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SENATE FILE 205

BY COMMITTEE ON STATE GOVERNMENT

Passed Senate, Date 2-15-79 (p. 467) Passed House, Date _____
Vote: Ayes 40 Nays 8 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, by
3 reorganizing the department of environmental quality;
4 creating an environmental quality commission; transferring
5 the powers and duties of the executive committee, air
6 quality commission, water quality commission, solid waste
7 disposal commission and the chemical technology commission
8 to the environmental quality commission; redistributing
9 the authority over agricultural chemicals between the
10 departments of agriculture and environmental quality;
11 abolishing the geology board and amending provisions of
12 chapter three hundred five (305) of the Code relating to
13 the duties of the state geologist and expense reimbursement
14 for the state geologist and employees of the geological
15 survey; making coordinating amendments to the Code; and
16 subjecting violators to penalties.

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

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1 Section 1. Section four hundred fifty-five B point one
2 (455B.1), subsection three (3), Code 1979, is amended by
3 striking the subsection and inserting in lieu thereof the
4 following:

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

7 Sec. 2. Section four hundred fifty-five B point three
8 (455B.3), subsections one (1), two (2), three (3), four (4),
9 five (5), and six (6), Code 1979, are amended to read as fol-
10 lows:

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

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

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

20 4. Perform other duties assigned by the ~~executive-eom-~~
21 ~~mittee~~ commission.

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

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

1 services required to carry out the programs and services
2 assigned to the department.

3 Sec. 3. Section four hundred fifty-five B point three
4 (455B.3), subsection eight (8), unnumbered paragraph one (1),
5 Code 1979, is amended to read as follows:

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

15 Sec. 4. Section four hundred fifty-five B point three
16 (455B.3), subsection eight (8), paragraph d, subparagraph
17 two (2), Code 1979, is amended to read as follows:

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

22 Sec. 5. Section four hundred fifty-five B point three
23 (455B.3), unnumbered paragraph two (2), Code 1979, is amended
24 to read as follows:

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

30 Sec. 6. Section four hundred fifty-five B point three
31 (455B.3), Code 1979, is amended by adding the following new
32 subsections:

33 NEW SUBSECTION. Accept, receive and administer grants
34 or other funds or gifts from public or private agencies, in-
35 cluding the federal government, for the abatement, prevention,

1 or control of pollution, or other environmental programs,
2 subject to the approval of the commission.

3 NEW SUBSECTION. Represent the state in all matters per-
4 taining to plans, procedures, negotiations, and agreements
5 for interstate compacts relating to the control of pollution
6 or the protection or enhancement of the environment.

7 Sec. 7. Section four hundred fifty-five B point four
8 (455B.4), Code 1979, is amended by striking the section and
9 inserting in lieu thereof the following:

10 455B.4 ENVIRONMENTAL QUALITY COMMISSION.

11 1. There is created an environmental quality commission
12 consisting of seven members, not more than four of whom shall
13 be from the same political party. The members shall be
14 appointed by the governor with the consent of two-thirds of
15 the members of the senate. Each member of the commission
16 must be an elector of the state, and have interest and
17 knowledge of the subjects embraced in this chapter. The
18 members of the commission shall be appointed to four-year
19 terms of office commencing July 1, 1979, except that three
20 members appointed to the initial commission shall be appointed
21 to a two-year term. Thereafter, all appointments shall be
22 for four years. Vacancies occurring during a term of office
23 shall be filled by appointment for the balance of the unexpired
24 term subject to the consent of two-thirds of the members of
25 the senate. A vacancy on the commission occurring while the
26 general assembly is not in session shall be filled by
27 appointment of the governor which appointment shall expire
28 thirty days after the general assembly next convenes. Within
29 the thirty-day period, the governor shall transmit an appoint-
30 ment to the senate. A commission member shall not be appointed
31 to serve more than two consecutive four-year terms.

32 2. The commission shall organize annually with the elec-
33 tion of a chairperson and vice chairperson. The commission
34 shall meet monthly and at the call of the chairperson or upon
35 written request of a majority of the members of the commission.

1 The executive director shall attend the meetings of the
2 commission and act as secretary to the commission.

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

7 4. The members of the commission who are not in the full-
8 time employment of a public agency shall be paid a per diem
9 of forty dollars while engaged in the performance of the
10 duties of office. Members shall be reimbursed for their
11 actual and necessary expenses while performing such duties.
12 Per diem and expenses paid to members shall be paid from funds
13 appropriated to the department.

14 5. The members of the commission shall represent the
15 public interest and at least a majority of the commission
16 membership shall not derive income from persons subject to
17 permits or enforcement orders under this chapter. A potential
18 conflict of interest by a commission member shall be
19 immediately disclosed to the commission and the department.
20 In the case of conflict of interest, the commission member
21 involved shall immediately withdraw from consideration of
22 the issuance of a permit or enforcement action by the
23 commission and shall not express an opinion on the matter
24 to any other commission member involved in the consideration
25 of the issuance of the permit or enforcement action. A
26 "conflict of interest" arises when a commission member re-
27 ceives directly or indirectly personal income from a person
28 subject to permit or enforcement action pending before the
29 commission.

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

1 of the commission.

2 Sec. 8. Section four hundred fifty-five B point five
3 (455B.5), Code 1979, is amended by striking the section and
4 inserting in lieu thereof the following:

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

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

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

15 3. Adopt, modify, or repeal rules necessary to implement
16 the programs assigned to it and the rules deemed necessary
17 for the effective administration of the department. The rules
18 shall include departmental policy relating to the disclosure
19 of information on a violation or alleged violation of the
20 rules, standards, permits or orders issued by the department
21 and keeping of confidential information obtained by the
22 department in the administration and enforcement of the
23 provisions of this chapter. Rules adopted by the executive
24 committee before January 1, 1980 shall remain effective until
25 modified or rescinded by action of the commission.

26 4. Approve the departmental budget request prior to
27 submission to the state comptroller. The commission may in-
28 crease, decrease, or strike any proposed expenditure within
29 the departmental budget request before granting approval.

30 5. Issue orders and directives necessary to insure in-
31 tegration and coordination of the programs administered by
32 the department.

33 6. Make a concise annual report to the governor and the
34 general assembly, which report shall contain information re-
35 lating to the accomplishments and status of the programs ad-

1 ministered by the department and include recommendations for
2 legislative action which may be required to protect or enhance
3 the environment or to modernize the operation of the department
4 or any of the programs or services assigned to the department
5 and recommendations for the transfer of powers and duties
6 of the department as deemed advisable by the commission.
7 The annual report shall conform to the provisions of section
8 seventeen point three (17.3) of the Code.

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

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

14 9. Hold public hearings, except when the evidence to be
15 received is confidential pursuant to this chapter or chapter
16 sixty-eight A (68A) of the Code, necessary to carry out its
17 powers and duties. The commission may issue subpoenas
18 requiring the attendance of witnesses and the production of
19 evidence pertinent to the hearings. A subpoena shall be
20 issued and enforced in the same manner as provided in civil
21 actions.

22 10. Upon request of at least four members of the com-
23 mission before adopting or modifying a rule, the executive
24 director shall prepare and publish with the notice required
25 under section seventeen A point four (17A.4), subsection one
26 (1), paragraph a of the Code, a statement of the economic
27 impact of the proposed rule or modification.

28 Sec. 9. Section four hundred fifty-five B point six
29 (455B.6), Code 1979, is amended by striking the section and
30 inserting in lieu thereof the following:

31 455B.6 APPEAL BOARD. In lieu of an appeal being heard
32 by the full membership of the commission, the chairperson
33 of the commission may appoint an appeal board consisting of
34 one or more members of the commission or a hearing officer
35 to conduct a hearing on the appeal of an aggrieved person

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

3 Sec. 10. Section four hundred fifty-five B point nine
4 (455B.9), Code 1979, is amended to read as follows:

5 455B.9 OFFICE FACILITIES. The ~~executive-council~~ de-
6 partment of general services shall provide the department
7 with appropriate office facilities.

8 Sec. 11. Section four hundred fifty-five B point ten
9 (455B.10), subsection six (6), Code 1979, is amended by
10 striking the subsection.

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

15 Sec. 13. Section four hundred fifty-five B point thirteen
16 (455B.13), subsection three (3), paragraph c, Code 1979, is
17 amended to read as follows:

18 c. Upon denial of such a permit, the applicant shall be
19 notified of such denial and informed of the reason or rea-
20 sons therefor, and such applicant shall be entitled to a hear-
21 ing before the commission ~~as provided in section 455B.12,~~
22 ~~subsection-6.~~

23 Sec. 14. Section four hundred fifty-five B point thirteen
24 (455B.13), subsection six (6), Code 1979, is amended by
25 striking the subsection.

26 Sec. 15. Section four hundred fifty-five B point thirteen
27 (455B.13), Code 1979, is amended by adding the following
28 new subsections:

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

35 NEW SUBSECTION. Issue orders necessary to cause the

1 abatement or control of air pollution. In making the orders,
2 the executive director shall consider the facts and circum-
3 stances bearing upon the reasonableness of the emissions in-
4 volved, including but not limited to, the character and degree
5 of injury to, or interference with, the protection of health
6 and the physical property of the public, the practicability
7 of reducing or limiting the emissions from the air pollution
8 source, and the suitability or unsuitability of the air pollu-
9 tion source to the area where it is located. An order may
10 include advisory recommendations for the control of emissions
11 from an air contaminant source and the reduction of the emis-
12 sion of air contaminants.

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

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

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

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

31 Sec. 16. Section four hundred fifty-five B point seventeen
32 (455B.17), Code 1979, is amended by striking the section and
33 inserting in lieu thereof the following:

34 455B.17 RESOLUTION OF VIOLATIONS--APPEAL.

