

necessary to facilitate maintenance work on the bridge that is essential to the continued safe operation of the drawbridge.

**DATES:** This temporary deviation is effective from 8 a.m., November 3, 2003, until 8 a.m., December 11, 2003.

**ADDRESSES:** Materials referred to in this notice are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Commander (obr), Eighth Coast Guard District, 1222 Spruce Street, St. Louis, MO 63103-2832, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The Bridge Administration Branch maintains the public docket for this temporary deviation.

**FOR FURTHER INFORMATION CONTACT:**

Roger K. Wiebusch, Bridge Administrator, Commander (obr), Eighth Coast Guard District, 1222 Spruce Street, St. Louis, MO 63103-2832, (314) 539-3900, extension 2378.

**SUPPLEMENTARY INFORMATION:** The Union Pacific Railroad Company requested a temporary deviation on September 25, 2003 for the operation of the drawbridge to allow the bridge owner time for preventative maintenance. Presently, the draw opens on signal for passage of river traffic; except that from December 15 through March 31, the draw opens on signal if at least 24 hours notice is given. This deviation allows the bridge to remain closed to navigation for six intervals from 8 a.m. until 4 p.m. daily on November 3-7, 2003; from 8 a.m. until 4 p.m. daily on November 10-14, 2003; from 8 a.m. until 4 p.m. daily on November 17-21, 2003; from 8 a.m. until 4 p.m. daily on November 24-28, 2003; from 8 a.m., December 1 until 8 a.m. December 4, 2003; and from 8 a.m., December 8 until 8 a.m. December 11, 2003. Vessels not exceeding the vertical clearance of the drawbridge may pass under the drawbridge during repairs. There are no alternate routes for vessels transiting through mile 17.3, St. Croix River. The drawbridge will open for emergencies during the repair periods with a two-hour advance notice.

The Hudson Railroad Drawbridge provides a vertical clearance of 17.1 feet above normal pool in the closed to navigation position. Navigation on the waterway consists primarily of recreational watercraft. In order to repair structural steel components and replace the Conley Joints the bridge must be kept inoperative and in the closed to navigation position. This deviation has been coordinated with waterway users. No objections were received.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: October 29, 2003.

**Roger K. Wiebusch,**

*Bridge Administrator.*

[FR Doc. 03-27860 Filed 11-4-03; 8:45 am]

**BILLING CODE 4910-15-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 60

[SIP No. MT-001-0047a, WY-001-0010a, WY-001-0011a, WY-001-0012a; FRL-7573-2]

### Approval and Promulgation of Air Quality Implementation Plans; States of Montana and Wyoming; Revisions to the Administrative Rules of Montana; New Source Performance Standards for Wyoming and Montana

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule and NSPS delegation.

**SUMMARY:** EPA is taking direct final action approving State Implementation Plan (SIP) revisions submitted by the Governor of Montana on October 28, 2002. The October 28, 2002 submittal revises the Administrative Rules of Montana (ARM) by updating the Incorporation by Reference rules, deleting the definition for volatile organic compounds (VOCs), and making other minor corrections to the rules. The October 28, 2002 submittal also makes revisions to the Yellowstone County Air Pollution Control Program (YCAPCP). EPA is only approving the revisions to the section of the YCAPCP that have been approved into the SIP. The intended effect of this action is to make these revisions federally enforceable. We are also announcing that on June 24, 2003, we updated the delegation of authority for the implementation and enforcement of the New Source Performance Standards (NSPS) to the State of Montana.

On August 9, 2000, August 2, 2001 and June 30, 2003, the State of Wyoming submitted revisions to the NSPS in the Wyoming Air Quality Standards and Regulations and requested delegation of the NSPS. We are announcing that on August 13, 2003, we delegated the authority for the implementation and enforcement of the NSPS to the State of

Wyoming. In addition, we are updating the "Delegation Status of New Source Performance Standards [(NSPS) for Region VIII]" table to add entries for newly delegated NSPS subparts for the State of Montana and the State of Wyoming. These actions are being taken under sections 110 and 111 of the Clean Air Act (CAA).

**DATES:** This rule is effective on January 5, 2004 without further notice, unless EPA receives adverse comment by December 5, 2003. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Written comments may be submitted by mail to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P-AR, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202-2466. Comments may also be submitted electronically, or through hand delivery/courier. Please follow the detailed instructions described in sections (I)(B)(1)(i) through (iii) of the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:**

Laurel Dygowski, EPA, Region 8, 999 18th Street, Suite 300, Mailcode 8P-AR, Denver, Colorado 80202, (303) 312-6144, e-mail [dygowski.laurel@epa.gov](mailto:dygowski.laurel@epa.gov).

