

CHAPTER 6 STANDARDS FOR STATIONARY SOURCES

Subchapter 1 – Air Quality Permits for Air Pollutant Sources

Rule 6.101 – Definitions

For the purpose of this subchapter the following definitions apply:

- (1) “Air Quality Permit” or “permit” means a permit issued by the department for the construction, installation, alteration, or operation of any air pollution source. The term includes annual operating and construction permits issued prior to November 17, 2000.
- (2) “Commencement of construction” means the owner or operator has either:
 - (a) begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or
 - (b) entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.
- (3) “Construct or Construction” means on-site fabrication, modification, erection or installation of a source or control equipment, including a reasonable period for startup and shakedown.
- (4) “Existing Source” means a source or stack associated with a source that is in existence and operating or capable of being operated or that had an air quality permit from the department or the Control Board on March 16, 1979.
- (5) “Major Emitting Facility” means a stationary source or stack associated with a source that directly emits, or has the potential to emit, 100 tons per year of any air pollutant, including fugitive emissions, regulated under the Clean Air Act of Montana.
- (6) “New or Altered Source” means a source or stack (associated with a source) constructed, installed or altered on or after March 16, 1979.
- (7) “Owner or Operator” means the owner of a source or the authorized agent of the owner, or the person who is responsible for the overall operation of the source.
- (8) “Potential to Emit” means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, must be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a source.
- (9) “Source” means a “stationary source” as defined by Rule 2.101(47).

Rule 6.102 – Air Quality Permit Required

- (1) A person may not construct, install, alter, operate or use any source without having a valid permit from the department when required by this rule to have a permit.
- (2) A permit is required for the following:
 - (a) any source that has the potential to emit 25 tons or more of any pollutant per year;
 - (b) Incinerators; asphalt plants; concrete plants; and rock crushers without regard to size;
 - (c) Solid fuel burning equipment with the heat input capacity of 1,000,000 BTU/hr or more;
 - (d) A new stack or source of airborne lead pollution with a potential to emit five tons or more of lead per year;

- (e) An alteration of an existing stack or source of lead pollution that increases the maximum potential of the source to emit airborne lead by 0.6 tons or more per year;
- (3) An air quality permit is not required for the following, except when the Control Board determines an air quality permit is necessary to insure compliance with other provisions of this Program:
- (a) Any major stationary source or modification, as defined in 40 CFR 51.165 or 51.166, which is required to obtain an air quality permit from the MT DEQ in conjunction with ARM Title 17, Chapter 8, Subchapters 8, 9 or 10;
 - (b) Residential, institutional, and commercial fuel burning equipment of less than 10,000,000 BTU/hr heat input if burning liquid or gaseous fuels, or 1,000,000 BTU/hr input if burning solid fuel;
 - (c) Residential and commercial fireplaces, barbecues and similar devices for recreational, cooking or heating use;
 - (d) motor vehicles, trains, aircraft or other such self-propelled vehicles;
 - (e) agricultural and forest prescription fire activities;
 - (f) emergency equipment installed in hospitals or other public institutions or buildings for use when the usual sources of heat, power and lighting are temporarily unattainable;
 - (g) routine maintenance or repair of equipment;
 - (h) public roads; and
 - (i) any activity or equipment associated with the planting, production or harvesting of agricultural crops.
- (4) A source that is exempt from obtaining an air quality permit by Rule 6.102(3) is subject to all other applicable provisions of this program, including but not limited to those regulations concerning outdoor burning, odors, motor vehicles, fugitive particulate and solid fuel burning devices.
- (5) A source not otherwise required to obtain an air quality permit may obtain such a permit for the purpose of establishing federally enforceable limits on its potential to emit.

Rule 6.103 – General Conditions

- (1) An air quality permit must contain and permit holders must adhere to the following provisions:
- (a) requirements and conditions applicable to both construction and subsequent use including, but not limited to, applicable emission limitations imposed by subchapter 5 of this chapter, the Clean Air Act of Montana and the FCAA.
 - (b) such conditions as are necessary to assure compliance with all applicable provisions of this Program and the Montana SIP.
 - (c) a condition that the source shall submit information necessary for updating annual emission inventories.
 - (d) a condition that the permit must be available for inspection by the department at the location for which the permit is issued.
 - (e) a statement that the permit does not relieve the source of the responsibility for complying with any other applicable City, County, federal or Montana statute, rule, or standard not contained in the permit.
- (2) An air quality permit is valid for five years, unless:
- (a) additional construction that is not covered by an existing construction and operating permit begins on the source;

