



ADMINISTRATIVE RULES OF MONTANA



17.30.1202 DEFINITIONS

The following definitions, in addition to those in 75-5-103, MCA, apply throughout this subchapter:

- (1) "Alternative effluent limitations" means all effluent limitations or standards of performance for the control of the thermal component of any discharge which are established under section 316(a) of the federal Clean Water Act and this subchapter.
- (2) "Annual mean flow" means the average of daily flows over a calendar year. Historical data, up to ten years, must be used where available.
- (3) "Applicable standards and limitations" is defined in ARM 17.30.1304.
- (4) "Balanced, indigenous community" means a biotic community typically characterized by diversity, the capacity to sustain itself through cyclic changes, presence of necessary food chain species, and a lack of domination by pollution-tolerant species. Such a community may include historically non-native species introduced in connection with a program of wildlife management and species whose presence or abundance results from substantial, irreversible environmental modifications. Normally, however, such a community will not include species whose presence or abundance is attributable to the introduction of pollutants that will be eliminated by compliance by all sources with section 301(b)(2) of the federal Clean Water Act, and may not include species whose presence or abundance is attributable to alternative effluent limitations imposed pursuant to section 316(a) of the federal Clean Water Act.
- (5) "Board" means the Montana Board of Environmental Review established by 2-15-3502, MCA.
- (6) "Closed-cycle recirculating system" means a system designed, using minimized makeup and blowdown flows, to withdraw water from a natural or other water source to support contact and/or noncontact cooling uses within a facility. The water is usually sent to a cooling canal or channel, lake, pond, or tower to allow waste heat to be dissipated to the atmosphere and then is returned to the system. Some facilities divert the waste heat to other process operations. New source water (make-up water) is added to the system to replenish losses that have occurred due to blowdown, drift, and evaporation.
- (7) "Conventional pollutant" means the following list of pollutants:
 - (a) biochemical oxygen demand (BOD);
 - (b) total suspended solids (nonfilterable) (TSS);
 - (c) pH;
 - (d) fecal coliform; and

- (e) oil and grease.
- (8) "Cooling water" means water used for contact or noncontact cooling, including water used for equipment cooling, evaporative cooling tower makeup, and dilution of effluent heat content. The intended use of the cooling water is to absorb waste heat rejected from the process or processes used, or from auxiliary operations on the facility's premises. Cooling water that is used in a manufacturing process, either before or after it is used for cooling, is considered process water for the purposes of calculating the percentage of a new facility's intake flow that is used for cooling purposes in ARM 17.30.1211(6).
- (9) "Cooling water intake structure" means the total physical structure and any associated constructed waterways used to withdraw cooling water from state surface water. The cooling water intake structure extends from the point at which water is withdrawn from the surface water source up to, and including, the intake pumps.
- (10) "Department" means the Montana Department of Environmental Quality established by 2-15-3501, MCA.
- (11) "Design intake flow" means the value assigned, during the facility's design, to the total volume of water withdrawn from a source waterbody over a specific time period.
- (12) "Design intake velocity" means the value assigned, during the design of a cooling water intake structure, to the average speed at which intake water passes through the open area of the intake screen, or other device, against which organisms might be impinged or through which they might be entrained.
- (13) "Effluent limitation" means any restriction or prohibition imposed by the department on quantities, discharge rates, and concentrations of chemical, physical, biological, and other constituents that are discharged from point sources, other than new sources, into state surface waters, including schedules of compliance.
- (14) "Effluent limitations guidelines" means a regulation published by EPA in 40 CFR Chapter I, Subchapter N, pursuant to the requirements in section 304(b) of the federal Clean Water Act to adopt or revise effluent limitations.
- (15) "Effluent standard" is defined in 75-5-103, MCA, and is synonymous with the term "effluent limitation," as defined in this subchapter, with the exception that it does not include a schedule of compliance.
- (16) "Entrainment" means the incorporation of all life stages of fish and shellfish with intake water flow entering and passing through a cooling water intake structure and into a cooling water system.
- (17) "EPA" means the United States Environmental Protection Agency.
- (18) "Existing facility" means any facility that is not a new facility.
- (19) "Existing source" is defined in ARM 17.30.1304.
- (20) "Federal Clean Water Act" means the federal legislation at 33 USC 1251, et seq.
- (21) "Freshwater river or stream" means a lotic (free-flowing) system that does not receive significant inflows of water from oceans or bays due to tidal action. For the purposes of this subchapter, a flow-through reservoir with a retention time of seven days or less will be considered a freshwater river or stream.

