

Iowa
Water Pollution
Control Law

CODE OF IOWA
1966

As Amended by Chapters 262,1221
Acts of the
Sixty-Third General Assembly
1969-1970

IOWA
WATER POLLUTION CONTROL
COMMISSION

STATE DEPARTMENT OF HEALTH
LUCAS STATE OFFICE BUILDING
DES MOINES, IOWA 50319

CHAPTER 455B WATER POLLUTION CONTROL

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455B.1 Statement of policy. Whereas the pollution of the waters of this state constitutes a menace to public health and welfare, creates public nuisances, is harmful to wildlife, fish and aquatic life, and impairs domestic, agricultural, industrial, recreational and other legitimate beneficial uses of water, and whereas the problem of water pollution in this state is closely related to the problem of water pollution in adjoining states, it is hereby declared to be the public policy of this state to conserve the waters of the state and to protect, maintain and improve the quality thereof for public water supplies, for the propagation of wildlife, fish and aquatic life, and for domestic, agricultural, industrial, recreational and other legitimate (beneficial) uses; to provide that no waste be discharged into any waters of the state without first being given the degree of treatment necessary

to protect the legitimate (beneficial) uses of such waters; to provide for the prevention, abatement and control of new, increasing, potential, or existing water pollution; and to co-operate with other agencies of the state, agencies of other states and the federal government in carrying out these objectives.

455B.2 Definitions. When used in this chapter:

1. "Sewage" means the water-carried waste products from residences, public buildings, institutions, or other buildings, including the bodily discharges from human beings or animals together with such ground water infiltration and surface water as may be present.

2. "Industrial waste" means any liquid, gaseous or solid waste substance resulting from any process of industry, manufacturing, trade or business or from the development of any natural resource.

3. "Other waste" means garbage, municipal refuse, lime, sand, ashes, offal, oil, tar, chemicals and all other substances which are not sewage or industrial waste which may pollute the waters of the state.

4. "Pollution" means the contamination of any waters of the state so as to create a nuisance or render such waters unclean, noxious or impure so as to be actually harmful, detrimental or injurious to public health, safety or welfare, to domestic, commercial, industrial, agricultural or recreational use or to livestock, wild animals, birds, fish or other aquatic life.

5. "Sewer system" means pipe lines or conduits, pumping stations, force mains and all other constructions, devices and appliances appurtenant thereto used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

6. "Treatment works" means any plant, disposal field, lagoon, holding or flow regulating basin, pumping station, or other works installed for the purpose of treating, stabilizing or disposing of sewage, industrial waste or other wastes.

7. "Disposal system" means a system for disposing of sewage, industrial waste and other wastes and includes sewer systems, treatment works, and dispersal systems.

8. "Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof.

9. "Person" means the state or any agency or institution thereof, any municipality, governmental subdivision, public or private corporation, individual, partnership, or other entity and includes any officer or governing or managing body of any municipality, governmental subdivision or public or private corporation.

10. "Commission" means the Iowa water pollution control commission.

455B.3 Commission created. There is hereby created and established the Iowa water pollution control commission. The commission is established as an agency of the state government to prevent, abate, or control the pollution of the waters of the state

455B.4 Membership. The commission shall consist of eleven members as follows:

1. The commissioner of public health.

2. The director of the state conservation commission.

3. The director of the Iowa natural resources council.

4. A member from the staff of one of the universities or colleges of the state who has technical background, training and knowledge in the field of water pollution.

5. The secretary of agriculture, or his deputy.

6. Five electors of the state who shall be selected from the state at large solely with regard to their qualifications and fitness to discharge the duties of office without regard to their political affiliation. Of these five, one shall represent industry, one shall represent municipal government, one shall be an owner-operator farmer, and two shall represent the public at large.

7. The director of the department of soil conservation.

455B.5 Terms. The members of the commission not holding public office shall be appointed by the governor for overlapping terms of six years. The members of the first commission not holding public office shall be appointed for the following terms: two electors for a term to expire July 1, 1967; two electors for a term to expire July 1, 1969; and a member of one of the state universities for a term to expire July 1, 1971. Said terms shall begin immediately upon the appointment. Thereafter the term of each member of the commission shall be six years.

