

ENVIRONMENTAL QUALITY COUNCIL DRAFT RULES AND PROCEDURES 2009-2010

I. QUORUMS/PARLIAMENTARY PROCEDURES

A. Regular meetings of the Montana Environmental Quality Council (Council) must be held in the State Capitol unless otherwise designated by the Presiding Officer.

B. Notice of regular meetings must be mailed to the members and the public a minimum of ten (10) days prior to each meeting.

C. Public notice is accomplished by releasing information about the time, location, and agenda of meetings to the Council mailing list. The Council shall direct the staff to maintain an updated mailing list that is open to anyone who requests to be included.

D. Special meetings may be scheduled by a majority of members at a previous meeting or may be called by the Presiding Officer, with at least 24-hour notice to the members. Special meetings must not include agenda items that would normally require a public hearing and comment.

E. (1) except as provided in subsection (2) and rule 1d, notice must be provided to the public as provided in rule 1b for a conference call meeting of the Council or a Council subcommittee that includes agenda items that involve a decision on a document or recommendation or any other item that normally involves public comment.

(2) conference calls between staff and a quorum of Council members acting as a committee or subcommittee that are solely for the purpose of clarifying staff work assignments may be noticed by posting a description of the time, place, and general subject matter of the call on the Legislative Branch website at least 24 hours prior to the conference call.

F. All meetings of the Council must be conducted under the established rules of the Senate of the State of Montana as to quorums and parliamentary procedure.

II. PUBLIC PARTICIPATION GUIDELINES AND REQUIREMENTS

A. The EQC's role is to review and assess the development and implementation of state natural resource policy. Public comment should be designed to assist the EQC in its policy role.

B. The EQC is committed to providing an opportunity for effective public involvement in natural resource policy development and review.

C. Public comment will be taken at the discretion of the EQC Presiding Officer.

D. Due to the necessity of time management, the EQC Presiding Officer may limit individual public comment in order to allow an equal and fair opportunity for public comment generally as well as for other agenda items.

E. Submission of written comments is encouraged.

F. Common courtesy is required of all parties.

G. The EQC Presiding Officer has the discretion to recess EQC meetings when deemed appropriate.

H. Recording or videotaping of EQC meetings is permissible in a manner that does not disrupt the meeting.

I. The Council shall provide time on each full EQC meeting agenda for the public to comment on any matter not contained in the current meeting agenda and that is within the jurisdiction of the EQC.

III. **ELECTION OF OFFICERS**

A. Nominations for Presiding Officer and any other officers must be made from the floor after appointments of new members have been made. If a Presiding Officer and Vice Presiding Officer or Copresiding Officers are elected, they must not be from the same political party.

B. In order to be elected, a candidate shall obtain a majority of votes of all the members.

C. Members shall vote for the Presiding Officer and Vice Presiding Officer or Copresiding Officers by voice vote or a roll call vote.

IV. **PROXY VOTES**

A. Proxies are generally discouraged, especially where a question has not received a prior hearing or where new debate occurs the day of the vote.

B. For the exercise of a proxy to be valid, the deputized member shall hold a written proxy from the absent member that specifies the question to which the proxy applies. Where a written proxy refers generally to a question but does not precisely

address the question called to a vote, the Presiding Officer shall determine whether the proxy will be allowed.

V. **APPOINTMENTS**

The Presiding Officer may appoint subcommittee Presiding Officers, members of subcommittees, and as necessary, members of special committees.

VI. **SUBCOMMITTEES**

A. The Presiding Officer may establish temporary or standing subcommittees to make investigations or perform other functions as may be delegated by the Council.

B. Subcommittee Presiding Officers and Vice Presiding Officers, if appointed, shall work closely with the Council staff in determining research priorities within the topic areas assigned to the subcommittees. Significant conflicts between Council research and subcommittee research responsibilities may be referred to the Presiding Officer for resolution.

C. Subcommittee Presiding Officers shall make periodic reports and recommendations to the Council.

D. Council approval of subcommittee findings and recommendations is required before actions may be taken to implement the recommendations.

VII. **STAFF RESEARCH**

A. The Legislative Environmental Analyst is responsible for managing the staff's workload.

B. Council staff is responsible for assisting individual Council members and members of the Legislature on request by compiling and analyzing material relating to the Council's statutory responsibilities as set forth in 2-4-402 through 412; 2-15-1514; 2-15-1523; 5-5-202; 5-5-211; 5-5-215; 5-16-101 through 105; 75-1-201 and 75-1-208; 75-1-314 and 75-1-324; Title 75, chapter 5, part 3; 75-10-111; Title 76, chapter 13, part 1; 77-2-366; 77-5-301; 82-2-701; 85-1-203; 85-1-621; 85-2-105; 85-2-281; 85-2-350; 85-2-436, MCA and Title 87, chapter 1, part 2.

C. By the second regular meeting following appointment of new members, the Council shall establish a work plan for the biennium.

D. Priority must be given to research relating to the Council's primary study topics each biennium as identified in the approved Council work plan.

