

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 April 11, 2022. 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 49

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

Dated: February 4, 2022.

KC Becker,

Regional Administrator, Region 8.

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

PART 49—INDIAN COUNTRY: AIR QUALITY PLANNING AND MANAGEMENT

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

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

Subpart K—Implementation Plans for Tribes—Region VIII

■ 2. Add an undesignated center heading and § 49.4200 to read as follows:

Implementation Plan for the Northern Cheyenne Tribe

§ 49.4200 Identification of plan.

(a) *Purpose and scope.* This section contains the approved implementation plan for the Northern Cheyenne Tribe, submitted to EPA on September 25, 2017. The plan consists of programs and procedures that cover general and emergency authorities, ambient air quality standards, permitting requirements for open burning, general prohibitory rules, open burning limitations, enforcement authorities, and procedures for administrative appeals and judicial review in Tribal court.

(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**.

(2) EPA Region 8 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.

(3) Copies of the materials incorporated by reference may be inspected at the Region 8 Office of EPA at 1595 Wynkoop Street, Denver, CO 80202 or call 303-312-6002; 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 or call 202-566-1742; and the National Archives and Records Administration. For information on the availability of this material at NARA, email fr.inspection@nara.gov, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>. Copies of the Northern Cheyenne TIP regulations we have approved are also available at <http://www.epa.gov/region8/air/sip.html>.

(c) *EPA-approved regulations.*

TABLE 1 TO PARAGRAPH (c)

Tribal citation	Title/subject	Tribal effective date	EPA approval date	Explanations
Northern Cheyenne Tribe, Northern Cheyenne Clean Air Act Tribal Implementation Plan.	Entirety	December 20, 2016	February 10, 2022	The Tribal effective date is based on the date the Bureau of Indian Affairs (BIA) Superintendent of the Northern Cheyenne Agency approved the Tribe's Ordinance No. DOI-008 (2017) adopting the Northern Cheyenne Clean Air Act.

[FR Doc. 2022-02724 Filed 2-9-22; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2021-0216; FRL-9168-02-R10]

Air Plan Approval; AK; Incorporation by Reference Updates and Permit Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the Alaska State Implementation Plan

(SIP) submitted on November 10, 2020. The revisions update the adoption by reference of certain Federal air regulations and add a pre-approved emission limit option that may be used to permit diesel engine facilities, among other changes. The EPA's approval makes the revisions federally enforceable as part of the Alaska SIP.

DATES: This final rule is effective March 14, 2022.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R10-OAR-2021-0216. All documents in the docket are listed on the <https://www.regulations.gov> website. 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, EPA Region 10, 1200 Sixth Avenue (Suite 155), Seattle, WA 98101, at (206) 553-6357, or hall.kristin@epa.gov.

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

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I. Background

Each state has a SIP containing the control measures and strategies to attain and maintain the national ambient air quality standards (NAAQS). Alaska establishes state air quality regulations in Alaska Administrative Code Title 18 Environmental Conservation, Chapter 50 Air Quality Control (18 AAC 50) and submits these regulations for EPA approval and incorporation by reference into the Alaska SIP in the Code of Federal Regulations (CFR) at 40 CFR part 52, subpart C.

On November 10, 2020, Alaska submitted revisions to the SIP and the EPA proposed to approve the changes on November 17, 2021 (86 FR 64105).¹ The reasons for approval are included in the proposed action and will not be restated here. The public comment period for the proposed action closed on December 17, 2021 and we received no comments. Therefore, we are finalizing the action as proposed.

II. Final Action

The EPA is approving, and incorporating by reference, revisions to the Alaska SIP, submitted on November 10, 2020, as being consistent with Clean Air Act section 110 and part C and D requirements. Upon the effective date of this final action, the Alaska SIP will include the following regulations, state effective November 7, 2020:

- 18 AAC 50.015 Air Quality Designations, Classifications, and Control Regions;
- 18 AAC 50.030 State Air Quality Control Plan, except (a);
- 18 AAC 50.035 Documents, Procedures and Methods Adopted by Reference, except (a)(6), (a)(9), and (b)(4);
- 18 AAC 50.040 Federal Standards Adopted by Reference, except (a), (b), (c), (d), (e), (g), (j) and (k);
- 18 AAC 50.077 Standards for Wood-Fired Heating Devices, except (h);
- 18 AAC 50.205 Certification;
- 18 AAC 50.230 Preapproved Emission Limits;
- 18 AAC 50.250 Procedures and Criteria for Revising Air Quality Classifications;
- 18 AAC 50.311 Nonattainment Area Major Stationary Source Permits;

¹ The November 10, 2020 SIP submission also requested EPA approval of the Mendenhall Valley and Eagle River Limited Maintenance Plans. We approved these submitted plans in separate actions. Please see our actions published October 25, 2021 (86 FR 58807) and November 9, 2021 (86 FR 62096).

- 18 AAC 50.502 Minor Permits for Air Quality Protection;
- 18 AAC 50.540 Minor Permit: Application;
- 18 AAC 50.542 Minor Permit: Review and Issuance; and
- 18 AAC 50.990 Definitions.

