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## States' Nutrient Management Plans Statutes & Regulations: *Montana*



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A National Agricultural Law Center Research Publication  
States' Nutrient Management Plans Statutes & Regulations:  
Montana

**MT Code § 75-5-801**

**MT Code § 75-5-802**

**MT Admin Rules 17.30.1330**

**MT Admin Rules 17.30.1334**

**MT Admin Rules 17.30.1343**

*The statutes are current through chapters effective February 28, 2019, of the 2019 regular session, 66th Legislature.*

**MT Code § 75-5-801. Definitions.**

For the purposes of this part, the following definitions apply:

(1) "Animal feeding operation" means a lot or facility where the following conditions are met:

(a) animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period; and

(b) crops, vegetation, forage growth, or postharvest residues are not sustained in the normal growing season over any portion of the lot or facility.

(2) "Concentrated animal feeding operation" means an animal feeding operation that is defined as a large concentrated animal feeding operation or as a medium concentrated animal feeding operation or that is designated as a concentrated animal feeding operation in accordance with 40 CFR, part 122. Two or more animal feeding operations under common ownership are considered to be a single animal feeding operation for the purposes of determining the number of animals at an operation if they adjoin each other or if they use a common area or system for the disposal of wastes.

(3) "Large concentrated animal feeding operation" means an animal feeding operation that stables or confines at a minimum:

(a) 700 mature dairy cows, whether milked or dry;

(b) 1,000 veal calves;



- (c) 1,000 cattle other than mature dairy cows or veal calves;
- (d) 2,500 swine each weighing 55 pounds or more;
- (e) 10,000 swine each weighing less than 55 pounds;
- (f) 500 horses;
- (g) 10,000 sheep or lambs;
- (h) 55,000 turkeys;
- (i) 30,000 laying hens or broilers if the animal feeding operation uses a liquid manure-handling system;
- (j) 125,000 chickens, other than laying hens, if the animal feeding operation uses other than a liquid manure-handling system;
- (k) 82,000 laying hens if the animal feeding operation uses other than a liquid manure-handling system;
- (l) 30,000 ducks if the animal feeding operation uses other than a liquid manure-handling system; or
- (m) 5,000 ducks if the animal feeding operation uses a liquid manure-handling system.

(4) "Medium concentrated animal feeding operation" means an animal feeding operation with the type and number of animals that fall within any of the ranges listed in subsection (4)(a) and that has been defined or designated as a concentrated animal feeding operation. An animal feeding operation is defined as a medium concentrated animal feeding operation if:

- (a) the type and number of animals that it stables or confines falls within any of the following ranges:
  - (i) 200-699 mature dairy cows, whether milked or dry;
  - (ii) 300-999 veal calves;
  - (iii) 300-999 cattle other than mature dairy cows or veal calves;
  - (iv) 750-2,499 swine each weighing 55 pounds or more;
  - (v) 3,000-9,999 swine each weighing less than 55 pounds;
  - (vi) 150-499 horses;
  - (vii) 3,000-9,999 sheep or lambs;
  - (viii) 16,500-54,999 turkeys;



(ix) 9,000–29,999 laying hens or broilers if the animal feeding operation uses a liquid manure–handling system;

(x) 37,500–124,999 chickens, other than laying hens, if the animal feeding operation uses other than a liquid manure–handling system;

(xi) 25,000–81,999 laying hens if the animal feeding operation uses other than a liquid manure–handling system;

(xii) 10,000–29,999 ducks if the animal feeding operation uses other than a liquid manure–handling system; or

(xiii) 1,500–4,999 ducks if the animal feeding operation uses a liquid manure–handling system; and

(b) either of the following conditions is met:

(i) pollutants are discharged into waters of the state through a constructed ditch, flushing system, or other similar constructed device; or

(ii) pollutants are discharged directly into waters of the state that originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

### **MT Code § 75-5-802. Permitting – concentrated animal feeding operation.**

(1) For the purpose of permitting concentrated animal feeding operations, the board shall adopt, by reference, the federal regulations and definitions contained in 40 CFR, parts 122.23 and 412.

(2) Subject to the provisions of subsection (3), concentrated animal feeding operations that meet the requirements of 40 CFR, part 412, must be authorized by the department under a general permit.

(3) If, upon review of an application for a general permit authorization for a concentrated animal feeding operation production area, the department discovers site-specific information that indicates that a general permit authorization is not sufficiently protective of water quality, the department shall require an individual permit.

