



TREASURE STATE RESOURCES ASSOCIATION OF MONTANA

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TREASURE STATE RESOURCES ASSOCIATION NEWS

September, 2022

Wishing you all a Happy and Safe Labor Day! Americans have been officially celebrating Labor Day since 1894. Today it gives us the opportunity to show gratitude and recognize the achievements and spirit of the American worker. A big "Thank You" to all those folks who show up every day to keep our economy going strong. We appreciate you.

Montana DEQ Clarifies Plans for Move to Implementing Narrative Nutrient Standards – Pushes Back on EPA

Over the past year, TSRA, the Montana Mining Association and the Montana Petroleum Association have been working with the Montana League of Cities and Towns to help craft rules to implement SB 358, the move from numeric to narrative nutrient criteria. It has been a very challenging undertaking, due not just to the complexity of the issue but also from the resistance of the US Environmental Protection Agency to making the change. That was highlighted in the EPA's letter sent earlier this year that took the unusual step of disapproving

the state's move to narrative standards pending adoption of rules that demonstrate they will be as protective as the numeric standards. (Rules that EPA will have to approve.)

In an August 22, 2022 letter to the Environmental Protection Agency (EPA), the Montana Department of Environmental Quality stated they remain committed "to following the directives of state law and to adopt the narrative standards approach for all DEQ-12 A waters. DEQ is developing a rule package that includes a repeal of DEQ-12 A and replaces these numeric nutrient criteria with our existing narrative water quality standards. The rule package will also include rules for interpreting our narrative nutrient standards and an adaptive management option that gives the regulated community opportunities to look at a watershed scale to reduce nutrient concentrations. These rules will protect beneficial uses of state waters and allow for nutrient reductions to be phosphorus-focused, meaningful, affordable and incremental.

Upon submittal, DEQ expects EPA to approve this comprehensive rule package. DEQ expects this because despite a transition to narrative standards, beneficial uses of Montana's surface water bodies will be protected. Narrative water quality standards are descriptions of a desired conditions in surface water bodies. By contrast, numeric water quality standards are a prescribed number that must be achieved. Both approaches are proven to protect beneficial uses of surface water bodies. DEQ and EPA have recognized that narrative water quality standards can be equally protective as numeric standards."

Committees to Hear Agency Legislative Proposals

Interim Legislative Committees are wrapping up their work in preparation for the 2023 Legislative Session. In the coming weeks, state agencies and other entities will report their proposed legislation to the respective committee of jurisdiction. A number of proposals will be coming forward as part of the Governor's Red Tape Initiative aimed at reducing excessive and unnecessary requirements that are especially burdensome on farmers, ranchers, and small businesses. Those have been reviewed by Lt. Governor Juras in accordance with the Governor's Executive Order.

Committees are asked to review the proposals and approve them for pre-introduction. Committees may also forward their own legislative proposals as “committee bills” for consideration in 2023. An initial look at legislative proposals to watch are:

Montana Department of Environmental Quality (Source: DEQ Memo to Environmental Quality Council, August 2022)

Revise applicable hard rock mining fees and establish a hard rock mining permitting program account:

Issue: DEQ's implementation of the Montana Mining Reclamation Act (MMRA) currently totals approximately \$1.13 Million in Natural Resource Operations (NRO) and \$510K General Fund. The hard rock mining fees have not changed since they were established in 2001. The fees collected are not directed to MMRA implementation and are not commensurate with the workload.

Proposal: The implementation of the MMRA is currently funded with General Fund and NRO. This bill would add a 3rd funding sources to the MMRA implementation and would take some pressure off the General Fund needed for MMRA implementation. If this legislation were passed, DEQ's implementation of the MMRA would total approximately \$1.13M in NRO, \$255K in General Fund, and \$255K in Fees.

Provide funding and authorization for Montana to join the Interstate Mining Compact Commission (IMCC):

Issue: Montana is currently an associate member of the IMCC and has been for the last 4 years. At the close of the fifth year, the associate membership ceases or the other voting members are asked to vote to extend the associate status. Montana would benefit from joining as a full member vs. an associate member. Potential benefits of joining IMCC as a full voting member include: 1) They provide a voice at the federal level for any law changes that are being proposed – such as current federal reform of hard rock mining laws. 2) They advocate for additional funding to states. Full membership is required on how to move forward and what are the priorities of the coal states.

Proposal: Montana would be required to adopt the IMCC Compact via legislation. Since the Compact is both a statute in each of the States adopting it and a contract among the party States,

it must be enacted in substantially identical form by each party jurisdiction. Annual fees are roughly \$30,000.

