

DRAFT MEETING MINUTES
SENATE BILL 325 RULEMAKING COMMITTEE
Thursday, January 21, 2016
1:30PM to 3:30PM
Metcalf Building
1520 E. Sixth Ave, Helena, MT 59620

PRESENT

Committee Members Present:

Bud Clinch

Art Hayes, Jr.

Dave Galt

Peggy Trenk

Derf Johnson

Brenda Lindlief-Hall

Jeff Tiberi

Tammy Johnson

Barbara Chillcott

Brian Sugden (by phone)

Colin Lauderdale (by phone)

Montana Department of Environmental Quality Staff Members Present:

Myla Kelly

Mike Suplee

Amy Steinmetz

Alex Smietanka

Members of the Public Present:

Bob Miner

Doug Parker

Shane LaCasse

Steve Gilbert

Steve Wade (by phone)

Ms. Myla Kelly called the meeting to order at 1:38pm. She began by introducing herself.

Mr. Mike Suplee gave an overview of water quality standards. He explained that the basis of most of the work Water Quality Standards does related to the 1972 Clean Water Act. That law established a national baseline for water quality, with the main goal of protecting human health, aquatic life, etc. Provisions within also regulate discharges of pollutants by establishing permitting systems, known nationally as the National Pollution Discharge Elimination System (NPDES). Department of Environmental Quality's (DEQ) permit writing is linked to that. In 1974, the Environmental Protection Agency (EPA) delegated to Montana implementation of that, as well as other Clean Water Act programs.

The State has older, parallel laws. The first law requiring a sewage system in the state was established back in 1907, in response to a typhoid outbreak. In 1955, Montana had the first law that classified streams and rivers according to the current and future beneficial uses. Mr. Suplee explained that the term "beneficial uses" refers to valued aspects of water or water quality of rivers or streams that people

have value for. This includes use for drinking, industry purposes, supporting aquatic life, agriculture, and so on. By 1967, the Montana Water Quality Act was in place, which states that we should protect, maintain and improve the water quality for all beneficial uses. Many of Montana's laws were enacted and operating prior to the national Clean Water Act was established.

Mr. Suplee continued, stating that Water Quality Standards has three parts. The first is the water body's designated uses, which are legally defined in either a statute or a rule, and vary across the state. The second aspect consists of numeric or narrative water quality criteria. Criteria are components or measures that are used to support or protect the beneficial use(s), and narrative standards, which are found in one of the subchapters of the Administrative Rules of Montana, and address things that are more difficult to pin an exact number to, but that describe a water quality condition that the State wants to see protected. In some cases, over time, the narrative standards slowly transition into numeric standards. The third part of the water quality standards is the "non-degradation policy". Montana's has been in place since 1993. Non-degradation address water bodies whose water quality is better than the water quality standards established.

Mr. Suplee had previously mentioned the NPDES program; he noted that Montana DEQ's program, which operates under the Montana Water Quality Act, is the MPDES, the Montana Pollution Discharge Elimination System. MPDES does most of the "heavy lifting" in terms of the application of Montana's standards, but in 1997, the legislature adopted a section that was added to the Montana Water Quality Act addressing Total Maximum Daily Loads (TMDLs). That is the case in which water bodies may be getting pollution from a variety of sources. TMDLs are supposed to collectively address the amount of pollutant load that gets to a water body. The DEQ has just recently wrapped up a large number of TMDLs that it has been under court order to complete. This concluded the initial introduction to Water Quality Standards.

Ms. Amy Steinmetz then began to talk about the next level down, which is rulemaking. She provided a handout for this portion of the meeting. She noted that something has to drive the rulemaking. Rules are mandated to be adopted in order to enact the law. There are other ways that rules may be necessary, including regular schedules or periodic updates. Senate Bill 325 (SB325), or Montana Code Annotated (MCA) 75.5.222, states that the Board of Environmental Review (BER) will adopt rules. However, the DEQ does the legwork for the rulemaking. The first thing that had to be done was talk to the bill's sponsor, which is Senator Keane. Senator Keane had told DEQ's Deputy Director, Mr. George Mathieu, to stick with the intent of the bill. The next step is to gather information with the stakeholders, EPA and legal staff to develop a draft rule, which is then taken to the Water Pollution Control Advisory Council (WPCAC). WPCAC is a council that is mandated in statute that has members appointed by the Governor, which provides advice to the DEQ on water quality issues. It also serves as a precursor council to the BER. Therefore, any time the DEQ goes to the Board with water quality issues, WPCAC must first be approached and given 30 days to be able to comment on a rule prior to its publication in the Montana Administrative Register (MAR). WPCAC will then vote to recommend whether the Department should move forward with the rulemaking, and sometimes provide comments or advice. Ms. Steinmetz noted that as far as she knew, there were only two times in which WPCAC did not recommend moving forward.

