17.30.1322 APPLICATION FOR A PERMIT

(1) Any person who discharges or proposes to discharge pollutants and who does not have an effective permit, except persons covered by general permits under ARM 17.30.1341, excluded under ARM 17.30.1310, or a user of a privately owned treatment works unless the department requires otherwise under ARM 17.30.1344, shall submit a complete application to the department in accordance with this rule and ARM 17.30.1364 and 17.30.1365, 17.30.1370 through 17.30.1379, and 17.30.1383.

(a) All applicants for MPDES permits shall submit applications on department permit application forms. More than one application form may be required from a facility depending on the number and types of discharges or outfalls found there. Application forms may be obtained by contacting the Water Protection Bureau at (406) 444-5546; Department of Environmental Quality, Water Protection Bureau, 1520 East Sixth Avenue, P.O. Box 200901, Helena, MT 59620-0901; or on the department's web site at http://deq.mt.gov/default.mcpx .

(b) All applicants, other than publicly owned treatment works (POTWs), shall submit Form 1.

(c) Applicants for new and existing POTWs shall submit the information required in (12) using Form 2A.

(d) Applicants for concentrated animal feeding operations or concentrated aquatic animal production facilities shall submit Form 2B.

(e) Applicants for existing industrial facilities, including manufacturing facilities, commercial facilities, mining activities, and silvicultural activities, shall submit Form 2C.

(f) Applicants for new industrial facilities that discharge process wastewater shall submit Form 2D.

(g) Applicants for new and existing industrial facilities that discharge only non-process wastewater shall submit Form 2E.

(h) Applicants for new and existing facilities, whose discharge is composed entirely of storm water associated with industrial activity, shall submit Form 2F, unless exempted by (11)(b) through (d). If the discharge is composed of storm water and non-storm water, the applicant shall also submit Forms 2C, 2D, and/or 2E, as appropriate, in addition to Form 2F.

(i) Applicants for new cooling water intake structures shall submit the information required in (17) in addition to any forms required in (e) through (g).

(2) When a facility or activity is owned by one person but is operated by another person, it is the operator's duty to obtain a permit.

(3) Any person proposing a new discharge shall submit an application at least 180 days before the date on which the discharge is to commence, unless permission for a later date has been granted by the department. Persons proposing a new discharge are encouraged to submit their applications well in advance of the 180-day requirement to avoid delay. See also (13) through (15) requiring time frames where a variance may be available.

(4) Any permittee with a currently effective permit shall submit a new application at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the department. The department may not grant permission for applications to be submitted later than the expiration date of the existing permit.

(5) The department may not issue a permit before receiving a complete application for a permit except for MPDES general permits. An application for a permit is complete when the department receives an application form and any supplemental information which are completed to the department's satisfaction. The completeness of any application for a permit must be judged independently of the status of any other permit application or permit for the same facility or activity.

(6) All applicants for MPDES permits, other than POTWs, shall provide the following information to the department, using the department's application Form 1. Additional information required of applicants is set forth in (7) through (17):

(a) the activities conducted by the applicant which require it to obtain an MPDES permit;

(b) name, mailing address, and location of the facility for which the application is submitted;

(c) up to four standard industrial category (SIC) codes and up to four North American Industry Classification System (NAICS) codes which best reflect the principal products or services provided by the facility;

(d) the operator's name, address, telephone number, electronic mail address, ownership status, and status as federal, state, private, public, or other entity;

(e) whether the facility is located on Indian lands;

(f) a listing of all permits or construction approvals received or applied for under any of the following programs:

(i) hazardous waste management program under the Resource Conservation and Recovery Act of 1976 (42 USC 6901, et seq.) (RCRA);

(ii) underground injection control (UIC) program under the federal Safe Drinking Water Act (SDWA);

(iii) MPDES program under the federal Clean Water Act;

(iv) prevention of significant deterioration (PSD) program under the Montana Clean Air Act;

(v) nonattainment program under the Montana Clean Air Act;

(vi) national emission standards for hazardous pollutants (NESHAPS) preconstruction approval under the Montana Clean Air Act;

(vii) ocean dumping permits under the Marine Protection Research and Sanctuaries Act;

(viii) dredge or fill permits under section 404 of the federal Clean Water Act; and

(ix) other relevant state or federal environmental permits;

(g) a topographic map, or other map if a topographic map is unavailable, extending one mile beyond the property boundaries of the source, depicting:

(i) the facility and each of its intake and discharge structures;

(ii) each of its hazardous waste treatment, storage, or disposal facilities;

(iii) each well where fluids from the facility are injected underground; and

(iv) those wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant in the map area;

(h) a brief description of the nature of the business;

(i) an indication of whether the facility uses cooling water and the source of the cooling water; and

(j) an indication of whether the facility is requesting any of the variances at (13), if known at the time of the application.

(7) Existing manufacturing, commercial, mining, and silvicultural dischargers applying for MPDES permits, except for those facilities subject to the requirements of (8), shall provide the following information to the department, using application forms provided by the department:

(a) the latitude and longitude of the outfall to the nearest 15 seconds and the name of the receiving water;

(b) a line drawing of the water flow through the facility with a water balance, showing operations contributing wastewater to the effluent and treatment units. Similar processes, operations, or production areas may be indicated as a single unit, labeled to correspond to the more detailed identification under (c). The water balance must show approximate average flows at intake and discharge points and between units, including treatment units. If a water balance cannot be determined (for example, for certain mining activities), the applicant may provide instead a pictorial description of the nature and amount of any sources of water and any collection and treatment measures;

(c) a narrative identification of each type of process, operation, or production area that contributes wastewater to the effluent for each outfall, including process wastewater, cooling water, and storm water runoff; the average flow that each process contributes; and a description of the treatment the wastewater receives, including the ultimate disposal of any solid or fluid wastes other than by discharge. Processes, operations, or production areas may be described in general terms (for example, "dye-making reactor," "distillation tower"). For a privately owned treatment works, this information must include the identity of each user of the treatment works. The average flow of point sources composed of storm water may be estimated. The basis for the rainfall event and the method of estimation must be indicated;

(d) if any of the discharges described in (c) are intermittent or seasonal, a description of the frequency, duration, and flow rate of each discharge occurrence (except for storm water runoff, spillage, or leaks);

(e) if an effluent guideline adopted under ARM 17.30.1207 applies to the applicant and is expressed in terms of production (or other measure of operation), a reasonable measure of the applicant's actual production reported in the units used in the applicable effluent guideline. The reported measure must reflect the actual production of the facility as required by ARM 17.30.1345;

(f) if the applicant is subject to any present requirements or compliance schedules for construction, upgrading, or operation of waste treatment equipment, an identification of the abatement requirement, a description of the abatement project, and a listing of the required and projected final compliance dates;

(g) information on the effluent characteristics of pollutants specified in this subsection, except information on storm water discharges that is specified in (11)(b), must be provided according to the following:

