



ADMINISTRATIVE RULES OF MONTANA



17.8.1233 PERMIT REVIEW BY THE ADMINISTRATOR AND AFFECTED STATES

- (1) The department shall provide to the administrator a copy of each proposed and each final air quality operating permit, including any permit that 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 this section.
- (2) An applicant shall provide a copy of each air quality operating permit application and each minor or significant permit modification application (including the compliance plans) directly to the administrator. To the extent practicable, the information required under this section shall be provided in computer-readable format compatible with the administrator's national database management system.
- (3) The department shall keep for five years such records and submit to the administrator such information as the administrator reasonably requires to ascertain whether the state program complies with the requirements of the FCAA and 40 CFR Part 70.
- (4) The department shall give notice of each draft air quality operating permit to any affected state on or before the time that the department provides this notice to the public under ARM 17.8.1232, except to the extent ARM 17.8.1226(4) or (8) requires the timing of the notice to be different. The department shall also give notice to any affected state of any appeal of an operating permit to the board, on or before the date that the department provides this notice to the public.
- (5) The department shall, as part of the submittal of the proposed air quality operating permit to the administrator (or as soon as possible after the submittal for minor permit modification procedures allowed under ARM 17.8.1226(4) or (8)) notify the administrator and any affected state in writing of any refusal by the department to accept all recommendations for the proposed permit submitted by the affected state during the public comment or affected state review period. The notice shall include the department's reasons for not accepting any such recommendation. The department is not required to accept recommendations that are not based on applicable requirements or the requirements of this subchapter. Those requirements designated as not being federally enforceable may not serve as the basis for such recommendations.
- (6) No air quality operating permit for which an application must be transmitted to the administrator under (2) , shall be issued if the administrator objects in writing to its issuance within 45 days of receipt of the proposed permit and all necessary supporting information. Objections by the administrator shall only be based on the grounds that the permit did not demonstrate or require compliance with applicable requirements or comply with the requirements of this subchapter. Those requirements designated as not being federally enforceable may not serve as the basis for such objections.

- (7) Any objection by the administrator under (6) , shall include a statement of the administrator's reasons for objection and a description of the terms and conditions that the air quality operating permit must include to respond to the objection. The administrator shall provide to the permit applicant a copy of the objection.
- (8) The failure of the department to do any of the following shall also constitute grounds for an objection by the administrator:
 - (a) comply with (1) through (5) ;
 - (b) submit any information necessary to adequately review the proposed permit; or
 - (c) process the permit under the procedures approved to meet ARM 17.8.1232, except for those actions by the department that are not subject to ARM 17.8.1232.
- (9) If the administrator does not object in writing under (6) , any person may petition the administrator within 60 days after the expiration of the administrator's 45-day review period to make such objection.
- (10) Any petition filed with the administrator pursuant to (9) shall be based only on objections to the air quality operating permit that were raised with reasonable specificity during the public comment period provided for in ARM 17.8.1232, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period.
- (11) If the administrator objects to the air quality operating permit as a result of a petition filed under (9) , the department shall not issue the permit until the administrator's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day review period and prior to the administrator's objection. If the department has issued a permit prior to receipt of the administrator's objection under this section, and the administrator modifies, terminates, or revokes and reissues the permit consistent with the procedures in ARM 17.8.1231, the department may thereafter issue only a revised permit that satisfies the administrator's objection. In any case, the source will not be in violation of the requirement to have submitted a timely and complete application. The permit shield described in ARM 17.8.1214(1) shall remain in effect until a final permit is issued.
- (12) If, after an appeal, the board directs the department to issue an air quality operating permit that differs from the proposed permit previously forwarded to the administrator for review, and the administrator objects to issuance of the permit, the department shall not issue a permit until the administrator's objection has been resolved. Until final resolution, the source will not be in violation of the requirement to submit a timely and complete application. The permit shield described in ARM 17.8.1214(1) shall remain in effect until a final permit is issued. The permit issuance and appeal requirements of ARM 17.8.1210(2) (j) shall apply.
- (13) Consistent with (6) through (12) , the department may not issue an air quality operating permit (including a permit renewal or modification) until the administrator has had an opportunity to review the proposed permit and affected states have had an opportunity to review the draft permit as required under this subchapter. The administrator may waive the opportunity for such review by the administrator and affected states.

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

Implementing statute(s): 75-2-217, 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.