

TO: Honorable Governor Terry Edward Branstad
Charlie Smithson, Chief Clerk of the House
Michael Marshall, Secretary of the Senate
Ron Parker, Senate Democrat Caucus
John Hodges, Senate Republican Caucus
Joseph Romano, House Democrat Caucus Staff
Jeff Mitchell, House Republican Caucus Staff
Jeff Boeyink, Governor's Office

FROM: The Environmental Protection Commission

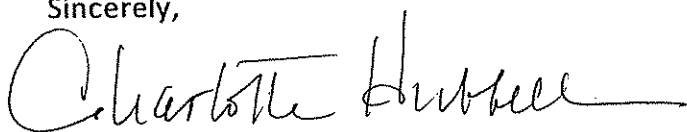
DATE: January 18, 2011

SUBJECT: Annual Report and Recommendations

The Iowa Environmental Protection Commission (EPC) respectfully submits its Annual Report and Recommendations to the Governor and General Assembly of Iowa pursuant to Iowa Code Chapter 455B.105(5). The report presents what it considers the major activities and accomplishments of the EPC for 2010. More importantly, the Commission submits its recommendations for policy and legislative changes for 2011. These recommendations reflect the issues that the Commission has worked on over the past year and equally important reflect many of the comments we have heard from citizens of Iowa during our commission meetings and during formal public comment periods of our rules.

We thank you for your consideration of the report and its recommendations. The Commission stands ready to answer any questions you may have on the report and its recommendations.

Sincerely,



Charlotte Hubbell, Des Moines, Chair

Dee Bruemmer, Davenport
John Glenn, Centerville
Susan Heathcote, Des Moines
Paul Johnson, Decorah
David Petty, Eldora
Lorna Puntillo, Sioux City, Secretary
Marty Stimson, Cedar Rapids, Vice-chair
Gene Ver Steeg, Inwood

Report to the Governor and General Assembly
Iowa Environmental Protection Commission
January 18, 2011

Pursuant to Code of Iowa Section 455B.105(5) the Iowa Environmental Protection Commission (the "Commission") submits the following report to Governor Branstad and the Iowa General Assembly. As specified in the statute, this report discusses the accomplishments and status of the programs administered by the Environmental Services Division of the Department of Natural Resources. The report also makes legislative recommendations for consideration by the Governor and General Assembly based on Commission observations regarding the state of the environment in the past year. The report takes into account comments and concerns the Commission frequently hears from Iowa citizens.

In issuing this report and making these recommendations, the Commission encourages the Governor and the General Assembly to protect Iowa's natural resources when developing statewide policies for economic development. The Commission believes the protection of the environment is consistent with and, in fact, promotes the development of a strong economy and enhances the quality of life necessary to attract workers and jobs to our state. The Commission's recommendations are based on the understanding that proper environmental protection and economic growth are compatible goals for the State of Iowa.

BUDGET CUTS

The DNR faced extreme budget cuts this fiscal year totaling \$2.1 million. As we mentioned last year in our report, the DNR remains woefully underfunded and is in danger of sacrificing federal dollars due to lack of matching funds. For example, the level of compliance inspections of confinement feeding operations will be reduced, including the discontinuance this fiscal year of on-site Manure Management Plan (MMP) compliance inspections. Over 800 on-site MMP inspections were done in FY 2010 which was already a drop from previous years. Now, none will be made. It is important for the DNR to have a presence in rural areas, and this will be one less instance of them being able to help farmers review their proposed MMPs and check on compliance with existing MMPs. We have made great progress over the past 10 years. We would hate to lose momentum.

Review of air emissions from smaller sources, some sectors of which have been found to be in non-compliance with existing emissions regulations, will be reduced. Without additional funding to develop attainment and non-attainment plans, implement greenhouse gas permitting and establish federally required monitoring for sulfur dioxide, nitrogen oxides and ozone, the Department will have to apply existing resources to a broader range of activities including reducing staffing. This will result in longer permitting issuance times and resultant delays in industrial development.

