

Rule proposals since last EQC meeting, April 10, 2024				EQC pre-adoption abilities						
FWP	DFO	DNBC	State proposal	obtain information	express views	enhance public participation	delay adoption	delay implementation	impact litigation	
12-628	17-415 17-468	none	none	request additional staff review obtain agency rulemaking record request economic impact statement	participate individually in MAPA hearing participate individually in public comment submit committee views	require a MAPA hearing	informal objection	formal objection	publish formal objection in M&R tell the legislature institute/intervene in litigation	
Ongoing rule proposals										
12-625	12-411	none	none							
12-626										
Rule adoptions since last EQC meeting, April 10, 2024				EQC post-adoption abilities						
none	17-436	none	none	obtain information		enhance public participation			impact litigation	draft legislation for 2025 session
none	12-437	none	none	request additional staff review obtain agency rulemaking record		regulator petition of agency			publish formal objection in M&R institute/intervene in litigation	committee joint resolution for repeal of rule eligible legislators can submit bill requests
12-438										
Rule adoptions this interim										
12-603	17-429	36-22-218	14-8							
12-606	17-430	36-22-220								
12-607	12-431	36-22-221								
12-614	17-432a-f									
12-615	17-435									
12-617	17-440									
12-618										
Ongoing committee actions										
none	none	none	none							

New proposals

[PRE-ADOPTION ABILITIES](#)

MAR number	Topic	Proposed action	Timeline	Reason statement
12-628	Montana Wildlife Habitat Improvement Act Termination Date and Eligible Expenditures	Amend 6 rules	Proposal date: April 12, 2024; Hearing date: May 2, 2024; Comment due date: May 13, 2024; Adoptable: presently; Expiration: September 30, 2024	REASON: The 2023 Legislature passed HB 86, which repealed the sunset date for the Montana Wildlife Habitat Improvement Act.

Ongoing proposals

MAR number	Topic	Proposed action	Timeline	Reason statement
12-625	Department liaisons	repeal 1 rule	Proposal date: February 23, 2024; Proposal renewal: April 12, 2024; Hearing date: May 3, 2024; Comment due date: May 6, 2024; Adoptable: presently; Expiration: September 30, 2024	Reason statement: [12.2.306] was adopted on April 5, 1976. FWP seeks to repeal this rule as an unnecessary regulation because it is archaic and no longer reflects how the commission or the department engages with the public, including citizen organizations, in decision making processes.
12-626	Big game management policy	repeal 1 rule	Proposal date: March 22, 2024; Hearing date: April 19, 2024; Comment due date: April 22, 2024; Adoptable: presently; Expiration: September 22, 2024	[12.9.101] became effective on December 31, 1972. In the intervening years, this rule has become obsolete due to FWP's adoption of species-specific plans. These plans are initiated with citizen notice and participation, as well as commission guidance and approval. The commission proposes to repeal this rule that no longer aligns with or adapts to legislative, commission, or department species-specific management goals.

New adoptions

[POST-ADOPTION ABILITIES](#)

None

Adoptions this interim		
MAR number	Topic	Action taken
12-603	FWP public lands	39 rules repealed as proposed; 8 rules adopted as proposed; 16 rules adopted with changes
12-606	Brinkman Game Preserve	1 rule repealed as proposed
12-607	Smith River bonus points	2 rules adopted as proposed
12-614	Grizzly bears	1 rule amended as proposed; 4 rules adopted as proposed; 9 rules amended with changes
12-615	Gray wolves	1 rule amended with changes
12-617	Block management	5 rules amended as proposed; 2 rules repealed as proposed
12-618	Elk hunting access	2 rules amended as proposed; 3 rules repealed as proposed

