Montana Pollutant Discharge Elimination System
General Permit for Storm Water Discharges Associated with Small Municipal Separate Storm Sewer Systems Fact Sheet ▪ MTR040000

I. Summary

The Department of Environmental Quality (DEQ) proposes to renew the Montana Pollutant Discharge Elimination System (MPDES) General Permit for Storm Water Dischargers Associated with Small Municipal Separate Storm Sewer Systems (MS4), MTR040000. This fact sheet documents the legal requirements and technical rationale that serve the decision-making process involved with the draft permits effluent limits, monitoring and reporting requirements, and special conditions specific to municipal storm water discharges in Montana.

A. Permit Status

The MS4 General Permit is a fifth-generation permit, first issued in 2005 and most recently renewed in January 2017. The current General Permit expires December 31, 2021.

B. MS4 Stakeholder Cooperative Process

To support the General Permit reissuance process, DEQ and permittees initiated a workgroup led by the permitted MS4 cities, counties, and nontraditional permittees. The goal of the workgroup was to discuss compliance with new state and federal requirements, including the remand rule, and what programmatic changes or permit requirements could be implemented to further MS4 progress and protect water quality throughout the state. The workgroup held regularly scheduled public meetings and developed a technical subgroup in which DEQ also participated to address permitting concerns. This workgroup group approach began in 2014 and DEQ continued the workgroup process for the 2022 General Permit development.

C. Proposed Permit Changes

For this permit renewal, DEQ proposes the following:

- On December 9, 2016, EPA published the MS4 Permit Remand Rule, which addresses how small MS4s obtain permit coverage, including public notice and permit requirements. The rule provides states with a choice of two options for issuance of MS4 general permits, a comprehensive or two-step approach. Montana has chosen to issue this iteration as a Comprehensive General Permit with clear, specific, and measurable requirements with which each permittee must comply. DEQ finds the requirements in this General Permit to be prescriptive and enforceable, as required by the Remand Rule.
- Permittees must apply for coverage using a general permit Notice of Intent form. This Comprehensive Permit contains the full set of requirements necessary to meet the MS4 standard (discussed in section IV below), to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act. Therefore, additional information typically required in a full application is not needed.
- The “Deadline/Implementation Schedule” field for minimum control measures is removed. This permit is an iteration of the last General Permit. Therefore, permittees are

required to maintain and build upon their already developed storm water programs. New permittees will be provided a compliance schedule based on their program status.

- Requirements in each iteration of this permit were carefully assessed to encourage growth in permittee's MS4 programs and provide opportunities for change with the goal of protecting Montana's state waters. This iteration addressed each previous permit requirement and minimum control measure to ensure it was clear, specific, measurable, and enforceable. When appropriate, DEQ provided a menu of best management practices to further reduce the discharge of pollutants to the maximum extent practicable.
- Training requirements for storm water management teams, field/facility personnel, and new hires are clarified.
- Monitoring requirements for storm event and impaired waterbody monitoring are clarified to be more prescriptive and removes unnecessary monitoring options. Additionally, impaired waterbody monitoring switches focus to pollutants of impairment and requires MS4s to resubmit their Total Maximum Daily Load sampling plan with the first-year annual report for DEQ review.
- Permittees are required to develop and implement a Program Effectiveness Assessment with the goal of tracking annual and long-term effectiveness of the permittee's Storm Water Management Program. This is a new condition of the General Permit designed to drive the individual MS4 programs forward using a holistic evaluation tool. The Program Effectiveness Assessment is designed to combine information gathered and tracked from all minimum control measures, plus other permit conditions, into a method defining which BMPs are effectively improving water quality and conversely, other areas of individual MS4's Storm Water Management Programs that need improvement.
- DEQ's annual report form has been updated to reflect the changes in this permit and reporting requirements for permittees.

