

Montana Petroleum Association

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HEARD IT THROUGH THE PIPELINE

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EXECUTIVE DIRECTOR NOTE: It has been over a month since we released this newsletter, there are quite a few important items so please send an extra minute on this issue.

DEQ FEE INCREASES

As many of you know Montana Petroleum Association (MPA) has been involved with the Department of Environmental Quality as they make adjustments to both air quality and storm water permit fees. MPA has filed comments on the storm water permit change because the fees are so excessive and there does not appear to be any relationship between the amount of the increases and the work involved to issue the permit. MPA storm water fee comments are attached. MPA comments ask the Water Permitting Bureau to put together a task force to review the whole fee structure. The task force idea was begun by the Air Permitting Bureau to examine their fee structure and see if there are other methods available by which DEQ could fund the program. It is MPA's contention that the storm water permit fee increases are not justified and we ask for further review regarding how the current storm water permit is applied to the oil and gas industry.

The Air Quality Permitting Bureau's fee task force consists of a dozen people representing various industries across Montana, including MPA members Dexter Busby, (Montana Refining) and Scott Wallace, (Devon Energy) and MPA Executive Director, Dave Galt.. We have had one formational meeting. Those meeting notes are attached.

MREA-MPA-MONTAX CONFERENCE

The Montana Rural Education Association, (MREA), the Montana Taxpayers Association (Montax) and MPA are sponsoring a conference to explore natural resource development and K-12 school funding in Montana. The conference will be held at the Petroleum Club in Billings, on October 15 and 16th. Over the past year the MREA has started questioning why Montana's is not developing natural resources and funding schools with resource dollars. They are using Wyoming as a model and have had significant discussion at their summer meetings that involved Wyoming educators who worked to bring change to Wyoming's school funding system. Montax has hosted several discussion meetings between our groups and they have been positive. This conference is designed to highlight current budget issues and begin sharing our energy issues with other groups. Thanks to the hard work of Dave Puyear, Executive Director of the MREA and Mary Whittinghill at Montax, we have a conference worth your time and the opportunity to get to know leaders in Montana's school system. The conference agenda is attached. The link below will allow electronic registration. Registration fees to offset costs, will be taken at the door. This is a chance for

our industry to reach out to a vital group in Montana and I hope that we take advantage of this opportunity.

There is a block of rooms reserved at the Best Western Clocktower Inn. Please ask for the Building Bridges Conference room block for the room rate of \$79.99 + tax. The phone number is 406-259-5511. The room block will be released October 1st, so please make your reservations sooner, rather than later.

To Register Log-On to:

http://www.surveymonkey.com/s.aspx?sm=nq1YMTe4Rq2G30mFcAzzqA_3d_3d

CLIMATE CHANGE LEGISLATION

The MPA Climate Change task force and the MPA E&S Committee has been working with our congressional delegation, primarily Senator Baucus, sending comments that address the current Waxman-Markey bill that has passed the House. Using the same principles that MPA developed to address Governor Schweitzer's climate change report, we have offered comments to address certain sections of the bill, but will not offer MPA support. At this time, several Senate committees are working to craft a climate change bill for the Senate and we are waiting to see a new bill. Any member who is interested in our communication to Senator Baucus can get a copy by sending an email to MPA@montanapetroleum.org

DEQ UNDERGROUND STORAGE TANK RULES

The Department of Environmental Quality has sent notices for two changes to administrative rules. The first, which can be viewed here: <http://deq.mt.gov/dir/legal/Notices/17-292pro.pdf> adds a primary leak detection definition, changes leak detection record keeping and adds a significant rule regarding methods of release detection for piping. Comments on this rule are due September 24th.

The second rule, <http://deq.mt.gov/dir/legal/Notices/17-293pro.pdf> deals with UST operator training. Comments on this rule are due October 15th. Please give these a quick review, especially if you have terminal piping in your area of responsibility.

