

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the matter of the amendment of ARM)	NOTICE OF PROPOSED
17.8.102, 17.8.103, 17.8.202, 17.8.302,)	AMENDMENT
17.8.602, 17.8.767, 17.8.802, 17.8.902,)	
17.8.904, 17.8.1002, 17.8.1102, 17.8.1202,)	(AIR QUALITY)
17.8.1302, 17.8.1402, and 17.8.1502)	
pertaining to incorporation by reference,)	NO PUBLIC HEARING
definitions, applicability, operating permit)	CONTEMPLATED
program overview and applicability of air)	
quality rules)	

TO: All Concerned Persons

1. The Board of Environmental Review proposes to amend the above-stated rules.

2. The Board of Environmental Review (board) will make reasonable accommodations for persons with disabilities who need an alternative accessible format of this notice. If you require an accommodation, contact Sandy Scherer, Legal Secretary, no later than 5:00 p.m., November 13, 2017, to advise us of the nature of the accommodation that you need. Please contact Sandy Scherer at the Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2630; fax (406) 444-4386; or e-mail sscherer@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 AND AVAILABILITY OF REFERENCE DOCUMENTS (1) Unless expressly provided otherwise in ~~in~~ this chapter, where the board has:

(a) adopted a federal regulation by reference, the reference is to the July 1, ~~2015~~ 2016, edition of the Code of Federal Regulations (CFR), as it is published on the web site of the U.S. Government Printing Office at <https://www.gpo.gov/fdsys/browse/collectionCfr.action?selectedYearFrom=2015&go=Go> ~~https://www.gpo.gov/fdsys/browse/collectionCfr.action?selectedYearFrom=2015&go=Go~~ https://www.gpo.gov/fdsys/browse/collectionCfr.action?selectedYearFrom=2016&go=Go;

(b) adopted a section of the United States Code (USC) by reference, the reference is to the ~~2014~~ 2015 edition of the USC as it is published on the web site of the U.S. Government Printing Office at <https://www.gpo.gov/fdsys/browse/collectionUSCode.action?selectedYearFrom=2014&go=Go>; https://www.gpo.gov/fdsys/browse/collectionUSCode.action?selectedYearFrom=2015&go=Go;

(c) remains the same.

(2) For purposes of this chapter, the following subparts of 40 CFR Part 63 60 are excluded from incorporation by reference:

(a) ~~40 CFR 63 Part 60, Subpart JJJJJ, National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing (40 CFR 63.8380 through 63.8515, and all associated appendices and tables)~~ subpart TTTT, Standards of Performance for Greenhouse Gas Emissions for Electric Generating Units; and

(b) ~~40 CFR 63 Part 60, Subpart KKKKK, National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing (40 CFR 63.8530 through 63.8665, and all associated appendices and tables)~~ subpart OOOOa, Standards of Performance for Crude Oil and Natural Gas Facilities for which Construction, Modification or Reconstruction Commenced After September 18, 2015.

(3) Copies of material incorporated by reference in this chapter are available for public inspection and copying at the Department of Environmental Quality, 1520 E. 6th Ave., P.O. Box 200901, Helena, MT 59620-0901.

(4) A copy of federal materials also may be obtained from:

(a) National Technical Information Service (NTIS), 5301 Shawnee Road, Alexandria, VA 22312; phone: (800) 553-6847 or (703) 605-6000; fax: (703) 605-6900; e-mail: orders@ntis.gov; web: <http://www.ntis.gov>;

(b) National Service Center for Environmental Publications (NCSEP), P.O. Box 42419, Cincinnati, OH 45242-0419; phone (800) 490-9198; fax: (301) 604-3408; e-mail: nscep@lmsolas.com; web: <https://www.epa.gov/nscep>;

(c) U.S. Government Printing Office, 732 North Capital Street, NW, Washington, DC 20401-001; phone: (866) 512-1800 or (202) 512-1800; fax: (202) 512-2104; e-mail: orders@gpo.gov; web: <https://www.gpo.gov>; and

(d) the EPA regional office libraries listed at <https://www.epa.gov/libraries/libraries>.

