

Solid Waste Management
in the
State of Iowa

Prepared by:

IOWA DEPARTMENT OF ENVIRONMENTAL QUALITY
Air and Land Quality Division
Henry A. Wallace Building
900 East Grand
Des Moines, Iowa 50319

for the

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Purpose

The purpose of this document is to describe solid waste management in Iowa, to address those aspects of solid waste management in need of upgrading, and to gain compliance with the U.S. Environmental Protection Agency's Guidelines for Development and Implementation of State Solid Waste Management Plans (40 CFR 256). To this end, this document is organized to explicitly follow the guidelines and to demonstrate conformance by citing existing program documents to the maximum degree.

Background

Iowa's basic solid waste legislation was first passed in 1970. This law set specific dates by which solid waste management practices had to be upgraded to certain standards. In administering the law, state regulatory authority was established with policy set by a Solid Waste Disposal Commission made up of citizens of the state appointed by the Governor. Several amendments to this legislation have resulted in the current Chapter 455B of the Code of Iowa (Appendix A).

Under this legislation, the solid waste rules first became effective on September 1, 1971. As required in 455.80, all local governments were required to complete solid waste management plans by November 12, 1972. On July 1, 1975, all local governments were required to gain legal access to a permitted facility (either their own or some site elsewhere) (Chapter 455B.79 Code of Iowa) (Appendix A). In addition, after July 1, 1975, disposal of solid waste at any site was prohibited unless the site was (1) permitted or (2) owned or leased by the waste generator and is in compliance with Departmental rules (455B.82 Code of Iowa).

However, the owner/operator of such a facility must be able to demonstrate that the facility complies with departmental rules. These rules are found in Rule 26.2(2) Iowa Administrative Code (Appendix B). Compliance with 26.2(2) is achieved by demonstrating conformance with the relevant permit requirements for a comparable facility as contained in Chapters 27-33 Iowa Administrative Code or other criteria accepted by the department. The operating standards are continually being expanded as discussed on pages 25 and 31 of the Solid Waste Strategy (Appendix D). The rules have been revised and expanded several times thereby becoming the current Chapters 25 through 33 Iowa Administrative Code (Appendix B). As a result, over the past ten years the state solid waste program has evolved to its present level of solid waste management.

The document contains several appendices which reflect the regulating structure of this agency, the division of responsibilities with other state agencies, and the current status of various departmental procedures.

These documents have been developed through existing public participation procedures in existence at the time of their adoption. When updated, they will be adopted in accordance with state administrative procedures in effect at the time.

The Solid Waste Management Plan for Iowa is included in Appendix C. The plan provides background information for the material included in the other appendices. The plan was written as a result of a 1970 Federal Grant No. L007036 from the EPA, as authorized by Section 207 of the Solid Waste Disposal Act of 1965. It was approved by the Solid Waste Disposal Commission on April 23, 1974. Approval was subject to certain revisions which reflected the concerns of the Iowa citizenry. The EPA-accepted draft plan was signed by Iowa Governor Robert D. Ray on November 24, 1975. The plan is general in nature while the guideline requirements are specific, hence it will not be cited in this document but is included for background information. The specific information sources are included in the other appendices.

Iowa's Solid Waste Management Strategy (Appendix "D") is a five year plan that is updated and revised annually. The 1979 Strategy was reviewed by the Iowa Solid Waste Commission and accepted at a public meeting on September 20, 1979. It is by far the most valuable document if the reader wishes to determine the future program emphasis and the rationale governing current solid waste management developments. The 1979 Strategy (Appendix D) is cited throughout this document. The 1980 Strategy is being developed concurrently with the document. As a result the draft 1980 Strategy is enclosed (Appendix D) but not cited.

The "Iowa Department of Environmental Quality Program Plan" (Appendix E) is prepared annually. This plan identifies the detailed outputs required in the coming year to achieve the goals specified in the Solid Waste Strategy (Appendix D). If progress toward a specific goal cannot be met, the problem is identified and the situation rectified. However, if the strategy contains unrealistic goals as determined through review, then the strategy will be revised bearing in mind the goals of the Department, current legislation, regulations, available resources and any other pertinent factors.

The requirements of Part 256 are addressed as follows:

Subpart A - Purpose, General Requirements, Definitions

§256.01 Purpose and scope of the guidelines.

[1] The plan shall identify, in accordance with section 4006[b], [i] the responsibilities of State, local, and regional authorities in the implementation of the State plan, [ii] the distribution of Federal funds to the authorities responsible for development and implementation of the State plan, and [iii] the means for coordinating regional planning and implementation under the State plan.

~~State and local agency responsibilities are addressed in the Governor's Designation (Appendix J). All federal funding will be utilized by the Department of Environmental Quality. Coordination of solid waste disposal plans are accomplished through the state review role as provided for in 455B.80 Code of Iowa (Appendix A) and 26.4 Iowa Administrative Code (Appendix B).~~

[2] The plan shall, in accordance with section 4005[c], prohibit the establishment of new open dumps within the State, and contain requirements that all solid waste [including solid waste originating in other States, but not including hazardous waste] shall be [i] utilized for resource recovery or [ii] disposed of in sanitary landfills [within the meaning of section 4004[a]] or otherwise disposed of in an environmentally sound manner.

Open dumps are prohibited in Chapter 26.2 Iowa Administrative Code (Appendix B) and 455B.76 Code of Iowa (Appendix A). Future developments are addressed in the Solid Waste Strategy (Appendix D). The use of sanitary disposal projects, (as defined in 455B.75(3)) including both sanitary landfills and resource recovery projects, is required by Chapter 455B Code of Iowa (Appendix A). Regulations concerning sanitary landfills are found in Chapters 26, 27 and 28 Iowa Administrative Code (Appendix B). Regulations concerning recycling are found in Chapters 29, 30, 31 and 33 Iowa Administrative Code (Appendix B) as well as in the previous regulations. Currently, solid waste regulations address solid waste activities in Iowa irrespective of the location of the waste source. The state has no intension to change this policy.

[3] The plan shall provide for the closing or upgrading of all existing open dumps within the State pursuant to the requirements of section 4005.

Compliance with rule 26.6 Iowa Administrative Code (Appendix B) and Chapter 455B.82 Code of Iowa (Appendix A) requires closure or upgrading disposal sites to assure compliance with sound environmental practices as defined in the rules of the department with permitting as appropriate. Departmental rules will be revised as appropriate so as to insure compliance with the new federal criteria.

[4] The plan shall provide for the establishment of such State regulatory powers as may be necessary to implement the plan.

Chapter 455B.78 Code of Iowa (Appendix A) provides the statutory authority necessary to promulgate the state regulations. The regulations attached in Appendix B verify the states compliance thus far. The State will develop new regulations as necessary to achieve compliance with the requirements of the plan. Annually, the Department conducts a rule review so as to detect any regulatory needs. Scheduling of the review is discussed in the Iowa's Solid Waste Management Strategy (Appendix D) and is summarized on pages 69 through 74.

[5] The plan shall provide that no local government within the State shall be prohibited under State or local law from entering into long-term contracts for the supply of solid waste to resource recovery facilities.

~~Local organization options addressed in 455B.76 Code of Iowa (Appendix A) and rule 26.5 (455B) Iowa Administrative Code (Appendix B) and 28 E and F Code of Iowa (Appendix H) under which most local county solid waste agencies have organized as illustrated by the Model Agreement (Appendix I).~~

[6] The plan shall provide for resource conservation or recovery and for the disposal of solid waste in sanitary landfills or for any combination of practices so as may be necessary to use or dispose of such waste in a manner that is environmentally sound.

Resource Conservation and recovery is addressed on pages 4 through 12 of the Strategy (Appendix D) and in 455B.76 Code of Iowa (Appendix A) and Chapters 26.3, 26.4 and 26.5 Iowa Administrative Code (Appendix B).

[c] These guidelines address the requirement of section 4005[c] that a State plan:

Shall establish, for any entity which demonstrates that it has considered other public or private alternatives for solid waste management to comply with the prohibition on open dumping and is unable to utilize such alternatives to so comply, a timetable or schedule of compliance for such practice or disposal of solid waste which specifies a schedule of remedial measures, including an enforceable sequence of actions or operations leading to compliance with the prohibition on open dumping of solid waste within a reasonable time [not to exceed five years from the date of publication of the inventory].

There are no legal open dumps in the State of Iowa as defined in Chapter 25 Iowa Administrative Code (Appendix B). Any differing definition of an open dump will be addressed by rule change during the coming fiscal year. Where necessary, upgrading for permitted sites will occur within the three year landfill permit renewal cycle. Gross non-compliance will be rectified as soon as is practical. Upgrading of non-permitted facilities can be accomplished by means of a temporary permit or a formal legal instrument as appropriate. Paragraph 27.2[2] Iowa Administrative Code (Appendix B) describes a temporary permit. A temporary permit requires compliance with the compliance schedule which is a part of the permit. This type of permit is currently issued only in instances where the environment and public welfare would best be served by an expedient siting,

e.g., opening a site for storm debris in the aftermath of violent weather. In the past permits have also been issued to allow the upgrading of noncomplying newly regulated sites as illustrated by the application form (Appendix G).

§256.02 Scope of the State solid waste management plan.

[a][1] The State plan shall address all solid waste in the State that poses potential adverse effects on health or the environment or provides opportunity for resource conservation or resource recovery. The plan shall consider:

- [i] Hazardous wastes;
- [ii] Residential, commercial and institutional solid waste;
- [~~iii~~] ~~Wastewater treatment sludge;~~
- [iv] Pollution control residuals;
- [v] Industrial wastes;
- [vi] Mining wastes;
- [vii] Agricultural wastes;
- [viii] Water treatment sludge; and
- [ix] Septic tank pumpings.

These are addressed as follows:

- i. Hazardous wastes are addressed in the State's interim authorization application (Appendix F). Hazardous wastes will be addressed later as the program develops and full authorization is requested. Because of the detailed nature of that application, no further reference will be made to the above requirements in this document.
- ii. Residential, commercial, and institutional solid wastes are addressed by the existing solid waste regulations (Appendix A and Appendix B).
- iii. Wastewater treatment sludges are addressed by Special Waste Authorizations and permits as provided for in rule 27.14, and by the permit programs of rule 28.6, and Chapter 33 Iowa Administrative Code (Appendix B).
- iv. Pollution control residues are addressed in Chapter 27 and rule 28.5 Iowa Administrative Code (Appendix B).
- v. Industrial wastes are addressed in the same manner as pollution control residues (item IV above).
- vi. Mining wastes are addressed as in a letter to Walter J. Herine from Elmer H. Vermeer, August 30, 1979 (Appendix J).
- vii. Agriculture wastes are currently addressed as in Chapter 20 Iowa Administrative Code Animal Feeding Operations (Appendix H).
- viii. Water treatment sludges are addressed similarly to "Pollution Control Residues (item IV above)".

ix. Septic tank pumpings are addressed in the Department of Health Rules (Appendix H).

[2] The State plan shall consider the following aspects of solid waste management:

- [i] Resource conservation;
- [ii] Source separation; bottle bill
- [iii] Collection;
- [iv] Transportation;
- [v] Storage;
- [vi] Transfer;
- [vii] Processing [including resource recovery];
- [viii] Treatment; and
- [ix] Disposal.

The department has been actively encouraging resource conservation activities as well as working jointly with other agencies in recycling efforts. Examples of these activities are as follows:

[1] Junk car disposal was addressed as per page 47 of the Iowa Solid Waste Management Plan (Appendix C). This is a vivid example of the effectiveness of voluntary efforts of several state agencies in cooperation with private enterprise.

[2] Oil recycling efforts have included this agency acting as a promoter of oil collection by local petroleum distributors. The Iowa Department of Transportation is currently studying the acceptability of utilizing reclaimed oil as an engine lubricant.

[3] Pesticide can recycling has involved this agency as an adviser to youth groups in can crushing activities, and as a negotiator with private recyclers to accept the crushed cans.

A worthwhile by-product of the program was the emphasis on the triple-rinse of the pesticide containers so as to have the containers acceptable for recycling and the utilization of the container's contents as it was intended to be used.

[4] Fly ash utilization in road construction is being researched by the Iowa Department of Transportation-Highway Division. Fly ash utilized as a stabilization agent appears to be promising. The utilization of fly ash in concrete is being studied to determine the conditions under which its use is attractive.

[5] Recycling activities are actively promoted during this agency's special waste disposal activities. Active lists of reclaimers are readily circulated. Substantial quantities of materials are recycled annually. For example, large quantities of cutting oils are elutriated and then utilized as a fuel supplement in incinerators.

[6] The reclaiming of abandoned stripmines by filling with various wastes including industrial incinerator wastes has been encouraged. The sites of course are subject to engineering study so that all environmental concerns are addressed.

[7] Sewage sludge is utilized in land application programs as provided for in Chapter 33 Iowa Administrative Code (Appendix B). Nutrient addition as well as a improvement in soil texture are two benefits realized from this program. The land application program is strongly encouraged by this Department.

[8] The Iowa Beverage Container Deposit Law 455.C Code of Iowa (Appendix A) which went into effect in August 1979, and subsequent rules, Chapter 34 Iowa Administrative Code (Appendix B) have resulted in the collection of recyclable quantities of metals, glass, plastics and paper by the beverage distributors.

By reviewing the items above, it is evident that the private sector is actively involved. Activities in the private sector are important because of the financial aspect as well as the public educational aspects of the recycling program. With public involvement, the effectiveness of the programs are greatly enhanced.

Source separation is strongly encouraged by the Special Waste Authorization Program as only well defined wastes are authorized for disposal. In certain instances, mixtures of wastes necessitate expensive disposal alternatives.

Source separation is a necessity in the recovery of certain industrial waste streams (eg. paper separation and reclamation activities). Collection, transportation, storage and transfer standards have been addressed in rule 26.3 and Chapter 29 Iowa Administrative Code (Appendix B).

The Ames Heat Recovery Facility illustrates the state's involvement in a processing facilities leading to resource recovery. The facility has been in operation producing refuse derived fuel (RDF) to sell to a municipal utility. At the Ames facility, waste separation is a pretreatment prior to incineration and produces quantities of recycleable materials. Other municipalities are studying this type of facility and may utilize such a facility when it becomes economically feasible.

Three composting facilities have been permitted in this state. Widespread development of this waste treatment method has been slow.

Optional disposal practices are addressed throughout the appendices and will not be addressed further.

[b] The State Plan shall establish and justify priorities and timing for actions. These priorities shall be based on the current level of solid waste management planning and implementation within the State, the extent of the solid waste management problem, the health, environmental and economic impacts of the problem, and the resource and management approaches available.

Surveillance and enforcement priorities and schedule of enforcement actions are addressed in the procedures of (Appendix G) and the Solid Waste Strategy (Appendix D).

[c] The State plan shall set forth an orderly and manageable process for achieving the objectives of the Act and meeting the requirements of these guidelines. This process shall describe as specifically as possible the activities to be undertaken, including detailed schedules and milestones.

The requirements of Paragraph [c] are addressed in the Solid Waste Strategy (Appendix D) which defines the Department's Goals, the Iowa Program Plan (Appendix E) which indicates the outputs planned in the current year to meet the expectations of the five year plan, and the interim authorization application which specifically addresses hazardous wastes.

[d] The State plan shall cover a minimum of a five year time period from the date submitted to EPA for approval.

The requirements of paragraph [d] are addressed in the Solid Waste Management Plan for Iowa which covers more than just five years (Appendix C), while the Solid Waste Management Strategy covers a five year period and is updated annually. (Appendix D).

[e] The State plan shall identify existing State legal authority for solid waste management and shall identify modifications to regulations necessary to meet the requirements of these guidelines.

The state's legal authority can be found in Appendices A, B and H. The provisions for modifications to the regulations are provided in the Solid Waste Strategy (Appendix D) and Program Plan (Appendix E). Modifications in the rules will be made and modifications in state law will be requested where needed. The acceptability of the hazardous waste program is addressed in the Interim Authorization Application. Non-hazardous wastes regulations are updated annually. The non-hazardous waste regulations are adequate for the purpose of these guidelines.

§256.03 State plan submission, adoption, and revision.

[a] To be considered for approval, the State plan shall be submitted to EPA within eighteen months after final promulgation of these guidelines.

[b] Prior to submission to EPA, the plan shall be adopted by the State pursuant to State administrative procedures.

[c] The plan shall be developed in accord with public participation procedures required by subpart G of this part.

[d] The plan shall contain procedures for revision. The State plan shall be revised by the State, after notice and public hearings, when the Administrator, by regulation, or the State determines, that:

[1] The State plan is not in compliance with the requirements of these guidelines;

[2] Information has become available which demonstrates the inadequacy of the plan; or

[3] Such revision is otherwise necessary.

[e] The State plan shall be reviewed by the State and, where necessary, revised and readopted not less frequently than every three years.

The documents attached to this review have all been adopted by the Department in conformance with the appropriate state administrative procedures in effect at the time of adoption. These procedures currently in effect are detailed in the Iowa Administrative Procedures Act (Chapter 17A Code of Iowa - Appendix H), DEQ Statutory Authority (Chapter 455B Code of Iowa - Appendix A) and Departmental Administrative Rules (Chapters 50 through 55 Iowa Administrative Code - Appendix B). This document will also be adopted in the same manner and will be submitted to the U.S. E.P.A. prior to January 1, 1981. These documents are reviewed periodically (in most cases annually) and revised as appropriate (also in accordance with state administrative procedures).

Subpart B - Identification of Responsibilities; Distribution of Funding

§256.10 Requirements.

[a] In accordance with sections 4003[1] and 4006 and the interim guidelines for identification of regions and agencies for solid waste management (40 CFR Part 255), the State plan shall provide for:

[1] The identification of the responsibilities of State and substate (regional, local and interstate) authorities in the development and implementation of the State plan;

This requirement is satisfied by 455B.76, Code of Iowa (Appendix A), 265.5 Iowa Administrative Code (Appendix B) and paragraph 5 on page 16 of the Solid Waste Strategy (Appendix D). The state's regulatory powers will not be delegated for reasons specified in the Solid Waste Strategy. Planning and implementation responsibilities are as identified in the Governor's designation (Appendix J).

[2] The means of distribution of Federal funds to the authorities responsible for development and implementation of the State plan; and

There is no substate agency funded to develop or implement land quality activities, hence, a method for distributing funds by the state to substate authorities is not necessary.

[3] The means for coordinating substate planning and implementation.

This is provided by the requirements of 455B.80 Code of Iowa (Appendix A) and 26.4 Iowa Administrative Code (Appendix B).

[b] Responsibilities shall be identified for the classification of disposal facilities for the inventory of open dumps.

As stated earlier in [a][1], the state has this responsibility.

[c] Responsibilities shall be identified for development and implementation of the State regulatory program described in subpart C of this part.

This is the department's responsibility as stated earlier in [a][1].

[d] Responsibilities shall be identified for the development and implementation of the State resource conservation and resource recovery program described in subpart D of this part.

This is addressed on pages 4-12 and 64-66 of the State Solid Waste Strategy (Appendix D) and as well in Chapter 455B Code of Iowa (Appendix A) which gives the state its statutory authority and responsibilities for the Iowa's Resource Conservation and Resource Recovery program.

[e] State, substate and private sector responsibilities shall be identified for the planning and implementation of solid and hazardous waste management facilities and services.

The states activities are outlined in the Solid Waste Strategy (Appendix D) as provided for by Chapter 455B Code of Iowa (Appendix A).

[f] Financial assistance under sections 4008[a][1] and [2] shall be allocated by the State to State and substate authorities carrying out development and implementation of the State plan. Such allocation shall be based on the responsibilities of the respective parties as determined under section 4006[b].

IDEQ will be the only agency funded for carrying out the solid waste program as noted in [a][2] above.

Subpart C - Solid Waste Disposal Programs

§256.20 Requirements for State legal authority.

In order to comply with sections 4003[2] and [3], the State plan shall assure that the State has adequate legal authority to prohibit the establishment of new open dumps and to close or upgrade existing open dumps. The prohibition of the establishment of new open dumps shall take effect no later than six months after the date of promulgation of the criteria or on the date of approval of the State plan, whichever is later.

Adherence to this section was accomplished in 1975 as provided in 455B.75 through 455B.84 of State law (Appendix A) and detailed in Chapters 25 through 33 of the rules of the department (Appendix B).

§256.21 Requirments for State regulatory powers.

In order to comply with section 4003[4], the State plan shall provide for the establishment of State regulatory powers. These powers:

[a] Shall be adequate to enforce solid waste disposal standards which are equivalent to or more stringent than the criteria for classification of solid waste disposal facilities (40 CFR Part 257). Such authority shall be as definitive as possible and clearly establish the means for compliance.

The State of Iowa has established adequate regulatory authority in State laws (Appendix A) and (Appendix H).

[b] Shall include surveillance capabilities necessary to detect adverse environmental effects from solid waste disposal facilities. Such capabilities shall include access for inspection and monitoring by regulatory officials and the authority to establish operator monitoring and reporting requirements.

This has been provided for as noted in the organizational chart in Appendix E and Appendix G which addresses inspection and enforcement procedures. Authority to enact such rules is contained in Chapter 455B.78 Code of Iowa (Appendix A) and amendments. Rules have been promulgated to effect this and can be found throughout Chapters 26 through 33 as in 28.2(2)"e" through "s" Iowa Administrative Code (Appendix B). Chapter 455B.79 Code of Iowa establishes the minimum inspection frequency. The frequency is greater than that specified for sites not in compliance.

[c] Shall make use of a permit program which ensures that the establishment of new open dumps is prohibited.

This is covered in 455B.82 and other sections of state law (Appendix A) and Chapters 26 through 31 and 33 of the rules of the Department (Appendix B) which set basic permit requirements with exemptions available to sites meeting specific standards as defined in the regulations.

[d] Shall have administrative and judicial enforcement capabilities, including enforceable orders, fines or other administrative procedures, as necessary to ensure compliance.

This is provided for in sections 455B.82 and 455B.83 Code of Iowa (Appendix A). Evidence of the utilization of the enforcement instruments can be found in a typical enforcement status report (Appendix G).

§256.22 Recommendations for State regulatory powers.

In order to assist compliance with section 4003(4), the following are recommendations for State regulatory powers as may be necessary to prohibit new open dumps and close or upgrade all existing open dumps.

[a] Solid waste disposal standards:

[1] Should be based on the health and environmental impacts of disposal facilities.

Health and environmental impacts are addressed in all departmental rules as in subrule 26.2[2] Iowa Administrative Code (Appendix B).

[2] Should specify design and operational standards.

Design and operational standards are addressed in Chapters 27, 28 and 33 Iowa Administrative Code (Appendix B) as well as elsewhere in that Appendix.

[3] Should take into account the climatic, geologic, and other relevant characteristics of the State.

These characteristics are explicitly noted in 455B.78 Code of Iowa (Appendix A) and addressed in Chapter 28 Iowa Administrative and elsewhere (Appendix B).

[b] Surveillance systems should establish monitoring requirements for facilities.

[1] Every facility should be evaluated for potential adverse health and environmental effects. Based on this evaluation, instrumentation, sampling, monitoring, and inspection requirements should be established.

[2] Every facility which produces leachate in quantities and concentrations that could contaminate ground water in an aquifer should be required to monitor to detect and predict contamination.

During permit issuance and renewal the specific design of a land disposal facility must be justified through a detailed application of Darcy's Law as detailed in 28.3[1], 28.4[1], 28.5[1], 28.6[1] and 33.3[3]k Iowa Administrative Code (Appendix B). Based on this review a surveillance program must be designed and implemented as addressed in paragraphs 28.2[2] m, n, r, s and p, 33.3(3)k(3), 33.3(4)e and elsewhere in Iowa Administrative Code (Appendix B) as well as in

455B.79 Code of Iowa (Appendix A). All Iowa sanitary landfills which accept refuse have an existing groundwater monitoring program or are under a compliance schedule to institute such a program.

[3] Inspectors should be trained and provided detailed instructions for checking on the procedures and conditions that are specified in the engineering plan and site permit. Provisions should be made to ensure chain of custody for evidence.

This is addressed in departmental procedures (Appendix G). The Compliance Division follows standard procedures to ensure adequate evidentiary chain of custody in accordance with training received by staff. These procedures will be set forth in writing as quickly as staff resources allow.

[c] Facility assessment and prescription of remedial measures should be carried out by adequately trained or experienced professional staff, including engineers and geologists.

This is addressed in 27.4, 28.2[1]f and 28.2[2]r and s Iowa Administrative Code (Appendix B).

[d] The State permit system should provide the administrative control to prohibit the establishment of new open dumps and to assist in meeting the requirement that all wastes be used or disposed in an environmentally sound manner.

This is provided for in virtually all portions of Chapters 26 through 33 Iowa Administrative Code (Appendix B).

[1] Permitting procedures for new facilities should require applicants to demonstrate that the facility will comply with the criteria.

This is provided for in 455B.78 and 82 of State law (Appendix A) as specified in Chapters 26 through 33 Iowa Administrative Code (Appendix B).

[2] The permit system should specify, the facility operator, the location, design, construction, operational, monitoring, reporting, completion and maintenance requirements.

This is provided for in Chapters 26 through 33 Iowa Administrative Code (Appendix B) and in state law (Appendix A) where necessary specific special provisions are included in the permit.

[3] Permit procedures should include provisions to ensure that future use of the property on which the facility is located is compatible with that property's use as a solid waste disposal facility. These procedures should include identification of future land use or the inclusion of a stipulation in the property deed which notifies future purchasers of precautions necessitated by the use of the property as a solid waste disposal facility.

Future use limitations are noted in paragraph Chapter 28.2[2]p and q and 28.2[1]g Iowa Administrative Code (Appendix B).

[4] Permits should only be issued to facilities that are consistent with the State plan, or with substate plans developed under the State plan.

This requirement is addressed in Rule 27.1 and is further detailed in Chapters 28 through 33 Iowa Administrative Code (Appendix B).

[e] The enforcement system should be designed to include both administrative procedures and judicial remedies to enforce the compliance schedules and closure procedures for open dumps.

Legal remedies are itemized in 455B.82 and 455B.83 Code of Iowa (Appendix A) as well as 17A Code of Iowa (Appendix H).

[1] Permits, surveillance, and enforcement system capabilities should be designed for supporting court action.

This is provided for in departmental rules (Appendix B), and procedures (Appendix G).

[2] Detection capabilities and penalties for false reporting should be provided for.

Detection capabilities are provided for through the inspection procedures (Appendix G) and Chapters 28 through 31 Iowa Administrative Code (Appendix B). Penalties are specified in 455B.82 Code of Iowa (Appendix A).

§256.23 Requirements for closing or upgrading open dumps.

In meeting the requirement of section 4003[3] for closing or upgrading open dumps:

[a] The State plan shall provide for the classification of existing solid waste disposal facilities according to the criteria. This classification shall be submitted to EPA, and facilities classified as open dumps shall be published in the inventory of open dumps.

[b] The State plan shall provide for an orderly time-phasing of the disposal facility classifications described in paragraph [a] of this section. The determination of priorities for the classification of disposal facilities shall be based upon:

[1] The potential health and environmental impact of the solid waste disposal facility:

[2] The availability of State regulatory and enforcement powers; and

[3] The availability of Federal and State resources for this purpose.

The current state rules address the major areas of the Federal Criteria for classifications as follows:

[a] Flood Plain Protection is addressed in subparagraph 128.2[1] "i" [3] Iowa Administrative Code (Appendix B) and by rules of the Iowa Natural Resources Commission (Appendix H). As a result, the existing permitted disposal facilities are in compliance with the Federal Requirements.

[b] Critical Habitats are addressed in Subchapter 109A Code of Iowa (Appendix H). There are no permitted landfills that have been constructed in areas that would be classified as a "Critical Habitat".

[c] Surface Water-General is addressed in paragraphs a, b, c and i of 28.2[1] Iowa Administrative Code, n, k and l of 28.2[2] Iowa Administrative Code, and Chapter 33 of the Iowa Administrative Code (Appendix B).

[d] Wetlands are addressed in Chapter 28 Iowa Administrative Code (Appendix B) - Sanitary Landfills paragraphs a and i of 28.2[1] Iowa Administrative Code (Appendix B).

[e] Groundwater is addressed by application of Darcy's Law in predicting leachate movement at specific facilities as defined in subrules 28.3[1], 28.4[1], 28.5[1], 28.6[1] and 33.3[3]k as well as implied in other portions of Chapters 26 through 33 Iowa Administrative Code (Appendix B). eg. 29.9 [b][2] Iowa Administrative Code.

[f] Air quality is addressed in subrules 26.6[2][d], 27.13[6] and 27.13[1] Iowa Administrative Code (Appendix B).

[g] Disease Vectors are addressed in paragraphs 26.6[2]c, 27.13[4] and 29.9[1][c][4] Iowa Administrative Code (Appendix B).

[h] Explosive Gases and Toxic Gases are addressed in paragraph 27.14 and 32.2 Iowa Administrative Code (Appendix B). They are also addressed by the distance requirements of the nearest occupied home. Gas monitoring at a disposal site will be addressed by rule where the requirement would be environmentally and technically sound. If the hazard characteristic of a waste is evident upon delivery of a hazardous material to the landfill, the landfill operator must reject the waste for disposal.

[i] Bird problems are addressed in paragraph 28.2[1] Iowa Administrative Code (Appendix B).

[j] Site accessibility is addressed in subparagraph 28.2[2]e Iowa Administrative Code (Appendix B).

[k] Fires are addressed in subrule 27.12[8] Iowa Administrative Code (Appendix B).

The actual classification of existing solid waste disposal facilities according to the criteria is provided for in the Iowa Department of Environmental Quality Program Plan FY80 activity number 410010 (Appendix E).

The appropriate state regulations will be reviewed and revised as appropriate to be consistent with the Federal Requirements. The actual rules modification procedure is addressed in 455B.84 Code of Iowa in (Appendix A) and the Administrative Procedures Act (17A Code of Iowa - Appendix H).

[c] For each facility classified as an open dump the State shall take steps to close or upgrade the facility. Evidence of that action shall be incorporated by reference into the annual work program and be made publicly available. When the State's actions concerning open dumps are modified, the changes shall be referenced in subsequent annual work programs.

The closing of non-permitted sites is addressed by Chapter 26 Iowa Administrative Code (Appendix A). Office procedures and mechanisms to achieve compliance with the dump closing regulations are contained in Appendix G. Permitted sites will be brought into compliance with the modified regulations as their permits expire. This activity will not exceed a three year period. The required reports to EPA are provided for in the Iowa Department of Environmental Quality Program Plan, i.e. plannet, as noted in the FY80 Program Plan Activity Numbers 410010X, and 410001F (Appendix E). The Department activities are available to the public as noted in the discussion of public participation.

Program Plans are written so as to address current solid waste activities. Changes in the program plans will be evident by comparing Program Plans. Each subsequent Program Plan is available to the public.

[d] In providing for the closure of open dumps the State shall take steps necessary to eliminate health hazards and minimize potential health hazards. These steps shall include requirements for long-term monitoring or contingency plans where necessary.

Closing of non-permitted sites (i.e., open dumps) must be in accordance with rule 26.6 Iowa Administrative Code (Appendix B). The paragraph 26.6[2]i Iowa Administrative Code (Appendix B) is of particular interest as it provides discretion needed in addressing the unusual situation. Subrule 28.2[2][o] and [p] and 33.3(4)[i] and [j] Iowa Administrative Code (Appendix B) address closure of permitted sites. Other portions of the rules (Appendix B) address monitoring and contingency plans where necessary.

Subpart D - Resource Conservation and Resource Recovery Programs

§256.26 Requirement for schedules leading to compliance with the prohibition of open dumping.

In implementing the section 4005[c] prohibition on open dumping, the State plan shall provide that any entity which demonstrates that it has considered other public or private alternatives to comply with the prohibition on open dumping and is unable to utilize such alternatives to so comply, may obtain a timetable or schedule for compliance which specifies a schedule of remedial measures, and an enforceable sequence of actions, leading to compliance within a reasonable time (not to exceed 5 years from the date of publication of the inventory).

§256.27 Recommendation for schedules leading to compliance with the prohibition of open dumping.

In reviewing applications for compliance schedules under §256.26, the State should consider the availability of processing and disposal facilities, the likelihood of environmental damage from disposal at available facilities, the existence of State or substate requirements (including other compliance schedules) applicable to available facilities, cost constraints, existing contractual agreements and other pertinent factors.

Compliance schedules are addressed in 455B.82 Code of Iowa (Appendix A), Chapters 26 and 27.2(2) Iowa Administrative Code (Appendix B). It must be emphasized that it is the responsibility of the local public agency to provide a contract for solid waste disposal under 26.5[1] Iowa Administrative Code (Appendix B). Temporary permits were utilized a great deal in 1975 to address those sites which did not yet comply with departmental rules. Since then temporary permit issuance has been used almost exclusively for disposal of disaster debris. At present the State has no legal open dumps as the state defines it ie. definition 25.1(41) and rule 26.2 Iowa Administrative Code. The only "open dumps" are those promiscuous sites that arise whether or not a sanitary facility is available to the citizenry. Efforts are expended to close them. Open dumps is in parenthesis because this description reflects our definition of the term rather than the EPA's.

Unacceptable permitted disposal sites will be upgraded as required by State regulations which in turn will reflect the requirements of 40 CFR 257.

§256.30 Requirements.

[a] In order to comply with sections 4003[2] and [6] as they pertain to resource conservation and recovery, the State plan shall provide for a policy and strategy for encouragement of resource recovery and conservation activities.

[b] In order to comply with section 4003[5], the State plan shall provide that no local government within the State is prohibited under State or local law from entering into long-term contracts for the supply of solid waste to resource recovery facilities.

At present there is no prohibition from entering into long-term contracts for the supply of solid waste to resource recovery facilities. In fact, cooperative arrangements by local governments to economically dispose of solid waste is provided for in Chapter 28E Code of Iowa (Appendix B) and encouraged by this department in various ways including providing the model agency agreement (Appendix I). As a result most local governments in the state have entered into such agreements. The only limitations imposed are basic financial requirements to which all local governments are subject along with the limitations of Chapter 28F Code of Iowa (Appendix H).

Resource conservation and recovery is also addressed in page 4 of Iowa's Solid Waste Strategy (Appendix D). Additional requirements not specified in the 1979 strategy will be addressed in future 1980 strategy as necessary.

Subpart E - Facility Planning and Implementation

§256.40 Requirements.

In order to comply with section 4003(6), the State plan shall provide for adequate resource conservation, recovery, storage, treatment and disposal facilities and practices necessary to use or dispose of solid and hazardous waste in an environmentally sound manner.

The state's involvement in the development of a hazardous waste disposal facility is found in Section 59 SF205 (Appendix A). This regulation indicates the extent of state involvement, and specifies that the state will not operate such a facility. Citizen's disposal needs are addressed in 455B.76 Code of Iowa (Appendix A) by which a municipality is required to provide for the disposal needs that are consistent with the rules of this Department (Appendix B). On page 4 of the Solid Waste Strategy (Appendix D), the Department's position on resource recovery aspects in lieu of disposal is stated. Industrial waste disposal is the responsibility of the generating industry.

With the implementation of the Subtitle C regulations, the handling of these wastes will change. Currently, there are no hazardous waste disposal facilities in the State of Iowa. With the results of the EPA and IDEQ surveys, a more precise assessment of the recycling activities and disposal needs will be available.

As the hazardous wastes programs i.e., manifesting, notification, storage site permitting, etc. develop a more complete understanding of activities in the recycle area will be known. Currently, there are some commercial recycling activities particularly for solvents and metals. The state has operated a waste exchange through the state extension service. Activity by that agency has diminished as recycling has become more cost effective. The diminished activity is due to the private sector providing the education, facilities, arrangements etc.

Any deficiencies which are noted in this document will be addressed in the updated Solid Waste Management Strategy and in the modification of regulations to reflect the new solid waste disposal requirements.

Subpart F - Coordination With Other Programs

§256.50 Requirements.

Section 4003[1] requires the State solid waste management plan to identify means for coordinating regional planning and implementation under the State plan. Section 1006 requires the Administrator to integrate all provisions of this Act (including approval of State plans) with other Acts the grant regulatory authority to the Administrator in order to prevent duplication of administrative and enforcement efforts. In order to meet these requirements:

[a] The State solid waste management plan shall be developed in coordination with Federal, State, and substate programs for air quality, water quality water supply, waste water treatment, pesticides, ocean protection, toxic substances control, noise control, and radiation control.

Compliance with this section will be achieved by the submission of this document to the regional EPA office for their coordination with those agencies required by this paragraph. Upon receipt of comments from those agencies, the plan will be revised as the Department deems appropriate.

[b] The State plan shall provide for coordination with programs under section 208 of the Clean Water Act, as amended (33 U.S.C. 1288). In identifying agencies for solid waste management planning and implementation, the State shall review the solid waste management activities being conducted by water quality planning and management agencies designated under section 208 of the Clean Water Act. Where feasible, identification of such agencies should be considered during the identification of responsibilities under subpart B of this part. Where solid waste management and water quality agencies are separate entities, necessary coordination procedures shall be established.

The solid waste management program and the water quality "208" program are both administered by this Department. Coordination is achieved through program staff interaction, as was the case in the joint development of municipal sludge disposal rules.

[c] The State plan shall provide for coordination with the National Pollutant Discharge Elimination System (NPDES) established under section 402 of the Clean Water Act, as amended (33 U.S.C. 1342). The issuance of State facility permits and actions taken to close or upgrade open dumps shall be timed, where practicable, to coordinate closely with the issuance of a new or revised NPDES permit for such facility.

The Solid Waste Management program and the water quality NPDES program are both administered by this department. At present, there are no permitted solid waste facilities that have meaningful surface discharges. Consequently, there are no NPDES permitted facilities. Whenever the occasion arises that a facility may require a permit, the solid waste section will coordinate with water quality programs as formalized in the memos of January 26 and February 8, 1977 (Appendix G).

[d] The State plan shall provide for coordination with activities for municipal sewage sludge disposal and utilization conducted under the authority of section 405 of the Clean Water Act, as amended (33 U.S.C. 1345) and with the program for construction grants for publicly owned treatment works under section 201 of the Clean Water Act, as amended (33 U.S.C. 1281).

The solid waste management program and the water quality "405" program are both administered by this department. The solid waste rules were promulgated jointly by the policymaking commissions for the two programs. The construction grants program staff reviews applications for compliance with Chapters 27 and 33 Iowa Administrative Code (Appendix B) when determining eligibility of a facility for funding.

[e] The State plan shall provide for coordination with State pretreatment activities under section 307 of the Clean Water Act, as amended (33 U.S.C. 1317).

The solid waste management program and the water quality "307" program are both administered by this department. Coordination is accomplished as necessary through the Special Waste Authorization Program of 27.14(2) Iowa Administrative Code (Appendix B), the specific waste site permit program of 28.5 Iowa Administrative Code (Appendix B) and the hazardous waste program as it will be implemented.

[f] The State plan shall provide for coordination with agencies conducting assessments of the impact of surface impoundments on underground sources or drinking water under the authority of section 1442[a][8][C] of the Safe Drinking Water Act (42 U.S.C. 300j-1).

[g] The State plan shall provide for coordination with State underground injection control programs (40 CFR Parts 122, 123, 124 and 146) carried out under the authority of the Safe Drinking Water Act (42 U.S.C. 300f et seq.) and with the designation of sole source aquifers under section 1424 of that Act.

The agency will coordinate with the implementing agency as appropriate.

[h] The State plan shall provide for coordination with State implementation plans developed under the Clean Air Act (42 U.S.C. 7401 et seq.; incineration and open burning limitations; and, State implementation plan requirements impacting resource recovery systems).

The solid waste management program and the air quality program are both administered by this department. Reviews of proposals subject to both programs are closely coordinated. This is addressed in 26.6[2]d and 27.13[1] Iowa Administrative Code (Appendix B) as well as 455B.78 Code of Iowa (Appendix A).

[i] The State plan shall provide for coordination with the Army Corps of Engineers permit program (or authorized State program) under section 404 of the Clean Water Act, as amended (33 U.S.C. 1344) for dredge and fill activities in waters of the United States.

This is addressed in 28.2[1]i[3] Iowa Administrative Code (Appendix B) and, if a permit is issued, 455B.79 Code of Iowa (Appendix A) as well as that portion of the permit cited under c of "Subpart F Coordination With Other Program."

[j] The State plan shall provide for coordination with the Office of Endangered Species, Department of Interior, to ensure that solid waste management activities, especially the siting of disposal facilities, do not jeopardize the continued existence of an endangered or threatened species nor result in the destruction or adverse modification of a critical habitat.

This also is addressed by 455B.79 Code of Iowa (Appendix A) and the portion of the permit cited under c of "Subpart F Coordination With Other Programs." Management and protection of Endangered Plants and Wildlife Chapter 109 A Iowa Administrative Code (Appendix H) is an example of state legislation that addresses this requirement.

[k] The State plan shall provide for coordination, where practicable, with programs under:

[1] The Toxic Substances Control Act (15 U.S.C. 2601 et seq.; disposal of chemical substances and mixtures).

[2] The Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 1362 et seq.; disposal and storage of pesticides and pesticide containers).

[3] The Marine Protection, Research and Sanctuaries Act (33 U.S.C. 1420 et seq.; disposal in ocean waters).

[1] The State plan shall provide for coordination, where practicable, with programs of other Federal agencies, including:

[1] Department of the Interior.

[i] Fish and Wildlife Service (wetlands).

[ii] Bureau of Mines and Office of Surface Mining (mining waste disposal and use of sludge in reclamation).

[iii] U.S. Geological Survey (wetlands, floodplains, groundwater);

[2] Department of Commerce, National Oceanic and Atmospheric Administration (coastal zone management plan);

[3] Water Resources Council (floodplains, surface and groundwaters);

[4] Department of Agriculture, including Soil Conservation Service (land spreading solid waste on food chain croplands);

[5] Federal Aviation Administration (locating disposal facilities on or near airport property);

[6] Department of Housing and Urban Development (701 comprehensive planning program, flood plains mapping);

[7] Department of Defense (development and implementation of State and substate plans with regard to resource recovery and solid waste disposal programs at various installations);

[8] Department of Energy (State energy conservation plans under the Energy Policy and Conservation Act (42 U.S.C. 6321); and

[9] Other programs.

[m] The State plan shall provide for coordination, where practicable, with ~~solid waste management plans in neighboring States and with plans for Indian reservations in the State.~~

Coordination with the above entities has taken place in the past. When dual authorities exist, the other agency(ies) are alerted to our intended action prior to the Department pursuing any action. Also areas of dual concern have been addressed in 28.2[1]i[3] Iowa Administrative Code (Appendix B) and 455B.79 Code of Iowa (Appendix A).

Subpart G - Public Participation

§256.60 Requirements for Public Participation in State and Substate Plans.

[a] State and substate planning agencies shall:

[1] Maintain a current list of agencies, organizations, and individuals affected by or interested in the plan;

This department maintains a list of individuals, who have expressed interest in this Department's activities, for the purpose of mailing a semi-monthly circular. The Department also maintains a list of individuals that wish to receive a copy of the Solid Waste Disposal Commission agendas and agenda-supporting information.

[2] Provide depositories or relevant information in one or more convenient locations; and

The state maintains files of all of the Department's activities. These are available to the public at the department's central office in Des Moines and where appropriate at the six (6) regional offices located across the state pursuant to Chapter 68A Code of Iowa (Appendix A).

[3] Prepare a responsiveness summary, in accord with 40 CFR Part 25.8, where required by this subpart or by an approved public participation work plan, which describes matters on which the public was consulted, summarizes the public's views, and sets forth the agency's response to the public input.

Responsiveness summaries will be prepared following public hearings regarding planning issues.

[b] State and substate planning agencies shall provide information and consult with the public on plan development and implementation. Provision of information and consultation shall occur both early in the planning process (including the preparation and distribution of a summary of the proposed plan) and on major policy decisions made during the course of plan development, revision and implementation. To meet this requirement, planning agencies shall:

[1] Publicize information in news media having broad audiences in the geographic area;

Information distribution is provided for in the Administrative Procedures Act Chapter 17A Code of Iowa (Appendix H).

[2] Place information in depositories maintained under paragraph [a][2] of this section;

Depositories are addressed in the comments under paragraph [a][2] of this section.

[3] Send information directly to agencies, organizations and individuals on the list maintained under paragraph [a][1] of this section; and

As stated earlier, the Department maintains and uses three separate mailing lists of people that have expressed interest in solid waste matters.

[4] Prepare and make available to the public a responsiveness summary in accord with 40 CFR Part 25.8.

Responsiveness summaries are prepared after each public hearing.

[c] State and substate planning agencies shall conduct public hearings (and public meetings, where the agency determines there is sufficient interest) in accord with 40 CFR Part 25.5 and 25.6. The purpose of the hearing and recommendations from interested or affected parties and to explain major issues within the proposed plan. Following the public hearings, a responsiveness summary shall be prepared and made available to the public in accord with 40 CFR Part 25.8.

Public hearings are held as appropriate prior to major policy decisions and rule making efforts. All hearing comments are included in summaries prepared for commission review.

§256.61 Requirements for Public Participation in the Annual State Work Program.

[a] A public participation work plan in accord with 40 CFR Part 25.11 shall be included in the annual State work program.

[b] The State shall consult with the public in the development of the annual work program. One month prior to submission of the draft work program to the Regional Administrator, as required by 40 CFR Part 35, the draft work program shall be made available to the public at the state information depositories maintained under §256.60[a][2]. The public shall be notified of the availability of the draft work program, and a public meeting shall be held if the planning agency determines there is sufficient interest.

[c] The State shall comply with the requirements of Office of Management and Budget Circular No. A-95.

[d] Copies of the final work program shall be placed in the State information depositories maintained under §256.60[a][2].

The annual state EPA agreement is developed in accordance with 40 CFR 25.11.

§256.62 Requirements for Public Participation in State Regulatory Development.

[a] The State shall conduct public hearings (and public meetings where the State determines there is sufficient interest) on State legislation and regulations, in accord with the State administrative procedures act, to

| solicit reactions and recommendations. Following the public hearings, a responsiveness summary shall be prepared and made available to the public in accord with 40 CFR Part 25.8.

| [b] In advance of the hearings and meetings required by paragraph [a] of this section, the State shall prepare a fact sheet on proposed regulations or legislation, mail the fact sheet to agencies, organizations and individuals on the list maintained under §256.60[a][1] and place the fact sheet in the State information depositories maintained under §256.60[a][2].

The requirements are addressed in the Iowa Administrative Procedures Act (Chapter 17A Iowa Administrative Code - Appendix H), Chapters 51, 53, 54, and 55 Iowa Administrative Code (Appendix B), 455B.78 Code of Iowa (Appendix A) and Chapter 32 Iowa Administrative Code (Appendix B).

§256.63 Requirements for Public Participation in the Permitting of Facilities.

| [a] Before approving a permit application (or renewal of a permit) for a resource recovery or solid waste disposal facility the State shall hold a public hearing to solicit public reaction and recommendations on the proposed permit application if the State determines there is a significant degree of public interest in the proposed permit.

| [b] This hearing shall be held in accord with 40 CFR Part 25.5.

Currently, this is addressed in Section 455B.79 Code of Iowa (Appendix A). The zoning committee of each county can override any permit with the exclusion of the condemnation under SF 205 (Appendix A). However, even under SF 205, the necessary hearings will be held prior to condemnation.

Appendix A

Statutory Authority - Iowa Department of Environmental Quality
Code of Iowa

Chapter 455B - Department of Environmental Quality

Chapter 455C - Department of Environmental Quality

Acts, 68th General Assembly (S.F. 205)

Acts, 68th General Assembly (H.F. 719)

Chapter 68A - Examination of Public Records

CHAPTER 455B
DEPARTMENT OF ENVIRONMENTAL QUALITY

Referred to in §101.10, 288A.1

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DIVISION I

EXECUTIVE COMMITTEE

455B.1 Definitions. When used in this chapter, unless the context otherwise requires:

1. "Department" means the department of environmental quality.

2. "Executive director" means the executive director of the department of environmental quality or his designee.

3. "Executive committee" means the executive committee of the department of environmental quality. [C73, 75, 77, §455B.1]

455B.2 Department created. There is created a department of environmental quality. The chief administrative officer of the department shall be the executive director of environmental quality, who shall be appointed by the governor, with the approval of two-thirds of the members of the senate, and serve at his pleasure.

The executive director shall be selected on the basis of his administrative abilities. The salary of the executive director shall be initially established by the governor, but it shall not exceed twenty-five thousand dollars per annum and, thereafter, it shall be determined by the general assembly. The appointment or removal of the executive director shall not be subject to the provisions of chapter 19A. [C73, 75, 77, §455B.2]

Referred to in 1467A.42

455B.3 Executive director's duties. The executive director shall:

1. Recommend to the executive committee the adoption of rules that are necessary for the effective administration of the department.

2. Recommend to the appropriate commission within the department the adoption of rules to implement the programs and services assigned to them.

3. Direct and administer the programs and services of the department in compliance with the rules adopted by the executive committee and the commissions.

4. Perform other duties assigned by the executive committee.

5. Establish or reorganize, with the approval of the executive committee, the administrative structure of the department.

6. Contract, with the approval of the executive committee, with public agencies of this state to provide all laboratory, scientific field measurement and environmental quality evaluation services necessary to implement the provisions of this chapter. If the executive director finds that public agencies of this state cannot provide the laboratory, scientific field measurement and environmental evaluation services required by the department, he may contract, with the approval of the executive committee, with any other public or private persons or agencies for such services.

7. Prepare, on or before the first of September of each even-numbered year, the departmental budget

request for each fiscal year of the ensuing biennium on the forms furnished, and including the information required, by the state comptroller.

8. Conduct investigations of complaints received directly or referred by any of the commissions created in section 455B.4 or such other investigations deemed necessary. While conducting an investigation, the executive director may enter at any reasonable time in and upon any private or public property, except private dwellings, to investigate any actual or possible violation of the provisions of this chapter or the rules or standards adopted under this chapter.

a. If the owner or occupant of any property refuses admittance thereto, or if prior to such refusal the executive director demonstrates the necessity for a warrant, the executive director may make application under oath or affirmation to the district court of the county in which the property is located for the issuance of a search warrant.

b. In the application the executive director shall state that an inspection of the premises is mandated by the laws of this state or that a search of certain premises, areas, or things designated in the application may result in evidence tending to reveal the existence of violations of public health, safety, or welfare requirements imposed by statutes, rules or ordinances established by the state or a political subdivision thereof. The application shall describe the area, premises, or thing to be searched, give the date of the last inspection if known, give the date and time of the proposed inspection, declare the need for such inspection, recite that notice of desire to make an inspection has been given to affected persons and that admission was refused if that be the fact, and state that the inspection has no purpose other than to carry out the purpose of the statute, ordinance, or regulation pursuant to which inspection is to be made. If an item of property is sought by the executive director it shall be identified in the application.

c. If the court is satisfied from the examination of the applicant, and of other witnesses, if any, and of the allegations of the application of the existence of the grounds of the application, or that there is probable cause to believe their existence, he may issue such search warrant.

d. In making inspections and searches pursuant to the authority of this division, the executive director must execute the warrant:

(1) Within ten days after its date.

(2) In a reasonable manner, and any property seized shall be treated in accordance with the provisions of chapter 751.

(3) Subject to any restrictions imposed by the statute, ordinance or regulation pursuant to which inspection is made.

The executive director may appoint, with the approval of the executive committee, the technical, professional, secretarial, and clerical staff necessary to accomplish the purposes of this chapter, subject to the provisions of chapter 19A.

The executive director may appoint a member of his staff to be acting director in his absence. Such acting executive director shall have the powers delegated to him by the executive director.

The executive director and other employees of the department shall receive, in addition to salary, their necessary traveling and related expenses when engaged in the performance of official business. [C66,§455B.14; C71,§§136B.5, 455B.14; C73,§§455B.3, 455B.13(3), 455B.36, 455B.89(4); C75, 77,§455B.3]

455B.4 Commissions within department. There are created within the department the air quality commission, the water quality commission, the chemical technology commission, and the solid waste disposal commission. Each commission shall establish policy for the programs and services assigned to it. The membership of the commissions shall be as follows:

1. The air quality commission shall consist of the president of the Iowa medical society or his designee and the following four members appointed by the governor with the consent of two-thirds of the senate:

a. A member actively engaged in diversified farming.

b. A member actively engaged in the management of a privately owned manufacturing company.

c. Two members who are electors of the state.

2. The water quality commission shall consist of the chairman of the Iowa development commission or his designee and the following four members appointed by the governor with the consent of two-thirds of the senate:

a. A member actively engaged in diversified farming.

b. A member actively engaged in the management of a privately owned manufacturing company.

c. Two members who are electors of the state.

3. The solid waste disposal commission shall consist of the president of the Iowa engineering society or his designee and the following four members appointed by the governor with the consent of two-thirds of the senate:

a. A member actively engaged in diversified farming.

b. A member actively engaged in the management of a privately owned manufacturing company.

c. Two members who are electors of the state.

4. The chemical technology commission shall consist of the secretary of agriculture, the commissioner of public health, the director of the Iowa natural resources council, the chairman of the state soil conservation committee, the chief executive of the league of Iowa municipalities, the state conservation director, and the dean, college of agriculture of Iowa State University of science and technology, or their designees, a representative of a firm in Iowa actively engaged in the manufacture or formulation of agricultural chemicals, and a farmer experienced in the application of agricultural chemicals to be appointed by the governor with the consent of two-thirds of the senate. The members appointed by the governor shall serve four-year terms, except that of the membership of the initial commission, the members appointed by the governor shall be the appointed members of the

chemical technology review board abolished by this chapter, whose terms expired on the thirtieth of June, 1974. The terms of these two members shall expire on the thirtieth of June, 1974.

Any commission member appointed by the governor may be removed by him for cause. The members of each commission shall be electors of the state. The term of office of each appointed member shall be four years, except that of the initial membership of the air quality commission, the water quality commission, and the solid waste disposal commission, the two members appointed to represent the general public shall be appointed to two-year terms. The term of office of each member shall commence on the first day of July of the year of the appointment except that the term of office of the initial membership of the air quality commission, the water quality commission, and the solid waste disposal commission shall be computed as if such appointments were made effective July 1, 1972. Vacancies occurring during a term of office shall be filled by appointment for the balance of the unexpired term subject to the consent of two-thirds of the senate. No appointive member shall be appointed to serve more than two consecutive four-year terms.

Each commission shall meet at least four times a year. Other meetings shall be called by the chairman or upon written request of a majority of the members of the commission. The chairman shall preside at all meetings or in his absence the vice chairman shall preside. The executive director shall attend the meetings of the commissions and act as secretary for them. The members of each commission shall be paid a forty-dollar per diem while in session, and their actual and necessary expenses while attending such meetings. All per diem and expense moneys paid to members shall be paid from funds appropriated to the commission of which they are members.

A majority of each commission shall constitute a quorum and the concurrence of a majority of a commission shall be required to determine any matter relating to its duties. [C71,§§136B.3, 206A.1, 455B.4; C73, 75, 77,§455B.4]

Referred to in 455B.3

455B.5 Duties of commissions. Each commission shall:

1. Organize annually and select a chairman and vice chairman.

2. Establish policy for the implementation of all programs under its jurisdiction.

3. Advise, consult, and co-operate with other commissions within the department, other agencies of the state, political subdivisions, and any other public or private agency to promote the orderly, efficient, and effective accomplishment of its responsibilities. Each commission may request the assistance or advice of any public or private person in carrying out its assigned duties under this chapter.

4. Adopt, modify, or repeal rules necessary to implement the programs assigned to it, subject to the provisions of section 455B.7, subsection 3, and chapter 17A. [C73, 75, 77,§455B.5]

455B.6 Executive committee. The executive committee of the department shall consist of the chair-

men of the four commissions within the department. When a member of the executive committee is unable to attend a meeting, the vice chairman of the respective commission shall serve in his or her place. The director of the state conservation commission, the administrative officer of the department of soil conservation, the director of the bacteriological laboratory at the state University of Iowa, the secretary of agriculture, the commissioner of public health, and the state geologist, or their designees shall be ex officio, nonvoting members of the executive committee. The executive committee shall organize annually during the month of July and select a chairman and vice chairman. The executive director shall act as the secretary of the executive committee. Meetings shall be called by the chairman or upon written request of any two voting members. A majority of the executive committee shall constitute a quorum and the concurrence of a majority of the executive committee shall be required to determine any matter relating to its duties. The voting members of the executive committee shall be paid a forty-dollar per diem while in session, and shall be reimbursed for their actual and necessary expenses while engaged in the performance of their official duties as members of the executive committee. All per diem and expense moneys paid to members shall be paid from funds appropriated to the commission of which they are members. [C73, 75, 77,§455B.6]

455B.7 Duties of executive committee. The executive committee shall:

1. Review the rules recommended by the executive director and adopt, amend or repeal, subject to the provisions of chapter 17A, the rules deemed necessary for the effective administration of the department. The rules shall include departmental policy relating to the disclosure of information on any violation or alleged violation of the rules, standards or orders issued by the department and keeping of confidential information obtained by the department in the administration and enforcement of the provisions of this chapter.

2. Approve the departmental budget request prior to submission to the state comptroller. The executive committee may increase, decrease, or strike any proposed expenditure within the departmental budget request before granting approval.

3. Issue orders and directives necessary to insure integration and co-ordination of the programs administered by the department. Notwithstanding any other provision of this chapter to the contrary, each commission within the department shall submit all of its proposed rules to the executive committee for review to insure that no conflict exists between such proposed rules and the existing rules of another commission within the department. If a conflict does exist, the executive committee shall direct the commissions involved to resolve the conflict before the proposed rules are submitted to the legislative administrative rules review committee as provided in chapter 17A.

4. Make a concise annual report to the governor and the general assembly, which report shall contain information relating to the accomplishments and status of the programs administered by the department

and include recommendations for legislative action. The annual report shall conform to the provisions of section 17.3.

5. Approve all contracts and agreements between the department and other public or private persons or agencies.

6. Obtain an adequate public employees fidelity bond to cover those officers and employees of the department accountable for property or funds of this state. [C73, 75, 77,§455B.7; 67GA, ch 48,§40]

Referred to in 4455B.5, 455B.12, 455B.32(10), 455B.62, 455B.78, 455B.87, 455B.88, 455B.114, 455B.116, 455B.133
Time of report, 1174

455B.8 Warrants by comptroller. The state comptroller shall draw warrants on the treasurer of state for all disbursements authorized by the provisions of this chapter upon itemized and verified vouchers bearing the approval of the executive director. [C73, 75, 77,§455B.8]

455B.9 Office facilities. The executive council shall provide the department with appropriate office facilities. [C73, 75, 77,§455B.9]

DIVISION II

AIR QUALITY COMMISSION

455B.10 Definitions. When used in this division II, unless the context otherwise requires:

1. "Air contaminant" means dust, fume, mist, smoke, other particulate matter, gas, vapor (except water vapor), odorous substance, radioactive substance, or any combination thereof.

2. "Air contaminant source" means any and all sources of emission of air contaminants whether privately or publicly owned or operated.

Air contaminant source includes, but is not limited to, all types of businesses, commercial and industrial plants, works, shops, and stores, heating and power plants and stations, buildings and other structures of all types including single and multiple family residences, office buildings, hotels, restaurants, schools, hospitals, churches and other institutional buildings, automobiles, trucks, tractors, buses, aircraft, and other motor vehicles, garages, vending and service locations and stations, railroad locomotives, ships, boats, and other water-borne craft, portable fuel-burning equipment, indoor and outdoor incinerators of all types, refuse dumps and piles, and all stack and other chimney outlets from any of the foregoing.

3. "Air pollution" means presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as is or may reasonably tend to be injurious to human, plant, or animal life, or to property, or which unreasonably interferes with the enjoyment of life and property.

4. "Atmosphere" means all space outside of buildings, stacks or exterior ducts.

5. "Emission" means a release of one or more air contaminants into the outside atmosphere.

6. "Commission" means the air quality commission of the department.

7. "Person" means an individual, partnership, co-partnership, co-operative, firm, company, public or

private corporation, political subdivision, agency of the state, trust, estate, joint stock company, or any other legal entity, or their legal representative, agent or assigns.

8. "Political subdivision" means any municipality, township, or county, or district, or authority, or any portion, or combination of two or more thereof. [C71,§136B.2; C73, 75, 77,§455B.10]

Referred to in 1427.1

455B.11 Executive agency. The department shall be the agency of the state to prevent, abate, or control air pollution. [C73, 75, 77,§455B.11]

455B.12 Duties. The commission shall:

1. Direct the development of a comprehensive plan for the abatement, control, and prevention of air pollution in this state, recognizing varying requirements for different areas in the state.

2. Establish, modify, or repeal rules pertaining to the evaluation, abatement, control, and prevention of air pollution after at least sixty days' public notice and public hearings.

3. Establish, modify, or repeal air quality standards for the atmosphere of this state on the basis of providing air quality necessary to minimize air pollution after at least sixty days' public notice and public hearings.

4. Establish, modify, or repeal emission standards relating to the maximum quantities of air contamination that may be emitted from any air contaminant source after at least sixty days' public notice and public hearings. If the maximum standards for the emission of sulphur dioxide from solid fuels have to be reduced in any area to meet ambient air standards, any contract for coal produced in Iowa, and burned by a facility in that area that met the sulphur emission standards in effect at the time the contract went into effect shall be exempted from the decreased requirement until the expiration of the contract period or December 31, 1983, whichever first occurs, if there is any other reasonable means available to satisfy the ambient air standards. To qualify under the provisions of this subsection the contract must be recorded with the county recorder of the county where the burning facility is located within thirty days after the signing of the contract.

5. Consider complaints of conditions reported to, or considered likely to, constitute air pollution; and instruct the department to investigate such complaints upon receipt of the written petition of any state agency, the governing body of any political subdivision, a local board of health, or twenty-five affected residents of the state.

6. Hold public hearings, except when the evidence to be received is confidential pursuant to section 455B.16, necessary to accomplish the purposes of this division II. The commission may issue subpoenas requiring the attendance of witnesses and the production of evidence pertinent to such hearings. If any person refuses to obey a subpoena issued by the commission, the district court of the county where the proceeding is pending shall have jurisdiction, upon application of the commission or its authorized representative, to issue such person an order to appear and testify or produce evidence, and any failure to obey

such court order may be punished by the court as contempt.

7. Issue orders necessary to cause the abatement or control of air pollution. In making such orders, the commission shall consider the facts and circumstances bearing upon the reasonableness of the emissions involved, including but not limited to, the character and degree of injury to, or interference with, the protection of health and the physical property of the public; the practicability of reducing or limiting the emissions from such air pollution source; and the suitability or unsuitability of the air pollution source to the area where it is located. Any such order may include advisory recommendations for the control of emissions from any air contaminant source and the reduction of the emission of air contaminants.

8. Cause to be instituted by the attorney general, in the name of the state, legal proceedings to compel compliance with any of its orders.

9. Classify air contaminant sources according to levels and types of emissions, and other characteristics which relate to air pollution. The commission may require, by rule, the owner or operator of any air contaminant source to establish and maintain such records, make such reports, install, use and maintain such monitoring equipment or methods, sample such emissions in accordance with such methods at such locations and intervals, and using such procedures as the commission shall prescribe, and provide such other information as the commission may reasonably require. Such classifications may be for application to the state as a whole, or to any designated area of the state, and shall be made with special reference to effects on health, economic and social factors, and physical effects on property.

10. Require, by rules, notice of the construction or the installation of any equipment which may cause or contribute to air pollution, and the submission of plans and specifications to the department, or such other information deemed necessary, for the installation of equipment from which air contaminants may be emitted to the atmosphere and related control equipment. The rules relating to a conditional permit for an electric power generating facility subject to chapter 476A shall allow the submission of engineering descriptions, flow diagrams and schematics that quantitatively and qualitatively identify emission streams and alternative control equipment that will provide compliance with emission standards. Such rules shall not specify any particular method to be used to reduce undesirable levels of emissions, nor type, design, or method of installation of any equipment to be used to reduce such levels of emissions, nor the type, design, or method of installation or type of construction of any manufacturing processes or kinds of equipment, nor specify the kind or composition of fuels permitted to be sold, stored, or used.

The commission may give technical advice pertaining to the construction or installation of such equipment or any other recommendation.

11. Review and evaluate air pollution control programs conducted by political subdivisions of the state with respect to whether such programs are consistent with the provisions of this division II and any rules adopted by the commission.

12. Represent the state in all matters pertaining to plans, procedures, negotiations, and agreements for interstate compacts relating to the control of air pollution, subject to the provisions of section 455B.7, subsection 5.

13. Encourage voluntary co-operation by persons or affected groups in restoring and preserving a reasonable quality of air within the state.

14. Encourage political subdivisions to handle air pollution problems within their respective jurisdictions. [C71,§136B.4; C73, 75, 77,§455B.12; 67GA, ch 49,§2, ch 124,§1]

Referred to in §455B.13, 455B.24

455B.13 Executive director. The executive director shall:

1. Publish and administer the rules and standards established by the commission. The department shall furnish a copy of such rules or standards to any person upon request.

2. Provide technical, scientific, and other services required by the commission or for the effective administration of this division II.

3. Grant, modify, or deny permits for the installation of new equipment capable of emitting air contaminants to produce air pollution and for related control equipment, and conditional permits for electric power generating facilities subject to chapter 476A, subject to the rules adopted by the commission. The department shall furnish necessary application forms for such permits.

a. No equipment which may cause or contribute to air pollution or which is intended primarily to prevent or to control the emission of air contaminants shall be installed, altered so that it significantly affects operation efficiency, or placed in use unless a permit has been issued for such equipment.

b. The condition of expected performance must be reasonably detailed in the permit unless it is agreed between the department and the permit holder that a condition of development and adjustment exists.

c. Upon denial of such a permit, the applicant shall be notified of such denial and informed of the reason or reasons therefor, and such applicant shall be entitled to a hearing before the commission as provided in section 455B.12, subsection 6.

d. All applications for conditional permits shall be subject to such notice and opportunity for public participation as may be consistent with chapter 476A or any agreement pursuant thereto under chapter 28E. The applicant or intervenor may appeal to the commission from the denial of a conditional permit or any of its conditions. For the purposes of chapter 476A, the issuance or denial of a conditional permit by the executive director or by the commission upon appeal shall be a determination that the electric power generating facility does or does not meet the permit and licensing requirements of the commission. The issuance of a conditional permit shall not relieve the applicant of the responsibility to submit final and detailed construction plans and drawings and an application for a construction permit for control equipment that will meet the emission limitations established in the conditional permit.

4. Determine by field studies and sampling the quality of atmosphere and the degree of air pollution in this state or any part thereof.

5. Conduct and encourage studies, investigations, and research relating to air pollution and its causes, effects, abatement, control, and prevention.

6. Accept, receive and administer grants or other funds or gifts from public or private agencies, including the federal government, for the abatement, prevention, or control of air pollution, subject to the approval of the executive committee.

7. Provide technical assistance to political subdivisions of this state requesting such aid for the furtherance of air pollution control.

8. Collect and disseminate information, and conduct educational and training programs, relating to air pollution and its abatement, prevention, and control. [C71,§§136B.4(17, 18), 136B.5; C73, 75, 77,§455B.13; 67GA, ch 124,§§2, 3]

455B.14 Limit on authority. Nothing contained in this division II shall be deemed to grant to the commission or the executive director any authority or jurisdiction with respect to air pollution existing solely within residences; or solely within commercial and industrial plants, works, or shops under the jurisdiction of chapters 88 and 91; or to affect the relations between employers and employees with respect to, or arising out of, any condition of air pollution. [C71,§136B.6; C73, 75, 77,§455B.14]

455B.15 Assistance on demand. The commission and the executive director may request and receive assistance from any other agency, department, or educational institution of the state, or political subdivision thereof, when it is deemed necessary or beneficial by the commission or the executive director. The department may reimburse such agencies for special expense resulting from expenditures not normally a part of the operating expenses of any such agency. [C71,§136B.7; C73, 75, 77,§455B.15]

455B.16 Privileged information. Information received by the commission or any employees of the department through filed reports, inspections, or as otherwise authorized in this division II concerning trade secrets, secret industrial processes, or other privileged communications, except emission data, shall not be disclosed or opened to public inspection, except as may be necessary in a proceeding concerning a violation of said division or of any rules promulgated thereunder, or as otherwise authorized or ordered by appropriate court action or proceedings. Nothing herein shall be construed to prevent the executive director from compiling or publishing analyses or summaries relating to the general condition of the atmosphere; provided that such analyses or summaries do not reveal any information otherwise confidential under this section. [C71,§136B.8; C73, 75, 77,§455B.16]

Referred to in §455B.12, 455B.17, 455B.22

455B.17 Notice to offenders. Whenever the commission or the executive director has evidence that a violation of any provision of this division II, or rule or standard established by the commission has occurred, the executive director shall notify the alleged violator

and, by informal negotiation, attempt to resolve the problem. If such negotiations fail to resolve the problem within a reasonable period of time, the commission shall hold a public hearing, subject to the provisions of section 455B.16.

1. Notice of the time and place of the public hearing shall be served upon each alleged violator at least ten days prior to such hearing. Such notice shall be served in the manner required for the service of notice of the commencement of a civil action in a district court.

2. After such hearing, if the commission finds that a violation has occurred, it shall issue an appropriate order directing the violator to prevent, abate, or control the emissions or air pollution involved. The order shall prescribe the date by which the violation shall cease and may prescribe timetables for necessary action in preventing, abating, or controlling the emissions of air pollution.

3. The executive director shall keep a complete record of the public hearings and such record shall be open to public inspection, subject to section 455B.16. A copy of the transcript shall be furnished to the violator or alleged violator at his request and at his expense. [C71, §136B.9; C73, 75, 77, §455B.17]

Referred to in §455B.18, 455B.24

455B.18 Emergency orders. If the commission or the executive director has evidence that any person is causing air pollution and that such pollution creates an emergency requiring immediate action to protect the public health and safety, or property, either may, without notice or hearing, issue an emergency order requiring such person to reduce or discontinue immediately the emission of air contaminants. A copy of the emergency order shall be served as provided in section 455B.17, subsection 1. An emergency order issued by the commission or the executive director shall be effective immediately and binding until reviewed by the commission at a public hearing or modified or rescinded by a district court. [C71, §136B.9(5); C73, 75, 77, §455B.18]

Referred to in §455B.24

455B.19 Judicial review. Judicial review of actions of the commission or of the executive director may be sought in accordance with the terms of the Iowa administrative procedure Act. Notwithstanding the terms of said Act, petitions for judicial review may be filed in the district court of the county in which the alleged offense was committed. [C71, §136B.10; C73, 75, 77, §455B.19]

Referred to in §427.1

455B.20 Legal action. If action to prevent, control, or abate air pollution is not taken in accordance with the rules established, or orders issued by the commission, or if the commission or the executive director has evidence that an emergency exists by reason of air pollution which requires immediate action to protect the public health or property, the attorney general, at the request of the commission or the executive director, shall commence legal action, in the name of the state, for an injunction to prevent any further or continued violation of such rule or order. In an action for an injunction, any previous findings of the commission, after due notice and hearing, shall

be prima-facie evidence of the fact or facts found therein. [C71, §136B.11; C73, 75, 77, §455B.20]

Referred to in §445B.21, 455B.24

455B.21 Burden of proof. In all proceedings with respect to any alleged violation of the provisions of this division II or any rule established by the commission, the burden of proof shall be upon the commission except in an action for an injunction as provided in section 455B.20. [C71, §136B.12; C73, 75, 77, §455B.21]

455B.22 Variance. Any person who owns or operates any plant, building, structure, process, or equipment may apply for a variance from the rules or standards governing the quality, nature, duration, or extent of emissions by filing an application with the department. The application shall be accompanied by such information and data required by the commission.

1. The executive director shall promptly investigate the application and recommend to the commission the disposition of such application. The commission may grant a variance if it finds that:

a. The emissions occurring or proposed to occur do not endanger or tend to endanger human health or safety or property; and

b. Compliance with the rules or standards from which the variance is sought will produce serious hardship without equal or greater benefits to the public.

2. A public hearing, subject to the provisions of section 455B.16, shall be held if the commission concludes that a hearing is advisable. The applicant may request a review hearing before the commission if his application is denied.

3. In determining under what conditions and to what extent a variance may be granted, the commission shall give due recognition to the progress which the applicant has made toward eliminating or preventing air pollution. In such a case, the commission shall consider the reasonableness of the request, conditioned upon such applicant effecting a partial abatement of the particular air pollution within a reasonable period of time, or the commission may prescribe other requirements with which such applicant shall comply.

4. The commission may grant a variance for a specified period of time, not exceeding one year, and the commission may further specify that the applicant make periodic reports specifying the progress that has been made toward compliance with any rule for which the variance was granted. A variance may be extended from year to year by affirmative action of the commission. [C71, §136B.13; C73, 75, 77, §455B.22]

455B.23 Local control program.

1. Any political subdivision may conduct an air pollution control program within the boundaries of its jurisdiction, or may jointly conduct an air pollution control program with other political subdivisions of this state or of other states, except that every joint program shall be established and administered as provided in chapter 28E. In conducting such programs, political subdivisions may adopt and enforce rules or

standards to secure and maintain adequate air quality within their respective jurisdictions.

2. If the board of supervisors in any county establishes an air pollution control program and has obtained a certificate of acceptance, the agency implementing the program may regulate air pollution within the county including any incorporated areas therein until such incorporated areas obtain a certificate of acceptance as a joint or separate agency. [C71, §136B.14; C73, 75, 77, §455B.23]

455B.24 Acceptance of local program. When an air pollution control program conducted by a political subdivision, or a combination thereof, is deemed upon review as provided in section 455B.12, subsection 11, to be consistent with the provisions of this division II or the rules established thereunder, the commission shall accept such program in lieu of state administration and regulation of air pollution within the political subdivisions involved. Nothing contained in this section shall be construed to limit the power of the commission or the executive director to take emergency action under the provisions of sections 455B.18 and 455B.20.

1. In evaluating an air pollution control program, consideration shall be given to whether such program provides for the following:

a. Ordinances, rules and standards establishing requirements consistent with, or more strict than, those imposed by this division II or rules and standards adopted by the commission.

b. Enforcement of such requirements by appropriate administrative and judicial process.

c. Administrative organization, staff, financial and other resources necessary to administer an efficient and effective program.

d. Location of emission monitoring devices in areas of the political subdivision in compliance with uniform state standards adopted by the commission. The commission shall adopt uniform state standards for the location of emission monitoring devices specifying such intervals and such procedures to provide a reasonably consistent measurement of emissions from air contaminant sources regardless of the political subdivision of the state in which the sources may be located.

2. Upon acceptance of a local air pollution control program, the commission shall issue a certificate of acceptance to the appropriate local agency.

a. Any political subdivision desiring a certificate of acceptance shall apply to the department on forms prescribed by the commission.

b. The executive director shall promptly investigate the application and recommend the disposition of such application to the commission. The commission may conduct a public hearing before action is taken on the recommendation. If the recommendation is against issuing a certificate, the political subdivision shall be entitled to a public hearing as provided in section 455B.17. At the public hearing, the commission shall decide whether the local program is substantially consistent with the provisions of this division II, or rules adopted thereunder, and whether the local program is being enforced. The burden of proof shall be upon the political subdivision.

c. If the commission determines at any time that a local air pollution program is being conducted in a manner inconsistent with the substantive provisions of this division II or the rules adopted thereunder, the commission shall notify the political subdivision, citing the deviations from the acceptable standards and the corrective measures to be completed within a reasonable amount of time. If the corrective measures are not implemented as prescribed, the commission shall suspend the certificate of acceptance of such political subdivision and shall administer the regulatory provisions of said division within the political subdivision until the appropriate standards are met. Upon receipt of evidence that necessary corrective action has been taken, the commission shall reinstate the suspended certificate of acceptance, and the political subdivision shall resume the administration of the local air pollution control program within its jurisdiction. In cases where the certificate of acceptance is suspended, the political subdivision is entitled to a public hearing as provided in section 455B.17.

d. Nothing in this division II shall be construed to supersede the jurisdiction of any local air pollution control program in operation on the first of January, 1973, except that any such program shall meet all requirements of said division. [C71, §136B.15; C73, 75, 77, §455B.24; 67GA, ch 1004, §28]

455B.25 Civil action for compliance. If any order or rule of the commission is being violated, the attorney general shall, at the request of the commission or the executive director, institute a civil action in any district court for injunctive relief to prevent any further violation of such order or rule, or for the assessment of a fine as determined by the court, not to exceed five hundred dollars per day for each day such violation continues, or both such injunctive relief and fine. [C71, §136B.16; C73, 75, 77, §455B.25]

455B.26 Failure—procedure. Upon failure of the executive director to take action within sixty days after an application for installation permit or variance, or upon failure of the commission to enter a final order or determination within sixty days after the final argument in a public hearing, the person seeking such action shall be entitled to treat such failure to act as a grant of the requested permit or variance, or of a finding favorable to the respondent in a public hearing, as the case may be. This section shall not apply to an application for a conditional permit for an electric power generating facility subject to chapter 476A. [C71, §136B.17; C73, 75, 77, §455B.26; 67GA, ch 124, §4]

455B.27 Fees prohibited. No fees shall be charged by the executive director or the commission for the performance of their respective functions as provided in this division II. [C71, §136B.18; C73, 75, 77, §455B.27]

455B.28 Other provisions not affected. The powers, duties, and functions vested in the air quality commission under the provisions of this division II shall not be construed to affect the powers, duties and functions vested in the department under any other provisions of this chapter of the Code. [C71, §136B.19; C73, 75, 77, §455B.28]

455B.29 Prior rules. Any rule adopted or order or variance issued under chapter 136B* of prior Codes by the Iowa air pollution control commission or by the state department of health, shall remain effective until modified or rescinded by action of the air quality commission unless such rule is inconsistent or contrary to this division II. [C73, 75, 77, §455B.29]

*Repealed by 1112 of this Act (64GA, ch 1119)

DIVISION III

WATER QUALITY COMMISSION

PART I

GENERAL

455B.30 Definitions. When used in this part 1 of division III, unless the context otherwise requires:

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, radioactive, 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 heat, garbage, municipal refuse, lime, sand, ashes, offal, oil, tar, chemicals and all other wastes which are not sewage or industrial waste.

4. "Water pollution" means the contamination of any water of the state so as to create a nuisance or render such water 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 pipelines or conduits, pumping stations, force mains, vehicles, vessels, conveyances, injection wells, 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 or disposal to any water of the state. To the extent that they are not subject to section 402 of the federal Water Pollution Control Act as amended ditches, pipes, and drains that serve only to collect, channel, direct, and convey nonpoint runoff from precipitation are not considered as sewer systems for the purposes of this Act. [66GA, ch 1204]

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, point sources and dispersal systems.

8. "Detergent" means a cleaning compound composed of inorganic components, including surface ac-

tive agents, soaps, water softening agents, builders, dispersing agents, corrosion inhibitors, foaming agents, buffering agents, brighteners, fabric softeners, dyes, perfumes, enzymes, and fillers, which are available for household, personal, laundry, industrial, and other uses in liquid, bar, spray, tablet, flake, powder, or other form.

9. "Water of the state" means any stream, lake, pond, marsh, watercourse, waterway, well, spring, reservoir, aquifer, irrigation system, drainage system, and any other body or accumulation 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.

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

11. "Commission" means the water quality commission of the department.

12. "Effluent standard" means any restriction or prohibition on quantities, rates, and concentrations of chemical, physical, biological, radiological and other constituents which are discharged from point sources into any water of the state including an effluent limitation, a water quality related effluent limitation, a standard of performance for a new source, a toxic effluent standard or other limitation.

13. "Point source" means any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.

14. "Pollutant" means sewage, industrial waste or other waste.

15. "New source" means any building, structure, facility or installation, from which there is or may be the discharge of a pollutant, the construction of which is commenced after the publication of proposed federal rules prescribing a standard of performance which will be applicable to such source, if such standard is promulgated.

16. "Schedule of compliance" means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with any effluent standard, water quality standard, or any other requirement of this part of this division or any rule promulgated pursuant thereto.

17. "Sewer extension" means pipelines or conduits constituting main sewers, lateral sewers or trunk* sewers used for conducting pollutants to a larger interceptor sewer or to a point of ultimate disposal.

18. "Water supply distribution system extension" means any extension to the pipelines or conduits which carry water directly from the treatment facility, source or storage facility to the consumer's service connection.

19. "Production capacity" means the amount of potable water which can be supplied to the distribution system in a twenty-four-hour period.

20. "Public water supply system" means a system for the provision to the public of piped water for human consumption, if such system has at least fifteen service connections or regularly serves at least twenty-five individuals. Such term includes any source of water and any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

21. "Maximum contaminant level" means the maximum permissible level of any physical, chemical, biological or radiological substance in water which is delivered to any user of a public water supply system. [C66, 71, §455B.2; C73, 75, 77, §455B.30]

Referred to in §427.1

*Truck" is enrolled Act

455B.31 Administrative agency. The department shall be the agency of the state to prevent, abate, or control water pollution and to conduct the public water supply program. [C66, 71, §455B.3; C73, 75, 77, §455B.31]

455B.32 Duties. The commission shall:

1. Develop comprehensive plans and programs for the prevention, control and abatement of water pollution.

2. Establish, modify, or repeal water quality standards, pretreatment standards and effluent standards. The effluent standards may provide for maintaining the existing quality of the water of the state where the quality thereof exceeds the requirements of the water quality standards.

3. If the federal environmental protection agency has promulgated an effluent standard or pretreatment standard pursuant to section 301, 306 or 307 of the federal Water Pollution Control Act, a pretreatment or effluent standard adopted pursuant to this section shall not be more stringent than the federal effluent or pretreatment standard for such source. This section may not preclude the establishment of a more restrictive effluent limitation in the permit for a particular point source if the more restrictive effluent limitation is necessary to meet water quality standards, the establishment of an effluent standard for a source or class of sources for which the federal environmental protection agency has not promulgated standards pursuant to section 301, 306 or 307 of the federal Water Pollution Control Act. Except as required by federal law or regulation, the commission shall not adopt an effluent standard more stringent with respect to any pollutant than is necessary to reduce the concentration of that pollutant in the effluent to the level due to natural causes, including the mineral and chemical characteristics of the land, existing in the water of the state to which the effluent is discharged. Notwithstanding any other provision of this part of this division, any new source, the construction of which was commenced after October 18, 1972, and which was constructed as to meet all applicable standards of performance for the new source or

any more stringent effluent limitation required to meet water quality standards, shall not be subject to any more stringent effluent limitations during a ten-year period beginning on the date of completion of construction or during the period of depreciation or amortization of the pollution control equipment for the facility for the purposes of section 167 and 169 or both sections of the Internal Revenue Code of 1954, whichever period ends first.

Establish, modify or repeal rules relating to the location, construction, operation, and maintenance of disposal systems and public water supply systems and specifying the conditions under which the executive director shall issue, revoke, suspend, modify or deny permits for the operation, installation, construction, addition to or modification of any disposal system or public water supply system, or for the discharge of any pollutant or for the disposal of water wastes resulting from poultry and livestock operations. The rules specifying the conditions under which the executive director shall issue permits for the construction of an electric power generating facility subject to chapter 476A shall provide for issuing a conditional permit upon the submission of engineering descriptions, flow diagrams and schematics that qualitatively and quantitatively identify effluent streams and alternative disposal systems that will provide compliance with effluent standards or limitations.

No rules shall be adopted which regulate the hiring or firing of operators of disposal systems or public water supply systems except rules which regulate the certification of operators as to their technical competency.

4. Establish, modify or repeal rules governing the labeling of detergents which contain phosphorus. Any rules shall be formulated to provide potential purchasers with accurate information concerning the percent of phosphorus in the formula and the weight in grams of phosphorus per recommended use level.

5. Co-operate with other state or interstate water pollution control agencies in establishing standards, objectives, or criteria for the quality of interstate waters originating or flowing through this state.

6. Conduct public hearings necessary for the discharge of its duties. The commission may authorize the executive director to conduct such hearings.

7. Adopt by rule a fee schedule for applications for permits required under part 1 of this division. The fee schedule shall be based on the reasonable cost of reviewing, issuing and enforcing such permits. The fee schedule may be amended periodically by rule of the commission.

8. Establish, modify or repeal rules relating to drinking water standards for public water supply systems. Such standards shall specify maximum contaminant levels or treatment techniques necessary to protect the public health and welfare. The drinking water standards must assure compliance with federal drinking water standards adopted pursuant to the federal Safe Drinking Water Act.

9. Establish, modify or repeal rules relating to inspection, monitoring, record keeping and reporting requirements for the owner or operator of any public water supply or any disposal system or of any source

which is an industrial user of a publicly or privately owned disposal system.

10. Adopt a statewide plan for the provision of safe drinking water under emergency circumstances. All public agencies, as defined in chapter 28E, shall co-operate in the development and implementation of the plan. The plan shall detail the manner in which the various state and local agencies shall participate in the response to an emergency. The department may enter into any agreement, subject to section 455B.7, with any state agency or unit of local government or with the federal government which may be necessary to establish the role of such agencies in regard to the plan. This plan shall be co-ordinated with civil defense plans.

11. Formulate and adopt specific and detailed statewide standards pursuant to chapter 17A for review of plans and specifications and the construction of sewer systems and water supply distribution systems and extensions to such systems not later than October 1, 1977. The standards shall be based on criteria contained in the "Recommended Standards for Sewage Works" and "Recommended Standards for Water Works" (Ten States Standards) as adopted by the Great Lakes-Upper Mississippi River board of state sanitary engineers, design manuals published by the department, applicable federal guidelines and standards, standard textbooks, current technical literature and applicable safety standards. The material standards for polyvinyl chloride pipe shall not exceed the specifications for polyvinyl chloride pipe in designations D-1784-69, D-2241-73, D-2564-76, D-2672-76, D-3036-73 and D-3139-73 of the American society of testing and material. The rules adopted which directly pertain to the construction of sewer systems and water supply distribution systems and the review of plans and specifications for such construction shall be known respectively as the Iowa Standards for Sewer Systems and the Iowa Standards for Water Supply Distribution Systems and shall be applicable in each governmental subdivision of the state. Exceptions shall be made to the standards so formulated only upon special request to and receipt of permission from the department. The department shall publish the standards and make copies of such standards available to governmental subdivisions and to the public. [C97,§2565; C24, 27, 31, 35, 39,§2220; C46, 50, 54, 58, 62, §136.3(2, c); C66, 71,§§136.3(2, c), 455B.9; C73, 75, §§455B.32, 455B.65; C77,§455B.32; 67GA, ch 124,§5, ch 1004,§29]

Referred to in 455B.45

455B.33 Executive director's duties. The executive director shall:

1. Conduct investigations of alleged water pollution or of alleged violations of this part of this division or any rule adopted or any permit issued pursuant thereto upon written request of any state agency, political subdivision, local board of health, twenty-five residents of the state, as directed by the commission, or as may be necessary to accomplish the purposes of this part of this division.

2. Conduct periodic surveys and inspection of the construction, operation, self-monitoring, record keeping and reporting of all public water supply systems

and all disposal systems except as provided in section 455B.45.

3. Take any action or actions allowed by law which, in the executive director's judgment, are necessary to enforce or secure compliance with the provisions of this part of this division or of any rule or standard established or permit issued pursuant thereto.

4. Approve or disapprove the plans and specifications for the construction of disposal systems or water supply distribution systems except for those sewer extensions and water supply distribution system extensions which are reviewed by a city or county public works department as set forth in section 455B.45. The director shall issue, revoke, suspend, modify or deny permits for the operation, installation, construction, addition to or modification of any disposal system or water supply distribution system except for sewer extensions and water supply distribution system extensions which are reviewed by a city or county public works department as set forth in section 455B.45. The director shall also issue, revoke, suspend, modify or deny permits for the discharge of any pollutant. Such permits shall contain such conditions and schedules of compliance as are necessary to meet the requirements of this part of this division and the federal Water Pollution Control Act amendments of 1972. A permit shall not be issued to operate or discharge from any disposal system unless the conditions of the permit assure that any discharge from the disposal system meets or will meet all applicable state and federal water quality standards and effluent standards and the issuance of the permit is not otherwise prohibited by the federal Water Pollution Control Act amendments of 1972. All applications for discharge permits shall be subject to public notice and opportunity for public participation including public hearing as the commission may by rule require. The executive director shall promptly notify the applicant in writing of his action and, if the permit is denied, state the reasons for denial. The applicant may appeal to the commission from the denial of a permit or from any condition in any permit if he or she files notice of appeal with the executive director within thirty days of the notice of denial or issuance of the permit. The executive director shall notify the applicant within thirty days of the time and place of the hearing.

Copies of all forms or other paper instruments required to be filed during on-site inspections or investigations shall be given to the owner or operator of the disposal system or public water supply system being investigated or inspected before the inspector or investigator leaves the site. Any other report, statement, or instrument shall not be filed with the department unless a copy is sent by ordinary mail to the owner or operator of the disposal system or public water supply system within ten working days of the filing. If an inspection or investigation is done in co-operation with another state department, the department involved and the areas inspected shall be stated.

The executive director shall also issue or deny conditional permits for the construction of disposal systems for electric power generating facilities subject to chapter 476A. All applications for conditional per-

mits shall be subject to such notice and opportunity for public participation as may be required by the commission and as may be consistent with chapter 476A and any agreement pursuant thereto under chapter 28E. The applicant or an intervenor may appeal to the commission from the denial of a conditional permit or any of its conditions. For the purposes of chapter 476A, the issuance or denial of a conditional permit by the executive director or the commission upon appeal shall be a determination that the electric power generating facility does or does not meet the permit and licensing requirements of the commission. The issuance of a conditional permit shall not relieve the applicant of the responsibility to submit final and detailed construction plans and drawing and an application for a construction permit for a disposal system that will meet the effluent limitations in the conditional permit.

5. Conduct random inspections of work done by city and county public works departments to ensure such public works departments are complying with this Act [66GA, ch 1204]. If a city or county public works department is not complying with section 455B.45 in reviewing plans and specifications or in granting permits or both, the department shall perform these functions in that jurisdiction until the city or county public works department is able to perform them. Performance of these functions in a jurisdiction by a local public works department shall not be suspended or revoked until after notice and opportunity for hearing as provided in chapter 17A.

The department shall give technical assistance to city and county public works departments upon request of such local public works departments. [C97,§2565; C24, 27, 31, 35, 39,§2191; C46, 50, 54, 58, 62, §135.11(7); C66, 71,§§135.11(7), 455B.9-455B.11, 455B.15, 455B.17; C73, 75,§§455B.33, 455B.37, 455B.66; C77,§455B.33; 67GA, ch 124,§6]

455B.34 Violations. If there is conclusive evidence that any person has violated or is violating any provision of this part of this division, or of any rule or standard established or permit issued pursuant thereto; then:

1. The executive director may issue an order directing the person to desist in the practice which constitutes the violation or to take such corrective action as may be necessary to ensure that the violation will cease. The person to whom such order is issued may cause to be commenced a contested case within the meaning of the Iowa administrative procedure Act by filing with the executive director within thirty days a notice of appeal to the commission. On appeal the commission may affirm, modify or vacate the order of the executive director; or

2. If it is determined by the executive director that an emergency exists respecting any matter affecting or likely to affect the public health, the executive director may issue any order necessary to terminate the emergency without notice and without hearing. Any such order shall be binding and effective immediately and until such order is modified or vacated at a hearing before the commission or by a court; or

3. The executive director or the commission may request the attorney general to institute legal pro-

ceedings pursuant to section 455B.49. [C66, 71,§§455B.12, 455B.15, 455B.17; C73, 75,§§455B.34, 455B.37; C77,§455B.34]

455B.35 Criteria considered. In establishing, modifying, or repealing water quality standards the commission shall base its decision upon data gathered from sources within the state regarding the following:

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 affected water of the state;
3. The character and uses of the land area bordering the affected water of the state;
4. The uses which have been made, are being made, or may be made of the affected water of the state 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 economic costs and benefits. The goal shall be a reasonable balance between total costs to the people and to the economy, and the resultant benefits to the people of Iowa. [C66, 71,§455B.13; C73, 75, 77,§455B.35]

455B.36 Declaration of policy.

1. The general assembly finds and declares that because the federal Water Pollution Control Act amendments of 1972, Public Law 92-500, provide for a permit system to regulate the discharge of pollutants into the waters of the United States and provide that permits may be issued by states which are authorized to implement the provisions of that Act, it is in the interest of the people of Iowa to enact the provisions of this Act [66GA, ch 1204] in order to authorize the state to implement the provisions of the federal Water Pollution Control Act amendments of 1972 and Acts amendatory or supplementary thereto, and federal regulations and guidelines issued pursuant to that Act.

2. The general assembly further finds and declares that because the federal Safe Drinking Water Act, Public Law 93-523, provides for the implementation of said Act by states which have adequate authority to do so, it is in the interest of the people of Iowa to implement the provisions of the federal Safe Drinking Water Act and federal regulations and guidelines issued pursuant thereto. [C77,§455B.36]

455B.37 and 455B.38 Repealed by 66GA, ch 1204, §23.

455B.39 Judicial review. Except as provided in section 455B.49, subsection 6, judicial review of any order or other action of the commission or of the executive director may be sought in accordance with the terms of the Iowa administrative procedure Act. Notwithstanding the terms of said Act, petitions for judicial review may be filed in the district court of the county in which the alleged offense was committed or such final order was entered. [C66, 71, §455B.18; C73, 75, 77, §455B.39]

Referred to in §4427.1, 455B.49

455B.40 Trade secrets protected. Upon a satisfactory showing by any person to the executive director that public disclosure of any record, report, permit, permit application or other document or information or part thereof would divulge methods or processes entitled to protection as a trade secret, any such record, report, permit, permit application or other document or part thereof other than effluent data and analytical results of monitoring or public water supply systems, shall be accorded confidential treatment. Notwithstanding the provisions of chapter 68A, a person in connection with duties or employment by the department shall not make public any information accorded confidential status, however any such record or other information accorded confidential status may be disclosed or transmitted to other officers, employees or authorized representatives of this state or the United States concerned with carrying out this part of this division or when relevant in any proceeding under this Act [66GA, ch 1204]. [C66, 71, §455B.17; C73, 75, §455B.37; C77, §455B.40]

455B.41 Stay order. 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 department or any other party after hearing by the court. [C66, 71, §455B.20; C73, 75, 77, §455B.41]

455B.42 Variances and exemptions. The commission may, after public notice and hearing, grant exemptions from a maximum contaminant level or treatment technique, or both. The commission may also grant a variance from drinking water standards for public water supply systems when the characteristics of the raw water sources, which are available to a system, cannot meet the requirements with respect to maximum contaminant level of such standards despite application of the best treatment techniques which are generally available and provided that the commission determines that the variance will not result in an unreasonable risk to the public health. A schedule of compliance may be prescribed by the commission, at the time the variance or exemption is granted. The commission shall also require such interim measures to minimize the contaminant levels of systems subject to the variance or exemption as may reasonably be implemented. [C77, §455B.42]

455B.43 Repealed by 66GA, ch 1204, §23.

455B.44 Failure constitutes contempt. Failure to obey any order issued by the department with refer-

ence to a violation of this part of this division or any rule promulgated or permit issued pursuant thereto shall constitute prima-facie evidence of contempt. In such event the department 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, that person shall be guilty of contempt and shall be fined not to exceed five hundred dollars for each day that he or she fails to comply with the court order. 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 any waters of the state or related to public water supply systems and a conviction under this section shall not be a bar to prosecution under any other penal statute. [C66, 71, §455B.24; C73, 75, 77, §455B.44]

Referred to in §455B.49

455B.45 Written permits required. It shall be unlawful to carry on any of the following activities without first securing a written permit from the executive director, or from a city or county public works department if such local public works department reviews the activity under this section, as required by the commission:

1. The construction, installation or modification of any disposal system or water supply distribution system or part thereof or any extension or addition thereto except those sewer extensions and water supply distribution system extensions that are subject to review and approval by a city or county public works department pursuant to this section.

2. The construction or use of any new point source for the discharge of any pollutant into any water of the state.

3. The operation of any waste disposal system or water supply distribution system or any part of or extension or addition to such system. This provision shall not apply to any pretreatment system the effluent of which is to be discharged directly to another disposal system for final treatment and disposal.

Upon adoption of standards by the commission pursuant to section 455B.32, subsections 8 to 11, plans and specifications for sewer extensions and water supply distribution system extensions covered by this section shall be submitted to the city or county public works department for approval if the local public works department employs a qualified, registered engineer who reviews the plans and specifications using the specific state standards known as the Iowa Standards for Sewer Systems and the Iowa Standards for Water Supply Distribution Systems that have been formulated and adopted by the commission pursuant to section 455B.32, subsections 8 to 11. The reviewing engineer shall be a full-time employee of the governmental subdivision and the qualifications of that engineer shall be submitted to the executive director or his designee for approval prior to issuing written permits. The local agency shall issue a written permit to construct if:

a. The submitted plans and specifications are in substantial compliance with departmental rules and the Iowa Standards for Sewer Systems and the Iowa Standards for Water Supply Distribution Systems.

b. The extensions primarily serve residential consumers and will not result in an increase greater than five percent of the capacity of the treatment works or serve more than two hundred fifty dwelling units or, in the case of an extension to a water supply distribution system, such extension will have a capacity of less than five percent of such system or will serve fewer than two hundred fifty dwelling units; and

c. The proposed sewer extension will not exceed the capacity of any treatment works which received a state or federal monetary grant after 1972; and

d. The proposed water supply distribution system extension will not exceed the production capacity of any water supply distribution system constructed after 1972.

After issuing a permit, the city or county public works department shall notify the director of such issuance by forwarding a copy of the permit to the director. In addition, the local agency shall submit quarterly reports to the director including such information as capacity of local treatment plants and production capacity of water supply distribution systems as well as other necessary information requested by the director for the purpose of implementing this chapter.

Plans and specifications for all other waste disposal systems and water supply distribution systems, including sewer extensions and water supply distribution system extensions not reviewed by a city or county public works department under this section, shall be submitted to the department before a written permit may be issued. The construction of any such waste disposal system or water supply distribution system shall be in accordance with standards formulated and adopted by the commission pursuant to section 455B.32, subsections 8 to 11, or otherwise approved by the department. 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 department for a supplemental written permit.

Prior to the adoption of statewide standards, the department may delegate the authority to review plans and specifications to those governmental subdivisions if in addition to compliance with subsection 3 that governmental subdivision agrees to comply with all state and federal regulations and submits a plan for the review of plans and specifications including a complete set of local standard specifications for such improvements.

The director may suspend or revoke delegation of review and permit authority after notice and hearing as set forth in chapter 17A if the director determines that a city or county public works department has approved extensions which do not comply with design criteria, which exceed the capacity of waste treatment plants or the production capacity of water supply distribution systems or which otherwise violate state or federal requirements.

The department shall exempt any public water system from any requirement respecting a maximum contaminant level or any treatment technique requirement of an applicable national drinking water regulation insofar as these regulations apply to contaminants which the commission determines are harmless or beneficial to the health of consumers, when the owner of a public water supply system determines that funds are not reasonably available to provide for controlling amounts of those contaminants which are harmless or beneficial to the health of consumers. [C66, 71, §455B.25; C73, 75, 77, §455B.45]

Referred to in §455B.33, 455B.49

455B.46 Disposal system plans. The department may also require the owner of a disposal system, discharging pollutants into any water of the state, or of a public water supply system 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. [C66, 71, §455B.26; C73, 75, 77, §455B.46]

455B.47 Data from departments. The commission and the executive director 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 the executive director to properly carry out their activities and effectuate the purposes of this part 1 of division III. The department shall reimburse such agencies for special expense resulting from expenditures not normally a part of the operating expenses of any such agency. [C66, 71, §455B.27; C73, 75, 77, §455B.47]

455B.48 Prohibited discharges. A pollutant shall not be disposed of by dumping, depositing or discharging such pollutant into any water of the state except that this section shall not be construed to prohibit the discharge of adequately treated sewage, industrial waste, or other waste pursuant to a permit issued by the executive director. A pollutant whether treated or untreated shall not be discharged into any state-owned natural or artificial lake. [C66, 71, §455B.28; C73, 75, 77, §455B.48]

Referred to in §455B.49

455B.49 Penalties—burden of proof.

1. Any person who violates any provision of part 1 of division III of this chapter or any permit, rule, standard, or order issued under part 1 of division III of this chapter shall be subject to a civil penalty not to exceed five thousand dollars for each day of such violation. The civil penalty shall be an alternative to any criminal penalty provided under part 1 of division III of this chapter.

2. Any person who willfully or negligently discharges any pollutants in violation of section 455B.45 or 455B.48 or in violation of any condition or limitation included in any permit issued under section 455B.45 or in violation of any water quality standard or effluent standard or, with respect to the introduc-

tion of pollutants into publicly owned treatment works, violates a pretreatment standard or toxic effluent standard, shall be punished by a fine not to exceed ten thousand dollars for each day of violation. If the conviction is for a violation committed by a person after the person's first conviction under this section, the punishment shall be a fine not to exceed twenty thousand dollars for each day of violation.

3. Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan or other document filed or required to be maintained under part 1 of division III of this chapter, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required to be maintained under part 1 of division III of this chapter or by any permit, rule, regulation, or order issued under part 1 of division III of this chapter, shall upon conviction be punished by a fine of not more than ten thousand dollars or by imprisonment in the county jail for not more than six months or by both such fine and imprisonment.

4. The attorney general shall, at the request of the commission or the executive director, institute any legal proceedings, including an action for an injunction or a temporary injunction, necessary to enforce the penalty provisions of part 1 of division III of this chapter or to obtain compliance with the provisions of part 1 of division III of this chapter or any rules promulgated or any provision of any permit issued under part 1 of division III of this chapter. In any such action, any previous findings of fact of the executive director or the commission after notice and hearing shall be conclusive if supported by substantial evidence in the record when the record is viewed as a whole.

5. In all proceedings with respect to any alleged violation of the provisions of this part 1 of division III or any rule established by the commission or the department, the burden of proof shall be upon the commission or the department except in an action for contempt as provided in section 455B.44.

6. If the attorney general has instituted legal proceedings in accordance with this section, all related issues which could otherwise be raised by the alleged violator in a proceeding for judicial review under section 455B.39 shall be raised in the legal proceedings instituted in accordance with this section. [C66, 71, §§455B.23, 455B.25; C73, §§455B.43, 455B.45, 455B.49; C75, §§455B.43, 455B.49; C77, §455B.49]

Referred to in §§28A.4, 455B.34, 455B.39

PART 2

WATER TREATMENT

455B.50 **Definitions.** When used in this part 2 of division III, unless the context otherwise requires:

1. "Board" means the board of certification.
2. "Commission" means the water quality commission of the department.
3. "Certificate" means the certificate of competence issued by the executive director stating that the operator has met the requirements for the specified operator classification of the certification program.

4. "Water supply system" means the system of pipes, structures, and facilities through which a public water supply is obtained, treated and sold or distributed for human consumption or household use.

5. "Water treatment plant" means that portion of the water supply system which in some way alters the physical, chemical, or bacteriological quality of the water.

6. "Waste water treatment plant" means the facility or group of units used for the treatment of waste water from public sewer systems and for the reduction and handling of solids removed from such wastes.

7. "Water distribution system" means that portion of the water supply system in which water is conveyed from the water treatment plant or other supply point to the premises of the consumer.

8. "Operator" means a person who has direct responsibility for the operation of a water treatment plant, water distribution system, or waste water treatment plant. [C66, 71, §136A.1; C73, 75, 77, §455B.50]

455B.51 **Director's duties.** The executive director shall classify all water treatment plants, water distribution systems, and waste water treatment plants affecting the public welfare with regard to the size, type, character of water and waste water to be treated and other physical conditions affecting such treatment plants and distribution systems, and according to the skill, knowledge, and experience that an operator must have to supervise the operation of such facilities to protect the public health and prevent pollution. [C66, 71, §136A.2; C73, 75, 77, §455B.51]

455B.52 **Certification of persons.**

1. *By director.* The executive director shall certify persons as to their qualifications to supervise the operation of such treatment plants and water distribution systems after considering the recommendations of the board submitted through the commission.

2. *Applications.* Applications for certification shall be on forms prescribed and furnished by the board and shall not contain a recent photograph of the applicant. An applicant shall not be ineligible for certification because of age, citizenship, sex, race, religion, marital status or national origin although the application may require citizenship information. The board may consider the past felony record of an applicant only if the felony conviction relates directly to the practice of operation of waterworks or waste waterworks. Character references may be required, but shall not be obtained from certificate holders.

3. *Disclosure of confidential information.* A member of the board shall not disclose information relating to the following:

- a. Criminal history or prior misconduct of the applicant.
- b. Information relating to the contents of the examination.
- c. Information relating to the examination results other than final score except for information about the results of an examination which is given to the person who took the examination.

A member of the board who willfully communicates or seeks to communicate such information, and any person who willfully requests, obtains, or seeks to obtain such information, is guilty of a public offense which is punishable by a fine not exceeding one hundred dollars or by imprisonment in the county jail for not more than thirty days. [C66, 71, §136A.3; C73, 75, 77, §455B.52]

455B.53 **Board.** The governor shall appoint, subject to the approval of two-thirds of the members of the senate, a board of certification consisting of the following five members:

1. One member who is a waterworks operator holding a valid certificate of the highest classification issued by the department.
2. One member who is a waste waterworks operator holding a valid certificate of the highest classification issued by the department.
3. One member employed by the department who is qualified in water and waste waterworks operation.
4. Two members who shall not be certificated waterworks operators or certificated waste waterworks operators, but who shall be interested and knowledgeable in water supply or waste water collection and treatment, and who shall represent the general public.

