

**A Council Member's
Guide to the
Environmental Quality
Council**



2009-10

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Introduction

Welcome to the Environmental Quality Council (EQC). In an attempt to provide you with an organized jump start to the committee's interim work, the EQC staff has produced this seventh edition of *A Council Member's Guide to the Environmental Quality Council*. The Guide is designed to provide you with the necessary information to roll up your sleeves and participate effectively and efficiently in the interim process.

The Guide is divided into seven sections. The first addresses the questions most frequently asked about the EQC. The next six sections are appendices that provide more detailed information. Previous members have found this publication to be very helpful. Your continued feedback is appreciated, so let us know what you think. You can reach us at:

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 Environmental Policy Office
 State Capitol, Room 171
 P.O. Box 201704
 Helena, MT 59620-1704
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Frequently Asked Questions

What is the Environmental Quality Council?

The Environmental Quality Council (EQC) is a statutory bipartisan interim committee that operates within the legislative branch of state government. Created by the 1971 Montana Environmental Policy Act (MEPA), the EQC generates information, reviews and appraises state programs, conducts investigations and studies, develops and recommends policy, and generally promotes a unified effort in carrying out state policy for the enhancement of the state's natural, economic, and social environments. (For a comprehensive list of duties, see Appendix E.)

Who is on the EQC?

The EQC has 17 members including:

- six House members selected by the Speaker of the House,
- six Senate members selected by the Committee on Committees,
- two public members selected by the President of the Senate with the concurrence of the Senate Minority Leader,
- two public members selected by the Speaker of the House with the concurrence of the House Minority Leader, and
- one nonvoting member who represents the governor.

As with other interim committees, at least 50% of the EQC's legislative members must be selected from the standing session committees that consider issues within the jurisdiction of the EQC.

The EQC is the only statutory committee in the Legislative Branch that has public members who vote on issues before the committee.

Throughout its 38-year history, the EQC's public members have provided invaluable nonlegislative perspectives and information.

Committee members serve 2-year terms, starting and ending on the 50th day of each legislative session. Members may serve no more than three terms (a total of 6 years).

In order to be appointed to the EQC, the following qualifications of the legislator or public member must be considered:

- ❶ the ability to analyze and interpret environmental trends and information;
- ❷ the ability to appraise programs and activities of state government in the light of the policy set forth in 75-1-103, MCA;
- ❸ the ability to be conscious of and responsive to the scientific, economic, social, aesthetic, and cultural needs and interests of the state; and
- ❹ the ability to formulate and recommend state policies to promote the improvement of the quality of the environment.

A Presiding Officer and Vice Presiding Officer are traditionally selected at the first meeting of the interim. The EQC rules and procedures guide the selection process and are also confirmed at the committee's organizational meeting. (See EQC Rules and Procedures.)

What can the EQC do for you?

As an EQC member, you have the opportunity to:

- Develop expertise in environmental, natural resource, fish, wildlife, recreation, water, and other issues and oversee the state agencies associated with those issues.
- Plan and participate in forums to create, evaluate, and refine legislative policy.
- Allow your constituents year-round access to critical legislative policy decisions.
- Evaluate state agency administrative rules.
- Promote governmental accountability.
- Generate nonpartisan and unbiased information.

- Investigate complex legislative policy problems and propose solutions.

What are your responsibilities as an EQC member?

In a nutshell . . . be engaged and participate. A legislator or public member who seeks and accepts appointment to the EQC must be prepared to devote time and effort to understanding the issues, evaluating the information presented, and formulating sound recommendations. In fulfilling this role, an EQC member needs to:

- read each report, plan, proposal, and set of minutes presented by staff or interested persons *in advance of meetings*;
- share reports, plans, and other study documents with interested persons in your area to stimulate participation;
- invite comments and suggestions from constituents who are knowledgeable or concerned;
- bring to the meetings previously prepared questions and comments;
- pose questions and offer suggestions during meetings;
- redirect discussion to central issues when conversation strays from the topic; and
- communicate frankly with staff on matters such as preferred style and length of presentations, conduct of meetings, format of reports, and other topics pertinent to EQC business.

What are the EQC's agency oversight responsibilities?

As a standing legislative interim committee, the EQC has statutory agency oversight responsibilities for the Department of Environmental Quality (DEQ), the Department of Natural Resources and Conservation (DNRC), and the Department of Fish, Wildlife, and Parks (DFWP).

These responsibilities specifically include:

- administrative rule review;
- draft legislation review; and
- program evaluation and monitoring functions.

Administrative rule review

The requirement that the EQC review administrative rules is found in 75-1-324(10), MCA. The Montana Administrative Procedure Act (MAPA), Title 2, chapter 4, MCA, governs how state agencies may adopt administrative rules. An administrative rule is a type of law that implements a law adopted by the Legislature or by initiative. If the law is repealed or changed, the administrative rule must be repealed or changed to conform.

MAPA provides that:

- An agency must have specific authority in law to adopt rules (2-4-301, MCA).
- Notice of the proposed rule must be published in the Montana Administrative Register, which is printed by the Secretary of State. The notice must comply with specific time lines and provision requirements (2-4-302, MCA).
- Interested parties notified include the primary legislative sponsor of the bill that enacted the section of law authorizing the administrative rulemaking process. The purpose of the notification to the legislative sponsor is to obtain the legislator's comments, inform the legislator of the date by which each step of the rulemaking process must be completed, and provide the legislator with information about the time periods during which the legislator may comment on the proposed rules (2-4-302, MCA).
- An agency must consider all oral and written submissions respecting a proposed rule (2-4-305, MCA).
- An agency must consider for a rule that initially implements legislation whether the intended action is contrary to any comments

submitted to the department by the primary sponsor of the legislation for the purposes of 2-4-302, MCA (2-4-110, MCA).

- A rule must include a citation to the specific grant of rulemaking authority and must be "reasonably necessary to effectuate the purpose of the statute" (2-4-305, MCA).

The provisions governing the legislative review of rules is in Title 2, chapter 4, part 4, MCA. A flowchart illustrating the EQC's statutory role in the rule review process is provided in Appendix B. The EQC may:

- Object to a proposed rule and require up to a 6-month delay in adoption (2-4-304, MCA).
- Request records for checking compliance with MAPA (2-4-402(2)(a), MCA).
- Submit written recommendations and participate in hearings on rule adoption (2-4-402(2)(b), MCA).
- Require that a hearing be held on rule adoption (2-4-402(2)(c), MCA).
- Institute or participate in legal proceedings relating to rules (2-4-402(2)(d), MCA).
- Commence a poll on an objection to a rule (2-4-403, MCA).
- Require an economic impact statement relating to the adoption of a rule (2-4-405, MCA).
- Object to a rule not adopted in conformance with MAPA (2-4-406, MCA).
- Recommend rule adoption or changes (2-4-411, MCA).

Failure of a committee to object to a rule proceeding is not admissible in court. The department must report judicial proceedings relating to the construction or interpretation of laws on committee review of rules and may report judicial proceedings relating to the agency's rules (2-4-410, MCA).

Draft legislation review

In order to facilitate the orderly drafting of executive branch bill drafts and to allow legislative oversight of agency bill draft proposals, each agency assigned to the EQC for oversight purposes is required to present descriptions of proposed legislation to the EQC. Mid-May through September of each even-numbered year is usually the time period that the EQC receives the agency descriptions of the proposed legislation. At a predetermined EQC meeting, each agency presents the descriptions of their proposed legislation. The EQC reviews and discusses the legislative proposals and then makes a formal decision as to whether the proposed legislation should be requested.

The EQC's decision to "request" on behalf of the agency that a bill be drafted does not mean that the EQC necessarily endorses the bill draft. It simply gets the requests into the bill drafting system so that the bill drafts can be drafted and pre-introduced prior to the legislative session. The agency will be responsible for finding a legislator to actually carry the bill during the session. This does not mean that the EQC has to request that all of an agency's bill draft proposals be drafted. In the past, the EQC has occasionally made the decision not to request that an agency proposal be drafted. This is a golden opportunity for the EQC to provide comments and constructive criticism regarding agency policy proposals.

Program evaluation and monitoring functions

The EQC traditionally spends a fair amount of time during each interim on agency program evaluation and monitoring agency functions. Numerous and wide-ranging issues regarding an agency's implementation of legislative policy come before the Council for review and discussion.

A sample of past examples include:

- Discussion of contested case hearing for the Highwood Generation Station air quality permit
- Meth lab cleanup legislation implementation
- Review of the Holcim air quality permitting process

- DEQ enforcement and permitting issues
- Board of Environmental Review coal bed methane nondegradation rules informational hearing on the Wyoming objection
- Water Center resources and funding
- Water adjudication process oversight
- Wolf management issues
- Ground water management issues

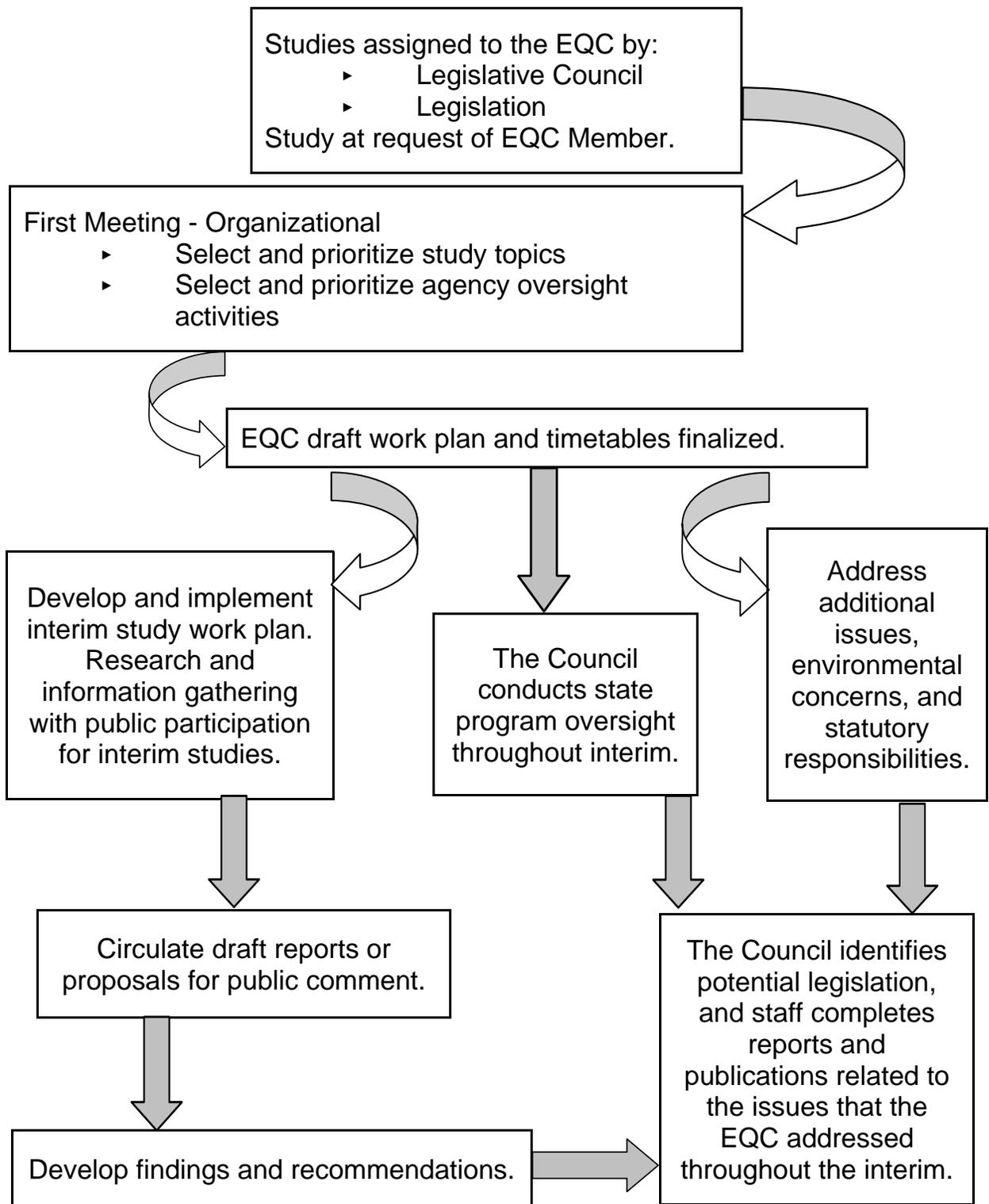
What does the EQC do during a typical interim?

The EQC typically focuses on two to three major study topics while conducting general oversight of the state's natural resource programs and observing its other statutory duties. The EQC is required to meet each quarter, though the number of meetings and the EQC study agenda is determined in part by the number of issues that can be effectively addressed within the EQC budget and with the available time and resources of committee members and staff and interested parties.

At its first organizational meeting, the EQC selects and prioritizes its activities for the interim based on a draft interim work plan assembled by staff. The options in the work plan are generated from studies assigned by the Legislative Council, the EQC's statutory responsibilities, issues of concern to EQC members, and agency oversight responsibilities. It is up to the EQC to prioritize and decide which, if any, of the options to adopt for the final work plan or to generate its own work plan options. (See **Figure 1.**)

Once the EQC selects and prioritizes the work plan options, staff develop a detailed draft work plan and timetable that includes each major study or activity for approval by the committee. Subcommittees or working groups may be appointed to address certain issues. (See Appendix C for more information on creating subcommittees and working groups.)

Figure 1. **Environmental Quality Council Interim Process**



During the interim, additional issues or environmental concerns inevitably come to the attention of the EQC. These "headline issues" may be driven by state or federal agency decisions, judicial rulings, development proposals, natural disasters, citizen inquiries, or many other factors. The EQC may choose to investigate or analyze these issues as they arise, provided there is sufficient time and interest, especially if the issue may be resolved through legislative policy decisions.

