

**Fact Sheet**  
**Montana Pollutant Discharge Elimination System**  
**Multi-Sector General Permit**  
**For**  
**Storm Water Discharges Associated with Industrial Activity**

MPDES Permit Number: MTR000000

## **I. Permit Status**

Montana Pollutant Discharge Elimination System (MPDES) permit MTR000000 is a reissued Multi-Sector General Permit for Storm Water Discharges Associated with Industrial Activity (General Permit or MTR000000) for a five year permit cycle. The proposed reissuance is the sixth iteration of the General Permit.

The current permit became effective February 1, 2013, and expires on January 31, 2018.

## **II. Summary of Significant Permit Changes**

### *Proposed Permitting Approach with Reissuance*

Summary of significant proposed changes to the existing 2013 General Permit include:

- Requirements for consultation with the Montana Sage Grouse Habitat Conservation Program;
- Requirements for public availability of the Storm Water Pollution Prevention Plan;
- Requirements to consult and incorporate local requirements;
- Requirements for a qualified inspector;
- Requirements for the Montana Department of Environmental Quality (Department) review and approval of significantly identical outfalls;
- Clarified conditions for eligibility for coverage under this General Permit;
- Clarified requirements for Conditional Exclusion for No Exposure;
- Requirements for technology-based effluent limits include clarification and specification while maintaining flexibility;
- Clarified requirements for discharges to impaired waterbodies with Pre-Total Maximum Daily Load (TMDL) approval and approved TMDL wasteload allocations;
- Streamlined and reduced requirements for inspections;
- Provided flexibility in the amount of required records;
- Clarified requirements for development and maintenance of the SWPPP to foster better documentation and facility compliance; and
- Developed an Annual Report Form that will be submitted to the Department.

### III. Background

"Storm water discharge associated with industrial activity" is a discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. "Storm water discharge associated with mining and oil and gas activity" means the same as the definition for "storm water discharges associated with industrial activity" except that the term pertains only to discharges from facilities classified as standard industrial classifications 10 through 14 (mineral industry) that discharge storm water contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts, or waste products located on the site of such operations. These are abbreviated definitions. "Storm water" is more clearly defined as storm water runoff, snow melt runoff, and surface runoff and drainage. The proposed reissuance is the sixth generation of MTR000000 and the Department reaffirms that the General Permit is an effective and efficient permitting mechanism for storm water discharges associated with industrial activities.

MTR000000 requires the "owner or operator" of the industrial activities to obtain authorization under this General Permit. An owner or operator, also identified as a "permittee", acknowledges eligibility for coverage under MTR000000 and agrees to comply with the effluent limits and conditions of the General Permit. The Department will review of a complete Notice of Intent (NOI-SWI) package before authorization under MTR000000.

The Department will provide an opportunity for public comment on the Multi-Sector General Permit for Storm Water Discharges associated with Industrial Activity that adheres to the requirements regarding public comments and public hearings.

### IV. General Permit Authorization

This 2018 General Permit renewal authorizes storm water discharges associated with industrial activity within the state of Montana, excluding Indian Reservations. Facilities and activities meeting the following criteria are eligible for coverage:

- Storm water discharges associated with industrial, mining, or oil and gas activity for any primary industrial activity as listed in General Permit Part 3.4;
- Industrial activities listed in General Permit Part 3.4 that are also subject to federal effluent limitation guidelines for the discharge of storm water may receive coverage under this permit only for those areas not covered by federal effluent guidelines;
- Discharges designated by the Department as needing a storm water permit and assigned to Sector AD; and
- Discharges that are not otherwise required to obtain MPDES permit authorization but are commingled with discharges that are regulated under this permit.

An "owner or operator" of industrial activities meeting these criteria are required to apply for, and obtain, authorization for the discharge of storm water into state waters under this General Permit or an individual MPDES permit.

### *Authorization Options under this Permit*

#### New Authorizations (Not Previously Authorized)

Owners or operators can obtain first-time coverage under this General Permit by submitting a complete NOI-SWI Package to the Department.

