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## NAVIGATING THE PERMIT PROCESS

A permit is an agreement between an issuing agency and an applicant. Consider a permit as an authorization, license or an equivalent control document issued by the federal, state of Montana, local government or other agency. Upon approval, the issuing agency is allowing the applicant to complete a project following the applicable codes and laws governing the project or type of resource use. Some projects and/or uses of resources are governed by more than one issuing agency and could require a number of permits.

The permitting process and regulations are wide-ranging and can be complex. This guide offers help to assist you in getting started by providing basic information on the permits and directing you to the agencies and resources that can provide more detailed information. Publications and resources are listed at the conclusion of the guide for those who need detailed information.

**GETTING STARTED** The permitting process can take from 30 to 120 days or more so the most important thing to remember is to start early! Contact all potential permitting agencies early in your planning process. All necessary permits must be approved prior to beginning work. Keep in mind some permit applications have fees associated with them. If possible, coordinate with all the agencies involved to visit the project site at one time.

**PERMIT APPLICATION** To make the application process easier, agencies responsible for some of the permits in this brochure have cooperatively developed a single application, the *“Joint Application for Proposed Work in Montana’s Streams, Wetlands, Floodplains and Other Water Bodies”*. You can obtain the application from any of the participating agencies, the Lincoln Conservation District website [www.lincolncd.org](http://www.lincolncd.org) or [www.dnrc.mt.gov/permits](http://www.dnrc.mt.gov/permits).

## PRACTICAL TIPS FOR GETTING YOUR PROJECT APPROVED

- 1) **Submit a complete application with a full project description:** Expect with the application that you will need to provide a written description as well as a map and site plan of your project. Get professional assistance, if necessary, for designing and constructing your project. For large projects or activities which have the potential for major impacts, an engineered design may be required.
- 2) **When in Doubt, Ask:** If you are not certain whether your project needs a permit or if it is regulated at all, ASK. The agencies listed in this guide are here to assist you.
- 3) **Minimize Impact to the Project Area:** Whenever possible, consider bioengineering methods to minimize project impacts. Vegetation is important to the health and stability of a water resource. Disturbed areas should be re-vegetated as soon as possible to avoid erosion and prevent weed invasion. Consider potential impacts of your project on fisheries and aquatic life due to erosion and increased turbidity. Describe how impacts will be minimized.

Most agencies will typically recommend the use of Best Management Practices, BMP's, during the construction of your project. These BMP's are designed to protect water quality and forest soils in Montana.

- 4) **Secure Landowner Permission:** The receipt of a permit does not grant you landowner permission. The applicant is responsible for obtaining permission of the landowner before entering land not owned by the applicant.



## EMERGENCY ACTION

An emergency is generally defined as a sudden event which presents a clear and imminent danger causing immediate action to safeguard life, structures or property. Each agency will have its own emergency action process. Contact each agency to determine their emergency action requirements. A follow-up inspection will determine if the project is approved as completed, will require modifications or is denied. Denied projects may have to be removed.

Activities outside of immediate protection of life or property during a sudden event will not be authorized under the emergency action process.

## DEFINITIONS

*Aquatic Areas*—include, but are not limited to rivers, streams, creeks, lakes, reservoirs, wetlands, wet meadows, oxbows and sloughs. Named and unnamed drainages that flow intermittently, as well as streams with perennial flow are aquatic areas (waters of the United States).

*Best Management Practices (BMP's)* - practices that have been adopted to minimize non-point source water pollution .

*Ephemeral stream* - flows for brief periods of time as a result of snowmelt or rainstorms.

*Intermittent stream*—flows only certain times of the year with water from springs or runoff.

*Mitigation*—feasible actions designed to offset or reduce the impacts of a project.

*Navigable river*— based on historical documentation a waterway that is commercially navigable.

*Non-point source pollution*— Water pollutants originating from dispersed areas, such as erosion of disturbed soils.

*Perennial stream*—Flows all year.

*Point source pollution*—Water pollutants originating from a known point, such as a discharge pipe.

*Streamside Management Zone Law*—A buffer strip of land adjacent to a waterway to protect water quality for critical fish and wildlife habitat and actively regulates high flood flows.

*Turbidity*—Measurements of suspended material or sediments within a waterway.

## EMERGENCY ACTION AND DEFINITIONS



## MONTANA NATURAL STREAMBED AND LAND PRESERVATION ACT (310 Permit)

### What is the Purpose of the 310 Law?

To minimize soil erosion and sedimentation.  
To protect and preserve streams and rivers in their natural or existing state.

### Who Needs a 310 Permit?

Any private, non-governmental individual or entity that proposes to work in or near a perennial stream on public or private land.

### Activities Requiring a Permit:

Any activity that physically alters or modifies the bed or immediate banks of a perennial flowing stream.



