NUTRIENT WORK GROUP MEETING SUMMARY MARCH 23, 2022

9:00 a.m. Hybrid Meeting: Zoom and DEQ Room 111

ATTENDANCE: NUTRIENT WORK GROUP MEMBERS

Representative & Affiliation	Representing
Louis Engels	Point Source Discharger: Large Municipal
City of Billings	Systems (>1 MGD)
Rika Lashley	Point Source Discharger: Small Municipal
Morrison-Maeirle	Systems with Lagoons
Alan Olson	Point Source Discharger: Non-POTW
Montana Petroleum Association	
Kelly Lynch	Municipalities
Montana League of Cities and Towns	
Matt Wolfe (sub. for Tammy Johnson)	Mining
Montana Mining Association	
Nick Banish	County Water Quality Districts or Planning
Gallatin Local Water Quality District	Departments
Jay Bodner	Livestock-Oriented Agriculture
Montana Stockgrowers Association	
Kristin Gardner	Conservation Organization: Local
Gallatin River Task Force	
Sarah Zuzulock	Conservation Organization: Regional
Zuzulock Environmental Services	
David Brooks	Conservation Organization: Statewide
Montana Trout Unlimited	
Guy Alsentzer	Environmental Advocacy Organization
Upper Missouri Waterkeeper	
Guy Alsentzer (sub. for Wade Fellin)	Water or Fishing-Based Recreation
Upper Missouri Waterkeeper	
Jeff Schmalenberg	State Land Management Agencies
MT Dept. of Natural Resources and Conservation	
Andy Efta	Federal Land Management Agencies
U.S. Forest Service, Northern Region	
Samantha Tappenbeck	Soil and Water Conservation Districts –
Flathead Conservation District	West of the Continental Divide
Dan Rostad	Soil and Water Conservation Districts – East
Yellowstone Conservation District Council	of the Continental Divide

NOT IN ATTENDANCE: NUTRIENT WORK GROUP MEMBERS

Representative & Affiliation	Representing
Shannon Holmes	Point Source Discharger: Middle-Sized
City of Livingston	Mechanical Systems (<1 MGD)
John Youngberg	Farming-Oriented Agriculture
Montana Farm Bureau	
Tina Laidlaw	Federal Regulatory Agencies
U.S. Environmental Protection Agency	
Julia Altemus	Timber Industry
Montana Wood Products Association	
Scott Buecker	Wastewater Engineering Firms
AE2S	

ATTENDANCE: OTHER PARTICIPANTS

Abbie Ebert, DEQ, Monitoring and Assessment Section
Amalia Michaelia, Jacobs
America Flanery, DEQ, Surface Water Discharge Permitting
Rill Andrene, City of Butte
Blake Towarnicki, DEO, Monitoring and Assessment Section
Bruce Kadrmas
Christina Staten DEO Watershed Management Section
Darrin Kron, DEO, Monitoring and Assessment Section Supervisor
Ed Coleman. City of Helena
Eric Trum, DEQ, Watershed Protection Section Supervisor
Galen Steffens, DEQ, Water Quality Planning Bureau Chief
Hannah New, DEQ, Surface Water Discharge Permitting
Heather Henry, DEQ, Surface Water Discharge Permitting
Jane Madison, DEQ, Water Quality Standards and Modeling Section
Jeff Dunn, WGM Group
Jeff May, DEQ, Surface Water Discharge Permitting
Joe Lierow, ExxonMobil Billings Refinery
John Esp, Montana State Senator
Jon Kenning, DEQ, Water Protection Bureau Chief
Kate Sheridan
Katie Hendrickson, City of Billings
Katie Makarowski, DEQ, QA Officer
Kurt Moser, DEQ, Legal Counsel
Laura Alvey, DEQ, Superfund Program
Lee Bruner, Montana Supreme Court
Leea Anderson, City of Helena
Mark Ockey, DEQ, Watershed Protection Section
Maya Rao, DEQ, Surface Water Discharge Permitting
Melinda Horne, DEQ, Surface Water Discharge Permitting
Michael Kasch, HDR
Michael Suplee, DEQ, Water Quality Standards and Modeling Section

