

CHAPTER 1148
NATURAL RESOURCE AGENCIES
S. F. 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 chapter. However, the owner or person in charge shall be notified.

Sec. 4. Section four hundred fifty-five B point three (455B.3), subsection eight (8), paragraph d, subparagraph two (2), Code 1979, is amended to read as follows:

(2) In a reasonable manner, and any property seized shall be treated in accordance with the provisions of ~~chapter-751~~ chapters eight hundred eight (808) and eight hundred nine (809) of the Code.

Sec. 5. Section four hundred fifty-five B point three (455B.3), unnumbered paragraph two (2), Code 1979, is amended to read as follows:

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

Sec. 6. Section four hundred fifty-five B point three (455B.3), Code 1979, is amended by adding the following new subsections:

NEW SUBSECTION. 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 pollution, or other environmental programs, subject to the approval of the commission.

NEW SUBSECTION. Represent the state in all matters pertaining to plans, procedures, negotiations, and agreements for interstate compacts relating to the control of pollution or the protection or enhancement of the environment. Any agreement is subject to the approval of the commission.

Sec. 7. Section four hundred fifty-five B point four (455B.4), Code 1979, as amended by Acts of the Sixty-eighth General Assembly, 1980 Session, Senate File two thousand three hundred one (2301), section sixty-nine (69), is amended by striking the section and inserting in lieu thereof the following:

455B.4 ENVIRONMENTAL QUALITY COMMISSION.

1. There is created an environmental quality commission consisting of nine members, not more than five of whom shall be from the same political party. The members shall be appointed by the governor subject to confirmation by the senate. Each member of the commission must be an elector of the state, and have interest and knowledge of the subjects embraced in this chapter. The membership of the commission shall be as follows: three members actively engaged in livestock and grain farming, a member actively engaged in the management of a manufacturing company, one member actively

engaged in the business of finance or commerce, and four members who are electors of the state. The members of the commission shall be appointed to four-year terms of office commencing 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). Vacancies occurring during a term of office shall be filled by appointment for the balance of the unexpired term subject to confirmation by the Senate. A commission member shall not be appointed to serve more than two consecutive four-year terms.

2. The commission shall organize annually with the election of a chairperson and vice chairperson. The commission shall meet monthly and at the call of the chairperson or upon written request of a majority of the members of the commission. The executive director shall attend the meetings of the commission and act as secretary to the commission.

3. A majority of the voting members of the commission shall constitute a quorum and the concurrence of a majority of the voting members shall be required to determine any matter relating to its powers and duties.

4. The members of the commission who are not in the full-time employment of a public agency shall be paid a per diem of forty dollars while engaged in the performance of the duties of office. Members shall be reimbursed for their 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.

8. Obtain an adequate public employees fidelity bond to cover those officers and employees of the department accountable for property or funds of this state.

9. Hold public hearings, except when the evidence to be received is confidential pursuant to this chapter or chapter sixty-eight A (68A) of the Code, necessary to carry out its powers and duties. The commission 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 provided in civil actions.

10. Upon request of at least four members of the commission before adopting or modifying a rule, the executive director shall prepare and publish with the notice required under section seventeen A point four (17A.4), subsection one (1), paragraph a of the Code, a comprehensive estimate of the economic impact of the proposed rule or modification.

Sec. 9. Section four hundred fifty-five B point six (455B.6), Code 1979, is amended by striking the section and inserting in lieu thereof the following:

455B.6 APPEAL BOARD. In lieu of an appeal being heard by the full membership of the commission, the chairperson of the commission may appoint

an appeal board consisting of three or more members of the commission or a hearing officer to conduct a hearing on the appeal of an aggrieved person from the action or order of the executive director as provided in chapter seventeen A (17A) of the Code.

Sec. 10. Section four hundred fifty-five B point nine (455B.9), Code 1979, is amended to read as follows:

455B.9 OFFICE FACILITIES. The ~~executive council~~ department of general services shall provide the department with appropriate office facilities.

Sec. 11. Section four hundred fifty-five B point ten (455B.10), subsection six (6), Code 1979, is amended by striking the subsection.

Sec. 12. Section four hundred fifty-five B point twelve (455B.12), subsections five (5), six (6), seven (7), eight (8), eleven (11), twelve (12), thirteen (13), and fourteen (14), Code 1979, are amended by striking the subsections.

Sec. 13. Section four hundred fifty-five B point thirteen (455B.13), subsection three (3), paragraph c, Code 1979, is amended to read as follows:

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.~~

Sec. 14. Section four hundred fifty-five B point thirteen (455B.13), subsection six (6), Code 1979, is amended by striking the subsection.

