A Report
to the
Montana
Legislature

Performance Audit

Water Pollutant Discharge Permitting and Inspecting Processes

Department of Environmental Quality

September 2018

Legislative Audit
Division

17P-05

Performance Audits

Performance audits conducted by the Legislative Audit Division are designed to assess state government operations. From the audit work, a determination is made as to whether agencies and programs are accomplishing their purposes, and whether they can do so with greater efficiency and economy.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Members of the performance audit staff hold degrees in disciplines appropriate to the audit process.

Performance audits are conducted at the request of the Legislative Audit Committee which is a bicameral and bipartisan standing committee of the Montana Legislature. The committee consists of six members of the Senate and six members of the House of Representatives.

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LEGISLATIVE AUDIT DIVISION

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September 2018

The Legislative Audit Committee
of the Montana State Legislature:

This is our performance audit of water pollutant discharge permitting and inspecting programs managed by the Water Protection Bureau in the Water Quality Division at the Department of Environmental Quality.

This report provides the legislature information about the permitting and inspection activities related to water pollutant discharge permits. It includes recommendations for improving timeliness in permit review and issuance, consistency of compliance inspection site selection, and using data to more actively manage program activities. A written response from the department is included at the end of the report.

We wish to express our appreciation to department personnel for their cooperation and assistance during the audit.

Respectfully submitted,

/s/ Angus Maciver

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Legislative Auditor

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Montana Legislative Audit Division

Performance Audit

Water Pollutant Discharge Permitting and Inspecting Processes

Department of Environmental Quality

September 2018 17P-05 Report Summary

Water pollutant discharge permits are designed to protect surface and ground water from excessive pollutant discharges by stipulating how much and in what circumstances a permit holder may discharge particular types of pollutants. We found 37 percent of surface water permits, and 19 percent of ground water permits were expired and administratively continued. The Department of Environmental Quality should reduce the length of time it takes to review and issue new permits and renewals. Administratively continued permits increase the risk of excess pollutants making their way into ground and surface water, which can negatively affect aquatic life and increase public health risks for humans.

Context

The U.S. Environmental Protection Agency (EPA) delegated authority to the Montana Department of Environmental Quality's (DEQ's) Water Protection Bureau (WPB) for implementing water quality standards of the federal Clean Water Act (CWA). WPB receives federal funds to implement federally mandated pollutant discharge standards through the permitting activities in the WPB. In the Montana Pollutant Discharge Elimination System (MPDES) and Montana Ground Water Pollution Control System permitting programs, an entity requests the ability to discharge pollutants into water by paying a fee and applying for a permit. The details of the permit describe how much and in what circumstances the entity may discharge pollutants into water. Permit holders are responsible for testing water quality and reporting test results to DEQ to verify ongoing compliance with their permits. In addition, WPB staff are required to inspect larger surface water facilities, called majors, that generally discharge 1 million gallons per day or more, for compliance every other year, and smaller surface facilities, minors that discharge less than 1 million gallons per day, every 5 years. Ground water permit sites are inspected also.

We reviewed 150 individual surface water permits in effect and found that 56 (37 percent) have expired and are currently administratively continued. Administrative rule allows this, and it means the permits have expired but the discharge is allowed to continue under the previous permit while DEQ works on an updated permit. We reviewed 89 ground water permits and found 17 (19 percent) have expired and have also been administratively continued. We determined the department has not established expectations for the ground and surface water pollutant discharge permitting programs in the past. Work has recently begun on establishing deadlines. Expectations, such as the amount of time it should take to complete a permit, have been discussed and determined. Implementation is the next step. When implemented, these deadlines could ensure permits are renewed prior to their expiration and water quality is not at risk.

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We also reviewed all compliance inspections in calendar years 2013–2017 to determine if WPB was meeting EPA's requirements regarding inspections. We found major dischargers were inspected as required by EPA. However minor facilities were not inspected as required by EPA. In a 5-year window, we found 11 of 120 sites (9 percent) were not inspected that should have been. The department did not meet its inspection obligations to EPA. We determined the department has not developed formal processes for selecting pollutant discharge permit sites for compliance inspections each year.

We also determined the department does not use fundamental management information regarding permitting and inspection activities. The department is unable to easily demonstrate its permitting and inspection activities meet department and statutory requirements, such as when the review of permit applications was completed; staff assigned to the permit when it was an application; date work began on the application; and when and by whom supervisory reviews and approvals occurred. Overall, there is a lack of comprehensive program-wide information about the permitting and inspection programs. This impedes management's evaluation of issues or timeliness related to permits, or how inspection sites are selected. It also makes it more difficult for the department to report program progress to stakeholders and assure permit holders are meeting permit requirements.

Results

Our report resulted in three recommendations to the department in the following areas:

- Finalizing and implementing deadlines for issuing ground and surface water pollutant discharge permits.
- Implementing consistent, formal processes for selecting surface and ground water pollutant discharge permit sites for inspections.
- Developing a plan to compile and use management information to actively manage the water pollutant discharge permitting and inspection programs.

Recommendation Concurrence	
Concur	3
Partially Concur	0
Do Not Concur	0

Source: Agency audit response included in final report.

For a complete copy of the report (17P-05) or for further information, contact the Legislative Audit Division at 406-444-3122; e-mail to **lad@mt.gov**; or check the web site at **http://leg.mt.gov/audit**
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Chapter I – Introduction and Background

Water Pollution Protection Depends on States

The federal government created the Clean Water Act (CWA) in 1972. It is designed to restore and maintain the chemical, physical, and biological integrity of the nation's waters. The principal mechanism for achieving this is reducing the amount of pollutants, including garbage, sewage sludge, chemical waste, heat, rocks, and sand, discharged directly into rivers, streams, and lakes. The National Pollutant Discharge Elimination System (NPDES), established in the CWA, accomplishes this. Facilities discharging pollutants into the nation's surface waters must obtain a NPDES permit. In all but four states (Idaho, Massachusetts, New Hampshire, and New Mexico), applicants apply to the state for a permit. The Environmental Protection Agency (EPA) tasks NPDES-authorized states, including Montana, with issuing the permits and inspecting permit site locations for compliance.

As part of its delegated authority from EPA, the Department of Environmental Quality (DEQ) receives federal funds to complete this water pollutant discharge permitting and inspection work. This is largely accomplished through the department's Water Protection Bureau's (WPB) permitting activities related to the CWA and a similar state program for ground water called the Montana Ground Water Pollution Control System. General guidelines regarding the work DEQ does on behalf of EPA related to water quality permitting are outlined in a Performance Partnership Agreement between EPA and DEQ. Due to concerns regarding the overall effectiveness of DEQ's water protection program, the Legislative Audit Committee prioritized a performance audit of the department's water pollutant discharge permitting process. This chapter discusses the scope and objectives of our audit work and provides background information on how the water permitting and inspection programs are organized and operate within the department.

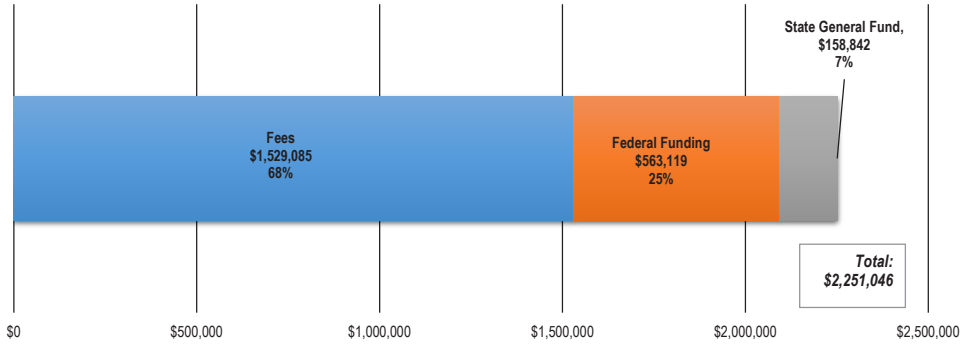
Permitting and Inspecting Activities Funded by Fees, EPA, and General Fund

WPB has three funding sources to pay for permitting and inspecting activities such as staff salaries, staff training, and travel to permit sites for inspections. The sources are fees from permit holders, EPA, and the state general fund. Figure 1 (see page 2) provides details regarding the funding sources for permitting and inspection activities in fiscal year 2017.

