

(2) An owner or operator who has submitted an application and received a completeness determination from the department pursuant to ARM 17.8.759 may, prior to receiving a Montana air quality permit, initiate the following seasonal construction activities that, when completed, would have no anticipated increases in emissions of regulated air pollutants associated with them:

- (a) installing concrete foundation work;
- (b) installing below-ground plumbing;
- (c) installing ductwork; or
- (d) other infrastructure and/or excavation work involving the same.

(3) Notwithstanding the ability to undertake the construction activities described above, the department may issue a letter instructing the owner or operator to immediately cease such activities pending a final determination on an application if it finds that the proposed project would result in a violation of the State Implementation Plan or would interfere with the attainment or maintenance of any federal or state ambient air quality standard.

(4) Nothing in (2) obligates the department to issue a Montana air quality permit. An owner or operator who has received a completeness determination and who elects to engage in initial construction activities accepts the regulatory risks of engaging in such activities. The owner or operator acknowledges that the department may subsequently order cessation of initial construction activities, ultimately decline to issue a Montana air quality permit, or issue a permit that diminishes or renders useless the value of work completed prior to permit issuance. In voluntarily choosing to engage in such activities while knowing of these risks, the owner or operator agrees that, in the event the department seeks injunctive relief to halt or prohibit construction, no irreparable harm has resulted in any way to the owner or operator from these activities.

(5) The provisions of (2) do not supersede any other local, state, or federal requirements associated with the activities set forth therein. (History: 75-2-111, 75-2-204, MCA; IMP, 75-2-211, MCA; NEW, 2002 MAR p. 3567, Eff. 12/27/02; AMD, 2005 MAR p. 2660, Eff. 12/23/05.)

#### 17.8.744 MONTANA AIR QUALITY PERMITS--GENERAL EXCLUSIONS

(1) A Montana air quality permit is not required under ARM 17.8.743 for the following:

- (a) residential fireplaces, barbecues, and similar devices for recreational, cooking, or heating use;
- (b) mobile emitting units, including motor vehicles, trains, aircraft, and other such self-propelled vehicles;
- (c) laboratory equipment used for chemical or physical analysis;
- (d) any activity or equipment associated with the use of agricultural land or the planting, production, harvesting, or storage of agricultural crops (this exclusion does not apply to the processing of agricultural products by commercial businesses);
- (e) emergency equipment installed in hospitals or other public institutions or buildings for use when the usual sources of heat, power, or lighting are temporarily unobtainable or unavailable;

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(f) emergency equipment installed in industrial or commercial facilities for use when the usual sources of heat, power, or lighting are temporarily unobtainable or unavailable and when the loss of heat, power, or lighting causes, or is likely to cause, an adverse effect on public health or facility safety. Emergency equipment use extends only to those uses that alleviate such adverse effects on public health or facility safety;

(g) any activity or equipment associated with the construction, maintenance, or use of roads except emitting units for which a permit is required under ARM 17.8.743;

(h) open burning, which is regulated under ARM Title 17, chapter 8, subchapter 6, and an open burning permit may be required under that subchapter;

(i) drilling rig stationary engines and turbines that do not have the potential to emit more than 100 tons per year of any pollutant regulated under this chapter and that do not operate in any single location for more than 12 months;

(j) temporary process or emission control equipment, replacing malfunctioning process or emission control equipment, and meeting the requirements of ARM 17.8.110(7) through (9);

(k) routine maintenance, repair, or replacement of equipment and equipment used to perform routine maintenance, repair, or replacement; or

(l) any facility that has been registered with the department in accordance with ARM Title 17, chapter 8, subchapter 17. (History: 75-2-111, 75-2-204, 75-2-234, MCA; IMP, 75-2-211, 75-2-234, MCA; NEW, 2002 MAR p. 3567, Eff. 12/27/02; AMD, 2006 MAR p. 893, Eff. 4/7/06.)

17.8.745 MONTANA AIR QUALITY PERMITS--EXCLUSION FOR DE MINIMIS CHANGES (1) A Montana air quality permit is not required under ARM 17.8.743 for de minimis changes as specified below:

(a) Construction or changed conditions of operation at a facility for which a Montana air quality permit has been issued that do not increase the facility's potential to emit by more than 15 tons per year of any pollutant except:

(i) any construction or changed conditions of operation at a facility that would violate any condition in the facility's existing Montana air quality permit or any applicable rule contained in this chapter is prohibited, except as allowed in (2);

(ii) any construction or changed conditions of operation at a facility that would qualify as a major modification of a major stationary source under subchapters 8, 9, or 10 of this chapter;

(iii) any construction or changed conditions of operation at a facility that would affect the plume rise or dispersion characteristics of the emissions in a manner that would cause or contribute to a violation of an ambient air quality standard or an ambient air increment, as defined in ARM 17.8.804;

(iv) any construction or improvement project with a potential to emit more than 15 tons per year may not be artificially split into smaller projects to avoid permitting under this subchapter; and