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SENATE FILE 2216

BY COMMITTEE ON STATE GOVERNMENT

Approved 3/30 (p. 715)

Passed Senate, Date 4-13-78 (p. 558) Passed House, Date \_\_\_\_\_  
Vote: Ayes 44 Nays 0 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to certain natural resource agencies of the  
 2 state and the regulation and use of natural resources,  
 3 by reorganizing the department of environmental quality;  
 4 creating an environmental quality commission; creating  
 5 a department of land and water resources and a land and  
 6 water resources commission; transferring the powers and  
 7 duties of the Iowa natural resources council and the  
 8 department of soil conservation to the department of land  
 9 and water resources and the Iowa state commerce commission;  
 10 abolishing the Iowa natural resources council, the depart-  
 11 ment of soil conservation, the state soil conservation  
 12 committee, the geological board and the executive commit-  
 13 tee, air quality commission, water quality commission, the  
 14 solid waste disposal commission and the chemical technology  
 15 commission; redistributing the authority over agricultural  
 16 chemicals between the departments of agriculture and  
 17 environmental quality; authorizing planning for the  
 18 reorganization of the department of conservation; relating  
 19 to the performance of duty of members, officers and employees  
 20 of the state conservation commission; and subjecting  
 21 violators to penalties.

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

23  
24  
25

1 Section 1. Section four hundred fifty-five B point one  
2 (455B.1), Code 1977, is amended by striking subsection three  
3 (3) and inserting in lieu thereof the following:

4 3. "Commission" means the environmental quality com-  
5 mission.

6 Sec. 2. Section four hundred fifty-five B point three  
7 (455B.3), subsections one (1), two (2), three (3), four (4),  
8 five (5), and six (6), Code 1977, are amended to read as fol-  
9 lows:

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

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

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

19 4. Perform other duties assigned by the ~~executive-com-~~  
20 ~~mittee~~ commission.

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

24 6. Contract, with the approval of the ~~executive-commit-~~  
25 ~~tee~~ commission, with public agencies of this state to provide  
26 all laboratory, scientific field measurement and environ-  
27 mental quality evaluation services necessary to implement the  
28 provisions of this chapter. If the executive director finds  
29 that public agencies of this state cannot provide the  
30 laboratory, scientific field measurement and environmental  
31 evaluation services required by the department, he or she  
32 may contract, with the approval of the ~~executive-committee~~  
33 commission, with any other public or private persons or  
34 agencies for such services or for scientific or technical  
35 services required to carry out the programs and services

1 assigned to the department.

2 Sec. 3. Section four hundred fifty-five B point three  
3 (455B.3), subsection eight (8), unnumbered paragraph one (1),  
4 Code 1977, is amended to read as follows:

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

14 Sec. 4. Section four hundred fifty-five B point three  
15 (455B.3), unnumbered paragraph two (2), Code 1977, is amended  
16 to read as follows:

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

22 Sec. 5. Section four hundred fifty-five B point four  
23 (455B.4), Code 1977, is amended by striking the section and  
24 inserting in lieu thereof the following:

25 455B.4 ENVIRONMENTAL QUALITY COMMISSION.

26 1. There is created an environmental quality commission  
27 consisting of seven members, not more than four of whom shall  
28 be from the same political party. The members shall be  
29 appointed by the governor with the consent of two-thirds of  
30 the members of the senate. Each member of the commission  
31 shall be an elector of the state, and have interest and  
32 knowledge of the subjects embraced in this chapter. The  
33 members of the commission shall be appointed to four-year  
34 terms of office commencing July 1, 1979, except that three  
35 members appointed to the initial commission shall be appointed

1 to a two-year term. Thereafter, all appointments shall be  
2 for four years. Vacancies occurring during a term of office  
3 shall be filled by appointment for the balance of the unexpired  
4 term subject to the consent of two-thirds of the members of  
5 the senate. Any vacancy on the commission occurring while  
6 the general assembly is not in session shall be filled by  
7 appointment of the governor which appointment shall expire  
8 thirty days after the general assembly next convenes. Within  
9 the thirty-day period, the governor shall transmit an appoint-  
10 ment to the senate. A commission member shall not be appointed  
11 to serve more than two consecutive four-year terms.

12 2. The commission shall organize annually with the elec-  
13 tion of a chairperson and vice chairperson. The commission  
14 shall meet monthly and at the call of the chairperson or upon  
15 written request of a majority of the members of the commission.  
16 The executive director shall attend the meetings of the  
17 commission and act as secretary to the commission.

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

21 4. The members of the commission who are not in the full-  
22 time employment of a public agency shall be paid a per diem  
23 of forty dollars while engaged in the performance of the  
24 duties of office. Each member shall be reimbursed their  
25 actual and necessary expenses while performing such duties.  
26 All per diem and expenses paid to members shall be paid from  
27 funds appropriated to the department.

28 5. The members of the commission shall represent the  
29 public interest and at least a majority of the commission  
30 membership shall not derive any income from persons subject  
31 to permits or enforcement orders under this chapter. Any  
32 potential conflict of interest by any commission member shall  
33 be immediately disclosed to the commission and the department.  
34 In the case of conflict of interest, the commission member  
35 involved shall immediately withdraw from any consideration

1 of the issuance of a permit or enforcement action by the  
2 commission and shall not express any opinion on the matter  
3 to any other commission member involved in the consideration  
4 of the issuance of the permit or enforcement action. A  
5 "conflict of interest" arises when a commission member re-  
6 ceives directly or indirectly personal income from a person  
7 subject to permit or enforcement action pending before the  
8 commission.

9 Sec. 6. Section four hundred fifty-five B point five  
10 (455B.5), Code 1977, is amended by striking the section and  
11 inserting in lieu thereof the following:

12 455B.5 DUTIES OF THE COMMISSION. The commission shall:

13 1. Establish policy for the implementation of all pro-  
14 grams under its jurisdiction. The commission may appoint  
15 advisory committees to advise the commission and the execu-  
16 tive director in carrying out their respective powers and  
17 duties.

18 2. Advise, consult, and co-operate with other agencies  
19 of the state, political subdivisions, and any other public  
20 or private agency to promote the orderly, efficient, and  
21 effective accomplishment of its responsibilities.

22 3. Adopt, modify, or repeal rules necessary to implement  
23 the programs assigned to it and the rules deemed necessary  
24 for the effective administration of the department. The rules  
25 shall include departmental policy relating to the disclosure  
26 of information on any violation or alleged violation of the  
27 rules, standards or orders issued by the department and keeping  
28 of confidential information obtained by the department in  
29 the administration and enforcement of the provisions of this  
30 chapter. Rules adopted by the executive committee before  
31 January 1, 1979 shall remain effective until modified or  
32 rescinded by action of the commission.

33 4. Approve the departmental budget request prior to  
34 submission to the state comptroller. The commission may in-  
35 crease, decrease, or strike any proposed expenditure within

1 the departmental budget request before granting approval.

2 5. Issue orders and directives necessary to insure in-  
3 tegration and co-ordination of the programs administered by  
4 the department.

5 6. Make a concise annual report to the governor and the  
6 general assembly, which report shall contain information re-  
7 lating to the accomplishments and status of the programs ad-  
8 ministered by the department and include recommendations for  
9 legislative action which may be required to modernize the  
10 operation of the department or any of the programs or services  
11 assigned to the department and recommendations for the transfer  
12 of powers and duties of the department as deemed advisable  
13 by the commission. The annual report shall conform to the  
14 provisions of section seventeen point three (17.3) of the  
15 Code.

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

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

21 9. Hold public hearings, except when the evidence to be  
22 received is confidential pursuant to sections four hundred  
23 fifty-five B point sixteen (455B.16) and four hundred fifty-  
24 five point forty (455.40) of the Code, necessary to carry  
25 out its powers and duties under this chapter. The commission  
26 may issue subpoenas requiring the attendance of witnesses  
27 and the production of evidence pertinent to such hearings.  
28 A subpoena shall be issued and enforced in the same manner  
29 as provided in civil actions.

30 Sec. 7. Section four hundred fifty-five B point six  
31 (455B.6), Code 1977, is amended by striking the section and  
32 inserting in lieu thereof the following:

33 455B.6 APPEAL BOARD. In lieu of an appeal being heard  
34 by the full membership of the commission, the chairperson  
35 of the commission may appoint an appeal board consisting of

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

5 Sec. 8. Section four hundred fifty-five B point nine  
6 (455B.9), Code 1977, is amended to read as follows:

7 455B.9 OFFICE FACILITIES. The ~~executive-council~~ de-  
8 partment of general services shall provide the department  
9 with appropriate office facilities.

10 Sec. 9. Section four hundred fifty-five B point ten  
11 (455B.10), Code 1977, is amended by striking subsection six  
12 (6).

13 Sec. 10. Section four hundred fifty-five B point twelve  
14 (455B.12), subsection twelve (12), Code 1977, is amended to  
15 read as follows:

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

20 Sec. 11. Section four hundred fifty-five B point twelve  
21 (455B.12), Code 1977, is amended by striking subsections five  
22 (5), six (6), seven (7), eight (8), eleven (11), thirteen  
23 (13), and fourteen (14).

24 Sec. 12. Section four hundred fifty-five B point thirteen  
25 (455B.13), subsection three (3), paragraph c, Code 1977, is  
26 amended to read as follows:

27 c. Upon denial of such a permit, the applicant shall be  
28 notified of such denial and informed of the reason or rea-  
29 sons therefor, and such applicant shall be entitled to a hear-  
30 ing before the commission ~~as-provided-in-section-455B-12,~~  
31 ~~subsection-6.~~

32 Sec. 13. Section four hundred fifty-five B point thirteen  
33 (455B.13), subsection six (6), Code 1977, is amended to read  
34 as follows:

35 6. Accept, receive and administer grants or other funds

1 or gifts from public or private agencies, including the federal  
2 government, for the abatement, prevention, or control of air  
3 pollution, ~~subject to the approval of the executive committee.~~

4 Sec. 14. Section four hundred fifty-five B point thirteen  
5 (455B.13), Code 1977, is amended by adding the following  
6 new subsections:

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

13 NEW SUBSECTION. Issue orders necessary to cause the  
14 abatement or control of air pollution. In making such orders,  
15 the executive director shall consider the facts and circum-  
16 stances bearing upon the reasonableness of the emissions in-  
17 volved, including but not limited to, the character and degree  
18 of injury to, or interference with, the protection of health  
19 and the physical property of the public; the practicability  
20 of reducing or limiting the emissions from such air pollution  
21 source; and the suitability or unsuitability of the air pollu-  
22 tion source to the area where it is located. Any such order  
23 may include advisory recommendations for the control of  
24 emissions from any air contaminant source and the reduction  
25 of the emission of air contaminants.

26 NEW SUBSECTION. Encourage voluntary co-operation by persons  
27 or affected groups in restoring and preserving a reasonable  
28 quality of air within the state.

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

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

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

9 Sec. 15. Section four hundred fifty-five B point seventeen  
10 (455B.17), unnumbered paragraph one (1), Code 1977, is amended  
11 to read as follows:

12 Whenever the ~~commission-or-the~~ executive director has  
13 evidence that a violation of any provision of this division  
14 II, or rule or standard established by the commission has  
15 occurred, the executive director shall notify the alleged  
16 violator and, by informal negotiation, attempt to resolve  
17 the problem. If such negotiations fail to resolve the problem  
18 within a reasonable period of time, the ~~commission~~ executive  
19 director shall hold-a-public-hearing,--subject-to-the-provisions  
20 of-section-455B-16 issue an order. The order may be appealed  
21 to the commission.

22 Sec. 16. Section four hundred fifty-five B point eighteen  
23 (455B.18), Code 1977, is amended to read as follows:

24 455B.18 EMERGENCY ORDERS. If the ~~commission-or-the~~  
25 executive director has evidence that any person is causing  
26 air pollution and that such pollution creates an emergency  
27 requiring immediate action to protect the public health and  
28 safety, or property, ~~either~~ the executive director may, without  
29 notice or hearing, issue an emergency order requiring such  
30 person to reduce or discontinue immediately the emission of  
31 air contaminants. A copy of the emergency order shall be  
32 served as provided in section 455B.17, subsection 1. An  
33 emergency order issued by ~~the-commission-or~~ the executive  
34 director shall be effective immediately and binding until  
35 reviewed by the commission at a public hearing or modified

1 or rescinded by a district court.

2 Sec. 17. Section four hundred fifty-five B point twenty  
3 (455B.20), Code 1977, is amended to read as follows:

4 455B.20 LEGAL ACTION. If action to prevent, control,  
5 or abate air pollution is not taken in accordance with the  
6 rules established, or orders issued by the ~~commission~~ depart-  
7 ment, or if ~~the-commission-or~~ the executive director has evi-  
8 dence that an emergency exists by reason of air pollution  
9 which requires immediate action to protect the public health  
10 or property, the attorney general, at the request of ~~the-com-~~  
11 ~~mission-or~~ the executive director, shall commence legal ac-  
12 tion, in the name of the state, for an injunction to prevent  
13 any further or continued violation of such rule or order.

14 In an action for an injunction, any previous findings of the  
15 ~~commission~~ department, after due notice and hearing, shall  
16 be prima-facie evidence of the fact or facts found therein.

17 Sec. 18. Section four hundred fifty-five B point twenty-  
18 one (455B.21), Code 1977, is amended to read as follows:

19 455B.21 BURDEN OF PROOF. In all proceedings with respect  
20 to any alleged violation of the provisions of this division  
21 II or any rule established by the commission, the burden of  
22 proof shall be upon the ~~commission~~ department except in an  
23 action for an injunction as provided in section 455B.20.

24 Sec. 19. Section four hundred fifty-five B point twenty-  
25 two (455B.22), Code 1977, is amended to read as follows:

26 455B.22 VARIANCE. Any person who owns or operates any  
27 plant, building, structure, process, or equipment may apply  
28 for a variance from the rules or standards governing the  
29 quality, nature, duration, or extent of emissions by filing  
30 an application with the department. The application shall  
31 be accompanied by such information and data required by the  
32 commission.

33 1. The executive director shall promptly investigate  
34 the application and ~~recommen-to-the-commission-the-dis-~~  
35 ~~position-of-such~~ approve or disapprove the application. The

1 ~~commission~~ executive director may grant a variance if ~~it~~ the  
2 executive director finds that:

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

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

9 2. ~~A-public-hearing, subject to the provisions of section~~  
10 ~~455B-16, shall be held if the commission concludes that a~~  
11 ~~hearing is advisable.~~ The applicant may request a review  
12 hearing before the commission if his or her application is  
13 denied.

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

24 4. The ~~commission~~ executive director may grant a variance  
25 for a specified period of time, not exceeding one year, and  
26 the ~~commission~~ executive director may further specify that  
27 the applicant make periodic reports specifying the progress  
28 that has been made toward compliance with any rule for which  
29 the variance was granted. A variance may be extended from  
30 year to year by affirmative action of the ~~commission~~ execu-  
31 tive director.

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

35 Sec. 20. Section four hundred fifty-five B point twenty-

1 four (455B.24), Code 1977, is amended to read as follows:

2 455B.24 ACCEPTANCE OF LOCAL PROGRAM. When an air pollution  
3 control program conducted by a political subdivision, or a  
4 combination thereof, is deemed upon review as provided in  
5 section ~~455B.12, subsection 11~~ four hundred fifty-five B point  
6 thirteen (455B.13) of the Code, to be consistent with the  
7 provisions of this division II or the rules established there-  
8 under, the ~~commission~~ executive director shall accept such  
9 program in lieu of state administration and regulation of  
10 air pollution within the political subdivisions involved.  
11 Nothing contained in this section shall be construed to limit  
12 the power of ~~the commission or~~ the executive director to take  
13 emergency action under the provisions of sections 455B.18  
14 and 455B.20.

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

18 a. Ordinances, rules and standards establishing re-  
19 quirements consistent with, or more strict than, those imposed  
20 by this division II or rules and standards adopted by the  
21 commission.

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

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

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

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

33 b. The executive director shall promptly investigate the  
34 application and ~~recommend the disposition of such~~ approve  
35 or disapprove the application ~~to the commission~~. The

1 ~~commission~~ executive director may conduct a public hearing  
2 before action is taken ~~on-the-recommendation~~ to approve or  
3 disapprove. If the ~~recommendation-is-against~~ executive  
4 director disapproves issuing a certificate, the political  
5 subdivision shall be entitled to ~~a-public-hearing-as-provided~~  
6 ~~in-section-455B-17~~ appeal the action to the commission. At  
7 the public hearing, the commission shall decide whether the  
8 local program is substantially consistent with the provisions  
9 of this division II, or rules adopted thereunder, and whether  
10 the local program is being enforced. The burden of proof  
11 shall be upon the political subdivision.

12 c. If the ~~commission~~ executive director determines at  
13 any time that a local air pollution program is being con-  
14 ducted in a manner inconsistent with the substantive provi-  
15 sions of this division II or the rules adopted thereunder,  
16 the ~~commission~~ executive director shall notify the political  
17 subdivision, citing the deviations from the acceptable  
18 standards and the corrective measures to be completed within  
19 a reasonable amount of time. If the corrective measures are  
20 not implemented as prescribed, the ~~commission~~ executive  
21 director shall suspend the certificate of acceptance of such  
22 political subdivision and shall administer the regulatory  
23 provisions of said division within the political subdivision  
24 until the appropriate standards are met. Upon receipt of  
25 evidence that necessary corrective action has been taken,  
26 the ~~commission~~ executive director shall reinstate the suspended  
27 certificate of acceptance, and the political subdivision shall  
28 resume the administration of the local air pollution control  
29 program within its jurisdiction. In cases where the  
30 certificate of acceptance is suspended, the political  
31 subdivision is entitled to ~~a-public-hearing-as-provided-in~~  
32 ~~section-455B-17~~ appeal the suspension to the commission.

33 d. Nothing in this division II shall be construed to  
34 supersede the jurisdiction of any local air pollution control  
35 program in operation on the first of January, 1973, except

1 that any such program shall meet all requirements of said  
2 division.

3 Sec. 21. Section four hundred fifty-five B point twenty-  
4 five (455B.25), Code 1977, is amended to read as follows:

5 455B.25 CIVIL ACTION FOR COMPLIANCE. If any order or  
6 rule of the ~~commission~~ department is being violated, the at-  
7 torney general shall, at the request of ~~the-commission-er~~  
8 the executive director, institute a civil action in any  
9 district court for injunctive relief to prevent any further  
10 violation of such order or rule, or for the assessment of  
11 a fine as determined by the court, not to exceed five hundred  
12 dollars per day for each day such violation continues, or  
13 both such injunctive relief and fine.

14 Sec. 22. Section four hundred fifty-five B point twenty-  
15 six (455B.26), Code 1977, as amended by Acts of the Sixty-  
16 seventh General Assembly, 1977 Session, chapter one hundred  
17 twenty-four (124), section four (4), is amended to read as  
18 follows:

19 455B.26 FAILURE--PROCEDURE. Upon failure of the executive  
20 director to take action within sixty days after an application  
21 for ~~installation-permit-or~~ variance, or upon failure of the  
22 commission on appeal to enter a final order or determination  
23 within sixty days after the final argument in a public hearing,  
24 the person seeking such action shall be entitled to treat  
25 such failure to act as a grant of the requested permit or  
26 variance, or of a finding favorable to the respondent in a  
27 public hearing, as the case may be. This section shall not  
28 apply to an application for a conditional permit for an  
29 electrical power generating facility subject to chapter four  
30 hundred seventy-six A (476A) of the Code.

31 Sec. 23. Section four hundred fifty-five B point twenty-  
32 nine (455B.29), Code 1977, is amended to read as follows:

33 455B.29 PRIOR RULES. Any rule adopted or order or variance  
34 issued under chapter 136B of prior Codes by the Iowa air  
35 pollution control commission or by the state department of

1 health or under division two (II) of this chapter by the air  
2 quality commission before January 1, 1979, shall remain  
3 effective until modified or rescinded by action of the ~~air~~  
4 quality commission unless such rule is inconsistent or contrary  
5 to this division II. All rules shall be adopted in accordance  
6 with chapter seventeen A (17A) of the Code.

7 Sec. 24. Section four hundred fifty-five B point thirty  
8 (455B.30), Code 1977, is amended by striking subsection eleven  
9 (11).

10 Sec. 25. Section four hundred fifty-five B point thirty-  
11 two (455B.32), subsections six (6) and ten (10), Code 1977,  
12 are amended to read as follows:

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

16 10. Adopt a statewide plan for the provision of safe  
17 drinking water under emergency circumstances. All public  
18 agencies, as defined in chapter 28E, shall co-operate in the  
19 development and implementation of the plan. The plan shall  
20 detail the manner in which the various state and local agencies  
21 shall participate in the response to an emergency. The  
22 department may enter into any agreement, subject to ~~section~~  
23 455B-7 approval of the commission, with any state agency or  
24 unit of local government or with the federal government which  
25 may be necessary to establish the role of such agencies in  
26 regard to the plan. This plan shall be co-ordinated with  
27 civil-defense disaster emergency plans.

28 Sec. 26. Section four hundred fifty-five B point thirty-  
29 four (455B.34), subsection three (3), Code 1977, is amended  
30 to read as follows:

31 3. The executive director ~~of the commission~~ may request  
32 the attorney general to institute legal proceedings pursuant  
33 to section 455B.49.

34 Sec. 27. Section four hundred fifty-five B point forty-  
35 two (455B.42), Code 1977, is amended to read as follows:

1 455B.42 VARIANCES AND EXEMPTIONS. The ~~commission~~ executive  
2 director may, after public notice and hearing, grant exemptions  
3 from a maximum contaminant level or treatment technique, or  
4 both such level and technique. The ~~commission~~-executive  
5 director may also grant a variance from drinking water  
6 standards for public water supply systems when the  
7 characteristics of the raw water sources, which are available  
8 to a system, cannot meet the requirements with respect to  
9 maximum contaminant level of such standards despite applica-  
10 tion of the best treatment techniques which are generally  
11 available and provided that the ~~commission~~ executive director  
12 determines that the variance will not result in an unreason-  
13 able risk to the public health. A schedule of compliance  
14 may be prescribed by the ~~commission~~ executive director, at  
15 the time the variance or exemption is granted. The ~~commission~~  
16 executive director shall also require such interim measures  
17 to minimize the contaminant levels of systems subject to the  
18 variance or exemption as may reasonably be implemented. The  
19 denial of a variance or exemption may be appealed to the  
20 commission.

21 Sec. 28. Section four hundred fifty-five B point forty-  
22 nine (455B.49), subsection four (4), Code 1977, is amended  
23 to read as follows:

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

1 Sec. 29. Section four hundred fifty-five B point fifty  
2 (455B.50), Code 1977, is amended by striking subsection two  
3 (2).

4 Sec. 30. Section four hundred fifty-five B point sixty-  
5 two (455B.62), Code 1977, is amended to read as follows:

6 455B.62 RULES. The commission, with the advice of the  
7 board, may promulgate such rules as are necessary to carry  
8 out the provisions of this part 2 of division III. ~~The rules~~  
9 ~~established shall be subject to the provisions of section~~  
10 ~~455B-77-subsection-3-~~

11 Sec. 31. Section four hundred fifty-five B point sixty-  
12 seven (455B.67), Code 1977, is amended by striking subsec-  
13 tion two (2).

14 Sec. 32. Section four hundred fifty-five B point sixty-  
15 seven (455B.67), subsection four (4), Code 1977, is amended  
16 to read as follows:

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

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

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

27 c. Which conforms with applicable rules of the commission.

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

31 Sec. 33. Section four hundred fifty-five B point sixty-  
32 eight (455B.68), Code 1977, is amended to read as follows:

33 455B.68 GRANTS OF ASSISTANCE. The ~~commission~~ executive  
34 director may make grants as funds are available to any  
35 municipality to assist such municipality in the construction

1 of sewage treatment works.

2 Sec. 34. Section four hundred fifty-five B point sixty-  
3 nine (455B.69), unnumbered paragraphs one (1) and two (2),  
4 Code 1977, are amended to read as follows:

5 The ~~commission~~ executive director shall accept and ad-  
6 minister all funds granted by the state pursuant to this part  
7 3 of division III.

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

10 Sec. 35. Section four hundred fifty-five B point seventy  
11 (455B.70), Code 1977, is amended to read as follows:

12 455B.70 CONTRACTS. The ~~commission~~ executive director  
13 may, in the name of the state, contract with any municipality  
14 concerning eligible projects, subject to the approval of the  
15 ~~executive-committee~~ commission. Any such contract may include  
16 such provisions as may be agreed upon by the parties, and  
17 shall include, in substance, the following provisions:

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

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

25 3. An agreement by the municipality:

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

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

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

1 d. To obtain approval of the ~~commission~~ executive di-  
2 rector before applying for federal assistance for pollution  
3 abatement, in order to maximize the amounts of such assistance  
4 received or to be received for all projects in Iowa.

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

7 4. A provision that, in the event federal assistance which  
8 was not included in the calculation of the state payment  
9 pursuant to subsection 2 becomes available to the municipality,  
10 the amount of the state payment shall be recalculated with  
11 the inclusion of such additional federal assistance and the  
12 municipality shall pay to the state the amount by which the  
13 state payment actually made exceeds the state payment  
14 determined by the recalculation.

15 Sec. 36. Section four hundred fifty-five B point seventy-  
16 four (455B.74), Code 1977, is amended to read as follows:

17 455B.74 PRIOR RULES. Any rule adopted or order issued  
18 under chapters 136A, 455B and 455C of prior Codes, by the  
19 Iowa water pollution control commission or by the state  
20 department of health or under this division by the water  
21 quality commission before January 1, 1979, shall remain  
22 effective until modified or rescinded by action of the ~~water~~  
23 ~~quality~~ commission unless such rule is inconsistent or contrary  
24 to this division. All rules shall be adopted in accordance  
25 with chapter seventeen A (17A) of the Code. Any permit issued  
26 under chapter 455E of prior Codes shall remain effective un-  
27 til modified or revoked by the executive director.

28 Sec. 37. Section four hundred fifty-five B point seventy-  
29 five (455B.75), Code 1977, is amended by striking subsection  
30 five (5).

31 Sec. 38. Section four hundred fifty-five B point seventy-  
32 eight (455B.78), Code 1977, is amended to read as follows:

33 455B.78 RULES ESTABLISHED. The commission shall establish  
34 rules for the proper administration of the provisions of this  
35 part 1 of division IV which shall reflect and accommodate

1 insofar as is reasonably possible those current and general-  
2 ly accepted methods and techniques for treatment and disposi-  
3 tion of solid waste which will serve the purposes of said  
4 part which shall take into consideration such factors, in-  
5 cluding others which it may deem proper, as existing physi-  
6 cal conditions, topography, soils and geology, climate,  
7 transportation, and land use, such rules including but not  
8 limited to rules relating to the establishment and location  
9 of sanitary disposal projects, sanitary practices, inspec-  
10 tion of sanitary disposal projects, collection of solid waste,  
11 disposal of solid waste, pollution controls, the issuance  
12 of permits, approved methods of private disposition of solid  
13 waste, the general operation and maintenance of sanitary  
14 disposal projects, and the implementation of said part. Prior  
15 to issuance of rules or amendments thereto, the commission  
16 shall hold at least one public hearing on the proposed rules  
17 or amendments, and shall give notice of such hearing at least  
18 thirty days in advance by publishing notice in a newspaper  
19 of general circulation in the state. ~~The-air-quality~~  
20 ~~commission-and-the-water-quality-commission-of-the-department~~  
21 ~~shall-co-operate-with-the-commission-in-the-establishment~~  
22 ~~of-such-rules-~~ All rules promulgated shall be subject to  
23 the provisions of chapter 17A and ~~section-455B-7,-subsection~~  
24 3.

25 Sec. 39. Section four hundred fifty-five B point seventy-  
26 nine (455B.79), unnumbered paragraph two (2), Code 1977, is  
27 amended to read as follows:

28 Permits shall be issued without fee by the executive  
29 director or at his or her direction, by a local board of  
30 health, for each sanitary disposal project operated in this  
31 state. Such permits shall be issued in the name of the city  
32 or county or, where applicable, in the name of the public  
33 or private agency operating such project. Each sanitary  
34 disposal project shall be inspected annually by the department  
35 or a local board of health. The permits issued pursuant to

1 this section shall be in addition to any other licenses,  
2 permits or variances authorized or required by law, including,  
3 but not limited to, the provisions of chapter 358A. A permit  
4 may be suspended or revoked ~~after notice and hearing before~~  
5 ~~the commission or its designee~~ by the executive director if  
6 a sanitary disposal project is found not to meet the  
7 requirements of the provisions of said part or rules issued  
8 pursuant thereto. The suspension or revocation of a permit  
9 may be appealed to the commission.

10 Sec. 40. Section four hundred fifty-five B point eighty-  
11 two (455B.82), subsection one (1), Code 1977, is amended to  
12 read as follows:

13 1. It shall be unlawful for any private agency or public  
14 agency to dump or deposit or permit the dumping or depositing  
15 of any solid waste at any place other than a sanitary disposal  
16 project approved by the executive director. This section  
17 shall not prohibit a private agency or public agency from  
18 dumping or depositing solid waste resulting from its own  
19 residential, farming, manufacturing, mining or commercial  
20 activities on land owned or leased by it if such action does  
21 not violate any statute of this state or rules promulgated  
22 by the commission or local boards of health, or local  
23 ordinances, ~~or rules issued by the air quality commission~~  
24 ~~or water quality commission of the department.~~ The executive  
25 director may issue temporary permits for dumping or disposal  
26 of solid waste at disposal sites for which an application  
27 for a permit to operate a sanitary disposal project has been  
28 made and which have not met all of the requirements of part  
29 1 of this division and the rules adopted by the commission  
30 if a compliance schedule has been submitted by the applicant  
31 specifying how and when the applicant will meet the re-  
32 quirements for an operational sanitary disposal project and  
33 the executive director determines the public interest will  
34 be best served by granting such temporary permit.

35 Sec. 41. Section four hundred fifty-five B point eighty-

1 three (455B.83), Code 1977, is amended to read as follows:

2 455B.83 APPEAL FROM ORDER. Any person aggrieved by an  
3 order of ~~the-commission-or~~ the executive director may appeal  
4 the same by filing a written notice of appeal with the execu-  
5 tive director within thirty days of the issuance of the order.  
6 The executive director shall schedule a hearing for the purpose  
7 of hearing the arguments of the aggrieved person within thirty  
8 days of the filing of the notice of appeal. The hearing may  
9 be held before the commission or its designee. A complete  
10 record shall be made of the proceedings. The executive  
11 director shall issue the findings in writing to the aggrieved  
12 person within thirty days of the conclusion of such hearing.  
13 Judicial review may be sought of actions of the commission  
14 ~~or-executive-director~~ in accordance with the terms of the  
15 Iowa administrative procedure Act. Notwithstanding the terms  
16 of said Act, petitions for judicial review may be filed in  
17 the district court of the county wherein the acts in issue  
18 occurred.

19 Sec. 42. Section four hundred fifty-five B point eighty-  
20 four (455B.84), Code 1977, is amended to read as follows:

21 455B.84 MODIFICATION OF RULES. Any rule adopted or order  
22 issued under chapter 406 of prior Codes by the commissioner  
23 of public health or under this part one (1) by the solid waste  
24 disposal commission before January 1, 1979 shall remain  
25 effective until modified or rescinded by action of the ~~solid~~  
26 ~~waste-disposal~~ commission unless such rule is inconsistent  
27 or contrary to this part 1 of division IV. All rules shall  
28 be adopted in accordance with chapter seventeen A (17A) of  
29 the Code.

30 Sec. 43. Section four hundred fifty-five B point eighty-  
31 five (455B.85), Code 1977, is amended by striking subsec-  
32 tion four (4).

33 Sec. 44. Section four hundred fifty-five B point eighty-  
34 seven (455B.87), Code 1977, is amended to read as follows:

35 455B.87 RULES FOR TRANSPORTING. The commission shall

1 provide, by rule, for the proper methods of transporting,  
2 storage, and handling of radioactive material except that  
3 the provisions of this section shall not apply to the trans-  
4 portation, handling, or storage of radioactive material by  
5 licensed physicians and surgeons, ~~or~~ licensed osteopathic  
6 physicians and surgeons or licensed pharmacists within the  
7 scope of their practice or by qualified employees of licensed  
8 hospitals within the scope of their duties. In adopting such  
9 rules, the commission shall consider the methods and techniques  
10 used by the United States atomic energy commission and  
11 radiation control agencies of other states for the regulation  
12 of the transporting, handling, and storage of radioactive  
13 material. The commission shall also consult with the  
14 department of public safety in the development of rules for  
15 the transporting of radioactive material on the public roads  
16 of this state. All rules adopted by the commission under  
17 this section shall be subject to the provisions of chapter  
18 17A ~~and-section-455B-77-subsection-3.~~

19 Sec. 45. Section four hundred fifty-five B point eighty-  
20 eight (455B.88), unnumbered paragraph two (2), is amended  
21 to read as follows:

22 All rules adopted by the commission under this section  
23 shall be subject to the provisions of chapter 17A ~~and-see-~~  
24 ~~tion-455B-77-subsection-3.~~

25 Sec. 46. Section four hundred fifty-five B point ninety-  
26 five (455B.95), Code 1977, is amended by striking subsection  
27 three (3).

28 Sec. 47. Section four hundred fifty-five B point one  
29 hundred (455B.100), Code 1977, is amended by striking the  
30 section and inserting in lieu thereof the following:

31 455B.100 DEFINITIONS. As used in this division five (V):

32 1. "Pesticide" means any substance or mixture of sub-  
33 stances intended for preventing, destroying, repelling, or  
34 mitigating directly or indirectly any insects, rodents,  
35 nematodes, fungi, weeds, and other forms of plant or animal

1 life or viruses, except viruses on or in living humans.

2 2. "Plant growth regulator" means any defoliant, desiccant,  
3 and any other substance or mixture of substances intended  
4 for accelerating or retarding the rate of growth or rate of  
5 maturation through physiological action, or for otherwise  
6 altering the behavior of ornamental or crop plants or the  
7 produce thereof, but does not include substances to the extent  
8 that they are intended as plant nutrients, trace elements,  
9 nutritional chemicals, plant inoculants, and soil amendments.

10 3. "Agricultural chemical" means a pesticide as defined  
11 in subsection one (1) of this section or a plant growth  
12 regulator as defined in subsection two (2) of this section.

13 Sec. 48. Section four hundred fifty-five B point one  
14 hundred one (455B.101), Code 1977, is amended by striking  
15 the section and inserting in lieu thereof the following:

16 455B.101 POWERS AND DUTIES.

17 1. The department shall cooperate with the department  
18 of agriculture and other affected agencies regarding regulatory  
19 and information gathering activities related to agricultural  
20 chemicals.

21 2. The commission shall adopt rules relating to disposal,  
22 discarding or storage of agricultural chemical containers.

23 3. If the commission determines that the use or misuse  
24 of an agricultural chemical causes harm to human health or  
25 the environment, the commission may adopt rules restricting  
26 or prohibiting the use, distribution, sale, or transportation  
27 of the agricultural chemical. Prior to the publication of  
28 the notice of intended action, the commission shall submit  
29 to the department of agriculture its findings on the harm  
30 that the chemical causes and its regulatory alternatives and  
31 shall request and obtain from the department of agriculture  
32 an estimate of the economic impact of the rule. The estimate  
33 and the commission's findings shall be available at the time  
34 of publication of the notice of intended action. Prior to  
35 the adoption of a rule, the commission shall hold a public

1 hearing on the rule. Prior to adopting a rule, the commission  
2 shall collect, analyze and interpret scientific data and shall  
3 consider any official reports, academic studies, expert  
4 opinions or testimony, or other matter deemed to have probative  
5 value and shall consider the toxicity, hazard, effectiveness,  
6 public need for the agricultural chemical or other means of  
7 control other than the chemical in question, and the economic  
8 impact on the members of the public and agencies affected  
9 by it.

10 Sec. 49. Section four hundred fifty-five B point one  
11 hundred two (455B.102), Code 1977, is amended by striking  
12 the section and inserting in lieu thereof the following:

13 455B.102 PENALTIES. Any person who violates a rule adopted  
14 by the commission under section four hundred fifty-five B  
15 point one hundred one (455B.101) of the Code shall be subject  
16 to a civil penalty, not to exceed five hundred dollars, for  
17 each violation. Each separate act or, where the violation  
18 is continuous in nature, each day of violation shall be a  
19 separate violation.

20 Sec. 50. Section four hundred fifty-five B point one  
21 hundred three (455B.103), Code 1977, is amended by striking  
22 the section and inserting in lieu thereof the following:

23 455B.103 PRIOR RULES CONTINUED. Any rule adopted or order  
24 issued under chapter two hundred six A (206A) of prior Codes  
25 by the chemical technology review board or under this division  
26 by the chemical technology commission before January 1, 1979,  
27 shall remain effective until modified or rescinded by action  
28 of the commission unless such rule is inconsistent or con-  
29 trary to this division five (V).

30 Sec. 51. Acts of the Sixty-seventh General Assembly, 1977  
31 Session, chapter one hundred twenty-five (125), section one  
32 (1), is amended by striking subsections six (6), seven (7),  
33 and eight (8).

34 Sec. 52. Acts of the Sixty-seventh General Assembly, 1977  
35 Session, chapter one hundred twenty-five (125), section five

1 (5), is amended to read as follows:

2 SEC. 5. NEW SECTION. STATE HAZARDOUS CONDITION CON-  
3 TINGENCY PLAN. All public agencies, as defined in chapter  
4 twenty-eight E (28E) of the Code, shall cooperate in the  
5 development and implementation of a state hazardous condition  
6 contingency plan. The plan shall detail the manner in which  
7 public agencies shall participate in the response to a hazard-  
8 ous condition. The department executive director may enter  
9 into agreements, ~~subject-to-section-four-hundred-fifty-five~~  
10 ~~B-point-seven-(455B-7)-of-the-Code~~ with approval of the commis-  
11 sion, with any state agency or unit of local government or  
12 with the federal government, as necessary to develop and im-  
13 plement the plan. The plan shall be coordinated with the  
14 office of disaster services and any joint county-municipal  
15 disaster services and emergency planning administration es-  
16 tablished pursuant to chapter twenty-nine C (29C) of the Code.

17 Sec. 53. Acts of the Sixty-seventh General Assembly, 1977  
18 Session, chapter one hundred twenty-five (125), section eight  
19 (8), subsection two (2), is amended to read as follows:

20 2. The executive director ~~of-the-commission~~ may request  
21 that the attorney general institute legal proceedings for  
22 a temporary or permanent injunction pursuant to section eleven  
23 (11) of this Act for purposes of enforcing an emergency order.

24 Sec. 54. Acts of the Sixty-seventh General Assembly, 1977  
25 Session, chapter one hundred twenty-five (125), section ten  
26 (10), is amended by striking subsection six (6).

27 Sec. 55. Acts of the Sixty-seventh General Assembly, 1977  
28 Session, chapter one hundred twenty-five (125), is amended  
29 by adding the following new section:

30 NEW SECTION. PRIOR RULES CONTINUED. Any rules adopted  
31 or order issued under Acts of the Sixty-seventh General  
32 Assembly, 1977 Session, chapter one hundred twenty-five (125)  
33 prior to January 1, 1979 by the solid waste disposal commission  
34 shall remain effective until modified or rescinded by action  
35 of the commission. All rules shall be adopted in accordance

1 with chapter seventeen A (17A) of the Code.

2 Sec. 56. Section sixty-eight B point two (68B.2), sub-  
3 section four (4), Code 1977, as amended by Acts of the Sixty-  
4 seventh General Assembly, 1977 Session, chapter forty-eight  
5 (48), section one (1), is amended to read as follows:

6 4. "Regulatory agency" means department of agriculture,  
7 industrial commissioner, bureau of labor, occupational safety  
8 and health review commission, department of job service,  
9 department of banking, insurance department of Iowa, state  
10 department of health, department of public safety, department  
11 of public instruction, state board of regents, department  
12 of social services, department of revenue, Iowa state commerce  
13 commission, Iowa beer and liquor control department, board  
14 of pharmacy examiners, state conservation commission, state  
15 department of transportation, Iowa state civil rights  
16 commission, department of ~~soil-conservation~~ land and water  
17 resources, department of public defense, and ~~Iowa-natural~~  
18 ~~resources-council~~ department of environmental quality.

19 Sec. 57. Section eighty-three A point two (83A.2), Code  
20 1977, is amended by striking subsections eleven (11) and  
21 twelve (12) and inserting in lieu thereof the following:

22 11. "Department" means the department of land and water  
23 resources.

24 12. "Commission" means the state land and water resources  
25 commission.

26 Sec. 58. Section eighty-three A point three (83A.3),  
27 subsection five (5), Code 1977, is amended to read as follows:

28 5. One member representing the ~~Iowa-natural-resources~~  
29 ~~council~~ environmental quality commission of the department  
30 of environmental quality.

31 Sec. 59. Section eighty-three A point three (83A.3),  
32 unnumbered paragraph one (1), Code 1977, is amended to read  
33 as follows:

34 There is hereby established within the department of ~~soil~~  
35 ~~conservation~~ a land rehabilitation advisory board which shall

1 consist of seven members appointed by the governor, as follows:

2 Sec. 60. Sections eighty-three A point eight (83A.8),  
3 eighty-three A point nine (83A.9), eighty-three A point ten  
4 (83A.10), eighty-three A point twenty-two (83A.22), eighty-  
5 three A point twenty-six (83A.26), eighty-three A point twenty-  
6 seven (83A.27), and eighty-three A point twenty-eight (83A.28),  
7 Code 1977, are amended by striking from such sections the  
8 words "state soil conservation committee" or "committee"  
9 and inserting in lieu thereof the word "commission".

10 Sec. 61. Section eighty-four point two (84.2), subsec-  
11 tions eleven (11), twelve (12), fourteen (14), and sixteen  
12 (16), Code 1977, are amended to read as follows:

13 11. "Illegal oil" means oil which has been produced from  
14 any well within the state in excess of the quantity permitted  
15 by any rule or order of the ~~eooneiz~~ commission.

16 12. "Illegal gas" means gas which has been produced from  
17 any well within this state in excess of the quantity permit-  
18 ted by any rule or order of the ~~eooneiz~~ commission.

19 14. "Certificate of clearance" means a permit prescribed  
20 by the ~~eooneiz~~ commission for the transportation or the  
21 delivery of oil or gas or product and issued or registered  
22 in accordance with the rule or order requiring such permit.

23 16. "~~eooneiz~~ Commission" means Iowa ~~natural-resources~~  
24 ~~eooneiz-as-defined-in-chapter-455A~~ state commerce commission.

25 Sec. 62. Section eighty-four point four (84.4), unnum-  
26 bered paragraph one (1) and subsection one (1), paragraphs  
27 d, e, and i, Code 1977, are amended to read as follows:

28 The ~~eooneiz~~ commission has the duty of administering the  
29 provisions of this chapter. The state geologist shall act  
30 as administrator with the duty and responsibility of enforcing  
31 the regulations and orders of the ~~eooneiz~~ commission applicable  
32 to the crude petroleum oil and natural gas resources of this  
33 state and the provisions of this chapter, subject to chapter  
34 seventeen A (17A) of the Code. The ~~eooneiz~~ commission has  
35 the duty and authority to make such investigations as it deems

1 proper to determine whether waste exists or is imminent or  
2 whether other facts exist which justify action. The ~~council~~  
3 commission acting through the office of the state geologist  
4 has the authority:

5 d. The furnishing of a reasonable bond with good and  
6 sufficient surety, conditioned upon the full compliance with  
7 the provisions of this chapter, and the rules of the ~~council~~  
8 commission prescribed to govern the production of oil and  
9 gas on state and private lands within the state of Iowa;

10 e. That the production from wells be separated into gaseous  
11 and liquid hydrocarbons, and that each be accurately measured  
12 by such means and upon such standards as may be prescribed  
13 by the ~~council~~ commission;

14 i. That every person who produces, sells, purchases,  
15 acquires, stores, transports, refines, or processes native  
16 and indigenous Iowa produced crude oil or gas in this state  
17 shall keep and maintain within this state complete and accurate  
18 records of the quantities thereof, which records shall be  
19 available for examination by the ~~council~~ commission or ~~its~~  
20 ~~agents~~ a designee at all reasonable times, and that every  
21 such person file with the ~~council~~ commission such reports  
22 as it may prescribe with respect to such oil or gas or the  
23 products thereof.

24 Sec. 63. Section eighty-four point five (84.5), Code 1977,  
25 is amended to read as follows:

26 84.5 DRILLING PERMIT REQUIRED. It shall be unlawful to  
27 commence operations for the drilling of a well for oil or  
28 gas or commence operations to deepen any well to a different  
29 geological formation without first giving the state geologist  
30 notice of intention to drill, or without first obtaining a  
31 permit from the state geologist, under such rules as may be  
32 prescribed by the ~~council~~ commission and paying to the ~~council~~  
33 commission a fee of fifty dollars for such well. Such fee  
34 shall be ~~used-by-the-council-for-administering-this-chapter,~~  
35 ~~including-the-payment-of-expenses-incurred-in-publishing-legal~~

1 ~~netice~~ credited to the general fund of the state.

2 Sec. 64. Section eighty-four point six (84.6), Code 1977,  
3 is amended to read as follows:

4 84.6 ~~COUNEI~~ COMMISSION SHALL DETERMINE MARKET DEMAND  
5 AND REGULATE THE AMOUNT OF PRODUCTION. The ~~eeuneit~~ commission  
6 shall determine market demand for each marketing district  
7 and regulate the amount of production as follows:

8 1. The ~~eeuneit~~ commission shall limit the production  
9 of oil and gas within each marketing district to that amount  
10 which can be produced without waste, and which does not exceed  
11 the reasonable market demand.

12 2. Whenever the ~~eeuneit~~ commission limits the total amount  
13 of oil or gas which may be produced in the state or a marketing  
14 district, the ~~eeuneit~~ commission shall allocate or distribute  
15 the allowable production among the pools therein on a  
16 reasonable basis, giving, where reasonable under the  
17 circumstances to each pool with small wells of settled  
18 production, an allowable production which prevents the general  
19 premature abandonment of such wells in the pool.