Figure 1

Water Pollutant Discharge Permitting and Inspection Activities by Funding Sources

Fiscal Year 2017



Source: Compiled by the Legislative Audit Division from department records.

As illustrated in the figure, fees from permit holders and applicants made up 68 percent, or $1,529,085, of the funding for individual water pollutant discharge permitting and inspection programs. Federal EPA grants at $563,119 made up 25 percent, while state general fund was 7 percent at $158,842. WPB staff said they receive fewer than five applications for new individual permits each year. The bulk of their work related to individual permits is renewal applications for permits that have been in effect for 5 years, are expiring, and need to be replaced with an updated permit. The schedule for permit fees is in the Administrative Rules of Montana (ARM) 17.30.201 and summarized in Table 1 (see page 3).

Table 1

Fees for Individual Water Pollutant Discharge Permit Applicants and Permit Holders

Category of Applicant	Renewal Fee	New Permit Fee	Annual Fee
Surface Major Permit Publicly owned treatment works	$4,800	$5,000	$3,000 per million gallons of pollution per day
Surface Major Permit Privately owned treatment works	$5,000	$5,000	$3,000 per million gallons of pollution per day
Surface Minor Permit Publicly owned treatment works	$1,500	$2,500	$3,000 per million gallons of pollution per day
Surface Minor Permit Privately owned treatment works	$3,000	$4,200	$3,000 per million gallons of pollution per day
Surface Concentrated Animal Feeding Operation	$600	$600	
Surface Industrial, Mining, Oil, and Gas Activities	$2,000	$2,000	
Surface Storm Water Construction	$2,000	$3,200	
Surface Municipal Separate Storm Sewer System			
Population Greater Than 50,000	$9,000	$11,000	
Population 10,000 to 50,000	$7,000	$9,000	
Population less than 10,000	$6,000	$8,000	
Ground Water Permit Depends on residential waste flow rate in gallons per day (gpd)			
0 - 10,000 gpd	$1,200	$2,500	$1,300
10,001 - 30,000 gpd	$1,500	$2,500	$2,000
More than 30,000 gpd	$2,500	$4,000	$3,000
Ground Water Permit Depends on industrial or other waste, flow rate in gallons per day (gpd)			
0 - 1,000 gpd	$1,000	$1,500	$2,000
1,001 - 5,000 gpd	$1,500	$2,500	$2,500
5,001 - 10,000 gpd	$2,500	$3,500	$2,800
More than 10,000 gpd	$4,800	$5,000	$3,000

Source: Compiled by the Legislative Audit Division from Administrative Rules of Montana.

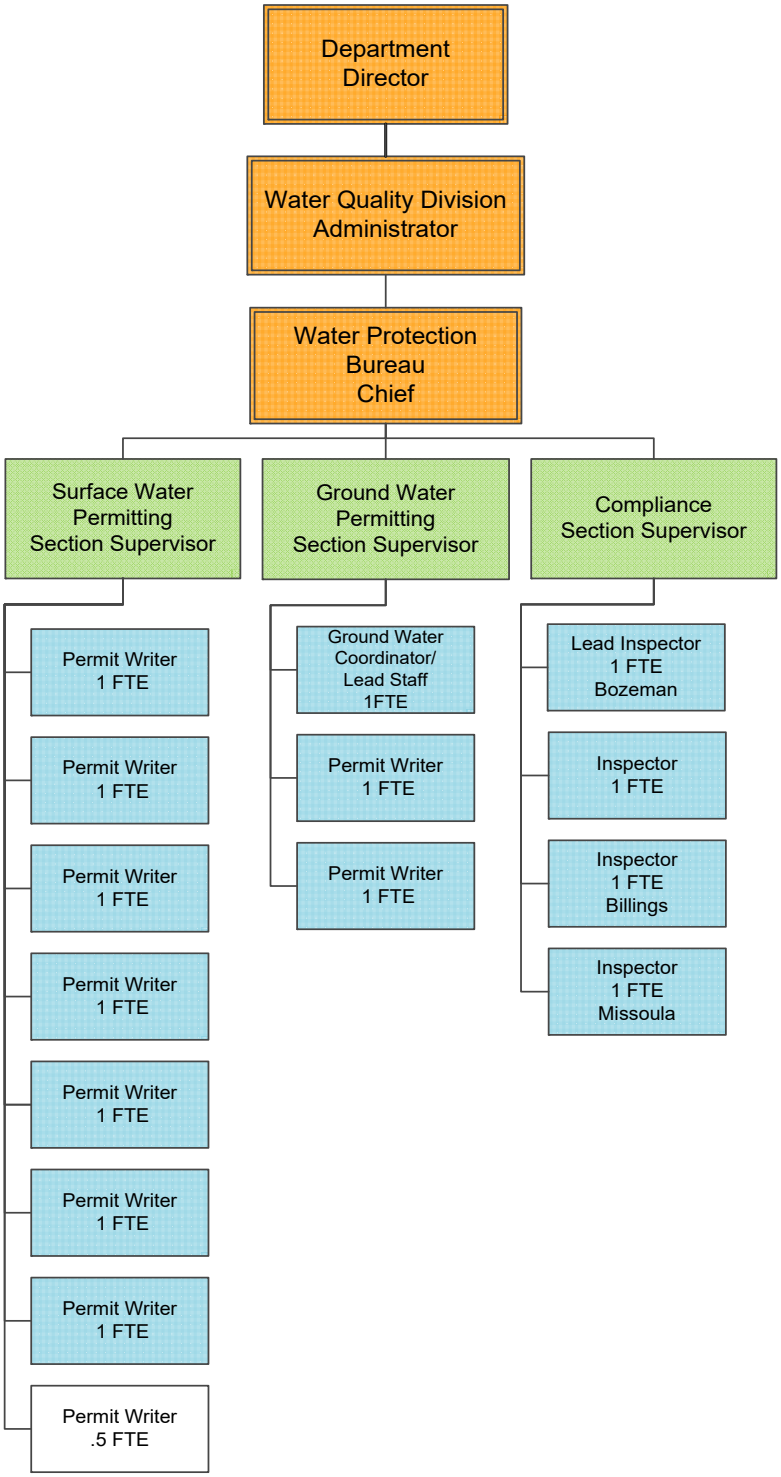
Fees are paid by permit holders. In two instances, the first is an application fee paid when a new permit or renewal of a current permit is needed. The second is a yearly fee required as part of a permit. Surface water discharge fees vary based on the industry of the applicant and the amount of daily discharge, or the size of population served. All ground water permit fees are based on rate of discharge flow, with larger dischargers paying higher fees, and whether the discharge is residential or industrial.

Water Pollutant Discharge Work Done in Three WPB Sections

Three WPB sections work on water pollutant discharge permitting and inspecting. Staff in the Surface Water Permitting section review and issue water pollutant discharge permits for entities discharging into surface water. Similarly, staff in the Ground Water Permitting section review and issue water pollutant discharge permits for ground water dischargers. The Compliance section staff inspects the sites of both surface and ground water pollutant discharge permits to determine if they are operating in compliance with the requirements of their permits. Figure 2 (see page 5) is an organizational chart of DEQ staff related to individual water pollutant discharge permitting and inspection work. All three sections have duties beyond the individual water pollutant discharge permits and inspections we focused on in our work.

Figure 2

Pollutant Discharge Permitting and Inspecting Programs Organizational Chart*



Source: Compiled by the Legislative Audit Division from department records.

*Unless indicated otherwise, position located in Helena.

In both the surface water and ground water permitting sections, assignments are made based on the expertise and experience of the permit writer, with more experienced staff being assigned more complicated permits. All permit writers are in Helena. The compliance section inspection assignments are made based on staff expertise and proximity of staff to the site. There are inspectors located in Billings, Bozeman, Helena, and Missoula. Inspectors produce an inspection report after they complete an inspection.