*Examples of activities requiring a 310 permit*



*Bridge installation*



*Culvert installation*

Using engineering practices such as rip-rap in streams is now discouraged. The Lincoln Conservation District and Other agencies will encourage project applicants to use more natural approaches, such as vegetation and fiber within stream banks.

### Who Administers the Law?

The Board of Supervisors of Lincoln Conservation District

### How Do I Get an Application?

Contact the Lincoln Conservation District Office to obtain a permit application.  
*Joint application partner.*

**Application Procedure/Timeline:** Once an application is received, a team that consists of at least one conservation district representative; a Montana Fish Wildlife & Parks biologist; the applicant; and/or an advisor to the Board may conduct an on-site inspection of the proposed project. The team will make recommendations to the Board, which has 60 days from the time the application is accepted to approve, modify or deny the permit. There is no charge for a 310 permit.

### ***For more information, contact:***

Lincoln Conservation District  
949 U.S. Highway 93 North  
P.O. Box 2170  
Eureka, Montana 59917  
(406) 297-2233  
[www.lincolncd.net](http://www.lincolncd.net)

or

Conservation Districts Bureau  
Department of Natural Resources and Conservation  
1625 Eleventh Avenue  
P.O. Box 201601  
Helena, Montana 59620  
(406) 444-6667  
<http://dnrc.mt.gov/permits/default.asp>



*Water Diversion*



*Fords*



*Channeling*

## LINCOLN COUNTY LAKE SHORE REGULATIONS

### **What is the Purpose of the Law?**

In 1976 Lincoln County adopted Lakeshore Regulations to protect the character of the lakes and recognize that the ecosystem of these lakes are inseparably intertwined with the adjacent riparian corridor and wetland areas; to conserve and protect natural lakes for their high scenic and resource value; conserve and protect the value of lakeshore property and to conserve and protect the value of the lakes for the residents and visitors who enjoy them.

### **Who Needs to Apply?**

Any person that proposes to work on, alter or disturb a lake, lakebed or lakeshore within 20 horizontal feet of the perimeter of a lake that is a minimum 20 acres in size and fits within specific criteria.

### **What Activities Require a Permit?**

Activities include, but are not limited to: Construction of channels or ditches; excavation; dredging, lagoons; retaining walls and breakwaters; docks; any major clearing or removal of natural vegetation, reconstruction of existing facilities; decks, ramps, stairways and walkways; development of roadway and driveways; reconstruction of existing buildings; or otherwise work that may alter a lake, lakebed or lakeshore.

### **Who Administers the Law?**

The regulations were adopted by Lincoln County under the authority of the State of Montana, 75-7-207 M.C.A. which requires local governing bodies to adopt regulations regarding the issuance or denial of permits for work in lakes within their jurisdiction.

### **How Do I Get a Permit?**

Contact the Lincoln County Planning Department to obtain an application for a permit.

### **Application Procedure/Timeline:**

The application, fee and one set of supplemental material (vicinity map, site plan, project drawing) and any additional information that may be required must be submitted. It may take up to 90 to secure the permit, so be sure to plan ahead.



***For more information, contact:***

Lincoln County Planning Department  
418 Mineral Avenue  
Libby, Montana 59923  
(406) 283-2460



[http://www.linconcountymt.us/planning/waterfront\\_lakeshore\\_construction.html](http://www.linconcountymt.us/planning/waterfront_lakeshore_construction.html) for complete details

## MONTANA FLOODPLAIN AND FLOODWAY MANAGEMENT ACT

### LINCOLN COUNTY FLOODPLAIN REGULATIONS

#### **What is Purpose of the Law?**

The Montana Floodplain and Floodway Management Act was passed to restrict floodplain and floodway areas to uses that will not be seriously damaged or present a hazard to life, if flooded, thereby limiting the expenditure of public tax dollars for emergency operations and disaster relief. In 1980 a resolution was passed by Lincoln County in order to comply with the Montana Floodplain and Floodway Management Act and to ensure compliance with the requirements for the continued participation by Lincoln County in the National Flood Insurance Program.

#### **Who Needs to Apply?**

Anyone planning an activity within a designated 100 year floodplain.

#### **What Activities Require a Permit?**

Construction including, but no limited to, placement of fill, roads, bridges, culverts, transmission lines, irrigation facilities, storage of equipment or materials; new construction, placement or replacement of manufactured homes and new construction, additions or substantial improvements to residential and commercial buildings.

#### **Who Administers the Law?**

The Lincoln County Floodplain Management for floodplain projects in Lincoln County.

#### **How Do I Get an Application?**

Permit applications are available from the Lincoln County Floodplain Management or Department of Natural Resources and Conservation. Joint application partner.

#### **Application Procedure/Timeline:**

There is a review fee. The applicant must present a detailed site plan showing all "existing conditions", a detailed profile and elevation plan and photos of the project location.