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 statutes and regulations, available online, that are incorporated by reference. The proposed amendments to ARM 17.8.102(1) and (2) would adopt revisions to federal regulations published in the July 1, 2016, edition of the CFR as it is published on the website of the U.S. Government Printing Office, and the 2015 edition of the USC, as it is published on the website of the U.S. Government Printing Office.

The reason for the reference to a specific webpage for the CFR is that the CFR is published in a new codified version every year. For Title 40, which contains 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 board has placed on the Department of Environmental Quality's (department) website a summary of the major revisions to the CFR that it is proposing to adopt by reference. This summary may be viewed at

<http://deq.mt.gov/DEQAdmin/ber/agendasmeetings> for the September 29, 2017, board meeting under III.A.1. Affected CRFs. The reason for the reference to a specific webpage for the USC is that the USC is published in a new printed codified version every six years, with printed cumulative annual supplements. The most recent printed codified 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 USC are updated on the website 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 website is the most authoritative site for the official online version of the USC. It is this website that is used as the version of the updated USC referred to by the rules in ARM Title 17, chapter 8. The board proposes to adopt and incorporate by reference the annual revisions to federal regulations to ensure that Montana's air quality rules are at least as stringent as federal air quality regulations, to maintain authority and federal delegation of Montana's air quality program, and to implement federal emission standards according to a federal program of emissions control.

The board proposes to amend ARM 17.8.102(2), to remove the exemptions of 40 CFR Part 63, subparts JJJJJ and KKKKK. Subparts JJJJJ and KKKKK are National Emission Standards for Hazardous Air Pollutants (NESHAP) for brick and structural clay products manufacturing and clay ceramics manufacturing, respectively. Originally adopted into the ARM in 2003, these NESHAPS were vacated and remanded by the federal Court of Appeals for the District of Columbia Circuit on March 13, 2007, leading to their exemption in the ARM. EPA addressed the vacatur and remand by issuing new subparts JJJJJ and KKKKK on October 26, 2015. If subparts JJJJJ and KKKKK are not incorporated into the ARM, EPA would develop a federal implementation plan to oversee the enforcement of these rules in Montana.

The board is proposing not to incorporate by reference 40 CFR Part 60, subparts OOOOa and TTTT at this time. These subparts refer to the New Source Performance Standards (NSPS) for crude oil and natural gas facilities for which construction, modification or reconstruction commenced after September 18, 2015, and greenhouse gas emissions for electric utility generating units, respectively. The fate of these two subparts is uncertain because they are currently being litigated and may be revised or eliminated by the EPA. EPA stayed Subpart OOOOa for 90 days from June 2, 2017 through August 31, 2017, and then proposed a two-year stay following the 90-day stay to allow for time to review the rule and propose an amended rule. Subpart TTTT is part of the Clean Power Plan. Litigation challenging that subpart has been stayed indefinitely by the federal Court of Appeals for the District of Columbia Circuit, and EPA is required to file status reports every 90 days. *North Dakota v. EPA*, Nos. 15-1380 et al (D.C. Cir. Aug. 10, 2017). EPA published a notice at 82 Fed. Reg. 16330 (April 4, 2017), that it is reviewing subpart TTTT and that, if appropriate, it may initiate proceedings to suspend, revise, or rescind that subpart. The board believes it is appropriate not to adopt 40 CFR Part 60, subparts OOOOa and TTTT until there is more certainty as to whether they will remain in the CFR.

Also, please see the General Reason Statement below regarding the availability of referenced documents.