The members prescribed in subsections 1 to 3 shall have been engaged in the practice of their professions for five years preceding their appointments, the last two years of which shall have been in Iowa.

Professional associations or societies composed of waterworks operators or waste waterworks operators may recommend the names of potential board members to the governor, but the governor shall not be bound by the recommendations. Members of the board shall not be required to be members of any such associations or societies.

The members of the board shall be appointed for three-year terms. Any vacancy shall be filled by appointment for the unexpired term. Members shall be limited to serving three terms or nine years, whichever is less. [C66, 71, §§136A.4, 136A.5; C73, 75, 77, §455B.53]

Terms of members, see 65GA, ch 1086, §200

455B.54 **Repealed by 65GA, ch 1086, §198.**

455B.55 **Organization—compensation and expenses.** The initial board of certification shall organize and elect a chairman from its membership. Thereafter, a chairman shall be elected at the last meeting of the fiscal year which shall be the annual meeting of the board. The member of the board employed by the department shall serve as secretary and maintain its records. The cost of such assistance shall be paid by the board to the department from funds appropriated to the board. At least one meeting of the board per year shall be held at the seat of government. Additional meetings may be held at the call of the chairman. A majority of members shall constitute a quorum. The members of the board shall set their own per diem compensation at a rate not exceeding forty dollars per day and shall be reimbursed for actual and necessary expenses and travel incurred while discharging their official duties. All per diem

and expense moneys paid to the members shall be paid from funds appropriated to the board. A member of the board who is employed by this state shall not receive per diem compensation. [C66, 71, §§136A.6-136A.8; C73, 75, 77, §455B.55]

455B.56 **Examination.** The board shall hold at least one examination each year for the purpose of examining candidates for certification at a time and place designated by the board. Any written examination may be given by representatives of the board. All examinations in theory shall be in writing and the identity of the person taking the examination shall be concealed until after the examination papers have been graded. For examinations in practice, the identity of the person taking the examination shall also be concealed as far as possible. Those applicants whose competency is acceptable to the board shall be recommended to the executive director for certification. Applicants who fail the examination shall be allowed to take the examination at the next scheduled time. Thereafter, the applicant shall be allowed to take the examination at the discretion of the board. An applicant who has failed the examination may request in writing information from the board concerning his examination grade and subject areas or questions which he failed to answer correctly, except that if the board administers a uniform, standardized examination, the board shall only be required to provide the examination grade and such other information concerning the applicant's examination results which are available to the board. [C66, 71, §136A.7; C73, 75, 77, §455B.56]

455B.57 **Certificate issued.** When the executive director is satisfied that an applicant is qualified by examination or otherwise, and upon recommendation of the board, the executive director shall issue a certificate attesting to the competency of the applicant as an operator. The certificate shall indicate the classification of works which the operator is qualified to supervise. [C66, 71, §136A.9; C73, 75, 77, §455B.57]

455B.58 **Duration.** Certificates shall continue in effect from the date of issuance until the following June 30 unless sooner revoked by the executive director, but such certificates shall remain the property of the department and the certificate shall so state. The fee for issuance of certificates as determined under section 455B.61 shall be prorated on a quarterly basis for any original certificate issued for a period of less than twelve months. A person who fails to renew a certificate by June 30 following its issuance shall be allowed to do so by July 31, but the executive director may assess a reasonable penalty as established by rule of the commission. [C66, 71, §136A.10; C73, 75, 77, §455B.58; 67GA, ch 1161, §1]

455B.59 **Revocation or suspension.** The board may suspend or revoke the certificate of an operator, following a hearing before the board, when the operator is found guilty of the following acts or offenses:

1. Fraud in procuring a license.
2. Professional incompetency.
3. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of his or her profession or engaging in unethical conduct

SENATE FILE 205

AN ACT

RELATING TO CERTAIN NATURAL RESOURCE AGENCIES OF THE STATE AND THE REGULATION AND USE OF NATURAL RESOURCES, BY REORGANIZING THE DEPARTMENT OF ENVIRONMENTAL QUALITY; CREATING AN ENVIRONMENTAL QUALITY COMMISSION; TRANSFERRING THE POWERS AND DUTIES OF THE EXECUTIVE COMMITTEE, AIR QUALITY COMMISSION, WATER QUALITY COMMISSION, AND SOLID WASTE DISPOSAL COMMISSION TO THE ENVIRONMENTAL QUALITY COMMISSION; BY TRANSFERRING THE POWERS AND DUTIES OF THE CHEMICAL TECHNOLOGY COMMISSION TO THE DEPARTMENT OF AGRICULTURE; AUTHORIZING THE ACQUISITION AND LEASE OF LAND FOR HAZARDOUS WASTE TREATMENT OR DISPOSAL; ABOLISHING THE GEOLOGY BOARD AND AMENDING PROVISIONS OF CHAPTER THREE HUNDRED FIVE (305) OF THE CODE RELATING TO THE DUTIES OF THE STATE GEOLOGIST AND EXPENSE REIMBURSEMENT FOR THE STATE GEOLOGIST AND EMPLOYEES OF THE GEOLOGICAL SURVEY; MAKING COORDINATING AMENDMENTS TO THE CODE; AND SUBJECTING VIOLATORS TO PENALTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section four hundred fifty-five B point one (455B.1), subsection three (3), Code 1979, is amended by striking the subsection and inserting in lieu thereof the following:

3. "Commission" means the environmental quality commission.

Sec. 2. Section four hundred fifty-five B point three (455B.3), subsections one (1), two (2), three (3), four (4), five (5), and six (6), Code 1979, are amended to read as follows:

1. Recommend to the ~~executive-committee~~ commission the adoption of rules that are necessary for the effective administration of the department.

2. Recommend to the ~~appropriate commission within the department~~ the adoption of rules to implement the programs and services assigned to them it.

3. Direct and administer the programs and services of the department in compliance with the rules adopted by the ~~executive-committee-and-the-commissions~~ commission.

4. Perform other duties assigned by the ~~executive-committee~~ commission.

5. Establish or reorganize, with the approval of the ~~executive-committee~~ commission, the administrative structure of the department.

6. Contract, with the approval of the ~~executive-committee~~ commission, with public agencies of this state to provide all laboratory, scientific field measurement and environmental quality evaluation services necessary to implement the provisions of this chapter. If the executive director finds that public agencies of this state cannot provide the laboratory, scientific field measurement and environmental evaluation services required by the department, he or she may contract, with the approval of the ~~executive-committee~~ commission, with any other public or private persons or agencies for such services or for scientific or technical services required to carry out the programs and services assigned to the department.

Sec. 3. Section four hundred fifty-five B point three (455B.3), subsection eight (8), unnumbered paragraph one (1), Code 1979, is amended to read as follows:

Conduct investigations of complaints received directly or referred by ~~any-of-the-commissions~~ the commission created in section 455B.4 or such other investigations deemed necessary. While conducting an investigation, the executive director may enter at any reasonable time in and upon any private or public property, except private dwellings, to investigate any actual or possible violation of the provisions of this chapter or the rules or standards adopted under this

actual and necessary expenses while performing the duties of office. Per diem and expenses shall be paid from funds appropriated to the department.

5. The members of the commission shall represent the public interest and at least a majority of the commission membership shall not derive more than ten percent of their income from any person subject to permits or enforcement orders under this chapter. A potential conflict of interest by a commission member shall be immediately disclosed to the commission and the department. In the case of conflict of interest, the commission member involved shall immediately withdraw from consideration of the issuance of a permit or enforcement action by the commission and shall not express an opinion on the matter to any other commission member involved in the consideration of the issuance of the permit or enforcement action. A "conflict of interest" arises when a commission member receives directly or indirectly personal income from a person subject to permit or enforcement action pending before the commission.

6. The executive director shall notify the secretary of agriculture, the commissioner of public health, the chief administrative officer of the department of soil conservation, the director of the Iowa natural resources council, the director of the state conservation commission and the director of the state hygienic laboratory of the scheduled meetings of the commission.

Sec. 8. Section four hundred fifty-five B point five (455B.5), Code 1979, is amended by striking the section and inserting in lieu thereof the following:

455B.5 POWERS AND DUTIES OF THE COMMISSION. The commission shall:

1. Establish policy for the implementation of programs under its jurisdiction. The commission shall appoint advisory committees to advise the commission and the executive director in carrying out their respective powers and duties.

2. Advise, consult, and cooperate with other agencies of the state, political subdivisions, and any other public or private agency to promote the orderly, efficient, and effective accomplishment of its responsibilities.

3. Adopt, modify, or repeal rules necessary to implement the provisions of this chapter and the rules deemed necessary for the effective administration of the department. The rules shall include departmental policy relating to the disclosure of information on a violation or alleged violation of the rules, standards, permits or orders issued by the department and keeping of confidential information obtained by the department in the administration and enforcement of the provisions of this chapter. Rules adopted by the executive committee before January 1, 1981 shall remain effective until modified or rescinded by action of the commission.

4. Approve the departmental budget request prior to submission to the state comptroller. The commission may increase, decrease, or strike any proposed expenditure within the departmental budget request before granting approval.

5. Issue orders and directives necessary to insure integration and coordination of the programs administered by the department.

6. Make a concise annual report to the governor and the general assembly, which report shall contain information relating to the accomplishments and status of the programs administered by the department and include recommendations for legislative action which may be required to protect or enhance the environment or to modernize the operation of the department or any of the programs or services assigned to the department and recommendations for the transfer of powers and duties of the department as deemed advisable by the commission. The annual report shall conform to the provisions of section seventeen point three (17.3) of the Code.

7. Approve all contracts and agreements between the department and other public or private persons or agencies.

of emissions from an air contaminant source and the reduction of the emission of air contaminants.

NEW SUBSECTION. Encourage voluntary cooperation by persons or affected groups in restoring and preserving a reasonable quality of air within the state.

NEW SUBSECTION. Encourage political subdivisions to handle air pollution problems within their respective jurisdictions.

NEW SUBSECTION. Review and evaluate air pollution control programs conducted by political subdivisions of the state with respect to whether the programs are consistent with the provisions of division two (II) of this chapter and rules adopted by the commission.

NEW SUBSECTION. Hold public hearings, except when the evidence to be received is confidential pursuant to section four hundred fifty-five B point sixteen (455B.16) of the Code, necessary to accomplish the purposes of division two (II) of this chapter. The executive director may issue subpoenas requiring the attendance of witnesses and the production of evidence pertinent to the hearings. A subpoena shall be issued and enforced in the same manner as in civil actions.

Sec. 16. Section four hundred fifty-five B point seventeen (455B.17), Code 1979, is amended by striking the section and inserting in lieu thereof the following:

455B.17 RESOLUTION OF VIOLATIONS--APPEAL.

1. When the executive director has evidence that a violation of any provision of division two (II) of this chapter, or rule, standard or permit established or issued under division two (II) of this chapter has occurred, the executive director shall notify the alleged violator and, by informal negotiation, attempt to resolve the problem. If the negotiations fail to resolve the problem within a reasonable period of time, the executive director shall issue an order directing the violator to prevent, abate or control the emissions or air pollution involved. The order shall prescribe the date by which the violation shall cease and

may prescribe timetables for necessary action to prevent, abate or control the emissions of air pollution. The order may be appealed to the commission.

2. After the hearing on appeal, the commission may affirm, modify or rescind the order of the executive director.

3. The executive director shall keep a complete record of the hearings and proceeding and the record shall be open to public inspection, subject to section four hundred fifty-five B point sixteen (455B.16) of the Code. Upon request, a copy of the transcript shall be furnished to the violator or alleged violator at his or her expense.

4. An appeal to the commission under this section shall be conducted as a contested case under chapter seventeen A (17A) of the Code.

Sec. 17. Section four hundred fifty-five B point eighteen (455B.18), Code 1979, is amended to read as follows:

455B.18 EMERGENCY ORDERS. If the ~~commission-or-the~~ executive director has evidence that any person is causing air pollution and that such pollution creates an emergency requiring immediate action to protect the public health and safety, or property, ~~either~~ the executive director may, without notice ~~or-hearing~~, issue an emergency order requiring such person to reduce or discontinue immediately the emission of air contaminants. A copy of the emergency order shall be served ~~as-provided-in-section-455B-17-subsection-1~~ by personal service. An emergency order issued by the ~~commission-or~~ the executive director shall ~~be-effective-immediately-and-binding-until-reviewed-by-the-commission-at-a-public-hearing-or-modified-or-rescinded-by-a-district-court~~ may be appealed to the commission. After hearing on appeal, the commission may affirm, modify or rescind the order of the executive director.

Sec. 18. Section four hundred fifty-five B point twenty (455B.20), Code 1979, is amended to read as follows:

combination thereof, is deemed upon review as provided in section ~~455B.17-subsection-11~~ four hundred fifty-five B point thirteen (455B.13) of the Code, to be consistent with the provisions of this division II or the rules established thereunder, the commission executive director shall accept such program in lieu of state administration and regulation of air pollution within the political subdivisions involved. Nothing contained in this section shall be construed to limit the power of ~~the commission or~~ the executive director to take emergency action under the provisions of sections 455B.18 and 455B.20 or to administer a part of the local program that has been suspended.

1. In evaluating an air pollution control program, consideration shall be given to whether such program provides for the following:

- a. Ordinances, rules and standards establishing requirements consistent with, or more strict than, those imposed by this division II or rules and standards adopted by the commission.
- b. Enforcement of such requirements by appropriate administrative and judicial process.
- c. Administrative organization, staff, financial and other resources necessary to administer an efficient and effective program.
- d. Location of emission monitoring devices in areas of the political subdivision in compliance with uniform state standards adopted by the commission. The commission shall adopt uniform state standards for the location of emission monitoring devices specifying such intervals and such procedures to provide a reasonably consistent measurement of emissions from air contaminant sources regardless of the political subdivision of the state in which the sources may be located.

2. Upon acceptance of a local air pollution control program, the commission executive director shall issue a certificate of acceptance to the appropriate local agency.

a. Any political subdivision desiring a certificate of acceptance shall apply to the department on forms prescribed by the commission executive director.

b. The executive director shall promptly investigate the application and ~~recommend the disposition of such~~ approve or disapprove the application ~~to the commission~~. The commission executive director may conduct a public hearing before action is taken ~~on the recommendation to approve or disapprove~~. If the recommendation is against executive director disapproves issuing a certificate, the political subdivision ~~shall be entitled to a public hearing as provided in section 455B.17~~ may appeal the action to the commission. At the public hearing on appeal, the commission shall decide whether the local program is substantially consistent with the provisions of this division II, or rules adopted thereunder, and whether the local program is being enforced. The burden of proof shall be upon the political subdivision.

c. If the commission executive director determines at any time that a local air pollution program is being conducted in a manner inconsistent with the substantive provisions of this division II or the rules adopted thereunder, the commission executive director shall notify the political subdivision, citing the deviations from the acceptable standards and the corrective measures to be completed within a reasonable amount of time. If the corrective measures are not implemented as prescribed, the commission executive director shall suspend in whole or in part the certificate of acceptance of such political subdivision and shall administer the regulatory provisions of said division in whole or in part within the political subdivision until the appropriate standards are met. Upon receipt of evidence that necessary corrective action has been taken, the commission executive director shall reinstate the suspended certificate of acceptance, and the political subdivision shall resume the administration of the local air pollution control program

Sec. 28. Section four hundred fifty-five B point forty-nine (455B.49), subsection four (4), Code 1979, is amended to read as follows:

4. The attorney general shall, at the request of the ~~commission~~ or the executive director with approval of the commission, institute any legal proceedings, including an action for an injunction or a temporary injunction, necessary to enforce the penalty provisions of part 1 of division III of this chapter or to obtain compliance with the provisions of part 1 of division III of this chapter or any rules promulgated or any provision of any permit issued under part 1 of division III of this chapter. In any such action, any previous findings of fact of the executive director or the commission after notice and hearing shall be conclusive if supported by substantial evidence in the record when the record is viewed as a whole.

Sec. 29. Section four hundred fifty-five B point fifty (455B.50), subsection two (2), Code 1979, is amended by striking the subsection.

Sec. 30. Section four hundred fifty-five B point fifty-two (455B.52), subsection three (3), paragraph b, Code 1979, is amended to read as follows:

b. Information relating to the contents of the examination to persons other than members of a board of certification of another state or their employees or an employee of the department.

Sec. 31. Section four hundred fifty-five B point fifty-eight (455B.58), Code 1979, is amended to read as follows:

455B.58 DURATION. Certificates shall continue in effect from the date of issuance until the following June 30 thirtieth unless sooner revoked by the executive-director board, but such certificates shall remain the property of the department and the certificate shall so state. The fee for issuance of certificates as determined under section 455B.61 shall be prorated on a quarterly basis for any original certificate

issued for a period of less than twelve months. A person who fails to renew a certificate by June 30 thirtieth following its issuance shall be allowed to do so by July 31 thirty-first, but the executive director may assess a reasonable penalty as established by rule of the commission.

Sec. 32. Section four hundred fifty-five B point fifty-nine (455B.59), Code 1979, is amended to read as follows:

455B.59 REVOCATION OR SUSPENSION. The board may suspend or revoke the certificate of an operator, following a hearing before the board, when the operator is found guilty of the following acts or offenses:

1. Fraud in procuring a license.
2. Professional incompetency.
3. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of his or her profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.
4. Habitual intoxication or addiction to the use of drugs.
5. Conviction of a felony related to the profession or occupation of the licensee, or the conviction of any felony that would affect his or her ability to operate a water treatment or wastewater treatment plant. A copy of the record of conviction or plea of guilty shall be conclusive evidence.
6. Fraud in representation as to skill or ability.
7. Use of untruthful or improbable statements in advertisements.
8. Willful or repeated violations of this Act division three (III) of this chapter.

Sec. 33. Section four hundred fifty-five B point sixty (455B.60), subsection two (2), Code 1979, is amended to read as follows:

2. A certificate of proper classification shall be issued without examination to any operator who, prior to January 1, 1973, held a valid certificate to operate a particular

c. To operate and maintain the sewage treatment works in accordance with applicable provisions of part 1 of this division III and rules of the commission.

d. To obtain approval of the ~~commission~~ executive director before applying for federal assistance for pollution abatement, in order to maximize the amounts of such assistance received or to be received for all projects in Iowa.

e. To provide for the payment by the municipality of its share of the cost of the project.

4. A provision that, ~~in-the-event~~ if federal assistance which was not included in the calculation of the state payment pursuant to subsection 2 becomes available to the municipality, the amount of the state payment shall be recalculated with the inclusion of ~~such~~ the additional federal assistance and the municipality shall pay to the state the amount by which the state payment actually made exceeds the state payment determined by the recalculation.

Sec. 40. Section four hundred fifty-five B point seventy-four (455B.74), Code 1979, is amended to read as follows:

455B.74 PRIOR RULES. Any rule adopted or order issued under chapters 136A, 455B and 455C of prior Codes, by the Iowa water pollution control commission or by the state department of health or under this division by the water quality commission before January 1, 1981, shall remain effective until modified or rescinded by action of the water quality commission unless ~~such~~ the rule is inconsistent or contrary to this division. Any permit issued under chapter 455B of prior Codes shall remain effective until modified or revoked by the executive director.

Sec. 41. Section four hundred fifty-five B point seventy-five (455B.75), subsection five (5), Code 1979, is amended by striking the subsection.

Sec. 42. Section four hundred fifty-five B point seventy-seven (455B.77), Code 1979, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The executive director may issue, modify, or deny variances from the rules of the commission. The applicant may appeal the decision of the executive director to the commission.

Sec. 43. Section four hundred fifty-five B point seventy-eight (455B.78), Code 1979, is amended to read as follows:

455B.78 RULES ESTABLISHED. The commission shall establish rules for the proper administration of the provisions of this part 1 of division IV which shall reflect and accommodate ~~insofar as far as~~ as far as is reasonably possible those current and generally accepted methods and techniques for treatment and disposition of solid waste which will serve the purposes of ~~said part one (1) of this division~~ said part one (1) of this division which shall take into consideration ~~such~~ the factors, including others which it may deem proper, as existing physical conditions, topography, soils and geology, climate, transportation, and land use, ~~such~~ the rules including but not limited to rules relating to the establishment and location of sanitary disposal projects, sanitary practices, inspection of sanitary disposal projects, collection of solid waste, disposal of solid waste, pollution controls, the issuance of permits, approved methods of private disposition of solid waste, the general operation and maintenance of sanitary disposal projects, and the implementation of ~~said part one (1) of this division~~ said part one (1) of this division. Prior to issuance of rules or amendments thereto, the commission shall hold at least one public hearing on the proposed rules or amendments, and shall give notice of ~~such~~ the hearing at least thirty days in advance by publishing notice in a newspaper of general circulation in the state. ~~The air-quality commission-and-the-water-quality-commission-of-the-department shall-co-operate-with-the-commission-in-the-establishment of-such-rules--All-rules-promulgated-shall-be-subject-to the-provisions-of-chapter-137A-and-section-455B-77-subsection 2r~~

~~the solid waste disposal commission before January 1, 1981 shall remain effective until modified or rescinded by action of the solid-waste-disposal commission unless such the rule is inconsistent or contrary to this part 1 of division IV.~~

Sec. 48. Section four hundred fifty-five B point eighty-five (455B.85), subsection four (4), Code 1979, is amended by striking the subsection.

Sec. 49. Section four hundred fifty-five B point eighty-seven (455B.87), Code 1979, is amended to read as follows:

455B.87 RULES FOR TRANSPORTING. The commission shall provide, by rule, for the proper methods of transporting, storage, and handling of radioactive material except that the provisions of this section shall not apply to the transportation, handling, or storage of radioactive material by licensed physicians and surgeons, ~~or licensed osteopathic physicians and surgeons,~~ licensed podiatrists, licensed dentists or licensed pharmacists within the scope of their practice or by qualified employees of licensed hospitals within the scope of their duties. In adopting such rules, the commission shall consider the methods and techniques used by the United States ~~atomic-energy~~ nuclear regulatory commission and radiation control agencies of other states for the regulation of the transporting, handling, and storage of radioactive material. The commission shall also consult with the department of public safety in the development of rules for the transporting of radioactive material on the public roads of this state. ~~All-rules-adopted-by-the commission-under-this-section-shall-be-subject-to-the provisions-of-chapter-17A-and-section-455Bv7, subsection-2v~~

Sec. 50. Section four hundred fifty-five B point eighty-eight (455B.88), unnumbered paragraph two (2), Code 1979, is amended by striking the unnumbered paragraph.

Sec. 51. Section four hundred fifty-five B point ninety-five (455B.95), subsection three (3), Code 1979, is amended by striking the subsection.

Sec. 52. Section four hundred fifty-five B point one hundred ten (455B.110), subsections six (6), seven (7), and eight (8), Code 1979, are amended by striking the subsections.

Sec. 53. Section four hundred fifty-five B point one hundred fourteen (455B.114), Code 1979, is amended to read as follows:

455B.114 STATE HAZARDOUS CONDITION CONTINGENCY PLAN. All public agencies, as defined in chapter 28E, shall ~~separate~~ cooperate in the development and implementation of a state hazardous condition contingency plan. The plan shall detail the manner in which public agencies shall participate in the response to a hazardous condition. The ~~department~~ executive director may enter into agreements, ~~subject-to section-455Bv7 with approval of the commission,~~ with any state agency or unit of local government or with the federal government, as necessary to develop and implement the plan. The plan shall be ~~se-ordinated~~ coordinated with the office of disaster services and any joint county-municipal disaster services and emergency planning administrations established pursuant to chapter 29C.

Sec. 54. Section four hundred fifty-five B point one hundred seventeen (455B.117), subsection two (2), Code 1979, is amended to read as follows:

2. The executive director ~~or-the-commission~~ may request that the attorney general institute legal proceedings for a temporary or permanent injunction pursuant to section 455B.120 for purposes of enforcing an emergency order.

Sec. 55. Section four hundred fifty-five B point one hundred nineteen (455B.119), subsection six (6), Code 1979, is amended by striking the subsection.

Sec. 56. Chapter four hundred fifty-five B (455B), division four (IV), part four (4), Code 1979, is amended by adding the following new section:

NEW SECTION. PRIOR RULES CONTINUED. Any rules adopted or order issued under part four (4) of this division before

2. The commission shall submit to the secretary of agriculture its findings on the unreasonable, adverse effect that the agricultural chemical causes to humans or the environment. The department of agriculture shall prepare an estimate of the economic impact of restricting the use of the agricultural chemical. The economic impact statement, the commission's findings and the report of the advisory committee created under section sixty-nine (69) of this Act shall be available at the time of publication of the intended rule action by the secretary. The secretary of agriculture and the advisory committee shall review the commission's findings and collect, analyze and interpret any other scientific data relating to the agricultural chemical. The secretary and the committee shall consider any official reports, academic studies, expert opinions or testimony, or other matters deemed to have probative value and shall consider the toxicity, hazard, effectiveness, public need for the agricultural chemical or other means of control other than the chemical in question, and the economic impact on the members of the public and agencies affected by it.

3. As used in this section, "agricultural chemical" means a pesticide as defined in section two hundred six point two (206.2) of the Code and also means any feed or soil additive, other than a pesticide, which is designed for and used to promote the growth of plants or animals.

Sec. 61. Section sixty-eight B point two (68B.2), subsection four (4), Code 1979, is amended to read as follows:

4. "Regulatory agency" means department of agriculture, industrial commissioner, bureau of labor, occupational safety and health review commission, department of job service, department of banking, insurance department of Iowa, state department of health, department of public safety, department of public instruction, state board of regents, department of social services, department of revenue, Iowa state commerce commission, Iowa beer and liquor control department, board

of pharmacy examiners, state conservation commission, state department of transportation, Iowa state civil rights commission, department of soil conservation, department of public defense, department of environmental quality and Iowa natural resources council.

Sec. 62. Section one hundred seventy-two D point three (172D.3), subsection two (2), paragraph b, unnumbered paragraph one (1), Code 1979, is amended to read as follows:

Applicability of rules of the department other than those issued by the air-quality-commission relating to air quality under division two (II) of chapter four hundred fifty-five B (455B) of the Code.

Sec. 63. Section one hundred seventy-two D point three (172D.3), subsection two (2), paragraph c, Code 1979, is amended to read as follows:

c. Applicability of rules of the air-quality-commission department relating to air quality under division two (II) of chapter four hundred fifty-five B (455B) of the Code.

(1) A rule of the air-quality-commission department under division two (II) of chapter four hundred fifty-five B (455B) of the Code in effect on November 1, 1976 shall apply to a feedlot with an established date of operation prior to November 1, 1976.

(2) A rule of the air-quality-commission department under division two (II) of chapter four hundred fifty-five B (455B) of the Code shall apply to a feedlot with an established date of operation subsequent to the effective date of the rule.

(3) A rule of the air-quality-commission department under division two (II) of chapter four hundred fifty-five B (455B) of the Code pertaining to feedlot management standards adopted after November 1, 1976 shall not apply to any feedlot having an established date of operation prior to the effective date of the rule until one year after the effective date of the rule.

functions of the state. The advisory committee shall recommend rules regarding the sale, use, or disuse of agricultural chemicals to the secretary.

3. The advisory committee shall adopt rules relating to its procedures, and meetings under the general supervision of the secretary.

4. The members of the advisory committee shall be reimbursed for actual and necessary expenses incurred by them in the discharge of their official duties.

NEW SECTION. PRIOR RULES CONTINUED. A rule adopted or order issued under chapter two hundred six A (206A) of prior Codes by the chemical technology review board or under division five (V) of chapter four hundred fifty-five B (455B) of the Code by the chemical technology commission before January 1, 1981, is effective until modified or rescinded by action of the department of agriculture.

Sec. 70. Section three hundred five point one (305.1), Code 1979, is amended by striking the section and inserting in lieu thereof the following:

305.1 GEOLOGICAL SURVEY CREATED. There is created a geological survey of the state.

Sec. 71. Section three hundred five point two (305.2), Code 1979, is amended by striking the section and inserting in lieu thereof the following:

305.2 STATE GEOLOGIST AND ASSISTANTS.

1. The governor shall appoint the state geologist. The state geologist must have a degree in geology from an accredited college or university and must have at least five years of geological experience. The annual salary of the state geologist shall be determined by the governor as provided by law.

2. The state geologist may appoint the technical, professional, secretarial and clerical staff as necessary, subject to chapter nineteen A (19A) of the Code.

Sec. 72. Section three hundred five point four (305.4), Code 1979, is amended to read as follows:

305.4 INVESTIGATIONS--COLLECTION--RENTING SPACE. The state geologist shall investigate the characters of the various soils and their capacities for agricultural purposes, ~~the growth of timber, the animal and plant life of the state,~~ the streams and water power, and other scientific and natural history resource matters that may be of practical importance and interest. For the purpose of preserving well drilling samples, rock cores, fossils, and other materials as may be necessary to carry on investigations, the state geologist shall have the authority to lease or rent sufficient space for storage of these materials with the approval of the director of the department of general services. A complete cabinet collection may, ~~at the option of the board~~ be made to illustrate the natural products of the state, and the board state geologist may also furnish suites of materials, rocks, and fossils for colleges and public museums within the state, if it can be done without impairing the general state collection.

Sec. 73. Section three hundred five point seven (305.7), Code 1979, is amended to read as follows:

305.7 ANNUAL REPORT. The state geologist shall, annually, at the time provided by law, make to the governor a full report, ~~approved by the board~~ of the work in the preceding year, which report shall be accompanied by such other reports and papers as may be considered desirable for publication.

Sec. 74. Section three hundred five point eight (305.8), Code 1979, is amended to read as follows:

305.8 ~~CO-OPERATION~~ COOPERATION. The state geologist shall ~~co-operate~~ cooperate with the United States geological survey, with other federal and state organizations, and with adjoining state surveys in the making of topographic maps and the study of geologic problems of the state when, in the opinion of the ~~geological board~~ state geologist, such ~~co-operation~~ cooperation will result in profit to the state.

watercourse or basin existing upon May 16, 1957, shall not require a permit if said the 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 executive director of the department of environmental quality has been obtained.

Sec. 80. Section four hundred fifty-five C point one (455C.1), subsection nine (9), Code 1979, is amended to read as follows:

9. "Commission" means the solid-waste-disposal environmental quality commission of the department of environmental quality.

Sec. 81. Chapter four hundred fifty-five C (455C), Code 1979, is amended by adding the following new section:

NEW SECTION. PRIOR RULES CONTINUED. Rules adopted under this chapter before January 1, 1981 by the solid waste disposal commission shall remain effective until modified or rescinded by action of the commission.

Sec. 82. Section four hundred sixty-seven D point six (467D.6), subsection one (1), Code 1979, is amended to read as follows:

1. Exercise such supervision over the water resources of the conservancy district, including water in any basin, watercourse, or other body of water in the conservancy district, and have authority to promulgate and repeal, with approval of the department, and enforce such rules, except those rules relating to water resources under the authority of the council and the Iowa-water-quality-commission department of environmental quality, as necessary to achieve the objectives of this chapter as set forth in section 467D.1.

Sec. 83. Sections four hundred fifty-five B point seven (455B.7), four hundred fifty-five B point twenty-eight (455B.28), four hundred fifty-five B point seventy-three (455B.73), four hundred fifty-five B point ninety-nine (455B.99), four hundred fifty-five B point one hundred thirty-

one (455B.131), four hundred fifty-five B point one hundred thirty-two (455B.132), four hundred fifty-five B point one hundred thirty-three (455B.133), four hundred fifty-five B point one hundred thirty-four (455B.134), four hundred fifty-five B point one hundred thirty-five (455B.135), four hundred fifty-five B point one hundred thirty-six (455B.136), four hundred fifty-five B point one hundred thirty-seven (455B.137), four hundred sixty-nine point six (469.6), four hundred sixty-nine point seven (469.7) and four hundred sixty-nine point eight (469.8), Code 1979, are repealed.

Sec. 84. PRIOR ACTIONS. A rule adopted or approval given under section four hundred twenty-seven point one (427.1), subsection thirty-two (32) of the Code, before the effective date of this Act, by the air quality commission or the water quality commission of the department of environmental quality shall remain effective until modified or rescinded by action of the department of environmental quality as provided in this Act.

Sec. 85. EFFECTIVE DATE--TRANSITION. The effective date of this Act is January 1, 1981, except that this section shall be effective July 1, 1980. After July 1, 1980, the governor may appoint the members of the environmental quality commission, authorize the environmental quality commission to organize as provided in this Act and authorize the environmental quality commission to plan for the transfer of powers, duties, records, and other property as applicable. Four of the members initially appointed to the environmental quality commission shall be appointed to terms of two years beginning and ending as provided in Acts of the Sixty-eighth General Assembly, 1980 Session, Senate File two thousand three hundred one (2301), section three (3). The persons may be reappointed as provided in this Act. The members of the environmental quality commission authorized to meet before January 1, 1981, may be paid per diem and necessary expenses from funds appropriated to the department of environmental quality.

HOUSE FILE 719

AN ACT

RELATING TO HAZARDOUS WASTE MANAGEMENT AND PROVIDING PENALTIES
AND INJUNCTIVE RELIEF.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Chapter four hundred fifty-five B (455B), Code 1979, is amended by adding sections two (2) through twelve (12) of this Act as a new part of Division four (IV).

Sec. 2. NEW SECTION. DEFINITIONS. As used in this Act, unless the context otherwise requires:

1. "Commission" means the solid waste disposal commission of the department.

2. "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of a hazardous waste into or on land or water so that the hazardous waste or a constituent of the hazardous waste may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

3. a. "Hazardous waste" means a waste or combination of wastes that, because of its quantity, concentration, biological degradation, leaching from precipitation, or physical, chemical, or infectious characteristics, has either of the following effects:

(1) Causes, or significantly contributes to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.

(2) Poses a substantial danger to human health or the environment. "Hazardous waste" may include but is not limited to wastes that are toxic, corrosive or flammable or irritants, strong sensitizers or explosives.

b. "Hazardous waste" does not include:

(1) Agricultural wastes, including manures and crop residues that are returned to the soil as fertilizers or soil conditioners.

(2) Sewage sludge from publicly-owned treatment works.

(3) Source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.

4. "Manifest" means the form used for identifying the quantity, composition, and the origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment or storage.

5. "Storage" means the containment of a hazardous waste, either on a temporary basis or for a period of years, in a manner that does not constitute disposal of the hazardous waste.

6. "Treatment" means a method, technique, or process, including neutralization, designed to change the physical, chemical or biological character or composition of a hazardous waste so as to neutralize the waste or to render the waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or to reduce the waste in volume. Treatment includes any activity or processing designed to change the physical form or chemical composition of hazardous waste to render the waste nonhazardous.

Sec. 3. NEW SECTION. DUTIES OF THE COMMISSION. The commission shall:

1. Develop comprehensive plans and programs for the state for the management of hazardous waste. In the development of plans and programs, the commission shall recognize the need for assuring that suitable facilities and sites for treatment and disposal are available for hazardous wastes generated in Iowa. As part of the hazardous waste management plan, the commission shall conduct a study of hazardous waste management in Iowa and shall report its findings to the general assembly not later than eighteen months after the effective date of this Act. The study shall include the following:

a. A description of current sources of hazardous waste within the state, including the types and quantities of hazardous wastes.

director a notification stating the waste handled by the person and the location and a general description of the activity involving the waste. The notice shall be given within ninety days after the effective date of the rule listing the waste.

2. Except as provided in subsection one (1) of this section, a person shall not commence to transport or generate a hazardous waste listed by rule under section three (3), subsection two (2) of this Act without first notifying the executive director of the proposed activity. The notice shall state the waste to be handled, and the location and a general description of the activity involving the listed waste.

3. After two years from the effective date of this Act, a person who produces or disposes of not more than two hundred twenty pounds of hazardous waste in any one month period or any retailer other than a retailer of waste oil shall be exempt from the notification requirements of this Act.

Sec. 6. NEW SECTION. PERMIT REQUIRED.

1. Except as provided in subsections two (2) and four (4) of this section, a person shall not operate a facility for the treatment, storage or disposal of a hazardous waste listed under section three (3), subsection two (2) of the Act unless the owner or operator has obtained a permit for the facility from the executive director.

2. The owner or operator of a facility for the treatment, storage or disposal of a hazardous waste listed under section three (3), subsection two (2) of the Act existing on the effective date of the rule listing the waste shall obtain a permit for the facility within six months of the effective date of the rule. A person owning or operating a facility for the treatment, storage or disposal of a hazardous waste that existed on the effective date of the rule listing the waste and that is required to have a permit under this Act is considered to have a permit until such time as final administrative determination is made if the person meets the following conditions:

a. The person has given notice as required by section five (5) of this Act.

b. The person has applied for a permit.

c. The executive director has determined that the failure to issue the permit is not the result of the failure of the applicant to furnish information reasonably required or requested to process the application.

3. The commission may by rule specify the information required to be submitted with the application for a permit and the conditions under which the executive director shall issue, deny, revoke, suspend or modify permits. However, a permit shall not be issued for a treatment, storage or disposal facility unless the applicant presents evidence of financial responsibility and continuity of operation consistent with the degree and duration of risks associated with the treatment, storage or disposal of the hazardous waste as determined by the commission.

4. A permit is not required for the storage of a hazardous waste listed under section three (3), subsection two (2) of this Act when the only purpose of the storage is to accumulate for a period of up to ninety days sufficient quantities of the waste for transportation, treatment or disposal unless a permit for the storage is required under federal law.

5. A permit issued pursuant to this section shall be in addition to other licenses, permits or variances authorized or required by law, including, but not limited to, the requirements of chapter three hundred fifty-eight A (358A) of the Code.

6. If the executive director denies a permit, the executive director shall inform the applicant in writing of the reasons for the denial. The applicant may appeal to the commission from the denial of a permit or from a condition of a permit if the applicant files a notice of appeal with the executive director within thirty days of receipt of the denial or issuance of the permit.

of the violation but of not more than twenty-five thousand dollars for each day of continued noncompliance.

4. A person shall not transport, treat, store or dispose of a hazardous waste listed by the commission under section three (3), subsection two (2) of this Act unless notification has been given in accordance with rules adopted under section three (3), subsection three (3) of this Act. A person who violates this subsection is subject to a civil penalty not to exceed five hundred dollars for each day of violation.

Sec. 9. NEW SECTION. ENFORCEMENT.

1. If the executive director has conclusive evidence that a person has violated or is violating a provision of this Act, or of a rule or standard established or permit issued pursuant to this Act and if subsection four (4) of this section does not apply:

a. The executive director may issue an order directing the person to desist in the practice that constitutes the violation or to take corrective action as necessary to ensure that the violation will cease. Before issuing the order the executive director shall notify the person of the violation and that if compliance is not achieved within thirty days following the receipt of the notice the order may be issued. The person to whom the order is issued may commence a contested case within the meaning of chapter seventeen A (17A) of the Code by filing with the executive director within thirty days of receipt of the order a notice of appeal to the commission. On appeal, the commission may affirm, modify or vacate the order of the executive director.

b. If it is determined by the executive director that an emergency exists, the executive director may issue without notice or hearing an order necessary to terminate the emergency. The order shall be binding and effective immediately and until the order is modified or vacated at a hearing before the commission or by a court. "Emergency" as used in this subsection means a situation where the handling, storage, treatment, transportation or disposal of

a hazardous waste is presenting an imminent and substantial threat to human health or the environment.

c. When the executive director determines that a disposal site contains hazardous waste in an amount and under conditions that cause an imminent threat to human health and that the person responsible for the site will not properly and promptly remove the waste or eliminate the threat, the executive director may take action as necessary to remove the waste or permanently alleviate or eliminate the threat to human health. The costs of removing the waste or alleviating or eliminating the threat shall be recovered from the person responsible for the disposal site.

d. The executive director with the approval of the commission, may request the attorney general to institute legal proceedings pursuant to subsection two (2) of this section.

2. The attorney general shall, at the request of the executive director pursuant to paragraph d of subsection one (1) of this section, institute legal proceedings, including an action for an injunction, necessary to enforce the penalty provisions of this Act or to obtain compliance with this Act or a rule promulgated or a condition of a permit or order issued under this Act.

3. In a case arising from the violation of an order issued under subsection one (1), paragraph a of this section, the burden of proof shall be on the state to show that the time specified in the order within which the individual must take corrective action is reasonable.

4. Notwithstanding any other provisions of this Act, when hazardous waste was placed in a disposal site in whole or in large measure in accordance with the law existing at the time of placement, and the presence of such waste in the site is subsequently found to be in conflict with laws or rules adopted at a later date and to constitute a serious and imminent threat to human health which must be reduced or eliminated, the executive director shall request the attorney

of this Act. The department and the division of the highway safety patrol of the department of public safety shall carry out the rules through the use of the director's powers and duties of enforcement and inspection.

FLOYD H. MILLEN
Speaker of the House

TERRY E. BRANSTAD
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 719, Sixty-eighth General Assembly.

DAVID L. WRAY
Chief Clerk of the House

Approved _____, 1979

ROBERT D. RAY
Governor

§68.10, IMPEACHMENT

3. To appoint from time to time such subordinate officers, clerks, and reporters as are necessary for the convenient transaction of its business, and at any time to remove any of them.

4. To issue subpoenas, process, and orders, which shall run into any part of the state, and may be served by any adult person authorized so to do by the president of the senate, or by the sheriff of any county, or his deputy, in the name of the state, and with the same force and effect as in an ordinary criminal prosecution, and to compel obedience thereto.

5. To exercise the powers and privileges conferred upon the senate for punishment as for contempts in the chapter entitled "General Assembly".

6. To adjourn from time to time, and to dissolve when its work is completed. [C97,§5478; C24, 27, 31, 35, 39,§1140; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77,§68.10]

Contempts, §§2.18—2.23, ch 665

68.11 Record of proceedings—administering oaths. The secretary of the senate, in all cases of impeachment, shall keep a full and accurate record of the proceedings, which shall be a public record; and shall have power to administer all requisite oaths or affirmations, and issue subpoenas for witnesses. [R60,§4959; C73,§4570; C97,§5479; C24, 27, 31, 35, 39,§1141; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77,§68.11]

68.12 Process for witnesses. The board of managers and counsel for the person impeached shall each be entitled to process for compelling the attendance of persons or the production of papers and records required in the trial of the impeachment. [C97,§5480;

C24, 27, 31, 35, 39,§1142; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77,§68.12]

68.13 Punishment. When any person impeached is found guilty, judgment shall be rendered for his removal from office and his disqualification to hold any office of honor, trust, or profit under the state. [C97,§5481; C24, 27, 31, 35, 39,§1143; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77,§68.13]

68.14 Compensation—fees—payment. The presiding officer and members of the senate, while sitting as a court of impeachment, and the managers elected by the house of representatives, shall receive the sum of six dollars each per day, and shall be reimbursed for mileage expense in going from and returning to their places of residence by the ordinary traveled routes; the secretary, sergeant at arms, and all subordinate officers, clerks, and reporters, shall receive such amount as shall be determined upon by a majority vote of the members of such court. The same fees shall be allowed to witnesses, to officers, and to other persons serving process or orders, as are allowed for like services in criminal cases, but no fees can be demanded in advance. The state treasurer shall, upon the presentation of certificates signed by the presiding officer and secretary of the senate, pay all of the foregoing compensations and the expenses of the senate incurred under the provisions of this chapter. [C97,§5482; C24, 27, 31, 35, 39,§1144; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77,§68.14]

Rate, see §79.9

Sheriff's fees, §337.11

Witness fees, §622.69 et seq.

Witnesses in criminal cases, R.Cr.P. 19

CHAPTER 68A

EXAMINATION OF PUBLIC RECORDS

Referred to in §§93.7, 103A.17, 144.43, 235A.15, 279.16, 279.24, 428A.15, 455B.40, 524.215, 533.60, 692.18

68A.1 Public records defined.

68A.2 Citizen's right to examine.

68A.3 Supervision.

68A.4 Hours when available.

68A.5 Enforcement of rights.

68A.6 Penalty.

68A.7 Confidential records.

68A.8 Injunction to restrain examination.

68A.9 Denial of federal funds.

68A.1 Public records defined. Wherever used in this chapter, "public records" includes all records and documents of or belonging to this state or any county, city, township, school corporation, political subdivision, or tax-supported district in this state, or any branch, department, board, bureau, commission, council, or committee of any of the foregoing. [C71, 73, 75, 77,§68A.1]

68A.2 Citizen's right to examine. Every citizen of Iowa shall have the right to examine all public records and to copy such records, and the news media may publish such records, unless some other provision of the Code expressly limits such right or requires such records to be kept secret or confidential. The right to copy records shall include the right to make photographs or photographic copies while the records

are in the possession of the lawful custodian of the records. All rights under this section are in addition to the right to obtain certified copies of records under section 622.46. [C71, 73, 75, 77,§68A.2]

68A.3 Supervision. Such examination and copying shall be done under the supervision of the lawful custodian of the records or his authorized deputy. The lawful custodian may adopt and enforce reasonable rules regarding such work and the protection of the records against damage or disorganization. The lawful custodian shall provide a suitable place for such work, but if it is impracticable to do such work in the office of the lawful custodian, the person desiring to examine or copy shall pay any necessary expenses of providing a place for such work. All expenses of such work shall be paid by the person desiring to examine

or copy. The lawful custodian may charge a reasonable fee for the services of the lawful custodian or his authorized deputy in supervising the records during such work. If copy equipment is available at the office of the lawful custodian of any public records, the lawful custodian shall provide any person a reasonable number of copies of any public record in the custody of the office upon the payment of a fee. The fee for the copying service as determined by the lawful custodian shall not exceed the cost of providing the service. [C71, 73, 75, 77, §68A.3]

68A.4 Hours when available. The rights of citizens under this chapter may be exercised at any time during the customary office hours of the lawful custodian of the records. However, if the lawful custodian does not have customary office hours of at least thirty hours per week, such right may be exercised at any time from nine o'clock a.m. to noon and from one o'clock p.m. to four o'clock p.m. Monday through Friday, excluding legal holidays, unless the citizen exercising such right and the lawful custodian agree on a different time. [C71, 73, 75, 77, §68A.4]

68A.5 Enforcement of rights. The provisions of this chapter and all rights of citizens under this chapter may be enforced by mandamus or injunction, whether or not any other remedy is also available. In the alternative, rights under this chapter also may be enforced by an action for judicial review according to the provisions of the Iowa administrative procedure Act, if the records involved are records of an "agency" as defined in that Act. [C71, 73, 75, 77, §68A.5]

68A.6 Penalty. It shall be unlawful for any person to deny or refuse any citizen of Iowa any right under this chapter, or to cause any such right to be denied or refused. Any person knowingly violating or attempting to violate any provision of this chapter where no other penalty is provided shall be guilty of a simple misdemeanor. [C71, 73, 75, 77, §68A.6; 66GA, ch 1245(4), §28]

68A.7 Confidential records. The following public records shall be kept confidential, unless otherwise ordered by a court, by the lawful custodian of the records, or by another person duly authorized to release information:

1. Personal information in records regarding a student, prospective student, or former student of the school corporation or educational institution maintaining such records.
2. Hospital records and medical records of the condition, diagnosis, care, or treatment of a patient or former patient, including outpatient.
3. Trade secrets which are recognized and protected as such by law.
4. Records which represent and constitute the work product of an attorney, which are related to litigation or claim made by or against a public body.

5. Peace officers investigative reports, except where disclosure is authorized elsewhere in this Code.

6. Reports to governmental agencies which, if released, would give advantage to competitors and serve no public purpose.

7. Appraisals or appraisal information concerning the purchase of real or personal property for public purposes, prior to public announcement of a project.

8. Iowa development commission information on an industrial prospect with which the commission is currently negotiating.

9. Criminal identification files of law enforcement agencies. However, records of current and prior arrests shall be public records.

10. Personal information in confidential personnel records of the military department of the state.

11. Personal information in confidential personnel records of public bodies including but not limited to cities, boards of supervisors and school districts.

12. Financial statements submitted to the Iowa state commerce commission pursuant to chapter 542 or chapter 543, by or on behalf of a licensed grain dealer or warehouseman or by an applicant for a grain dealer license or warehouse license. [C71, 73, 75, 77, §68A.7; 67GA, ch 1044, §1]

Referred to in §907.4

68A.8 Injunction to restrain examination. In accordance with the rules of civil procedure the district court may grant an injunction restraining the examination (including copying) of a specific public record, if the petition supported by affidavit shows and if the court finds that such examination would clearly not be in the public interest and would substantially and irreparably injure any person or persons. The district court shall take into account the policy of this chapter that free and open examination of public records is generally in the public interest, even though such examination may cause inconvenience or embarrassment to public officials or others. Such injunction shall be subject to the rules of civil procedure except that the court in its discretion may waive bond. Reasonable delay by any person in permitting the examination of a record in order to seek an injunction under this section is not a violation of this chapter, if such person believes in good faith that he is entitled to an injunction restraining the examination of such record. [C71, 73, 75, 77, §68A.8]

68A.9 Denial of federal funds. If it is determined that any provision of this chapter would cause the denial of funds, services or essential information from the United States government which would otherwise definitely be available to an agency of this state, such provision shall be suspended as to such agency, but only to the extent necessary to prevent denial of such funds, services, or essential information. [C71, 73, 75, 77, §68A.9]

Appendix B

Rules of the Department of Environmental Quality

Iowa Administrative Code

Chapter 20 of the rules of the Department of Environmental Quality

Chapters 25 through 34 of the rules of the Department of Environmental Quality

Chapters 50 through 55 of the rules of the Department of Environmental Quality

CHAPTER 20
ANIMAL FEEDING OPERATIONS

400—20.1(455B) **Definitions.** In addition to the definitions in sections 455B.1 and 455B.30 of the Code, the following definitions shall apply to this chapter:

20.1(1) "*Animal enclosure*" means a lot, yard, corral, building, or other area in which animals are confined.

20.1(2) "*Animal-feeding operation*" means an animal enclosure in which animals are confined and fed or maintained. Two or more animal enclosures under common ownership or management are deemed to be a single animal-feeding operation if the enclosures are adjacent or a common area or system is utilized for the disposal of waste from the enclosures.

20.1(3) "*Open feedlot*" means an animal-feeding operation consisting of one or more unroofed or partially roofed animal enclosures in which animals are confined and fed or maintained for 45 days or more in any twelve-month period and no crop, vegetation, or forage growth or residue cover is sustained during the period of confinement.

20.1(4) "*Confinement-feeding operation*" means an animal-feeding operation consisting of one or more totally roofed animal enclosures in which animals are confined and fed or maintained for forty-five days or more in any twelve-month period and in which wastes are stored or removed as a liquid or semi-liquid.

20.1(5) "*New animal-feeding operation*" means an animal-feeding operation whose construction was commenced on or after August 16, 1976, or whose operation is again commenced after a period of twelve months or more of discontinued operation.

20.1(6) "*Animal capacity*" means the maximum number of animals which will be confined, as determined by the applicant, in an animal-feeding operation at any one time.

20.1(7) "Application for construction permit" means an application for a written construction permit made on a form provided by the department, and includes the engineering report, plans and specifications and other data deemed necessary by the department for the construction of a proposed waste-disposal system or part thereof.

20.1(8) "Construction permit" means a written approval of the executive director to construct a waste-disposal system or part thereof in accordance with the plans and specifications approved by the department.

20.1(9) "Application for operation permit" means an application for a written operation permit made on a form provided by the department.

20.1(10) "Operation permit" means a written permit by the executive director specifying the conditions and requirements under which the operation of a waste-disposal system or part thereof or discharge source is authorized, and, if applicable, the conditions and requirements under which the discharge of wastes from said disposal system or part thereof or discharge source to a water of the state is authorized.

~~400—20.2(455B)~~ **Minimum-waste control requirements.** Water pollution control facilities shall be constructed and maintained to meet the minimum-waste control requirements stated in the following paragraphs; provided that if site topography, operating procedures, experience and available information indicate that adequate water pollution control can be achieved with less than the minimum requirements, the minimum requirements may be waived; provided further that if site topography, operating procedures, experience and other available information indicate that more than minimum requirements will be necessary to achieve adequate water pollution control, additional control provisions may be required.

20.2(1) The minimum level of waste control for any animal-feeding operation shall be the removal of settleable solids from the wastes prior to discharge into a water of the state or discharge from the property on which the operation is located, unless such solids removal is to be accomplished on other property through written agreement with another person.

Settleable waste-solids removal shall be considered adequate when the waste-flow velocity has been reduced to less than 0.5 foot per second for a minimum of five minutes. Settleable solids-removal facilities shall provide, as a minimum, adequate volume to store settled waste solids between periods of disposal and provide the specified flow-velocity reduction and retention for runoff flow volumes resulting from precipitation events of lesser intensity than the ten-year, one-hour frequency-precipitation event. For settleable solids removal from open feedlot runoff, a minimum of one square foot of surface area shall be provided in the solids-removal facilities for each eight cubic feet of runoff per hour resulting from the ten-year, one-hour frequency-precipitation event. Wastes removed from the animal-feeding operation and settled waste solids shall be disposed of by land disposal in accordance with 20.2(6).

Settleable solids removal may be accomplished by use of solids-settling basins, terraces, diversions, or other solids-removal methods. Construction of solids-settling facilities shall not be required where existing site conditions provide adequate settleable solids removal.

20.2(2) The minimum level of waste control for an open feedlot covered by the operation-permit application requirements of 20.3(1), 20.3(3), or 20.3(4) shall be retention of all waste from the feedlot areas and from other waste-contributing areas resulting from the ~~twenty-five-year~~, twenty-four-hour frequency-precipitation event. As an alternative to providing the above specified level of waste control, a feedlot may take such actions as are necessary to eliminate the conditions under which the feedlot was required to apply for a permit, provided that elimination of such conditions will provide an adequate level of waste control. All waste removed from the feedlot and its waste-control facilities shall be disposed of by land disposal in accordance with 20.2(6).

Control of wastes from open feedlots may be accomplished through use of waste-retention basins, terraces, or other runoff control methods. Diversion of uncontaminated surface drainage prior to contact with feedlot or waste-storage areas may be required. Waste-solids settling facilities shall precede the waste-retention basins or terraces.

20.2(3) The minimum level of waste control for a confinement-feeding operation shall be the retention of all wastes produced in the confinement enclosures and land disposal of such wastes in accordance with 20.2(6). Adequate waste-storage capacity shall be provided to retain all wastes produced between periods of waste disposal. Additional capacity shall be provided if wastes from other sources are to be handled by the waste-disposal system.

20.2(4) In lieu of providing the applicable level of waste control specified in 20.2(1), 20.2(2) or 20.2(3), the department may permit the use of waste treatment or other methods of waste control when the department determines that an adequate level of waste control will be provided.

20.2(5) No direct waste discharge shall be allowed from an animal-feeding operation into a publicly owned lake or impoundment or into a sinkhole.

20.2(6) All wastes removed from an animal-feeding operation or its waste-control facilities shall be disposed of by land application in a manner which will not cause surface or ground water pollution. Disposal in accordance with the land-disposal guidelines adopted by the Iowa water quality commission on June 23, 1976, shall be deemed as compliance with this requirement.

400—20.3(455B) Animal feeding operations for which an operation permit application is required.

20.3(1) *Open feedlots.* An open feedlot shall apply for a state operation permit if any of the following conditions exist:

a. The capacity of an open feedlot containing a single-animal species exceeds:

Species	Animal capacity exceeds
Cattle, Beef	1,000
Cattle, Dairy	700
Swine, Butcher & Breeding (Over 55 lbs.)	2,500
Sheep or lambs	10,000
Turkeys	55,000

b. The total animal unit capacity of an open feedlot containing several animal species exceeds 1,000. Total animal unit capacity shall be determined by multiplying the number of animals of each species in the feedlot by the following multipliers and summing the totals for all species contained in the feedlot.

Species	Multipliers
Slaughter and Feeder Cattle	1.0
Mature Dairy Cattle	1.4
Swine, Butcher & Breeding (Over 55 lbs.)	0.4
Sheeps or Lambs	0.1
Horses	2.0

*c. Waste drainage from the open feedlot enters a water course that drains more than 3,200 acres of land above the point feedlot drainage enters the water course and the travel distance of drainage, measured along the path of drainage flow, from the feedlot to the water course is less than:

Species	Distance to water course is less than (feet per animal)
Cattle, Beef	2.0
Cattle, Dairy	3.0
Swine, Butcher & Breeding (Over 55 lbs.)	0.5
Sheep	0.2
Turkeys	0.05

*Objection, see filed rules published IAC Supp. 7/12, 8/23, 11/3/76

*20.3(4) *Waste discharge into a water course which traverses the operation.* An animal feeding operation shall apply for a state operation permit if wastes from the operation are being discharged directly into a water of the state which originates outside of and traverses the operation and the capacity of the operation exceeds:

Species	Animal capacity exceeds
Cattle, Beef	100
Cattle, Dairy	70
Swine, Butcher & Breeding (Over 55 lbs.)	250
Sheep	1,000
Turkeys	5,500
Chickens, Broiler or Layer	9,000

20.3(5) *Departmental investigation.*

*a. Regardless of the number of species of animals confined in an animal-feeding operation, the department may investigate the animal-feeding operation to determine if any of the following conditions exist:

- (1) Wastes from the operation are being discharged into a water of the state and the operation is not providing the minimum applicable level of waste control as specified in 20.2(1), 20.2(3), or 20.2(5);
- (2) Wastes from the operation are causing water pollution or may reasonably be expected to pollute a water of the state;
- (3) Wastes from the operation are causing or may reasonably be expected to cause a violation of water quality standards;
- (4) Wastes from the operation are degrading a water of the state in violation of the non-degradation policy of the Iowa water quality commission in 16.2(2).

b. If departmental investigation of an animal-feeding operation determines that any of the conditions listed in 20.3(5)"a" exists, the operation shall:

- (1) Apply for a state operation permit if the operation receives a written notification from the executive director of the need to apply for a permit.
- (2) Institute necessary remedial action to eliminate such conditions if the operation receives a written notification from the executive director of the need to correct such conditions.

20.3(6) *Voluntary operation-permit applications.* Receipt of an application from an animal-feeding operation not meeting the operation-permit application requirements of 20.3(1) to 20.3(5) will be acknowledged by the department and the application will remain on file with the department as part of its permanent records. Operation and construction permits will not be issued for facilities not meeting the operation-permit requirements of 20.3(1) to 20.3(5).

400—20.4(455B) *Operation permits.*

20.4(1) *Existing animal-feeding operations holding an operation permit.* Animal-feeding operations which hold a valid state operation permit issued by the department or the Iowa department of health prior to August 16, 1976, shall not be required to reapply for a state operation permit but shall submit such information as deemed necessary by the executive director to determine conformity of the operation with rules of the department within ninety days of receipt of a request for such information from the executive director. The previous sentence notwithstanding, such operations shall make application for permit renewal in accordance with 20.4(10) for continued operation beyond the permit expiration date.

20.4(2) *Existing animal-feeding operations not holding an operation permit.* Animal-feeding operations in existence on August 16, 1976, and covered by the operation-permit provisions of 20.3(1) to 20.3(4), shall make application for a state operation permit prior to

*Objection, see filed rules published IAC Supp. 7/12, 8/23, 11/3/76

20.4(10) *Permit renewal.* An operation permit may be granted for any period of time not to exceed five years. Application for renewal of an operation permit must be submitted to the department at least one hundred twenty days in advance of the date the permit expires. Each permit to be renewed shall be subject to the provisions of those rules of the department which apply to the operation at the time of renewal.

a. An operation permit which contains an expiration date will be reviewed at the time of renewal to determine the need for an operation permit in accordance with 20.3(1) to 20.3(5). An animal-feeding operation not meeting the operation-permit requirements of 20.3(1) to 20.3(5) will be exempted from the need to retain that permit at the time of permit renewal, and the existing operation permit will not be renewed.

b. An operation permit which does not contain an expiration date will be reviewed to determine the need for an operation permit in accordance with 20.3(1) to 20.3(5). An animal-feeding operation not meeting the operation-permit requirements of 20.3(1) to 20.3(5) will be exempted from the need to retain that permit at the time of permit review, and the existing operation permit will be revoked. An animal-feeding operation which meets the operation-permit requirements of 20.3(1) to 20.3(5) will be notified of the need to retain an operation permit at the time or permit review, and the existing operation permit shall be modified to include an expiration date.

20.4(11) *Permit modification, suspension, or revocation.* The executive director may modify, suspend or revoke in whole or in part any operation permit for cause. Cause for modification, suspension or revocation of a permit includes the following:

a. Violation of any term or condition of the permit.

b. Obtaining a permit by misrepresentation of fact or failure to disclose fully all material facts.

c. A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

d. Failure to submit such records and information as the executive director shall require both generally and as a condition of the operation permit in order to assure compliance with the operation and discharge conditions specified in the permit.

400—20.5(455B) Construction permits.

20.5(1) *Animal-feeding operations for which a construction permit is required.* An animal-feeding operation covered by the operation-permit application requirements of 20.3(1) to 20.3(4) shall obtain a construction permit prior to constructing, installing, or modifying a waste storage and disposal system for that animal-feeding operation. Animal-feeding operations required to obtain an operation permit under provisions of 20.3(5) shall obtain a construction permit for any required upgrading of its waste disposal system.

An application for a construction permit must be submitted at least ninety days in advance of the planned date of start of construction.

20.5(2) *Deadline for acting on construction permit applications.* The executive director shall act upon the application within sixty days of receipt of a complete application by either issuing a construction permit or denying the construction permit in writing, unless a longer review period is required and the applicant is so notified in writing prior to expiration of the sixty-day period. Notwithstanding the ninety-day requirement in 20.5(1) above, construction of the approved system may commence immediately after the issuance of a construction permit.

20.5(3) *Application forms.* Application for a construction permit shall be made on a form provided by the department. The application shall be complete and shall include such detailed engineering plans as determined necessary by the executive director.

20.5(4) *Plan requirements.* Waste storage and disposal facility plans shall be designed and submitted in conformance with chapter 114 of the Code.

20.5(5) *Plan review criteria.* Review of plans and specifications shall be conducted to determine the potential of the proposed waste disposal system to achieve the level of waste

GUIDELINES OF IOWA WATER QUALITY COMMISSION ON LAND DISPOSAL OF ANIMAL WASTES

GENERAL

Land application of animal wastes has long been utilized for the final disposal of such wastes. Although advancements in waste treatment technology may provide disposal alternatives, land disposal is expected to continue as the primary means of disposal.

Environmental and crop production concerns exist with the land disposal of animal wastes. Improper or excessive applications of animal wastes on land can create water pollution problems due to excessive runoff of waste materials into streams or leaching of nitrogen into groundwater supplies. Excessive applications of animal wastes can also lead to excessive buildup of nutrients or trace elements in soils. Excessive nutrient or trace element buildups may affect soil structure or plant growth, and can ultimately affect crop yields.

A number of factors affect the environmental hazard potential of animal waste disposal. These include chemical composition of waste materials, the rate and frequency of waste application, crops grown, land topography, and soil characteristics.

Due to the number of factors involved, it is not presently possible to make specific recommendations which take into account all variables. However, recommendations can be made to assure that animal waste disposal will not increase existing environmental hazards or create new environmental or crop growth problems. The recommendations made below are made with this goal in mind.

WASTE APPLICATION RATE

A. Nitrogen: Excessive nitrogen applications are of concern to the Iowa Water Quality Commission, since excessive applications may result in excessive nitrate leaching into groundwaters. To avoid problems, the following recommendations are made:

1. Annual nitrogen application rates should not exceed two hundred fifty pounds available nitrogen per acre. This level of application should only be used with high nitrogen use crops.

The available nitrogen content of animal waste is considered to be:

(a) During the first crop season following waste application, the available nitrogen content is:

1. Seventy-five percent of the total nitrogen content of the applied waste if the waste is injected or is incorporated into the soil immediately following application.

2. Fifty percent of the total nitrogen content of the applied waste if the waste is surface applied and allowed to dry prior to incorporation into the soil.

(b) During the second crop season following waste application, the available nitrogen content is twelve and one-half percent of the total nitrogen content of the applied waste.

(c) During the third crop season following waste application the available nitrogen content is 7% of the total nitrogen content of the applied waste.

(d) After more than three crop seasons following waste application, no further credit to available nitrogen is given to the applied waste.

2. The maximum total nitrogen application to land in any one year should not exceed four hundred pounds per acre.

3. For proposed annual nitrogen applications in excess of two hundred fifty pounds available nitrogen per acre, a specific crop management plan should be developed. This plan should indicate amounts and frequency of nitrogen application, cropping systems and harvesting frequency, projected nitrogen removal by the crop, and other projected nitrogen losses. Nitrogen applications in excess of two hundred fifty pounds of available nitrogen

spread closer than two hundred feet to any of the following unless the wastes are injected or incorporated into soil:

- (a) stream
- (b) surface intake of tile line or other buried conduit
- (c) sinkhole*
- (d) shoreline of a lake or pond
- (e) any well with an open surface inlet

No wastes should be spread on waterways except for the purpose of establishing seedings.

INCORPORATION OF WASTES INTO SOIL

Immediate incorporation or soil injection is recommended for wastes applied on tilled land with slopes greater than ten percent and on floodplains subject to flooding more frequently than once every ten years.

When required for odor control, wastes should be incorporated into the soil.

ODOR CONTROL FROM LAND DISPOSAL OPERATIONS

In the absence of odor control standards, it is recommended that the following be considered in an effort to minimize odor problems from land disposal operations:

- (a) Use good judgment concerning location of disposal areas and time disposal operations with climatic conditions. Bright, cool, sunny days with gusty winds blowing away from neighbors are the best for land disposal.
- (b) Soil incorporation immediately after spreading or soil injection helps control the release of odorous gases.

*Objection, see filed rules published IAC Supp. 7/12, 8/23, 11/3/76

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SOLID WASTE DISPOSAL

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TITLE IV

SOLID WASTE DISPOSAL
CHAPTER 25
DEFINITIONS

400—25.1(455B) Definitions. For the purpose of these rules, the following terms shall have the meaning indicated in this chapter. The definitions set out in section 406.2, Code 1971[455B.75, Code 1975] shall be considered to be incorporated verbatim in these rules.

25.1(1) "*Commission*" means the Iowa solid waste disposal commission.

25.1(2) "*Composting*" means the controlled, biological decomposition of selected solid organic waste materials under aerobic conditions resulting in an innocuous final product.

25.1(3) "*Construction and demolition waste*" means waste building materials including wood, metals and rubble which result from construction or demolition of structures. Such waste shall also include trees.

25.1(4) "*Construction and demolition waste disposal site*" means a sanitary landfill which accepts only construction and demolition wastes.

25.1(5) "*Department*" means the Iowa state department of environmental quality.

25.1(6)* "*FAA certificated airport*" means an airport serving air carriers certified by the Civil Aeronautics Board that has been issued an airport operating certificate from the Administrator of the Federal Aviation Administration pursuant to section 612 of the Federal Aviation Act, 49 U.S.C. §1432, and 49 C.F.R. part 139. (Note: As of July 1, 1978, this definition would include the municipal airports in or near Iowa as follows: Moline, Illinois; Omaha, Nebraska; and Burlington, Cedar Rapids, Des Moines, Dubuque, Fort Dodge, Mason City, Ottumwa, Sioux City, and Waterloo, Iowa.)

25.1(7) "*Flood plain*" means the area adjoining a river or stream which has been or may be hereafter covered by flood water.

25.1(8) "*Garbage*" means all solid and semisolid, putrescible animal and vegetable wastes resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial byproducts, and shall include all such substances from all public and private establishments and from all residences.

*Emergency, pursuant to §17A.5(2)"b"(2) of the Code.

volume and to cover it with a layer of earth so that no nuisance or hazard to the public health is created.

25.1(29) "*Scavenging*" means the uncontrolled removal of materials from the unloading or working area of a sanitary disposal project.

25.1(30) "*Shoreland*" means land within 300 feet of the high water mark of any natural or artificial, publicly or privately owned lake or any impoundment of water used as a source of public water supply.

25.1(31) "*Site*" means any location, place or tract of land used for collection, storage, conversion, utilization, incineration or burial of solid wastes.

25.1(32) "*Solid waste*" is defined in section 455B.75.

25.1(33) "*Solid waste collection*" means the gathering of solid waste from public and private places.

25.1(34) "*Solid waste storage*" means the holding of solid waste pending intermediate or final disposal.

25.1(35) "*Solid waste transportation*" means the conveying of solid waste from one place to another by means of vehicle, rail car, water vessel, conveyor or other means.

25.1(36) "*Toxic and hazardous wastes*" means waste materials, including but not limited to poisons, pesticides, herbicides, acids, caustics, pathological wastes, flammable or explosive materials and similar harmful wastes which require special handling and which must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

25.1(37) "*Transfer station*" means a fixed or mobile intermediate solid waste disposal facility for transferring loads of solid waste, with or without reduction of volume, to another transportation unit.

25.1(38) "*Attendant*" means an employee of a sanitary disposal project who is not employed or assigned to operate the equipment used on the site.

25.1(39) "*Industrial sludge*" means any sludge produced by industrial activity.

25.1(40) "*Leachate*" means fluid that has percolated through solid waste and which contains contaminants consisting of dissolved or suspended materials, chemicals, or microbial waste products from the solid waste.

25.1(41) "*Open dump*" means any exposed accumulation of solid waste at a site other than a sanitary disposal project operating under a permit from the department.

25.1(42) "*Operating area*" means the immediate portion of a sanitary disposal project used for unloading and handling of solid waste to prepare it for processing or final disposal.

25.1(43) "*Operator*" means an employee of the sanitary disposal project who is employed and assigned to operate the equipment used on the site.

25.1(44) "*Processing facility*" means the site and equipment for the preliminary and incomplete disposal of solid waste, including but not limited to transfer, open burning, incomplete land disposal, incineration, composting, reduction, shredding and compression.

25.1(45) "*Stabilized sewage sludge*" means sludge from wastewater treatment facilities that has been processed to a point where it has the ability to resist further change, produces minimal odor, and has achieved a substantial reduction in the pathogenic organism content. (The department recognizes principles of stabilization other than the conventional biological processes. Whether these processes produce a stabilized sludge will be evaluated on an individual basis.)

25.1(46) "*Trees*" means trunks, limbs, stumps, or branches from trees or shrubs and untreated, uncoated, chemically unchanged wood wastes. This shall not include wood products which are part of an otherwise defined waste or have been contaminated by coatings, treatments or metals.

25.1(47) "*Unstabilized sewage sludge*" means sludge from wastewater treatment facilities which is not treated to remove pathogens.

CHAPTER 26
GENERAL REQUIREMENTS RELATING TO SOLID WASTE DISPOSAL

400—26.1(455B) Compliance. All solid waste shall be stored, collected, transported, utilized, processed, reclaimed or disposed of in a manner consistent with requirements of these rules.

400—26.2(455B) General conditions of solid waste disposal. Any solid waste which may be disposed at a site other than a sanitary disposal project pursuant to chapter 455B of the Code shall be disposed as provided in this rule.

26.2(1) Open dumping is prohibited except for rubble.

26.2(2) A public or private agency dumping or depositing solid waste shall do so in a manner that creates no public health hazard, nuisance or degradation of surface water or aquifers that are in actual or deemed to be of potential use as a water resource.

400—26.3(455B) Storage, collection and transportation of solid waste.

26.3(1) Public agency responsibility. Every city within its jurisdiction, and county in its unincorporated areas shall be responsible for the storage, collection and transportation of solid waste. Any powers, privileges or authority exercised in fulfilling this responsibility may be exercised and enjoyed jointly with any other public agency. The responsible public agency shall:

a. Provide either through a public or private agency, for an adequate, efficient, and sanitary system for the collection and transportation of all solid wastes originating from households, service premises, business establishments and industries within their jurisdiction which are not exempted by law.

b. Issue and enforce regulations, subject to review by the department, pertaining to the storage, collection and transportation of all solid waste within their jurisdiction. Such regulations shall be no less restrictive than those in subrule 26.3(2), and shall, as a minimum, include specifications for:

- (1) Storage containers.
- (2) Storage duration.
- (3) Storage locations.
- (4) Collection frequency.
- (5) Vehicle design and operation.

26.3(2) Container and vehicle standards.

a. Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

b. Vehicles or containers used for the collection and transportation of garbage and similar putrescible wastes or refuse containing such materials shall be leakproof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution or insect breeding and shall be maintained in good repair.

c. Vehicles and containers used for the collection and transportation of toxic and hazardous wastes shall be so constructed that they can be loaded, moved and unloaded in a manner that does not create a danger to public health or safety and in compliance with the rules and federal and state laws and local ordinances and regulations.

400—26.4(455B) Details of management plan proposals. Cities, counties and private agencies which are planning to establish or operate a sanitary disposal project other than a sanitary landfill, to modify their solid waste management practices, or to revise their existing management plan, shall file with the executive director a plan or revision of an existing plan before implementing it.

- 26.4(1) Such a plan or revision shall include the following information:
- a. Public and private agencies involved.
 - b. Population densities and projections.
 - c. Major waste contributors.
 - d. Existing collection and disposal practices in the service area.
 - e. Anticipated future industrial and commercial developments and their effects.
 - f. Status of the solid waste management plan of the service area and evidence that the facility or changes contemplated are compatible with it.
 - g. An evaluation of alternatives for the disposal or processing of solid waste.
 - h. Evaluation of energy needs, markets and goals in any resource recovery to be provided.
 - i. A description of the level of service expected.
 - j. A broad assessment of the costs and benefits of the methods or processes to be used including capital cost, projected net annual operating cost, and cost of land disposal of any waste which cannot be handled or is removed from the process.
 - k. A description of the methods of financing to be used.

400—26.5(455B) Contracts with permitted agencies.

26.5(1) Every city, county, and other public agency which complies with the requirements of chapter 455B of the Code for the disposal of solid waste by means of a contract with an agency holding a sanitary disposal project permit or by means of a contract with a hauler who has a contract with an agency holding a sanitary disposal project permit shall submit to the department a photostatic copy of that executed contract. All such agencies shall have on file at the department at all times a valid contract. When the term of the contract expires, a renewal of the contract or a new contract shall be submitted.

26.5(2) All public agencies which contract with a hauler to comply with the requirements of part 1 of division iv of chapter 455B shall include as terms of that contract that all solid waste collected by the hauler for that agency shall be hauled in vehicles which comply with the standards of subrule 26.3(2) and disposed at a sanitary disposal project permitted by the department.

400—26.6(455B) Closing of open dumps. Every public agency shall properly close or enforce the proper closing of all open dumps which are within the agency's jurisdiction. Every private agency shall properly close all open dumps under their control.

26.6(1) All open dumps shall be closed by July 1, 1975.

26.6(2) Proper closing shall include the following:

- a. Access to the dump site shall be controlled as necessary to prevent further open dumping. Any gates shall be kept locked.
- b. A permanent sign shall be posted at the dump entrance indicating that it is closed, specifying the penalty for unauthorized dumping, identifying the location of a permitted site and providing other pertinent information. This requirement may be waived upon a showing to the department's satisfaction that the need for such a sign does not exist.
- c. Effective means shall be taken to eliminate flies and other insects, rodents, or vermin.
- d. All fires shall be totally extinguished.
- e. Extruding refuse shall be removed and the surface shall be permanently covered with earth.
- f. Each dump shall be graded to promote runoff without erosion. Diversion drainage shall be provided as necessary to prevent surface water from entering the filled area.
- g. The finished surface of the filled area shall be seeded with grasses or other suitable vegetation immediately upon completion or promptly in the spring on areas terminated during winter conditions.
- h. The restored area shall be periodically cleaned up as needed to prevent it from reverting to an open dump.
- i. Other corrective actions shall be taken as required by the executive director.

This rule is intended to implement section 455B.78 of the Code.

b. Developmental permits shall be issued for a term no less than one year and no more than three years.

c. Developmental permits may be renewed if the commission finds, following public hearing, that the sanitary disposal project provided satisfactory disposal of solid waste without adverse health related or environmental effects over the term of the prior permit.

This rule is intended to implement section 455B.78 of the Code.

400—27.3(455B) Applications for permits.

27.3(1) Application requirements for permits and renewals. See 32.1(455B).

27.3(2) Time limit on submittal of information.

a. Sanitary disposal project permit applications. If an application for a sanitary disposal project permit is found to be incomplete by the department, the applicant will be notified of that fact and of the specific deficiencies. Thirty days following such notification, the application may be returned by the department as incomplete without prejudice to the applicant's right to reapply. The applicant may be granted, upon request, an additional thirty days to complete the application.

b. Applications for renewal or amendment of a sanitary disposal project. If an application for a sanitary disposal project permit renewal or amendment is found to be incomplete by the department, the applicant will be notified of that fact and of the specific deficiencies. Thirty days following such notification, the application may be denied by the department.

This rule is intended to implement section 455B.78 of the Code.

400—27.4(455B) Preparation of plans. All plans and specifications submitted in the application for a sanitary disposal project permit or a developmental permit shall be prepared in conformance with chapter 114 of the Code, and shall be submitted in triplicate.

400—27.5(455B) Construction and operation. All sanitary disposal projects shall be constructed and operated according to the plans and specifications as approved by the department and the terms of the permit. The approved plans and specifications shall constitute a term of the permit.

400—27.6(455B) Compliance with rule changes.

27.6(1) Design and construction. Sanitary disposal projects designed and constructed in accordance with rules in effect at the time of construction shall not be required to be redesigned or reconstructed due to subsequent rule changes unless the department finds that such facilities are causing pollution. Such facilities shall be brought into compliance with rules in effect at the time of reconstruction, enlarging, or otherwise modifying the sanitary disposal project, or at the time of permit renewal.

27.6(2) Operation. If any new rule conflicts with an operating procedure prescribed in the engineering plans or the permit of a sanitary disposal project the operation shall conform with the new rule.

400—27.7(455B) Amendments. Permits may be modified by the issuance of an amendment by the department, except as provided in 27.6(1).

400—27.8(455B) Transfer of title and permit. If title to an operational sanitary disposal project is transferred, and the transferee desires to continue operation of the project, the transferee shall apply in writing to the department within thirty days of the transfer for a transfer of the permit.

27.8(1) The department shall transfer the permit when it determines that the sanitary disposal project is in compliance with chapter 455B of the Code and these rules and the terms of the permit, and that the transferee possesses the equipment and personnel to operate the project in conformance with chapter 455B and these rules and the terms of the permit.

27.8(2) No permit is valid after sixty days following transfer of title, unless the permit has been transferred by the department to the new title holder pursuant to this rule.

27.13(1) Open burning shall be prohibited except when permitted by the rules of the Iowa air quality commission. Any burning to be conducted at the site shall be at a location separate and distinct from the operating area.

27.13(2) At the conclusion of each day of operation, any litter strewn beyond the confines of the operating area shall be collected and stored in covered leakproof containers or properly disposed.

27.13(3) Scavenging shall be prohibited. Any salvaging to be conducted must be described in the permit application and all salvaged materials must be stored and removed from the sanitary disposal project site in conformance with the permit conditions.

27.13(4) Effective means shall be taken to control flies, other insects, rodents and other vermin.

27.13(5) Equipment designated in the plans and specifications or equivalent equipment shall be used to operate the site at all times.

27.13(6) The major internal roads shall be of all weather construction and maintained in good condition. Dust shall be controlled on internal roads.

27.13(7) Sites open to the public shall have a permanent sign posted at the site entrance specifying:

a. Name of the operation.

b. The site permit number.

c. The hours and days the site is open to the public.

d. The categories of waste which will be accepted for disposal or, as an alternative, identifies the categories of waste which are prohibited.

e. Telephone number of official responsible for the operation.

400—27.14(455B) Disposal of special wastes.

27.14(1) *Radioactive waste.* Radioactive materials shall not be disposed of by a sanitary disposal project. Luminous time pieces are exempt.

27.14(2) *Industrial sludge and toxic and hazardous waste.* No industrial sludge or toxic and hazardous waste shall be delivered to nor disposed by a sanitary disposal project unless explicit instructions are first obtained from the department.

a. For procedure see rule 32.2(455B).

b. Prior to the issuance of any such instructions, the department may require that a proposal for disposal of such waste in conformance with these rules, with supporting data as may be deemed necessary, be submitted by the originator of such waste for evaluation by the department. The prohibition of such waste shall continue in effect until an acceptable procedure for processing or disposal has been developed and approved.

c. All toxic or hazardous waste or industrial sludge for which instructions have been received shall be disposed according to those instructions.

27.14(3) *Sewage sludge.*

a. Unstabilized sewage sludge, including septic tank pumpings, shall not be disposed in a sanitary landfill open to the public. Sewage sludge may be disposed of at a sanitary landfill as provided in chapter 28 or 33.

b. Stabilized and unstabilized sewage sludge may be handled at processing facilities as provided in chapter 29.

c. Stabilized and unstabilized municipal sewage sludge may be disposed of by land application in accordance with chapter 33.

[Filed 2/25/77, Notice 9/22/76—published 3/23/77, effective 4/27/77]

[Filed 5/25/78, Notice 2/22/78—published 6/14/78, effective 7/19/78]

[Filed emergency 8/31/78 after Notice 4/19/78—published 9/20/78, effective 8/31/78]

[Filed 9/28/79, Notice 5/30/79—published 10/17/79, effective 11/21/79]

(4) So situated to assure no adverse effect on any well within 1000 feet of the site existing at the time of application for the original permit which is being used or could be used without major renovation for human or livestock consumption or at least 1000 feet from any such well unless hydrologic conditions are such that a greater distance is required to assure there is no adverse effect on the well.

(5) So situated to assure no adverse effect on the source of any community water system in existence at the time of application for the original permit within one mile of the site or at least one mile from the source of any community water system in existence at the time of application for the original permit unless hydrologic conditions are such that a greater distance is required to assure no adverse effect on the water system.

(6) At least twenty feet from the adjacent property line unless there is a written agreement with the owner of the abutting property. For new permit applications and associated reports submitted after April 27, 1977, the report shall verify that the portion to be filled is at least 50 feet from the adjacent property line. The written agreement shall be filed with the county recorder and shall become a permanent record of the property.

(7) Beyond 500 feet from any existing habitable residence unless there is written agreement with the owner of the residence and the site is screened by natural objects, plantings, fences or by other appropriate means. The residence must be in existence on the date of application for the original permit from the department. The written agreement shall be filed with the county recorder and recorded for abstract of title purposes, and a copy submitted to the department.

j. Should conditions in violation of 28.2(1)"i" (1), (2), (3), (4), or (5) exist, the original plan shall detail how the site is to be engineered to provide equivalent protection to the water resources. The applicant shall have the burden of showing that equivalent protection will be provided.

k. If sewage sludge is to be disposed at the site, the characteristics of the sludge and the method of disposal shall be described. If sludge is to be disposed by land application, it shall be in conformance with chapter 33.

l.* For a new sanitary landfill which does not have a permit from the department as of September 1, 1978, and which will receive putrescible wastes that may attract birds, the plans shall indicate that the portion of the site to be filled is not within (1) 10,000 feet (3048 meters) of any runway used or planned to be used by turbojet aircraft (during the approved life of the sanitary landfill) at FAA certificated airports (2) 5,000 feet (1524 meters) of any runway used or planned to be used by piston type aircraft (during the approved life of the sanitary landfill) at FAA certificated airports, or (3), as determined on a case-by-case basis, within the conical surfaces relative to a runway used or planned to be used by turbojet or piston type aircraft (during the approved life of the sanitary landfill) at FAA certificated airports as described by Federal Aviation Regulation part 77 (49 C.F.R. part 77). If no such indication is made, the applicant shall include a waiver of the distance requirement from the FAA or shall demonstrate that the facility does not pose a bird hazard to aircraft.

m. Such additional data and information as may be deemed necessary by the executive director to evaluate a proposed sanitary landfill.

28.2(2) *General operating requirements for all sanitary landfills.* All sanitary landfills shall be operated in conformance with this subrule. The plan submitted shall detail how the sanitary landfill will comply with these requirements.

a. Solid waste shall be unloaded at the operating area only when an operator is on duty at that area. Solid waste may be deposited in storage containers inside the site under the supervision of an attendant or operator.

b. The operating area for solid waste shall be as small as practicable and shall be surrounded with appropriate barriers to prevent litter from blowing beyond the operating area.

c. Telephone or other communication facilities shall be available on the site unless the applicant demonstrates to the department that, on the basis of the characteristics of the waste to be handled at the site, the hours of operation and the restricted access of the public to the site, such facilities are unnecessary.

*Emergency after Notice pursuant to §17A.5(2)"b"(2) of the Code.

control over site development inherent in the design and topography of the site and the quality of prior operation.

s. If any pockets, seams or layers of sand or other highly permeable material are encountered at the sanitary landfill, the permit holder shall promptly notify the department and shall insure that a professional engineer registered in Iowa has certified that all sands encountered were totally excavated or sealed off properly or otherwise handled as explicitly provided for in the permit before solid waste is disposed in that area of the site.

This rule is intended to implement section 455B.78 of the Code.

400—28.3(455B) Specific requirements for a sanitary landfill proposing to accept all solid waste except toxic or hazardous waste.

28.3(1) Plan requirements. The plans for sanitary landfills proposing to accept all solid waste except toxic or hazardous waste shall include the following information in addition to that required by chapter 27 and subrule 28.2(1).

a. A description of the material underlying the proposed site including stratigraphic sections based on a number of borings adequate to accurately determine the geology of the proposed site unless the department agrees that an equivalent description may be obtained without borings. Additional information, including supplemental borings may be required for any additional locations of specific concern to the department.

(1) The stratigraphic sections shall be described from the surface to and including at least five feet of the uppermost bedrock unit or to a depth of at least fifty feet unless conditions are such that a greater depth may be required or a lesser depth has been agreed to by the executive director.

(2) Each soil layer shall be described in terms of Atterberg limits and grain size distribution by means of field identification and laboratory sieve and hydrometer analysis, unless the department agrees that other data will provide equivalent information.

(3) Samples of sediments and rock units shall be collected at five-foot intervals or when different soil layers are encountered, whichever is more frequent, unless the department agrees that other data will provide equivalent information. If samples are required, they shall be identified by location and depth. The name of the person classifying the sediments shall be indicated. One complete set of unaltered sack samples shall be submitted with the application. A drilling location plan and drilling log shall be submitted for each series of samples.

b. The general direction of groundwater flow and the number, location, and depth of monitoring wells needed to monitor groundwater quality.

c. Information indicating that the portion of the landfill site to be filled is not situated in an unconsolidated sequence that will permit more than 0.004 cubic foot of liquid per day per square foot of area downward leakage into the groundwater beneath or adjacent to the proposed site.

(1) The potential downward leakage shall be evaluated by means of the generalized Darcy's law $Q = P \frac{(h_2 - h_1)}{L} A$ where:

Q = feet of liquid /day/square foot of area of the interface

A = one square foot of area at the base of the landfill

P = coefficient of permeability of the unconsolidated confining unit above the high water table

h_2 = maximum final elevation of a contiguous portion of fill of the site

h_1 = lowest elevation of the top of the confining unit above the high water table

L = minimum thickness of the confining unit above the high water table

(2) Should conditions in violation of this paragraph exist, the original plan must detail how the site is to be engineered to provide equal protection to the water resources.

28.3(2) Specific operating requirements for sanitary landfills proposing to accept all solid waste except toxic or hazardous waste. Sanitary landfills accepting all solid waste shall be operated in conformance with chapter 27, subrule 28.2(2), and this subrule. The plan submitted shall detail how the sanitary landfill will comply with these requirements.

a. Immediately after solid waste is deposited, it shall be uniformly spread and compacted as densely as practicable in layers not exceeding two feet in depth and at an operating face slope which will permit thorough compaction into cells.

b. Solid waste at the site shall be covered after each day of operation with a compacted layer of at least six inches of earth. In no event shall solid waste be exposed for more than twenty-four hours.

c. At least one foot of intermediate cover of compacted earth shall be applied to any area of the site which will not be utilized for further disposal of solid waste for more than one week.

d. At least a two foot cover of compacted earth shall be applied to any area of the site which will not be utilized for further disposal of solid waste for more than two months. The cover shall be graded to allow surface water runoff.

e. The final cover shall be consistent with the proposed land use, but in no event shall be less than two feet.

400—28.4(455B) Specific requirements for a sanitary landfill proposing to accept only construction and demolition waste.

28.4(1) Plan requirements. The plans for sanitary landfills proposing to accept only construction and demolition waste shall include the following information in addition to that required by chapter 27 and subrule 28.2(1).

a. A description of the material underlying the proposed site, including a stratigraphic section based on at least one boring, unless the department agrees that an equivalent description may be obtained without borings. Additional information, including supplemental borings, may be required for any additional locations of specific concern to the department.

(1) The stratigraphic section shall be described from the surface to a depth of two feet below the water table or to and including at least five feet of the uppermost bedrock unit.

(2) Each soil layer shall be described in terms of Atterberg limits and grain size distribution by means of field identification and laboratory sieve and hydrometer analysis, unless the department agrees that other data will provide equivalent information.

(3) Samples of sediments and rock units shall be collected at five-foot intervals or when different soil layers are encountered, whichever is more frequent, unless the department agrees that other data will provide equivalent information. If samples are required, they shall be identified by location and depth. The name of the person classifying the sediments shall be indicated. One complete set of unaltered sack samples shall be submitted with the application. A drilling location plan and drilling log shall be submitted for each series of samples.

b. Information indicating that the portion of the landfill site to be filled is not situated in an unconsolidated sequence that will permit more than 0.1 cubic foot of liquid per day per square foot of area downward leakage into the groundwater beneath or adjacent to the proposed site.

(1) The potential downward leakage shall be evaluated by means of the generalized Darcy's Law $Q = P \frac{(h_2 - h_1)}{L} A$ where:

Q = feet of liquid/day/square foot of area of the interface

A = one square foot of area at the base of the landfill

P = coefficient of permeability of the unconsolidated confining unit above the high water table

- Q = feet of liquid/day/square foot of area of the interface
 A = one square foot of area at the base of the landfill
 P = coefficient of permeability of the unconsolidated confining unit above the high water table
 h_2 = maximum final elevation of a contiguous portion of fill of the site
 h_1 = lowest elevation of the top of the confining unit above the high water table
 L = minimum thickness of the confining unit above the high water table

f. Engineering detailing how the site will be designed, constructed, and operated to protect ground and surface water resources.

g. If the information submitted in 28.5(1)"b" indicates that no danger of contamination of ground or surface waters exists, the executive director may waive any rule requiring analysis and definition of the subsurface geology.

28.5(2) Specific operating requirements for sanitary landfills proposing to accept a specific type of solid waste. The operating requirements for a sanitary landfill accepting a specific type of solid waste will necessarily vary with the nature of the solid waste. Accordingly, no single standard of operation is practical. The applicant shall submit a plan of operation which incorporates the requirements of chapter 27 and subrule 28.2(2), and which proposes minimum standards to be maintained at the site for the following operating procedures. The executive director shall approve the proposed standards if he finds they will provide adequate protection of the environment. The sanitary landfill shall be operated in conformance with chapter 27, subrule 28.2(2) and the standards approved by the executive director.

- a. Daily, intermediate, and final cover.
- b. Number and duties of personnel.
- c. Storage and preliminary processing of solid waste.
- d. Safety procedures and equipment.
- e. Operating equipment.
- f. Buildings and shelter.

400—28.6(455B) Specific requirements for a sanitary landfill proposing to accept no solid waste other than municipal sewage sludge.

28.6(1) Plan requirements. The plans for sanitary landfills proposing to accept only sewage sludge from a publicly owned treatment works shall include information required by chapter 27 and subrule 28.2(1) and the following:

- a. The source of the sludge, a description of the process(es) which produce the sludge and a description of the sources and characteristics of the treatment plant influent.
- b.† Detailed analysis of the sludge to be disposed of at the site including:
 - (1) Total residue;
 - (2) Volatile residue;
 - (3) pH;
 - (4) Total nitrogen;*
 - (5) Ammonia nitrogen ($\text{NH}_3\text{-N}$);*
 - (6) Nitrate-nitrogen ($\text{NO}_3\text{-N}$);*
 - (7) Total phosphorous;*
 - (8) Potassium;*
 - (9) The following metals:* Arsenic (As), Cadmium (Cd), Chromium (Cr), Copper (Cu), Lead (Pb), Mercury (Hg), Nickel (Ni), and Zinc (Zn); and
 - (10) Such other tests as are determined by the executive director to be necessary to establish the constituents and stability of the sludge.

The collection and preservation of samples shall be done by the highest grade operator at the plant producing the sludge, or his designee. This shall be done in a manner and frequency approved by the executive director and intended to assure that the sampling results are representative of the sludge being disposed.

†Amendments emergency pursuant to §17A.5(2)"b"(2) of the Code.

*On a dry weight basis.

j. Proof of the applicant's ownership of the site or legal entitlement to use the site for the disposal of solid waste for the term of the permit for which application is made.

k. Such other information as is required by the executive director to determine the adequacy of the applicant's plan.

28.6(2) Operating requirements. Sanitary landfills accepting only sewage sludges from publicly owned treatment works shall be operated in conformance with chapter 27, subrule 28.2(2), and this subrule. The plan submitted shall detail how the sanitary landfill will comply with these requirements.

a. Sludge at the site shall be covered after each day of operation with a layer of at least one foot of earth. In no event shall sludge be exposed for more than twenty-four hours.

b. At least two feet of intermediate cover of earth shall be applied to any area of the site which will not be utilized for further disposal of sludge for more than one week. The cover shall be graded to allow surface water runoff without creating erosion or pollution problems.

c. The final cover shall be consistent with the proposed land use, but in no event shall be less than two feet.

d. Analyses of the sludge shall be performed and submitted to the department on a stipulated schedule and shall include such tests as required to confirm the constituents of the sludge.

28.6(3) Time of compliance. Publicly owned treatment works shall have until July 1, 1979, to comply with this rule.

This rule is intended to implement section 455B.78 of the Code.

[Filed 9/1/71; amended 2/13/74]

[Filed 2/25/77, Notice 9/22/76—published 3/23/77, effective 4/27/77]

[Filed 5/25/78, Notice 2/22/78—published 6/14/78, effective 7/19/78]

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[Filed 9/28/79, Notices 5/30/79, 6/13/79—published 10/17/79; effective 11/21/79]

CHAPTER 29

SANITARY DISPOSAL PROJECTS WITH PROCESSING FACILITIES

400—29.1(455B) Scope and applicability. Any sanitary disposal project utilizing any of the equipment described in this chapter shall comply with the requirements for that equipment set out in this chapter, in addition to the requirements of chapter 27.

29.1(1) Detailed engineering drawings of the sanitary disposal project shall be submitted showing all conveyor lines, holding areas, loading and unloading areas, transfer points, and initial and permanent roads, buildings and equipment to be installed, unloading and holding areas, fences and gates, landscaping and screening devices, personnel and maintenance facilities, sewer and water lines, lines of flow for all waste and salvaged materials.

b. Facilities used for the storage of all solid wastes except municipal sewage sludge and salvaged materials but including refuse derived fuels shall be constructed as follows:

- (1) Storage facilities shall have a smooth, impervious, easily cleaned base.
- (2) Storage facilities shall provide leachate collection.
- (3) Storage facilities shall prevent runoff entering the facility from adjacent areas.
- (4) Storage facilities, except for compost storage facilities, shall be enclosed to prevent blowing litter and roofed to prevent precipitation into any solid waste.

c. Facilities used for the storage of municipal sewage sludge shall be constructed as follows:

- (1) Storage facilities shall have a smooth, impervious, easily cleaned base.
- (2) Storage facilities shall provide leachate monitoring and collection. The executive director may accept contingency plans in lieu of an installed collection system.
- (3) Storage facilities shall prevent runoff entering the facility from adjacent areas.
- (4) Storage facilities shall be designed and constructed to prevent odor, litter, leaching and vector problems. The acceptability of any such facility shall be based on the materials being stored, duration of storage and conditions to be experienced.

29.9(2) *Storage of salvaged materials.* Containers and facilities used for the storage of salvaged materials shall be designed and constructed to prevent odor, litter, leaching and

vector problems. The acceptability of any such container shall be based on the materials being stored, duration of storage and conditions to be experienced.

400—29.10(455B) **Operating requirements for all processing facilities.** All sanitary disposal projects with processing facilities shall be operated in conformance with chapter 27 and this subrule. The plan submitted shall detail how the facility will comply with these requirements.

29.10(1) All equipment shall be cleaned daily unless the department approves less frequent cleaning on a specific schedule stipulating component part, cleaning method, and schedule.

29.10(2) Sewage sludge shall not be handled in such a manner as to present a health hazard or potential source of pollution.

29.10(3) All solid waste processed or rejected by the facility shall be disposed in conformance with these rules.

29.10(4) Sites with storage containers or facilities for composted materials shall be monitored for leachates and records shall be maintained of leachate generation, precipitation and storage duration.

29.10(5) ~~Emergency access shall be provided to the material in solid waste storage facilities.~~

29.10(6) Composted material shall be identified by markers in the storage area.

29.10(7) Storage time.

a. Solid waste. Solid waste, except for composted materials, but including refuse derived fuels shall not be stored on the site for more than seventy-two hours.

b. Composted material. Composted materials shall not be stored on the site for more than sixty days.

29.10(8) Solid waste shall be unloaded at the operating areas only when an operator is on duty at that area. Solid waste may be deposited in storage containers inside the site under the supervision of an attendant or operator.

29.10(9) The operating area for solid waste shall be as small as practicable and shall be surrounded with appropriate barriers to prevent litter from blowing beyond the operating area.

29.10(10) Telephone or other communication facilities shall be available on the site.

29.10(11) Sanitary facilities, personnel washing facilities and potable water shall be available within a shelter on the site.

29.10(12) The site shall be fenced to control access and a gate shall be provided at the entrance to the site and kept locked when an attendant or operator is not on duty.

29.10(13) A copy of the permit, engineering plans and reports shall be kept at the site at all times.

29.10(14) Sites not open to the public shall have a permanent sign posted at the site entrance specifying:

a. Name of operation.

b. The site permit number.

c. That the site is not open to the public.

d. The name and telephone number of the responsible official.

This rule is intended to implement section 455B.78 of the Code.

[Filed 9/1/71, amended 2/13/74, 6/2/75]

[Filed 2/25/77, Notice 9/22/76—published 3/23/77, effective 4/27/77]

[Filed 5/25/78, Notice 2/22/78—published 6/14/78, effective 7/19/78]

CHAPTER 30 COMPOSTING FACILITIES

400—30.1(455B) **Specific design requirements.** The plans required in rule 27.12(455B) shall include a detailed description of the operation including:

30.2(4) Solid waste which cannot be composted or which is removed during processing shall be handled in a manner which will not create pollution or a nuisance, and shall be disposed by another method provided in these rules.

30.2(5) Solid waste shall be unloaded at the operating areas only when an operator is on duty at that area. Solid waste may be deposited in storage containers inside the site under the supervision of an attendant or operator.

30.2(6) The operating area for solid waste shall be as small as practicable and shall be surrounded with appropriate barriers to prevent litter from blowing beyond the operating area.

30.2(7) Telephone or other communication facilities shall be available on the site.

30.2(8) Sanitary facilities, personnel washing facilities and potable water shall be available within a shelter on the site.

30.2(9) The site shall be fenced to control access and a gate shall be provided at the entrance to the site and kept locked when an attendant or operator is not on duty.

30.2(10) A copy of the permit, engineering plans and reports shall be kept at the site at all times.

30.2(11) Sites not open to the public shall have a permanent sign posted at the site entrance specifying:

- a. Name of operation.
- b. The site permit number.
- c. That the site is not open to the public.
- d. The name and telephone number of the responsible official.

These rules are intended to implement section 455B.78 of the Code.

[Filed 9/1/71; amended 2/13/74]

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[5/25/78, Notice 2/22/78—published 6/14/78, effective 7/19/78]

CHAPTER 31 RECYCLING OPERATIONS

400—31.1(455B) **Specific design requirements.** The plans required in 27.12(455B) shall include a complete description of initial and permanent roads, buildings and equipment to be installed; unloading and holding areas; fences and gates; landscaping and screening devices; personnel and maintenance facilities; sewer and water lines, the method of processing reclaimed salvageable materials, the disposition of such materials, the transfer points to which they will be moved, capacities of such points, and frequency of interchange shall be shown.

400—31.2(455B) **Specific operating requirements for all recycling operations.** The plans required in 27.12(455B) shall detail the means by which the following requirements will be complied with.

31.2(1) Material which cannot be recycled or removed during processing shall be handled in a manner which will not create pollution or a nuisance and shall be disposed of by another method provided in these rules.

31.2(2) Solid waste shall be unloaded at the operating areas only when an operator is on duty at that area. Solid waste may be deposited in storage containers inside the site under the supervision of an attendant or operator.

31.2(3) The operating area for solid waste shall be as small as practicable and shall be surrounded with appropriate barriers to prevent litter from blowing beyond the operating area.

31.2(4) Telephone or other communication facilities shall be available on the site.

31.2(5) Sanitary facilities, personnel washing facilities and potable water shall be available within a shelter on the site.

31.2(6) The site shall be fenced to control access and a gate shall be provided at the entrance to the site and kept locked when an attendant or operator is not on duty.

required by the solid waste disposal rules. Application forms may be obtained from, and properly completed forms shall be submitted to:

Chief, Land Quality Section
Air and Land Quality Division
Department of Environmental Quality
Henry A. Wallace Building
900 East Grand
Des Moines, Iowa 50319

32.1(2) Application for the following permits or renewals shall be made in triplicate on the forms indicated:

a. A sanitary disposal project permit pursuant to section 455B.79 of the Code—Form LQ-25.

b. A temporary permit pursuant to subsection 455B.82(1) of the Code as amended by the 66th General Assembly, Chapter 59—Form LQ-26.

c. A renewal of a sanitary disposal project permit pursuant to subrule 27.2(1)*—Form LQ-28.

32.1(3) Rescinded April 27, 1977.

32.1(4) It is strongly recommended that applicants contact the department before engineering plans are drafted, to insure that the requirements of the rules are understood and to discuss any special problems of the proposed project.

400—32.2(455B) **Industrial sludge and toxic and hazardous waste instructions.** Requests for instructions for the disposal of hazardous or toxic waste, as required by 27.14(2) shall be submitted to:

Chief, Land Quality Section
Air and Land Quality Division
Department of Environmental Quality
Henry A. Wallace Building
900 East Grand
Des Moines, Iowa 50319

32.2(1) Requests shall be made in writing, where possible. In case of emergency, instructions may be obtained by phone at 515 281-8692.

32.2(2) Requests, whether written or oral, shall include the following information: Chemical composition of the waste, physical form of the waste, volume of the waste to be disposed, any problems associated with any toxic or hazardous component of the waste, and any other information deemed necessary by the department.

32.2(3) Instructions issued shall only apply to the disposal of the particular waste described in the request at the sanitary disposal project requesting instructions. If the sanitary disposal project requesting instructions desires to accept additional equivalent volumes of that particular waste on a regular basis, the department may authorize such regular disposal in its instructions.

400—32.3 Rescinded April 27, 1977.

400—32.4(455B) **Review hearings and appeals.**

32.4(1) *Contested cases.* The following are contested cases, and all procedures relating to such cases shall be as prescribed in chapter 55 of the rules of the department:

a. The appeal of an order of the executive director pursuant to section 455B.83 of the Code;

b. The appeal of the denial of a sanitary disposal project permit or denial of renewal of such permit, but not a temporary disposal permit. The applicant may deem any condition of a permit imposed by the department as a denial of the permit for purposes of this paragraph.

c. The hearing on the suspension or revocation of any sanitary disposal project permit pursuant to section 455B.79;

d. The hearing on a notice of violation pursuant to section 455B.90;

e. The hearing on an emergency order pursuant to section 455B.91.

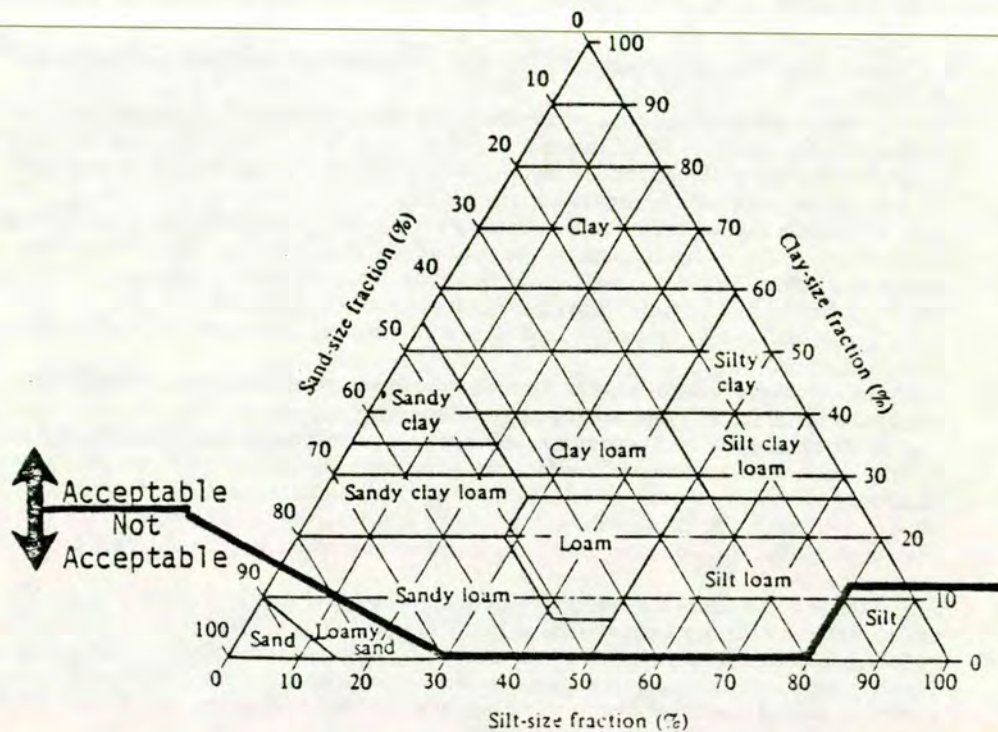
If the publicly owned treatment works has other toxic constituents in its sludge, the sludge shall not contain the other toxic constituents in excess of levels determined by the executive director to pose a threat to human, animal or plant life.

