

Independent Review Panel (IRP) Authority, Composition, and Meeting Procedures

March 9, 2016

These procedures are intended as guidelines for IRP members and support staff to enhance consistency, efficiency and teamwork. These procedures are not law, regulation or policy. They recite but do not supplant any existing rules or procedures. These procedures are expected to evolve as the Department of Toxic Substances Control's IRP gains experience.

A. INDEPENDENT REVIEW PANEL AUTHORITY

Senate Bill 83 of 2015, which added Section 57014 to the Health & Safety Code, establishes an IRP within the Department of Toxic Substances Control (DTSC).

Section 57014(a) establishes within DTSC an IRP comprised of three members to review and make recommendations regarding improvements to DTSC's permitting, enforcement, public outreach, and fiscal management.

Section 57014(b) requires the speaker of the Assembly, the Senate Committee on Rules, and the governor to each appoint one person to the IRP. The IRP member appointed by the speaker must have scientific experience related to toxic materials. The IRP member appointed by the Senate Committee on Rules must be a community representative. The IRP member appointed by the governor must be a local government management expert.

Section 57014(c) authorizes the IRP to advise DTSC on issues related to DTSC's reporting obligations.

Section 57014(d) requires the IRP to make recommendations for improving DTSC's programs.

Section 57014(e) requires the IRP to advise DTSC on compliance with Section 57007 of the Health & Safety Code. Section 57007 requires CalEPA and the offices, boards, and departments within the agency to institute quality government programs to achieve increased levels of environmental protection and the public's satisfaction through improving the quality, efficiency, and cost-effectiveness of the state programs that implement and enforce state and federal environmental protection statutes. Section 57007(d) defines a "quality government program" as all of the following: (1) a process for obtaining the views of employees, the regulated community, the public, environmental organizations, and government officials with regard to the performance, vision, and needs of the agency implementing the quality government program; (2) a process for developing measurable performance objectiveness using the views of the parsons and organizations specified in paragraph (1); and (3) processes for continually improving quality and for training personnel, using the information obtained from implementing paragraphs (1) and (2).

Section 57014(f) requires the IRP to report to the governor and the Legislature, consistent with Section 9795 of the Government Code, 90 days after the IRP is initially appointed and every 90 days thereafter, on DTSC's progress in reducing permitting and enforcement backlogs, improving public outreach, and improving fiscal management. Section 9795 of the Government Code pertains to the submission requirements of reports required or requested by law to be submitted by a state or local agency to the members of the Legislature, requires the Legislative Counsel to make available a list of the submitted reports, and addresses how the reports must be made available to the public. The IRP submitted its first report on January 28, 2016. Subsequent reports are due April 27, July 26, and October 24 in 2016. During the following year, reports are due on January 22, April 21, July 20, and October 18.

Section 57014(g) requires DTSC to provide two support staff to the IRP independent of DTSC. It also states that each panel member shall receive per diem and be reimbursed for travel and other necessary expenses. And, it specifies that the total amount of money expended for panel expenses pursuant to Section 57014(g) may not exceed \$50,000 per year.

Section 57014(h) requires the IRP to submit to the Legislature and the governor its recommendations at the time of the submission of the governor's 2016-17 annual budget to the Legislature. The first report was submitted on January 8, 2016.

Section 57014(i) states that authorization for the IRP and its tasks shall remain in effect only until January 1, 2018 unless a later enacted statute that is enacted before January 1, 2018 deletes or extends that date.

B. IRP COMPOSITION AND LOCATION

Membership

The IRP has three authorized members: an appointee of the Assembly speaker with scientific experience related to toxic materials, an appointee of the Senate Committee on Rules who is a community representative, and an appointee of the governor who is a local government management expert. The current IRP members are: Dr. Arezoo Campbell (scientist with experience related to toxic materials), Gideon Kracov, JD (community representative), and Mike Vizzier (local government management expert).