20 3. Whenever the ~~eeuneit~~ commission limits the total amount  
21 of oil or gas which may be produced in any pool in this state  
22 to an amount less than that amount which the pool could produce  
23 if no restriction were imposed, which limitation is imposed  
24 either incidental to, or without, a limitation of the total  
25 amount of oil or gas produced in the marketing district wherein  
26 the pool is located, the ~~eeuneit~~ commission shall allocate  
27 or distribute the allowable production among the several wells  
28 or producing properties in the pool on a reasonable basis,  
29 preventing or minimizing reasonable avoidable drainage, so  
30 that each property will have the opportunity to produce or  
31 to receive its just and equitable share, subject to the  
32 reasonable necessities for the prevention of waste.

33 4. In allocating the market demand for gas as between  
34 pools within marketing districts, the ~~eeuneit~~ commission shall  
35 give due regard to the fact that gas produced from oil pools

1 is to be regulated in a manner as will protect the reasonable  
2 use of its energy for oil production.

3 5. The ~~energy~~ commission shall not be required to  
4 determine the reasonable market demand applicable to any  
5 single pool, except in relation to all other pools within  
6 the same marketing district, and in relation to the demand  
7 applicable to the marketing district. In allocating allowables  
8 to pools, the ~~energy~~ commission may consider, but shall not  
9 be bound by nominations of purchasers to purchase from  
10 particular fields, pools, or portions thereof. The ~~energy~~  
11 commission shall allocate the total allowable for the state  
12 in such manner as prevents undue discrimination between  
13 marketing districts, fields, pools, or portions thereof  
14 resulting from selective buying or nomination by purchasers.

15 Sec. 65. Section eighty-four point seven (84.7), unnum-  
16 bered paragraph one (1), subsections one (1) and four (4),  
17 Code 1977, are amended to read as follows:

18 The ~~energy~~ commission shall set spacing units as follows:

19 1. When necessary to prevent waste, to avoid the drilling  
20 of unnecessary wells, or to protect correlative rights, the  
21 ~~energy~~ commission shall establish spacing units for a pool.  
22 Spacing units when established shall be of uniform size and  
23 shape for the entire pool, except that when found to be  
24 necessary for any of the purposes above-mentioned, the ~~energy~~  
25 ~~is-authorized-to~~ commission may divide any pool into zones  
26 and establish spacing units for each zone, which units may  
27 differ in size and shape from those established in any other  
28 zone.

29 4. An order establishing units for a pool shall cover  
30 all lands determined or believed to be underlaid by such pool,  
31 and may be modified by the state geologist from time to time  
32 to include additional areas determined to be underlaid by  
33 such pool. When found necessary for the prevention of waste,  
34 or to avoid the drilling of unnecessary wells or to protect  
35 correlative rights. an order establishing spacing units in

1 a pool may be modified by the state geologist to increase  
2 the size of spacing units in the pool or any zone thereof,  
3 or to permit the drilling of additional wells on a reasonable  
4 uniform plan in the pool, or any zone thereof. Orders of  
5 the state geologist may be appealed to the ~~state~~ commission  
6 within thirty days.

7 Sec. 66. Section eighty-four point eight (84.8), Code  
8 1977, is amended to read as follows:

9 84.8 INTEGRATION OF FRACTIONAL TRACTS.

10 1. When two or more separately owned tracts are embraced  
11 within a spacing unit, or when there are separately owned  
12 interests in all or a part of the spacing unit, then the  
13 owners and royalty owners thereof may pool their interests  
14 for the development and operation of the spacing unit. In  
15 the absence of voluntary pooling the ~~state~~ commission upon  
16 the application of any interested person, shall enter an order  
17 pooling all interests in the spacing unit for the development  
18 and operations thereof. Each such pooling order shall be  
19 made after notice and hearing, and shall be upon terms and  
20 conditions that are just and reasonable, and that afford to  
21 the owner of each tract or interest in the spacing unit the  
22 opportunity to recover or receive, without unnecessary expense,  
23 his or her just and equitable share. Operations incident  
24 to the drilling of a well upon any portion of a spacing unit  
25 covered by a pooling order shall be deemed for all purposes,  
26 the conduct of such operations upon each separately owned  
27 tract in the drilling unit by the several owners thereof.  
28 That portion of the production allocated to each tract included  
29 in a spacing unit covered by a pooling order shall, when  
30 produced, be deemed for all purposes to have been produced  
31 from such tract by a well drilled thereon.

32 2. Each such pooling order shall make provision for the  
33 drilling and operation of a well on the spacing unit, and  
34 for the payment of the reasonable actual cost thereof by the  
35 owners of interests in the spacing unit, plus a reasonable

1 charge for supervision. In the event of any dispute as to  
2 such costs the ~~commission~~ commission shall determine the proper  
3 costs. If one or more of the owners shall drill and operate,  
4 or pay the expenses of drilling and operating the well for  
5 the benefit of others, then, the owner or owners so drilling  
6 or operating shall, upon complying with the terms of section  
7 84.10, have a lien on the share of production from the spacing  
8 unit accruing to the interest of each of the other owners  
9 for the payment of his or her proportionate share of such  
10 expenses. All the oil and gas subject to the lien shall be  
11 marketed and sold and the proceeds applied in payment of the  
12 expenses secured by such lien as provided for in section  
13 84.10.

14 Sec. 67. Section eighty-four point nine (84.9), Code 1977,  
15 is amended to read as follows:

16 84.9 VOLUNTARY AGREEMENTS FOR UNIT OPERATION VALID. An  
17 agreement for the unit or co-operative development and opera-  
18 tion of a field or pool, in connection with the conduct of  
19 a repressuring or pressure maintenance operations, cycling  
20 or recycling operations, including the extraction and  
21 separation of liquid hydrocarbons from natural gas in  
22 connection therewith, or any other method of operation,  
23 including water floods, ~~is authorized and~~ may be performed  
24 and shall not be ~~held or~~ construed to violate any of the  
25 statutes of this state relating to trusts, monopolies, or  
26 contracts and combinations in restraint of trade, if the  
27 agreement is approved by the ~~commission~~ commission as being in  
28 the public interest, protective of correlative rights, and  
29 reasonably necessary to increase ultimate recovery or to  
30 prevent waste of oil or gas. Such agreements bind only the  
31 persons who execute them, and their heirs, successors, assigns,  
32 and legal representatives.

33 Sec. 68. Section eighty-four point eleven (84.11), Code  
34 1977, is amended to read as follows:

35 84.11 RULES COVERING PRACTICE BEFORE ~~COMMISSION~~ COMMISSION.

1 1. The ~~eooneiz~~ commission shall prescribe rules governing  
2 the practice and procedure before it.

3 2. No order, or amendment thereof, except in an emergency,  
4 shall be made by the ~~eooneiz~~ commission without a public  
5 hearing upon at least ten days' notice. The public hearing  
6 shall be held at such time and place as may be prescribed  
7 by the ~~eooneiz~~ commission, and any interested person shall  
8 be entitled to be heard.

9 3. When an emergency requiring immediate action is found  
10 to exist the ~~eooneiz~~ commission is authorized to issue an  
11 emergency order without notice of hearing, which shall be  
12 effective upon promulgation. No emergency order shall remain  
13 effective for more than fifteen days.

14 4. Any notice required by this chapter shall be given  
15 at the election of the ~~eooneiz~~ commission either by personal  
16 service or by letter to the last recorded address and one  
17 publication in a newspaper of general circulation in the state  
18 capital city and in a newspaper of general circulation in  
19 the county where the land affected, or some part thereof,  
20 is situated. The notice shall issue in the name of the state,  
21 shall be signed by the state geologist, shall specify the  
22 style and number of the proceeding, the time and place of  
23 the hearing, and shall briefly state the purpose of the  
24 proceeding. Should the ~~eooneiz~~ commission elect to give  
25 notice by personal service, such service may be made by any  
26 officer authorized to serve process, or by any agent designee  
27 of the ~~eooneiz~~ commission, in the same manner as is provided  
28 by law for the service of original notices in civil actions  
29 in the district court of the state. Proof of the service  
30 by such agent designee shall be by the affidavit of the person  
31 making personal service.

32 5. All orders issued by the ~~eooneiz~~ commission shall be  
33 in writing, shall be entered in full and indexed in books  
34 to be kept by the state geologist for that purpose, and shall  
35 be public records open for inspection at all times during

1 reasonable office hours. A copy of any rule or order certified  
2 by the state geologist or any officer of the ~~eo~~eo~~ne~~ne~~i~~i~~z~~z commission  
3 shall be received in evidence in all courts of this state  
4 with the same effect as the original.

5 6. The ~~eo~~eo~~ne~~ne~~i~~i~~z~~ commission may act upon its own motion,  
6 or upon the petition of any interested person. On the filing  
7 of a petition concerning any matter within the jurisdiction  
8 of the ~~eo~~eo~~ne~~ne~~i~~i~~z~~ commission, the ~~eo~~eo~~ne~~ne~~i~~i~~z~~ commission shall  
9 promptly fix a date for a hearing thereon, and shall cause  
10 notice of the hearing to be given. The hearing shall be held  
11 without undue delay after the filing of the petition. The  
12 ~~eo~~eo~~ne~~ne~~i~~i~~z~~ commission shall enter its order within thirty days  
13 after the hearing.

14 Sec. 69. Section eighty-four point twelve (84.12), Code  
15 1977, is amended to read as follows:

16 84.12 SUMMONING WITNESSES, ADMINISTERING OATHS, REQUIRING  
17 PRODUCTION OF RECORDS--HEARING EXAMINERS APPOINTED.

18 1. The ~~eo~~eo~~ne~~ne~~i~~i~~z~~ commission shall have the power to summon  
19 witnesses, to administer oaths, and require the production  
20 of records, books, and documents for examination at any hearing  
21 or investigation conducted. No person shall be excused from  
22 attending and testifying, or from producing books, papers,  
23 and records before the ~~eo~~eo~~ne~~ne~~i~~i~~z~~ commission or a court, or from  
24 obedience to the subpoena of the ~~eo~~eo~~ne~~ne~~i~~i~~z~~ commission or a  
25 court, on the ground or for the reason that the testimony  
26 or evidence, documentary or otherwise, required of him or  
27 her may tend to incriminate him or her or subject him or her  
28 to a penalty or forfeiture; provided, that nothing herein  
29 contained shall be construed as requiring any person to produce  
30 any books, papers, or records, or to testify in response to  
31 any inquiry not pertinent to some question lawfully before  
32 such ~~eo~~eo~~ne~~ne~~i~~i~~z~~ commission or court for determination. No natural  
33 person shall be subjected to criminal prosecution or to any  
34 penalty or forfeiture for or on account of any transaction,  
35 matter, or thing concerning which, in spite of his or her

1 objections, he or she may be required to testify or produce  
2 evidence, documentary or otherwise, before the ~~eeuneiz~~  
3 commission or court, or in obedience to subpoena; provided,  
4 that no person testifying shall be exempted from prosecution  
5 and punishment for perjury committed in so testifying.

6 2. In case of failure or refusal on the part of any per-  
7 son to comply with the subpoena issued by the ~~eeuneiz~~  
8 commission, or in case of the refusal of any witness to testify  
9 as to any matter regarding which he or she may be interro-  
10 gated, any court in the state, upon the application of the  
11 ~~eeuneiz~~ commission, may issue an attachment for such person  
12 and compel him or her to comply with such subpoena, and to  
13 attend before the ~~eeuneiz~~ commission and produce such records,  
14 books, and documents, for examination, and to give his or  
15 her testimony. Such courts shall have the power to punish  
16 for contempt as in the case of disobedience to a like subpoena  
17 issued by the court, or for refusal to testify therein.

18 3. The ~~eeuneiz~~ commission may appoint a hearing examiner  
19 or examiners to conduct hearings required by this chapter.  
20 When so appointed, such hearing examiner or examiners shall  
21 have and exercise all of the powers delegated to the ~~eeuneiz~~  
22 commission by this section.

23 Sec. 70. Section eighty-four point thirteen (84.13), Code  
24 1977, is amended to read as follows:

25 84.13 PERSON ADVERSELY AFFECTED--REHEARING. Any person  
26 adversely affected by any order of the ~~eeuneiz~~ commission  
27 may within thirty days after its effective date apply to the  
28 ~~eeuneiz~~ commission in writing for a rehearing. The application  
29 for rehearing shall be acted upon within fifteen days after  
30 its filing, and if granted, the rehearing shall be held without  
31 undue delay.

32 Sec. 71. Section eighty-four point fourteen (84.14), Code  
33 1977, is amended to read as follows:

34 84.14 APPEAL TO DISTRICT COURT--PROCEDURE OF APPEAL.

35 1. Judicial review of action of the ~~eeuneiz~~ commission

1 may be sought in accordance with the terms of the Iowa  
2 administrative procedure Act. Notwithstanding the terms of  
3 the Iowa administrative procedure Act, petitions for judicial  
4 review may be filed in the district court of Polk county or  
5 in the district court of any county in which the property  
6 affected or some portion thereof is located.

7 2. If at the time of filing of the petition for judicial  
8 review suspension of the order is asked for, the ~~commission~~  
9 commission shall enter an order fixing the amount of the  
10 supersedeas bond. Within ten days after the entry of an order  
11 by the ~~commission~~ commission which fixes the amount of the bond,  
12 the petitioner must file with the ~~commission~~ commission a  
13 supersedeas bond in the required amount and with proper surety;  
14 upon approval of the bond, the ~~commission~~ commission shall suspend  
15 the order complained of until its final disposition upon  
16 review. The bond shall run in favor of the state of Iowa  
17 for the use and benefit of any person who may suffer damage  
18 by reason of the suspension of the order in the event the  
19 same is affirmed by the district court. If the order of the  
20 ~~commission~~ commission is not superseded, it shall continue in  
21 force and effect as if no petition for judicial review was  
22 pending.

23 3. The district court shall, insofar as is practicable,  
24 give precedence to petitions for judicial review of orders  
25 of the ~~commission~~ commission.

26 Sec. 72. Section eighty-four point fifteen (84.15), sub-  
27 section one (1), paragraph b and subsection two (2), Code  
28 1977, are amended to read as follows:

29 b. Such person fails to obtain a certificate of clearance  
30 with respect to such oil, gas, or product where prescribed  
31 by order of the ~~commission~~ commission, or fails to follow any  
32 other method prescribed by an order of the ~~commission~~ commission  
33 for the identification of such oil, gas or product.

34 2. Illegal oil, illegal gas, and illegal product are  
35 declared to be contraband and are subject to seizure and sale

1 as herein provided; seizure and sale to be in addition to  
2 any and all other remedies and penalties provided in this  
3 chapter for violations relating to illegal oil, illegal gas,  
4 or illegal product. Whenever the ~~commission~~ commission believes  
5 that any oil, gas or product is illegal, the ~~commission~~ commission  
6 acting by the attorney general, shall bring a civil action  
7 in rem in the district court of the county where such oil,  
8 gas, or product is found, to seize and sell the same, or the  
9 ~~commission~~ commission may include such an action in rem for the  
10 seizure and sale of illegal oil, illegal gas, or illegal  
11 product in any suit brought for an injunction or penalty  
12 involving illegal oil, illegal gas, or illegal product. Any  
13 person claiming an interest in oil, gas, or product affected  
14 by any such action shall have the right to intervene as an  
15 interested party in such action.

16 Sec. 73. Section eighty-four point sixteen (84.16), Code  
17 1977 Supplement, is amended to read as follows:

18 84.16 PENALTIES.

19 1. Any person who violates any provision of this chap-  
20 ter, or any rule or order of the ~~commission~~ commission where  
21 no other penalty is provided shall be guilty of a simple  
22 misdemeanor.

23 2. If any person, for the purpose of evading this chapter,  
24 or any rule or order of the ~~commission~~ commission, shall make  
25 or cause to be made any false entry or statement in a report  
26 required by this chapter or by any such rule or order, or  
27 shall make or cause to be made any false entry in any record,  
28 account, or memorandum required by this chapter, or by any  
29 such rule or order, or shall omit, or cause to be omitted,  
30 from any such record, account, or memorandum, full, true,  
31 and correct entries as required by this chapter, or by any  
32 such rule or order, or shall remove from this state or destroy,  
33 mutilate, alter or falsify any such record, account, or  
34 memorandum, such person shall be guilty of fraudulent practice.

35 3. Any person knowingly aiding or abetting any other per-

1 son in the violation of any provision of this chapter, or  
2 any rule or order of the ~~eeuneit~~ commission shall be subject  
3 to the same penalty as that prescribed by this chapter for  
4 the violation by such other person.

5 Sec. 74. Section eighty-four point seventeen (84.17),  
6 Code 1977, is amended to read as follows:

7 84.17 ACTION TO RESTRAIN VIOLATION OR THREATENED VIOLA-  
8 TION.

9 1. Whenever it appears that any person is violating or  
10 threatening to violate any provision of this chapter, or any  
11 rule or order of the ~~eeuneit~~ commission, the ~~eeuneit~~ commission  
12 shall bring suit against such person in the district court  
13 of any county where the violation occurs or is threatened,  
14 to restrain such person from continuing such violation or  
15 from carrying out the threat of violation. In any such suit,  
16 the court shall have jurisdiction to grant to the ~~eeuneit~~  
17 commission, without bond or other undertaking, such prohibitory  
18 and mandatory injunctions as the facts may warrant, including  
19 temporary restraining orders, preliminary injunctions,  
20 temporary, preliminary, or final orders restraining the  
21 movement or disposition of any illegal oil, illegal gas, or  
22 illegal product, any of which the court may order to be  
23 impounded or placed in the custody of an agent appointed by  
24 the court.

25 2. If the ~~eeuneit~~ commission shall fail to bring suit  
26 to enjoin a violation or threatened violation of any provision  
27 of this chapter, or any rule or order of the ~~eeuneit~~  
28 commission, within ten days after receipt of written request  
29 to do so by any person who is or will be adversely affected  
30 by such violation, the person making such request may bring  
31 suit in his or her own behalf to restrain such violation or  
32 threatened violation in any court in which the ~~eeuneit~~  
33 commission might have brought suit. The ~~eeuneit~~ commission  
34 shall be made a party defendant in such suit in addition to  
35 the person violating or threatening to violate a provision

1 of this chapter, or a rule or order of the ~~eeuneil~~ commission,  
2 and the action shall proceed and injunctive relief may be  
3 granted to the ~~eeuneil~~ commission or the petitioner without  
4 bond in the same manner as if suit had been brought by the  
5 ~~eeuneil~~ commission.

6 Sec. 75. Chapter eighty-four (84), Code 1977, is amended  
7 by adding the following new section:

8 NEW SECTION. PRIOR ORDERS, RULES OR PERMITS. Any rule  
9 adopted, or order or permit issued under this chapter by the  
10 Iowa natural resources council before January 1, 1979 shall  
11 remain effective until modified or rescinded by action of  
12 the commission as provided in this chapter. All rules shall  
13 be adopted in accordance with chapter seventeen A (17A) of  
14 the Code.

15 Sec. 76. Section ninety-three point two (93.2), Code 1977,  
16 is amended to read as follows:

17 93.2 ESTABLISHMENT. There is established an energy policy  
18 council which shall consist of seventeen members. Two members  
19 shall be appointed by the president of the senate from the  
20 membership of the senate with no more than one member being  
21 appointed from the same political party. Two members shall  
22 be appointed by the speaker of the house of representatives  
23 from the members of the house with no more than one member  
24 being appointed from the same political party. The governor  
25 shall appoint seven members who shall be reasonably knowledge-  
26 able in the field of energy. Not more than four of the  
27 governor's appointees shall be of the same political party.  
28 They shall be subject to confirmation by two-thirds of the  
29 membership of the senate. The state geologist, the secretary  
30 of agriculture, the chairman of the Iowa state commerce  
31 commission, the ~~administrative-officer-of-the-state-soil-con-~~  
32 ~~servation-committee~~ director of the department of land and  
33 water resources, the director of transportation, the execu-  
34 tive director of environmental quality and legislative members  
35 shall serve as ex officio nonvoting members of the council.

1 If a nonlegislative ex officio nonvoting member is unable  
2 to attend a meeting of the council, the member shall designate  
3 a replacement who shall be authorized to represent the member  
4 at the meeting.

5 Sec. 77. Section one hundred seven point twenty-one  
6 (107.21), Code 1977, is amended to read as follows:

7 107.21 DIVISIONS OF DEPARTMENT.

8 1. The department of conservation, herein created, shall  
9 consist of the following divisions:

10 1 a. A division of fish and game which shall include mat-  
11 ters relating to fish and fisheries, waterfowl, game, fur-  
12 bearing and other animals, birds and other wildlife resources  
13 and enforcement.

14 2 b. A division of lands and waters which shall include  
15 matters relating to state waters, state parks, forests and  
16 forestry, and lakes and streams, including matters relating  
17 to scenic, scientific, historical, archaeological and  
18 recreational matters and enforcement.

19 3 c. A division of administration which shall include  
20 matters relating to accounts, records, technical service,  
21 and public relations.

22 2. The state conservation director may recommend, with  
23 the approval of the commission, reorganization plans requiring  
24 legislative action to the governor and the general assembly,  
25 which plans shall be designed to modernize the administrative  
26 operation of the department.

27 Sec. 78. Section one hundred eight point seven (108.7),  
28 unnumbered paragraph two (2), Code 1977, is amended to read  
29 as follows:

30 Any action taken by the commission under the provisions  
31 of this section shall be subject to the approval of the ~~lowe~~  
32 ~~natural-resources-council~~ department of land and water  
33 resources.

34 Sec. 79. Section one hundred nine point fifteen (109.15),  
35 Code 1977, is amended to read as follows:

1 109.15 INJURY TO DAM. It shall be unlawful for any owner  
2 or his agent to remove or destroy any existing dam, or alter  
3 it in a way so as to lower the water level, without having  
4 received written approval from the ~~Iowa-natural-resources~~  
5 ~~ecouncil~~ department of land and water resources.

6 Sec. 80. Section one hundred eleven point four (111.4),  
7 unnumbered paragraph one (1), Code 1977, is amended to read  
8 as follows:

9 No person, association or corporation shall build or erect  
10 any pier, wharf, sluice, piling, wall, fence, obstruction,  
11 building or erection of any kind upon or over any state-owned  
12 land or water under the jurisdiction of the commission, with-  
13 out first obtaining from such commission a written permit,  
14 provided, however, that this provision shall not apply to  
15 dams constructed and operated under the authority of chapter  
16 469. No such permit, in matters relating to or in any manner  
17 affecting flood control, shall be issued without approval  
18 of the ~~Iowa-natural-resources-ecouncil~~ department of land and  
19 water resources. No person shall maintain or erect any  
20 structure beyond the line of private ownership along or upon  
21 the shores of state-owned waters in such a manner as to  
22 obstruct the passage of pedestrians along the shore between  
23 the ordinary high-water mark and the water's edge, except  
24 by permission of the commission.

25 Sec. 81. Section one hundred eleven point eighteen  
26 (111.18), Code 1977, is amended to read as follows:

27 111.18 JURISDICTION. Jurisdiction over all meandered  
28 streams and lakes of this state and of state lands bordering  
29 thereon, not now used by some other state body for state pur-  
30 poses, is conferred upon the commission. The exercise of  
31 this jurisdiction shall be subject to the approval of the  
32 ~~Iowa-natural-resources-ecouncil~~ department of land and water  
33 resources in matters relating to or in any manner affecting  
34 flood control. The commission, with the approval of the  
35 executive council, may establish parts of such property into

1 state parks, and when so established all of the provisions  
2 of this chapter relative to public parks shall apply thereto.

3 Sec. 82. Section one hundred eleven point sixty-two  
4 (111.62), Code 1977, is amended to read as follows:

5 111.62 ~~COPY TO RESOURCES-COUNCIL~~ DEPARTMENT OF LAND AND  
6 WATER RESOURCES. A copy of the petition and such applications,  
7 plans, and specifications as are required under the provisions  
8 of chapter 455A shall be filed with the ~~Iowa-natural-resources~~  
9 ~~council~~ the department of land and water resources and any  
10 approval or permit required ~~thereunder~~ by the department of  
11 land and water resources shall be obtained prior to the  
12 establishment of said water recreational area or the granting  
13 of a permit therefor by the state conservation commission.

14 Sec. 83. Section one hundred eleven D point one (111D.1),  
15 Code 1977, is amended to read as follows:

16 111D.1 ACQUISITION BY OTHER THAN CONDEMNATION. The state  
17 conservation commission, ~~the-Iowa-natural-resources-council~~  
18 department of land and water resources, any county conservation  
19 board, and any city or agency thereof may acquire by purchase,  
20 gift, contract, or other voluntary means, but not by eminent  
21 domain, conservation easements in land to preserve scenic  
22 beauty, wildlife habitat, riparian lands, wet lands, or  
23 forests, promote outdoor recreation, or otherwise conserve  
24 for the benefit of the public the natural beauty, natural  
25 resources, and public recreation facilities of the state.

26 Sec. 84. Section one hundred twelve point three (112.3),  
27 Code 1977, is amended to read as follows:

28 112.3 HEARING--DAMAGES. After said approval the commis-  
29 sion, if it wishes to proceed further with the project, shall,  
30 with the consent of the ~~Iowa-natural-resources-council~~, de-  
31 partment of land and water resources fix a date of hearing  
32 not less than two weeks from date of approval of the plan.  
33 Notice of the day, hour and place of hearing, relative to  
34 proposed work, shall be provided by publication at least once  
35 a week for two consecutive weeks in some newspaper of general

1 circulation published in the county where the project is  
2 located, or in the county or counties where the water  
3 elevations are affected, under the tentative plan approved.  
4 The last of such publication or publications shall not be  
5 less than five days prior to the day set for hearing. Any  
6 claim by any persons whomsoever, for damages which may be  
7 caused by said project shall be filed with the commission  
8 at or prior to the time of the hearing provided herein.

9 Sec. 85. Section one hundred seventy-two D point three  
10 (172D.3), subsection two (2), paragraph b, unnumbered para-  
11 graph one (1), Code 1977, is amended to read as follows:

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

16 Sec. 86. Section one hundred seventy-two D point three  
17 (172D.3), subsection two (2), paragraph c, Code 1977, is  
18 amended to read as follows:

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

22 (1) A rule of the ~~air-quality-commission~~ department under  
23 division two (II) of chapter four hundred fifty-five B (455B)  
24 of the Code in effect on November 1, 1976 shall apply to a  
25 feedlot with an established date of operation prior to November  
26 1, 1976.

27 (2) A rule of the ~~air-quality-commission~~ department un-  
28 der division two (II) of chapter four hundred fifty-five B  
29 (455B) of the Code shall apply to a feedlot with an established  
30 date of operation subsequent to the effective date of the  
31 rule.

32 (3) A rule of the ~~air-quality-commission~~ department under  
33 division two (II) of chapter four hundred fifty-five B (455B)  
34 of the Code pertaining to feedlot management standards adopted  
35 after November 1, 1976 shall not apply to any feedlot having

1 an established date of operation prior to the effective date  
2 of the rule until one year after the effective date of the  
3 rule.

4 (4) A rule of the ~~air-quality-commission~~ department under  
5 division two (II) of chapter four hundred fifty-five B (455B)  
6 of the Code pertaining to feedlot design standards adopted  
7 after November 1, 1976 shall not apply to any feedlot having  
8 an established date of operation prior to the effective date  
9 of the rule for either a period of ten years from the  
10 established date of operation of the feedlot or two years  
11 from the effective date of the rule, whichever time period  
12 is greater. However, any design standard rule pertaining  
13 to the siting of any feedlot shall apply only to a feedlot  
14 with an established date of operation subsequent to the  
15 effective date of the rule.

16 (5) To achieve compliance with applicable rules the de-  
17 partment shall issue an appropriate compliance schedule.

18 Sec. 87. Section two hundred six point two (206.2),  
19 subsection twenty-three (23), Code 1977, is amended to read  
20 as follows:

21 23. The term "permit" means a written certificate, issued  
22 by the secretary or his or her authorized agent as authorized  
23 in rules adopted by the department or the chemical-technology  
24 environmental quality commission authorizing the use of certain  
25 state restricted use pesticides.

26 Sec. 88. Section two hundred six point eleven (206.11),  
27 subsection one (1), paragraph d, subparagraph five (5), Code  
28 1977, is amended to read as follows:

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

32 Sec. 89. Section two hundred six point fourteen (206.14),  
33 subsection one (1), Code 1977, is amended by striking the  
34 subsection and inserting in lieu thereof the following:

35 1. The secretary shall require, by rule, that all

1 veterinarians licensed and practicing veterinary medicine  
2 in the state promptly report any case of domestic livestock  
3 poisoning or suspected poisoning to the department.

4 Sec. 90. Section two hundred six point nineteen (206.19),  
5 Code 1977, is amended by striking the section and inserting  
6 in lieu thereof the following:

7 206.19 RULES. The department shall, by rule, after public  
8 hearing following due notice:

9 1. Declare as a pest any form of plant or animal life  
10 or virus which is unduly injurious to plants, man, domestic  
11 animals, articles, or substances.

12 2. Determine the proper use of pesticides including their  
13 formulations, and times and methods of application and other  
14 conditions of use.

15 Sec. 91. Section two hundred six point twenty-one (206.21),  
16 Code 1977, is amended by adding the following new subsections:

17 NEW SUBSECTION. In addition to rules promulgated by the  
18 department, the secretary shall enforce rules adopted by the  
19 environmental quality commission under section four hundred  
20 fifty-five B point one hundred one (455B.101) of the Code.

21 NEW SUBSECTION. The secretary shall appoint advisory com-  
22 mittees to advise the secretary and the department in carrying  
23 out the provisions of this chapter.

24 Sec. 92. Section three hundred five point one (305.1),  
25 Code 1977, is amended by striking the section and inserting  
26 in lieu thereof the following:

27 305.1 GEOLOGICAL SURVEY CREATED. There is created a  
28 geological survey of the state.

29 Sec. 93. Section three hundred five point two (305.2),  
30 Code 1977, is amended by striking the section and inserting  
31 in lieu thereof the following:

32 305.2 STATE GEOLOGIST AND ASSISTANTS.

33 1. The governor shall appoint the state geologist. The  
34 state geologist shall have a degree in geology from an ac-  
35 credited college or university and shall have at least five

1 years of geological experience. The annual salary of the  
2 state geologist shall be determined by the governor as provided  
3 by law.

4 2. The state geologist may appoint the technical, pro-  
5 fessional, secretarial and clerical staff as may be necessary,  
6 subject to chapter nineteen A (19A) of the Code.

7 Sec. 94. Section three hundred five point four (305.4),  
8 Code 1977, is amended to read as follows:

9 305.4 INVESTIGATIONS--COLLECTION--RENTING SPACE. The  
10 state geologist shall investigate the characters of the various  
11 soils and their capacities for agricultural purposes, ~~the~~  
12 ~~growth-of-timber, the animal and plant life of the state,~~  
13 the streams and water power, and other scientific and natural  
14 ~~history~~ resource matters that may be of practical importance  
15 and interest. For the purpose of preserving well drilling  
16 samples, rock cores, fossils, and other materials as may be  
17 necessary to carry on investigations, the state geologist  
18 shall have the authority to lease or rent sufficient space  
19 for storage of these materials with the approval of the  
20 director of the department of general services. A complete  
21 cabinet collection may, ~~at the option of the board,~~ be made  
22 to illustrate the natural products of the state, and the ~~board~~  
23 state geologist may also furnish suites of materials, rocks,  
24 and fossils for colleges and public museums within the state,  
25 if it can be done without impairing the general state  
26 collection.

27 Sec. 95. Section three hundred five point seven (305.7),  
28 Code 1977, is amended to read as follows:

29 305.7 ANNUAL REPORT. The state geologist shall, annually,  
30 at the time provided by law, make to the governor a full  
31 report, ~~approved by the board,~~ of the work in the preceding  
32 year, which report shall be accompanied by such other re-  
33 ports and papers as may be considered desirable for publica-  
34 tion.

35 Sec. 96. Section three hundred five point eight (305.8),

1 Code 1977, is amended to read as follows:

2 305.8 CO-OPERATION. The state geologist shall co-operate  
3 with the United States geological survey, with other federal  
4 and state organizations, and with adjoining state surveys  
5 in the making of topographic maps and the study of geologic  
6 problems of the state when, in the opinion of the ~~geological~~  
7 board state geologist, such co-operation will result in profit  
8 to the state.

9 Sec. 97. Section three hundred five point nine (305.9),  
10 Code 1977, is amended to read as follows:

11 305.9 PUBLICATION OF REPORTS. The ~~board~~ state geologist  
12 may direct the preparation and publication of special re-  
13 ports and bulletins of educational and scientific value or  
14 containing information of immediate use to the people.

15 Sec. 98. Section three hundred five point ten (305.10),  
16 Code 1977, is amended to read as follows:

17 305.10 DISTRIBUTION AND SALE OF REPORTS. All publica-  
18 tions of the geological survey shall be distributed by the  
19 state as are other published reports of state officers when  
20 no special provision is made. When such distribution has  
21 been made the board state geologist shall retain a suffi-  
22 cient number of copies to supply probable future demands  
23 and any copies in excess of such number shall be sold to  
24 persons making application therefor at the cost price of  
25 publication, the money thus accruing to be turned into the  
26 treasury of the state.

27 Sec. 99. Section three hundred five point eleven (305.11),  
28 Code 1977, is amended to read as follows:

29 305.11 EXPENSES. The ~~members-of-the-board-shall-serve~~  
30 ~~without-compensation-but-the~~ state geologist and ~~such-board~~  
31 and ~~its~~ any assistants shall be allowed their actual travel  
32 and other necessary expenses incurred in the performance of  
33 their duties.

34 Sec. 100. Section three hundred eight point one (308.1),  
35 Code 1977, is amended to read as follows:

1 308.1 PLANNING COMMISSION. The Mississippi parkway plan-  
 2 ning commission shall be composed of ten members appointed  
 3 by the governor, five members to be appointed for two-year  
 4 terms beginning July 1, 1959, and five members to be appointed  
 5 for four-year terms beginning July 1, 1959. In addition to  
 6 the above members there shall be ~~seven~~ six advisory ex officio  
 7 members who shall be as follows: One member from the state  
 8 transportation commission, one member from the state conserva-  
 9 tion commission, one member from the ~~Iowa-state-soil-conser-~~  
 10 vation state land and water resources commission, one member  
 11 from the state historical society of Iowa, one member from  
 12 the faculty of the landscape architectural division of the  
 13 Iowa State University of science and technology, and one  
 14 member from the Iowa development commission, ~~and one member~~  
 15 ~~from the natural resources council~~. Members and ex officio  
 16 members shall serve without pay, but the actual and necessary  
 17 expenses of members and ex officio members may be paid if  
 18 the commission so orders and if the commission has funds  
 19 available for such purpose.

20 Sec. 101. Section three hundred fifty-seven A point one  
 21 (357A.1), subsection seven (7), Code 1977, is amended to read  
 22 as follows:

23 7. "~~Council~~ Commission" means the ~~Iowa-natural-resources~~  
 24 ~~council~~ state land and water resources commission of the  
 25 department of land and water resources.

26 Sec. 102. Section three hundred fifty-seven A point three  
 27 (357A.3), subsection two (2), Code 1977, is amended to read  
 28 as follows:

29 2. Be transmitted, together with a copy of the original  
 30 petition, to the ~~council~~ commission.

31 Sec. 103. Section three hundred fifty-seven A point five  
 32 (357A.5), Code 1977, is amended to read as follows:

33 357A.5 WHO MAY BE HEARD. At the hearing on the petition,  
 34 any owner or occupant of land within the boundaries of the  
 35 area described in the petition may appear, in person or by

1 his or her designated representative, and any representative of  
2 the ~~council~~ commission may also appear, in favor of or in  
3 opposition to the incorporation and organization of the  
4 proposed district. Such appearances may also be filed in  
5 writing prior to the time set for the hearing.

6 Sec. 104. Section three hundred fifty-seven A point eleven  
7 (357A.11), subsection two (2), Code 1977, is amended to read  
8 as follows:

9 2. Maintain at its office a record of the district's  
10 proceedings, rules and regulations, and any decisions and  
11 orders made pursuant to the provisions of this chapter, and  
12 furnish copies thereof to the supervisors or the ~~council~~  
13 commission upon request.

14 Sec. 105. Section three hundred fifty-seven A point twelve  
15 (357A.12), Code 1977, is amended to read as follows:

16 357A.12 PLANS AND SPECIFICATIONS. As soon as reasonably  
17 possible after incorporation of a district, the board shall  
18 file with the supervisors and the ~~council~~ commission copies  
19 of the plans and specifications for, and estimates of the  
20 cost of, any improvements authorized by this chapter which  
21 the board proposes to construct or acquire. The board shall  
22 determine a reasonable fee which each member shall pay for  
23 the privilege of utilizing the district's facilities which  
24 shall be known as a benefit unit. Benefit units may be classi-  
25 fied. The board, by publication in a newspaper of general  
26 circulation in the district, shall generally describe the  
27 planned improvements, the area to be served and the fee members  
28 will be required to pay for each service connected to the  
29 water system.

30 Sec. 106. Section three hundred fifty-seven A point nine-  
31 teen (357A.19), Code 1977, is amended to read as follows:

32 357A.19 NOT EXEMPT FROM OTHER REQUIREMENTS. Nothing in  
33 this chapter shall be construed to exempt any district from  
34 the requirements of any other statute, whether enacted prior  
35 to or subsequent to July 1, 1970, under which the district

1 is required to obtain the permission or approval of, or to  
 2 notify, the ~~eeuneit~~ commission, the Iowa commerce commission,  
 3 or any other agency of this state or of any of its political  
 4 subdivisions prior to proceeding with construction,  
 5 acquisition, operation, enlargement, extension, or altera-  
 6 tion of any works or facilities which the district is  
 7 authorized to undertake pursuant to this chapter.

8 Sec. 107. Section three hundred fifty-eight point nine  
 9 (358.9), unnumbered paragraph three (3), Code 1977, is amended  
 10 to read as follows:

11 In cases where the state of Iowa owns at least four hun-  
 12 dred acres of land contiguous to lakes within said district,  
 13 ~~then-and-only-then~~ the ~~Iowa-natural-resources-eeuneit~~  
 14 commission shall appoint two members of said board of trustees  
 15 in addition to the three members hereinbefore provided in  
 16 this section. The additional two members shall be qualified  
 17 as follows: They shall be United States citizens, not less  
 18 than eighteen years of age, and shall be property owners  
 19 within said district. In such cases the two additional  
 20 appointive members shall have equal vote and authority with  
 21 other members of trustees and shall hold office at the pleasure  
 22 of the ~~Iowa-natural-resources-eeuneit~~ commission.

23 Sec. 108. Section three hundred fifty-eight A point twenty-  
 24 four (358A.24), Code 1977, is amended to read as follows:

25 358A.24 CONFLICT WITH OTHER REGULATIONS. Wherever the  
 26 regulations made under authority of this chapter require a  
 27 greater width or size of yards, courts or other open spaces,  
 28 or require a lower height of building or a less number of  
 29 stories, or require a greater percentage of lot to be left  
 30 unoccupied, or impose other higher standards than are required  
 31 in any other statute or local ordinance or regulation, the  
 32 provisions of the regulations made under authority of this  
 33 chapter shall govern. Wherever the provisions of any other  
 34 statute or local ordinance or regulation require a greater  
 35 width or size of yards, courts or other open spaces, or require

1 a lower height of building or a less number of stories, or  
2 require a greater percentage of lot to be left unoccupied,  
3 or impose other higher standards than are required by the  
4 regulations made under authority of this chapter, the provi-  
5 sions of such statute or local ordinance or regulation shall  
6 govern. Wherever any regulation proposed or made under author-  
7 ity of this chapter relates to any structure, building, dam,  
8 obstruction, deposit or excavation in or on the flood plains  
9 of any river or stream, prior approval of the ~~Iowa-natural~~  
10 ~~resources-council~~ department of land and water resources shall  
11 be required to establish, amend, supplement, change, or modify  
12 such regulation or to grant any variation or exception  
13 therefrom.

14 Sec. 109. Section four hundred fourteen point twenty-one  
15 (414.21), Code 1977, is amended to read as follows:

16 414.21 CONFLICTING RULES, ORDINANCES, AND STATUTES.

17 Wherever the regulations made under authority of this chap-  
18 ter require a greater width or size of yards, courts or other  
19 open spaces, or require a lower height of building or less  
20 number of stories, or require a greater percentage of lot  
21 to be left unoccupied, or impose other higher standards than  
22 are required in any other statute or local ordinance or  
23 regulation, the provisions of the regulations made under  
24 authority of this chapter shall govern. Wherever the  
25 provisions of any other statute or local ordinance or  
26 regulation require a greater width or size of yards, courts  
27 or other open spaces, or require a lower height of building  
28 or a less number of stories, or require a greater percentage  
29 of lot to be left unoccupied, or impose other higher standards  
30 than are required by the regulations made under authority  
31 of this chapter, the provisions of such statute or local  
32 ordinance or regulation shall govern. Wherever any regulation  
33 proposed or made under authority of this chapter relates to  
34 any structure, building, dam, obstruction, deposit or  
35 excavation in or on the flood plains of any river or stream,

1 prior approval of the ~~Iowa-natural-resources-council~~ department  
2 of land and water resources shall be required to establish,  
3 amend, supplement, change or modify such regulation or to  
4 grant any variation or exception therefrom.

5 Sec. 110. Section four hundred twenty-seven point one  
6 (427.1), subsection thirty-two (32), unnumbered paragraphs  
7 five (5), six (6), seven (7) and nine (9), Code 1977, are  
8 amended to read as follows:

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

18 A taxpayer may appeal a determination of the ~~air-quali-~~  
19 ~~ty-commission-or-the-water-quality-commission~~ executive  
20 director or the environmental quality commission upon appeal  
21 in accordance with the provisions of ~~sections-455B-19-and~~  
22 ~~455B-39~~ chapter seventeen A (17A) of the Code.

23 The ~~air-quality~~ environmental quality commission ~~and-the~~  
24 ~~water-quality-commission~~ of the department of environmental  
25 quality shall adopt rules relating to certification under  
26 this subsection and information to be submitted for evaluating  
27 pollution-control property for which a certificate is  
28 requested. The revenue department shall adopt any rules  
29 necessary to implement this subsection, including rules on  
30 identification and valuation of pollution-control property.  
31 All rules adopted shall be subject to the provisions of the  
32 statutes on administrative rules.

33 For the purposes of this subsection "pollution" means air  
34 pollution as defined in section 455B.10 or water pollution  
35 as defined in section 455B.30. "Water of the state" means

1 the water of the state as defined in section 455B.30. "Enhance  
2 the quality" means to diminish the level of pollutants below  
3 the air or water quality standards established by the water  
4 ~~quality~~ environmental quality ~~commission of-the-air-quality~~  
5 ~~commission~~ of the department of environmental quality.

6 Sec. 111. Section four hundred twenty-seven point one  
7 (427.1), subsection thirty-three (33), Code 1977, is amended  
8 to read as follows:

9 33. IMPOUNDMENT STRUCTURES. The impoundment structure  
10 and any land underlying an impoundment located outside any  
11 incorporated city, which are not developed or used directly  
12 or indirectly for nonagricultural income-producing purposes  
13 and which are maintained in a condition satisfactory to the  
14 soil conservation district commissioners of the county in  
15 which the impoundment structure and the impoundment are  
16 located. Any person owning land which qualifies for a property  
17 tax exemption under this subsection shall apply to the county  
18 assessor each year before the first of July for the exemption.  
19 The application shall be made on forms prescribed by the de-  
20 partment of revenue. The first application shall be  
21 accompanied by a copy of the water storage permit approved  
22 by the ~~water-commissioner-of-the-iowa-natural-resources-council~~  
23 department of land and water resources and a copy of the plan  
24 for the construction of the impoundment structure and the  
25 impoundment. The construction plan shall be used to determine  
26 the total acre-feet of the impoundment and the amount of land  
27 which is eligible for the property tax exemption status.  
28 The county assessor shall annually review each application  
29 for the property tax exemption under this subsection and  
30 submit it, with the recommendation of the soil conservation  
31 district commissioners, to the board of supervisors for ap-  
32 proval or denial. Any applicant for a property tax exemption  
33 under this subsection may appeal the decision of the board  
34 of supervisors to the district court. As used in this  
35 subsection, "impoundment" means any reservoir or pond which

1 has a storage capacity of at least eighteen acre-feet of water  
2 or sediment at the time of construction; "storage capacity"  
3 means the total area below the crest elevation of the principal  
4 spillway including the volume of any excavation in such area;  
5 and "impoundment structure" means any dam, earthfill or other  
6 structure used to create an impoundment.

7 Sec. 112. Section four hundred fifty-five point eighteen  
8 (455.18), unnumbered paragraph two (2), Code 1977, is amended  
9 to read as follows:

10 Where the proposed district contemplates as its object  
11 flood control or soil conservance the engineer shall include  
12 in his or her report data describing any soil conservance  
13 or flood control improvements, the nature thereof, and such  
14 other additional data as shall be prescribed by the Iowa  
15 ~~natural-resources-council~~ state land and water resources  
16 commission.

17 Sec. 113. Section four hundred fifty-five A point one  
18 (455A.1), Code 1977, is amended by striking the section and  
19 inserting in lieu thereof the following:

20 455A.1 DEFINITIONS. As used in this chapter:

21 1. "Department" means the department of land and water  
22 resources.

23 2. "Commission" means the state land and water resources  
24 commission.

25 3. "Director" means the director of the department or  
26 a designee of the director.

27 4. "Due notice" means a notice published once each week  
28 for two consecutive weeks in a newspaper of general circula-  
29 tion in each county in which the property affected is located  
30 with the date of last publication not less than ten nor more  
31 than thirty days before the date of hearing.

32 5. "Flood plains" means the area adjoining the river or  
33 stream, which may be covered by flood water.

34 6. "Floodway" means the channel of a river or stream and  
35 those portions of the flood plains adjoining the channel,

1 which are reasonably required to carry and discharge the flood  
2 water or flood flow of any river or stream.

3 7. "Surface water" means the water occurring on the surface  
4 of the ground.

5 8. "Ground water" means that water occurring beneath the  
6 surface of the ground.