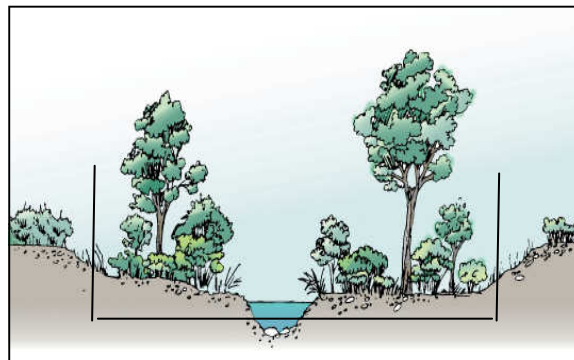
#### ***For more information, contact:***

Lincoln County Floodplain Management  
952 E. Spruce Street, Suite 205  
Libby, Montana 59923  
(406) 293-6296

or

Floodplain Management Section  
Department of Natural Resources and Conservation  
1424 Ninth Avenue  
P.O. Box 201601  
Helena, Montana 59620  
(406) 444-0860

<http://dnrc.mt.gov/srd/water op/floodplain/default.asp>



*Floodplain*

## SHORT TERM WATER QUALITY STANDARD FOR TURBIDITY (318 Authorization)

### **What is the Purpose of the 318 Authorization?**

To provide a short term water quality turbidity standard for construction activities. Activities must be carried out in accordance with conditions prescribed by the Department of Environmental Quality (DEQ).

To protect water quality.

To minimize sedimentation

### **Who Needs to Apply?**

Any person, agency or entity, both public and private, initiating construction activity that will cause short term or temporary violations of state surface water quality standards for turbidity.

### **What Activities Require a Permit?**

Any activity in any state water that will cause unavoidable short term violations of water quality standards. "State water" includes any body of water, irrigation system or drainage system, either surface or underground, including wetlands, except for irrigation water where the water is used within the irrigation system and the water is not returned to other state water.

### **Who Administers the Law?**

Department of Environmental Quality (DEQ)

### **How Do I Get an Application?**

A 318 Authorization must be obtained prior to initiating a project. The authorization may be obtained from the Department of Environmental Quality (DEQ) or may be waived by the Department of Fish, Wildlife and Parks during its review process under the Natural Streambed and Land Preservation Act (310 Permit) or the Stream Protection Act (SPA 124 Permit).

- In cooperation with Montana Fish, Wildlife & Parks and Lincoln Conservation District, a 318 Authorization Review conducted during the 310 Law Permitting process. The approved 310 permit applicant will be notified as to the status of the 318 Authorization and if DEQ must be contacted.

### **Application Procedure/Timeline:**

Individual applications submitted to the DEQ are normally processed within 30 to 60 days. Authorizations waived under the 310 or SPA 124 permit processes correspond to the time frame under each permit system, usually 30 to 60 days. There is an application fee of \$250.00. Joint application partner.

### ***For more information, contact:***

Montana Fish Wildlife & Parks  
385 Fish Hatchery Road  
Libby, Montana 59923  
(406) 293-4161

Department of Environmental Quality  
Water Protection Bureau  
1520 East Sixth Avenue  
P.O. Box 200901  
Helena, Montana 59620-0901  
(406) 444-3080  
<http://www.deq.mt.gov>



## STORM WATER DISCHARGE PERMIT AUTHORIZATION

### **What is the Purpose of the Law?**

Polluted storm water runoff has been found to be a leading cause of impairment surface waters across the United States. Polluted runoff is discharged from surface drainage often untreated directly into local water bodies. If not controlled, this pollution can result in the destruction of habitats, a deterioration of aesthetic value and treats to public health due to contaminated food, drinking water supplies and recreational waterways. The permit is also a tool to implement and monitor the effectiveness of Best Management Practices (BMP's) (erosion and sediment controls and others) used to reduce pollutant loads.

### **Who Needs to Apply?**

Any person, agency or entity, either public or private, proposing a construction, industrial, mining or other defined activity that has a discharge of storm water into surface waters. Under the authority of the Montana Water Quality Act, permit authorization is typically obtained under a Montana Pollutant Discharge Elimination System (MPDES) "General Permit".

### **What Activities Require a Permit?**

Construction activity that will disturb one or more total acres including clearing, grading and excavating activities.

A defined industrial activity that will discharge storm water into surface waters.

A defined mining or oil and gas activity in which storm water will come into contact with overburden, raw material, intermediate products, finished products or waste products located on the site of such operations (including active and inactive mine sites) and discharge to surface waters.

A defined small municipal Separate Storm Sewer System (MS4).

### **Who Administers the Law?**

The Department of Environmental Quality (DEQ)

### **How do I Get an Application?**

Contact the DEQ or visit the website listed below for various storm water discharge "General Permits", Application/ NOI Forms, fee schedule and other permitting forms/information.

