



# TREASURE STATE RESOURCES ASSOCIATION OF MONTANA

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## TREASURE STATE RESOURCES ASSOCIATION NEWS

February, 2022

### **Governor Gianforte Appoints Christy Clark Director of Agriculture**

Source: Office of the Governor, January 31, 2022

On January 31, 2022 Governor Gianforte announced the appointment of Christy Clark as the director of the Montana Department of Agriculture.

“Montana producers work hard to feed the world and today they have a partner and established advocate in Christy Clark as the director of the Montana Department of Ag,” Governor Gianforte said. “A fifth-generation rancher, Christy understands the challenges and opportunities our producers face, and shares my commitment to strengthening and supporting our state’s number one industry.”

Since May 2021, Clark began serving as acting director of the department when Mike Foster temporarily left the agency to serve as the state’s ARPA program director. Since Foster’s retirement in October 2021, Clark has continued to serve as acting director. With the Governor’s appointment, she is director of the agency.

Since 2015, Clark has served Montana producers at the department in various roles, including deputy director, agricultural sciences administrator, and agricultural development and marketing bureau chief.

A Choteau native and fifth-generation rancher, Clark has promoted Montana's high-quality ag products throughout the world and expanded value-added ag opportunities for Montana producers at the Department of Agriculture.

"I'm honored to be a part of Governor Gianforte's team and lead an agency serving our farmers, ranchers, and other ag-related industries. They are the lifeblood of our state," Clark said.

"Agriculture is my greatest passion, and I can't help but feel like everything I've done in my life up until this point, both personally and professionally, has led me here."

Ms. Clark's appointment is widely supported by leaders of Montana's ag industry.

## **Mercury and Toxic Standards for Power Plants**

Source: USEPA Fact Sheet

- On January 31, 2022, the Environmental Protection Agency (EPA) proposed to reaffirm that it remains appropriate and necessary to regulate hazardous waste air pollutants (HAP), including mercury, from power plants after considering cost. This action revokes a 2020 finding that it was not appropriate and necessary to regulate coal- and oil-fired power plants under Clean Air Act (CAA) section 111, which covers toxic air pollutants.
- EPA reviewed the 2020 finding and considered updated information on both the public health burden associated with HAP emissions from coal- and oil-fired power plants as well as the costs associated with reducing those emissions under the Mercury and Air Toxics Standards (MATS).
- After weighing the public risks posed by these emissions to all Americans and to particularly exposed and sensitive populations, against the costs of reducing this harmful pollution, EPA proposes to conclude that it remains appropriate and necessary to regulate these emissions.
- The proposed action, if finalized, would ensure that coal- and oil-fired power plants continue to control emissions of hazardous air pollution and that the agency properly interprets the CAA to protect the public. EPA is not proposing to change the status of coal- and oil-fired power plants as affected source categories for regulation under section 112 of the CAA, so the existing emission standards for MATS would remain in effect and unchanged.

- The review that led to this action was directed by President Biden's January 20, 2021 Executive Order 13990. In addition to reviewing the May 22, 2020 action, the Executive Order also directed EPA to re-evaluate the MATS Risk and Technology Review. EPA is soliciting information on the cost and performance of new or improved technologies that control HAP emissions, improved methods of operation, and risk-related information to further inform the Agency's re-evaluation of the MATS RTR. EPA will issue a separate action based on the Agency's assessment of the RTR.

### **Public Hearing and Comment**

- EPA will hold a virtual public hearing for this proposed action. Further details will be announced at : [EPA Rulemaking for Air Toxics and Mercury](#)
- EPA will accept comment on the proposal for 60 days after publication in the *Federal Register*.

## **Custer Gallatin National Forest Land Management Plan Available**

Source: USDA Forest Service

On January 28, 2022 Mary Erickson, Forest Supervisor for the Custer Gallatin National Forest signed the record of decision (ROD) for the Custer Gallatin National Forest Land Management Plan.

The decision is the culmination of the Forest Plan Revision process, which involved intensive involvement efforts, collaboration and work with Tribes, local city and county governments, the states of MT and SD, as well as other federal partners.

The plan for the over 3-million-acre-forest provides overarching guidance and direction for the next 10-15 years. It sets priorities for investments that support work with state partners, Tribes, communities, and stakeholders to achieve wildlife conservation, vegetation, and active landscape management, and help maintain sustainable mining, grazing, forest products and recreation industries.