33.2(4) *Sludge stabilized.* Sludge shall be stabilized.

33.2(5) *Municipal sewage sludge.* Low rate land application of municipal sewage sludge shall be conducted in accordance with the following criteria:

a. The maximum sludge application rate shall not exceed two tons per acre per year, measured on a dry weight basis. The maximum sludge application rate shall be reduced if soil tests indicate to the executive director that a two tons per acre per year rate would provide nutrient levels significantly in excess of crop nutrient requirements or would provide heavy metals concentrations in the soil at levels which may be detrimental to crop production or hazardous to human health.

b. The sludge shall be applied only to soils classified as acceptable throughout the top five feet of soil profile. The acceptability of a soil shall be determined using the following chart based on U.S.D.A. soil classifications.



U.S.D.A. textural classification chart. Sand-size particles, 2-0.05 mm; silt-size particles, 0.05-0.002 mm; and clay-size particles, less than 0.002 mm.

c. Land application sites shall have the pH of the surface horizon or plow layer adjusted to and maintained above 6.5 unless specific approval of the department is obtained.

d. The department recommends that all sludge be injected on the contour or applied to the surface and mechanically incorporated into the soil as soon as possible but no later than forty-eight hours after application.

e. If sludge is applied to land on which the soil loss exceeds the soil loss limits established by the county soil conservation district, the sludge shall be injected on the contour or shall be ap-

(1) An outline of the sludge sampling schedule and procedures which will be followed to assure that the sludge being applied to land continues to meet the criteria in 33.2(3) and any limits set under 33.2(3).

(2) A determination of the amount of land required to allow disposal to be conducted in accordance with the requirements of 33.2(5) "a".

(3) An identification of the land and sludge application methods which will be used to dispose of the sludge. Those areas and application methods shall be selected as necessary to assure that land application can be conducted in accordance with the land application criteria in 33.2(4) and 33.2(5).

(4) The names of the owners and operators of all land to be used for sludge disposal, and identification of any legal arrangements made relative to use of these areas. The program should also outline any restrictions or special conditions which exist regarding use of these areas for sludge disposal.

(5) An overall schedule for the disposal of the sludge. This schedule should indicate the areas being used, the time of year that disposal on each area will be conducted, and the proposed application rates for each area.

(6) A determination of the types and capacities of the equipment required to dispose of the sludge in accordance with the developed disposal schedule. The program shall also outline how the required disposal equipment will be made available and who will be responsible for conducting land disposal operations.

(7) A determination of the volumes and types of storage and handling facilities required to allow sludge disposal to be conducted in accordance with the sludge disposal schedule. The program shall also outline how any required additional sludge storage or handling facilities will be provided.

d. Take necessary actions to construct or obtain any additional sludge storage, handling or disposal facilities or equipment which is required by the sludge disposal program.

e. Conduct its sludge disposal operations in accordance with the developed program and with 26.3(2), 33.2(4) and 33.2(5). If sludge is being supplied to other persons for low rate land application, the publicly owned treatment works shall inform such persons of the applicable requirements of the sludge disposal program and 33.2(4) and 33.2(5).

If the publicly owned treatment works determines that a person being supplied sludge for low rate land application is not complying with applicable requirements of the sludge disposal program or the land application criteria, the publicly owned treatment works shall attempt to work with the person to obtain compliance with the requirements. If subsequent compliance cannot be achieved, the publicly owned treatment works shall not supply additional sludge to the person.

f. Inform all persons involved in sludge disposal operations of the potential health hazards associated with sludge disposal, including informing such persons of the cautions and recommended practices which should be followed to minimize these hazards.

g. Maintain records of sample analysis and sludge disposal operations.

400—33.3(455B) High rate land application.

33.3(1) "*High rate land application*" means the application of sludge from a publicly owned treatment works on land using sludges, land areas or sludge application rates that do not comply with 33.2(455B). High rate land disposal does not include the disposal of sludge by burial at a sanitary disposal project.

33.3(2) *Permit required.* A permit authorizing high rate land application shall be obtained prior to conducting high rate land application on any land. Application for a permit shall be made in accordance with chapter 27.

33.3(3) *Plan requirements for high rate land application sites.* In addition to the plan requirements of chapter 27, all permit applications for high rate land application shall include:

a. The map and aerial photograph required in 27.12(3) shall be of sufficient scale to show all homes, buildings, lakes, ponds, watercourses, wetlands, dry runs, rock outcroppings, roads and other applicable details including topography and drainage patterns. All wells

j. Information indicating that the portion of the site to be utilized is outside a flood plain or shoreland, unless proper engineering and protection of the site will render it acceptable and prior approval of the Iowa natural resources council and, where necessary, the U.S. corps of engineers, is obtained.

k. If site conditions, sludge constituents, or proposed operation procedures warrant, the executive director may require the following:

(1) A description of the material underlying the proposed site, including stratigraphic sections based on a number of borings adequate to accurately determine the geology of the proposed site, unless the department agrees that an equivalent description may be obtained without borings. Additional information, including additional borings, may be required for any additional locations of specific concern to the department.

The stratigraphic sections shall be described from the surface to a depth determined by the executive director to be necessary to evaluate the suitability of the site for disposal of the specific waste.

Samples of sediments and rock units shall be collected at five-foot intervals or when different genetic soil horizons are encountered, whichever is more frequent, unless the department agrees that other data will provide equivalent information. If samples are required, they shall be identified by location and depth. The name of the person classifying the sediments shall be indicated. At least one complete set of unaltered sack samples shall be submitted with the application. A drilling location plan and drilling log shall be submitted for each series of samples.

(2) A detailed description of each genetic soil horizon in terms of clay mineralogy, bulk density, moisture holding capacity, seasonal water table levels, particle size distribution, organic matter content, pH, cation exchange capacity, drainage class, total heavy metals concentrations, current exchangeable cations, Atterberg limits and grain size distribution (by means of laboratory sieve and hydrometer or pipette analysis) unless the department agrees that other data will provide equivalent information.

(3) The direction of groundwater flow and the number, location, and depth of monitoring wells needed to monitor the groundwater quality.

(4) Information indicating that the portion of the site to be utilized is not situated in an unconsolidated sequence that will permit leakage of a quantity of water of a quality reasonably likely to have an adverse effect on the groundwater beneath or adjacent to the proposed site. The potential leakage shall be evaluated by means of generalized Darcy's Law $Q = AP(h_2 - h_1) / L$ Where:

L

Q = cubic feet of liquid/day/square foot of area of the interface.

A = one square foot of area.

P = coefficient of permeability in feet/day of the unconsolidated confining unit above the high water table.

h_2 = maximum final elevation of a contiguous portion of fill of the site.

h_1 = lowest elevation of the bottom of the confining unit above the high water table at the location being evaluated.

L = minimum thickness of the confining unit above the high water table at the location being evaluated.

The potential leakage shall be evaluated at those points where leakage could reasonably be expected, including the location of minimum thickness of the confining unit the lowest elevation of the site and such other locations as seem reasonable.

(5) Engineering plans and reports detailing how the site will be designed, constructed, and operated to protect ground and surface water resources.

(6) Proof of the applicant's ownership of the site or legal entitlement to use the site for the disposal of sludge for the term of the permit for which application is made. The applicant shall also designate who will be responsible for the long range monitoring and outline legal and financial arrangements for this.

(7) Such other information as may be required by the executive director.

(4) A copy of the permit, engineering plans, and specifications be kept at the site at all times;

(5) Sites not open to the public have a permanent sign posted at the site entrance specifying: Name of the operation; the site permit number; that the site is not open to the public; the owner's name and telephone number.

400—33.4(455B) Time of compliance. Publicly owned treatment works shall have until July 1, 1979 to comply with this chapter.

These rules are intended to implement sections 455B.32 and 455B.78 of the Code.

[Filed 5/25/78, Notice 2/22/78—published 6/14/78, effective 7/19/78]

[Filed emergency 7/27/78—published 8/23/78, effective 7/27/78]

34.2(4) "*Beer*" means any liquid capable of being used for beverage purposes made by the fermentation of an infusion in potable water of barley, malt and hops, with or without unmalted grains containing not more than four percent of alcohol by weight.

34.2(5) "*Beverage*" means alcoholic liquor, beer, mineral water, soda water or similar carbonated soft drinks in liquid form intended for human consumption.

34.2(6) "*Beverage container*" means any sealed glass, plastic, or metal bottle, can, jar or carton containing a beverage.

34.2(7) "*Carbonated*" means charged under pressure with carbon dioxide.

34.2(8) A "*class "A" liquor control license*" may be issued to a club and shall authorize the holder to purchase alcoholic liquors from the Iowa beer and liquor control department only, and to sell such liquors, and beer, to bona fide members and their guests by the individual drink for consumption on the premises only.

"*Club*" means any nonprofit corporation or association of individuals, which is the owner, lessee, or occupant of a permanent building or part thereof, membership in which entails the prepayment of regular dues and is not operated for a profit other than such profits as would accrue to the entire membership.

34.2(9) A "*class "B" liquor control license*" may be issued to a hotel or motel and shall authorize the holder to purchase alcoholic liquors from the Iowa beer and liquor control department only, and to sell such liquors, and beer, to patrons by the individual drink for consumption on the premises only, however, beer may also be sold for consumption off the premises. Each such license shall be effective throughout the premises described in the application.

"*Hotel*" or "*motel*" means a premise licensed by the state department of agriculture and regularly or seasonally kept open in a bona fide manner for the lodging of transient guests, and with twenty or more sleeping rooms.

34.2(10) A "*class "C" liquor control license*" may be issued to a commercial establishment but must be issued in the name of the individual or individuals who actually own the entire business and shall authorize the holder or holders to purchase alcoholic liquors from the Iowa beer and liquor control department only, and to sell such liquors, and beer, to patrons by the individual drink for consumption on the premises only, however, beer may also be sold for consumption off the premises.

"*Commercial establishment*" means a place of business which is at all times equipped with sufficient tables and seats to accommodate twenty-five persons at one time, and the licensed premises of which conform to the standards and specifications of the Iowa beer and liquor control department.

34.2(11) "*Commission*" means the solid waste disposal commission of the department of environmental quality.

34.2(12) "*Consumer*" means any person who purchases a beverage in a beverage container for use or consumption.

34.2(13) "*Dealer*" means any person who engages in the sale of beverages in beverage containers to a consumer.

34.2(14) "*Department*" means the department of environmental quality.

34.2(15) "*Distributor*" means any person who engages in the sale of beverages in beverage containers to a dealer in this state, including any manufacturer who engages in such sales.

34.2(16) "*Executive director*" means the executive director of the department of environmental quality.

34.2(17) "*Exempt beverage container*" means a beverage container that is not marked with the words "Iowa Refund 5¢" because it is a refillable glass beverage container having a brand name permanently marked on it and having a refund value of five or more cents or because it is a refillable metal or plastic beverage container that has been exempted, in accordance with the procedure of 34.3(7), from the requirement of having the refund value marked on the container. An exempt beverage container is exempt from having the words "Iowa Refund 5¢" indicated on the container, but is not necessarily exempt from the

minimum deposit.

34.2(18) "*Manufacturer*" means any person who bottles, cans, or otherwise fills beverage containers for sale to distributors or dealers.

34.2(19) "*Mineral water*" means water naturally or artificially infused with mineral salts or gases. Mineral water may be carbonated or uncarbonated.

34.2(20) "*Redemption center*" means any establishment other than a dealer's premises at which consumers may return empty beverage containers and receive payment of the refund value of the containers, or means the premises of a dealer if the dealer voluntarily chooses to accept, and refund the deposit on, empty beverage containers (other than alcoholic liquor containers) that are not of the kind, size and brand sold by the dealer. A redemption center is either an approved redemption center or an unapproved redemption center.

34.2(21) "*Soda water*" means water that has been carbonated.

34.2(22) "*Soft drink*" means any nonalcoholic liquid other than mineral water or soda water intended for human consumption.

34.2(23) "*Unapproved redemption center*" means a redemption center that has not been approved by the department pursuant to 34.4(455C).

400—34.3(455C) Labeling requirements.

34.3(1)* All beer, mineral water, soda water and carbonated soft drink containers (other than exempt containers) sold or offered for sale on or after July 1, 1979 in Iowa by a dealer shall have the words "Iowa Refund 5¢" clearly and legibly indicated on the container. If the refund value is more than five cents, the greater value may be indicated, e.g., "Iowa Refund 10¢". The words may be abbreviated if a request to use a specific abbreviation is submitted to and approved by the executive director.

34.3(2)* The minimum size of the words "Iowa Refund 5¢" shall be 9 point type (approximately .125 inch or 3 millimeters) if the words are embossed and 18 point type (approximately .25 inch or 6 millimeters) if the words are otherwise affixed to the container. A stamp or label may have the words "Iowa Refund 5¢" in less than 18 point type if the label is submitted to the executive director and the executive director determines that the contrasting color, or the characteristics of the stamp or label make the stamp or label as easy to discern as a stamp or label with 18 point type.

34.3(3) The words "Iowa Refund 5¢" shall be indicated by embossing (raised letters) or by a stamp, label or other method securely and permanently affixed to the container.

34.3(4) The print on a stamp, label or other method used to indicate the words "Iowa Refund 5¢" should be in a high contrast color.

34.3(5) The words "Iowa Refund 5¢" should be on the end of a metal beverage container. The words "Iowa Refund 5¢" should be on the conical portion of a glass or plastic beverage container so that the words are visible from above.

34.3(6) An exemplar of the label or labeled container may, but need not, be submitted to the executive director for informal approval.

34.3(7) An application for exemption from the requirement of having the words "Iowa Refund 5¢" indicated on the container shall be on form LQ 37 or on 8½ x 11 inch paper and contain:

- a. The name, address and phone number of the applicant;
- b. The kind of container, i.e., glass, metal or plastic; the size in fluid ounces or milliliters and the contents, i.e., beer, mineral water, soda water or carbonated soft drink;
- c. The refund value of the container; and
- d. A statement of why the container can be readily and permanently identified by consumers as subject to a deposit.

34.3(8) The executive director may exempt the container if the executive director determines that the container is subject to a deposit of five or more cents and that consumers can readily and permanently identify the container as one subject to a deposit.

*Emergency after Notice, pursuant to §17A.5(2)"b"(2) of the Code.

34.3(9) The executive director shall maintain and, from time to time, distribute a list of all brands, kinds and sizes of beverage containers that have been exempted from the requirement of having the words "Iowa Refund 5¢" indicated on the container.

400—34.4(455C) Approval of redemption centers.

34.4(1) *Approved and unapproved redemption centers explained.* The Act provides for both approved and unapproved redemption centers. Both approved and unapproved

34.6(2) *Mandatory deposit.* Effective May 1, 1979, the consumer (other than the holder of a class "A", "B" or "C" liquor control license) will be charged a five cent deposit on each alcoholic liquor container sold at a state-owned liquor store.

34.6(3) *Refund.* Alcoholic liquor containers bearing the label described in 34.6(1) may be redeemed only at state-owned liquor stores. Alcoholic liquor containers bearing the label described in 34.6(1) shall not be redeemed by an approved or unapproved redemption center or by a dealer other than the Iowa beer and liquor control department.

400—34.7(455C) Redeemed containers must be reasonably clean. Consumers should take care to return containers in a reasonably clean condition. In order to be redeemed, an empty beverage container shall be free of materials, such as paper, sticks and cigarette butts, other than the residue of the beverage.

400—34.8(455C) Interpretive rules.

34.8(1) *Beverage containers "sold" on interstate carriers.* It is common practice for interstate carriers to provide or sell soft drinks, beer, or alcoholic liquor to passengers for consumption on the conveyance. Such containers are not a litter problem and their return would be impractical. Since statutes should be construed to avoid a strained or impractical result, the commission believes that control of the beverage containers "sold" on interstate carriers is beyond the objectives sought to be obtained by the Act and that these containers are not subject to the deposit and labeling requirements of the Act.

34.8(2)* *Beverage containers must be reasonably intact.* In order to be redeemed, an empty beverage container must be returned reasonably intact. For a refillable beverage container, the container must hold liquid, be able to be resealed and be in its original shape. A nonrefillable glass container may be chipped, but it may not have the bottom broken out or the neck broken off. A nonrefillable metal container may be dented or partially crushed, but may not be crushed flat. A returned beverage container should be able to stand on its own base. (Reason: Section 2.2 of the Act provides in part: "A dealer or person operating a redemption center may compact empty metal beverage containers with the approval of the distributor required to accept such containers." So far as metal beverage containers are concerned, such right of approval in the distributor would be meaningless if the dealer were required to accept and redeem crushed metal beverage containers from consumers. Since there appears to be no reason to treat distributors of non-refillable glass beverage containers different than distributors of metal beverage containers, there is presumably a corresponding right in the distributors of nonrefillable glass beverage containers to approve the destruction of the containers.)

34.8(3) Vending machines.

a. When a beverage container is dispensed from a vending machine in exchange for money, there is presumed to be a "sale of a beverage in a beverage container to a consumer" within the meaning of 34.2(13). Therefore some person must be the "dealer" who is responsible for collecting the deposit at the time of sale and for refunding the deposit upon return of the empty beverage container. Because of the variety of contractual relationships surrounding operation of a vending machine, the person who is the "dealer" might be the owner of the vending machine, the lessee of the vending machine, the owner of the premises on which the vending machine is located, or the person who stocks the vending machine. It is incumbent upon the parties involved in the operation of a vending machine to determine the person who is the "dealer" and to indicate prominently on the vending machine the name, location and normal operating hours of the dealer (or an approved redemption center) if the dealer does not have personnel on the premises.

b. If the vending machine is located on premises where personnel of the dealer are not normally working, there is no obligation to provide personnel to redeem beverage containers at the site of the vending machine. However, the "dealer" must provide for redemption of beverage containers at the dealer's usual working place.

*Objection filed 1/5/79, see insert IAC 1/24/79.

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TITLE VI
ADMINISTRATIVE PROCEDURE

CHAPTER 50
DESCRIPTION OF ORGANIZATION

400—50.1(455B) Creation of department of environmental quality. The department of environmental quality was created by chapter 1119 of the laws of the sixty-fourth general assembly, 1972 session.

50.3(2) *Agencies within the department.* Section 455B.4 of the Code creates four commissions—the air quality commission, the water quality commission, the solid waste disposal commission and the chemical technology commission—as agencies within the department. The executive committee created by section 455B.6 also constitutes an agency within the department. The executive director, provided for by section 455B.2, and the board of certification, created by section 455B.53, may also constitute agencies for certain purposes pursuant to the Iowa administrative procedure Act, for example in revoking the certificate of an operator pursuant to section 455B.59.

50.3(3) *Administrative divisions of the department.*

a. *Executive director.* The executive director, who is appointed by the governor with the approval of two-thirds of the senate and who serves at the pleasure of the governor, is the chief administrative officer of the department, and, in that capacity, directs and administers the programs and services of the department in compliance with the Code and the rules adopted by the agencies within the department. The duties of the executive director include: Recommending to the executive committee the adoption of rules for the effective administration of the department; recommending to the appropriate commission the adoption of rules for the implementation of environmental programs and services; the preparation of the biennial budget request and federal grant applications; the establishment of the administrative structure of the department; and other actions to administer and direct the programs of the department.

The executive director, serving as secretary to the executive committee, prepares agenda, sends notices and keeps an official record of executive committee meetings.

The environmental division directors and the director of administration report to the executive director.

b. *Air and land quality division.* The air and land quality division, headed by an environmental division director, provides technical, scientific and other services required by the air quality commission for the effective administration of the comprehensive plan and rules of the commission for the abatement, control and prevention of air pollution in Iowa or required by the solid waste disposal commission for the effective administration of the commission's programs and rules to manage solid, hazardous and radioactive wastes and to control litter.

(1) The division director serves for the executive director as the technical secretary for the air quality commission and the solid waste disposal commission and consults and advises these commissions on their programs and policies. The division director prepares agenda, sends notices and keeps official records of the commissions' meetings. The environmental program supervisors described in subparagraphs (2), (3) and (4) report to the division director.

(2) The permits section, headed by an environmental program supervisor: Reviews plans for the installation of new equipment capable of emitting air contaminants which may cause or contribute to air pollution and of associated control equipment; issues public notice of the proposed construction of major new sources and the anticipated impact on ambient air quality; and issues permits for such equipment or sources if they will meet the requirements of the air quality commission. The section reviews plans and issues permits for sanitary disposal projects if they will meet the requirements of the solid waste disposal commission and authorizes the disposal of special wastes at a sanitary disposal project, if warranted. The section also reviews requests for certification of property as air pollution control property for state property tax purposes and federal income tax purposes.

(3) The surveillance section, headed by an environmental program supervisor: Conducts special field investigations; performs or observes stack tests; reviews and recommends disposition of variance requests; negotiates emission reduction programs for air pollution sources not in compliance; and performs or recommends other activities to assure compliance with air pollution statutes and rules. The section also conducts special field inspections of sanitary disposal projects, provides technical assistance and advice regarding sanitary disposal project planning and operation; manages the program for disposal of toxic

and permits. The section also carries out the board of certification's operator certification program.

(6) The planning section, headed by an environmental program supervisor: Assists the natural resources council in developing the Iowa water resource framework study; develops the state water quality management plan and basin plans; develops or assists in the development of areawide waste treatment management plans; develops wastewater and water supply guidelines, policies and procedures to be adopted by the department; conducts waste load allocations; evaluates existing wastewater and water supply data systems; provides an assessment of the effects various sources of pollution have on the quality of Iowa's waters and prepares the program plan related to agricultural chemicals.

d. Regional programs division. The regional programs division, headed by an environmental division director: Provides information on the environmental activities in each of the six regions described in 50.4(2) to 50.4(7) and monitors compliance with the environmental statutes, the rules of the commissions, the orders of the executive director, the commissions and the courts and the permits issued pursuant thereto. The division also provides first-hand information on environmental problems and ensures that policies and programs are being carried out effectively and efficiently.

Specifically, the six regional offices, each headed by an environmental regional administrator: Provide on-site advice to consultants, treatment facility operators, engineers, representatives of industry and commerce, public officials and individuals on environmental problems and control techniques; respond to emergencies; serve as expert witnesses when formal enforcement actions are commenced; and conduct inspections and make reports regarding municipal and industrial wastewater treatment facilities, feedlots, water supplies and water treatment facilities, air contaminant emission sources, and sanitary disposal project.

e. Compliance and planning division. The compliance and planning division headed by an environmental division director: Enforces all departmental rules, orders and permits; co-ordinates departmental planning and enforcement efforts and reviews new programs to assure that all planning is consistent with overall department policy. The environmental program supervisor and hearing/compliance officer described in subparagraphs (1) and (2) report to the division director.

(1) The planning section, headed by an environmental program supervisor: Reviews new planning efforts, strategies, contracts, proposals and programs; prepares the departmental long range plan; co-ordinates the statewide operator training program; and reviews and comments on environmental impact statements to assure consistency with federal and state environmental statutes and rules.

(2) The compliance section, headed by a hearings/compliance officer: Reviews enforcement procedures; analyzes state and federal statutes and regulations to determine the efforts on air, wastewater, water supply, chemical technology and solid waste rules and programs; prepares administrative enforcement proceedings, including negotiations and referrals to the attorney general; and develops and drafts legislative proposals to deal with areas requiring additional legislation.

f. Office of administration. The office of administration, headed by an administrative officer VI: Provides staff support functions to the executive director in all fiscal, personnel, data processing, program planning, office management, staff training and other administrative areas. The office of administration also is responsible for preparing press releases and the annual report; publishes a weekly newsletter, and provides other services necessary for effective public information. The sections described in subparagraphs (1), (2) and (3) report to the director of administration.

(1) The fiscal and personnel section, headed by an administrative officer III: Prepares the department's budget; maintains the financial records of the department; purchases the necessary supplies and materials; maintains an inventory of department property; manages the selection, training and evaluation of personnel of the department; negotiates and prepares contracts and monitors contract performance; maintains the department's facilities

400—50.4(455B) Location of principal offices.

50.4(1)* The principal office is located on the fifth floor of the Henry A. Wallace Building, 900 E. Grand, Des Moines, Iowa. Its mailing address is Henry A. Wallace Building, Des Moines, Iowa 50319. The information telephone number is 515-281-8690.

50.4(2) Regional Office No. 1 is located at 209 N. Franklin St., Manchester, Iowa. Its mailing address is 209 N. Franklin St., Manchester, Iowa 52057. Its telephone number is 319-927-2640. It serves the following counties: Allamakee, Benton, Black Hawk, Bremer, Buchanan, Chickasaw, Clayton, Delaware, Dubuque, Fayette, Howard, Jackson, Jones, Linn, and Winneshiek.

50.4(3) Regional Office No. 2 is located at 509 S. President, Mason City, Iowa. Its mailing address is P.O. Box 1443, Mason City, Iowa 50401. Its telephone number is 515-424-4073. It serves the following counties: Butler, Cerro Gordo, Floyd, Franklin, Grundy, Hamilton, Hancock, Hardin, Humboldt, Kossuth, Mitchell, Webster, Winnebago, Worth, and Wright.

50.4(4) Regional Office No. 3 is located at 401 Grand Avenue, Suite 24, Spencer, Iowa. Its mailing address is P.O. Box 270, Spencer, Iowa 51301. Its telephone number is 712-262-4177. It serves the following counties: Buena Vista, Calhoun, Cherokee, Clay, Dickinson, Emmet, Ida, Lyon, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux and Woodbury.

50.4(5) Regional Office No. 4 is located at 316 Walnut, Atlantic, Iowa. Its mailing address is 316 Walnut, Atlantic, Iowa 50022. Its telephone number is 712-243-1934. It serves the following counties: Adair, Adams, Audubon, Carroll, Cass, Crawford, Fremont, Greene, Guthrie, Harrison, Mills, Monona, Montgomery, Page, Pottawattamie, Ringgold, Shelby, Taylor, and Union.

50.4(6) Regional office No. 5 is located at 317 E. 5th Street, Suite 21, Des Moines, Iowa. Its mailing address is P.O. Box 6160, Des Moines, Iowa 50309. Its telephone number is 515-281-3622. It serves the following counties: Appanoose, Boone, Clarke, Dallas, Decatur, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren and Wayne.

50.4(7) Regional Office No. 6 is located at 117 N. 2nd Avenue, Washington, Iowa. Its mailing address is P.O. Box 27, Washington, Iowa 52353. Its telephone number is 319-653-2135. It serves the following counties: Cedar, Clinton, Davis, Des Moines, Henry, Iowa, Jefferson, Johnson, Keokuk, Lee, Louisa, Muscatine, Scott, Van Buren, Wapello, and Washington.

This rule is intended to implement section 17A.3(1)"a" of the Code.

400—50.5(455B) Business hours.

50.5(1) *Normal business hours.* The normal business hours of the central office and the regional offices are 8:00 a.m. to 4:30 p.m., Monday through Friday, except holidays.

50.5(2) *Emergency incident reports.* The department also has an emergency, 24-hour answering service (telephone: 515-288-6819) for the reporting of radiation incidents, oil and hazardous materials spills and air pollution emergency episodes. The caller should give only the caller's name, phone number and the nature of the emergency to the answering service operator. Department personnel will contact the caller. Based on information received, the department will initiate authorized and appropriate activities.

*Effective January 1, 1978.

normal business hours of the department at its headquarters. Photocopies of any files, records, documents and other materials may be made at the rate of ten cents per page.

51.1(3) *Exceptions.* Any information classified as confidential business information pursuant to chapter 52 of these rules or exempted from disclosure by section 455B.52(3) or chapter 68A of the Code shall not be available for public inspection or sent out pursuant to written or oral request.

51.1(4) *Mailing list for NPDES notices and fact sheets.* The department maintains a mailing list of persons who wish to receive the public notice, described in 19.5(2), of an NPDES permit application and the fact sheet, described in 19.5(3), if any, concerning an NPDES permit application. A person who wishes to be mailed notice of all such public notices and fact sheets may request to be included on the mailing list. The request should be submitted to the Permit Section, Chemicals and Water Quality Division, Department of Environmental Quality, Henry A. Wallace Building, 900 East Grand, Des Moines, Iowa 50319. (A person who does not wish to receive copies of all such public notices and fact sheets, may request that the person be mailed the public notice and fact sheet, if any, for a particular permit application.) The department may periodically ask persons on the mailing list whether they wish to remain on the mailing list, and revise the mailing list as appropriate.

400—51.2(455B) Submission of materials.

51.2(1) *Submission of materials generally.* Submissions should be made directly to the division of the department for whose use such materials are intended. Any person who submits materials should enclose a cover letter which states clearly and concisely the use for which they are intended. Although the department will attempt to return unsolicited material if requested, it cannot guarantee such return.

51.2(2) *Exceptions.* When material is submitted pursuant to another provision of these rules, e.g., a complaint, a request for confidentiality, a petition for rules change, a petition for declaratory ruling, contested cases, or when such submission is required to be submitted by departmental statute or rule, such material should be submitted in accordance with any applicable instructions contained in such rule.

51.2(3) *Submission of forms.* Forms of the department used by the public are to be submitted in accordance with the rules of practice before the various agencies of the department.

400—51.3(455B) Submission of complaints.

51.3(1) *Mandatory investigations.* The executive director shall investigate all complaints of alleged violations of departmental statutes or rules made by any state agency, political subdivision, local board of health, or twenty-five residents of the state. Such a complaint should not be submitted orally, but should be sent to the appropriate regional office or the central office, and the nature of the complaint should be summarized in a concise manner. If twenty-five or more residents of the state are involved as complainants, a petition should be enclosed containing the signatures and addresses of all such complainants in addition to the summary of the complaint. No form for the petition is required.

51.3(2) *Discretionary investigations.* Any person, who does not fall within 51.3(1) may submit a complaint to the appropriate regional office or to the central office concerning any condition which such person feels violates departmental statutes or rules or otherwise adversely affects the environment. No prescribed form need be filled out by the complainant and such complaint may be made by letter, phone, or in person. The executive director may investigate or may request the appropriate commission to authorize investigation of such a complaint, if the executive director feels that such an investigation is needed to insure compliance with applicable departmental statutes or rules.

51.3(3) Complaint investigation procedure.

a. All written complaints, whether received by a regional office or by the central office,

CHAPTER 52
CONFIDENTIALITY OF BUSINESS INFORMATION

400—52.1(455B) Written request required. No business information supplied to the executive director or the department shall be treated as confidential unless a written request for confidential treatment is submitted to the department.

400—52.2(455B) Confidential treatment until determination. Except for business information in an NPDES form, business information, for which a request for confidential treatment has been submitted, shall be treated by the department as confidential until such time as it is determined, following the invocation by a citizen of Iowa of the citizen's rights under chapter 68A of the Code to examine the information, that the information is not confidential and until such time as all administrative and judicial remedies have been exhausted. Business information in an NPDES form for which a request for confidential treatment has been submitted shall be treated as confidential to the extent provided in 52.3(455B).

This rule is intended to implement section 455B.7(1) and 455B.36 of the Code.

400—52.3(455B) Business information in NPDES forms. Business information in an NPDES form for which a request for confidential treatment has been submitted shall be transmitted to the regional administrator of the U.S. Environmental Protection Agency. Such business information shall be treated by the department as confidential until such time as the regional administrator, in accordance with 40 CFR §124.35(b), notifies the executive director that the information should be made available to the public.

This rule is intended to implement sections 455B.7(1) and 455B.36 of the Code.

400—52.4(455B) Proceeding to determine confidentiality. If a citizen of Iowa invokes the citizen's right, under chapter 68A, to examine business information for which a request for confidential treatment has been submitted, the executive director shall determine whether the business information is entitled to confidential treatment.

52.4(1) The executive director shall notify the person who requested confidential treatment that a citizen of Iowa has invoked chapter 68A and that the person must justify the request by submitting information on the following matters:

- a. Measures taken by the business to protect the confidentiality of the information and of similar information;
- b. Prior disclosures to others of the information, and the extent to which the information is known by others;
- c. The ease or difficulty of a competitor's obtaining the information;
- d. Practices of other businesses concerning their policies regarding confidentiality of similar information;
- e. How the information is used by the business, and why it is important to the business;
- f. Why possession of the information confers a competitive advantage over others;
- g. Adverse consequences to the business, financial and otherwise, that would result from disclosure of the information;
- h. The existence and applicability of any prior determinations by the department or by other state or federal agencies concerning the entitlement to confidential treatment of the information in question.

52.4(2) Before determining that any business information is confidential, i.e., that the information in question would tend to disclose a trade secret, secret industrial process or method of manufacture or production, or other privileged communication, the executive director shall be satisfied that:

- a. The business has taken reasonable measures to protect the confidentiality of the information;
- b. The information is not readily obtainable by others by legitimate means;
- c. The business confidentiality claim covering the information is not unreasonable in view of the nature of the information, the interests and normal practices of the business, and the practices of other businesses;

400—52.6(455B) **Appeal of executive director's determination.** Upon receipt of the notice of the executive director's determination, either person shall have thirty days in which to file with the executive director notice of appeal to the appropriate agency. The appellant shall mail a copy of the notice of appeal to the other person by certified mail return receipt requested. The executive director shall schedule a hearing on the appeal at the next regular meeting of the appropriate agency. The hearing may be in a closed session if authorized by chapter 28A or 455B. The hearing shall be conducted informally in a manner which will allow the appellant, the other person, and the department to present all relevant information.

400—52.7(455B) **Information submitted to the federal government.** Information on a trade secret, secret industrial process or method of manufacture or production, or other privileged communication will be so designated when submitted by the department to the federal government in accordance with federal law or regulation and will then be subject to applicable federal regulations as to confidentiality.

400—52.8(455B) **Availability.** Whenever it is finally determined that information is not confidential under this chapter, the information shall be available to the public on request unless the department determines that the information is exempt from mandatory disclosure under sections 455B.52(3) or 68A.7 of the Code, for reasons other than protection of trade secrets, secret industrial processes or method of manufacture or production, or other privileged communication.

400—52.9(455B) **Disclosure.** Notwithstanding the fact that information otherwise may be entitled to confidential treatment, the department may disclose any information if the department has obtained the prior consent of each affected business to such disclosure or if its disclosure is ordered by a court of law.

400—52.10(455B) **Exception.** No air contaminant emissions data or water quality effluent data shall be confidential.

These rules are intended to implement chapters 17A and 455B of the Code.

[Filed 11/21/75, Notice 7/14/75, 8/25/75, 9/8/75—published 12/15/75, effective 1/19/76]

[Filed 7/1/77, Notice 4/20/77—published 7/27/77, effective 8/31/77]

CHAPTER 53 RULEMAKING PROCEDURE

400—53.1(455B) **Procedure for adoption of rules.**

53.1(1) *Generally.* Each agency shall conduct rulemaking in accordance with the terms of the Iowa administrative procedure Act (sections 17A.4 through 17A.8 of the Code) and sections 455B.12 or 455B.78 where applicable.

53.1(2) *Public hearing.* Each agency shall hold a public hearing prior to the adoption of any rule unless the provisions of section 17A.4(2) are utilized.

a. Prior to such a hearing, an interested person may indicate a desire to make an oral presentation by submitting a written request to the executive director. At such a hearing any interested persons may indicate a desire to make an oral presentation by signing a sheet or card distributed for that purpose. The agency chairman or presiding officer shall allow persons so indicating the opportunity to make oral presentation and shall then allow any other interested person attending the hearing such opportunity, provided, however, that the agency chairman or presiding officer may exercise discretion to limit the time for each speaker to ten minutes and the total time of the hearing to three hours.

b. Whenever possible, a speaker should also submit his or her testimony in written form at the public hearing.

53.1(3) *Written submissions.* Any interested person may submit data, opinions, or arguments in writing on proposed rules at any time subsequent to the notice of intended

BEFORE THE IOWA DEPARTMENT OF ENVIRONMENTAL QUALITY
DES MOINES, IOWA

IN THE MATTER OF THE PETITION	)	PETITION FOR
OF _____ (state	)	DECLARATORY
petitioner's name) FOR A DECLARA-	)	RULING
TORY RULING ON _____)	
(state the number of the statutory	)	DOCKET NO. _____
section, rule, etc. for which a	)	(filled in by hearing
ruling is requested)	)	officer)

54.2(2) The petition shall in separate numbered paragraphs:

- a. State the full name and address of the petitioner;
- b. State clearly and concisely the question or questions upon which the petitioner requests a declaratory ruling;
- c. Identify any statute, rule, written statement of law or policy, decision or order and the particular aspect of it to which the request is addressed;
- d. State clearly, concisely, and particularly all relevant facts which give rise to the petition.

54.2(3) The petition shall be signed by the petitioner, or by a duly authorized officer of the petitioner, if it be a corporation, organization, or other legal entity. Also, the name and address of the petitioner's counsel, agent, or representative, if applicable, shall be furnished.

54.2(4) The petition shall be addressed to the hearing officer and sent to him by mail or delivered in person. Any written data, views, or arguments, including briefs, favoring the petitioner's position may be submitted along with the petition to the hearing officer.

400—54.3(455B) Disposition of petition.

54.3(1) The hearing officer may request that the petitioner provide such additional facts or provide greater specificity and precision in the questions posed by the petition and the facts presented within it. Such request shall be made within fifteen days of the receipt of the petition or as directed by the agency upon its review. When the requested information is received the disposition of the petition shall proceed in accordance with this rule.

54.3(2) The hearing officer may formulate a proposed declaratory ruling or may decline to issue a ruling and he shall notify the petitioner by certified mail of his action within thirty days after the receipt of the petition or within fifteen days of the receipt of additional information requested pursuant to 54.3(1).

54.3(3) A proposed declaratory ruling or declination to rule shall become the final agency action unless the petitioner requests the appropriate agency to review such ruling or declination within ten days after the notification required by 54.3(2) has been received, or the agency on its own motion reviews the hearing officer's action. In the event the agency moves to review, the hearing officer shall notify the petitioner of the agency's decision to review.

54.3(4) The petitioner may submit such additional written material or arguments, including briefs, to the reviewing agency as it deems appropriate. Such submissions shall be made to the hearing officer within thirty days of the receipt of the notice provided in 54.3(2) or 54.3(3) as appropriate, who shall transmit the materials to the appropriate agency for its consideration.

54.3(5) If review is granted, the agency shall review the hearing officer's action at its next regularly scheduled meeting or at a specially convened meeting, which meeting shall follow the time allowed by 54.3(4) for the submission of additional materials. Upon review the agency may:

- a. Approve the proposed declaratory ruling, in which case, the ruling becomes the final declaratory ruling of the department, or

CHAPTER 55
RULES OF PRACTICE IN CONTESTED AND CERTAIN OTHER CASES

400—55.1(455B) Definitions. When used in this chapter:

- 55.1(1) "Act" means the Iowa administrative procedure Act, chapter 17A.
- 55.1(2) "Appellant" means the party who files the notice of appeal.
- 55.1(3) "Board" means the board of certification.
- 55.1(4) "Department" means the department of environmental quality.
- 55.1(5) "Executive director" means the executive director of the department or the executive director's designee.
- 55.1(6) "Petitioner" means the party who files the petition.
- 55.1(7) "Respondent" means the party named in a petition filed by the department.

400—55.2(455B) Scope.

55.2(1) *In general.* This chapter shall govern procedure in contested cases, as defined in the Act, and license revocation or suspension proceedings or other licensee disciplinary proceedings before all agencies within the department.

55.2(2) *Contested cases enumerated.* Contested cases may include, but are not limited to, proceedings on the following:

- a. Alleged violations of sections 455B.10 to 455B.29 relating to air pollution or any rule or standard established by the air quality commission under said sections which may lead to an order other than an emergency order under section 455B.18.
 - b. The denial of a permit to install new equipment capable of emitting air contaminants or related control equipment pursuant to section 455B.13.
 - c. A denial of a request pursuant to section 455B.22 for a variance from the rules or standards governing the quality, nature, duration or extent of air contaminant emissions.
 - d. An appeal of an emergency order issued under section 455B.18.
 - e. The issuance of a certificate of acceptance of a local air pollution control program pursuant to section 455B.24 if the executive director has recommended against acceptance of the local program.
 - f. An appeal of an order issued pursuant to subsection 455B.34(1) to secure compliance with sections 455B.30 to 455B.49 or rules or standards promulgated or permits issued pursuant thereto.
 - g. An appeal of an emergency order issued under subsection 455B.34(2) to terminate an emergency caused by a violation of sections 455B.30 to 455B.49 or rules or standards promulgated or permits issued pursuant thereto.
 - h. The denial of, or imposition of any condition in, a construction or operation permit for a disposal system, public water supply system, new point source or animal feeding operation pursuant to subsections 455B.32(3) and 455B.33(4).
 - i. An appeal of an order issued to secure compliance with or prevent a violation of the provisions of sections 455B.75 to 455B.84 or rules promulgated pursuant thereto.
 - j. The denial of a sanitary disposal project permit. This shall not include a temporary sanitary disposal project permit.
 - k. Alleged violations of sections 455B.85 to 455B.94 or rules promulgated pursuant thereto which may lead to an order other than an emergency order under section 455B.91.
 - l. An appeal of an emergency order issued pursuant to section 455B.91.
 - m. An appeal of an emergency order issued pursuant to section 455B.117.
- 55.2(3) *License revocation or suspension proceedings or other licensee disciplinary proceedings enumerated.* License revocation or suspension proceedings or other licensee disciplinary proceedings include but are not limited to the following:
- a. The suspension of a certificate of acceptance of a local air pollution control program pursuant to section 455B.24.
 - b. The discipline of a certified operator of a water treatment plant, water distribution system, or wastewater treatment plant, including revocation or suspension of a certificate of

person who has prosecuted or advocated in connection with that contested case, the specific controversy underlying that contested case or a pending factually related contested case or controversy, involving the same parties.

(3) A member of an agency having jurisdiction of a contested case shall not participate in the making of a final decision or order if such member is employed by, receives compensation from, or has other substantial connection with a party in the contested case.

(4) A presiding officer shall not be biased for or against any party.

b. Affidavit asserting disqualification. A party may file an affidavit asserting disqualification of a presiding officer under this subrule at any time, except that an affidavit against a member of the agency having jurisdiction on appeal or review of the proposed decision shall be filed prior to any hearing on appeal or review of the proposed decision. A determination on whether the individual challenged should participate shall be made by the agency before further participation by the individual challenged.

400—55.6(455B) Time.

55.6(1) Computation. In computing any period of time prescribed or allowed by this chapter or by an applicable statute, the day of the act, event, or default from which the designated period begins to run shall not be included. The last day of the period shall be included, unless it is a Saturday, Sunday, or legal holiday; otherwise Saturdays, Sundays and legal holidays shall be included in computing the period.

55.6(2) Extension. When by this chapter, or by notice given thereunder, an act is required or allowed to be done within a specified time, the presiding officer may at any time exercise discretion and:

a. With or without motion or notice, for good cause, order the period extended if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order, or

b. Upon motion made after the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect.

55.6(3) Mail. Any documents which may be filed with the department by mail pursuant to these rules shall be deemed filed on the date of postmark.

400—55.7(455B) Commencement of contested cases.

55.7(1) Time and manner. A contested case commences when the notice of hearing is delivered to the party other than the department.

55.7(2) Notice of hearing. A notice of hearing shall be prepared and issued by the presiding officer upon receipt of a petition from the department in cases within 55.2(2) "a" and "k" and 55.2(3), and upon receipt of a notice of appeal properly filed in all other cases within 55.2(2). The presiding officer shall cause the notice of hearing to be delivered to the appellant or respondent and the department.

a. Content. The notice of hearing shall be addressed to the respondent or appellant and shall contain:

- (1) The names of the parties.
- (2) A statement of the time, place, and nature of the hearing.
- (3) A statement of the legal authority and jurisdiction under which the hearing is to be held.
- (4) A reference to the particular section of the statutes and rules involved.
- (5) A short and plain statement of the matters asserted.
- (6) The time within which subrule 55.7(4) requires respondent or appellant to file an answer or petition.
- (7) In cases within 55.2(2) "a" or "k" or 55.2(3), a statement that in the event respondent fails to answer within the required time judgment will be entered against respondent for the relief requested in the petition.
- (8) In cases within 55.2(2) "a" or "k" or 55.2(3), a copy of the petition.

b. Delivery. Delivery of the notice of hearing shall be by certified mail return receipt requested, personal service, or as otherwise required by statute.

- (1) Contain a caption in the following form:

BEFORE THE IOWA DEPARTMENT OF ENVIRONMENTAL QUALITY
DES MOINES, IOWA

IN THE MATTER OF	)	PETITION (OR ANSWER)
(State name and address)	
of party other than the	)	DOCKET NO. _____
department))	

(2) Be legibly printed or typewritten on white paper. Unless printed, the impression shall be on one side of the paper only and the lines shall be double space, except quotations of two or more lines, which shall be single space and indented. Standard letter size paper (8½" x 11") may be used; however, a left margin of not less than one and one-half inches, and top margin of at least two inches must be provided.

- (3) Be signed by the person filing the pleading.

400—55.3(455B) Prehearing procedures.

55.3(1) Motions.

a. General. All motions, except those made orally on the record during a hearing, shall be in writing and shall state with particularity the grounds therefor, shall set forth the relief or order sought, and shall be filed with the presiding officer and contemporaneously served upon all parties.

b. Response to motions. Any party may file a response to any written motion within ten days after service of such motion, except as otherwise provided by the presiding officer. Failure to file a response within the designated period may be deemed a waiver of objection to the granting of the motion.

c. Disposition. The presiding officer shall rule on a motion after the designated time for response has expired. A motion involving separate grounds or parts shall be disposed of by separate ruling on each and shall not be sustained or overruled generally.

55.3(2) Discovery.

a. In general. The discovery procedures available to parties in civil actions are available to parties in a contested case hearing under 55.2(455B).

b. Agency records in general.

(1) The records of the department and each agency within the department are available for public inspection, as required by chapter 68A, and as provided in chapter 51 of these rules, subject to the provisions of chapter 52 of these rules.

(2) Except as provided in paragraph "c" of this subrule, identifiable agency records that are not available for public inspection but that are discoverable and relevant to disputed material facts involved in a contested case shall, upon request, promptly be made available to a party. However, such records may be protected from further disclosure by order of the presiding officer.

c. Prior statements or reports of an agency witness. When the department relies on a witness in a contested case, whether or not an employee of the department, who has made prior statements or reports with respect to the subject matter of the witness' testimony, it shall, upon request, make such statements or reports available to a party for use on cross-examination unless such statement is confidential under chapter 52. If the statement or report is confidential under chapter 52, it may be made available, but it may be made subject to a protective order. This paragraph requiring the department to make the statement or report available for use on cross-examination does not require the department to make the statement available until the hearing.

finding that circumstances justified the untimely filing, and the intervenor shall be bound by any agreements, arrangements, and other matters previously made in the case.

c. Disposition. Leave to intervene shall be granted only if the petitioner demonstrates both that common question of law or fact exists and that intervention would not unduly prolong or otherwise prejudice the adjudication of the rights of the original parties. In evaluating the merits of the petition for leave to intervene, the presiding officer shall consider the extent to which the petitioner will be adversely affected by a final order and the extent to which the interests of the petitioner are not being adequately represented by the original parties.

55.8(6) Consolidation and severance.

a. Consolidation. The presiding officer may, with or without motion, consolidate any or all matters at issue in two or more contested cases where there exist common parties or common questions of law or fact, and where consolidation would expedite or simplify consideration of the issues. Consolidation shall not affect the right of any party to raise issues that could have been raised if consolidation had not occurred.

b. Severance. The presiding officer may, with or without motion, for good cause shown, order any case severed with respect to any or all parties or issues.

400—55.9(455B) Separation of functions and ex parte communications.

55.9(1) Separation of functions. A compliance officer of the department shall perform the investigative and prosecuting functions for the department in a contested case. Additional employees of the department may be designated by the executive director to perform such functions as necessary during the course of the contested case. No person performing such functions shall participate or advise in any decision arising out of that contested case except as witness or counsel in public proceedings. All employees of the department other than those performing the investigative and prosecuting functions in the contested case shall be available to advise the agency and presiding officer on any of their functions relating to the contested case and any appeal.

55.9(2) Communications initiated by hearing officer or agency member.

a. Except as provided in "b" and "c", after commencement the presiding officer and members of the agency having jurisdiction of the contested case shall not communicate, directly or indirectly, in connection with any issue of fact or law in that contested case with any person or party.

b. The presiding officer or members of the agency having jurisdiction of the contested case may so communicate upon notice and opportunity for all parties to participate. Notice of the time and place of the discussion and the issues of fact or law to be discussed shall be delivered by first class mail to the parties. The discussion shall not extend to issues of fact or law not specified in the notice unless all parties participate in the discussion. The time of the discussion shall not be sooner than ten days after receipt of the notice.

c. The presiding officer or members of the agency having jurisdiction of the contested case may communicate with members of the agency and may have the aid and advice of persons other than those with a personal interest in, or those engaged in prosecuting or advocating in, either the case under consideration or a pending factually related case involving the same parties.

55.9(3) Communications initiated by parties.

a. Parties, including the department or their representatives in a contested case, shall not communicate directly or indirectly in connection with any issue of fact or law in that contested case with the presiding officer or members of the agency having jurisdiction of the case.

b. Paragraph "a" shall not apply if the requirements of 55.9(2)"b" are satisfied.

c. The presiding officer or members of the agency should refuse to discuss issues of fact or law with parties unless such notice and opportunity for hearing has been given. The presiding officer or members of the agency shall deliver, by first class mail, a copy of any written communication received from a party directly or indirectly related with any issue of fact or law in the contested case to the other parties and shall include the written communication in the record.

excluding the evidence was erroneous and prejudicial, the hearing may be reopened to permit the taking of such evidence or, where appropriate, the agency may evaluate the evidence and proceed to a final decision.

e. Verification. Subject to paragraphs "a" through "d", when a hearing will be expedited, and the interests of the parties will not be prejudiced substantially, any part of the evidence may be required to be submitted in verified form. With the approval of the presiding officer, a witness may insert into the record, as his testimony, statements of fact or opinion prepared by him or written answers to interrogatories, or may submit as an exhibit his prepared statement, provided that such statements or answers must not include legal arguments. Before any such statement or answer is read or admitted into evidence, the witness shall deliver to the presiding officer and opposing counsel a copy of such. The admissibility of the evidence contained in such statement shall be subject to the same rules as if such testimony were produced in the usual manner and the witness shall be subject to oral cross-examination on the contents of such statements. Approval for such a procedure may be denied when it appears to the presiding officer that the memory or demeanor of the witness is of importance.

f. Documentary evidence. Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original, if available.

g. Examination and cross-examination. Witnesses at the hearing shall be examined orally, under oath. Witnesses at the hearing, or persons whose testimony has been submitted in written form, shall be subject to cross-examination by any party as necessary for a full and true disclosure of facts. The presiding officer may limit the examination or cross-examination or both when necessary for orderly presentation of evidence.

h. Official notice. Official notice may be taken of all facts of which judicial notice may be taken and of other facts within the specialized knowledge of the agency. Parties shall be notified at the earliest practicable time, either before or during the hearing, or by reference in preliminary reports, preliminary decisions or otherwise, of the facts proposed to be noticed, and their source, including any staff memoranda or data. The parties may contest such facts before decision is announced.

i. Evaluation of evidence. The agency's experience, technical competence and specialized knowledge may be utilized in evaluating the evidence.

400—55.11(455B) Posthearing procedures and orders.

55.11(1) Filing by parties of briefs and proposed findings. Within twenty days after the last evidence is taken, each party may file with the presiding officer proposed findings of fact, conclusions of law and a proposed order or decision, complying with 55.11(2), and a brief in support thereof. A copy of each such document shall be served upon each other party. Each party may, within the same period, file with the presiding officer a brief concerning any or all of the exceptions or objections taken to actions or rulings of the presiding officer at the hearing upon which the party relies. Within twenty days thereafter, each party may file a brief which takes specific exception to matters contained in an opposing brief or which contains alternative findings of fact, conclusions of law and proposed order.

55.11(2) Final decision or order.

a. When the agency presides at the reception of evidence in a contested case, the decision of the agency is a final decision.

b. When the agency does not preside at the reception of evidence, the presiding officer shall make a proposed decision. The proposed decision or order of the presiding officer becomes the final decision or order of the agency without further proceedings unless there is an appeal to, or review or motion of, the agency within the time provided in 55.11(7) "a", or an application for rehearing as provided in 55.11(6).

55.11(3) Decisions and orders.

a. By whom prepared. The presiding officer who presided at the reception of evidence shall prepare a proposed or final decision or order in each contested case. Findings of fact shall be

d. Notice to other parties. A copy of such application shall be timely mailed by the applicant to all parties of record not joining therein.

e. Disposition. Any application shall be deemed denied unless the agency grants the application within twenty days after its filing.

55.11(7) Appeal and review. Any party may appeal a proposed decision to the agency having jurisdiction of the contested case. An agency may review any proposed decision in a contested case under its jurisdiction.

a. Time allowed.

(1) *Appeal by party.* An appeal by a party in a contested case or license revocation or suspension to the agency having jurisdiction of that proceeding shall be taken within thirty days after receipt of the proposed decision or order.

(2) *Agency decision to review.* Any agency may decide on its own to review a proposed decision, notwithstanding the absence of a timely appeal by a party under 55.11(7) "a"(1). A decision to review shall be made at the next regular meeting of the agency following the issuance of the proposed decision or order of the presiding officer.

b. Notice. Appeal is taken and perfected by filing with the executive director a notice signed by the appellant or his attorney. It shall specify the parties taking the appeal and the final decision or order or part thereof appealed from. The executive director shall mail or deliver a copy of such notice to the attorneys for all parties of record other than appellant, or to any such party who has no attorney of record, at his last known address. No failure of the executive director to mail or deliver any such notice shall affect the validity of the appeal.

c. Date of appeal or review. The executive director shall schedule appeal or review for a date after the end of the briefing period provided in paragraph "e", and shall notify the parties of the date.

d. Agency review. On appeal from or review of the proposed decision, the agency has all the power which it would have in initially making the final decision except as it may limit the issues on notice to the parties.

e. Presentations by parties on appeal. Within twenty days of the date the appeal is perfected or the agency decides to review the proposed decision or order each party may file exceptions and present briefs to the agency. Within twenty days thereafter, each party may file a brief which takes specific exception to matters contained in an opposing brief. Request for opportunity to present oral arguments shall be filed at least ten days prior to the date set for consideration of the contested case. In cases where the regular agency meeting does not occur within the time limitation for final decisions or orders, the agency may shorten or extend the briefing period, provided that the briefing periods shall be at least twenty days before the date of consideration and not longer than would cause the date of consideration to occur later than the next regular meeting of the agency following any meeting that occurs sooner than the twenty-day minimum briefing period.

f. Final argument. The final argument and the conclusion of the hearing is deemed to have occurred at the end of the briefing period, or when oral arguments have been permitted, at the end of such presentation.

55.11(8) Time of final decision or order; waiver.

a. Air quality. Unless this paragraph is waived in accordance with 55.3(455B), in the case of a contested case within paragraphs "a", "b", "c", "d", or "e", of 55.2(2) the final decision or order must be issued within sixty days after the final argument in the contested case. Failure to issue the final decision or order within such sixty days shall be a finding favorable to the party other than the department in such contested case.

b. Solid waste. Unless this paragraph is waived in accordance with 55.3(455B), in the case of a contested case within paragraph "i" of 55.2(2), the final decision must be issued within thirty days after the final argument in the contested case.

c. Emergency orders. Unless this paragraph is waived in accordance with 55.3(455B), in the case of a contested case within paragraphs "d", "g", "i" and "m", of 55.2(2), the final decision or order must be issued within sixty days after the final argument in the contested case.

d. Other contested cases. In all other contested cases, there is no limit on the time for enter-

notice and an opportunity to be heard and determine the matter.

55.12(7) Effective date of suspension or revocation.

a. With respect to license suspension or revocation pursuant to this rule, except an emergency suspension pursuant to 55.10(6), the suspension or revocation shall be effective upon failure of the permittee to request a hearing within the time required in 55.12(5) or upon the issuance of an order suspending or revoking the permit after hearing.

b. With respect to a license suspension pursuant to 55.12(6) the license suspension is effective upon service of the order, and shall remain effective until rescinded by the agency or until the suspension is terminated by order after hearing.

400—55.13(455B) License renewals.

55.13(1) Expiration of existing license. If timely and sufficient application for the renewal of a license within the scope of 55.2(4) is made, the existing license does not expire until the application has been finally determined by the agency, and, in case the application is denied or the terms of the new license limited, until the last day for seeking judicial review of the agency order or a later date fixed by order of the agency or the reviewing court.

55.13(2) Right to a hearing. The fact that an existing license does not expire until the time provided in 55.13(1) does not create a right to a hearing on the renewal of the license unless the constitution or statute or the rules of the department require a hearing on the renewal.

400—55.14(455B) Disclosure of information on violations and alleged violations.

55.14(1) Scope. This rule applies to disclosure of information on matters which involve or potentially involve a contested case concerning alleged violations of the rules, standards or orders of the department until such matters are finally determined, that is, on matters within or potentially within paragraphs "a", "d", "f", "g", "k", and "m" of 55.2(2) of this chapter.

55.14(2) Policy.

a. Only the executive director, the appropriate division director, section chief or compliance officer of the department should discuss matters to which this rule applies with persons other than parties. Other employees of the department shall refer inquiries by persons other than parties to the above employees. The discussion by the above authorized employees should be limited to:

(1) Quoting from the preliminary notice, notice of violation, order, or notice of hearing as the case may be.

(2) Pointing out that a violation is only alleged and that fact finding is continuing.

(3) Stating that files of the department are available for public inspection in accordance with chapters 51 and 52 of the rules of the department, and chapters 68A and 455B of the Code.

b. The commission members and the presiding officer who may decide the contested case shall, in addition to complying with 55.9(455B), limit comment to persons other than parties on matters to which this rule applies to the time, place and date of the public hearing if there be one then scheduled.

55.14(3) Listing of matters within this rule. The executive director shall periodically inform appropriate commission members, the presiding officer and other employees of the department of matters which are within this rule. Information in such system of communication shall be available for public inspection in accordance with rule 51.1(455B).

55.14(4) Notice of public contested case hearings. The executive director shall prepare and distribute a press release announcing the time, place and date of each public contested case hearing. Any such release may contain an announcement for more than one public contested case hearing.

55.14(5) Disclosure after final determination. After a matter within the scope of this rule has been finally determined by the appropriate agency under this chapter or by a court, all employees of the department may discuss the matter with persons other than parties.

Appendix C

Solid Waste Management Plan
for Iowa
June, 1975

November 24, 1975

Dr. Russell Train
Administrator
Environmental Protection Agency
Washington, D.C. 20460

Dear Dr. Train:

The Environmental Protection Agency has assisted the State of Iowa in developing a state solid waste management plan. The culmination of this State-Federal effort is a plan which should assist local governments and the State in working together to solve the many common problems in solid waste disposal.

This plan has been approved by your regional office in Kansas City and Iowa's Solid Waste Disposal Commission. I am now adding my endorsement so that it will become an official plan for the State of Iowa.

Sincerely,

Robert D. Ray
Governor

RDR:PH:pjs

Enclosure

December 3, 1975

The Honorable Robert D. Ray
Governor of Iowa
Capitol Building
LOCAL

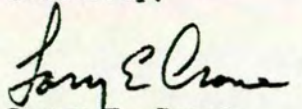
Dear Governor Ray:

In December of 1971, the Health Department received a grant from the Environmental Protection Agency to develop a solid waste management plan. The enclosed document is the culmination of that grant and subsequent grants.

The collection and disposal of wastes is the third largest annual expense to Iowa's local governments. This plan will provide direction to both the State and local governments so that their efforts can be coordinated to make maximum use of resources and to insure that Iowa's wastes are disposed in an environmentally acceptable fashion which does not jeopardize the public health.

The plan has received approval from the Environmental Protection Agency and the Solid Waste Disposal Commission. I am requesting your approval so that the plan can become an official state plan for Iowa.

Sincerely,



Larry E. Crane
Executive Director

LEC/PRH/gy
Enclosure

GOVERNOR

THE HONORABLE ROBERT D. RAY

EXECUTIVE DIRECTOR OF
DEPARTMENT OF ENVIRONMENTAL QUALITY

LARRY E. CRANE

*SOLID WASTE DISPOSAL COMMISSION MEMBERS

CHARLES O. LAVERTY, CHAIRMAN

FRED GOSCH

ROSEMARY SHEARER

OTTO TENNANT

DEPARTMENT OF ENVIRONMENTAL QUALITY

IOWA'S DEPARTMENT OF ENVIRONMENTAL QUALITY

SOLID WASTE MANAGEMENT PLAN
FOR IOWA

-
:

BY

LAND QUALITY MANAGEMENT DIVISION

June, 1975

The preparation of this planning document was financially assisted through a Federal Grant (No. L007036) from the Environmental Protection Agency, Solid Waste Management Office, authorized by Section 207 of the Solid Waste Disposal Act of 1965.

IOWA DEPARTMENT OF ENVIRONMENTAL QUALITY

Chemical Technology Commission ~~XXXXXXXXXX~~ Executive Director
Solid Waste Disposal Commission

LAND QUALITY MANAGEMENT DIVISION ~~XXXXXXXXXX~~

Office Management*

See Office of Administration

Surveillance & Compliance

Chemical Poisoning Reporting
Rules Development
Hazardous Waste Coordination
Chemical Use Training
Resource Recovery Assistance
Enforcement Actions
Sanitary Disposal Project Inspections
Dump Closings
Operator Training
Program Planning
Radiation Response Plan
Radiation Control Activities
Hazardous Substance Spill Plan
Hazardous Waste Plan

Permits

Rules Development
Site Permits
Site Surveys
Plan Review

ACKNOWLEDGEMENTS

The credit for this document is many-fold. A large credit must go to the citizens of Iowa and the local government officials and private solid waste management enterprises who have cooperated so admirably to the requirements of the State law. Within the Department, the activity was under the direction of Charles C. Miller, Planning Project Director in the Solid Waste Management Division headed by Jack W. Clemens, through July, 1973, and Larry E. Crane, August, 1973, to August, 1974. The entire Division staff contributed immeasurably to the effort. The Solid Waste Disposal Commission has influenced the entire project as the policy group for the Division and the Department.

The U. S. Environmental Protection Agency supported the activity through a planning grant, but even more importantly through considerable technical assistance in planning and program conduct. The Federal effort coordinator was Chilton McLaughlin, Solid Waste Management Branch, EPA, Region VII, Kansas City.

Of particular note in assistance to the Department in implementing this plan has been the Iowa Geological Survey under the direction of Dr. Samuel Tuthill, State Geologist. The Survey has contributed technical advice on the proper site selection for solid waste disposal operations.

The names of the persons and agencies at all levels both public and private are too numerous to mention, but thanks are extended to all of them.

;

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I. INTRODUCTION

Devising a plan of this nature is a complicated process. Even more complicated, however, is the problem of devising a functional plan which is both environmentally sound and which serves to protect the local populace. Many plans which have been written are simply an inventory of the problem with a set of elaborate descriptions regarding what the ideal system should resemble. The plan developed by the Department of Environmental Quality is an attempt to devise a method of reaching specific objectives within a limited time frame as established in State Law. As such, this plan had to be put into effect to initiate actions which would lead to specific results. Because of temporal restrictions, such initiation was necessary prior to formal plan presentation since any delay might have resulted in an inferior product.

It is clear that in order to meet the objective of serving the people of Iowa and protecting the environment in which they live, an understanding of both the people and the environment must be established. A study of Iowa's people and environment quickly reveals that Iowa is an unusual State with unique problems and assets. These problems and assets are discussed in detail in the plan.

The statistical material, tables, and figures presented in the plan were extracted from the "1972 Statistical Profile of Iowa" published by the Iowa Development Commission.

III. BRIEF DESCRIPTION OF IOWA

HISTORY

Before Iowa became a state, Indians lived throughout the area, and ancient Indian village sites and burial grounds remain today to tell of Iowa's early history. In 1673, the first white men came to Iowa. They were Louis Joliet and Father Jacques Marquette, famous explorers of the Louisiana Territory. The territory, which included the present State of Iowa, was purchased by the United States from France in 1803. Iowa became a free territory in 1820, under the terms of the Missouri Compromise and subsequently in 1838, the Territory of Iowa was established. The population at that time was 22,859. Robert Lucas was the first Governor. On December 21, 1846, when President Polk signed the act of Congress making Iowa a state, the population had grown to 102,388. The capitol of Iowa was moved in 1857 from Iowa City to Des Moines, where it has remained as the population of Iowa has continued to grow. In 1973, the population of Iowa is approximately 2.8 million.

B. GEOGRAPHY

The 56,290 square miles of Iowa are located between the Upper Mississippi and the Missouri Rivers. The extreme north-south length of Iowa is 205 miles and the extreme east-west length is 310 miles. Elevation above sea level varies from 1600 feet in the northwest to 500 feet in the southeast. The northwest has most of the state's natural lakes. North Central Iowa has fertile prairie which includes 25 percent of the grade-A soil in the United States. Iowa's unique topography is shown in a map in Figure 1.

C. CLIMATE

Iowa's climate is classified as humid continental. Although the annual average temperature is 49 degrees, temperatures vary through a wide range throughout the year. Much of the annual average of 32 inches of rainfall comes during the growing season. Winter snowfall averages 30 inches, while relative humidity averages 72 percent. The frost depth is around 40 inches and the ground remains frozen 146 days a year on the average.

This information was supplied by the State Climatologist who pointed out that frost data has only been taken regularly at Ames, Iowa; however, Ames being centrally located, it should be representative.

D. POPULATION

Iowa's population in 1970 was 2,824,376 representing a 2.4 percent increase over its population in 1960. The population is projected to increase by an additional 2.9 percent between 1970 and 1980, and 3.5 percent between 1980 and 1990. At these rates of increase, the projected population of Iowa to the year 1980 is 2,908,000 and 3,009,000 for 1990. The population is 57.2 percent urban and 42.8 percent rural with an average density of 50.5 persons per square mile. A map showing population changes by county from 1960 to 1970 is shown in Figure 2. This figure demonstrates a declining rural population and a growth in the urban areas. Iowa's distributed population with its propensity toward rural decline makes solid waste disposal difficult.

E. DISTRIBUTION

Iowa has seven Standard Metropolitan Statistical Areas (SMSA) with concentrated populations of at least 50,000. These are Cedar Rapids, (Linn County); Davenport-Rock Island-Moline, (Scott County, Iowa; and Henry and Rock Island Counties, Illinois); Des Moines, (Polk County); Omaha-Council Bluffs, (Douglas and Sarpy Counties, Nebraska; Pottawattamie County, Iowa); Sioux City, (Woodbury County, Iowa; and Dakota County, Nebraska); Waterloo, (Black Hawk County); and Dubuque (Dubuque County). (See Figure 3, SMSA's).

The most significant characteristic of Iowa's population is the relatively even distribution. Outside of Iowa's seven SMSA's, this is especially true. Most counties have at least one major city with a population between 5,000 and 15,000 people located at its center and have approximately an equal number of persons uniformly distributed on farms or in small towns throughout the rest of the land area. Iowa, as a state, is maintaining a slow growth rate; however, its counties and cities are experiencing a considerable population shift as a result of improved farming practices and mechanization. Thus, many people who would have worked in primary industry and agriculture are being displaced by machinery and are moving to the cities and towns to seek employment. Consequently, Iowa is becoming increasingly urban.

FIGURE 3

STANDARD METROPOLITAN STATISTICAL AREAS

A standard metropolitan statistical area is a county or group of contiguous counties (except in New England) which contains at least one central city of 50,000 inhabitants or more, or "twin cities" with a combined population of at least 50,000. Other contiguous counties are included in an SMSA if, according to certain criteria, they are essentially metropolitan in character and are socially and economically integrated with the central city. The SMSA's for Iowa as established by the Bureau of the Budget as of December 31, 1963 are as follows:

- Cedar Rapids (Linn County)
- Davenport-Rock Island-Moline, Iowa-Illinois
(Scott County, Iowa, Henry County, Illinois, Rock Island County, Illinois)
- Des Moines (Polk County)
- Omaha, Nebraska-Iowa
(Douglas County, Nebraska, Sarpy County, Nebraska, Pottawattamie County, Iowa)
- Sioux City, Iowa-Nebraska
(Woodbury County, Iowa, Dakota County, Nebraska)
- Waterloo (Black Hawk County)

The Midwest: A regional area encompassing Iowa, Minnesota, South Dakota, Nebraska, Kansas, Missouri, Illinois and Wisconsin.



G. AGRICULTURE

Over 33 million of the nearly 36 million acres of land in Iowa were used for farming in 1969. The major farm products include corn, oats, soybeans, wheat, popcorn, butter, eggs, cattle and calves, hogs, sheep and lambs, and poultry. The State produces one-tenth of the nation's food supply.

In 1969, there were 526,772 people living on the 136,604 farms in Iowa. The average size of the farms was 247 acres. Although the number of farms as well as the farm population had been decreasing over the years, the average size of farms has been increasing. Iowa remains an agricultural state, with one-fourth of all the top-grade farmland in the United States. As a result of this agrarian nature, some counties are almost entirely farmland with no urbanized areas. Agricultural wastes including wastes from pesticides and herbicides usage will continue to be of concern in the State.

The State law provides that each resident can dispose of his own waste on his own property provided that this does not constitute a nuisance or health hazard. As a result, most of the farm population will probably handle its own waste with the exception of cans, bottles, old wire and other hard to handle materials. Therefore, the magnitude of the solid waste problem is spared the additional burden of providing a disposal facility for crop wastes.

H. MANUFACTURING

Iowa has shown increasing industrial development in recent years. A total of 516 plants operated by 127 of the top 500 industrial corporations (as listed by Fortune Magazine) have operations in Iowa. Most of Iowa's industry is located in its seven SMSA's. However, recent trends indicate that industry is also dispersing into rural communities.

I. MINERALS

Iowa has coal deposits which, if used at the present rate, will provide Iowans with fuel for 10,000 years. However, the fuel is all high in sulfur content, and therefore, of low quality. As such, it has found little usage. Iowa is the third largest producer in the nation of crude gypsum and is an important cement producer. Other minerals important in Iowa include clay, lime, stone, sand and gravel. Although most of Iowa's coal mines are of the strip variety, they

DIAGRAM OF STATE GOVERNMENT

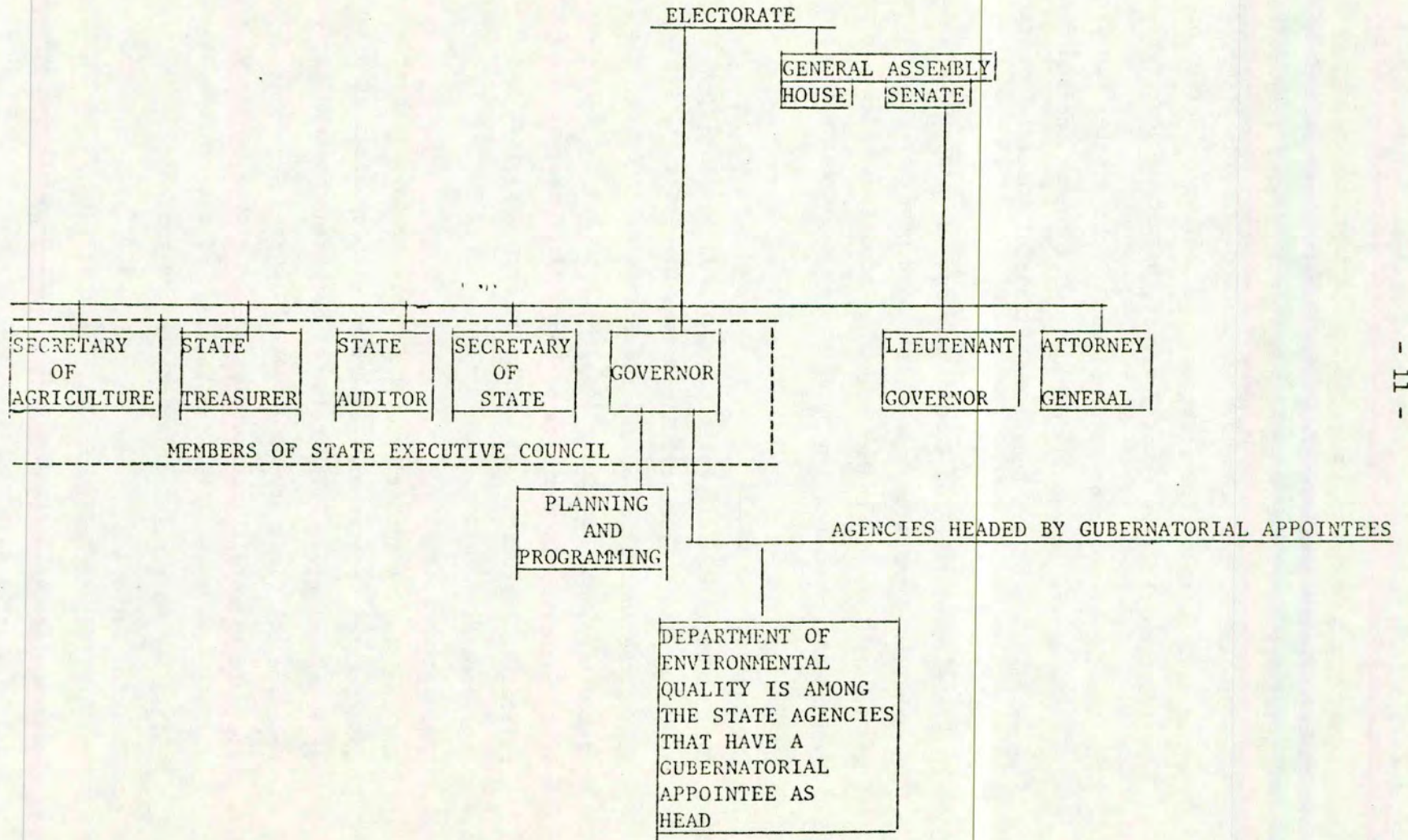


FIGURE 4

nine justices, who, until amendments of the constitution in 1962, were elected officers, with terms of six years. Vacancies now occurring are filled by appointment by the governor, from lists of nominees provided by the state judicial nominating commission. The term is at least eight years, on approval by referendum of the voters at judicial election. The justices name one of their number as chief justice, and he serves in that capacity until expiration of his term.

The constitution also provides for an attorney general who is elected at the regular election for the term of four years. He represents the State in legal matters, gives advice to state officers, and has, in addition, certain administrative functions.

The State of Iowa is divided by law into eighteen judicial districts composed of from four to nine counties. Each district has from two to eight judges. Judges were elective officers until amendment of the constitution in 1962 made them appointive by the governor from lists of nominees provided by district judicial nominating commissions. Retention of office is subject to subsequent approval at a judicial election.

There are now seventy-five district judges in the State. One of the district judges presides over the district court sessions in each county. A county attorney and a clerk of the court are elected by the voters in each county.

Within the judicial framework there are also inferior courts and municipal courts at the township and city levels of government, respectively.

6. County Government

The State of Iowa is divided into ninety-nine (99) counties, the boundaries of which may not be changed unless the change is approved by the voters of each county concerned. A board of supervisors consisting of three, five or seven members is the chief administrative agency in the county. They appoint a county engineer, county home steward, medical examiner, county welfare director and other administrative officials. In addition, an auditor, who is the clerk

Effective July 1, 1975, the Home Rule for Cities Act, as passed by the 64th General Assembly, provides for establishing the City Code of Iowa. The Code provides uniform powers and duties for the cities. Certain provisions are in effect now if a city council adopts them by resolution. On July 1, 1975, the entire Act takes effect for all cities.

K. GOVERNMENT SPENDING

State and local expenditures per capita are five percent greater in the midwest than in the nation as a whole. More is spent in Iowa on education and highways than the national average, and considerably less is spent for other government services. Fire and police costs in Iowa take a significantly lower portion of the state-local budget, due to the fact that the region has the lowest crime rate in the nation. State and local debt per capita is considerably below the national average. Both lower absolute amount of debt and lower risk costs in Iowa produce less reliance upon debt financing and less interest cost for local governments in Iowa.

Due to local financing experience, the Department has found little opposition to local financing of solid waste systems. The Department intends to avoid costly programs of State and/or Federal financing for the systems to serve the local citizens.

L. TRANSPORTATION

Iowa ranks ninth in the nation in total mileage of all road systems, with 112,342 miles of road in 1970. The State ranks sixth in the total amount of surfaced rural and municipal roads. Iowa's central location in the nation means rapid and economical distribution of goods to regional, national, and international markets.

Iowa ranks fourth nationally in miles of Class I railroad track. Nearly any community in the State has or may obtain access to adequate rail service. Iowa ranked fourth in the nation in the number of lighted airports in 1970, with 120 municipal and 119 private airports. Iowa is also an ideal location for large scale barge transportation, being bordered by two navigable rivers.

IV. DEFINITION OF PROBLEMS

A. GENERAL

In the normal approach to planning, an inventory of problems is first undertaken. Then a methodology for overcoming these problems is devised, and the plan is implemented. The planning in Iowa could not proceed in that fashion because of the time constraints placed upon the Department by Iowa Legislation. Thus, planning and implementation had to proceed simultaneously. In the listing of problems which follows, many have already been overcome, but others have not. However, if planning becomes a truly dynamic and continuing function as is intended, then new problems will continually arise and be overcome as the system approaches its goal.

B. PLANNING

There is a lack of comprehensive planning in both urban and rural communities for the management of solid wastes. Initially, there were no rural solid waste plans, and only a few urban areas operating a planned system. There was little cooperation between communities or counties for solid waste management.

Since 1968, one of the State goals has been to institute regional planning as a method of overcoming local planning problems. The Governor's Office of Planning and Programming through its Division of Local Affairs has actively sought the formation of regional planning organizations by offering seed money through the U.S. Department of Housing and Urban Development grants. However, at the inception of the planning phase of Iowa's solid waste management program, these regional planning programs were few in number, and only a few of these were actually multi-county in their approach.

C. TRAINING

A problem facing the Department in initiating improvements in solid waste management was the lack of trained personnel at all levels. The Department itself had to staff up with personnel capable of guiding the development of a state-wide plan. A part of this need was met through short-term technical courses offered by the U. S. Environmental Protection Agency. Professional level personnel employed by the local agencies and the consulting firms were

requirements have pointed this out. The efforts by these agencies and the provision of model codes, ordinances and contract documents will in time, alleviate the problems.

F. FINANCING

The addition of solid waste management requirements on the local governmental agencies did pose rather severe financial problems. First was the cost of the planning studies, whether in-house or by consultants. Joint action by cities and counties alleviated the problem considerably since funds were not generally available from the State or Federal governments.

The second problem was to provide the necessary capital and operating monies required to implement the improved system. Again, State and Federal funds were not available. Counties had available limited tax monies for design and operation of facilities but it appeared to be too limited to meet the needs. However, to date, the local governments when jointly handling their solid waste problems have been able to provide for disposal. In almost every case, financing is holding back progress in providing collection for the rural county areas.

G. STORAGE

Solid waste storage in Iowa has involved no state-wide control and little local control. As a result, the waste is stored in every imaginable type of container and placed in any location. Modern bulk containers are being used commonly by industries and businesses which contract to have their wastes hauled by a local contractor. This has been forced upon them through economic constraints. Some of the cities which have municipal collection have standardized residential storage for their own convenience. However, many of the smaller cities have no standardized residential storage and the facilities within a single city may range from a pile on the ground to a standard garbage can.

The practice of open burning in the backyards is still in existence in a large proportion of the State. The major cities have outlawed the practice but in the more rural areas, no control is evidenced. Backyard burning remains a local option except for the burning of garbage which is against state law.

J. PROCESSING

In the past, transfer stations, incinerators, grinders and other types of solid waste processing facilities have not been used in the State. Facilities of this type have been opened and more will be opening, especially when multi-county operations begin to develop.

K. RESOURCE RECOVERY AND WASTE REDUCTION

The resource recovery efforts in Iowa, with the single exception of the City of Ames materials and energy recovery facility, have largely been recycling programs for educational purposes rather than attempts at a solution to the solid waste disposal problem.

Resource recovery programs in Iowa can be developed for special wastes where markets are available, such as junk automobiles, or for the entire waste stream such as the materials and energy recovery project at Ames.

Several factors in Iowa influence the establishment of source separation and resource recovery systems on a large scale. They are as follows:

1. There are few markets in Iowa for recycled materials and those markets vary greatly in the prices which they pay and quantities they purchase.
2. The population density is too sparse in most areas for effective separate collection for resource recovery and the transportation costs of hauling secondary materials is usually expensive.
3. The technology for recovery of materials from the solid waste stream is generally not well-developed and the equipment is expensive.
4. The capital and operating costs of complete resource recovery facilities are more expensive than sanitary landfills in Iowa. To function successfully recycling requires volunteer labor which has, in the past, proved to be undependable for long-term operation.
5. The populace of Iowa is concerned about energy and conservation of materials which are future problems of considerable magnitude. Energy and material recovery systems will have an extensive role to play in alleviating these problems once the technology is available.

DEQ will continue to keep abreast of developments in resource recovery programs and provide technical assistance to communities interested in source separation and resource recovery.

land will be returned to a more productive state than was originally possible. This does however show that for even a 10 year projected need that 6,000 acres must be dedicated for solid waste disposal with more added as completed portions are returned to productive use.

M. SPECIAL WASTES

Some of the special wastes that create management problems are as follows:

1. Used Tires

One of the most serious problems resulting from the increasing number of motor vehicles is the growing accumulation of used tires for which no practical method of disposal has been implemented. Disposal of large numbers of tires at landfills has not been satisfactory, since the tires can rise to the surface after burial. In addition, tires take up a large amount of landfill space. This problem is compounded by the presence of major tire manufacturing plants located in central Iowa which put their rejects into the solid waste stream.

2. Junk Cars

Abandoned car hulks should be excluded from sanitary landfills because of their great bulk. Estimates issued from the Governor's Office of Planning and Programming indicate that between 600,000 and 800,000 of these cars are scattered over Iowa's landscape and as many as 300,000 are added each year. However, rising scrap metal prices are reducing this problem.

3. Chemical Wastes

The increase in the number of industrial plants and the usage of agricultural chemicals in Iowa is resulting in more and more chemical wastes which must be disposed of without creating health and safety hazards or ground or surface water pollution problems. Some chemical wastes are harmless and probably can be disposed of in landfills without danger. On the other hand, there are chemical wastes which are quite toxic in nature, and must be excluded from landfills, whereas they were permitted in unregulated dumps. The magnitude of this problem is just now surfacing.

4. Demolition Materials

Demolition materials disposal can result in a tremendous burden for landfill operations because of the tremendous volume involved. Therefore, many local officials are requesting that the State allow the disposal of

V. PLANNING METHODOLOGY

A. BACKGROUND

In the past, the State of Iowa had no control over the disposal of solid wastes. This is primarily because of Iowa's rural nature and the attitudes of its residents that solid waste does not really constitute a problem. However, the increasing affluence of modern living and large population densities have placed enormous loads on solid waste disposal systems. The problem has previously been handled by numerous open burning municipal dumps, by promiscuous roadside dumps, and by sporadic attempts to utilize sanitary landfills. However, the volume of waste has converted what was once regarded as a public meeting ground - a giant garage sale where happy people gathered to rummage through one-another's discarded items - into a smoldering, rat infested nuisance, a nightmare of noxious smoke and odors, dotted with dangerous discards such as old refrigerators and farm machinery.

Public apathy has rapidly changed into a new awareness and citizens today are interested in eliminating solid waste problems as never before. This new wave of interest has manifested itself in the passage of new air pollution and solid waste laws.

The Legislature of Iowa, in its passage of the Solid Waste Bill, Chapter 406, Code of Iowa, 1971, (now referred to as Chapter 455B, Code of Iowa, 1975) (see Appendix I.) and the Rules developed (see Appendix II) put the implementation of that Bill into three distinct phases. The first phase represents planning, the second phase is implementation, and the third phase is operation. The Environmental Engineering Service of the Department of Health, the agency from which the Department of Environmental Quality was formed, was determined to develop and operate with a philosophy which would comply with the intent of the law.

However, an operating philosophy cannot be developed before the goals and objectives of the project are defined. Every worthwhile human effort is directed toward particular goals and objectives; successful solid waste management is no exception. The goals themselves are the ideas toward which both individuals and groups strive. A goal may be as simple as winning a game in individual competition or as complicated as the attainment of world peace. However, all goals are approached by attainment of many smaller accomplishments or objectives.

B. PHASE ONE: PLANNING PHASE

1. Objectives

The major objective of the planning phase as previously discussed, is to have a plan developed for the solid waste management systems which will dispose of all of Iowa's waste after July, 1975.

Minor objectives were laid out and undertaken so that the major objectives would be reached. Since the planning phase was nearing completion as of July 30, 1973, a discussion of the objectives, techniques, and current results of the planning effort follows.

2. Solid Waste Inventory

In planning, the usual initial step is to determine the magnitude of the problem by taking a comprehensive inventory. In many of the completed state solid waste management plans, extensive resources were applied in obtaining this information. However, in the cursory review which precedes any massive effort, it became readily apparent that few, if any, of the existing solid waste disposal facilities would meet the rigid conditions required by the permit program. Furthermore, as a rule, no management system was present. The considered judgment of the solid waste staff was that the old systems must be scrapped and entire new systems developed, thus rendering any inventory useless.

When system plans were developed, usable information about the local solid waste problem was needed, and therefore, the objective became to develop an inventory from the information gathered in the development of local solid waste management plans. This information, as of July 30, 1973, is contained in Appendix III.

3. Size of Systems

The solid waste staff has also encouraged the adoption of a solid waste organization with a large population base. The staff experience has been that a population base of less than 12,000 is economically marginal for the acceptable operation of a sanitary disposal project. There are many advantages of large scale solid waste management systems to local government, a few of which are enumerated here.

a. Economy can be realized in planning, construction, and operation.

Cooperation between local governments in the performance of their solid waste management responsibilities has been found economically

The adherence to this objective by the solid waste staff has paid big dividends in that most of Iowa is now operating under such an arrangement for solid waste services (see Appendix V, Status of 28E Agreements).

4. Local Participation and Control

After a review of early failures, the solid waste staff decided that for the development of solid waste systems, local participation in the development and control of forthcoming solid waste management systems was imperative. A staff objective was developed that each solid waste management system have local control, either by operating the system via a public agency, or by locally approved contracts with private industry. In the attainment of any worthwhile objective, some problems will develop which must be overcome. The problems which were encountered here were of two distinct types.

The first was that of inducing local officials to take an active part in this program. To accomplish this, the solid waste management division has adopted a policy of "selling" the solid waste program by using its small, but diversified staff to present local officials with accurate and pertinent information on solid waste as well as the best possible engineering judgments when necessary. The approach was to encourage local government to develop a plan tailored to their individual needs through information provided by this office. This approach was enhanced by the fact that local government, in practically all cases, was tired of the ineffectiveness of their current deplorable solid waste situation, but lacked the knowledge to eliminate it.

Second, local officials in most cases did not possess sufficient expertise to conduct a solid waste planning program nor to implement the resulting system. In order to educate local officials in the planning process and to aid them in developing a workable plan, the solid waste staff presented them with practical and positive methods. Most of the methods were documented and will be discussed later.

The solid waste staff of DEQ was able to capitalize on this new wave of public interest by providing local government the leadership and technical know-how to overcome their present situation. The results as of August 21, 1974, as shown on Table 1, are that DEQ has received plans from all of Iowa's regional solid waste agencies which is significant, considering the

minimum amount of pressure exerted through enforcement. (See the Planning Status, Appendix VI) Open dumps are still in use in some parts of the State, but they are being phased out, and all open dumps will be closed by July 1, 1975.

The staff, in their insistence that local governments develop their own solid waste plans, has provided another benefit to the people of Iowa in that related problems which are not compatible with local plans can then be studied by the staff of DEQ and other agencies. Some of these problems which will be discussed in detail in later sections of this plan, are junk cars, hazardous materials, demolition materials and radioactive wastes.

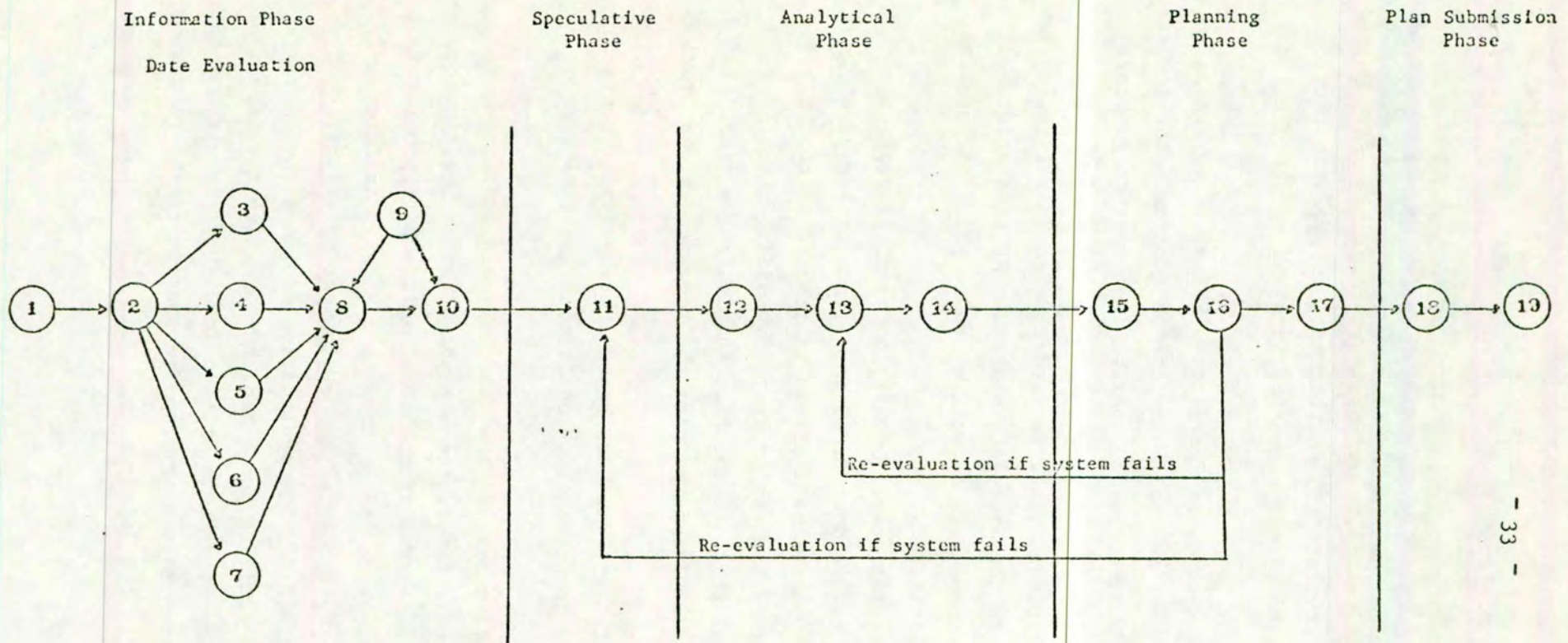
5. Planning Phase Literature

In the planning phase, it became apparent that documented information which could be presented to interested parties would be of considerable value. In the beginning, the State solid waste law was distributed along with various EPA brochures. However, as time passed, a need was discovered for specific topics of information to fulfill the unique needs of Iowa's local governments. Consequently, specific publications were developed as the needs dictated. Following is a discussion of the various documents developed. All of these documents are available from the Department.

a. Guidelines

The Iowa State Guidelines for the Development of Local Solid Waste Management Plans were developed by the Department of Health during January, 1972, and released in March, 1972. The essence of these guidelines is contained in a paper entitled Local Solid Waste Planning for the State of Iowa (Appendix VII) and the discussion that follows.

The purpose of these guidelines was to direct the thinking of concerned planning groups toward a common goal, and to provide them with the tools necessary for the generation of a comprehensive solid waste management system. In many cases, guidelines are merely a listing of requirements, and as such, provide the user with no further information. However, Iowa's guidelines were set up in such a manner that they can be used for the development of a complete plan. The purpose of the guidelines may be divided into two areas. First is



- 1 Start
- 2 Environmental Inventory
- 3 System Deficiencies
- 4 Future Constraints
- 5 Future Needs
- 6 Present System Costs
- 7 Special Requirements
- 8 Problem Definition
- 9 Solid Waste Goal
- 10 Set Objectives

- 11 Generate Alternative Ideas for Solutions
- 12 Idea Evaluation
- 13 System Generation
- 14 Cost Comparison and Selection of Most Promising Systems

- 15 Detailed System Cost Study
- 16 System Evaluation
- 17 Recommendation and Project Scheduling
- 18 Prepare Plan Format
- 19 Submit Plan

PLANNING FLOW CHART - Figure 5

The "Key Steps" can serve as the outline by which a local planning group can organize and begin its operation, carry out its planning, and finally open its sanitary disposal facility. The activities are listed in a sequence which has proven to be very effective for the development of a complete solid waste program. These "Key Steps" have served to answer the common question--where do we go from here? Many local agencies are only going to put forth the minimum effort for compliance with the law, regardless of the possible advantages of a thorough analysis to the end product. Therefore, it became necessary to specify a set of minimum planning requirements so that an adequate analysis would be completed.

This method set forth in the publication emphasized public relations, organization of an association, and development of a plan as preliminary requirements to the establishment of a sanitary disposal project. The most important of these is the establishment of a functional solid waste organization in the sense that such an organization will accomplish what is intended, if guidance by the State is provided. In almost every case where an organization was formed from local leaders, an acceptable plan has resulted.

c. Plan Requirements

The Minimum Plan Requirements to Comply with Chapter 406.7, Code of Iowa 1973, (now Chapter 455B, Code of Iowa, 1973) (see Appendix IX). was mailed to every city, town and county on October 11, 1972. Additional copies were distributed upon request. This document served the purpose of stating exactly what was required so that both the local agency and the solid waste staff were using the same criteria for planning. The solid waste staff is evaluating all local plans by this criteria, which has been considered to be a minimum effort toward a comprehensive solid waste plan. The staff can be assured that local problems have undergone at least a cursory examination, and that the plan itself has been logically conceived.

d. Speeches

Many local agencies were interested in the Departmental philosophy and approaches to problems. The staff members gave many formal presentations at various universities, as well as hundreds of informal

has local regulation and collection been so critical. Agencies are now entering into contracts with local collectors and landfill operators. Previously, in most small Iowa communities, this kind of service was negotiated on an individual basis by the householder and the operator. Thus, this agency is being asked to provide sample agreements. Since this demand is just surfacing, sample agreements tailored specifically for Iowa have not yet been developed, and as a result, the Division has used examples used by others which are adequate: ~~An Ordinance Regulating Solid Waste Management~~ (see Appendix X) prepared by the Division of Health of Missouri; Model Contract for Residential Solid Waste Collection (see Appendix XI) prepared by the Division of Health of Missouri; and a Sample Sanitary Landfill Contract (see Appendix XII).

As the demand for the model contracts increases, which it certainly will as more solid waste management systems approach implementation, more and better examples will be devised.

6. Enforcement

Regardless of the sales ability of the Department of Environmental Quality, no progress would have been made unless local governments could have been provided with some measure of incentive. This is because solid waste management was a problem unknown to most Iowa communities and of minor importance to the rest. The State suddenly demanded that these heavily burdened agencies undertake a new project which will tax their resources and energies. With no money available for grants or aid, the only incentive which could be used was enforcement of the existing legislation.

Undesirable as it is as an incentive, enforcement is used as a coercive method for those communities which refuse to cooperate with the Department. The enforcement procedures schedule has not yet been fully implemented. However, if it were not for this threat of enforcement, the probability of the good cooperation which the solid waste management staff has enjoyed would be diminished greatly. The following is the schedule for enforcement of the local planning requirements:

- c. The success of the Department policy of striving for systems which would be of adequate size to maximize operational advantages so that such systems will be financially successful.
- d. The success of the Department policy of having local agencies involved in establishing the solid waste system plans. This has resulted in local interest to a point where most of the new systems are actually tailored to local needs.
- e. The Department policy of a firm enforcement posture has resulted ~~in no formal enforcement actions to date. In every case, results~~ have been obtained short of court actions.

Thus, the Department's success in this phase of achieving its planning goal can be attributed to an excellent solid waste law, good timing, and effective Departmental policies.

C. PHASE TWO: IMPLEMENTATION PHASE

1. Objectives

As was previously stated, the objective of this solid waste management approach was to facilitate a complete changeover in Iowa's solid waste disposal methods by implementing planned systems which would be environmentally acceptable thus eliminating the hundreds of dumps which have been used for generations. This objective coincides exactly with the intent of Iowa's solid waste law.

2. Legal Considerations

The second phase of the solid waste effort as outlined by the Legislature in its Bill, was the implementation of plans. The Rules developed pursuant to the law allow any dump or sanitary disposal facility which began its operation prior to October 1, 1971, to continue operation without a permit until July 1, 1975. However, any new facility would be required to have a permit and all facilities must qualify for a permit by July 1, 1975. Thus, many of Iowa's communities are planning to use their present facilities until 1975. The most recent trend, however, is away from this. Many of the communities have discovered that as the planning phase is completed, a momentum has been built up which carries

generally require at least a year. Therefore, if the pressure, through technical assistance and public information as well as enforcement, is not continued, many of the communities will not be able to comply because of the natural tendency for them to ease their efforts after a requirement is met.

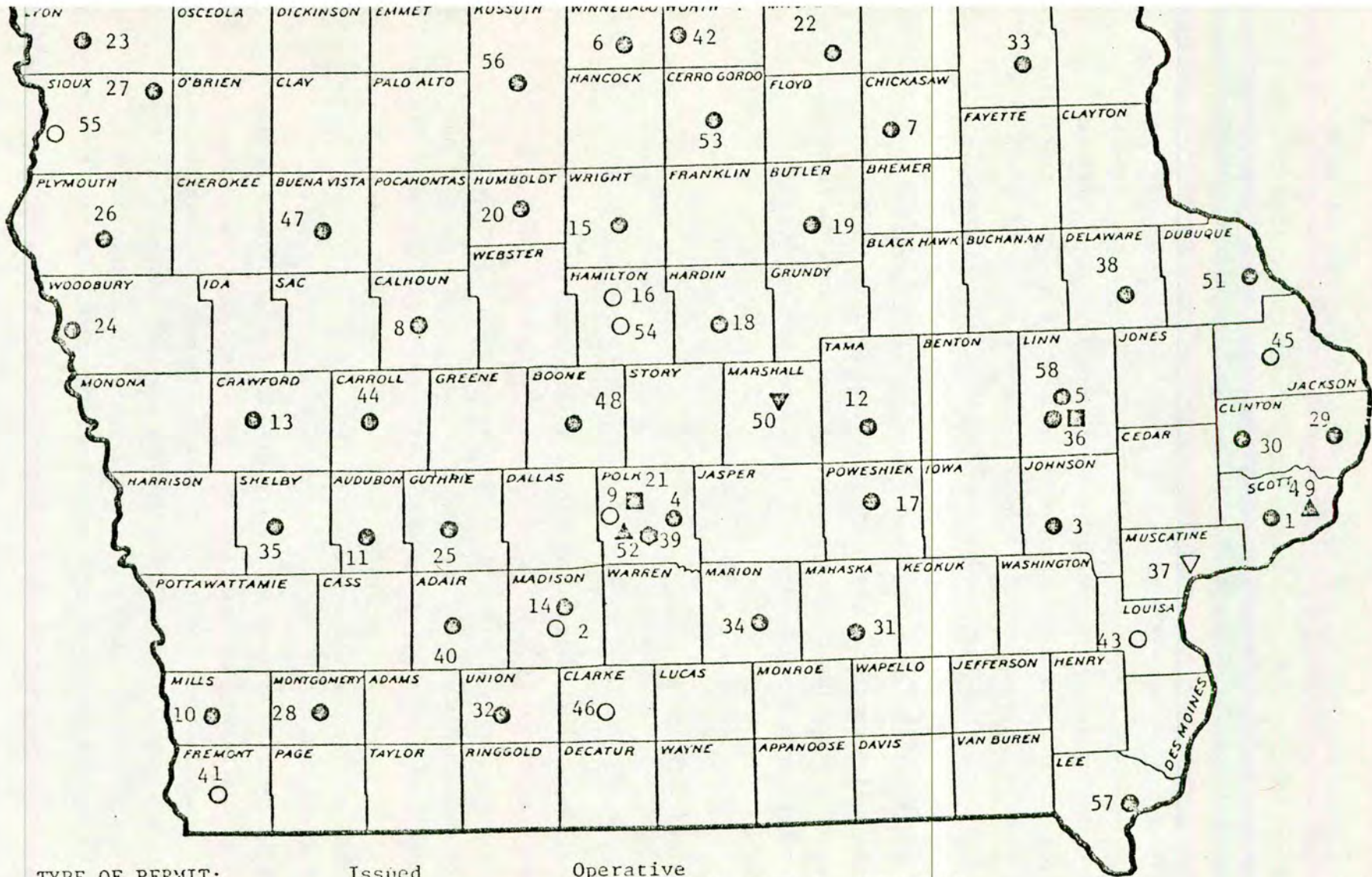
Therefore, it is one of the Division's objectives to maintain a constant pressure upon local officials until systems become operational. This pressure will be applied through increased technical assistance and information distribution. The assistance will be directed toward aiding the local agencies in application for permit and the eventual operation of their system. Groundwork for this approach was laid in the planning phase. Legal action will, however, be taken against nonconforming operations.

The initial solid waste plan requires that communities prepare an implementation schedule for all major events prior to the establishment of the sanitary disposal project. The staff will then contact the local agencies at the time each of the events is to occur offering technical assistance and guidance while monitoring their progress. Using this tactic, the local agencies will be kept under constant pressure for the implementation of their plans. In this way, the Solid Waste Division hopes to maintain a persuasive rather than enforcement approach.

4. Technical Information ;

In addition, information will be provided local agencies on a basis of need. This information will be provided so that those local agencies will have the latest technical information at a time when it is most appropriate. At present, only two implementation phase documents have been devised, simply because this phase is just beginning and the demand has not yet been created for other publications. The two publications which are in demand are "Guidelines for the Preparation of a Sanitary Landfill Permit Application" and "Sanitary Landfill Design and Management".

The "Guidelines for the Preparation of a Sanitary Landfill Permit Application", (see Appendix XIV) has begun to show an ever increasing demand as more and more permit applications are requested. This paper goes through the procedures for complying with the rules and regulations for



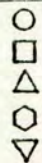
TYPE OF PERMIT:

Issued

Operative

CP-14607

April 1, 1975



- 51 Sanitary Landfill
- 2 Recycling
- 2 Transfer Station
- 1 Composting
- 2 Construction & Demolition
- 58 Total

Figure 6. Sanitary Disposal Permits as of April 1, 1975, numbered in the order of issuance.

Table 2

EXAMPLES OF IMPLEMENTATION AND
OPERATION LITERATURE NEEDS

- (1) An accounting system for solid waste collection.
- (2) An accounting system for transfer station operations.
- (3) Solid waste collection, transfer, and disposal for rural areas.
- (4) Planning for solid waste collection, including route design.
- (5) The economics of size - in recovery, recycling, and reuse of
solid waste.
- (6) Handbook for the disposal of industrial, agricultural and
hazardous waste.
- (7) Iowa Digest of News & Views on Solid Waste Management.
- (8) Manufacturers' maintenance, shop and parts manuals.
- (9) Schedule of servicing, maintenance and repair record for
landfill equipment.
- (10) Ten ways of improving landfill operations.
- (11) Alternatives in the rural and urban collection of solid waste.
- (12) Better ways of storing home and commercial solid waste.
- (13) Notice to bidders, model agreements and other bid documents for
contracting with private solid waste management organizations.

VI. SPECIAL PROJECTS

A. PROBLEM IDENTIFICATION

One of the benefits of local planning as mentioned earlier was the identification of specific problems which are not compatible with local planning efforts. As was expected, several problems were identified, and work was begun at the State level. The problems which have been identified are junk cars, hazardous waste, demolition waste and radioactive waste.

The problem of junk cars was the first to be identified and solved. This problem turned out to be the least complex and it was essentially solved by private industry. This Department began extensive research into the problem during the spring of 1972. Ideas were developed which eventually led to its solution by efforts of DEQ, Office of Planning and Programming, and private industry. This problem has been solved in a manner which has proven to be beneficial to the State, local government, and private industry and at practically no cost.

The problem of hazardous waste is quite a bit more complex and as a result, the research is still being done. Although analysis of the problem is required before effective action can be taken, because of the emergency situation caused by spills of hazardous materials, a spill contingency system has been established.

The problem of demolition waste has been studied and recommendations prepared which should ultimately lead to the promulgation of rules and regulations.

The problem of radioactive waste until recently, has not been considered a serious problem in Iowa. As a result, actions in that area have been temporarily deferred, because of budgetary limitations. The area will, however, be given some consideration and included as one of a number of hazardous wastes.

