

## EXHIBIT B

### PART 651 - AGRICULTURAL WASTE MANAGEMENT FIELD HANDBOOK

#### Chapter 1 - Laws and Regulations

#### SOURCE: MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY

#### SUMMARY OF REGULATIONS FOR CONCENTRATED ANIMAL FEEDING OPERATIONS

##### Introduction

Confined livestock can be a source of pollutants to state waters and are, therefore, subject to the provisions of Montana's water quality law. Pollution of surface and ground water is prohibited and permits are required for discharges containing pollutants. This chapter describes the legal provisions that apply to the effects of livestock production on water quality and describes the process for determining which operations require permits.

##### The Montana Water Quality Act

Discharges of pollutants to state waters are governed by The Montana Water Quality Act (75-5-101 et seq. MCA). Section 605 of the Act states that it is unlawful to cause pollution of any state waters or to place wastes in a location where they will cause pollution (75-5-605 (1)(a) MCA). It is also unlawful to discharge sewage, industrial waste, or other wastes into any state waters without a current permit from the Department of Environmental Quality (DEQ) (75-5-605 (2)(c) MCA).

State waters are defined as a body of water, irrigation system, or drainage system, either surface or underground (75-5-103(25) MCA). Surface waters that flow periodically in ephemeral and intermittent channels are state waters. The definition excludes non-discharging, waste containment or treatment ponds and irrigation or land application systems having no return flow to state waters. The term "state waters" serves only to identify what is protected under the law. The term conveys no right of ownership.

Livestock owners can assess their operations by asking, "**Do waterborne wastes discharge, or have the potential to discharge, from my operation into any state waters?**" If the answer is "no", there is no violation or permit requirement. If the answer is "yes", the owner may be in violation. Compliance may only require minor changes to completely isolate wastes from state waters and avoid a permit requirement. Permits are only required for animal feeding operations that actually or potentially discharge. Animal feeding operations located near surface water and over shallow ground water are most likely to require permits.

##### The Permit Program

The DEQ administers the Montana Pollutant Discharge Elimination System (MPDES) permit program. The MPDES program includes a discharge permit for animal feeding operations. An animal feeding operation has **both** of the following conditions:

1. Animals are stabled, confined, and fed or maintained for a total of **45 days or more** in any 12-month period;

## PART 651 - AGRICULTURAL WASTE MANAGEMENT FIELD HANDBOOK

2. Crops, vegetation forage growth, or post-harvest residues are **not sustained** in the normal growing season over any portion of the facility.

**Animal feeding operations that discharge or have the potential to discharge storm water or process wastewater to any state waters are defined as Concentrated Animal Feeding Operations (CAFO) and must obtain a discharge permit from DEQ.**

A CAFO is defined in the Federal Code of Regulations (CFR 40, Part 122, Appendix B) as an animal feeding operation that:

1. contains more than 1,000 animal units;
2. contains between 301 and 1,000 animal units and a discharge occurs through a man-made conveyance; or pollutants are discharged directly into state waters which originate outside of the facility and pass over, across, or through the facility;
3. or, is **designated as a CAFO by DEQ.**

An "Animal unit" is calculated by adding the numbers of:

1. slaughter and feeder cattle multiplied by 1.0,
2. mature dairy cattle multiplied by 1.4;
3. swine, weighing 55 pounds or more, multiplied by 0.4
4. sheep multiplied by 0.1;
5. horses multiplied by 2.0.

The DEQ must conduct a site inspection prior designating an operation with less than 301 animal units as a CAFO and requiring a permit [ARM 17.30.1330(5)]. Details regarding size, runoff volume, distance to surface or ground water, slope and ground cover conditions must be considered by DEQ in assessing the likelihood and frequency of a discharge and making a case-by-case designation. Other relevant factors may include proximity to public water supplies, or public complaints.

### **Discharge Limits and Performance Standards of the Permit**

The 2008 General Permit places limits on discharges to surface and ground water. A discharge is allowable only when precipitation causes an overflow from a facility **designed, constructed, and operated to contain all process generated wastewaters plus the runoff from a 25-year, 24-hour rainfall.** A 25-year, 24-hour storm refers to the number of inches of rainfall in a 24-hour period that is expected to occur once in 25 years.

Rainfall from the 25-year, 24-hour storm has been mapped within Montana; the amount ranges between 2.5 and 3.5 inches. A permitted CAFO that discharges due to rainfall less than the 25-year, 24-hour storm is in violation. Discharges from a permitted CAFO that result from rainfall greater than the 25-year, 24-hour storm are not violations. **Without a permit, all discharges of wastes to state waters are violation of the Montana Water Quality Act.**

## **EXHIBIT B**

A discharge of pollutants to state **ground waters** may only occur when seepage or leachate from a CAFO, combined with the volume of ground water beneath the source, results in a ground water nitrate nitrogen concentration of less than 7.5 milligrams per liter. Ground water contamination from animal feeding operation most often results from leaking storage ponds and surface accumulations of solid manure, and confined animals on coarse-textured soil over shallow ground water.

The CAFO permit contains performance standards specifying that land application rates of solid manure, liquid manure or other solid or liquid wastes, not exceed annual crop requirements for nutrients. All facilities used for the collection, storage or treatment of manure, bedding materials, feeds and other substances having a waste contributing potential must be managed to prevent any pollutant from entering state waters. All wastes from dipping vats, pest and parasite control units and other facilities utilized for the application of hazardous or toxic chemicals must be handled and disposed of in a manner that prevents any pollutant from entering state waters.

Questions pertaining to the CAFO permitting process can be obtained by contacting the DEQ.

## **PART 651 - AGRICULTURAL WASTE MANAGEMENT FIELD HANDBOOK**

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