



ADMINISTRATIVE RULES OF MONTANA

17.8.1214 REQUIREMENTS FOR AIR QUALITY OPERATING PERMIT CONTENT RELATING TO THE PERMIT SHIELD AND EMERGENCIES

- (1) Except as provided in this section, the department shall include in an air quality operating permit a provision stating that compliance with the conditions of the permit shall be deemed compliance with any applicable requirements and any nonfederally enforceable requirements as of the date of permit issuance, provided that:
 - (a) such applicable requirements and nonfederally enforceable requirements are included and are specifically identified in the permit; or
 - (b) the department, in acting on the permit application or revision, determines in writing that other requirements specifically identified are not applicable to the source, and the permit includes the determination or a concise summary thereof.
- (2) An air quality operating permit that does not expressly state that a permit shield extends to specific applicable requirements and to nonfederally enforceable requirements will be presumed not to provide such a shield for those requirements.
- (3) The permit shield described in (1) shall remain in effect during the appeal of any permit action (renewal, revision, reopening, revocation or reissuance) to the board until such time as the board renders its final decision.
- (4) Nothing in (1), (2) or (3) , or in any air quality operating permit affects the following:
 - (a) the provisions of section 303 of the FCAA, including the authority of the administrator under that section;
 - (b) the liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance;
 - (c) the applicable requirements of the acid rain program, consistent with section 408(a) of the FCAA;
 - (d) the ability of the administrator to obtain information from a source pursuant to section 114 of the FCAA;
 - (e) the ability of the department to obtain information from a source pursuant to the Montana Clean Air Act, Title 75, chapter 2, MCA;
 - (f) the emergency powers of the department under the Montana Clean Air Act, Title 75, chapter 2, MCA; or
 - (g) the ability of the department to establish or revise requirements for the use of reasonably available control technology (RACT) as defined in this chapter. However, if the inclusion of a RACT into the permit pursuant to this subchapter is appealed to the board, the permit shield

as it applies to the source's existing permit shall remain in effect until such time as the board has rendered its final decision.

Authorizing statute(s): 75-2-217, 75-2-218, MCA

Implementing statute(s): 75-2-217, 75-2-218, MCA

History: NEW, 1993 MAR p. 2933, Eff. 12/10/93; TRANS, from DHES, 1996 MAR p. 2285; AMD, 2003 MAR p. 645, Eff. 4/11/03; AMD, 2025 MAR, Notice No. 2025-174, Eff. 9/27/25.