Permitting in Montana

A reference guide to three environmental permits

Opencut Mining

Air Quality

Wastewater

2010

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Introduction

Permitting in Montana is published by the Environmental Quality Council (EQC) as a tool to assist lawmakers and the public in understanding three environmental permitting processes that have recently generated much discussion. This brochure is intended as a simple, visual guide to the three processes, outlining the responsibilities of the applicant, the regulatory agency (the Department of Environmental Quality (DEQ)), and the public in each.

The DEQ is developing a similar visual overview for all of its major program processes. The DEQ’s effort is far more detailed and a good place for permit applicants to begin their research. The DEQ's overview is available at http://deq.mt.gov.

Meanwhile, another EQC publication, The Montana Index of Environmental Permits, provides a complete list of the permits and licenses needed to conduct activities that may affect the state's environment. The EQC also provides A Guide to the Montana Environmental Policy Act (MEPA) -- an easy to understand overview of the MEPA process. The permit index and the MEPA guide are available through the Legislative Environmental Policy Office or on the web at http://leg.mt.gov/css/Publications/environmental/default.asp.

FAQs About Permitting in Montana

When do I need an environmental permit? Permits specify measures that must be taken to allow for the construction and operation of a project. Permits are meant to ensure that a proposed project is not a hazard to the health and welfare of Montanans. While no one would intentionally build a project that is harmful, there are standards -- established in law -- to protect Montana's landscape and people. If a project impacts air, land, or water, a permit is probably necessary. The type of permit will depend on the type and size of the project, as well as the type and quantity of emissions or discharge from the project.

How do I know if my project triggers a review under the Montana Environmental Policy Act? If your project requires a permit from a state agency and the project may impact the human environment (including biological, physical, social, economic, cultural, and aesthetic impacts), a MEPA review is required. MEPA is a public, interdisciplinary process to identify those impacts, consider their significance, and identify possible mitigation or alternatives.

How long will it take to get my permit? Timelines vary from permit to permit, as the flowcharts in this brochure illustrate. Some permits are processed in a matter of days or weeks, while others can take many months. A complete application is typically the first step to ensuring that an application for a permit is processed as quickly as possible. For complex projects, early communication with the DEQ typically helps in preparing a complete application.

Does the state monitor compliance with permit requirements? Yes. For example, DEQ staff conducts facility inspections and reviews reports to determine compliance with permit conditions and other applicable laws and regulations. If violations are discovered, in many cases, DEQ staff can provide technical assistance to bring the facility back into compliance. Staff also can prepare an enforcement request for further action by the DEQ.

*Published by the Legislative Environmental Quality Council, 2010, as a reference. For legal purposes, always refer to statute and rule.*
### What kind of permit do I need?

These are the kinds of permits you would generally need for the following activities. This list is for reference purposes only. For more detailed information, contact the DEQ Permitting and Compliance Division at 406-444-4323.

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### Who can help me with the process?

The DEQ is responsible for the issuance of most environmental permits in Montana; however, other state agencies often are involved. Applicants can reach the DEQ Permitting and Compliance Division at 406-444-4323. For answers to general permitting questions, you may also call the Legislative Environmental Policy Office at 406-444-3742 or the Citizens’ Advocate Office at 406-444-3468.

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Opencut Mining Permitting Process*

Required for projects removing 10,000+ cubic yards of materials and overburden.

Applicant

- Submits opencut mining application; i.e., gravel or sand
- Department notifies applicant, who has 1 year to respond
- Applicant notifies public of application

DEQ

- DEQ reviews application for completeness and notifies applicant of any deficiency
- DEQ notifies applicant that application is complete
- DEQ reviews application for acceptability, may request additional information of applicant, may inspect the proposed site, accepts public comment, makes permit decision within 30 days if no public meeting is required
- DEQ finds application deficient, applicant has 1 year to respond; DEQ then has 10 working days to review response
- DEQ notifies applicant whether application now acceptable
- DEQ finds application deficient, applicant has 1 year to respond; DEQ then has 30 and possibly 60 days to review response
- DEQ finds application acceptable; issues permit

Public

- For 45 days, requests for a public meeting may be submitted to DEQ, unless DEQ & applicant agree a meeting isn’t required or applicant submits documentation that a meeting isn’t required. A public meeting must be held when requested by at least 30% of affected property owners or 10 property owners, whichever is greater
- Public meeting held within 30 days of request deadline
- Substantial issues are identified that aren’t sufficiently addressed in the application; extended review (up to 60 and possibly 90 days) required

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Air Quality Permitting Process*

The process outlined below applies to a large energy development project, including but not limited to a power plant, a refinery, or a special fuels project. Other types of projects may require a different air quality permitting process to be followed.

Applicant

<table>
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<th>Submits air quality application at least 180 days before construction of new facility or 120 days before installation, modification, or operation at existing facility. (DEQ may waive these timelines)</th>
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DEQ

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<th>DEQ reviews application for completeness and notifies applicant of any deficiency</th>
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Public

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<th>Legal notice published in a newspaper of general circulation in the area affected by the application</th>
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Applicant notifies public of submission within 10 days

Within 30 days

Deficient, applicant must submit additional info

Applicant complete. Within 10 days, DEQ makes preliminary determination & decides what MEPA review is required

MEPA review: Would impact on human environment be significant?

No

DEQ completes Environmental Assessment (EA) within 40 days of applicant submission

30-day public comment period

Yes

DEQ completes Environmental Impact Statement (EIS) within 180 days of applicant submission

Initial 60-day public scoping period; additional public comment & hearings to be determined

DEQ makes decision whether to issue permit (within 60 days of submission if EA prepared; within 180 days of submission if EIS prepared)

Applicant may appeal decision to Board of Environmental Review or District Court

For 30 days

No appeal

Decision becomes final

Public may appeal decision to Board of Environmental Review or District Court

For 30 days

No appeal

Appeal filed; a hearing may be held; permit decision may be stayed; decision of Board or Court awaited

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Wastewater Permitting Process*

Otherwise known as the Montana Pollution Discharge Elimination System (MPDES) permitting process, this permit is required to construct, modify, or operate a disposal system or to construct or use any outlet for discharge of sewage, industrial, or other wastes into state surface water.

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