How Does the Department Review and Issue Surface Water and Ground Water Permits?

Water pollutant discharge permits are the product of complex and varied analyses. Permits address water quality at all the applicant's discharge points, as well as the effect of discharges on the receiving water's turbidity and water temperature. In addition, all permits include required monitoring schedules and, if applicable, facility maintenance requirements. Monitoring schedules vary depending on the kind of pollutants being discharged and downstream water uses. Therefore, compliance requirements included in the permit may have different monitoring schedules and sampling requirements, increasing the complexity of permit writing.

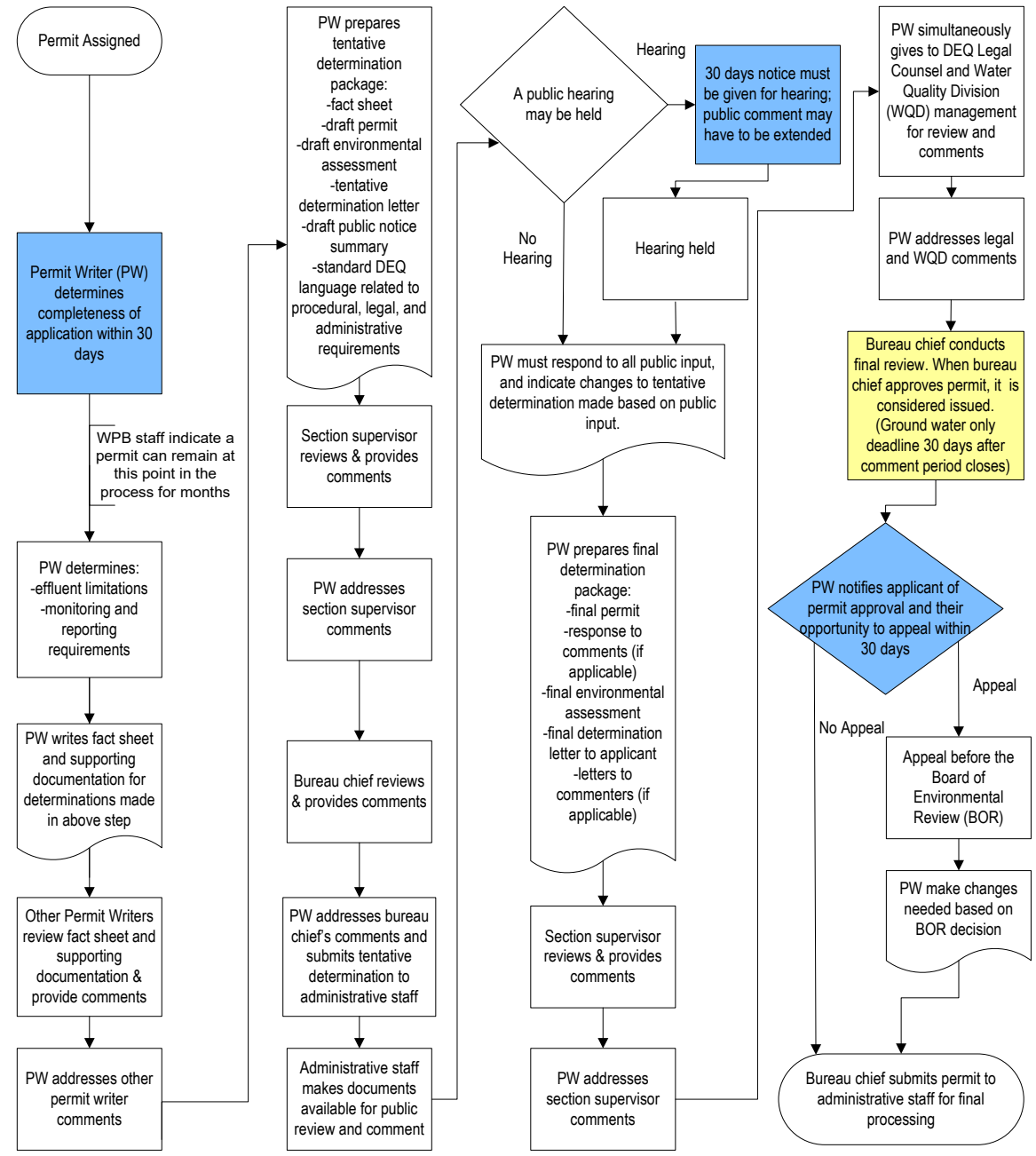
Application Completeness Determination Only Deadline Related to Early Permit Work

After a water pollutant discharge permit application is received at WPB and assigned to a permit writer, the permit writer reviews the application to determine if it is complete or if more information is needed. This process is called a completeness determination. After this determination is made, the applicant must be notified if more information is needed, or if the permit application is considered complete. Both state law and administrative rule require this notification to occur within a certain time frame, either 30 or 60 days depending on if it is a new permit application or renewal of a current permit. WPB staff indicate it is their policy to use the 30-day deadline for both new applications and renewal applications. If a completeness determination indicates more information is needed, and the applicant provides it to WPB, the permit writer must respond to that additional information within 30 days of receiving it. After completeness determination work is finalized, there are no other deadlines in state law or administrative rule related to the permitting process except at the end associated with public meeting notices and ground water permit final determinations. During audit work, we found nothing indicating how long it should take the department to review and issue the permit. After the application is considered complete, the permit writer has numerous steps to go through to complete a permit. Figure 3 (see page 6) is a summary of the permitting process–with the blue boxes identifying those steps in the process that, based on state law or administrative rule, have deadlines for both

surface water and ground water. A yellow box identifies a deadline in administrative rule only relating to ground water permitting.

Figure 3

Individual Water Pollutant Discharge Permitting Process



Source: Compiled by the Legislative Audit Division from department records.

As Figure 3 illustrates, some of the first decisions made in the permitting process are the levels of each pollutant that may be discharged by the entity. This is determined by

many factors, including downstream uses, levels of background pollutant concentration, and the toxicity of the pollutant. The permit writer includes this related information in a fact sheet and supporting documentation. These provide the reasoning behind the decisions made regarding each pollutant, including the frequency and kinds of monitoring that are required. Those documents are reviewed by management and updated based on those reviews by the permit writer. This information is then made available for public review and comment. A public hearing may be held, depending on public interest. The permit writer reviews all public comments received and records any changes made to the tentative determination based on public comment. The permit writer prepares a final determination package regarding the permit. After another round of management reviews and updates, the bureau chief conducts a final review and the permit is approved and issued. The permit writer then notifies the applicant regarding their permit. Based on state law and administrative rule, applicants have 30 days to appeal the decision before the Board of Environmental Review.

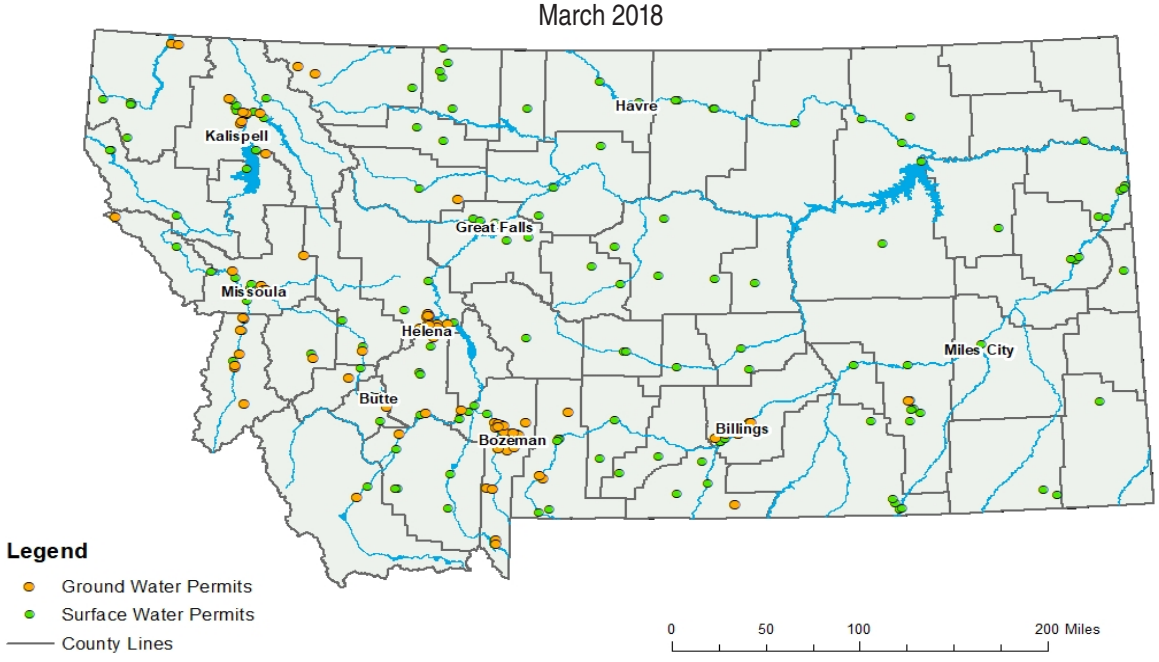
Locations of Pollutant Discharge Permits