E. Each request for information not included in the work plan shall be addressed in accordance with Chapter 19, Section V of the Legislative Branch administrative manual. Generally, each request may not exceed 16 hours of work without consulting the Presiding Officer and Vice Presiding Officer of the Legislative Council. Requests that will exceed 40 hours of work require the approval of the Legislative Council. However, this limitation does not apply to bill drafting services during and immediately preceding a legislative session.

VIII. **REVIEW COMMITTEE**

The Presiding Officer shall review or appoint a review committee for Council publications prior to distribution.

IX. **STATUTORY DUTIES**

Under MEPA

75-1-201 calls for state agencies to assist the EQC and to provide copies of all environmental reviews to the EQC for review. (Agency MEPA administrative rules also require agencies to submit environmental review documents to the EQC.)

75-1-208 allows the sponsor of a project under MEPA review to appear before the EQC at a regularly scheduled meeting. The EQC is required to ensure that state agency personnel are available for questions.

75-1-314 requires the DEQ, DNRC and Department of Agriculture to report specific compliance and enforcement information to the EQC.

75-1-324 outlines the specific duties of EQC members.

Other

2-4-402 through 2-4-412 set out the administrative rule oversight powers and duties of the EQC.

2-15-1514 requires participation of a Legislative Services Division staff person on the natural resource data system advisory committee.

2-15-1523 states that a representative of the Legislative Services Division may serve on the ground water assessment steering committee.

5-5-202, 5-5-211 and 5-5-215 discuss 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.

5-16-101 through 5-16-105 discuss the composition and terms of the EQC.

Title 75, chapter 5, part 3 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.

75-10-111 requires the DEQ to circulate solid waste management and resource recovery plans to the EQC for its review.

Title 76, chapter 13, part 1 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.

77-2-366 requires that the DNRC submit a detailed report of the land banking program to the EQC by July 1 of even-numbered years.

77-5-301, et seq. The legislative statement of intent requires the DNRC, along with the technical committee charged with advising the department on implementation of the streamside management zone laws, to evaluate and report on the implementation of the act to the EQC.

82-2-701 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.

85-1-203 requires the DNRC to submit a copy of the State Water Plan or any plan changes to the EQC.

85-1-621 requires the DNRC to submit a biennial report to the EQC describing the status of the renewable resource grant and loan program.

85-2-105 establishes the EQC's water policy duties. Requires the EQC to analyze and comment on the state water plan, the state water development process, water-related research, and the adequacy of the water resources data management system.

85-2-281 requires the Water Court and the DNRC to report to the EQC on the progress of the adjudication process until 2020.

85-2-350 requires the Clark Fork River Basin Task Force to report annually to the EQC.

85-2-436 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.

Title 87, chapter 1, part 2 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.

X. TRAVEL AND EXPENSE REIMBURSEMENT

A. The Presiding Officer is responsible for approving travel expenses for other than Council meetings attended by Council members and the Legislative Environmental Analyst and staff that will result in requests for reimbursement from the Council's budget.

B. Council members shall be reimbursed for food, lodging, mileage, and miscellaneous expenses incurred in traveling to and from Council meetings as provided by law.

C. Council members shall be compensated for the day(s) spent in Council meetings. Compensation for time spent traveling to and from meetings shall be paid as provided by law.

XI. **REQUESTS FOR MATERIAL**

A. Right to Know Policy:

(1) Records relating to individual privacy are protected from public scrutiny by the Constitution.

(2) All other records are subject to the right-to-know provisions of the Constitution.

(3) It is necessary for the staff to protect records from theft, loss, defacement, or alteration to prevent undue interference with the discharge of Council functions.

B. The following procedures apply to records that are available for public inspection and copying:

(1) The Council will make its records available for inspection and copying upon request by any person during regular office hours.

(2) The request may be oral or in writing to the Legislative Environmental Analyst and must reasonably identify the record wanted.

(3) The records may be inspected in Room 171, State Capitol, Helena.

(4) Copies will be made and distributed upon request up to 25 pages. For a greater number of pages, prepayment of costs per page will be required. Requests for copying that involve excessive staff time may be referred to the Presiding Officer. The person making a request may be required to copy the records in the Council's office.

C. The following records are not available for public inspection and copying:

(1) Personnel records, except general employment information, such as dates and duration of employment, title of position and salary.

(2) Prior to bid opening, information that would give advantage to any person bidding on publications produced by the Council.

(3) Material prepared in anticipation of litigation that would not be available to a party in litigation with the Council under the Montana Rules of Civil Procedure on pretrial discovery.

(4) Prior to any testing period, materials used to test job applicants if disclosure would compromise the fairness or objectivity of the testing process.

(5) Proprietary information, including computer programs, which is entrusted to the Council under exclusive contract.

(6) Any other information that the Legislative Environmental Analyst determines to be not available because the demands of individual privacy clearly exceed the merits of public disclosure.

XII. **TELEPHONES**

Legislative Branch telephones are for the use of Legislative members and staff conducting Legislative Branch business.