Mikindra Morin, Northern Plains Resource Council Moira Davin, DEQ, Public Information Officer Myla Kelly, DEQ, Water Quality Standards and Modeling Section Supervisor Nick Danielson, DEQ, New Media Specialist Onno Wieringa Peggy Trenk, Treasure State Resources Association Peter Scott Rickey Schultz, HDR Robert Ray, Helena citizen Ryan Koehnlein, DEQ, Monitoring and Assessment Section Ryan Leland, City of Helena Scott Mason, Hydrometrics Vicki Marquis, Holland and Hart Vicki Watson, University of Montana Watershed Clinic

MEETING PURPOSE / OBJECTIVES

• Discussion of item 4 of discussion proposal document

MEETING HIGHLIGHTS / DECISIONS MADE

- Discussion was had through topic 4 of the discussion document
- Suggestions were made to orient future discussions around DEQ's initial proposal from October 2021, as opposed to around stakeholder comments.
- DEQ stated they would be rolling out an updated regulatory framework in April
- The group voted to have a separate DEQ presentation on the water quality planning process

MEETING INITIATION

Moira Davin, DEQ public information officer and meeting facilitator, welcomed everyone to the meeting just after 9 a.m. Moira went over meeting logistics (slide 2 of **Attachment A**), 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**). Moira also reviewed slides 5 and 6 of **Attachment A** as a reminder on the protocol for group discussion and that DEQ is the final decision maker. Slide 7 of **Attachment A** was brought up and Moira stated that DEQ heard during check-ins that it would be helpful to have a basic understanding of the water quality planning process and an overview. Instead of taking time to cover this during a Nutrient Work Group meeting, DEQ is offering a separate 1-hour presentation to walk through the basics. Moira asked if this was of interest to the group and five hands were raised. Moira then stated that Christina Staten will send out a Doodle poll to help pick a date.

FOLLOW-UPS FROM LAST MEETING

Moira Davin stated that a few meetings ago there was a discussion about the timeline for this rulemaking process and DEQ wants to provide an update. Amy Steinmetz, DEQ Water Quality Division Administrator, stated DEQ has had multiple discussions about timeline, and it is still our goal to have an adopted, complete rule by October 1. However, DEQ wants to make sure conversations and dialog are

not stifled. DEQ hopes to roll out a new regulatory concept in April. At that point, we'll have another conversation about how our conversations going forward will be directed.

Moira Davin then stated that the framework rule was published in the Montana Administrative Register, as proposed. David Brooks, statewide conservation organization representative, asked how or if the Nutrient Work Group affected the new rule. How did the Nutrient Work Group's comments make any difference in the final, adopted rule? Kurt Moser, DEQ legal counsel, stated there weren't any changes made to the rule. Michael Suplee, DEQ water quality scientist, stated that a number of comments provided editing suggestions, and DEQ will give those comments consideration when we come to the final rule that we're currently working toward.

Moira Davin then stated that nutrient data sources were brought up at the last meeting and she noted that DEQ can provide a full list of data sources in the draft rule package.

DISCUSSION DOCUMENT: ITEM 4

Slide 10 of **Attachment A** was brought up showing items 4 through 5 of the discussion document. Moira Davin gave a brief explanation of how to interpret the columns of the discussion document and noted that the October 18, 2021 draft comprehensive rule package can still be found on Teams under the Nutrient Work Group channel in the "For Review by NWG" File folder.

4: Assessment of Treatment Options, Resulting Load Reductions, and Associated Cost

Michael Suplee went over slide 11 of **Attachment A** highlighting the comments received on topic 4 by the bill proponents.

David Brooks stated he wanted to go back to his question about how comments made any difference in New Rule I. It seems to him that for a big picture look, we should be starting with DEQ's proposal for each of these sections rather than bouncing off of stakeholder comments. Looking back at the response to comments, it seems like we're commenting on each other's comments and that wasn't effective in what was finally adopted.

Amy Steinmetz stated that it is our intent in going through these conversations to get solutions on what DEQ proposed in October. With the framework rule, that was more of a placeholder. The substantive work is going into the rules that we'll be rolling out soon – this is where you'll see changes based on conversations we're having now as well as incorporation of comments we received on the framework rule. You'll see this when we roll out the new concept in April – that it incorporates what we've heard from the group.

