



ADMINISTRATIVE RULES OF MONTANA



17.50.1309 SELECTION OF REMEDY

- (1) Based on the results of a corrective measures assessment conducted under ARM 17.50.1308, the owner or operator of a facility shall:
 - (a) select a remedy that, at a minimum, meets the standards listed in (2);
 - (b) submit to the department for approval, within 90 days after the date of the department's approval of the assessment of corrective measures required in ARM 17.50.1308(1), a selected remedy report describing how the selected remedy would meet the standards in (2) through (4), and how it would be implemented;
 - (c) submit design plans for the selected remedy, and construction quality control (CQC) and construction quality assurance (CQA) plans to the same extent required in ARM 17.50.1205; and
 - (d) notify the department, within 14 days after obtaining department approval of the selected remedy report, that the selected remedy report, design plans, and CQC and CQA plans have been placed in the operating record.
- (2) Remedies in (1) must satisfy the following:
 - (a) be protective of human health and the environment;
 - (b) attain the ground water protection standard as specified pursuant to ARM 17.50.1307(8) or (9);
 - (c) control the source(s) of releases so as to reduce or eliminate, to the maximum extent practicable, further releases of a constituent in Appendix II to 40 CFR Part 258 (July 1, 2008) into the environment that may pose a threat to human health or the environment; and
 - (d) comply with standards for management of wastes as specified in ARM 17.50.1310(4).
- (3) In selecting a remedy that meets the standards of (2), the owner or operator shall consider the following evaluation factors:
 - (a) the long- and short-term effectiveness and protectiveness of the potential remedy(s), along with the degree of certainty that the remedy will prove successful, based on consideration of the following:
 - (i) magnitude of reduction of existing risks;
 - (ii) magnitude of residual risks in terms of likelihood of further releases due to waste remaining following implementation of a remedy;

- (iii) the type and degree of long-term management required, including monitoring, operation, and maintenance;
 - (iv) short-term risks that might be posed to the community, workers, or the environment during implementation of such a remedy, including potential threats to human health and the environment associated with excavation, transportation, and redisposal or containment;
 - (v) time until full protection is achieved;
 - (vi) potential for exposure of humans and environmental receptors to remaining wastes, considering the potential threat to human health and the environment associated with excavation, transportation, redisposal, or containment;
 - (vii) long-term reliability of the engineering and institutional controls; and
 - (viii) potential need for replacement of the remedy;
 - (b) the effectiveness of the remedy in controlling the source to reduce further releases, based on consideration of the following factors:
 - (i) the extent to which containment practices will reduce further releases; and
 - (ii) the extent to which treatment technologies may be used;
 - (c) the ease or difficulty of implementing a potential remedy(s), based on consideration of the following factors:
 - (i) degree of difficulty associated with constructing the technology;
 - (ii) expected operational reliability of the technologies;
 - (iii) need to coordinate with and obtain necessary approvals and permits from other agencies;
 - (iv) availability of necessary equipment and specialists; and
 - (v) available capacity and location of needed treatment, storage, and disposal services;
 - (d) practicable capability of the owner or operator, including consideration of technical and economic capability; and
 - (e) the degree to which community concerns are addressed by a potential remedy(s).
- (4) An owner or operator required by (1) to select a remedy shall specify as part of the selected remedy a schedule(s) for initiating and completing remedial activities. Such a schedule must require the initiation of remedial activities within a reasonable period of time, taking into consideration the factors in (4)(a) through (f). The owner or operator shall consider the following factors in determining the schedule of remedial activities:
- (a) extent and nature of contamination;
 - (b) practical capabilities of remedial technologies in achieving compliance with ground water protection standards established under ARM 17.50.1307(8) or (9) and other objectives of the remedy;
 - (c) availability of treatment or disposal capacity for wastes managed during implementation of the remedy;

- (d) desirability of utilizing technologies that are not currently available, but that may offer significant advantages over already available technologies in terms of effectiveness, reliability, safety, or ability to achieve remedial objectives;
 - (e) potential risks to human health and the environment from exposure to contamination prior to completion of the remedy; and
 - (f) resource value of the aquifer, including:
 - (i) current and future uses;
 - (ii) proximity and withdrawal rate of users;
 - (iii) ground water quantity and quality;
 - (iv) the potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents;
 - (v) the hydrogeologic characteristic of the facility and surrounding land;
 - (vi) ground water removal and treatment costs;
 - (vii) the cost and availability of alternative water supplies; and
 - (viii) the practicable capability of the owner or operator.
- (5) The department may determine that remediation of a release of a constituent in Appendix II to 40 CFR Part 258 (July 1, 2008) from a Class II or Class IV landfill unit is not necessary if the unit's owner or operator demonstrates to the satisfaction of the department that:
- (a) the ground water is additionally contaminated by substances that have originated from a source other than the unit and those substances are present in concentrations such that cleanup of the release from the unit would provide no significant reduction in risk to actual or potential receptors; or
 - (b) the constituent(s) is present in ground water that:
 - (i) is not currently, or reasonably expected to be, a source of drinking water; and
 - (ii) is not hydraulically connected with waters to which the constituent is migrating or is likely to migrate in a concentration(s) that would exceed the ground water protection standards established under ARM 17.50.1307;
 - (c) remediation of the release(s) is technically impracticable; or
 - (d) remediation results in unacceptable cross-media impacts.
- (6) A determination by the department pursuant to (5) does not affect the authority of the department to require the owner or operator to undertake source control measures or other measures that may be necessary to eliminate or minimize further releases to the ground water, to prevent exposure to the ground water, or to remediate the ground water to concentrations that are technically practicable and significantly reduce threats to human health or the environment.

Authorizing statute(s): 75-10-204, MCA

Implementing statute(s): 75-10-204, 75-10-207, MCA



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