WILDERNESS ISSUES

Senator Jon Tester has announced and introduced S. 1470 that creates new wilderness areas in the Dillon, Missoula and Libby areas of western Montana. I am aware that there are oil and gas leases in the Beaverhead-Deer Lodge areas near Dillon and Lima. What I have yet to determine is who owns them, and if they are impacted by the proposed wilderness bill. Please refer to the Tester website for detail and give this a review, if you have concerns please contact dave@montanapetroleum.org

Secondly, this week, our friends at the Montana Wildlife Federation (MWF) released news on their wilderness and conservation program on the Rocky Mountain Front. There are five attachments to this newsletter outlining the MWF effort. I know we have members who are active on the front and I would be very interested in your comments. At this time, I do not understand the breadth of impact of the MWF proposal on our interests. If you have involvement in the lands east of the Rocky Mountains between Highways 2 and 200, please

review these materials and get your concerns to Dave Galt. MWF representatives have asked for a meeting with MPA on Sept, 22. I will pass on more details at that time.

STATE IMPLEMENTATION PLAN UPDATES

MPA has been working with the Department of Environmental Quality in efforts to understand and support DEQ rule amendments that have taken place over the last 13 years. Apparently the Region 8 office of the EPA has told DEQ staff that they intend to address amendments to the State Implementation Plan for air quality. EPA has indicated that they do not support the DEQ de minimus rules that were passed in 1995. MPA has been working with the DEQ to help them understand the impact to our business if that de minimus exemption is denied. Please take some time to consider that impact to your operations and if you have impacts please send them to dave@montanapetroleum.org . MPA is very concerned about this new development, not only for our members holding Title V permits, but this could impact our air registration program. MPA will be prepared to engage our congressional delegation on this issue.

MPA's Environment and Safety committee will be meeting September 23, at the office of Gough, Shanahan, Johnson and Waterman at 1:30 and will discuss this issue further. Call in will be available, if you are not on the committee but would like to join, please contact bobbie@montanapetroleum.org .

MBOGC-MPA ESSAY CONTEST

This is the fourth year that the Montana Board of Oil and Gas Conservation and the MPA have partnered to offer cash prizes for our essay contest open to all Montana high school age students. This year's topic asks students to argue both sides of the question: Is human caused CO₂ a significant percentage of CO₂ in the atmosphere, or isn't it? Essays are due to be submitted by January 15, 2010. Our goal is to challenge students to think about the various issues facing each of us in our everyday lives, this year we want to talk about one component in the climate change debate. The notice can be downloaded at www.montanapetroleum.org . We encourage you to check the notice and offer this notice to any high school age student, yours or your friend's. Eligibility rules are contained in the notice. Thank you for your support that allows us to continue to offer this opportunity to Montana's future leaders.

THE MONTANA PETROLEUM REPORT

As part of MPA outreach to the public we will continue to produce the Montana Petroleum Report, an electronic newsletter that is distributed to all MPA members, Legislators, government officials, county commissioners, the media, other trade associations and community leaders. Our distribution has grown from 876 to nearly 1,200 since July 1. The key to the success of this effort is getting it into the hands of as many Montanans as possible. Please forward this to your Montana employees and ask them to subscribe. Please offer it to your friends and invite them to subscribe. We aim to be concise and factual with our reports, and mindful of the frequency they are sent. **Please** encourage your

friends and employees to go to www.montanapetroleum.org and subscribe to the Montana Petroleum Report!

MPA ANNUAL MEETING

MPA's Annual Meeting was a huge success. Monday, MPA sponsored an EPA Natural Gas Star Workshop. Attendees from all over the country, members and non-members, attended the meeting. Tuesday turned into a beautiful day and a record number of golfers (74) enjoyed the afternoon. Senator Jon Tester spoke at the Barbeque with his thoughts on climate change and current bills in Congress. Wednesday started with the general membership meeting and a speech by former Montana Governor Tim Babcock. He talked of his friendship with long time MPA member Jerome Anderson, who passed away earlier this year. Representative Chas Vincent, DEQ Director Opper, and Perry Pendley spoke to a packed crowd of over 100 people. Niger Innis, Congress of Racial Equality (CORE), was the keynote speaker at the Petroleum Industry Appreciation Day Lunch. His speech hit home about the importance of energy in our nation, and the dramatic impact of energy costs increases on America's poor. The Billings Gazette ran a great article the following day, see it here: http://www.billingsgazette.com/news/local/article_f7d7e462-9816-11de-ae56-001cc4c002e0.html. All in all 209 people attended the Industry Appreciation Day Lunch, and increase over last year's 190. This event was not possible without each of you and our sponsors. Thank you very much for your sponsorship and attendance. Also, I am always open for ideas to make the event better, fun and content, so please don't hesitate to give me your ideas.

