



ADMINISTRATIVE RULES OF MONTANA



17.30.1350 SCHEDULES OF COMPLIANCE

- (1) The permit may, when appropriate, specify a schedule of compliance leading to compliance with the Act and rules adopted thereunder.
 - (a) Any schedules of compliance under this rule must require compliance as soon as possible, but not later than any applicable statutory deadline under the Act or under the federal Clean Water Act.
 - (b) The first MPDES permit issued to a new source or a new discharger must contain a schedule of compliance only when necessary to allow a reasonable opportunity to attain compliance with requirements issued or revised after commencement of construction but less than three years before commencement of the relevant discharge. For recommencing dischargers, a schedule of compliance must be available only when necessary to allow a reasonable opportunity to attain compliance with requirements issued or revised less than three years before recommencement of discharge.
 - (c) Except as provided in (2)(a)(ii), if a permit establishes a schedule of compliance which exceeds one year from the date of permit issuance, the schedule must set forth interim requirements and the dates for their achievement.
 - (i) The time between interim dates may not exceed one year.
 - (ii) If the time necessary for completion of any interim requirement (such as the construction of a control facility) is more than one year and is not readily divisible into stages for completion, the permit must specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.
 - (d) The permit must be written to require that no later than 14 days following each interim date and the final date of compliance, the permittee shall notify the department in writing of its compliance or noncompliance with the interim or final requirements, or submit progress reports if (c)(ii) is applicable.
- (2) An MPDES permit applicant or permittee may cease conducting regulated activities (by terminating of direct discharge for MPDES sources) rather than continuing to operate and meet permit requirements as follows:
 - (a) If the permittee decides to cease conducting regulated activities at a given time within the term of a permit which has already been issued:
 - (i) the permit may be modified to contain a new or additional schedule leading to timely cessation of activities; or

- (ii) the permittee shall cease conducting permitted activities before noncompliance with any interim or final compliance schedule requirement already specified in the permit.
- (b) If the decision to cease conducting regulated activities is made before issuance of a permit whose term includes the termination date, the permit must contain a schedule leading to termination which will ensure timely compliance with applicable requirements no later than the statutory deadline.
- (c) If the permittee is undecided whether to cease conducting regulated activities, the department may issue or modify a permit to contain two schedules as follows:
 - (i) both schedules must contain an identical interim deadline requiring a final decision on whether to cease conducting regulated activities no later than a date which ensures sufficient time to comply with applicable requirements in a timely manner if the decision is to continue conducting regulated activities;
 - (ii) one schedule must lead to timely compliance with applicable requirements, no later than the statutory deadline;
 - (iii) the second schedule must lead to cessation of regulated activities by a date which ensures timely compliance with applicable requirements no later than the statutory deadline;
 - (iv) each permit containing two schedules must include a requirement that after the permittee has made a final decision under (i) it shall follow the schedule leading to compliance if the decision is to continue conducting regulated activities, and follow the schedule leading to termination if the decision is to cease conducting regulated activities.
- (d) The applicant's or permittee's decision to cease conducting regulated activities must be evidenced by a firm public commitment satisfactory to the department, such as a resolution of the board of directors of a corporation.

Authorizing statute(s): 75-5-201, 75-5-401, MCA

Implementing statute(s): 75-5-401, MCA

History: NEW, 1989 MAR p. 2060, Eff. 12/8/89; AMD, 1992 MAR p. 1241, Eff. 6/12/92; TRANS, from DHES, 1996 MAR p. 1499; AMD, 2020 MAR p. 1879, Eff. 10/24/20.