

MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY

GENERAL PERMIT for PETROLEUM CLEANUP

Permit No.: MTG790000

AUTHORIZATION TO DISCHARGE UNDER THE MONTANA POLLUTANT DISCHARGE ELIMINATION SYSTEM (MPDES)

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 an authorization letter for the Petroleum Cleanup General Permit are permitted to discharge wastewater from petroleum-related corrective actions to state waters in accordance with the 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 letter of authorization for the petroleum cleanup activity.

This permit shall become effective **September 1, 2025**

This permit and the authorization to discharge shall expire at midnight, **August 31, 2030**

FOR THE MONTANA DEPARTMENT
OF ENVIRONMENTAL QUALITY



Tatiana Davila, Chief
Water Protection Bureau
Water Quality Division

Issuance Date: **August 1, 2025**

TABLE OF CONTENTS

I. COVERAGE UNDER THIS GENERAL PERMIT	3
A. COVERAGE AREA	3
B. SOURCES ELIGIBLE FOR COVERAGE.....	3
C. SOURCES EXCLUDED FROM COVERAGE	3
D. REQUIREMENTS FOR AUTHORIZATION	4
E. TERMINATING AUTHORIZATION.....	4
F. TRANSFERRING PERMIT COVERAGE.....	4
II. EFFLUENT LIMITS, MONITORING REQUIREMENTS, & SPECIAL CONDITIONS	5
A. EFFLUENT LIMITS	5
B. SELF-MONITORING AND REPORTING REQUIREMENTS.....	5
C. SPECIAL CONDITIONS.....	6
III. STANDARD CONDITIONS.....	7
A. DUTY TO COMPLY.....	7
B. PENALTIES FOR VIOLATIONS OF PERMIT CONDITIONS	7
C. DUTY TO REAPPLY	7
D. NEED TO HALT OR REDUCE ACTIVITY NOT A DEFENSE.....	7
E. DUTY TO MITIGATE	7
F. PROPER OPERATION AND MAINTENANCE	7
G. PERMIT ACTIONS	7
H. PROPERTY RIGHTS	8
I. DUTY TO PROVIDE INFORMATION.....	8
J. INSPECTION AND ENTRY	8
K. AVAILABILITY OF REPORTS	8
L. MONITORING AND MONITORING REPORTS – REPORTING REQUIREMENTS.....	8
M. MONITORING AND RECORDS.....	8
1. Representative Sampling	8
2. Retention of Records.....	8
3. Records Content.....	8
4. Test Procedures – Monitoring and Records	9
5. Penalties for Falsification and Tampering	9
N. SIGNATORY REQUIREMENT.....	9
O. REPORTING REQUIREMENTS	10
1. Planned Changes.....	10
2. Anticipated Noncompliance.....	10
3. Transfers	10
4. Compliance Schedules	10
5. Twenty-Four Hour Reporting	10
6. Other Noncompliance	11
7. Other Information	11
P. BYPASS.....	11
Q. UPSET CONDITIONS.....	11
R. FEES.....	11
S. REMOVED SUBSTANCES.....	12
T. OIL AND HAZARDOUS SUBSTANCE LIABILITY	12
U. SEVERABILITY	12
V. REOPENER PROVISIONS.....	12
W. TOXIC POLLUTANTS.....	12
IV. DEFINITIONS AND ABBREVIATIONS.....	13

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 Eligible for Coverage

Petroleum cleanup discharges from corrective actions involving above ground or underground storage tanks used to store gasoline, diesel fuel, kerosene, jet fuel, heating oil, or the transportation of these materials (including pipelines) are eligible for coverage under this general permit. This may include surface and/or groundwater resulting from excavation or remediation activity, surface and/or ground water contaminated by spills, or ground water resulting from pumping and/or monitoring aquifers. Other petroleum cleanup activities may be covered if they meet the requirements of the PCGP.