After that, the draft rule is taken to the BER for initiation of rulemaking. If the BER votes to initiate rulemaking, then a notice of public hearing, or just a notice of public comment period (if it is not a very controversial subject), is posted in the MAR. The MAR notice will include the draft rule, reasons for the rule, as well as the date, time and place of public hearing, and the end date of the public comment

period. Legally, the Board is only required to have WPCAC and the public comment period as the public outreach; however, the Department has found it to be very beneficial to involve stakeholders throughout the process.

Then, because this is a statutory rule, the Department would notify the sponsor that a public hearing date and time and public comment period was published in the MAR. In addition to just going into the MAR, this information would also be published in newspapers and mailed to interested parties. Then, on behalf of the BER, when the public comment period closes, DEQ will respond to comments, and if necessary, revise the rule. Then, DEQ will go back to the Board and request that they adopt the rule. The BER can decline to adopt it, or they can choose to adopt it as is, or make changes to it first. At that point, another notice will be published in the MAR stating that the rule has been adopted, and will also include the response to comments.

Lastly, Ms. Steinmetz noted that the Department tries to work very closely with the EPA throughout the whole process. The EPA must review and approve the water quality standards. If the EPA disapproves parts of it, the Department must make the changes indicated. Ms. Steinmetz then opened the floor for questions.

Mr. Dave Galt asked whether the Department promulgated the rules the two times that WPCAC advised against doing so. Ms. Steinmetz answered that both times, the Department continued, and both times, the rule ended up failing. Mr. Galt then asked, since the time SB325 was introduced, has there been formal or informal communication between the EPA and the DEQ? Ms. Steinmetz answered that the communication between the two agencies has been minimal and extremely informal.

Mr. Doug Parker then asked a follow-up question: does the EPA have any comparable requirements on the “natural” concept, and if so, do they have any authority over Montana’s current process? Mr. Suplee answered that they do, in the sense that there is a part of federal law that says if you need to remove a use that’s never existed for whatever reason, one would have to meet a number of factors that constitute a reasonable cause for taking that use away. One of them would be naturally occurring pollutant levels, and when a use needs to be removed, a Use Attainability Analysis (UAA) is necessary. UAAs tie in to part one of the rule, although we will not be addressing them in the rulemaking for part one of the rule.

The next part of the meeting was a reading of the new statute MCA 75-5-222 and discussion of potential effects to the stakeholders and their interests, as well as concerns and expectations.

Ms. Peggy Trenk asked if the section of the statute amending language in 75-5-203 was part of the purview of this group. Ms. Steinmetz replied that because it’s a direct change to existing statutory language, there is no rulemaking involved with it, so it will not be addressed by this group.

Ms. Trenk then stated that this rulemaking could have potential far-reaching benefits for a lot of groups, municipalities in addition to industry, by looking at the best tools and science, and providing consistency in an agreed-upon way to reliably determine natural.

Ms. Brenda Lindlief-Hall asked if SB 325 has been used in issuing any permits to date. Ms. Steinmetz replied that she is not aware of any. Ms. Lindlief-Hall followed by asking if any other states have similar statutes? Ms. Steinmetz replied that she is not aware of other statutes, but other states do have site specific criteria based on natural, so that is not a new concept. Additionally, this statute essentially

suggests performance-based criteria, so we will be setting a process, and at the end, we would come up with site-specific criteria. EPA has supported the idea of this approach in the past. Ms. Lindlief-Hall then asked if the site specific criteria in other states are in rule. Ms. Steinmetz stated that they are.

Mr. Galt stated that the Montana Petroleum Association is concerned and frustrated with late developments in the process where they are required to treat water to a higher quality than it was when it first came in. They are very interested in the implementation for the requirement for cleaner than background, and they also are watching how it will affect the other treatment systems that they may be discharging to. Therefore, they have significant concerns with this rulemaking.

Mr. Bud Clinch is representing the six operating coal mines. His concerns are similar to Mr. Galt's. He is concerned about future permits into waters in Eastern Montana with non-anthropogenic conditions that are higher than the standard.

