

# Subdivision Advisory Task Force Meeting

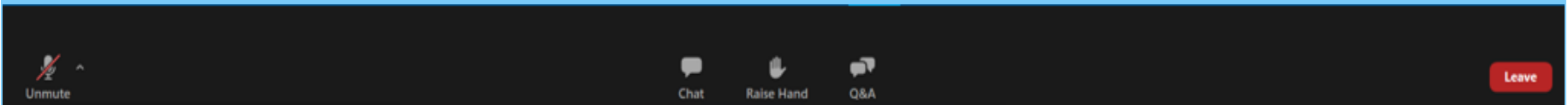
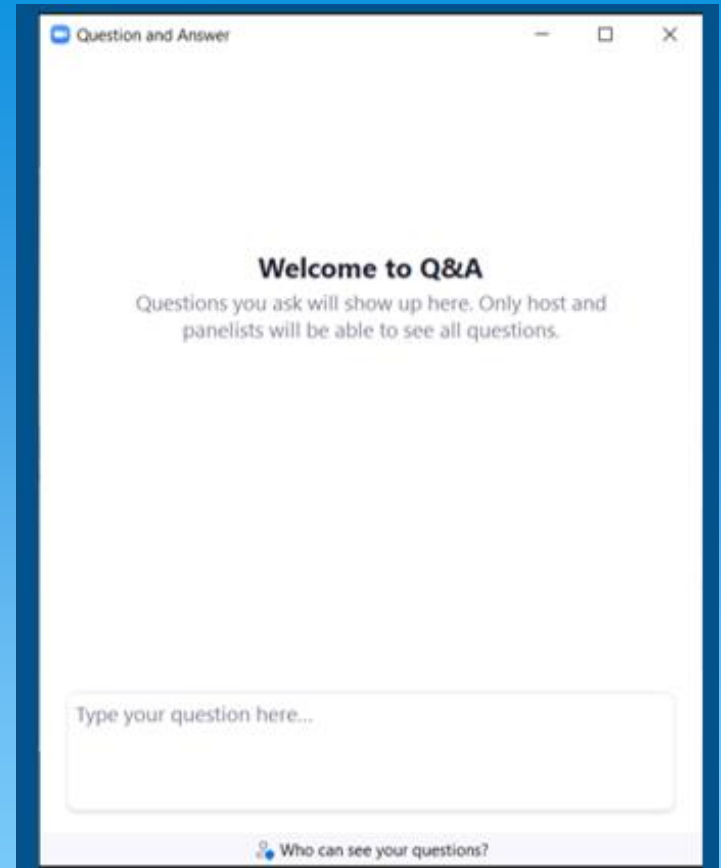
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June 2, 2022



# Welcome!

- This meeting has been converted to a Zoom webinar
- Only Task Force members will be panelists
- Members of the public can raise their hand or use the Q&A feature to ask questions during the public comment portion of the meeting
- \*9 raises your hand if you're on the phone
- State your name and affiliation before providing your comment



# Roll Call

Represented Group	Representative
City Planner	Monica Plecker
Engineers (regional representation)	Craig Dalton
	Sarah Friederichs, alternate for Mike Stenberg
	Toby Liehti
	Ben Rankin
Systems Provider	Tom Kallenbach
Developer	Tom Llewellyn
Professional Land Surveyor	Augusta Kickbusch
Contract County Sanitarians (one urban, one rural)	Shannon Therriault
	Megan Spry
Private Sanitarian	Shawn Rowland
Conservation Organization	Guy Alsentzer
Water Quality Protection District	Beth Norberg
Montana League of Cities and Towns	Kelly Lynch
MACo	Karen Alley
Montana Building Industry Association	Cory Shaw
Montana Association of Realtors	Sam Sill
Legislator	Senator John Esp
	Margarite Juarez-Thomas
Montana DEQ	Steve Lipetzky
	Josh Juarez

# Ground Rules

- Speak one at a time—refrain from interrupting others.
- Wait to be recognized by facilitator before speaking.
- Facilitator will call on people who have not yet spoken before calling on someone a second time for a given subject.
- Share the oxygen—ensure that all members who wish to have an opportunity to speak are afforded a chance to do so.
- Be respectful toward all participants.
- Listen to other points of view and try to understand other interests.
- Share information openly, promptly, and respectfully.
- If requested to do so, hold questions to the end of each presentation.
- Remain flexible and open-minded, and actively participate in meetings.

