

**2009-2010 Environmental Quality Council  
Draft Work Plan**

May 26, 2009



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# Information about the 2009-2010 Draft Work Plan

## Introduction

This is the draft work plan for the Environmental Quality Council (EQC or Council) for the 2009-2010 interim. In this document you will find:

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

There are two additional documents--the *Draft Work Plan Appendices*, which contains copies of the study resolutions; and the *Draft EQC Work Plan Decision Matrix*.

## How the EQC Plans its Work

Because of the EQC's historically large interim workload demands, the EQC has:

- ✓ a very strong and proud tradition of systematically planning and prioritizing its work-load within existing resources;
- ✓ maintained an extremely high level of productivity throughout each and every interim; and
- ✓ always accomplished its work prior to the September 15th before the Legislative Session as required by the Legislative Council.

How does the EQC accomplish this? Because the EQC has used this work planning process to set up general guide posts for accomplishing it's work within the resources allocated to it since 1995. At times, it 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 two to four 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 selects study topics at the beginning of the interim. **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.**

This *Draft 2009-2010 Work Plan* is a **DRAFT**. It 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. Once you collectively make a decision on the work plan, it will become your blueprint for the 2009-2010 interim. Staff will then develop detailed draft work plans and timetables for each major study. A draft 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.

The draft work plan includes studies that were requested by legislators through study resolutions, study bills, suggested topics offered by Council members, and statutory mandates. The study resolutions have been ranked by the legislators and will be assigned to interim committees by the Legislative Council. The Legislative Council is meeting on May 27, 2009, to assign studies to Interim Committees. Once staff has the Legislative Council committee assignments, we will revise the draft work plan and matrix for the EQC meeting on May 28 and 29. The EQC must then decide how to prioritize its interim work regarding how or whether it plans to pursue these assigned study requests. The EQC's statutory mandates are broad. (See *A Council Member's Guide to the Environmental Quality Council*.) Therefore, there are countless potential study topics that may be of interest to Council members. Those topics that will be suggested by members in response to the enclosed May 15, 2009 memorandum to the Council will be listed in the *Draft EQC Work Plan Decision Matrix* for the Council's consideration.

## **Instructions**

The *DRAFT EQC Work Plan Decision Matrix* is included as a separate document. Council members have found the matrix to be extremely useful in making decisions on the work plan. The decisions you will need to make are simply "What?" and "How Much?"

**Just follow these steps:**

1. Review the draft work plan.
2. Refer to the matrix. Review the topics and add any additional topics that are important to you.
3. For each category in the column on the far left, *choose* from the menu of options.
4. Circle the most appropriate option for that topic.
5. Fill in the resources allocated for that option in the far right column (# Full Time Employee resources (FTE) etc.).
6. Do this for each topic, then add the total. If it is more or less than **1.84 FTE**, reallocate.

Keep in mind that although we have listed "guesstimates" for *staff and Council resources*, each option involves a time commitment from *Council members*. In past interims, some EQC members indicated that they received too much information and that subcommittees were overused to the detriment of members that were not on the subcommittees. You may want to consider this when you make your decisions.

This exercise can be done individually in order to get an idea of your own preference. After Council discussion that should include answers to the question "Why", EQC members may generate proposals for the group to consider. At the end of the May EQC meeting, a plan of *what* the Council plans to work on during the interim and *how much* effort will be placed on each subject should be the result. Any direction on *how* you think the work can best be accomplished will assist staff in preparing detailed work plans on the selected topics. Last interim the whole Council gave a broad amount of time to be allocated to general topics and the chair and vice-chair provided staff with the more specific amounts of FTE to be allocated to each specific issue.