The complete NOI-SWI Package consists of:

- A completed NOI-SWI form, including all required attachments, using the standard NOI-SWI form provided by the Department;
- A separate SWPPP, including all associated maps, diagrams, details, and plans, and any additional requirements for the permittee's particular sector or subsector;
- A copy of the consultation letter from the Montana Sage Grouse Habitat Conservation Program (if applicable); and
- The appropriate "application fee" for the NOI-SWI.

For new authorizations, the permittee must be implementing the control measures and effluent limits upon submittal of the NOI-SWI Package.

#### Continuing Authorization Under the 2013 General Permit

Permittees requiring continued authorization beyond the January 31, 2018 expiration date must submit a complete NOI-SWI package to the Department for coverage under the reissued 2018-2022 General Permit.

The NOI-SWI Package must consist of:

- A completed renewal NOI-SWI form, including all required attachments, using the standard NOI-SWI form provided by the Department;
- A separate SWPPP, including all associated maps, diagrams, details, and plans, and any additional requirements for the permittee's particular sector or subsector;
- A copy of the consultation letter from the Montana Sage Grouse Habitat Conservation Program (if applicable); and
- The appropriate "application fee" for the NOI-SWI.

### *Permitting Actions after Authorization*

The General Permit outlines the requirements, the processes involved, and the required documentation for a permittee to request modifications, permit transfers, and termination of permit coverage. These permitting options have been clarified to streamline requests with the reissuance of the General Permit.

### *Additional Requirements for Authorization*

#### Sage Grouse

Prior to submission of a Notice of Intent Package, the applicant for coverage under the 2018 General Permit will determine if the proposed industrial activities are located within designated

sage grouse habitat (core, general, and or connectivity). The Montana Sage Grouse Habitat Conservation Program (Program) will potentially provide recommendations that are protective of sage grouse populations through a consultation process for projects (i.e. industrial activities as related to this General Permit) based on initially the location of a project and subsequently, the purpose of the proposed industrial facility or operation. Any recommendations and mitigations determined by the Program are provided in a consultation letter.

The Department updated the Notice of Intent form to include consultation with the Program, as needed, and this action and any resulting consultation letter must be obtained prior to the Department authorizing permit coverage under the General Permit. The Department updated permitting language for the 2018 General Permit to include (1) the Program's consultation letter, as needed, as part of a complete NOI-SWI package and (2) any recommendations and mitigation actions (to the extent of the proposed action) to be included in an authorization. These updates regarding consultation with the Program, confirm if a project will be located within sage grouse habitat and mitigate any potential impacts through incorporation of recommendations within an issued consultation letter.

### ***Ineligibility for Coverage***

The Department may determine that an owner or operator does not qualify for coverage under the renewed 2018 Multi-Sector General Permit for Storm Water Discharges associated with Industrial Activity, including, but not limited to, one or more of the following reasons:

- Storm water discharges that are mixed with non-storm water, other than those non-storm water discharges listed within the permit;
- Prohibited discharges as listed within the permit;
- Storm water discharges to impaired waterbodies that are inconsistent with approved TMDLs and assigned WLAs, and the additional requirements with this permit;
- Storm water discharges to waterbodies that are inconsistent with additional Department requirements on a case-by-case basis; or
- Discharges which the Department determines have a reasonable potential to cause, or contribute to, an exceedance of any applicable water quality standard, and the Department has determined authorization under a MPDES Individual Permit is required; or
- Storm water discharges subject to federal effluent limitation guidelines under 40 CFR, Subchapter N, are not eligible for coverage under this permit the discharge of storm water; or

The Department may deny coverage for storm water discharges citing that the permittee appears unable to comply with the one or more of the following requirements:

- effluent standards, effluent limitations, standards of performance for new sources of pollutants, toxic effluent standards and prohibitions, and pretreatment standards;
- water quality standards;
- prohibition of discharge of any radiological, chemical, or biological warfare agent or high-level radioactive waste;
- prohibition of any discharges to which EPA has objected in writing;

- prohibition of any discharge which is in conflict with a plan or amendment thereto approved pursuant to the Toxic Substances Control Act; and
- any additional requirements that the Department determines are necessary to carry out the provisions of the Montana WQA.