II. Background Information

A municipal separate storm sewer means a conveyance, or system of conveyances, designed for collecting and conveying storm water. Storm water includes storm water runoff, snow melt, surface runoff, and/or drainage that transports pollutants and discharges them, untreated, to waterways via storm sewer systems. Urbanization increases the number of impervious surfaces such as city streets, driveways, parking lots, and sidewalks, creating concern for potentially harmful storm water discharges to state waters. The pollutants of concern are diversified due to multiple land-use categories. Other concerns include illegal dumping, unpermitted discharges, and the possibility of illicit connections. When left uncontrolled, discharges from storm water can result in fish kills, destruction of spawning and wildlife habitat, a loss in aesthetic value, and contamination of recreational waterways that can threaten public health. The U.S. Environmental Protection Agency (EPA) published standard pollutants characterizing urban storm water runoff, which included those listed in Table 1 below:

Table 1. Identification of Pollutants of Concern
Conventional Pollutants:
BOD_5, COD_5, TSS
Nonconventional Pollutants:
Nitrate + Nitrite, Total Nitrogen, Total Phosphorus
Metals (Total Recoverable):
Copper, Lead, Zinc

III. Permit Applicability

EPA promulgated the Storm Water Phase II Rule, extending coverage of the National Pollution Discharge Elimination System (NPDES) storm water program to certain "Small" MS4s. These Small MS4s can be 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. This may also include other similar separate storm sewer systems such as, at military bases, large hospitals or prison complexes, and highways or other thoroughfares. Small MS4s can be designated by the permitting authority in one of three ways:

Automatic Nationwide Designation: The Phase II Final Rule requires nationwide coverage of all operators of Small MS4s that are located within the boundaries of a Bureau of the Census-defined "urbanized area" (UA).

Designation by the Permitting Authority by Evaluation: An operator of a Small MS4 located outside of a UA may be designated as a regulated MS4 if the permitting authority determines that its discharges cause, or have the potential to cause, an adverse impact on water quality and as further set forth in ARM 17.30.1107.

Designation by the Permitting Authority by Interconnectivity: Under the final rule, the permitting authority is required to designate any Small MS4 located outside of a UA that contributes substantially to the pollutant loading of a physically interconnected MS4 regulated by the storm water program.

A. Coverage Area of Permitted MS4s

This permit covers areas that are served by, or contribute to, municipal separate storm sewers that discharge to state waters as follows:

Traditional MS4s: Geographic areas of permit coverage for cities and counties listed in ARM 17.30.1102(23)(a) include the U.S. Census designated urbanized areas in accordance with the most recent census. For cities listed in ARM 17.30.1102(23)(b) the area of coverage includes the entirety of the municipal incorporated boundary.

Non-Traditional MS4s: For all other permitted MS4s as identified in accordance with ARM 17.30.1102(23)(d), the geographic areas of permit coverage are the portion of the permittee's jurisdiction that is within the permitted Traditional MS4.

B. Eligibility for Coverage

Regulated Small MS4s are required to apply for, and obtain, authorization for discharge of storm water into state waters. This General Permit does not authorize or supersede permitting requirements for storm water discharges associated with industrial or construction activity, or discharges covered under another MPDES permit. This General Permit does not relieve the

permittee from any other statute, regulation, permit, or other regulatory requirements for activities occurring within their area, not associated with permitted storm water discharges from Small MS4s.

C. Ineligibility for Coverage

DEQ may deny an application for discharge under the General Permit for Storm Water Discharges associated with Small MS4s for any of the following:

1. The discharge is unable to comply with:
   a. Effluent limits or other terms and conditions of the permit, including those listed in the Special Conditions;
   b. Water quality standards; or
   c. Discharges that the regional administrator has objected to in writing.
2. The discharge is different in degree or nature than those reasonably expected from sources or activities described in this General Permit.
3. The same operation has previously been denied or revoked an MPDES permit or authorization.
4. The discharge is also included within an application, or is subject to review under, the Major Facility Siting Act.
5. The point source is, or will be, located in an area of unique ecological or recreational significance based upon:
   a. Montana stream classifications;
   b. Impacts on fishery resources;
   c. Local conditions at proposed discharge sites; and
   d. Areas designated wilderness or wild and scenic rivers.
6. The discharge is from process wastewater regulated by federal effluent limit guidelines or new source performance standards. Process wastewater is defined as 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.
7. Any additional requirements DEQ determines are necessary to carry out the provisions of 75-5-101, et seq., MCA.

