

NUTRIENT WORK GROUP MEETING SUMMARY

JANUARY 12, 2022

9:00 a.m.

Hybrid Meeting: Zoom and DEQ Room 111

ATTENDANCE: NUTRIENT WORK GROUP MEMBERS

Representative & Affiliation	Representing
Louis Engels City of Billings	Point Source Discharger: Large Municipal Systems (>1 MGD)
Shannon Holmes City of Livingston	Point Source Discharger: Middle-Sized Mechanical Systems (<1 MGD)
Rika Lashley Morrison-Maeirle	Point Source Discharger: Small Municipal Systems with Lagoons
David Galt (sub. for Alan Olson) Montana Petroleum Association	Point Source Discharger: Non-POTW
Kelly Lynch Montana League of Cities and Towns	Municipalities
Pete Schade Lewis and Clark County Water Quality Protection District	County Water Quality Districts or Planning Departments
Tammy Johnson Montana Mining Association	Mining
Rachel Cone (sub. for John Youngberg) Montana Farm Bureau	Farming-Oriented Agriculture
Kristin Gardner Gallatin River Task Force	Conservation Organization: Local
Sarah Zuzulock Zuzulock Environmental Services	Conservation Organization: Regional
David Brooks Montana Trout Unlimited	Conservation Organization: Statewide
Guy Alsentzer Upper Missouri Waterkeeper	Environmental Advocacy Organization
Guy Alsentzer (sub. for Wade Fellin) Upper Missouri Waterkeeper	Water or Fishing-Based Recreation
Jeff Schmalenberg MT Dept. of Natural Resources and Conservation	State Land Management Agencies
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

Representative & Affiliation	Representing
Dan Rostad Yellowstone Conservation District Council	Soil and Water Conservation Districts – East of the Continental Divide
Julia Altemus Montana Wood Products Association	Timber Industry
Scott Buecker AE2S	Wastewater Engineering Firms

NOT IN ATTENDANCE: NUTRIENT WORK GROUP MEMBERS

Representative & Affiliation	Representing
Jay Bodner Montana Stockgrowers Association	Livestock-Oriented Agriculture

ATTENDANCE: OTHER PARTICIPANTS

Aaron Losing, City of Kalispell
 Abigail St. Lawrence, Montana Building Industry Association
 Amanda McInnis
 Amy Deitchler, Great West Engineering
 Amy Steinmetz, DEQ, Water Quality Division Administrator
 Andrew Gorder, Clark Fork Coalition
 Bill Andrene, City of Butte
 Brian Balmer, U.S. Fish and Wildlife Service
 Brian Heaston, City of Bozeman
 Christina Staten, DEQ, Watershed Management Section
 Coralynn Revis, HDR
 Darrin Kron, DEQ, Monitoring and Assessment Section Supervisor
 Darryl Barton, DEQ, Compliance, Training, and Technical Assistance Section Supervisor
 David Clark, HDR
 Ed Coleman, City of Helena
 Eric Sivers, DEQ
 Eric Trum, DEQ, Watershed Protection Section Acting Supervisor
 Erik Makus, EPA, Region 8
 Erin Zindt, MAP
 Galen Steffens, DEQ, Water Quality Planning Bureau Chief
 Griffin Nielsen, City of Bozeman
 Haley Sir, DEQ, Surface Water Discharge Permitting
 Hannah New, DEQ, Surface Water Discharge Permitting
 Heather Henry, DEQ, Surface Water Discharge Permitting
 Jane Madison, DEQ, Water Quality Standards and Modeling Section
 Jason Mohr, Legislative Environmental Policy Office
 Jeff Dunn, WGM Group
 Jeff May, DEQ, Surface Water Discharge Permitting
 Jeremy Perlinski
 Joanna McLaughlin, DEQ, Surface Water Discharge Permitting
 Joe Lierow, ExxonMobil Billings Refinery
 Jon Kenning, DEQ, Water Protection Bureau Chief

Josh Viall, DEQ, Compliance, Training and Technical Assistance Section
Julie Ralston
Katie Makarowski, DEQ, QA Officer
Kayla Glossner, DEQ, Surface Water Discharge Permitting
Kristi Kline, Montana Rural Water Systems
Kurt Moser, DEQ, Legal Counsel
Laura Alvey, DEQ, Superfund Program
Loren Franklin, KC Harvey Environmental
Mark Ockey, DEQ, Watershed Protection Section
Matt Wolfe, Sibanye Stillwater
Matthew Dolphay
Maya Rao, DEQ, Surface Water Discharge Permitting
Melinda Horne, DEQ, Surface Water Discharge Permitting
Michael Howell
Michael Suplee, DEQ, Water Quality Standards and Modeling Section
Michael Kasch, HDR
Moirra Davin, DEQ, Public Information Officer
Myla Kelly, DEQ, Water Quality Standards and Modeling Section Supervisor
Pat Cunneen, City of Butte
Paul Skubinna, City of Great Falls
Peggy Trenk, Treasure State Resources Association
Peter Scott
Rickey Schultz, HDR
Robert Ray, Helena citizen
Robin Richards
Ryan Sudbury, City of Missoula
Ryan Urbanec
Scott Mason, Hydrometrics
Shane LaCasse, CHS, Inc.
Sydney Lyons, Gallatin Conservation District
Tim Burton, Montana League of Cities and Towns
Tom Osborne
Trevor Selch, Montana Fish, Wildlife and Parks
Vicki Marquis, Holland and Hart
Vicki Watson, University of Montana Watershed Clinic

