GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH CONSTRUCTION ACTIVITY

PERMIT NUMBER MTR100000

MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY

AUTHORIZATION TO DISCHARGE UNDER THE MONTANA POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with Section 75-5-101 *et seq.*, Montana Codes Annotated (MCA), Administrative Rules of Montana (ARM) 17.30.1301 *et seq.*, and ARM 17.30.1101 *et seq.*, owners and operators (permittees) with authorization under this "General Permit for Storm Water Discharges Associated with Construction Activity" (permit) are authorized to discharge storm water in accordance with the conditions set forth in Parts 1, 2, 3, 4, and 5 of this permit.

This permit shall become effective January 1, 2013.

This permit and the authorization to discharge shall expire at midnight, December 31, 2017.

FOR THE MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY

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Water Quality Discharge Permit Section
Water Protection Bureau
Permitting & Compliance Division

Issuance date: October 25, 2012

PREAMBLE

The purpose of this Preamble is to provide the construction project "owner or operator" (permittee) who submits a Notice of Intent Package for a "storm water discharge associated with construction activity" under the "General Permit for Storm Water Discharges Associated with Construction Activity" (permit) with a summary of the requirements of this permit.

The basic principle of the permit is to identify pollutant sources associated with construction activities and install and maintain Best Management Practices (BMPs) to reduce the potential discharge of pollutants from the construction project. The degree of pollution control necessary will vary depending on the site and the associated construction activity, but the BMPs and pollution control measures must collectively prevent exceedances of applicable water quality standards in state surface waters.

The primary potential pollutant from construction activities is sediment. Adequate erosion and sediment control BMPs must be used to minimize or prevent sediment discharges from the construction activity to state surface waters.

Other potential pollutants likely to be a problem at sites are fuels, lubricating oils, construction materials, various wastes, fertilizers, or pesticides. Proper management of these materials is essential to ensure potential pollutants are not discharged from the construction activity to state surface waters.

In order to achieve compliance with the conditions of this permit, the permittee is required to address the effluent limitations in Part 2 by developing a Storm Water Pollution Prevention Plan (SWPPP) as described in Part 3. The SWPPP must clearly address the effluent limitations and the selected Best Management Practices to be used to manage pollutant sources and ensure appropriate protection of state surface waters.

The permit requires that the site reach "final stabilization" before permit coverage may be terminated. In Montana's semi-arid climate, the time necessary to achieve this "final stabilization" often requires permit coverage well beyond the conventional earthwork and facility construction phase to ensure vegetation or other site stabilization measures are in-place.

Coverage under this permit does not relieve the permittee from responsibility for compliance with any other applicable federal, state, or local law, rule, standard, ordinance, order, judgment, or decree.

1. COVERAGE UNDER THIS PERMIT

1.1. Eligibility

1.1.1. Construction Activities Covered

This Permit applies to all areas of the State of Montana, except for Indian Reservations. This permit applies to "storm water discharge associated with construction activity," as defined in ARM 17.30.1102 (28) and Part 5 of this permit.

A "storm water discharge associated with construction activity" regulated under this permit is determined by meeting both of the following two criteria:

- There are areas of ground disturbance or other potential pollutant sources due to the construction activity where a storm water discharge to state surface waters can occur.
- The construction activity has a total area of ground disturbance through clearing, excavating, grading, or placement/removal of earth material which is equal to or greater than one acre. The "total area" must include all areas which are part of a "larger common plan of development or sale", as defined in Part 5 of this permit.

Determination of the acreage of disturbance does not typically include disturbance for routine maintenance activities on existing roads where the line and grade of the road is not being altered, nor does it include the paving of existing roads.

In determining the above potential for a "storm water discharge associated with construction activity" based on the acreage of ground disturbance and discharge potential to state surface waters, additional factors the permittee must consider can include the following:

- all potential drainage/discharge conditions and flow patterns, and their variation during the different phases of the construction activity;
- all potential rainfall or snowmelt events and their unpredictability over time (such as experiencing a relatively higher rainfall or snowmelt amount in a relatively shorter time period);
- support activities for the construction project which may be on or off the conventional construction project "site" (as defined in Part 5 of this permit);
- storm water discharges must typically be regulated beyond the conventional construction earthwork and building phases, lasting from the initiation of construction-related ground disturbance to "final stabilization" (as defined in Part 5 of this permit) of that disturbance, which can sometimes take significant extra time to achieve;
- the term "state surface waters" ("surface waters" is defined in Part 5 of this permit) includes more than just the conventionally-recognized perennial (year-round) or seasonal waterbodies, as the term can typically include most swales, coulees, gulches, ditches, and other channels when water is flowing in them, resulting in a higher and likely discharge potential to state surface waters from the site regardless of location; and
- storm water which discharges into a drain inlet and/or storm sewer system from the site is regulated as a discharge to state surface waters if the inlet or system itself ultimately discharges into a state surface water.

Support activities can include, but are not limited to, areas used for access-related work, earth material borrow areas, equipment staging areas, materials storage areas, temporary concrete or asphalt batch plants, and any areas used for fill placement. For storm water discharges from

support activities to be covered under this permit for a particular construction activity permit authorization, such support activities must:

- Not be part of a larger commercial operation serving multiple unrelated construction activities, and not continue operation beyond the completion of the particular construction activity; and
- Have appropriate controls and measures identified for the particular support activity, including required documentation, in the Storm Water Pollution Prevention Plan (SWPPP) required in Part 3 of this permit.

1.1.2. Allowable Storm Water Discharges

Unless otherwise made ineligible through the provisions in Part 1.1.3. below, the following discharges are eligible for coverage under this permit:

- Storm water discharges associated with construction activity as defined in ARM 17.30.1102(28) and Part 5 of this permit.
- Discharges that are not otherwise required to obtain MPDES permit authorization but are commingled with discharges that are regulated under this permit;

1.1.3. Allowable Non-Storm Water Discharges

The following are non-storm water discharges allowed under this permit:

- Uncontaminated condensate from air conditioners, coolers, and other compressors and from the outside storage of refrigerated gases or liquids;
- Irrigation drainage;
- Landscape watering provided all pesticides, herbicides, and fertilizer have been applied in accordance with the approved labeling;
- Pavement wash waters where no detergents are used and no spills or leaks of toxic or hazardous materials have occurred (unless all spilled material has been removed);
- Routine external building wash down that does not use detergents;
- Uncontaminated ground water or spring water;
- Water used to control dust;
- Discharges from emergency fire-fighting activities;
- Foundation or footing drains where flows are not contaminated with process materials; and
- Incidental windblown mist from cooling towers that collects on rooftops or adjacent portions of the facility, but not intentional discharges from the cooling tower (e.g., "piped" cooling tower blowdown or drains).

1.1.4. Limitations on Coverage

The following discharges are not eligible for coverage under this permit:

- Storm water discharges that are mixed with non-storm water, other than those non-storm water discharges listed in Part 1.1.3.;
- Discharges which the Department determines have a reasonable potential to cause, or contribute to, an exceedance of any applicable water quality standard, and the Department has determined authorization under a MPDES Individual Permit is required; or

- Discharges which are subject to MPDES permitting under a different MPDES permit. If the proper MPDES authorization for these discharges has been obtained, then storm water authorized under this permit may be mixed with the other authorized discharge(s) provided that the mixed discharge is in compliance with all pertinent permit requirements.

1.2. Authorization under this Permit

An "owner or operator" (as defined in 75-5-103(25), MCA) of a "storm water discharge associated with construction activity" (as defined in ARM 17.30.1102(28)) is required to obtain authorization under an MPDES permit. In this permit, the "owner or operator" is also identified as the "permittee".

