

## NUTRIENT WORK GROUP MEETING SUMMARY

### May 17, 2023

9:00 a.m. – 11:00 a.m.  
Hybrid Meeting: Zoom and DEQ Room 45

#### ATTENDANCE: NUTRIENT WORK GROUP MEMBERS

Representative & Affiliation	Representing
Shannon Holmes City of Livingston	Point Source Discharger: Middle-Sized Mechanical System (<1 MGD)
Rika Lashley Morrison-Maierle	Point Source Discharger: Small Municipal Systems with Lagoons
Alan Olson Montana Petroleum Association	Point Source Discharger: Non-POTW
Matt Vincent Montana Mining Association	Mining
Guy Alsentzer Upper Missouri Waterkeeper	Environmental Advocacy Organization
Kristin Gardner Gallatin River Task Force	Conservation Organization: Local
Sarah Zuzulock Zuzulock Environmental Services	Conservation Organization: Regional
Andy Efta U.S. Forest Service, Northern Region	Federal Land Management Agencies
Tina Laidlaw U.S. Environmental Protection Agency	Federal Regulatory Agencies
Samantha Tappenbeck Flathead Conservation District	Soil and Water Conservation Districts – West of the Continental Divide
Dan Rostad Yellowstone River Conservation District Council	Soil and Water Conservation Districts – East of the Continental Divide
Scott Buecker (Kelsey Wagner substituting) AE2S	Wastewater Engineering Firms
Julia Altemus Montana Wood Products Association	Timber Industry

#### NOT IN ATTENDANCE: NUTRIENT WORK GROUP MEMBERS

Representative & Affiliation	Representing
Louis Engels City of Billings	Point Source Discharger: Large Municipal Systems (>1 MGD)
Jeff Schmalenberg Department of Natural Resources and Conservation	State Land Management Agencies
Rachel Cone Montana Farm Bureau	Farming-Oriented Agriculture

<b>Representative &amp; Affiliation</b>	<b>Representing</b>
Raylee Honeycutt Montana Stockgrowers Association	Livestock-Oriented Agriculture
Kelly Lynch Montana League of Cities and Towns	Municipalities
David Brooks Montana Trout Unlimited	Conservation Organization: Statewide
Pete Cardinal Pete Cardinal Outfitters	Water or Fishing-Based Recreation
Nick Banish Gallatin Local Water Quality District	County Water Quality Districts or Planning Departments

## ATTENDANCE: OTHER PARTICIPANTS

Aaron Losing  
 Amelia Flanery, DEQ, Surface Water Discharge Permitting  
 Andy Ulven, DEQ, Water Quality Planning Bureau Chief  
 Brian Heaston, City of Bozeman  
 Casey Lewis, Flathead Basin Commission Executive Director  
 Christina Staten, DEQ, Watershed Management Section  
 Christine Weaver, DEQ, MPDES Permitting  
 Christopher Dorrington, DEQ, Director  
 Claire Utzman  
 Darrin Kron, DEQ, Monitoring and Assessment Section Supervisor  
 Dave Clark, HDR  
 Dave Galt, Montana Petroleum Association Executive Director  
 Ed Coleman, City of Helena  
 Eric Sivers, DEQ, Water Quality Planning Bureau  
 Erik Makus, EPA, Federal Regulatory Agency  
 E Koehler  
 George Fink  
 Hannah New, DEQ, Water Quality Permit Writer  
 Heather Henry, DEQ, Water Quality Permit Writer  
 Jack  
 Jana Purdy  
 Jason Fladland  
 Jason Mohr  
 Jeff May, DEQ, Water Quality Permit Writer  
 Jeremy Perlinski  
 Joanna McLaughlin, DEQ, Water Quality Permit Writer  
 Joe Lierow, ExxonMobil Billings Refinery  
 John Esp, Montana State Senator  
 Katie Makarowski, DEQ, Standards and Modeling Section Supervisor  
 Kristi Kline, Montana Rural Water Systems  
 Kurt Moser, DEQ, Legal Counsel  
 Kyle Milke, DEQ, Adaptive Management Program Scientist  
 K Hendrickson  
 Lindsey Krywaruchka, DEQ, Water Quality Division Administrator

Logan McInnis, City of Missoula  
Mary Godfrey, DEQ, Program Support Specialist  
Matte Wolfe, Sibanye Stillwater  
Michael Kasch, HDR  
Michael Suplee, DEQ, Water Quality Standards and Modeling  
Moirra Davin, DEQ, Public Information Officer  
Paul Yakawich  
Peggy Trenk, Treasure State Resources Association  
Peter Scott  
Rickey Schultz, HDR Engineering  
Sam Sill  
Scott Mason  
Shawn Kohtz, City of Bozeman  
Tatiana Davila, DEQ, Water Protection Bureau Chief  
Vic Watson, University of Montana Watershed Clinic  
Vicki Marquis, Holland and Hart

## **MEETING PURPOSE / OBJECTIVES**

Meeting Goal: Discuss remaining tasks and give an approximate timeline for completion. Determine future meeting schedule.

