



ADMINISTRATIVE RULES OF MONTANA



17.8.1201 DEFINITIONS

In this subchapter, unless indicated otherwise, the following definitions apply:

- (1) "Administrative permit amendment" means an air quality operating permit revision that:
 - (a) corrects typographical errors;
 - (b) identifies a change in the name, address, or phone number of any person identified in the air quality operating permit, or identifies a similar minor administrative change at the source;
 - (c) requires more frequent monitoring or reporting by the permittee;
 - (d) allows for a change in ownership or operational control of a source if the department has determined that no other change in the air quality operating permit is necessary, consistent with ARM 17.8.1225; or
 - (e) incorporates any other type of change which the department and EPA have determined to be similar to those revisions set forth in (1)(a) through (d).
- (2) "Affected source" means a source that includes one or more affected units under Title IV of the FCAA.
- (3) "Affected states" means all states that are:
 - (a) contiguous to Montana and whose air quality may be affected by a source requiring an air quality operating permit, permit modification, or permit renewal; or
 - (b) within 50 miles of a source requiring an air quality operating permit, permit modification, or permit renewal.
- (4) "Affected unit" means a unit that is subject to emission reduction requirements or limitations under Title IV of the FCAA.
- (5) "Air quality operating permit" or "permit" means any permit or group of permits issued, renewed, revised, amended, or modified pursuant to this subchapter.
- (6) "Air quality operating permit modification" or "permit modification" means a revision to an air quality operating permit that does not meet the definition of an administrative permit amendment under this subchapter.
- (7) "Air quality operating permit renewal" or "permit renewal" means the process by which an air quality operating permit is reissued at the end of its term.

- (8) "Air quality permit revision" or "permit revision" means any air quality operating permit modification or administrative permit amendment.
- (9) "Montana air quality permit" means a permit issued, altered, or modified pursuant to subchapters 7, 8, 9, or 10 of this chapter.
- (10) "Applicable requirement" means all of the following as they apply to emissions units in a source requiring an air quality operating permit (including requirements that have been promulgated or approved by the department or the administrator through rulemaking at the time of issuance of the air quality operating permit, but have future-effective compliance dates, provided that such requirements apply to sources covered under the operating permit) :
- (a) any standard, rule, or other requirement, including any requirement contained in a consent decree or judicial or administrative order entered into or issued by the department, that is contained in the Montana State Implementation Plan approved or promulgated by the administrator through rulemaking under Title I of the FCAA;
 - (b) any federally enforceable term, condition or other requirement of any Montana air quality permit issued by the department under subchapters 7, 8, 9, and 10 of this chapter, or pursuant to regulations approved or promulgated through rulemaking under Title I of the FCAA, including parts C and D;
 - (c) any requirement under section 111 of the FCAA;
 - (d) any requirement under section 112 of the FCAA, including any requirement concerning accident prevention under section 112(r) (7) , but excluding the contents of any risk management plan required under section 112(r) ;
 - (e) any standard or other requirement of the acid rain program under Title IV of the FCAA or regulations promulgated thereunder;
 - (f) any requirements established pursuant to section 504(b) or section 114(a) (3) of the FCAA;
 - (g) any requirement governing solid waste incineration, under section 129 of the FCAA;
 - (h) any requirement for consumer and commercial products, under section 183(e) of the FCAA;
 - (i) any requirement for tank vessels, under section 183(f) of the FCAA;
 - (j) any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the FCAA, unless the administrator determines that such requirements need not be contained in an air quality operating permit;
 - (k) any national ambient air quality standard, increment, or visibility requirement under part C of Title I of the FCAA, but only as it would apply to temporary sources permitted pursuant to section 504(e) of the FCAA; or
 - (l) any federally enforceable term or condition of any air quality open burning permit issued by the department under subchapter 6.
- (11) "Designated representative" means a responsible person or official authorized by the owner or operator of an affected source and of all affected units at the source, to represent and legally bind each owner and operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a source, and the submission of and compliance with permits, permit applications, and compliance plans for the unit and all other matters pertaining to Title IV of the

FCAA. Proof of such status shall be evidenced by a certificate of representation submitted pursuant to subpart B of 40 CFR Part 72, specifically 40 CFR 72.24 (58 FR 3590, January 11, 1993) .

- (12) "Draft air quality operating permit" or "draft permit" means the version of an air quality operating permit which the department offers for public participation under ARM 17.8.1232 or affected state review under ARM 17.8.1233.
- (13) "Emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, which situation requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the air quality operating permit due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of reasonable preventative maintenance, careless or improper operation, or operator error.
- (14) "Emissions allowable under the permit" means a federally enforceable air quality operating permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or a federally enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.
- (15) "Emissions unit" means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any pollutant listed under section 112(b) of the FCAA. This term is not meant to alter or affect the definition of the term "unit" for purposes of Title IV of the FCAA.
- (16) "FCAA" means the Federal Clean Air Act, as amended.
- (17) "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.
- (18) "Final air quality operating permit" or "final permit" means the version of an air quality operating permit issued by the department that has completed all review procedures required by ARM 17.8.1220 through 17.8.1228, and 17.8.1231 through 17.8.1233.
- (19) "Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.
- (20) "General air quality operating permit" or "general permit" means an air quality operating permit that meets the requirements of ARM 17.8.1222, covers multiple sources in a source category, and is issued in lieu of individual permits being issued to each source.
- (21) "Hazardous air pollutant" means any air pollutant listed as a hazardous air pollutant pursuant to section 112(b) of the FCAA.
- (22) The following apply to the definition of the term "insignificant emissions unit":
 - (a) "insignificant emissions unit" means any activity or emissions unit located within a source that:
 - (i) has a potential to emit less than five tons per year of any regulated pollutant;

