

**MONTANA DEPARTMENT OF
ENVIRONMENTAL QUALITY**

GENERAL PERMIT

For

PORTABLE SUCTION DREDGING

Permit No.: MTG370000

**AUTHORIZATION TO DISCHARGE UNDER THE
MONTANA POLLUTANT DISCHARGE ELIMINATION SYSTEM**

In compliance with Montana Water Quality Act, Title 75, Chapter 5, Montana Code Annotated (MCA), and the federal Water Pollution Control Act (the "Clean Water Act"), 33 U.S.C. 1251 *et. seq.*, applicants issued a authorization letter for this Portable Suction Dredging General Permit, are permitted to discharge wastewater to state waters in accordance with effluent limitations, monitoring requirements, and other conditions set forth herein.

A copy of this General Permit and a written authorization letter from the Department must be kept on site at all times. The General Permit is not valid without a current authorization letter from the Department.

This permit shall become effective **July 1, 2015**.

This permit and the authorization to discharge shall expire at midnight on **March 31, 2019**.

FOR THE MONTANA DEPARTMENT
OF ENVIRONMENTAL QUALITY



Jon Kenning, Chief
Water Quality Bureau
Permitting and Compliance Division

Issuance Date: May 28, 2015

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I. COVERAGE UNDER THIS GENERAL PERMIT

A. Coverage Area

The General Permit applies to all areas of the State of Montana, except Indian Reservations.

B. Sources Covered Under the General Permit

The General Permit applies to portable recreational suction dredge operations that discharge into waters of the state. A portable suction dredge operated under the General Permit must have an intake diameter size of four (4) inches or less. Other suction dredge operations, such as commercial operations, or suction dredges with intake sizes greater than 4 inches in diameter, are not covered under the General Permit. These applicants must apply for an individual Montana Pollutant Discharge Elimination System (MPDES) permit. Each authorization under the General Permit will be to a specified owner/operator for recreational suction dredge(s), to operate only in the area(s) specified in the authorization.

C. Sources Excluded from Coverage under this General Permit

1. The specific source applying for authorization appears unable to comply with [ARM 17.30.1341(4)(a)]:
 - effluent limitations or other terms and conditions of the permit;
 - water quality standards established pursuant to 75-5-301, MCA; or
 - prohibition of discharges that the regional administrator has objected to in writing.

Specifically, discharges to receiving waters classified as A-1 or A-Closed will not be allowed due to the prohibition on increasing turbidity in these receiving waters, pursuant to ARM Title 17, Chapter 30, Subchapter 6.

2. The discharge is different in degree or nature from discharges reasonably expected from sources or activities within the category described in the General Permit [ARM 17.30.1341(4)(b)].
3. A MPDES permit or authorization for the same operation has previously been denied or revoked [ARM 17.30.1341(4)(c)].
4. The discharge to be authorized under a general MPDES permit is also included within an application or is subject to review under the Major Facility Siting Act, 75-20-101, et seq., MCA [ARM 17.30.1341(4)(d)].
5. The point source will be located in an area of unique ecological or recreational significance. Such determination must be based upon considerations of Montana stream classifications adopted under 75-5-301, MCA, impacts on fishery resources, local conditions at proposed discharge sites, and designations of wilderness areas under 16 USC 1132 or of wild and scenic rivers under 16 USC 1274 [ARM 17.30.1341(4)(e)].

6. The suction dredge has an intake diameter greater than four (4) inches.
7. The suction dredging operation includes the use of chemicals to recover metals, minerals or gemstones.
8. Suction dredging operations that dredge more than 50,000 cubic yards of ore per year.

D. Existing sources covered under the 2010 General Permit – continuing coverage.

The 2010 General Permit authorizations expire on March 31, 2105. The Department will reissue an authorization to an existing permittee to operate under the 2015 General Permit after the permittee submits a renewal request for continued coverage and the Department completes its review of the request. The renewal request must be submitted to the Department before the expiration date of the 2010 General Permit (March 31, 2015). The renewal request includes submittal of a complete application package consisting of:

- Notice of Intent (NOI) form; and
- Fee (includes renewal permit fee) as required under 75-5-516(12), MCA and ARM 17.30.201 (Schedule I.B.)(See NOI instructions for renewal fee amounts).