Sec. 15. Section four hundred fifty-five B point thirteen (455B.13), Code 1979, is amended by adding the following new subsections:

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

NEW SUBSECTION. Issue orders consistent with rules to cause the abatement or control of air pollution. In making the orders, the executive director 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 the air pollution source, and the suitability or unsuitability of the air pollution source to the area where it is located. An order may include advisory recommendations for the control 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~~ 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:

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 department, 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.~~

Sec. 19. Section four hundred fifty-five B point twenty-one (455B.21), Code 1979, is amended to read as follows:

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 department except in an action for an injunction as provided in section 455B.20.

Sec. 20. Section four hundred fifty-five B point twenty-two (455B.22), Code 1979, is amended to read as follows:

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~~ adopted by the commission 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~~ approve or disapprove the application. The commission executive director may grant a variance if ~~it~~ the executive director 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~~ the application is denied.

3. In determining under what conditions and to what extent a variance may be granted, the commission executive director shall give due recognition to the progress which the applicant has made toward eliminating or preventing air pollution. In such a case, the commission executive director 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 executive director may prescribe other requirements with which such applicant shall comply.

4. The commission executive director may grant a variance for a specified period of time, not exceeding one year, and the commission executive director

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~~ executive director.

5. The executive director shall maintain a record of each variance granted specifying the reasons for its issuance or extension.

Sec. 21. Section four hundred fifty-five B point twenty-four (455B.24), Code 1979, is amended to read as follows:

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~~ 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 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~~ may appeal the suspension to the commission.

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.

Sec. 22. Section four hundred fifty-five B point twenty-nine (455B.29), Code 1979, is amended to read as follows:

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 or under division two (II) of this chapter by the air quality commission before January 1, 1981, shall remain effective until modified or rescinded by action of the ~~air quality~~ air quality commission unless ~~such~~ the rule is inconsistent or contrary to this division II.

Sec. 23. Section four hundred fifty-five B point thirty (455B.30), subsection eleven (11), Code 1979, is amended by striking the subsection.

Sec. 24. Section four hundred fifty-five B point thirty-two (455B.32), subsection six (6), Code 1979, is amended by striking the subsection.

Sec. 25. Section four hundred fifty-five B point thirty-two (455B.32), subsection ten (10), Code 1979, is amended to read as follows:

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~~ cooperate 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~~ approval of the commission, 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~~ coordinated with ~~civil-defense~~ disaster emergency plans.

Sec. 26. Section four hundred fifty-five B point thirty-four (455B.34), subsection three (3), Code 1979, is amended to read as follows:

3. The executive director ~~of the commission~~, with the approval of the commission, may request the attorney general to institute legal proceedings pursuant to section 455B.49.

Sec. 27. Section four hundred fifty-five B point forty-two (455B.42), Code 1979, is amended to read as follows:

455B.42 VARIANCES AND EXEMPTIONS. The ~~commission~~ executive director may, after public notice and hearing, grant exemptions from a maximum contaminant level or treatment technique, or both. The ~~commission~~ executive director 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 the~~ standards despite application of the best treatment techniques which are generally available and ~~provided that if the~~ commission executive director 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~~ executive director, at the time the variance or exemption is granted. The ~~commission~~ executive director shall also require ~~such the~~ interim measures to minimize the contaminant levels of systems subject to the variance or exemption as may reasonably be implemented. The executive director may also issue variances from other rules of the commission if necessary and appropriate. The denial of a variance or exemption may be appealed to the commission.

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 treatment plant or water distribution system. The certificate so issued shall be valid only for that particular treatment plant or system and shall remain in effect indefinitely unless revoked ~~by the executive-director~~ as provided in section 455B.59.

Sec. 34. Section four hundred fifty-five B point sixty-two (455B.62), Code 1979, is amended to read as follows:

455B.62 RULES. The commission, with the advice of the board, may promulgate such rules as are necessary to carry out the provisions of this part 2 of division III. ~~The--rules--established--shall--be--subject--to--the--provisions--of--section--455B.77--subsection--3.~~

Sec. 35. Section four hundred fifty-five B point sixty-seven (455B.67), subsection two (2), Code 1979, is amended by striking the subsection.

