Subchapter 8

Prevention of Significant Deterioration of Air Quality

17.8.801 DEFINITIONS In this subchapter, the following definitions apply:

(1) "Actual emissions" means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with (1)(a) through (c).

(a) Actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The department may determine that a different time period is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(b) The department may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(c) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

(2) "Allowable emissions" means the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable limits which restrict the operating rate or hours of operation, or both) and the most stringent of the following:

(a) the applicable standards as set forth in ARM 17.8.340 or 17.8.341;

(b) the applicable Montana State Implementation Plan emissions limitation, including those with a future compliance date; or

(c) the emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.

(3) "Baseline area" means any intrastate area (and every part thereof) designated as attainment or unclassifiable in 40 CFR 81.327 in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than one $\mu g/m^3$ (annual average) of the pollutant for which the minor source baseline date is established, except baseline areas for PM-2.5 are designated when a major source or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than 0.3 $\mu g/m^3$ as an annual average for PM-2.5.

(a) Area redesignations under section 107 of the FCAA to attainment or unclassifiable cannot intersect or be smaller than the area of impact of any major stationary source or major modification which:

(i) establishes a minor source baseline date; or

(ii) is subject to 40 CFR 52.21 or regulations approved pursuant to 40 CFR 51.166, and would be constructed in the same state as the state proposing the redesignation.

(b) Any baseline area established originally for the total suspended particulate increments shall remain in effect and shall apply for purposes of determining the amount of available PM-10 increments, except that such baseline area shall not remain in effect if the department rescinds the corresponding minor source baseline date in accordance with (21)(d).

(4) "Baseline concentration" means that ambient concentration level which exists in the baseline area at the time of the applicable minor source baseline date.

(a) A baseline concentration is determined for each pollutant for which a minor source baseline date is established and shall include:

(i) the actual emissions representative of sources in existence on the applicable minor source baseline date, except as provided in (4)(b); and

(ii) the allowable emissions of major stationary sources which commenced construction before the major source baseline date, but were not in operation by the applicable minor source baseline date.

(b) The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):

(i) actual emissions from any major stationary source on which construction commenced after the major source baseline date; and

(ii) actual emissions increases and decreases at any stationary source occurring after the minor source baseline date.

(5) "Begin actual construction" means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operation this term refers to those on-site activities, other than preparatory activities, which mark the initiation of the change.

(6) "Best available control technology (BACT)" means an emissions limitation (including a visible emissions standard) based on the maximum degree of reduction for each pollutant subject to regulation under the FCAA, excluding hazardous air pollutants except to the extent that such hazardous air pollutants are regulated as constituents of more general pollutants listed in section 108(a)(1) of the FCAA, which would be emitted from any proposed major stationary source or major modification which the department, on a case-by-case basis, taking into account energy impacts, environmental impacts (including, but not limited to, the effect of the control technology option on hazardous air pollutants), and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of BACT result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under ARM 17.8.340 and 17.8.341. If the department determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, any design, equipment, work practice, operational standard, or combination thereof, may be prescribed instead to satisfy the requirement for the application of BACT. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice, or operation, and shall provide for compliance by means which achieve equivalent results.

(7) "Building, structure, facility, or installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same major group (i.e., which have the same two-digit code) as described in the standard industrial classification manual, 1987.

(8) "Commence", as applied to construction of a major stationary source or major modification, means that the owner or operator has all necessary preconstruction approvals or permits and either has:

(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.

(9) "Complete" means, in reference to an application for a permit, that the application contains all the information necessary for processing the application, except that designating an application complete for purposes of permit processing does not preclude the department from requesting or accepting any additional information.

(10) "Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.

(11) "Emissions unit" means any part of a stationary source which emits or would have the potential to emit any pollutant subject to regulation under the FCAA.

(12) "Federal land manager" means, with respect to any lands in the United States, the secretary of the department with authority over such lands.

(13) "Federally enforceable" means all limitations and conditions which are enforceable by the administrator, including those requirements developed pursuant to 40 CFR Parts 60 and 61, requirements within the Montana State Implementation Plan, and any permit requirement established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR Part 51, subpart I, including operating permits issued under an EPA-approved program that is incorporated into the Montana State Implementation Plan and expressly requires adherence to any permit issued under such program.

(14) "Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(15) "High terrain" means any area having an elevation 900 feet or more above the base of the stack of a source.

(16) "Indian governing body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

(17) "Indian reservation" means any federally recognized reservation established by treaty, agreement, executive order, or act of Congress.

(18) "Innovative control technology" means any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or nonair quality environmental impacts.

(19) "Low terrain" means any area other than high terrain.

(20) "Major modification" means any physical change in, or change in the method of operation of, a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the FCAA, excluding hazardous air pollutants, except to the extent that such hazardous air pollutants are regulated as constituents of more general pollutants listed in section 108(a)(1) of the FCAA.

(a) Any net emissions increase that is significant for volatile organic compounds or NO_x will be considered significant for ozone.

(b) A physical change or change in the method of operation shall not include:

(i) routine maintenance, repair, and replacement;

(ii) use of an alternative fuel or raw material by reason of any order under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, 15 USC 791, et seq. (1988), or by reason of a natural gas curtailment plan pursuant to the Federal Power Act, 16 USC 791a, et seq. (1988 and Supp. III 1991);

(iii) use of an alternative fuel by reason of an order or rule under section 125 of the FCAA;

(iv) use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(v) use of an alternative fuel or raw material by a stationary source which:

(A) the source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975, pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR subpart I or section 51.166; or

(B) the source is approved to use under any permit issued under 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.166;

(vi) an increase in the hours of operation or in the production rate, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975, pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR subpart I or section 51.166; or

(vii) any change in ownership at a stationary source.

(21) The following apply to the definitions of the terms "major source baseline date" and "minor source baseline date":

(a) "major source baseline date" means:

(i) in the case of PM-10 and sulfur dioxide (SO_2), January 6, 1975;

(ii) in the case of nitrogen dioxide (NO_2), February 8, 1988; and

(iii) in the case of PM-2.5, October 20, 2010.