MEETING PURPOSE / OBJECTIVES

- Discussion of translation of the narrative standards to numeric permit limits and the option for variances
- Initiate discussion on the meeting discussion document (items 1a – 2c)

MEETING HIGHLIGHTS / DECISIONS MADE

- A poll was taken asking if Nutrient Work Group members are in favor of DEQ looking into variances as an option. Seventy three percent of respondents answered yes.
- Discussion was only had through item 1b of the discussion document

MEETING INITIATION

Moira Davin, DEQ public information officer and meeting facilitator, welcomed everyone to the meeting around 9:04 a.m. and announced that the Zoom chat box would not be in use for this meeting to facilitate better discussion. Moira stated that moving forward, the department is seeking more dialogue and less presentation for the next 10 meetings. DEQ is seeking dialogue from all parties and may call on groups or individuals to hear all points of view. If Nutrient Work Group members have solutions and suggestions, DEQ wants to hear from them. Moira also stated that DEQ first and foremost wants to find a solution that is protective of the environment, approvable by EPA, and meets the requirements of state law and Senate Bill 358.

Moira then went over meeting logistics, the meeting agenda (slide 3 of **Attachment A**), and took a roll call of Nutrient Work Group members present either via Zoom or in Room 111 of the DEQ Metcalf Building in Helena (slide 4 of **Attachment A**).

DECISION-MAKING PROCESS

Moira Davin reviewed slides 6 and 7 of **Attachment A**. She stated that DEQ is the final decision maker in what we ultimately decide to submit to EPA. In the next 10 meetings, we want to focus on discussions and solutions. If we get into a circular dialogue, as discussed at the last meeting, we voted that we can break into small groups or we can utilize a poll. All of these conversations will inform DEQ and DEQ will make the final decision. Moira stated that the department wants to be clear that it wants to hear from all of you – this is your opportunity to speak into the process and you can send solution-oriented suggestions before meetings. It is important that DEQ hear all viewpoints and make a decision based on science and law. DEQ will at least give an update on decision making process by the next meeting.

KICKOFF DISCUSSION (TRANSLATION OF NARRATIVE STANDARDS AND VARIANCES)

Amy Steinmetz, DEQ's Water Quality Division Administrator, went over slides 9 and 10 of **Attachment A**. Amy stated that as we launch into the second half of this effort, she wants to build on what Moira has shared by taking a few minutes to set us up for success with a few reminders and thoughts. Amy then brought up DEQ's mission "to champion a healthy environment for a thriving Montana" and stated that this is what those of us at DEQ come to work for each day. But we don't get to do that within an unstructured, anything goes environment. We are bound by laws and rules, and we've spent a lot of time going over what those are. As we move forward, DEQ wants to fully understand what you want and to look at all solutions, but if at the end of the day, a proposed solution is against the law, we simply won't be moving forward with it. We'll explain why, and if possible, we'll find other tools that can accomplish the goals within our regulatory framework and in a way that protects beneficial uses.

The first half of the DEQ mission is to champion a healthy environment. This is driven by science, and we've talked about how we're not going to throw out existing, accepted, peer-reviewed science, and I haven't heard anyone ask us to. As a reminder, the dialog here is not how to get around the science, but how to look at the science at the watershed scale to determine what is the best and most appropriate way to protect and improve the watershed under an adaptive management plan. The established science will be the foundation of these discussions, and we'll continue to discuss how best to apply that science at a watershed scale. The second half of the mission is "for a thriving Montana." This looks a little different to each Montanan which is part of the beauty of living in a democracy, and also a challenge for this process and why this group is so important. We said this in the first meeting in May,

but we 100% acknowledge that DEQ should never set regulations in a vacuum. Discussions about a thriving Montana will naturally involve personal preference and representative interests. Because of this, if we were going for consensus, we could spend years on this effort and we still probably wouldn't get there. That's why we decided that we needed a decision-making process. Moira described our decision-making process, and we feel like it's clear, transparent, and fair. Your participation and that decision-making process will help get us from where we are now to the finish line.

