



ADMINISTRATIVE RULES OF MONTANA

17.8.749 CONDITIONS FOR ISSUANCE OR DENIAL OF PERMIT

- (1) When the department issues a Montana air quality permit, the permit must authorize the construction and operation of the facility or emitting unit subject to the conditions in the permit and to the requirements of this subchapter. The permit must contain any conditions necessary to assure compliance with the Federal Clean Air Act, with the Clean Air Act of Montana and rules adopted under those acts.
- (2) The permit may contain a schedule for specified permit conditions to become effective, subject to the time limits stated in ARM 17.8.762 . The department may extend a deadline specified in the schedule, but an extension may not exceed five years.
- (3) A Montana air quality permit may not be issued for a new or modified facility or emitting unit unless the applicant demonstrates that the facility or emitting unit can be expected to operate in compliance with the Clean Air Act of Montana and rules adopted under that Act, the Federal Clean Air Act and rules promulgated under that Act (as incorporated by reference in ARM 17.8.767) , and any applicable requirement contained in the Montana State Implementation Plan (as incorporated by reference in ARM 17.8.767) , and that it will not cause or contribute to a violation of any Montana or national ambient air quality standard.
- (4) The department shall issue a Montana air quality permit for the following unless the department demonstrates that the emitting unit is not expected to operate in compliance with applicable rules, standards, or other requirements:
 - (a) emitting units constructed or installed between November 23, 1968, and March 16, 1979; and
 - (b) emitting units constructed or installed before November 23, 1968, and modified between November 23, 1968, and March 16, 1979.
- (5) In a Montana air quality permit, the department shall identify those conditions that are derived from state law, and are not derived from the Federal Clean Air Act, 42 U.S.C. 7401, et seq., the Montana State Implementation Plan, or other federal air quality requirements. Compliance with these conditions is not required by the state implementation plan, and is not necessary for attainment or maintenance of federal ambient air quality standards. These conditions must be identified in the permit as "state-only," and are not intended by the department to be enforceable under federal law.
- (6) Nothing in this subchapter obligates the department to issue a Montana air quality permit. The department may subsequently order cessation of initial construction activities, decide not to issue the permit, or issue a permit that diminishes or renders useless the value of work completed prior to permit issuance.

- (7) If the department denies an application for a Montana air quality permit it shall notify the applicant in writing of the reasons for the permit denial and advise the applicant of the right to appeal the department's decision to the board as provided in 75-2-211 or 75-2-213, MCA, as applicable.
- (8) If the department denies an application for a Montana air quality permit, it may not accept any further air quality permit application from the owner or operator for that project for which the permit was sought until:
 - (a) the time for requesting a hearing before the board has expired; or
 - (b) if a hearing before the board is requested, the board has issued a final decision in the matter; or
 - (c) the applicant has submitted additional information in writing that adequately addresses the reasons for denial.

Authorizing statute(s): 75-2-111, 75-2-204, MCA

Implementing statute(s): 75-2-211, MCA

History: NEW, 2002 MAR p. 3567, Eff. 12/27/02; AMD, 2003 MAR p. 2272, Eff. 10/17/03; AMD, 2016 MAR p. 1164, Eff. 7/9/16.