In addition, DEQ may deny coverage for the following reasons:

- The storm water discharge is different in degree or nature from discharges reasonably expected from sources or activities within the category described in this MPDES General Permit (including pollutants from process wastewater streams).
- The MPDES permit authorization for the same operation has previously been denied or revoked.
- The discharge sought to be authorized under the 2017 General Permit is also included within an application or is subject to review under the Major Facility Siting Act.
- The point source is, or will be, located in an area of unique ecological or recreational significance. Such determination must be based upon considerations of Montana stream classifications, impacts on fishery resources, and local conditions at proposed discharge sites.

Coverage does not relieve the permittee from any other statute, regulation, permits, or other regulatory requirements for activities occurring within their area and not associated with permitted storm water discharges associated with industrial activities.

If a discharge is subject to MPDES permitting under a different MPDES permit and the proper MPDES authorization for these discharges has been obtained, then storm water authorized under this General Permit may be mixed with the other authorized discharge(s) provided that the mixed discharge is in compliance with all pertinent permit requirements.

### **Conditional Exclusion for No Exposure**

No exposure means all industrial materials and activities are protected by a storm resistant shelter to prevent exposure to rain, snow, snowmelt, and / or runoff. Submittal of an Industrial No Exposure Certification Form is an optional alternative to obtaining permit coverage for discharges of storm water associated with industrial activity. If the facility submits a No Exposure Certification Form and the associated fee, the industrial activity is not excluded until approval by the Department and the Department issues a certification letter.

### Clarification of requirements under the General Permit

Discharges composed entirely of storm water due to no exposure may submit an Industrial No Exposure Certification Form instead of obtaining coverage under this General Permit.

The exclusion is not available for the following:

- Storm water discharges associated with construction activities;
- Individual outfalls (facility-wide basis only); and
- A circumstantial change in industrial materials and activities exposures (such exposures may be subject to enforcement for unpermitted discharges).

Any owner/operator with a No Exposure Certification Letter where a potential for exposure exists and the condition of no exposure is not valid must apply for and obtain coverage under this General Permit or an Individual MPDES Permit. If the permittee is covered by this General Permit, and becomes eligible for a no exposure exclusion from permitting, the permittee may file an Industrial No Exposure Certification Form. Until the Department approves the submitted No Exposure Certification and issues a certification letter, the permittee remains responsible for compliance with the terms of the authorization under this General Permit, including fees and/or violations.

The owner/operator must recertify the conditional exclusion for no exposure once every five years from the original Department issued certification letter date through resubmittal of the Department's Industrial No Exposure Certification Form and the associated fee. If the facility has a current No Exposure Certification letter for the industrial activities and the certification is no longer needed because the facility or industrial activities has permanently ceased operation and industrial activities no longer exist, the owner/operator may let the No Exposure Certification expire or inform the Department through outlined written notification requirements.

#### **V. Description of Storm Water Discharges**

Storm water means storm water runoff, snow melt runoff, and surface runoff and drainage. Storm water runoff picks up and transports pollutants then discharges them, untreated, to waterways. Storm water discharges associated with industrial activity can be a source of water pollution. In general, storm water runoff from industrial facilities may carry higher than normal annual loadings of total suspended solids (TSS), chemical oxygen demand (COD), metals, oil & grease, nutrients, and other organic chemicals/compounds. Pollutant concentrations may vary considerably with respect to industrial activity type, storm events, and location. For mining activity sites, TSS is of most concern, as well as metals. If uncontrolled, storm water discharges associated with industrial activities can result in degradation of aquatic habitat and water quality. In addition, non-storm water discharges can occur from industrial activities such as potable water sources; fuels, oils, or other substances used in vehicle and equipment operation and maintenance; and process wastewater discharges. The General Permit provides a list of allowable non-storm water discharges. Commingled storm water discharges of toxic or hazardous substances from a spill or other release impact plants, fish, animals, and people. These potential storm water and non-storm water discharges are general descriptions of typical industrial activity related discharges and are not intended to be representative of any facility or operation specifically.

