DEQ Nutrient Work Group
2nd Meeting Summary
June 18, 2009

Introductions
Gerald Mueller, the Nutrient Work Group (NWG) facilitator, and those attending this meeting introduced themselves. A list of the members and others in attendance is attached below as Appendix 1.

Agenda
- Review of the May 11, 2009 Meeting Summary
- NWG Ground Rules
- NWG Web Page
- Legal Basis and Obligations for Numerical Nutrient Standards
- Numeric Nutrient Standard Scientific Assumptions
- NWG Work Plan
- Next Meeting Schedule

Review of the May 11, 2009 Meeting Summary
A NWG member commented on the summary's discussion of the group's ground rule time line. Although DEQ seeks NWG recommendations by May 2010, the NWG is statutory and does not have a sunset date. Unless the statute is changed, the group will continue to exist after May 2010 and will advise DEQ about implementation of the numeric nutrient criteria.

NWG Ground Rules
The NWG accepted the May 14 version of its ground rules with one change. Section 2 Time Line should be changed to account for the NWG's statutory authorization which does not have a sunset date. Gerald Mueller stated that with this change, he would finalize the group's ground rules. See Appendix 2 for the final version.

NWG Web Page
Dr. Mike Suplee reported that DEQ has created a web page for the NWG. It is available at: http://deq.mt.gov/wqinfo/NutrientWorkGroup/index.asp From now on, NWG documents including meeting agendas, meeting presentations, and meeting summaries will be posted on this web site for downloading. Mr. Mueller will no longer email NWG documents; instead, individuals on the NWG email list will receive an email notice of document availability on the web site. NWG members agreed to have their contact information, including telephone numbers and Email addresses, posted on this site.

Question - Will you please also post a link to SB95?
Answer - Yes. And when the final statute pages are released, we will have a link to the statute.

Legal Basis and Obligations for Numerical Nutrient Standards

DEQ - Dr. Mike Suplee provided an overview of the legal basis of Montana DEQ's approach to developing and implementing numeric water quality standards for nutrients using a PowerPoint presentation with this title. This presentation will be posted on the NWG web page.

Comment - SB95 states in general terms that the development of numeric nutrient standards shall consider economic impacts. This consideration is not limited to temporary nutrient standards, i.e., variances from the numeric standards.
Response - Economic impacts and the availability of technology will not be considered in setting the nutrient numeric water quality standards. The numeric standards must be based on sound scientific rationale and must contain sufficient parameters or constituents to protect the designated water use. Economics and technology will be considered in developing and granting temporary nutrient criteria, i.e., variances from the standards. EPA will not approve numeric nutrient standards based on economics or technology availability. If after a 20 year period, numeric standards cannot be met on a given stream, DEQ can consider modifying the beneficial use classification of that stream. There have been few reclassifications to date. To reclassify a stream, we must find that the original classification was incorrect.

Comment - The purpose of the Clean Water Act is to improve water quality. Our state constitution and court orders have provided that standards must anticipate water quality improvements. This is why reducing water quality classifications is hard.

Question - When will DEQ begin the next review of all of the water quality standards?
Answer - We review the standards every three years. The next triennial review of the entire standard package will begin this fall.

Question - What goes into the triennial review?
Answer - The state proposes changes to the standards, which are often driven by new criteria recommendations coming out of EPA. The state works with stakeholder groups regarding the proposal, and subjects the proposal to public comment. The Water Pollution Control Advisory Committee (WPCAC) reviews the proposal and public comments. After receiving advice from WPCAC, DEQ proposes standard changes to the Board of Environmental Review (BER) which then holds a public hearing on them. If the BER adopts the changes by rule, the rule is sent to EPA for its review and decision.

Question - How does the three year standard review relate to the five year review provided in SB95?
Answer - We review the water quality standards every three years. The five year period in SB95 is the duration of the variance to the numeric nutrient standards. After five years, we review whether the rationale for the variance, e.g. the cost of pollution control technology, continues to hold.

