



ADMINISTRATIVE RULES OF MONTANA



17.38.101 PLANS FOR PUBLIC WATER SUPPLY OR PUBLIC SEWAGE SYSTEM

- (1) For purposes of this rule, "delegated division of local government" means a local government that has been delegated authority pursuant to ARM 17.38.102 and 75-6-121, MCA, to review and approve plans and specifications for public water supply or public sewage systems, as designated in the written delegation.
- (2) The purpose of this rule is to assure the protection of public health and the quality of state waters by requiring review and approval, by either the department or a delegated division of local government, of plans and specifications for siting, construction, and modification of public water supply and public sewage systems prior to the beginning of construction.
- (3) As used in this rule, the following definitions apply in addition to those in 75-6-102, MCA:
 - (a) "Accessory building" means a subordinate building or structure on the same lot as the main building, which is under the same ownership as the main building, and which is devoted exclusively to an accessory use such as a garage, workshop, art studio, guest house, or church rectory;
 - (b) "Applicant" means a person who submits plans and specifications for approval pursuant to this rule;
 - (c) "Gray water" is defined in 75-5-325, MCA.
 - (d) "Main" means any line providing water or sewer to multiple service connections, any line serving a water hydrant that is designed for fire fighting purposes, or any line that is designed to water or sewer main specifications;
 - (e) "Public sewage system" means a system of collection, transportation, treatment, or disposal of sewage that serves 15 or more families or 25 or more persons daily for any 60 or more days in a calendar year. Public sewage systems are further categorized as follows:
 - (i) "Community sewage system" means a public sewage system that serves at least 15 service connections used by year-round residents or that regularly serves at least 25 year-round residents; or
 - (ii) "Non-community sewage system" means any public sewage system which is not a community sewage system;
 - (f) "Reclaimed wastewater" is defined in 75-6-102, MCA;
 - (g) "Rural distribution system" means those portions of a water distribution system that are outside the limits of a city or town and that:
 - (i) have fewer than four service connections per mile on average;

- (ii) are constructed of water mains six inches in diameter or less; and
 - (iii) do not provide fire flows.
 - (h) "Service connection" means a line that provides water or sewer service to a single building or main building with accessory buildings, and that is designed to service line specifications;
 - (i) "Sewage system" means a device for collecting or conducting sewage, industrial wastes, or other wastes to an ultimate disposal point;
 - (j) "Subsurface sewage treatment system" means the method of sewage treatment in which the effluent is applied below the soil surface;
 - (k) "Wastewater" means sewage, industrial waste, other wastes, or any combination thereof;
 - (l) "Wastewater system" means a public sewage system or other system that collects, transports, treats, or disposes of industrial wastes;
 - (m) "Professional engineer" means an engineer licensed or otherwise authorized to practice engineering in Montana pursuant to Title 37, chapter 67, MCA;
 - (n) "Public water supply system" means a system for the provision of water for human consumption from a community well, water hauler for cisterns, water bottling plant, water dispenser, or other water supply that has at least 15 service connections or that regularly serves at least 25 persons daily for any 60 or more days in a calendar year. Public water supply systems are further categorized as follows:
 - (i) "Community water system" means a public water supply system that serves at least 15 service connections used by year-round residents or that regularly serves at least 25 year-round residents; or
 - (ii) "Non-community water system" means a public water supply system that is not a community water system.
 - (o) "Development plan" has the meaning in 75-6-130(9)(a), MCA; and
 - (p) "Rated capacity" has the meaning in 75-6-130(9)(b), MCA.
- (4) A person may not commence or continue the construction, alteration, extension, or operation of a public water supply system or public sewage system until the applicant has submitted a design report along with the necessary plans and specifications for the system to the department or a delegated division of local government for its review and has received written approval. Three sets of plans and specifications are needed for final approval. Approval by the department or a delegated division of local government is contingent upon construction and operation of the public water supply or public sewage system consistent with the approved design report, plans, and specifications. Failure to construct or operate the system according to the approved plans and specifications or the department's conditions of approval is an alteration for purposes of this rule. Design reports, plans, and specifications must meet the following criteria:
- (a) the design report, plans, and specifications for community water systems must be prepared and designed by a professional engineer in accordance with the format and criteria set forth in department Circular DEQ-1, "Montana Department of Environmental Quality Standards for Water Works;"

