

NOTIFICATION OF INTENT
TO ISSUE AN AIR QUALITY OPEN BURNING PERMIT

Date of Mailing: November 30, 2023

Name of Applicant: Montana Fish, Wildlife & Parks

Source: Major Open Burn Permit

Location: Those sites throughout Montana that have been or will be submitted to the monitoring unit of the Montana/Idaho Smoke Management Group as “proposed burns” as part of the major open burn permit application.

Proposed Action: The Montana Department of Environmental Quality (DEQ) proposes to issue an air quality major open burning permit, with conditions, to the above-named permittee. The permit will be assigned number SM-0015.

Proposed Conditions: See attached.

Procedures for Appeal: The permit shall be deemed final in accordance with this notice, which is January 1, 2024, unless the permittee requests a hearing before the Montana Board of Environmental Review (Board). Any appeal must be filed within 15 days after DEQ notifies the permittee of its intention to issue the permit. The request for hearing shall contain an affidavit setting forth the grounds for the request. Any hearing will be held under the provisions of the Montana Administrative Procedures Act. Submit requests for hearing in triplicate to: Chairman, Board of Environmental Review, P.O. Box 200901, Helena, Montana 59620. The filing of a request for hearing postpones the effective date of the modifications to the permit until the decision of the Board becomes final or judicial review has been concluded.

For DEQ,

Sincerely,



Troy Burrows
Air Quality Bureau
Phone: 406.444.1452
E-Mail: troy.burrows@mt.gov

TMB: Enclosure

Montana Air Quality Major Open Burning Permit

Issued To: MT FWP
PO Box 200701
Helena, MT 59620
406-444-7329
jparke@mt.gov

Permit #: SM-0015
Permit Application Received: 10/06/2023
DEQ Decision on Application: 11/30/23
Permit Final: 1/1/2024
Expiration Date: 1/1/2025

An air quality major open burning (MOB) permit is hereby issued to Montana Fish, Wildlife, and Parks (FWP) pursuant to the Administrative Rules of Montana (ARM) 17.8.601, *et seq.* under the following terms and conditions:

Section I: Permitted Activities

Montana FWP, hereafter referenced to as the permittee, is permitted to conduct prescribed wildland open burning activities in Montana in which descriptions have been provided to the Department of Environmental Quality (DEQ). Planned, scheduled management-ignited burn descriptions shall be submitted to DEQ prior to any burn. All burns must be conducted in accordance with this MOB permit.

While not an enforceable condition of this permit, for major open burners that are members of the Montana/Idaho Airshed Group, all burns must be submitted to the Monitoring Unit of the Montana/Idaho Airshed Group in accordance with the Smoke Management Unit's Operations Guide. All burns must be approved through a coordinated effort between the Department and the Montana/Idaho Airshed Group.

Section II: Limitations and Conditions

A. Emission Limitations and Control Requirements

1. Anyone conducting burning for their own use, as a service to an unrelated entity, or burning conducted by proxy, shall comply with Best Available Control Technology (BACT) during ignition and throughout the duration of burning (ARM 17.8.610(4)(a)). BACT is accomplished by employing such techniques and methods that may include (ARM 17.8.601(1)(a)):
 - a. Scheduling burns when atmospheric ventilation is good;
 - b. Utilizing dispersion forecasts and predictive modeling results to schedule burns so that airshed smoke impacts are minimized;
 - c. Limiting the size of each burn and minimizing fuel density;
 - d. Using ignition and burning techniques which minimize smoke production;
 - e. Selecting fuel preparation methods that will minimize dirt and moisture content;
 - f. Promoting fuel configurations which create an adequate air to fuel ratio;

- g. Prioritizing burning such that air quality impacts are minimized and assigning control techniques accordingly;
 - h. Promoting alternative treatments and uses of materials to be burned; and
 - i. Selecting sites that will minimize smoke impacts.
2. Permittee shall not burn prohibited materials as listed in ARM 17.8.604. Prohibited materials include, but are not limited to, garbage; building demolition waste; Styrofoam and other plastics; rubber materials; treated lumber and timbers; and dead animals or dead animal parts. Consult ARM 17.8.604 for an expanded list of prohibited materials (ARM 17.8.604).
 3. Permittee shall only conduct burning for the purposes of hazard reduction, site preparation for regeneration, range improvement, wildlife habitat improvement, control of forest pests and diseases, and any other accepted silvicultural practice (ARM 17.8.601(8)).
 4. Permittee shall notify the fire control authority having local jurisdiction for burning events prior to ignition. An additional fire safety permit may be required from the appropriate fire control authority (ARM 17.8.610(4)(b)).
 5. Permittee shall have appropriate fire control available while burning (ARM 17.8.601(1)(a)).
 6. All burning conducted under this MOB permit shall be done in a manner such that no public nuisance is created. Section 27-30-101, Montana Code Annotated (MCA) defines nuisance as anything which is injurious to health, indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or which unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal, or basin or any public park, square, street, or highway. Enforcement of this requirement would likely reside outside of DEQ (MCA 27-30.101 and ARM 17.8.610(4)(b)).
 7. During the period of September 1 through November 30 and prior to conducting burning, Permittee shall obtain dispersion and air quality information. DEQ's daily dispersion forecast can be obtained by reviewing the Map of Burn Requests & Restrictions section of www.burnclosures.mt.gov. Pursuant to ARM 17.8.601, the Permittee may call the DEQ toll-free (1-800-225-6779) to check for open burning restrictions, however, these messages are simplified compared to the content and information offered on the website. (ARM 17.8.601(1)(b)).
 8. From December 1 through the last day in February, Permittee may conduct burning if the following conditions are met and approval is granted by the

DEQ:

- a. Provide DEQ's meteorologist with the following by noon the day before the proposed burn date. (ARM 17.8.610(1)):
 - i. a legal description of each planned burn site or a detailed map showing the location of each planned burn site;
 - ii. the elevation of each planned burn site;
 - iii. the method of ignition/burning to be used at each planned burn site;
 - iv. the average fuel loading (tons/acre) or total fuel loading at each site to be burned.

