GENERAL PERMIT
FOR
STORM WATER DISCHARGE ASSOCIATED WITH SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4)

PERMIT NUMBER MTR040000

MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY

AUTHORIZATION TO DISCHARGE UNDER THE MONTANA POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with Section 75-5-101 *et seq.*, Montana Code Annotated (MCA); Administrative Rules of Montana (ARM) 17.30.1101; 17.30.1301 *et seq.*; and ARM 17.30.601 *et seq.*, applicants with an authorization letter issued under this *General Permit for Storm Water Discharge Associated with Small Municipal Separate Storm Sewer System (MS4)* are permitted to discharge storm water resulting only from Small MS4s to state waters in accordance with effluent limitations, monitoring requirements, and other conditions set forth in Parts I, II, III, IV, V, and VI.

This Permit shall become effective January 1, 2015.

This Permit and the authorization to discharge shall expire at midnight, December 31, 2016.

FOR THE MONTANA DEPARTMENT
OF ENVIRONMENTAL QUALITY

Jon Kenning, Chief
Water Protection Bureau
Permitting and Compliance Division

Issuance Date: December 31, 2014

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APPLICABILITY

The Montana Pollutant Discharge Elimination System (MPDES) General Permit MTR040000 is a General Permit for storm water discharges associated with Small Municipal Separate Storm Sewer Systems (MS4s). Pursuant to 75-5-402, Montana Code Annotated (MCA) and requirements found in Administrative Rules of Montana (ARM), Title 17, Chapter 30, Subchapters 11, 12, and 13, the Department regulates storm water discharges from Small MS4s. To elaborate, ARM 17.30.1103(1)(d) requires MPDES permit coverage for Small MS4s that are identified in ARM 17.30.1102(23) or designated pursuant to ARM 17.30.1105. Regulated Small MS4s are required to apply for, and obtain, authorization for the discharge of storm water into state waters. This permit does not authorize, or supersede permitting requirements for, "storm water discharge associated with construction activity" as defined in ARM 17.30.1102(28), "storm water discharge associated with industrial activity" as defined in ARM 17.30.1102(29), "storm water discharge associated with mining and oil and gas activity" as defined in ARM 17.30.1102(30), or storm water discharges required or covered under another MPDES permit.

PART I. EFFLUENT LIMITATIONS

Effective immediately upon issuance of an authorization under this General Permit and lasting through the General Permit's expiration date, the following conditions apply to all Small MS4s covered under this General Permit. There must be no discharge of pollutants via storm water runoff to state waters except as provided for below.

A. **No discharge of storm water containing pollutants from process wastewater streams may occur under this General Permit.**

B. **No discharge of storm water containing pollutants from Small MS4s covered under this General Permit may cause or contribute to a violation of water quality standards.**

C. **Discharges of storm water containing pollutants associated with Small MS4s covered under this General Permit will be controlled through the development, implementation, and enforcement of a Storm Water Management Program (SWMP). Management practices defined within the SWMP must help eliminate or minimize the discharge of pollutants to state waters.**

D. **For regulated Small MS4s which have been designated through ARM 17.30.1102(23) and had initial authorization under the preceding January 1, 2005 to December 31, 2009 *General Permit for Storm Water Discharge Associated with Small Municipal Separate Storm Sewer System (MS4)*, the permittee was required to develop, implement, and enforce a SWMP, as stated in Part II of that General Permit, no later than the December 31, 2009 expiration date. This requirement is still valid and binding under this reissued January 1, 2015 to December 31, 2016 *General Permit for Storm Water Discharge Associated with Small Municipal Separate Storm Sewer System (MS4)*.**

E. **For any regulated Small MS4s which have been designated through ARM 17.30.1102(23) and have never been authorized, the permittee must develop, implement, and enforce a SWMP, as stated in Part II of the General Permit, no later than the expiration date of this permit.**

PART II. STORM WATER MANAGEMENT PROGRAM (SWMP)

A. Requirements

1. Permittees shall develop, implement, and enforce a Storm Water Management Program (SWMP) designed to reduce the discharge of pollutants from the permitted Small MS4 to the maximum extent practicable (MEP), to protect water quality, and to satisfy the appropriate water quality requirements of the Montana Water Quality Act. Implementation of Best Management Practices (BMPs) consistent with the provisions of the SWMP and the requirements in this General Permit shall constitute compliance with the requirement of reducing pollutants to the MEP. The SWMP must include management practices, control techniques, systems, designs, good standard engineering practices, and such other provisions necessary for the control of such pollutants. Application for a new Small MS4 authorization (never been authorized) under the General Permit requires the following information for each of the six minimum control measures described in Part II.B.:

   a. The BMPs that the permittee or another entity will implement for each of the six storm water minimum control measures;

   b. The measurable goals for each of the BMPs including, as appropriate, the months and years in which the permittee will undertake required actions, including interim milestones and the frequency of the action; and

   c. The person or persons (or position(s)) responsible for implementing or coordinating the BMPs for the SWMP.

   Another type of Application Form is used for the "reapplication" (renewal of authorizations) under subsequent General Permits, and is slightly different than the original Application Form in that it does not typically include a resubmittal of the items in Parts II.A.1.a., b., and c. above. For "reapplications", the Application Form and instructions state required inclusions. Both the new application and reapplication forms are available at http://deq.mt.gov/wqinfo/MPDES/StormWater/ms4.mcpx.

   Permittees can refer to the Department website for a link to EPA's Menu of BMPs for use in the development and implementation of the SWMP. Additionally, permittees can refer to EPA's January 2007 "MS4 Program Evaluation Guidance" for typical compliance expectations for the SWMP.

   The Department encourages permittees to utilize the vast amount of guidance developed by the EPA and others around the country with respect to BMPs. In Montana, due to numerous factors (the amount of information available nationally and from EPA, the geographic variability, the climate variability, the geology and topography variability, a relatively low population, a relatively low amount of industrial activity, a relatively low amount of permitted MS4s and respective drainage areas, a relatively low amount of significant historical storm water-related pollution problems, a relatively low amount of

precipitation, and to promote flexibility for new technologies, new ideas, and local input) the Department does not utilize a customized Montana-specific storm water BMP manual at this time. Similarly, the Department has no list of approved BMPs specific to Montana at this time.

