



ADMINISTRATIVE RULES OF MONTANA



17.36.112 REVIEW OF PREVIOUSLY APPROVED FACILITIES: PROCEDURES

- (1) A facility previously approved under Title 76, chapter 4, MCA, that is submitted for review under this chapter is not subject to review if the facility:
 - (a) is not proposed to be changed;
 - (b) is not affected by a proposed change to another facility; and
 - (c) meets the conditions of its existing approval and is operating properly.
 - (i) To determine whether previously approved water, sewer, and storm water facilities are operating properly, the reviewing authority may require submittal of well logs, water sampling results, any septic permit issued, and evidence that the septic tank has been pumped in the previous three years unless the system is less than five years old.
- (2) A facility previously approved by a local reviewing authority but not under Title 76, chapter 4, MCA, is not subject to review if the applicant submits evidence that the facility:
 - (a) meets the criteria in (1);
 - (b) complies with all required setbacks in ARM 17.36.323; and
 - (c) if the lot was created after the effective dates for mixing zones and well isolation zones, complies with all required setbacks in ARM 17.36.122.
- (3) The owner of a parcel that deviates from the conditions of approval shall obtain approval from the reviewing authority as provided in (3) through (6).
- (4) Applications for amendments (rewrites) of certificates of subdivision approval must be submitted in accordance with ARM 17.36.102. The facilities are subject to the rules and standards in effect at the time the application is submitted, except that, if a requirement in the applicable rules and standards would preclude a previously approved use of the parcel, the department may consider a deviation or waive the requirement that would preclude the use. Waivers and deviations are subject to ARM 17.36.601. Applications for rewrites must also describe any changes to previously approved facilities. The reviewing authority may require the applicant to submit additional information that the reviewing authority determines is necessary for the review.
- (5) Amendments that consist solely of the relocation or modification of previously approved facilities may be made through approval of a revised lot layout document in accordance with (a) through (c).
 - (a) A revised lot layout document may be issued for lots with previously approved facilities if:

- (i) the changes consist solely of the relocation or modification of previously approved facilities shown on the lot layout that do not affect the conditions of approval in a COSA statement;
 - (ii) there are no changes in lot boundaries; and
 - (iii) the changes comply with applicable rules. Changes in previously approved facilities are subject to the rules and standards in effect at the time the application is submitted, except that, if a requirement in the applicable rules and standards would preclude a previously approved use of the parcel, the department may consider a deviation or waive the requirement that would preclude the use. Revised lot layouts must show any changes to previously approved facilities. The reviewing authority may require the applicant to submit additional information that the reviewing authority determines is necessary for the review.
 - (b) An applicant seeking approval of a revised lot layout must submit all of the following to the reviewing authority:
 - (i) a completed joint application, including the applicable review fee;
 - (ii) a copy of the revised lot layout document that complies with ARM 17.36.104; and
 - (iii) all other information that the reviewing authority deems necessary to demonstrate compliance with applicable rules.
 - (c) The approved revised lot layout must be filed with the county clerk and recorder and a copy must be provided to the department.
- (6) At the time of septic permitting, local health departments that have been certified as the reviewing authority under ARM 17.36.116 may approve minor deviations from a certificate of subdivision approval without triggering an additional review under this chapter.
- (a) The proposed minor deviations must meet the requirements of the most current version of DEQ-4 and this rule.
 - (b) Minor deviations are limited to:
 - (i) replacing distribution piping with gravelless trenches or vice versa;
 - (ii) replacing a standard trench system with a pressure-dosed system;
 - (iii) replacing a previously approved system with an equivalent system;
 - (iv) replacing components in a previously approved system with equivalent components;
 - (v) replacing the wastewater treatment system with a system that provides greater treatment than the approved system;
 - (vi) installing any Level 2 system in place of any other Level 2 system that provides equivalent treatment; and
 - (vii) approving changes to sizes of approved wastewater treatment systems, unless there are site constraints that would cause a violation of this chapter.
- (7) Amendments to an existing certificate of subdivision approval that consist solely of replacing approved facilities for the supply of drinking water or disposal of wastewater with connection to a municipal or county public water system or public wastewater system must be submitted using a

notification of change form provided by the department or by submitting an application under ARM 17.36.112(3).

Authorizing statute(s): 76-4-104, MCA

Implementing statute(s): 76-4-104, 76-4-125, MCA

History: NEW, 2014 MAR p. 2098, Eff. 9/19/14; AMD, 2016 MAR p. 722, Eff. 4/23/16; AMD, 2018 MAR p. 1588, Eff. 8/11/18; AMD, 2023 MAR p. 324, Eff. 4/15/23; AMD, 2023 MAR p. 1861, Eff. 12/23/23.