

GENERAL DISCHARGE PERMIT  
CONCENTRATED ANIMAL FEEDING OPERATION  
MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY  
AUTHORIZATION TO DISCHARGE UNDER THE  
MONTANA POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with Section 75-5-101 *et seq.*, MCA, and ARM 17.30.1301 *et seq.*, ARM 17.30.1001 *et seq.* and ARM 17.30.601 *et seq.*, applicants with an authorization letter for this CONCENTRATED ANIMAL FEEDING OPERATION - GENERAL DISCHARGE PERMIT" are permitted to discharge process wastewater from concentrated animal feeding operations in the state of Montana to waters of the state in accordance with effluent limitations, monitoring requirements, and other conditions set forth herein.

This permit shall become effective on August 15, 2000.

This permit and the authorization to discharge shall expire at midnight, July 31, 2005.

FOR THE MONTANA DEPARTMENT  
OF ENVIRONMENTAL QUALITY

---

Thomas D. Reid, Supervisor  
Water Quality Discharge Permit Section  
Water Protection Bureau

Dated this 11<sup>th</sup> day of July, 2000; modified August 23, 2000

## TABLE OF CONTENTS

PART I. EFFLUENT LIMITATIONS AND WASTE DISPOSAL REQUIREMENTS .....	4
A. EFFLUENT LIMITATIONS .....	4
B. WASTE STORAGE AND DISPOSAL REQUIREMENTS.....	5
PART II. MONITORING, RECORDING AND REPORTING REQUIREMENTS.....	5
A. DISCHARGE MONITORING .....	5
B. REPRESENTATIVE SAMPLING.....	6
C. MONITORING PROCEDURES.....	6
D. PENALTIES FOR TAMPERING.....	6
E. COMPLIANCE SCHEDULES.....	6
F. ADDITIONAL MONITORING BY THE PERMITTEE.....	6
G. RECORDS CONTENTS .....	7
H. RETENTION OF RECORDS .....	7
PART III. SPECIAL CONDITIONS.....	8
WASTE MANAGEMENT PLAN .....	8
PART IV. COMPLIANCE RESPONSIBILITIES .....	8
A. DUTY TO COMPLY.....	8
B. PENALTIES FOR VIOLATIONS OF PERMIT CONDITIONS.....	9
C. DUTY TO MITIGATE .....	9
D. NEED TO HALT OR REDUCE ACTIVITY NOT A DEFENSE.....	9
E. FACILITIES OPERATION .....	9
F. REMOVED SUBSTANCES.....	9
G. BYPASS OF TREATMENT FACILITIES .....	9
H. UPSET CONDITIONS.....	10
PART V. GENERAL CONDITIONS .....	10
A. PLANNED CHANGES.....	10
B. ANTICIPATED NONCOMPLIANCE.....	10
C. DUTY TO REAPPLY.....	10
D. DUTY TO PROVIDE INFORMATION .....	11
E. OTHER INFORMATION.....	11
F. SIGNATORY REQUIREMENTS.....	11
G. RIGHT OF ENTRY.....	12
H. TRANSFERS.....	12
I. AVAILABILITY OF REPORTS .....	12
J. OTHER NONCOMPLIANCE REPORTING.....	12
K. TERMINATION OF AUTHORIZATION .....	12
L. TOXIC POLLUTANTS.....	13
M. CIVIL AND CRIMINAL LIABILITY .....	13
N. CONTINUATION OF THE EXPIRED GENERAL PERMIT .....	13
O. OIL AND HAZARDOUS SUBSTANCE LIABILITY .....	13
P. PROPERTY RIGHTS .....	13
Q. SEVERABILITY.....	13
R. REQUIRING AN INDIVIDUAL MONTANA POLLUTANT DISCHARGE ELIMINATION SYSTEM (MPDES) PERMIT.....	13