Sec. 36. Section four hundred fifty-five B point sixty-seven (455B.67), subsection four (4), Code 1979, is amended to read as follows:

4. "Eligible project" means a project for construction of sewage treatment works:

a. For which approval of the ~~commission~~ executive director is required under this part 3 of division III.

b. Which is, in the judgment of the ~~commission~~ executive director, eligible for federal pollution abatement assistance, whether or not federal funds are then available for such purpose. Eligible projects shall be those which the construction contract therefor shall have been entered into subsequent to July 1, 1966.

c. Which conforms with applicable rules of the commission.

d. Which is, in the judgment of the ~~commission~~ executive director, necessary for the accomplishment of the state's policy of water purity.

Sec. 37. Section four hundred fifty-five B point sixty-eight (455B.68), Code 1979, is amended to read as follows:

455B.68 GRANTS OF ASSISTANCE. The ~~commission~~ executive director may make grants as funds are available to any municipality to assist such municipality in the construction of sewage treatment works.

Sec. 38. Section four hundred fifty-five B point sixty-nine (455B.69), unnumbered paragraphs one (1) and two (2), Code 1979, are amended to read as follows:

The ~~commission~~ executive director shall accept and administer all funds granted by the state pursuant to this part 3 of division III.

In allocating state grants under said part, the ~~commission~~ executive director shall give consideration to:

Sec. 39. Section four hundred fifty-five B point seventy (455B.70), Code 1979, is amended to read as follows:

455B.70 CONTRACTS. The ~~commission~~ executive director may, in the name of the state, contract with any municipality concerning eligible projects, subject to the approval of the ~~executive-committee~~ commission. ~~Any-such~~ The contract may include such provisions as may be agreed upon by the parties, and shall include, in substance, the following provisions:

1. An estimate of the reasonable cost of the project as determined by the ~~commission~~ executive director.

2. An agreement by the ~~commission~~ executive director to pay to the municipality, during the progress of construction or following completion of the construction as may be agreed upon by the parties, an amount as determined by appropriation of the general assembly.

3. An agreement by the municipality:

a. To proceed expeditiously with, and complete, the project in accordance with plans approved pursuant to this part 3 of division III and pursuant to part 1 of this division III.

b. To commence operation of the sewage treatment works on completion of the project, and not to discontinue operation or dispose of the sewage treatment works without the approval of the ~~commission~~ executive director.

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 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 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. 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--17A--and--section--455B.7,--subsection--3.~~

Sec. 44. Section four hundred fifty-five B point seventy-nine (455B.79), unnumbered paragraph two (2), Code 1979, is amended to read as follows:

Permits shall be issued without fee by the executive director or at his or her 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 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~~ by the executive director if a sanitary disposal project is found not to meet the requirements of the provisions of ~~said~~ part one (1) of this division or rules issued ~~pursuant--thereto~~ under part one (1) of this division. The suspension or revocation of a permit may be appealed to the commission.

Sec. 45. Section four hundred fifty-five B point eighty-two (455B.82), subsection one (1), Code 1979, is amended to read as follows:

1. 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 the 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.~~ The executive director may issue temporary permits for dumping or disposal of solid waste at disposal sites for which an application for a permit to operate a sanitary disposal project has been made and which have not met all of the requirements of part 1 of this division and the rules adopted by the commission if a compliance schedule has been submitted by the applicant specifying how and when the applicant will meet the requirements for an operational sanitary disposal project and the executive director determines the public interest will be best served by granting such temporary permit.

Sec. 46. Section four hundred fifty-five B point eighty-three (455B.83), Code 1979, is amended to read as follows:

455B.83 APPEAL FROM ORDER. Any person aggrieved by an order of ~~the commission or~~ the executive director may appeal the same order by filing a written notice of appeal with the executive director within thirty days of the issuance of the order. The executive director shall schedule a hearing

for the purpose of hearing the arguments of the aggrieved person within thirty days of the filing of the notice of appeal. The hearing may be held before the commission or its designee. A complete record shall be made of the proceedings. The executive director shall issue the findings in writing to the aggrieved person within thirty days of the conclusion of ~~such the~~ hearing. Judicial review may be sought of actions of the commission ~~or executive--director~~ in accordance with the terms of the Iowa administrative procedure Act. Notwithstanding the terms of ~~said the~~ Act, petitions for judicial review may be filed in the district court of the county ~~wherein~~ where the acts in issue occurred.

Sec. 47. Section four hundred fifty-five B point eighty-four (455B.84), Code 1979, is amended to read as follows:

455B.84 MODIFICATION OF RULES. Any rule adopted or order issued under chapter 406 of prior Codes by the commissioner of public health or under part one (1) of this division by 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 455B.7, subsection 3.~~

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 ~~co-operate~~ 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-455B.7~~ 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 ~~co-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 ~~ex-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 January 1, 1981 by the solid waste disposal commission shall remain effective until modified or rescinded by action of the commission.

