

permitting regulation to ensure that permits that are changed after appeal to the board are submitted to EPA for additional review; (3) The State must clarify that it has the authority to "terminate, modify, revoke and reissue permits for cause" pursuant to section 502(b)(5)(D) of the Act; (4) The State must provide an Attorney General's opinion that the language in § 16.8.2021(1)(c) of Sub-Chapter 20 regarding significant modifications will be interpreted as "every relaxation of reporting or recordkeeping permit terms."

The State must complete the following corrective actions, as discussed above, to receive full PROGRAM approval: (1) The word "significant" must be removed from the language in § 16.8.2021(1)(c) of Sub-Chapter 20; (2) The State must delete § 16.8.2002(1)(d) of Sub-Chapter 20 that allows for the "department's discretion" in determining whether or not a change in monitoring or reporting requirements would be as stringent as current monitoring or reporting requirements; (3) Section 16.8.2002(1)(f) of Sub-Chapter 20 must be changed to allow the Administrator of EPA (or EPA and the State) to determine if changes not included in the definition of "administrative permit amendment" can be processed through the administrative permit amendment process; (4) The State must lower the emissions cap for defining "insignificant emissions units" in § 16.8.2002(22)(a) of Sub-Chapter 20 to assure they will not encompass activities that trigger applicable requirements. If the State defines insignificant activity levels greater than those suggested, a demonstration must be made to show why such levels are, in fact, insignificant; (5) The language in § 16.8.2002(24)(ii) of Sub-Chapter 20 which defines "non-Federally enforceable requirement" must be revised or deleted to avoid the implication that terms contained in a preconstruction permit issued under Sub-Chapters 9, 11, 17, or 18 are not Federally enforceable; (6) The State must include a severability clause in § 16.8.2008 of Sub-Chapter 20 consistent with § 70.6(a)(5) of the Federal permitting regulation; (7) The State must provide an Attorney General's opinion verifying the State's authority to use any monitoring data to determine compliance and for direct enforcement. If the State does not have such authority, then the State's SIP-approved regulations must be revised to provide authority to use any monitoring data to determine compliance and for direct

enforcement; (8) The State must provide an Attorney General's interpretation that Montana's statutory authority under MCA 75-2-211(1) and 217(1) extends to "terminating" permits; (9) The State must certify its ability to make case-by-case MACT determinations for sources subject to section 112(j) of the Act; (10) The State must certify its ability to require annual certifications from part 70 sources regarding proper implementation of their section 112(r) RMPs and to provide a compliance schedule for sources that fail to submit the required RMP.

Evidence of these corrective actions for full PROGRAM approval must be submitted to EPA within 18 months of EPA's interim approval of the Montana PROGRAM.

The scope of Montana's part 70 PROGRAM that EPA proposes to approve in this notice would apply to all part 70 sources (as defined in the PROGRAM) within the State, except the following: any sources of air pollution located in "Indian Country," as defined in 18 U.S.C. 1151, including the Northern Cheyenne, Rocky Boys, Blackfeet, Crow, Flathead, Fort Belknap, and Fort Peck Indian Reservations, or any other sources of air pollution over which an Indian Tribe has jurisdiction. See, e.g., 59 FR 55813, 55815-18 (Nov. 9, 1994). The term "Indian Tribe" is defined under the Act as "any Indian Tribe, band, nation, or other organized group or community, including any Alaska Native village, which is Federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians." See section 302(r) of the CAA; see also 59 FR 43955, 43962 (Aug. 25, 1994); 58 FR 54364 (Oct. 21, 1993).

In proposing not to extend the scope of Montana's part 70 PROGRAM to sources located in "Indian Country," EPA is not making a determination that the State either has adequate jurisdiction or lacks jurisdiction over such sources. Should the State of Montana choose to seek program approval within "Indian Country," it may do so without prejudice. Before EPA would approve the State's part 70 PROGRAM for any portion of "Indian Country," EPA would have to be satisfied that the State has authority, either pursuant to explicit Congressional authorization or applicable principles of Federal Indian law, to enforce its laws against existing and potential pollution sources within any geographical area for which it seeks program approval, that such approval would constitute sound administrative practice, and that those sources are not

subject to the jurisdiction of any Indian Tribe.

This interim approval, which may not be renewed, extends for a period of up to 2 years. During the interim approval period, the State is protected from sanctions for failure to have a program, and EPA is not obligated to promulgate a Federal permits program in the State. Permits issued under a program with interim approval have full standing with respect to part 70, and the 1-year time period for submittal of permit applications by subject sources begins upon interim approval, as does the 3-year time period for processing the initial permit applications.

The EPA is proposing to disapprove in the alternative the Montana PROGRAM if the specified corrective actions for final interim PROGRAM approval are not completed and submitted to EPA prior to EPA's statutory deadline for acting on Montana's title V submittal. If promulgated, this disapproval would constitute a disapproval under section 502(d) of the Act (see generally 57 FR 32253-54). As provided under section 502(d)(1) of the Act, Montana would have up to 180 days from the date of EPA's notification of disapproval to the Governor of Montana to revise and resubmit the PROGRAM.

Requirements for approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by EPA as they apply to part 70 sources. Section 112(l)(5) requires that the State's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, the EPA is also proposing to grant approval under section 112(l)(5) of the Act and 40 CFR 63.91 of the State's program for receiving delegation of section 112 standards that are unchanged from Federal standards as promulgated. This program for delegations applies to sources covered by the part 70 program as well as non part 70 sources.

III. Administrative Requirements

A. Request for Public Comments

The EPA is requesting comments on all aspects of this proposed interim approval. Copies of the State's submittal and other information relied upon for the proposed interim approval are contained in a docket maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development