7 9. "Diffused waters" means waters arising by precipi-  
8 tation and snowmelt, and not yet a part of any watercourse  
9 or basin and shall include capillary soil water.

10 10. "Depleting use" means the storage, diversion, con-  
11 veyance, or use of any supply of water which might impair  
12 rights of lower or surrounding users, or might impair the  
13 natural resources of the state or might injure the public  
14 welfare is not controlled.

15 11. "Beneficial use" means the application of water to  
16 a useful purpose that inures to the benefit of the water user  
17 and subject to his or her dominion and control but does not  
18 include the waste or pollution of water.

19 12. "Nonregulated use" means the use of water for ordinary  
20 household purposes, use of water for poultry, livestock and  
21 domestic animals, any beneficial use of surface flow from  
22 rivers bordering the state of Iowa, existing beneficial uses  
23 of water within the territorial boundaries of municipal  
24 corporations on May 16, 1957, except that industrial users  
25 of water, having their own water supply, within the territorial  
26 boundaries of municipal corporations, shall be regulated when  
27 such water use exceeds three percent more than the highest  
28 per day beneficial use prior to May 16, 1957, and any other  
29 beneficial use of water by any person of less than five  
30 thousand gallons per day.

31 13. "Regulated use" means any depleting use except a use  
32 specifically designated as a nonregulated use.

33 14. "Permit" means the written authorization issued by  
34 the director or a water commissioner to a permittee which  
35 shall be limited as to quantity, time, place, and rate of

1 diversion, storage or withdrawal in accordance with the  
2 declared policies and principles of beneficial use set forth  
3 in this chapter.

4 15. "Permittee" means the person who obtains a permit  
5 from the director or a water commissioner authorizing such  
6 person to take possession by diversion or otherwise and to  
7 use and apply an allotted quantity of water for a designated  
8 beneficial use, and who makes actual use of the water for  
9 such purpose.

10 16. "Waste" means (a) permitting ground water or surface  
11 water to flow, taking it or using it in any manner so that  
12 it is not put to its full beneficial use, (b) transporting  
13 ground water from its source to its place of use in such a  
14 manner that there is an excessive loss in transit, or (c)  
15 permitting or causing the pollution of a water-bearing strata  
16 through any act which will cause salt water, highly mineralized  
17 water, or otherwise contaminated water to enter it.

18 17. "Watercourse" means any lake, river, creek, ditch  
19 or other body of water or channel having definite banks and  
20 bed with visible evidence of the flow or occurrence of water,  
21 except such lakes or ponds without outlet to which only one  
22 landowner is riparian.

23 18. "Basin" means a specific subsurface water-bearing  
24 reservoir having reasonably ascertainable boundaries.

25 19. "Established average minimum flow" means when  
26 reasonably required for the purpose of this chapter, the  
27 commission shall determine and establish the average minimum  
28 flow for a given watercourse at a given point thereon. The  
29 "average minimum flow" for a given watercourse shall be  
30 determined by the following factors: (a) Average of minimum  
31 daily flows occurring during the preceding years chosen by  
32 the commission as more nearly representative of changing  
33 conditions and needs of a given drainage area at a particular  
34 time; (b) minimum daily flows shown by experience to be the  
35 limit at which further withdrawals would be harmful to the

1 public interest in any particular drainage area; and (c) those  
2 minimum daily flows shown by established discharge records  
3 and experiences to be definitely harmful to the public  
4 interest. Such determination shall be base upon available  
5 flow data, supplemented, when available data are incomplete,  
6 by whatever evidence is available.

7 20. "Impounded or stored water" means that water captured  
8 and stored on the land by anyone taking it and the party  
9 impounding the water shall become the absolute owner thereof.

10 Sec. 114. Section four hundred fifty-five A point two  
11 (455A.2), Code 1977, is amended to read as follows:

12 455A.2 DECLARATION OF POLICY.

13 1. It is ~~hereby~~ recognized that the protection of life  
14 and property from floods, the prevention of damage to lands  
15 ~~therefrom~~ from floods and the orderly development, wise use,  
16 protection and conservation of the water resources of the  
17 state by the considered and proper use ~~thereof~~ of the water  
18 resources, is of paramount importance to the welfare and  
19 prosperity of the people of the state, and, to realize these  
20 objectives, it is ~~hereby~~ declared to be the policy of the  
21 state to correlate and vest the powers of the state in a  
22 single agency, the ~~Iowa-natural-resources-council~~ department  
23 of land and water resources, with the duty and authority to  
24 establish and enforce an appropriate comprehensive state-wide  
25 program for the control, utilization, and protection of the  
26 surface and ground-water resources of the state. It is ~~hereby~~  
27 declared that the general welfare of the people of the state  
28 of Iowa requires that the water resources of the state be  
29 put to beneficial use to the fullest extent of which they  
30 are capable, and that the waste or unreasonable use, or un-  
31 reasonable methods of use, of water be prevented, and that  
32 the conservation of such water be exercised with the view  
33 to the reasonable and beneficial use ~~thereof~~ of water resources  
34 in the interest of the people, and that the public and private  
35 funds for the promotion and expansion of the beneficial use

1 of water resources shall be invested to the end that the best  
2 interests and welfare of the people are served.

3     2. Water occurring in any basin or in any watercourse,  
4 or other natural body of water of the state, is hereby declared  
5 to be public waters and public wealth of the people of the  
6 state of Iowa and subject to use in accordance with the pro-  
7 visions of this chapter, and the control and development and  
8 use of water for all beneficial purposes shall be vested in  
9 the state, which, in the exercise of its police powers, shall  
10 take such measures as shall effectuate full utilization and  
11 protection of the water resources of the state of Iowa.

12     Sec. 115. Section four hundred fifty-five A point three  
13 (455A.3), Code 1977, is amended by striking the section and  
14 inserting in lieu thereof the following:

15     455A.3 DEPARTMENTAL COOPERATION--INVESTIGATIONS.

16     1. The department may request from any public or private  
17 agency which has for its object the control or use of any  
18 of the water resources of the state, such assistance and data  
19 as will enable the department to properly carry out its acti-  
20 vities and duties under this chapter. The department shall  
21 reimburse such agencies for special expenses resulting from  
22 expenditures not normally a part of the operating expenses  
23 of the agency.

24     2. a. With the written consent of the owner or occupant,  
25 the department may enter upon any lands or waters in the state  
26 for the purpose of making any investigation, examination or  
27 survey contemplated under this chapter.

28     b. If the owner or occupant of any property refuses ad-  
29 mittance, or if prior to such refusal the director demonstrates  
30 the necessity for a warrant, the director may make application  
31 under oath to the district court of the county in which the  
32 property is located for the issuance of a search warrant.

33     c. In the application the director shall state that an  
34 inspection or survey of the premises designated in the appli-  
35 cation may result in evidence tending to reveal the existence

1 of violations of the provisions of this chapter, any rule,  
2 order or permit issued by the department. The application  
3 shall describe the area or premises to be inspected or  
4 surveyed, give the date of the last inspection if known, give  
5 the date and time of the proposed inspection or survey, declare  
6 the need for such inspection or survey, recite that notice  
7 of desire to make an inspection or survey has been given to  
8 affected persons and that admission was refused if that be  
9 the fact, and state that the inspection or survey has no  
10 purpose other than to carry out the purpose of the statute  
11 or rule pursuant to which inspection or survey is to be made.

12 d. The court may issue a search warrant, after examina-  
13 tion of the applicant and any witnesses, if the court is  
14 satisfied that there is probable cause to believe the existence  
15 of the allegations contained in the application.

16 e. In making investigations, examinations or surveys  
17 pursuant to the authority of this section, the director must  
18 execute the warrant in a reasonable manner within ten days  
19 after its date of issuance.

20 Sec. 116. Section four hundred fifty-five A point four  
21 (455A.4), Code 1977, is amended by striking the section and  
22 inserting in lieu thereof the following:

23 455A.4 GENERAL POWERS AND DUTIES OF THE DEPARTMENT.

24 1. The department shall establish and enforce a comprehen-  
25 sive state-wide plan for the control, utilization and protec-  
26 tion of the water resources of the state, which plan shall  
27 include all uses and developments of water resources and shall  
28 provide for the optimum control, protection, development,  
29 allocation and utilization of the water resources. All uses  
30 and developments of water resources regulated under provisions  
31 of this chapter must be found to be compatible with the state  
32 comprehensive plan before the granting of a permit or an ap-  
33 proval order by the department. In making and formulating  
34 such state comprehensive plan for the further control, develop-  
35 ment, protection, allocation, and utilization of the water

1 resources of the state, the department shall make surveys  
2 and investigations of the water resources of the state and  
3 shall give consideration to the needs of agriculture, industry,  
4 health, fish and wildlife, recreation, pollution and allied  
5 matters as they relate to flood control and water resources.  
6 Before implementation of the statewide plan, the department  
7 shall submit the plan to the general assembly which shall  
8 approve or disapprove the plan by a concurrent resolution.  
9 Approval of the plan shall require the affirmative vote of  
10 a majority of the members of each house of the general  
11 assembly.

12 2. The department shall be the official representative  
13 of the state on all comprehensive water resources planning  
14 groups for which state participation is provided. The depart-  
15 ment shall provide for the coordination of state planning  
16 with local and national planning and, in safeguarding the  
17 interests of the state and its people, shall undertake to  
18 resolve any conflicts that may arise between the water  
19 resources policies, plans, and projects of the federal  
20 government and the water resources policies, plans, and  
21 projects of the state, its agencies and its people. Nothing  
22 in this subsection assigning the overall responsibility for  
23 comprehensive planning of water resources to the department  
24 shall be construed as limiting or supplanting the functions,  
25 duties and responsibilities of other state or local agencies  
26 or institutions with regard to planning of water associated  
27 projects within the particular area of responsibility of that  
28 state or local agency or institution.

29 3. The director shall enter into negotiations and  
30 agreements with the federal government relative to the opera-  
31 tion of, or the release of water from, any project that has  
32 been authorized or constructed by the federal government when  
33 the commission shall deem such negotiations and agreements  
34 to be necessary for the achievement of the policies of the  
35 state of Iowa relative to its water resources.

1 4. The director, on behalf of the state, shall enter into  
2 negotiations with the federal government relative to the  
3 inclusion of conservation storage features for water supply  
4 in any project that has been authorized by the federal  
5 government when the commission shall deem such negotiations  
6 to be necessary for the achievement of the policies of the  
7 state of Iowa and the state comprehensive plan for water  
8 resources. However, any agreements reached pursuant to such  
9 negotiations shall not bind the state until enacted into law  
10 by the general assembly.

11 5. The department shall encourage water users who will  
12 benefit from the development by the federal government of  
13 conservation storage for water supply to assume the respon-  
14 sibility for repaying to the federal government any  
15 reimbursable costs incurred in such development and the water  
16 users who will accept benefits from developments financed  
17 in whole or in part by this state shall assume by contract  
18 the responsibility of repaying to the state their reasonable  
19 share of the state's obligation in accordance with such basis  
20 as will assure payment within the life of the development.  
21 Appropriations, diversion, or use shall not be made by any  
22 person of any waters of the state that have been stored or  
23 released from storage either under the authority of the state  
24 or under agreement between the state and the federal government  
25 until such time as the user shall have assumed by contract  
26 his or her repayment responsibility; however, the application  
27 of this provision shall not infringe upon any vested property  
28 interests. The contracts with water users for the payment  
29 of state obligations incurred in the development of  
30 conservation storage for water supply shall include terms  
31 as deemed reasonable and necessary for the protection of the  
32 health, safety and general welfare of the people of the state,  
33 terms deemed reasonable and necessary for the achievement  
34 of the purposes of this chapter, and terms specifying that  
35 the state shall not be responsible to any person if the waters

1 involved are insufficient for performance. The director may  
2 describe any contract as a sale of storage capacity, a sale  
3 of water release services, a contract for the storage or sale  
4 of water, or any similar terms suggestive of the creation  
5 of a property interest. The term of a contract shall be  
6 commensurate with the investment and use concerned, but a  
7 contract shall not exceed the maximum period provided for  
8 water use permits.

9 6. The department shall provide for flood control works  
10 and related water resource projects through cooperation with  
11 the federal government or any agency of the federal government,  
12 cooperation with the action of cities and other political  
13 subdivisions of the state under laws of the state relating  
14 to flood control and use of water resources, and cooperation  
15 with the action of landowners in areas affected by such  
16 projects when the commission shall deem such projects necessary  
17 for the achievement of the policies of the state of Iowa and  
18 the state comprehensive plan for water resources.

19 7. The department may construct flood control works or  
20 any part of such works. In the construction of such works  
21 or in making surveys and investigations or in formulating  
22 plans and programs relating to the water resources of the  
23 state, the department may cooperate with other states or any  
24 agency of another state or with the United States or any  
25 agency of the United States, or with any person.

26 8. The department shall have jurisdiction over the public  
27 and private waters in this state and the land adjacent to  
28 such water necessary to carry out the provisions of this chap-  
29 ter.

30 9. The department may exercise the power of eminent domain  
31 as may be necessary to carry out its powers and duties under  
32 this chapter. All the provisions of law relating to  
33 condemnation of lands for public state purposes shall apply  
34 as applicable. The executive council shall institute and  
35 maintain such proceedings. The title to all lands, easements,

1 or other interests in such land or other property or rights  
2 acquired by the department shall be approved by the attorney  
3 general and taken in the name of the state.

4 Sec. 117. Section four hundred fifty-five A point five  
5 (455A.5), Code 1977, is amended by striking the section and  
6 inserting in lieu thereof the following:

7 455A.5 POWERS AND DUTIES OF THE COMMISSION. In addition  
8 to other powers and duties provided by law, the commission:

- 9 1. Shall adopt, amend or repeal rules relating to  
10 application for and approval or disapproval of permits for  
11 the construction, reconstruction, use and maintenance of any  
12 structure, dam, obstruction, deposit or excavation in or on  
13 any floodway or flood plain in this state.
- 14 2. Shall adopt, amend or repeal rules relating to the  
15 orderly development and wise use of the flood plains of any  
16 river or stream in this state. The rules may establish  
17 encroachment limits, protection methods and minimum protection  
18 levels appropriate to the flooding characteristics of the  
19 stream and to reasonable use of the flood plains. The rules  
20 shall specify the length of flood plains to be regulated at  
21 any practical distance, specify the width of the zone between  
22 the encroachment limits including portions of the flood plains  
23 adjoining the channel, which with the channel is required  
24 to carry and discharge the flood waters or flood flow of the  
25 river or stream, and specify the design discharge and water  
26 surface elevations for which protection shall be provided  
27 for projects outside the encroachment limits but within the  
28 limits of inundation. In establishing any limitations under  
29 this subsection, the commission shall avoid to the greatest  
30 possible degree the evacuation of persons residing in the  
31 area of any floodway, the removal of any residential structures  
32 occupied by such persons in the area of any floodway, and  
33 the removal of any structures erected or made before July  
34 4, 1965, which are located on the flood plains of any river  
35 or stream but not within the area of any floodway.

1     3. Shall adopt, amend, or repeal rules relating to the  
2 application for, review, and approval or disapproval of local  
3 ordinances establishing encroachment limits, flood plain  
4 regulations or zoning relating to flood plain areas within  
5 the jurisdiction of political subdivisions of the state.

6     4. Shall adopt, amend, or repeal rules for the review,  
7 approval or disapproval of the design, construction and  
8 operation for any flood control works.

9     5. May adopt, amend or repeal rules specifying the condi-  
10 tions under which the director may authorize specific nonrecur-  
11 ring minor uses of water for periods not to exceed one year  
12 through registration.

13     6. May require, by rule, as a condition of an approval  
14 order or permit granted under this chapter or chapter four  
15 hundred sixty-nine (469) of the Code, the furnishing of a  
16 performance bond with good and sufficient surety, conditioned  
17 upon the full compliance with the provisions of the order  
18 or permit and the rules of the commission. In determining  
19 the need for and amount of bond, the director or the commission  
20 on appeal shall give consideration to the hazard posed by  
21 the construction and maintenance of the approved works and  
22 the protection of the health, safety and welfare of the people  
23 of the state. The subsection shall not apply to order or  
24 permits granted to a governmental entity.

25     Sec. 118. Section four hundred fifty-five A point six  
26 (455A.6), Code 1977, is amended by striking the section and  
27 inserting in lieu thereof the following:

28     455A.6 POWERS AND DUTIES OF THE DIRECTOR. In addition  
29 to other powers and duties provided by law, the director:

30     1. After investigation or a public hearing, shall approve  
31 or disapprove an application for a permit to construct, use  
32 or maintain any structure, dam, obstruction, deposit or ex-  
33 cavation in or on any floodway or flood plain in this state.  
34 The application shall be made in writing to the department  
35 and shall include such information as specified by rule of

1 the commission. The decision for approval or disapproval  
2 of the application by the director or the commission upon  
3 appeal shall be based on the effect that the structure, dam,  
4 obstruction, deposit or excavation will have on the efficiency  
5 and the capacity of the floodway, the state comprehensive  
6 plan for water resources, or an approved local water resources  
7 plan, any proposed works and adjacent land or property, the  
8 quality of water, fish, wildlife, and recreational facilities  
9 or uses, other public rights and requirements, and on such  
10 other criteria as may be reasonably required by rule of the  
11 commission. The decision of the director or the commission  
12 upon appeal, including the reasons for approval or disapproval,  
13 shall be kept on file in the department and a copy of the  
14 decision shall be sent to the applicant.

15 2. After review, shall approve or disapprove encroach-  
16 ment limits, flood plain regulations, or flood plain zoning  
17 ordinances or amendments to such limits, regulations, or ordi-  
18 nances previously approved, proposed by political subdivisions  
19 of the state. The decision for approval or disapproval of  
20 such limits, regulations or ordinances by the director or  
21 the commission on appeal, shall be based on such standards  
22 and rules relating to the orderly and wise development and  
23 use of flood plains as adopted by the commission. The director  
24 may cooperate with and assist political subdivisions of the  
25 state in the establishment of encroachment limits, flood plain  
26 regulations, and zoning ordinances relating to flood plain  
27 areas within their jurisdiction.

28 3. After investigation or a public hearing, shall approve  
29 or disapprove application for a permit to construct and operate  
30 flood control work or works to provide protection for projects  
31 proposed for areas subject to inundation. The application  
32 shall be made in writing to the department and shall include  
33 such plans, specifications and other information as reason-  
34 ably required by rule of the commission. The plans and  
35 specifications for such flood control works shall be

1 coordinated in design, construction and operation according  
2 to accepted engineering practice to effect the best flood  
3 control obtainable throughout the state. When considering  
4 the application, the director or the commission upon appeal  
5 shall determine whether the proposed works in the plans and  
6 specifications will be in aid of and acceptable as part of,  
7 or will adversely affect and interfere with flood control  
8 in the state, adversely affect the control, development,  
9 protection, allocation, or utilization of water resources  
10 of the state, or adversely affect or interfere with the state  
11 comprehensive plan for water resources or an approved local  
12 water resources plan. The decision of the director or the  
13 commission upon appeal, including the reasons for approval  
14 or disapproval, shall be kept on file in the department and  
15 a copy of the decision shall be sent to the applicant. This  
16 subsection shall apply to drainage districts, soil conservation  
17 districts, political subdivisions of the state, and private  
18 persons undertaking projects relating to flood control.

19 4. Shall enforce and administer the rules or orders of  
20 the commission adopted or issued under this chapter.

21 5. Shall appoint one or more water commissioners. Each  
22 water commissioner shall be qualified by training and experi-  
23 ence. A water commissioner shall serve in a quasi-judicial  
24 capacity as the trier of fact questions in the processing  
25 of applications for water permits. A water commissioner shall  
26 conduct hearings on applications for water permits as provided  
27 in this chapter and the rules of the commission and shall  
28 perform such other duties as assigned by the director.

29 6. Upon application by any person for a permit to divert,  
30 pump, or otherwise take waters from any watercourse, under-  
31 ground basin or watercourse, drainage ditch or settling basin  
32 with this state for any purpose other than a nonregulated  
33 use, shall provide for an investigation of the effect of such  
34 use upon the natural flow of the watercourse, the effect of  
35 such use upon the owners of any land which might be affected

1 by the use, and the effect of such use on the state  
2 comprehensive plan for water resources.

3 Sec. 119. Section four hundred fifty-five A point seven  
4 (455A.7), Code 1977, is amended by striking the section and  
5 inserting in lieu thereof the following:

6 455A.7 PERMITS REQUIRED. A permit to divert, store, or  
7 withdraw waters from any watercourse, underground basin or  
8 watercourse, drainage ditch or settling basin within this  
9 state shall be required for the following:

10 1. Any municipal corporation or person supplying a  
11 municipal corporation which increases its water use in excess  
12 of one hundred thousand gallons, or three percent, whichever  
13 is the greater, per day more than its highest per day benefi-  
14 cial use before May 16, 1957. Such corporation or person  
15 shall make reasonable provision for the storage of water at  
16 such times when the daily use of such water by such corporation  
17 or person is less than the amount specified herein.

18 2. Except for a nonregulated use, any person using in  
19 excess of five thousand gallons of water per day, diverted,  
20 stored, or withdrawn from any source of supply except a muni-  
21 cipal water system or any other source specifically exempted  
22 under the provisions of sections four hundred fifty-five A  
23 point seven (455A.7) through four hundred fifty-five A point  
24 nineteen (455A.19) of the Code.

25 3. Any person who diverts water or any material from the  
26 surface directly into any underground watercourse or basin.  
27 However, any diversion of water or material from the surface  
28 directly into any underground watercourse or basin existing  
29 on May 16, 1957, shall not require a permit if the diversion  
30 does not create waste or pollution. A permit shall not be  
31 issued under this subsection until approval of the department  
32 of environmental quality has been obtained.

33 4. Industrial users of water having their own water supply,  
34 within the territorial boundaries of municipal corporations,  
35 shall be regulated when such water use exceeds three percent

1 more than the highest per day beneficial use before May 16,  
2 1957.

3 Sec. 120. Section four hundred fifty-five A point eight  
4 (455A.8), Code 1977, as amended by Acts of the Sixty-seventh  
5 General Assembly, 1977 Session, chapter one hundred twenty-  
6 three (123), section one (1), is amended by striking the  
7 section and inserting in lieu thereof the following:

8 455A.8 PROCEDURE TO SECURE PERMIT. The procedure for  
9 securing a permit to divert, store or withdraw waters shall  
10 be as follows:

11 1. The application for a permit shall be made in writing  
12 to the department and shall set forth the designated beneficial  
13 use for which the permit is sought, the specific limits as  
14 to quantity, time, place, and rate of diversion, storage or  
15 withdrawal of waters.

16 2. Upon receipt of an application for a permit, the water  
17 commissioner shall set a time and place for hearing. The  
18 hearing shall be in the county where the permit is sought,  
19 but may be held at any other place in the state unless  
20 objection is raised by the applicant. The hearing shall be  
21 to the water commissioner.

22 3. The water commissioner shall cause due notice of the  
23 hearing to be published. The notice shall specify the date,  
24 time and place of hearing and shall include a concise statement  
25 of the designated beneficial purposes for which diversion  
26 is sought, the specific limits as to quantity, time, place,  
27 and rate of diversion, storage or withdrawal of waters, the  
28 name of the applicant and the description of the land upon  
29 which waters are to be diverted, stored or withdrawn. In  
30 addition, the water commissioner shall cause a copy of the  
31 notice to be sent to the director of the state conservation  
32 commission, commissioner of public health, secretary of  
33 agriculture, the state geologist, the director of the Iowa  
34 development commission, and to any other person who has filed  
35 a written request for a notification of any hearings affecting

1 a designated area, by ordinary mail, before the date of last  
2 publication.

3 4. Any interested person may appear and present evidence  
4 at the hearing, and may be represented by counsel, who shall  
5 have the right to question others who present evidence.

6 5. The applicant for a permit shall pay a fee to the  
7 department in the amount of twenty-five dollars at the time  
8 of filing the application. The fees shall be credited to  
9 the general fund of the state.

10 6. The commission shall prescribe the rules of procedure  
11 for the conduct of the hearings.

12 7. The determination of the water commissioner on any  
13 application shall be in writing, filed with the commission  
14 and shall set forth his or her findings. A copy of the  
15 determination shall be mailed to the applicant and to any  
16 person appearing who in writing requests a copy of the  
17 determination.

18 8. Any party aggrieved by the determination of the water  
19 commissioner may, within thirty days from the date such  
20 determination is filed, appeal the determination to the  
21 commission setting forth in general terms the determination  
22 appealed from and the grounds of the appeal. The director  
23 shall set a time and place for hearing before the commission  
24 and shall then send a notice by ordinary mail to all persons  
25 who appeared at the hearing before the water commissioner.

26 9. The commission shall adopt rules for the conduct of  
27 the hearing on appeal and shall file a determination in  
28 writing, setting forth the findings. A copy of the  
29 determination shall be mailed to the applicant or to any  
30 person appearing who in writing requests a copy of the  
31 determination.

32 10. The water commissioner, the commission or the director  
33 at any hearing or other proceeding authorized by this chapter,  
34 shall have the power to administer oaths, take testimony,  
35 issue subpoenas and compel the attendance of witnesses. The

1 subpoenas shall be served in the same manner as subpoenas  
2 issued by the courts of the state and the taking of depositions  
3 shall be in the same manner as depositions are taken under  
4 the Iowa rules of civil procedure.

5 Sec. 121. Section four hundred fifty-five A point nine  
6 (455A.9), Code 1977, is amended by striking the section and  
7 inserting in lieu thereof the following:

8 455A.9 HEARING--APPEAL.

9 1. If the water commissioner at the first hearing or the  
10 commission at the hearing on appeal shall determine after  
11 investigation that such diversion, storage or withdrawal will  
12 not be detrimental to the public interests, including drainage  
13 and levee districts, or to the interests of property owners  
14 with prior or superior rights who might be affected, the water  
15 commissioner following the first hearing, or the commission  
16 following the hearing on appeal shall grant a permit for such  
17 diversion, storage or withdrawal. Judicial review of such  
18 action is available in accordance with the terms of the Iowa  
19 administrative procedure Act and section four hundred fifty-  
20 five A point twenty-two (455A.22) of the Code. Permits may  
21 be granted for any period of time but not to exceed ten years  
22 except for the storage of water which may be granted for the  
23 life of the structure unless withdrawn for good cause. Permits  
24 may be granted which provide for less diversion, storage,  
25 or withdrawal of waters than set forth in the application.  
26 Permits may be extended by the water commissioner for a period  
27 of not more than ninety days during the pendency of an  
28 application for renewal. Any permit granted shall remain  
29 as an appurtenance of the land described in the permit through  
30 the date specified in such permit and any extension of the  
31 permit or such earlier date as the permit or any extension  
32 of the permit is revoked or canceled under the provisions  
33 of section four hundred fifty-five A point twelve (455A.12)  
34 of the Code.

35 2. Upon application before the termination date specified

1 in a permit, a permit may be renewed by the water commissioner  
2 for any period of time not to exceed ten years. Permits may  
3 be renewed without hearing or fee if no objection is filed  
4 and no change in the conditions of the permit is sought.  
5 The water commissioner shall cause notice of receipt of an  
6 application for renewal to be sent by ordinary mail to any  
7 person who appeared at the previous proceeding on the permit  
8 and to any person who has filed a written request for  
9 notification of any hearings affecting a designated area.  
10 If written objection is filed not more than thirty days after  
11 the date of the notice by any person shown to have an interest,  
12 a hearing shall be held with notice sent not less than ten  
13 nor more than thirty days before the hearing by ordinary mail  
14 to such objector, to any person who appeared at the previous  
15 proceeding on the permit, and to any person who has filed  
16 written request for notification of any hearings affecting  
17 a designated area.

18 3. If a change in the terms of a permit is requested which  
19 involves a change in the designated beneficial purposes for  
20 which the diversion is sought, a change in the place of such  
21 diversion, or an increase in the quantity, time, or rate of  
22 diversion, storage or withdrawal of waters, the applicant  
23 therefor shall pay a fee as required by section four hundred  
24 fifty-five A point eight (455A.8), subsection five (5), of  
25 the Code and a hearing shall be held on the application with  
26 notice given as required by section four hundred fifty-five  
27 A point eight (455A.8), subsection three (3) of the Code.

28 4. Until a statewide water plan is adopted, all new water  
29 permits issued for irrigation purposes shall not exceed one  
30 year and all renewals shall also be limited to one year.  
31 The preceding limitation shall not apply to the renewal or  
32 extension of any valid water permit granted before May 5,  
33 1977. If it is determined, through monitoring of the permitted  
34 withdrawal, that it will endanger the present or future  
35 availability of groundwater the permits may be modified or

1 canceled under the provisions of section four hundred fifty-  
2 five A point twelve (455A.12) of the Code.

3 5. When permits are modified or canceled, priority for  
4 permits shall be given to applicants or permit holders who  
5 utilize such water for agriculture research. Nothing in this  
6 subsection shall give priority to such applicants or permit  
7 holders in preference to those classes granted priority under  
8 section four hundred fifty-five A point ten (455A.10) of the  
9 Code.

10 Sec. 122. Section four hundred fifty-five A point ten  
11 (455A.10), Code 1977, is amended by striking the section and  
12 inserting in lieu thereof the following:

13 455A.10 PRIORITY OF PERMITS. In the consideration of  
14 applications for permits, priority will be given to persons  
15 in the order applications are received. However, persons  
16 who have made diversion or withdrawal of water for a beneficial  
17 use before May 16, 1957, will be accorded priority according  
18 to the actual date of the diversion or withdrawal. The  
19 director or the commission on appeal shall exercise their  
20 judgment on the duration and frequency of withdrawal and the  
21 quantity of water for which a permit may be granted. The  
22 use of water for ordinary household purposes, for poultry,  
23 livestock and domestic animals shall have priority over other  
24 uses. Any person with an existing irrigation system in use  
25 before May 16, 1957, shall be issued a permit to continue,  
26 unless by the use some other riparian user is damaged. In  
27 the consideration of applications for permits by regulated  
28 users, the declared policies and principles of beneficial  
29 use, as set forth in this chapter, shall be the standard for  
30 the determination of the disposition of the applications for  
31 the permits. Nothing in sections four hundred fifty-five  
32 A point seven (455A.7) through four hundred fifty-five A point  
33 nineteen (455A.19) of the Code shall impair the vested right  
34 of any person.

35 Sec. 123. Section four hundred fifty-five A point eleven

1 (455A.11), Code 1977, is amended by striking the section  
2 and inserting in lieu thereof the following:

3 455A.11 SPECIAL PROVISIONS.

4 1. A permit may be issued for the diversion or withdrawal  
5 of water in a watercourse if the established minimum flow  
6 is preserved.

7 2. A permit shall not be issued or renewed if it will  
8 impair the navigability of any navigable watercourse.

9 3. A use of water shall not be authorized if it will  
10 impair the effect of pollution control laws administered under  
11 chapter four hundred fifty-five B (455B) of the Code.

12 Sec. 124. Section four hundred fifty-five A point twelve  
13 (455A.12), Code 1977, is amended by striking the section and  
14 inserting in lieu thereof the following:

15 455A.12 MODIFICATION OR CANCELLATION OF PERMITS. A permit  
16 issued by the department shall be irrevocable for its term  
17 or any extension of its term except as follows:

18 1. A permit may be modified or canceled by the water  
19 commissioner with the consent of the permittee.

20 2. Subject to appeal, a permit may be modified or can-  
21 celed by the water commissioner in case of any breach of the  
22 terms or conditions of the permit or in case of any violation  
23 of the law pertaining to a permit by the permittee or his  
24 or her agent, in case of nonuse as provided in section four  
25 hundred fifty-five A point thirteen (455A.13) of the Code,  
26 or in case the water commissioner finds such modification  
27 or cancellation necessary to protect the public health or  
28 safety or to protect the public interests in water resources,  
29 or to prevent substantial injury to persons or property in  
30 any manner, upon at least thirty days' written notice mailed  
31 to the permittee at his or her last known address, stating  
32 the grounds of the proposed modification or cancellation and  
33 giving the permittee an opportunity to be heard.

34 3. By written order to the permittee, the water  
35 commissioner may suspend operations under a permit if the

1 director finds it necessary in an emergency to protect the  
2 public health or safety or to protect the public interests  
3 in water resources against imminent danger of substantial  
4 injury in any manner or to any extent not expressly authorized  
5 by the permit, or to protect persons or property against such  
6 danger, may require the permittee to take any measures  
7 necessary to prevent or remedy such injury. However, the  
8 order shall not be in effect for more than thirty days from  
9 the date of issuance, without giving the permittee at least  
10 ten days' written notice of such order and an opportunity  
11 to be heard.

12 Sec. 125. Section four hundred fifty-five A point thirteen  
13 (455A.13), Code 1977, is amended by striking the section and  
14 inserting in lieu thereof the following:

15 455A.13 TERMINATION OF PERMIT. The right of a permittee  
16 or any successor of the permittee to the use of water shall  
17 terminate if such person ceases to use the water for three  
18 consecutive years for the specific beneficial purpose  
19 authorized in the permit and the permittee has been notified  
20 by the water commissioner that the permit will cease unless  
21 written application for an extension is received before the  
22 expiration of the three-year period. Upon receipt of the  
23 application, the water commissioner may grant an extension  
24 without loss of priority.

25 Sec. 126. Section four hundred fifty-five A point fourteen  
26 (455A.14), Code 1977, as amended by Acts of the Sixty-seventh  
27 General Assembly, 1977 Session, chapter one hundred twenty-  
28 three (123), section three (3), is amended by striking the  
29 section and inserting in lieu thereof the following:

30 455A.14 TRANSFER OF PERMIT. A permittee may sell,  
31 transfer, or assign a permit by conveying, leasing, or  
32 otherwise transferring the ownership of the land described  
33 in the permit, but the permit shall not constitute ownership  
34 or absolute rights of the use of such water. The water shall  
35 remain subject to the principle of beneficial use and the

1 orders of the department.

2 Sec. 127. Section four hundred fifty-five A point fifteen  
3 (455A.15), Code 1977, is amended by striking the section and  
4 inserting in lieu thereof the following:

5 455A.15 POWER OF EMINENT DOMAIN. The state of Iowa or  
6 any political subdivision of the state may exercise the power  
7 of eminent domain for the purpose of carrying out any  
8 permission granted under sections four hundred fifty-fifty  
9 A point seven (455A.7) through four hundred fifty-five A point  
10 nineteen (455A.19) of the Code.

11 Sec. 128. Section four hundred fifty-five A point sixteen  
12 (455A.16), Code 1977, is amended by striking the section and  
13 inserting in lieu thereof the following:

14 455A.16 UNAUTHORIZED DEPLETING USE. If any person files  
15 a complaint with the department that any other person is  
16 making a depleting use of water not expressly exempted as  
17 a nonregulated use and without a permit to use the water,  
18 the director shall investigate the complaint and if the facts  
19 of the complaint are verified, the director shall order the  
20 discontinuance of the use.

21 Sec. 129. Acts of the Sixty-seventh General Assembly,  
22 1977 Session, chapter one hundred twenty-three (123), sec-  
23 tion seven (7), is amended by striking the section and in-  
24 serting in lieu thereof the following:

25 SEC. 7. Section four hundred fifty-five A point seventeen  
26 (455A.17), Code 1977, is amended by striking the section and  
27 inserting in lieu thereof the following

28 455A.17 SPECIAL IRRIGATION PERMITS AUTHORIZED. The  
29 commission, in consultation with the state geologist, may  
30 determine that special irrigation permits may be issued for  
31 withdrawal of water from the alluvial aquifers of the flood  
32 plains of that portion of streams bordering the state of Iowa.  
33 The commission may determine by rule special limitations and  
34 observation and monitoring requirements for each special  
35 permit.

1     Sec. 130. Acts of the Sixty-seventh General Assembly,  
2 1977 Session, chapter one hundred twenty-three (123), section  
3 eight (8), is amended by striking the section and inserting  
4 in lieu thereof the following:

5     SEC. 8. Section four hundred fifty-five A point eighteen  
6 (455A.18), Code 1977, is amended by striking the section and  
7 inserting in lieu thereof the following:

8     455A.18 APPLICATION FOR SPECIAL PERMITS. Application  
9 and payment of the fee for special permits shall be in ac-  
10 cordance with the provisions of section four hundred fifty-  
11 five A point eight (455A.8), subsection one (1) and subsection  
12 five (5) of the Code, respectively. Upon receipt of the  
13 application and fee, the water commissioner shall cause notice  
14 of the application to be published in a newspaper of general  
15 circulation in the county where the permit is sought. The  
16 special permit shall be issued by the water commissioner two  
17 weeks from the date of publication, unless written objection  
18 to the application is filed with the water commissioner before  
19 that date, in which case the hearing procedures of section  
20 four hundred fifty-five A point nine (455A.9) of the Code  
21 shall be followed. Special permits shall be issued for a  
22 period not to exceed one year.

23     Sec. 131. Section four hundred fifty-five A point nineteen  
24 (455A.19), Code 1977, is amended by striking the section and  
25 inserting in lieu thereof the following:

26     455A.19 RIGHTS RESERVED. Nothing in sections four hundred  
27 fifty-five A point seven (455A.7) through four hundred fifty-  
28 five A point nineteen (455A.19) of the Code shall operate  
29 to deprive any person of the right to use diffused water or  
30 to drain land by use of tile, open ditch or surface drainage,  
31 or to construct an impoundment on such person's property or  
32 across a stream that originates on such person's property  
33 if provision is made for safe construction and for continued  
34 established average minimum flow when such flow is required  
35 to protect the rights of water users downstream.

1     Sec. 132. Section four hundred fifty-five A point twenty  
2 (455A.20), Code 1977, as amended by Acts of the Sixty-seventh  
3 General Assembly, 1977 Session, chapter one hundred twenty-  
4 three (123), sections four (4) and nine (9), is amended by  
5 striking the section and inserting in lieu thereof the fol-  
6 lowing:

7     455A.20 UNLAWFUL ACTS--NUISANCE.

8     1. It shall be unlawful for any person to construct,  
9 operate or maintain a structure, dam, obstruction, deposit  
10 or excavation in or on any floodway or flood plain in this  
11 state without obtaining a permit from the department. This  
12 subsection shall not apply to dams constructed and operated  
13 under chapter four hundred sixty-nine (469) of the Code.

14     2. Any structure, dam, obstruction, deposit or excava-  
15 tion constructed, used or maintained in or on the floodway  
16 or flood plain in this state which will adversely affect the  
17 efficiency of or unduly restrict the capacity of the floodway,  
18 adversely affect the control, development, protection, allo-  
19 cation, or utilization of the water resources of the state,  
20 or adversely affect or interfere with the state comprehensive  
21 plan for water resources, or an approved local water plan,  
22 except a dam constructed and operated under chapter four hun-  
23 dred sixty-nine (469) of the Code, shall constitute a public  
24 nuisance.

25     3. It shall be unlawful for any person to construct or  
26 maintain any works of any nature for flood control unless  
27 a permit has been obtained from the department approving the  
28 plans and specifications for the proposed flood control works.

29     4. It shall be unlawful for any person to take water from  
30 any natural watercourse, underground basin or watercourse,  
31 drainage ditch, or settling basin within this state for any  
32 purpose other than a nonregulated use except in compliance  
33 with the provisions of sections four hundred fifty-five A  
34 point seven (455A.7) through four hundred fifty-five A point  
35 nineteen (455A.19) of the Code. However, existing uses may

1 be continued during the period of pendency of an application  
2 for a permit.

3 Sec. 133. Section four hundred fifty-five A point twenty-  
4 one (455A.21), Code 1977, as amended by Acts of the Sixty-  
5 seventh General Assembly, 1977 Session, chapter one hundred  
6 twenty-three (123), section five (5), is amended by striking  
7 the section and inserting in lieu thereof the following:

8 455A.21 REMEDIES.

9 1. The director may take any appropriate legal action  
10 to enjoin or abate a public nuisance which adversely affects  
11 flood control as specified in section four hundred fifty-five  
12 A point twenty (455A.20), subsection two (2), of the Code.

13 2. The director may initiate and maintain an action in  
14 equity to enjoin any person from constructing, using or main-  
15 taining any structure, dam, obstruction, deposit, or excava-  
16 tion, except a dam permitted under chapter four hundred sixty-  
17 nine (469) of the Code, for which a permit has not been granted  
18 by the department.

19 3. The director may take legal action to condemn a struc-  
20 ture, dam, obstruction, deposit or excavation in any floodway  
21 which adversely affects the efficiency of or unduly restricts  
22 the capacity of the floodway. In assessing damages in such  
23 proceedings, the appraisers and the district court shall take  
24 into consideration whether the structure, dam, obstruction,  
25 deposit or excavation is lawfully located in or on the  
26 floodway.

27 Sec. 134. Section four hundred fifty-five A point twenty-  
28 two (455A.22), Code 1977, is amended by striking the section  
29 and inserting in lieu thereof the following:

30 455A.22 APPEAL BOARD--JUDICIAL REVIEW.

31 1. In lieu of an appeal being heard by the full membership  
32 of the commission, the chairperson of the commission may  
33 appoint an appeal board consisting of one or more members  
34 of the commission or a hearing officer to conduct a hearing  
35 on the appeal of an aggrieved applicant from the action or

1 order of the director as provided in chapter seventeen A (17A)  
2 of the Code.

3 2. Judicial review of action of the department may be  
4 sought in accordance with the terms of the Iowa administrative  
5 procedure Act. Notwithstanding the provisions of such Act,  
6 petitions for judicial review may be filed in the district  
7 court of Polk county or of any county in which the property  
8 affected is located. If the commission, the district court,  
9 or the supreme court shall determine that the order of the  
10 department be stayed, the petitioner shall file an appropriate  
11 bond approved by the court.

12 Sec. 135. Section four hundred fifty-five A point twenty-  
13 three (455A.23), Code 1977, is amended by striking the section  
14 and inserting in lieu thereof the following:

15 455A.23 PENALTY. Any person who constructs, maintains  
16 or continues a public nuisance or who diverts or withdraws  
17 water in violation of the provisions of this chapter, upon  
18 conviction, shall be guilty of a simple misdemeanor. Each  
19 day that such violation continues after conviction shall be  
20 considered a separate offense.

21 Sec. 136. Section four hundred sixty-seven A point three  
22 (467A.3), Code 1977, is amended by striking subsections three  
23 (3), four (4) and fifteen (15) and inserting in lieu thereof  
24 the following:

25 3. "Department" means the department of land and water  
26 resources.

27 4. "Commission" means the state land and water resources  
28 commission.

29 15. "Director" means the director of the department or  
30 a designee of the director.

31 Sec. 137. Section four hundred sixty-seven A point four  
32 (467A.4), Code 1977, is amended by striking subsections one  
33 (1), two (2) and three (3) and inserting in lieu thereof the  
34 following:

35 1. a. There is created a department of land and water

1 resources which shall be the state agency to administer pro-  
2 grams relating to soil conservation and other land and water  
3 resources as provided by law.

4 b. There is created within the department a state land  
5 and water resources commission which shall be the policy-  
6 making authority of the department.

7 2. The state land and water resources commission shall  
8 consist of thirteen voting members and seven ex officio,  
9 nonvoting members.

10 a. The thirteen voting members of the commission shall  
11 be appointed by the governor with the consent of two-thirds  
12 of the members of the senate. Six of the voting members shall  
13 be persons engaged in actual farming operations, one from  
14 each of the six conservancy districts established by sec-  
15 tion four hundred sixty-seven D point three (467D.3) of the  
16 Code, but not more than one from any one county. Six of the  
17 voting members shall be persons whose principal sources of  
18 income are not received from actual farming operations. One  
19 of the voting members shall be a person appointed to be a  
20 representative of the mining industry. Each member of the  
21 commission shall be an elector of the state and shall have  
22 interest and knowledge of the subject matter under the  
23 jurisdiction of the department. Not more than seven members  
24 of the commission shall be members of the same political  
25 party. The members of the commission shall be appointed to  
26 four-year terms of office commencing July 1, 1979, except  
27 that six members appointed to the initial commission shall  
28 be appointed to a two-year term. Thereafter, all appointments  
29 shall be for four years. Vacancies occurring during a term  
30 of office shall be filled by appointment for the balance of  
31 the unexpired term subject to the consent of two-thirds of  
32 the members of the senate. Any vacancy on the commission  
33 occurring while the general assembly is not in session shall  
34 be filled by appointment of the governor which appointment  
35 shall expire thirty days after the general assembly next

1 convenes. Within the thirty-day period, the governor shall  
2 transmit an appointment to the senate. A voting member of  
3 the commission shall not be appointed to serve more than two  
4 consecutive four-year terms.

5 b. The seven ex officio, nonvoting members of the com-  
6 mission shall include:

7 (1) The director of the state agricultural extension ser-  
8 vice or a designee.

9 (2) The state conservation director or a designee.

10 (3) The secretary of agriculture or a designee.

11 (4) The executive director of the department of environ-  
12 mental quality or a designee.

13 (5) The state geologist or a designee.

14 (6) Upon invitation of the commission, a designee of the  
15 United States secretary of agriculture.

16 (7) Upon invitation of the commission, a designee of the  
17 president of the Iowa county engineers association.

18 c. The commission may appoint advisory committees to  
19 advise the commission and the director in carrying out their  
20 other powers and duties as provided by law. The members of  
21 the advisory committees shall serve at the pleasure of the  
22 commission.

23 d. A majority of the voting members of the commission  
24 shall constitute a quorum and the concurrence of a quorum  
25 of the voting members shall be required to determine any  
26 matter relating to the official duties of the commission.

27 3. In addition to its other powers and duties provided  
28 by law, the commission:

29 a. Shall adopt a seal which shall be judicially noticed.

30 b. Shall conduct public hearings as necessary to carry  
31 out its powers and duties.

32 c. Shall adopt rules in accordance with chapter seventeen  
33 A (17A) of the Code.

34 d. Shall approve, upon recommendation of the director,  
35 an administrative structure for the department and the number

1 and kind of staff positions within the table of organization.

2 e. May assign such other duties to the director as ap-  
3 propriate.

4 f. Shall annually elect a chairperson and such other of-  
5 ficers as determined by the commission from among its member-  
6 ship.

7 g. May request advice and assistance from any state agen-  
8 cy or state institution of higher learning in making reports,  
9 surveys or studies, subject to available appropriations and  
10 staff of the agency to which the request is directed.