There are water pollutant discharge permit holders across Montana. Figure 4 identifies the locations of individual surface water and ground water discharge permits as of March 2018.

Figure 4

Surface and Ground Water Pollutant Discharge Permit Locations

March 2018



Source: Compiled by the Legislative Audit Division from department records.

Predictably, many surface water permit holders are along major river routes. Ground water permits are frequently clustered where recent development using septic systems is taking place. WPB staff reports there are two reasons why some parts of the state have limited individual ground water or surface water permits. According to administrative rule, public wastewater systems reviewed and approved by DEQ prior to May 1, 1998, are excluded from ground water permit requirements and do not appear on this map. In addition, treatment lagoons, pond-like bodies of water designed to receive, hold, and treat wastewater for a predetermined period, are a popular treatment solution where space is plentiful. Some treatment lagoons are permitted by DEQ under the domestic lagoon general permit, which is outside of the scope of our audit and does not appear on this map.

How Does the Department Monitor Permitted Entities?

All permits require water quality monitoring by the permit holder. Compliance with the permit is largely established by self-reported water quality data of the discharged effluent. The frequency and type of required water quality testing and reporting vary depending on the pollutants and downstream beneficial uses. The permit holder reports this data to the bureau, and the information is kept in the entity's file. Also, bureau staff conduct inspections of permitted entities to determine if they are complying with the requirements of their permit. The number of inspections required each year is determined by EPA and the department in multi-year Performance Partnership Agreements. Based on these agreements, the department develops an annual work plan for compliance work. For example, in 2016 EPA required the inspection of 18 surface major facilities, generally those discharging 1 million gallons per day and more. EPA also required 14 inspections of surface minor facilities, those discharging less than 1 million gallons per day.

Ground water permitting is a state program and EPA has no official role regarding its management. Nevertheless, the department's inspection program assures EPA it will complete a specified number of ground water inspections each year. In 2016, that number was 9. These inspections are conducted by WPB staff in Helena as well as field offices across the state. Inspections can involve staff taking water samples and running tests to determine the amount of pollutants in the samples, as well as reviewing processes used by the permit holder to gather and submit water quality data. EPA requires that all surface majors be inspected every other year and surface minors be inspected every 5 years. There are no EPA requirements regarding the frequency of ground water permit inspections. The testing details are determined by what is required for compliance in the permit. The purpose of inspections is to determine if the permit holder is complying with the permit requirements. An inspection report is filed after every inspection. If problems are found in the inspection, compliance staff

contacts the entity with an action plan to address the issues, and provide technical assistance if needed. If the permit holder does not attempt to correct the issues, an enforcement action may be started. Enforcement actions are taken by the department's enforcement staff and usually result in a settlement in which the permit holder agrees to follow a strict corrective action plan and increased monitoring by the department for a defined amount of time; it could also include fines.

Audit Scope and Objectives

To determine our scope, we needed to decide what type of water pollutant discharge permits we were going to review. There are two distinctions to make when describing these permits. First, a determination must be made on whether discharges are going into surface water or into ground water. Ground water is found in open spaces in soil and rock under the earth's surface. It is stored in and moves slowly through underground aquifers. Surface water is on top of the ground, such as a stream, river, or lake. The state has established Montana's ground water program. The surface water permitting and inspection programs are federal programs implemented by the states. EPA has numerous rules the state must follow related to surface water programs. The second distinction is whether the permits are individual or general. A general permit is a single permit that covers several entities engaging in similar activity and discharging similar kinds of pollutants. General permits are for common activities such as a wastewater treatment lagoon or gravel pit. Individual permits are required for pollutant discharge that is not covered by one of the general permit activities. They are site-specific and are usually required by entities such as mines and municipal water treatment centers.

We determined individual permits were higher risk because of their unique nature. The type and amounts of pollutants are largely familiar in general permits. In an individual permit, however, everything must be specialized to the facility and its location. Therefore, our scope includes both ground water and surface water individual permits but not general permits. We reviewed 150 individual surface water permits and 89 individual ground water permits to establish if they were developed using the same criteria and in place before a previous permit expired. We also examined which permit sites were inspected from calendar years 2013–2017. During our review of WPB activities, we identified risks related to the extended time frames needed by WPB to complete permit review and issuance. Other risks identified include a lack of internal structure, such as deadlines throughout the process that would make program expectations clear to staff, as well as management's limited use of program-wide management information that would easily identify if programs were meeting identified expectations and complying with state and federal law and rules. These risks identified possible obstacles with permit and inspection consistency, timeliness, and efficacy in protecting our water

from excessive pollution discharges. Based on our assessment work, we developed two objectives to examine water permitting and inspection activities:

1. Does the department review and issue pollutant discharge permits in a consistent and timely manner?
2. Does the department's monitoring protocol ensure pollutant discharge permit holders follow requirements established in state and federal law?

Audit Methodologies

To address our objectives, we conducted the following audit work:

- Examined the Montana Constitution, state law, and rules regarding deadlines and requirements for individual surface and ground water pollutant discharge permitting and inspections.
- Reviewed relevant federal laws and rules regarding deadlines, inspection frequency expectations, and other requirements for individual surface water pollutant discharge permitting and inspection activities.
- Examined the EPA Permit Writers Manual, EPA Inspectors Manual, and EPA guidance on the frequency of inspections to determine what requirements and expectations EPA places on WPB regarding permitting and inspections.
- Interviewed WPB management and staff about their expectations regarding timeliness and consistency in the permitting and inspecting programs and how those expectations are communicated throughout the WPB.
- Interviewed representatives of the regulated and environmental communities regarding the water pollutant discharge permitting and inspecting processes.
- Discussed water pollutant discharge permitting and inspections with staff from other states with primacy implementing the Clean Water Act, including North Dakota, South Dakota, and Wyoming, regarding their permitting and inspection processes.
- Reviewed 150 individual surface water permits and 89 individual ground water permits to evaluate the level of permitting documentation and timeliness of the permitting process.
- Reviewed data related to all inspection reports during the calendar years 2013–2017 to determine if DEQ was meeting EPA requirements regarding frequencies of inspections.
- Observed two permit compliance inspections, one at a public entity and the second a private entity, to determine how inspectors interact with the regulated community.
- Reviewed most recent DEQ-EPA Performance Partnership Agreements to determine what specific expectations EPA has regarding the number of permit site inspections.
- Reviewed most recent annual WPB Inspection Work Plans to determine if EPA's expectations are addressed in the work plans and if the WPB follows its work plan.

- Reviewed 43 compliance inspection reports from 2016 to determine if they were consistent and timely.
- Examined 43 inspection reports from inspections taking place in 2016 to determine if the commitment made to EPA by WPB regarding the number of inspections was met.
- Examined department data related to all inspections during the calendar years 2013–2017 to determine if EPA requirements were being followed regarding frequency of inspections.