Chairperson and Vice Chairperson

IRP members elect the chair and vice chair. Mr. Kracov was elected chair. Mr. Vizzier was elected vice chair.

Committees

There are no IRP committees or subcommittees.

Staff

The IRP has two support staff: an associate governmental program analyst (APGA) and an office

technician (OT). They are provided by DTSC, but are independent of DTSC. The APGA is Larry Rohlfes. The OT is Erik Erreca.

Official Address

The official address and other contact information for the panel are:

Independent Review Panel
1001 I Street, Floor 22
Sacramento, CA 95814-2828
Phone: (916) 324-1819
<https://www.dtsc.ca.gov/GetInvolved/ReviewPanel/Independent-Review-Panel.cfm>

Individual panelist contact information:

Chair Gideon Kracov, JD
Gideon.Kracov@dtsc.ca.gov

Vice Chair Mike Vizzier
Mike.Vizzier@dtsc.ca.gov

Panel Member Arezoo Campbell, Ph.D.
Campbell.Arezoo@dtsc.ca.gov

Support staff contact information:

Larry Rohlfes
Larry.Rohlfes@dtsc.ca.gov
(916) 327-4493

Erik Erreca
Erik.Erreca@dtsc.ca.gov
(916) 324-1819

Communications intended for all IRP members, meeting presentations, or website posting should be sent to support staff.

C. PANEL MEETINGS

Bagley-Keene Open Meeting Act

The IRP must comply with the Bagley-Keene Open Meeting Act (Gov. Code § 11120 et seq.), which generally requires that the IRP publicly notice meetings, prepare agendas, accept public testimony, and conduct meetings in public unless authorized to meet in closed session.

Closed meetings can only be held in accordance with provisions of Government Code Section 11126, which authorizes closed meetings to discuss pending litigation, as that term is defined in the code, and personnel matters.

The IRP may hold special and emergency meetings only as provided in Government Code sections 11125.4 and 11124.5. Special and emergency meetings may be called without ten days' notice of the meeting for the reasons enumerated in the statutes, and only with full compliance with the specific statutory requirements for such meetings.

The Act requires the IRP to publish an agenda for meetings at least ten days in advance of any meeting, describe in the agenda specific items to be transacted or discussed at the meeting, and refuse to add an item to the agenda less than ten days in advance of any meeting.

The Act prohibits direct communications or a series of communications through personal intermediaries, such as support staff, as well as communications by means of technological devices, such as electronic mail, for the purpose of discussing, deliberating, or taking action on any item of business that is within the subject matter of the IRP outside of a noticed, open meeting. IRP members may not discuss panel business with one another outside of public meetings.

Meeting Dates

Regular meetings shall normally be held on Wednesday of the second week of every month. A calendar of meeting dates and times shall be published in a work plan and revised periodically and as necessary. Meetings will normally follow the published agenda. However, at the request of an IRP member, the order of business may be changed to accommodate schedules and other panel needs.

Barrier-Free Locations

All meetings shall be held in barrier-free facilities in accordance with the Americans with Disabilities Act. For additional information or special assistance at IRP meetings, contact IRP support staff.

Location of Meetings

The majority of the IRP's meetings will be in Sacramento. However, the IRP may occasionally schedule meetings in various California locations to facilitate increased public access.

Mailing List for Meeting Agendas and Materials

IRP mailing list shall be maintained and regularly updated and include all interested persons requesting notification of meetings. The IRP will send meeting notices, meeting materials, and other IRP news to individuals requesting notifications via the DTSC EList system. To subscribe to this listserve, go to the DTSC EList Options page at <https://dtsc.ca.gov/ContactDTSC/ELists.cfm> . Click on the box for the Independent Review Panel EList.

Meeting Conduct

IRP meetings shall be conducted according to *Robert's Rules of Order*, unless a majority of those members present vote by affirmative act to suspend this method of procedure and adopt, for the purposes of that assembly only, another form of parliamentary procedure.