(i) when "quantitative data" for a pollutant are required, the applicant shall collect a sample of effluent and analyze it for the pollutant in accordance with analytical methods approved under 40 CFR Part 136, unless use of another method is required for the pollutant under 40 CFR subchapter N. When no analytical method is approved under Part 136 or required under subchapter N, the applicant may use any suitable method, but shall provide a description of the method. When an applicant has two or more outfalls with substantially identical effluents, the department may allow the applicant to test only one outfall and report that the quantitative data also apply to the substantially identical outfalls. The requirements in (vi), (vii), and (viii), that state that an applicant shall provide quantitative data for certain pollutants known or believed to be present, do not apply to pollutants present in a discharge solely as the result of their presence in intake water; however, an applicant shall report such pollutants as present. Grab samples must be used for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, and fecal coliform, including Escherichia coli (E-coli). For all other pollutants, a 24-hour composite sample, using a minimum of four grab samples, must be used, unless specified otherwise at 40 CFR Part 136. However, a minimum of one grab sample may be taken for effluents from holding ponds or other impoundments with a retention period greater than 24 hours. In addition, for discharges other than storm water discharges, the department may waive composite sampling for any outfall for which the applicant demonstrates that the use of an automatic sampler is infeasible and that the minimum of four grab samples will be a representative sample of the effluent being discharged. Results of analyses of individual grab samples for any parameter may be averaged to obtain the daily average. Grab samples that are not required to be analyzed immediately (see Table II at 40 CFR 136.3(e)) may be composited in the laboratory, provided that container, preservation, and holding time requirements are met (see Table II at 40 CFR 136.3 (e)) and that sample integrity is not compromised by compositing;

(ii) for storm water discharges, all samples must be collected from the discharge resulting from a storm event that is greater than 0.1 inch and at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event. Where feasible, the variance in the duration of the event and the total rainfall of the event should not exceed 50 percent from the average or median rainfall event in that area. For all applicants, a flow-weighted composite must be taken for either the entire discharge or for the first three hours of the discharge. The flow-weighted composite sample for a

storm water discharge may be taken with a continuous sampler or as a combination of a minimum of three sample aliquots taken in each hour of discharge for the entire discharge or for the first three hours of the discharge, with each aliquot being separated by a minimum period of 15 minutes. However, a minimum of one grab sample may be taken for storm water discharges from holding ponds or other impoundments with a retention period greater than 24 hours. For a flow-weighted composite sample, only one analysis of the composite of aliquots is required. For storm water discharge samples taken from discharges associated with industrial activities, quantitative data must be reported for the grab sample taken during the first 30 minutes, or as soon thereafter as practicable, of the discharge for all pollutants specified in (11)(e). For all storm water permit applicants taking flow-weighted composites, quantitative data must be reported for all pollutants specified in (11)(e) except pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, fecal coliform, and fecal streptococcus. The department may allow or establish appropriate site-specific sampling procedures or requirements, including sampling locations, the season in which the sampling takes place, the minimum duration between the previous measurable storm event and the storm event sampled, the minimum or maximum level of precipitation required for an appropriate storm event, the form of precipitation sampled (snow melt or rain fall), protocols for collecting samples under 40 CFR Part 136, and additional time for submitting data on a case-by-case basis. An applicant is expected to "know or have reason to believe" that a pollutant is present in an effluent based on an evaluation of the expected use, production, or storage of the pollutant, or on any previous analyses for the pollutant. For example, any pesticide manufactured by a facility may be expected to be present in contaminated storm water runoff from the facility;

(iii) every applicant shall report quantitative data for every outfall for the following pollutants:

(A) biochemical oxygen demand;

(B) chemical oxygen demand;

(C) total organic carbon;

(D) total suspended solids;

(E) ammonia (as N);

(F) temperature (both winter and summer); and

(G) pH;

(iv) the department may waive the reporting requirements for individual point sources or for a particular industry category for one or more of the pollutants listed in the above subsection if the applicant has demonstrated that such a waiver is appropriate because information adequate to support issuance of a permit can be obtained with less stringent requirements;

(v) each applicant with processes in one or more primary industry category (see Appendix A of 40 CFR Part 122) contributing to a discharge shall report quantitative data for the following pollutants in each outfall containing process wastewater:

(A) the organic toxic pollutants in the fractions designated in Table I of Appendix D of 40 CFR Part 122 for the applicant's industrial category or categories unless the applicant qualifies as a small business under (7)(h). Table II of Appendix D of 40 CFR Part 122 lists the organic toxic pollutants in each fraction. The fractions result from the sample preparation required by the analytical procedure which uses gas chromatography/mass spectrometry. A determination that an applicant falls within a particular industrial category for the purposes of selecting fractions for testing is not conclusive as to the applicant's inclusion in that category for any other purposes; and

(B) the pollutants listed in Table III of Appendix D of 40 CFR Part 122 (the toxic metals, cyanide, and total phenols);

(vi) each applicant shall indicate whether it knows or has reason to believe that any of the pollutants in Table IV of Appendix D of 40 CFR Part 122 (certain conventional and nonconventional pollutants) is discharged from each outfall. If an applicable effluent limitations guideline either directly limits the pollutant or, by its express terms, indirectly limits the pollutant through limitations on an indicator, the applicant shall report quantitative data. For every pollutant discharged which is not so limited in an effluent limitations guideline, the applicant shall either report quantitative data or briefly describe the reasons the pollutant is expected to be discharged;

(vii) each applicant shall indicate whether it knows or has reason to believe that any of the pollutants listed in Table II or Table III of Appendix D of 40 CFR Part 122 (the toxic pollutants and total phenols) for which quantitative data are not otherwise required under (7)(g)(v), is discharged from each outfall. For every pollutant expected to be discharged in concentrations of ten ppb or greater, the applicant shall report quantitative data. For acrolein, acrylonitrile, 2,4-dinitrophenol, and 2-methyl 4,6-dinitrophenol, where any of these four pollutants are expected to be discharged in concentrations of 100 ppb or greater, the applicant shall report quantitative data. For every pollutant expected to be discharged in concentrations less than ten ppb, or in the case of acrolein, acrylonitrile, 2,4-dinitrophenol, and 2-methyl 4,6-dinitrophenol, in concentrations less than 100 ppb, the applicant shall either submit quantitative data or briefly describe the reasons the pollutant is expected to be discharged. An applicant qualifying as a small business under (7)(h) is not required to analyze for pollutants listed in Table II of Appendix D of 40 CFR Part 122 (the organic toxic pollutants);

(viii) each applicant shall indicate whether it knows or has reason to believe that any of the pollutants in Table V of Appendix D of 40 CFR Part 122 (certain hazardous substances and asbestos) are discharged from each outfall. For every pollutant expected to be discharged, the applicant shall briefly describe the reasons the pollutant is expected to be discharged, and report any quantitative data it has for any pollutant;

(ix) each applicant shall report qualitative data, generated using a screening procedure not calibrated with analytical standards, for 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) if it:

(A) uses or manufactures 2,4,5-trichlorophenoxy acetic acid (2,4,5-T); 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5-TP); 2-(2,4,5-trichlorophenoxy) ethyl 2,2-dichloropropionate (Erbon); O,O-dimethyl O-(2,4,5-trichlorophenyl)

phosphorothioate (Ronnel); 2,4,5-trichlorophenol (TCP); or hexachlorophene (HCP); or

(B) knows or has reason to believe that TCDD is or may be present in an effluent;

(x) where quantitative data are required in (7)(g)(i) through (ix), existing data may be used, if available, in lieu of sampling done solely for the purpose of application, provided that:

(A) all data requirements are met; sampling was performed, collected, and analyzed no more than four and one-half years prior to submission;

(B) all data are representative of the discharge; and

(C) all available representative data are considered in the values reported;

(h) an applicant which qualifies as a small business under one of the following criteria is exempt from the requirements in (7)(g)(v)(A) or (vi) to submit quantitative data for the pollutants listed in Table II of Appendix D of 40 CFR Part 122 (the organic toxic pollutants):