(b) "Minor source baseline date" means the earliest date after the trigger date on which a major stationary source or a major modification subject to 40 CFR 52.21 or to regulations approved pursuant to 40 CFR 51.166 submits a complete application under the relevant regulation. The trigger date is:

(i) in the case of PM-10 and sulfur dioxide (SO_2), August 7, 1977;

(ii) in the case of nitrogen dioxide (NO_2), February 8, 1988; and

(iii) in the case of PM-2.5, October 20, 2011.

(c) The baseline date is established for each pollutant for which increments or other equivalent measures have been established if:

(i) the area in which the proposed source or modification would construct is designated as attainment or unclassifiable in 40 CFR 81.327 for the pollutant on the date of its complete application under 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.166; and

(ii) in the case of a major stationary source, the pollutant would be emitted in significant amounts, or, in the case of a major modification, there would be a significant net emissions increase of the pollutant.

(d) Any minor source baseline date established originally for the total suspended particulate increments shall remain in effect and shall apply for purposes of determining the amount of available PM-10 increments, except that the department may rescind any such minor source baseline date where it can be shown, to the satisfaction of the department, that the emissions increase from the major stationary source, or the net emissions increase from the major modification, responsible for triggering that date did not result in a significant amount of PM-10 emissions.

(22) The following apply to the definition of the term "major stationary source":

(a) "major stationary source" means:

(i) any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation under the FCAA, excluding hazardous air pollutants, except to the extent that such hazardous air pollutants are regulated as constituents of more general pollutants listed in section 108(a)(1) of the FCAA: fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, Portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants, primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants, fossil fuel boilers (or combinations thereof) totaling more than 250 million British thermal units per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants;

(ii) notwithstanding the stationary source size specified in (22)(a)(i), any stationary source which emits, or has the potential to emit, 250 tons per year or more of any air pollutant subject to regulation under the FCAA, excluding hazardous air pollutants, except to the extent that such hazardous air pollutants are regulated as constituents of more general pollutants listed in section 108(a)(1) of the FCAA; or

(iii) any physical change that would occur at a stationary source not otherwise qualifying under (22)(a)(i) or (ii), as a major stationary source if the change would constitute a major stationary source by itself.

(b) A major source that is major for volatile organic compounds or NO_x will be considered major for ozone.

(c) The fugitive emissions of a stationary source may not be included in determining, for any of the purposes of this subchapter, whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

(i) coal cleaning plants (with thermal dryers);

(ii) kraft pulp mills;

(iii) Portland cement plants;

(iv) primary zinc smelters;

(v) iron and steel mills;

(vi) primary aluminum ore reduction plants;

(vii) primary copper smelters;

(viii) municipal incinerators capable of charging more than 250 tons of refuse per day;

(ix) hydrofluoric, sulfuric, or nitric acid plants;

(x) petroleum refineries;

(xi) lime plants;

(xii) phosphate rock processing plants;

(xiii) coke oven batteries;

(xiv) sulfur recovery plants;

(xv) carbon black plants (furnace process);

(xvi) primary lead smelters;

(xvii) fuel conversion plants;

(xviii) sintering plants;

(xix) secondary metal production plants;

(xx) chemical process plants;

(xxi) fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;

(xxii) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(xxiii) taconite ore processing plants;

(xxiv) glass fiber processing plants;

(xxv) charcoal production plants;

(xxvi) fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input; and

(xxvii) any other stationary source category which, as of August 7, 1980, is being regulated under sections 111 or 112 of the FCAA.

(23) "Necessary preconstruction approvals or permits" means those permits or approvals required under federal air quality control laws and regulations and those air quality control laws and regulations which are part of the Montana State Implementation Plan.

(24) The following apply to the definition of the term "net emissions increase":

(a) "net emissions increase" means the amount by which the sum of the following exceeds zero:

(i) any increase in actual emissions from a particular physical change or change in the method of operation at a stationary source; and

(ii) any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

(b) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between the date five years before construction on the particular change commenced, and the date that the increase from the particular change occurs.

(c) An increase or decrease in actual emissions is creditable only if the department has not relied on it in issuing a permit for the source under this subchapter, which permit is in effect when the increase in actual emissions from the particular change occurs.

(d) An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or nitrogen oxides which occurs before the applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available. With respect to particulate matter, only PM-10 emissions may be used to evaluate the net emissions increase for PM-10.

(e) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(f) A decrease in actual emissions is creditable only to the extent that:

(i) the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(ii) it is federally enforceable at and after the time that actual construction on the particular change begins; and

(iii) it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(g) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

(25) "Nitrogen oxides" or "NO_x" means the sum of nitric oxide and nitrogen dioxide in the flue gas or emission point.

(26) "Potential to emit" means the maximum capacity of a stationary 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, shall 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 stationary source.

(27) "Secondary emissions" means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of this chapter, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

(28) The following apply to the definition of the term "significant":

(a) "significant" means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant and Emissions Rate

Carbon monoxide: 100 tons per year (tpy)
Nitrogen oxides (NO_x): 40 tpy
Sulfur dioxide (SO_2): 40 tpy
Particulate matter: 25 tpy of particulate matter emissions
15 tpy of PM-10 emissions
PM-2.5: 10 tpy of direct PM-2.5 emissions, 40 tpy of sulfur dioxide emissions, or 40 tpy of ~~nitrogen oxides (NOx)~~ emissions unless demonstrated not to be a PM-2.5 precursor
Ozone: 40 tpy of volatile organic compounds or nitrogen oxides
Lead: 0.6 tpy
Fluorides: 3 tpy
Sulfuric acid mist: 7 tpy
Hydrogen sulfide (H_2S): 10 tpy
Total reduced sulfur (including H_2S): 10 tpy
Reduced sulfur compounds (including H_2S): 10 tpy
Municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans): $3.2 * 10^{-6}$ megagrams per year ($3.5 * 10^{-6}$ tpy)
Municipal waste combustor metals (measured as particulate matter): 14 megagrams per year (15 tpy)
Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride): 36 megagrams per year (40 tpy)

(b) "significant" means, in reference to a net emissions increase or the potential of a source to emit a pollutant subject to regulation under the FCAA, that (28)(a) does not list any emissions rate. This does not include hazardous air pollutants, except to the extent that such hazardous air pollutants are regulated as constituents of more general pollutants listed in section 108(a)(1) of the FCAA.