A Notice of Intent (NOI) process is used for an owner or operator to obtain authorization to discharge under this permit. Through the submittal of an NOI, the owner or operator acknowledges eligibility for coverage under this permit and agrees to comply with the conditions of this permit.

1.2.1. New Authorizations (Not Previously Authorized)

Owners or operators can obtain first-time coverage under this permit by submitting a complete Notice of Intent (NOI) Package to the Department.

The complete NOI Package consists of:

- A completed NOI form using the standard NOI form provided by the Department;
- A separate SWPPP, including all associated maps, diagrams, details, and plans, which has been completed in accordance with the requirements identified in Part 3 of this permit; and
- The appropriate "application fee" for the NOI as required by ARM 17.30.201.

A signed and complete NOI form, a signed and complete SWPPP, and the required fee must be submitted at the same time to the following address:

Department of Environmental Quality
Water Protection Bureau
P.O. Box 200901
Helena, MT 59620-0901

Upon receipt of the NOI Package by the Department, it is stamped with the date of receipt. The Department then performs a check to ensure the NOI Form is complete, that a signed SWPPP is attached, and that the required fee is submitted. If the NOI Package is determined to be complete, authorization is effective upon the date it was stamped as received (based upon 75-5-401(1)(c), MCA), and the Department issues a Confirmation of Receipt letter to the permittee. If the NOI Package is incomplete, the Department provides notification as to what the deficiencies are, and permit authorization does not become effective under this permit until the deficiencies are addressed and the Department subsequently receives the complete NOI Package.

1.2.2. Continuing Authorizations Issued Before This Permit's 2013 Effective Date

For permittees authorized under the 2007-2011 permit which require continued authorization beyond the December 31, 2011, expiration date, or for permittees which submitted new complete NOI Packages after the December 31, 2011 expiration date and before the effective

date of this reissued 2013-2017 permit, these permittees will be required to submit a new NOI form to the Department for coverage under the reissued 2013-2017 permit.

Until the effective date of this reissued 2013-2017 permit, permit authorizations for these existing permittees are administratively continued under the conditions and requirements of the preceding 2007-2011 permit in accordance with ARM 17.30.1313. These permittees will be responsible for compliance with the requirements in the 2013-2017 permit upon its effective date, but until that time are responsible for compliance with the requirements under the 2007-2011 permit. Upon the effective date of the 2013-2017 permit, these existing permittees will need to update the SWPPP as necessary. Prior SWPPPs can be used but must be updated to include the new requirements in this permit. These existing permittees are not required to submit the updated SWPPPs (based on the 2013-2017 permit) to the Department (unless specifically requested through Department inspections or otherwise).

1.2.3. Continuation of this 2013-2017 Permit Beyond the 2017 Expiration Date

If this 2013-2017 permit is not subsequently reissued or replaced before its expiration date, it will be administratively continued in accordance with ARM 17.30.1313 and remain in force and effect. If the permittee was authorized to discharge under this permit before the expiration date, any discharges authorized under this permit will automatically remain covered by this permit until the earliest of:

- The authorization for coverage under a reissued permit or a replacement of this permit following the timely and appropriate submittal of a complete NOI for authorization to discharge under the new permit and compliance with the requirements of the new permit; or
- The submittal of a Notice of Termination; or
- Issuance or denial of an individual permit for the construction activity's discharges; or
- A formal permit decision by the Department not to reissue this permit, at which time the Department will identify a reasonable time period for covered dischargers to seek coverage under an alternative MPDES general permit or an individual permit.

1.2.4. Modification to NOIs

Based on ARM 17.30.201(6)(l) and the associated Schedule I.D., modifications to authorizations under this permit are processed as "minor modifications" with the corresponding fee if the modification request is submitted within six months of the date of issuance of the authorization (which is the date the Department receives a complete NOI Package). If the modification request (other than a ownership/name change using the PTN form described in Part 1.4. of this permit) is submitted six months or more after the date of issuance of the authorization, the modification will be processed under Schedule I.C. as a new permit application.

A permittee may not modify the NOI to add additional construction-related disturbance area(s) unless the new additional construction-related disturbance is directly contiguous to and directly associated with the original site, except for support activities.

1.3. Termination of Coverage under This Permit

Where a site has achieved "final stabilization", as defined in ARM 17.30.1102(5) and Part 5 of this permit, the permittee must submit an appropriately signed and complete Notice of Termination (NOT) form, using the standard Department form. The NOT form must be sent to the following address:

Department of Environmental Quality
Water Protection Bureau
P.O. Box 200901
Helena, MT 59620-0901

Before submitting the NOT form to terminate coverage under this permit, in addition to achieving final stabilization, the following must have also occurred:

- removal of temporary storm water conveyances/channels and other temporary storm water control measures and/or BMPs
- removal of construction equipment and vehicles, and
- cessation of any potential pollutant-generating activities due to the construction activity.

Coverage under the permit remains in effect until the Department processes a NOT or PTN form (see Part 1.4. of this permit). The permittee is responsible for payment of annual fees for each calendar year in which the source is covered under the permit. The permittee is responsible for complying with the terms of this permit until notified by the Department that the authorization is terminated. Failure to submit a NOT will result in accrual of annual permit fees until this has been received by the Department.

If an individual MPDES permit is issued to an owner or operator for discharges which would otherwise be subject to this permit, coverage under this permit is terminated on the effective date of the individual MPDES permit.

1.4. Transfer of Coverage under this Permit

The Department has a standard Permit Transfer Notification (PTN) form. This form is to be utilized to request "minor modifications" for a transfer of ownership or a change in the name of the entity that holds an authorization under this permit. This form must be submitted at least 30 days before the effective date of the proposed transfer and constitutes written notice to the Department under the Montana Water Quality Act that the new "owner or operator" assumes responsibility and liability for all the terms and conditions in the permit, including permit fees. This PTN form may not be used to transfer permit coverage to a new or different site, construction activity or location, or modify the terms and conditions of the discharge permit. Until a determination is made on the submitted PTN form, the "owner or operator" of record remains responsible for compliance with the terms of the authorization under this permit, including fees and/or violations.

1.5. Storm Water Rainfall Erosivity Waiver Form

Through the authority of ARM 17.30.1105(5)(a), there is an option for owners or operators of construction activities with less than five total acres of ground disturbance to use a "Storm Water Rainfall Erosivity Waiver Form" instead of obtaining coverage under this permit, but very few construction projects typically qualify for this waiver.

For further information about the "Storm Water Rainfall Erosivity Waiver Form" and it's limitations, please visit the Department's storm water construction webpage through the Department's website at: http://www.deq.mt.gov.

2. EFFLUENT LIMITATIONS AND MONITORING AND REPORTING REQUIREMENTS

2.1. Non-Numeric Technology-Based Effluent Limits

Permittees must achieve, at a minimum, the following technology-based effluent limitations through the development and implementation of the SWPPP and Best Management Practices (BMPs) required in Part 3 of this permit. The requirements in Part 2.1. of this permit apply in addition to any other state or local requirements, regardless of whether they are more or less stringent.

2.1.1. Erosion and Sediment Controls

Design, install, and maintain effective erosion and sediment controls to minimize the discharge of potential pollutants. At a minimum, such controls must be designed, installed and maintained to:

- Control storm water volume and velocity within the site to minimize soil erosion;
- Control storm water discharges, including both peak flow rates and total storm water volume, to minimize erosion at outlets and to minimize downstream channel and streambank erosion;
- Minimize the amount of soil exposed during construction activity;
- Minimize the disturbance of steep slopes with grades of 15 percent or greater;
- Minimize sediment discharges from the site (the design, installation and maintenance of erosion and sediment controls must address factors such as the amount, frequency, intensity and duration of precipitation, the nature of resulting storm water runoff, and soil characteristics, including the range of soil particle sizes expected to be present on the site);
- Provide and maintain natural buffers around state surface waters, direct storm water to vegetated areas to increase sediment removal and maximize storm water infiltration, unless infeasible; and
- Minimize soil compaction and, unless infeasible, preserve topsoil.