Permittees can also look up information about various MPDES permits in their area, including Department-issued storm water construction, industrial, and mining permit authorizations by referencing the EPA "ECHO" website, which as of the issuance of this General Permit, may be found at http://www.epa-echo.gov/echo/compliance_report_water_icp.html

Small MS4 permitting information, forms, and links may be accessed through the Department's internet homepage: http://www.deq.mt.gov

2. In addition to the requirements listed above, the permittee shall maintain documentation describing how and why each of the BMPs and measurable goals for the SWMP was selected. The information required for such documentation is given in Part II.B. for each minimum control measure.

B. Minimum Control Measures

The six minimum control measures that must be included in the Storm Water Management Program are:

1. Public Education and Outreach on Storm Water Impacts

a. The permittee shall implement a public education program to distribute educational materials to the community or conduct equivalent outreach activities about the impacts of storm water discharges on waterbodies and the steps that the public can take to reduce pollutants in storm water runoff.

b. The permittee shall maintain documentation with respect to the development of a storm water public education and outreach program. This documentation must address both the overall public education program and the individual BMPs, measurable goals and responsible persons/positions for the program. This documentation must include the following information, at a minimum:

i. Identify how the permittee plans to inform individuals and households about the steps they can take to reduce storm water pollution.

ii. Identify how the permittee plans to inform individuals and groups on how to become involved with the SWMP (with activities such as local stream and beach restoration activities).

iii. Identify the target audiences for the education program which are likely to have significant storm water impacts (including commercial, industrial, and institutional entities) and why those target audiences were selected.

iv. Identify the target pollutant sources the public education program is designed to address.

v. Identify the outreach strategy, including the mechanisms (e.g., printed brochures, newspapers, media, workshops, etc.) to be used to reach the target audiences, and how many people are expected to be reached by the outreach strategy over the General Permit term.

vi. Identify who is responsible for overall management and implementation of the storm water public education and outreach program and, if different, who is responsible for each of the BMPs identified for this program.

vii. Identify how the success of this minimum control measure will be evaluated, including how the measurable goals for each of the BMPs were selected.

2. Public Involvement/Participation

a. The permittee shall at a minimum, comply with State, Tribal, and local public notice requirements when implementing a public involvement/participation program.

b. The permittee shall maintain documentation with respect to the development of a storm water public involvement/participation program. This documentation must address both the overall public involvement/participation program and the individual BMPs, measurable goals, and responsible persons/positions for this program. This documentation must include the following information, at a minimum:

i. Identify how the public was involved in the development and submittal of the permit application and the SWMP.

ii. Identify plans to actively involve the public in the development and implementation of the SWMP.

iii. Identify the target audiences for the public involvement program, including a description of the types of ethnic and economic groups engaged. The permittee is encouraged to actively involve all potentially affected stakeholder groups, including commercial and industrial businesses, trade associations, environmental groups, homeowners associations, and educational organizations, among others.

iv. Identify the types of public involvement activities included in this program. Where appropriate, consider the following types of public involvement activities:

(a) Citizen representatives on a storm water management panel;

(b) Public hearings;

(c) Working with citizen volunteers willing to educate others about the program; and

(d) Volunteer monitoring or stream/beach clean-up activities.

v. Identify who is responsible for the overall management and implementation of the storm water public involvement/participation program and, if different, who is responsible for each of the BMPs identified for this program.

vi. Identify how the success of this minimum control measure will be evaluated, including how the measurable goals for each of the BMPs were selected.

3. Illicit Discharge Detection and Elimination (IDDE)

a. The permittee shall:

i. Develop, implement and enforce a program to detect and eliminate illicit discharges (as defined in ARM 17.30.1102(7)) into the permitted Small MS4;

ii. Develop, and keep updated, a storm sewer system map, showing the location and number of all outfalls (as defined in ARM 17.30.1102(14) and Part VI. of this General Permit), and the names and location of all surface waters that receive discharges from those outfalls. Development of this map to accommodate the provisions of a complete IDDE program and the SWMP would typically include mapping storm sewer system components including inlets, open channels, subsurface conduits/pipes, dry wells (discharges to ground water directly), and other similar discrete conveyances. The permittee must provide a copy of the developed map(s) or any updates to the Department with the next annual report required under Part IV.I.;

NOTE: To differentiate between the terms "municipal separate storm sewer" and "surface water", and only for the purposes of determining "outfall" locations with respect to Part II.B.3. of this General Permit, the Department provides the following clarification. If the ephemeral stream (drainage) has been used (altered, constructed, depended upon, maintained, etc.) to manage rainfall or snowmelt storm water runoff from any areas developed for any purpose, then consider it part of the "municipal separate storm sewer". Also, natural ephemeral streams which drain into the aforementioned storm water conveyances in the preceding sentence would also need to be considered part of the "municipal separate storm sewer". Other natural and unaltered ephemeral streams which do not drain from any areas developed for any purpose, and which drain directly into downgradient intermittent (has a ground water component) surface waters or into perennial surface waters would not be considered a part of the "municipal separate storm sewer". Of course, downgradient intermittent and perennial surface waters are not considered a part of the "municipal separate storm sewer" for the purposes of determining "outfall" locations. Consequently, formal "outfall" locations would then be where "municipal separate storm sewer" components discharge into downgradient perennial waterbodies, intermittent waterbodies, or natural and unaltered ephemeral streams which do not drain from any areas developed for any purpose.