Sarah Zuzulock, regional conservation organizations representative, stated she supports and reiterates what David is asking for. Please provide us a summary of DEQ's starting point in October. This would allow the whole group to respond to the same information as opposed to only responding to the proponents' comments. Sarah further stated she doesn't have time to refresh herself on what's in draft Circular-15 and the guidance document, so it would be a helpful starting point for the conversation. We need to include a toolkit of all available treatment options, and an AMP would include treatment options relevant to the facility itself.

Moira Davin responded that this is great feedback. During the check-in meetings, people seemed happy with the process, so speaking up to let us know where you are in the process now is helpful.

Rika Lashley, small point source dischargers representative, stated that she wanted to reiterate prioritizing phosphorus over nitrogen. This would be relevant for lagoon systems because to remove nitrogen in a lagoon system is difficult. A phosphorus removal system would be much simpler and easier to install and operate.

Guy Alsenzter, environmental advocacy organization representative, asked how we look at proposed section 4 within the square box of the Clean Water Act (CWA). The assumption of advocacy group is that we need an AMP process that remains compliant with the CWA. Freezing current levels of treatment, and where it becomes a showstopper, is what's being proposed doesn't reflect what EPA's rules require for assessing necessary limits for NPDES permits. Have to start with the assumption that DEQ will implement a new rule that will be compliant with 40 CFR 122.44(d). Point source dischargers have to have permit limits for how they have reasonable potential to cause or contribute and we have to account for nonpoint source controls that are existing, not prospective, and account for dilution capacity. Guy hears from the bill proponents that we're not here to talk about additional upgrades, but we shouldn't take this off the table because EPA rules require this consideration. There should be an assessment of current conditions and treatment options. The bill proponents do not seem to consider the option of technological upgrades. Guy closed with asking what are we legitimately considering and requiring in topic 4?

Kelly Lynch, municipalities representative, stated that she 100% disagrees with Guy's summary of what they are proposing. We're not proposing that there should be a freeze of everything forever with no improvements. The whole idea of doing the potential analysis is not in Section 4; that happens during permitting. Section 4 discusses how to go through the AMP process. One piece of that before you decide what options you can take is to look at all the potential treatment options that a source has; we want to look at everything. When you start to look at what the other options are, you can make decisions based on what improvements will make what changes to water quality.

Guy Alsentzer thanked Kelly for the clarification. He's glad it's not an all-of-the-above approach. However, looking at October draft rules, it talks about watersheds not achieving the narrative standards. Inherent is the practicability and demonstrating ability to fund and implement. What it lacks is hard and fast requirements for point source dischargers to evaluate if it causes itself, or whether reasonable potential to cause, any potential violations of water quality standards. It can't just be putting things on the table; there needs to be with each permitting opportunity, an assurance that each point source is doing its fair share. Waterkeeper supports working on nonpoint source pollution, but don't get to stay mandatory considerations for point source discharges.

Kelly Lynch stated she wants to make sure that when Guy is saying "section 4," he's saying the section 4 from October, as their Section 4 doesn't have anything to do with the October rule package.

Michael Suplee stated that what Kelly provided (Section 4 of the discussion topics summarized in the Excel crosswalk document) is an independent subject. The discussion document/crosswalk spreadsheet contains components of the October rule package that address those topics. Michael then provided a recap of what was proposed in October. In the <u>rule</u> from October, there was a section 4ai through 4aiii that pertained to watersheds not achieving the narrative standard. The rule basically said that as part of the AMP, they need to quantify all sources of nutrient pollution. This is the same thing as "AMP to

include baseline watershed nutrient loading." In 4aiii, it is tangentially related. Section 8.3.1 in the draft Circular briefly talks about implementing facility improvements (traditional infrastructure or optimalization). Those components were related to this subject (the subject the League outlined), but materials we got from the bill proponents contained more detail.

David Brooks stated his suggestion still stands that we orient discussions around DEQ language from October. In this discussion of treatment options, the bill proponent's language of having treatment options in the program rather than addressed in any given plan. In the program, there should be some analysis of what facility options produce what type of improvement. Proposal from bill proponents feels like offramps – if things are too expensive, we're not going to do them, or if there are other environmental impacts, we're not going to do them, even if they are the best way to reduce nutrients.