Comment - The five year period for the variance reflects the underlying technology forcing philosophy.

Comment - In the triennial review, DEQ staff cannot not examine the substance of every standard.

Response - We do not examine the substance of each water quality standard every three years. We do examine the package of standards triennially. We continually examine the substance through other water quality programs.

Question - Does DEQ have the authority to adopt either numeric or narrative water quality standards?
Answer - Yes, we can adopt either; however, EPA's policy favors adoption of numeric standards. For narrative standards, EPA requires an implementation methodology that includes numbers.

Question - Has EPA approved TMDLs based on narrative standards?
Answer - Yes. In Montana we have EPA-approved TMDLs based on narrative standards linked to dissolved oxygen levels. We are, however, collecting additional data to determine numerical values.

Question - What is EPA's position about whether Montana is in compliance with TMDL nutrient standards?
Answer by Tina Laidlaw - An independent, peer review panel has looked at the science underlying DEQ's numeric nutrient standard proposal and the review has been favorable.
Answer by George Mathieus - It is no secret that we were sued over the pace of the Montana TMDL program. The case-by-case narrative approach has been long and drawn out. Numeric standards will provide efficiency for both the TMDL and permit programs.

Question - How will the variance process work?
Answer - The first step will be the BER adoption of the base numeric nutrient standards along with specific rules tailored to implement temporary nutrient criteria per SB 95. The second step will be incorporating the base standards into the discharge permits. If we see that the base standards applicable to a pending discharge permit renewal will be difficult to achieve, we will initiate an alternatives analysis, such as applying sewage treatment plant effluent to land through spray irrigation. If it appears that economics or the state of technology will prevent standard compliance, we will conduct an affordability analysis, such as the one for public systems recommended by the group that preceded this one. The affordable level then becomes the discharge permit level.

Comment - Given the state of technology, almost every discharger will have to receive a technology variance until technology improves to the base numeric standard levels.

Comment - Given the permit backlog, I don't see how DEQ will catch up.
Response - Once the numeric nutrient standards are on the books, because of SB95, we will be able to issue variances. DEQ will issue the variances; they will not have to go through the BER. The numeric nutrient standards and the variances will make the individual discharge permits easier to process.

Comment - To achieve water quality improvements, we will need a basin-wide, adaptive management approach to TMDL development and permit decisions.

Comment - While I understand the logic of the process you have laid out regarding the adoption of the base standards and variances to them, once the standards are adopted, dischargers will be out of compliance. They may then be subject to third party law suits because their discharges contribute to stream nutrient levels above the standards.
Response by Claudia Massman - Under Montana law, discharges made in compliance with Montana Pollutant Discharge Elimination System (MPDES) Permits are not pollution. MPDES Permit holders are therefore shielded against legal action. When permits expire, then the variances are applicable.
Response by George Mathieus - We will need to address the permit shield as we develop the rule proposal package. We have met with the permit staff to discuss crafting appropriate language.

EPA - Tina Laidlaw ran through a PowerPoint presentation entitled "EPA's Guidance on Nutrient Criteria Development" which she developed along with Tonya Fish, EPA's Region 8 Water Quality Standards Coordinator. This presentation will be posted to the NWG web site.

Question - What is EPA's view of the permit shield and the variances allowed by SB95?
Answer - We will check with EPA permit staff and report back.

Question -What are other states doing with respect to nutrient standards?
Answer - I will answer regarding Region 8 states. Colorado is moving towards a rule making to adopt numeric nutrient standards for all water bodies in 2010. Utah does not have a specific time frame but is discussing with its agriculture community reduce non-point nutrient pollution. It also has numeric trigger values for total nitrogen and total phosphorus, and is working towards numeric criteria. Wyoming, South Dakota and North Dakota are interpreting narrative standards, working on numeric standards for lakes and reservoirs, and already have a number of waterbody-specific criteria for lakes and reservoirs. (Current Status: State Adoption of Numeric Nutrient Standards)

Question - Are other states developing variance processes?
Answer - Colorado is watching Montana's efforts. Utah has a variance process in place. EPA Headquarters is interested in applying a variance process in Florida.
Answer by George Mathieus - I recently attended a state directors' meeting. Colorado and Utah are communicating with us about nutrient standard variances. Other Region 8 states are interested as well.

