

**MONTANA DEPARTMENT OF
ENVIRONMENTAL QUALITY**

GENERAL PERMIT

For

PORTABLE SUCTION DREDGING

Permit No.: MTG370000

AUTHORIZATION TO DISCHARGE UNDER THE
MONTANA POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with Montana Water Quality Act, Title 75, Chapter 5, Montana Code Annotated (MCA), and the federal Water Pollution Control Act (the "Clean Water Act"), 33 U.S.C. 1251 *et. seq.*, applicants issued an authorization letter for this Portable Suction Dredging General Permit, are permitted to discharge wastewater to state waters in accordance with effluent limitations, monitoring requirements and other conditions set forth herein.

A copy of this General Permit and a written authorization letter from the Department must be kept on site at all times. The General Permit is not valid without a current letter of authorization from the Department.

This permit shall become effective on **April 1, 2010**.

This permit and the authorization to discharge shall expire at midnight, **March 31, 2015**.

FOR THE MONTANA DEPARTMENT
OF ENVIRONMENTAL QUALITY



Jenny Chambers, Chief
Water Quality Bureau
Permitting and Compliance Division

Issuance Date: February 12, 2010

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I. COVERAGE UNDER THIS GENERAL PERMIT

A. Coverage Area

This General Permit applies to all areas of the State of Montana, except for Indian Reservations.

B. Sources Covered under this General Permit

This General Permit applies to portable recreational suction dredge operations that discharge into the waters of the state. A suction dredge operated under this General Permit must have an intake size of four (4) inches or less [Administrative Rules of Montana (ARM) 17.30.1341(1)(e)]. Each authorization under this General Permit will be to a specified owner/operator for recreational suction dredge(s), to operate only in the area(s) specified in the authorization.

Portable suction dredges are mechanical devices that float on the stream surface and pump stream water and stream bed material through a suction dredge intake to a sluice box, from which gold or other precious metals are recovered. Unwanted gravels and other naturally occurring stream bottom material fall off the end of the sluice box and are redeposited back onto the stream bottom. Since the discharge consists of naturally occurring stream bottom material and no chemicals are allowed to be added to enhance gold recovery, there is no additional load of pollutants to the receiving stream.

Therefore, the discharge from suction dredges permitted under this General Permit consists only of stream water and bed material; no chemicals may be added as part of the suction dredging process. Oil and grease and fuel are also potential pollutants if the operating dredge has leaking seals or if fuel is spilled during refilling.

C. Sources Excluded from Coverage Under this General Permit.

The Department may deny a Portable Suction Dredge General Permit application for discharge under the general provisions of ARM 17.30.1341(4) for the following:

1. The specific source applying for authorization appears unable to comply with:
 - effluent limitations or other terms and conditions of the permit;
 - water quality standards established pursuant to 75-5-301, MCA; or
 - discharges that the regional administrator has objected to in writing.

Specifically, discharges to receiving waters classified as A-1 or A-Closed will not be allowed due to the prohibition on increasing turbidity in these receiving waters, pursuant to ARM Title 17, Chapter 30, Subchapter 6.

2. The discharge is different in degree or nature from discharges reasonably expected from sources or activities within the category described in the General Permit.

3. An MPDES permit or authorization for the same operation has previously been denied or revoked.
4. The discharge to be authorized under a general MPDES permit is also included within an application or is subject to review under the Major Facility Siting Act, 75-20-101, et seq., MCA.
5. The point source will be located in an area of unique ecological or recreational significance. Such determination must be based upon considerations of Montana stream classifications adopted under 75-5-301, MCA, impacts on fishery resources, local conditions at proposed discharge sites, and designations of wilderness areas under 16 USC 1132 or of wild and scenic rivers under 16 USC 1274.

D. Sources covered under the 1997 General Permit – Continuing Coverage.

The 1997 General Permit authorizations will expire upon the effective date of the new General Permit [ARM 17.30.1341(6)]. The Department will reissue an authorization to an existing permittee to operate under the new 2010 General Permit either:

1. updated to new 2010 General Permit authorization requirements automatically, for any permittee that submitted a complete application and was authorized since January 1, 2009, or
2. after review, if the permittee submits an appropriate renewal request for continued coverage under the new General Permit, as specified by ARM 17.30.1341(4). The renewal request includes submittal of a complete application package, consisting of:
 - Applicable Forms [including Form 2E – excluding Section G (Effluent Characteristics) and Section H (Mixing Zone)]; and
 - Fee (includes both permit application fee and annual fee for first year under the 2010 General Permit) as required under 75-5-516(12), MCA and ARM 17.30.201.

Within 30 days from receipt of a complete renewal request, the Department will issue a new authorization letter (or denial) to these facilities under the new 2010 General Permit.