(c) Notwithstanding (28)(a), "significant" means any emissions rate or any net emissions increase associated with a major stationary source or major modification, which would construct within 10 kilometers of a Class I area, and have an impact on such area equal to or greater than one $\mu g/m^3$ (24-hour average).

(29) "Stationary source" means any building, structure, facility, or installation which emits or may emit any air pollutant subject to regulation under the FCAA, excluding hazardous air pollutants, except to the extent that such hazardous air pollutants are regulated as constituents of more general pollutants listed in section 108(a)(1) of the FCAA.

(30) "Volatile organic compounds (VOC)" means the same as defined in 40 CFR 51.100(s). (History: 75-2-111, 75-2-203, MCA; IMP, 75-2-202, 75-2-203, 75-2-204, MCA; NEW, 1993 MAR p. 2919, Eff. 12/10/93; AMD, 1994 MAR p. 2829, Eff. 10/28/94; AMD, 1995 MAR p. 2410, Eff. 11/10/95; AMD, 1996 MAR p. 1843, Eff. 7/4/96; TRANS, from DHES, 1996 MAR p. 2285; AMD, 1998 MAR p. 1725, Eff. 6/26/98; AMD, 2002 MAR p. 1747, Eff. 6/28/02; AMD, 2003 MAR p. 645, Eff. 4/11/03; AMD, 2004 MAR p. 724, Eff. 4/9/04; AMD, 2006 MAR p. 1956, Eff. 8/11/06; AMD, 2007 MAR p. 1663, Eff. 10/26/07; AMD, 2011 MAR p. 2134, Eff. 10/14/11; AMD, 2012 MAR p. 2058, Eff. 10/12/12.)

17.8.802 INCORPORATION BY REFERENCE
(1) For the purposes of this subchapter, the board adopts and incorporates by reference the following:
(a) 40 CFR 51.102, pertaining to requirements for public hearings for state programs;
(b) 40 CFR Part 51, Appendix W, pertaining to the Guideline on Air Quality Models;
(c) 40 CFR Part 60, pertaining to standards of performance for new stationary sources;
(d) 40 CFR Part 61, pertaining to emission standards for hazardous air pollutants;
(e) 40 CFR 81.327, pertaining to the air quality attainment status designations for Montana; and
(f) the Standard Industrial Classification Manual (1987), Office of Management and Budget (PB 87-100012), pertaining to a system of industrial classification and definition based upon the composition and structure of the economy.
(2) A copy of materials incorporated by reference in this subchapter is available for public inspection and copying at the Department of Environmental Quality, 1520 E. 6th Ave., P.O. Box 200901, Helena, MT 59620-0901.
(3) Copies of federal materials also may be obtained from:
(a) National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; phone: (800) 553-684 7 or (703) 605-6000; fax: (703) 605-6900; e-mail: orders@ntis.gov; web: http://www.ntis.gov;
(b) National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419; phone: (800) 490-9198 or (513) 489-8190; fax: (513) 489-8695; e-mail: ncepimal@one.net; web: tittp://www.epa.gov/ncepihom;
(c) U.S. Government Printing Office, Information Dissemination (Superintendent of Documents), P.O. Box 371954, Pittsburgh, PA 15250-7954; phone: (866) 512-1800 or (202) 512-1800; fax: (202) 512-2104; e-mail: orders@gpo.gov; web: http://www.gpoaccess.gov; and
(d) the EPA regional office libraries listed at http://www.epa.gov/natlibra/libraries.htm.
(4) Copies of the CFR may be obtained from the U.S. Government Printing Office, as described in (3)(c).
(5) The Standard Industrial Classification Manual (1987) may be obtained from the NTIS, as described in (3)(a).

History: 75-2-111, 75-2-203, MCA; IMP, 75-2-202, 75-2-203, 75-2-204, MCA; NEW, 1993 MAR p. 2919, Eff. 12/10/93; AMO, 1994 MAR p. 2828, Eff. 10/28/94; AMO, 1996 MAR p. 1844, Eff. 7/4/96; TRANS, from DHES, 1996 MAR p. 2285; AMO, 1997 MAR p. 1581, Eff. *919197;* AMO, 2003 MAR p. 645, Eff. 4/11/03; AMO, 2005 MAR p. 959, Eff. 6/17/05; AMO, 2006 MAR p. 1956, Eff. 8/11/06; AMO, 2007 MAR p. 1663, Eff. 10/26/07; AMO, 2009 MAR p. 1784, Eff. 10/16/09.

17.8.804 AMBIENT AIR INCREMENTS

(1) In areas designated as Class I, II, or III, increases in pollutant concentration over the baseline concentration shall be limited to the following:

Pollutant	**Maximum Allowable Increase** (micrograms per cubic meter)
CLASS I	
Particulate matter: PM-10, annual arithmetic mean PM-10, 24-hr maximum	 4 8

Sulfur dioxide: Annual arithmetic mean 24-hr maximum 3-hr maximum	 2 5 25
Nitrogen dioxide: Annual arithmetic mean	 2.5
CLASS II	
Particulate matter: PM-10, annual arithmetic mean PM-10, 24-hr maximum	 17 30
Sulfur dioxide: Annual arithmetic mean 24-hr maximum 3-hr maximum	 20 91 512
Nitrogen dioxide: Annual arithmetic mean	 25
CLASS III	
Particulate matter: PM-10, annual arithmetic mean PM-10, 24-hr maximum	 34 60
Sulfur dioxide: Annual arithmetic mean 24-hr maximum 3-hr maximum	 40 182 700
Nitrogen dioxide: Annual arithmetic mean	 50

(2) For any period other than an annual period, the applicable maximum allowable increase may be exceeded during 1 such period per year at any 1 location. (History: 75-2-111, 75-2-203, MCA; IMP, 75-2-202, 75-2-203, 75-2-204, MCA; NEW, 1993 MAR p. 2919, Eff. 12/10/93; AMD, 1994 MAR p. 2829, Eff. 10/28/94; TRANS, from DHES, 1996 MAR p. 2285.)