### **Application Procedure/Timeline:**

For storm water discharges associated with construction activity, permit authorization is effective upon DEQ receipt of a complete Notice of Intent (NOI), Storm Water Pollution Prevention Plan (SWPPP), and fee. This must be received no later than the construction activity start date. For other regulated storm water discharges, a complete Application Form, SWPPP (except for Small MS4's) and fee must be received for review at least 30 days prior to the discharge of storm water from the facility or activity. Fees vary depending on the type of permit.

### ***For more information contact:***

Water Protection Bureau  
Department of Environmental Quality  
1520 East Sixth Avenue  
P.O. Box 200901  
Helena, Montana 59620-0901  
(406) 444-3080  
[www.deq.mt.gov](http://www.deq.mt.gov)



## FEDERAL CLEAN WATER ACT (404 Permit)

### **What is the Purpose of the Law:**

To restore and maintain the chemical, physical and biological integrity of the nation's waters.

### **Who Needs to Apply?**

Any person, agency or entity, public or private, proposing a project that will result in the discharge or placement of dredged or fill material into waters of the United States. "Waters of the United States" include lakes, rivers, streams (including perennial, intermittent, and ephemeral channels with an ordinary high water mark), wetlands and other aquatic sites, including some man-made ditches that function as tributaries.

### **What Activities Require a Permit?**

Any activity that will result in the discharge or placement of dredged or fill material into waters of the United States, including wetlands.

### **Who Administers the Law?**

The U.S. Army Corps of Engineers (ACOE). The U.S. Environmental Protection Agency also has a regulatory review and enforcement under the laws.

### **How Do I get An Application?**

Any person, agency or entity, either public or private, planning a project can obtain an application from the ACOE for review. *Joint application partner.*

### **Application Procedure /Timeline:**

Permit authorization will vary, depending on the size and scope of the intended project. Activities that meet the conditions for a Nationwide or Regional General Permit may be approved in 30 to 45 days. Individual permits require more extensive review and require a public notice period. Permit approval may take 90 to 120 days. Application fees for Individual permits may vary from \$10.00 for private individuals up to \$100.00 for commercial applicants. Do not send money with the application. Applicants will be notified if a fee applies.

### ***For more information, contact:***

U.S. Corps of Engineers  
10 West 15th Street, Suite 2200  
Helena, Montana 59626  
(406) 441-1375

<https://www.nwo.usace.army.mil/html/od-rmt/mthome.htm>



Photo courtesy Becky Lihme,  
Lincoln Conservation District

## MONTANA LAND-USE LICENSE OR EASEMENT ON NAVIGABLE WATERS

### **What is the Purpose of the Law?**

To protect riparian areas and the navigable status of the water body.

To provide for the beneficial use of state lands for public and private purposes in a manner that will provide revenues without harming the long term capability of the land or restricting the original commercial navigability.

### **Who Needs to Apply?**

Any entity proposing a project on lands below the low water mark of navigable waters.

### **What Activities Require a Permit?**

The construction, placement or modification of a structure or improvements in, over, below or above navigable water. If you are in doubt, contact the DNRC Land Office in Kalispell for a determination of the navigability of the water.

- If an applicant receives a 310 permit from Lincoln Conservation District, the following activities do not apply under the section: Rip-rap and bank stabilization projects; temporary gravel irrigation dams; river barbs under 40 feet or 10% of channel width; excavations of less than 10 cubic yards of river bed load accumulation; tree and debris removal not associated with a timber sale; repair and maintenance of existing irrigation structures and irrigation pump sites; installation and maintenance of floating irrigation pumps; boat ramps, wharves and docks.

***This permit program does not apply to mining activities in navigable streams or lakes.***

### **Who Administers the Law?**

Department of Natural Resources and Conservation (DNRC)

### **How Do I Get an Application?**

A DNRC land use license or easement application, along with the non-refundable application fee and the Application for Licensing Structures and Improvements on Navigable Water Bodies (Form DS 432), can be obtained from the DNRC Land Office in Kalispell. Joint application partner.

### **Application Procedure/Timeline:**

- DNRC staff will review the application, conduct a field investigation, if necessary, and file an environmental action checklist. A written report and recommendation is then submitted the Real Estate Management Bureau in Helena, which makes the final determination and recommends stipulations as necessary. A Land Use License can normally be reviewed, approved and issued within 60 days upon the payment of the \$50.00 application fee and minimum annual rental fee set by the department.
- The license may be held for a maximum period of 10 years, with the ability to request renewal for an additional 10 years.
- An easement requires approval from the Board of Land Commissioners, which normally takes up to 90 days.
- The current easement application fee is \$50.00, with an additional fee for the easement itself.