Louis Engels, large point source dischargers representative, stated there are a lot of requests for more details. He thinks what the bill proponents put forward does give a lot of details. Can we review what has been proposed and keep moving today?

Kelly Lynch stated there's no proposal that we take off-ramps from the most effective options. What section 4 is saying is we want the ability to look at the effectiveness of all the options. As part of determining what should be the actions that are taken and the priority of those actions, if the priority is an improvement of the treatment plant, that will be what is chosen and put in the plan. The plan can reflect what the discussion was and what the data was. Then the plan goes to DEQ to translate into permitting.

Rika Lashley stated she wanted to respond as an engineer to David Brook's comments about having DEQ put together a list of options. She feels that each facility is so different that not every option will be the best for that facility. It isn't a one size fits all. DEQ might have a list of examples, but ultimately an engineer has to be involved to determine what is the best solution for this facility. There is probably some compromise to be had, but there can't just be a list from DEQ to pick from.

Guy Alsenzter stated he applauds Kelly for being clear. There are two caveats from our perspective on effectiveness of nutrient reduction at the watershed scale. The bare minimum requirements of NPDES rules need to apply as a construct. We should be talking about the idea of what is the highest attainable condition (HAC) per sector. We understand what HAC is short of reverse osmosis. The way you get there is not a one size fits all and it very much needs to be tailored. Conversely, regarding nonpoint sources, what's missing in the AMP so far is how we constrain and quantify the BMPs – they use a combination of modeling, and they have a BMP manual. What the AMP considers broadly is looking at a watershed scale of what are the practices and combining cost with it. We should invest in developing a Montana BMP manual that should be codified and be a tool in the tool belt. Doing it any other way isn't going not get us to the goal of effectiveness of nutrient reduction. We should be looking at HAC respective to sectors. On the nonpoint side, can we talk about having a BMP manual? This will be vital to any QA and any measurable reductions and effective of nonpoint source work.

Sarah Zuzulock stated that in response to Kelly, she is curious if what they're proposing is, in effect, trading? Are you proposing that a permittee request that DEQ improve a different source to a watershed, as opposed to the NPDES permitted point source?

Kelly Lynch responded that she's not sure that they would request that DEQ do it. The idea would be that amongst the stakeholders, locally, if we have willing partners and funding from the point sources, if

it's one of the priority actions – what makes the biggest impact for the least cost? That goes to the top and then we start going down from there. That plan would be adopted by DEQ. The only problem we have with putting that in the permit is we can't be legally required to have nonpoint sources do something we can't require them to do, and we don't want to be accused of backsliding.

Sarah Zuzulock stated that helps to clarify. Sarah then asked how does that concept apply with CWA requirements? She agrees with the concept of having all stakeholders weigh-in and using data to prioritize where improvements are made. However, she gets lost on where that complies with regulations required of the actual discharger.

Kelly Lynch responded that they're not proposing to have nothing put on the discharger. In those situations, however, increasing treatment at the point source will have decreasing impacts on the water. Let's use the AMP process to take other actions to have better improvements for less cost.

Sarah Zuzulock asked if they would ask DEQ not to lower a point source permit limit on good faith that nonpoint sources will be addressed.

Kelly Lynch responded that this gets back to the issue of having AMPs. It's not going to be the same answer for every watershed. There may be watersheds where improvements need to be made at the point source right away. Here's the process of determining at a local level where other actions should be taken first before we take expensive actions at treatment systems.

Guy Alsentzer thanked Kelly for this dialog. To elaborate on Sarah's point and interpretation of EPA's rules, we don't have the flexibility to talk about what is the best bang for your buck on treatment updates regardless of diminishing returns on facility improvements. The only available construct under federal law to allow work on a nonpoint source would be a trading policy. While Montana has a policy adopted, he has great concerns using it as a method moving forward since we don't have a verified BMP list.

Samantha Tappenbeck, representative of conservation districts west of the continental divide, stated the bill proponents are suggesting an opportunity to incorporate nutrient trading into the AMP process. This seems like an opportunity for a watershed approach. Can DEQ discuss the requirements for nutrient reduction and trading plans and how that might factor into Circular DEQ-15?

