

FINAL MEETING MINUTES
WATER POLLUTION CONTROL ADVISORY COUNCIL
Friday, April 28th, 2017
Metcalf Building
1520 E. Sixth Ave, Helena, MT 59620

PRESENT

Council Members Present:

Stevie Neuman (phone)

Karen Sanchez (phone)

Trevor Selch

Michael Wendland (phone)

Craig Workman (phone)

Montana Department of Environmental Quality Staff Members Present:

Carolina Balliew

Myla Kelly

Timmie Smart

Amy Steinmetz

No Members of the Public Present

CALL TO ORDER

Chairperson Trevor Selch called the meeting to order at 10:03 a.m.

APPROVAL OF AGENDA

Chairperson Selch moved to approve the agenda. There was no opposition; the motion carried.

APPROVAL OF MINUTES

Mr. Selch moved to accept the February 17th, 2017 meeting minutes as distributed; Ms. Karen Sanchez pointed out a typo on page 2. This will be corrected before they are posted to the website. There were no additional edits.

BREIFING ITEMS

[General Permit for Storm Water Discharges Associated with Construction Activity](#) – Carolina Balliew

Q: You mentioned the over 1 acre threshold is the minimum. What would constitute an individual permit?

A: I've never done an individual project. But I imagine that if we had a repeat offender not keeping with the requirements of this permit we would tell them that they don't qualify because of not following requirements and we're going to outline site-specific for you going forward. But I don't know of any.

Q: So everyone falls under the general permit.

A: Typically yes. This permit is supposed to be beneficial for the processes of industry, too. You are supposed to submit a permit application 180 days before you are discharging. With this you can get authorization within 10 days. Also, if you're under an acre, you can still obtain a permit. But potentially you're not discharging pollutants within storm water; it's just done for liability. But if you are within a regulated MS4, sometimes it's required to get a permit for doing construction activity within their

regulated area. Or if you have a contract with MDT, for example, it could be required as part of their contract.

Mr. Selch asked for any other questions. There were none.

Mr. Selch moved the meeting to the next briefing item.

SB325 (part 2) Variance Rule Update – Myla Kelly

- In February Dr. Mike Suplee gave a presentation regarding the rule package for part 2 of SB325, the state statute for natural regulations.
- Required to put rules together that outline a variance process in the case that water quality standards weren't being met as a result of anthropogenic conditions and unlikely to be remediated in the next few years.
- Requested from WPCAC in February recommendation to initiate rulemaking with the Board of Environmental review in March.
- DEQ went before the board on March 31st. They defined the process for the variance under the conditions in the statute, making clear that it wasn't a general variance and each applicant seeking a variance would have to go through a separate individual rulemaking process. The workgroup decided on this because they believe there are few situations where this variance will apply.
- The board decided to not initiate rulemaking, questioning whether it was appropriate as a rulemaking package because of the individual cases and the rulemaking should be geared toward multiple scenarios.
- DEQ standards sections, the legal department and the workgroup still think this is the best path to follow and will again go before the board in June to clarify why. But they will keep WPCAC posted on how they choose to proceed.
- Public comments were received which will also be taken into consideration.

Mr. Selch asked for questions. There were none.

Mr. Selch moved to the last briefing item.

Briefing on other water quality standards rulemaking (triennial review and SB325 part 1) – Amy Steinmetz

Triennial Review

- DEQ went before the board in December with several updates regarding water quality standards and proposing updates to DEQ-7.
- The board initiated rulemaking in December with a 45-day public comment period which closed February 20th.
- Public hearing on February 10th. There were a lot of changes to the human health standards in DEQ-7 and the one comment received noted the reference dose for the pesticide pinoxaden on EPA's pesticide website had been updated in January of 2017, which DEQ used to calculate the pinoxaden standard. DEQ recommended to the board that they update the standard for pinoxaden, but adopt the rest of the amendments as proposed.
- These amendments become effective April 29th, 2017. This completes the triennial review for this cycle.

Ms. Steinmetz asked for questions. There were none. She moved to her next agenda item.

SB325 part 1

- The Department may not apply a standard to a waterbody for a water quality that is more stringent than the non-anthropogenic condition of the waterbody. Regarding parameters for which the applicable standards are more stringent, the standard is the non-anthropogenic condition for that parameter in the waterbody.
- The workgroup thought it would be simpler to start with part 2 and then move forward with part 1. DEQ has been working closely with both the workgroup and EPA.
- Recently completed a document and sent to EPA, that is the Department's proposal on how to select a non-anthropogenic standard for arsenic, which the workgroup believed was the best parameter to start with. This also included how nondegradation would be applied and how to ensure protection of downstream water quality standards. EPA liked what DEQ proposed.
- Now they need to work on rule language. Once the method is adopted, any number that comes out of the method doesn't have to go back to the board or to EPA for approval.
- Need to work on the circular that will deal with non-anthropogenic standards. It will have a demonstration of non-anthropogenic. It will also have parameter specific methods for development of the site-specific standards, and implementation will also have to be outlined.
- Will also need a technical support document. DEQ has a Madison River case study for calculating criteria for 3 different hydrologic units.

Ms. Kelly mentioned a bill which is focused on eliminating the Board of Environmental Review, which passed the senate and the house and was heading to the governor's desk. If the BER is eliminated, it would put the Department in place of the BER. Ms. Kelly said if this happens they will keep WPCAC posted and it will be an agenda item. Ms. Steinmetz added that WPCAC wouldn't change and would still advise on water quality issues.

Ms. Steinmetz asked for questions on SB325 part 1. There were none.

No public were present so there were no public comments.

Topics for the next meeting on July 7th:

- Briefing on the bill to eliminate the board of environmental review.
- Briefing on SB325 part 1 and part 2.
- Update on the nutrient variance process. There is a public hearing on May 31st.

Q: What was the purpose of eliminating the board?

A: it was put forth by Senator Ankney to increase government efficiency. He also thinks the board is in charge of a wide variety of issues and lacks expertise in those areas.

Q: Does the Department support that decision?

A: The Department opposes it.

Mr. Selch asked for any other questions. There were none.

Mr. Selch looked for a motion to adjourn. Mr. Workman seconded. The meeting adjourned at 10:58 a.m.

Mr. Selch asked for public comment. There were none.

Mr. Selch looked for a motion to adjourn. Mr. Wendland approved.
The meeting adjourned at 11:33 a.m.