(i) for coal mines, a probable total annual production of less than 100,000 tons per year;

(ii) for all other applicants, gross total annual sales averaging less than $100,000 per year (in second quarter 1980 dollars);

(i) a listing of any toxic pollutant which the applicant currently uses or manufactures as an intermediate or final product or byproduct. The department may waive or modify this requirement for any applicant if the applicant demonstrates that it would be unduly burdensome to identify each toxic pollutant and the department has adequate information to issue the permit;

(j) an identification of any biological toxicity tests which the applicant knows or has reason to believe have been made within the last three years on any of the applicant's discharges or on a receiving water in relation to a discharge;

(k) if a contract laboratory or consulting firm performed any of the analyses required by (7)(g), the identity of each laboratory or firm and the analyses performed;

(l) in addition to the information reported on the application form, applicants shall provide to the department, at its request, such other information as the department may reasonably require to assess the discharges of the facility and to determine whether to issue an MPDES permit. The additional information may include additional quantitative data and bioassays to assess the relative toxicity of discharges to aquatic life and requirements to determine the cause of the toxicity.

(8) Except for storm water discharges, all manufacturing, commercial, mining, and silvicultural dischargers applying for MPDES permits that discharge only non-process wastewater not regulated by an effluent limitations guideline or new source performance standard shall provide the following information to the department, using application forms provided by the department:

(a) outfall number, latitude, and longitude to the nearest 15 seconds, and the name of the receiving water;

(b) date of expected commencement of discharge (for new dischargers);

(c) an identification of the general type of waste discharged, or expected to be discharged upon commencement of operations, including sanitary wastes, restaurant or cafeteria wastes, or noncontact cooling water; an identification of cooling water additives (if any) that are used or expected to be used upon commencement of operations, along with their composition if existing composition is available;

(d) quantitative data for the pollutants or parameters listed below, unless testing is waived by the department. The quantitative data may be data collected over the past 365 days, if they remain representative of current operations, and must include maximum daily value, average daily value, and number of measurements taken. The applicant shall collect and analyze samples in accordance with 40 CFR Part 136. Grab samples must be used for pH, temperature, oil and grease, total residual chlorine, and fecal coliform, including E-coli. For all other pollutants, a 24-hour composite sample, using a minimum of four grab samples, must be used, unless specified otherwise at 40 CFR Part 136. For a composite sample, only one analysis of the composite aliquots is required. New dischargers shall include estimates for the pollutants or parameters listed below, instead of actual sampling data, along with the source of each estimate. All levels must be reported or estimated as concentration and as total mass, except for flow, pH, and temperature.

(i) The requirements of (d) apply to:

(A) biochemical oxygen demand (BOD_5);

(B) total suspended solids (TSS);

(C) fecal coliform (if believed present or if sanitary waste is or will be discharged);

(D) total residual chlorine (if chlorine is used);

(E) oil and grease;

(F) chemical oxygen demand (COD) (if noncontact cooling water is or will be discharged);

(G) total organic carbon (TOC) (if noncontact cooling water is or will be discharged);

(H) ammonia (as N);

(I) discharge flow;

(J) pH;

(K) temperature (winter and summer); and

(L) any pollutant not listed above, if the pollutant is present in the effluent and regulated by a state-adopted water quality standard;

(ii) The department may waive the testing and reporting requirements for any of the pollutants or flow listed in (i) if the applicant submits a request for such a waiver before or with the application that demonstrates that information adequate to support issuance of a permit can be obtained through less stringent requirements.

(iii) If the applicant is a new discharger, the applicant shall complete forms provided by the department by providing quantitative data in accordance with (d) no later than two years after commencement of discharge. However, the applicant need not complete

those portions of the forms requiring tests that the applicant has already performed and reported under the discharge monitoring requirements of the MPDES permit.

(iv) The requirements of (d) and (d)(iii), that an applicant shall provide quantitative data or estimates of certain pollutants, do not apply to pollutants present in a discharge solely as a result of their presence in intake water. However, an applicant shall report such pollutants as present. Net credit may be provided for the presence of pollutants in intake water if the requirements of ARM 17.30.1345(9) are met;

(e) a description of the frequency of flow and duration of any seasonal or intermittent discharge (except for storm water runoff, leaks, or spills);

(f) a brief description of any treatment system used or to be used;

(g) any additional information the applicant wishes to be considered, such as influent data for the purpose of obtaining "net" credits pursuant to ARM 17.30.1345(9); and

(h) the signature of the certifying official under ARM 17.30.1323.

(9) New and existing concentrated animal feeding operations (CAFOs), defined in ARM 17.30.1304, and concentrated aquatic animal production facilities, defined in ARM 17.30.1331(1), shall provide the following information to the department, using application Form2B:

(a) for CAFOs:

(i) the name of the owner or operator;

(ii) the facility location and mailing addresses;

(iii) latitude and longitude of the production area (entrance to production area);

(iv) a topographic map of the geographic area in which the CAFO is located showing the specific location of the production area, in lieu of the requirements of (6)(g);

(v) specific information about the number and type of animals, whether in open confinement or housed under roof (beef cattle, broilers, layers, swine weighing 55 pounds or more, swine weighing less than 55 pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, other);

(vi) the type of containment and storage (anaerobic lagoon, roofed storage shed, storage ponds, underfloor pits, above ground storage tanks, below ground storage tanks, concrete pad, impervious soil pad, other) and total capacity for manure, litter, and process wastewater storage (tons/gallons);

(vii) the total number of acres under control of the applicant available for land application of manure, litter, or process wastewater;

(viii) estimated amounts of manure, litter, and process wastewater generated per year (tons/gallons);

(ix) estimated amounts of manure, litter, and process wastewater transferred to other persons per year (tons/gallons); and

(x) a nutrient management plan that at a minimum satisfies the requirements specified in ARM 17.30.1343(1)(c), including, for all CAFOs subject to 40 CFR Part 412, subpart C or subpart D, the requirements of 40 CFR 412.4(c), as applicable; and

(b) for concentrated aquatic animal production facilities:

(i) the maximum daily and average monthly flow from each outfall;

(ii) the number of ponds, raceways, and similar structures;

(iii) the name of the receiving water and the source of intake water;

(iv) for each species of aquatic animals, the total yearly and maximum harvestable weight; and

(v) the calendar month of maximum feeding and the total mass of food fed during that month.

(10) New manufacturing, commercial, mining, and silvicultural dischargers applying for MPDES permits (except for new discharges of facilities subject to the requirements of (8) or new discharges of storm water associated with industrial activity that are subject to the requirements of (11)) shall provide the following information to the department, using application forms provided by the department:

(a) the latitude and longitude to the nearest 15 seconds, and the name of the receiving water;

(b) the expected date of commencement of discharge;

(c) a description of the treatment that the wastewater will receive, along with all operations contributing wastewater to the effluent, average flow contributed by each operation, and the ultimate disposal of any solid or liquid wastes not discharged;

(i) a line drawing of the water flow through the facility with a water balance as described in (7)(b);

(ii) if any of the expected discharges will be intermittent or seasonal, a description of the frequency, duration, and maximum daily flow rate of each discharge occurrence (except for storm water runoff, spillage, or leaks);

(d) if a new source performance standard promulgated under section 306 of the federal Clean Water Act or an effluent limitation guideline applies to the applicant and is expressed in terms of production (or other measure of operation), a reasonable measure of the applicant's expected actual production reported in the units used in the applicable effluent guideline or new source performance standard as required by ARM 17.30.1345(2)(b) for each of the first three years. Alternative estimates may also be submitted if production is likely to vary;

(e) the requirements in (8)(d), that an applicant shall provide estimates of certain pollutants expected to be present, do not apply to pollutants present in a discharge solely as a result of their presence in intake water; however, an applicant shall report such pollutants as present. Net credits may be provided for the presence of pollutants in intake water if the requirements of ARM 17.30.1345(9) are met. All levels (except for discharge flow, temperature, and pH) must be estimated as concentration and as total mass.