11 h. Shall appoint a director with the qualifications and  
12 experience as determined by the commission. The annual salary  
13 of the director shall be determined by the governor as pro-  
14 vided by law.

15 i. Shall provide for the execution of surety bonds for  
16 all employees and officers who are entrusted with funds or  
17 property of the department.

18 j. Shall keep a full and accurate record of all proceed-  
19 ings of the commission including a record of all resolutions,  
20 actions and orders of the commission.

21 k. Shall provide for an annual audit of the accounts of  
22 receipts and disbursements.

23 4. In addition to the director's powers and duties other-  
24 wise provided by law, the director:

25 a. Shall organize or reorganize the administrative struc-  
26 ture of the department, subject to the approval of the commis-  
27 sion. The administrative structure shall include plans for  
28 a division of land preservation.

29 b. Shall appoint such professional, technical, secretarial  
30 and other administrative staff as necessary to carry out the  
31 powers and duties assigned to the department. The appointments  
32 shall be made in compliance with chapter nineteen A (19A)  
33 of the Code.

34 c. May accept gifts, contributions, donations and grants,  
35 and use the same for any purpose within the jurisdiction of

1 the department with approval of the commission.

2 5. The members of the commission, not otherwise employed  
3 by the state or any political subdivision of the state, shall  
4 receive a per diem of forty dollars for each day engaged in  
5 the performance of the duties of office. The commission shall  
6 determine the number of days for which any member may be paid  
7 per diem compensation. The members of the commission, the  
8 director and the staff of the department shall receive  
9 reimbursement for travel and other necessary expenses incurred  
10 in the performance of official duties. The members of advisory  
11 committees shall not receive per diem compensation, but the  
12 commission may authorize reimbursement for travel and other  
13 necessary expenses incurred by the committee members in  
14 performing their duties.

15 Sec. 138. Section four hundred sixty-seven A point four  
16 (467A.4), subsection four (4), unnumbered paragraph one (1),  
17 Code 1977, is amended to read as follows:

18 4 6. In addition to the duties and powers hereinafter  
19 conferred upon the department ~~of soil conservation~~, it shall  
20 have the following duties and powers:

21 Sec. 139. Section four hundred sixty-seven A point seven  
22 (467A.7), subsections three (3) and seven (7), Code 1977,  
23 are amended to read as follows:

24 3. To carry out preventive and control measures within  
25 the district, including, but not limited to, crop rotations,  
26 engineering operations, methods of cultivation, the growing  
27 of vegetation, changes in use of land, and the measures listed  
28 in section 467A.2, on lands owned or controlled by this state  
29 or any of its agencies, with the consent and co-operation  
30 of the agency administering and having jurisdiction thereof,  
31 and on any other lands within the district, upon obtaining  
32 the consent of the owner or occupier of such lands or the  
33 necessary rights or interests in such lands. Any approval  
34 or permits from the ~~council~~ department required under other  
35 provisions of law shall be obtained by the district prior

1 to initiation of any construction activity.

2 7. To construct, improve, and maintain such structures  
3 as may be necessary or convenient for the performance of any  
4 of the operations authorized in this chapter. Any approval  
5 or permits from the ~~county~~ department required under other  
6 provisions of law shall be obtained by the district prior  
7 to initiation of any construction activity.

8 Sec. 140. Sections four hundred sixty-seven A point five  
9 (467A.5), four hundred sixty-seven A point seven (467A.7),  
10 four hundred sixty-seven A point eight (467A.8), four hundred  
11 sixty-seven A point ten (467A.10), four hundred sixty-seven  
12 A point eleven (467A.11), four hundred sixty-seven A point  
13 twelve (467A.12), four hundred sixty-seven A point twenty-  
14 two (467A.22), four hundred sixty-seven A point forty-two  
15 (467A.42), four hundred sixty-seven A point forty-four  
16 (467A.44), four hundred sixty-seven A point forty-five  
17 (467A.45), four hundred sixty-seven A point forty-six  
18 (467A.46), and four hundred sixty-seven A point forty-eight  
19 (467A.48), Code 1977, are amended by striking from such sec-  
20 tions the words "state soil conservation committee" or "com-  
21 mittee" and inserting in lieu thereof the word "commission".

22 Sec. 141. Sections four hundred sixty-seven A point six  
23 (467A.6), four hundred sixty-seven A point seven (467A.7)  
24 and four hundred sixty-seven A point eighteen (467A.18), Code  
25 1977, are amended by striking from such sections the words  
26 "department of soil conservation" and inserting in lieu thereof  
27 the word "department".

28 Sec. 142. Section four hundred sixty-seven C point five  
29 (467C.5), Code 1977, is amended to read as follows:

30 467C.5 APPROVAL OF COMMISSIONERS. No district shall be  
31 established by any board of supervisors under this chapter  
32 unless the organization of such district is approved by the  
33 commissioners of any soil conservation district established  
34 under the provisions of chapter 467A and which is included  
35 all or in part within such district, nor shall any such dis-

1 trict be established without the approval of the state con-  
2 servation commission and the ~~Iewa-natural-resources-coun-~~  
3 ~~eil~~ department of land and water resources.

4 Sec. 143. Section four hundred sixty-seven D point two  
5 (467D.2), Code 1977, is amended by striking subsection three  
6 (3).

7 Sec. 144. Section four hundred sixty-seven D point two  
8 (467D.2), Code 1977, is amended by striking subsections five  
9 (5) and six (6) and inserting in lieu thereof the following:

10 5. "Department" means the department of land and water  
11 resources.

12 6. "Commission" means the state land and water resources  
13 commission.

14 Sec. 145. Section four hundred sixty-seven D point four  
15 (467D.4), Code 1977, is amended by striking the section and  
16 inserting in lieu thereof the following:

17 467D.4 GOVERNING BODY. The governing body of each con-  
18 servancy district shall be a board of the six members of the  
19 commission who are qualified and selected for commission  
20 membership by being engaged in actual farming operations as  
21 provided in section four hundred sixty-seven A point four  
22 (467A.4) of the Code.

23 Sec. 146. Section four hundred sixty-seven D point five  
24 (467D.5), Code 1977, is amended to read as follows:

25 467D.5 OFFICIALLY AS BOARD OF CONSERVANCY DISTRICTS.  
26 When officially conducting the business of any conservancy  
27 district, the ~~committee~~ board shall formally convene as the  
28 board of that conservancy district and shall keep minutes  
29 as such. The ~~chairman-of-the-committee~~ board shall select  
30 a chairperson from its membership who shall be-the-chairman  
31 serve as chairperson of the board of each conservancy district.

32 Sec. 147. Section four hundred sixty-seven D point six  
33 (467D.6), subsections one (1) and eleven (11), Code 1977,  
34 are amended to read as follows:

35 1. Exercise such supervision over the water resources

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

9 11. Maintain at its office a record of all the conservancy  
10 district's proceedings, rules and orders, and furnish copies  
11 thereof to the department and the ~~council~~ department of  
12 environmental quality upon request.

13 Sec. 148. Section four hundred sixty-seven D point seven  
14 (467D.7), Code 1977, is amended to read as follows:

15 467D.7 SECRETARY AND TREASURER. The ~~state-soil-conserva-~~  
16 ~~tion-committee~~ board, in its respective capacities as the  
17 board of each of the several conservancy districts, shall  
18 appoint a secretary and a treasurer for each conservancy dis-  
19 trict.

20 Sec. 149. Section four hundred sixty-seven D point eight  
21 (467D.8), Code 1977, is amended to read as follows:

22 467D.8 DUAL CAPACITY--LIMITATION. The ~~state-soil-conserva-~~  
23 ~~tion-committee~~ board may at its discretion appoint the same  
24 individual as secretary for two or more conservancy districts,  
25 or as the treasurer for two or more conservancy districts.  
26 No person shall simultaneously serve as both a conservancy  
27 board secretary and a conservancy board treasurer, either  
28 for the same conservancy district or for different conservancy  
29 districts.

30 Sec. 150. Section four hundred sixty-seven D point nine  
31 (467D.9), Code 1977, is amended to read as follows:

32 467D.9 COMPENSATION. Any person appointed by the ~~state~~  
33 ~~soil-conservation-committee~~ board as secretary or treasurer  
34 of one or more conservancy districts, who is not otherwise  
35 employed by the state or any of its political subdivisions,

1 shall receive such compensation as the ~~committee~~ board shall  
2 determine.

3 Sec. 151. Section four hundred sixty-seven D point twelve  
4 (467D.12), Code 1977, is amended to read as follows:

5 467D.12 BUDGET. In each even-numbered year the board  
6 shall prepare a budget for the biennium beginning July ~~±~~ first  
7 of the succeeding calendar year, setting forth all proposed  
8 expenditures by the conservancy district during such biennium,  
9 and stating the amounts which it is anticipated will be avail-  
10 able to the conservancy district during such biennium from  
11 sources other than state appropriations. The board shall  
12 submit its budget to the ~~state-soil-conservation-committee~~  
13 commission on or before August ~~±~~ first of each even-numbered  
14 year.

15 Sec. 152. Section four hundred sixty-seven D point thirteen  
16 (467D.13), Code 1977, is amended to read as follows:

17 467D.13 REVIEW BY ~~STATE-COMMITTEE~~ COMMISSION. The ~~commit-~~  
18 ~~tee~~ commission shall review the proposed biennial budget of  
19 each of the conservancy districts, and may revise any such  
20 budget. The ~~committee~~ commission shall prepare a consolidated  
21 list of the appropriations requested for administration,  
22 operation, and maintenance of each conservancy district for  
23 each year of the ensuing biennium, and of capital appro-  
24 priations requested, if any, for each conservancy district,  
25 and shall forward the consolidated list to the state comp-  
26 troller as a part of the ~~committee's~~ commission's estimates  
27 of expenditure requirements submitted pursuant to section  
28 8.23.

29 Sec. 153. Section four hundred sixty-seven D point six-  
30 teen (467D.16), unnumbered paragraph one (1), Code 1977, is  
31 amended to read as follows:

32 The board shall prepare a plan for accomplishment of the  
33 objectives of this chapter within the conservancy district.  
34 For this purpose the board may request and shall obtain from  
35 any state agency or political subdivision information which

1 the agency or subdivision may have already collected which  
2 is pertinent to preparation of the plan, and may conduct such  
3 hearings as it deems necessary. The plan shall establish  
4 an order of priorities for carrying out projects necessary  
5 to accomplish the objectives of this chapter, shall conform  
6 as nearly as practicable to the comprehensive state-wide water  
7 resources plan established by the ~~council-pursuant-to-section~~  
8 ~~455A-17~~ department and shall reflect the following general  
9 policies:

10 Sec. 154. Section four hundred sixty-seven D point seven-  
11 teen (467D.17), Code 1977, is amended to read as follows:

12 467D.17 PLAN PRESENTED TO DEPARTMENT AND ~~COUNCIL~~. The  
13 board shall tentatively adopt the plan by resolution and shall  
14 present the plan to the department ~~and-the-council~~ for review.  
15 The ~~council~~ department shall within ninety days review the  
16 plan as presented and make such recommendations as ~~in-its~~  
17 ~~discretion,-it-deems~~ deemed necessary to bring the conservancy  
18 district's plan into conformity with the comprehensive state-  
19 wide water resources plan ~~established-by-the-council-pursuant~~  
20 ~~to-section-455A-17~~. The department shall review the plan  
21 as presented and, with such amendments as are necessary to  
22 bring the plan into conformity with the state-wide water  
23 resources plan, give final approval within one hundred twenty  
24 days.

25 Sec. 155. Section four hundred sixty-seven D point nine-  
26 teen (467D.19), Code 1977, is amended to read as follows:

27 467D.19 IMPLEMENTATION. After final approval of the plan,  
28 the board shall begin to implement the plan as expeditiously  
29 as possible, within the limitations of available appropriations  
30 and other financial resources. When implementation of the  
31 plan involves construction or improvement of any internal  
32 improvement by the conservancy district, the board may order  
33 the preparation of detailed plans and specifications, and  
34 a refined cost estimate. Upon completion of such plans,  
35 specifications and cost estimate to their satisfaction, the

1 board shall adopt the same, subject to the approval of the  
2 department, and shall let the contract or contracts therefor  
3 in accordance with section 467D.20. Any approval or permits  
4 from the ~~council~~ department required under other provisions  
5 of law shall be obtained by the conservancy district prior  
6 to initiation of any construction activity.

7 Sec. 156. Chapter four hundred sixty-nine (469), Code  
8 1977, is amended by adding the following new section:

9 NEW SECTION. DEFINITIONS. As used in this chapter:

10 1. "Department" means the department of land and water  
11 resources.

12 2. "Commission" means the state land and water resources  
13 commission.

14 3. "Director" means director of the department or a  
15 designee of the director.

16 Sec. 157. Section four hundred sixty-nine point one  
17 (469.1), Code 1977, is amended to read as follows:

18 469.1 PROHIBITION--PERMIT. No dam shall be constructed,  
19 maintained, or operated in this state in any navigable or  
20 meandered stream for any purpose, or in any other stream for  
21 manufacturing or power purposes, nor shall any water be taken  
22 from such streams for industrial purposes, unless a permit  
23 has been granted by the ~~Iowa-natural-resources-council~~  
24 department to the person, firm, corporation, or municipality  
25 constructing, maintaining, or operating the same.

26 Sec. 158. Section four hundred sixty-nine point two  
27 (469.2), unnumbered paragraph one (1) and subsection six (6),  
28 Code 1977, are amended to read as follows:

29 Any person, firm, corporation, or municipality making  
30 application for a permit to construct, maintain, or operate  
31 a dam in any of the waters, including canals, raceways, and  
32 other constructions necessary or useful in connection with  
33 the development and utilization of the water or water power,  
34 shall file with the ~~Iowa-natural-resources-council~~ depart-  
35 ment a written application, which shall contain the following

1 information:

2 6. Such additional information as may be required by the  
3 ~~Iowa-natural-resources-council~~ department.

4 Sec. 159. Section four hundred sixty-nine point three  
5 (469.3), Code 1977, is amended to read as follows:

6 469.3 NOTICE OF HEARING. When any application for a per-  
7 mit to construct, maintain, or operate a dam ~~from-and-after~~  
8 ~~the-passage-of-this-chapter-is-received~~, the ~~Iowa-natural~~  
9 ~~resources-council~~ director shall fix a time for hearing, and  
10 it shall give notice of the time and place of such hearing  
11 by publication once each week for two successive weeks in  
12 at least one newspaper in each county in which riparian lands  
13 will be affected by the dam.

14 Sec. 160. Section four hundred sixty-nine point four  
15 (469.4), Code 1977, is amended to read as follows:

16 469.4 HEARING. At the time fixed for such hearing or  
17 at any adjournment thereof, the ~~council~~ director shall take  
18 evidence offered by the applicant and any other person, either  
19 in support of or in opposition to the proposed construction.

20 Sec. 161. Section four hundred sixty-nine point five  
21 (469.5), Code 1977, is amended to read as follows:

22 469.5 WHEN PERMIT GRANTED. If it shall appear to the  
23 ~~council~~ director that the construction, operation, or  
24 maintenance of the dam will not materially obstruct existing  
25 navigation, or materially affect other public rights, will  
26 not endanger life or public health, and any water taken from  
27 the stream in connection with the project, excepting water  
28 taken by a municipality for distribution in its water mains,  
29 is returned thereto at the nearest practicable place without  
30 being materially diminished in quantity or polluted or rendered  
31 deleterious to fish life, ~~it~~ the director shall grant the  
32 permit, upon such terms and conditions as ~~it~~ the director  
33 may prescribe.

34 Sec. 162. Section four hundred sixty-nine point six  
35 (469.6), Code 1977, is amended to read as follows:

1 469.6 CERTIFICATE OF APPROVAL. No A permit shall not  
2 be granted for the construction or operation of a dam where  
3 the water is to be used for manufacturing purposes, except  
4 to develop power, until a certificate of the ~~Iowa-water-pollu-~~  
5 ~~tion-control-commission~~ department of environmental quality  
6 has been filed with the ~~council~~ department showing its appro-  
7 val of the use of the water for the purposes specified in  
8 the application.

9 Sec. 163. Section four hundred sixty-nine point seven  
10 (469.7), Code 1977, is amended to read as follows:

11 469.7 APPLICATION FOR CERTIFICATE. When it is proposed  
12 to use the water for manufacturing purposes, except to develop  
13 power, or for condensation purposes, application must be made  
14 to the ~~Iowa-water-pollution-control-commission~~ department  
15 of environmental quality, accompanied by a description of  
16 the proposed use of the water and what, if any, substances  
17 are to be deposited in such water and chemical changes made  
18 in the same, and such other information as the department  
19 of ~~health~~ environmental quality may require to enable it to  
20 determine the advisability of the issuance of such certificate.

21 Sec. 164. Section four hundred sixty-nine point eight  
22 (469.8), Code 1977, is amended to read as follows:

23 469.8 GRANTING OR REFUSING.

24 1. If the ~~Iowa-water-pollution-control-commission~~ depart-  
25 ment of environmental quality is satisfied that the use of  
26 the water in any such project will not cause pollution of  
27 the same or render it materially unwholesome or impure, or  
28 deleterious to fish life, it may issue a certificate, and  
29 if it is not so satisfied, it shall refuse to issue same.

30 2. An applicant aggrieved by the decision of the execu-  
31 tive director of the department of environmental quality or  
32 the director under this chapter may appeal the decision to  
33 the environmental quality commission or the commission as  
34 applicable.

35 Sec. 165. Section four hundred sixty-nine point nine

1 (469.9), unnumbered paragraph one (1), Code 1977, is amended  
2 to read as follows:

3 Every person, firm, or corporation, excepting a  
4 municipality, to whom a permit is granted to construct or  
5 to maintain and operate a dam already constructed in or across  
6 any stream for the purpose herein specified, shall pay to  
7 the ~~Iowa-natural-resources-council~~ department a permit fee  
8 of one hundred dollars and shall pay an annual inspection  
9 and license fee, to be fixed by the ~~Iowa-natural-resources~~  
10 ~~council~~ commission, on or before the first day of January,  
11 ~~1925,-and-annually-thereafter~~ of each year, but in no case  
12 shall the annual inspection and license fee be less than  
13 twenty-five dollars. All fees shall be paid into the general  
14 fund of the state treasury.

15 Sec. 166. Section four hundred sixty-nine point ten  
16 (469.10), Code 1977, is amended to read as follows:

17 469.10 CONSTRUCTION AND OPERATION. The ~~Iowa-natural~~  
18 ~~resources-council~~ director shall investigate methods of  
19 construction, reconstruction, operation, maintenance, and  
20 equipment of dams, so as to determine the best methods to  
21 conserve and protect as far as possible all public and riparian  
22 rights in the waters of the state and so as to protect the  
23 life, health, and property of the general public; and the  
24 method of construction, operation, maintenance, and equipment  
25 of any and all dams of any character or for any purpose in  
26 such waters shall be subject to the approval of the ~~Iowa~~  
27 ~~natural-resources-council~~ director.

28 Sec. 167. Section four hundred sixty-nine point eleven  
29 (469.11), Code 1977, is amended to read as follows:

30 469.11 ACCESS TO WORKS. ~~Such-council-or-any-member,~~  
31 ~~agent,-or-employee-thereof~~ The department shall at all times  
32 be accorded full access to all parts of any dam and its  
33 appurtenances being constructed, operated, or maintained in  
34 such waters, subject to section four hundred fifty-five A  
35 point three (455A.3) of the Code.

1     Sec. 168. Section four hundred sixty-nine point twelve  
2 (469.12), Code 1977, is amended to read as follows:

3     469.12 DUTY TO ENFORCE STATUTES. It shall be the duty  
4 of the ~~ecouneit~~ department to require that all existing statutes  
5 of the state, including the provisions of this chapter, with  
6 reference to the construction of dams, shall be enforced.

7     Sec. 169. Section four hundred sixty-nine point twenty-  
8 six (469.26), Code 1977, is amended to read as follows:

9     469.26 REVOCATION OR FORFEITURE OF PERMIT. If the person  
10 to whom a permit is issued under the provisions of this chap-  
11 ter does not begin the construction or the improvement of  
12 the dam or raceway within one year from the date of the  
13 granting of the permit, his or her permit may be revoked by  
14 the ~~Iowa-natural-resources-ecouneit~~ director, and if any permit  
15 holder does not finish and have in operation the plant for  
16 which the dam is constructed within three years after the  
17 granting of the permit, unless for good cause shown the ~~ecouneit~~  
18 director has extended the time for completion, such permit  
19 shall be forfeited.

20     Sec. 170. Section four hundred sixty-nine point twenty-  
21 nine (469.29), Code 1977, is amended to read as follows:

22     469.29 PERMITS FOR EXISTING DAMS. All licenses and per-  
23 mits issued by the state executive council prior to April  
24 17, 1949, or the Iowa natural resources council prior to  
25 January 1, 1979, are hereby declared to be in full force and  
26 effect and all of the powers of administration relating to  
27 licenses or permits heretofore issued are hereby vested in  
28 the ~~Iowa-natural-resources-ecouneit~~ department.

29     Sec. 171. Sections one hundred seven point twenty-two  
30 (107.22), four hundred fifty-five A point twenty-four  
31 (455A.24), four hundred fifty-five A point twenty-five  
32 (455A.25), four hundred fifty-five A point twenty-six  
33 (455A.26), four hundred fifty-five A point twenty-seven  
34 (455A.27), four hundred fifty-five A point twenty-eight  
35 (455A.28), four hundred fifty-five A point twenty-nine

1 (455A.29), four hundred fifty-five A point thirty (455A.30),  
2 four hundred fifty-five A point thirty-one (455A.31), four  
3 hundred fifty-five A point thirty-two (455A.32), four hundred  
4 fifty-five A point thirty-three (455A.33), four hundred fifty-  
5 five A point thirty-four (455A.34), four hundred fifty-five  
6 A point thirty-five (455A.35), four hundred fifty-five A point  
7 thirty-six (455A.36), four hundred fifty-five A point thirty-  
8 seven (455A.37), four hundred fifty-five A point thirty-eight  
9 (455A.38), four hundred fifty-five A point thirty-nine  
10 (455A.39), four hundred fifty-five A point forty (455A.40),  
11 four hundred fifty-five B point seven (455B.7), four hundred  
12 fifty-five B point twenty-eight (455B.28), four hundred fifty-  
13 five B point seventy-three (455B.73), four hundred fifty-five  
14 B point ninety-nine (455B.99), four hundred fifty-five B point  
15 one hundred four (455B.104), four hundred fifty-five B point  
16 one hundred five (455B.105), four hundred fifty-five B point  
17 one hundred six (455B.106), and four hundred fifty-five B  
18 point one hundred seven (455B.107), Code 1977, are repealed.

19 Sec. 172. PRIOR ACTIONS.

20 1. Any rule adopted, permit or order issued, or approval  
21 given under chapters eighty-four (84), one hundred eight  
22 (108), one hundred nine (109), one hundred eleven (111), one  
23 hundred twelve (112), three hundred fifty-seven A (357A),  
24 three hundred fifty-eight A (358A), four hundred fourteen  
25 (414), four hundred twenty-seven (427), four hundred fifty-  
26 five A (455A), four hundred sixty-seven A (467A), four hundred  
27 sixty-seven C (467C), four hundred sixty-seven D (467D), or  
28 four hundred sixty-nine (469), of the Code, before the  
29 effective date of this Act, by the Iowa natural resources  
30 council shall remain effective until modified or rescinded  
31 by action of the Iowa state commerce commission, the state  
32 land and water resources commission or the department of land  
33 and water resources as provided in this Act.

34 2. Any rule adopted or approval given under section four  
35 hundred twenty-seven point one (427.1), subsection thirty-

1 two (32) of the Code, before the effective date of this Act,  
2 by the air quality commission or the water quality commission  
3 of the department of environmental quality shall remain  
4 effective until modified or rescinded by action of the depart-  
5 ment of environmental quality as provided in this Act.

6 3. Any rule adopted, permit or order issued, or appro-  
7 val given under chapter eighty-three A (83A), four hundred  
8 sixty-seven A (467A), and four hundred sixty-seven D (467D)  
9 of the Code, before the effective date of this Act, by the  
10 state soil conservation committee or the chief administrative  
11 officer of the department of soil conservation shall remain  
12 effective until modified or rescinded by action of the state  
13 land and water resources commission or the director of the  
14 department of land and water resources as provided in this  
15 Act.

16 Sec. 173. TRANSFER OF EMPLOYEES. All employees of the  
17 Iowa natural resources council are transferred to the  
18 department of land and water resources. Any employee of the  
19 Iowa natural resources council whose duty assignments will  
20 be terminated because of this Act may be reassigned to other  
21 duties or may be transferred to the department of land and  
22 water resources. The Iowa merit employment commission shall  
23 promulgate rules to carry out the reassignment or transfer  
24 and shall arbitrate and decide any written appeal made by  
25 any employee concerning any transfer, reassignment, or  
26 reclassification made necessary by this Act. An employee  
27 shall not lose any benefits accrued, including but not limited  
28 to salary, retirement, vacation, or sick leave because of  
29 reassignment provided in this section.

30 Sec. 174. EFFECTIVE DATE--TRANSITION. The effective date  
31 of this Act shall be January 1, 1980, except that after January  
32 1, 1979, the governor may appoint the members of the  
33 environmental quality commission and the members of the state  
34 land and water resources commission, authorize the  
35 environmental quality commission and the state land and water

1 resources commission to organize as provided in this Act and  
2 authorize the department of environmental quality, the  
3 department of land and water resources, and the Iowa state  
4 commerce commission to plan for the transfer of powers, duties,  
5 records, equipment, funds, other property, and personnel  
6 as applicable to the respective departments. The terms of  
7 the persons initially appointed for four-year terms shall  
8 commence July 1, 1979 and end June 30, 1983, and the terms  
9 of persons initially appointed for two-year terms shall  
10 commence July 1, 1979 and end June 30, 1981. Such persons  
11 may be reappointed as provided in this Act. The state land  
12 and water resources commission may appoint, before January  
13 1, 1980, a director for the department of land and water  
14 resources at an annual salary approved by the governor and  
15 shall cooperate with the Iowa natural resources council and  
16 the state soil conservation committee in preparing for an  
17 orderly transfer of powers and duties, including representing  
18 the new department in budgetary and appropriation matters.  
19 The members of the environmental quality commission and the  
20 state land and water resources commission authorized to meet  
21 before January 1, 1980, may be paid per diem and necessary  
22 expenses from funds appropriated to the department of  
23 environmental quality and the department of soil conservation,  
24 respectively.

25 Of the members appointed to the initial state land and  
26 water resources commission, the governor shall appoint three  
27 persons who are voting members of the Iowa natural resources  
28 council and three persons who are voting members of the state  
29 soil conservation committee at the time of their appointment  
30 and the six persons shall serve concurrently as members of  
31 commission and the committee or council until their respec-  
32 tive terms of office as members of the committee or council  
33 shall expire as provided in this Act.

34 The terms of office of members of the Iowa natural re-  
35 sources council, the geological board, and the executive

1 committee, water quality commission, air quality commission,  
2 solid waste disposal commission and the chemical technology  
3 commission of the department of environmental quality, and  
4 the state soil conservation committee, which council, board,  
5 committees and commissions are abolished by this Act, shall  
6 expire on December 31, 1979. Notwithstanding sections four  
7 hundred fifty-five A point four (455A.4) and four hundred  
8 sixty-seven A point four (467A.4) of the Code, the members  
9 of the Iowa natural resources council and the state soil con-  
10 servation committee whose terms expire on June 30, 1979 shall  
11 continue in office until December 31, 1979 and on that date  
12 their terms of office shall expire.

13

EXPLANATION

14 This bill provides for the reorganization of the department  
15 of environmental quality, the creation of a state land and  
16 water resources commission and the department of land and  
17 water resources, the abolition of the Iowa natural resources  
18 council, the state soil conservation committee, the department  
19 of soil conservation and the geological board, and the transfer  
20 of the powers and duties of the Iowa natural resources council  
21 to the department of land and water resources and the Iowa  
22 state commerce commission.

23 In the reorganization of the department of environmental  
24 quality, the four policy-making commissions and the executive  
25 committee are replaced by a single policy-making commission,  
26 the environmental quality commission. The new commission  
27 will consist of seven members appointed by the governor with  
28 consent of two-thirds of the membership of the senate for  
29 four-year, overlapping terms. In addition, administrative  
30 duties currently assigned to the executive committee and the  
31 four commissions are assigned to the executive director.  
32 The commission remains the authority to determine the policy  
33 of the department, to adopt, amend or repeal rules, and to  
34 hear appeals from the decisions of the executive director.  
35 The bill also provides for the redistribution of the authority

1 over agricultural chemicals between the departments of  
2 agriculture and environmental quality.

3     The powers and duties of the Iowa natural resources council  
4 are transferred to the department of land and water resources  
5 except for those powers relating to oil and gas wells which  
6 are transferred to the Iowa state commerce commission. A  
7 state land and water resources commission is created to serve  
8 as the policy-making and rule-making authority for the depart-  
9 ment. The commission shall have thirteen voting members  
10 appointed by the governor with consent of the senate for four-  
11 year overlapping terms and seven ex officio nonvoting members.  
12 Six members shall be persons engaged in actual farming opera-  
13 tions, six members shall be persons whose principal source  
14 of income is not from farming operations, and one member shall  
15 be representative of the mining industry. The six members  
16 who are engaged in actual farming operations shall serve as  
17 the board of each of the conservancy districts.

18     In addition to abolishing the geological board, the Iowa  
19 state commerce commission is granted the policy-making and  
20 rule-making authority to regulate oil and gas exploration  
21 and production. Under present law, the state geologist is  
22 the administrator of the rules and orders adopted by the Iowa  
23 natural resources council relating to oil and gas wells.

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LSB 857S

trj/rh/8A

SENATE FILE 2216

S-5523

1 Amend Senate File 2216 as follows:

2 1. Page 22, line 6 by inserting after the word  
3 "surgeons" the words ", licensed podiatrists, licensed  
4 dentists".

S-5523 FILED *adopted 4/13 (p. 257)*  
APRIL 11, 1978

BY RICHARD F. DRAKE  
MINNETTE DODERER

S-5540

1 Amend Senate File 2216 as follows:

2 1. Page 23, by striking lines 21 through 35 and  
3 inserting in lieu thereof the following:  
4 "2. If the commission determines that an agricul-  
5 tural chemical causes harm to the public health or  
6 the environment, the commission may adopt rules  
7 restricting the use of the agricultural chemical.  
8 Prior to the publication of the notice of intended  
9 action, the commission shall submit to the department  
10 of agriculture its findings on the harm that the  
11 chemical causes to the public health or the environ-  
12 ment and its regulatory alternatives and shall request  
13 and obtain from the department of agriculture an  
14 estimate of the economic impact of the rule. The  
15 estimate and the commission's findings shall be  
16 available at the time of publication of the notice  
17 of intended action. Prior to the adoption of a rule,  
18 the commission shall hold a public".

19 2. Page 24, line 28, by inserting after the word  
20 "commission" the words "or the department of  
21 agriculture".

22 3. Page 44, by inserting after line 17 the follow-  
23 ing:

24 "Sec. \_\_\_\_\_. Section two hundred point five (200.5),  
25 Code 1977, is amended by adding the following new  
26 subsection:

27 NEW SUBSECTION. The secretary shall appoint an  
28 advisory committee to advise the secretary and the  
29 department on the registration of any product of  
30 commercial fertilizer or soil conditioner under the  
31 provisions of this chapter."

32 4. Page 44, lines 23 and 24, by striking the words  
33 "or the chemical-technology environmental quality  
34 commission" and inserting in lieu thereof the words  
35 "~~the-chemical-technology-commission~~".

36 5. Page 44, by striking lines 32 through 35 and  
37 inserting in lieu thereof the following:

38 "Sec. 89. Section two hundred six point fourteen  
39 (206.14), Code 1977, is amended by adding the following  
40 new subsection:

41 NEW SUBSECTION. The secretary shall require, by  
42 rule, that all".

43 6. Page 45, line 3, by inserting after the words  
44 "suspected poisoning" the words "by agricultural  
45 chemicals".

46 7. Page 45, line 18, by striking the word "shall"  
47 and inserting in lieu thereof the word "may".

48 8. By numbering and renumbering sections to conform  
49 with this amendment.

S-5540 FILED *Adopted 4/13*  
APRIL 12, 1978 (*p. 357*)

BY ALVIN V. MILLER  
RICHARD F. DRAKE  
BERL E. PRIEBE  
DALE L. TIEDEN  
BASS VAN GILST  
C. W. HUTCHINS  
IRVIN L. BERGMAN  
C. JOSEPH COLEMAN  
MILO MERRITT  
JAMES V. GALLAGHER

SENATE FILE 2216

S-5498

- 1 Amend Senate File 2216 as follows:  
2 1. Page 22, by striking lines 31 through 35 and  
3 inserting in lieu thereof the following:  
4 "455B.100 PRIOR RULES CONTINUED. Any rule adopted  
5 or order issued under chapter two hundred six A (206A)  
6 of prior Codes by the chemical technology review board  
7 or under division five (V) of this chapter by the  
8 chemical technology commission before January 1, 1980,  
9 shall be enforced by the secretary of agriculture  
10 and remain effective until modified or rescinded by  
11 action of the secretary of agriculture."  
12 2. Page 23, by striking lines 1 through 35.  
13 3. Page 24, by striking lines 1 through 29.  
14 4. Page 44, by inserting after line 17 the follow-  
15 ing:  
16 "Sec. \_\_\_\_ . Section two hundred point five (200.5),  
17 Code 1977, is amended by adding the following new  
18 subsection:  
19 NEW SUBSECTION. The secretary shall appoint an  
20 advisory committee to advise the secretary and the  
21 department on the registration of any product of  
22 commercial fertilizer or soil conditioner under the  
23 provisions of this chapter."  
24 5. Page 44, lines 23 and 24, by striking the words  
25 "or the chemical-technology environmental quality  
26 commission" and inserting in lieu thereof the words  
27 "the-chemical-technology-commission".  
28 6. Page 44, by striking lines 33 through 35 and  
29 inserting in lieu thereof the following: "Code 1977,  
30 is amended by adding the following new subsection:  
31 NEW SUBSECTION. The secretary shall require, by  
32 rule, that all".  
33 7. Page 45, line 3, by inserting after the word  
34 "poisoning" the words "by agricultural chemicals".  
35 8. Page 45, by striking lines 16 through 20 and  
36 inserting in lieu thereof the words "Code 1977, is  
37 amended by adding the following new subsection":  
38 9. Page 94, line 14, by inserting after the number  
39 "(455B.99)," the words and numbers "four hundred  
40 fifty-five B point one hundred one (455B.101), four  
41 hundred fifty-five B point one hundred two (455B.102),  
42 four hundred fifty-five B point one hundred three  
43 (455B.103),".  
44 10. By renumbering sections to conform with this  
45 amendment.

S-5498 FILED *w. d. 4/13 (p. 858)*  
APRIL 6, 1978

BY ALVIN V. MILLER  
BERL E. PRIEBE  
IRVIN L. BERGMAN  
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C. JOSEPH COLEMAN  
C. W. HUTCHINS  
MILO MERRITT  
BASS VAN GILST

SENATE FILE 2216

S-5484

- 1 Amend Senate File 2216 as follows:
- 2 1. Page 4, line 31, by striking the figure "1979"
- 3 and inserting in lieu thereof the figure "1980".

S-5484 FILED *w.d. 4/13 (p. 857)* BY RICHARD F. DRAKE  
 APRIL 5, 1978

SENATE FILE 2216

S-5485

- 1 Amend Senate File 2216 as follows:
- 2 1. Page 22, line 6 by inserting after the word
- 3 "surgeons" the words "licensed dentists".

S-5485 FILED *w.d. 4/13 (p. 857)* BY RICHARD F. DRAKE  
 APRIL 5, 1978 MINNETTE F. DODERER

SENATE FILE 2216

S-5494

- 1 Amend Senate File 2216 as follows:
- 2 1. Page 4, line 14, by striking the word "may" and
- 3 inserting in lieu thereof the word "shall".
- 4 2. Page 4, line 31, by striking the figure "1979"
- 5 and inserting in lieu thereof the figure "1980".
- 6 3. Page 14, line 2, by striking the figure "1979"
- 7 and inserting in lieu thereof the figure "1980".
- 8 4. Page 18, line 21, by striking the figure "1979"
- 9 and inserting in lieu thereof the figure "1980".
- 10 5. Page 21, line 24, by striking the figure "1979"
- 11 and inserting in lieu thereof the figure "1980".
- 12 6. Page 24, line 26, by striking the figure "1979"
- 13 and inserting in lieu thereof the figure "1980".
- 14 7. Page 25, line 33, by striking the figure "1979"
- 15 and inserting in lieu thereof the figure "1980".

S-5494 FILED *Adopted 4/13* BY RICHARD F. DRAKE  
 APRIL 5, 1978 *(p. 857)*

SENATE FILE 2216

S-5496

- 1 Amend Senate File 2216 as follows:
- 2 1. Page 13, line 8, by inserting after the word
- 3 "director" the words "with the approval of the
- 4 commission".
- 5 2. Page 14, line 31, by inserting after the word
- 6 "~~commission~~" the words "with the approval of the
- 7 commission".
- 8 3. Page 15, line 25, by inserting after the word
- 9 "director" the words "with approval of the commission".
- 10 4. Page 25, line 20, by inserting after the word
- 11 "~~commission~~" the words "with approval of the
- 12 commission".

S-5496 FILED *a.w.d. 3-Adopted 4/13* BY RICHARD R. DRAKE  
*(p. 857)*

(AS AMENDED AND PASSED BY THE SENATE APRIL 13, 1978)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
 Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to certain natural resource agencies of the  
 2 state and the regulation and use of natural resources,  
 3 by reorganizing the department of environmental quality;  
 4 creating an environmental quality commission; creating  
 5 a department of land and water resources and a land and  
 6 water resources commission; transferring the powers and  
 7 duties of the Iowa natural resources council and the  
 8 department of soil conservation to the department of land  
 9 and water resources and the Iowa state commerce commission;  
 10 abolishing the Iowa natural resources council, the depart-  
 11 ment of soil conservation, the state soil conservation  
 12 committee, the geological board and the executive commit-  
 13 tee, air quality commission, water quality commission, the  
 14 solid waste disposal commission and the chemical technology  
 15 commission; redistributing the authority over agricultural  
 16 chemicals between the departments of agriculture and  
 17 environmental quality; authorizing planning for the  
 18 reorganization of the department of conservation; relating  
 19 to the performance of duty of members, officers and employees  
 20 of the state conservation commission; and subjecting  
 21 violators to penalties.

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

22  
23  
24  
25

\_\_\_\_\_ = New Language  
by the Senate

1 Section 1. Section four hundred fifty-five B point one  
2 (455B.1), Code 1977, is amended by striking subsection three  
3 (3) and inserting in lieu thereof the following:

4 3. "Commission" means the environmental quality com-  
5 mission.

6 6371 2 Sec. 2. Section four hundred fifty-five B point three  
7 (455B.3), subsections one (1), two (2), three (3), four (4),  
8 five (5), and six (6), Code 1977, are amended to read as fol-  
9 lows:

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

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

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

19 4. Perform other duties assigned by the ~~executive-com-~~  
20 ~~mittee~~ commission.

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

24 6. Contract, with the approval of the ~~executive-commi-~~  
25 ~~tee~~ commission, with public agencies of this state to provide  
26 all laboratory, scientific field measurement and environ-  
27 mental quality evaluation services necessary to implement  
28 the provisions of this chapter. If the executive director  
29 finds that public agencies of this state cannot provide the  
30 laboratory, scientific field measurement and environmental  
31 evaluation services required by the department, he or she  
32 may contract, with the approval of the ~~executive-committee~~  
33 commission, with any other public or private persons or  
34 agencies for such services or for scientific or technical  
35 services required to carry out the programs and services

1 assigned to the department.

2 Sec. 3. Section four hundred fifty-five B point three  
3 (455B.3), subsection eight (8), unnumbered paragraph one (1),  
4 Code 1977, is amended to read as follows:

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

14 Sec. 4. Section four hundred fifty-five B point three  
15 (455B.3), unnumbered paragraph two (2), Code 1977, is amended  
16 to read as follows:

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

22 Sec. 5. Section four hundred fifty-five B point four  
23 (455B.4), Code 1977, is amended by striking the section and  
24 inserting in lieu thereof the following:

25 455B.4 ENVIRONMENTAL QUALITY COMMISSION.

26 1. There is created an environmental quality commission  
27 consisting of seven members, not more than four of whom shall  
28 be from the same political party. The members shall be  
29 appointed by the governor with the consent of two-thirds of  
30 the members of the senate. Each member of the commission  
31 shall be an elector of the state, and have interest and  
32 knowledge of the subjects embraced in this chapter. The  
33 members of the commission shall be appointed to four-year  
34 terms of office commencing July 1, 1979, except that three  
35 members appointed to the initial commission shall be appointed

6350

1 to a two-year term. Thereafter, all appointments shall be  
 2 for four years. Vacancies occurring during a term of office  
 3 shall be filled by appointment for the balance of the unexpired  
 4 term subject to the consent of two-thirds of the members of  
 5 the senate. Any vacancy on the commission occurring while  
 6 the general assembly is not in session shall be filled by  
 7 appointment of the governor which appointment shall expire  
 8 thirty days after the general assembly next convenes. Within  
 9 the thirty-day period, the governor shall transmit an appoint-  
 10 ment to the senate. A commission member shall not be appointed  
 11 to serve more than two consecutive four-year terms.

6350

12 2. The commission shall organize annually with the elec-  
 13 tion of a chairperson and vice chairperson. The commission  
 14 shall meet monthly and at the call of the chairperson or upon  
 15 written request of a majority of the members of the commission.  
 16 The executive director shall attend the meetings of the  
 17 commission and act as secretary to the commission.

6371

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

21 4. The members of the commission who are not in the full-  
 22 time employment of a public agency shall be paid a per diem  
 23 of forty dollars while engaged in the performance of the  
 24 duties of office. Each member shall be reimbursed their  
 25 actual and necessary expenses while performing such duties.  
 26 All per diem and expenses paid to members shall be paid from  
 27 funds appropriated to the department.

6371

28 5. The members of the commission shall represent the  
 29 public interest and at least a majority of the commission  
 30 membership shall not derive any income from persons subject  
 31 to permits or enforcement orders under this chapter. Any  
 32 potential conflict of interest by any commission member shall  
 33 be immediately disclosed to the commission and the department.  
 34 In the case of conflict of interest, the commission member  
 35 involved shall immediately withdraw from any consideration

1 of the issuance of a permit or enforcement action by the  
2 commission and shall not express any opinion on the matter  
6399 3 to any other commission member involved in the consideration  
4 of the issuance of the permit or enforcement action. A  
5 "conflict of interest" arises when a commission member re-  
6195 6 ceives directly or indirectly personal income from a person  
7 subject to permit or enforcement action pending before the  
8 commission.

9 Sec. 6. Section four hundred fifty-five B point five  
10 (455B.5), Code 1977, is amended by striking the section and  
11 inserting in lieu thereof the following:

12 455B.5 DUTIES OF THE COMMISSION. The commission shall:

13 1. Establish policy for the implementation of all pro-  
14 grams under its jurisdiction. The commission shall appoint  
15 advisory committees to advise the commission and the execu-  
16 tive director in carrying out their respective powers and  
17 duties.

18 2. Advise, consult, and co-operate with other agencies  
19 of the state, political subdivisions, and any other public  
20 or private agency to promote the orderly, efficient, and  
21 effective accomplishment of its responsibilities.

22 3. Adopt, modify, or repeal rules necessary to implement  
23 the programs assigned to it and the rules deemed necessary  
24 for the effective administration of the department. The rules  
25 shall include departmental policy relating to the disclosure  
26 of information on any violation or alleged violation of the  
27 rules, standards or orders issued by the department and keeping  
28 of confidential information obtained by the department in  
29 the administration and enforcement of the provisions of this  
30 chapter. Rules adopted by the executive committee before  
6270 31 January 1, 1980 shall remain effective until modified or  
6195 32 rescinded by action of the commission.

33 4. Approve the departmental budget request prior to  
34 submission to the state comptroller. The commission may in-  
35 crease, decrease, or strike any proposed expenditure within

1 the departmental budget request before granting approval.

2 5. Issue orders and directives necessary to insure in-  
3 tegration and co-ordination of the programs administered by  
4 the department.

5 6. Make a concise annual report to the governor and the  
6 general assembly, which report shall contain information re-  
7 lating to the accomplishments and status of the programs ad-  
8 ministered by the department and include recommendations for  
9 legislative action which may be required to modernize the  
10 operation of the department or any of the programs or services  
11 assigned to the department and recommendations for the transfer  
12 of powers and duties of the department as deemed advisable  
13 by the commission. The annual report shall conform to the  
14 provisions of section seventeen point three (17.3) of the  
15 Code.

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

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

21 9. Hold public hearings, except when the evidence to be  
22 received is confidential pursuant to sections four hundred  
23 fifty-five B point sixteen (455B.16) and four hundred fifty-  
24 five point forty (455.40) of the Code, necessary to carry  
25 out its powers and duties under this chapter. The commission  
26 may issue subpoenas requiring the attendance of witnesses  
27 and the production of evidence pertinent to such hearings.  
28 A subpoena shall be issued and enforced in the same manner  
29 as provided in civil actions.

30 Sec. 7. Section four hundred fifty-five B point six  
31 (455B.6), Code 1977, is amended by striking the section and  
32 inserting in lieu thereof the following:

33 455B.6 APPEAL BOARD. In lieu of an appeal being heard  
34 by the full membership of the commission, the chairperson  
35 of the commission may appoint an appeal board consisting of

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

5 Sec. 8. Section four hundred fifty-five B point nine  
6 (455B.9), Code 1977, is amended to read as follows:

7 455B.9 OFFICE FACILITIES. The ~~executive-council~~ de-  
8 partment of general services shall provide the department  
9 with appropriate office facilities.

10 Sec. 9. Section four hundred fifty-five B point ten  
11 (455B.10), Code 1977, is amended by striking subsection six  
12 (6).