17.8.805 AMBIENT AIR CEILINGS

(1) No concentration of a pollutant shall exceed the concentration permitted under either the applicable secondary or primary national ambient air quality standard, whichever concentration is lowest for the pollutant for a period of exposure. (History: 75-2-111, 75-2-203, MCA; IMP, 75-2-202, 75-2-203, 75-2-204, MCA; NEW, 1993 MAR p. 2919, Eff. 12/10/93; TRANS, from DHES, 1996 MAR p. 2285.)

17.8.806 RESTRICTIONS ON AREA CLASSIFICATIONS

(1) All of the following areas are designated Class I areas and may not be redesignated:

(a) Bob Marshall Wilderness Area;

(b) Anaconda Pintler Wilderness Area;

(c) Cabinet Mountains Wilderness Area;

(d) Gates of the Mountains Wilderness Area;

(e) Glacier National Park;

(f) Medicine Lake Wilderness Area;

(g) Mission Mountains Wilderness Area;

(h) Red Rock Lake Wilderness Area;

(i) Scapegoat Wilderness Area;

(j) Selway-Bitterroot Wilderness Area;

(k) UL Bend Wilderness Area; and

(l) Yellowstone National Park.

(2) Areas which were redesignated as Class I under regulations promulgated before August 7, 1977, shall remain Class I, but may be redesignated as provided in this subchapter.

(3) The extent of the areas designated as Class I under (1) and (2) of this rule shall conform to any changes in the boundaries of such areas which have occurred subsequent to August 7, 1977, or which may occur subsequent to November 15, 1990.

(4) Any other area, unless otherwise specified in the legislation creating such an area, is initially designated Class II, but may be redesignated as provided in this subchapter.

(5) The following areas may be redesignated only as Class I or II:

(a) an area which, as of August 7, 1977, exceeded 10,000 acres in size and was a national monument, a national primitive area, a national preserve, a national recreational area, a national wild and scenic river, a national wildlife refuge, a national lakeshore or seashore; and

(b) a national park or national wilderness area established after August 7, 1977, which exceeds 10,000 acres in size.

(6) The following 3 areas have been designated as Class I by EPA and may be redesignated to another class only by EPA:

(a) Northern Cheyenne Reservation;

(b) Flathead Reservation; and

(c) Fort Peck Reservation. (History: 75-2-111, 75-2-203,
MCA; IMP, 75-2-202, 75-2-203, 75-2-204, MCA; NEW, 1993 MAR p. 2919, Eff. 12/10/93; TRANS, from DHES, 1996 MAR p. 2285.)

17.8.807 EXCLUSIONS FROM INCREMENT CONSUMPTION

(1) The following concentrations will be excluded in determining compliance with a maximum allowable increase:

(a) concentrations attributable to the increase in emissions from stationary sources which have converted from the use of petroleum products, natural gas, or both by reason of an order in effect under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, 15 USC 791, et seq. (1988), over the emissions from such sources before the effective date of such an order;

(b) concentrations attributable to the increase in emissions from sources which have converted from using natural gas by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act, 16 USC 791a, et seq. (1988 and Supp. III 1991), over the emissions from such sources before the effective date of such plan;

(c) concentrations of particulate matter attributable to the increase in emissions from construction or other temporary emission-related activities of new or modified sources;

(d) the increase in concentrations attributable to new sources outside the United States over the concentrations attributable to existing sources which are included in the baseline concentration; and

(e) concentrations attributable to the temporary increase in emissions of sulfur dioxide, particulate matter, or nitrogen oxides from stationary sources meeting the criteria specified in (3) of this rule.

(2) With respect to (1)(a) or (b) of this rule, no exclusion of such concentrations shall apply more than 5 years after the effective date of the order to which (1)(a) of this rule refers, or the plan to which (1)(b) of this rule refers,

whichever is applicable. If both such order and plan are applicable, no such exclusion shall apply more than 5 years after the later of such effective dates.

(3) For purposes of excluding concentrations pursuant to (1)(e) of this rule:

(a) The time period for a temporary increase in emissions may not exceed 2 years and is not renewable.

(b) No emissions increase from a stationary source would be allowed which would:

(i) impact a Class I area or an area where an applicable increment is known to be violated; or

(ii) cause or contribute to the violation of a national ambient air quality standard. (History: 75-2-111, 75-2-203, MCA; IMP, 75-2-202, 75-2-203, 75-2-204, MCA; NEW, 1993 MAR p. 2919, Eff. 12/10/93; TRANS, from DHES, 1996 MAR p. 2285.)

17.8.808 REDESIGNATION

(1) All areas of the state (except as otherwise provided under ARM 17.8.806) are designated Class II. Redesignation (except as otherwise precluded by ARM 17.8.806) shall be subject to the redesignation procedures of this rule. Lands within the exterior boundaries of Indian reservations may be redesignated only by the appropriate Indian governing body, as required by 40 CFR 51.166(g)(4).

(2) The department may submit to the administrator a proposal to redesignate areas of the state Class I or Class II, provided that:

(a) at least 1 public hearing has been held in accordance with procedures established in 40 CFR 51.102;

(b) other states, Indian governing bodies, and federal land managers whose lands may be affected by the proposed redesignation were notified at least 30 days prior to the public hearing;

(c) a discussion of the reasons for the proposed redesignation, including a satisfactory description and analysis of the health, environmental, economic, social, and energy effects of the proposed redesignation, was prepared and made available for public inspection at least 30 days prior to the hearing and the notice announcing the hearing contained appropriate notification of the availability of such discussion;

(d) prior to the issuance of notice respecting the redesignation of an area that includes any federal lands, the department has provided written notice to the appropriate federal land manager and afforded adequate opportunity (not in excess of 60 days) to confer with the department respecting the redesignation and to submit written comments and recommendations. In redesignating any area with respect to which any federal land manager had submitted written comments and recommendations, the department shall have published a list of any inconsistency between such redesignation and such comments and recommendations (together with the reasons for making such redesignation against the recommendation of the federal land manager); and

(e) the department has proposed the redesignation after consultation with the elected leadership of any local governmental bodies located within the area covered by the proposed redesignation.