### **Draft Rules, Circular and Guidance Updates**

- Topics to Refine
  - Approximate timeline
  - Tools for permittees

### **Future Nutrient Work Group Meetings**

- Schedule
- List of Future Topics
  - How to select approvable nonpoint source projects/best management practices
  - Eligibility requirements and how to determine when to submit the Adaptive Management Program
  - DEQ resources and costs
  - Incentives

## **MEETING HIGHLIGHTS / DECISIONS MADE**

- DEQ intends to initiate rulemaking in the fall
- Meetings will cover remaining topics
- DEQ will make modifications for more clarity to rule, circular, and guidance
- Future meeting schedule
  - Wednesday June 14, 2023 9 – 11 a.m.
  - Thursday July 20, 2023 9 – 11 a.m.
  - Wednesday August 16, 2023 9 – 11 a.m.
  - Thursday September 14, 2023 9 – 11 a.m.

## MEETING INITIATION

Moira Davin, DEQ Public Information Officer and meeting facilitator, welcomed everyone to the meeting at 9:06 a.m. Moira Davin went over meeting logistics (slide 2, **Attachment A**), the meeting agenda (slide 3, **Attachment A**), and took a roll call of Nutrient Work Group (NWG) members present either via Zoom or in Room 45 of the DEQ Metcalf Building in Helena (slide 4, **Attachment A**). Moira Davin then informed the Nutrient Work Group of DEQ staff updates (slides 6 and 7, **Attachment A**).

Tatiana Davila, DEQ, Water Protection Bureau Chief, introduced herself and shared her background with the Nutrient Work Group.

Moira Davin handed it over to Chris Dorrington, DEQ Director, to discuss the path forward (slide 5, **Attachment A**). Chris Dorrington mentioned that the Nutrient Work Group has been working for two years to implement narrative nutrient standards and an Adaptive Management Program. He thanked the Nutrient Work Group members for their continued participation and constructive feedback. Chris Dorrington reminded everyone that the objective of the Nutrient Work Group is to get to the narrative nutrient standards that Senate Bill 358 told us to, it is essential we conduct our work with that end in mind. DEQ is proposing to initiate rulemaking in November 2023. Chris Dorrington stated there is still work to do throughout the summer months and DEQ is actively incorporating Nutrient Work Group member feedback. DEQ intends to keep meeting monthly with the Nutrient Work Group and having one-on-one meetings.

Moira Davin asked if there were any questions. There were no questions or comments.

## KEY POINTS

Moira Davin covered some key points (slide 8, **Attachment A**). She stated that DEQ intends to initiate rulemaking in the fall. DEQ recognizes that modifications are needed for more clarity in the Rule, Circular, and Guidance documents. DEQ has met with dischargers and environmental advocacy groups throughout the state to talk through the process and received constructive feedback. Moira Davin also mentioned that the Adaptive Management Program is just one tool in the toolbox (variances, traditional compliance schedules, and meeting the limit), allowing for flexibility.

Moira Davin asked if there were any questions about the key points. Lindsey Krywaruchka, DEQ, Water Quality Division Administrator, asked if there is a way to share with folks what happened at previous meetings as not everyone has been able to attend due to the legislative session. Moira Davin and Kyle Milke, DEQ Adaptive Management Program Scientist, mentioned that the presentations and summaries are available on the Nutrient Work Group webpage.

Matt Vincent, Montana Mining Association, asked how does the process the Nutrient Work Group is going through with narrative standards fit in with the triennial review of water quality standards? Moira Davin stated that the triennial review is a review of the state's water quality standards every three years, it is occurring at the same time but separate from that process. The triennial review is open for public comment now.

## **DRAFT RULES, CIRCULAR AND GUIDANCE UPDATES**

Moira Davin presented the list of remaining topics (slides 9, 10, 11, and 12, **Attachment A**). Moira Davin stated that DEQ has received feedback from a number of the Nutrient Work Group members, and so we have assembled a list of remaining tasks that need to be refined.