Once again, the *Draft 2009-20010 Work Plan* is a decisionmaking tool. **Everything in it is subject to approval by the Council.**

## Potential Work Plan Topics

### **Study Resolutions that *may* be assigned to the EQC by Legislative Council at its May 27 meeting include:**

#### **1) Biomass**

**Source/authority:** HJR 1      **Legislative Poll Ranking:** 2

**Background:** The EQC, in conducting its climate change study during the 2007-08 Interim, identified the expanded use of biomass feedstocks for energy use in Montana as a potentially important policy directive that deserves further evaluation and brought forward HJR 1. The resolution identifies specific issues, including funding alternatives for research and development, use of tax and loan incentives, use of pilot projects, documentation of emission impacts and mitigation, and the availability of the forest biomass resource.

The 2009 Legislature also approved legislation that may impact this study, including a \$475,000 appropriation in House Bill No. 645 to the Department of Commerce to conduct a "biomass energy study". The funding may be used to fund feasibility studies, installation of biomass energy boilers, or biomass program staff within the Department of Natural Resources and Conservation in order to increase biomass utilization. Biomass producers also may be eligible for loans through the Distressed Wood Products Industry Revolving Loan Program, the subject of House Bill No. 669.

OPTION A	OPTION B	OPTION C	OPTION D
<p><b>.15 FTE</b></p> <ul style="list-style-type: none"> <li>• All of Option B.</li> <li>• Provide extensive background/analysis of biomass use and incentives in MT.</li> <li>• Review existing biomass projects, use of specific forestry/agricultural residues, funding mechanisms, and emissions.</li> </ul> <p><b>Deliverables:</b></p> <ul style="list-style-type: none"> <li>• Interim report</li> <li>• Legislation (if any)</li> </ul>	<p><b>.05 FTE</b></p> <ul style="list-style-type: none"> <li>• All of Option C.</li> <li>• Review statutes, policies of other western states related to promoting biomass utilization.</li> </ul> <p><b>Deliverables:</b></p> <ul style="list-style-type: none"> <li>• White paper</li> <li>• Legislation (if any)</li> </ul>	<p><b>.03 FTE</b></p> <ul style="list-style-type: none"> <li>• Provide summary of existing biomass incentives and programs.</li> <li>• Panel discussion.</li> <li>• Require reports from Department of Commerce on Biomass Energy Study.</li> </ul> <p><b>Deliverables:</b></p> <ul style="list-style-type: none"> <li>• Brief summary</li> <li>• Legislation (if any)</li> </ul>	<p><b>No Action</b></p>



## 2) Fire Suppression Issues

**Source/authority:** HJR 30      **Legislative Poll Ranking:** 5

**Background:** Wildland fire seasons are universally predicted to increase in duration, severity, and costs. The Fire Suppression Committee, created by the September 2007 special legislative session convened to pay the state's 2007 fire costs, arrived at a number of conclusions and made dozens of recommendations for action, some of which took the form of legislation and others that were intended to be considered by the public; by local, state, and federal governmental agencies; and by private industry.

HJR 30 requests that the Legislature, through an interim entity, follow up on the Fire Suppression Committee's recommendations and monitor the implementation of bills and resolutions that were enacted, as well as monitor the portions of DNRC's budget that are impacted by wildland fire mitigation and suppression.

OPTION A	OPTION B	OPTION C	OPTION D
<p><b>.35 FTE</b></p> <ul style="list-style-type: none"> <li>• Provide extensive background information for members who are not familiar with the various jurisdictions, policies, suppression strategies, and funding mechanisms, including a comparison of the state and federal wildland fire suppression policies and an analysis of DNRC's fire suppression budget (similar to the information provided to the Fire Suppression Committee during its fall/winter 2007-08 meetings).</li> <li>• Ongoing analysis of how the fire suppression budget is expended.</li> <li>• Review the work of the Fire Suppression Committee and its predictions,</li> </ul>	<p><b>.20 FTE</b></p> <ul style="list-style-type: none"> <li>• HJR 30 to be included on agendas of EQC agency oversight or other subcommittee.</li> <li>• Review the work of the Fire Suppression Committee and its predictions, conclusions, and recommendations.</li> <li>• Provide summary and analysis of the legislation (bills and resolutions) that were enacted.</li> <li>• Provide summary and analysis of DNRC's wildland fire mitigation and suppression budget.</li> <li>• Provide ongoing monitoring of each of the Fire Suppression Committee's recommendations and, through the experiences of the 2009 and 2010</li> </ul>	<p><b>.10 FTE</b></p> <ul style="list-style-type: none"> <li>• No separate subcommittee; HJR 30 to be part of full EQC's agenda every meeting or every other meeting.</li> <li>• Provide summary and analysis of the legislation (bills and resolutions) that were enacted.</li> <li>• Provide summary and analysis of DNRC's wildland fire mitigation and suppression budget and follow expenditures.</li> <li>• Prioritize the Fire Suppression Committee's recommendations and monitor implementation of a certain number.</li> <li>• Determine whether additional funding or legislation is appropriate.</li> </ul>	<p><b>No Action</b></p>