### **MT Admin Rules 17.30.1330. Concentrated Animal Feeding Operations.**

(1) Concentrated animal feeding operations (CAFOs), as defined in 75-5-801, MCA, or designated in accordance with (5) through (7), are point



sources subject to the MPDES requirements as provided in this rule. Once an animal feeding operation is defined as a CAFO for at least one type of animal, the MPDES requirements for CAFOs apply with respect to all animals in confinement at the operation and all manure, litter, and process wastewater generated by those animals or the production of those animals, regardless of the type of animal.

(2) A CAFO must not discharge a pollutant to state surface waters unless the discharge is authorized under an MPDES permit. In order to obtain authorization under an MPDES permit, the CAFO owner or operator must either apply for an individual permit or submit a notice of intent for coverage under a general permit.

(3) An application for an individual permit must include the information specified in ARM 17.30.1322(9). A notice of intent to be covered under a general permit must include the information specified in ARM 17.30.1322(9) and 40 CFR 122.28(b).

(4) CAFOs that meet the requirements of 40 CFR Part 412 must be authorized by the department under a general permit, unless the department discovers site-specific information that indicates a general permit is not sufficiently protective of water quality during its review under (8). If the department determines that a general permit is not sufficient to protect water quality, the department shall require an individual permit for the CAFO.

(5) On a case-by-case basis, the department may designate any animal feeding operation as a concentrated animal feeding operation upon determining that it is a significant contributor of pollution to state waters. In making this designation the department shall consider the following factors:

(a) the size of the animal feeding operation and the amount of wastes reaching state waters;

(b) the location of the animal feeding operation relative to state waters;

(c) the means of conveyance of animal wastes and process waste waters into state waters;

(d) the slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of animal wastes and process waste waters into state waters; and

(e) other relevant factors.

(6) No animal feeding operation with less than the numbers of animals set forth in 40 CFR Part 122.23 may be designated as a CAFO unless:



(a) pollutants are discharged into state waters through a manmade ditch, flushing system, or other similar manmade device; or

(b) pollutants are discharged directly into state waters which originate outside of the facility and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

(7) A permit application is not required from a concentrated animal feeding operation designated under this rule until the department has conducted an on-site inspection of the operation and determined that the operation should and could be regulated under the permit program.

(8) The department shall review notices of intent submitted by CAFO owners for coverage under a general permit according to the procedures in 40 CFR 122.23(h)(1).

(9) The discharge of manure, litter, or process wastewater from a CAFO's land application area to state surface waters is subject to MPDES requirements, except where the discharge is an agricultural storm water discharge, as defined in 40 CFR 122.23(e).

(10) The department adopts and incorporates by reference the following federal regulations, which may be obtained from the Department of Environmental Quality, Water Protection Bureau, P.O. Box 200901, Helena, MT 59620:

(a) 40 CFR 122.23 (except 40 CFR 122.23(d), (f), (g), (i), and (j)) (July 1, 2012), which specifies permit application requirements, definitions, and procedures for issuing individual or general permits to CAFOs.

(b) 40 CFR 122.28(b)(2)(vii) (July 1, 2012), which sets forth informational requirements for notices of intent submitted by CAFOs.

### **MT Admin Rules 17.30.1334. Technical Standards for Concentrated Animal Feeding Operation.**

(1) The owner or operator of a CAFO as defined in ARM 17.30.1330 that is subject to the requirements of 40 CFR 412 Subparts C or D shall develop and implement a nutrient management plan (NMP) in accordance with the requirements of this rule and 40 CFR 122.42(e). The NMP must address the form, source and amount of nutrients, and the timing and method of application for all manure, litter, and other process wastewater that is applied to land under the ownership or operational control of the CAFO.



(2) For purposes of this rule, the following terms have the meaning and interpretations as indicated below and are supplemental to the definitions contained in ARM 17.30.1304:

(a) "expected crop yield" means the estimated crop yield, expressed as bushels per acre or tons per acre, in a future year based on one of the following:

(i) if historic crop yield data are available, the expected crop yield must be based on the average of at least three years of previous crop yield data (past average yield) using the formula: estimated crop yield = 1.05 X past average yield; or

(ii) if historic crop data are unavailable, expected crop yield must be based on realistic yield goals determined from other sources and described in the facility's NMP;

(b) "field" means an area of land that is capable of supporting vegetation and is homogeneous with respect to crop or cover type where manure is to be applied and is under the control of a CAFO owner or operator;

(c) "manure" means manure, litter, or process wastewater, including bedding, compost, and raw materials or other materials comingled with manure or set aside for disposal;

