

**2013-2014 Environmental Quality Council
Work Plan**

September 11, 2013

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Information about the 2013-2014 Work Plan

This 2013-2014 Interim work plan for the Environmental Quality Council (EQC or Council) is based on preliminary decisions made by the Council at its June 2013 meeting. The Council will finalize this work plan at its September 11, 2013 meeting.

In this document you will find:

- An explanation of how the EQC plans its work.
- A description of work plan topics and options for addressing those topics selected by the EQC at its June 2013 meeting.
- A draft timeline.

How the EQC Plans its Work

Over the years, the EQC has developed a strong and proud tradition of:

- ✓ handling large workloads systematically planning and prioritizing its projects within existing resources;
- ✓ maintaining an extremely high level of productivity each interim; and
- ✓ always accomplishing its work prior to the September 15th before the Legislative Session as required by the Legislative Council.

Since 1995, that tradition has been maintained by following a planning process that prioritizes work with the resources allocated. Completing the work plan may seem like a tedious process, but it is the foundation of the EQC's historical success at getting the job done efficiently and cost-effectively.

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 (DFWP).

The Council selected study topics at the beginning of the interim during its June 2013 EQC meeting. This work plan includes three studies, one topic suggested by Council members, a carryover topic, and statutory mandates. **The primary constraint limiting the EQC study agenda for the interim is the number of issues that can be effectively addressed within the available time and resources of the Council members and its staff.** The EQC has allocated 1.7 FTE of the 1.8 FTE in staff resources available for this work plan.

This *2013-2014 Work Plan* is really a **decisionmaking tool** to help Council members work together efficiently to set priorities and decide how and where to spend the EQC's limited time and resources. The work plan is your blueprint for the 2013-2014 interim. Staff has developed detailed draft work plans and timetables for each major task. A timeline illustrating the overall schedule that these work plans will fit into once the meeting schedule and work plan are finalized is presented at the end of this document.

Work Plan Topics

1) HB 609 - A study of hunting and fishing licensing

Background: This study grew out of concerns about the stability of and long-term funding for the Department of Fish, Wildlife, and Parks (FWP) and the complexity of its hunting and fishing licensing structure, including free and reduced cost licenses, which is the agency's primary source of funding for fish and wildlife management.

FWP is also examining its licensing structure at the request of the governor. The work plan tasks below will incorporate that process into the EQC's HB 609 study process.

Council action: The EQC allocated .2 FTE for this topic. For more information, contact Hope Stockwell at 444-9280 or hstockwell@mt.gov.

Work plan tasks:

- Receive a summary of existing hunting and fishing licenses.
- Receive an overview of licensing revenue and its uses.
- Analyze events leading to decreased license sales and revenue.
- Review the hunting and fishing licensing structure and fees in other states.
- Analyze other structural and fee options for FWP.
- EQC staff member will attend and assist FWP's meetings held at the governor's request to review the licensing structure.

2) SJ 15 - A study evaluating the management of certain federal lands, assessing risks, and identifying solutions

Background: SJ 15 requests a study to evaluate lands managed by the United States Forest Service (USFS) and the Bureau of Land Management (BLM) within Montana and to identify measures that will help ensure those lands are managed responsibly and prudently for present and future generations. SJ 15 asks that the study identify and make recommendations regarding significant concerns or risks associated with environmental quality, economic productivity and sustainability, public health, safety, and welfare, consistency with state and local objectives, and ownership and jurisdictional responsibilities. SJ 15 also requests that the study include a survey of county commissions whose counties contain 15% or more land area under management of the USFS or BLM.

The 2013 Legislature passed Senate Bills 201 and 217, which require the Montana Department of Natural Resources and Conservation to advocate for a federal law to establish a good neighbor policy with the Secretary of Interior or the Secretary of Agriculture. This policy would focus on reducing wildland fire risk and intensity, allowing state authority to treat insect-infested trees and reduce hazardous fuels.

Council action:

The EQC allocated .3 FTE for this topic. For more information, contact Joe Kolman at 444-3747 or jkolman@mt.gov.