B. JUNK CARS

One of the major solid waste management problems confronting the State of Iowa is that of dealing with the 600,000 to 800,000 junked or abandoned cars presently littering the landscape and the estimated 300,000 cars which are added to the total each year.

the communications assistance, and other special expertise not available in local communities to all Iowans served by the Chicago and Northwestern Railway. The PRIDE program got its start in Iowa in the community of Hampton during the summer of 1972. From there the program spread to Mason City, Eagle Grove, Belmond and Britt.

The Office for Planning and Programming works closely with the Solid Waste Management Division of the Department of Environmental Quality, the Highway Commission, the Chicago and Northwestern Railway, commercial crusher operators, citizens groups, and local communities in the planning and development of the State-wide junk car clean-up effort. Individuals and organizations such as the rural letter-carriers, Girl Scouts, Boy Scouts, Future Farmers, and 4-H Club members are assisting in the locating of the cars. The Jaycees, Lions and other service organizations are working on methods to collect the cars. In some areas, the Iowa National Guard is making the actual pick-up.

The largest current effort to recycle junk cars is in Northwest Iowa where a pilot program directed by DEQ's Region Office is underway in a regional nine-county area. The Department of Environmental Quality has estimated that at least 50,000 abandoned cars are in the area which consists of Lyon, Sioux, O'Brien, Osceola, Clay, Dickinson, Emmet, Palo Alto, and Buena Vista counties.

The pilot program, which is completely voluntary, began with an inventory of abandoned cars by townships. The cars were then collected and removed to central sites for crushing and to date, about 14,000 cars in nine counties have been recycled. All of these cars have been picked up outside junk yards. Junk car recycling projects are also underway in Brayton, Lineville, Ames, Iowa City, Iowa County, Carroll County, Council Bluffs, Boone, Perry, Colo, and Sioux City.

To date, the program has been financed entirely through the use of State and local funds. The State Department of Public Safety maintains a fund of \$250,000 a year in the Motor Vehicle Registration Division for license plate refunds. This fund has been used in some areas to help defray the cost of collecting and transporting the cars to collection centers.

The long-range goal of the present junk car removal program is to establish permanent collection centers in communities across Iowa and to

the manufacture, transportation, storage and use of any hazardous material to ensure safe handling. Also, it is a requisite that DEQ have authority to specify methods of disposal of these substances.

2. Hazardous Materials Inventory

In order to provide adequate facilities for disposal of hazardous wastes and to be prepared to control spills of hazardous materials, an inventory must be taken to determine the nature and amount of such materials maintained in the State. To be assured of the accuracy of the information gathered, however, a revision of statutory language is required which will explicitly outline DEQ authority. The proposed inventory would include information concerning production, transportation, storage, and disposal of hazardous materials. The information will be placed in a computer file and constantly updated.

3. Hazardous Materials Spill Contingency System

In the event of a spill of hazardous materials, it is imperative that trained personnel be available to take quick and appropriate action so that a minimum of environmental damage will occur. Iowa's Hazardous Waste Spill Contingency System calls for a central response team of three to four individuals with intensive training in spill control technology. This team will be more effective than regional personnel, because the team will have more exposure to emergency situations and a higher level of specialized training than would regional personnel. The central response team will establish a library of reference work and publish information regarding safe handling and disposal of hazardous materials.

4. Hazardous Waste Disposal Site

At present, there is not a public site for safe disposal of hazardous materials in Iowa. The nearest known sites are Sheffield, Illinois; Kansas City, Missouri; and Shakopee, Minnesota. Iowa needs a facility that can both store and process many different classes of substances. DEQ will encourage the establishment and assist in the proper siting of such a facility.

VII. EXISTING LEGAL AUTHORITY

There are a number of State and local departments or agencies involved in regulating different aspects of solid waste management in Iowa. The following are the most significant of these.

A. DEPARTMENT OF ENVIRONMENTAL QUALITY

In 1970, the General Assembly assigned the Department of Health the responsibility of overseeing the disposal of solid waste in Iowa. (Chapter 406 Code of Iowa, 1971.) This law provided for a three-phase program through which Iowa could update its antiquated and unregulated system of open dumps. These open dumps are to be replaced by a series of sanitary disposal facilities.

The first phase of this program was designated the planning phase. It originally covered the period from the effective date of the Solid Waste Law up to November 12, 1972. This was subsequently extended to January 1, 1973. During this period of time any city, town, county, or private agency operating a sanitary disposal project or planning to do so after July 1, 1975, was required to file with the Department of Health a plan detailing its methodology. The present status of communities with respect to this phase is outlined in Appendix VI.

Phase two of this program is the implementation phase. This phase begins with the approval of the operating plans and includes the site certification process and the development of a collection system. The Solid Waste Law requires that all solid waste disposal sites in operation after July 1, 1975, meet all requirements outlined above.

Phase three is the operation phase. It involves the operation of sanitary disposal facilities according to the requirements of Chapter 455B, Code of Iowa, 1975, and according to the standards outlined in each approved operating plan site certification.

Those agencies desiring to operate a solid waste disposal facility, which are not subject to the previously mentioned deadlines, must proceed through these phases on a time frame to be determined as the situation arises.

Effective January 1, 1973, the provisions of Chapter 406, Code of Iowa, 1971, were transferred to the Department of Environmental Quality.

and Programming and the Department of Public Safety are involved in the disposal and/or recycling of junk or abandoned cars in Iowa. The Office for Planning and Programming also provides assistance to communities in planning for the establishment and operation of solid waste management systems. OPP works closely with DEQ in this regard.

The Iowa Natural Resources Council has the responsibility to develop and enforce a comprehensive state-wide water resources plan. The Council also has the authority to regulate the use of flood plains through the issuance of permits (Chapter 455A.18 and 455A.19, Code of Iowa, 1975). Through this permit authority, the Council can control the establishment and operation of solid waste disposal facilities in flood plain areas.

The State Department of Agriculture prescribes the method for disposal of dead animals (Chapter 167.12, Code of Iowa, 1975). The Department of Agriculture also regulates the removal of solid waste products for restaurants, hotels, and food establishments which are subject to decomposition or fermentation (Chapter 170.19(3), Code of Iowa, 1975).

Under the Conservancy District Act, the State Soil Conservation Committee has the authority to mandate the conservation and proper control and use of the soil and water resources of Iowa. (Chapter 467A, Code of Iowa, 1975). The Soil Conservation Committee, through this mandate, may determine measures to control the erosion of soil by wind and water. It is through this part of the mandate that the Soil Conservation Committee has some measure of control over the location and operation of solid waste disposal facilities.

The Iowa Bureau of Labor is responsible for carrying out the provisions of the Federal and State Laws and regulations concerning occupational safety and health. Chapter 38, Code of Iowa, 1975, outlines the general policies and standards for occupational safety and health in Iowa. Chapters 3-6, 10, and 30 of the Iowa Bureau of Labor's Departmental Rules present the specific standards for occupational safety and health in Iowa. As stated in Chapter 10.1 of the Bureau of Labor's Departmental Rules, "The standards and regulations together with the amendments thereto, as adopted by the United States Secretary of Labor shall be the standards and regulations for implementing the Iowa Occupational Safety and Health Act."

ment purposes (Chapter 384.1, Code of Iowa, 1975). All monies received for government purposes must be credited to the general fund of the city unless required to be placed in certain funds established by State law (Chapter 384.3, Code of Iowa, 1975). Thus, a city may finance a sanitary disposal project from its general fund.

In addition, a city may levy a tax not to exceed six and three-fourths cents per thousand dollars of assess value for planning a sanitary disposal project (Chapter 384.13, Code of Iowa, 1975).

A city may contract indebtedness and issue general obligation bonds for an essential corporate purpose (Chapter 384.25, Code of Iowa, 1975). Essential corporate purpose includes "the acquisition, construction, reconstruction, extension, improvement, and equipping of works and facilities useful . . . for the collection and disposal of solid waste . . ." (Chapter 384.24(3)(d), Code of Iowa, 1975). A city may also finance solid waste collection and disposal systems by issuing revenue bonds, which are negotiable bonds issued by a city and payable from the net revenues of a city enterprise (Chapter 384.80, Code of Iowa, 1975). City enterprise includes "solid waste collection systems and disposal systems." (Chapter 384.24(2)(f), Code of Iowa, 1975).

The County Boards of Supervisors may levy a tax of not more than six and three-fourths cents per thousand dollars of assessed value on property in the county outside incorporated areas for the purposes of acquiring and maintaining public disposal grounds and of planning a sanitary disposal project. The Boards of Supervisors may also "contact indebtedness and issue general obligation bonds . . . to pay the cost of establishing, constructing, acquiring, purchasing, equipping, improving, extending, reconstructing and repairing sanitary disposal projects . . ." (Chapter 346.23, Code of Iowa, 1975).

Each municipality may assess and levy a tax for an emergency fund at a rate not to exceed twenty-seven cents per thousand dollars of assessed valuation. After due process, counties may use these funds as matching funds for federal programs including public health

VIII. NEEDED LEGAL AUTHORITY

The State has what could be considered to be nearly adequate legal authority for the management of solid waste. The authority is through specific solid waste legislation, enabling legislation for local government, and rules governing solid waste management in the State. Additional authority is needed in several diverse areas in order for the management of solid waste to be adequate from all aspects. The following discussion concerns specific areas of need and a tentative schedule of action to accomplish the actions required.

This is not intended to be an exhaustive discussion of the subject. Instead, it is intended to provide some insight into the directions the Division, Department, and Commission are planning to move. As with all plans, the State solid waste plan is dynamic and will be constantly changing. As certain goals are reached, other goals will be developed including necessary legal authority to reach these goals.

Table 3 at the end of this Section provides a timetable for proposed legal changes.

A. DEPARTMENT OF ENVIRONMENTAL QUALITY

Most changes in legal authority involve the Department of Environmental Quality including the following:

1. Hazardous Waste

The Department is currently developing a plan and control system for hazardous wastes and emergency spills of hazardous materials (see Section VI). An integral part of this plan is the development of State legislation allowing the statewide inventory of hazardous wastes and hazardous materials, regulation of storage and transportation of those materials, and provision of one or more State controlled or operated hazardous materials disposal site. The hazardous materials activity spans all elements of the Department, since all environmental concerns are involved. Legislation to enhance the Department's activities in this area should be introduced in the 1975 Legislature.

The Department currently feels that a change of the Rules to incorporate registration on the property deed for all pertinent information and records will be sufficient for control of this deficiency. The Rule change was proposed in the Fall of 1974, and will hopefully be adopted in 1975.

5. Annual Permits

In the short time the sanitary disposal project procedure has been in force, the Department has found that an open ended permit causes certain problems. Even though the operations must be inspected at least once a year and the permits can be suspended or revoked, it creates considerable problems in management. A Rule change proposed in the Fall of 1974 will provide for the issuance of permits for up to three years, with the official annual inspection taking place prior to renewal. All deficiencies found will have to be corrected or the permit will not be renewed.

6. Operator Certification

The attainment of the State goal, to provide adequate solid waste service, is dependent on the ability of the persons conducting the operations and their dedication in providing the services. Managers and operators for the needed collection and disposal systems do not now exist. The Land Quality Management Division will be undertaking training for the supervisory and operating personnel for the systems. At present, any such program must be voluntary since the Department does not have any certification program for solid waste operators. ;

It is currently anticipated that provision for certification of solid waste operators will be introduced into the 1976 Legislature. This will allow for approximately one year of development of what should constitute an adequate certification program.

7. Storage and Collection Uniformity

The Department currently has legislative authority to control all aspects of solid waste management including storage and collection. The present rules provide only cursory treatment of the area. Expanded control

C. LOCAL ENABLING LEGISLATION

Cities and counties are currently making good efforts to provide adequate solid waste management for their citizens. One of the most important roles of the State is to provide all necessary assistance including enabling legislation for these agencies to better operate or control solid waste services. These powers can then be granted to regional agencies, if desired. The following is a discussion of some specific legislation which hopefully will be introduced in the 1975 Legislative Session: (1) Legislation specifically authorizing counties to operate or contract for operation of collection systems for their citizens; (2) Legislation allowing cities and counties to establish mandatory collection services for all of their citizens whether tax or service charge supported; and (3) Legislation allowing special tax levies to finance solid waste collection systems where deemed appropriate by the local agency.

TABLE 3

Timetable for Legal Changes

<u>Proposed Legal Change</u>	<u>Date of Introduction to General Assembly</u>
Hazardous Waste Legislation	Future
Industrial Waste Legislation	Future
Open Dump Closing Legislation ;	Future
Land Use Legislation	1974 Legislature
Operator Certification	Future
Disposal Site Title Registration	1975 Rule Change
Permits Renewal	1975 Rule Change
Storage and Collection Uniformity	1975 Rule Change

This problem was that of handling hazardous, toxic and special wastes. This has given rise to a need for specialized expertise which subsequently was acquired.

Iowa's solid waste staff members have, of necessity, been flexible within the limits of their individual expertise because of the small number of positions available. However, the situation has broadened the experience and extended the variety of tasks which the staff members perform. The solid waste program, because of its broad and dynamic nature, has tended to attract employees of a similar nature. This is a healthy condition for both the program and the staff because it will probably be several years into the operational phase before the program develops a rigid formal structure brought about by the need to handle primarily routine actions.

The greatest expansion of the State's solid waste program will probably occur during its implementation phase because of the demand for technical assistance from the staff.

When the solid waste program enters the operational phase, the demand for planning and plan review services will diminish substantially whereas the need for enforcement, monitoring, and surveillance will increase. The Division will probably at that time begin to experience a decline in central office personnel to a relatively stable level. This will occur as the demand for planning services diminishes and inspections by the regional office become routine.

B. APPROACH TO PROGRAM PLANNING

In the development of a program plan for the Solid Waste Management Division, it is recognized that the only plans which can be fully developed are for those areas which currently are covered by legislation and rules and regulations. The areas which are included in this category are: (1) program direction and administration, (2) local plan certification, (3) sanitary disposal project permit issuance, (4) disposal project inspection, (5) technical assistance for disposal operations and limited assistance for collection, (6) legal activities related to the above projects, (8) planning for hazardous and toxic waste management.

Table 4

MANPOWER REQUIREMENTS^{1/}
 LAND QUALITY MANAGEMENT DIVISION
 Fiscal Years - July 1 - June 30

<u>ACTIVITY/STAFFING</u>	<u>FY1974</u>	<u>FY1975</u>	<u>FY1976</u>	<u>FY1977</u>	<u>FY1978</u>
Administration & Management					
Program Director	1	1	1	1	1
Administrative Assistant	1	1	1	1	1
Clerical Support	3	3	3	3	3
Local Plan Certification					
Environmental Engineer	1.5	0.5	0.5	0.5	0.5
Disposal Operation Certification					
Environmental Engineer	1.0	3.5	1.5	1.5	1.5
Disposal Operation Inspection					
Environmental Engineer	0.5		1	1	1
Environmental Technician		1	2	2	2
Technical assistance					
Environmental Engineer	1	2	2	2	2
Legal Activities					
Hearings Officer	1	1	1	1	1
Training - Subprofessional					
Environmental Engineer		1	1	1	1
Environmental Specialist	1	1	1	1	1
Hazardous Waste Planning ^{2/}					
Environmental Specialist	2	2	2	2	2
TOTALS	13	17	17	17	17

^{1/} Does not include areas where direction is lacking, items D-G of this section.

^{2/} Hazardous Waste Activity not yet fully defined, staffing requirements expected to increase. When planning is completed, the hazardous waste unit will continue in an operational phase.

TABLE 6
Projected Budget and Staffing FY 1976 - FY 1978

<u>CURRENT ACTIVITIES</u>			
	FY 1976	FY 1977	FY 1978
Personnel Total	17	17	17
Administration and Management	5	5	5
Local Plan Certification	0.5	0.5	0.5
Disposal Operation Certification	1.5	1.5	1.5
Disposal Operation Inspection	3	3	3
Technical Assistance	2	2	2
Legal Assistance	1	1	1
Training	2	2	2
Hazardous Waste	2	2	2
Budget Total	\$285,000	\$290,000	\$300,000

<u>Projected Activities</u>		
	Personnel	Budget
Industrial Waste	0.5-5.0	\$10,000 - \$100,000
Demolition Waste	3	60,000
Storage and Collection	<u>1</u>	<u>20,000</u>
Total Additions	4.5-9.0	\$90,000 - \$180,000

facilities are implemented and the numerous dumps closed, considerable effort must be placed on these aspects since hauling distances will increase and more awareness is made of the real costs of these services. In addition, to existing staff participation in these activities, the Division needs one additional manager of technical assistance for planning and implementing approved local solid waste storage and collection systems. This would be an estimated annual cost of \$20,000 to implement an effective program.

H. SUMMARY

The program plan is one of the most essential aspects of the State Plan since all accomplishments require the allocation of financial and human resources in order to achieve the goal. The budgetary and personnel management of Solid Waste Management Division will constantly undergo revision as availability of State and Federal funds fluctuate and the program priorities are shifted. The best program plan is a well-developed but flexible plan, which will facilitate achievement of the desired goals.

APPENDIX I
CHAPTER 455B
SOLID WASTE LAW

;

Code of Iowa, 1973
Chapter 455B

Division IV
SOLID WASTE DISPOSAL COMMISSION

Part I
SOLID WASTE

455B.75	Definitions.
455B.76	Duty of cities and counties.
455B.77	Administrator's duties.
455B.78	Rules established.
455B.79	Certification of plans by director.
455B.80	Plans filed.
455B.81	Tax levy.
455B.82	Dumping - where prohibited.
455B.83	Appeal from order.
455B.84	Modification of rules.

455B.75 Definitions. As used in this Part I of Division IV, unless the context clearly indicates a contrary intent:

1. "Public agency" means a public agency as defined in Section 28E.2.
2. "Private agency" means a private agency as defined in Section 28E.2.
3. "Sanitary disposal project" means all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the executive director.
4. "Solid waste" means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by Section 321.1, subsection 1. Nothing herein shall be construed as prohibiting the use of dirt, stone, brick, or similar inorganic material for fill, landscaping, excavation or grading at places other than a sanitary disposal.
5. "Commission" means the solid waste disposal commission of the department.

455B.76 Duty of cities and counties. Every city, town and county of this state shall provide for the establishment and operation of a sanitary disposal project for final disposal of solid waste by its residents not later than the first of July, 1975. Sanitary disposal projects may be established either separately or through co-operative efforts for the joint use of the participating public agencies as provided by law.

Permits shall be issued without fee by the executive director or at his direction, by a local board of health, for each sanitary disposal project operated in this state. Such permits shall be issued in the name of the city, town or county or, where applicable, in the name of the public or private agency operating such project. Each sanitary disposal project shall be inspected annually by the department or a local board of health. The permits issued pursuant to this section shall be in addition to any other licenses, permits or variances authorized or required by law, including, but not limited to, the provisions of Chapter 358A. A permit may be suspended or revoked after notice and hearing before the commission or its designee if a sanitary disposal project is found not to meet the requirements of the provisions of said part or rules issued pursuant thereto.

455B.80 Plans filed. Every city, town, county and every private agency operating or planning to operate a sanitary disposal project shall file with the executive director a plan detailing the method by which the city, town, county or private agency will comply with the provisions of this Part 1 of Division IV. The executive director shall review each plan submitted and may reject, suggest modification, or approve the proposed plan. The executive director shall aid in the development of plans for compliance with the provisions of said part. The executive director shall make available to each city, town, county and private agency appropriate forms for the submission of plans and may hold hearings for the purpose of implementing the provisions of said part.

455B.81 Tax levy. The board of supervisors of any county may, in lieu of the levy authorized by Section 332.32, annually levy a tax not to exceed one-fourth mill on all taxable property in the county outside the incorporated limits of any city or town for the purpose of planning a sanitary disposal project or of paying the interest and principal of bonds issued pursuant to the provisions of Section 346.23 as they become due. The levy authorized by this section shall be the only mill levy that the board of supervisors may authorize for the purposes of this section, notwithstanding the provisions of Section 346.11 or any other provision of law.

455B.82 Dumping - where prohibited.

1. Commencing July 1, 1975, it shall be unlawful for any private agency or public agency to dump or deposit or permit the dumping or depositing of any solid waste at any place other than a sanitary disposal project approved by the executive director. This section shall not prohibit a private agency or public agency from dumping or depositing solid waste resulting from its own residential, farming, manufacturing, mining or commercial activities on land owned or leased by it if such action does not violate any statute of this state or rules promulgated by the commission or local boards of health, or local ordinances, or rules issued by the air quality commission or water quality commission of the department. A violation of this subsection shall be a misdemeanor.*

*Punishment, see 687.7

Part II
RADIOACTIVE WASTE

- 5B.85 Definitions.
- 5B.86 Policy.
- 5B.87 Rules for transporting.
- 5B.88 Waste disposal site.
- 5B.89 Duty of executive director.
- 5B.90 Notice to violators.
- 5B.91 Emergency action.
- 5B.92 Appeal.
- 5B.93 Injunction.
- 5B.94 Penalty.

5B.85 Definitions. As used in this Part 2 of Division IV, unless the context otherwise requires:

"Radiation" means any ionizing radiation including, but not limited to, high-speed electrons, neutrons, protons and other nuclear particles, but not sound waves.

"Radioactive material" means any solid, liquid, or gaseous material which emits radiation spontaneously.

"Nuclear waste disposal site" means all facilities and appurtenances including real and personal property connected with such facilities which are acquired, leased, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of radioactive waste without creating a significant hazard to the public health or safety, and which are approved by the executive director.

"Commission" means solid waste disposal commission of the department.

5B.86 Policy. The department shall be the agency of the state to establish policy for the transportation, storage, handling, and disposal of radioactive material for the purpose of protecting the public health and safety.

5B.87 Rules for transporting. The commission shall provide, by rule, for the proper methods of transporting, storage, and handling of radioactive material except that the provisions of this section shall not apply to the transportation, handling, and storage of radioactive material by licensed physicians and surgeons or licensed chiropractic physicians and surgeons within the scope of their practice or by qualified employees of licensed hospitals within the scope of their duties. In adopting such rules, the commission shall consider the methods and techniques used by the United States atomic energy commission and radiation control agencies of other states for the regulation of the transporting, handling, and storage of radioactive material. The commission shall also consult with the department of public safety in the development of rules for the transporting of radioactive material on the public roads of this state. All rules adopted by the commission under this section shall be subject to the provisions of Chapter 17A and Section 455B.7, subsection 3.

455B.91 Emergency action. Whenever the executive director finds that an emergency exists requiring immediate action to protect the public health and safety, he may, without notice or hearing, issue an emergency order reciting that an emergency exists and requiring that such action be taken as he deems necessary to meet the emergency. The order may be issued orally to the person whose operation constitutes the emergency by the executive director and confirmed by a copy of such order to be sent by certified mail within twenty-four hours after the issuance of the oral order. The emergency order shall be effective immediately. Any person receiving an emergency order may request a hearing before the commission within thirty days following the receipt of the order. The commission shall schedule a hearing within fourteen days after receipt of the request for a hearing and give written notice to the alleged violator by certified mail. The commission may also schedule a hearing in the absence of a request by the alleged violator. On the basis of the findings, the commission shall issue a final order which shall be forwarded to the alleged violator by certified mail.

The executive director may, if an emergency exists, impound or order the impounding of any radioactive material in the possession of any person who is not equipped to observe, or fails to observe, the provisions of this Part 2 of Division IV or any rules adopted under said part.

455B.92 Appeal. An appeal may be taken from any final order of the commission to the district court of the county in which the alleged violation was committed or such final order was entered. Notice of appeal from a final order shall be served upon the executive director by certified mail. Failure to serve the notice of appeal within thirty days after receipt of the final order shall operate as a waiver of the right to appeal. A final order by the commission shall not be stayed by an appeal except by order of the district court after hearing for good cause shown by the alleged violator. The hearing on appeal shall be tried as a suit in equity. The court may receive additional testimony and evidence and may affirm, modify, or reverse the final order of the commission.

455B.93 Injunction. Whenever, in the judgment of the executive director, any person has engaged in or is about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this Part 2 of Division IV or any rule or order promulgated under said part, he may request the attorney general to make application in the name of the state to the district court of the county in which such acts or practices may be performed, for an order enjoining such acts or practices notwithstanding the existence or pursuit of any other remedy, and the attorney general shall make such application.

455B.94 Penalty. Any person who violates any provisions of this Part 2 of Division IV or rules adopted under said part, or any order of the commission or executive director issued pursuant to said part, shall be punished by a fine of not more than five hundred dollars or by imprisonment not to exceed six months or punished by both such fine and imprisonment and, in addition, he may be enjoined from continuing such violation. Each day of continued violation after notice that a violation is being committed shall constitute a separate violation.

APPENDIX II

RULES FOR SOLID WASTE DISPOSAL

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IOWA SOLID WASTE DISPOSAL COMMISSION
DEPARTMENT OF ENVIRONMENTAL QUALITY

Pursuant to the authority of Section 455B.78, of the Code of Iowa 1973, the rules appearing in the 1973 I.D.R. pages 295 through 301 relating to sanitary disposal projects are amended as follows.

1. Rescind Section 25.1(1) and insert the following section in lieu thereof:

25.1(1) "Commission" means the Iowa Solid Waste Disposal Commission.

2. Rescind Section 25.1(3) and insert the following section in lieu thereof:

25.1(3) "Department" means the Iowa State Department of Environmental Quality.

3. Rescind Section 26.1(455B) and insert the following section in lieu thereof:

26.1(455B) Permit required. A new sanitary disposal project shall not be established after the affective date of these rules until a permit is issued by the Executive Director.

4. Rescind Section 26.2(455B) and insert the following section in lieu thereof:

26.2(455B) Details of plan proposals. Cities, towns, counties and private agencies which are operating or planning to operate a sanitary disposal project shall file with the Executive Director a plan on a form provided by the Executive Director detailing the method proposed to comply with the requirements of Chapter 455B, of the Code of Iowa 1973. The plan shall be filed with the Executive Director prior to January 1, 1973.

5. Rescind Section 26.3(3) and insert the following section in lieu thereof:

26.3(3) The Commission, after public hearing, may grant such exceptions from these rules as it may consider proper and in the public interest.

6. Delete the words "Commissioner of Public Health" from section 26.4(3) and insert the word "Department" in lieu thereof.

ENVIRONMENTAL QUALITY—SOLID WASTE

TITLE IV SOLID WASTE DISPOSAL CHAPTER 25 DEFINITIONS

25.1(455B) Definitions. For the purpose of these rules, the following terms shall have the meaning indicated in this chapter. The definitions set out in section 406.2 [Code 1971] shall be considered to be incorporated verbatim in these rules.

25.1(1) "*Commissioner*" means the Iowa commissioner of public health.

25.1(2) "*Composting*" means the controlled, biological decomposition of selected solid organic waste materials under aerobic conditions resulting in an innocuous final product.

25.1(3) "*Department*" means the Iowa state department of health.

25.1(4) "*Flood plain*" means the area adjoining a river or stream which has been or may be hereafter covered by flood water.

25.1(5) "*Garbage*" means all solid and semisolid, putrescible animal and vegetable wastes resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial byproducts, and shall include all such substances from all public and private establishments and from all residences.

25.1(6) "*High water table*" is the position of the water table which occurs in the spring in years of normal or above normal precipitation.

25.1(7) "*Incineration*" means the processing and burning of waste for the purpose of volume and weight reduction in facilities designed for such use.

25.1(8) "*Intermediate solid waste disposal*" means the site, facility, operating procedures and maintenance thereof for the preliminary and incomplete disposal of solid waste, including but not limited to transfer, open burning, incomplete land disposal, incineration, composting, reduction, shredding or compression.

25.1(9) "*Land pollution*" means the presence, in or on the land of any solid waste in such quantity, of such nature and for such duration and under such condition as would affect injuriously any waters of the state, cause air pollution or create a nuisance.

25.1(10) "*Open burning*" means any burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack.

25.1(11) "*Open dumping*" means the depositing of solid wastes on the surface of the ground or into a body or stream of water.

25.1(12) "*Private agency*" is defined in section 28E.2.

25.1(13) "*Public agency*" is defined in section 28E.2.

25.1(14) "*Recycling*" means the reutilization of natural resources and man-made products.

25.1(15) "*Refuse*" means putrescible and nonputrescible wastes, including but not limited to garbage, rubbish, ashes, incinerator ash, incinerator residues, street cleanings, market and industrial solid wastes and sewage treatment wastes in dry or semisolid form.

25.1(16) "*Refuse collection service*" means a publicly or privately operated agency, business or service engaged in the collecting and transporting of solid waste for disposal purposes.

25.1(17) "*Rubbish*" means nonputrescible solid waste consisting of combustible and noncombustible wastes, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery or litter of any kind.

25.1(18) "*Rubble*" means stone, brick or similar inorganic material.

25.1(19) "*Salvageable material*" means discarded material no longer of value for its original purpose but which has value if reclaimed.

25.1(20) "*Sanitary disposal*" means a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance.

25.1(21) "*Sanitary disposal project*" is defined in 406.2 [Code 1971].

25.1(22) "*Sanitary landfill*" means a method of disposing of refuse on land by utilizing the principles of engineering to confine the refuse to the smallest practical area, to reduce it to the smallest practical volume and to cover it with a layer of earth at the conclusion of each day's operation or at such more frequent intervals as may be necessary so that no nuisance or hazard to the public health is created.

25.1(23) "*Shoreland*" means land within 300 feet of the high water mark of any natural or artificial, publicly or privately owned lake or any impoundment of water used as a source of public water supply.

25.1(24) "*Site*" means any location, place or tract of land used for collection, storage, conversion, utilization, incineration or burial of solid wastes.

25.1(25) "*Solid waste*" is defined in section 406.2 [Code 1971].

25.1(26) "*Solid waste collection*" means the gathering of solid waste from public and private places.

25.1(27) "*Solid waste storage*" means the holding of solid waste pending intermediate or final disposal.

25.1(28) "*Solid waste transportation*" means the conveying of solid waste from one place

CHAPTER 27
SANITARY LANDFILL

27.1(455B) Plan for sanitary landfill. A plan proposing the use of a sanitary landfill shall be prepared by or under the direct supervision of an engineer in conformity with chapter 114, [Code 1971] and submitted in triplicate and shall include the following supporting documents:

27.1(1) A map or aerial photograph of the area showing land use and zoning within one-half mile of the solid waste disposal site. The map or aerial photograph shall be of sufficient scale to show all homes, buildings, lakes, ponds, water-courses, wetlands, dry runs, rock outcroppings, roads and other applicable details including topography and drainage patterns. Wells shall be identified on the map or aerial photograph. A U.S.C. and G.S. or U.S.G.S. Bench Mark should be indicated, if available, and a north arrow drawn. The boundaries of the solid waste disposal site will be indicated on the map or aerial photograph.

27.1(2) A plot drawing of the site and the immediately adjacent area showing dimensions, topography with appropriate contour intervals, drainage patterns, known existing drainage tiles, locations where any geologic samples were taken, all water wells with their uses and present and planned pertinent features including but not limited to roads, fencing and cover stockpiles. The scheme of development including any excavation, trenching and fill should be shown progressively with time and the monitoring methods to be used to insure compliance with the scheme shall be described. Cross-sectional drawings or other suitable evidence shall be provided showing progressively with time the original and proposed elevation of excavating, trenching, and fill. The plot drawing shall be in appropriate scale.

27.1(3) An ultimate land use proposal, including intermediate use stages, with time schedules indicating the total and complete land use. Final elevation slope and permanent drainage structures of the completed landfill shall be included. Any supporting drawings to the ultimate land use proposal shall be in appropriate scale.

27.1(4) A report shall accompany the drawings. It shall include data of the following types:

a. A stratigraphic section beneath the proposed site from the surface to and including at least five feet of the uppermost bedrock unit or to a depth of at least 50 feet of penetration into a homogenous till unit. The lithologies shall be described in terms of grain size distribution including the gravel, sand, silt and clay classes and Atterberg limits shall be determined.

Samples of sediments and rock units shall be collected at five-foot intervals or when different lithologies are encountered, whichever is most frequent. Samples shall be identified by location and

depth. The name of the person classifying the sediments shall be indicated. One complete set of unaltered sack samples shall be submitted with the application.

A drilling location plan and drilling log shall be submitted for each series of samples.

b. Source and characteristics of cover material if not included in the information submitted in 27.1(4) "a", above.

c. Area of site in acres.

d. Owner of site.

e. An organization chart, personnel manning table and table of equipment for the management, operation and maintenance of the site shall be prepared and submitted. A contingency plan covering equipment breakdown shall be included.

f. Information indicating that the proposed landfill is:

(1) So situated as to obviate any significant, predictable lateral leakage of leachates from the landfill to shallow unconsolidated aquifers that are in actual use or are deemed to be of potential use as a local water resource.

(2) So situated that the base of the proposed landfill is at least five feet above the high water table.

(3) Not in significant hydrologic subsurface or surface connection with standing or flowing surface water.

(4) Not situated in an unconsolidated sequence that will permit more than 0.04 cubic foot of liquid per day per square foot of area downward leakage into a subcropping bedrock or alluvial aquifer if such an aquifer is present beneath or adjacent to the proposed site. The potential downward leakage will be evaluated by means of the generalized Darcy's Law $Q = PIA$ where:

Q = feet³ of liquid / day / foot² of area of the interface.

P = coefficient of permeability of the unconsolidated confining unit.

I = the hydrologic gradient derived by the function: Piezometric head in the unconsolidated sediments minus the piezometric head in the bedrock aquifer divided by the thickness of the confining unit of lowest permeability nominated to retard downward migration of liquids or derived by other acceptable engineering practices, and

A = one square foot of area at the base of the landfill.

(5) Outside a flood plain or shoreland, unless proper engineering and sealing of the site will render it acceptable and prior approval of the Iowa natural resources council and where necessary the U.S. Corps of Engineers is obtained.

(6) At least 1000 feet from any existing well that draws water for human or livestock consumption from an aquifer that underlies and is in hydrologic connection with the landfill. This is meant to include any bedrock aquifer that is the uppermost subcropping bedrock unit beneath the unconsolidated sequence in which the landfill is to be developed.

ENVIRONMENTAL QUALITY—SOLID WASTE

28.3(455B) All incinerators must be approved as to design and operated in conformity with emission limitations imposed by rules of the Iowa air pollution control commission.

28.4(455B) Application for permit will be submitted to the department on the appropriate forms and shall include the following supporting documents:

28.4(1) A map or aerial photograph in triplicate indicating land use and zoning within one-half mile of the facility. The map or aerial photograph shall be of adequate scale to show all homes, buildings, roads and other applicable details. Boundaries of the incineration site will be clearly indicated on the map or aerial photograph.

28.4(2) Sets of plans and specifications in triplicate prepared by a registered engineer in conformity with chapter 114 [Code 1971] clearly indicating the construction existing or to be undertaken. These plans and specifications shall include the location, type and height of all buildings within 500 feet of the existing or proposed installation.

28.4(3) An engineering report to include furnace design criteria, existing or expected performance data, the present and future population and extent of the area to be served by the incinerator, the characteristics, quantities and sources of the solid waste to be processed.

28.4(4) Intended operating procedures including plans for the disposal of incinerator residue, the present or expected amount of such residue and plans for the emergency disposal of solid waste in the event of major breakdown of the incinerator plant.

a. The owner of the site and of the plant.

b. A personnel manning table for the actual operation and maintenance of the plant.

c. Information indicating compliance with chapter 26 of these rules.

d. Location, equipment, operation and maintenance of the incinerator plant shall be such that it produces only minimal interference with other activities in the area.

e. Availability of shelter and sanitary facilities for plant personnel.

f. A permanent sign at the site entrance identifying the operation, showing the permit number of the plant and indicating the hours and days that the plant is open for public use. Access to the plant shall be permitted only during those times when authorized personnel are on duty.

g. Confinement of all incoming solid waste to the unloading area. A minimum holding bin capacity of one and one-half times the 24-hour capacity of the incinerator shall be provided.

h. Provision of dust control facilities in the unloading and charging area.

i. An incinerator scale shall be available to permit proper charging weights during operation and to provide data for a record as to the total

weight of material incinerated and resulting residue for planning and management purposes.

j. Supply of potable water for use of plant personnel and suitable source of water for spraying, heating, quenching, cooling and fire fighting.

k. Availability of adequate fire-fighting equipment, as recommended by the state fire marshal, in the storage and charging area and elsewhere as needed. Arrangements shall be made with the local fire protection agency to provide fire-fighting forces in an emergency.

l. Telephone or other adequate facilities shall be available for emergency purposes.

m. Cleaning of storage and charging areas after each day's operation or more often as may be required. The entire plant shall be maintained in a clean and sanitary condition.

n. Provision of necessary safety features at the charging openings and for all equipment throughout the plant.

o. Maintenance of the temperature in the combustion chambers during normal operation at a minimum of 1500°F, to produce a satisfactory residue and an odor-free operation. A continuously recording pyrometer shall be installed to maintain records of combustion chamber temperatures. These records shall be available for inspection by the commissioner upon request.

p. Proper deposit at an approved sanitary landfill site of all residue removed from the incinerator plant in a manner which will prevent the creation of nuisances, pollution and public health hazards.

q. Provision of timely notice to the commissioner prior to the initial operation of a newly constructed plant to permit inspection of the plant both prior to and during the performance tests. Performance tests of newly constructed plants are required. A report detailing the results of such performance tests shall be prepared by the design engineer of the sanitary disposal project and shall be submitted to the commissioner with copies of all supporting data documents.

r. Existing incinerators which do not meet the requirements of this section shall be reconstructed to comply or an alternate method of sanitary waste disposal must be adopted.

s. Such additional data and information as may be required by the commissioner.

These rules are intended to implement section 406.5 [Code 1971].

[Filed September 1, 1971]

CHAPTER 29 COMPOSTING

29.1(455B) Any sanitary disposal project disposing of solid waste by composting must obtain a permit granted by the commissioner prior to operation, installation or alteration of its facilities.

29.2(455B) Application for a permit to operate, install or alter a composting facility shall be

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proposed operating procedures and such additional data and information as may be required shall be submitted to the commissioner for review before a permit can be issued. All such information shall be prepared by or under the direct supervision of an engineer in conformity with chapter 114 [Code 1971].

This rule is intended to implement section 406.5 [Code 1971].

[Filed September 1, 1971]

APPENDIX III

LOCAL PLANNING INFORMATION SUMMARY

July 30, 1973

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PLANNING INFORMATION SUMMARY
 PLAN APPROVED JULY 30, 1973

County	Quantities Generated (tons/year)	Collection and Transportation	Financing	Land Requirements	Present Dumps	Population	Administration	Important Dates
Adair	2,252	private individual	\$18,540/year rural property tax resident, business fees	40 acres for 20 years	7 open and covered dumps	9,799	Adair County Sanitary Disposal Comm.	
Boone		private individual				26,172	Boone County Sanitary Land-fill Comm.	Feb. 1970 site approved
Bremer	11,000	municipal individual	\$43,600/year rural property tax, gate fees, resident fees	80 acres for 20 years	former county landfills and dumps closed, municip. closing their dumps	15,810	Bremer County Board of Supervisors	Aug. 1971 Bremer County Sanitary Landfill opened
Buchanan	10,525	private municipal individual	\$51,500/year rural property tax resident, business fees	80 acres for 20 years		21,746	Buchanan Co. Sanitary Land-fill Comm.	
Buena Vista		private municipal	\$49,200/year			18,707	Buena Vista County Land-fill Comm.	
Butler	7,180	private individual	\$10,000/year taxes gate fees			16,953	Wendell Abkes, contractor	

County	Quantities Generated (tons/year)	Collection and Transportation	Financing	Land Requirements	Present Dumps	Population	Administration	Important Dates
Crawford	16,506	private individual	\$23,540/year taxes, fees	60 acres for 10 years	12	19,116	Crawford County Landfill Advisory Comm.	Sept. 1971 prelim. stage begun June 1972 Gully fill stage
Dallas		private	\$85,275/year taxes, fees	10 acres for 10 years		11,737	South Dallas Co. Sanitary Landfill Agency	4/73 form an agency & submit plan to DEQ
Davis	6,200			16 acres for 20 years		8,207		
Delaware	13,367	municipal private	\$51,500/year taxes fees	80 acres for 30 years	10	18,251	Delaware Co. Sanitary Landfill Comm.	Jan. 1973 file a plan for collection & disposal
Dickinson	16,110	municipal private individual	\$59,200/year financing method undecided	200 acres for 20 years	4 open dumps 2 landfills	12,565	Dickinson County Sanitary Landfill Comm.	
Emmet	11,279	municipal private individual	\$63,000/year financing method undecided	160 acres for 30 years	3 dumps 1 landfill	14,009	Regional Solid Waste Management Agency	Oct. 1973-A Dec. 1973-B June 1974-C Dec. 1974-D June 1975-E

County	Quantities Generated (tons/year)	Collection and Transportation	Financing	Land Requirements	Present Dumps	Population	Administration	Important Dates
Ida		private individual		50 acres for 13.5 years		9,190	Ida Co. Board of Supervisors	present site has been in operation 3 years.
Iowa	10,000	municipal private individual	\$118,800/year rural taxes resident fees gate fees	20-40 acres for 20 years		\$15,565		
Jackson	11,430	municipal private individual		3 acres/year		20,825	Jackson Co. Sanitary Landfill Steering Committee	
Jasper	22,700	individual municipal private	\$69,208/year		14	35,425	Jasper Co. Solid Waste Comm.	
Jefferson	18,509	municipal private individual	taxation gate fees	1.77 acres/yr.	14	16,226	Jefferson Co. Service Agency	
Jones	13,292	private individual	\$36,096	32.55 acres for 15 years	9	19,868	Jones Co. Landfill Comm.	

County	Quantities Generated (tons/year)	Collection and Transportation	Financing	Land Requirements	Present Dumps	Population	Administration	Important Dates
Marshall	20,000	private		7.2 acres/yr	5	41,067	Marshall Co. Landfill Commission	
MIDAS CO. Webster Pocahontas Hamilton Humboldt	68,000			200 acres for 20 years		99,457	Mid-Iowa Development Association Regional Planning Comm.	
Monona		municipal private individual	monthly fees		8	7,072	Monona Co. Board of Supervisors	Oct.1,1970 Monona Co. Landfill in operation
Montgomery	12,100	private individual	taxes		4	12,781	Montgomery Co. Solid Waste Disposal Agency	
Page	31,200	private individual		80 acres for 20 years				plan to use Shenandoah landfill until 1975
Plymouth	17,750 to 25,000	municipal private individual	\$47,839/year to \$102,018/year	41 acres for 20 years to 58.5 acres for 15 yrs.	9	24,316	Plymouth Co. Solid Waste Agency	

County	Quantities Generated (tons/year)	Collection and Transportation	Financing	Land Requirements	Present Dumps	Population	Administration	Important Dates
Wapello	47,143	private	taxes	55 acres for 20 years			Ottumwa Health Department	
Winneshiek	15,900	private individual	\$41,392/year rural taxes resident taxes	60 acres for 20 years	10	21,651	Winneshiek Co. Area Solid Waste Agency	
Woodbury (excluding Sioux City)	12,500	municipal private individual	\$29,710/year taxes resident fees	45 acres for 20 years	11	17,127	Woodbury Co. Solid Waste Commission	
City of Sioux City Woodbury Co.	184,691	municipal private				86,000	City of Sioux City	plan has been in operation
Worth, Winnebago, Hancock	60,700	private	gate fees city taxes fees			32,872	Central Disposal Systems, Inc.	Nov.1972 site in operation
Wright	5,500	private individual	taxes gate fees				Wright Co. Solid Waste Agency	

PLANNING INFORMATION SUMMARY
 REVIEW NOT COMPLETED JULY 30, 1973

County	Quantities Generated (tons/year)	Collection and Transportation	Financing	Land Requirements	Present Dumps	Population	Administration	Important Dates
Audubon (rural only)	703	individual				5,083		Feb. 1972 Comm. formed.
Benton	17,000	municipal private individual	\$245,506/year taxes resident fees gate fees	40 acres for 10 years	5	22,885	Benton County Regional Service Agency	5/73 form Agency & submit plan 10/74 begin operation of landfill 5/75 close exist. dumps
Black Hawk		private municipal					Black Hawk Co. Solid Waste Management Comm.	
Cerro Gordo			\$114,205/year taxes	320 acres for 20 years		56,060	Cerro Gordo Co. Area Solid Waste Agency	
Chickasaw		municipal private individual			all county dumps closed		Chickasaw Co. Landfill Comm.	currently using sanitary landfill operated by Hall Disposal, Inc.
Clarke	6,000	private individual	taxes resident fees gate fees			8,030	Clarke Co. Sanitary Landfill Commission	

County	Quantities Generated (tons/year)	Collection and Transportation	Financing	Land Requirements	Present Dumps	Population	Administration	Important Dates
Kossuth		private individual	\$25,000/year gate fees	40 to 60 acres for 20 years	3	22,000	Kossuth Co. Board of Supervisors	Dec.1970 present site in operation
Mills	8,700	private individual	rural property, business fees	present site (49 acres) good for 8 years, 80 to 100 acres for next 20 years		14,000	Mills Co. Sanitary Landfill Association	
Northwest Iowa Region	59,000	private municipal individual	\$66,100/year financing method undecided.	200 acres for 18 years	35	67,413	Northwest Iowa Regional Planning Commission	
Palo Alto	9,100		\$67,660/year to \$75,250/year	113 acres for 20 years	6	13,289		
(East) Pottawattamie	25,390	municipal private	\$128,761/year	63 acres for 20 years	7	15,747	Pottawattamie Co. Landfill Agency No.1	
Ringgold/Decatur	8,500	private		80 to 160 acres for 20 years			Ringgold-Decatur Solid Waste Commission	

PLANNING INFORMATION SUMMARY
 REVIEW NOT COMPLETED JULY 30, 1973

City or Town	Quantities Generated (tons/year)	Collection and Transportation	Financing	Land Requirements	Present Dumps	Population	Administration	Important Dates
Akron Plymouth Co.	240	municipal 90% individual 10%	monthly fees	10 acres	closed		Town of Akron	July 1971 using landfill
Alburnett Linn Co.		private			1		Town of Alburnett	
Ames Story Co.	90,000	municipal 21% private 60%				all of Story County	City of Ames	complete study by end of 1972
Aplington Butler Co.	608	private			closed		Town of Aplington	fall 1971 closed city landfill use site south of Allison, Ia.
Brayton Audubon Co.		private			use G & W Land-fill Atlantic, Iowa	161	Town of Brayton	
Bristow Butler Co.		private			closed	300	Town of Bristow	Oct. 1971 use Butler Center Landfill

City or Town	Quantities Generated (tons/year)	Collection and Transportation	Financing	Land Requirements	Present Dumps	Population	Administration	Important Dates
Colo Story Co.	180	private 90% not collected 10%			none (presently disposing at Marshalltown)			use Ames facilities by July 1975
Coralville Johnson Co.		municipal 50% private 40%	\$22,270/year	25 to 40 acres for 20 years	none	7,000	Director of Pub. Works, City of Coralville	
Dexter Dallas Co.		private			none (use Warren Madison Co. Landfill)		Town of Dexter	
Dike Grundy Co.	384	private 100%						
Ely Linn Co.		municipal 40% private 60%			1			
Greene Butler Co.		private			closed			Oct. 72 contracted with Eliminator Refuse Company

City or Town	Quantities Generated (tons/year)	Collection and Transportation	Financing	Land Requirements	Present Dumps	Population	Administration	Important Dates
Perry Dallas Co.		municipal		80 acres for 20 years			City of Perry	
Prairie City Jasper Co.		municipal				1,250		use site of Des Moines Metro. Solid Waste Agcy.
Thayer Union Co.		private 100%			none (use Union County Sanitary Land- fill)	94		
Tripoli Bremer Co.					1		Tripoli-Readlyn Sanitation Agcy.	landfill has been in opera- tion
Walker Linn Co.								use Toddville Landfill until 1975
Whittemore Kossuth Co.					1	658		July 75 start us- ing Kossuth Co. Landfill

INTERGOVERNMENTAL AGREEMENT CREATING
THE _____ COUNTY SOLID WASTE
MANAGEMENT COMMISSION
(AMENDING AND SUPERSEDING PRIOR JOINT AGREEMENT)

This agreement is made and entered into as of _____, 197_,
by, between and among the Town of _____, Iowa, the Town of _____,
Iowa, the Town of _____, Iowa, the Town of _____, Iowa, the Town
of _____, Iowa, the Town of _____, Iowa, the Town of _____,
Iowa, the Town of _____, Iowa, the Town of _____, Iowa, the Town
of _____, Iowa, the Town of _____, Iowa, the Town of _____,
Iowa, the Town of _____, Iowa, and the Town of _____, Iowa, (all
parties being hereinafter called the "Municipalities").

WITNESSETH:

ARTICLE I.

CREATION OF THE _____ COUNTY SOLID
WASTE MANAGEMENT COMMISSION

Pursuant to the provisions of Chapter 28E, Code of Iowa, 1973, the
Municipalities hereby form and create, as a public body corporate and
politic and separate legal entity, the _____ County Solid Waste Manage-
ment Commission (hereinafter called the "Commission").

ARTICLE II.

DURATION

Section 1. Duration. The duration of this Commission shall be per-
petual, unless terminated or dissolved as hereinafter provided.

ARTICLE III.

PURPOSE

Section 1. Purpose. The purpose of the agreement is to create a

(d) To acquire, hold, use and dispose of other personal property for the purposes of the Commission.

(e) To acquire by purchase, gift, lease or otherwise, real property and easements therein, necessary or useful and convenient for the operation of the Commission, subject to all liens thereon, if any, and to hold and use the same, and to dispose of property so acquired no longer necessary for the purposes of this Commission.

(f) To accept gifts or grants of real or personal property, money, material, labor or supplies for the purpose of the Commission, and to make and perform such agreements and contracts as may be necessary or convenient in connection with the procuring, acceptance or disposition of such gifts or grants.

(g) To make and enforce by-laws or rules and regulations for the management and operation of its business and affairs and for the use, maintenance and operation of its facilities and any other of its properties, and to annul the same.

(h) To do and perform any acts and things authorized by Chapters 28E and 28F, Code of Iowa, 197 , and by this Agreement, under, through or by means of its officers, agents and employees, or by contracts with any person.

(i) To enter into any and all contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient or desirable for the purposes of the Commission or to carry out any powers expressly given by this Agreement.

(j) To cause the disposal of solid waste material originating within each Municipality pursuant to the contract between the Commis-

tered by and between that member Municipality and the Commission.

(p) To provide for a system of budgeting, accounting, auditing and reporting of all Commission funds and transactions, for a depository, and for the bonding of employees.

(q) To consult with representatives of Federal, State and local agencies, departments and their officers and employees and to contract with such agencies and departments.

(r) To exercise such other powers as are available under then existing law to each member Municipality as is necessary or useful and convenient to carrying out the functions of the Commission within such member Municipality, as such functions are defined by the service contract entered by and between that member Municipality and the Commission.

(s) To borrow money, make and issue negotiable bonds, certificates, bond anticipation notes, refunding bonds and notes and to secure the payment of such bonds, certificates, refunding bonds and notes or any part thereof by a pledge of any or all of the Commission's net revenue and any other funds which it has a right to, or may hereafter have the right to pledge for such purposes.

(t) To provide in the proceeding authorizing such obligations for remedies upon default in the payment of principal and interest on any such obligations including but not limited to, the appointment of a trustee to represent the holders of such obligations in default and the appointment of a receiver of the Commission's property, such trustee and such receiver to have the powers and duties provided for in the proceeding authorizing such obligations.

(u) To receive funds from each member Municipality as payment

cilities, equipment and supplies necessary to carry out the purpose of this agreement. The Commission shall also have the power to sublet or rent any property owned or leased and the income therefrom shall accrue to the _____ County Solid Waste Management Commission.

Section 3. The expenditures of the Commission, exclusive of gifts, grants or contract receipts, shall be appropriated or provided to the Commission by the member governing bodies.

Section 4. The Commission shall prepare a budget based on calendar years for the operation of the Commission to be adopted in June of the year preceding the budget year.

Section 5. The Commission shall request each Municipality and/or county unit to provide in its budget for its share of the Commission budget.

Section 6. The Commission, for the purpose of allocating portion of the Commission budget for the retirement of the original bonds and interest for each Municipality, shall adopt a percentage formula for the Commission membership based upon population as shown by the official 1970 federal census, and, shall adopt a similar formula for any subsequent bonds, interest and improvements based upon the latest official federal census for each Municipality.

The Commission, for the purpose of allocating the portion of the budget attributable to each Municipality for operational costs, shall adopt a percentage formula, as follows:

(_ %) percent for the City of _____ ;

(_ %) percent for the rural area (outside any corporate

withdrawal of that Municipality and a default of this Agreement.

ARTICLE VI
ORGANIZATION

(a). The governing body of the Solid Waste Management Commission shall be designated as the Commission (hereinafter called the "Commission"), whose membership shall consist of an elected representative of the governing body of each participating governmental jurisdiction, or his designated substitute, which substitute shall be a member of and approved by the body he represents. Each member of the Board shall have one vote for each one thousand population or fraction thereof, residing in the governmental jurisdiction he represents. Such population shall be ascertained from the most recent federal census or special federal census, which ever is latest, for that jurisdiction. Where the governmental jurisdiction is a county, such population shall be that of the unincorporated portion of the county.

(b). There shall be one class of membership in the Commission, which shall be a full membership and each member Municipality shall designate by resolution of its governing body its membership within the Commission.

(c). A quorum of the Commission shall consist of a majority of the entire Board membership, regardless of the number of votes held by each member present and also of a majority of the total number of votes of all members whether or not present.

(d). A majority vote of the Board or of the members of the Board when required by this Agreement as authorization for or as a prerequisite to any certain Board action shall mean such a majority or such a fraction

bership on the executive board for the balance of his term. The board members for the initial term will draw ballots to determine their initial term in office. The actions of this executive board shall be subject to call of the executive board. Neither the Commission nor the executive board shall have the authority to regulate the manner and method of pickup of any solid waste in any municipality nor shall they have the authority to bind any municipality as to charges for pick-up and delivery unless said municipality shall agree to such regulations by written consent. The executive board may hire or appoint a Director (subject to the approval of the Commission) and such other supervisory, clerical and other personnel as are necessary to carry out the functions of the Commission and the executive board. The executive board shall fix their compensation and benefits, and shall approve all personnel rules and regulations pertaining thereto.

(h). The Director shall be the Secretary and Treasurer of the Commission and shall have the authority, duties and obligations normally associated with these offices, including but not limited to the receipt and disbursement of funds and the preparation and submission of quarterly and annual financial reports to the commission.

(i). The executive board may employ legal counsel, who may be a paid employee of one of the members, and who may receive compensation set by the Commission for the performance of his duties.

(j). The Commission shall cause this Agreement to be filed with the Secretary of State and with the County Recorder of each county in which a member is located and shall notify such officers of the name of any municipality withdrawing from or joining the Commission.

tled to the services of the Commission, nor shall the Municipality be entitled to vote on matters coming before the Board, unless such delinquency shall be waived for voting purposes by a majority vote of the remaining members of the Commission.

ARTICLE X

1. In the event of the withdrawal of any Municipality from the Commission, such withdrawing Municipality shall be entitled to a pro-rata share of the value of the real and personal property of the Commission. Such share shall be calculated as the percentage of the then value of said property based on the ratio of the funds the withdrawing Municipality has provided to the Commission during the period of this Agreement to the sum of all funds provided by all Municipalities. Funds for the payment of the pro-rata share of such property value shall be provided for in the quickest possible manner so as not to threaten the financial solvency of the Commission. A withdrawing Municipality may waive its pro-rata share of any real or personal property in the possession of the Commission. Any such withdrawal must be preceded by a one (1) year formal notice to the Commission.

2. The Commission shall be completely dissolved and this Agreement terminated only upon the affirmative majority vote of the Commission which vote shall specify the date and time such dissolution shall be effective which date and time may be amended at or before such time but not thereafter by the same affirmative majority vote of the Commission. The Commission shall not be dissolved at any time that revenue bonds or obligations issued in anticipation of revenue bonds have been issued and are outstanding. The date of dissolution shall not be set within

that purpose in a sinking fund or other fund or trust account or moneys sufficient therefor, shall be deemed to be no longer outstanding and unpaid within the meaning of any provision of this Agreement.

ARTICLE XI
MANNER OF ACQUIRING AND HOLDING PROPERTY

1. The Commission may lease, purchase, or acquire by any other means, from members or from any other source, such real and personal property as is required for the operation of the Commission and the carrying out of the purpose of this Agreement. The Commission shall maintain title to all such property in the name of the Commission and shall require the Secretary to maintain an inventory. Property, materials and services shall be acquired or disposed of only upon a majority vote of a quorum attending a duly called Commission meeting, provided, however, that by the same vote the Commission may authorize the Director to expend such funds as the Commission may direct for other authorized purposes of the Commission.

All conveyances of real property owned or held in the name of the Commission shall be made and executed on behalf of the Commission shall be made and executed on behalf of the Commission by the Chairman or Vice-Chairman and Secretary of the Commission.

ARTICLE XII
AMENDMENT OF AGREEMENT

Amendment of the Agreement shall be by the same procedures by which the Agreement was approved and executed; provided, however, that this Agreement shall never be amended in any way so as to adversely affect the interests of the holder or holders of any bonds or other obligations of the Commission.

parties served (acting jointly if more than one), jointly and severally identified as "Party Y" for the purposes of this Article, shall each select one arbitrator and shall notify the other in writing of the name and address of the arbitrator selected. The arbitrators so selected shall within ten (10) days after being notified of their selection select a third arbitrator, and after doing so shall in writing forthwith notify Party X and Party Y of the name and address of such third arbitrator. The three arbitrators selected as aforesaid shall immediately proceed to determine the points of difference stated in such notice, and the conclusion of said arbitrators, or a majority of them shall be reduced to writing and submitted in writing to Party X and Party Y, and the determination so made shall be binding upon Party X and Party Y and shall form the basis for future guidance of the parties on the issues so resolved.

(b). Provided in paragraph (a) above, another interested party may apply to Secretary of State of the State of Iowa, for the appointment of the second arbitrator, which application shall be upon ten (10) days' written notice to the other party, and such Secretary of State shall appoint the second arbitrator. If the two arbitrators fail within ten (10) days after their appointment to agree upon the third arbitrator either of the parties, acting jointly, if multiple in composition, or either of the arbitrators, whether appointed by the parties or by such Secretary of State, may make application to such Secretary of State upon not less than three (3) days' notice in writing to each of the parties and to the other arbitrators and upon such application such Secretary of State shall appoint the third arbitrator. The active contestants within each party shall pay the expense of its arbitrator and the expense incurred by it, and the compensation of the third arbitrator shall be divided equally as between such parties and

(f). For the purposes of this Article all the Municipalities which are parties to this Agreement shall be named in either Party X or Party Y. Party Y shall consist of parties known to be adverse to Party X and all other Municipalities, party to this Agreement, which have not officially declared their intent to join in the initiation of such arbitration proceedings upon the date of delivery of the initiating notice for service. Selection of an arbitrator by Party Y shall, however, be by the real parties in interest to the issues presented.

APPENDIX V
STATUS OF 28E AGREEMENTS FOR
SOLID WASTE
August 20, 1974

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STATUS OF 28E - AGREEMENTS FOR SOLID WASTE

<u>County</u>	<u>28E Agency Formation Status</u>
Adair	Approved Agency
Adams	Approved Agency
Allamakee (Upper Explorerland)	Agency Not Yet Approved
Appanoose (Chariton Valley)	Agency Not Yet Approved
Audubon	No Agency - Individual Contracts
Benton	Approved Agency
Black Hawk	Approved Agency
Boone	Approved Agency
Bremer	No Agency - Individual Contracts
Buchanan	Approved Agency
Buena Vista	Approved Agency
Butler	No Agency - Individual Contracts
Calhoun	Approved Agency
Carroll	Approved Agency
Cass	Approved Agency
Cedar	Approved Agency
Cerro Gordo	Approved Agency
Cherokee	Approved Agency
Chickasaw	Approved Agency
Clarke	Approved Agency
Clay	No Agency - Individual Contracts
Clayton (Upper Explorerland)	Agency Not Yet Approved
Clinton	Approved Agency
Crawford	Approved Agency
Dallas (North)	No Agency - Individual Contracts
Dallas (South)	Approved Agency
Davis	Approved Agency
Decatur & Ringgold	Approved Agency
Delaware	Approved Agency
Des Moines	No Agency - Individual Contracts
Dickinson	Approved Agency
Dubuque (East)	Agency Not Yet Approved
Dubuque (West)	Approved Agency
Emmet	Approved Agency
Fayette (Upper Explorerland)	Approved Agency
Floyd & Mitchell	Approved Agency
Franklin	Approved Agency
Fremont	Approved Agency
Greene	No Agency - Individual Contracts
Grundy	Approved Agency
Guthrie	No Agency - Individual Contracts
Hamilton	Agency Not Yet Approved
Hancock	Approved Agency
Hardin	Approved Agency
Harrison	Approved Agency
Henry	Approved Agency

County

28E Agency Formation Status

Winneshiek
Woodbury
Worth
Wright

Approved Agency
Approved Agency
Approved Agency
Approved Agency

APPENDIX VI
LOCAL PLANNING STATUS FOR SOLID WASTE
August 20, 1974

LOCAL PLANNING STATUS FOR SOLID WASTE
August 20, 1974

County City	Preliminary Management Plan Approved	Additional Information Requested	Preliminary Management Plan Not Submitted	Review Not Complete
Adair	x			
Adair	x			
Bridgewater	x			
Fontanelle	x			
Greenfield	x			
Orient	x			
Stuart	x			
Adams		x		
Carbon		x		
Corning		x		
Nodaway		x		
Prescott		x		
Williamson			x	
Allamakee		x		
Harpers Ferry		x		
Lansing		x		
New Albin		x		
Postville		x		
Waterville		x		
Waukon		x		
Appanoose		x		
Centerville		x		
Cincinnati		x		
Exline		x		
Moravia		x		
Moulton		x		
Mystic		x		
Numa		x		
Plano		x		
Rathbun		x		
Udell		x		
Audubon	x			
Audubon	x			
Brayton				x
Exira	x			
Gray	x			
Kimballton	x			

County City	Preliminary Management Plan Approved	Additional Information Requested	Preliminary Management Plan Not Submitted	Review Not Complete
Buchanan	x			
Aurora	x			
Brandon	x			
Fairbank	x			
Hazleton	x			
Independence	x			
Jesup	x			
Lamont	x			
Quasqueton	x			
Rowley	x			
Stanley	x			
Winthrop	x			
Buena Vista	x			
Albert City			x	
Alta	x			
Lakeside	x			
Linn Grove	x			
Marathon	x			
Newell	x			
Rembrandt			x	
Sioux Rapids			x	
Storm Lake	x			
Truesdale	x			
Butler	x			
Allison			x	
Aplington				x
Aredale	x			
Bristow				x
Clarksville			x	
Dumont	x			
Greene		x		
New Hartford				x
Parkersburg	x			
Shell Rock		x		
Calhoun	x			
Farnhamville	x			
Jolley	x			
Knierim	x			
Lake City			x	
Lohrville			x	
Manson			x	
Pomeroy	x			
Rinard	x			
Rockwell City	x			
Somers			x	
Yetter	x			

County City	Preliminary Management Plan Approved	Additional Information Requested	Preliminary Management Plan Not Submitted	Review Not Complete
Cherokee	x			
Aurelia	x			
Cherokee	x			
Cleghorn	x			
Larrabee	x			
Marcus	x			
Quimby	x			
Meriden	x			
Washta	x			
Chickasaw	x			
Alta Vista	x			
Bassett	x			
Fredericksburg	x			
Ionia	x			
Lawler	x			
Nashua	x			
New Hampton	x			
New Washington	x			
Clarke			x	
Murray			x	
Osceola			x	
Woodburn			x	
Clay			x	
Dickens			x	
Everly			x	
Fostoria			x	
Greenville			x	
Peterson			x	
Rossie			x	
Royal			x	
Spencer			x	
Webb			x	
Clayton			x	
Clayton			x	
Edgewood	x			
Elkader			x	
Elkport			x	
Farmersburg			x	
Garber			x	
Garnavillo			x	
Guttenburg			x	
Littleport			x	
Luana			x	
Marquette			x	
McGregor			x	
Millville			x	
Monona			x	

County City	Preliminary Management Plan Approved	Additional Information Required	Preliminary Management Plan Not Submitted	Review Not Complete
Van Meter	x			
Waukee				
Woodward			x	
Davis	x			
Bloomfield	x			
Drakesville	x			
Floris	x			
Pulaski	x			
Decatur				
Davis City				
Decatur City				
Garden Grove				
Grand River				
Lamoni				
Leon				
Le Roy				
Pleasanton				
Van Wert				
Weldon				
Delaware	x			
Colesburg	x			
Delaware	x			
Delhi	x			
Dundee	x			
Earlville	x			
Hopkinton		x		
Manchester	x			
Masonville	x			
Oneida	x			
Ryan	x			
Greeley	x			
Des Moines	x			
Burlington	x			
Danville	x			
Mediapolis	x			
Middletown	x			
West Burlington	x			
Dickinson	x			
Arnolds Park	x			
Lake Park	x			
Milford	x			
Okoboji	x			
Orleans	x			
Spirit Lake	x			

County City	Preliminary Management Plan Approved	Additional Information Requested	Preliminary Management Plan Not Submitted	Review Not Completed
St. Lucas	x			
Wadena	x			
Waucoma	x			
Westgate			x	
West Union	x			
Floyd	x			
Charles City	x			
Colwell	x			
Floyd	x			
Marble Rock	x			
Nora Springs	x			
Rockford	x			
Rudd	x			
Franklin	x			
Alexander	x			
Coulter	x			
Geneva	x			
Hampton	x			
Hansell	x			
Latimer	x			
Oakland			x	
Popejoy	x			
Sheffield	x			
Fremont	x			
Farragut	x			
Hanburg	x			
Imogene			x	
Randolph	x			
Riverton	x			
Sidney	x			
Tabor		x		
Thurman	x			
Greene			x	
Churdan			x	
Dana			x	
Grand Junction			x	
Jefferson			x	
Paton			x	
Rippey			x	
Scranton			x	
Grundy	x			
Beaman	x			
Conrad	x			
Dike	x			
Grundy Center	x			

County City	Preliminary Management Plan Approved	Additional Information Requested	Preliminary Management Plan Not Submitted	Review Not Complete
Harrison		x		
Dunlap		x		
Little Sioux		x		
Logan		x		
Magnolia		x		
Missouri Valley		x		
Modale		x		
Mondamin		x		
Persia		x		
Pisgah		x		
Woodbine				x
Iowa	x			
Amana				
East Amana				
Ladora	x			
Marengo	x			
Middle Amana				
Millersburg	x			
North English	x			
Parnell	x			
South Amana				
Victor	x			
West Amana				
Williamsburg	x			
Jackson	x			
Andrew	x			
Baldwin	x			
Bellevue	x			
Green Island	x			
Hurstville	x			
La Motte	x			
Maquoketa	x			
Miles	x			
Monmouth	x			
Preston	x			
Sabula	x			
St. Donatus	x			
Spragueville	x			
Springbrook	x			
Jasper	x			
Baxter	x			
Colfax	x			
Kellogg	x			
Lynnville	x			
Mingo	x			
Monroe	x			
Newton	x			

County City	Preliminary Management Plan Approved	Additional Information Requested	Preliminary Management Plan Not Submitted	Review Not Complete
Richland		x		
Sigourney		x		
Thornburg		x		
Webster		x		
What Cheer		x		
Kossuth	x			
Algona	x			
Bancroft	x			
Burt	x			
Fenton	x			
Lakota	x			
Ledyard	x			
Lone Rock	x			
Luverne	x			
Swea City	x			
Titonka	x			
Wesley	x			
Whittemore	x			
Lee		x		
Donnellson		x		
Ft. Madison		x		
Franklin		x		
Houghton		x		
Keokuk		x		
Montrose		x		
St. Paul		x		
West Point		x		
Linn		x		
Alburnett		x		
Bertram		x		
Cedar Rapids		x		
Center Point		x		
Central City		x		
Coggon		x		
Ely		x		
Fairfax		x		
Hiawatha		x		
Lisbon		x		
Marion		x		
Mt. Vernon		x		
Palo		x		
Prairieburg		x		
Robins		x		
Springville		x		
Walker		x		

County City	Preliminary Management Plan Approved	Additional Information Requested	Preliminary Management Plan Not Submitted	Review Not Complete
Marion	x			
Bussey	x			
Dallas	x			
Hamilton	x			
Harvey	x			
Knoxville	x			
Marysville	x			
Melcher	x			
Newbern	x			
Pella	x			
Pleasantville	x			
Swan			x	
Marshall	x			
Albion	x			
Clemons	x			
Ferguson	x			
Gilman	x			
Laurel	x			
Le Grand	x			
Liscomb	x			
Marshalltown	x			
Melbourne	x			
Rhodes	x			
St. Anthony	x			
State Center	x			
Van Cleve			x	
Mills	x			
Emerson	x			
Glenwood	x			
Hastings	x			
Henderson	x			
Malvern	x			
Pacific Junction	x			
Silver City	x			
Mitchell	x			
Carpenter	x			
McIntire				x
Mitchell	x			
Orchard	x			
Osage	x			
St. Ansgar	x			
Stacyville	x			
Monona	x			
Blencoe	x			
Castana	x			
Mapleton	x			
Moorhead	x			

County City	Preliminary Management Plan Approved	Additional Information Requested	Preliminary Management Plan Not Submitted	Review Not Complete
Page		x		
Blanchard		x		
Braddyville		x		
Clarinda		x		
Coin		x		
Essex		x		
Hepburn		x		
Northboro		x		
College Springs		x		
Shambaugh		x		
Shenandoah		x		
Yorktown		x		
Palo Alto	x			
Ayrshire	x			
Curlew	x			
Cylinder	x			
Emmetsburg	x			
Graettinger	x			
Mallard	x			
Rodman	x			
Ruthven	x			
West Bend	x			
Plymouth	x			
Akron		x		
Brunsville	x			
Craig			x	
Hinton	x			
Kingsley	x			
LeMars	x			
Merrill	x			
Remsen	x			
Struble	x			
Owens	x			
Pocahontas		x		
Fonda		x		
Havelock		x		
Laurens		x		
Palmer		x		
Plover		x		
Pocahontas		x		
Rolfe		x		
Varina			x	
Polk	x			
Altoona	x			
Ankeny	x			

County City	Preliminary Management Plan Approved	Additional Information Requested	Preliminary Management Plan Not Submitted	Review Not Complete
Mount Ayr				
Redding				
Tingley				
Sac	x			
Auburn	x			
Early	x			
Lake View	x			
Lytton	x			
Nemaha			x	
Odebolt	x			
Sac City	x			
Schaller	x			
Wall Lake	x			
Scott	x			
Bettendorf	x			
Blue Grass	x			
Buffalo	x			
Davenport	x			
Dixon	x			
Donahue	x			
Eldridge	x			
Le Claire	x			
Long Grove	x			
Maysville	x			
McCausland	x			
New Liberty	x			
Panorama Park	x	:		
Plainview	x	-		
Pleasant Valley	x			
Princeton	x			
Riverdale	x			
Walcott	x			
Shelby	x			
Defiance	x			
Earling	x			
Elk Horn			x	
Harlan	x			
Irwin	x			
Kirkman	x			
Panama	x			
Portsmouth	x			
Shelby	x			
Tennant	x			
Westphalia	x			

County City	Preliminary Management Plan Approved	Additional Information Requested	Preliminary Management Plan Not Submitted	Review Not Complete
Lenox		x		
New Market		x		
Sharpsburg		x		
Union	x			
Afton	x			
Arispe	x			
Creston	x			
Cromwell	x			
Kent	x			
Lorimor	x			
Shannon City	x			
Thayer	x			
Van Buren				x
Birmingham				x
Bonaparte				x
Cantril				x
Farmington				x
Keosauqua				x
Milton				x
Mt. Sterling				x
Stockport				x
Wapello		x		
Agency				x
Blakesburg				x
Chillicothe				x
Eldon				x
Kirkville				x
Ottumwa		x		
Warren		x		
Ackworth			x	
Carlisle	x			
Cumming			x	
Hartford			x	
Indianola				x
Lacona	x			
Martensdale			x	
Milo			x	
New Virginia		x		
Norwalk	x			
St. Marys			x	
Sandyville	x			

County	Preliminary Management Plan Approved	Additional Information Requested	Preliminary Management Plan Not Submitted	Review Not Complete
City				
Jackson Junction	x			
Ossian	x			
Ridgeway	x			
Spillville	x			
Woodbury	x			
Anthon	x			
Correctionville	x			
Cushing	x			
Danbury	x			
Hornick			x	
Lawton	x			
Moville	x			
Oto	x			
Pierson	x			
Salix	x			
Sergeant Bluff	x			
Sioux City	x			
Sloan	x			
Smithland			x	
Worth	x			
Fertile	x			
Grafton	x			
Hanlontown	x			
Joice	x			
Kensett	x			
Manly	x			
Northwood	x			
Wright		x		
Belmond		x		
Clarion		x		
Dows		x		
Eagle Grove		x		
Galt		x		
Goldfield		x		
Rowan		x		
Woolstock		x		

APPENDIX VII
LOCAL SOLID WASTE PLANNING FOR
THE STATE OF IOWA

Paper Presented at Iowa State University

LOCAL SOLID WASTE PLANNING
IN THE STATE OF IOWA
Charles C. Miller

Introduction

In the past Iowa has had no control over the disposal of its solid wastes. This is primarily because of Iowa's rural nature and its residents' attitudes that this waste did not really constitute a danger. However, with the growing interest in ecology, people's attitudes have changed and they now demand that all sources of environmental pollution be abated. The culmination of this pressure has led to the passage of air and solid waste acts which place stringent requirements on the disposal of solid wastes.

The passage of the air quality law eliminates the legal open burning of solid waste. This law, backed by vigorous enforcement by Iowa's Air Quality Commission, has virtually stopped open burning in the State. The solid waste law allowed a transition period of five years for full compliance.

Iowa's Five Year Dilemma

This period was provided for a smooth transition into a functioning solid waste management system. However because of the open burning regulations and the attrition of facilities many communities have been forced to comply early. Thus a variety of systems is being developed, some of which are proving to be extremely effective. Other communities will hold out until the last day before developing an acceptable system. The legislature anticipated this situation and provided an interim period during which plans must be developed. To many communities this is

The goal of solid waste planning in Iowa is to protect the citizens of the state from such hazards to their health, safety and welfare, as might result from the controlled disposal of solid waste. This may be attained by sanitary disposal projects for the final disposition of wastes which are both economical and efficient.

Key

The key to solid waste planning is that the disposal of wastes must be both economical and efficient. This is necessary because most local governmental budgets cannot stand another demanding program without some form of outside support.

Therefore, the new system cannot be much more expensive than the present solid waste system. This implies a bare-bones approach to solid waste management which may, as time passes, deteriorate to something less than that dictated by the State goal. Such deterioration would occur if the present system of solid waste management were, in fact, economical and efficient, which it is not. Therefore the problem becomes finding a tool which will enable local solid waste management systems to achieve the State goal.

The Department of Environmental Quality has worked with local communities in the development of their plans by providing a limited amount of technical assistance. This assistance has come in the usual manner of answering questions and providing information. However the responsibility rests directly on the cities, counties and private agencies involved. Therefore the Department has emphasized two things in their dealings with communities. First, that the economies of scale become extremely important in solid waste management so the joint operation of systems is encouraged. The operation of a county wide or larger system in which the cities and the county work together appears to be most feasible. This type of operation is being planned by the majority of Iowa's communities and counties. Second, the

political jurisdictions, weather conditions, transportation facilities, etc. These conditions are identified and described by using the forms provided in the information phases of the guidelines. An example form is shown in appendix 2. Intelligent planning can only be instituted if the planner understands the present system, its environment, and has a goal to guide his efforts. The state has provided the planner with a goal to direct his activities and he can gain insight concerning ~~the present system and its environment by the completion of the information phase~~ of the State Solid Waste Guidelines. The final step in completion of this phase of the planning effort is the translation of this data into actual problems which must be overcome in order to achieve the goal. The solution of these problems becomes the objective of the planning study.

The second or speculative phase of the planning study is the generation of alternative approaches, which are likely to accomplish study objectives, and which may replace the existing system components (see appendix 3).

The technique to be used is called "brainstorming". This consists of the development of ideas which may appear to be workable alternatives to an existing component without any attempt to further evaluate them. The objective is to generate a large number of component alternatives upon which new systems can be based.

The third or analytical phase is intended to allow examination of the relative merits of the component alternatives and to construct new solid waste management systems by assembling these components in different combinations (see appendix 4).

A large number of component ideas can be developed into an almost endless number of systems. However through a cursory examination most of the systems will be eliminated. By further analysis of economic considerations the system alternatives can be reduced to a relative few requiring extensive analysis.

Conclusion

A Plan is the formula for activity. A mathematical formula ensures a desired result if applied correctly. So does a plan. Local planning organizations have been given a time period and a method with which to develop their plans. The success of their system may depend upon the success of their planning effort. The initial planning phase of local solid waste is drawing to a close and the merits of individual plans will be tested as implementation begins.

Begin text of second and succeeding pages here.

APPENDIX 2

Local Transportation Restrictions

Put title on first page, within this box

In the selection of equipment and haul routes the transportation restrictions within the study area become very important.

Put author's name on first page here, centered. Use parallel columns for multiple authors

List all local transportation ordinances which might affect the collection and transportation of solid waste.

	Identification	Speed	Restrictions		Load	Other
	Road No.	Limits	Height	Width	Limit	
<u>MUNICIPAL</u>						
1						
<u>COUNTY</u>						
1						
<u>STATE</u>						
1						
<u>INTERSTATE</u>						
1						

APPENDIX 3

Processing

This is the creative part of the project study. Generate as many ideas, processes or methods that fulfill the requirements as possible. Do not evaluate the ideas during this phase of the project. The following is a suggested guide to direct the areas of creative thinking.

- | | | |
|---------------|-----------------|----------|
| 1. None | 4. Bailing | 7. Other |
| 2. Grinding | 5. Incineration | |
| 3. Separation | 6. Transfer | |

APPENDIX VIII
KEY STEPS IN THE DEVELOPMENT OF
A SANITARY DISPOSAL PROJECT

;

KEY STEPS IN THE DEVELOPMENT
OF A SANITARY DISPOSAL PROJECT
DEPARTMENT OF ENVIRONMENTAL QUALITY

	<u>Principal Activity</u>	<u>Impact of Activity and/or Comments</u>
A. Public Relations	Public Information Program relating to the nature of the solid waste problem, alternate solutions, benefits of a land-fill and plan for ultimate use, etc. Include slides, motion pictures, outside speakers.	Builds public support, encourages citizen participation and prevents dissemination of erroneous information.
B. Preliminary Organization and Planning	<ol style="list-style-type: none"> 1. Meeting of city, town and county representatives to determine potential membership and to achieve broad concensus on implementation of a solid waste management system. 2. Preliminary determination of feasibility of forming a multi-county organization for planning. 	Formation of technical advisory and study groups stimulates interest and promotes informed participation in planning.
C. Organization of Association or Agency	<ol style="list-style-type: none"> 1. Form solid waste management planning committee with representatives from cities, towns and counties. 2. Prepare draft agreement for discussion, finalization and adoption by ordinance, resolution or otherwise, in compliance with Chapter 455B, Code of Iowa. 3. Secure signatures of county and municipal officials. 4. Submit agreement to the Executive Director of DEQ for approval (Sec. 28E.10). 5. File agreement with County Recorder and Secretary of State. 	Preparation of the agreement and registration with the Secretary of State gives the association legal authority to operate and function.

Principal Activity

Impact of Activity and/or Comments

F. Site Engineering

1. Analyze alternate sites from the standpoint of land cost, modification and preparation costs, approach roads and bridges, etc.
2. Submit the plan and supporting documents required by Chapter 3 of the Sanitary Disposal Project rules, for review by Department of Environmental Quality in consultation with the Iowa Geological Survey.
3. A permit for the Sanitary Disposal Project will be issued by the Executive Director, provided that the plan meets the requirements of Chapter 455B, Code of Iowa, and the Departmental Rules.

Completion of Step F will ensure that every city, town and county has provided a plan for the establishment and operation of a sanitary disposal project.

Plans must be prepared and submitted by, or under the supervision of, a licensed professional engineer, in conformity with Sec. 114 of the Code of Iowa.

APPENDIX IX
MINIMUM PLAN REQUIREMENTS
TO COMPLY WITH
CHAPTER 406.7 IOWA CODE

MINIMUM PLAN REQUIREMENTS TO COMPLY WITH
CHAPTER 406.7, IOWA CODE 1971

The first essential step in planning is to determine who is to be served by the solid waste management plan and where those persons reside. The number of persons involved in the association or agency will determine the complexity of the information that needs to be gathered.

~~The trend towards regionalization is evident not only in Iowa but also throughout the United States. It is believed that this trend is desirable from the standpoint of long term costs and benefits and that it is also in the national interest. Cities and towns which have not already considered forming or entering a county wide or regional organization are strongly urged to do so.~~

PLAN OUTLINE

ELEMENTS OF THE REPORT

Foreword or Preface

Table of Contents

I. INTRODUCTION AND PURPOSE OF THE PLAN

II. SUMMARY

III. BACKGROUND INFORMATION

a. Description of present practices

Study area - What are the names of the cities, towns and counties or townships which are included in the study?

Storage - What types of containers are being used? Are storage conditions satisfactory from a sanitation standpoint? Is storage controlled by ordinances? Are such ordinances being enforced?

Collection - State number of private and public collection agencies who are engaged in collection activities. What is the estimate of the percentage of solid waste collected by?

Private agencies	_____%
Public agencies	_____%
Not collected	_____%

TOTAL 100%

V. SYSTEM PLAN (continued)

solid waste generation (a disposal site that offers the advantage of the lowest haul cost)

Storage - Types of containers recommended.

Collection and transportation - What method of pick up is recommended, (curb, alley, etc.)? Should small towns and rural areas be provided with collection boxes which could be picked up periodically? What is the cost of such a service? Where should the containers be placed? ~~What is the maximum haul distance~~ in the area under study? How will bulky wastes and special items be handled? Will collection be done by municipalities or by private agencies?

Recycling - Is there a local market for wastes such as paper?

Ultimate land use - What is the most desirable use of the area selected for a disposal site?

Financing - The feasibility of the facility will have to be assessed. What is the source of funds? Relate the source of funds to capital costs and operating costs of similar projects in the state which are now in operation. Will the disposal site be owned or operated by the public?

Legal - Should all haulers be licensed? Is collection mandatory? Will storage be controlled by ordinances? What are the enforcement capabilities of the cities, towns and rural areas?

Accessibility - How accessible is the site? What is the cost of an all weather highway?

Land requirements - Calculate the amount of land required for the next 20 years or more.

Present dumps - Who is going to be responsible for the proper closing of dumps in the area?

Administration - Who will manage the entire solid waste system? What method of control or reporting is proposed?

VI. SITE INVESTIGATION AND DESIGN OF THE FACILITY

Iowa law requires that a plan for the actual sanitary disposal project be prepared under the direct supervision of an engineer as defined in Chapter 114 of the Iowa Code. The planning outlined above should be coordinated with the engineer that is likely to be responsible for the site investigation and site engineering.

APPENDIX X
MODEL SOLID WASTE ORDINANCE
MISSOURI STATE DEPARTMENT OF HEALTH

;

AN ORDINANCE REGULATING SOLID WASTE MANAGEMENT
(Storage, Collection, Transportation, Processing and Disposal)

ORDINANCE NO. _____

AN ORDINANCE: PERTAINING TO PUBLIC HEALTH, SAFETY, AND WELFARE: REGULATING STORAGE, COLLECTION, TRANSPORTATION, PROCESSING AND DISPOSAL OF SOLID WASTE: PROVIDING FOR COLLECTION AND DISPOSAL OF SOLID WASTE: PROVIDING A PENALTY FOR VIOLATION OF THE PROVISIONS OF THIS ORDINANCE AND REPEALING ALL ORDINANCES IN CONFLICT HEREWITH.

BE IT ORDAINED by the Governing Body of the City of _____, Missouri:

SECTION 1. DEFINITIONS

For the purposes of this ordinance the following terms shall be deemed to have the meaning indicated below:

APPROVED INCINERATOR - an incinerator which complies with all current regulations of the Missouri Air Conservation Commission.

BULKY RUBBISH - non-putrescible solid wastes consisting of combustible and/or non-combustible waste materials from dwelling units, commercial, industrial, institutional, or agricultural establishments which are either too large or too heavy to be loaded in solid waste collection vehicles with safety and convenience by solid waste collectors, with the equipment available therefor.

CITY - the City of _____, Missouri.

COLLECTION - removal and transportation of solid waste from its place of storage to its place of processing or disposal.

DEMOLITION AND CONSTRUCTION WASTE - waste materials from the construction or destruction of residential, industrial or commercial structures.

- (a) Commercial solid waste - solid waste resulting from the operation of any commercial, industrial, institutional or agricultural establishment, and multiple housing facilities with more than _____ (____) dwelling units.
- (b) Residential solid waste - solid waste resulting from the maintenance and operation of dwelling units, excluding multiple housing facilities with more than _____ (____) dwelling units.

SOLID WASTE CONTAINER - receptacle used by any person to store solid waste during the interval between solid waste collections.

SOLID WASTE DISPOSAL - the process of discarding or getting rid of unwanted material. In particular the final deposition of solid waste by man.

SOLID WASTE MANAGEMENT - the entire solid waste system of storage, collection, transportation, processing and disposal.

STORAGE - keeping, maintaining or storing solid waste from the time of its production until the time of its collection.

YARD WASTES - grass clippings, leaves, tree trimmings.

SECTION 2. SOLID WASTE STORAGE

SECTION 2.1 - The occupant of every dwelling unit and of every institutional, commercial or business, industrial or agricultural establishment producing solid waste within the corporate limits of the City, shall provide sufficient and adequate containers for the storage of all solid waste except bulky rubbish and demolition and construction waste to serve each such dwelling unit and/or establishment; and to maintain such solid waste containers at all times in good repair.

SECTION 2.2 - The occupant of every dwelling unit and of every institutional, commercial, industrial, agricultural or business establishment shall place all solid waste to be collected in proper solid waste containers, except as otherwise provided herein, and shall maintain such solid waste containers and the area surrounding them in a clean, neat and sanitary condition at all times.

(a) Collection of residential solid waste

The City shall provide for the collection of all residential solid waste in the City, provided, however, that the City may provide the collection service by contracting with a person, county, or other city or a combination thereof, for the entire City or portions thereof, as deemed to be in the best interests of the City.

(b) Other collections

The City (may, at its discretion,) (shall) provide commercial solid waste collection services upon specific application of the owners or persons in charge thereof. However, in the event that such application is not made or approved, it shall be the duty of such establishment to provide for collection of all solid waste produced upon any such premises.

SECTION 3.2 - All solid waste from premises to which collection services are provided by the City shall be collected, except bulky rubbish as defined herein, provided however, that bulky rubbish will be collected if tied securely in bundles not exceeding reasonable limitations of weight and bulk to be fixed by regulations to be made and promulgated by the (Director) as hereinafter provided. All solid waste collected shall, upon being loaded into collection equipment, become the property of the collection agency.

SECTION 3.3 - Tree limbs and yard wastes, as described in Sections 2.5 and 2.6 respectively, shall be placed at the curb or alley for collection. Solid waste containers as required by this ordinance for the storage of other residential solid waste shall be placed (at the curb or alley) (at the rear of the building) for collection. Any solid waste containers, tree limbs, yard wastes, or other solid waste permitted by this ordinance to be placed at the curb or alley for collection shall not be so placed until the regularly scheduled collection day.

SECTION 3.4 - Bulky rubbish shall be collected by request to the (Director). The (Director) shall establish the procedure for collecting bulky rubbish.

SECTION 3.9 - Permits shall not be required for the removal, hauling or disposal of earth and rock material from grading or excavation activities, however, all such material shall be conveyed in tight vehicles, trucks or receptacles, so constructed and maintained that none of the material being transported shall spill upon the public rights of way.

SECTION 3.10 - Transportation and disposal of demolition and construction wastes shall be in accordance with Sections 4 and 5.

SECTION 4. DISPOSAL OF SOLID WASTE

SECTION 4.1 - Solid wastes shall be disposed of at a processing facility or disposal area approved by the City and complying with all requirements of the Missouri Division of Health.

SECTION 4.2 - The (Director) may classify certain wastes as hazardous wastes which will require special handling and shall be disposed of only in a manner acceptable to the (Director) and which will meet all Local, State and Federal regulations.

SECTION 5. PERMITS

SECTION 5.1 - No person shall engage in the business of collecting, transporting, processing or disposing of solid waste within the corporate limits of the City, without first obtaining an annual permit therefor from the City; provided, however, that this provision shall not be deemed to apply to employees of the holder of any such permit.

SECTION 5.2 - No such permit shall be issued until and unless the applicant therefor, in addition to all other requirements set forth, shall file and maintain with the (Director) evidence of a satisfactory public liability insurance policy, covering all operations of such applicant pertaining to such business and all vehicles to be operated in the conduct thereof, in the amount of not less than \$ _____ (_____) for each person injured or killed, and in the amount of not less than \$ _____ (_____) in the event of injury or death of two or more persons in any single accident, and in the amount of not less than \$ _____ (_____) for damage to property. Such policy may be written to allow the first \$ _____ (_____) of liability for damage to property to be deductible. Should any such

the reason for such denial. Nothing in this section shall prejudice the right of the applicant to reapply - after the rejection of his application provided that all aspects of the reapplication comply with the provisions of this ordinance.

SECTION 5.6 - The annual permit may be renewed simply upon payment of the fee or fees as designated herein if the business has not been modified. If modifications have been made, the applicant shall reapply for a permit as set forth in Sections 5.2 and 5.3. No permits authorized by this ordinance shall be transferrable from person to person.

SECTION 5.7 - In order to insure compliance with the laws of this State, this ordinance and the rules and regulations authorized herein, the ~~(Director)~~ is authorized to inspect all phases of solid waste management within the City of _____. No inspection shall be made in any residential unit unless authorized by the occupant or by due process of law. In all instances where such inspections reveal violation of this ordinance, the rules and regulations authorized herein for the storage, collection, transportation, processing or disposal of solid waste or the laws of the State of Missouri, the (Director) shall issue notice for each such violation stating therein the violation or violations found, the time and date and the corrective measure to be taken, together with the time in which such corrections shall be made.

SECTION 5.8 - In all cases, when the corrective measures have not been taken within the time specified, the (Director) shall suspend or revoke the permit or permits involved in the violation, however, in those cases where an extension of time will permit correction and there is no public health hazard created by the delay, one extension of time not to exceed the original time period may be given.

SECTION 5.9 - Any person who feels aggrieved by any notice of violation or order issued pursuant thereto of the (Director) may, within _____ (_____) days of the act for which redress is sought appeal directly to the Court of _____ in writing, setting forth in a concise statement the act being appealed and the grounds for its reversal.

hereby authorized to make and promulgate reasonable and necessary rules and regulations for the billing and collection of solid waste collection and/or disposal service charges, as hereinafter provided for.

A copy of any and all rules and regulations made and promulgated under the provisions hereof shall be filed in the office of the City Clerk of the City.

SECTION 7. PROHIBITED PRACTICES

It shall be unlawful for any person to: (1) deposit solid waste in any solid waste container other than his own, without the written consent of the owner of such container and/or, with the intent of avoiding ~~payment of the service charge hereinafter provided for solid waste collection and disposal;~~ (2) interfere in any manner with solid waste collection equipment, or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors shall be those of the City, or those of a solid waste collection agency operating under contract with the City; (3) burn solid waste unless an approved incinerator is provided or unless a variance has been obtained from the appropriate air pollution control agency; (4) dispose of solid waste at any facility or location which is not approved by the City and the Missouri Division of Health; (5) engage in the business of collecting, transporting, processing or disposing of solid waste within the corporate limits of the City without a permit from the City, or operate under an expired permit, or operate after a permit has been suspended or revoked.

SECTION 8. SERVICE CHARGES

There is hereby imposed, for the collection and disposal of solid waste, a service charge for each dwelling unit and each commercial establishment to which such service shall be provided under the provisions of this ordinance. The service charge for collection or residential solid waste shall be in the amount of (\$ _____) per calendar month. The service charge for each commercial establishment will be determined by the (Director) on the basis of quantity and characteristics of material, point of pickup, and time required to collect the solid waste if service is performed by the City.

determined by the City. Types of bonds which should be considered are performance bonds, and payment bonds.)

SECTION 11. REPEALS

The following ordinances are hereby repealed:

(list specifically)

SECTION 12. SAVINGS CLAUSE

Nothing in this ordinance shall be deemed to affect, modify, amend or repeal any provision of any ordinance administered by the _____ Health Department, or other department, board, commission, or agency of _____ unless that ordinance is specifically repealed in Section 11.

SECTION 13. SEVERABILITY CLAUSE

The provisions of this ordinance are severable and if any provisions or part thereof shall be held invalid or unconstitutional or inapplicable to any person or circumstance, such invalidity, unconstitutionality or inapplicability shall not affect or impair the remaining provisions of this ordinance.

This ordinance shall become effective upon _____, 19__.

PASSED AND APPROVED THIS _____ day of _____,
19____.

Mayor

ATTEST:

City Clerk

Approved as to form and legality:

Title

APPENDIX XI
MODEL CONTRACT FOR
RESIDENTIAL SOLID WASTE COLLECTION
MISSOURI STATE DEPARTMENT OF HEALTH

;

THE DIVISION OF HEALTH OF MISSOURI
of the Department of Public Health and Welfare

MODEL CONTRACT FOR RESIDENTIAL SOLID WASTE COLLECTION
(For use with Solid Waste Management Ordinance, Form E 15.13-Rev. 8/72)

THIS AGREEMENT, made and entered into this _____ day of _____,
19___, by and between the City of _____, Missouri,
hereinafter called 'City' and _____, hereinafter
called 'Contractor.'

WITNESSETH THAT:

In consideration of the premises and of the mutual promises, cove-
nants and agreements herein contained, the adequacy and sufficiency of
which are hereby acknowledged and confessed, the parties hereto do
mutually promise, covenant and agree as follows:

1. The term of this contract shall commence on _____, 19___, and shall terminate on _____, 19___.
2. During the term of this contract, contractor shall collect, remove and dispose of all residential solid waste (as defined in Ordinance No. ___) in the City of _____, and shall furnish all labor, vehicles, tools equipment and any other necessary facilities therefor in accordance with the terms and conditions of this agreement, schedule of rates, and Ordinance No. ___, as amended to date, of the City of _____, which said schedule of rates and ordinance are attached hereto and made a part hereof.
3. Contractor shall furnish to City, and maintain during the term of the Contract, a performance bond acceptable to City in a penal sum of \$_____ with good and sufficient surety acceptable to City and conditioned upon Contractor performing his duties and obligations provided for in this agreement. Contractor shall provide for each vehicle used in the work covered by this agreement liability insurance in companies and form satisfactory to the City in a sum of not less than \$_____ for any one person and the sum of \$_____ for any two or more persons who may be injured in any one accident, and the sum of \$_____ for any property damage at any time by reason of the carelessness or legally recognizable negligence of the driver or operator of each such vehicle used in the work covered by this agreement. Such insurance shall be maintained

7. In the event that Contractor shall fail or refuse to perform his duties and obligations, or shall become insolvent or shall become the subject of a proceeding in bankruptcy (including any proceeding under Chapter 10 or Chapter 11 of the Bankruptcy Act), or shall become the subject of any proceeding for the appointment of a receiver, or in the event of an assignment by Contractor for the benefit of its creditors, or the taking of its trucks, equipment, vehicles and other facilities used in connection with the performance of the work under any execution against Contractor, in such events, City may at its option upon five days' written notice declare the Contractor to be in breach of his ~~agreement and City may terminate the agreement and declare same cancelled~~ and terminated and shall, in addition, be entitled to recover damages and take such other actions and seek such other remedies as may be permitted by law.

8. The contract shall not be assignable or transferable by Contractor, nor shall any services be performed by a subcontractor for Contractor without the consent in writing of City.

9. In consideration of the full and complete performance of this contract by Contractor and all of the work and services to be performed hereunder, in conformity with the terms and conditions of this agreement, City shall pay to Contractor all sums due to him in accordance with the attached schedule of rates, payment to be made on the _____ day of each month. Service shall be extended to all new or additional units immediately upon request for service. The Contractor shall provide this extension of service for the same unit price as specified in the schedule of rates. The number of units specified in this contract may also be reduced when it is determined by the City that such units are no longer generating solid waste.

10. Multiple housing facilities with more than _____ () dwelling units and all commercial establishments, shall not be included in this contract. Said multiple housing facilities and commercial establishments within the boundaries of the City shall contract for services on an individual basis, and shall not be construed to be part of this agreement.

SCHEDULE OF RATES

CONTRACT BETWEEN CITY OF _____
AND (_____ Company Name _____)
YEARLY ESCALATING* CONTRACT - FIRST YEAR

I. _____ a week pickup of solid waste, except bulky rubbish as defined in Ordinance No. _____, from all dwelling units included in this contract. At least _____ () hours shall intervene between collections. The point of collection shall be as specified in Ordinance No. _____, attached hereto. Number of units - _____ (Units may be added or reduced as provided by this contract.)

Cost per unit pickup	\$ _____ per month
Total Unit Cost	\$ _____ (plus or minus the cost of more or less units as requested by the City and provided for by this contract.)

II. (Other - the City may wish to contract for additional services and could list the cost and service here. For example, the City may desire for the Contractor to provide an annual or semiannual special pickup of bulky rubbish as is done in many cities.)

YEARLY ESCALATING CONTRACT - SECOND YEAR

I. _____ a week pickup of solid waste, except bulky rubbish as defined in Ordinance No. _____, from all dwelling units included in this contract. At least _____ () hours shall intervene between collections. The point of collection shall be as specified in Ordinance No. _____, attached hereto. Number of units - _____ (Units may be added or reduced as provided by this contract.)

Cost per unit pickup	\$ _____ per month
Total Unit Cost	\$ _____ (plus or minus the cost of more or less units as requested by the City and provided for by this contract.)

II. (Other)

(* An escalating contract is an optional feature. The contract may be bid for the same amount each year, or escalated annually.)

APPENDIX XII
EXAMPLE SANITARY
LANDFILL CONTRACT

;

EXAMPLE SANITARY LANDFILL CONTRACT

THIS AGREEMENT made and entered into on the ___ day of _____, 197_,
by and between the (Public Agency), hereafter referred to as the Agency,
and (Private Agency), hereafter referred to as the Contractor.

WITNESSETH: Whereas, the Contractor is qualified to operate a Sanitary
Landfill for the disposal of solid waste and whereas the Agency desires
the Contractor to operate a Sanitary Landfill Operation. Now therefore,
in consideration of the mutual covenants and agreements contained herein
and of the consideration paid and to be paid to the Contractor as set
forth herein, the Agency and the Contractor agrees as follows:

1. Site Disposal

All solid waste that is required to be disposed of by the
Sanitary Landfill method shall be disposed of at the
following described location:

(Herein follows a complete legal description of the site
such as: Section __, Township __ North, Range __ West.)

2. Inspection

The Agency may make inspections of the site through designated
persons at any time desired by the Agency.

3. Operation of Site

The Contractor shall have the exclusive right and responsi-
bility for the operation of the disposal site in accordance
with provisions of this agreement and applicable State Laws
and Regulations during the term of this agreement.

8. Method of Disposal

The operation shall be performed in the manner set forth in any and all permits or amendments to permits issued by the Iowa Department of Environmental Quality.

9. Books and Records

The Contractor shall keep books and records detailing all costs and income pertaining to the operation of the Landfill Site. These books and records shall be reviewed by the Agency or its representative at least once per calendar year.

10. Changes in Laws or Regulations

In the event that compliance with subsequent statutes, ordinances or regulations result in a change in operating costs, the parties hereto agree to renegotiate this agreement so that the compensation herein shall reflect such changes.

11. Term of Agreement

The term of this agreement shall be for three years. Said term shall commence on the date the said site is ready for public use or such other date as the parties shall mutually agree on in writing. It is agreed between parties that after one full year of operation the parties shall review the entire agreement to the end that the said operation is meeting the standards set out by the various laws and regulations. The Agency shall also review the books and records the first year of operation. If it is determined that the Contractor is making excessive profits, the compensation referred to in this agreement shall be decreased appropriately.

3. Minimum protection coverage - Public liability, \$100,000 per person, \$200,000 per accident. Motor vehicle, \$100,000 per person, \$200,000 per accident. Property damage - \$50,000 per accident.

14. Standards of Performance

In the event the Contractor fails to dispose of materials herein for a period in excess of two days and provided said delay is not due to causes beyond the control of the Contractor the Agency may, at its option after written notice to the Contractor, take over and operate any or all of the Contractor's equipment and manage the Landfill Operation until the Contractor is again able to carry out its part of the operation. Any cost incurred by the Agency shall be deducted from the agreed payment.

During such periods the liability of the Agency to the Contractor for loss or damage for such equipment so used shall be that of a bailee for hire. Ordinary wear and tear being specifically excepted from such liability. The liability of the Contractor to third persons shall cease and all claims or demands arrived at out of the operation and/or control of the site shall be directed solely to the Agency.

Provided, however, if the Contractor is unable for any cause to resume performance at the end of thirty days, all liability of the Agency under this contract to the Contractor shall cease and the Agency shall be free to negotiate with others for the operation of a Sanitary Landfill. Such agreement with another Contractor shall not release the Contractor herein of his liability to the Agency for breach of this agreement.

20. Payments Withheld

The Agency may withhold any or any part of payments due the Contractor that may be necessary to protect the Agency from loss on account of:

1. Defective work not remedied.
2. Claims filed against the Contractor or reasonable evidence indicating the probable filing of claims.
3. Failure of the Contractor to make prompt payment of equipment, materials or labor.

In this respect part or total payment to the Contractor is not to constitute a waiver or acceptance of defective work or materials not in accordance with the term of this agreement.

21. Agency's Right to Terminate Contract

If the Contractor should persistently refuse or fail to supply equipment and labor as set forth herein or should persistently disregard laws and regulations or the term of this agreement the Agency may without prejudice to any other right or remedy and after giving the Contractor seven days notice in writing terminate this agreement and take possession of the premises and finish the work to be done at the time by whatever means it deems proper under the circumstances.

22. Transfer Stations

The Contractor shall service transfer stations in accordance with the Rules and Regulations set down by the Iowa Department of Environmental Quality at various locations within the county. It is agreed that the Agency will pay a reasonable monthly lease rate for each transfer station requested and

State of Iowa) ss:
_____ County)

On the ____ day of _____, 197_, before me, a Notary Public, personally appeared _____, to me known to be the person named in the who executed the foregoing instrument, and acknowledged that he executed the same as his voluntary act and deed.

Notary Public

APPENDIX XIII
STANDARD OPERATING PROCEDURE BETWEEN
IOWA GEOLOGICAL SURVEY AND ENVIRONMENTAL ENGINEERING SERVICE
OF THE IOWA STATE DEPARTMENT OF HEALTH

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STANDARD OPERATING PROCEDURE BETWEEN
IOWA GEOLOGICAL SURVEY (IGS)
AND ENVIRONMENTAL ENGINEERING SERVICE
IOWA STATE DEPARTMENT OF HEALTH (ISDH)

FOR

REVIEWING ENGINEERING PLANS,
SPECIFICATIONS AND SUPPORTING DOCUMENTS
SUBMITTED TO THE ISDH FOR PROPOSED
SANITARY LANDFILLS OR OTHER SANITARY DISPOSAL PROJECTS
AS REQUIRED BY THE DEPARTMENTAL RULES
RELATING TO SANITARY DISPOSAL PROJECTS

~~When a completed application for a sanitary disposal project (SDP), with plans, specifications and supporting documents as outlined in Chapter 3 of the rules relating to sanitary landfills, is submitted to ISDH by the applicant or his engineer, along with samples of drillings collected at the proposed site in accordance with Section 3.1(4)a of the rules, the following procedure will be followed:~~

1. The ISDH will enter the date received and the assigned project number on the top right hand side of the outside sheet of the application, plans, specifications and supporting documents as well as on a tag attached to the carton of drilling samples. Each set of documents will be serially identified as one of three such sets which the applicant or his engineer is required to submit.
2. The ISDH will submit complete set No. 3 of the application, plans, specifications and supporting documents along with the complete carton of drilling samples to the IGS at Iowa City, directed to the attention of the State Geologist, for evaluation of the geological and hydrological conditions relating to the proposed site. If samples of drillings collected during a site survey are delivered directly to the IGS Offices in Iowa City, a receipt will be furnished by IGS to ISDH as proof of compliance with Section 3.1(4)a of the rules.
3. The IGS will evaluate the geological and hydrological data and drill samples and furnish ISDH with a written evaluation within fifteen (15) working days from the date of receipt of such application and other documents by IGS. The application, plans, specifications and supporting documents provided to IGS will be returned to ISDH with the IGS evaluation. The IGS will furnish a copy of its evaluation to the applicant or his engineer upon request. The IGS evaluation is merely advisory to the ISDH and does not constitute approval or disapproval of the application.
4. The IGS will retain the drill samples submitted with the application.