17.8.103 INCORPORATION BY REFERENCE AND AVAILABILITY OF REFERENCED DOCUMENTS (1) remains the same.

~~(2) A copy of materials incorporated by reference in this subchapter is available for public inspection and copying at the Department of Environmental Quality, 1520 E. 6th Ave., P.O. Box 200901, Helena, MT 59620-0901. Copies of materials incorporated by reference in this subchapter may be obtained as referenced in ARM 17.8.102(3) and (4).~~

~~(3) Copies of federal materials also may be obtained from:~~

~~(a) National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; phone: (800) 553-6847 or (703) 605-6000; fax: (703) 605-6900; e-mail: orders@ntis.gov; web: <http://www.ntis.gov>;~~

~~(b) National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419; phone: (800) 490-9198 or (513) 489-8190; fax: (513) 489-8695; e-mail: ncepimal@one.net; web: <http://www.epa.gov/ncepimahom>;~~

~~(c) U.S. Government Printing Office, Information Dissemination (Superintendent of Documents), P.O. Box 371954, Pittsburgh, PA 15250-7954; phone: (866) 512-1800 or (202) 512-1800; fax: (202) 512-2104; e-mail: orders@gpo.gov; web: <http://www.gpoaccess.gov>; and~~

~~(d) the EPA regional office libraries listed at <http://www.epa.gov/natlibra/libraries.htm>.~~

~~(4) Copies of the CFR may be obtained from the U.S. Government Printing Office as set forth in ARM 17.8.102. 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 as set forth in ARM 17.8.102. 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: See Reason Statement for ARM 17.8.102 and General Reason Statement below.

17.8.202 INCORPORATION BY REFERENCE (1) For the purposes of this subchapter, the board adopts and incorporates by reference the following:

(a) the Montana Ambient Air Monitoring Program Quality Assurance Project Plan (~~2013~~ 2017), a department manual that specifies ambient air sampling and data collection, recording, analysis, and transmittal requirements that pertain only to the department's monitoring program;

(b) 40 CFR Part 50, specifying the national ambient air quality standards and ambient air quality monitoring reference methods except for the following changes: 40 CFR 50.14(c)(1) and (2) are replaced by 40 CFR 50.14(c)(1) and (2) as published in 81 FR 68216 on October 3, 2016;

(c) and (d) remain the same.

(2) A copy of materials incorporated by reference in this subchapter is available for public inspection and copying at the Department of Environmental Quality, 1520 E. 6th Ave., P.O. Box 200901, Helena, MT 59620-0901. Copies of materials incorporated by reference in this subchapter may be obtained as referenced in ARM 17.8.102(3) and (4).

~~(3) Copies of federal materials also may be obtained from:~~

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~~(b) National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419; phone: (800) 490-9198 or (513) 489-8190; fax: (513) 489-8695; e-mail: ncepimal@one.net; web: <http://www.epa.gov/ncepimahom>;~~

~~(c) U.S. Government Printing Office, Information Dissemination (Superintendent of Documents), P.O. Box 371954, Pittsburgh, PA 15250-7954; phone: (866) 512-1800 or (202) 512-1800; fax: (202) 512-2104; e-mail: orders@gpo.gov; web: <http://www.gpoaccess.gov>; and~~

~~(d) the EPA regional office libraries listed at <http://www.epa.gov/natlbra/libraries.htm>.~~

~~(4) Copies of the CFR may be obtained from the U.S. Government Printing Office, as described in (3)(c).~~

AUTH: 75-2-111, 75-2-203, MCA

IMP: 75-2-203, MCA

REASON: A quality system for ambient air monitoring is the means by which an organization manages the quality of the monitoring information and data it produces in a systematic, organized manner. As a part of a quality system, the department develops and uses the Montana Ambient Air Quality Monitoring Program Quality Assurance Project Plan (QAPP), which follows the regulations in 40 CFR Part 58, Appendix A, Section 2. These regulations have these objectives: fulfilling foundational information needs associated with protecting Montana's air; providing quality data to the public; satisfying stakeholder expectations; complying with applicable statutes, societal concerns, and specifications for standards; and considering associated costs. The QAPP describes the quality assurance system that ensures the department's ambient air monitoring network is maintained in a prescribed manner that satisfies the objectives stated above. This work includes operation of each state or local government air monitoring station (SLAMS) that is used to help determine whether an area is in attainment or nonattainment status for a federal national ambient air quality standard (NAAQS).