Report Contents

The remainder of the report presents audit findings, conclusions, and recommendations to DEQ to improve the department's permitting and inspection processes for water pollutant discharge permits.

- Chapter II discusses the permitting process for both the surface and ground water programs and presents information on how the department should improve the timeliness of permit review and issuance.
- Chapter III presents information about the inspections of permitted entities and about how the department should establish criteria in determining inspection sites.
- Chapter IV examines the use of data to manage the bureau and the need for the department to more actively use management information to administer the review, approval, and inspection functions of water pollutant discharge permits.

Chapter II – Improving Timeliness of the Permitting Process

Introduction

This chapter addresses our objective to determine if the Department of Environmental Quality (DEQ) reviews and issues water pollutant discharge permits in a consistent and timely manner. As part of our work we reviewed all individual surface and ground water pollutant discharge permits, including expiration dates and effective dates related to permit issuance. We also reviewed permits to determine if the Water Protection Bureau (WPB) is consistent when reviewing and issuing permits. While our work determined that WPB does review all surface and ground water permits in a consistent manner, we determined there are ongoing issues regarding the timeliness of the WPB permitting. This chapter discusses the results of our work and provides a recommendation to develop deadlines for permit review and issuance.

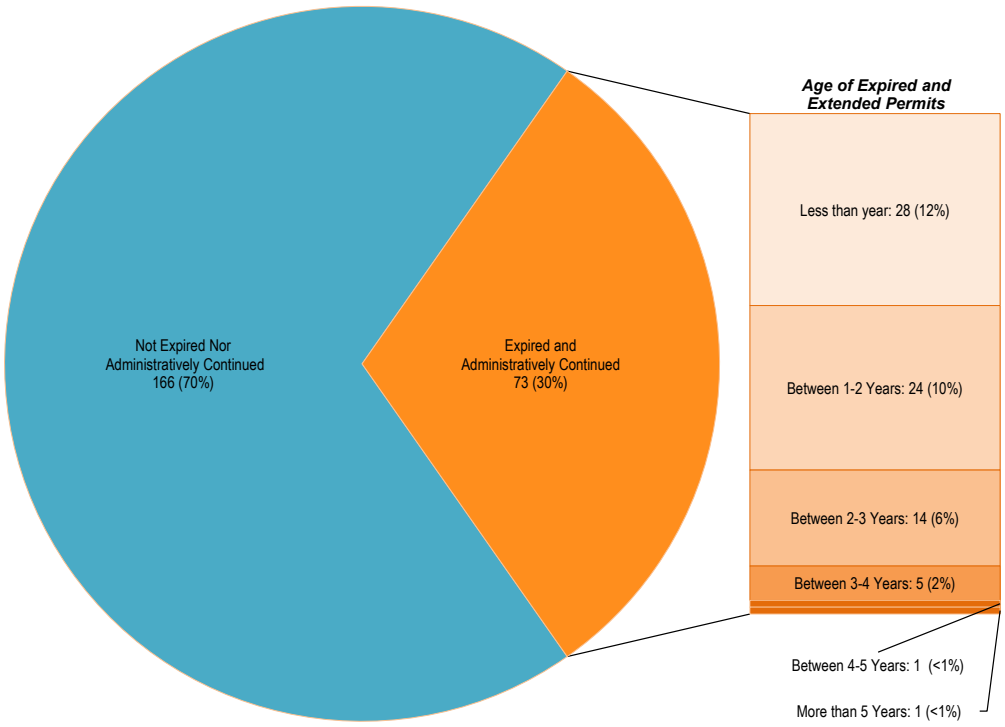
WPB Review and Issuance of Surface Water and Ground Water Discharge Permits Consistent but Not Timely

Consistency in public policy implementation is necessary to assure fair treatment of all applicants. We reviewed 150 surface water permits and 89 ground water permits and found all were in accordance with the Environmental Protection Agency's (EPA) Permit Writers Manual. This manual was developed, and is updated periodically, by EPA as guidance to state permit writers on what is required in each permit. It states that permits must indicate the amount of various kinds of pollutants that may be discharged. It also requires that permits include information about when the discharges may occur, and what kind of water quality monitoring the permitted entity must do. The manual also requires permits to include the necessary documentation, such as fact sheets, to scientifically back up the decisions made by the permit writer.

Consistency in public policy implementation is not the only characteristic needed to assure fair treatment of all applicants. Timely review and issuance of all permits is also necessary to assure fair treatment. While we found the department does consistently review permit applications regarding the content of the applications, we also found it is not consistent regarding the length of time it takes to review and issue surface and ground water pollutant discharge permits; we found significant time variances. Administrative rule indicates surface water pollutant discharge permits are effective for a fixed term not to exceed 5 years. While administrative rules allow ground water permits to be issued for a term not to exceed 10 years, per department practice, ground water pollutant discharge permits are effective for 5 years also. WPB routinely extends permits beyond these 5-year expiration dates. This extension is provided

for in administrative rule, which allows a permitted entity to continue discharging under its expired permit conditions if the entity has applied for renewal, but WPB has not yet approved it, and the extension will not result in pollution of any waters. A permit in this situation is labeled "administratively continued." As Figure 5 illustrates, of the 239 surface water and ground water pollutant discharge permits we reviewed, 166 (70 percent) are current. We found 73 (30 percent) have expired and are currently administratively continued and operating beyond a 5-year permit.

Figure 5
Surface Water and Ground Water Individual Pollutant Discharge Permits
Status and Age as of December 31, 2017



Source: Compiled by the Legislative Audit Division from department records.

Figure 5 also identifies how long the 73 expired permits have been administratively continued. There is 1 permit that has been extended for more than 5 years and another that has been extended beyond 4 years. Five have been extended between 3 to 4 years. Fourteen have been extended between 2 and 3 years. There are 24 permits that have been extended between 1 to 2 years, and 28 have been extended less than 1 year. When the largest categories of less than 1 year and between 1 and 2 years are added together, the total of 52 permits indicates most of the expired permits have been extended for 2 years or less.

While it is clear the rules allow for these extensions, it is doubtful the continuations were envisioned to be as long as the permit period of 5 years or longer. We found the WPB has not clearly defined nor documented the decision-making process for permits regarding continuations, including not clearly addressing whether the continuation will result in negative impacts to water quality. It appears every permit is continued almost by default. Staff replied that it was a workload management method as there is such a backlog of permit work, adding that the long-term nature of the backlog makes it more difficult to catch up now. While WPB staff are working on administratively continued permits from 3 to 4 years ago, work related to the permits expiring now must wait, creating more administratively extended permits and adding to the backlog. When asked how WPB had developed such a large backlog, current management was unable to comment as they have all been hired within the past 3-5 years. However, they added that in addition to the backlog, lack of staff and staff turnover were the main causes of the current situation, although WPB was unable to provide support for these positions as they have not conducted workforce studies or other internal analyses. Staff also report that the possibility of EPA rejecting a final permit, as well as lawsuits related to permits, cause concern for permit-writers. This concern causes them to be overly-cautious, taking longer to complete their permitting work. Our work found 5 recent examples of WPB administratively continuing 5-year surface water pollutant discharge permits for more than 10 years. Table 2 provides the details of these permits.

Table 2

Examples of Surface Water Pollutant Discharge Permits Administratively Continued More Than 10 Years

Type of Facility Permitted	Previous Permit's Expiration Date	Length of Time Previous Permit Was Administratively Continued	Most Recent Permit's Effective Date
Oil Refinery	4/30/2004	11 years 6 months	11/1/2015
Metal Refining Plant	1/31/2004	10 years 7 months	9/1/2014
Mine	4/30/2005	10 years 5 months	10/1/2015
Disposal Facility	6/30/2003	10 years 4 months	11/1/2013
Mine	7/31/2005	10 years 3 months	11/1/2015

Source: Compiled by Legislative Audit Division from department records.

It lists the kind of facility permitted, when its former permit expired, and when the most recent permit went into effect. The third column indicates the difference between those two dates, which is the length of time the permit was administratively continued. Keeping in mind the permits are in effect for 5 years before being extended, these facilities had the same permits in effect for more than 15 years.