13 Sec. 10. Section four hundred fifty-five B point twelve  
14 (455B.12), subsection twelve (12), Code 1977, is amended to  
15 read as follows:

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

20 Sec. 11. Section four hundred fifty-five B point twelve  
21 (455B.12), Code 1977, is amended by striking subsections five  
22 (5), six (6), seven (7), eight (8), eleven (11), thirteen  
23 (13), and fourteen (14).

24 Sec. 12. Section four hundred fifty-five B point thirteen  
25 (455B.13), subsection three (3), paragraph c, Code 1977, is  
26 amended to read as follows:

27 c. Upon denial of such a permit, the applicant shall be  
28 notified of such denial and informed of the reason or rea-  
29 sons therefor, and such applicant shall be entitled to a hear-  
30 ing before the commission ~~as provided in section 455B-12,~~  
31 ~~subsection 6.~~

32 Sec. 13. Section four hundred fifty-five B point thirteen  
33 (455B.13), subsection six (6), Code 1977, is amended to read  
34 as follows:

35 6. Accept, receive and administer grants or other funds

1 or gifts from public or private agencies, including the federal  
2 government, for the abatement, prevention, or control of air  
3 pollution, ~~subject to the approval of the executive committee.~~

4 Sec. 14. Section four hundred fifty-five B point thirteen  
5 (455B.13), Code 1977, is amended by adding the following  
6 new subsections:

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

13 NEW SUBSECTION. Issue orders necessary to cause the  
14 abatement or control of air pollution. In making such orders,  
15 the executive director shall consider the facts and circum-  
16 stances bearing upon the reasonableness of the emissions in-  
17 volved, including but not limited to, the character and degree  
18 of injury to, or interference with, the protection of health  
19 and the physical property of the public; the practicability  
20 of reducing or limiting the emissions from such air pollution  
21 source; and the suitability or unsuitability of the air pollu-  
22 tion source to the area where it is located. Any such order  
23 may include advisory recommendations for the control of  
24 emissions from any air contaminant source and the reduction  
25 of the emission of air contaminants.

26 NEW SUBSECTION. Encourage voluntary co-operation by persons  
27 or affected groups in restoring and preserving a reasonable  
28 quality of air within the state.

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

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

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

9 Sec. 15. Section four hundred fifty-five B point seventeen  
10 (455B.17), unnumbered paragraph one (1), Code 1977, is amended  
11 to read as follows:

12 Whenever the ~~commission-or-the~~ executive director has  
13 evidence that a violation of any provision of this division  
14 II, or rule or standard established by the commission has  
15 occurred, the executive director shall notify the alleged  
16 violator and, by informal negotiation, attempt to resolve  
17 the problem. If such negotiations fail to resolve the problem  
18 within a reasonable period of time, the ~~commission~~ executive  
19 director shall ~~held-a-public-hearing,-subject-to-the-provisions~~  
20 ~~of-section-455B-16~~ issue an order. The order may be appealed  
21 to the commission.

22 Sec. 16. Section four hundred fifty-five B point eighteen  
23 (455B.18), Code 1977, is amended to read as follows:

24 455B.18 EMERGENCY ORDERS. If the ~~commission-or-the~~  
25 executive director has evidence that any person is causing  
26 air pollution and that such pollution creates an emergency  
27 requiring immediate action to protect the public health and  
28 safety, or property, ~~either~~ the executive director may, without  
29 notice or hearing, issue an emergency order requiring such  
30 person to reduce or discontinue immediately the emission of  
31 air contaminants. A copy of the emergency order shall be  
32 served as provided in section 455B.17, subsection 1. An  
33 emergency order issued by ~~the-commission-or~~ the executive  
34 director shall be effective immediately and binding until  
35 reviewed by the commission at a public hearing or modified

1 or rescinded by a district court.

2 Sec. 17. Section four hundred fifty-five B point twenty  
3 (455B.20), Code 1977, is amended to read as follows:

4 455B.20 LEGAL ACTION. If action to prevent, control,  
5 or abate air pollution is not taken in accordance with the  
6 rules established, or orders issued by the ~~commission~~ depart-  
7 ment, or if ~~the-commission-or~~ the executive director has evi-  
8 dence that an emergency exists by reason of air pollution  
9 which requires immediate action to protect the public health  
10 or property, the attorney general, at the request of the ~~com-~~  
11 ~~mission-or~~ the executive director, shall commence legal ac-  
12 tion, in the name of the state, for an injunction to prevent  
13 any further or continued violation of such rule or order.

14 In an action for an injunction, any previous findings of the  
15 commission department, after due notice and hearing, shall  
16 be prima-facie evidence of the fact or facts found therein.

17 Sec. 18. Section four hundred fifty-five B point twenty-  
18 one (455B.21), Code 1977, is amended to read as follows:

19 455B.21 BURDEN OF PROOF. In all proceedings with respect  
20 to any alleged violation of the provisions of this division  
21 II or any rule established by the commission, the burden of  
22 proof shall be upon the commission department except in an  
23 action for an injunction as provided in section 455B.20.

24 Sec. 19. Section four hundred fifty-five B point twenty-  
25 two (455B.22), Code 1977, is amended to read as follows:

26 455B.22 VARIANCE. Any person who owns or operates any  
27 plant, building, structure, process, or equipment may apply  
28 for a variance from the rules or standards governing the  
29 quality, nature, duration, or extent of emissions by filing  
30 an application with the department. The application shall  
31 be accompanied by such information and data required by the  
32 commission.

33 1. The executive director shall promptly investigate  
34 the application and ~~recommen-to-the-commission-the-dis-~~  
35 ~~position-of-such~~ approve or disapprove the application. The

1 ~~commission~~ executive director may grant a variance if ~~it~~ the  
2 executive director finds that:

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

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

9 2. ~~A public hearing, subject to the provisions of section~~  
10 ~~455B+16, shall be held if the commission concludes that a~~  
11 ~~hearing is advisable.~~ The applicant may request a review  
12 hearing before the commission if his or her application is  
13 denied.

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

24 4. The ~~commission~~ executive director may grant a variance  
25 for a specified period of time, not exceeding one year, and  
26 the ~~commission~~ executive director may further specify that  
27 the applicant make periodic reports specifying the progress  
28 that has been made toward compliance with any rule for which  
29 the variance was granted. A variance may be extended from  
30 year to year by affirmative action of the ~~commission~~ execu-  
31 tive director.

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

35 Sec. 20. Section four hundred fifty-five B point twenty-

1 four (455B.24), Code 1977, is amended to read as follows:

2 455B.24 ACCEPTANCE OF LOCAL PROGRAM. When an air pollution  
3 control program conducted by a political subdivision, or a  
4 combination thereof, is deemed upon review as provided in  
5 section ~~455B-12, -subsection-11~~ four hundred fifty-five B point  
6 thirteen (455B.13) of the Code, to be consistent with the  
7 provisions of this division II or the rules established there-  
8 under, the ~~commission~~ executive director shall accept such  
9 program in lieu of state administration and regulation of  
10 air pollution within the political subdivisions involved.  
11 Nothing contained in this section shall be construed to limit  
12 the power of ~~the commission or~~ the executive director to take  
13 emergency action under the provisions of sections 455B.18  
14 and 455B.20.

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

18 a. Ordinances, rules and standards establishing re-  
19 quirements consistent with, or more strict than, those imposed  
20 by this division II or rules and standards adopted by the  
21 commission.

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

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

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

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

33 b. The executive director shall promptly investigate the  
34 application and ~~recommend the disposition of such~~ approve  
35 or disapprove the application to the commission. The

1 ~~commission~~ executive director may conduct a public hearing  
2 before action is taken ~~on-the-recommendation~~ to approve or  
3 disapprove. If the ~~recommendation-is-against~~ executive  
4 director disapproves issuing a certificate, the political  
5 subdivision shall be entitled to a ~~public-hearing-as-provided~~  
6 ~~in-section-455B-17~~ appeal the action to the commission. At  
7 the public hearing, the commission shall decide whether the  
8 local program is substantially consistent with the provisions  
9 of this division II, or rules adopted thereunder, and whether  
10 the local program is being enforced. The burden of proof  
11 shall be upon the political subdivision.

12 c. If the ~~commission~~ executive director determines at  
13 any time that a local air pollution program is being con-  
14 ducted in a manner inconsistent with the substantive provi-  
15 sions of this division II or the rules adopted thereunder,  
16 the ~~commission~~ executive director shall notify the political  
17 subdivision, citing the deviations from the acceptable  
18 standards and the corrective measures to be completed within  
19 a reasonable amount of time. If the corrective measures are  
20 not implemented as prescribed, the ~~commission~~ executive  
21 director shall suspend the certificate of acceptance of such  
22 political subdivision and shall administer the regulatory  
23 provisions of said division within the political subdivision  
24 until the appropriate standards are met. Upon receipt of  
25 evidence that necessary corrective action has been taken,  
26 the ~~commission~~ executive director shall reinstate the suspended  
27 certificate of acceptance, and the political subdivision shall  
28 resume the administration of the local air pollution control  
29 program within its jurisdiction. In cases where the  
30 certificate of acceptance is suspended, the political  
31 subdivision is entitled to a ~~public-hearing-as-provided-in~~  
32 ~~section-455B-17~~ appeal the suspension to the commission.

33 d. Nothing in this division II shall be construed to  
34 supersede the jurisdiction of any local air pollution control  
35 program in operation on the first of January, 1973, except

1 that any such program shall meet all requirements of said  
2 division.

3 Sec. 21. Section four hundred fifty-five B point twenty-  
4 five (455B.25), Code 1977, is amended to read as follows:

5 455B.25 CIVIL ACTION FOR COMPLIANCE. If any order or  
6 rule of the ~~commission~~ department is being violated, the at-  
7 torney general shall, at the request of ~~the-commissioner-of~~  
8 the executive director with the approval of the commission,  
9 institute a civil action in any district court for injunctive  
10 relief to prevent any further violation of such order or rule,  
11 or for the assessment of a fine as determined by the court,  
12 not to exceed five hundred dollars per day for each day such  
13 violation continues, or both such injunctive relief and fine.

14 Sec. 22. Section four hundred fifty-five B point twenty-  
15 six (455B.26), Code 1977, as amended by Acts of the Sixty-  
16 seventh General Assembly, 1977 Session, chapter one hundred  
17 twenty-four (124), section four (4), is amended to read as  
18 follows:

19 455B.26 FAILURE--PROCEDURE. Upon failure of the executive  
20 director to take action within sixty days after an application  
21 for ~~installation-permit-or~~ variance, or upon failure of the  
22 commission on appeal to enter a final order or determination  
23 within sixty days after the final argument in a public hearing,  
24 the person seeking such action shall be entitled to treat  
25 such failure to act as a grant of the requested permit or  
26 variance, or of a finding favorable to the respondent in a  
27 public hearing, as the case may be. This section shall not  
28 apply to an application for a conditional permit for an  
29 electrical power generating facility subject to chapter four  
30 hundred seventy-six A (476A) of the Code.

31 Sec. 23. Section four hundred fifty-five B point twenty-  
32 nine (455B.29), Code 1977, is amended to read as follows:

33 455B.29 PRIOR RULES. Any rule adopted or order or variance  
34 issued under chapter 136B of prior Codes by the Iowa air  
35 pollution control commission or by the state department of

1 health or under division two (II) of this chapter by the air  
2 quality commission before January 1, 1980, shall remain  
3 effective until modified or rescinded by action of the air  
4 quality commission unless such rule is inconsistent or contrary  
5 to this division II. All rules shall be adopted in accordance  
6 with chapter seventeen A (17A) of the Code.

7 Sec. 24. Section four hundred fifty-five B point thirty  
8 (455B.30), Code 1977, is amended by striking subsection eleven  
9 (11).

10 Sec. 25. Section four hundred fifty-five B point thirty-  
11 two (455B.32), subsections six (6) and ten (10), Code 1977,  
12 are amended to read as follows:

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

16 10. Adopt a statewide plan for the provision of safe  
17 drinking water under emergency circumstances. All public  
18 agencies, as defined in chapter 28E, shall co-operate in the  
19 development and implementation of the plan. The plan shall  
20 detail the manner in which the various state and local agencies  
21 shall participate in the response to an emergency. The  
22 department may enter into any agreement, subject to ~~section~~  
23 ~~455B-7~~ approval of the commission, with any state agency or  
24 unit of local government or with the federal government which  
25 may be necessary to establish the role of such agencies in  
26 regard to the plan. This plan shall be co-ordinated with  
27 ~~civil-defense~~ disaster emergency plans.

28 Sec. 26. Section four hundred fifty-five B point thirty-  
29 four (455B.34), subsection three (3), Code 1977, is amended  
30 to read as follows:

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

34 Sec. 27. Section four hundred fifty-five B point forty-  
35 two (455B.42), Code 1977, is amended to read as follows:

1 455B.42 VARIANCES AND EXEMPTIONS. The ~~commission~~ executive  
2 director may, after public notice and hearing, grant exemptions  
3 from a maximum contaminant level or treatment technique, or  
4 both such level and technique. The ~~commission-executive~~  
5 director may also grant a variance from drinking water  
6 standards for public water supply systems when the  
7 characteristics of the raw water sources, which are available  
8 to a system, cannot meet the requirements with respect to  
9 maximum contaminant level of such standards despite applica-  
10 tion of the best treatment techniques which are generally  
11 available and provided that the ~~commission~~ executive director  
12 determines that the variance will not result in an unreason-  
13 able risk to the public health. A schedule of compliance  
14 may be prescribed by the ~~commission~~ executive director, at  
15 the time the variance or exemption is granted. The ~~commission~~  
16 executive director shall also require such interim measures  
17 to minimize the contaminant levels of systems subject to the  
18 variance or exemption as may reasonably be implemented. The  
19 denial of a variance or exemption may be appealed to the  
20 commission.

21 Sec. 28. Section four hundred fifty-five B point forty-  
22 nine (455B.49), subsection four (4), Code 1977, is amended  
23 to read as follows:

24 4. The attorney general shall, at the request of the  
25 ~~commission-or~~ the executive director with approval of the  
26 commission, institute any legal proceedings, including an  
27 action for an injunction or a temporary injunction, necessary  
28 to enforce the penalty provisions of part 1 of division III  
29 of this chapter or to obtain compliance with the provisions  
30 of part 1 of division III of this chapter or any rules  
31 promulgated or any provision of any permit issued under part  
32 1 of division III of this chapter. In any such action, any  
33 previous findings of fact of the executive director or the  
34 commission after notice and hearing shall be conclusive if  
35 supported by substantial evidence in the record when the

1 record is viewed as a whole.

2 Sec. 29. Section four hundred fifty-five B point fifty  
3 (455B.50), Code 1977, is amended by striking subsection two  
4 (2).

5 Sec. 30. Section four hundred fifty-five B point sixty-  
6 two (455B.62), Code 1977, is amended to read as follows:

7 455B.62 RULES. The commission, with the advice of the  
8 board, may promulgate such rules as are necessary to carry  
9 out the provisions of this part 2 of division III. ~~The rules~~  
10 ~~established shall be subject to the provisions of section~~  
11 ~~455B.77 subsection 3.~~

12 Sec. 31. Section four hundred fifty-five B point sixty-  
13 seven (455B.67), Code 1977, is amended by striking subsec-  
14 tion two (2).

15 Sec. 32. Section four hundred fifty-five B point sixty-  
16 seven (455B.67), subsection four (4), Code 1977, is amended  
17 to read as follows:

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

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

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

28 c. Which conforms with applicable rules of the commission.

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

32 Sec. 33. Section four hundred fifty-five B point sixty-  
33 eight (455B.68), Code 1977, is amended to read as follows:

34 455B.68 GRANTS OF ASSISTANCE. The ~~commission~~ executive  
35 director may make grants as funds are available to any

1 municipality to assist such municipality in the construction  
2 of sewage treatment works.

3 Sec. 34. Section four hundred fifty-five B point sixty-  
4 nine (455B.69), unnumbered paragraphs one (1) and two (2),  
5 Code 1977, are amended to read as follows:

6 The ~~commission~~ executive director shall accept and ad-  
7 minister all funds granted by the state pursuant to this part  
8 3 of division III.

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

11 Sec. 35. Section four hundred fifty-five B point seventy  
12 (455B.70), Code 1977, is amended to read as follows:

13 455B.70 CONTRACTS. The ~~commission~~ executive director  
14 may, in the name of the state, contract with any municipality  
15 concerning eligible projects, subject to the approval of the  
16 ~~executive-committee~~ commission. Any such contract may include  
17 such provisions as may be agreed upon by the parties, and  
18 shall include, in substance, the following provisions:

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

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

26 3. An agreement by the municipality:

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

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

34 c. To operate and maintain the sewage treatment works  
35 in accordance with applicable provisions of part 1 of this

1 division III and rules of the commission.

2 d. To obtain approval of the ~~commission~~ executive di-  
3 rector before applying for federal assistance for pollution  
4 abatement, in order to maximize the amounts of such assistance  
5 received or to be received for all projects in Iowa.

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

8 4. A provision that, in the event federal assistance which  
9 was not included in the calculation of the state payment  
10 pursuant to subsection 2 becomes available to the municipality,  
11 the amount of the state payment shall be recalculated with  
12 the inclusion of such additional federal assistance and the  
13 municipality shall pay to the state the amount by which the  
14 state payment actually made exceeds the state payment  
15 determined by the recalculation.

16 Sec. 36. Section four hundred fifty-five B point seventy-  
17 four (455B.74), Code 1977, is amended to read as follows:

18 455B.74 PRIOR RULES. Any rule adopted or order issued  
19 under chapters 136A, 455B and 455C of prior Codes, by the  
20 Iowa water pollution control commission or by the state  
21 department of health or under this division by the water  
22 quality commission before January 1, 1980, shall remain  
23 effective until modified or rescinded by action of the water  
24 ~~quality~~ quality commission unless such rule is inconsistent or contrary  
25 to this division. All rules shall be adopted in accordance  
26 with chapter seventeen A (17A) of the Code. Any permit issued  
27 under chapter 455B of prior Codes shall remain effective un-  
28 til modified or revoked by the executive director.

29 Sec. 37. Section four hundred fifty-five B point seventy-  
30 five (455B.75), Code 1977, is amended by striking subsection  
31 five (5).

32 Sec. 38. Section four hundred fifty-five B point seventy-  
33 eight (455B.78), Code 1977, is amended to read as follows:

34 455B.78 RULES ESTABLISHED. The commission shall establish  
35 rules for the proper administration of the provisions of this

1 part 1 of division IV which shall reflect and accommodate  
2 insofar as is reasonably possible those current and general-  
3 ly accepted methods and techniques for treatment and disposi-  
4 tion of solid waste which will serve the purposes of said  
5 part which shall take into consideration such factors, in-  
6 cluding others which it may deem proper, as existing physi-  
7 cal conditions, topography, soils and geology, climate,  
8 transportation, and land use, such rules including but not  
9 limited to rules relating to the establishment and location  
10 of sanitary disposal projects, sanitary practices, inspec-  
11 tion of sanitary disposal projects, collection of solid waste,  
12 disposal of solid waste, pollution controls, the issuance  
13 of permits, approved methods of private disposition of solid  
14 waste, the general operation and maintenance of sanitary  
15 disposal projects, and the implementation of said part. Prior  
16 to issuance of rules or amendments thereto, the commission  
17 shall hold at least one public hearing on the proposed rules  
18 or amendments, and shall give notice of such hearing at least  
19 thirty days in advance by publishing notice in a newspaper  
20 of general circulation in the state. ~~The-air-quality~~  
21 ~~commission-and-the-water-quality-commission-of-the-department~~  
22 ~~shall-co-operate-with-the-commission-in-the-establishment~~  
23 ~~of-such-rules-~~ All rules promulgated shall be subject to  
24 the provisions of chapter 17A and ~~section-455B.77-subsection~~  
25 3.

26 Sec. 39. Section four hundred fifty-five B point seventy-  
27 nine (455B.79), unnumbered paragraph two (2), Code 1977, is  
28 amended to read as follows:

29 Permits shall be issued without fee by the executive  
30 director or at his or her direction, by a local board of  
31 health, for each sanitary disposal project operated in this  
32 state. Such permits shall be issued in the name of the city  
33 or county or, where applicable, in the name of the public  
34 or private agency operating such project. Each sanitary  
35 disposal project shall be inspected annually by the department

1 or a local board of health. The permits issued pursuant to  
2 this section shall be in addition to any other licenses,  
3 permits or variances authorized or required by law, including,  
4 but not limited to, the provisions of chapter 358A. A permit  
5 may be suspended or revoked ~~after notice and hearing before~~  
6 ~~the commission or its designee~~ by the executive director if  
7 a sanitary disposal project is found not to meet the  
8 requirements of the provisions of said part or rules issued  
9 pursuant thereto. The suspension or revocation of a permit  
10 may be appealed to the commission.

11 Sec. 40. Section four hundred fifty-five B point eighty-  
12 two (455B.82), subsection one (1), Code 1977, is amended to  
13 read as follows:

14 1. It shall be unlawful for any private agency or public  
15 agency to dump or deposit or permit the dumping or depositing  
16 of any solid waste at any place other than a sanitary disposal  
17 project approved by the executive director. This section  
18 shall not prohibit a private agency or public agency from  
19 dumping or depositing solid waste resulting from its own  
20 residential, farming, manufacturing, mining or commercial  
21 activities on land owned or leased by it if such action does  
22 not violate any statute of this state or rules promulgated  
23 by the commission or local boards of health, or local  
24 ~~ordinances, or rules issued by the air quality commission~~  
25 ~~or water quality commission of the department.~~ The executive  
26 director may issue temporary permits for dumping or disposal  
27 of solid waste at disposal sites for which an application  
28 for a permit to operate a sanitary disposal project has been  
29 made and which have not met all of the requirements of part  
30 1 of this division and the rules adopted by the commission  
31 if a compliance schedule has been submitted by the applicant  
32 specifying how and when the applicant will meet the re-  
33 quirements for an operational sanitary disposal project and  
34 the executive director determines the public interest will  
35 be best served by granting such temporary permit.

1 Sec. 41. Section four hundred fifty-five B point eighty-  
2 three (455B.83), Code 1977, is amended to read as follows:

3 455B.83 APPEAL FROM ORDER. Any person aggrieved by an  
4 order of ~~the-commissioner-or~~ the executive director may appeal  
5 the same by filing a written notice of appeal with the execu-  
6 tive director within thirty days of the issuance of the order.  
7 The executive director shall schedule a hearing for the purpose  
8 of hearing the arguments of the aggrieved person within thirty  
9 days of the filing of the notice of appeal. The hearing may  
10 be held before the commission or its designee. A complete  
11 record shall be made of the proceedings. The executive  
12 director shall issue the findings in writing to the aggrieved  
13 person within thirty days of the conclusion of such hearing.  
14 Judicial review may be sought of actions of the commission  
15 ~~or-executive-director~~ in accordance with the terms of the  
16 Iowa administrative procedure Act. Notwithstanding the terms  
17 of said Act, petitions for judicial review may be filed in  
18 the district court of the county wherein the acts in issue  
19 occurred.

20 Sec. 42. Section four hundred fifty-five B point eighty-  
21 four (455B.84), Code 1977, is amended to read as follows:

22 455B.84 MODIFICATION OF RULES. Any rule adopted or order  
23 issued under chapter 406 of prior Codes by the commissioner  
24 of public health or under this part one (1) by the solid waste  
6370-25 disposal commission before January 1, 1980 shall remain  
26 effective until modified or rescinded by action of the ~~solid~~  
27 ~~waste-disposal~~ commission unless such rule is inconsistent  
28 or contrary to this part 1 of division IV. All rules shall  
29 be adopted in accordance with chapter seventeen A (17A) of  
30 the Code.

31 Sec. 43. Section four hundred fifty-five B point eighty-  
32 five (455B.85), Code 1977, is amended by striking subsec-  
33 tion four (4).

34 Sec. 44. Section four hundred fifty-five B point eighty-  
35 seven (455B.87), Code 1977, is amended to read as follows:

1 455B.87 RULES FOR TRANSPORTING. The commission shall  
2 provide, by rule, for the proper methods of transporting,  
3 storage, and handling of radioactive material except that  
4 the provisions of this section shall not apply to the trans-  
5 portation, handling, or storage of radioactive material by  
6 licensed physicians and surgeons, ~~or~~ licensed osteopathic  
7 physicians and surgeons, licensed podiatrists, licensed  
8 dentists or licensed pharmacists within the scope of their  
9 practice or by qualified employees of licensed hospitals  
10 within the scope of their duties. In adopting such rules,  
11 the commission shall consider the methods and techniques used  
12 by the United States atomic energy commission and radiation  
13 control agencies of other states for the regulation of the  
14 transporting, handling, and storage of radioactive material.  
15 The commission shall also consult with the department of  
16 public safety in the development of rules for the transporting  
17 of radioactive material on the public roads of this state.  
18 All rules adopted by the commission under this section shall  
19 be subject to the provisions of chapter 17A ~~and-section-455B-7,~~  
20 ~~subsection-3.~~

21 Sec. 45. Section four hundred fifty-five B point eighty-  
22 eight (455B.88), unnumbered paragraph two (2), is amended  
23 to read as follows:

24 All rules adopted by the commission under this section  
25 shall be subject to the provisions of chapter 17A ~~and-see-~~  
26 ~~tion-455B-77-subsection-3.~~

27 Sec. 46. Section four hundred fifty-five B point ninety-  
28 five (455B.95), Code 1977, is amended by striking subsection  
29 three (3).

30 Sec. 47. Section four hundred fifty-five B point one  
31 hundred (455B.100), Code 1977, is amended by striking the  
32 section and inserting in lieu thereof the following:

33 455B.100 DEFINITIONS. As used in this division five (V):

34 1. "Pesticide" means any substance or mixture of sub-  
35 stances intended for preventing, destroying, repelling, or

1 mitigating directly or indirectly any insects, rodents,  
2 nematodes, fungi, weeds, and other forms of plant or animal  
3 life or viruses, except viruses on or in living humans.

4 2. "Plant growth regulator" means any defoliant, desiccant,  
5 and any other substance or mixture of substances intended  
6 for accelerating or retarding the rate of growth or rate of  
7 maturation through physiological action, or for otherwise  
8 altering the behavior of ornamental or crop plants or the  
9 produce thereof, but does not include substances to the extent  
10 that they are intended as plant nutrients, trace elements,  
11 nutritional chemicals, plant inoculants, and soil amendments.

12 3. "Agricultural chemical" means a pesticide as defined  
13 in subsection one (1) of this section or a plant growth  
14 regulator as defined in subsection two (2) of this section.

15 Sec. 48. Section four hundred fifty-five B point one  
16 hundred one (455B.101), Code 1977, is amended by striking  
17 the section and inserting in lieu thereof the following:

18 455B.101 POWERS AND DUTIES.

19 1. The department shall cooperate with the department  
20 of agriculture and other affected agencies regarding regulatory  
21 and information gathering activities related to agricultural  
22 chemicals.

23 2. If the commission determines that an agricultural chem-  
24 ical causes harm to the public health or the environment,  
25 the commission may adopt rules restricting the use of the  
26 agricultural chemical. Prior to the publication of the notice  
27 of intended action, the commission shall submit to the  
28 department of agriculture its findings on the harm that the  
29 chemical causes to the public health or the environment and  
30 its regulatory alternatives and shall request and obtain from  
31 the department of agriculture an estimate of the economic  
32 impact of the rule. The estimate and the commission's findings  
33 shall be available at the time of publication of the notice  
34 of intended action. Prior to the adoption of a rule, the  
35 commission shall hold a public hearing on the rule. Prior

1 to adopting a rule, the commission shall collect, analyze  
2 and interpret scientific data and shall consider any official  
3 reports, academic studies, expert opinions or testimony,  
4 or other matter deemed to have probative value and shall  
5 consider the toxicity, hazard, effectiveness, public need  
6 for the agricultural chemical or other means of control other  
7 than the chemical in question, and the economic impact on  
8 the members of the public and agencies affected by it.

9     Sec. 49. Section four hundred fifty-five B point one  
10 hundred two (455B.102), Code 1977, is amended by striking  
11 the section and inserting in lieu thereof the following:

12     455B.102 PENALTIES. Any person who violates a rule adopted  
13 by the commission under section four hundred fifty-five B  
14 point one hundred one (455B.101) of the Code shall be subject  
15 to a civil penalty, not to exceed five hundred dollars, for  
16 each violation. Each separate act or, where the violation  
17 is continuous in nature, each day of violation shall be a  
18 separate violation.

19     Sec. 50. Section four hundred fifty-five B point one  
20 hundred three (455B.103), Code 1977, is amended by striking  
21 the section and inserting in lieu thereof the following:

22     455B.103 PRIOR RULES CONTINUED. Any rule adopted or order  
23 issued under chapter two hundred six A (206A) of prior Codes  
24 by the chemical technology review board or under this division  
25 by the chemical technology commission before January 1, 1980,  
26 shall remain effective until modified or rescinded by action  
27 of the commission or the department of agriculture unless  
28 such rule is inconsistent or contrary to this division five  
29 (V).

30     Sec. 51. Acts of the Sixty-seventh General Assembly, 1977  
31 Session, chapter one hundred twenty-five (125), section one  
32 (1), is amended by striking subsections six (6), seven (7),  
33 and eight (8).

34     Sec. 52. Acts of the Sixty-seventh General Assembly, 1977  
35 Session, chapter one hundred twenty-five (125), section five

1 (5), is amended to read as follows:

2 SEC. 5. NEW SECTION. STATE HAZARDOUS CONDITION CON-  
3 TINGENCY PLAN. All public agencies, as defined in chapter  
4 twenty-eight E (28E) of the Code, shall cooperate in the  
5 development and implementation of a state hazardous condition  
6 contingency plan. The plan shall detail the manner in which  
7 public agencies shall participate in the response to a hazard-  
8 ous condition. The department executive director may enter  
9 into agreements, ~~subject-to-section-four-hundred-fifty-five~~  
10 ~~B-point-seven-(455B-7)-of-the-Code~~ with approval of the commis-  
11 sion, with any state agency or unit of local government or  
12 with the federal government, as necessary to develop and im-  
13 plement the plan. The plan shall be coordinated with the  
14 office of disaster services and any joint county-municipal  
15 disaster services and emergency planning administration es-  
16 tablished pursuant to chapter twenty-nine C (29C) of the Code.

17 Sec. 53. Acts of the Sixty-seventh General Assembly, 1977  
18 Session, chapter one hundred twenty-five (125), section eight  
19 (8), subsection two (2), is amended to read as follows:

20 2. The executive director ~~of-the-commission~~ may request  
21 that the attorney general institute legal proceedings for  
22 a temporary or permanent injunction pursuant to section eleven  
23 (11) of this Act for purposes of enforcing an emergency order.

24 Sec. 54. Acts of the Sixty-seventh General Assembly, 1977  
25 Session, chapter one hundred twenty-five (125), section ten  
26 (10), is amended by striking subsection six (6).

27 Sec. 55. Acts of the Sixty-seventh General Assembly, 1977  
28 Session, chapter one hundred twenty-five (125), is amended  
29 by adding the following new section:

30 NEW SECTION. PRIOR RULES CONTINUED. Any rules adopted  
31 or order issued under Acts of the Sixty-seventh General  
32 Assembly, 1977 Session, chapter one hundred twenty-five (125)  
6370-33 prior to January 1, 1980 by the solid waste disposal commission  
34 shall remain effective until modified or rescinded by action  
35 of the commission. All rules shall be adopted in accordance

1 with chapter seventeen A (17A) of the Code.

2 Sec. 56. Section sixty-eight B point two (68B.2), sub-  
3 section four (4), Code 1977, as amended by Acts of the Sixty-  
4 seventh General Assembly, 1977 Session, chapter forty-eight  
5 (48), section one (1), is amended to read as follows:

6 4. "Regulatory agency" means department of agriculture,  
7 industrial commissioner, bureau of labor, occupational safety  
8 and health review commission, department of job service,  
9 department of banking, insurance department of Iowa, state  
10 department of health, department of public safety, department  
11 of public instruction, state board of regents, department  
12 of social services, department of revenue, Iowa state commerce  
13 commission, Iowa beer and liquor control department, board  
14 of pharmacy examiners, state conservation commission, state  
15 department of transportation, Iowa state civil rights  
16 commission, department of ~~soil-conservation~~ land and water  
17 resources, department of public defense, and ~~Iowa-natural~~  
18 ~~resources-council~~ department of environmental quality.

6375

19 Sec. 57. Section eighty-three A point two (83A.2), Code  
20 1977, is amended by striking subsections eleven (11) and  
21 twelve (12) and inserting in lieu thereof the following:

22 11. "Department" means the department of land and water  
23 resources.

6376

24 12. "Commission" means the state land and water resources  
25 commission.

26 Sec. 58. Section eighty-three A point three (83A.3),  
27 subsection five (5), Code 1977, is amended to read as follows:

28 5. One member representing the ~~Iowa-natural-resources~~  
29 ~~council~~ environmental quality commission of the department  
30 of environmental quality.

6378

31 Sec. 59. Section eighty-three A point three (83A.3),  
32 unnumbered paragraph one (1), Code 1977, is amended to read  
33 as follows:

34 There is hereby established within the department of ~~soil~~  
35 ~~conservation~~ a land rehabilitation advisory board which shall

6370 *Trilby*

1 consist of seven members appointed by the governor, as follows:

2 Sec. 60. Sections eighty-three A point eight (83A.8),  
3 eighty-three A point nine (83A.9), eighty-three A point ten  
4 (83A.10), eighty-three A point twenty-two (83A.22), eighty-  
5 three A point twenty-six (83A.26), eighty-three A point twenty-  
6 seven (83A.27), and eighty-three A point twenty-eight (83A.28),  
7 Code 1977, are amended by striking from such sections the  
8 words "state soil conservation committee" or "committee"  
9 and inserting in lieu thereof the word "commission".

10 Sec. 61. Section eighty-four point two (84.2), subsec-  
11 tions eleven (11), twelve (12), fourteen (14), and sixteen  
12 (16), Code 1977, are amended to read as follows:

13 11. "Illegal oil" means oil which has been produced from  
14 any well within the state in excess of the quantity permitted  
15 by any rule or order of the ~~commission~~ commission.

16 12. "Illegal gas" means gas which has been produced from  
17 any well within this state in excess of the quantity permit-  
18 ted by any rule or order of the ~~commission~~ commission.

19 14. "Certificate of clearance" means a permit prescribed  
20 by the ~~commission~~ commission for the transportation or the  
21 delivery of oil or gas or product and issued or registered  
22 in accordance with the rule or order requiring such permit.

23 16. "~~Commission~~ Commission" means Iowa ~~natural-resources~~  
24 ~~as-defined-in-chapter-455A~~ state commerce commission.

25 Sec. 62. Section eighty-four point four (84.4), unnum-  
26 bered paragraph one (1) and subsection one (1), paragraphs  
27 d, e, and i, Code 1977, are amended to read as follows:

28 The ~~commission~~ commission has the duty of administering the  
29 provisions of this chapter. The state geologist shall act  
30 as administrator with the duty and responsibility of enforcing  
31 the regulations and orders of the ~~commission~~ commission applicable  
32 to the crude petroleum oil and natural gas resources of this  
33 state and the provisions of this chapter, subject to chapter  
34 seventeen A (17A) of the Code. The ~~commission~~ commission has  
35 the duty and authority to make such investigations as it deems

6570 *str. in well*

1 proper to determine whether waste exists or is imminent or  
2 whether other facts exist which justify action. The ~~council~~  
3 commission acting through the office of the state geologist  
4 has the authority:

5 d. The furnishing of a reasonable bond with good and  
6 sufficient surety, conditioned upon the full compliance with  
7 the provisions of this chapter, and the rules of the ~~council~~  
8 commission prescribed to govern the production of oil and  
9 gas on state and private lands within the state of Iowa;

10 e. That the production from wells be separated into gaseous  
11 and liquid hydrocarbons, and that each be accurately measured  
12 by such means and upon such standards as may be prescribed  
13 by the ~~council~~ commission;

14 i. That every person who produces, sells, purchases,  
15 acquires, stores, transports, refines, or processes native  
16 and indigenous Iowa produced crude oil or gas in this state  
17 shall keep and maintain within this state complete and accurate  
18 records of the quantities thereof, which records shall be  
19 available for examination by the ~~council~~ commission or its  
20 ~~agents~~ a designee at all reasonable times, and that every  
21 such person file with the ~~council~~ commission such reports  
22 as it may prescribe with respect to such oil or gas or the  
23 products thereof.

24 Sec. 63. Section eighty-four point five (84.5), Code 1977,  
25 is amended to read as follows:

26 84.5 DRILLING PERMIT REQUIRED. It shall be unlawful to  
27 commence operations for the drilling of a well for oil or  
28 gas or commence operations to deepen any well to a different  
29 geological formation without first giving the state geologist  
30 notice of intention to drill, or without first obtaining a  
31 permit from the state geologist, under such rules as may be  
32 prescribed by the ~~council~~ commission and paying to the ~~council~~  
33 commission a fee of fifty dollars for such well. Such fee  
34 shall be ~~used-by-the-council-for-administering-this-chapter,~~  
35 ~~including-the-payment-of-expenses-incurred-in-publishing-legal~~

6570

1 ~~net~~ credited to the general fund of the state.

2 Sec. 64. Section eighty-four point six (84.6), Code 1977,  
3 is amended to read as follows:

4 84.6 ~~COUNEIL~~ COMMISSION SHALL DETERMINE MARKET DEMAND  
5 AND REGULATE THE AMOUNT OF PRODUCTION. The ~~eeuneil~~ commission  
6 shall determine market demand for each marketing district  
7 and regulate the amount of production as follows:

8 1. The ~~eeuneil~~ commission shall limit the production  
9 of oil and gas within each marketing district to that amount  
10 which can be produced without waste, and which does not exceed  
11 the reasonable market demand.

12 2. Whenever the ~~eeuneil~~ commission limits the total amount  
13 of oil or gas which may be produced in the state or a marketing  
14 district, the ~~eeuneil~~ commission shall allocate or distribute  
15 the allowable production among the pools therein on a  
16 reasonable basis, giving, where reasonable under the  
17 circumstances to each pool with small wells of settled  
18 production, an allowable production which prevents the general  
19 premature abandonment of such wells in the pool.

20 3. Whenever the ~~eeuneil~~ commission limits the total amount  
21 of oil or gas which may be produced in any pool in this state  
22 to an amount less than that amount which the pool could produce  
23 if no restriction were imposed, which limitation is imposed  
24 either incidental to, or without, a limitation of the total  
25 amount of oil or gas produced in the marketing district wherein  
26 the pool is located, the ~~eeuneil~~ commission shall allocate  
27 or distribute the allowable production among the several wells  
28 or producing properties in the pool on a reasonable basis,  
29 preventing or minimizing reasonable avoidable drainage, so  
30 that each property will have the opportunity to produce or  
31 to receive its just and equitable share, subject to the  
32 reasonable necessities for the prevention of waste.

33 4. In allocating the market demand for gas as between  
34 pools within marketing districts, the ~~eeuneil~~ commission shall  
35 give due regard to the fact that gas produced from oil pools

L270

1 is to be regulated in a manner as will protect the reasonable  
2 use of its energy for oil production.

3 5. The ~~energy~~ commission shall not be required to  
4 determine the reasonable market demand applicable to any  
5 single pool, except in relation to all other pools within  
6 the same marketing district, and in relation to the demand  
7 applicable to the marketing district. In allocating allowables  
8 to pools, the ~~energy~~ commission may consider, but shall not  
9 be bound by nominations of purchasers to purchase from  
10 particular fields, pools, or portions thereof. The ~~energy~~  
11 commission shall allocate the total allowable for the state  
12 in such manner as prevents undue discrimination between  
13 marketing districts, fields, pools, or portions thereof  
14 resulting from selective buying or nomination by purchasers.

15 Sec. 65. Section eighty-four point seven (84.7), unnum-  
16 bered paragraph one (1), subsections one (1) and four (4),  
17 Code 1977, are amended to read as follows:

18 The ~~energy~~ commission shall set spacing units as follows:

19 1. When necessary to prevent waste, to avoid the drilling  
20 of unnecessary wells, or to protect correlative rights, the  
21 ~~energy~~ commission shall establish spacing units for a pool.  
22 Spacing units when established shall be of uniform size and  
23 shape for the entire pool, except that when found to be  
24 necessary for any of the purposes above-mentioned, the ~~energy~~  
25 ~~is-authorized-to~~ commission may divide any pool into zones  
26 and establish spacing units for each zone, which units may  
27 differ in size and shape from those established in any other  
28 zone.

29 4. An order establishing units for a pool shall cover  
30 all lands determined or believed to be underlaid by such pool,  
31 and may be modified by the state geologist from time to time  
32 to include additional areas determined to be underlaid by  
33 such pool. When found necessary for the prevention of waste,  
34 or to avoid the drilling of unnecessary wells or to protect  
35 correlative rights, an order establishing spacing units in

6370

1 a pool may be modified by the state geologist to increase  
2 the size of spacing units in the pool or any zone thereof,  
3 or to permit the drilling of additional wells on a reasonable  
4 uniform plan in the pool, or any zone thereof. Orders of  
5 the state geologist may be appealed to the ~~commission~~ commission  
6 within thirty days.

7 Sec. 66. Section eighty-four point eight (84.8), Code  
8 1977, is amended to read as follows:

9 84.8 INTEGRATION OF FRACTIONAL TRACTS.

10 1. When two or more separately owned tracts are embraced  
11 within a spacing unit, or when there are separately owned  
12 interests in all or a part of the spacing unit, then the  
13 owners and royalty owners thereof may pool their interests  
14 for the development and operation of the spacing unit. In  
15 the absence of voluntary pooling the ~~commission~~ commission upon  
16 the application of any interested person, shall enter an order  
17 pooling all interests in the spacing unit for the development  
18 and operations thereof. Each such pooling order shall be  
19 made after notice and hearing, and shall be upon terms and  
20 conditions that are just and reasonable, and that afford to  
21 the owner of each tract or interest in the spacing unit the  
22 opportunity to recover or receive, without unnecessary expense,  
23 his or her just and equitable share. Operations incident  
24 to the drilling of a well upon any portion of a spacing unit  
25 covered by a pooling order shall be deemed for all purposes,  
26 the conduct of such operations upon each separately owned  
27 tract in the drilling unit by the several owners thereof.  
28 That portion of the production allocated to each tract included  
29 in a spacing unit covered by a pooling order shall, when  
30 produced, be deemed for all purposes to have been produced  
31 from such tract by a well drilled thereon.

32 2. Each such pooling order shall make provision for the  
33 drilling and operation of a well on the spacing unit, and  
34 for the payment of the reasonable actual cost thereof by the  
35 owners of interests in the spacing unit, plus a reasonable

6370  
1 charge for supervision. In the event of any dispute as to  
2 such costs the ~~council~~ commission shall determine the proper  
3 costs. If one or more of the owners shall drill and operate,  
4 or pay the expenses of drilling and operating the well for  
5 the benefit of others, then, the owner or owners so drilling  
6 or operating shall, upon complying with the terms of section  
7 84.10, have a lien on the share of production from the spacing  
8 unit accruing to the interest of each of the other owners  
9 for the payment of his or her proportionate share of such  
10 expenses. All the oil and gas subject to the lien shall be  
11 marketed and sold and the proceeds applied in payment of the  
12 expenses secured by such lien as provided for in section  
13 84.10.

14 Sec. 67. Section eighty-four point nine (84.9), Code 1977,  
15 is amended to read as follows:

16 84.9 VOLUNTARY AGREEMENTS FOR UNIT OPERATION VALID. An  
17 agreement for the unit or co-operative development and opera-  
18 tion of a field or pool, in connection with the conduct of  
19 a repressuring or pressure maintenance operations, cycling  
20 or recycling operations, including the extraction and  
21 separation of liquid hydrocarbons from natural gas in  
22 connection therewith, or any other method of operation,  
23 including water floods, ~~is authorized and~~ may be performed  
24 and shall not be ~~held to~~ construed to violate any of the  
25 statutes of this state relating to trusts, monopolies, or  
26 contracts and combinations in restraint of trade, if the  
27 agreement is approved by the ~~council~~ commission as being in  
28 the public interest, protective of correlative rights, and  
29 reasonably necessary to increase ultimate recovery or to  
30 prevent waste of oil or gas. Such agreements bind only the  
31 persons who execute them, and their heirs, successors, assigns,  
32 and legal representatives.

33 Sec. 68. Section eighty-four point eleven (84.11), Code  
34 1977, is amended to read as follows:

35 84.11 RULES COVERING PRACTICE BEFORE ~~COUNCIL~~ COMMISSION.

1 1. The ~~eooneit~~ commission shall prescribe rules governing  
2 the practice and procedure before it.

3 2. No order, or amendment thereof, except in an emergency,  
4 shall be made by the ~~eooneit~~ commission without a public  
5 hearing upon at least ten days' notice. The public hearing  
6 shall be held at such time and place as may be prescribed  
7 by the ~~eooneit~~ commission, and any interested person shall  
8 be entitled to be heard.

9 3. When an emergency requiring immediate action is found  
10 to exist the ~~eooneit~~ commission is authorized to issue an  
11 emergency order without notice of hearing, which shall be  
12 effective upon promulgation. No emergency order shall remain  
13 effective for more than fifteen days.

14 4. Any notice required by this chapter shall be given  
15 at the election of the ~~eooneit~~ commission either by personal  
16 service or by letter to the last recorded address and one  
17 publication in a newspaper of general circulation in the state  
18 capital city and in a newspaper of general circulation in  
19 the county where the land affected, or some part thereof,  
20 is situated. The notice shall issue in the name of the state,  
21 shall be signed by the state geologist, shall specify the  
22 style and number of the proceeding, the time and place of  
23 the hearing, and shall briefly state the purpose of the  
24 proceeding. Should the ~~eooneit~~ commission elect to give  
25 notice by personal service, such service may be made by any  
26 officer authorized to serve process, or by any agent designee  
27 of the ~~eooneit~~ commission, in the same manner as is provided  
28 by law for the service of original notices in civil actions  
29 in the district court of the state. Proof of the service  
30 by such agent designee shall be by the affidavit of the person  
31 making personal service.

