



ADMINISTRATIVE RULES OF MONTANA

17.8.1226 ADDITIONAL REQUIREMENTS FOR MINOR AIR QUALITY OPERATING PERMIT MODIFICATIONS

- (1) Minor air quality operating permit modification procedures may be used only for those permit modifications that:
 - (a) do not violate any applicable requirement;
 - (b) do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements or other permit terms that are necessary to enforce applicable emission limitations on emissions units covered by the permit;
 - (c) do not require or change a case-by-case determination of an emission limitation or other standard, a source-specific determination of ambient impacts for temporary sources, or a visibility or increment analysis;
 - (d) are not modifications under any provision of Title I of the FCAA;
 - (e) do not require a Montana air quality permit;
 - (f) are not required by the department to be processed as a significant modification; and
 - (g) do not seek to establish or change a permit term for which there is no corresponding underlying applicable requirement and that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject. Such terms include a federally enforceable emissions cap assumed to avoid classification as a modification under Title I of the FCAA, and an alternative emissions limit approved pursuant to regulations promulgated under section 112(i) (5) of the FCAA.
- (2) Notwithstanding (1) and (7) , minor air quality operating permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in the Montana State Implementation Plan or in applicable requirements promulgated by the administrator.
- (3) An application for a minor permit modification under this rule need only address in detail those portions of the permit application that require revision, updating, supplementation, or deletion, and may reference any required information that has been previously submitted.
- (4) Within five working days of receipt of a complete permit modification application, the department shall meet its obligation under ARM 17.8.1233 to notify the administrator and affected states of the requested permit modification. The department must promptly send any notice required under ARM 17.8.1233 to the administrator.

- (5) The department may not issue a final minor air quality operating permit modification until after the administrator's 45-day review period ends, or until the administrator has notified the department that the administrator will not object to issuance of the permit modification, whichever first occurs, although the department can approve the permit modification prior to that time. Within 90 days of the department's receipt of an application under minor modification procedures or 15 days after the end of the administrator's 45-day review period under ARM 17.8.1233, whichever is later, and after the close of any public comment period, the department shall:
- (a) issue the permit modification as proposed;
 - (b) deny the permit modification application;
 - (c) determine that the requested permit modification does not meet the minor modification criteria and should be reviewed under the significant modification procedures; or
 - (d) revise the draft permit modification and transmit to the administrator the new proposed permit modification as required by ARM 17.8.1233.
- (6) Unless the proposed change requires a Montana air quality permit, the source may make the change proposed in its minor modification application immediately after such application is filed with the department. After the source makes the proposed change, and until the department takes any of the actions specified in (5) , the source must comply with both the applicable requirements governing the change and the proposed permit terms and conditions. During this time period, the source need not comply with the existing permit terms and conditions that it seeks to modify. However, if the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions that it seeks to modify may be enforced against it.
- (7) Consistent with the requirements in this section and (8) through (10) , the department may process groups of a source's applications for certain modifications eligible for minor modification processing. Group processing may be used only for those modifications:
- (a) that meet the criteria for minor modification procedures under (1) ; and
 - (b) that collectively are below 10% of the emissions allowed by the existing air quality operating permit for the emissions unit at which the change is requested, 20% of the applicable definition of major source in ARM 17.8.1201(23) , or five tons per year, whichever is least.
- (8) On a quarterly basis or within five business days of receipt of a permit modification application demonstrating that the aggregate of a source's pending minor permit modification application equals or exceeds the threshold level set under (7) , whichever is earlier, the department must promptly meet its obligation under ARM 17.8.1233 to notify the administrator and affected states of the requested permit modifications. The department shall send any notice required under ARM 17.8.1233 to the administrator.
- (9) The provisions of (5) shall apply to modifications eligible for group processing, except that the department shall take one of the actions specified in (5) (a) through (d) above, within 180 days of receipt of the application or 15 days after the end of the administrator's 45-day review period under ARM 17.8.1233, whichever is later.
- (10) The provisions of (6) shall apply to modifications eligible for group processing.

- (11) The permit shield under ARM 17.8.1214 will not extend to any minor modifications processed pursuant to this rule.
- (12) If the department makes a written determination that a particular modification or type of modification requires public notice, the department shall, consistent with ARM 17.8.1232, provide public notice of a change or changes proposed in a minor permit modification application pursuant to this rule, promptly on the making of the determination, and the department shall provide written notice to the source of the specific reason for such determination. It is the intention of this section that public notice for minor modifications shall not be required as a routine procedure.

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

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

History: NEW, 1993 MAR p. 2933, Eff. 12/10/93; 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.