Moira Davin asked if there were any questions, there were none.

## **FUTURE NUTRIENT WORK GROUP MEETINGS**

Moira Davin presented the proposed dates for the future Nutrient Work Group meetings (slides 13 and 14, **Attachment A**). Moira Davin noted that DEQ intends to keep meeting monthly, and for the next four months the meetings are either on a Wednesday or Thursday. Moira Davin then took questions.

Alan Olson, Montana Petroleum Association, stated that the June 14<sup>th</sup> date is not going to work for him or Peggy Trenk, Treasure State Resources Association. Moira Davin stated that DEQ will try to look at schedules and see if there is a way to move the meeting. Moira Davin then asked if there was anyone that knew of conferences or activities going on the week of June 14<sup>th</sup> that will make attendance difficult? No comments.

Moira Davin said that DEQ will get the dates sent out to the Nutrient Work Group listserv after taking a look at the June dates and asked that everybody please get the dates on their calendars once the list of future meeting is sent out.

## **LIST OF FUTURE TOPICS**

Moira Davin presented the list of future topics (slide 15, **Attachment A**). Rika Lashley, Morrison-Maierle, stated that one of the issues is who pays for the sampling efforts in smaller communities. Rika Lashley asked if there is a place for DEQ to do the sampling, or would that be on the community? Chris Dorrington stated that DEQ does not see the state agency providing funding for local sampling at this point, most likely the community will have to figure out a source of funding.

Rika Lashley said that she was thinking of phosphorus prioritization, is that done by DEQ or the community? Mike Suplee, DEQ Water Quality Standards and Modeling, stated that would fall to the community with the way this program has been structured. Tina Laidlaw, U.S. Environmental Protection Agency, mentioned that DEQ is looking at variances for smaller systems. Rika Lashley said that would probably be the preferred route for smaller communities and that will definitely play into their decision making.

Dave Galt, Montana Petroleum Association Executive Director, asked if there is a standard protocol for taking these samples? Darrin Kron, DEQ Monitoring and Assessment Section Supervisor, stated that DEQ has many standard operating procedures and will be giving guidance, in addition to DEQ staff going out and conducting trainings. Mike Suplee stated that macroinvertebrates have been collected the same way for almost twenty years now, it is a well established procedure.

Sarah Zuzulock, Zuzulock Environmental Services, asked if the group could get some insight on when there would be revised response variable data for macroinvertebrates and delta DO? Sarah Zuzulock also asked if this would be put in guidance for review?

Mike Suplee, stated that the delta DO analysis started in November 2022, and is peer review and DEQ management review, so it is almost complete. Mike Suplee stated that the macroinvertebrates contractor is underway and that work should be done around mid-summer, maybe late August. He also mentioned that DEQ will be rolling these two metrics out together as a topic in a future Nutrient Work Group Meeting. There will be some modifications to Circular DEQ-15 to incorporate this work.

Sarah Zuzulock asked if those new pieces of information are going to affect how the ecoregional ranges are applied? Mike Suplee stated that will most likely not be the case, but we have to wait for the data to come in.

## **PUBLIC COMMENT**

Moira Davin then opened the meeting up for public comment (slides 16 and 17, **Attachment A**).

John Esp, Montana State Senator, asked for clarification on where the meeting presentations and summaries are posted. Kyle Milke posted a link to the Nutrient Work Group webpage in the meeting chat.

Claire Utzman asked how DEQ is going to financially cover funding for sampling in smaller communities like Deer Lodge and how will they maintain compliance with the narrative standards if they don't have the money? Chris Dorrington stated that when Senate Bill 358 was implemented it was a watershed approach, so it is on the point sources and nonpoint sources to improve the water quality. The state is not funded to make this happen. Communities and other groups are going to have to get together and pool funds.

Alan Olson asked how many watersheds have completed TMDLs? Darrin Kron stated that total across the state we have 1,415 TMDLs. Almost all TMDLs that are needed to address impairment listings in the Columbia River basin are already listed. Mike Suplee said that specific to Deer Lodge and the Clark Fork River, the Clark Fork River has its own standards and it doesn't necessarily operate under the narrative standard.

Shannon Holmes, City of Livingston, stated in the meeting chat that smaller dischargers are really struggling on how to budget/set rates for the work required by the Adaptive Management Program. He asked if there was any advice on how to do this from a budget perspective? Chris Dorrington said to look at this holistically, the state is also dealing with lead and copper and emerging contaminants. The communities are not just affected by this narrative process, take a multi-year/multi-perspective look and plan for that accordingly.