E. New sources seeking coverage under the new General Permit

New dischargers seeking to obtain coverage under the General Permit must submit a complete application package, including:

- Applicable Forms [including Form 2E – excluding Section G (Effluent Characteristics) and Section H (Mixing Zone)]; and
- Fee (includes both permit application fee and annual fee for first year under the 2010 General Permit) as required under 75-5-516(12), MCA and ARM 17.30.201.

The complete package must be submitted at least 30 days prior to the operation of the portable recreational suction dredge. The Department will issue a letter of authorization (or denial) to the owner or operator of the suction dredge within 30 days after receiving a complete application package. If denied, the applicant may apply for an individual permit or modify the operation and re-apply for coverage under the General Permit and submit a new application fee.

F. Termination of Permit Coverage

Permit coverage remains in effect until the expiration date of the General Permit or the Department receives notice from the permittee that the point source discharge has been eliminated. This notice must be signed and certified in accordance with the signatory requirements in Part V.G of the General Permit and all applicable fees have been paid. Failure to submit a notice of termination shall result in accrual of annual fees until this notice is received by the Department.

In addition to the ability to request a termination, the owner or operator of a facility covered under this General Permit may request to be excluded from coverage under this General Permit by applying for and obtaining an individual MPDES permit pursuant to Title 17, Chapter 30, Subchapter 13. If an individual MPDES permit is issued to the owner or operator of the facility, coverage under this General Permit is terminated on the effective date of the final MPDES permit.

G. Transfer of Coverage

The Department may transfer a suction dredge authorization to a new owner or operator under this General Permit in conformance with ARM 17.30.1341(4).

II. EFFLUENT LIMITATIONS, MONITORING REQUIREMENTS & OTHER CONDITIONS

A. Specific Effluent Limitations

1. No visual increase in turbidity (cloudiness or muddiness) observable at the end of the mixing zone.
2. No visible oil sheen caused by the suction dredge operation.
3. No discharge of floating solids or visible foam in other than trace amounts.
4. No added chemicals allowed in the discharge.

B. Self-Monitoring Requirements

The permittee will be responsible for conducting the following monitoring, recordkeeping and reporting during the life of their permit authorization:

1. The permittee must visually check the stream on a daily basis at the end of the mixing zone (10 stream widths downstream of the suction dredge). The stream width is to be determined by measuring the width of the stream at the suction dredge location.

The visual check must be conducted after the first half-hour of continuous operation to determine if a violation is occurring as defined under the effluent limitations. In addition to the daily observation, a visual check must be made whenever there is an obvious change in the turbidity from the suction dredging activity, or in the stream width at the dredge location, or a suspected spill or leak has occurred.

2. The permittee must maintain a daily record for each day of operation in each permitted stream location. Required information includes:
 - a. the date and time operated during each day,
 - b. visual observation of the turbidity in the receiving stream 10 stream widths downstream of the suction dredge,
 - c. visual oil sheen noted, and
 - d. any noted changes in the operation of the suction dredge or appearance of the receiving stream.
3. The permittee must maintain the daily records for a period of at least three years and make these records available to the Department upon request.
4. The daily records are considered a method for the permittee to ensure good operating practices as well to demonstrate compliance with the effluent limitations. The permittee is required to submit the Suction Dredge Log to the Department at the end of every operating season, and no later than January 28th following the end of each calendar year.

C. Special Conditions

The Department has determined that the Best Management Practices (BMPs) listed below, when properly implemented, are appropriate treatment methods for suction dredge activities to protect water quality [ARM 178.30.1345(1)]:

1. Stream banks must not be mined or disturbed. No undercutting of stream banks that would cause caving or erosion of the banks is allowed. Dredging is only permitted within the existing wetted perimeter (waterline) in the active stream channel.
2. Motorized winches or other motorized equipment must not be used to move boulders, logs or other natural obstructions.
3. No wheeled or tracked equipment may be used in-stream while dredging.
4. No damming or diversions are authorized.
5. Dredging of concentrated silt and clay should be avoided. The permittee must use reasonable care to avoid dredging silt and clay materials that would result in a significant increase in turbidity and suspended sediment. Reasonable care includes moving the dredge to a new location or reducing the volume of effluent by limiting the operational speed of the suction dredge.
6. Care must be taken by the operator during refueling of equipment to prevent spillage into surface water.
7. The addition of chemicals for enhancement of gold or mineral recovery is prohibited.
8. The maximum inside diameter of the suction dredge intake is four (4) inches.
9. The permittee is authorized to discharge from a suction dredge only during the time period specified in the authorization letter.
10. The permittee is allowed to discharge wastewater from a recreational suction dredge only at the location(s) requested in the application, as allowed by the authorization letter. A copy of the application and the authorization letter must be kept with the General Permit at a location accessible from the suction dredging activity.
11. Issuance of authorizations under this permit does not waive obligations to obtain other permits that may be required, e.g., Montana Natural Streambed and Land Preservation Act (310) permit, the U.S. Corps of Engineers (404) permit or an operation permit from the U.S. National Forest Service, U.S. Bureau of Land Management, or U.S. Bureau of Reclamation. In addition, authorizations do not waive the responsibility for dredgers to comply with the federal Endangered Species Act and avoid "illegal take" of bull trout.