At the end of the interim, EQC staff produce draft study reports that reflect the activities, deliberations, findings, recommendations, and potential legislation. The EQC reviews the report and then adopts, modifies, or rejects the recommendations and potential legislation.

As required under Legislative Council rule, the committee must wrap up its interim work by September 15th of even-numbered years. EQC members are then free to engage in political campaigns and the staff concentrates on drafting legislation and preparing for the upcoming legislative session.

What does the EQC do during a typical meeting? How is the agenda developed?

Potential agenda items are identified in a number of ways:

- A review of the work plan.
- Discussions at previous meetings.
- Requests from individual members.
- The staff informs the Presiding Officer about new programs, actions, current events, or other developments that fit in with the EQC's work plan.

Typically, the staff begins developing a draft agenda for review by the EQC Presiding Officer 4 to 6 weeks prior to the committee meeting. The Presiding Officer determines the final agenda.

EQC members are encouraged to suggest agenda items that would be of interest to the committee and consistent with its work plan. Items may be

suggested during meetings or discussed with the Presiding Officer. It is equally important for EQC members to speak up when potential or past agenda items are not helpful, appropriate, or not a high priority in light of the EQC's work plan. The committee's time and resources are limited so it is important to prioritize agenda items.

Although it is difficult to define a "typical" agenda, a sample of past agenda items may give you an idea of what the EQC might do during a meeting:

- Receive an update from the DNRC and the Montana Water Court on the progress of the water adjudication process.
- Tour the Beaverhead Valley to learn about the implementation of state and federal water quality laws, fisheries management, local irrigation projects, and other local projects and issues.
- View a Power Point presentation by the Montana Bureau of Mines and Geology on the interconnectedness of surface and ground water.
- Receive a report from Montana legislators who participated in a Legislative Leadership Council on River Governance meeting in Idaho.
- Listen to a panel of experts from the DEQ, Stillwater Mine, bonding and surety companies, and the Mineral Policy Center discuss metal mine bonding.
- Decide on recommendations and conclusions for an EQC report on waste tire management after hearing the recommendations of the committee-appointed Waste Tire Working Group.
- Travel to Dillon, Missoula, and Great Falls to listen to the concerns of residents.
- Hear public testimony regarding state laws that authorize the permitting of gravel pits.
- Receive an update on the DNRC's Renewable Resource Grant and Loan Program.

The type of action that is needed varies with each agenda item. Usually the Presiding Officer invites the audience (citizens, lobbyists, and other interested persons) to comment on topics being discussed. Many items are informational and provide EQC members with an opportunity to ask questions, make suggestions, provide direction, or decide if further committee action is appropriate. Other items require a decision by the EQC.

How does the EQC involve the public in its deliberations?

Public participation is essential for the EQC to function as a policy development and oversight body of the Legislature. The EQC encourages the public to be involved and to comment on its deliberations. The staff sends agendas and other notices to several hundred interested individuals and organizations at least 10 days in advance of meetings or hearings. Announcements are also posted in the Legislative Services Division *Interim*, distributed through press releases, and posted on our website. The Presiding Officer has the option of holding meetings outside Helena in order to reach Montanans who cannot attend meetings at the Capitol. The committee has developed public participation guidelines that are listed in the EQC Rules and Procedures.

How can the EQC respond to an issue?

It is the EQC's role to gather and analyze information in order to make informed policy recommendations and decisions about complex natural resource and environmental issues. The investigation of these issues is limited only by the resources of the EQC, as there is no shortage of issues or debate over the balance between people and their environment. Some of the ways the EQC may respond to these issues are listed in Appendix D.

How does the EQC make decisions?

The EQC has used a variety of methods to make decisions, including acting based on a majority vote or working towards consensus. Whatever approach the EQC ultimately chooses, it is beneficial to discuss that approach early in the interim.

What is the EQC's role during legislative sessions?

The EQC's function during a legislative session is to support any committee-proposed legislation and to offer a position and/or an analysis on specific issues that arise during a session. Members may support the activities of the EQC by sponsoring legislation, providing testimony, responding to amendments, talking to other legislators about EQC legislation, and generally shepherding EQC legislation through the legislative process. Members develop an expertise that is useful to their legislative colleagues.

EQC staff mission and duties

The EQC staff is a principal subdivision within the Legislative Services Division and works under the guidance of the Legislative Environmental Analyst. The staff's mission is to assist the EQC in achieving its mission and to provide the **best** information possible to the EQC, the Legislature, and the public. The EQC's mission is set forth in its enabling legislation (MEPA) and its statutory duties.

Best information means the most complete, objective information available. The staff's goal is to inform the EQC of the issues; provide information regarding those issues; identify options, if requested; and analyze the impacts—environmental, fiscal, societal, etc., of selecting those options. ***The option selection itself is left to committee members.***

Staff responsibilities include:

- researching and writing reports;
- organizing and monitoring public meetings and hearings;
- drafting proposed legislation;
- responding to information requests from EQC members, legislators, the public, and agencies;
- writing legal opinions;
- organizing studies assigned by the Legislature and the EQC;
- arranging meetings, i.e., contacting speakers, arranging for site visits, etc.;
- writing and distributing informational materials; and
- drafting legislation and staffing committees during the legislative sessions.

In general, the EQC staff acts as an impartial and nonpolitical source of information on environmental and natural resource matters for the EQC, the Legislature, Montana citizens, and state agencies. In addition, members of the EQC staff serve as committee staff to several standing committees during legislative sessions and as committee staff to several interim committees.

Your current EQC staff are:

Phone:

Legislative Environmental Analyst	Todd Everts	444-3747
Research Analyst	Joe Kolman	444-9280
Research Analyst	Sonja Nowakowski	444-3078
Research Analyst	Hope Stockwell	444-1640
Research and Publications	Maureen Theisen	444-3742

Appendix A: Salary and Reimbursement

LEGISLATOR CLAIMS FOR REIMBURSEMENT OF INTERIM ACTIVITIES

Legislative Services Division

May 2009

The following provides information for legislators about payment of salary and reimbursement of expenses for interim activities. Legislators who have questions regarding this information should call the Financial & Human Resource Office, Legislative Services Division (Karen Berger at 444-3411 or Jennifer Simmons at 444-9542).

Legislators should make their own lodging and travel plans and should generally use the mode of travel that provides the lowest overall cost to the state. Lodging reservations should be made early to obtain state-rate rooms; a legislator should always request state employee rates when making reservations. If a legislator uses a commercial airline, reservations should be made early to obtain discounted rates, and costly schedule changes should be avoided.

Statutory Provisions

5-2-302. Compensation and expenses when legislature not in session. When the legislature is not in session, a member of the legislature, while engaged in legislative business with prior authorization of the appropriate funding authority, is entitled to:

- (1) a mileage allowance as provided in 2-18-503;
- (2) expenses as provided in 2-18-501 and 2-18-502; and
- (3) a salary equal to one full day's pay at the rate described in 5-2-301(1) for each 24-hour period of time (from midnight to midnight), or portion thereof, spent away from home on authorized legislative business. However, if time spent for business other than authorized legislative business results in lengthening a legislator's stay away from home into an additional 24-hour period, the legislator may not be compensated for the additional day.

Reimbursement Rates

In-state meals (receipts NOT required)	Breakfast \$5.00; Lunch \$6.00; Dinner \$12.00
Mileage (receipt NOT required)	\$.55/mile for first 1,000 miles each month; \$.52/mile thereafter
Lodging (receipt IS required)	For most Montana locations, \$70/day + applicable taxes = \$74.90/day. For Helena, \$77/day + applicable taxes = \$82.39/day.
Nonreceipted lodging (e.g., stay with friends or family)	\$12/day

Guidelines for Evaluating Reasonableness of Claims

These guidelines are used to determine if time spent away from home reasonably falls within the context of authorized legislative business:

- (1) Overnight lodging is reasonable when a legislator would be required to leave home earlier than 6:30 a.m. or arrive home later than 9:30 p.m. in order to have attended all of the meeting or have conducted all of the legislative business authorized. To compute whether this would be required, an average travel speed (overall including incidental stops) of 50 miles an hour is used.

- (2) A legislator is entitled to a day's salary when necessarily away from home for authorized legislative business. A member is considered necessarily away from home on the day of a meeting or other authorized legislative activity and on any other day when travel qualified under (1) above is required.

(3) A meal falling within reasonable travel times may be claimed.

The following mitigating factors will be applied in interpreting the above guidelines:

(1) The welfare of a legislator must be considered. Weather and health issues are key considerations.

(2) If a member flies instead of drives, variations are considered.

(3) At times, members may choose more expensive modes of travel because of schedule conflicts that would make it otherwise impossible to conduct authorized legislative business. These cases will be considered in establishing reasonableness.

Legislators Who Live in Helena

A legislator who lives in Helena and attends an interim committee meeting in Helena is not entitled to mileage or lodging reimbursement. However, the legislator is entitled to a midday meal allowance on the day of the meeting regardless of the proximity of the meeting place to the individual's residence. In addition, the legislator may claim salary in the same manner as all other legislators.

Submission of Claims

To receive payment of salary and reimbursement of expenses for interim legislative work, a legislator must complete and sign a Statement of Expense for Montana Legislators. Forms are available from committee secretaries and from the Financial & Human Resource Office, Legislative Services Division, Room 154 in the Capitol.

The legislator must return the claim to the committee secretary or to the Financial & Human Resource Office, Legislative Services Division, accompanied by original receipts as noted on the claim form. The legislator should clearly note the number of days of salary, lodging, and

meals claimed. The claim should be completed and ***signed in ink***. If special circumstances apply to the claim, those should be noted.

Claims will be processed as quickly as possible. The salary portion of the claim will be paid with the next biweekly state payroll cycle following receipt of form. Warrants for expenses, not including salary, will be issued within 3 working days of receipt of the claim **by the Financial & Human Resource Office**. This means that a legislator will usually receive two state warrants for each claim submitted, one for expenses and one for salary. Claim forms that are incomplete or that do not include required receipts may be returned to the legislator for completion. In these cases, the claims processing period may be extended.

Timely Submission of Claims

State policy requires that requests for reimbursement of travel costs be submitted within 3 months of incurring the expense or the right to reimbursement is waived. To comply with policy, the Legislative Branch cannot process payment if reimbursement requests are submitted outside the 3-month window.

Appendix C: Creating a Subcommittee or Work Group

Attributes of subcommittees and work groups

Subcommittees

- Made up of voting members and minutes must be taken
- Generally a larger division of the whole committee
- Members become very informed and knowledgeable about the issues being analyzed
- Appointed at the beginning of the interim
- Past Council's have expressed concern that only a limited number of EQC members get all the information

Work Groups

- Not mandatory that the group take minutes
- Usually fewer members (5-6)
- Can include non EQC members to provide information
- Appointed on an as needed basis throughout the interim
- Past Councils have seen as an efficient way to put together detailed answers or information for a specific question

Use of subcommittees in the 2009-10 Interim

The EQC may assign studies to a subcommittee or work group that are the result of resolutions, statutory oversight responsibilities, or member-defined issues.

Past use of subcommittees by the EQC

- Joint subcommittee with the Legislative Finance Committee to study the Petroleum Tank Release Fund (2008).
- HB 790 Subcommittee traveled around the state to solicit public comment on and discuss split estates and other oil and gas development issues (2005).

- Joint subcommittee with the Law and Justice Interim Committee for a study of eminent domain (1999).
- Agency Oversight Subcommittee (2001, 2003, 2005, 2007).
- Water Policy Subcommittee (2001)
- Energy Subcommittee (2001, 2003).

Past use of work groups by the EQC

- HJ 4 Water Adjudication Funding Work Group (2003)
- Work group to study alternatives for the management of waste tires (1997)
- SJ 34 Hazardous Waste Work Group (1995)
- HJ 31 Energy Policy Study Design Work Group (1993)

Appointing and organizing subcommittees

- Each EQC has the option of appointing subcommittees.
- The subcommittee Presiding Officers and members are appointed by the EQC Presiding Officer.
- Subcommittees have their own detailed work plan.
- Subcommittee meetings are held in addition to EQC meetings. Subcommittee Presiding Officers give an update at each EQC meeting on activities undertaken.
- Subcommittee activities require additional staff time and Council member time.

Appendix D: How the EQC May Respond to Issues

The following choices are informally arranged from the efforts that are the most simple to the most resource-intensive for EQC members and staff to complete. Before beginning research on a topic, it is necessary to decide if the issue warrants investigation given the demands and objectives of the work plan, and if so, for what purpose and in what depth.

Presenting an issue to the EQC.

- Request staff to conduct independent research and report to the EQC.
- Request EQC staff to work with agency staff to address questions.
- Request that agency staff answer specific questions in writing or by presentation.
- Request EQC staff to work with agency staff and interest groups to provide multiple perspectives.
- Same as above with actively solicited public attendance and comment.
- Solicit interested persons or issue experts to present information to the EQC.
- Request EQC staff to organize a panel discussion on the issue.

Tracking an ongoing issue.

- Request EQC staff or agency staff to provide updates at subsequent meetings.
- Committee members investigate the issue in their districts and report back to the EQC at the next meeting.
- Committee members request periodic reports/publications on the issue produced by the agency or interest group.
- Committee members request that EQC staff track an issue nationally or regionally and provide periodic updates at meetings.
- Committee assigns an EQC subcommittee or working group to investigate and report on the issue over the interim.

Refining an issue.