Michael Suplee responded that is more of Rainie DeVaney's arena and she is not here today. This is something we can circle back to.

Kelly Lynch stated she would love to have some input on that.

Rika Lashley stated she gets what Guy is saying with the box of the CWA and the approach of the AMP may not be fitting into this box. So is the CWA preventing us from finding the best approach to improving water quality? If the data gathering shows that 80% are from nonpoint sources and 20% are from point sources and our approach only allows us to address the point source, what's the point of only addressing the point source? Do we not have the means to address the nonpoint sources?

Guy Alsentzer stated it's more nuanced than simply a right or a wrong. It's an imperfect law. It does not work on nonpoint source pollution. We have the opportunity under Montana law to come up with a transparent and accountable framework that works on nonpoint sources under the gambit of state law

that does not violate federal law. How the AMP under state law can work in a way that doesn't violate the CWA but provides certainties under state law and creative thinking. This will allow us to work on nonpoint sources. Nonpoint source pollution is a significant problem and often larger than the point source. Work needs to be done in a scientifically defensible manner and combining a regulatory approach under state law that provides accountability. We can achieve work on nonpoint sources, but it requires us to do more scientific diligence so work can be done in a transparent manner.

Kelly Lynch responded that they believe there is a little bit more flexibility than Guy believes.

Louis Engels stated he agrees with Rika, from her engineering perspective. Our whole purpose at the Billings Reclamation Facility is we want to protect the watershed. We want to do what's best for the river. Whether we agree on what is best; there may be some disagreement there, but as point source dischargers, that's core to our mission. Louis stated that David Brooks noted that ancillary environmental impacts shouldn't be considered. However, as someone that runs a treatment plant every day, he sees the amount of chemicals and energy that goes into the process. To see that increase gives him heartburn, as someone that is concerned with climate change. Louis then asked the environmental groups their opinion of net environmental evaluation.

Guy Alsentzer responded that he needs to educate himself on specific statistics that talk about quantifying WWTFs. His recollection is those paled in comparison to industrial sectors. If there is peer-reviewed anecdotal data that says something different, let's hear it. But let's not create a race to the bottom. There is not a political reality in Montana that allows us to work on nonpoint sources.

David Brooks stated that in looking at topic 4 on the crosswalk, one of the other documents references is New Rule X 4ai through 4aiii. One of the things that struck him and he would like clarification on is the language in New Rule I that allows permittees not to develop an implementation plan unless it is failing to meet narrative standards. David stated that it seems that an implementation plan should be required upfront because it's where the rubber hits the road with the AMP.

Michael Suplee responded that we need to be clear that there's two parts to the AMP rule. The first part was the AMP watershed monitoring plan (from the rule we put out back in October) that was required across the board. The idea of an implementation plan for various actions overlaps with what we're talking about today and that is contingent upon if there's a problem in the watershed. There's no need to do an implementation plan if there's no problem.

David Brooks responded that makes sense.

Kelly Lynch stated that from their perspective, they do not agree with the October rule as it was proposed. She acknowledges that some things in there will be integrated into what we ultimately come up with, but we're not commenting on the October rule package.

Sarah Zuzulock stated she wanted to respond to Michael's comments. She disagrees. An implementation plan should only be required in an impaired watershed. You effectively don't have an adaptive management plan if you're only monitoring, and you don't have processes established to evaluate that monitoring.

Michael Suplee stated that DEQ is very aware that people didn't like what was put out in October, and we're not saying we're going back to that.

Sarah Zuzulock stated that if New Rule I was adopted without any changes, then an implementation plan isn't always required.

Michael Suplee stated that New Rule I was a placeholder, and it can be modified.

BMP Resources

In follow-up to Guy Alsentzer's discussion of a BMP manual, DEQ wanted to present information on available BMP resources, and as an introduction to item 5 of the discussion document. Eric Trum, DEQ acting supervisor of the nonpoint source and wetland programs, presented slides 12 through 14 of **Attachment A**. Eric stated that Guy mentioned the idea of a BMP guide and specifically pointed to the Chesapeake Bay guide; this looks like a really helpful tool, but we want to make sure everyone is aware that we have similar resources. The crux of the nonpoint source management program is providing tools to compel or, more specifically, encourage voluntary actions by landowners and the public. We're continually working with local stakeholders to provide the tools we can to encourage landowners to take those actions.