- (b) the design report, plans, and specifications for noncommunity water systems must be prepared in accordance with the format and criteria set forth in Department Circular DEQ-3, "Standards for Small Water Systems."
 - (i) The department or a delegated division of local government may require the plans and specifications for such a system to be prepared by a professional engineer when the complexity of the proposed system warrants such engineering (e.g., systems using gravity storage, pressure booster/reduction stations).
 - (ii) Except as provided in (iii), the department or a delegated division of local government will require the plans and specifications for such a system to be prepared by a professional engineer when:
 - (A) system components subject to review under Department Circular DEQ-1, "Standards for Water Works," are proposed;
 - (B) chlorination subject to review under Department Circular DEQ-3, "Standards for Small Water Systems," is proposed; or
 - (C) springs subject to review under Department Circular DEQ-10, "Standards for the Development of Springs to Serve Public Water Supply Systems" are proposed.
 - (iii) The department or a delegated division of local government may allow standard plans and specifications previously approved by the department to be used for such a system in place of those prepared by a professional engineer on a case-by-case basis;
- (c) the design report, plans, and specifications for all public sewage systems, except public subsurface sewage treatment systems, must be prepared and designed by a professional engineer in accordance with the format and criteria set forth in Department Circular DEQ-2, "Montana Department of Environmental Quality Design Standards for Public Sewage Systems." The design report, plans, and specifications for a public sewage system must also be designed to protect public health and ensure compliance with the Montana Water Quality Act, Title 75, chapter 5, MCA, and rules adopted under the Act, including ARM Title 17, chapter 30, subchapter 7;
- (d) the department adopts and incorporates by reference ARM 17.36.320 through 17.36.325. The design report, plans, and specifications for public subsurface sewage treatment systems must be prepared in accordance with ARM 17.36.320 through 17.36.325, and with the format and criteria set forth in Department Circular DEQ-4, "Montana Standards for Subsurface Wastewater Treatment Systems." For public subsurface sewage treatment systems with a design flow greater than or equal to 2500 gallons per day, the design report, plans, and specifications must be prepared by a professional engineer.
- (e) the department adopts and incorporates by reference ARM 17.36.319 for purposes of review of public gray water irrigation systems. The design report, plans, and specifications for public gray water irrigation systems must be prepared in accordance with ARM 17.36.319, and in accordance with the format and criteria set forth in Department Circular DEQ-4, "Montana Standards for Subsurface Wastewater Treatment Systems." For purposes of this chapter, "gray water" means wastewater that is collected separately from a sewage flow and that does not contain industrial chemicals, hazardous wastes, or wastewater from toilets.

- (f) the design report, plans, and specifications for water extensions or replacements that meet the criteria in "Water Main Certified Checklist" may be submitted under that abbreviated process;
 - (g) the design report, plans, and specifications for sewer extensions or replacements that meet the criteria in "Sewer Main Certified Checklist" may be submitted under that abbreviated process;
 - (h) the design report, plans, and specifications for new community water supply wells that meet the criteria specified in the "Community Water Supply Well Expedited Review Checklist" may be submitted under that abbreviated process;
 - (i) the design report, plans, and specifications for new non-community water supply wells that meet the criteria specified in the "Non-community Water Supply Well Expedited Review Checklist" may be submitted under that abbreviated process; and
 - (j) the department may grant a deviation from the standards referenced in (4)(a) through (e) when the applicant has demonstrated to the satisfaction of the department that strict adherence to the standards of this rule is not necessary to protect public health and the quality of state waters. Deviations from the standards may be granted only by the department.
- (5) To resume review of plans and specifications for a project that has been inactive for more than a year after issuance of a denial letter by the reviewing authority, the applicant must resubmit plans and specifications and fees as required in ARM 17.38.106.
 - (6) Plans and specifications for a project that would violate the approval of a public water supply system, public wastewater system, or that would cause a significant deficiency, as defined in ARM 17.38.104(1), may not be approved by the reviewing authority.
 - (7) Except as provided in (10)(a), upon receipt of a submittal or resubmittal under (4), the department shall provide a written response to the applicant within 60 days that either approves the submittal, approves the submittal with conditions, describes additional information that must be submitted to the department, or denies the submittal.
 - (8) The department or a delegated division of local government shall issue a written approval for a public water supply system or public sewage system if it determines that the design report, plans, and specifications are complete and the applicant has complied with all provisions of this rule. The approval may be conditional as follows:
 - (a) the department's approval of a public water supply system may set forth conditions of approval which may include, but shall not be limited to, those specifying limits on quantities available for irrigation and fire flows, limited storage, standby power sources, and peak flows;
 - (b) the department's approval of a public sewage system may set forth conditions of approval which may include, but shall not be limited to, expected performance characteristics and performance limitations such as operations, staffing, financing, wastewater loads, standby power, and access; or
 - (c) the department's approval of the use of reclaimed wastewater by a public sewage system must require compliance with the treatment standards, monitoring, recordkeeping, and reporting requirements required for each classification, as described in Department Circular DEQ-2.