- Convert an issue to a work plan item for the EQC, subcommittees, working groups, or staff to research and report on.
- Committee members and/or EQC staff develop more specific follow-up questions on an issue for EQC or agency staff to research and report back to the EQC.
- Committee workshop/work session involving all affected parties.
- Committee requests performance or fiscal audit.
- Convene an EQC subcommittee or working group to discuss issue and report back to the EQC.
- Solicit and arrange for testimony from diverse participants; host a general discussion of the issue or ask specific questions.
- Conduct a site visit, tour, or hearing and prepare a report on the result.

Identifying options to address an issue.

- Ask interested parties/experts for suggestions on what could be done to resolve the issue.
- Request that EQC staff evaluate how other states deal with similar issues.
- Request EQC staff to develop potential options to present to the EQC independently or in consultation with agency staff and interested parties.
- Request EQC staff to develop a “white paper” or “issue paper” with options on how to address the issue.
- Convene subcommittee to work with staff to develop options and report back to the EQC.
- Convene a working group to work with all affected parties to develop options and report to the EQC.

Recommending actions.

- EQC determines issue can be addressed through information mechanisms:

- requests that EQC staff add information to EQC publication/website.
- requests that EQC/agency staff develop strategies for information dissemination on issue.
- directs EQC staff to plan a special meeting, workshop, or symposium.
- directs EQC staff to work with other potential sponsors to plan a meeting, workshop, etc.
- EQC provides comments for inclusion in a public comment process on a proposal.
- EQC provides suggestions or general recommendations for agency actions:
 - forwards recommendations to agency via EQC letter.
 - forwards recommendations to Legislature via report.
- EQC recommends EQC staff or agency prepare specific legislative proposal:
 - study resolution for future effort
 - bill
- EQC prepares formal letter to other governing entity (e.g. Governor, Congressional delegation, multistate Commission, etc.)
- EQC recommends participation in state, regional, or national policy review group.
- EQC schedules special hearing during legislative session to discuss proposals.

Appendix E: Statutory Duties

A brief summary of the EQC's statutory duties is followed by the complete text of the statutes taken from the Montana Code Annotated (MCA).

A Summary of the EQC's Specific Statutory Responsibilities

Under MEPA

75-1-201 calls for state agencies to assist the EQC and to provide copies of all environmental reviews to the EQC for review. (Agency MEPA administrative rules also require agencies to submit environmental review documents to the EQC.)

75-1-208 allows the sponsor of a project under MEPA review to appear before the EQC at a regularly scheduled meeting. The EQC is required to ensure that state agency personnel are available for questions.

75-1-314 requires the DEQ, DNRC and Department of Agriculture to report specific compliance and enforcement information to the EQC.

75-1-324 outlines the specific duties of EQC members.

Other

2-4-402 through 2-4-412 set out the administrative rule oversight powers and duties of the EQC.

2-15-1514 requires participation of a Legislative Services Division staff person on the natural resource data system advisory committee.

2-15-1523 states that a representative of the Legislative Services Division may serve on the ground water assessment steering committee.

5-5-202, 5-5-211 and 5-5-215 discuss the organization and duties of interim committees. Title 5, chapter 5, part 2 requires the EQC and the Water Policy Interim Committee to coordinate on water issues.

5-16-101 through 5-16-105 discuss the composition and terms of the EQC.

Title 75, chapter 5, part 3 requires the DEQ to provide a summary of the status of the development of temporary nutrient criteria to the EQC on or before July 1 of each year.

75-10-111 requires the DEQ to circulate solid waste management and resource recovery plans to the EQC for its review.

Title 76, chapter 13, part 1 requires the DNRC to report its progress in designating wildland-urban interface parcels to an appropriate interim committee assigned to study wildland fire suppression or to the EQC.

77-2-366 requires that the DNRC submit a detailed report of the land banking program to the EQC by July 1 of even-numbered years.

77-5-301, et seq. The legislative statement of intent requires the DNRC, along with the technical committee charged with advising the department on implementation of the streamside management zone laws, to evaluate and report on the implementation of the act to the EQC.

82-2-701, requires the Montana Bureau of Mines and Geology to report to the EQC and the Education and Local Government Interim Committee on its investigation of the state's sand and gravel deposits within one year of starting its investigations.

85-1-203 requires the DNRC to submit a copy of the State Water Plan or any plan changes to the EQC.

85-1-621 requires the DNRC to submit a biennial report to the EQC describing the status of the renewable resource grant and loan program.

85-2-105 establishes the EQC's water policy duties. Requires the EQC to analyze and comment on the state water plan, the state water development process, water-related research, and the adequacy of the water resources data management system.

85-2-281 requires the Water Court and the DNRC to report to the EQC on the progress of the adjudication process until 2020.

85-2-350 requires the Clark Fork River Basin Task Force to report annually to the EQC.

85-2-436 requires the DFWP to submit a summary report to the EQC by December 1 of odd-numbered years of all appropriation rights changed to an instream flow purpose in the previous 2 years.

Title 87, chapter 1, part 2 requires the DFWP to provide an annual report regarding deposits into and withdrawals from the Good Neighbor Policy state water and land maintenance account to the Oversight Subcommittee of the Environmental Quality Council.

STATUTES IN THE MONTANA CODE ANNOTATED THAT INVOLVE THE EQC OR ITS STAFF



Legislative Review of Rules—The EQC’s State Agency Oversight on Rulemaking

2-4-402. Powers of committees -- duty to review rules. (1) The administrative rules review committees shall review all proposed rules filed with the secretary of state.

(2) The appropriate administrative rule review committee may:

(a) request and obtain an agency's rulemaking records for the purpose of reviewing compliance with 2-4-305;

(b) prepare written recommendations for the adoption, amendment, or rejection of a rule and submit those recommendations to the department proposing the rule and submit oral or written testimony at a rulemaking hearing;

(c) require that a rulemaking hearing be held in accordance with the provisions of 2-4-302 through 2-4-305;

(d) institute, intervene in, or otherwise participate in proceedings involving this chapter in the state and federal courts and administrative agencies;

(e) review the incidence and conduct of administrative proceedings under this chapter.

2-4-403. Legislative intent -- poll. (1) If the legislature is not in session, the committee may poll all members of the legislature by mail to determine whether a proposed rule is consistent with the intent of the legislature.

(2) If 20 or more legislators object to a proposed rule, the committee shall poll the members of the legislature.

(3) The poll must include an opportunity for the agency to present a written justification for the proposed rule to the members of the legislature.

2-4-404. Evidentiary value of legislative poll. If the appropriate administrative rule review committee has conducted a poll of the legislature in accordance with 2-4-403, the results of the poll must be admissible in any court proceeding involving the validity of the proposed rule or the validity of the adopted rule if the rule was adopted by the agency. If the poll determines that a majority of the members of both houses find that the proposed rule or adopted rule is contrary to the intent of the legislature, the proposed rule or adopted rule must be conclusively presumed to be contrary to the legislative intent in any court proceeding involving its validity.

2-4-405. Economic impact statement. (1) Upon written request of the appropriate administrative rule review committee based upon the affirmative request of a majority of the members of the committee at an open meeting, an agency shall prepare a statement of the economic impact of the adoption, amendment, or repeal of a rule as proposed. The agency shall also prepare a statement upon receipt by the agency or the committee of a written request for a statement made by at least 15 legislators. If the request is received by the committee, the committee shall give the agency a copy of the request, and if the request is received by the agency, the agency shall give the committee a copy of the request. As an alternative, the committee may, by contract, prepare the estimate.

(2) Except to the extent that the request expressly waives any one or more of the following, the requested statement must include and the statement prepared by the committee may include:

(a) a description of the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule;

(b) a description of the probable economic impact of the proposed rule upon affected classes of persons, including but not limited to providers of services under contracts with the state and affected small businesses, and quantifying, to the extent practicable, that impact;

(c) the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenue;

(d) an analysis comparing the costs and benefits of the proposed rule to the costs and benefits of inaction;

(e) an analysis that determines whether there are less costly or less intrusive methods for achieving the purpose of the proposed rule;

(f) an analysis of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule;

(g) a determination as to whether the proposed rule represents an efficient allocation of public and private resources; and

(h) a quantification or description of the data upon which subsections (2)(a) through (2)(g) are based and an explanation of how the data was gathered.

(3) A request to an agency for a statement or a decision to contract for the preparation of a statement must be made prior to the final agency action on the rule. The statement must be filed with the appropriate administrative rule review committee within 3 months of the request or decision. A request or decision for an economic impact statement may be withdrawn at any time.

(4) Upon receipt of an impact statement, the committee shall determine the sufficiency of the statement. If the committee determines that the statement is insufficient, the committee may return it to the agency or other person who prepared the statement and request that corrections or amendments be made. If the committee determines that the statement is sufficient, a notice, including a summary of the statement and indicating where a copy of the statement may be obtained, must be filed with the secretary of state for publication in the register by the agency preparing the statement or by the committee, if the statement is prepared under contract by the committee, and must be mailed to persons who have registered advance notice of the agency's rulemaking proceedings.

(5) This section does not apply to rulemaking pursuant to 2-4-303.

(6) The final adoption, amendment, or repeal of a rule is not subject to challenge in any court as a result of the inaccuracy or inadequacy of a statement required under this section.

(7) An environmental impact statement prepared pursuant to 75-1-201 that includes an analysis of the factors listed in this section satisfies the provisions of this section.

2-4-406. Committee objection to violation of authority for rule --

effect. (1) If the appropriate administrative rule review committee objects to all or some portion of a proposed or adopted rule because the committee considers it not to have been proposed or adopted in substantial compliance with 2-4-302, 2-4-303, and 2-4-305, the committee shall send a written objection to the agency that promulgated the rule. The objection must contain a concise statement of the committee's reasons for its action.

(2) Within 14 days after the mailing of a committee objection to a rule, the agency promulgating the rule shall respond in writing to the committee. After receipt of the response, the committee may withdraw or modify its objection.

(3) If the committee fails to withdraw or substantially modify its objection to a rule, it may vote to send the objection to the secretary of state, who shall, upon receipt of the objection, publish the objection in the register adjacent to any notice of adoption of the rule and in the ARM adjacent to the rule, provided an agency response must also be published if requested by the agency. Costs of publication of the objection and the agency response must be paid by the committee.

(4) If an objection to all or a portion of a rule has been published pursuant to subsection (3), the agency bears the burden, in any action challenging the legality of the rule or portion of a rule objected to by the committee, of proving that the rule or portion of the rule objected to was adopted in substantial compliance with 2-4-302, 2-4-303, and 2-4-305. If a rule is invalidated by court judgment because the agency failed to meet its burden of proof imposed by this subsection and the court finds that the rule was adopted in arbitrary and capricious disregard for the purposes of the authorizing statute, the court may award costs and reasonable attorney fees against the agency.

2-4-410. Report of litigation. Each agency shall report to the appropriate administrative rule review committee any judicial proceedings in which the construction or interpretation of any provision of this chapter is in issue and may report to the committee any proceeding in which the construction or interpretation of any rule of the agency is in issue. Upon request of the committee, copies of documents filed in any proceeding in which the construction or interpretation of either this chapter or an agency rule is in issue must be made available to the committee by the agency involved.

2-4-411. Report. The committee may recommend amendments to the Montana Administrative Procedure Act or the repeal, amendment, or adoption of

a rule as provided in 2-4-412 and make other recommendations and reports as it considers advisable.

2-4-412. Legislative review of rules -- effect of failure to object. (1)

The legislature may, by bill, repeal any rule in the ARM. If a rule is repealed, the legislature shall in the bill state its objections to the repealed rule. If an agency adopts a new rule to replace the repealed rule, the agency shall adopt the new rule in accordance with the objections stated by the legislature in the bill. If the legislature does not repeal a rule filed with it before the adjournment of that regular session, the rule remains valid.

(2) The legislature may also by joint resolution request or advise or by bill direct the adoption, amendment, or repeal of any rule. If a change in a rule or the adoption of an additional rule is advised, requested, or directed to be made, the legislature shall in the joint resolution or bill state the nature of the change or the additional rule to be made and its reasons for the change or addition. The agency shall, in the manner provided in the Montana Administrative Procedure Act, adopt a new rule in accordance with the legislative direction in a bill.

(3) Rules and changes in rules made by agencies under subsection (2) must conform and be pursuant to statutory authority.

(4) Failure of the legislature or the appropriate administrative rule review committee to object in any manner to the adoption, amendment, or repeal of a rule is inadmissible in the courts of this state to prove the validity of any rule.



Member of Natural Resource Data System Advisory Committee

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.



Member of Ground Water Assessment Steering Committee

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;
 - (iii) a conservation or ecological protection organization; and
 - (iv) the development community.

(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.



Interim Committees

5-5-202. Interim committees. (1) During an interim when the legislature is not in session, the committees listed in subsection (2) are the interim committees of the legislature. They are empowered to sit as committees and may act in their respective areas of responsibility. The functions of the legislative council, legislative audit committee, legislative finance committee, **ENVIRONMENTAL QUALITY COUNCIL**, water policy committee, and state-tribal relations committee are provided for in the statutes governing those committees.

(2) The following are the interim committees of the legislature:

- (a) economic affairs committee;
- (b) education and local government committee;
- (c) children, families, health, and human services committee;
- (d) law and justice committee;
- (e) energy and telecommunications committee;
- (f) revenue and transportation committee; and
- (g) state administration, and veterans' affairs committee.

(3) An interim committee or the **ENVIRONMENTAL QUALITY COUNCIL** may refer an issue to another committee that the referring committee determines to be more appropriate for the consideration of the issue. Upon the acceptance of the referred issue, the accepting committee shall consider the issue as if the issue were originally within its jurisdiction. If the committee that is referred an issue declines to accept the issue, the original committee retains jurisdiction.

(4) If there is a dispute between committees as to which committee has proper jurisdiction over a subject, the legislative council shall determine the most appropriate committee and assign the subject to that committee.