III. Incorporation by Reference

In this document, the EPA is finalizing regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the regulations described in section II of this preamble. The EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov> and at the EPA Region 10 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rule of the EPA's approval, and will be incorporated by reference by the Director of the **Federal Register** in the next update to the SIP compilation.²

IV. Statutory and Executive Order Reviews

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

² 62 FR 27968 (May 22, 1997).

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 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 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 April 11, 2022.

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.

Dated: February 4, 2022.
Michelle L. Pirzadeh,
Acting 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 the entries for “18 AAC 50.015”, “18 AAC 50.030”, “18 AAC 50.035”, “18 AAC 50.040”, “18 AAC 50.077”, “18 AAC 50.205”, “18 AAC 50.230”, “18 AAC 50.250”, “18 AAC 50.311”, “18 AAC 50.502”, “18 AAC 50.540”, “18 AAC 50.542”, and “18 AAC 50.990” 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—Article 1. Ambient Air Quality Management				
* * * * *				
18 AAC 50.015	Air Quality Designations, Classifications, and Control Regions.	11/7/2020	2/10/2022, [INSERT Federal Register CITATION].	*
18 AAC 50.030	State Air Quality Control Plan.	11/7/2020	2/10/2022, [INSERT Federal Register CITATION].	except (a).
18 AAC 50.035	Documents, Procedures, and Methods Adopted by Reference.	11/7/2020	2/10/2022, [INSERT Federal Register CITATION].	except (a)(6), (a)(9), and (b)(4).
18 AAC 50.040	Federal Standards Adopted by Reference.	11/7/2020	2/10/2022, [INSERT Federal Register CITATION].	except (a), (b), (c), (d), (e), (g), (j) and (k).
18 AAC 50.077	Standards for Wood-Fired Heating Devices.	11/7/2020	2/10/2022, [INSERT Federal Register CITATION].	except (h).
* * * * *				
18 AAC 50—Article 2. Program Administration				
18 AAC 50.205	Certification	11/7/2020		*
18 AAC 50.230	Preapproved Emission Limits.	11/7/2020	2/10/2022, [INSERT Federal Register CITATION].	*
18 AAC 50.250	Procedures and Criteria for Revising Air Quality Classifications.	11/7/2020	2/10/2022, [INSERT Federal Register CITATION].	*
* * * * *				
18 AAC 50—Article 3. Major Stationary Source Permits				

EPA-APPROVED ALASKA REGULATIONS AND STATUTES—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanations
18 AAC 50.311	Nonattainment Area Major Stationary Source Permits.	11/7/2020	2/10/2022, [INSERT Federal Register CITATION].	
18 AAC 50—Article 5. Minor Permits				
18 AAC 50.502	Minor Permits for Air Quality Protection.	11/7/2020	2/10/2022, [INSERT Federal Register CITATION].	
18 AAC 50.540	Minor Permit: Application ..	11/7/2020	2/10/2022, [INSERT Federal Register CITATION].	
18 AAC 50.542	Minor Permit: Review and Issuance.	11/7/2020	2/10/2022, [INSERT Federal Register CITATION].	
18 AAC 50—Article 9. General Provisions				
18 AAC 50.990	Definitions	11/7/2020	2/10/2022, [INSERT Federal Register CITATION].	

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 BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2016-0477; FRL-9543-01-R8]

Air Plan Approval; Montana; Administrative Rule Revisions: 17.8.334

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is taking final action to approve a revision to Montana’s State Implementation Plan (SIP). On July 6, 2016, the Governor of Montana submitted to EPA a revision to the Montana SIP that removed one section of the Administrative Rules of Montana (ARM) pertaining to aluminum plants. In this document, EPA is finalizing approval of the removal of this section from the SIP. EPA determined the provision was

inconsistent with Clean Air Act (CAA) requirements and EPA issued a SIP call for the State to revise the provision on June 12, 2015. Removal of this provision corrects the deficiencies identified in 2015 related to the treatment of excess emissions from aluminum plants and fully satisfies the SIP call issued to Montana.

DATES: This rule is effective on March 14, 2022.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R08-OAR-2016-0477. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., confidential business information (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 through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Ellen Schmitt, Air and Radiation Division, EPA, Region 8, Mail Code 8ARD-IO, 1595 Wynkoop Street, Denver, Colorado 80202-1129, telephone number: (303) 312-6728, email address: schmitt.ellen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On February 22, 2013, EPA issued a **Federal Register** notice of proposed rulemaking outlining EPA’s policy at the time with respect to SIP provisions related to periods of startup, shutdown, or malfunction (SSM). EPA analyzed specific SSM SIP provisions and explained how each one either did or did not comply with the CAA with regard to excess emission events.¹ For each SIP provision that EPA determined to be inconsistent with the CAA, EPA proposed to find that the existing SIP provision was substantially inadequate to meet CAA requirements and thus

¹ State Implementation Plans: Response to Petition for Rulemaking; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction, 78 FR 12460 (February 22, 2013).