



TREASURE STATE
RESOURCES ASSOCIATION
OF MONTANA

P.O Box 1700, Helena, Montana 59624

Phone: (406) 443-5541

TREASURE STATE RESOURCES ASSOCIATION NEWS
February, 2020

TSRA Thanks Our 2020 Legislative Reception Sponsors

Legislative Week 2020 is now behind us, but we want to extend our appreciation to the generous folks who helped sponsor TSRA's Legislative Reception on January 13th. We had a great turnout from legislators, TSRA members, local elected officials and others.

As a reminder of why we host events like these, the following is an excerpt from a letter sent to the Association by Rep. Becky Beard from House District 80:

"I just wanted to drop you a quick "thank you" for hosting the Treasure State Resources Association's reception during Legislative Week. The event provided a delightful opportunity to network with new faces and familiar friends.

Thank you for all the work you do for the State of Montana in promoting positive economic activity...."

In addition to the opportunity to visit with legislators and others, the Silent Auction helped raise \$1770 for the Montana Food Bank Network.

TSRA also recognized Legislative Services Director Susan Fox for her extraordinary efforts to organize the first "Legislative Week".

Thank you to the following 2020 Legislative Reception Sponsors:

Premier Sponsors

Arco
Avista
Enbridge Energy
Exxon
MT. Farm Bureau Federation
NorthWestern Energy
Puget Sound Energy
Sandfire America
TC Energy
Weyerhaeuser

Major Sponsors

ABS Legal
Boulder River Watershed Association
Browning, Kaleczyc, Berry and Hoven
Burlington Northern Santa Fe
Calumet Refining
Citizens for Balanced Use
Denbury Resources
Golden Sunlight Mine
Great Northern Properties
Hecla Montana
KLJ
M & B Strategies
Molson Coors

Montana Association of REALTORS®
Montana Bankers Association
Montana Chamber of Commerce
Montana Coal Council
Montana Contractors Association
Montana Dakota Utilities
Montana Logging Association
Montana Mining Association
Montana Motor Carriers Association
Montana Petroleum Association
Montana Water Well Drillers Association
Montana Wood Products Association
Phillips66

Montana DEQ Proposes to Amend Draft Rules to Regulate the Disposal of Technologically-Enhanced Naturally Occurring Radioactive Materials (TENORM)

In response to comments regarding the Notice of Public Hearing on Proposed Adoption, MAR Notice No. 17-406, the department is proposing amendments to its originally proposed TENORM rules. Specifically, the department is proposing to:

- lower the radionuclide concentration (picocuries per gram - pCi/g) limit for the acceptance of TENORM waste;
- lower the maximum gate screening exposure level (microrentgen per hour - μ R/hr);
- remove the requirements for calculating a rolling average of the radionuclide concentration of waste in a TENORM waste unit;
- modify the requirements for filter media; and
- modify the requirements when the total effective dose equivalent (milliroentgen equivalent man - mrem) limit is exceeded at the boundary of the TENORM waste management system.

The department is reopening the comment period on the proposed rules only with respect to the specific provisions identified in the Supplemental Notice of Proposed Adoption. Timely comments previously submitted on the original notice as well as comments received in response to the supplemental notice will be addressed in the adoption notice for the proposed rules. Concerned persons may submit their comments and supporting data, concerning the proposed action in writing to: Sandy Scherer, Legal Secretary, Department of Environmental Quality, 1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901, faxed to the office at (406) 444-4386 or e-mailed to Sandy Scherer at sscherer@mt.gov, and must be received no later than 5:00 p.m., March 2, 2020.

To see the proposed supplemental rule notice, go to DEQ's Rule Notice webpage at: https://deq.mt.gov/DEQAdmin/dir/legal/no_hearing or contact DEQ's Solid Waste Program at (406) 444-5300.

MT Governor's Grizzly Bear Advisory Council Needs to Hear from Landowners

Source: Montana Fish, Wildlife and Parks

The Governor's Grizzly Bear Advisory Council recently met in Polson on January 14-15th. The public meeting in Polson was the council's fourth gathering. Additional meetings will continue to be held across the state to provide more people the opportunity to interact with the council. The next meeting is scheduled to be held in Libby on February 26-27 in the Ponderosa Room at the City Building, 952 E. Spruce.