#### **VI. Receiving Waters and Applicable Standards**

##### Nondegradation

The industrial activities covered by this General Permit have been determined to be nonsignificant based on 75-5-303(3)(d) MCA, and 75-5-317(u) MCA. The General Permit stipulates that control measures, BMPs, and the SWPPP will be implemented prior to the commencement of regulated activities covered under this General Permit. The General Permit also includes provisions for the ongoing inspection, evaluation, and any required corrective

action of control measures and BMPs to eliminate or minimize pollutants contained in storm water runoff including industrial sector specific controls and benchmark monitoring. The renewed General Permit will continue to protect water quality from pollutants generated from industrial activities and conveyed through storm water. The Department has determined that compliance with the terms of the MSGP authorizations will ensure that these industrial facilities and operations are not significant as defined under ARM 17.30.715(3), and these authorizations are protective of the beneficial uses of the receiving water.

If the “owner or operator” provides information that indicates the proposed storm water discharge will not meet conditions of Montana’s Nondegradation Policy, the Department will require the “owner or operator” to amend the control measures, BMPs, and SWPPP in order to comply with Montana’s Nondegradation Policy and rules, or that MPDES permit coverage is necessary under an Individual MPDES Permit.

#### Mixing Zones

The Department is not authorizing mixing zones with this renewal because of the development and implementation of technology-based controls required by the General Permit, the intermittent nature of storm water discharges, and the corrective action requirements for a storm water discharge that causes or contributes to an exceedance of applicable water quality standards (or the Department may require the permittee to obtain coverage under an individual permit if the discharge is not controlled to meet water quality standards). This determination is consistent with all previously issued MPDES Multi-Sector General Permits for Storm Water Discharges Associated with Industrial Activity.

#### Total Maximum Daily Loads (TMDL)

Where a TMDL has been approved, MPDES permits must contain effluent limits and conditions consistent with the requirements and assumptions of the wasteload allocations (WLAs) in the TMDL. For the renewed 2018 General Permit, the Department has ensured that the Water Quality-Based Effluent Limit permit section requires the permittee to identify if potential storm water discharges from their industrial facility or operation will discharge to impaired waterbodies and the SWPPP must include a section that describes BMPs that target and reduce discharges of the identified pollutants of impairment to impaired waterbodies without an approved TMDL or with approved TMDLs and assigned WLAs. The Department clarified specific requirements for permittees to address various situations of potential discharges to impaired waterbodies. The Department clarified that discharges of the pollutants of concern to impaired waterbodies are eligible for coverage under the General Permit if they are consistent with approved TMDLs and assigned WLAs, or the discharges do not cause or contribute to a violation of the corresponding water quality criteria.

## **VII. Proposed Effluent Limitations**

The control of pollutants is established through effluent limits and other requirements in an MPDES permit. Two types of effluent limits are required in the 2018 Multi-Sector General Permit for Storm Water Discharges Associated with Industrial Activity including: technology-based effluent limits (TBELs) that specify the minimum level of treatment or control; and water

quality-based effluent limits (WQBELs) that attain and maintain applicable numeric and narrative water quality standards. TBELs are based on implementing available technologies to reduce or treat pollutants while WQBELs are designed to protect the beneficial uses of the receiving water.