Work plan tasks:

- Identify BLM, USFS lands in Montana
- Identify management framework for BLM, USFS lands in Montana
- Summarize state/federal relationship
- Survey counties
- Panel discussions on significant concerns
- Monitor implementation of current policy, SB 201, SB 217
- Compile relevant studies, court cases, legislation.
- Compile other states' action regarding management of BLM, USFS lands
- Identify risks, concerns, and recommendations at least at a minimum level
- Tour relevant area, if funding allows.

3) SJ 4 - A study of Virginia City, Nevada City, and Reeder's Alley

Background: This study proposal grew out of a study conducted by the EQC in the 2011-2012 Interim in which the Council reviewed the work of the Montana Heritage and Preservation Commission (MHC), its administration of state-owned properties in Virginia and Nevada Cities and Reeder's Alley in Helena, and recent changes made to the MHC's organizational structure and business plan. The EQC found opportunity and greater need for state support to improve the MHC's marketing, operation, preservation, and maintenance of the state properties and recommended that continued oversight of the MHC be provided in the 2013-2014 Interim.

Council action: The EQC allocated .15 FTE for this topic. For more information, contact Leanne Kurtz at 444-3593 or lekurtz@mt.gov.

Work plan tasks:

- Summarize 2011-2012 interim study & its findings and recommendations.
- Review current structure, staffing, resources of Montana Heritage Commission.

- Update on MHC business plan, finances, and needs.
- Review how properties are marketed.
- Analyze statutes governing MHC, Department of Commerce, and preservation of state-owned properties to determine if changes are warranted.
- Evaluate role of new Parks Commission as it relates to MHC role and duties and identify opportunities for coordination.
- Panel discussion, including agency, area business owners, local government officials, preservation officials on operation of MHC.
- Examine Department of Commerce marketing strategies and priorities for the properties.
- Examine effectiveness of marketing and how it is measured.
- Analyze MHC's duties in context of DOC and whether DOC should assume any duties.
- Review experiences of other states in purchasing and maintaining heritage tourist sites.

4) A study of septic systems

Background: Septic systems are widely used in Montana and are necessary in places where public sewage treatment is not available. A properly designed and maintained septic system is a safe form of sewage treatment. However, a malfunctioning septic system may contaminate ground and surface water. The study will examine current laws and regulations.

Council action: The EQC allocated .05 FTE for this topic. For more information, contact Leanne Kurtz at 444-3593 or lekurtz@mt.gov.

Work plan tasks:

- Summarize current laws and rules
- Summarize select local regulations
- Panel discussion with stakeholders

EQC Statutory Duties and Obligations

1) Water Policy Statutory Duties

Source/authority: 75-5-313, 85-1-203, 85-1-621, 85-2-105, 85-2-281, 85-2-350, 85-2-436, and 85-20-1401.

Background: In 2009, the Legislature created a Water Policy Committee to study water policy issues. The water policy committee is to coordinate with the EQC to avoid duplication of work. The legislation did not take water policy duties away from the EQC, however some of those duties are no longer mandatory. The duties, set forth in 85-2-105, MCA, are paraphrased as follows:

The EQC *may*:

1. Advise the Legislature on the **adequacy of Montana's water policy**.
2. Advise the Legislature on **important state, regional, national, and international developments** that affect Montana's water resources.
3. Oversee **policies and activities of executive branch agencies** and other state institutions that affect Montana's water resources.
4. Assist with **interagency coordination** related to water resources.
5. **Communicate with the public** about water policy and water resources.

The EQC *shall*:

1. Analyze and comment on the **State Water Plan**, when prepared by the Montana Department of Natural Resources and Conservation (DNRC).
2. Analyze and comment on the **Renewable Resource Grant and Loan Program** report.
3. Analyze and comment on **water-related research** by state entities.
4. Analyze, verify and comment on the information in the **Water Information System of the Natural Resource Information System**.
5. Report to the Legislature.

Water-related statutory duties of the EQC include:

- **75-5-313, MCA**, requires the DEQ to provide a summary of the status of the base numeric nutrient standards, the nutrient standards variances, and implementation of those standards and variances, including estimated economic impacts. (revised 2011, SB 367)
- **85-1-203, MCA**, requires the DNRC to submit a copy of the State Water Plan or any plan changes to the EQC. (SB 303, 2009, accelerated requirements)
- **85-1-621, MCA**, requires the DNRC to submit a biennial report to the EQC that describes the status of the Renewable Resource Grant and Loan Program financed with funds from the Resource Indemnity Trust.