Proposals submitted through the Montana/Idaho Airshed Group Air Management System (AMS) website satisfy criteria II.A.8.a., i. through iv. Proposals in AMS are reviewed and approved/rejected by 4pm the day prior to the proposal date. If approved in AMS, no further communication to DEQ is necessary.

- b. DEQ reviews wintertime open burning requests (December 1 through the last day of February) on a case-by-case basis. DEQ may prohibit wintertime open burning at any time (ARM 17.8.610(4)(b)).
 - c. This permit may be subject to superseding local authority in Lewis and Clark, Flathead, Missoula, Lincoln, Yellowstone, Cascade counties and on tribal lands. Local jurisdictions may impose different or more stringent requirements. Permittee shall confer with county or other local authorities when performing burning in their respective jurisdictions.
9. For all burning described in Section II.A.7 and II.A.8, BACT includes burning only during the time periods specified by DEQ, which may be determined by checking the status of a proposed burn on the AMS website, or calling DEQ at (800) 225-6779 (ARM 17.8.601(1) and ARM 17.8.610(4)(b)).
 10. Anyone conducting burning shall comply with requirements of ARM Title 17, Chapter 8, Subchapter 6.
 11. Permittee shall not conduct burning within the city limits of any city in the state of Montana (ARM 17.8.610(4)(b)).
 - a. DEQ may, on a case-by-case basis, grant exemption to Section II.11, provided a written request is made from the Permittee, and written exemption granted by DEQ.
 - b. An exemption is conditional based on Permittee's adherence to any supplementary conditions set forth in DEQ's written exemption.

12. For each proposed burn, Permittee shall provide DEQ with the proposed burn date, burn identification, location, size in acres, elevation, method of ignition/burning, and average fuel loading or total tons of fuel to be disposed (ARM 17.8.610(4)(b)).
13. Permittee shall categorize smoke emissions from each proposed burn and as either natural or anthropogenic. The categorization is entered into the AMS database as part of preseason unit entry
14. By February 15th, Permittee shall submit to DEQ an annual report containing completed burning information from January 1st to December 31st of the preceding year. The report should be made in Microsoft Excel or equivalent format, and include the information required by Section II.A.12 (ARM 17.8.505(13)).

B. General Conditions

1. Inspection

The Permittee shall provide DEQ access to any burning site at reasonable times for the purpose of making inspections or surveys, collecting samples, obtaining data, and otherwise conducting all necessary functions related to this MOB permit (ARM 17.8.610(4)(b)).

2. Waiver

The MOB permit and all the terms, conditions, and matters stated herein shall be deemed accepted if the recipient fails to appeal as set forth below.

3. Compliance with Statutes and Regulations

The citation of requirements, limitations, and conditions in this MOB permit does not relieve the applicant from the obligation to comply with all applicable statutes and administrative regulations, including amendments thereto, nor waive the right of DEQ to require compliance with all applicable statutes and administrative regulations, including amendments thereto (ARM 17.8.756).

4. Enforcement

Violations of limitations, conditions, and requirements contained herein or the violation of any applicable statutes and administrative regulations may constitute grounds for permit revocation, penalties or other enforcement as specified in Section 75-2-401 *et seq.*, MCA.

5. Appeals

When DEQ approves or denies the application for a MOB permit under this rule, a person who is jointly or severally adversely affected by DEQ's decision may request a hearing before the Board of Environmental Review (Board). The request for a hearing must be filed within 15 days after DEQ renders its decision. An affidavit setting forth the grounds for the request must be filed within 30 days after DEQ renders its decision. The contested case provisions of the Montana Administrative Procedure Act, Title 2, Chapter 4, Part 6, MCA, apply to a hearing before the Board under this rule. DEQ's decision on the application is not final unless 15 days have elapsed from the date of the decision. The filing of a request for a hearing does not stay the effective date of DEQ's decision. However, the Board may order a stay upon receipt of a petition and a finding, after notice and opportunity for hearing, that: (a) the person requesting the stay is entitled to the relief demanded in the request for a hearing; or (b) continuation of the permit during the appeal would produce great or irreparable injury to the person requesting the stay (ARM 17.8.610(3)).

Upon granting a stay, the Board may require a written undertaking to be given by the party requesting the stay for the payment of costs and damages incurred by the permit applicant and its employees if the board determines that the permit was properly issued. When requiring an undertaking, the Board shall use the same procedures and limitations as are provided in 27-19-306(2) through (4) for undertakings on injunctions.

6. Permit Inspection

Pursuant to ARM 17.8.755, Inspection of Permit, a copy of this MOB permit shall be made available for inspection by DEQ personnel at the permitted facility during the burn (ARM 17.8.755).

7. Permit Fees

Pursuant to Section 75-2-220, MCA, an MOB permit application is deemed incomplete until the Permittee submits the proper MOB permit application fee as required by that section and rules adopted by the Board of Environmental Review.