Updates in the 2017 QAPP incorporate all applicable changes of federal regulations from 40 CFR Parts 50, 51, 52, 53, and 58. The changes since the 2013 version of the QAPP include:

a. Technical updates to the monitoring program;

b. Updates to conform to 40 CFR Parts 50, 51, 52, and 58 regarding NAAQS

for particulate matter;

- c. Updates to 40 CFR Parts 50, 51, 52, 53, and 58 regarding ozone;
- d. Updates to conform to 40 CFR Part 58, regarding quality assurance;
- e. Updates to include changes from EPA's January 2017 QA Handbook Vol. II and a 2013 EPA memorandum, "Update on Use of PM_{2.5} Continuous FEMS";
- f. Updates to conform to 40 CFR Parts 50 and 51 regarding the treatment of data influenced by exceptional events;
- g. Updates to conform to 40 CFR Part 50 regarding methods for determining lead in total suspended particulate matter; and
- h. Updates to reflect current annual monitoring network plans, changes to quality assurance reporting, population information. Updated processing precision and accuracy information to monitor assessment module, new website addresses, and removed references that are no longer applicable.

It is necessary to keep the QAPP current with the federal regulations to direct the department's ambient air monitoring program so that data from the monitoring program is valid for uses such as establishing design values that can be used for redesignation of nonattainment areas. As described in the statement of reasons for the proposed amendments to ARM 17.8.102 above, the board normally adopts, through an annual update to the incorporation-by-reference rule, federal regulations in the CFR as they are published in the July 1 edition of the previous year. However, EPA adopted important changes to 40 CFR 50.14(c)(1) and (2) in October 2016 concerning the public notification requirements for ambient monitoring of exceptional events and the flagging of such exceptional events for potential exclusion from use in determining possible nonattainment with National Ambient Air Quality Standards. Because the board believes it is beneficial to adopt those requirements as soon as possible and include them in the 2017 version of the QAPP, it is proposing to adopt those changes in this rulemaking instead of waiting another year to adopt them. The board proposes to amend ARM 17.8.202(1)(a) to adopt the 2017 version of the QAPP and remove the reference to the 2013 version. The board also proposes to adopt the October 3, 2016, changes to 40 CFR 50.14(c)(1) and (2) so that all rules referred to in the 2017 QAPP are adopted and incorporated into the ARM.

17.8.302 INCORPORATION BY REFERENCE (1) remains the same.

~~(2) A copy of materials incorporated by reference in this subchapter is available for public inspection and copying at the Department of Environmental Quality, 1520 E. 6th Ave., P.O. Box 200901, Helena, MT 59620-0901~~ Copies of materials incorporated by reference in this subchapter may be obtained as referenced in ARM 17.8.102(3) and (4).

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~~(b) National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419; phone: (800) 490-9198 or (513) 489-8190; fax: (513) 489-8695; e-mail: ncepimal@one.net; web: <http://www.epa.gov/ncepihom>;~~

~~(c) U.S. Government Printing Office, Information Dissemination (Superintendent of Documents), P.O. Box 371954, Pittsburgh, PA 15250-7954; phone: (866) 512-1800 or (202) 512-1800; fax: (202) 512-2104; e-mail: orders@gpo.gov; web: <http://www.gpoaccess.gov>; and~~

~~(d) the EPA regional office libraries listed at <http://www.epa.gov/natlibra/libraries.htm>.~~

~~(4) Copies of the CFR may be obtained from the U.S. Government Printing Office, as described in (3)(c).~~

AUTH: 75-2-111, 75-2-203, MCA

IMP: 75-2-203, MCA

REASON: See General Reason Statement below.