- (9) Except as provided in (11)(b), unless the applicant has completed the construction, alteration, or extension of a public water supply or public sewage system within three years after the department or a delegated unit of local government has issued its written approval, the approval is void and a design report, plans, and specifications must be resubmitted as required by (4) with the appropriate fees specified in this subchapter.
- (a) If the relevant design standards and administrative rules have not changed since the original approval was issued, the department may, at its discretion, reapprove the project using the following abbreviated process:
- (i) The original design report, plans, and specifications must be resubmitted as required by (4).
 - (ii) The engineer or firm that originally submitted the project must, in writing, grant permission for the department to re-review the plan set, and state that the conditions surrounding the original submission have not changed.
 - (iii) The review fee will be established by the hourly rate designated in ARM 17.38.106(3) multiplied by the time required to review the plans and specifications.
- (10) Continuously active public water supply systems with a public water system ID number that have never submitted plans and specifications for department review are not required to submit plans and specifications unless specifically required by the department.
- (a) Community and non-transient, non-community public water supply systems that are inactive for three or more years must submit a design report, plans, and specifications, as required by (4) with the appropriate fees specified in this subchapter, for approval prior to reactivation. Previously approved systems that have been inactive for three or more years may, at the department's discretion, use the abbreviated review process described in (9)(a).
- (b) Transient non-community public water supply systems that have been inactive for three or more years are not required to submit a design report, plans, and specifications to re-activate if:
- (i) current water samples show the source is coliform-absent and nitrogen levels less than the maximum contaminant level;
 - (ii) no water system facility modifications have been made to the system during inactivation;
 - (iii) any significant deficiencies or sanitary defects previously identified have been corrected;
 - (iv) the water source is not under the influence of surface water; and
 - (v) the PWSID number is submitted to the department.
- (11) As provided in 75-6-131, MCA, the following requirements apply to regional public water supply systems for which a final engineering report has been approved by the United States Bureau of Reclamation. These requirements are in addition to the other requirements in this chapter, except where a rule specifically provides otherwise:
- (a) Upon receipt of a submittal or resubmittal under (4) of plans, specifications, or deviation requests for the storage, pumping, and distribution portions of a regional public water supply system, the department shall provide a written response within 40 calendar days

after a submittal and within 20 working days after a resubmittal. The department's response must approve the submittal, approve the submittal with conditions, describe additional information that must be submitted to the department, or deny the submittal.

- (b) Portions of a regional public water supply system for which the department has reviewed and approved plans, specifications, or deviations under (4) are not subject to changes in department design or construction criteria for a period of 72 months after the department's approval. Unless the applicant has completed construction, alteration, or extension of the approved portions of the system within 72 months after the department's approval, the approval is void and a design report, plans, and specifications must be resubmitted under (4) with the appropriate fees specified in this subchapter. The department may grant a completion deadline extension if the applicant requests an extension in writing and demonstrates adequate justification to the department.
 - (c) Except as provided in (4) and (11)(b), the approval of a regional water system's standard construction contract documents and provisions for amendments to those documents remains in effect for the construction period of the project as contained in the final engineering report approved by the United States Bureau of Reclamation.
- (12) The applicant shall not deviate from the approved plans and specifications without first receiving approval from the governmental entity that approved the plans and specifications.
 - (13) A person may not commence or continue the operation of a public water supply or public sewage system, or any portion of such system, prior to certifying by letter to the department or a delegated division of local government that the system, or portion of the system constructed, altered, or extended to that date, was completed in substantial accordance with plans and specifications approved by the department and there are no deviations from the design standards of the applicable circulars other than those previously approved by the department pursuant to ARM 17.38.101. For a system or any portion of a system designed by a professional engineer, an engineer shall sign and submit the certification letter to the department or a delegated division of local government.
 - (14) Within 90 days after the completion of construction, alteration, or extension of a public water supply or public sewage system, or any portion of such system, a complete set of certified "as-built" drawings must be signed and submitted to the department or a delegated division of local government. The department may require that the "as-built" submittal be accompanied by an operation and maintenance manual. For a system or any portion of a system designed by a professional engineer, an engineer shall sign and submit the certified "as-built" drawings to the department or a delegated division of local government.
 - (15) The applicant shall submit documentation indicating commitment to retain a qualified professional to provide certification that the system was built in conformance with the approved plans and specifications. If the system was designed by a professional engineer, the documentation must indicate that the certification will be provided by a professional engineer.
 - (16) The department or a delegated division of local government may require that chemical analyses, microbiological examinations, flow tests, pressure tests, treatment plant performance records, or other measures of performance for a public water supply or public sewage system be conducted by the applicant to substantiate that the system complies with the criteria set forth in the design report, plans, and specifications.