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

D. Requirements for Authorization

Owners or operators of Small MS4s must apply for authorization under a MPDES General Permit by completing a Notice of Intent (NOI) application package including a completed NOI form (provided by DEQ), applicable fees (specified in ARM 17.30.201), and any additional items listed in this section below. Small MS4s eligible for coverage will be issued a letter of authorization confirming coverage under the 2022 General Permit. Submittal of the NOI package and receipt of an authorization letter does not eliminate a permittee's obligation to obtain other necessary permits, including MS4-related activities that utilize the storm sewer system as a conveyance for non-storm water discharges.

Permittees may apply as co-permittees. Co-permittee authorizations are when multiple Small MS4s apply for coverage under a single permit authorization number. They shall be jointly

responsible for compliance under the General Permit. Each co-permittee must submit a separate application package to obtain authorization.

New Applicants: New MS4s must submit a complete NOI application package within 180 days of designation including:

- A completed *Storm Water Discharge Associated with MS4s Notice of Intent Application Form* (NOI-04);
- Applicable application fees; and
- A copy of the storm sewer map(s) extending one mile beyond MS4 boundaries submitted electronically via GIS shapefiles, hard copy PDFs, or reference to available online maps.

Based on the status of the newly designated MS4's storm water program, DEQ will provide a compliance schedule regarding the comprehensive requirements in this General Permit. At a minimum, an unregulated MS4 seeking coverage that has not been previously authorized will be required to:

- Develop, implement, and enforce a Storm Water Management Program (described below) in accordance with the compliance schedule no later than five years from the initial date of permit authorization.
- Self-monitor starting three years from the date of authorization, providing flexibility for the permittee to establish a storm water monitoring program.

Continued Coverage: Permittees seeking continued coverage shall submit a complete NOI application package within 30 days of the effective date of this General Permit including:

- A completed *Storm Water Discharge Associated with MS4s Notice of Intent Application Form* (NOI-04);
- Applicable renewal fees;
- A copy of the storm sewer map(s) extending one mile beyond MS4 boundaries submitted electronically via GIS shapefiles, hard copy PDFs, or reference to available online maps; and
- A link to the MS4s current storm water website and the most current version of the Storm Water Management Program.

IV. Proposed Effluent Limitations

A. Applicable Guidelines

Control of pollutants is established through effluent limits and other requirements in an MPDES permit. This includes technology-based effluent limits that specify the minimum level of treatment or control based on implementing available technologies, as well as water quality-based effluent limits designed to protect beneficial uses of the receiving water. Effluent limits in this permit are non-numeric and constitute the level of controls needed to reduce discharge of pollutants to the maximum extent practicable (MEP). MEP is the statutory standard that directs the permitting authority (DEQ) to establish a level of pollutant reduction that must be achieved through management practices, control techniques, and system design/engineering methods. This is achieved through the implementation of best management practices (BMPs) that are selected, designed, installed, implemented, inspected, and maintained in accordance with good engineering, hydrologic, and pollutant control practices. Implementation of BMPs used to eliminate or minimize the migration of pollutants to surface waters consistent with the

six minimum control measures (MCMs) of the Storm Water Management Program (SWMP) and all other provisions of the permit, as discussed below, shall constitute compliance with the standard of reducing pollutants to the MEP. This Comprehensive General Permit contains the full set of clear, specific, and measurable requirements necessary to meet MEP, to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act.

