

Clean Air Act §110(l) Anti-Backsliding Demonstration

October 2017

The State of Montana proposes to remove from its State Implementation Plan (SIP) a prohibition on burning asbestos and asbestos-containing materials. The specific provision is included in the Administrative Rules of Montana (ARM) 17.8.604(1)(w) and was most recently approved into the SIP by final rule on 8/24/2006 at 71 FR 4999.¹ Along with a list of other prohibited materials, the rule currently prohibits asbestos and asbestos-containing materials from being disposed of through open burning:

17.8.604 MATERIALS PROHIBITED FROM OPEN BURNING

(1) The following material may not be disposed of by open burning:

[...]

~~*(w) asbestos or asbestos-containing materials*~~

[...]

Montana also proposes to remove the same provision where it exists in the SIP as part of the Lincoln County Air Pollution Control Program at 75.1.405(2)(w), most recently approved by final rule on 3/17/2011 at 76 FR 14584.

75.1.405 PROHIBITED MATERIALS & ACTIVITIES:

[...]

(2) Except as specifically provided under ARM 17.8.604 for firefighter training, commercial film production and licensed landfills; the following materials may not be disposed of by outdoor burning:

[...]

~~*(w) asbestos or asbestos-containing materials*~~

[...]

For ease, and because the provision in the Lincoln County regulations mirrors the state regulation, the following discussion will only refer to the provision in ARM 17.8.604 although both are proposed for removal from the SIP.

¹ The provision was originally submitted to EPA for inclusion in the SIP on 5/22/1995 and was approved into the SIP on 10/23/1996 at 61 FR 54946. Because the provision did not exist in the SIP prior to the enactment of the Clean Air Act Amendments of 1990, the provisions of CAA §193 do not apply.

SIPs are developed under Section 110 of the Federal Clean Air Act (CAA) for the purpose of protecting the National Ambient Air Quality Standards (NAAQS), which are health-based standards related to six criteria pollutants: particulate matter (both fine, PM_{2.5}, and coarse, PM₁₀), nitrogen dioxide (NO₂), carbon monoxide (CO), lead (Pb), sulfur dioxide (SO₂), and ozone.

Section 110(l) of the CAA prohibits the Environmental Protection Agency (EPA) from approving a revision to a SIP if the revision would interfere with any applicable requirement concerning attainment of the NAAQS or reasonable further progress toward attaining the NAAQS. This document demonstrates that removing the subject provision from the SIP would not interfere with Montana's ability to attain or maintain compliance with the NAAQS.

ARM 17.8.604(1)(w) does not specifically protect the NAAQS and therefore does not belong in the SIP

For the purpose of protecting the NAAQS, Montana has submitted state rules to EPA for inclusion in the SIP. For example, Title 17, chapter 8, subchapter 6 of the Administrative Rules of Montana (ARM) contains the state's open burning provisions, which make up the Montana smoke management plan. The smoke management plan regulates open burning across the state in order to limit smoke impacts on the NAAQS.

Over the years, some rules or provisions that are not specifically NAAQS-protective have been submitted as part of a SIP revision package and inappropriately included in the SIP. In this example, while subchapter 6 contains many provisions that protect the NAAQS from smoke impacts, the list of prohibited materials in ARM 17.8.604 itself does not specifically affect criteria pollutants. It is the open burning in general that produces smoke impacts, not specifically the burning of poultry litter, for example, or asbestos-containing materials. Therefore, the decision to prohibit certain materials from open burning should never have been included in the SIP and should instead have remained a state-implemented rule.

This is not meant to diminish the rule's importance. The purpose of prohibiting certain materials from being burned in the open is protective of public health and welfare, and as such, is an important part of Montana's air quality program. However, these protections must be distinguished from the NAAQS, which are specific to criteria pollutants. While Montana administers an air quality program that comprehensively addresses many air quality impacts, only the parts of that program that protect the NAAQS are required to be included in the SIP under CAA §110. Therefore, the state is requesting the rule be removed from the SIP although it will remain as a state regulation.

To be clear, the prohibition on burning asbestos or asbestos-containing material will remain in state and local rules, thus continuing to prohibit burning of asbestos or asbestos-containing materials at the state level and protecting public health and welfare. However, the purpose of the following discussion is to demonstrate that the provisions included in the SIP will continue to protect the NAAQS with the same level of stringency after the removal of ARM 17.8.604(1)(w) as they do currently.