OPTION A	OPTION B	OPTION C	OPTION D
<p>conclusions, and recommendations.</p> <ul style="list-style-type: none"> <li>• Provide summary and analysis of the legislation (bills and resolutions) that were enacted.</li> <li>• Provide summary and analysis of DNRC's wildland fire mitigation and suppression budget.</li> <li>• Provide ongoing monitoring of each of the Fire Suppression Committee's recommendations and, through the experiences of the 2009 and 2010 wildland fire seasons, determine whether those recommendations should be reinforced or amended.</li> <li>• Monitor implementation of the federal FLAME Act and use of ARRA money with regard to wildland fire mitigation and suppression.</li> <li>• As opportunities arise, committee members may wish to accompany DNRC fire staff on initial attack and visit fire camps.</li> <li>• Determine whether additional legislation or funding is appropriate.</li> </ul> <p><b>Deliverables:</b></p> <ul style="list-style-type: none"> <li>• Interim report</li> <li>• Legislation (if any)</li> </ul>	<p>wildland fire seasons, determine whether those recommendations should be reinforced or amended.</p> <ul style="list-style-type: none"> <li>• Monitor implementation of the federal FLAME Act and use of ARRA money with regard to wildland fire mitigation and suppression.</li> <li>• As opportunities arise, committee members may wish to accompany DNRC fire staff on initial attack and visit fire camps.</li> <li>• Determine whether additional legislation or funding is appropriate.</li> </ul> <p><b>Deliverables:</b></p> <ul style="list-style-type: none"> <li>• White paper</li> <li>• Legislation (if any)</li> </ul>	<p><b>Deliverables:</b></p> <ul style="list-style-type: none"> <li>• Brief summary</li> <li>• Legislation (if any)</li> </ul>	

### 3) Recycling and Solid Waste Recovery

**Source/authority:** SJR 28      **Legislative Poll Ranking:** 8

**Background:** Recycling in Montana largely falls under the "Montana Integrated Waste Management Act" in Title 75, chapter 10, part 8. The Department of Environmental Quality develops and implements the Montana Integrated Solid Waste Management Plan. The state's Solid Waste Plan Task Force reviews the plan and makes recommendations to update the plan every 5 years, with the next update required in 2010. The act requires the involvement of local officials, citizens, solid waste and recycling industries, environmental organizations, and others involved in the management of solid waste. The plan includes a discussion of policies, potential legislation, education, technical assistance, and other suggestions in the areas of source reduction, reuse, recycling, and market development. Solid waste reduction goals, which aim to reduce the amount of solid waste that is generated by households, businesses, and governments and that is either disposed of in landfills or burned in an incinerator, are also established in statute and include:

- (1) 17% of the state's solid waste by 2008; (met and exceeded)
- (2) 19% of the state's solid waste by 2011; and
- (3) 22% of the state's solid waste by 2015.

The EQC spent time during the 2007-08 interim examining the issue of recycling during its Climate Change study, focusing on tax incentives to encourage recycling and Montana's solid waste management fees. This study also could include a review of taxes and fees related to solid waste recovery in Montana.