Mr. Derf Johnson with the Montana Environmental Information Center (MEIC) is interested in seeing rules that are in the spirit of and comply with the Clean Water Act and wants to ensure that the rules protect downstream water users.

Mr. Art Hayes, Jr. stated that the Tongue River Water Users have seen a long history of discharges into their reservoir from coal mines and CBM, and are now having trouble meeting the water quality standards that were just approved by EPA. Some irrigators are now afraid to use the water. They would like to have a complete study of the whole Tongue River system before any more permits are approved.

Ms. Tammy Johnson stated that the Montana Mining Association's members share many of the same concerns as Mr. Galt and Mr. Clinch. She stated that whenever you operate heavy mineralization, you are bound to have some of that mineralization occurring naturally. She recalled Senator Keane saying several times that we shouldn't be required to clean up Mother Nature. He wanted this bill to work for everyone. She believes that it's very important to get the variance process correct. Some language from the original bill was removed and we may need to discuss it, like beneficial uses.

Mr. Steve Wade stated that his interests were covered by Mr. Galt and Mr. Clinch.

Mr. Parker asked what 2(a) means where it says that subsection one is not applicable. Mr. Suplee stated that our understanding is that the discussions that went on when the bill were written were meant to apply to legacy pollutant conditions that are not present because of natural reasons. The variance is only meant to apply to man-caused pollution, and not to non-anthropogenic conditions. That's what section one is for.

Ms. Barbara Chillcott asked how many streams are impacted by non-natural sources. Mr. Suplee replied that it would apply in situations like Prickly Pear Creek, where East Helena is required to treat water to a stringent level, but the water coming in from upstream; it is heavily contaminated from legacy mining conditions. Ms. Chillcott stated that the rule does not read that way. Mr. Parker stated that regardless of the DEQ's take on the situation, it looks like all 303(d) listed streams apply in part two. Mr. Suplee reminded everyone that there is also the requirement that discharges not be allowed to materially contribute to the condition, so that adds a limitation. Somewhere there need to be sideboards, and that that is the point of these discussions. Mr. Parker believes that we need discussion on this because a large part of eastern Montana has no MPDES permits so it's easy to ignore them, but things like iron,

aluminum, and salts should be addressed in these systems. Mr. Suplee agreed that this rulemaking will apply to both permits and 3030(d) listings.

Mr. Johnson asked if Mr. Keane had provided comments. Ms. Steinmetz replied that he has, but not in writing. She stated that he had requested that the rulemaking match the intent of the bill, but had no more details on the conversation between George Mathieus and Senator Keane. She offered to request more information on that conversation and Mr. Johnson stated that that would be helpful.

Mr. Galt stated that he had thought about Ms. Lindlief-Hall's question about similar legislation. Mr. Galt is not hearing that this issue is widespread nationally, indicating that the process is different in other states so that it is not necessary that these types of legislation be pursued.

Ms. Steinmetz also added that other states do have variance rules different than what Montana has, and EPA has approved them.

Ms. Lindlief-Hall would also be interested in knowing if there are states that do not administer their own programs, if EPA still has primacy.

Mr. Jason Gildea stated that EPA does have primacy some places and he will follow up on her question.

Mr. Parker stated that other states also have a parallel process in use attainability analyses. Some states use them frequently. He suggested that we may want to bring them into this discussion.

Ms. Kelly asked if there were any more comments before we move on.

Ms. Trenk asked a clarifying question: If something is naturally occurring, like runoff from rain or snowmelt, etc., then a discharger isn't responsible for that, correct? Mr. Suplee asked if she was referring to a drinking water situation, and she replied that she was. He stated that those are different situations. Streams are chosen as drinking water sources because they do largely meet water quality standards, and additionally, those maximum contaminant limits sometimes have technological considerations included. Here, we are typically more interested in aquatic life, and in these situations, the pollutant levels are naturally higher than our aquatic life standards.

Ms. Kelly introduced the next section of the meeting. She emphasized the importance of understanding the current definitions of natural in Montana and clarifying the definition of non-anthropogenic.

Ms. Steinmetz defined "natural" from MCA 75-5-306 as follows: "conditions or material present from runoff or percolation over which humans have no control or from developed land where all reasonable land, soil, and water conservation practices have been applied."

She then defined "naturally occurring" from ARM 17.30.602 as follows: "conditions or material present from runoff or percolation over which man has no control or from developed land where all reasonable land, soil and water conservation practices have been applied."

