

### §341-C. Board membership

Membership of the Board of Environmental Protection is governed by this section. [PL 1989, c. 890, Pt. A, §13 (NEW); PL 1989, c. 890, Pt. A, §40 (AFF).]

**1. Appointments.** The board consists of 7 members 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.

[PL 2011, c. 304, Pt. H, §2 (AMD).]

**2. Qualifications and requirements.** Members of the board must be chosen to represent the broadest possible public interest and experience that can be brought to bear on the administration and implementation of this Title and all other laws the board is charged with administering. At least 3 members must have technical or scientific backgrounds in environmental issues and no more than 4 members may be residents of the same congressional district. The boundaries of the congressional districts are defined in Title 21-A, chapter 15. A county commissioner, county employee, municipal official or municipal employee is not considered to hold an incompatible office for purposes of simultaneous service on the board. If a county or municipality is a participant in an adjudicatory proceeding before the board, a commissioner, official or employee from that county or municipality may not participate in that proceeding.

[PL 2019, c. 180, §1 (AMD).]

**3. Terms; vacancies.** The members must be appointed for staggered 4-year terms. A member may not serve more than 2 consecutive 4-year terms. A member continues to serve until that member has been reappointed or a successor has been appointed, except that, if the member has not been reappointed or a successor has not been appointed one year after the member's term expires, the member may no longer continue to serve. A vacancy occurring other than by expiration of a term must be filled by appointment for the unexpired portion of the term.

[PL 2017, c. 334, §1 (AMD).]

**4. Chair.** The Governor shall appoint one member to serve as chair.

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

**5. Expired terms.**

[PL 2017, c. 334, §2 (RP).]

**6. Compensation.** Members are entitled to compensation according to the provisions of Title 5, section 12004-D.

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

**7. Conflict of interest.** Members are governed by the conflict of interest provisions of Title 5, section 18. If a member believes that a conflict of interest may require that member's abstention in a proceeding, unless the member in question objects, the question of the conflict of interest must be submitted to a nonbinding advisory vote of the members present, excluding the member in question.

[PL 1999, c. 784, §5 (AMD).]

**8. Federal standards.** In accordance with federal standards, board member participation is limited by this subsection. For the purposes of this subsection, "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.

A. A board member 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 board member receives, or during the previous 2 years has received, a significant portion of income directly or indirectly from license or permit holders or applicants for a license or permit

under the National Pollutant Discharge Elimination System. Board members whose participation is restricted under this paragraph shall recuse themselves and may not participate in any National Pollutant Discharge Elimination System matter as long as the restriction applies. The recusal must be from all 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. [PL 2019, c. 180, §2 (NEW).]

B. A board member may not participate in the review of or act on any permitting decision or enforcement order under the federal Clean Air Act, 42 United States Code, Section 7401, et seq. if the board member receives or derives a significant portion of that board member's income from persons subject to permits or enforcement orders under the federal Clean Air Act. Board members whose participation is restricted under this paragraph shall recuse themselves from all permitting and enforcement matters under the federal Clean Air Act. 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. [PL 2019, c. 180, §2 (NEW).]

[PL 2019, c. 180, §2 (RPR).]

#### SECTION HISTORY

PL 1989, c. 890, §§A13,40 (NEW). PL 1995, c. 3, §6 (AMD). PL 1997, c. 346, §2 (AMD). PL 1997, c. 794, §A3 (AMD). PL 1999, c. 784, §5 (AMD). PL 2011, c. 304, Pt. H, §§2, 3 (AMD). PL 2011, c. 357, §3 (AMD). PL 2017, c. 334, §§1, 2 (AMD). PL 2019, c. 180, §1, 2 (AMD).

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