E. New sources seeking coverage under the 2015 General Permit

New dischargers seeking to obtain coverage under the General Permit must submit a complete application package, including:

- Notice of Intent (NOI) form; and
- Fee (includes new permit fee) as required under 75-5-516(12), MCA and ARM 17.30.201 (Schedule I.B).

The complete package must be submitted at least 30 days prior to the operation of the portable recreational suction dredge.

F. Termination of Permit Coverage

Permit authorizations may be terminated if the Department receives notice from the permittee that the suction dredging activity will not be continued. This notice must be signed and certified in accordance with the signatory requirements in Part III. L of the General Permit and all applicable fees must be paid. Alternatively, permittees may complete and submit to the Department a Request For Termination (RFT) form available at www.deq.mt.gov/wqinfo/WPBForms/pdf/RFT.pdf. Failure to submit a notice of termination shall result in accrual of annual fees until such notice is received by the Department.

In addition to the ability to request a termination, the owner or operator of a facility covered under this General Permit may request to be excluded from coverage under this General Permit by applying for and obtaining an individual MPDES permit pursuant to ARM Title 17, Chapter 30,

Subchapter 13. If an individual MPDES permit is issued to the owner or operator, coverage under this General Permit is terminated on the effective date of the final individual MPDES permit.

G. Transfer of Coverage

The Department may transfer a suction dredge authorization to a new owner or operator under the General Permit. To transfer a suction dredge authorization both the current owner and new owner must fill out and sign the Permit Transfer Notification form available on the Department's web site at <http://deq.mt.gov/wqinfo/WPBForms/Forms1.mcp>.

II. EFFLUENT LIMITATIONS, MONITORING REQUIREMENTS & OTHER CONDITIONS

A. Effluent Limitations

1. No visible increase in turbidity allowed 10 stream widths downstream from the suction dredge operation.
2. No visible oil film caused by the suction dredge operation.

B. Self-Monitoring Requirements

The permittee is responsible for conducting the following monitoring, recordkeeping, and reporting during the life of their permit authorization:

1. The permittee must visually check the stream on a daily basis at the end of the mixing zone (10 stream widths downstream of the suction dredge). The stream width is to be determined by measuring the width of the stream at the suction dredge location.

The visual check must be conducted after the first half-hour of continuous operation to determine if a violation is occurring as defined under the effluent limitations. In addition to the daily observation, a visual check must be made whenever there is an obvious change in the turbidity from the suction dredging activity, or in the stream width at the dredge location, or a suspected spill or leak has occurred. If an increase in turbidity or suspended sediment is observed at the end of the mixing zone (10 stream widths downstream from the operating suction dredge), the operator must decrease or cease operation immediately until the turbidity is in compliance with the terms of this General Permit. If a spill or leak occurs, the operator must cease operating immediately until the source of the spill or leak is eliminated.

2. The permittee must maintain a daily record for each day of operation in each permitted stream location. Required information includes:
 - a. the date and time operated during each day,
 - b. visual observation of the turbidity in the receiving stream 10 stream widths downstream of the suction dredge,
 - c. visual oil film noted, and
 - d. any noted changes in the operation of the suction dredge or appearance of the receiving stream.
3. The permittee must maintain the daily records for a period of at least three years and make these records available to the Department upon request.
4. The daily records are considered a method for the permittee to ensure good operating practices. The permittee is required to submit the Suction Dredge Log to the

Department at the end of every operating season and no later than January 28th following the end of each calendar year.

C. Special Conditions

DEQ has determined that the Best Management Practices (BMPs) listed below, when properly implemented, are appropriate treatment methods for suction dredge activities to protect water quality [ARM 17.30.1345(1)].