2.1.2. Soil Stabilization

Stabilization of disturbed areas must, at a minimum, be initiated immediately whenever any clearing, grading, excavating or other earth disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days.

2.1.3. Dewatering

Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, are prohibited under this permit unless managed by appropriate controls and only if the discharge is not into state surface waters. For those construction dewatering activities which discharge to state surface waters, these discharges cannot be authorized by this particular MPDES permit, but can be authorized under another MPDES permit (typically the MPDES "General Permit for Construction Dewatering," Permit Number MTG070000).

2.1.4. Pollution Prevention Measures

Design, install, implement, and maintain effective pollution prevention measures to minimize the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented, and maintained to meet the three requirements below.

- Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters, unless the discharge has an outright prohibition in Part 2.1.5. of this permit. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment before discharge. Wash waters discharged under this permit must not contain soaps, detergents, or solvents.
- Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to storm water.
- Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures. Bulk storage structures for petroleum products and any other chemicals must have secondary containment or equivalent adequate protection so as to contain spills and prevent any spilled material from entering state surface waters.

2.1.5. Prohibited Discharges

The following discharges are prohibited:

- Wastewater from washout of concrete, unless managed by an appropriate control;
- Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds and other construction materials;
- Fuels, oils, or other potential pollutants used in vehicle and equipment operation and maintenance; and
- Soaps or solvents used in vehicle and equipment washing.

2.1.6. Surface Outlets

When discharging from basins and impoundments, outlet structures must be utilized that withdraw water from the surface, unless infeasible.

2.2. Water Quality-Based Effluent Limitations

2.2.1. Water Quality Standards

Storm water discharges regulated under this permit must be controlled as necessary to meet applicable water quality standards. A storm water discharge associated with construction activity may not cause or contribute to an exceedance of applicable water quality standards.

If at any time the permittee becomes aware, or the Department determines, that a storm water discharge causes or contributes to an exceedance of applicable water quality standards, the permittee must take corrective action as required in Part 2.4. of this permit.

Additionally, the Department may require the permittee to obtain coverage under an individual permit, if information indicates the discharges are not controlled as necessary to meet applicable water quality standards.

2.2.2. Discharges to Water Quality Impaired Waters

For regulated storm water discharges associated with construction activity under this permit, the SWPPP and associated BMPs must be developed and implemented to ensure the pollutants of concern for an impaired waterbody are addressed as applicable, as stated in Part 3.11. of this permit.

2.2.3. Consistency with Total Maximum Daily Load-Based Waste Load Allocations

If a Total Maximum Daily Load (TMDL) has been approved for any impaired waterbody into which the permittee discharges storm water, and the TMDL considered and addressed MPDES-regulated storm water discharges, then the Department must incorporate the Waste Load Allocation (WLA), as applicable, into the discharge permit, as required by 75-5-703, MCA. For a WLA pertaining to an authorization under this permit, compliance with the conditions and requirements in this permit is typically considered adequate in meeting the WLA, unless otherwise notified by the Department.

2.3. Inspections

Inspections must be performed by a SWPPP Administrator as defined in Part 3.2. of this permit. Site inspections are to be conducted during the construction project's normal working hours and the inspection schedule must be documented in the SWPPP. Site inspections must be performed in accordance with one of the two schedules listed below in Parts 2.3.1. or 2.3.2., unless subject to the schedule in Part 2.3.3. The initial SWPPP submitted with the NOI Package must specify which inspection schedule will be utilized (either Part 2.3.1. or 2.3.2.), and this inspection schedule must be used until final stabilization is achieved for all areas of the construction activity, except for any temporary reduced inspection schedule as allowed in Part 2.3.3. The permittee cannot switch between the inspection schedule options in Parts 2.3.1. and 2.3.2. during the life of the permit authorization.

2.3.1. Weekly Routine Inspections

A SWPPP Administrator must, at a minimum, conduct a routine inspection at least once every 7 calendar days.

2.3.2. Biweekly Routine and Post-Storm Event Inspections

A SWPPP Administrator must, at a minimum, conduct a routine inspection at least once every 14 calendar days, and a post-storm event inspection must be conducted by a SWPPP Administrator within 24 hours of the end of a rainfall event of 0.25 inches or greater, and within 24 hours of snowmelt due to thawing conditions which causes visible surface erosion at the site. When a post-storm event inspection occurs, this can be credited as a biweekly routine inspection, but the biweekly routine inspections must commence again no later than 14 calendar days after the last post-storm event inspection.

2.3.3. Reductions In Inspection Frequency

The normal selected inspection schedule stated in Part 2.3.1. or 2.3.2. may be temporarily reduced to a routine inspection every 30 calendar days only if one of the following conditions exists:

- The construction activity at the site is temporarily inactive or shutdown and all areas of disturbance have achieved "temporary stabilization" as defined in Part 5 of the permit; or
- After the permittee has completed earthwork and construction activities at the site and has installed the SWPPP erosion and sediment BMPs necessary to establish final stabilization at a later date.

In either case, all sediment and erosion BMPs must be in place as identified in the SWPPP. The inspection schedule must be documented in the SWPPP.

2.3.4. Inspection Requirements

All inspections conducted under Parts 2.3.1., 2.3.2., and 2.3.3. of this permit must comply with the inspection requirements in Part 2.3.4.

At the construction activity site, inspections must assess site conditions, identify potential pollutant sources (based on Part 3.6. of the General Permit), and ensure adequate BMPs (based on Part 3.7. of the General Permit). Given these criteria, the site must be inspected for indications of potential pollutants leaving the site boundaries, entering the storm water drainage system, or discharging to state surface waters. Through inspections, all BMPs identified in the SWPPP must be evaluated to ensure that they are maintained and operating correctly based on the identified potential pollutant sources in the SWPPP. Inspection scope and areas of prioritization will vary depending on the particular construction activity site and SWPPP. Construction activity areas which must be inspected include:

- site perimeter;
- all areas disturbed by construction activity;
- BMPs;
- material and/or waste storage areas that are exposed to rainfall or snowmelt;
- discharge locations;
- vehicle/equipment management areas;
- other construction activity support areas;
- locations where vehicles access the site; and
- other areas where potential pollutants may be generated.

Inspection records must be maintained on-site as required by Part 2.5. The primary SWPPP Administrator must keep a record of inspections. Inspection records must be retained for three years from expiration or termination of permit coverage. At a minimum, the inspection report must include:

- The type of inspection (based on Parts 2.3.1., 2.3.2., and 2.3.3.);
- The inspection date and time;
- Name(s) and title(s) of the SWPPP Administrator(s) making the inspection;
- Weather and ground conditions during the inspection, including an indication of whether storm water runoff is occurring and whether the ground is frozen;
- Location(s) and description of discharges of sediment or other potential pollutants from the site;
- Location(s) and description of BMPs that need to be maintained (also see Part 2.3.5.);
- Location(s) and description of BMPs that failed to operate as designed or proved inadequate for a specific location (also see Part 2.3.5.);
- Location(s) and descriptions where additional BMPs are needed that were not in place at the time of inspection;
- Deviations from the minimum inspection schedule as provided in Parts 2.3.1., 2.3.2., and 2.3.3. of this permit;
- Description of corrective action taken for items identified in bullets five through eight in this bulleted list, respective dates for the corrective action(s) taken for each, and respective measures taken to prevent future recurrences for each (including consequent changes to the SWPPP);
- Identify any incidents of noncompliance with the requirements of this permit; and
- Each inspection report must be signed and certified by a SWPPP Administrator based on the requirements in Part 4.15. of this permit.

