



ADMINISTRATIVE RULES OF MONTANA

17.50.1310 IMPLEMENTATION OF THE CORRECTIVE ACTION PROGRAM

- (1) Based on the schedule established under ARM 17.50.1309(4) for initiation and completion of remedial activities, an owner or operator required by
 - (a) submit for department approval, and if approved, establish and implement, a corrective action ground water monitoring program that:
 - (i) at a minimum, meets the requirements of an assessment monitoring program under ARM 17.50.1307;
 - (ii) indicates the effectiveness of the corrective action remedy; and
 - (iii) demonstrates compliance with the ground water protection standard pursuant to (5);
 - (b) implement the corrective action remedy selected under ARM 17.50.1309; and
 - (c) submit for department approval, and if approved, take any interim measures necessary to ensure the protection of human health and the environment. Interim measures must, to the greatest extent practicable, be consistent with the objectives of, and contribute to the performance of, any remedy that may be required pursuant to ARM 17.50.1309. The following factors must be considered by an owner or operator and the department in determining whether interim measures are necessary:
 - (i) time required to develop and implement a final remedy;
 - (ii) actual or potential exposure of nearby populations or environmental receptors to constituents in Appendix II to 40 CFR Part 258 (July 1, 2008);
 - (iii) actual or potential contamination of drinking water supplies or sensitive ecosystems;
 - (iv) further degradation of the ground water that may occur if remedial action is not initiated expeditiously;
 - (v) weather conditions that may cause constituents to migrate or be released;
 - (vi) risks of fire or explosion, or potential for exposure to constituents as a result of an accident or failure of a container or handling system; and
 - (vii) other situations that may pose threats to human health and the environment.
- (2) An owner or operator of a facility may determine, based on information developed after implementation of the remedy has begun or other information, that compliance with requirements of ARM 17.50.1309(2) is not being achieved through the remedy selected. In such cases, the owner or operator shall implement other methods or techniques that:

- (a) are developed by following the procedures in ARM 17.50.1309(1) through (4); and
 - (b) could practicably achieve compliance with the requirements, unless the owner or operator makes the determination under (3).
- (3) If the owner or operator submits for department approval a determination that compliance with requirements under ARM 17.50.1309(2) cannot be practically achieved with any currently available methods, the owner or operator shall, within 60 days after obtaining department approval:
 - (a) submit a certification of a qualified ground water scientist for department approval that compliance with requirements under ARM 17.50.1309(2) cannot be practically achieved with any currently available methods;
 - (b) implement alternate measures to control exposure of humans or the environment to residual contamination, as necessary to protect human health and the environment;
 - (c) implement alternate measures for control of the sources of contamination, or for removal or decontamination of equipment, units, devices, or structures that are:
 - (i) technically practicable; and
 - (ii) consistent with the overall objective of the remedy;
 - (d) submit for department approval a report justifying the alternative measures selected pursuant to (3)(b) and (c); and
 - (e) notify the department within 14 days after obtaining department approval that the report justifying the alternative measures in (3)(d) has been placed in the operating record.
- (4) All solid wastes managed pursuant to a remedy required under ARM 17.50.1309, or an interim measure required under (1)(c), must be managed in a manner that:
 - (a) is protective of human health and the environment; and
 - (b) complies with applicable RCRA requirements.
- (5) A remedy selected pursuant to ARM 17.50.1309 is complete when:
 - (a) the owner or operator complies with the ground water protection standards established under ARM 17.50.1307 at all points within the plume of contamination that lie beyond the ground water monitoring well system established under ARM 17.50.1304(1);
 - (b) compliance with the ground water protection standards established under ARM 17.50.1307 has been achieved by demonstrating, using the statistical procedures and performance standards in ARM 17.50.1305(7) and (8), that concentrations of constituents in Appendix II to 40 CFR Part 258 (July 1, 2008) have not exceeded the ground water protection standards for a period of three consecutive years; and
 - (c) all actions required to remediate the release have been completed.
- (6) The department may specify an alternative to the period in (5)(b) after taking into consideration:
 - (a) extent and concentration of the release(s);
 - (b) behavior characteristics of the constituents in the ground water;

- (c) accuracy of monitoring or modeling techniques, including any seasonal, meteorological, or other environmental variabilities that may affect accuracy; and
 - (d) characteristics of the ground water.
- (7) Within 14 days after completion of the remedy specified in (5), the owner or operator shall submit to the department for approval a certification that the remedy has been completed in compliance with the requirements of (5), and (6) if applicable, and place the certification in the operating record. The certification must be signed by the owner or operator and by a qualified ground water scientist.
- (8) When the certification required in (7) is approved by the department, the owner or operator must be released from the requirements for financial assurance for corrective action under ARM 17.50.540.

ARM 17.50.1309 to select a remedy shall:

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

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

History: NEW, 2010 MAR p. 317, Eff. 2/12/10.