(3) Any area other than an area to which ARM 17.8.806 refers may be redesignated as Class III if:

(a) the redesignation would meet the requirements of (2) of this rule;

(b) the redesignation, except any established by an Indian governing body, has been specifically approved by the governor, after consultation with the appropriate committees of the legislature (if it is in session, or with the leadership of the legislature, if it is not in session), and if the local governmental bodies representing a majority of the residents of the area to be redesignated enact ordinances or regulations (including resolutions where appropriate) concurring in the redesignation;

(c) the redesignation would not cause, or contribute to, a concentration of any air pollutant which would exceed any maximum allowable increase permitted under the classification of any other area or any national ambient air quality standard; and

(d) any permit application for any major stationary source or major modification subject to ARM 17.8.820, which could receive a permit under this subchapter only if the area in question were redesignated as Class III, and any material

submitted as part of that application, were available, as was practicable, for public inspection prior to any public hearing on redesignation of any area as Class III.

(4) If the administrator disapproves any proposed area designation, the classification of the area will be that which was in effect prior to the proposed redesignation which was disapproved, and the state may resubmit the proposal after correcting the deficiencies noted by the administrator. (History: 75-2-111, 75-2-203, MCA; IMP, 75-2-202, 75-2-203, 75-2-204, MCA; NEW, 1993 MAR p. 2919, Eff. 12/10/93; TRANS, from DHES, 1996 MAR p. 2285.)

17.8.809 STACK HEIGHTS

(1) The degree of emission limitation required for control of any air pollutant under this subchapter may not be affected in any manner by:

(a) so much of a stack height, not in existence before December 31, 1970, as exceeds good engineering practice; or

(b) any other dispersion technique not implemented before December 31, 1970. (History: 75-2-111, 75-2-203, MCA; IMP, 75-2-202, 75-2-203, 75-2-204, MCA; NEW, 1993 MAR p. 2919, Eff. 12/10/93; TRANS, from DHES, 1996 MAR p. 2285.)

17.8.818 REVIEW OF MAJOR STATIONARY SOURCES AND MAJOR MODIFICATIONS--SOURCE APPLICABILITY AND EXEMPTIONS (1) No major stationary source or major modification shall begin actual construction unless, as a minimum, requirements contained in ARM 17.8.819 through 17.8.827 have been met. A major stationary source or major modification exempted from the requirements of subchapter 7 under ARM 17.8.744 or 17.8.745 shall, if applicable, still be required to obtain a Montana air quality permit and comply with all applicable requirements of this subchapter.

(2) The requirements contained in ARM 17.8.819 through 17.8.827 shall apply to any major stationary source and any major modification with respect to each pollutant subject to regulation under the FCAA that it would emit, except as this subchapter would otherwise allow. This does not include hazardous air pollutants, except to the extent that such hazardous air pollutants are regulated as constituents of more general pollutants listed in section 108(a)(1) of the FCAA, or must be considered in the BACT analysis.

(3) The requirements contained in ARM 17.8.819 through 17.8.827 apply only to any major stationary source or major modification that would be constructed in an area which is designated as attainment or unclassifiable under 40 CFR 81.327, except that the requirements contained in ARM 17.8.819 through 17.8.827 do not apply to a particular major stationary source or major modification if:

(a) the major stationary source would be a nonprofit health or nonprofit educational institution or a major modification that would occur at such an institution; or

(b) the source or modification is a portable stationary source which has previously received a permit under requirements contained in ARM 17.8.819 through 17.8.827, but only if the source proposes to relocate and emissions at the new location would be temporary, the emissions from the source would not exceed its allowable emissions and would impact no Class I area and no area where an applicable increment is known to be violated, and reasonable notice is given to the department prior to the relocation identifying the proposed new location and the probable duration of operation at the new location. Such notice must be given to the department not less than ten days in advance of the proposed relocation unless a different time duration is previously approved by the department.

(c) The source or modification would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and such source does not belong to any of the following categories:

(i) coal cleaning plants (with thermal dryers);

(ii) kraft pulp mills;

(iii) Portland cement plants;

(iv) primary zinc smelters;

(v) iron and steel mills;

(vi) primary aluminum ore reduction plants;

(vii) primary copper smelters;

(viii) municipal incinerators capable of charging more than 250 tons of refuse per day;

(ix) hydrofluoric, sulfuric, or nitric acid plants;

(x) petroleum refineries;

(xi) lime plants;

(xii) phosphate rock processing plants;

(xiii) coke oven batteries;

(xiv) sulfur recovery plants;

(xv) carbon black plants (furnace process);

(xvi) primary lead smelters;

(xvii) fuel conversion plants;

(xviii) sintering plants;

(xix) secondary metal production plants;

(xx) chemical process plants;

(xxi) fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input;

(xxii) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(xxiii) taconite ore processing plants;

(xxiv) glass fiber processing plants;

(xxv) charcoal production plants;

(xxvi) fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input;

(xxvii) any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the FCAA.

(4) The requirements contained in ARM 17.8.819 through 17.8.827 do not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the source or modification is located in an area designated as nonattainment under 40 CFR 81.327.

(5) The requirements contained in ARM 17.8.820, 17.8.822, and 17.8.824 do not apply to a proposed major stationary source or major modification with respect to a particular pollutant, if the allowable emissions of that pollutant from a new source, or the net emissions increase of that pollutant from a modification, would be temporary and impact no Class I area and no area where an applicable increment is known to be violated.