455B.6 Vacancies - removal of member. Any vacancy or vacancies on the commission which

may occur shall be filled by appointment by the governor for the unexpired portion of the regular term.

The governor may remove any member of the commission for malfeasance in office or for any cause that renders him ineligible for membership or incapable or unfit to discharge the duties of his office and his removal when so made shall be final.

455B.7. Compensation. Each member of the commission, not otherwise in the full-time employment of any public body, shall receive the sum of twenty-five dollars for each day actually and necessarily employed in the discharge of official duties and each member of the commission shall be entitled to receive the amount of his traveling and other necessary expenses actually incurred while engaged in the performance of any official duties when so authorized by the commission. No member of the commission shall have any direct financial interest in any of the operations of the commission, nor may any member participate in making any decision in which he may have a personal interest.

455B.8 Organization. The commission shall organize by the election of a chairman and other officers deemed necessary and the state department of health shall provide the services of a technical secretary to the commission and shall hold quarterly regular meetings each calendar year on the last Monday of each quarter and at such other times and places as it may deem necessary. The chairman and other officers shall be elected annually. Meetings may be called by the chairman at any time and shall be called as soon as possible by the chairman on the written request of four members of the commission. The majority of the commission shall constitute a quorum and the concurrence of a majority of the commission in any matter within its duties shall be required for its determination.

455B.9 Powers and duties. The commission is hereby given and charged with the following powers and duties:

1. The commission through the state department of health shall have general supervision over administration and enforcement of all laws relating to the pollution of any water of the state, except as provided in section 135.11.

2. To develop comprehensive plans and programs for the prevention, control and abatement

of new, increasing, potential, or existing pollution of the waters of the state.

3. The commission may cause the state department of health to conduct investigations upon the written petition of:

- a. The governing body of any city or town.
- b. The local board of health.
- c. The supervisors of any county.
- d. Twenty-five residents of the state.
- e. Any state agency or agencies

4. To adopt, modify, or repeal such reasonable quality standards for any waters of the state in relation to the public use to which they are or may be put as it shall deem necessary for the purposes of this chapter.

Provided that where the quality of water is inter-related to the quantity of water the concurrence of the Iowa natural resources council shall be secured for the adoption, modification or repeal of such standards, prior to the effective date thereof.

5. To require plans and specifications for disposal systems or any part thereof to be submitted to the state department of health for approval or disapproval.

6. To direct the state department of health to issue, revoke, modify, or deny permits, under such conditions as it may prescribe for the prevention or abatement of pollution, for the discharge of sewage, industrial waste or other wastes or for the installation or operation of disposal systems or parts thereof.

7. Existing permits shall be recognized by the commission for the continuance of every disposal system now operating under legal authority. However, the commission may modify or revoke such permit in the same manner as other permits.

8. To prescribe rules and regulations for the commission and other matters within the scope of the powers granted to and imposed upon it.

9. The commission shall co-operate with other state or interstate water pollution control agencies in establishing standards, objectives or criteria for quality of interstate waters originating or flowing through this state.

10. To hold such hearings as it may deem advisable and necessary for the discharge of its duties and to authorize any member, employee or agent to hold such hearings.

11. The commission may cooperate with other agencies in the state which concern themselves with agricultural operations to determine those livestock and poultry operations in which potential pollution of the waters of the state exists.

Persons engaged in such livestock and poultry operations prior to and including July 1, 1969 shall be notified by the commission where potential pollution exists and shall be required to register with the commission and provide such information relating to their operations as the commission may reasonably require. Persons who intend to initiate such livestock and poultry operations subsequent to July 1, 1969 shall be required to register with the commission before commencing such operations and shall provide such information relating to their planned operations as the commission may reasonably require. Except as otherwise provided in section 455B.25, no such registrant shall be required to make application and obtain a permit for disposal of waste water unless the commission determines that the agricultural operations of such registrant are, in fact, polluting or may reasonably pollute the waters of the state.