As we move toward the finish line and we do get into discussions about preference, Amy wanted to remind members of some common themes that came up when DEQ asked about goals during our very first meeting last May. Here were the recurring themes that you all brought up: protectiveness, attainability, and accountability. With that, Amy asked that Nutrient Work Group members please keep two things in mind as we move through future discussions:

- 1) We have a regulatory framework and it's there for a reason. This country went from burning rivers to significant improvements in water quality because of regulations like the Federal Clean Water Act and the Montana Water Quality Act. They're in place to make sure our surface waters have the protection that most Montanans want and that our constitution promises.
- 2) And the second thing is to remember that sometimes the best solution isn't the one that we've been using for years. Sometimes it's a creative solution that no one has thought of yet. We can come up with a creative solution that will meet our goals of water quality improvement and support of beneficial uses *and* fit within our regulatory framework. It starts with each of us listening to each other with open minds.

For the next five months, Amy's ask is open participation with solution-oriented dialog, open minds, and careful listening.

During our last meeting, variances were briefly brought up. We all know that the landscape has changed with the 9th Circuit ruling on variances. DEQ feels that at the beginning of the crosswalk discussion is the best place to discuss this. Traditionally, narrative standards are translated to numeric permit limits. We've been exploring alternative options to this, but we wanted to hear your thoughts on pairing translation of the narrative standard to numeric permit limits, and in conjunction with that, a variance option under MCA 75-5-220. Additional rulemaking would be required with this, but we want to open the discussion to all of you to get your thoughts on whether you'd like DEQ to explore this option as part of the AMP development process.

Discussion

Sarah Zuzulock, regional conservation organization representative, stated that it would be helpful to have more context from DEQ on what translation of the narrative standards to numeric limits looks like. She thinks it's critical, given that so many factors that make interpretation of data subjective, that you need some type of numeric limit. Amy Steinmetz responded that DEQ will take a look at the science and it will be ranges of protective numeric concentrations and selecting a number within those ranges.

Amanda McInnis, technical representative for municipalities, stated that she thinks looking at watersheds from a numerical standpoint is a narrow view of what impacts a watershed. Amanda further stated that they're proposing a way to put those numbers in context of all the other things that impact algae growth in our streams.

Sarah Zuzulock thanked DEQ for the clarification and stated she supports DEQ looking into some reliance of the ecoregion-based numeric standards. It is a good tool that needs to stay in the toolbox.

Dave Clark, technical representative for large point source dischargers, stated that the ecoregion values are very low concentrations and are generalized by ecoregion for nitrogen and phosphorus, so the timing is really important. If the translation is done before the adaptive management process takes place, we don't get the benefit of the monitoring and analysis that's done in the adaptive management plan. It is premature to pick from ecoregion values from the offset. The other aspect is interpreting when the number applies and where it applies in the watershed. If it's a single point, that could be a problem for compliance. Michael Suplee, DEQ water quality scientist, responded stating that as far as application, if it were to go into a permit, that would be permit-by-permit. Regarding the ability to have information that might make you look at a different set of numbers or focus on one nutrient over the other, it is correct that with more site-specific information on a location, you could answer that question better than if you commenced right away with ecoregional numbers.

David Brooks, statewide conservation organization representative, stated that he seconds Sarah's support for investigating the notion of translating narrative to numeric. However, single point and single moment in time readings of a limit could be a problem. Criteria over 90-day periods and in stretches of a watershed are not insurmountable and are worth further investigation.

Amanda McInnis stated that she agrees that numeric values are part of sound science, but also stated that we're talking about site-specific science through adaptive management plans. She rejects the notion that ecoregion values are better science when we could look at all the other things on in the watershed. The numeric conversation needs to be in the context of all those other things.

Sarah Zuzulock wanted to respond to Dave and Amanda's comments. She appreciates the goal of the site-specific standard, but stated we have to be realistic and start somewhere. If we agree that the ecoregion numbers were developed with sound science, that's a good starting point. There has to be a reasonable timeframe – waiting for data collection to develop a site-specific standard for compliance may not result in being able to find a numeric correlation. Sarah then asked how DEQ is going to apply the adaptive management plan approach to permit compliance and ultimately improvement of water quality. Moira Davin stated that this would be an option in addition to the AMP.

Kelly Lynch, municipalities representative, stated that she wants to point out that when we go through the crosswalk, those are the things we'd be able to do once we get the data. She does want to acknowledge that we have this issue of what to do in the interim. Her interest group's proposal has been that we stay with the existing requirements. She further stated that there are mechanical treatment plants as well as lagoons that we don't want to stay where they're at because they need improvements. Generally speaking, for those that have met the ultimate amount of what they can do, we should stay with what they're doing now until they come up with site-specific data. This is outside of the crosswalk. We do need to have a discussion about what happens in the interim. We want to be as flexible as possible as to what tools are available and what point sources have to choose from in making improvements.

Moira Davin asked Kelly Lynch if she is in support of this or not in support of this proposal. Kelly responded that she wouldn't say she's in support of anything because we don't really know what's being proposed, but she is open to leaving things on the table. She wants to have as many tools as possible to choose from. Kelly stated she is not in favor of the idea that we dump everything we have been talking about and going back to variances being the answer.