Background: Attainment and Maintenance of the NAAQS in Montana

Since the adoption of the Clean Air Act, several areas in Montana have violated the NAAQS and been designated as nonattainment as a result. Of these, some have been redesignated as maintenance areas after implementation of control measures resulted in cleaner air and attainment of the NAAQS. As of the drafting of this document, there are 11 areas that are designated as nonattainment and 4 areas that have been redesignated as maintenance areas. As the table below shows, the majority of the existing nonattainment areas in Montana are related to historical violations of the particulate matter NAAQS.

Community	Standard Violated	Date of Nonattainment Designation	Current Status
Missoula	CO (1971)	11/15/1990	Maintenance
Billings	CO (1971)	11/15/1990	Maintenance
Great Falls	CO (1971)	11/15/1990	Maintenance
Billings	SO ₂ (2010)	8/5/2013	Maintenance
Laurel	SO ₂ (1971)	3/3/1978	Nonattainment
East Helena	SO ₂ (1971)	11/15/1990	Nonattainment
Libby	PM _{2.5} (1997)	4/5/2005	Nonattainment
Libby	PM ₁₀ (1987)	11/15/1990	Nonattainment
Butte	PM ₁₀ (1987)	11/15/1990	Nonattainment
Columbia Falls	PM ₁₀ (1987)	11/15/1990	Nonattainment
Kalispell	PM ₁₀ (1987)	11/15/1990	Nonattainment
Missoula	PM ₁₀ (1987)	11/15/1990	Nonattainment
Thompson Falls	PM ₁₀ (1987)	1/20/1994	Nonattainment
Whitefish	PM ₁₀ (1987)	10/19/1993	Nonattainment
East Helena	Lead (1978)	1/6/1992	Nonattainment

Particulate matter is the criteria pollutant most directly related to burning, or, more specifically, to the smoke that results from combustion. Smoke, whether from open burning, wildfires, or other wood combustion, comprises fine particles that predominantly impact the PM NAAQS, although smoke can also contain small amounts of other criteria pollutants or materials considered hazardous to public health. The following analysis focuses on attainment and maintenance of the PM NAAQS across Montana. Monitoring data is not provided for the other NAAQS because the attainment and maintenance of those standards rely on controlling emissions from mobile and industrial sources, not on the control of open burning, which is the subject of this analysis.

Montana's smoke management plan protects all areas of the state from smoke impacts that may cause violations of the NAAQS. However, nonattainment areas require an elevated level of consideration to ensure they are making progress toward attainment. Montana currently has seven areas designated nonattainment under the 1987 PM₁₀ NAAQS. These include Columbia Falls, Whitefish and vicinity, Kalispell, Libby, Missoula, Thompson Falls and vicinity, and Butte. In addition, Libby was designated nonattainment under the 1997 annual PM_{2.5} NAAQS. The following table shows the current status of each area.

Community	Standard Violated	Current Standard	2016 Design Value		Designation	Determination of Attainment
			*	**		
Butte	PM10 (1987)	150 µg/m ³	52, 51	52, 45	11/15/90	
Columbia Falls	PM10 (1987)	150 µg/m ³	45, 44	45, 44	11/15/90	1/31/11
Kalispell	PM10 (1987)	150 µg/m ³	87, 84	87, 84	11/15/90	
Libby	PM10 (1987)	150 µg/m ³	58, 57	45, 45	11/15/90	1/31/11
Libby	PM2.5 (1997)	12 µg/m ³	9.8		4/5/05	8/31/15
Missoula	PM10 (1987)	150 µg/m ³	74, 65	74, 65	11/15/90	
Thompson Falls	PM10 (1987)	150 µg/m ³	135, 97	97, 89	1/20/94	11/1/01
Whitefish	PM10 (1987)	150 µg/m ³	106, 98	106, 98	10/19/93	11/1/01
* First high, second high including all flagged events						
** First high, second high excluding flagged events over 150 µg/m ³						

Although they have not yet been redesignated, all of Montana’s particulate matter nonattainment areas are currently attaining the standard for which they were designated, and most have received a determination of attainment from EPA. In fact, all areas are currently well below the standard for which they were designated. Most relevant to the discussion at hand is the fact that none of Montana’s particulate matter nonattainment areas identified open burning as a major contributing source of emissions within the nonattainment area. Emission inventories were prepared alongside attainment plans for these areas and focused on the main sources of particulate matter pollution: road dust, residential wood combustion, and, in some communities, industrial point sources. These inventories are likely representative of the conditions in other areas across the state where less data has been collected.

