

# Montana Environmental Quality Council

September 9

# 2015

*The EQC typically tackles a broad array of topics over an interim and always meets the mandated deadline to finish its work. This success is rooted in the thoughtful consideration members give to planning the interim workload. The draft work plan is integral to meeting the EQC goals.*

Work Plan for the  
2015-2016  
Interim





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## Introduction

This is the final work plan for the Environmental Quality Council (EQC or Council) for the 2015-2016 interim. In this document you will find:

- A description of how the EQC allocated staff time and prioritized its work.
- Tasks for each item of study
- A draft timeline.

## Resource Allocation

There is approximately **1 FTE of staff time (2,720 work hours)** available to conduct the work assigned to the EQC and the additional work the EQC votes to undertake. These priorities – and the amount of staff hours devoted to a specific topic – are determined by the Council. The Council allocated .75 FTE with the rest held in reserve for future work.

## Work Plan Topics

### Study Resolution assigned to the EQC by Legislative Council

#### 1. HJ13 – Rep. White

#### Legislative Poll Ranking: 6 of 15

**Background:** Assess a 35 year period of road access on federal land in Montana to determine which roads have been closed and which roads have limits on access. The assessment should include:

- \* the location of each road, including all gated roads;
- \* the approximate mileage of each road; and
- \* identification of the federal agency to which the road belongs.

Assess landlocked public parcels in Montana including:

- \* the size and location of each landlocked parcel;
- \* the number of landowners that own property adjacent to each parcel; and
- \* whether any of the adjacent landowners permit outdoor recreationists to cross their property to reach each parcel.

Assess trends in permits and licenses issued by the Department of Fish, Wildlife, and Parks in each area for elk and deer hunting over a 15-year period, with a specific emphasis on identifying reduced hunter opportunity in areas where roads have been closed on federal land or where there are large landlocked areas.

**Staff time allocated:** .25 FTE (680 hours)

#### *Study Timeline*

#### **September 2015**

- ❖ Present available historic information on roads for Forest Service and Bureau of Land Management;
- ❖ Present background road history and policy for Forest Service and BLM.

- ❖ Present analysis on inaccessible public parcels
- ❖ Panel discussion on USFS and BLM roads.
  - Forest Service;
  - BLM
  - Road advocate
  - Conservation advocate
- ❖ Panel discussion on landlocked parcels
  - FWP
  - Public access group
  - Private landowner group
  - Hunting group
  - FS & BLM
- ❖ Proposed survey from Rep. White
  - EQC decision points
    - Conduct a survey?
    - Survey questions?
    - Who will be surveyed? Select interest groups? General public? Landowners and hunters identified in HJ13? General notification? Invitation only? Specific mailings?
    - Form of survey? Online? Paper? Both? Other?
    - How survey results compiled, presented, and analyzed?
- ❖ Additional direction from EQC
  - Information on other federal roads? Park Service? U.S. Fish and Wildlife Service? Bureau of Reclamation? Department of Defense? Department of Agriculture? Army Corps of Engineers?
  - Other directions?

### **January 2016**

- ❖ Present information on trends in permits and licenses for deer and elk over 15-years.
- ❖ Present any additional road or parcel information requested by EQC in September
- ❖ Panel on hunting opportunities
  - Hunting group
  - FWP
  - Others?
- ❖ If survey conducted, preview final questions and format
- ❖ Additional direction from EQC

### **March 2016**

- ❖ If survey conducted, update on results.
- ❖ Additional direction from EQC.
  - More information on specific topic?
  - Additional speakers?
  - Begin drafting of report? Recommendations? Legislation?

## May 2016

- ❖ Present other information, speakers requested by EQC.
- ❖ If survey conducted, present results.
- ❖ Present draft report, recommendations, legislation, if requested.
- ❖ Additional direction from EQC.

## June 2016

- ❖ Request public comment on draft report, recommendations, legislation, if requested.

## July 2016

- ❖ Review public comment.
- ❖ Revise draft report, recommendations, legislation, if requested.
- ❖ Additional direction from EQC.

## September 2016

- ❖ Final revisions and approval of report, recommendations, and legislation, if requested.

## Additional Work Plan Topics for EQC

### 1. 111(d) EPA Rulemaking Subcommittee

**Background:** Based on requests from the 2013-2014 ETIC and EQC, the Legislative Services Division budget included additional funding for a joint subcommittee of the ETIC and EQC to track the proposed Environmental Protection Agency rules requiring states to reduce carbon dioxide emissions in the power sector by 2030.

The federal rulemaking is referred to as the 111 (d) rule. The ETIC and EQC will need to determine if they would like to form the subcommittee and fund it with existing budgets.

The EQC and ETIC are scheduled to meet the same week during the interim. The requested funding was for legislator pay and lodging for the subcommittee day. The two committees may be able to absorb the cost by cutting costs or if, in the course of the interim, money is saved by EQC or ETIC members who don't attend all the meetings. Or the committees could request funding from Legislative Council.