(i) Each applicant shall report estimated daily maximum, daily average, and source of information for each outfall for the pollutants or parameters in (ii). The department may waive the reporting requirements for any of these pollutants and parameters if the applicant submits a request for such a waiver before or with his application that

demonstrates that information adequate to support issuance of the permit can be obtained through less stringent reporting requirements.

(ii) The requirements of (e)(i) apply to:

(A) biochemical oxygen demand (BOD);

(B) chemical oxygen demand (COD);

(C) total organic carbon (TOC);

(D) total suspended solids (TSS);

(E) flow;

(F) ammonia (as N);

(G) temperature (winter and summer);

(H) pH; and

(I) any pollutant not listed above, if the pollutant is present in the effluent and regulated by a state-adopted water quality standard.

(iii) Each applicant shall report estimated daily maximum, daily average, and source of information for each outfall for the following pollutants, if the applicant knows or has reason to believe they will be present or if they are limited by an effluent limitation guideline or new source performance standard either directly or indirectly through limitations on an indicator pollutant: all pollutants in Table IV of Appendix D of 40 CFR Part 122 (certain conventional and nonconventional pollutants).

(iv) Each applicant shall report estimated daily maximum, daily average, and source of information for the following pollutants if he knows or has reason to believe that they will be present in the discharges from any outfall:

(A) the pollutants listed in Table III of Appendix D of 40 CFR Part 122 (the toxic metals, in the discharge from any outfall: total cyanide and total phenols); and

(B) the organic toxic pollutants in Table II of Appendix D of 40 CFR Part 122 (except bis (chloromethyl) ether, dichlorofluoromethane, and trichlorofluoromethane). This requirement is waived for applicants with expected gross sales of less than $100,000 per year for the next three years, and for coal mines with expected average production of less than 100,000 tons of coal per year.

(v) The applicant is required to report that 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) may be discharged if he uses or manufactures one of the following compounds, or if he knows or has reason to believe that TCDD will or may be present in an effluent:

(A) 2,4,5-trichlorophenoxy acetic acid (2,4,5-T) (CAS #93-76-5);

(B) 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5-TP) (CAS #93-72-1);

(C) 2-(2,4,5-trichlorophenoxy) ethyl 2,2-dichloropropionate (Erbon) (CAS #136-25-4);

(D) O,O-dimethyl O-(2,4,5-trichlorophenyl) phosphorothioate (Ronnel) (CAS #299-84-3);

(E) 2,4,5-trichlorophenol (TCP) (CAS #95-95-4); or

(F) hexachlorophene (HCP) (CAS #70-30-4).

(vi) Each applicant shall report any pollutants listed in Table V of Appendix D of 40 CFR Part 122 (certain hazardous substances) if the applicant believes they will be present in any outfall (no quantitative estimates are required unless they are already available).

(vii) No later than 24 months after the commencement of discharge from the proposed facility, the applicant is required to complete and submit forms prescribed by the department. However, the applicant need not complete those portions of the forms requiring tests which he has already performed and reported under the discharge monitoring requirements of his MPDES permit;

(f) each applicant shall report the existence of any technical evaluation concerning his wastewater treatment, along with the name and location of similar plants of which he has knowledge;

(g) any optional information the permittee wishes to have considered; and

(h) the signature of the certifying official under ARM 17.30.1323.

(11) Dischargers of storm water associated with industrial activity or with small construction activity that are required to obtain an individual permit or any other discharge of storm water that the department is evaluating for designation under ARM 17.30.1105(1)(f) and is not a municipal storm sewer, shall submit an MPDES permit application in accordance with the requirements of (6)(a) through (h), as modified and supplemented by the provisions of this section.

(a) Except as provided in (b) through (d), the operator of a storm water discharge associated with industrial activity that is required to obtain an individual permit shall provide:

(i) a site map showing topography (or indicating the outline of drainage areas served by the outfall(s) covered in the application if a topographic map is unavailable) of the facility including:

(A) each of its drainage and discharge structures;

(B) the drainage area of each storm water outfall;

(C) paved areas and buildings within the drainage area of each storm water outfall;

(D) each past or present area used for outdoor storage or disposal of significant materials;

(E) each existing structural control measure to reduce pollutants in storm water runoff;

(F) materials loading and access areas;

(G) areas where pesticides, herbicides, soil conditioners, and fertilizers are applied;

(H) each of its hazardous waste treatment, storage, or disposal facilities (including each area not required to have a RCRA permit that is used for accumulating hazardous waste under 40 CFR 262.34);

(I) each well where fluids from the facility are injected underground; and

(J) springs and other surface water bodies that receive storm water discharges from the facility;

(ii) an estimate of the area of impervious surfaces (including paved areas and building roofs), the total area drained by each outfall (within a mile radius of the facility), and a narrative description of the following:

(A) significant materials that in the three years prior to the submittal of this application have been treated, stored, or disposed in a manner to allow exposure to storm water;

(B) method of treatment, storage, or disposal of such materials;

(C) materials management practices employed, in the three years prior to the submittal of this application, to minimize contact by these materials with storm water runoff;

(D) materials loading and access areas;

(E) the location, manner, and frequency in which pesticides, herbicides, soil conditioners, and fertilizers are applied;

(F) the location and a description of existing structural and non-structural control measures to reduce pollutants in storm water runoff; and

(G) a description of the treatment the storm water receives, including the ultimate disposal of any solid or fluid wastes other than by discharge;

(iii) a certification that all outfalls that should contain storm water discharges associated with industrial activity have been tested or evaluated for the presence of non-storm water discharges that are not covered by an MPDES permit. Tests for such non-storm water discharges may include smoke tests, fluorometric dye tests, analysis of accurate schematics, as well as other appropriate tests. The certification must include a description of the method used, the date of any testing, and the on-site drainage points that were directly observed during a test;

(iv) existing information regarding significant leaks or spills of toxic or hazardous pollutants at the facility that have taken place within the three years prior to the submittal of this application;

(v) quantitative data based on samples collected during storm events and collected in accordance with (7)(g)(ii) from all outfalls containing a storm water discharge associated with industrial activity for the following parameters:

(A) any pollutant limited in an effluent guideline to which the facility is subject;

(B) any pollutant listed in the facility's MPDES permit for its process wastewater, if the facility is operating under an existing MPDES permit;

(C) oil and grease, pH, biochemical oxygen demand, chemical oxygen demand, total suspended solids, total phosphorus, total Kjeldahl nitrogen, and nitrate plus nitrite nitrogen;

(D) any information on the discharge required under (7)(g)(vi) through (viii);

(E) flow measurements or estimates of the flow rate, the total amount of discharge for the storm event(s) sampled, and the method of flow measurement or estimation; and

(F) the date and duration (in hours) of the storm event(s) sampled, rainfall measurements or estimates of the storm event (in inches) that generated the sampled runoff, and the duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event (in hours);

(vi) operators of a discharge that is composed entirely of storm water are exempt from the requirements of (7)(b), (c), (d), and (e), and (g)(iii), (iv), (v), and (ix);

(vii) operators of new sources or new discharges, as defined in ARM 17.30.1304, that are composed in part or entirely of storm water shall include estimates for the pollutants or parameters listed in (v) instead of actual sampling data, along with the source of each estimate. Operators of new sources or new discharges composed in part or entirely of storm water shall provide quantitative data for the parameters listed in (v) within two years after commencement of discharge, unless such data has already been reported under the monitoring requirements of the MPDES permit for the discharge. Operators of a new source or new discharge that is composed entirely of storm water are exempt from the requirements of (10)(c)(i) and (ii) and (e).

