Nutrient Work Group Update

September 22, 2023

DEQ MONTANA

Overview

- Nutrient WG meetings, our goal, and the need for conclusion
- August meeting – AMP and NPS BMPs
- September meeting – Rulemaking Timeline and Updated Draft Rules
- Incorporation of Feedback - Updated Circular DEQ-15 and Guidance Soon

August: AMP and NPS BMPs

- Adaptive Management Program entry & eligibility
- Singular AMP template
- Annual reporting
- Choosing appropriate NPS BMPs

NPS BMPs: Assurance is in the Stream

- Projects proposed for NPS implementation in an AMP must identify BMPs, project site factors, agreements, and estimated load reductions.
- Achieving nutrient reductions must be demonstrated through in-stream data collection efforts and reported via annual reporting.
- If milestones are not met/expected reductions are not achieved, AMP eligibility could be reconsidered.

Resources

- Appendix A of DEQ's NPS Management Plan
- Agricultural BMPs
  - DEQ NPS Management Plan
  - NRCS MT Field Office Technical Guide
  - Nutrient Management Plan – NRCS
  - Best Management Practices to Minimize Agricultural Phosphorous Impacts on Water Quality
- Montana Forestry BMPs (DNRC)
- Construction Stormwater BMPs (DEQ)
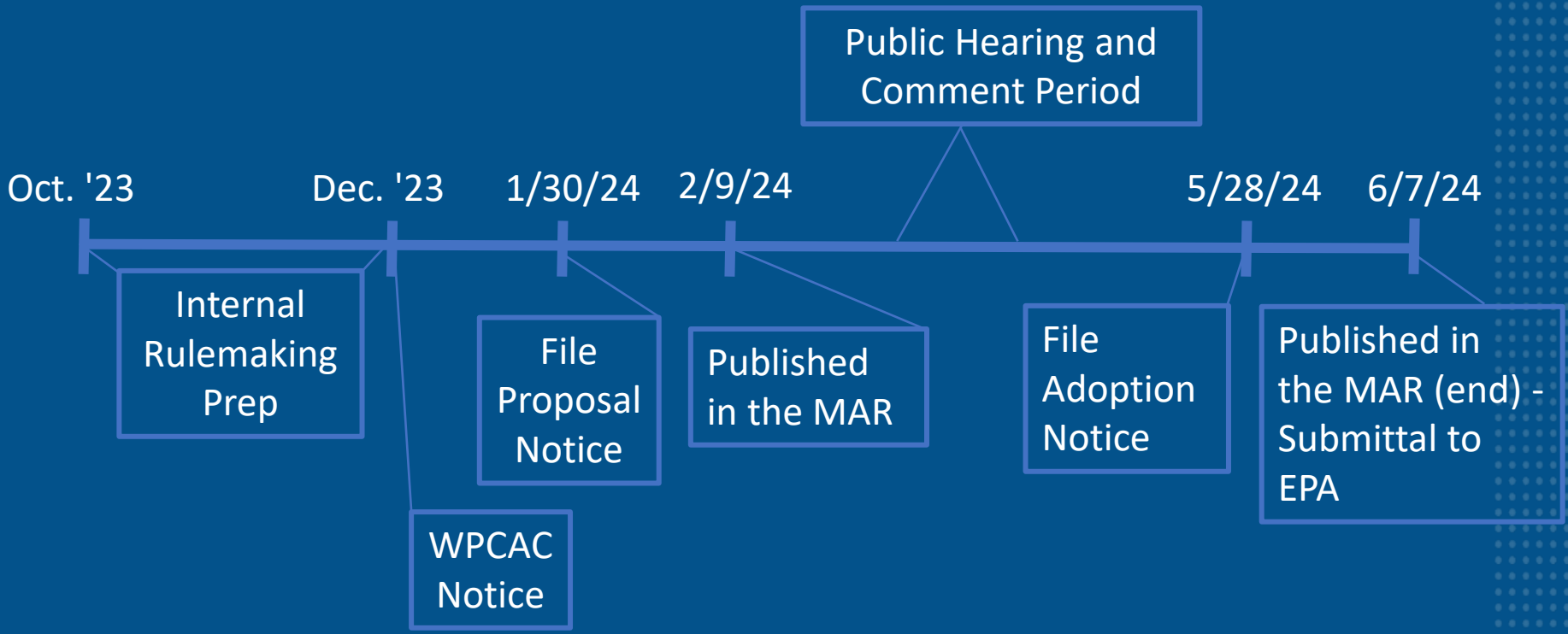- CAFO Nutrient Management Plan - Nine Minimum Practices

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September Meeting: Rulemaking Updates

Draft Document Roll-Out

- Draft rules provided prior to meeting (available online)
- Updated draft Circular DEQ-15 will be released shortly after the October 16, 2023 NWG meeting
- Updated draft guidance will be released prior to the November 16, 2023 NWG meeting

Rulemaking Overview & Timeline

Public Hearing and Comment Period

Oct. '23　　Dec. '23　　1/30/24　　2/9/24　　5/28/24　　6/7/24

Internal Rulemaking Prep

WPCAC Notice

File Proposal Notice

Published in the MAR

File Adoption Notice

Published in the MAR (end) - Submittal to EPA

ARM Modifications

ARM	Rule Name	Type of Change	Nature of Change
17.30.1388	Development of an Adaptive Management Program & Implementing Narrative Nutrient Standards	Repeal	SB358 prompted rule package
17.30.6xx or 17.30.13xx	Translation of Narrative Nutrient Standards	Adopt	New Rule I
17.30.13xx	Implementation of the Adaptive Management Program		New Rule II
17.30.602, 17.30.702, 17.30.1304	Definitions	Modify	Refine and add definitions, as needed (e.g., adaptive management program, adaptive management plan); Remove references to "DEQ-12A"
17.30.7XX	Nondegradation of water quality		Reflect transition to narrative nutrient standards; Remove references to "DEQ-12A"

ARM Modifications

ARM	Rule Name	Type of Change	Nature of Change
17.30.507	Specific Restrictions for Surface Water Mixing Zones	Modify	Remove reference to "DEQ-12A"
17.30.516	Standard Mixing Zones for Surface Water		
17.30.619	Incorporations by Reference		
17.30.622	A-1 Classification Standards		
17.30.623	B-1 Classification Standards		
17.30.624	B-2 Classification Standards		
17.30.625	B-3 Classification Standards		
17.30.626	C-1 Classification Standards		
17.30.627	C-2 Classification Standards		
17.30.628	I Classification Standards		
17.30.629	C-3 Classification Standards		
17.30.201	Permit Application, Degradation Authorization, and Annual Permit Fees	Modify	Add AMP fee structure

Updated Rules

Two rules address two components:

- New Rule I. Translation of Narrative Nutrient Standards
- New Rule II. Implementation of the Adaptive Management Program

Splitting into two rules for clarity and efficiency

- Administrative Rules of Montana (ARMs) are applied by various DEQ programs
- New rules will be adopted into appropriate subchapters of water quality chapter of ARM (17.30)

- Sections of Circular DEQ-15 will correspond to each rule

Upcoming Meeting Schedule

- October 16, 2023 9 – 11:00 a.m.
  - Overview of the translation of narrative nutrient standards
  - Overview of the implementation of the adaptive management program with permitting examples
  - Update on Circular DEQ-15
- November 14, 2023 9 – 11:00 a.m.
  - Rule package document revisions (clarifications based on feedback)
  - Fee structure
  - Budgeting and costs
    - List of items for consideration
    - Budgetary planning
  - Training program

Incorporation of Feedback