NUTRIENT GROUP UPDATE

The following update was provided by Don Quander, MPA's representative on the group.
THANK YOU DON!

The Montana Nutrient Work Group ("NWG") created by the 2009 Legislature as part of SB 95 has been meeting monthly since May of this year to address the proposed adoption of numeric (as opposed to narrative) standards for nutrients in Montana waters. Each meeting has lasted the better part of a day, and has been preceded by exchanges of information and a teleconference among the participants who represent "industry" sources of pollutant discharges. Don Quander and Dave Galt have participated on behalf of interested members of the Montana Petroleum Association. Detailed minutes of NWG meetings and membership, and many technical and legal reference documents, have been posted to a special DEQ website: <http://www.deq.state.mt.us/wqinfo/NutrientWorkGroup/index.asp>

The DEQ is faced with a dilemma: EPA is pressing the State to adopt numeric nutrient standards in connection with the broader push to implement Total Maximum Daily Load ("TMDL") requirements for Montana waters. The standards DEQ has tentatively developed are so stringent that DEQ and all NWG parties acknowledge that they can not technically achieved, at least for some years, by most municipalities or industrial sources. Thus, NWG also has been charged with developing a system of variances that would be provided on a case-by-case basis for through DEQ rulemaking, and then incorporated in MPDES permits

or as other requirements for non-permit holding but "contributing" sources. The heart of the dilemma is that this could put standards on the books years in advance of the ability of sources to actually comply, exposing them to the risk of operating under complex variances in the form of "temporary nutrient criteria" for extended periods. This also assumes that the sources can actually qualify for variances under complicated guidance and formulas by demonstrating either technical infeasibility or "substantial and widespread economic impact." DEQ has not internally developed coordinated steps among its "standards" and "permitting" divisions for implementing either the standards or variances at this time. Moreover, despite increasing pressure at the national level and at Region 8, EPA has not provided current or complete guidance on numeric standards or confirmed how it would treat temporary standards or variances. Of course, third parties may challenge either in appeals or lawsuits.

It seems that after much effort and many meetings, industry participants (and municipal representatives) have persuaded DEQ that adopting unachievable standards, especially without absolutely clear and reliable variance availability and legal shields, is not an acceptable solution. However, neither the State nor EPA has come forth with a satisfactory alternative, except for a tentative offer to include with a nutrient standard rule a 5-year (or perhaps more) delayed effectiveness date, i.e., although standards would be on the books, they would not be legally effective or enforceable during that period. In the view of most in industry, this might be part of a rule package, but is not itself a sufficient solution to the problem. At the NWE meeting of September 17th, it was agreed that several subgroups need to work on the problem of internal coordination within DEQ of how any standards and variance procedure would be integrated with the MPDES (and other, e.g. storm water) permits and what kinds of "alternatives" analysis would be required as a prelude to applying for a variance on either technical or economic grounds. Industry participants are also going to coordinate a presentation on technical challenges and costs potentially faced by industrial sources in complying with overly-stringent standards. The next NWG meeting has been deferred until November 19th to allow time for these efforts.

It remains DEQ's objective to propose propose a rule package including numeric standards and variance procedures to the Board of Environmental Review (BER) for adoption in 2010. For industry to be able to support such a package, the standards under discussion will need to be: 1) much less stringent than initially proposed, or deferred in application for an extended time while less stringent, interim measures are applied; and 2) variance procedures will need to be fully protective of industry in practice and in terms of legal exposure if and for so long as standards can not reasonably be achieved for either technical or economic reasons. The process of permitting and integrating this program generally also will need to be clear and practical. For example, DEQ is already several years behind schedule in current MPDES permitting and renewals, and any nutrient program will need to take this into account. This will be challenging, and it is uncertain whether the NWG and DEQ (and EPA) will be able to agree on appropriate measures, although I believe that this still remains possible. If it can not be accomplished, it may still be necessary for industry and others to seek relief from the next Montana Legislative Session.