1. Stream banks must not be mined or disturbed. No undercutting of stream banks that would cause caving or erosion of the banks is allowed. Dredging is only permitted within the existing wetted perimeter (waterline) in the active stream channel.
2. Motorized winches or other motorized equipment must not be used to move boulders, logs or other natural obstructions.
3. No wheeled or tracked equipment may be used in-stream while dredging.
4. No damming or diversions are authorized.
5. Dredging of concentrated silt and clay should be avoided. The permittee must use reasonable care to avoid dredging silt and clay materials that would result in a significant increase in turbidity and suspended sediment. Reasonable care includes moving the dredge to a new location or reducing the volume of effluent by limiting the operational speed of the suction dredge.
6. No refueling of suction dredges is allowed over open water.
7. The permittee is authorized to discharge from a suction dredge only during the time period specified in the confirmation letter.
8. The permittee is allowed to discharge wastewater from a recreational suction dredge only at the location(s) requested on the NOI form and identified in the confirmation letter. A copy of the confirmation letter must be kept with the General Permit at a location accessible from the suction dredging activity.
9. Mercury collected in the sluice box must be removed and properly disposed.
10. Suction dredge operations must not operate within 500 feet of another suction dredge operation in the same stream.

III. STANDARD CONDITIONS

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

A. Duty to Comply

The permittee shall comply with all standard conditions in 40 CFR 122.41 and all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination; revocation and reissuance, or modification; or, for denial of a permit renewal application.

The permittee shall comply with effluent standards or prohibitions established under the Act and rules adopted thereunder including limitations for toxic pollutants in ARM 17.30.1206; section 307(a) of the federal Clean Water Act; 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, even if the permit has not yet been modified to incorporate the requirement.

The Act provides that any person who violates a permit condition or limitation is subject to a civil penalty not to exceed \$25,000 per day for each violation. Any person who willfully or negligently violates 75-5-605, MCA including a permit condition or limitation is subject to criminal penalties not to exceed \$25,000 per day of violation, imprisonment for not more than one year, or both. In the case of a second or subsequent conviction for a willful or negligent violation, a person is subject to a fine of not more than \$50,000 per day of violation, imprisonment of not more than two years, or both.

The Act provides that any person who violates a permit condition or limitation may be assessed an administrative penalties by the department not to exceed \$10,000 per violation per day with the maximum penalty assessed not to exceed \$100,000 for any related series of violations.

B. 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 coverage 180 days prior to permit expiration and obtain a new permit or authorization under the applicable general permit.

C. Need to Halt or Reduce Activity Not a Defense

It is not 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.

D. 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.

E. 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.

F. 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.

G. Property Rights

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

H. 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.

I. Inspection and Entry

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

- a) 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;
- b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

- c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- d) Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

J. Monitoring and Records

1. Representative Sampling

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

2. 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. This period may be extended by request of the Department at any time.

3. Records Contents

Records of monitoring information must include:

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

4. Test Procedures

Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless another method is required under 40 CFR 503.8 or Subchapter N.

K. Falsification and Tampering

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

L. Signatory Requirement

All applications, reports or information submitted to the Department shall be signed and certified as required by ARM 17.30.1323.

M. Reporting Requirements

1. 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:

- a) 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
- b) 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).

2. 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.

3. 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 or mandatory as required by ARM 17.30.1360 and the Act.

4. Monitoring Reports

Monitoring results shall be reported at the intervals specified elsewhere in this permit and is subject to the following additional requirements:

- a) Monitoring results must be reported on a Discharge Monitoring Report (DMR) form;
- b) If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR Part 136 using procedures specified in the permit for any pollutant for which an analytical method is not established by 40 CFR Part 136, or by another method required for an industry-specific waste stream under 40 CFR 503.8 or subchapter N, the results of such monitoring must be included in the calculation and reporting of the data submitted in the DMR; and,
- c) Calculations for all limitations that require averaging of measurements must use an arithmetic mean unless otherwise specified by the Department in the permit.

5. 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.

N. 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) A description of the noncompliance and its cause;
- b) The period of noncompliance, including exact dates and times;
- c) The estimated time noncompliance is expected to continue if it has not been corrected; and,
- d) 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:

- a) Any unanticipated bypass that exceeds any effluent limitation in the permit;
- b) Any upset that exceeds any effluent limitation in the permit; and,
- c) 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 40 CFR 122.44(g)].

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

O. Other Noncompliance—Reporting

The permittee shall report all instances of noncompliance not reported under Part III.M of this permit, 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.”

P. 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.

Q. Bypass

1. 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. Bypasses are not subject to the provisions under “Notice” and “Prohibition of Bypass” below.

2. 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.

3. Prohibition of Bypass

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

- a) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- b) 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
- c) 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.

R. Upset

1. Effect of an upset

An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements 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.