17.8.602 INCORPORATION BY REFERENCE (1) remains the same.

~~(2) A copy of ARM Title 17, chapter 53, subchapter 5, is available for public inspection and copying at the Department of Environmental Quality, 1520 E. 6th Ave., P.O. Box 200901, Helena, MT 59620-0901 may be obtained as referenced in ARM 17.8.102(3).~~

~~(3) Copies of federal materials also may be obtained from:~~

~~(a) National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; phone: (800) 553-6847 or (703) 605-6000; fax: (703) 605-6900; e-mail: orders@ntis.gov; web: <http://www.ntis.gov>;~~

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~~(d) the EPA regional office libraries listed at <http://www.epa.gov/natlibra/libraries.htm>.~~

~~(4) Copies of the CFR may be obtained from the U.S. Government Printing Office, as described in (3)(c).~~

AUTH: 75-2-111, 75-2-203, MCA

IMP: 75-2-203, MCA

REASON: See General Reason Statement below.

17.8.767 INCORPORATION BY REFERENCE (1) remains the same.

~~(2) A copy of materials incorporated by reference in this subchapter is available for public inspection and copying at the Department of Environmental Quality, 1520 E. 6th Ave., P.O. Box 200901, Helena, MT 59620-0901. Copies of materials incorporated by reference in this subchapter may be obtained as referenced in ARM 17.8.102(3) and (4).~~

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~~(c) U.S. Government Printing Office, Information Dissemination (Superintendent of Documents), P.O. Box 371954, Pittsburgh, PA 15250-7954; phone: (866) 512-1800 or (202) 512-1800; fax: (202) 512-2104; e-mail: orders@gpo.gov; web: <http://www.gpoaccess.gov>; and~~

~~(d) the EPA regional office libraries listed at <http://www.epa.gov/natlibra/libraries.htm>.~~

~~(4) Copies of the CFR may be obtained from the U.S. Government Printing Office, as described in (3)(c).~~

AUTH: 75-2-111, 75-2-204, MCA

IMP: 75-2-211, 75-2-215, MCA

REASON: See General Reason Statement below.

17.8.802 INCORPORATION BY REFERENCE (1) remains the same.

~~(2) A copy of materials incorporated by reference in this subchapter is available for public inspection and copying at the Department of Environmental Quality, 1520 E. 6th Ave., P.O. Box 200901, Helena, MT 59620-0901. Copies of materials incorporated by reference in this subchapter may be obtained as referenced in ARM 17.8.102(3) and (4).~~

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~~(d) the EPA regional office libraries listed at <http://www.epa.gov/natlibra/libraries.htm>.~~

~~(4) Copies of the CFR may be obtained from the U.S. Government Printing Office, as described in (3)(c).~~

~~(5) The Standard Industrial Classification Manual (1987) may be obtained from the NTIS, as described in (3)(a).~~

AUTH: 75-2-111, 75-2-203, MCA

IMP: 75-2-202, 75-2-203, 75-2-204, MCA

REASON: See General Reason Statement below.

17.8.902 INCORPORATION BY REFERENCE (1) remains the same.

~~(2) Copies of materials incorporated by reference in this subchapter may be obtained as referenced in ARM 17.8.102(3) and (4). A copy of materials incorporated by reference in this subchapter is available for public inspection and copying at the Department of Environmental Quality, 1520 E. 6th Ave., P.O. Box 200901, Helena, MT 59620-0901.~~

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~~(d) the EPA regional office libraries listed at <http://www.epa.gov/natlibra/libraries.htm>.~~

~~(4) Copies of the CFR may be obtained from the U.S. Government Printing Office, as described in (3)(c).~~

~~(5) The Standard Industrial Classification Manual (1987) may be obtained from the NTIS, as described in (3)(a).~~

AUTH: 75-2-111, 75-2-203, MCA

IMP: 75-2-202, 75-2-203, 75-2-204, MCA

REASON: See General Reason Statement below.