Effluent limits contained in the 2022 General Permit for Storm Water Discharges associated with Small MS4s are non-numeric and constitute the level of controls needed to reduce the discharge of pollutants from the Small MS4 to the maximum extent practicable (MEP), to protect water quality, and to satisfy the appropriate water quality requirements of the federal Clean Water Act. Non-numeric effluent limits are practice-based effluent limits or the implementation of Best Management Practices (BMPs) that can be authorized in lieu of numeric limits, where "[n]umeric effluent limits are infeasible" [40 CFR 122.44(k)(3) and adopted by reference in ARM 17.30.1344(2)(b)]. ARM 17.30.1111(5) requires the Small MS4 to develop, implement, and enforce a Storm Water Management Program (SWMP) to satisfy technology requirements and protect water quality. The SWMP must include the following six minimum control measures (MCMs): Public education and outreach; Public involvement/participation; Illicit discharge detection and elimination; Construction site storm water runoff control; Post-construction storm water management in new development and redevelopment; and, Pollution prevention and good housekeeping for permittee operations.

Implementation of BMPs consistent with the six MCMs and all other provisions of the permit including all BMPs listed in the permit shall constitute compliance with the standard of reducing pollutants to the maximum extent practicable. BMPs are implemented to eliminate or minimize the migration of pollutants to surface waters. Montana's surface water quality standards will be maintained for discharges from Small MS4s through water quality-based controls and implemented with BMPs through the iterative process of the MS4 storm water program. Maximum extent practicable (MEP) is the statutory standard that directs the permitting authority, the Montana Department of Environmental Quality, to establish the level of pollutant reductions that permittees of regulated Small MS4s must achieve including management practices, control techniques, system design, and engineering methods. The MEP standard is a unique permitting approach developed specifically for MS4s. During development of the MEP standard, the Department establishes General Permit requirements to reflect the determination of the maximum achievable level of pollutant reductions for all permittees. Consistent with EPA's Phase II Final Rule and the Remand Rule, the Department has determined that the achievement of MEP is an iterative and evaluative process. The Department will reassess MEP with each permit renewal cycle and this standard will continually adapt to current MS4 conditions and BMP effectiveness. To facilitate this iterative process, this 2022 General Permit renewal continues to use a prescriptive approach with clear, specific, measurable, and enforceable requirements to allow the Department to assess whether storm water management plans are meeting the MEP standard.

Stormwater discharges can be highly intermittent, are usually characterized by high flows occurring over relatively short time intervals, and can carry a variety of pollutants whose source, nature and extent varies. This is in direct contrast to more traditional process wastewater discharges from a particular industrial or commercial facility where the effluent is generally more predictable and can be more effectively analyzed to develop numeric effluent limitations. DEQ includes non-numeric effluent limits in MPDES permits, such as the MS4 General Permit, as requirements mandating facilities to "minimize" various types of pollutant

discharges or implement control measures. DEQ continues to assert that the combination of pollution prevention and structural management practices required by these limits are the best technologically available and economically achievable controls, as well as the most environmentally sound way to control the discharge of pollutants in stormwater discharges and to protect water quality. Pollution prevention continues to be the cornerstone of the MPDES stormwater program.

Mixing Zones – No mixing zones are authorized under this General Permit.

Nondegradation – The Montana Water Quality Act includes a nondegradation policy that prohibits degradation of state waters and applies to any new activity resulting in a change to existing water quality. DEQ has determined that reissuance of this General Permit for existing sources does not require review under Montana's nondegradation policy. DEQ has determined that compliance with the terms of the General Permit will ensure that these discharges are not significant pursuant to ARM 17.30.715(3), and these authorizations are protective of the beneficial uses of the receiving waters.

B. Storm Water Management Program

MS4s covered under this general permit must effectively manage a SWMP inclusive of the six MCMs listed below, which describe the minimum required BMPs for implementation. This shall include management practices, control techniques, system designs, good standard engineering practices, and such other provisions necessary to reduce the discharge of pollutants from the permitted Small MS4 to the MEP.