- (b) a change in the method of operation that could result in an increase of emissions begins at the source;
 - (c) the permit is revoked or modified as provided for in Rules 6.108 and 6.109; or
 - (d) the permit clearly states otherwise.
- (3) A source whose permit has expired may not operate until it receives another valid permit from the department.
 - (4) An air quality permit for a new or altered source expires 36 months from the date of issuance if the construction, installation, or alteration for which the permit was issued is not completed within that time. Another permit is required pursuant to the requirements of this subchapter for any subsequent construction, installation, or alteration by the source.
 - (5) A new or altered source may not commence operation, unless the owner or operator demonstrates that construction has occurred in compliance with the permit and that the source can operate in compliance with applicable conditions of the permit, provisions of this Program, and rules adopted under the Clean Air Act of Montana and the FCAA and any applicable requirements contained in the Montana SIP.
 - (6) Commencement of construction or operation under a permit containing conditions is deemed acceptance of all conditions so specified, provided that this does not affect the right of the permittee to appeal the imposition of conditions through the administrative appeals process as provided in Chapter 14.
 - (7) Having an air quality permit does not affect the responsibility of a source to comply with the applicable requirements of any control strategy contained in the Montana SIP.

Rule 6.104 – Reserved

Rule 6.105 – Air Quality Permit Application Requirements

- (1) The owner or operator of a new or altered source shall, not later than 180 days before construction begins, or if construction is not required not later than 120 days before installation, alteration, or use begins, submit an application for an air quality permit to the department on forms provided by the department.
 - (a) An application submitted by a corporation must be signed by a principal executive officer of at least the level of vice president, or an authorized representative, if that representative is responsible for the overall operation of the source;
 - (b) An application submitted by a partnership or a sole proprietorship must be signed by a general partner or the proprietor respectively;
 - (c) An application submitted by a municipal, state, federal or other public agency must be signed by either a principal executive officer, appropriate elected official or other duly authorized employee; and
 - (d) An application submitted by an individual must be signed by the individual or his or her authorized agent.
- (2) The application must include the following:
 - (a) A map and diagram showing the location of the proposed new or altered source and each stack associated with the source, the property involved, the height and outline of the buildings associated with the new or altered source, and the height and outline of each stack associated with the new or altered source;
 - (b) A description of the new or altered source including data on maximum design production capacity, raw materials and major equipment components;

- (c) A description of the control equipment to be installed;
 - (d) A description of the composition, volume and temperatures of the effluent stream, including the nature and extent of air pollutants emitted, quantities and means of disposal of collected pollutants, and the air quality relationship of these factors to conditions created by existing sources or stacks associated with the new or altered source;
 - (e) Normal and maximum operating schedules;
 - (f) Adequate drawings, blueprints, specifications or other information to show the design and operation of the equipment involved;
 - (g) Process flow diagrams containing material balances;
 - (h) A detailed schedule of construction or alteration of the source;
 - (i) A description of the shakedown procedures and time frames that will be used at the source;
 - (j) Other information requested by the department that is necessary to review the application and determine whether the new or altered source will comply with applicable provisions of this Program; including but not limited to information concerning compliance with environmental requirements at other facilities;
 - (k) Documentation showing the city or county zoning office was notified in writing by the applicant that the proposed use requires an air quality permit;
 - (l) A valid city or county zoning compliance permit for the proposed use;
- (3) The department may waive the requirement that any of the above information must accompany a permit application.
- (4) When renewing an existing permit, the owner or operator of a source is not required to submit information already on file with the department. However, the department may require additional information to ensure the source will comply with all applicable requirements.
- (5) An application for a solid or hazardous waste incinerator must include the information specified in Rule 6.605.
- (6) An owner or operator of a new or altered source proposing construction or alteration within any area designated as nonattainment in 40 CFR 81.327 for any regulated air pollutant shall demonstrate that all major emitting facilities located within Montana and owned or operated by such persons, or by an entity controlling, controlled by, or under common control with, such persons, are subject to emission limitations and are in compliance, or on a schedule for compliance, with all applicable air quality emission limitations and standards contained in ARM Title 17, Chapter 8.
- (7) The owner or operator of a new or altered source shall, before construction is scheduled to end as specified in the permit, submit additional information on a form provided by the department. The information to be submitted must include the following:
- (a) Any information relating to the matters described in Section (2) of this rule that has changed or is no longer applicable; and
 - (b) A certification by the applicant that the new or altered source has been constructed in compliance with the permit.
- (8) An application is deemed complete on the date the department received it unless the department notifies the applicant in writing within thirty (30) days thereafter that it is incomplete. The notice must list the reasons why the application is considered incomplete and must specify the date by which any additional information must be submitted. If the information is not submitted as required, the application is considered withdrawn unless the applicant requests in writing an extension of time for submission of the additional information. The application is complete on the date the required additional information is received.