OPTION A	OPTION B	OPTION C	OPTION D
<p><b>.2 FTE</b></p> <ul style="list-style-type: none"> <li>• All of Option B.</li> <li>• Characterization of recyclables and economics and possible funding sources for new initiatives.</li> </ul> <p><b>Deliverables:</b></p> <ul style="list-style-type: none"> <li>• Interim report</li> <li>• Legislation (if any)</li> </ul>	<p><b>.15 FTE</b></p> <ul style="list-style-type: none"> <li>• All of Option C.</li> <li>• Study statutes, policies of other western states related to recycling and e-waste.</li> <li>• Panel discussions</li> </ul> <p><b>Deliverables:</b></p> <ul style="list-style-type: none"> <li>• White paper</li> <li>• Legislation (if any)</li> </ul>	<p><b>.1 FTE</b></p> <ul style="list-style-type: none"> <li>• Analyze existing statutes, polices.</li> </ul> <p><b>Deliverables:</b></p> <ul style="list-style-type: none"> <li>• Brief summary</li> <li>• Legislation (if any)</li> </ul>	<p><b>No Action</b></p>

#### 4) Funding for a Recreation and Tourism Enhancement Program

**Source/authority:** HJR 15      **Legislative Poll Ranking:** 15

**Background:** HJR 15 requests that the Legislature, through an interim entity, study the feasibility of and possible funding sources for establishing a block management type program that would provide monetary incentives to private landowners who allow the public to access their land for recreational and tourism-related activities. (Currently, the block management program administered by the Department of Fish, Wildlife, and Parks pays landowners up to \$11 per user, per day for hunting access.) Issues raised in the discussion of HJR 15 included:

- recognition that recreational and tourism-related activities benefit all Montanans and the state economy;
- a respectful balance between public access and private property rights should be maintained;
- concern that public access to private land is in jeopardy because of other income generators available to landowners (i.e. private hunting leases); and
- using a block management type program to secure public access to private land for recreational and tourism-related activities may be more effective and less costly than the state purchasing property or easements.

OPTION A	OPTION B	OPTION C	OPTION D
<p><b>.05 FTE</b></p> <ul style="list-style-type: none"> <li>• All of Option B.</li> <li>• Analyze landowner and public interest in monetary incentives for recreation and tourism activities.</li> </ul> <p><b>Deliverables:</b></p> <ul style="list-style-type: none"> <li>• Interim report</li> <li>• Legislation (if any)</li> </ul>	<p><b>.04 FTE</b></p> <ul style="list-style-type: none"> <li>• All of Option C.</li> <li>• Panel discussions.</li> </ul> <p><b>Deliverables:</b></p> <ul style="list-style-type: none"> <li>• White paper</li> <li>• Legislation (if any)</li> </ul>	<p><b>.03 FTE</b></p> <ul style="list-style-type: none"> <li>• Study statutes, rules related to existing block management program.</li> <li>• Identify possible funding sources for a new program</li> </ul> <p><b>Deliverables:</b></p> <ul style="list-style-type: none"> <li>• Brief summary</li> <li>• Legislation (if any)</li> </ul>	<p><b>No Action</b></p>

# 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 .

**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**, requires the DEQ to provide a summary of the status of the development of temporary nutrient criteria to the EQC on or before July 1 of each year. (SB 95, 2009)
- **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.

Other timely water-related issues that could fall within EQC duties and oversight, but also could be of interest to the WPIC, include:

- DNRC and DEQ rulemaking related to water right permitting and mixing zones for septic systems.
- A ban, effective July 2010, of phosphorus-containing household cleaning products in certain counties for water quality reasons. (SB200)
- Senate Bill No. 8 allows the creation of regional resource authorities to provide for collaboration and coordination in the conservation of water resources or in the management of water resources for agricultural and recreational uses. Though not specifically mentioned, it is possible this could be used by Milk River water users.
- Two bills were introduced in the 2009 Legislature to allow the use of coal bed methane water through a temporary beneficial use permit.