MCMs 1 & 2: Public Education, Outreach, Involvement, and Participation – Because public education/outreach and public involvement/participation are intrinsically related, these two MCMs have been combined in this renewal. Permittees are required to 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 water bodies. Additionally, they must also implement a public involvement/participation program to involve key target audiences in the development and implementation of the SWMP. The underlying goals of effective public education, outreach, involvement, and participation are to generate awareness among target audiences, provide strategic guidance for solutions to polluting behaviors, and promote change in polluting behavior. This permit renewal builds upon previously established programs, providing a menu of target audiences and outreach strategies based on permittees' local knowledge of storm water pollutant generating behavior. Permittees are required to analyze and adapt their approach based on documented participation and feedback.

MCM 3: Illicit Discharge Detection and Elimination (IDDE) – Permittees are required to develop, implement, and enforce a program to detect and eliminate illicit discharges including informing constituents of the hazards associated with illegal discharges and the improper disposal of waste. Through ordinance or other regulatory mechanism, permittees must effectively prohibit non-storm water discharges and implement appropriate enforcement procedures and actions. The goal is to qualify non-storm water discharge categories based on significance, prioritize outfalls susceptible to illicit discharges, outline infrastructure through mapping requirements, and perform dry weather screening using the outfall field screening

protocol developed by the *Center for Watershed Protection* (obtained by contacting DEQ or see Section VII. Information Sources) or an equivalent process. In this renewal, permittees must continue to maintain and update their inventory of storm water infrastructure assets and outfalls through mapping and inspections, prioritizing outfalls based on provided criteria. A comprehensive IDDE program includes clear policies and procedures for tracing and eliminating illicit discharges upon detection and ensures consistency among protocol with each incident. Any resulting enforcement actions must follow the permittee's SWMP Enforcement Response Plan (ERP) with tiers of informal, formal, and judicial responses

MCM 4: Construction Site Storm Water Runoff Control – Permittees must develop, implement, and enforce a program to reduce pollutants in any storm water runoff from construction activities that result in a land disturbance of greater than or equal to one acre, including activities that are part of a larger common plan of development. This includes implementing an ordinance or regulatory mechanism to require erosion and sediment controls and sanctions to ensure compliance. The SWMP must include procedures for site plan reviews, inspections, and enforcement control measures with consideration of potential water quality impacts. Minimum standards required for construction site storm water management are reflective of the Non-numeric Technology-Based Effluent Limits of the most current MPDES General Permit for Storm Water Discharges Associated with Construction Activity. This ensures consistency among regulated projects and provides a basis for effective plan review and inspections. An updated construction site inventory and inspection protocol are required to proactively manage construction activities, effectively conduct inspections, and use resources efficiently to assess potential pollutant impacts to water quality. Criteria are provided for prioritization and frequency of project inspections. Any resulting enforcement actions must follow the permittee's ERP with tiers of informal, formal, and judicial responses. This control measure allows for localized site regulation and enforcement efforts that, in return, enables a permittee to effectively control construction site discharges to their MS4.

MCM 5: Post-construction Storm Water Management in New Development and Redevelopment – Volume of storm water discharge reduction (and subsequently pollutant discharge reduction) is a critical focus and metric for post-construction storm water management. The overall goal of this minimum measure is to have development projects reflect, and improve upon, predevelopment hydrology through infiltration, evapotranspiration, and capture for reuse. Permittees must develop, implement, and enforce a program to address storm water runoff from new and redevelopment projects that disturb greater than or equal to one acre, including projects that are a part of a larger common plan of development. This includes implementing strategies with a combination of structural and non-structural BMPs with adequate long-term operation and maintenance, as well as an ordinance or regulatory mechanism to address post-construction runoff. The performance standard for runoff reduction from a site is 0.5 inches of rainfall, representing the 90^{th} percentile rainfall frequency event. This permit maintains the core performance standard for regulated projects by requiring the implementation of post-construction storm water controls 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. The purpose of the runoff reduction standard is to maintain or restore stable hydrology in receiving waters and protect water quality by having post-construction hydrology mimic the