Sec. 57. Acts of the Sixty-eighth General Assembly, 1979 Session, chapter one hundred eleven (111), section two (2), subsection one (1), is amended by striking the subsection.

Sec. 58. Acts of the Sixty-eighth General Assembly, 1979 Session, chapter one hundred eleven (111), section thirteen (13), is amended to read as follows:

SEC. 13. Section three hundred seven point ten (307.10), Code 1979, is amended by adding the following new ~~subsectien~~ unnumbered paragraph:

NEW SUBSECTION UNNUMBERED PARAGRAPH. The commission may adopt, after consultation with the department of environmental quality and the department of public safety, rules to enforce the rules regarding transportation of hazardous wastes promulgated by the ~~solid--waste--disposal~~ environmental quality commission of the department of environmental quality under section three (3), subsection three (3) 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.

Sec. 59. Chapter four hundred fifty-five B (455B), Code 1979, is amended by adding the following new section to the new part of division four (IV) added by Acts of the Sixty-eighth General Assembly, 1979 Session, chapter one hundred eleven (111):

NEW SECTION. ACQUISITION AND LEASE OF SITES. The commission shall adopt rules establishing criteria for the identification of land areas or sites

which are suitable for the operation of a treatment or disposal facility. Upon request, the department shall assist the executive council in locating suitable sites for the location of a treatment or disposal facility. The commission may recommend to the executive council the purchase or condemnation of land to be leased for the operation of a treatment or disposal facility. The executive council may purchase or may condemn the land subject to chapter four hundred seventy-one (471) of the Code. Consideration for a contract for purchase of land shall not be in excess of funds appropriated by the general assembly for that purpose. The executive council upon recommendation of the commission may lease land purchased under this section to any person except the state or a state agency. This section does not authorize the state to own or operate a hazardous waste treatment or disposal facility and the state shall not own or operate such a facility. The terms of the lease shall establish responsibility for long-term monitoring and maintenance of the site. The lessee is subject to all applicable requirements of this part including permit requirements. The commission may require the lessee to post bond conditioned upon performance of conditions of the lease relating to long-term monitoring and maintenance. The leasehold interest including improvements made to the property shall be listed, assessed and valued as any other real property as provided by law.

Sec. 60. Section four hundred fifty-five B point one hundred thirty (455B:130), Code 1979, is amended by striking the section and inserting in lieu thereof the following:

455B.130 RESTRICTIONS ON USE OF AGRICULTURAL CHEMICALS.

1. If the commission determines that an agricultural chemical causes an unreasonable, adverse effect on humans or the environment, the commission shall submit to the secretary of agriculture its findings and recommended actions. The secretary of agriculture shall propose rules implementing the recommended actions and shall hold a public hearing to determine the effects of the proposed rules as provided in chapter two hundred six (206) of the Code after review and consideration of the findings as provided in subsection two (2) of this section. A rule of the secretary shall be adopted pursuant to chapter seventeen A (17A) of the Code.

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.

(4) 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 design 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 for either a period of ten years from the established date of operation of the feedlot or two years from the effective date of the rule, whichever time period is greater. However, any design standard rule

pertaining to the siting of any feedlot shall apply only to a feedlot with an established date of operation subsequent to the effective date of the rule.

(5) To achieve compliance with applicable rules the department shall issue an appropriate compliance schedule.

Sec. 64. Section two hundred point five (200.5), Code 1979, is amended by adding the following new subsection:

NEW SUBSECTION. The advisory committee created in section sixty-nine (69) of this Act shall advise and assist the secretary on the registration of a product of commercial fertilizer or soil conditioner under the provisions of this chapter.

Sec. 65. Section two hundred six point two (206.2), subsection twenty-three (23), Code 1979, is amended to read as follows:

23. The term "permit" means a written certificate, issued by the secretary or ~~his--authorized~~ the secretary's agent as--authorized--in under rules adopted by ~~the--chemical--technology---commission~~ the department authorizing the use of certain state restricted use pesticides.

Sec. 66. Section two hundred six point eleven (206.11), subsection one (1), paragraph d, subparagraph five (5), Code 1979, is amended to read as follows:

(5) The date of manufacture of products found by the ~~chemical-technology review-board~~ secretary to be subject to deterioration because of age.

Sec. 67. Section two hundred six point fourteen (206.14), Code 1979, is amended by adding the following new subsection:

NEW SUBSECTION. The secretary shall require, by rule, that veterinarians licensed and practicing veterinary medicine in the state promptly report to the department a case of domestic livestock poisoning or suspected poisoning by agricultural chemicals.

