

see the TSD accompanying this document.

3. Montana's PSD Revisions Due to the Amended Act

In its revisions to its PSD regulations, the State addressed one new requirement of the amended Act pertaining to hazardous air pollutants (HAPs). Prior to the 1990 Amendments, section 112 HAPs were regulated both under PSD permitting and the NESHAPs, in addition to any other applicable State or Federal rules. A new source or modification that was considered to be major for any pollutant was subject to PSD permitting requirements, including BACT, for every pollutant subject to regulation under the Act that was emitted by the source in significant quantities. Section 112(b)(6) of the amended Act eliminates PSD applicability of the HAPs listed in section 112. Thus, new and modified sources subject to PSD permitting are no longer required to apply BACT and other PSD requirements to all HAPs emitted in significant amounts. There is one exception to this exemption from PSD requirements: Any HAPs which are regulated as constituents of a more general pollutant listed under section 108 of the Act are still subject to PSD as part of the more general pollutant, despite the exemption described above. This includes pollutants such as VOCs, PM-10, and elemental lead. (See 57 FR 18075, April 29, 1992.)

The State made numerous revisions to its PSD rules in subchapter 9 to clarify that HAPs are no longer regulated under PSD except to the extent that such HAPs are regulated as constituents of more general pollutants regulated under section 108 of the Act. EPA believes the State's PSD rule revisions regarding HAPs are consistent with the amended Act and, therefore, are approvable.

C. Outstanding Rule Deficiencies

EPA's review of the State's revisions to its PSD permitting rules in subchapter 9 found that the State's revised rules are consistent with the Federal PSD permitting requirements in 40 CFR 51.166.

EPA's review of the State's new subchapters 17 and 18, which contain the State's nonattainment NSR regulations, found that the State's rules are consistent with the corresponding Federal regulations in 40 CFR 51.165, as well as with the amended Act as discussed in Section II.B. above.

Since the State now has separate permitting regulations for new and modified major sources locating in attainment or unclassified areas and nonattainment areas, subchapter 11 is

now generally considered to be the State's general construction permit requirements. The corresponding Federal requirements that such programs must meet are found in 40 CFR 51.160 through 51.164. EPA has reviewed the revised subchapter 11 and believes the State's general construction permit requirements adequately meet all of the Federal requirements in 40 CFR 51.160 through 51.164. See the TSD for further details.

Therefore, EPA believes the State has satisfied the commitment in its PM-10 SIPs to revise its construction permitting rules to address deficiencies previously identified by EPA.

In ARM 16.8.709, the State adopted provisions requiring all emission source testing to be performed as specified in the applicable sampling method contained in the Federal regulations, including 40 CFR part 51, appendix M (which includes Methods 201, 201A, and 202 for determination of PM-10 emissions). Thus, the State has satisfied the commitment in its PM-10 SIPs to adopt regulations which specify 40 CFR part 51, appendix M, Methods 201, 201A, and 202 as required test methods for the determination of PM-10 emissions.

The State also adequately addressed EPA's enforceability concerns with its wood waste burner rule in ARM 16.8.1407 by deleting the mass particulate emission limit which was not practicably enforceable at the tepee-style wood waste burners in the State. Therefore, EPA is approving the revised wood waste burner rule.

Last, the State has satisfied the PM-10 SIP commitment to revise its NSPS and NESHAPs in ARM 16.8.1423 and 1424 to incorporate all Federal requirements promulgated through July 1, 1992.

Thus, EPA believes this submittal satisfies all of the Statewide SIP deficiencies which the State committed to address in its PM-10 SIPs, with the exception of the Kalispell PM-10 SIP commitment regarding NSR. Since the State's NSR rules are only being partially approved for the Kalispell PM-10 nonattainment area at this time, the State can only be considered to have partially met the PM-10 SIP commitment regarding NSR for this area.

D. Evaluation of the Other Regulations Included in the State's Submittal

EPA believes that the other revisions to the State's regulations provide for clarity and consistency within the State's regulations and are consistent with any corresponding Federal requirements, with a few exceptions.

One of those exceptions is the revisions to the hydrocarbon emission rule in ARM 16.8.1425. Specifically, the State revised this rule to allow the Montana Department of Health and Environmental Sciences, rather than the previously-required Administrator of EPA, to authorize use of other equipment that is equally efficient to that equipment required by this rule. Thus, the State's rule now permits the State to modify a specific control requirement of the SIP without requiring EPA review and approval of the alternative control equipment. Such a provision is generally termed a "director's discretion" provision, in that it allows the State discretionary authority to alter a provision of the SIP. EPA cannot legally approve such discretionary authority in States' SIPs without the State providing for some type of EPA review and approval of alternatives to the stated requirements in this regulation. Therefore, EPA is disapproving the revisions to ARM 16.8.1425(1)(c) and (2)(d) which allow this discretion. If the State wishes to implement these provisions for a certain source allowing alternatives to the control equipment required in this rule, then the State must submit such alternatives to EPA for review and approval.

In this submittal, as discussed at the beginning of this document, the State submitted the entire State air quality rules which were recodified in October of 1979 to be incorporated into the SIP and to replace any previous codifications of State rules currently approved as part of the SIP. EPA is therefore replacing the previously approved Montana rules with all of the rules included in the State's submittal, with the exception of the following:

1. As discussed above, EPA is disapproving the director's discretion provisions in ARM 16.8.1425 (1)(c) and (2)(d);

2. In this submittal, the State included the most current version of its open burning rules. However, on December 21, 1992, EPA disapproved revisions to ARM 16.8.1302 and 16.8.1307 which were submitted by the Governor on April 9, 1991 (see 57 FR 60485-60486 for further details). Therefore, EPA is not approving the current version of ARM 16.8.1302 and 16.8.1307. The previously approved version of ARM 16.8.1302 and 16.8.1307, as in effect on April 16, 1982 and as approved by EPA on July 15, 1982 (47 FR 30763, 40 CFR 52.1370(c)(11)), remain part of the SIP;

3. EPA believes it has no legal basis in the Act for approving the State's odor control rule in ARM 16.8.1427 and making it federally enforceable because