



ADMINISTRATIVE RULES OF MONTANA



17.8.110 MALFUNCTIONS

- (1) "Malfunction" means any sudden and unavoidable failure to operate in a normal manner by air pollution control equipment, process equipment, or a process that affects emissions. A failure caused entirely or in part by poor maintenance, careless operation, poor design, or any other preventable upset condition or preventable equipment breakdown is not a malfunction.
- (2) The department must be notified promptly by telephone whenever a malfunction occurs that is expected to create emissions in excess of any applicable emission limitation, or to continue for a period greater than four hours. If telephone notification is not immediately possible, notification at the beginning of the next working day is acceptable. The notification must include the following information:
 - (a) identification of the emission points and equipment causing the excess emissions;
 - (b) magnitude, nature, and cause of the excess emissions;
 - (c) to the extent known, time and duration of the excess emissions;
 - (d) description of the corrective actions taken or expected to be taken to remedy the malfunction and to limit the excess emissions;
 - (e) information sufficient to assure the department that the failure to operate in a normal manner by the air pollution control equipment, process equipment, or processes was not caused entirely or in part by poor maintenance, careless operation, poor design, or any other preventable upset condition or preventable equipment breakdown; and
 - (f) readings from any continuous emission monitor on the emission point and readings from any ambient monitors near the emission point.
- (3) Upon receipt of notification pursuant to (2) , the department shall promptly investigate and determine whether a malfunction has occurred.
- (4) If a malfunction occurs and creates emissions in excess of any applicable emission limitation, the department may elect to take no enforcement action if:
 - (a) the owner or operator of the source provided the notification required by (2) ;
 - (b) the malfunction did not interfere with the attainment and maintenance of any state or federal ambient air quality standard; and
 - (c) the owner or operator of the source immediately took appropriate corrective measures.
- (5) Within one week after a malfunction has been corrected, the owner or operator must submit a written report to the department that includes:

- (a) a statement that the malfunction has been corrected, the date of correction, and proof of compliance with all applicable air quality standards contained in this chapter or a statement that the source is planning to install or has installed temporary replacement equipment in accordance with the requirements of (7) ;
 - (b) a statement of the specific cause of the malfunction;
 - (c) a description of any preventive measures taken and/or to be taken; and
 - (d) a statement affirming that the failure to operate in a normal manner by the air pollution control equipment, process equipment, or processes was not caused entirely or in part by poor maintenance, careless operation, poor design, or any other preventable upset condition or preventable equipment breakdown.
- (6) The burden of proof is on the owner or operator of the source to provide sufficient information to demonstrate that a malfunction occurred.
- (7) Malfunctioning process or emission control equipment may be temporarily replaced without obtaining a Montana air quality permit under the requirements of ARM Title 17, chapter 8, subchapter 7, if:
- (a) the department has been notified of the malfunction in compliance with the requirements of (2) ; and
 - (b) continued operation or non-operation of the malfunctioning equipment would:
 - (i) create a health or safety hazard for the public;
 - (ii) cause a violation of any applicable air quality rule;
 - (iii) damage other process or control equipment; or
 - (iv) cause a source to lay-off or suspend a substantial portion of its work force for an extended period.
- (8) If construction, installation, or use of temporary replacement equipment under (7) constitutes a major modification and subjects a major stationary source to the requirements of ARM Title 17, chapter 8, subchapters 8, 9, or 10, the source must comply with the requirements of the applicable subchapter prior to construction, installation, or use of the temporary replacement equipment.
- (9) Any source that constructs, installs, or uses temporary replacement equipment under (7) shall comply with the following conditions:
- (a) Prior to operation of the temporary replacement equipment, the source shall notify the department in writing of its intent to construct, install, or use temporary replacement equipment.
 - (b) Prior to operation of the temporary replacement equipment, the source shall demonstrate to the department that the estimated actual emissions from the temporary replacement equipment, operating at its maximum expected operating rate, are no greater than the potential to emit of the malfunctioning process or control equipment prior to the malfunction.

- (c) The source shall record, and report to the department at its request, operating information sufficient to demonstrate that the temporary replacement equipment operated within the maximum expected operating rate.
- (d) The temporary replacement equipment and the malfunctioning process or emission control equipment may not be operated simultaneously, except during a brief shakedown period or as otherwise approved in writing by the department.
- (e) The temporary replacement equipment must be removed or rendered inoperable within 180 days after initial startup of the temporary replacement equipment, or within 30 days after startup of the repaired malfunctioning process or emission control equipment, whichever is earlier, unless the source has submitted to the department an application for a Montana air quality permit for the temporary replacement equipment or the department has approved a plan for removing the temporary replacement equipment or rendering the temporary replacement equipment inoperable by a specific date.

Authorizing statute(s): 75-2-111, 75-2-203, MCA

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

History: NEW, 1982 MAR p. 1201, Eff. 6/18/82; AMD, 1995 MAR p. 2411, Eff. 11/10/95; TRANS, from DHES, 1996 MAR p. 2285; AMD, 2002 MAR p. 3567, Eff. 12/27/02; AMD, 2003 MAR p. 645, Eff. 4/11/03.