# Agenda

## Meeting Goals:

**Continue dialog with stakeholders and gather valuable, solution-oriented feedback on process and rules**

### **DEQ Updates**

- WQD Transition & Hiring Plans
- Strategies to Improve Timelines
- Subdivision Seminar June 16

### **Rulemaking Updates and Timelines**

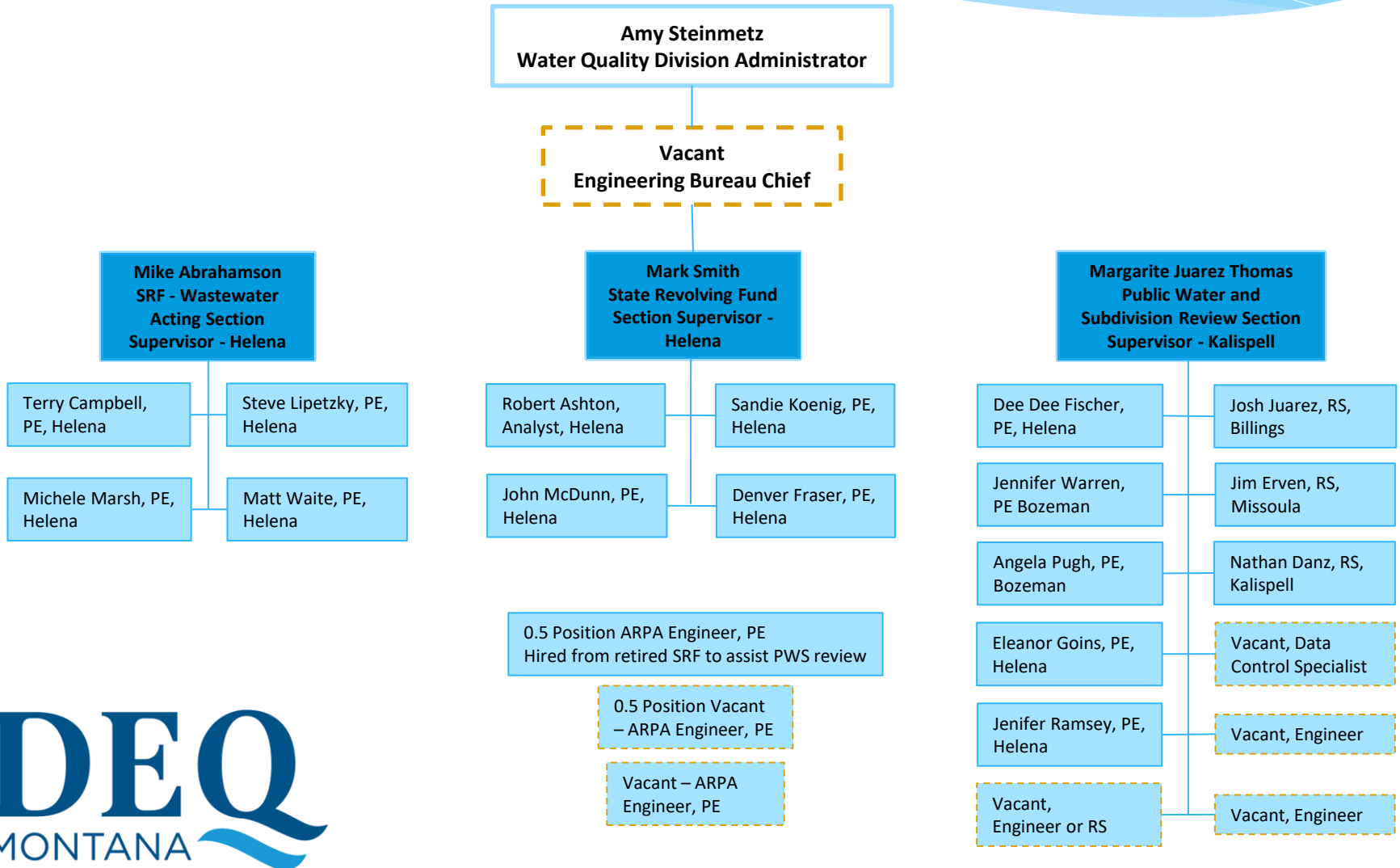
- Phased rulemaking proposal
- Overview of Current Draft Rules
- Next Steps

