30623), and most recently approved an update to it on May 27, 2015 (80 FR 30161). ADEC has since revised its minor NSR permitting program so that it now requires all existing minor stationary sources to apply for a permit prior to undergoing a modification that will result in a potential to emit above significant emissions thresholds. See 18 AAC 50.502(c)(4). ADEC explains that this revision closes a permitting loophole that allowed significant emissions

increases below PSD levels to occur without triggering minor source permitting requirements. Such increases will now be subject to minor new source permitting. ADEC made several changes to related regulations to appropriately cross-reference and implement this revision. EPA is proposing to approve ADEC's revision to the applicability of its minor new source review program because it strengthens the SIP and is consistent with CAA requirements.

#### Minor Source Permit Review and Issuance

ADEC revised 18 AAC 50.542(b)(5) to clarify that the 30-day timeline for fast-tracked permit decisions is based on the receipt of a "complete" permit application. The previous language did not include the adjective "complete." This change makes it easier for regulated entities and citizens alike to understand what is expected of both the permitting authority and the applicant.

In addition, ADEC added 18 AAC 50.542(d)(1)(F) to clarify the timing of the approval of alternative modeling in "fast track" minor source permitting. ADEC's rules now make clear that, where alternative modeling was approved outside of "fast-track" permitting procedures, a 30-day public notice and request for comment period on the decision to approve alternative modeling under 18 AAC 50.215(c)(2) is required, which will be timed, to the extent practicable, to coincide with the public comment period on the draft permit. EPA is proposing to approve these clarifications.

#### C. Removal of Certain Source Category-Specific Requirements

Alaska repealed certain source category-specific requirements applicable to fuel burning equipment in operation before November 1, 1982, that use more than 20 percent woodwaste as fuel; urea prilling towers in operation before July 1, 1972; portland cement plants; and pulp mills. Alaska determined there are no longer any sources in the state to which these repealed provisions apply. In the September 15, 2016 submittal, ADEC requested EPA remove these state-repealed provisions from the Alaska SIP. EPA proposes to approve ADEC's request to remove 18 AAC 50.055(a)(2), (a)(3), (a)(7), (a)(8), (b)(4), (b)(6), (f) and 18 AAC 50.060 from Alaska's SIP because no sources are subject to these standards. Any new sources in these source categories will be regulated under Alaska's NSR process and any applicable federal regulations that apply to new sources, such as new source performance standards.

#### D. Revisions to Ozone Standard

ADEC revised the ozone standard in 18 AAC 50.010(4) from 0.075 ppm to 0.070 ppm to reflect the current (2015) Federal NAAQS for ozone. We are proposing to approve Alaska's revision to its ozone standard as consistent with Federal standards.

#### E. Updates to General and Transportation Conformity

On August 10, 2005, the "Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users" (SAFETEA-LU) transportation act was signed into law, and among other things, it amended the CAA to eliminate the requirement for states to adopt and submit general conformity SIPs. On April 5, 2010 (75 FR 17254), EPA updated the general conformity SIP regulations to be consistent with the SAFETEA-LU transportation act by eliminating the Federal regulatory requirement for states to adopt and submit general conformity SIPs. See 40 CFR 51.851. On May 7, 2015, with a supplementary letter received July 29, 2015, ADEC submitted a request to update the transportation conformity regulations and to remove portions of the general conformity regulations from the Alaska SIP. EPA finalized action on this submittal on September 8, 2015 (80 FR 53735). On March 10, 2016, ADEC submitted a request to make two modifications to Alaska's transportation conformity regulations and one modification to the general conformity regulations.

Alaska's March 10, 2016, submittal revises two transportation conformity criteria and procedures. The first modification relates to interagency consultation. The modification adds a reference to a list of exempt projects to existing section 18 AAC 50.715(c)(8). The second modification relates to public involvement. New section 18 AAC 50.720(e) adds a reference to existing Alaska rules regarding charges for photocopying of information.

The modification to the general conformity regulations removes 18 AAC 50.735 from the State's SIP because it is not needed under current Federal regulations. This section is not needed because SAFETEA-LU eliminated the requirement for states to adopt and submit general conformity SIPs.