S. REQUESTING AN INDIVIDUAL MPDES PERMIT..... 14  
T. REQUESTING AUTHORIZATION UNDER THE GENERAL PERMIT ..... 14  
U. PERMIT MODIFICATION, REVOCATION, TERMINATION ..... 14  
V. REAUTHORIZATION ..... 14  
W. FEES ..... 14  
X. REOPENER PROVISIONS..... 14  
PART VI. DEFINITIONS ..... 15

## APPLICABILITY

Owners or operators of Montana animal feeding operations that are defined in Title 40, Part 122 Appendix B of the Code of Federal Regulations as concentrated animal feeding operations (CAFOs) and that are subject to the requirements 40 CFR 122.23 are eligible for coverage under this general permit. Owners or operators of new or existing CAFOs are authorized under the terms and conditions of this permit upon the submittal of a complete application and upon authorization by the Department to discharge under this permit. Permittees must retain on site a copy of the permit and the authorization letter.

### PART I. EFFLUENT LIMITATIONS AND WASTE DISPOSAL REQUIREMENTS

#### A. Effluent Limitations

Effective immediately upon issuance of an authorization under this general permit and lasting through the expiration date, the following effluent limitations apply to all of the CAFOs covered by this permit; there shall be no discharge of process wastewater pollutants to the waters of the State of Montana except as provided for below.

1. A discharge of pollutants to surface waters of the state may occur whenever rainfall events, either chronic or catastrophic, cause an overflow of process wastewater from a facility designed, constructed, and operated to contain all process-generated wastewaters plus the runoff from a 25-year, 24-hour rainfall event for the location of the CAFO. No discharge under this section shall cause or contribute to a violation of water quality standards.

A map showing 25-year, 24-hour rainfall for Montana is given in Attachment A to this permit. The 25-year, 24-hour rainfall value for the location of the CAFO covered by this permit shall be determined from this map.

For purposes of determining compliance with the effluent limitations of this permit, the amount of precipitation that occurred shall be based on the data from the nearest weather station with a precipitation gauge. See Attachment B for a map of weather stations in Montana. The permittee has the option of maintaining a functional and reliable precipitation gauge at the facility.

2. A discharge of pollutants to state ground waters may only occur when the seepage or leachate volume from an existing CAFO, combined with the volume of ground water beneath the source, results in a ground water concentrations of nitrate plus nitrite as nitrogen ( $\text{NO}_3 + \text{NO}_2 - \text{N}$ ) and fecal coliform bacteria in compliance with applicable human health standards given in Department Circular WQB-7 and the Administrative Rules of Montana [ARM 17.30.1006]. Except as specified by ARM 17.30.1006, a discharge of pollutants to state ground waters from a CAFO which is a new or increased source may only occur when the seepage or leachate volume, combined with the volume of ground water beneath the source, results in a ground water  $\text{NO}_3 + \text{NO}_2 - \text{N}$  concentration of 7.5 mg/L or less. These standards and limitations apply immediately below the discharge point or at the down-gradient boundary of an applicable ground water mixing zone.

3. The concentration of fecal coliform bacteria in ground water as a result of CAFO operations shall be less than one organism per 100 milliliters. These standards and limitations apply immediately below the discharge point or at the down-gradient boundary of an applicable ground water mixing zone.

B. Waste Storage and Disposal Requirements

1. All facilities utilized by and operated under the authority of the permittee for the collection, transport, storage, and treatment of manure, bedding materials, silage, feeds, feed concentrates, and other substances having a waste-contributing potential shall be managed to prevent any pollutant from such materials from entering state waters.
2. All land areas utilized by and operated under the authority of the permittee for the application of manure, other solid waste, and liquid wastes shall provide waste treatment through plant nutrient uptake during the growing season following application. The land application rates of solid manure, liquid manure, or other solid or liquid wastes shall not exceed agronomic uptake rates for nutrients. Wastes shall be applied so as to prevent any pollutant from such materials from entering state waters.
3. All wastes from dipping vats, pest and parasite control units, and other facilities utilized for the application of hazardous or toxic chemicals shall be handled and disposed of in a manner that prevents any pollutant from such materials from entering state waters.