Rule 6.106 – Public Review of Air Quality Permit Application

- (1) The applicant shall notify the public, by means of legal publication in a newspaper of general circulation in the area affected by the application of its application for an air quality permit. The notice must be published not sooner than ten (10) days prior to submittal of an application nor later than ten (10) days after submittal of an application. The applicant shall use the department's format for the notice. The notice must include:
 - (a) the name and the address of the applicant;
 - (b) address and phone number of the premises at which interested persons may obtain further information, may inspect and may obtain a copy of the application;
 - (c) the date by which the department must receive written public comment on the application. The public must be given at least 30 days from the date the notice is published to comment on the application.
- (2) The department shall notify the public of its preliminary determination by means of legal publication in a newspaper of general circulation in the area affected by the application and by sending written notice to any person who commented on the application during the initial 30-day comment period. Each notice must specify:
 - (a) whether the department intends on issuing, issuing with conditions, or denying the permit;
 - (b) address and phone number of the premises at which interested persons may obtain further information, may inspect and may obtain a copy of the proposed permit;
 - (c) the date by which the department must receive written public comment on the application. The public must be given at least 15 days from the date the notice is published to comment on the application.
- (3) A person who has submitted written comments and who is adversely affected by the department's final decision may request, in writing, an administrative review within fifteen (15) days after the department's final decision. The request for hearing must state specific grounds why the permit should not be issued or why it should be issued with particular conditions. Department receipt of a request for a hearing postpones the effective date of the department's decision until the conclusion of the administrative appeals process.
- (4) Permit renewals are subject to this rule.

Rule 6.107 – Issuance or Denial of an Air Quality Permit

- (1) A permit may not be issued to a new or altered source unless the applicant demonstrates that the source:
 - (a) can be expected to operate in compliance with:
 - (i) the conditions of the permit,
 - (ii) the provisions of this Program;
 - (iii) rules adopted under the Clean Air Act of Montana) and the FCAA.; and
 - (iv) any applicable control strategies contained in the Montana SIP.
 - (b) will not cause or contribute to a violation of a Montana or NAAQS.
- (2) An air quality permit for a new or altered source may be issued in an area designated as nonattainment in 40 CFR 81.327 only if the applicable SIP approved in 40 CFR Part 52, Subpart BB is being carried out for that nonattainment area.

- (3) The department shall make a preliminary determination as to whether the air quality permit should be issued or denied within forty (40) days after receipt of a completed application.
- (4) The department shall notify the applicant in writing of its final decision within sixty (60) days after receipt of the completed application.
- (5) If the department's final decision is to issue the air quality permit, the department may not issue the permit until:
 - (a) fifteen (15) days have elapsed since the final decision and no request for an administrative review has been received; or
 - (b) the end of the administrative review process as provided for in Chapter 14, if a request for an administrative review was received.
- (6) If the department denies the issuance of an air quality permit it shall notify the applicant in writing of the reasons why the permit is being denied and advise the applicant of his or her right to request an administrative review within fifteen (15) days after receipt of the department's notification of denial of the permit.

Rule 6.108 – Revocation or Modification of an Air Quality Permit

- (1) An air quality permit may be revoked for any violation of:
 - (a) A condition of the permit;
 - (b) A provision of this Program;
 - (c) An applicable regulation, rule or standard adopted pursuant to the FCAA;
 - (d) A provision of the Clean Air Act of Montana; or
 - (f) any applicable control strategies contained in the Montana SIP.
- (2) An air quality permit may be modified for the following reasons:
 - (a) Changes in any applicable provisions of this Program adopted by the Control Board, or rules adopted under the Clean Air Act of Montana;
 - (b) Changed conditions of operation at a source that do not result in an increase of emissions
 - (c) When the department or Control Board determines modifications are necessary to insure compliance with the provisions of this Program or an implementation plan approved by the Control Board.
- (3) The department shall notify the permittee in writing of its intent to revoke or modify the permit. The permit is deemed revoked or modified in accordance with the department's notice unless the permittee makes a written request for an administrative review within fifteen (15) days of receipt of the department's notice. Departmental receipt of a written request initiates the appeals process outlined in Chapter 14 of this Program and postpones the effective date of the department's decision to revoke or modify the permit until the conclusion of the administrative appeals process.

Rule 6.109 – Transfer of Permit

- (1) An air quality permit may not be transferred from one location to another; or from one piece of equipment to another, except as allowed in (2) of this rule.
- (2) An air quality permit may be transferred from one location to another if:
 - (a) written notice of intent to transfer location is sent to the department, along with documentation that the permittee has published notice of the intended transfer by means of a legal publication in a newspaper of general circulation in the area to which the transfer is to be made. The notice must include the statement that public comment will

- be accepted by the department for fifteen days after the date of publication;
 - (b) the source will operate in the new location for a period of less than one year; and
 - (c) the source is expected to operate in compliance with:
 - (i) this Program;
 - (ii) the standards adopted pursuant to the Clean Air Act of Montana, including the Montana ambient air quality standards;
 - (iii) applicable regulations and standards promulgated pursuant to the FCAA, including the NAAQS; and
 - (iv) any control strategies contained in the Montana state implementation plan.
 - (d) the source has a valid city or county zoning compliance permit for the proposed use at the new location; and
 - (e) the source pays the transfer fee listed in Attachment A.
- (3) An air quality permit may be transferred from one person to another if written notice of intent to transfer, including the names of the transferor and the transferee, is sent to the department.
- (4) The department will approve or disapprove a permit transfer within 30 days after receipt of a complete notice of intent as described in (2) or (3) of this rule.