- (17) When design reports, plans, and specifications submitted pursuant to this rule are also part of a submittal for compliance with plan review pursuant to the Sanitation in Subdivisions Act, (Title 76, chapter 4, MCA) the applicant shall so indicate by written notice accompanying the submittal. Review under this rule will then be conducted pursuant to Title 76, chapter 4, MCA.
- (18) When design reports, plans, and specifications submitted pursuant to this rule include a proposal to use reclaimed wastewater, the department or delegated division of local government may not approve the proposal until the applicant has obtained any necessary approvals required under Title 85, MCA, from the Department of Natural Resources and Conservation.
- (19) An owner or operator of a public sewage system may not:
 - (a) use reclaimed wastewater for a use that has not been approved by the department or by a delegated division of local government, according to the use classification system in Department Circular DEQ-2, "Montana Department of Environmental Quality Design Standards for Public Sewage Systems;" or
 - (b) use reclaimed wastewater that has not been treated to the applicable standards for the use set forth in Department Circular DEQ-2, "Montana Department of Environmental Quality Design Standards for Public Sewage Systems."
- (20) Fees for review and approval of development plans will be at the hourly rate provided for in ARM 17.38.106(3).
- (21) The review timeframe for development plans is 60 calendar days.
- (22) For purposes of this chapter, the department adopts and incorporates by reference the following documents. All references to these documents in this chapter refer to the edition set out below:
 - (a) Department Circular DEQ-1, 2024 edition, which sets forth the requirements for the design and preparation of plans and specifications for public water supply systems;
 - (b) Department Circular DEQ-2, 2018 edition, which sets forth the requirements for the design and preparation of plans and specifications for sewage works;
 - (c) Department Circular DEQ-3, 2023 edition, which sets forth minimum design standards for small water systems;
 - (d) Department Circular DEQ-4, 2023 edition, which sets forth standards for subsurface wastewater treatment systems;
 - (e) Department Water Main Certified Checklist, 2014 edition, which sets forth minimum criteria and design standards for water main extensions and replacements;
 - (f) Department Sewer Main Certified Checklist, 2014 edition, which sets forth minimum criteria and design standards for sewer main extensions and replacements;
 - (g) Department Community Water Supply Well Expedited Review Checklist, 2018 edition, which sets forth minimum criteria and design standards for new community water supply wells;
 - (h) Department Noncommunity Water Supply Well Expedited Review Checklist, 2018 edition, which sets forth minimum criteria and design standards for new non-community water supply wells;
 - (i) 40 CFR 141.5, which sets forth siting requirements for public water supply components;

- (j) Department Circular DEQ-10, 2014 edition, which sets forth the standards for development of springs to serve public water supply systems; and
 - (k) Department Circular DEQ-16, 2014 edition, which sets forth standards for cisterns to serve noncommunity public water supply systems.
- (23) A copy of any of the documents adopted under (22) may be viewed at the Department of Environmental Quality, 1520 East Sixth Avenue, Helena, MT 59620-0901.

Authorizing statute(s): 75-6-104, MCA

Implementing statute(s): 75-6-104, 75-6-112, 75-6-121, MCA

History: NEW, 1977 MAR p. 1173, Eff. 12/24/77; AMD, 1981 MAR p. 205, Eff. 3/13/81; AMD, 1985 MAR p. 163, Eff. 2/15/85; AMD, 1992 MAR p. 2152, Eff. 9/25/92; AMD, 1995 MAR p. 667, Eff. 4/28/95; TRANS, from DHES, 1996 MAR p. 1499; AMD, 1998 MAR p. 1167, Eff. 5/1/98; AMD, 1999 MAR p. 1895, Eff. 9/10/99; AMD, 2000 MAR p. 3398, Eff. 12/8/00; AMD, 2003 MAR p. 230, Eff. 2/14/03; AMD, 2003 MAR p. 1630, Eff. 6/27/03; AMD, 2004 MAR p. 2579, Eff. 10/22/04; AMD, 2004 MAR p. 3016, Eff. 1/1/05; AMD, 2006 MAR p. 540, Eff. 2/24/06; AMD, 2007 MAR p. 1666, Eff. 10/26/07; AMD, 2008 MAR p. 2625, Eff. 12/25/08; AMD, 2009 MAR p. 1786, Eff. 10/16/09; AMD, 2009 MAR p. 1794, Eff. 10/16/09; AMD, 2011 MAR p. 1545, Eff. 8/12/11; AMD, 2012 MAR p. 2067, Eff. 10/12/12; AMD, 2013 MAR p. 2081, Eff. 11/15/13; AMD, 2014 MAR p. 1802, Eff. 8/8/14; AMD, 2014 MAR p. 1824, Eff. 8/8/14; AMD, 2016 MAR p. 1008, Eff. 6/4/16; AMD, 2019 MAR p. 836, Eff. 6/22/19; AMD, 2022 MAR p. 1695, Eff. 8/27/22; AMD, 2023 MAR p. 324, Eff. 4/15/23; AMD, 2023 MAR p. 1861, Eff. 12/23/23; AMD, 2024 MAR p. 2144, Eff. 9/7/24.