**SUPPLEMENTARY INFORMATION:**

### I. General Information

#### *A. How Can I Get Copies Of This Document and Other Related Information ?*

1. *The Regional Office has established an official public rulemaking file available for inspection at the Regional Office.* EPA has established an official public rulemaking file for this action under [MT-001-0047, WY-001-0010, WY-001-0011, WY-001-0012]. The official public file consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public rulemaking file does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public rulemaking file is the collection of materials that is available for public viewing at the Air and Radiation Program, EPA Region 8, 999 18th Street, Suite 300, Denver, CO. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. You may view the public rulemaking file at the

Regional Office, Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays. Copies of the Incorporation by Reference material are also available at the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B-108 (Mail Code 6102T), 1301 Constitution Ave. NW., Washington, DC 20460.

2. *Copies of the State submittal are also available for public inspection during normal business hours, by appointment at the State Air Agency.* Copies of the State documents relevant to this action are available for public inspection at the Montana Department of Environmental Quality, Air and Waste Management Bureau, 1520 E. 6th Avenue, Helena, Montana 59620.

3. *Electronic Access.* You may access this **Federal Register** document electronically through the Regulations.gov Web site located at <http://www.regulations.gov> where you can find, review, and submit comments on Federal rules that have been published in the **Federal Register**, the Government's legal newspaper, and are open for comment.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at the EPA Regional Office, as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in the official public rulemaking file. The entire printed comment, including the copyrighted material, will be available at the Regional Office for public inspection.

#### *B. How and to Whom Do I Submit Comments?*

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number by including the text "Public comment on proposed rulemaking MT-001-0047, WY-001-0010, WY-001-0011, WY-001-0012" in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *E-mail.* Comments may be sent by electronic mail (e-mail). Please send any comments to [long.richard@epa.gov](mailto:long.richard@epa.gov) and [dygowski.laurel@epa.gov](mailto:dygowski.laurel@epa.gov) and include the text "Public comment on proposed rulemaking MT-001-0047, WY-001-0010, WY-001-0011, WY-001-0012" in the subject line. EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly without going through "Regulations.gov" (see below), EPA's e-mail system will automatically capture your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket.

ii. *Regulations.gov.* Your use of Regulations.gov is an alternative method of submitting electronic comments to EPA. Go directly to Regulations.gov at <http://www.regulations.gov>, then click on the button "TO SEARCH FOR REGULATIONS CLICK HERE" and select Environmental Protection Agency as the agency name to search on. The list of current EPA actions available for comment will be listed. Please follow the online instructions for submitting comments. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Section 2, directly below. These electronic submissions will be accepted in WordPerfect, Word or ASCII

file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Send your comments to: Richard R. Long, Director, Air and Radiation Program, Mailcode 8P-AR, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202-2466. Please include the text "Public comment on proposed rulemaking MT-001-0047, WY-001-0010, WY-001-0011, WY-001-0012" in the subject line on the first page of your comment.

3. *By Hand Delivery or Courier.* Deliver your comments to: Richard R. Long, Director, Air and Radiation Program, Mailcode 8P-AR, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202-2466. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:55 p.m., excluding federal Holidays.

#### *C. How Should I Submit CBI To the Agency?*

Do not submit information that you consider to be CBI electronically to EPA. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the official public regional rulemaking file. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public file and available for public inspection without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the For Further Information Contact section.

## **II. Summary of SIP Revision**

### **A. Montana October 28, 2002 submittal**

On October 28, 2002, the Governor of Montana submitted revisions to its (SIP). The specific revisions to the SIP contained in the October 28, 2002 submittal are explained below.

**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

commit the State of Montana to accept delegation of future standards and requirements. A new request for delegation will be required for any standards not included in the State's request of October 28, 2002.

(I) Upon approval of the Regional Administrator of EPA Region VIII, the Director of DEQ may subdelegate his authority to implement and enforce the NSPS to local air pollution control authorities in the State when such authorities have demonstrated that they have equivalent or more stringent programs in force.

(J) The State of Montana must require reporting of all excess emissions from any NSPS source in accordance with 40 CFR 60.7(c).

