



ADMINISTRATIVE RULES OF MONTANA



17.8.1210 GENERAL REQUIREMENTS FOR AIR QUALITY OPERATING PERMIT CONTENT

- (1) Each air quality operating permit shall contain the following general information:
 - (a) name and mailing address of permittee;
 - (b) type of operation;
 - (c) permit milestone dates including, the date the permit application was received, the date the permit application was deemed complete, the date the draft permit was issued, the date the proposed permit was issued, the date the final permit was issued and the permit expiration date;
 - (d) permit number; and
 - (e) name of the designated representative.
- (2) The following standard terms and conditions are applicable to each air quality operating permit issued pursuant to this subchapter:
 - (a) The permittee must comply with all conditions of the permit. Any noncompliance with the terms or conditions of a permit constitutes a violation of the Montana Clean Air Act, and may result in enforcement action, operating permit modification, revocation and reissuance, or termination, or denial of a permit renewal application under this subchapter. Permits may be modified, reopened, terminated or revoked and reissued for cause. Appropriate "cause" for permit termination is noncompliance with permit terms or conditions that is continuing or substantial in nature and scope.
 - (b) It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit. If appropriate, this factor may be considered as a mitigating factor in assessing a penalty for noncompliance with an applicable requirement if the source demonstrates both that the health, safety, or environmental impacts of halting or reducing operations would be more serious than the impacts of continuing operations, and that such health, safety, or environmental impacts were unforeseeable and could not have otherwise been avoided.
 - (c) The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.
 - (d) The permit does not convey any property rights of any sort, or any exclusive privilege.

- (e) The permittee shall furnish to the department, within a reasonable time set by the department (not to be less than 15 days) , any information that the department may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit, or to determine compliance with the permit. Upon request, the permittee shall also furnish to the department copies of those records that are required to be kept pursuant to the terms of the permit. This subsection does not impair or otherwise limit the right of the permittee to assert the confidentiality of the information requested by the department, as provided in 75-2-105 , MCA.
 - (f) A permittee must pay application and operating permit fees as a condition of the permit, pursuant to subchapter 5.
 - (g) Permits under this subchapter will be issued for a fixed term of five years.
 - (h) If a timely and complete permit application for permit renewal has been submitted, and consistent with the operation of the application shield pursuant to ARM 17.8.1221, the existing permit and all terms and conditions contained therein will not expire until the permit renewal has been issued or denied.
 - (i) The administrative appeal or subsequent judicial review of the issuance by the department of an initial permit under this subchapter shall not impair in any manner the underlying applicability of all applicable requirements, and such requirements continue to apply to the source as if a final permit decision had not been reached by the department.
 - (j) The department's final decision regarding issuance, renewal, revision, denial, revocation, reissuance, or termination of a permit is not effective until 30 days have elapsed from the date of the decision. The decision may be appealed to the board by filing a request for hearing within 30 days after the date of the decision. A copy of the request shall be served on the department. The filing of a request for a hearing does not stay the effective date of the department's decision. However, the board may order a stay as provided in 75-2-218, MCA. If effective, the permit shield, or application shield, as appropriate, shall remain in effect until such time as the board has rendered a final decision.
 - (k) The denial by the department of an application for permit issuance, renewal or revision under this subchapter which is the result of an objection by the administrator may not be appealed to the board. This shall not impair any separate right an applicant or the department may have under state or federal law to challenge an objection by the administrator.
 - (l) If any provision of a permit is found to be invalid, all valid parts that are severable from the invalid part remain in effect. If a provision of a permit is invalid in one or more of its applications, the provision remains in effect in all valid applications that are severable from the invalid applications.
- (3) The following additional standard terms and conditions are applicable to each air quality operating permit issued to an affected source:
- (a) Emissions shall not be permitted in excess of any allowances that the source lawfully holds under Title IV of the FCAA or the regulations promulgated thereunder.
 - (b) No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement.

- (c) No limit shall be placed in the permit on the number of allowances held by the source. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement.
 - (d) Any allowances shall be accounted for according to the procedures established in regulations promulgated under Title IV of the FCAA.
- (4) Each general air quality operating permit shall contain provisions regarding the following standard terms and conditions:
- (a) Compliance shall be required with all requirements applicable to other air quality operating permits.
 - (b) The criteria by which sources may qualify for the general permit shall be set forth.
- (5) Each air quality operating permit issued to temporary sources shall contain provisions regarding the following standard terms and conditions:
- (a) Conditions that assure compliance with all applicable requirements at all authorized locations.
 - (b) Requirements that the owner or operator notify the department at least ten days in advance of each change in location.
 - (c) Conditions that assure compliance with all other provisions of this chapter.

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, 1998 MAR p. 350, Eff. 1/30/98; AMD, 2016 MAR p. 1164, Eff. 7/9/16.