



ADMINISTRATIVE RULES OF MONTANA



17.30.1304 DEFINITIONS

In this subchapter, the following terms have the meanings or interpretations indicated below and shall be used in conjunction with and are supplemental to those definitions contained in 75-5-103, MCA.

- (1) "Act" means the Montana Water Quality Act, Title 75, chapter 5, MCA.
- (2) "Adaptive management plan" means a watershed-specific plan developed under the adaptive management program to achieve the narrative nutrient standards and address nutrients in a specific watershed. An adaptive management plan includes a watershed monitoring plan and, if required, an implementation plan.
- (3) "Adaptive management program" means a watershed-scale program that protects water quality from the impacts of nutrient sources by:
 - (a) prioritizing phosphorus reduction, as appropriate, while accounting for site specific conditions;
 - (b) allowing for nutrient sources to be addressed incrementally over time by incorporating flexible decision-making which can be adjusted as management actions and other factors become better understood;
 - (c) reasonably balancing all factors impacting a waterbody while considering the relative cost of treatment options, their feasibility, and their expected water quality improvement;
 - (d) identifying specific nutrient reduction requirements; and
 - (e) setting as its goal the protection and achievement of beneficial uses of the waterbody.
- (4) "Administrator" means the administrator of the United States Environmental Protection Agency.
- (5) "Animal feeding operation" means:
 - (a) a lot or facility (other than an aquatic animal production facility) where the following conditions are met:
 - (i) animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period; and
 - (ii) crops, vegetation forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

- (b) Two or more animal feeding operations under common ownership are considered, for the purposes of these rules, to be a single animal feeding operation if they adjoin each other or if they use a common area or system for the disposal of wastes.
- (6) "Applicable standards and limitations" means all state, interstate, and federal standards and limitations to which a "discharge" or a related activity is subject under the federal Clean Water Act, including "effluent limitations," water quality standards, standards of performance, toxic effluent standards or prohibitions, "best management practices," and pretreatment standards.
- (7) "Application" means the department's standard form for applying for a permit including any additions, revisions, or modifications to the forms.
- (8) "Aquaculture project" means a defined managed water area which uses discharges of pollutants into that designated area for the maintenance or production of harvestable freshwater plants or animals.
- (9) "Aquatic animal production facility" means a hatchery, fish farm, or similar operation.
- (10) "Average monthly discharge limitation" means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.
- (11) "Average weekly discharge limitation" means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.
- (12) "Best management practices" ("BMPs") means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of state waters. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
- (13) "Board" means the Montana Board of Environmental Review established by 2-15-3502, MCA.
- (14) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
- (15) "Concentrated animal feeding operation" (CAFO) is defined in 75-5-801, MCA.
- (16) "Continuous discharge" means a discharge which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities.
- (17) "Conventional pollutant" is defined in ARM 17.30.1202.
- (18) "Cooling water" is defined in ARM 17.30.1202.
- (19) "Cooling water intake structure" is defined in ARM 17.30.1202.
- (20) "Daily discharge" means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.

- (21) "Department" means the Montana Department of Environmental Quality established by 2-15-3501, MCA.
- (22) "Direct discharge" means the discharge of a pollutant.
- (23) "Discharge," when used without qualification, means the discharge of a pollutant.
- (24) "Discharge of a pollutant" and "discharge of pollutants" each means any addition of any pollutant or combination of pollutants to state waters from any point source. This definition includes additions of pollutants into water of the state from: surface runoff which is collected or channelled by man; discharges through pipes, sewers, or other conveyances owned by a state, municipality, or other person which do not lead to a treatment works. This term does not include an addition of pollutants by any "indirect discharger."
- (25) "Discharge monitoring report" ("DMR") means the department uniform form for the reporting of self-monitoring results by permittees.
- (26) "Draft permit" means a document prepared under ARM 17.30.1364 indicating the department's tentative decision to issue or deny, modify, revoke and reissue, terminate, or reissue a permit. A notice of intent to terminate a permit and a notice of intent to deny a permit, as discussed in ARM 17.30.1365, are types of draft permits. A denial of a request for modification, revocation and reissuance, or termination, as discussed in ARM 17.30.1363 is not a draft permit. A proposed permit is not a draft permit.
- (27) "Effluent limitation" is defined in ARM 17.30.1202.
- (28) "Effluent limitations guidelines" means a regulation published by the administrator under 40 CFR chapter 1, subchapter N, pursuant to section 304(b) of the federal Clean Water Act to adopt or revise effluent limitations.
- (29) "Effluent standards" is defined in 75-5-103, MCA, and is synonymous with the term "effluent limitation," as defined in ARM 17.30.1202, with the exception that it does not include a schedule of compliance.
- (30) "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.
- (31) "EPA" means the United States Environmental Protection Agency.
- (32) "Existing source" means any source which is not a new source or a new discharger.
- (33) "Facilities or equipment" means buildings, structures, process or production equipment, or machinery which form a permanent part of the new source and which will be used in its operation, if these facilities or equipment are of such value as to represent a substantial commitment to construct. It excludes facilities or equipment used in connection with feasibility, engineering, and design studies regarding the source or water pollution treatment for the source.
- (34) "Facility or activity" means any MPDES point source or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the MPDES program.
- (35) "Federal Clean Water Act" means the federal legislation at 33 USC 1251, et seq.
- (36) "General permit" means an MPDES permit issued under ARM 17.30.1341 authorizing a category of discharges under the Act within a geographical area.