Photo courtesy Eric Heyn  
U.S.F.S.

### ***For more information, contact:***

Northwest Land Office/Libby Unit Office  
Department of Natural Resources and Conservation  
177 State Lands Road  
Libby, Montana 59923  
(406) 293-2711

or

Northwest Land Office/Stillwater Unit Office  
Department of Natural Resources and Conservation  
P.O. Box 164  
Olney, Montana 59927  
(406) 881-2371

Northwest Land Office/Kalispell  
Department of Natural Resources and Conservation  
644 Timberwolf Parkway, Suite 1  
Kalispell, Montana 59901  
(406) 752-2288  
<http://dnrc.mt.gov/Field Operations>

## MONTANA WATER USE ACT (Water Right Permit and Change Authorization)

### What is the Purpose of the Law?

To provide a permit and certificate system for water rights administration that operates within the bounds of the prior appropriation doctrine ("first in time is first in right"). A person's right to use a specific quantity of water depends on when the use of water began. The first person to use water from a source established is the first right; the second person could establish a right to what water was left and so on. To maintain a general adjudication of all existing water rights in the state and to implement a centralized record system.

### Who Needs to Apply?

Any person, agency or governmental entity intending to acquire new or additional water right or change an existing water right in the state.

### What Activities Require a Permit?

**General Rule:** A person must obtain a beneficial water use permit before commencing to construct new or additional diversion, withdrawal, impoundment or distribution works for appropriation of groundwater over 35 gallons per minute or 10 acre feet per year for any surface water.

**Exceptions:** Groundwater appropriations of 35 gallons per minute or less and 10 acre feet or less must first be appropriated and put to use before a water right is issued. Stock water impoundments of less than 15 acre feet on a non-perennial stream with an annual appropriation of less than 30 acre feet per year may be constructed first and then a form filed upon completion.

### Types of Water Rights:

**Provisional Permit:** Grants the use of water for a specific amount and purpose.

**Certificate of Water Right:** Issued on: Groundwater appropriations of 35 gallons per minute or less and 10 acre feet or less: Groundwater appropriations of 350 gallons a minute or less for use in con-sumptive geothermal heating or cooling exchange application for completed developments: Groundwater appropriations for emergency fire developments by a local governmental fire agency where the appropriation is used only for emergency fire protection, which may include enclosed storage: Replacement well issued when an existing well fails and new well is constructed to replace it. The priority date of the old well is retained: Authorization to change to allow an appropriator with a recognized water right or a water right that was exempt from filing to change the place of use, point of diversion, purpose of use, or place of storage and maintain the priority date of the initial water right.

**Temporary Change:** Allows an appropriator to change the water right temporarily, for a period of up to 10 years, with a possible renewal of not more than 10 years. No authorization is required for the water right to revert to the original purpose, point of diversion, place of use or place of storage after the term expires.

**In-stream Flow:** Allows water that is diverted for consumptive uses to be transferred temporarily (up to 30 years) to an in-stream use. All or part of the water right can be leased to the Montana Fish, Wildlife and Parks, leased to another party interested in holding the right for a fishery or converted to an in-stream use without a lease.

### Who Administers the Law?

Water Rights Bureau, Department of Natural Resources and Conservation (DNRC)

### How Do I Get an Application?

Water right application forms are available at the DNRC Water Resources Regional Office, Kalispell.

### Application Procedure/Timeline:

Forms, fee schedules and related information are available on the web at [http://dnrc.mt.gov/wrd/water\\_rts/default.asp](http://dnrc.mt.gov/wrd/water_rts/default.asp). Water right applications may take up to two years to complete.

#### For more information contact:

DNRC Water Resources Regional Office  
655 Timberwolf Parkway, Suite 4  
Kalispell, Montana 59901  
(406) 752-2288

or

Water Rights Bureau, DNRC  
1424 Ninth Avenue  
P.O. Box 20160  
Helena, Montana 59620-1601  
(406) 444-6610

## MONTANA WATER USE ACT (Water Reservations)

**What is the Purpose of Water Reservations?** Some conservation districts within the state of Montana have been granted water reservations for specific uses including agricultural irrigation and stock water. Any governmental agency or person may apply to use a portion of the conservation districts water reservation. The Lincoln Conservation District does not hold a water reservation.

#### For more information contact:

Conservation and Resource Development Division  
DNRC  
1625 Eleventh Avenue  
P.O. Box 201601  
Helena, Montana 59620  
(406) 444-6667

## MONTANA WATER USE ACT

## FEDERAL RIVERS AND HARBORS ACT (Section 10 Permit)

### What is the Purpose of the Law?

To protect the quality and quantity of navigable waters of the United States

### Who Needs to Apply?

Any person, agency or entity, either public or private, proposing any alteration of, or any construction activity in, on, under or over any federally listed navigable water of the United States.