C. Sources Excluded from Coverage

DEQ may deny an application for discharge under the PCGP under the general provisions of ARM 17.30.1341(4)(a), which include the following:

1. The discharger is unable to comply with:
 - a. Effluent limits or other terms and conditions of the permit;
 - b. Water quality standards established pursuant to 75-5-301, MCA; or
 - c. Discharges that the regional administrator has objected to in writing.
2. The discharge is different in degree or nature than those described in the general permit.
3. The same operation has previously been denied or revoked an MPDES permit or authorization.
4. The discharge is also included within an application, or is subject to review, under the Major Facility Siting Act, 75-20-101, *et seq.*, MCA.
5. The proposed point sources are in an area of unique ecological or recreational significance. Such determinations are based upon:
 - a. Montana stream classifications adopted under 75-5-301, MCA;
 - b. Impacts on fishery resources;
 - c. Local conditions at proposed discharge sites; and
 - d. Areas designated wilderness or wild and scenic rivers under 16 USC 1132 or 16 USC 1274.
6. The facility discharges to waters classified as A-Closed, as these waters are typically used for drinking water. No increase above naturally occurring turbidity and no change in dissolved oxygen, pH, and temperature are allowed in this water classification [ARM 17.30.621(3)], so it would not be cost-effective to treat wastewater from petroleum cleanup activities to these levels.
7. The discharge contains lead from a historic leaded gasoline spill or from another source.
8. The proposed receiving water is on the 303(d)-impairment list for any pollutant of concern in this permit

Volatiles, acid compounds, and base/neutral compounds – Prior to any discharge, the applicant must submit applicable surface water and/or groundwater analyses including all parameters in 40 Code of Federal Regulations (CFR) Part 122, Appendix D, Table II, excluding pesticides (see Appendix A at the end of this fact sheet). Laboratory analytical results must meet the RRVs in Circular DEQ-7. If the analyses demonstrate that toxic pollutants are present above water quality standards, other than what is expected in petroleum cleanup fuels, discharge is prohibited under this PCGP.

Lead – Tetraethyl lead was used as an additive in gasoline, before it was phased out by EPA in 1995, and may be present at some historic petroleum sites. If the petroleum cleanup site seeking authorization was active before or during 1995, a lead sample analysis must be submitted prior to discharge. If lead is known to be present, discharge is prohibited under this PCGP.

Water Treatment Additives – This permit does not authorize the discharge of water treatment additives, for conditioning or treatment of wastewater, without written approval from DEQ. In the event a permittee

proposes to utilize a water treatment additive, the permittee shall submit to the agency a request, including the Material Safety Data Sheets (MSDS), for review.

If a permittee is denied authorization under the general permit, they may apply for authorization under the individual MPDES permit requirements by submitting the required forms and fees.

D. Requirements for Authorization

Notice of Intent (NOI) Package – A complete NOI package includes a complete NOI-79 form, any supplemental information requested on the NOI-79 form, and applicable fees (specified in ARM 17.30.201).

Dischargers seeking continued coverage must submit a complete renewal request (NOI package) within 30 days of the effective date of this permit including:

- Petroleum Cleanup Notice of Intent Form (NOI-79);
- Renewal fee for each outfall;
- Topographic map extending at least one mile beyond the property boundaries or operations site;
- Material Safety Data Sheets for water treatment additives being used, if applicable; and
- A Montana Sage Grouse Habitat Conservation Program consultation letter, if applicable.

New sources seeking coverage must submit an NOI package for the PCGP at least 30 days prior to construction or operation, which includes:

- Petroleum Cleanup Notice of Intent Form (NOI-79);
- Application fee for each outfall;
- Topographic map extending at least one mile beyond the property boundaries or operation site;
- Material Safety Data Sheets for water treatment additives being used, if applicable;
- A Montana Sage Grouse Habitat Conservation Program consultation letter, if applicable;
- A process flow diagram showing water flow through the treatment system;
- Laboratory analysis for potential contaminants listed in 40 CFR Part 122, Appendix D, Table II excluding pesticides (see Appendix). If the site was active before or during 1995, include additional laboratory results for lead. All analysis must be completed using approved methods in 40 CFR 136 and must meet the Required Reporting Values (RRVs) in Circular DEQ-7;
- Analysis from consultation with the Montana Natural Heritage Program; and
- Analysis from consultation with the Montana State Historic Preservation Office.