(b) An operator of an existing or new storm water discharge associated with industrial activity solely under the definition in 40 CFR 122.26(b)(14)(x) or associated with small construction activity solely under the definition in ARM 17.30.1304, is exempt from the requirements of (7) and (11)(a). Such operator shall provide a narrative description of:

(i) the location, including a map, and the nature of the construction activity;

(ii) the total area of the site and the area of the site that is expected to undergo excavation during the life of the permit;

(iii) proposed measures, including best management practices, to control pollutants in storm water discharges during construction, including a brief description of applicable state and local erosion and sediment control requirements;

(iv) proposed measures to control pollutants in storm water discharges that will occur after construction operations have been completed, including a brief description of applicable state or local erosion and sediment control requirements;

(v) an estimate of the runoff coefficient of the site and the increase in impervious area after the construction addressed in the permit application is completed, the nature of fill material and existing data describing the soil or the quality of the discharge; and

(vi) the name of the receiving water.

(c) The operator of an existing or new discharge composed entirely of storm water from an oil or gas exploration, production, processing, or treatment operation, or transmission facility is not required to submit a permit application in accordance with (a), unless the facility:

(i) has had a discharge of storm water resulting in the discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR 117.21 or 40 CFR 302.6 at any time since November 16, 1987;

(ii) has had a discharge of storm water resulting in the discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR 110.6 at any time since November 16, 1987; or

(iii) contributes to a violation of a water quality standard.

(d) The operator of an existing or new discharge composed entirely of storm water from a mining operation is not required to submit a permit application unless the discharge has come into contact with any overburden, raw material, intermediate product, finished product, byproduct, or waste product located on the site of such operations.

(e) Applicants shall provide such other information the department may reasonably require under (7)(l) to determine whether to issue a permit and may require any facility subject to (11)(b) to comply with (11)(a).

(12) Unless otherwise indicated, all new and existing publicly owned treatment works (POTWs) and other dischargers designated by the department, shall provide, at a minimum, the information in (a) through (h) to the department, using Form 2A. Permit applicants shall submit all information available at the time of permit application. The information may be provided by referencing information previously submitted to the department. The department may waive any requirement of (a) through (h), if the department has access to substantially identical information. The department may also waive any requirement of (a) through (h) that is not of material concern for a specific permit, if approved by EPA. The waiver request to the EPA must include the department's justification for the waiver. The EPA's disapproval of the proposed waiver does not constitute final agency action, but does provide notice to the department and permit applicant that EPA may object to any MPDES permit issued in the absence of the required information.

(a) All applicants shall provide the following basic information:

(i) name, mailing address, and location of the facility for which the application is submitted;

(ii) name, mailing address, telephone number, and electronic mail address of the applicant and indication as to whether the applicant is the facility's owner, operator, or both;

(iii) identification of all environmental permits or construction approvals received or applied for, including dates, under any of the following programs:

(A) hazardous waste management program under the Resource Conservation and Recovery Act (RCRA), Subpart C;

(B) underground injection control program under the Safe Drinking Water Act (SDWA);

(C) MPDES program under the Clean Water Act (CWA);

(D) dredge or fill permits under section 404 of the CWA; and

(E) other relevant environmental permits, including state permits;

(iv) the name and population of each municipal entity served by the facility, including unincorporated connector districts. The applicant shall indicate whether each municipal entity owns or maintains the collection system and whether the collection system is separate sanitary or combined storm and sanitary, if known;

(v) information concerning whether the facility is located in Indian country and whether the facility discharges to a receiving stream that flows through Indian country;

(vi) the facility's design flow rate (the wastewater flow rate the plant was built to handle), annual average daily flow rate, and maximum daily flow rate for each of the previous three years;

(vii) identification of type(s) of collection system(s) used by the treatment works (i.e., separate sanitary sewers or combined storm and sanitary sewers) and an estimate of the percent of sewer line that each type comprises;

(viii) the following information for outfalls that discharge to state surface water and other discharge or disposal methods:

(A) for effluent discharges to state surface waters, the total number and types of outfalls (e.g., treated effluent, combined sewer overflows, bypasses, constructed emergency overflows);

(B) for wastewater discharged to surface impoundments:

(I) the location of each surface impoundment;

(II) the average daily volume discharged to each surface impoundment; and

(III) whether the discharge is continuous or intermittent;

(C) for wastewater applied to the land:

(I) the location of each land application site;

(II) the size of each land application site, in acres;

(III) the average daily volume applied to each land application site, in gallons per day; and

(IV) whether land application is continuous or intermittent;

(D) for effluent sent to another facility for treatment prior to discharge:

(I) the means by which the effluent is transported;

(II) the name, mailing address, contact person, phone number, and electronic mail address of the organization transporting the discharge, if the transport is provided by a party other than the applicant;

(III) the name, mailing address, contact person, phone number, electronic mail address, and MPDES permit number (if any) of the receiving facility; and

(IV) the average daily flow rate from this facility into the receiving facility, in millions of gallons per day; and

(E) for wastewater disposed of in a manner not included in (a)(viii)(A) through (D) (e.g., underground percolation, underground injection):

(I) a description of the disposal method, including the location and size of each disposal site, if applicable;

(II) the annual average daily volume disposed of by this method, in gallons per day; and

(III) whether disposal through this method is continuous or intermittent.

(ix) An indication of whether the applicant is operating under or requesting to operate under a variance as specified at (14), if known at the time of application.

(b) All applicants with a design flow greater than or equal to 0.1 million gallons per day shall provide the following additional information:

(i) the current average daily volume of inflow and infiltration, in gallons per day, and steps the facility is taking to minimize inflow and infiltration;

(ii) a topographic map (or other map if a topographic map is unavailable) extending at least one mile beyond property boundaries of the treatment plant, including all unit processes, and showing:

(A) the treatment plant area and unit processes;

(B) the major pipes or other structures through which wastewater enters the treatment plant and the pipes or other structures through which treated wastewater is discharged from the treatment plant. Outfalls from bypass piping must be included, if applicable;

(C) each well where fluids from the treatment plant are injected underground;

(D) wells, springs, and other surface water bodies listed in public records or otherwise known to the applicant within 1/4 mile of the treatment works' property boundaries;

(E) sewage sludge management facilities (including on-site treatment, storage, and disposal sites); and

(F) the location at which waste classified as hazardous under RCRA enters the treatment plant by truck, rail, or dedicated pipe;

(iii) a process flow diagram or schematic, which includes:

(A) a diagram showing the processes of the treatment plant, including all bypass piping and all backup power sources or redundancy in the system. This includes a water balance showing all treatment units, including disinfection, daily average flow rates at influent and discharge points, and approximate daily flow rates between treatment units; and

(B) a narrative description of the diagram; and

(iv) information regarding scheduled improvements and the schedule of implementation, which includes the following:

(A) the outfall number of each outfall affected;

(B) a narrative description of each required improvement;

(C) scheduled or actual dates of completion for the following:

(I) commencement of construction;

(II) completion of construction;

(III) commencement of discharge; and

(IV) attainment of operational level; and

(D) a description of permits and clearances concerning other state or federal requirements.