5-5-215. Duties of interim committees. (1) Each interim committee shall:

- (a) review administrative rules within its jurisdiction;
- (b) subject to 5-5-217(3), conduct interim studies as assigned;

- (c) monitor the operation of assigned executive branch agencies with specific attention to the following:
 - (i) identification of issues likely to require future legislative attention;
 - (ii) opportunities to improve existing law through the analysis of problems experienced with the application of the law by an agency; and
 - (iii) experiences of the state's citizens with the operation of an agency that may be amenable to improvement through legislative action;
 - (d) review proposed legislation of assigned agencies or entities as provided in the joint legislative rules; and
 - (e) accumulate, compile, analyze, and furnish information bearing upon its assignment and relevant to existing or prospective legislation as it determines, on its own initiative, to be pertinent to the adequate completion of its work.
- (2) Each interim committee shall prepare bills and resolutions that, in its opinion, the welfare of the state may require for presentation to the next regular session of the legislature.
- (3) The **LEGISLATIVE SERVICES DIVISION** shall keep accurate records of the activities and proceedings of each interim committee.

Title 5, chapter 5, part 2. Water policy committee. (1) There is a water policy committee. Except as provided in subsection (2), the committee is treated as an interim committee for the purposes of 5-5-211 through 5-5-214. The committee shall:

- (a) determine which water policy issues it examines;
 - (b) conduct interim studies as assigned pursuant to 5-5-217;
 - (c) subject to the provisions of 5-5-202(4), coordinate with the **ENVIRONMENTAL QUALITY COUNCIL** and other interim committees to avoid duplication of efforts; and
 - (d) report its activities, findings, recommendations, and any proposed legislation as provided in 5-11-210.
- (2) At least two members of the committee must possess experience in agriculture.



EQC Appointments

5-16-101. Appointment and composition. The **ENVIRONMENTAL QUALITY COUNCIL** consists of 17 members as follows:

(1) the governor or the governor's designated representative is an ex officio member of the council and shall participate in council meetings as a nonvoting member;

(2) six members of the senate and six members of the house of representatives appointed before the 50th legislative day in the same manner as standing committees of the respective houses are appointed. Subject to [section 2], three of the appointees of each house must be members of the majority party and three appointees of each house must be members of the minority party.

(3) four members of the general public. Two public members must be appointed by the speaker of the house with the consent of the house minority leader, and two must be appointed by the president of the senate with the consent of the senate minority leader.

5-16-102. Qualifications. (1) In considering the appointments under 5-16-101(2) and (3), consideration must be given to the appointees' qualifications to:

(a) analyze and interpret environmental trends and information of all kinds;

(b) appraise programs and activities of the state government in the light of the policy set forth in 75-1-103;

(c) be conscious of and responsive to the scientific, economic, social, aesthetic, and cultural needs and interests of the state; and

(d) formulate and recommend state policies to promote the improvement of the quality of the environment.

(2) At least 50% of the members appointed pursuant to 5-16-101(2) must be selected from the standing committees that consider issues within the jurisdiction of the **ENVIRONMENTAL QUALITY COUNCIL**.

5-16-103. Term of office. The terms of office of all council members shall be 2 years and shall terminate upon appointment of a new council before the 50th legislative day. Council members may be reappointed. However, in no case shall a member serve more than 6 years.

5-16-104. Vacancies. (1) A vacancy on the council of a member appointed under 5-16-101(2) occurring when the legislature is not in session shall be filled by the selection of a member of the legislature by the same method as the original appointment. If there is a vacancy on the committee at the beginning of a legislative session because a member's term of office as a legislator has ended, a member of the same political party must be appointed in

the same manner as the original appointment, no later than the 10th legislative day, to serve until a successor is appointed under 5-16-101.

(2) (a) When a vacancy on the council of a member appointed under 5-16-101(3) has occurred or is expected to occur, the appointing authority shall have posted in a conspicuous place in the state capitol a notice announcing the actual or anticipated vacancy and describing the procedure for applying for appointment.

(b) A copy of the notice required under subsection (2)(a) must be sent to the lieutenant governor, who may publish the notice in an appropriate publication.

5-16-105. Officers. The council shall elect one of its members as presiding officer and other officers it determines necessary. An officer is elected for a term of 2 years.



Montana Environmental Policy Act

Part 1

General Provisions

75-1-101. Short title. Parts 1 through 3 may be cited as the "Montana Environmental Policy Act".

75-1-102. Intent — purpose. The legislature, mindful of its constitutional obligations under Article II, section 3, and Article IX of the Montana constitution, has enacted the Montana Environmental Policy Act. The Montana Environmental Policy Act is procedural, and it is the legislature's intent that the requirements of parts 1 through 3 of this chapter provide for the adequate review of state actions in order to ensure that environmental attributes are fully considered.

(2) The purpose of parts 1 through 3 of this chapter is to declare a state policy that will encourage productive and enjoyable harmony between humans and their environment, to protect the right to use and enjoy private property free of undue government regulation, to promote efforts that will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of humans, to enrich the understanding of the ecological systems and natural

resources important to the state, and to establish an **ENVIRONMENTAL QUALITY COUNCIL**.

75-1-103. Policy. (1) The legislature, recognizing the profound impact of human activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and new and expanding technological advances, recognizing the critical importance of restoring and maintaining environmental quality to the overall welfare and human development, and further recognizing that governmental regulation may unnecessarily restrict the use and enjoyment of private property, declares that it is the continuing policy of the state of Montana, in cooperation with the federal government, local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which humans and nature can coexist in productive harmony, to recognize the right to use and enjoy private property free of undue government regulation, and to fulfill the social, economic, and other requirements of present and future generations of Montanans.

(2) In order to carry out the policy set forth in parts 1 through 3, it is the continuing responsibility of the state of Montana to use all practicable means consistent with other essential considerations of state policy to improve and coordinate state plans, functions, programs, and resources so that the state may:

- (a) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
- (b) ensure for all Montanans safe, healthful, productive, and aesthetically and culturally pleasing surroundings;
- (c) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
- (d) protect the right to use and enjoy private property free of undue government regulation;
- (e) preserve important historic, cultural, and natural aspects of our unique heritage and maintain, wherever possible, an environment that supports diversity and variety of individual choice;
- (f) achieve a balance between population and resource use that will permit high standards of living and a wide sharing of life's amenities; and

(g) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(3) The legislature recognizes that each person is entitled to a healthful environment, that each person is entitled to use and enjoy that person's private property free of undue government regulation, that each person has the right to pursue life's basic necessities, and that each person has a responsibility to contribute to the preservation and enhancement of the environment. The implementation of these rights requires the balancing of the competing interests associated with the rights by the legislature in order to protect the public health, safety, and welfare.

75-1-104. Specific statutory obligations unimpaired. Sections 75-1-103 and 75-1-201 do not affect the specific statutory obligations of any agency of the state to:

- (1) comply with criteria or standards of environmental quality;
- (2) coordinate or consult with any local government, other state agency, or federal agency; or
- (3) act or refrain from acting contingent upon the recommendations or certification of any other state or federal agency.

75-1-105. Policies and goals supplementary. The policies and goals set forth in parts 1 through 3 are supplementary to those set forth in existing authorizations of all boards, commissions, and agencies of the state.

75-1-106. Private property protection -- ongoing programs of state government. Nothing in 75-1-102, 75-1-103, or 75-1-201 expands or diminishes private property protection afforded in the U.S. or Montana constitutions. Nothing in 75-1-102, 75-1-103, or 75-1-201 may be construed to preclude ongoing programs of state government pending the completion of any statements that may be required by 75-1-102, 75-1-103, or 75-1-201.

75-1-107 through 75-1-109 reserved.

75-1-110. Environmental rehabilitation and response account. (1) There is an environmental rehabilitation and response account in the state special revenue fund provided for in 17-2-102.

- (2) There must be deposited in the account:

(a) fine and penalty money received pursuant to 75-10-1223, 82-4-311, and 82-4-424 and other funds or contributions designated for deposit to the account;

(b) reimbursements received pursuant to 75-10-1403

(c) unclaimed or excess reclamation bond money received pursuant to 82-4-241, 82-4-311, and 82-4-424; and

(d) interest earned on the account.

(3) Money in the account is available to the department of environmental quality by appropriation and must be used to pay for:

(a) reclamation and revegetation of land affected by mining activities, research pertaining to the reclamation and revegetation of land, and the rehabilitation of water affected by mining activities;

(b) reclamation and revegetation of unreclaimed mine lands for which the department may not require reclamation by, or obtain costs of reclamation from, a legally responsible party;

(c) remediation of sites containing hazardous wastes as defined in 75-10-403, hazardous or deleterious substances as defined in 75-10-701, or solid waste as defined in 75-10-203; or

(d) response to an imminent threat of substantial harm to the environment, to public health, or to public safety for which no funding or insufficient funding is available pursuant to 75-1-1101.

(4) Any unspent or unencumbered money in the account at the end of a fiscal year must remain in the account until spent or appropriated by the legislature.

Part 2

Environmental Impact Statements

75-1-201. General directions -- environmental impact statements. (1)

The legislature authorizes and directs that, to the fullest extent possible:

(a) the policies, regulations, and laws of the state must be interpreted and administered in accordance with the policies set forth in parts 1 through 3;

(b) under this part, all agencies of the state, except the legislature and except as provided in subsection (2), shall:

(i) use a systematic, interdisciplinary approach that will ensure:

(A) the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking that may have an impact on the human environment; and

(B) that in any environmental review that is not subject to subsection (1)(b)(iv), when an agency considers alternatives, the alternative analysis will be in compliance with the provisions of subsections (1)(b)(iv)(C)(I) through (1)(b)(iv)(C)(III) and, if requested by the project sponsor or if determined by the agency to be necessary, subsection (1)(b)(iv)(C)(IV);

(ii) identify and develop methods and procedures that will ensure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking, along with economic and technical considerations;

(iii) identify and develop methods and procedures that will ensure that state government actions that may impact the human environment are evaluated for regulatory restrictions on private property, as provided in subsection (1)(b)(iv)(D);

(iv) include in each recommendation or report on proposals for projects, programs, and other major actions of state government significantly affecting the quality of the human environment a detailed statement on:

(A) the environmental impact of the proposed action;

(B) any adverse environmental effects that cannot be avoided if the proposal is implemented;

(C) alternatives to the proposed action. An analysis of any alternative included in the environmental review must comply with the following criteria:

(I) any alternative proposed must be reasonable, in that the alternative must be achievable under current technology and the alternative must be economically feasible as determined solely by the economic viability for similar projects having similar conditions and physical locations and determined without regard to the economic strength of the specific project sponsor;

(II) the agency proposing the alternative shall consult with the project sponsor regarding any proposed alternative, and the agency shall give due weight and consideration to the project sponsor's comments regarding the proposed alternative;

(III) if the project sponsor believes that an alternative is not reasonable as provided in subsection (1)(b)(iv)(C)(I), the project sponsor may request a review by the appropriate board, if any, of the agency's determination regarding the reasonableness of the alternative. The appropriate board may, at its discretion, submit an advisory recommendation to the agency regarding the issue. The agency may not charge the project sponsor for any of its activities associated with any review under this section. The period of time between the request for a review and completion of a review under this subsection may not be included for

the purposes of determining compliance with the time limits established for environmental review in 75-1-208.

(IV) the agency shall complete a meaningful no-action alternative analysis. The no-action alternative analysis must include the projected beneficial and adverse environmental, social, and economic impact of the project's noncompletion.

(D) any regulatory impacts on private property rights, including whether alternatives that reduce, minimize, or eliminate the regulation of private property rights have been analyzed. The analysis in this subsection (1)(b)(iv)(D) need not be prepared if the proposed action does not involve the regulation of private property.

(E) the relationship between local short-term uses of the human environment and the maintenance and enhancement of long-term productivity;

(F) any irreversible and irretrievable commitments of resources that would be involved in the proposed action if it is implemented;

(G) the customer fiscal impact analysis, if required by 69-2-216; and

(H) the details of the beneficial aspects of the proposed project, both short-term and long-term, and the economic advantages and disadvantages of the proposal;

(v) in accordance with the criteria set forth in subsection (1)(b)(iv)(C), study, develop, and describe appropriate alternatives to recommend courses of action in any proposal that involves unresolved conflicts concerning alternative uses of available resources;

(vi) recognize the national and long-range character of environmental problems and, when consistent with the policies of the state, lend appropriate support to initiatives, resolutions, and programs designed to maximize national cooperation in anticipating and preventing a decline in the quality of the world environment;

(vii) make available to counties, municipalities, institutions, and individuals advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(viii) initiate and use ecological information in the planning and development of resource-oriented projects; and

(ix) assist the **ENVIRONMENTAL QUALITY COUNCIL** established by 5-16-101;

(c) prior to making any detailed statement as provided in subsection (1)(b)(iv), the responsible state official shall consult with and obtain the comments of any state agency that has jurisdiction by law or special expertise with respect to any environmental impact involved and with any local government, as defined in 7-12-1103, that may be directly impacted by the

project. The responsible state official shall also consult with and obtain comments from any state agency with respect to any regulation of private property involved. Copies of the statement and the comments and views of the appropriate state, federal, and local agencies that are authorized to develop and enforce environmental standards must be made available to the governor, the **ENVIRONMENTAL QUALITY COUNCIL**, and the public and must accompany the proposal through the existing agency review processes.

(d) a transfer of an ownership interest in a lease, permit, license, certificate, or other entitlement for use or permission to act by an agency, either singly or in combination with other state agencies, does not trigger review under subsection (1)(b)(iv) if there is not a material change in terms or conditions of the entitlement or unless otherwise provided by law.

