

ENVIRONMENTAL QUALITY

CHAPTER 53

HAZARDOUS WASTE

Subchapter 12

Hazardous Waste Permit Program

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| Rule | 17.53.1201 | Adoption of Federal Procedures for State Administered Permit Program (40 CFR 270 and 124) |
| | 17.53.1202 | Exceptions and Additions to Adoption of Federal Procedures for State Administered Permit Program |
| | 17.53.1203 | Validity of Federal Hazardous Waste Management Permits |

Subchapter 12

Hazardous Waste Permit Program

17.53.1201 ADOPTION OF FEDERAL PROCEDURES FOR STATE ADMINISTERED PERMIT PROGRAM (40 CFR 270 and 124)

(1) Except as provided otherwise in ARM 17.53.1202, the department adopts and incorporates by reference 40 CFR 270, pertaining to federal procedures for a state administered permit program.

(2) Except as provided otherwise in ARM 17.53.1202, the department adopts and incorporates by reference 40 CFR 124.3(a), 124.5(a), (c), and (d), 124.6(a), (d), and (e), 124.7, 124.8, 124.10 through 124.12, 124.14 through 124.16, 124.17(a) and (c), 124.20, 124.31 through 124.33, and 124.200 through 124.214, pertaining to procedures for decisionmaking in issuing, modifying, revoking and reissuing, or terminating RCRA permits.

(a) For purposes of the adoption and incorporation by reference of portions of 40 CFR 124, the department adopts and incorporates by reference the following definitions in 40 CFR 124.2:

- (i) draft permit;
- (ii) facility or activity;
- (iii) owner or operator;
- (iv) permit; and
- (v) person. (History: 75-10-404, 75-10-405, MCA; IMP, 75-10-405, 75-10-406, MCA; NEW, 2001 MAR p. 169, Eff. 1/26/01; AMD, 2009 MAR p. 2461, Eff. 12/25/09.)

17.53.1202 EXCEPTIONS AND ADDITIONS TO ADOPTION OF FEDERAL PROCEDURES FOR STATE ADMINISTERED PERMIT PROGRAM

(1) In 40 CFR 124.5 and 124.16, pertaining to modifying, revoking, reissuing, terminating, or staying permits, all references to "Environmental Appeals Board" are replaced with "Montana Board of Environmental Review."

(2) "This rule establishes provisions for the state hazardous waste program pursuant to Title 75, chapter 10, part 4, MCA." is substituted for 40 CFR 270.1(a), pertaining to RCRA regulation coverage.

(3) 40 CFR 270.1(b), pertaining to the overview of the RCRA permit program, is not adopted and incorporated by reference.

(4) 40 CFR 270.3, pertaining to federal laws that apply to RCRA permits, is not adopted and incorporated by reference.

(5) 40 CFR 270.5, pertaining to noncompliance and program reporting by the department, is not adopted and incorporated by reference.

(6) The following provisions are added as paragraphs (l) through (n) to the general application requirements in 40 CFR 270.10(a) through (k):

"(l) All applications must be accompanied by the appropriate fees as provided in these rules.

(m) Any application submitted to EPA and deemed by EPA to be complete shall be considered to be complete by the department.

(n) The requirements of this chapter must be coordinated with but do not alter the applicable requirements for new facilities set forth in Title 75, chapter 20, MCA, Montana Major Facility Siting Act."

(7) ARM 17.53.208 is substituted for 40 CFR 270.12, pertaining to confidentiality of information.

(8) 40 CFR 270.14(b)(18), pertaining to proof of coverage by state financial mechanism, is not adopted and incorporated by reference.

(9) 40 CFR 270.14(b)(20), pertaining to permit application materials needed to comply with federal laws that apply to RCRA permits, is not adopted and incorporated by reference.

(10) In 40 CFR 270.22(a)(1)(i), pertaining to specific part B information requirements for boilers and industrial furnaces, "provisions of sections 266.104(a)(1), 266.104(a)(2), and 266.105 through 107 of this chapter, and paragraphs (a)(3) and (a)(5) of this section" is substituted for "provisions of sections 266.104 through 107 of this chapter, and paragraphs (a)(3) through (a)(5) of this section".

(11) 40 CFR 270.22(a)(1)(ii), (a)(2), (a)(4), and (a)(6), pertaining to trial burns, are not adopted and incorporated by reference.

(12) "An annual report must be submitted covering facility activities. (See ARM 17.53.803)" is substituted for 40 CFR 270.30(l)(9), pertaining to biennial reports.

(13) In 40 CFR 270.32(a), pertaining to case-by-case permit conditions, references to "alternate schedules of compliance" and "considerations under federal law" are applicable only to federally issued permits.

(14) The following is substituted for 40 CFR 270.32(c), pertaining to "applicable requirements":

"(a) An applicable requirement is a statutory or regulatory requirement that takes effect prior to final administrative disposition of a permit. An applicable requirement is also any requirement that takes effect prior to the modification or revocation and reissuance of a permit, to the extent allowed under 40 CFR 270.41.

(b) The department may reopen the comment period using the procedures at 40 CFR 124.14, incorporated by reference at ARM 17.53.1201(2), if new requirements become effective, including any interim final regulations, during the permitting process that:

(i) precede modification, or revocation and reissuance, of a permit to the extent allowed in this rule; and

(ii) are of sufficient magnitude to make additional proceedings desirable."

(15) In 40 CFR 270.41(a)(5), pertaining to cause for permit modification, ", boiler, or industrial furnace" is added after "land disposal facility".

(16) In 40 CFR 270.50(d), pertaining to duration of permits, ", boiler, or industrial furnace" is added after "land disposal facility".

(17) 40 CFR 270.60(a) and (b), pertaining to permits by rule for ocean disposal barges and injection wells, are not adopted and incorporated by reference.

(18) The following is added to the regulations concerning publicly owned treatment works in 40 CFR 270.60(c)(3): "ARM 17.53.112, Facility Permit Fees: Application, Renewal, Modification, and Maintenance Fees."

(19) 40 CFR 270.64, pertaining to interim permits for injection wells, is not adopted and incorporated by reference. Instead, injection wells used for hazardous waste disposal are subject to the requirements of ARM 17.53.102(3).

(20) 40 CFR 270.66(g), pertaining to interim status boilers and industrial furnaces, is not adopted and incorporated by reference.

(21) The following is substituted for 40 CFR 270.275(d), pertaining to supporting information that must be submitted to the department: "Information that allows the department to carry out its obligations under Title 75, chapter 10, part 4, MCA, and ARM Title 17, chapter 53." (History: 75-10-404, 75-10-405, MCA; IMP, 75-10-405, 75-10-406, MCA; NEW, 2001 MAR p. 169, Eff. 1/26/01; AMD, 2002 MAR p. 789, Eff. 3/15/02; AMD, 2005 MAR p. 442, Eff. 4/1/05; AMD, 2009 MAR p. 2461, Eff. 12/25/09.)

17.53.1203 VALIDITY OF FEDERAL HAZARDOUS WASTE MANAGEMENT PERMITS (1) Hazardous waste management facilities located in Montana that possessed an effective final hazardous waste management permit issued by EPA prior to September 16, 1983 (the effective date of former ARM Title 17, chapter 54, subchapter 1) are considered to possess a valid Montana hazardous waste management permit for the duration of the unexpired term of the federal permit, if the facility remains in compliance with all the conditions specified in the federal permit and the requirements of this chapter. (History: 75-10-404, 75-10-405, MCA; IMP, 75-10-405, 75-10-406, MCA; NEW, 2001 MAR p. 169, Eff. 1/26/01.)