(d) "multiyear phosphorus application" means phosphorus applied to a field in excess of the crop needs for that year;

(e) "Olsen soil test" means the concentration of phosphorus in the soil as determined by the Olsen sodium-bicarbonate extraction in accordance with method code 4D5 in United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS), Soil Survey Laboratory Methods Manual, Soil Survey Investigations Report No. 42, Version 4.0, November 2004;

(f) "process wastewater" means water directly or indirectly used in the operation of a CAFO for any or all of the following:

(i) spillage or overflow from animal or poultry watering systems;

(ii) washing, cleaning, or flushing pens, barns, manure pits, or other CAFO facilities;

(iii) direct contact swimming, washing, or spray cooling of animals;

(iv) dust control; or



(v) any water that comes into contact with any raw materials, products, or byproducts including manure, litter, feed, milk, eggs, or bedding;

(g) "site vulnerability rating" means the narrative description of a field for phosphorus loss as determined by Table 4 (Site/Field Vulnerability to Phosphorus Loss) in United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS), No. 80.1 Nutrient Management, Agronomy Technical Note MT-77 (revision 3), January 2006; and

(h) "total phosphorus index value" means the sum of the weighted risk factors for a field as determined by Table 3 (Phosphorus Index Assessment) in United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS), No. 80.1 Nutrient Management, Agronomy Technical Note MT-77 (revision 3), January 2006.

(3) Except as provided in (10), application rates for manure applied to each field must be determined based on the criteria given in (a) through (c).

(a) The CAFO shall complete a field-specific assessment to determine the appropriate basis (nitrogen- or phosphorus-based) for application of plant nutrients. The field-specific assessment for CAFOs applying manure on fields that are located in a watershed that is listed as impaired for nutrients (total phosphorus or total nitrogen) must follow the method listed in (i). The field-specific assessment for CAFOs applying manure on fields that are not located in a watershed that is listed as impaired for nutrients (total phosphorus or total nitrogen) may follow the procedures in either (i) or (ii).

(i) The field-specific assessment must be based on the phosphorus index assessment method described in United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS), No. 80.1 Nutrient Management, Agronomy Technical Note MT-77 (revision 3), January 2006. The nutrient application basis is determined as follows:

(A) nitrogen-based application, if the site vulnerability rating is low (total phosphorus index value is less than 11);

(B) phosphorus-based, if the site vulnerability rating is medium (total phosphorus index value is between 11 and 21);



(C) phosphorus-based application up to crop removal, if the site vulnerability rating is high (total phosphorus index value is between 22 and 43); or

(D) no application, if the site vulnerability rating is rated as very high (total phosphorus index value is greater than 43).

(ii) The field-specific assessment must be based on a representative soil sample, as described in (5), using the Olsen soil test method. The nutrient application basis is determined as follows:

(A) nitrogen-based application, if the Olsen phosphorus soil test is less than 25 mg/L;

(B) phosphorus-based application, if the Olsen phosphorus soil test is greater than 25.1 mg/L and less than 100 mg/L;

(C) phosphorus-based up to crop removal, if the Olsen phosphorus soil test is greater than 100.1 mg/L and less than 150.0 mg/L;

(D) no application, if the Olsen phosphorus soil test is greater than 150 mg/L.

(b) The CAFO shall complete a nutrient need analysis for each crop to determine the acceptable amounts of nitrogen and phosphorus to be applied to the field based on the appropriate basis (nitrogen- or phosphorus-based application) as determined in (a). The nutrient needs must be determined based on Montana State University Extension Service Publication 161, Fertilizer Guidelines for Montana Crops or other relevant sources. For crops not listed in Bulletin 161, the department may approve a fertilizer application rate provided by the local county extension service or other qualified source. The CAFO must identify the source of the nutrient needs analysis in the nutrient management plan.

(c) The CAFO shall complete a nutrient budget based on the nutrient needs of the crop as determined in (b) that accounts for all sources of nutrients available to the crop. Other sources that must be addressed where applicable include those in (i) through (vi).

(i) The nitrogen needs determined in (b) must be reduced based on nitrogen fixation credits if a legume crop was grown in the field in the previous year. Nitrogen reduction for annual legume crops is ten pounds per acre and for perennial legumes is 50 pounds per acre, unless appropriate justification is given



showing a lower rate is appropriate, but not less than 35 pounds per acre for all perennial legumes except black medic and annual sweet clover, for which the rate is not less than 15 pounds per acre, and lentils and chick peas, for which the rate is not less than 30 pounds per acre.