Establish a Spill Reporting and Cleanup Act:

Issue: DEQ is unaware of hundreds of spills/releases along roadways each year. When DEQ does learn, we send a violation letter to the owner/operator of the mobile source that had the spill/release, characterizing it as an improper disposal of solid waste without a permit. Sending a violation letter for an unpermitted disposal of a waste, an activity that would not be permitted in these circumstances, is not the most effective or direct regulatory scheme.

Proposal: Establish a statutory requirement, housed within Title 75, chapter 10, MCA, to report and cleanup spills and releases from vehicles, trucks, and other mobile sources. Moving to a direct requirement to report and cleanup spills and releases will reduce the volume of petroleum and other products being abandoned along Montana roadways.

Repeal third-party permission at state superfund order sites:

Issue: Statute requires third parties performing remedial activities at state superfund order sites to notify and obtain DEQ permission prior to conducting the work. Enforcement options are limited, and DEQ's oversight costs reviewing third party work plans are billed to the potentially liable persons. Handling and disposing of contaminated media are regulated by other DEQ programs, and worker safety is regulated by the Montana Department of Labor & Industry and federal government.

Proposal: Deleting the first sentence in 75-10-711(9), MCA, will reduce the financial and scheduling impacts to local governments, contractors, developers, potentially liable persons, and state agencies. Worker safety and proper handling and disposal of contaminated media is addressed in other statutes that protect human health and the environment.

These proposals will be presented to the Environmental Quality Council on September 8th. Public comment will also be accepted.

Department of Revenue (Source: DOR Memo to Interim Revenue Committee, August 2022)

Revise Centrally Assessed Property Appraisals - Centrally-assessed properties are generally complex in nature. Currently, they are required to file annually with the Department causing

an unnecessary burden on the taxpayers to report to the Department. Moving to a two-year appraisal cycle reduces the required filings of centrally-assessed property owners.

The Department proposes to institute a two-year reappraisal cycle for centrally-assessed properties (except for railroad and railcar, which will remain on an annual cycle.). This also allows for better taxpayer assistance, the appraisal work would be distributed to satisfy existing deadlines more thoroughly and to maximize staff resources, and the existing centrally-assessed industries would be split into two separate groups (or classes).

In even years, the Department would assess electric utilities; electric cooperatives, airlines; railroads; and rail cars. In odd years, the Department would assess telecommunications; telephone cooperatives, pipelines; railroads and railcars. Additional details proposed include addressing extenuating circumstances in the "off" year (the property is sold or the owner declares bankruptcy); and clarify that a property owner may appeal once during a two-year cycle (similar to residential property tax appeals)

The Interim Revenue Committee will discuss the proposed legislation on September 15th. The public may also comment by registering with the Committee prior to the meeting.

Public Service Commission - The Commission is proposing to amend the statute that sets pipeline safety regulation penalties to comport with federal requirements as follows:

Section 1. Section 69-3-207, MCA, is amended to read: 11 "69-3-207. Penalty for violation of natural gas pipeline safety provisions and regulations. (1) A person violating any safety regulation or provision adopted under the Natural Gas Pipeline Safety Act of 1968, 13 as amended, that applies to areas the commission has authority to enforce is subject to a fine ~~of not less than 14 \$100 or more than \$100,000. Each day in which a violation of a safety regulation or provision continues is 15 considered a separate offense and is subject to the penalty prescribed in this subsection, except that the 16 maximum fine may not exceed \$1 million for any related series of violations equal to those outlined in 49 .U.S.C. 17 60122.~~

The proposal will be discussed at the Energy and Telecommunications Interim Committee.

Reservations Open for TSRA 2023 Legislative Showcase: Sponsorship and Exhibitor Opportunities - Bar Sponsorship “Sold”

TSRA’s popular Legislative Showcase is scheduled for the evening of January 3, 2023. Participants have the opportunity to “showcase” their companies or associations by reserving booth or table space. Others may choose to be recognized as sponsors of the event by helping with food and beverage costs. Since it is the second night of the legislative session, participating in the showcase gives you and your company or association the chance to meet new legislators and reconnect with those who are returning before their schedules become too hectic.

The event takes place in the ballroom of the Delta Colonial Hotel in Helena. With plenty of parking and two other legislative events being held on the property, legislators can settle in for the evening and take advantage of the opportunity to learn more about our TSRA members and how they contribute to Montana’s economy and way of life.