Over the last few months, the council has reviewed the history of grizzly bear recovery and conservation in Montana, interagency management efforts, legal considerations, and grizzly bear distribution. Presentations have focused on the current state of grizzly bear populations across the state and the core questions and considerations that wildlife managers and others face as these populations continue to expand in Montana, including into some areas that they have not occupied for decades. Councilors have heard from

Montana Fish, Wildlife & Parks management staff, as well as tribal and federal managers, who respond to conflicts and develop prevention measures. Non-profit organizations have also presented information on education and outreach efforts across the state.

At the meeting in Polson, the council reviewed transplant protocols, livestock loss compensation, the status of the Bitterroot ecosystem, and more.

Grizzly bears in Montana are native, iconic carnivores that have high value to people and cultures across the state and around the world and play important roles in Montana ecosystems and economies. At the same time, they can and do injure or kill people and livestock, and cause property damage and economic loss, which may disproportionately affect individuals living and working in bear country. Their potential presence is both valued and feared.

After 40 years of hard work by all Montanans, grizzly bear populations have reached and surpassed federal recovery goals in the Greater Yellowstone Ecosystem and Northern Continental Divide Ecosystem. The Cabinet-Yaak Ecosystem is below recovery goals with approximately 55-60 grizzly bears, and the Bitterroot Ecosystem does not currently have a resident population of grizzly bears.

In the GYE and NCDE, densities of grizzly bears are increasing, and they are now expanding into areas where they haven't been for decades, including connectivity areas between recovery zones. These areas include a greater percentage of working private lands and places where the human population is expanding, creating a greater potential for conflicts. Existing management plans and agency communication built public expectations on where bears would occur and do not reflect recent changes to bear distribution.

Montana remains committed to maintaining the long-term viability of grizzly bears, consistent with FWP's long history of wildlife conservation. The challenge is balancing conflicting values and addressing diverse needs, especially in newly-recolonized areas. Federal protected status currently governs Montana's ability to address distribution and abundance. Many challenges would remain regardless of federal protections.

Montana Gov. Steve Bullock appointed the council and tasked the diverse group with producing a final report with discrete, actionable recommendations that provide clear and meaningful guidance to the Governor's Office, the Fish and Wildlife Commission, and other entities with responsibility for grizzly bear management and conservation in

Montana. The public is also encouraged to provide input to council members online at fwp.mt.gov/gbac.

Editors Note: Council members would be particularly interested in getting information and recommendations from ranchers, farmers and landowners who interact regularly with grizzly bears, particularly those outside the official recovery areas.

Montana Board of Environmental Review to Consider Triennial Review of Montana's Water Quality Standards

Source: Montana Department of Environmental Quality

At its upcoming February 7, 2020 meeting, the Montana Board of Environmental Review will be considering a request to conduct the required triennial review of Montana's water quality standards.

The comment process would address any water quality standard found at ARM Title 17, chapter 30. Anyone with an interest in water quality standards may provide comment during the triennial review comment period.

The Montana Water Quality Act and the Federal Clean Water Act require that the State of Montana review and, as appropriate, adopt new or revised water quality standards at least every three years. Public input is an important piece of the review process, and federal regulations require that a public hearing be held to review applicable water quality standards as part of the triennial review.

The Board may: 1. Hold a public hearing and accept public comments on Montana's water quality standards as part of a required triennial review of those standards; or 2. Determine that a triennial review is not appropriate at this time and deny the Department's request. Montana DEQ has recommended the Board hold a public hearing and accept public comments on Montana's water quality standards as part of a required triennial review of those standards. The Water Pollution Control Advisory Council has also recommended the BER move forward with the review.

Update on Arsenic Standards for the Yellowstone

BER will also receive an update from the Department regarding the status of the rulemaking process for setting new arsenic standards for sections of the Yellowstone River based on the determination of the nonanthropogenic (natural) conditions. DEQ had anticipated making the

request to initiate rulemaking at the February 7 meeting but additional work is needed before moving forward.

Public Comment Sought on the Council of Environmental Quality's Proposal to Modernize its NEPA Implementing Regulations

Source: CEQ

In January, the Council on Environmental Quality (CEQ) announced a notice of proposed rulemaking (NPRM) titled "Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act." The NPRM appeared in the Federal Register on Friday, January 10, 2020, for public comment.

