

**Narrative Nutrient Standards Transition Listening Session – June 9, 2021**

**Summary of Themes, Questions and Comments**

Themes	Questions	Comments
Federal approval	<ul style="list-style-type: none"> <li>• Are there any approaches that are off-limits by EPA and should be identified early?</li> <li>• I was surprised to hear standards could be repealed without EPA approval. I thought that our standards would stand until the new approach is approved by EPA. Has DEQ legal counsel looked at this issue?</li> <li>• Is this rulemaking legal under the Clean Water Act?</li> </ul>	
Assessment Method/Impairment listings	<ul style="list-style-type: none"> <li>• When you reference the nutrient assessment method, are you specifically referencing DEQ’s 2011 Water Quality Assessment Method, or something else?</li> <li>• Will streams that are currently listed as impaired with numeric standards no longer be listed as such under the new narrative standards? Specifically, is it possible that some streams currently listed as impaired will no longer be considered impaired as soon as the new narrative standards and AMPs are established?</li> <li>• Will streams that are currently listed as impaired by nutrients cease to be listed as impaired unless they are also impaired by excess algae or low oxygen (problems caused by excess nutrients)? If a reach of stream is determined to be impaired by excess algae or low oxygen and the likely cause appears to be excess nutrients, will it be said to be impaired by nutrients, and will that require that all upstream sources of the nutrients will have to cut back as part of a load allocation?</li> </ul>	
Sources	<ul style="list-style-type: none"> <li>• Will nutrient trading between point and nonpoint sources be considered?</li> </ul>	

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	<ul style="list-style-type: none"> <li>• Lots of the responses have been focused on regulation of point sources. Has DEQ considered how non-point sources will be considered in AMPs on a watershed basis, and steps taken to reduce pollutant loading from these sources?</li> <li>• The rulemaking framework indicated that point sources will be tied to in-stream nutrient concentrations. Would MDEQ consider tying those points sources to other response variable endpoints in addition to or in place of numeric values?</li> </ul>	
Nutrient Limits & Specifics	<ul style="list-style-type: none"> <li>• How can we prevent problems from increasing nutrient loads? Do we have to allow nutrient loads to increase until we have a problem -- then we have to roll back the increased loading from development or mining or whatever?</li> <li>• Whose responsibility is it to enforce the phosphorus ban in ARM 17.30 Subchapter 3? Would it be beneficial to explore additional rulemaking to enhance these requirements (such as eliminate the exemptions)?</li> <li>• How does your statement on phosphorous having been addressed comport with the statutes directive to prioritize the minimization of phosphorous?</li> <li>• Will nitrogen be included in the new standards and limited in our water?</li> <li>• Will there be means to determine which is the 'limiting factor' for a given stretch (i.e. is the algal growth limited by TN or TP)? If so &amp; the stream is determined to be impaired due to chlorophyll-A, D.O or some other metric, how can we tease out which nutrient(s) to limit or do we always assume TP first as per statute.</li> </ul>	<ul style="list-style-type: none"> <li>• I've worked on Good Neighbor Agreement- Have conducted significant data collection over the last 20 years and have found it's hard to identify which stressors cause aquatic issues in the river. When discharging into pristine water they have found it takes a long time before concentrations impact the water.</li> <li>• Nutrient pollution is a real problem in Montana. Concerned legislative rulemaking is only going to exacerbate this problem.</li> <li>• City of Bozeman stated investing money into protecting the East Gallatin River and it has been successful.</li> </ul>

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	<ul style="list-style-type: none"> <li>• Narrative standards do not have any numbers. Will target numbers for nutrients be established or will the old numbers be substituted for those target numbers?</li> <li>• Will the Clark Fork River numeric nutrient standards remain in place? If so, do these apply to the mainstem only? Or will tributaries retain their numeric standards?</li> <li>• Protection of Lake Pend Oreille in Idaho depends on managing nutrients in the Clark Fork. How is that impacted by changes in nutrient standards on the river or its tributaries?</li> </ul>	
TMDLs	<ul style="list-style-type: none"> <li>• Where existing TMDLs include WLAs that are either currently impossible to meet or limit community growth (potentially encouraging development of septic systems) - will there be a pathway to work with those that is overall protective of the stream but avoids unintended negative consequences?</li> </ul>	<ul style="list-style-type: none"> <li>• Adaptive management planning often relies on non-point source control to carry some of the burden of improving water quality. Most Montana TMDLs call for minimal non-point source activity. An ongoing issue will be point source dischargers investing funds outside of City limits on non-point source improvements but having little or no control over their implementation and also reconciling those with the TMDL.</li> </ul>
Existing Science		<ul style="list-style-type: none"> <li>• Pillar 1 for this process states that "Existing Science "DEQ will utilize the existing science of nutrient impacts to Montana's beneficial uses—it is not the intent of these meetings to revisit the science." Several Cities have invested in site specific science to more completely understand the impacts of their reclaimed water on their receiving water. This science needs to be a critical component of the AMPs for these Cities. Further, the existing science and assessment methodology for Wadeable streams can yield a binary answer for impairment.</li> </ul>
Adaptive Management Program/Plans	<ul style="list-style-type: none"> <li>• Do you believe that any additional funding and staff will be needed to perform this new narrative standard?</li> <li>• How does Use Attainability Analysis (UAAs) and Variances fit into DEQ's vision of the Adaptive Management Plan process?</li> </ul>	<ul style="list-style-type: none"> <li>• The rulemaking framework discusses the need for a process of reconciling AMPs with TMDLs. The framework indicates that the TMDL will allow incremental progress by a POTW to those endpoints. In many cases, the endpoints in the TMDL were based on the original numeric Wadeable stream values (essentially zero) and are technically unachievable. The AMP</li> </ul>

