



MONTANA ENVIRONMENTAL QUALITY COUNCIL: WORK PLAN (2023-24)



EQC
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WORK PLAN

INTRODUCTION

This document includes:

- An explanation of how the EQC plans its work.
- Instructions for using the draft work plan to make about the final work plan.
- A description of potential work plan topics and options for addressing those topics.
- A draft timeline.

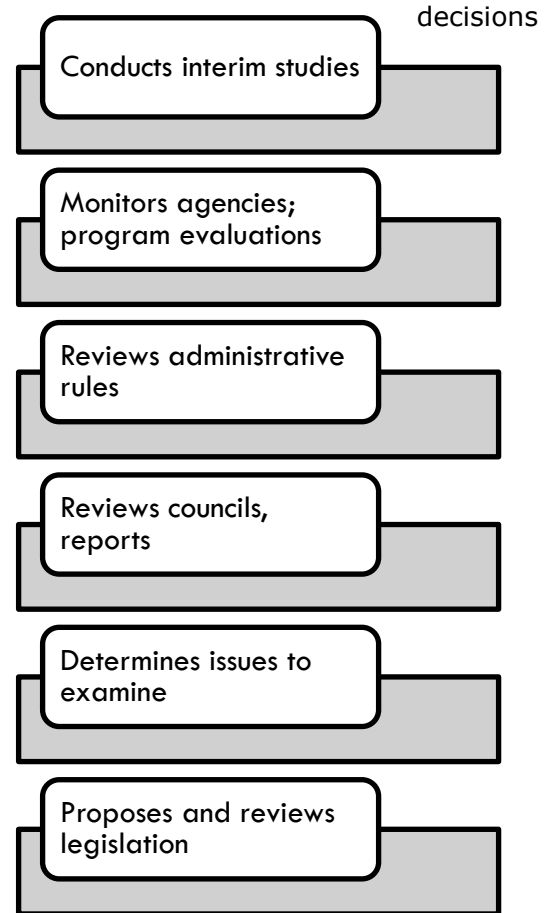
HOW THE EQC PLANS ITS WORK

The EQC has a strong tradition of handling large workloads within its allotted budgets for staff time and money and completing its work prior to the September 15 deadline in the even-numbered year.

During the legislative interim, the EQC typically focuses on one or more major study topics, while also maintaining oversight of programs and rulemaking activities of the Montana Department of Natural Resources and Conservation (DNRC); the Montana Department of Environmental Quality (DEQ); and the Montana Department of Fish, Wildlife, and Parks (FWP). For water issues, the Water Policy Interim Committee provides oversight within those departments.

The draft work plan helps Council members set priorities. Once the draft work plan is adopted, staff develops work plans and timetables for each major task. A draft timeline of the Council's work is presented at the end of this document.

What the EQC does



Agencies overseen by the EQC

Department of Environmental Quality

Department of Natural Resources and Conservation

Department of Fish, Wildlife, and Parks

In planning its work, the EQC considers studies requested by legislators through study resolutions, study bills, statutory mandates, and member issues. The study resolutions are ranked by the legislators and assigned to interim committees by the Legislative Council.

RESOURCE ALLOCATION

There is approximately **.5 FTE of staff time (1,440 work hours)** available to conduct the work assigned to the EQC and the additional work the EQC votes to undertake. These priorities – and the number of staff hours devoted to a specific topic – are determined by the Council using the Work Plan Decision Matrix, which accompanies this document. As you read the work plan documents, please bear in mind the basic equation:



ASSIGNED STUDY

HJ 18 - STUDY OF REMEDIATION AT SMURFIT-STONE MILL SITE AND FUTURE ACTIONS

- **Legislative Poll Ranking: 3rd**
- **Background and issues listed in legislation:** examine past and ongoing investigations into the extent of contamination at the Smurfit-Stone mill site, assessment of risks to human health and the environment, and proposed options for cleanup
- examine the creation, implementation, and ongoing operation of the Libby Asbestos Superfund Oversight Committee and related statutes pursuant to Title 75, chapter 10, part 16, as a possible model for state involvement in the ongoing cleanup at Smurfit-Stone

Study approach: Provide background on federal Superfund process in general and with Smurfit-Stone specifically. Understand process timeline up to current phase, which is Remedial Investigation and Risk Assessment.

- Understand process going forward. EPA project teams are examining contamination migration within and beyond the site and understanding risks. Study current institutional controls and evaluate options for future controls.
- Gather information and options from stakeholders including local, state, and federal agencies, community members, and property owners involved or responsible for site remediation.
- Examine similarities with Libby Superfund Site process and establishment of Libby Asbestos Superfund Oversight Committee.
- Field trips/public meetings in Frenchtown and Libby.

Estimated staff time: Staff time could range from 144 hours to 288 hours.

Estimated EQC meeting time: At a minimum, this would be an agenda item of at least an hour at two meetings. At most, it would be an agenda item at every meeting.