She stated that non-anthropogenic is not in the dictionary but defined anthropogenic from Merriam-Webster online as "of, relating to, or resulting from the influence of human beings on nature" and stated that it follows that non-anthropogenic means something that is not related to or resulting from the influence of human beings on nature. She stressed that this is the definition that is meant by SB 325, whether we use the word non-anthropogenic or we inadvertently revert to the term natural.

Mr. Parker asked if it was DEQ's intent to get rid of "reasonable land, soil, and water conservation practices" when we went to anthropogenic in the statute. Ms. Steinmetz replied that that appears to be the intent of this statute, and Mr. Parker noted that the term "non-anthropogenic" was included per DEQ's request. Ms. Steinmetz noted that this was most likely included because the current definitions of natural and naturally occurring are unusable in any action that would have to be approved by EPA. The Tudor Davies memo of 1997 states that in order for states to set site-specific criteria based on natural conditions, the state must have a definition of natural consistent with EPA's definition, and that definition does not include any allowances for human influences. Therefore, if Montana set site specific criteria based on natural conditions, but the criteria included human influences, the criteria would not be approved by EPA. Ms. Kelly added that for a state to set criteria that equals natural background conditions, the state must have a background condition definition that matches EPA's, which is "background concentration due *only* to non-anthropogenic sources, i.e., non-manmade sources."

Mr. Steve Gilbert pointed out that "reasonable" is included in Montana's natural and naturally occurring definitions in regard to the land, soil, and water conservation practices and he believes that that's an important point to consider.

Ms. Lindlief-Hall asked about the Tudor Davies memo and if it would be possible to get a copy of it. Ms. Kelly explained that the Tudor Davies memo is an EPA memo to the states outlining requirements for states to follow in order to set approvable site specific criteria based on natural conditions. She stated that DEQ will send a copy to the group.

Ms. Steinmetz then moved on to a discussion of methods that DEQ has used in the past to tease out anthropogenic and non-anthropogenic sources of pollutants in waterbodies. She began the discussion by talking about modeling. She stated some of the factors that a model might consider include precipitation, surface runoff, interaction between surface water and groundwater, evaporation, etc. She stated that models are able to take these things into consideration and formulate a full picture of the waterbody and where pollution is coming from, where a human just looking at data would not be able to draw the same conclusions.

Ms. Steinmetz used the Otter Creek watershed as an example of an area where DEQ has used modeling. She stated that Erik Makus has done all the work on the Otter Creek model and that if there were questions on the model that she couldn't answer, she would follow up with him and get back to the group.

Ms. Steinmetz stated that Otter Creek is a tributary to the Tongue River in southeastern Montana. Many years ago, Otter Creek was determined to be impaired for salinity, and when a water body is impaired, a TMDL, or total maximum daily load, is necessary to bring the water body back to a condition that supports all of its designated uses.

In looking at data to calculate the TMDL, DEQ saw that there didn't appear to be many human-caused sources of salts, so in order to tease out anthropogenic vs. non-anthropogenic sources of salts in the watershed, DEQ approach the issue with a model. Mr. Makus created a model using LSPC (Loading Simulation Program in C++), and populated the model with climate data, weather stations, land use, elevation data, soil type, stream flow, water quality, etc.

The next step was to calibrate the model to make sure that it accurately represented what was happening in the watershed. Calibration factors included rain/snow balance, overall discharge volumes,

range of flows, etc. Once calibrated, statistical analyses showed that the model did a really good job predicting what is actually happening in the watershed.

The last step in separating anthropogenic vs. non-anthropogenic sources of pollution in the watershed was to remove from the model any potential human sources of salts. Otter Creek is a pretty pristine watershed, so this included removing stock ponds and check dams, removing urban areas and roads and replacing them with the original land uses to the best of our knowledge, and removing irrigated land and replacing it with the original land use to the best of our knowledge.

When that was all completed, the model showed that the current water quality is not significantly different from what was there historically and that, within the limitations of what we can determine from data analysis and modeling, Otter Creek as it currently exists is representative of non-anthropogenic conditions.

Mr. Suplee then continued the discussion by talking about the reference approach as a way to determine non-anthropogenic conditions. The main purpose of the reference stream project is to provide data on streams and small rivers that have as little human impact as we can find today, and then the information can be used to inform standards development, assessments, etc.