455B.10 Investigations. The state department of health shall conduct such investigations as may be necessary to carry out the provisions of this chapter.

455B.11 Orders. The state department of health in accordance with the direction and policies of the commission may issue, modify, or revoke such orders as may be required for the prevention or discontinuance of the discharge of sewage, industrial waste or other wastes in any waters of the state resulting in pollution in excess of the applicable quality standard established by the commission.

455B.12 Scope of investigation. Whenever an investigation is made, it shall be full and complete and may include such engineering studies, bacteriological, biological, and chemical analyses of the water and location and character of the source or sources of contamination as may be necessary. If pollution is found to exist, taking into consideration the criteria set forth in section 455B.13, the commission shall first notify the alleged offender and by informal negotiation attempt to resolve the problem and, failing to do so within a reasonable period of time, the commission shall then issue an order fixing the time and place of hearing. Such hearing shall be public and shall be conducted so far as possible in the manner as a court hearing and every alleged offender shall have the right to appear, be represented by counsel, present testimony and examine witnesses.

Examinations made by bacteriological laboratory, §263.8

455B.13 Quality standards. In adopting, modifying, or repealing quality standards for any waters of the state, the commission shall give consideration to:

1. The protection of the public health;

2. The size, depth, surface area covered, volume, direction and rate of flow, stream gradient, and temperature of the water;

3. The character and uses of the land area bordering said waters;

4. The uses which have been made, are being made, or may be made of said waters for public, private, or domestic water supplies, irrigation; livestock watering; propagation of wildlife, fish, and other aquatic life; bathing, swimming, boating, or other recreational activity; transportation; and disposal of sewage and wastes;

5. The extent of contamination resulting from natural causes including the mineral and chemical characteristics;

6. The extent to which floatable or settleable solids may be permitted;

7. The extent to which suspended solids, colloids, or a combination of solids with other suspended substances may be permitted;

8. The extent to which bacteria and other biological organisms may be permitted;

9. The amount of dissolved oxygen that is to be present and the extent of the oxygen demanding substances which may be permitted;

10. The extent to which toxic substances, chemicals or deleterious conditions may be permitted;

11. The need for standards for effluents from disposal systems.

Referred to in §455B.12

455B.14 Permission to enter lands or waters. The commission, its agents, and employees of the state department of health may enter upon any lands or waters in the state and bordering on the state, for the purpose of making any investigation, examination, survey, or study concerning the quality or pollution of such waters.

455B.15 Hearings. When the commission or state department of health conducts any hearing or investigation, any member of the commission or any employee or agent authorized in writing by the commission or employee of the state department of health may administer oaths, examine witnesses and issue, in the name of the commission, subpoenas requiring the attendance and testimony of witnesses and the production of evidence rele-

vant to any matter involved in such hearing or investigation. Witnesses shall receive the same fees and mileage as in civil actions.

455B.16 Subpoena. If any person refuses to obey a subpoena issued under this chapter, the district court of the county where the proceeding is pending shall have jurisdiction, upon application of the commission or its authorized member, employee, or agent, to issue to such person an order requiring him to appear and testify or produce evidence and any failure to obey such order of the court may be punished by said court as a contempt thereof.

455B.17 Notice of hearing - orders - records.

1. Notice of the time and place of hearing shall be served upon each alleged offender at least ten days before said hearing. Such notice shall be in the manner required for the service of notice of the commencement of an ordinary action in a court of record.

2. Notwithstanding the provisions of subsection 1 the commission or state department of health, when it has first been determined that an emergency exists respecting any matter effecting or likely to affect the public health, may make a temporary order without notice and without hearing. A copy of such temporary order shall be served as provided in subsection 1. Any such temporary order entered by the commission or the state department of health, shall be binding and effective immediately until such order is reviewed by a hearing or is modified or reversed by the court.