OTHER ISSUES PROPOSED FOR EQC STUDY

FWP

- Issues related to FWP Automated Licensing System. May include:
 - * Follow up on [Audit report](#).
 - * Examination of special drawing tags.
- Hunting and fishing opportunities for Montana residents versus nonresidents.
- Issues related to wildlife crossings. (MDT & FWP).
- Issues related to off highway vehicles. May include:
 - * Certification
 - * Scoring for grants and related programs.
 - * Development of OHV trails (Fish Creek and statewide).
- Fisheries updates may include Yellowstone River, brown trout.
- Overview of Becoming and Outdoor Woman Program.

DEQ

- Issues related to rare earth minerals, (DEQ for regulation, Bureau of Mines and Geology).
- Overview of energy programs available to local governments.
- Update on S&W Sawmill Facility state superfund site in Darby.
- Issues related to coal mining reclamation may include:
 - * Bonding
 - * Storm events and pond storage
 - * noncompliance letters and permit suspension criteria, (82-4-251, MCA).
- Overview of Orphan Well program and spending federal clean up money.
- Tour Stillwater mine.
- Tour Black Butte mine.
- Climate emission and resilience planning
 - Climate pollution reduction grants due March 1

DNRC

- Regular updates on various water policy items.
- Updates on CSKT Compact litigation and land trades
- Good Neighbor Authority issues may include:
 - * General overview legislative history and policy.
 - * Examination of legal divisions between state and federal agencies.
 - * Examine revenue and cost aspects of program.

OTHER

- Comprehensive Review of Montana Environmental Policy Act. May include:
 - * Review court decisions
 - * Relationship to permitting.
- Study development of natural resource management plan to guide state and local governments.
- Legal review of state statutes that incorporate cooperative federalism.

EQC AGENCY OVERSIGHT DUTIES

Under the Montana Environmental Policy Act, the EQC has broad statutory oversight authority to review agencies. The Council oversees the DEQ, DNRC, and DFWP as well as entities attached to those agencies. The oversight includes reviewing draft legislation, rule review, and program evaluation.

The Council may 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.

At the request of a council member, the Council reviews 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 (5-5-215, MCA). As a result of the passage of HB 400, agencies must write these reports—either on paper or in electronic form.

Traditionally, the EQC has one or more agency oversight issues on the agenda for each meeting. The Council allocates time in the workplan for agency oversight and emerging issues.

EQC STATUTORY DUTIES

The Legislature directs the Council to play a role in specific programs or activities of state government. These directives are in addition to the more general oversight authorities for environmental programs and policies. While the general authority is arguably sufficient to address specific programs and policies, the Legislature directs the EQC to act as its liaison with the executive branch, particularly for new environmental programs or policies.

2-15-1514, MCA, requires the participation of a Legislative Services Division employee on the natural resource data system advisory committee. This is 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 is 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.

75-10-743, MCA, requires DEQ to report **annually** to the EQC regarding expenditures made and locations of facilities using orphan share funds for remedial action.

75-10-1601, MCA, requires the Libby Asbestos Oversight Committee to submit an **annual** report to the EQC.

76-4-116, MCA, requires **annual** subdivision sanitation reports from the DEQ to the EQC.

77-1-820, MCA, requires the DNRC to report to the EQC on road closures and restrictions on state lands on or before September 1 of **each year preceding a regular session**.

77-2-366, MCA, requires that the DNRC submit a detailed **biennial** report on the land banking program to the EQC. The DNRC must also provide an **annual** summary report to the EQC on the sale 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.

80-7-1006, MCA, requires the Department of Agriculture, FWP, DNRC, and MDT report at least **biennially** to the EQC on their activities undertaken and expenditures incurred related to implementation of the aquatic invasive species laws.

80-7-1203, MCA require the Invasive Species Council to report their activities **annually** to the EQC (and other entities)

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

87-1-201, MCA, requires the FWP to **annually** report to the EQC sage grouse population numbers, including the number of leks and seasonal and historic population data.

87-1-250, MCA, requires FWP to report **each regular session** to the legislature of upland game bird enhancement activities.

87-1-272, MCA requires the FWP to report to the legislature on the progress of the future fisheries improvement program.

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

87-2-702, MCA requires the FWP to report **biennially** to the EQC specific information about mountain sheep harvested from the Tendoy Mountain herd (through 2027).

87-5-807, MCA requires the FWP report to the EQC on implementation of the Wildlife Habitat Improvement Act before September 1 of **each year preceding a regular session**.

87-5-918, MCA, requires the Montana Sage Grouse Oversight Team to report **annually** to the EQC and other entities on its activities, including but not limited to money and real property received, grants awarded, compensatory mitigation activities, and staffing needs. (Formerly 76-22-118, MCA)

90-2-201, MCA, requires the MBMG to report to the EQC and other entities on its hydrocarbon and geology investigation program.

90-2-202, MCA, requires the Department of Commerce to report to the EQC and other entities on its coal ash markets investigation program.