OPTION A	OPTION B	OPTION C
<p><b>.5 FTE</b></p> <ul style="list-style-type: none"> <li>• All mandatory duties.</li> <li>• Participate in mandatory and water-related meetings.</li> <li>• Accept reports and select some for EQC review, analysis, and comment.</li> <li>• Selected water issues.</li> <li>• Public involvement through EQC meetings.</li> <li>• Review and discuss applicability of statutory responsibilities related to water policy issues.</li> <li>• Regular involvement and oversight on water adjudication program - DNRC and Water Court.</li> </ul> <p><b>Deliverables:</b></p> <ul style="list-style-type: none"> <li>• Update water rights and water quality handbook.</li> <li>• Brief report to Legislature.</li> <li>• Legislation (if any)</li> </ul>	<p><b>.2 FTE</b></p> <ul style="list-style-type: none"> <li>• All mandatory duties.</li> <li>• Selected water issues.</li> <li>• Public involvement through EQC meetings.</li> <li>• Review and discuss applicability of statutory responsibilities related to water policy issues.</li> <li>• Basic involvement and oversight on water adjudication program - DNRC and the Water Court.</li> </ul> <p><b>Deliverables:</b></p> <ul style="list-style-type: none"> <li>• Update water rights and water quality handbook.</li> <li>• Brief report to Legislature.</li> <li>• Legislation (if any)</li> </ul>	<p><b>.1 FTE</b></p> <ul style="list-style-type: none"> <li>• Mandatory duties only.</li> <li>• Detailed updates on WPIC activities.</li> <li>• Coordination discussion with WPIC at each EQC meeting.</li> </ul> <p><b>Deliverables:</b></p> <ul style="list-style-type: none"> <li>• Update water rights and water quality handbook.</li> <li>• Legislation (if any)</li> </ul>

## 2) EQC General Statutory Duties

**Source/authority:** Sections 2-15-1514; 2-15-1523; 75-1-201 and 75-1-208; 75-1-314; 75-10-111; 76-13-145; 77-2-366; 77-5-301; 82-2-701, MCA and 87-1-230.

**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.

The 2009 Legislature approved a number of bills increasing the EQC's statutory duties, and eliminated one duty. With the passage of Senate Bill No. 451, which repealed the Megalandfill Siting Act, the EQC is no longer required to participate in it its review. Reporting requirements based upon use of the Orphan Share account for reimbursement also have expired. 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**, states executive agencies are required to submit copies of environmental review documents prepared in accordance with the Montana Environmental Policy Act (MEPA) to the EQC. The EQC staff has created and maintains a database of MEPA documents. Effective in 2001, 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.

- **76-13-145**, requires the DNRC to report its progress in designating wildland-urban interface parcels to an appropriate interim committee assigned to study wildland fire suppression or to the EQC. (SB 131, 2009)
- **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. (HB 402, 2009, extended this requirement)
- **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. (SB 297, 2009)
- **87-1-230**, requires the DFWP to provide an annual report regarding deposits into and withdrawals from the Good Neighbor Policy state water and land maintenance account to the Oversight Subcommittee of the Environmental Quality Council. (SB 164, 2009)