3. After such hearing the commission may, if it finds the alleged offender is guilty of the charges, enter an order directing such person to desist in the practice found to be the cause of such pollution, taking into account the use to which the water is being or may be put or the commission upon the recommendation of the state department of health may order a change in the method of discharging sewage, industrial wastes and other wastes into the water so that the same will not result in pollution and the method shall be in compliance with the effluent or water quality standards adopted by the commission

4. If any such change is ordered, unless such practice is rendering such water dangerous to the public health, a reasonable time shall be granted to the offender in which to put in use the method ordered.

5. The commission shall keep a complete record of such proceedings, including all the evidence taken, and such record shall be open to public in-

spection. However, it shall be unlawful for any person in connection with his duties or employment by the commission, to make public or give any information relating to secret processes or methods of manufacture or production at any public hearing or otherwise, and all such information shall be kept strictly confidential.

455B.18 Appeal. An appeal may be taken by any aggrieved party from any order entered in such proceedings to the district court of the county in which the alleged offense was committed or such final order was entered. Such appeal shall be perfected by serving a written notice on the chairman of the commission within thirty days of the entry of such order. The hearing on appeal shall be tried as a suit in equity and shall be de novo. The court may receive additional testimony and may affirm, modify or reverse the order of the commission. The setting aside of such order by the court shall not preclude the commission from again instituting proceedings against the same person if the commission feels that the public health is endangered.

455B.19 Transcript on appeal. Within thirty days after an application for an appeal is filed with the commission, it shall make, certify and file in the office of the clerk of the court to which an appeal is taken a full and complete transcript of all documents and papers relating to the case including a copy of the order, rule, regulation or decision appealed from and a copy of any findings of fact, rulings or conclusions of law made by the commission in the matter.

455B.20 Stay order. Action of the commission shall not be stayed by an appeal except by order of the court for good cause shown by the appellant. The granting of a stay may be conditioned upon the furnishing by the appellant of such reasonable security as the court may direct. A stay may be vacated on application of the commission or any other party after hearing by the court.

455B.21 Conclusiveness of action. If no appeal is taken from an order, rule, regulation, or other decision of the commission as provided by this chapter, or if the action of the commission is affirmed on appeal, the action of the commission in the matter involved shall be deemed conclusive and the validity and reasonableness thereof shall not be raised in any other action or proceeding, but this shall not preclude the commission from modifying or rescinding its action.

455B.22 *Trial term.* The first term after appeal is taken shall be the trial term.

455B.23 *Injunction.* Any person, firm, corporation, municipality, or any officer or agent thereof causing pollution as defined in section 455B.2 of any waters of the state or placing or causing to be placed any sewage, industrial waste, or other wastes in a location where they will probably cause pollution of any waters of the state may be enjoined from continuing such action.

It shall be the duty of the attorney general, only upon the request of the commission, to bring an action for an injunction against any person, firm, corporation, municipality, or agent thereof violating the provisions of this section. In any such action, any previous findings of the commission after due notice and hearing shall be prima-facie evidence of the fact or facts found therein.

455B.24 *Contempt - penalty.* Failure to obey any order issued under the provisions of this chapter made by the commission with reference to matters pertaining to the pollution of waters of the state shall constitute prima-facie evidence of contempt. In such event the commission may certify to the district court of the county in which such alleged disobedience occurred the fact of such failure. The district court after notice, as prescribed by the court, to the parties in interest shall then proceed to hear the matter and if it finds that the order was lawful and reasonable it shall order the party to comply with the order. If the person fails to comply with the court order, he shall be punished for contempt.

Any person, firm, corporation or any officer or agent thereof found guilty of contempt under this section shall be fined in a sum not to exceed one hundred dollars for each offense. The penalties provided in this section shall be considered as additional to any penalty which may be imposed under the law relative to nuisances or any other statute relating to the pollution of waters of the state and conviction under this section shall not be a bar to prosecution under any other penal statute.