Permittees requesting a modification must submit an NOI package including:

- Petroleum Cleanup Notice of Intent Form (NOI-79);
- Modification fee for each modified outfall;
- Any additional information regarding, or effected by, the modification request

Facilities eligible for coverage will be issued a letter of authorization to the owner or operator of the facility. If the facility does not qualify for coverage, DEQ will notify the applicant. The applicant may then apply for an individual permit or modify the operation and re-apply for coverage under the PCGP.

E. Terminating Authorization

Authorizations remain in effect unless DEQ receives a written notice, or a Request for Termination (RFT), from the permittee notifying the department that the authorization should be terminated. This notice must be signed and certified according to the signatory requirements in III.N. of the permit and all applicable fees must be paid. Failure to submit a written notice of termination shall result in accrual of annual fees.

F. Transferring Permit Coverage

Permit coverage may be transferred to a new owner or operator in conformance with Part III.O.3. of this permit. A Permit Transfer Notification (PTN) form and the applicable minor modification fee must be submitted to the department at least 30 days prior to the anticipated date of transfer.

II. EFFLUENT LIMITS, MONITORING REQUIREMENTS, & SPECIAL CONDITIONS

A. Effluent Limits

Table 1. Final Effluent Limits		
Parameter	Units	Maximum Daily Limit ⁽¹⁾
Benzene	ug/L	0 ⁽²⁾
Toluene	ug/L	9
Ethylbenzene	ug/L	10
Xylenes, Total	ug/L	100
MTBE	ug/L	3
pH	s.u.	6.0 – 9.0
Oil and Grease	mg/L	4
⁽¹⁾ The maximum value allowed in any single sample ⁽²⁾ Reporting non-detect with analysis that meets the RRV (0.6 ug/L) is considered in compliance with the benzene limit		

B. Self-Monitoring and Reporting Requirements

Monitoring will start with the date of the authorization letter and is required during periods of discharge. All analytical procedures must comply with the specifications of 40 CFR Part 136. All dischargers must submit NetDMR results for each month by the 28th of the following month. Permittees shall monitor the effluent quality at the end of the discharge pipe before it enters state waters. The monitored parameters and frequency requirements are presented in Table 6. If no discharge occurs during the reported period, “no discharge” shall be reported on the NetDMR. The samples collected and analyzed must be representative of the volume and nature of the facility’s discharge. The RRV is DEQ’s best determination of a level of analysis that can be achieved using EPA-approved methods or methods approved by DEQ.

Table 2. Monitoring and Reporting Requirements ⁽¹⁾				
Parameter	Units	Sample Type ⁽²⁾	Minimum Frequency ⁽³⁾	RRV ⁽⁴⁾
Effluent Flow	mgd	Instantaneous	1/Day	--
Benzene	ug/L	Grab	1/Week	0.6
Toluene	ug/L	Grab	1/Week	1.0
Ethylbenzene	ug/L	Grab	1/Week	1.0
Xylenes, Total	ug/L	Grab	1/Week	3.0
MTBE	ug/L	Grab	1/Week	1.0
Oil and Grease ⁽⁵⁾	yes/no	Visual ⁽⁶⁾	1/Day	--
	mg/L	Grab	1/Week	1.0
pH	s.u.	Grab	1/Week	0.1
⁽¹⁾ All parameters must be reported as daily maximum ⁽²⁾ See definition section at the end of permit for explanation of terms ⁽³⁾ Monitoring is required only for any calendar period where there is discharge ⁽⁴⁾ Required Reporting Value. If reporting non-detect, analysis must achieve these, or lower, RRVs ⁽⁵⁾ Use Method 1664A or Method 1664B and specify the SGT-HEM procedure ⁽⁶⁾ If visual monitoring indicates the presence of hydrocarbons, by sheen, odor, or other sign, the permittee is required to take corrective action as specified under the Special Conditions of this permit, including analyzing an additional grab sample under 40 CFR 136.				

C. Special Conditions

Best Management Practices – Discharge flow must not cause erosion to receiving streambeds or banks. If necessary, best management practices (BMPs) such as flow dissipation devices or rip rap must be installed to control erosion. The installation of erosion controls on or near receiving streambeds or banks may require additional permitting or authorization pursuant to local, state, and federal requirements.