Deadlines Used in Other States and Other DEQ Programs

There are different ways to achieve timely review and issuance in permitting programs. We contacted other state water permitting agencies to discuss their permitting processes. Wyoming officials noted there are state regulations that require the department to decide to issue or deny a permit within 180 days of receiving an individual permit application. In addition, they must let the applicant know if they need to submit more information within 45 days. Wyoming officials also indicated staff understand these deadlines and work to complete the permits within the time allowed. We also found other permitting programs within DEQ that have established deadlines as part of their permitting process. DEQ's Air Permitting program has deadlines throughout the process for review and issuance of air quality permits. For example, the department must issue or deny a final permit within 90 days of receiving a complete application.

Water Quality at Risk With Prolonged Permit Renewal Times

Timeliness of permit development is important for many reasons. Individual surface and ground water pollutant discharge permits are site-specific. They are issued to dischargers such as city wastewater treatment plants and large industrial dischargers. These permitting programs are designed to help ensure the quality of our state's waters. Routinely not reviewing and issuing permits in a timely manner increases the risk of negative health consequences for the public and adverse effects on aquatic life. Timely review and issuance of updated permits is essential to water quality because it gets new requirements in place at facilities as soon as possible. For example, arsenic is common in wastewater at refineries. In addition, it is found naturally in many locations across Montana. It is a poisonous substance that can cause cancer and other health problems when consumed by humans. When the oil refinery in Table 2 (see page 15) received its 2000–2004 permit, it was not required to limit arsenic discharges. However, the arsenic standard changed from 18 to 10 micrograms per liter in 2006. A new requirement in the refinery's 2015–2019 permit is limiting arsenic discharge to a concentration no higher than 10 micrograms per liter. If renewals had occurred based on the expiration dates of the permits, every 5 years, new permits would have been issued for 2005–2010 and 2011–2015. The new arsenic discharge standard for the refinery would have been put in place in 2011 rather than 2015. This lack of timely permitting ultimately resulted in 5 years of unregulated arsenic discharges.

Lengthy Permit Review and Issuance Impacts Regulated Community

In addition to impacts on water quality, a permitting process not focused on timeliness unnecessarily inserts uncertainty into the regulated community's ability to plan

for projects. A member of the regulated community stated that it often seems like the pollutant discharge permitting requirements are a moving target. New EPA requirements as well as uncertainty regarding when a new permit will be approved contribute to this uncertainty. When planning a large project, it is necessary to strategize for the worst-case scenario. Uncertainty regarding permitting can cause unnecessarily increased time and money to be put into the project. Adding uncertainty makes it difficult for the regulated community to plan accurately, which is essential. This member of the regulated community compared the process to a slow chess game of getting the money, support, and staff in place to increase a facility's capacity or build a new facility. The inability to know when a permit will be approved makes lining up all the necessary items even more difficult.

WPB Should Finalize and Implement Deadlines

The completeness determination is the only step in the permitting process that is required by state law and rule to be completed within a certain time frame, other than requirements at the end of the process such as public meeting notices and ground water final determinations. The bureau must reply to applicants about the completeness of their application within 30 days. Consequently, much of the bureau's attention is placed on reviewing the applications and meeting that deadline but, because there are no other deadlines early in the process and the backlog of older applications, it may be many months before the application is reviewed again. If there were deadlines throughout the process, the completeness determination would be one of several steps that must be done within certain time frames.

The permitting process has numerous phases, all of which have the possibility of adding time to complete the permit. More deadlines throughout the process are needed to assure timely review and issuance of permits. When asked why more deadlines have not been developed for permitting review and issuance, staff responded that they have been generally focused on the day-to-day work of permitting. However, DEQ management is looking at ways to decrease the time the permitting process takes. They have developed standard forms and prepopulated spreadsheets with the formulas needed to determine pollutant discharge limits. However, more needs to be done. When asked if they could envision a time in the future when there would not be a large backlog of permit work, a few staff said yes. Most staff replied the backlog is getting better but without additional resources the backlog will not be eliminated, while acknowledging additional resources and staff are not likely forthcoming. This could demonstrate a view by some in the bureau that they will never catch up, which can erode motivation. However, in contrast, management seems focused on eliminating the backlog and reducing permitting times. They recognize the need for deadlines for the process.

DEQ has developed a policy with the target of issuing permits within 180 days of receiving the application. The policy also has deadlines throughout the process, such as a time limit for the permit writer to prepare the tentative determination, limits to the length of time spent on management reviews, and parameters regarding how soon after public comments the final determinations must be completed. These are examples of deadlines that have been shown to encourage a timely permit review and issuance process.

RECOMMENDATION #1

We recommend the Department of Environmental Quality implement and enforce deadlines for reviewing and issuing ground and surface water pollutant discharge permits.

Chapter III – Compliance Inspection Site Selection Process Needs Improvement

Introduction

This chapter addresses our objective to determine if the Department of Environmental Quality's (DEQ) compliance protocol ensures pollutant discharge permit holders follow requirements established in state and federal law. We reviewed data related to all individual surface and ground water pollutant inspections that were performed from calendar years 2013 through 2017 to determine if inspections were taking place as required by the department's Performance Partnership Agreement with the Environmental Protection Agency (EPA). We found they generally were but there is not a formal and defined process for determining compliance inspection sites. We also reviewed the above inspections for consistency and timeliness and found they were performed in a consistent and generally timely manner. This chapter discusses the results of our work and provides a recommendation to the department to develop a formal process for selecting pollutant discharge permit sites for inspections.

Permit Compliance Monitoring

Formal enforcement actions and compliance inspections of permit sites are components of the department's monitoring protocol. Enforcement actions generally take place when an inspector finds, or a call from the public comes in regarding, discharging without a permit, a repeated problem by a single permit holder, or a particularly egregious single incident of noncompliance. Recent examples of individual ground and surface water pollutant discharge permit holder violations resulting in enforcement actions include: a development corporation discharging without a permit; a wastewater treatment center exceeding pollutant discharge limits more than 200 times; and an oil company failing to submit required water quality monitoring data. Enforcement actions are handled by the department's enforcement staff and usually result in a settlement in which the permit holder agrees to follow a strict corrective action plan and increased monitoring by the department for a defined amount of time. We reviewed enforcement actions related to individual water pollutant discharge permits beginning in calendar years 2008 through 2017 to determine if there were trends or patterns regarding this aspect of the department's monitoring and compliance protocol. We found the number of new enforcement actions has been decreasing. Table 3 (see page 20) provides information regarding the number of new enforcement actions related to individual water pollutant discharge permits between calendar years 2008 and 2017.

As depicted by the table, related to the permits in the scope of our work, there were 5 enforcement actions begun in 2008, a high of 29 in 2012, and 1 in 2017. While fewer enforcement actions is not a direct indicator of permit holders following requirements established in state and federal law, it could be a reasonable indicator of permit holders refraining from repeated noncompliance and approaching potential incidents of significant noncompliance more cautiously.

Table 3
Number of New Enforcement Actions Related to Individual Water Pollutant Discharge Permits
by Calendar Years 2008–2017

Year	Number of New Enforcement Actions
2008	5
2009	6
2010*	29
2011*	14
2012	7
2013	3
2014	3
2015	1
2016	2
2017	1

Source: Compiled by Legislative Audit Division from department records.

* A focused effort regarding compliance of wastewater treatment plants generated a larger than usual number of new enforcement actions in 2010 and 2011.

Permit Site Inspections

All permits require the permit holder to monitor and report water quality data to the department; frequency varies depending on the permit. Ongoing compliance with permit requirements is largely established by this self-reported water quality data. Every year, Water Protection Bureau (WPB) staff inspect several permitted entities to determine if they are in compliance with their permits. Our audit work in this area focused on how the bureau selected the sites to inspect and if inspection work compared site-to-site was consistent and followed EPA requirements. The length of time between inspections at a permit site increases the risk of unregulated discharges at the site and decreases the ability of WPB to know if self-monitoring data is reliable and whether the permit holder is in compliance with permit requirements. Recent EPA research shows increased inspections results in increased compliance.