Maintenance, repair, replacement, or installation of new BMPs determined necessary during site inspections to address ineffective or inadequate BMPs must be conducted in accordance with Part 2.3.5. of this permit.

2.3.5. BMP Maintenance, Replacement, and Failures

All BMPs identified in the SWPPP must be maintained in effective operating condition. Proper selection and installation of BMPs, and implementation of comprehensive inspection and maintenance procedures, in accordance with the SWPPP, is important to ensure compliance with this permit. BMPs that are not adequately maintained in accordance with good engineering, hydrologic, and pollution control practices, including removal of collected sediment outside the acceptable tolerances of the BMPs, are considered to be no longer operating effectively. If site inspections identify BMPs which are not in effective operating condition, maintenance must be performed before the next storm event, to maintain effectiveness.

If existing BMPs need to be modified, or if additional BMPs are necessary for any reason, implementation of these additional measures must be completed before the next storm event.

All changes in the design, implementation, or installation of erosion and sediment control or other BMPs must be documented where applicable in the SWPPP. SWPPP changes must also be summarized in a SWPPP Revision/Update Log as required in Part 3.12.2. of this permit.

2.4. Corrective Actions

Corrective actions are any actions a SWPPP Administrator takes to:

- Repair, modify, or replace any storm water control used at the site;
- Clean up and dispose of spills, releases, and other deposits found on the site; and
- Remedy a permit violation or noncompliance.

If any of the following conditions occur, a SWPPP Administrator must review and revise the selection, design, installation, implementation, and maintenance of BMPs to ensure the condition is eliminated and will not be repeated in the future.

- An unauthorized release or discharge (e.g., spill, leak, or discharge of non-storm water not authorized by this or another MPDES permit) occurs at the site;
- A SWPPP Administrator or the Department determines that the BMPs are not stringent enough for the discharge as it causes or contributes to an exceedance of applicable water quality standards;
- A SWPPP Administrator or the Department determines that modifications to the BMPs are necessary to meet the non-numeric effluent limits in Part 2.1. of this permit;
- A SWPPP Administrator or the Department determines that the BMPs are not properly designed, installed, operated, and/or maintained; or
- A failure of erosion or sediment controls that results in sediment, solids, or other wastes being lost or discharged from the site. Upon identification of sediment, solids, or other wastes lost or discharged from the site, the material must be cleaned up and placed back on site, or otherwise disposed of in an acceptable manner.

A SWPPP Administrator must document the completed corrective actions in the corresponding inspection report and document any new or additional BMPs in the SWPPP Revision/Update Log as required in Part 3.12.2. of this permit.

2.5. Recordkeeping

At the identified site, the primary SWPPP Administrator must retain:

- a copy of this permit;
- a copy of the completed and signed NOI form;
- a copy of the Department's Confirmation Letter for receipt of the complete NOI Package (after it is received by the permittee from the Department);
- a copy of the latest up-to-date and signed SWPPP;
- BMP installation and design standards for all BMPs installed and detailed in the SWPPP;
- SWPPP Administrator(s) documentation under Part 3.2. of this permit;
- SWPPP Administrator Delegation Form;
- SWPPP Revision/Update Log as required under Part 3.12.2.;
- all inspection records required under Part 2.3. of this permit; and
- all reports of noncompliance under Part 4 of this permit.

These documents are to be made available at the site immediately upon request from a Department representative, EPA official, or local official.

2.6. Reporting

2.6.1. Notification of Primary SWPPP Administrator Changes

The permittee must notify the Department in writing of any change of the designated Primary SWPPP Administrator person/position, mailing address, and/or telephone number (as identified on the NOI form) within 15 calendar days of this change.

2.6.2. Noncompliance Reporting

Any instance of noncompliance must be reported to the Department as required by Part 4.21. of the permit.

3. SPECIAL CONDITIONS – Storm Water Pollution Prevention Plan (SWPPP)

3.1. SWPPP – General Requirements

3.1.1. The SWPPP must be developed and implemented in accordance with good engineering, hydrologic, and pollution control practices.

3.1.2. The SWPPP must meet the following general objectives:

- Identify and describe site characteristics which affect storm water discharges and the transport of potential pollutants with respect to the particular construction activity;
- Identify and describe all potential pollutant sources which may affect the quality of storm water discharges associated with the construction activity;
- Identify and describe the BMPs to be used to reduce potential pollutants in storm water discharges associated with the construction activity and to ensure compliance with the effluent limitations in this permit;
- Identify and describe the measures which will be used to achieve final stabilization;
- Identify and clearly describe the inspection and maintenance procedures implemented at the site to maintain all erosion and sediment control and other BMPs identified in the SWPPP, in good and effective operating condition; and
- Be prepared and updated in accordance with the terms and conditions of this permit.

3.1.3. The SWPPP must be implemented as stated in the Primary SWPPP Administrator's up-to-date field copy. SWPPP implementation must initiate at the start of ground disturbance associated with the construction activity, and continue until final stabilization of all construction activity-related ground disturbance is achieved and permit coverage has been terminated.

3.2. SWPPP Administrator

3.2.1. SWPPP Administrator - General Requirements

The permittee must specify a Primary SWPPP Administrator(s), a Secondary SWPPP Administrator (as applicable), and any other designated SWPPP Administrator(s) in the SWPPP. A SWPPP Administrator(s) is an individual or position title who is responsible for developing, implementing, maintaining, revising, and updating the SWPPP. The SWPPP Administrator(s) must address all aspects of the SWPPP, initiating with the start of construction activities, and lasting until final stabilization is achieved and the permit authorization is terminated. There can be multiple individuals and/or position titles which serve as a SWPPP Administrator; but a Primary SWPPP Administrator and Secondary SWPPP Administrator (as applicable) must be identified on the NOI Form and in the SWPPP.

The SWPPP Administrator(s) must have knowledge of the principles and practices of erosion and sediment controls and pollution prevention practices and possess the skills necessary to assess site conditions and determine the effectiveness of selected BMPs. The knowledge and skills are required so that the quality of storm water discharges are controlled and the effluent limitations in Part 2 of this permit are complied with.

The SWPPP Administrator(s) must meet the authorized representative requirements as defined in Part 4.15 of this permit to sign inspection reports and other reports. The primary and secondary SWPPP Administrators identified in Section F of the Form NOI meet this requirement. The permittee can identify additional SWPPP Administrator(s) by completing and submitting the SWPPP Form's ATTACHMENT A - Delegation of Authority Form at the time of submittal of the NOI package. If there is a change in the original SWPPP Administrator(s) or additional SWPPP Administrator(s) are needed, the permittee must submit a new authorization as required by Part 4.15 of this permit.

The Primary SWPPP Administrator person/position provided on the NOI form, is also for use by the Department as a permittee contact.

3.2.2. SWPPP Administrator - Training

The SWPPP Administrator(s) must be trained with respect to the following:

- The design, installation, function, and location of all storm water controls and BMPs on the site required by this permit, and how they are to be maintained and/or repaired;
- The proper procedures to follow with respect to this permit's pollution prevention requirements, including inspections; and
- When and how to conduct inspections, record applicable findings, take corrective actions, and, where appropriate, report violations and/or noncompliances.

This SWPPP Administrator(s) training must be completed before the start of earth-disturbing activities or potential pollutant-generating activities, whichever occurs first. For new employees hired after this time, the training must occur before assuming SWPPP Administrator responsibilities.

Documentation demonstrating this training has occurred for the SWPPP Administrator(s) must be maintained with the SWPPP, and must include the following:

- Date, location, length, and provider of the training;
- Name(s) and title(s) of persons trained; and
- Summary of the information covered in the training.