Of course, major open burning in the surrounding area can affect air quality within a nonattainment area, and Montana’s smoke management plan seeks to limit the impact of such activities on nonattainment areas. Indeed, as demonstrated by the fact that all areas are currently attaining the standards, the smoke management program has been effective at preventing open burning activities from causing or contributing to new violations of the NAAQS or impeding progress toward attainment of the NAAQS.

Case Study: Open burning and particulate matter in and around Libby, MT

One specific area of concern must be addressed before continuing with a discussion of Montana’s existing smoke management regulations. Although the SIP-approved smoke management plan applies statewide, in Montana many discussions related to asbestos necessarily lead to a discussion of Libby, MT. In and around the town of Libby, asbestos contamination is widespread as a result of many decades of vermiculite mining operations in the area. During active mining, asbestos particles settled on many surfaces, including on trees in the dense forests surrounding the mine.

As a result of activities involving naturally-occurring asbestos-containing vermiculite, the trees in and around Libby and, quite possibly, other areas of the state, may be considered to be asbestos-containing material under some interpretations of the term. Under such an interpretation, the prohibition in ARM 17.8.604(1)(w) has the secondary, unintended result of essentially banning open burning of any wood at any time of year from asbestos-contaminated forests. Therefore, a

reasonable concern may be that removing the prohibition from the SIP would weaken SIP-approved protection of the NAAQS across the state specifically by lifting the SIP-approved “ban” on the open burning of potentially asbestos-contaminated forest materials. However, as discussed below, Montana’s other open burning regulations, which apply in nonattainment areas and statewide, provide adequate protection to ensure maintenance of the NAAQS and protection of public health and welfare.

This is of particular concern in the Libby area, not only because of the level of asbestos contamination, but also because the area was designated as nonattainment for the 1997 annual PM_{2.5} NAAQS effective April 5, 2005, making it the only PM_{2.5} nonattainment area in the state. Therefore, potential increases in PM_{2.5} must be subject to a higher level of scrutiny in the Libby area. In addition, given that the Libby area is the only PM_{2.5} nonattainment area in the state, it can be used as an example for the purposes of this analysis. In other words, we can use the Libby area as a case study to assess how the provision in question may affect attainment and maintenance of the NAAQS in areas of the state with cleaner air and where less data has been collected. The following discussion demonstrates that the specific provision in ARM 17.8.604(1)(w) has not been necessary to attain or maintain the NAAQS even in the area with the worst monitored concentrations of the criteria pollutant most closely related to smoke.

In the spring of 2006, the state of Montana submitted a PM_{2.5} attainment plan for the Lincoln County Air Pollution Control District, including the town of Libby and the surrounding area. EPA approved this plan on March 17, 2011, at 76 FR 14584. Following implementation of the attainment plan, EPA determined that the area was attaining the standard effective August 13, 2015. EPA based this determination on quality-assured and certified monitoring data for the years 2007-2009 showing that Libby was well below the 1997 annual PM_{2.5} NAAQS of 15 µg/m³ and had continued to maintain levels below the NAAQS through the years 2012-2014. Libby has continued to maintain the 1997 NAAQS in the years since 2014. In fact, when the annual PM_{2.5} NAAQS was revised down to 12 µg/m³ in January 2013, Libby was designated Unclassifiable/Attainment for the revised standard.

This additional context demonstrates that the Libby area has successfully addressed issues with PM_{2.5} and is currently attaining the 2012 annual PM_{2.5} NAAQS. It was not the implementation of the prohibition in ARM 17.8.604(1)(w) that led to this achievement. Actually, even if implementation of the “ban” on open burning in the area did contribute to reducing ambient PM_{2.5} levels, the prohibition on the open burning of asbestos or asbestos-containing material has been effective in state rule since September 9, 1994, and therefore was in effect for many years while the Libby area was out of compliance with PM_{2.5} standards. It wasn’t until the implementation of regulations related to residential wood heating that the area was able to attain the standards.