Dave Clark wanted to respond to a comment that Sarah Zuzulock made. Dave stated that Sarah was relating the difficulty of developing a relationship with nutrients with 20 years of chlorophyll-a data and stated that they share that experience. The ecoregion values are interesting reference points, but all watersheds utilize nutrients differently. We need time to develop an understanding in greater detail before we take ecoregion values and turn them into something that requires a compliance value in permits.

Tammy Johnson, mining representative, stated that she wonders if this discussion is premature, as we're only on step one of the crosswalk. She asked if it will serve us well if we have the narrative standards developed first before we discuss translation to numeric limits. Senate Bill 358 contemplates narrative standards, not numeric. Tammy further stated that she understands there may be some reason to put this in the toolbox, but we need a lot of discussion about what the narrative standards will be. Amy Steinmetz responded that we're not talking about numeric standards; we're talking about the translation of the narrative to numeric limits.

Kelly Lynch stated that point source dischargers do not want to be stuck with a number in their permit until they feel confident through the adaptive management process that improvement and the cost of improvement, and entering into a bond to pay for improvements, is the most effective tool for reducing nutrients in their stream. Amy Steinmetz clarified with Kelly that she's saying she isn't opposed to considering variances, but the timing of variances and the translation to a numeric limit is critical to her. Kelly responded that she's talking about the fact that we're going to say here's a number and you need to meet it. She wants to go through the process of identifying all the sources, all the causes, and all the potential actions that can be taken first and understanding that all the stakeholders agree that improvement to the point source is the action to be taken.

Poll

A Zoom poll was launched asking if Nutrient Work Group members are in favor of DEQ looking into variances as an option. Seventy three percent of respondents answered yes.

CROSSWALK DISCUSSION

Slide 12 of **Attachment A** was brought up showing items 1a through 2c of the proposed discussion crosswalk document. Moira Davin stated that DEQ is looking at using this as the framework for the next 10 meetings. She stated that as we move through this and we hone-in on specific aspects, she will be asking Nutrient Work Group members for two things: 1) If you have a concern, DEQ asks that you state both your concern and your proposed solution, and 2) state if it's a deal breaker. Moira stated that if something is a sticking point, DEQ wants to hear that. DEQ doesn't want to get to the end of this process and then learn of sticking points. Regarding the first request, Moira stated that if a Nutrient Work Group member doesn't have a proposed solution, then please be open to asking the other members if they have suggestions and be open to this dialogue. Moira requested that members be respectful of each other and be kind. If a member brings up a concern and a solution, please recognize the requirements that we have with this process: 1) will EPA approve this? 2) will this meet the requirements of state law? 3) will this protect beneficial uses? Moira further stated that DEQ realizes we won't reach consensus with the full group and stated that if it's something you can live with, that's okay too. DEQ wants to focus on the items that are sticking points and being able to talk through that, get solutions, and move forward.

Discussion

Moira Davin asked if there are sticking points with the definitions outlined in item 1a (adaptive management program and adaptive management plan).

Kelly Lynch stated they proposed a bunch of additional definitions that would need to be included in the adaptive management program. The goal is that we get everyone seeing what we have been trying to talk about from the very beginning, as well as the flow chart they laid out back in September. Kelly stated they spent a great deal of time on coming up with language for all of this. Moira Davin stated that DEQ sent the League of Cities and Town's document out to the full Nutrient Work Group, and it's also on Microsoft Teams.

Sarah Zuzulock stated that it feels like we're back to day one of this process and we're discussing points that have already been raised. Sarah asked how we avoid the same differing perspectives and the lack of movement on what we've worked on over the last eight months? This is in part because consensus isn't being reached among the members. She is struggling with how we keep these meetings productive and actually reach consensus. Sarah thinks it's great that the point source dischargers have developed suggestions. She looked at it briefly and sees some problems in that what was put forth allows for back sliding and doesn't create a clear framework. Sarah would like to see DEQ take more leadership in this process and proposing how to move forward.

Moira Davin stated that the intent of this process is to hear the main sticking points from all sides, and then DEQ will make an informed decision. Moira further stated that this is our last chance to go through each item and DEQ sees this as a process where we're moving this forward. Moira clarified that we don't want to get into wordsmithing. She asked if this is something you can live with, and if not, what are the bigger issues?

Sarah Zuzulock responded that she cannot support the definition without the reference of nondegradation of water quality.

Louis Engels, large point source dischargers representative, stated that speaking for the largest cities, he doesn't think anyone is talking about backsliding. He further stated that DEQ presented their mission and reasons to protect the environment, and that's a shared goal. No one is talking about repealing improvements in order to degrade the river. In the next round of investments, we want to make sure we're spending money where it matters in the watershed. No one is talking about going backwards.

Kelly Lynch stated she's frustrated with Sarah's comments and said no one else is willing to put language to this. There's plenty of capacity to bring a lawsuit, but not to sit in this meeting and hammer out the actual language on what the AMP process should look like.