(6) The requirements contained in ARM 17.8.820, 17.8.822, and 17.8.824 as they relate to any maximum allowable increase for a Class II area do not apply to a modification of a major stationary source that was in existence on March 1, 1978, if the net increase in allowable emissions of each pollutant subject to regulation under the FCAA from the modification after the application of BACT would be less than 50 tons per year. This does not include hazardous air pollutants, except to the extent that such hazardous air pollutants are regulated as constituents of more general pollutants listed in section 108(a)(1) of the FCAA.

(7) The department may exempt a proposed major stationary source or major modification from the requirements of ARM 17.8.822, with respect to monitoring for a particular pollutant, if:

(a) the emissions increase of the pollutant from a new stationary source or the net emissions increase of the pollutant from a modification would cause, in any area, air quality impacts less than the following amounts:

(i) carbon monoxide: 575 $\mu g/m^3$, eight-hour average;

(ii) nitrogen dioxide (NO_2): 14 $\mu g/m^3$, annual average;

(iii) PM-2.5: 4 $\mu g/m^3$;

(iv) PM-10: 10 $\mu g/m^3$, 24-hour average;

(v) sulfur dioxide (SO_2): 13 $\mu g/m^3$, 24-hour average;

(vi) ozone: no de minimus air quality level is provided for ozone. However, any net increase of 100 tons per year or more of volatile organic compounds or nitrogen oxides subject to this subchapter requires an ambient impact analysis, including the gathering of ambient air quality data;

(vii) lead: 0.1 $\mu g/m^3$, three-month average;

(viii) fluorides: 0.25 $\mu g/m^3$, 24-hour average;

(ix) total reduced sulfur: 10 $\mu g/m^3$, one-hour average;

(x) hydrogen sulfide: 0.2 $\mu g/m^3$, one-hour average;

(xi) reduced sulfur compounds: 10 $\mu g/m^3$, one-hour average; or

(b) the concentrations of the pollutant in the area that the source or modification would affect are less than the concentrations listed in (7)(a); or

(c) the pollutant is not listed in (7)(a). (History: 75-2-111, 75-2-203, MCA; IMP, 75-2-202, 75-2-203, 75-2-204, MCA; NEW, 1993 MAR p. 2919, Eff. 12/10/93; AMD, 1994 MAR p. 2829, Eff. 10/28/94; TRANS, from DHES, 1996 MAR p. 2285; AMD, 2002 MAR p. 3567, Eff. 12/27/02; AMD, 2003 MAR p. 645, Eff. 4/11/03; AMD, 2006 MAR p. 1956, Eff. 8/11/06; AMD, 2007 MAR p. 1663, Eff. 10/26/07; AMD, 2011 MAR p. 2134, Eff. 10/14/11; AMD, 2012 MAR p. 2058, Eff. 10/12/12.)

17.8.819 CONTROL TECHNOLOGY REVIEW

(1) A major stationary source or major modification shall meet each applicable emissions limitation under the Montana state implementation plan and each applicable emission standard and standard of performance under ARM 17.8.340 and 17.8.341.

(2) A new major stationary source shall apply BACT for each pollutant subject to regulation under the FCAA that it would have the potential to emit in significant amounts, excluding hazardous air pollutants, except to the extent that such hazardous air pollutants are regulated as constituents of more general pollutants listed in section 108(a)(1) of the FCAA. In evaluating the environmental impacts of any control technology option, the BACT analysis shall consider all pollutants, including hazardous air pollutants.

(3) A major modification shall apply BACT for each pollutant subject to regulation under the FCAA for which it would be a significant net emissions increase at the source, excluding hazardous air pollutants, except to the extent that such hazardous air pollutants are regulated as constituents of more general pollutants listed in section 108(a)(1) of the FCAA. In evaluating the environmental impacts of any control technology option, the BACT analysis shall consider all pollutants, including hazardous air pollutants. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.

(4) For phased construction projects, the determination of BACT will be reviewed and modified as appropriate at the latest reasonable time which occurs no later than 18 months prior to commencement of construction of each independent phase of the project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of BACT for the source. (History: 75-2-111, 75-2-203, MCA; IMP, 75-2-202, 75-2-203, 75-2-204, MCA; NEW, 1993 MAR p. 2919, Eff. 12/10/93; TRANS, from DHES, 1996 MAR p. 2285; AMD, 2003 MAR p. 645, Eff. 4/11/03; AMD, 2004 MAR p. 724, Eff. 4/9/04.)

17.8.820 SOURCE IMPACT ANALYSIS

(1) The owner or operator of the proposed source or modification shall demonstrate that allowable emission increases from the proposed source or modification, in conjunction with all other applicable emissions increases or reductions (including secondary emissions), would not cause or contribute to air pollution in violation of any national ambient air quality standard in any air quality control region or any applicable maximum allowable increase over the baseline concentration in any area. (History: 75-2-111, 75-2-203, MCA; IMP, 75-2-202, 75-2-203, 75-2-204, MCA; NEW, 1993 MAR p. 2919, Eff. 12/10/93; TRANS, from DHES, 1996 MAR p. 2285.)

17.8.821 AIR QUALITY MODELS

(1) All estimates of ambient concentrations required under this subchapter must be based on the applicable air quality models, data bases, and other requirements specified in the Guideline on Air Quality Models, 40 CFR Part 51, Appendix W.

(2) Where an air quality impact model specified in 40 CFR Part 51, Appendix W, is inappropriate, the model may be modified or another model substituted. Such a modification or substitution of a model may be made on a case-by-case basis or, where appropriate, on a generic basis for a specific state program. Written approval of the administrator must be obtained for any modification or substitution. In addition, use of a modified or substituted model must be subject to notice and opportunity for public comment under procedures developed in accordance with ARM 17.8.826. (History: 75-2-111, 75-2-203, MCA; IMP, 75-2-202, 75-2-203, 75-2-204, MCA; NEW, 1993 MAR p. 2919, Eff. 12/10/93; TRANS, from DHES, 1996 MAR p. 2285; AMD, 2003 MAR p. 645, Eff. 4/11/03.)

17.8.822 AIR QUALITY ANALYSIS

(1) Any application for a permit pursuant to this subchapter shall contain an analysis of ambient air quality in the area that the emissions from the major stationary source or major modification would affect.