35 1. When the executive director has evidence that a

1 violation of any provision of division two (II) of this
2 chapter, or rule, standard or permit established or issued
3 under division two (II) of this chapter has occurred, the
4 executive director shall notify the alleged violator and,
5 by informal negotiation, attempt to resolve the problem.
6 If the negotiations fail to resolve the problem within a
7 reasonable period of time, the executive director shall issue
8 an order directing the violator to prevent, abate or control
9 the emissions or air pollution involved. The order shall
10 prescribe the date by which the violation shall cease and
11 may prescribe timetables for necessary action to prevent,
12 abate or control the emissions of air pollution. The order
13 may be appealed to the commission.

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

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

22 4. An appeal to the commission under this section shall
23 be conducted as a contested case under chapter seventeen A
24 (17A) of the Code.

25 Sec. 17. Section four hundred fifty-five B point eighteen
26 (455B.18), Code 1979, is amended to read as follows:

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

1 service. An emergency order issued by ~~the-commission-or~~ the
2 executive director ~~shall-be-effective-immediately-and-binding~~
3 ~~until-reviewed-by-the-commission-at-a-public-hearing-or~~
4 ~~modified-or-rescinded-by-a-district-court~~ may be appealed
5 to the commission. After hearing on appeal, the commission
6 may affirm, modify or rescind the order of the executive
7 director.

8 Sec. 18. Section four hundred fifty-five B point twenty
9 (455B.20), Code 1979, is amended to read as follows:

10 455B.20 LEGAL ACTION. If action to prevent, control,
11 or abate air pollution is not taken in accordance with the
12 rules established, or orders issued by the ~~commission~~ depart-
13 ment, or if ~~the-commission-or~~ the executive director has evi-
14 dence that an emergency exists by reason of air pollution
15 which requires immediate action to protect the public health
16 or property, the attorney general, at the request of ~~the-com-~~
17 ~~mission-or~~ the executive director, shall commence legal ac-
18 tion, in the name of the state, for an injunction to prevent
19 any further or continued violation of such rule or order.
20 ~~In-an-action-for-an-injunction,-any-previous-findings-of-the~~
21 ~~commission,-after-due-notice-and-hearing,-shall-be-prima-facie~~
22 ~~evidence-of-the-fact-or-facts-found-therein.~~

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

25 455B.21 BURDEN OF PROOF. In all proceedings with respect
26 to any alleged violation of the provisions of this division
27 II or any rule established by the commission, the burden of
28 proof shall be upon the ~~commission~~ department except in an
29 action for an injunction as provided in section 455B.20.

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

32 455B.22 VARIANCE. Any person who owns or operates any
33 plant, building, structure, process, or equipment may apply
34 for a variance from the rules or standards ~~governing-the~~
35 ~~quality,-nature,-duration,-or-extent-of-emissions~~ adopted

1 by the commission by filing an application with the department.

2 The application shall be accompanied by such information and
3 data required by the commission.

4 1. The executive director shall promptly investigate
5 the application and ~~recommend to the commission the dis-~~
6 ~~position of such~~ approve or disapprove the application. The
7 ~~commission~~ executive director may grant a variance if ~~it~~ the
8 executive director finds that:

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

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

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

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

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

1 tive director.

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

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

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

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

24 a. Ordinances, rules and standards establishing re-
25 quirements consistent with, or more strict than, those imposed
26 by this division II or rules and standards adopted by the
27 commission.

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

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

33 d. Location of emission monitoring devices in areas of
34 the political subdivision in compliance with uniform state
35 standards adopted by the commission. The commission shall

1 adopt uniform state standards for the location of emission
2 monitoring devices specifying such intervals and such
3 procedures to provide a reasonably consistent measurement
4 of emissions from air contaminant sources regardless of the
5 political subdivision of the state in which the sources may
6 be located.

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

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

13 b. The executive director shall promptly investigate the
14 application and ~~recommend-the-disposition-of-such~~ approve
15 or disapprove the application ~~to-the-commission~~. The
16 ~~commission~~ executive director may conduct a public hearing
17 before action is taken ~~on-the-recommendation~~ to approve or
18 disapprove. If the ~~recommendation-is-against~~ executive
19 director disapproves issuing a certificate, the political
20 subdivision shall ~~be-entitled-to-a-public-hearing-as-provided~~
21 ~~in-section-455B-17~~ may appeal the action to the commission.

22 At the ~~public~~ hearing on appeal, the commission shall decide
23 whether the local program is substantially consistent with
24 the provisions of this division II, or rules adopted
25 thereunder, and whether the local program is being enforced.
26 The burden of proof shall be upon the political subdivision.

27 c. If the ~~commission~~ executive director determines at
28 any time that a local air pollution program is being con-
29 ducted in a manner inconsistent with the substantive provi-
30 sions of this division II or the rules adopted thereunder,
31 the ~~commission~~ executive director shall notify the political
32 subdivision, citing the deviations from the acceptable
33 standards and the corrective measures to be completed within
34 a reasonable amount of time. If the corrective measures are
35 not implemented as prescribed, the ~~commission~~ executive

1 director shall suspend in whole or in part the certificate
2 of acceptance of such political subdivision and shall
3 administer the regulatory provisions of said division in whole
4 or in part within the political subdivision until the ap-
5 propriate standards are met. Upon receipt of evidence that
6 necessary corrective action has been taken, the ~~commission~~
7 executive director shall reinstate the suspended certificate
8 of acceptance, and the political subdivision shall resume
9 the administration of the local air pollution control program
10 within its jurisdiction. In cases where the certificate of
11 acceptance is suspended, the political subdivision ~~is entitled~~
12 ~~to a public hearing as provided in section 455B.17~~ may appeal
13 the suspension to the commission.

14 d. Nothing in this division II shall be construed to
15 supersede the jurisdiction of any local air pollution control
16 program in operation on the first of January, 1973, except
17 that any such program shall meet all requirements of said
18 division.

19 Sec. 22. Section four hundred fifty-five B point twenty-
20 five (455B.25), Code 1979, is amended to read as follows:

21 455B.25 CIVIL ACTION FOR COMPLIANCE. If any order ~~or~~
22 rule or permit of the ~~commission~~ department is being violated,
23 the attorney general shall, at the request of ~~the commission~~
24 ~~or~~ the executive director with the approval of the commission,
25 institute a civil action in any district court for injunctive
26 relief to prevent any further violation of such order or rule,
27 or for the assessment of a ~~fine~~ civil penalty as determined
28 by the court, not to exceed five hundred dollars per day for
29 each day such violation continues, or both such injunctive
30 relief and ~~fine~~ civil penalty.

31 Sec. 23. Section four hundred fifty-five B point twenty-
32 six (455B.26), Code 1979, is amended by striking the section
33 and inserting in lieu thereof the following:

34 455B.26 FAILURE--PROCEDURE.

35 1. If the executive director fails to take action within

1 sixty days after an application for a variance is made, or
2 if the commission fails to enter a final order or determination
3 within sixty days after the final argument in a hearing on
4 appeal, the person seeking the action may treat the failure
5 to act as a grant of the requested variance, or of a finding
6 favorable to the respondent in a hearing on appeal, as the
7 case may be.

8 2. If the executive director fails to take action with-
9 in one hundred twenty days after an application for an instal-
10 lation permit is made, or if the commission fails to enter
11 a final order or determination within sixty days after the
12 final argument in a hearing on appeal, the person seeking
13 the action may treat the failure to act as a grant of the
14 requested permit, or of a finding favorable to the respondent
15 in a hearing on appeal, as the case may be.

16 3. The section shall not apply to an application for a
17 conditional permit for an electrical power generating facility
18 subject to chapter four hundred seventy-six A (476A) of the
19 Code.

20 Sec. 24. Section four hundred fifty-five B point twenty-
21 nine (455B.29), Code 1979, is amended to read as follows:

22 455B.29 PRIOR RULES. Any rule adopted or order or variance
23 issued under chapter 136B of prior Codes by the Iowa air
24 pollution control commission or by the state department of
25 health or under division two (II) of this chapter by the air
26 quality commission before January 1, 1980, shall remain
27 effective until modified or rescinded by action of the ~~air~~
28 ~~quality~~ commission unless ~~such~~ the rule is inconsistent or
29 contrary to this division II.

30 Sec. 25. Section four hundred fifty-five B point thirty
31 (455B.30), subsection eleven (11), Code 1979, is amended by
32 striking the subsection.

33 Sec. 26. Section four hundred fifty-five B point thirty-
34 two (455B.32), subsection six (6), Code 1979, is amended by
35 striking the subsection.

1 Sec. 27. Section four hundred fifty-five B point thirty-
2 two (455B.32), subsection ten (10), Code 1979, is amended
3 to read as follows:

4 10. Adopt a statewide plan for the provision of safe
5 drinking water under emergency circumstances. All public
6 agencies, as defined in chapter 28E, shall ~~co-operate~~ cooperate
7 in the development and implementation of the plan. The plan
8 shall detail the manner in which the various state and local
9 agencies shall participate in the response to an emergency.
10 The department may enter into any agreement, subject to ~~section~~
11 455B-7 approval of the commission, with any state agency or
12 unit of local government or with the federal government which
13 may be necessary to establish the role of such agencies in
14 regard to the plan. This plan shall be ~~co-ordinated~~
15 coordinated with ~~civil-defense~~ disaster emergency plans.

