



January 25, 2024

TO: Members of the Water Pollution Control Advisory Council & the public
FROM: Katie Makarowski, Montana DEQ, Standards and Modeling Section Supervisor
MEETING DATE: January 26, 2024
SUBJECT: Rules to Implement Senate Bill 358 and § 75-5-321, MCA: Narrative Nutrient Standards and the Adaptive Management Program

ACTION REQUIRED BY COUNCIL:

Briefing item

BACKGROUND:

The department presented at the December 13, 2023 meeting our proposal for rulemaking related to narrative nutrient standards and the Adaptive Management Program to implement Senate Bill 358 and §75-5-321, MCA. The department will present an updated rulemaking timeline and, upon WPCAC members' request, will overview changes made to associated rulemaking materials since they were provided to WPCAC on December 5, 2023.

Overview of changes made to narrative nutrient proposed rulemaking package since the department provided WPCAC with materials on 12/5/23 and presented 12/13/23:

- In ARM 17.30.715(1)(c), removed proposed additional language, "except as specified in (1)(d)". This change, intended to improve clarity, is unrelated to this rulemaking package and therefore was removed from this proposal notice; will revisit this cleanup in a future rulemaking related to nondegradation rules or water quality standards triennial review.
- In ARM 17.30.516(3)(b), changed "or 25 percent of the seasonal 14Q5 for nutrients, total nitrogen, and total phosphorus" to "or 100 percent of the seasonal 14Q5 for nutrients, total nitrogen, and total phosphorus". This change corrects a typographical error made by the department when developing this language in the proposal notice to be consistent with how the department previously and currently applies 14Q5 in dilution calculations.
- In Circular DEQ-15, added sentence to Part I, page 3 to clarify applicability of narrative nutrient standards translators: "Translators here in Part I do not apply to ephemeral waterbodies, but they do apply to intermittent and perennial waterbodies."

(continued on next page)

- In Circular DEQ-15, removed row from Table 4-1 pertaining to the aquatic life use for large rivers as further work (e.g., modeling) will be necessary to identify and adopt appropriate causal variable and response variable (DO delta) thresholds for large river segments not specified in Table 4-1; also modified the accompanying narrative language in the paragraph preceding and following Table 4-1 to clarify further the applicability of the large river translator in Table 4-1.
- In Circular DEQ-15, updated two text boxes in Figure 1-1 (process diagram) to improve clarity that 1) the Adaptive Management Program is a compliance option with interim limits and 2) that final targets will be calculated using ecoregion range values.
- In Circular DEQ-15 and guidance, clarified that natural background is to be used to evaluate potential effects of specific conductance on Beck's Biotic Index scores (Section 2.3.3).

RECOMMENDATION:

Briefing item only

Please contact us with any questions:

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Attachments: none