natural hydrology of the area. The permit renewal provides options for projects that cannot meet 100 percent of the runoff reduction requirements where the remainder must be: (1) treated prior to discharge onsite with measures expected to remove 80 percent of total suspended solids; (2) managed offsite within the same sub-watershed using post-construction storm water management controls that are designed to infiltrate, evapotranspire, and/or capture for reuse; or (3) treated offsite within the same sub-watershed using post-construction storm water management controls expected to remove 80 percent of total suspended solids. DEQ has further provided an outline for offsite treatment criteria and the permittee is required to develop a formal review and approval process for determination of eligibility for offsite treatment. The above runoff reduction standard and the operation and maintenance of post-construction controls should also be the basis for post-construction inspections and permittee-developed inspection forms or checklists. Creating an inventory of post-construction structural storm water control measures, including tracking of specific information, will enable the permittee to know what control measures need to be maintained in order to function as designed. Criteria are provided for prioritization and frequency of project inspections. Any resulting enforcement actions must follow the permittee's ERP with tiers of informal, formal, and judicial responses. Adopted from the EPA Water Quality Scorecard, this permit requires permittees to perform exercises targeted at incorporating recommendations and requirements which allow and support the utilization of low impact development (LID) and green infrastructure concepts on public and private property. The purpose of the exercise is to help the permittee identify barriers to comprehensive post-construction storm water management and green infrastructure implementation, and to identify ways to eliminate these barriers. DEQ clarifies that the requirements in this MCM are separate from Circular DEQ 8 (*Montana Standards for Subdivision Storm Drainage*) although there are parallels regarding standards for runoff volume. Circular DEQ 8 applications have their own requirements and forms and are submitted and reviewed separately from this General Permit.

MCM 6: Pollution Prevention and Good Housekeeping for Permittee Operations – Permittees must develop and implement an operation and maintenance program that includes a training component and has the general goal of preventing or reducing pollutant runoff from municipal operations. The program must include employee training to prevent and reduce storm water pollution from activities such as park and open space maintenance, fleet and building maintenance, new construction, land disturbances, and storm water system maintenance. This control measure contains detailed requirements for maintaining a facility/activity inventory to include identification of potential contaminants and staff with associated responsibilities. Standard operating procedures must be maintained to identify storm water pollution controls and inspection procedures for permittee-owned facilities.

Additionally, the SWMP must address the following in accordance with the General Permit:

Program management: An effective storm water program is inclusive of a storm water management team, comprised of persons responsible for implementation of the SWMP including a primary SWMP coordinator. All permittees must establish, document, and execute formalized mechanisms for regular communication (meetings, email updates, etc.) between storm water management team members to allow for exchange and submittal of information necessary to ensure permit compliance and timely reporting. Requiring

participation of all pertinent staff in the overall management of the SWMP helps increase ownership in the program and improve SWMP development, implementation, activity tracking, and timely reporting.

Training: This permit renewal outlines the training requirements for the storm water management team, construction and post-construction site personnel, and field/facility personnel. This includes timeframes for training and new hire training requirements.

DEQ may require changes to an MS4's SWMP, as needed, to:

- Address impacts on receiving water quality caused, or contributed to, by discharges from the Small MS4.
- Include more stringent requirements necessary to comply with new federal statutory or regulatory requirements.
- Include other conditions deemed necessary by DEQ to comply with the goals and requirements of the Montana Water Quality Act.
- Update BMPs to improve program effectiveness based on information and/or data submitted in permittees' annual reports.