Compliance Inspections Completed as Required in 2016

In 2016, WPB staff completed 43 inspections of entities with individual water pollutant discharge permits, which met the obligation made to EPA regarding inspections in their Performance Partnership Agreement. For inspection purposes, surface water permit holders are divided into two categories generally based on daily discharge amounts. Those discharging 1 million gallons per day or more are classified as surface

majors. In contrast, surface minors discharge less than 1 million gallons per day. EPA also requires that each major site be inspected every other year and that minor sites be inspected at least once in a 5-year permit cycle. Ground water permitting is a state program and EPA has no official role regarding its management. Nevertheless, the department's inspection program assures EPA it will complete a specified number of ground water inspections each year. Unlike surface water inspection sites that are determined by inspection staff, the selection of the particular ground water inspection sites is completed by ground water permitting staff. Table 4 shows the number of permits WPB agreed to inspect, and how many it inspected in 2016.

Table 4
Number of Inspections WPB Agreed to Complete and the Number of Inspections Completed
Federal Fiscal Year 2016

Type of Permit	Number of Inspections Committed	Number of Inspections Completed
Surface Majors	18	18
Surface Minors	14	14
Ground Water	9	11

Source: Compiled by the Legislative Audit Division from department records.

WPB told EPA they would inspect 18 surface major facilities, 14 surface minor facilities, and 9 ground water facilities, and completed all those inspections, plus two additional ground water inspections.

Inspection of Facilities Consistent

In addition to determining whether the number and kind of inspections required by EPA in 2016 were completed, we reviewed the documentation of all the inspection work done at each site for consistency compared to each other. We reviewed all related inspection reports and we looked for four required elements from the EPA Inspectors Manual. The elements are:

- A thorough introduction of the facility, including descriptions of all discharge sites, the locations where water samples are taken, and any changes made at the facility since the last inspection.
- A review of the facility's records related to ongoing water quality monitoring. In some instances, to verify submitted water quality data, the inspector will take water samples and independently test them.
- A physical evaluation of the site that typically includes taking photos.
- A detailed conclusion regarding whether the entity is in compliance with its permit.

We found these elements were present in the compliance reports we reviewed. In addition, interviewed inspectors all responded similarly regarding how they proceed with an inspection and use the four elements required by the EPA Inspectors Manual.

Inspection Site Selection Processes Not Formal or Documented

To determine if WPB was meeting the requirements of the Performance Partnership Agreement regarding surface major facilities being inspected every other year and surface minor facilities being inspected once every 5 years, we reviewed data related to all individual surface water inspections in calendar years 2013–2017; we also reviewed ground water inspection data from the same time period. We found all 34 surface major facilities were inspected every other year. However, we also found surface minor facilities and ground water facilities were not being inspected on a schedule that assures they will be inspected once a permit cycle. Specifically, here are the results:

- Major Surface: 100 percent inspected; all 34 inspections occurred during 2013–2017
- Minor Surface: 91 percent inspected; 11 of 120 inspections did not occur during 2013–2017
- Ground Water: 93 percent inspected; 8 of 112 inspections did not occur during 2013–2017

Of the 11 minor surface inspections that did not occur within the 5-year period reviewed, 5 were completed by the end of February 2018.

Surface Water Compliance Site Selection Process

There is no formal selection process for individual surface water permit sites. Inspection staff interviews indicate that when selecting major and minor permit sites to inspect, water quality risk factors at each site and the EPA time requirements are the criteria generally used for surface water compliance site selection. However, nothing is recorded regarding the selection process.

Ground Water Compliance Site Selection Process

Ground water permit inspection sites are not required to be inspected by EPA at any certain interval. However, state law explicitly gives power to DEQ to require monitoring, including inspections. Also, ground water permit language includes conditions requiring the DEQ's access to entry, inspection, and sampling. Accordingly, we used the once a permit cycle as a reasonable expectation of the ground water permit inspection program. Our work found there is also no policy regarding the selection of ground water permit inspection sites. Ground water permitting staff report they follow ad hoc criteria to determine which ground water permit sites will be inspected. Examples given of sites more likely to be inspected were: a system not having an inspection for a few years, a system that has recently added or changed a process, or one that has added a new monitoring well. However, there was nothing recorded related to how this selection process occurs.

Other DEQ Programs Have Site Selection Criteria

We reviewed other department programs that include compliance inspections and found they have documented site selection criteria that includes a consideration of risk components and timelines. For example, the department's Hard Rock Mining Reclamation Program requires permitted operations be inspected by the department at least once per calendar year. The requirement increases based on risk to at least three times per year for operations using cyanide or other metal leaching solvents or reagents. Those operations with a permit requirement to monitor for potential acid rock drainage, or exceed 1,000 acres in permit area must be inspected at least three times a year also. The Underground Storage Tank Program requires tanks be inspected every 3 years and all tanks at a single location must be inspected at the same time. Criteria and documentation are fundamental to successful policy decisions, such as permit compliance inspection site selection. The development of a formal site selection process based on defined risk factors in WPB would facilitate a discussion regarding criteria and make inspection site selection more consistent.

Water Quality at Risk

Without a formal and documented process for the selection of compliance inspection sites that assures sites are selected based on risk and in accordance with EPA requirements, it is possible for decreased water quality to negatively affect public health as well as stress aquatic life. The length of time between inspections at a permit site increases the risk of unregulated discharges at the site and decreases the ability of the WPB to know if the permit holder is complying with the requirements of their permit. Without an inspection site selection process based on documented criteria, the length of time between inspections could be considerable. In contrast, a selection process based on criteria that includes defined risk factors and EPA requirements would assure inspections happen at regular intervals. Also, the absence of a formal process for making inspection site decisions creates a situation in which resources that could be used for higher risk sites may be going to lower risk sites because there is no documented criteria indicating why particular sites are selected.

No Consistent Compliance Inspection Site Selection Process

The reason for the absence of a formal, documented inspection site selection process is because individual staff have developed their own approach to site selection. For example, inspection staff indicated that because of limited resources, they have made administratively continued permits a lower priority because they do not want to be checking the same location with the same permit twice. They believe it is better to wait until the permit has been updated. However, this increases the amount of time between inspections at those facilities. It also removes inspections as a tool to determine if the

permit holder is adhering to the conditions of the previous permit, which is required for administratively continuing a permit. If administratively continued permits are only inspected after a new permit is put in place, it is difficult to fully determine if the permit holder is in compliance with the current permit. Similarly, we found WPB staff has an informal ranking system related to surface minor facilities that results in certain facilities being identified as low priority and not held to the same kind of inspection standards as other surface minors. Of the 11 minor surface inspections that did not occur within the 5-year period reviewed, 6 were identified as "low priority." These include sites the department indicated are not a risk to water quality, such as reclaimed sites or locations where facilities have not been built. However, it is not possible to determine if a facility is considered low priority by looking at its file. Also, what may be called a low priority facility by one staff person may not be by another, as there is no definition regarding what the designation means. In addition, EPA is not aware of this informal raking system, and still requires inspections of all minor surface permit sites once per permit cycle, which is every 5 years. Also, WPB staff indicated that sometimes other DEQ inspection programs are substituted for an inspection performed by WPB inspection staff. However, it is not clear that the resulting inspection is always comparable to a permit compliance inspection. The development of a formal, documented process would facilitate a discussion regarding risk-based criteria and make the site selection more consistent. The first step in developing a risk-based process for selecting compliance inspection sites would require determinations regarding items such as priority of administratively continued permits, suitability of other DEQ programs as a substitute inspection, definition of a low priority permit, identifying what factors increase the risk at a site, and assurance in meeting EPA's requirements related to inspections.

RECOMMENDATION #2

We recommend the Department of Environmental Quality develop, document, and implement a formal risk-based process for selecting ground water and surface water pollutant discharge permit sites for inspection.