Historical SIP documents show that it is also unlikely that open burning is what originally led to particulate matter trouble in any area of the state, including the Libby area. In the early 1990s, emission inventories and chemical mass balance studies linked PM₁₀ impacts with dust and, to a smaller degree, residential wood combustion. Similar analyses following nonattainment designation

for the 1997 PM_{2.5} standard tied impacts primarily to residential wood combustion and the implementation of related controls brought the area into compliance with the NAAQS. Neither the PM₁₀ nor the PM_{2.5} attainment plan relied on a prohibition of burning asbestos or asbestos-containing material or any significant curtailment of open burning that will not remain in the Montana SIP following this action.

Existing Protections: The Montana SIP contains effective smoke management regulations to protect the NAAQS

Montana's Smoke Management Program, which is adopted into the SIP, has adequate controls and processes in place to ensure that open burning does not interfere with attainment or maintenance of the NAAQS. These SIP-approved smoke management regulations have been effective at preventing inappropriate burning that may have negative impacts on the NAAQS.

Best Available Control Technology

At any time of year, all open burning in Montana, both major and minor, must conform to Best Available Control Technology (BACT). BACT for open burning is defined in the SIP-approved ARM 17.8.601 as, "those techniques and methods of controlling emission of pollutants from an existing or proposed open burning source which limit those emissions to the maximum degree which the department determines, on a case-by-case basis, is achievable for that source, taking into account impacts on energy use, the environment, and the economy, and any other costs, including cost to the source." The rule goes on to describe specific techniques and methods that may be included in BACT, such as:

- (i) scheduling of burning during periods and seasons of good ventilation;
- (ii) applying dispersion forecasts;
- (iii) utilizing predictive modeling results performed by and available from the department to minimize smoke impacts;
- (iv) limiting the amount of burning to be performed during any one time;
- (v) using ignition and burning techniques which minimize smoke production;
- (vi) selecting fuel preparation methods that will minimize dirt and moisture content;
- (vii) promoting fuel configurations which create an adequate air to fuel ratio;
- (viii) prioritizing burns as to air quality impact and assigning control techniques accordingly;
- (ix) promoting alternative treatments and uses of materials to be burned; and
- (x) selecting sites that will minimize smoke impacts. [ARM 17.8.601(1)(a)]

Minor burning and seasonal burning restrictions

The Montana Department of Environmental Quality (the Department) regulates minor burning from various sources. Open burning to train firefighters, emergency open burning, conditional air quality open burning, commercial film production burning and Christmas tree waste burning all require a Department-issued minor open burn permit. Once a permit is issued, these sources must notify the Department prior to any burn, despite location or season. Other minor burning must still adhere to open burning regulations, including BACT and seasonal restrictions.

Due to the unique topography and meteorology in western Montana, PM_{2.5} pollution is of greatest concern during the cooler fall and winter months. Therefore, burning restrictions change by season and location. From March 1 – August 31, minor burners do not need approval from the Department to conduct a burn, but must still comply with open burning regulations. During the months of September through November, minor burners must adhere to the burning restrictions established by the Department. Burners are required to check the Ventilation Hotline or the state's website at www.burnclosures.mt.gov prior to burning to learn about these restrictions (ARM 17.8.606(3)).

From December 1 through the end of February, the Department closely monitors air quality and dispersion forecasts to determine whether burning will be allowed. Every source must contact the Department prior to any burning to learn of restrictions and specific permissions needed. This requirement is included in the definition of BACT in ARM 17.8.601. In the western part of the state (see attached map of burning zones), where wintertime air quality impacts are most likely, burning is considered on a case-by-case basis. Burners must submit a written request demonstrating that the open burning must be conducted prior to March 1 and receive permission for each specific burn. Missoula, Yellowstone, Flathead, Cascade, and Lincoln Counties have state-approved burn programs. As such, minor burners in those counties must contact their respective county for information on conducting open burning in that county.

