

WATER POLLUTION CONTROL ADVISORY COUNCIL

FRIDAY, SEPTEMBER 10, 2021, 10:00 A. M.

ZOOM / TELEPHONE MEETING

MINUTES

Councilmembers Present

Lee Bruner
Eric Campbell
Shannon Holmes
Amanda Knuteson
Mike Koopal
Jeff Mark
Ron Pifer
Dennis Teske

Others Present

Darryl Barton, DEQ
Mike Suplee, DEQ
Rainie DeVaney, DEQ
Myla Kelly, DEQ
Darrin Kron, DEQ
Galen Steffens, DEQ
Haley Sir, DEQ
Amelia Flanery, DEQ
Maya Rao, DEQ
Chris Kangas, DEQ
Hannah New, DEQ
Kayla Glossner, DEQ
Melinda Horne, DEQ
Kelly Lynch, MLCT
Aaron Losing, City of Kalispell
Abigail St. Lawrence, MBIA
Guy Alsentzer, Upper Missouri Waterkeepers
Jim Dunnigan, FWP
Trevor Watson, FWP
Ryan Sylvester, FWP
Trevor Selch, FWP
Sarah Zuzulock, NWG Conservation Rep.
Sean Sullivan, Rhithron Associates, Inc.
Jeff Mark, Bitterroot Conservation District
Peggy Trenk, TSRA

Call to Order

The meeting was called to order by Darryl Barton, WPCAC Coordinator.

Introductions

A brief round of introductions was made by council members.

Chair and Vice Chair Nominations

The committee voted unanimously to elect Amanda Knuteson to serve as Chair and Ron Pifer to serve as Vice Chair.

Briefing Items

Narrative Nutrient Standards Transition - Rainie DeVaney, MPDES Section Supervisor and Dr. Mike Suplee, Water Quality Standards & Modeling

Rainie began with providing an update on recent legislation, Senate Bill 358. The following key points from SB-358 were highlighted:

- Assigns a timeline (March 1, 2022) for the Department to adopt rules related to narrative nutrient standards in consultation with the Nutrient Work Group
- Directs the Department to repeal DEQ Circular 12-A
- Directs the department to return to narrative nutrient water quality standards, in contrast to circular DEQ-12A which included numeric nutrient water quality standards.
- Directs the department to develop rules with an Adaptive Manage Program which allows for an incremental watershed approach to protecting and maintain water quality

Mike Suplee presented on the repeal of circular DEQ-12A and circular DEQ-12B. Background information was provided. The department developed numeric nutrient standards throughout the 2000's and rule adoption of numeric nutrient standards was completed in 2014. The numeric nutrient standards could be found in DEQ-12A. In accompaniment, the department adopted circular DEQ-12B which defined a process by which temporary water quality standard variances could be implemented by point sources to meet the DEQ-12A standards over time. SB-358 directs the department to repeal circulars DEQ-12A and DEQ-12B and go back to narrative nutrient standards. Mike highlighted the main narrative nutrient standards that the department is now operating under and identified these as the same narrative nutrient standards that the department was operating under pre-2014.

Rainie provided an overview of the Nutrient Work Group, outlining the representation of the members, providing an overview of the role of the group, and defining the deliverables. A

framework for the Nutrient Work Group was defined at the beginning of the transition process. Included in the framework is the Adaptive Management Program, a new concept for Montana. The Adaptive Management Program includes Adaptive Management Plans (AMPs). Key components of AMPs include 1) Identify watersheds needing AMPs and prioritize, 2) Identify partners in the watershed, 3) Identify and quantify sources (watershed inventory), 4) Identify where reductions will occur, describe management actions, 5) Document implementation schedule and milestones, and 6) Measure progress and success. Rainie provided examples of a simple and complex AMP Watershed, highlighting the upstream and downstream monitoring locations for point sources.

Mike reviewed manifestations of excess nutrient concentrations, focusing on nuisance algal growth. It was noted everything presented in this presentation is draft. The time period for data collection and parameters analyzed would depend on whether the site is in Western MT or Eastern MT. The regions are defined by the department. For Western MT medium rivers and wadable streams, DEQ is proposing data collection to be collected annually between July 1 and September 30. Parameters for this region would include: 1) average benthic chlorophyll a, 2) average benthic ash free dry weight, 3) average percentage of stream bottom covered by filamentous algae, and 4) macroinvertebrates using the Hilsenhoff Biotic Index (HBI). For the Eastern part of the state Medium Rivers and wadable streams the proposed data collection index period would be July 1 to September 30, annually. Parameters collected in this region would include dissolved oxygen delta (daily change) as a weekly average and Biological Oxygen Demand (BOD). It is proposed by the department that for large rivers in the state, the AMPs be modeled using models such as QUAL2K. Mike highlighted key differences compared to the current permitting process and outlined a proposed timeline for the rulemaking process.

Ron Pfifer provided comments of optimism with the approach the department has taken and recognized the complexity of nutrients in aquatic ecosystems.

Amanda Knuteson commented that in the future, it could be helpful to understand some of the recent supreme court cases that may put side boards on this rulemaking process. That could perhaps be presented by DEQ or investigated by WPCAC.

Public Comment

Kelly Lynch, Deputy Director and legal counsel for Montana League for Cities and Towns, emphasized that their members do more than any other group in the state to clean up surface water. They feel they have reached a breaking point and a point of diminishing returns. Further improvements to their systems will be extremely expensive, cost prohibitive, and in many cases technologically not available. Montana League for Cities and Towns is heavily engaged with DEQ and participating members in the Nutrient Work Group. Kelly noted that the presentation today only gives one side of the story of what the work group has discussed so far. Recognizing nothing is set in stone at this point, Kelly noted a few concerns that their group has thus far. First, concern that the AMP framework will rely entirely on existing data and modeling mostly because it uses the same existing standards that the bill repealed. Second, concerned that the stream assessment model is too strict and worry that it just translates back to numeric thresholds in the permits that just cannot be met. Third, they think the AMPs should be a more

iterative process that reviews, analyzes, and prioritizes the watershed as a whole and allows flexibility to modify based on what the receiving water is doing and how it is responding to actions being taken. Kelly requested to WPCAC members to keep an open mind on how to move forward to clean Montana's waters. It was stated that the bottom line is that municipal taxpayers of Montana should not be required to bear the brunt of reducing nutrient loads, rather it is time to figure out a more holistic approach and prioritize limited resources to get the most bang for the buck.

Guy Alsentzer, Executive Director and staff attorney for Upper Missouri Waterkeeper, noted that they also serve on the Nutrient Work Group. Guy expressed concerns similar to Kelly and the League for Cities and Towns in that they do not feel that there is a constructive process being put forward. In their view, what is being put forward is not abiding by the federal mandates that the state of Montana must operate under. There are questions and concerns about how to implement this holistic approach of a watershed model. They don't feel that the full suite of tools is being looked at. So far, this really puts everything on the point sources and if we are really going to look at a watershed approach, we need to be looking at those other diffuse impacts that are typically under non-point source control. From an environmental perspective, they have serious reservations about what is being proposed. Guy reiterated Kelly's call for the members of WPCAC to keep an open mind and he also requested WPCAC members review the technical comments put forward through this process.

Adjournment

Motion to adjourn made by Jeff Mark and seconded by Ron Pifer.