



ADMINISTRATIVE RULES OF MONTANA

17.8.901 DEFINITIONS

In this subchapter the following definitions apply:

- (1) "Actual emissions" means the actual rate of emissions of a pollutant from an emissions unit as determined in accordance with (1) (a) through (c) .
 - (a) Actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The department may determine that a different time is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.
 - (b) If the department is unable to determine actual emissions consistent with (1) (a) , the department may presume that the source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.
 - (c) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.
- (2) "Allowable emissions" means the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable limits which restrict the operating rate or hours of operation, or both) and the most stringent of the following:
 - (a) the applicable standards as set forth in ARM 17.8.340 or 17.8.341;
 - (b) the applicable emissions limitation contained in the Montana State Implementation Plan, including those with a future compliance date; or
 - (c) the emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.
- (3) "Begin actual construction" means, in general, initiation of physical on-site construction activities of a permanent nature on an emissions unit. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.
- (4) "Building, structure, facility, or installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent

properties, and are under the control of the same person (or persons under common control) , except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same major group (i.e., having the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.

- (5) "Commence", as applied to construction of a major stationary source or major modification, means that the owner or operator has all necessary preconstruction approvals or permits and either has:
 - (a) begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or
 - (b) entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.
- (6) "Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.
- (7) "Emissions unit" means any part of a stationary source which emits or would have the potential to emit any pollutant subject to regulation under the FCAA.
- (8) "Federally enforceable" means all limitations and conditions which are enforceable by the administrator, including those requirements developed pursuant to 40 CFR Parts 60 and 61, requirements within the Montana State Implementation Plan, and any permit requirement established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, subpart I, including operating permits issued under an EPA-approved program that is incorporated into the Montana State Implementation Plan and expressly requires adherence to any permit issued under such program.
- (9) "Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.
- (10) "Lowest achievable emission rate" means, for any source, the more stringent rate of emissions based on the following:
 - (a) the most stringent emissions limitation which is contained in the implementation plan of any state for such class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that such limitations are not achievable; or
 - (b) the most stringent emissions limitation which is achieved in practice by such class or category of stationary sources. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within a stationary source. In no event shall the application of the term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under applicable new source standards of performance under 40 CFR Parts 60 and 61.
- (11) "Major modification" means any physical change in, or change in the method of, operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the FCAA.
 - (a) Any net emissions increase that is considered significant for volatile organic compounds is considered significant for ozone.

- (b) A physical change in, or change in the method of, operation does not include:
 - (i) routine maintenance, repair, and replacement;
 - (ii) use of an alternative fuel or raw material by reason of an order under (2)(a) and (2)(b) of the Energy Supply and Environmental Coordination Act of 1974, 15 USC 791, et seq. (1988), or by reason of a natural gas curtailment plan pursuant to the Federal Power Act, 16 USC 791a, et seq. (1988 and Supp. III 1991);
 - (iii) use of an alternative fuel by reason of an order or rule under section 125 of the FCAA;
 - (iv) use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;
 - (v) use of an alternative fuel or raw material by a stationary source which:
 - (A) the source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit condition which was established after December 12, 1976, pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, subpart I, or section 51.166; or
 - (B) the source is approved to use under any permit issued under regulations approved pursuant to 40 CFR 51.165;
 - (vi) an increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable air quality preconstruction permit condition which was established after December 21, 1976 pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, subpart I, or section 51.166;
 - (vii) any change in ownership at a stationary source.

(12) The following apply to the definition of the term "major stationary source":

- (a) "major stationary source" means:
 - (i) any stationary source of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation under the FCAA; or
 - (ii) any stationary source of air pollutants located in a serious particulate matter (PM-10) nonattainment area which emits, or has the potential to emit, 70 tons per year or more of PM-10; or
 - (iii) any physical change that would occur at a stationary source not qualifying under (12)(a)(i) or (ii) as a major stationary source, if the change would constitute a major stationary source by itself.
- (b) The fugitive emissions of a stationary source will not be included in determining, for any of the purposes of this subchapter, whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:
 - (i) coal cleaning plants (with thermal dryers) ;
 - (ii) kraft pulp mills;
 - (iii) Portland cement plants;