Numerous factors come in to play in determining which locations are safe to burn. First, the current air quality is taken into account. If airborne particulates are already high in a valley, burning will be restricted unless a known weather event is anticipated to clear the air. If particulate concentrations are good, a dispersion forecast will be developed. This forecast will determine how smoke will behave in any given location. Will it settle near the ground, or move up and away? Is there an inversion in a valley? If so, what elevation is the top of the inversion? Areas above inversions may be safe to burn. The Department's meteorologist evaluates all of this information to determine if there are any locations where burning would pose a risk to public health by increasing PM_{2.5} concentrations above national standards. If that is the case, burning will be restricted in that area..

Major open burning permit program

The very prescriptive process of applying BACT to open burning ensures that burning is done in such a way as to minimize impacts to the NAAQS. In addition to applying BACT, individuals or organizations that burn a large amount each year must also receive a Major Open Burn Permit from

the Department prior to burning. Major open burners are those open burning sources which emit more than 500 tons per calendar year of carbon monoxide or 50 tons per calendar year of any other regulated pollutant (except hydrocarbons) on a statewide basis. One would have to open burn approximately 4,500 tons of wood material in a single year to be categorized as a “Major Open Burner.” Receiving a Major Open Burn permit requires an additional planning and approval process.

Conclusion: Removing ARM17.8.604(1)(w) from the SIP will not interfere with the NAAQS

In conclusion, the proposed removal of ARM 17.8.604(1)(w), and the similar provision in the SIP-approved Lincoln County Air Pollution Control Program, will not relax any of the state’s existing SIP-approved regulations, discussed above. Even without the prohibition on burning asbestos or asbestos-containing material, the remaining provisions in the Montana SIP have proved to be effective in limiting inappropriate burning and they will continue to protect attainment and maintenance of the NAAQS across the state, not limited to the Libby area and other outstanding nonattainment areas. Despite concern that removing the prohibition on the open burning of asbestos or asbestos-containing material could lead to the SIP being less protective for the specific reason that it would no longer essentially ban open burning of asbestos-contaminated forest material, this is simply not the case.

As discussed above, open burning is unlikely to have significantly contributed to Montana’s past nonattainment designations and, specifically, the provision in question was effective in state rule even while the Libby area was in violation of the PM NAAQS. Montana has been successful in addressing the causes of PM issues in the Libby area, which at one time represented the worst particulate concentrations in the state. While an effective smoke management plan is, and will continue to be, an integral part of Montana’s program to protect the NAAQS and public health, the main causes of PM issues in Montana have been road dust and smoke from residential wood combustion, as well as wildfire exceptional events, none of which are affected by ARM 17.8.604(1)(w).

**Proposed Revisions to the Montana State Implementation
Plan (SIP)**

Redline/Strikeout

State	Montana
State Agency	Department of Environmental Quality
Affected Area	Statewide
Regulation	Administrative Rules of Montana, Sub-Chapter 06 Open Burning
Rule Number	17.8.604
Rule Title	Prohibited Open Burning--When Permit Required
State Effective Date	04/15/2011
EPA Effective Date	09/21/2015
Notice of Final Rule Date	08/20/2015
Notice of Final Rule Citation	80 FR 50582
Comments	

Rule Text:

17.8.604 MATERIALS PROHIBITED FROM OPEN BURNING

(1) The following material may not be disposed of by open burning:

(a) any waste which is moved from the premises where it was generated, except as provided in ARM 17.8.604(2), 17.8.611, or 17.8.612(4)(a) or (4){b);

(b) food wastes;

(c) Styrofoam and other plastics;

(d) wastes generating noxious odors;

(e) wood and wood byproducts that have been coated, painted, stained, treated, or contaminated by a foreign material, unless open burning is allowed under ARM 17.8.614 or 17.8.615;