(2) The department of public service regulation, in the exercise of its regulatory authority over rates and charges of railroads, motor carriers, and public utilities, is exempt from the provisions of parts 1 through 3.

(3) (a) In any action challenging or seeking review of an agency's decision that a statement pursuant to subsection (1)(b)(iv) is not required or that the statement is inadequate, the burden of proof is on the person challenging the decision. Except as provided in subsection (3)(b), in a challenge to the adequacy of a statement, a court may not consider any issue relating to the adequacy or content of the agency's environmental review document or evidence that was not first presented to the agency for the agency's consideration prior to the agency's decision. A court may not set aside the agency's decision unless it finds that there is clear and convincing evidence that the decision was arbitrary or capricious or not in compliance with law.

(b) When new, material, and significant evidence or issues relating to the adequacy or content of the agency's environmental review document are presented to the district court that had not previously been presented to the agency for its consideration, the district court shall remand the new evidence or issue relating to the adequacy or content of the agency's environmental review document back to the agency for the agency's consideration and an opportunity to modify its findings of fact and administrative decision before the district court considers the evidence or issue relating to the adequacy or content of the agency's environmental review document within the administrative record under review. Immaterial or insignificant evidence or issues relating to the adequacy or content of the agency's environmental review document may not be remanded to the agency. The district court shall review the agency's findings and decision to determine whether they are supported by substantial, credible evidence within the administrative record under review.

(4) To the extent that the requirements of subsections (1)(b)(iv)(C)(I) and (1)(b)(iv)(C)(III) are inconsistent with federal requirements, the requirements of subsections (1)(b)(iv)(C)(I) and (1)(b)(iv)(C)(III) do not apply to an environmental review that is being prepared by a state agency pursuant to this part and a federal agency pursuant to the National Environmental Policy Act or to an environmental review that is being prepared by a state agency to comply with the requirements of the National Environmental Policy Act.

(5) (a) The agency may not withhold, deny, or impose conditions on any permit or other authority to act based on parts 1 through 3 of this chapter.

(b) Nothing in this subsection (5) prevents a project sponsor and an agency from mutually developing measures that may, at the request of a project sponsor, be incorporated into a permit or other authority to act.

(c) Parts 1 through 3 of this chapter do not confer authority to an agency that is a project sponsor to modify a proposed project or action.

(6) (a) (i) A challenge to an agency action under this part may only be brought against a final agency action and may only be brought in district court or in federal court, whichever is appropriate.

(ii) Any action or proceeding challenging a final agency action alleging failure to comply with or inadequate compliance with a requirement under this part must be brought within 60 days of the action that is the subject of the challenge.

(iii) For an action taken by the board of land commissioners or the department of natural resources and conservation under Title 77, "final agency action" means the date that the board of land commissioners or the department of natural resources and conservation issues a final environmental review document under this part or the date that the board approves the action that is subject to this part, whichever is later.

(b) Any action or proceeding under subsection (6)(a)(ii) must take precedence over other cases or matters in the district court unless otherwise provided by law.

Any judicial action or proceeding brought in district court under subsection (6)(a) involving an equine slaughter or processing facility must comply with [sections 1 and 2].

(7) The director of the agency responsible for the determination or recommendation shall endorse in writing any determination of significance made under subsection (1)(b)(iv) or any recommendation that a determination of significance be made.

(8) A project sponsor may request a review of the significance determination or recommendation made under subsection (7) by the appropriate

board, if any. The appropriate board may, at its discretion, submit an advisory recommendation to the agency regarding the issue. The period of time between the request for a review and completion of a review under this subsection may not be included for the purposes of determining compliance with the time limits established for environmental review in 75-1-208.

75-1-202. Agency rules to prescribe fees. Each agency of state government charged with the responsibility of issuing a lease, permit, contract, license, or certificate under any provision of state law may adopt rules prescribing fees that must be paid by a person, corporation, partnership, firm, association, or other private entity when an application for a lease, permit, contract, license, or certificate will require an agency to compile an environmental impact statement as prescribed by 75-1-201 and the agency has not made the finding under 75-1-205(1)(a). An agency shall determine whether it will be necessary to compile an environmental impact statement and assess a fee as prescribed by this section within any statutory timeframe for issuance of the lease, permit, contract, license, or certificate or, if no statutory timeframe is provided, within 90 days. Except as provided in 85-2-124, the fee assessed under this section may be used only to gather data and information necessary to compile an environmental impact statement as defined in parts 1 through 3. A fee may not be assessed if an agency intends only to file a negative declaration stating that the proposed project will not have a significant impact on the human environment.

75-1-203. Fee schedule -- maximums. (1) In prescribing fees to be assessed against applicants for a lease, permit, contract, license, or certificate as specified in 75-1-202, an agency may adopt a fee schedule that may be adjusted depending upon the size and complexity of the proposed project. A fee may not be assessed unless the application for a lease, permit, contract, license, or certificate will result in the agency incurring expenses in excess of \$2,500 to compile an environmental impact statement.

(2) The maximum fee that may be imposed by an agency may not exceed 2% of any estimated cost up to \$1 million, plus 1% of any estimated cost over \$1 million and up to \$20 million, plus 1/2 of 1% of any estimated cost over \$20 million and up to \$100 million, plus 1/4 of 1% of any estimated cost over \$100 million and up to \$300 million, plus 1/8 of 1% of any estimated cost in excess of \$300 million.

(3) If an application consists of two or more facilities, the filing fee must be based on the total estimated cost of the combined facilities. The estimated

cost must be determined by the agency and the applicant at the time the application is filed.

(4) Each agency shall review and revise its rules imposing fees as authorized by this part at least every 2 years.

(5) In calculating fees under this section, the agency may not include in the estimated project cost the project sponsor's property or other interests already owned by the project sponsor at the time the application is submitted. Any fee assessed may be based only on the projected cost of acquiring all of the information and data needed for the environmental impact statement.

75-1-204. Application of administrative procedure act. In adopting rules prescribing fees as authorized by this part, an agency shall comply with the provisions of the Montana Administrative Procedure Act.

75-1-205. Collection and use of fees and costs. (1) A person who applies to a state agency for a permit, license, or other authorization that the agency determines requires preparation of an environmental impact statement is responsible for paying:

(a) the agency's costs of preparing the environmental impact statement and conducting the environmental impact statement process if the agency makes a written determination, based on material evidence identified in the determination, that there will be a significant environmental impact or a potential for a significant environmental impact. If a customer fiscal impact analysis is required under [section 1], the applicant shall also pay the staff and consultant costs incurred by the office of consumer counsel in preparing the analysis.

(b) a fee as provided in 75-1-202 if the agency does not make the determination provided for in subsection (1)(a).

(2) Costs payable under subsection (1) include:

(a) the costs of generating, gathering, and compiling data and information that is not available from the applicant to prepare the draft environmental impact statement, any supplemental draft environmental impact statement, and the final environmental impact statement;

(b) the costs of writing, reviewing, editing, printing, and distributing a reasonable number of copies of the draft environmental impact statement;

(c) the costs of attending meetings and hearings on the environmental impact statement, including meetings and hearings held to determine the scope of the environmental impact statement; and

(d) the costs of preparing, printing, and distributing a reasonable number of copies of any supplemental draft environmental impact statement and the final environmental impact statement, including the cost of reviewing and preparing responses to public comment.

(3) Costs payable under subsection (1) include:

(a) payments to contractors hired to work on the environmental impact statement;

(b) salaries and expenses of an agency employee who is designated as the agency's coordinator for preparation of the environmental impact statement for time spent performing the activities described in subsection (2) or for managing those activities; and

(c) travel and per diem expenses for other agency personnel for attendance at meetings and hearings on the environmental impact statement.

(4) (a) Whenever the agency makes the determination in subsection (1)(a), it shall notify the applicant of the cost of conducting the process to determine the scope of the environmental impact statement. The applicant shall pay that cost, and the agency shall then conduct the scoping process. The timeframe in 75-1-208(4)(a)(i) and any statutory timeframe for a decision on the application are tolled until the applicant pays the cost of the scoping process.

(b) If the agency decides to hire a third-party contractor to prepare the environmental impact statement, the agency shall prepare a list of no fewer than four contractors acceptable to the agency and shall provide the applicant with a copy of the list. If fewer than four acceptable contractors are available, the agency shall include all acceptable contractors on the list. The applicant shall provide the agency with a list of at least 50% of the contractors from the agency's list. The agency shall select its contractor from the list provided by the applicant.

(c) Upon completion of the scoping process and subject to subsection (1)(d), the agency and the applicant shall negotiate an agreement for the preparation of the environmental impact statement. The agreement must provide that:

(i) the applicant shall pay the cost of the environmental impact statement as determined by the agency after consultation with the applicant. In determining the cost, the agency shall identify and consult with the applicant regarding the data and information that must be gathered and studies that must be conducted.

(ii) the agency shall prepare the environmental impact statement within a reasonable time determined by the agency after consultation with the applicant and set out in the agreement. This timeframe supersedes any timeframe in

statute or rule. If the applicant and the agency cannot agree on a timeframe, the agency shall prepare the environmental impact statement within any timeframe provided by statute or rule.

(iii) the applicant shall make periodic advance payments to cover work to be performed;

(iv) the agency may order work on the environmental impact statement to stop if the applicant fails to make advance payment as required by the agreement. The time for preparation of the environmental impact statement is tolled for any period during which a stop-work order is in effect for failure to make advance payment.

(v) (A) if the agency determines that the actual cost of preparing the environmental impact statement will exceed the cost set out in the agreement or that more time is necessary to prepare the environmental impact statement, the agency shall submit proposed modifications to the agreement to the applicant;

(B) if the applicant does not agree to an extension of the time for preparation of the environmental impact statement, the agency may initiate the informal review process under subsection (4)(d). Upon completion of the informal review process, the agreement may be amended only with the consent of the applicant.

(C) if the applicant does not agree with the increased costs proposed by the agency, the applicant may refuse to agree to the modification and may also provide the agency with a written statement providing the reason that payment of the increased cost is not justified or, if applicable, the reason that a portion of the increased cost is not justified. The applicant may also request an informal review as provided in subsection (4)(d). If the applicant provides a written statement pursuant to this subsection (4)(c)(v)(C), the agreement must be amended to require the applicant to pay all undisputed increased cost and 75% of the disputed increased cost and to provide that the agency is responsible for 25% of the disputed increased cost. If the applicant does not provide the statement, the agreement must be amended to require the applicant to pay all increased costs.

(d) If the applicant does not agree with costs determined under subsection (4)(c)(i) or proposed under subsection (4)(c)(v), the applicant may initiate the informal review process pursuant to 75-1-208(3). If the applicant does not agree to a time extension proposed by the agency under subsection (4)(c)(v), the agency may initiate an informal review by an appropriate board under 75-1-208(3). The period of time for completion of the environmental impact statement provided in the agreement is tolled from the date of submission of a request for a review by the appropriate board until the date of completion of the review by

the appropriate board. However, the agency shall continue to work on preparation of the environmental impact statement during this period if the applicant has advanced money to pay for this work.

(5) All fees and costs collected under this part must be deposited in the state special revenue fund as provided in 17-2-102. All fees and costs paid pursuant to this part must be used as herein provided in this part. Upon completion of the necessary work, each agency shall make an accounting to the applicant of the funds expended and refund all unexpended funds without interest."

75-1-206. Multiple applications or combined facility. In cases where a combined facility proposed by an applicant requires action by more than one agency or multiple applications for the same facility, the governor shall designate a lead agency to collect one fee pursuant to this part, to coordinate the preparation of information required for all environmental impact statements which may be required, and to allocate and disburse the necessary funds to the other agencies which require funds for the completion of the necessary work.

75-1-207. Major facility siting applications excepted. (1) Except as provided in subsection (2), a fee as prescribed by this part may not be assessed against any person, corporation, partnership, firm, association, or other private entity filing an application for a certificate under the provisions of the Montana Major Facility Siting Act, Title 75, chapter 20.

(2) The department may require payment of costs under 75-1-205(1)(a) by a person who files a petition under 75-20-201(5).

75-1-208. Environmental review procedure. (1) (a) Except as provided in 75-1-205(4) and subsection (1)(b) of this section, an agency shall comply with this section when completing any environmental review required under this part.

(b) To the extent that the requirements of this section are inconsistent with federal requirements, the requirements of this section do not apply to an environmental review that is being prepared jointly by a state agency pursuant to this part and a federal agency pursuant to the National Environmental Policy Act or to an environmental review that must comply with the requirements of the National Environmental Policy Act.

(2) A project sponsor may, after providing a 30-day notice, appear before the **ENVIRONMENTAL QUALITY COUNCIL** at any regularly scheduled meeting to discuss issues regarding the agency's environmental review of the project. The

ENVIRONMENTAL QUALITY COUNCIL shall ensure that the appropriate agency personnel are available to answer questions.

(3) If a project sponsor experiences problems in dealing with the agency or any consultant hired by the agency regarding an environmental review, the project sponsor may submit a written request to the agency director requesting a meeting to discuss the issues. The written request must sufficiently state the issues to allow the agency to prepare for the meeting. If the issues remain unresolved after the meeting with the agency director, the project sponsor may submit a written request to appear before the appropriate board, if any, to discuss the remaining issues. A written request to the appropriate board must sufficiently state the issues to allow the agency and the board to prepare for the meeting.

(4) (a) Subject to the requirements of subsection (5), to ensure a timely completion of the environmental review process, an agency is subject to the time limits listed in this subsection (4) unless other time limits are provided by law. All time limits are measured from the date the agency receives a complete application. An agency has:

- (i) 60 days to complete a public scoping process, if any;
- (ii) 90 days to complete an environmental review unless a detailed statement pursuant to 75-1-201(1)(b)(iv) or 75-1-205(4) is required; and
- (iii) 180 days to complete a detailed statement pursuant to 75-1-201(1)(b)(iv).