32 5. All orders issued by the ~~eooneit~~ commission shall be  
33 in writing, shall be entered in full and indexed in books  
34 to be kept by the state geologist for that purpose, and shall  
35 be public records open for inspection at all times during

1 reasonable office hours. A copy of any rule or order certified  
2 by the state geologist or any officer of the ~~seuneit~~ commission  
3 shall be received in evidence in all courts of this state  
4 with the same effect as the original.

5 6. The ~~seuneit~~ commission may act upon its own motion,  
6 or upon the petition of any interested person. On the filing  
7 of a petition concerning any matter within the jurisdiction  
8 of the ~~seuneit~~ commission, the ~~seuneit~~ commission shall  
9 promptly fix a date for a hearing thereon, and shall cause  
10 notice of the hearing to be given. The hearing shall be held  
11 without undue delay after the filing of the petition. The  
12 ~~seuneit~~ commission shall enter its order within thirty days  
13 after the hearing.

14 Sec. 69. Section eighty-four point twelve (84.12), Code  
15 1977, is amended to read as follows:

16 84.12 SUMMONING WITNESSES, ADMINISTERING OATHS, REQUIRING  
17 PRODUCTION OF RECORDS--HEARING EXAMINERS APPOINTED.

18 1. The ~~seuneit~~ commission shall have the power to summon  
19 witnesses, to administer oaths, and require the production  
20 of records, books, and documents for examination at any hearing  
21 or investigation conducted. No person shall be excused from  
22 attending and testifying, or from producing books, papers,  
23 and records before the ~~seuneit~~ commission or a court, or from  
24 obedience to the subpoena of the ~~seuneit~~ commission or a  
25 court, on the ground or for the reason that the testimony  
26 or evidence, documentary or otherwise, required of him or  
27 her may tend to incriminate him or her or subject him or her  
28 to a penalty or forfeiture; provided, that nothing herein  
29 contained shall be construed as requiring any person to produce  
30 any books, papers, or records, or to testify in response to  
31 any inquiry not pertinent to some question lawfully before  
32 such ~~seuneit~~ commission or court for determination. No natural  
33 person shall be subjected to criminal prosecution or to any  
34 penalty or forfeiture for or on account of any transaction,  
35 matter, or thing concerning which, in spite of his or her

1 objections, he or she may be required to testify or produce  
2 evidence, documentary or otherwise, before the ~~commission~~  
3 commission or court, or in obedience to subpoena; provided,  
4 that no person testifying shall be exempted from prosecution  
5 and punishment for perjury committed in so testifying.

6 2. In case of failure or refusal on the part of any per-  
7 son to comply with the subpoena issued by the ~~commission~~  
8 commission, or in case of the refusal of any witness to testify  
9 as to any matter regarding which he or she may be interro-  
10 gated, any court in the state, upon the application of the  
11 ~~commission~~ commission, may issue an attachment for such person  
12 and compel him or her to comply with such subpoena, and to  
13 attend before the ~~commission~~ commission and produce such records,  
14 books, and documents, for examination, and to give his or  
15 her testimony. Such courts shall have the power to punish  
16 for contempt as in the case of disobedience to a like subpoena  
17 issued by the court, or for refusal to testify therein.

18 3. The ~~commission~~ commission may appoint a hearing examiner  
19 or examiners to conduct hearings required by this chapter.  
20 When so appointed, such hearing examiner or examiners shall  
21 have and exercise all of the powers delegated to the ~~commission~~  
22 commission by this section.

23 Sec. 70. Section eighty-four point thirteen (84.13), Code  
24 1977, is amended to read as follows:

25 84.13 PERSON ADVERSELY AFFECTED--REHEARING. Any person  
26 adversely affected by any order of the ~~commission~~ commission  
27 may within thirty days after its effective date apply to the  
28 ~~commission~~ commission in writing for a rehearing. The application  
29 for rehearing shall be acted upon within fifteen days after  
30 its filing, and if granted, the rehearing shall be held without  
31 undue delay.

32 Sec. 71. Section eighty-four point fourteen (84.14), Code  
33 1977, is amended to read as follows:

34 84.14 APPEAL TO DISTRICT COURT--PROCEDURE OF APPEAL.

35 1. Judicial review of action of the ~~commission~~ commission

1 may be sought in accordance with the terms of the Iowa  
2 administrative procedure Act. Notwithstanding the terms of  
3 the Iowa administrative procedure Act, petitions for judicial  
4 review may be filed in the district court of Polk county or  
5 in the district court of any county in which the property  
6 affected or some portion thereof is located.

7 2. If at the time of filing of the petition for judicial  
8 review suspension of the order is asked for, the ~~commission~~  
9 commission shall enter an order fixing the amount of the  
10 supersedeas bond. Within ten days after the entry of an order  
11 by the ~~commission~~ commission which fixes the amount of the bond,  
12 the petitioner must file with the ~~commission~~ commission a  
13 supersedeas bond in the required amount and with proper surety;  
14 upon approval of the bond, the ~~commission~~ commission shall suspend  
15 the order complained of until its final disposition upon  
16 review. The bond shall run in favor of the state of Iowa  
17 for the use and benefit of any person who may suffer damage  
18 by reason of the suspension of the order in the event the  
19 same is affirmed by the district court. If the order of the  
20 ~~commission~~ commission is not superseded, it shall continue in  
21 force and effect as if no petition for judicial review was  
22 pending.

23 3. The district court shall, insofar as is practicable,  
24 give precedence to petitions for judicial review of orders  
25 of the ~~commission~~ commission.

26 Sec. 72. Section eighty-four point fifteen (84.15), sub-  
27 section one (1), paragraph b and subsection two (2), Code  
28 1977, are amended to read as follows:

29 b. Such person fails to obtain a certificate of clearance  
30 with respect to such oil, gas, or product where prescribed  
31 by order of the ~~commission~~ commission, or fails to follow any  
32 other method prescribed by an order of the ~~commission~~ commission  
33 for the identification of such oil, gas or product.

34 2. Illegal oil, illegal gas, and illegal product are  
35 declared to be contraband and are subject to seizure and sale

1 as herein provided; seizure and sale to be in addition to  
2 any and all other remedies and penalties provided in this  
3 chapter for violations relating to illegal oil, illegal gas,  
4 or illegal product. Whenever the ~~commission~~ commission believes  
5 that any oil, gas or product is illegal, the ~~commission~~ commission  
6 acting by the attorney general, shall bring a civil action  
7 in rem in the district court of the county where such oil,  
8 gas, or product is found, to seize and sell the same, or the  
9 ~~commission~~ commission may include such an action in rem for the  
10 seizure and sale of illegal oil, illegal gas, or illegal  
11 product in any suit brought for an injunction or penalty  
12 involving illegal oil, illegal gas, or illegal product. Any  
13 person claiming an interest in oil, gas, or product affected  
14 by any such action shall have the right to intervene as an  
15 interested party in such action.

16 Sec. 73. Section eighty-four point sixteen (84.16), Code  
17 1977 Supplement, is amended to read as follows:

18 84.16 PENALTIES.

19 1. Any person who violates any provision of this chap-  
20 ter, or any rule or order of the ~~commission~~ commission where  
21 no other penalty is provided shall be guilty of a simple  
22 misdemeanor.

23 2. If any person, for the purpose of evading this chapter,  
24 or any rule or order of the ~~commission~~ commission, shall make  
25 or cause to be made any false entry or statement in a report  
26 required by this chapter or by any such rule or order, or  
27 shall make or cause to be made any false entry in any record,  
28 account, or memorandum required by this chapter, or by any  
29 such rule or order, or shall omit, or cause to be omitted,  
30 from any such record, account, or memorandum, full, true,  
31 and correct entries as required by this chapter, or by any  
32 such rule or order, or shall remove from this state or destroy,  
33 mutilate, alter or falsify any such record, account, or  
34 memorandum, such person shall be guilty of fraudulent practice.

35 3. Any person knowingly aiding or abetting any other per-

1 son in the violation of any provision of this chapter, or  
2 any rule or order of the ~~eeuneit~~ commission shall be subject  
3 to the same penalty as that prescribed by this chapter for  
4 the violation by such other person.

5 Sec. 74. Section eighty-four point seventeen (84.17),  
6 Code 1977, is amended to read as follows:

7 84.17 ACTION TO RESTRAIN VIOLATION OR THREATENED VIOLA-  
8 TION.

9 1. Whenever it appears that any person is violating or  
10 threatening to violate any provision of this chapter, or any  
11 rule or order of the ~~eeuneit~~ commission, the ~~eeuneit~~ commission  
12 shall bring suit against such person in the district court  
13 of any county where the violation occurs or is threatened,  
14 to restrain such person from continuing such violation or  
15 from carrying out the threat of violation. In any such suit,  
16 the court shall have jurisdiction to grant to the ~~eeuneit~~  
17 commission, without bond or other undertaking, such prohibitory  
18 and mandatory injunctions as the facts may warrant, including  
19 temporary restraining orders, preliminary injunctions,  
20 temporary, preliminary, or final orders restraining the  
21 movement or disposition of any illegal oil, illegal gas, or  
22 illegal product, any of which the court may order to be  
23 impounded or placed in the custody of an agent appointed by  
24 the court.

25 2. If the ~~eeuneit~~ commission shall fail to bring suit  
26 to enjoin a violation or threatened violation of any provision  
27 of this chapter, or any rule or order of the ~~eeuneit~~  
28 commission, within ten days after receipt of written request  
29 to do so by any person who is or will be adversely affected  
30 by such violation, the person making such request may bring  
31 suit in his or her own behalf to restrain such violation or  
32 threatened violation in any court in which the ~~eeuneit~~  
33 commission might have brought suit. The ~~eeuneit~~ commission  
34 shall be made a party defendant in such suit in addition to  
35 the person violating or threatening to violate a provision

1 of this chapter, or a rule or order of the ~~eeuneii~~ commission,  
2 and the action shall proceed and injunctive relief may be  
3 granted to the ~~eeuneii~~ commission or the petitioner without  
4 bond in the same manner as if suit had been brought by the  
5 ~~eeuneii~~ commission.

6 Sec. 75. Chapter eighty-four (84), Code 1977, is amended  
7 by adding the following new section:

8 NEW SECTION. PRIOR ORDERS, RULES OR PERMITS. Any rule  
9 adopted, or order or permit issued under this chapter by the  
10 Iowa natural resources council before January 1, 1979 shall  
11 remain effective until modified or rescinded by action of  
12 the commission as provided in this chapter. All rules shall  
13 be adopted in accordance with chapter seventeen A (17A) of  
14 the Code.

15 Sec. 76. Section ninety-three point two (93.2), Code 1977,  
16 is amended to read as follows:

17 93.2 ESTABLISHMENT. There is established an energy policy  
18 council which shall consist of seventeen members. Two members  
19 shall be appointed by the president of the senate from the  
20 membership of the senate with no more than one member being  
21 appointed from the same political party. Two members shall  
22 be appointed by the speaker of the house of representatives  
23 from the members of the house with no more than one member  
24 being appointed from the same political party. The governor  
25 shall appoint seven members who shall be reasonably knowledge-  
26 able in the field of energy. Not more than four of the  
27 governor's appointees shall be of the same political party.  
28 They shall be subject to confirmation by two-thirds of the  
29 membership of the senate. The state geologist, the secretary  
30 of agriculture, the chairman of the Iowa state commerce  
31 commission, the ~~administrative-officer-of-the-state-seil-see-~~  
32 ~~ervation-committee~~ director of the department of land and  
33 water resources, the director of transportation, the execu-  
34 tive director of environmental quality and legislative members  
35 shall serve as ex officio nonvoting members of the council.

6378 {

1 If a nonlegislative ex officio nonvoting member is unable  
2 to attend a meeting of the council, the member shall designate  
3 a replacement who shall be authorized to represent the member  
4 at the meeting.

5 Sec. 77. Section one hundred seven point twenty-one  
6 (107.21), Code 1977, is amended to read as follows:

7 107.21 DIVISIONS OF DEPARTMENT.

8 1. The department of conservation, herein created, shall  
9 consist of the following divisions:

10 1 a. A division of fish and game which shall include mat-  
11 ters relating to fish and fisheries, waterfowl, game, fur-  
12 bearing and other animals, birds and other wildlife resources  
13 and enforcement.

14 2 b. A division of lands and waters which shall include  
15 matters relating to state waters, state parks, forests and  
16 forestry, and lakes and streams, including matters relating  
17 to scenic, scientific, historical, archaeological and  
18 recreational matters and enforcement.

19 3 c. A division of administration which shall include  
20 matters relating to accounts, records, technical service,  
21 and public relations.

22 2. The state conservation director may recommend, with  
23 the approval of the commission, reorganization plans requiring  
24 legislative action to the governor and the general assembly,  
25 which plans shall be designed to modernize the administrative  
26 operation of the department.

27 Sec. 78. Section one hundred eight point seven (108.7),  
28 unnumbered paragraph two (2), Code 1977, is amended to read  
29 as follows:

30 Any action taken by the commission under the provisions  
31 of this section shall be subject to the approval of the ~~fewa~~  
32 ~~natural-resources-council~~ department of land and water  
33 resources.

34 Sec. 79. Section one hundred nine point fifteen (109.15),  
35 Code 1977, is amended to read as follows:

1 109.15 INJURY TO DAM. It shall be unlawful for any owner  
2 or his agent to remove or destroy any existing dam, or alter  
3 it in a way so as to lower the water level, without having  
4 received written approval from the  ~~Iowa-natural-resources~~  
6378 - 5  ~~council~~ department of land and water resources.

6 Sec. 80. Section one hundred eleven point four (111.4),  
7 unnumbered paragraph one (1), Code 1977, is amended to read  
8 as follows:

9 No person, association or corporation shall build or erect  
10 any pier, wharf, sluice, piling, wall, fence, obstruction,  
11 building or erection of any kind upon or over any state-owned  
12 land or water under the jurisdiction of the commission, with-  
13 out first obtaining from such commission a written permit,  
14 provided, however, that this provision shall not apply to  
15 dams constructed and operated under the authority of chapter  
16 469. No such permit, in matters relating to or in any manner  
17 affecting flood control, shall be issued without approval

6378 { 18 of the  ~~Iowa-natural-resources-council~~ department of land and  
19 water resources. No person shall maintain or erect any  
20 structure beyond the line of private ownership along or upon  
21 the shores of state-owned waters in such a manner as to  
22 obstruct the passage of pedestrians along the shore between  
23 the ordinary high-water mark and the water's edge, except  
24 by permission of the commission.

25 Sec. 81. Section one hundred eleven point eighteen  
26 (111.18), Code 1977, is amended to read as follows:

27 111.18 JURISDICTION. Jurisdiction over all meandered  
28 streams and lakes of this state and of state lands bordering  
29 thereon, not now used by some other state body for state pur-  
30 poses, is conferred upon the commission. The exercise of  
31 this jurisdiction shall be subject to the approval of the  
6378 { 32  ~~Iowa-natural-resources-council~~ department of land and water  
33 resources in matters relating to or in any manner affecting  
34 flood control. The commission, with the approval of the  
35 executive council, may establish parts of such property into

1 state parks, and when so established all of the provisions  
2 of this chapter relative to public parks shall apply thereto.

3 Sec. 82. Section one hundred eleven point sixty-two  
4 (111.62), Code 1977, is amended to read as follows:

5 111.62 COPY TO RESOURCES-COUNCIL DEPARTMENT OF LAND AND  
6 WATER RESOURCES. A copy of the petition and such applications,  
7 plans, and specifications as are required under the provisions  
8 of chapter 455A shall be filed with the ~~Iowa-natural-resources~~  
9 ~~council~~ the department of land and water resources and any  
10 approval or permit required ~~thereunder~~ by the department of  
11 land and water resources shall be obtained prior to the  
12 establishment of said water recreational area or the granting  
13 of a permit therefor by the state conservation commission.

14 Sec. 83. Section one hundred eleven D point one (111D.1),  
15 Code 1977, is amended to read as follows:

16 111D.1 ACQUISITION BY OTHER THAN CONDEMNATION. The state  
17 conservation commission, ~~the-Iowa-natural-resources-council~~  
18 department of land and water resources, any county conservation  
19 board, and any city or agency thereof may acquire by purchase,  
20 gift, contract, or other voluntary means, but not by eminent  
21 domain, conservation easements in land to preserve scenic  
22 beauty, wildlife habitat, riparian lands, wet lands, or  
23 forests, promote outdoor recreation, or otherwise conserve  
24 for the benefit of the public the natural beauty, natural  
25 resources, and public recreation facilities of the state.

26 Sec. 84. Section one hundred twelve point three (112.3),  
27 Code 1977, is amended to read as follows:

28 112.3 HEARING--DAMAGES. After said approval the commis-  
29 sion, if it wishes to proceed further with the project, shall,  
30 with the consent of the ~~Iowa-natural-resources-council~~, de-  
31 partment of land and water resources fix a date of hearing  
32 not less than two weeks from date of approval of the plan.  
33 Notice of the day, hour and place of hearing, relative to  
34 proposed work, shall be provided by publication at least once  
35 a week for two consecutive weeks in some newspaper of general

6376

1 circulation published in the county where the project is  
2 located, or in the county or counties where the water  
3 elevations are affected, under the tentative plan approved.  
4 The last of such publication or publications shall not be  
5 less than five days prior to the day set for hearing. Any  
6 claim by any persons whomsoever, for damages which may be  
7 caused by said project shall be filed with the commission  
8 at or prior to the time of the hearing provided herein.

9 Sec. 85. Section one hundred seventy-two D point three  
10 (172D.3), subsection two (2), paragraph b, unnumbered para-  
11 graph one (1), Code 1977, is amended to read as follows:

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

16 Sec. 86. Section one hundred seventy-two D point three  
17 (172D.3), subsection two (2), paragraph c, Code 1977, is  
18 amended to read as follows:

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

22 (1) A rule of the air-quality-commission department under  
23 division two (II) of chapter four hundred fifty-five B (455B)  
24 of the Code in effect on November 1, 1976 shall apply to a  
25 feedlot with an established date of operation prior to November  
26 1, 1976.

27 (2) A rule of the air-quality-commission department un-  
28 der division two (II) of chapter four hundred fifty-five B  
29 (455B) of the Code shall apply to a feedlot with an established  
30 date of operation subsequent to the effective date of the  
31 rule.

32 (3) A rule of the air-quality-commission department under  
33 division two (II) of chapter four hundred fifty-five B (455B)  
34 of the Code pertaining to feedlot management standards adopted  
35 after November 1, 1976 shall not apply to any feedlot having

1 an established date of operation prior to the effective date  
2 of the rule until one year after the effective date of the  
3 rule.

4 (4) A rule of the ~~air-quality-commission~~ department under  
5 division two (II) of chapter four hundred fifty-five B (455B)  
6 of the Code pertaining to feedlot design standards adopted  
7 after November 1, 1976 shall not apply to any feedlot having  
8 an established date of operation prior to the effective date  
9 of the rule for either a period of ten years from the  
10 established date of operation of the feedlot or two years  
11 from the effective date of the rule, whichever time period  
12 is greater. However, any design standard rule pertaining  
13 to the siting of any feedlot shall apply only to a feedlot  
14 with an established date of operation subsequent to the  
15 effective date of the rule.

16 (5) To achieve compliance with applicable rules the de-  
17 partment shall issue an appropriate compliance schedule.

18 Sec. 87. Section two hundred point five (200.5), Code  
19 1977, is amended by adding the following new subsection:

20 NEW SUBSECTION. The secretary shall appoint an advisory  
21 committee to advise the secretary and the department on the  
22 registration of any product of commercial fertilizer or soil  
23 conditioner under the provisions of this chapter.

24 Sec. 88. Section two hundred six point two (206.2),  
25 subsection twenty-three (23), Code 1977, is amended to read  
26 as follows:

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

32 Sec. 89. Section two hundred six point eleven (206.11),  
33 subsection one (1), paragraph d, subparagraph five (5), Code  
34 1977, is amended to read as follows:

35 (5) The date of manufacture of products found by the

1 ~~chemical-technology-review-board~~ secretary to be subject to  
2 deterioration because of age.

3 Sec. 90. Section two hundred six point fourteen (206.14),  
4 Code 1977, is amended by adding the following new subsection:

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

10 Sec. 91. Section two hundred six point nineteen (206.19),  
11 Code 1977, is amended by striking the section and inserting  
12 in lieu thereof the following:

13 206.19 RULES. The department shall, by rule, after public  
14 hearing following due notice:

15 1. Declare as a pest any form of plant or animal life  
16 or virus which is unduly injurious to plants, man, domestic  
17 animals, articles, or substances.

18 2. Determine the proper use of pesticides including their  
19 formulations, and times and methods of application and other  
20 conditions of use.

21 Sec. 92. Section two hundred six point twenty-one (206.21),  
22 Code 1977, is amended by adding the following new subsections:

23 NEW SUBSECTION. In addition to rules promulgated by the  
24 department, the secretary may enforce rules adopted by the  
25 environmental quality commission under section four hundred  
26 fifty-five B point one hundred one (455B.101) of the Code.

27 NEW SUBSECTION. The secretary shall appoint advisory com-  
28 mittees to advise the secretary and the department in carrying  
29 out the provisions of this chapter.

30 Sec. 93. Section three hundred five point one (305.1),  
31 Code 1977, is amended by striking the section and inserting  
32 in lieu thereof the following:

33 305.1 GEOLOGICAL SURVEY CREATED. There is created a  
34 geological survey of the state.

35 Sec. 94. Section three hundred five point two (305.2),

1 Code 1977, is amended by striking the section and inserting  
2 in lieu thereof the following:

3 305.2 STATE GEOLOGIST AND ASSISTANTS.

4 1. The governor shall appoint the state geologist. The  
5 state geologist shall have a degree in geology from an ac-  
6 credited college or university and shall have at least five  
7 years of geological experience. The annual salary of the  
8 state geologist shall be determined by the governor as provided  
9 by law.

10 2. The state geologist may appoint the technical, pro-  
11 fessional, secretarial and clerical staff as may be necessary,  
12 subject to chapter nineteen A (19A) of the Code.

13 Sec. 95. Section three hundred five point four (305.4),  
14 Code 1977, is amended to read as follows:

15 305.4 INVESTIGATIONS--COLLECTION--RENTING SPACE. The  
16 state geologist shall investigate the characters of the various  
17 soils and their capacities for agricultural purposes; ~~the~~  
18 ~~growth-of-timber, the animal and plant life of the state,~~  
19 the streams ~~and water power,~~ and other scientific and natural  
20 ~~history~~ resource matters that may be of practical importance  
21 and interest. For the purpose of preserving well drilling  
22 samples, rock cores, fossils, and other materials as may be  
23 necessary to carry on investigations, the state geologist  
24 shall have the authority to lease or rent sufficient space  
25 for storage of these materials with the approval of the  
26 director of the department of general services. A complete  
27 cabinet collection may, ~~at the option of the board,~~ be made  
28 to illustrate the natural products of the state, and the ~~board~~  
29 state geologist may also furnish suites of materials, rocks,  
30 and fossils for colleges and public museums within the state,  
31 if it can be done without impairing the general state  
32 collection.

33 Sec. 96. Section three hundred five point seven (305.7),  
34 Code 1977, is amended to read as follows:

35 305.7 ANNUAL REPORT. The state geologist shall, annually,

1 at the time provided by law, make to the governor a full  
2 report, ~~approved-by-the-board,~~ of the work in the preceding  
3 year, which report shall be accompanied by such other re-  
4 ports and papers as may be considered desirable for publica-  
5 tion.

6 Sec. 97. Section three hundred five point eight (305.8),  
7 Code 1977, is amended to read as follows:

8 305.8 CO-OPERATION. The state geologist shall co-operate  
9 with the United States geological survey, with other federal  
10 and state organizations, and with adjoining state surveys  
11 in the making of topographic maps and the study of geologic  
12 problems of the state when, in the opinion of the ~~geological~~  
13 ~~board~~ state geologist, such co-operation will result in profit  
14 to the state.

15 Sec. 98. Section three hundred five point nine (305.9),  
16 Code 1977, is amended to read as follows:

17 305.9 PUBLICATION OF REPORTS. The ~~board~~ state geologist  
18 may direct the preparation and publication of special re-  
19 ports and bulletins of educational and scientific value or  
20 containing information of immediate use to the people.

21 Sec. 99. Section three hundred five point ten (305.10),  
22 Code 1977, is amended to read as follows:

23 305.10 DISTRIBUTION AND SALE OF REPORTS. All publica-  
24 tions of the geological survey shall be distributed by the  
25 state as are other published reports of state officers when  
26 no special provision is made. When such distribution has  
27 been made the ~~board~~ state geologist shall retain a suffi-  
28 cient number of copies to supply probable future demands and  
29 any copies in excess of such number shall be sold to persons  
30 making application therefor at the cost price of publication,  
31 the money thus accruing to be turned into the treasury of  
32 the state.

33 Sec. 100. Section three hundred five point eleven (305.11),  
34 Code 1977, is amended to read as follows:

35 305.11 EXPENSES. The ~~members-of-the-board-shall-serve~~

1 ~~without compensation, but the~~ state geologist ~~and such board~~  
 2 and ~~its~~ any assistants shall be allowed their actual travel  
 3 and other necessary expenses incurred in the performance of  
 4 their duties.

5 Sec. 101. Section three hundred eight point one (308.1),  
 6 Code 1977, is amended to read as follows:

7 308.1 PLANNING COMMISSION. The Mississippi parkway plan-  
 8 ning commission shall be composed of ten members appointed  
 9 by the governor, five members to be appointed for two-year  
 10 terms beginning July 1, 1959, and five members to be appointed  
 11 for four-year terms beginning July 1, 1959. In addition to  
 12 the above members there shall be ~~seven~~ six advisory ex officio  
 13 members who shall be as follows: One member from the state  
 14 transportation commission, one member from the state conserva-  
 15 tion commission, one member from the ~~Iowa state soil conser-~~  
 6378-16 ~~vation~~ state land and water resources commission, one member  
 17 from the state historical society of Iowa, one member from  
 18 the faculty of the landscape architectural division of the  
 19 Iowa State University of science and technology, and one  
 20 member from the Iowa development commission, ~~and one member~~  
 21 ~~from the natural resources council~~. Members and ex officio  
 22 members shall serve without pay, but the actual and necessary  
 23 expenses of members and ex officio members may be paid if  
 24 the commission so orders and if the commission has funds  
 25 available for such purpose.

26 Sec. 102. Section three hundred fifty-seven A point one  
 27 (357A.1), subsection seven (7), Code 1977, is amended to read  
 28 as follows:

29 7. "~~Council~~ Commission" means the ~~Iowa natural resources~~  
 30 ~~council~~ state land and water resources commission of the  
 4378-31 department of land and water resources.

32 Sec. 103. Section three hundred fifty-seven A point three  
 33 (357A.3), subsection two (2), Code 1977, is amended to read  
 34 as follows:

35 2. Be transmitted, together with a copy of the original

1 petition, to the ~~eeuneit~~ commission.

2 Sec. 104. Section three hundred fifty-seven A point five  
3 (357A.5), Code 1977, is amended to read as follows:

4 357A.5 WHO MAY BE HEARD. At the hearing on the petition,  
5 any owner or occupant of land within the boundaries of the  
6 area described in the petition may appear, in person or by  
7 his or her designated representative, and any representative  
8 of the ~~eeuneit~~ commission may also appear, in favor of or  
9 in opposition to the incorporation and organization of the  
10 proposed district. Such appearances may also be filed in  
11 writing prior to the time set for the hearing.

12 Sec. 105. Section three hundred fifty-seven A point eleven  
13 (357A.11), subsection two (2), Code 1977, is amended to read  
14 as follows:

15 2. Maintain at its office a record of the district's  
16 proceedings, rules and regulations, and any decisions and  
17 orders made pursuant to the provisions of this chapter, and  
18 furnish copies thereof to the supervisors or the ~~eeuneit~~  
19 commission upon request.

20 Sec. 106. Section three hundred fifty-seven A point twelve  
21 (357A.12), Code 1977, is amended to read as follows:

22 357A.12 PLANS AND SPECIFICATIONS. As soon as reasonably  
23 possible after incorporation of a district, the board shall  
24 file with the supervisors and the ~~eeuneit~~ commission copies  
25 of the plans and specifications for, and estimates of the  
26 cost of, any improvements authorized by this chapter which  
27 the board proposes to construct or acquire. The board shall  
28 determine a reasonable fee which each member shall pay for  
29 the privilege of utilizing the district's facilities which  
30 shall be known as a benefit unit. Benefit units may be classi-  
31 fied. The board, by publication in a newspaper of general  
32 circulation in the district, shall generally describe the  
33 planned improvements, the area to be served and the fee members  
34 will be required to pay for each service connected to the  
35 water system.

1 Sec. 107. Section three hundred fifty-seven A point nine-  
2 teen (357A.19), Code 1977, is amended to read as follows:

3 357A.19 NOT EXEMPT FROM OTHER REQUIREMENTS. Nothing in  
4 this chapter shall be construed to exempt any district from  
5 the requirements of any other statute, whether enacted prior  
6 to or subsequent to July 1, 1970, under which the district  
7 is required to obtain the permission or approval of, or to  
8 notify, the ~~eoaneil~~ commission, the Iowa commerce commission,  
9 or any other agency of this state or of any of its political  
10 subdivisions prior to proceeding with construction,  
11 acquisition, operation, enlargement, extension, or altera-  
12 tion of any works or facilities which the district is  
13 authorized to undertake pursuant to this chapter.

14 Sec. 108. Section three hundred fifty-eight point nine  
15 (358.9), unnumbered paragraph three (3), Code 1977, is amended  
16 to read as follows:

17 In cases where the state of Iowa owns at least four hun-  
18 dred acres of land contiguous to lakes within said district,  
19 ~~then-and-only-then the Iowa-natural-resources-eoaneil~~  
20 commission shall appoint two members of said board of trustees  
21 in addition to the three members hereinbefore provided in  
22 this section. The additional two members shall be qualified  
23 as follows: They shall be United States citizens, not less  
24 than eighteen years of age, and shall be property owners  
25 within said district. In such cases the two additional  
26 appointive members shall have equal vote and authority with  
27 other members of trustees and shall hold office at the pleasure  
28 of the ~~Iowa-natural-resources-eoaneil~~ commission.

29 Sec. 109. Section three hundred fifty-eight A point twenty-  
30 four (358A.24), Code 1977, is amended to read as follows:

31 358A.24 CONFLICT WITH OTHER REGULATIONS. Wherever the  
32 regulations made under authority of this chapter require a  
33 greater width or size of yards, courts or other open spaces,  
34 or require a lower height of building or a less number of  
35 stories, or require a greater percentage of lot to be left

1 unoccupied, or impose other higher standards than are required  
2 in any other statute or local ordinance or regulation, the  
3 provisions of the regulations made under authority of this  
4 chapter shall govern. Wherever the provisions of any other  
5 statute or local ordinance or regulation require a greater  
6 width or size of yards, courts or other open spaces, or require  
7 a lower height of building or a less number of stories, or  
8 require a greater percentage of lot to be left unoccupied,  
9 or impose other higher standards than are required by the  
10 regulations made under authority of this chapter, the provi-  
11 sions of such statute or local ordinance or regulation shall  
12 govern. Wherever any regulation proposed or made under author-  
13 ity of this chapter relates to any structure, building, dam,  
14 obstruction, deposit or excavation in or on the flood plains  
15 of any river or stream, prior approval of the Iowa-natural  
16 ~~resources-council~~ department of land and water resources shall  
17 be required to establish, amend, supplement, change, or modify  
18 such regulation or to grant any variation or exception  
19 therefrom.

20 Sec. 110. Section four hundred fourteen point twenty-one  
21 (414.21), Code 1977, is amended to read as follows:

22 414.21 CONFLICTING RULES, ORDINANCES, AND STATUTES.

23 Wherever the regulations made under authority of this chap-  
24 ter require a greater width or size of yards, courts or other  
25 open spaces, or require a lower height of building or less  
26 number of stories, or require a greater percentage of lot  
27 to be left unoccupied, or impose other higher standards than  
28 are required in any other statute or local ordinance or  
29 regulation, the provisions of the regulations made under  
30 authority of this chapter shall govern. Wherever the  
31 provisions of any other statute or local ordinance or  
32 regulation require a greater width or size of yards, courts  
33 or other open spaces, or require a lower height of building  
34 or a less number of stories, or require a greater percentage  
35 of lot to be left unoccupied, or impose other higher standards

1 than are required by the regulations made under authority  
 2 of this chapter, the provisions of such statute or local  
 3 ordinance or regulation shall govern. Wherever any regulation  
 4 proposed or made under authority of this chapter relates to  
 5 any structure, building, dam, obstruction, deposit or  
 6 excavation in or on the flood plains of any river or stream,  
 7 prior approval of the ~~Iowa-natural-resources-council~~ department  
 8 of land and water resources shall be required to establish,  
 9 amend, supplement, change or modify such regulation or to  
 10 grant any variation or exception therefrom.

6.375 *and strike*  
 11 Sec. 111. Section four hundred twenty-seven point one  
 12 (427.1), subsection thirty-two (32), unnumbered paragraphs  
 13 five (5), six (6), seven (7) and nine (9), Code 1977, are  
 14 amended to read as follows:

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

24 A taxpayer may appeal a determination of the ~~air-quali-~~  
 25 ~~ty-commission-or-the-water-quality-commission~~ executive  
 26 director or the environmental quality commission upon appeal  
 27 in accordance with the provisions of ~~sections-455B-19-and~~  
 28 ~~455B-29~~ chapter seventeen A (17A) of the Code.

29 The ~~air-quality~~ environmental quality commission ~~and-the~~  
 30 ~~water-quality-commission~~ of the department of environmental  
 31 quality shall adopt rules relating to certification under  
 32 this subsection and information to be submitted for evaluating  
 33 pollution-control property for which a certificate is  
 34 requested. The revenue department shall adopt any rules  
 35 necessary to implement this subsection, including rules on

1 identification and valuation of pollution-control property.  
2 All rules adopted shall be subject to the provisions of the  
3 statutes on administrative rules.

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

12 Sec. 112. Section four hundred twenty-seven point one  
13 (427.1), subsection thirty-three (33), Code 1977, is amended  
14 to read as follows:

15 33. IMPOUNDMENT STRUCTURES. The impoundment structure  
16 and any land underlying an impoundment located outside any  
17 incorporated city, which are not developed or used directly  
18 or indirectly for nonagricultural income-producing purposes  
19 and which are maintained in a condition satisfactory to the  
20 soil conservation district commissioners of the county in  
21 which the impoundment structure and the impoundment are  
22 located. Any person owning land which qualifies for a property  
23 tax exemption under this subsection shall apply to the county  
24 assessor each year before the first of July for the exemption.  
25 The application shall be made on forms prescribed by the de-  
26 partment of revenue. The first application shall be  
27 accompanied by a copy of the water storage permit approved  
28 by the ~~water commissioner of the Iowa natural resources council~~  
29 department of land and water resources and a copy of the plan  
30 for the construction of the impoundment structure and the  
31 impoundment. The construction plan shall be used to determine  
32 the total acre-feet of the impoundment and the amount of land  
33 which is eligible for the property tax exemption status.  
34 The county assessor shall annually review each application  
35 for the property tax exemption under this subsection and

1 submit it, with the recommendation of the soil conservation  
 2 district commissioners, to the board of supervisors for ap-  
 3 proval or denial. Any applicant for a property tax exemption  
 4 under this subsection may appeal the decision of the board  
 5 of supervisors to the district court. As used in this  
 6 subsection, "impoundment" means any reservoir or pond which  
 7 has a storage capacity of at least eighteen acre-feet of water  
 8 or sediment at the time of construction; "storage capacity"  
 9 means the total area below the crest elevation of the principal  
 10 spillway including the volume of any excavation in such area;  
 11 and "impoundment structure" means any dam, earthfill or other  
 12 structure used to create an impoundment.

13 Sec. 113. Section four hundred fifty-five point eighteen  
 14 (455.18), unnumbered paragraph two (2), Code 1977, is amended  
 15 to read as follows:

16 Where the proposed district contemplates as its object  
 17 flood control or soil conservance the engineer shall include  
 18 in his or her report data describing any soil conservance  
 19 or flood control improvements, the nature thereof, and such  
 20 other additional data as shall be prescribed by the ~~fewa~~  
 21 ~~natural-resources-council~~ state land and water resources  
 22 commission.

23 Sec. 114. Section four hundred fifty-five A point one  
 24 (455A.1), Code 1977, is amended by striking the section and  
 25 inserting in lieu thereof the following:

26 455A.1 DEFINITIONS. As used in this chapter:

27 1. "Department" means the department of land and water  
 28 resources.

29 2. "Commission" means the state land and water resources  
 30 commission.

31 3. "Director" means the director of the department or  
 32 a designee of the director.

33 4. "Due notice" means a notice published once each week  
 34 for two consecutive weeks in a newspaper of general circula-  
 35 tion in each county in which the property affected is located

1 with the date of last publication not less than ten nor more  
2 than thirty days before the date of hearing.

3 5. "Flood plains" means the area adjoining the river or  
4 stream, which may be covered by flood water.

5 6. "Floodway" means the channel of a river or stream and  
6 those portions of the flood plains adjoining the channel,  
7 which are reasonably required to carry and discharge the flood  
8 water or flood flow of any river or stream.

9 7. "Surface water" means the water occurring on the surface  
10 of the ground.

11 8. "Ground water" means that water occurring beneath the  
12 surface of the ground.

13 9. "Diffused waters" means waters arising by precipi-  
14 tation and snowmelt, and not yet a part of any watercourse  
15 or basin and shall include capillary soil water.

16 10. "Depleting use" means the storage, diversion, con-  
17 veyance, or use of any supply of water which might impair  
18 rights of lower or surrounding users, or might impair the  
19 natural resources of the state or might injure the public  
20 welfare is not controlled.

21 11. "Beneficial use" means the application of water to  
22 a useful purpose that inures to the benefit of the water user  
23 and subject to his or her dominion and control but does not  
24 include the waste or pollution of water.

25 12. "Nonregulated use" means the use of water for ordinary  
26 household purposes, use of water for poultry, livestock and  
27 domestic animals, any beneficial use of surface flow from  
28 rivers bordering the state of Iowa, existing beneficial uses  
29 of water within the territorial boundaries of municipal  
30 corporations on May 16, 1957, except that industrial users  
31 of water, having their own water supply, within the territorial  
32 boundaries of municipal corporations, shall be regulated when  
33 such water use exceeds three percent more than the highest  
34 per day beneficial use prior to May 16, 1957, and any other  
35 beneficial use of water by any person of less than five

1 thousand gallons per day.

2 13. "Regulated use" means any depleting use except a use  
3 specifically designated as a nonregulated use.

4 14. "Permit" means the written authorization issued by  
5 the director or a water commissioner to a permittee which  
6 shall be limited as to quantity, time, place, and rate of  
7 diversion, storage or withdrawal in accordance with the  
8 declared policies and principles of beneficial use set forth  
9 in this chapter.

10 15. "Permittee" means the person who obtains a permit  
11 from the director or a water commissioner authorizing such  
12 person to take possession by diversion or otherwise and to  
13 use and apply an allotted quantity of water for a designated  
14 beneficial use, and who makes actual use of the water for  
15 such purpose.

16 16. "Waste" means (a) permitting ground water or surface  
17 water to flow, taking it or using it in any manner so that  
18 it is not put to its full beneficial use, (b) transporting  
19 ground water from its source to its place of use in such a  
20 manner that there is an excessive loss in transit, or (c)  
21 permitting or causing the pollution of a water-bearing strata  
22 through any act which will cause salt water, highly mineralized  
23 water, or otherwise contaminated water to enter it.

24 17. "Watercourse" means any lake, river, creek, ditch  
25 or other body of water or channel having definite banks and  
26 bed with visible evidence of the flow or occurrence of water,  
27 except such lakes or ponds without outlet to which only one  
28 landowner is riparian.

29 18. "Basin" means a specific subsurface water-bearing  
30 reservoir having reasonably ascertainable boundaries.

31 19. "Established average minimum flow" means when  
32 reasonably required for the purpose of this chapter, the  
33 commission shall determine and establish the average minimum  
34 flow for a given watercourse at a given point thereon. The  
35 "average minimum flow" for a given watercourse shall be

1 determined by the following factors: (a) Average of minimum  
2 daily flows occurring during the preceding years chosen by  
3 the commission as more nearly representative of changing  
4 conditions and needs of a given drainage area at a particular  
5 time; (b) minimum daily flows shown by experience to be the  
6 limit at which further withdrawals would be harmful to the  
7 public interest in any particular drainage area; and (c) those  
8 minimum daily flows shown by established discharge records  
9 and experiences to be definitely harmful to the public  
10 interest. Such determination shall be base upon available  
11 flow data, supplemented, when available data are incomplete,  
12 by whatever evidence is available.

13 20. "Impounded or stored water" means that water captured  
14 and stored on the land by anyone taking it and the party  
15 impounding the water shall become the absolute owner thereof.

16 Sec. 115. Section four hundred fifty-five A point two  
17 (455A.2), Code 1977, is amended to read as follows:

18 455A.2 DECLARATION OF POLICY.

19 1. It is hereby recognized that the protection of life  
20 and property from floods, the prevention of damage to lands  
21 ~~therefrom~~ from floods and the orderly development, wise use,  
22 protection and conservation of the water resources of the  
23 state by the considered and proper use ~~thereof~~ of the water  
24 resources, is of paramount importance to the welfare and  
25 prosperity of the people of the state, and, to realize these  
26 objectives, it is hereby declared to be the policy of the  
27 state to correlate and vest the powers of the state in a  
28 single agency, the ~~Iowa-natural-resources-council~~ department  
4378- 29 of land and water resources, with the duty and authority to  
30 establish and enforce an appropriate comprehensive state-wide  
31 program for the control, utilization, and protection of the  
32 surface and ground-water resources of the state. It is hereby  
33 declared that the general welfare of the people of the state  
34 of Iowa requires that the water resources of the state be  
35 put to beneficial use to the fullest extent of which they

1 are capable, and that the waste or unreasonable use, or un-  
2 reasonable methods of use, of water be prevented, and that  
3 the conservation of such water be exercised with the view  
4 to the reasonable and beneficial use ~~thereof~~ of water resources  
5 in the interest of the people, and that the public and private  
6 funds for the promotion and expansion of the beneficial use  
7 of water resources shall be invested to the end that the best  
8 interests and welfare of the people are served.

9     2. Water occurring in any basin or in any watercourse,  
10 or other natural body of water of the state, is hereby declared  
11 to be public waters and public wealth of the people of the  
12 state of Iowa and subject to use in accordance with the pro-  
13 visions of this chapter, and the control and development and  
14 use of water for all beneficial purposes shall be vested in  
15 the state, which, in the exercise of its police powers, shall  
16 take such measures as shall effectuate full utilization and  
17 protection of the water resources of the state of Iowa.

18     Sec. 116. Section four hundred fifty-five A point three  
19 (455A.3), Code 1977, is amended by striking the section and  
20 inserting in lieu thereof the following:

21     455A.3 DEPARTMENTAL COOPERATION--INVESTIGATIONS.

22     1. The department may request from any public or private  
23 agency which has for its object the control or use of any  
24 of the water resources of the state, such assistance and data  
25 as will enable the department to properly carry out its acti-  
26 vities and duties under this chapter. The department shall  
27 reimburse such agencies for special expenses resulting from  
28 expenditures not normally a part of the operating expenses  
29 of the agency.

30     2. a. With the written consent of the owner or occupant,  
31 the department may enter upon any lands or waters in the state  
32 for the purpose of making any investigation, examination or  
33 survey contemplated under this chapter.

34     b. If the owner or occupant of any property refuses ad-  
35 mittance, or if prior to such refusal the director demonstrates

1 the necessity for a warrant, the director may make application  
2 under oath to the district court of the county in which the  
3 property is located for the issuance of a search warrant.

4 c. In the application the director shall state that an  
5 inspection or survey of the premises designated in the appli-  
6 cation may result in evidence tending to reveal the existence  
7 of violations of the provisions of this chapter, any rule,  
8 order or permit issued by the department. The application  
9 shall describe the area or premises to be inspected or  
10 surveyed, give the date of the last inspection if known, give  
11 the date and time of the proposed inspection or survey, declare  
12 the need for such inspection or survey, recite that notice  
13 of desire to make an inspection or survey has been given to  
14 affected persons and that admission was refused if that be  
15 the fact, and state that the inspection or survey has no  
16 purpose other than to carry out the purpose of the statute  
17 or rule pursuant to which inspection or survey is to be made.

18 d. The court may issue a search warrant, after examina-  
19 tion of the applicant and any witnesses, if the court is  
20 satisfied that there is probable cause to believe the existence  
21 of the allegations contained in the application.

22 e. In making investigations, examinations or surveys  
23 pursuant to the authority of this section, the director must  
24 execute the warrant in a reasonable manner within ten days  
25 after its date of issuance.

26 Sec. 117. Section four hundred fifty-five A point four  
27 (455A.4), Code 1977, is amended by striking the section and  
28 inserting in lieu thereof the following:

29 455A.4 GENERAL POWERS AND DUTIES OF THE DEPARTMENT.

30 1. The department shall establish and enforce a comprehen-  
31 sive state-wide plan for the control, utilization and protec-  
32 tion of the water resources of the state, which plan shall  
33 include all uses and developments of water resources and shall  
34 provide for the optimum control, protection, development,  
35 allocation and utilization of the water resources. All uses

1 and developments of water resources regulated under provisions  
2 of this chapter must be found to be compatible with the state  
3 comprehensive plan before the granting of a permit or an ap-  
4 proval order by the department. In making and formulating  
5 such state comprehensive plan for the further control, develop-  
6 ment, protection, allocation, and utilization of the water  
7 resources of the state, the department shall make surveys  
8 and investigations of the water resources of the state and  
9 shall give consideration to the needs of agriculture, industry,  
10 health, fish and wildlife, recreation, pollution and allied  
11 matters as they relate to flood control and water resources.  
12 Before implementation of the statewide plan, the department  
13 shall submit the plan to the general assembly which shall  
14 approve or disapprove the plan by a concurrent resolution.  
15 Approval of the plan shall require the affirmative vote of  
16 a majority of the members of each house of the general  
17 assembly.