For the first time in over 40 years, CEQ is proposing to modernize its National Environmental Policy Act (NEPA) regulations. The outdated regulations have slowed and impeded the development of needed infrastructure in communities across the nation. Environmental impact statements (EISs) for Federal highway projects have averaged over 7 years to complete and many reviews have taken a decade or more.

CEQ's proposed rule would modernize and clarify the CEQ regulations to facilitate more efficient, effective, and timely NEPA reviews by simplifying and clarifying regulatory requirements, incorporating key elements of the One Federal Decision policy, codifying certain case law and CEQ guidance, updating the regulations to reflect current technologies and agency practices, eliminating obsolete provisions, and improving the format and readability of the regulations. The proposed rule seeks to reduce unnecessary paperwork and delays, and to promote better decision-making consistent with NEPA's statutory requirements.

Background: The National Environmental Policy Act (NEPA), signed into law in 1970, is a procedural statute that requires Federal agencies to assess the environmental impacts of proposed major Federal actions. The Council on Environmental Quality (CEQ) issued regulations for Federal agencies to implement NEPA in 1978. CEQ has not comprehensively updated these regulations in over 40 years, and has made only one limited substantive amendment in 1986.

In 2017, President Trump issued Executive Order 13807 establishing a One Federal Decision policy, including a two-year goal for completing environmental reviews for major infrastructure projects, and directing CEQ to consider revisions to modernize its regulations. In 2018, CEQ issued an Advance Notice of Proposed Rulemaking (ANPRM) requesting comment on potential updates to its regulations. CEQ received over 12,500 comments, which informed CEQ's proposed rule. CEQ has found that the average length of an EIS is over 600 pages, and that the average time for Federal agencies to conduct these NEPA reviews is four and a half years. However, reviews for some projects have taken much longer.

NEPA analyses are frequently challenged in the courts, and while Federal agencies ultimately prevail in many cases, litigation can unnecessarily delay and increase costs for important projects such as needed transportation, water, and other infrastructure that benefit States, Tribes, and local communities. The increased costs and complexity of NEPA reviews and litigation make it very challenging for large and small businesses to plan, finance, and build projects in the United States. Key Elements of the Proposed Rule are:

- **Modernize, Simplify and Accelerate the NEPA Process**
 - Establish presumptive time limits of two years for completion of environmental impact statements (EISs) and one year for completion of environmental assessments (EAs)
 - Specify presumptive page limits
 - Require joint schedules, a single EIS, and a single record of decision (ROD), where appropriate, for EISs involving multiple agencies
 - Strengthen the role of the lead agency and require senior agency officials to timely resolve disputes to avoid delays
 - Promote use of modern technologies for information sharing and public outreach
- **Clarify Terms, Application and Scope of NEPA Review**
 - Provide direction regarding the threshold consideration of whether NEPA applies to a particular action
 - Require earlier solicitation of input from the public to ensure informed decisionmaking by Federal agencies
 - Require comments to be specific and timely to ensure appropriate consideration
 - Require agencies to summarize alternatives, analyses, and information submitted by commenters and to certify consideration of submitted information in the ROD
 - Simplify the definition of environmental “effects” and clarify that effects must be reasonably foreseeable and have a reasonably close causal relationship to the proposed action
 - State that analysis of cumulative effects is not required under NEPA
 - Clarify that “major Federal action” does not include non-discretionary decisions and non-Federal projects (those with minimal Federal funding or involvement)
 - Clarify that “reasonable alternatives” requiring consideration must be technically and economically feasible
- **Enhance Coordination with States, Tribes, and Localities**
 - Reduce duplication by facilitating use of documents required by other statutes or prepared by State, Tribal, and local agencies to comply with NEPA
 - Ensure appropriate consultation with affected Tribal governments and agencies
 - Eliminate the provisions in the current regulations that limit Tribal interest to reservations

- **Reduce Unnecessary Burdens, Delays**

- Facilitate use of efficient reviews (categorical exclusions (CEs), environmental assessments)
- Allow agencies to establish procedures for adopting other agencies' CEs
- Allow applicants/contractors to assume a greater role in preparing EISs under the supervision of an agency

CEQ requests public comment on the NPRM.