(ii) The nitrogen needs determined in (b) must be reduced based on nitrogen residuals from past manure applications based on nitrogen mineralization rates given in Schedule I.

#### Schedule I. Nitrogen Mineralization Rates

Type of Wastes	First Year <sup>(1)</sup>	Second Year
Fresh poultry manure	0.90	0.02
Fresh swine manure	0.75	0.04
Fresh cattle manure	0.70	0.04
Fresh sheep and horse manure	0.60	0.06
Liquid manure, covered tank	0.65	0.05
Liquid manure, storage pond	0.65	0.05
Solid manure, stack	0.60	0.06
Solid manure, open pit	0.55	0.05
Manure pack, roofed	0.50	0.05
Manure pack, open feedlot	0.45	0.05
Storage pond effluent	0.40	0.06
Oxidation ditch effluent	0.40	0.06



Aerobic lagoon effluent	0.40	0.06
Anaerobic lagoon effluent	0.30	0.06

<sup>(1)</sup> If irrigated, reduce first year mineralization by 0.05.

(iii) The nitrogen needs determined in (b) must be reduced based on any nutrients provided by commercial fertilizer, irrigation water, or other sources. The CAFO shall provide the basis for the nutrients adjustments on the NMP.

(iv) Nitrogen availability may be adjusted to reflect the method of application given in Schedule II. For phosphorus-based application, the nitrogen availability is 1.0.

#### Schedule II. Nitrogen Availability and Loss by Method of Application

Application Method	Loss Factor
Injection (sweep)	0.90
Injection (knife)	0.95
Broadcast (incorporated within 12 hours)	0.7
Broadcast (incorporated after 12 hours but before four days)	0.6
Broadcast (incorporated after four days)	0.5
Sprinkling	0.75



(v) The nutrient budget must be completed on forms provided by the department.

(vi) If after the first three years of implementing the NMP the yield does not average at least 80 percent of the planned expected crop yield, the NMP must be amended to be consistent with the documented yield levels unless sufficient justification for the use of the higher yield is approved by the department. The amendment must be submitted as an amendment in accordance with ARM 17.30.1365.

(4) Manure that is land applied must be sampled at least once per year and analyzed for total nitrogen (as N), ammonium nitrogen (as  $\text{NH}_4\text{-N}$ ), total phosphorus (as  $\text{P}_2\text{O}_5$ ), total potassium (as  $\text{K}_2\text{O}$ ), and percent dry matter solids). Except for percent dry matter, the results of this analysis must be expressed as pounds per 1,000 gals for liquid wastes and pounds per ton for solid manure. The sample must be representative of the manure that is to be applied to a field and must be collected and analyzed in accordance with (a) and (b).

(a) Solid manure must be sampled from at least ten different locations (subsamples) within the material to be applied from a depth of at least 18 inches below the surface. Subsamples must be thoroughly mixed in a clean receptacle and a sample of the mixed material must be collected and placed in a sealable plastic bag or other sample container approved by the analytical laboratory. The sample must be identified with the name, source, and date. The sample must be cooled to four degrees centigrade and analyzed within seven days or frozen at minus 18 degrees centigrade for up to six months or as directed by the analytical laboratory specified in (6).

(b) Liquid manure must be agitated for a minimum of four hours prior to sample collection or until thoroughly mixed. A minimum of five one-quart subsamples must be collected from different locations in the storage facility. The subsamples must be collected from the liquid manure at a depth of least 12 inches below the surface. The subsamples must be combined into a single container and thoroughly mixed. A sample for laboratory analysis must be collected from the composited subsamples and placed into a clean one-quart plastic bottle or other sample container approved by the analytical laboratory. The sample must be identified with the name, source, and date. The sample container must not be completely filled. The sample must be cooled to four degrees centigrade and analyzed within seven days,



or frozen at minus 18 degrees centigrade for up to six months or as directed by the analytical laboratory specified in (6).

(5) Each field where manure is to be land applied must be sampled at least once every five years in accordance with the procedure given in (a) through (d).

(a) A minimum of ten individual core samples must be composited to formulate a composite sample for the field. Core sampling in fields with significant landscape variation, including soil type, slope, degree of erosion, drainage, historic usage, or other factors, must be collected from each unit in proportion to the relative abundance in terms of total area. Uniform fields may be sampled in a simple random, stratified random, or systematic pattern following the guidance sources listed below. Individual core samples must be composited and thoroughly mixed in a clean plastic container except that core samples collected at different depths must be kept separate. Alternative soil sampling procedures are given in the following:

(i) United States Department of Agriculture (USDA), Natural Resource Conservation Service (NRCS), Sampling Soils for Nutrient Management - Manure Resource Series, MT, April 2007; and

(ii) Montana State University Extension, MontGuide, Interpretation of Soil Test Reports for Agriculture, MT200702AG, July 2007.

