

# Subdivision Annual Report to the Environmental Quality Council

## July 2020



Montana Department of Environmental Quality  
Tim Davis, Administrator, Water Quality Division  
[timdavis@mt.gov](mailto:timdavis@mt.gov) 406-444-4632

## PURPOSE

The purpose of the Sanitation in Subdivisions Act is to protect water quality for drinking and other beneficial uses like agriculture, industry, recreation and wildlife use. This protection is accomplished by Department (DEQ) review and approval of subdivision water, wastewater, and storm water facilities for compliance with minimum design standards and administrative rules prior to recording a new subdivision with the County Clerk and Recorder.

MCA 76-4-116 requires that the Department report annually to the Environmental Quality Council about review procedures adopted under Title 76-4 and recommending whether statutory changes should be made to the process.

## STATUTORY AUTHORITY

The Sanitation Act is found in MCA 76-4. The Sanitation Act:

- Identifies which parcels require Sanitation Act review
- Identifies which parcels are statutorily exempt from Sanitation Act review
- Requires DEQ to adopt rules for water, wastewater and storm water facilities
- Establishes procedures for Counties to review subdivisions under contract with DEQ
- Requires that property purchasers be notified of the approved facilities
- Prohibits County Clerks from recording a new subdivision until it is approved or has a valid exemption
- Establishes review procedures and timelines, and
- Establishes subdivision review fees and program funding

## REVIEW SCOPE

Subdivision regulation in Montana began in 1961. The size and type of parcels that require review has changed several times since regulation began. The current definition is:

*Subdivision means a division of land or land so divided that creates one or more parcels containing less than 20 acres, exclusive of public roadways, in order that the title to or possession of the parcels may be sold, rented, leased, or otherwise conveyed and includes any resubdivision and any condominium or area, regardless of size, that provides permanent multiple space for recreational camping vehicles or mobile homes.*

Review under the Sanitation Act covers water, wastewater and storm water facilities.

## Water Systems

Water system review ensures that there is adequate water quality and quantity to serve a proposed subdivision.

## Storm Water Systems

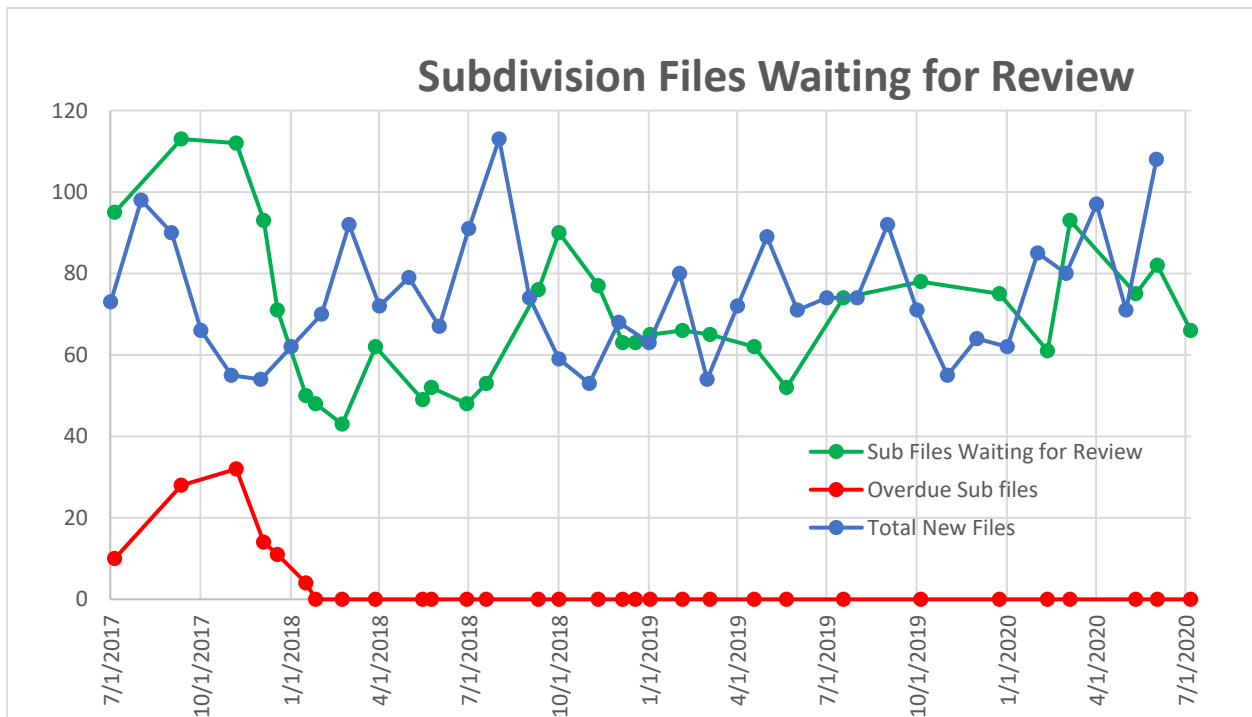
Storm water review ensures that additional storm water runoff generated from a development does not negatively impact downslope properties and roads.

