

HJ37 FINDINGS

Oxford Languages dictionary: "Finding: A conclusion reached as a result of an inquiry, investigation, or trial."

HJ37: STUDY OF LAKE KOOCANUSA SELENIUM STANDARD.

That the Legislative Council be requested to designate the Environmental Quality Council, subject to section 5-5-217, MCA, and to direct sufficient staff resources, pursuant to section 5-11-112, MCA, to establish a collaborative process with the Department of Environmental Quality to:

- (1)analyze the data and processes referenced in and used to support rulemaking to determine if ARM 17.30.632, as it pertains to Lake Kooconusa, complies with the Montana Water Quality Act and the federal Clean Water Act; and
- (2)offer recommendations on what changes, if any, are needed to ARM 17.30.632 or supporting documentation.

STUDY PROGRESS

Legislative Council assigned study to the Water Policy Interim Committee, which created HJ37 Special Committee for Selenium Standards on Lake Kooconusa, a bipartisan committee of the Environmental Quality Council and WPIC, led by Sen. Walt Sales. The Special Committee met two times (January and March) to:

- review Department of Environmental Quality data and processes used to adopt related administrative rules
- monitor the Board of Environmental Review's federal stringency review
- review the role of federal, tribal, and non-Montana entities in the rulemaking process

DRAFT FINDINGS

1. Selenium affects fish by interrupting the reproductive cycle.
2. Elevated levels of selenium have been found in Lake Kooconusa and the Kootenai River, primarily from coal mining operations further upstream in British Columbia.
3. The DEQ and other agencies have been gathering water quality and fish tissue data in the basin for at least six years.
4. Selenium modeling was used to determine water column and fish tissue limits in Lake Kooconusa and the Kootenai River.

5. Various federal, tribal, non-Montana entities, and the public provided input into the model calculations.
6. The Environmental Protect Agency approved the selenium limits for Lake Koocanusa and the Kootenai River under the authority of the Clean Water Act. These rules were and are applicable to future discharge permitting and water quality standard-setting in the basin and only in Montana.
7. Questions may exist over the proper calibration of the selenium model.
8. The Board of Environmental Review reversed a prior board determination when it found the selenium rule for water column standard is more stringent that federal standards.
9. The Department of Environmental Quality has filed written findings supporting the selenium rule to the Board of Environmental Review, following a process outlined in Montana law.