Slide 13 shows the first page of Appendix A of the Nonpoint Source Management Plan, which is updated every five years and approved by the governor and EPA. The management plan includes actions and milestones that we plan to achieve within those five years, with a goal of implementing restoration projects for water quality improvement and protection. DEQ is identifying new ways to encourage landowners to take those actions.

Appendix A is a comprehensive list of BMPs, sorted by sectors like agriculture, stormwater, and different types of nonpoint source pollution. It's a comprehensive list of BMPs that's revisited every five years. DNRC is working on updating some the forestry BMPs. Our primary recommendations are encouraging ways to restore and maintain a well vegetated riparian buffer, which is one of the best BMPs we have in most situations in Montana.

Slide 14 is an excerpt from DEQ's load reduction estimation guide, which was created primarily to support 319-funded projects, but contains various models and mechanisms for calculating and estimating loads. Load reductions for 319 projects are entered into an EPA database. EPA also has a comprehensive list of load reduction models found here: <u>https://www.epa.gov/sites/default/files/2018-08/documents/loadreductionmodels2018.pdf</u>

Discussion

Guy Alsentzer stated he appreciated this information. Guy also said he has a big question directed back to Amy Steinmetz and stated he hopes she will consider the idea of the big friction point right now of how point source reductions could be reasonably contemplated within the confines of the CWA, while also looking at nonpoint sources. The only means to accomplish that is via nutrient trading. We need to put this into a tailored and codified document. Eric's team has done more than 50% of the legwork and it could be an easier lift to turn it into something that would inform the AMP process. It might also provide a bridge between some of the viewpoints heard today. Guy concluded by stating he hopes the DEQ executive team is considering a BMP manual. Louis Engels stated he concurs with Guy as far as continued improvements for BMPs for manuals for this. Louis also stated he had a question for Eric Trum on the Lower Gallatin. Is there a breakdown of point versus nonpoint source nutrient pollution?

Eric Trum responded that information would be found in the 2014 lower Gallatin TMDL document. There has been some change, but the relevant loading should be similar. There is significant nonpoint source pollution. There is also a business case for nutrient trading that we helped fund, which found that in Bozeman specifically, there isn't enough upstream nonpoint source issues to create the assimilative capacity necessary to meet the standards at the wastewater treatment plant. That said, we're looking at refining the source assessment to get more projects and practices on the ground. Because they are voluntary practices, they need to be done in ways that are salient to the nonpoint source polluters, and that we work through a legitimate process to get those on the ground.

PUBLIC COMMENT

Time was taken at the end of the meeting for public comment; however, there was none.

CLOSE OF MEETING

The next meeting is scheduled for April 13 at 9 a.m.

Moira Davin stated that today's dialog was helpful for our team in gaining a better understanding of where everyone is coming from. We heard the concern and request that DEQ recap what was originally proposed in October, so we'll see how we can implement that.

The meeting was ended at 10:35 a.m.

ATTACHMENT A: MARCH 23, 2022 NUTRIENT WORK GROUP MEETING PRESENTATION SLIDES

Nutrient Work Group

March 23, 2022



Welcome!

- This meeting has been converted to 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











Leave

Agenda

Meeting Goal: Discussion of items 4 and 5 of discussion proposal document

Preliminaries

- Nutrient Work Group Roll Call
- Follow-up Items

Discussion Document

- Items 4-5 of Discussion Document
 - Proposed Solutions
 - Nutrient Work Group Dealbreakers
- Additional topics as time allows

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				
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	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				

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.









Presentation Option

Montana Water Quality Act / Water Quality Planning Process Overview

- 1 hour
- Open to the public
- If yes, will send a Doodle poll to NWG members to pick a date



Recap

- Timeline
- Framework rule update
- Nutrient data sources
- Discussed 2d 3







DISCUSSION DOCUMENT



4-5

Crosswalk Between League's Proposed Discussion Outline and (1) the Framework Rule and (2) the 10/18/2021 Department Documents (Rule, Circular DEQ-15, Guidance).