Major Accomplishments of the Department and Commission in 2010

WATER QUALITY

The DNR and EPC continued with the legislative directive to assess Iowa streams and rivers for their actual uses and adopt classifications to make sure those uses are of record and are the highest attainable use. This year, 705 river and stream segments, covering over 2,507 miles, were reviewed for recreational use. Also, 546 river and stream segments, totaling almost 1,113 miles, were reviewed for aquatic life use. These assessments are reviewed under the 1972 Federal Clean Water Act. Combined with previous year's assessments this represents about 90% of the stream segments required to be assessed by state law. Significant staff resources are still needed to address EPA disapprovals of Department recommendations for stream use designation changes. We have made terrific progress in this area and commend the department staff for their hard work.

The anti-degradation rule package passed by the Commission in 2009 was approved by EPA in October 2010 and is now being implemented by the Department. These rules establish procedures to prevent unnecessary new pollution from degrading **high quality** waters and establish a new designation of Outstanding Iowa Waters to protect **exceptional** water resources from degradation. These rules were reviewed at the February 8, 2010 meeting of the Administrative Rules Review Committee, with no action taken.

AIR QUALITY

Air Quality Permitting

From December 2009 – November 2010, the Air Quality Bureau issued 1,660 pre-construction permits or permitting determinations to facilities planning on building or modifying air pollution emitting equipment at industrial facilities. Permitting projects each have around 4 permits, and it took, on average 65 days to issue each project. This turn-around time is higher than normal due to additional work on new air quality standards and air toxic evaluations at schools. In addition, the Air Quality Bureau issued permits for 8 Prevention of Significant Deterioration (PSD) projects for large new or additional industrial projects. Those permits were issued on average in 10 months (significantly below national averages).

Small Business Assistance

The Air Quality Title V fee fund supports technical and regulatory assistance through the University of Northern Iowa and the Department of Economic Development to help small businesses comply with federal and state air quality requirements. Due to budget cuts, 50% of this money had to be eliminated which affected many small businesses that rely on this service to assist them with their compliance issues.

Large and Small Business Collaboration

The Air Quality Bureau worked with over 200 stakeholders including large and small industries, universities and colleges, environmental and public health organizations, and the general public to help facilities manage local, state and federal air pollution control requirements. This collaboration resulted in higher rates of compliance with lesser enforcement and more involvement of communities and local industries in developing plans for attaining air quality standards.

ANIMAL FEEDING OPERATIONS

A comprehensive livestock rule package was adopted by the Commission in July 2010 that included limitations on stockpiling dry manure and restrictions on winter application of liquid manure. There were a number of issues raised by the public and legislators that the Commission worked with the Department to change in the final rules. These and many other provisions in this large rule package were adopted by the Commission and became effective in September.

In November, the Commission approved a Notice of Intended Action for proposed rules that implement federal legislation requiring concentrated animal feeding operations to comply with applicable EPA requirements regarding NPDES permits. Five public hearings regarding this rule package were held this month, January, 2011.

PUBLIC HEARINGS

Approximately 36 public hearings were held around the state seeking public input on a variety of issues, as outlined in Table 1. It is estimated that 269 people attended these hearings and 416 people provided written comment. We view these hearings as an important way to inform and receive feedback from the public about important issues of the day.

TABLE 1 - 2010 Public Hearings				
Chapter	Description	# of Hearings	# of People	# of Written
			Attended	Comments
15	Cross media electronic reporting.	1	0	0
23, 24, 28	AQ program rule updates, revisions and additions.	1	0	1
22, 33	PSD and Title V greenhouse gas tailoring.	1	5	10
60, 64, 66	Discharge of biological and chemical pesticides to waters of the U.S.	6	27	9
61	UAA Batch 3	7	128	180
2010 Public Hearings (continued)				
61	Section 401 certification of section 404 regional permits 27, 33 and 34.	1	0	0
64	WQ standards; general permit.	6	25	17
65	Dry manure stockpiling; manure application on snow-covered, frozen ground.	6	64	187
122	Cathode ray tube devices recycling.	1	0	0
135	Technical standards; corrective action requirements for owner/operator of USTs; Risk-based evaluation of water lines.	3	20	11
135	Legislative amendment to UST rules.	3	0	1
		36	269	416