Guy Alsentzer, environmental advocacy organization representative, stated he's hearing loud and clear there's a request to provide constructive feedback. He further stated the reason some of us have not been providing that same level of feedback is because the sideboards of Senate Bill 358 are incompatible with what we think is required. We have a tough time with certain elements and the prioritization of some nutrients over others, which is why it's difficult to provide a substantive response. However, he is open to listening to Kelly go through the document they sent to DEQ.

Moira Davin stated that DEQ recognizes this isn't the perfect scenario for everyone. We are asking people to think outside the box and get solutions on how to move forward.

Sarah Zuzulock stated that she shares Kelly's frustration. We have common objectives in developing the adaptive management process. Sarah further stated she's approaching this from a technical and science-based perspective and appreciates the legal challenges. She was talking about her personal capacity as a one-man shop but is open to hearing solutions as DEQ is suggesting. If DEQ could take the lead in the suggested approach, it gives the stakeholders a more balanced starting point.

Kelly Lynch stated she really appreciates that Guy and Sarah are looking at what they're proposing. With respect to the definitions of adaptive management program and plan, they provided a definition that was a little bit more detailed to describe what they were thinking about in terms of "program." Kelly thought the language in the statute was just guidelines.

Kelly then went over the bill proponents outline of suggestions for items 1a through 1e of the discussion document. Discussion was had around the definition of "nutrients," and it was stated by multiple members that the definition should not reference other factors that cause algae blooms. Guy Alsentzer and David Brooks said they would send DEQ proposals for the definition.

Amanda McInnis stated that we have to look at all of those things together. This is an excess algae issue we're trying to address. When we look at it narrowly through the lens of nutrients, we miss a lot of other things going on in the watershed. The best place to do this analysis is within an adaptive management plan. She disagrees that nutrients are the entire conversation.

Guy Alsentzer stated he needs to push back a little bit on Amanda's response. Nutrients are a known pollutant and are known to be harmful. We have to operate an adaptive management plan that complies with requirements of the Clean Water Act and the MT Water Quality Act. We know nutrients are the main thing at hand when it comes to nuisance algal growth.

Michael Suplee stated that from a rulemaking and state law perspective, it's usually best to keep definitions as short as possible. He tends to agree with people that want to see the definition of nutrients as TN and TP, period. We don't generally describe in a definition the other factors that affect a pollutant.

PUBLIC COMMENT

Time was taken at the end of the meeting for public comment. Vicki Watson, part of the University of Montana Watershed Health Clinic, stated science-based ecoregion specific nutrient standards took 30 years. Developing site specific science based nutrient standards will take a lot longer – she estimates 100 years. Lots of degradation could occur during that time. She suggests starting with ecoregion specific nutrient criteria to propose discharge limits. If a discharger determines that meeting those discharge limits would be cost-prohibitive, they can request a watershed specific assessment of how likely nutrient levels are to contribute to nuisance algae problems in that system – given other limiting factors. If shading or substrate type or other environmental factors mean that changing nutrient levels are unlikely to drive nuisance algae levels in that watershed, then nutrients and algae would continue to be monitored, but nutrient reductions in discharge would not be required. However, keep in mind that nutrients move downstream and can cause problems in lakes or streams downstream where conditions are different. If downstream algae problems already occur or are likely if nutrients rise, then move to

the AMP process where you look at nonpoint sources as well as point sources, and identify the most cost-effective ways to limit or reduce the nutrient load – allowing pollution trading between sources.

Robert Ray, a citizen of Helena, stated that he is retired from DEQ and is not affiliated with any organization specific to this topic. Robert also stated he is very supportive of variances and translation of narrative to numeric limits. His second comment is related to how AMPs relate to TMDLs that are developed for impaired waters. He would like to see more use of the existing tools for addressing nutrients that have already been developed. Third, he has a proposal for a stakeholder definition. The public in general should be able to participate in stakeholder discussions in the development of AMPs and/or TMDLs, not just the people that live in the watershed.

The meeting was ended at 11:03 a.m.

