

1. ARM 17.8.102—Incorporation by Reference

ARM 17.8.102 was revised to update the dates of documents which are incorporated by reference. These revisions are necessary to allow the State to include the most recent editions of State rules and federal regulations. ARM 17.8.102(a) was revised to change the incorporation by reference of the Code of Federal Regulations (CFR) from the July 1, 2000 to the July 1, 2001 edition. ARM 17.8.102(d) was revised to change the incorporation by reference of the ARM from the December 31, 2000 to the December 31, 2001 edition. EPA believes these revisions are minor and we are approving them into the SIP.

2. ARM 17.8.101, ARM 17.8.801, ARM 17.8.901—Definitions

In ARM 17.8.101(41), 17.8.801(29) and 17.8.901(20), the state definition for "volatile organic compounds" (VOCs) that is equivalent to the federal definition is deleted and replaced by an incorporation by reference to the federal regulation of the same definition in 40 CFR 51.100(s). The reason for incorporating by reference the definition for VOCs is that EPA frequently revises the federal definition, which means the State must frequently revise its definition to reflect these changes. By incorporating by reference the federal definition, the State will not have to change its definition when the EPA revises the federal definition. EPA believes these revisions are consistent with the federal definition and we are approving them into the SIP.

3. ARM 17.8.302—Incorporation by Reference

ARM 17.8.302(1)(f) is revised by deleting the reference to a specific **Federal Register** notice (66 FR 3179) for new federal pulp mill emission standards for hazardous air pollutants. The standards have now been codified in the CFR and the State is incorporating by reference 40 CFR part 63, where the standards were codified. The EPA believes these revisions are consistent with the federal requirements and we are approving them into the SIP.

4. ARM 17.8.401—Definitions

Minor changes were made to this section to correct a typographical error in a reference to another ARM section. Specifically, 17.8.401(1)(b)(v) references (a)(iii) and should reference (1)(a)(iii). EPA believes that these revisions are minor, consistent with the federal requirements, and we approving them into the SIP.

5. ARM 17.8.1005—Additional Conditions of Air Quality Pre-Construction Permits

ARM 17.8.1005(6) has been revised to correct a reference to another air quality rule. ARM 17.8.1005(6) references ARM 17.8.906(6) through (8). This reference should be ARM 17.8.906(7) through (9). EPA believes that these revisions are minor, consistent with the federal requirements, and we approving them into the SIP.

6. Yellowstone County Air Pollution Control Program

This section of the submittal contains numerous revisions to the YCAPCP. We are only acting on the minor revision to Regulation No. 002—Open Burning Restrictions, as the other revisions are to sections of the YCAPCP that have never been approved into the SIP. The revision to Regulation No. 002—Open Burning Restrictions, corrects a reference to another air quality rule. Specifically, in part (H)(4)(b)(i), the reference to ARM 16.14.5 should refer to 17.50.5—Solid Waste Management. EPA believes that these revisions are minor, consistent with the federal requirements, and we approving them into the SIP.

7. Announcement of NSPS Delegation

Pursuant to the State's October 28, 2002 submittal, which updated the effective date of the incorporated NSPS, on June 24, 2003, EPA updated the delegation of authority for the implementation and enforcement of the NSPS to the State. Also, we are updating the "Delegation Status of New Source Performance Standards [(NSPS) for Region VIII]" table in 60.4(c) by adding entries for newly delegated NSPS subparts. The June 24, 2003 letter of delegation to the State follows:

Honorable Judy Martz,
Governor of Montana, State Capitol, Helena,
Montana 59620-0801

Dear Governor Martz: On October 28, 2002, the State submitted a revision to the Administrative Rules of Montana (ARM) 17.8.102. Specifically, the State revised its rules to incorporate the July 1, 2001 Code of Federal Regulations. This revision, in effect, updates the citation of the incorporated Federal New Source Performance Standards (NSPS) to July 1, 2001.

Subsequent to States adopting NSPS regulations, EPA delegates the authority for the implementation and enforcement of those NSPS, so long as the State's regulations are equivalent to the Federal regulations. EPA reviewed the pertinent statutes and regulations of the State of Montana and determined that they provide an adequate and effective procedure for the implementation and enforcement of the NSPS by the State of Montana. Therefore,

pursuant to Section 111(c) of the Clean Air Act (Act), as amended, and 40 CFR part 60, EPA hereby delegates its authority for the implementation and enforcement of the NSPS to the State of Montana as follows:

(A) Responsibility for all sources located, or to be located, in the State of Montana subject to the standards of performance for new stationary sources promulgated in 40 CFR part 60. The categories of new stationary sources covered by this delegation are all NSPS subparts in 40 CFR part 60, as in effect on July 1, 2001. Note this delegation does not include the emission guidelines in subparts Cb, Cc, Cd, and Ce. These subparts require state plans which are approved under a separate process pursuant to Section 111(d) of the Act.

(B) Not all authorities of NSPS can be delegated to States under Section 111(c) of the Act, as amended. The EPA Administrator retains authority to implement those sections of the NSPS that require: (1) Approving equivalency determinations and alternative test methods, (2) decision making to ensure national consistency, and (3) EPA rulemaking to implement. Therefore, of the NSPS of 40 CFR part 60 being delegated in this letter, the enclosure lists examples of sections in 40 CFR part 60 that cannot be delegated to the State of Montana.

(C) The DEQ and EPA will continue a system of communication sufficient to guarantee that each office is always fully informed and current regarding compliance status of the subject sources and interpretation of the regulations.

(D) Enforcement of the NSPS in the State will be the primary responsibility of the DEQ. If the DEQ determines that such enforcement is not feasible and so notifies EPA, or where the DEQ acts in a manner inconsistent with the terms of this delegation, EPA may exercise its concurrent enforcement authority pursuant to section 113 of the Act, as amended, with respect to sources within the State of Montana subject to NSPS.

(E) The State of Montana will at no time grant a variance or waiver from compliance with NSPS regulations. Should DEQ grant such a variance or waiver, EPA will consider the source receiving such relief to be in violation of the applicable Federal regulation and initiate enforcement action against the source pursuant to section 113 of the Act. The granting of such relief by the DEQ shall also constitute grounds for revocation of delegation by EPA.

(F) If at anytime there is a conflict between a State regulation and a Federal regulation (40 CFR part 60), the Federal regulation must be applied if it is more stringent than that of the State. If the State does not have the authority to enforce the more stringent Federal regulation, this portion of the delegation may be revoked.

(G) If the Regional Administrator determines that a State procedure for enforcing or implementing the NSPS is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the DEQ.

(H) Acceptance of this delegation of presently promulgated NSPS does not