16 Sec. 28. Section four hundred fifty-five B point thirty-
17 four (455B.34), subsection three (3), Code 1979, is amended
18 to read as follows:

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

22 Sec. 29. Section four hundred fifty-five B point forty-
23 two (455B.42), Code 1979, is amended to read as follows:

24 455B.42 VARIANCES AND EXEMPTIONS. The ~~commission~~ executive
25 director may, after public notice and hearing, grant exemptions
26 from a maximum contaminant level or treatment technique, or
27 both. The ~~commission~~ executive director may also grant a
28 variance from drinking water standards for public water supply
29 systems when the characteristics of the raw water sources,
30 which are available to a system, cannot meet the requirements
31 with respect to maximum contaminant level of ~~such~~ the standards
32 despite application of the best treatment techniques which
33 are generally available and ~~provided that if~~ the commission
34 executive director determines that the variance will not
35 result in an unreasonable risk to the public health. A

1 schedule of compliance may be prescribed by the ~~commission~~
2 executive director, at the time the variance or exemption
3 is granted. The ~~commission~~ executive director shall also
4 require ~~such~~ the interim measures to minimize the contaminant
5 levels of systems subject to the variance or exemption as
6 may reasonably be implemented. The executive director may
7 also issue variances from other rules of the commission if
8 necessary and appropriate. The denial of a variance or
9 exemption may be appealed to the commission.

10 Sec. 30. Section four hundred fifty-five B point forty-
11 nine (455B.49), subsection four (4), Code 1979, is amended
12 to read as follows:

13 4. The attorney general shall, at the request of the
14 ~~commission-or~~ the executive director with approval of the
15 commission, institute any legal proceedings, including an
16 action for an injunction or a temporary injunction, necessary
17 to enforce the penalty provisions of part 1 of division III
18 of this chapter or to obtain compliance with the provisions
19 of part 1 of division III of this chapter or any rules
20 promulgated or any provision of any permit issued under part
21 1 of division III of this chapter. In any such action, any
22 previous findings of fact of the executive director or the
23 commission after notice and hearing shall be conclusive if
24 supported by substantial evidence in the record when the
25 record is viewed as a whole.

26 Sec. 31. Section four hundred fifty-five B point fifty
27 (455B.50), subsection two (2), Code 1979, is amended by
28 striking the subsection.

29 Sec. 32. Section four hundred fifty-five B point fifty-
30 two (455B.52), subsection three (3), paragraph b, Code 1979,
31 is amended to read as follows:

32 b. Information relating to the contents of the examina-
33 tion to persons other than members of a board of certifica-
34 tion of another state or their employees or an employee of
35 the department.

1 Sec. 33. Section four hundred fifty-five B point fifty-
2 eight (455B.58), Code 1979, is amended to read as follows:
3 455B.58 DURATION. Certificates shall continue in ef-
4 fect from the date of issuance until the following June 30
5 thirtieth unless sooner revoked by the ~~executive-director~~
6 board, but such certificates shall remain the property of
7 the department and the certificate shall so state. The fee
8 for issuance of certificates as determined under section
9 455B.61 shall be prorated on a quarterly basis for any original
10 certificate issued for a period of less than twelve months.
11 A person who fails to renew a certificate by June 30 thirtieth
12 following its issuance shall be allowed to do so by July 31
13 thirty-first, but the executive director may assess a
14 reasonable penalty as established by rule of the commission.

15 Sec. 34. Section four hundred fifty-five B point fifty-
16 nine (455B.59), Code 1979, is amended to read as follows:
17 455B.59 REVOCATION OR SUSPENSION. The board may suspend
18 or revoke the certificate of an operator, following a hearing
19 before the board, when the operator is found guilty of the
20 following acts or offenses:

- 21 1. Fraud in procuring a license.
- 22 2. Professional incompetency.
- 23 3. Knowingly making misleading, deceptive, untrue or
24 fraudulent representations in the practice of his or her
25 profession or engaging in unethical conduct or practice harm-
26 ful or detrimental to the public. Proof of actual injury
27 need not be established.
- 28 4. Habitual intoxication or addiction to the use of drugs.
- 29 5. Conviction of a felony related to the profession or
30 occupation of the licensee, or the conviction of any felony
31 that would affect his or her ability to operate a water
32 treatment or wastewater treatment plant. A copy of the record
33 of conviction or plea of guilty shall be conclusive evidence.
- 34 6. Fraud in representation as to skill or ability.
- 35 7. Use of untruthful or improbable statements in ad-

1 vertisements.

2 8. Willful or repeated violations of ~~this Act~~ division
3 three (III) of this chapter.

4 Sec. 35. Section four hundred fifty-five B point sixty
5 (455B.60), subsection two (2), Code 1979, is amended to read
6 as follows:

7 2. A certificate of proper classification shall be issued
8 without examination to any operator who, prior to January
9 1, 1973, held a valid certificate to operate a particular
10 treatment plant or water distribution system. The certificate
11 so issued shall be valid only for that particular treatment
12 plant or system and shall remain in effect indefinitely unless
13 ~~revoked by the executive director~~ as provided in section
14 455B.59.

15 Sec. 36. Section four hundred fifty-five B point sixty-
16 two (455B.62), Code 1979, is amended to read as follows:

17 455B.62 RULES. The commission, with the advice of the
18 board, may promulgate such rules as are necessary to carry
19 out the provisions of this part 2 of division III. ~~The rules~~
20 ~~established shall be subject to the provisions of section~~
21 ~~455B-7, subsection 3.~~

22 Sec. 37. Section four hundred fifty-five B point sixty-
23 seven (455B.67), subsection two (2), Code 1979, is amended
24 by striking the subsection.

25 Sec. 38. Section four hundred fifty-five B point sixty-
26 seven (455B.67), subsection four (4), Code 1979, is amended
27 to read as follows:

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

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

32 b. Which is, in the judgment of the ~~commission~~ executive
33 director, eligible for federal pollution abatement assistance,
34 whether or not federal funds are then available for such
35 purpose. Eligible projects shall be those which the

1 construction contract therefor shall have been entered into
2 subsequent to July 1, 1966.

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

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

7 Sec. 39. Section four hundred fifty-five B point sixty-
8 eight (455B.68), Code 1979, is amended to read as follows:

9 455B.68 GRANTS OF ASSISTANCE. The ~~commission~~ executive
10 director may make grants as funds are available to any
11 municipality to assist such municipality in the construction
12 of sewage treatment works.

13 Sec. 40. Section four hundred fifty-five B point sixty-
14 nine (455B.69), unnumbered paragraphs one (1) and two (2),
15 Code 1979, are amended to read as follows:

16 The ~~commission~~ executive director shall accept and ad-
17 minister all funds granted by the state pursuant to this part
18 3 of division III.

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

21 Sec. 41. Section four hundred fifty-five B point seventy
22 (455B.70), Code 1979, is amended to read as follows:

23 455B.70 CONTRACTS. The ~~commission~~ executive director
24 may, in the name of the state, contract with any municipality
25 concerning eligible projects, subject to the approval of the
26 ~~executive-committee~~ commission. ~~Any-such~~ The contract may
27 include such provisions as may be agreed upon by the parties,
28 and shall include, in substance, the following provisions:

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

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

- 1 3. An agreement by the municipality:
- 2 a. To proceed expeditiously with, and complete, the project
- 3 in accordance with plans approved pursuant to this part 3
- 4 of division III and pursuant to part 1 of this division III.
- 5 b. To commence operation of the sewage treatment works
- 6 on completion of the project, and not to discontinue operation
- 7 or dispose of the sewage treatment works without the approval
- 8 of the ~~commission~~ executive director.
- 9 c. To operate and maintain the sewage treatment works
- 10 in accordance with applicable provisions of part 1 of this
- 11 division III and rules of the commission.
- 12 d. To obtain approval of the ~~commission~~ executive di-
- 13 rector before applying for federal assistance for pollution
- 14 abatement, in order to maximize the amounts of such assistance
- 15 received or to be received for all projects in Iowa.
- 16 e. To provide for the payment by the municipality of its
- 17 share of the cost of the project.

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

26 Sec. 42. Section four hundred fifty-five B point seventy-
 27 four (455B.74), Code 1979, is amended to read as follows:

28 455B.74 PRIOR RULES. Any rule adopted or order issued
 29 under chapters 136A, 455B and 455C of prior Codes, by the
 30 Iowa water pollution control commission or by the state
 31 department of health or under this division by the water
 32 quality commission before January 1, 1980, shall remain
 33 effective until modified or rescinded by action of the ~~water~~
 34 ~~quality~~ quality commission unless ~~such~~ the rule is inconsistent or
 35 contrary to this division. Any permit issued under chapter

1 455B of prior Codes shall remain effective until modified
2 or revoked by the executive director.

3 Sec. 43. Section four hundred fifty-five B point seventy-
4 five (455B.75), subsection five (5), Code 1979, is amended
5 by striking the subsection.

6 Sec. 44. Section four hundred fifty-five B point seventy-
7 seven (455B.77), Code 1979, is amended by adding the following
8 new unnumbered paragraph:

9 NEW UNNUMBERED PARAGRAPH. The executive director may
10 issue, modify, or deny variances from the rules of the com-
11 mission. The applicant may appeal the decision of the execu-
12 tive director to the commission.