- **85-2-281, MCA**, requires the Water Court and the DNRC to report to the EQC on the progress of the adjudication process until 2020.
- **85-2-350, MCA**, requires Clark Fork River Task Force to report to the EQC annually.
- **85-2-436, MCA**, 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.
- **85-20-1401, MCA**, requires the DNRC to provide a biennial report to the EQC on state water reservations applied for by the U.S. Forest Service and the action taken by the DNRC on the applications.

Council action: The EQC allocated .01 FTE for this topic.

2) EQC General Statutory Duties

Source/authority: Sections 2-15-1514, 2-15-1523, 75-1-201, 75-1-208, 75-1-314, 75-5-703, 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.

In the past, the EQC has prioritized its duties as the need for specific oversight changes with interest, time, and circumstance. They are listed as follows:

- **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.
- **75-5-703, MCA**, requires the DEQ to report its progress in completing TMDLs (total maximum daily load) and the current schedule for completion of TMDLs, on or before July 1 of each even-numbered year.
- **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. (HB 613, 2011) **For more information, see Page 20.**
- **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.
- **87-1-230, MCA**, requires the DFWP to provide an annual report to the EQC regarding deposits into and withdrawals from the agency's water and land maintenance account related to implementation of the Good Neighbor Policy.
- **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. (SB 200, 2013)

Council action: The EQC allocated .5 FTE for this topic.

3) EQC General Agency Oversight Statutory Duties

Source/authority: 2-4-402- 412, 5-5-202, 5-5-211, 5-5-215, 5-5-231, 5-16-101 through 5-16-105, and 75-1-324, MCA.

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 the 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.

Additionally, the 2011 Legislature approved HB 142, which requires 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. The EQC must review six advisory councils and more than a dozen reports. One of the more significant reports is the compliance and enforcement of environmental and natural resource laws report required pursuant to 75-1-314, MCA.

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.
- **5-5-231, MCA**, requires the EQC and the Water Policy Interim Committee to coordinate on water issues.
- **5-16-101 through 5-16-105, MCA**, discuss the composition and terms 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.

Council action: The EQC allocated .4 FTE for this topic.

Carryover EQC Issue: Petroleum Tank Release Fund Solvency and Remediation Program Progress

Source/authority: 2007-2012 EQC Interim Discussions, HB 613 (2011)

Background: The solvency of the Petroleum Tank Release Fund has been tracked by the EQC during the last three interims. The Fund is the default payor for cleanup of releases (spills, leaks) from underground and aboveground petroleum storage tanks, as well as home heating oil tanks. The Fund's primary revenue source -- a \$0.0075/gallon fuel tax -- hasn't kept pace with the cleanup work that is waiting to be done. Funding is therefore prioritized and lower-priority sites (based on risk to public health) cannot be resolved/closed.

The 2011 Legislature passed two bills intended to increase the number of releases that are resolved. SB 9, requested by the 2009-2010 EQC, authorized the use of petroleum mixing zones to hasten the completion of work under certain circumstances. HB 613 established a series of performance benchmarks for the Department of Environmental Quality through July 2015, by which the department must resolve a certain number of sites or money appropriated for petroleum tank release prevention will not be included in the department's base budget in the next budgeting cycle.

Council action: The EQC allocated .01 FTE for this topic. For more information, contact Hope Stockwell 444-9280 or hstockwell@mt.gov.

Work plan tasks:

The EQC will monitor the implementation of HB 613 (2011) and has requested concurrent financial updates from the Petroleum Tank Release Compensation Board.

EQC Educational Publications Obligations

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

Background: Under MEPA (75-1-324), the EQC has broad statutory authority and the EQC has historically used that authority to produce high quality, easy to understand, objective, nonpartisan, educational publications in addition to the study reports that the EQC produces during any given 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. The EQC has produced the following educational publications:

- ☆ *Montana Index of Environmental Permits (produced in 1976 and updated in 1978, 1981, 1984, 1987, 1988, 1991, 1994, 1996, 1998, 2000, 2002, 2004, 2006, 2008, 2010, and 2012)*
Explanation: 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)*
Explanation: 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.