SWPPP Administrator training requirements stated in Part 3.2.2. are effective **January 1, 2014** in order to provide additional time for the regulated community to get the necessary training. The Department encourages permittees to get this training as soon as possible during this first year period of the permit in order to better ensure compliance with the other conditions in this permit. This one year extension of SWPPP Administrator training requirements does not apply to the compliance expectations for all other requirements in the permit, which remain fully enforceable for the entire effective life of the permit.

3.3. Construction Activity and BMP Schedule and Phasing

The SWPPP must include a description of the intended sequence of construction activities, including a proposed implementation schedule and construction sequencing for major activities.

If the project is broken up into different phases, these must be identified. The SWPPP must clearly describe the relationship between the phases of construction, and the implementation

and maintenance of both structural and non-structural storm water BMPs. The SWPPP must identify the BMPs to be implemented during the different project phases.

For the overall construction activity or for each phase of construction activities if multiple phases will occur, the permittee must identify specific components within each of the following categories, including an estimated start date and duration for each component:

3.3.1. Installation of storm water BMPs, and when they will be made operational;

3.3.2. Commencement and duration of earth-disturbing activities, including clearing and grubbing, mass grading, site preparation (such as excavating, cutting, and filling), road construction, utility and infrastructure installation, final grading, and creation of soil stockpiles requiring stabilization;

3.3.3. Cessation, temporarily or permanently, of construction activities on the site, or in designated portions of the site;

3.3.4. Final or temporary stabilization of areas of exposed and disturbed soil. The completion of stabilization must meet the requirements in Part 2.1.2. of this permit; and

3.3.5. Vertical construction (the construction of structures and buildings);

3.3.6. Removal of temporary storm water conveyances/channels and other temporary storm water control measures and/or BMPs, removal of construction equipment and vehicles, and cessation of any potential pollutant-generating activities due to the construction activity.

3.4. Site Description

The SWPPP must contain a narrative description of the following:

3.4.1. The nature of the construction activity and what is being constructed;

3.4.2. A description of all support activities and associated storm water discharges dedicated to the construction activity including but not limited to: material borrow areas, material fill areas, concrete or asphalt batch plants, equipment staging areas, access roads/corridors, material storage areas, and material crushing/recycling/processing areas;

3.4.3. The total area of the site (in acres), and the area of the site (in acres) expected to undergo construction-related disturbance (including all construction-related support activities);

3.4.4. A description of the character and erodibility of soil(s) and other earth material to be disturbed at the site, including cut/fill material to be used;

3.4.5. For a storm water discharge associated with construction activity with construction-related disturbance of five acres or more of total land area:

- an estimate of the runoff coefficient of the site, both before and after construction, including a description of what this is based on; and
- an estimate of the increase in impervious area after the construction activity identified on the NOI form is completed;

3.4.6. The names of receiving state surface waters and a description of the size (area drained), type, and location of each point source discharge or outfall. If there is no distinguishable point source discharge or outfall to the receiving state surface waters, a description of storm water runoff flow and drainage patterns into the receiving state surface waters must be provided. This must specify if discharges are to unnamed drainages and provide the name of the first named drainage that will receive that discharge

downgradient of the site. If the discharge is to a municipal separate storm sewer, the location of any storm sewer discharge into receiving state surface waters; and

3.4.7. Provide a brief description of the existing vegetation at the site and an estimate of the percent density of vegetative ground cover.

3.5. Site Map

The SWPPP must include one or more legible site maps/plans of sufficient scale and size which clearly show site conditions. Multiple site maps/plans are encouraged for clarity as necessary. SWPPP site maps/plans must minimally include the following:

3.5.1. Site boundaries (based on the identified construction activity scope on the NOI form);

3.5.2. Locations and types of all dedicated construction activity support areas (including off-site) such as access-related work, earth material borrow areas, equipment staging areas, materials storage areas, temporary concrete or asphalt batch plants, and any areas used for fill placement);

3.5.3. Locations where ground-disturbing activities will occur, noting any phasing of construction activities;

3.5.4. Preconstruction topography of the site including showing state surface waters which will receive storm water runoff from the site;

3.5.5. Drainage pattern(s) and flow directions (use arrows) of storm water and authorized non-storm water flow onto, over, and from the site property before and after major grading activities, including lines showing boundaries between different drainage areas;

3.5.6. Storm water, and allowable non-storm water discharge locations and types, including the locations of any storm drain inlets and where storm water or allowable non-storm water will be discharged to state surface waters;

3.5.7. Municipal separate storm sewer systems, where the construction activity's storm water discharges are into them;

3.5.8. Locations and sources of run-on to the site from adjacent property that may contain potential pollutants (including sediment);

3.5.9. Locations of areas of cut and fill;

3.5.10. Locations of areas which are to remain undisturbed including vegetative buffer areas;

3.5.11. Locations of existing vegetation or other pre-existing ground stabilization measures before construction (such as forest, pasture, lawn, pavement, structures);

3.5.12. Approximate slopes before and after major grading activities. Note areas of steep slopes both before and after grading;

3.5.13. Locations where sediment, soil, or other construction and building materials will be stockpiled;

3.5.14. Locations of fueling, vehicle and equipment maintenance, and/or vehicle cleaning and washing areas;

3.5.15. Locations of concrete washout and other waste management areas;

3.5.16. Locations of ground water or other construction dewatering activities and discharges (see Part 3.7.9. of this permit);

3.5.17. Designated points on the site where vehicles will exit onto paved roads;

3.5.18. Locations of other potential pollutant-generating activities not specified elsewhere;

3.5.19. Locations of all structural and non-structural BMPs for potential pollutants other than sediment;

3.5.20. Locations and specific types of all temporary or permanent erosion and sediment control BMPs;

3.5.21. Locations and specific types of all storm water control BMPs, including impoundments or conveyances such as retention and detention ponds, ditches, pipes, and swales;

3.5.22. Locations of structures and other impervious surfaces upon completion of construction;

3.5.23. Map scale;

3.5.24. North arrow; and

3.5.25. Map legend.

3.6. Identification and Summary of Potential Pollutant Sources

All potential pollutant sources, including materials and activities, associated with the construction activity must be evaluated for the potential to contribute pollutants to storm water discharges. The SWPPP must identify and describe those sources determined to have the potential to contribute pollutants to storm water discharges, and the sources must be controlled through BMP selection and implementation, as required in Part 3.7. below.

At a minimum, each of the following sources and activities must be evaluated for the potential to contribute pollutants to storm water discharges, and identified in the SWPPP if found to have such potential:

- All disturbed and stored soils;
- Vehicle tracking of sediments;
- Vehicle trucking of sediments;
- Management of contaminated soils;
- Loading and unloading operations;
- Outdoor storage activities (building materials, fertilizers, chemicals, etc.);
- Vehicle and equipment maintenance and fueling;
- Significant dust or particulate generation;
- Routine maintenance activities involving fuels, oils, solvents, pesticides, herbicides, fertilizers, detergents, etc.;
- On-site waste management practices (waste piles, liquid wastes, dumpsters, roll-offs, etc.);
- Concrete truck and equipment washing;
- Dedicated asphalt and concrete batch plants;
- Non-industrial waste sources such as worker trash and portable toilets;
- Demolition materials;
- Other non-storm water discharges if present; and
- Other areas or procedures where potential spills can occur.

3.7. Description of Best Management Practices (BMPs)

The SWPPP must document the location and type of BMPs which have been installed and implemented at the site to achieve the effluent limits in Parts 2.1. and 2.2. of this permit. This documentation must describe how the BMPs at the site address the potential pollutant sources identified in Part 3.6. above. BMP design, installation, implementation, and maintenance specifications for the BMPs identified in the SWPPP must be maintained on-site with the working up-to-date field copy of the SWPPP. The SWPPP submitted to the Department with the

NOI Package does not need to include these specifications, but all SWPPPs must specifically identify the source(s) being used for these BMP design, installation, implementation, and maintenance specifications.