Question - Is the May 25, 2007 memo the latest guidance from EPA about nutrient standards?
Answer - Yes.

Question - Can a copy of the May 25, 2007 guidance memo be posted on the NWG web site?
Answer by Dr. Suplee - We will scan a copy and post it on the web site.

Question - The level of the numeric nutrient standard that DEQ is considering is too low for current technology to meet. Has DEQ considered a lower level that can be met with current technology?
Answer by Dr. Suplee - Pursuant to EPA requirements, water quality-based nutrient standards must be protective of a water body's beneficial uses. Nationally, nutrient standards under consideration are low.

Question - What do you do if EPA disagrees with Montana's nutrient criteria?
Answer by George Mathieus - We recognize that point sources are one part of the nutrient problem. The state needs to discuss how to address other sources. EPA is working with us.

Question - At national engineering meetings, the levels that Montana is considering seem lower than other states.
Answer - For certain ecoregions, the numbers are low. Generally the numeric nutrient standard levels are not attainable with current technology so implementation will be an issue.
Answer by Dr. Suplee - The levels we are considering are the same order of magnitude as other states, Australia and New Zealand. We are continuing to work on them, however. We will be conducting over the next three years nitrogen and phosphorus dose-response studies in a reference stream.

Discussion with Dave Moon - Dave Moon with EPA Region 8 joined the meeting via teleconference to answer NWG questions.

Question - What is EPA's view of Montana's adoption of numeric nutrient standards with a temporary variance procedure? Does EPA agree with the permit shield protection for MPDES permit holders?
Answer - While I am not in the permit section, my understanding is that discharge permit holders are not vulnerable due to the adoption of new standards. They are vulnerable only to the compliance with the terms of their permits. There needs to be coordination between variance and permit renewal decisions.

Question - Am I correct that the May 27, 2007 guidance memo, also referred to as the Benjamin Grumble memo, does not set a hard deadline for nutrient criteria adoption?
Answer - The new EPA Assistant Administrator is not yet in place, but adoption of numeric nutrient standards are likely to remain a high priority.

Question - Are you aware of court imposed time tables for the issuance of TMDL and nutrient standards?
Answer - A number of states are under court imposed deadlines. In Montana, the TMDL deadline is 2012. I am not aware of any new court imposed standards nationally.

Question - The 2012 TMDL deadline in Montana is rapidly approaching. How will the TMDL and numeric nutrient standards come together?
Answer by Ron Steg - The process in Montana is moving towards numeric nutrient standards. The TMDLs will be based on existing narrative standards but will have the flexibility to move to numeric standards.

Question - Should developing nutrient TMDLs in Montana be suspended until the numeric standards are completed?
Answer - No. EPA recommends moving forward on TMDLs incorporating adaptive management so that numeric standards can be addressed when they are adopted.

Question - In her presentation, Ms. Laidlaw said that seven states have adopted one or more numeric nutrient criteria for one or more waterbody types. How many states have adopted standards for total nitrogen, total phosphorus, and chlorophyl for all water bodies?
Answer - No states have done so. Several states have adopted some standards. We will make available EPA's most recent compliance status report. Several states have ongoing nutrient standard activity.

Comment - Montana appears to be breaking new ground for the variance process nationally.
Response - The variance process has been around a long time. It is mentioned in EPA regulations. However, variances have not been widely used to date in Region 8 for nutrients or other parameters.

Question - Is EPA working on significant and widespread criteria for non-municipal discharges?
Answer - EPA is not developing new tools. We are working with states to develop variance processes for both municipal and industrial discharges.