### What Activities Require a Permit?

A Section 10 Permit is needed if the project affects any federally listed navigable waters of the United States,. This includes any work in or over navigable water, discharge of material in navigable waters, any work affecting the course, location, condition or capacity of navigable waters. Typical activities include construction of marinas, ramps, docks, cable or pipeline crossing, dredging or excavations. The Section 10 Permit applies to the following waters in Montana:

*The Kootenai River from the Canadian border downstream to Jennings, Montana*

*The Missouri River from Three Forks downstream to the Montana North Dakota border*

*The Yellowstone River from Emigrant downstream to its confluence with the Missouri River*

### Who Administers the Law?

The U.S. Army Corp of Engineers (Corps)

### How Do I Get An Application?

Applications are submitted to the Corp for review. Joint application partner

### Application Procedure/Timeline:

Activities that meet the conditions for a Nationwide or Regional General Permit may be approved in 10 to 45 days. Individual permits require more extensive review and require a public notice period. Permit approval may take 90 to 120 days. Application fees for Individual permits may vary from \$10.00 for private individuals up to \$100.00 for commercial applicants. Do not send money with the application. Applicants will be notified.

#### For more information, contact:

U.S. Army Corps of Engineers  
10 West 15th Street, Suite 2200  
Helena, Montana 59626  
(406) 441-1375

<https://www.nwo.usace.army.mil/html/od-rmt/mthome.htm>

## STREAMSIDE MANAGEMENT ZONE LAW

### What is the Purpose of the Law?

It is the intent of the Streamside Management Zone Law to protect the quality and quantity of forest waters and to conserve the integrity of Montana's streamside zones.

### Who Needs to Apply?

Any landowner or operator conducting a series of forest practices that will access, harvest or regenerate trees on a defined land area for commercial purposes on private, state or federal lands.

### What Activities Require a Permit?

This law prohibits the following timber harvest activities within at least 50 feet of any stream, lake or other body of water.

#### The DNRC must approve any exceptions to these prohibited practices:

Broadcast burning; Operating wheeled or tracked vehicles except on established roads; Clear cutting; Constructing roads in the Streamside Management Zone except when necessary to cross a stream or wetland; Handling, storing, applying or disposing of hazardous or toxic material in a manner that pollutes streams, lakes or wetlands or may cause damage or injury to humans, land, animals or plants; Casting road material into a stream, wetland or watercourse; Depositing slash in streams or other water bodies.

### Who Administers the Law?

The Department of Natural Resources and Conservation (DNRC)

### How do I Get an Application?

DNRC must be notified prior to beginning any forest practice. A request to conduct an alternative practice must be submitted to the Libby DNRC field office. Alternative practices will require an environmental review.

### Application Procedure/Timeline:

The request will be reviewed and an initial response issued within 10 days.

#### For more information, contact:

DNRC—Forestry  
14096 U.S. Highway 37  
Libby, Montana 59923  
(406) 293-2711

or

Forestry Division/DNRC  
2705 Spurgin Road  
Missoula, Montana 59801  
(406) 542-4300

[http://dnrc.mt.gov/permits/stream permitting/mnslpa.asp](http://dnrc.mt.gov/permits/stream%20permitting/mnslpa.asp)



## MONTANA STREAM PROTECTION ACT (SPA 124 Permit)

### What is the Purpose of the Law?

To protect and preserve fish and wildlife resources.  
To maintain streams and rivers in their natural or existing state.

### Who Needs to Apply?

Any agency or subdivision of state, county or city government proposing a project that may affect the bed or banks or any stream in Montana. Many federal agencies also comply either via a memorandum of understanding or general agreement.

### What Activities Require a Permit?

Any project including the construction of new facilities or the modification, operation and maintenance of an existing facility that may affect the natural existing shape and form of any stream or its banks or tributaries.

### Who Administers the Law?

Montana Fish, Wildlife & Parks

### How do I Get An Application?

Any agency or unit of government planning a project can obtain a Notice of Construction (Joint Application) from the Department of Fish, Wildlife and Parks. An application must be submitted for review not less than 60 days before the intended start of construction. There is no application fee. **Joint application partner.**

### Application Procedure/Timeline:

MTFW&P has up to 30 days to review the application, perform an on site investigation and approve, modify or deny the application. There is no charge for a SPA 124 Permit.