Andy Ulven, DEQ Water Quality Planning Bureau Chief, stated that the Adaptive Management Program is not going to be a one size fits all. That determination will be best made by talking to someone like Kyle Milke and the department can consult and advise individual communities as they are going through this process.

Peggy Trenk stated that based off of Director Dorrington's comment, that the list of remaining topics is very substantive, it is kind of hard to comment on it, however they do see some things from their comment letters on that list, thank you.

Brian Heaston, City of Bozeman, posted in the Q&A that guidance for establishing nutrient permit limits should be a future topic. In addition, he also mentioned that distinction between design performance and consideration for not being trapped by anti-backsliding for growing communities should be a future topics. Moira Davin added these to the list of the future meeting topics.

Moira Davin presented the meeting summary (slide 18, **Attachment A**). Moira Davin stated that DEQ has the intention to initiate rulemaking in the fall. The Nutrient Work Group will continue to meet monthly covering the remaining topics. Lastly, she mentioned that DEQ will be making modification for more clarity to the Rule, Circular, and Guidance.

Moira Davin thanked everyone for joining and informed them they can reach out to Kyle Milke if they have any specific comments or questions.

Meeting ended at 9:58 a.m.

## **ATTACHMENT A: MARCH 17, 2023 NUTRIENT WORK GROUP MEETING PRESENTATION SLIDES**





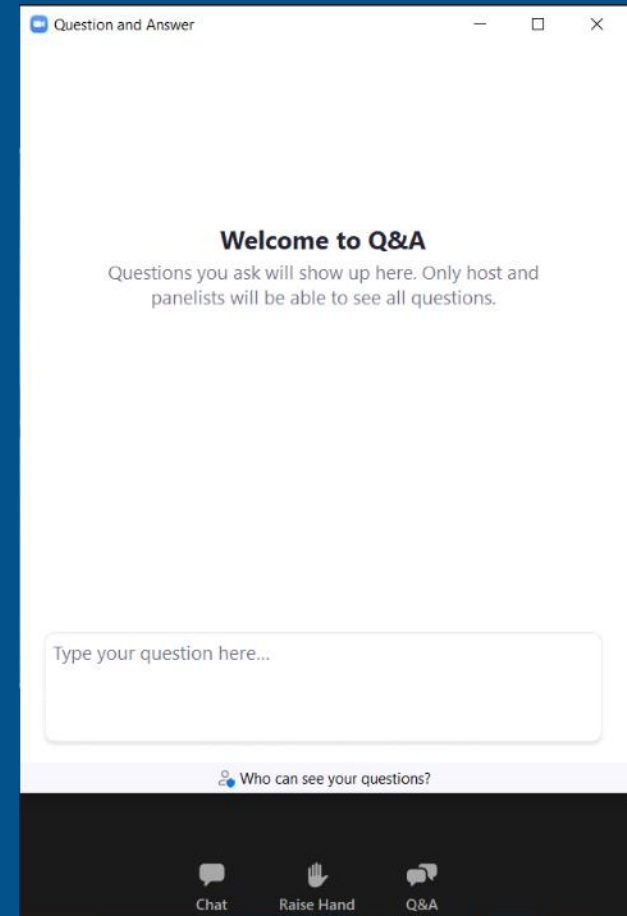
# Nutrient Work Group

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May 17, 2023

# Welcome!

- This meeting is a webinar
- NWG 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



Unmute

Chat

Raise Hand

Q&A

Leave

# Agenda

Meeting Goal: Discuss remaining tasks and give an approximate timeline for completion. Determine future meeting schedule.

