



## ADMINISTRATIVE RULES OF MONTANA



### 17.8.1220 AIR QUALITY OPERATING PERMIT ISSUANCE, RENEWAL, REOPENING, AND MODIFICATION

- (1) An air quality operating permit, permit modification, or permit renewal may be issued only if all of the following conditions have been met:
  - (a) the department has received a complete application for a permit, permit revision, or permit renewal (applications for permit renewal or revision need only address those portions of the source that have or are proposed to be changed per the requirements of ARM 17.8.1205(3) (a) ) ;
  - (b) the department has complied with the requirements for public participation under ARM 17.8.1232;
  - (c) the department has complied with the requirements for notifying and responding to affected states under ARM 17.8.1233;
  - (d) the conditions of the permit provide for compliance with all applicable requirements and the requirements of this part; and
  - (e) the administrator has received a copy of the proposed permit, all necessary supporting documentation, and any notices required under ARM 17.8.1233, and has not objected to issuance of the permit under 17.8.1233 within 45 days of receipt of the proposed permit and all necessary supporting documentation; and
  - (f) if the administrator objects to the issuance of a permit, the department shall, within seven days of receipt of the administrator's objection, send the permit applicant a copy of the objection and any statement received from the administrator.
- (2) Except as provided under the initial transition plan, (3) , or under regulations promulgated under Title IV or Title V of the FCAA for the permitting of affected sources under the acid rain program, the department shall take final action on each air quality operating permit application (including a request for permit modification or renewal) within 18 months of receiving a complete application.
- (3) The department shall take final action on at least one-third of all air quality operating permit applications received during the initial transition period annually for a period of three years following approval of the permit program by the administrator.
- (4) Within nine months after receiving a complete application, the department shall take final action on an air quality operating permit application containing an early reduction demonstration that has been approved by the administrator under section 112(i) (5) of the FCAA.
- (5) The department shall ensure priority is given to taking action on Montana air quality permit applications for construction or modification submitted pursuant to subchapters 7, 8, 9, and 10 of this chapter.

- (6) Upon filing, the department shall promptly make a determination as to whether the application is administratively complete, as provided for in ARM 17.8.1205(3) . The department shall provide notice to the applicant of whether the air quality operating permit application is substantively complete. Unless the department requests additional information or otherwise notifies the applicant of substantive incompleteness within 60 days of receipt of a permit application, the application shall be deemed complete. For modifications processed through the minor modification procedures contained in ARM 17.8.1226, the department does not have to provide a completeness determination.
- (7) Within 30 days of receipt of a notice of substantive incompleteness, the source shall submit a response to the department supplying the requested information. The department may extend this time period upon request. If a response is not received within this time period the application shall be considered withdrawn, and may be resubmitted. The department shall notify the applicant in writing within 60 days thereafter if the application is still substantively incomplete. This, and any subsequent incomplete notice shall follow the same form and requirements as the original incomplete notice.
- (8) The department shall provide a statement that sets forth the legal and factual basis for the draft air quality operating permit conditions (including references to the applicable statutory or regulatory provisions) . The department shall send this statement to the administrator and to any other person who requests it.
- (9) The submittal of a complete air quality operating permit application does not affect a requirement that a source obtain a Montana air quality permit prior to commencement of construction under subchapters 7, 8, 9, or 10 of this chapter.
- (10) An air quality operating permit modification for purposes of the acid rain portion of the permit shall be governed by regulations promulgated under Title IV of the FCAA.
- (11) The renewal of an air quality operating permit is subject to the same procedural requirements that apply to permit issuance, including those for applications, content, public participation, and affected state and administrator review.
- (12) Expiration of an air quality operating permit terminates the source's right to operate unless a timely and administratively complete permit renewal application has been submitted consistent with ARM 17.8.1205(2) (d) and 17.8.1221. If a timely and administratively complete application has been submitted all terms and conditions of the permit, including the application shield, remain in effect after the permit expires.
- (13) The department shall provide a minimum of 30 days advance written notice to the holder of an air quality operating permit of the department's intent to revoke and reissue the permit or deny the permit renewal application. The notice of intent may not be appealed to the board. The department's final decision to revoke and reissue or deny renewal becomes effective and may be appealed to the board as provided for in ARM 17.8.1210(2) (j) . The permit shield described in ARM 17.8.1214(1) shall remain in effect during any appeal of the department's decision to deny renewal or revoke and reissue to the board until such time as the board renders its final decision. Nothing in this section shall limit the emergency powers of the department under the Montana Clean Air Act, Title 75, chapter 2, MCA.

**Implementing statute(s):** 75-2-217, 75-2-218, MCA

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**History:** NEW, 1993 MAR p. 2933, Eff. 12/10/93; 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.