The decision lands on the following land allocations:

- 8 recommended Wilderness Areas,
- 13 Backcountry Areas,
- 2 Key Linkage Areas,
- 30 Wild & Scenic Rivers,
- 10 Recreation Emphasis Areas &
- 1 Globally recognized Platinum & Palladium Mine

A user-friendly [16 page Decision Summary - "Magazine"](#) is available for ease of reading.

All documents are available at: [www.fs.usda.gov/custergallatin](http://www.fs.usda.gov/custergallatin)

## **Hazardous Waste | Notice of Public Hearing on Proposed Rules Adoption, Amendment, and Repeal | Comment Period Closes February 14, 2022**

Source: MT Department of Environmental Quality

**Rulemaking Background:** The Department of Environmental Quality (DEQ) is proposing to update hazardous waste fees and to incorporate by reference the 2021 version of the federal Resource Conservation and Recovery Act (RCRA) Subtitle C in Title 40 of the Code of Federal Regulations (CFR). RCRA Subtitle C contains regulations for hazardous waste management. The incorporation by reference process is accomplished by amending the CFR publication date specified in ARM 17.53.105(3). The proposed amendments are necessary for DEQ to maintain consistency with federal RCRA Subtitle C regulations and preserve the state hazardous waste program authorization from the U.S. Environmental Protection Agency (EPA).

Hazardous waste registration and permitting fees have not been increased since 2009. DEQ is proposing to increase fees for generator registration, annual registration maintenance, and permitting renewal and modifications. DEQ is also proposing a change of activity fee for notifications required by new federal rules proposed for adoption in this rulemaking. DEQ has determined that reasonable necessity exists to generally amend the fee rules to establish sufficient fees to enable DEQ to effectively operate and implement the federal and state regulatory obligations.

**Opportunity to Comment:** On February 9, 2022, at 2:00 p.m., DEQ will hold a public hearing in Room 111 of the Metcalf Building, 1520 E. Sixth Avenue, Helena, Montana, to consider the proposed amendment and adoption of the above-stated rules.

To attend remotely via Zoom:

<https://mt-gov.zoom.us/j/86001610494?pwd=U2tlSF1Ub1RsZk9JeFpoV2VCcmR3dz09>

Meeting ID: 860 0161 0494

Password: 651151

Dial by Telephone

+1 646 558 8656 or +1 406 444 9999

Meeting ID: 860 0161 0494

Password: 651151

You are invited to submit data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Loryn Johnson, Paralegal, Department of Environmental Quality, 1520 E. Sixth Avenue, P.O. Box 200901, Helena, Montana 59620-0901; faxed to (406) 444-4386; or e-mailed to Loryn.Johnson2@mt.gov, no later than 4:00 p.m., February 14, 2022. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

To see the proposed rule click here: [MAR Notice No. 17-418](#)

## **Water Quality | General Permit; Storm Water Discharges Associated with Industrial Activity | Comment Period Closes February 24, 2022**

Source: Montana DEQ

Applicant:

**General Permit; Storm Water Discharges Associated with Industrial Activity**

Geographic Region:

**Statewide (except on Indian Lands)**

Facilities:

**Owners / Operators of Industrial Activities**

Receiving Water:

**State Surface Water**

Permit Number:

**MTR000000**

The renewal of the Multi-Sector General Permit for Storm Water Discharges Associated with Industrial Activity will continue to provide statewide general permit coverage for owner/operators of industrial activities that discharge storm water to state surface waters.

**Associated Materials:**

[Public Notice](#)

[Fact Sheet](#)

[Environmental Assessment](#)

[Draft Permit](#)

**Comment Period Ends:** February 24, 2022

**Send Comments To:**

DEQ Water Quality Division  
Water Protection Bureau  
PO Box 200901  
Helena, MT 59620

Or electronically to: [DEQWPBPublicComments@mt.gov](mailto:DEQWPBPublicComments@mt.gov)

## **February 8 is the Deadline for Comments on Initial Nutrient Rules**

Source: Montana Department of Environmental Quality

On November 19, 2021, the Department of Environmental Quality (department) initiated rulemaking on proposed amendments to Administrative Rules of Montana 17.30.1304 and a proposed rule (New Rule 1) pertaining to implementation of narrative standards for nutrients in Montana surface waters. Nutrients, in this context, refers to total phosphorus and total nitrogen concentrations in state surface waters. The formal rule notice can be accessed here: [17-420 proarm.pdf](#)

In April 2021, the Montana legislature adopted Senate Bill 358 (now 75-5-321, MCA) which directs the department to adopt rules related to narrative nutrient standards by March 1, 2022. The law describes a process for implementing narrative nutrient standards in Montana Pollutant Discharge Elimination System (MPDES) permits and requires that these be developed in consultation with the advisory nutrient work group. The law includes the requirement to develop an adaptive management program which provides for an incremental, watershed approach for protecting and maintaining water quality.