As noted, there are opportunities for either booth space or table displays for sharing information. Some sponsorship levels also include an option for booth space if desired. Booth and table spaces for exhibitors are assigned on a first come, first-served basis. Space is limited so sign up early. There are also individual registrations available. Click here to print a reservation form: [2023 TSRA Showcase Reservations](#)

A big thank you to the Montana Mining Association for signing up as the “Bar Sponsor”. We appreciate your early support.

If you have any questions about the event, please contact Peggy Trenk at 406-461-9945 or ptrenk@tsria.net

2023 Legislative Bill Draft Request Information Now Available

The Montana Legislative Services Division has launched the 2023 LAWS site, allowing members of the public to get a glimpse of what bills might be coming in January. Holdover Senators, or candidates who don’t have an opponent in the November election are allowed to submit bill draft requests for purposes of getting an early start on having their proposals ready to introduce early in the session. Bill draft requests can also serve as placeholders by using broad titles that

could cover a range of specific proposals that are offered later in the session. To see what requests have already been submitted go to: [2023 Bill Information](#)

Governor Gianforte Blasts Federal Overreach from Biden FWS

Source: Governor's Office September 1, 2022

Amid nearly nine months of silence from the Biden administration on Montana's petition to delist the recovered grizzly bear in the Northern Continental Divide Ecosystem, Governor Greg Gianforte recently blasted U.S. Fish and Wildlife Service (FWS) for its proposed rulemaking associated with the Endangered Species Act (ESA).

The FWS' proposed change would allow endangered species to be reintroduced in ecosystems outside their historic ranges.

In public comment to a senior FWS official, Gov. Gianforte provided six arguments detailing deficiencies in the FWS proposal and called on the agency to withdraw it. The governor asserted the proposed rule changes exceed the scope of federal law, run afoul of commonsense, infringe on state sovereignty, and threaten the wellbeing of impacted communities, among other issues.

First and foremost, Gov. Gianforte detailed how FWS' proposal surpasses the scope of the ESA.

"The proposed revision, removing the limitation on where experimental populations can be relocated, is an egregious move beyond the authority bestowed upon the Service," the governor wrote. "If Congress had intended to permit the action the Service now seeks to facilitate, it would have expressly given that authority in the ESA. It did not."

The governor pointed out FWS' stated rationale for seeking the proposed amendments underscores its lack of authority to pursue them.

"The Service's desire to 'establish' its authority in this rule amendment is itself a Freudian admission of what the Service truly seeks...more power," the governor noted.

Gov. Gianforte also criticized the agency's proposal for its lack of common sense.

The governor wrote, "It is the height of hubris for the Service to presume that it can successfully introduce experimental populations to new ecosystems, outside their historic ranges, where there is no historic evidence supporting survival."

"The relationships that evolve between a species and its ecosystem over generations of occupancy are complex, to say the least. Entire careers are spent researching individual species

and their ecosystems, only to find more questions that have yet to be answered,” Gov. Gianforte continued. “To introduce experimental populations to new ecosystems renders the experimental population nothing more than an invasive species, threatening the natural balance within the ecosystem unaccustomed to its presence.”

The governor’s full comment on the Service’s rule revisions can be viewed [here](#).

Upcoming Interim Legislative Committee Meeting Schedule

The schedule of upcoming meetings for interim committees followed by TSRA is listed below. The September meetings are generally the last that will be held by interim committees at which time they finalize any remaining study reports and recommend legislation as committee bills. Agendas and other information will be available closer to the meeting date on the committee’s website:

Energy and Telecommunications Interim Committee

September 7, 2022 State Capitol or via Zoom

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

Environmental Quality Council

September 8-9, 2022 State Capitol or via Zoom

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

Revenue Committee State Capitol or Via Zoom

September 15, 2022

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

Water Policy Committee State Capitol or Via Zoom

September 20-21, 2022

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

TSRA 2023 Annual Meeting Location Selected – Save the Date: June 14-15, 2023

TSRA will be holding its 2023 Annual Meeting at The Forge Hotel in Anaconda, MT on June 14-15, 2023. The TSRA golf scramble will be played at the Old Works Golf Course on the afternoon of June 14 with the first tee time at 1:00 pm.

The Forge Hotel is a new Best Western property that allows easy access to the golf course and area dining and recreational options. Barclays II Steakhouse is located on the property.

Please put this date on your 2023 calendar and plan to attend.

Upcoming Events/Dates:

September 15, 2022

Montana Wood Products Association Annual Meeting
Missoula, MT

November 16-18, 2022

Legislative Caucus Training
State Capitol, Helena, MT

January 3, 2023

TSRA Legislative Showcase
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.