



AUTH: 75-2-111, MCA  
IMP: 75-2-211, MCA

REASON: The board is proposing to amend definitions in (2) and (3), renumber them to (3) and (4), and add two definitions as (2) and (5). The board is also proposing to eliminate definitions in (6) through (9). The proposed amendments to (2) and (3) would replace "source" with "facility," which would make the use of those terms consistent throughout the ARM. The proposed new definitions in (2) and (5) would add definitions of "major modification" and "new major stationary source" because those terms would be used in ARM 17.8.504 to define classes of sources for purposes of establishing fees. Those terms are already defined in ARM 17.8.801 and the proposed additions would refer to that rule. The definitions in (6) through (9) are proposed to be eliminated because the proposed amendments to ARM 17.8.504 would eliminate the defined terms from the ARM. Because terms that are not used should not be defined, the board is also proposing to eliminate the definitions in (6) through (9).

17.8.504 AIR QUALITY PERMIT APPLICATION FEES (1) An applicant submitting a Montana air quality permit application, ~~as required in ARM Title 17, chapter 8, subchapters 7, 8, 9, or 10, shall submit an~~ the appropriate application fee as provided in (1)(a), (b), and (c) follows:

~~(a) the following table sets forth source types and associated fees:~~

<u>Source Type</u>	<u>New Source</u>	<u>Modified Source</u>
NSR/PSD	\$15,000	\$500
A	\$1,200	\$500
S/SM	\$1,000	\$500
B	\$800	\$500

~~(b) \$500 for an application for a portable facility; and~~

~~(c) \$500 for an application to register an oil and gas well facility.~~

(a) for a facility subject to ARM Title 17, chapter 8, subchapters 7 and 8, 9, or 10:

(i) for a new major stationary source - \$15,000;

(ii) for a major modification - \$3,500;

(b) for a facility subject to ARM Title 17, chapter 8, subchapter 7, and not subject to subchapters 8, 9, or 10, that is:

(i) required by ARM Title 17, chapter 8, subchapter 12 to obtain an operating permit:

(A) for a new facility - \$2,000;

(B) for a modified facility - \$1,500;

(ii) a new facility that is requesting an exemption under ARM 17.8.1204(3) - \$1,000; or

(iii) a modified facility that has received or is requesting an exemption under ARM 17.8.1204(3) - \$500;

(c) for a facility subject solely to ARM Title 17, chapter 8, subchapter 7:

(i) for a new facility - \$800;

(ii) for a modified facility - \$500;

(iii) for a portable facility - \$500.

(2) An applicant submitting ~~one or more of the following~~ an air quality operating permit applications, ~~as required in ARM Title 17, chapter 8, subchapter 12,~~ shall submit an appropriate application fee, ~~of \$500 for each application~~ as follows:

(a) ~~an application for a new air quality operating permit - \$6,500;~~

(b) ~~an application for an air quality operating permit renewal - \$2,000;~~ or

(c) ~~an application for a significant modification to~~ of an air quality operating permit - \$1,500.

(3) An air quality permit application is incomplete until the ~~proper~~ appropriate application fee is paid to the department.

(4) and (5) remain the same.

AUTH: 75-2-111, 75-2-220, 75-2-234, MCA

IMP: 75-2-211, 75-2-220, 75-2-234, MCA

REASON: The board is proposing to amend (1) through (2)(c). In existing (1)(a), a table uses abbreviations of source categories to set application fees. The abbreviations are defined in ARM 17.8.501(6) through (9). The board is proposing to eliminate those definitions and also the table in ARM 17.8.504 that uses those abbreviations. The sources would instead be categorized for fee purposes by the rule subchapter(s) under which the source is regulated. For example, the abbreviation "NSR/PSD" is defined in existing ARM 17.8.501(8) as "a facility subject to the provisions of ARM Title 17, chapter 8, subchapters 8, 9, or 10." Then, existing ARM 17.8.504(1)(a) uses the term "NSR/PSD" to set the fee for that category. A proposed amendment in ARM 17.8.504(1)(a) would substitute the phrase "a facility subject to ARM Title 17, chapter 8, subchapters 7 and 8, 9, or 10" for "NSR/PSD." Similar amendments are proposed for the other categories used in existing ARM 17.8.504(1)(a) to set fees. This is being proposed to make the rule simpler and clearer. The board believes that the abbreviated terms were not easy to understand without reference to the definitions rule and that the proposed amendments would make the rule easier for the public and a regulated facility to understand.

In addition, in (1)(a), the board is proposing to amend the language that establishes fees for permits for new major stationary sources and major modifications by incorporating the definitions of those terms from ARM 17.8.801, which contains definitions used in ARM Title 17, chapter 8, subchapter 8 to regulate Prevention of Significant Deterioration (PSD) permitting in "attainment" areas, where certain contaminants do not exceed national ambient air quality standards (NAAQS). The PSD program is one part of the New Source Review (NSR) program, which also includes permitting in ARM Title 17, chapter 8, subchapters 9 and 10, for major stationary sources or major modifications in areas where the NAAQS are exceeded ("nonattainment areas") or areas with sources that may contribute to exceedances in a nonattainment area. The incorporation of definitions from ARM 17.8.801 is necessary because those terms are already defined in that rule and the terms in the fee rule must be consistent with the definitions and use of those terms in the

regulatory rules in ARM Title 17, chapter 8, subchapters 8, 9, and 10.