17.8.904 WHEN MONTANA AIR QUALITY PERMIT REQUIRED

(1) through (6) remain the same.

(7) Applicability determinations made prior to January 1, 2011, without accounting for condensable particulate matter, are not subject to ~~(5)~~ (6).

AUTH: 75-2-111, 75-2-203, MCA
IMP: 75-2-202, 75-2-203, 75-2-204, MCA

REASON: The board proposes to amend ARM 17.8.904(7). In 2011, the board amended the rule, which was submitted to the EPA the following year for inclusion in the State Implementation Plan (SIP). In January 2016, the EPA contacted the department with several questions related to the SIP submittal. The question referred to an incorrect internal reference in ARM 17.8.904(7). The department and board agree that the reference should be corrected. Without this amendment, the rules cannot be properly implemented.

17.8.1002 INCORPORATION BY REFERENCE (1) remains the same.

~~(2) A copy of materials incorporated by reference in this subchapter is available for public inspection and copying at the Department of Environmental Quality, 1520 E. 6th Ave., P.O. Box 200901, Helena, MT 59620-0901. Copies of materials incorporated by reference in this subchapter may be obtained as referenced in ARM 17.8.102(3) and (4).~~

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~~(4) Copies of the CFR may be obtained from the U.S. Government Printing Office, as described in (3)(c).~~

~~(5) The Standard Industrial Classification Manual (1987) may be obtained from the NTIS, as described in (3)(a).~~

AUTH: 75-2-111, 75-2-203, MCA
IMP: 75-2-202, 75-2-203, 75-2-204, MCA

REASON: See General Reason Statement below.

17.8.1102 INCORPORATION BY REFERENCE (1) For the purposes of this subchapter, the board adopts and incorporates by reference the following:

(a) 40 CFR 81.327, providing attainment status designation for Montana pursuant to section 107 of the Federal Clean Air Act FCAA;

(b) remains the same.

(2) A copy of materials incorporated by reference in this subchapter is

available for public inspection and copying at the Department of Environmental Quality, 1520 E. 6th Ave., P.O. Box 200901, Helena, MT 59620-0901. Copies of materials incorporated by reference in this subchapter may be obtained as referenced in ARM 17.8.102(3) and (4).

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~~(a) National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; phone: (800) 553-6847 or (703) 605-6000; fax: (703) 605-6900; e-mail: orders@ntis.gov; web: <http://www.ntis.gov>;~~

~~(b) National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419; phone: (800) 490-9198 or (513) 489-8190; fax: (513) 489-8695; e-mail: ncepimal@one.net; web: <http://www.epa.gov/ncepihom>;~~

~~(c) U.S. Government Printing Office, Information Dissemination (Superintendent of Documents), P.O. Box 371954, Pittsburgh, PA 15250-7954; phone: (866) 512-1800 or (202) 512-1800; fax: (202) 512-2104; e-mail: orders@gpo.gov; web: <http://www.gpoaccess.gov>; and~~

~~(d) the EPA regional office libraries listed at <http://www.epa.gov/natlibra/libraries.htm>.~~

~~(4) Copies of the CFR may be obtained from the U.S. Government Printing Office, as described in (3)(c).~~

AUTH: 75-2-111, MCA

IMP: Title 75, chapter 2, MCA

REASON: The acronym for Federal Clean Air Act has previously been defined in the rules. Also, see General Reason Statement below.