Another helpful consideration is that natural or manmade conveyance structures used solely for transporting storm water which originates within the designated MS4 are not "surface water". An outfall is the physical location where these conveyance structures discharge pollutants or storm water into surface water or where they leave the boundary of the designated MS4.

iii. To the extent allowable under State, Tribal or local law, effectively prohibit, through ordinance, or other regulatory mechanism, non-storm water discharges (except those listed under Part II.B.3.a.vi. below) into the permitted storm sewer system and implement appropriate enforcement procedures and actions;

iv. Develop and implement a plan to detect and address non-storm water discharges, including illegal dumping, to the permitted system;

v. Inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste; and

vi. Address the following categories of non-storm water discharges or flows (i.e., illicit discharges) only if the permittee identifies them as significant contributors of pollutants to the Small MS4: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as defined in ARM 17.30.1102(8)), uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water (discharges or flows from fire fighting activities are excluded from the effective prohibition against non-storm water and need only be addressed where they are identified as significant sources of pollutants to state waters).

vii. The permittee may also develop a list of other similar occasional incidental non-storm water discharges (e.g. non-commercial or charity car washes, etc.) that will not be addressed as illicit discharges. These non-storm water discharges must not be reasonably expected (based on information available to the permittee) to be significant sources of pollutants to the Small MS4, because of either the nature of the discharges or conditions the permittee established for allowing these discharges to the Small MS4 (e.g., a charity car wash with appropriate controls on frequency, proximity to sensitive waterbodies, BMPs for the wash water, etc.). The permittee must document, as a part of the SWMP, any local controls or conditions placed on these discharges. The permittee must include a provision prohibiting any individual non-storm water discharge that is determined to be contributing significant amounts of pollutants to the Small MS4.

b. The permittee shall maintain documentation with respect to the development of a storm water IDDE program. This documentation must address both the overall IDDE program and the individual BMPs, measurable goals, and responsible persons/positions for this program. This documentation must include the following information, at a minimum:

i. Identify how a storm sewer map was developed. Describe the sources of information used for the maps, and how verifying the outfall locations and storm sewer system components with field surveys was performed. Also, describe how the map will be regularly updated.

ii. Identify the mechanism (ordinance or other regulatory mechanism) used to effectively prohibit illicit discharges into the Small MS4 and why that mechanism was chosen.

iii. Identify the appropriate enforcement procedures and actions which are used to ensure the illicit discharge ordinance (or other regulatory mechanism) is implemented.

iv. Identify the plan to detect and address illicit discharges to the system, including discharges from illegal dumping and spills. This plan must include documented procedures for screening outfalls, including frequency. The plan must include dry weather field screening for non-storm water flows and field tests of selected chemical parameters as indicators of discharge sources. The plan must also address on-site sewage disposal systems that flow into the storm drainage system. The description must address the following, at a minimum:

(a) Procedures for locating priority areas which include areas with higher likelihood of illicit connections (e.g., areas with older sanitary sewer lines, for example) and/or ambient sampling to locate impacted reaches.

(b) Procedures for tracing the source of an illicit discharge, including the specific techniques the permittee will use to detect the location of the source.

(c) Procedures for removing the source of the illicit discharge.

(d) Procedures for program evaluation and assessment.

v. Identify the plan to inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste. Include in this description how this plan will coordinate with the public education minimum control measure and the pollution prevention/good housekeeping minimum control measure programs. This plan must identify measures to train pertinent municipal employees on the illicit discharge program.

vi. Identify who is responsible for overall management and implementation of the storm water illicit discharge detection and elimination program and, if different, who is responsible for each of the BMPs identified for this program.

vii. Identify how the success of this minimum control measure will be evaluated, including how the measurable goals for each of the BMPs were selected.

4. Construction Site Storm Water Runoff Control

a. The permittee shall develop, implement, and enforce a program to reduce pollutants in any storm water runoff to the permitted Small MS4 from construction activities that result in a land disturbance of greater than or equal to one acre. Reduction of storm water discharges from construction activity disturbing less than one acre must

be included in the program if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more. If the Department waives its permitting requirements for storm water discharges associated with construction activity that disturbs less than five acres of total land area in accordance with ARM 17.30.1105(5), the Small MS4 permittee is not required to develop, implement, and/or enforce a program to reduce pollutant discharges from such sites. The program must include the development and implementation of, at a minimum:

i. An ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions to ensure compliance, to the extent allowable under State, Tribal, or local law;

ii. Requirements for construction site operators to implement appropriate erosion and sediment control BMPs;

iii. Requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality;

iv. Procedures for the Small MS4 permittee to perform site plan review (i.e. the Storm Water Pollution Prevention Plan (SWPPP)) for consistency with state and local requirements, and which incorporates consideration of potential water quality impacts including storm water pollution prevention through appropriate erosion, sediment, and waste control BMPs;

v. Procedures for receipt and consideration of information submitted by the public; and

vi. Procedures for the Small MS4 permittee to perform site inspection and enforcement, in part based upon the site plan in Part II.B.4.a.iv., of erosion, sediment, and waste control BMPs.

b. The permittee shall maintain documentation with respect to the development of a construction site storm water control program. This documentation must address both the overall construction site storm water control program, and the individual BMPs, measurable goals, and responsible persons/positions for the program. This documentation must include the following information, at a minimum:

i. Identify the mechanism (ordinance or other regulatory mechanism) which will be used to require erosion and sediment controls at construction sites and why this mechanism was chosen.

ii. Identify the plan to ensure compliance with the erosion and sediment control regulatory mechanism, including the sanctions and enforcement mechanisms to be used to ensure compliance. Describe the procedures for when certain sanctions will be used. Possible sanctions include non-monetary penalties (such as stop work orders), fines, bonding requirements, and/or permit denials for non-compliance.

iii. Identify the requirements for construction site operators to implement appropriate erosion and sediment control BMPs and control waste at construction sites that may cause adverse impacts to water quality. Such waste includes, but is not limited to, discarded building materials, concrete truck washouts, chemicals, litter, and sanitary waste.

iv. Identify the procedures for site plan review, including the review of pre-construction site plans, which incorporate considerations of potential water quality impacts and appropriate storm water pollution prevention BMPs. Describe procedures and the rationale for how certain sites for site plan review will be determined, if not all plans are to be reviewed. Describe the estimated number and percentage of sites which will have pre-construction site plans reviewed.

v. Identify the procedures for receipt and consideration of information submitted by the public. Consider coordinating this requirement with the public education program.

vi. Identify procedures for site inspection and enforcement of control measures, including how sites for inspection will be selected and prioritized.

vii. Identify who is responsible for overall management and implementation of the construction site storm water control program and, if different, who is responsible for each of the BMPs identified for this program.

viii. Identify how the success of this minimum control measure will be evaluated, including how the measurable goals for each of the BMPs were selected.

ix. Identify measures to train pertinent municipal employees on the construction program

