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EPA Approves Montana's Revised Approach to Nutrient Water Quality Standards: Return to Narrative Criteria

Insight — October 7, 2025

On October 6, 2025, Region 8 of the Environmental Protection Agency (EPA) approved Montana's repeal of its numeric water quality standards for nutrients and reinforced that narrative water quality standards are an appropriate regulatory approach under the Clean Water Act (CWA). This decision marks a significant victory for Montana industry and municipalities that have struggled with increasingly unworkable permitting requirements. It may also have broader implications for other states similarly wrestling with how to regulate nutrients effectively.

Background: Evolution from Flexible to Rigid Standards

Montana's water quality regulatory framework evolved significantly over the past several decades, transitioning from flexible narrative standards to increasingly rigid numeric criteria that created substantial permitting challenges for mining and development projects as well as municipalities across the state. Historically, Montana relied on narrative standards that provided the Montana Department of Environmental Quality (MDEQ) with discretion to evaluate water quality impacts on a case-by-case basis, allowing for practical consideration of site-specific conditions, seasonal variations, and the unique characteristics of Montana's diverse watersheds.

However, the gradual shift toward numeric standards—driven largely by federal mandates and litigation pressure—created a more inflexible regulatory environment that required permit applicants to meet precise numerical thresholds that often fail to account for natural background conditions or the practical realities of Montana's geography and climate. Under numeric standards, facilities must meet specific numeric limits for constituents such as phosphorus or nitrogen regardless of local conditions, while narrative standards allow regulators to assess whether discharges cause actual environmental harm in context.

This numeric approach has resulted in lengthy permit delays, increased costs for businesses seeking to expand or locate in Montana, and in some cases, has made economically viable projects impossible to permit despite minimal actual environmental impact.

Legislative Response and EPA Approval

Montana's legislature passed House Bill 664 last May, which repealed the state's numeric nutrient criteria and restored reliance on narrative standards for nutrient regulation. EPA's recent approval letter explicitly acknowledges that neither the CWA nor federal regulations require states to adopt numeric nutrient criteria and recognizes Montana's substantial scientific expertise and data collection efforts that enable effective implementation of narrative criteria on a site-specific basis.

This federal approval is a major step in a return to the flexible, science-based approach that allows DEQ to consider the unique characteristics of individual water bodies and watersheds, rather than applying rigid numeric thresholds that may not reflect actual environmental conditions or risks. MDEQ will next need to undertake a rulemaking to implement the standards that will also be subject to EPA approval, and EPA's recent or future approval (or both) will undoubtedly be subject to litigation.

Immediate Implementation

Notably, although a future rulemaking by MDEQ is needed, the EPA approval makes clear that the changes are compliant with the Clean Water Act now and can be applied immediately for water quality permitting in Montana. This nudge should help reduce further permitting delays for projects that have been impacted by numeric standards.

What This Means for Stakeholders

For Montana mining and resource companies, municipalities, and other members of the regulated community, this change should result in more flexible and achievable permitting processes. Rather than meeting sometimes arbitrary numerical thresholds, applicants can work with MDEQ to demonstrate that their operations will not cause actual environmental harm, taking into account local conditions and scientific data. The evolving approach and lessons learned in Montana also offer a case study for other states in their approaches to regulating nutrients.