## **Preliminaries**

- Nutrient Work Group Roll Call

## **DEQ Updates**

- Staff Updates

## **Draft Rules, Circular and Guidance Updates**

- Topics to Refine
  - Approximate timeline
  - Tools for permittees

## **Future NWG Meetings**

- Schedule
- List of Future Topics

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

- Public Comment

# Roll Call

## Nutrient Work Group Members

Interest Group	Representative	Substitute
Point Source Discharger: Large Municipal Systems (>1 MGD)	Louis Engels	
Point Source Discharger: Middle-Sized Mechanical Systems (<1 MGD)	Shannon Holmes	
Point Source Discharger: Small Municipal Systems with Lagoons	Rika Lashley	
Point Source Discharger: Non-POTW	Alan Olson	
Municipalities	Kelly Lynch	
Mining	Matt Vincent	
Farming-Oriented Agriculture	Rachel Cone	
Livestock-Oriented Agriculture	Raylee Honeycutt	
Conservation Organization - Local	Kristin Gardner	
Conservation Organization – Regional	Sarah Zuzulock	
Conservation Organization – Statewide	David Brooks	
Environmental Advocacy Organization	Guy Alsentzer	
Water or Fishing-Based Recreation	Pete Cardinal	
Federal Land Management Agencies	Andy Efta	
Federal Regulatory Agencies	Tina Laidlaw	
State Land Management Agencies	Jeff Schmalenberg	None
Water Quality Districts / County Planning Departments	Nick Banish	
Soil & Water Conservation Districts – West of the Continental Divide	Samantha Tappenbeck	
Soil & Water Conservation Districts – East of the Continental Divide	Dan Rostad	
Wastewater Engineering Firms	Scott Buecker	
Timber Industry	Julia Altemus	



# Message from Director Dorrington



# DEQ Updates

# DEQ Updates

- Staff Updates

# Key Points

- DEQ intends to initiate rulemaking in the fall
- DEQ recognizes modifications are needed for more clarity in the Rule, Circular, and Guidance documents
- DEQ has met with dischargers and environmental advocacy groups throughout the state to talk through the process and received constructive feedback
- AMP is just one tool in the toolbox, allowing for flexibility
  - Variance
  - Traditional Compliance Schedule
  - Meeting the limit





# Draft Rules, Circular and Guidance Document Updates

# Remaining Actions

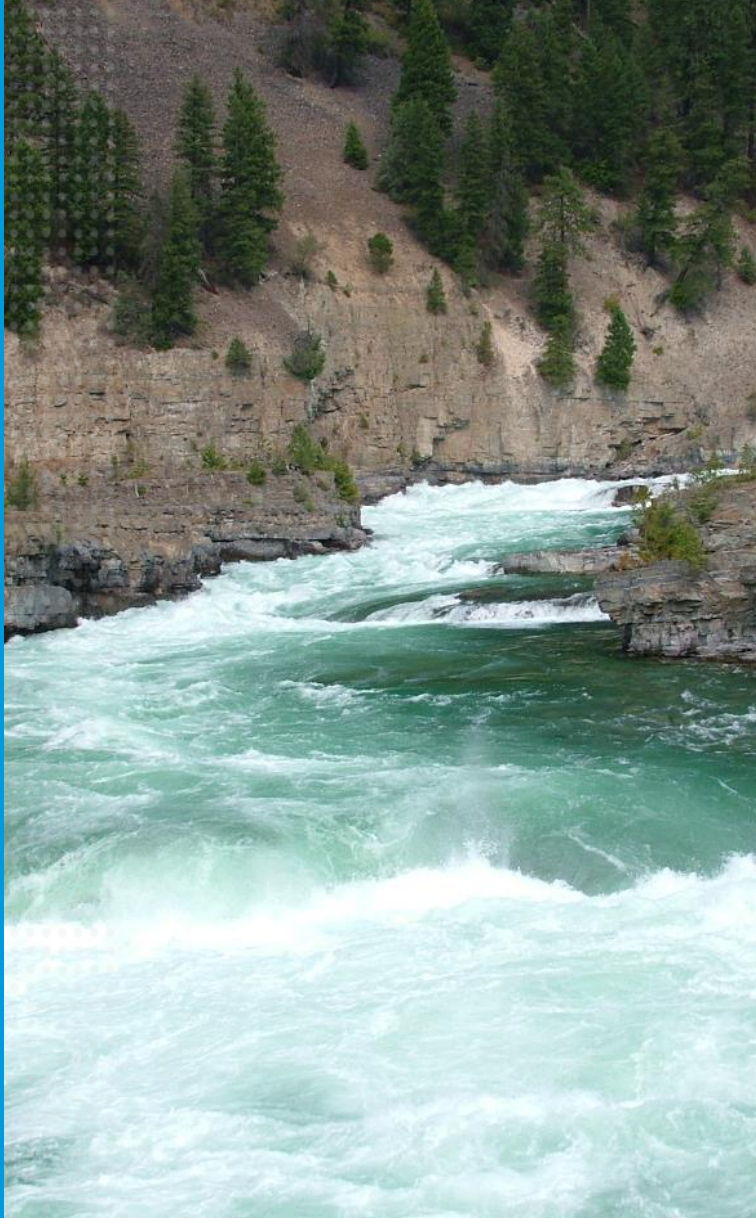
- Incorporate interim permit limits and compliance schedules into the AMP
- Define point of compliance; incorporate downstream protections and lake/reservoir considerations
- Finalize response variable thresholds for DO  $\Delta$  and macroinvertebrate metrics
- Describe options for addressing nitrogen while prioritizing phosphorus
- Clarify:
  - multiple options for achieving compliance (AMP, compliance schedule, variances)
  - most opportunities to pursue nutrient reductions to achieve compliance occur at facility or upstream; downstream reductions are less likely outside of trading
  - application of ecoregional ranges for TN and TP and process for selecting a permit limit from the range of values