III. MONITORING, RECORDING AND REPORTING REQUIREMENTS

A. Reporting Requirements

Monitoring results must be reported on the Suction Dredge log at the intervals specified in Section II.B.4 of this permit. Calculations for all limitations that require averaging of measurements must use an arithmetic mean unless otherwise specified by the Department in the permit [ARM 17.30.1342(12)(d)(i), (iii)]. Monitoring must be conducted according to test procedures approved under Title 40 of the Code of Federal Regulations (40 CFR) Part 136, unless other test procedures have been specified in this permit [ARM 17.30.1242(10)(d)].

B. Records Contents

Records of monitoring information shall include [ARM 17.30.1342(9)(a)]:

1. The date, exact place, and time of sampling or measurements;
2. The initials or name(s) of the individual(s) who performed the sampling or measurements;
3. The date(s) analyses were performed;
4. The time analyses were initiated;
5. The initials or name(s) of individual(s) who performed the analyses;
6. References and written procedures, when available, for the analytical techniques or methods used; and
7. The results of such analyses, including the bench sheets, instrument readouts, computer disks or tapes, etc., used to determine these results.

C. Additional Monitoring by Permittee

If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit the results of such monitoring shall be included in the monitoring report. Such increased frequency shall be indicated.

D. Record Retention

All records and information resulting from the monitoring activities required by this permit shall be retained for a minimum of three (3) years, or longer if requested by the Department. In addition, a copy of this MPDES permit and authorization letter must be available during the duration of activity at the permitted location.

E. Noncompliance Notification

If for any reason, the permittee does not comply with or will be unable to comply with any effluent limitation specified in this permit, the permittee shall notify as soon as possible by phone and provide the Department with the following information, in writing, within five (5) days of becoming aware of such condition:

1. A description of the discharge and cause of noncompliance; and
2. The period of noncompliance including exact dates and times, or if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate and prevent recurrence of the non-complying discharge.

F. Inspection and Entry

The permittee shall allow the head of the Department or the Regional Administrator, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and,
4. Sample, or monitor at reasonable times for the purpose of assuring permit compliance, any substances or parameters at any location.

IV. COMPLIANCE RESPONSIBILITIES

A. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permittee shall give the Department advance notice of any planned changes at the permitted facility or of an activity, which may result in permit noncompliance.

B. Penalties for Violations of Permit Conditions

The Montana Water Quality Act provides that any person who violates a permit condition of the Act is subject to civil or criminal penalties not to exceed \$25,000 per day of such violation. Any person who willfully or negligently violates permit conditions of the Act is subject to a fine of not more than \$50,000 per day of violation, or by imprisonment for not more than 2 years, or both.

C. Need to Halt or Reduce Activity not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

D. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit, which has a reasonable likelihood of adversely affecting human health or the environment.

E. Toxic Pollutants

The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

F. Changes in Discharge of Toxic Substances

Notification shall be provided to the Department as soon as the permittee knows of, or has reason to believe:

1. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - a. One hundred micrograms per liter (100 µg/l);
 - b. Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4-

dinitrophenol and for 2-methyl-4, 6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;

- c. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or,
 - d. The level established by the Department in accordance with 40 CFR 122.44(f).
2. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
- a. Five hundred micrograms per liter (500 µg/l);
 - b. One milligram per liter (1 mg/l) for antimony;
 - c. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or,
 - d. The level established by the Department in accordance with 40 CFR 122.44(f).

V. GENERAL REQUIREMENTS

A. Planned Changes

The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when the alteration or addition could significantly change the nature or increase the quantity of pollutant discharged. This notification applies to pollutants, which are not subject to effluent limitations in the permit.

B. Anticipated Noncompliance

The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity, which may result in noncompliance with permit requirements.

C. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

D. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of the permit, the permittee must apply for and obtain a new permit.

E. Duty to Provide Information

The permittee shall furnish to the Department, within a reasonable time, any information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Department, upon request, copies of records required to be kept by this permit.

F. Other Information

When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or any report to the Department, it shall promptly submit such facts or information.