13 Sec. 45. Section four hundred fifty-five B point seventy-
14 eight (455B.78), Code 1979, is amended to read as follows:

15 455B.78 RULES ESTABLISHED. The commission shall establish
16 rules for the proper administration of the provisions of this
17 part 1 of division IV which shall reflect and accommodate
18 ~~insefar~~ as far as is reasonably possible those current and
19 generally accepted methods and techniques for treatment and
20 disposition of solid waste which will serve the purposes of
21 ~~said~~ part one (1) of this division which shall take into
22 consideration ~~such~~ the factors, including others which it
23 may deem proper, as existing physical conditions, topography,
24 soils and geology, climate, transportation, and land use,
25 ~~such~~ the rules including but not limited to rules relating
26 to the establishment and location of sanitary disposal
27 projects, sanitary practices, inspection of sanitary disposal
28 projects, collection of solid waste, disposal of solid waste,
29 pollution controls, the issuance of permits, approved methods
30 of private disposition of solid waste, the general operation
31 and maintenance of sanitary disposal projects, and the
32 implementation of ~~said~~ part one (1) of this division. Prior
33 to issuance of rules or amendments thereto, the commission
34 shall hold at least one public hearing on the proposed rules
35 or amendments, and shall give notice of ~~such~~ the hearing at

1 least thirty days in advance by publishing notice in a
2 newspaper of general circulation in the state. ~~The-air-quality~~
3 ~~commission-and-the-water-quality-commission-of-the-department~~
4 ~~shall-co-operate-with-the-commission-in-the-establishment~~
5 ~~of-such-rules---All-rules-promulgated-shall-be-subject-to~~
6 ~~the-provisions-of-chapter-17A-and-section-455B-7,-subsection~~
7 3-

8 Sec. 46. Section four hundred fifty-five B point seventy-
9 nine (455B.79), unnumbered paragraph two (2), Code 1979, is
10 amended to read as follows:

11 Permits shall be issued without fee by the executive
12 director or at his or her direction, by a local board of
13 health, for each sanitary disposal project operated in this
14 state. Such permits shall be issued in the name of the city
15 or county or, where applicable, in the name of the public
16 or private agency operating such project. Each sanitary
17 disposal project shall be inspected annually by the department
18 or a local board of health. The permits issued pursuant to
19 this section shall be in addition to any other licenses,
20 permits or variances authorized or required by law, including,
21 but not limited to, the provisions of chapter 358A. A permit
22 may be suspended or revoked ~~after-notice-and-hearing-before~~
23 ~~the-commission-or-its-designee~~ by the executive director if
24 a sanitary disposal project is found not to meet the
25 requirements of the provisions of said part one (1) of this
26 division or rules issued pursuant-thereto under part one (1)
27 of this division. The suspension or revocation of a permit
28 may be appealed to the commission.

29 Sec. 47. Section four hundred fifty-five B point eighty-
30 two (455B.82), subsection one (1), Code 1979, is amended to
31 read as follows:

32 1. It shall be unlawful for any private agency or public
33 agency to dump or deposit or permit the dumping or depositing
34 of any solid waste at any place other than a sanitary disposal
35 project approved by the executive director. This section

1 shall not prohibit a private agency or public agency from
 2 dumping or depositing solid waste resulting from its own
 3 residential, farming, manufacturing, mining or commercial
 4 activities on land owned or leased by it if ~~such~~ the action
 5 does not violate any statute of this state or rules promulgated
 6 by the commission or local boards of health, or local
 7 ordinances, ~~or rules issued by the air quality commission~~
 8 ~~or water quality commission of the department~~. The executive
 9 director may issue temporary permits for dumping or disposal
 10 of solid waste at disposal sites for which an application
 11 for a permit to operate a sanitary disposal project has been
 12 made and which have not met all of the requirements of part
 13 1 of this division and the rules adopted by the commission
 14 if a compliance schedule has been submitted by the applicant
 15 specifying how and when the applicant will meet the re-
 16 quirements for an operational sanitary disposal project and
 17 the executive director determines the public interest will
 18 be best served by granting such temporary permit.

19 Sec. 48. Section four hundred fifty-five B point eighty-
 20 three (455B.83), Code 1979, is amended to read as follows:

21 455B.83 APPEAL FROM ORDER. Any person aggrieved by an
 22 order of ~~the commission or~~ the executive director may appeal
 23 the ~~same~~ order by filing a written notice of appeal with the
 24 executive director within thirty days of the issuance of the
 25 order. The executive director shall schedule a hearing for
 26 the purpose of hearing the arguments of the aggrieved person
 27 within thirty days of the filing of the notice of appeal.
 28 The hearing may be held before the commission or its designee.
 29 A complete record shall be made of the proceedings. The
 30 executive director shall issue the findings in writing to
 31 the aggrieved person within thirty days of the conclusion
 32 of ~~such~~ the hearing. Judicial review may be sought of actions
 33 of the commission ~~or executive director~~ in accordance with
 34 the terms of the Iowa administrative procedure Act.
 35 Notwithstanding the terms of ~~said~~ the Act, petitions for

1 judicial review may be filed in the district court of the
2 county ~~wherein~~ where the acts in issue occurred.

3 Sec. 49. Section four hundred fifty-five B point eighty-
4 four (455B.84), Code 1979, is amended to read as follows:

5 455B.84 MODIFICATION OF RULES. Any rule adopted or order
6 issued under chapter 406 of prior Codes by the commissioner
7 of public health or under part one (1) of this division by
8 the solid waste disposal commission before January 1, 1980
9 shall remain effective until modified or rescinded by action
10 of the ~~solid-waste-disposal~~ commission unless ~~such~~ the rule
11 is inconsistent or contrary to this part 1 of division IV.

12 Sec. 50. Section four hundred fifty-five B point eighty-
13 five (455B.85), subsection four (4), Code 1979, is amended
14 by striking the subsection.

15 Sec. 51. Section four hundred fifty-five B point eighty-
16 seven (455B.87), Code 1979, is amended to read as follows:

17 455B.87 RULES FOR TRANSPORTING. The commission shall
18 provide, by rule, for the proper methods of transporting,
19 storage, and handling of radioactive material except that
20 the provisions of this section shall not apply to the trans-
21 portation, handling, or storage of radioactive material by
22 licensed physicians and surgeons, ~~or~~ licensed osteopathic
23 physicians and surgeons, licensed podiatrists, licensed
24 dentists or licensed pharmacists within the scope of their
25 practice or by qualified employees of licensed hospitals
26 within the scope of their duties. In adopting such rules,
27 the commission shall consider the methods and techniques used
28 by the United States ~~atomic-energy~~ nuclear regulatory
29 commission and radiation control agencies of other states
30 for the regulation of the transporting, handling, and storage
31 of radioactive material. The commission shall also consult
32 with the department of public safety in the development of
33 rules for the transporting of radioactive material on the
34 public roads of this state. ~~All-rules-adopted-by-the~~
35 ~~commission-under-this-section-shall-be-subject-to-the~~

1 ~~provisions of chapter 17A and section 455B-7, subsection 3.~~

2 Sec. 52. Section four hundred fifty-five B point eighty-
3 eight (455B.88), unnumbered paragraph two (2), Code 1979,
4 is amended by striking the unnumbered paragraph.

5 Sec. 53. Section four hundred fifty-five B point ninety-
6 five (455B.95), subsection three (3), Code 1979, is amended
7 by striking the subsection.

8 Sec. 54. Section four hundred fifty-five B point one hun-
9 dred ten (455B.110), subsections six (6), seven (7), and eight
10 (8), Code 1979, are amended by striking the subsections.

11 Sec. 55. Section four hundred fifty-five B point one hun-
12 dred fourteen (455B.114), Code 1979, is amended to read as
13 follows:

14 455B.114 STATE HAZARDOUS CONDITION CONTINGENCY PLAN.

15 All public agencies, as defined in chapter 28E, shall ~~ee-~~
16 ~~operate~~ cooperate in the development and implementation of
17 a state hazardous condition contingency plan. The plan shall
18 detail the manner in which public agencies shall participate
19 in the response to a hazardous condition. The ~~department~~
20 executive director may enter into agreements, ~~subject to~~
21 ~~section 455B-7~~ with approval of the commission, with any state
22 agency or unit of local government or with the federal
23 government, as necessary to develop and implement the plan.
24 The plan shall be ~~ee-ordinated~~ coordinated with the office
25 of disaster services and any joint county-municipal disaster
26 services and emergency planning administrations established
27 pursuant to chapter 29C.

28 Sec. 56. Section four hundred fifty-five B point one hun-
29 dred seventeen (455B.117), subsection two (2), Code 1979,
30 is amended to read as follows:

31 2. The executive director ~~or the commission~~ may request
32 that the attorney general institute legal proceedings for
33 a temporary or permanent injunction pursuant to section
34 455B.120 for purposes of enforcing an emergency order.

35 Sec. 57. Section four hundred fifty-five B point one hun-

1 dred nineteen (455B.119), subsection six (6), Code 1979, is
2 amended by striking the subsection.

3 Sec. 58. Chapter four hundred fifty-five B (455B), Division
4 four (IV), part four (4), Code 1979, is amended by adding
5 the following new section:

6 NEW SECTION. PRIOR RULES CONTINUED. Any rules adopted
7 or order issued under part four (4) of this division before
8 January 1, 1980 by the solid waste disposal commission shall
9 remain effective until modified or rescinded by action of
10 the commission.

11 Sec. 59. Section four hundred fifty-five B point one
12 hundred thirty (455B.130), Code 1979, is amended by striking
13 the section and inserting in lieu thereof the following:

14 455B.130 DEFINITIONS. As used in division five (V) of
15 this chapter:

16 1. "Pesticide" means a substance or mixture of substances
17 intended for preventing, destroying, repelling, or mitigating
18 directly or indirectly any insects, rodents, nematodes, fungi,
19 weeds, and other forms of plant or animal life or viruses,
20 except viruses on or in living humans.

21 2. "Plant growth regulator" means a defoliant, desiccant,
22 and any other substance or mixture of substances intended
23 for accelerating or retarding the rate of growth or rate of
24 maturation through physiological action, or for otherwise
25 altering the behavior of ornamental or crop plants or their
26 produce, but does not include substances to the extent that
27 they are intended as plant nutrients, trace elements,
28 nutritional chemicals, plant inoculants, and soil amendments.