Photo courtesy Mike Hensler  
Mt. FW&P

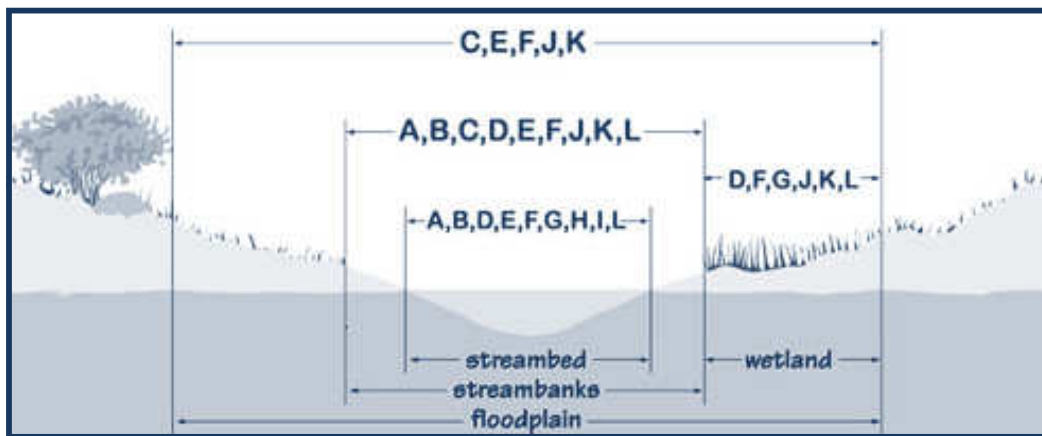
### For more information contact:

Montana Fish Wildlife & Parks  
475 Fish Hatchery Road  
Fisheries Division  
Libby, Montana 59917  
(406) 293-4161

or

Montana Fish, Wildlife & Parks  
Habitat Protection Bureau  
1420 East Sixth Avenue  
P.O. Box 200701  
Helena, Montana 59620-0701  
(406) 444-2449









































































## STREAM PERMITTING DIAGRAM



The diagram above will help you to determine the location of your project within a waterway, stream bank, wetland or floodplain. The letters in the diagram correlate with the permits listed below and are described within the permitting guide.

- A. Montana Natural Streambed and Land Preservation Act (310)
- B. Montana Stream Protection Act (124)
- C. Montana Floodplain and Floodway Management Act
- D. Federal Clear Water Act (Section 404)
- E. Federal Rivers and Harbors Act (Section )
- F. Short-term Water Quality Standards for Turbidity (318 Authorization)
- G. Montana Land-use License or Easement on Navigable Waters
- H. Montana Water Use Act (Water Rights)
- I. Montana Water Use Act (Water Reservations)
- J. Storm Water Discharge General Permits
- K. Streamside Management Zone Law
- L. Other laws that may apply, depending on your location and activity

LAWS	CONTACT
<p><b>Lincoln County Septic System Regulations</b>  Apply to anyone proposing to construct, alter, extend or operate a sewage treatment and disposal system. Conventional systems must be 100 feet from the 100 year floodplain and 6 feet from ground water. Alternative designs that are 4 to 6 feet from groundwater must be approved.</p>	<p>Lincoln County Planning Department  512 California Avenue  Libby, Montana 59923  (406) 283-2461</p>
<p><b>Lincoln County Setback Regulations</b>  Some lands in Lincoln County have covenants governing minimal distances between projects and the rivers, streams and wetlands.</p>	<p>Lincoln County Clerk and Recorder  512 California Avenue  Libby, Montana 59923  (406) 283-2301</p>
<p><b>Plan of Operations Permit</b>  Requires the submission, review and approval of detailed plans and specifications before operating a placer, dredge, hardrock, coal, sand or gravel mine on U.S. Forest Service land.</p>	<p>U.S. Forest Service—Kootenai National Forest Supervisors Office  31374 U.S. Highway 2  Libby, Montana 59923  (406) 293-6211  <a href="http://www.fs.usda.gov/detail/kootenai/aboutforests/offices">www.fs.usda.gov/detail/kootenai/aboutforests/offices</a></p>
<p><b>General Mining Laws/Small Miner's Placer and Dredge Operations</b>  Apply to anyone operating a placer, dredge, hardrock, coal, sand or gravel mine on private or public land.</p>	<p>Department of Environmental Quality  1520 East Sixth Avenue  P.O. Box 200901  Helena, Montana 59620-0901  (406) 444-2544</p>
<p><b>Montana Dam Safety Act</b>  Applies to the construction, repair or removal of any dam that impounds 50 acre feet or more at the normal operating pool. Construction and operation permits may be required on dams larger than 50 acre-feet.</p>	<p>Department of Natural Resources and Conservation  1424 Ninth Avenue  P.O. Box 201601  Helena, Montana 59620-1601  (406) 444-6613</p>
<p><b>Montana Pollutant Discharge Elimination System (MPDES Permit)</b>  Applies to all discharges to surface water or groundwater, including those related to industrial, municipal and other commercial discharges. In addition, several general discharge permits have been developed to streamline permitting of construction dewatering, sand and gravel operations, sewage lagoons, fish farms, animal feeding operation, disinfected water, suction dredging and placer mining projects.</p>	<p>Water Protection Bureau  Department of Environmental Quality  1520 East Sixth Avenue  P.O. Box 200901  Helena, Montana 59620-0901  (406) 444-3080  <a href="http://www.deq.mt.gov/wqinfo/WQPermit.asp">www.deq.mt.gov/wqinfo/WQPermit.asp</a></p>
<p><b>Montana Water Quality Act</b>  Prohibits the pollution of state waters and the placement of wastes in a location where they are likely to cause pollution of any state water.</p>	<p>Department of Environmental Quality  1520 Sixth Avenue  P.O. Box 200901  Helena, Montana 59620-0901  (406) 444-2544  <a href="http://www.deq.mt.gov">www.deq.mt.gov</a></p>
<p><b>Fish Stocking Permit for Private Fish Ponds</b>  A permit is required to stock fish in a private pond. The permit entitles the holder to stock the pond with fish from a lawful source. Applicants must verify that stocking fish does not pose an unacceptable risk to game fish or species of special concern in adjacent waters.</p>	<p>Department of Fish, Wildlife and Parks  1475 Fish Hatchery Road  Libby, Montana 59923  (406) 293-4161  <a href="http://fwp.mt.gov/fishAndWildlife/licenses/pondsAndStreams">http://fwp.mt.gov/fishAndWildlife/licenses/pondsAndStreams</a></p>