On February 8, 2022 at 2:00 p.m., a public hearing will be held in room 111 of the Metcalf Building, 1520 East Sixth Avenue, Helena, Montana, to consider the proposed amendments and New Rule 1. You may also join the meeting virtually via Zoom.

Members of the public are invited to submit data, views, or arguments either orally or in writing, at the hearing. Written data, views or arguments may also be submitted to Loryn Johnson, Paralegal, Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; faxed to (406) 444-4386; or emailed to: <mailto:loryn.johnson2@mt.gov> no later than 5:00 p.m. on February 8, 2022. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

## **Red Tape Review Begins Bearing Fruit**

The Gianforte Administration is moving into the next phase of the “red tape” review effort announced last year. Agencies have gone through their respective statutes and rules to identify opportunities to eliminate outdated or redundant requirements or rules that result in unnecessary costs or delays.

Lt. Governor Juras is heading the next phase of the process by identifying what ideas will emerge for either a legislative or regulatory fix. Agencies are expected to share the results of their review with stakeholders. As an example, DEQ State Superfund staff delivered a presentation to the State Superfund Stakeholder group on January 20<sup>th</sup>. They reported that MTDEQ as an agency reviewed 597 direct statutes and rules, and had identified 335 candidates for consideration. Of those the Governor was looking at 8 statutory actions, 20 rule actions and 2 circulars.

Changes will be proposed in a phased approach based on priorities identified by the agencies and the Administration.

The State Superfund Unit identified requirements for “third party work” as their priority for reform, and recommend repealing the rule and its associated portion of the statute (75-10-711 MCA). The regulations stem from concerns about how to make sure those responsible for sites knew what work was being done by other parties and have the opportunity to review any results from investigations. In practice the requirements have not worked well and may be counterproductive to the overall clean up effort. The unit had received feedback on other problems and concerns that they initially plan to address administratively and/or by making improvements to internal processes.

## **BLM Montana-Dakotas Seeks Nominations to Resource Advisory Councils – Due February 11th**

The Bureau of Land Management is seeking public nominations for positions on two Resource Advisory Councils (RACs) in Montana and the Dakotas. These citizen-based councils assist in the development of recommendations that address public land management issues.

The Western Montana RAC covers BLM lands in the western third of the state, and the Missouri Basin RAC encompasses BLM lands in the eastern two-thirds of Montana and the Dakotas.

The BLM maintains RACs chartered under the Federal Advisory Committee Act (FACA) and the Federal Policy and Land Management Act (FLPMA) across the West. Each RAC consists of 10- to 15-members from diverse interests in local communities, and they assist in the development of recommendations that address public land management issues.

“Resource Advisory Councils provide the BLM with vital feedback on current issues, concerns, and proposals, and enable us to engage local communities and stakeholders to improve our management of public lands,” said **BLM Acting State Director Theresa Hanley**. “Our goal is to ensure that the membership of every RAC encompasses a wide variety of perspectives and backgrounds to guide our work as effectively as possible.”

The BLM maintains RACs as a means of gaining expert advice, ideas, and diverse opinions on issues including land use planning, fire management, off-highway vehicle use, recreation, oil and gas exploration, noxious weed management, grazing issues, and wild horse and burro herd management issues. The RACs support the Bureau’s commitment to enhance the quality of life for all citizens through the balanced stewardship of America's public lands and resources.

Individuals may nominate themselves or others to serve on a RAC. Nominees, who must be residents of the state or states where the RAC has jurisdiction, will be reviewed based on their training, education, and knowledge of the RAC’s geographic area. Nominees should also demonstrate a commitment to consensus building and collaborative decision-making. Letters of reference should accompany all nominations from any represented interests or organizations, a completed RAC application, and any other information that speaks to the nominee’s qualifications.

Both RACs have positions open in the following categories:

- Category One – Representatives of organizations associated with energy/mineral development; federal grazing permit holders; the timber industry; transportation or



rights-of-way; off-highway vehicles users; and commercial and developed outdoor recreation.