### **Effluent Limits Rationale**

Effluent limits contained in the 2018 General Permit are non-numeric and constitute the level of controls to eliminate or minimize the discharge of pollutants through storm water from permitted industrial activities, to protect water quality, and to satisfy the appropriate water quality requirements of the Montana Water Quality Act. Non-numeric effluent limits are practice-based effluent limits or the implementation of control measures through Best Management Practices (BMPs) that can be authorized in lieu of numeric limits, where numeric effluent limits are infeasible. The Department has developed non-numeric effluent limits using “Best Professional Judgment” (BPJ) that reduces and/or eliminates pollutant discharges in storm water. These effluent limits correspond to required levels of technology-based control including “Best Practicable Technology” (BPT), “Best Achievable Technology” (BAT), and “Best Conventional Treatment Technology” (BCT) for industrial storm water discharges. The control measures outlined to satisfy technology requirements for industrial activities include:

- Minimize Exposure;
- Good Housekeeping;
- Maintenance;
- Spill Prevention and Response Procedures;
- Erosion and Sediment Controls;
- Management of Runoff;
- Salt Storage Piles or Pies Containing Salt;
- Employee Training;
- Non-Storm Water Discharges;
- Dust Generation and Vehicle Tracking of Industrial Materials; and
- Sector Specific Non-Numeric Effluent Requirements including benchmark monitoring.

The control measures are selected, designed, installed, and implemented in accordance with specific permit conditions to include, and not limited to, good engineering practices and manufacturer’s specifications. The Department has updated the non-numeric effluent limits language to maintain the flexibility to select and adaptively manage control measures that are the most effective for the specific facility or operation, but outlined clear and specific controls and practices to achieve these limits. These updates were based on the following generalized internal and external feedback: the current General Permit needed (1) better permitting and compliance direction on specific requirements; (2) to outline the requirements for specific BMP selection; and (3) more prescription on other specific requirements.

The 2018 General Permit’s water quality-based effluent limits include implementing measures to control storm water discharges as necessary to meet applicable numeric and narrative water quality standards and consistent with the assumptions of any applicable TMDL wasteload allocation. Compliance with the conditions in the 2018 General Permit will control discharges as



necessary to meet applicable water quality standards. If at any time the permittee becomes aware, or the Department determines, that the discharge causes or contributes to an exceedance of applicable water quality standards, the permittee must take and document corrective actions. On a case by case basis, permittees will be informed if any additional controls are necessary for discharges to meet water quality standards.

All control measures (outlined above) must be documented in the Storm Water Pollution Prevention Plan (SWPPP) because the core requirement of regulating storm water discharges through this General Permit is for permittees to develop, submit, implement, and maintain a SWPPP.

Some specific types of industrial and/or mining facilities have identified storm water discharge areas which are subject to effluent limitations guidelines (ELGs). Discharges subject to ELGs are not eligible for coverage under the MSGP and must obtain coverage under a separate Individual MPDES permit. The “owner or operator” must refer to pertinent federal 40 CFR regulations to determine which storm water discharges are eligible for permit coverage under the General Permit, and which storm water discharges are subject to federal ELGs and would be permitted under a separate Individual MPDES permit. This permitting requirement is consistent with the current MPDES Multi-Sector General Permits for Storm Water Discharges Associated with Industrial Activity. If storm water discharges from only certain portions of the site are eligible for coverage under this permit, permittees are encouraged to consider the option of covering all site storm water discharges under the same MPDES Individual Permit.

#### **VIII. Inspections and Corrective Actions**

Self-inspections are a critical tool in evaluating BMP effectiveness, compliance with permit requirements, and triggering corrective actions to ensure protection of water quality from storm water discharges from the regulated industrial activities. The Department has identified and outlined more clear and specific requirements for a role of a qualified inspector to perform the required inspections because this role is vital in the assessment of effective control measures and ultimately the storm water quality of the industrial discharges based on the effectiveness of the control measures. The 2018 General Permit consolidated the annual comprehensive site inspection requirements into the routine facility inspection requirements, so the permitted industrial facility or operation is comprehensively inspected on a more frequent schedule and the SWPPP is updated on a more frequent schedule. This inspection update does not change the underlying non-numeric effluent limits required by this General Permit. The Department has developed an annual report form that requires the permittee to submit a summary of findings from the calendar year. Inspection and corrective action requirements and associated documentation were streamlined to foster better facility inspections and better record keeping.