## Wastewater Systems

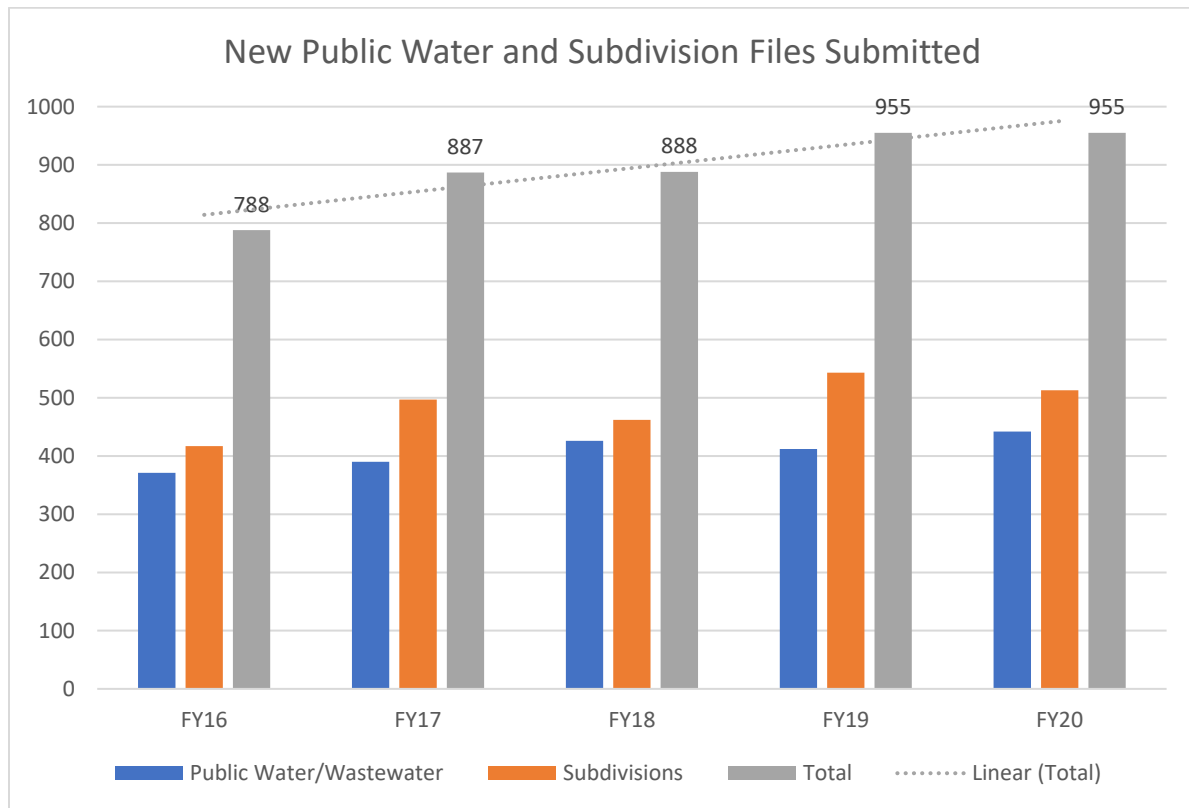
Wastewater system review ensures that wastewater treatment systems will not negatively impact ground or surface water. In addition to complying with the wastewater system design standards, new wastewater treatment systems are required to submit a non-degradation analysis in accordance with MCA 75-5.

## REVIEW TIMELINES

In January 2018, the Department combined the Public Water Engineers and Subdivision Engineers under one Section Supervisor. This allows work sharing across the two programs and a larger staff base to draw from if one of the Sections sees a high influx of files. The Section has made significant progress in decreasing review times and meeting statutory review deadlines.



## REVIEW TRENDS



Each reviewer has an average file load of 100 files per year.

## PROPOSED RULE CHANGES: COMPREHENSIVE RULE UPDATE

One of the most common complaints received by the Public Water and Subdivision Section is that the rules and standards are difficult to apply and interpret. The Department is undertaking a comprehensive rule update to clarify and consolidate current rules and design standards. Our goal is to make the rules and standards as clear as possible to reduce the number of denial letters while not weakening protections for public health and the environment.

As part of this process, the Department solicited comments from interested parties and stakeholders, including Contracted Counties and the Subdivision and Development Advisory Council.

## POTENTIAL LEGISLATION

The Department is working with the Subdivision and Development Advisory Council on potential legislation for the 2021 legislative session.