

Statutory Duties of the EQC

January 13, 2004 Review

MANDATORY

2-15-1514. State library commission -- natural resource data system advisory committee. (1) (a) There is a state library commission created in Title 22, chapter 1.

(b) The composition, method of appointment, terms of office, compensation, reimbursement, and qualifications of commission members are as prescribed by law.

(2) (a) There is a natural resource data system advisory committee consisting of an employee of the legislative services division, of the department of administration, of the state library, and of each principal data source agency, appointed by the head of the respective state agency, and by the board of regents of higher education for the Montana university system.

(b) The state library shall provide staff support to the committee, within the limits of the library's available resources.

90-15-102. Definitions. As used in this chapter, the following definitions apply:

(1) "Committee" means the natural resource data system advisory committee created by 2-15-1514.

90-15-201. Duties of committee. The committee shall examine the following matters and make recommendations to the library concerning:

(1) criteria for the categories and types of data to be collected for a natural resource information system;

(2) criteria for the format of data collection;

(3) identification of existing sources of relevant data in the public sector;

(4) identification of data acquisition, storage, and retrieval methodologies that are economical and efficient, that minimize or eliminate the duplication of databases, and that utilize computer networking;

(5) probable costs to agencies furnishing required data and probable costs of managing the data;

(6) probable benefits to be realized by the establishment of a natural resource information system;

(7) operation of the Montana natural heritage program; and

(8) other items the committee considers of importance to the establishment of a natural resource information system.

OPTIONAL

2-15-1523. Ground water assessment steering committee. (1) There is a ground water assessment steering committee consisting of an employee of each of the following state agencies that have responsibility for ground water protection, management, or information. The member must be appointed by the head of the respective state agency:

(a) the department of natural resources and conservation;

- (b) the department of environmental quality;
 - (c) the department of agriculture; and
 - (d) the Montana state library, natural resource information system.
- (2) The ground water assessment steering committee may include representatives of the following agencies and units of government with expertise or management responsibility related to ground water and representatives of the organizations and groups specified in subsection (2)(h), who shall serve as ex officio members:
- (a) the legislative services division;
 - (b) the board of oil and gas conservation;
 - (c) the Montana bureau of mines and geology;
 - (d) a unit of the university system, other than the Montana bureau of mines and geology, appointed by the board of regents of higher education for the Montana university system;
 - (e) a county government, appointed by an organization of Montana counties;
 - (f) a city, town, or city-county government, appointed by an organization of Montana cities and towns;
 - (g) each principal federal agency that has responsibility for ground water protection, management, or research, appointed by the Montana head of the respective federal agency; and
 - (h) one representative of each of the following, appointed by the governor:
 - (i) agricultural water users;
 - (ii) industrial water users; and
 - (iii) a conservation or ecological protection organization.
- (3) The ground water assessment steering committee shall elect a presiding officer from its voting members.
- (4) The Montana bureau of mines and geology shall provide staff support to the committee.

85-2-906. Ground water characterization program -- ground water monitoring program. (1) There is a ground water characterization program and a ground water monitoring program.

- (2) Subject to the direction of the ground water assessment steering committee, the Montana bureau of mines and geology shall establish and administer the ground water characterization program and the ground water monitoring program.
- (3) The Montana bureau of mines and geology shall work with units of local government, ground water users, and other affected organizations and individuals in areas of the state that are included in a ground water characterization study and, if warranted by the level of local interest in a ground water characterization study, shall establish a local ground water assessment advisory committee.
- (4) The ground water assessment steering committee created by 2-15-1523 shall:
- (a) oversee expenditures from the ground water assessment account and organization plans and work plans proposed by the Montana bureau of mines and geology to implement the ground water characterization and ground water monitoring programs, including plans for local involvement and participation in ground water characterization studies;

- (b) approve ground water monitoring sites;
 - (c) prioritize and select ground water characterization study areas;
 - (d) develop plans for ground water information management and dissemination;
 - (e) develop plans for integrating existing ground water information with information collected under the programs created by subsection (1);
 - (f) coordinate ground water information collection projects sponsored by individual units of state, federal, or local government with the programs created by subsection (1); and
 - (g) evaluate reports and other information produced by the Montana bureau of mines and geology from ground water characterization studies.
- (5) The ground water assessment steering committee shall invite representatives of local governments and Indian tribes with jurisdiction over areas of the state that are included in an active ground water characterization study or in a study scheduled to begin in the ensuing biennium, as well as affected citizens in these areas, to participate in steering committee meetings.