(b) The period of time between the request for a review by a board and the completion of a review by a board under 75-1-201(1)(b)(iv)(C)(III) or (8) or subsection (10) of this section may not be included for the purposes of determining compliance with the time limits established for conducting an environmental review under this subsection or the time limits established for permitting in 75-2-211, 75-2-218, 75-20-216, 75-20-231, 76-4-125, 82-4-122, 82-4-231, 82-4-337, and 82-4-432.

(5) An agency may extend the time limits in subsection (4) by notifying the project sponsor in writing that an extension is necessary and stating the basis for the extension. The agency may extend the time limit one time, and the extension may not exceed 50% of the original time period as listed in subsection (4). After one extension, the agency may not extend the time limit unless the agency and the project sponsor mutually agree to the extension.

(6) If the project sponsor disagrees with the need for the extension, the project sponsor may request that the appropriate board, if any, conduct a review of the agency's decision to extend the time period. The appropriate board may,

at its discretion, submit an advisory recommendation to the agency regarding the issue.

(7) (a) Except as provided in subsection (7)(b), if an agency has not completed the environmental review by the expiration of the original or extended time period, the agency may not withhold a permit or other authority to act unless the agency makes a written finding that there is a likelihood that permit issuance or other approval to act would result in the violation of a statutory or regulatory requirement.

(b) Subsection (7)(a) does not apply to a permit granted under Title 75, chapter 2, or under Title 82, chapter 4, parts 1 and 2.

(8) Under this part, an agency may only request that information from the project sponsor that is relevant to the environmental review required under this part.

(9) An agency shall ensure that the notification for any public scoping process associated with an environmental review conducted by the agency is presented in an objective and neutral manner and that the notification does not speculate on the potential impacts of the project.

(10) An agency may not require the project sponsor to provide engineering designs in greater detail than that necessary to fairly evaluate the proposed project. The project sponsor may request that the appropriate board, if any, review an agency's request regarding the level of design detail information that the agency believes is necessary to conduct the environmental review. The appropriate board may, at its discretion, submit an advisory recommendation to the agency regarding the issue.

(11) An agency shall, when appropriate, consider the cumulative impacts of a proposed project. However, related future actions may only be considered when these actions are under concurrent consideration by any agency through preimpact statement studies, separate impact statement evaluations, or permit processing procedures.

75-1-209 through 75-1-219 reserved.

75-1-220. Definitions. For the purposes of this part, the following definitions apply:

(1) "Appropriate board" means, for administrative actions taken under this part by the:

(a) department of environmental quality, the board of environmental review, as provided for in 2-15-3502;

(b) department of fish, wildlife, and parks, the fish, wildlife, and parks commission, as provided for in 2-15-3402;

(c) department of transportation, the transportation commission, as provided for in 2-15-2502;

(d) department of natural resources and conservation for state trust land issues, the board of land commissioners, as provided for in Article X, section 4, of the Montana constitution;

(e) department of natural resources and conservation for oil and gas issues, the board of oil and gas conservation, as provided for in 2-15-3303; and

(f) department of livestock, the board of livestock, as provided for in 2-15-3102.

(2) "Complete application" means, for the purpose of complying with this part, an application for a permit, license, or other authorization that contains all data, studies, plans, information, forms, fees, and signatures required to be included with the application sufficient for the agency to approve the application under the applicable statutes and rules.

(3) "Cumulative impacts" means the collective impacts on the human environment of the proposed action when considered in conjunction with other past, present, and future actions related to the proposed action by location or generic type.

(4) "Environmental review" means any environmental assessment, environmental impact statement, or other written analysis required under this part by a state agency of a proposed action to determine, examine, or document the effects and impacts of the proposed action on the quality of the human and physical environment as required under this part.

(5) "Project sponsor" means any applicant, owner, operator, agency, or other entity that is proposing an action that requires an environmental review. If the action involves state agency-initiated actions on state trust lands, the term also includes each institutional beneficiary of any trust as described in The Enabling Act of congress (approved February 22, 1899, 25 Stat. 676), as amended, the Morrill Act of 1862 (7 U.S.C. 301 through 308), and the Morrill Act of 1890 (7 U.S.C. 321 through 329).

(6) "Public scoping process" means any process to determine the scope of an environmental review.

Part 3

Environmental Quality Council

75-1-301. Definition of council. In this part "council" means the ENVIRONMENTAL QUALITY COUNCIL provided for in 5-16-101.

75-1-302. Meetings. The COUNCIL may determine the time and place of its meetings but shall meet at least once each quarter. Each member of the council is entitled to receive compensation and expenses as provided in 5-2-302. Members who are full-time salaried officers or employees of this state may not be compensated for their service as members but shall be reimbursed for their expenses.

75-1-303 through 75-1-310 reserved.

75-1-311. Examination of records of government agencies. The COUNCIL shall have the authority to investigate, examine, and inspect all records, books, and files of any department, agency, commission, board, or institution of the state of Montana.

75-1-312. Hearings -- COUNCIL subpoena power -- contempt proceedings. In the discharge of its duties, the COUNCIL may hold hearings, administer oaths, issue subpoenas, compel the attendance of witnesses and the production of any papers, books, accounts, documents, and testimony, and cause depositions of witnesses to be taken in the manner prescribed by law for taking depositions in civil actions in the district court. In case of disobedience on the part of a person to comply with a subpoena issued on behalf of the COUNCIL or a committee of the COUNCIL or of the refusal of a witness to testify on any matters regarding which the witness may be lawfully interrogated, it is the duty of the district court of any county or the judge of the district court, on application of the COUNCIL, to compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court on a refusal to testify in the court.

75-1-313. Consultation with other groups -- utilization of services. In exercising its powers, functions, and duties under parts 1 through 3, the COUNCIL shall:

(1) consult with such representatives of science, industry, agriculture, labor, conservation organizations, educational institutions, local governments, and other groups as it deems advisable; and

(2) utilize, to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies and organizations and individuals in order that duplication of effort and expense may be avoided, thus assuring that the **COUNCIL'S** activities will not unnecessarily overlap or conflict with similar activities authorized by law and performed by established agencies.

75-1-314. Reporting requirements. (1) The departments of environmental quality, agriculture, and natural resources and conservation shall biennially report to the **COUNCIL** the following natural resource and environmental compliance and enforcement information:

(a) the activities and efforts taking place to promote compliance assistance and education;

(b) the size and description of the regulated community and the estimated proportion of that community that is in compliance;

(c) the number, description, method of discovery, and significance of noncompliances, including those noncompliances that are pending; and

(d) a description of how the department has addressed the noncompliances identified in subsection (1)(c) and a list of the noncompliances left unresolved.

(2) When practical, reporting required in subsection (1) should include quantitative trend information.

75-1-315 through 75-1-320 reserved.

75-1-321. Repealed. Sec. 82, Ch. 545, L. 1995.

75-1-322. Repealed. Sec. 82, Ch. 545, L. 1995.

75-1-323. Staff for ENVIRONMENTAL QUALITY COUNCIL. The legislative services division shall provide sufficient and appropriate support to the **ENVIRONMENTAL QUALITY COUNCIL** in order that it may carry out its statutory duties, within the limitations of legislative appropriations. The **ENVIRONMENTAL QUALITY COUNCIL** staff is a principal subdivision within the legislative services division. There is within the legislative services division a legislative

environmental analyst. The legislative environmental analyst is the primary staff person for the **ENVIRONMENTAL QUALITY COUNCIL** and shall supervise staff assigned to the **ENVIRONMENTAL QUALITY COUNCIL**. The **ENVIRONMENTAL QUALITY COUNCIL** shall select the legislative environmental analyst with the concurrence of the legislative council.

75-1-324. Duties of ENVIRONMENTAL QUALITY COUNCIL. The **ENVIRONMENTAL QUALITY COUNCIL** shall:

(1) gather timely and authoritative information concerning the conditions and trends in the quality of the environment, both current and prospective, analyze and interpret the information for the purpose of determining whether the conditions and trends are interfering or are likely to interfere with the achievement of the policy set forth in 75-1-103, and compile and submit to the governor and the legislature studies relating to the conditions and trends;

(2) review and appraise the various programs and activities of the state agencies, in the light of the policy set forth in 75-1-103, for the purpose of determining the extent to which the programs and activities are contributing to the achievement of the policy and make recommendations to the governor and the legislature with respect to the policy;

(3) develop and recommend to the governor and the legislature state policies to foster and promote the improvement of environmental quality to meet the conservation, social, economic, health, and other requirements and goals of the state;

(4) conduct investigations, studies, surveys, research, and analyses relating to ecological systems and environmental quality;

(5) document and define changes in the natural environment, including the plant and animal systems, and accumulate necessary data and other information for a continuing analysis of these changes or trends and an interpretation of their underlying causes;

(6) make and furnish studies, reports on studies, and recommendations with respect to matters of policy and legislation as the legislature requests;

(7) analyze legislative proposals in clearly environmental areas and in other fields in which legislation might have environmental consequences and assist in preparation of reports for use by legislative committees, administrative agencies, and the public;

(8) consult with and assist legislators who are preparing environmental legislation to clarify any deficiencies or potential conflicts with an overall ecologic plan;

(9) review and evaluate operating programs in the environmental field in the several agencies to identify actual or potential conflicts, both among the activities and with a general ecologic perspective, and suggest legislation to remedy the situations; and

(10) perform the administrative rule review, draft legislation review, program evaluation, and monitoring functions of an interim committee for the following executive branch agencies and the entities attached to the agencies for administrative purposes:

- (a) department of environmental quality;
- (b) department of fish, wildlife, and parks; and
- (c) department of natural resources and conservation.



Report on Temporary Nutrient Criteria

Title 75, chapter 5, part 3. Temporary nutrient criteria. (1) The department may, on a case-by-case basis, approve the use of temporary nutrient criteria in a discharge permit based upon adequate justification pursuant to subsection (2) that attainment of the base numeric nutrient standards is precluded due to economic impacts or the limits of technology.

(2) (a) The department, in consultation with the nutrient work group, shall develop guidelines to ensure that the economic impacts from base numeric nutrient standards on public and private systems are equally and adequately addressed. In developing those guidelines, the department and the nutrient work group shall consider economic impacts appropriate for application within Montana and may also consider relevant guidance of the United States environmental protection agency pertaining to analysis of economic impacts from water quality standards.

(b) In the event that economic impacts do not justify temporary nutrient criteria for a particular discharger, the department may approve temporary nutrient criteria based upon a finding that the limits of technology preclude the attainment of the base numeric nutrient standards. The department's determination that the limits of technology justify temporary nutrient criteria must be based on available and proven treatment technologies at the time the temporary nutrient criteria are approved.

(c) The department shall consult with the nutrient work group prior to recommending base numeric nutrient standards or criteria to the board and shall

continue to consult with the nutrient work group in implementing temporary nutrient criteria.

(3) The department shall review each application for temporary nutrient criteria on a case-by-case basis to determine if there are reasonable alternatives, such as trading or permit compliance schedules, that preclude the need for the temporary criteria.

(4) (a) Temporary nutrient criteria approved by the department become effective and may be incorporated into a permit only after a public hearing and adoption by the department under the rulemaking procedures of Title 2, chapter 4, part 3.

(b) Temporary nutrient criteria may be established for a period not to exceed 20 years and must be reviewed by the department every 5 years from the date of adoption to ensure that the justification for their adoption is still valid.

(c) On or before July 1 of each year, the department, in consultation with the nutrient work group, shall report to the **ENVIRONMENTAL QUALITY COUNCIL** by providing a summary of the status of the base numeric nutrient standards, temporary nutrient criteria, and implementation of those criteria, including estimated economic impacts.

(d) On or before September 1 of each year preceding the convening of a regular session of the legislature, the department, in consultation with the nutrient work group, shall summarize the previous two reports provided in subsection (4)(c) to the **ENVIRONMENTAL QUALITY COUNCIL** in accordance with 5-11-210.



Review Solid Waste Management and Resource Recovery Plans

75-10-111. State solid waste management and resource recovery plan -- hearings. The department shall adopt the solid waste management and resource recovery plan required in 75-10-104 and 75-10-807 according to the rulemaking procedures of the Montana Administrative Procedure Act under Title 2, chapter 4, part 3. The department shall prepare the plan in conjunction with local governments in the state, citizens, solid waste and recycling industries, environmental organizations, and others involved or interested in the management of solid waste. Within 3 days after the notice of proposed rulemaking to adopt the plan is published pursuant to Title 2, chapter 4, part 3, the department shall mail a copy of the notice and the proposed plan to the board of county commissioners in each county in the state, the governing body

of every incorporated city or town in the state, any person responsible for the operation of a solid waste management system under the provisions of Title 75, chapter 10, parts 1 and 2, the governor, the **ENVIRONMENTAL QUALITY COUNCIL**, and any other interested person. During the period for receipt of comments on the proposed rulemaking concerning the plan, the department shall hold at least one public hearing.



Report on Designation of State Wildland-Urban Interface Parcels

Title 76, chapter 13, part 1. Designation of wildland-urban interface parcels. (1) Prior to January 1, 2012, and subject to the provisions of this section, the [DNRC] shall identify the parcels of property in the state that are considered to be wildland-urban interface parcels, delineate those parcels on maps, and ensure that the maps and information on the maps is available to the public, local governing bodies, and governmental fire agencies organized under Title 7, chapter 33.

(2) (a) Except as provided in subsection (2)(b), the department shall identify a county's wildland-urban interface parcels based on the wildland-urban interface designation developed as part of the county's completion of a community wildfire protection plan under 16 U.S.C. 6501, et seq., the Healthy Forests Restoration Act of 2003.