(2) For a major stationary source, the analysis shall address each pollutant that it would have the potential to emit in a significant amount.

(3) For a major modification, the analysis shall address each pollutant for which it would result in a significant net emissions increase.

(4) With respect to any such pollutant for which no national ambient air quality standard exists, the analysis shall contain such air quality monitoring data as the department determines is necessary to assess ambient air quality for that pollutant in any area that the emissions of that pollutant would affect.

(5) With respect to any such pollutant (other than nonmethane hydrocarbons) for which such a standard does exist, the analysis shall contain continuous air quality monitoring data gathered for purposes of determining whether emissions of that pollutant would cause or contribute to a violation of the standard or any maximum allowable increase.
(6) The continuous air monitoring data that is required under this rule shall have been gathered over a period of one year and shall represent the year preceding receipt of the application, except that, if the department determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one year (but not to be less than four months) , the data that is required shall have been gathered over at least that shorter period.
(7) The owner or operator of a proposed major stationary source or major modification of volatile organic compounds who satisfies all conditions of subchapter 9 may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as required under (1).
(8) The owner or operator of a major stationary source or major modification shall, after construction of the stationary source or modification, conduct such ambient monitoring as the department determines is necessary to determine the effect emissions from the stationary source or modification may have, or are having, on air quality in any area.

History: 75-2-111, 75-2-203, MCA; IMP, 75-2-202, 75-2-203, 75-2-204, MCA; NEW, 1993 MAR p. 2919, Eff. 12/10/93; TRANS, from OHES, 1996 MAR p. 2285; AMO, 2004 MAR p. 724, Eff. 4/9/04; AMO, 2009 MAR p. 1784, Eff. 10/16/09.

17.8.823 SOURCE INFORMATION

(1) The owner or operator of a proposed source or modification shall submit the permit application fee required pursuant to ARM 17.8.504 and all information necessary to perform any analysis or make any determination required under procedures established in accordance with this subchapter.

(2) Such information shall include the following:

(a) a description of the nature, location, design capacity, and typical operating schedule of the source or modification, including specifications and drawings showing its design and plant layout;

(b) a detailed schedule for construction of the source or modification; and

(c) a detailed description as to what system of continuous emission reduction is planned by the source or modification, emission estimates, and any other information as necessary to determine that BACT as applicable would be applied.

(3) Upon request of the department, the owner or operator shall also provide information regarding the following:

(a) the air quality impact of the source or modification, including meteorological and topographical data necessary to estimate such impact; and

(b) the air quality impacts and the nature and extent of any or all general commercial, residential, industrial and other growth which has occurred since August 7, 1977, in the area the source or modification would affect. (History: 75-2-111, 75-2-203, MCA; IMP, 75-2-202, 75-2-203, 75-2-204, MCA; NEW, 1993 MAR p. 2919, Eff. 12/10/93; TRANS, from DHES, 1996 MAR p. 2285.)

17.8.824 ADDITIONAL IMPACT ANALYSES

(1) The owner or operator shall provide an analysis of the impairment to visibility, soils, and vegetation that would occur as a result of the source or modification and general commercial, residential, industrial, and other growth associated with the source or modification. The owner or operator need not provide an analysis of the impact on vegetation having no significant commercial or recreational value.

(2) The owner or operator shall provide an analysis of the air quality impact projected for the area as a result of general commercial, residential, industrial, and other growth associated with the source or modification. (History: 75-2-111, 75-2-203, MCA; IMP, 75-2-202, 75-2-203, 75-2-204, MCA; NEW, 1993 MAR p. 2919, Eff. 12/10/93; TRANS, from DHES, 1996 MAR p. 2285.)

17.8.825 SOURCES IMPACTING FEDERAL CLASS I AREAS--ADDITIONAL REQUIREMENTS

(1) The department shall transmit to the administrator a copy of each permit application relating to a major stationary source or major modification and provide notice to the administrator of every action related to the consideration of such permit.
(2) The federal land manager and the federal official charged with direct responsibility for management of Class I lands have an affirmative responsibility to protect the air quality related values (including visibility) of any such lands and to consider, in consultation with the administrator, whether a proposed source or modification would have an adverse impact on such values.
(3) Federal land managers with direct responsibility for management of Class I lands may present to the department, after reviewing the department's preliminary determination required under ARM 17.8.759, a demonstration that the emissions from the proposed source or modification would have an adverse impact on the air quality-related values (including visibility) of any federal mandatory Class I lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the department concurs with such demonstration, the department may not issue the permit.
(4) The owner or operator of a proposed source or modification may demonstrate to the federal land manager that the emissions from such source would have no adverse impact on the air quality-related values of such lands (including visibility) , notwithstanding that the change in air quality resulting from emissions from such source or modification would cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the federal land manager concurs with such demonstration and so certifies to the department, the department may, provided that applicable requirements are otherwise met, issue the permit with such emission limitations as may be necessary to assure that emissions of sulfur dioxide, particulate matter, and nitrogen oxides would not exceed the following maximum allowable increases over the minor source baseline concentration for such pollutants:

Pollutant	Maximum allowable increase (micrograms per cubic meter)
Particulate matter:	
PM-10, annual arithmetic mean	17
PM-10, 24-hr maximum	30
Sulfur dioxide:	
annual arithmetic mean	20
24-hr maximum	91
3-hr maximum	325
Nitrogen dioxide:	
annual arithmetic mean	25