18 2. The department shall be the official representative  
19 of the state on all comprehensive water resources planning  
20 groups for which state participation is provided. The depart-  
21 ment shall provide for the coordination of state planning  
22 with local and national planning and, in safeguarding the  
23 interests of the state and its people, shall undertake to  
24 resolve any conflicts that may arise between the water  
25 resources policies, plans, and projects of the federal  
26 government and the water resources policies, plans, and  
27 projects of the state, its agencies and its people. Nothing  
28 in this subsection assigning the overall responsibility for  
29 comprehensive planning of water resources to the department  
30 shall be construed as limiting or supplanting the functions,  
31 duties and responsibilities of other state or local agencies  
32 or institutions with regard to planning of water associated  
33 projects within the particular area of responsibility of that  
34 state or local agency or institution.

35 3. The director shall enter into negotiations and

1 agreements with the federal government relative to the opera-  
2 tion of, or the release of water from, any project that has  
3 been authorized or constructed by the federal government when  
4 the commission shall deem such negotiations and agreements  
5 to be necessary for the achievement of the policies of the  
6 state of Iowa relative to its water resources.

7 4. The director, on behalf of the state, shall enter into  
8 negotiations with the federal government relative to the  
9 inclusion of conservation storage features for water supply  
10 in any project that has been authorized by the federal  
11 government when the commission shall deem such negotiations  
12 to be necessary for the achievement of the policies of the  
13 state of Iowa and the state comprehensive plan for water  
14 resources. However, any agreements reached pursuant to such  
15 negotiations shall not bind the state until enacted into law  
16 by the general assembly.

17 5. The department shall encourage water users who will  
18 benefit from the development by the federal government of  
19 conservation storage for water supply to assume the respon-  
20 sibility for repaying to the federal government any  
21 reimbursable costs incurred in such development and the water  
22 users who will accept benefits from developments financed  
23 in whole or in part by this state shall assume by contract  
24 the responsibility of repaying to the state their reasonable  
25 share of the state's obligation in accordance with such basis  
26 as will assure payment within the life of the development.  
27 Appropriations, diversion, or use shall not be made by any  
28 person of any waters of the state that have been stored or  
29 released from storage either under the authority of the state  
30 or under agreement between the state and the federal government  
31 until such time as the user shall have assumed by contract  
32 his or her repayment responsibility; however, the application  
33 of this provision shall not infringe upon any vested property  
34 interests. The contracts with water users for the payment  
35 of state obligations incurred in the development of

1 conservation storage for water supply shall include terms  
2 as deemed reasonable and necessary for the protection of the  
3 health, safety and general welfare of the people of the state,  
4 terms deemed reasonable and necessary for the achievement  
5 of the purposes of this chapter, and terms specifying that  
6 the state shall not be responsible to any person if the waters  
7 involved are insufficient for performance. The director may  
8 describe any contract as a sale of storage capacity, a sale  
9 of water release services, a contract for the storage or sale  
10 of water, or any similar terms suggestive of the creation  
11 of a property interest. The term of a contract shall be  
12 commensurate with the investment and use concerned, but a  
13 contract shall not exceed the maximum period provided for  
14 water use permits.

15 6. The department shall provide for flood control works  
16 and related water resource projects through cooperation with  
17 the federal government or any agency of the federal government,  
18 cooperation with the action of cities and other political  
19 subdivisions of the state under laws of the state relating  
20 to flood control and use of water resources, and cooperation  
21 with the action of landowners in areas affected by such  
22 projects when the commission shall deem such projects necessary  
23 for the achievement of the policies of the state of Iowa and  
24 the state comprehensive plan for water resources.

25 7. The department may construct flood control works or  
26 any part of such works. In the construction of such works  
27 or in making surveys and investigations or in formulating  
28 plans and programs relating to the water resources of the  
29 state, the department may cooperate with other states or any  
30 agency of another state or with the United States or any  
31 agency of the United States, or with any person.

32 8. The department shall have jurisdiction over the public  
33 and private waters in this state and the land adjacent to  
34 such water necessary to carry out the provisions of this chap-  
35 ter.

1 9. The department may exercise the power of eminent domain  
2 as may be necessary to carry out its powers and duties under  
3 this chapter. All the provisions of law relating to  
4 condemnation of lands for public state purposes shall apply  
5 as applicable. The executive council shall institute and  
6 maintain such proceedings. The title to all lands, easements,  
7 or other interests in such land or other property or rights  
8 acquired by the department shall be approved by the attorney  
9 general and taken in the name of the state.

10 Sec. 118. Section four hundred fifty-five A point five  
11 (455A.5), Code 1977, is amended by striking the section and  
12 inserting in lieu thereof the following:

13 455A.5 POWERS AND DUTIES OF THE COMMISSION. In addition  
14 to other powers and duties provided by law, the commission:

15 1. Shall adopt, amend or repeal rules relating to  
16 application for and approval or disapproval of permits for  
17 the construction, reconstruction, use and maintenance of any  
18 structure, dam, obstruction, deposit or excavation in or on  
6.231-19 any floodway or flood plain in this state.

20 2. Shall adopt, amend or repeal rules relating to the  
21 orderly development and wise use of the flood plains of any  
22 river or stream in this state. The rules may establish  
23 encroachment limits, protection methods and minimum protection  
24 levels appropriate to the flooding characteristics of the  
25 stream and to reasonable use of the flood plains. The rules  
26 shall specify the length of flood plains to be regulated at  
27 any practical distance, specify the width of the zone between  
28 the encroachment limits including portions of the flood plains  
29 adjoining the channel, which with the channel is required  
30 to carry and discharge the flood waters or flood flow of the  
31 river or stream, and specify the design discharge and water  
32 surface elevations for which protection shall be provided  
33 for projects outside the encroachment limits but within the  
34 limits of inundation. In establishing any limitations under  
35 this subsection, the commission shall avoid to the greatest

1 possible degree the evacuation of persons residing in the  
2 area of any floodway, the removal of any residential structures  
3 occupied by such persons in the area of any floodway, and  
4 the removal of any structures erected or made before July  
5 4, 1965, which are located on the flood plains of any river  
6 or stream but not within the area of any floodway.

7 3. Shall adopt, amend, or repeal rules relating to the  
8 application for, review, and approval or disapproval of local  
9 ordinances establishing encroachment limits, flood plain  
10 regulations or zoning relating to flood plain areas within  
11 the jurisdiction of political subdivisions of the state.

12 4. Shall adopt, amend, or repeal rules for the review,  
13 approval or disapproval of the design, construction and  
14 operation for any flood control works.

15 5. May adopt, amend or repeal rules specifying the condi-  
16 tions under which the director may authorize specific nonrecur-  
17 ring minor uses of water for periods not to exceed one year  
18 through registration.

19 6. May require, by rule, as a condition of an approval  
20 order or permit granted under this chapter or chapter four  
21 hundred sixty-nine (469) of the Code, the furnishing of a  
22 performance bond with good and sufficient surety, conditioned  
23 upon the full compliance with the provisions of the order  
24 or permit and the rules of the commission. In determining  
25 the need for and amount of bond, the director or the commission  
26 on appeal shall give consideration to the hazard posed by  
27 the construction and maintenance of the approved works and  
28 the protection of the health, safety and welfare of the people  
29 of the state. The subsection shall not apply to order or  
30 permits granted to a governmental entity.

31 Sec. 119. Section four hundred fifty-five A point six  
32 (455A.6), Code 1977, is amended by striking the section and  
33 inserting in lieu thereof the following:

34 455A.6 POWERS AND DUTIES OF THE DIRECTOR. In addition  
35 to other powers and duties provided by law, the director:

1 1. After investigation or a public hearing, shall approve  
2 or disapprove an application for a permit to construct, use  
3 or maintain any structure, dam, obstruction, deposit or ex-  
4 cavation in or on any floodway or flood plain in this state.  
5 The application shall be made in writing to the department  
6 and shall include such information as specified by rule of  
7 the commission. The decision for approval or disapproval  
8 of the application by the director or the commission upon  
9 appeal shall be based on the effect that the structure, dam,  
10 obstruction, deposit or excavation will have on the efficiency  
11 and the capacity of the floodway, the state comprehensive  
12 plan for water resources, or an approved local water resources  
13 plan, any proposed works and adjacent land or property, the  
14 quality of water, fish, wildlife, and recreational facilities  
15 or uses, other public rights and requirements, and on such  
16 other criteria as may be reasonably required by rule of the  
17 commission. The decision of the director or the commission  
18 upon appeal, including the reasons for approval or disapproval,  
19 shall be kept on file in the department and a copy of the  
20 decision shall be sent to the applicant.

21 2. After review, shall approve or disapprove encroach-  
22 ment limits, flood plain regulations, or flood plain zoning  
23 ordinances or amendments to such limits, regulations, or ordi-  
24 nances previously approved, proposed by political subdivisions  
25 of the state. The decision for approval or disapproval of  
26 such limits, regulations or ordinances by the director or  
27 the commission on appeal, shall be based on such standards  
28 and rules relating to the orderly and wise development and  
29 use of flood plains as adopted by the commission. The director  
30 may cooperate with and assist political subdivisions of the  
31 state in the establishment of encroachment limits, flood plain  
32 regulations, and zoning ordinances relating to flood plain  
33 areas within their jurisdiction.

34 3. After investigation or a public hearing, shall approve  
35 or disapprove application for a permit to construct and operate

1 flood control work or works to provide protection for projects  
2 proposed for areas subject to inundation. The application  
3 shall be made in writing to the department and shall include  
4 such plans, specifications and other information as reason-  
5 ably required by rule of the commission. The plans and  
6 specifications for such flood control works shall be  
7 coordinated in design, construction and operation according  
8 to accepted engineering practice to effect the best flood  
9 control obtainable throughout the state. When considering  
10 the application, the director or the commission upon appeal  
11 shall determine whether the proposed works in the plans and  
12 specifications will be in aid of and acceptable as part of,  
13 or will adversely affect and interfere with flood control  
14 in the state, adversely affect the control, development,  
15 protection, allocation, or utilization of water resources  
16 of the state, or adversely affect or interfere with the state  
17 comprehensive plan for water resources or an approved local  
18 water resources plan. The decision of the director or the  
19 commission upon appeal, including the reasons for approval  
20 or disapproval, shall be kept on file in the department and  
21 a copy of the decision shall be sent to the applicant. This  
22 subsection shall apply to drainage districts, soil conservation  
23 districts, political subdivisions of the state, and private  
24 persons undertaking projects relating to flood control.

25 4. Shall enforce and administer the rules or orders of  
26 the commission adopted or issued under this chapter.

27 5. Shall appoint one or more water commissioners. Each  
28 water commissioner shall be qualified by training and experi-  
29 ence. A water commissioner shall serve in a quasi-judicial  
30 capacity as the trier of fact questions in the processing  
31 of applications for water permits. A water commissioner shall  
32 conduct hearings on applications for water permits as provided  
33 in this chapter and the rules of the commission and shall  
34 perform such other duties as assigned by the director.

35 6. Upon application by any person for a permit to divert,

1 pump, or otherwise take waters from any watercourse, under-  
2 ground basin or watercourse, drainage ditch or settling basin  
3 with this state for any purpose other than a nonregulated  
4 use, shall provide for an investigation of the effect of such  
5 use upon the natural flow of the watercourse, the effect of  
6 such use upon the owners of any land which might be affected  
7 by the use, and the effect of such use on the state  
8 comprehensive plan for water resources.

9     Sec. 120. Section four hundred fifty-five A point seven  
10 (455A.7), Code 1977, is amended by striking the section and  
11 inserting in lieu thereof the following:

12     455A.7 PERMITS REQUIRED. A permit to divert, store, or  
13 withdraw waters from any watercourse, underground basin or  
14 watercourse, drainage ditch or settling basin within this  
15 state shall be required for the following:

16     1. Any municipal corporation or person supplying a  
17 municipal corporation which increases its water use in excess  
18 of one hundred thousand gallons, or three percent, whichever  
19 is the greater, per day more than its highest per day benefi-  
20 cial use before May 16, 1957. Such corporation or person  
21 shall make reasonable provision for the storage of water at  
22 such times when the daily use of such water by such corporation  
23 or person is less than the amount specified herein.

24     2. Except for a nonregulated use, any person using in  
25 excess of five thousand gallons of water per day, diverted,  
26 stored, or withdrawn from any source of supply except a muni-  
27 cipal water system or any other source specifically exempted  
28 under the provisions of sections four hundred fifty-five A  
29 point seven (455A.7) through four hundred fifty-five A point  
30 nineteen (455A.19) of the Code.

31     3. Any person who diverts water or any material from the  
32 surface directly into any underground watercourse or basin.  
33 However, any diversion of water or material from the surface  
34 directly into any underground watercourse or basin existing  
35 on May 16, 1957, shall not require a permit if the diversion

1 does not create waste or pollution. A permit shall not be  
2 issued under this subsection until approval of the department  
3 of environmental quality has been obtained.

4 4. Industrial users of water having their own water supply,  
5 within the territorial boundaries of municipal corporations,  
6 shall be regulated when such water use exceeds three percent  
7 more than the highest per day beneficial use before May 16,  
8 1957.

9 Sec. 121. Section four hundred fifty-five A point eight  
10 (455A.8), Code 1977, as amended by Acts of the Sixty-seventh  
11 General Assembly, 1977 Session, chapter one hundred twenty-  
12 three (123), section one (1), is amended by striking the  
13 section and inserting in lieu thereof the following:

14 455A.8 PROCEDURE TO SECURE PERMIT. The procedure for  
15 securing a permit to divert, store or withdraw waters shall  
16 be as follows:

17 1. The application for a permit shall be made in writing  
18 to the department and shall set forth the designated beneficial  
19 use for which the permit is sought, the specific limits as  
20 to quantity, time, place, and rate of diversion, storage or  
21 withdrawal of waters.

22 2. Upon receipt of an application for a permit, the water  
23 commissioner shall set a time and place for hearing. The  
24 hearing shall be in the county where the permit is sought,  
25 but may be held at any other place in the state unless  
26 objection is raised by the applicant. The hearing shall be  
27 to the water commissioner.

28 3. The water commissioner shall cause due notice of the  
29 hearing to be published. The notice shall specify the date,  
30 time and place of hearing and shall include a concise statement  
31 of the designated beneficial purposes for which diversion  
32 is sought, the specific limits as to quantity, time, place,  
33 and rate of diversion, storage or withdrawal of waters, the  
34 name of the applicant and the description of the land upon  
35 which waters are to be diverted, stored or withdrawn. In

1 addition, the water commissioner shall cause a copy of the  
2 notice to be sent to the director of the state conservation  
3 commission, commissioner of public health, secretary of  
4 agriculture, the state geologist, the director of the Iowa  
5 development commission, and to any other person who has filed  
6 a written request for a notification of any hearings affecting  
7 a designated area, by ordinary mail, before the date of last  
8 publication.

9 4. Any interested person may appear and present evidence  
10 at the hearing, and may be represented by counsel, who shall  
11 have the right to question others who present evidence.

12 5. The applicant for a permit shall pay a fee to the  
13 department in the amount of twenty-five dollars at the time  
14 of filing the application. The fees shall be credited to  
15 the general fund of the state.

16 6. The commission shall prescribe the rules of procedure  
17 for the conduct of the hearings.

18 7. The determination of the water commissioner on any  
19 application shall be in writing, filed with the commission  
20 and shall set forth his or her findings. A copy of the  
21 determination shall be mailed to the applicant and to any  
22 person appearing who in writing requests a copy of the  
23 determination.

24 8. Any party aggrieved by the determination of the water  
25 commissioner may, within thirty days from the date such  
26 determination is filed, appeal the determination to the  
27 commission setting forth in general terms the determination  
28 appealed from and the grounds of the appeal. The director  
29 shall set a time and place for hearing before the commission  
30 and shall then send a notice by ordinary mail to all persons  
31 who appeared at the hearing before the water commissioner.

32 9. The commission shall adopt rules for the conduct of  
33 the hearing on appeal and shall file a determination in  
34 writing, setting forth the findings. A copy of the  
35 determination shall be mailed to the applicant or to any

1 person appearing who in writing requests a copy of the  
2 determination.

3 10. The water commissioner, the commission or the director  
4 at any hearing or other proceeding authorized by this chapter,  
5 shall have the power to administer oaths, take testimony,  
6 issue subpoenas and compel the attendance of witnesses. The  
7 subpoenas shall be served in the same manner as subpoenas  
8 issued by the courts of the state and the taking of depositions  
9 shall be in the same manner as depositions are taken under  
10 the Iowa rules of civil procedure.

11 Sec. 122. Section four hundred fifty-five A point nine  
12 (455A.9), Code 1977, is amended by striking the section and  
13 inserting in lieu thereof the following:

14 455A.9 HEARING--APPEAL.

15 1. If the water commissioner at the first hearing or the  
16 commission at the hearing on appeal shall determine after  
17 investigation that such diversion, storage or withdrawal will  
18 not be detrimental to the public interests, including drainage  
19 and levee districts, or to the interests of property owners  
20 with prior or superior rights who might be affected, the water  
21 commissioner following the first hearing, or the commission  
22 following the hearing on appeal shall grant a permit for such  
23 diversion, storage or withdrawal. Judicial review of such  
24 action is available in accordance with the terms of the Iowa  
25 administrative procedure Act and section four hundred fifty-  
26 five A point twenty-two (455A.22) of the Code. Permits may  
27 be granted for any period of time but not to exceed ten years  
28 except for the storage of water which may be granted for the  
6251 -29 life of the structure unless withdrawn for good cause. Permits  
30 may be granted which provide for less diversion, storage,  
31 or withdrawal of waters than set forth in the application.  
32 Permits may be extended by the water commissioner for a period  
33 of not more than ninety days during the pendency of an  
34 application for renewal. Any permit granted shall remain  
35 as an appurtenance of the land described in the permit through

1 the date specified in such permit and any extension of the  
2 permit or such earlier date as the permit or any extension  
3 of the permit is revoked or canceled under the provisions  
4 of section four hundred fifty-five A point twelve (455A.12)  
5 of the Code.

6 2. Upon application before the termination date specified  
7 in a permit, a permit may be renewed by the water commissioner  
8 for any period of time not to exceed ten years. Permits may  
9 be renewed without hearing or fee if no objection is filed  
10 and no change in the conditions of the permit is sought.  
11 The water commissioner shall cause notice of receipt of an  
12 application for renewal to be sent by ordinary mail to any  
13 person who appeared at the previous proceeding on the permit  
14 and to any person who has filed a written request for  
15 notification of any hearings affecting a designated area.  
16 If written objection is filed not more than thirty days after  
17 the date of the notice by any person shown to have an interest,  
18 a hearing shall be held with notice sent not less than ten  
19 nor more than thirty days before the hearing by ordinary mail  
20 to such objector, to any person who appeared at the previous  
21 proceeding on the permit, and to any person who has filed  
22 written request for notification of any hearings affecting  
23 a designated area.

24 3. If a change in the terms of a permit is requested which  
25 involves a change in the designated beneficial purposes for  
26 which the diversion is sought, a change in the place of such  
27 diversion, or an increase in the quantity, time, or rate of  
28 diversion, storage or withdrawal of waters, the applicant  
29 therefor shall pay a fee as required by section four hundred  
30 fifty-five A point eight (455A.8), subsection five (5), of  
31 the Code and a hearing shall be held on the application with  
32 notice given as required by section four hundred fifty-five  
33 A point eight (455A.8), subsection three (3) of the Code.

34 4. Until a statewide water plan is adopted, all new water  
6231-35 permits issued for irrigation purposes shall not exceed one

1 year and all renewals shall also be limited to one year.  
2 The preceding limitation shall not apply to the renewal or  
3 extension of any valid water permit granted before May 5,  
4 1977. If it is determined, through monitoring of the permitted  
5 withdrawal, that it will endanger the present or future  
6 availability of groundwater the permits may be modified or  
7 canceled under the provisions of section four hundred fifty-  
8 five A point twelve (455A.12) of the Code.

9 5. When permits are modified or canceled, priority for  
10 permits shall be given to applicants or permit holders who  
11 utilize such water for agriculture research. Nothing in this  
12 subsection shall give priority to such applicants or permit  
13 holders in preference to those classes granted priority under  
14 section four hundred fifty-five A point ten (455A.10) of the  
15 Code.

16 Sec. 123. Section four hundred fifty-five A point ten  
17 (455A.10), Code 1977, is amended by striking the section and  
18 inserting in lieu thereof the following:

19 455A.10 PRIORITY OF PERMITS. In the consideration of  
20 applications for permits, priority will be given to persons  
21 in the order applications are received. However, persons  
22 who have made diversion or withdrawal of water for a beneficial  
23 use before May 16, 1957, will be accorded priority according  
24 to the actual date of the diversion or withdrawal. The  
25 director or the commission on appeal shall exercise their  
26 judgment on the duration and frequency of withdrawal and the  
27 quantity of water for which a permit may be granted. The  
28 use of water for ordinary household purposes, for poultry,  
29 livestock and domestic animals shall have priority over other  
30 uses. Any person with an existing irrigation system in use  
31 before May 16, 1957, shall be issued a permit to continue,  
32 unless by the use some other riparian user is damaged. In  
33 the consideration of applications for permits by regulated  
34 users, the declared policies and principles of beneficial  
35 use, as set forth in this chapter, shall be the standard for

1 the determination of the disposition of the applications for  
2 the permits. Nothing in sections four hundred fifty-five  
3 A point seven (455A.7) through four hundred fifty-five A point  
4 nineteen (455A.19) of the Code shall impair the vested right  
5 of any person.

6 Sec. 124. Section four hundred fifty-five A point eleven  
7 (455A.11), Code 1977, is amended by striking the section  
8 and inserting in lieu thereof the following:

9 455A.11 SPECIAL PROVISIONS.

10 1. A permit may be issued for the diversion or withdrawal  
11 of water in a watercourse if the established minimum flow  
12 is preserved.

13 2. A permit shall not be issued or renewed if it will  
14 impair the navigability of any navigable watercourse.

15 3. A use of water shall not be authorized if it will  
16 impair the effect of pollution control laws administered under  
17 chapter four hundred fifty-five B (455B) of the Code.

18 Sec. 125. Section four hundred fifty-five A point twelve  
19 (455A.12), Code 1977, is amended by striking the section and  
20 inserting in lieu thereof the following:

21 455A.12 MODIFICATION OR CANCELLATION OF PERMITS. A permit  
22 issued by the department shall be irrevocable for its term  
23 or any extension of its term except as follows:

24 1. A permit may be modified or canceled by the water  
25 commissioner with the consent of the permittee.

26 2. Subject to appeal, a permit may be modified or can-  
27 celed by the water commissioner in case of any breach of the  
28 terms or conditions of the permit or in case of any violation  
29 of the law pertaining to a permit by the permittee or his  
30 or her agent, in case of nonuse as provided in section four  
31 hundred fifty-five A point thirteen (455A.13) of the Code,  
32 or in case the water commissioner finds such modification  
33 or cancellation necessary to protect the public health or  
34 safety or to protect the public interests in water resources,  
35 or to prevent substantial injury to persons or property in

1 any manner, upon at least thirty days' written notice mailed  
2 to the permittee at his or her last known address, stating  
3 the grounds of the proposed modification or cancellation and  
4 giving the permittee an opportunity to be heard.

5 3. By written order to the permittee, the water  
6 commissioner may suspend operations under a permit if the  
7 director finds it necessary in an emergency to protect the  
8 public health or safety or to protect the public interests  
9 in water resources against imminent danger of substantial  
10 injury in any manner or to any extent not expressly authorized  
11 by the permit, or to protect persons or property against such  
12 danger, may require the permittee to take any measures  
13 necessary to prevent or remedy such injury. However, the  
14 order shall not be in effect for more than thirty days from  
15 the date of issuance, without giving the permittee at least  
16 ten days' written notice of such order and an opportunity  
17 to be heard.

18 Sec. 126. Section four hundred fifty-five A point thirteen  
19 (455A.13), Code 1977, is amended by striking the section and  
20 inserting in lieu thereof the following:

21 455A.13 TERMINATION OF PERMIT. The right of a permittee  
22 or any successor of the permittee to the use of water shall  
23 terminate if such person ceases to use the water for three  
24 consecutive years for the specific beneficial purpose  
25 authorized in the permit and the permittee has been notified  
26 by the water commissioner that the permit will cease unless  
27 written application for an extension is received before the  
28 expiration of the three-year period. Upon receipt of the  
29 application, the water commissioner may grant an extension  
30 without loss of priority.

31 Sec. 127. Section four hundred fifty-five A point fourteen  
32 (455A.14), Code 1977, as amended by Acts of the Sixty-seventh  
33 General Assembly, 1977 Session, chapter one hundred twenty-  
34 three (123), section three (3), is amended by striking the  
35 section and inserting in lieu thereof the following:

1 455A.14 TRANSFER OF PERMIT. A permittee may sell,  
2 transfer, or assign a permit by conveying, leasing, or  
3 otherwise transferring the ownership of the land described  
4 in the permit, but the permit shall not constitute ownership  
5 or absolute rights of the use of such water. The water shall  
6 remain subject to the principle of beneficial use and the  
7 orders of the department.

8 Sec. 128. Section four hundred fifty-five A point fifteen  
9 (455A.15), Code 1977, is amended by striking the section and  
10 inserting in lieu thereof the following:

11 455A.15 POWER OF EMINENT DOMAIN. The state of Iowa or  
12 any political subdivision of the state may exercise the power  
13 of eminent domain for the purpose of carrying out any  
14 permission granted under sections four hundred fifty-fifty  
15 A point seven (455A.7) through four hundred fifty-five A point  
16 nineteen (455A.19) of the Code.

17 Sec. 129. Section four hundred fifty-five A point sixteen  
18 (455A.16), Code 1977, is amended by striking the section and  
19 inserting in lieu thereof the following:

20 455A.16 UNAUTHORIZED DEPLETING USE. If any person files  
21 a complaint with the department that any other person is  
22 making a depleting use of water not expressly exempted as  
23 a nonregulated use and without a permit to use the water,  
24 the director shall investigate the complaint and if the facts  
25 of the complaint are verified, the director shall order the  
26 discontinuance of the use.

27 Sec. 130. Acts of the Sixty-seventh General Assembly,  
28 1977 Session, chapter one hundred twenty-three (123), sec-  
29 tion seven (7), is amended by striking the section and in-  
30 serting in lieu thereof the following:

31 SEC. 7. Section four hundred fifty-five A point seventeen  
32 (455A.17), Code 1977, is amended by striking the section and  
33 inserting in lieu thereof the following

34 455A.17 SPECIAL IRRIGATION PERMITS AUTHORIZED. The  
35 commission, in consultation with the state geologist, may

1 determine that special irrigation permits may be issued for  
 2 withdrawal of water from the alluvial aquifers of the flood  
 3 plains of that portion of streams bordering the state of Iowa.  
 4 The commission may determine by rule special limitations and  
 5 observation and monitoring requirements for each special  
 6 permit.

7     Sec. 131. Acts of the Sixty-seventh General Assembly,  
 8 1977 Session, chapter one hundred twenty-three (123), section  
 9 eight (8), is amended by striking the section and inserting  
 10 in lieu thereof the following:

11     SEC. 8. Section four hundred fifty-five A point eighteen  
 12 (455A.18), Code 1977, is amended by striking the section and  
 13 inserting in lieu thereof the following:

14     455A.18 APPLICATION FOR SPECIAL PERMITS. Application  
 15 and payment of the fee for special permits shall be in ac-  
 16 cordance with the provisions of section four hundred fifty-  
 17 five A point eight (455A.8), subsection one (1) and subsection  
 18 five (5) of the Code, respectively. Upon receipt of the  
 19 application and fee, the water commissioner shall cause notice  
 20 of the application to be published in a newspaper of general  
 21 circulation in the county where the permit is sought. The  
 22 special permit shall be issued by the water commissioner two  
 23 weeks from the date of publication, unless written objection  
 24 to the application is filed with the water commissioner before  
 25 that date, in which case the hearing procedures of section  
 26 four hundred fifty-five A point nine (455A.9) of the Code  
 27 shall be followed. Special permits shall be issued for a  
 28 period not to exceed one year.

29     Sec. 132. Section four hundred fifty-five A point nineteen  
 30 (455A.19), Code 1977, is amended by striking the section and  
 31 inserting in lieu thereof the following:

32     455A.19 RIGHTS RESERVED. Nothing in sections four hundred  
 33 fifty-five A point seven (455A.7) through four hundred fifty-  
 34 five A point nineteen (455A.19) of the Code shall operate  
 35 to deprive any person of the right to use diffused water or

1 to drain land by use of tile, open ditch or surface drainage,  
2 or to construct an impoundment on such person's property or  
3 across a stream that originates on such person's property  
4 if provision is made for safe construction and for continued  
5 established average minimum flow when such flow is required  
6 to protect the rights of water users downstream.

7 Sec. 133. Section four hundred fifty-five A point twenty  
8 (455A.20), Code 1977, as amended by Acts of the Sixty-seventh  
9 General Assembly, 1977 Session, chapter one hundred twenty-  
10 three (123), sections four (4) and nine (9), is amended by  
11 striking the section and inserting in lieu thereof the fol-  
12 lowing:

13 455A.20 UNLAWFUL ACTS--NUISANCE.

14 1. It shall be unlawful for any person to construct,  
15 operate or maintain a structure, dam, obstruction, deposit  
16 or excavation in or on any floodway or flood plain in this  
17 state without obtaining a permit from the department. This  
18 subsection shall not apply to dams constructed and operated  
19 under chapter four hundred sixty-nine (469) of the Code.

20 2. Any structure, dam, obstruction, deposit or excava-  
21 tion constructed, used or maintained in or on the floodway  
22 or flood plain in this state which will adversely affect the  
23 efficiency of or unduly restrict the capacity of the floodway,  
24 adversely affect the control, development, protection, allo-  
25 cation, or utilization of the water resources of the state,  
26 or adversely affect or interfere with the state comprehensive  
27 plan for water resources, or an approved local water plan,  
28 except a dam constructed and operated under chapter four hun-  
29 dred sixty-nine (469) of the Code, shall constitute a public  
30 nuisance.

31 3. It shall be unlawful for any person to construct or  
32 maintain any works of any nature for flood control unless  
33 a permit has been obtained from the department approving the  
34 plans and specifications for the proposed flood control works.

35 4. It shall be unlawful for any person to take water from

1 any natural watercourse, underground basin or watercourse,  
2 drainage ditch, or settling basin within this state for any  
3 purpose other than a nonregulated use except in compliance  
4 with the provisions of sections four hundred fifty-five A  
5 point seven (455A.7) through four hundred fifty-five A point  
6 nineteen (455A.19) of the Code. However, existing uses may  
7 be continued during the period of pendency of an application  
8 for a permit.

9     Sec. 134. Section four hundred fifty-five A point twenty-  
10 one (455A.21), Code 1977, as amended by Acts of the Sixty-  
11 seventh General Assembly, 1977 Session, chapter one hundred  
12 twenty-three (123), section five (5), is amended by striking  
13 the section and inserting in lieu thereof the following:

14     455A.21 REMEDIES.

15     1. The director may take any appropriate legal action  
16 to enjoin or abate a public nuisance which adversely affects  
17 flood control as specified in section four hundred fifty-five  
18 A point twenty (455A.20), subsection two (2), of the Code.

19     2. The director may initiate and maintain an action in  
20 equity to enjoin any person from constructing, using or main-  
21 taining any structure, dam, obstruction, deposit, or excava-  
22 tion, except a dam permitted under chapter four hundred sixty-  
23 nine (469) of the Code, for which a permit has not been granted  
6231 -24 by the department.

25     3. The director may take legal action to condemn a struc-  
26 ture, dam, obstruction, deposit or excavation in any floodway  
27 which adversely affects the efficiency of or unduly restricts  
28 the capacity of the floodway. In assessing damages in such  
29 proceedings, the appraisers and the district court shall take  
30 into consideration whether the structure, dam, obstruction,  
31 deposit or excavation is lawfully located in or on the  
32 floodway.

33     Sec. 135. Section four hundred fifty-five A point twenty-  
34 two (455A.22), Code 1977, is amended by striking the section  
35 and inserting in lieu thereof the following:

1 455A.22 APPEAL BOARD--JUDICIAL REVIEW.

2 1. In lieu of an appeal being heard by the full membership  
3 of the commission, the chairperson of the commission may  
4 appoint an appeal board consisting of one or more members  
5 of the commission or a hearing officer to conduct a hearing  
6 on the appeal of an aggrieved applicant from the action or  
7 order of the director as provided in chapter seventeen A (17A)  
8 of the Code.

9 2. Judicial review of action of the department may be  
10 sought in accordance with the terms of the Iowa administrative  
11 procedure Act. Notwithstanding the provisions of such Act,  
12 petitions for judicial review may be filed in the district  
13 court of Polk county or of any county in which the property  
14 affected is located. If the commission, the district court,  
15 or the supreme court shall determine that the order of the  
16 department be stayed, the petitioner shall file an appropriate  
17 bond approved by the court.

18 Sec. 136. Section four hundred fifty-five A point twenty-  
19 three (455A.23), Code 1977, is amended by striking the section  
20 and inserting in lieu thereof the following:

21 455A.23 PENALTY. Any person who constructs, maintains  
22 or continues a public nuisance or who diverts or withdraws  
23 water in violation of the provisions of this chapter, upon  
24 conviction, shall be guilty of a simple misdemeanor. Each  
25 day that such violation continues after conviction shall be  
26 considered a separate offense.

27 Sec. 137. Section four hundred sixty-seven A point three  
28 (467A.3), Code 1977, is amended by striking subsections three  
29 (3), four (4) and fifteen (15) and inserting in lieu thereof  
30 the following:

31 3. "Department" means the department of land and water  
32 resources.

33 4. "Commission" means the state land and water resources  
34 commission.

35 15. "Director" means the director of the department or

1 a designee of the director.

2 Sec. 138. Section four hundred sixty-seven A point four  
3 (467A.4), Code 1977, is amended by striking subsections one  
4 (1), two (2) and three (3) and inserting in lieu thereof the  
5 following:

6 1. a. There is created a department of land and water  
7 resources which shall be the state agency to administer pro-  
8 grams relating to soil conservation and other land and water  
9 resources as provided by law.

10 b. There is created within the department a state land  
11 and water resources commission which shall be the policy-  
12 making authority of the department.

13 2. The state land and water resources commission shall  
14 consist of thirteen voting members and seven ex officio,  
15 nonvoting members.

16 a. The thirteen voting members of the commission shall  
17 be appointed by the governor with the consent of two-thirds  
18 of the members of the senate. Six of the voting members shall  
19 be persons engaged in actual farming operations, one from  
20 each of the six conservancy districts established by sec-  
21 tion four hundred sixty-seven D point three (467D.3) of the  
22 Code, but not more than one from any one county. Six of the  
23 voting members shall be persons whose principal sources of  
24 income are not received from actual farming operations.  
25 One of the voting members shall be a person appointed to be  
26 a representative of the mining industry. Each member of the  
27 commission shall be an elector of the state and shall have  
28 interest and knowledge of the subject matter under the  
29 jurisdiction of the department. Not more than seven members  
30 of the commission shall be members of the same political  
31 party. The members of the commission shall be appointed to  
32 four-year terms of office commencing July 1, 1979, except  
33 that six members appointed to the initial commission shall  
34 be appointed to a two-year term. Thereafter, all appointments  
35 shall be for four years. Vacancies occurring during a term

1 of office shall be filled by appointment for the balance of  
2 the unexpired term subject to the consent of two-thirds of  
3 the members of the senate. Any vacancy on the commission  
4 occurring while the general assembly is not in session shall  
5 be filled by appointment of the governor which appointment  
6 shall expire thirty days after the general assembly next  
7 convenes. Within the thirty-day period, the governor shall  
8 transmit an appointment to the senate. A voting member of  
9 the commission shall not be appointed to serve more than two  
10 consecutive four-year terms.

11 b. The seven ex officio, nonvoting members of the com-  
12 mission shall include:

13 (1) The director of the state agricultural extension ser-  
14 vice or a designee.

15 (2) The state conservation director or a designee.

16 (3) The secretary of agriculture or a designee.

17 (4) The executive director of the department of environ-  
18 mental quality or a designee.

19 (5) The state geologist or a designee.

20 (6) Upon invitation of the commission, a designee of the  
21 United States secretary of agriculture.

22 (7) Upon invitation of the commission, a designee of the  
23 president of the Iowa county engineers association.

24 c. The commission may appoint advisory committees to  
25 advise the commission and the director in carrying out their  
26 other powers and duties as provided by law. The members of  
27 the advisory committees shall serve at the pleasure of the  
28 commission.

29 d. A majority of the voting members of the commission  
30 shall constitute a quorum and the concurrence of a quorum  
31 of the voting members shall be required to determine any  
32 matter relating to the official duties of the commission.

33 3. In addition to its other powers and duties provided  
34 by law, the commission:

35 a. Shall adopt a seal which shall be judicially noticed.

- 1     b. Shall conduct public hearings as necessary to carry  
2 out its powers and duties.
- 3     c. Shall adopt rules in accordance with chapter seventeen  
4 A (17A) of the Code.
- 5     d. Shall approve, upon recommendation of the director,  
6 an administrative structure for the department and the number  
7 and kind of staff positions within the table of organization.
- 8     e. May assign such other duties to the director as ap-  
9 propriate.
- 10    f. Shall annually elect a chairperson and such other of-  
11 ficers as determined by the commission from among its member-  
12 ship.
- 13    g. May request advice and assistance from any state agen-  
14 cy or state institution of higher learning in making reports,  
15 surveys or studies, subject to available appropriations and  
16 staff of the agency to which the request is directed.
- 17    h. Shall appoint a director with the qualifications and  
18 experience as determined by the commission. The annual salary  
19 of the director shall be determined by the governor as pro-  
20 vided by law.
- 21    i. Shall provide for the execution of surety bonds for  
22 all employees and officers who are entrusted with funds or  
23 property of the department.
- 24    j. Shall keep a full and accurate record of all proceed-  
25 ings of the commission including a record of all resolutions,  
26 actions and orders of the commission.
- 27    k. Shall provide for an annual audit of the accounts of  
28 receipts and disbursements.
- 29    4. In addition to the director's powers and duties other-  
30 wise provided by law, the director:
- 31    a. Shall organize or reorganize the administrative struc-  
32 ture of the department, subject to the approval of the commis-  
33 sion. The administrative structure shall include plans for  
34 a division of land preservation.
- 35    b. Shall appoint such professional, technical, secretarial

1 and other administrative staff as necessary to carry out the  
2 powers and duties assigned to the department. The appointments  
3 shall be made in compliance with chapter nineteen A (19A)  
4 of the Code.

5 c. May accept gifts, contributions, donations and grants,  
6 and use the same for any purpose within the jurisdiction of  
7 the department with approval of the commission.

8 5. The members of the commission, not otherwise employed  
9 by the state or any political subdivision of the state, shall  
10 receive a per diem of forty dollars for each day engaged in  
11 the performance of the duties of office. The commission shall  
12 determine the number of days for which any member may be paid  
13 per diem compensation. The members of the commission, the  
14 director and the staff of the department shall receive  
15 reimbursement for travel and other necessary expenses incurred  
16 in the performance of official duties. The members of advisory  
17 committees shall not receive per diem compensation, but the  
18 commission may authorize reimbursement for travel and other  
19 necessary expenses incurred by the committee members in  
20 performing their duties.

21 Sec. 139. Section four hundred sixty-seven A point four  
22 (467A.4), subsection four (4), unnumbered paragraph one (1),  
23 Code 1977, is amended to read as follows:

24 4 6. In addition to the duties and powers hereinafter  
25 conferred upon the department ~~of soil conservation~~, it shall  
26 have the following duties and powers:

27 Sec. 140. Section four hundred sixty-seven A point seven  
28 (467A.7), subsections three (3) and seven (7), Code 1977,  
29 are amended to read as follows:

30 3. To carry out preventive and control measures within  
31 the district, including, but not limited to, crop rotations,  
32 engineering operations, methods of cultivation, the growing  
33 of vegetation, changes in use of land, and the measures listed  
34 in section 467A.2, on lands owned or controlled by this state  
35 or any of its agencies, with the consent and co-operation

1 of the agency administering and having jurisdiction thereof,  
2 and on any other lands within the district, upon obtaining  
3 the consent of the owner or occupier of such lands or the  
4 necessary rights or interests in such lands. Any approval  
5 or permits from the ~~soil~~ department required under other  
6 provisions of law shall be obtained by the district prior  
7 to initiation of any construction activity.

8     7. To construct, improve, and maintain such structures  
9 as may be necessary or convenient for the performance of any  
10 of the operations authorized in this chapter. Any approval  
11 or permits from the ~~soil~~ department required under other  
12 provisions of law shall be obtained by the district prior  
13 to initiation of any construction activity.

14     Sec. 141. Sections four hundred sixty-seven A point five  
15 (467A.5), four hundred sixty-seven A point seven (467A.7),  
16 four hundred sixty-seven A point eight (467A.8), four hundred  
17 sixty-seven A point ten (467A.10), four hundred sixty-seven  
18 A point eleven (467A.11), four hundred sixty-seven A point  
19 twelve (467A.12), four hundred sixty-seven A point twenty-  
20 two (467A.22), four hundred sixty-seven A point forty-two  
21 (467A.42), four hundred sixty-seven A point forty-four  
22 (467A.44), four hundred sixty-seven A point forty-five  
23 (467A.45), four hundred sixty-seven A point forty-six  
24 (467A.46), and four hundred sixty-seven A point forty-eight  
25 (467A.48), Code 1977, are amended by striking from such sec-  
26 tions the words "state soil conservation committee" or "com-  
27 mittee" and inserting in lieu thereof the word "commission".

28     Sec. 142. Sections four hundred sixty-seven A point six  
29 (467A.6), four hundred sixty-seven A point seven (467A.7)  
30 and four hundred sixty-seven A point eighteen (467A.18), Code  
31 1977, are amended by striking from such sections the words  
32 "department of soil conservation" and inserting in lieu thereof  
33 the word "department".

34     Sec. 143. Section four hundred sixty-seven C point five  
35 (467C.5), Code 1977, is amended to read as follows:

1 467C.5 APPROVAL OF COMMISSIONERS. No district shall be  
2 established by any board of supervisors under this chapter  
3 unless the organization of such district is approved by the  
4 commissioners of any soil conservation district established  
5 under the provisions of chapter 467A and which is included  
6 all or in part within such district, nor shall any such dis-  
7 trict be established without the approval of the state con-  
8 servancy commission and the ~~fewa-natural-resources-coun-~~  
6378-9 ~~eil~~ department of land and water resources.

10 Sec. 144. Section four hundred sixty-seven D point two  
11 (467D.2), Code 1977, is amended by striking subsection three  
12 (3).

13 Sec. 145. Section four hundred sixty-seven D point two  
14 (467D.2), Code 1977, is amended by striking subsections five  
15 (5) and six (6) and inserting in lieu thereof the following:

16 5. "Department" means the department of land and water  
17 resources.

18 6. "Commission" means the state land and water resources  
19 commission.

20 Sec. 146. Section four hundred sixty-seven D point four  
21 (467D.4), Code 1977, is amended by striking the section and  
22 inserting in lieu thereof the following:

23 467D.4 GOVERNING BODY. The governing body of each con-  
24 servancy district shall be a board of the six members of the  
25 commission who are qualified and selected for commission  
26 membership by being engaged in actual farming operations as  
27 provided in section four hundred sixty-seven A point four  
28 (467A.4) of the Code.

29 Sec. 147. Section four hundred sixty-seven D point five  
30 (467D.5), Code 1977, is amended to read as follows:

31 467D.5 OFFICIALLY AS BOARD OF CONSERVANCY DISTRICTS.  
32 When officially conducting the business of any conservancy  
33 district, the ~~committee~~ board shall formally convene as the  
34 board of that conservancy district and shall keep minutes  
35 as such. The ~~chairman-of-the-committee~~ board shall select

1 a chairperson from its membership who shall be the chairman  
2 serve as chairperson of the board of each conservancy district.

3 Sec. 148. Section four hundred sixty-seven D point six  
4 (467D.6), subsections one (1) and eleven (11), Code 1977,  
5 are amended to read as follows:

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

15 11. Maintain at its office a record of all the conservancy  
16 district's proceedings, rules and orders, and furnish copies  
17 thereof to the department and the ~~council~~ department of  
18 environmental quality upon request.

19 Sec. 149. Section four hundred sixty-seven D point seven  
20 (467D.7), Code 1977, is amended to read as follows:

21 467D.7 SECRETARY AND TREASURER. The ~~state soil conserva-~~  
22 ~~tion committee~~ board, in its respective capacities as the  
23 board of each of the several conservancy districts, shall  
24 appoint a secretary and a treasurer for each conservancy dis-  
25 trict.

26 Sec. 150. Section four hundred sixty-seven D point eight  
27 (467D.8), Code 1977, is amended to read as follows:

28 467D.8 DUAL CAPACITY--LIMITATION. The ~~state soil conserva-~~  
29 ~~tion committee~~ board may at its discretion appoint the same  
30 individual as secretary for two or more conservancy districts,  
31 or as the treasurer for two or more conservancy districts.  
32 No person shall simultaneously serve as both a conservancy  
33 board secretary and a conservancy board treasurer, either  
34 for the same conservancy district or for different conservancy  
35 districts.

1 Sec. 151. Section four hundred sixty-seven D point nine  
2 (467D.9), Code 1977, is amended to read as follows:

3 467D.9 COMPENSATION. Any person appointed by the state  
4 ~~soil-conservation-committee~~ board as secretary or treasurer  
5 of one or more conservancy districts, who is not otherwise  
6 employed by the state or any of its political subdivisions,  
7 shall receive such compensation as the ~~committee~~ board shall  
8 determine.

9 Sec. 152. Section four hundred sixty-seven D point twelve  
10 (467D.12), Code 1977, is amended to read as follows:

11 467D.12 BUDGET. In each even-numbered year the board  
12 shall prepare a budget for the biennium beginning July ~~1~~ first  
13 of the succeeding calendar year, setting forth all proposed  
14 expenditures by the conservancy district during such biennium,  
15 and stating the amounts which it is anticipated will be avail-  
16 able to the conservancy district during such biennium from  
17 sources other than state appropriations. The board shall  
18 submit its budget to the ~~state-soil-conservation-committee~~  
19 commission on or before August ~~1~~ first of each even-numbered  
20 year.