Numeric Nutrient Standard Scientific Assumptions

Dr. Suplee introduced this topic and then answered NWG questions about the scientific assumptions underlying the number nutrient standards. DEQ developed the standard proposal using sampling data from reference streams in conjunction with stress-response studies. DEQ assumptions did *not* include the following:

- DEQ did not use macroinvertebrate metrics or nutrient concentration thresholds to determine reference sites, as that would be circular logic. Reference sites are based on % agriculture in the watershed, road density, presence of publicly owned treatment works (POTWs), etc., via a structured review process.
- DEQ did not automatic use EPA ecoregions; we tested the ecoregion designations against lithology and Strahler stream order, two other mapping systems that had a good chance of being useful for stratifying nutrient concentrations spatially.
- DEQ did not presume that the 150 milligrams per square meter (mg/m^2) bottom algae protected recreational uses; we tested the 150 mg/m^2 level in a statistically valid public perception survey.
- DEQ did not consider data outliers to be "bad" data; all data were retained and used.
- DEQ did not presume that the 75^{th} percentile of reference should equal the standard, per EPA recommendations; DEQ tested the percentile approach and may use 90% as the reference percentile.

Question - On what parameters is the 90% reference percentile based?
Answer - We mainly used the algae density on stream bottoms and total nitrogen and total phosphorus.

Question - How did you use reference streams in developing the nutrient criteria?
Answer - DEQ chose its first candidate reference streams in 1991 by asking regional resource managers to identify healthy streams. We began re-sampling these streams in 2000. From 2000 onward, we expanded the program to identify and sample new reference streams. In 2004, we developed a process that used the sampling data (and other data) to test the reference streams. The document describing our methods for determining reference streams is posted on the internet

at the nutrient criteria technical-documents site. For each ecoregion, we determined mathematical relationships between total nitrogen and phosphorus and algae concentrations using published scientific studies. Given the 150 mg/m^2 algae level from the public perception survey, we could then solve for the corresponding total nitrogen and phosphorus levels for each ecoregion. It should be noted that not all of our reference streams are pristine; most include some degree of land management. We have two tiers of reference streams. Tier 1 is close to pristine; tier 2 includes land management activities that do not harm the designated beneficial water uses. In western Montana, about 70% of the reference streams are tier 1 and 30% are tier 2. In eastern Montana essentially all the reference streams are tier 2.

Question - How do you compare relatively unimpacted streams with impacted streams?
Answer - We prefer to use stress-response studies to develop the standards. The one problem with this approach is the noise that the individual stress-response studies include. We therefore use the reference stream data to cross check the stress-response studies and to tie the studies together. Also, we do not have any stress-response studies in southeastern Montana. We assume that the relationships developed using the northeastern Montana study hold in southeastern Montana but, at the same time, we are planning to carry out a stressor-response study in southeastern Montana to check this.

Comment - Existing science does not support using the TMDL approach to achieve water quality close to the proposed numeric standards.
Response - The standards are based on science; how those standards are implemented is a policy decision.

Comment - Reference streams in each ecoregion were not selected randomly and independently. They were accumulated over time beginning with recommendations from the resource managers and were screened later.
Response - We did not have the time or staff necessary to do a random selection. Reference streams are too rare, so we had to target them. Regarding independence of the streams, we used a rule of thumb requiring the selected streams to be at lease one mile apart unless they included a tributary. In 2007, some reference streams were re-sampled for nutrients after an evenness index was applied. We were able to achieve 80% evenness across the board.

Question - A key assumption is that reference stream data are representative of all reference streams. Did you randomly select sampling sites on the reference streams?
Answer - We sampled all over the place.

Question - I assume that most of the sampling on reference streams occurred on the larger streams. Is the downstream sampling applicable to smaller upstream sites where the conditions are more variable?
Answer - We used the 1:100,000 scale RF-3 stream layer scale. (Dr. Suplee showed a graphic from the November 2008 White Paper that showed that most reference streams are 2^{nd} to 4^{th} order.) We did consider Strahler order as a candidate nutrient-stratification system but settled ultimately on level 4 ecoregions. The ecoregions explained 75-80% of the nutrient variability in reference streams. Using both the ecoregion and Strahler (i.e., level IV ecoregions substratified by Strahler order) further improved the explanation.