OPTION A	OPTION B	OPTION C
<p><b>.75 - 1.0 FTE</b></p> <ul style="list-style-type: none"> <li>• Fulfill all statutory requirements.</li> <li>• Participate in all mandatory meetings and other environmental policy meetings (e.g. Board of Environmental Review, FWP Commission, etc.)</li> <li>• Rewrite and reprint <i>Our Montana Environment</i> or similar effort.</li> <li>• Establish MEPA training for state employees and others.</li> <li>• Notify/solicit permit applicants to present MEPA concerns to EQC.</li> <li>• Review and comment on certain agency MEPA documents for compliance and consistency.</li> <li>• Review and comment as a Council on environmental reviews for selected projects.</li> </ul>	<p><b>.3 FTE - .5 FTE</b></p> <ul style="list-style-type: none"> <li>• Fulfill selected statutory duties in greater detail.</li> <li>• Accept reports and select some for EQC review, analysis, and comment.</li> <li>• Select specific topics for further analysis or presentation.</li> <li>• Request trend information for each topic reviewed by EQC.</li> <li>• Rewrite selected segments of EQC trends publication, <i>Our Montana Environment</i>, and post on EQC website.</li> <li>• Provide MEPA training to state agencies on as requested basis.</li> <li>• Provide updated web access to MEPA database.</li> <li>• Review selected controversial MEPA documents/projects.</li> <li>• Track MEPA litigation during interim.</li> </ul>	<p><b>.05 FTE</b></p> <ul style="list-style-type: none"> <li>• Minimum of activity.</li> <li>• Solicit and accept agency reports as required.</li> <li>• Fulfill statutory requirements at minimal level of effort.</li> <li>• Select oversight topics and issues for presentation and review at EQC meetings on an ad hoc basis.</li> <li>• Maintain MEPA database.</li> <li>• Participate in meetings as necessary.</li> <li>• Identify and describe trends in EQC interim study work.</li> <li>• Update MEPA handbook as needed.</li> <li>• Provide MEPA handbooks to agencies and others as requested.</li> </ul>



### 3) EQC General Agency Oversight Statutory Duties

**Source/authority:** 2-4-402- 412, 5-5-202, 5-5-211, 5-5-215, 5-16-101 through 5-16-105, 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.

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. There are also a number of statutorily required agency reports that are scheduled for presentations before the Council. 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.

- **2-4-402 through 2-4-412, MCA** - This section set out the administrative rule oversight powers and duties of the EQC.
- **5-5-202, 5-5-211 and 5-5-215, MCA**, discusses the organization and duties of interim committees. Title 5, chapter 5, part 2 requires the EQC and the Water Policy Interim Committee to coordinate on water issues. (SB 22, 2009)
- **5-16-101 through 5-16-105, MCA**, discusses the composition and terms of the EQC.

- **75-1-324, MCA** - This section of law 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.

OPTION A	OPTION B	OPTION C
<p><b>.30 - .40 FTE</b>  <b>Active EQC Involvement</b></p> <ul style="list-style-type: none"> <li>• Option B intensified!</li> <li>• Consistent EQC involvement encompassing a broad range of oversight issues.</li> <li>• In depth systematic review of a larger number of state agency programs than in Option B.</li> <li>• Possible report and recommendations/legislation for changes in implementation of state policy.</li> <li>• Active EQC review of rules and legislation.</li> </ul>	<p><b>.15 FTE</b></p> <ul style="list-style-type: none"> <li>• Systematic oversight.</li> <li>• In addition to Option C, systematically evaluate and monitor a specific number of state agency programs.</li> <li>• More intensive review of administrative rules than Option C (Council Attorney provides synopses of significant and controversial proposed rules).</li> <li>• Review draft agency legislation.</li> <li>• Receive and comment on the compliance and enforcement report required pursuant to 75-1-314, MCA.</li> <li>• Systematic oversight for targeted programs.</li> <li>• Active EQC review of rules and legislation.</li> <li>• Legislation (if any).</li> </ul>	<p><b>.05 FTE</b></p> <ul style="list-style-type: none"> <li>• Organize oversight issues before the EQC on an as requested basis.</li> <li>• Council members receive copies of rule notices of proposed adoption of rules. Council members responsible for notifying staff or the Council Chair if they want more information.</li> <li>• Review draft agency legislation.</li> <li>• Receive and comment on the compliance and enforcement report required pursuant to 75-1-314, MCA.</li> <li>• Oversight on an as needed basis.</li> <li>• Legislation (if any).</li> </ul>