Subjects in blue were added to the League's proposal and are subjects that DEQ needs to include and address.

			Associated Section of E			
League Topic	Short Description	Framework Rule	mework Rule 10/18 Rule Circular DEQ-1			Associated Comment(s) on 10-18-2021 Drafts
4) Assessment of Treatment Options, Resulting Load Reductions, and Associated Cost	Each point source must provide information regarding current & potential treatment options, their potential load reductions, costs associated with different options, and feasibility	not addressed	New Rule X (4)(a)(i) and (iii) only address this indirectly.	Section 8.3.1	Sections 3.6.7 and 8.3.1.	Adaptive Management Program means (c) identifying and assigning treatment options to all discharge in the watershed, considering the relative cost of their feasibility, and the expected water quality improvement, in determining whether to enforce such options or create voluntary incentives and programs for administration by DEQ (League, Industry).
5) Identify and Prioritize Actions for Nutrient Reduction in the Watershed						
5a	Collaboration between permittees, stakeholders, & DEQ to identify actions/tools to reduce watershed nutrients. DEQ to allow permit compliance flexibilities for experimentation with new technologies.	New Rule I (1)(a)(ii)(B) and maybe New Rule I (1)(d)	New Rule X (4)(a)(ii)	Section 8.2, Section 8.3.2	not addressed	The permittee has no authority to impose the monitoring plan or the implementation plan on anyone else, including other point and nonpoint sources. (Industry, Eng)
5b	Identify funding sources	not addressed	New Rule X (4)(a)(iv)	Section 8.4	Section 8.4 (placeholder section)	New Rule X(4)(a)(iv) requires demonstration of "the ability to fund and implement the plan," yet the permittee has no authority to implement anything beyond its discharge.
5c	Prioritize actions based on cost, feasibility, and degree of expected nutrient reduction	not addressed	not addressed	not addressed	not addressed	Adaptive Management Program means (c) identifying and assigning treatment options to all discharge in the watershed, considering the relative cost of their feasibility, and the expected water quality improvement, in determining whether to enforce such options or create voluntary incentives and programs for administration by DEQ (League, Industry).
5d	Develop a schedule to implement actions and evaluate success of actions taken	Not addressed directly; New Rule I (1)(a)(ii)(B) is generally related	New Rule X (4)(a)(iii) and (v)	Section 4.5; Section 8.5	Section 4.5; Section 8.5; Appendix B	The documentcontains no discussion of implementation expectations, schedules, or roles. (League)
5e	Final plan submission to DEQ for review and approval; how plan is implemented in MPDES permit or TMDL	New Rule I (1)(b)	New Rule X (1) and (4)(b)	Section 1.0 Flowchart	not addressed	The AMP should be separate from the MPDES permitting process, but used to inform permit limits where appropriate, much like a TMDL. Keeping the AMP separate from the MPDES permitting process provides path for watershed-specific science to be developed that can inform MPDES permits as appropriate, where requirements onto the permittee exceeds the authority of MPDES program (Industry). The absence of a similar table for permitting and the lack of information that describes how the state will consider the pollutants (i.e., TN and TP) for any reasonable potential analysis fails to provide an adequate level of assurance that MDEQ will identify protective levels of both TN and TP for implementation in NPDES permitting decisions.



Topic 4: Highlights

Each point source must provide information regarding current & potential treatment options, their potential load reductions, costs associated with different options, and feasibility

Bill Proponents Recommendations

- AMP to include analysis of ≥ 2 facility nutrient removal options
 - May include alternatives like land ap, side stream trmnt
- AMP to include baseline watershed nutrient loading calcs
- Develop capital costs projections for each option considered
 - Including cost/pound of P, N removal
- Carry out environmental impact analysis of additional energy demands, chemicals, GHG emissions



BMP Resources

- Montana's Nonpoint Source Management Plan, Appendix A
- 319 Program's Load Reduction Estimation Guide
- https://deq.mt.gov/water/Programs/sw



