# Nutrient Trading/Offset Work Group Meeting

## May 21, 2026, 8:30 a.m. – 12:30 p.m.

## 2401 Colonial Dr. Helena, MT 59601

## Wilderness Room

**Join via Zoom:**

Zoom Link

**Dial by Phone:** 1 (206) 337-9723, **Webinar ID:** 849 0890 9550

**Relevant Documents**

- HB736
- Circular DEQ-13
- ARM 17.30.1701

**Preliminaries**

- Agenda
- Roll Call
    - Clayton Elliott, Conservation, recreation
    - Greg Bryce, Industrial point sources
    - Sarah Zuzulock, Conservation
    - Shawn Kohtz, Public point sources
    - Kyle Milke, DEQ
    - Hannah New, DEQ
    - Hannah Riedl, DEQ
    - Eric Sivers, DEQ
- Approve March 17 and April 16, 2026 meeting minutes and share any post-meeting thoughts or ideas
    - Clayton E. moved to approve April minutes; Shawn K. seconded. Sarah Z. and Greg B. concurred that they reviewed and had no changes.

Kyle M. - Welcome and table setting.

**Review proposed updates to DEQ-13**

- Hannah R. walked through ongoing updates to Circular DEQ-13.

- Planned revisions to load reduction guide: improved guidance for determining contributing portion of pasture for livestock deposition model.
- Want to update load reduction guide in tandem with circular update, so that the updates will be captured in DEQ-13, particularly those related to the four legislatively directed BMPs.
    - Shawn K. – Wondered about limiting the circular load reduction updates to the four BMPs. Mentioned a municipality that didn't feel they were sufficiently credited for taking septic systems offline but wasn't certain of the specific shortcomings with the MEANNS model. Will follow up with the municipality in question for details.
- Striking mentions of numeric nutrient standards, and references to methods used by other states. These pre-dated Montana's load reduction guide. The current circular also pre-dated Appendix A of the NPS Management Plan, which is a list of BMPs, so other state BMPs is proposed for deletion as well.
- The revised Circular DEQ-13 Appendix A will include the MEANNS method and calculations for nutrient load reductions from septic system. It includes the current state of the riparian fencing method, which needs further discussion with this group.
    - Sarah Z. – Are there different load reductions for different types of septic systems? Hannah R.: yes. The table shown is based on conventional systems, but the values in the column change for different types of treatment.

**Topics from April 16th to revisit**

- Greg B. - The process to implement in an MPDES permit was to go in line with a renewal or modification, but both Greg B. and Shawn K. felt having a separate path for the application was beneficial. Was there any movement on that? Hannah N. incorporated those proposed changes, but thought we were going to revisit that topic in a future discussion.
- Kyle M. walked through antibacksliding/antidegradation language in EPA's Water Quality Trading Policy
    - Antibacksliding and WQ trading policy
        - Sarah Z. asked for clarity about the discontinuation clause related to a point source discharger who had been generating credits.
    - Antidegradation and WQ trading policy
        - Greg B. and Shawn K. expressed concern that the impairment of designated use language could restrict any downstream activity. Sarah Z. asked if there is a definition of impairment in CWA or WQA. WQA doesn't define impairment, but does define impaired waterbody.
- Baseline
    - Kyle M. walked through baseline for nonpoint sources when there is a TMDL in place
        - For point source if there's a TMDL, it's the WLA, without a TMDL, it's the WQBEL. For nonpoint sources with a TMDL, it's the load allocation. Without a TMDL, its existing conditions so long as management practices comply with applicable regulations.