PART II. MONITORING, RECORDING, AND REPORTING REQUIREMENTS

A. Discharge Monitoring

1. The permittee shall report any surface water discharges to the Department within 24 hours or during the first business day following a discharge that occurs on a weekend or holiday.
2. The permittee shall sample any discharge, planned or unplanned, which has the potential to reach state surface water. The sample shall be analyzed for fecal coliform, biochemical oxygen demand, total suspended solids, total Kjeldahl nitrogen, nitrate-nitrogen, and total phosphorus. Results shall be reported to the Department within 28 days of the event.
3. The permittee shall provide the Department with the following information within five (5) days of any surface water discharge:
  - a. A description of the discharge and cause, whether excess precipitation, snow melt, or other causes (e.g., structural failure, equipment breakdown, flooding);
  - b. The period of discharge, including exact dates and times;
  - c. An estimate of discharge rate;
  - d. Name of the receiving drainage or water body and a description of any visible affects on drainageways, water quality and aquatic life;

- e. Name of person recording discharge;
  - f. Corrective steps taken, if appropriate; and
  - g. A record of the total precipitation at the official gauge station identified with the facility, or at an on-site rain gauge, for the period of weather that resulted in the discharge.
4. Any surface discharge resulting from a non-precipitation runoff event (e.g., dike or structural failure, equipment breakdown, human error) shall be described and reported to the Department as indicated in A.2 above. That information shall be sent to:

Montana Department of Environmental Quality  
Water Protection Bureau  
P.O. Box 200901  
Helena, Montana 59620-0901  
Phone: (406) 444-3080

5. Monitoring of discharges to ground water from waste collection or storage facilities or land application areas may be required by the Department for CAFOs within areas having shallow ground water or soil materials in the unsaturated zone with low filtering capacity. (Such materials may include coarse-textured sediments or fractured bedrock.)

B. Representative Sampling

Samples taken in compliance with the monitoring requirements established under Part II.A shall be representative of the volume and nature of the monitored medium

C. Monitoring Procedures

Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 unless other test procedures have been specified in this permit.

D. Penalties for Tampering

The Montana Water Quality Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$25,000, or by imprisonment for not more than six months, or by both.

E. Compliance Schedules

Reports of compliance or noncompliance with or any progress reports on interim and final requirements contained in any Compliance Schedule of this permit shall be submitted no later than 14 days following each schedule date.

F. Additional Monitoring by the Permittee

If the permittee monitors any pollutant more frequently than required by this permit, using approved

analytical methods as specified in this permit, such increased frequency shall also be indicated.

G. Records Contents

Records of monitoring information shall include:

1. The date, exact place, and time of sampling or measurements;
2. The initials or name(s) of the individual(s) who performed the sampling or measurements;
3. The date(s) analyses were performed;
4. The time analyses were initiated;
5. The initials or name(s) of individual(s) who performed the analyses;
6. References and written procedures, when available, for analytical techniques or methods used; and
7. The results of such analyses.

H. Retention of Records

The permittee shall retain copies of all records required by this permit for a period of at least three (3) years from the date recorded, or longer if required by the Department, and must, at a minimum, document the following:

1. Annual number and class of livestock at the facility;
2. Tons of solid waste produced per year;
3. Tons of solid waste land-applied per year;
4. Gallons of liquid waste produced per year;
5. Gallons of liquid waste land-applied per year;
6. Annual acreage and location to which wastes are applied, application rate in tons or gallons per acre, and crop cover of area receiving waste applications;
7. Total Kjeldahl nitrogen, nitrate-nitrogen, and total phosphorus concentrations of applied wastes based on annual sampling;
8. Nutrient requirements for crop or vegetation receiving process wastewater and the result of all soil tests performed to determine nutrient content;
9. The location, quantity, and method of disposal for all wastes not land-applied; and