(K) Performance tests shall be scheduled and conducted in accordance with the procedures set forth in 40 CFR part 60 unless alternate methods or procedures are approved by the EPA Administrator. Although the Administrator retains the exclusive right to approve equivalent and alternate test methods as specified in 40 CFR 60.8(b)(2) and (3), the State may approve minor changes in methodology provided these changes are reported to EPA Region VIII. The Administrator also retains the right to change the opacity standard as specified in 40 CFR 60.11(e).

(L) Determinations of applicability such as those specified in 40 CFR 60.5 and 60.6 shall be consistent with those which have already been made by the EPA.

(M) Alternatives to continuous monitoring procedures or reporting requirements, as outlined in 40 CFR 60.13(i), may be approved by the State with the prior concurrence of the Regional Administrator.

(N) If a source proposes to modify its operation or facility which may cause the source to be subject to NSPS requirements, the State shall notify EPA Region VIII and obtain a determination on the applicability of the NSPS regulations.

(O) Information shall be made available to the public in accordance with 40 CFR 60.9. Any records, reports, or information provided to, or otherwise obtained by, the State in accordance with the provisions of these regulations shall be made available to the designated representatives of EPA upon request.

(P) All reports required pursuant to the delegated NSPS should not be submitted to the EPA Region VIII office, but rather to the DEQ.

(Q) As 40 CFR part 60 is updated, Montana should revise its regulations accordingly and in a timely manner and submit to EPA requests for updates to its delegation of authority.

EPA is approving Montana's request for NSPS delegation for all areas within the State except for the following: lands within the exterior boundaries of the Northern Cheyenne, Rocky Boys, Blackfeet, Crow, Flathead, Fort Belknap, and Fort Peck Indian Reservations; and any other areas which are Indian Country within the meaning of 18 U.S.C. 1151.

Since this delegation is effective immediately, there is no need for the State to notify the EPA of its acceptance. Unless

we receive written notice of objections from you within ten days of the date on which you receive this letter, the State of Montana will be deemed to accept all the terms of this delegation. EPA will publish an information notice in the **Federal Register** in the near future to inform the public of this delegation, in which this letter will appear in its entirety.

If you have any questions on this matter, please contact me or have your staff contact Richard Long, Director of our Air and Radiation Program, at (303) 312-6005.

Sincerely yours,

Robert E. Roberts,  
*Regional Administrator*

Enclosures

cc: Jan Sensibaugh, Director, Montana  
Department of Environmental Quality,  
John Wardell, 8MO

Enclosure to Letter Delegating NSPS in  
40 CFR Part 60,

Effective Through July 1, 2001, to the  
State of Montana

#### EXAMPLES OF AUTHORITIES IN 40 CFR PART 60 WHICH CANNOT BE DELE- GATED

40 CFR Subparts	Section(s)
A .....	60.8(b)(2) and (b)(3), and those sections throughout the standards that reference 60.8(b)(2) and (b)(3); 60.11(b) and (e).
Da .....	60.45a.
Db .....	60.44b(f), 60.44b(g) and 60.49b(a)(4).
Dc .....	60.48c(a)(4).
Ec .....	60.56c(i), 60.8.
J .....	60.105(a)(13)(iii) and 60.106(i)(12).
Ka .....	60.114a.
Kb .....	60.111b(f)(4), 60.114b, 60.116b(e)(3)(iii), 60.116b(e)(3)(iv), and 60.116b(f)(2)(iii).
O .....	60.153(e).
S .....	60.195(b).
DD .....	60.302(d)(3).
GG .....	60.332(a)(3) and 60.335(a).
VV .....	60.482-1(c)(2) and 60.484.
WW .....	60.493(b)(2)(i)(A) and 60.496(a)(1).
XX .....	60.502(e)(6).
AAA .....	60.531, 60.533, 60.534, 60.535, 60.536(i)(2), 60.537, 60.538(e) and 60.539.
BBB .....	60.543(c)(2)(ii)(B).
DDD .....	60.562-2(c).
GGG .....	60.592(c).
III .....	60.613(e).
JJJ .....	60.623.
KKK .....	60.634.
NNN .....	60.663(f).
QQQ .....	60.694.
RRR .....	60.703(e).
SSS .....	60.711(a)(16), 60.713(b)(1)(i) and (ii), 60.713(b)(5)(i), 60.713(d), 60.715(a) and 60.716.