### **Future SATF Meetings**

- Topics to Cover (DEQ suggestions & solicit ideas)
- Establish Regular Meeting Schedule

### **Public Comment & Close of Meeting**

# WQD Transition & Hiring Plans



# Strategies to Improve Timelines

- \* Hiring
  - \* Exploring pay adjustments and overtime
  - \* Career path for EIT to PE
  - \* Program "people-sharing"
- \* Technology – online application submittals
- \* Contracts – city engineers/private engineers
- \* Rulemaking
- \* Funding
- \* Efficiency

# Subdivision Seminar

**Subdivision Seminar – June 16 9:30 – 12:00**

***Purpose*** - Educate key stakeholders about the various parts of the subdivision review process, why it's important, and how key entities are working together to improve the application and review process

***Subdivision and Platting Act***– Karen Alley, Montana Association of Counties General Counsel

***Sanitation in Subdivisions Act***– DEQ and DNRC

***Title 50***– County sanitarians

***Panel Q & A***



# Identification of DEQ's Rulemaking Priorities

1. Red Tape Relief
2. Incorporation of legislative changes from 2021 session
3. Changes based on concerns the subdivision program has consistently heard over the past several years.

# DEQ Proposed Pathway

## **Phase 1 - Moving forward this fall**

- Subchapter 1
- Portions of Subchapters 3, noted on following slides
- DEQ-3 and DEQ-20

## **Phase 2 - Will continue work in SATF subcommittees**

- Subchapter 6
- Subchapter 9
- DEQ-4, Portions of Subchapter 3
- DEQ-8
- Nondeg circular 4A may be included in phase 2 – Subcommittee to be formed soon

# Phase 1 - Proposed Changes

## ARM 17.36.

### Subchapter 1 Subdivision Application and Review

- ARM 17.36.101 - Definitions
  - ✓ Moved definitions that are only used in the design circulars to the design circulars, and removed them from the rules, if they aren't used in the rules.
  - ✓ Added proposed drainfield mixing zone, proposed well isolation zone, and sealed components
  - ✓ Making sure they match statutory definitions

# Phase 1 - Proposed Changes

## **ARM 17.36.**

### **Subchapter 1 Subdivision Application and Review**

- ARM 17.36.103 – Application Contents
  - ✓ Added more detail of what needs to be included in the application, maps, lot layout, design report, nondeg, etc.

# Phase 1 - Proposed Changes

## ARM 17.36.

### Subchapter 1 Subdivision Application and Review

- ARM 17.36.104 – Lot Layout Document
  - ✓ Specifying that only one copy of the lot layout must be submitted with the application. Once it's final, the final four copies can be submitted.
  - ✓ Include information as set out in Table 1 located within 100 feet of the perimeter of the subdivision on the lot layout

# Phase 1 - Proposed Changes

## ARM 17.36.

### Subchapter 1 Subdivision Application and Review

- ARM 17.36.112 – Review of Previously Approved Facilities: Procedures
  - ✓ Expanded the current rule to previously approved facilities for applications that are not rewrites (subsequent divisions, BLA, etc)
  - ✓ Re-worked to better define when and how a COSA rewrite is processed and when and how an amended lot layout is processed.

# Phase 1 - Proposed Changes

## ARM 17.36.

### Subchapter 1 Subdivision Application and Review

- ARM 17.36.117-125 – New Sections
  - ✓ New sections added to address/direct the review of water (DEQ-20), solid waste systems, O&M manuals, easements, and PE design requirements.
- ARM 17.36.122 Operation and Maintenance, Ownership, Easements and Agreements
  - ✓ Implemented proposed well isolation zone and proposed mixing zone easement requirement SB-44

# Phase 1 - Proposed Changes

## ARM 17.36.122 Operation and Maintenance, Ownership, Easements and Agreements

(4) A proposed well isolation zone, as defined in ARM 17.36.101, or proposed drainfield mixing zone, as defined in ARM 17.36.101, must be located wholly within the boundaries of a lot unless one of the following are met:

- (a) The adjoining land is owned by the same person;
- (b) An easement has been provided for the well isolation zone or mixing zone;
- (c) For public land, other authorization is obtained from the landowner to place the proposed well isolation outside the boundaries of the proposed subdivision;
- (d) A mixing zone or well isolation zone may extend onto adjoining land that is dedicated for use as a right-of-way for roads, railroads, or utilities provided that the well location is at least 50 feet from the right-of-way boundary



# Phase 1 - Proposed Changes

## ARM 17.36.

### Subchapter 3 Subdivision Requirements

- ARM 17.36.310 – Storm Drainage
  - Update requirements for applications requiring PE design
    - ✓ No expiring approval
    - ✓ Certification and as-builts not needed for some designs
  - SB-44, exempts certain lots over 5 acres in size, qualifying criteria includes:
    - ✓ Less than 5% impervious
    - ✓ BMPs
    - ✓ Address impacts when designs are within 500 feet of high quality surface water

# Phase 1 - Proposed Changes

## Circulars

### DEQ – 3, Standards for Small Water Systems

Provides design criteria for public non-community water systems as multi-user water systems have been moved to DEQ-20.

# Phase 1 - Proposed Changes

## Circulars

### DEQ – 20, Montana Standards for Non-Public Water Systems

Proposed Circular DEQ-20 will cover minimum design standards for non-public water systems currently in ARM 17.36 and Circular DEQ-3 (multiple-user systems), DEQ-11 (individual /shared springs), DEQ-17 (individual/shared cisterns).

- Arsenic sampling
- Treatment design for non-public systems
- Springs (individual and shared only, no multi-user springs)
- Cisterns (individual and shared only), multi-user located in DEQ-1
- Low flow wells w/storage - allowed without waiver with supporting information

# Phase 1 Timeline

## Review & Refinement of Draft Rules

### June 2022– September 2022

- Draft proposal to Stakeholders for review (6 weeks)
- Subcommittee meetings if needed
- Notify the Legislative Sponsor of agency's intent to conduct rulemaking
- Legal, Director, and Governor's Office review
- Director decides to initiate rule making

# Phase 1 Timeline

## Formal Rule Process

### September 2022 – January 2023

- Draft Published in Montana Administrative Register (MAR)
- Interested parties notified of proposed notice
- Public Hearing
- Review Comments
- If necessary, amend draft rule proposal

# Phase 1 Timeline

## Rule Adoption

### January 2023 – February 2023

- Present Adoption Notice to Director
  - Rule Adoption Package includes responses to comments and any amendments
- File Adoption Notice Package with Secretary of State
- Rules effective the day after Publication in the Montana Administrative Register (MAR)

# Phase 2 - Proposed Changes

## Circulars Nondegradation

- Work ongoing to turn guidance into circular.
  - simplifying and allowing flexibility in standard mixing zones (e.g. less need for source specific mixing zones),
  - revising/reducing long term O&M and monitoring for level 2 systems, and
  - revising, simplifying and adding new categorical exemptions.

# Phase 2 - Timeline

- Short break from rulemaking to catch-up on files and hire additional staff.
- Subcommittees will continue when rulemaking resumes in August of 2022
- Continue to work on Phase 2 with the SATF
- Tentatively in June of 2023, we would enter the Review and Refinement of Draft Rules for Phase 2, with possible adoption in November of 2023.



# Changes to Adjacent Rules

## Changes to Standards

- Nutrient Workgroup brief and impact on Nondegradation

# Future SATF Meetings

## Topics to Cover

- Phase 2 Rules
- Nondeg Circular
- Other Suggestions?

# Future SATF Meetings

## Regular Meeting Schedule

- Best Days
- Worst Days
- How Often?

# Task Force Discussion

- \* Major concerns with the rule packages and timelines
- \* Please be specific
- \* Provide solutions if possible



A photograph of a row of suburban houses with a blue overlay. The houses are two-story, with gabled roofs and porches. A mailbox is visible on the sidewalk in the foreground. The text "Public Comment" is centered over the image.

# Public Comment





# DEQ Subdivision Rulemaking

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