

## CHAPTER 261

## ENVIRONMENTAL INVESTIGATIONS

## H. F. 405

AN ACT relating to the authority of the department of environmental quality to enter public or private property for the purpose of conducting investigations, relating to the powers and duties of the water quality commission, and providing penalties.

*Be It Enacted by the General Assembly of the State of Iowa:*

- 1 SECTION 1. Section four hundred fifty-five B point three (455B.3),  
2 Code 1973, is amended by adding the following new subsection:  
3 NEW SUBSECTION. Conduct investigations of complaints received  
4 directly or referred by any of the commissions created in section four  
5 hundred fifty-five B point four (455B.4) of the Code or such other  
6 investigations deemed necessary. While conducting an investigation,  
7 the executive director may enter at any reasonable time in and upon  
8 any private or public property, except private dwellings, to investi-  
9 gate any actual or possible violation of the provisions of this chapter  
10 or the rules or standards adopted under this chapter.  
11 a. If the owner or occupant of any property refuses admittance  
12 thereto, or if prior to such refusal the executive director demonstrates  
13 the necessity for a warrant, the executive director may make applica-  
14 tion under oath or affirmation to the district court of the county in  
15 which the property is located for the issuance of a search warrant.  
16 b. In the application the executive director shall state that an in-  
17 spection of the premises is mandated by the laws of this state or that  
18 a search of certain premises, areas, or things designated in the appli-  
19 cation may result in evidence tending to reveal the existence of viola-  
20 tions of public health, safety, or welfare requirements imposed by  
21 statutes, rules or ordinances established by the state or a political  
22 subdivision thereof. The application shall describe the area, prem-  
23 ises, or thing to be searched, give the date of the last inspection if  
24 known, give the date and time of the proposed inspection, declare the  
25 need for such inspection, recite that notice of desire to make an in-  
26 spection has been given to affected persons and that admission was  
27 refused if that be the fact, and state that the inspection has no pur-  
28 pose other than to carry out the purpose of the statute, ordinance, or  
29 regulation pursuant to which inspection is to be made. If an item of  
30 property is sought by the executive director it shall be identified in the  
31 application.  
32 c. If the court is satisfied from the examination of the applicant,  
33 and of other witnesses, if any, and of the allegations of the applica-  
34 tion of the existence of the grounds of the application, or that there  
35 is probable cause to believe their existence, he may issue such search  
36 warrant.  
37 d. In making inspections and searches pursuant to the authority of  
38 this division, the executive director must execute the warrant:  
39 1. Within ten days after its date.  
40 2. In a reasonable manner, and any property seized shall be treated  
41 in accordance with the provisions of chapter seven hundred fifty-one  
42 (751) of the Code.  
43 3. Subject to any restrictions imposed by the statute, ordinance or  
44 regulation pursuant to which inspection is made.

1 SEC. 2. Section four hundred fifty-five B point thirty-two  
2 (455B.32), subsection three (3), Code 1973, is amended to read as  
3 follows:

4 3. Establish, modify, or repeal rules specifying the conditions under  
5 which the executive director shall issue, revoke, modify, or deny  
6 permits for the installation or operation of disposal systems, or for  
7 the discharge of sewage, industrial waste or other wastes, or for the  
8 disposal of water wastes resulting from poultry and livestock opera-  
9 tions. ~~Persons engaged in livestock and poultry operations or persons~~  
10 ~~intending to initiate such operations shall register with the department~~  
11 ~~and provide information relating to their operations or intended opera-~~  
12 ~~tions as the executive director may reasonably require. Except as~~  
13 ~~otherwise provided in section 455B.45, no such registrant shall be~~  
14 ~~required to make application and obtain a permit for disposal of waste~~  
15 ~~water unless the department determines that the livestock and poultry~~  
16 ~~operations of such registrant are polluting or may pollute the water of~~  
17 ~~the state.~~

1 SEC. 3. Section four hundred fifty-five B point thirty-two  
2 (455B.32), Code 1973, is amended by adding the following new subsec-  
3 tion:

4 NEW SUBSECTION. Adopt by rule a fee schedule for applications  
5 for permits required under part one (1) of this division. The fee  
6 schedule shall be based on the reasonable cost of reviewing, issuing  
7 and enforcing such permits. The fee schedule may be amended peri-  
8 odically by rule of the commission.

1 SEC. 4. Section four hundred fifty-five B point forty-five  
2 (455B.45), Code 1973, is amended to read as follows:

3 455B.45 **Written permits required.** It shall be unlawful to carry  
4 on any of the following activities without first securing a written per-  
5 mit from the ~~department~~ *executive director* as required by the com-  
6 mission: ~~for the disposal of all sewage, industrial waste, or other~~  
7 ~~wastes which are or may be discharged into the water of the state.~~

8 1. The construction, installation or modification of any disposal  
9 system or part thereof or any extension or addition thereto.