Corrective Action – Upon visual observation of an oil sheen or inadequate BMPs leading to erosion, the following steps must be conducted:

- Take a grab sample for analysis if there is an observation of oil and grease.
- Cease discharge until the issue is resolved.
- Conduct a site-wide inspection to observe operating conditions and BMP maintenance.
- Address any failures or inadequate BMPs
- Document the issues in writing to DEQ

III. STANDARD CONDITIONS

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

A. 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; for revocation and reissuance of a confirmation letter; for a modification requirement; or for denial of coverage under the General Permit (new or renewed). The permittee must give DEQ advance notice of any planned changes which may result in permit noncompliance.

B. Penalties for Violations of Permit Conditions

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

The Montana Water Quality Act at MCA 75-5-632 provides that any person who willingly or negligently violates a prohibition or permit condition of the Act is guilty of an offense, and upon conviction, is subject to a fine not to exceed \$25,000 per day of violation or imprisonment for not more than one year, or both, for the first conviction. Following an initial conviction, any subsequent convictions subject a person to a fine of up to \$50,000 per day of violation or by imprisonment for not more than two years, or both.

The Montana Water Quality Act at MCA 75-5-611 provides for administrative penalties not to exceed \$10,000 for each day of violation and up to a maximum not to exceed \$100,000 for any related series of violations. Except as provided in permit conditions "Bypass of Treatment Facilities" and "Upset Conditions," nothing in this permit shall be construed to relieve the permittee of the civil or criminal penalties for noncompliance.

C. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. The reapplication must be submitted at least 30 days before the expiration date of this permit.

D. 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.

E. 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.

F. 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.

G. 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.

H. Property Rights

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

I. Duty to Provide Information

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

J. 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:

1. 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;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and as otherwise authorized by the Montana Water Quality Act, any substances or parameters at any location; and
4. Sample or monitor at reasonable times for the purpose of assuring permit compliance, any substances or parameters at any location.

K. Availability of Reports

Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department. As required by the Clean Water Act, applications, permits and effluent data shall not be considered confidential.

L. Monitoring and Monitoring Reports – Reporting Requirements

The Department may require a permittee to monitor in addition to any conditions in this permit, on a case-by-case basis. If monitoring is required, the Department will specify monitoring requirements to include, and not limited to, storm water sampling, analytical testing, and an evaluation of monitoring results, recording, and reporting. Monitoring results must be reported on a discharge monitoring report (DMR) or as required by the Department. Monitoring results must be reported at the intervals specified.

If the permittee monitors any pollutant more frequently than required, using approved test procedures, the results of this monitoring must be included in the calculation and reporting of data submitted in the DMR. Calculations for all limitations which require averaging of measurements must utilize an arithmetic mean unless otherwise specified by the Department.

M. 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 calibrations 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 Content

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 and Records

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, confirmation letter, or by the Department.

5. Penalties for Falsification and Tampering

The Montana Water Quality Act at MCA 75-5-633 provides that any person who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method, or makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction be punished by a fine of not more than \$25,000 per violation, or by imprisonment for not more than six months per violation, or by both.

N. Signatory Requirement

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

1. All permit notices of intent shall be signed as follows:
 - a. For a corporation: by a principal executive officer or ranking elected official;
 - b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively;
 - c. For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official.
2. All reports required by the permit and other information requested by the Department shall be signed by a person described above or by a duly authorized representative of that person. A person is considered a duly authorized representative only if:
 - a. The authorization is made in writing by a person described above and submitted to the Department; and
 - b. The authorization specified 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 a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or an individual occupying a named position.
3. **Changes to authorization:** If an authorization described above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the above requirements must be submitted to the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.
4. **Certification:** Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

O. 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, activity, or operation. Notice is required only when:

- a. The alteration or addition to the permitted facility, activity, or operation 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 which are not subject to effluent limitations in the permit, nor 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/activity/operation which may result in noncompliance with permit requirements. The permittee shall notify as soon as possible by phone and provide with the following information, in writing, within five (5) days of becoming aware of such condition:

- a. A description of the discharge and cause of noncompliance; and
- b. The period of noncompliance including exact dates and times, or if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate and prevent recurrence of the non-complying discharge.

