

## Environmental Protection Commission

### What is the Environmental Protection Commission?

The Environmental Protection Commission (EPC) is responsible for setting policy and adopting rules for the Department of Natural Resources (DNR), as it relates to environmental protection, including air quality, water quality, hazardous waste, concentrated animal feeding operations, solid waste, and underground storage tanks. They serve as a judge and jury on contested cases, when violators are being penalized for breaking environmental laws. They approve the budget request for the Department of Natural Resources for the environmental protection programs. Their work is guided by Iowa Code Section 455A.6.

### How are the members selected?

The 9 members on the EPC are appointed by the governor and confirmed by the Senate. They serve 4-year terms and they can be reappointed. The terms, which begin on May 1, are staggered so that only a few positions are filled each year.

The EPC members must be electors and have knowledge of the subjects covered by the EPC. Additionally there are designated positions and members are selected by their affiliation to that constituency, as defined in Iowa Code Section 455A.6:

- a. Three members actively engaged in livestock and grain farming
- b. A member actively engaged in the business of finance or commerce
- c. A member actively engaged in the management of a manufacturing company
- d. Four members who are electors of the state

In accordance with Iowa Code Section 69.16, the EPC must be balanced by gender, which means either 4 members are female and 5 members are male or 4 members are male and 5 members are female.



According to Code of Iowa, Section 455A.6, the members are not to be selected based on political considerations, other than to keep the political affiliation balance. However, in accordance with Iowa Code Section 69.16, only 5 commission members can be from one political party while the remaining 4 members can be from the other political party or are independents.

### Why it matters to have a strong EPC

If the Environmental Protection Commission does not want strong environmental rules and regulations, then the EPC will vote for weaker provisions. Likewise if the EPC wants strong environmental rules, they will vote for and support strong rules. The commission has the authority to request the staff to strengthen or weaken rule packages that come before them. EPC commissioners can request that staff work on particular rule packages. If the EPC is not interested in pursuing certain rules, the EPC does not have to push the staff to complete the rules.

## **Enforcement of Environmental Regulations: Why a Strong Pro-Environment EPC is Necessary**

One of the functions of the EPC is enforcement of the environmental regulations. When a person or business pollutes the air, land, or water, fails to get necessary construction permits, or in any other way violates the environmental laws, the staff at the DNR are called on to investigate the issue and then enforce the regulations that are being violated. The DNR staff serve as the cop on the beat. The police, sheriff, or Highway Patrol are not involved. The person or company managers are not arrested and carted off to jail. They can be subjected to fines and requirements to rectify the situation.

Staff at the Department of Natural Resources investigate the issue, take pictures, measure the pollutants, count dead fish, and write up a report describing what happened. The staff try to assess who caused the problem.

The legal staff at the DNR get involved in determining whether the person or company should be penalized and recommends a fine. For the most egregious situations, the federal Environmental Protection Agency is asked to or decides to take charge of the issue. For the less egregious situations, the Environmental Protection Commission is involved.

In the situations where the DNR is involved, a hearing will be held at an EPC meeting. A DNR staff attorney puts on the evidence of the violation, in a format that is less structured than a court hearing. The accused party can answer the charges and can present their own evidence. Attorneys are often hired to present the case of the accused party. Finally the EPC members are the judge and jury.

For smaller penalties, the EPC can vote to assess the penalty. The maximum penalty the EPC can assess is \$10,000. If the penalties will exceed \$10,000, the item is referred to the attorney general. The EPC must vote to refer the item to the attorney general. The EPC can also vote that the case is not worthy of a penalty or not worthy of forwarding to the attorney general.

A lot of power rests with the EPC. If the majority of EPC members do not support strict environmental regulation, the polluter could get a free pass, only to go back to doing business-as-usual. On the other hand, if the majority of EPC members support strict environmental regulation, the polluter gets assessed a penalty which is intended to encourage future compliance with the laws.

Even before the EPC can deliberate on the penalties being assessed to violators, the enforcement staff of the DNR select how a violator is going to be treated. The Governor selects the director of the DNR. The DNR director reports to the governor. The director sets the tone for the department, at the behest of the governor. If the director chooses to be lax on violators, the violations may never reach the level of the EPC for a decision.

There is also a feedback loop that happens when the EPC is lax toward violators. The message becomes loud and clear to the staff that they don't need to bother to refer violations for penalties.

### **Address for the Environmental Protection Commission**

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