#### 4) Carryover EQC Issue: Petroleum Tank Release Fund solvency

**Source/authority:** 2007-2008 Interim EQC Discussions

**Background:** During the 2007-2008 Interim, the EQC and the Legislative Finance Committee formed a joint subcommittee to consider issues surrounding the solvency of the Petroleum Tank Release Fund, which posted a \$2.4 million shortfall in FY 2007. 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 joint subcommittee did not make any legislative recommendations, nor did the EQC, but the Petroleum Tank Release Compensation Board, which oversees the Fund, did propose a legislative remedy. That legislation, SB 97, was passed by the 2009 Legislature and takes an incremental step toward making the Fund solvent. SB 97 establishes incentives for the use of private insurance to help pay costs related to tank releases, prohibits "double dipping" between an insurance policy and the compensation fund, offers monetary incentives to those reporting a release by October 2009, and expands circumstances under which a fuel tax (the Fund's main source of revenue) may be collected.

It is up to the 2009-10 EQC to determine whether it would like to monitor the impact that SB 97 has on the Fund's solvency during the biennium.

OPTION A	OPTION B	OPTION C	OPTION D
		<p><b>. 02 FTE</b></p> <ul style="list-style-type: none"> <li>• Monitor implementation of SB 97 and financial outcomes.</li> </ul> <p><b>Deliverables:</b></p> <ul style="list-style-type: none"> <li>• Quarterly summary report</li> </ul>	<p><b>No Action</b></p>

## 5) 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 2008, Eighteenth Edition*  
Explanation: This is the EQC's oldest and perhaps most requested publication. It provides a complete list of 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 has been regularly updated since its initial printing in 1976.

- ☆ *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 Regulation (produced in 1996 and updated in 2002 and 2008)*  
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 and 2008)*  
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, and 2009)*  
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 2008)*  
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)*  
Explanation: This brochure was produced in 2008 as part of a study of conservation easements on state land. It provides basic information about conservation easements.

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. In addition, EQC staff is proposing the development of a new publication in the form of a brochure that would largely provide a graphic depiction of the permitting process and timelines for different types of development in Montana.

- ☆ *A Permitting Primer: (proposed for 2009-2010 interim)*  
Explanation: EQC staff is often approached by people requesting a quick overview of the permitting process for different types of projects ranging from power plants to gravel pits. This brochure would include a series of flowcharts and summaries outlining the responsibilities of the applicant, the regulatory agencies, and the public within various permit processes. The charts could assist people in planning for the permitting process.

OPTION A	OPTION B	OPTION C
<p><b>.20 FTE</b></p> <ul style="list-style-type: none"> <li>Options B and C</li> <li>Develop a brochure that outlines the environmental permitting process and time lines for various types of development.</li> </ul>	<p><b>.12 FTE</b></p> <ul style="list-style-type: none"> <li>In addition to Option C, update the Permit Index.</li> </ul>	<p><b>.04 FTE</b></p> <ul style="list-style-type: none"> <li>Update publications that require minimal effort.</li> <li>Have the EQC review and approve updates</li> </ul>

**EQC Member Suggested Topics**

**Source/Authority:** Section 75-1-324, MCA - General Oversight Authority

**Background:** EQC staff included a memo to each Council member soliciting topics of interest that might be reviewed by the EQC this interim. The responses were compiled shortly after the **May 22** deadline. The responses have been listed in an updated Draft EQC Work Plan Decision Matrix as "member defined issues" in the "Why is this a topic?" column. The EQC member that requested the topic is responsible for explaining the issue to the Council. A review of the matrix should indicate the nature of the request and provide a draft of tasks and a rough estimate of possible resource allocations for each topic. The Council will decide on whether to approve any or all of these items.

**1) Study Climate Change -- Energy Supply Focus**

This proposal would look at the Montana Climate Change Action Plan (Nov. 2007), with a focus on potential legislative proposals related to distributed generation and increasing the efficiency of the energy production and distribution systems. The Montana Climate Change Action Plan describes benefits, costs and barriers connected to increasing efficiency and conservation measures and with developing renewable energy. During the 2007-2008 interim, the EQC dedicated .4 FTE to reviewing the recommendations included in the "Montana Climate Change Action Plan: Final Report of the Governor's Climate Change Advisory Committee." The Council did not specifically look at the energy supply recommendations. This study would focus on:

- ES-1 Environmental Portfolio Standard (Renewables and Energy Efficiency).
- ES-2 Renewable Energy Incentives (Biomass, Wind, Solar, Geothermal).
- ES-3 Research and Development for Energy Storage and Advanced Fossil Fuel Technologies.
- ES-4 Incentives and Barrier Removal (including interconnection rules and net metering arrangements) for combined heat and power and clean distributed energy.
- ES-6 Efficiency improvements and repower of existing plants.
- ES-7 Demand-side management.