(5) The owner or operator of a proposed source or modification which cannot be approved under procedures developed pursuant to (4) may seek to obtain a sulfur dioxide variance from the Governor.
(a) The owner or operator of a proposed source or modification must demonstrate to the Governor that the source or modification cannot be constructed by reason of any maximum allowable increase for sulfur dioxide for periods of 24 hours or less applicable to any Class I area and, in the case of federal mandatory Class I areas, that a variance under this clause would not adversely affect the air quality-related values of the area (including visibility) .
(b) The Governor, after consideration of the federal land manager's recommendation (if any) and subject to the concurrence of the federal land manager, may grant, after notice and an opportunity for a public hearing, a variance from such maximum allowable increase.
(c) If the federal land manager does not concur in the Governor's recommendations, the recommendations of the Governor and the federal land manager shall be transferred to the President, and the President may approve the Governor's recommendation if the President finds that such variance is in the national interest.
(d) If such a variance is granted under this rule, the department may issue a permit to such source or modification in accordance with provisions developed pursuant to (6) , provided that the applicable requirements of the plan are otherwise met.
(6) In the case of a permit issued under procedures developed pursuant to (5) , the source or modification shall comply with emission limitations as may be necessary to assure that emissions of sulfur dioxide from the source or modification would not (during any day on which the otherwise applicable maximum allowable increases are exceeded) cause or contribute to concentrations which would exceed the following maximum allowable increases over the baseline concentration and to assure that such emissions would not cause or contribute to concentrations which exceed the otherwise applicable maximum allowable increases for periods of exposure of 24 hours or less for more than 18 days, not necessarily consecutive, during any annual period:

MAXIMUM ALLOWABLE INCREASE
[Micrograms per cubic meter]

Terrain Areas PERIODS OF EXPOSURE	Low	High
24-hr maximum	36	62
3-hr maximum	130	221

(History: 75-2-111, 75-2-203, MCA; IMP, 75-2-202, 75-2-203, 75-2-204, MCA; NEW, 1993 MAR p. 2919, Eff. 12/10/93; AMD, 1994 MAR p. 2829, Eff. 10/28/94; TRANS, from DHES, 1996 MAR p. 2285; AMD, 2002 MAR p. 3567, Eff. 12/27/02.)

17.8.826 PUBLIC PARTICIPATION

(1) The department shall notify all applicants in writing within 30 days of the date of receipt of an application as to the completeness of the application or any deficiency in the application or information submitted as provided in ARM 17.8.759. In the event of such a deficiency, the date of receipt of the application will be the date on which the department received all required information unless the department notifies the applicant in writing within 30 days thereafter that the application is still incomplete. This, and any subsequent notice of incompleteness shall follow the same form and requirements as the original notice of incompleteness.

(2) In accordance with ARM 17.8.759, the department shall:

(a) make a preliminary determination whether construction should be approved, approved with conditions, or disapproved;

(b) make available, in at least one location in each region in which the proposed source would be constructed, a copy of all materials the applicant submitted, a copy of the preliminary determination, and a copy or summary of other materials, if any, considered in making the preliminary determination;

(c) notify the public, by advertisement in a newspaper of general circulation in each region in which the proposed source would be constructed, of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification, and of the opportunity for comment at a public hearing as well as written public comment;

(d) send a copy of the notice of public comment to the applicant, the administrator, and to officials and agencies having cognizance over the location where the proposed construction would occur, including any local air pollution control agencies, the chief executives of the city and county where the source would be located, any comprehensive regional land use planning agency, and any state, federal land manager, or Indian governing body whose lands may be affected by emissions from the source or modification;

(e) provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the source, alternatives to it, the control technology required, and other appropriate considerations;

(f) consider all written comments submitted within a time specified in the notice of public comment and all comments received at any public hearing(s) in making a final decision on the approvability of the application. The department shall make all comments available for public inspection in the same locations where the department made available preconstruction information relating to the proposed source or modification;

(g) make a final determination whether construction should be approved, approved with conditions, or disapproved; and

(h) notify the applicant in writing of the final determination and make such notification available for public inspection at the same locations where the department made available preconstruction information and public comments relating to the source or modification.

(History: 75-2-111, 75-2-203, MCA; IMP, 75-2-202, 75-2-203, 75-2-204, MCA; NEW, 1993 MAR p. 2919, Eff. 12/10/93; TRANS, from DHES, 1996 MAR p. 2285; AMD, 2002 MAR p. 3567, Eff. 12/27/02.)

17.8.827 SOURCE OBLIGATION

(1) Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions and requirements under local, state or federal law.

(2) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of ARM 17.8.819 through 17.8.828 shall apply to the source or modification as though construction had not yet commenced on the source or modification. (History: 75-2-111, 75-2-203, MCA; IMP, 75-2-202, 75-2-203, 75-2-204, MCA; NEW, 1993 MAR p. 2919, Eff. 12/10/93; TRANS, from DHES, 1996 MAR p. 2285.)

17.8.828 INNOVATIVE CONTROL TECHNOLOGY

(1) An owner or operator of a proposed major stationary source or major modification may request the department approve a system of innovative control technology.

(2) The department may, with the consent of the governor of any other affected state, determine that the source or modification may employ a system of innovative control technology, if:

(a) the proposed control system would not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function;

(b) the owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under ARM 17.8.819(2), by a date specified by the department, provided that such date may not be later than 4 years from the time of start-up or 7 years from permit issuance;

(c) the source or modification would meet the requirements equivalent to those in ARM 17.8.819 and 17.8.820, based on the emissions rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified by the department;

(d) the source or modification would not, before the date specified by the department, cause or contribute to any violation of an applicable national ambient air quality standard or impact any area where an applicable increment is known to be violated;

(e) all other applicable requirements including those for public participation have been met; and

(f) the provisions of ARM 17.8.825 (relating to Class I areas) have been satisfied with respect to all periods during the life of the source or modification.

(3) The department shall withdraw any approval to employ a system of innovative control technology made under this subchapter if:

(a) the proposed system fails by the specified date to achieve the required continuous emissions reduction rate;

(b) the proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare, or safety; or

(c) the department decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare, or safety.

(4) If a source or modification fails to meet the required level of continuous emissions reduction within the specified time period, or if the approval is withdrawn in accordance with (3) of this rule, the department may allow the source or modification up to an additional 3 years to meet the requirement for the application of BACT through use of a demonstrated system of control. (History: 75-2-111, 75-2-203, MCA; IMP, 75-2-202, 75-2-203, 75-2-204, MCA; NEW, 1993 MAR p. 2919, Eff. 12/10/93; TRANS, from DHES, 1996 MAR p. 2285.)