



# Montana Legislative Services Division

## Legal Services Office

PO BOX 201706  
Helena, MT 59620-1706  
(406) 444-3064  
FAX (406) 444-3036

TO: Environmental Quality Council Staff  
FROM: Helen Thigpen, Staff Attorney  
DATE: September 12, 2011  
RE: Legislative Rule Objection Summary

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- To object, a **majority** of the EQC members must notify the chair that they object to a proposed administrative rule, usually through a motion made during an EQC meeting.
- The EQC must notify the agency in writing that the committee has objected to the proposed rule and that it will address the objection at the next committee meeting. See section 2-4-305(9), MCA.
- After the EQC has notified the agency of the objection in writing, the proposed rule may not be adopted until publication of the last issue of the Montana Administrative Register that is published before expiration of the 6-month period during which the adoption notice must be published. However, the EQC may withdraw its objection and allow the adoption notice to be published. See section 2-4-305, MCA.
- The EQC may delay the rules until after the next legislative session if, after notifying the agency pursuant to 2-4-305(9), MCA, the EQC meets again and under section 2-4-406(1), MCA, objects to all or some portion of the proposed rule before the proposed rule is adopted. Section 2-4-406(1), MCA, provides that objections must be based on a determination that the proposed rule or some portion of the proposed rule was not proposed in substantial compliance with sections 2-4-302, 2-4-303, or 2-4-305, MCA.
- Upon objection, the EQC must send a written objection to the agency that promulgated the rule. The objection must contain a concise statement of the committee's reasons for the objection. See section 2-4-406(1), MCA.
- Within 14 days of the mailing of the EQC's objection, the agency that promulgated the rule must respond in writing to the EQC. See section 2-4-406(2), MCA.
- The rule may be adopted if, following notice of the EQC's objection, the EQC withdraws its objection under section 2-4-406, MCA, before the proposed rule is adopted or the rule objected to is adopted with changes that address the EQC's concerns. See sections 2-4-306(4)(c) and 2-4-406(2), MCA.
- If the EQC does not withdraw or substantially modify its objection to the proposed rule, it may vote to send the objection to the Secretary of State, who shall, upon receipt of the objection, publish the objection in the register adjacent to any notice of adoption of the rule and in the ARM adjacent to the rule. The agency's response must also be published if requested by the agency. Costs of publishing the objection and the agency's response must be paid by the EQC. See section 2-4-406(3), MCA.

ENVIRONMENTAL QUALITY  
COUNCIL. 2015-16

September 10, 2015

Exhibit 8

- If an objection is published, the agency bears the burden, in any action challenging the legality of the rule or portion of a rule objected to by the EQC, of proving that the rule or portion of the rule objected to was adopted in substantial compliance with 2-4-302, 2-4-303, and 2-4-305, MCA. See section 2-4-406(4), MCA.