Modified August 23, 2000

10. The location, quantity, and method of disposal for all wastes disposed of off-site.

### PART III. SPECIAL CONDITION –WASTE MANAGEMENT PLAN

All CAFOs having greater than 1,000 animal units are required to have on site and implement a Waste Management and Disposal Plan (WMP) within 365 days (1 year) of authorization to discharge under this permit. The WMP must be updated annually to quantify the amount of animal wastes generated by the facility and to demonstrate how the facility provides treatment for these wastes through land application. The land application rate for CAFO-generated wastes shall be according to the conditions of the permit regarding "Waste Storage and Disposal Requirements." At a minimum, the annual WMP must contain provide for and implement the following measures in order to meet effluent limits in Part I:

1. A description of the size and volume capacity of all facilities and structures used for the collection, transport, and storage of liquid and solid manure and other wastes;
2. A description of practices that divert clean water from contact with stored manure, confinement lots, holding pens, and stored feed materials having a waste-contributing potential;
3. A description of the means of preventing contaminants from entering state surface and ground waters;
4. A description of the methods of land application of liquid and solid manure, waste bedding, waste feed, and other wastes to cropland that balance waste-supplied nutrients, soil fertility, and commercial fertilizer with crop requirements;
5. A description of other treatment methods used to prevent the release of waste nutrients to state surface and ground waters (e.g. composting); and
6. A description of management practices to minimize movement of soil, organic materials, nutrients, and pathogens from land application areas to surface and ground waters.

The plan shall be signed by the owner and shall be retained on site in accordance with Part II.H. Retention of Records.

### PART IV. COMPLIANCE RESPONSIBILITIES

#### A. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation, and reissuance; or for modification or denial of a permit renewal application. The permittee shall give the Department and the Director advance notice of any planned changes at the permitted facility or of an

activity which may result in permit noncompliance.

B. Penalties for Violations of Permit Conditions

The Montana Water Quality Act provides that any person who violates a permit condition of the Act is subject to civil or criminal penalties not to exceed \$25,000 per day, or one year in prison, or both, for the first conviction; \$50,000 per day of violation, or by imprisonment for not more than two years, or both, for subsequent convictions. Section 75-5-611(a), MCA, also provides for administrative penalties not to exceed \$10,000 for each day of violation and up to a maximum not to exceed \$100,000 for any related series of violations. Except as provided in permit conditions on Part IV.G of this permit, "Bypass of Treatment Facilities" and Part IV. H of this permit, "Upset Conditions," nothing in this permit shall be construed to relieve the permittee of the civil or criminal penalties for noncompliance.

C. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

D. Need to Halt or Reduce Activity not a Defense

It shall not be a defense for a permittee in an enforcement action to claim that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

E. Facilities Operation

The permittee shall at all times maintain in good working order and operate all control facilities or systems installed or used by the permittee to achieve compliance with the terms and conditions of this permit.

1. Open lots and associated wastes shall be isolated from outside surface drainage by ditches, dikes, berms, terraces, or other such structures designed to carry peak flows expected at times when the 25-year, 24-hour rainfall event occurs.
2. Dead animals shall be properly disposed of in a manner to prevent contamination of state surface or ground waters.

F. Removed Substances

Solids, sludges, or other pollutants removed in the course of control of wastewaters shall be managed in a manner that prevents any discharge of pollutants to state waters in amounts in excess of the effluent limitations and applicable water quality standards.

G. Bypass of Treatment Facilities

The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Parts II.A.1 and II.A.2 of this permit.

H. Upset Conditions

1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of Part IV.H.2 of this permit are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review (i.e., Permittees will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with technology-based permit effluent limitations).
2. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - a. An upset occurred and that the permittee can identify the cause(s) of the upset;
  - b. The permitted facility was at the time being properly operated;
  - c. The permittee submitted notice of the upset as required under Part II.A. of this permit; and
  - d. The permittee complied with any remedial measures required under Part IV.C of this permit, "Duty to Mitigate."
3. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

PART V. GENERAL CONDITIONS

A. Planned Changes

The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility.