V. Self-Monitoring and Reporting Requirements

Water quality monitoring is required and necessary to track annual and long-term effectiveness of a permittee's SWMP. Below is a summary of the monitoring and reporting requirements laid out in section II. of the General Permit:

A. Storm Event Monitoring

All permittees are required to perform semi-annual sampling, testing, and reporting of storm water discharges from at least four locations within their small MS4 during a storm event with a measurable amount of discharge for the following parameters:

Table 2. Self-Monitoring and Reporting Requirements

Parameter	Units	Frequency	Type [1]
Estimated Flow	gpm	Semi-annual [3]	Instantaneous [2]
pH	s.u.		Instantaneous
Chemical Oxygen Demand (COD)	mg/L		Grab or Composite
Total Suspended Solids (TSS)	mg/L		Grab or Composite
Total Phosphorus	mg/L		Grab or Composite
Total Nitrogen	mg/L		Grab or Composite
Oil and Grease [4]	mg/L		Grab
Copper, Total Recoverable	µg/L		Grab or Composite
Lead, Total Recoverable	µg/L		Grab or Composite
Zinc, Total Recoverable	µg/L		Grab or Composite

[1] See definition section at the end of this permit for explanation of terms.
[2] Estimated flow rates are appropriate in cases where measurement gauges are not installed.
[3] Twice per year. One sample at each monitoring location must be taken between January 1st and June 30th of each permitted calendar year and the other sample between July 1st and December 31st.
[4] Hexanes extraction (EPA Method 1664A).

Permittees will establish a network of at least four monitoring locations with at least one location representing a predominantly commercial and/or industrial area, and at least one location representing a predominantly residential area. One monitoring location may be upstream, outside the MS4 boundary to evaluate water quality entering the MS4.

B. Impaired Waterbody Monitoring

Permittees must maintain an inventory of all outfalls that discharge to impaired waterbodies. Based on the status of an approved total maximum daily load (TMDL) described below, the permittee must target and reduce discharges to impaired waterbodies via implementation of BMPs and/or through additional TMDL-related monitoring. Information on impaired waterbodies may be obtained from DEQ or from the Clean Water Act Information Center website (http://cwaic.mt.gov/).

Pre-TMDL: The permittee's SWMP shall include a section describing BMPs used to target and reduce discharges to impaired waterbodies **without** an approved TMDL for any identified pollutant(s) of impairment related to storm water.

Approved TMDL Wasteload Allocations (WLAs): TMDLs and their assigned WLAs define the maximum amount of a pollutant a waterbody can receive and still meet water quality standards. TMDLs pertaining to individual MS4s are summarized in Appendix A of the General Permit. Permittees must comply with all MS4-related permit requirements associated with TMDLs. The permittee shall include in its SWMP a section identifying the measures and BMPs it plans to implement to address TMDL MS4-related permit requirements. This section shall describe the MS4's impairment priorities and long-term strategy in making progress towards meeting the TMDL. The long-term strategy must outline interim milestones (i.e., a completion schedule for action items) for controlling the discharge of the pollutants of concern.

Additionally, the permittee must supplement the storm event monitoring requirements with additional monitoring targeted at further evaluating MS4 loading to impaired waterbodies and the effectiveness of BMPs. The permittee's SWMP must include a TMDL-related monitoring sampling plan for storm water-related pollutant(s) listed as a source of impairment specific to the receiving waterbody. The plan shall include strategy rationale, monitoring frequency, and monitoring locations as outlined by the Permit, and take into consideration the following:

- The largest drainage areas
- The surrounding land uses which could contribute to impairments
- High priority areas identified via the requirements in MCM 3: Illicit Discharge Detection and Elimination

C. Reporting and Evaluation of the SWMP

Annual Report: Permittees are required to prepare and submit an electronic annual report to DEQ for each calendar year within the General Permit term starting March 1, 2023. The annual report must include any updates, changes, or improvements to the SWMP or storm sewer maps. Annual reports are critical for providing opportunity for the permittee to document and summarize implementation of the SWMP, evaluate program results, and describe planned changes. DEQ has updated the annual report form to reflect the 2022 General Permit requirements.