**Staff time allocated:** Part of .1 FTE (272 hours) allocated to statutory duties and obligation obligations, agency oversight and publications.

#### *Study Timeline*

To be developed by subcommittee.

### 2. Sage grouse

**Background:** The 2013-2014 EQC was heavily involved in the Governor's sage grouse advisory council and its deliberations. The current EQC is interested in implementation of the Montana Greater Sage-grouse stewardship act.

**Staff time allocated:** 1 FTE (272 hours) allocated to implementation oversight and other duties related to Greater Sage-grouse policy.

## EQC Statutory Duties and Obligations

### EQC General Statutory Duties

**Source/authority:** Sections 2-15-1514, 2-15-1523, 75-1-201, 75-1-208, 75-1-314, 75-10-111, 75-11-521, 77-2-366, 77-5-301, 82-2-701, and 87-1-901, MCA.

**Background:** Following the establishment of the EQC in 1971, the Legislature has occasionally authorized the Council to play a role in some specific programs or activities of state government. These directives are in addition to the more general oversight authorities for environmental programs and policies found in section 75-1-324, MCA. This general authority is arguably sufficient to address the specific programs and policies. However, and particularly for new environmental programs or policies, the Legislature has called upon the EQC to act as its liaison with the executive branch.

The 2015 Legislature approved a requirement in HB 2 that the Department of Agriculture report on a quarterly basis to the EQC on the performance of the Statewide Noxious Weed Control Coordination Program and on the performance of the Food and Ag Development Centers Program. Senate Bill No. 96 requires that on or before July 1 of each year, the DEQ shall report to the EQC the amount of funds from the orphan share account used to take remedial action, the type of expenditures made, and the identity and location of facilities addressed.

The EQC prioritizes these duties as the need for specific oversight changes with interest, time, and circumstance.

**2-15-1514, MCA,** requires the participation of a Legislative Services Division employee on the natural resource data system advisory committee. This has typically been assigned to the EQC staff on an as needed basis.

**2-15-1523, MCA,** requires the participation of a representative of the Legislative Services Division on the Groundwater Assessment Steering Committee. This has typically been assigned to the EQC staff on an as needed basis.

**75-1-201 and 75-1-208, MCA,** state executive agencies are required to submit copies of environmental review documents prepared in accordance with the Montana Environmental Policy Act (MEPA) to the EQC. A project sponsor may appear before the EQC at a regularly scheduled meeting to discuss issues regarding an executive agency's environmental review of the project.

**75-1-314, MCA,** states the Departments of Environmental Quality, Agriculture, and Natural Resources and Conservation are required to report specific compliance and enforcement information to the EQC on a biennial basis. This is the result of a 1997 EQC interim study.

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

**75-11-521, MCA**, requires the DEQ to report to the EQC regarding the closure of petroleum storage tank release sites at the next regularly scheduled meeting of the Council following the passing of each benchmark date. The dates established in statute are December 31, 2011; July 1, 2012; December 31, 2012; July 1, 2013; December 31, 2013; July 1, 2014; December 31, 2014; and July 1, 2015.

**77-2-366, MCA**, requires that the DNRC submit a detailed report of the land banking program to the EQC by July 1 of even-numbered years. The DNRC must also provide a summary report to the EQC on or before July 1 of each year on sales of state land cabins or home sites.

**77-5-301 et. seq., MCA**, is the Streamside Management Zone law. The statement of intent for the enabling legislation requires the DNRC to periodically evaluate and report on the implementation of the act to the EQC.

**82-2-701, MCA**, 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.

**87-1-901, MCA**, establishes that the DFWP must report annually to the EQC on gray wolf management and conservation, including the tracking, hunting, trapping, and taking of gray wolves.

## EQC General Agency Oversight Statutory Duties

**Source/authority:** 2-4-402- 412, 5-5-202, 5-5-211, 5-5-215, 5-16-101 through 5-16-105, and 75-1-324, MCA, and HB 2 (2015).

**Background:** Under MEPA (75-1-324), the EQC has broad statutory oversight authority and has historically used that authority to review agency activities on an issue by issue basis as the need arises. In 1999, 2001, and 2003, the Legislature further expanded and defined the EQC's oversight authority to include draft legislation review, administrative rule review, program evaluation, and monitoring the functions of the DEQ, DNRC, and DFWP. The EQC's oversight of these agencies includes entities that are attached to these agencies.

The Legislature's actions in 1999 required a more systematic approach to agency oversight, especially in terms of administrative rule review. Pursuant to 2-4-402 through 412, MCA, the Council has the authority to request records; make recommendations for adoption, amendment, or rejection of a rule; institute, intervene in, or otherwise participate in rulemaking proceedings; review the conduct of administrative proceedings; request a legislative poll; request an economic impact statement on a rule; or object to violation of authority for a rule.