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	<ul style="list-style-type: none"> <li>• Would MDEQ be willing to consider an approach long term that would give a more nuanced, or broader consideration of impacts to beneficial uses that could then be tied in a more meaningful way to an AMP?</li> <li>• Surely any science based adaptive management strategy will have to be based on the same dose-response relationships used to develop the numeric standards. Water treatment engineers don't have a spigot they can turn down to see the effects of lower and lower loadings on instream water quality. They have to design a system based on our best scientific assessment of what will meet standards &amp; support beneficial uses. That is why the numeric standards were developed -- so treatment engineers had a meaningful target to design for. What other approach to setting load targets can be used?</li> </ul>	<ul style="list-style-type: none"> <li>• may provide better, more recent and local science to support revised nutrient endpoints and harm to beneficial use thresholds.</li> <li>• MDEQ indicated in the first meeting that it would provide a priority structure for AMPs needing to be developed. The implication we got was that MDEQ is planning to drive the AMP process. We would like to see MDEQ allow the discharger to lead the development of an AMP if they choose. This could help match schedules to permit renewals and improve local engagement.</li> <li>• The rulemaking framework discusses the need for a process of reconciling AMPs with TMDLs. The framework indicates that the TMDL will allow incremental progress by a POTW to those endpoints. In many cases, the endpoints in the TMDL were based on the original numeric wadeable stream values (essentially zero) and are technically unachievable. The AMP may provide better, more recent and local science to support revised nutrient endpoints and harm to beneficial use thresholds.</li> <li>• It is important that this is staffed and funded adequately. Our waterways are an important resource that we rely on for agriculture and tourism.</li> <li>• The timeframe mandated is unworkable considering the extent of information to consider. The fact that only \$90K is applied sticks out as problematic. MEIC will offer comments in good faith and advocate for standards that will clean up streams. Hopes DEQ will find additional funding and there will be more baseline data on pollution sources.</li> </ul>
Treatment ramifications & economics		<ul style="list-style-type: none"> <li>• The current rulemaking framework does not discuss other impacts of reducing nutrients outside of instream water quality. Many utilities have invested millions of dollars in</li> </ul>

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		<p>capital, as well as energy/chemicals to comply with current permit requirements. Additional levels of nutrient treatment provide less benefit per pound of energy/chemicals consumed. MLCT can provide information to MDEQ on current levels of energy and chemical consumption associated with current levels of nutrient removal. Keeping a broad view of the energy and chemical consumption impacts of additional improvements will be important to sound decision making going forward.</p> <ul style="list-style-type: none"> <li>• City of Billings stated it takes 10.2 million kilowatt hours to power the treatment, which is approximately 11.5 million pounds of coal to treat wastewater on an annual basis. Happy to hear reverse osmosis isn't the answer—it will cost a lot more (triple costs) and take more power.</li> <li>• City of Missoula stated more processing/additional treatment results in an increased carbon footprint. Need to recognize that rivers in Montana are flow-limited; land application of wastewater could have unintended consequences.</li> <li>• Number one concern of small dischargers is affordability. Ranch and farm lands can contribute to the stream to which they discharge, making it hard. Some don't have finances to do a lot of nutrient removal. If they have to make investments, please consider the availability of funding and the planning cycle, as it is difficult to comply if things have to be done right away.</li> <li>• Preventing problems is usually more feasible and less costly than trying to correct problems after they develop.</li> <li>• MEIC offered to work with the cities that mentioned energy consumption on an energy reduction plan.</li> </ul>