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

32 Sec. 60. Section four hundred fifty-five B point one
33 hundred thirty-one (455B.131), Code 1979, is amended by
34 striking the section and inserting in lieu thereof the
35 following:

1 455B.131 POWERS AND DUTIES.

2 1. The department shall cooperate with the department
3 of agriculture and other affected agencies regarding regulatory
4 and information gathering activities related to agricultural
5 chemicals.

6 2. If the commission determines that an agricultural chem-
7 ical causes harm to the public health or the environment,
8 the commission may adopt rules restricting the use of the
9 agricultural chemical. Before the publication of the notice
10 of intended action, the commission shall submit to the
11 department of agriculture its findings on the harm that the
12 chemical causes to the public health or the environment and
13 its regulatory alternatives and shall request and obtain from
14 the department of agriculture an estimate of the economic
15 impact of the rule. The estimate and the commission's findings
16 shall be available at the time of publication of the notice
17 of intended action. Prior to the adoption of a rule, the
18 commission shall hold a public hearing on the rule. Prior
19 to adopting a rule, the commission shall collect, analyze
20 and interpret scientific data and shall consider any official
21 reports, academic studies, expert opinions or testimony,
22 or other matter deemed to have probative value and shall
23 consider the toxicity, hazard, effectiveness, public need
24 for the agricultural chemical or other means of control other
25 than the chemical in question, and the economic impact on
26 the members of the public and agencies affected by it.

27 Sec. 61. Section four hundred fifty-five B point one
28 hundred thirty-two (455B.132), Code 1979, is amended by
29 striking the section and inserting in lieu thereof the
30 following:

31 455B.132 PENALTIES. A person who violates a rule adopted
32 by the commission under section four hundred fifty-five B
33 point one hundred thirty-one (455B.131) of the Code is subject
34 to a civil penalty, not to exceed five hundred dollars, for
35 each violation. Each separate act or, where the violation

1 is continuous in nature, each day of violation is a separate
2 violation.

3 Sec. 62. Section four hundred fifty-five B point one
4 hundred thirty-three (455B.133), Code 1979, is amended by
5 striking the section and inserting in lieu thereof the
6 following:

7 455B.133 PRIOR RULES CONTINUED. A rule adopted or order
8 issued under chapter two hundred six A (206A) of prior Codes
9 by the chemical technology review board or under this division
10 by the chemical technology commission before January 1, 1980,
11 is effective until modified or rescinded by action of the
12 commission or the department of agriculture unless the rule
13 is inconsistent or contrary to division five (V) of this
14 chapter.

15 Sec. 63. Section sixty-eight B point two (68B.2), sub-
16 section four (4), Code 1979, is amended to read as follows:

17 4. "Regulatory agency" means department of agriculture,
18 industrial commissioner, bureau of labor, occupational safety
19 and health review commission, department of job service,
20 department of banking, insurance department of Iowa, state
21 department of health, department of public safety, department
22 of public instruction, state board of regents, department
23 of social services, department of revenue, Iowa state commerce
24 commission, Iowa beer and liquor control department, board
25 of pharmacy examiners, state conservation commission, state
26 department of transportation, Iowa state civil rights
27 commission, department of soil conservation, department of
28 public defense, department of environmental quality and Iowa
29 natural resources council.

30 Sec. 64. Section one hundred seventy-two D point three
31 (172D.3), subsection two (2), paragraph b, unnumbered para-
32 graph one (1), Code 1979, is amended to read as follows:

33 Applicability of rules of the department other than those
34 ~~issued by the air quality commission~~ relating to air quality
35 under division two (II) of chapter four hundred fifty-five

1 B (455B) of the Code.

2 Sec. 65. Section one hundred seventy-two D point three
3 (172D.3), subsection two (2), paragraph c, Code 1979, is
4 amended to read as follows:

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

8 (1) A rule of the air-quality-commission department under
9 division two (II) of chapter four hundred fifty-five B (455B)
10 of the Code in effect on November 1, 1976 shall apply to a
11 feedlot with an established date of operation prior to November
12 1, 1976.

13 (2) A rule of the air-quality-commission department un-
14 der division two (II) of chapter four hundred fifty-five B
15 (455B) of the Code shall apply to a feedlot with an established
16 date of operation subsequent to the effective date of the
17 rule.

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

25 (4) A rule of the air-quality-commission department under
26 division two (II) of chapter four hundred fifty-five B (455B)
27 of the Code pertaining to feedlot design standards adopted
28 after November 1, 1976 shall not apply to any feedlot having
29 an established date of operation prior to the effective date
30 of the rule for either a period of ten years from the
31 established date of operation of the feedlot or two years
32 from the effective date of the rule, whichever time period
33 is greater. However, any design standard rule pertaining
34 to the siting of any feedlot shall apply only to a feedlot
35 with an established date of operation subsequent to the

1 effective date of the rule.

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

4 Sec. 66. Section two hundred point five (200.5), Code
5 1979, is amended by adding the following new subsection:

6 NEW SUBSECTION. The secretary shall appoint an advisory
7 committee to advise the secretary and the department on the
8 registration of a product of commercial fertilizer or soil
9 conditioner under the provisions of this chapter.

10 Sec. 67. Section two hundred six point two (206.2),
11 subsection twenty-three (23), Code 1979, is amended to read
12 as follows:

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

18 Sec. 68. Section two hundred six point eleven (206.11),
19 subsection one (1), paragraph d, subparagraph five (5), Code
20 1979, is amended to read as follows:

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

24 Sec. 69. Section two hundred six point fourteen (206.14),
25 Code 1979, is amended by adding the following new subsection:

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

31 Sec. 70. Section two hundred six point nineteen (206.19),
32 Code 1979, is amended by striking the section and inserting
33 in lieu thereof the following:

34 206.19 RULES. The department shall, by rule, after public
35 hearing following due notice:

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

4 2. Determine the proper use of pesticides including but
5 not limited to their formulations, times and methods of
6 application, and other conditions of use.

7 Sec. 71. Section two hundred six point twenty-one (206.21),
8 Code 1979, is amended by adding the following new subsections:

9 NEW SUBSECTION. In addition to rules promulgated by the
10 department, the secretary may enforce rules adopted by the
11 environmental quality commission under section four hundred
12 fifty-five B point one hundred thirty-one (455B.131) of the
13 Code.

14 NEW SUBSECTION. The secretary shall appoint advisory com-
15 mittees to advise the secretary and the department in carrying
16 out the provisions of this chapter.

17 Sec. 72. Section three hundred five point one (305.1),
18 Code 1979, is amended by striking the section and inserting
19 in lieu thereof the following:

20 305.1 GEOLOGICAL SURVEY CREATED. There is created a
21 geological survey of the state.

22 Sec. 73. Section three hundred five point two (305.2),
23 Code 1979, is amended by striking the section and inserting
24 in lieu thereof the following:

25 305.2 STATE GEOLOGIST AND ASSISTANTS.

26 1. The governor shall appoint the state geologist. The
27 state geologist must have a degree in geology from an ac-
28 credited college or university and must have at least five
29 years of geological experience. The annual salary of the
30 state geologist shall be determined by the governor as provided
31 by law.

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

35 Sec. 74. Section three hundred five point four (305.4),

1 Code 1979, is amended to read as follows:

2 305.4 INVESTIGATIONS--COLLECTION--RENTING SPACE. The
3 state geologist shall investigate the characters of the various
4 soils and their capacities for agricultural purposes; ~~the~~
5 ~~growth-of-timber, the animal and plant life of the state,~~
6 the streams ~~and water power~~, and other scientific and natural
7 history resource matters that may be of practical importance
8 and interest. For the purpose of preserving well drilling
9 samples, rock cores, fossils, and other materials as may be
10 necessary to carry on investigations, the state geologist
11 shall have the authority to lease or rent sufficient space
12 for storage of these materials with the approval of the
13 director of the department of general services. A complete
14 cabinet collection may ~~at the option of the board~~; be made
15 to illustrate the natural products of the state, and the ~~board~~
16 state geologist may also furnish suites of materials, rocks,
17 and fossils for colleges and public museums within the state,
18 if it can be done without impairing the general state
19 collection.

20 Sec. 75. Section three hundred five point seven (305.7),
21 Code 1979, is amended to read as follows:

22 305.7 ANNUAL REPORT. The state geologist shall, annually,
23 at the time provided by law, make to the governor a full
24 report ~~approved by the board~~, of the work in the preceding
25 year, which report shall be accompanied by such other re-
26 ports and papers as may be considered desirable for publica-
27 tion.

28 Sec. 76. Section three hundred five point eight (305.8),
29 Code 1979, is amended to read as follows:

30 305.8 ~~CO-OPERATION~~ COOPERATION. The state geologist shall
31 ~~co-operate~~ cooperate with the United States geological survey,
32 with other federal and state organizations, and with adjoining
33 state surveys in the making of topographic maps and the study
34 of geologic problems of the state when, in the opinion of
35 the ~~geological board~~ state geologist, such ~~co-operation~~

1 cooperation will result in profit to the state.

2 Sec. 77. Section three hundred five point nine (305.9),
3 Code 1979, is amended to read as follows:

4 305.9 PUBLICATION OF REPORTS. The ~~board~~ state geologist
5 may direct the preparation and publication of special re-
6 ports and bulletins of educational and scientific value or
7 containing information of immediate use to the people.

8 Sec. 78. Section three hundred five point ten (305.10),
9 Code 1979, is amended to read as follows:

10 305.10 DISTRIBUTION AND SALE OF REPORTS. All publica-
11 tions of the geological survey shall be distributed by the
12 state as are other published reports of state officers when
13 no special provision is made. When such distribution has
14 been made the ~~board~~ state geologist shall retain a suffi-
15 cient number of copies to supply probable future demands and
16 any copies in excess of such number shall be sold to persons
17 making application therefor at the cost price of publication,
18 the money thus accruing to be turned into the treasury of
19 the state.