All copies of the SWPPP must include, but are not limited to, the following:

3.7.1. Structural BMPs for Erosion and Sediment Control

The SWPPP must clearly describe and locate all structural BMPs implemented at the site to minimize erosion and sediment transport. Practices may include, but are not limited to: straw bales, wattles/sediment control logs, sediment control (silt) fences, earth dikes, drainage swales, check dams, sediment traps, subsurface drains, infiltration trenches or basins, pipe slope drains, inlet protection, outlet protection, gabions, retaining walls, temporary drain diversions, and temporary or permanent sediment basins.

3.7.2. Non-Structural BMPs for Erosion and Sediment Control

The SWPPP must clearly describe and locate, as applicable, all non-structural practices implemented at the site to minimize erosion and sediment transport. Descriptions must include interim and permanent stabilization BMPs, and site-specific scheduling for implementation of the practices. The SWPPP must include BMPs to ensure that existing vegetation is preserved as much as practicable. Non-structural BMPs may include, but are not limited to: temporary vegetation, permanent vegetation, mulching, geotextiles, sod stabilization, slope roughening, vegetative buffer strips, protection of trees, preservation of mature vegetation, and administrative controls.

3.7.3. Materials Handling

The SWPPP must clearly describe and locate all practices implemented at the site to minimize impacts from procedures or construction/building materials that could contribute potential pollutants to runoff. Such procedures or materials could include, but are not limited to, the following: exposed storage of building materials; paints and solvents; fertilizers or chemicals; and equipment maintenance or fueling procedures.

3.7.4. Dedicated Concrete or Asphalt Batch Plants

The SWPPP must clearly describe and locate all practices implemented at the site to control storm water pollution from dedicated concrete batch plants or dedicated asphalt batch plants covered under the submitted NOI.

3.7.5. Vehicle Tracking Control

The SWPPP must clearly describe and locate all practices implemented at the site to control potential sediment discharges from vehicle tracking. Practices must be implemented for all areas of potential vehicle tracking, and can include, but are not limited to the following: minimizing site access; street sweeping or scraping; tracking pads; graveled parking areas; requiring that vehicles stay on paved areas on-site; wash racks; contractor education; and/or sediment control BMPs.

3.7.6. Waste Management and Disposal, Including Concrete Washout

The SWPPP must clearly describe and locate the BMPs implemented at the site to control storm water pollution from all site wastes (liquid and solid), including concrete washout activities. All site wastes which are generated must be managed and disposed of in accordance with all applicable laws, regulations, and requirements.

The BMPs used for concrete washout must ensure that these activities do not result in the contribution of potential pollutants associated with storm water runoff. The SWPPP must clearly describe and locate the BMPs used which will ensure no untreated washout water from concrete washout activities is discharged from the site as surface runoff or to state surface waters.

3.7.7. Stabilization Measures

The SWPPP must describe the specific vegetative and/or non-vegetative practices that will be used to achieve temporary and final stabilization on the exposed portions of the site (such as cover crop plantings, mulching or erosion control blankets, surface roughening, etc).

3.7.8. Minimize Ground Disturbance

The SWPPP must address measures which have been taken to minimize ground disturbance and preserve pre-existing stabilization measures of earth material as much as possible. This could include a number of considerations such as site access, vehicle management, material/waste management, construction sequencing/phasing, equipment staging areas, and concentrating in areas with close proximity to state surface waters.

3.7.9. Ground Water Dewatering

Discharges of ground water due to dewatering practices which will not discharge to state surface waters must be managed by appropriate BMPs, and these must be identified in the SWPPP. The ground water dewatering practices and BMPs must be identified on the site map required under Part 3.5. of this permit.

Discharges of ground water due to dewatering practices which will discharge to state surface waters are not authorized under this permit and must obtain appropriate authorization under a separate MPDES permit, which is typically the MPDES "General Permit for Construction Dewatering", Permit Number MTG070000. If this occurs and this separate MPDES permit authorization is obtained, these dewatering practices and BMPs must be identified in the SWPPP. The ground water dewatering practices and BMPs must be identified on the site map required under Part 3.5. of this permit.

3.7.10. Operational Controls

If not addressed elsewhere, the SWPPP must address BMPs which will be used on a day-to-day basis on the site to reduce or eliminate the contribution of potential pollutants in storm water runoff, such as good housekeeping activities to maintain a clean and orderly site, and removal of accumulated sediment on or off the site as much as practicable. For non-sediment potential pollutant sources, common potential problem areas to address would be waste management areas, storage areas, loading/unloading areas, and drums/tanks/containers. For example, measures could include a routine periodic schedule for the managing/removal of waste materials and source reduction practices.

3.7.11. Spill Prevention and Response Procedures

The SWPPP must describe procedures to be followed to prevent and respond to spills, leaks, and other releases. This must include procedures for expeditiously stopping, containing, and cleaning up spills, leaks, and other releases. Adequate spill prevention and response procedures are addressed through worker training and having an up-to-date SPCC plan with a spill response kit on-site.

3.7.12. Off-Site Vehicle Trucking of Sediment

When trucking saturated soils from the site, either tight leak-proof trucks must be used or loads must be required to drain until drippage has been reduced to less than one gallon per hour before leaving the site.

3.7.13. Local Sediment and Erosion Control Requirements

The SWPPP must include a description of any and all applicable local erosion and sediment control requirements.

3.8. Final Stabilization

The SWPPP must clearly describe all procedures and BMPs used to ensure that "final stabilization," as defined in Part 5 of this permit and ARM 17.30.1102(5), is achieved.

Final stabilization considerations for BMPs used to obtain a vegetative cover could include, but are not limited to, the following: seed mix selection and application methods; soil preparation and amendments; soil stabilization practices (such as crimped straw, hydromulch, or rolled erosion control products); and appropriate sediment control BMPs as needed until final stabilization is achieved.

For all areas with construction-related ground disturbance, final stabilization must be achieved uniformly over the entire disturbed area, without relatively bare areas based on the pre-disturbance conditions. If using seed or planted vegetation to achieve final stabilization, the plants must be perennial. Before submitting the NOT form to terminate coverage under this permit, in addition to achieving final stabilization the following must have also occurred:

- removal of temporary storm water conveyances/channels and other temporary storm water control measures and/or BMPs
- removal of construction equipment and vehicles, and
- cessation of any potential pollutant-generating activities due to the construction activity.

3.9. Post-Construction Storm Water Management

The SWPPP must also clearly describe any BMPs which are to be used to control storm water and potential pollutants in storm water discharges that will occur after construction operations have been completed at the site, including any applicable local requirements. Such measures may include, but are not limited to, the following: storm water detention structures (including wet ponds), storm water retention structures, flow attenuation by use of open vegetated swales and natural depressions, storm water runon control/diversion measures, and infiltration of runoff on-site. In addition, for post-construction storm water management at constructed/developed sites, the Department is encouraging the use of "Low Impact Development" (LID) and "Green Infrastructure" BMPs, where such practices are practicable, that infiltrate, evapotranspire, or capture for reuse the storm water runoff generated from the majority of expected storm events.

3.10. Inspection and BMP Maintenance Procedures

The SWPPP must identify and clearly describe the inspection and maintenance procedures implemented at the site to maintain all erosion and sediment control and other BMPs identified in the SWPPP, in good and effective operating condition. These documented procedures must comply with the inspection requirements in Part 2.3. of this permit (also refer to Parts 2.3.5., 2.4., 3.3., and 3.7. of the permit for related BMP maintenance requirements).