The EQC is also required to review proposed draft legislation from each of the departments within its jurisdiction. At the end of the interim, the EQC schedules time to review this draft legislation.

The 2011 Legislature required all interim committees to review the statutorily established advisory councils and required reports of their assigned agencies and to make recommendations regarding the retention or elimination of those advisory councils and required reports

Traditionally, the EQC has one or more agency oversight issues on the agenda for each meeting. The Council has also historically allocated the necessary resources to respond to issues as they arise.

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

**5-5-202, 5-5-211, and 5-5-215, MCA**, discuss the organization and duties of interim committees.

**5-16-101 through 5-16-105, MCA**, discuss the composition of the EQC.

**75-1-324, MCA**, contains the general oversight and policy review and recommendation responsibilities of the EQC. Members are urged to review it in detail. The EQC is directed to gather information concerning conditions and trends in the quality of the environment; to review state programs and activities to enhance or maintain environmental quality; to conduct studies, analyze proposals, and make recommendations concerning environmental issues; and to generally act as the Legislature's source of information and advisor on environmental policy issues and direction.

**Staff time allocated:** Part of .1 FTE (272 hours) allocated to statutory duties and obligation obligations, agency oversight and publications.

## Agency Program Reviews

**Background:** As part of its statutory oversight duties, the EQC reviews programs within DNRC, DEQ, and DFWP.

### **Staff time allocated:**

.1 FTE (272 hours) to reviews of DNRC trust land management programs. This includes 7 programs within agriculture and grazing, forest management, real estate management, and minerals management.

.1 FTE (272 hours) to reviews of programs within the DEQ permitting and compliance division. This includes 15 programs within air resources, environmental management, industrial and energy minerals, and waste and underground tank management.

.1 FTE (272 hours) to reviews of FWP wildlife division programs, including nongame, threatened, and endangered species, habitat, wildlife conflict prevention, hunting access management, and game management.

### **Study Timeline**

Subject to change based on agency availability and other factors.

### **September 2015**

- ❖ FWP Wildlife Conflict Prevention;
- ❖ DNRC Agriculture & Grazing;
- ❖ DEQ Industrial & Energy Minerals

### **January 2016**

- ❖ FWP Hunting Access
- ❖ FWP Nongame, Threatened, & Endangered Species

- ❖ DNRC Minerals Management

### March 2016

- ❖ FWP Wildlife Habitat
- ❖ DEQ Environmental Management

### May 2016

- ❖ FWP Game Management
- ❖ DNRC Forest Management

### July 2016

- ❖ DNRC Forest Management
- ❖ DNRC Real Estate Management

### September 2016

- ❖ DEQ Air Resources Management
- ❖ DEQ Waste & Underground Tank Management

## EQC Educational Publications Obligations

Source/authority: 75-1-324, MCA.

**Background:** The EQC has historically used its broad statutory authority to produce high quality, easy to understand, objective, nonpartisan, educational publications in addition to the study reports produced during the interim. These educational publications are well regarded and are constantly requested by the general public, legislators, state and federal agencies, other states, and industry and conservation groups. Several EQC publications have received national awards.

With some exceptions, the EQC's educational publications become outdated every interim as a result of legislative changes or administrative changes in the particular areas of law or rule that the publication addresses. Sometimes the updates require minimal time and effort, others are more intensive.

**Staff time allocated:** Part of .1 FTE (272 hours) allocated to statutory duties and obligation obligations, agency oversight and publications. Publications will be updated for accuracy.

## Draft 2015-2016 Work Plan Timeline

*[Note: This draft timeline is provided to give you an idea of the timeline that each study will need to fit into in order to complete the work on time. It is subject to final approval of the EQC meeting dates. The timeline shows the last date for completion of certain items.]*

June 3-4, 2015

**EQC Meeting.** Interim work plan prioritization and EQC organizational meeting. Selection of studies and topics.

September 9-10, 2015

**EQC Meeting.** Adoption of detailed work plans for each selected study or topic.

January 13-14, 2016	<b>EQC Meeting.</b>
March 9-10, 2016	<b>EQC Meeting.</b> If public comment is desired on an EQC report, the contents of the <i>draft</i> report should be determined by this date. [May be earlier for some studies.]
May 4-5, 2016	<b>EQC Meeting.</b> Last date to suggest revisions to a <i>draft</i> document if a 30 day public comment period is desired. Comments received from the public will be compiled by staff and distributed to the EQC 1-2 weeks before the July 20-21, 2016 meeting.
July 20-21, 2016	<b>EQC Meeting.</b> Decision on recommendations, any proposed legislation, final report contents.
September 14-15, 2016	<b>EQC Meeting.</b> Final approval of recommendations, reports, proposed legislation. Select bill sponsors. Develop strategy. Review agency bill draft requests.

**Council interim work must be completed September 15, 2016.**

