DEQ Regulatory Reform
State Superfund

Mission: To champion a healthy environment for a thriving Montana.
AGENDA

1) Introductions
1) Background
2) Approach & Priorities
3) Third-party Work
4) Other Solutions
5) Next Steps
Team Members

✓ Laura Alvey
✓ Sarah Christopherson
✓ Dan Norris
✓ Bob Roll
✓ Jessica Smith
BACKGROUND

• Executive Order No. 1-2021
• Red Tape Relief Advisory Council
• Excessive/outdated/unnecessary
• Focus on farmers, ranchers, and small business owners
DEQ Schedule

- 8/1/21 Inventory Completed
- 12/31/21 Teams Complete Reviews/Management Confirms Candidates
- Jan-Feb 2022 Stakeholder Meetings
OUTCOME

Inventory Identified:

- Title 75 = 100 statutes with 668 parts
- Title 17 = 2,071 rule titles
DEQ Activity

✓ 597 Direct statutes and rules reviewed
✓ 335 Candidates to date
✓ Candidates under Governor’s review = 8 statute actions, 20 rule actions, 2 circulars
### Rule Chapter: 17.55

#### Title:
- A few main points.

#### Subtitle:
- SSU Rules

- 11 active rules

**ARM 15.55.101 through 17.55.115**
Montana Code Annotated 2021

TITLE 75. ENVIRONMENTAL PROTECTION
CHAPTER 10. WASTE AND LITTER CONTROL

Part 7. Remedial Action Upon Release of Hazardous Substance

75-10-701 Definitions
75-10-702 Rulemaking authority
75-10-703 Actions — general provisions
75-10-704 Environmental quality protection fund
75-10-706 Short title
75-10-708 Purpose — intent
75-10-709 Information gathering and access
75-10-710 through 75-10-710 reserved
75-10-711 Remedial action — orders — penalties — judicial proceedings
75-10-712 Emergency action
75-10-713 Public notice of remedial action, administrative order, or consent decree — comments — meeting — response
75-10-714 Administrative penalties
75-10-715 Liability — reimbursement and penalties — proceedings — defenses and exclusions
75-10-716 Definitions
75-10-717 Recovery of costs
75-10-718 Liability of remedial action contractor
75-10-719 Settlement — bar to contribution liability
75-10-720 Condemnation — creation of state lien
75-10-721 Degree of cleanup required — permit exemption — financial assurance
75-10-722 Payment of state costs and penalties
75-10-723 Agreements and administrative orders on consent to perform remedial action
75-10-724 Private right of action
75-10-725 Immunity of fire agency and employees for hazardous or deleterious substance cleanup
75-10-726 Citizens suit
75-10-727 Institutional controls
75-10-728 Remedial action costs
75-10-729 Restoration damages
75-10-730 Short title
75-10-731 Purpose — legislative declaration
75-10-732 Eligibility
75-10-733 Voluntary cleanup plan and reimbursement of remedial action costs
75-10-734 Voluntary cleanup plans — requirements
75-10-735 Public participation
75-10-736 Approval of voluntary cleanup plan — time limits — content of notice — expiration of approval
75-10-737 Voluntary action to preclude remedial action by department
75-10-738 Closure
75-10-739 through 75-10-741 reserved
75-10-742 Short title
75-10-743 Orphan share state special revenue account — reimbursement of claims — payment of department costs
75-10-744 Eligibility — statute of limitations
75-10-745 Allocation of liability — process initiation
75-10-746 Emergency actions — remedial action requirements — designation of lead person — enforcement
75-10-747 Discovery
75-10-748 Privatization negotiations
75-10-749 Allocation selection — payment of fees
75-10-750 Allocating liability
75-10-751 Appeal of allocator’s decision
75-10-752 Repealed
75-10-753 through 75-10-755 reserved
75-10-756 Prohibition of covenant not to sue — exceptions
75-10-757 Civil penalty
Review

DEQ regulatory reform

- Excessive
- Outdated
- Unnecessary
- Feedback from stakeholders
High priority items

Controlled Allocation of Liability Act
Third-party Work
ARM 17.55.110
Third-party work plans

Background  Evaluation  Reform proposal
Background

• Promoted by lobbyists, so companies could obtain investigation results.
• Only on order sites
• DEQ oversight costs are billed to PLPs.
Evaluation

Stakeholders

- PLPs
- Third-party entity
- Local governments
- Property owners
- DEQ
Evaluation

Issues

- Only on order sites
- Within Facility boundaries
- Work plan is excessive
Reform
Possible Solutions

1. Repeal
2. All CECRA sites
3. Checklist
4. Work Plan template
5. Integrated system
Reform Proposal

Repeal the rule and its associated portion of the statute.
Other Solutions

Based on Stakeholder identified problems or concerns
CECRA/VCRA

- Continuity and knowledge transfer for VCRA project officers and associated costs.
  - TREADS database
  - Site Checklists
  - EQuIS
  - File Memos
CECRA/VCRA/CALA

- Transparency in reporting site progress and schedules for remediation sites
  - Annual report to EQC
  - Online GIS system
  - Site Updates – with schedules
  - VCRA Submittal Updates
CALA

- Identify/report CALA orphan share reimbursement obligations, shortfalls/backlog and ensure obligations met
  - Annual report to EQC
  - Review of reimbursement claim
  - Payment of allowed costs
Risk Assessment

- DEQ risk assessment approach is conservative and sometimes an impediment
  - Balanced approach
  - General use of EPA guidance
  - Big picture considerations
  - Improving guidance
CECRA/VCRA/CALA

- VCRA footprint versus facility
- Need utility exemption for maintenance of infrastructure within CECRA sites
NEXT STEPS

Continue Stakeholder Involvement
Executive Planning Process
2023 Legislative Session & Rulemaking
Opportunity for Feedback
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