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

16 3. *The operation of any waste disposal system or any part of or*  
17 *extension or addition to such system. This provision shall not apply*  
18 *to any pretreatment system the effluent of which is to be discharged*  
19 *directly to another waste disposal system for final treatment and dis-*  
20 *posal.*

21 Plans and specifications for any waste disposal system covered by  
22 this section shall be submitted to the department before a written  
23 permit may be issued and the construction of any such waste disposal  
24 system shall be in accordance with plans and specifications approved  
25 by the department. If it is necessary or desirable to make material  
26 changes in such plans or specifications, revised plans or specifications  
27 together with reasons for the proposed changes must be submitted to

28 the department for a supplemental written permit.

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

1 SEC. 5. Section four hundred fifty-five B point forty-nine  
2 (455B.49), Code 1973, is amended by striking the section and insert-  
3 ing in lieu thereof the following:

4 455B.49 Penalties—burden of proof.

5 1. Any person who violates any provision of part one (1) of divi-  
6 sion three (III) of this chapter or any permit, rule, standard, or order  
7 issued under part one (1) of division three (III) of this chapter shall  
8 be subject to a civil penalty not to exceed five thousand dollars for  
9 each day of such violation. The civil penalty shall be an alternative  
10 to any criminal penalty provided under part one (1) of division three  
11 (III) of this chapter.

12 2. Any person who willfully or negligently discharges any pollu-  
13 tants in violation of section four hundred fifty-five B point forty-five  
14 (455B.45) of the Code or in violation of any condition or limitation  
15 included in any permit issued under section four hundred fifty-five  
16 B point forty-five (455B.45) of the Code or, with respect to the intro-  
17 duction of pollutants into publicly-owned treatment works, violates  
18 a pretreatment standard or toxic effluent standard, shall be punished  
19 by a fine not to exceed ten thousand dollars for each day of violation.  
20 If the conviction is for a violation committed by a person after his  
21 first conviction under this section, the punishment shall be a fine not  
22 to exceed twenty thousand dollars for each day of violation.

23 3. Any person who knowingly makes any false statement, repre-  
24 sentation, or certification in any application, record, report, plan or  
25 other document filed or required to be maintained under part one (1)  
26 of division three (III) of this chapter, or who falsifies, tampers with  
27 or knowingly renders inaccurate any monitoring device or method  
28 required to be maintained under part one (1) of division three (III)  
29 of this chapter or by any permit, rule, regulation, or order issued  
30 under part one (1) of division three (III) of this chapter, shall upon  
31 conviction be punished by a fine of not more than ten thousand dol-  
32 lars or by imprisonment in the county jail for not more than six  
33 months or by both such fine and imprisonment.

34 4. The attorney general shall, at the request of the commission or  
35 the executive director, institute any legal proceedings necessary to  
36 enforce the penalty provisions of part one (1) of division three (III)  
37 of this chapter or to obtain compliance with the provisions of part  
38 one (1) of division three (III) of this chapter or any rules promul-  
39 gated or any provision of any permit issued under part one (1) of  
40 division three (III) of this chapter.

41 5. In all proceedings with respect to any alleged violation of the  
42 provisions of this part one (1) of division three (III) or any rule  
43 established by the commission or the department, the burden of proof  
44 shall be upon the commission or the department except in an action  
45 for contempt as provided in section four hundred fifty-five B point  
46 forty-four (455B.44) of the Code.

1 SEC. 6. Section four hundred fifty-five B point thirteen (455B.13),  
2 subsection three (3), section four hundred fifty-five B point thirty-

3 six (455B.36), and section four hundred fifty-five B point eighty-nine  
4 (455B.89), subsection four (4), Code 1973, are repealed.

Approved July 12, 1973.

This Act was passed by the G. A. before July 1, 1973.

## CHAPTER 262

### WATER QUALITY COMMISSION

H. F. 762

AN ACT to appropriate any moneys in the operators certification fund of the water quality commission to the department of environmental quality.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. Section four hundred fifty-five B point sixty-one  
2 (455B.61), Code 1973, is amended to read as follows:  
3 455B.61 Fee. The executive director, with the approval of the  
4 board submitted through the commission, is authorized to charge a fee  
5 for certificates issued under the provisions of this part 2 of division  
6 III, but such fees shall not exceed five dollars for an initial certificate,  
7 nor more than three dollars for the annual renewal certificate. All such  
8 fees collected shall be remitted to the treasurer of state, who shall hold  
9 such moneys in a special fund to be known as the "operators certifica-  
10 tion fund"; . *Any moneys in the operators certification fund are*  
11 *appropriated to the department to be used by the department to*  
12 *administer and enforce the provisions of said part and to pay the*  
13 *expenses of the board. Such fund shall be subject at all times to the*  
14 *warrant of the state comptroller, drawn upon written requisition of*  
15 *the executive director.*

Approved July 12, 1973.

This Act was passed by the G. A. before July 1, 1973.

## CHAPTER 263

### EMINENT DOMAIN APPEAL

H. F. 116

AN ACT relating to the appeal of a condemnation award.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. Section four hundred seventy-two point twenty-one  
2 (472.21), Code 1973, is amended by striking the section and inserting  
3 in lieu thereof the following:  
4 472.21 Appeals—how docketed and tried. The appeal shall be  
5 docketed in the name of the person appealing and all other interested  
6 parties to the action shall be defendants. In the event the condemnor  
7 and the condemnee appeal, the appeal shall be docketed in the name  
8 of the appellant which filed the application for condemnation and all