- (22) "Hazardous substance" means any element or compound designated by EPA pursuant to section 311(b)(2)(A) of the federal Clean Water Act and listed in 40 CFR 116.4.
- (23) "Hydraulic zone of influence" means that portion of the source waterbody hydraulically affected by the cooling water intake structure withdrawal of water.
- (24) "Impingement" means the entrapment of all life stages of fish and shellfish on the outer part of an intake structure or against a screening device during periods of intake water withdrawal.
- (25) "Lake or reservoir" means any inland body of open water with some minimum surface area free of rooted vegetation and with an average hydraulic retention time of more than seven days. Lakes or reservoirs might be natural water bodies or impounded streams, usually fresh, surrounded by land or by land and a man-made retainer (e.g., a dam). Lakes or reservoirs might be fed by rivers, streams, springs, and/or local precipitation. Flow-through reservoirs with an average hydraulic retention time of seven days or less should be considered a freshwater river or stream.
- (26) "Maximize" means to increase to the greatest amount, extent, or degree reasonably possible.
- (27) "Minimize" means to reduce to the smallest amount, extent, or degree reasonably possible.
- (28) "MPDES" means the Montana pollutant discharge elimination system developed by the Department of Environmental Quality for issuing permits for the discharge of pollutants from point sources into state waters.
- (29) "Natural thermal stratification" means the naturally occurring division of a waterbody into horizontal layers of differing densities as a result of variations in temperature at different depths.
- (30) "New facility" means any building, structure, facility, or installation that meets the definition of a "new source" or "new discharger" in ARM 17.30.1304 and that is a greenfield or stand-alone facility, commences construction after January 17, 2002, and uses either a newly constructed cooling water intake structure, or an existing cooling water intake structure whose design capacity is increased to accommodate the intake of additional cooling water. New facilities include only "greenfield" and "stand-alone" facilities. A greenfield facility is a facility that is constructed at a site at which no other source is located, or that totally replaces the process or production equipment at an existing facility. A stand-alone facility is a new, separate facility that is constructed on property where an existing facility is located and whose processes are substantially independent of the existing facility at the same site. New facility does not include new units that are added to a facility for purposes of the same general industrial operation (for example, a new peaking unit at an electrical generating station).
 - (a) Examples of "new facilities" include, but are not limited to, the following scenarios:
 - (i) A new facility is constructed on a site that has never been used for industrial or commercial activity. It has a new cooling water intake structure for its own use;
 - (ii) A facility is demolished and another facility is constructed in its place. The newly constructed facility uses the original facility's cooling water intake structure, but modifies it to increase the design capacity to accommodate the intake of additional cooling water;
 - (iii) A facility is constructed on the same property as an existing facility, but is a separate and independent industrial operation. The cooling water intake structure used by the original facility is modified by constructing a new intake bay for the use of the newly

constructed facility or is otherwise modified to increase the intake capacity for the new facility.

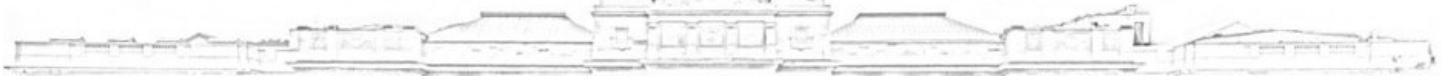
- (b) Examples of facilities that would not be considered a "new facility" include, but are not limited to, the following scenarios:
 - (i) A facility in commercial or industrial operation is modified and either continues to use its original cooling water intake structure or uses a new or modified cooling water intake structure.
 - (ii) A facility has an existing intake structure. Another facility (a separate and independent industrial operation), is constructed on the same property and connects to the facility's cooling water intake structure behind the intake pumps, and the design capacity of the cooling water intake structure has not been increased. This facility would not be considered a "new facility" even if routine maintenance or repairs that do not increase the design capacity were performed on the intake structure.
- (31) "New source" is defined in ARM 17.30.1304.
- (32) "Publicly owned treatment works" (POTW) is defined in ARM 17.30.1304.
- (33) "Representative important species" means species that are representative, in terms of biological needs, of a balanced, indigenous community of shellfish, fish, and wildlife in the body of water into which a discharge of heat is made.
- (34) "Source water" means the state waterbody (state surface waters) from which the cooling water is withdrawn.
- (35) "Standard of performance" is defined in 75-5-103, MCA.
- (36) "Toxic pollutant" means any pollutant designated by EPA under section 307(a)(1) of the federal Clean Water Act and listed in 40 CFR 401.15.
- (37) "Variance" means any mechanism or provision under sections 301 or 316 of the federal Clean Water Act, or in the applicable "effluent limitations guidelines," which allows modification to, or waiver of, the generally applicable effluent limitation requirements or time deadlines. This includes provisions that allow the establishment of alternative limitations based on fundamentally different factors or on sections 301(c), 301(g), or 316(a) of the federal Clean Water Act.
- (38) The department adopts and incorporates by reference the following federal regulations as part of the MPDES:
 - (a) 40 CFR 401.15 (July 1, 2010), which identifies the list of toxic pollutants designated pursuant to section 307(a)(1) of the federal Clean Water Act.
 - (b) 40 CFR 116.4 (July 1, 2010), which identifies elements and compounds designated as hazardous substances pursuant to section 311(b)(2)(A) of the federal Clean Water Act.
 - (c) Copies of these federal regulations may be obtained from the Department of Environmental Quality, Water Protection Bureau, P.O. Box 200901, Helena, MT 59620.

Authorizing statute(s): 75-5-304, MCA

Implementing statute(s): 75-5-304, 75-5-401, MCA



ADMINISTRATIVE RULES OF MONTANA



History: NEW, 1989 MAR p. 2060, Eff. 12/8/89; TRANS, from DHES, 1996 MAR p. 1499; AMD, 2011 MAR p. 2131, Eff. 10/14/11; AMD, 2020 MAR p. 1879, Eff. 10/24/20; AMD, 2024 MAR p. 257, Eff. 2/10/24.