#### EXAMPLES OF AUTHORITIES IN 40 CFR PART 60 WHICH CANNOT BE DELE- GATED—Continued

40 CFR Subparts	Section(s)
TTT .....	60.723(b)(1), 60.723(b)(2)(i)(C), 60.723(b)(2)(iv), 60.724(e) and 60.725(b).
VVV .....	60.743(a)(3)(v)(A) and (B), 60.743(e), 60.745(a) and 60.746.
WWW .....	60.754(a)(5).

In the June 24, 2003 letter of delegation to the State of Montana, we mistakenly did not indicate that two of the NSPS subparts in the July 2001 version of the CFR could not be delegated to the State. Subparts BBBB and DDDD contain emission guidelines, which are not delegated to the state, but require state plans that are approved under a separate process pursuant to Section 111(d) of the CAA. On September 8, 2003, we notified the State that we mistakenly did not include Subparts BBBB and DDDD in their letter of delegation as Subparts that could not be delegated. We will be taking action on the State plans under Section 111(d) of the CAA at a later time.

#### B. Wyoming August 9, 2000, August 7, 2001 and June 30, 2003 Submittals

On August 9, 2000, August 7, 2001 and June 30, 2003, the State of Wyoming submitted revisions to the NSPS in Chapter 5, Section 2 of the Wyoming Air Quality Standards and Regulations. The revisions update the incorporation by reference date of the federal NSPS and request delegation of the authority to implement and enforce the NSPS to the State. EPA is announcing that on August 13, 2003, we issued a letter delegating the responsibility for the implementation and enforcement of the of the NSPS to the State of Wyoming. 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 August 13, 2003 letter of delegation to the State follows:

John V. Corra, Director  
Department of Environmental Quality, 122  
West 25th Street, Cheyenne, WY 82002

Dear Mr. Corra: On June 30, 2003, the State submitted a revision to the Wyoming Air Quality Standards and Regulations. Specifically, the State revised Chapter 5, Section 2, New Source Performance Standards, 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 States' regulations are equivalent to the Federal regulations. EPA reviewed the pertinent statutes and regulations of the State of Wyoming and determined that they provide an adequate and effective procedure for the implementation and enforcement of the NSPS by the State of Wyoming. 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 Wyoming as follows:

(A) Responsibility for all sources located, or to be located, in the State of Wyoming 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, except subparts BBBB and DDDD. 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 Wyoming.

(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 Wyoming subject to NSPS.

(E) The State of Wyoming 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 any time 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 commit the State of Wyoming to accept delegation of future standards and requirements. A new request for delegation will be required for any standards not included in the State's request of June 30, 2003.

(I) Upon approval of the Regional Administrator of EPA Region 8, the Director of DEQ may subdelegate his authority to implement and enforce the NSPS to local air pollution control authorities in the State when such authorities have demonstrated that they have equivalent or more stringent programs in force.

(J) The State of Wyoming must require reporting of all excess emissions from any NSPS source in accordance with 40 CFR 60.7(c).

(K) Performance tests shall be scheduled and conducted in accordance with the procedures set forth in 40 CFR part 60 unless alternate methods or procedures are approved by the EPA Administrator. Although the Administrator retains the exclusive right to approve equivalent and alternate test methods as specified in 40 CFR 60.8(b)(2) and (3), the State may approve minor changes in methodology provided these changes are reported to EPA Region 8. The Administrator also retains the right to change the opacity standard as specified in 40 CFR 60.11(e).

(L) Determinations of applicability such as those specified in 40 CFR 60.5 and 60.6 shall be consistent with those which have already been made by the EPA.

(M) Alternatives to continuous monitoring procedures or reporting requirements, as outlined in 40 CFR 60.13(i), may be approved by the State with the prior concurrence of the Regional Administrator.

(N) If a source proposes to modify its operation or facility which may cause the source to be subject to NSPS requirements, the State shall notify EPA Region 8 and obtain a determination on the applicability of the NSPS regulations.

(O) Information shall be made available to the public in accordance with 40 CFR 60.9. Any records, reports, or information provided to, or otherwise obtained by, the State in accordance with the provisions of these regulations shall be made available to the designated representatives of EPA upon request.

(P) All reports required pursuant to the delegated NSPS should not be submitted to the EPA Region 8 office, but rather to the DEQ.

(Q) As 40 CFR part 60 is updated, Wyoming should revise its regulations accordingly and in a timely manner and submit to EPA requests for updates to its delegation of authority.

