

WATER QUALITY PERMITTING

The Department of Environmental Quality, under the authority of the Montana Water Quality Act (75-5-101 *et seq.*, MCA), regulates the discharge of pollutants into state waters through the adoption of water quality standards and the permit application process. Water quality standards specify what changes in water quality are allowed during the use of state waters and establish a basis for wastewater discharge permitting.

DISCHARGE PERMITS

1. Types of Activities Regulated

A Montana Pollution Discharge Elimination System (MPDES) permit or a Montana Ground Water Pollution Control System (MGWPCS) permit is required from the Montana Department of Environmental Quality (DEQ) to construct, modify or operate a disposal system or to construct or use any outlet for discharge of sewage, industrial or other wastes into state surface or ground water. A permit is not required for the discharge of certain wastes under specific circumstances (see ARM 17.30.1310, 75-5-401(1)(b) and 75-5-401(5), MCA).

Statute: Montana Water Quality Act, 75-5-101 *et seq.*, MCA

Rule: ARM 17.30.1301 *et seq.*: MPDES permit
ARM 17.30.1001 *et seq.*: MGWPCS permit

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Water Protection Bureau
Permitting and Compliance Division
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2. Application Requirements

MPDES Permits - General: The DEQ may issue a general MPDES permit to cover all facilities that engage in a general type of activity in a discrete geographical region or statewide. These categories include, among others, concentrated animal feeding operations, stormwater point sources, suction dredge mining operations and construction dewatering operations. Applications must be submitted 30 days before the initiation of a proposed discharge.

MPDES Permits - Individual: Individual MPDES permits are required for facility-specific industrial, commercial or municipal discharges. An application must be filed at least 180

days prior to the operation of a point source. Application information must include plans and specifications, site plans, descriptions of adjacent state waters, soil conditions, ground water characteristics, process and waste flow diagrams and the volume and nature of projected discharges. Stormwater discharges may be incorporated into this application, permitted under a separate individual MPDES permit or permitted under a general MPDES permit.

MGWPCS Permits: An application for a Montana Groundwater Pollution Control System (MGWPCS) permit must be filed at least 180 days prior to the operation of a point source. Application information must include a site plan; the location of treatment works and disposal systems; the location of adjacent surface waters; a list of surface owners and lessees, water supply wells and springs and a description of ground water quality and uses within one mile of the source; and other information that the department considers necessary to properly process the application.

Statute: 75-5-401 *et seq.*, MCA

Rule: ARM 17.30.1301, 1341 and 17.30.1023

3. Permitting Procedures

MPDES General Permits

1. Within 30 days of receiving a completed application, the DEQ will issue an authorization to operate under a general MPDES permit, or notify the applicant that the source does not qualify, citing 1 or more of the reasons listed in ARM 17.30.1341(4)(a-e). The public must be noticed and a 30 day comment period allowed if the source cannot qualify to operate under a general MPDES permit.
2. If an authorization to operate under a general MPDES permit is denied, the DEQ will process the application as an individual MPDES permit, unless the application is withdrawn.
3. All MPDES permits are issued for a fixed term, not to exceed five years.

MPDES Individual and MGWPCS Permits

1. On receipt of the permit application, the DEQ must make a tentative determination with respect to issuance or denial of an MPDES or MGWPCS permit. The DEQ is then required to issue a public notice to inform interested persons of the proposed discharge and of the tentative determination. At least 30 days are provided for written comments from the public regarding the application. Public hearings may be held on the DEQ's own initiative or at the request of another agency or interested person.

2. The department has 60 days to review new permit applications for completeness and 30 days for completeness review of deficiency responses. During the processing of applications, the DEQ also determines discharge limitations and the length of mixing zones¹ to ensure water quality standards are met. Hearings must be held in the geographical area of the proposed discharge.
3. If the DEQ denies the discharge permit, the applicant may appeal the decision to the Board of Environmental Review (BER). The hearing must be held within 30 days of the receipt of the written request.
4. All MPDES permits are issued for a fixed term, not to exceed five years. All MGWPCS permits are issued for a fixed term, not to exceed 10 years.

Statute: 75-5-403, MCA

Rule: ARM 17.30.1301 *et seq.*, and 17.30.1024 *et seq.*

4. Fees

The DEQ assesses fees to cover a portion of the costs of implementing the water quality program. For a schedule of fees see ARM 17.30.201.

Statute: 75-5-516, MCA

Rule: ARM 17.30.201

5. Additional Information

Short-term Exemptions: The DEQ may authorize short-term turbidity standards for construction projects that affect water bodies (318 standards). The DEQ may also authorize short-term exemptions from the water quality standards (308 exemptions) for the purposes of emergency environmental remediation, pesticide application, elimination of undesirable and nonnative aquatic species and treatment of water for the protection of public health. The department must issue the authorization before the applicant may begin the activity.

Leaching pads, tailing ponds or water, waste or product holding facilities must be designed and constructed, operated and maintained to prevent discharge, seepage, drainage, infiltration or flow which may result in the pollution of state waters. Plans and specifications for tailings ponds, leaching pads and holding facilities used in ore processing must be submitted to the DEQ for review and approval at least 180 days prior to the beginning of operations.

¹ Mixing zones are established areas where water quality standards may be exceeded while a discharge is mixed with receiving waters.

Statute: 75-5-308 and 75-5-318, MCA

Rule: ARM 17.30.637

6. **Criteria**

All discharges of pollutants into state waters authorized by a discharge permit must be consistent with the conditions of the permit. The discharge of pollutants into state waters in excess of the permit's restrictions constitutes a violation of the permit. State waters must be free of discharges that settle to form sludge deposits; create floating debris; produce odors; create toxic concentrations harmful to human, animal, plant and aquatic life; or create conditions capable of producing undesirable aquatic life. All discharges must meet water quality standards.

Rule: ARM 17.30.637, 1002, 1003, 1030 and 1342