(b) If a community wildfire protection plan has not been adopted, the department shall:

(i) provide notice to the county governing body that the department intends to designate the wildland-urban interface within the county's jurisdictional boundary;

(ii) allow up to 18 months for the county to complete and adopt a community wildfire protection plan if a county had begun the process of developing a plan prior to receiving the notice from the department under subsection (2)(b)(i);

(iii) review and consider the analysis of the potential for fire and wildland fire required in 76-1-601(3)(j) of the county's growth policy, if a growth policy has been adopted;

(iv) consult with the county governing body and governmental fire agencies organized under Title 7, chapter 33, regarding appropriate parcels to designate as wildland-urban interface parcels; and

(v) clearly identify and make available to the county governing body and governmental fire agencies the criteria the department intends to use in designating parcels.

(3) Location of a property within the wildland-urban interface designated under this section may not be the sole reason for assessing additional fire protection fees, impact fees, or other fees against the property.

(4) The department shall report its progress in designating wildland-urban interface parcels to an appropriate interim legislative committee assigned to study wildland fire suppression or to the **ENVIRONMENTAL QUALITY COUNCIL**.

(5) The department shall review each county's wildland-urban interface designation every 5 years, make changes as necessary, and maintain accurate maps and other identifying information.



Report to EQC on Land Banking Program

77-2-366. Land banking process -- time limit -- report to ENVIRONMENTAL QUALITY COUNCIL.

(2) The [DNRC] shall provide a report to the **ENVIRONMENTAL QUALITY COUNCIL** by the July 1 prior to each regular legislative session that describes the results of the land banking program in detail. At a minimum, the report must summarize the sale and purchase transactions made through the program by type, location, acreage, value, and trust beneficiary. The **ENVIRONMENTAL QUALITY COUNCIL** shall make any recommendations that it determines necessary regarding the implementation of the state land banking process, including recommendations for legislation.



Report on Implementation of Streamside Management Zones Law

77-5-301 et seq.

Part Compiler's Comments:

1991 Statement of Intent: The statement of intent attached to Ch. 608, L. 1991, provided: "It is the intent of the legislature that the streamside management zone be an area of closely

managed activity, but not a zone where timber harvest is excluded. Timber harvest activities must be managed within the zone to achieve objectives relating to water quality, beneficial water uses, management of wildlife habitat, and the long-term

stability of the stream system, in addition to timber harvest objectives.

It is the intent of the legislature that the department of state lands [now department of natural resources and conservation] adopt rules to implement the management standards provided for in [section 3] [77-5-303] as enforceable standards for streamside management zones. These standards are to be coordinated with the objectives and guidelines contained in the existing system of voluntary best management practices, which will still guide forest practices outside of the streamside management zone. The department shall adopt rules governing the harvest of timber in streamside management zones to ensure the retention of merchantable and submerchantable timber necessary to maintain the integrity of the streamside management zone. The department shall also adopt rules under which owners and operators may receive approval for alternative practices for the standards provided in [section 3] [77-5-303].

It is the intent of the legislature that the department develop voluntary, nonenforceable guidelines concerning the selection and retention of trees and vegetation, including snags, for wildlife habitat within the streamside management zone.

It is the intent of the legislature that the department establish an interdisciplinary technical committee to assist the department in adopting rules, developing voluntary guidelines for the management of wildlife habitat, and monitoring the implementation of this bill. The members of the committee should

have technical knowledge or expertise in water quality, wildlife management, or forest management and include representatives from the U.S. forest service; U.S. bureau of land management; the Montana departments of health and environmental sciences [now department of natural resources and conservation] and fish, wildlife, and parks; conservation districts; the Montana state university [now Montana state university-Bozeman] extension forestry program; the Montana forest and conservation experiment station; the forest products industry; and the conservation community.

To the extent practical, the department should conduct onsite consultations under [section 4] [77-5-304] in conjunction with consultations or inspections conducted pursuant to Title 76, chapter 13, parts 1 and 4. It is also the intent of the legislature that whenever department personnel in the field notice a probable water quality or 310 permit violation that they notify the appropriate authority.

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**.

Finally, the legislature recognizes that appropriate limitations on activities in streamside zones, which comprise only a very small percentage of Montana forests, can achieve substantial watershed and wildlife benefits."



Report on Montana's Sand and Gravel Resources

82-2-701. Sand and gravel deposit program -- investigation -- purpose -- prioritization. (1) The Montana bureau of mines and geology shall establish a sand and gravel deposit program for the purpose of investigating sand and gravel deposits in areas of the state where conflicts between development and sand and gravel operations are high.

(2) In prioritizing areas for investigation, the bureau of mines and geology shall consider the largest counties, according to the most recent census data, and counties with the most opencut mining permits and subdivision applications, according to the department of environmental quality.

(3) The bureau of mines and geology may start an investigation when it has sufficient funds to conduct an investigation.

(4) Within 1 year of starting an investigation, the bureau of mines and geology shall present the results of the investigation in the form of maps and text to:

- (a) the counties included in the investigation;
- (b) the education and local government interim committee; and
- (c) the **ENVIRONMENTAL QUALITY COUNCIL**.



Consult on State Water Plan

85-1-203. State water plan. (1) The department shall gather from any source reliable information relating to Montana's water resources and prepare from the information a continuing comprehensive inventory of the water resources of the state. In preparing this inventory, the department may:

- (a) conduct studies;
- (b) adopt studies made by other competent water resource groups, including federal, regional, state, or private agencies;
- (c) perform research or employ other competent agencies to perform research on a contract basis; and
- (d) hold public hearings in affected areas at which all interested parties must be given an opportunity to appear.

(2) The department shall formulate and adopt and amend, extend, or add to a comprehensive, coordinated multiple-use water resources plan known as the "state water plan". The state water plan may be formulated and adopted in sections, with some of these sections corresponding with hydrologic divisions of the state. The state water plan must set out a progressive program for the conservation, development,

utilization, and sustainability of the state's water resources and propose the most effective means by which these water resources may be applied for the benefit of the people, with due consideration of alternative uses and combinations of uses.

(3) Sections of the state water plan must be completed for the Missouri, Yellowstone, and Clark Fork river basins, submitted to the 2015 legislature, and updated at least every 20 years. These basinwide plans must include:

(a) an inventory of consumptive and nonconsumptive uses associated with existing water rights;

(b) an estimate of the amount of surface and ground water needed to satisfy new future demands;

(c) analysis of the effects of frequent drought and new or increased depletions on the availability of future water supplies;

(d) proposals for the best means, such as an evaluation of opportunities for storage of water by both private and public entities, to satisfy existing water rights and new water demands;

(e) possible sources of water to meet the needs of the state; and

(f) any legislation necessary to address water resource concerns in these basins.

(4) (a) The department shall create a water user council in both the Yellowstone and Missouri River basins that is inclusive and representative of all water interests and interests in those basins. For the Clark Fork basin, the department shall continue to utilize the Clark Fork River basin task force established pursuant to 85-2-350.

(b) The councils in the Missouri and Yellowstone River basins consist of representatives of existing watershed groups or councils within the basins.

(c) Each council may have up to 20 members.

(d) Each water user council shall make recommendations to the department on the basinwide plans required by subsection (3).

(5) Before adopting the state water plan or any section of the plan, the department shall hold public hearings in the state or in an area of the state encompassed by a section of the plan if adoption of a section is proposed. Notice of the hearing or hearings must be published for 2 consecutive weeks in a newspaper of general county circulation in each county encompassed by the proposed plan or section of the plan at least 30 days prior to the hearing.

(6) The department shall submit to the **ENVIRONMENTAL QUALITY COUNCIL** established in 5-16-101 and to the legislature at the beginning of each regular session the state water plan or any section of the plan or amendments, additions, or revisions to the plan that the department has formulated and adopted.

(7) The legislature, by joint resolution, may revise the state water plan.

(8) The department shall prepare a continuing inventory of the ground water resources of the state. The ground water inventory must be included in the comprehensive water resources inventory described in subsection (1) but must be a separate component of the inventory.

(9) The department shall publish the comprehensive inventory, the state water plan, the ground water inventory, or any part of each, and the department may assess and collect a reasonable charge for these publications.

(10) In developing and revising the state water plan as provided in this section, the department shall consult with the **ENVIRONMENTAL QUALITY COUNCIL** established in 5-16-101 and solicit the advice of the **ENVIRONMENTAL QUALITY COUNCIL** in carrying out its duties under this section.



Receive Report on Renewable Resource Grant and Loan Program

85-1-621. Report. The department shall prepare a biennial report describing the status of the renewable resource grant and loan program. The report must describe ongoing projects and projects that have been completed during the biennium. The report must identify and rank in order of priority the projects for which the department has received applications. The report must also describe proposed projects and activities for the coming biennium and recommendations for necessary appropriations. A copy of the report must be submitted to the **ENVIRONMENTAL QUALITY COUNCIL** established in 5-16-101.



Water Policy Duties

85-2-105. ENVIRONMENTAL QUALITY COUNCIL -- water policy duties. (1) The **ENVIRONMENTAL QUALITY COUNCIL** shall meet as often as necessary, including during the interim between sessions, to perform the duties specified within this section.

(2) On a continuing basis, the **ENVIRONMENTAL QUALITY COUNCIL** may:

(a) advise the legislature on the adequacy of the state's water policy and on important state, regional, national, and international developments that affect Montana's water resources;

(b) oversee the policies and activities of the department, other state executive agencies, and other state institutions as those policies and activities affect the water resources of the state;

(c) assist with interagency coordination related to Montana's water resources; and

(d) communicate with the public on matters of water policy as well as the water resources of the state.

(3) On a regular basis, the **ENVIRONMENTAL QUALITY COUNCIL** shall:

(a) analyze and comment on the state water plan required by 85-1-203, when filed by the department;

(b) analyze and comment on the report of the status of the state's renewable resource grant and loan program required by 85-1-621, when filed by the department;

(c) analyze and comment on water-related research undertaken by any state agency, institution, college, or university;

(d) analyze, verify, and comment on the adequacy of and information contained in the water information system maintained by the natural resource information system under 90-15-305; and

(e) report to the legislature as provided in 5-11-210.

(4) The legislative services division shall provide staff assistance to the **ENVIRONMENTAL QUALITY COUNCIL** to carry out its water policy duties.



Receive Report from Clark Fork Basin Task Force

85-2-350. Clark Fork River basin task force -- duties water management plan. (1) The governor's office shall designate an appropriate entity to convene and coordinate a Clark Fork River basin task force to prepare proposed amendments to the state water plan provided for under 85-1-203 related to the Clark Fork River basin.

...

(3) The task force shall:

(a) identify short-term and long-term water management issues and problems and alternatives for resolving any issues or problems identified;

(b) identify data gaps regarding basin water resources, especially ground water;

(c) coordinate water management by local basin watershed groups, water user organizations, and individual water users to ensure long-term sustainable water use;

(d) provide a forum for all interests to communicate about water issues;

(e) advise government agencies about water management and permitting activities in the Clark Fork River basin;

(f) consult with local and tribal governments within the Clark Fork River basin;

(g) make recommendations, if recommendations are considered necessary, to the department for consideration as amendments to the state water plan provided for under 85-1-203 related to the Clark Fork River basin; and

(h) report to:

(i) the department on a periodic basis;

(ii) the **ENVIRONMENTAL QUALITY COUNCIL** annually; and

(iii) the appropriate subcommittee that deals with natural resources and commerce each legislative session.



DFWP Report on Water Leasing for Instream Flow

85-2-436. Instream flow to protect, maintain, or enhance streamflows to benefit fishery resource -- change in appropriation rights by department of fish, wildlife and parks until June 30, 2019.

(1) The department of fish, wildlife, and parks may change an appropriation right, which it either holds in fee simple or leases, to an instream flow purpose of use and a defined place of use to protect, maintain, or enhance streamflows to benefit the fishery resource.

(2) The change in purpose of use or place of use must meet all the criteria and process of 85-2-307 through 85-2-309, 85-2-401, and 85-2-402 and the additional criteria and process in subsection (3) of this section to protect the rights of other appropriators from adverse impacts.

(3) (a) The department of fish, wildlife, and parks, with the consent of the commission, may lease existing rights for the purpose of protecting, maintaining, or enhancing streamflows to benefit the fishery resource.

(b) Upon receipt of a correct and complete application for a change in purpose of use or place of use from the department of fish, wildlife, and parks, the department shall publish notice of the application as provided in 85-2-307. Parties who believe that they may be adversely affected by the proposed change in appropriation right may file an objection as provided in 85-2-308. A change in appropriation right may not be approved until all objections are resolved. After resolving all objections filed under 85-2-308, the department shall authorize a change of an existing appropriation right for the purpose of protecting, maintaining, or enhancing streamflows to benefit the fishery resource if the applicant submits a correct and complete application and meets the requirements of 85-2-402.

(c) The application for a change in appropriation right authorization must include specific information on the length and location of the stream reach in which the streamflow is to be protected, maintained, or enhanced and must provide a detailed streamflow measuring plan that describes the points where and the manner in which the streamflow must be measured.

(d) The maximum quantity of water that may be changed to instream flow is the amount historically diverted. However, only the amount historically consumed, or a smaller amount if specified by the department in the change in appropriation right authorization, may be used to protect, maintain, or enhance streamflows below the point of diversion that existed prior to the change in the appropriation right.

(e) A lease for instream flow purposes may be entered for a term of up to 10 years, except that a lease of water made available from the development of a water conservation or storage project may be for a term equal to the expected life of the project but not more than 30 years. All leases may be renewed an indefinite number of times but not for more than 10 years for each term. Upon receiving notice of a lease

renewal, the department shall notify other appropriators potentially affected by the lease and shall allow 90 days for submission of new evidence of adverse effects to other water rights. A change in appropriation right authorization is not required for a renewal unless an appropriator other than an appropriator described in subsection (3)(i) submits evidence of adverse effects to the appropriator's rights that has not been considered previously. If new evidence is submitted, a change in appropriation right authorization must be obtained according to the requirements of 85-2-402.