APPENDIX XIV
GUIDELINES FOR PREPARATION OF
SANITARY LANDFILL PERMIT APPLICATION

PART I

GUIDELINES FOR THE PREPARATION OF SANITARY LANDFILL PERMIT APPLICATION

These guidelines relate primarily to Chapter 455B, Code of Iowa, 1973 and the Departmental Rules, which were issued pursuant to the authority of Section 406, Code of Iowa. It is assumed that the selection of the site has been preceded by the determination of the waste generation centroids and that the merits and limitations of the site have been fully assessed.

The sequence suggested in the guidelines is intended to correspond as closely as possible to the steps that are taken in preparing an application for a sanitary landfill permit. The additional data suggested, especially with respect to wells, may be difficult to obtain. It is hoped, however, that it may provide a basis for a more comprehensive submission where, in the opinion of the design engineer, the characteristics of the site make it necessary to compile more complete information.

It is suggested that the first page of the application should provide the data requested on our present "APPLICATION TO ESTABLISH AND OPERATE A SANITARY DISPOSAL PROJECT". Three copies of this application form are required. This form provides the information necessary with respect to legal description, area of the site and ownership.

Instructions on ordering aerial photographs prepared by Mr. Marvin Smith of the ASCA office in Des Moines are attached.

A listing of consulting engineers in Iowa may be obtained from the State Board of Engineering Examiners, State House, Des Moines, Iowa 50319.

Assistance in landscaping and architectural design may be obtained from the following associations:

1. American Society of Landscaping Architects, 3116½ Ingersoll Ave., Des Moines, Iowa 50312
2. Iowa Nurserymen's Association, 7261 Northwest 21st Street, Ankeny, Iowa 50021

Part II provides excerpts dealing with the "state of the art" in landfill, engineering and design. The selection of excerpts is of necessity subjective; another person may have chosen completely different subject matter. It is hoped, however, that the implementation of the principles described should help to promote highest possible standards in the design and management of solid waste disposal sites in Iowa.

3. Aerial Photo* (continued)

- c. All wells within $\frac{1}{2}$ mile, including abandoned wells.
- d. Municipal wells within one mile or a municipal water intake within one mile upstream or 1000 feet downstream.
- e. State and Federal highways.
- f. Homes and buildings.
- g. Lakes and ponds, water courses and wet lands, dry runs and rock outcroppings.
- h. USC & GS or USGS bench marks.
- i. North arrow (3.1(1) page 5).

*Photos may be ordered from Eastern Aerial Photograph Laboratory, Program Performance Division, ASCS-USDA, 45 South French Broad Avenue, Asheville, North Carolina 28801.

Please refer to attached materials. Order forms and advise may be obtained from the State or County A.S.C.S. offices.

2. Evaluation of the Hydrology of the Site

Water table and related information - Section 3.1(4)f(2) page 6 specifies a five foot separation in distance between the high water table* and the base of the landfill.

The water table elevation and related data must of necessity be obtained in conjunction with soil drilling. The hydrology report should include:

- a. Ground elevation of the drill hole.
- b. Elevation of the water at the end of drilling.
- c. The time taken to reach a static level.
- d. The elevation of the static water table.
- e. Depth to the water bearing horizon and the nature of the water bearing material.

Vulnerability of water resources to pollution - It is incumbent on the design engineer at this point to assess the vulnerability and importance of local and regional water resources in relation to the natural protection offered by the soils and the geology of the site (or the protection which can be achieved with engineering modification.)

Sections 3.1(4)f(1) to (3) deal with the vulnerability of local or regional water resources to pollution in terms of:

- a. The extent of lateral hydraulic connection with shallow wells (subsection f(1) page 6).
- b. The separation distance between the base of the proposed landfill and the high water table (subsection f(2) page 6 stipulates at least five feet). A concurrent problem may be the presence of perched water especially in the Cary till in Iowa.
- c. The extent of surface or subsurface connection with standing or flowing water (subsection f(3) page 6).

Subsection f(4) page 6 describes the implementation of Darcy's Law** to determine the natural protection that the soil offers against downward leakage.

*Refer to the Rules for a definition of the high water table.

**Permeability data based on published averages for soil materials are not acceptable.

OPERATING PROCEDURES

Describe operating procedures which must be followed and which are outlined in paragraphs 2.4(1) page 4 and 3.1(4)i pages 8 and 9, namely:

- 2.4(1) - Open dumping prohibited.
- 3.1(4)i(1) - Open burning prohibited.
- 3.1(4)i(2) - Deposition of waste to minimize leachate production.
- 3.1(4)i(3) - Confine dumping area.
- 3.1(4)i(4) - Even distribution of waste.
- 3.1(4)i(5) - Thorough compaction and 6 inches of soil daily.
- 3.1(4)i(6) - Provision of winter cover.
- 3.1(4)i(7) - Site grading and drainage.
- 3.1(4)i(8) - Maintenance of 20 foot separation distance from adjoining property.
- 3.1(4)i(9) - Effective control of vectors.
- 3.1(4)i(18) - Two feet of final cover.
- 3.1(4)i(19) - Finish grading and seeding.
- 3.1(4)i(20) - Notifying Executive Director prior to removal of equipment or completion.



UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE
Room 937 Federal Building
Des Moines, Iowa 50309

January 31, 1973

Mr. John Charnetski
Department of Environmental Quality
Lucas Building
Des Moines, Iowa 50319

Dear Mr. Charnetski:

Agricultural Stabilization and Conservation aerial photography coverage of Iowa can be purchased only from the Eastern Aerial Laboratory at Asheville, North Carolina. Ordering information and assistance is available through the State or county ASCS offices. Delivery is direct from the laboratory to the buyer and delivery time is usually two to three weeks after receipt of the order.

Scale adjusted black and white aerial coverage of the respective county is in the custody of each county ASCS office. The photographs are used for farm acreage determinations but arrangements can usually be made with the county office for viewing a specific photo or photos at the office. The most recent flights vary in age from 1964 to 1972. The enlargements used by the counties are at a scale of 1"=600' except in Shelby, Audubon and Benton where the scale of the most recent flights is 1"=1000'.

The Iowa State ASCS Office in the Federal Building, Des Moines, has custody of contact prints comprising stereo coverage of the most recent flights for each of the Iowa Counties. Those contact prints are available for viewing, but not for sale.

Sales information is provided on the attached form ASCS-441, Order For Aerial Photographs, which lists standard sizes, approximate scales and prices. Form ASCS-441 is available at the State or county ASCS Offices.

Prior to 1969 most of the ASCS aerial photographic coverage of Iowa had been produced at a scale of 1:20,000. Since 1969 several counties have been flown at higher altitudes resulting in coverage at scale of 1:38,000 or 1:40,000. We are attaching a report indicating by county the year of the most recent flight and the scale of the photography. The size and scale of available enlargements is dependent on the scale of the photography. Generally, four sections of land are centered on a negative for 1:20,000 scale while 16 sections are centered on a single negative at 1:40,000 scale.

They may be purchased for \$1.00 each depending on their availability but will not be reproduced for sale. Due to paper shrink they cannot be furnished with scale accuracy.

Very truly yours,

Dale H. Awtry

Dale H. Awtry
State Executive Director

Attachments

Appendix D

Iowa's Solid Waste Management Strategy
July, 1979

IOWA'S
SOLID WASTE
MANAGEMENT STRATEGY

Prepared for Submittal to the U.S. EPA - Region VII.
324 East 11th St.
Kansas City, Mo. 64106

Prepared by:

IOWA DEPARTMENT OF ENVIRONMENTAL QUALITY
Air and Land Quality Division
Henry A. Wallace Building
900 East Grand
Des Moines
Iowa 50319
(515/281-8692)

July 1979

Abstract

The Solid Waste Management Strategy is a five (5) year outline of proposed Iowa Department of Environmental Quality (DEQ) activities to implement the Department's goals with respect to solid wastes. Included in this category are solid wastes as defined by existing state legislation (Chapter 455B, Code of Iowa) and rules (Chapter 400--25(455B) Iowa Administrative Code), the Resource Conservation and Recovery Act (RCRA, PL94-580) and proposed state legislation to implement state programs pursuant to RCRA. This strategy is being prepared as partial fulfillment of a grant agreement with the U.S. EPA. The strategy contains a description of the Department's goals, program areas, specific problems and objectives of these programs, and the activities to be performed to implement these programs.

The time frame during which the Department intends to perform particular activities is summarized as are the general staff requirements of the program. This strategy is updated annually.

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A. Background

1. Why this strategy is being developed:

The Department of Environmental Quality's planning process is conducted at three levels. The first is an annual plan fashioned around the federal fiscal year, October 1 through September 30. The second is a five-year strategy, of which this document is an example, and the third is a long-range plan which outlines broad environmental goals. This solid waste management strategy briefly summarizes current year activities, extrapolates these activities into the future, and introduces new activities when and as required to meet the objectives of the strategy. Resource estimates contained in this strategy for each of the five years will be an important basis for preparing annual federal grant applications and for preparing biennial state budget estimates for solid waste management programs. The strategy should ease the burden and increase the accuracy of the program plan activities and outputs in each of the five years. The single most important reason for preparing this strategy, however, is to provide program continuity from one planning year to the next.

2. Agency organizations.

The Department of Environmental Quality (DEQ) was organized in January 1, 1973, from parts of the Departments of Agriculture and Health to be Iowa's primary environmental agency. DEQ's major responsibilities are and have been since its inception air and water pollution control, chemicals and solid waste management, and drinking water supplies.

Iowa has had its present solid waste law since October 1970 and presently has a suitable means of solid waste disposal available to all of its citizens. Currently, the solid waste functions are under the Air and Land Quality Division of DEQ with staff guidance provided by the Solid Waste Disposal Commission. The appendix details DEQ's solid waste management structure.

3. Program interrelationships.

The individual program strategies that follow describe ten interrelated aspects of the solid waste management program. The solid waste program was initially established in 1970 in order to assure proper disposal of general municipal refuse. To achieve this, programs were established to close open dumps (Program 7), permit new sanitary disposal projects (SDP), (Program 2), and to develop state and local solid waste management plans (Program 2), and to develop state and local solid waste management plans (Program 10).

2. Promote the reduction of solid waste through resource conservation.
3. Promote recycling and reuse of waste materials.
4. Eliminate environmental degradation from existing open dumps through proper closure.

C. Program Objectives:

The solid waste management program is complex and the development of a single strategy is essentially a combination of strategies. Therefore, this document will analyze each strategy in detail and then integrate all of them into a single strategy with priorities for implementation.

1. Resource Conservation and Recovery.

a. Background.

Resource conservation and recovery is the philosophy that all or a substantial portion of the materials called solid waste can be reused, recycled, or kept out of the solid waste stream in the first place. This can be applied to domestic wastes, office papers or industrial wastes. Both resource conservation and resource recovery are fundamental to solid waste management because they reduce the volume of material destined for ultimate disposal. The Congress emphasized this fact in both the title and content of the Resource Conservation and Recovery Act of 1976 (RCRA).

Until recently, there has been little incentive to employ resource conservation because of the availability of raw materials and abundant energy supplies. Resource recovery through the recycling of solid waste was, and still is, discouraged by lower shipping rates and tax depletion allowances favorable to raw material producers. Limited markets and price fluctuations provide further disincentives to recycling. Even so, recycling is economically feasible in larger metropolitan areas where disposal costs are high and markets for recovered material are available. RCRA, in part, is designed to create a climate in which conservation and recovery are competitive with raw materials.

There are several types of resource conservation and recovery programs. They can be designed to reduce

problems to landfills yet can be a valuable resource if recycled. Many sludges (discussed more fully in Program 6) can be used as a soil conditioner and fertilizer.

Recycling or reuse programs require adequate markets for the materials collected. The State can encourage the development of such markets in its purchasing policies and the policies of industries located in Iowa. Likewise industries considering locating in Iowa can be encouraged to set up such programs or to produce products utilizing nonvirgin materials through existing state programs (i.e., Iowa Development Commission activities).

b. Planning Environment.

In Iowa, the various cities and counties have the duty (Chapter 455B, Iowa Code 1979) to provide for solid waste disposal by a method of their choice, provided that the sanitary disposal project used has been approved by DEQ. Thus far, only one metropolitan area has constructed a substantial resource recovery facility in addition to a sanitary landfill. Owned and operated by the City of Ames for 13 cities and Story County, the facility recovers metals and produces refuse derived fuel (RDF) for the municipally-owned power plant. Although this facility reduces solid waste volume by 92 percent, the cost per capita per year (about ten dollars) is about six dollars more on the average than is required by surrounding local governments to landfill solid waste.

The city of Dubuque is currently making final siting and design decisions preparatory to applying for the necessary permits for a resource recovery plant. This facility will combust solid wastes with the recovered energy being used to produce steam. The steam will be sold to a major meat packer located adjacent to the plant site in downtown Dubuque.

Three local agencies have applied for Urban Program Funds to study resource recovery options. One (the Black Hawk County Solid Waste Agency, has tentatively been awarded funding. At this time it is too early to predict whether improved technologies, scarcity of raw materials and RCRA incentives will make recovery systems more attractive to local planners in Iowa, particularly where long-term bonding commitments have been made for sanitary landfills. Iowa has largely a rural population which tends to develop a large

- 3) Since disposal of waste material has been careless and very inexpensive, there has been little incentive to find uses for waste by-products.
- 4) To date, demonstrated high technology alternatives have not been economically competitive with sanitary landfills or on site dumping.
- 5) The lack of firm markets for recycled/recovered materials discourages recycling/reuse of waste.

e. Objectives.

- 1) To reduce the overall volume of solid waste by involving industry, government, and the public in a conscious effort of resource conservation.
- 2) To develop methods of recycling high volume wastes.
- 3) To administer programs which provide for and encourage resource conservation and recovery, subject to budgetary constraints.
- 4) To eliminate environmentally unacceptable disposal alternatives which are used instead of resource conservation and recovery alternatives because they are economically more attractive.

f. Rejected Alternative Programs.

- 1) The Department could do nothing letting market forces and the activities of the U.S. EPA promote or restrict resource conservation and recovery. This option is not consistent with the Department's goals to promote resource conservation and recovery, assure equitable environmental control strategies and maintain control over programs within the state.
- 2) Resource and heat recovery plants could be established by the state in key locations throughout the state. This option is beyond the scope of existing legislation. Because sanitary landfills are less expensive, resource and heat recovery plants place an undue economic burden on the citizens of the state. Too, they are dependent on expensive state-of-the-art technology which has not been demonstrated for reliability.

sanitary disposal project permit process. However, as new technologies are developed, it may be necessary to revise these rules to accomodate them.

- 1A1) Operate permit program.
- 1A2) Review applicability of rules.
- 1A3) Revise rules as necessary.

1B. Local programs in resource conservation and recovery.

DEQ will assist local governments to help them obtain solid waste management assistance from U.S. EPA. This will involve meeting with local officials to define the local needs and the proper response. DEQ will help select the most appropriate request for assistance and review the output for consistency with the state solid waste plan.

- 1B1) Informational meetings.
- 1B2) Review applications for assistance.
- 1B3) Updating of planning and implementing agencies.

1C. Recycling high volume wastes.

DEQ will develop a program to identify high volume, homogeneous wastes which lend themselves recycling. Examples of such wastes are:

- foundry sands
- packing house wastes
- hide processing wastes
- vegetable and grain processing wastes
- plating wastes
- acid and caustic cleaning wastes
- industrial sludges of all types
- air pollution control equipment sludges

Beer and Liquor Control Commission, Conservation Commission and other state and local agencies in implementing these activities.

- 1D1) Develop progress measurements.
- 1D2) Develop rules, if necessary.
- 1D3) Operate exemption programs.
- 1D4) Evaluate impact of the legislation.

1E. Technical assistance.

DEQ will review and advise planners on the feasibility of, and the requirements for, the establishment of resource recovery facilities. When requests for disposal authorization of special wastes are received, DEQ will first consult with the applicant to determine if reuse or recycle alternatives have been exhausted before the authorization is granted.

DEQ will monitor Federal RCRA programs and new recovery technologies in order to provide technical assistance to improve or implement resource conservation and recovery programs in government and industry.

- 1E1) Provide technical assistance for establishment of resource recovery and recycling facilities.
- 1E2) Provide consultation on reuse and recycling techniques.
- 1E3) Monitor Federal RCRA programs and technologies.
- 1E4) Provide resource reuse and recycling information to government and industry.
- 1E5) Encourage a paper recycling operation for state and county government.

designed for that waste. SDPs for these special wastes are required to undergo the same permitting and inspection processes as do those for municipal wastes.

b. Planning environment.

Sanitary disposal projects and managing organizations currently exist throughout Iowa. Those organizations have developed and presently operate these sanitary disposal projects. The majority of these projects are sanitary landfills primarily because the construction and operation of these facilities is the most economically advantageous in rural areas. These present facilities have adequate capacity to accept solid waste into the 1980's. New approaches to handling this material may be required, based on the Department's experience and the sanitary landfill criteria established under subtitle D of RCRA.

c. Goal.

To ensure that solid wastes are disposed of in environmentally acceptable ways.

d. Problems.

- 1) The SDP project rules were developed in 1970, based upon the best information available at that time. In 1970, Iowa had no legitimate SDPs in operation and no actual field experience with its rules. The usable life of the SDPs established in the early 70's was 10 to 20 years.
- 2) DEQ must determine if the SDP rules are adequate for the second generation of projects or if they should be revised due to Departmental experiences or requirements developed under Section 4004 of RCRA.

e. Objectives.

- 1) To evaluate applications for permitting and renewal of SDPs for compliance with Departmental rules.
- 2) To ensure that permitted sites are developed and operated in accordance with the permit and Department rules.

evaluating the results. The staff and equipment needed for installation, sampling and analysis are beyond the scope of the Department's resources.

- 5) The permitting of SDPs could be delegated to local health departments similar to what has been done in the Air Quality program. Such delegation would require significant upgrading of local program staff in order to handle very few applications. (Polk County has had only 10 permits issued in eight years). This low level of effort would make it extremely difficult to assure uniformity of review. In addition, the county-wide nature of solid waste disposal would bring severe political pressures on the local reviewing agency. As a result, this would not be an effective and equitable environmental control strategy as required by the Department's general goals.
- 6) The Department could establish a fee system to cover the cost of review evaluation and monitoring of SDPs. This would compensate the Department for the permitting costs by placing the burden on the permit applicant/holder. However, the fee could be substantial, might discourage development of permitted sites, and is beyond the Department's authority.
- 7) The Department could train and certify all municipal SDP site operators. This would give DEQ maximum control over the quality of personnel operating these sites. This should improve the quality of operation with the resultant decreasing risk of environmental contamination. However, this option is rejected for lack of legislative authority.
- 8) The Department could expand the SDP record of operation and evaluation program to include the requirement that all SDPs maintain and submit daily operating records for Departmental review. Review of daily logs of facility operation could pinpoint problems early, thus helping the SLF avoid costly corrections. This option is rejected for two reasons. First, staff effort needed to properly review this information is beyond the Department's resources. And, without staff review, the mere submission of additional records would be of little value in noting problems early-on. Second, the present reporting requirements are tailored to the individual SDP.

The Department will then evaluate the integrity of the site utilizing the soils and geological information supplied in the permit application, the site design, the monitoring program results, the engineering review, Departmental inspection reports and reports of special wastes disposed of. Modeling is inherent to the evaluation program and is used to extrapolate from the sampling data the extent of subsurface contamination. The model will be adjusted to better approximate real case conditions.

- 2B1) Review water monitoring program design and documentation.
- 2B2) Evaluation of SWA reports.
- 2B3) Evaluation of water sample results.
- 2B4) Evaluation of engineering reports.
- 2B5) Determine criteria for selecting SLFs for modeling.
- 2B6) Select SLFs for modeling.
- 2B7) Develop and operate model for sites selected.
- 2B8) Evaluate modeling results.

2C. Sanitary disposal project surveillance.

Iowa law requires that DEQ inspect permitted sites annually, in order to determine their conformance with Departmental rules. If the site is not brought into compliance within a reasonable time, these inspections may lead to enforcement actions by the Department.

- 2C1) Sanitary disposal project inspections.
- 2C2) Negotiations.
- 2C3) Formal legal actions.

2D. Site Criteria.

DEQ will periodically review its criteria for sanitary disposal projects, particularly sanitary landfills. This will be done by examining the geological

3. Special Waste Authorizations.

a. Background.

During the implementation of the municipal solid waste permit program (Program 2), it became evident that there would be requests for disposal of special types of wastes at sanitary disposal projects which were not designed to handle them. Disposal of these special wastes at a sanitary disposal project without special restrictions is not appropriate because of the potential environmental hazard, incompatibility with other wastes, difficulty in handling, or interference with the operation of the site.

As a result, the Department developed a special waste authorization (SWA) program to allow disposal of a specific special waste (hazardous or nonhazardous) in a specific manner at a particular site. The rules require an SWA for disposal of toxic and hazardous wastes, industrial sludges and wastes that present handling problems. The SWA, however, does not obligate the disposal site to accept the waste. The disposal site has the final decision whether to accept the waste and does so at its own risk.

Depending on the waste characteristics, the authorization may require sanitary landfilling with the other wastes, landfilling in isolated areas, land application over other wastes, or land application in isolated areas. Special preparation or handling could also be required. For monitoring purposes, the landfill is required to submit reports of waste disposed under the SWA program.

As other disposal options have been closed off, the number of special waste authorizations issued has increased. Currently, the Department is receiving approximately 30 requests per month for special waste authorizations. During review of significant waste streams, special effort is made to encourage recycling of the waste or disposal in a manner which will result in the greatest environmental benefit as identified in Activity 1E.

Consequently, this activity requires substantial staff time and has a large backlog of special waste disposal requests. The delay in processing applications occasionally results in applicants disposing of the waste by other, often unknown, means. However, the present system assures that, within the limits of

- 4) Special wastes require special disposal techniques individualized for each particular waste. This requires substantial staff time to evaluate, results in higher disposal costs, taxes the efforts of the SDP operators, and may be hazardous to the waste handlers.

e. Objectives.

- 1) DEQ will emphasize recycle/reuse of significant special wastes.
- 2) DEQ will have to find methods of handling these materials within the conventional waste disposal systems or find safe means to direct them from the conventional waste stream.
- 3) DEQ will continue to develop specific disposal standards for particular special wastes and to provide special disposal authorizations as needed.

f. Rejected Alternative Programs.

- 1) The Department could discontinue efforts to encourage recycling/reuse of the waste. This would reduce staff efforts involved in issuing a specific authorization. However, it would increase the number of authorizations requested in that the industries producing recyclable waste would be requesting disposal authorizations instead of diverting the waste to reuse. An increase in disposal authorizations would increase SLF compliance problems and decrease the life of the site. In addition, this goal is not consistent with the goals expressed in the Resource Conservation and Recovery Program (Program 1).
- 2) The Department could discontinue the special waste authorization program. This would result in an increased threat to public health due to a significant increase in the volume of special wastes mixed in with general SDP refuse and an increase in the hazards to operators of sanitary landfills. These effects would burden the Department's enforcement and SDP permit efforts, the recycle/reuse value of the waste would be lost, and the option would be inconsistent with DEQ goals.

3B1) Select wastes for standards development.

3B2) Develop standards.

3B3) Use the standards in evaluating requests for authorization.

First, the exemption for on-site disposal of hazardous wastes has been closed. This will reduce the disposal options available to waste generators and increase the number of requests for hazardous waste disposal permits.

Second, the Department expects that it will be implementing the hazardous waste program established in the Resource Conservation and Recovery Act (RCRA, PL 94-580). Unlike municipal waste, hazardous waste streams are often homogeneous in production and collection. The specific characteristics of the waste will allow for setting disposal site design requirements tailored for specific classes of wastes. For this reason the strategy selected for the hazardous special waste program (Program 5) involves identifying and permitting general waste types as have previously been identified (i.e., CCR, municipal sludges, C&D).

U.S. E.P.A.'s anticipated promulgation of treatment storage and disposal standards will allow flexibility in design and operation standards. This flexibility should encourage good disposal practices since it will allow and probably encourage industry to establish permitted disposal sites tailored to their waste production. However, the permit applications could be difficult to evaluate and require substantial staff time because the wide variety of wastes produced will result in many different site design proposals.

c. Goal.

To facilitate economical yet environmentally safe disposal of special wastes by providing standards for their disposal.

d. Problems.

- 1) Since special waste SDP sites are designed to address the unusual problems of special waste disposal, permit review based on flexible criteria requires substantial staff time.
- 2) The number of permit applications and the variety of wastes involved are both expected to increase in the near future.
- 3) The U.S. E.P.A.'s involvement in evaluation of the disposal standards and permit procedures will

of special waste authorization requests. This would increase costs to industry and DEQ, increase the potential for illegal dumping and fail to utilize the reuse value of certain special wastes.

- 3) The Department could establish a single set of standards for all special wastes. It is unlikely, though, that a single set of standards would either be unduly rigid or so general so as not to provide any guidance to the applicant. Rules that are too rigid cannot address the properties and problems of a particular special waste. This is the same problem that arose in the mid 1970's with conventional SDP standards which led to the development of rules for special waste disposal sites. At the same time, rules that are too general would increase the amount of staff time required to guide the applicant through the design process. In both cases, an equitable program would be difficult to maintain.
- 4) The Department could establish specific disposal standards for each type of special waste. The development of very specific special waste disposal criteria would aid site design engineers by eliminating some confusion. However, most wastes are not "pure", but contain two or more types of special wastes. Even if this problem could be resolved, the large volumes and variety of special wastes would make this project unmanageable and require extensive staff time. Also, considering problems with establishing a conventional SDP, one does not expect a proliferation of SDPs handling a separate and specific special waste.
- 5) The Department could expand the special waste SDP record of operation and evaluation program to include the requirement that all special waste SDPs maintain and submit daily operating records for Departmental review. Review of daily logs of facility operation could pinpoint problems early, thus helping the SLF avoid costly corrections. This option is rejected for two reasons. First, staff effort needed to properly review this information is beyond the Department's resources. And, without staff review the mere submission of

4B. Monitoring.

Because of the unique nature of special waste disposal sites, special emphasis must be placed on monitoring the site to assure protection of public health and the environment. This involves ground and surface water sampling, engineering review of the site development and modeling. Modeling is a necessary part of the evaluation in order to extrapolate the extent of subsurface contamination from the sampling data.

In all cases, the permit holder will install the monitoring system, collect data and evaluate site development. The Department must approve the monitoring program and review these activities as they occur. In some cases, the Department may conduct its own program supplementing the existing program. The Department will evaluate the significance of all data collected and will take appropriate action as necessary. This evaluation will utilize available modeling techniques.

- 4B1) Review the water monitoring program design and documentation.
- 4B2) Evaluate water sampling data.
- 4B3) Evaluate engineering reports.
- 4B4) Model and evaluate the potential for release of contaminants from selected land disposal sites.

4C. Surveillance.

Iowa law requires that the Department inspect permitted sites annually in order to determine their conformance with Departmental rules. Sites of particular concern will have to be inspected more frequently and in greater detail. If the site is not brought into compliance in a reasonable length of time, enforcement action must be initiated. If damage to the environment occurs, necessary corrective action must be required.

- 4C1) Special waste SDP inspections.
- 4C2) Negotiations.

5. Hazardous Special Wastes.

a. Background.

In 1977, estimates of the amount and methods of disposal of hazardous waste generated in Iowa became available. The data were collected by the North Iowa Area Community College (NIACC) with support from DEQ and five other governmental agencies. Projections of total hazardous waste generated in Iowa amount to 0.6 million tons and 35 million gallons per year. Of this, 65 percent is disposed on site, one percent in sanitary landfills, eleven percent out-of-state, fourteen percent recycled/reused, and nine percent discharged to sewers.

The Resource Conservation and Recovery Program (RCRA, PL94-580) requires the establishment of a cradle to grave management system for hazardous wastes. This program will be operated by the U.S. E.P.A. unless an equivalent state program exists to which the responsibility can be delegated. The necessary legislative authority does exist at the state level. The U.S. E.P.A. anticipates a five(5) year implementation period.

b. Planning Environment.

State legislation to regulate hazardous special waste in accordance with RCRA is effective July 1, 1979.

This legislation provides for the identification and listing of hazardous wastes, registration of generators and transporters, a manifest system, permitting of storage, treatment and disposal facilities, certification of operators at permitted facilities and closure of non-permitted hazardous waste facilities (including those currently exempted by Iowa law).

Registration of generators, transporters, owners and operators of storage, treatment and disposal facilities is required within 90 days of promulgation of the U.S. E.P.A. regulations relating to identification and listing of hazardous wastes. This promulgation is currently scheduled for January 25, 1980.

Six months after promulgation of the U.S. E.P.A. regulations, generators of hazardous wastes must assure transportation, handling, storage, treatment and disposal of hazardous waste in compliance with these

Problems.

- 1) There has been little control over hazardous waste disposal in Iowa. As a result, industry and the public are unfamiliar with proper hazardous waste management techniques. Implementation of an adequate management system will require significant educational efforts and compliance costs.
- 2) Because a limited program has existed in the past, the Department does not have sufficient information as to the nature, quantities and hazards of the various wastes produced in Iowa on which to base equitable rules.
- 3) Problems associated with certain hazardous materials and the publicity which they have received have made it difficult to obtain local approval of disposal sites.
- 4) It is not clear how difficult it will be to obtain hazardous waste program delegation from the U.S. E.P.A. The degree of flexibility the U.S. E.P.A. will allow in developing a program which addresses the state's unique social and physical conditions is also unknown.
- 5) The implementation period as established is not clear and will hinder the program's momentum.

e. Objectives.

- 1) To educate industry and the general public about proper hazardous waste management techniques.
- 2) To expand the Department's existing information on the types, quantities and hazards of the various wastes produced in Iowa.
- 3) To obtain U.S. E.P.A. delegation to administer the RCRA hazardous waste program.
- 4) To obtain legislation and develop rules which provide for an effective hazardous waste management program.
- 5) To develop and implement the program necessary to assure proper management of hazardous waste in Iowa.

enforcement program requiring substantial staff time.

Adoption of U.S. E.P.A. rules without modification may be appropriate in other states, but is rejected by Iowa since it would not be equitable or provide the best protection to public health and the environment.

- 3) The Department could adopt rules based on the degree of hazard that a waste presents. This sort of system would utilize several classes of physically dissimilar wastes with a set of criteria for each class of hazard. This would require a greater staff effort in development of the rules due to the need to establish classes of hazard and the analytical methods to determine the classes. However, it would allow for a more logical phasing of implementation according to hazard. During implementation there would be considerable confusion and conflict over the class a waste fits into. Because of the difficulty in making fine determinations of the degree of hazard presented by a nonuniform waste, the staff effort required in permit activities would increase significantly. Enforcement efforts would also have to be increased to assure that wastes of a given hazard class did not go to the wrong site. This approach would be more equitable, but the staff requirements are prohibitive and the classification procedure invites conflict.
- 4) The Department could require that all manifests be routed through the Department. This would assure quicker indication of problems in the management of hazardous wastes. Administering such a system would require a huge data handling system and substantially increased staff requirements. It would, however, eliminate any further reporting requirements placed on generators. In view of the stiff penalties proposed for mishandling of hazardous special wastes, it is felt that the costs to state government of implementing this option are several orders of magnitude greater than the benefits it confers.
- 5) The Department could rely totally on private industry to assure adequate training of personnel at permitted facilities. In this option, the Department would neither train nor certify per-

involved and the potential for alternate disposal or use of the waste. Phasing will be accomplished by the order in which these disposal standards are promulgated. Rulemaking will be done as part of Activity 4D. The site permitting, monitoring, and surveillance programs will be addressed as part of the other activities in Program 4 (Special Waste Sanitary Disposal Projects).

Dump closing efforts including temporary permits will be phased to be concurrent with the development of acceptable sites, but will take place under Program 7 (Open Dumps).

Manifests will not be processed by the Department, but annual reports and immediate reports of unconfirmed waste shipments ("exception" reports) will be required of the generators. A certain percentage of these will be audited each year, dependent on staff constraints.

The Department will develop and conduct an operator training and certification program. This gives the Department maximum control over the quality of personnel operating hazardous waste sites. This will improve the quality of the operation of these sites with the resultant decreasing risk of environmental contamination.

Data handling methods will have to be developed to coordinate the registration of generators, annual and exception reports and disposal facility records. Data handling systems will also have to be developed for dump closing and SDP monitoring and surveillance.

Public participation programs will be handled as part of the general public participation activity of Program 10 (Solid Waste Planning).

h. Program Activities.

5A. Planning Activities.

In development of the overall hazardous waste management program for the state of Iowa the following specific planning components can be identified:

Development of rules for the identification and listing of hazardous wastes will be necessary.

- 5A6) Develop operator training program.
- 5A7) Development of criteria to examine personnel, evaluate training and experience of personnel, and evaluate the effectiveness of training programs for the operator certification program.
- 5A8) Selection and development of generator and transporter data processing system and procedures.
- 5A9) Selection and development of manifest report processing system and procedures.
- 5A10) Selection and development of operator certification processing system and procedures.
- 5A11) Monitor current developments in hazardous special waste management.
- 5A12) Provide information to the public, government and industry on hazardous special waste management matters.

5B. Permit Activities.

Permitting of storage, treatment, and disposal sites will be handled as a part of the Special Waste SDP program. Temporary permitting of existing non-complying facilities will be handled as part of the Open Dump Program. Registration of persons generating transporting, treating, and disposing of hazardous wastes will require a massive short term activity involving 70,000 registrants. This response will have to be evaluated and recorded to use as the basis for surveillance of the manifest system. Later registrations will have to be incorporated as they occur.

- 5B1) Notification from potential registrants.
- 5B2) Recording and evaluation of registrations.
- 5B3) Updating and maintenance of registrations.

6. Municipal Wastewater Treatment Plant Sludges.

a. Background.

Sludges of all types constitute a special waste. They are difficult to handle at a sanitary landfill, should not be buried at all sites, and may be hazardous. At the same time there may be distinctive benefits to be realized by surface application to agricultural lands including utilization of nutrients, improvements in soil tillage and simpler disposal procedures.

Many of the municipalities in Iowa have water and wastewater treatment plants that generate sludges. The sludges consist of water along with the waste solids in various proportions depending on the kind of treatment process. Disposal of municipal sludges can be a serious solid waste problem. Fortunately, the majority of municipal wastewater treatment plants in Iowa produce a sludge which can be employed as a fertilizer and soil conditioner through proper land application.

Those sludges originating from municipal wastewater treatment plants (regardless of industrial components) are addressed under this section. Sludges destined for landfills are required to be buried in an environmentally acceptable fashion, but this constitutes less than one-half the sludge generated. Most of the sludges are being used for land application with no systematic program for determining chemical content, land suitability, or water pollution potential.

The Department's efforts to regulate sludge disposal began in 1974 when rules were adopted limiting sludge disposal in SDPs. In 1975, the agency hired Stanley Consultants, Inc. of Muscatine to survey municipal wastewater treatment plant sludge disposal practices and recommend a possible regulatory approach.

In 1976, under the water quality planning effort (Sec. 208 of PL92500), a second state survey of municipal sludge disposal practices was made to better determine the impact of regulation on smaller cities. The data collected from the survey led to the development of draft municipal sludge disposal regulations.

c. Goals.

To ensure the environmentally acceptable use or disposal of municipal sewage sludges.

d. Problems.

- 1) Most municipalities have not used and are not familiar with correct sludge disposal methods.
- 2) Few sources of information have been available to city personnel trying to upgrade their operations.
- 3) Departmental staff have had limited time available to monitor current sludge disposal developments.

e. Objectives.

- 1) To promote the land application of sludges from POTWs without adversely affecting the environment.
- 2) To promote the reduction and elimination of sludge contaminants which limit the suitability of sludges for land application.

f. Rejected Alternative Programs.

- 1) The Department could drop the existing program and let cities do the best they can without any Departmental rules or guidance. This would not be consistent with the goals of the solid waste management program to promote recycling, reuse, and reduction of solid waste and the proposed disposal of the remainder.
- 2) The Department could embark on an extensive educational and technical assistance program designed to inform and train designers, managers, public officials and operators of wastewater treatment plants of design and operating methods available to them. This could be done by local seminars, training sessions and workshops. In addition, the general public could be informed of the benefits of land application of sludges by means of pamphlets, seminars, public meetings, broadcasts and news print articles.

serve the goals of the Department and meet applicable federal requirements.

6B1) Rules Review.

6B2) Rules Update.

6C. Technical Assistance.

Local government's need for assistance will be particularly acute through 1979. This will take the form of meetings, letters, telephone communications, seminar presentations and similar activities. After 1979, a continuing but less intense effort will be needed to ease the shift to desirable sludge disposal methods.

6C1) Provide technical assistance for establishing land application or burial programs.

6C2) Utilize certain forums to discuss with public officials the pros, and cons and preferred methods of land application.

6C3) Monitor current developments in sludge disposal.

Since subtitle C and D of RCRA are similar in content to Iowa law for closure of these public and private dumps, RCRA should have little impact as long as the dumps are properly closed or upgraded within five years.

The effect of RCRA on individual domestic, agricultural and private industrial (nonhazardous) sites could be significant since DEQ continues to lack authority over these activities and federal law requires proper closure or upgrading of all sites within five years.

c. Goals.

- 1) Ensure that solid wastes are disposed of in environmentally acceptable ways.
- 2) Eliminate environmental degradation from existing open dumps through proper closure or upgrading.

d. Problems.

- 1) Dumps create health hazards, scenic blight, economic loss, provide food and shelter for vermin, pollute surface and ground waters and undermine proper solid waste disposal practices.
- 2) Iowa, by its rural nature, is conducive to open dumping. Relatively long distances to the sanitary landfill compared with easy access to secluded areas along infrequently traveled roads, all contribute to the problem. DEQ must continue to eliminate these dumps as they are discovered.
- 3) Dumping of wastes on land owned or leased by waste producers has been exempt from SDP permit requirements. Legislation effective July 1, 1979 closes this exemption for hazardous waste dumps leaving large numbers of private sites to be closed or upgraded.
- 4) Nonhazardous waste generated and disposed of on land owned or leased by waste producers continues to be exempt from SDP permit regulations. DEQ must seek legislative authority to close this exemption.
- 5) Town dumps have virtually been eliminated through proper closure. DEQ must ensure that these remain closed so that proper waste disposal continues.

g. Selected Program.

The Department will continue to work at closing open dumps as staff time allows. When hazardous waste disposal legislation is enacted, private hazardous waste dumps will be closed or upgraded via temporary permits. DEQ will continue to seek authority to close the nonhazardous private dump site exemption. This is the option of choice since it is consistent with Departmental goals and strengthens the program's conformance with RCRA.

h. Program Activities.

7A. Close and prevent public open dumps.

DEQ intends to close all public open dumps in Iowa, and ensure that they remain closed as time and staff permit. In addition, the Department will evaluate the local solid waste management systems to ensure that the programs are adequate to prevent open dumping. A local solid waste management system should include dump prevention activities such as public information programs and/or area-wide collection systems.

7A1) Close public open dumps.

7A2) Evaluate local solid waste management programs, as necessary.

7B. Close and prevent private dumps.

The Department has authority effective July 1, 1979 to control hazardous waste dumps owned or leased by private sources. This program includes promulgating necessary rules, public information programs and negotiating compliance schedules to close or upgrade all private dump sites. Some of the dump sites may be required to upgrade to hazardous waste disposal sites. To coordinate dump closing or upgrading compliance activities, a data handling system will be selected and developed. The Department will continue to seek authority over non-hazardous waste dump sites.

7B1) Seek legislation to control non-hazardous dump sites.

7B2) Develop rules, as necessary.

8. Salsbury Laboratories.

a. Background.

Salsbury Laboratories located in Charles City, Iowa, produces organic chemicals, animal health products and vaccines. The manufacture of the final products involves many complicated reactions between numerous raw materials and intermediate organic compounds. The operation produces both liquid and solid wastes. After pretreatment, liquid wastes are pumped to the Charles City wastewater treatment plant with ultimate discharge to the Cedar River. The solid wastes, primarily arsenic and gypsum sludges, were collected and dumped in two sites located near the Cedar River. The dumping began in 1951 at the old city dump site and was switched to a site leased from Mr. Duane La Bounty in 1953. Dumping continued until 1977.

DEQ contracted studies by Eugene A. Hickok and Associates, Inc. in 1977 estimated that the site contained one million cubic yards of contaminated material and at least 12 known toxic or hazardous chemicals had been deposited at the La Bounty dump. The La Bounty site is one of 103 sites in the United States identified by the EPA on November 21, 1978, which contains toxic materials that may be potentially hazardous to the public health and the environment.

Site monitoring began in 1955, but it was not determined until a 1974 DEQ/IGS study that the dump was causing a potential toxic and hazardous waste problem in the Cedar River near Charles City.

Additional studies by DEQ, EPA Region VII, and IGS in 1977 indicated that the site may constitute a major environmental threat. Additional information was obtained regarding the dump's location over a major aquifer (a water bearing geological formation) and arsenic concentrations present in the alluvial groundwater (water in the sand and gravel deposits of the river). Further, it was discovered that one of the chemicals used by Salsbury, orthonitroaniline, was present in shallow municipal wells in Waterloo, 65 river miles from the dump site. Toxic contaminants from the dump potentially threatened the river and bedrock aquifer under the dump, water resources used by more than 300,000 Iowans.

closing requirements in any more detail than those developed for municipal dumps.

Numerous studies have documented that this chemical dump is contaminating ground and surface waters, but effecting remedial action is complicated. The complex nature of the site, the danger of increased contamination from disruption of the waste and the high costs involved suggest that further studies be done. For this reason, the Department and EPA Region VII jointly submitted a proposal to U.S. E.P.A. in October 1978. (Revision submitted December 1978).

The Department proposed to study the site to provide a sound technical basis for determining the most effective and feasible method to isolate the chemical wastes, either in place or by excavation and removal. While the proposal had full endorsement of EPA Region VII, the study was not funded by U.S. E.P.A. with the comment that it was not an appropriate application for TSCA (Toxic Substances Control Act) funding.

In May 1979, Salsbury's engineering consultant presented a plan to eliminate the potential threat to the Cedar River and Cedar Valley Aquifer by covering, grading, and sloping the La Bounty site for surface water drainage. The proposal was based on a limited geophysical investigation conducted in 1978 by Layne-Western, Inc. for Salsbury Labs.

As proposed, the program would be carried out in two phases: First, site covering, containment, and monitoring to be followed by control of upgradient waterflow only if most of the aquifer and stream contamination was not controlled. EPA Region VII has, per the DEQ-EPA agreement (Agreement No. 79-Iowa-1), assumed the lead role in abatement of this problem and is currently negotiating the details of Salsbury's proposed corrective measures. EPA's stated goal of these negotiations is to eliminate or minimize (to the greatest extent possible) the discharge of pollutants from the La Bounty site. DEQ is to have concurrence on the final technical form.

In review of remedial plans developed by EPA, the Department could become involved in investigation and evaluation of hazardous waste contractors, handlers and haulers, hazardous waste disposal sites, leachate collection/treatment systems and the like. Any plan would have to include monitoring to evaluate the plan's success or failure. In addition, the

e. Objectives.

- 1) To provide the EPA (the lead enforcement agency) with any and all information available to DEQ concerning this site.
- 2) To provide review of any plans developed by EPA to eliminate the environmental threat posed by this site.
- 3) To assist EPA, where possible, in implementing any DEQ - concurred remedial plan.
- 4) To ~~implement appropriate sampling programs to~~ evaluate the effectiveness of the remedial actions.
- 5) To continue to work with the Iowa Natural Resources Council in imposing restrictions on water withdrawals as long as a significant risk of aquifer contamination remains.
- 6) To continue sampling to determine actual threat to the public health and environment resulting from this site.
- 7) To assure that adequate permanent controls of the La Bounty site are maintained to prevent disturbance of any corrective measures.

f. Rejected Alternative Programs.

- 1) The Department could drop all activities aimed at the abatement of the La Bounty site problem. This option is not consistent with the Department's goals or the agreement with EPA to provide assistance on the La Bounty problem, and would also constitute a gross disregard for the public health and the environment.
- 2) The Department could assist EPA in legal action to require immediate removal or permanent securement. This option would probably result in time-consuming court action without the technical information necessary to support the recommended remedial actions. A determination as to the best solution to the problem cannot be made until the remedial actions are implemented and monitored. The success of the abatement plan will direct all future decisions and activities.

8A1) Review all technical reports and proposed remedial actions.

8A2) Assist EPA, where possible, in implementation of DEQ-concurred remedial actions.

8B. Abatement Plan Monitoring.

With "208" funding, DEQ will study the area to supplement EPA required monitoring of the negotiated remedial measures and determine the feasibility of future remedial actions:

8B1) Coordinate all activities of the study.

8B2) Issue contracts, as necessary.

8B3) Review all technical reports.

8B4) Prepare interim progress reports.

8B5) Evaluate monitoring data.

8B6) Oversee remedial actions, as necessary.

8C. Water Supply Monitoring.

DEQ will continue monitoring the downstream water supplies to determine threat to public health and the environment.

8C1) Sampling as necessary.

8C2) Evaluate sampling results.

8C3) Oversee remedial action, as necessary.

b. Planning Environment.

The law designating DEQ as the agency to control hazardous conditions allows the Department to take whatever action is necessary to terminate hazardous conditions. However, the law excludes DEQ jurisdiction over hazardous conditions existing solely within an industrial or commercial plant or with respect to relations between employers and employees. DEQ control over inflammable liquids, pesticides and fertilizers (except when spilled off commercial property), and air contaminants is also restricted by this law because of other existing authorities within DEQ and other state agencies.

There are some parallel federal programs and federal requirements for hazardous condition contingency plans. Federal authority rests primarily with EPA and the Coast Guard and emanates from Sec. 311 of the Clean Water Act. Recent amendments to that act expanded federal authority from response to oil and petroleum products to include 271 hazardous chemicals. However, this expanded authority has been challenged and is currently under court injunction. Therefore, federal authority exists only for oil and petroleum products which have entered or jeopardize "navigable" waters of the U.S.

Since DEQ is mandated to control hazardous conditions throughout the state, the Department intends to correct the major weaknesses of the current emergency response plan. The most important addition to the response plan is establishment of an emergency communications network. This will allow prompt response to spills and facilitate access to information from industry, U.S. E.P.A., University Hygienic Lab., and others.

The response staff need frequent and regular education programs that include technical training and simulation exercises. Exercises are necessary to learn and practice new skills and are useful in pointing out deficiencies in the response system.

With these program changes, it is hoped the Department will be better able to address the short and long term consequences of hazardous conditions.

c. Goals.

Minimize the impact of hazardous conditions of public health by responding promptly to spills of hazardous

- 2) The Department could continue the existing program. This option would result in progress toward the goal, but not in the immediate, informed, and efficient manner necessary to fully minimize the effects of hazardous conditions.
- 3) DEQ could seek legislation to alter its role as the agency of the state responsible for controlling hazardous conditions to that of providing emergency technical assistance and support to a designated primary response agency. This change would be advantageous to DEQ, since as a pollution control agency, its expertise lies not in directing spill containment and cleanup, but in surveillance of air, water, and land, prediction of the environmental effects and the appropriate disposal methods. However, this option is infeasible because of legislative mandate, the unwillingness of other state agencies to undertake the entire program, and its inconsistency with Departmental goals.
- 4) The existing program could be expanded to establish DEQ as an emergency agency. This would include control over all existing environmental and public health hazards (jurisdiction would not be limited) with authority to inventory and rectify potential hazards. Emergency communications, staff, training and technical resources would be expanded in order to provide immediate and informed response on a 24 hour basis. This option would provide substantial and efficient progress toward the goal, but is rejected because it is beyond the Department's authority and resources, and would result in a duplication of some of the efforts of the state's disaster agency.

g. Selected Program.

The Department will continue emergency response to hazardous conditions, aid to local officials with contingency planning, and maintenance of an up-to-date contingency plan. A 24-hour emergency communications system will be established and response staff training increased. This is the option of choice since it is consistent with the Department's goals and resources.

10. Planning.

a. Background.

The Department received a solid waste management planning grant in 1971. Plans were developed which led to the implementation of Iowa's solid waste law and sanitary disposal projects became established and dumps were closed. DEQ submitted a formal Solid Waste Management Plan to EPA in 1973. Since 1974, DEQ has developed an internal one-year planning document "PLANNET" which enumerated DEQ solid waste activities. This document has been submitted to EPA as the basis of the agency's annual grant package.

b. Planning environment.

Under the general category of planning, certain activities must be completed to insure a successful solid waste management program. These activities serve to coordinate all other solid waste activities. For example, the preparation of this strategy and preparation of the annual program plan are activities that are completed with staff resources for planning. In addition, the coordination of all state and local planning activities and the upgrading of existing programs mandated by RCRA must be accomplished. This includes documentation adequate for U.S. E.P.A. authorization to administer the RCRA hazardous waste program.

c. Goal.

To ensure that solid wastes (including hazardous wastes) are disposed of in environmentally acceptable ways.

d. Problems.

Solid waste management activities within DEQ must be consistent with federal and State requirements, public needs, and resource availability. This requirement can only be obtained by a continuous planning effort based upon far reaching strategies so that the best allocation of DEQ resources can be made.

and guidelines. Throughout this program, participation by the public will be encouraged through meetings held by the designated local agencies, DEQ staff and the Solid Waste Disposal Commission.

10B1) Review EPA solid waste management planning criteria.

10B2) Review local agency plans.

10B3) Develop a State Solid Waste Management Plan.

10C. Public participation activities.

To inform and involve the public in solid waste management activities, the Department will develop and conduct public information programs.

10C1) Develop and conduct public information programs.

10D. Hazardous Special Waste Program Authorization.

To obtain interim and full authorization by EPA of the state hazardous special waste program as provided for in Subtitle C of RCRA (PL 94-580).

10D1) Development of application for U.S. E.P.A. authorization of the state hazardous waste program.

10D2) Obtain interim authorization.

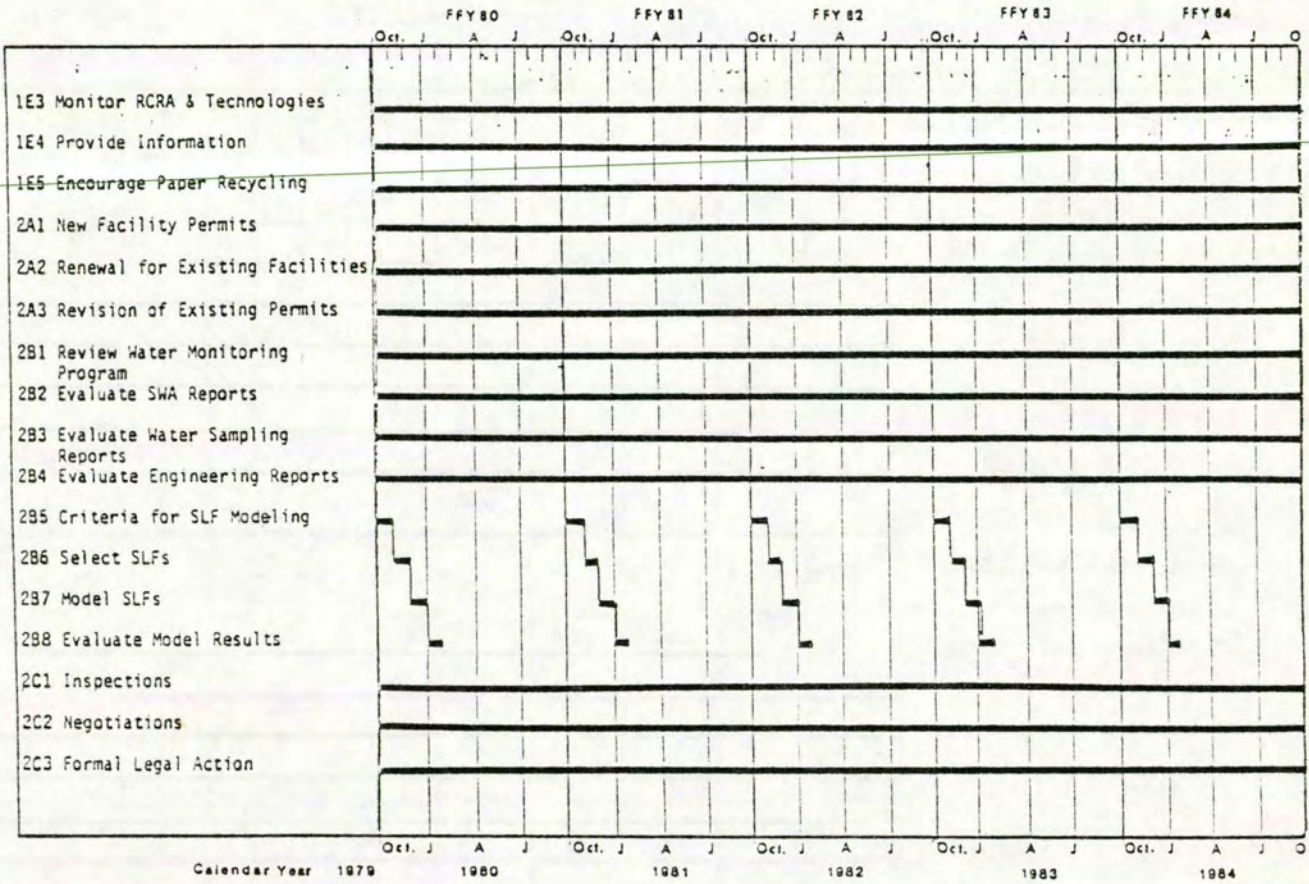
10D3) Develop application for full authorization.

10D4) Obtain full authorization.

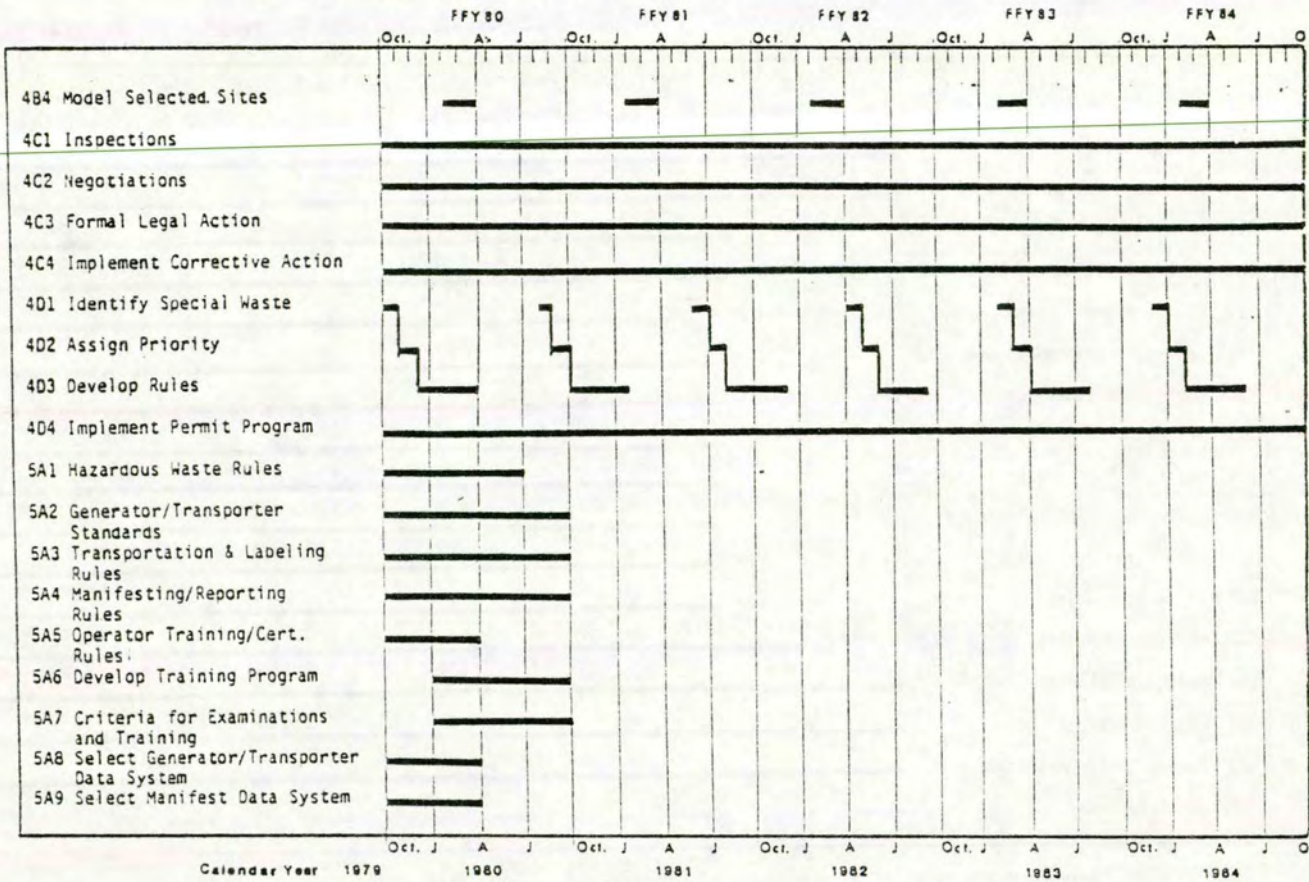
6. Special Waste Disposal: Continue the SWA program as necessary to effect safe disposal of special wastes at conventional SLFs. Activities: 4A-D.
7. Resource Conservation and Recovery: Efforts will be made to reduce the volume of solid waste through resource conservation and recovery technology. Activities: 1A-E.
8. Sludge Disposal: Efforts to control disposal of municipal sludge will continue since Departmental rules became effective July 19, 1978, and require cities to comply by July 1, 1979. Activities: 6A-C.
9. Open Dumps: Enforcement activities associated with open dump closing will continue. Activity: 7A.

Finally, planning which is an integral part of the entire solid waste management program is emphasized as a separate item. Activities: 10A-D.

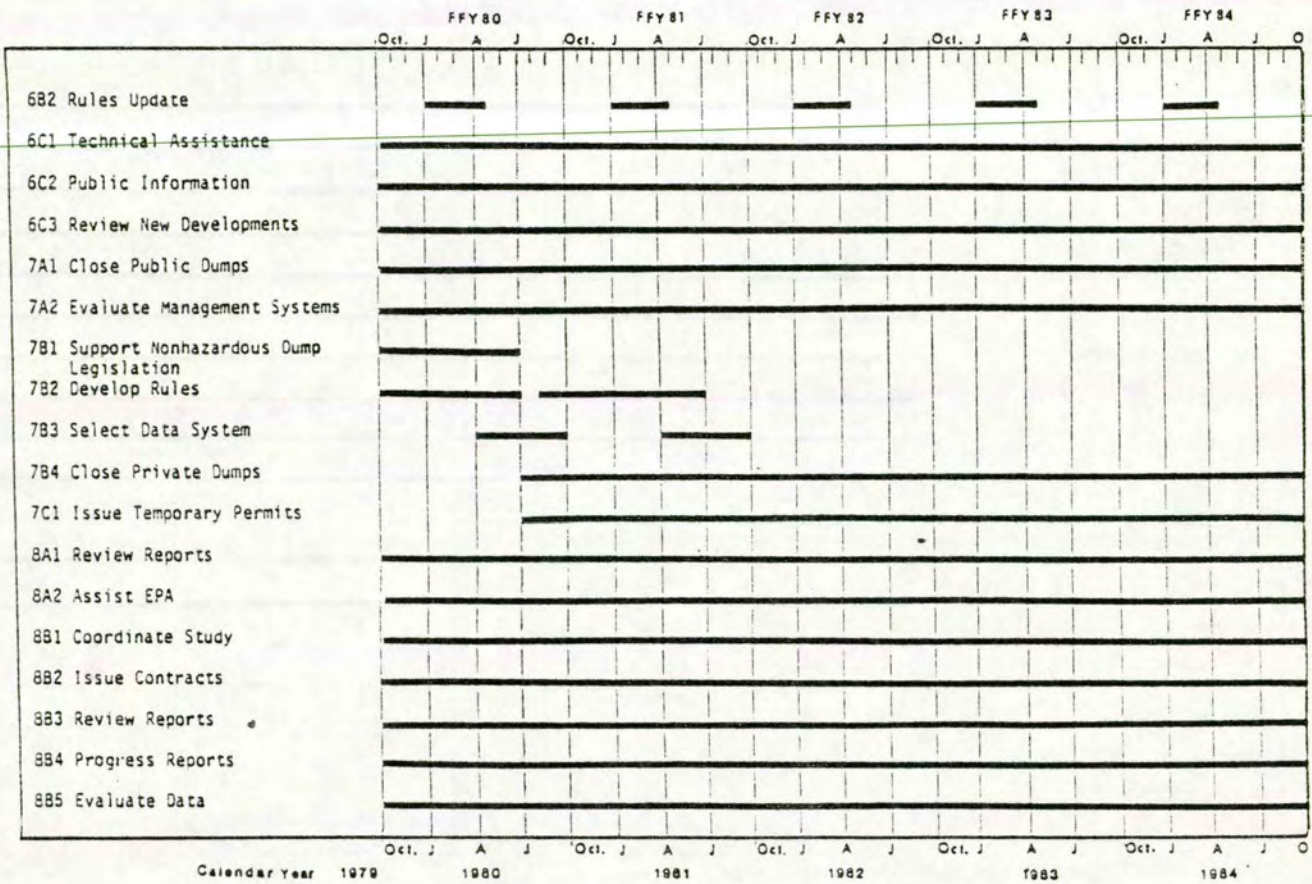
SOLID WASTE STRATEGY ACTIVITY SCHEDULE



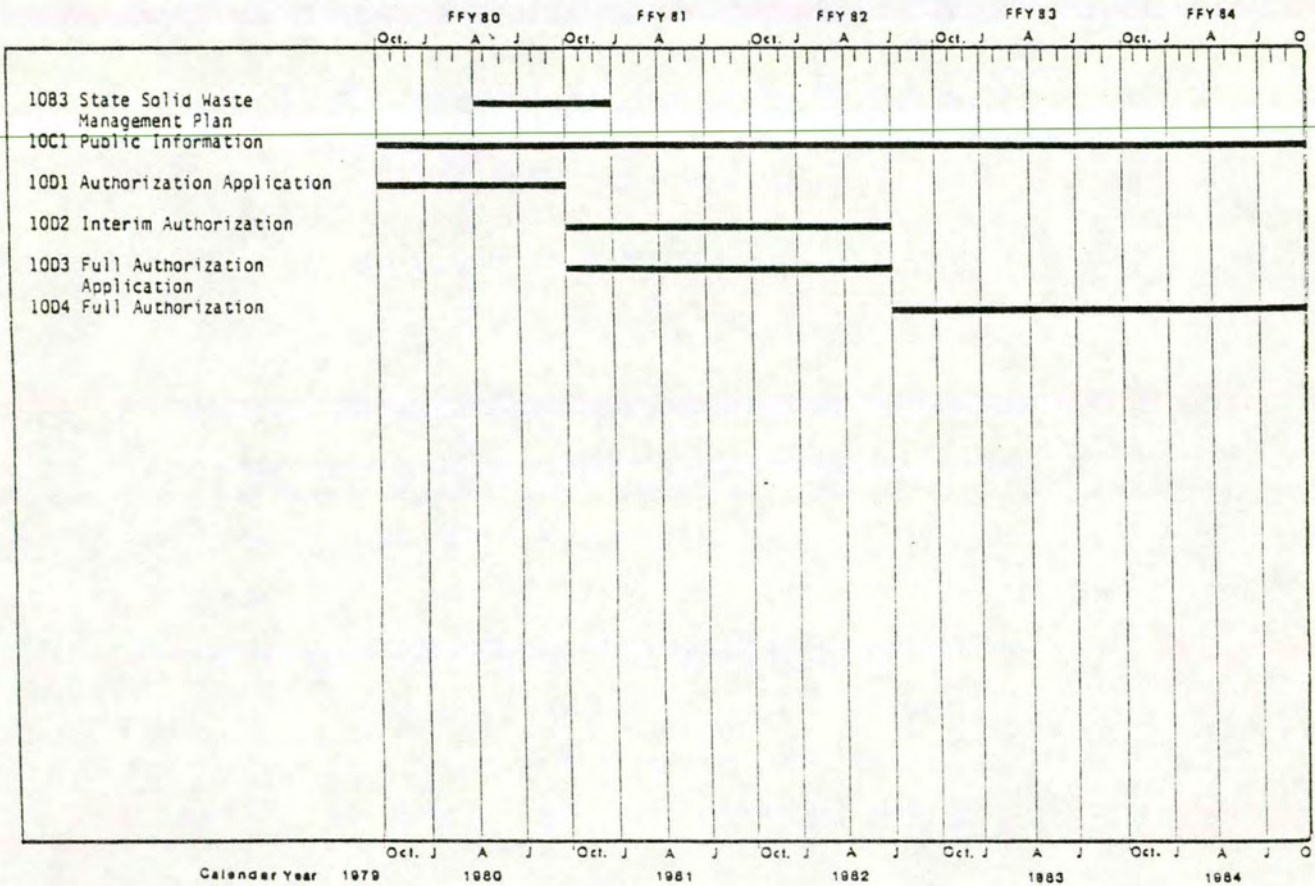
SOLID WASTE STRATEGY ACTIVITY SCHEDULE



SOLID WASTE STRATEGY ACTIVITY SCHEDULE



SOLID WASTE STRATEGY ACTIVITY SCHEDULE



Appendix E

Iowa Department of Environmental Quality Program Plan
Organization of the Iowa Department of Environmental Quality

IOWA DEPARTMENT OF ENVIRONMENTAL QUALITY PROGRAM PLAN FY80
ACTIVITY FORM OA-PP1

1 ACT NUMBER 410001

2 PRIORITY 73 3 NAME SDP Surveillance & Compliance

4 OBJECTIVE To insure that sanitary disposal projects are operated in accordance with the rules of the Department and the terms of their permit.

5 ACTIVITY DESCRIPTION Water monitoring reports, periodic engineering evaluations, special waste reports and other reports will be reviewed for compliance with the rules and the permit. Enforcement actions including referrals to C&P Division and follow-up shall be done in accordance with established policies and procedures.

6 DIVISION/SECTION LQ - SW

STAFF WEEKS 45

7 X OUTPUTS/ACTIVITY INDICATORS	RPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	TOTAL	Actual Planned
A Well Documentation Forms Reviewed	3	0	0	0	0	0	0	0	0	0	0	0	0	40	Actual Planned
B Well Sampling Forms Reviewed	3	0	0	0	0	0	0	0	0	0	0	0	0	160	Actual Planned
C Backlog - Documentation Forms	3	0	0	0	0	0	0	0	0	0	0	0	0	0	Actual Planned
D Backlog - Sampling Forms	3	0	0	0	0	0	0	0	0	0	0	0	0	0	Actual Planned
E Engr. Reports Reviewed	3	0	0	0	0	0	0	0	0	0	0	0	0	120	Actual Planned

ACT NUMBER 410001

OUTPUTS AND ACTIVITY INDICATORS (CONTINUED)

7 X OUTPUTS/ACTIVITY INDICATORS	RPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	TOTAL	Actual	Planned	
F Backlog - Engr. Reports	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
G Special Waste Reports Reviewed	3	0	0	0	0	0	0	0	0	0	0	0	0	144			
H Backlog - Special Waste Reports	1	0	0	0	0	0	0	0	0	0	0	0	0	0			
I Priority System for Referrals to C&P	1	0	0	0	1	0	0	0	0	0	0	0	0	1			
J Priority System for Referrals to A-G	1	0	0	0	1	0	0	0	0	0	0	0	0	1			
K SDPs Referred to LQ by Reg. Programs	2	0	0	0	0	0	0	0	0	0	0	0	0	12			
L SDPs Referred to C&P (Due to RP)	1	0	0	0	0	0	0	0	0	0	0	0	0	12			
M SDPs Referred to C&P (Due to LQ)	1	0	0	0	0	0	0	0	0	0	0	0	0	6			

ACT NUMBER 410001

OUTPUTS AND ACTIVITY INDICATORS (CONTINUED)

7 X OUTPUTS/ACTIVITY INDICATORS	RPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	TOTAL	
N Backlog of RP Referrals to LQ	3	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	Actual Planned
O Number of LQ Violation Letters Sent	3	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>36</u>	Actual Planned
P Number of SDP's with Major Violations	1	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	Actual Planned

IOWA DEPARTMENT OF ENVIRONMENTAL QUALITY PROGRAM PLAN FY80
ACTIVITY FORM OA-PPI

1 ACT NUMBER 410002

2 PRIORITY 68 3 NAME Open Dump Surveillance & Compliance

4 OBJECTIVE To minimize public health hazards and environmental pollution resulting from the unauthorized disposal of non-hazardous solid wastes by initiating legal action, when necessary, to secure compliance with the rules.

5 ACTIVITY DESCRIPTION All recommendations by RP for removal of dumped wastes will be reviewed. All referrals from RP will be reviewed and forwarded to C&P for formal enforcement action. A priority system for such referrals will be developed and a list of unauthorized solid waste disposal sites will be forwarded to EPA.

6 DIVISION/SECTION LQ - SW

STAFF WEEKS 5

7 X OUTPUTS/ACTIVITY INDICATORS	RPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	TOTAL	Actual Planned
A Priority System for Referrals to C&P	1	0	0	0	1	0	0	0	0	0	0	0	0	1	Actual Planned
B Priority System for Referrals to A-G	1	0	0	0	1	0	0	0	0	0	0	0	0	1	Actual Planned
C Dumps Referred to LQ by RP	2	0	0	0	0	0	0	0	0	0	0	0	0	24	Actual Planned
D Dumps Referred to C&P	1	0	0	0	0	0	0	0	0	0	0	0	0	24	Actual Planned
E Backlog - Referrals by RP	3	0	0	0	0	0	0	0	0	0	0	0	0	0	Actual Planned

ACT NUMBER 410002

OUTPUTS AND ACTIVITY INDICATORS (CONTINUED)

7 X OUTPUTS/ACTIVITY INDICATORS	RPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	TOTAL	Actual Planned
F Dump List to EPA	1	0	0	0	0	0	0	0	0	0	0	0	1	1	

IOWA DEPARTMENT OF ENVIRONMENTAL QUALITY PROGRAM PLAN FY80
ACTIVITY FORM OA-PP1

1 ACT NUMBER 410010

2 PRIORITY 27 3 NAME Sanitary Disposal Project Permits

4 OBJECTIVE To insure that all sanitary disposal projects meet the requirements of Chapter 455B of the Code and the solid waste disposal rules by reviewing permit applications and issuing or denying permits.

5 ACTIVITY DESCRIPTION Review applications for new SDPs including municipal sludge disposal sites and for renewals and revisions for existing SDPs. Review ground and surface monitoring programs for these sites and issue permits for those sites which comply with Departmental rules. Review applications and issue permits for redemption centers, and approve labeling exemptions.

6 DIVISION/SECTION LQ - SW

STAFF WEEKS 75

7 X OUTPUTS/ACTIVITY INDICATORS	RPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	TOTAL	Actual	Planned
A Prelim. Reports Reviewed	3	3	3	3	3	3	3	3	3	3	3	3	3	36		
B Backlog - Prelim. Reports	1	0	0	0	0	0	0	0	0	0	0	0	0	0		
C New Plans & Specs. Reviewed	2	0	0	0	0	0	0	0	0	0	0	0	0	30		
D Backlog - New Plans & Specs.	1	0	0	0	0	0	0	0	0	0	0	0	0	0		
E New Permits Issued	2	0	0	0	0	0	0	0	0	0	0	0	0	24		

ACT NUMBER 410010

OUTPUTS AND ACTIVITY INDICATORS (CONTINUED)

7 X OUTPUTS/ACTIVITY INDICATORS	RPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	TOTAL	Actual Planned
F Plan Revisions Reviewed	2	0	0	0	0	0	0	0	0	0	0	0	0	48	Actual Planned
G Backlog - Plan Revisions	3	0	0	0	0	0	0	0	0	0	0	0	0	0	Actual Planned
H Permit Revisions Issued	2	0	0	0	0	0	0	0	0	0	0	0	0	36	Actual Planned
I Renewal Applications Received	3	0	0	0	0	0	0	0	0	0	0	0	0	30	Actual Planned
J Permit Renewals Issued	2	0	0	0	0	0	0	0	0	0	0	0	0	30	Actual Planned
K Permit Renewals Denied	3	0	0	0	0	0	0	0	0	0	0	0	0	0	Actual Planned
L SDP Renewals Past Expiration Date	1	0	0	0	0	0	0	0	0	0	0	0	0	0	Actual Planned
M Redemption Center Permits Issued	3	0	0	0	0	0	0	0	0	0	0	0	0	12	Actual Planned

ACT NUMBER 410010

OUTPUTS AND ACTIVITY INDICATORS (CONTINUED)

7 X OUTPUTS/ACTIVITY INDICATORS	RPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	TOTAL	Actual Planned
N Redemption Center Approvals Re-evaluated	3	0	0	0	0	0	0	0	0	0	0	0	0	6	Actual Planned
O Redemption Center Permits Amended	3	0	0	0	0	0	0	0	0	0	0	0	0	3	Actual Planned
P Labeling Exemptions Approved	3	0	0	0	0	0	0	0	0	0	0	0	0	2	Actual Planned
Q Labels Approved	3	0	0	0	0	0	0	0	0	0	0	0	0	2	Actual Planned
R Number of SDPs	3	0	0	0	0	0	0	0	0	0	0	0	0	0	Actual Planned
S Number of SDPs Operational	2	0	0	0	0	0	0	0	0	0	0	0	0	0	Actual Planned
T Number of Municipal Sludge Permits	2	0	0	0	0	0	0	0	0	0	0	0	0	18	Actual Planned
U Number of Approved Redemption Centers	2	0	0	0	0	0	0	0	0	0	0	0	0	25	Actual Planned

ACT NUMBER 410010

OUTPUTS AND ACTIVITY INDICATORS (CONTINUED)

7 X OUTPUTS/ACTIVITY INDICATORS	RPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	TOTAL	
V Number of Temp. Permits Issued	2	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>6</u>	Actual Planned
W Number of Temp. Permits Denied	1	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	Actual Planned
X Site Inventory Surveys Sent to EPA	1	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>30</u>	<u>30</u>	Actual Planned

IOWA DEPARTMENT OF ENVIRONMENTAL QUALITY PROGRAM PLAN FY80
ACTIVITY FORM OA-PP1

1 ACT NUMBER 410011

2 PRIORITY 64 3 NAME Special Waste Disposal Authorizations

4 OBJECTIVE To minimize public health hazards and environmental pollution resulting from the disposal of special wastes by promoting the recycling or reuse of the wastes; failing that, reviewing the characteristics of the waste and prescribing proper land disposal methods.

5 ACTIVITY DESCRIPTION Review information on the characteristics of the waste (including volumes involved and special handling requirements), the disposal site proposed and alternate methods of disposal or use of significant waste streams. Assist industry and public agencies in arranging for the recycle/reuse, treatment or disposal of special wastes. Issue and renew authorizations as appropriate.

6 DIVISION/SECTION LQ - SW

STAFF WEEKS 45

7 X OUTPUTS/ACTIVITY INDICATORS	RPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	TOTAL	
	---	---	---	---	---	---	---	---	---	---	---	---	---	---	Actual
A New SWA Requests Received	3	0	0	0	0	0	0	0	0	0	0	0	0	300	Planned
	---	---	---	---	---	---	---	---	---	---	---	---	---	---	Actual
B Backlog - New Requests	1	0	0	0	0	0	0	0	0	0	0	0	0	0	Planned
	---	---	---	---	---	---	---	---	---	---	---	---	---	---	Actual
C Authorizations Issued	1	0	0	0	0	0	0	0	0	0	0	0	0	360	Planned
	---	---	---	---	---	---	---	---	---	---	---	---	---	---	Actual
D Authorizations Denied	3	0	0	0	0	0	0	0	0	0	0	0	0	60	Planned
	---	---	---	---	---	---	---	---	---	---	---	---	---	---	Actual
E New SWA Requests Dropped by Generator	3	0	0	0	0	0	0	0	0	0	0	0	0	0	Planned

ACT NUMBER 410011

OUTPUTS AND ACTIVITY INDICATORS (CONTINUED)

7 X OUTPUTS/ACTIVITY INDICATORS	RPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	TOTAL	Actual Planned
F Recycle/Reuse Arranged	3	0	0	0	0	0	0	0	0	0	0	0	0	50	Actual Planned
G SWAs with Land Application	3	0	0	0	0	0	0	0	0	0	0	0	0	30	Actual Planned
H Number of Requests - No SWA Required	3	0	0	0	0	0	0	0	0	0	0	0	0	0	Actual Planned
I Renewal SWA Requests Received	3	0	0	0	0	0	0	0	0	0	0	0	0	200	Actual Planned
J Backlog - SWA Renewals	3	0	0	0	0	0	0	0	0	0	0	0	0	0	Actual Planned
K Standardized Procedures for SWAs	1	0	0	1	0	0	0	0	0	0	0	0	0	1	Actual Planned

IOWA DEPARTMENT OF ENVIRONMENTAL QUALITY PROGRAM PLAN FY80
ACTIVITY FORM OA-PP1

1 ACT NUMBER 410012

2 PRIORITY 10 3 NAME LaBounty Site - Salsbury

4 OBJECTIVE

5 ACTIVITY DESCRIPTION

6 DIVISION/SECTION LQ - HW

STAFF WEEKS 45

IOWA DEPARTMENT OF ENVIRONMENTAL QUALITY PROGRAM PLAN FY80
ACTIVITY FORM OA-PP1

1 ACT NUMBER 410014

2 PRIORITY 9 3 NAME Hazardous Waste Rules Development

4 OBJECTIVE To provide for adequate regulatory control over the storage, transportation, treatment and disposal of hazardous wastes in Iowa through promulgation of rules in accordance with state requirements and federal regulations. To increase public awareness of Iowa's Hazardous waste management program and to obtain public input into the establishment of rules and the criteria on which these rules are based. This is particularly important in regard to siting of hazardous waste facilities.

5 ACTIVITY DESCRIPTION H.F. 719 and EPA's hazardous waste regulations will be studied. Rules will be developed regarding the identification and listing of hazardous wastes, standards for generators, transporters and owners/operators of hazardous waste storage, treatment and disposal facilities, permits for facilities that treat, store or dispose of hazardous wastes, certification of supervisory personnel and operators of such facilities, and requirements for notification. This activity will include discussions, with industry, public groups and the EPA. DEQ because of the expected controversy of this program will carry out special efforts on public awareness to include a policy conference sponsored by University of Iowa on hazardous waste siting criteria.

6 DIVISION/SECTION LQ-IHW

STAFF WEEKS 80

7 X OUTPUTS/ACTIVITY INDICATORS	RPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	TOTAL	Actual Planned
A Draft Rules To Commission	1	0	0	0	0	0	0	1	0	0	0	0	0	1	Actual Planned
B Public Hearing On Proposed Rules	3	0	0	0	0	0	0	0	0	1	0	0	0	1	Actual Planned
C Hearing Comments Evaluated	3	0	0	0	0	0	0	0	0	0	0	1	0	1	Actual Planned
D HW Rules Adopted By Commission	2	0	0	0	0	0	0	0	0	0	0	0	1	1	Actual Planned

OUTPUTS AND ACTIVITY INDICATORS (CONTINUED)

7 X OUTPUTS/ACTIVITY INDICATORS	RPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	TOTAL	Actual Planned
E Draft ID/Listing Rules To Commission	1	0	0	0	0	1	0	0	0	0	0	0	0	1	Actual Planned
F Public Hearing on ID/Listing Rules	3	0	0	0	0	0	0	1	0	0	0	0	0	1	Actual Planned
G ID/Listing Rules Adopted By Commission		0	0	0	0	0	0	0	0	1	0	0	0	1	Actual Planned
H Develop Interim Plan For Policy Conference	1	0	1	0	0	0	0	0	0	0	0	0	0	1	Actual Planned
I Issues Identified For Policy Conference	3	0	0	0	1	0	0	0	0	0	0	0	0	1	Actual Planned

ACT NUMBER 410014

OUTPUTS AND ACTIVITY INDICATORS (CONTINUED)

7 X OUTPUTS/ACTIVITY INDICATORS	RPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	TOTAL	Actual Planned
J Briefing Papers Completed For Policy Conference	3	0	0	0	0	0	0	0	6	0	0	0	0	6	
K Policy Conference Completed	3	0	0	0	0	0	0	0	0	1	0	0	0	1	

IOWA DEPARTMENT OF ENVIRONMENTAL QUALITY PROGRAM PLAN FY80
ACTIVITY FORM OA-PP1

1 ACT NUMBER 410015

2 PRIORITY 3 3 NAME Hazardous Waste Management Study

4 OBJECTIVE Conduct a study of hazardous waste management in Iowa so as to comply with state legislative requirements and develop the data base for the state hazardous waste management plan which is needed to obtain full authorization from the EPA.

5 ACTIVITY DESCRIPTION The notification activity will provide information on the types and amounts of hazardous wastes generated in Iowa; the storage, treatment, transportation and disposal practices and costs; and the cost of reducing the amount of hazardous wastes generated. This will be augmented by staff identification and evaluation of alternatives to land disposal identification of the general geologic and other criteria for a land disposal site, areas in Iowa with a potential for meeting these criteria (in conjunction with IGS) and finally, the estimated annual operating costs of implementing the hazardous waste regulations.

6 DIVISION/SECTION A/L-HW

STAFF WEEKS 25

7 X OUTPUTS/ACTIVITY INDICATORS	RPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	TOTAL	
A Report - Types & Amounts of HW Generated	1	0	0	0	0	0	0	0	0	0	0	0	0	0	Actual Planned
B Report - Storage, Treatment, Transp. & Disposal Practices	1	0	0	0	0	0	0	0	0	0	0	0	0	0	Actual Planned
C Report - Methods, Practices & Costs to Reduce Amt. of HW	1	0	0	0	0	0	0	0	0	0	0	0	0	0	Actual Planned
D Complete Identification/Evaluation of Alternatives to Land Disposal	1	0	0	1	0	0	0	0	0	0	0	0	0	1	Actual Planned

ACT NUMBER 410015

OUTPUTS AND ACTIVITY INDICATORS (CONTINUED)

7 X OUTPUTS/ACTIVITY INDICATORS	RPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	TOTAL	Actual Planned
E Identification of Criteria For Disposal Site	1	0	0	0	0	0	0	0	0	0	1	0	0	1	Actual Planned
F Identification of Potential Areas	1	0	0	0	0	0	0	0	0	0	0	1	0	1	Actual Planned
G Report - Procedures for Public Input & Permits	1	0	0	0	0	0	0	0	0	0	0	1	0	1	Actual Planned
H Report - Est. Costs to Implement Regs.	1	0	0	0	0	0	0	0	0	0	0	0	0	0	Actual Planned
I Percent Study Completed	1	0	0	13	0	0	0	0	0	0	26	52	0	0	Actual Planned
J Survey Reports Received from Regional Programs	2	0	20	20	20	20	20	20	20	20	20	20	20	200	Actual Planned

IOWA DEPARTMENT OF ENVIRONMENTAL QUALITY PROGRAM PLAN FY80
ACTIVITY FORM OA-PP1

1 ACT NUMBER 410016

2 PRIORITY 23 3 NAME Hazardous Waste Planning

4 OBJECTIVE To maintain state control over the hazardous waste program and to provide for an effective hazardous waste program by obtaining Interim authorization from the EOA and by updating the hazardous waste portion of the state solid waste management strategy.

5 ACTIVITY DESCRIPTION The EPA's guidelines for Interim authorization will be reviewed. The documentation necessary to obtain such authorization will be prepared and submitted to the EOA in accordance with federally - imposed guidelines. Also, EPA guidelines and requirements will be studied prior to updating the hazardous waste portion of the state solid waste management strategy.

6 DIVISION/SECTION LQ-HW

STAFF WEEKS 15

7 X OUTPUTS/ACTIVITY INDICATORS	RPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	TOTAL	
A Complete Review of Authorization Guidelines	3	0	0	0	0	1	0	0	0	0	0	0	0	1	Actual Planned
B Draft Interim Authorization Request to Commission	1	0	0	0	0	0	0	0	1	0	0	0	0	1	Actual Planned
C Interim Authorization Application Sent to EPA	1	0	0	0	0	0	0	0	0	1	0	0	0	1	Actual Planned
D Review EPA Guidelines, Requirements for HW Mgmt.	5	0	0	1	0	0	0	0	0	0	0	0	0	1	Actual Planned

ACT NUMBER 410016

OUTPUTS AND ACTIVITY INDICATORS (CONTINUED)

7 X OUTPUTS/ACTIVITY INDICATORS	RPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	TOTAL	Actual Planned
E Complete Update of IM Strategy	1	0	0	0	0	0	0	0	0	0	1	0	0	1	Actual Planned
F Percent Documentation For Authorization Completed	3	0	0	0	20	40	60	80	100	0	0	0	0	0	Actual Planned

IOWA DEPARTMENT OF ENVIRONMENTAL QUALITY PROGRAM PLAN FY80
ACTIVITY FORM OA-PP1

1 ACT NUMBER 410017

2 PRIORITY 65 3 NAME Hazardous Waste Disposal Site Investigations

4 OBJECTIVE To identify potential public health and environmental hazards from abandoned or active sites so that action may be taken to mitigate the hazards.

5 ACTIVITY DESCRIPTION Approximately 8-10 sites will undergo initial investigation to identify materials dumped and the hazards posed by the site. This will involve the establishment of rationale for selection of the sites, and the selection of two or three sites with the greatest potential for harm to the public and the environment will be selected for further investigation of the materials dumped, the underlying soils, the site hydrology and the corrective measures needed.

6 DIVISION/SECTION LQ-HW

STAFF WEEKS 20

7 X OUTPUTS/ACTIVITY INDICATORS	RPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	TOTAL	Actual Planned
A Develop Rationale For Sites for Prelim. Investigation	3	1	0	0	0	0	0	0	0	0	0	0	0	1	Actual Planned
B Select sites for Prelim. Investigation	1	10	0	0	0	0	0	0	0	0	0	0	0	10	Actual Planned
C Complete Scope of Prelim. Investigations	3	0	1	0	0	0	0	0	0	0	0	0	0	1	Actual Planned
D Complete Prelim. Investigations	1	0	0	0	0	0	10	0	0	0	0	0	0	10	Actual Planned

ACT NUMBER 410017

OUTPUTS AND ACTIVITY INDICATORS (CONTINUED)

7 X OUTPUTS/ACTIVITY INDICATORS	RPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	TOTAL	
E Prioritize Sites For Further Investigation	3	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>	Actual Planned
F Number of Sites for Further Investigation	2	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>2</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>2</u>	Actual Planned

IOWA DEPARTMENT OF ENVIRONMENTAL QUALITY PROGRAM PLAN FY80
ACTIVITY FORM OA-PP1

1 ACT NUMBER 410018

2 PRIORITY 72 3 NAME Hazardous Waste Training and Certification

4 OBJECTIVE To minimize the hazards to public health and the environment due to improper operation and supervision of hazardous waste facilities by developing and implementing a training and certification program.

5 ACTIVITY DESCRIPTION Rules will be developed regarding the certification of operators and supervisors of facilities which store, treat or dispose of hazardous wastes. A training program adequate to meet certification requirements will be developed. Criteria for judging equivalent training programs will be developed.

6 DIVISION/SECTION LQ-IW

STAFF WEEKS 45

7 X OUTPUTS/ACTIVITY INDICATORS	RPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	TOTAL	Actual Planned
A Certification Program Options to Commission	1	0	0	0	0	1	0	0	0	0	0	0	0	1	Actual Planned
B Select Certification Program	3	0	0	0	0	1	0	0	0	0	0	0	0	1	Actual Planned
C Draft Certification Rules to Commission	1	0	0	0	0	0	1	0	0	0	0	0	0	1	Actual Planned
D Public Hearing On Certification Rules	3	0	0	0	0	0	0	0	1	0	0	0	0	1	Actual Planned

ACT NUMBER 410018

OUTPUTS AND ACTIVITY INDICATORS (CONTINUED)

7 X OUTPUTS/ACTIVITY INDICATORS	RPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	TOTAL	Actual Planned
E Hearing Comments Evaluated	3	0	0	0	0	0	0	0	0	1	0	0	0	1	Actual Planned
F Certification Rules Adopted By Commission	2	0	0	0	0	0	0	0	0	0	1	0	0	1	Actual Planned
G Develop Training Program	1	0	0	0	0	0	0	0	1	0	0	0	0	1	Actual Planned
H Criteria For Equivalent Training Developed	2	0	0	0	0	0	0	0	1	0	0	0	0	1	Actual Planned

IOWA DEPARTMENT OF ENVIRONMENTAL QUALITY PROGRAM PLAN FY80
ACTIVITY FORM OA-PP1

1 ACT NUMBER 410020

2 PRIORITY 67 3 NAME Land Quality Planning

4 OBJECTIVE To promote sound solid waste management in Iowa by updating the state solid waste management plan, strategies and rules to reflect current standards and practices (including EPA's criteria and guidelines) and studies of existing solid waste disposal sites. A secondary objective is to obtain federal funds for the State Solid Waste Programs.

5 ACTIVITY DESCRIPTION EPA's criteria and Guidelines and other studies will be reviewed as needed to update the State Solid Waste Management Plan, Strategy and Rules. This will involve the review & update of local plans through input from local planning agencies. The monitoring at Scott Co. SLF will be completed. Technical assistance will also be provided to the public and private sectors in obtaining federal financial assistance for solid waste management projects. Also included in this activity will be the completion of the DEQ Beverage Price Survey.

6 DIVISION/SECTION LQ-SW

STAFF WEEKS 50

7 X OUTPUTS/ACTIVITY INDICATORS	RPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	TOTAL	Actual Planned
A Scott Co. SLF Project Progress Rpts. Received	3	0	0	0	0	0	0	0	0	0	0	0	0	4	Actual Planned
B Final Report on Scott Co. SLF Received	1	0	0	0	0	0	0	0	0	0	0	0	0	1	Actual Planned
C Complete Review of EPA Guidelines/Criteria for State Plan	3	0	1	0	0	0	0	0	0	0	0	0	0	1	Actual Planned
D Complete Review-Updated Local SW Plans	3	0	0	0	0	0	0	0	0	0	1	0	0	1	Actual Planned

OUTPUTS AND ACTIVITY INDICATORS (CONTINUED)

7 X OUTPUTS/ACTIVITY INDICATORS	RPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	TOTAL	Actual	Planned
E Draft SW Mgmt. Plan To Commission	1	0	0	0	0	0	0	0	0	0	0	1	0	1		
F SW Mgmt. Plan To EPA	1	0	0	0	0	0	0	0	0	0	0	0	1	1		
G Draft Revised SW Strategy To Commission	1	0	0	0	0	0	0	0	0	0	1	0	0	1		
H SW Strategy To EPA	1	0	0	0	0	0	0	0	0	0	0	0	1	1		
I Selection of Agency To Analyze Price Survey Data	3	1	0	0	0	0	0	0	0	0	0	0	0	1		

ACT NUMBER 410020

OUTPUTS AND ACTIVITY INDICATORS (CONTINUED)

7 X OUTPUTS/ACTIVITY INDICATORS	RPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	TOTAL	
J Percent State Plan Completed	1	0	0	0	25	0	0	50	0	0	75	0	100	0	Actual Planned
K Percent State Strategy Completed	1	0	0	0	0	0	0	0	0	0	0	0	0	0	Actual Planned

IOWA DEPARTMENT OF ENVIRONMENTAL QUALITY PROGRAM PLAN FY80
ACTIVITY FORM OA-PP1

1 ACT NUMBER 410023

2 PRIORITY 74

3 NAME Waste Reduction Program

4 OBJECTIVE To reduce the amount of selected high volume solid wastes to be disposed of in Iowa through the development of recycle/reuse options and to assure proper disposal of the wastes not recycled or reused by establishing criteria for their disposal.

5 ACTIVITY DESCRIPTION Finalize the priorities for the review of selected waste streams such as coal combustion residues, foundry sands, meat packing plant wastes, etc. for the top three or four waste streams, criteria will be developed for the recycling/reuse of the wastes and for their proper disposal.

6 DIVISION/SECTION LQ-SW

STAFF WEEKS 45

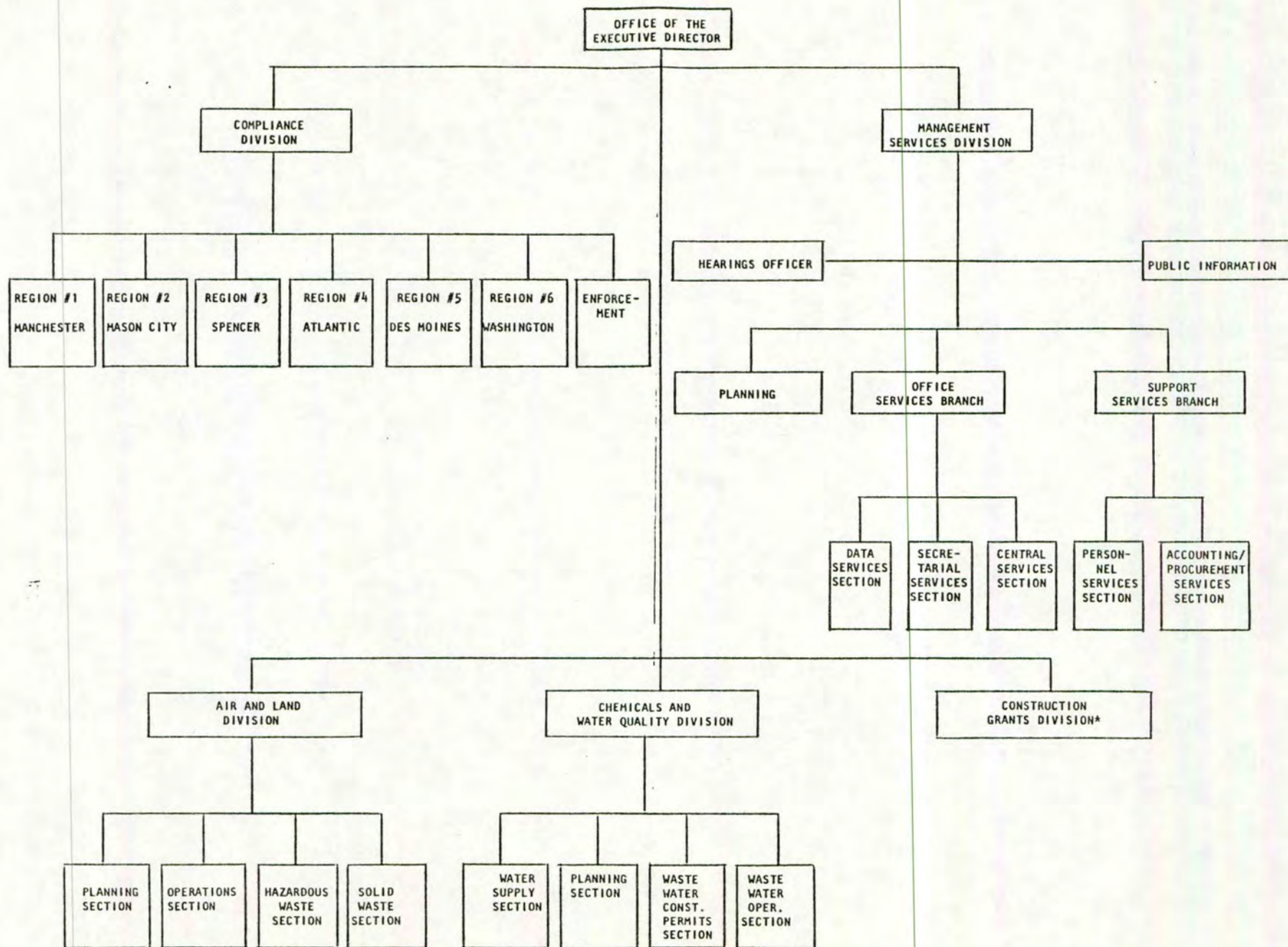
7 X OUTPUTS/ACTIVITY INDICATORS	RPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	TOTAL	Actual Planned
A Finalize Priorities	2	1	0	0	0	0	0	0	0	0	0	0	1	1	Actual Planned
B Select Waste Streams	2	4	0	0	0	0	0	0	0	0	0	0	0	4	Actual Planned
C Draft Report Recycle/Reuse	3	0	0	0	0	0	0	0	0	0	1	0	0	1	Actual Planned
D Draft Report-Disposal Criteria	1	0	0	0	0	0	0	0	0	0	1	0	0	1	Actual Planned

ACT NUMBER 410023

OUTPUTS AND ACTIVITY INDICATORS (CONTINUED)

7 X OUTPUTS/ACTIVITY INDICATORS	RPT	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	TOTAL	
E Draft Disposal Rules To Commission	3	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>	<u>1</u>	Actual Planned

ORGANIZATION OF THE IOWA DEPARTMENT OF ENVIRONMENTAL QUALITY



Appendix F

Hazardous Waste Program, Interim Authorization Application (Draft)

STATE OF IOWA
APPLICATION
FOR
INTERIM AUTHORIZATION OF THE
FEDERAL HAZARDOUS WASTE MANAGEMENT PROGRAM

prepared for

The U.S. Environmental Protection Agency
324 East 11th Street
Kansas City, Missouri 64106

by

The Iowa Department of Environmental Quality
900 East Grand
Des Moines, Iowa 50319

August, 1980

CONTENTSDOCUMENT

- I. GOVERNOR'S LETTER

- II. PROGRAM DESCRIPTION
 - A. SCOPE, STRUCTURE, COVERAGE, AND PROCESSES OF THE HAZARDOUS WASTE PROGRAM IN IOWA
 - B. STATE AGENCY STRUCTURE
 - C. DESCRIPTION OF STAFF
 - D. BUDGET
 - E. SOURCES OF FUNDS AND RESTRICTIONS
 - F. DESCRIPTION OF PERMITTING AND APPELLATE REVIEW PROCEDURES
 - G. DESCRIPTION OF COMPLIANCE AND ENFORCEMENT PROGRAM
 - H. DESCRIPTION OF MANIFEST TRACKING SYSTEM
 - I. ESTIMATED NUMBER OF GENERATORS AND HANDLERS OF HAZARDOUS WASTES IN IOWA
 - J. FORMS
 - K. CHECKLISTS FOR SUBSTANTIAL EQUIVALENCE

- III. ATTORNEY GENERAL'S STATEMENT

- IV. MEMORANDUM OF AGREEMENT (MOA)

- V. AUTHORIZATION PLAN

- VI. LEGISLATION AND REGULATIONS

DRAFT

DOCUMENT I

LETTER FROM GOVERNOR

Dr. Kathleen Q. Camin
Regional Administrator
U.S. Environmental Protection Agency
324 East 11th Street
Kansas City, MO 64106

Dear Dr. Camin:

I hereby submit the State of Iowa's request for Interim Authorization of Phase I of the Hazardous Waste Program under the Resource Conservation and Recovery Act.

I hereby designate the ~~Department of Environmental Quality~~ as the agency responsible for administration of the State of Iowa's Hazardous Waste Program. The Executive Director of the Department of Environmental Quality is authorized to enter into agreements with the Environmental Protection Agency and to otherwise act on my behalf concerning the State of Iowa's Hazardous Waste Program. Of course, I reserve the right to act on my own behalf when I feel it appropriate.

Sincerely,

Robert D. Ray,
Governor of Iowa

DOCUMENT II

PROGRAM DESCRIPTION

A. SCOPE, STRUCTURE, COVERAGE, AND PROCESSES OF THE HAZARDOUS WASTE PROGRAM IN IOWA

The 68th General Assembly of the State of Iowa (1979) adopted and the Governor signed House File 719 (codified as Chapter 111 of the Acts of the 68th General Assembly). Chapter 111 became effective July 1, 1979.

Chapter 111 gives the Iowa Department of Environmental Quality (IDEQ) the authority to adopt rules that: a) Establish criteria for identifying the characteristics of hazardous wastes and listing hazardous wastes; and b) Are applicable to generators or transporters of or owners or operators of facilities for the treatment, storage or disposal of hazardous waste listed by the Commission (these rules include establishment of a manifest system).

Persons handling a listed hazardous waste must give notification.

Persons owning or operating facilities for the storage, treatment or disposal of a hazardous waste must obtain a permit (and may be given an interim status permit if warranted).

The Department is given power to inspect facilities and to enforce requirements of the chapter and rule thereunder.

All rules adopted will be consistent with and shall not exceed the requirements of RCRA and rules promulgated by EPA thereunder. The Solid Waste Disposal Commission has published three notices of intended action to adopt by reference the federal regulations that have been promulgated to date. All necessary rules will be in place by November 19, 1980.

B. DESCRIPTION OF STATE AGENCY STRUCTURE

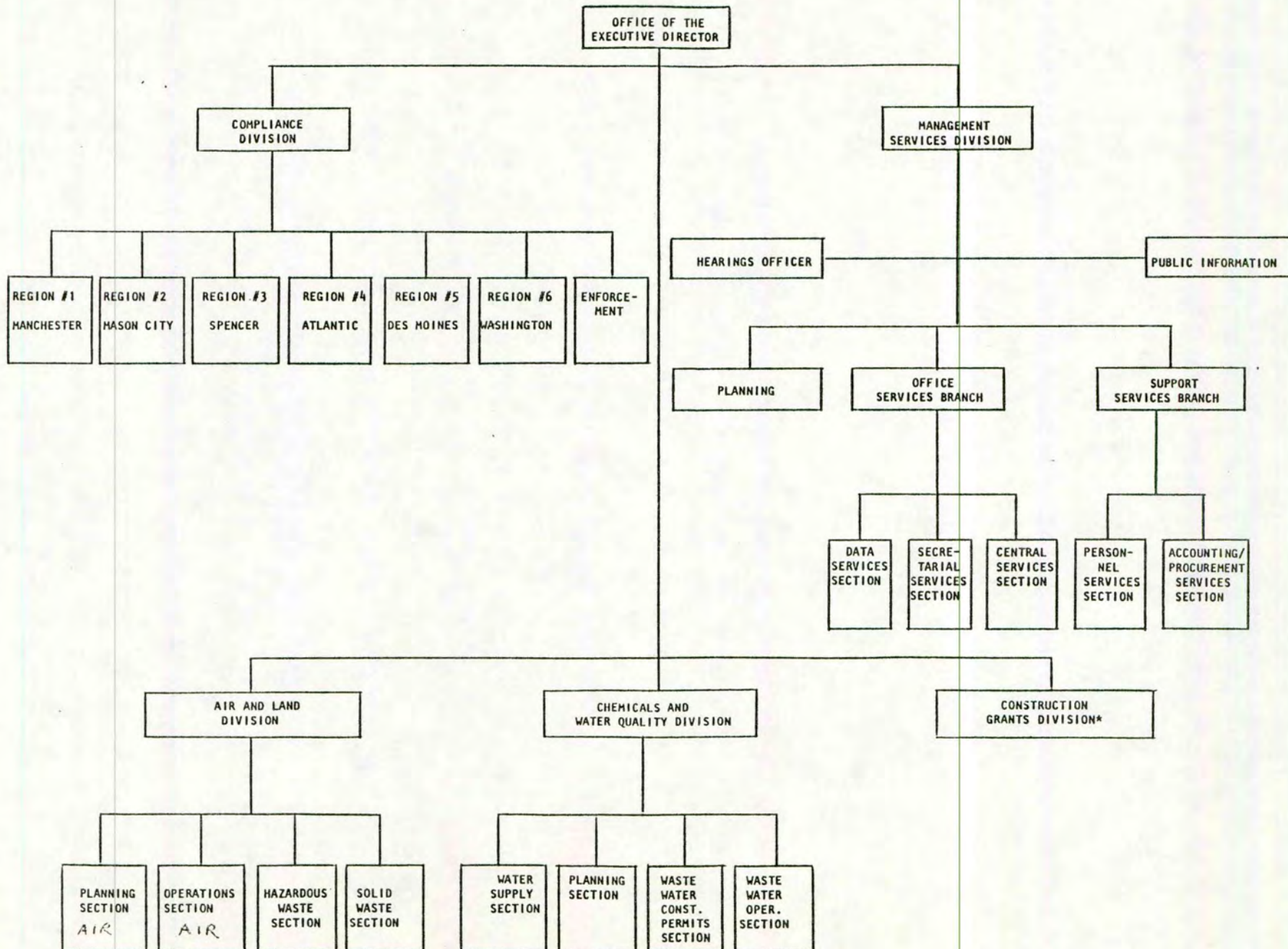
The Iowa Department of Environmental Quality is a consolidated agency with statutory authority to regulate air and water pollution control, drinking water, and solid and hazardous waste. The Department has authorization for 186 full-time equivalent positions. The staff is headed by the Executive Director of Environmental Quality who is appointed by the Governor and confirmed by the Senate. The supporting staff is divided into five divisions: Air and Land Quality; Chemicals and Water Quality; (Municipal Publicly Owned Treatment Works) Construction Grants; Compliance; and Management Services (see organizational chart).

The Department currently has five policy-making bodies: the Air Quality Commission; Water Quality Commission; Solid Waste Disposal Commission; Chemical Technology Commission; and Executive Commission. The Commissions are composed chiefly of lay persons appointed by the Governor with the consent of the Senate. As of January 1, 1981, these five commissions will be combined into a new nine-member Environmental Quality Commission that will be appointed by the Governor and confirmed by the Senate. The substantive authority over hazardous waste will not be affected by the creation of this new commission.

The Hazardous Waste Program is conducted at the present time by the Hazardous Waste section of the Air and Land Quality Division. As the elements of the program become operational, the Hazardous Waste Section will be divided into Hazardous Waste Operations and Planning Sections. The Operations Section will manage the day-to-day operations of the program.