20 Sec. 79. Section three hundred five point eleven (305.11),
21 Code 1979, is amended to read as follows:

22 305.11 EXPENSES. The ~~members-of-the-board-shall-serve~~
23 ~~without-compensation,~~ ~~but-the~~ state geologist and ~~such-board~~
24 ~~and-its~~ his or her assistants shall be allowed their actual
25 travel and other necessary expenses incurred in the performance
26 of their duties.

27 Sec. 80. Section four hundred twenty-seven point one
28 (427.1), subsection thirty-two (32), unnumbered paragraphs
29 five (5), six (6), seven (7) and nine (9), Code 1979, are
30 amended to read as follows:

31 The first annual application for any specific pollution-
32 control property shall be accompanied by a certificate of
33 the executive director of the department of environmental
34 quality ~~stating-that-the-air-quality-commission-or-the-water~~
35 ~~quality-commission-has-directed-the-department-of-environmental~~

1 ~~quality-to-certify~~ certifying that the primary use of the
2 pollution-control property is to control or abate pollution
3 of any air or water of this state or to enhance the quality
4 of any air or water of this state.

5 A taxpayer may ~~appeal~~ seek judicial review of a
6 determination of the ~~air-quality-commission-or-the-water~~
7 ~~quality-commission~~ executive director or, on appeal, of the
8 environmental quality commission in accordance with the
9 provisions of ~~sections-455B-19-and-455B-39~~ chapter seventeen
10 A (17A) of the Code.

11 The ~~air-quality~~ environmental quality commission ~~and-the~~
12 ~~water-quality-commission~~ of the department of environmental
13 quality shall adopt rules relating to certification under
14 this subsection and information to be submitted for evaluating
15 pollution-control property for which a certificate is
16 requested. The revenue department shall adopt any rules
17 necessary to implement this subsection, including rules on
18 identification and valuation of pollution-control property.
19 All rules adopted shall be subject to the provisions of the
20 statutes on administrative rules.

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

29 Sec. 81. Section four hundred fifty-five A point twenty-
30 five (455A.25), subsection three (3), Code 1979, is amended
31 to read as follows:

32 3. Any person who diverts water or any material from the
33 surface directly into any underground watercourse or basin.
34 ~~Provided, however, that~~ However, any diversion of water or
35 material from the surface directly into any underground

1 watercourse or basin existing upon May 16, 1957, shall not
2 require a permit if ~~said~~ the diversion does not create waste
3 or pollution. No permit shall be issued under this subsection
4 until the approval of the ~~Iowa-water-pollution-control~~
5 ~~commission~~ executive director of the department of
6 environmental quality has been obtained.

7 Sec. 82. Section four hundred fifty-five C point one
8 (455C.1), subsection nine (9), Code 1979, is amended to read
9 as follows:

10 9. "Commission" means the ~~solid-waste-disposal~~ environ-
11 mental quality commission of the department of environmental
12 quality.

13 Sec. 83. Chapter four hundred fifty-five C (455C), Code
14 1979, is amended by adding the following new section:

15 NEW SECTION. PRIOR RULES CONTINUED. Rules adopted under
16 this chapter before January 1, 1980 by the solid waste disposal
17 commission shall remain effective until modified or rescinded
18 by action of the commission.

19 Sec. 84. Section four hundred sixty-seven D point six
20 (467D.6), subsection one (1), Code 1979, is amended to read
21 as follows:

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

31 Sec. 85. Sections four hundred fifty-five B point seven
32 (455B.7), four hundred fifty-five B point twenty-eight
33 (455B.28), four hundred fifty-five B point seventy-three
34 (455B.73), four hundred fifty-five B point ninety-nine
35 (455B.99), four hundred fifty-five B point one hundred thirty-

1 four (455B.134), four hundred fifty-five B point one hundred
2 thirty-five (455B.135), four hundred fifty-five B point one
3 hundred thirty-six (455B.136), four hundred fifty-five B point
4 one hundred thirty-seven (455B.137), four hundred sixty-nine
5 point six (469.6), four hundred sixty-nine point seven (469.7)
6 and four hundred sixty-nine point eight (469.8), Code 1979,
7 are repealed.

8 Sec. 86. PRIOR ACTIONS. A rule adopted or approval given
9 under section four hundred twenty-seven point one (427.1),
10 subsection thirty-two (32) of the Code, before the effective
11 date of this Act, by the air quality commission or the water
12 quality commission of the department of environmental quality
13 shall remain effective until modified or rescinded by action
14 of the department of environmental quality as provided in
15 this Act.

16 Sec. 87. EFFECTIVE DATE--TRANSITION. The effective date
17 of this Act is January 1, 1980, except that this section shall
18 be effective July 1, 1979. After July 1, 1979, the governor
19 may appoint the members of the environmental quality
20 commission, authorize the environmental quality commission
21 to organize as provided in this Act and authorize the
22 environmental quality commission to plan for the transfer
23 of powers, duties, records, and other property as applicable.
24 The terms of the persons initially appointed to the
25 environmental quality commission for four-year terms shall
26 commence July 1, 1979 and end June 30, 1983, and the terms
27 of persons initially appointed for two-year terms shall
28 commence July 1, 1979 and end June 30, 1981. The persons
29 may be reappointed as provided in this Act. The members of
30 the environmental quality commission authorized to meet before
31 January 1, 1980, may be paid per diem and necessary expenses
32 from funds appropriated to the department of environmental
33 quality.

34 The terms of office of members of the geology board and
35 the executive committee, water quality commission, air quality

1 commission, solid waste disposal commission and the chemical
2 technology commission of the department of environmental
3 quality shall expire on December 31, 1979.

4 EXPLANATION

5 This bill provides for the reorganization of the department
6 of environmental quality. In the reorganization of the
7 department of environmental quality, the four policy-making
8 commissions and the executive committee are replaced by a
9 single policy-making commission, the environmental quality
10 commission. The new commission will consist of seven members
11 appointed by the governor with consent of two-thirds of the
12 membership of the senate for four-year, overlapping terms.
13 In addition, administrative duties currently assigned to the
14 executive committee and the four commissions are assigned
15 to the executive director. The commission remains the
16 authority to determine the policy of the department, to adopt,
17 amend or repeal rules, and to hear appeals from the decisions
18 of the executive director. The bill also provides for the
19 redistribution of the authority over agricultural chemicals
20 between the departments of agriculture and environmental
21 quality.

22 The bill also abolishes the geology board and removes from
23 the duties of the state geologist requirements relating to
24 the investigation of the growth of timber, animal and plant
25 life, and water power capabilities in the state. Section
26 305.11 is also amended to reflect current state policy
27 regarding reimbursement for travel and other necessary expenses
28 incurred by the geology board, the state geologist and other
29 employees of the geological survey in the performance of their
30 duties.

31 This bill is effective January 1, 1980, but commission
32 members may be appointed and planning for the orderly transfer
33 of powers and duties may be initiated after July 1, 1979.

34
35

SENATE FILE 205

S-3082

- 1 Amend Senate File 205 as follows:
2 1. Page 3, line 12, by striking the word "seven"
3 and inserting in lieu thereof the word "nine".
4 2. Page 3, line 12, by striking the word "four"
5 and inserting in lieu thereof the word "five".
6 3. Page 3, line 17, by inserting after the word
7 "chapter." the following:
8 "The membership of the commission shall be as fol-
9 lows: the president of the Iowa medical society or
10 his designee, the president of the Iowa engineering
11 society or his designee, two members actively engaged in
12 diversified farming, a member actively engaged in the
13 management of a privately owned manufacturing company,
14 one person actively engaged in the business of finance
15 or commerce, and three members who are electors of the
16 state."
17 4. Page 3, line 19, by striking the word "three"
18 and inserting in lieu thereof the word "four".
19 5. Page 6, line 22, by striking the word "four" and
20 inserting in lieu thereof the word "five".

S-3082 FILED *Withdrawn 2/15/79 (463)*
FEBRUARY 14, 1979

BY DALE L. TIEDEN
BERL E. PRIEBE

SENATE FILE 205

5-3088

1 Amend Senate File 205 as follows:

2 1. By striking page 27, line 11 through page 29,
3 line 14.

4 2. Page 32, by striking lines 7 through 16 and
5 inserting in lieu thereof the following:

6 "Sec. ____ Chapter two hundred six (206), Code
7 1979, is amended by adding the following new sections:

8 NEW SECTION. ADVISORY COMMITTEE CREATED--DUTIES.

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

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

15 b. The dean, college of medicine, university of
16 Iowa, or his or her designee;

17 c. An entomologist, botanist, geneticist,
18 horticulturalist and an agronomist appointed by the
19 dean, college of agriculture, Iowa state university
20 of science and technology;

21 d. Two ecologists, one appointed by the president,
22 Iowa state university of science and technology, and
23 one appointed by the president, state university of
24 Iowa.

25 Appointive members of the advisory committee shall
26 serve terms of four years.

27 2. The advisory committee shall assist the
28 secretary in obtaining scientific data and coordinating
29 agricultural chemical regulatory, enforcement,
30 research, and educational functions of the state.
31 The advisory committee shall recommend rules regarding
32 the sale, use, or disuse of agricultural chemicals
33 to the secretary.

34 3. The advisory committee shall adopt rules
35 relating to its organizational structure, procedures,
36 and meetings under the general supervision of the
37 secretary.

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

42 NEW SECTION. PRIOR RULES CONTINUED. A rule
43 adopted or order issued under chapter two hundred
44 six A (206A) of prior Codes by the chemical technology
45 review board or under division five (V) of chapter
46 four hundred fifty-five B (455B) of the Code by the
47 chemical technology commission before January 1, 1980,
48 is effective until modified or rescinded by action
49 of the department of agriculture."