5. Post-Construction Storm Water Management in New Development and Redevelopment

a. The permittee shall:

i. Develop, implement, and enforce a program to address storm water runoff from new development and redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, that discharge into the permitted Small MS4. This program must ensure that controls are in place that would prevent or minimize water quality impacts;

ii. Develop and implement strategies which include a combination of structural and/or non-structural BMPs appropriate for the community;

iii. Use an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects to the extent allowable under State, Tribal or local law;

iv. Ensure adequate long-term operation and maintenance of BMPs;

v. Develop and implement procedures for the Small MS4 permittee to perform site plan review which incorporates consideration of potential water quality impacts including appropriate post-construction BMPs; and,

vi. Develop and implement procedures for the Small MS4 permittee to perform site inspection and enforcement of post-construction BMPs.

vii. For new development or redevelopment projects greater than or equal to one acre, the program shall include a process, where such practices are practicable, to require the implementation of low impact development practices that infiltrate, evapotranspire, or capture for reuse the runoff generated from the first 0.5 inches of rainfall from a 24-hour storm preceded by 48 hours of no measurable precipitation. This process must be in place by January 1, 2012.

b. The permittee shall maintain documentation with respect to the decision process used for the development of a post-construction storm water program. This documentation must address both the overall post-construction storm water program and the individual BMPs, measurable goals, and responsible persons/positions for the program. This documentation must include the following information, at a minimum:

i. Identify how the program to address storm water runoff from new development and redevelopment projects was developed. Include in this description any specific priority areas for this program.

ii. Identify how the program will be specifically tailored to the local community, to minimize water quality impacts, and to attempt to maintain pre-development runoff conditions and hydrology. This includes the process, where such practices are practicable, to implement low impact development practices that infiltrate, evapotranspire, or capture for reuse the runoff generated from the first 0.5 inches of rainfall from a 24-hour storm preceded by 48 hours of no measurable precipitation.

iii. Identify any non-structural BMPs in the program, including, as appropriate:

(a) Policies and ordinances that provide requirements and standards to direct growth to identified areas, protect sensitive areas such as wetlands and riparian areas, maintain and/or increase open space (including a dedicated funding source for open space acquisition), provide buffers along sensitive waterbodies, minimize impervious surfaces, and minimize disturbance of soils and vegetation;

(b) Policies or ordinances that encourage infill development in higher density urban areas, and areas with existing storm sewer infrastructure;

(c) Education programs for developers and the public about project designs that minimize water quality impacts; and

(d) Other measures such as minimization of the percentage of impervious area after development, use of measures to minimize directly-connected impervious areas, and source control measures often thought of as good housekeeping, preventive maintenance, and spill prevention.

iv. Identify any structural BMPs in the program, including, as appropriate:

(a) Storage practices such as wet ponds and extended-detention outlet structures;

(b) Filtration practices such as grassed swales, bioretention cells, sand filters and filter strips; and

(c) Infiltration practices such as infiltration basins and infiltration trenches.

v. Identify the mechanisms (ordinance or other regulatory mechanisms) which will be used to address post-construction runoff from new developments and redevelopments and why that mechanism was chosen. If a mechanism needs to be developed, describe the plan and a schedule to do so. If the ordinance or regulatory mechanism is already developed, include a copy of the relevant sections with the program.

vi. Identify how the long-term operation and maintenance (O&M) of the selected BMPs will be ensured. Options to help ensure that future O&M responsibilities are clearly identified include an agreement between the permittee and another party such as the post-development landowners or regional authorities.

vii. Identify who is responsible for the overall management and implementation of the post-construction storm water program and, if different, who is responsible for each of the BMPs identified for this program.

viii. Identify how the success of this minimum control measure will be evaluated, including how the measurable goals for each of the BMPs were selected.

ix. Identify the procedures for site plan review of post-construction storm water management BMPs which incorporate considerations of potential water quality impacts. Describe procedures and the rationale for how certain sites for site plan review will be determined, if not all plans are to be reviewed. Describe the estimated number and percentage of site plan reviews to be performed.

x. Identify procedures for site inspection and enforcement of post-construction storm water management BMPs, including how sites for inspection will be selected and prioritized. Inspections must include an evaluation of whether BMPs were built properly and are being maintained properly.

6. Pollution Prevention/Good Housekeeping for Municipal Operations

a. The permittee shall:

i. Develop and implement an operation and maintenance program which includes a training component, and has the ultimate goal of preventing or reducing pollutant runoff from municipal operations; and

ii. Using training materials available from EPA, the State of Montana, the Tribe, or other organizations, the program must include employee training to prevent and reduce storm water pollution from activities such as park and open space maintenance, vehicle fleet and building maintenance, new construction and land disturbances, and storm water system maintenance.

b. The permittee shall maintain documentation with respect to the decision process for the development of a pollution prevention/good housekeeping program for municipal operations. This documentation must address both the overall pollution prevention/good housekeeping program and the individual BMPs, measurable goals, and responsible persons/positions for the program. This documentation must include the following information, at a minimum:

i. Identify the operation and maintenance program to prevent or reduce pollutant runoff from municipal operations. The program must specifically list the municipal operations which are impacted by this operation and maintenance program. The permittee shall also include a list of facilities or activities (excluding construction) which are owned or operated by the permittee that are subject to the Department's other MPDES storm water discharge permits, and which discharge into the permitted Small MS4. Include the Department's MPDES permit number for each facility or activity.

ii. Identify the municipal government employee training program, including frequency, which will be used to prevent and reduce storm water pollution from activities such as park and open space maintenance, vehicle fleet and building maintenance, new construction and land disturbances, and storm water system maintenance. Describe any existing, available materials which are planned to be used. Describe how this training program will be coordinated with the outreach programs developed for the public information minimum control measure and the illicit discharge minimum control measure.

iii. The program description must specifically address the following areas:

(a) Maintenance activities, maintenance schedules, and long-term inspection procedures (including frequency) for controls to reduce floatables and other pollutants to the permitted Small MS4.

(b) Controls for reducing or eliminating the discharge of pollutants from streets, roads, highways, municipal parking lots, maintenance and storage yards, waste handling and disposal areas, vehicle fleet or maintenance shops with outdoor storage areas, salt/sand storage locations, and snow disposal areas operated by the permittee.

(c) Procedures for the proper disposal of waste removed from the permitted Small MS4 through the permittee's municipal operations, including dredge spoil, accumulated sediments, floatables, catch basin cleaning, and other debris.

