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FOR FURTHER INFORMATION CONTACT:

Stacey Yonce, Materials Recovery and Waste Management Division, Office of Resource Conservation and Recovery, Mail code 5304P, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: (703) 308-8476; email address: yonce.stacey@epa.gov.

SUPPLEMENTARY INFORMATION: In December 2016, Congress passed, and the President signed the Water Infrastructure Improvements for the Nation (WIIN) Act, amending section 4005 of the Resource Conservation and Recovery Act (RCRA). The WIIN Act, among other things, requires the Environmental Protection Agency (EPA or the Agency) to implement a Federal coal combustion residuals (CCR) permit program in Indian country and, subject to the availability of appropriations specifically provided to carry out a program, to implement a Federal CCR permit program in nonparticipating states. The Fiscal Year 2018 and 2019 Omnibus Appropriations Acts provided appropriations to the EPA to develop and implement a Federal permit program for the regulation of CCR in nonparticipating states.

The Agency is proposing to establish a Federal CCR permit program in accordance with the requirements of the WIIN Act. The EPA is proposing to establish requirements and procedures to issue Federal permits for disposal and other solid waste management of CCR in 40 CFR part 257, subpart E. The proposed permit requirements would include definitions, compliance

deadlines, application requirements, content and duration, and modification requirements and procedures.

The EPA is also proposing to rely on the general administrative procedures applicable to several EPA permit programs. These procedures, which are found in 40 CFR parts 22 and 124, apply to all other RCRA permits, as well as to certain permits issued under the Clean Water Act (CWA), the Safe Drinking Water Act (SDWA), and the Clean Air Act (CAA). The EPA is proposing to rely on these general procedures without substantive modification and is proposing only to modify provisions in parts 22 and 124 to the extent necessary to ensure they apply to the Federal CCR permit program.

The document proposing to establish a Federal CCR permit program was published on February 20, 2020, and the comment period was scheduled to end on April 20, 2020. See 85 FR 9940. The comment period was then extended through May 20, 2020. See 85 FR 20625. Since publication of the document, Navajo Nation has requested an additional 60 days to review the proposal, develop and submit comments, and engage in government-to-government consultation. After receiving the request from Navajo Nation and considering numerous requests received previously for additional time, EPA has decided to further extend the comment period to address the concerns that were raised. The comment period is extended until July 19, 2020.

Dated: May 12, 2020.

Peter Wright,

Assistant Administrator, Office of Land and Emergency Management.

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BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 52

[EPA-R10-OAR-2019-0412; FRL-10008-76-Region 10]

Determination of Failure To Attain by the Attainment Date and Denial of Serious Area Attainment Date Extension Request; AK: Fairbanks North Star Borough 2006 24-Hour Fine Particulate Matter Serious Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to determine

that the Fairbanks North Star Borough nonattainment area failed to attain the 2006 24-hour fine particulate matter (PM_{2.5}) National Ambient Air Quality Standards (NAAQS) by the December 31, 2019 "Serious" area attainment date. This proposed determination is based on complete, quality-assured and certified PM_{2.5} monitoring data for 2017-2019. The EPA is also proposing to deny the State's request for an extension of the Serious area attainment date for the Fairbanks North Star Borough nonattainment area. Upon finalization of these determinations, the State will be subject to further statutory and regulatory requirements for this area, including a new State Implementation Plan (SIP) submission meeting additional requirements that the State must submit by December 31, 2020.

DATES: Comments must be received on or before June 18, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R10-OAR-2019-0412, at <https://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 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. 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 <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Matthew Jentgen at (206) 553-0340, or jentgen.matthew@epa.gov.

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

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I. Summary of Proposal and Background

In 2009, the EPA designated a portion of the Fairbanks North Star Borough as “nonattainment” for the 2006 24-hour PM_{2.5} NAAQS of 35 micrograms per cubic meter (µg/m³) (Fairbanks PM_{2.5} Nonattainment Area) (74 FR 58688, November 13, 2009). On May 10, 2017, the Fairbanks PM_{2.5} Nonattainment Area was reclassified as a “Serious” nonattainment area by operation of law for failure to attain this NAAQS by the outermost Moderate area attainment date of December 31, 2015 (82 FR 21711). Clean Air Act (CAA) section 188(c)(2) requires states with PM_{2.5} nonattainment areas classified as Serious to attain the NAAQS as expeditiously as practicable, but no later than the end of the tenth calendar year following the effective date of the initial nonattainment designation of the area. Thus, for the Fairbanks PM_{2.5} Nonattainment Area, the attainment date was as expeditiously as practicable but no later than December 31, 2019. CAA section 179(c)(1) requires that the EPA, as expeditiously as practicable after the applicable attainment date for any nonattainment area but no later than 6 months after such date, determine whether the area attained the relevant NAAQS by the applicable attainment date, based on the area’s air quality as of the attainment date. The 2017–2019 24-hr PM_{2.5} design value at the Hurst Road monitor (Air Quality System (AQS) site monitor 02–900–0035) in the Fairbanks PM_{2.5} Nonattainment Area is 69 µg/m³.¹