A.1 BEST MANAGEMENT PRACTICES

Table A.1 BMPs

			Pollutant									
BMP	Description	References: Guidance documents, internet resources, NRCS Practice Standard(s), other literature	Nitrogen	Phosphorus	Sediment	Temperature	pH	Salinity	BOD	Pathogens	Toxic Chemicals	Consultant or Engineer Typically Needed Y/N/?
Agriculture			907	80	×	2 78 19 -	2				90 (CC -) 	
Clean Water Diversion	Berms, rain gutters, rain barrels, roofing, reservoirs, infiltration basins, vegetated strips, or other structures used to prevent clean runoff or precipitation from picking up pollutants.	Diversion (NRCS 362), Roof Runoff Structure (NRCS 558), Water and Sediment Control Basin (NRCS 638)	x	x	x	x			x	x		?
Corral / Pen Relocation	Moving part or all of an animal confinement facility to prevent or reduce inundation and subsequent off-site transport of pollutants.	Obstruction Removal (NRCS 500), Fence (NRCS 382)	x	x	x	x			x	x		N
Stream Crossing	A stabilized area or structure constructed across a stream to provide a travel way for people, livestock, equipment, or vehicles.	Stream Crossing (NRCS 578), Fence (NRCS 382)		x	x							3
Off-Stream Watering Facility	A permanent or portable device to provide an adequate amount and quality of drinking water for livestock and wildlife. The purpose of the device and its location should be to encourage or enable livestock to obtain water from a source other than a surface water body, or improve livestock distribution.	Watering Facility (NRCS 614)	x	x	x	x			x	x		Ν
Filter Strip	A strip of permanent, perennial vegetation placed on the downgradient edge of a field, pasture, barnyard, or animal confinement area. The purpose of the strip is to slow down surface runoff, filter out particulate matter, or absorb and use nutrients. If the purpose of the strip is to take up nutrients, then the vegetation must be periodically harvested in order to prevent nutrient buildup. In this situation, grazing would not	Field Border (NRCS 386), Filter Strip (NRCS 393), Hedgerow Planting (NRCS 422), Vegetated Treatment Area (NRCS 635)	x	x	x	x			x	x		Ν

SECTION 1 – METHOD SUMMARY TABLES

Table 1-1. Method Characteristics

Method Name	Nitrogen	Phosphorus	Sediment	Pre-construction Field Data Required?	Accuracy (estimate)	Time to Learn and Apply (relative)	Skill Level
BEHI	N	N	Y	Y	М	М	M
FS WEPP	N	N	Y	Y	М	М	M
Livestock Deposition Model	Y	Y	N	N	L	L	L
Mass Balance Equation	Y	Y	Y	Y	М	L	L
Pour Point Monitoring	Y	Y	Y	Y	н	L	L
Region 5 Model	Y	Y	Y	N	М	Н	Н
RUSLE2	N	N	Y	N	М	Н	Н
STEPL	Y	Y	Y	N	М	Н	Н
Y = yes, N = no	- C	554 S		197			
L = low, M = medium, H = high							

SECTION 2 - APPLICABLE BEST MANAGEMENT PRACTICES

Table 2-1. Agriculture

Best Management Practice	BEHI (S)	FS WEPP (S)	Livestock Deposition Model (N,P)	Mass Balance Equation (N,P,S)	Pour Point Monitoring (N,P,S)	RUSLE2 (S)	STEPL (N)	STEPL (P)	STEPL (S)	Region 5 Model (N)	Region 5 Model (P)	Region 5 Model (S)
Alley Cropping					Y	Y						
Animal Trails and Walkways		Y	Y									
Animal Waste System			Y									
Buffer Strip	<u></u>		Y	Y	Y	Y						
Canal Fencing			Y									
Clean Water Diversion					Y							
Composting												
Conservation Cover					Y	Y						
Conservation Crop Rotation - ag fields					Y	Y				Y	Y	Y
Conservation Easements										Y	Y	Y



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



0&A

Raise Hand





Leave

Next Meeting

 Next Meeting: April 13, 2022 at 9 a.m.





Thanks for Joining Us

Contact: Christina Staten <u>CStaten@mt.gov</u>

To submit comments or questions

Submit Comments or Questions

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