455B.25 *Unlawful acts.*

1. It shall be unlawful to carry on any of the following activities without first securing a written permit from the state department of health as may be required by the commission for the disposal of all sewage, industrial waste, or other wastes which are or may be discharged into the waters of the state.

a. The construction, installation or modifica-

tion of any disposal system or part thereof or any extension or addition thereto.

b. The construction or use of any new outlet for the discharge of any sewage or wastes directly into the waters of the state. However, no permit shall be required for any new disposal system or extension or addition to any existing disposal system that receives only domestic or sanitary sewage from a building, housing or occupied by fifteen persons or less.

2. Plans and specifications for any waste disposal system covered by subsection 1 of this section shall be submitted to the commission before a written permit may be issued and the construction of any such waste disposal system shall be in accordance with plans and specifications as approved by the state department of public health. If it is necessary or desirable to make material changes in such plans or specifications, revised plans or specifications together with reasons for the proposed changes must be submitted to the commission for a supplemental written permit.

Any person convicted of violating this section shall be fined in a sum not to exceed one thousand dollars.

Referred to in §455.9 Subsection 11

455B.26 Plans of every disposal system to be filed. The commission may require the owner of a waste disposal system, discharging sewage or wastes into any of the waters of the state to file with it complete plans of the whole or any part of such system and any other information and records concerning the installation and operation of such system.

455B.27 Assistance by governmental agencies. The commission and the state department of health may request and receive from any department, division, board, bureau, commission, public body, or agency of the state, or of any political subdivision thereof, or from any organization, incorporated or unincorporated, which has for its object the control or use of any of the water resources of the state, such assistance and data as will enable the commission or department to properly carry out its activities and effectuate its purposes under the provisions of this chapter. The commission or department shall reimburse such agencies for special expense resulting from expenditures not normally a part of the operating expenses of any such agency.

455B.28 *Discharge of waste into lakes.* No sewage, industrial waste or other wastes whether treated or untreated shall be discharged directly into any state-owned natural or artificial lake but this section shall not be construed to prohibit the discharge of adequately treated sewage or industrial wastes into a stream tributary to a lake upon the written permission of the commission.

Appropriation, 61GA, ch 375, §35

MISCELLANEOUS PROVISIONS

135.11 *Powers and duties.* The commissioner of public health shall be the head of the "State Department of Health", which shall:

7. Make inspections of the public water supplies, sewer systems sewage treatment plants, and garbage and refuse disposal plants throughout the state, and direct the method of installation and operation of the same.

455A.25 *When permit required.* For the purpose of administering sections 455A.19 to 455A.32, inclusive, a permit as herein provided shall be required for the following:

3. Any person who diverts water or any material from the surface directly into any underground watercourse or basin. Provided, however, that any diversion of water or material from the surface directly into any underground watercourse or basin existing upon May 16, 1957 shall not require a permit if said diversion does not create waste or pollution. No permit shall be issued under this subsection until the approval of the Iowa water pollution control commission has been obtained.

469.6 *Certificate of approval.* No permit shall be granted for the construction or operation of a dam where the water is to be used for manufacturing purposes, except to develop power, until a certificate of the Iowa water pollution control commission has been filed with the council showing its approval of the use of the water for the purposes specified in the application.

Iowa water pollution control commission, ch 455B

469.7 *Application for certificate.* When it is proposed to use the water for manufacturing purposes, except to develop power, or for condensation purposes application must be made to the Iowa water pollution control commission, accompanied by a description of the proposed use of the water and what, if any, substances are to be deposited in such water and chemical changes made in the same, and such other information as the depart-

ment of health may require to enable it to determine the advisability of the issuance of such certificate.

Iowa water pollution control commission, ch 455B

- *469.8 Granting or refusing.* If the Iowa water pollution control commission is satisfied that the use of the water in any such project will not cause pollution of the same or render it materially unwholesome or impure, or deleterious to fish life, it may issue a certificate and if it is not so satisfied, it shall refuse to issue same.

Iowa water pollution control commission, ch 455B

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