SB 83 (2023) requires the Western Montana Conservation Commission to report **biennially** to the EQC and other entities on information, activities, and recommendations

HB 883 (2023) requires the DNRC to report to the council (and an interim budget committee) by Nov. 1 of each fiscal year about expenditures pursuant to 76-13-150(4) (fire suppression account).

EQC PUBLICATIONS

The EQC uses 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 public, legislators, state and federal agencies, other states, and industry and conservation groups. EQC publications are regularly recognized nationally.

State law requires an EQC publication on eminent domain and another on split estates be included in proceedings related to those issues.

The publications need periodic updating in response to changes in laws and rules. Sometimes the updates require minimal time and effort, others are more intensive.

☆ [*Montana Index of Environmental Permits \(produced in 1976 and updated regularly\)*](#)

The [EQC Permit Index](#) is a complete guide to the permits and licenses needed to conduct activities that may affect the state's environment. The permit index lists the permits required, the permitting agencies, and the statutes and rules that regulate each permit. The Permit Index is the EQC's longest-standing ongoing publication.

☆ [*Our Montana Environment: Where Do We Stand? \(produced in 1996\)*](#)

The EQC conducted its first comprehensive environmental indicators project in 1975. With the production of this publication 20 years later, the EQC revisited that effort to develop indicators to document changes in the state's environment over time. In 2013, the EQC directed staff to create an online repository for trend information. That effort started in 2014 and is continuing. In 2017, the EQC devoted significant time and resources to developing indicators related to fire. In 2019, the council looked at [indicators related to agriculture](#).

☆ [*A Guide to the Montana Environmental Policy Act \(produced in 1998 and updated as needed\)*](#)

The EQC was created by the Montana Environmental Policy Act (MEPA) in 1971. The EQC has historically been very active in MEPA implementation and oversight and in developing policy related to MEPA. This guide was produced by the EQC at the request of Montana citizens, legislators, agencies, and industry and conservation groups in order to provide an easy-to-understand reference guide on MEPA.

☆ [*Eminent Domain in Montana \(produced in 2001 and updated as needed\)*](#)

This [handbook](#) was one of several products that the EQC produced as a result of its 1999-2001 interim study on eminent domain in Montana. This handbook was developed in order to help citizens better understand the state's eminent domain laws.

☆ [*An Informational Guide to State Debt \(produced in 2004\)*](#)

At the request of the 2003-04 EQC Energy Policy Subcommittee, the State Bond Counsel compiled the information for this brochure to assist those with projects utilizing state bonding mechanisms. The brochure defines state debt, describes bonds, describes the types of state debt, and provides other related information.

☆ [*A Guide to Split Estates in Oil and Gas Development \(produced in 2006 and updated as needed\)*](#)

This guide was produced in 2006 at the request of an EQC subcommittee that studied split estate issues. In 2007, EQC-approved legislation was signed into law requiring that the most current version of this brochure be provided to surface owners prior to oil and gas exploration and drilling.

☆ [*Conservation easements: 20 things everyone should know \(produced in 2008 and updated as needed\)*](#)

This [brochure](#) was first produced as part of a study of conservation easements on state land. It provides basic information about conservation easements.

☆ [*Permitting in Montana, DEQ: \(produced in 2009 and updated in 2012\)*](#)

[*Permitting in Montana, DNRC: \(produced in 2012\)*](#)

These reference guides provide a quick overview of six permitting processes that affect different types of projects ranging from power plants to gravel pits to oil and gas drilling and groundwater use. These guides include a series of flowcharts and summaries outlining the responsibilities of the applicant,

the regulatory agencies, and the public within various permit processes in order to assist people in planning for a permitting process.

- ☆ [Pittman-Robertson Funding](#) (*produced in 2014*)
- [Dingell-Johnson Funding](#) (*produced in 2014*)

These reference guides summarize two federal excise taxes, one on firearms and other hunting equipment and one on sport fishing equipment. The brochures explain how the money is collected, how it is disbursed to the states, and how it may be used.

DRAFT 2023-2024 WORK PLAN TIMELINE

[Note: This is a timeline for the EQC studies and other duties. It is subject to final approval of the EQC meeting dates. The timeline shows the last date for completion of certain items.]

July 20, 2023	Sept. 27-28	Nov. 13	Jan. 24-25, 2024	March 13-14	June 17	Aug. 14-16	Week of Sept. 16
Draft work plan	Finalize work plan	Revise work plan, as necessary					
Begin statutory duties	Continue statutory duties						
Consider study resolutions	Begin studies	Begin studies	Gather background	Identify options	Draft report; request public comment	Consider draft findings, recommendations; revise report; request public comment	Finalize findings, recommendations, and report
Prioritize member topics	Explore member topics					Field trip to Lincoln County	
					Propose draft legislation	Review draft legislation	Review EQC legislation for preintroduction
					Review agency legislation for preintroduction	Review agency legislation for preintroduction	Review agency legislation for preintroduction