Quorum

Two members of the panel shall constitute a quorum for the purposes of conducting business.

Meeting Agendas

Draft meeting agendas will be developed by support staff and approved by the chair. Meeting agendas shall be prepared with consideration of the IRP work plan and suggestions made during public meetings. IRP members may suggest adding items to the agenda at any time prior to the publication of the final agenda. IRP support staff shall publish a Spanish version of meeting agendas.

Meeting Reports

Staff reports should be posted on the IRP's website early enough so that the public can react to them prior to meetings. The public subsequently should get a chance to post documents up to two days before a meeting.

All writings that are distributed to the IRP members for discussions or consideration at a public meeting shall also be made available to members of the public at the meeting. The IRP encourages the public to submit documents, including comments, technical reports, and other written material on agenda items as early as possible so that they can be included in the agenda material for the agenda item in question. To ensure that IRP members have an opportunity to fully study and consider the items on the agenda, all such material concerning any matters on the agenda should be submitted five business days prior to the meeting date or as soon as practicable, so that IRP members have an opportunity to review prior to the meeting in question. The IRP encourages electronic or flash-drive submission of documents. Timely submitted material shall be provided to the IRP along with the full agenda materials, and shall be uploaded to the IRP web site as soon as practicable. Staff shall make printed copies available for the public at meetings, as practicable. Because it can be difficult for IRP members to carefully review and consider materials submitted close to or at a meeting, the IRP retains discretion to determine whether or not it will consider those submittals and may consider them at the following meeting.

All files and documents considered by the IRP pertaining to the items on the agenda are made a part of the administrative record for the respective agenda items.

Presentations made at meetings should be included in webcasts and posted as soon as possible on the IRP's website after the meeting.

Oral Comments during Meetings

All persons desiring to address the IRP are required to fill out a speaker card. Cards normally are provided near the entrance to the meeting room. The IRP also shall accept public comments sent by email to DTSCpublicmeeting@DTSC.ca.gov. A staff member will read the comment at the appropriate time during the meeting, time permitting. Unless otherwise specified in the public notice for a specific item, the IRP endeavors to limit oral presentations to five minutes or less per individual. The chair has the discretion to allow more time. Individuals wishing to comment for more than five minutes should request additional time in advance of the meeting by contacting IRP staff.

Meeting Content

Meetings should generally include the following: announcements; agenda review; approval of minutes for the previous meeting; general/public comments; scheduled presentations; closed session (when necessary); organizational, operational, and administrative matters; reporting requirements; future meeting dates; future agenda items; work plan revisions; and adjournment. However, the IRP reserves discretion to depart from this content.

Meeting Minutes:

Draft minutes of the previous meeting shall be published at least 48 hours prior to the subsequent meeting so IRP members and the public can review them prior to approval.

Legal Advice

The California Attorney General's office provides legal counsel to the IRP. Legal counsel shall participate in all public meetings.

Translator

The IRP may hire a Spanish translator for public meetings.

Travel Arrangements and Reimbursement:

Individual panel members shall coordinate travel and lodging with the assistance of support staff using established DTSC protocols.

Website Postings.

Support staff will manage the IRP's website. Any documents submitted by DTSC or the public for consideration at a meeting will be posted along with supporting materials, meeting agendas, minutes, and webcasts. The IRP generally will not post email messages unless they address an item on the next meeting agenda or are intended to be considered at the next meeting.

Meeting Webcasts/Transcription

The IRP plans to webcast all public meetings. However, available meeting facilities in some areas of the state may not have webcasting capability. Meeting webcasts are posted on the IRP website at <https://www.dtsc.ca.gov/GetInvolved/ReviewPanel/video.cfm>.

Public Records Act and Confidentiality

IRP member and support staff communications related to public business are public records.

The California Public Records Act (Gov. Code Sections 6250-6276.48) requires public records to be open to inspection at all times. Communication with IRP members and support staff about public business is not confidential.

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