

# AGENDA

## WATER POLLUTION CONTROL ADVISORY COUNCIL ROOM 111 METCALF BUILDING HELENA<sup>1</sup>

**NOTE:** Interested persons, members of the public, and the media are welcome to attend at the location stated above. Reasonable accommodations will be made for persons with disabilities who wish to participate in this meeting. Please contact Hannah Riedl by telephone (406-444-0549) or by e-mail (Hannah.Riedl@mt.gov) no later than 24 hours prior to the meeting to advise of the nature of the accommodation needed.

**July 13, 2018  
10:00 A.M.**

10:00	<b>Call to Order</b>	<b>Trevor Selch</b>
10:02	<b>Approval of Agenda</b>	<b>Trevor Selch</b>
10:05	<b>Approval of Minutes from May 11 Meeting</b>	<b>Trevor Selch</b>
<b><u>Action Items</u></b>		
10:10	<b>CAFO General Permit Renewal</b>	<b>Jon Kenning</b>
10:30	<b>Proposed 401 Certification Rule Change</b>	<b>Jason Garber</b>
<b><u>Briefing Items</u></b>		
10:50	<b>Establishing Lagoon and Water Well Setbacks</b>	<b>Eric Urban</b>
11:10	<b>General Nutrient Variances—Updates and FAQs</b>	<b>Eric Urban</b>
11:30	<b>WPCAC Report to the Water Policy Interim Committee</b>	<b>Hannah Riedl Earl Salley</b>
11:40	<b>General Public Comment</b> During this time, members of the public may comment on any public matter within the jurisdiction of the Council that is not otherwise on the meeting agenda.  For items on this meeting agenda, time for public comment will be provided after Council discussion of each item.	<b>Trevor Selch</b>
11:50	<b>Agenda Items for Upcoming Meetings</b>	<b>Trevor Selch</b>
11:55	<b>Adjourn</b>	<b>Trevor Selch</b>

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<sup>1</sup> To view conference presentations via Skype, click this link: [Join Skype Meeting](#)

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Conference ID: 4656761



July 6, 2018

TO: Members of the Water Pollution Control Advisory Council & the public

FROM: Jon Kenning

MEETING DATE: July 13, 2018

SUBJECT: CAFO General Permit Renewal

ACTION REQUIRED BY COUNCIL:

DEQ is required to renew the Concentrated Animal Feeding Operation (CAFO) general permit by November 1, 2018. DEQ is seeking any comments from WPCAC on the CAFO permit or program in general.

BACKGROUND:

Large cattle, swine, dairy and poultry feeders that confine animals to pens or buildings are considered CAFOs under the Clean Water Act. The Montana Water Quality Act requires DEQ to regulate CAFOs under a general permit. The current CAFO General Permit is set to expire on October 31, 2018. The CAFO general permit establishes recordkeeping and operational requirements for CAFOs, as well as establishes nutrient management protocols for farmland to ensure manure and fertilizer are being utilized by crops instead of running off into streams and rivers.

RECOMMENDATION:

Please contact Jon Kenning with the Water Protection Bureau with any questions. (406) 444-0420, [jkenning@mt.gov](mailto:jkenning@mt.gov)



July 6, 2018

TO: Members of the Water Pollution Control Advisory Council

FROM: Eric Sivers, Groundwater Discharge Permitting, Source Water Protection, 401 Certification

MEETING DATE: July 13, 2018

SUBJECT: Changes to Administrative Rule of Montana 17.30.101-109, 401 Certification

ACTION REQUIRED BY COUNCIL:

This is an action item to move forward with Department rulemaking on [Changes to Administrative Rule of Montana 17.30.101-109, 401 Certification](#)

BACKGROUND:

Under Section 401 of the federal Clean Water Act, states and tribes can review and approve, condition, or deny all Federal permits or licenses that might result in a discharge to State or Tribal waters, including wetlands. The major Federal licenses and permits subject to Section 401 are Section 402 and 404 permits (in non-delegated states), Federal Energy Regulatory Commission hydropower licenses, and Rivers and Harbors Act Section 9 and 10 permits. States and tribes may choose to waive their Section 401 certification authority.

States and Tribes make their decisions to deny, certify, or condition permits or licenses primarily by ensuring the activity will comply with state water quality standards. In addition, states and tribes look at whether the activity will violate effluent limitations, new source performance standards, toxic pollutants, and other water resource requirements of state/tribal law or regulation. The Section 401 review allows for better consideration of state-specific concerns.

The most substantial changes to the ARM are in Sections 17.30.103, 17.30.106, and 17.30.108. Section 17.30.103 was amended to clarify that the application is not deemed complete until all information needed for the review is received by the Department, including the appropriate fee. The automatic trigger deeming an application complete after 30 days of receipt was removed since this provision impedes coordination with the federal permitting agency, a process required for the 401 review to continue. Section 17.30.106 was amended to eliminate the automatic waiver of certification if the applicant is not notified within 30 days of the Department's tentative determination. Automatically waiving 401 certification impedes review of federal permits authorizing discharges to Waters of the State and does not coincide with the federal permit review process. Finally, Section 17.30.108 was amended to clarify how the public notice is distributed and language was added to clarify that the Department can continue to participate in the joint public notice process with the U.S. Army Corps of Engineers if the Department has received a complete application.

RECOMMENDATION:

The Department recommends moving forward with rulemaking.

Please contact us with any questions: Eric Sivers 406-444-4806 Jason Garber 406-444-2734