

## MONTANA Petroleum Marketers & Convenience Store Association State Report

### **PETRO POLLY: Her take on the political process ...**

*“Every individual necessarily labors to render the annual revenue of society as great as he can. He generally neither intends to promote the public interest, nor knows how much he is promoting it. He intends only his own gain, and he is, in this, as in many other cases, led by an invisible hand to promote an end which was not part of his intention.”*

— Adam Smith, *Wealth of Nations*

It is indeed all about the 64<sup>th</sup> Legislative Session right now, which when you read this will be a few weeks from adjournment. Every Session has its idiosyncrasies and is remembered for some event or other, about which the press has a high old time. The 64<sup>th</sup>. (that is, the Republican leadership ...) will be remembered for its ill-fated attempt to instate dress codes, and a bill that would have outlawed yoga pants and other clothing in public. House Bill 365 lasted a brief 24 hours and experienced “death by a few snickers”... thank the Lord. For a state that values the notion of living free and bristles at the slightest hint of government interference, legislation like this makes it hard not to come away thinking that the Legislature is the playground of hypocrites, or those who have too much time to solve problems that don’t exist. While we all got a good laugh out of this, we doubt this did much for Montana’s reputation, as the story circulated nationally and we were summarily ridiculed. We hope the 64<sup>th</sup> has exhausted its goofy government ideas ...

We cannot yet report on many bills of interest that have completed the lengthy process of making it through both Houses of the Legislature and clearing the Governor’s desk. We can tell you that the Association’s bill to revise the meter fee & testing process administered by the Bureau of Weights & Measures, was pulled from consideration when the Department approached us with a plea to once again attempt to negotiate a plan outside the legislative process. A written, signed letter of understanding was issued by both parties to begin a collaborative process upon adjournment of the Legislature. A task force group will be formed that will include members from the Association, members from the Rocky Mountain Propane Association, and representatives from the petroleum services industry. At some point, the Ag business groups will also be brought into the process as the Bureau’s resources are generated from both industries. We look forward to developing a program that embraces new technologies and will function well into the future.

### **PETROLEUM MIXING ZONES (PMZs)**

For several years the MPMCSA has been working with the Department of Environmental Quality and the Legislature to improve and enhance the process of closing sites, specifically in relation to the Petroleum Tank Release Compensation Fund. In protecting the financial viability of the ‘Petro Fund,’ a key element was to reduce the ongoing costs of monitoring and testing at sites, that in the end provides little new information. In 2011, a bill sponsored by the Association created petroleum mixing zones as a method to close sites that are in long-term remediation. We continue to revise and improve the rules and codes regarding PMZs.

Recently, the administrative rules that address what conditions may be appropriate to resolve a petroleum release with a Petroleum Mixing Zone (PMZ) have been updated. The previous rules excluded the use of PMZs at some sites where risks to potential water bodies or drinking water wells were based on set distances rather than site-specific factors. Petroleum contamination that is proved to be degrading naturally and shrinking back toward the source can now be managed under a PMZ at distances less than the previous exclusion distance of 500 feet, so long as doing so does not pose a threat to human health or the environment. When PMZ applications are evaluated for these set distances, the Department of Environmental Quality (DEQ) will require a higher degree of scientific certainty to demonstrate the receptors are not unreasonably threatened. PMZs can be approved by the DEQ to issue “No Further Action” letters at release sites where all reasonable cleanup actions have been accomplished and the residual petroleum contamination in groundwater is naturally degrading. The new rules state that PMZs can be approved within 500 feet of existing drinking water wells and surface water bodies only if they ensure present and long-term protection to human health, safety, and the environment. In making this determination, DEQ is required to consider specific conditions of the contaminants, the aquifer, the wells or surface water potentially affected, and any other relevant factors to ensure protection. The rules have also been amended to apply the same evaluation criteria to allow PMZs to be approved if they are larger than 500 feet measured from the point of release.

In addition, there is one bill this Session that is 80% of the way through the legislative process, that we believe will be signed into law. Senate Bill 49 by Senator Jim Keane-Butte, will clarify language in the code regarding “institutional controls” when the contamination extends beyond the boundary of the affected property. Currently, in order to grant a PMZ when it involves bordering properties, a recorded easement must be filed on the deed. Proposed language in SB49 will add “a restrictive covenant or another institutional control,” allowing more latitude when granting a PMZ. It is estimated there are 600 sites currently in long-term remediation that this may affect.

### **NEW MEMBER**

We would like to welcome new member Dennis Whitmore, owner of GM ConoMart Stores in Billings.



**Ronna Alexander**  
Executive Director,  
Montana Petroleum  
Marketers &  
Convenience Store  
Association

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**MPMCSA** **JUNE 2-4, 2015!**  
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