Mr. Suplee first talked about the history of the reference project. The reference project is a relatively old project that began in the early 1990 and included streams in both eastern and western Montana. Not much was done in the mid-1990s, but the project was restarted in 2000 and in the mid-2000s, most of the original streams were resampled. Also in the mid-2000s, a collection process began. DEQ put together all reference sites used across the department so that they could be accessed and viewed in one place, and at the same time, DEQ developed a screening process to outline what really meets definition of a reference stream. Streams continued to be sampled from the mid-2000s to 2009 and DEQ added more sites; and more recently, DEQ has gone to more systematic sampling.

Regarding site selection, Mr. Suplee stated that reference streams should have chemistry, biology, and physical characteristics that all meet reference condition. These streams should have no “fatal flaws.” He also mentioned that watershed level and local impacts are equally important in selection of reference streams. In order to determine if a stream remained a reference stream or not, watershed road density, percent land use, irrigation, and other characteristics are considered. The process is documented and Mr. Suplee offered to share DEQ’s documentation with the group if they are interested.

Mr. Suplee next talked about what DEQ does with the streams if they pass the reference condition criteria. They are split into two categories. Tier one streams are said to be “natural condition.” These streams are as close to non-anthropogenic as we can get. They are essentially pristine. Tier 2 streams are close to the definitions of natural and naturally occurring. These streams include small human caused changes, but all designated uses are met unless attributed to a natural source. Almost all reference sites have assigned tiers.

Mr. Suplee showed a map with reference streams across the state. He said that there are a total of 184 sites spread throughout eastern and western Montana. There are representative streams from mountainous areas, transitional areas along the Rocky Mountain front, and prairie streams in eastern Montana. Regarding statistics, the streams are relatively evenly split between tier 1 and 2, but many more tier one streams are in western Montana than eastern Montana. Over half of the streams in western Montana are tier one, whereas in eastern Montana, which is much more developed with much

more agricultural influence, roughly 90% of the reference streams are tier two. He summarized that tier one streams and the statute's reference to non-anthropogenic are a very good practical fit.

Mr. Suplee summarized a few of the ways that reference streams have been used. One use is the recent development of the nutrient standards. In developing these standards, DEQ didn't want to set criteria lower than what occurs naturally in the landscape. DEQ used ref to characterize the central tendencies of total nitrogen and total phosphorus, then used those to help inform the standards.

Mr. Parker asked about outliers. He asked Mr. Suplee to go into the statistics a bit before moving on. Mr. Suplee explained the distribution of phosphorus values on a graph in his PowerPoint presentation. He stated that DEQ looked at aquatic life beneficial use studies, determined where the beneficial use thresholds fit in the natural distribution of values, and found that the beneficial use is protected somewhere between 75 percent and 90 percent of reference values. In other words, a standard set at the 75th percentile of the reference phosphorus values would be protective of the aquatic life use most of the time. He did mention that this is specific to nutrients, and that a discussion of beneficial use thresholds may be important to include in guidance documents as we move through the rulemaking process.

Mr. Suplee next explained the mass balance loading approach, which Melissa Schaar with the Water Quality Standards section is working on with regard to arsenic. Mr. Suplee talked about the naturally high arsenic values in Yellowstone National Park, as high as 2,020 µg/L in water from Old Faithful Geyser, compared to the current drinking water quality standard of 10 µg/L. The levels of arsenic in downstream surface waters decrease as the distance from Yellowstone National Park increases, but arsenic remains above water quality standards until about Fort Peck in the Missouri River and Billings in the Yellowstone River. DEQ hopes that the mass balance loading approach can ultimately be used to help inform some modified water quality standards for the rivers influenced by Yellowstone National Park.

Mr. Bob Miner stated that the mass balance approach is fascinating, and asked how you could look at an area where you don't have an obvious natural source, but instead it's just spread throughout the area? Mr. Suplee stated that this is much harder and DEQ has struggled with how to deal with it, and that addressing arsenic with this one obvious source is less complicated. In a way, by addressing this issue first, we're addressing the low-hanging fruit. He also acknowledged that it gets much more difficult as non-anthropogenic and anthropogenic sources are combined. Reference sites are one way to address this complicated issue.

Ms. Kelly asked if members of the workgroup have other ideas about how to tease out anthropogenic vs non-anthropogenic

Ms. Trenk stated that it might be helpful to know how other states have approached these issues. Mr. Suplee stated that other states have used reference sites, for example Oregon.

Ms. Kelly suggested that the group move on to the last piece of the agenda—restrictions on how part two of the statute might be used.