- (iv) primary zinc smelters;
- (v) iron and steel mills;
- (vi) primary aluminum ore reduction plants;
- (vii) primary copper smelters;
- (viii) municipal incinerators capable of charging more than 250 tons of refuse per day;
- (ix) hydrofluoric, sulfuric, or nitric acid plants;
- (x) petroleum refineries;
- (xi) lime plants;
- (xii) phosphate rock processing plants;
- (xiii) coke oven batteries;
- (xiv) sulfur recovery plants;
- (xv) carbon black plants (furnace process) ;
- (xvi) primary lead smelters;
- (xvii) fuel conversion plants;
- (xviii) sintering plants;
- (xix) secondary metal production plants;
- (xx) chemical process plants;
- (xxi) fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;
- (xxii) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (xxiii) taconite ore processing plants;
- (xxiv) glass fiber processing plants;
- (xxv) charcoal production plants;
- (xxvi) fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; and
- (xxvii) any other stationary source category which, as of August 7, 1980, is being regulated under sections 111 or 112 of the FCAA.

(13) "Necessary preconstruction approvals or permits" means those permits or approvals required under federal air quality control laws and regulations and those air quality control laws and regulations which are part of the Montana State Implementation Plan.

(14) The following apply to the definition of the term "net emissions increase":

- (a) "net emissions increase" means the amount by which the sum of the following exceeds zero:

- (i) any increase in actual emissions from a particular physical change or change in the method of operation at a stationary source; and
 - (ii) any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.
 - (b) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between the date five years before construction on the particular change commenced, and the date that the increase from the particular change occurs.
 - (c) An increase or decrease in actual emissions is creditable only if the department has not relied on it in issuing a permit for the source under regulations approved pursuant to 40 CFR 51.165, which permit is in effect when the increase in actual emissions from the particular change occurs.
 - (d) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.
 - (e) A decrease in actual emissions is creditable only to the extent that:
 - (i) the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;
 - (ii) it is federally enforceable at and after the time that actual construction on the particular change begins;
 - (iii) the department has not relied on it in issuing any Montana air quality permit under regulations approved pursuant to 40 CFR Part 51, subpart I (July 1, 1993 ed.), or the state has not relied on it in demonstrating attainment or reasonable further progress; and
 - (iv) it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.
 - (f) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.
- (15) "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.
- (16) "Precursor" means:
- (a) volatile organic compounds and nitrogen oxides in ozone nonattainment areas; and
 - (b) sulfur dioxide (SO₂) in PM-2.5 nonattainment areas.

- (17) "Reasonable further progress" means annual incremental reductions in emissions of the applicable air pollutant which are required by the FCAA or the administrator for attainment of the applicable national ambient air quality standard by the date required in section 172(a) of the FCAA.
- (18) "Secondary emissions" means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of this chapter, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.
- (19) "Significant" means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant Emission Rate

Carbon monoxide:	100 tons per year (tpy)
Nitrogen oxides:	40 tpy
Sulfur dioxide (SO ₂):	40 tpy
Particulate matter:	25 tpy of particulate matter emissions or 15 tpy of PM-10 emissions
PM-2.5	10 tpy of direct PM-2.5 emissions, 40 tpy of sulfur dioxide (SO ₂) emissions, or 40 tpy of nitrogen oxide emissions unless demonstrated not to be a PM-2.5 precursor
Lead:	0.6 tpy

- (20) "Stationary source" means any building, structure, facility, or installation which emits or may emit any air pollutant subject to regulation under the FCAA.
- (21) "Volatile organic compounds (VOC)" means the same as defined in 40 CFR 51.100(s).

Implementing statute(s): 75-2-202, 75-2-203, 75-2-204, MCA

History: NEW, 1993 MAR p. 2919, Eff. 12/10/93; AMD, 1995 MAR p. 2410, Eff. 11/10/95; AMD, 1996 MAR p. 1843, Eff. 7/4/96; AMD, 1996 MAR p. 1844, Eff. 7/4/96; TRANS, from DHES, 1996 MAR p. 2285; AMD, 1998 MAR p. 1725, Eff. 6/26/98; AMD, 2002 MAR p. 1747, Eff. 6/28/02; AMD, 2002 MAR p. 3567, Eff. 12/27/02; AMD, 2003 MAR p. 645, Eff. 4/11/03; AMD, 2007 MAR p. 1663, Eff. 10/26/07; AMD, 2008 MAR p. 2267, Eff. 10/24/08; AMD, 2011 MAR p. 2134, Eff. 10/14/11.