Sec. 68. Section two hundred six point nineteen (206.19), Code 1979, is amended by striking the section and inserting in lieu thereof the following:

206.19 RULES. The department shall, by rule, after public hearing following due notice:

1. Declare as a pest any form of plant or animal life or virus which is unduly injurious to plants, man, domestic animals, articles, or substances.
2. Determine the proper use of pesticides including but not limited to their formulations, times and methods of application, and other conditions of use.

Sec. 69. Chapter two hundred six (206), Code 1979, is amended by adding the following new sections:

NEW SECTION. ADVISORY COMMITTEE CREATED--DUTIES.

1. An advisory committee to the secretary is created. The advisory committee shall have the following members:

- a. The dean, college of veterinary medicine, Iowa state university of science and technology, or his or her designee;
- b. The dean, college of medicine, university of Iowa, or his or her designee;

c. An entomologist, botanist, geneticist, horticulturist, agronomist and two persons representing the general public appointed by the secretary. Appointive members of the advisory committee shall serve terms of four years.

2. The advisory committee shall assist the secretary in obtaining scientific data and coordinating agricultural chemical regulatory, enforcement, research, and educational 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.

Sec. 75. Section three hundred five point nine (305.9), Code 1979, is amended to read as follows:

305.9 PUBLICATION OF REPORTS. The ~~board~~ state geologist may direct the preparation and publication of special reports and bulletins of educational and scientific value or containing information of immediate use to the people.

Sec. 76. Section three hundred five point ten (305.10), Code 1979, is amended to read as follows:

305.10 DISTRIBUTION AND SALE OF REPORTS. All publications of the geological survey shall be distributed by the state as are other published reports of state officers when no special provision is made. When such distribution has been made the ~~board~~ state geologist shall retain a sufficient number of copies to supply probable future demands and any copies in excess of such number shall be sold to persons making application therefor at the cost price of publication, the money thus accruing to be turned into the treasury of the state.

Sec. 77. Section three hundred five point eleven (305.11), Code 1979, is amended to read as follows:

305.11 EXPENSES. The ~~members of the board shall serve without compensation, but the~~ state geologist and ~~such board and its~~ his or her assistants shall be allowed their actual travel and other necessary expenses incurred in the performance of their duties.

Sec. 78. Section four hundred twenty-seven point one (427.1), subsection thirty-two (32), unnumbered paragraphs five (5), six (6), seven (7) and nine (9), Code 1979, are amended to read as follows:

The first annual application for any specific pollution-control property shall be accompanied by a certificate of the executive director of the department of environmental quality ~~stating that the air quality commission or the water quality commission has directed the department of environmental quality to certify~~ certifying that the primary use of the pollution-control property is to control or abate pollution of any air or water of this state or to enhance the quality of any air or water of this state.

A taxpayer may ~~appeal~~ seek judicial review of a determination of the ~~air quality commission or the water quality commission~~ executive director or, on

appeal, of the environmental quality commission in accordance with the provisions of sections 455B.19 and 455B.39 chapter seventeen A (17A) of the Code.

The ~~air--quality~~ environmental quality commission and ~~the water-quality~~ commission of the department of environmental quality shall adopt rules relating to certification under this subsection and information to be submitted for evaluating pollution-control property for which a certificate is requested. The revenue department shall adopt any rules necessary to implement this subsection, including rules on identification and valuation of pollution-control property. All rules adopted shall be subject to the provisions of ~~the statutes on administrative rules~~ chapter seventeen A (17A) of the Code.

For the purposes of this subsection "pollution" means air pollution as defined in section 455B.10 or water pollution as defined in section 455B.30. "Water of the state" means the water of the state as defined in section 455B.30. "Enhance the quality" means to diminish the level of pollutants below the air or water quality standards established by the ~~water--quality~~ environmental quality commission ~~or--the--air--quality--commission~~ of the department of environmental quality.

Sec. 79. Section four hundred fifty-five A point twenty-five (455A.25), subsection three (3), Code 1979, is amended to read as follows:

3. Any person who diverts water or any material from the surface directly into any underground watercourse or basin. ~~Provided, however, that~~ However, any diversion of water or material from the surface directly into any underground watercourse or basin existing upon May 16, 1957, shall not require a permit if ~~said~~ 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.

The terms of office of members of the geology board and the executive committee, water quality commission, air quality commission, solid waste disposal commission and the chemical technology commission of the department of environmental quality shall expire on December 31, 1980.

Approved May 22, 1980