17.8.1202 INCORPORATION BY REFERENCE (1) remains the same.

~~(2) A copy of materials incorporated by reference in this subchapter is available for public inspection and copying at the Department of Environmental Quality, 1520 E. 6th Ave., P.O. Box 200901, Helena, MT 59620-0901. Copies of materials incorporated by reference in this subchapter may be obtained as referenced in ARM 17.8.102(3) and (4).~~

~~(3) Copies of federal materials also may be obtained from:~~

~~(a) National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; phone: (800) 553-6847 or (703) 605-6000; fax: (703) 605-6900; e-mail: orders@ntis.gov; web: <http://www.ntis.gov>;~~

~~(b) National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419; phone: (800) 490-9198 or (513) 489-8190; fax: (513) 489-8695; e-mail: ncepimal@one.net; web: <http://www.epa.gov/ncepihom>;~~

~~(c) U.S. Government Printing Office, Information Dissemination (Superintendent of Documents), P.O. Box 371954, Pittsburgh, PA 15250-7954; phone: (866) 512-1800 or (202) 512-1800; fax: (202) 512-2104; e-mail: orders@gpo.gov; web: <http://www.gpoaccess.gov>; and~~

~~(d) the EPA regional office libraries listed at <http://www.epa.gov/natlibra/libraries.htm>.~~

~~(4) Copies of the CFR may be obtained from the U.S. Government Printing Office, as described in (3)(c).~~

~~(5) The Standard Industrial Classification Manual (1987) may be obtained from the NTIS, as described in (3)(a).~~

AUTH: 75-2-217, MCA

IMP: 75-2-217, 75-2-218, MCA

REASON: See General Reason Statement below.

17.8.1302 INCORPORATION BY REFERENCE (1) remains the same.

~~(2) Copies of federal materials incorporated by reference in this subchapter may be obtained from:~~

~~(a) National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; phone: (800) 553-6847 or (703) 605-6000; fax: (703) 605-6900; e-mail: orders@ntis.gov; web: <http://www.ntis.gov>;~~

~~(b) National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419; phone: (800) 490-9198 or (513) 489-8190; fax: (513) 489-8695; e-mail: ncepimal@one.net; web: <http://www.epa.gov/ncepihom>;~~

~~(c) U.S. Government Printing Office, Information Dissemination (Superintendent of Documents), P.O. Box 371954, Pittsburgh, PA 15250-7954; phone: (866) 512-1800 or (202) 512-1800; fax: (202) 512-2104; e-mail: orders@gpo.gov; web: <http://www.gpoaccess.gov>; and~~

~~(d) the EPA regional office libraries located at <http://www.epa.gov/natlibra/libraries.htm>. Copies of materials incorporated by reference in this subchapter may be obtained as referenced in ARM 17.8.102(3) and (4).~~

~~(3) Copies of the CFR may be obtained from the U.S. Government Printing Office, as described in (2)(c).~~

AUTH: 75-2-111, MCA

IMP: 75-2-202, MCA

REASON: See General Reason Statement below.

17.8.1402 INCORPORATION BY REFERENCE (1) remains the same.

~~(2) Copies of federal materials incorporated by reference in this subchapter may be obtained from:~~

~~(a) National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; phone: (800) 553-6847 or (703) 605-6000; fax: (703) 605-6900; e-mail: orders@ntis.gov; web: <http://www.ntis.gov>;~~

~~(b) National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419; phone: (800) 490-9198 or (513) 489-8190; fax: (513) 489-8695; e-mail: ncepimal@one.net; web: <http://www.epa.gov/ncepihom>;~~

~~(c) U.S. Government Printing Office, Information Dissemination~~

(Superintendent of Documents), P.O. Box 371954, Pittsburgh, PA 15250-7954; phone: ~~(866) 512-1800 or (202) 512-1800~~; fax: ~~(202) 512-2104~~; e-mail: ~~orders@gpo.gov~~; web: ~~http://www.gpoaccess.gov~~; and

~~(d) the EPA regional office libraries listed at <http://www.epa.gov/natlibra/libraries.htm>~~ Copies of materials incorporated by reference in this subchapter may be obtained as referenced in ARM 17.8.102(3) and (4).

~~(3) Copies of the CFR may be obtained from the U.S. Government Printing Office, as described in (2)(c).~~

AUTH: 75-2-111, MCA

IMP: 75-2-202, MCA

REASON: See General Reason Statement below.