#### **IX. Storm Water Pollution Prevention Plan (SWPPP)**

The core requirement of regulating storm water discharges through this General Permit is for permittees (owners and operators with permit coverage) to develop, submit, implement, and

maintain a Storm Water Pollution Prevention Plan. The SWPPP is a document that must be developed and implemented in accordance with good engineering selection and design, industry standards, hydrologic principles, and pollution control practices to minimize and control potential pollutants in storm water associated with industrial activity and meet this permit's effluent limits. SWPPPs are intended to be "living documents" and updated to reflect current site conditions and activities. In coordination with the developed SWPPP, the General Permit requires (1) periodic site inspections, and (2) necessary maintenance or improvement of implemented storm water controls based on evaluations of continued appropriateness and adequacy of the control for current facility or operation conditions. Through this iterative and adaptive management approach for storm water permitting associated with industrial activities, the permittee consistently improves storm water quality utilizing the SWPPP; and, consequently, the overall benefit of maintaining the SWPPP is the improved quality of receiving waterbodies statewide.

The SWPPP Administrator is the lead responsible person for ensuring the development, implementation, and maintenance of the SWPPP, and will serve as the primary contact person regarding the SWPPP. The Department has identified and outlined more clear and specific requirements for the role of the SWPPP Administrator because this lead storm water role is vital in meeting the effluent limits of the MSGP.

The SWPPP requirements were clarified to provide the necessary framework to identify pollutant sources within all industrial areas and proceed through a methodical process of corresponding pollutants to control measure and appropriate BMP selection. These requirements have not changed significantly, but the Department's updates to the SWPPP reflecting the clarifications provide a better foundation for permittees to meet the minimum objectives outlined for SWPPP requirements.

## **X. Standard Permit Conditions**

Conditions that apply to all MPDES permits including General Permit MTR000000 are listed in ARM 17.30.1342. Additional conditions applicable to MPDES permits are set forth in ARM 17.30.1344. All conditions applicable to MPDES permits must be incorporated into the permits either expressly or by reference. A listing of all Standard Conditions pertaining to all MPDES permits will be included in the 2018 General Permit.

## **XI. Definitions and Abbreviations**

Definitions and abbreviations relevant to the General Permit are provided.

## **XII. Public Notice**

The Department provides an opportunity for public participation in the permit process through public notice and a public hearing. The public notice period is the venue to inform and solicit comments from all interested parties and members of the general public of the General Permit renewal. The public hearing provides a physical location for all interested parties and members of the general public to provide written and oral comments. The Department will consider and respond to all significant comments prior to final determination and issuance of the General Permit.

## **XIII. References**

- Administrative Rules of Montana Title 17, Chapter 30 *et al.*
- Montana Code Annotated Title 75, Chapters 5, Subchapters 1 through 6.
- Code of Federal Regulations 40 CFR Parts 122 through 133 and Part 450.
- EPA *Guidance Manual for Conditional Exclusion from Storm Water Permitting Based On "No Exposure" of Industrial Activities to Storm Water*, June 2000.
- EPA *Developing Your Stormwater Pollution Prevention Plan, A Guide for Industrial Operators*; June 2015.
- EPA *Industrial Stormwater Fact Sheet Series (A-AC)*.
- EPA Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity, August 2015; and Fact Sheet.
- EPA Multi-Sector Fact Sheet for Stormwater Discharges Associated with Industrial Activity, August 2015.
- U.S. EPA Stormwater Phase I Final Rule and Phase II Final Rule, Fact Sheet 4.0.
- MPDES Permit MTR000000 (and associated documents), Effective date February 1, 2013.
- MPDES Permit MTR100000 (and associated documents) Effective date January 1, 2018.
- MPDES Permit MTR040000 (and associated documents) Effective date January 1, 2017.
- Various MPDES Multi-Sector General Permit for Storm Water Discharges Associated with Industrial Activity permittee files.
- Various Final Montana TMDL documents