**ATTACHMENT A: JANUARY 12, 2022 NUTRIENT WORK GROUP MEETING
PRESENTATION SLIDES**

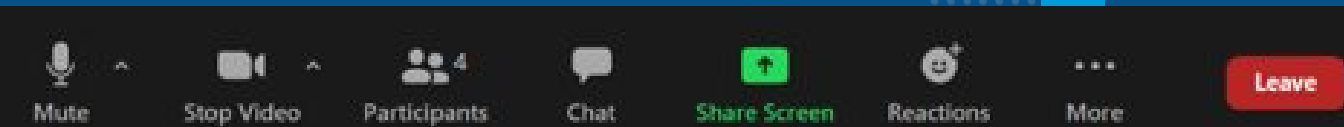
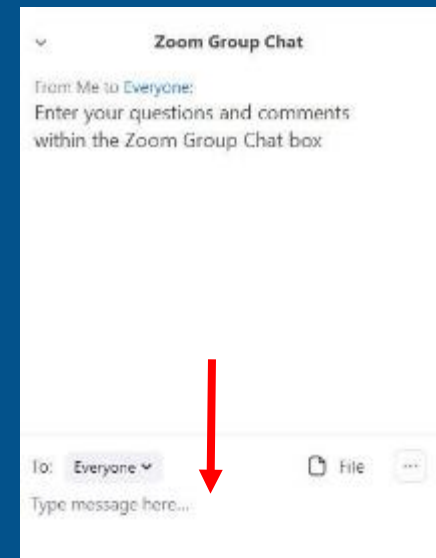
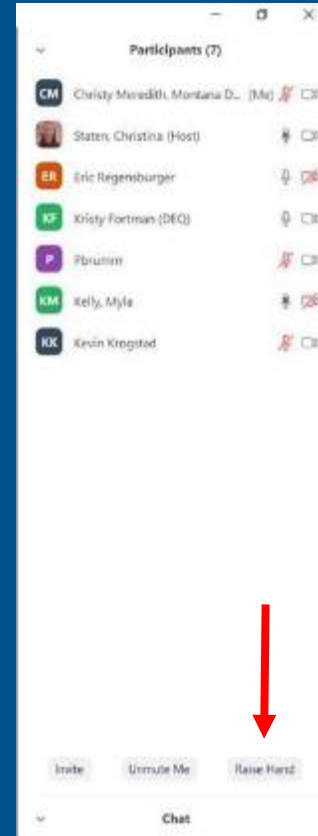
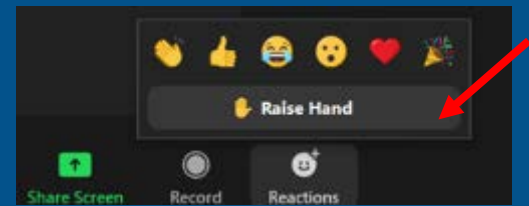


Nutrient Work Group

January 12, 2022

Welcome!

- Please keep your microphone muted until called on
- Only NWG Members may participate during discussions
- Please reserve public comment until the end
- *6 unmutes your phone
- State your name and affiliation before providing your comment
- Enter questions in the chat box or raise hand
- Turning off your video feed provides better bandwidth
- Please sign-in to the chat box with name and affiliation



Agenda

Meeting Goal: Discussion of options for implementing the narrative nutrient standards

Preliminaries

- Nutrient Work Group Roll Call
- Nutrient Work Group Decision-Making Steps

Meeting Kickoff Discussion

- Translation of the Narrative Standards to Numeric Limits
- Variances from Numeric Limits

Crosswalk Discussion

- Items 1a-2c of discussion document (as time allows)
 - Proposed Solutions
 - Nutrient Work Group Dealbreakers

