

§341-A. Department of Environmental Protection

There is established a Department of Environmental Protection, in this Title called the "department." [PL 1989, c. 890, Pt. A, §13 (NEW); PL 1989, c. 890, Pt. A, §40 (AFF).]

1. Purpose. The department shall prevent, abate and control the pollution of the air, water and land and preserve, improve and prevent diminution of the natural environment of the State. The department shall protect and enhance the public's right to use and enjoy the State's natural resources and may educate the public on natural resource use, requirements and issues. [PL 1989, c. 890, Pt. A, §13 (NEW); PL 1989, c. 890, Pt. A, §40 (AFF).]

2. Composition. The department shall consist of the Board of Environmental Protection, in the laws administered by the department called "board," and of a Commissioner of Environmental Protection, in the laws administered by the department called "commissioner." [PL 1989, c. 890, Pt. A, §13 (NEW); PL 1989, c. 890, Pt. A, §40 (AFF).]

3. Commissioner. The commissioner is appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over natural resource matters and to confirmation by the Legislature.

A. The commissioner serves at the pleasure of the Governor. [PL 1995, c. 3, §5 (AMD).]

B. The commissioner may not participate in the review of or act on an application for a National Pollutant Discharge Elimination System permit or the modification, renewal or appeal of a permit under Section 402 of the Federal Water Pollution Control Act, 33 United States Code, Section 1342 if the commissioner receives, or during the previous 2 years has received, a significant portion of income directly or indirectly from National Pollutant Discharge Elimination System permit holders or applicants. If the commissioner's authority is restricted under this paragraph, the commissioner shall delegate duties related to the restricted matter to employees of the department who do not hold major policy-influencing positions pursuant to Title 5, section 938 and who do not receive or have not received during the previous 2 years a significant portion of income directly or indirectly from National Pollutant Discharge Elimination System permit holders or applicants. For the purposes of this section, "a significant portion of income" means 10% or more of gross personal income for a calendar year, except that it means 50% or more if the recipient is over 60 years of age and is receiving that portion under retirement, pension or similar arrangement. Duties that must be delegated include National Pollutant Discharge Elimination System permitting, enforcement, establishment of waste load allocations and total maximum daily loads and establishment and implementation of water quality standards but not other Federal Water Pollution Control Act matters such as water quality certification. The restriction imposed by this paragraph may not be interpreted to be more restrictive than federal law or the regulations of the United States Environmental Protection Agency. If a person with a conflict under this paragraph is nominated for the position of commissioner, the Governor shall submit to the President of the Senate and Speaker of the House of Representatives a plan for delegating the duties required to be delegated under this paragraph. The plan must be submitted with the information packet required to be provided by the Governor to the President of the Senate and Speaker of the House of Representatives under Title 3, section 154. [PL 2011, c. 357, §1 (AMD).]

C. The commissioner may delegate duties assigned to the commissioner under this Title to staff of the department. [PL 1989, c. 890, Pt. A, §13 (NEW); PL 1989, c. 890, Pt. A, §40 (AFF).]

D. The commissioner is subject to the conflict-of-interest provisions of Title 5, section 18. [PL 2011, c. 357, §2 (NEW).]
[PL 2011, c. 357, §§1,2 (AMD).]

4. Licenses and permits. For purposes of this Title, licenses or permits issued by the department may be issued by either the commissioner or the board subject to the provisions of section 341-D, subsection 2.

[PL 1989, c. 890, Pt. A, §13 (NEW); PL 1989, c. 890, Pt. A, §40 (AFF).]

SECTION HISTORY

PL 1989, c. 890, §A13 (NEW). PL 1989, c. 890, §A40 (AFF). PL 1995, c. 3, §5 (AMD). PL 1997, c. 794, §A2 (AMD). PL 2011, c. 357, §§1, 2 (AMD).

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