21 Sec. 153. Section four hundred sixty-seven D point thirteen  
22 (467D.13), Code 1977, is amended to read as follows:

23 467D.13 REVIEW BY ~~STATE-COMMITTEE~~ COMMISSION. The ~~commit-~~  
24 ~~tee~~ commission shall review the proposed biennial budget of  
25 each of the conservancy districts, and may revise any such  
26 budget. The ~~committee~~ commission shall prepare a consolidated  
27 list of the appropriations requested for administration,  
28 operation, and maintenance of each conservancy district for  
29 each year of the ensuing biennium, and of capital appro-  
30 priations requested, if any, for each conservancy district,  
31 and shall forward the consolidated list to the state comp-  
32 troller as a part of the ~~committee's~~ commission's estimates  
33 of expenditure requirements submitted pursuant to section  
34 8.23.

35 Sec. 154. Section four hundred sixty-seven D point six-

1 teen (467D.16), unnumbered paragraph one (1), Code 1977, is  
2 amended to read as follows:

3 The board shall prepare a plan for accomplishment of the  
4 objectives of this chapter within the conservancy district.  
5 For this purpose the board may request and shall obtain from  
6 any state agency or political subdivision information which  
7 the agency or subdivision may have already collected which  
8 is pertinent to preparation of the plan, and may conduct such  
9 hearings as it deems necessary. The plan shall establish  
10 an order of priorities for carrying out projects necessary  
11 to accomplish the objectives of this chapter, shall conform  
12 as nearly as practicable to the comprehensive state-wide water  
13 resources plan established by the ~~council-pursuant-to-section~~  
14 ~~455A-17~~ department and shall reflect the following general  
15 policies:

16 Sec. 155. Section four hundred sixty-seven D point seven-  
17 teen (467D.17), Code 1977, is amended to read as follows:

18 467D.17 PLAN PRESENTED TO DEPARTMENT AND ~~COUNCIL~~. The  
19 board shall tentatively adopt the plan by resolution and shall  
20 present the plan to the department ~~and-the-council~~ for review.  
21 The ~~council~~ department shall within ninety days review the  
22 plan as presented and make such recommendations as ~~in its~~  
23 ~~discretion-it-deems~~ deemed necessary to bring the conservancy  
24 district's plan into conformity with the comprehensive state-  
25 wide water resources plan ~~established-by-the-council-pursuant~~  
26 ~~to-section-455A-17~~. The department shall review the plan  
27 as presented and, with such amendments as are necessary to  
28 bring the plan into conformity with the state-wide water  
29 resources plan, give final approval within one hundred twenty  
30 days.

31 Sec. 156. Section four hundred sixty-seven D point nine-  
32 teen (467D.19), Code 1977, is amended to read as follows:

33 467D.19 IMPLEMENTATION. After final approval of the plan,  
34 the board shall begin to implement the plan as expeditiously  
35 as possible, within the limitations of available appropriations

1 and other financial resources. When implementation of the  
2 plan involves construction or improvement of any internal  
3 improvement by the conservancy district, the board may order  
4 the preparation of detailed plans and specifications, and  
5 a refined cost estimate. Upon completion of such plans,  
6 specifications and cost estimate to their satisfaction, the  
7 board shall adopt the same, subject to the approval of the  
8 department, and shall let the contract or contracts therefor  
9 in accordance with section 467D.20. Any approval or permits  
10 from the ~~council~~ department required under other provisions  
11 of law shall be obtained by the conservancy district prior  
12 to initiation of any construction activity.

13 Sec. 157. Chapter four hundred sixty-nine (469), Code  
14 1977, is amended by adding the following new section:

15 NEW SECTION. DEFINITIONS. As used in this chapter:

- 16 1. "Department" means the department of land and water  
17 resources.  
18 2. "Commission" means the state land and water resources  
19 commission.  
20 3. "Director" means director of the department or a  
21 designee of the director.

22 Sec. 158. Section four hundred sixty-nine point one  
23 (469.1), Code 1977, is amended to read as follows:

24 469.1 PROHIBITION--PERMIT. No dam shall be constructed,  
25 maintained, or operated in this state in any navigable or  
26 meandered stream for any purpose, or in any other stream for  
27 manufacturing or power purposes, nor shall any water be taken  
28 from such streams for industrial purposes, unless a permit  
29 has been granted by the ~~Iowa-natural-resources-council~~  
30 department to the person, firm, corporation, or municipality  
31 constructing, maintaining, or operating the same.

32 Sec. 159. Section four hundred sixty-nine point two  
33 (469.2), unnumbered paragraph one (1) and subsection six (6),  
34 Code 1977, are amended to read as follows:

35 Any person, firm, corporation, or municipality making

1 application for a permit to construct, maintain, or operate  
2 a dam in any of the waters, including canals, raceways, and  
3 other constructions necessary or useful in connection with  
4 the development and utilization of the water or water power,  
5 shall file with the ~~Iowa-natural-resources-council~~ depart-  
6 ment a written application, which shall contain the following  
7 information:

8       6. Such additional information as may be required by the  
9 ~~Iowa-natural-resources-council~~ department.

10       Sec. 160. Section four hundred sixty-nine point three  
11 (469.3), Code 1977, is amended to read as follows:

12       469.3 NOTICE OF HEARING. When any application for a per-  
13 mit to construct, maintain, or operate a dam ~~from-and-after~~  
14 ~~the-passage-of-this-chapter-is-received~~, the ~~Iowa-natural~~  
15 ~~resources-council~~ director shall fix a time for hearing, and  
16 it shall give notice of the time and place of such hearing  
17 by publication once each week for two successive weeks in  
18 at least one newspaper in each county in which riparian lands  
19 will be affected by the dam.

20       Sec. 161. Section four hundred sixty-nine point four  
21 (469.4), Code 1977, is amended to read as follows:

22       469.4 HEARING. At the time fixed for such hearing or  
23 at any adjournment thereof, the ~~council~~ director shall take  
24 evidence offered by the applicant and any other person, either  
25 in support of or in opposition to the proposed construction.

26       Sec. 162. Section four hundred sixty-nine point five  
27 (469.5), Code 1977, is amended to read as follows:

28       469.5 WHEN PERMIT GRANTED. If it shall appear to the  
29 ~~council~~ director that the construction, operation, or  
30 maintenance of the dam will not materially obstruct existing  
31 navigation, or materially affect other public rights, will  
32 not endanger life or public health, and any water taken from  
33 the stream in connection with the project, excepting water  
34 taken by a municipality for distribution in its water mains,  
35 is returned thereto at the nearest practicable place without

1 being materially diminished in quantity or polluted or rendered  
2 deleterious to fish life, ~~it~~ the director shall grant the  
3 permit, upon such terms and conditions as ~~it~~ the director  
4 may prescribe.

5 Sec. 163. Section four hundred sixty-nine point six  
6 (469.6), Code 1977, is amended to read as follows:

7 469.6 CERTIFICATE OF APPROVAL. No A permit shall not  
8 be granted for the construction or operation of a dam where  
9 the water is to be used for manufacturing purposes, except  
10 to develop power, until a certificate of the ~~Iowa-water-pollu-~~  
11 ~~tion-control-commission~~ department of environmental quality  
12 has been filed with the ~~council~~ department showing its appro-  
13 val of the use of the water for the purposes specified in  
14 the application.

15 Sec. 164. Section four hundred sixty-nine point seven  
16 (469.7), Code 1977, is amended to read as follows:

17 469.7 APPLICATION FOR CERTIFICATE. When it is proposed  
18 to use the water for manufacturing purposes, except to develop  
19 power, or for condensation purposes, application must be made  
20 to the ~~Iowa-water-pollution-control-commission~~ department  
21 of environmental quality, accompanied by a description of  
22 the proposed use of the water and what, if any, substances  
23 are to be deposited in such water and chemical changes made  
24 in the same, and such other information as the department  
25 of ~~health~~ environmental quality may require to enable it to  
26 determine the advisability of the issuance of such certificate.

27 Sec. 165. Section four hundred sixty-nine point eight  
28 (469.8), Code 1977, is amended to read as follows:

29 469.8 GRANTING OR REFUSING.

30 1. If the ~~Iowa-water-pollution-control-commission~~ depart-  
31 ment of environmental quality is satisfied that the use of  
32 the water in any such project will not cause pollution of  
33 the same or render it materially unwholesome or impure, or  
34 deleterious to fish life, it may issue a certificate, and  
35 if it is not so satisfied, it shall refuse to issue same.

1     2. An applicant aggrieved by the decision of the execu-  
 2 tive director of the department of environmental quality or  
 3 the director under this chapter may appeal the decision to  
 4 the environmental quality commission or the commission as  
 5 applicable.

6     Sec. 166. Section four hundred sixty-nine point nine  
 7 (469.9), unnumbered paragraph one (1), Code 1977, is amended  
 8 to read as follows:

9     Every person, firm, or corporation, excepting a  
 10 municipality, to whom a permit is granted to construct or  
 11 to maintain and operate a dam already constructed in or across  
 12 any stream for the purpose herein specified, shall pay to  
 13 the ~~Iowa-natural-resources-council~~ department a permit fee  
 14 of one hundred dollars and shall pay an annual inspection  
 15 and license fee, to be fixed by the ~~Iowa-natural-resources~~  
 16 ~~council~~ commission, on or before the first day of January,  
 17 ~~1925, and annually thereafter~~ of each year, but in no case  
 18 shall the annual inspection and license fee be less than  
 19 twenty-five dollars. All fees shall be paid into the general  
 20 fund of the state treasury.

21     Sec. 167. Section four hundred sixty-nine point ten  
 22 (469.10), Code 1977, is amended to read as follows:

23     469.10 CONSTRUCTION AND OPERATION. The ~~Iowa-natural~~  
 24 ~~resources-council~~ director shall investigate methods of  
 25 construction, reconstruction, operation, maintenance, and  
 26 equipment of dams, so as to determine the best methods to  
 27 conserve and protect as far as possible all public and riparian  
 28 rights in the waters of the state and so as to protect the  
 29 life, health, and property of the general public; and the  
 30 method of construction, operation, maintenance, and equipment  
 31 of any and all dams of any character or for any purpose in  
 32 such waters shall be subject to the approval of the ~~Iowa~~  
 33 ~~natural-resources-council~~ director.

34     Sec. 168. Section four hundred sixty-nine point eleven  
 35 (469.11), Code 1977, is amended to read as follows:

1 469.11 ACCESS TO WORKS. ~~Such-council-or-any-member,~~  
2 ~~agent,-or-employee-thereof~~ The department shall at all times  
3 be accorded full access to all parts of any dam and its  
4 appurtenances being constructed, operated, or maintained in  
5 such waters, subject to section four hundred fifty-five A  
6 point three (455A.3) of the Code.

7 Sec. 169. Section four hundred sixty-nine point twelve  
8 (469.12), Code 1977, is amended to read as follows:

9 469.12 DUTY TO ENFORCE STATUTES. It shall be the duty  
10 of the ~~council~~ department to require that all existing statutes  
11 of the state, including the provisions of this chapter, with  
12 reference to the construction of dams, shall be enforced.

13 Sec. 170. Section four hundred sixty-nine point twenty-  
14 six (469.26), Code 1977, is amended to read as follows:

15 469.26 REVOCATION OR FORFEITURE OF PERMIT. If the person  
16 to whom a permit is issued under the provisions of this chap-  
17 ter does not begin the construction or the improvement of  
18 the dam or raceway within one year from the date of the  
19 granting of the permit, his or her permit may be revoked by  
20 the ~~Iowa-natural-resources-council~~ director, and if any permit  
21 holder does not finish and have in operation the plant for  
22 which the dam is constructed within three years after the  
23 granting of the permit, unless for good cause shown the ~~council~~  
24 director has extended the time for completion, such permit  
25 shall be forfeited.

26 Sec. 171. Section four hundred sixty-nine point twenty-  
27 nine (469.29), Code 1977, is amended to read as follows:

28 469.29 PERMITS FOR EXISTING DAMS. All licenses and per-  
29 mits issued by the state executive council prior to April  
30 17, 1949, or the Iowa natural resources council prior to  
31 January 1, 1979, are hereby declared to be in full force and  
32 effect and all of the powers of administration relating to  
33 licenses or permits heretofore issued are hereby vested in  
34 the ~~Iowa-natural-resources-council~~ department.

35 Sec. 172. Sections one hundred seven point twenty-two

1 (107.22), four hundred fifty-five A point twenty-four  
 2 (455A.24), four hundred fifty-five A point twenty-five  
 3 (455A.25), four hundred fifty-five A point twenty-six  
 4 (455A.26), four hundred fifty-five A point twenty-seven  
 5 (455A.27), four hundred fifty-five A point twenty-eight  
 6 (455A.28), four hundred fifty-five A point twenty-nine  
 7 (455A.29), four hundred fifty-five A point thirty (455A.30),  
 8 four hundred fifty-five A point thirty-one (455A.31), four  
 9 hundred fifty-five A point thirty-two (455A.32), four hundred  
 10 fifty-five A point thirty-three (455A.33), four hundred fifty-  
 11 five A point thirty-four (455A.34), four hundred fifty-five  
 12 A point thirty-five (455A.35), four hundred fifty-five A point  
 13 thirty-six (455A.36), four hundred fifty-five A point thirty-  
 14 seven (455A.37), four hundred fifty-five A point thirty-eight  
 15 (455A.38), four hundred fifty-five A point thirty-nine  
 16 (455A.39), four hundred fifty-five A point forty (455A.40),  
 17 four hundred fifty-five B point seven (455B.7), four hundred  
 18 fifty-five B point twenty-eight (455B.28), four hundred fifty-  
 19 five B point seventy-three (455B.73), four hundred fifty-five  
 20 B point ninety-nine (455B.99), four hundred fifty-five B point  
 21 one hundred four (455B.104), four hundred fifty-five B point  
 22 one hundred five (455B.105), four hundred fifty-five B point  
 23 one hundred six (455B.106), and four hundred fifty-five B  
 24 point one hundred seven (455B.107), Code 1977, are repealed.

6370 *ch. b*  
 25 Sec. 173. PRIOR ACTIONS.

26 1. Any rule adopted, permit or order issued, or approval  
 27 given under chapters eighty-four (84), one hundred eight  
 28 (108), one hundred nine (109), one hundred eleven (111), one  
 29 hundred twelve (112), three hundred fifty-seven A (357A),  
 30 three hundred fifty-eight A (358A), four hundred fourteen  
 31 (414), four hundred twenty-seven (427), four hundred fifty-  
 32 five A (455A), four hundred sixty-seven A (467A), four hundred  
 33 sixty-seven C (467C), four hundred sixty-seven D (467D), or  
 34 four hundred sixty-nine (469), of the Code, before the  
 35 effective date of this Act, by the Iowa natural resources

1 council shall remain effective until modified or rescinded  
2 by action of the Iowa state commerce commission, the state  
3 land and water resources commission or the department of land  
4 and water resources as provided in this Act.

5 2. Any rule adopted or approval given under section four  
6 hundred twenty-seven point one (427.1), subsection thirty-  
7 two (32) of the Code, before the effective date of this Act,  
8 by the air quality commission or the water quality commission  
9 of the department of environmental quality shall remain  
10 effective until modified or rescinded by action of the depart-  
11 ment of environmental quality as provided in this Act.

12 3. Any rule adopted, permit or order issued, or appro-  
13 val given under chapter eighty-three A (83A), four hundred  
14 sixty-seven A (467A), and four hundred sixty-seven D (467D)  
15 of the Code, before the effective date of this Act, by the  
16 state soil conservation committee or the chief administrative  
17 officer of the department of soil conservation shall remain  
18 effective until modified or rescinded by action of the state  
19 land and water resources commission or the director of the  
20 department of land and water resources as provided in this  
21 Act.

22 Sec. 174. TRANSFER OF EMPLOYEES. All employees of the  
23 Iowa natural resources council are transferred to the  
24 department of land and water resources. Any employee of the  
25 Iowa natural resources council whose duty assignments will  
26 be terminated because of this Act may be reassigned to other  
27 duties or may be transferred to the department of land and  
28 water resources. The Iowa merit employment commission shall  
29 promulgate rules to carry out the reassignment or transfer  
30 and shall arbitrate and decide any written appeal made by  
31 any employee concerning any transfer, reassignment, or  
32 reclassification made necessary by this Act. An employee  
33 shall not lose any benefits accrued, including but not limited  
34 to salary, retirement, vacation, or sick leave because of  
35 reassignment provided in this section.

1     Sec. 175.   EFFECTIVE DATE--TRANSITION.   The effective date  
2 of this Act shall be January 1, 1980, except that after January  
3 1, 1979, the governor may appoint the members of the  
4 environmental quality commission and the members of the state  
5 land and water resources commission, authorize the  
6 environmental quality commission and the state land and water  
7 resources commission to organize as provided in this Act and  
8 authorize the department of environmental quality, the  
9 department of land and water resources, and the Iowa state  
10 commerce commission to plan for the transfer of powers, duties,  
11 records, equipment, funds, other property, and personnel  
12 as applicable to the respective departments.   The terms of  
13 the persons initially appointed for four-year terms shall  
14 commence July 1, 1979 and end June 30, 1983, and the terms  
15 of persons initially appointed for two-year terms shall  
16 commence July 1, 1979 and end June 30, 1981.   Such persons  
17 may be reappointed as provided in this Act.   The state land  
18 and water resources commission may appoint, before January  
19 1, 1980, a director for the department of land and water  
20 resources at an annual salary approved by the governor and  
21 shall cooperate with the Iowa natural resources council and  
22 the state soil conservation committee in preparing for an  
23 orderly transfer of powers and duties, including representing  
24 the new department in budgetary and appropriation matters.  
25 The members of the environmental quality commission and the  
26 state land and water resources commission authorized to meet  
27 before January 1, 1980, may be paid per diem and necessary  
28 expenses from funds appropriated to the department of  
29 environmental quality and the department of soil conservation,  
30 respectively.

31     Of the members appointed to the initial state land and  
32 water resources commission, the governor shall appoint three  
33 persons who are voting members of the Iowa natural resources  
34 council and three persons who are voting members of the state  
35 soil conservation committee at the time of their appointment

LA 76 { 1 and the six persons shall serve concurrently as members of  
2 commission and the committee or council until their respec-  
3 tive terms of office as members of the committee or council  
4 shall expire as provided in this Act.

5 The terms of office of members of the Iowa natural re-  
6 sources council, the geological board, and the executive  
7 committee, water quality commission, air quality commission,  
8 solid waste disposal commission and the chemical technology  
9 commission of the department of environmental quality, and  
10 the state soil conservation committee, which council, board,  
11 committees and commissions are abolished by this Act, shall  
12 expire on December 31, 1979. Notwithstanding sections four  
13 hundred fifty-five A point four (455A.4) and four hundred  
14 sixty-seven A point four (467A.4) of the Code, the members  
15 of the Iowa natural resources council and the state soil con-  
16 servation committee whose terms expire on June 30, 1979 shall  
17 continue in office until December 31, 1979 and on that date  
18 their terms of office shall expire.

19 EXPLANATION

20 This bill provides for the reorganization of the department  
21 of environmental quality, the creation of a state land and  
22 water resources commission and the department of land and  
23 water resources, the abolition of the Iowa natural resources  
24 council, the state soil conservation committee, the department  
25 of soil conservation and the geological board, and the transfer  
26 of the powers and duties of the Iowa natural resources council  
27 to the department of land and water resources and the Iowa  
28 state commerce commission.

29 In the reorganization of the department of environmental  
30 quality, the four policy-making commissions and the executive  
31 committee are replaced by a single policy-making commission,  
32 the environmental quality commission. The new commission  
33 will consist of seven members appointed by the governor with  
34 consent of two-thirds of the membership of the senate for  
35 four-year, overlapping terms. In addition, administrative

1 duties currently assigned to the executive committee and the  
2 four commissions are assigned to the executive director.  
3 The commission remains the authority to determine the policy  
4 of the department, to adopt, amend or repeal rules, and to  
5 hear appeals from the decisions of the executive director.  
6 The bill also provides for the redistribution of the authority  
7 over agricultural chemicals between the departments of  
8 agriculture and environmental quality.

9 The powers and duties of the Iowa natural resources council  
10 are transferred to the department of land and water resources  
11 except for those powers relating to oil and gas wells which  
12 are transferred to the Iowa state commerce commission. A  
13 state land and water resources commission is created to serve  
14 as the policy-making and rule-making authority for the depart-  
15 ment. The commission shall have thirteen voting members  
16 appointed by the governor with consent of the senate for four-  
17 year overlapping terms and seven ex officio nonvoting members.  
18 Six members shall be persons engaged in actual farming opera-  
19 tions, six members shall be persons whose principal source  
20 of income is not from farming operations, and one member shall  
21 be representative of the mining industry. The six members  
22 who are engaged in actual farming operations shall serve as  
23 the board of each of the conservancy districts.

24 In addition to abolishing the geological board, the Iowa  
25 state commerce commission is granted the policy-making and  
26 rule-making authority to regulate oil and gas exploration  
27 and production. Under present law, the state geologist is  
28 the administrator of the rules and orders adopted by the Iowa  
29 natural resources council relating to oil and gas wells.

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SF 2216  
trj/slc/26b

SENATE FILE 2216

H-6157

- 1 Amend Senate File 2216 as amended and passed by  
2 the Senate as follows:  
3 1. Page 54, by striking from lines 31 and 32  
4 the words "or a designee of the director".

H-6157 FILED  
APRIL 20, 1978

BY EVANS of Grundy

SENATE FILE 2216

H-6195

- 1 Amend Senate File 2216 as follows:  
2 1. Page 4, line 6, by striking the words "or  
3 indirectly".  
4 2. Page 4, by adding after line 32 the follow-  
5 ing new unnumbered paragraph:  
6 "All rules shall be promulgated under the pro-  
7 cedures of chapter seventeen A (17A) with the added  
8 provision that upon a vote of two-thirds of its members  
9 the administrative rules review committee may delay  
10 the effective date of a rule, except a rule adopted  
11 pursuant to section seventeen A point four (17A.4),  
12 subsection two (2) of the Code, until the expiration  
13 of forty calendar days during which the general as-  
14 sembly has been in session. If at the expiration of  
15 that period the general assembly has not by concurrent  
16 resolution disapproved of the rule, it shall become  
17 effective. If a rule is disapproved by the general  
18 assembly, the rule shall not become effective.  
19 3. Page 5, by inserting after line 29 the fol-  
20 lowing:  
21 "10. Hear promptly all appeals from orders, is-  
22 suance of or revoking of permits, and other enforce-  
23 ment procedures of the director and affirm, reverse  
24 or amend such actions of the director."  
25 4. Page 7, line 14 by adding after the word  
26 "pollution" the words "exceeding allowable  
27 levels".  
28 5. Page 15, line 20, by inserting after the  
29 period the following:  
30 "However, exemptions or variances shall not be  
31 required for the presence of contaminants which are  
32 not harmful to human health.".

H-6195 FILED  
APRIL 21, 1978

BY WELDEN of Hardin

- 1 Amend Senate File 2216, as amended, passed and  
2 reprinted by the Senate, as follows:
- 3 1. Page 26, lines 16 and 17, by striking the words  
4 "~~soil-conservation land and water resources~~" and  
5 inserting in lieu thereof the words "soil and water  
6 conservation".
- 7 2. Page 26, lines 22 and 23, by striking the words  
8 "land and water resources" and inserting in lieu  
9 thereof the words "soil and water conservation".
- 10 3. Page 26, line 24, by striking the words "land  
11 and water resources" and inserting in lieu thereof  
12 the words "soil and water conservation".
- 13 4. Page 39, lines 32 and 33, by striking the words  
14 "land and water resources" and inserting in lieu  
15 thereof the words "soil and water conservation".
- 16 5. Page 40, lines 32 and 33, by striking the words  
17 "land and water resources" and inserting in lieu  
18 thereof the words "soil and water conservation".
- 19 6. Page 41, line 5, by striking the words "land  
20 and water resources" and inserting in lieu thereof  
21 the words "soil and water conservation".
- 22 7. Page 41, lines 18 and 19, by striking the words  
23 "land and water resources" and inserting in lieu  
24 thereof the words "soil and water conservation".
- 25 8. Page 41, lines 32 and 33, by striking the words  
26 "land and water resources" and inserting in lieu  
27 thereof the words "soil and water conservation".
- 28 9. Page 42, lines 5 and 6, by striking the words  
29 "LAND AND WATER RESOURCES" and inserting in lieu  
30 thereof the words "SOIL AND WATER CONSERVATION".
- 31 10. Page 42, line 9, by striking the words "land  
32 and water resources" and inserting in lieu thereof  
33 the words "soil and water conservation".
- 34 11. Page 42, line 11, by striking the words "land  
35 and water resources" and inserting in lieu thereof  
36 the words "soil and water conservation".
- 37 12. Page 42, line 18, by striking the words "land  
38 and water resources" and inserting in lieu thereof  
39 the words "soil and water conservation".
- 40 13. Page 42, line 31, by striking the words "land  
41 and water resources" and inserting in lieu thereof  
42 the words "soil and water conservation".
- 43 14. Page 48, line 16, by striking the words "land  
44 and water resources" and inserting in lieu thereof  
45 the words "soil and water conservation".
- 46 15. Page 48, line 30, by striking the words "land  
47 and water resources" and inserting in lieu thereof  
48 the words "soil and water conservation".
- 49 16. Page 48, line 31, by striking the words "land  
50 and water resources" and inserting in lieu thereof

- 1 the words "soil and water conservation".  
2 17. Page 50, line 19, by inserting after the word  
3 "~~conservation~~" the words "state soil and water  
4 conservation".  
5 18. Page 50, line 28, by inserting after the word  
6 "~~conservation~~" the words "state soil and water  
7 conservation".  
8 19. Page 51, line 16, by striking the words "land  
9 and water resources" and inserting in lieu thereof  
10 the words "soil and water conservation".  
11 20. Page 52, line 8, by striking the words "land  
12 and water resources" and inserting in lieu thereof  
13 the words "soil and water conservation".  
14 21. Page 53, line 29, by striking the words "land  
15 and water resources" and inserting in lieu thereof  
16 the words "soil and water conservation".  
17 22. Page 54, line 21, by striking the words "land  
18 and water resources" and inserting in lieu thereof  
19 the words "soil and water conservation".  
20 23. Page 54, lines 27 and 28, by striking the  
21 words "land and water resources" and inserting in  
22 lieu thereof the words "soil and water conservation".  
23 24. Page 54, line 29, by striking the words "land  
24 and water resources" and inserting in lieu thereof  
25 the words "soil and water conservation".  
26 25. Page 57, line 29, by striking the words "land  
27 and water resources" and inserting in lieu thereof  
28 the words "soil and water conservation".  
29 26. Page 79, lines 31 and 32, by striking the  
30 words "land and water resources" and inserting in  
31 lieu thereof the words "soil and water conservation".  
32 27. Page 79, line 33, by striking the words "land  
33 and water resources" and inserting in lieu thereof  
34 the words "soil and water conservation".  
35 28. Page 80, lines 6 and 7, by striking the words  
36 "land and water resources" and inserting in lieu  
37 thereof the words "soil and water conservation".  
38 29. Page 80, lines 10 and 11, by striking the  
39 words "land and water resources" and inserting in  
40 lieu thereof the words "soil and water conservation".  
41 30. Page 80, line 13, by striking the words "land  
42 and water resources" and inserting in lieu thereof  
43 the words "soil and water conservation".  
44 31. Page 85, line 9, by striking the words "land  
45 and water resources" and inserting in lieu thereof  
46 the words "soil and water conservation".  
47 32. Page 85, lines 16 and 17, by striking the  
48 words "land and water resources" and inserting in  
49 lieu thereof the words "soil and water conservation".  
50 33. Page 85, line 18, by striking the words "land

- 1 and water resources" and inserting in lieu thereof  
2 the words "soil and water conservation".
- 3 34. Page 89, lines 16 and 17, by striking the  
4 words "land and water resources" and inserting in  
5 lieu thereof the words "soil and water conservation".
- 6 35. Page 89, line 18, by striking the words "land  
7 and water resources" and inserting in lieu thereof  
8 the words "soil and water conservation".
- 9 36. Page 95, by striking lines 3 and 4 and insert-  
10 ing in lieu thereof the words "soil and water  
11 conservation commission or the department of soil  
12 and water conservation as provided in this Act."
- 13 37. Page 95, line 19, by striking the words "land  
14 and water resources" and inserting in lieu thereof  
15 the words "soil and water conservation".
- 16 38. Page 95, line 20, by striking the words "land  
17 and water resources" and inserting in lieu thereof  
18 the words "soil and water conservation".
- 19 39. Page 95, line 24, by striking the words "land  
20 and water resources" and inserting in lieu thereof  
21 the words "soil and water conservation".
- 22 40. Page 95, lines 27 and 28, by striking the  
23 words "land and water resources" and inserting in  
24 lieu thereof the words "soil and water conservation".
- 25 41. Page 96, line 5, by striking the words "land  
26 and water resources" and inserting in lieu thereof  
27 the words "soil and water conservation".
- 28 42. Page 96, lines 6 and 7, by striking the words  
29 "land and water resources" and inserting in lieu  
30 thereof the words "soil and water conservation".
- 31 43. Page 96, line 9, by striking the words "land  
32 and water resources" and inserting in lieu thereof  
33 the words "soil and water conservation".
- 34 44. Page 96, lines 17 and 18, by striking the  
35 words "land and water resources" and inserting in  
36 lieu thereof the words "soil and water conservation".
- 37 45. Page 96, lines 19 and 20, by striking the  
38 words "land and water resources" and inserting in  
39 lieu thereof the words "soil and water conservation".
- 40 46. Page 96, line 26, by striking the words "land  
41 and water resources" and inserting in lieu thereof  
42 the words "soil and water conservation".
- 43 47. By striking page 96, line 31 through page  
44 97, line 4 and inserting in lieu thereof the following:  
45 "Notwithstanding the qualifications of persons  
46 appointed to the state soil and water conservation  
47 commission as provided in section one hundred thirty-  
48 eight (138) of this Act, the governor shall appoint  
49 to the initial state soil and water conservation  
50 commission the six persons who are engaged in actual

1 farming operations and voting members of the state  
2 soil conservation committee at the time of their  
3 appointment, the person who is a representative of  
4 the mining industry and a voting member of the state  
5 soil conservation committee at the time of appointment,  
6 and six persons who are voting members of the Iowa  
7 natural resources council at the time of their  
8 appointment. The thirteen persons shall serve  
9 concurrently as members of the commission and the  
10 committee or the council until their respective terms  
11 of office as members of the committee or council shall  
12 expire as provided in this Act. After the initial  
13 appointments, the appointees to the state soil and  
14 water conservation commission shall be qualified as  
15 provided in section one hundred thirty-eight (138)  
16 of this Act."

17 48. Amend the title, by striking lines 5 through  
18 11 and inserting in lieu thereof the following: "a  
19 soil and water conservation commission; renaming the  
20 department of soil conservation as the department  
21 of soil and water conservation; transferring the  
22 powers and duties of the Iowa natural resources council  
23 and the state soil conservation committee to the  
24 department of soil and water conservation and the  
25 Iowa state commerce commission; abolishing the Iowa  
26 natural resources council, the state soil  
27 conservation".

1 Amend Senate File 2216 as follows:

2 1. Page 1, by inserting after line 5 the follow-  
3 ing:

4 "Sec. \_\_\_\_\_. Section four hundred fifty-five B  
5 point two (455B.2) is amended by striking the section  
6 and inserting in lieu thereof the following:

7 "455B.2 DEPARTMENT CREATED.

8 There is created a department of environmental  
9 quality. The commission shall appoint a director who  
10 shall serve at the pleasure of the commission and who  
11 shall in no event be a member of the commission. The  
12 director shall not hold any other office under the  
13 laws of the United States or of this or any other state  
14 or hold any other position for profit. The director  
15 shall not engage in any occupation, business, or pro-  
16 fession interfering with or inconsistent with his du-  
17 ties, serve on or under any committee of any political  
18 party or contribute to the campaign fund of any person  
19 or political party. The director shall be appointed  
20 on the basis of his executive and administrative abili-  
21 ties and he shall devote his entire time to the duties  
22 of his position.

23 The director shall receive a salary as fixed by  
24 the general assembly."."

25 2. Page 3, line 14 by striking the words "meet  
26 monthly and" and inserting in lieu thereof the follow-  
27 ing:

28 "hold regular meetings monthly or semi-monthly  
29 as they may determine,".

30 3. Page 3, by striking lines 21 through 27 and  
31 inserting in lieu thereof the following:

32 "NEW SUBSECTION. Each member of the commission  
33 shall receive a salary as fixed by the general as-  
34 sembly. Members of the commission shall be allowed  
35 their actual expenses incurred in the performance of  
36 their duties. All salaries and expenses paid to mem-  
37 bers shall be paid from funds appropriated to the  
38 department."

H-6371 FILED  
APRIL 27, 1978

BY WELDEN of Hardin  
MIDDLESWART of Warren  
MILLEN of Van Buren  
HULLINGER of Decatur  
DUNTON of Keokuk  
HARBOR of Mills  
WYCKOFF of Benton  
GILSON of Guthrie  
SCHROEDER of Pottawattamie  
LAGESCHULTE of Bremer  
EVANS of Grundy  
TOFTE of Winneshiek  
HANSEN of O'Brien  
DANKER of Pottawattamie  
PELLETT of Cass  
MENKE of O'Brien  
HALVORSON of Clayton  
DAGGETT of Adams  
WEST of Marshall

1 Amend Senate File 2216, as amended, passed and  
2 reprinted by the Senate, as follows:

3 1. Page 4, line 31, by striking the word and  
4 figures "January 1, 1980" and inserting in lieu thereof  
5 the word and figures "July 1, 1979".

6 2. Page 14, line 2, by striking the word and  
7 figures "January 1, 1980" and inserting in lieu thereof  
8 the word and figures "July 1, 1979".

9 3. Page 18, line 22, by striking the word and  
10 figures "January 1, 1980" and inserting in lieu thereof  
11 the word and figures "July 1, 1979".

12 4. Page 21, line 25, by striking the word and  
13 figures "January 1, 1980" and inserting in lieu thereof  
14 the word and figures "July 1, 1979".

15 5. Page 24, line 25, by striking the word and  
16 figures "January 1, 1980" and inserting in lieu thereof  
17 the word and figures "July 1, 1979".

18 6. Page 25, line 33, by striking the word and  
19 figures "January 1, 1980" and inserting in lieu thereof  
20 the word and figures "July 1, 1979".

21 7. Page 26, by striking lines 16 through 35 and  
22 inserting in lieu thereof the following: "commission,  
23 department of soil conservation, department of public  
24 defense, department of environmental quality, and  
25 Iowa natural resources council."

26 8. By striking page 27, line 1 through page 43,  
27 line 8.

28 9. By striking page 45, line 30 through page 52,  
29 line 10.

30 10. By striking page 53, line 12 through page  
31 86, line 2, and inserting in lieu thereof the  
32 following:

33 "Sec. \_\_\_\_ . Section four hundred fifty-five A point  
34 twenty-five (455A.25), subsection three (3), Code  
35 1977, is amended to read as follows:

36 3. Any person who diverts water or any material  
37 from the surface directly into any underground  
38 watercourse or basin. Provided, however, that any  
39 diversion of water or material from the surface  
40 directly into any underground watercourse or basin  
41 existing upon May 16, 1957, shall not require a permit  
42 if said diversion does not create waste or pollution.  
43 No permit shall be issued under this subsection until  
44 the approval of the ~~Iowa-water-pollution-control-~~  
45 ~~commission~~ department of environmental quality has  
46 been obtained."

47 11. Page 86, by striking lines 4 and 5 and insert-  
48 ing in lieu thereof the words and figures "(467D.6),  
49 subsection one (1), Code 1977, is amended to read  
50 as follows:".

1 12. Page 86, by striking lines 12 and 13 and  
2 inserting in lieu thereof the words "of the council  
3 and the ~~Flow-water-quality-commission~~ department of  
4 environmental quality, as necessary to achieve".

5 13. By striking page 86, line 15 through page  
6 91, line 4.

7 14. Page 91, line 12, by striking the words  
8 "~~commission~~ department" and inserting in lieu thereof  
9 the word "council".

10 15. Page 92, line 4, by striking the words "the  
11 commission" and inserting in lieu thereof the words  
12 "the council".

13 16. By striking page 92, line 6 through page 94,  
14 line 16, and inserting in lieu thereof the following:

15 "Sec. \_\_\_\_\_. Sections".

16 17. By striking page 94, line 25 through page  
17 97, line 18 and inserting in lieu thereof the  
18 following:

19 "Sec. \_\_\_\_\_. PRIOR ACTIONS. Any rule adopted or  
20 approval given under section four hundred twenty-seven  
21 point one (427.1), subsection thirty-two (32), of  
22 the Code, before the effective date of this Act, by  
23 air quality commission or the water quality commission  
24 of the department of environmental quality shall  
25 remain effective until modified or rescinded by action  
26 of the department of environmental quality as provided  
27 in this Act.

28 Sec. \_\_\_\_\_. EFFECTIVE DATE--TRANSITION. The  
29 effective date of this Act shall be July 1, 1979,  
30 except that after January 1, 1979, the governor may  
31 appoint the members of the environmental quality  
32 commission, authorize the environmental quality  
33 commission to organize as provided in this Act, and  
34 authorize the department of environmental quality  
35 to plan for the transfer of powers, duties, records  
36 and other property as provided in this Act. The terms  
37 of persons appointed to the initial environmental  
38 quality commission for four-year terms shall commence  
39 July 1, 1979 and end June 30, 1983, and the terms  
40 of persons initially appointed for two-year terms  
41 shall commence July 1, 1979 and end June 30, 1981.  
42 Such persons may be reappointed as provided in this  
43 Act. The members of the environmental quality  
44 commission authorized to meet before July 1, 1979,  
45 may be paid per diem and necessary expenses from funds  
46 appropriated to the department of environmental  
47 quality.

48 The terms of office of the members of the executive  
49 committee, the water quality commission, air quality  
50 commission, solid waste disposal commission and the

1 chemical technology commission of the department of  
2 environmental quality, which committee and commissions  
3 are abolished by this Act, shall expire on June 30,  
4 1979."

5 18. By renumbering sections to conform to this  
6 amendment.

7 19. Amend the title, by striking lines 1 through  
8 21 and inserting in lieu thereof the following: "An  
9 Act relating to the regulation of the environmental  
10 quality of the state, by reorganizing the department  
11 of environmental quality; creating an environmental  
12 quality commission; abolishing the executive committee,  
13 air quality commission, water quality commission,  
14 solid waste disposal commission and the chemical  
15 technology commission; redistributing the authority  
16 over agricultural chemicals between the department  
17 of environmental quality and the department of  
18 agriculture; and subjecting violators to penalties."

H-6370 FILED  
APRIL 27, 1978 .

BY WELDEN of Hardin  
MIDDLESWART of Warren  
MILLEN of Van Buren  
HULLINGER of Decatur  
DUNTON of Keokuk  
HARBOR of Mills  
WYCKOFF of Benton  
GILSON of Guthrie  
SCHROEDER of Pottawattamie  
LAGESCHULTE of Bremer  
EVANS of Grundy  
TOFTE of Winneshiek  
HANSEN of O'Brien  
DANKER of Pottawattamie  
PELLETT of Cass  
MENKE of O'Brien  
HALVORSON of Clayton  
DAGGETT of Adams  
WEST of Marshall

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SENATE FILE 2216

H-6399

1 Amend Senate File 2216, as passed by the Senate  
2 and reprinted, as follows:  
3 1. Page 4, by striking line 2 through 4 and  
4 inserting in lieu thereof the following: "commission.  
5 A".

H-6399 FILED  
APRIL 29, 1978

BY MIDDLESWART of Warren  
WELDEN of Hardin

## SENATE FILE 2216

H-6231

1 Amend Senate File 2216, as amended, passed and  
2 reprinted by the Senate, as follows:

3 1. Page 63, line 19, by inserting after the word  
4 "state." the following: "The rules shall include  
5 thresholds for dimensions and effects, and any  
6 structure, dam, obstruction, deposit, or excavation  
7 having smaller dimensions and effects than those  
8 established by the commission shall be lawful and  
9 not subject to regulation under this section. The  
10 thresholds shall be such that only those structures,  
11 dams, obstructions, deposits, or excavations posing  
12 a significant threat to the well-being of the public  
13 and the environment shall be subject to regulation."

14 2. Page 65, line 7, by inserting after the word  
15 "commission." the following: "The director shall  
16 provide the commission with copies of the application  
17 and an opportunity for the commission to call up the  
18 application for its determination. The director or  
19 the commission, after investigation or a public hearing  
20 if there is an objection to the proposed project,  
21 shall determine the fact and approve or disapprove  
22 the application imposing such conditions and terms  
23 as the director or the commission may prescribe.  
24 A determination of the director may be appealed to  
25 the commission by any aggrieved party."

26 3. Page 65, lines 8 and 9, by striking the words  
27 "upon appeal".

28 4. Page 65, line 17, by inserting after the word  
29 "commission." the following: "When considering an  
30 application to straighten a stream, the director or  
31 the commission may establish as a condition of approval  
32 a permanent prohibition against tillage of land owned  
33 by the person receiving the approval and lying within  
34 some minimum distance from the stream sufficient  
35 in the judgment of the director or the commission  
36 to hold soil erosion to reasonable limits. The  
37 director shall record the prohibition in the office  
38 of county recorder of the appropriate county and the  
39 prohibition shall attach to the land."

40 5. Page 70, line 29, by inserting after the word  
41 "cause." the following: "All existing storage permits  
42 are extended for the life of the structure unless  
43 withdrawn for good cause."

44 6. Page 71, line 35, by inserting after the word  
45 "purposes" the words ", except special permits,".

46 7. Page 76, by striking lines 27 and 28 and insert-  
47 ing in lieu thereof the following: "shall be followed.  
48 Special permits issued after the effective date of  
49 this Act shall terminate on July 1, 1981. The  
50 termination date of all existing special permits is

1 extended to July 1, 1981."

2 8. Page 77, line 22, by inserting after the word  
3 "state" the words "by any person including a landowner,  
4 tenant, agent, contractor or builder,".

5 9. Page 78, line 24, by inserting after the word  
6 "department." the following: "The director may also  
7 abate as a public nuisance any structure, dam,  
8 obstruction, deposit, or excavation erected or made  
9 without a permit required by this chapter within one  
10 year of cessation of construction. The costs of the  
11 abatement shall be borne by the violator."

12 10. Page 79, line 21, by striking the word  
13 "PENALTY" and inserting in lieu thereof the words  
14 "PENALTIES--CRIMINAL AND CIVIL.

15 1."

16 11. Page 79, line 22, by inserting after the word  
17 "nuisance" the words ", who violates a prohibition  
18 against tillage,".

19 12. Page 79, by inserting after line 26 the follow-  
20 ing:

21 "2. a. Any person who is required by law to have  
22 a permit and who withdraws water without permit or  
23 in violation of a permit condition and who does not  
24 take corrective measures as required by the department  
25 after written notice delivered by personal service  
26 or restricted mail that violation is being committed,  
27 shall be subject to a civil penalty of not more than  
28 one thousand dollars for the violation and an  
29 additional penalty of not more than one hundred dollars  
30 for each day that such violation continues after  
31 notice of the offense is received.

32 b. Any person who is required to obtain prior  
33 approval and who constructs a levee or dam or alters  
34 a stream channel without prior approval or in violation  
35 of a condition of an approval order and who fails  
36 to take corrective measures as required by the  
37 department within the time specified following a  
38 written notice to such person by personal service  
39 or restricted mail of such violation and needed  
40 corrective measures, shall be subject to a civil  
41 penalty of not more than one thousand dollars for  
42 the violation and an additional penalty of not more  
43 than one hundred dollars for each day that such  
44 violation continues after the expiration of the time  
45 fixed by the department for the completion of the  
46 corrective measures.

47 3. a. The attorney general shall bring an action  
48 to impose criminal or civil penalties at the request  
49 of the commission or the director. The action may  
50 be settled by the attorney general with the approval

Page 3

1 of the commission or the director after proceedings  
2 are brought to impose the penalty and prior to entry  
3 of judgment.

4 b. The civil penalties provided for in this section  
5 shall be an alternative to any criminal penalty for  
6 this section."

H-6350

1 Amend Senate File 2216, as amended, passed and  
2 reprinted by the Senate, as follows:  
3 1. By striking page 2, line 26 through page 3,  
4 line 11 and inserting in lieu thereof the following:  
5 "1. There is created an environmental quality  
6 commission consisting of seven members, not more than  
7 four of whom shall be from the same political party,  
8 and six ex officio, nonvoting members. The ex officio,  
9 nonvoting members shall include the state geologist,  
10 the director of the state hygienic laboratory, the  
11 state conservation director, the director of the  
12 department of land and water resources, the  
13 commissioner of public health, and the secretary of  
14 agriculture, or their respective designees. The  
15 voting members shall be appointed by the governor  
16 with the consent of two-thirds of the members of the  
17 senate. Each voting member of the commission shall  
18 be an elector of the state, and have interest and  
19 knowledge of the subjects embraced in this chapter.  
20 The voting members of the commission shall be appointed  
21 to four-year terms of office commencing July 1, 1979,  
22 except that three members appointed to the initial  
23 commission shall be appointed to a two-year term.  
24 Thereafter, all appointments shall be for four years.  
25 Vacancies occurring during a term of office shall  
26 be filled by appointment for the balance of the  
27 unexpired term subject to the consent of two-thirds  
28 of the members of the senate. Any vacancy on the  
29 commission occurring while the general assembly is  
30 not in session shall be filled by appointment by the  
31 governor which appointment shall expire thirty days  
32 after the general assembly next convenes. Within  
33 the thirty-day period, the governor shall transmit  
34 an appointment to the senate. A voting commission  
35 member shall not be appointed to serve more than two  
36 consecutive four-year terms."

H-6350 FILED  
APRIL 26, 1978

BY PELLETT of Cass  
HUSAK of Tama  
WYCKOFF of Benton  
DAGGETT of Adams  
HINKHOUSE of Cedar  
EVANS of Grundy