50 3. Page 36, line 35, by inserting after the number

S-3088
PAGE 2

1 "(455B.99)," the following: "four hundred fifty-five
2 B point one hundred thirty (455B.130), four hundred
3 fifty-five B point one hundred thirty-one (455B.131),
4 four hundred fifty-five B point one hundred thirty-
5 two (455B.132), four hundred fifty-five B point one
6 hundred thirty-three (455B.133),".
7 4. Amend the title, by striking lines 6 through
8 10 and inserting in lieu thereof the following:
9 "quality commission, water quality commission, and
10 solid waste disposal commission to the environmental
11 quality commission; by transferring the powers and
12 duties of the chemical technology commission to the
13 department of agriculture;".
14 5. By renumbering sections to conform to this
15 amendment.

S-3088 FILED
FEBRUARY 15, 1979
ADOPTED AS AMENDED *by 3091 (p. 465)*

BY ALVIN V. MILLER
NORMAN G. RODGERS
C.W. (BILL) HUTCHINS
CLOYD E. ROBINSON
JAMES E. BRILES
ARNE WALDSTEIN
JAMES V. GALLAGHER
BERL E. PRIEBE
IRVIN L. BERGMAN
JACK W. HESTER
RAY TAYLOR

SENATE FILE 205

S-3089

1 Amend Senate File 205 as follows:
2 1. Page 4, line 16, by adding after the word
3 "derive" the words "five percent more than their".
4 2. Page 4, line 16, by adding after the word
5 "from" the word "any".
6 3. Page 4, line 16, by striking the word "persons"
7 and inserting in lieu thereof the word "person".

S-3089 FILED & ADOPTED *(p. 464)*
FEBRUARY 15, 1979
RECONSIDERED & WITHDRAWN *(p. 466)*

BY RICHARD F. DRAKE

SENATE FILE 205

S-3092

- 1 Amend Senate File 205 as follows:
- 2 1. Page 4, by striking lines 7 through 10 and
- 3 inserting in lieu thereof the following:
- 4 "4. Each member of the commission who is not in
- 5 the full-time employment of a public agency shall receive
- 6 a salary as fixed by the general assembly. Members shall
- 7 be reimbursed for their".
- 8 2. Page 4, by striking lines 12 and 13.

S-3092 FILED & ADOPTED (p. 405)
FEBRUARY 15, 1979

BY JOHN S. MURPHY

SENATE FILE 205

S-3093

- 1 Amend Senate File 205 as follows:
- 2 1. Page 4, line 16, by striking the words "income
- 3 from persons" and inserting in lieu thereof the words
- 4 "more than five percent of their income from any
- 5 person".

S-3093 FILED & ADOPTED (p. 400)
FEBRUARY 15, 1979

BY RICHARD F. DRAKE

SENATE FILE 205

S-3087

- 1 Amend Senate File 205 as follows:
- 2 1. Page 28, line 7, by striking the words "harm
- 3 to" and inserting in lieu thereof the words
- 4 "unreasonable adverse effects on".
- 5 2. Page 28, line 11, by striking the word "harm"
- 6 and inserting in lieu thereof the words "unreasonable
- 7 adverse effects".

S-3087 FILED & WITHDRAWN (p. 400)
FEBRUARY 15, 1979

BY ALVIN V. MILLER

SENATE FILE 205

S-3090

1 Amend Senate File 205 as follows:

2 1. Page 3, line 12, by striking the word "seven"
3 and inserting in lieu thereof the word "nine".

4 2. Page 3, line 12, by striking the word "four"
5 and inserting in lieu thereof the word "five".

6 3. Page 3, line 17, by inserting after the word
7 "chapter." the following:

8 "The membership of the commission shall be as follows:
9 the president of the Iowa medical society or his or her
10 designee, the president of the Iowa engineering society
11 or his or her designee, two members actively engaged in
12 diversified farming, a member actively engaged in the
13 management of a privately owned manufacturing company,
14 one person actively engaged in the business of finance
15 or commerce, and three members who are electors of the
16 state."

17 4. Page 3, line 19, by striking the word "three"
18 and inserting in lieu thereof the word "four".

19 5. Page 6, line 22, by striking the word "four" and
20 inserting in lieu thereof the word "five".

S-3090 FILED & ADOPTED (p. 464)
FEBRUARY 15, 1979

BY DALE L. TIEDEN
BERL E. PRIEBE

SENATE FILE 205

S-3091

1 Amend the amendment, S-3088, to Senate File 205
2 as follows:

3 1. Page 1, by striking lines 18 through 24 and
4 inserting in lieu thereof the following:

5 "horticulturist, agronomist and two persons
6 representing the general public appointed by the
7 secretary."

8 2. Page 1, line 35, by striking the words
9 "organizational structure,".

S-3091 FILED & ADOPTED (p. 465)
FEBRUARY 15, 1979

BY ALVIN V. MILLER

1 Section 1. Section four hundred fifty-five B point one
2 (455B.1), subsection three (3), Code 1979, is amended by
3 striking the subsection and inserting in lieu thereof the
4 following:

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

7 Sec. 2. Section four hundred fifty-five B point three
8 (455B.3), subsections one (1), two (2), three (3), four (4),
9 five (5), and six (6), Code 1979, are amended to read as fol-
10 lows:

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

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

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

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

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

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

1 services required to carry out the programs and services
2 assigned to the department.

3 Sec. 3. Section four hundred fifty-five B point three
4 (455B.3), subsection eight (8), unnumbered paragraph one (1),
5 Code 1979, is amended to read as follows:

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

15 Sec. 4. Section four hundred fifty-five B point three
16 (455B.3), subsection eight (8), paragraph d, subparagraph
17 two (2), Code 1979, is amended to read as follows:

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

22 Sec. 5. Section four hundred fifty-five B point three
23 (455B.3), unnumbered paragraph two (2), Code 1979, is amended
24 to read as follows:

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

30 Sec. 6. Section four hundred fifty-five B point three
31 (455B.3), Code 1979, is amended by adding the following new
32 subsections:

33 NEW SUBSECTION. Accept, receive and administer grants
34 or other funds or gifts from public or private agencies, in-
35 cluding the federal government, for the abatement, prevention,

1 or control of pollution, or other environmental programs,
2 subject to the approval of the commission.

3 NEW SUBSECTION. Represent the state in all matters per-
4 taining to plans, procedures, negotiations, and agreements
5 for interstate compacts relating to the control of pollution
6 or the protection or enhancement of the environment.

7 Sec. 7. Section four hundred fifty-five B point four
8 (455B.4), Code 1979, is amended by striking the section and
9 inserting in lieu thereof the following:

10 455B.4 ENVIRONMENTAL QUALITY COMMISSION.

11 1. There is created an environmental quality commission
12 consisting of nine members, not more than five of whom shall
13 be from the same political party. The members shall be
14 appointed by the governor with the consent of two-thirds of
15 the members of the senate. Each member of the commission
16 must be an elector of the state, and have interest and
17 knowledge of the subjects embraced in this chapter. The
18 membership of the commission shall be as follows: the president
19 of the Iowa medical society or his or her designee, the
20 president of the Iowa engineering society or his or her
21 designee, two members actively engaged in diversified farming,
22 a member actively engaged in the management of a privately
23 owned manufacturing company, one person actively engaged in
24 the business of finance or commerce, and three members who
25 are electors of the state. The members of the commission shall
26 be appointed to four-year terms of office commencing July
27 1, 1979, except that four members appointed to the initial
28 commission shall be appointed to a two-year term. Thereafter,
29 all appointments shall be for four years. Vacancies occurring
30 during a term of office shall be filled by appointment for
31 the balance of the unexpired term subject to the consent of
32 two-thirds of the members of the senate. A vacancy on the
33 commission occurring while the general assembly is not in
34 session shall be filled by appointment of the governor which
35 appointment shall expire thirty days after the general assembly

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

5 2. The commission shall organize annually with the elec-
6 tion of a chairperson and vice chairperson. The commission
7 shall meet monthly and at the call of the chairperson or upon
8 written request of a majority of the members of the commission.
9 The executive director shall attend the meetings of the
10 commission and act as secretary to the commission.

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

15 4. Each member of the commission who is not in the full-
16 time employment of a public agency shall receive a salary
17 as fixed by the general assembly. Members shall be reimbursed
18 for their actual and necessary expenses while performing such
19 duties.

20 5. The members of the commission shall represent the
21 public interest and at least a majority of the commission
22 membership shall not derive more than five percent of their
23 income from any person subject to permits or enforcement
24 orders under this chapter. A potential conflict of interest
25 by a commission member shall be immediately disclosed to the
26 commission and the department. In the case of conflict of
27 interest, the commission member involved shall immediately
28 withdraw from consideration of the issuance of a permit or
29 enforcement action by the commission and shall not express
30 an opinion on the matter to any other commission member
31 involved in the consideration of the issuance of the permit
32 or enforcement action. A "conflict of interest" arises when
33 a commission member receives directly or indirectly personal
34 income from a person subject to permit or enforcement action
35 pending before the commission.

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

8 Sec. 8. Section four hundred fifty-five B point five
9 (455B.5), Code 1979, is amended by striking the section and
10 inserting in lieu thereof the following:

11 455B.5 POWERS AND DUTIES OF THE COMMISSION. The commission
12 shall:

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

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

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

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

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

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

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

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

20 9. Hold public hearings, except when the evidence to be
21 received is confidential pursuant to this chapter or chapter
22 sixty-eight A (68A) of the Code, necessary to carry out its
23 powers and duties. The commission may issue subpoenas
24 requiring the attendance of witnesses and the production of
25 evidence pertinent to the hearings. A subpoena shall be
26 issued and enforced in the same manner as provided in civil
27 actions.

