



Program Manager: Dr. Rachel Malison  
[mmw@flbs.umt.edu](mailto:mmw@flbs.umt.edu); (406) 872-4518  
32125 Bio Station Lane  
Polson, Montana, U.S.A. 59860  
<http://flbs.umt.edu/newflbs/outreach/mmw>



## **HOW ARE WATER RESOURCES PROTECTED IN MONTANA?**

Citizen-led watershed groups play an important role monitoring water quality in their watersheds and taking part in stewardship of their local waters. In order to help protect our waters, it is important to first understand how waters are protected in the state of Montana. However, it can be challenging to understand due to the complex array of management actions and regulations occurring at the Federal, State and Local levels. A combination of legislation, management, and administrative decision-making influences how waters are protected. Here we provide a short overview with links to additional information.

In Montana, our waters are classified into different categories based on the beneficial uses that they support (e.g. drinking, swimming and recreation, agricultural water supply). The Montana Water Quality Act integrates both national (Federal Clean Water Act) and state policy. The Montana Water Quality Act provides guidelines to prevent, abate, and control pollution of Montana waters consistent with national standards.

The Montana Constitution has one of the strongest environmental protections listed in a state constitution. It stipulates that the state and each person shall maintain and improve a clean and healthful environment in Montana for present and future generations. The state has regulations that promote protection while accommodating human uses. Montana's authority extends to almost all water types (excluding ponds/lagoons used for treating pollutants or irrigation disposal waters not returned to state waters).

In Montana, the Department of Environmental Quality (MT DEQ) administers the Water Quality Act and has the primary responsibility of implementing the Act. The MT DEQ is responsible for collecting information related to water pollution preventions and control, they conduct and encourage research relating to water pollution, they advise, consult and cooperate with groups to formulate pollution prevention and control plans, they issue, suspend, revoke, modify or deny permits to discharge waste into state water, they monitor, inspect, and enforce water quality laws, and they assess water quality, recommend water quality standards for pollutants, and develop maximum pollutant loads for certain waters.

MT DEQ administration of the Water Quality Act is overseen by the Board of Environmental Review (BER), a quasi-judicial body appointed by the Governor that provides policy guidance to MT DEQ. Montana has a non-degradation policy that does not allow further degradation of state waters. The non-degradation policy defines three levels of water protection that stipulate what degradation, if any is allowable to state waters (e.g. outstanding resource waters may not have any degradation, these include waters within National Parks or Wilderness Areas).

To ensure non-degradation, pollutant limits (standards) are established by the board. Standards ensure water quality metrics meet needed beneficial uses. Standards can either be numeric (a specific number or concentration of a pollutant) or they can be narrative (e.g. no increases above naturally occurring concentrations).



Program Manager: Dr. Rachel Malison  
[mmw@flbs.umont.edu](mailto:mmw@flbs.umont.edu); (406) 872-4518  
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<http://flbs.umont.edu/newflbs/outreach/mmw>



Because many activities potentially discharge pollutants that would degrade state waters, dischargers must apply for a discharge permit and be authorized under a state or federal permit. The Montana Pollutant Discharge Elimination System (MPDES) permit is required for surface water and storm water discharges, while the Montana Ground Water Pollution Control System (MCWPCS) permit is required for ground water discharge. Some activities do not require a discharge permit (e.g. normal household waste on private property, disposal by solid waste management systems that are licensed under MT law). MT DEQ requires permit holders to collect and report water quality data. Other permits and certifications are also used for federal activities, turbidity authorizations, floodplain regulations, etc.

MT DEQ conducts water quality assessments to prevent, abate and control water pollution. By collecting and analyzing rigorous data sets DEQ identifies if surface water bodies or segments are threatened. If a water body is below the water quality standards for the designated beneficial use then the water body is deemed “impaired” and it is placed on the 303(d) list, under the Federal Clean Water Act. Revisions to the 303(d) list occur every 2 years and are included in MT DEQ [Integrated Reports](#). Water bodies may be removed from the list if sufficient credible data show the water body is no longer threatened nor impaired. Water bodies can also be removed if there is a lack of sufficient credible data to support the listing. Thus, ample opportunities exist for citizen-based watershed groups to conduct water quality monitoring to ensure sufficient credible data are available when needed.

In order to determine the allowable amount of pollutants into a water body that will not degrade a system, MT DEQ develops TMDL (Total Maximum Daily Load) assessments. TMDL assessments are specific to each watershed and each pollutant, and take multiple years to complete.

Due to the length of time and resources involved in TMDL assessments, as well as all the other water quality components overseen by MT DEQ, there are limited resources for collecting data in many watersheds and water bodies of Montana. This results in further opportunities for citizens and watershed groups to assist with data collection efforts and help discover water quality issues.

If a problem is discovered, MT DEQ enforces most water laws, but EPA retains the final authority to implement any aspect under the auspices of the Federal Clean Water Act. MT DEQ responds to suspected or identified water quality violations by monitoring and inspecting discharges. MT DEQ can initiate enforcement by issuing a letter of violation and requiring compliance through administrative action (with the BER). Judicial action through the state or federal court system can also occur.

In addition to volunteering to collect water quality data, citizens can contribute to sustaining Montana’s water quality through petitions, public hearings/notices, lawsuits, and citizen oversight. Public hearings and public notices are an important part of water quality decision making and occur for a number of reasons including 1) Administrative rule making (e.g. if the board proposes a rule more stringent than federal guidelines), 2) Water classification and



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standards (e.g. if water classifications will change, public input is required), 3) Permitting (e.g. MT DEQ's decisions about permit applications are publicly available), 4) Environmental Review (public hearings are part of the review process), and 5) all hearings concerning violations are public.

### *Further Reading*

**"Who Does What with Water Resources"** by Montana Watercourse,  
<http://www.montanawatercenter.org/watercourse>

### **A Guide to Montana Water Quality Regulation**

<https://deq.mt.gov/Portals/112/Water/Forms/2015WQGuide.pdf>