Question - Non-detects are assigned the value of 50% of the detection limit. Won't the non-detect values produce an artificially low data set if there are too many?
Answer - Non-detect values would skew the result unacceptably if they were 30-40% of the samples, but this topic is really only a concern for certain types of statistical tests, like a T-test. At about the 15% level, they will not affect the outcome. Ultimately, we are looking at the 90% level which is far from the non-detect values.

Comment - The non-detect values are questionable because you are using synthetic values (i.e. 50% of the detection limit) to select the standard levels that will determine the nitrogen and phosphorus control costs.
Response - The reference distribution is not standing alone. We are also using the stress-response studies to cross check the reference stream data when setting the standard level.

Comment - Using the recreational public perception study to determine the standards has less credibility than an aquatic life study.
Response - Using an aquatic life or macroinvertebrate study might drive the standard even lower. I am not aware that there is a threshold value from a fishery perspective. A 150 mg/m^2 algae level would be too high for some species and not high enough for others. My gut feeling is that 150 mg/m^2 would be protective for most fish.

Question - People still recreate on streams that have algae levels higher than 150 mg/m^2. Is there a gap between what people say they want and their behavior?
Answer - In the public perception study, we asked people to look at a range of photographs and state their preference about recreating on the waters in them. We have no way to determine between stated perception and actual behavior. People may recreate on waters with higher algae concentrations but the majority expressed a preference for the 150 mg/m^2 level. (Dr. Suplee showed a graphic from his 2009 published paper "How Green is too Green?" that showed that roughly 10% if the people interviewed were tolerant of algae levels far beyond 150 mg/m^2.)

Comment - Standards that determine pollution control costs should not be set using public perception surveys. Standards should be set based on fact based consideration of impacts to aquatic life or the fishery.
Response - It is a fact that the nutrient levels we are considering are not needed to keep people from becoming ill. We are choosing a level to protect socially codified values, which includes recreation as well as aquatic life and fisheries. The 150 mg/m^2 level is already in effect for the Clark Fork River and for areas in Canada and New Zealand. The public perception study identifies what people find acceptable for recreation. The study is peer reviewed and published in a scientific journal. This approach is commonly used in lakes and reservoirs. Colorado is very interested in Montana's approach.

Comment - Ultimately, the legislature may have a different view of basing standards on a public perception survey, particularly if it is costly to comply with the standards.

Comment - Another political issue is that 80% of the pollution comes from non-point sources that are not covered by the standards.

Comment - We need to calculate what the cost of complying with different standard levels and share that information with the public.
Response - On a state level, we cannot associate a specific compliance cost with specific algae levels. Compliance costs are too variable. It might be doable at a specific location, for example the preferred cost to Missoulians to meet certain algae levels on the Clark Fork River downstream of town. But we *can* look at costs on a site (discharger) specific basis in the variance affordability analysis.

Comment - Perhaps you could categorize compliance costs by size of municipality. We have representatives of large, medium, and small municipalities on this group.

Question - A stakeholder group helped develop the standard algae level in effect for the Clark Fork River. How was agreement reached for the Clark Fork?
Answer by Don Quander - I was a part of the Clark Fork group. We had little specific scientific information. We negotiated a number that we thought provided a margin of safety to meet the EPA requirements.

Comment - We need to balance costs of compliance with what is both scientifically supportable and affordable.

Question - Where will you be conducting the study in which use apply varies amounts of nitrogen and phosphorus to a reference stream?
Answer - We have a study plan in the works. The specific location is not yet chosen. It will be a tier 2 reference stream in eastern Montana.

Question - Does DEQ have to get a discharge permit for this study?
Answer - No, but we do have to get a 404 permit from the Corps of Engineers and a 124 (Montana Stream Protection Act) permit from the Montana Department of Fish, Wildlife and Parks.

