



ADMINISTRATIVE RULES OF MONTANA



17.8.1204 AIR QUALITY OPERATING PERMIT PROGRAM APPLICABILITY

- (1) The requirements of this subchapter apply to the following sources:
 - (a) any major source, as defined in this subchapter;
 - (b) any source, including an area source, subject to a requirement under section 111 of the FCAA;
 - (c) any source, including an area source, subject to a requirement under section 112 of the FCAA, except that a source is not required to obtain a permit solely because it is subject to requirements under section 112(r) of the FCAA;
 - (d) any affected source;
 - (e) any source required to obtain a permit under section 129(e) of the FCAA;
 - (f) any source in a source category designated by the administrator as requiring an operating permit pursuant to 40 CFR 70.3; and
 - (g) any source required by the FCAA to obtain a Title V operating permit.
- (2) The following source categories are exempted from the obligation to obtain an air quality operating permit:
 - (a) all sources and source categories that would be required to obtain an air quality operating permit solely because they are subject to 40 CFR Part 60, subpart AAA (Standards of Performance for New Residential Wood Heaters) ; and
 - (b) all sources and source categories that would be required to obtain an air quality operating permit solely because they are subject to 40 CFR Part 61, subpart M (National Emission Standard for Hazardous Air Pollutants for Asbestos) , section 61.145, (Standard for Demolition and Renovation) .
 - (c) All sources listed in (1) that are not major or affected sources, or that are solid waste incineration units as defined in section 129(g) of the FCAA that are not required to obtain a permit pursuant to section 129(g) .
- (3) The department may exempt a source listed in (1) from the requirement to obtain an air quality operating permit by establishing federally enforceable limitations which limit that source's potential to emit, such that the source is no longer a major stationary source, as defined by ARM 17.8.1201(23) .
 - (a) In applying for an exemption under this section the owner or operator of the source shall certify to the department that the source's potential to emit, when subject to the federally

enforceable limitations, does not require the source to obtain an air quality operating permit. Such certification shall contain emissions measurement and monitoring data, location of monitoring records, and other information necessary to demonstrate to the department that the source is not required to obtain a permit under (1) .

- (b) Any source that obtains a federally enforceable limit on potential to emit shall annually certify that its actual emissions are less than those that would require the source to obtain an air quality operating permit. Such certification shall include the type of information specified in (3) (a) .
 - (c) Federally enforceable limitations that limit a source's potential to emit may be established through conditions contained in a Montana air quality permit, or through a judicial order or an administrative order issued by the department or the board, that has been adopted into the Montana State Implementation Plan.
 - (d) In order to exempt a source from the requirement to obtain an air quality operating permit, the department may, at a source's request, issue a Montana air quality permit to establish federally enforceable permit terms, solely to limit a source's potential to emit, even if there is no associated construction at the source, the source has a Montana air quality permit or the source otherwise is not required to obtain a Montana air quality permit.
- (4) Any source exempt from the requirement to obtain an air quality operating permit may nevertheless opt to apply for a permit under this subchapter.
 - (5) The air quality operating permit shall include all applicable requirements for all emissions units at a source required to obtain a permit. Nonfederally enforceable requirements and requirements for insignificant emission units shall be included, but shall not be subject to the other requirements of this subchapter except as required in ARM 17.8.1211(3) .
 - (6) Fugitive emissions from a source required to obtain an air quality operating permit shall be included in the permit application and permit in the same manner as stack emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source.
 - (7) The department shall, upon written request of any person, make an informal determination as to whether a particular source, which that person operates or proposes to operate, is subject to the requirements of this subchapter. The request must contain such information as is believed sufficient for the department to make the requested determination. The department may request any additional information that is necessary for informally determining the applicability of this subchapter. The department shall supply any informal applicability determination to the requestor in writing. The department shall notify any person that has received an informal determination of applicability 15 days prior to withdrawal of or any change in that informal determination. An informal determination under this (7) may not be appealed to the board, and does not impair or otherwise limit the opportunity to seek a declaratory ruling under Title 2, chapter 4, part 5, MCA.

Authorizing statute(s): 75-2-217, MCA

Implementing statute(s): 75-2-217, MCA

History: NEW, 1993 MAR p. 2933, Eff. 12/10/93; AMD, 1995 MAR p. 535, Eff. 4/14/95; TRANS, from DHES, 1996 MAR p. 2285; AMD, 2002 MAR p. 3567, Eff. 12/27/02; AMD, 2003 MAR p. 645, Eff. 4/11/03; AMD, 2004 MAR p. 724, Eff. 4/9/04.