- (37) "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.
- (38) "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.
- (39) "Indirect discharger" means a non-domestic discharger introducing pollutants to a publicly owned treatment works.
- (40) "Log sorting and log storage facilities" means facilities whose discharges result from the holding of unprocessed wood, for example, logs or round wood with bark or after removal of bark held in self-contained bodies of water (mill ponds or log ponds) or stored on land where water is applied intentionally on the logs (wet decking).
- (41) "Major facility" means any MPDES facility or activity classified as such by the department in conjunction with the regional administrator.
- (42) "Maximum daily discharge limitation" means the highest allowable daily discharge.
- (43) "Montana pollutant discharge elimination system" (MPDES) means the system developed by the department for issuing permits for the discharge of pollutants from point sources into state waters. The MPDES is specifically designed to be compatible with the federal NPDES program established and administered by the EPA.
- (44) "MPDES form" means any issued MPDES permit and any uniform form developed for use in the MPDES and prescribed in rules adopted by the department, including MPDES forms, MPDES permit applications, and MPDES reporting forms.
- (45) "Municipality" means a city, town, county, district, association, or other public body created by or pursuant to state law and having jurisdiction over discharge of pollutants or a designated and approved management agency under section 1288 of the federal Clean Water Act.
- (46) "National pollutant discharge elimination system" (NPDES) means national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of the federal Clean Water Act. The term includes "approved program."
- (47) "New discharger" means any building structure, facility, or installation:
 - (a) from which there is or may be a discharge of pollutants;
 - (b) that did not commence the discharge of pollutants at a particular site prior to August 13, 1979;
 - (c) which is not a new source; and
 - (d) which has never received a finally effective MPDES permit for discharges at that site. This definition includes an indirect discharger which commences discharging into state waters after August 13, 1979.
- (48) "New facility" is defined in ARM 17.30.1202.
- (49) "New source" means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

- (a) after promulgation of standards of performance under section 306 of the federal Clean Water Act which are applicable to such source;
 - (b) after proposal of standards of performance in accordance with section 306 of the federal Clean Water Act which are applicable to such source, but only if the standards are promulgated in accordance with section 306 within 120 days of their proposal; or
 - (c) after the publication of proposed pretreatment standards under section 307(c) of the federal Clean Water Act which will be applicable to such source if such standards are thereafter promulgated with that section, provided that:
 - (i) the building, structure, facility, or installation is constructed at a site at which no other source is located;
 - (ii) the building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - (iii) the production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.
 - (d) construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of (c)(ii) or (iii) but otherwise alters, replaces, or adds to existing process or production equipment.
 - (e) construction of a new source as defined under this section has commenced if the owner or operator has:
 - (i) begun, or caused to begin as part of a continuous on-site construction program;
 - (A) any placement, assembly, or installation of facilities or equipment; or
 - (B) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - (ii) entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this section.
- (50) "Owner or operator" means any person who owns, leases, operates, controls, or supervises a point source.
- (51) "Permit" means an authorization or license issued by EPA or an "approved state" to implement the requirements of this rule and 40 CFR Parts 123 and 124. "Permit" includes an NPDES "general permit" (ARM 17.30.1341). Permit does not include any permit which has not yet been the subject of final agency action, such as a "draft permit" or a "proposed permit."