(d) Procedures to ensure that new flood management projects are assessed for impacts on water quality and existing projects are assessed for incorporation of additional water quality protection devices or practices.

iv. Identify who is responsible for overall management and implementation of the pollution prevention/good housekeeping program and, if different, who is responsible for each of the BMPs identified for this program.

v. Identify how the success of this minimum control measure will be evaluated, including how the measurable goals for each of the BMPs were selected.

C. Qualifying Local Program

If the application indicates a Qualifying Local Program requires a Small MS4 to implement one or more of the six minimum control measures as stated in ARM 17.30.1111(9), and the permittee elects to do this in the application, then the permittee is directed to follow that qualifying program's requirements rather than the applicable minimum control measure requirements stated in Part II.B.

D. Sharing Responsibility

Implementation of one or more of the minimum control measures may be shared with another entity, or the entity may fully take over the measure. The permittee may rely on another entity only if:

1. The other entity, in fact, implements the control measure;

2. The particular control measure, or component of that measure, is at least as stringent as the corresponding permit requirement.

3. The other entity agrees to implement the control measure on the permittee's behalf. Written acceptance of this obligation is required. This obligation must be maintained as part of the description of the permittee's SWMP. If the other entity agrees to report on the minimum control measure, the permittee must supply the other entity with the reporting requirements contained in this General Permit. If the other entity fails to

implement the control measure on the permittee's behalf, then the permittee remains liable for any discharges due to that failure to implement.

E. Reviewing and Updating Storm Water Management Programs

1. Storm Water Management Program Review

The permittee must do an annual review of their SWMP in conjunction with preparation of the annual report required under Part IV.I.

2. Storm Water Management Program Updates Required by the Department

The Department may require changes to the SWMP as needed to:

a. Address impacts on receiving water quality caused, or contributed to, by discharges from the Small MS4;

b. Include more stringent requirements necessary to comply with new federal statutory or regulatory requirements; or

c. Include such other conditions deemed necessary by the Department to comply with the goals and requirements of the Montana Water Quality Act.

d. Changes requested by the Department must be made in writing, set forth the time schedule for the permittee to develop the changes, and offer the permittee the opportunity to propose alternative program changes to meet the objective of the requested modification. All changes required by the Department will be made in accordance with ARM 17.30.1365, ARM 17.30.1361, or as appropriate ARM 17.30.1362.

3. Transfer of Ownership, Operational Authority, or Responsibility for Storm Water Management Program Implementation

The permittee must implement the SWMP on all new areas added to the permittee's portion of the Small MS4 (or for which the permittee becomes responsible for implementation of storm water quality controls) as expeditiously as practicable, but no later than one year from addition of the new areas. Implementation may be accomplished in a phased manner to allow additional time for controls that cannot be implemented immediately.

a. Within 90 days of a transfer of ownership, operational authority, or responsibility for SWMP implementation, the permittee must have a plan for implementing the SWMP on all affected areas. The plan may include schedules for implementation.

Information on all new annexed areas and any resulting updates required to the SWMP must be included in the annual report.

b. Only those portions of the SWMP specifically required as permit conditions shall be subject to the modification requirements of ARM 17.30.1365. Addition of components, controls, or requirements by the permittee and replacement of an ineffective or infeasible BMP implementing a required component of the SWMP with an alternate BMP expected to achieve the goals of the original BMP shall be considered minor changes to the SWMP and not modifications to the permit.

PART III. SPECIAL CONDITIONS

A. Discharges to Water Quality Impaired Waters

1. Water Quality Controls for Discharges to Impaired Waterbodies

The permittee's SWMP must include a section describing how the SWMP will control discharges of pollutants of concern and ensure storm water discharges will not cause or contribute to instream exceedances of water quality standards. This discussion must specifically identify measures and BMPs that will collectively control the discharges of pollutants of concern. Information on impaired waterbodies may be obtained from the Department or from the Montana DEQ website: http://cwaic.mt.gov/

2. Consistency with Total Maximum Daily Load (TMDL) Allocations

If a TMDL has been approved for any waterbody into which the permittee discharges storm water, and the TMDL considered and addressed MPDES-regulated storm water discharges, then the Department shall incorporate the Waste Load Allocation, as applicable, into the permittee's permit as required by 75-5-703, MCA.

PART IV. MONITORING, RECORDING AND REPORTING REQUIREMENTS

A. Self-Monitoring Requirements

Storm water monitoring requirements contained in this General Permit must initiate on the effective date of authorization issued under this General Permit, or as otherwise directed by the Department. The Department reserves the right to require additional storm water sampling, testing, and reporting on a case-by-case basis. Factors which may trigger additional monitoring requirements could include, but are not limited to: atypical discharges into the Small MS4; SWMP development, implementation, and enforcement effectiveness; storm water quality issues; potential contamination issues; historical issues; compliance issues; new requirements; or other water quality issues.

1. Storm Water Discharge Monitoring

The cities of Billings, Bozeman, Butte, Great Falls, Helena, Kalispell, and Missoula are required to perform sampling, testing, and reporting of storm water discharges for their Small MS4s under this General Permit, or as otherwise required by the Department. These samples must be obtained within the city limits of each of the above cities, regardless of whether the cities are co-permitted with others such as the county.

2. Specific Monitoring Parameters

For Small MS4 permittees stated in Part IV.A.1., the standard required monitoring parameters are listed in Table 1.

Table 1. Small MS4 Monitoring Requirements

Parameter[(1) (2)]	**Frequency**	**Type**[(3)]
Total Suspended Solids (TSS), mg/L	Semiannual	Grab or Composite
Chemical Oxygen Demand (COD), mg/L	Semiannual	Grab or Composite
Total Phosphorus, mg/L	Semiannual	Grab or Composite
Total Nitrogen, mg/L	Semiannual	Grab or Composite
pH, standard units	Semiannual	Instantaneous
Copper, mg/L	Semiannual	Grab or Composite
Lead, mg/L	Semiannual	Grab or Composite
Zinc, mg/L	Semiannual	Grab or Composite
Estimated Flow, gpm	Semiannual	Instantaneous[(4)]
Oil and Grease[(5)], mg/L	Semiannual	Grab

(1) Detection limits are pursuant to levels defined in WQB-7.
(2) Total recoverable methods to be used on all metals.
(3) See Definitions in Part VI. of this General Permit.
(4) Estimated flow rates are appropriate in cases where measurement gauges are not installed.
(5) Hexanes extraction (EPA Method 1664A).