3. Transfers

This permit is not transferable to any person except after notice to the Department and a transfer fee is paid. The Permit Transfer Notification (PTN) form provided by the Department must be completed and must be received by the Department at least 30 days prior to the anticipated date of transfer. The form must be signed by both the existing owner/operator and the new owner/operator following signatory requirements of **Part III.N** of the General Permit.

4. 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.

5. Twenty-Four Hour Reporting

The permittee shall report any noncompliance which may 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. Any noncompliance which may endanger health or environment;
- b. Any unanticipated bypass which exceeds any effluent limitation in the permit;
- c. Any upset which exceeds any effluent limitation in the permit; or
- d. As applicable, violation of a maximum daily discharge limit of any pollutant listed by the Department in the General Permit or authorization letter [see 40 CFR 122.44(g)].

A written submission must also be provided within five days of the time that the permittee becomes aware of the circumstances. The written submission must 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.

Oral Notification: The report shall be made orally to the Water Protection at (406)444-5546 or the Office of Disaster 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) 444-5546. Written reports shall be submitted to the following address:

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

6. Other Noncompliance

Instances of noncompliance not required to be reported within 24 hours shall be reported as soon as possible. The reports shall contain the information listed above for written submissions under “Twenty-four Hour Reporting” (**Part III.O.5**).

7. 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.

P. Bypass

Intentional diversions of untreated waste streams from any portion of a treatment facility are prohibited unless:

1. the bypass does not cause effluent to exceed effluent limitations and is necessary for essential maintenance to ensure efficient operation; or
2. the bypass is unavoidable to prevent loss of life, personal injury, or severe property damage; or
3. there are no feasible alternatives;
4. and the proper notification is submitted.

Bypass is prohibited and the Department may take enforcement action against a permittee for a bypass. If the permittee knows in advance of the need for anticipated bypass, it shall submit prior notice, if possible, at least ten days before the date of the bypass. The Department may approve an anticipated bypass, after considering its adverse effects.

The permittee shall submit notice of an unanticipated bypass as required under **III.O.5**.

Q. Upset Conditions

An upset may be used as an affirmative defense in actions brought to the permittee for noncompliance with a technology-based effluent limitation. The permittee (who has the burden of proof) must have operational logs or other evidence showing:

1. when the upset occurred and its causes;
2. that the facility was being operated properly;
3. proper notification was made; and
4. remedial measures were taken as required by the duty to mitigate standard condition.

R. 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.

S. Removed Substances

Collected screenings, grit, solids, sludges, or other pollutants removed in the course of treatment shall be disposed of in such a manner so as to prevent any pollutants from entering any waters of the state or creating a health hazard.

T. Oil and Hazardous Substance Liability

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

U. Severability

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

V. Reopener Provisions

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

1. Water Quality Standards: The water quality standards of the receiving water(s) to which the permittee discharges are modified in such a manner as to require different permit conditions than contained in this permit.
2. Water Quality Standards are Exceeded: If it is found that water quality standards or trigger values in the receiving stream are exceeded either for parameters included in the permit or others, the Department may modify the permit conditions or water management plan.
3. TMDL or Wasteload Allocation: TMDL requirements or a wasteload allocation is developed and approved by the Department and/or EPA for incorporation in this permit.
4. Water Quality Management Plan: A revision to the current water quality management plan is approved and adopted which calls for different effluent limitations than contained in this permit.

W. Toxic Pollutants

The permittee shall comply with effluent standards or prohibitions established for toxic pollutants which are present in the discharge, within any specified timeframe within rule or thereof, and even if the General permit or confirmation letter has not yet been modified to incorporate such standard or prohibition for the toxic pollutant.

IV. DEFINITIONS AND ABBREVIATIONS

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

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

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

"CFR" means the Code of Federal Regulations.

"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.

"Daily Maximum Limit" means the maximum 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.

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

"Discharge" means the injection, deposit, dumping, spilling, leaking, placing, or failing to remove any pollutant so that it or any constituent thereof may enter into state waters, including ground water.

"EPA" 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.