The proposed amendments would also increase certain application fees for Montana air quality permits (MAQPs) for facilities that require major New Source Review (NSR) permits or Montana air quality operating permits (Title V).

Specifically, the board is proposing the following permit application fee amendments:

ARM 17.8.504(1)(a)(ii) - MAQP for an NSR major modification from \$500 to \$3,500

ARM 17.8.504(1)(b)(i)(A) - MAQP for a New Title V facility from \$1,200 to \$2,000

ARM 17.8.504(1)(b)(i)(B) - MAQP for a Modified Title V facility from \$500 to \$1,500

ARM 17.8.504(2)(a) - New Title V operating permit from \$500 to \$6,500

ARM 17.8.504(2)(b) - Title V operating permit renewal from \$500 to \$2,000

ARM 17.8.504(2)(c) - Title V operating permit modification from \$500 to \$1,500

The board is required by statute to "adopt a schedule of fees required for permits, permit applications, and registrations ... ." Section 75-2-111(5), MCA. While the board is responsible for adopting the fee schedule, an air permit applicant has the responsibility to "submit to the department a fee sufficient to cover the reasonable costs, direct and indirect, of developing and administering the permitting requirements" of the air quality laws and rules. Section 75-2-220, MCA. Currently, permit applicants subject to the requirements of the department's Title V and NSR Montana air quality permit programs pay permit application fees that do not cover the costs incurred by the department in processing these permit applications. These costs are funded instead by the annual operating fees paid by existing businesses. This creates a situation where existing businesses are subsidizing new businesses. The board is proposing to reduce that subsidy by increasing the application fees for: (a) a facility subject to NSR major modification; (b) a new or modified MAQP for a facility subject to Title V operating permits; and (c) a new Title V operating permit, renewal, or modification.

The proposed levels of fee increases were developed in consultation with stakeholders. Those levels do not totally eliminate the subsidy, but will reduce it by a substantial amount.

In an effort to determine potential monetary impacts on facilities subject to the proposed application fee amendments, the board averaged the number of potentially affected applications received by the department per year over calendar years 2009-2013, which represents the most recent five-year period for which data is available. The following table shows the cumulative increase in air quality permit application fees for the average year within that period:

<b>Application Type</b>	<b>Rule (all in ARM Title 17, chapter 8)</b>	<b>Average Number of Applications/Year</b>	<b>Average Increase From Proposed Rule/Year</b>
<b><u>MAQP (Montana Air Quality Permit)</u></b>			
NSR Major Modification	subchapters 7 and 8, 9, or 10	0.2	\$600.00
New MAQP for a Facility Requiring an Operating Permit	subchapters 7 and 12	8.2	\$6,560.00
MAQP Modification for a Facility Requiring an Operating Permit	subchapters 7 and 12	1.2	\$1,200.00
<b>TOTAL</b>			<b>\$8,360.00</b>
<b><u>Operating (Title V) Permit</u></b>			
New	subchapter 12	1	\$6,000.00
Renewal	subchapter 12	12	\$18,000.00
Modification	subchapter 12	10	\$10,000.00
<b>TOTAL</b>			<b>\$34,000.00</b>

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Elois Johnson, Paralegal, Department of Environmental Quality, 1520 E. Sixth Avenue, P.O. Box 200901, Helena, Montana 59620-0901; faxed to (406) 444-4386; or e-mailed to [ejohnson@mt.gov](mailto:ejohnson@mt.gov), no later than 5:00 p.m., July 24, 2014. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

5. Ben Reed, attorney for the board, or another attorney for the Agency Legal Services Bureau, has been designated to preside over and conduct the hearing.

6. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding: air quality; hazardous waste/waste oil; asbestos control; water/wastewater treatment plant operator certification; solid waste; junk vehicles; infectious waste; public water supply; public sewage systems regulation; hard rock (metal) mine reclamation; major facility siting; opencut mine

reclamation; strip mine reclamation; subdivisions; renewable energy grants/loans; wastewater treatment or safe drinking water revolving grants and loans; water quality; CECRA; underground/above ground storage tanks; MEPA; or general procedural rules other than MEPA. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to Elois Johnson, Paralegal, Department of Environmental Quality, 1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901, faxed to the office at (406) 444-4386, e-mailed to Elois Johnson at [ejohnson@mt.gov](mailto:ejohnson@mt.gov), or may be made by completing a request form at any rules hearing held by the board.

7. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

8. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

Reviewed by: BOARD OF ENVIRONMENTAL REVIEW

/s/ John F. North  
JOHN F. NORTH  
Rule Reviewer

BY: /s/ Robin Shropshire  
ROBIN SHROPSHIRE  
Chairman

Certified to the Secretary of State, June 16, 2014.