- (52) "Person" means any individual, partnership, firm, association, state, interstate body, municipality, public or private corporation, subdivision, or agency of the state, trust, estate, federal agency, or any other legal entity, or an agent or employee thereof.
- (53) "Pesticide discharges from pesticide application" means the discharges that result from the application of biological pesticides, and the application of chemical pesticides that leave a residue, from point sources into surface water. In the context of this definition, this does not include agricultural storm water discharges and return flows from irrigated agriculture.
- (54) "Pesticide residue" means that portion of a pesticide application that is discharged from a point source into surface water and no longer provides pesticidal benefits. It also includes any degradates of the pesticide.
- (55) "Point source" means any discernible, confined, or discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.
- (56) "Pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural wastes discharged into water. The terms "sewage," "industrial waste," and "other wastes" as defined in 75-5-103, MCA, are interpreted as having the same meaning as pollutant.
- (57) "Pretreatment standards" means the standards promulgated by the EPA and set forth in 40 CFR Part 403 and 40 CFR chapter 1, subchapter N.
- (58) "Primary industry category" means any industry category listed in Appendix A of 40 CFR Part 122.
- (59) "Privately owned treatment works" means any device or system which is:
- (a) used to treat wastes from any facility whose operator is not the operator of the treatment works; and
 - (b) not a publicly owned treatment works.
- (60) "Process wastewater" means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.
- (61) "Proposed permit" means an MPDES permit prepared after the close of the public comment period (and, when applicable, any public hearing) which is sent to the department for review before final issuance by the department. A proposed permit is not a draft permit.
- (62) "Publicly owned treatment works" (POTW) means any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature which is owned by a state or municipality. This definition includes:
- (a) sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment; and
 - (b) a city, town, county, district, or other political subdivision created by or under state law, that has jurisdiction over indirect discharges to and the discharges from a treatment works.

- (63) "Recommencing discharger" means a source which recommences discharge after terminating operations.
- (64) "Regional administrator" means the administrator of Region VIII of EPA, which has jurisdiction over federal water pollution control activities in the state of Montana.
- (65) "Rock crushing and gravel washing facilities" means facilities which process crushed and broken stone, gravel, and riprap.
- (66) "Schedule of compliance" means a schedule of remedial measures included in a permit, including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with the Act and requirements thereunder.
- (67) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- (68) "Sewage sludge" means the solids, residues, and precipitate separated from or created in sewage by the unit processes of a publicly owned treatment works. "Sewage" as used in this definition means any wastes, including wastes from humans, households, commercial establishments, industries, and storm water runoff, that are discharged to or otherwise enter a publicly owned treatment works.
- (69) "Sewage system" means any device for collecting or conducting sewage, industrial wastes, or other wastes to an ultimate disposal point.
- (70) "Silvicultural point source" means any discernible, confined, and discrete conveyance related to:
- (a) rock crushing and gravel washing (defined in (51)), or
 - (b) log sorting or log storage facilities (defined in (29)) which is operated in connection with silvicultural activities and from which pollutants are discharged into state waters. The term does not include non-point source silvicultural activities such as nursery operations, site preparation, reforestation and subsequent cultural treatment, thinning, prescribed burning, pest and fire control, harvesting operations, surface drainage, or road construction and maintenance from which there is natural runoff. However, some of these activities (such as stream crossing for roads) may involve point source discharges of dredged or fill material which may require a section 404 permit under the federal Clean Water Act.
- (71) "Site" means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.
- (72) "Source" means any building, structure, facility, or installation from which there is or may be a discharge of pollutants.
- (73) "Source water" means the state water body (state surface waters) from which the cooling water is drawn.
- (74) "State waters" means any body of water, irrigation system, or drainage system, either surface or underground. This subchapter does not apply to irrigation waters where the waters are used up within the irrigation system and said waters are not returned to any other state waters.
- (75) "Storm water" is defined in ARM 17.30.1102.

- (76) "Storm water discharge associated with an industrial activity" is defined in 40 CFR 122.26(b)(14).
- (77) "Storm water discharge associated with small construction activity" is defined in 40 CFR 122.26(b)(15).
- (78) "Total dissolved solids" means the total dissolved (filterable) solids as determined by use of the method specified in 40 CFR Part 136.
- (79) "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.
- (80) "Treatment works" means any works installed for treating or holding sewage, industrial wastes, or other wastes.
- (81) "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (82) "Variance" is defined in ARM 17.30.1202.
- (83) "Whole effluent toxicity" means the aggregate toxic effect of an effluent measured by a toxicity test.

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. 220, Eff. 2/14/03; AMD, 2012 MAR p. 2604, Eff. 12/21/12; AMD, 2020 MAR p. 1879, Eff. 10/24/20; AMD, 2022 MAR p. 327, Eff. 3/12/22; AMD, 2024 MAR p. 257, Eff. 2/10/24.