Public Comment & Close of Meeting

- Public Comment

Introductions

Nutrient Work Group Members

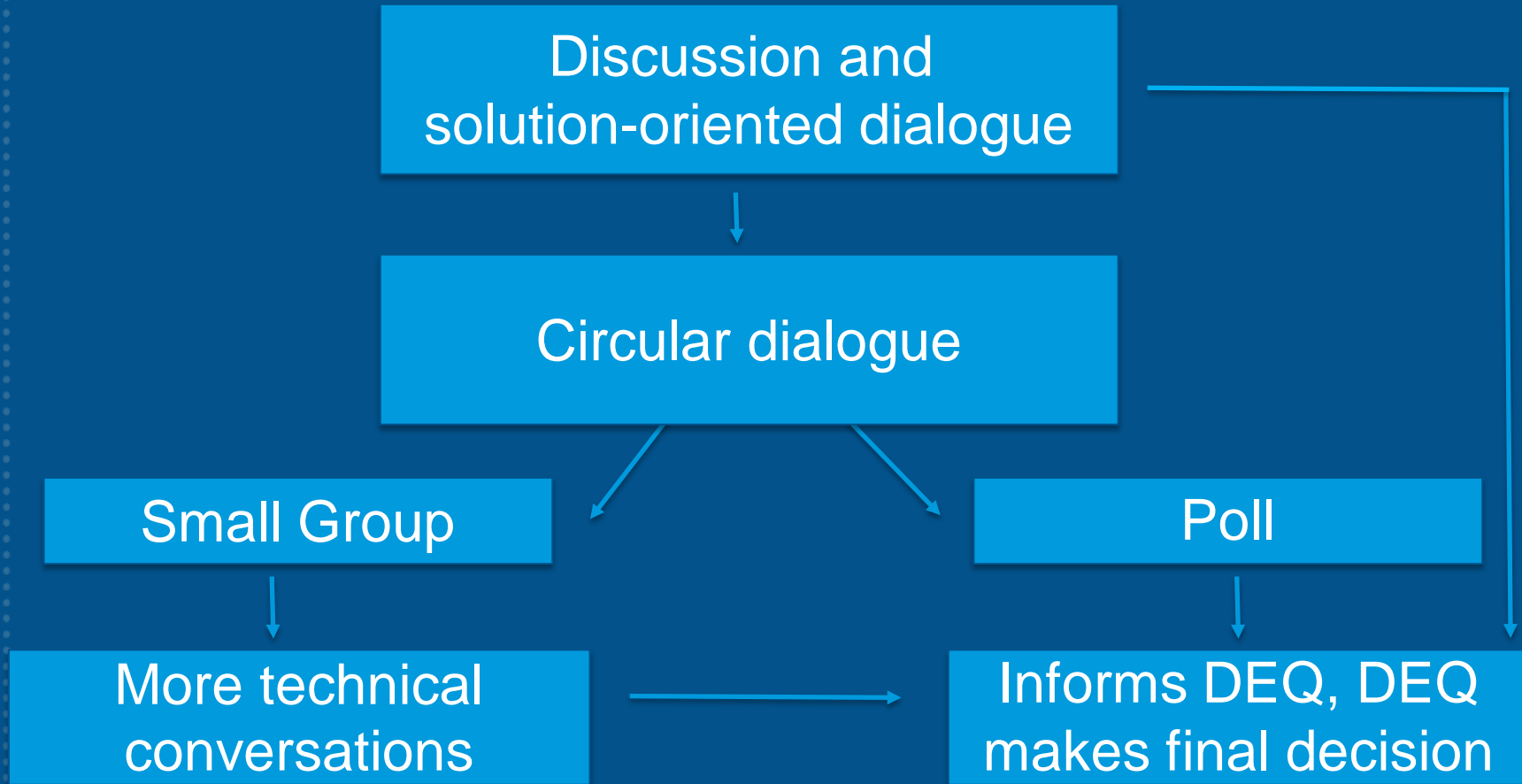
Interest Group	Representative	Substitute
Point Source Discharger: Large Municipal Systems (>1 MGD)	Louis Engels	
Point Source Discharger: Middle-Sized Mechanical Systems (<1 MGD)	Shannon Holmes	
Point Source Discharger: Small Municipal Systems with Lagoons	Rika Lashley	
Point Source Discharger: Non-POTW	Alan Olson	
Municipalities	Kelly Lynch	
Mining	Tammy Johnson	
Farming-Oriented Agriculture	John Youngberg	
Livestock-Oriented Agriculture	Jay Bodner	None
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	Wade Fellin	
Federal Land Management Agencies	Andy Efta	
Federal Regulatory Agencies	Tina Laidlaw	
State Land Management Agencies	Jeff Schmalenberg	
Water Quality Districts / County Planning Departments	Pete Schade	
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	



DECISION- MAKING PROCESS

Decision-Making Tree

DEQ is the Final Decision Maker



Group Discussion

- We want to hear from all of you, this is your opportunity to speak into the process
- You are welcome to send us solution-oriented suggestions and we will share them with the team
- We will listen and review all input
- DEQ will take all of the information and make a decision based on science and law.
- DEQ will communicate the decision and reasoning to the group and we will move forward to the next decision point.





DISCUSSION REFRESH

DEQ's Mission

Our mission is to
champion a healthy
environment for a
thriving Montana



Discussion for Today

- Translation of the narrative standards to numeric limits
- Variances from nutrient limits derived from the narrative standards
 - Per MCA 75-5-320