	Permitting Agencies								
Analyze your project by asking these questions below. Does your project:	Lincoln Conservation District	Lincoln County Floodplain Coordinator	LAKESHORE Lincoln County Planning Dept.	Montana Dept. of Natural Resources and Conservation	Montana Fish, Wildlife & Parks	Montana Dept. of Environmental Quality	DNRC Water Rights Bureau	U.S. Army Corps of Engineers	U.S. Forest Service
Involve bank stabilization erosion control?				 				 	
Involve work within historic or existing floodplain or wetland?									
Require the removal of trees or streamside vegetation?				 				 	
Involve planting of streamside vegetation?				 				 	
Affect fisheries or aquatic species on the endangered list?									
Involve grading or fill near a body of water?									
Result in stormwater discharge into the waterway?								 	
Result in discharge or placement of dredged or fill material into waters?								 	
Involve boring for utilities under a body of water?								 	
Install a bridge or culvert?				 				 	
Acquire new or additional water rights?									
Construct a dock or any other structure in or near a body of water?				 				 	
Involve a septic leach field near a body of water?									
Harvest rock within a stream?				 				 	
Remove of water from a waterway for storage or direct use?								 	
Involve fish stocking for private ponds?									
Involve being completed by a government agency?									
Involve mining/ suction dredging within a waterway?				 			 	 	

For these projects, the applicant is strongly recommended to contact the agency prior to doing any work




- 
A checked box does not indicate a permit will definitely be required
- 
Action will be completed on a federal waterway
- 
Action will be completed on a state navigable waterway



Photo courtesy Mike Hensler, MtFW&P

### List of Reference Guides

*"Montana Stream Management Guide for Landowners Manager and Stream Users", MT DEQ*  
Deq.mt.gov/wqinfo/nonpoint/nonpointlinks  
*"Montana Stream Permitting, A Guide for Conservation District Supervisors and Others", DNRC*  
www.mt.gov.dnrc/cardd/publications  
*"Water Rights in Montana, November 2009", MT DNRC*  
<http://leg.mt.gov/content/publications/environmental/2009waterrightshandbook.pdf>  
*"Water Quality BMP's for Montana Forests", MT DNRC*  
dnrc.mt.gov/forestry/assistance/practices/default.asp

*The development of this publication has been coordinated by the  
Lincoln Conservation District in cooperation with:*

*Lincoln County*

*Montana Department of Environmental Quality  
Montana Fish Wildlife & Parks*

*Montana Department of Natural Resources and Conservation  
U.S. Army Corp of Engineers*

*Resources:*

*California Association of Resource Conservation Districts,  
"Guide to Watershed Project Permitting for the State of California"*

*San Benito Resource Conservation District, "Guide to Stream/Wetland Project Permitting for San Benito County"*

*San Mateo County, "San Mateo County Guide to Creek and Wetland Project Permitting"*

*South Dakota Department of Environment and Natural Resources, "Environmental Permitting Guide"*

*Ventura County, "Permitting Stream and Wetland Projects in Ventura County and Along the  
Santa Clara River in Los Angeles County"*

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### DISCLAIMER

*This brochure has been developed to familiarize landowners with the permitting processes in Lincoln County and provide general guidance as to how to get started. Regulations and their interpretation are subject to change and it is the responsibility of the landowner to verify with the regulatory agencies whether permits are required. The Lincoln Conservation District and participating agencies are available to assist you with the processes, but have no regulatory nor permitting authority for other agencies.*