New proposals				
MAR number	Topic	Proposed action	Timeline	Reason statement
17-445	Air quality	Amend 17 rules	Proposal date: June 7, 2024 Comment due date: July 8, 2024 Adoptable: July 8, 2024 Expiration: September 30, 2024	The department adopts and incorporates by reference federal regulations to ensure Montana's air quality rules are at least as stringent as federal air quality regulations as to maintain primacy and federal delegation of Montana's air quality program and to implement federal emissions standards according to a federal program of emissions control. For Title 40 of the Code of Federal Regulations (CFR), which contains most of the federal regulations adopted by reference by the department for air quality regulation, the official version is dated July 1 of each year. The department adopts the July 1, 2023 edition, which is the most recent version has been made available online. The department adopts a section of the United States Code (USC) 2022 edition as it is published on the website from the U.S. Government Publishing Office (US GPO). Copies of the material proposed to be adopted by reference are available at the department's website.
17-446	Underground storage tanks	Amend 9 rules; Repeal 3 rules	Proposal date: May 25, 2024; Hearing date: June 13, 2024; Comment due date: June 21, 2024; Adoptable: June 23, 2024; Expiration: September 30, 2024	DEQ provides reason statements for each rule that would be impacted. Please see the proposal notice.

[PRE-ADOPTION ABILITIES](#)

Ongoing proposals				
MAR number	Topic	Proposed action	Timeline	Reason statement
17-441	Motor vehicle recycling and disposal	amend 1 rule	Proposal date: March 22, 2024; Hearing date: April 18, 2024; Comment due date: April 19, 2024; Adoptable: presently; Expiration: September 22, 2024	REASON: Section 75-10-503(3), MCA, authorizes the department to adopt rules for reimbursement of charges by tow truck drivers for removing abandoned vehicles at the request of law enforcement in accordance with 61-12-401, MCA. ARM 17.50.213 establishes the amount of the reimbursement payment for each abandoned vehicle removed with a valid claim for payment. The money for reimbursement is contained in the junk vehicle fund authorized under 15-1-122(2)(a), MCA. DEQ proposes to revise ARM 17.50.213(3) to increase the flat rate reimbursement amount from \$125 per abandoned vehicle removed to \$175 per abandoned vehicle removed. The most recent increase for the removal of abandoned vehicles was in 2019. Since that time, costs of goods and services have continued to rise, fuel and maintenance costs have increased, and the Bureau of Labor and Statistics Consumer Price Index indicates a 2019 \$125 reimbursement amount now equates to \$153 in 2023. To facilitate an equitable raise in reimbursements, the department proposes to increase the reimbursement slightly above the index rate. During the past legislative session, the department engaged with the Montana Towers Association and other stakeholders on a rate increase that would help offset their costs associated with towing abandoned vehicles. Fiscal analysis prepared during the past legislative session showed that yearly towing reimbursement requests ranged from 845 to 975 in 2020-2022, averaging 895 requests for reimbursement annually. In 2023, 27 towing companies sought reimbursement from the department. Based on the average number of requests, the department estimates that the total yearly reimbursement payments would increase by \$44,750, from \$111,875 to \$156,625, annually. Sufficient funds are available in the junk vehicle fund authorized by 15-1-122(2)(a), MCA, to pay for the proposed increase in reimbursement payments.

[POST-ADOPTION ABILITIES](#)

New adoptions		
MAR number	Topic	Action taken
17-436	Asbestos	19 rules amended as proposed; 1 rule amended with changes; 4 rules repealed as proposed
17-437	Hard rock mining	1 rule adopted as proposed; 14 rules amended as proposed; 2 rules repealed as proposed
17-438	State superfund, petroleum tank cleanup; solid waste	6 rules amended with changes
Adoptions this interim		
MAR number	Topic	Action taken
17-429	Circular MFA-2: Modernizing application and notice requirements	26 rules amended as proposed; 2 rules repealed as proposed
17-430	Subdivisions	13 rules amended as proposed; 2 rules adopted as proposed
17-431	Air quality	1 rule amended as proposed
17-432A-E	Transfer of rulemaking authority from BER to DEQ	381 rules amended as proposed; 12 rules repealed as proposed
17-435	State superfund	1 rule repealed as proposed
17-440	Third-party review of claims and corrective action plans	2 rules amended as proposed; 7 rules repealed as proposed

New proposals
none

Ongoing proposals
none

New adoptions
none

[POST-ADOPTION ABILITIES](#)

