

OFFICE OF THE GOVERNOR
STATE OF MONTANA

BRIAN SCHWEITZER
GOVERNOR



JOHN BOHLINGER
LT. GOVERNOR

March 28, 2011

Mr. Jim Martin
Regional Director
US SPA Region 8
1595 Wynkoop Street
Denver, CO 80202-1129

RE: Withdrawal of SIP submissions

Dear Mr. Martin:

I am apprised the Department of Environmental Quality is providing assistance to EPA with its task of clearing a backlog of state submissions to the State Implementation Plan (SIP) for which EPA had not taken administrative action. I understand WildEarth Guardians sued EPA over a year ago and secured a consent decree executed May 26, 2010, ordering EPA to take action on several of the backlogged items. Four of those backlogged items include:

- Montana's submission of revisions to the Kraft Pulp Mill Rule (ARM 17.8.321);
- Revisions to Montana's Stack Height Rule (ARM 17.8.401);
- Revisions to Montana's Open Burning Rules (ARM 17.8.604); and
- Montana's Oil and Gas Registration Program (ARM 17.8, subchapters 16 & 17).

EPA indicated in discussions that it would not object if Montana withdrew these rules from consideration for inclusion into the SIP.

With regard to the Kraft Pulp Mill Rule, Montana's sole Kraft Pulp Mill facility has since closed down and is no longer in operation. Therefore, Montana withdraws its submission of revisions to ARM 17.8.321 dated December 11, 1998.

Montana also withdraws its submission of ARM 17.8.743, 17.8.1601, 17.8.1602, 17.8.1603, 17.8.1604, 17.8.1605, 17.8.1606, and 17.8.759 (dated December 2, 2005) as submitted on October 16, 2006. Montana withdraws ARM 17.8.1701, 17.8.1702, 17.8.1703, 17.8.1704, 17.8.1705, 17.8.1710, 17.8.1711, 17.8.1712, 17.8.1713, and 17.8.744 (dated March 23, 2006) as submitted on November 1, 2006. Montana does not have sufficient resources to regulate oil and gas well facilities using rules developed for stationary sources. We need to have these rules included in the SIP and I want to work deliberately to ensure the SIP submittal is administratively complete before proceeding.

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Additionally, Montana withdraws its submissions of revisions to ARM 17.8.401 dated January 20, 1995; December 9, 1996; March 28, 2003; and March 26, 2004. The revisions to ARM 17.8.401 were related to correcting clerical errors or making internal references consistent with other rules. As currently codified, ARM 17.8.401 is grammatically correct and does not reflect any apparent internal inconsistencies. The rule will continue to be interpreted in context with other revised provisions in order to maintain comprehensibility for the reader and preserve the integrity of the rules as the Board of Environmental Review (BER) intended.

The BER, at its March 25, 2011, meeting, is set to take action on a recent proposal to revise ARM 17.8.604 of Montana's open burning rules. This revision directly addresses EPA's objections set forth in its proposal to disapprove the submission of ARM 17.8.604 dated December 12, 2002 (69 FR 43371). Montana has no reason to believe the BER will not adopt ARM 17.8.604 as proposed. Because Montana expects to shortly submit an approvable rule, withdrawal of the 2002 revision of ARM 17.8.604 is appropriate and Montana does so withdraw.

If you have any questions regarding these withdrawals or would like to request any other assistance, please contact Debra Wolfe at 406-444-7916 or dwolfe@mt.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "B. Schweitzer", with a stylized flourish at the end.

BRIAN SCHWEITZER
Governor