- (f) poultry litter;
- (g) animal droppings;
- (h) dead animals or dead animal parts;
- (i) tires, except as provided in ARM 17.8.615;
- (j) rubber materials;
- (k) asphalt shingles, except as provided in ARM 17.8.614 or 17.8.615;
- (l) tar paper, except as provided in ARM 17.8.614 or 17.8.615;
- (m) automobile or aircraft bodies and interiors, except as provided in ARM 17.8.614 or 17.8.615;
- (n) insulated wire, except as provided in ARM 17.8.614 or 17.8.615;
- (o) oil or petroleum products, except as provided in ARM 17.8.614 or 17.8.615;
- (p) treated lumber and timbers;
- (q) pathogenic wastes;
- (r) hazardous wastes, as defined by 40 CFR Part 261, incorporated by reference in ARM 17.8.602;
- (s) trade wastes, except as provided in ARM 17.8.611 or 17.8.612;
- (t) any materials resulting from a salvage operation;
- (u) chemicals, except as provided in ARM 17.8.614 or 17.8.615;
- (v) Christmas tree waste as defined in ARM 17.8.601, except as provided in ARM 17.8.613;
- ~~(w) asbestos or asbestos-containing materials;~~
- (x) standing or demolished structures containing prohibited material, except as provided in ARM 17.8.612, 17.8.614, or 17.8.615; and

(y) paint, except as provided in ARM 17.8.614 or 17.8.615.

(2) A person may not conduct open burning of any wood waste that is moved from the premises where it was generated, except as provided in ARM 17.8.611 or 17.8.612(4){a} or (4)(b), or unless the department determines:

(a) the material is wood or wood byproducts that have not been coated, painted, stained, treated, or contaminated by a foreign material; and

(b) alternative methods of disposal are unavailable or infeasible.

(3) A person conducting open burning of wood waste which is moved from the premises where it was generated shall comply with BACT.

(4) A person intending to conduct open burning of wood waste which is moved from the premises where it was generated shall contact the department by calling the number listed in ARM 17.8.601(1) prior to conducting open burning.

(5) Except as provided in ARM 17.8.606, a person may not open burn any nonprohibited material without first obtaining an air quality open burning permit from the department.

(History: 75-2-111, 75-2-203, MCA; IMP, 75-2-203, 75-2-211, MCA; NEW, 1982 MAR p. 689, Eff. 4/16/82; AMO, 1991 MAR p. 126, Eff. 2/11/91; AMO, 1994 MAR p. 2528, Eff. 9/9/94; AMO, 1995 MAR p. 535, Eff. 4/14/95; AMO, 1996 MAR p. 1844, Eff. 7/4/96; TRANS, from DHES, 1996 MAR p. 2285; AMO, 2002 MAR p. 3586, Eff. 12/27/02; AMO, 2011 MAR p. 569, Eff. 4/15/11.)

Rule History

State Effective Date	EPA Effective Date	Notice of Final Rule Date	Notice of Final Rule Citation	Comments	Rule Text
07/04/96	10/12/2001	08/13/2001	66 FR 42427		
12/27/2002	09/25/2006	08/24/2006	71 FR 49999	Approved (1) except paragraph (1)(a)	
04/15/2011	09/21/2015	08/20/2015	80 FR 50582		

State	Montana
State Agency	Department of Environmental Quality
Affected Area	Statewide
Regulation	Administrative Rules of Montana, Sub-Chapter 03 Emission Standards
Rule Number	17.8.320
Rule Title	Wood-waste Burners
State Effective Date	04/09/2004
EPA Effective Date	03/27/2006
Notice of Final Rule Date	01/24/2006
Notice of Final Rule Citation	71 FR 3770
Comments	

Rule Text:

17.8.320 WOOD-WASTE BURNERS

(1) It is hereby declared to be the policy of the department to encourage the complete utilization of wood-waste residues and to restrict, wherever reasonably practical, the disposal of wood-waste residues by combustion in wood-waste burners. Recent technological and economic developments have enhanced the degree to which wood-waste residues currently being disposed of in wood-waste burners may be utilized or otherwise disposed of in ways not damaging the environment. While recognizing that complete utilization of wood-waste is not presently possible in all instances, this policy applies to the extent practical and consistent with economic and geographical conditions in Montana.

(2) Construction, reconstruction, or substantial alteration of wood-waste burners is prohibited unless the requirements of subchapter 7 of this chapter have been met.

(3) No person shall cause or authorize to be discharged into the outdoor atmosphere from any wood-waste burner any emissions which exhibit an opacity of 20% or greater averaged over 6 consecutive minutes. The provisions of this section may be exceeded for not more than 60 minutes in 8 consecutive hours for building of fires in wood-waste burners.

(4) A thermocouple and a recording pyrometer or other temperature measurement and recording device approved by the department shall be installed and maintained on each wood-waste burner. The thermocouple shall be installed at a location near the center of the opening for the exit gases, or at another location approved by the department.