The Compliance Division consists of two sections. The first is the regional programs section which is comprised of 40 people in six regional offices who conduct the agency's field inspections. The other section is the legal section that prepares the formal enforcement actions of the Department, either at the administrative level or, in coordination with the Attorney General, at the district court level.

ORGANIZATION OF THE IOWA DEPARTMENT OF ENVIRONMENTAL QUALITY



C. DESCRIPTION OF STAFF

The Air and Land Quality Division Director (public service executive 4), under the general direction of the Executive Director, provides, at the secondary policy-making level, professional management program services for the Air and Land Quality Division. This executive directs, through subordinate managers, diversified programs in administrative areas including: development of rules; evaluation of permit requests; development of criteria for competency of operating personnel; development of monitoring programs; and development of compliance and enforcement criteria.

The Hazardous Waste Section Chief (environmental program supervisor), under the administrative direction of the Air and Land Quality Division Director: plans and directs all work activities of the hazardous waste section personnel; relays staff scientific and engineering environmental surveys and reports with recommendations to administrative supervisors; supervises and/or participates in negotiations with public and private agencies to gain compliance with environmental control laws, rules, and regulations; and speaks to local boards, councils, or public and professional groups to promote environmental quality programs and to explain agency programs.

The Environmental Specialist 3 positions are under the general direction of the Hazardous Waste Section Chief. These individuals perform advanced professional work such as: interpret findings of surveys and prepare the necessary scientific reports; provide technical assistance in a specific environmental program area to public and industrial officials and the general public to facilitate compliance with the appropriate regulations;

attend training sessions and environmental protection meetings; assist in training personnel in environmental control work; and assist in planning, assigning, and reviewing work of subordinates.

The Environmental Specialist 2 performs professional work such as: compiles statistics from field analysis and correspondence with the regional division, industry, and the public; provides technical assistance to public and industrial officials and the general public to facilitate compliance with appropriate regulations; designs and/or modifies equipment and/or methods for sample and data collection; maintains records of work activities; and assists in surveillance of permitted facilities.

The Environmental Engineer 3 positions are under the general direction of the Hazardous Waste Section Chief and perform the following professional engineering activities: conduct major environmental engineering investigations, surveys, and studies; prepare reports after interpreting the data from such investigations; review plans and specifications for proposed hazardous waste facilities and make recommendations to bring the proposals within compliance of design requirements; confer with public officials, contractors, consulting engineers, and citizens regarding environmental engineering of hazardous waste facilities; assist in training and supervising technical personnel; and prepare technical correspondence and reports.

Individuals in the Environmental Engineer 2 position perform advanced and specialized professional engineering work in the following ways: assist in engineering studies and surveys; provide technical assistance to public and

industrial officials and the public regarding hazardous wastes; examine plans and specifications for hazardous waste facilities; and assist in hazardous waste training programs.

The Environmental Engineer 1 positions are entry-level professional engineering assignments in the hazardous waste program. The activities include: assisting in the preparation of reports and correspondence; providing technical assistance to public and industrial officials and the general public concerning hazardous wastes; and assisting in the review of plans and specification of hazardous waste facilities.

In addition to the responsibilities cited above, all professional staff of the Hazardous Waste Section will be relied upon as technical consultants for handling emergency responses.

The Compliance Division consists of 6 Regional Offices and an Enforcement Section. The Regional Offices perform most of the field work related to permit compliance. The Regional Offices also: assist permittees in satisfying monitoring requirements and identifying operational problems; perform permit compliance inspections; receive violation information from the public; gather information necessary to identify violators; investigate violations; and assist in dealing with the discharge of hazardous wastes in transit.

The Enforcement Section reviews all rulemaking procedures and legal actions from the Department of Environmental Quality's divisions to ensure that they are consistent with federal and state requirements and to guard against

duplication of efforts. When the hazardous waste section is unable to obtain compliance, the matter will be referred to a Compliance Officer (attorney) in the Enforcement Section of the Compliance Division for formal action (issuance of an executive order, negotiation of a consent order, commencement of a contested case adjudicatory hearing, or referral to the Attorney General).

The Management Services Division provides clerical and secretarial services, data processing services and general administrative support for the Chemicals and Water Quality, the Air and Land Quality, the Construction Grants Division and the Compliance Division.

Although the Hazardous Waste Section of the DEQ will be solely responsible for the administration of the state program to control a universe of generated, stored, treated and disposed of hazardous wastes described in 40 CFR Part 261, its activities will be coordinated with other governmental agencies through the following mechanisms: the Executive Director serves as an ex-officio member of the Iowa Natural Resources Council (see §455A.4 of the Code, 1977), the Iowa Conservation Commission (see §107.1 of the Code, 1977) and the Department of Soil Conservation (see §467A.4 of the Code, 1977); the Air and Land Quality Division staff maintains frequent working-level contact with their counterparts in these same agencies and in other agencies such as the Iowa Geological Survey, the Department of Transportation, and the Department of Public Health.

A summary of the current and proposed staff to manage the Hazardous Waste Program in Iowa is shown in the following table.

HAZARDOUS WASTE SECTION

<u>Title</u>	<u>Current Staffing</u>	<u>Proposed Staffing FFY 81*</u>	<u>Proposed Staffing FFY 82*</u>
Program Supervisor	1	1	1
Environ. Specialist II	1	2	2
Environ. Specialist III	0	3	3
Environ. Engineer I**	0	1	1
Environ. Engineer II	1	1	1
Environ. Engineer III	1	2	2

* FFY - Federal Fiscal Year, October 1 to September 30.

** Engineer I is an entry-level position; individual would most likely elevate to Engineer II within 18 months.

Note: This table identifies only those positions that are totally involved in the Hazardous Waste program. Implementation of the program will involve support from other agencies and other Divisions within DEQ.

The Compliance Division, both the Central staff and the Regional Offices will provide support in such areas as site inspections, preparation of enforcement actions, and response to emergency conditions resulting from accidents involving hazardous materials or hazardous wastes at either stationary locations or in transit. (Hazardous Waste Section personnel will serve as technical consultants in such emergency response situations).

The Management Services Division will provide office support services in the form of graphic artists, personnel management, accounting, supplies, typing, clerical, secretarial, and data processing assistance.

The Iowa Department of Transportation will administer the rules to enforce the manifest requirements of Chapter 111, Sec. 13 of the Acts of the 68th General Assembly.

(The reader is referred to page H.W.IA12.1 for salary costs of the Hazardous Waste Section; and to pages 12 and 12A for cost appropriations for the support services cited in this note).

D. BUDGETHAZARDOUS WASTE BUDGET SUMMARY
FOR FEDERAL FISCAL YEAR 1981

1. SALARIES (SEE ATTACHED DETAIL)		\$203,651
2. FRINGES		32,584
3. TRAVEL		9,000
<hr/>		
4. SUPPLIES		500
5. EQUIPMENT		-0-
6. CONSTRUCTION		-0-
7. CONTRACTUAL		14,847
8. OTHER		
a) BOOKS AND PERIODICALS	1,000	
b) PRINTING	2,000	
c) TUITION	<u>3,000</u>	
TOTAL OTHER	6,000	
		<u>6,000</u>
9. TOTAL DIRECT CHARGES		266,582
10. COMPLIANCE IDC (.09373)	24,987	
11. ADMINISTRATIVE IDC (.285)	83,097	
12. TOTAL INDIRECT CHARGES		<u>108,084</u>
13. TOTAL PROGRAM COSTS		<u><u>\$374,666</u></u>

STATE SHARE (25%) OF TOTAL PROGRAM COSTS \$93,666

FEDERAL SHARE (75%) OF TOTAL PROGRAM COSTS \$281,000

D. BUDGETHAZARDOUS WASTE BUDGET SUMMARY
FOR FEDERAL FISCAL YEAR 1982

1. SALARIES (SEE ATTACHED DETAIL)		\$224,016
2. FRINGES		35,842
3. TRAVEL		9,900
4. SUPPLIES		550
5. EQUIPMENT		-0-
6. CONSTRUCTION		-0-
7. CONTRACTUAL		16,332
8. OTHER		
a) BOOKS AND PERIODICALS	1,100	
b) PRINTING	2,200	
c) TUITION	<u>3,300</u>	
TOTAL OTHER	6,600	
		<u>6,600</u>
9. TOTAL DIRECT CHARGES		293,240
10. COMPLIANCE IDC (.09373)	27,485	
11. ADMINISTRATIVE IDC (.285)	91,407	
12. TOTAL INDIRECT CHARGES		<u>118,892</u>
13. TOTAL PROGRAM COSTS		<u><u>\$412,132</u></u>

STATE SHARE (25%) OF TOTAL PROGRAM COSTS \$103,032

FEDERAL SHARE (75%) OF TOTAL PROGRAM COSTS \$309,100

* 10% Inflation factor over 1981 included in all budget items

SALARY PROJECTION
HAZARDOUS WASTE SECTION
FEDERAL FISCAL YEAR 1981 - 1982

<u>POSITION CLASS</u>	<u>FFY 1981</u>	<u>*FFY 1982</u>
ENVIRONMENTAL PROGRAM SUPERVISOR	\$29,808	\$32,789
ENVIRONMENTAL SPECIALIST II	21,998	24,198
ENVIRONMENTAL SPECIALIST II	19,822	21,804
ENVIRONMENTAL SPECIALIST III	23,254	25,579
ENVIRONMENTAL ENGINEER I	19,685	21,654
ENVIRONMENTAL ENGINEER II	22,199	24,418
ENVIRONMENTAL ENGINEER III	26,384	29,023
ENVIRONMENTAL ENGINEER III	26,577	29,235
ENVIRONMENTAL SPECIALIST III	23,254	25,579
ENVIRONMENTAL SPECIALIST III	<u>23,254</u>	<u>25,579</u>
TOTAL COST SALARIES/FRINGES	\$236,235	\$259,858

* 10% merit/cost of living increase included

E. SOURCES OF FUNDS AND RESTRICTIONS

The Hazardous Waste Program has two sources of funds; the Federal Environmental Protection Agency (EPA) and the Iowa State Legislature. State appropriations are approved by the Legislature and are subject to expenditure restrictions under state law. All federal funds received are subject to expenditure restrictions under federal regulations delineated primarily under Title 40 C.F.R. Parts 30, 33 and 35.

During Federal Fiscal Year 1981 EPA has targeted \$281,000 for hazardous waste activities. The state has budgeted \$93,666 to meet the match required for these funds.

F. DESCRIPTION OF PERMITTING AND APPELLATE REVIEW PROCEDURES

1. Permit procedures

"The owner or operator of a facility for the treatment, storage or disposal of a hazardous waste listed under section three (3), subsection two (2) of the Act existing on the effective date of the rule listing the waste shall obtain a permit for the facility within six months of the effective date of the rule. A person owning or operating a facility for the treatment, storage or disposal of a hazardous waste that existed on the effective date of the rule listing the waste and that is required to have a permit under the Act is considered to have a permit until such time as final administrative determination is made if the person meets the following conditions:

- a. The person has given notice as required by section five (5) of this Act.
- b. The person has applied for a permit.
- c. The executive director has determined that the failure to issue the permit is not the result of the failure of the applicant to furnish information reasonably required or requested to process the application.

The commission may by rule specify the information required to be submitted with the application for a permit and the conditions under which the executive director shall issue, deny, revoke, suspend or modify permits. However, a permit shall not be issued for a treatment, storage or disposal facility unless the applicant presents evidence of financial responsibility and continuity of operation consistent with the degree and duration of risks associated with the treatment, storage or disposal of the hazardous waste as determined by the commission." Source: Chapter 111, Section 6.2, 3 of the Acts of the 68th General Assembly.

2. Notification procedure

"A person who on the effective date of a rule adopted under section three (3), subsection two (2) of this Act listing a hazardous waste as subject to this Act is generating or transporting the listed hazardous waste or owns or is operating a treatment, storage or disposal facility handling the listed hazardous waste shall file with the executive director a notification stating the waste handled by the person and the location and a general description of the activity involving the waste. The notice shall be given within ninety days after the effective date of the rule listing the waste.

Except as provided in subsection one (1) of this section, a person shall not commence to transport or generate a hazardous waste listed by rule under section three (3), subsection two (2) of this Act without first notifying the executive director of the proposed activity. The notice shall state the waste to be handled, and the location and a general description of the activity involving the listed waste." Source: Chapter 111, Section 5.1, 2 of the Acts of the 68th General Assembly.

3. Appellate review

a. Permit appeals

"If the executive director denies a permit, the executive director shall inform the applicant in writing of the reasons for the denial. The applicant may appeal to the commission from the denial of a permit or from a condition of a permit if the applicant files a notice of appeal with the executive director within thirty days of receipt of the denial or issuance of the permit." Source: Chapter 111, Section 6.6 of the Acts of the 68th General Assembly.

~~b. Contest of orders~~

"The executive director may issue an order directing the person to desist in the practice that constitutes the violation or to take corrective action as necessary to ensure that the violation will cease. Before issuing the order the executive director shall notify the person of the violation and that if compliance is not achieved within thirty days following the receipt of the notice the order may be issued. The person to whom the order is issued may commence a contested case within the meaning of chapter seventeen A (17A) of the Code by filing with the executive director within thirty days of receipt of the order a notice of appeal to the commission. On appeal, the commission may affirm, modify or vacate the order of the executive director." Source: Chapter 111, Section 9.1.a of the Acts of the 68th General Assembly.

c. Judicial review

"Judicial review of actions of the commission or the executive director may be sought in accordance with the provision of chapter seventeen A (17A) of the Code. Notwithstanding the provisions of chapter seventeen A (17A) of the Code, petitions for judicial review may be filed in the district court of the county where the acts in issue occurred. In addition to other rights of judicial review authorized by this section, a person who has complied with an order issued by the executive director or commission may within six months of compliance with the order seek relief in the district court on the grounds that the requirements imposed by the order are excessive, that the benefits to society are not commensurate with the costs of complying with the order and that society can be protected in a less costly manner. Upon a finding that the requirements imposed by the order are excessive, the court may modify or vacate the order." Source: Chapter 111, Section 12 of the Acts of the 68th General Assembly.

4. Administrative procedures - rules of practice in contested and certain other cases (IAC - 400--55 (455B)). Refer to attached document.

CHAPTER 55
RULES OF PRACTICE IN CONTESTED AND CERTAIN OTHER CASES

400—55.1(455B) Definitions. When used in this chapter:

- 55.1(1) "Act" means the Iowa administrative procedure Act, chapter 17A.
- 55.1(2) "Appellant" means the party who files the notice of appeal.
- 55.1(3) "Board" means the board of certification.
- 55.1(4) "Department" means the department of environmental quality.
- 55.1(5) "Executive director" means the executive director of the department or the executive director's designee.
- 55.1(6) "Petitioner" means the party who files the petition.
- 55.1(7) "Respondent" means the party named in a petition filed by the department.

400—55.2(455B) Scope.

55.2(1) *In general.* This chapter shall govern procedure in contested cases, as defined in the Act, and license revocation or suspension proceedings or other licensee disciplinary proceedings before all agencies within the department.

55.2(2) *Contested cases enumerated.* Contested cases may include, but are not limited to, proceedings on the following:

- a. Alleged violations of sections 455B.10 to 455B.29 relating to air pollution or any rule or standard established by the air quality commission under said sections which may lead to an order other than an emergency order under section 455B.18.
 - b. The denial of a permit to install new equipment capable of emitting air contaminants or related control equipment pursuant to section 455B.13.
 - c. A denial of a request pursuant to section 455B.22 for a variance from the rules or standards governing the quality, nature, duration or extent of air contaminant emissions.
 - d. An appeal of an emergency order issued under section 455B.18.
 - e. The issuance of a certificate of acceptance of a local air pollution control program pursuant to section 455B.24 if the executive director has recommended against acceptance of the local program.
 - f. An appeal of an order issued pursuant to subsection 455B.34(1) to secure compliance with sections 455B.30 to 455B.49 or rules or standards promulgated or permits issued pursuant thereto.
 - g. An appeal of an emergency order issued under subsection 455B.34(2) to terminate an emergency caused by a violation of sections 455B.30 to 455B.49 or rules or standards promulgated or permits issued pursuant thereto.
 - h. The denial of, or imposition of any condition in, a construction or operation permit for a disposal system, public water supply system, new point source or animal feeding operation pursuant to subsections 455B.32(3) and 455B.33(4).
 - i. An appeal of an order issued to secure compliance with or prevent a violation of the provisions of sections 455B.75 to 455B.84 or rules promulgated pursuant thereto.
 - j. The denial of a sanitary disposal project permit. This shall not include a temporary sanitary disposal project permit.
 - k. Alleged violations of sections 455B.85 to 455B.94 or rules promulgated pursuant thereto which may lead to an order other than an emergency order under section 455B.91.
 - l. An appeal of an emergency order issued pursuant to section 455B.91.
 - m. An appeal of an emergency order issued pursuant to section 455B.117.
- 55.2(3) *License revocation or suspension proceedings or other licensee disciplinary proceedings enumerated.* License revocation or suspension proceedings or other licensee disciplinary proceedings include but are not limited to the following:
- a. The suspension of a certificate of acceptance of a local air pollution control program pursuant to section 455B.24.
 - b. The discipline of a certified operator of a water treatment plant, water distribution system, or wastewater treatment plant, including revocation or suspension of a certificate of

person who has prosecuted or advocated in connection with that contested case, the specific controversy underlying that contested case or a pending factually related contested case or controversy, involving the same parties.

(3) A member of an agency having jurisdiction of a contested case shall not participate in the making of a final decision or order if such member is employed by, receives compensation from, or has other substantial connection with a party in the contested case.

(4) A presiding officer shall not be biased for or against any party.

b. Affidavit asserting disqualification. A party may file an affidavit asserting disqualification of a presiding officer under this subrule at any time, except that an affidavit against a member of the agency having jurisdiction on appeal or review of the proposed decision shall be filed prior to any hearing on appeal or review of the proposed decision. A determination on whether the individual challenged should participate shall be made by the agency before further participation by the individual challenged.

400—55.6(455B) Time.

55.6(1) Computation. In computing any period of time prescribed or allowed by this chapter or by an applicable statute, the day of the act, event, or default from which the designated period begins to run shall not be included. The last day of the period shall be included, unless it is a Saturday, Sunday, or legal holiday; otherwise Saturdays, Sundays and legal holidays shall be included in computing the period.

55.6(2) Extension. When by this chapter, or by notice given thereunder, an act is required or allowed to be done within a specified time, the presiding officer may at any time exercise discretion and:

a. With or without motion or notice, for good cause, order the period extended if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order, or

b. Upon motion made after the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect.

55.6(3) Mail. Any documents which may be filed with the department by mail pursuant to these rules shall be deemed filed on the date of postmark.

400—55.7(455B) Commencement of contested cases.

55.7(1) Time and manner. A contested case commences when the notice of hearing is delivered to the party other than the department.

55.7(2) Notice of hearing. A notice of hearing shall be prepared and issued by the presiding officer upon receipt of a petition from the department in cases within 55.2(2) "a" and "k" and 55.2(3), and upon receipt of a notice of appeal properly filed in all other cases within 55.2(2). The presiding officer shall cause the notice of hearing to be delivered to the appellant or respondent and the department.

a. Content. The notice of hearing shall be addressed to the respondent or appellant and shall contain:

(1) The names of the parties.

(2) A statement of the time, place, and nature of the hearing.

(3) A statement of the legal authority and jurisdiction under which the hearing is to be held.

(4) A reference to the particular section of the statutes and rules involved.

(5) A short and plain statement of the matters asserted.

(6) The time within which subrule 55.7(4) requires respondent or appellant to file an answer or petition.

(7) In cases within 55.2(2) "a" or "k" or 55.2(3), a statement that in the event respondent fails to answer within the required time judgment will be entered against respondent for the relief requested in the petition.

(8) In cases within 55.2(2) "a" or "k" or 55.2(3), a copy of the petition.

b. Delivery. Delivery of the notice of hearing shall be by certified mail return receipt requested, personal service, or as otherwise required by statute.

- (1) Contain a caption in the following form:

BEFORE THE IOWA DEPARTMENT OF ENVIRONMENTAL QUALITY
DES MOINES, IOWA

IN THE MATTER OF	)	PETITION (OR ANSWER)
(State name and address)	
of party other than the	)	DOCKET NO. _____
department))	

(2) Be legibly printed or typewritten on white paper. Unless printed, the impression shall be on one side of the paper only and the lines shall be double space, except quotations of two or more lines, which shall be single space and indented. Standard letter size paper (8½" x 11") may be used; however, a left margin of not less than one and one-half inches, and top margin of at least two inches must be provided.

- (3) Be signed by the person filing the pleading.

400—55.3(455B) Prehearing procedures.

55.3(1) Motions.

a. General. All motions, except those made orally on the record during a hearing, shall be in writing and shall state with particularity the grounds therefor, shall set forth the relief or order sought, and shall be filed with the presiding officer and contemporaneously served upon all parties.

b. Response to motions. Any party may file a response to any written motion within ten days after service of such motion, except as otherwise provided by the presiding officer. Failure to file a response within the designated period may be deemed a waiver of objection to the granting of the motion.

c. Disposition. The presiding officer shall rule on a motion after the designated time for response has expired. A motion involving separate grounds or parts shall be disposed of by separate ruling on each and shall not be sustained or overruled generally.

55.3(2) Discovery.

a. In general. The discovery procedures available to parties in civil actions are available to parties in a contested case hearing under 55.2(455B).

b. Agency records in general.

(1) The records of the department and each agency within the department are available for public inspection, as required by chapter 68A, and as provided in chapter 51 of these rules, subject to the provisions of chapter 52 of these rules.

(2) Except as provided in paragraph "c" of this subrule, identifiable agency records that are not available for public inspection but that are discoverable and relevant to disputed material facts involved in a contested case shall, upon request, promptly be made available to a party. However, such records may be protected from further disclosure by order of the presiding officer.

c. Prior statements or reports of an agency witness. When the department relies on a witness in a contested case, whether or not an employee of the department, who has made prior statements or reports with respect to the subject matter of the witness' testimony, it shall, upon request, make such statements or reports available to a party for use on cross-examination unless such statement is confidential under chapter 52. If the statement or report is confidential under chapter 52, it may be made available, but it may be made subject to a protective order. This paragraph requiring the department to make the statement or report available for use on cross-examination does not require the department to make the statement available until the hearing.

finding that circumstances justified the untimely filing, and the intervenor shall be bound by any agreements, arrangements, and other matters previously made in the case.

c. Disposition. Leave to intervene shall be granted only if the petitioner demonstrates both that common question of law or fact exists and that intervention would not unduly prolong or otherwise prejudice the adjudication of the rights of the original parties. In evaluating the merits of the petition for leave to intervene, the presiding officer shall consider the extent to which the petitioner will be adversely affected by a final order and the extent to which the interests of the petitioner are not being adequately represented by the original parties.

55.8(6) Consolidation and severance.

a. Consolidation. The presiding officer may, with or without motion, consolidate any or all matters at issue in two or more contested cases where there exist common parties or common questions of law or fact, and where consolidation would expedite or simplify consideration of the issues. Consolidation shall not affect the right of any party to raise issues that could have been raised if consolidation had not occurred.

b. Severance. The presiding officer may, with or without motion, for good cause shown, order any case severed with respect to any or all parties or issues.

400—55.9(455B) Separation of functions and ex parte communications.

55.9(1) Separation of functions. A compliance officer of the department shall perform the investigative and prosecuting functions for the department in a contested case. Additional employees of the department may be designated by the executive director to perform such functions as necessary during the course of the contested case. No person performing such functions shall participate or advise in any decision arising out of that contested case except as witness or counsel in public proceedings. All employees of the department other than those performing the investigative and prosecuting functions in the contested case shall be available to advise the agency and presiding officer on any of their functions relating to the contested case and any appeal.

55.9(2) Communications initiated by hearing officer or agency member.

a. Except as provided in "b" and "c", after commencement the presiding officer and members of the agency having jurisdiction of the contested case shall not communicate, directly or indirectly, in connection with any issue of fact or law in that contested case with any person or party.

b. The presiding officer or members of the agency having jurisdiction of the contested case may so communicate upon notice and opportunity for all parties to participate. Notice of the time and place of the discussion and the issues of fact or law to be discussed shall be delivered by first class mail to the parties. The discussion shall not extend to issues of fact or law not specified in the notice unless all parties participate in the discussion. The time of the discussion shall not be sooner than ten days after receipt of the notice.

c. The presiding officer or members of the agency having jurisdiction of the contested case may communicate with members of the agency and may have the aid and advice of persons other than those with a personal interest in, or those engaged in prosecuting or advocating in, either the case under consideration or a pending factually related case involving the same parties.

55.9(3) Communications initiated by parties.

a. Parties, including the department or their representatives in a contested case, shall not communicate directly or indirectly in connection with any issue of fact or law in that contested case with the presiding officer or members of the agency having jurisdiction of the case.

b. Paragraph "a" shall not apply if the requirements of 55.9(2)"b" are satisfied.

c. The presiding officer or members of the agency should refuse to discuss issues of fact or law with parties unless such notice and opportunity for hearing has been given. The presiding officer or members of the agency shall deliver, by first class mail, a copy of any written communication received from a party directly or indirectly related with any issue of fact or law in the contested case to the other parties and shall include the written communication in the record.

excluding the evidence was erroneous and prejudicial, the hearing may be reopened to permit the taking of such evidence or, where appropriate, the agency may evaluate the evidence and proceed to a final decision.

e. Verification. Subject to paragraphs "a" through "d", when a hearing will be expedited, and the interests of the parties will not be prejudiced substantially, any part of the evidence may be required to be submitted in verified form. With the approval of the presiding officer, a witness may insert into the record, as his testimony, statements of fact or opinion prepared by him or written answers to interrogatories, or may submit as an exhibit his prepared statement, provided that such statements or answers must not include legal arguments. Before any such statement or answer is read or admitted into evidence, the witness shall deliver to the presiding officer and opposing counsel a copy of such. The admissibility of the evidence contained in such statement shall be subject to the same rules as if such testimony were produced in the usual manner and the witness shall be subject to oral cross-examination on the contents of such statements. Approval for such a procedure may be denied when it appears to the presiding officer that the memory or demeanor of the witness is of importance.

f. Documentary evidence. Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original, if available.

g. Examination and cross-examination. Witnesses at the hearing shall be examined orally, under oath. Witnesses at the hearing, or persons whose testimony has been submitted in written form, shall be subject to cross-examination by any party as necessary for a full and true disclosure of facts. The presiding officer may limit the examination or cross-examination or both when necessary for orderly presentation of evidence.

h. Official notice. Official notice may be taken of all facts of which judicial notice may be taken and of other facts within the specialized knowledge of the agency. Parties shall be notified at the earliest practicable time, either before or during the hearing, or by reference in preliminary reports, preliminary decisions or otherwise, of the facts proposed to be noticed, and their source, including any staff memoranda or data. The parties may contest such facts before decision is announced.

i. Evaluation of evidence. The agency's experience, technical competence and specialized knowledge may be utilized in evaluating the evidence.

400—55.11(455B) Posthearing procedures and orders.

55.11(1) Filing by parties of briefs and proposed findings. Within twenty days after the last evidence is taken, each party may file with the presiding officer proposed findings of fact, conclusions of law and a proposed order or decision, complying with 55.11(2), and a brief in support thereof. A copy of each such document shall be served upon each other party. Each party may, within the same period, file with the presiding officer a brief concerning any or all of the exceptions or objections taken to actions or rulings of the presiding officer at the hearing upon which the party relies. Within twenty days thereafter, each party may file a brief which takes specific exception to matters contained in an opposing brief or which contains alternative findings of fact, conclusions of law and proposed order.

55.11(2) Final decision or order.

a. When the agency presides at the reception of evidence in a contested case, the decision of the agency is a final decision.

b. When the agency does not preside at the reception of evidence, the presiding officer shall make a proposed decision. The proposed decision or order of the presiding officer becomes the final decision or order of the agency without further proceedings unless there is an appeal to, or review or motion of, the agency within the time provided in 55.11(7)"a", or an application for rehearing as provided in 55.11(6).

55.11(3) Decisions and orders.

a. By whom prepared. The presiding officer who presided at the reception of evidence shall prepare a proposed or final decision or order in each contested case. Findings of fact shall be

d. Notice to other parties. A copy of such application shall be timely mailed by the applicant to all parties of record not joining therein.

e. Disposition. Any application shall be deemed denied unless the agency grants the application within twenty days after its filing.

55.11(7) Appeal and review. Any party may appeal a proposed decision to the agency having jurisdiction of the contested case. An agency may review any proposed decision in a contested case under its jurisdiction.

a. Time allowed.

(1) *Appeal by party.* An appeal by a party in a contested case or license revocation or suspension to the agency having jurisdiction of that proceeding shall be taken within thirty days after receipt of the proposed decision or order.

(2) *Agency decision to review.* Any agency may decide on its own to review a proposed decision, notwithstanding the absence of a timely appeal by a party under 55.11(7)'a'(1). A decision to review shall be made at the next regular meeting of the agency following the issuance of the proposed decision or order of the presiding officer.

b. Notice. Appeal is taken and perfected by filing with the executive director a notice signed by the appellant or his attorney. It shall specify the parties taking the appeal and the final decision or order or part thereof appealed from. The executive director shall mail or deliver a copy of such notice to the attorneys for all parties of record other than appellant, or to any such party who has no attorney of record, at his last known address. No failure of the executive director to mail or deliver any such notice shall affect the validity of the appeal.

c. Date of appeal or review. The executive director shall schedule appeal or review for a date after the end of the briefing period provided in paragraph "e", and shall notify the parties of the date.

d. Agency review. On appeal from or review of the proposed decision, the agency has all the power which it would have in initially making the final decision except as it may limit the issues on notice to the parties.

e. Presentations by parties on appeal. Within twenty days of the date the appeal is perfected or the agency decides to review the proposed decision or order each party may file exceptions and present briefs to the agency. Within twenty days thereafter, each party may file a brief which takes specific exception to matters contained in an opposing brief. Request for opportunity to present oral arguments shall be filed at least ten days prior to the date set for consideration of the contested case. In cases where the regular agency meeting does not occur within the time limitation for final decisions or orders, the agency may shorten or extend the briefing period, provided that the briefing periods shall be at least twenty days before the date of consideration and not longer than would cause the date of consideration to occur later than the next regular meeting of the agency following any meeting that occurs sooner than the twenty-day minimum briefing period.

f. Final argument. The final argument and the conclusion of the hearing is deemed to have occurred at the end of the briefing period, or when oral arguments have been permitted, at the end of such presentation.

55.11(8) Time of final decision or order; waiver.

a. Air quality. Unless this paragraph is waived in accordance with 55.3(455B), in the case of a contested case within paragraphs "a", "b", "c", "d", or "e", of 55.2(2) the final decision or order must be issued within sixty days after the final argument in the contested case. Failure to issue the final decision or order within such sixty days shall be a finding favorable to the party other than the department in such contested case.

b. Solid waste. Unless this paragraph is waived in accordance with 55.3(455B), in the case of a contested case within paragraph "i" of 55.2(2), the final decision must be issued within thirty days after the final argument in the contested case.

c. Emergency orders. Unless this paragraph is waived in accordance with 55.3(455B), in the case of a contested case within paragraphs "d", "g", "l" and "m", of 55.2(2), the final decision or order must be issued within sixty days after the final argument in the contested case.

d. Other contested cases. In all other contested cases, there is no limit on the time for enter-

notice and an opportunity to be heard and determine the matter.

55.12(7) Effective date of suspension or revocation.

a. With respect to license suspension or revocation pursuant to this rule, except an emergency suspension pursuant to 55.10(6), the suspension or revocation shall be effective upon failure of the permittee to request a hearing within the time required in 55.12(5) or upon the issuance of an order suspending or revoking the permit after hearing.

b. With respect to a license suspension pursuant to 55.12(6) the license suspension is effective upon service of the order, and shall remain effective until rescinded by the agency or until the suspension is terminated by order after hearing.

400—55.13(455B) License renewals.

55.13(1) Expiration of existing license. If timely and sufficient application for the renewal of a license within the scope of 55.2(4) is made, the existing license does not expire until the application has been finally determined by the agency, and, in case the application is denied or the terms of the new license limited, until the last day for seeking judicial review of the agency order or a later date fixed by order of the agency or the reviewing court.

55.13(2) Right to a hearing. The fact that an existing license does not expire until the time provided in 55.13(1) does not create a right to a hearing on the renewal of the license unless the constitution or statute or the rules of the department require a hearing on the renewal.

400—55.14(455B) Disclosure of information on violations and alleged violations.

55.14(1) Scope. This rule applies to disclosure of information on matters which involve or potentially involve a contested case concerning alleged violations of the rules, standards or orders of the department until such matters are finally determined, that is, on matters within or potentially within paragraphs "a", "d", "f", "g", "k", and "m" of 55.2(2) of this chapter.

55.14(2) Policy.

a. Only the executive director, the appropriate division director, section chief or compliance officer of the department should discuss matters to which this rule applies with persons other than parties. Other employees of the department shall refer inquiries by persons other than parties to the above employees. The discussion by the above authorized employees should be limited to:

(1) Quoting from the preliminary notice, notice of violation, order, or notice of hearing as the case may be.

(2) Pointing out that a violation is only alleged and that fact finding is continuing.

(3) Stating that files of the department are available for public inspection in accordance with chapters 51 and 52 of the rules of the department, and chapters 68A and 455B of the Code.

b. The commission members and the presiding officer who may decide the contested case shall, in addition to complying with 55.9(455B), limit comment to persons other than parties on matters to which this rule applies to the time, place and date of the public hearing if there be one then scheduled.

55.14(3) Listing of matters within this rule. The executive director shall periodically inform appropriate commission members, the presiding officer and other employees of the department of matters which are within this rule. Information in such system of communication shall be available for public inspection in accordance with rule 51.1(455B).

55.14(4) Notice of public contested case hearings. The executive director shall prepare and distribute a press release announcing the time, place and date of each public contested case hearing. Any such release may contain an announcement for more than one public contested case hearing.

55.14(5) Disclosure after final determination. After a matter within the scope of this rule has been finally determined by the appropriate agency under this chapter or by a court, all employees of the department may discuss the matter with persons other than parties.

G. DESCRIPTION OF COMPLIANCE MONITORING AND ENFORCEMENT PROGRAM

The compliance monitoring program will be implemented as a cooperative effort between the Air and Land Quality Division, the Compliance Division and the Management Services Division of the Department of Environmental Quality (DEQ). The Hazardous Waste Section of the Air and Land Quality Division will oversee the planning and operation of the compliance program. The main responsibility of the Compliance Division will be to conduct inspections of hazardous waste generators, transporters and facilities. Maintenance of records and operation of any data processing systems will be managed by the Management Services Division.

Office procedures are currently in place that will be used for the receipt and recordkeeping of all required notices and reports concerning hazardous waste activities. These procedures are contained in the DEQ Employee's Handbook (EH). The procedures for receipt of records are in EH p. B-33. The procedures for recordkeeping are in EH pages B-10 through B-30.44. Appropriate file designations and retention periods for hazardous waste files will be developed and included as part of the recordkeeping procedures.

Procedures for the evaluation of required notices and reports will include the use of data processing systems. The data processing system will be developed in house or, if appropriate, obtained from public or private sources. The data processing system(s) will be expected to have capabilities similar to those used by DEQ for air and water quality surveillance.

The authority for DEQ to conduct compliance monitoring of hazardous waste activities is derived from the following:

A. Duties of the Executive Director

"Inspect and investigate hazardous waste generators and transporters and treatment, storage and disposal facilities as may be necessary to determine compliance with this Act and rules adopted and permits and orders issued pursuant to sections two (2) through twelve (12) of this Act. The executive director shall periodically survey or inspect the construction, operation and monitoring, reporting and recordkeeping systems of hazardous waste generators and transporters and treatment, storage and disposal facilities." Source: Chapter 111, Section 4.3 of the Acts of the 68th General Assembly.

B. Inspections by the agency

"1. For purpose of developing a rule, or conducting a study of hazardous waste management, or enforcing this Act, a person who generates, stores, treats, transports, disposes of or otherwise handles hazardous waste shall, upon request of the executive director, furnish or permit the executive director at reasonable times to have access to and copy records relating to the waste. For the purpose of developing a rule or enforcing this Act, the executive director may:

a. Enter at reasonable times an establishment or other place maintained by a person where hazardous waste is generated, stored, treated or disposed of, or a vehicle transporting hazardous waste.

b. Inspect and obtain samples from a person of a hazardous waste and of containers or labeling associated with the waste.

c. Install, service and take samples from monitoring equipment on the property.

2. If the officer or employee obtains a sample, prior to leaving the premises, the officer or employee shall give the owner, operator, or agent in charge a receipt describing the sample obtained and if requested a portion of each sample equal in volume or weight to the portion retained. If the sample is analyzed, a copy of the results of the analysis shall be furnished promptly to the owner, operator, or agent in charge.

3. Documents or information obtained from a person under this section shall be available to the public except as provided in this subsection. Upon a showing satisfactory to the executive director by a person that documents or information, or a particular part of the documents or information to which the executive director has access under this section if made public would divulge commercial or financial information obtained from a person and privileged or confidential or a trade secret, the executive director shall consider the documents or information or the particular portion of the documents or information confidential. However the document or information may be disclosed to officers,

employees or authorized representatives of the United States charged with implementing the federal Solid Waste Disposal Act, to employees of the State of Iowa or of other states when the document or information is relevant to the discharge of their official duties, and when relevant in any proceeding under the federal Solid Waste Disposal Act or this Act." Source: Chapter 111, Section 7 of the Acts of the 68th General Assembly.

Procedures for the inspection of hazardous waste activities will be developed to ensure the following:

- A. That operations of hazardous waste management facilities are conducted in accordance with the federal standards in 40 CFR, 264 and 265.
- B. That hazardous waste generators and transporters are in compliance with the federal standards in 40 CFR, 262 and 263.

The inspection schedule for hazardous waste activities will be conducted with at least the following frequency:

- A. Major hazardous waste management facilities (including generators that treat, store, or dispose of waste on-site) - once per year;
- B. Non-major hazardous waste management facilities (including generators that treat, store, or dispose of waste on-site) - once every two years;
- C. Selected generators that ship waste off-site and selected transporters - once every two years; and
- D. Other generators and transporters - as often as possible after completion of the other inspection requirements.

"Chain of custody" procedures will be developed by November 19, 1980, by the Compliance Division to ensure that information or samples, gathered during an inspection, will be admissible in an enforcement proceeding or in court.

Procedures for receiving and ensuring proper consideration of information submitted by the public about violations will be those contained in the DEQ Employee's Handbook, pages B-41 through B-46.

The enforcement program will be implemented through the Compliance Division at DEQ. Procedures for processing formal enforcement actions will be those contained in the DEQ Employee's Handbook, pages F-12 to F-15. The State Laws and Regulations relating to this program are the following:

A. Enforcement authority

"1. If the executive director has conclusive evidence that a person has violated or is violating a provision of this Act, or of a rule or standard established or permit issued pursuant to this Act and if subsection four (4) of this section does not apply:

a. The executive director may issue an order directing the person to desist in the practice that constitutes the violation or to take corrective action as necessary to ensure that the violation will cease. Before issuing the order the executive director shall notify the person of the violation and that if compliance is not achieved within thirty days following the receipt of the notice the order may be issued. The person to whom the order is issued may commence a contested case within the meaning of chapter seventeen A (17A) of the Code by filing with the executive director within thirty days of receipt of the order a notice of appeal to the commission. On appeal, the commission may affirm, modify or vacate the order of the executive director.

b. If it is determined by the executive director that an emergency exists, the executive director may issue without notice or hearing an order necessary to terminate the emergency. The order shall be binding and effective immediately and until the order is modified or vacated at a hearing before the commission or by a court. "Emergency" as used in this subsection means a situation where the handling, storage, treatment, transportation or disposal of a hazardous waste is presenting an imminent and substantial threat to human health or the environment.

c. When the executive director determines that a disposal site contains hazardous waste in an amount and under conditions that cause an imminent threat to human health and that the person responsible for the site will not properly and promptly remove the waste or eliminate the threat, the executive director may take action as necessary to remove the waste or permanently alleviate or eliminate the threat to human health. The costs of removing the waste or alleviating or eliminating the threat shall be recovered from the person responsible for the disposal site.

d. The executive director with the approval of the commission, may request the attorney general to institute legal proceedings pursuant to subsection two (2) of this section.

2. The attorney general shall, at the request of the executive director pursuant to paragraph d of subsection one (1) of this section, institute legal proceedings, including an action for an injunction, necessary to enforce the penalty provisions of this Act or to obtain compliance with this Act or a rule promulgated or a condition of a permit or order issued under this Act.

3. In a case arising from the violation of an order issued under subsection one (1), paragraph a of this section, the burden of proof shall be on the state to show that the time specified in the order within which the individual must take corrective action is reasonable.

4. Notwithstanding any other provisions of this Act, when hazardous waste was placed in a disposal site in whole or in large measure in accordance with the law existing at the time of placement, and the presence of such waste in the site is subsequently found to be in conflict with laws or rules adopted at a later date and to constitute a serious and imminent threat to human health which must be reduced or eliminated, the executive director shall request the attorney general to institute legal proceedings to determine how the threat may best be reduced or eliminated and how the cost of reducing or eliminating the threat shall be allocated to or among the past and present owners and operators of the site, and other parties including the state and its political subdivisions deemed by the court to bear some responsibility for the threat or to benefit from the removal or elimination of the threat. Upon a finding by a court that a serious and imminent threat to human health exists the court may act and may stay that part of the reduction or elimination of the threat allocated to the state or governmental subdivision until such time as public funds have been appropriated to cover those allocated costs.

The court shall base an allocation of costs upon the following criteria:

a. The extent to which parties complied with the law and attempted to comply with the law.

b. The extent to which parties profited by acting contrary to the law.

c. The extent to which parties exercised good judgement and discharged their responsibilities to society in accordance with the perceptions of the time.

d. The ability of parties to pay for corrective measures.

e. The extent to which parties would benefit from the elimination of the threat to human health.

f. The broad implications for society of an allocation of costs.

g. The damages to other persons associated with the hazard created by the disposal site.

h. Other criteria as the court deems pertinent."

Source: Chapter 111, Section 9 of the Acts of the 68th General Assembly.

B. Prohibited acts -- penalties

"1. A person shall not knowingly do any of the following acts:

a. Transport a hazardous waste listed under the commission's rules to a hazardous waste storage, treatment or disposal facility that is located in Iowa that does not have a permit under section six (6), subsection one (1) of this Act.

b. Dispose of a hazardous waste listed under this Act without having obtained a permit for the disposal under section six (6), subsection one (1) of this Act.

c. Make a false statement or representation in an application, label, manifest, record, report, permit or other document filed, maintained or used for purposes of compliance with the provisions of this Act.

2. A person who violates the provisions of subsection one (1) of this section is subject upon conviction to a fine of not more than twenty-five thousand dollars or to imprisonment for not to exceed one year, or both. If the conviction is for a violation committed after a first conviction, ~~punishment shall be by a fine of not more than fifty thousand dollars or by imprisonment for not more than two years, or both.~~

3. A person who fails to take corrective action within the time specified in an order issued pursuant to section nine (9), subsection one (1), paragraph a or b of this Act is subject to a civil penalty commensurate with the severity of the violation but of not more than twenty-five thousand dollars for each day of continued noncompliance.

4. A person shall not transport, treat, store or dispose of a hazardous waste listed by the commission under section three (3), subsection two (2) of this Act unless notification has been given in accordance with rules adopted under section three (3), subsection three (3) of this Act. A person who violates this subsection is subject to a civil penalty not to exceed five hundred dollars for each day of violation."

Source: Chapter 111, Section 8 of the Acts of the 68th General Assembly.

- C. Public participation in the state enforcement process: Iowa Code, Sections 17A.2(2), 17A.2(5), 17A.12; and 400 Iowa Administrative Code, Sec. 55.8(5). (These references are in Document VI of this application).

H. DESCRIPTION OF MANIFEST TRACKING SYSTEM

The Solid Waste Disposal Commission is required by Chapter 111 of the Acts of the 68th General Assembly of Iowa to:

"Adopt rules, applicable to generators or transporters of or owners or operators of facilities for the treatment, storage, or disposal of hazardous waste listed by the commission under subsection two (2) of this section, as necessary to protect human health and the environment. The rules shall include establishment of a manifest system." (Emphasis added).

From the definition section of the same citation it states:

"'Manifest' means the form used for identifying the quantity, composition, and the origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment or storage."

Due to the legislative intent of the above Act, and the policy of the Iowa Solid Waste Disposal Commission to qualify for interim authorization by adopting the federal regulations by reference, the manifest system of Iowa will be the federal manifest system.

Since Subpart B of 40 CFR 262 requires no specific manifest form, there are three options available to industries in Iowa for providing the required information in Part 262.21:

1. An industry may design its own form;
2. The shipping papers required by DOT hazardous materials transportation regulations can be modified to include the necessary information;
3. An industry may request from and use the manifest form prepared by the Iowa Department of Environmental Quality (a sample of this form is in Part J, Document II of this application).

To account for interstate shipments of hazardous waste for which the manifest has not been returned, the Hazardous Waste Section will develop by November 19, 1980, a procedure to ensure that timely notification is provided to:

- (1) the State in which the facility designated on the manifest is located*
- (2) the State in which the shipment may have been delivered.*

* (or EPA in the case of unauthorized states)

I. ESTIMATED NUMBER OF GENERATORS AND HANDLERS OF HAZARDOUS WASTES IN IOWA

The following table represents an estimate of the numbers of generators, transporters, storage and treatment facilities, and on- and off-site disposal sites in Iowa. The information was collected from two sources: A statistical survey authorized by DEQ and the EPA notification mailing list.

In 1977, a statistical survey was performed by the North Iowa Area Community College (NIACC) to determine the types and quantities of hazardous waste generated in Iowa. The categories of hazardous waste that the NIACC report identified were flammable, pathological, toxic, corrosive, reactive, and unclassified. Flammable was based on a flash point limit below 200°F (93.3°C) which is higher than the limit established in the ignitability characteristic (flash point limit below 140°F or 60°C) as described in 40 CFR Part 261.21. The corrosivity limit in the NIACC report for pH is greater than 9.5 or less than 4.5 while corrosivity characteristic as described in 40 CFR Part 261.22 for pH is greater than 12.5 or less than 2.0.

Estimated Types and Numbers of Hazardous Waste Activities

<u>Types</u>	<u>Number</u>
Generation	1684
Transportation	Not Available
Storage Facilities	1310*
Treatment Facilities	Not Available
Disposal Facilities	
On-site	1094
Off-site	590

* Storage is defined in the NIACC report as "waste in excess of 1000 kg stored on-site for more than 24 hours." A permitted storage facility under RCRA will store wastes more than 90 days.

The Department of Environmental Quality Hazardous Waste Section is currently involved in a state-wide survey of hazardous waste activity in Iowa as required by Section 3 of Chapter 111 of the Acts of the 68th General Assembly. This survey includes the following:

1. Current sources of hazardous wastes within the state, including their types and quantities.
2. Current hazardous waste transportation, storage, treatment and disposal practices and costs within the state.
3. Practices and methods that would reduce the amount of hazardous waste generated and an estimated cost of these practices.
4. Identification and evaluation of alternatives to land disposal of hazardous waste.
5. Identification of general geological and other criteria for evaluation of potential hazardous waste land disposal sites.
6. Estimated costs of implementing the state hazardous waste management plan.

A copy of the survey that will be used in this study is included in Part J, Document II of this application.

J. FORMS

1. General Information Form
 2. Hazardous Waste Permit Application
 3. Notification of Hazardous Waste Activity
 4. Hazardous Waste Report
 5. Hazardous Waste Manifest Form
 6. Iowa Hazardous Waste Survey
-



Please print or type in the unshaded areas only
(fill-in areas are spaced for elite type, i.e., 12 characters/inch).

Form Approved OMB No. 158-R0175

FORM 1	U.S. ENVIRONMENTAL PROTECTION AGENCY GENERAL INFORMATION <i>Consolidated Permits Program</i> (Read the "General Instructions" before starting.)	I. EPA I.D. NUMBER																				
GENERAL		<table border="1" style="width: 100%;"><tr><td style="width: 10%;">A</td><td style="width: 10%;">B</td><td style="width: 10%;">C</td><td style="width: 10%;">D</td><td style="width: 10%;">E</td><td style="width: 10%;">F</td><td style="width: 10%;">G</td><td style="width: 10%;">H</td><td style="width: 10%;">I</td><td style="width: 10%;">J</td></tr><tr><td>1</td><td>2</td><td>3</td><td>4</td><td>5</td><td>6</td><td>7</td><td>8</td><td>9</td><td>10</td></tr></table>	A	B	C	D	E	F	G	H	I	J	1	2	3	4	5	6	7	8	9	10
A	B	C	D	E	F	G	H	I	J													
1	2	3	4	5	6	7	8	9	10													
LABEL ITEMS	PLEASE PLACE LABEL IN THIS SPACE	GENERAL INSTRUCTIONS If a preprinted label has been provided, affix it in the designated space. Review the information carefully; if any of it is incorrect, cross through it and enter the correct data in the appropriate fill-in area below. Also, if any of the preprinted data is absent (the area to the left of the label space lists the information that should appear), please provide it in the proper fill-in area(s) below. If the label is complete and correct, you need not complete items I, III, V, and VI (except VI-E which must be completed regardless). Complete all items if no label has been provided. Refer to the instructions for detailed item descriptions and for the legal authorizations under which this data is collected.																				
I. EPA I.D. NUMBER																						
III. FACILITY NAME																						
V. FACILITY MAILING ADDRESS																						
VI. FACILITY LOCATION																						

II. POLLUTANT CHARACTERISTICS

INSTRUCTIONS: Complete A through J to determine whether you need to submit any permit application forms to the EPA. If you answer "yes" to any questions, you must submit this form and the supplemental form listed in the parenthesis following the question. Mark "X" in the box in the third column if the supplemental form is attached. If you answer "no" to each question, you need not submit any of these forms. You may answer "no" if your activity is excluded from permit requirements; see Section C of the instructions. See also, Section D of the instructions for definitions of bold-faced terms.

SPECIFIC QUESTIONS	MARK X FORM ATTACHED			SPECIFIC QUESTIONS	MARK X FORM ATTACHED		
	YES	NO	FORM ATTACHED		YES	NO	FORM ATTACHED
A. Is this facility a publicly owned treatment works which results in a discharge to waters of the U.S. (FORM 2A)				B. Does or will this facility (either existing or proposed) include a concentrated animal feeding operation or aquatic animal production facility which results in a discharge to waters of the U.S.? (FORM 2B)			
C. Is this a facility which currently results in discharges to waters of the U.S. other than those described in A or B above? (FORM 2C)				D. Is this a proposed facility (other than those described in A or B above) which will result in a discharge to waters of the U.S.? (FORM 2D)			
E. Does or will this facility treat, store, or dispose of hazardous wastes? (FORM 3)				H. Do you or will you inject at this facility fluids for special purposes such as enhanced recovery of oil or natural gas, or inject fluids for storage of liquid hydrocarbons? (FORM 4)			
G. Do you or will you inject at this facility any produced water or other fluids which are brought to the surface in connection with conventional oil or natural gas production, inject fluids used for enhanced recovery of oil or natural gas, or inject fluids for storage of liquid hydrocarbons? (FORM 4)				I. Is this facility a proposed stationary source which is one of the 28 industrial categories listed in the instructions and which will potentially emit 100 tons per year of any air pollutant regulated under the Clean Air Act and may affect or be located in an attainment area? (FORM 5)			
I. Is this facility a proposed stationary source which is one of the 28 industrial categories listed in the instructions and which will potentially emit 100 tons per year of any air pollutant regulated under the Clean Air Act and may affect or be located in an attainment area? (FORM 5)				J. Is this facility a proposed stationary source which is NOT one of the 28 industrial categories listed in the instructions and which will potentially emit 250 tons per year of any air pollutant regulated under the Clean Air Act and may affect or be located in an attainment area? (FORM 5)			

III. NAME OF FACILITY

1 SKIP

IV. FACILITY CONTACT

A. NAME & TITLE (last, first, & title)

B. PHONE (area code & no.)

V. FACILITY MAILING ADDRESS

A. STREET OR P.O. BOX

B. CITY OR TOWN

C. STATE

D. ZIP CODE

VI. FACILITY LOCATION

A. STREET, ROUTE NO. OR OTHER SPECIFIC IDENTIFIER

B. COUNTY NAME

C. CITY OR TOWN

D. STATE

E. ZIP CODE

F. COUNTY CODE (if known)

CONTINUED FROM THE FRONT

VII. SIC CODES (4-digit, in order of priority)			
A. FIRST		B. SECOND	
7	(specify)	7	(specify)
C. THIRD		D. FOURTH	
7	(specify)	7	(specify)

VIII. OPERATOR INFORMATION			
A. NAME			B. Is the name listed in Item VIII-A also the owner?
8			<input type="checkbox"/> YES <input type="checkbox"/> NO
C. STATUS OF OPERATOR (Enter the appropriate letter into the answer box; if "Other", specify.)		D. PHONE (area code & no.)	
F - FEDERAL	M - PUBLIC (other than federal or state)	A	
S - STATE	O - OTHER (specify)		
P - PRIVATE			
E. STREET OR P.O. BOX			

F. CITY OR TOWN	G. STATE	H. ZIP CODE	IX. INDIAN LAND
B			Is the facility located on Indian lands?
			<input type="checkbox"/> YES <input type="checkbox"/> NO

X. EXISTING ENVIRONMENTAL PERMITS			
A. NPOES (Discharges to Surface Water)		D. PSD (Air Emissions from Proposed Sources)	
9	N	9	P
B. UIC (Underground Injection of Fluids)		E. OTHER (specify)	
9	U		
C. RCRA (Hazardous Wastes)		E. OTHER (specify)	
9	R		

XI. MAP

Attach to this application a topographic map of the area extending to at least one mile beyond property boundaries. The map must show the outline of the facility, the location of each of its existing and proposed intake and discharge structures, each of its hazardous waste treatment, storage, or disposal facilities, and each well where it injects fluids underground. Include all springs, rivers and other surface water bodies in the map area. See instructions for precise requirements.

XII. NATURE OF BUSINESS (provide a brief description)

XIII. CERTIFICATION (see instructions)		
I certify under penalty of law that I have personally examined and am familiar with the information submitted in this application and all attachments and that, based on my inquiry of those persons immediately responsible for obtaining the information contained in the application, I believe that the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.		
A. NAME & OFFICIAL TITLE (type or print)	B. SIGNATURE	C. DATE SIGNED

COMMENTS FOR OFFICIAL USE ONLY
C



Please print or type in the unshaded areas only
(fill-in areas are spaced for elite type; i.e., 12 characters/inch.)

HAZARDOUS WASTE PERMIT APPLICATION
Consolidated Permits Program
(This information is required under Section 3005 of RCRA.)

I. EPA I.D. NUMBER

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50
---	---	---	---	---	---	---	---	---	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----

FORM 3 RCRA

FOR OFFICIAL USE ONLY

APPLICATION APPROVED	DATE RECEIVED (yr., mo., & day)	COMMENTS

II. FIRST OR REVISED APPLICATION

Place an "X" in the appropriate box in A or B below (mark one box only) to indicate whether this is the first application you are submitting for your facility or a revised application. If this is your first application and you already know your facility's EPA I.D. Number, or if this is a revised application, enter your facility's EPA I.D. Number in Item I above.

A. FIRST APPLICATION (place an "X" below and provide the appropriate date)

1. EXISTING FACILITY (See instructions for definition of "existing" facility. Complete item below.)

2. NEW FACILITY (Complete item below.)

FOR EXISTING FACILITIES, PROVIDE THE DATE (yr., mo., & day) OPERATION BEGAN OR THE DATE CONSTRUCTION COMMENCED (use the boxes to the left)

YR.	MO.	DAY
77	24	27

FOR NEW FACILITIES, PROVIDE THE DATE (yr., mo., & day) OPERATION BEGAN OR IS EXPECTED TO BEGIN

YR.	MO.	DAY
77	24	27

B. REVISED APPLICATION (place an "X" below and complete item I above)

1. FACILITY HAS INTERIM STATUS

2. FACILITY HAS A RCRA PERMIT

III. PROCESSES - CODES AND DESIGN CAPACITIES

A. PROCESS CODE - Enter the code from the list of process codes below that best describes each process to be used at the facility. Ten lines are provided for entering codes. If more lines are needed, enter the code(s) in the space provided. If a process will be used that is not included in the list of codes below, then describe the process (including its design capacity) in the space provided on the form (Item III-C).

B. PROCESS DESIGN CAPACITY - For each code entered in column A enter the capacity of the process.

1. AMOUNT - Enter the amount.

2. UNIT OF MEASURE - For each amount entered in column B(1), enter the code from the list of unit measure codes below that describes the unit of measure used. Only the units of measure that are listed below should be used.

PROCESS	PRO-CESS CODE	APPROPRIATE UNITS OF MEASURE FOR PROCESS DESIGN CAPACITY	PROCESS	PRO-CESS CODE	APPROPRIATE UNITS OF MEASURE FOR PROCESS DESIGN CAPACITY
Storage:			Treatment:		
CONTAINER (barrel, drum, etc.)	S01	GALLONS LITERS	TANK	T01	GALLONS PER DAY OR LITERS PER DAY
TANK	S02	GALLONS LITERS	SURFACE IMPOUNDMENT	T02	GALLONS PER DAY OR LITERS PER DAY
WASTE PILE	S03	CUBIC YARDS OR CUBIC METERS	INCINERATOR	T03	TONS PER HOUR, METRIC TONS PER HOUR, GALLONS PER HOUR OR LITERS PER HOUR
SURFACE IMPOUNDMENT	S04	GALLONS OR LITERS		T04	GALLONS PER DAY OR LITERS PER DAY
Disposal:					
INJECTION WELL	D79	GALLONS OR LITERS			
LANDFILL	D80	ACRE-FEET (the volume that would cover one acre to a depth of one foot) OR HECTARE-METER			
LAND APPLICATION	D81	ACRES OR HECTARES			
SURFACE IMPOUNDMENT	D83	GALLONS OR LITERS			

OTHER (Use for physical, chemical, thermal or biological treatment processes not occurring in tanks, surface impoundments or incinerators. Describe the processes in the space provided; Item III-C.)

UNIT OF MEASURE	UNIT OF MEASURE CODE	UNIT OF MEASURE	UNIT OF MEASURE CODE	UNIT OF MEASURE	UNIT OF MEASURE CODE
GALLONS	G	LITERS PER DAY	V	ACRE-FEET	A
LITERS	L	TONS PER HOUR	D	HECTARE-METER	F
CUBIC YARDS	Y	METRIC TONS PER HOUR	W	ACRES	B
CUBIC METERS	C	GALLONS PER HOUR	E	HECTARES	G
GALLONS PER DAY	U	LITERS PER HOUR	H		

EXAMPLE FOR COMPLETING ITEM III (shown in line numbers X-1 and X-2 below): A facility has two storage tanks, one tank can hold 200 gallons and the other can hold 400 gallons. The facility also has an incinerator that can burn up to 20 gallons per hour.

LINE NUMBER	A. PRO-CESS CODE (from list above)	B. PROCESS DESIGN CAPACITY		FOR OFFICIAL USE ONLY	LINE NUMBER	A. PRO-CESS CODE (from list above)	B. PROCESS DESIGN CAPACITY		FOR OFFICIAL USE ONLY
		1. AMOUNT (specify)	2. UNIT OF MEASURE (enter code)				1. AMOUNT	2. UNIT OF MEASURE (enter code)	
X-1	S02	600	G		5				
X-2	T03	20	E		6				
1					7				
2					8				
3					9				
4					10				

Continued from the front.

III. PROCESSES (continued)

C. SPACE FOR ADDITIONAL PROCESS CODES OR FOR DESCRIBING OTHER PROCESSES (code "T04"). FOR EACH PROCESS ENTERED HERE INCLUDE DESIGN CAPACITY.

IV. DESCRIPTION OF HAZARDOUS WASTES

A. EPA HAZARDOUS WASTE NUMBER — Enter the four-digit number from 40 CFR, Subpart D for each listed hazardous waste you will handle. If you handle hazardous wastes which are not listed in 40 CFR, Subpart D, enter the four-digit number(s) from 40 CFR, Subpart C that describes the characteristics and/or the toxic contaminants of those hazardous wastes.

B. ESTIMATED ANNUAL QUANTITY — For each listed waste entered in column A estimate the quantity of that waste that will be handled on an annual basis. For each characteristic or toxic contaminant entered in column A estimate the total annual quantity of all the non-listed waste(s) that will be handled which possess that characteristic or contaminant.

C. UNIT OF MEASURE — For each quantity entered in column B enter the unit of measure code. Units of measure which must be used and the appropriate codes are:

ENGLISH UNIT OF MEASURE	CODE	METRIC UNIT OF MEASURE	CODE
POUNDS	P	KILOGRAMS	K
TONS	T	METRIC TONS	M

If facility records use any other unit of measure for quantity, the units of measure must be converted into one of the required units of measure taking into account the appropriate density or specific gravity of the waste.

D. PROCESSES

1. PROCESS CODES:

For listed hazardous wastes: For each listed hazardous waste entered in column A select the code(s) from the list of process codes contained in Item III to indicate how the waste will be stored, treated, and/or disposed of at the facility.

For non-listed hazardous wastes: For each characteristic or toxic contaminant entered in column A, select the code(s) from the list of process codes contained in Item III to indicate all the processes that will be used to store, treat, and/or dispose of all the non-listed hazardous wastes that possess that characteristic or toxic contaminant.

Note: Four spaces are provided for entering process codes. If more are needed: (1) Enter the first three as described above; (2) Enter "000" in the extreme right box of Item IV-D(1); and (3) Enter in the space provided on page 4, the line number and the additional code(s).

2. PROCESS DESCRIPTION: If a code is not listed for a process that will be used, describe the process in the space provided on the form.

NOTE: HAZARDOUS WASTES DESCRIBED BY MORE THAN ONE EPA HAZARDOUS WASTE NUMBER — Hazardous wastes that can be described by more than one EPA Hazardous Waste Number shall be described on the form as follows:

- Select one of the EPA Hazardous Waste Numbers and enter it in column A. On the same line complete columns B, C, and D by estimating the total annual quantity of the waste and describing all the processes to be used to treat, store, or dispose of the waste.
- In column A of the next line enter the other EPA Hazardous Waste Number that can be used to describe the waste. In column D(2) on that line enter "included with above" and make no other entries on that line.
- Repeat step 2 for each other EPA Hazardous Waste Number that can be used to describe the hazardous waste.

EXAMPLE FOR COMPLETING ITEM IV (shown in line numbers X-1, X-2, X-3, and X-4 below) — A facility will treat and dispose of an estimated 900 pounds per year of chrome shavings from leather tanning and finishing operation. In addition, the facility will treat and dispose of three non-listed wastes. Two wastes are corrosive only and there will be an estimated 400 pounds per year of each waste. The other waste is corrosive and ignitable and there will be an estimated 100 pounds per year of that waste. Treatment will be in an incinerator and disposal will be in a landfill.

LINE NO.	A. EPA HAZARD. WASTE NO. (enter code)	B. ESTIMATED ANNUAL QUANTITY OF WASTE	C. UNIT OF MEASURE (enter code)	D. PROCESSES	
				1. PROCESS CODES (enter)	2. PROCESS DESCRIPTION (if a code is not entered in D(1))
X-1	K054	900	P	T03D80	
X-2	0100	400	P	T03D80	
X-3	0100	100	P	T03D80	
X-4	1000				included with above

IV. DESCRIPTION OF HAZARDOUS WASTES (continued)

W N O. I Z	A. EPA HAZARD WASTE NO. (enter code)	B. ESTIMATED ANNUAL QUANTITY OF WASTE	C. UNIT OF MEA- SURE (enter code)	D. PROCESSES							
				1. PROCESS CODES (enter)	2. PROCESS DESCRIPTION (if a code is not entered in D(1))						
	25 - 27	28	29	30 - 31	32 - 33	34 - 35	36 - 37	38 - 39	40 - 41	42 - 43	44 - 45
1											
2											
3											
4											
5											
6											
7											
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9											
10											
11											
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17											
18											
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22											
23											
24											
25											
26											

W

L

P

M

A

S

Continued from the front.

IV. DESCRIPTION OF HAZARDOUS WASTES (continued)

E. USE THIS SPACE TO LIST ADDITIONAL PROCESS CODES FROM ITEM B(1) ON PAGE 3.

V. FACILITY DRAWING

All existing facilities must include in the space provided on page 5 a scale drawing of the facility *see instructions for more detail.*

VI. PHOTOGRAPHS

All existing facilities must include photographs (aerial or ground-level) that clearly delineate all existing structures; existing storage, treatment and disposal areas; and sites of future storage, treatment or disposal areas *(see instructions for more detail).*

VII. LEGAL DESCRIPTION

VIII. FACILITY OWNER

A. If the facility owner is also the facility operator as listed in Section VIII on Form 1, "General Information", place an "X" in the box to the left and skip to Section IX below.

B. If the facility owner is not the facility operator as listed in Section VIII on Form 1, complete the following items:

1. NAME OF FACILITY'S LEGAL OWNER		2. PHONE NO. (area code & no.)	
3. STREET OR P.O. BOX		4. CITY OR TOWN	5. ZIP CODE
6. S. ST.	7. ZIP CODE		

IX. OWNER CERTIFICATION

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

A. NAME (print or type)	B. SIGNATURE	C. DATE SIGNED
-------------------------	--------------	----------------

X. OPERATOR CERTIFICATION

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

A. NAME (print or type)	B. SIGNATURE	C. DATE SIGNED
-------------------------	--------------	----------------

Continued from page 4.
V. FACILITY DRAWING (see page 4)

W

L

D

M

A

S

Please print or type



Iowa Department of Environmental Quality

NOTIFICATION OF HAZARDOUS WASTE ACTIVITY

INSTRUCTIONS: If you received a preprinted label, affix it in the space at left. If any of the information on the label is incorrect, draw a line through it and supply the correct information in the appropriate section below. If the label is complete and correct, leave Items I, II, and III below blank. If you did not receive a preprinted label, complete all items. "Installation" means a single site where hazardous waste is generated, treated, stored and/or disposed of, or a transporter's principal place of business. Please refer to the **INSTRUCTIONS FOR FILING NOTIFICATION** before completing this form. The information requested herein is required by law (*Section 3010 of the Resource Conservation and Recovery Act*).

INSTALLATION'S EPA I.D. NO.
I. NAME OF INSTALLATION
II. INSTALLATION MAILING ADDRESS
III. LOCATION OF INSTALLATION

PLEASE PLACE LABEL IN THIS SPACE

FOR OFFICIAL USE ONLY

COMMENTS

C																				
C																				

12 13	INSTALLATION I.D. NUMBER	APPROVED	DATE RECEIVED (mo., day & yr.)
F	1 2 3 4 5 6 7 8 9 0	1 2 3 4 5 6 7 8 9 0	1 2 3 4 5 6 7 8 9 0

I. NAME OF INSTALLATION																				
-------------------------	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

II. INSTALLATION MAILING ADDRESS																				
STREET OR P.O. BOX																				
C																				
3																				

CITY OR TOWN										ST.	ZIP CODE									
E																				
4																				

III. LOCATION OF INSTALLATION																				
STREET OR ROUTE NUMBER																				
C																				
5																				

CITY OR TOWN										ST.	ZIP CODE									
C																				
6																				

IV. INSTALLATION CONTACT																				
NAME AND TITLE (last, first, & job title)															PHONE NO. (area code & no.)					
C																				
2																				

V. OWNERSHIP																				
A. NAME OF INSTALLATION'S LEGAL OWNER																				
C																				
7																				

B. TYPE OF OWNERSHIP (enter the appropriate letter into box)	VI. TYPE OF HAZARDOUS WASTE ACTIVITY																		
F = FEDERAL M = NON-FEDERAL	57 <input type="checkbox"/> A. GENERATION	58 <input type="checkbox"/> B. TRANSPORTATION (complete item VII)																	
	59 <input type="checkbox"/> C. TREAT/STORE/DISPOSE	60 <input type="checkbox"/> D. UNDERGROUND INJECTION																	

VII. MODE OF TRANSPORTATION (transporters only)																			
<input type="checkbox"/> 61 A. AIR	<input type="checkbox"/> 62 B. RAIL	<input type="checkbox"/> 63 C. HIGHWAY	<input type="checkbox"/> 64 D. WATER	<input type="checkbox"/> 65 E. OTHER (specify):															

VIII. FIRST OR SUBSEQUENT NOTIFICATION																			
Mark 'X' in the appropriate box to indicate whether this is your installation's first notification of hazardous waste activity or a subsequent notification. If this is not your first notification, enter your installation's EPA I.D. number in the space provided below.																			
<input type="checkbox"/> A. FIRST NOTIFICATION	<input type="checkbox"/> B. SUBSEQUENT NOTIFICATION (complete item C)	C. INSTALLATION'S EPA I.D. NO.																	
		[Grid for EPA I.D. No.]																	

IX. DESCRIPTION OF HAZARDOUS WASTES																			
Please go to the reverse of this form and provide the requested information.																			

IOWA DEPARTMENT OF ENVIRONMENTAL QUALITY
HENRY A. WALLACE BUILDING, 900 East Grand Ave.
DES MOINES, IA 50319

HAZARDOUS WASTE REPORT

1. TYPE OF HAZARDOUS WASTE REPORT

PART A: GENERATOR ANNUAL REPORT This report is for the year ending December 31, 19____
PART B: FACILITY ANNUAL REPORT This report is for the year ending December 31, 19____
PART C: UNMANIFESTED WASTE REPORT This report is for waste received:
Month Day Year

2. INSTALLATION'S EPA I.D. NUMBER

| | | | | | | | | | | | | | | | | | | | | |

3. NAME OF INSTALLATION

4. INSTALLATION MAILING ADDRESS

Street or P. O. Box

City State Zip

5. LOCATION OF INSTALLATION

Street or Route Number

City State Zip

6. INSTALLATION CONTACT

Name (Last, First)

()
Phone (Area Code) & Number

7. TRANSPORTATION SERVICES USED (for Part A Reports only)

(List EPA Identification Numbers for transporters whose services were used during the reporting year represented by this report.)

8. COST ESTIMATES FOR FACILITIES (for Part B reports only)

A. Cost Estimate for Facility Closure

B. Cost estimate for post closure monitoring and maintenance (disposal facilities only)

\$ _____

\$ _____

9. CERTIFICATION:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and in all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

PRINT OR TYPE NAME

SIGNATURE

DATE

Please print or type with ELITE type (12 characters Anch).



Iowa Department of Environmental Quality
GENERATOR ANNUAL REPORT - PART A
 (Collected under the authority of Section 3002 of RCRA.)

FOR OFFICIAL USE ONLY (Items 1 and 2)	1. DATE RECEIVED	19	X. GENERATOR'S EPA I.D. NO.
	2. TYPE OF REPORT	G	

XI. FACILITY'S EPA I.D. NO.	XIII. FACILITY ADDRESS (street or P.O. box, city, state, & zip code)
-----------------------------	--

XII. FACILITY NAME (specify)

LINE NUMBER	A. DESCRIPTION OF WASTE	B. DOT HAZARD CLASS	C. EPA HAZARDOUS WASTE NUMBER (see instructions)	D. AMOUNT OF WASTE	E. UNIT OF MEASURE (enter code)	
					38	39
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						

XV. COMMENTS (enter information by line number - see instructions)
--

Please print or type

Iowa department of environmental quality



FACILITY REPORT - PARTS B & C

(Collected under the authority of Section 3004 of RCRA.)

FOR OFFICIAL USE ONLY (Items 1 & 2)	I. DATE RECEIVED 1 1 9	XVI. TYPE OF REPORT (enter an "X")	XVII. FACILITY'S EPA I.D. NO.
	II. RECEIVED BY	<input type="checkbox"/> PART B <input type="checkbox"/> PART C	G

XVIII. GENERATOR'S EPA I.D. NO.	XX. GENERATOR ADDRESS (street or P.O. box, city, state, & zip code)
---------------------------------	---

XIX. GENERATOR NAME (specify)

E M I N I Z	A. DESCRIPTION OF WASTE	B. EPA HAZARDOUS WASTE NUMBER (see instructions)	C. HANDLING METHOD (enter code)	D. AMOUNT OF WASTE AND UNITS						
				34	35	36	37	38		
1										
2										
3										
4										
5										
6										
7										
8										
9										
10										
11										
12										

XXII. COMMENTS (enter information by line number - see instructions)
--

DRAFT

HAZARDOUS WASTE MANIFEST FORM

IOWA DEPARTMENT OF ENVIRONMENTAL QUALITY
HENRY A. WALLACE BUILDING
900 EAST GRAND AVENUE
DES MOINES, IA 50319
515/281-8690

Manifest Doc. No. _____

TO BE COMPLETED BY
WASTE GENERATOR

COMPANY NAME _____ EPA IDENTIFICATION NUMBER _____

TELEPHONE NO. _____ ADDRESS _____ CITY _____ STATE _____ ZIP _____

WASTE HAULER(S)

HAULER NAME _____ HAULER ADDRESS _____ EPA IDENTIFICATION NUMBER _____

HAULER NAME _____ HAULER ADDRESS _____ EPA IDENTIFICATION NUMBER _____

DESTINATION-DISPOSAL STORAGE OR TREATMENT SITE

(FACILITY NAME) _____ EPA IDENTIFICATION NUMBER _____

ADDRESS _____ CITY _____ STATE _____ ZIP _____

(ALTERNATE FACILITY NAME, IF DESIRED) _____ EPA IDENTIFICATION NUMBER _____

ADDRESS _____ CITY _____ STATE _____ ZIP _____

TO BE COMPLETED BY WASTE GENERATOR

DESCRIPTION OF HAZARDOUS WASTE:

SHIPPING NAME	HAZARD CLASS	CONTAINERS	(TYPE)	(NUMBER)	TOTAL QUANTITY (GALS,LBS,ETC)

THIS IS TO CERTIFY THAT THE ABOVE NAMED MATERIALS ARE PROPERLY CLASSIFIED, DESCRIBED, PACKAGED, MARKED AND LABELED AND ARE IN PROPER CONDITION FOR TRANSPORTATION ACCORDING TO THE APPLICABLE REGULATIONS OF THE DEPARTMENT OF TRANSPORTATION (DOT) AND THE ENVIRONMENTAL PROTECTION AGENCY (EPA). (40 CFR 262.21(b))

AUTHORIZED SIGNATURE _____ DATE _____

TO BE COMPLETED BY TRANSPORTER

I HEREBY CERTIFY THAT THE ABOVE DESCRIBED SPECIAL WASTE AND QUANTITY HAS BEEN ACCEPTED IN PROPER CONDITION FOR TRANSPORT AND I ACKNOWLEDGE THE DESTINATION AS INDICATED.

(1) AUTHORIZED SIGNATURE _____ DATE _____ (2) AUTHORIZED SIGNATURE _____ DATE _____

DISPOSAL, STORAGE, OR TREATMENT FACILITY

I HEREBY CERTIFY THAT THE ABOVE DESCRIBED SPECIAL WASTE AND INDICATED QUANTITY HAS BEEN ACCEPTED

AUTHORIZED SIGNATURE _____ DATE _____ EPA IDENTIFICATION NUMBER _____

COMMENTS OR SPECIAL INSTRUCTIONS: PLEASE SEE THE REVERSE SIDE OF THIS FORM

1	_____
2	_____
3	_____
4	_____
5	_____
6	_____

IOWA HAZARDOUS WASTE SURVEY

Please refer to accompanying instructions in completing the following questionnaire.

NOTE: The following questions are facility and location specific. That is, a separate questionnaire must be completed for each distinct plant or facility in Iowa. If your firm owns or operates a facility at more than one Iowa location, additional questionnaires will be mailed to each one.

1. Company's EPA I.D. Number _____
2. Name of Company _____
3. Company's Mailing Address _____

4. Location of Company _____

5. County _____
6. Size of the Company
(No. of Employees) _____
7. SIC Number _____
8. Nature of Business _____
9. Are any hazardous wastes generated and/or handled at this location?

NO Complete question 10. After signing, detach this page and return to the Iowa Department of Environmental Quality.

YES Complete the remaining questions and return to the Iowa Department of Environmental Quality by September 30, 1980.

10. Certified By: _____
(Signature) (Official Title)

11. Company Contact: _____
(Name) (Phone Number)

NOTE: Section 7.3 of chapter 111 of the 68th Iowa General Assembly provides that the information that you provide must be made available to the public unless you can show that the information is privileged, confidential, or a trade secret. EPA also requires a similar showing in their notification process.

You may claim confidentiality for any information provided in the following questions. For IDEQ purposes, you can justify and document your claims for confidentiality in accordance with the instructions to complete EPA's Notification of Hazardous Waste Activity found in EPA's notification packet.

2. HAZARDOUS WASTE IDENTIFICATION

a. NAME OF HAZARDOUS WASTE	b. WASTE IDENTIFICATION NUMBER (Four Digit No. from 40 CFR, Part 261)	c. METHOD OF IDENTIFICATION (Check Box)			d. PHYSICAL STATE (Check One)			
		TEST PROCEDURES IN 40 CFR 261	ON LIST OF PROCESS WASTES IN 40 CFR 261	KNOWLEDGE OF THE PROCESS OR THE WASTE	SOLID	SLUDGE	LIQUID	GAS (COMPRESSED)

Copy this form if MORE THAN 5 WASTES ARE IDENTIFIED AS HAZARDOUS AT THIS FACILITY.

13. HAZARDOUS WASTE ACTIVITIES

a. GENERATORS: IDENTIFY ASSOCIATED ACTIVITIES FOR THE HAZARDOUS WASTE GENERATED BY YOUR FIRM AT THIS LOCATION:								b. HANDLERS & NON-GENERATORS: IDENTIFY ASSOCIATED ACTIVITIES AT THIS LOCATION			
ON-SITE ACTIVITIES				OFF-SITE ACTIVITIES (For all wastes leaving facility)				TRANSPORTATION	TREATMENT	STORAGE	DISPOSAL
GENERATION	TREATMENT	STORAGE	DISPOSAL	TRANSPORTATION	TREATMENT	STORAGE	DISPOSAL				
A	B	C	D	E	B	C	D	E	B	C	D
↑	↑	↑	↑	↑	↑	↑	↑	↑	↑	↑	↑

NOTE: Sub-questionnaires 14-A, 14-B, 14-C, 14-D, 14-E constitute the next five (5) pages respectively. Copy each as needed for more than one waste associated for the same activity.

14-A.

GENERATION QUESTIONNAIRE

NOTE: A generation questionnaire must be completed for each waste identified in question 12 for which "generation" is checked in question 13.

A-1. Hazardous waste being generated.

--	--	--	--

(Four digit number from 40 CFR Part 261)

A-2. Specify the quantity of hazardous waste being generated in pounds per month per year (lb./mo./yr.).

A-3. Indicate how the above quantity was calculated, i.e., testing, engineering estimate, measured, estimated.

A-4. Is this waste generated continuously or sporadically? (If possible specify range, peak, mean, median quantities in lbs./mo. of production).

A-5. Describe the process that generates this hazardous waste.

14-B.

TREATMENT QUESTIONNAIRE

NOTE: A treatment questionnaire must be completed for each waste identified in question 12 for which treatment activity is checked in question 13.

B-1. What hazardous waste is being treated?
(Four digit number from 40 CFR Part 261)

B-2. What is the location of treatment facility?

B-3. Indicate the type of treatment:

PHYSICAL	<input type="checkbox"/>
CHEMICAL	<input type="checkbox"/>
BIOLOGICAL	<input type="checkbox"/>
RECYCLE/REPROCESS	<input type="checkbox"/>
INCINERATION	<input type="checkbox"/>
SEDIMENTATION	<input type="checkbox"/>
FILTRATION	<input type="checkbox"/>
OTHER (specify)	<input type="checkbox"/>

B-4. Describe the treatment process in detail.

B-5. Specify the quantity of this hazardous waste treated in pounds per month per year. (lb./mo./yr.).

B-6. Specify the frequency of treatment, i.e., continuous daily, weekly batch process.

B-7. Specify the average unit cost of treating this waste at this treatment facility.

B-8. Identify all applicable air or water pollution permits under which this treatment facility operates.

14-C.

STORAGE QUESTIONNAIRE

NOTE: A storage questionnaire must be completed for each waste identified in question 12 for which a storage activity is checked in question 13.

C-1. What hazardous waste is being stored?
(Four digit number from 40 CFR 261)

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C-2. What is the location of the storage facility?

C-3. What types of containers are the wastes stored in?

C-4. Describe the storage facility in detail.

C-5. How much of this hazardous waste is being stored at this location?
(For bulk storage, specify the average amount held at any time as well as the total capacity of the facility.)

C-6. How long is this hazardous waste stored at this location?

C-7. What is the average unit cost of storing this waste in the manner described?

14-D.

DISPOSAL QUESTIONNAIRE

NOTE: A disposal questionnaire must be completed for each waste identified in question 12 for which a disposal activity is checked in question 13.

D-1. What hazardous waste is being disposed of?

--	--	--	--

(Four digit number of 40 CFR Part 261)

D-2. What is the location of this hazardous waste's disposal site?

D-3. Who owns, operates and/or leases the above site?

D-4. Describe how this waste is disposed of at this site, including the types and methods of disposal. (Has the waste undergone any pre-treatment or does it receive in site treatment in disposal?)

D-5. Is this disposal method covered by an air, water, or solid waste pollution permit? If so, indicate type and identification number of permits.

D-6. If disposal methods are not currently covered by an IDEQ permit, what precautions have been taken to prevent leaching or other contamination?

D-7. What quantity (in lbs./mo./yr.) of this hazardous waste is being disposed at this site?

D-8. What is the frequency of disposal?

D-9. What is the average unit cost of disposing this waste by this method?

14-E.

TRANSPORTATION QUESTIONNAIRE

NOTE: Complete this questionnaire for each hazardous waste identified in question 12 for which a transportation activity is checked in question 13.

E-1. What hazardous waste is being transported?

--	--	--	--	--

(Four digit number of 40 CFR Part 261)

E-2. Identify the location of source, the location of destination, and distance in miles between the two.

E-3. By what mode(s) is this hazardous waste transported?

E-4. What quantity of this hazardous waste is being transported (lbs./mo./yr.)?

E-5. What is the frequency of shipment?

E-6. Describe any special precautions used in the transporting this waste, e.g., nature of containers, identification, use of shipping papers, etc.

E-7. What is your average unit cost per mile of transporting this waste in the manner described?

K. CHECKLIST FOR SUBSTANTIAL EQUIVALENCE OF THE IOWA AND FEDERAL HAZARDOUS WASTE REGULATIONS

RCRA Section	State Coverage Citation	Comments
3001	400-45.2 (68 G.A., Ch. 111) <u>Identification and listing of hazardous waste.</u> The Solid Waste Commission on September 18, 1980, will adopt the following by reference: 40 C.F.R. part 261 as promulgated May 19, 1980.	(1) The exclusion of "sewage sludge" in Chapter 111 of the Acts of the 68th General Assembly, Section 2.3(b)(2) is inconsistent with the federal regulations.
3002	400-45.3 (68 G.A., Ch. 111) <u>Standards applicable to generators of hazardous waste.</u> The Solid Waste Commission on September 18, 1980, will adopt the following by reference: 40 C.F.R. part 262 as promulgated May 19, 1980.	
3003	400-45.4 (68 G.A., Ch. 111) <u>Standards applicable to transporters of hazardous waste.</u> The Solid Waste Commission on September 18, 1980, will adopt the following by reference: 40 C.F.R. part 263 as promulgated May 19, 1980.	
3004	400-45.6 (68 G.A., Ch. 111) <u>Interim status standards for owners and operators of hazardous waste treatment, storage and disposal facilities.</u> The Solid Waste Disposal Commission on September 18, 1980, will adopt the following by reference: 40 C.F.R. part 265 as promulgated May 19, 1980.	

DRAFT

DOCUMENT III

ATTORNEY GENERAL'S STATEMENT

Note to Reviewers of Draft Interim Authorization
Submittal, State of Iowa

RE: Document III: Attorney General's Statement

At the time of this Draft submission, the required Attorney General's statement is not yet available. The Federal Regulations as well as appropriate State Legislation and State Agency Rules and Regulations have been submitted to the Attorney General for his review. In addition, agency personnel identified particular areas of concern and submitted these for review. Copies of all notes submitted to the Attorney General are enclosed in this Draft in lieu of Document III.

The Attorney General has indicated that his opinion will address all of the issues identified in these notes as well as any other pertinent issues discovered as a result of his review. Further, his opinion will be formatted in accordance with EPA suggestions.

NOTES FOR ATTORNEY GENERAL'S STATEMENT FOR INTERIM AUTHORIZATION PHASE I

Prefatory Note to the Attorney General.

1. The General Assembly, probably by oversight, has neglected to provide a smooth transition in rulemaking authority over hazardous waste from the Solid Waste Disposal Commission to the new Environmental Quality Commission. That is the General Assembly has in general provided that the rules adopted prior to January 1, 1981 remain in effect until modified by the new commission. See, S.F. 205, §§ 8 (modifying §455B.5(3) of the Code), 22, 40, 47, 56, 69 (adding new sections to chapter 206 of the Code), 81 and 84. Conspicuous by its absence is preservation of rules adopted under chapter 111, Acts of the 68th General Assembly. The Attorney General's office should provide guidance (informally) on a procedure for the new Environmental Quality Commission to readopt all hazardous waste rules promulgated by the Solid Waste Disposal Commission prior to January 1, 1981.

2. Several of the chapter 111 definitions were drawn nearly word for word from the federal definitions. Compare, §2.2 with 42 U.S.C. §6903(3) (definition of "disposal"); §2.4 with 42 U.S.C. §6903(12) (definition of "manifest") §2.5 with 42 U.S.C. §6903(33) (definition of "storage") and §2.6 with 42 U.S.C. §6903(34) (definition of "treatment"). EPA's definition of these same terms in its rules differ from the statutory definitions. See 40 C.F.R. §260.10(14), 260.10(43), 260.10(66), and 260.11(73). Would there be any problem in adopting EPA's rules by reference where the definitions vary from our statutory definitions?

I. IDENTIFICATION AND LISTING.

State statutes and regulations provide control over a universe of hazardous waste generated, transported, treated, stored and disposed of in the

RECORD COPY

File Name

5-44-83-0070

State at the time of program approval which is nearly identical to that which would be controlled by the Federal program under 40 CFR 261.
【Federal Authority: RCRA §3001 (42 USC 6921); 40 CFR 261, 123.128(a).】

Citation of State Laws and Rules: Acts, 68th G.A., ch. 111 §3.2. and §11;

Effective Date of Enabling Legislation: July 1, 1979.

Notes to the Attorney General: 1. The state statute does not require that a hazardous waste be a subset of solid wastes. That is, 40 C.F.R. §261.2 may be irrelevant to the state statute.

2. The Federal rules exempt several "materials" from coverage either because the materials are not "solid waste" or because the material, although a "solid waste," is not "hazardous." That is, the following are not regulated: domestic sewage; waste mixed with domestic sewage that is treated in a POTW; irrigation return flows; source, special nuclear and or byproduct material; materials subject to in-site mining techniques which are not removed from the ground as part of the extraction process; household wastes; wastes used as fertilizers if generated by growing of crops or raising of animals; mining overburden; fly ash, etc. generated by burning coal or other fossil fuels; and drilling fluids. Since our rules must be consistent with the federal rules, I presume we can similarly exclude all of these materials. The state definition of hazardous waste specifically excludes two of these: agricultural wastes and source, special nuclear and by-product material.

3. Some specific analysis should probably be included in order to demonstrate that the state exclusion of agricultural wastes in §2.3(b)(1) is not in conflict with the Federal Exclusion.

4. The exclusion of "sewage sludge" in §2.3(b)(2) is inconsistent with the federal rules. See 45 Fed. Reg. 33101 (May 19, 1980). The DEQ plans at this time to require or perform analysis of all POTW sludges in Iowa to show they are nonhazardous. If they are nonhazardous, the inconsistency will be de minimis.

5. 40 C.F.R. §261.5 establishes special requirements for generators of small quantity hazardous wastes. Chapter 111, §5.3 has a limited exemption for small quantity hazardous waste generators. The sections are contradictory as to notification requirements. But section 5.3 was drafted with the possibility of contradiction to arise, and so does not become effective until July 1, 1981, or late enough for DEQ to seek a legislation modification.

II. STANDARDS FOR GENERATORS OF HAZARDOUS WASTE.

Note to the Attorney General on Farmers as Generators: EPA generally exempts farmers who triple rinse pesticide containers from generator and permit requirements. See 40 C.F.R. §262.51. Section 10 of ch. 111 of the Acts of the 68th G.A. does too. However, a careful comparison of the language should be made in order to show there is no conflict.

- A. State statutes and regulations provide coverage of all the generators of hazardous waste regulated under the State program. [Federal Authority: RCRA §3002 (42 USC 6922); 40 CFR 262, 123.128(b)(2)]

Citation of State Laws and Rules: Acts, 68th G.A., ch. 111, §§ 3.3, 11;

Effective Date of Enabling Legislation: July 1, 1979.

Notes to the Attorney General: This requested certification does not make sense to me. I think the certification should be that which is stated at 40 CFR §123.128(b)(2). I interpret the 40 C.F.R. §123.128(b)(2) certification to be to the effect that if we have adopted a regulation covering a particular hazardous waste, we cannot elect to ignore the enforcement of the requirement.

- B. State statutes and regulations require all generators of waste to determine whether their waste is hazardous. [Federal Authority: RCRA §3002 (42 USC 6922), 40 CFR 262.4, 123.128(b)(3)].

Citation of State Laws and Rules: Acts, 68th G.A., ch. 111, §§3.3, and 11.

Effective Date of Enabling Legislation: July 1, 1979.

Notes to the Attorney General: 40 C.F.R. §262.11, requires that generators determine whether their waste is hazardous. If the Commission adopts this regulation by reference under its section 3.3 authority, the item should be satisfied.

- C. State statutes and regulations require all generators covered by the State program to comply with reporting and recordkeeping requirements substantially equivalent to those found at 40 CFR 262.40 and 40 CFR 262.41. [Federal Authority: RCRA §3002 (42 USC 6922); 40 CFR 262.40, .41, 123.128(b)(3)]

Citation of State Laws and Rules: Acts, 68th G.A., ch. 111, §§3.3 and 11.

Effective Date of Enabling Legislation: July 1, 1979.

Notes to the Attorney General: If the Commission adopts 40 C.F.R. §§260.40 and 260.41 by reference under its section 3.3 authority, this requirement should be satisfied.

- D. For hazardous wastes that are accumulated by such generators for short periods of time prior to shipment, State statutes and regulations require that such generators accumulate such wastes in a manner that

does not present a hazard to human health or the environment.
【Federal Authority: RCRA §3002 (42 USC 6922); 40 CFR 262.34,
123.128(b)(4)】

Citation of State Laws and Rules: Acts, 68th G.A., ch. 111, §§3.3, 6.4 and 11.

Effective Date of Enabling Legislation: July 1, 1979.

Notes to the Attorney General: 1. 40 C.F.R. §262.34 establishes the federal requirement for accumulation. If the Commission adopts this regulation by reference, this item shall be satisfied.

2. Section 6.4 of H.F. 719 is not to the contrary. The section exempts "accumulation" from permit requirements, but not from the substantive requirements. 40 C.F.R. §262.34 likewise exempts "accumulators" from permit requirements, but not substantive requirements. See also, 40 C.F.R. §261.5.

E. Respecting international shipments, State laws and regulations provide requirements which are substantially equivalent to those at 40 CFR 262.50, except that advance notification of international shipment, as required by 40 CFR 262.50(b)(1), shall be filed with the Administrator. 【Federal Authority: RCRA §3002 (42 USC 6922); 40 CFR 262.50, 123.128(b)(5)】

Citation of State Laws and Rules: Acts, 68th G.A., ch. 111, §§3.3 and 11.

Effective Date of Enabling Legislation: July 1, 1979.

Notes to the Attorney General: 1. 40 C.F.R. §262.50 establishes the Federal requirements. If the Commission adopts this regulation under its section 3.3 authority, this item should be satisfied.

2. The Commission in adopting by reference, should make it explicit that the notification must be given to the EPA Administrator rather than the DEQ Executive Director.

- F. State statutes and regulations require that such generators of hazardous waste who transport (or offer for transport) such hazardous waste off-site use a manifest system that ensures that inter- and intrastate shipments of hazardous waste are designated for delivery and, in the the case of intrastate shipments, are delivered only to facilities that are authorized to operate under an approved State program or the Federal program. [Federal Authority: RCRA §3002 (42 USC 6922); 40 CFR 262.20, 123.128(b)(6)]

Citation of State Laws and Rules: Acts, 68th G.A., ch. 111, §§2.4, 3.3, 8.1(a) and 11.

Effective Date of Enabling Legislation: July 1, 1979.

Notes to the Attorney General: 40 C.F.R. §262.20 establishes the federal requirement. If the Commission adopts this regulation by reference, this item should be satisfied.

G. The State manifest system requires that:

1. The manifest itself identify the generator, transporter, designated facility to which the hazardous waste will be transported, and the hazardous waste being transported. [Federal Authority: RCRA §3002 (42 USC 6922); 40 CFR 262.21, 123.128(b)(7)(i)]

Citation of State Laws and Rules: Acts, 68th G.A., ch. 111, §§2.4, 3.3 and 11.

Effective Date of Enabling Legislation: July 1, 1979.

Notes to the Attorney General: 40 C.F.R §262.21 establishes this requirement. If the Commission adopts the federal rule by reference under its section 3.3 authority, this item should be satisfied.

2. The manifest accompany all wastes offered for transport except in the case of shipments by rail or water specified in 40 CFR 262.23(c) and 263.20(c). [Federal Authority: RCRA §3002 (42 USC 6922); 40 CFR 262.23, 123.128(b)(7)(ii)]

Citation of State Laws and Rules: Acts, 68th G.A., ch. 111, §§2.4, 3.3 and 11.

Effective Date of Enabling Legislation: July 1, 1979.

Notes to the Attorney General: The federal requirements are established at 40 C.F.R. §§262.23, and 263.20(c). If the Commission adopts these rules by reference under its 3.3 authority, this item should be satisfied.

3. Shipments of hazardous waste that are not delivered to a designated facility are either identified and reported by the generator to the State in which the shipment originated or are independently identified by the State in which the shipment originated. [Federal Authority: RCRA §3002 (42 USC 6922); 40 CFR 262.42, 123.128(b)(7)(iii)]

Citation of State Laws and Rules: Acts, 68th G.A., ch. 111, §2.4, 3.3 and 11.

Effective Date of Enabling Legislation: July 1, 1979.

Notes to the Attorney General: The federal requirement is established at 40 C.F.R. §262.40. If the Commission adopts this rule by reference under its section 3.3 authority, this item should be satisfied.

4. There is notification of instances of undelivered interstate shipments to the State in which the facility designated on the manifest is located or to the State in which the shipment may have been delivered (or EPA for unauthorized States). [Federal Authority: RCRA §3002 (42 USC 6922); 40 CFR 262.42, 123.128(b)(8)]

Citation of State Laws and Rules: Acts, 68th G.A., ch. 111, §§2.4, 3.3, and 11.

Effective Date of Enabling Legislation: July 1, 1979.

Notes to the Attorney General: It seems that this item is redundant of the previous item.

III. STANDARDS FOR TRANSPORTERS OF HAZARDOUS WASTE.

- A. State statutes and regulations provide coverage of all the transporters of hazardous waste regulated under the State program. [Federal Authority: RCRA §3003 (42 USC 6923); 40 CFR 263.10, 123.128(c)(2)]

Citation of State Laws and Rules: Acts, 68th G.A., ch. 111, §§3.3 and 11.

Effective Date of Enabling Legislation: July 1, 1979.

Notes to the Attorney General: This is the same certification requested in II(A) above. Whatever you decide to opine in relation to II(A) should be repeated here.

- B. State statutes and regulations require all transporters covered by the State program to comply with recordkeeping requirements substantially equivalent to those found at 40 CFR 263.22. [Federal Authority: RCRA §3003 (42 USC 6923); 40 CFR 263.22, 123.128(c)(3)]

Citation of State Laws and Rules: Acts, 68th G.A., ch. 111, §§3.3 and 11.

Effective Date of Enabling Legislation: July 1, 1979.

Notes to the Attorney General: If the Commission adopts 40 C.F.R. §263.22 by reference under its section 3.3 authority, this requirement should be satisfied.

- C. State statutes and regulations require such transporters of hazardous waste to use a manifest system that ensures that inter- and intra-state shipments of hazardous waste are delivered only to facilities that are authorized under an approved State program or Federal program. [Federal Authority: RCRA §3003 (42 USC 6923); 40 CFR 263.20, 123.128(c)(4)]

Citation of State Laws and Rules: Acts, 68th G.A., ch. 111, §§2.4, 3.3, 8.1(a) and 11.

Effective Date of Enabling Legislation: July 1, 1979.

Notes to the Attorney General: If the Commission adopts 40 C.F.R. §263.20 by reference under its section 3.3 authority, this requirement should be satisfied.

- D. State statutes and regulations require that such transporters carry the manifest with all shipments except in the case of shipments by rail or water specified in 40 CFR 263.20(e). **【Federal Authority: RCRA §3003 (42 USC 6923); 40 CFR 263.20, 123.128(c)(5)】**

Citation of State Laws and Rules: Acts, 68th G.A., ch. 111, §§3.3 and 11.

Effective Date of Enabling Legislation: July 1, 1979.

Notes to the Attorney General: If the Commission adopts 40 C.F.R. §263.20 by reference, under its section 3.3 authority, this requirement should be satisfied.

- E. For hazardous wastes that are discharged in transit, State statutes and regulations require such transporters to notify appropriate State, local, and Federal agencies of the discharges and to clean up such waste or to take action so that such wastes do not present a hazard to human health or the environment. Such requirements are substantially equivalent to those found in 40 CFR 263.30 and 31. **【Federal Authority: RCRA §3003 (26 USC 6923); 40 CFR 263.30, 123.128(c)(6)】**

Citation of State Laws and Rules: Acts, 68th G.A., ch. 111, §§3.3, and 11;
Iowa Code 1979, chapter 455B, Division IV, Part 4; 400 I.A.C. ch. 41.

Effective Date of Enabling Legislation: July 1, 1979 for ch. 111; July 1, 1976 for ch. 455B, Div. IV, Part 4.

Notes the Attorney General: 1. The federal requirement is established at 40 C.F.R. §§263.30 and 263.31. If the Commission adopts these rules by reference, this item should be provided.

2. Even without adoption by reference, chapter 455B, Division IV, Part 4 could be adequate.

3. The Commission should probably modify 400

I.A.C. ch. 41 to recognize the RCRA requirements.

IV. STANDARDS FOR STORAGE, TREATMENT AND DISPOSAL FACILITIES.

State statutes and regulations provide standards applicable to storage, treatment and disposal facilities which are substantially equivalent to 40 CFR 265. State law prohibits the operation of facilities not in compliance with such standards. These standards include:

- A. ~~Preparedness for and prevention of releases of hazardous waste controlled by the State and contingency plans and emergency procedures to be followed in the event of a release of such hazardous waste.~~ **【Federal Authority: RCRA §3004 (42 USC 6924); 40 CFR 264(C), (D), 123.128(e)(4)】**

Citation of State Laws and Rules: Acts, 68th G.A., ch. 111, §§3.3, 6.3 and 11.

Effective Date of Enabling Legislation: July 1, 1979.

Notes to the Attorney General: The Federal requirement is established in 40 C.F.R. part 264, subparts C and D. If the Commission adopts these rules by reference under its section 3.3 authority, this item will be satisfied.

- B. Closure and post-closure requirements. **【Federal Authority: RCRA §3004 (42 USC 6924); 40 CFR 265(G), (H), 123.128(e)(2)】**

Citation of State Laws and Rules: Acts, 68th G.A., ch. 111, §§3.3, 6.3 and 11.

Effective Date of Enabling Legislation: July 1, 1979.

Remarks of the Attorney General: 1. The Federal requirements are established in 40 C.F.R part 264, subparts C&D. If the Commission adopts these rules by reference under its section 3.3 authority, this requirement should be satisfied.

2. The second sentence of section 6.3 should not be to the contrary. The language in that sentence is drawn from the last

sentence of section 3004. If RCRA §3004 is sufficient to support the federal regulation, the state regulation should be within the authority delegated to the state.

3. Note that some financial requirements are only proposed. 45 Fed. Reg. 33260 to 33278. (May 19, 1980).

C. Groundwater monitoring. **【Federal Authority: RCRA §3004 (42 USC 6924); 40 CFR 265(F), 123.128(e)(3)】**

Citation of State Laws and Rules: Acts, 68th G.A., ch. 111, §§3.3, 4.3, 6.3, and 11.

Effective Date of Enabling Legislation: July 1, 1979.

Notes to the Attorney General: 1. If the Commission adopts 40 C.F.R. part 265, subpart F by reference under its section 3.3 authority, this requirement should be satisfied.

2. The Commission has a similar, but less explicit requirement for landfills. See 400 I.A.C. §28.2(2)(m).

D. Security to prevent unknowing and unauthorized access to the facility. **【Federal Authority: RCRA §3004 (42 USC 6924); 40 CFR 265.14, 123.128(e)(4)】**

Citation of State Laws and Rules: Acts, 68th G.A., ch. 111, §§3.3, 6.3 and 11.

Effective Date of Enabling Legislation: July 1, 1979.

Notes to the Attorney General: If the Commission adopts 40 C.F.R. §265.14 under its section 3.3 authority, this requirement should be satisfied.

E. Facility personnel training. **【Federal Authority: RCRA §3004 (42 USC 6924); 40 CFR 265.16, 123.128(e)(5)】**

Citation of State Laws and Rules: Acts, 68th G.A., ch. 111, §§3.3, 3.4, 4.2, 6.3 and 11.

Effective Date of Enabling Legislation: July 1, 1980.

Notes to the Attorney General: If the Commission adopts 40 C.F.R. §265.16 by reference under its section 3.3 authority, this requirement should be satisfied.

F. ~~Inspection, monitoring, recordkeeping, and reporting.~~ **【Federal Authority: RCRA §3004 (42 USC 6924); 40 CFR 265, subpart F, 123.128(e)(6)】**

Citation of State Laws and Rules: Acts, 68th G.A., ch. 111, §§3.3, 4.3, 6.3, 7.1, 8.1(c) and 11.

Effective Date of Enabling Legislation: July 1, 1979.

Notes to the Attorney General: If the Commission adopts 40 C.F.R. part 265, subpart F by reference under its section 3.3 authority, this requirement should be satisfied.

G. Compliance with the manifest system including the requirement that the facility owner or operator or the State in which the facility is located must return a copy of the manifest to the generator or to the State in which the generator is located indicating delivery of the waste shipment. **【Federal Authority: RCRA §3004 (42 USC 6924); 40 CFR 265.71, 123.128(e)(7)】**

Citation of State Laws and Rules: Acts, 68th G.A., ch. 111, §§2.4, 3.3, 4.3, 6.3 and 11.

Effective Date of Enabling Legislation: July 1, 1979.

Notes to the Attorney General: If the Commission adopts 40 C.F.R. §265.71 by reference, this requirement should be satisfied.

H. Other facility standards to the extent that they are included in 40 CFR 264 and 265. [Federal Authority: RCRA §3004 (42 USC 6924); 123.128(e)(8)]

Citation of State Laws and Rules: Acts, 68th G.A., ch. 111, §§3.3, 6.3 and 11.

Effective Date of Enabling Legislation: July 1, 1979.

Notes to the Attorney General: If the Commission adopts 40 C.F.R. parts 264 and 265 by reference, this requirement should be satisfied.

V. INSPECTIONS.

State law provides authority for officers engaged in compliance evaluation activities to enter any conveyance, vehicle, facility or premises subject to regulation or in which records relevant to program operation are kept in order to inspect, monitor, or otherwise investigate compliance with the State program including compliance with permit terms and conditions and other program requirements. (States whose law requires a search warrant prior to entry conform with this requirement.) [Federal Authority: RCRA §3007 (42 USC 6927); 40 CFR 123.128(g)]

Citation of State Laws and Rules: Acts, 68th G.A., ch. 111, §§4.3 and 7.1;

See also Iowa Code, 1979, §455B.3(8), as amended by S.F. 205, §§3 and 4.

Effective Date of Enabling Legislation: July 1, 1979; (§455B.3(8) effective Jan. 1, 1973).

Notes to the Attorney General: Section 7.1 of chapter 111 is nearly word for word from section 3007 of the federal law. Section 7.1(c) of chapter 111 is not found in the federal act. Thus state authority is actually somewhat broader than federal authority.

VI. ENFORCEMENT REMEDIES.

State statutes and regulations provide the following:

- A. Authority to restrain immediately by order or by suit in State court any person from engaging in any unauthorized activity which is endangering or causing damage to public health or the environment.
【Federal Authority: RCRA §3006 (42 USC 6926); 40 CFR 123.128(f)(1)(i)】

Citation of State Laws and Rules: Acts, 68th G.A., ch. 111, §§9.1(d) and 9.2;

Iowa Code §455B.117.

Effective Date of Enabling Legislation: July 1, 1979; §455B.117 effective July 1, 1976.

Notes to the Attorney General: 1. The EPA does not have this authority under its hazardous waste law, 42 U.S.C. §§6921 to 6930. The nearest equivalent is its imminent hazard authority, 42 U.S.C. §6973. EPA may enforce the requirements of the RCRA, but this can't be done immediately, but only after 30 days. See 42 U.S.C. §6928(a).