CROSSWALK DISCUSSION 1a-2c

1A-2C

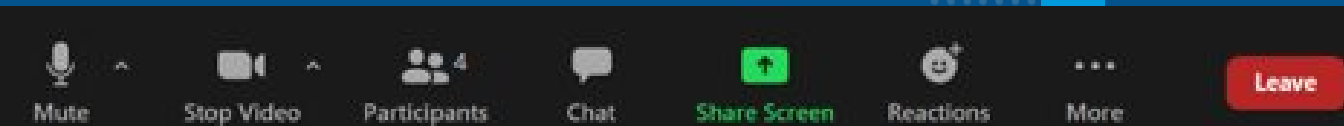
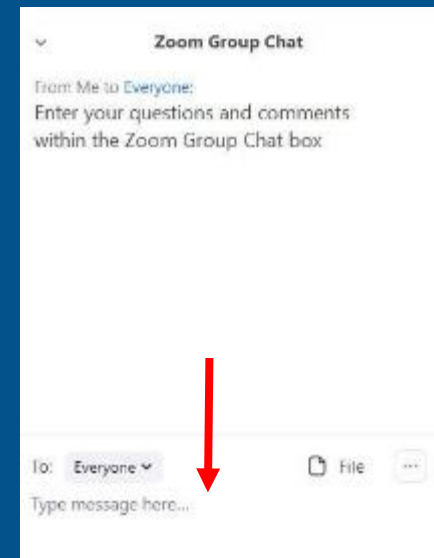
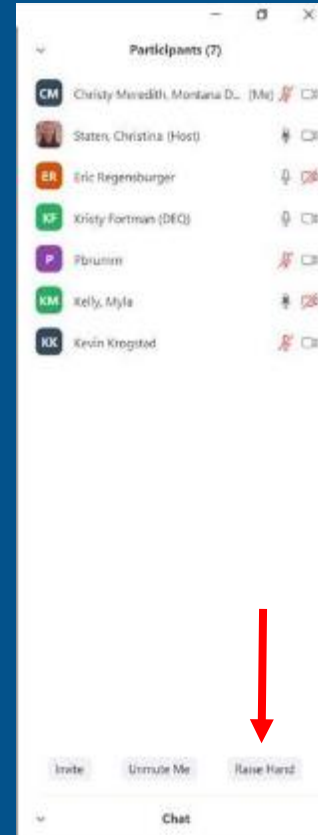
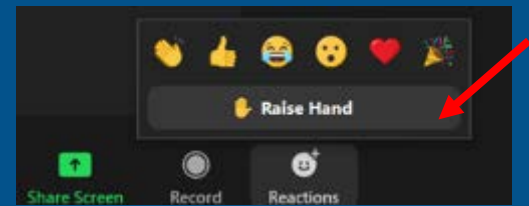
League Topic	Short Description	Associated Section of Existing Documents				Associated Comment(s) on 10-18-2021 Drafts
		Framework Rule	10/18 Rule	Circular DEQ-15	Guidance	
1) Establish Montana's Adaptive Management Program for Nutrients						
1a	Definitions	Program and Plan are defined	Program and Plan are defined	Section 1.1	not addressed	Adaptive management program definition needs to be changed (Industry, League).
1b	Watershed definition	Not defined, but used in multiple locations	Not defined; described in (3)(a)(i)	Described in Section 4.0	Not defined, but used in multiple locations	
1c	Prioritization of watersheds for AMP development	not addressed	New Rule X (2)(a) touches on this	not addressed	not addressed	(AMP should) result in the development of prioritized, implementable, and evaluated actions that will actually improve surface waters without wasting millions of public dollars where additional point-source treatment actions are not necessary or beneficial (League).
1d	Roles/responsibilities when a waterbody is <u>not</u> impaired by nutrients	not addressed	not addressed	Section 3.2; Section 4.9	Section 4.8	Assessment and beneficial uses should be confirmed before doing anything else as part of the AMP process. That will allow an exit from the process for waterbodies that are not impaired or that do not support beneficial uses that are impacted by nutrients (League, Industry).
1e	Process for initiating an adaptive management plan	New Rule I (1)(a)(i)	New Rule X (1), (2), (4), (6b)	Section 1.0 Flowchart	not addressed	Please explain the Department's proposed method and evaluation criteria for approving or denying a watershed monitoring plan, a request for an extension, and the schedule for this process. (LPD). The Rule Should Not Use a Reasonable Potential Analysis as Part of this AMP Approach (League). Figure 1-1 (of DEQ-15) should be revised such that the term "Permittee" is replaced with "DEQ" or "Department" throughout the figure where it refers to AMP Implementation Plans (Industry). The state's comment that "the ranges in Table 7-1 are based on dose-response studies (nutrient as dose, ecological effect as response) applicable to the ecoregional zones indicated" recognizes that the underlying science exists to identify a range of protective TN and TP values to protect the narrative criteria. Therefore, the state's rationale for not identifying protective TN and TP values to develop permit limits is unclear. The rationale does not meet EPA's expectations for interpretation of the narrative nutrient standard (LPA).
2) Development of an Adaptive Management Plan for an Individual Watershed						
2a	Identify permittee and stakeholder partners	not addressed	New Rule X (3)(a)(v) and (4)(a)(ii)	Section 8.2	Section 8.2	Section (3)(a)(v) "stakeholder engagement plan" should only be required if the permittee has to develop an AMP implementation plan. (LPD)
2b	Notification that an AMP is being developed	not addressed	New Rule X (3)(a)(v)	not addressed	not addressed	Section (3)(a)(v) "stakeholder engagement plan" should only be required if the permittee has to develop an AMP implementation plan. (LPD)
2c	Define who will lead the AMP process	not addressed	New Rule X (2)(a) and (b) and (4)(a)	Multiple Sections (permittee leads)	Multiple Sections (permittee leads)	The rule should be re-written to acknowledge voluntary permittee participation and to clarify that if AMP monitoring will become part of the MPDES permit, how and by what authority that will occur. (Industry)



PUBLIC COMMENT

Questions/ Comments

- Raise hand or type questions into the chat
- Please keep your microphone muted until called on
- If calling by phone, press*6 to unmute
- State your name and affiliation before providing your comment



Thanks for Joining Us

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To submit comments or questions



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