- ☆ *A Guide to Montana Water Quality Regulation (produced in 1996 and updated in 2002, 2008, 2009, and 2012)*
Explanation: This publication is a primer that addresses water quality regulation in Montana. The impetus for producing this guide (which is one of the first educational primers that the EQC produced for a specific subject matter area) came from numerous requests from the general public and legislators for an easy to understand reference booklet on the complex area of water quality.

- ☆ *Water Rights in Montana (produced in 2004 and updated in 2006, 2008, 2009, and 2012)*
Explanation: This publication is a primer on Montana's water right system. The EQC and the Department of Natural Resources and Conservation

teamed up to produce this publication that distills a very complex area of law and regulation into a very easy to understand and readable document.

- ☆ *A Guide to the Montana Environmental Policy Act (produced in 1998 and updated in 2004, 2006, 2009, and 2013)*
Explanation: 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 in 2007 and 2012)*
Explanation: 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)*
Explanation: 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)*
Explanation: 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 2010)*
Explanation: 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)

Explanation: These two 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.

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, but some updates like the permit index require a more intensive effort.

Council action: The EQC allocated .08 FTE for this topic.

2013-2014 Work Plan Timeline

In addition to study work plan tasks that will be presented at every EQC meeting, the below timeline reflects statutory reporting requirements and work plan choices and requests made by the EQC for presentation. The timeline is subject to change or adjustment as needed.

Date	Tasks
Sept. 11-12, 2013	<ul style="list-style-type: none"> ➤ Final adoption of detailed work plans for each selected study or topic. ➤ Final FWP maintenance account report (87-1-230, MCA) ➤ Petroleum tank release site closure report and compensation fund update ➤ State water plan update (85-1-203, MCA) ➤ Fire season update ➤ Bison management update ➤ Governor's sage grouse advisory council update
Jan. 8-9, 2014	<ul style="list-style-type: none"> ➤ FWP instream leasing report (85-2-436, MCA) ➤ Bison management update ➤ Governor's sage grouse advisory council update ➤ State water plan update (85-1-203, MCA) ➤ Compliance and enforcement reports (75-1-314, MCA) - DEQ, DNRC, Ag ➤ Petroleum tank release site closure report and compensation fund update ➤ Integrated waste management plan update (75-10-807, MCA)
March 19-20, 2014	<ul style="list-style-type: none"> ➤ Renewable Resource Grant and Loan Program update, (85-1-621, MCA) ➤ State water plan update (85-1-203, MCA) ➤ FWP forest management plan update ➤ Wolf management report (87-1-901, MCA) ➤ Bison management update ➤ Governor's sage grouse advisory council update <p>Note: 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.]</p>
May 14-15, 2014	<ul style="list-style-type: none"> ➤ State water plan update (85-1-203, MCA) ➤ Cabin and home site sales report (77-2-366, MCA) ➤ Bison management update <p>Note: 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 9-10, 2014 meeting.</p>

<p>July 9-10, 2014</p>	<ul style="list-style-type: none"> ➤ State water plan update (85-1-203, MCA) ➤ Nutrient Work Group - Standards update - (75-5-313, MCA) ➤ Total Maximum Daily Load completion report (75-5-703, MCA) ➤ Land Banking report (77-2-366, MCA) ➤ Petroleum tank release site closure report and compensation fund update ➤ Bison management update ➤ Fire season update <p>Note: At this meeting, decisions on recommendations, any proposed legislation, and final report contents will be made. Review of agency bill draft requests will occur.</p>
<p>Sept. 10- 11, 2014</p>	<ul style="list-style-type: none"> ➤ State Water Plan update, (85-1-203, MCA) - DNRC ➤ Nutrient Work Group - Standards final interim report - (75-5-313, MCA) ➤ Bison management update ➤ Fire season update <p>Note: At this meeting, final approval of recommendations, reports, and proposed legislation will occur, as well as selection of Council bill sponsors and review agency bill draft requests.</p>

Council interim work must be completed prior to September 15, 2014.