- (ii) has a potential to emit less than 500 pounds per year of lead;
 - (iii) has a potential to emit less than 500 pounds per year of hazardous air pollutants listed pursuant to section 112(b) of the FCAA; and
 - (iv) is not regulated by an applicable requirement, other than a generally applicable requirement that applies to all emission units subject to this subchapter.
 - (b) Fugitive sources associated with an emissions unit are to be quantified with that emissions unit and are not considered insignificant emission units.
- (23) "Major source" means any stationary source (or any group of stationary sources that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons under common control)) belonging to a single major industrial grouping and that are described in (23)(a) through (c). For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same major group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987.
- (a) A major source under section 112 of the FCAA, which is defined as:
 - (i) for pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, ten tons per year or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the FCAA, 25 tons per year or more of any combination of such hazardous air pollutants, or such lesser quantity as the department may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station are not aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or
 - (ii) for radionuclides, "major source" shall have the meaning specified by the department by rule.
 - (b) A major stationary source of air pollutants that directly emits or has the potential to emit, 100 tons per year or more of any air pollutant. The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source, unless the source belongs to one of the following categories of stationary source:
 - (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 plant;
- (xviii) sintering plants;
- (xix) secondary metal production plants;
- (xx) chemical process plants;
- (xxi) fossil-fuel boilers (or combination thereof) totalling 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; or
- (xxvii) any other stationary source category, which as of August 7, 1980, is being regulated under section 111 or 112 of the FCAA.

- (c) For particulate matter (PM-10) nonattainment areas classified as "serious" under Title I of the FCAA or regulations promulgated thereunder, sources with the potential to emit 70 tons per year or more of PM-10.

(24) The following apply to the definition of the term "nonfederally enforceable requirement":

- (a) "nonfederally enforceable requirement" means, as applicable to emissions units in a source requiring an air quality operating permit, any requirement, including any requirement contained in a consent decree, or judicial or administrative order entered into or issued by the department, that is not contained in the Montana State Implementation Plan approved or promulgated by the administrator through rulemaking under Title I of the FCAA;
- (b) "nonfederally enforceable requirement" does not include any Montana ambient air quality standard contained in subchapter 2 of this chapter.

- (25) "Permittee" means the owner or operator of any source subject to the permitting requirements of this subchapter, as provided in ARM 17.8.1204, that holds a valid air quality operating permit or has submitted a timely and complete permit application for issuance, renewal, amendment, or modification pursuant to this subchapter.
- (26) "Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air 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 is federally enforceable. As used in this subchapter, this definition does not alter the use of this term for any other purposes under the FCAA, or the term "capacity factor" as used in Title IV of the FCAA or rules promulgated thereunder.
- (27) "Proposed air quality operating permit" or "proposed permit" means the version of an air quality operating permit that the department proposes to issue and forwards to the administrator for review in compliance with ARM 17.8.1233. This includes any final permit which has been appealed to the Board of Environmental Review, if the board has directed the department to issue a permit that differs from the proposed permit previously forwarded to the administrator for review in compliance with ARM 17.8.1233.
- (28) "Regulated air pollutant" means the following:
- (a) nitrogen oxides or any volatile organic compounds;
 - (b) any pollutant for which a national ambient air quality standard has been promulgated;
 - (c) any pollutant that is subject to any standard promulgated under section 111 of the FCAA;
 - (d) any Class I or II substance subject to a standard promulgated under or established by Title VI of the FCAA; or
 - (e) any pollutant subject to a requirement established or promulgated under section 112 of the FCAA including, but not limited to, the following:
 - (i) any pollutant subject to requirements under section 112(j) of the FCAA. If the administrator fails to promulgate a standard by the date established pursuant to section 112(e) of the FCAA, any pollutant for which a subject source would be major is considered to be regulated on the date 18 months after the applicable date established pursuant to section 112(e) of the FCAA; and
 - (ii) any pollutant for which the requirements of section 112(g) (2) of the FCAA have been met, but only with respect to the individual source subject to the section 112(g) (2) requirement.
- (29) "Responsible official" means one of the following:
- (a) For a corporation:
 - (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function;
 - (ii) any other person who performs similar policy or decision-making functions for the corporation; or

- (iii) a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:
 - (A) the facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars) ; or
 - (B) the delegation of authority to such representative is approved in advance by the department.
 - (b) For a partnership or sole proprietorship, a general partner or the proprietor, respectively.
 - (c) For a municipality, state, federal, or other public agency:
 - (i) a ranking elected official; or
 - (ii) a principal executive officer. A principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a regional administrator of the Environmental Protection Agency) .
 - (d) For affected sources, the designated representative concerning actions, standards, requirements, or prohibitions under Title IV of the FCAA or the regulations promulgated thereunder, and the designated representative for any other purposes under this subchapter.
- (30) "Section 502(b)(10) changes" are changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.
 - (31) "Source requiring an air quality operating permit" means any source subject to the permitting requirements of this subchapter, as provided in ARM 17.8.1204.
 - (32) "State" means any nonfederal air quality permitting authority, including any local agency, interstate association, or statewide program. Where such meaning is clear from the context, "state" shall have its conventional meaning.
 - (33) "Stationary source" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under section 112(b) of the FCAA.

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

Implementing statute(s): 75-2-217, 75-2-218, 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, 1998 MAR p. 350, Eff. 1/30/98; AMD, 2000 MAR p. 838, Eff. 3/31/00; AMD, 2002 MAR p. 2195, Eff. 8/16/02; 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; AMD, 2007 MAR p. 1663, Eff. 10/26/07; AMD, 2008 MAR p. 2267, Eff. 10/24/08; AMD, 2024 MAR p. 253, Eff. 2/10/24.