3. Monitoring Location

a. For each half-year monitoring period, each of the identified Small MS4 permittees in Part IV.A.1. must sample at the following locations within the permitted geographic area:

i. a discharge point which represents storm water runoff drainage areas from a relatively commercial and/or industrial area; and,

ii. a discharge point which represents storm water runoff drainage areas from a relatively residential area.

b. The formal names for the initially selected sampling locations must be consistently identified as "001A" for the industrial/commercial location, and "002A" for the residential location. If a new sampling location is necessary to replace the initially selected location, then a new unused and unique identifying outfall name/number will be assigned by the Department.

4. Monitoring Frequency

a. Except as stated in Part IV.A.4.b., sampling, testing, and reporting must be conducted at least semi-annually (two times per year) for each of the parameters listed in Table 1 above. One set of samples must be taken between January 1st and June 30th of each permitted calendar year and the other set between July 1st and December 31st. Samples must not be collected from back-to-back storm events.

b. All permittees required to monitor must be able to dependably collect samples during each six month monitoring period. In order to help ensure the consistent and routine accumulation of required monitoring information at identified outfalls, as well as obtaining grab samples within the first thirty minutes of the discharge, permittees are encouraged to use automatic samplers at the two required monitoring locations. The use of automatic samplers may be required by the Department due to non-compliance.

c. To ensure consistent and complete sampling throughout the General Permit cycle:

i. If a permittee is not able to dependably obtain a sample at the identified required sampling outfall during a six-month monitoring period due to a reported lack of storm water runoff, then a new sampling location must be obtained with dependable storm water runoff.

ii If a permittee fails to obtain the required sample or reports "No Discharge" on the Discharge Monitoring Report form at a particular outfall for two consecutive six-month monitoring periods or for three total six-month monitoring periods during the General Permit cycle, then the permittee must obtain a new monitoring location outfall prior to the next regularly scheduled sampling period. This new outfall monitoring location will be identified by the permittee with a new unique and previously unused outfall name/number which will be assigned by the Department. The new outfall monitoring location must be indicated on updated SWMP

documentation. The Department must be provided with a copy of the outfall location and respective drainage area on an updated MS4 map.

iii. If a permittee fails to obtain the required sample or reports "No Discharge" on the Discharge Monitoring Report form at a particular outfall for any six-month monitoring period and for any reason during the General Permit cycle, then the permittee must collect a substitute sample during the subsequent six-month monitoring period in addition to their regularly scheduled sample. The substitute sample must be collected from a different storm event from the regularly scheduled sample. In making up the missed sampling event, all pertinent sampling, monitoring, reporting, and recordkeeping requirements shall still apply. For the purposes of meeting this permit requirement, a "different storm event" means rainfall events separated by at least 48 hours of no measurable precipitation.

d. For new authorizations issued under this General Permit, the first required monitoring period must be the first complete Discharge Monitoring Report (see Part IV.E.) period following the date the authorization was issued.

5. Sample Type

For all discharges, sampling data must typically be obtained by collecting a grab sample. The grab sample must be taken during the first thirty minutes of the discharge. If a grab sample is not taken within the first thirty minutes of the discharge, the permittee shall maintain with the monitoring records required in Part IV.G. of this General Permit a written description of why the collection of a grab sample was impracticable during the first thirty minutes.

A composite sample may be required by the Department on a case-by-case basis. If required, composite samples shall either be flow-weighted or time-weighted.

6. Evaluation of Storm Water Quality Monitoring Test Results

Upon the completion of each sampling event, and upon receipt of the sampling test results by the permittee, the permittee shall evaluate each parameter test result by:

a. comparison with the pertinent median concentration in Table 2 below;

b. comparing the pH value to the desired range of 6 to 9 standard units; and

c. comparing the Oil & Grease concentration with the receiving water standard of 10 mg/L.

If there is an exceedance of the median concentration, the acceptable pH range, or the oil & grease standard value, the permittee shall evaluate the source and reason for this, and consider additional BMPs and/or other management measures which may need to be initiated to improve the quality of storm water discharges. These measures must be implemented as necessary and updated in the SWMP as required in Part II.E. A summary of the evaluation of storm water quality data, including the results of the above

comparisons, and additional BMPs and/or other measures which may be necessary must be submitted in addition to the annual report form required to be submitted to the Department in Part IV.I.

Table 2. Median Concentrations

Parameter, units	**Median Concentration**
Total Suspended Solids, mg/L	125
Chemical Oxygen Demand, mg/L	80
Total Phosphorus, mg/L	0.41
Total Nitrogen, mg/L	2.00
Total Copper, mg/L	0.040
Total Lead, mg/L	0.165
Total Zinc, mg/L	0.210

Source: *EPA Environmental Impacts of Stormwater Discharges: A National Profile*, published June 1992 (Nationwide Urban Runoff Program (NURP))

B. Representative Sampling

Samples and measurements taken for the purpose of monitoring under Part IV. must be representative of the volume and nature of the monitored discharge. A sample location must be selected such that it is a representative location for the storm water runoff drainage area within the Small MS4. Samples of the storm water discharge must be obtained prior to the storm water discharge mixing with water from the receiving intermittent or perennial waterbody.

C. Monitoring Procedures

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

D. Penalties for Tampering

The Montana Water Quality 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, or by imprisonment for not more than six months, or both.

E. Reporting of Monitoring Results

1. Discharge monitoring results must be recorded on Discharge Monitoring Report (DMR) forms provided by the Department. The permittee shall complete and submit to the Department a DMR form for each point source outfall requiring monitoring. If sampling was not completed for any reason, it must be noted on the DMR form.

2. Results of the self-monitoring must be reported semiannually on the DMR form to the Department, postmarked no later than the 28th day of the month following the half-year reporting period; the due date of one semiannual report is July 28th and the due date of the other semiannual report is January 28th. DMR forms must be submitted to the following address:

   Montana Department of Environmental Quality
   Water Protection Bureau
   P.O. Box 200901
   Helena, Montana 59620-0901
   Phone: (406) 444-3080

   All reports, notifications, and inquiries regarding the conditions of this General Permit must be submitted to the Department at the above address, and must comply with the signatory requirements stated in Part V.K.2.