B. Anticipated Noncompliance

The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements when:

1. The alteration or addition could significantly change the nature or increase the quantity of pollutant discharged. This notification applies to pollutants which are not subject to effluent limitations in the permit; or
2. There are any planned substantial changes to the existing management practices of waste storage and disposal. The permittee shall give the Department notice of any planned changes at least 180 days prior to their implementation.

C. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this

permit, the permittee must apply for and obtain a new permit. The application must be submitted at least 180 days before the expiration date of this permit.

D. Duty to Provide Information

The permittee shall furnish to the Department, within a reasonable time, any information which the Department may request to determine whether cause exists for revoking, modifying and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Department, upon request, copies of records required to be kept by this permit.

E. Other Information

When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or any report to the Department, it shall promptly submit such facts or information with a narrative explanation of the circumstances of the omission or incorrect submittal and why they were not supplied earlier.

F. Signatory Requirements.

All applications, reports, or information submitted to the Department shall be signed and certified.

1. All permit applications shall be signed by either a principal executive officer or ranking elected official.
2. All reports required by the permit and other information requested by the Department shall be signed by a person described above or by a duly authorized representative of that person. A person is considered a duly authorized representative only if:
  - a. The authorization is made in writing by a person described above and submitted to the Department; and
  - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)
3. Changes to authorization. If an authorization under Part V.F.2 of this permit is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part V.F.2 of this permit must be submitted to the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.
4. Certification. Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the

information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

G. Right of Entry

The permittee shall allow the Director of the Department, or authorized representatives, upon the presentation of credentials:

1. To enter upon the permittee's premises where an effluent source is located or in which any records are required to be kept under the terms and conditions of this permit; and
2. At reasonable times, to have access to and copy any records required to be kept under the terms and conditions of this permit; to inspect any monitoring equipment or monitoring method required in this permit; and to sample any pollutant storage area, discharge of pollutants, ground water monitoring point, or surface water.

H. Transfers

This permit may be automatically transferred to a new permittee if:

1. The current permittee notifies the Department at least 30 days in advance of proposed transfer date;
2. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them;
3. The Department does not notify the existing permittee and the proposed new permittee of an intent to revoke or modify and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part V.H.2 of this permit; and
4. Required annual and application fees have been paid.

I. Availability of Reports

Except for data determined to be confidential under Section 308 of the Act, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department. As required by the Act, effluent data shall not be considered confidential. Knowingly making any false statements on any such report may result in the imposition of criminal penalties as provided for in 75-5-633, MCA.

J. Other Noncompliance Reporting

Instances of noncompliance not required to be reported within 24 hours shall be reported at the time that monitoring reports for Part II.A.1 of this permit are submitted. The reports shall contain the information listed in Part II.A.5 of this permit.

K. Termination of Authorization

After notice and opportunity for a hearing, this authorization may be suspended or revoked in whole or in part during its term for cause including, but not limited to, the following:

1. Violation of any terms or conditions of this permit;
2. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts; or
3. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

L. Toxic Pollutants

If a toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is established under Section 307(a) of the Act for a toxic pollutant present in the discharge and such standard or prohibition is more stringent than any limitation for such pollutant in this permit, this permit shall be revised or modified in accordance with the toxic effluent standard or prohibition and the permittee so notified.

M. Civil and Criminal Liability

Nothing in this permit shall be construed to relieve the permittee from administrative, civil, or criminal penalties for noncompliance.

N. Continuation of the Expired General Permit

An expired general permit continues in force and effect until a new general permit is issued. The continuation of an expired general permit applies only to those permittees who reapply in accordance with Part V.C. of this permit.

O. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject to under Section 311 of the Act.

P. Property Rights

The issuance of this permit does not convey any water rights or property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property, nor any invasion of personal rights, nor any infringement of Federal, State, or local laws or regulations.

Q. Severability

The provisions of this permit are severable; and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this permit shall not be affected thereby.