In accordance with CAA section 189(b)(1) and 40 CFR 51.1004(a)(2), if a state’s attainment plan for the 2006 24-hour PM_{2.5} NAAQS demonstrates that the PM_{2.5} nonattainment area cannot practicably attain the PM_{2.5} NAAQS by the end of the tenth calendar year following designation, the state must request an extension of that attainment date pursuant to CAA section 188(e). The State included such a request in its December 13, 2019 Serious attainment plan for the Fairbanks PM_{2.5} Nonattainment Area (Fairbanks Serious SIP Submission).

II. Criteria for Determining Whether an Area Has Attained the 2006 24-Hour PM_{2.5} NAAQS

Under EPA regulations at 40 CFR part 50, appendix N, the 2006 primary and secondary 24-hour PM_{2.5} NAAQS are met within a nonattainment area when the 24-hour PM_{2.5} NAAQS design value at each eligible monitoring site is less than or equal to 35 µg/m³. Three years of valid annual PM_{2.5} 98th percentile mass concentrations are required to produce a valid 24-hour PM_{2.5} NAAQS design value.

The EPA’s determination of attainment status is based upon data that the State has collected and quality-assured in accordance with 40 CFR part 58 and recorded in the EPA’s AQS database. Ambient air quality monitoring data for the 3-year period must meet data completion criteria or data substitution criteria according to 40 CFR part 50, appendix N. The ambient air quality monitoring data completeness requirements are met when quarterly data capture rates for all four quarters in a calendar year are at least 75 percent. However, appendix N states that years shall be considered valid, notwithstanding quarters with less than complete data, if the resulting annual 98th percentile value or resulting 24-hour NAAQS design value is greater than the level of the standard.

III. Proposed Finding of Failure To Attain the NAAQS

According to CAA section 188(c)(2), the attainment date for the Fairbanks PM_{2.5} Nonattainment Area for the 2006 24-hr PM_{2.5} Serious nonattainment area was to be as expeditiously as practicable, but not later than December 31, 2019. Because the 2017–2019 24-hour PM_{2.5} design value for the area of 69 µg/m³ is above the level of the relevant NAAQS, the Fairbanks PM_{2.5} Nonattainment Area did not attain the NAAQS by the applicable attainment date. Therefore, the EPA is proposing to find that the Fairbanks PM_{2.5} Nonattainment Area failed to attain the 2006 24-hour NAAQS by the outermost applicable Serious area nonattainment date.

IV. Proposed Action on CAA Section 188(e) Extension Request

In accordance with CAA section 189(b)(1)(A) and 40 CFR 51.1004(a)(2)(ii), a state that submits an attainment plan SIP submission that demonstrates that a Serious PM_{2.5} nonattainment area cannot practicably attain the PM_{2.5} NAAQS by the end of the tenth calendar year following the

effective date of designation² must request to extend the Serious area attainment date pursuant to CAA section 188(e) and 40 CFR 51.1005(b). In accordance with 40 CFR 51.1004(a)(2)(ii), the state’s extension request must also propose a projected attainment date that is as expeditious as practicable, but no later than the fifteenth calendar year following the effective date of designation for the area.³

Consistent with CAA section 188(e) and 40 CFR 51.1005(b), the EPA may grant at most one extension for a Serious nonattainment area of no more than five years, if the following conditions are met: (i) The state demonstrates that attainment of the applicable PM_{2.5} NAAQS by the approved or statutory attainment date for the area would be impracticable; (ii) the state has complied with all requirements and commitments pertaining to the area in the applicable implementation plan; and, (iii) the state demonstrates that the attainment plan for the area includes the most stringent measures (MSM) that are included in the implementation plan of any state or are achieved in practice in any state, and can feasibly be implemented in the area consistent with 40 CFR 51.1010(b).

The Fairbanks Serious SIP Submission includes a demonstration that attainment of the PM_{2.5} NAAQS by December 31, 2019, is not practicable. The Fairbanks Serious SIP Submission also includes a request pursuant to CAA section 188(e) and 40 CFR 51.1005(b) to extend the Serious area nonattainment date to December 31, 2024.⁴ The EPA is proposing to deny the State’s extension request based on the reasoning below.

Alaska’s request does not propose a projected attainment date on or before December 31, 2024. The Attainment Demonstration chapter of the Fairbank Serious SIP Submission includes two projected attainment dates: December 31, 2024 and December 31, 2029.⁵ As explained by the State in the Fairbanks Serious SIP Submission, the modeling associated with the 2024 projected attainment date assumes that all wood-burning within the nonattainment area ceases when required (*i.e.*, 100% compliance with the Stage 2 curtailments except for those structures that qualify for No Other Adequate

² For the Fairbanks PM_{2.5} Nonattainment Area, the tenth calendar year following the effective date of redesignation is December 31, 2019.