        - A NPS needs to meet its LA before it can generate credits for trade. Greg B. asked for clarity on numbers used in the example – how realistic are they, and does the LA requirement make it so that trading isn't worthwhile in TMDL watersheds? Greg B. is concerned that TMDL implementation is voluntary for NPS and that this requirement could limit nutrient reduction. Hannah R. highlighted that not including this baseline definition creates risk for the permit. Greg B. accepted that, but reiterated the view that this further limits a limited number of opportunities. Shawn asked for clarity about how the (hypothetical) 10% reduction in the LA is applied- project scale or whole watershed? Hannah clarified that the 10% reduction would be applied to the project. Eric R. commented on the history of the baseline concept. EPA guidance required that the full watershed meets the load allocation before trades are approvable. DEQ pushed back on that during the original DEQ-13 development and carved out space for trades so long as the credit generating location was meeting the LA.
        - Following the discussion, there was support for DEQ's proposed addition on baseline to the circular.
- Trading Ratio
    - How to square "net decrease" with 100% credit? DEQ proposes to plug in the proposed language into the current circular language with the concept of an "improvement ratio". Shawn K. clarified that an improvement ratio is a reduction in the 100% credit and wondered if the 10% reduction is necessary if the 100% reduction could be shown easily with monitoring the discharge. Hannah R. agreed but pointed out that if there's just a handoff of the load from one discharger to the other, there's no net benefit to the watershed, just a change in location of the load. Eric R. pointed out that the reduction necessary to meet the WLA cannot be part of the trade because baseline isn't met. Example: a discharger achieves a 12 pound reduction, 2 pounds was necessary to meet the WLA, resulting in 10 pounds reduction below baseline. Discussion over whether 10 pounds or 9 pounds available for trading once baseline is met. Eric R. agrees that the 10 pounds is available for trading, minus the 10% net improvement ratio. Eric R. will review the EPA guidance language and all agreed on need for more discussion.

**Verification flow diagram**

- Kyle M. walked through flow diagrams for the verification process. Greg B. raised concerns about site-specific modeling, given previous concerns over difficulty of monitoring certain types of projects. Kyle M. gave an example of verification monitoring: pre-project and post-project monitoring of a bank stabilization project. Kyle M. highlighted the "(if applicable)" parenthetical and the type of monitoring that would be appropriate for each type of reduction project. That might be visual inspection, not necessarily WQ monitoring and sampling. The concept of instream monitoring and subsequent modeling to identify potential for increased credit was discussed but needs further thought before additional discussion. In response to Sarah's question, Hannah N said that an increased credit would be applied during a permit renewal or modification.

**Example credit scenarios**

- Nutrient load reductions from riparian vegetation programs
    - Hannah R. presented on EPA's Pollutant Load Estimation Tool (PLET) and provided a live demonstration of the tool. She will proceed with incorporating its use into the circular.
- Revisiting riparian fencing formula
    - HB736 directs DEQ to use footage of stream, but the livestock deposition formula doesn't incorporate that metric. A proposed method starts with identifying the contributing area of the total pasture and calculating the fraction of contributing pasture (footage of contributing stream x average width of contributing pasture / footage of stream x average width of total pasture = area of contributing pasture / total area of pasture). This metric uses stream footage in the calculation and can be used in PLET. DEQ will develop more guidance on how to determine this.

**Other changes required for successful implementation**

- Shawn K. asked for clarity on this revision: to the restriction on trades that would exceed the "nutrient load allocations ~~a cap~~ established under a TMDL."
- Changes to III.2. Nutrient loads must not exceed the total load imposed by the TMDL. Also removing references to specific phased TMDLs since there may be more in the future. Greg B. raised concerns about subsequent phases of TMDLs that might impact existing trades.
- Duration of credits, uniform terminology surrounding septic systems and synonyms, boundaries of HUC12,
- HB736 4(c) language – DEQ shall use methodologies pursuant to the statute unless there is clear and convincing evidence that the nutrient loading would be substantially different from that determined by the established methodologies. Greg B. argued that (c) comes into play when site specific considerations require the applicant to propose something else that works for that situation. Shawn felt the proposed language didn't quite capture the need to consider site-specific data in those circumstances. Clayton E. wondered about use of clear and convincing standard rather than preponderance in the statute. The group felt that if (b) can stand for itself, the restrictions in (c) are less concerning. The group wants a chance to review the language provided by DEQ legal to address (c) more closely.

**Overview of topics for the next meeting**

- Group agreed on a single meeting in July. (July 9th in Bozeman). To include a project tour.

**Public questions and comments**

None