17.8.1502 INCORPORATION BY REFERENCE (1) For purposes of this subchapter, the board adopts and incorporates by reference the following:

(a) 40 CFR part 51.214 and 40 CFR Part 51, Appendix P, which set forth EPA minimum emissions monitoring requirements for the Montana State Implementation Plan;

(b) 40 CFR Part 60.13 and 40 CFR Part 60, Appendix B, which set forth EPA performance specification and test procedures for continuous emission monitoring systems for new stationary sources;

(c) remains the same.

(d) 40 CFR Part 72.2, which contains the definition of utility unit;

(e) remains the same.

(f) 40 CFR Part 266, subpart H and Appendix IX, which set forth compliance and monitoring requirements for boilers and industrial furnaces.

~~(2) A copy of materials incorporated by reference in this subchapter is available for public inspection and copying at the Department of Environmental Quality, 1520 E. 6th Ave., P.O. Box 200901, Helena, MT 59620-0901~~ Copies of materials incorporated by reference in this subchapter may be obtained as referenced in ARM 17.8.102(3) and (4).

~~(3) Copies of federal materials also may be obtained from:~~

~~(a) National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; phone: (800) 553-6847 or (703) 605-6000; fax: (703) 605-6900; e-mail: ~~orders@ntis.gov~~; web: ~~http://www.ntis.gov~~;~~

~~(b) National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419; phone: (800) 490-9198 or (513) 489-8190; fax: (513) 489-8695; e-mail: ~~ncepimal@one.net~~; web: ~~http://www.epa.gov/ncepiphom~~;~~

~~(c) U.S. Government Printing Office, Information Dissemination (Superintendent of Documents), P.O. Box 371954, Pittsburgh, PA 15250-7954; phone: (866) 512-1800 or (202) 512-1800; fax: (202) 512-2104; e-mail: ~~orders@gpo.gov~~; web: ~~http://www.gpoaccess.gov~~; and~~

~~(d) the EPA regional office libraries listed at <http://www.epa.gov/natlibra/libraries.htm>.~~

~~(4) Copies of the CFR may be obtained from the U.S. Government Printing~~

Office, as described in (3)(c).

AUTH: 75-2-217, 75-2-218, MCA

IMP: 75-2-217, 75-2-218, MCA

REASON: Federal citations are changed to be consistent with the rule citation format. See General Reason Statement below.

General Reason Statement for Proposed Revisions: The board proposes to amend the air quality rules that identify where incorporated materials can be obtained and at the same time correct the reference contact information that has become outdated. Identifying this information once, in the General Provisions of ARM 17.8.102(3) and (4), would eliminate repetition of the information in ARM 17.8.103, 17.8.202, 17.8.302, 17.8.602, 17.8.767, 17.8.802, 17.8.902, 17.8.1002, 17.8.1102, 17.8.1202, 17.8.1302, 17.8.1402, and 17.8.1502.

4. Concerned persons may submit their data, views, or arguments in writing to Sandy Scherer, Legal Secretary, 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 sscherer@mt.gov, no later than 5:00 p.m., November 24, 2017. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments they have to Sandy Scherer, Legal Secretary, Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901: phone (406) 444-2630; fax (406) 444-4386; or e-mail sscherer@mt.gov, no later than November 24, 2017.

6. If the board receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons who are directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 80, based on the approximately 800 persons on the interested persons list for air quality matters that is maintained by the board. Because 25 persons is fewer than 80, the board will hold a hearing if it receives hearing requests from at least 25 persons.

7. 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 Sandy Scherer, Legal Secretary, 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 Sandy Scherer at sscherer@mt.gov, or may be made by completing a request form at any rules hearing held by the board.

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

9. 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/ Christine Deveny
CHRISTINE DEVENY, CHAIRMAN

Certified to the Secretary of State, October 16, 2017.