EPA is approving Wyoming's request for NSPS delegation for all areas within the State except for the following: Lands within the exterior boundaries of the Wind River Indian Reservation; and any other areas which are "Indian Country" within the meaning of 18 U.S.C. 1151.

Since this delegation is effective immediately, there is no need for the State to notify the EPA of its acceptance. Unless we receive written notice of objections from you within ten days of the date on which you receive this letter, the State of Wyoming will be deemed to accept all the terms of this delegation. EPA will publish an information notice in the **Federal Register** in the near future to inform the public of this delegation, in which this letter will appear in its entirety.

If you have any questions on this matter, please contact me or have your staff contact Richard Long, Director of our Air and Radiation Program, at (303) 312-6005, or toll-free at 1-800-227-8917.

Sincerely,  
Robert E. Roberts,  
Regional Administrator

Enclosures

cc: Dan Olson, Administrator, Air Quality Division

Enclosure to Letter Delegating NSPS in 40 CFR Part 60, Effective Through July 1, 2001, to the State of Wyoming

#### EXAMPLES OF AUTHORITIES IN 40 CFR PART 60 WHICH CANNOT BE DELEGATED

40 CFR subparts	Section(s)
A .....	60.8(b)(2) and (b)(3), and those sections throughout the standards that reference 60.8(b)(2) and (b)(3); 60.11(b) and (e).
Da .....	60.45a.
Db .....	60.44b(f), 60.44b(g) and 60.49b(a)(4).
Dc .....	60.48c(a)(4).
Ec .....	60.56c(i), 60.8
J .....	60.105(a)(13)(iii) and 60.106(i)(12).
Ka .....	60.114a.
Kb .....	60.111b(f)(4), 60.114b, 60.116b(e)(3)(iii), 60.116b(e)(3)(iv), and 60.116b(f)(2)(iii).
O .....	60.153(e).
S .....	60.195(b).
DD .....	60.302(d)(3).
GG .....	60.332(a)(3) and 60.335(a).
VV .....	60.482-1(c)(2) and 60.484.
WW .....	60.493(b)(2)(i)(A) and 60.496(a)(1).
XX .....	60.502(e)(6).
AAA .....	60.531, 60.533, 60.534, 60.535, 60.536(i)(2), 60.537, 60.538(e) and 60.539.
BBB .....	60.543(c)(2)(ii)(B).
DDD .....	60.562-2(c).
GGG .....	60.592(c).
III .....	60.613(e).

EXAMPLES OF AUTHORITIES IN 40 CFR  
PART 60 WHICH CANNOT BE DELE-  
GATED—Continued

40 CFR subparts	Section(s)
JJJ .....	60.623.
KKK .....	60.634.
NNN .....	60.663(f).
QQQ .....	60.694.
RRR .....	60.703(e).
SSS .....	60.711(a)(16), 60.713(b)(1)(i) and (ii), 60.713(b)(5)(i), 60.713(d), 60.715(a) and 60.716.
TTT .....	60.723(b)(1), 60.723(b)(2)(i)(C), 60.723(b)(2)(iv), 60.724(e) and 60.725(b).
VVV .....	60.743(a)(3)(v)(A) and (B), 60.743(e), 60.745(a) and 60.746.
WWW .....	60.754(a)(5).

### III. Final Action

EPA is approving the following revisions to the Montana SIP submitted on October 28, 2002: Revisions to ARM 17.8.101, 102, 302, 401, 801, 901 and 1005. EPA is also approving the revisions to the YCAPCP, Regulation No. 002—Open Burning Restrictions. We are announcing that on June 24, 2003 and on August 13, 2003, we updated the delegation of authority for the implementation and enforcement of the NSPS to the State of Montana and the State of Wyoming, respectively. We are also 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.

Section 110(l) of the Clean Air Act states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress towards attainment of the NAAQS or any other applicable requirements of the Act. The Montana SIP revisions and the Montana and Wyoming NSPS delegations that are the subject of this document do not interfere with the maintenance of the NAAQS or any other applicable requirement of the Act because of the following: (1) The update to the incorporation by reference, as well as amending the definition of VOCs, allows the State of Montana to include the most recent version of federal regulations; and (2) the NSPS delegations for Montana and Wyoming meet the requirements of section 111(c) of the CAA and 40 CFR part 60. Therefore, section 110(l) requirements are satisfied.