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

"Grab Sample" means a sample which 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 Maximum Limit" means the maximum allowable concentration of a pollutant determined from the analysis of any discrete or composite sample collected, independent of the flow rate and the duration of the sampling event.

"Instantaneous Measurement" for monitoring requirements, means a single reading, observation, or measurement.

"Maximum daily discharge limitation" means the highest allowable daily 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. For the purposes of this permit, outfalls are locations where sluice water from the suction dredging operation discharges.

"Owner/operator" means a person who owns, leases, operates, controls, or supervises a point source.

"Permit" means an authorization or license issued by EPA or an "approved state" to implement the requirements of this rule and 40 CFR Parts 123 and 124. "Permit" includes an NPDES general permit (ARM 17.30.1341). Permit does not include any permit that has not yet been the subject of final agency action, such as a "draft permit" or a "proposed permit".

"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.

"Regional Administrator" means the administrator of Region VIII of EPA, which has jurisdiction over federal water pollution control activities in the state of Montana.

"Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

"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" 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.

"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.

"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.

"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.

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

APPENDIX

TABLE II - ORGANIC TOXIC POLLUTANTS IN EACH OF FOUR FRACTIONS IN ANALYSIS BY GAS CHROMATOGRAPHY/MASS SPECTROSCOPY (GS/MS)

Volatiles

1V acrolein
2V acrylonitrile
3V benzene
5V bromoform
6V carbon tetrachloride
7V chlorobenzene
8V chlorodibromomethane
9V chloroethane
10V 2-chloroethylvinyl ether
11V chloroform
12V dichlorobromomethane
14V 1,1-dichloroethane
15V 1,2-dichloroethane
16V 1,1-dichloroethylene
17V 1,2-dichloropropane
18V 1,3-dichloropropylene
19V ethylbenzene
20V methyl bromide
21V methyl chloride
22V methylene chloride
23V 1,1,2,2-tetrachloroethane
24V tetrachloroethylene
25V toluene
26V 1,2-trans-dichloroethylene
27V 1,1,1-trichloroethane
28V 1,1,2-trichloroethane
29V trichloroethylene
31V vinyl chloride

Acid Compounds

1A 2-chlorophenol

2A 2,4-dichlorophenol
3A 2,4-dimethylphenol
4A 4,6-dinitro-o-cresol
5A 2,4-dinitrophenol
6A 2-nitrophenol
7A 4-nitrophenol
8A p-chloro-m-cresol
9A pentachlorophenol
10A phenol
11A 2,4,6-trichlorophenol

Base/Neutral

1B acenaphthene
2B acenaphthylene
3B anthracene
4B benzidine
5B benzo(a)anthracene
6B benzo(a)pyrene
7B 3,4-benzofluoranthene
8B benzo(ghi)perylene
9B benzo(k)fluoranthene
10B bis(2-chloroethoxy)methane
11B bis(2-chloroethyl)ether
12B bis(2-chloroisopropyl)ether
13B bis (2-ethylhexyl)phthalate
14B 4-bromophenyl phenyl ether
15B butylbenzyl phthalate
16B 2-chloronaphthalene
17B 4-chlorophenyl phenyl ether

18B chrysene
19B dibenzo(a,h)anthracene
20B 1,2-dichlorobenzene
21B 1,3-dichlorobenzene
22B 1,4-dichlorobenzene
23B 3,3'-dichlorobenzidine
24B diethyl phthalate
25B dimethyl phthalate
26B di-n-butyl phthalate
27B 2,4-dinitrotoluene
28B 2,6-dinitrotoluene
29B di-n-octyl phthalate
30B 1,2-diphenylhydrazine (as azobenzene)
31B fluoranthene
32B fluorene
33B hexachlorobenzene
34B hexachlorobutadiene
35B hexachlorocyclopentadiene
36B hexachloroethane
37B indeno(1,2,3-cd)pyrene
38B isophorone
39B naphthalene
40B nitrobenzene
41B N-nitrosodimethylamine
42B N-nitrosodi-n-propylamine
43B N-nitrosodiphenylamine
44B phenanthrene
45B pyrene
46B 1,2,4-trichlorobenzene