2. The federal law on authorizing state programs, 42 U.S.C. §6926(b), does not explicitly require this state authority. Rather §6926(b) only requires that the state program provide adequate enforcement of compliance.

- B. Authority to sue in courts of competent jurisdiction to enjoin any threatened or continuing violation of any program requirement;
【Federal Authority: RCRA §3006 (42 USC 6926); 40 CFR 123.128(f)(1)(ii)】

Citation of State Laws and Rules: Acts, 68th G.A., ch. 111, §§9.1(d) and 9.2

Effective Date of Enabling Legislation: July 1, 1979.

Notes to the Attorney General: See note 2 to part VI(A).

- C. Authority to assess or sue to recover in court civil penalties or seek criminal remedies including fines in at least the amount of \$1,000 per day for any program violation. [Federal Authority: RCRA §3006 (42 USC 6926); 40 CFR 123.128(f)(1)(iii)]

Citation of State Laws and Rules: Acts, 68th G.A., ch. 111, §§8, 9.1(d) and 9.2.

Effective Date of Enabling Legislation: July 1, 1979.

Notes to the Attorney General: The Federal criminal penalties were revised by the Quiet Communities Act of 1978, P.L. 95-609, §7(k). The Amendment made more actions subject to criminal penalties. Compare P.L. 94-580 at 90 Stat. 2812 with P.L. 95-609, §7(k) at 92 Stat. 3082. The provisions of section 8.1(b), in particular, were comparable to the original federal provisions at 90 Stat. 2812, but have not been amended to reflect P.L. 95-609, §7(k).

VII. PUBLIC PARTICIPATION IN THE STATE ENFORCEMENT PROCESS.

State laws and regulations provide for public participation in the State enforcement process by providing either:

- A. Authority which allows intervention as of right in any civil or administrative action to obtain the remedies specified in VI above by any citizen having an interest which is or may adversely affected; or
- B. Assurances that the state agency or enforcement authority will:
- (1) Investigate and provide written response to all citizen complaints duly submitted.
 - (2) Not oppose intervention by any citizen where permissive intervention may be authorized by statute, rule, or regulation; and
 - (3) Publish and provide at least 30 days for public comment on any proposed settlement of a State enforcement action.

[Federal Authority: RCRA §7004, (42 USC 6974) 40 CFR 123.128(f)(2)]

Citation of State Laws and Rules:

Effective Date of Enabling Legislation:

Notes to the Attorney General: 1. As to contested cases, see Iowa Code, §§17A.2(2), 17A.2(5), 17A.12; and 400 Iowa Administrative Code, §§55.8(5).

2. Note that there is no explicit requirement other than 42 U.S.C. §6974 for public participation in Federal enforcement actions. The EPA has not imposed this requirement on itself in its administrative and judicial proceedings, i.e., there is no similar language in 40 C.F.R. parts 122 and 124 which governs EPA's programs. But see the discussion on 40 C.F.R. §123.9(d) at 45 Federal Register 33382-33383 (May 19, 1980).

VIII. AUTHORITY TO SHARE INFORMATION WITH EPA.

State statutes and regulations provide authority for any information obtained or used in the administration of the State program to be available to EPA upon request without restriction. [Federal Authority: RCRA §3007(b) (42 USC 6927(b)); 40 CFR 123.132(a)]

Citation of State Laws and Rules: Acts, 68th G.A., ch. 111, §7.3.

Effective Date of Enabling Legislation: July 1, 1979.

Notes to the Attorney General: The only restriction is that the information must be relevant to EPA's official duties.

IX. AUTHORITY OVER INDIAN LANDS.

Where a State seeks authority over Indian lands appropriate analysis of the State's authority should be included here. [Federal Authority: 40 CFR 123.125(c)]

Note to the Attorney General: 1. Nothing in chapter 111 prevents us from regulating on Indian land. But nothing in chapter 111 allows us to either. We confess to ignorance of the law of Indian lands. This is all yours. Call Jim Davis and ask his opinion. Note 40 C.F.R. §§123.1(j) and 123.121(f)



iowa department of environmental quality

reply to: David Bach
phone: 515/281-8874

pm

DATE: June 25, 1980

RECORD COPY

TO: Elizabeth M. Osenbaugh

File Name 5-44-02-04-10

FROM: David Bach

Senders Initials D. C. B.

RE: Hazardous Waste Opinion - Additional Notes

1. EPA defines "Existing Hazardous Waste Management Facility" (40 C.F.R. §260.10(20)) as one that was in existence on, or for which construction commenced, on or before October 21, 1976 (the date of enactment of RCRA). Only an existing hazardous waste management facility is eligible for interim status. 12 U.S.C. §6925(e); 40 C.F.R. §§ 122.3 and 122.23. This leaves a hazardous waste management facility that was not in operation between October 21, 1976 and the effective date of EPA's regulations subject to requirements of a new facility. The state statute recognizes this unfairness and allows interim status to any facility that "existed on the effective date of the rule listing the waste." See section 6.2 of chapter 111 of the Acts of the 68th G.A. Does section 11 of chapter 113 mandate that our rules conform to the EPA rules, or may the Commission's rules reflect §6.3's definition of "existing?" (EPA and Congress are seeking to amend 42 U.S.C. §6925(e). See 45 Federal Register 33323-33325.)
2. Section 5.1 of chapter 111 is patterned after 42 U.S.C. § 6930(a) and should satisfy the notification requirements. Section 5.2 has no direct parallel in the federal law. However, section 5.2 probably just states the obvious inference under federal law that a person must give notice prior to commencing to generate or transport. There is no notice requirement in section 5 for a person who plans to commence a treatment, storage or disposal operation because that notice is effectively given if the person applies for and obtains the permit required by section 6.1.

DB:klg

Main Office: Henry A. Wallace Building, Des Moines, Iowa 50319

Regional Office #1
209 N. Franklin St.
Manchester 52057

Regional Office #2
509 S. President
P.O. Box 1443
Mason City 50401

Regional Office #3
401 Grand Ave.
P.O. Box 270
Cedar Rapids 52401

Regional Office #4
316 Walnut
Atlantic 50022

Regional Office #5
317 E. 5th St.
P.O. Box 6160
Des Moines 50319

Regional Office #6
117 N. 2nd Ave.
P.O. Box 27
Dubuque 52001

DRAFT

DOCUMENT IV

MEMORANDUM OF AGREEMENT

MEMORANDUM OF AGREEMENT
BETWEEN
THE STATE OF IOWA
AND
THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,
REGION VII

I. GENERAL

This Memorandum of Agreement (hereafter "Agreement") establishes policies, responsibilities, and procedures pursuant to 40 CFR 123.126 for the State of Iowa Hazardous Waste Management Program (hereafter "State Program") authorized under Section 3006(C) of the Resource Conservation and Recovery Act (hereafter "RCRA" or "the Act") of 1976 (Pub. L. 94-580, 42 USC 6901, et seq.) and the United States Environmental Protection Agency (hereafter EPA) Regional Office for Region VII. This Agreement further sets forth the manner in which the State will coordinate with EPA in administering the State Program.

This Agreement is entered into by the Executive Director of Iowa Department of Environmental Quality (hereafter "Director" or "the State"), the lead agency for the State Program (as designated by the State pursuant to 40 CFR 123.124(b) and the Regional Administrator, EPA, Region VII (hereafter "Regional Administrator" or "EPA").

Nothing in this Agreement shall be construed to restrict in any way EPA's authority to fulfill its oversight and enforcement responsibilities under RCRA.

The parties will review this Agreement jointly at least once a year (and at other times as appropriate) during preparation of the annual State Grant Work Program (hereafter "State Work Program"), in connection with grant funding under section 3011 of RCRA.

In computing any period of time prescribed by the Agreement, the day on which the designated period of time begins shall not be included. However, the last day of the period shall be included unless it is a Saturday, Sunday, or legal holiday. In that case, the period will extend until the end of the next non-holiday weekday. When the period of time is less than seven (7) days, intermediate Saturdays, Sundays, or legal holidays shall be excluded in the computation.

This Agreement will be amended and re-executed by the parties for Interim Authorization Phase II. Final Authorization will require the execution of a new Memorandum of Agreement.

This Agreement may be modified upon the initiative of either party in order to ensure consistency with State program modifications or for any other purpose mutually agreed upon. Any revisions or modifications must be in writing and must be signed by the Director and the Regional Administrator.

This Agreement will remain in effect until such time as State program authorization is withdrawn by EPA, according to the provisions of 40 CFR 123.136, or reverts to EPA according to the provisions of 40 CFR 123.137, or automatically expires (24 months after the effective date of Phase II of the Federal regulations).

Unless otherwise stipulated, this Agreement, and any subsequent modifications made, will take effect immediately upon being signed by the Director and the Regional Administrator.

II. RESPONSIBILITIES OF PARTIES

A. Policy Statement

~~Each of the parties to this Agreement is responsible for ensuring that its obligations under RCRA are met. The Director and the Regional Administrator agree to maintain a high level of cooperation and coordination between State and EPA staffs in a partnership to assure successful and effective administration of the State Program.~~

The State has primary responsibility for all aspects of the program and for coordination of the program with other authorized State programs and with the Federal program in States without authorization.

EPA will keep the Director informed of the content and meaning of Federal statutes, regulations, guidelines, standards, policy decisions, directives, and any other factors that affect the State Program. EPA also will provide general technical guidance to the State.

B. Information Sharing

1. EPA

EPA agrees to provide copies of EPA Form 8700-12, including EPA identification numbers, received by EPA prior to the date of this Agreement from generators and transporters of hazardous waste and from owners and operators of hazardous waste treatment, storage, and disposal facilities located in the State. Such copies will be provided to the Director or his designee within thirty (30) days of this Agreement.

EPA will also provide, within thirty (30) days of receipt, copies of EPA Form 8700-12, including EPA identification numbers, submitted by persons located in the State who file such forms after the date of this Agreement.

EPA will transfer to the Director or his designee copies of all pending hazardous waste management facility permit applications together with copies of any pertinent file information.

EPA will make available to the Director other information as requested which the State needs to implement its approved program.

The above will be provided subject to the terms of 40 CFR 2 which implements the Trade Secrets Act, 18 USC 1905.

2. State

- a. The State agrees to submit to the Regional Administrator the following documents, reports, and other information:
 - Quarterly statistical noncompliance reports for generators and facilities;
 - Annual program reports containing information on the number of generators and facilities in the State and the quantities of wastes handled;
 - Semi-annual progress reports;
 - Other information and reports as requested by the Regional Administrator.

The quarterly statistical noncompliance reports will be submitted on schedule as follows: First quarter report (January - March) by May 31; second quarter (April - June) by August 31; third quarter (July - September) by November 30; fourth quarter (October - December) by February 28; and Annual Reports by April 1.

The annual program reports will be submitted by April 1.

The semi-annual progress report will be submitted within four weeks of the date six (6) months after Phase I interim authorization commences and at six-month intervals thereafter until the expiration of interim authorization.

- b. The State agrees to require new generators, transporters and hazardous waste management facilities to obtain EPA identification numbers from the State. Anyone required to file a notification under existing state law may do so by using the federal form (EPA form 8700-12 (2-80) or equivalent. This information will be transmitted to EPA for issuance of identification number.

3. Emergency Situations

Upon receipt of any information that the handling, storage, treatment, transportation, or disposal of hazardous waste is endangering human health, the party in receipt of such information shall immediately notify by telephone the other party(ies) to this Agreement of the existence of such situation. The notification procedure will be, by reference, the State's Emergency Response Plan.

C. State Program Review

The Regional Administrator will assess the Director's administration and enforcement of the State program on a continuing basis for consistency with RCRA, with this Agreement, and with all applicable Federal requirements and policies. This program evaluation will generally be accomplished by an EPA review of the information submitted by the Director in accordance with this Agreement and the State Work Plan. The Regional Administrator may also consider, as part of this regular assessment, written comments about the State's program administration and enforcement that are received from regulated persons, the public, and Federal, State, and local agencies. Copies of any such comments received by the Regional Administrator will be provided to the Director.

~~To ensure effective program review, the Director agrees to allow EPA access to all files and other information requested by the Regional Administrator and deemed necessary for evaluating State program administration and enforcement.~~

Review of Iowa Department of Environmental Quality files may be scheduled at quarterly intervals. Program review meetings between the Director and the Regional Administrator or their assignees will be scheduled at reasonable intervals not less than annually to review specific operating procedures and schedules, to resolve problems, and to discuss mutual program concerns. These meetings must be scheduled at least fifteen (15) days in advance unless agreed to differently. A tentative agenda for the meeting must be prepared by EPA.

D. Enforcement

1. Identification of Major Hazardous Waste Management Facilities and Generators

The Director agrees to develop with EPA a list of major hazardous waste management facilities and selected generators and transporters located within the State. This list is a part of the Agreement. EPA or the State may add facilities, generators or transporters to the list and shall notify the other party in writing. However, the deletion of any facility, generator or transporter must be agreed to in writing by both parties. This list will be reviewed and updated at least annually by both the State and EPA as part of the State Work Program process. This review and update does not require a formal amendment to this agreement.

It is recognized that major/non-major is a relative determination that will vary from State to State. Among the factors that may be considered in classifying are: the size of the physical plant; the location; the amount of waste generated/handled; the hazard characteristics of the waste(s) generated/handled; whether the generator/facility is regulated under another program; and the number of generator/facilities within the State.

2. Compliance Monitoring

The State agrees to operate a timely and effective compliance monitoring system to assess and monitor compliance with facility standards and generator and transporter requirements.

The State will monitor, evaluate, and take appropriate action for violations of all reports required to be submitted by hazardous waste generators, transporters, and facilities under the State program. This shall include a timely substantive review of such reports to determine the compliance status of persons filing the reports. Priorities for reviewing these reports will be specified in the annual State Work Program. The State agrees to retain all records for at least three years unless there is an enforcement action pending. In that case all records will be retained until such action is resolved.

The State agrees to carry out a program for monitoring the compliance by generators, transporters (See 40 CFR 123.128). Compliance inspections will be done to ascertain whether a generator, transporter or facility is meeting manifest requirements, generator and transporter requirements, and facility standards for recordkeeping, operation and maintenance, self-monitoring, reporting, and other activities as defined in the annual State Work Program.

EPA may conduct compliance evaluation inspections of all hazardous waste generators, transporters, and facilities. EPA will not ordinarily conduct such inspections of non-major hazardous waste generators, transporters, and facilities; however, nothing in this Agreement shall be construed to restrict EPA's right to inspect any facility, generator, or transporter that it believes is not in compliance with Program requirements.

Before conducting an inspection of a generator, transporter or facility, the Regional Administrator will normally give the Director seven (7) days notice of the intent to inspect in accordance with 40 CFR 123.126. If the Director performs a State compliance evaluation inspection and submits a report and data relevant thereto within that time, no EPA inspection will be made, unless the Regional Administrator deems the State report and data to be inadequate. In case of an imminent hazard to human health and the environment, the Regional Administrator may shorten or waive the notice period.

The parties agree to make available to each other within 60 days of compliance evaluation inspections any reports and data resulting therefrom.

3. Enforcement Actions

The State agrees to take timely and appropriate enforcement action against persons in violation of generator and transporter standards (including manifest requirements), facility standards, permit requirements, compliance schedules, and all other program requirements. This includes violations detected by State or Federal compliance inspections. In instances where EPA determines that the State has not initiated timely and appropriate enforcement action against a violator, EPA shall proceed with any or all of the enforcement options available under RCRA or any other applicable statute.

~~The State agrees to take the enforcement lead with appropriate~~ enforcement action against persons in violation of any State program requirement, including but not limited to violations detected by State or Federal inspections. The State will maintain procedures for receiving and ensuring proper consideration of information about violations submitted by the public.

Appropriate State enforcement response may include not more than two warning letters for any violation followed by timely initiation and prosecution of enforcement proceedings which may be, as determined on a case-by-case basis, administrative or judicial in nature, or other administrative remedies as prescribed by State laws.

EPA will take enforcement action upon determining that the State has not taken timely enforcement action. When considering taking enforcement action, EPA will give notice pursuant to Section 3008(a)(3). The State's failure to take action within 30 days after such notice may form the basis for determining that the State is not taking enforcement action.

The Regional Administrator may take enforcement action against any person determined to be in violation of RCRA in accordance with Section 3008(a)(2). EPA will take enforcement action only upon determining that the State has not taken timely and appropriate enforcement action. Prior to issuing a Notice of Violation under Section 3008 EPA will give notice to the State.

E. Other State/EPA Procedures Unique to a Region/State

III. COOPERATIVE ARRANGEMENTS FOR A MANIFEST SYSTEM WHERE APPLICABLE

IOWA DEPARTMENT OF ENVIRONMENTAL QUALITY

U.S. ENVIRONMENTAL PROTECTION
AGENCY, REGION VII

By:

Larry E. Crane
Executive Director

Kathleen Q. Camin
Regional Administrator

Date: _____

~~This agreement was approved, as required by Section 455B.7(5) of the Code of Iowa, 1979, by the Executive Committee/The Department of Environmental Quality on _____, 1980.~~

Thomas J. Miller, Attorney General of Iowa

Approved by:

Elizabeth M. Osenbaugh, Assistant
Attorney General

DRAFT

DOCUMENT V

AUTHORIZATION PLAN

Additions and modifications necessary to qualify for Phase I final authorization will require legislative action determined necessary by the Attorney General's Office. The Iowa Legislature is in session from January through April of each year. Any required legislative action will be sought by DEQ during the 1981 session. This effort can be continued, if necessary, during the 1982 and 1983 sessions.

Appendix G

Procedures of the Department of Environmental Quality

Priority System for Referrals of Solids Waste Issues to the
Compliance Division and the Attorney General's Office

Solid Waste Inspection Reports and Violation Referrals Procedure

Inspection Report Transmittal and Violation Referral Procedure

OPEN DUMPS - Inspection Report Transmittal and Violation Referral Procedure

OPEN DUMP INSPECTION GUIDELINES

A letter from Keith Bridson to Darrell McAllister of February 8, 1977

Enforcement Proceeding Status Report

Temporary Permit Application Form

Approved
7-2-80
JCC



Iowa department of environmental quality

reply to: George Welch
phone: 515/281-8913

DATE: May 30, 1980

TO: Rod Vlieger

FROM: George Welch

RE: Priority system for referrals of Solid Waste issues to the Compliance Division and the Attorney Generals's office.

Solid waste inspection report procedures call for prioritization of referrals to Compliance Division (CD) and the Attorney General's Office (AG). No system currently exists to do this. Activities 410001 "SDP surveillance and compliance" and 410002 "open dump surveillance and compliance" call for the development of this system in January 1980. The attached priority system is therefore proposed to satisfy these needs.

This system applies to both SDP's (including municipal sludge sites) and open dumps. It is designed so that a particular site would only have to be evaluated once. However, the priority of a site may be re-evaluated if the Air and Land Quality Division determines that new information justifies it. Enforcement action would be based on the documentation prepared at the time of referral. Site improvements made after referral would affect the legal remedy - not the site's priority. Legal complexities of the issue will be addressed by the legal staff.

The system is detailed enough to distinguish between similar referrals on the broad basis of potential impact (size, location, magnitude of problem...). New disposal methods or waste categories can easily be added to this system after they are identified in rule and inspection report procedures.

This system will not be used until needed so that Land Quality staff time is not wasted.

Maximum scores are as follows:

Open Dumps	13.00
All Sanitary Landfills	13.20
Municipal Sludge Sites Low Rate	13.13
Municipal Sludge Sites High Rate	13.26

pla/Fri25 - M-PRI

System For Assigning An Environmental Priority
To Referrals Of Solid Waste Issues To The
Compliance And Planning Division Or
The Attorney General's Office

The following procedure shall be used by the Land Quality Branch (LQ) in assigning priorities to enforcement issues referred to the Compliance Division (CD) or the Attorney General's Office (AG). This procedure covers referrals of all permitted facilities or open dumps. Other enforcement matters will have a priority assigned by the division director. The division director may also assign a revised priority to any referral as he sees fit. This procedure shall not be implemented until the actual or anticipated backlog of referrals justifies it or until requested by CD.

One full point shall be given for each of the following items answered "yes" AND one hundredth (0.01) of a point shall be given for each major violation described in the appropriate inspection report procedure. Once the points are added up, the facility with the highest total (priority score) will have the highest priority.

- 1) Does it involve disposal, application, burial, storage or leakage of the waste directly on or in lands or waters of the State?
- 2) Is the site in a high hazard zone with respect to bedrock aquifers (area "A" on the attached map)?
- 3) Is the site on an alluvial or 100 year floodplain?
- 4) Is the site within one mile of a public water supply well?
- 5) Does the site attract promiscuous dumping?
- 6) Has any leachate been detected (by either surface observation or water monitoring program)?
- 7) Has leachate been detected in a well for use for human or livestock consumption or flowing into a lake or a flowing stream?
- 8) Has leachate been detected in a well used for human consumption?
- 9) Are large volumes (over 100,000 cubic yards) of waste involved?
- 10) Are putrescible wastes involved?
- 11) Are industrial wastes involved?
- 12) Are hazardous wastes involved?
- 13) Is the site an active site?

The priority score shall be listed in the referral memo from Land Quality to Compliance Division.

Example of Assignment of Priority Scope for a Sanitary Landfill

The A.B.C. (Anything But Cabage) Disposal Enterprise's Sanitary Landfill has been referred to the Air and Land Quality Division (A&L) by Regional Programs (Office #3) pursuant to the procedure detailed in the "Sanitary Landfill Inspection Report Transmittal and Violation Referral Procedure". From the referral report and other sources (i.e., permit, prior reports, ...) the priority procedure questions are answered as follows:

Question*	Answer	Running Total Priority Score
1. Is it land disposal, application, burial or storage?	Yes	1.00
2. Is the site in a high hazard zone with respect to bedrock aquifers (area "A" on the attached map)?	No	--
3. Is the site on an alluvial or 100 year floodplain?	Yes	2.00
4. Is the site within one mile of a public water supply well?	No	--
5. Does the site attract promiscuous dumping?	No	--
6. Has <u>any</u> leachate been detected (by either surface observation or water monitoring program)?	Yes	3.00
7. Has leachate been detected in a well for use for human or livestock consumption or flowing into a lake or a flowing stream?	Yes	4.00
8. Has leachate been detected in a well used for human consumption?	No	--
9. Are large volumes (over 100,000 cubic yards) of waste involved?	Yes	5.00
10. Are putrescible wastes involved?	Yes	6.00
11. Are industrial wastes involved?	Yes	7.00
12. Are hazardous wastes involved?	Yes	8.00
13. Is the site an active site?	Yes	9.00

Likewise the referral report indicated major violations as follows:

Major Violation**	Violation Noted	Running Total Priority Score
a) Litter to extent that nuisance conditions exist.	No	--

Major Violation**	Violation Noted	Running Total Priority Score
h) Use of sands, gravel, snow, solid wastes or other improper cover material.	No	--
i) Accepting non C&D wastes in the C&D sites or specified C&D areas of a site.	No	--
j) Depositing solid waste in any area not so designated by the plan to receive that waste.	Yes	9.06
k) Depositing solid waste out of the fill sequence indicated in the plans (Example: Two faces open at once or area prepared so far in advance that it degrades prior to use.) without prior approval of the RO or A&LQ. Whoever grants this approval shall immediately notify the other of such action along with a suitable explanation.	Yes	9.07
l) Disruption or removal of any deposited waste from any active or discontinued sanitary landfill without approval from the Department.	No	--
m) Evidence of runoff flowing <u>onto</u> area of deposited waste or the likelihood of this happening.	Yes	9.08
n) Failure to establish adequate slopes to allow runoff from areas of waste deposition and to these areas.	Yes	9.09
o) Failure to <u>construct</u> any structures or devices for the control of surface or groundwaters (such as liners, berms, dikes, terraces, tile lines, letdown structures, etc.), construction in locations other than that specified in the plans or construction with materials or of a quality uniformity, compaction, etc. other than that indicated in the plans.	No	--
p) Failure to install monitoring wells or surface monitoring points as called for in the site plans as amended by any monitoring plans for the site.	No	--
q) Excavation or fill resulting in a change of slopes and drainage patterns of initial areas, intermediate and final slopes from that provided for in the plans.	Yes	9.10

Example of Assignment of Priority Scope to an Open Dump

The F&G (Find and Grab) Hauling Inc.'s dump of Jackson County has been referred to the Air and Land Quality Division (A&L) by Regional Programs (Office #1) pursuant to the procedure detailed in the "Open Dump Inspection Report Transmittal and Violation Referral Procedure". From the referral report and other sources (i.e., maps, prior reports, ...) the priority procedure questions are answered as follows:

Question*	Answer	Running Total Priority Score
1. Is it land disposal, application, burial or storage?	Yes	1.00
2. Is the site in a high hazard zone with respect to bedrock aquifers (area "A" on the attached map)?	Yes	2.00
3. Is the site on an alluvial or 100 year floodplain?	Yes	3.00
4. Is the site within one mile of a public water supply well?	No	--
5. Does the site attract promiscuous dumping?	No	--
6. Has <u>any</u> leachate been detected (by either surface observation or water monitoring program)?	Yes	4.00
7. Has leachate been detected in a well for use for human or livestock consumption or flowing into a lake or a flowing stream?	Yes	5.00
8. Has leachate been detected in a well used for human consumption?	No	--
9. Are large volumes (over 100,000 cubic yards) of waste involved?	Yes	6.00
10. Are putrescible wastes involved?	Yes	7.00
11. Are industrial wastes involved?	Yes	8.00
12. Are hazardous wastes involved?	Yes	9.00
13. Is the site an active site?	Yes	10.00

There are no major violations specified in the referral procedure. Therefore no additional points can be given this site.

SANITARY LANDFILL

Inspection Report Transmittal and Violation Referral Procedure

After inspections the following procedure shall be followed.

The purpose of this procedure is to specifically define enforcement activities for SDP's in the regional office as well as after referral to the Compliance and Planning Division (C & P) via Land Quality (LQ). The distinction between Major and Minor violations as grouped in the following procedure is: (1) Major violations are those which, if not corrected to the satisfaction of the RA within the time frame specified below, will be referred to C & P for appropriate legal enforcement action. (2) Minor violations will be cited by the RO but will not be followed up for lack of compliance by referral to C & P for appropriate legal enforcement action. Instead, long term lack of compliance for minor violations will be addressed by the central office only as a condition of permit renewal. The Regional Administrator (RA) may choose the level of RO follow-up appropriate to a given minor violation occurring between permit renewals. Note, however, that any variation from the major/minor distinction or enforcement time frames outlined herein, which an RA feels is justified, should be brought to the attention of Regional Programs Director (RPD) for approval on a case by case basis. This will also include consultation with LQ and, if appropriate, C & P.

Safety or other problems that are observed during inspection that are not covered by DEQ rules should be handled at the RA's discretion [(phone calls or separate correspondence) to County Solid waste Commissions or referral to other government agencies with jurisdiction (ex. OSHA)] but are not to be covered in inspection transmittal letters.

Major violations, if not corrected, will be referred to LQ for forwarding to Compliance and Planning within six (6) months of their discovery at which time the Department either will seek permit revocation, a civil penalty or will issue an executive order setting a compliance schedule which must be met to prevent the Department's seeking one of the above. Violations involve both deficiencies in the plan or permit as issued and problems arising from poor operating practices. Plan or permit deficiencies require permit changes. Operational problems may require changes in operations, plans, or both. The Regional Office will be expected to make this determination but assistance will be available from the Land Quality Section when requested subject to staff limitations.

The intent of this procedure is not to remove the RA's discretion in how a violation is handled or addressed in a transmittal letter but instead to define what a violation is and to ensure follow-up of such a violation when documented by a field inspection. Bring to the attention of RPD any change in any portion of the procedure which you feel is justified.

MINOR VIOLATIONS INCLUDE:

- a) Lack of washing or sanitary facilities or potable water or when the facilities provided are substantially below the standard of those indicated in the site plan.

- s) - Discrepancies from the plan involving earthwork or waste disposal which evaluation (in consultation with Air and Land Quality's Land Section staff) has shown will not affect the integrity of the disposal operation and site.

MAJOR VIOLATIONS INCLUDE:

- a) Litter to extent that nuisance conditions exist.
- b) Vectors attracted to the area in such numbers that they may present public health hazards, be a nuisance to neighbors or breed in such numbers that this may result.
- c) Absence of wet weather site or procedures as detailed in plan. Improper or inadequate development of the site so that the described method of operation is not possible. Examples include (i) lack of all weather roads, (ii) lack of cover material, (iii) inadequate drainage to handle rain fall without interfering with that day's operation, (iv) access to the face from the top only when the plans call for access to the toe of the face.
- d) Absence of an adequate cold weather cover material stockpile. Adequate stock piles require sufficient soil to provide daily and intermediate and final cover through the winter season. (Frozen soil is not to be counted as part of any such stockpile.) The unfrozen soil must be available using the equipment normally in use at the site. This will probably require that the stockpile be composed of previously excavated material with adequate drainage and substantial insulation. Some sites may be able to use southern exposed banks, rip through existing frost with the equipment available or keep ahead of frost due to the volume of soil used daily.
- e) Disposal of special wastes (including all industrial sludges, hazardous wastes, high moisture wastes, hard to handle wastes and sewage sludges) without authorization or (if authorized) disposal in a way or at a time other than authorized.
- f) Inadequate compaction of cover material and solid waste [all material should be tracked over at least 3 times (per Fig. 3.2 SLF Operator's Manual)], dumping location (top of lift) or face operations (such as face size or slope) that prevent or significantly contribute to lack of compliance with rules or plan requirements.
- g) Inadequate daily, intermediate or final cover as evidenced by protruding waste (Fig. 3.4 SLF Operator's Manual) or other evidence.
- h) Use of sands, gravel, snow, solid wastes or other improper cover material.
- i) Accepting non C & D wastes in C & D sites or specified C & D areas of a site.
- j) Depositing solid waste in any area not so designated by the plan to receive that waste.

Comprehensive inspections which show that there are no violations should be sent with a transmittal letter appropriately complimenting the permit holder. The next inspection scheduled will be the next regular inspection or renewal inspection (whichever occurs first) or when in the area.

Transmit inspections which show minor violations by simply documenting and requiring correction. RA's may follow-up as they choose remembering that CO follow-up will occur only at permit renewal.

Inspections which show major violations must be transmitted, with or without a cover letter, requiring correction in minimum feasible time. Correction may involve earth work, construction, improved operations or site redesign. Schedule reinspection to document compliance (or other followup if appropriate) within one (1) to two (2) months, depending on the violation. Following reinspection, transmit an inspection report as noted above. ~~This cycle shall continue until major violations are corrected or six (6) months (or earlier if the regional administrator feels referral is appropriate) have passed since initial report of the violation. At this point the situation shall be referred to C & P via the Land Quality Section.~~

Violations which require plan or other permit changes shall be referred to the Land Quality Section for amendment of the permit. RA's must do this by specifying in the report or transmittal letter 1) the date by which permit and plan changes must be approved by the LQ section and completed (this date should be no later than 6 mos. from date of first documentation) and 2) the date by which a submittal must be received in triplicate by the LQ section.

In difficult or complex cases the RA (in consultation with the Chief of LQ) may defer the details of the plan or permit change to LQ. In these cases, the RO will inform the permit holder to expect such a letter.

This letter specifying plan change requirements and a submittal date will be sent by LQ by certified mail within 2 weeks of receipt of the referral from the Regional Administrator. LQ will acknowledge receipt of such submittals (copy to RO). LQ will review and issue all permit revisions and will send a copy to RO on all related correspondence. Failure to submit or implement approved permit or plan changes by specified dates will result in referral by the RA to C & P via LQ within 2 weeks of the missed date for appropriate enforcement action.

Any operational or construction changes which the permit holds cannot implement within six (6) months of initial documentation of the violation shall be included in a compliance schedule included in the special provisions of the revised permit. Failure to complete any changes not so stipulated within six (6) months of the initial documentation of the violation shall result in referral for enforcement action. Failure to complete any changes according to the stipulated schedule in the revised permit shall result in referral for enforcement action.

The RO will notify the permit holder by letter of refferal to the central office for appropriate enforcement action. The referral to the C & P via the LQS will consist of a chronology of the violation, copies of all relevant RO documents, a list of all rules alleged to be violated, the specific corrective actions needed to eliminate the violation, and the time deemed adequate to

If violations were noted in the initial inspection, a followup inspection shall be scheduled and performed by the Regional Office.

Immediately following the inspection, the inspection report shall be sent to the permit holder with a copy to the Land Section. The transmittal letter shall certify all aspects of the site's operation which are in compliance excepting those which are being corrected through plan and permit revisions. The items excepted shall be confirmed by consultation with the Land Quality Section.

All other correspondence leading to permit renewal shall be handled by the Land Section. The permit shall be renewed by the Land Quality Section upon findings that the application and plans are satisfactory and certification by the Regional Office that all operational problems (with the exceptions noted above) have been corrected.

If the permit has not been renewed by the expiration date (or 120 days after application for renewal - whichever is later) the application for renewal shall be denied by the Land Quality Section unless an extension has been approved. Requests for extensions must be made in writing. Approval or denial of the request shall also be in writing and shall detail the reasons for that response. In cases of denial of the application, the permit holder shall be so notified by certified letter. This letter shall also notify the permit holder of the site closing requirements of the rules, the requirement of the law that all solid waste be disposed of at a permitted facility and the reporting requirement to show compliance with these requirements. Copies shall be sent to the regional office and all local governments known or suspected to be using this facility for waste disposal by its residents.

If application for renewal of a permit of an operating site is not made or is denied, site closing procedure shall be implemented as quickly as possible given the details of the situation.

Monthly Reports summarizing the status of all Sanitary Disposal Projects in the region shall be submitted to Air & Land Quality's Land Quality Section utilizing the format provided.

scheduled by the regional administrator as necessary to document key compliance dates in the Order. If compliance is not achieved within the time prescribed by the Order, and the regional administrator decides further delay is not justified, the regional office shall refer the matter back to Compliance and Planning for referral to the Attorney General. C & P will initiate appropriate enforcement action within 3 weeks of receipt of the referral.

It is the responsibility of the Air-Land Division to provide the Regional Programs Division with all the necessary rules and policies essential for making the appropriate recommendation to the Compliance and Planning Division.

Once a recommendation is made the Air-Land Division will be responsible for working with the Compliance Section by providing technical expertise and explanations of established policies, assisting with negotiations, contested case hearings, consent decrees and all related activities necessary to carry out effective enforcement. The Regional Programs Division will provide information on the factual situation of that particular case and a rationale for their recommendation.

Each regional office will submit an updated open dump status list on a quarterly basis to the Land Quality Section. All changes in status will be noted on the report. The list will catalog all open dump sites including those sites the RA has decided not to follow-up. ('No follow-up' sites will be noted on the list as such.) A dump will not be removed from the list unless R.O. verifies that it's closed. Dumps verified as closed will appear on the list one time as such, then dropped.

Dump Closure

The extent of corrective actions necessary to close a dump depends on the nature, extent and location of the waste. If it is determined that the waste will probably not create an adverse environmental impact, simple burial can be allowed. Judgement as to the necessity and desirability of requiring fencing and posting as specified in Section 400-26.6 is left to the inspector. Depending on the nature of the waste and necessity for excluding water, rubble may be used as final cover over an open dump. Before any waste can be buried in a flood plain, the owner must secure the approval of the Natural Resources Council. You should advise the owner of such and notify NRC with a copy of the violation letter. Corps of Engineers permission may also be required if burial is to take place below a stream's high water mark.

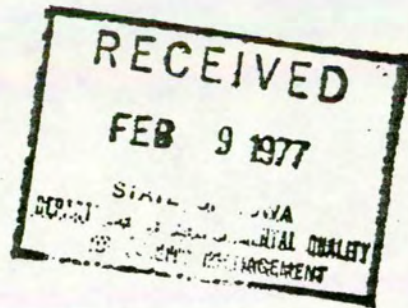
~~If the dump's location and/or waste material indicate that it may create adverse environmental impact, removal of the waste to either a better location on site or to a SLF should be required. Remember that requiring removal must not be an arbitrary decision. It can mean a sizable expense to the responsible party and, therefore, very possible refusal to comply. There must be good environmental reasons for requiring the removal. If there is any question as to how or where the waste should be disposed of, consult with the Land Section before informing the owner. All decisions to require waste removal must be reached in concurrence with the Land Section prior to informing the owner. Once that decision has been made, the reason(s) for requiring removal must be stated in detail in a memo to the Chief of the Land Quality Branch. Physical documentation of actual or anticipated environmental damage does not need to be obtained prior to requiring removal. However the inspector must be confident that such documentation could be obtained if needed during enforcement action.~~

If you would be satisfied with burial at the location, it should not be stated to the party that removal is required. This is inconsistent from case to case and is not fair to the person who takes you at your word and removes the waste. This should not be interpreted to mean that you can't strongly recommend that the waste go to a SLF or that you won't be backed up if it is your best environmental judgement that the waste should be removed.



iowa department of environmental quality

February 8, 1977



Darrell McAllister, Chief
Permits Section
Land Quality Management Division
L O C A L

RE: Water Supply and Sanitary Facilities at Sanitary Landfills

Dear Darrell:

We have reviewed your memo dated January 29, 1977. We are in agreement with the approach you outlined for reviewing water supply and sanitary facilities at sanitary landfills. Your memo will be distributed to staff members involved and we will implement these procedures immediately.

Sincerely,

WATER QUALITY MANAGEMENT DIVISION

Keith Bridson, Chief
Permits Section

KB:MLP:mjh

STATE OF IOWA
DEPARTMENT OF ENVIRONMENTAL QUALITY
DES MOINES, IOWA 50316

MEMORANDUM

Keith Bridson, P.E., Chief, Permits Section WQMD Date: January 26, 1977
From: Darrell McAllister, Chief, Permits Section LQMD Re: Water Supply and Sanitary
facilities at Sanitary Landfill

It is my understanding that domestic waste treatment facilities serving a population equivalent to or greater than fifteen persons/day are required to apply for a wastewater discharge permit from WQMD - IDEQ.

It is possible that future domestic waste treatment facilities at sanitary disposal projects may meet these requirements. It is also possible that water supply systems for some sanitary disposal projects may be classified as a public water supply. For systems meeting either of these requirements, and only serving a sanitary disposal project, I propose the following:

1. For a domestic waste treatment facility that requires a permit from WQMD and only serves a sanitary disposal project and does not propose a discharge to state waters (i.e. septic tank facilities, total retention lagoons, etc.) the applicant shall apply to LQMD for a permit for the domestic waste treatment facility. WQMD staff will review the proposal and comment to LQMD. Upon approval of the water treatment facility and the sanitary disposal project, approval to construct and operate the waste treatment facility will be incorporated into the LQMD sanitary disposal project permit.
2. For a domestic waste treatment facility meeting the application requirements and proposing a discharge to state waters, the applicant shall apply directly to WQMD.
3. For leachate collection and treatment facilities which would not discharge to state waters, LQMD shall have complete review and approval responsibility.
4. For leachate collection and treatment facilities proposing a discharge to state waters, the applicant shall apply to LQMD to include the facility in the sanitary disposal project permit. The applicant shall also apply to the WQMD for the necessary permits.
5. For a water supply facility serving only a sanitary disposal project and determined to be a public water supply, application shall be made to LQMD. WQMD will review and comment. Permit requirements would be incorporated in LQMD sanitary disposal project permit as in #1 above.

It is my intent to simplify the permit procurement procedure by incorporating all requirements into one permit where possible. Multiple permits would be necessary only when the proposed waste treatment facilities would discharge to state waters. The LQMD will discourage applicants from including waste treatment and water supply facilities in sanitary disposal project designs when possible and eliminating the need for multiple permits.

Your approval and/or comments regarding this proposal would be appreciated.

DMc:RV:sh

ENFORCEMENT PROCEEDINGS STATUS REPORT

IOWA DEPARTMENT OF ENVIRONMENTAL QUALITY

August 1, 1980

VIOLATION	STATUS
1. Construction Violating Standards	A. Executive Order Issued
2. Construction Without Permit	B. Compliance (Case Open)
3. Operation Without Permit	C. Out of Compliance
4. Compliance Schedule	D. Appeal Filed From Executive Order
5. Prohibited Discharges	E. Negotiation
6. Monitoring and Reporting Violation	F. Hearing Scheduled
7. Standards Violated	G. Hearing Continued
8. Other Permit Violation(s)	H. Proposed Administrative Decision Issued
9. Open Burning	I. Appeal from Proposed Administrative Decision
10. Open Dumping	J. Compliance Achieved (Case Closed)
11. Dumping Without Permit	K. Petition filed for Judicial Review
12. Disposal Of Hazardous Or Toxic Waste Without Authorization	L. Referred to Attorney General/EPA
13. Spill or Hazardous Condition Debris	M. Case Filed by AG/EPA
14. Fugitive Dust	N. Trial Scheduled
	O. Trial Held - Decision Forthcoming
	P. Court Decision Issued
	Q. Court Decision Appealed
	R. Suspension/Revocation of Permit/Certification
	S. Consent Decree/Order
	T. Case Dismissed

* Indicates enforcement status change since last update.

ENFORCEMENT PROCEEDINGS

As of August 1, 1980

Agricultural

Facility Name	Order Number	Violation	Type Status	Date
Bryant Beef, Inc. (Aurelia)(3)	No Order	5	L	1/02/80
			M	2/19/80
			(Con-S temp.)	3/18/80
			N	5/06/80
			(Con-P,S temp)	5-08-80
D.D.R.R., Inc., (Pot. Co.) (4)	80-WW-05	5	A	6-24-80
Earl Stickfort & Sons (Garnavillo)(1)	79-WQ-016	5	B	10/23/79
Farmer's Cooperative Elevator Co. (Radcliffe)(2)	77-WQ-018	5	A	6/07/77
			S,C	11/13/78
			M	10/02/79
Hawkeye Pork, Inc. (Mt. Pleasant)(6)	No Order	5	S	6/30/78 3/26/79
Hen Re Co Pork, Inc. (Jefferson Co.)(6)	79-WQ-009	5	B	6/14/79
Idlewild Farm (Clarence Vos-Kingsley)(3)	78-WQ-007	8	A	2/08/78
			M	7/24/79
			S (injunc-tion)	4/29/80
Johnson, Roy (Jasper Co.)(5)	79-WQ-05	5	B	4/24/79
Luana Feeder Pigs, Inc. (Postville) (1)	80-WW-02	5	A	4/14/80
Max Rosenstock & Co. (Idlewild Farm-Sioux City) (3)	78-WQ-008	8	A	2/08/78
			M	7/24/79
			S	4/29/80
Piggies, Ltd. (Ionia) (1)	No Order	5	L (County Attor-ney)	6/24/80
Tri-County Feeder Pig Coop (Searsboro)(5)	77-WQ-042	8	A S,B	12/30/77 8/24/78
Wyoming Hog Producers, Inc. (Jones Co.) (1)	77-WQ-024	5	A	8/24/77
			L	10/13/77
			S	5/26/78
			L	5/20/80

Industrial

Facility Name	Order Number	Violation	Type Status	Date
Carney Salvors (Fort Dodge)(2)	No Order	9	M	
Central Soya Co., Inc. (Belmond)(2)	78-WQ-023	5	B	4/28/78
City Sanitary Service (Butler County)(2)	No Order	8	P,S (landfill)	7/02/79
Clinton Corn Processing Co. (Clinton)(6)	No Order	5 (wastewater)	L S,C	1/22/80 2/15/80
Consolidated Packaging (Fort Madison)(6)	No Order	4	S,C L	6/13/78 4/31/80
*Farmland Foods, Inc. (Iowa Falls)(2)	78-WQ-022	5	A L S	4/25/78 3/04/80 7/21/80
Great Plains Beef (Council Bluffs)(4)	77-LQ-18 78-LQ-11	10 10	A M G	6/09/77 8/28/79 12/12/79
Hubinger Co. (Keokuk)(6)	No Order	4	S S	12/27/78 8/13/79
Iowa Fund, Inc. (Des Moines)(5)	1967 Consent Order	3,8	C,L N	8/17/79 8/08/80
Hall Disposal, Inc. (Chickasaw County)(1)	No Order	8 (landfill)	S	
*Meinerz Creamery (Fredricksburg)(1)	No Order	5	M T	6/27/80
Mid-Continent Industries (Des Moines)(5)	78-WQ-019	7	A S	3/30/78 11/29/79
Midwest Battery & Metal, Inc. (Davenport)(6)	79-LQ-15	12	A (Amendment)	9/15/79 10/01/79
Oscar Mayer & Co., Inc. (Perry)(5)	78-WQ-002	8	A H	1/20/78 4/05/78
Packaging Corp. of America (Tama)(5)	78-WQ-005	5,8	C	2/08/78
Prestolite Battery Division Eltra Corp. (Manchester)(1)	79-WQ-020	5	C	11/03/79

Industrial (Continued)

Facility Name	Order Number	Violation	Type Status	Date
Remelt Industries, Inc. (Council Bluffs)(4)	79-LQ-06	10	E	
Salsbury Labs (Charles City)(2)	77-DQ-01	12	D,E	
Terra Eastern Corp. (Monticello)(1)	No Order	5,13	L,E	9/28/79
Terra Western Corp. (Lenox)(4)	79-WQ-007	5	B	6/28/78 5/17/79
Twin County Dairy (Kalona)(6)	78-WQ-029	8	C	7/13/78

Municipalities

Facility Name	Order Number	Violation	Type Status	Date
Albia(5)	No Order	8 (wastewater)	S	11/27/78
Ames(5)	79-LQ-09	8 (landfill)	G	8/16/79
	79-LQ-10	8 (landfill)	G	8/16/79
Ankeny(5)	77-WQ-002	8 (wastewater)	B	6/10/77 (amended)
Blanchard(4)	80-WS-001	1,6 (water supply)	C	1/02/80
Brighton(6)	79-WQ-026	6 (water supply)	B	12/19/79
Calmar(1)	78-WQ-027	5 (wastewater)	C	5/25/78
Calumet(3)	79-WQ-014	6 (water supply)	B	10/03/79
Camanche(6)	78-WQ-024	5 (wastewater)	A	4/24/78
			L,E	6/17/80
Casey(4)	79-WQ-017	1,2,6,7 (water supply)	B	10/27/79
Center Point(1)	80-WW-03	6 (wastewater)	A	6/24/80
Centerville(5)	No Order	4 (wastewater)	S	12/27/78
Chester(1)	79-WQ-024	6 (water supply)	B	11/28/79
Clare(2)	79-WQ-012	6 (water supply)	C,E	7/03/79
Clare(2)	79-WQ-021	6,8 (wastewater)	A	11/13/79
Dayton(2)	78-WQ-014	6,7,8 (wastewater)	A	3/27/78
			L	5/25/79
			S	10/31/79
Denison(4)	No Order	4 (wastewater)	S	7/26/79
Dubuque(1)	78-WQ-003	8 (wastewater)	C M,E	1/20/78
Dyersville(1)	79-WQ-025	6 (water supply)	B	11/21/79 2/22/80 (amended)

Municipalities

Facility Name	Order Number	Violation	Type Status	Date
Edgewood(1)	78-WQ-010	4 (wastewater)	B	5/24/78 (amended)
Emerson(4)	77-WQ-005	4 (wastewater)	A S,B	3/29/77 10/17/77
*Everly(2)	80-WS-06	7 (wastewater)	A	7/80
Floyd(2)	78-WQ-018	4,6 (wastewater)	B	3/30/78
Fredricksburg(1)	77-WQ-019	6,8 (wastewater)	A L,E	6/06/77 9/07/78
Hastings(4)	79-WQ-015	6 (water supply)	A,C L,E	10/04/79 2/20/80
Hospers(3)	Consent Order 1972	5 (wastewater)	S	5/25/77
Hospers Rural Water District(3)	79-WQ-019	6 (water supply)	B	10/31/79
Hudson(1)	77-LQ-15	10	L	6/27/78
Iowa City(6)	79-LQ-12	7 (landfill)	A (Amendment)	7/02/79 8/13/79
Jefferson(4)	78-WQ-035	6,8 (wastewater)	C	7/05/78
Kellogg(5)	77-WQ-027	4,6 (wastewater)	A L(EPA),C	9/19/77 6/22/78
Lamoni(5)	No Order	4 (wastewater)	S	7/30/79
Lawton(3)	77-WQ-035	6 (water supply)	B	11/04/77
Lenox(4)	77-WQ-021	6,8 (wastewater)	A S,C	6/16/77 10/18/78
Lewis(4)	79-WQ-027	1,7 (water supply)	B	12/17/79
Lynnville(5)	79-LQ-04	10	A	1/11/79
Liscomb(5)	79-WQ-022	8 (wastewater)	A	11/19/79
Lucas(5)	80-WS-03	6 (water supply)	A	3/20/80

Municipalities

Facility Name	Order Number	Violation	Type Status	Date
Marshalltown(5)	77-WQ-022	6,8 (wastewater)	C L	7/13/77 3/31/80
Millersburg(6)	80-WS-002	6 (water supply)	B	1/16/80
Moorhead(4)	79-WQ-011	6 (water supply)	B	7/11/79
Muscatine(6)	77-WQ-037	8 (wastewater)	A C,E	12/19/77 5/ /79
*New Virginia San. Dist.()	80-WW-06	6 (wastewater)	A	7/15/80
Oakland	80-WS-004	2 (water supply)	A	3/31/80
Palo(1)	78-WQ-025	5 (wastewater)	C	5/01/79
Plainfield(1)	79-WQ-018	6 (water supply)	A,C L M S	10/27/79 3/08/80 3/31/80 6/10/80
Quimby(3)	79-WQ-004	4,8 (wastewater)	C	2/09/79
*Rathbun Regional Water Association Inc.(5)	79-WQ-028	2 (water supply)	A D Dismissed	12/27/79 1/28/80 7/15/80
Rockwell City(3)	77-LQ-21	10	M	9/13/78
*Rose Hill(6)	80-WS-05	2,6	A D Dismissed	4/16/80 5/15/80 7/15/80
Sanborn(3)	79-WQ-001	5 (wastewater)	B	1/19/79
Sigourney(6)	77-WQ-043	4,6 (wastewater)	B	12/29/77
*St. Mary's(5)	79-WQ-008	6 (water supply)	J	5/12/79
Stacyville(2)	79-WQ-023	6 (water supply)	B	11/28/79

Municipalities

Facility Name	Order Number	Violation	Type Status	Date
State Center(5)	78-WQ-020	6,8 (wastewater)	C	4/24/78
Storm Lake(3)	79-WQ-006	5,7 (wastewater)	A (Amended) D,E,G	5/08/79 9/19/79
Sully(5)	78-WQ-036	5,6,8 (wastewater)	C	7/07/78
Toledo(5)	78-WQ-030	6 (wastewater)	B	6/07/78
Troy Mills Sanitary District(1)	80-WW-004	6 (wastewater)	A	6/24/80
Vinton(1)	79-WQ-002	6,8 (wastewater)	B	1/16/79
Waukee(5)	78-WQ-004	4 (wastewater)	A D	2/08/78 3/01/78
Wellman(6)	78-WQ-012	4 (wastewater)	A	2/17/78
Whittemore(2)	77-WQ-044	4 (wastewater)	C	1/09/78
Wiota(4)	79-WQ-013	6 (water supply)	B	8/31/79

Individuals

Facility Name	Order Number	Violation	Type Status	Date
Tom Capel (Council Bluffs)(4)	77-LQ-24	10	N	8/01/80
Clarence Colvert (Cedar Rapids)(1)	78-LQ-06	10	S	1/29/80
Lucille & Joseph Cwiertnia (Council Bluffs)(4)	77-LQ-19	10	A	6/09/77
*Herman DeNeui (Ely)(1)	79-LQ-16	10	J	7/20/80
Clifford Dilts (Crescent)(4)	80-LQ-01	10	A	3/14/80
*Harold Elberg (Eagle Grove)(2)	79-LQ-04	10	A	7/30/80
Roy Foote (Crescent)(4)	79-LQ-08	10	P	6/23/80
Ross Gooder (Cresco) (1)	80-LQ-03	10	J	6/09/80
Richard C. Hargis (Council Bluffs)(4)	78-LQ-07	10	P	6/17/80
Alvie T. and Betty J. Hartley (Maxwell)(5)	78-LQ-12	10	P	
Earl Kluber (Deep River)(5)	77-LQ-14	10	G	9/23/77
A. J. Parker (Trash City) (Diagonal)(4)	78-LQ-03	8 (landfill)	O	2/22/80
A. J. Parker (Trash City) (Diagonal)(4)	No Order	10	M	4/01/79 2/22/80
*Darold Rackman (Glenwood)(4)	79-LQ-05	9,10	A	7/30/80
William H. Scheidle (Council Bluffs)(4)	78-LQ-10	10	M G	8/28/79 12/12/79
Gene Schmelser (Garneville) (1)	80-LQ-03	10	A	4/21/80

Individuals (Continued)

Facility Name	Order Number	Violation	Type	Status	Date
Dennis Sharkey (Dubuque)(1)	79-LQ-05	10	A		1/22/79
*Glen Snipes (Council Bluffs)	80-LQ-06	10	A		7/30/80
Paul Underwood (Cedar Rapids)(1)	78-LQ-05	10	S		10/25/78
Clifford Yentes (Council Bluffs)(4)	78-LQ-08	10	A		11/15/78

Communities

Facility Name	Order Number	Violation	Type	Status	Date
Diamondhead Lake and Country Club (Dexter)(4)	No Order	4 (wastewater)	L		7/23/75

Counties

Facility Name	Order Number	Violation	Type	Status	Date
Boone Co. Bd. Supervisors(5)	77-AQ-027	14	S		4/01/79
Clayton Co. Bd. Supervisors(1)	79-LQ-01	10	S		10/09/79 Modified 1/30/80
Iowa Co. Bd. Supervisors(6)	77-LQ-12	10	G		9/23/77

Indian Tribes

Facility Name	Order Number	Violation	Type	Status	Date
Sac & Fox of Mississippi (Tama)(5)	79-LQ-11	10	A		7/20/79

APPLICATION FOR A TEMPORARY SOLID WASTE DISPOSAL PROJECT PERMIT

TO: Department of Environmental Quality
Land Quality Management Division
3920 Delaware Avenue
Des Moines, IA 50316

- I. An application is hereby made by the municipality of _____
for a temporary permit (check one) to () use () operate an existing non-
conforming disposal project.

The legal description of the _____ acre site is the _____
of Section _____, Township _____, Range _____ in the County of _____.

The site was opened on _____ and is known as the _____.

The operator of the site is: Name: _____

Address: _____

Telephone: _____

The owner or lessee of the site is:

Name: _____

Address: _____

Telephone: _____

II. (Check A or B)

() A. The municipality is represented by a solid waste agency. The agency's title is _____.

As a member of the agency, we shall participate in the agency's sanitary disposal operation as soon as it becomes permitted and goes into operation.

() B. The municipality is not a member of an agency.

(Check 1 or 2)

() 1. The municipality is establishing its own sanitary disposal project, and has submitted an application to the Department of Environmental Quality.

() 2. The municipality will contract with a public or private agency which has submitted an application for a sanitary disposal project to the Department of Environmental Quality. The agency's title is _____.

A copy of the executed contract is enclosed.

III. Compliance Schedule

A. A permanent sanitary disposal project application identifying the location of the proposed sanitary disposal project will be completed and submitted by _____.

B. Documents verifying the location of the proposed sanitary disposal project (option to buy or lease; contract to buy or lease) is available to be used for disposal project which will be submitted by _____.

C. Any prior information gathered on the proposed location will be submitted by _____.

D. Arrangements will be made with the Iowa Geological Survey to have Electrode-Resistivity (E-R) tests run and a report submitted by _____.

- E. A professional engineer or consulting firm will be hired by _____.
- F. Soil borings will be made at the proposed disposal location by _____.
- G. A soil analyses and report will be submitted by _____.
- H. The preliminary information as identified in the instructions for preparing a sanitary disposal project permit application will be submitted by _____.
- I. The total sanitary disposal project engineering plan will be submitted for review by _____.
- J. The Department of Environmental Quality will require one month (maximum) to review the plan, ask for additional information if required, and approve.
- K. Bidding: If the sanitary disposal project will require bidding for initial improvements, equipment, or operation, list dates for bids advertising, opening, letting, and date contracts start and end.

- L. Initial site preparation will begin by _____.
- M. The sanitary disposal project will open and begin operating on _____.
- N. Closing Open Dumps: Disposal projects that have temporary permits will be required to close immediately after the sanitary disposal project ends.

List the open dumps to be closed and the dates the following items will be accomplished.

1. Assign a responsible manager to handle the closing.
2. Fence or otherwise restrict access to the site.
3. Stop the scavenging.
4. Place necessary informational signs.
5. Close the dump to incoming refuse.
6. Control insects and rodents as the need indicates. (Usually rats are the principal problem to consider.)
7. Stop the burning.
8. Stop the immediately preventable or controllable water pollution.
9. Provide necessary drainage.
10. Establish grades.
11. Clean up the junk, compact, and cover.
12. Seed the area or otherwise prepare it for final use.

I certify that I am applying for a temporary permit pursuant to Section 82 of Chapter 455B of the Code, ¹⁹⁷⁷ ~~as amended by Senate File 426 of the 66th General Assembly~~; that an application for a sanitary disposal project which will serve the above municipality and which will meet the requirements of Chapter 455B and the Solid Waste Disposal Rules has been submitted to the Department of Environmental Quality; and that I understand that failure to comply with any or all conditions of the temporary permit, including the dates set out in the final

compliance schedule in that permit, may result in a fine of up to \$500 for each day of violation pursuant to Section 82 of Chapter 455B ^{as amended after June 1, 1977} ~~and~~ or suspension or revocation of that permit pursuant to Section 79 of Chapter 455B.

Name

Address

Telephone

Signature

Date

Appendix H

Iowa Laws and Rules Affecting Solid Waste Disposal
Code of Iowa

Chapter 17A, Administrative Procedure Act
Chapter 28E, Joint Exercise of Governmental Powers
Chapter 109A, Management and Protection of Endangered Plants and Wildlife

Iowa Administrative Code
Health Department Rule 12.17

Chapter 4, (Natural Resources) Council - Established
Flood Plain - Encroachment Limit

CODE OF IOWA

1979

CHAPTER 17A ADMINISTRATIVE PROCEDURE ACT

Referred to in:

117.17	86.3	123.21	163.30	213.2	272A.8	321.486	441.47	506.8
16.6	86.17	125.7	163.41	217.3	273.9	321G.2	442.13	507B.12
18.4	86.18	125.20	164.1	217.23	280A.33	324.3	442.31	514B.17
19A.9	86.26	125.32	164.19	217.30	281.9	324.59	455.32(11)	514B.28
30.6	86.36	135.74(1)	170.16	217.37	285.1	326.33	455.33(5)	527.11
25A	88.5	135C.14	170.38	220.5	303.5	327C.7	455B.5	527.12
25C.9	88A.3	135C.36	170A.7	224B.5	303A.28	327D.160	455B.7	533.20
25C.10	91.4	135C.43	170A.9	224B.22	304.7	327F.37	455B.32(11)	533.54
25C.19	91A.9	135D.16	170B.8	229.22	304.17	327G.15	455B.78	535.2
25A.6	91A.12	136C.3	170B.13	230.20	306.6	327G.16	455B.87	537.6117
47.1	93.7	138.18	172A.13	230A.16	306C.2	328.19	455B.88	567.9
47.8	96.6	139.9	172B.3	234.6	306C.4	337A.4	455B.103	600.8
56.2	96.11	144.3	172C.5	234.38	307.10	366.10	455B.112	600.22
56.6	97B.4	144.34	172C.6	234.39	307.19	384.15	455B.118	601A.5
56.8	99B.13	148.11	181.18	237A.12	307A.2	421.1	455B.133	601A.15
56.10	101.5	152.10	187.4	249.4	308.4	421.17	455C.9	691.6
56.20	101A.5	154A.4	187.8	257.25(10)	313A.6	422.33	455C.10	806.14
80.13	104.3	157.9	187.13	258A.5	316.1	425.37	467A.4	905.7
80B.11	104.13	157.14	196.2	261.18	316.9	427A.1	476.2	
85.3	109A.3	158.12	204.201	261.26	321.193	434.11	476A.4	
85.26	110.25	158.15	204.301	261.37	321.210	438.10	476A.11	
85.45	111.41	162.16	206.19	267.6	321.238	441.8	476A.12	

- 17A.1 Citation and statement of purpose.
- 17A.2 Definitions.
- 17A.3 Public information—adoption of rules—availability of rules and orders.
- 17A.4 Procedure for adoption of rules.
- 17A.5 Filing and taking effect of rules.
- 17A.6 Publications.
- 17A.7 Petition for adoption of rules.
- 17A.8 Administrative rules review committee.
- 17A.9 Declaratory rulings by agencies.
- 17A.10 Informal settlements—waiver.
- 17A.11 Presiding officer—administrative hearing officers.
- 17A.12 Contested cases—notice—hearing—records.
- 17A.13 Subpoenas—discovery.
- 17A.14 Rules of evidence—official notice.
- 17A.15 Final decisions—proposed decisions—conclusiveness—review by the agency.
- 17A.16 Decisions and orders—rehearing.
- 17A.17 Ex parte communications and separation of functions.
- 17A.18 Licenses.
- 17A.19 Judicial review.
- 17A.20 Appeals.
- 17A.21 Inconsistency with federal law.
- 17A.22 Agency authority to implement chapter.
- 17A.23 Construction.

17A.1 Citation and statement of purpose.

1. This chapter may be cited as the "Iowa Administrative Procedure Act."

2. This chapter is intended to provide a minimum procedural code for the operation of all state agencies when they take action affecting the rights and duties of the public. Nothing in this chapter is meant to discourage agencies from adopting procedures providing greater protections to the public or conferring additional rights upon the public; and save for express provisions of this chapter to the contrary, nothing in this chapter is meant to abrogate in whole or in part any statute prescribing procedural duties for an agency which are greater than or in addition to those provided here. This chapter is meant to apply to all rule-making and contested case proceedings and all suits for the judicial review of agency action that are not specifically excluded from this chapter or some portion thereof by its express terms or by the express terms of another chapter.

The purposes of the Iowa administrative procedure Act are: To provide legislative oversight of powers and duties delegated to administrative agencies; to increase public accountability of administrative agencies; to simplify government by assuring a uniform minimum procedure to which all agencies will be held in the conduct of their most important functions; to increase public access to governmental information; to increase public participation in the formulation of administrative rules; to increase the fairness of agencies in their conduct of contested case proceedings; and to simplify the process of judicial review of agency action as well as increase its ease and availability. In accomplishing its objectives, the intention of this chapter is to strike a fair balance between these purposes and the need for efficient, economical and effective government administration. The chapter is not meant to alter the substantive rights of any person or agency. Its impact is limited to procedural rights with the expectation that better substantive results will be achieved in the everyday conduct of

state government by improving the process by which those results are attained. [C75, 77, §17A.1]

17A.2 Definitions. As used in this chapter:

1. "Agency" means each board, commission, department, officer or other administrative office or unit of the state. "Agency" does not mean the general assembly, the courts, the governor or a political subdivision of the state or its offices and units. Unless provided otherwise by statute, no less than two-thirds of the members eligible to vote of a multimember agency shall constitute a quorum authorized to act in the name of the agency.

2. "Contested case" means a proceeding including but not restricted to ratemaking, price fixing, and licensing in which the legal rights, duties or privileges of a party are required by Constitution or statute to be determined by an agency after an opportunity for an evidentiary hearing.

3. "License" includes the whole or a part of any agency permit, certificate, approval, registration, charter or similar form of permission required by statute.

4. "Licensing" includes the agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal or amendment of a license.

5. "Party" means each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party.

6. "Person" means any individual, partnership, corporation, association, governmental subdivision or public or private organization of any character other than an agency.

7. "Rule" means each agency statement of general applicability that implements, interprets, or prescribes law or policy, or that describes the organization, procedure or practice requirements of any agency. The term includes the amendment or repeal of an existing rule, but does not include:

a. A statement concerning only the internal management of an agency and which does not substantially affect the legal rights of, or procedures available to, the public or any segment thereof.

b. A declaratory ruling issued pursuant to section 17A.9, or an interpretation issued by an agency with respect to a specific set of facts and intended to apply only to that specific set of facts.

c. An intergovernmental, interagency, or intra-agency memorandum, directive, manual or other communication which does not substantially affect the legal rights of, or procedures available to, the public or any segment thereof.

d. A determination, decision, or order in a contested case.

e. An opinion of the attorney general.

f. Those portions of staff manuals, instructions or other statements issued by an agency which set forth criteria or guidelines to be used by its staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases, such as operational tactics or allowable tolerances or criteria for the defense, prosecution, or settlement of cases, when the disclosure of such statements would: (1) Enable law violators to avoid detection; or (2) facilitate disregard

of requirements imposed by law; or (3) give a clearly improper advantage to persons who are in an adverse position to the state.

Referred to in §17A.3, subsection 1, paragraph "c"

g. A specification of the prices to be charged for goods or services sold by an agency as distinguished from a license fee, application fee, or other fees.

h. A statement concerning only the physical servicing, maintenance or care of publicly owned or operated facilities or property.

i. A statement relating to the use of a particular publicly owned or operated facility or property, the substance of which is indicated to the public by means of signs or signals.

j. A decision by an agency not to exercise a discretionary power.

k. A statement concerning only inmates of a penal institution, students enrolled in an educational institution, or patients admitted to a hospital, when issued by such an agency.

8. "Rule-making" means the process for adopting, amending, or repealing a rule.

9. "Agency action" includes the whole or a part of an agency rule or other statement of law or policy, order, decision, license, proceeding, investigation, sanction, relief, or the equivalent or a denial thereof, or a failure to act, or any other exercise of agency discretion or failure to do so, or the performance of any agency duty or the failure to do so.

10. "Agency member" means an individual who is the statutory or constitutional head of an agency, or an individual who is one of several individuals who constitute the statutory or constitutional head of an agency. [C54, 58, 62, 66, 71, 73, §17A.1; C75, 77, §17A.2]

Referred to in H172D.1, 229.23, 441.21, 441.49, 476A.1, 906.3, Court Rule 116

17A.3 Public information—adoption of rules—availability of rules and orders.

1. In addition to other requirements imposed by Constitution or statute, each agency shall:

a. Adopt as a rule a description of the organization of the agency which states the general course and method of its operations, and the methods by which and location where the public may obtain information or make submissions or requests.

b. Adopt rules of practice setting forth the nature and requirements of all formal and informal procedures available to the public, including a description of all forms and instructions that are to be used by the public in dealing with the agency.

c. Make available for public inspection all rules, and make available for public inspection and index by subject, all other written statements of law or policy, or interpretations formulated, adopted or used by the agency in the discharge of its functions. Except as otherwise required by Constitution or statute, or in the use of discovery under the Iowa rules of civil procedure or in criminal cases, an agency shall not be required to make available for public inspection those portions of its staff manuals, instructions or other statements excluded from the definition of "rule" by section 17A.2, subsection 7, paragraph "f".

d. Make available for public inspection and index by name and subject all final orders, decisions and opinions: Provided that to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets, an agency shall delete identifying details when it makes available for public inspection any final order, decision or opinion; however, in each case the justification for the deletion shall be explained fully in writing.

2. No agency rule or other written statement of law or policy, or interpretation, order, decision or opinion is valid or effective against any person or party, nor shall it be invoked by the agency for any purpose, until it has been made available for public inspection and indexed as required by subsection 1, paragraphs "c" and "d". This provision is not applicable in favor of any person or party who has actual timely knowledge thereof and the burden of proving such knowledge shall be on the agency. [C75, 77, §17A.3]

17A.4 Procedure for adoption of rules.

1. Prior to the adoption, amendment, or repeal of any rule an agency shall:

a. Give notice of its intended action by submitting three copies of the notice to the administrative rules co-ordinator who shall forward two copies to the Code editor for publication in the "Iowa Administrative Bulletin" created pursuant to section 17A.6. Any notice of intended action shall be published at least thirty-five days in advance of the action. The notice shall include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved, and the time when, the place where, and the manner in which interested persons may present their views thereon.

b. Afford all interested persons not less than twenty days to submit data, views or arguments in writing. If timely requested in writing by twenty-five interested persons, by a governmental subdivision, by the administrative rules review committee, by an agency, or by an association having not less than twenty-five members, the agency must give interested persons an opportunity to make oral presentation. The opportunity for oral presentation must be held at least twenty days after publication of the notice of its time and place in the Iowa administrative bulletin. The agency shall consider fully all written and oral submissions respecting the proposed rule. Within one hundred eighty days following either the notice published according to the provisions of subsection 1, paragraph "a" or within one hundred eighty days after the last date of the oral presentations on the proposed rule, whichever is later, the agency shall adopt a rule pursuant to the rule-making proceeding or shall terminate the proceeding by publishing notice of termination in the Iowa administrative bulletin. If requested to do so by an interested person, either prior to adoption or within thirty days thereafter, the agency shall issue a concise statement of the principal reasons for and against the rule it adopted, incorporating therein the reasons for overruling considerations urged against the rule.

c. Upon the request of at least two members of the administrative rules review committee publish in the Iowa administrative bulletin an estimate of the

economic impact of a proposed rule upon all persons affected by it and upon the agency itself. If the agency determines that such an estimate cannot be formulated the reasons for impossibility of formulation shall be published instead of the estimate. An estimate shall be published at least fifteen days in advance of the adoption, amendment or repeal of the rule. In the case of a rule issued under subsection 2 or made effective under the provisions of section 17A.5, subsection 2, paragraph "b", an estimate, or the reasons for the impossibility of formulating an estimate shall be published within forty-five days of the request.

2. When an agency for good cause finds that notice and public participation would be unnecessary, impracticable, or contrary to the public interest, the provisions of subsection 1 shall be inapplicable. The agency shall incorporate in each rule issued in reliance upon this provision either the finding and a brief statement of the reasons therefor, or a statement that the rule is within a very narrowly tailored category of rules whose issuance has previously been exempted from subsection 1 by a special rule relying on this provision and including such a finding and statement of reasons for the entire category. If the administrative rules review committee by a two-thirds vote, the governor or the attorney general files with the Code editor an objection to the adoption of any rule pursuant to this subsection, that rule shall cease to be effective one hundred eighty days after the date the objection was filed. A copy of the objection, properly dated, shall be forwarded to the agency at the time of filing the objection. In any action contesting a rule adopted pursuant to this subsection, the burden of proof shall be on the agency to show that the procedures of subsection 1 were impracticable, unnecessary, or contrary to the public interest and that, if a category of rules was involved, the category was very narrowly tailored.

3. No rule adopted after July 1, 1975, is valid unless adopted in substantial compliance with the above requirements of this section. However, a rule shall be conclusively presumed to have been made in compliance with all of the above procedural requirements of this section if it has not been invalidated on the grounds of noncompliance in a proceeding commenced within two years after its effective date.

4. a. If the administrative rules review committee created by section 17A.8, the governor or the attorney general finds objection to all or some portion of a proposed rule because that rule is deemed to be unreasonable, arbitrary, capricious or otherwise beyond the authority delegated to the agency, the committee, governor or attorney general may, in writing, notify the agency of the objection prior to the effective date of such a rule. In the case of a rule issued under subsection 2, or a rule made effective under the terms of section 17A.5, subsection 2, paragraph "b", the committee, governor or attorney general may notify the agency of such an objection within seventy days of the date such a rule became effective. The committee, governor or the attorney general shall also file a certified copy of such an objection in the office of the Code editor within the above time limits and a notice to the effect that an objection has been

filed shall be published in the next issue of the Iowa administrative bulletin and in the Iowa administrative code when that rule is printed in it. The burden of proof shall then be on the agency in any proceeding for judicial review or for enforcement of the rule heard subsequent to the filing to establish that the rule or portion of the rule timely objected to according to the above procedure is not unreasonable, arbitrary, capricious or otherwise beyond the authority delegated to it.

b. If the agency fails to meet the burden of proof prescribed for a rule objected to according to the provisions of paragraph "a" of this subsection, the court shall declare the rule or portion of the rule objected to invalid and judgment shall be rendered against the agency for court costs. Such court costs shall include reasonable attorney fee and shall be payable by the state comptroller from the support appropriations of the agency which issued the rule in question.

5. Upon the vote of two-thirds of its members the administrative rules review committee may delay the effective date of a rule seventy days beyond that permitted in section 17A.5, unless the rule was promulgated under section 17A.5, subsection 2, paragraph "b". This provision shall be utilized by the committee only if further time is necessary to study and examine the rule. Notice of an effective date that was delayed under this provision shall be published in the Iowa administrative code and bulletin.

6. The governor may rescind an adopted rule by executive order within thirty-five days of the publication of the rule. The governor shall provide a copy of the executive order to the Code editor who shall include it in the next publication of the Iowa administrative bulletin. [C66, 71, §§17A.6, 17A.7; 73, §§17A.6, 17A.7, 17A.17; C75, 77, §17A.4; 67GA, ch 1024, §12 to 15; ch 1025, §1]

Referred to in §17A.7, 17A.8, 93.7(10), 267.6, 519A.4

17A.5 Filing and taking effect of rules.

1. Each agency shall file in the office of the administrative rules co-ordinator three certified copies of each rule adopted by it. Two copies of each rule shall be forwarded to the Code editor by the administrative rules co-ordinator. The administrative rules co-ordinator shall keep a permanent register of the rules open to public inspection.

2. Each rule hereafter* adopted is effective thirty-five days after filing, as required in this section, and indexing and publication in the Iowa administrative bulletin except that:

a. If a later date is required by statute or specified in the rule, the later date is the effective date.

b. Subject to applicable constitutional or statutory provisions, a rule becomes effective immediately upon filing with the administrative rules co-ordinator, or at a subsequent stated date prior to indexing and publication, or at a stated date less than thirty-five days after filing, indexing and publication, if the agency finds:

- (1) That a statute so provides;
- (2) That the rule confers a benefit or removes a restriction on the public or some segment thereof; or
- (3) That this effective date is necessary because of imminent peril to the public health, safety or welfare. In any subsequent action contesting the effective

date of a rule promulgated under this paragraph, the burden of proof shall be on the agency to justify its finding. The agency's finding and a brief statement of the reasons therefor shall be filed with and made a part of the rule. Prior to indexing and publication, the agency shall make reasonable efforts to make known to the persons who may be affected by it a rule made effective under the terms of this paragraph. [C54, 58, 62, §§17A.3, 17A.4; C66, 71, 73, §17A.8; C75, 77, §17A.5; 67GA, ch 1024, §16, 17; ch 1025, §2]

Referred to in §17A.4, 17A.8(9), 267.6, 519A.4

*Act effective July 1, 1975

17A.6 Publications.

1. The Code editor shall cause* the "Iowa Administrative Bulletin" to be published in pamphlet form at least every other week containing the following:

a. Notices of intended action and adopted rules prepared in such a manner so that the text of a proposed or adopted rule shows the text of any existing rule being changed and the change being made.

b. All proclamations and executive orders of the governor which are general and permanent in nature.

c. Other materials deemed fitting and proper by the administrative rules review committee.

2. Subject to the direction of the administrative rules co-ordinator, the Code editor shall cause* the "Iowa administrative Code" to be compiled, indexed and published in loose-leaf form containing all rules adopted and filed by each agency. The Code editor further shall cause loose-leaf supplements to the Iowa administrative code to be published at least every other week, containing all rules filed for publication in the prior two weeks. The supplements shall be in such form that they may be inserted in the appropriate places in the permanent compilation. The administrative rules co-ordinator shall devise a uniform numbering system for rules and may renumber rules before publication to conform with the system.**

3. The Code editor may omit or cause to be omitted from the Iowa administrative code or bulletin any rule the publication of which would be unduly cumbersome, expensive or otherwise inexpedient, if the rule in printed or processed form is made available on application to the adopting agency at no more than its cost of reproduction, and if the Iowa administrative code or bulletin contains a notice stating the specific subject matter of the omitted rule and stating how a copy thereof may be obtained.

4. The Iowa administrative code, its supplements, and the Iowa administrative bulletin shall be made available upon request to all persons who subscribe to any of them through the state printing division. Copies of this code so made available shall be kept current by the division.

5. All expenses incurred by the Code editor under this section shall be defrayed under the provisions of section 14.22. [C54, 58, 62, 66, §§14.3, 17A.9; C71, 73, §14.6(5); C75, 77, §17A.6; 67GA, ch 1024, §18; ch 1025, §3, 4]

Referred to in §17A.4, 267.6

*Superintendent of printing in department of general services, see §18.27(1)

**See also 7.17

17A.7 Petition for adoption of rules. An interested person may petition an agency requesting the promulgation, amendment or repeal of a rule. Each agency shall prescribe by rule the form for petitions and the procedure for their submission, consideration and disposition. Within sixty days after submission of a petition, the agency either shall deny the petition in writing on the merits, stating its reasons for the denial, or initiate rule-making proceedings in accordance with section 17A.4, or issue a rule if it is not required to be issued according to the procedures of section 17A.4, subsection 1. [C75, 77, §17A.7]

17A.8 Administrative rules review committee.

1. There is created the "Administrative Rules Review Committee." The committee shall be bipartisan and shall be composed of the following members:

a. Three senators appointed by the president of the senate.

b. Three representatives appointed by the speaker of the house.

2. A committee member shall be appointed prior to the adjournment of a regular session convened in an odd-numbered year. The term of office shall be for four years beginning May 1 of the year of appointment. However, a member shall serve until a successor is appointed. A vacancy on the committee shall be filled by the original appointing authority for the remainder of the term. A vacancy shall exist whenever a committee member ceases to be a member of the houses from which the member was appointed.

3. A committee member shall be paid a forty-dollar per diem for each day in attendance and shall be reimbursed for actual and necessary expenses. There is appropriated from money in the general fund not otherwise appropriated an amount sufficient to pay costs incurred under this section.

4. The committee shall choose a chairperson from its membership and prescribe its rules of procedure. The committee may employ a secretary or may appoint the Code editor or a designee to act as secretary.

5. A regular committee meeting shall be held at the seat of government on the second Tuesday of each month. Unless impracticable in advance of each such meeting the subject matter to be considered shall be published in the Iowa administrative bulletin. A special committee meeting may be called by the chairperson at any place in the state and at any time. Unless impracticable, in advance of each special meeting notice of the time and place of such meeting and the subject matter to be considered shall be published in the Iowa administrative bulletin.

6. The committee shall meet for the purpose of selectively reviewing rules, whether proposed or in effect. A regular or special committee meeting shall be open to the public and an interested person may be heard and present evidence. The committee may require a representative of an agency whose rule or proposed rule is under consideration to attend a committee meeting.

7. The committee may refer a rule to the speaker of the house and the president of the senate at the next regular session of the general assembly. The speaker and the president shall refer such a rule to

the appropriate standing committee of the general assembly.

8. If the committee finds objection to a rule, it may utilize the procedure provided in section 17A.4, subsection 4. In addition or in the alternative, the committee may include in the referral, under subsection 7, a recommendation that this rule be overcome by statute. If the committee of the general assembly to which a rule is referred finds objection to the referred rule, it may recommend to the general assembly that this rule be overcome by statute. This section shall not be construed to prevent a committee of the general assembly from reviewing a rule on its own motion.

9. Upon a vote of two-thirds of its members, the administrative rules review committee may delay the effective date of a rule until the expiration of forty-five calendar days, excluding legal holidays,* during which the general assembly is in regular session. If a rule is delayed during the last twenty-one calendar days preceding the adoption of a resolution for sine die adjournment of a regular session, the forty-five day period shall begin to run upon the convening of the next regular session of the general assembly. The committee shall refer a rule whose effective date has been delayed to the speaker of the house of representatives and the president of the senate who shall refer the rule to the appropriate standing committees of the general assembly. If at the expiration of that period the general assembly has not disapproved of the rule by a joint resolution approved by the governor, the rule shall become effective. If a rule is disapproved, it shall not become effective and the agency shall withdraw the rule. This section shall not apply to rules made effective under section 17A.5, subsection 2, paragraph "b".

10. Notwithstanding section 13.7, the committee may employ necessary legal and technical staff. [C54, 58, 62, §17A.2; C66, 71, 73, §§17A.2-17A.4, 17A.10; C75, 77, §17A.8; 67GA, ch 1024, §19, ch 1025, §5]

Referred to in §17A.4(4)

* See also §4.1(22)

17A.9 Declaratory rulings by agencies. Each agency shall provide by rule for the filing and prompt disposition of petitions for declaratory rulings as to the applicability of any statutory provision, rule or other written statement of law or policy, decision or order of the agency. Rulings disposing of petitions have the same status as agency decisions or orders in contested cases. [C75, 77, §17A.9]

Referred to in §17A.2(7), 17A.19

17A.10 Informal settlements—waiver.

1. Unless precluded by statute, informal settlements of controversies that may culminate in contested case proceedings according to the provisions of this chapter are encouraged. Agencies shall prescribe by rule specific procedures for attempting such informal settlements prior to the commencement of contested case proceedings. This subsection shall not be construed to require either party to such a controversy to utilize the informal procedures or to settle the controversy pursuant to those informal procedures.

2. The parties to a contested case proceeding may, by written stipulation representing an informed mu-

to the distance limitation of section 622.66. On contest, the court shall sustain the subpoena or similar process or demand to the extent that it is found to be in accordance with the law applicable to the issuance of subpoenas or discovery in civil actions. In proceedings for enforcement, the court shall issue an order requiring the appearance of the witness or the production of the evidence or data within a reasonable time under penalty of punishment for contempt in cases of willful failure to comply.

2. An agency that relies on a witness in a contested case, whether or not an agency employee, who has made prior statements or reports with respect to the subject matter of the witness' testimony, shall, on request, make such statements or reports available to parties for use on cross-examination, unless those statements or reports are otherwise expressly exempt from disclosure by Constitution or statute. Identifiable agency records that are relevant to disputed material facts involved in a contested case, shall, upon request, promptly be made available to a party unless the requested records are expressly exempt from disclosure by Constitution or statute. [C75, 77, §17A.13; 67GA, ch 1024, §20]
Referred to in §421.17

17A.14 Rules of evidence—official notice. In contested cases:

1. Irrelevant, immaterial, or unduly repetitious evidence should be excluded. A finding shall be based upon the kind of evidence on which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs, and may be based upon such evidence even if it would be inadmissible in a jury trial. Agencies shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be required to be submitted in verified written form.

2. Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original, if available.

3. Witnesses at the hearing, or persons whose testimony has been submitted in written form if available, shall be subject to cross-examination by any party as necessary for a full and true disclosure of the facts.

4. Official notice may be taken of all facts of which judicial notice may be taken and of other facts within the specialized knowledge of the agency. Parties shall be notified at the earliest practicable time, either before or during the hearing, or by reference in preliminary reports, preliminary decisions or otherwise, of the facts proposed to be noticed and their source, including any staff memoranda or data, and the parties shall be afforded an opportunity to contest such facts before the decision is announced unless the agency determines as part of the record or decision that fairness to the parties does not require an opportunity to contest such facts.

5. The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence. [C75, 77, §17A.14]

Referred to in §421.17

17A.15 Final decisions—proposed decisions—conclusiveness—review by the agency.

1. When the agency presides at the reception of the evidence in a contested case, the decision of the agency is a final decision.

2. When the agency did not preside at the reception of the evidence in a contested case, the presiding officer shall make a proposed decision. Findings of fact shall be prepared by the officer presiding at the reception of the evidence in a contested case unless the officer becomes unavailable to the agency. If the officer is unavailable, the findings of fact may be prepared by another person qualified to be a presiding officer who has read the record, unless demeanor of witnesses is a substantial factor. If demeanor is a substantial factor and the presiding officer is unavailable, the portions of the hearing involving demeanor shall be heard again or the case shall be dismissed.

3. When the presiding officer makes a proposed decision, that decision then becomes the final decision of the agency without further proceedings unless there is an appeal to, or review on motion of, the agency within the time provided by rule. On appeal from or review of the proposed decision, the agency has all the power which it would have in initially making the final decision except as it may limit the issues on notice to the parties or by rule. In cases where there is an appeal from a proposed decision or where a proposed decision is reviewed on motion of the agency, an opportunity shall be afforded to each party to file exceptions, present briefs and, with the consent of the agency, present oral arguments to the agency members who are to render the final decision.

4. This section shall not preclude an agency from instituting a system whereby the proposed decision of a presiding officer in a contested case may be appealed to, or reviewed on motion of, a body consisting of one or more persons that is between the presiding officer and the agency. If an agency institutes such a system of intermediate review, the proposed decision of the presiding officer becomes the final decision of the agency without further proceedings unless there is an appeal to, or review on motion of, the intermediate reviewing body within the time provided by rule. An intermediate reviewing body may be vested with all or a part of the power which it would have in initially making the decision. A decision of such an intermediate reviewing body is also a proposed decision and shall become the final decision of the agency without further proceedings unless there is an appeal to, or review on motion of, the agency within the time provided by rule. In cases where there is an appeal from a proposed decision rendered by a presiding officer to an intermediate reviewing body, or where such a proposed decision is reviewed on motion of an intermediate reviewing body, an opportunity shall be afforded to each party to file exceptions, present briefs and, with the consent of the intermediate reviewing body, present oral arguments to those who are to render the decision.

5. When an appeal from an agency decision in a contested case may be taken to another agency pursuant to statute, or a second agency may according to statute review on its own motion the decision in a contested case by the first agency, the appeal or review shall be deemed a continuous proceeding as though before one agency. A decision of the first agency in such a case is a proposed decision and shall become the final decision without further proceedings unless there is an appeal to, or review on motion of, the second agency within the time provided by statute or rule. In deciding an appeal from or review of a proposed decision of the first agency, the second agency shall have all those powers conferred upon it by statute and shall afford each party an opportunity to file exceptions, present briefs and, with its consent, present oral arguments to agency members who are to render the final decision. [C75, 77, §17A.15]

Referred to in §86.24, 421.17

17A.16 Decisions and orders—rehearing.

1. A proposed or final decision or order in a contested case shall be in writing or stated in the record. A proposed or final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of underlying facts supporting the findings. If, in accordance with agency rules, a party submitted proposed findings of fact, the decision shall include a ruling upon each proposed finding. Each conclusion of law shall be supported by cited authority or by a reasoned opinion. Parties shall be promptly notified of each proposed or final decision or order by the delivery to them of a copy of such decision or order in the manner provided by section 17A.12, subsection 1.

2. Any party may file an application for rehearing, stating the specific grounds therefor and the relief sought, within twenty days after the issuance of a final decision by the agency in a contested case. Copy of such application shall be timely mailed by the applicant to all parties of record not joining therein. Such an application for rehearing shall be deemed to have been denied unless the agency grants the application within twenty days after its filing. [C75, 77, §17A.16]

Referred to in §17A.19, 163.30, 421.17

17A.17 Ex parte communications and separation of functions.

1. Unless required for the disposition of ex parte matters specifically authorized by statute, individuals assigned to render a proposed or final decision or to make findings of fact and conclusions of law in a contested case, shall not communicate, directly or indirectly, in connection with any issue of fact or law in that contested case, with any person or party, except upon notice and opportunity for all parties to participate as shall be provided for by agency rules.

However, without such notice and opportunity for all parties to participate, individuals assigned to render a proposed or final decision or to make findings of fact and conclusions of law in a contested case may communicate with members of the agency, and may have the aid and advice of persons other than those with a personal interest in, or those engaged in

prosecuting or advocating in, either the case under consideration or a pending factually related case involving the same parties.

2. Unless required for the disposition of ex parte matters specifically authorized by statute, parties or their representatives in a contested case shall not communicate, directly or indirectly, in connection with any issue of fact or law in that contested case, with individuals assigned to render a proposed or final decision or to make findings of fact and conclusions of law in that contested case, except upon notice and opportunity for all parties to participate as shall be provided for by agency rules. The agency's rules may require the recipient of a prohibited communication to submit the communication if written or a summary of the communication if oral for inclusion in the record of the proceeding. As sanctions for violations, the rules may provide for a decision against a party who violates the rules; for censuring, suspending or revoking a privilege to practice before the agency; and for censuring, suspending or dismissing agency personnel.

3. No individual who participates in the making of any proposed or final decision in a contested case shall have prosecuted or advocated in connection with that case, the specific controversy underlying that case, or another pending factually related contested case, or pending factually related controversy that may culminate in a contested case, involving the same parties. Nor shall any such individual be subject to the authority, direction or discretion of any person who has prosecuted or advocated in connection with that contested case, the specific controversy underlying that contested case, or a pending factually related contested case or controversy, involving the same parties.

4. A party to a contested case proceeding may file a timely and sufficient affidavit asserting disqualification according to the provisions of subsection 3, or asserting personal bias of an individual participating in the making of any proposed or final decision in that case. The agency shall determine the matter as part of the record in the case. When an agency in these circumstances makes such a determination with respect to an agency member, that determination shall be subject to de novo judicial review in any subsequent review proceeding of the case. [C75, 77, §17A.17]

Referred to in §86.17, 421.17, 601A.15

17A.18 Licenses.

1. When the grant, denial, or renewal of a license is required by Constitution or statute to be preceded by notice and opportunity for an evidentiary hearing, the provisions of this chapter concerning contested cases apply.

2. When a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license does not expire until the application has been finally determined by the agency, and, in case the application is denied or the terms of the new license limited, until the last day for seeking judicial review of the agency order or a later date fixed by order of the agency or the reviewing court.

additional evidence be taken before the agency upon conditions determined by the court. The agency may modify its findings and decision in the case by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court and mail copies of the new findings or decisions to all parties.

8. The court may affirm the agency action or remand to the agency for further proceedings. The court shall reverse, modify, or grant any other appropriate relief from the agency action, equitable or legal and including declaratory relief, if substantial rights of the petitioner have been prejudiced because the agency action is:

- a. In violation of constitutional or statutory provisions;
- b. In excess of the statutory authority of the agency;
- c. In violation of an agency rule;
- d. Made upon unlawful procedure;
- e. Affected by other error of law;
- f. In a contested case, unsupported by substantial evidence in the record made before the agency when that record is viewed as a whole; or
- g. Unreasonable, arbitrary or capricious or characterized by an abuse of discretion or a clearly unwarranted exercise of discretion. [C75, 77, §17A.19]

Referred to in §§28A.6, 86.42, 87.26, 99A.6, 253A.6, 601A.17

17A.20 Appeals. An aggrieved or adversely affected party to the judicial review proceeding may obtain a review of any final judgment of the district court under this chapter by appeal to the supreme court. The appeal shall be taken as in other civil cases, although the appeal may be taken regardless of the amount involved. [C75, 77, §17A.20]

17A.21 Inconsistency with federal law. If it is determined by the attorney general that any provision of this chapter would cause denial of funds or services from the United States government which would otherwise be available to an agency of this state, or would otherwise be inconsistent with re-

quirements of federal law, such provision shall be suspended as to such agency, but only to the extent necessary to prevent denial of such funds or services or to eliminate the inconsistency with federal requirements. If the attorney general makes such a suspension determination, he shall report it to the general assembly at its next session. This report shall include any recommendations in regard to corrective legislation needed to conform this chapter with the federal law. [C75, 77, §17A.21]

17A.22 Agency authority to implement chapter. Agencies shall have all the authority necessary to comply with the requirements of this chapter through the issuance of rules or otherwise. [C75, 77, §17A.22]

17A.23 Construction. Except as expressly provided otherwise by this chapter or by another statute referring to this chapter by name, the rights created and the requirements imposed by this chapter shall be in addition to those created or imposed by every other statute now* in existence or hereafter* enacted. If any other statute now* in existence or hereafter* enacted diminishes any right conferred upon a person by this chapter or diminishes any requirement imposed upon an agency by this chapter, this chapter shall take precedence unless the other statute expressly provides that it shall take precedence over all or some specified portion of this named chapter.

The Iowa administrative procedure Act shall be construed broadly to effectuate its purposes. This chapter shall also be construed to apply to all agencies not expressly exempted by this chapter or by another statute specifically referring to this chapter by name; and except as to proceedings in process on July 1, 1975, this chapter shall be construed to apply to all covered agency proceedings and all agency action not expressly exempted by this chapter or by another statute specifically referring to this chapter by name. [C75, 77, §17A.23]

*Act effective July 1, 1975

CHAPTER 18

GENERAL SERVICES DEPARTMENT

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2. Appointments of persons so assigned may be made without regard to the laws or regulations governing the selection of employees of the receiving agency.

3. Employees who are detailed to the receiving agency shall not by virtue of such detail be considered to be employees thereof, except as provided in subsection 4. The supervision of the duties of such employees, as well as the contribution of each agency to the salary or wage of such employees during the period of detail, may be governed by agreement between the sending agency and the receiving agency. The agreement shall be subject to the approval of the executive council for state participation and the local governing body in the case of an agreement involving a political subdivision of the state.

4. Any employee of a sending agency assigned in this state who suffers disability or death as a result of personal injury arising out of and in the course of such assignment, or sustained in the performance of duties in connection therewith, shall be treated for the purpose of receiving agency's employee compen-

sation program, as an employee, as defined in such Act, who has sustained such injury in the performance of such duty, but shall not receive benefits under that Act for any period for which he elects to receive similar benefits as an employee under the sending agency's employee compensation program. [C66, 71, 73, 75, 77, §28D.6]

28D.7 Travel expenses. A receiving agency in this state may, in accordance with the travel regulations of such agency, pay travel expenses of persons assigned thereto under this chapter during the period of such assignments on the same basis as if they were regular employees of the receiving agency. [C66, 71, 73, 75, 77, §28D.7]

28D.8 Administration. The Iowa merit employment department is hereby directed to explore means of implementing this chapter and to assist departments, agencies, and instrumentalities of the state and its political subdivisions in participating in employee interchange programs. [C66, 71, 73, 75, 77, §28D.8]

CHAPTER 28E

JOINT EXERCISE OF GOVERNMENTAL POWERS

Referred to in §§18.160, 28F.1, 136C.2, 253.11, 278.1, 309.19, 336.6, 357B.3, 359.42, 361.3, 364.5, 384.76, 387.4, 392.4, 455B.13, 455B.23, 455B.32(10), 455B.114, 476A.13

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- 28E.2 Definitions.
- 28E.3 Joint exercise of powers.
- 28E.4 Agreement with other agencies.
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- 28E.21 Definition.
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- 28E.24 Revenue and tax levies.
- 28E.25 Expansion of district.
- 28E.26 City civil service and retirement.
- 28E.27 Duration of agreements for law enforcement purposes.
- 28E.28 Public safety commission.

28E.1 Purpose. The purpose of this chapter is to permit state and local governments in Iowa to make efficient use of their powers by enabling them to provide joint services and facilities with other agencies and to co-operate in other ways of mutual advantage. This chapter shall be liberally construed to that end. [C66, 71, 73, 75, 77, §28E.1]

28E.2 Definitions. For the purposes of this chapter, the term "public agency" shall mean any political subdivision of this state; any agency of the state government or of the United States; and any political subdivision of another state. The term "state" shall mean a state of the United States and the District of Columbia. The term "private agency" shall mean an individual and any form of business organization au-

thorized under the laws of this or any other state. [C66, 71, 73, 75, 77, §28E.2]

Referred to in §§28F.2, 361.1, 455B.75

28E.3 Joint exercise of powers. Any power or powers, privileges or authority exercised or capable of exercise by a public agency of this state may be exercised and enjoyed jointly with any other public agency of this state having such power or powers, privilege or authority, and jointly with any public agency of any other state or of the United States to the extent that laws of such other state or of the United States permit such joint exercise or enjoyment. Any agency of the state government when acting jointly with any public agency may exercise and enjoy all of the powers, privileges and authority conferred by this chapter upon a public agency. [C66, 71, 73, 75, 77, §28E.3]

28E.4 Agreement with other agencies. Any public agency of this state may enter into an agreement with one or more public or private agencies for joint or co-operative action pursuant to the provisions of this chapter, including the creation of a separate entity to carry out the purpose of the agreement. Appropriate action by ordinance, resolution or otherwise pursuant to law of the governing bodies involved shall be necessary before any such agreement may enter into force. [C66, 71, 73, 75, 77, §28E.4]

28E.5 Specifications. Any such agreement shall specify the following:

1. Its duration.
2. The precise organization, composition and nature of any separate legal or administrative entity created thereby together with the powers delegated thereto, provided such entity may be legally created.
3. Its purpose or purposes.
4. The manner of financing the joint or co-operative undertaking and of establishing and maintaining a budget therefor.
5. The permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination.
6. Any other necessary and proper matters. [C66, 71, 73, 75, 77, §28E.5]

28E.6 Additional provisions. If the agreement does not establish a separate legal entity to conduct the joint or co-operative undertaking, the agreement shall also include:

1. Provision for an administrator or a joint board responsible for administering the joint or co-operative undertaking. In the case of a joint board, public agencies party to the agreement shall be represented.
2. The manner of acquiring, holding and disposing of real and personal property used in the joint or co-operative undertaking. [C66, 71, 73, 75, 77, §28E.6]

28E.7 Obligations not excused. No agreement made pursuant to this chapter shall relieve any public agency of any obligation or responsibility imposed upon it by law except that to the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made hereunder, said performance may be offered in satisfaction of the obligation or responsibility. [C66, 71, 73, 75, 77, §28E.7]

28E.8 Filing and recording. Before entry into force, an agreement made pursuant to this chapter shall be filed with the secretary of state and recorded with the county recorder. [C66, 71, 73, 75, 77, §28E.8]

28E.9 Status of interstate agreement. If an agreement entered into pursuant to this chapter is between or among one or more public agencies of this state and one or more public agencies of another state or of the United States said agreement shall have the status of an interstate compact. Such agreements shall, before entry into force, be approved by the attorney general who shall determine whether the agreement is in proper form and compatible with the laws of this state.

In any case or controversy involving performance or interpretation thereof or liability thereunder, the

public agencies party thereto shall be real parties in interest, and the state may maintain an action to recoup or otherwise make itself whole for any damages or liability which it may incur by reason of being joined as a party therein. Such action shall be maintainable against any public agency or agencies whose default, failure of performance, or other conduct caused or contributed to the incurring of damage or liability by the state. [C66, 71, 73, 75, 77, §28E.9]

28E.10 Approval of statutory officer. If an agreement made pursuant to this chapter shall deal in whole or in part with the provision of services or facilities with regard to which an officer or agency of the state has constitutional or statutory powers of control, the agreement shall, as a condition precedent to its entry into force, be submitted to the state officer or agency having such power of control and shall be approved or disapproved by him or it as to all matters within his or its jurisdiction. [C66, 71, 73, 75, 77, §28E.10]

28E.11 Agency to furnish aid. Any public agency entering into an agreement pursuant to this chapter may appropriate funds and may sell, lease, give, or otherwise supply the administrative joint board or other legal or administrative entity created to operate the joint or co-operative undertaking by providing such personnel or services therefor as may be within its legal power to furnish. [C66, 71, 73, 75, 77, §28E.11]

28E.12 Contract with other agencies. Any one or more public agencies may contract with any one or more other public agencies to perform any governmental service, activity, or undertaking which any of the public agencies entering into the contract is authorized by law to perform, provided that such contract shall be authorized by the governing body of each party to the contract. Such contract shall set forth fully the purposes, powers, rights, objectives, and responsibilities of the contracting parties. [C66, 71, 73, 75, 77, §28E.12]

28E.13 Powers are additional to others. The powers granted by this chapter shall be in addition to any specific grant for intergovernmental agreements and contracts. [C66, 71, 73, 75, 77, §28E.13]

28E.14 No limitation on contract. Any contract or agreement authorized by this chapter shall not be limited as to period of existence, except as may be limited by the agreement or contract itself. [C66, 71, 73, 75, 77, §28E.14]

28E.15 District agency. A planning commission, council of governments or similar organization formed under the provisions of this chapter shall, upon designation as such by the governor, serve as a district, regional or metropolitan agency for comprehensive planning for its area for the purpose of carrying out the functions as defined for such agency by federal, state and local laws and regulations. [C73, 75, 77, §28E.15]

28E.16 Election for bonds. When bonds which require a vote of the people are to be issued for financing joint facilities of a county and one or more cities within the county, pursuant to an agreement made

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under the authority of this chapter, or pursuant to other provisions of law, the board of supervisors and the council of each city shall arrange for a single election on the question of issuing the bonds, but if the county and the cities are proposing to make separate bond issues, the ballot shall contain separate questions, one to be voted upon by all voters of the county, and one or more to be voted upon only by the voters of the city which is to make a separate bond issue. [C75, 77, §28E.16]

28E.17 Transit policy—joint agreement—city debt.

1. It is the public policy of this state to encourage the establishment or acquisition of urban mass transit systems and the equipment, maintenance and operation thereof by public agencies in co-operation with, and with the assistance of the urban mass transportation administration of the United States department of transportation, pursuant to the provisions of the Urban Mass Transportation Act of 1964, as amended, Title 49, sections 1601 et seq., United States Code, which requires unification or official coordination of local mass transportation services on an area-wide basis as a condition of such assistance.

2. An agreement between one or more cities and other public agencies for this purpose may be made and carried out without an election and the agency created thereby may jointly exercise through a board of trustees as provided by the agreement all the rights, powers, privileges and immunities of cities related to the provision of mass transportation services, except the authority to incur bonded indebtedness.

3. A city which is a party to a joint transit agency may issue general corporate purpose bonds for the support of a capital program for the joint agency in the following manner:

a. The council shall give notice and conduct a hearing on the proposal in the manner set forth in section 384.25. However, the notice must be published at least ten days prior to the hearing, and if a petition valid under section 362.4 is filed with the clerk of the city prior to the hearing, asking that the question of issuing the bonds be submitted to the qualified electors of the city, the council shall either by resolution declare the proposal abandoned or shall direct the county commissioner of elections to call a special election to vote upon the question of issuing the bonds. Notice of the election and its conduct shall be in the manner provided in section 384.26.

b. If no petition is filed, or if a petition is filed and the proposition of issuing bonds is approved at the election, the council may proceed with the authorization and issuance of the bonds.

An agreement may provide for full or partial payment from transit revenues to the cities for meeting debt service on such bonds.

This subsection shall be construed as granting additional power without limiting the power already existing in cities, and as providing an alternative independent method for the carrying out of any project for the issuance and sale of bonds for the financing of a city's share of a capital expenditures project of a joint transit agency, and no further proceedings with respect to the authorization of the bonds shall be required. [C75, §§28G.1-28G.4; C77, §28E.17]

28E.18 to 28E.20 Reserved.

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28E.21 Definition. For the purpose of this division, the term "district" means a unified law enforcement district established by an agreement under the provisions of this chapter by a county, or portion thereof, or cities to provide law enforcement within the boundaries of the member political subdivisions. [C77, §28E.21; 67GA, ch 1038, §1]

28E.22 Referendum for tax. The board of supervisors, or the city councils of a district composed only of cities, may, and upon receipt of a petition signed by five percent of the qualified electors residing in the district shall, submit a proposition to the electorate residing in the district at any general election or at a special election held throughout the district. The proposition shall provide for the establishment of a public safety fund and the levy of a tax on taxable property located in the district at rates not exceeding the rates specified in this section for the purpose of providing additional moneys for the operation of the district.

The ballot for the election shall be prepared in substantially the form for submitting special questions at general elections and the form of the proposition shall be substantially as follows:

"Shall an annual levy, the amount of which will not exceed a rate of one dollar and fifty cents per thousand dollars of assessed value of the taxable property in the unified law enforcement district be authorized for providing additional moneys needed for unified law enforcement services in the district for a period of not exceeding five years?"

Yes No

If a majority of the qualified electors in each city and the unincorporated area of the county voting on the proposition approve the proposition, the county board of supervisors for unincorporated area and city councils for cities are authorized to levy the tax as provided in section 28E.23.

Such moneys collected pursuant to the tax levy shall be expended only for providing additional moneys needed for unified law enforcement services in the district and shall be in addition to the revenues raised in the county and cities in the district from their general funds which are based upon an average of revenues raised for law enforcement purposes by the county or city for the three previous years. The amount of revenues raised for law enforcement purposes by the county for the three previous years shall be computed separately for the unincorporated portion of the district and for each city in the district. [C77, §28E.22; 67GA, ch 1038, §2]

Referred to in §28E.24, 28E.28

28E.23 Budget. The public safety commission, on or before January tenth of each year, shall make an estimate of the total amount of revenue deemed necessary for operation of the district and, in conjunction with the county board of supervisors and city councils in the district, determine the amounts which will be contributed by the county and each city in the district from their general funds which are based upon an average of revenues raised for law en-

enforcement purposes in the county or city for the three previous years.

One of the following methods shall be used by the public safety commission for computing the amount of revenue deemed necessary for the operation of the district:

1. The per capita cost shall be computed by dividing the amount of revenue deemed necessary for the operation of the district by the total population of the district and by computing separate amounts for the public safety fund as follows:

a. The funds to be contributed by each city in the district shall be computed by multiplying the per capita cost by the population residing in each city of the district.

b. The funds to be contributed by the unincorporated area of the district shall be computed by multiplying the per capita cost by the population residing in the unincorporated area of the district.

2. The percent of service received by the unincorporated area and by each city in the district shall be computed and the percent of service received by each shall be multiplied by the amount of revenue deemed necessary for the operation of the district.

[C77, §28E.23; 67GA, ch 1038, §3]
Referred to in §28E.22

28E.24 Revenue and tax levies. The county board of supervisors shall certify to the public safety commission the amount of revenue from the county general fund credited to the unincorporated area in the district based upon an average of revenues raised for law enforcement purposes in the unincorporated area for the three previous years. The public safety commission shall subtract this amount from the amount of revenue to be contributed by the unincorporated area. The difference is the amount of additional revenue needed for unified law enforcement purposes.

