



Montana Department of Transportation
PO Box 201001
Helena, MT 59620-1001

Memorandum

To: Distribution

From: Loran Frazier, P.E.
Chief Engineer

From: John Blacker
Maintenance Administrator

Date: June 5, 2008

Subject: MDT Guidance for Reporting Potential Erosion and Sediment Discharges

This memorandum replaces the following memoranda:

- *Policy on Reporting Erosion and Sediment Discharges or Concerns*, (September 30, 2003), and
- *Clarifying MPDES/NPDES Inspection Frequency*, (March 4, 2004).

This memorandum supplements the following memorandum:

- *Reporting environmental violations (or suspected environmental violations) to regulatory agencies*, (Revised March 12, 2008).

It is every MDT employee's responsibility to ensure compliance with environmental laws, regulations, and permits associated with our projects. This includes ensuring that violations are promptly and properly reported to the regulatory agencies.

The purpose of this memorandum is to outline MDT's procedures for reporting potential noncompliance related to sediment discharges, erosion and sediment control Best Management Practice (BMP) failures, inadequate or improperly installed BMPs, or any construction practice or operation that results in a potential violation of an erosion or sediment control regulation, authorization, permit, or permit condition.

GENERAL INFORMATION

Potential noncompliance on MDT projects must be reported, as appropriate, regardless of who holds the permit, and documented immediately with photographs, memos, letters, and/or diaries. This memorandum discusses the process to be followed whether the permit is held by MDT, the contractor, or both MDT and the contractor.

All reporting of potential noncompliance is to be conducted in accordance with applicable regulations, guidance, and permit conditions.

CSB_208 (Guidance_Reporting_Potential_Erosion_Sediment_Discharges_6-5-08)

To ensure timely action on potential noncompliance events, the contractor must provide an emergency contact number for events that take place outside of the normal working hours. The Engineering Project Manager (EPM) or Maintenance Superintendent (MS) will contact this number if a major event requiring further notification takes place.

REPORTING STEPS TO FOLLOW:

1. The EPM or MS, depending if the project is a construction or maintenance contract, will immediately notify the contractor of a potential noncompliance and document this notification. The contractor is expected to remedy the situation upon the first notification.
2. The EPM or MS will then coordinate with the District Environmental Engineering Specialist (DEES) and/or the Environmental Services Bureau (ESB) Erosion Control, Maintenance and Construction Permitting Supervisor (ECMCPS) to determine appropriate actions.
3. If the potential noncompliance requires further action (as outlined in the following steps) the EPM or MS will notify the contractor that those steps will be undertaken.
4. The EPM or MS will notify (generally by e-mail) the District Construction Engineer (DCE) or Maintenance Chief (MC) and the DEES. (The DEES will forward this notification to the MDT ESB Engineering Section Supervisor (ESS) and ECMCPS and the MDT Construction Engineering Services (CES) Bureau Construction Reviewer or MDT Maintenance Helena Headquarters) The notification should include the following information:
 - a. A description of the potential noncompliance and its cause;
 - b. The period of noncompliance, including exact dates and times; or, if not identified, the anticipated time of the potential noncompliance; and
 - c. Photos (include hyperlinks or a path to the files).
5. The DEES and/or MDT ESB will contact regulatory agencies and FHWA, as needed, to report the potential noncompliance. (DEQ requires notification within 24 hours.)
NOTE: In the case of potential noncompliance with an MPDES permit or 318 Authorization where the contractor is the sole permit holder, see the special instructions below.
6. The EPM or MS will investigate the corrective action/non-action undertaken by the contractor and coordinate with ESB and/or the DEES.
7. The EPM or MS will provide follow-up information (generally by e-mail) to the DCE or MC and the DEES. (The DEES will forward this notification to the MDT ESB ESS and ECMCPS and the MDT CES Construction Reviewer.) The notification should include the following information:
 - a. A description of the corrective action, and
 - b. Photos (include hyperlinks or a path to the files).
8. The DEES and/or MDT ESB will contact regulatory agencies and FHWA, as needed, to report the corrective action.

SPECIAL INSTRUCTIONS:

If the contractor is the sole permit holder (MPDES Storm Water Permit or 318 Authorization), **Step 5** above shall be replaced with the following:

- 5a. The EPM or MS will notify the contractor that:
 - a. The contractor, as the permit holder, is expected to report the potential noncompliance in accordance with applicable regulations, guidance, and permit conditions.
 - b. The contractor must copy the EPM or MS on the self-reporting notification and any subsequent correspondence.
 - c. If the contractor fails to report to regulatory agency (ies), MDT will report the potential noncompliance using the process outlined below.
- 5b. The EPM or MS will notify the DCE or MC and the DEES as to whether the contractor has self-reported. If the contractor fails to self-report, the DEES and/or MDT ESB will contact regulatory agencies and FHWA as needed to report the potential noncompliance.
- 6. *(Continue with Step 6 above.)*

Attached is a phone list for reporting potential environmental noncompliance.

MPDES/NPDES INSPECTIONS:

The permit holder is required to conduct inspections in accordance with the General Permit. When the Contractor is the sole permit holder, MDT will conduct reviews of the erosion and sediment control measures on opposite weeks the contractor conducts their inspection to assure timely recognition of any concerns or corrections that may be needed. The current MDT SWPPP Inspection Report can be found on the MDT website at: www.mdt.mt.gov/publications/forms/const_forms.shtml

Distribution:	DAs	DCEs	Bureau Chiefs	EPMs	Legal	FHWA	DESSs
	Kevin Christensen, PE		Jim Walther, PE		Lab Supervisors		
	Jon Swartz		Maintenance Chiefs		Maintenance Supervisors		



Montana Department of Transportation
PO Box 201001
Helena, MT 59620-1001

Reporting Potential Erosion and Sediment Discharge Noncompliance

Internal Reporting

Environmental Services Bureau	444-7228
Erosion Control/Maintenance/Construction Permitting	444-0802
Engineering Section Supervisor	444-7203
Environmental Service Bureau Chief	444-0879
Legal Services	444-7277
Staff Attorney for Environmental Issues	444-6097
Chief Counsel	444-6302
Director's office	444-6201
Chief Engineer	444-6002
Preconstruction Engineer	444-6005
Construction Engineer	444-6008
Maintenance Administrator	444-6158
Operations Manager	444-6157

External Reporting (Regulatory Agencies)

U.S. Army Corps of Engineers	441-1375
Fill in wetlands or other state waters (Clean Water Act Section 404 permit)	
U.S. Fish and Wildlife Service	449-5225
Violating Threatened and Endangered Species Act, e.g. impacting habitat of bull trout	
Montana Department of Fish, Wildlife and Parks	444-5334
Conducting work that would affect the bed or banks of a stream without or in violation of an SPA 124 Notification	
Montana Department of Environmental Quality	444-3080 or 444-0379
..... 841-3911 (after hours) or www.deq.state.mt.us/enf/	
Discharges to state water (in violation of storm water permit e.g. washing concrete into river, inadequate erosion control) and hazardous waste spills	
Environmental Protection Agency...www.epa.gov/compliance/...or.....	457-5000
Underground storage tank cleanup, hazardous waste spills, air pollution, storm water permit violations on reservations other than Blackfeet and Confederated Salish Kootenai	
Blackfeet Nation Environmental Office	338-7421
Confederated Salish and Kootenai Tribes Environmental Protection ...	883-2888