

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the matter of the amendment of ARM) NOTICE OF PUBLIC HEARING ON
17.8.102 and 17.8.103 pertaining to) PROPOSED AMENDMENT
incorporation by reference--publication)
dates and incorporation by reference) (AIR QUALITY)
and availability of referenced documents)

TO: All Concerned Persons

1. On March 5, 2015, at 1:30 p.m., the Board of Environmental Review will hold a public hearing in Room 111, Metcalf Building, 1520 East Sixth Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The board will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact Elois Johnson, Paralegal, no later than 5:00 p.m., February 23, 2015, to advise us of the nature of the accommodation that you need. Please contact Elois Johnson at Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2630; fax (406) 444-4386; or e-mail ejohnson@mt.gov.

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

17.8.102 INCORPORATION BY REFERENCE--PUBLICATION DATES

(1) In this chapter where the board has:

(a) adopted a federal regulation by reference, the reference is to the July 1, ~~2013~~ 2014, edition of the Code of Federal Regulations (CFR), as it is published on the web site of the U.S. Government Printing Office at <http://www.gpo.gov/fdsys/browse/collectionCfr.action?selectedYearFrom=2014&go=Go>;

(b) adopted a section of the United States Code (USC) by reference, the reference is to the ~~2012~~ 2013 edition of the USC as it ~~exists on December 31, 2013~~ is published on the web site of the U.S. Government Printing Office at <http://www.gpo.gov/fdsys/browse/collectionUScode.action?selectedYearFrom=2013&go=Go>;

(c) adopted a rule of the state of Montana from another chapter of the Administrative Rules of Montana (ARM), the reference is to the rule in effect on ~~June 30, 2013~~ September 30, 2014.

(2) through (2)(b) remain the same.

AUTH: 75-2-111, MCA
IMP: Title 75, chapter 2, MCA

17.8.103 INCORPORATION BY REFERENCE AND AVAILABILITY OF

REFERENCED DOCUMENTS (1) through (3) remain the same.

(4) Copies of the CFR may be obtained from the U.S. Government Printing Office, at <http://www.gpo.gov/fdsys/browse/collectionCfr.action?selectedYearFrom=2014&go=Go>. When printed versions are available, they may be obtained as described in (3)(c).

(5) Copies of the U.S. Code may be obtained from the U.S. Government Printing Office at <http://www.gpo.gov/fdsys/browse/collectionUScode.action?selectedYearFrom=2013&go=Go>. When printed versions are available, they may be obtained as described in (3)(c).

AUTH: 75-2-111, MCA

IMP: Title 75, chapter 2, MCA

REASON: The board is proposing to amend the air quality rules to update editions of federal and state statutes, rules, and regulations that are incorporated by reference. The board is proposing to amend ARM 17.8.102(1) and 17.8.103(4) and (5) to adopt revisions to federal regulations published in the July 1, 2014, edition of the Code of Federal Regulations (CFR), as it is published on the web site of the U.S. Government Printing Office, the 2013 edition of the U.S. Code, as it is published on the web site of the U.S. Government Printing Office, and the September 30, 2014, edition of the ARM. The reason for the reference to a specific web page of the CFR is that the CFR is published in a new codified version every year. For Title 40, which contains most of the federal regulations adopted by reference by the board for air quality regulation, the official version is dated July 1 of each year. However, the online version is not available by that date and the printed version is not available for more than four months after that date. The board adopts the July 1 edition after the online version has been made available. The reason for the reference to a specific web page for the U.S. Code is that the U.S. Code is published in a new codified printed version every six years. The most recent printed version is 2012. It is updated online by the U.S. Law Revision Counsel, which is associated with the U.S. House of Representatives, as new laws are enacted. It then takes about eight months before all titles of the U.S. Code are updated on the web site of the U.S. Government Printing Office (U.S. GPO) with the changes enacted into law by the previous session of Congress. It takes about another ten months for a printed annual supplement to be distributed. The U.S. GPO publishes the printed versions and its web site is the most authoritative site for the official online version of the U.S. Code. It is the version on this web site that the board is proposing to use as the version of the updated U.S. Code referred to in its rules in ARM Title 17, chapter 8. The board adopts and incorporates by reference updates to federal regulations to ensure that Montana's air quality rules are at least as stringent as federal air quality regulations, to maintain primacy and federal delegation of Montana's air quality program, and to implement federal emissions standards according to a federal program of emissions control.

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Elois Johnson, Paralegal, Department of Environmental Quality, 1520 E. Sixth Avenue, P.O. Box 200901, Helena, Montana 59620-0901; faxed to (406) 444-4386; or e-mailed to ejohnson@mt.gov, no later than 5:00 p.m., March 12, 2015. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

5. Ben Reed, attorney for the board, or another attorney for the Agency Legal Services Bureau, has been designated to preside over and conduct the hearing.

6. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding: air quality; hazardous waste/waste oil; asbestos control; water/wastewater treatment plant operator certification; solid waste; junk vehicles; infectious waste; public water supply; public sewage systems regulation; hard rock (metal) mine reclamation; major facility siting; opencut mine reclamation; strip mine reclamation; subdivisions; renewable energy grants/loans; wastewater treatment or safe drinking water revolving grants and loans; water quality; CECRA; underground/above ground storage tanks; MEPA; or general procedural rules other than MEPA. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to Elois Johnson, Paralegal, Department of Environmental Quality, 1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901, faxed to the office at (406) 444-4386, e-mailed to Elois Johnson at ejohnson@mt.gov, or may be made by completing a request form at any rules hearing held by the board.

7. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

8. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

Reviewed by: BOARD OF ENVIRONMENTAL REVIEW

/s/ John F. North
JOHN F. NORTH
Rule Reviewer

BY: /s/ Robin Shropshire
ROBIN SHROPSHIRE
Chairman

Certified to the Secretary of State, February 2, 2015.