(5) Except as provided in (6) of this rule, a minimum temperature of 700°F shall be maintained during normal operation of all wood-waste burners. A normal start-up period of 1 hour is allowed during which the 700°F minimum temperature does not apply. The burner shall maintain 700°F operating temperature until the fuel feed is stopped for the day.

(6) Wood-waste burners in existence on February 10, 1989, do not have to comply with the requirements of (5) of this rule if they are located outside of PM nonattainment areas.

(7) The owner or operator of a wood-waste burner must maintain a daily written log of the wood-waste burner's operation to determine optimum patterns of operations for various fuel and atmospheric conditions. The log shall include, but not be limited to, the time of day, draft settings, exit gas temperature, type of fuel, and atmospheric conditions. The log or a copy of it must be submitted to the department within 10 days after it is requested.

(8) No person shall use a wood-waste burner for the burning of other than production process wood-waste transported to the burner by continuous flow conveying methods.

(9) Rubber products, asphaltic materials, or other prohibited materials specified in ARM 17.8.604(1)(b) through (d), (f) through (r), (t), (u), (~~w~~) and (y) may not be burned or disposed of in wood-waste burners. (History: 75-2-111, 75-2-203, MCA; IMP, 75-2-203, MCA; Eff. 12/31/72; AMD, 1978 MAR p. 1732, Eff. 12/29/79; AMD, 1989 MAR p. 270, Eff. 2/10/89; AMD, 1993 MAR p. 2530, Eff. 10/29/93; TRANS, from DHES, 1996 MAR p. 2285; AMD, 2000 MAR P. 836, Eff. 3/31/00; AMD, 2004 MAR p. 724, Eff. 4/9/04.)

Rule History

State Effective Date	EPA Effective Date	Notice of Final Rule Date	Notice of Final Rule Citation	Comments	Rule Text
10/29/93	10/12/2001	08/13/2001	66 FR 42427		
03/31/2000	04/28/2008	02/26/2008	73 FR 10150		

State	Montana
State Agency	Department of Environmental Quality
Affected Area	Lincoln County
Regulation	Lincoln County Health and Environment Regulations, Chapter 1 – Control of Air Pollution
Rule Number	1660 Resolution City of Libby with Adopted Regulations
Rule Title	Resolution and Intent
State Effective Date	03/23/2006
EPA Effective Date	04/18/2011
Notice of Final Rule Date	03/17/2011
Notice of Final Rule Citation	76 FR 14584
Comments	

75.1.405 PROHIBITED MATERIALS & ACTIVITIES:

- (1) 40 Code of Federal Regulations (CFR) Part 261, which identifies and defines hazardous wastes, is hereby incorporated by reference.
- (2) Except as specifically provided under ARM 17.8.604 for firefighter training, commercial film production and licensed landfills; the following materials may not be disposed of by outdoor burning:
 - (a) any waste moved from the premises where it was generated;
 - (b) food wastes;
 - (c) styrofoam and other plastics;
 - (d) wastes generating noxious odors;
 - (e) wood and wood by-products that have been treated, coated, painted, stained, or contaminated by a foreign material, such as papers, cardboard, or painted or stained wood;
 - (f) poultry litter;
 - (g) animal droppings;
 - (h) dead animals or dead animal parts;
 - (i) tires;
 - (j) rubber materials;
 - (k) asphalt shingles;
 - (l) tar paper;
 - (m) automobile or aircraft bodies and interiors;
 - (n) insulated wire;
 - (o) oil or petroleum products;
 - (p) treated lumber and timbers;
 - (q) pathogenic wastes;
 - (r) hazardous wastes as defined by 40 CFR Part 261;
 - (s) trade wastes;

- (t) any materials resulting from a salvage operation;
 - (u) chemicals;
 - (v) Christmas tree waste;
 - ~~(w) asbestos or asbestos-containing materials;~~
 - (x) standing or demolished structures; and
 - (y) paint.
- (3) The burning of stumps, the burning of grass clippings and leaves, and overnight smoldering of burns is prohibited.
- (4) Burning on any city or county street, road or alley is prohibited.
- (5) The use of burn barrels, or other unapproved devices, is prohibited.