In addition, the county board of supervisors and the city council of each city in the district shall certify to the public safety commission the amounts of revenue from the county general fund and from the city general fund credited to each city in the district based upon an average of revenues raised for law enforcement purposes in each city for the three previous years. The public safety commission shall subtract the total of these amounts from the amount of revenue to be contributed by each city respectively. The difference for each city is the amount of additional revenue needed for unified law enforcement purposes.

The county board of supervisors and the council of each city located within the district shall review the proposed budget and upon the approval of the budget by the board of supervisors and all city councils in the district, each governing body shall determine the source of the additional revenue needed for unified law enforcement purposes. If the tax levy is approved as the source of revenue, the governing body shall certify to the county auditor the amount of revenue to be raised from the tax levy in either the unincorporated area of the district or a city in the district.

If the tax rate in any of the cities or the unincorporated area exceeds the limitations prescribed in sec-

tion 28E.22, the public safety commission shall revise the budget to conform with the tax limitations.

The county board of supervisors and the city council of each city in the district shall deposit in the public safety fund the amounts of revenue from their general funds certified to the public safety commission in this section based upon an average of revenues raised for law enforcement purposes for the three previous years.

If the average of revenues raised for law enforcement purposes in the unincorporated area or a city for the previous three years exceeds the amount of revenue needed for unified law enforcement purposes, the unincorporated area or city is only required to contribute the amount of revenue needed.

Taxes collected pursuant to the tax levies and other moneys received from the county and cities in the district shall be placed in a public safety fund and used only for the operation of the district. Any unencumbered funds remaining in the fund at the end of a fiscal year shall carry over to the next fiscal year and may be used for the operation of the district.
[C77, §28E.23; 67GA, ch 1038, §4]

28E.25 Expansion of district. Cities and unincorporated areas may join an established district upon the affirmative vote of the city council or county board of supervisors, whichever is applicable, and a tax may be levied for providing additional moneys for unified law enforcement services only upon the affirmative vote of qualified electors of the city or unincorporated area voting in the manner provided in this division. A city or unincorporated area joining a district shall contract with the district for services until the beginning of a fiscal year when the city or unincorporated area may become a member.
[C77, §28E.24; 67GA, ch 1038, §5]

28E.26 City civil service and retirement. The inclusion of a city in a unified law enforcement district shall not affect the prior establishment of a civil service system under chapter 400 or a pension or retirement system under either chapter 410 or 411.
[C77, §28E.25]

Referred to in §28E.23

28E.27 Duration of agreements for law enforcement purposes. An agreement under this chapter to provide joint or co-operative services or facilities for unified law enforcement purposes shall not be executed for less than a five-year period. [C77, §28E.26; 67GA, ch 1038, §6]

28E.28 Public safety commission. If the levy of a tax has been approved under section 28E.22, a public safety commission shall be established under section 28E.6. The public safety commission shall be responsible for administering the unified law enforcement agreement. The public safety commission shall be composed of elected officials from public agencies party to the agreement. The composition of the commission shall be determined by the terms of the agreement. A vacancy shall exist when a member of the commission ceases to hold the elected office which qualifies the member for commission membership.
[67GA, ch 1038, §7]

CHAPTER 28F

JOINT FINANCING OF PUBLIC WORKS AND FACILITIES

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|-------|--|--------|--------------------------------------|
| 28F.1 | Scope of chapter. | 28F.7 | Operation of project. |
| 28F.2 | Definitions. | 28F.8 | Details of revenue bonds. |
| 28F.3 | Revenue bonds. | 28F.9 | Issuance of bond anticipation notes. |
| 28F.4 | Use of proceeds—negotiability. | 28F.10 | Refunding bonds. |
| 28F.5 | Source of payment—rates and charges, pledge of revenues. | 28F.11 | Eminent domain. |
| 28F.6 | Bonds not debts of the public agencies. | 28F.12 | Additional powers of the entity. |

28F.1 Scope of chapter. This chapter is intended to provide a means for the joint financing by public agencies of works or facilities useful and necessary for the collection, treatment, purification and disposal in a sanitary manner of liquid and solid waste, sewage, and industrial waste, also water supply systems, swimming pools or golf courses. The provisions of this chapter shall be deemed to apply to the acquisition, construction, reconstruction, ownership, operation, repair, extension or improvement of such works or facilities, by a separate administrative or legal entity created pursuant to chapter 28E. When the legal entity created under this chapter is comprised solely of cities, counties, and sanitary districts established under chapter 358, or any combination thereof, the entity shall be both a corporation and a political subdivision with the name under which it was organized. The legal entity may sue and be sued, contract, acquire and hold real and personal property necessary for corporate purposes, adopt a corporate seal and alter the same at pleasure, and execute all the powers conferred in this chapter. [C71, 73, 75, 77, §28F.1]

Referred to in §§28F.2, 28F.3

28F.2 Definitions. The terms "public agency", "state", and "private agency" shall have the meanings prescribed by section 28E.2. The term "project" or "projects" shall mean any works or facilities referred to in section 28F.1 and shall include all property real and personal, pertinent thereto or connected with such project or projects, and the existing works or facilities, if any, to which such project or projects are an extension, addition, betterment or improvement. [C71, 73, 75, 77, §28F.2]

28F.3 Revenue bonds. An entity created to carry out an agreement authorizing the joint exercise of those governmental powers enumerated in section 28F.1 shall have power to construct, acquire, own, repair, improve, expand, operate and maintain a project or projects necessary to carry out the purposes of such agreement, and to issue from time to time revenue bonds payable from the revenues derived from such project or projects, or any combination of such projects, to finance the cost or part of the cost of the acquisition, construction, reconstruction, repair, extension or improvement of such project or projects, including the acquisition for the purposes of such agreement, of any property, real or personal or mixed therefor. The power of the entity to issue revenue bonds shall not be exercised until authorized by resolution duly adopted by each of the public agencies participating in such agreement. Public agencies par-

ticipating in such an agreement may not withdraw or in any way terminate, amend, or modify in any manner to the detriment of the bondholders said agreement if revenue bonds or obligations issued in anticipation of the issuance of said revenue bonds have been issued and are then outstanding and unpaid as provided for herein. Any revenue bonds for the payment and discharge of which, upon maturity or upon redemption prior to maturity, provision has been made through the setting apart in a reserve fund or special trust account created pursuant to this chapter to insure the payment thereof, of moneys sufficient for that purpose or through the irrevocable segregation for that purpose in a sinking fund or other fund or trust account of moneys sufficient therefor, shall be deemed to be no longer outstanding and unpaid within the meaning of any provision of this chapter. [C71, 73, 75, 77, §28F.3]

Referred to in §28F.4

28F.4 Use of proceeds—negotiability. Revenue bonds may be issued, as provided in section 28F.3, to provide all or any part of the funds required to finance the cost of the acquisition, construction, reconstruction, repair, extension or improvement of any project or projects or other purposes authorized under this chapter and such cost shall include, but shall not be limited to, administrative expenses, acquisition and construction costs, engineering, fiscal or financial and legal expenses, surveys, plans and specifications, interest during such construction, reconstruction, repair, extension or improvement or acquisition and for one year after completion of such construction, reconstruction, repair, extension or improvement or after acquisition of the project or projects, initial reserve funds, acquisition of real or personal property, including franchises, and such other costs as are necessary and incidental to the construction, reconstruction, repair, extension or improvement, or acquisition of such project or projects and the financing thereof. Such an entity shall have the power to retain and enter into agreements with engineers, fiscal agents, financial advisers, attorneys, architects or other consultants or advisers for planning, supervision and financing of such project or projects upon such terms and conditions as shall be deemed advisable and in the best interest of the entity. Bonds issued under the provisions of this chapter are declared to be investment securities under the laws of the state of Iowa. [C71, 73, 75, 77, §28F.4]

28F.5 Source of payment—rates and charges, pledge of revenues. Such an entity shall have the

power to pledge all or part of the net revenues of a project or projects to the payment of the principal of and interest on the bonds issued pursuant to this chapter and shall provide by resolution authorizing the issuance of said bonds that such net revenues of the project or projects shall be set apart in a sinking fund for that purpose and kept separate and distinct from all other revenues of the entity. The principal of and interest on the bonds so issued shall be secured by a pledge of such net revenues of the project or projects in the manner and to the extent provided in the resolution authorizing the issuance of said bonds.

Such an entity shall have the power to fix, establish and maintain such rates, tolls, fees, rentals or other charges and collect the same from the public agencies participating in the agreement or from private agencies or persons for the payment of the services and facilities provided by said project or projects. Such rates, tolls, fees, rentals or other charges shall be so fixed, established and maintained and revised from time to time whenever necessary as will always provide revenues sufficient to pay the cost of maintaining, repairing and operating the project or projects, to pay the principal of and interest on the bonds then outstanding which are payable therefrom as the same become due and payable, to provide adequate and sufficient reserves therefor, to provide for replacements, depreciations and necessary extensions and enlargements and to provide a margin of safety for the making of such payments and providing such reserves. Notwithstanding the foregoing such an entity shall have the further right to pledge to the payment of the bonds issued pursuant to this chapter, in addition to the net revenues of the project or projects pledged therefor, such other moneys that it may have and which are lawfully available therefor.

In order to pay the rates, tolls, fees, rentals or other charges levied against a public agency by an entity for the payment of the services and facilities provided by a project or projects authorized by this chapter, public agencies participating in such an agreement shall have the power by ordinance to fix, establish and maintain, rates or other charges for the use of and the services and facilities rendered by said project or projects. Such rates or charges may be so fixed, established and maintained and revised from time to time whenever necessary as will always provide such public agencies with sufficient revenue to pay the rates, tolls, fees, rentals or other charges levied against it by the entity for the payments of the services and facilities provided by said project or projects. All such rates or charges to be paid by the owners of real property, if not paid as by the ordinance provided, when due, shall constitute a lien upon such real property served by such project or projects, and shall be collected in the same manner as general taxes. [C71, 73, 75, 77, §28F.5]

Referred to in §28F.6

28F.6 Bonds not debts of the public agencies. The principal of and interest on the bonds issued by an entity under the provisions of this chapter shall be payable solely from and secured by the net revenues of the project or projects and from other funds of the entity lawfully available therefor as provided in section 28F.5 and said bonds shall not in any respect be a

general obligation of any public agency participating in said entity nor shall the entity or any public agency participating in said entity be in any manner liable by reason of such net revenues or other funds being insufficient to pay said bonds. All bonds issued by the entity shall contain a recital on their face that neither the payment of the principal nor any part thereof nor any interest thereon constitutes a debt, liability or obligation of any of the public agencies participating in the agreement creating such entity or of the entity itself, except that the entity shall be liable for the payment of such bonds from the net revenues derived from the project or projects and from the other moneys lawfully available therefor and pledged thereto pursuant to the provisions of the resolution which authorized their issuance. Said bonds issued by the entity shall be authorized by resolution which may be adopted at the same meeting at which it was introduced by a majority of the members of the governing body of the entity. The terms, conditions and provisions for the authorization, issuance, sale, and security of said bonds and of the holders thereof shall be set forth in said resolution. [C71, 73, 75, 77, §28F.6]

28F.7 Operation of project. Such an entity shall operate, maintain and preserve the project or projects in good repair and working order, and shall operate the project or projects in an efficient and economical manner, provided, however, that the entity may lease or rent the project or projects or any part thereof, or otherwise provide for the operation of the project or projects or any part thereof in such manner and upon such terms as the governing body of the entity shall direct. [C71, 73, 75, 77, §28F.7]

28F.8 Details of revenue bonds. Revenue bonds issued pursuant to the provisions of this chapter shall bear interest at a rate or rates not exceeding seven percentum per annum, may be in one or more series, may bear such date or dates, may mature at such time or times not exceeding forty years from their respective dates, may be payable in such medium of payment, at such place or places within the state, may carry such registration privileges, may be subject to such terms of prior redemption, with or without premium, may be executed in such manner, may contain such terms, covenants and conditions, and may be in such form otherwise, as such resolution or subsequent resolutions shall provide. [C71, 73, 75, 77, §28F.8]

See also §75.11

28F.9 Issuance of bond anticipation notes. Such an entity shall have the power, at any time and from time to time after the issuance of bonds thereof shall have been authorized, to borrow money for the purposes for which such bonds are to be issued in anticipation of the receipt of the proceeds of the sale of such bonds and within the authorized maximum amount of such bond issue. Any such loan shall be paid within three years after the date of the initial loan. Bond anticipation notes shall be issued for all moneys so borrowed under the provisions of this section, and such notes may be renewed from time to time, but all such renewal notes shall mature within the time above limited for the payment of the initial loan. Such notes shall be authorized by resolution of

the governing body of the entity and shall be in such denomination or denominations, shall bear interest at such rate or rates not exceeding the maximum rate permitted by the resolution authorizing the issuance of the bonds, shall be in such form and shall be executed in such manner, all as such entity shall prescribe. If such notes shall be renewal notes, they may be exchanged for notes then outstanding on such terms as the governing body of the entity shall determine. The governing body of the entity may, in its discretion, retire any such notes from the revenues derived from the project or projects or from such other moneys of the entity which are lawfully available therefor or from a combination of each, in lieu of retiring them by means of bond proceeds, provided, however, that before the retirement of such notes by any means other than the issuance of bonds it shall amend or repeal the resolution authorizing the issuance of the bonds in anticipation of the proceeds of the sale of which such notes shall have been issued so as to reduce the authorized amount of the bond issue by the amount of the notes so retired. Such amendatory or repealing resolution shall take effect upon its passage. [C71, 73, 75, 77, §28F.9]

28F.10 Refunding bonds. Refunding bonds may be issued by an entity in a principal amount sufficient to provide funds for the payment (including premium, if any) of bonds issued by said entity pursuant to the provisions of this chapter to be refunded thereby and the interest thereon and in addition for the payment of all expenses incident to the calling, retiring, or paying of such outstanding bonds to be refunded, such refunding bonds may also finance the construction of a project or projects authorized by this chapter or the improvement, addition, betterment or extension of an existing project or projects so authorized. Said refunding bonds shall not be issued to refund the principal of and interest on any bonds to be refunded unless such bonds mature or are redeemable under their terms within ten years from the date of delivery of the refunding bonds. The proceeds of

said refunding bonds to be used for the payment of the principal of, interest on and redemption premiums, if any, on said bonds to be refunded which will not be due and payable immediately shall be deposited in trust for the sole purpose of making such payments in a bank or trust company within the state. Any moneys in such trust fund, prior to the date such funds will be needed for the payment of such principal of, interest on and redemption premiums, if any, of such outstanding bonds to be refunded, may be invested or reinvested as provided in the resolution authorizing said refunding bonds. Refunding bonds shall be issued in the same manner and detail as revenue bonds herein authorized. [C71, 73, 75, 77, §28F.10]

28F.11 Eminent domain. Any public agency participating in an agreement authorizing the joint exercise of governmental powers pursuant to this chapter may exercise its power of eminent domain to acquire interests in property, under provisions of law then in effect and applicable to such public agency, for the use of the entity created to carry out such agreement. Any interests in property so acquired shall be deemed acquired for a public purpose of the condemning public agency, and the payment of the costs of such acquisition may be made pursuant to such agreement or to any separate agreement between or among said public agency and such entity or the other public agencies participating in such entity or any of them. Upon payment of such costs, any property so acquired shall be and become the property of the entity. [C71, 73, 75, 77, §28F.11]

28F.12 Additional powers of the entity. If the entity is comprised solely of cities, counties, and sanitary districts established under chapter 358 or any combination thereof, the entity shall have in addition to all the powers enumerated in this chapter, the powers which a county has with respect to solid waste disposal projects referred to in section 332.44 despite any contrary provision of this chapter. [C77, §28F.12]

CHAPTER 28G

URBAN MASS TRANSIT SYSTEM

Repealed by 66GA, ch 203, §4

CHAPTER 28H

AMERICAN REVOLUTION BICENTENNIAL COMMISSION

This chapter repealed effective July 1, 1977; 66GA, ch 1122, §5

CHAPTER 109A
MANAGEMENT AND PROTECTION OF ENDANGERED PLANTS
AND WILDLIFE

Referred to in §109.1

109A.1	Definitions.	109A.6	Species not on list.
109A.2	Co-operation with federal government.	109A.7	Special care to ensure survival.
109A.3	Investigations.	109A.8	Damage to property or human life.
109A.4	Programs.	109A.9	Exemptions.
109A.5	Prohibitions.	109A.10	Penalties.

109A.1 **Definitions.** As used in this chapter:

1. "*Commission*" means the state conservation commission.

2. "*Director*" means the director of the state conservation commission.

3. "*Endangered species*" means any species of fish, plant life, or wildlife which is in danger of extinction throughout all or a significant part of its range. "Endangered species" does not include a species of insecta determined by the commission or the secretary of the United States department of interior to constitute a pest whose protection under this Act would present an overwhelming and overriding risk to man.

4. "*Fish*" or "*wildlife*" means any member of the animal kingdom, including any mammal, fish, amphibian, mollusk, crustacean, arthropod, or other invertebrate, and includes any part, product, egg, or offspring, or the dead body of parts thereof. Fish or wildlife includes migratory birds, nonmigratory birds, or endangered birds for which protection is afforded by treaty or other international agreement.

5. "*Import*" means to bring into, or introduce into, or attempt to bring into, or attempt to introduce into, any place subject to the jurisdiction of this state.

6. "*Person*" means person as defined in section 4.1, subsection 13.

7. "*Plant*" or "*plant life*" means any member of the plant kingdom, including seeds, roots, and other parts thereof.

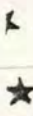
8. "*Species*" includes any subspecies of fish, plant life, or wildlife and any other group of fish, plants, or wildlife of the same species or smaller taxa in common spatial arrangement that interbreed or cross-pollinate when mature.

9. "*Take*", in reference to fish and wildlife, means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect and it includes an attempt to engage in any such conduct.

10. "*Take*", in reference to plants, means to collect, pick, cut, dig up or destroy in any manner.

11. "*Threatened species*" means any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. [66GA, ch 109,§1]

109A.2 **Co-operation with federal government.** The commission shall perform those acts necessary for the conservation, protection, restoration, and propagation of endangered and threatened species in co-operation with



the federal government, pursuant to Public Law 93-205, and pursuant to rules promulgated by the secretary of the interior. [66GA, ch 109,§2]

109A.3 Investigations. The director shall conduct investigations on fish, plants, and wildlife in order to develop information relating to population, distribution, habitat needs, limiting factors, and other biological and ecological data to determine management measures necessary for their continued ability to sustain themselves successfully. On the basis of these determinations and other available scientific and commercial data, which may include consultation with scientists and others who may have specialized knowledge, learning, or experience, the commission shall pursuant to chapter 17A promulgate a rule listing those species of fish, plants, and wildlife which are determined to be endangered or threatened within the state.

The commission shall review the state list of endangered and threatened species at least every two years and may amend the list. [66GA, ch 109,§3]

Referred to in §§109A.4, 109A.5, 109A.6

109A.4 Programs. The director shall establish programs, including acquisition of land or aquatic habitat, necessary for the management of endangered or threatened species.

In carrying out the programs authorized by this section, the commission may enter into co-operative agreements with federal and state agencies, political subdivisions of the state, or with private persons for the administration and management of any area or program established under this section or for investigation as outlined in section 109A.3. [66GA, ch 109,§4]

109A.5 Prohibitions. Except as otherwise provided in this chapter, a person shall not take, possess, transport, import, export, process, sell or offer for sale, buy or offer to buy, nor shall a common or contract carrier transport or receive for shipment, any species of fish, plants, or wildlife appearing on the following lists:

1. The list of fish, plants, and wildlife indigenous to the state determined to be endangered or threatened within the state pursuant to section 109A.3.

2. The United States list of endangered or threatened native fish and wildlife as contained in the code of federal regulations, Title 50, part 17 as amended to December 30, 1974.

3. The United States list of endangered or threatened plants as contained in the code of federal regulations, Title 50, part 17 as amended to December 30, 1974.

4. The United States list of endangered or threatened foreign fish and wildlife as contained in the code of federal regulations, Title 50, part 17 as amended to December 30, 1974.

5. A species of fish, plant, or wildlife appearing on any of the lists which enters the state from another state or from a point outside the territorial limits of the United States may enter, be transported, possessed and sold in accordance with the terms of a federal permit issued pursuant to Public Law 93-205 or an applicable permit issued under the laws of another state. [66GA, ch 109,§5]

109A.6 Species not on list. The commission may, by rule, treat any species as an endangered species or threatened species even though it is not listed pursuant to section 109A.3 if it finds that the species so closely resembles in appearance a species which is listed pursuant to section 109A.3 and that enforcement personnel would have substantial difficulty in attempting to differentiate between the listed and unlisted species, and the effect of this substantial difficulty is an additional threat to an endangered or threatened species, or finds that the treatment of an unlisted species will substantially facilitate the enforcement and further the intent of this chapter. [66GA, ch 109,§6]

109A.7 Special care to ensure survival. The director may permit the taking, possession, purchase, sale, transportation, importation, exportation, or shipment of endangered or threatened species which appear on the state list for scientific, zoological, or educational purposes, for propagation in captivity of such fish, plants, or wildlife, to ensure their survival. [66GA, ch 109,§7]

109A.8 Damage to property or human life. Upon good cause shown and where necessary to reduce damage to property or to protect human health, endangered or threatened species found on the state list may be removed, captured, or destroyed, but only pursuant to a permit issued by the director. [66GA, ch 109,§8]

109A.9 Exemptions. This chapter shall not prohibit:

1. The importation of a trophy under a permit issued pursuant to Public Law 93-205 which is not for resale and which was lawfully taken in a manner permitted by the laws of the state, territory, or country where the trophy was caught, taken, or killed.

2. The taking of a threatened species when the commission has determined that its abundance in the state justifies a controlled harvest not in violation of federal laws or regulations. [66GA, ch 109,§9]

109A.10 Penalties. Whoever violates any of the provisions of this chapter shall be fined not less than ten dollars nor more than one hundred dollars or be imprisoned in the county jail not more than thirty days. [66GA, ch 109,§10]

HEALTH DEPARTMENT[470]

See also Alcoholism, Commission on
See also Department of Environmental Quality
See also Insurance Department, ch 40, HMO

<p style="text-align: center;">TITLE I</p> <p><i>DISEASE REPORTING AND CONTROL AND LABORATORY APPROVAL</i></p> <p style="text-align: center;">CHAPTER 1</p> <p>COMMUNICABLE DISEASE CONTROL</p> <p>1.1(139) Commissioner of public health</p> <p>1.2(139) Reportable diseases</p> <p>1.3(139) Reporting</p> <p>1.4(139) Forms</p> <p>1.5(139) Who should report</p> <p>1.6(139) Isolation</p> <p>1.7(139) Quarantine</p> <p>1.8(139) Disinfection</p> <p style="text-align: center;">CHAPTER 2</p> <p>OPHTHALMIA PROPHYLACTICS</p> <p>2.1(140) Treatment of infant eyes</p> <p style="text-align: center;">CHAPTER 3</p> <p>BLOOD TESTING LABORATORIES</p> <p>3.1(140,596) Approved premarital and prenatal blood testing laboratories</p> <p>3.2(140,596) Report of results by laboratory</p> <p style="text-align: center;">CHAPTER 4</p> <p>PHENYLKETONURIA TESTING LABORATORIES</p> <p>4.1(135) Time sequence for phenylketonuria tests</p> <p>4.2(135) Blood or serum</p> <p>4.3(135) Requirements for approval</p> <p>4.4(135) Quality control program</p> <p>4.5(135) Information available</p> <p style="text-align: center;">CHAPTER 5</p> <p>MATERNAL DEATHS</p> <p>5.1(135) Reporting of maternal deaths</p> <p style="text-align: center;">CHAPTER 6</p> <p>VENEREAL DISEASE PROPHYLACTICS</p> <p>6.1(135) Definitions</p> <p>6.2(135) Application for permit</p> <p>6.3(135) Permit number and decal to be displayed</p> <p>6.4(135) Compliance</p> <p>6.5(135) Standards</p> <p style="text-align: center;">CHAPTER 7</p> <p>IMMUNIZATION OF PERSONS ATTENDING ELEMENTARY OR SECONDARY SCHOOLS OR LICENSED CHILD-CARE CENTERS</p> <p>7.1(139) Definitions</p> <p>7.2(139) Persons included</p>	<p>7.3(139) Persons excluded</p> <p>7.4(139) Required immunizations</p> <p>7.5(139) Proof of immunization</p> <p>7.6(139) Provisional enrollment</p> <p>7.7(139) Records and reporting</p> <p>7.8(139) Providing immunization services</p> <p>7.9(139) Compliance</p> <p>7.10(139) Effective date</p> <p style="text-align: center;">CHAPTERS 8 and 9</p> <p style="text-align: center;">Reserved</p> <p style="text-align: center;">TITLE II</p> <p style="text-align: center;"><i>GENERAL SANITATION</i></p> <p style="text-align: center;">CHAPTER 10</p> <p style="text-align: center;">DEFINITIONS</p> <p>10.1(135) Definitions</p> <p style="text-align: center;">CHAPTER 11</p> <p style="text-align: center;">Reserved</p> <p style="text-align: center;">CHAPTER 12</p> <p style="text-align: center;">SEWAGE, COMMERCIAL WASTES AND EXCRETA DISPOSAL</p> <p>12.1(135) General</p> <p>12.2(135) Requirements when discharged into surface waters</p> <p>12.3(135) Requirements when used for irrigating purposes</p> <p>12.4(135) Requirements when discharged into the soil</p> <p>12.5(135) Sewer lines</p> <p>12.6(135) Septic tanks</p> <p>12.7(135) Subsurface tile systems</p> <p>12.8(135) Seepage pits</p> <p>12.9(135) Mechanical aerobic sewage treatment plants</p> <p>12.10(135) Subsurface and filters</p> <p>12.11(135) Requirements for earth pit toilets</p> <p>12.12(135) Requirements for impervious vault toilets</p> <p>12.13(135) Requirements for portable toilets</p> <p>12.14(135) Privy maintenance</p> <p>12.15(135) Requirements for chemical toilets</p> <p>12.16(135) Other methods of sewage disposal</p> <p>12.17(135) Disposal of sludge from private sewage disposal</p> <p>12.18(135) Requirements for comfort stations and toilet rooms</p>
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470—12.16(135) **Other methods of sewage disposal.** Other methods or types of private sewage treatment and disposal systems shall be installed only after plans and specifications for each project have been approved by the department.

470—12.17(135) **Disposal of sludge from private sewage disposal systems.** The collection, storage, transportation and disposal of all human excreta shall be carried out in a sanitary manner which does not endanger the public health or create a nuisance condition.

12.17(1) *Methods of sludge disposal.*

a. Discharge to a municipal or other approved central sewer system.

b. Application by spreading on farm ground not used to grow crops which may be eaten raw by humans. Such application must be done in such a manner as to prevent the development of any health hazard, water pollution or nuisance condition.

c. Discharge to sludge lagoons or sludge drying beds.

d. Discharge to an approved incinerating device.

e. Discharge to an approved sanitary landfill.

12.17(2) Reserved.

470—12.18(135) **Requirements for comfort stations and toilet rooms.** All comfort stations and toilet rooms located in public or quasi-public establishments or on grounds adjacent thereto for the use of the general public or for the patrons of such establishments shall comply with the following requirements:

12.18(1) *Plumbing.* All plumbing work and fixtures hereinafter installed shall comply with the local plumbing ordinance or with the state plumbing code where no local plumbing ordinance is in effect.

12.18(2) *Water pressure.* The water pressure shall be sufficient for effective flushing of toilets, urinals and other fixtures equipped with flushing devices.

12.18(3) *Toilet rooms.* All toilets and urinals shall be located in rooms provided with natural or artificial illumination of three foot-candles intensity on the floor surface and with natural or artificial ventilation affording at least one air change every seven minutes. All toilet rooms shall be maintained in good repair and in a clean and sanitary condition and shall be accessible to approved handwashing facilities.

12.18(4) *Approved handwashing facilities.* Approved handwashing facilities shall consist of a lavatory, soap in a suitable dispensing container and single service paper or cloth towels. Cloth towels shall be thoroughly laundered and sterilized before being made available for reuse.

12.18(5) *Common drinking cups.* Common drinking cups shall be prohibited.

[Filed prior to July 1, 1952; amended July 15, 1975]

CHAPTER 13 MILK AND MILK PRODUCTS

470—13.1(135) **Jurisdiction.** The production, processing and distribution of milk and milk products are by law under the jurisdiction of the state department of agriculture.

Cities also are granted by section 368.25 of the Code, the power to adopt ordinances pertaining to milk sanitation. It is therefore suggested that cities and towns regulate production, transportation, processing, handling, sampling, examination, grading, labeling, regrading and sale of milk and milk products, the inspection of dairy herds, dairies and milk plants, the issuing and revocation of permits to milk producers and distributors, the placarding of restaurants and other establishments serving milk or milk products in accordance with the terms of the unabridged form of the 1939 edition of the Milk Ordinance and Code recommended by the United States public health service, a copy of which is on file with the department or which may be procured from the United States public health service or the Superintendent of Documents, Washington, D.C.

[Filed prior to July 1, 1952]

b. At stream locations other than gaging stations. The protected flow for points on a stream, other than at a U.S. Geological Survey gaging station, shall be established, as the need arises, by comparison of available stream flow data and basin characteristics.

This rule is intended to implement sections 455A.1-455A.2, and 455A.22 of the Code, as amended.

580—3.10(455A) Modification, cancellation, and emergency suspension of permits.

3.10(1) In general. Except as provided in subrule 3.10(2), after at least thirty days' written notice, mailed to the permittee's last known address by restricted certified mail or personal service, and an opportunity for the permittee to be heard in an evidentiary hearing conducted according to the contested case provisions of chapter 17A of the Code, the water commissioner may modify or cancel a water permit or any condition thereof, notwithstanding any other rule, upon finding any of the following:

a. Breach of permit condition or law. A condition of the permit has been breached or the law pertaining to the permit has been violated by the permittee or permittee's agent;

b. Nonuse. The permittee has ceased for three consecutive years to use the water, and the permittee has not filed a new water permit application or an extension thereof within sixty days of notification of nonuse by the water commissioner.

c. Public health and safety. Modification or cancellation is necessary to protect the public health and safety, to protect the public interests in lands and waters, or to prevent any manner of substantial injury to persons or property.

3.10(2) Emergency suspension. Notwithstanding any other rule or permit conditions, if the water commissioner finds that it is imperatively necessary in an emergency to protect from imminent danger of substantial injury either the public health, welfare, and safety or the public interest in lands or water, and these findings are incorporated into a written order to the permittee, then the water commissioner may immediately suspend operations under a permit and require the permittee to take measures necessary to prevent or remedy injury either to the public health, welfare, and safety or to the public interests in lands and water. The order shall remain in effect for the shorter of thirty days, the date specified in the order, or until the permittee has had an opportunity to be heard after at least ten days prior notice thereof (unless the permittee waives the ten-day notice right) and a revised or new order has been issued.

This rule is intended to implement sections 455A.28, 455A.29, and 17A.18(3) of the Code.

[Filed 10/9/75, Notice 8/25/75—published 10/20/75, effective 11/24/75]

[Filed Emergency 6/24/77—published 7/13/77, effective 6/24/77]

[Filed 7/5/77, Notice 6/1/77—published 7/27/77, effective 8/31/77]

[Filed 5/10/78, Notice 3/78/78; Amended Notice 4/5/78—published 5/31/78, effective 7/5/78*]

[Filed emergency 8/4/78—published 8/23/78, effective 8/4/78]

[Filed 9/14/78, Notice 7/12/78—published 10/4/78, effective 11/8/78]

*See Delays, IAB 6/28/78, p.194.

CHAPTER 4
COUNCIL—ESTABLISHED FLOOD PLAINS—
ENCROACHMENT LIMITS

580—4.1(455A) Regulations established. Regulations established by the council and local units of governments for the orderly development and wise use of the flood plains of any river or stream shall:

4.1(1) Flood plain. Delineate the limits of the flood plain or flood hazard area.

4.1(2) Floodway. Identify the area needed to convey the regulatory flood through establishment of encroachment limits.

4.1(3) Minimum levels of flood protection. Establish minimum levels of flood protection for any flood plain development or use having a maximum, high, or moderate damage potential.

4.1(4) Nonconforming uses and structures. Provide for existing nonconforming uses and structures.

580—4.2(455A) **Flooding characteristics.** The Iowa natural resources council regional flood, the regulatory flood, and various flood frequencies shall be considered as flooding characteristics of a stream or river.

4.2(1) *Iowa natural resources council regional flood.* In determining the magnitude of the Iowa natural resources council regional flood, consideration shall be given to the following flood flow determination methods:

- a. Standard project flood as computed by the corps of engineers.
- b. Experienced Iowa floods as determined from experienced Iowa flood chart.
- c. Rainfall-runoff relationships.
- d. Other hydrologic information available to the council.

4.2(2) *Other floods.* In determining the regulatory flood and various flood frequencies the council shall give consideration to the following:

- a. Log pearson type III flood frequency method.
- b. U. S. geological survey flood frequency studies.
- c. Corps of engineers flood frequency studies.
- d. Other studies and reports including site experience which reasonably identify the flood frequencies of a river or stream.

580—4.3(455A) **Encroachment limits.** In providing for the conveyance of the regulatory flood, a floodway shall be delineated by the establishment of encroachment limits. In establishing encroachment limits where possible the following criteria will apply:

4.3(1) *Increase in water surface elevation.* The increase in water surface elevation which results from confining the regulatory flood to the floodway between the encroachment limits shall not exceed one foot.

4.3(2) *Existing buildings.* Encroachment limits shall be located to avoid placing existing buildings in the floodway.

4.3(3) *Opposite encroachment limits.* The concept of equal and opposite conveyances as defined in chapter 2 of these rules shall be used to locate encroachment limits.

4.3(4) *Urban areas.* In urban areas, encroachment limits shall be located to avoid further increase in flood heights.

580—4.4(455A) **Flood plain and floodway development.** Development shall be permitted in the flood plains and floodway as follows:

4.4(1) *Floodway.* In the floodway, the following uses or structures shall be permitted:

a. *Structures.* Approved structures as provided for in chapter 5 of these rules.

b. *Other uses.* Uses not requiring approval of the council.

4.4(2) *Floodway fringe.* In the floodway fringe, the following uses or structures shall be permitted:

a. *Uses or structures.* Those uses or structures permitted in the floodway.

b. *Structures.* Structures having a damage potential and provided with the appropriate minimum level of flood protection.

580—4.5(455A) **Flood protection methods.** Acceptable flood protection methods shall consist of elevating, flood proofing, and construction of flood control works.

580—4.6(455A) **Assistance and cooperation.** Assistance and cooperation by the council with local units of government shall include but is not limited to coordination of applications for flood plain information studies by federal, state, and local agencies or other interests, and co-ordination of the national flood insurance program with the federal insurance administration.

[Filed 10/9/75, Notice 8/25/75—published 10/20/75, effective 11/24/75]

CHAPTER 5
FLOOD PLAIN OR FLOODWAY CONSTRUCTION
DIVISION I
WHEN APPROVAL IS REQUIRED

580—5.1(455A) **Bridges, culverts, temporary stream crossings, and road embankments.** Approval by the director or council for the construction, operation, and maintenance of bridges, culverts, temporary stream crossings, and road embankments shall be required in the following instances.

5.1(1) *Rural area—floodway.* In rural areas:

a. Bridges, culverts, road embankments, and temporary stream crossings in or on the floodway of any river or stream draining more than one hundred square miles.

b. Bridges, culverts, road embankments, and temporary stream crossings involving channel changes in or on the floodway of any stream draining at the location of the channel change between ten and one hundred square miles whereby either (i) more than five hundred foot length of the existing channel is being altered or (ii) the length of existing channel being altered is reduced by more than twenty-five percent.

5.1(2) *Rural area—floodway and flood plain.* Road embankments located in the floodway or flood plains, but not crossing the channel of a river or stream draining more than ten square miles, where such works occupy more than three percent of the cross sectional area of the channel at bankfull stage or where such works obstruct more than fifteen percent of the total

cross sectional area of the flood plain at any stage. In determining a fifteen percent occupancy of the flood plain, the concept of equal and opposite conveyances shall apply.

5.1(3) *Urban areas.* In urban areas bridges, culverts, road embankments and temporary stream crossings in or on the floodway or flood plains of any river or stream draining more than two square miles.

580—5.2(455A) **Channel changes.** Approval by the director or council for the construction, operation, and maintenance of channel changes shall be required in the following instances.

5.2(1) *Rural areas.* In rural areas:

a. Channel changes not otherwise associated with road projects in or on the floodway of any stream draining more than ten square miles at the location of the channel change.

b. Channel changes associated with road projects in or on the floodway of any stream draining more than ten square miles at the location of the channel change whereby either (i) more than a five hundred foot length of the existing channel is being altered or (ii) the length of existing channel being altered is reduced by more than twenty-five percent.

5.2(2) *Urban areas.* In urban areas channel changes on any river or stream draining more than two square miles at the location of the channel change.

5.2(3) *Protected streams.* Channel changes at any location on any river or stream designated as a protected stream pursuant to division V of chapter 5 of these rules.

580—5.3(455A) **Dams and impounding structures.** Approval by the director or council for construction, operation, and maintenance of dams and impounding structures shall be required in the following instances.

5.3(1) *Rural areas.* In rural areas:

a. Any dam built for flood control purposes.

b. Any dam or impounding structure across any stream or watercourse which drains more than five thousand acres.

c. Any dam or impounding structure which provides for permanent storage of more than eighteen acre-feet of water or which is designed to provide for a total of permanent and temporary storage of more than twenty-five acre-feet of water.

5.3(2) *Urban areas.* In urban areas any dam or impounding structures designated in 5.3(1) of these rules or having a height of six feet or more.

580—5.4(455A) **Levees or dikes.** Approval by the director or council for construction, operation, and maintenance of levees or dikes shall be required in the following instances.

5.4(1) *Rural areas.* In rural areas, any levees or dikes located on the flood plain or floodway of any stream or river draining more than ten square miles.

5.4(2) *Urban areas.* In urban areas, any levee or dike along any river or stream draining more than two square miles.

580—5.5(455A) **Waste or water treatment facilities.** Approval by the director or council for construction, operation, and maintenance of waste or water treatment facilities shall be required in the following instances.

5.5(1) *Rural areas.* In rural areas, any such facilities on the flood plains or floodway of any river or stream draining more than ten square miles.

5.5(2) *Urban areas.* In urban areas, any such facilities on the flood plain or floodway of any river or stream draining more than two square miles.

580—5.6(455A) **Sanitary landfills.** Approval by the director or council for construction, operation, and maintenance of any sanitary landfill shall be required in the following instances.

5.6(1) *Rural areas.* In rural areas, any such landfill located on the flood plain or floodway of any stream draining more than ten square miles at the landfill site.

5.6(2) *Urban areas.* In urban areas, any such facilities located on the flood plain or floodway of any stream draining more than two square miles at the landfill site.

580—5.7(455A) Buildings or building complexes. Approval by the director or council for construction, operation, and maintenance of buildings or building complexes shall be required in the following instances except where provisions of local zoning ordinances, encroachment limits or flood plain regulations have been approved under the provisions of section 455A.35 of the Code and regulation and control has been delegated to a local agency in accordance therewith.

5.7(1) Urban areas. In urban areas, buildings or building complexes in or on any floodway or flood plains of streams draining more than two square miles.

a. Improvements. Approval shall not be required for additions to existing buildings or building complexes located on the flood plains in which the floor area is increased in size by less than sixty percent, or for additions to existing buildings located in the floodway in which the floor area is increased in size by less than sixty percent if the addition poses no further obstruction to flood flows.

b. Replacement. Approval shall not be required for replacement or reconstruction of buildings or building complexes located on the floodway or flood plains which have been damaged less than 60 percent of value.

5.7(2) ~~Adjacent to impoundments.~~ Buildings or building complexes for human occupancy located adjacent to impoundments of dams constructed in accordance with criteria outlined in 5.3(455A) or chapter 6 of these rules, and at an elevation lower than the top of said dams.

5.7(3) Downstream from dams. Downstream from dams meeting the criteria in 5.3(455A) or chapter 6 of these rules, buildings or building complexes for human occupancy located on the flood plains or floodway of the affected reach as specified by the council.

5.7(4) Rural areas.

a. In general. Except as provided in paragraph "b" of this subrule, buildings or building complexes in or on the flood plain or floodway of streams draining more than ten square miles.

b. Within two miles of urban areas. Buildings or building complexes in or on the flood plain or floodway of streams draining two or more square miles when such buildings or complexes are located within two miles of an urban area.

580—5.8(455A) Pipeline crossings. Approval by the director or council for construction, operation, and maintenance of pipeline crossings shall be required in the following instances:

5.8(1) Rural areas. In rural areas, pipeline crossings on any river or stream draining more than one hundred square miles.

5.8(2) Urban areas. *In urban areas pipeline crossings on any river or stream draining more than two square miles.

580—5.9(455A) Stream bank protective devices. Approval by the director or council for construction, operation, and maintenance of stream bank protective devices (including wing dikes, jetties, et cetra) shall be required in the following instances.

5.9(1) Rural areas. In rural areas:

a. All stream bank protective devices along any river or stream draining more than one hundred square miles.

b. Stream bank protective devices along any river or stream draining between ten and one hundred square miles where the cross-sectional area of the river or stream channel is reduced more than three percent.

5.9(2) Urban areas. In urban areas:

a. Stream bank protective devices along any river or stream draining more than one hundred square miles.

b. Stream bank protective devices along any river or stream draining between two and one hundred square miles where the cross sectional area of the river or stream channel is reduced more than three percent.

*Printer's error corrected.

580—5.10(455A) Boat docks.

5.10(1) *In general.* Except as provided in subrule 5.10(2), director or council approval is required for all boat docks that are located in any stream other than a lake and do not float on the surface of the water.

5.10(2) *Exempted nonfloating boat docks.* Recreational nonfloating type boat docks located on the Mississippi and Missouri rivers, and the conservation pools of the Coralville, Rathbun, Red Rock, and Saylorville reservoirs shall not require director or council approval, provided a permit is obtained from the Iowa Conservation Commission.

580—5.11(455A) Excavations. Approval by the director or council for excavations shall be required in the following instances:

5.11(1) *Rural areas.* In rural areas:

a. Excavation in the channel on any river or stream draining more than ten square miles where said excavation increases the cross sectional area of said channel below bankfull stage by more than ten percent.

b. Excavation on any flood plain of any river or stream draining more than ten square miles where said excavation is within one hundred feet of the normal stream or river bank.

c. Excavation in relation to highway projects are exempt except as otherwise provided for in 5.1(1), 5.1(2), and 5.1(3).

5.11(2) *Urban areas.* In urban areas excavations on the floodway of any stream draining more than two square miles.

580—5.12(455A) Miscellaneous structures, obstructions, or deposits not otherwise provided for in other rules. Approval by the director or council for construction, operation, and maintenance of miscellaneous structures, obstructions, or deposits, shall be required in the following instances.

5.12(1) *Rural areas.* In rural areas, any miscellaneous structures, obstructions, or deposits on the floodway or flood plain of any river or stream draining more than ten square miles where such works obstruct more than three percent of the cross sectional area of the stream channel at bankfull stage or where such works obstruct more than fifteen percent of the total cross sectional area of the flood plain at any stage. In determining a fifteen percent obstruction of the flood plain, the concept of equal and opposite conveyances shall apply.

5.12(2) *Urban areas.* In urban areas, miscellaneous structures, obstructions, or deposits on the floodway or flood plains of any river or stream draining more than two square miles.

5.13 to 5.29 Reserved.

DIVISION II
RULES OF PRACTICE FOR PROCESSING
FLOOD PLAIN CONSTRUCTION PERMITS

580—5.30(455A) Procedure for issuance of council orders.

5.30(1) *Council approval order or administrative waiver required.* The construction, operation, and maintenance of flood plain and floodway projects subject to regulation under division I of chapter 5 shall not occur until an application meeting the requirements of rule 580—5.31(455A) has been submitted and the director has issued a council order or administrative waiver approving the project. Flood plain and floodway projects initiated without necessary approval or in noncompliance with council order conditions shall be handled pursuant to the procedures of rule 580—11.5(109,455A,469).

5.30(2) *Administrative waivers.* Upon satisfactory proof to the director or council that a specific project is minor in scope, cannot cause an appreciable effect on flood flows, and is otherwise consistent with these rules, the director may issue an administrative waiver in lieu of a council order for projects subject to these rules. Temporary channel obstructions shall be a form of administrative waiver.

5.30(3) *Investigations.* Upon receipt of an application, agency staff shall make an investigation, in accordance with chapter 11 of these rules, of proposed flood plain and floodway projects for which an application is submitted. Submission of the application is deemed to constitute consent by the applicant for the agency staff and its agents to enter upon the land on which the proposed activity or project will be located for the sole purpose of collecting the data necessary to process the application, unless the applicant indicates to the contrary on the application.

5.30(4) *Hearings.* A hearing on the application for approval of a flood plain or floodway project shall be held at the discretion of the director or council to obtain evidence concerning the proposed project. Hearing procedures shall be in accordance with chapter 10 of these rules.

5.30(5) *Council order conditions.* The director or council may prescribe conditions in the council order or administrative waiver on a case-by-case basis, in addition to conditions imposed by division three and four of chapter 5, if such conditions are reasonably necessary to implement the provisions of chapters 109, 455A, or 469 of the Code and these rules.

5.30(6) *Delivery of council order.* Upon issuance of a council order, the director shall mail a copy thereof to the applicant and other parties of record. Certification of the date of mailing shall accompany the council order.

580—5.31(455A) Application requirements.

5.31(1) *Application forms.* Application for approval in or on any floodway or flood plain shall be made on forms provided by the agency and shall be mailed or delivered to the Director, Iowa Natural Resources Council, East 9th and Grand, Des Moines, Iowa 50319. Such application shall be submitted in duplicate by the persons or agents thereof which have or will have responsibility by reason of ownership, lease, or easement over the area where construction, operation, and maintenance is to take place. All applications submitted to the agency shall be signed and verified by the applicants or agents thereof.

5.31(2) *Engineering plans and specifications.* Duplicate sets of engineering plans shall be submitted to the director with the application. The engineering plans submitted shall contain information specified by the director or council, including engineering specifications, operating procedures and other information relating to environmental impacts. The engineering plans and other engineering information shall be certified by a registered professional engineer and, if applicable, a registered land surveyor, as required by chapter 114 of the Code.

5.31(3) *Modification of application and engineering plans and specifications.* The modification of applications or engineering plans and specifications that are necessary to bring a project into compliance with agency rules shall be allowed at the discretion of the director or council.

5.31(4) *Application processing priority.* Applications shall be processed in the order received by the agency, with the exception that projects may be processed immediately if there is imminent danger to the public health, welfare, or safety.

This rule is intended to implement section 455A.33 of the Code.

580—5.32(455A) Callup of application by council for consideration. The director shall furnish biweekly to the council a digest of flood plain and floodway project applications submitted to the agency within the previous two weeks. Copies of applications shall be provided to individual council members upon their request. Prior to the director's decision, any application may be called up for council consideration upon the request of three council members.

This rule is intended to implement section 455A.33 of the Code.

580—5.33(455A) Appeal of the director's decision to the council.

5.33(1) *Notice of appeal.* A council order issued by the director may be appealed to the council by an aggrieved party, who shall mail a written notice of appeal to the director

within fifteen days of the date of mailing the council order. Copies of the notice of appeal and any accompanying documents shall also be mailed by the appellant to each party to the proceedings or whose rights are involved in the case. The notice of appeal shall contain the following:

- a. An identification of the action or decision being appealed;
- b. A concise and complete statement of the facts and laws relied upon by the appellant;
- c. The remedy sought;
- d. Certification setting forth the names of the parties served the notice of appeal, their addresses, and the date of mailing;
- e. Whether the appellant plans to submit briefs; and
- f. The signature of the appellant or a qualified representative of the appellant.

5.33(2) *Pleadings.* Appellants may submit to the council exceptions and briefs on contested issues. The appellant shall mail ten copies of such documents to the director for transmittal to the council within fifteen days of the date of mailing the notice of appeal. Other parties of record, other than the director, shall have twenty days from the date of mailing the appellant's exceptions or briefs to mail to the council ten copies of any exceptions or briefs in response thereto. The director may file a response by the time set by the council. Additional or rebuttal responses may be filed only upon permission first and notices upon motion of any party for good cause or upon its own motion. All parties submitting exceptions or briefs to the council shall also mail such documents to all other parties of record and shall certify to the council the names and addresses of the parties served and the date of mailing.

5.33(3) *Decisions on appeal.* The council will review the record on an appeal and affirm, modify, revoke, or take such other action as the circumstances call for. The council may direct a hearing on the entire matter or specified portions thereof, may decide the appeal forthwith upon the record already made, or make other disposition of the case. The council may also assign agency staff, other than staff assigned to the flood plain division, to assist the council in the appeal proceeding and such staff shall report directly to the council.

5.33(4) *Stay or director's decision.* The council or director may, in its discretion and on such terms, if any, as it deems proper order a stay of any or all approved construction activity, pending disposition of the appeal of the director's decision.

This rule is intended to implement section 455A.33 of the Code.

5.34 to 5.49 Reserved.

DIVISION III
CRITERIA FOR APPROVAL

580—5.50(455A) **Bridges and road embankments.** The following criteria shall apply to the construction, operation, and maintenance of bridges and road embankments.

5.50(1) *Bridges and road embankments affecting low damage potential areas.* For bridges and road embankments affecting floodway or flood plain areas having a low flood damage potential, the following criteria will apply:

a. *Backwater Q50.* The maximum allowable backwater for Q50 and lesser floods is limited to 0.75 foot.

b. *Backwater Q100.* The maximum allowable backwater for Q100 is limited to 1.5 feet.

c. *Freeboard.* The minimum freeboard for low superstructure horizontal bridge members above Q50 is three feet.

5.50(2) *Bridges and road embankments affecting moderate damage potential areas.* For bridges and road embankments affecting floodway or flood plain areas occupied by buildings or building complexes having a moderate flood damage potential, the following criteria will apply:

a. The maximum allowable backwater for Q100 is limited to 1.0 foot.

b. The criteria specified in 5.50(1)"a" and "c".

5.50(3) *Bridges and road embankments affecting high or maximum damage potential development.* For bridges and road embankments affecting floodway or flood plain areas occupied by buildings or building complexes having a high or maximum flood damage potential, the following criteria will apply:

a. Backwater effects are to be minimized for all stages which affect maximum or high flood damage potential buildings or building complexes or for all stages which would tend to reduce the level of protection of certain flood control works, unless acceptable remedial measures are provided or such buildings are removed or the uses relating to human occupancy are prohibited.

b. In no case shall the criteria specified in 5.50(1)"a" and "c" and 5.50(2)"a" be exceeded.

5.50(4) *Bridge and channel change.* For bridges and culverts involving channel changes on the floodway of any stream draining at the location of the channel change between ten and one hundred square miles whereby either (i) more than a five hundred foot length of the existing channel is being altered or (ii) the length of existing channel being altered is reduced by more than twenty-five percent, the maximum allowable backwater shall correspond to the limits permitted in 5.50(1), 5.50(2), 5.50(3) or 5.50(5) depending upon the associated damage potential.

5.50(5) *Culverts.* The maximum allowable backwater at culvert inlets shall correspond to the limits permitted in 5.50(1), 5.50(2), or 5.50(3) depending upon the damage potential associated with the affected area. In the case of replacement culverts the backwater shall not exceed that created by the culvert or waterway crossing being replaced or that specified in 5.50(1), 5.50(2), or 5.50(3) depending upon the associated damage potential, whichever is greater.

5.50(6) *Road embankments.* The criteria listed in 5.60(455A) of these rules for miscellaneous flood plain construction projects shall apply to road embankments located on the flood plain but not crossing any stream or river channel.

5.50(7) *Temporary channel obstructions.* Temporary stream crossings, and other temporary obstructions usually constructed, operated, and maintained during the construction phase of another flood plain construction project shall meet the following criteria:

a. *Low flow.* Said structures will provide for the passage of the prevailing flow in the stream or river.

b. *Flood flow.* Said structure shall be designed to fail or otherwise operate in the event of flooding so as to prevent premature overbank flow, or meet the backwater criteria indicated in 5.50(1), 5.50(2), or 5.50(3).

5.50(8) *Emergency.* Repairs or temporary construction required to maintain the operation of a bridge, roadgrade or culverts in time of emergency need not be submitted for prior director approval. Plans of such emergency or temporary construction shall be submitted to the director for review after the event causing the emergency has passed.

580—5.51(455A) **Channel changes.** The following criteria shall apply to channel changes.

5.51(1) *Percent reduction in length.*

a. *Streams draining over 100 square miles.* For streams (other than protected streams) draining more than one hundred square miles, no more than a ten percent reduction in the original length of the existing channel through any contiguous parcel(s) of the applicant(s) property will be allowed.

b. *Rural streams draining 10 to 100 square miles.* For streams (other than protected streams) draining between ten and one hundred square miles in rural areas, no more than a twenty-five percent reduction in the original length of the existing channel through any contiguous parcel(s) of the applicant(s) property will be allowed.

c. *Urban streams draining 2 to 100 square miles.* For streams (other than protected streams) draining between two and one hundred square miles in urban areas, no more than a twenty-five percent reduction in the original length of the existing channel through any contiguous parcel(s) of the applicant(s) property will be allowed.

d. *Protected streams.* For protected streams no channel changes will be allowed, because of actual or potential significant adverse effects on fisheries, water quality, flood control, flood plain management, wildlife habitat, soil erosion, public recreation, the public health welfare and safety, compatibility with the state water plan, rights of other landowners, and other factors relevant to the control, development, protection, allocation, and utilization of the stream.

5.51(2) *Capacity.* In the project reach, excavated channels shall have a discharge capacity equal to or greater than the existing channel. Excessive channel excavation will not be permitted.

5.51(3) *Alignments.* The alignments and dimensions of the excavated channel shall be such as to provide a smooth transition between the existing and the excavated channel.

5.51(4) *Velocities.* Velocities in the excavated channel shall not cause excessive erosion of the channel or banks, with the acceptable velocities being determined by the council. Energy dissipation structures, channel and bank protection, or other engineering measures may be required to eliminate excessive erosion of the channel or banks.

5.51(5) *Spoil disposition.* Disposition of spoil material from channel excavation of the flood plain shall be reviewed under miscellaneous flood plain construction.

5.51(6) *Increase in flood peak.* No significant increase in peak flood discharge will be permitted by the council. Floodwater retardance structures may be required to minimize any increase in peak flood discharges.

5.51(7) *Fish and wildlife habitat and public rights.* The channel change shall not have a significant adverse effect on fish and wildlife habitat or public rights to use of the stream. Conservation easements and other conditions may be required to mitigate potential damages to the quality of water, fish and wildlife habitat, recreational facilities, and other public rights.

5.51(8) *Landowner notification.* The applicant(s) shall submit the names, addresses, and location of the immediate upstream, downstream and adjacent landowner(s) and occupant(s). In addition, the applicant(s) shall submit the names and addresses of other landowners and occupants that the council, after reviewing the plans for the proposed channel change, believes will have a substantial interest in the channel change or will be substantially affected by the channel change.

5.51(9) *Soil erosion.* The tillage of land along the reach of a straightened stream shall be prohibited or modified when necessary to hold soil erosion to reasonable limits. Zones of land in which tillage shall be prohibited along the straightened reach shall be set on a case-by-case basis with consideration given to topography, soil characteristics, current use, and other factors affecting propensity for soil erosion. The tillage prohibition shall be

recorded by the director in the office of the appropriate county recorder and shall run with the land against the applicant and all successors in interest to the land subject to the prohibition.

580—5.52(455A) Dams and impounding structures. The following criteria shall apply to dams and impounding structures.

5.52(1) Flood control. Dams constructed, operated, and maintained for purposes of flood control shall have no failure potential within the limits achievable through accepted engineering design and construction procedures and practices.

5.52(2) Nonflood control. Dams and impounding structures other than flood control dams shall be designed consistent with accepted engineering practices in accordance with the corresponding downstream damage potential.

580—5.53(455A) Levees or dikes. The following criteria shall apply to levees or dikes.

5.53(1) Agricultural levees or dikes.

a. Level of protection. The permanent height of agricultural levees or dikes normally shall be limited that overtopping will occur due to discharges from Q10 to Q25 with the more comprehensive levee system being permitted the greater degree of protection.

b. Additional protection. Where it can clearly be shown that loss of valley storage caused by construction of the levee will not increase peak flood stages and discharges, the level of protection provided by the agricultural levee or dike may be increased beyond the Q10 to Q25 range.

c. Alignment. The location and alignment of agricultural levees or dikes shall be compatible with existing encroachment limits so that minimum flood protection levels will not be increased and said levee or dike alignment otherwise shall be consistent with the rules governing the location of encroachment limits set out in 4.3(455A) of these rules.

d. Maximum effect. The maximum increase in the flood profile resulting from the construction, operation, and maintenance of an agricultural levee or dike shall be one foot. Equal and opposite conveyances shall be used in determining the maximum increase in flood profile resulting from such levees or dikes.

e. Interior drainage. All agricultural levees or dikes shall be provided with adequate interior drainage facilities.

f. Land ownership. The applicant shall identify the landowner(s) located immediately upstream, downstream, and across from the proposed levee or dike and shall submit such evidence that said landowner(s) or agent(s) thereof having responsibility by reason of ownership, lease or easement, are aware that the project is under consideration by the council.

g. Offset. A minimum offset equal to one hundred feet or twice the width of a river or stream measured from top of bank to top of bank, whichever distance is less, shall be required for all agricultural levees unless a greater offset is dictated by 5.53(1)"c" of these rules.

5.53(2) Flood control levees or dikes.

a. Design level. The minimum design flood protection level for flood control levees or dikes shall correspond to the flood profile for Q100.

b. Freeboard. The levee or dike height shall provide for at least three feet of freeboard above the design flood profile.

c. Alignment. The alignment of a flood control levee or dike shall be consistent with the rules governing the location of encroachment limits set out in 4.3(455A).

d. Interior drainage. Flood control levees or dikes shall provide for adequate interior drainage and ponding.

e. Design and specifications. The structural design and construction of flood control levees or dikes must be undertaken in accordance with accepted engineering and construction procedures and practices.

f. Land Ownership. The applicant shall identify the landowner(s) located immediately upstream, downstream, and across from the proposed levee or dike and shall submit evidence that said landowner(s) or agent(s) thereof having responsibility by reason of ownership, lease or easement, are aware that the project is under consideration by the council.

580—5.54(455A) Buildings and building complexes. The following criteria shall apply to buildings or building complexes.

5.54(1) Protection levels. The following minimum levels of flood protection shall correspond to:

a. A flood equivalent to the Iowa natural resources council regional flood for buildings or building complexes having maximum damage potential.

b. A flood equivalent to Q100 for buildings or building complexes having a high damage potential.

c. A flood equivalent to Q50 for buildings or building complexes having a moderate damage potential.

d. The top of the dam for buildings or building complexes having a maximum, high, or moderate damage potential located upstream of a dam meeting the criteria of 5.3(455A) of these rules and adjacent to the impoundment thereof. Where the dam has an emergency spillway, the minimum level of flood protection for buildings or building complexes adjacent to the impoundment of such dams may be reduced to that ordinarily required for the associated damage potential as indicated in 5.54(1)"a", "b" and "c" of these rules.

e. A profile established by the director or council after due consideration of the hazards posed by a dam for buildings or building complexes located downstream from the dam meeting the criteria of 5.3(455A).

5.54(2) Lowest water entry level. The lowest water entry shall correspond to the minimum level of flood protection stated in 5.54(1).

5.54(3) Location.

a. Obstruction. Buildings or building complexes shall not be located so as to individually or collectively create an obstruction or set a development pattern or precedent whereby continued buildings or building complex construction will increase minimum flood protection levels or otherwise conflict with 4.3(455A) governing the establishment of encroachment limits.

b. Damages. Buildings or building complexes shall be located so as to minimize public damages.

c. Public health, safety, and welfare. Buildings or building complexes shall be located on the flood plains so as not to be detrimental to public health, safety, and welfare and so as to minimize or reduce the risk of loss of life.

580—5.55(455A) Waste water treatment facilities. The following criteria shall apply to wastewater treatment facilities.

5.55(1) *Location.* Waste water treatment facilities shall not be located so as to individually or collectively conflict with 4.3(455A) governing the establishment of encroachment limits.

5.55(2) *Flood protection.* Flood protection for waste water treatment facilities shall be provided to the level necessary for high damage potential buildings or building complexes unless evidence is submitted indicating the facility is of a lesser damage potential.

580—5.56(455A) Sanitary landfills. The following criteria shall apply to sanitary landfills.

5.56(1) *Location.* Sanitary landfills shall not be located so as to individually or collectively conflict with 4.3(455A) governing the establishment of encroachment limits.

5.56(2) *Flood protection.* Flood protection for the active working portion of the sanitary landfill shall be provided to the level necessary for high damage potential buildings or building complexes.

580—5.57(455A) Water supply treatment facilities. The following criteria shall apply to water supply treatment facilities.

5.57(1) *Location.* Water supply treatment facilities shall not be located so as to individually or collectively conflict with 4.3(455A) governing the establishment of encroachment limits.

5.57(2) *Flood protection.* Flood protection for water supply treatment facilities shall be provided to at least the level necessary for high damage potential buildings or building complexes.

580—5.58(455A) Stream protective devices. The following criteria shall apply to stream protective devices.

5.58(1) *Overflow.* Stream protective devices shall be constructed in a manner which will not cause premature overbank flow.

5.58(2) *Velocity.* Increased velocities resulting from the construction, operation, and maintenance of stream protective devices shall be limited so as not to cause excessive scour in the channel as determined by the council.

5.58(3) *Stability.* Stream protective devices shall be anchored securely to the bank or constructed in a stable manner so as not to become dislodged and result in the scattering of debris in adjacent reaches.

5.58(4) *Water quality and aesthetics.* Stream protective devices shall not adversely affect the water quality, fish and wildlife habitat or aesthetics of the stream.

580—5.59(455A) Pipeline river or stream crossings. The following criteria shall apply to pipeline river and stream crossings.

5.59(1) *Protection.* Pipeline river or stream crossings shall be sufficiently buried in the stream bed and banks or otherwise sufficiently protected to prevent rupture.

5.59(2) *Overflow and velocities.* Pipeline river or stream crossings shall be constructed, operated, and maintained so as not to create premature overbank flow or excessive scour to the channel or banks.

5.59(3) *Spoil.* Spoil material resulting from the construction of a pipeline crossing shall be disposed of in a manner which will not obstruct low flow or flood flows.

580—5.60(455A) Miscellaneous construction. The following criteria shall apply to miscellaneous construction.

5.60(1) *Structures, obstructions, or deposits.*

a. Location. Miscellaneous structures, obstructions, or deposits shall not be located so as to individually or collectively conflict with 4.3(455A) governing the establishment of encroachment limits.

b. Protection. Miscellaneous structures, obstructions, or deposits shall be provided with the minimum level of flood protection associated with the designated damage potential as indicated in 5.54(1) of these rules governing buildings and building complexes.

5.60(2) Excavation.

a. Spoil. Spoil material resulting from an excavation shall be disposed of in a manner consistent with 5.60(1)"a" of these rules pertaining to miscellaneous structures, obstructions, or deposits.

b. Levees. Levees protecting excavations shall meet the requirements of 5.60(1)"a" pertaining to miscellaneous structures, obstructions, or deposits.

5.61 to 5.79 Reserved.

DIVISION IV
GENERAL CRITERIA

580—5.80(455) General conditions. Council orders and administrative waivers approving an activity or project shall be subject to the following conditions.

5.80(1) Maintenance. The applicant and any successor in interest to the real estate on which the project or activity is located shall be responsible for proper maintenance.

5.80(2) Responsibility. No legal or financial responsibility arising from the construction or maintenance of the approved works shall attach to the state of Iowa or the agency due to the issuance of an order or administrative waiver.

5.80(3) Lands. The applicant shall be responsible for obtaining such government licenses, permits, and approvals, and lands, easements, and rights-of-way which are required for the construction, operation, and maintenance of the authorized works.

5.80(4) Change in plans. No material change from the plans and specifications approved by the director or council shall be made unless authorized by the director or council.

5.80(5) Revocation of order or waiver. A council order or administrative waiver may be revoked if construction is not completed within the period of time specified in the council order or waiver.

5.80(6) Performance bond. A performance bond may be required when necessary to secure the construction, operation, and maintenance of approved projects and activities in a manner that does not create a hazard to the public's health, welfare, and safety. The amount and conditions of such bond shall be specified as special conditions in the council order.

580—5.81(455A) Variance.

5.81(1) In general. Where evidence is presented that additional private or significant public damage will not result from flood plain or floodway construction (other than channel changes) subject to regulation under chapter 5 of these rules, the director or council may permit variance to the criteria stated in the chapter.

5.81(2) Channel change variances. The director or council may grant variances to the criterion stated in this chapter for channel changes (other than channel changes on protected streams) only in the following instances: (a) For comprehensive flood control projects in urban areas where channelization is the best alternative available; (b) for public projects such as roads or road grade protection where a channel change is the only reasonable and practicable alternative; (c) in cases whereby natural channel erosion has significant probability of eroding the structural stability of a building or other structure and bank erosion control measures are not feasible or practical under the circumstances; (d) in other cases where the applicant can clearly show that there are no adverse effects on the public interest.

5.81(3) Protected stream channel change variance. The director or council may grant variances to the prohibition of channel changes on protected streams for those cases listed in 5.81(2)"b" and "c", but such variances will be with provisions for mitigation of environmental damage.

5.82 to 5.94 Reserved.

DIVISION V
PROTECTED STREAM DESIGNATION PROCEDURE

580—5.95(455A) Protected streams.

5.95(1) *Protected streams defined.* Protected streams shall include: All streams listed in 5.95(2); and other streams designated as protected streams pursuant to the procedures of 5.96(455A), which upon designation will be listed in 5.95(2).

5.95(2) *List of protected streams.* Streams designated as protected streams are the following:

ALLAMAKEE COUNTY

Bear Creek, mouth to west county line;
Clear Creek, mouth to north line of section 15, T100N, R5W;
Clear Creek, mouth to west line of section 25, T99N, R4W;
Cota Creek, mouth to west line of section 10, T97N, R3W;
Dousman Creek, mouth to south county line;
French Creek, mouth to east line of section 23, T99N, R5W;
Hickory Creek, mouth to south line of section 28, T96N, R5W;
Irish Hollow Creek, mouth to north line of section 17, T100N, R4W;
Little Paint Creek, mouth to north line of section 30, T97N, R3W;
Norfolk Creek, mouth to confluence with Teeple Creek (section 24, T97N, R6W);
Paint Creek, confluence with Little Paint Creek to road crossing in section 18, T97N, R4W;
Patterson Creek, mouth to east line of section 3, T98N, R6W;
Silver Creek, mouth to south line of section 31, T99N, R5W;
Suttle Creek, mouth to south county line;
Teeple Creek, mouth to west line of section 11, T97N, R6W;
Trout Run, mouth in section 16, T98N, R4W through one mile reach;
Unnamed tributary to the Yellow River, mouth to north line of section 12, T96N, R5W;
Unnamed tributary to Village Creek, mouth to west line of section 23, T98N, R4W;
Upper Iowa River, from Lane's Bridge at river mile 6 to west county line;
Village Creek, mouth to west line of section 19, T98N, R4W;
Waterloo Creek, mouth to north county line;
Wexford Creek, mouth to west line of section 25, T98N, R3W;
Yellow River, mouth to west county line;

CLAYTON COUNTY

Bear Creek, south line of section 18, T91N, R4W to south line of section 26, T91N, R5W;
Bloody Run, mouth to source;
Brownfield Creek, mouth to spring source (section 31, T91N, R3W);
Buck Creek, mouth to west line of section 9, T93N, R3W;
Cox Creek, confluence with Kleinlein Creek (a.k.a. Spring Creek) to south line of section 12, T91N, R6W;
Dry Mill Creek, mouth to west line of section 9, T93N, R4W;
Hewett Creek, mouth to south line of section 29, T92N, R6W;
Kleinlein Creek, (a.k.a. Spring Creek) mouth to spring source (section 10, T91N, R6W);
Maquoketa River, south county line to west county line;
Miners Creek, mouth to west line of section 1, T92N, R3W;
Mink Creek, mouth (section 30, T93N, R6W) to west county line;
Mossey Glen Creek, mouth (section 3, T91N, R5W) to south line of section 3, T91N, R5W;
North Cedar Creek, mouth (section 8, T94N, R3W) to source;
Pecks Creek, mouth to south line of section 15, T91N, R3W;
Pine Creek, mouth (section 26, T91N, R4W) to confluence with Brownfield Creek (section 25, T91N, R4W);

Point Hollow Creek, (a.k.a. White Pine Creek) mouth (section 31, T91N, R2W) to south county line;

Sny Magill Creek, (a.k.a. Magill Creek) mouth to source;

South Cedar Creek, (a.k.a. Cedar Creek) north line of section 7, T92N, R3W to north line of section 24, T93N, R4W;

Steeles Branch, mouth (section 26, T91N, R4W) to south county line;

Turkey River, confluence with Volga River to west county line;

Unnamed tributary to Sny Magill Creek, (a.k.a. West Fork Sny Magill Creek) mouth (section 7, T94N, R3W) to west line of section 7, T94N, R3W;

DELAWARE COUNTY

Bloody Run Creek, mouth (section 1, T90N, R3W) to spring source (section 3, T90N, R3W);

Fenchel Creek, mouth (section 5, T90N, R6W) to Richmond Springs (center of section 4, T90N, R6W);

Fountain Spring Creek, (a.k.a. Odell Branch) mouth (section 10, T90N, R4W) to source;

Little Turkey River, north county line to south line of section 11, T90N, R3W;

Maquoketa River, confluence with South Fork Maquoketa River (section 16, T90N, R6W) to north county line;

Schechtman Branch, mouth to south line of section 14, T90N, R4W;

South Branch Fountain Spring Creek, mouth (section 16, T90N, R4W) to west line of section 16, T90N, R4W;

Spring Branch, mouth (section 10, T88N, R5W) to north line of section 2, T88N, R5W;

Steeles Branch, north county line to south line of section 3, T90N, R4W;

Twin Springs Creek, mouth (section 2, T90N, R4W) to spring source (section 12, T90N, R4W);

DUBUQUE COUNTY

Bloody Run, mouth (section 34, T90N, R2E) to west line of section 21, T90N, R2E;

Catfish Creek, south line of section 9, T88N, R2E to source;

Cloie Branch, mouth (section 5, T89N, R2E) to west line of section 5, T89N, R2E;

Hogans Branch, mouth (section 36, T89N, R1W) to west line of section 9, T88N, R1W;

Little Maquoketa River, confluence with Hogans Branch (section 36, T89N, R1W) to north line of section 5, T88N, R1W;

Middle Fork Little Maquoketa River, west line of section 31, T90N, R1E to north line of section 33, T90N, R1W;

Point Hollow Creek, (a.k.a. White Pine Creek) north county line to spring source (section 8, T90N, R2W);

FAYETTE COUNTY

Bass Creek, mouth (section 3, T95N, R9W) to west line of section 3, T95N, R9W;

Bear Creek, mouth to west line of section 6, T92N, R7W;

Bell Creek, mouth (section 10, T94N, R7W) to west line of section 8, T94N, R7W;

Brush Creek, confluence with Bear Creek (section 8, T92N, R7W) to east line of section 17, T92N, R7W;

Grannis Creek, mouth (section 30, T93N, R7W) to south line of section 31, T93N, R7W;

Maquoketa River, east county line to north line of section 24, T91N, R7W;

Mink Creek, east county line to west line of section 15, T93N, R7W;

Otter Creek, mouth to confluence with unnamed tributary (a.k.a. Glovers Creek) in section 22, T94N, R8W;

Turkey River, east county line to north county line;

Unnamed tributary to Otter Creek, (a.k.a. Glovers Creek) mouth (section 22, T94N, R8W) to west line of section 15, T94N, R8W;

HOWARD COUNTY

Beaver Creek, mouth to south line of section 29, T100N, R13W;

Bohemian Creek, east county line to west line of section 2, T97N, R11W;

Nichols Creek, east county line to west line of section 23, T100N, R11W;

Staff Creek, mouth to west line of section 27, T100N, R14W;
Upper Iowa River, all of the river located in Howard County;
Turkey River, from east county line to Vernon Springs

JACKSON COUNTY

Brush Creek, north line of section 23, T85N, R3E to north line of section 1, T85N, R3E;
Cedar Creek, mouth (section 30, T85N, R3E) to east line of section 29, T85N, R3E;
Little Mill Creek, mouth to west line of section 29, T86N, R4E;
Mill Creek, confluence of Little Mill Creek (section 13, T86N, R4E) to west line of section 6, T86N, R4E;
Ozark Spring Run, mouth (section 5, T85N, R1E) to spring source in center of section 32, T86N, R1E;
Pleasant Creek, west line of section 11, T85N, R4E to west line of section 15, T85N, R4E;
Unnamed tributary to Lytle Creek, mouth (section 7, T86N, R2E) to west line of section 11, T86N, R1E;

MITCHELL COUNTY

Beaver Creek, mouth to north line of section 19, T99N, R15W;
Burr Oak Creek, west line of section 10, T98N, R16W to north line of section 5, T98N, R16W;
Rock Creek, confluence with Goose Creek (section 35, T98N, R18W) to north line of section 26, T98N, R18W;
Spring Creek, mouth to north line of section 8, T97N, R16W;
Turtle Creek, mouth to east line of section 7, T99N, R17W;
Wapsipinicon River, Town of McIntire to north line of section 20, T100N, R15W;

WINNESHIEK COUNTY

Bear Creek, east county line to source;
Bohemian Creek, mouth to west county line;
Canoe Creek, county road W38 (SE ¼, section 24, T99N, R8W) to west line of section 8, T99N, R8W;
Coon Creek, mouth to road crossing in NW ¼, section 13, T98N, R7W;
Dry Run, mouth to west line of section 36, T98N, R9W;
East Pine Creek, mouth (section 28, T100N, R9W) to north county line.
Martha creek, mouth to west line of section 13, T99N, R10W;
Middle Bear Creek, mouth to north line of section 16, T100N, R7W;
Nichols Creek, (a.k.a. Bigalk Creek) mouth to west county line;
North Bear Creek, mouth to north county line;
North Canoe Creek, mouth to north line of section 2, T99N, R8W;
Pine Creek, mouth (section 10, T99N, R9W) to north county line;
Pine Creek, mouth (section 26, T99N, R7W) to north line of section 21, T99N, R7W;
Silver Creek, mouth to north line of section 26, T100N, R9W;
Smith Creek, mouth to south line of section 33, T98N, R7W;
Ten Mile Creek, mouth to confluence with Walnut Creek (section 18, T98N, R9W);
Trout Creek, mouth (section 9, T98N, R7W) to confluence with Smith Creek (section 21, T98N, R7W);
Trout Creek, mouth (section 23, T98N, R8W) to confluence with unnamed tributary (a.k.a. Trout Run) in section 27, T98N, R8W;
Turkey River, south county line to west county line;
Twin Springs Creek, mouth (section 17, T98N, R8W) through one half mile reach;
Unnamed tributary to Trout Creek, (a.k.a. Trout Run) mouth to south line of section 27, T98N, R8W;
Unnamed tributary to Upper Iowa River, (a.k.a. Casey Springs Creek) mouth (section 25, T99N, R9W) to west line of section 26, T99N, R9W;
Unnamed tributary to Upper Iowa River, (a.k.a. Coldwater Creek) mouth (section 32, T100N, R9W) to north county line;
Upper Iowa River, east county line to west county line;
Yellow River, east county line to confluence with North Fork Yellow River (section 13, T96N, R7W);

580—5.96(455A) Protected stream designation procedure.

5.96(1) Eligible petitioners. Any state agency, governmental subdivision, association or interested person may petition the council, according to the rules of this division, to designate a stream as a protected stream. However, if the stream had been the subject of a similar petition filed within the past two years, the council shall not accept a petition except upon a majority vote.

5.96(2) Content of petition. The petition for protected stream designation shall contain the following: (a) Names, addresses, and the phone numbers of the petitioners; (b) location of the stream nominated for designation; (c) reasons why the stream is nominated, each reason being stated in a separate numbered paragraph; and (d) adequate evidence supporting the reasons for nomination. Eleven copies of the petition shall be filed with the director of the council.

5.96(3) Director review of petition. Upon receipt of a petition for designation of a stream as a protected stream, the director of the INRC shall make an initial determination as to whether the petition complies with 5.96(2) and whether the stream has a sufficient number of environmental amenities listed in 5.96(7) that further investigation is warranted. If the director finds the petition not in compliance with 5.96(7) or that further investigation is not warranted, agency proceedings to designate the nominated stream as protected shall cease and the petitioner shall be notified of the reasons for refusing to accept and act upon the petition. A petitioner aggrieved by the director's decision may appeal the decision within thirty days to an executive committee of at least three council members.

5.96(4) Notice of initiation of protected stream designation proceedings. Upon director or council acceptance of a petition nominating a stream for protected stream designation, the director of the INRC shall do the following:

a. Notice of intended action. Publish a notice of intended action in the Iowa Administrative Code biweekly supplement, the content of which identifies the nominated stream and requests public input into the protected stream designation procedure.

b. Council notification. Notify the council at the next meeting of the filing of a petition for protected stream designation;

c. Interested agency notification. Notify regional planning commissions, county board of supervisors, city councils, soil conservation districts through which the nominated stream runs, the Iowa conservation commission, the department of environmental quality, the department of soil conservation, the department of agriculture and the Iowa geological survey;

d. County-wide notification. Publish notice of the filing of the petition in a newspaper of general circulation for two consecutive weeks in each county in which the nominated stream is located.

5.96(5) Director investigation report. Upon director or council acceptance of a petition nominating a stream for protected stream designation, the director of the INRC shall do the following:

a. Investigation. Supervise a field staff investigation of the stream nominated for protected stream status for the purpose of assessing the effect that extending INRC flood plain regulation would have on the factors listed in 5.96(7);

b. Report. File a report with the council at a monthly council meeting held within one year after the notice of intended action was published; the report shall specifically state findings of fact or each reason alleged in the petition in support of a protected stream designation and convey a staff recommendation, including any minority recommendations and recommendations of other governmental bodies and interested persons on whether or not the stream should be regulated;

c. Interagency co-ordination. Invite the Iowa conservation commission, the department of environmental quality, Iowa geological survey, and any other agency or governmental subdivision expressing an interest in the proceeding to participate in the field investigation and preparation of the report, and request their assessment of whether extension of INRC jurisdiction over the nominated stream would have either an adverse or beneficial impact on

their agency's water resource programs.

5.96(6) *Council determination.* After receipt of the director's report and the public has had an opportunity to submit written comments and make an oral presentation, the council shall make a determination in writing whether or not to designate the stream identified in the petition as a protected stream, except that the council may continue the proceeding as needed to collect or analyze additional data. The council's determination shall be based on the factors listed in 5.96(7), as applied to the nominated stream and its flood plain and, to other relevant streams and flood plains located in the same watershed as the nominated stream, as well as any underground water system hydrologically connected to the nominated stream.

5.96(7) *Basis for protected stream designation.* Council determination of whether or not to classify a stream as a protected stream shall be based on the balancing of the costs and benefits of possible flood plain development as it would affect the following factors: (a) Maintenance of stream fishery capacity; (b) water quality preservation; (c) wildlife habitat preservation; (d) flood control; (e) flood plain management; (f) existing flood plain developments; (g) soil erosion control; (h) the needs of agriculture and industry; (i) the maintenance and enhancement of public recreational opportunities; (j) the public's health, welfare and safety; (k) compatibility with the state water plan; (l) property and water rights of landowners; (m) ~~other factors relevant to the control, development, protection, allocation, and utilization of the nominated stream and water hydrologically connected to it.~~

580—5.97(455A) **Protected stream declassification procedure.** The procedure for removing a stream from the list of protected streams in 5.95(2) of these rules shall be the same as the rules for designation of a stream as a protected stream, except that all notices, investigations and reports shall be addressed to the issue of declassification.

These rules are intended to implement sections 455A.1, 455A.2, 455A.17, 455A.18 and 455A.33 of the Code.

[Filed 10/9/75, Notice 8/25/75—published 10/20/75, effective 11/24/75]

[Filed 5/5/78, Notice 3/8/78; Amended Notice 4/19/78—published 5/31/78, effective 7/5/78]

[Filed 9/14/78, Notice 7/12/78—published 10/4/78, effective 11/8/78]

[Filed 11/13/78, Notice 9/20/78—published 11/29/78, effective 1/3/79]

Appendix I

Model Solid Waste Agency Agreement

INTERGOVERNMENTAL AGREEMENT CREATING
THE _____ COUNTY SOLID WASTE
MANAGEMENT COMMISSION
(AMENDING AND SUPERSEDING PRIOR JOINT AGREEMENT)

This agreement is made and entered into as of _____, 197_,
by, between and among the Town of _____, Iowa, the Town of _____,
Iowa, the Town of _____, Iowa, the Town of _____, Iowa, the Town
of _____, Iowa, the Town of _____, Iowa, the Town of _____,
Iowa, the Town of _____, Iowa, the Town of _____, Iowa, the Town
of _____, Iowa, the Town of _____, Iowa, the Town of _____,
Iowa, the Town of _____, Iowa, and the Town of _____, Iowa, (all
parties being hereinafter called the "Municipalities").

WITNESSETH:

ARTICLE I.

CREATION OF THE _____ COUNTY SOLID
WASTE MANAGEMENT COMMISSION

Pursuant to the provisions of Chapter 28E, Code of Iowa, 1973, the
Municipalities hereby form and create, as a public body corporate and
politic and separate legal entity, the _____ County Solid Waste Manage-
ment Commission (hereinafter called the "Commission").

ARTICLE II.

DURATION

Section 1. Duration. The duration of this Commission shall be per-
petual, unless terminated or dissolved as hereinafter provided.

ARTICLE III.

PURPOSE

Section 1. Purpose. The purpose of the agreement is to create a

joint _____ County Solid Waste Management Commission. This Commission is established for the purpose of developing, operating and maintaining Solid Waste Facilities for and on behalf of the units of government who are parties to this agreement. In furtherance of said purpose, this Commission is intended, and is hereby declared to be, a combination of units of government organized for purposes of providing solid waste management in _____ County, Iowa.

ARTICLE IV.
POWERS AND DUTIES

Section 1.¹ Powers. The Commission shall be a public body corporate and politic and separate legal entity exercising public and essential governmental functions to provide for the public health, safety and welfare and shall have the following powers:

- (a) To adopt and have a common seal and to alter the same at pleasure.
- (b) To sue and be sued.
- (c) To acquire, hold, use and dispose of the reserves derived from the operation of its facilities and other moneys of the Commission.

¹ alternate section 1 of Article IV:

Section 1. Powers. The Commission will have the power to do any and all things necessary to carry out the requirements of Chapter 455B of the 1973 Code of Iowa, such powers to include but not limited to the power and authority to buy, sell, lease, mortgage, encumber any and all real estate needed and any and all personal property to include machinery and equipment.

(d) To acquire, hold, use and dispose of other personal property for the purposes of the Commission.

(e) To acquire by purchase, gift, lease or otherwise, real property and easements therein, necessary or useful and convenient for the operation of the Commission, subject to all liens thereon, if any, and to hold and use the same, and to dispose of property so acquired no longer necessary for the purposes of this Commission.

(f) To accept gifts or grants of real or personal property, money, material, labor or supplies for the purpose of the Commission, and to make and perform such agreements and contracts as may be necessary or convenient in connection with the procuring, acceptance or disposition of such gifts or grants.

(g) To make and enforce by-laws or rules and regulations for the management and operation of its business and affairs and for the use, maintenance and operation of its facilities and any other of its properties, and to annul the same.

(h) To do and perform any acts and things authorized by Chapters 28E and 28F, Code of Iowa, 197 , and by this Agreement, under, through or by means of its officers, agents and employees, or by contracts with any person.

(i) To enter into any and all contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient or desirable for the purposes of the Commission or to carry out any powers expressly given by this Agreement.

(j) To cause the disposal of solid waste material originating within each Municipality pursuant to the contract between the Commis-

sion and the Municipality pertinent thereto.

(k) To fix, establish and maintain such rates, tolls, fees, rentals or other charges for the services and facilities of the Commission sufficient to pay at all times the cost of maintaining, repairing and operating said facilities, to pay the principal of and interest on bonds of the Commission then outstanding, to provide for ~~replacements, depreciation and necessary extensions and enlargements~~ and to provide a margin of safety.

(l) To make or cause to be made studies and surveys necessary or useful and convenient to carrying out the functions of the Commission.

(m) To contract with and compensate consultants for professional services including but not limited to architects, engineers, planners, lawyers, accountants, rate specialists, and all others found necessary or useful and convenient to the stated purposes of the Commission.

(n) To prepare and recommend to member Municipalities local ordinances governing refuse collection transportation and disposal, regulation of private collection haulers, land use regulations, sanitation, burning of private or public wastes, incineration standards and other such regulations as may from time to time be required.

(o) To exercise such powers relative to the efficient disposal of solid waste as are available under then existing laws to each member Municipality as is necessary or useful and convenient to carrying out the functions of the Commission within such member Municipality, as such functions are defined by the service contract en-

tered by and between that member Municipality and the Commission.

(p) To provide for a system of budgeting, accounting, auditing and reporting of all Commission funds and transactions, for a depository, and for the bonding of employees.

(q) To consult with representatives of Federal, State and local agencies, departments and their officers and employees and to contract with such agencies and departments.

(r) To exercise such other powers as are available under then existing law to each member Municipality as is necessary or useful and convenient to carrying out the functions of the Commission within such member Municipality, as such functions are defined by the service contract entered by and between that member Municipality and the Commission.

(s) To borrow money, make and issue negotiable bonds, certificates, bond anticipation notes, refunding bonds and notes and to secure the payment of such bonds, certificates, refunding bonds and notes or any part thereof by a pledge of any or all of the Commission's net revenue and any other funds which it has a right to, or may hereafter have the right to pledge for such purposes.

(t) To provide in the proceeding authorizing such obligations for remedies upon default in the payment of principal and interest on any such obligations including but not limited to, the appointment of a trustee to represent the holders of such obligations in default and the appointment of a receiver of the Commission's property, such trustee and such receiver to have the powers and duties provided for in the proceeding authorizing such obligations.

(u) To receive funds from each member Municipality as payment

for providing disposal of domestic solid waste from residents therein; provided, however, that in lieu of receiving such funds from member Municipalities and at the discretion of the Commission, it shall have the power to bill individuals resident in such Municipalities directly for payment for disposal services and to receive such payments, for and on behalf of Municipalities.

~~(v) To hire employees, fix their compensation, benefits, personnel rules and regulations, and terminate their employment.~~

(w) To borrow money and accept grants, contributions or loans from, and to enter into contracts, leases, or other transactions with municipal, county, State or the Federal Government.

Section 2. Duties of the Commission. a) The duties of this Commission shall be to provide members with satisfactory solid waste disposal facilities and to maintain a cooperative relationship with individual governmental units. b) The duties shall also include adopting by-laws for the operation of the Commission and providing member governments with copies of the official by-laws.

ARTICLE V FINANCING

Section 1. In the performance of its duties, the Commission may cooperate with, contract with, and accept and expend funds from federal, state or local agencies, public or semi-public, or private individuals or corporations, and shall carry out such cooperative undertakings and contracts.

Section 2. The Commission shall enter into necessary contracts and make expenditures for the purchase, lease or rent of required land, fa-

cilities, equipment and supplies necessary to carry out the purpose of this agreement. The Commission shall also have the power to sublet or rent any property owned or leased and the income therefrom shall accrue to the _____ County Solid Waste Management Commission.

Section 3. The expenditures of the Commission, exclusive of gifts, grants or contract receipts, shall be appropriated or provided to the Commission by the member governing bodies.

Section 4. The Commission shall prepare a budget based on calendar years for the operation of the Commission to be adopted in June of the year preceding the budget year.

Section 5. The Commission shall request each Municipality and/or county unit to provide in its budget for its share of the Commission budget.

Section 6. The Commission, for the purpose of allocating portion of the Commission budget for the retirement of the original bonds and interest for each Municipality, shall adopt a percentage formula for the Commission membership based upon population as shown by the official 1970 federal census, and, shall adopt a similar formula for any subsequent bonds, interest and improvements based upon the latest official federal census for each Municipality.

The Commission, for the purpose of allocating the portion of the budget attributable to each Municipality for operational costs, shall adopt a percentage formula, as follows:

(_ %) percent for the City of _____ ;

(_ %) percent for the rural area (outside any corporate

limits);

(__%) percent for the remaining incorporated cities and towns, divided pursuant to the percentage of population each city or town bears to the total population of all incorporated cities and towns who are Commission members, (except _____) by the latest official federal census then in effect for each Municipality.

Upon completion of any subsequent official federal census, for any Municipality, the aforesaid percentages shall be altered to account for the increase or decrease in the population of any of the three groups as that increase or decrease bears to the base population year, 1970, and the aforesaid base percentages, it being understood that the budget for operational costs has been and will continue to be weighted for the purpose of this Agreement to account for the proximity of the landfill site and the degree of use contemplated.

Section 7. The share of each budget from each Municipality shall be due and payable to the Treasurer of the Commission in quarterly payments to be made within 30 days after the beginning of the quarter of the Commission's budget year.

Section 8. Special appropriations shall be made by the parties hereto for funding the operation of the Commission prior to the establishment of the budget cycle.

Section 9. Any special or budgetary appropriation adopted by the Commission shall be a membership requirement of each and every Municipality. The failure of a Municipality to pay over to the Commission the allotted share of a Commission budget may be considered a momentary

withdrawal of that Municipality and a default of this Agreement.

ARTICLE VI
ORGANIZATION

(a). The governing body of the Solid Waste Management Commission shall be designated as the Commission (hereinafter called the "Commission"), whose membership shall consist of an elected representative of the governing body of each participating governmental jurisdiction, or his designated substitute, which substitute shall be a member of and approved by the body he represents. Each member of the Board shall have one vote for each one thousand population or fraction thereof, residing in the governmental jurisdiction he represents. Such population shall be ascertained from the most recent federal census or special federal federal census, which ever is latest, for that jurisdiction. Where the governmental jurisdiction is a county, such population shall be that of the unincorporated portion of the county.

(b). There shall be one class of membership in the Commission, which shall be a full membership and each member Municipality shall designate by resolution of its governing body its membership within the Commission.

(c). A quorum of the Commission shall consist of a majority of the entire Board membership, regardless of the number of votes held by each member present and also of a majority of the total number of votes of all members whether or not present.

(d). A majority vote of the Board or of the members of the Board when required by this Agreement as authorization for or as a prerequisite to any certain Board action shall mean such a majority or such a fraction

of the total votes represented by the representatives constituting the quorum of the Board at the meeting at which such action is considered.

(e). The Chairman and the Vice-Chairman of the Commission shall be elected by majority of Commission membership and shall serve for a term of one year, or until their respective successors in office are chosen. The incumbent in each said office may succeed himself; and annual elections shall be held.

(f). The Commission shall hold at least one meeting during each six months of the year on dates and at places which shall be determined by the Commission. Special meetings may be held at the call of the Chairman, Vice-Chairman or majority of the membership of the Commission.

(g). The Commission shall elect a five member executive board composed of members of the solid waste management commission which shall have and exercise such of the powers of the Commission, during the period of time between meetings of the Commission, as may be lawfully delegated, including without limitation conducting surveys and establishing and operating the solid waste disposal site. At all times ___ members of such executive board must be from the city of _____ and ___ members shall also be from the _____ County Board of Supervisors and ___ members shall be elected from the members of the Commission as members at large. The terms of this executive board shall be staggered with one member being replaced each year so that the terms of such board will be staggered from one year to five year terms thereafter and members of the executive board may succeed themselves. In the event that a member of the board is replaced by his municipality as a representative to the Commission, his successor as such representative shall succeed to his mem-

bership on the executive board for the balance of his term. The board members for the initial term will draw ballots to determine their initial term in office. The actions of this executive board shall be subject to call of the executive board. Neither the Commission nor the executive board shall have the authority to regulate the manner and method of pickup of any solid waste in any municipality nor shall they have the authority to bind any municipality as to charges for pick-up and delivery unless said municipality shall agree to such regulations by written consent. The executive board may hire or appoint a Director (subject to the approval of the Commission) and such other supervisory, clerical and other personnel as are necessary to carry out the functions of the Commission and the executive board. The executive board shall fix their compensation and benefits, and shall approve all personnel rules and regulations pertaining thereto.

(h). The Director shall be the Secretary and Treasurer of the Commission and shall have the authority, duties and obligations normally associated with these offices, including but not limited to the receipt and disbursement of funds and the preparation and submission of quarterly and annual financial reports to the commission.

(i). The executive board may employ legal counsel, who may be a paid employee of one of the members, and who may receive compensation set by the Commission for the performance of his duties.

(j). The Commission shall cause this Agreement to be filed with the Secretary of State and with the County Recorder of each county in which a member is located and shall notify such officers of the name of any municipality withdrawing from or joining the Commission.

(k). Additional municipalities may be added to the membership of the Commission upon a majority vote of all the members of the Commission.

(1). In the event an additional municipality shall apply for membership in the Commission and said application is considered and approved by the then existing Board, then said municipality may be added to the membership, provided, however, that said additional municipality as a condition of membership agrees to abide by the terms of this agreement as set out herein and possess legal power and authority to do so.

ARTICLE VII
TECHNICAL COOPERATION FROM
MUNICIPALITIES AND COUNTIES

1. The municipalities agree to respond to reasonable requests of its consultants or employees for the purposes of this Agreement, and to assure that engineers, architects and consultants hired by the Municipalities release materials, data and other pertinent items paid for by public funds to the Commission staff to aid in the efficient and effective accomplishment of such purposes.

ARTICLE VIII
NOT FOR PROFIT

It is expressly understood that the Commission is to be operated not for profit and no profit or dividend will inure to the benefit of any person.

ARTICLE IX
SUSPENSION OF VOTING RIGHTS AND SERVICES

During a period of delinquency by a Municipality in the payment to the Commission of its share of a budget and before such delinquency is determined a voluntary withdrawal, such Municipality shall not be enti-

tled to the services of the Commission, nor shall the Municipality be entitled to vote on matters coming before the Board, unless such delinquency shall be waived for voting purposes by a majority vote of the remaining members of the Commission.

ARTICLE X

1. In the event of the withdrawal of any Municipality from the Commission, such withdrawing Municipality shall be entitled to a pro-rata share of the value of the real and personal property of the Commission. Such share shall be calculated as the percentage of the then value of said property based on the ratio of the funds the withdrawing Municipality has provided to the Commission during the period of this Agreement to the sum of all funds provided by all Municipalities. Funds for the payment of the pro-rata share of such property value shall be provided for in the quickest possible manner so as not to threaten the financial solvency of the Commission. A withdrawing Municipality may waive its pro-rata share of any real or personal property in the possession of the Commission. Any such withdrawal must be preceded by a one (1) year formal notice to the Commission.

2. The Commission shall be completely dissolved and this Agreement terminated only upon the affirmative majority vote of the Commission which vote shall specify the date and time such dissolution shall be effective which date and time may be amended at or before such time but not thereafter by the same affirmative majority vote of the Commission. The Commission shall not be dissolved at any time that revenue bonds or obligations issued in anticipation of revenue bonds have been issued and are outstanding. The date of dissolution shall not be set within

the one year interval immediately following the date of the majority vote to dissolve the Commission.

3. In the event of such a vote to completely dissolve the Commission, any real or personal property shall be sold prior to the date and time aforesaid and the proceeds prorated among the Municipalities at the time of dissolution on the basis of the sum of the portions of the budget for the Commission provided by them for and during the period of this Agreement; provided, however, that the proceeds of the sale of land acquired by the Commission shall be divided among the member municipalities in proportion to their respective original contributions towards acquisition of said land. The current budget year shall be used as one of the years in the calculation if all Municipalities have made their proper contributions hereunder and the balance remaining of the funds collected during the current year shall be refunded to the contributors before determining the value of the assets of the Commission at dissolution, and said year shall not be used in calculating the shares.

4. Anything herein to the contrary notwithstanding, Municipalities may not withdraw or in any way terminate, amend, or modify in any manner to the detriment of bondholders this agreement or any contract for the services of the Commission if revenue bonds or obligations issued in anticipation if the issuance of revenue bonds have been issued and are outstanding. Any revenue bonds for the payment and discharge of which, upon maturity or upon redemption prior to maturity, provision has been made through the setting apart in a reserve fund or special trust account created pursuant to this Agreement to insure the payment thereof, of moneys sufficient for that purpose or through the irrevocable segregation for

that purpose in a sinking fund or other fund or trust account or moneys sufficient therefor, shall be deemed to be no longer outstanding and unpaid within the meaning of any provision of this Agreement.

ARTICLE XI
MANNER OF ACQUIRING AND HOLDING PROPERTY

1. The Commission may lease, purchase, or acquire by any other means, from members or from any other source, such real and personal property as is required for the operation of the Commission and the carrying out of the purpose of this Agreement. The Commission shall maintain title to all such property in the name of the Commission and shall require the Secretary to maintain an inventory. Property, materials and services shall be acquired or disposed of only upon a majority vote of a quorum attending a duly called Commission meeting, provided, however, that by the same vote the Commission may authorize the Director to expend such funds as the Commission may direct for other authorized purposes of the Commission.

All conveyances of real property owned or held in the name of the Commission shall be made and executed on behalf of the Commission shall be made and executed on behalf of the Commission by the Chairman or Vice-Chairman and Secretary of the Commission.

ARTICLE XII
AMENDMENT OF AGREEMENT

Amendment of the Agreement shall be by the same procedures by which the Agreement was approved and executed; provided, however, that this Agreement shall never be amended in any way so as to adversely affect the interests of the holder or holders of any bonds or other obligations of the Commission.

ARTICLE XIII
ARBITRATION OF DISPUTES BETWEEN MEMBERS

Except as may be otherwise required by law, the Municipalities and each of them agree that any disputes which may arise between them and the Commission, involving interpretation of this Agreement, shall be resolved whenever possible by voluntary negotiation in which the Director may act as mediator if Commission interests do not appear to be present in the issues presented or represent the Commission if the issues do affect the Commission. Such negotiations shall however not be obligatory and may if commenced be terminated at any time by withdrawal of any part to the conflict. At any time from and after it first appears that such a conflict exists, including the period of voluntary negotiation proposes, any party to such a conflict or whose interests as a party hereto are affected by a conflict may commence the processes of arbitration hereinafter described in the following manner:

(a). Any one or more Municipalities interested in such a dispute or the Commission shall serve notice in the manner of service of an original notice under the Iowa Rules of Civil Procedure upon all the adverse parties above referred to stating as simply as possible the points of difference between the parties and stating an intent to initiate such arbitration procedures and the completed service of such notice shall be deemed initiation of such procedures. Within 10 days thereafter the serving parties (acting jointly if more than one), jointly and severally identified as "Part X: for the purposes of this Article, and the adverse

parties served (acting jointly if more than one), jointly and severally identified as "Party Y" for the purposes of this Article, shall each select one arbitrator and shall notify the other in writing of the name and address of the arbitrator selected. The arbitrators so selected shall within ten (10) days after being notified of their selection select a third arbitrator, and after doing so shall in writing forthwith notify ~~Party X and Party Y of the name and address of such third arbitrator.~~ The three arbitrators selected as aforesaid shall immediately proceed to determine the points of difference stated in such notice, and the conclusion of said arbitrators, or a majority of them shall be reduced to writing and submitted in writing to Party X and Party Y, and the determination so made shall be binding upon Party X and Party Y and shall form the basis for future guidance of the parties on the issues so resolved.

(b). Provided in paragraph (a) above, another interested party may apply to Secretary of State of the State of Iowa, for the appointment of the second arbitrator, which application shall be upon ten (10) days' written notice to the other party, and such Secretary of State shall appoint the second arbitrator. If the two arbitrators fail within ten (10) days after their appointment to agree upon the third arbitrator either of the parties, acting jointly, if multiple in composition, or either of the arbitrators, whether appointed by the parties or by such Secretary of State, may make application to such Secretary of State upon not less than three (3) days' notice in writing to each of the parties and to the other arbitrators and upon such application such Secretary of State shall appoint the third arbitrator. The active contestants within each party shall pay the expense of its arbitrator and the expense incurred by it, and the compensation of the third arbitrator shall be divided equally as between such parties and

paid by the active contestants in each as above provided. In the event that said arbitrators, or a majority of them shall then fail to agree upon a determination of the issues within ten (10) days after the matter is submitted to them, said arbitrators shall be discharged and the proceedings had before them shall be abandoned, and if, for the foregoing or any other reason, any arbitration shall fail, a new arbitration shall be immediately commenced by naming new arbitrators as above provided, and the parties shall so continue until a determination shall be made by such arbitrators or a majority of them as herein provided.

(c). Any vacancy on said board of arbitrators may be filled by the party originally entitled to select such arbitrator, and if such party neglects to do so for a period of ten (10) days after such vacancy, said shall be filled, on three (3) days' written notice by the party not in default, by an appointment by such Secretary of State.

(d). No arbitrator shall be appointed hereunder unless he be entirely disinterested, no related to either of the parties or to another arbitrator, and all arbitrators must be of good repute, known integrity, well informed concerning municipal corporations and the rules and regulations to which they are legally subject and must have been resident freeholder of the State of Iowa, for at least five (5) years prior to appointment.

(e). It is the intent of this Agreement that recourse to arbitration as prescribed shall be a mandatory condition precedent to the invocation of a judicial remedy or judgment and that such arbitration shall be final and binding upon the parties thereto save and except only as the law requires.

(f). For the purposes of this Article all the Municipalities which are parties to this Agreement shall be named in either Party X or Party Y. Party Y shall consist of parties known to be adverse to Party X and all other Municipalities, party to this Agreement, which have not officially declared their intent to join in the initiation of such arbitration proceedings upon the date of delivery of the initiating notice for service. Selection of an arbitrator by Party Y shall, however, be by the real parties in interest to the issues presented.

ARTICLE XIV

That a certain Agreement to cooperate heretofore entered into by certain of the undersigned creating _____ County Solid Waste Management Commission is hereby amended and superseded by this Agreement.

This Agreement may be executed by one or more of the parties hereto separately in any number of counterparts, each of which when so executed and delivered shall be part of the original, and such counterparts together shall constitute one and the same instrument.

In testimony whereof, said Municipalities have caused this Agreement to be executed on their behalf by their duly authorized officers, and the same to be attested by their Clerks or Auditor, and the Corporate seal of said Municipalities to be affixed hereto all as of the day and year first above written.

(SEAL)

County of _____, Iowa

By _____
Chairman

Attest:

Auditor

(SEAL)

Town of _____, Iowa

By _____
Mayor

Attest

Clerk

Appendix J

Governors Designation of Authority

Letter to Walter J. Heine from Elmer H. Verneer of August 30, 1979

Letter to Dr. Kathleen Q. Camin from Governor Robert D. Ray
Designating Solid Waste Planning and Implementation Agencies



ROBERT D. RAY
GOVERNOR

Office of the Governor

STATE CAPITOL
DES MOINES, IOWA 50319

ELMER (DUTCH) VERMEER
ADMINISTRATIVE ASSISTANT

August 30, 1979

Mr. Walter N. Heine, Director
Office of Surface Mining
Reclamation and Enforcement
U.S. Department of the Interior
Washington, D. C. 20240

Dear Mr. Heine:

Governor Ray has hereby designated the Department of Soil Conservation as the agency to carry out all responsibilities and duties with regard to the provisions of Public Law 95-87, "The Surface Mining Control and Reclamation Act of 1977," and the regulations adopted thereto.

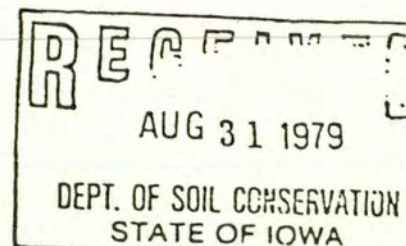
The Director of the Department of Soil Conservation, Mr. Larry Vance, is authorized to sign agreements between the Department and the Office of Surface Mining.

Sincerely,

Elmer H. Vermeer
Administrative Assistant

~~EV:kjd~~

✓ cc: Mr. Larry Vance



Dr. Kathleen Q. Camin
May 17, 1978
Page Two

12. Region XII Council of Governments
13. Southwest Iowa Planning Council
14. Southern Iowa Council of Governments
15. Area XV Regional Planning Commission
16. Southeast Iowa Regional Planning Commission
17. Metropolitan Area Planning Agency
18. Linn County Regional Planning Commission
(for Linn County)
19. Johnson County Regional Planning Commission
(for Johnson County)

Please see the enclosed designation of responsibilities by waste type in a simplified, matrix format. Regardless of whether local, regional or a state designation has been made, integrated consultation among all three levels will be essential to Iowa's achieving further success in its solid waste programs.

It is also my hope that federal funds appropriated by Congress to do regionalized solid waste planning become available to the designated planning agencies in Iowa as soon as possible to complement Iowa's good faith efforts at planning made thus far.

Sincerely,

Robert D. Ray
Governor

RDR:kjd
Enclosure

(DU,
Larruc)