- Category Two – Representatives of archeological and historic organizations; dispersed recreation users; wild horse and burro organizations; and nationally or regionally-recognized environmental organizations.
- Category Three – Representatives of state, county, or local elected office; Indian tribes located within or adjacent to the area for which the RAC is organized; academicians employed in natural resource management or natural sciences; employees of a state agency responsible for management of natural resources; and the public at large.

As published in a notice in the *Federal Register*, the BLM will accept nominations until Feb. 11, 2022.

For more information and an application, go to <https://www.blm.gov/get-involved/resource-advisory-council>. For questions about the Missouri Basin RAC, contact Mark Jacobsen, [mjacobse@blm.gov](mailto:mjacobse@blm.gov), 406-233-2831, or Gina Baltrusch, [rbaltrusch@blm.gov](mailto:rbaltrusch@blm.gov), 406-791-7778. For questions about the Western Montana RAC, contact David Abrams, [dabrams@blm.gov](mailto:dabrams@blm.gov), 406-533-7617.

## **Committee Advances Williams' Nomination to Head U.S. Fish and Wildlife Service**

Source: Missoulian, January 13, 2022 By: Tom Kuglin

The U.S. Senate Committee on Environment and Public Works has moved the nomination of Montanan Martha Williams to lead the U.S. Fish and Wildlife Service forward to the full Senate. She advanced by a vote of 16-4, earning praise from both the top Democrat and Republican on the committee. Sen. Tom Carper (D – Del) told the committee Williams had a proven track record of bringing groups together on wildlife issues. The Committee's top Republican, Sen. Shelley Capito of West Virginia also announced her support.

Montana Senators Jon Tester and Steve Daines had already announced their support for Williams ahead of her confirmation hearing in November.

Williams was the former Director of Montana Fish, Wildlife and Parks and has served over the last year as principal deputy director at USFWS while the director's position has remained open.

Williams touted her experience at both the state and federal level and pledged adherence to the law, science and collaboration during her confirmation hearing.

## Upcoming Interim Legislative Committee Meeting Schedule

The schedule of upcoming meetings for interim committees followed by TSRA is listed below. Agendas and other information will be available closer to the meeting date on the committee's website:

### Energy and Telecommunications Interim Committee

March 17-18, 2022 - Off Site Tour

Link to Committee Site: <https://leg.mt.gov/committees/interim/etic/meeting-info/>

### Environmental Quality Council

March 22-23, 2022 State Capitol or via Zoom

Link to Committee Site: <https://leg.mt.gov/committees/interim/eqc/meeting-info/>

### Revenue Committee

April 18-18, 2022 State Capitol or Via Zoom

Link to Committee Site: <https://leg.mt.gov/committees/interim/ric/>

### Water Policy Committee

March 15-16, 2022 State Capitol or Via Zoom

Link to Committee Site: <https://leg.mt.gov/committees/interim/wpic/>

## TSRA Annual Meeting – Room Block is Open

TSRA will be meeting June 8-9, 2022 at Fairmont Hot Springs Resort. Registration information will be coming later, but those planning to attend are encouraged to make their room reservation before the TSRA room block is filled. June is a busy time of year for the resort so the sooner you make your arrangements the better. To make your reservation you can:

Call the reservation line at 800.332.3272 and ask for the Treasure State Resources Association block or you can make reservations on-line at [www.fairmontmontana.com](http://www.fairmontmontana.com). Once on the website, click the book now tab which will take you to a tab for a group code which is 26237. Or use the link below to submit the group code:

<https://book.b4checkin.com/chameleon/fairmonthotsprings#groupSignIn>

Room rates are \$134 plus tax and resort fee.

## TSRA Legislative Showcase Planned for January 3, 2023

It's not too early to start thinking about participating in TSRA's popular Legislative Showcase scheduled for the evening of January 3<sup>rd</sup>, 2023. Over the years this event has been widely attended by legislators and other officials. It helps set the tone for the upcoming session by highlighting the importance of the various natural resource sectors of our economy, as well as the economic value of motorized recreation. Participants have the opportunity to "showcase" their companies or associations by reserving booth or table space. Others may choose to sponsor the event by helping with food and beverage costs.

Registration information will be available early this fall. If you have any questions about the event, please contact Peggy Trenk at 406-461-9945 or [ptrenk@tsria.net](mailto:ptrenk@tsria.net)

### Upcoming Events/Dates:

|                 |   |
|-----------------|---|
| June 8-9, 2022  | TSRA Annual Meeting<br>Fairmont Hot Springs Resort            |
| January 3, 2023 | TSRA Legislative Showcase<br>Delta Colonial Hotel, 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.*