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TO: Jan Sensibaugh, Director, Department of Environmental Quality
Bud Clinch, Director, Department of Natural Resources and Conservation
Ralph Peck, Director, Department of Agriculture

FROM: Rep. Christopher Harris, chairman, EQC Agency Oversight and MEPA
subcommittee

DATE: June 26, 2002

SUBJECT: Agency reporting of environmental program compliance and enforcement
information - Section 75-1-314, MCA

The EQC Agency Oversight and MEPA subcommittee has reviewed the FY1997-1998 and the FY1999-2000 biennial compliance and enforcement reports submitted to the EQC pursuant to Section 75-1-314, MCA. The subcommittee met with representatives from your agency during its February 7, 2002 meeting in an effort to provide some guidance for the upcoming reporting cycle for FY2001-2002. A copy of the minutes for that meeting and a discussion of the issue can be found at http://leg.mt.gov/content/committees/interim/2001_2002/environmental_quality_council/subcommittees/oversight_mepa/minutes/eqcmepa02072002.pdf [link updated] beginning on page 9. The subcommittee held further discussions on this issue on May 8, and reported to the EQC on May 9, 2002. Those minutes will be posted on the EQC website as soon as they are available.

Report - Value Affirmed

We realize that this statutory reporting duty is additional work for your agencies. However, the subcommittee has concluded that the effort is or can be of significant value to the legislature, the agencies, and the public and it has so advised the EQC. The information required of the agencies is based on a 1995-1996 EQC interim study of environmental program implementation that focused on the application of fair, consistent, effective, and appropriate compliance and enforcement efforts essential to protect public health and the environment. The subcommittee believes that the information required by the reporting requirement can help agency managers prioritize the use of limited state resources and can assist the legislature in establishing and supporting policies that will maintain and improve the quality of Montana's environment.

The Subcommittee also addressed the content of the report and the timing of its preparation and submittal to the EQC. We request that the following procedural changes be instituted for future agency compliance with Section 75-1-314, MCA.

Content

- ✓ As a result of our review of past reports, the subcommittee requests that the agencies focus less on a presentation of raw statistics and more on an analysis of those statistics. In particular, we ask that the agencies provide a description and analysis of identifiable trends from one reporting cycle to another and any trends that are shown in the current biennial report.

The reporting requirements are intended to collectively describe how successful the state has been in obtaining compliance with the environmental protection policies established by the legislature. We would appreciate the agencies' analysis of the data with that question in mind and your suggestions for needed improvement.

Also, it is presumed that Montana's environment can be protected, maintained, and improved through compliance with and the enforcement of the state's environmental policies. We believe that the information provided by your agencies through the biennial reporting process should be able to help the agencies, the legislature, and the public test that hypothesis and indicate whether or not policy changes are needed.

Timing

Since the information is typically compiled on a fiscal year basis, the data is not complete and available for the biennial report until after July 1. The statute is silent on precisely when the report is due. By past convention, the agencies and the EQC have agreed that the report would be submitted between July of the even numbered year and the upcoming legislative session. The schedule was intended to allow the EQC time to review the report and develop any necessary legislative initiatives prior to the next session. This has not been possible for the EQC, particularly given the Legislative Council's recent directive that interim committees complete their work by September 15 of the even numbered year and it does not track well with the schedule established by the Governor's office and the budget office for agency proposed legislation. Also, since we are asking the agencies to spend more time analyzing the data and reporting compliance and enforcement trends, the July to September reporting time frame is even more compressed. Therefore, the subcommittee believes that a change in the reporting schedule is necessary to maximize the intended benefits of this reporting requirement.

- ✓ The subcommittee is requesting that the agencies submit future compliance and enforcement reports at the "fall" meeting of the EQC following the legislative session.

The immediate effect of this change will be that the next scheduled reporting cycle will include three years of data since it will postpone the report traditionally due this fall until

the fall of 2003. Subsequent compliance and enforcement reports should then be submitted on a legislative and fiscal biennium basis. The schedule would be as follows:

<u>Report including</u>	<u>Submitted</u>
FY97 and FY98	Fall 1998
FY99 and FY00	Fall 2000
FY01, FY02 and FY03	To be submitted Fall 2003
FY04 and FY05	To be submitted Fall 2005
etc.	

In conclusion, the subcommittee believes that these relatively simple changes in the reporting process will result in a more useful report and will give the EQC and the agencies more opportunity to discuss the information and its policy implications. If you have any questions or concerns about this requested change in procedure, please contact Larry Mitchell, EQC staff at 444-1352. Thank you very much for your assistance and cooperation.

Sincerely,

Representative Christopher Harris, chairman
EQC Agency Oversight and MEPA subcommittee

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