



ADMINISTRATIVE RULES OF MONTANA



17.56.105 VARIANCES

- (1) Any person subject to this chapter may request in writing that a variance from requirements or procedures of this chapter be granted by the department to the requestor if the request includes approval of an alternate requirement or procedure.
- (2) The written request must include the following:
 - (a) the specific site for which a variance is sought;
 - (b) the specific provision of this chapter from which the variance is sought;
 - (c) the time period for which the variance is sought;
 - (d) the reason the variance is requested; and
 - (e) the alternate procedure or requirement for which approval is sought and a demonstration that the alternate procedure or requirement provides an equivalent or greater degree of protection for the public health, welfare, safety, and environment as the established requirement.
- (3) The department shall grant or deny a variance requested in accordance with (1) within 30 days of receipt of the information required by (2). The department may only grant the variance if the applicant proves compliance with the requirements of (2)(e) by substantial evidence.
- (4) The department, on its own initiative, may issue a variance from any requirement or procedure of this chapter when noncompliance is discovered as a result of a compliance inspection, immediate compliance is impracticable, and the cost of immediate compliance is disproportionate to the benefit provided. The following criteria apply to a variance issued under this rule:
 - (a) a variance may be issued only when the department makes a written determination that delaying compliance does not create a significant increased threat to the public health, welfare, safety, and the environment;
 - (b) a variance may postpone compliance only until the earliest practicable time for replacement or upgrading the facility UST systems as identified in department findings; and
 - (c) the department may define a time period for each variance issued under this section. In no case may a variance be issued under this section for a term longer than 15 years.
- (5) A variance issued under (4) must include the following:
 - (a) the specific provision of this chapter to which the variance applies;
 - (b) the time period for the variance; and

- (c) any conditions or other procedures, methods, or equipment that the department determines are required in order to minimize the risk of release during the term of the variance.
- (6) In order to reduce the risk of a release, any variance granted or issued by the department under this rule may be subject to conditions which may include implementation of procedures, methods, and the use of equipment not specifically required by law or rules.

Authorizing statute(s): 75-11-505, MCA

Implementing statute(s): 75-11-505, MCA

History: NEW, 1989 MAR p. 1912, Eff. 11/23/89; TRANS, from DHES, 1995 MAR p. 2259; AMD, 2002 MAR p. 1477, Eff. 5/17/02; AMD, 2007 MAR p. 1189, Eff. 8/24/07; AMD, 2010 MAR p. 1888, Eff. 8/27/10; AMD, 2018 MAR p. 1954, Eff. 10/6/18.