Comments should be submitted on or before March 10, 2020. You may submit comments via any of the following methods:

- Go to <https://www.regulations.gov/> and follow the online instructions for submitting comments to Docket ID No. CEQ-2019-0003.
- By Fax: 202-456-6546
- By mail: ♣ Council on Environmental Quality 730 Jackson Place NW Washington, DC 20503 Attn: Docket No. CEQ-2019-0003

Montana Climate Solutions Council Moves Forward with Draft Recommendations

The full Montana Climate Solutions Council met January 27-28, 2020 in Missoula to take the next step in pushing recommendations forward for public comments. Each of the working committees – Climate Adaptation, Information and Decision Support Committee; Technology and Innovation Support Committee, and the Greenhouse Gas (GHG) Mitigation Strategies – presented their ideas for full Council consideration. Public input was invited both days following committee presentations.

Recommendations range from ways to improve energy efficiency in new construction to imposing a carbon tax. The carbon tax proposal offered by the Technology and Innovation Support Committee was tabled, but the GHG Committee is still considering the issue.

Originally the draft recommendations were expected to go out for public comment the end of January but more work needs to be done to address issues raised during the Council's meeting. It is not yet clear what form the public input process will take but TSRA members are encouraged to review the recommendations once they are available and offer substantive comment. A Montana Climate Summit is still being considered for April and the final report to the Governor is due in June.

TSRA thanks Alan Olson, MPA; Todd O'Hair, Montana Chamber of Commerce; David Hoffman, NorthWestern Energy, Gary Weins, MT Electric Cooperatives Association and Al Ekblad, MT AFL-CIO for their service on the Council to date. They have brought a wealth of information and "good old-fashioned common sense" to the discussion.

Meeting notes from past Council and Committee meeting are available on the DEQ website, but the various draft recommendations have not yet been posted.

Upcoming Events/Dates:

February 27, 2020	State Administration Committee State Capitol, Helena, MT
March 9 – 10, 2020	Water Policy Interim Committee State Capitol, Helena, MT
March 18, 2020	Local Government Interim Committee State Capitol, Helena, MT
March 19-20, 2020	Revenue Interim Committee State Capitol, Helena, MT
March 23-24, 2020	Energy and Telecommunications Interim Committee State Capitol, Helena, MT
March 25-26, 2020	Environmental Quality Council State Capitol, Helena, MT
May 12-13, 2020	Revenue Interim Committee State Capitol, Helena, MT
May 13, 2020	Local Government Interim Committee State Capitol, Helena, MT
May 18-19, 2020	Water Policy Interim Committee State Capitol, Helena, MT
May 21-22, 2020	Energy and Telecommunications Committee State Capitol, Helena, MT
May 27-28, 2020	Environmental Quality Council State Capitol, Helena, MT
June 17-18, 2020	TSRA Annual Meeting DoubleTree Hotel, Billings, MT
June 17, 2020	State Administration Interim Committee State Capitol, Helena, MT

July 13-14, 2020	Water Policy Interim Committee State Capitol, Helena, MT
July 14, 2020	Local Government Interim Committee State Capitol, Helena, MT
July 15, 2020	Energy and Telecommunications Committee State Capitol, Helena, MT
July 20-21, 2020	Revenue Interim Committee State Capitol, Helena, MT
July 29-30, 2020	Environmental Quality Council State Capitol, Helena, MT
August 25, 2020	State Administration Interim Committee State Capitol, Helena, MT
September 8, 2020	Energy and Telecommunications Committee State Capitol, Helena, MT
September 9, 2020	Local Government Interim Committee State Capitol, Helena, MT
September 9-10, 2020	Environmental Quality Council State Capitol, Helena, MT
September 11, 2020	Revenue Interim Committee State Capitol, Helena, MT
September 14-15, 2020	Water Policy Interim Committee State Capitol, Helena, MT
October 29, 2020	State Administration Interim Committee State Capitol, Helena, MT
November 19, 2020	Revenue Interim Committee State Capitol, Helena, MT

If you don't want to receive the TSRA Newsletter, please let me know. If you want to share with others in your company or organization, please do so. The mission of the Treasure State Resources Association is to promote and enhance the Montana Way of Life through responsible resource development.