(b) The composite soil sample for phosphorus analysis must be collected from a depth of zero to six inches below the surface and analyzed for phosphorus using the Olsen soil test method. Results must be reported as mg/kg phosphorus and pounds per acre.

(c) Composite soil samples for nitrogen analysis must be collected from a depth of zero to six inches below the surface and analyzed for total nitrogen (as N) and nitrate (as N). A second composite sample must be collected at a depth of six to 24 inches and analyzed for nitrate (as N) only. Samples must be analyzed in accordance with method code 4H2a1-3 in United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS), Soil Survey Laboratory Methods Manual, Soil Survey Investigations Report No. 42, Version 4.0, November 2004. Results must be reported as mg/kg total nitrogen and pounds per acre.

(6) Analytical laboratories approved for manure and soil testing are given in Montana State University Extension Service Publication 4449-1, Soil Sampling and Laboratory Selection, June 2005.



(7) Manure must be applied to fields at times and under conditions that will hold the nutrients in place for crop growth and protect surface and ground water using best management practices described in the nutrient management plan. The intended target spreading dates must be included in the NMP. Manure must not be land-applied under the following conditions:

- (a) on land that is flooded or saturated with water;
- (b) during or within 36 hours of a rainfall event that exceeds four hours in duration or 0.25 inches or more of precipitation; or
- (c) to frozen or snow-covered ground (winter application), except for fields meeting the following criteria:
  - (i) the application area must be at least 300 feet from lakes, streams, intermittent streams, irrigation canals and ditches, open intake structures, property lines, and road right-of-ways;
  - (ii) permanent vegetative cover or standing stubble with crop residue greater than 50 percent; and
  - (iii) land slope of the field must not exceed the following criteria:
    - (A) six percent for application of solid manure (total solids content greater than 15 percent); or
    - (B) three percent for application of slurry or liquid waste (total solids content of 15 percent or less).

(8) If winter application is proposed, the CAFO must identify fields suitable for winter application in the nutrient management plan and application rates for manure must not exceed those identified in the nutrient budget as determined in (3)(c).

(9) Manure application rates and procedures must be consistent with the capabilities, including capacity and calibration range, of application equipment.

(a) For an existing CAFO, the NMP must include a statement indicating that the existing equipment has been calibrated to ensure delivery of the application rates described in the plan and has the capacity to meet those rates. The CAFO shall maintain the supporting documentation on site and shall make this information available to the department upon request.

(b) For proposed operations, or when it is not feasible to calibrate the equipment or verify its capacity at planning time, the operator shall perform this application equipment verification prior to the



first application of manure. The information required in (a) must be maintained on site and incorporated into any subsequent amendment of the NMP. The CAFO shall maintain the supporting documentation on site and shall make this information available to the department upon request.

(c) If a commercial hauler is used, the hauler shall be responsible for ensuring that the equipment is capable of complying with the application rate in the NMP. The CAFO shall maintain the supporting documentation on site and shall make this information available to the department upon request.

(10) A multiyear phosphorus application is allowed for fields that require a nitrogen-based application based on a site-specific assessment (site vulnerability rating less than 22) as described in (3). When such application is made, the following conditions apply:

(a) the application may not exceed the recommended nitrogen application rate during the years of application which may include a calculation for fertilizer inefficiencies or the estimated nitrogen removal in harvested plant biomass during the year of application when there is no recommended nitrogen application;

(b) conservation practices must be included in the NMP and implemented to minimize the risk of phosphorus loss from the field; and

(c) no additional manure may be applied to the field until the phosphorus applied in the single application has been removed through plant harvest.

(11) As an alternative to the manure application rates based on the criteria given in (3), the CAFO may develop application rates for manure based on United States Department of Agriculture (USDA), Natural Resource Conservation Service (NRCS), Conservation Practice Standard, Code 590 (November 2006), provided that the following conditions are met:

(a) a field-specific assessment of the potential for nitrogen and phosphorus transport from the field to surface waters must be conducted;

(b) the form, source, amount, timing, and method of application of manure and any other nutrients to each field must be based on realistic production goals, and minimizing nitrogen and phosphorus movement to surface water must be addressed;



- (c) the appropriate flexibilities for the CAFO must be maintained to implement a multiyear phosphorus application as described in (9);
- (d) manure must be sampled a minimum of once annually for nitrogen and phosphorus and must be analyzed based on procedures and methods given in (4) and (5);
- (e) soil must be analyzed a minimum of once every three years for phosphorus content;
- (f) the results of the manure and soil sampling analysis must be used in determining manure application rates; and
- (g) the nutrient budget must be completed on forms provided by the department.