Program Effectiveness Assessment: Permittees are also required to develop and implement a written Program Effectiveness Assessment that tracks annual and long-term effectiveness of the SWMP. The assessment is intended to assist the permittee with documenting compliance with permit conditions, adaptively managing its storm water program, and making necessary modifications to improve program effectiveness at reducing pollutants of concern, achieving the MEP standard, and protecting water quality. The assessment shall include a summary of monitoring results (required above) and assess BMP/program effectiveness for each minimum control measure in terms of the following outcomes:

- Participation of storm water program activities;
- Raising awareness;
- Changing behavior;
- Reducing pollutant loads;
- MS4 discharge quality; and
- Receiving water conditions.

The permittee is required to complete and submit the Program Effectiveness Assessment, identifying opportunities for change, with the 4th year Annual Report (due March 1, 2025)

VI. Special Conditions

Below is a summary of the Special Conditions laid out in section III. of the General Permit:

A. Sharing Responsibility

A small MS4 may share responsibility to implement the minimum control measures with another entity to satisfy their MPDES permit obligations in conformance with the Special Conditions of the General Permit. Each individual MS4 remains responsible for compliance with its permit obligations if the other entity fails to implement the control measure, or any component thereof.

B. Qualifying Local Program

If a qualifying local program (defined in ARM 17.30.1111(9)) requires a small MS4 to implement one or more of the six minimum control measures, the permittee is directed to follow that qualifying program's requirements.

C. Ownership, Authority, or Responsibility for SWMP 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 possible and in conformance with the General Permit.

D. Changes in Storm Water Coordinator

If the Storm Water Coordinator person/position, mailing address, email address, or telephone number identified on the application form change, the permittee shall notify the Department in writing within 15 calendar days of the change and in conformance with the General Permit.

E. Records for Inspection

A copy of the General Permit, permit authorization letter, required SWMP documents, annual reports, and other pertinent records required by the General Permit shall be maintained by the Storm Water Coordinator and made available DEQ inspectors upon request.

F. Twenty-four Hour Notice of Noncompliance or Illicit Discharge

The permittee shall report any serious incident of noncompliance or illicit discharge affecting the environment as soon as possible, and in conformance with the Special Conditions listed in the General Permit.

VII. Information Sources

Administrative Rules of Montana Title 17 Chapter 30 – Water Quality

Center for Watershed Protection. *Illicit Discharge Detection and Elimination: A Guidance Manual for Program Development and Technical Assessments.* October 2004. Accessed at: https://www3.epa.gov/npdes/pubs/idde_manualwithappendices.pdf

EPA. *Compendium of MS4 Permitting Approaches; Part 1: Six Minimum Control Measures.* November 2016.

EPA. *Environmental Impacts of Storm Water Discharges: A National Profile*. June 1992; EPA Document No. 841-R-92-001.

EPA. *Final Municipal Separate Storm Sewer System (MS4) General Permit Remand Rule;* Fact Sheet. November 2016.

EPA. *National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System General Permit Remand Rule;* Final Rule. December 2016.

EPA. *Process for Issuing Small MS4 Permits;* Guidance Document. September 2018.

EPA. *Water Quality Scorecard; Incorporating Green Infrastructure Practices at the Municipal, Neighborhood, and Site Scales.* October 2009

Federal Water Pollution Control Act (Clean Water Act), 33 U.S.C. §§ 1251-1387, October 18, 1972, as amended 1973-1983, 1987, 1988, 1990-1992, 1994, 1995 and 1996.

Montana Code Annotated (MCA), Title 75-5-101, *et seq.*, "Montana Water Quality Act."

Montana DEQ. Montana Pollutant Discharge Elimination System (MPDES) Permit Number MTR040000 Administrative Record.

US Code of Federal Regulations, 40 CFR Parts 122-125, 130-133, & 136.