Recommendations for Future Legislative Action

WATER QUALITY

- Continued efforts are needed to address nonpoint source pollution from agriculture and urban runoff. Nonpoint sources of pollution are the major contributor to nutrient and bacterial impairment of Iowa's water and these sources must be controlled to achieve Iowa's clean water goals.
- Better nutrient management from all sources is needed to reduce impairment of Iowa's water bodies. Severe cyanobacteria episodes, periodic high ammonia levels, and high nitrates and ecoli in the Raccoon and Des Moines rivers, mean that drinking water supplies to Des Moines and several other central Iowa communities are in jeopardy.
- Start the dialogue to come up with a plan of action to mitigate the nutrient issues without undue burdens to landowners, sewer fee payers and taxpayers. Major stakeholders to include agricultural interests, cities, environmental groups, industry, businesses, and IDNR.

AIR QUALITY

- Continue to pursue support for establishing limits on residential waste burning in communities.
- Obtain a plan for reducing emissions from idling vehicles, especially in areas where air quality standards are threatened.
- Adopt appropriate regulatory plans for assuring that the state will continue to meet air quality standards for fine particles and adopt plans to address potential non-attainment areas as outlined in the December 30, 2010 DNR report, "Implementing the PM 2.5 Ambient Air Quality Standards in the State of Iowa."
- Establish alternative funding mechanisms and a diversified fee structure to assure the sustainability of the Title V air quality program

ANIMAL FEEDING OPERATIONS

Concentration of confinement animal feeding operations continues to be a concern voiced by citizens at commission meetings. The public feels it has an inadequate voice in decisions on siting and issuance of permits. The Commission is limited in what it can do to address citizen complaints.

- The legislature should consider authorizing the Department to assess cumulative impacts of existing livestock facilities to air and water quality when considering approval of permits for new livestock facilities. The existence of water impairments listed on the state's impaired waters list and impacts to downstream drinking water sources must be considered and addressed prior to issuing a permit.

The Commission held their monthly meeting in Sioux Center in May, 2010. Sioux Center is located in one of the most heavily concentrated areas of livestock in the state. Many commission members took notice of the vibrant economy in the area. Public comments centered around the fact that livestock production was a major contributor to the local economy.

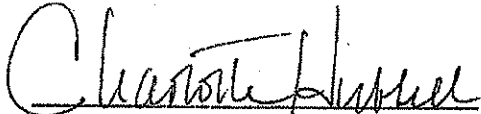
ENFORCEMENT AND ADMINISTRATION

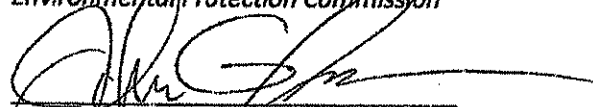
The Commission recognizes that the state is in a difficult budget situation. Nevertheless, taxpayers will pay for corrective action eventually if proper enforcement of anti-pollution laws is not followed. In budgeting, the legislature should provide the Department with a sufficient budget for an effective environmental enforcement program and sufficient funds for the Department to operate its permitting programs in a timely and efficient manner.

CONCLUSION

It is clear from public comment before the Commission that Iowans want and expect clean air and clean water. It is also evident that Iowans are concerned about other global environmental issues, such as energy efficiency, global warming and climate change, and declining biodiversity. The Commission believes that Iowans, working in a partnership of individuals, government and business representatives, will meet the challenges of environmental stewardship in the 21st century while recognizing the responsibilities that arise as we position Iowa to become the renewable energy capital of the United States.

The Commission thanks the Governor and the General Assembly for the opportunity to submit this report and invites further inquiry and conversation about these issues.


Charlotte Hubbell, Des Moines, Chair
Environmental Protection Commission

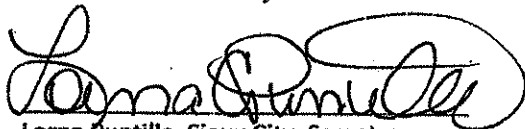

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