Mr. Suplee noted that part two of the statute states that the board shall adopt rules that are consistent with federal rules or guidance. He passed out a handout that included a summary of the six factors that EPA considers legitimate justification for a variance from water quality standards (in rule). He read through the six factors. Mr. Suplee stated that the first factor, naturally occurring pollutants, is not applicable in this particular case because water quality standards that cannot be met are addressed in

part one of the statute. Part one of the rule provides a permanent solution so that there would be no need for a variance, which is a temporary solution.

Mr. Suplee also mentioned that Montana already has a statute that pertains to the fourth factor regarding dams or other hydrological modifications preventing attainment of a use. He further argued that the third factor, about human-caused pollution preventing attainment of a use with no possibility of a remedy or a remedy that would cause more environmental damage to correct than leave in place is not applicable because SB 325 specifically states that the pollution will not be remedied during the permit term, so it is assumed that some remediation will occur.

Mr. Suplee believes that the best fit for the variances mentioned in SB 325 is the sixth factor, the justification that states that meeting a water quality standard would cause substantial and widespread economic harm. He stated that it would be very expensive and could cause widespread economic harm for a discharger to treat to a standard that is significantly lower than the ambient condition of water heavily contaminated by legacy mining. Additionally, EPA has historically had a high level of comfort with the sixth factor.

As an example, he stated that the nutrient standards are very stringent in much of the state and they can't be met immediately, so a lot of dischargers are operating under variances for nutrients with the same rationale that it would be too expensive to treat for them at this time.

Mr. Galt stated that while it's true that we are using variances based on widespread economic harm with nutrients, the legislature took this off the table by stating that compliance with nutrient numeric criteria causes substantial and widespread economic harm. Mr. Suplee disagreed that they took it off the table and suggested that they "hardwired" it in. In 2011, the legislature knew about the nutrient standards and knew that compliance with the standards would cause widespread economic harm for many and that further analysis of harm wasn't necessary, so they wrote it in to legislation. Mr. Galt agreed that the legislature took "proving it" off the table.

Mr. Suplee continued that with SB 325 we are talking about an individual stream or community, and this statute would support variances in some cases where a standard can't be met due to the potential to cause substantial widespread economic harm. Additionally, there is legal basis at the federal level that should be consistent with EPA. Mr. Suplee believes that the pieces fit together well.

Mr. Suplee stated that EPA put out a guidance document on how to determine widespread economic harm in 1995, and Montana has modified that guidance to fit the needs of our state.

Ms. Steinmetz asked if workgroup members have ideas about what "materially contribute" means in part two of the statute. There were no replies.

Ms. Lindlief-Hall asked if "substantial and widespread economic harm" could apply to a community. Mr. Suplee replied that it could be to the community, because the cost of public treatment works are passed on to communities, or it could apply to a private company. Ms. Lindlief-Hall then stated that during the coalbed methane (CBM) boom in southeastern Montana, DEQ did an economic analysis, but it only looked at impacts to the CBM industry. Mr. Suplee replied that the community impacts would fall under the "widespread" part of the phrase. He also mentioned that DEQ has an economist that we can bring into our discussions to help dig into these issues a little deeper.

The last part of the meeting was a discussion on next steps. The meeting minutes will be distributed to the workgroup to review prior to the next meeting. DEQ will also send the technical guidance document with the economic impacts, the Tudor Davies memo, and the presentations from the meeting. DEQ will set up a website for the SB 325 workgroup where relevant materials can be posted.

Ms. Kelly summarized some of the key points from the meeting, including the discussion that dischargers shouldn't be required to treat water to a higher standard than it is taken in, we shouldn't have to clean up after Mother Nature, and rules should be consistent with the CWA and protect downstream waters. There was also curiosity about how other states are affected by these issues. And finally we discussed sideboards on 2(a) of the statute.

Ms. Kelly stated that there is no fixed timeline, but we don't want this process to languish. DEQ would optimistically like to shoot for a year timeframe between this 1st meeting and having rules ready to propose to BER. She proposed monthly meetings that can be joined online and on the phone in addition to in-person. There was no opposition. It was requested that meetings not be set on Thursdays, and it was also requested that these meetings not conflict with the statutory asbestos advisory committee group or Clean Power Plan meetings, or BER or WPCAC meetings on Fridays.

Ms. Kelly stated that DEQ will draft rules internally so that the workgroup can continue discussions. She also proposed an informal structure for the group and reiterated that all information that the group discusses will be made available online so that it would be accessible by the public. The meeting was adjourned at 3:30 pm.