



ADMINISTRATIVE RULES OF MONTANA



17.30.1111 APPLICATION PROCEDURES, PERMIT REQUIREMENTS: SMALL MS4S

- (1) Owners or operators of small MS4s shall apply for authorization under an MPDES permit as provided in ARM 17.30.1110 and this rule.
 - (a) For small MS4s in existence on February 14, 2003, the permit requirements in this subchapter are effective beginning March 10, 2003.
 - (b) The owner or operator of a small MS4 that is designated after February 14, 2003 by the department under ARM 17.30.1107 shall apply for authorization within 180 days of notice by the department, unless the department grants a later date.
- (2) Small MS4s shall complete an application for authorization in accordance with the requirements in ARM 17.30.1110. The application must also include the following information:
 - (a) a description of the BMPs that the MS4 will implement for each of the six storm water minimum control measures set out in (6) ;
 - (b) identification of the measurable goals for each of the BMPs including, as appropriate, the months and years in which the MS4 will undertake required actions, including interim milestones and the frequency of the action; and
 - (c) the person or persons responsible for implementing or coordinating the storm water management program.
- (3) A small MS4 may file its own application or may jointly submit an application with other municipalities or governmental entities. If a small MS4 intends to share responsibilities for meeting the minimum control measures with other municipalities or governmental entities, the small MS4 shall submit an application that describes which minimum control measures it will implement and identify the entities that will implement the other minimum control measures within the area served by the small MS4.
- (4) The general permit may include other steps necessary to obtain permit authorization.
- (5) The MPDES permit for small MS4s must require at a minimum that MS4s develop, implement, and enforce a storm water management program designed to reduce the discharge of pollutants from the 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. The storm water management program must include the minimum control measures described in (6) .
 - (a) For purposes of this rule, narrative effluent limitations requiring implementation of BMPs are the most appropriate form of effluent limitations when designed to satisfy technology requirements (including reductions of pollutants to the maximum extent practicable) and to protect water quality. Implementation of BMPs consistent with the provisions of the storm

water management program required pursuant to this rule and the provisions of the permit shall constitute compliance with the standard of reducing pollutants to the maximum extent practicable. The department shall specify a time period of up to five years from the date of the permit or permit authorization for the MS4 to develop and implement the program.

- (6) Minimum control measures include, but are not limited to:
- (a) public education and outreach on storm water impacts. A small MS4 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 water bodies and the steps that the public can take to reduce pollutants in storm water runoff;
 - (b) public involvement/participation. A small MS4 shall, at a minimum, comply with state and local public notice requirements when implementing a public involvement/ participation program;
 - (c) illicit discharge detection and elimination measures that must include the following:
 - (i) a small MS4 shall develop, implement and enforce a program to detect and eliminate illicit discharges into the small MS4;
 - (ii) a small MS4 shall:
 - (A) develop, if not already completed, a storm sewer system map, showing the location of all outfalls and the names and locations of all outfall receiving waters;
 - (B) to the extent allowable under state or local law, effectively prohibit, through ordinance or other regulatory mechanism, non-storm water discharges (other than the potential non-storm water discharges for MS4s listed in ARM 17.30.1111(6) (c) (iii)) into the MS4 and implement appropriate enforcement procedures and actions;
 - (C) develop and implement a plan to detect and address non-storm water discharges, including illegal dumping, to the MS4; and
 - (D) inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste;
 - (iii) a small MS4 shall address the following categories of non-storm water discharges or flows (i.e., illicit discharges) only if it identifies them as significant contributors of pollutants to the MS4:
 - (A) 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;
 - (B) 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 surface waters;
 - (d) construction site storm water runoff control measures including:

- (i) a small MS4 shall develop, implement, and enforce a program to reduce pollutants in any storm water runoff to the 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 requirements for a construction site in accordance with ARM 17.30.1105(5) , the small MS4 is not required to develop, implement, or enforce a program to reduce pollutant discharges from such sites;
 - (ii) the development and implementation of, at a minimum:
 - (A) 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 or local law;
 - (B) requirements for construction site operators to implement appropriate erosion and sediment control BMPs;
 - (C) 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;
 - (D) procedures for site plan review that incorporate consideration of potential water quality impacts;
 - (E) procedures for receipt and consideration of information submitted by the public; and
 - (F) procedures for site inspection and enforcement of control measures;
- (e) post-construction storm water management in new development and redevelopment. A small MS4 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 MS4. The program must ensure that controls are in place that would prevent or minimize water quality impacts;
 - (ii) develop and implement strategies that include a combination of structural and non-structural BMPs appropriate for the community;
 - (iii) develop and implement an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects to the extent allowable under state or local law; and
 - (iv) ensure adequate long-term operation and maintenance of BMPs;
- (f) pollution prevention and good housekeeping measures for municipal operations. A small MS4 shall develop and implement an operation and maintenance program that includes a training component and has the goal of preventing or reducing pollutant runoff from municipal operations. Using training materials that are available from EPA, the state of Montana, 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,

fleet and building maintenance, new construction and land disturbances, and storm water system maintenance.