Question - The group that preceded this one, the Nutrient Criteria Affordability Advisory Group, agreed on a 1% of median household income for an affordability variance. Has EPA indicated that it would not accept this value?
Response by Tina Laidlaw - Tim Connor, an economist with EPA Headquarters, has asked for an explanation of why a 1% threshold makes sense for Montana. There is concern that the 1% value may set a national precedent.

Comment - We agreed to the 1% threshold because non-point pollution which can be a large part of the problem is unregulated.

Question by Gerald Mueller - Is there additional information that NWG members want regarding the scientific basis of the standards?

Comment - I don't believe that we have resolved this issue; however, if understanding EPA's view of the status of the permit shield and of the variance may lessen the need to fight over the specific level of the standard.

Comment - I would like to understand better how the150 mg/m^2 algae level translates into nitrogen and phosphorus levels in a stream and how DEQ makes a decision about whether a stream is impaired.

Question - How to discharge limits apply seasonally?
Answer - In the case of a lake, the standard would probably be in effect year round. For streams, the nutrient standards will apply only during the summer.

Question - What about streams that feed into a lake?
Answer - The standard would likely apply year round.

NWG Work Plan

George Mathieus passed out copies of a draft work plan. See Appendix 3 below.

Next Meeting

The next meeting is scheduled for Thursday, July 16 at a location to be announced. The agenda will include three topics, EPA's response to the permit shield and variance, how the150 mg/m^2 algae level translates into an instream nitrogen and phosphorus level (along with consideration of other beneficial uses and their harm thresholds), and how DEQ determines if a stream is impaired.

Appendix 1
NWG Attendance List
June 18, 2009

Members

Jeff Tiberi	Montana Association of Conservation Districts
Debbie Shea	Montana Mining Association
Dave Aune	Great Western Engineering
Michael Perrodin	BNSF Railway
Jim Edgcomb	Montana Department of Commerce/Treasure State Endowment Program
John Wilson	City of Whitefish
Scott Murphy	Morrison-Maierly, Inc.
Tim Burton	Montana League of Cities and Towns
Don Allen	Western Environmental Trade Association (WETA)
Terry McLaughlin	Smurfit-Stone Container
Dick Hoehne	Town of Philipsburg
Brian Sugden	Plum Creek
Donald Quander	Holland & Hart
Ryan Swinney	Bruce Swinney & Associates
Jim Jenson	Montana Environmental Information Center

Alternate Members

John Rundquist	City of Helena (Alternate for Tim Burton)
Dave Galt	Montana Petroleum Association (Alternate for Donald Quander)
Brianna Randall	Clark Fork Coalition (alternate for Chris Brick)
Doug Parker	Hydrometrics (alternate for Debbie Shea)
Jay Bodner	Montana Stockgrowers Association (Alternate for John Youngberg)

Non-Voting Members

George Mathieus	Department of Environmental Quality (DEQ), WQP Bureau Chief
Dr. Jeff Blend	DEQ, Energy Planning & Technical Assistance, Economist
Dr. Mike Suplee	DEQ, Water Quality Standards Section, Water Quality Specialist

Other Meeting Attendees

Tina Laidlaw	US Environmental Protection Agency (EPA)
Ron Steg	EPA
Bob Bukantis	DEQ, Water Quality Planning, Water Quality Standards Section Supervisor
Claudia Massman	DEQ Attorney
Mark Simonich	Helena Association of Realtors
Kristi Kline	Montana Rural Water Systems
Jessie Luther	Browning, Kaleczyc, Berry, and Hoven
Darrryl Barton	Deer Lodge/Clark Fork River Technical Advisory Committee

Judel Buls	AE2S, Inc.
Ron Nissen	CHS Laurel Refinery
Dave Clark	H2R

Appendix 2

Ground Rules
Nutrient Work Group
June 18, 2009

1. Purpose

The purpose of the Nutrient Working Group (NWG) is to develop recommendations to the Montana Department of Environmental Quality (DEQ) for the base numeric nutrient standards, the development of temporary nutrient criteria, and the implementation of those standards and criteria together with associated economic impacts.

