

WWC News



WWC's Helena, Montana office

Stormwater Permit Fee Schedule Changes

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Introduction

On August 13, 2009, the Montana Department of Environmental Quality (MT DEQ) published an Amendment Notice in the Montana Administrative Register (MAR) to propose rule changes to the current Stormwater Permit Fee Schedule. These changes include fee increases, which are allowed by the Water Quality Act to sufficiently cover the cost of the program and inclusion of term definitions to provide clarity.

The process for submitting rule changes is as follows: A state agency may propose changes to rules by submitting the changes to the Secretary of State for format review and publishing; the proposed rule changes are then published in MAR and a public hearing and comment period is then set; all public comments are reviewed and the rule is then amended according to public comment; changes are reviewed by the Administrative Rules Review Committee and then published again in MAR to include comments and changes since the first publishing. The rule becomes effective the day after it is published in MAR unless otherwise noted. The agency has six months from the initial publication of the notice in MAR to adopt the proposed changes.

The MT DEQ has justified the fee schedule increases by stating the need to meet the increasing cost of administering the discharge permit program. The MT DEQ views this year's increase as a phased approach to increasing permit fees to match the program's administrative costs. The new fee schedule will be re-evaluated next year to determine if the fee increases were enough or need to be raised again. It is likely that this will not be the last increase in stormwater fees in the foreseeable future.

Previous Permit Fee Schedule

Under the previous stormwater permit fee schedule, general construction stormwater fees were based on the number of outfalls with a

Schedule I.C Application Fee for Stormwater General Permits

Category	Renewal Amount	New Permit Amt (includes initial annual fee)
Stormwater associated with construction		
1 to 5 acres	\$900	\$900
More than 5, up to 10 acres	1,000	1,000
More than 10, up to 25 acres	1,200	1,200
More than 25, up to 100 acres	2,000	2,000
More than 100 acres	3,500	3,500
Stormwater associated with industrial activities		
Small-5 acres or less	\$1,200	\$1,500
Medium-more than 5 acres, up to 20 acres	1,500	1,800
Large-more than 20 acres	1,800	2,000
Stormwater associated with mining, oil, & gas		
Small-5 acres or less	\$1,200	\$1,500
Medium-more than 5 acres., up to 20 acres	1,500	1,800
Large-more than 20 acres	1,800	2,000
Traditional stormwater municipal separate storm sewer system (MS4)		
Population greater than 50,000	\$7,000	\$10,000
Population 10,000 to 50,000	6,000	8,000
Population less than 10,000	5,000	6,000
County MS4 permit	\$4,000	\$5,000
Non-traditional MS4 permit	\$2,000	\$3,000
Stormwater no-exposure certification required once every 5 years	\$300	\$500
Stormwater construction waiver		\$400



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WWC Engineering (WWC) is a full service corporation that has been serving the Rocky Mountain region since 1980. WWC's range of consulting services is broad and our corporate experience is extensive. With over 72 employees and offices in Sheridan, Laramie, and Casper, Wyoming and Helena, Montana, we have an exceptional staff of professionally licensed engineers, hydrologists, surveyors, and geologists with a full complement of highly skilled field technicians, CADD and GIS specialists, and clerical staff. WWC prides itself on producing the highest quality of work for our clients in a time-and-cost-efficient manner.

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maximum of five outfalls per application. The previous fee schedule included three types of fees: a permit application fee, an authorization to degrade fee, and an annual permit fee, which if you are requesting a new permit was not included in the permit fee but was a separate fee altogether. The actual permits were divided into the following types: Individual permits; general permits; fees for other activities; review of Authorizations to Degrade; and the annual fees for individual and general permits. Annual fees were assessed each state fiscal year and payment was due by March 1st. Permit renewal fees were not paid every year but were renewed depending upon the type of permit obtained, for instance most general construction stormwater fees were renewed every four years. Under the previous fee schedule an entity seeking to apply for a new stormwater general permit for construction would pay an initial permit fee of \$450 per impacted water course (up to a maximum of five total) and \$450 for the annual permit fee (a minimum of \$900 due at the time of application). Following the receipt of the permit there would be an annual fee of \$450 per impacted water course to be paid each fiscal year. If there were major changes to the permit application additional review fees would be charged at the discretion of the reviewing department.

New Stormwater Permit Fee Schedule

The changes in the water permit fee schedule consist of expansion of definitions to clarify some of the terms used; expanding the types of permit fees and categories to make a separate category for Stormwater General Permits in both the annual fee and new/renewal fee sections. One of the most significant changes to the permit fee schedule is the increase in fees assessed. The Stormwater General Permit is one of the most used permits for municipalities and individuals in construction, development, mining, oil & gas and by far the most effected by the increases. Because of this we will focus our attention on the changes to this section.

When applying for a new permit the old fee schedule did not include the annual fee with the new permit fee; the

annual fee was added in separately to the application fee. In the new fee schedule the application fee for new applications under Schedule I.C (as shown on page 1) includes the annual fee in the new permit fee amount. The old fee schedule assessed permit fees by outfall with a maximum of five outfalls per application; under the new fee schedule permit applications for general construction activities under Schedule I.C & III.C are assessed by the total site area (acreage) or amount of acreage disturbed. To get a better idea of this change the table shown on the previous page is the new fee schedule for Schedule I.C-Application Fee for Stormwater General Permits. To obtain a new general permit for stormwater associated with construction, the initial cost, including the annual fee, to disturb 1 to 5 acres is \$900. If there are any modifications to the application within 6 months from the date the permit was issued the department will process the modifications under the current permit; however, if the modifications are made after 6 months of the date the permit was issued a new application fee will be required. Any significant changes to a permit, deficiencies with substantial changes, or repeated deficiencies that cause additional review time will be assessed additional fees at the discretion of the department. A facility that maintains compliance with all permit requirements, effluent limitations, reporting requirements, using previous calendar year's discharge and compliance monitoring data is entitled to a 25% reduction in the annual fee. Any violations will make the permittee ineligible for the annual reduction.

Conclusion

The changes to the Stormwater Fee Schedule are significant and will have an impact on all permittees. To minimize permitting fees and compliance issues it is now more important than ever to develop a sound permit strategy for construction related activities. If you have any questions regarding how the fee changes might affect you feel free to call our office at (406) 443-3962 and speak with one of our engineers.

The complete changes to the Stormwater permit can be viewed at the following website: www.mtrules.org, search by notice under Montana Administrative Register, type in rule #17-290. The second publishing of the rule notice was posted on 12/24/2009 along with the first posting on 8/13/2009.