EQC Statutory Duties

Background: Following the establishment of the EQC in 1971, the legislature has occasionally authorized the Council to play a role in some specific programs or activities of state government. These directives are in addition to the more general oversight authorities for environmental programs and policies found in section 75-1-324, MCA. This general authority is arguably sufficient to address the specific programs and policies. However, and particularly for new environmental programs or policies, the legislature has called upon the EQC to act as its liaison with the executive branch. The EQC has prioritized these activities as the need for specific oversight changes with interest, time, and circumstance. The EQC's statutory duties are listed as follows:

- 2-4-402 The EQC shall review all proposed rules filed with the secretary of state by the DEQ, DNRC, and DFWP. Also included in the Montana Administrative Procedure Act, Title 2, chapter 4, part 4, are discretionary authorities to obtain agency rules formulation records, prepare and submit written recommendations on proposed rules, institute or intervene in legal actions regarding rules, poll legislators regarding the intent of rules relative to authorizing statutes, and vote to request the preparation of an economic impact statement for a rule.
- 2-15-1514 A Legislative Services Division employee shall serve on the natural resource data system advisory committee for NRIS. This has typically been assigned to the EQC staff on an as needed basis.
- 2-15-1523 A Legislative Services Division employee may serve on the groundwater assessment steering committee. This has typically been assigned to the EQC staff on an as needed basis.
- 5-5-215 The EQC shall perform the duties of an interim committee including rule review, agency oversight, and review of proposed legislation. See also 75-1-324.
- 50-60-801 (preamble), Title 90, chapter 4, part 10 include EQC duties related to the oversight and review of state energy policies. Energy related duties are being addressed this interim by the energy policy working group.
- 75-1-201 and Model Rule VI and 75-1-208 - Executive agencies are required to submit copies of environmental review documents prepared in accordance with the Montana Environmental Policy Act (MEPA) to the EQC. The EQC staff has created and maintains a database of MEPA documents.
- 75-1-208(2) The EQC shall, upon request, provide a forum for any project sponsor regarding an agency's environmental review of the project.
- 75-1-313 The EQC shall meet at least once each quarter and shall consult with

other individuals, groups, and organizations in performing its duties.

- 75-1-314 - The EQC shall receive the biennial compliance and enforcement reports from the DEQ, DNRC, and the Dept. of Agriculture.
- 75-1-323 - The EQC with the concurrence of the legislative council shall select the legislative environmental analyst who is the primary staff person for the EQC.
- 75-1-324 - This section of law contains the general policy and agency oversight and policy creation responsibilities of the EQC. The EQC is directed to gather information concerning conditions and trends in the quality of the environment; to review state programs and activities to enhance or maintain environmental quality; to conduct studies, analyze proposals, and make recommendations concerning environmental issues; and to generally act as the legislature's source of information and advisor on environmental policy issues and direction. See Agency Oversight section.
- 75-10-111, 75-10-913, 918, and 927 all require EQC involvement and review of the state solid waste management plan and participation in the Megalandfill Siting Act review process. The DEQ has developed a state solid waste management that is under revision this year. There have been no megalandfill siting applications since the law was enacted in 1991.
- 77-2-366 *et. seq.* requires that the DNRC submit a report to the EQC by July 1, 2008 regarding the status of the state land banking program.
- 77-5-301 *et. seq.* is the law on Streamside Management Zones. The statement of intent for the enabling legislation requires the DNRC to periodically evaluate the implementation of the act, develop recommendations to address any problems, and to report findings and recommendations to the EQC.
- 85-1-203, 85-1-621, 85-2-105, and 85-2-436 refer to EQC water policy duties. They include responsibilities to receive, analyze, and comment on the DNRC state water plan, the DNRC renewable resources grant and loan program, water-related research by any state agency, institution, college, or university, the water information system at NRIS, and the DFWP water leasing study or program. The Agency Oversight Subcommittee recommends that these duties be addressed by the full council given the EQC's emphasis on water policy issues unless the EQC prefers to reassign any particular water policy duty to the Subcommittee.
- 90-4-1003 Energy policy duties - see 50-60-801 above.