2. Conditions Necessary for a Demonstration of Upset.

A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

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

3. Burden of proof

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

S. 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 an additional assessment 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.

IV. DEFINITIONS AND ABBREVIATIONS

A. General Definitions and Abbreviations

“Act” means the Montana Water Quality Act, Title 75, Chapter 5, MCA.

“Arithmetic mean” or “arithmetic average” for any set of related values means the summation of the individual values divided by the number of individual values.

“Average monthly limitation” means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

“BOD₅” means the five-day measure of pollutant parameter biochemical oxygen demand.

“Bypass” means the intentional diversion of waste streams from any portion of a treatment facility.

“CBOD₅” means the five-day measure of pollutant parameter carbonaceous biochemical oxygen demand.

“CFR” means the Code of Federal Regulations.

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

“Composite sample” means a sample composed of two or more discrete aliquots.

“Daily discharge” means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.

“Department” means the Montana Department of Environmental Quality (MDEQ). Established by 2-15-3501, MCA.

“Director” means the Director of the Montana Department of Environmental Quality.

“Discharge” when used without qualification means discharge of a pollutant.

“Discharge of a pollutant(s)” means any additional of any pollutant or combination of pollutants to state water from any point source. This definition includes additions of pollutants into waters of the state from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by the state, municipality, or other person which do not lead to a treatment works. This term does not

include an addition of pollutants by any indirect discharger, as defined in ARM 17.30.1304.

“EPA” or “USEPA” means the United States Environmental Protection Agency.

“Geometric mean” means the value obtained by taking the Nth root of the product of the measured values.

“Grab sample” means a sample that is taken from a waste stream on a one-time basis without consideration of flow rate of the effluent or without consideration for time.

“Instantaneous measurement”, for monitoring requirements, means a single reading, observation, or measurement.

“Maximum Daily Limit” means the highest allowable discharge of a pollutant during a calendar day. Expressed as units of mass, the daily discharge is cumulative mass discharged over the course of the day. Expressed as a concentration, it is the arithmetic average of all measurements taken that day.

“Minimum Level” (ML) of quantitation means the lowest level at which the entire analytical system gives a recognizable signal and acceptable calibration point for the analyte. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed by a specific analytical procedure, assuming that all method specific sample weights, volumes and processing step have been followed.

“Mixing zone” means an area established in a permit issued by the Department where water quality standards may be exceeded, subject to conditions that are imposed by the Department and that are consistent with rules adopted by the board

“Point Source” means any discernible, confined, or discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

“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.

“Required Reporting Values” means the minimum level of quantification or detection that must be achieved in reporting all monitoring results required by this permit.

“Severe property damage” means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of 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.

“State Waters” means a body of water, irrigation system, or drainage system, either surface or underground. The term does not apply to: ponds or lagoons used solely for treating, transporting, or impounding pollutants; or, irrigation waters or land application disposal waters when the waters are used up within the irrigation or land application disposal system and the waters are not returned to state waters.

“TIE” means a toxicity identification evaluation.

“TMDL” means the total maximum daily load limitation of a parameter, representing the estimated assimilative capacity for a water body before other designated uses are adversely affected. Mathematically, it is the sum of wasteload allocations for point sources, load allocations for non-point and natural background sources, and a margin of safety.

“TRE” means a toxicity reduction evaluation.

“TSS” means the pollutant parameter total suspended solids.

“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.

“Whole Effluent Toxicity” (WET) is the total toxic effect of an effluent measured directly with a toxicity test.

“WET Permit Limit” is a water quality-based effluent limitation for WET that is used to trigger accelerated WET monitoring and TREs.

“Wet Permit Trigger” means a threshold level for WET in an NPDES permit that is used to trigger accelerated WET monitoring or a TREs when there is no reasonable potential for WET and no WET permit limits.

B. Specialized Definitions and Abbreviations

"Ephemeral Stream" means a stream or a part of a stream, which 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.

"Intermittent Stream" means a stream or reach of a stream that is below the local water table for at least some part of the year, and obtains its flow from both surface run-off and groundwater discharge.

“Outfall” means the place where a point source discharges effluent into the receiving water. For each outfall, there typically is at least one monitoring location. Although the monitoring location might or might not be at the actual point of discharge, samples taken at the monitoring location should be representative of the discharge