R. Requiring an Individual Montana Pollutant Discharge Elimination System (MPDES) Permit

The Director may require any owner or operator covered under this permit to apply for and obtain an individual MGWPCS permit if:

1. The discharge(s) is a significant contributor of pollution;
3. The discharger is not in compliance with the conditions of this General Permit; or

3. Conditions or standards have changed so that the discharge no longer qualifies for a General Permit.
4. The owner or operator must be notified in writing that an application for an individual MPDES permit is required. When an individual MPDES permit is issued to an owner or operator otherwise authorized under this General Permit, the authorization under the General Permit to that owner or operator is automatically terminated upon the effective date of the individual MPDES permit.

S. Requesting an Individual MPDES Permit

Any owner or operator authorized under this General Permit may request to be excluded from the coverage by applying for an individual MPDES Permit.

T. Requesting Authorization under the General Permit

The owner or operator of a facility excluded from coverage by this General Permit solely because that facility already has an individual permit may request that the individual permit be revoked and that the facility be authorized by this General Permit. Upon revocation of the individual permit, this General Permit may authorize that facility.

U. Permit Modification, Revocation, Termination

This General Permit may be modified, revoked, revoked and reissued, or terminated with cause in accordance with the Consolidated Permit Regulation Requirements of 40 CFR Parts 122 and 124 (FR Volume 45 No. 98, May, 1980).

V. Reauthorization

Permittees may be reauthorized by the Department operate under this General Permit after receipt of written notification no less than 180 days prior to its expiration date.

W. Fees

The permittee is required to submit payment of an annual fee as set forth in ARM 17.30.201. If the permittee fails to pay the annual fee within 90 days after the due date for the payment, the Department may:

1. Impose an additional assessment consisting of 15 percent of the fee, plus interest, on the required fee computed at the rate established under 15-31-510(3), MCA, or
2. Suspend the processing of the application for a permit or authorization or, if the nonpayment involves an annual permit fee, suspend the permit, certificate, or authorization for which the fee is required. The Department may lift suspension at any time up to one year after the suspension occurs if the holder has paid all outstanding fees, including all penalties, assessments, and interest imposed under this sub-section. Suspensions are limited to one year, after which the permit will be terminated.

X. Reopener Provisions

This permit may be reopened and modified (following proper administrative procedures) to include the appropriate effluent limitations, compliance schedule, if necessary, or other appropriate requirements if one or more of the following events occurs:

1. Water Quality Standards: The water quality standards of the receiving water(s) to which the permittee discharges are modified in such a manner as to require different effluent limits than contained in this permit.
2. Water Quality Standards are Exceeded: If it is found that water quality standards in the receiving stream or ground water are exceeded for parameters included in the permit, the Department may modify the effluent limits or water management plan.
3. TMDL or Wasteload Allocation: TMDL requirements or a wasteload allocation is developed and approved by the Department and/or EPA for incorporation in this permit.
4. Toxic Pollutants: A toxic standard or prohibition is established under Section 307(a) of the Clean Water Act for a toxic pollutant which is present in the discharge and such standard or prohibition is more stringent than any limitation for such pollutant in this permit.

#### PART VI. DEFINITIONS

- A. The "**25-Year, 24-Hour Rainfall Event**" means the maximum 24-hour precipitation event with a probable recurrence interval of once in 25 years, as defined by the National Weather Service in Technical Paper Number 40, "Rainfall Frequency Atlas of the United States," May 1961, and subsequent amendments, or equivalent regional or state rainfall probability information developed therefrom.
- B. "**Act**" means the Montana Water Quality Act.
- D. "**Agronomic rates**" means the recommended number of pounds of nutrient elements per acre required to achieve realistic crop yield goals as given in Montana State University Extension Bulletin 104, February, 1992, for the growing season following application.
- D. "**Animal feeding operation**" means a lot or facility (other than an aquatic animal production facility) where 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 the animal confinement areas do not sustain crops, vegetation, forage growth, or post-harvest residues in the normal growing season. Two or more animal feeding operations under common ownership are a single animal feeding operation if they adjoin each other or if they use a common area or system for the disposal of wastes.
- E. "**Animal unit**" means a unit of measurement for any animal feeding operation calculated by adding the following numbers: The number of slaughter and feeder cattle and dairy heifers multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 55 pounds multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0. (CFR 40, Part 122, Appendix B).
- F. "**Concentrated Animal Feeding Operation**" means an "animal feeding operation" which meets the criteria in 40 CFR part 122, Appendix B, or which the Director designates as a significant contributor