³ For the Fairbanks PM_{2.5} Nonattainment Area, the fifteenth calendar year following the effective date of designation is December 31, 2024.

⁴ State Air Quality Control Plan Volume II: III.D.7.9.

⁵ *Id.*

¹ The EPA’s review of Alaska’s certified 2017–2019 air quality monitor data for the Fairbanks PM_{2.5} Nonattainment Area is included in the docket for this action.

Source of Heat (NOASH) waivers).⁶ According to the State, however, due to the sub-arctic conditions and high energy costs in the community, this projection is unrealistic and not practicable.⁷ The State thus predicts that 2029 is the most expeditious attainment date. Therefore, the State's attainment date extension request does not comply with the explicit timing requirements and limitations of 40 CFR 51.1004(a)(2)(ii) or with those of CAA section 188(e).

The Fairbanks Serious SIP Submission also does not include MSMs that are included in the attainment plan of any state, or are achieved in practice in any state, that can feasibly be implemented in the Fairbanks area. EPA regulations at 40 CFR 51.1010(b) specify the process states must follow to identify, adopt, and implement MSMs. In accordance with 40 CFR 51.1010(b)(2)(i), for the sources and source categories represented in the emission inventory for the nonattainment area, the state is required to identify the MSMs for reducing direct PM_{2.5} and PM_{2.5} plan precursors adopted into any SIP or used in practice to control emissions in any state. The Fairbanks Serious SIP Submission does not demonstrate that Alaska identified, adopted, and implemented MSMs for each source or source category in the emissions inventory. The Control Strategy chapter of the Fairbanks Serious SIP Submission focuses exclusively on identifying, adopting, and implementing best available control measures (BACM) pursuant to CAA section 189(b) and 40 CFR 51.1010(a).⁸

In the Fairbanks Serious SIP Submission, Alaska adopted one measure that it identified as an MSM for the residential home heating source category.⁹ However, instead of imposing this measure for purposes of meeting the MSM requirement for this source category, the State relies upon this same measure to address the contingency measure requirement of the Serious area attainment plan SIP.¹⁰ Thus, for the one measure the State identified as constituting an MSM, the measure is not currently implemented as required to

meet the MSM requirement. In addition, in accordance with 40 CFR

51.1014(b)(1), contingency measures cannot consist of a measure required or relied upon as part of the control strategy.¹¹

The submitted Fairbanks Serious SIP Submission does not demonstrate that the State has identified, adopted, and implemented MSMs for reducing direct PM_{2.5} and PM_{2.5} plan precursors. Additionally, the State's attainment date extension request also does not comply with the explicit timing requirements and limitations of 40 CFR 51.1004(a)(2)(ii) or with those of CAA section 188(e). For these reasons, the EPA is proposing to deny the State's request to extend the Serious area attainment date applicable to the Fairbanks PM_{2.5} Nonattainment Area for the 2006 24-hour PM_{2.5} NAAQS because the State's SIP submission does not meet all applicable statutory and regulatory requirements.

V. Summary of Proposed Action

In this action, the EPA is proposing to determine that the Fairbanks PM_{2.5} Serious Nonattainment Area failed to attain the 2006 24-hour PM_{2.5} NAAQS by the applicable attainment date of December 31, 2019. The EPA is also proposing to deny Alaska's request for an extension of the Serious nonattainment date because the statutory conditions for granting an extension are not met. The EPA is taking comment on these two proposed actions.

If the EPA finalizes this action, the State will then be required to make a SIP submission pursuant to CAA section 189(d) to the EPA by December 31, 2020. In accordance with CAA sections 172(a)(2) and 179(d)(3) and 40 CFR 51.1004(a)(3), the attainment date for a Serious PM_{2.5} nonattainment area that failed to attain the PM_{2.5} NAAQS by the applicable Serious area attainment date presumptively shall be as expeditious as practicable, but no later than five years following the effective date of the EPA's finding that the area failed to attain by the original Serious area attainment date. However, the EPA may extend the attainment date to the extent the EPA deems appropriate, for a period no greater than 10 years from the effective date of the EPA's determination that the area failed to attain, considering the

severity of nonattainment and the availability and feasibility of pollution control measures in the area.

VI. Statutory and Executive Order Reviews

This proposed action establishes no new requirements; it merely documents that air quality in the Fairbanks PM_{2.5} Nonattainment Area did not meet the 2006 PM_{2.5} standards by the CAA deadline. 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);
- 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 (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 this action does not involve technical standards; 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 obligations discussed herein do not 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. This proposed action does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt

⁶ *Id.* at 5.