EPA is publishing this rule without prior proposal because the Agency

views this as a noncontroversial amendment and anticipates no adverse comments. However, in the “Proposed Rules” section of today’s **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments be filed. This rule will be effective January 5, 2004 without further notice unless the Agency receives adverse comments by December 5, 2003. If the EPA receives adverse comments, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

### IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the

Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. section 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of

this action must be filed in the United States Court of Appeals for the appropriate circuit by January 5, 2004. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects

##### 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.

##### 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Beverages, Carbon monoxide, Cement industry, Coal, Copper, Dry cleaners, Electric power plants, Fertilizers, Fluoride, Gasoline, Glass and glass products, Grains, Graphic arts industry, Household appliances, Insulation, Intergovernmental relations, Iron, Lead, Lime, Metallic and nonmetallic mineral processing plants, Metals, Motor

vehicles, Natural gas, Nitric acid plants, Nitrogen dioxide, Paper and paper products industry, Particulate matter, Paving and roofing materials, Petroleum, Phosphate, Plastics materials and synthetics, Reporting and recordkeeping requirements, Sewage disposal, Steel, Sulfur oxides, Tires, Urethane, Vinyl, Waste treatment and disposal, Wool, Zinc.

Dated: October 1, 2003.

**Robert E. Roberts,**

*Regional Administrator, Region 8.*

■ 40 CFR parts 52 and 60 are amended as follows:

#### PART 52—[AMENDED]

■ 1. The authority citation for Part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

#### Subpart BB—Montana

■ 2. Section 52.1370 is amended by adding paragraph (c)(59) to read as follows:

##### § 52.1370 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(59) On October 28, 2002, the Governor of Montana submitted revisions to the Administrative Rules of Montana (ARM). The State revised its Incorporation by Reference rules (ARM 17.8.102, 17.8.302) and revised the definition of volatile organic compounds to incorporate by reference

the federal regulation (ARM 17.8.101, 17.8.801, 17.8.901). Additional minor changes were made to ARM 17.8.401, 17.8.1005 and the Yellowstone County Air Pollution Control Program Regulation No. 002.

(i) Incorporation by reference.

(A) Administrative Rules of Montana (ARM) sections 17.8.101(41), 17.8.102(a) and (d), 17.8.302(1)(f), 17.8.401(1)(b)(v), 17.8.801(29), 17.8.901(20) and 17.8.1005(6), effective 6/28/02.

(B) Yellowstone County Air Pollution Control Program, Regulation No. 002, (H)(4)(b)(i), effective June 7, 2002.

#### PART 60—[AMENDED]

■ 1. The authority citation for part 60 continues to read as follows:

**Authority:** 42 U.S.C. 7401, 7411, 7414, 7416, and 7601 as amended by the Clean Air Act Amendments of 1990, Pub. L. 101-549, 104 Stat. 2399 (November 15, 1990; 402, 409, 415 of the Clean Air Act as amended, 104 Stat. 2399, unless otherwise noted).

#### Subpart A—General Provisions

■ 2. Section 60.4 (c) is amended by adding entries for subparts “AAAA” and “CCCC” in the table entitled “Delegation Status of New Source Performance Standards [(NSPS) for Region VIII]” to read as follows:

##### § 60.4 Address.

\* \* \* \* \*

(c) \* \* \*

#### DELEGATION STATUS OF NEW SOURCE PERFORMANCE STANDARDS [(NSPS) FOR REGION VIII]

Subpart	CO	MT	ND	SD	UT	WY
* * *						
AAAA—Small Municipal Waste Combustors .....		(*)				(*)
CCCC—Commercial and Industrial Solid Waste Incineration Units .....		(*)				(*)

\* Indicates approval of the state regulation.

[FR Doc. 03-27265 Filed 11-4-03; 8:45 am]

BILLING CODE 6560-50-P

#### DEPARTMENT OF TRANSPORTATION

##### Maritime Administration

**46 CFR Parts 232, 281, 287, 295, 298, 310, 355, 380 and 390**

[Docket Number: MARAD-2003-16238]

RIN 2133-AB56

#### Electronic Options for Transmitting Certain Information Collection Responses to MARAD

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Interim Final Rule with request for comments.

**SUMMARY:** The Maritime Administration (MARAD) is publishing this interim final rule to immediately offer electronic submission options and to solicit comments from respondents regarding the offering of electronic options for submission of information that is collected from them under the approved information collections identified in this interim final rule. These information collections are needed by MARAD in order to conduct business between MARAD and the respondents. This action is part of MARAD's implementation of the Government