(c) Each applicant shall provide the following information for each outfall, including bypass points, through which effluent is discharged, as applicable:

(i) a description of each outfall that includes the following information:

(A) outfall number;

(B) county, city, or town in which outfall is located;

(C) latitude and longitude, to the nearest second;

(D) distance from shore and depth below surface;

(E) average daily flow rate, in million gallons per day;

(F) the following information for each outfall with a seasonal or periodic discharge:

(I) number of times per year the discharge occurs;

(II) duration of each discharge;

(III) flow of each discharge; and

(IV) months in which discharge occurs; and

(G) whether the outfall is equipped with a diffuser and the type (e.g., high-rate) of diffuser used;

(ii) a description of receiving waters that includes the following information, if known for each outfall through which effluent is discharged to state surface waters:

(A) name of receiving water;

(B) name of United States Geological Survey eight-digit hydrologic unit code and state water body identification code; and

(C) critical flow of receiving stream and total hardness of receiving stream at critical low flow (if applicable); and

(iii) a description of treatment system, including the following information describing the treatment provided for discharges from each outfall to state water:

(A) the highest level of treatment (e.g., primary, equivalent to secondary, secondary, advanced, other) that is provided for the discharge for each outfall and:

(I) design biochemical oxygen demand or carbonaceous oxygen demand removal (percent);

(II) design suspended solids removal (percent); and, where applicable,

(III) design phosphorus removal (percent);

(IV) design nitrogen removal (percent); and

(V) any other removals that an advanced treatment system is designed to achieve; and

(B) a description of the type of disinfection used and whether the treatment plant dechlorinates (if disinfection is accomplished through chlorination).

(d) As specified in (i) through (ix), all applicants shall submit to the department effluent monitoring information for samples taken from each outfall through which effluent is discharged to state surface waters. The department may allow applicants to submit sampling data for only one outfall, on a case-by-case basis, where the applicant has two or more outfalls with substantially identical effluent. The department may also allow applicants to composite samples from one or more outfalls that discharge into the same mixing zone. For POTWs applying prior to commencement of discharge, data shall be submitted no later than 24 months after the commencement of discharge.

(i) All applicants shall sample and analyze for the following pollutants:

(A) biochemical oxygen demand or carbonaceous oxygen demand;

(B) fecal coliform;

(C) design flow rate;

(D) pH;

(E) temperature (winter and summer); and

(F) total suspended solids.

(ii) All applicants with a design flow greater than or equal to 0.1 million gallons per day shall sample and analyze for the pollutants listed below. Facilities that do not use chlorine for disinfection, do not use chlorine elsewhere in the treatment process, and have no reasonable potential to discharge chlorine in their effluent are not required to analyze for chlorine:

(A) ammonia (as N);

(B) chlorine (total residual, TRC);

(C) nitrate/nitrite;

(D) Kjeldahl nitrogen;

(E) oil and grease;

(F) phosphorus; and

(G) total dissolved solids.

(iii) The following applicants shall sample and analyze for the pollutants listed in Appendix J, Table 2 of 40 CFR Part 122, and for any other pollutants for which the department has established water quality standards applicable to the receiving waters:

(A) all POTWs with a design flow rate equal to or greater than one million gallons per day;

(B) all POTWs with approved pretreatment programs or POTWs required to develop a pretreatment program; and

(C) other POTWs, as required by the department.

(iv) The department may require sampling for additional pollutants, as appropriate, on a case-by-case basis.

(v) Applicants shall provide data from a minimum of three samples taken within four and one-half years prior to the date of the permit application. Samples must be representative of the seasonal variation in the discharge from each outfall. Existing data may be used, if available, in lieu of sampling done solely for the purpose of this application. The department may require additional samples, as appropriate, on a case-by-case basis.

(vi) All existing data for pollutants specified in (i) through (iv) that is collected within four and one-half years of the application must be included in the pollutant data summary submitted by the applicant. If, however, the applicant samples for a specific pollutant on a monthly or more frequent basis, it is only necessary, for such pollutant, to summarize all data collected within one year of the application.

(vii) Applicants shall collect samples of effluent and analyze such samples for pollutants in accordance with analytical methods approved under 40 CFR Part 136 unless an alternative is specified in the existing MPDES permit. When analysis of pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, fecal coliform (including E. coli), or volatile organics is required by (i) through (iii), grab samples must be collected for those pollutants. For all other pollutants, 24-hour composite samples must be used. For a composite sample, only one analysis of the composite of aliquots is required.

(viii) The effluent monitoring data provided must include at least the following information for each parameter:

(A) maximum daily discharge expressed as concentration or mass, based upon actual sample values;

(B) average daily discharge for all samples, expressed as concentration or mass, and the number of samples used to obtain this value;

(C) the analytical method used; and

(D) the minimum detection limit (MDL) or minimum level (ML) for the analytical method used.

(ix) Unless otherwise required by the department, metals must be reported as total recoverable.

(e) All applicants shall provide an identification of any whole effluent toxicity tests conducted during the four and one-half years prior to the date of the application on any of the applicant's discharges or on any receiving water near the discharge. For POTWs applying prior to commencement of discharge, data shall be submitted no later than 24 months after the commencement of discharge.

(i) As specified in (ii) through (viii), the following applicants shall submit to the department the results of valid whole effluent toxicity tests for acute or chronic toxicity for samples taken from each outfall through which effluent is discharged to surface waters, except for combined sewer overflows:

(A) all POTWs with design flow rates greater than or equal to one million gallons per day;

(B) all POTWs with approved pretreatment programs or POTWs required to develop a pretreatment program; and

(C) other POTWs, as required by the department, based on consideration of the following factors:

(I) the variability of the pollutants or pollutant parameters in the POTW effluent (based on chemical-specific information, the type of treatment plant, and types of industrial contributors);

(II) the ratio of effluent flow to receiving stream flow;

(III) existing controls on point or non-point sources, including total maximum daily load calculations for the receiving stream segment and the relative contribution of the POTW;

(IV) receiving stream characteristics, including possible or known water quality impairment, a water designated as an outstanding natural resource water; and

(V) other considerations (including, but not limited to, the history of toxic impacts and compliance problems at the POTW) that the department determines could cause or contribute to adverse water quality impacts.

(ii) Where the POTW has two or more outfalls with substantially identical effluent discharging to the same receiving stream segment, the department may allow applicants to submit whole effluent toxicity data for only one outfall on a case-by-case basis. The department may also allow applicants to composite samples from one or more outfalls that discharge into the same mixing zone.

(iii) Each applicant required to perform whole effluent toxicity testing pursuant to (i) shall provide:

(A) results of a minimum of four quarterly tests for a year, from the year preceding the permit application; or

(B) results from four tests performed at least annually in the four and one-half-year period prior to the application, provided the results show no appreciable toxicity using a safety factor determined by the department.