F. Additional Monitoring by the Permittee

If the permittee monitors any pollutant more frequently than required by this General Permit, using approved analytical methods as specified in this General Permit, the results of this monitoring must be included in the reporting of the data submitted in the DMR. Such increased frequency must also be indicated.

G. Monitoring Records

The following information must be recorded and maintained at the office of the contact person/position for all storm water discharges which are sampled:

1. Date, exact place, and time of sampling;

2. Estimated duration (in hours) of the storm event(s) sampled;

3. Total rainfall measurements or estimates (in inches) of the storm event which generated the sampled runoff;

4. Name(s) of the individuals which performed the sampling or measurements; and

5. Analytical laboratory test result data and reports for storm water samples, and/or records, which minimally indicate:

   i. The date(s) analyses were performed;

ii. The time analyses were initiated;

iii. The initials or name(s) of individual(s) who performed the analyses;

iv. References and written procedures, when available, for the analytical techniques or methods used; and

v. The results of such analyses, including the bench sheets, instrument readouts, computer disks or tapes, etc. used to determine these results.

6. If not in compliance with Part IV.A.5. of the General Permit, a written description of why the collection of a sample was impracticable during the first thirty minutes.

H. 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 General Permit, and records of all data used to complete the application for this General Permit, for a period of at least three years from the date of sample, measurement, report, or application. This period may be extended by request of the Department at any time.

I. Annual Report

1. The permittee (or co-permittee if co-permitted under one permit authorization number) shall prepare and submit an annual report to the Department for each calendar year within the General Permit term.

2. The permittee shall submit the original signed copy of the annual report form and required attachments to the Department by March 1st of each year for the preceding calendar year.

3. Each co-permittee shall submit an annual report form pertaining to their respective permitted Small MS4(s) unless formal written shared responsibilities allow another entity to complete the annual report form obligations.

4. The standard EPA annual report form, or if available, a Department-customized version of the standard EPA annual report form, must be used by all permittees or co-permittees in the completion of annual reports. No retyped, reformatted, or customized versions of the form may be developed and used, only the hard-copy or electronic versions provided by the Department.

5. If additional information is requested on or with a Department-customized version of the standard EPA annual report form, then the permittee must submit this additional information at the same time as the form. If an electronic EPA or DEQ form submittal is

used, then the required additional information must be submitted separately but at the same time as the form.

6. For those permittees required to perform storm water sampling and analytical testing, the summary of the evaluation of storm water quality data and additional BMPs and/or other measures which may be necessary, as required in Part IV.A.6. of the General Permit, must be attached to the annual report form.

7. If the permittee or co-permittee has made any updates, changes, or improvements to their Storm Water Management Program during the prior calendar year, then an attachment to the annual report must identify these.

8. Full-size hard-copies of storm sewer system maps, including updates, must be submitted to the Department with the annual report form if the map(s) was developed or modified during the calendar year for which the annual report pertains.

9. The completion of this annual report must initiate for the calendar year in which authorization under the General Permit was issued.

10. The annual report must comply with the signatory and certification requirements stated in Parts V.K.2. and V.K.4.

J. Changes In Small MS4 Contact Person

The Application Form identifies a formal Small MS4 Contact Person for each permittee or co-permittee. Should the Small MS4 Contact Person person/position, mailing address, email address, or telephone number identified on the Application Form change, the permittee or co-permittee must notify the Department in writing of this change within 15 calendar days of the change. This written notification must specifically reference that there is a "change of the Small MS4 Contact Person", specifically identify the permit authorization number, and specifically identify the formal "Small MS4 Name" as identified on the Application Form. The written notification letter for a change in the Small MS4 Contact Person must be signed by a person meeting the requirements of Part V.K.1.c.

K. Records For Inspection

A copy of the General Permit, permit authorization letter, required SWMP documents, annual reports, Discharge Monitoring Reports (if required), and other pertinent records required by the General Permit shall be maintained by the Small MS4 Contact Person for their respective Small MS4, and shall be made available to Department inspectors upon request for all permittees and co-permittees.

PART V. STANDARD MPDES PERMIT CONDITIONS

A. Duty to Comply

The permittee shall comply with 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 denial of a permit renewal application. The permittee shall give the Department advance notice of any planned changes at the permitted facility or of an activity, which may result in permit noncompliance.

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 shall first apply for and obtain a new permit. The Application Form and fee must be submitted at least 30 days before the expiration date of this permit. The Department reserves the authority to administratively extend permit coverage in the event the General Permit is no longer effective, if the permittee has reapplied for permit coverage.

C. Need to Halt or Reduce Activity not a Defense

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

D. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which 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) which 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.

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

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 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.

I. Inspection and Entry

The permittee shall allow 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,

4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

J. Monitoring and Records (See Part IV of the General Permit)

K. Signatory and Certification Requirements

All applications, reports, or information submitted to the Department must be signed and certified.

1. All permit applications shall be signed as follows:

    a. For a corporation, by a responsible corporate officer. A responsible corporate officer means:

        i. a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation; or

        ii. the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

    b. For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or

    c. For a municipality, state, federal, or other public agency, by either a principal executive officer or ranking elected official. A principal executive officer of a federal agency includes:

i. the chief executive officer of the agency; or

ii. a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

2. All reports required by permits, other information requested by the Department, must be signed by a person described in Part V.K.1. or by a duly authorized representative of that person. A person is a duly authorized representative only if:

   a. the authorization is made in writing by a person described in Part V.K.1.;

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

   c. the written authorization is submitted to the Department.

3. Changes to authorization. If an authorization under Part V.K.2. is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part V.K.2. 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 Part V.K.1. or 2. 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."

L. Planned Changes

The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when the alteration or addition 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.

M. Anticipated Noncompliance

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

N. Permit Transfers

This permit is not transferable to a new permittee. A new owner or operator of a facility must apply according to the standard application procedures 30 days prior to taking responsibility for the facility.

O. Monitoring Reports - (See Part IV of the General Permit)

P. 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 must be submitted no later than 14 days following each schedule date.

Q. Twenty-Four Hour Reporting

1. 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. This oral report must be made to the Water Protection Bureau at (406) 444-3080.

2. A written submission must also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission must contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

3. The following must be included as information which must be reported within 24 hours:

   a. any unanticipated bypass which exceeds any effluent limitation in the permit;

   b. any upset which exceeds any effluent limitation in the permit;

   c. violation of a maximum daily discharge limitation for any of the pollutants listed by the Department in the permit to be reported within 24 hours; and

4. 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.