Chapter IV – Management Information and Active Management Needed

Introduction

Over the course of our review work related to permitting and inspections, we found limited management information related to individual water pollutant discharge permitting and inspections to be an over-arching issue in the Water Protection Bureau (WPB). Limited information contributed to the permitting and inspections weaknesses discussed in the previous chapters because it does not allow the Department of Environmental Quality (DEQ) management to track the bureau's permitting and inspection activities. Management does not have ready access to all the useful information it needs to most effectively manage these programs. This chapter addresses how the bureau should develop a plan for compiling and regularly using management information to manage the permitting and inspection programs.

Management Information Needed

While doing our work related to permits and inspections we identified a general lack of program-wide information available for WPB management to make decisions. For example, basic information related to surface water permits such as staff assigned to the permit application, date work began on processing the application, and when and by whom supervisory reviews and approvals were completed is not readily available. In contrast, the ground water and inspection programs gather data but do not actively use the data for management of the programs. The Environmental Protection Agency (EPA) has data requirements for the Clean Water Act, the program under which these permits are authorized. However, this data is related to each permit and the results of monitoring discharges from specific sites. The department does not consistently gather and use management information to track application review and issuance progress, completeness determinations, or how many permits are being evaluated.

Use of Data Necessary to Actively Manage Operations

The U.S. Government Accountability Office (GAO) states that using data to drive decision making can help government agencies improve program implementation as well as identify and correct problems. The collection of program-wide data helps managers cope with shifting environments and evolving demands and priorities. For example, over time programs change, process improvements are made, and new technologies may be implemented. Management must continually monitor and evaluate its program via data to determine if additional modifications to the program process are needed to realize the full benefit of the changes. We found other states,

such as North Dakota, have developed computer systems to track program data related to their permitting and inspection programs.

Management needs comprehensive information about the permitting and inspection programs to fully engage in meaningful evaluation of complications and timeliness concerns of the programs. These programs have had more than a decade of difficulty approving permits in a timely way. A more systematic approach to organizing data is needed, so managers can identify and actively manage situations such as staff struggling with timelines, permitted entities that repeatedly exceed discharge limits, or if there are certain types of facilities that are monopolizing permit writers' time. It is impossible for management to be aware of the operational status of the program without program-wide data and management information. It is more difficult for management to evaluate specific staff, issues, or timelines related to program performance. Management information would help management determine new areas of concern, waning issues, and other indicators on which to base the allocation of resources, and additional training needs. They are also unable to respond to questions about the permitting and inspection programs from members of the public or legislators, nor are they able to demonstrate compliance with various state and federal permitting and inspection requirements. For example, because of the lack of management information, WPB could not provide evidence that application completeness determinations were completed within the required 30-day deadline, as required by state law. Nor does the department have information outlining how it complies with state law and determines whether an administratively continued permit will result in additional water pollution prior to issuing an extension.

The Department Has Not Developed Plan for Using Management Information

Without program-wide, comprehensive, and consistent management information, the ground water permitting and inspections programs have adopted their own approach. The ground water program maintains two spreadsheets containing ground water applicant and ground water permit-related information. The information is accessible to staff, and interviews indicated they use it to verify information such as when a permit is up for renewal or how long a permit has been administratively continued. The inspection program also gathers data that could be used to produce management information. Staff maintain different sets of data related to inspections such as a federal fiscal year spreadsheet which is based on the commitments made in Performance Partnership Agreements with EPA and other factors. Government agencies need accurate information regarding program operations. Data is critical for a strong organizational control structure.

DEQ management indicated they implemented a new computer system that will address some of the problems the bureau faces with its current disparate data systems. We reviewed the Software Requirements Specifications document for the new system called Fees, Applications, and Compliance Tracking System, or FACTS, and found the system could provide meaningful management information and tools for the pollutant discharge permitting and inspection processes. However, how exactly management is going to use the tools that are going to be available is unclear. Bureau staff recognize the need to actively gather and analyze data, but they have not developed a specific plan for how to do it. A discussion regarding how the system can be used to generate management information could include topics like what reports should be run on the new system at regular intervals and who would be responsible for discussing the results with staff if necessary.

A detailed plan about how to compile and use management information should, at a minimum, identify how to arrange information in a usable format that displays program-wide data for management to use to actively manage the program. The information could include things like staff assigned to specific permits, the length of time the bureau has been working on the permit, the location of the permit in the process, when the application completeness review was finished, permit holders' status regarding water quality data submission, and when the last inspection took place. Management information should also include how the department complies with various statutory requirements, such as the required completeness review for issuing permits and how administratively continued permits do not pose additional risks to water quality in the state.

RECOMMENDATION #3

We recommend the Department of Environmental Quality develop and implement a plan to compile and use management information to actively manage the water pollutant discharge permitting and inspection programs.

Department of Environmental Quality

Department Response

DEQ
Montana Department
of Environmental Quality

Date September 6, 2018

Mr. Angus Maciver
Legislative Auditor
Legislative Audit Division
PO Box 201705
Helena, MT 59620-1705

RE: Water Pollution Discharge Permitting and Inspecting Performance Audit #17P-05

Dear Mr. Maciver,

Thank you for the opportunity to respond to the performance audit of the Water Pollution Discharge Permitting and Inspecting program for the Department of Environmental Quality. We have reviewed the recommendations contained in the report and have provided our responses below.

Recommendation #1

We recommend the Department of Environment Quality implement and enforce deadlines for reviewing and issuing ground and surface water pollutant discharge permit.

Response: Concur.

As the Audit report notes, DEQ has been working on developing and implementing deadlines for reviewing and issuing ground and surface water pollutant discharge permits. We have a plan that includes steps for the implementation of those deadlines and will continue to proceed with carrying out those steps. The plan will be fully implemented by December 31, 2018. Jon Kenning, Water Protection Bureau Chief, will be responsible for implementation and enforcement of the plan.

Recommendation #2

We recommend the Department of Environment Quality develop, document, and implement a formal risk-based process for selecting ground water and surface water pollutant discharge permit sites for inspection.

Response: Concur.

DEQ works with EPA on an annual basis to determine the number of inspections that we are obligated to carry out each year. The Audit report indicates that DEQ exceeded our inspection obligations to EPA in 2016. DEQ also met or exceeded our inspection obligations to

EPA in 2015 and 2017. However, the Audit report indicates that DEQ did not inspect 11 minor facilities during the five-year review period that ended on December 31st, 2017. The report acknowledges that DEQ inspected 5 of those 11 by February 2018 and that the remaining 6 sites were determined by DEQ to be low priority sites. Those six sites were informally determined to be low priority by DEQ because three of the facilities had not been constructed, two were reclaimed, and one is Fort Peck Reservoir. Fort Peck Dam is considered a low priority because the discharge to the Missouri River is raw water from the Fort Peck Reservoir used for non-contact cooling water for the dam generators. The effluent discharge is monitored for flow and temperature, and DEQ determined that there is no likelihood that the discharge will exceed the water quality standard for temperature in the Missouri River.

The Audit report correctly identifies that DEQ has not developed a formal risk-based process with EPA for selecting ground water and surface water pollutant discharge permit sites for inspection. DEQ will have an internal risk-based selection process completed by October 1, 2018 and will be submitted to EPA by December 31, 2018. Mindy McCarthy, Compliance, Training, and Technical Assistance Section Supervisor, will be responsible for completion of the selection process.

Recommendation #3

We recommend the Department of Environmental Quality develop and implement a plan to compile and use management information to actively manage the water pollutant discharge permitting and inspection programs.

Response: Concur

DEQ will develop a plan to compile and use management information to actively manage water pollutant discharge permitting and inspection programs. The plan will build upon the work that has been achieved through the development and deployment of the FACTS permitting and compliance system. DEQ will complete the plan by June 1, 2019. Jon Kenning, Water Protection Bureau Chief, will be responsible for completion of the plan.

I want to thank you and your staff for the professionalism and fairness during the audit fieldwork and conferences. We appreciate the willingness of the auditors to discuss recommendations and respond to our questions. We always look upon the audit process as an opportunity to improve the department's operations and performance.

Sincerely,

Tom Livers

Tom Livers
Director
Department of Environmental Quality