OPTION A	OPTION B	OPTION C	OPTION D
<p><b>.12 FTE</b></p> <ul style="list-style-type: none"> <li>Review statutes, regulations, publications related to distributed energy generation, renewable energy, and greater efficiency in existing energy systems.</li> <li>Examine national efforts to address distributed energy and renewable generation.</li> <li>Review proposals in the West related to renewables, efficiency and distributed energy.</li> <li>Panel discussions.</li> <li></li> </ul> <p><b>Deliverables:</b></p> <ul style="list-style-type: none"> <li>Interim report</li> <li>Legislation</li> </ul>	<p><b>.05 FTE</b></p> <ul style="list-style-type: none"> <li>Review MCCAC recommendations related to Energy Supply and supporting documentation with a focus on potential legislation to implement recommendations.</li> <li>Panel discussions.</li> </ul> <p><b>Deliverables:</b></p> <ul style="list-style-type: none"> <li>White paper.</li> <li>Legislation</li> </ul>	<p><b>.02 FTE</b></p> <ul style="list-style-type: none"> <li>Provide overview of the current implementation of MCCAC recommendations focused on Energy Supply.</li> <li>Panel discussion.</li> </ul> <p><b>Deliverables:</b></p> <ul style="list-style-type: none"> <li>Legislation</li> </ul>	<p><b>No Action</b></p>

## 2) Update on Environmental Public Health Tracking Project

In 2002, Montana was one of a handful of governments winning federal funds for an environmental public health tracking program to integrate information on chronic disease with data monitoring environmental parameters. DEQ and DPHHS administered the grant, which has now expired. The departments would give the EQC an update on what was accomplished and future prospects for the program, similar to the update provided during the 2007-08 interim.

OPTION A	OPTION B	OPTION C	OPTION D
		<p><b>0 FTE</b></p> <ul style="list-style-type: none"> <li>Update on project.</li> <li>Panel discussions w/ DEQ, DPHHS.</li> </ul>	<p>No Action</p>

## Draft 2009-2010 Work Plan Timeline

[Note: This draft timeline is provided to give you an idea of the timeline that each study will need to fit into in order to complete the work on time. It is subject to final approval of the EQC meeting dates. The timeline shows the last date for completion of certain items.]

May 28-29, 2009	<b>EQC Meeting.</b> Interim work plan prioritization and EQC organizational meeting. Selection of studies and topics.
September 10-11, 2009	<b>EQC Meeting.</b> Adoption of detailed work plans for each selected study or topic.
January 7-8, 2010	<b>EQC Meeting.</b>
March 4-5, 2010	<b>EQC Meeting.</b> 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.]
May 6-7, 2010	<b>EQC Meeting.</b> 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 22-23, 2010 meeting.
July 22-23, 2008	<b>EQC Meeting.</b> Decision on recommendations, any proposed legislation, final report contents.
September 13-14, 2008	<b>EQC Meeting.</b> Final approval of recommendations, reports, proposed legislation. Select bill sponsors. Develop strategy. Review agency bill draft requests.

**Council interim work must be completed prior to September 15, 2010.**





# **Study Resolutions that *may* be assigned to the EQC by Legislative Council**

**HJ 1: Study of Biomass Feedstocks for Energy Use**

**HJ 30: Study of Fire Suppression Issues**

**SJ 28: Study of Recycling and Solid Waste Recovery**

**HJ 15: Study of Funding for a Recreation and Tourism Enhancement Program**