EQC STATUTORY DUTIES - AGENCY OVERSIGHT SUBCOMMITTEE REVIEW ACTIVITIES

2003-2004

Statutory Duty	MCA section	Schedule	Subcommittee Action
Agency Rules review	2-4-402	As necessary - See Subcommittee Action Notes	<p>October 2003</p> <ul style="list-style-type: none"> (1) DNRC trust land rule proposal. (2) DEQ baled tire proposal. (3) Overview of committee authority. <p>January 2004</p> <ul style="list-style-type: none"> (1) Review of committee action chart. (2) Preliminary discussion of septic tank pumper rules. <p>March 2004</p> <ul style="list-style-type: none"> (1) Septic tank pumper rules meeting (2) DFWP bison hunt and commercial wildlife rules. <p>May 2004</p> <p>July 2004</p> <p>September 2004</p>

Statutory Duty	MCA section	Schedule	Subcommittee Action
NRIS Advisory committee NRIS Water information system	2-15-1514 85-2-105	Jan. 2004	Recommends retention of EQC statutory duty and involvement with NRIS oversight.
Bureau of Mines and Geology -- Serve on the ground water assessment steering committee ¹	2-15-1523	Jan. 2004	Recommends retention of discretionary EQC statutory duty.
Review Agency Legislation	5-5-215 and 75-1-324	July and Sept 2004	None - Full EQC

¹Discretionary or optional, "may".

Statutory Duty	MCA section	Schedule	Subcommittee Action
Residential Energy Efficiency ² State Energy Policy Transportation Energy ² Policy Alternative Fuels Policy ²	50-60-801 90-4-1001 and 1003 90-4-1010 90-4-1011	Not applicable	None - Energy Policy issues were deferred to the EQC Energy Policy Subcommittee.
MEPA - environmental reviews EQC as forum for permit applicants	75-1-201 75-1-208	March 2004	January 2004 - MEPA litigation update October 2003 At Subcommittee request, Holcim tire burning proposal and MEPA compliance presentation. March 2004 - MEPA Web database
Compliance and Enforcement Reports from DEQ, DNRC, DAgric	75-1-314	Oct. 2003 and March 2004	October 2003 Review of DEQ report. March 2004 Review of DNRC and DofAg reports

²Preamble describes EQC interest in topic

Statutory Duty	MCA section	Schedule	Subcommittee Action
<p>General Oversight Responsibilities for Environmental Policies</p>	<p>75-1-324</p>	<p>Continuing Basis</p>	<p>October 2003 Holcim cement plant air quality permit application - see MEPA. January 2004 (1) Environmental indicators and trends presentation to full EQC by DPHHS. (2) DFWP elk management and sage grouse management program update. (3) Missoula air quality nonattainment designation process presentation. (4) Methamphetamine cleanup standards review. (5) Wildland fire/urban interface issue presentation. (6) Missoula White Pine Sash remediation update. March 2004 State Parks \$4 fee</p>
<p>Receive state Solid Waste management plan.</p> <p>Receive and review applications and plans for Mega landfills.</p>	<p>75-10-111</p> <p>75-10-913 75-10-918 75-10-927</p>	<p>March 2004</p> <p>As applications are received. (none since passage of law)</p>	

Statutory Duty	MCA section	Schedule	Subcommittee Action
DNRC Land Banking report submitted to EQC	77-2-366	July 1, 2008	Report not due until 2008. Subcommittee had DNRC proposed rule discussion in Oct. 2003.
Receive applications filed under the Major Facility Act	75-20-211	Requirement rescinded in 2003	NO LONGER APPLICABLE
DNRC to report to EQC on implementation of Streamside Management Zones Law ³	77-5-301- statement of intent	May 2004?	
Comment on State Water Plan	85-2-105	Water Policy	Full EQC
Analyze and comment on DNRC renewable resource grant and loan program	85-2-105 and 85-1-621	Workplan scheduled for July 2004	Full EQC
Analyze and comment on water related research	85-2-105	Montana Watercourse?	Full EQC
Receive FWP water leasing study and report	85-2-436	Report submitted. May 2004?	

³ It is the intent of the legislature that the department, with the assistance of the technical committee, evaluate the implementation of this bill, develop recommendations to address problems, if any, that arise, and report its findings and recommendations to the environmental quality council.