5. Reports shall be submitted to the address in Part IV.E., Reporting of Monitoring Results.

R. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under Part IV. or Parts V.L., P., or Q. at the time monitoring reports are submitted. The reports must contain the information listed Part V.Q. above.

S. Other Information

When 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 in any report to the Department, it shall promptly submit such facts or information.

T. Bypass of Treatment Facilities

1. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs 2. and 3. below.

2. Notice:

   a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice to the Department, if possible at least 10 days before the date of the bypass.

   b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required under Part V.Q. (Twenty-Four Hour Reporting).

3. Prohibition of bypass.

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

      i. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

      ii. 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 backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and,

      iii. The permittee submitted notices as required under Part V.T.2. above.

4. The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines that it will meet the three conditions listed above in Part V.T.3.i.

U. Upset

1. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of Part V.U.2. 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. 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 in Part V.Q.3.b. (24-hour notice); and

   d. the permittee complied with any remedial measures required under Part V.D.

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

V. Penalties for Violations of Permit Conditions

The Montana Water Quality Act provides that any person who violates a permit condition of the Act is subject to a civil penalty not to exceed $25,000 per day or one year in prison, or both, for the first conviction, and $50,000 per day of violation or by imprisonment for not more than two years, or both, for subsequent convictions. Except as provided in permit conditions on Part III.G. (Bypass of Treatment Facilities), nothing in this permit shall be construed to relieve the permittee of the civil or criminal penalties for noncompliance.

W. Penalties for Falsification of Reports

The Montana Water Quality Act provides that any person who knowingly 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 both.

X. 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.

Y. 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.

Z. Reopener Provision

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 effluent limits than contained in this permit.

2. Waste Load Allocation

   A Waste Load Allocation is developed and approved by the Department and/or EPA for incorporation in this permit.

3. 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.

AA. 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:

1. Impose an additional assessment consisting of 20% of the fee plus interest on the required fee computed at the rate established under 15-1-216(4), MCA, or

2. 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 sub-section. Suspensions are limited to one year, after which the permit will be terminated.

PART VI. DEFINITIONS

1. The **"Act"** means the Federal Clean Water Act.

2. **"Best Management Practices" ("BMPs")** means schedule of activities, prohibition of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of state waters. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

3. **"Control measure"** as used in this General Permit, means any Best Management Practice or other method used to prevent or reduce the discharge of pollutants to state waters.

4. The **"Department"** means the Montana Department of Environmental Quality.

5. **"Flow-weighted composite sample"** means a composite sample consisting of a mixture of aliquots collected at a constant time interval, where the volume of each aliquot is proportional to the flow rate of the discharge.

6. **"Grab Sample"** for monitoring requirements, is defined as a single "dip and take" sample collected at a representative point in the discharge stream.

7. **"Hazardous substance"** means any substance designated under 40 CFR Part 116 pursuant to section 311 of the federal Clean Water Act.

8. **"Illicit Connection"** means any man-made conveyance connecting an illicit discharge directly to a municipal separate storm sewer.

9. **"Illicit discharge"** means any discharge to a municipal separate storm sewer that is not composed entirely of storm water except discharges pursuant to an MPDES permit (other than the MPDES permit for discharges from the municipal separate storm sewer) and discharges resulting from fire fighting activities.

10. **"MEP"** is an acronym for **"Maximum Extent Practicable"**, the technology-based discharge standard for Municipal Separate Storm Sewer Systems to reduce pollutants in storm water discharges that was established by the Clean Water Act, Section 402(p). A discussion of MEP as it applies to Small MS4s is found in ARM 17.30.1111(5).

11. **"MS4"** means a municipal separate storm sewer system.

12. **"Municipal separate storm sewer"** means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that discharges to surface waters and is:

    (a) owned or operated by the state of Montana, a governmental subdivision of the state, a district, association, or other public body created by or pursuant to Montana law,

including special districts such as sewer districts, flood control districts, drainage districts and similar entities, and designated and approved management agencies under section 208 of the federal Clean Water Act, which has jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, and is:

(i) designed or used for collecting or conveying storm water;

(ii) not a combined sewer; and

(iii) not part of a publicly owned treatment works (POTW) as defined in ARM Title 17, chapter 30, subchapter 13.

13. **"Outfall"** means a point source, as defined in Part VI.15. of this General Permit, at the point where a municipal separate storm sewer discharges to surface waters. The term does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances that connect segments of the same stream or other surface waters and that are used to convey surface waters.

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

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

16. **"Process wastewater"** means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

17. **"Small municipal separate storm sewer system"** means:

(a) small MS4s, and portions of them, that are located in the following urbanized areas in Montana as determined by the latest decennial census by the United States census bureau:

(i) the city of Billings and Yellowstone County;

(ii) the city of Missoula and Missoula County; and

(iii) the city of Great Falls and Cascade County;

(b) the following small MS4s serving a population of at least 10,000 as determined by the latest decennial census by the United States census bureau and that are located outside of an urbanized area:

(i) MS4s located in the city of Bozeman;

(ii) MS4s located in the city of Butte;

(iii) MS4s located in the city of Helena; and

(iv) MS4s located in the city of Kalispell;

(c) MS4s designated by the department pursuant to 17.30.1107; and

(d) systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large educational, hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.

18. **"Small MS4"** means a small municipal separate storm sewer system.

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

20. **"Storm Water"** means storm water runoff, snow melt runoff, and surface runoff and drainage.

21. **"Storm Water Management Program"** or **"SWMP"** means a comprehensive program to manage the quality of storm water discharged from the Small municipal separate storm sewer system.

22. **"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 discharging directly into a stream, lake, pond, reservoir, or other surface water. Water bodies used solely for treating, transporting, or impounding pollutants shall not be considered surface water.

23. **"Time-weighted composite sample"** means a composite sample consisting of a mixture of equal volume aliquots collected at a constant time interval.

24. **"Total Maximum Daily Load"** or **"TMDL"** is defined at 75-5-103, MCA

25. **"Waste Load Allocation"** or **"WLA"** means the portion of a receiving water's loading capacity that is allocated to one of its existing or future point sources.