(iv) Applicants shall conduct tests with multiple species (no less than two species, e.g., fish, invertebrate, plant) and test for acute or chronic toxicity, depending on the range of receiving water dilution. Applicants shall conduct acute or chronic testing based on the following dilutions:

(A) acute toxicity testing if the dilution of the effluent is greater than 100:1 at the edge of the mixing zone;

(B) acute or chronic toxicity testing if the dilution of the effluent is between 10:1 and 100:1 at the edge of the mixing zone; and

(C) chronic testing if the dilution of the effluent is less than 10:1 at the edge of the mixing zone.

(v) Each applicant required to perform whole effluent toxicity testing pursuant to (i) shall provide the number of chronic or acute whole effluent toxicity tests that have been conducted since the last permit reissuance.

(vi) Applicants shall provide the results using the form provided by the department, or test summaries if available and comprehensive, for each whole effluent toxicity test conducted pursuant to (i) for which such information has not been reported previously to the department.

(vii) Whole effluent toxicity testing conducted pursuant to (i) must be conducted using methods approved under 40 CFR Part 136.

(viii) For whole effluent toxicity data submitted to the department within four and one-half years prior to the date of the application, applicants shall provide the dates on which the data were submitted and a summary of the results.

(ix) Each POTW required to perform whole effluent toxicity testing pursuant to (i) shall provide any information on the cause of toxicity and written details of any toxicity reduction evaluation conducted, if any whole effluent toxicity test conducted within the past four and one-half years revealed toxicity.

(f) Applicants shall submit the following information about industrial discharges to the POTW:

(i) number of significant industrial users (SIUs) and non-significant categorical industrial users (NSCIUs), including SIUs and NSCIUs that truck or haul waste, discharging to the POTW; and

(ii) POTWs with one or more SIUs shall provide the following information for each SIU, as defined at ARM 17.30.1402, that discharges to the POTW:

(A) name and mailing address;

(B) description of all industrial processes that affect or contribute to the SIU's discharge;

(C) principal products and raw materials of the SIU that affect or contribute to the SIU's discharge;

(D) average daily volume of wastewater discharged, indicating the amount attributable to process flow and non-process flow;

(E) whether the SIU is subject to local limits;

(F) whether the SIU is subject to categorical standards, and if so, under which category(ies) and subcategory(ies); and

(G) whether any problems at the POTW (e.g., upsets, pass through, interference) have been attributed to the SIU in the past four and one-half years.

(iii) The information required in (i) and (ii) may be waived by the department for POTWs with pretreatment programs if the applicant has submitted either of the following that contain information substantially identical to that required in (i) and (ii):

(A) an annual report submitted within one year of the application; or

(B) a pretreatment program.

(g) POTWs receiving Resource Conservation and Recovery Act (RCRA), Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), or RCRA corrective action wastes or wastes generated at another type of cleanup or remediation site shall provide the following information:

(i) if the POTW receives, or has been notified that it will receive, by truck, rail, or dedicated pipe any wastes that are regulated as RCRA hazardous wastes pursuant to 40 CFR Part 261, the applicant shall report the following:

(A) the method by which the waste is received (i.e., whether by truck, rail, or dedicated pipe); and

(B) the hazardous waste number and amount received annually of each hazardous waste;

(ii) if the POTW receives, or has been notified that it will receive, wastewaters that originate from remedial activities, including those undertaken pursuant to CERCLA and sections 3004(u) or 3008(h) of RCRA, the applicant shall report the following:

(A) the identity and description of the site(s) or facility(ies) at which the wastewater originates;

(B) the identities of the wastewater's hazardous constituents, as listed in Appendix VIII of 40 CFR Part 261, if known; and

(C) the extent of treatment, if any, the wastewater receives or will receive before entering the POTW; and

(iii) applicants are exempt from the requirements of (ii) if they receive no more than 15 kilograms per month of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e).

(h) Each applicant with combined sewer systems shall provide the following information:

(i) a map indicating the location of the following:

(A) all combined sewer overflow (CSO) discharge points;

(B) sensitive use areas potentially affected by CSOs (e.g., beaches, drinking water supplies, shellfish beds, sensitive aquatic ecosystems, and outstanding national resource waters); and

(C) waters supporting threatened and endangered species potentially affected by CSOs;

(ii) a diagram of the combined sewer collection system that includes the following information:

(A) the location of major sewer trunk lines, both combined and separate sanitary;

(B) the locations of points where separate sanitary sewers feed into the combined sewer system;

(C) in-line and off-line storage structures;

(D) the locations of flow-regulating devices; and

(E) the locations of pump stations;

(iii) the following information for each CSO discharge point (outfall) covered by the permit application:

(A) outfall number;

(B) county, city, or town in which each outfall is located;

(C) latitude and longitude, to the nearest second;

(D) distance from shore and depth below surface;

(E) whether the applicant monitored any of the following in the past year for this CSO:

(I) rainfall;

(II) CSO flow volume;

(III) CSO pollutant concentrations;

(IV) receiving water quality; or

(V) CSO frequency; and

(F) the number of storm events monitored in the past year;

(iv) the following information about CSO overflows from each outfall:

(A) the number of events in the past year;

(B) the average duration per event, if available;

(C) the average volume per CSO event, if available; and

(D) the minimum rainfall that caused a CSO event, if available, in the last year;

(v) the following information about receiving waters:

(A) name of receiving water;

(B) name of watershed/stream system and the United States Soil Conservation Service watershed (14-digit) code, if known; and

(C) name of the United States Geological Survey hydrologic cataloging unit (eight-digit) code and the state water body identification code, if known; and

(vi) a description of any known water quality impacts on the receiving water caused by the CSO (e.g., permanent or intermittent beach closings, permanent or intermittent shellfish bed closings, fish kills, fish advisories, other recreational loss, or exceedance of any applicable water quality standard).

(i) All applicants shall provide the name, mailing address, telephone number, electronic mail address, and responsibilities of all contractors responsible for any operational or maintenance aspects of the facility.

(j) All applications shall be signed by a certifying official in compliance with ARM 17.30.1323.

(13) A discharger that is not a publicly owned treatment works (POTW) may request a variance from otherwise applicable effluent limitations under any of the following statutory or regulatory provisions within the times specified below:

(a) A request for a variance based on the presence of "fundamentally different factors" from those on which the effluent limitations guideline was based must explain how the requirements of the applicable regulatory and statutory criteria have been met, and must be filed with the department:

(i) by the close of the public comment period under ARM 17.30.1372, if the request is for a variance from best practicable control technology currently available (BPT); or

(ii) by no later than 180 days after the date on which an effluent limitation is published in the federal register, if the request involves a variance from best available technology economically achievable (BAT), best conventional pollutant control technology (BCT), or both of them.

(b) A request for a variance from the best available technology (BAT) requirements for federal Clean Water Act section 301(b)(2)(F) pollutants (commonly called "nonconventional" pollutants) pursuant to section 301(c) of the federal Clean Water Act because of the economic capability of the owner or operator, or pursuant to section 301(g) of the federal Clean Water Act because of certain environmental considerations, when those requirements were based on effluent limitation guidelines, must be made by:

(i) submitting an initial request to the department, stating the name of the discharger, the permit number, the outfall number(s), the applicable effluent guideline, and whether the discharger is requesting a federal Clean Water Act section 301(c) or 301(g) modification or both. This request must have been filed not later than:

(A) September 25, 1978, for a pollutant which is controlled by a BAT effluent limitation guideline promulgated before December 27, 1977; or

(B) 270 days after promulgation of an applicable effluent limitation guideline for guidelines promulgated after December 27, 1977; and

(ii) submitting a completed request no later than the close of the public comment period under ARM 17.30.1372 demonstrating that the requirements of ARM 17.30.1375 and the applicable requirements of 40 CFR Part 125 have been met. Notwithstanding this provision, the complete application for a request under section 301(g) of the federal Clean Water Act must be filed before the department must make a decision;

(iii) requests for variance from effluent limitations not based on effluent limitations guidelines need only comply with (ii) and need not be preceded by an initial request under (i).