3.11. Water Quality Controls for Discharges to Impaired Waterbodies

The permittee's SWPPP must include a section describing how the SWPPP will control storm water discharges associated with construction activity which may contain pollutants of concern for which the receiving state surface waters are listed as impaired waterbodies on the State's 303(d) list, and ensure storm water discharges will not cause or contribute to instream exceedences of water quality standards.

This description must specifically identify whether the potential downgradient receiving surface water is listed as an impaired waterbody. In making this determination, the permittee must consider and incorporate potential storm water drainage from the site which will flow into the impaired waterbody through tributaries and subsequent downgradient drainage in the watershed for the impaired waterbody. If this downgradient receiving surface water is listed as impaired, then the permittee must determine and identify whether the specified pollutants of concern for the impaired waterbody match potential pollutants generated at the construction activity site (such as sediment). If these match, the description must specifically address and identify BMPs which will be used to adequately address the pollutant of concern (such as BMPs to address sediment).

Information and maps (to locate the construction activity site with respect to the downgradient receiving state surface waters) on impaired waterbodies and their pollutants of concern may be obtained through the Department website at http://www.deq.mt.gov. As of the issuance date of this permit, the specific website link is http://cwaic.mt.gov.

3.12. SWPPP Revisions and Updates

The SWPPP must be maintained and kept up-to-date to reflect current site conditions as stated below. Also see Parts 2.3.5. and 2.4. of this permit.

3.12.1. A SWPPP Administrator must revise the SWPPP:

- When there is a change in design, construction, operation, or maintenance of the site, which would require the implementation of new or revised BMPs; or
- If the SWPPP proves to be ineffective in achieving the general objectives of controlling potential pollutants in storm water discharges associated with construction activity; or
- When BMPs are no longer necessary and are removed.

SWPPP changes must be made before changes in the site conditions, except as allowed for in Part 3.12.2. below. SWPPP revisions must include, but are not limited to: potential pollutant source identification; selection of appropriate BMPs for site conditions; BMP maintenance procedures; and interim and final stabilization practices. The SWPPP changes may include a schedule for further BMP design and implementation, provided that, if any interim BMPs are needed to comply with the permit, these interim BMPs are also included in the SWPPP and implemented during the interim period.

3.12.2. SWPPP changes addressing BMP installation and/or implementation are often required to be made in response to changing conditions, or when current BMPs are determined ineffective. SWPPP revisions must be made in accordance with the following requirements:

- The SWPPP must be revised as soon as practicable, but in no case more than 72 hours after the change(s) in BMP installation and/or implementation occurs at the site; and

- A SWPPP Revision/Update Log must be maintained identifying all SWPPP modifications. For BMP changes, log entries must include the time and date of the change(s) in the field, an identification of the BMP(s) removed or added, the location(s) of those BMP(s), and the name of the SWPPP Administrator authorizing the change.

4. STANDARD CONDITIONS

This section includes the standard conditions that must be included in all MPDES permits.

The permittee shall meet the following standard conditions of MPDES permits.

4.1. Duty to Comply

The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Montana Water Quality Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

The permittee shall comply with effluent standards or prohibitions established under ARM 17.30.1206 for toxic pollutants and with standards for sewage sludge use or disposal established under section 405(d) of the Clean Water Act within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.

The Montana Water Quality Act at MCA 75-5-631 provides that in an action initiated by the Department to collect civil penalties against a person who is found to have violated a permit condition, the person is subject to a civil penalty not to exceed $25,000. Each day of violation constitutes a separate violation.

MCA 75-5-632 provides that any person who willfully or negligently violates a prohibition or permit condition is subject, upon conviction, to criminal penalties not to exceed $25,000 per day or one year in prison, or both, for the first conviction, and $50,000 per day of violation or by imprisonment for not more than two years, or both, for subsequent convictions.

MCA 75-5-611(9)(a) 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.

4.2. 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 first apply for and obtain a new permit. In accordance with ARM 17.30.1322(4), the application must be submitted at least 30 days before the expiration date of this permit.

4.3. Need to Halt or Reduce Activity Not a Defense

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

4.4. 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.

4.5. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems that are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

4.6. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

4.7. Property Rights

The issuance of this permit does not convey any property rights of any sort, or any exclusive privilege.

4.8. Duty to Provide Information

The permittee shall furnish to the Department, within a reasonable time, any information that the Department may request to determine whether cause exists for modifying, revoking 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.

4.9. Inspection and Entry

The permittee shall allow the head of the Department, or an authorized representative upon the presentation of credentials and other documents as may be required by law, to:

- Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Montana Water Quality Act, any substances or parameters at any location.

4.10. Monitoring and Records—Representative Sampling

Samples and measurements taken for the purpose of monitoring must be representative of the monitored activity.

4.11. Monitoring and Records—Retention of Records

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to

complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report or application.

4.12. Monitoring and Records—Records Contents

Records of monitoring information must include:

- the date, exact place, and time of sampling or measurements;
- the individual(s) who performed the sampling or measurements;
- the date(s) analyses were performed;
- the individual(s) who performed the analyses;
- the analytical techniques or methods used; and
- the results of such analyses.

4.13. Monitoring and Records—Test Procedures

Monitoring must be conducted according to test procedures approved under Title 40 of the Code of Federal Regulations (40 CFR) Part 136, unless other test procedures have been specified in this permit.

4.14. Monitoring and Records—Falsification and Tampering

The Montana Water Quality Act at MCA 75-5-633 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.

4.15. Signatory Requirement

All applications, reports or information submitted to the Department shall be signed and certified. (See ARM 17.30.1323.)

In accordance with ARM 17.30.1323, all permit applications must be signed as follows:

- *For a corporation*: By a responsible corporate officer, which means
  - A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation; or
  - The manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- *For a partnership or sole proprietorship*: By a general partner or the proprietor, respectively.
- *For a municipality, state, federal, or other public agency*: By either a principal executive officer or ranking elected official. A principal executive office of a federal agency includes:
  - The chief executive officer of the agency; or
  - A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

Authorized representatives. 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:

The authorization is made in writing by a person described above;

The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or well field, 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 an individual occupying a named position); and

The written authorization is submitted to the Department.

Changes to authorization. If an authorization 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 above must be submitted to the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.

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."

4.16. Reporting Requirements—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. Notice is required only when:

- The alteration or addition to the permitted facility may meet one of the criteria for determining whether a facility is a new source under ARM 17.30.1340(2); or
- The alteration or addition could significantly change the nature or increase the quantity of pollutant discharged. This notification applies to pollutants that are subject neither to effluent limitations in the permit, nor to notification requirements under ARM 17.30.1343(1)(a).

4.17. Reporting Requirements—Anticipated Noncompliance

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

4.18. Reporting Requirements—Transfers

This permit is not transferable to any person except after notice to the Department. The Department may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the

Montana Water Quality Act. (See ARM 17.30.1360; in some cases, modification or revocation and reissuance is mandatory.)

In accordance with ARM 17.30.1360(2), this permit may be automatically transferred to a new permittee if:

- The current permittee notifies the Department at least 30 days in advance of the proposed transfer date;
- 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;
- The Department does not notify the existing permittee and the proposed new permittee of an intent to revoke or modify and reissue the permit. A modification may also be a minor modification under ARM 17.30.1362. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned above.

4.19. Reporting Requirements—Monitoring Reports

Monitoring results shall be reported at the intervals specified elsewhere in this permit.

- Monitoring results must be reported on a Discharge Monitoring Report (DMR) form.
- If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR Part 136 or as specified in this permit, the results of this monitoring must be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report.
- Calculations for all limitations that require averaging of measurements must use an arithmetic mean unless otherwise specified by the Department in the permit.

