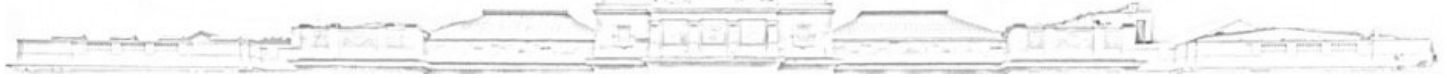




ADMINISTRATIVE RULES OF MONTANA



36.14.407 OPERATING PERMIT - CONDITIONS AND TERMS

- (1) Each operating permit issued or renewed by the department may contain terms relating to the inspection, evaluation, operation, maintenance, alteration, repair, use, or control of a dam or reservoir as determined necessary for the safe operation of the high-hazard dam and include:
 - (a) The owner of the dam or reservoir shall at all times follow the operation plan of the dam or reservoir, including the reservoir operation procedure, maintenance procedure for the dam and appurtenant works, and emergency procedures and warning plans as approved by the department;
 - (b) the owner of the dam or reservoir, or their representative, shall complete an annual operation and maintenance inspection;
 - (c) the initial filling of a completed new dam or repaired dam must be controlled by the owner and observed by the engineer at frequent intervals;
 - (d) a copy of the current and approved operation plan must be provided to the dam tender or operator;
 - (e) except in an emergency, no construction other than that necessary for the normal operation, maintenance, investigation, and monitoring of the dam and reservoir must be allowed on the dam or its appurtenant works unless a construction permit for such work has been approved by the department;
 - (f) an application for renewal of an operation permit must be submitted to the department before the operation permit lapses;
 - (g) the sale or conveyance of a permitted dam or the land on which the dam is located must not affect the validity of the permit. The owner in whose name the permit is granted must notify the department in writing of such change of ownership within the 30 days of such transfer; and
 - (h) permits must not be transferred from one dam to another.
- (2) The department may cancel an operating permit whenever it determines that the dam or reservoir constitutes a danger to life. Whenever the department deems it is necessary to safeguard life, the department may amend the terms and conditions of any permit by issuing a new permit containing the revised terms and conditions. Such modifications are effective 90 days following issuance by the department of a revised permit, except when the department finds that a state of emergency exists,

and that life would be endangered by delay. In case of an emergency declared by the department, the new conditions are effective immediately.

- (3) Operating permits are renewed for a definite period of time, not to exceed 5 years, as determined by the department. In determining each period of approval, the department shall consider the circumstances pertinent to the situation, including the size and type of dam, hydraulic appurtenances, topography, geology, soil conditions, hydrology, climate, use of reservoir and the lands lying in the floodplains downstream from the dam, and results of the inspection reports.
- (4) The department may issue or renew an operation permit if there is reasonable assurance that remedial measures identified in the periodic inspection report be completed within a period of time established in the operation permit or renewal.

Authorizing statute(s): 85-15-110, 85-15-213, 85-15-216, MCA

Implementing statute(s): 85-15-212, MCA

History: NEW, 1988 MAR p. 2489, Eff. 11/24/88; AMD, 2022 MAR p. 1849, Eff. 9/24/22.