of pollution pursuant to 40 CFR 122.23. Animal feeding operations defined as "concentrated" in 40 CFR part 122 Appendix B are as follows:

1. New and existing operations which stable or confine and feed or maintain for a total of 45 days or more in any 12-month period more than the numbers of animals specified in any of the following categories:
  - a. 1,000 slaughter or feeder cattle;
  - b. 700 mature dairy cattle (whether milking or dry cows);
  - c. 2,500 swine weighing over 55 pounds;
  - d. 500 horses;
  - e. 10,000 sheep or lambs;
  - f. 55,000 turkeys;
  - g. 100,000 laying hens or broilers when the facility has unlimited continuous flow watering systems;
  - h. 30,000 laying hens or broilers when facility has liquid manure handling system;
  - i. 5,000 ducks; or
  - j. 11,000 animal units from a combination of slaughter steers and heifers, mature dairy cattle, swine over 55 pounds, and sheep;
  
2. New and existing operations which discharge pollutants into state waters either through a man-made ditch, flushing system, or other similar man-made device, or directly into state waters, and which stable or confine and feed or maintain for a total of 45 days or more in any 12-month period more than the numbers or types of animals in the following categories:
  - a. 300 slaughter or feeder cattle;
  - b. 200 mature dairy cattle (whether milk producing or dry cows);
  - c. 750 swine weighing over 55 pounds;
  - d. 150 horses;
  - e. 3,000 sheep or lambs;
  - f. 16,000 turkeys;
  - g. 30,000 laying hens or broilers when the facility has unlimited continuous flow

watering systems;

- h. 9,000 laying hens or broilers when the facility has a liquid manure handling system; 1,500 ducks; or
- i. 300 animal units (from a combination of slaughter steers and heifers, mature dairy cattle, swine over 55 pounds, and sheep).

Provided, however, that no animal feeding operation is a concentrated animal feeding operation as defined above if such animal feeding operation discharges only in the event of a 25-year, 24-hour storm event.

- G. "**Director**" means the Director of the Department of Environmental Quality or his/her designee.
- H. "**Discharge of pollutants**" means any addition of any pollutant or combination of pollutants to state waters from any point source [ARM 17.30.1304(16)].
- I. **New or increased source** means an activity resulting in a change of existing water quality occurring on or after April 29, 1993. The term does not include the following:
  - 1. Sources from which discharges to state waters have commenced or increased on or after April 29, 1993, provided the discharge is in compliance with the conditions of and does not exceed the limits established under or determined from, a permit or approval issued by the Department prior to April 29, 1993;
  - 2. Nonpoint sources discharging prior to April 29, 1993;
  - 3. Withdrawals of water pursuant to a valid water right existing prior to April 29, 1993; and
  - 4. Activities or categories of activities causing nonsignificant changes in existing water quality pursuant to ARM 17.30.715, 17.30.716, or 75-5-301(5)(c), MCA.
- J. "**Pollutant**" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological material, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural wastes discharged into water [ARM 17.30.1304(42)].
- K. "**Process wastewater**" shall mean any process generated wastewater and any precipitation (rain or snow) which comes into contact with any manure, litter, or bedding, or any other raw material or intermediate or final material or product used or resulting from animals or poultry.
- L. "**State Waters**" means a body of water, irrigation system, or drainage system, either surface or underground, except irrigation waters where the waters are used up within the irrigation system and the waters are not returned to any other state waters.