- (7) A small MS4 may share the responsibility to implement the minimum control measures with another entity in order to satisfy their MPDES permit obligations to implement a minimum control measure.
 - (a) Shared responsibility is allowed only if:
 - (i) the other entity implements the control measure;
 - (ii) the particular control measure, or component thereof, is at least as stringent as the corresponding MPDES permit requirement; and
 - (iii) the other entity agrees to implement the control measure on behalf of the owners or operators of the regulated small MS4.
 - (b) In the reports submitted under (14) , the owners or operators must specify that they are relying on another entity to satisfy some of their permit obligations, unless the other entity is responsible to file the reports.
 - (c) The MS4 remains responsible for compliance with its permit obligations if the other entity fails to implement the control measure (or component thereof) . The MS4 should enter into a legally binding agreement with the other entity in order to minimize uncertainty about compliance with the MPDES permit.
- (8) The department may specify in an MPDES permit that another governmental entity is responsible for implementing one or more of the minimum control measures for a small MS4. If the department does so, the MS4 is not required to include such minimum control measures in its storm water management program. The department may modify an MPDES permit or permit authorization to require an MS4 to implement a minimum control measure if the other entity fails to implement it.
- (9) If a qualifying local program requires a small MS4 to implement one or more of the six minimum control measures of this rule, the department may include conditions in the MPDES permit or permit authorization that direct the MS4 to follow that qualifying program's requirements rather than the minimum control measures requirements of this rule. A "qualifying local program" is a local municipal storm water management program that imposes the relevant minimum control measures stated in (6) .
- (10) A small MS4 is not required to meet any measurable goals identified in its application in order to demonstrate compliance with the minimum control measures in (6) (c) through (f) if EPA or the department has not provided a menu of BMPs that addresses each such minimum measure. In that event, the MS4 shall comply with other requirements of the general permit, including good faith implementation of BMPs designed to comply with the minimum control measures.
- (11) The department may include, in an authorization issued to a small MS4, limitations that are more stringent than those contained in the general permit. Such limitations must be based on a TMDL or equivalent analysis that determines such limitations are needed to protect water quality.
- (12) A small MS4 shall evaluate program compliance, the appropriateness of its identified BMPs, and progress towards achieving its identified measurable goals.
- (13) A small MS4 shall keep records required by the MPDES permit for at least three years and shall provide its records to the department upon request. Records, including a description of the storm

water management program, must be made available to the public at reasonable times during regular business hours. Provisions for the confidentiality of records are stated in ARM 17.30.1321.

- (14) Unless a small MS4 relies on another entity to satisfy its MPDES permit obligations under (7) , the MS4 shall submit annual reports to the department for the first permit term. For subsequent permit terms, the MS4 shall submit reports in years two and four unless the department requires more frequent reports. The annual report must:
 - (a) describe the status of compliance with permit conditions, the appropriateness of the identified BMPs, and progress towards achieving the identified measurable goals for each of the minimum control measures;
 - (b) include information collected and analyzed, including monitoring data, if any, during the reporting period;
 - (c) summarize the storm water activities that the MS4 plans to undertake during the next reporting cycle;
 - (d) describe changes in any identified BMPs or measurable goals for any of the minimum control measures; and
 - (e) notify the department if the MS4 is relying on another governmental entity to satisfy some of its permit obligations.
- (15) The department may issue permits for small MS4s that are designated under ARM 17.30.1107 on a system-wide basis, jurisdiction-wide basis, watershed basis, or other appropriate basis, or may issue permits for individual discharges.
- (16) An owner or operator of a small municipal separate storm sewer system may petition the department to require a separate MPDES permit for any discharge into the small municipal separate storm sewer system.
- (17) When, for the discharges listed in (1) , more than one operator discharges storm water through a non-municipal or nonpublicly owned separate storm sewer system, the department may either issue a single permit to all dischargers as co-permittees, or issue separate permits to each discharger on the system. If the department issues a single permit to all dischargers on the system, each co-permittee shall be responsible only for the portion of the discharge under its ownership or control.
 - (a) This subsection applies to storm water discharges associated with industrial, mining, oil and gas, and construction activity that will result in construction-related disturbance of five acres or more of total land area.
 - (b) If there is more than one operator of a single system of such non-municipal conveyances, all operators of storm water discharges must submit applications.
- (18) Each permit covering more than one operator must identify the effluent limitations, or other permit conditions if any, that apply to each operator.

Authorizing statute(s): 75-5-201, 75-5-401, MCA

Implementing statute(s): 75-5-401, MCA

History: NEW, 2003 MAR p. 219, Eff. 2/14/03.