Adoptions this interim

MAR number	Topic	Action taken
36-22-218	Navigable waterways	1 rule amended as proposed
36-22-220	Reports by producers, tax report, and tax rate	1 rule amended as proposed
36-22-221	State land leasing	5 rules amended as proposed

New rule proposals none		
Ongoing rule proposals none		
New adoptions none		
Adoptions this interim		
MAR number	Topic	Action taken
14-8	Sage grouse habitat quantification tool designation	1 rule amended as proposed

[POST-ADOPTION ABILITIES](#)

EQC PRE-ADOPTION ABILITIES

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EQC PRE-ADOPTION ABILITIES			
Action	Procedure	Statute	Special considerations
Obtain information			
request additional staff review	individual member can contact EQC staff at any time	n/a	
obtain agency rulemaking record	motion and majority vote required at an EQC meeting	2-4-402(2)(a), MCA	
request economic impact statement	motion and majority vote required at an EQC meeting; written request sent to agency	2-4-405, MCA	
Express views			
participate individually in MAPA hearing	individual member follows agency procedure	n/a	
participate individually in public comment	individual member follows agency procedure	n/a	
submit committee views	motion and majority vote required at an EQC meeting	2-4-402(2)(b), MCA	
submit committee testimony	motion and majority vote required at an EQC meeting; agency procedure may then apply	2-4-402(2)(b), MCA	
Enhance public participation			
Require agency to hold a MAPA hearing	motion and majority vote required at an EQC meeting	2-4-402(2)(c), MCA	may only apply if agency has not scheduled a MAPA hearing; may incidentally delay adoption
Delay adoption			
informal objection	majority of members may email the Chair, cc'ing staff; or, motion and majority vote required at an EQC meeting; objection must be sent in writing to agency	2-4-305(9), MCA	delays adoption until 6-months after proposal was made; must be renewed at each meeting
Delay implementation			
formal objection	motion and majority vote required at an EQC meeting; objection must be sent in writing to agency	2-4-406, MCA	delays implementation until sine die +1; contact staff for additional details
Impact litigation			
publish formal objection in MAR	motion and majority vote required at an EQC meeting; meeting likely must occur 2 weeks or more after initial formal objection vote	2-4-406(4)	shifts burden in litigation over rule's validity to agency; court may award costs and reasonable attorney fees against the agency if it determines the rules was adopted in arbitrary and capricious disregard for the purposes of the authorizing statute
poll the legislature	motion and majority vote required at an EQC meeting; poll conducted by mail	2-4-403, MCA	results must be admissible in court proceeding involving validity of rule; if a majority of members of both houses find rule contrary to legislative intent there is a conclusive presumption that it is contrary to legislative intent (2-4-404, MCA)
institute/intervene in litigation	contact staff for specific advice; motion and majority vote at an EQC meeting will be an initial requirement	2-4-402(2)(d)	

Obtain information			
Action	Procedure	Statute	Special considerations
request additional staff review	contact staff any time	n/a	
obtain agency rulemaking record	motion and majority vote required at an EQC meeting	2-4-402(2)(a), MCA	
Enhance public participation			
Action	Procedure	Statute	Special considerations
legislator petition of agency on behalf of interested party	follow agency procedure	2-4-315, MCA	
Impact litigation			
Action	Procedure	Statute	Special considerations
publish formal objection in MAR	a formal objection is a preliminary requirement; subsequent EQC meeting with a motion to publish and majority vote required	2-4-406(4), MCA	shifts burden in litigation over rule's validity to agency; court may award costs and reasonable attorney fees against the agency if it determines the rules was adopted in arbitrary and capricious disregard for the purposes of the authorizing statute
institute/intervene in litigation	contact staff for specific advice; motion and majority vote at an EQC meeting will be an initial requirement	2-4-402(2)(d), MCA	
Draft legislation for 2025 session			
Action	Procedure	Statute	Special considerations
committee joint resolution	ordinary committee bill drafting procedure applies	2-4-412(1)(b), MCA	
eligible legislator BDR	holdover senators and legislators with no challengers in the primary or general election may submit a BDR to staff	2-4-412(1)(b), MCA	