4.20. Reporting Requirements—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.

4.21. Reporting Requirements—Twenty-four Hour Reporting

The permittee shall report any noncompliance that might endanger health or the environment. Any information must be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time that the permittee becomes aware of the circumstances. The written submission shall contain:

- A description of the noncompliance and its cause;
- The period of noncompliance, including exact dates and times;
- The estimated time noncompliance is expected to continue if it has not been corrected; and
- Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The following are included as information that must be reported within 24 hours under this provision:

- Any unanticipated bypass that exceeds any effluent limitation in the permit of this permit (see ARM 17.30.1342(7) and "Bypass" below);
- Any upset that exceeds any effluent limitation in the permit (see "Upset" below) and;
- Violation of a maximum daily discharge limitation for any of the pollutants listed by the Department in this permit to be reported within 24 hours (see ARM 17.30.1344 and 40 CFR 122.44(g)).

Oral notification. The report shall be made orally to the Water Protection Bureau at (406) 444-3080 or the Office of Disaster and Emergency Services at (406) 324-4777.

Waiver of written notification requirement. The Department may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the Water Protection Bureau, by phone, (406) 444-3080. Written reports shall be submitted to the following address:

Montana Department of Environmental Quality
Water Protection Bureau
PO Box 200901
Helena, Montana 59620-0901

4.22. Reporting Requirements—Other Noncompliance

Instances of noncompliance not required to be reported within 24 hours shall be reported at the time monitoring reports are submitted. The reports shall contain the information listed above for written submissions under "Reporting Requirements—Twenty-four Hour Reporting."

4.23. Reporting Requirements—Other Information

Where 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.

4.24. Bypass

Definitions. ARM 17.30.1304(11) defines *bypass* as the intentional diversion of waste streams from any portion of a treatment facility. ARM 17.30.1304(53) defines *severe property damage* as substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent damage to natural resources that 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.

Bypass Not Exceeding Limitations. The permittee may allow any bypass to occur that 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 under "Notice" and "Prohibition of Bypass" below.

Notice. *Anticipated Bypass*: If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten (10) days before the date of the bypass. *Unanticipated Bypass.* The permittee shall submit notice of an unanticipated bypass as required under "Reporting Requirements—Twenty-four Hour Reporting" above.

Prohibition of Bypass. Bypass is prohibited and the Department may take enforcement action against a permittee for a bypass, unless:

- The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and
- The permittee submitted notices as required under "Notice" above.

The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines that it will meet these three conditions.

4.25. Upset

Definition. ARM 17.30.1304(63) defines *upset* as 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.

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 outlined below under "Conditions Necessary for Demonstration of an Upset" below 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.

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:

- An upset occurred and that the permittee can identify the cause(s) of the upset;
- The permitted facility was at the time being properly operated;
- The permittee submitted notice of the upset as required under "Reporting Requirements—Twenty-four Hour Reporting" above and
- The permittee complied with any remedial measures required under "Duty to Mitigate" above.

Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

4.26. 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:

- Impose additional fee assessment(s) computed at the rate established under ARM 17.30.201; and
- 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 section. Suspensions are limited to one year, after which the permit will be terminated.

5. DEFINITIONS AND ABBREVIATIONS

The following definitions and abbreviations apply to terms used in this permit:

5.1. General Definitions and Abbreviations

"Act" means the Montana Water Quality Act, Title 75, chapter 5, MCA.

"Best Management Practices" ("BMPs") means schedule of activities, prohibition of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of state surface 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.

"Board" means the Montana Board of Environmental Review established by 2-15-3502, MCA.

"CFR" means the Code of Federal Regulations.

"Clean Water Act" means the federal legislation at 33 USC 1251, et seq.

"Department" means the Montana Department of Environmental Quality. Established by 2-15-3501, MCA.

"Disturbance" related to construction activity means areas that are subject to clearing, excavating, grading, stockpiling earth materials, and placement/removal of earth material performed during construction projects.

"Ephemeral stream" means a stream or part of a stream that flows only in direct response to precipitation in the immediate watershed or in response to the melting of a cover of snow and ice and whose channel bottom is always above the local water table.

"EPA" or "USEPA" means the United States Environmental Protection Agency.

"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.

"Final stabilization" means the time at which all soil-disturbing activities at the site have been completed, and a vegetative cover has been established with a density of at least 70% of the pre-disturbance levels, or equivalent permanent, physical erosion reduction methods have been employed. Final stabilization using vegetation must be accomplished using seeding mixtures or forbs, grasses, and shrubs that are adapted to the conditions of the site. Establishment of a vegetative cover capable of providing erosion control equivalent to pre-existing conditions at the site will be considered final stabilization.

"General permit" means an MPDES permit issued under ARM 17.30.1341 authorizing a category of discharges under the Act within a geographical area.

"Larger common plan of development or sale" means a contiguous area where multiple separate and distinct construction activities are planned to occur at different times on different schedules under one plan. These separate and distinct construction activities which form a larger common plan of development or sale may have areas of disturbance which are not physically connected.

"Montana pollutant discharge elimination system (MPDES)" means the system developed by the Board and Department for issuing permits for the discharge of pollutants from point sources into state surface waters. The MPDES is specifically designed to be compatible with the federal MPDES program established and administered by the EPA.

"Owner or operator" is defined at 75-5-103, MCA.

"Point source" means a discernible, confined, and 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.

"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.

"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.

"Receiving state surface waters" is the river, stream, lake, etc., which receives the discharge from the site.

"Regional Administrator" is the administrator of the EPA Region with jurisdiction over federal water pollution control activities in the State of Montana.

"Runoff coefficient" means the fraction of total rainfall that will appear at the conveyance as runoff.

"Severe property damage" means substantial physical damage to property, damage to 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.

"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.

"State waters" is defined at 75-5-103, MCA.

"Storm water" means storm water runoff from precipitation, snowmelt runoff, and surface runoff and drainage.

"Storm water discharge associated with construction activity" means a discharge of storm water from construction activities including clearing, grading, and excavation that result in the disturbance of equal to or greater than one acre of total land area. For purposes of these rules, construction activities include clearing, grading, excavation, stockpiling earth materials, and other placement or removal of earth material performed during construction projects. Construction activity includes the disturbance of less than one acre of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb one acre or more.

(a) Regardless of the acreage of disturbance resulting from a construction activity, this definition includes any other discharges from construction activity designated by the department pursuant to ARM 17.30.1105(1)(f).

(b) For construction activities that result in disturbance of less than five acres of total land area, the acreage of disturbance does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

(c) For construction activities that result in disturbance of five acres or more of total land area, this definition includes those requirements and clarifications stated in ARM 17.30.1102(29)(a), (b), (d) and (e).

"Storm Water Pollution Prevention Plan (SWPPP)" means a document developed to help identify sources of pollution potentially affecting the quality of storm water discharges associated with a facility or activity, and to ensure implementation of measures to minimize and control pollutants in storm water discharges associated with a facility or activity. The Department determines specific requirements and information to be included in a SWPPP based on the type and characteristics of a facility or activity, and on the respective MPDES permit requirements.

"Surface waters" means any waters on the earth's surface, including but not limited to streams, lakes, ponds, and reservoirs; and irrigation and drainage systems. Water bodies used solely for treating, transporting, or impounding pollutants shall not be considered surface water.

"Temporary Stabilization" means a condition where exposed soils or disturbed areas are provided a temporary vegetative and/or non-vegetative protective cover to prevent erosion and sediment loss. Temporary stabilization may include temporary seeding, geotextiles, mulches, and other techniques to reduce or eliminate erosion until either final stabilization can be achieved or until further construction activities take place to re-disturb this area.

"Total maximum daily load" or "TMDL" is defined at 75-5-103, MCA.

"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.

"Waste load allocation" means the portion of a receiving water's loading capacity that is allocated to one of its existing or future point sources.

"Waste pile" means any non-containerized accumulation of solid, nonflowing waste that is used for treatment or storage.