G. Signatory Requirements

All applications, reports or information submitted to the Department shall be signed and certified.

1. All permit applications shall be signed as follows:

a. For a corporation: by a responsible corporate officer;

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively;

- c. For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official.
2. All reports required by the permit and other information requested by the Department shall be signed by a person described above or by a duly authorized representative of that person. A person is considered a duly authorized representative only if:
 - a. The authorization is made in writing by a person described above and submitted to the Department, and,
 - b. The authorization specified either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)
 3. Changes to authorization. If an authorization under Part IV.G.2 of this permit is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part IV.G.2 of this permit must be submitted to the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.
 4. Certification. Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

H. Penalties for Falsification of Reports

The Montana Water Quality Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction be punished by a fine of not more than \$25,000 per violation, or by imprisonment for not more than six months per violation, or by both.

I. Availability of Reports

Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department. As required by the Clean Water Act, permit applications, permits and effluent data shall not be considered confidential.

J. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Clean Water Act.

K. Property or Water Rights

The issuance of this permit does not convey any property or water rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations.

L. Severability

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

M. Transfers

This permit may be automatically transferred to a new permittee if:

1. The current permittee notifies the Department at least 30 days in advance of the proposed transfer date;
2. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them;
3. The Department does not notify the existing permittee and the proposed new permittee of an intent to revoke or modify and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part IV.M.2 of this permit; and
4. Required annual and application fees have been paid.

N. Fees

The permittee is required to submit payment of an annual fee as set forth in ARM 17.30.201. If the permittee fails to pay the annual fee within 90 days after the due date for payment, the Department may:

1. Impose an additional assessment consisting of 15% of the fee plus interest on the required fee computed at the rate established under 15-31-510(3), MCA; or
2. Suspend the processing of the application for a permit or authorization or, if the nonpayment involves an annual permit fee, suspend the permit, certificate, license or other authorization for which the fee is required. The Department may lift the suspension at any time up to one year after the suspension occurs if the holder has paid all outstanding fees, including all penalties, assessments and interest imposed under this subsection.

O. Reopener Provisions

This permit may be reopened and modified (following proper administrative procedures) to include the appropriate effluent limitations (and compliance schedule, if necessary), or other appropriate requirements if one or more of the following events occurs:

1. Water Quality Standards: The water quality standards of the receiving water(s) to which the permittee discharges are modified in such a manner as to require different effluent limits than contained in this permit.
2. TMDL or Wasteload Allocation: TMDL requirements or a wasteload allocation is developed and approved by the Department and/or EPA for incorporation in this permit.
3. Water Quality Management Plan: A revision to the current water quality management plan is approved and adopted which calls for different effluent limitations than contained in this permit.
4. Toxic Pollutants: A toxic standard or prohibition is established under Section 307(a) of the Act for a toxic pollutant which is present in the discharge and such standard or prohibition is more stringent than any limitation for such pollutant in this permit.
5. The permittee must take the necessary preventive measures to ensure that the discharge does not cause erosion in the area of operation or of the bank and bed of the receiving stream.
6. There shall be no discharge of any wastewater except wastewater resulting from dewatering of groundwater and/or surface water from construction sites.

VI. DEFINITIONS

1. “**Act**” means the Montana Water Quality Act, Title 75, chapter 5, MCA.
2. “**Administrator**” means the administrator of the United States Environmental Protection Agency.
3. “**Department**” means the Montana Department of Environmental Quality (MDEQ).
4. “**Director**” means the Director of the Montana Department of Environmental Quality.
5. “**Discharge**” means the injection, deposit, dumping, spilling, leaking, placing, or failing to remove any pollutant so that it or any constituent thereof may enter into state waters, including ground water.
6. “**Federal Clean Water Act**” means the federal legislation at 33 USC 1251, *et seq.*
7. “**Mixing zone**” means a limited area of a surface water body or aquifer where initial dilution of a discharge takes place and where water quality changes may occur. Also recognized as an area where certain water quality standards may be exceeded.
8. “**Non-degradation**” means the prevention of a significant change in water quality that lowers the quality of high-quality water for one or more parameters. Also, the prohibition of any increase in discharge that exceeds the limits established under or determined from a permit or approval issued by the Department prior to April 29, 1993.
9. “**Receiving stream**” means the river, stream, or creek, which receives the wastewater discharge from the construction activity.
10. “**Turbidity**” means a measure of the clarity of a particular water sample. It expresses the tendency of the sample to scatter or absorb light owing to the presence of sediment, suspended particulate matter, such as silt, or other finely divided organic or inorganic matter. Turbidity is measured in nephelometric turbidity units (NTU’s).
11. “**Visual observation**” means an examination of the discharge for the presence of hydrocarbons, sheen, odor or other sign.