# Remaining Actions (Cont'd)

- Refine and finalize Rule, Circular, and Guidance documents
- Distinguish between required vs. voluntary monitoring; clarify how various data will be applied to decision-making
- Finalize Reasonable Potential Analysis Guidance document
- Develop:
  - AMP training strategy
  - Variance for lagoons
  - Fee structure
- Specify procedures and mandatory requirements for AMP application/submittal and reporting
- Compile technical resources for permittees on DEQ website

# Remaining Actions (Cont'd)

- Repeal DEQ-12A
- Modify nondegradation rule to return to narrative nutrient standard interpretation
- Updates/changes to AMPs
- Permit reopener language



# Future NWG Meetings

# Tentative Schedule

- Wednesday June 14, 2023 9:00 a.m. - 11:00 a.m.
- Thursday July 20, 2023 9:00 a.m. - 11:00 a.m.
- Wednesday August 16, 2023 9:00 a.m. - 11:00 a.m.
- Thursday September 14, 2023 9:00 a.m. - 11:00 a.m.



# Future Topics

- How to select approvable nonpoint source projects/BMPs
- Eligibility requirements and how to determine when to submit the AMP
- DEQ resources and costs
- Incentives
- Interim permit limits
- Training strategy
- Fee structure
- Updates on remaining tasks and document revisions

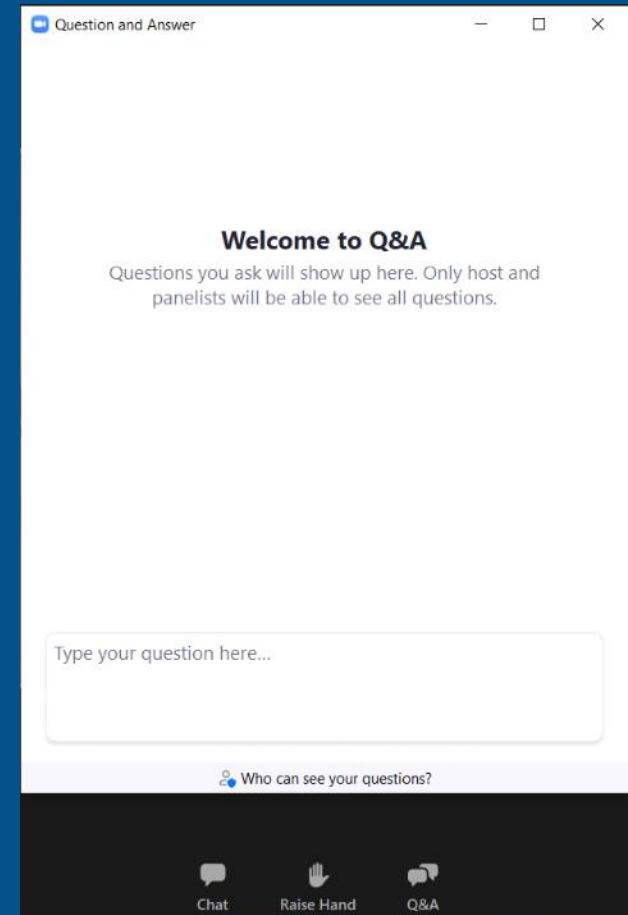


# PUBLIC COMMENT



# Questions/ Comments

- Raise hand (\*9 if on the phone) or type questions into the Q&A
- DEQ will unmute you if you wish to provide your comment orally
- If calling by phone, press \*6 to unmute
- State your name and affiliation before providing your comment



# Meeting Summary

- Intention to initiate rulemaking in the fall
- Meeting monthly
- Meetings will cover remaining topics
- DEQ will make modifications for more clarity to rule, circular and guidance

# Thanks for Joining Us

Contact:

Kyle Milke

[kyle.milke@mt.gov](mailto:kyle.milke@mt.gov)

To submit comments or questions



<https://deq.mt.gov/water/Councils>