2. Time Line

The NWG is created pursuant to SB95, passed by the 2009 legislative session and signed into law by Montana's governor. SB95 did not include a sun set date for the group. NWG will target May 2010 for recommendations regarding numeric nutrient standards.

3. Members

Members and alternate members of the NWG will be designated by DEQ.

4. Decision Rule

4.1. The NWG will formulate recommendations by consensus, i.e., all members of the group must be able to live with the recommendations.

4.2 If a member cannot live with a proposed recommendation, she or he has a responsibility to explain why and offer an acceptable alternative.

4.3 DEQ will draft a report documenting the NWG recommendations, including majority and minority views, if any.

4.4 Prior to final action on any recommendation, a draft version will be available for vetting by the organizations or agencies represented by group members.

5. NWG Process

5.1 NWG meetings are open to the public and will be publicly announced.

5.2 The facilitator shall draft an agenda and circulate it to the NWG via e-mail or no less than 5 days prior to the meeting.

5.3 The facilitator shall draft and circulate to the NWG a summary of group meetings.

5.4 The facilitator shall conduct meetings so that all members have an opportunity to speak to all agenda topics.

5.5 Each meeting agenda will include a period at the end of the meeting to receive public comment.

5.6 The facilitator will provide reasonable opportunity for members of the public (i.e., non-NWG members or non-NWG alternates) to make presentations at an NWG meeting, if the facilitator receives a request to do so prior to circulation of the meeting agenda.

5.7 Except during the designated public comment period, the facilitator may limit questions, comments, and discussion during an NWG meeting to members of the NWG or their alternates.

5.8 NWG may create committees to consider specific designated topic; committees will report on their deliberations to the NWG.

6. Committee Member Responsibilities

6.1 Each member agrees to either attend all meetings or to be represented by an alternate.

6.2 Each member agrees to consult regularly with the organizations or agencies he or she represents about the group's deliberations and bring back to the group the organization's or agency's concerns, ideas, and other feedback.

6.3 Each member agrees to listen carefully and respectfully to other members and to avoid interrupting other members.

6.4 Each member agrees to respect the decision of any member to withdraw at any time for any reason.

6.5. Each member agrees to explain to the other members the reason for withdrawal from the process.

7.0 News Media Contacts

7.1 Each member may speak to the media regarding his or her own views, but no member may speak on behalf of or characterize the views of other members to the media or in other forums.

7.2. Only the DEQ may speak to the media or prepare press releases on behalf of the NWG.

Appendix 3

DRAFT WORKPLAN RECCOMENDATIONS TO THE NUTRIENT WORK GROUP

I. Base numeric criteria and associated science
   a. Present basic outline of scientific work behind criteria (done)
   b. Discuss with Work Group assumptions accompanying the criteria
   c. Other?
   d. Other?

2. Review in Detail DEQ's Proposed Alternatives Analysis and Affordability-Evaluation Process
   a. Review DEQ's research on workable affordability-evaluation processes
   b. Review flowchart of alternatives analysis
      i. Work Group input
   c. Review earlier group's Substantial & Widespread evaluation process for public-sector dischargers
      i. Work Group input

3. Begin development of affordability-evaluation process for private-sector entities
   a. DEQ recommends EPA 1982 and 1995 guidances as start
   b. Identify key industries/affected private entities
      i. Starting point of discussion: a) Mining, b) Rail Transport, c) Oil & Gas, and c) new subdivisions
   c. Work on evaluation process and determine remedy for cases where S&W impacts are demonstrated
      i. May require assistance from CPA firm

4. Non-degradation and Numeric Nutrient Standards
   a. Discuss current non-deg rules, what intent of nondeg is, and what the most appropriate approach for nondeg might be for nutrients

5. Review Draft Criteria and Accompanying Rule language
   a. Intent is to refine rule process before proceeding to WPCAC and Board