(f) The department may modify or revoke the change in appropriation right authorization up to 10 years after it is approved if an appropriator other than an appropriator described in subsection (3)(i) submits new evidence not available at the time the change in appropriation right was approved that proves by a preponderance of evidence that the appropriator's water right is adversely affected.

(g) The priority of appropriation for a lease or change in appropriation right under this section is the same as the priority of appropriation of the right that is changed to an instream flow purpose.

(h) Neither a change in appropriation right nor any other authorization is required for the reversion of a leased appropriation right to the lessor's previous use.

(i) A person issued a water use permit with a priority of appropriation after the date of filing of an application for a change in appropriation right authorization under this section may not object to the exercise of the changed water right according to its terms or the reversion of a leased appropriation right to the lessor according to the lessor's previous use.

(j) The department of fish, wildlife, and parks shall pay all costs associated with installing devices or providing personnel to measure streamflows according to the measuring plan required under this section.

(4) (a) The department of fish, wildlife, and parks shall complete and submit to the department, commission, and **ENVIRONMENTAL QUALITY COUNCIL** a biennial progress report by December 1 of odd-numbered years. This report must include a summary of all appropriation rights changed to an instream flow purpose in the last 2 years.

(b) For each change in appropriation right to an instream flow purpose, the report must include a copy of the change authorization issued by the department and must address:

(i) the length of the stream reach and how it is determined;

(ii) critical streamflow or volume needed to protect, maintain, or enhance instream flow to benefit the fishery resource;

(iii) the amount of water available for instream flow as a result of the change in appropriation right;

(iv) contractual parameters, conditions, and other steps taken to ensure that each change in appropriation right does not harm other appropriators, particularly if the stream is one that experiences natural dewatering; and

(v) methods used to monitor use of water under each change in appropriation right.

(5) This section does not create the right for a person to bring suit to compel the renewal of a lease that has expired.

(6) (a) From [the effective date of this act] through June 30, 2019, the department of fish, wildlife and parks may change, pursuant to this section, the appropriation rights that it holds in fee simple to instream flow purposes on no more than 12 stream reaches.

(b) After June 30, 2019, the department may change the appropriation rights that it holds in fee simple to instream flow purposes on any stream reaches.

(7) After June 30, 2019, the department may not enter into any new lease agreements pursuant to this section or renew any leases that expire after that date.

Appendix F: EQC Publications

2008

- Montana Index of Environmental Permits
- A Guide to Montana Water Quality Regulation
- Electricity Law Handbook
- Water Rights in Montana
- Petroleum Tank Release Fund
- Climate Change
- Conservation Easements: 20 Things Everyone Should Know
- Water - Montana's Treasure
- Trust Land Management

2007

- A Council Member's Guide to the Environmental Quality Council
- A Guide to Split Estates in Oil and Gas Development
- Eminent Domain in Montana
- EQC Brochure, 2007-08

2006

- Financing the Administration of Montana's Trust Lands
- HJR 33: Study of Contract Timber Harvesting
- Improving the State Superfund Process
- HJR 10: Study of Wildland Fire Policy and Statutes
- A Guide to Split Estates in Oil and Gas Development
- Water Policy in Montana
- Split Estates: The relationship between surface and minerals
- A Guide to the Montana Environmental Policy Act

Montana Index of Environmental Permits

Water Rights in Montana

2005

A Council Member's Guide to the Environmental Quality Council

EQC Brochure, 2005-06

2004

A Guide to the Montana Environmental Policy Act

Montana Index of Environmental Permits

Water Rights In Montana

Hydrogen, Wind, Biodiesel, and Ethanol. Alternative Energy Sources to Fuel Montana's Future

Metal Mine Bonding in Montana: Status and Policy Considerations

Zortman and Landusky Mines: Water Quality Impacts

Understanding Energy in Montana. A Guide to Electricity, Natural Gas, Coal, and Petroleum Produced and Consumed in Montana

Electricity Law Handbook

Montana's Water—Where is it? Who can use it? Who decides?

An Informational Guide to State Debt

EQC Brochure, 2003-04

2003

Petroleum and Petroleum Products in Montana

Montana Environmental Policy Act: Public Participation Guide

A Council Member's Guide to the Environmental Quality Council

2002

Coal Bed Methane and Water Policy in Montana 2002

A Guide to Montana Water Quality Regulation

Understanding Electricity in Montana

Electricity Law Handbook

2001

- Eminent Domain in Montana
- Final Status of Natural Resource Legislation in the 57th Montana Legislature

2000

- Public Benefits and Private Rights: Countervailing Principles of Eminent Domain. Volume I
- Public Benefits and Private Rights: Countervailing Principles of Eminent Domain. Volume II
- Public Benefits and Private Rights: Countervailing Principles of Eminent Domain. Volume III
- Improving the Montana Environmental Policy Act (MEPA) Process
- Water Policy 2000
- Funding for Growth Policies. Fact Sheet and Briefing Paper for the 57th Legislature of the State of Montana

1999

- Planning for Growth in Montana
- Compliance with and Enforcement of Montana's Natural Resource and Environmental Laws
- Montana's Revised Water Quality Monitoring, Assessment, and Improvement Program (HB 546 and TMDLs in Practice)
- Final Status of Natural Resource Legislation in the 56th Montana Legislature

1998

- Montana Department of Fish, Wildlife and Parks' Water Leasing Study. Environmental Quality Council Final Report to the 56th Legislature
- Status of and Alternatives for the Management of Waste Tires in Montana
- Montana's Water Policy — 1997-1998

1997

- HJR 10 Compliance and Enforcement Study
- HJR 10 Compliance and Enforcement Technical Appendix

- Final Status of Natural Resource Legislation in the 55th Montana Legislature

1996

- Our Montana Environment . . .Where Do We Stand?
- Water Policy Committee Report

1995

- SJR 29 Water Quality Nondegradation Study
- SJR 34 Hazardous Waste Management Study
- Water Policy Committee Report
- Final Status of Natural Resource Legislation in the 54th Montana Legislature

1994

- Environmental Quality Council. Transportation Energy Collaborative. Final Report.

1993

- Water Policy Committee Report
- House Joint Resolution 17: Interim Study of Lakeshore Development
- House Joint Resolution 31: Energy Policy Study, Montana Energy Data. Final Report to the 53rd Legislature of the State of Montana
- House Joint Resolution 31: Energy Study, Summary Report
- Final Status of Natural Resource Legislation in the 53rd Montana Legislature

1992

- Water Policy Committee Report

1991

- Senate Joint Resolution 19: Interim Study of Solid Waste Management
- Final Status of Natural Resource Legislation in the 52nd Montana Legislature
- Montana Environmental Quality Council Annual Report, Twelfth Edition: Research Issues
- Energy and Montana: An Overview

1990

- Senate Joint Resolution 22: Interim Study on Ground Water Quality Protection and Management
- Log Scaling Study: Final Report to the 52nd Legislature
- Rural Development Study: Final Report to the Governor of the State of Montana and the Montana Legislative Council

1989

- Final Status of Natural Resource Legislation in the 51st Montana Legislature
- A Study of Water Resources Research Centers and Graduate Programs in Water Resources in the United States

1988

- Environmental Quality Council: Annual Report Eleventh Edition. Research Issues
- Report of the Water Policy Committee to the 51st Legislature of the State of Montana
- House Joint Resolution 49: Forest Practices and Watershed Effects
- Evaluation of Montana's Water Rights Adjudication Process

1987

- Report to the 50th Montana Legislature on the Renewable Energy and Conservation Program
- Final Status of Natural Resource Legislation in the 50th Montana Legislature
- Montana Legislation on Hazardous Substances in the Environment. Status and Legislative Outlook
- Environmental Quality Council Annual Report: Tenth Edition: Research Topics
- Montana's Water Policy: Innovations, Realities and Prospects
- A Montana Water Quality Program Assessment for Oil and Gas Practices, Forest Practices and Subdivisions

1986

- Report of the Water Policy Committee to the 50th Legislature of the State of Montana
- Oil and Gas Industry Study

- Comparison of Environmental Regulation of the Oil and Gas Industry in the Rocky Mountain States and Alberta
- Montana Environmental Policy Act Review of Oil and Gas Drilling Permits

1985

- A Guide to the Montana Major Facility Siting Act
- Summary of the Report of the Select Committee on Water Marketing to the 49th Legislature
- Report of the Select Committee on Water Marketing to the 49th Legislature
- Final Status of Natural Resource Legislation in the 49th Montana Legislature
- Right-To-Know: A Guide to Montana's Employee and Community Hazardous Chemical Information Act
- Report to the 49th Legislature on the Renewable Energy and Conservation Program
- Environmental Quality Council: Annual Report Ninth Edition: Montana's Water

1984

- Small-Scale Hydro Development in Montana

1983

- Report to the 48th Montana Legislature on the Socio-Economic Impacts of Large-Scale Hard-Rock Mining
- Report to the 48th Montana Legislature on the Renewable Energy Grant and Loan Program
- Environmental Quality Council: Annual Report, 8th Edition and Final Status of Natural Resource Legislation in the 48th Legislature
- Montana Ground Water Status Report

1982

- Environmental Regulations and Montana's Economy: A Public Forum, October 4-5, 1982
- Summary Proceedings: Montana Ground Water Conference: Planning a Ground Water Strategy, April 22-23, 1982

- Agency Implementation of the Montana Environmental Policy Act

1981

- Natural Resource Issues in the 47th Legislature
- Final Status of Natural Resource Legislation in the 47th Montana Legislature

1980

- HJR 60: Coordination of Permit Procedures
- Promoting Industrial Growth and Diversification in Montana
- A Survey of Industry Experiences and Attitudes in Montana: 1980
- House Joint Resolution 21
- Final Report on House Joint Resolution 51: The Problems and Benefits of Mining Bentonite in Montana
- Environmental Quality Council: Annual Report: 1979-1980
- Citizen Participation in Siting Energy Facilities in Montana: Final Report

1979

- Providing Science & Technology Resource Capability for the Montana Legislature
- Environmental and Natural Resource Experts for the 1979 Legislature

1978

- Environmental Permit Directory
- Montana Environmental Index
- Oil and Gas Leasing Program: Department of State Lands
- Environmental Quality Council Annual Report: Sixth Edition
- Environmental Impact Statements: A Citizens' Brochure

1977

- Energy and the 45th Legislature

1976

- The Montana Environmental Policy Act: A Legal Analysis of MEPA's Role
- EQC Staff Report on Prevention of Significant Deterioration

- Montana Environmental Policy Planning Process
- An Ecological Analysis of the Montana Agricultural Experiment Station's Livestock Grazing Demonstration on Reseeded Surface Mine Spoils Near Colstrip, Montana
- The Transboundary Effect: Safeguarding the Poplar River in Montana
- Montana's Natural Gas Supply Crisis
- The Montana Environmental Policy Act: The First Five Years
- Montana Environmental Permit Directory
- Montana State Legislature, Environmental Quality Council: In the Matter of a Public Hearing Regarding Montana's Natural Gas Supply Crisis: Transcript of Proceedings
- Microflora of the Yellowstone River, Part III. The Non-Diatom Algae
- Microflora of the Yellowstone River, Part II. Perturbations Through Billings
- A Report on Analyses of Periphyton Collections from the North Fork and the Middle Fork of the Flathead River
- An Algal Survey of Surface Waters in Eastern Montana Suspected to be Influenced by Saline Seep, with Special Emphasis on Salinity Indicators and Potentially Toxic Species
- Montana's Renewable Resources. Today and Tomorrow. Environmental Quality Council: Fifth Annual Report

1975

- Montana Energy Policy Study
- Oversight Hearing on Implementation of the Montana Strip Mining and Reclamation Act
- Montana Environmental Indicators: Fourth Annual Report
- Commerce Clause Considerations Relating to a "Local Power" Policy for Siting of Power Generation Facilities in Montana
- Environmental Impacts of Saline Seep in Montana

1974

- Ponderosa Pines Ranch: A Subdivision Case Study
- Microflora of the Yellowstone River, Part I: Microflora in the Plankton at the Confluence of the Bighorn River

- The Potential for Solar Energy in Montana
- The Use of Montana's Coal as an Energy Resource
- Montana Energy Policy Study: Draft Staff Report
- Subdivision in the Flathead
- Montana Land Use Policy Study
- Impact of Land Development Associated with Subdivision on Wildlife Habitat Near Lolo
- Environmental Quality Council: Third Annual Report
- Oil and Gas Energy Resources of Montana
- Energy Flow in Montana
- Geothermal Report
- The Role of the State in Federal and Indian Land Use Decisions

1973

- Fundamentals of Energy Conservation in Buildings
- A Perspective on Subdivision Activity in Montana's Bitterroot Valley
- The Potential for Energy Conservation in Montana
- Underground Natural Resources: The Development of National Policy and Strip Mining of Coal: Unsettled Legal Problems in Montana
- Water and Eastern Montana Coal Development
- Eastern Montana Water Resources: Annotated Bibliography
- Impact of Land Development Associated with Subdivision on Wildlife Habitat
- Environmental Quality Council: Second Annual Report
- Environmental Impact Statement Guidelines, Revised

1972

- Environmental and Legal Problems of Land Development in Montana
- Coal Development Potential in Montana
- Environmental Quality Council: First Annual Report

1971

- House Bill 66. A Bill for an act entitled: *An act to establish a state policy for the environment and to establish an environmental quality council and setting forth its powers and duties and providing an effective date.* 1971.