(c) A modification under the federal Clean Water Act section 302(b)(2) of requirements under section 302(a) for achieving water quality related effluent limitations may be requested no later than the close of the public comment period under ARM 17.30.1372 on the permit from which the modification is sought.

(d) A variance under the federal Clean Water Act section 316(a) for the thermal component of any discharge must be filed with a timely application for a permit under this subchapter,

except that if thermal effluent limitations are established under federal Clean Water Act section 402(A)(1) or are based on water quality standards the request for a variance may be filed by the close of the public comment period under ARM 17.30.1372.

(14) A discharger that is a publicly owned treatment works (POTW) may request a variance from otherwise applicable effluent limitations under federal Clean Water Act section 302(b)(2) of the requirements under section 302(a) for achieving water quality based effluent limitations no later than the close of the public comment period under ARM 17.30.1372 on the permit from which the modification is sought.

(15) Notwithstanding the time requirements in (13) and (14):

(a) the department may notify a permit applicant before a draft permit is issued under ARM 17.30.1370 that the draft permit will likely contain limitations eligibility for variances. In the notice the department may require that the applicant, as a condition of consideration of any variance request, submit an explanation of how the requirements of ARM 17.30.1203(4) applicable to the variance have been met. The department may require submission of the explanation within a specified reasonable time after receipt of the notice. The notice may be sent before the permit application has been submitted. The draft or final permit may contain the alternative limitations that may become effective upon final grant of the variance; and specified reasonable time after receipt of the notice. The notice may be sent before the permit application has been submitted. The draft or final permit may contain the alternative limitations that may become effective upon final grant of the variance; and

(b) a discharger who cannot file a timely complete request required under (13)(b)(ii) or (iii) may request an extension. The extension may be granted or denied at the discretion of the department. Extensions may not be more than six months in duration.

(16) Applicants shall keep records of all data used to complete permit applications and any supplemental information submitted under this subchapter for a period of at least three years from the date the application is signed.

(17) New facilities with new or modified cooling water intake structures, as defined in ARM 17.30.1202, shall submit to the department for review the information required in this section as part of their application. Requests for alternative requirements under ARM 17.30.1213 must be submitted with the facility's permit application required by ARM 17.30.1322. All applicants shall provide the following information:

(a) source water physical data, which includes:

(i) a narrative description and scaled drawings showing the physical configuration of all source water bodies used by the facility, including areal dimensions, depths, salinity and temperature regimes, and other documentation that supports a determination of the water body type where each cooling water intake structure is located;

(ii) identification and characterization of the source water body's hydrological and geomorphological features, as well as the methods used to conduct any physical studies to determine the intake's area of influence within the water body and the results of such studies; and

(iii) locational maps;

(b) cooling water intake structure data, which includes:

(i) a narrative description of the configuration of each of the facility's cooling water intake structures and where they are located in the water body and in the water column;

(ii) latitude and longitude in degrees, minutes, and seconds for each of the cooling water intake structures;

(iii) a narrative description of the operation of each of the facility's cooling water intake structures, including design intake flows, daily hours of operation, number of days of the year in operation and seasonal changes, if applicable;

(iv) a flow distribution and water balance diagram that includes all sources of water to the facility, recirculating flows, and discharges; and

(v) engineering drawings of the cooling water intake structures; and

(c) a source water baseline biological characterization including information required to characterize the biological community in the vicinity of the cooling water intake structures and to characterize the operation of the cooling water intake structures. The department may also use this information in subsequent permit renewal proceedings to determine if the facility's design and construction technology plan, as required in ARM 17.30.1213, should be revised. This supporting information must include existing data (if they are available). However, supplemental data using newly conducted field studies may also be submitted at the discretion of the applicant. The following information must be submitted:

(i) a list of the data in (ii) through (vi) that are not available and efforts made to identify sources of the data;

(ii) a list of species (or relevant taxa) for all life stages and their relative abundance in the vicinity of the cooling water intake structures;

(iii) identification of the species and life stages that would be most susceptible to impingement and entrainment. Species evaluated should include the forage base as well as those most important in terms of significance to commercial and recreational fisheries;

(iv) identification and evaluation of the primary period of reproduction, larval recruitment, and period of peak abundance for relevant taxa;

(v) data representative of the seasonal and daily activities (e.g., feeding and water column migration) of biological organisms in the vicinity of the cooling water intake structures;

(vi) identification of all threatened, endangered, and other protected species that might be susceptible to impingement and entrainment at the cooling water intake structures;

(vii) documentation of any public participation or consultation with federal or state agencies undertaken in development of the plan; and

(viii) if information is submitted to supplement the information requested in (i) with data collected using field studies, supporting documentation for the source water baseline biological characterization must include a description of all methods and quality assurance procedures for sampling, and data analysis including a description of the study area, taxonomic identification of sampled and evaluated biological assemblages (including all life stages of fish and shellfish), and sampling and data analysis methods. The sampling and/or data analysis methods used must be appropriate for a quantitative survey and based on consideration of methods used in other biological

studies performed within the same source water body. The study area should include, at a minimum, the area of influence of the cooling water intake structure.

(18) The department adopts and incorporates by reference the following federal regulations as part of the Montana pollutant discharge elimination system. Copies of these federal regulations may be obtained from the Department of Environmental Quality, P.O. Box 200901, Helena, MT 59620-0901.

(a) 40 CFR Part 136 (July 1, 2015), which sets forth guidelines establishing test procedures for the analysis of pollutants;

(b) Appendix A to 40 CFR Part 122 (July 1, 2011), which sets forth a list of primary industrial categories;

(c) Appendix D to 40 CFR Part 122 (July 1, 2011), which sets forth NPDES permit application testing requirements;

(d) Appendix J to 40 CFR Part 122 (July 1, 2011), which sets forth NPDES permit testing requirements for publicly owned treatment works;

(e) 40 CFR Part 125 (July 1, 2011), which sets forth criteria for extending compliance dates and for determining the availability of a variance;

(f) 40 CFR Part 412 (July 1, 2011), which sets forth effluent guidelines and standards for concentrated animal feeding operations.

Authorizing statute(s): 75-5-201, 75-5-401, MCA

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

History: NEW, 1989 MAR p. 2060, Eff. 12/8/89; AMD, 1992 MAR p. 1241, Eff. 6/12/92; TRANS, from DHES, 1996 MAR p. 1499; AMD, 2003 MAR p. 648, Eff. 2/14/03; AMD, 2006 MAR p. 532, Eff. 2/24/06; AMD, 2012 MAR p. 2604, Eff. 12/21/12; AMD, 2017 MAR p. 602, Eff. 5/13/17; AMD, 2020 MAR p. 1879, Eff. 10/24/20; AMD, 2024 MAR p. 257, Eff. 2/10/24.