⁷ *Id.*

⁸ State Air Quality Control Plan Volume II: III.D.7.7. The EPA is not proposing action on the control strategy element of the Fairbanks Serious SIP Submission. Therefore, nothing in this proposed action shall be construed as a determination regarding whether the Fairbanks Serious SIP Submission includes control measures that meet the CAA and regulatory requirements.

⁹ State Air Quality Control Plan Volume II: III.D.7.7-33.

¹⁰ Alaska Administrative Code, Title 18, Section 50.077(n).

¹¹ The EPA is not proposing action on the contingency measure element of the Fairbanks Serious SIP Submission. Therefore, nothing in this proposed action shall be construed as a determination regarding whether the Fairbanks Serious SIP Submission includes contingency measures that meet the CAA and regulatory requirements.

tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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: April 30, 2020.

Christopher Hladick,

Regional Administrator, Region 10.

[FR Doc. 2020-09874 Filed 5-18-20; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2019-0642; FRL-10007-61-Region 8]

Promulgation of State Implementation Plan Revisions; Infrastructure Requirements for the 2015 Ozone National Ambient Air Quality Standards; South Dakota; Revisions to the Administrative Rules of South Dakota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On October 1, 2015, the Environmental Protection Agency (EPA) promulgated the 2015 ozone NAAQS, revising the standard to 0.070 parts per million. Whenever a new or revised National Ambient Air Quality Standard (NAAQS) is promulgated, the Clean Air Act (CAA or Act) requires each state to submit a State Implementation Plan (SIP) revision for the implementation, maintenance, and enforcement of the new standard. This submission is commonly referred to as an infrastructure SIP. In this action we are proposing to approve the State of South Dakota's January 15, 2020 SIP submission that addresses infrastructure requirements for the 2015 ozone NAAQS. Additionally, in this action, we are proposing to approve a SIP revision submitted by the State of South Dakota on January 3, 2020 that revises the Administrative Rules of South Dakota (ARSD), Air Pollution Control Program, updating the date of incorporation by reference of federal rules in ARSD chapters pertaining to definitions, ambient air quality, air quality episodes,

prevention of significant deterioration (PSD), new source review, performance testing, control of visible emissions, continuous emission monitoring systems, State facilities in Rapid City area, construction permits and regional haze program administrative rules.

DATES: Written comments must be received on or before June 18, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R08-OAR-2019-0642, to the Federal Rulemaking Portal: <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from www.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>.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Air and Radiation Division, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129. The EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Kate Gregory, (303) 312-6175, gregory.kate@epa.gov. Mail can be directed to the Air and Radiation Division, U.S. EPA,

Region 8, Mail-code 8ARD-QP, 1595 Wynkoop Street, Denver, Colorado, 80202-1129.

SUPPLEMENTARY INFORMATION:

Throughout this document, "reviewing authority," "we," "us," and "our" refer to the EPA.

I. Background

On March 12, 2008, the EPA promulgated a new NAAQS for ozone, revising the levels of the primary and secondary 8-hour ozone standards from 0.08 parts per million (ppm) to 0.075 ppm (73 FR 16436). More recently, on October 1, 2015, the EPA promulgated and revised the NAAQS for ozone, further strengthening the primary and secondary 8-hour standards to 0.070 ppm (80 FR 65292). The October 1, 2015 standards are known as the 2015 ozone NAAQS.

Under sections 110(a)(1) and (2) of the CAA, after the promulgation of a new or revised NAAQS states are required to submit infrastructure SIPs to ensure their SIPs provide for implementation, maintenance, and enforcement of the NAAQS. These submissions must contain any revisions needed for meeting the applicable SIP requirements of section 110(a)(2), or certifications that the existing SIPs already meet those requirements. The EPA highlighted this statutory requirement in an October 2, 2007 guidance document entitled "Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 1997 8-hour Ozone and PM_{2.5} National Ambient Air Quality Standards" (2007 Memo). On September 25, 2009, the EPA issued an additional guidance document pertaining to the 2006 PM_{2.5} NAAQS entitled "Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2006 24-Hour Fine Particle (PM_{2.5}) National Ambient Air Quality Standards (NAAQS)" (2009 Memo), followed by the October 14, 2011 "Guidance on Infrastructure SIP Elements Required Under Sections 110(a)(1) and (2) for the 2008 Lead (Pb) National Ambient Air Quality Standards (NAAQS)" (2011 Memo). Most recently, the EPA issued "Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and (2)" on September 13, 2013 (2013 Memo).

A. What infrastructure elements are required under Sections 110(a)(1) and (2)?

CAA section 110(a)(1) provides the procedural and timing requirements for SIP submissions after a new or revised NAAQS is promulgated. Section 110(a)(2) lists specific elements the SIP must contain or satisfy. These