(12) The department adopts and incorporates by reference the following, which may be obtained from the Department of Environmental Quality, Water Protection Bureau, P.O. Box 200901, Helena, MT 59620-0901, or on the department's web site at <http://deq.mt.gov/default.mcp.x>.

- (a) United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS), No. 80.1 Nutrient Management Agronomy Technical Note MT-77 (revision 3), (January 2006);
- (b) United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS), Method 4D5 (Olsen Sodium-Bicarbonate Extraction), Soil Survey Laboratory Methods Manual, Soil Survey Investigations Report No. 42, Version 4.0, (November 2004);
- (c) United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS), Sampling Soils for Nutrient Management - Manure Resource Series, MT, (April 2007);
- (d) Montana State University Extension, MontGuide, Interpretation of Soil Test Reports for Agriculture, MT200702AG, (July 2007);
- (e) Montana State University Extension Service Publication 4449-1, Soil Sampling and Laboratory Selection, (June 2005); and
- (f) United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS), Conservation Practice Standard, Nutrient Management, Code 590, (November 2006).

(13) CAFO sewage lagoons must meet the setbacks established in ARM 17.30.1702.



## **MT Admin Rules 17.30.1343. Additional Conditions Applicable to Specific Categories of MPDES Permits.**

(1) The following conditions, in addition to those set forth in ARM 17.30.1342, apply to all MPDES permits within the categories specified below:

(a) All existing manufacturing, commercial, mining, and silvicultural dischargers, in addition to the reporting requirements under ARM 17.30.1342(12), shall notify the department as soon as they know or have reason to believe:

(i) That any activity has occurred or will occur which would result in the discharge on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

(A) 100 micrograms per liter;

(B) 200 micrograms per liter for acrolein and acrylonitrile; 500 micrograms per liter for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter for antimony;

(C) five times the maximum concentration value reported for that pollutant in the permit application in accordance with ARM 17.30.1322(7) (g); or

(D) the level established by the department in accordance with ARM 17.30.1344(6) .

(ii) That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

(A) 500 micrograms per liter;

(B) one milligram per liter for antimony;

(C) 10 times the maximum concentration value reported for that pollutant in the permit application in accordance with ARM 17.30.1322(7) (g); or

(D) the level established by the department in ARM 17.30.1344, in accordance with 40 CFR 122.44(f).



(b) All POTW's shall provide adequate notice to the department of the following:

(i) any new introduction of pollutants into the POTW from an indirect discharger which would be subject to the effluent limits or standards of performance adopted and set forth in ARM 17.30.302 if it were directly discharging those pollutants; and

(ii) any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.

(iii) For purposes of this rule, adequate notice must include information on:

(A) the quality and quantity of effluent introduced into the POTW; and

(B) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

(c) Any permit issued to a concentrated animal feeding operation (CAFO) must include the requirements specified in 40 CFR 122.42(e). In general, the requirements in that federal regulation include:

(i) a requirement to implement a nutrient management plan that contains best management practices necessary to meet the requirements of 40 CFR 122.42(e)(1) and any applicable effluent limitations in 40 CFR Part 412 ;

(ii) recordkeeping and reporting requirements;

(iii) requirements relating to the transfer of manure or process wastewater to other persons;

(iv) a requirement to include specific terms in the nutrient management plan and a duty to comply with those terms; and

(v) requirements relating to changes in a nutrient management plan.

(2) The department adopts and incorporates by reference the following federal regulations, which may be obtained from the Department of Environmental Quality, Water Protection Bureau, P.O. Box 200901, Helena, MT 59620-0901:

(a) 40 CFR 122.44(f) (July 1, 2012), which sets forth "notification levels" for dischargers of pollutants that may be inserted in a



permit upon a petition from the permittee or upon the initiative of the department;

(b) 40 CFR Part 412 (July 1, 2012), which establishes the effluent limitation guidelines and best management practices for CAFOs; and

(c) 40 CFR 122.42(e) (July 1, 2012), which establishes additional permit conditions for CAFOs.