Alaska's SIP revision updates the State's general and transportation conformity provisions, 18 AAC 50, Article 7, to be consistent with the CAA as amended by SAFETEA-LU and EPA regulations (40 CFR part 93 and 40 CFR 51.390). EPA has reviewed ADEC's March 10, 2016, SIP submittal to assure

consistency with the CAA as amended by SAFETEA-LU and EPA regulations (40 CFR part 93 and 40 CFR 51.390) governing state procedures for general and transportation conformity and interagency consultation, and has concluded that the submittal is consistent with CAA requirements. The EPA is taking action only on the conformity related portions of the March 10, 2016, submittal. The other portions of the submittal are addressed in separate actions.

### III. Proposed Action

EPA is proposing to approve, and incorporate by reference where appropriate, in Alaska's SIP, all revisions requested by Alaska on September 15, 2016 (state effective 8/20/2016) to the following provisions:

- 18 AAC 50.010(4) (Ambient Air Quality Standards)
- 18 AAC 50.020(a) (Baseline Dates and Maximum Allowable Increases)
- 18 AAC 50.035(a)(3) and (a)(7) (Documents, Procedures, and Methods Adopted by Reference)
- 18 AAC 50.040(f) and (h) (Federal Standards Adopted by Reference)
- 18 AAC 50.215(a)(3) (Ambient Air Quality Analysis Methods)
- 18 AAC 50.345(o) (Construction, Minor and Operating Permits: Standard Permit Conditions)
- 18 AAC 50.502(c), (e), (f), (f)(1)(C), (f)(5), (g), (h)(3)(A), and (h)(3)(B) (Minor Permits for Air Quality Protection)
- 18 AAC 50.540 (c)(2)(A) (Minor Permit: Application)
- 18 AAC 50.542(b)(5) and (d)(1) (Minor Permit: Review and Issuance)

EPA is also proposing to remove from the SIP the following provisions that ADEC has repealed as a matter of state law: 18 AAC 50.055(a)(2), (a)(3), (a)(7), (a)(8), (b)(4), (b)(6), (f) (Industrial process and Fuel-Burning Equipment) and 18 AAC 50.060 (Pulp Mills).

Finally, EPA is proposing to approve revisions to 18 AAC 50, Article 7, Transportation Conformity, submitted by Alaska on March 10, 2016; specifically, the revisions to transportation conformity provisions in 18 AAC 50.715, .720, and removal of the general conformity provisions in .735 as discussed in Section II.E above.

We have made the preliminary determination that the submitted SIP revisions are consistent with section 110 and part C of Title I of the CAA.

### IV. Incorporation by Reference

In this rule, EPA is proposing to include in a final rule, regulatory text that includes incorporation by

reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the provisions described above in Section III. Also in this rule, EPA is proposing to remove, in a final EPA rule, regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to remove the incorporation by reference of provisions of 18 AAC 50.055 and 50.060 as described above in Section II (C.) and 18 AAC 50.735 as described in Section III. EPA has made, and will continue to make, these documents generally available electronically through [www.regulations.gov](http://www.regulations.gov) and/or in hard copy at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

### V. Statutory and Executive Orders 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, EPA's role is to approve state choices, provided they meet the criteria of the CAA. Accordingly, this proposed 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 proposed 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 (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 it does not involve technical standards; 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).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where 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), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: June 1, 2017.

**Michelle L. Pirzadeh,**

*Acting Regional Administrator, Region 10.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[Docket Nos. FWS-R2-ES-2016-0099, FWS-R2-ES-2016-0100, FWS-R2-ES-2016-0130, FWS-R2-ES-2016-0137, FWS-R2-ES-2016-0119; FXES1113090000C2-167-FF09E32000]

RINs 1018-BA74; 1018-BA75; 1018-BB90; 1018-BB89; 1018-BB87

#### Endangered and Threatened Wildlife and Plants; Reopening the Comment Periods for Five Proposed Rules

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rules; reopening comment period.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce that we are reopening the comment periods for our proposed rules to list *Festuca ligulata* (Guadalupe fescue) as an endangered species; to designate *Festuca ligulata* critical habitat; to