28 10. Upon request of at least five members of the com-
29 mission before adopting or modifying a rule, the executive
30 director shall prepare and publish with the notice required
31 under section seventeen A point four (17A.4), subsection one
32 (1), paragraph a of the Code, a statement of the economic
33 impact of the proposed rule or modification.

34 Sec. 9. Section four hundred fifty-five B point six
35 (455B.6), Code 1979, is amended by striking the section and

1 inserting in lieu thereof the following:

2 455B.6 APPEAL BOARD. In lieu of an appeal being heard
3 by the full membership of the commission, the chairperson
4 of the commission may appoint an appeal board consisting of
5 one or more members of the commission or a hearing officer
6 to conduct a hearing on the appeal of an aggrieved person
7 from the action or order of the executive director as provided
8 in chapter seventeen A (17A) of the Code.

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

11 455B.9 OFFICE FACILITIES. The ~~executive-council~~ de-
12 partment of general services shall provide the department
13 with appropriate office facilities.

14 Sec. 11. Section four hundred fifty-five B point ten
15 (455B.10), subsection six (6), Code 1979, is amended by
16 striking the subsection.

17 Sec. 12. Section four hundred fifty-five B point twelve
18 (455B.12), subsections five (5), six (6), seven (7), eight
19 (8), eleven (11), twelve (12), thirteen (13), and fourteen
20 (14), Code 1979, are amended by striking the subsections.

21 Sec. 13. Section four hundred fifty-five B point thirteen
22 (455B.13), subsection three (3), paragraph c, Code 1979, is
23 amended to read as follows:

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

29 Sec. 14. Section four hundred fifty-five B point thirteen
30 (455B.13), subsection six (6), Code 1979, is amended by
31 striking the subsection.

32 Sec. 15. Section four hundred fifty-five B point thirteen
33 (455B.13), Code 1979, is amended by adding the following new
34 subsections:

35 NEW SUBSECTION. Consider complaints of conditions reported

1 to, or considered likely to, constitute air pollution, and
2 investigate such complaints upon receipt of the written
3 petition of any state agency, the governing body of a polit-
4 ical subdivision, a local board of health, or twenty-five
5 affected residents of the state.

6 NEW SUBSECTION. Issue orders necessary to cause the
7 abatement or control of air pollution. In making the orders,
8 the executive director shall consider the facts and circum-
9 stances bearing upon the reasonableness of the emissions in-
10 volved, including but not limited to, the character and degree
11 of injury to, or interference with, the protection of health
12 and the physical property of the public, the practicability
13 of reducing or limiting the emissions from the air pollution
14 source, and the suitability or unsuitability of the air pollu-
15 tion source to the area where it is located. An order may
16 include advisory recommendations for the control of emissions
17 from an air contaminant source and the reduction of the emis-
18 sion of air contaminants.

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

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

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

29 NEW SUBSECTION. Hold public hearings, except when the
30 evidence to be received is confidential pursuant to section
31 four hundred fifty-five B point sixteen (455B.16) of the Code,
32 necessary to accomplish the purposes of division two (II)
33 of this chapter. The executive director may issue subpoenas
34 requiring the attendance of witnesses and the production of
35 evidence pertinent to the hearings. A subpoena shall be is-

1 sued and enforced in the same manner as in civil actions.

2 Sec. 16. Section four hundred fifty-five B point seventeen
3 (455B.17), Code 1979, is amended by striking the section and
4 inserting in lieu thereof the following:

5 455B.17 RESOLUTION OF VIOLATIONS--APPEAL.

6 1. When the executive director has evidence that a
7 violation of any provision of division two (II) of this
8 chapter, or rule, standard or permit established or issued
9 under division two (II) of this chapter has occurred, the
10 executive director shall notify the alleged violator and,
11 by informal negotiation, attempt to resolve the problem.
12 If the negotiations fail to resolve the problem within a
13 reasonable period of time, the executive director shall issue
14 an order directing the violator to prevent, abate or control
15 the emissions or air pollution involved. The order shall
16 prescribe the date by which the violation shall cease and
17 may prescribe timetables for necessary action to prevent,
18 abate or control the emissions of air pollution. The order
19 may be appealed to the commission.

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

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

28 4. An appeal to the commission under this section shall
29 be conducted as a contested case under chapter seventeen A
30 (17A) of the Code.

31 Sec. 17. Section four hundred fifty-five B point eighteen
32 (455B.18), Code 1979, is amended to read as follows:

33 455B.18 EMERGENCY ORDERS. If the ~~commission-or-the~~
34 executive director has evidence that any person is causing
35 air pollution and that such pollution creates an emergency

1 requiring immediate action to protect the public health and
 2 safety, or property, ~~either~~ the executive director may, without
 3 notice ~~or hearing~~, issue an emergency order requiring such
 4 person to reduce or discontinue immediately the emission of
 5 air contaminants. A copy of the emergency order shall be
 6 ~~served as provided in section 455B.17, subsection 1~~ by personal
 7 service. An emergency order issued by ~~the commission or~~ the
 8 executive director ~~shall be effective immediately and binding~~
 9 ~~until reviewed by the commission at a public hearing or~~
 10 ~~modified or rescinded by a district court~~ may be appealed
 11 to the commission. After hearing on appeal, the commission
 12 may affirm, modify or rescind the order of the executive
 13 director.

14 Sec. 18. Section four hundred fifty-five B point twenty
 15 (455B.20), Code 1979, is amended to read as follows:

16 455B.20 LEGAL ACTION. If action to prevent, control,
 17 or abate air pollution is not taken in accordance with the
 18 rules established, or orders issued by the ~~commission~~ depart-
 19 ment, or if ~~the commission or~~ the executive director has evi-
 20 dence that an emergency exists by reason of air pollution
 21 which requires immediate action to protect the public health
 22 or property, the attorney general, at the request of ~~the com-~~
 23 ~~mission or~~ the executive director, shall commence legal ac-
 24 tion, in the name of the state, for an injunction to prevent
 25 any further or continued violation of such rule or order.
 26 ~~In an action for an injunction, any previous findings of the~~
 27 ~~commission, after due notice and hearing, shall be prima facie~~
 28 ~~evidence of the fact or facts found therein.~~

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

31 455B.21 BURDEN OF PROOF. In all proceedings with respect
 32 to any alleged violation of the provisions of this division
 33 II or any rule established by the commission, the burden of
 34 proof shall be upon the ~~commission~~ department except in an
 35 action for an injunction as provided in section 455B.20.

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

3 455B.22 VARIANCE. Any person who owns or operates any
4 plant, building, structure, process, or equipment may apply
5 for a variance from the rules or standards ~~governing the~~
6 ~~quality, nature, duration, or extent of emissions~~ adopted
7 by the commission by filing an application with the department.
8 The application shall be accompanied by such information and
9 data required by the commission.

10 1. The executive director shall promptly investigate the
11 application and ~~recommend to the commission the disposition~~
12 ~~of such~~ approve or disapprove the application. The ~~commission~~
13 ~~executive director~~ may grant a variance if ~~it~~ the executive
14 director finds that:

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

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

21 2. ~~A public hearing, subject to the provisions of section~~
22 ~~455B-16, shall be held if the commission concludes that a~~
23 ~~hearing is advisable.~~ The applicant may request a review
24 hearing before the commission if ~~his~~ the application is denied.

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

35 4. The ~~commission~~ executive director may grant a variance

1 for a specified period of time, not exceeding one year, and
2 the ~~commission~~ executive director may further specify that
3 the applicant make periodic reports specifying the progress
4 that has been made toward compliance with any rule for which
5 the variance was granted. A variance may be extended from
6 year to year by affirmative action of the ~~commission~~ execu-
7 tive director.

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

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

13 455B.24 ACCEPTANCE OF LOCAL PROGRAM. When an air pollution
14 control program conducted by a political subdivision, or a
15 combination thereof, is deemed upon review as provided in
16 section ~~455B.12,--subsection--11~~ four hundred fifty-five B point
17 thirteen (455B.13) of the Code, to be consistent with the
18 provisions of this division II or the rules established there-
19 under, the ~~commission~~ executive director shall accept such
20 program in lieu of state administration and regulation of
21 air pollution within the political subdivisions involved.
22 Nothing contained in this section shall be construed to limit
23 the power of ~~the-commission-or~~ the executive director to take
24 emergency action under the provisions of sections 455B.18
25 and 455B.20 or to administer a part of the local program that
26 has been suspended.

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

30 a. Ordinances, rules and standards establishing re-
31 quirements consistent with, or more strict than, those imposed
32 by this division II or rules and standards adopted by the
33 commission.

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

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

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

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

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

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

33 c. If the ~~commission~~ executive director determines at
34 any time that a local air pollution program is being con-
35 ducted in a manner inconsistent with the substantive provi-

1 sions of this division II or the rules adopted thereunder,
2 the ~~commission~~ executive director shall notify the political
3 subdivision, citing the deviations from the acceptable
4 standards and the corrective measures to be completed within
5 a reasonable amount of time. If the corrective measures are
6 not implemented as prescribed, the ~~commission~~ executive
7 director shall suspend in whole or in part the certificate
8 of acceptance of such political subdivision and shall
9 administer the regulatory provisions of said division in whole
10 or in part within the political subdivision until the ap-
11 propriate standards are met. Upon receipt of evidence that
12 necessary corrective action has been taken, the ~~commission~~
13 executive director shall reinstate the suspended certificate
14 of acceptance, and the political subdivision shall resume
15 the administration of the local air pollution control program
16 within its jurisdiction. In cases where the certificate of
17 acceptance is suspended, the political subdivision ~~is entitled~~
18 ~~to a public hearing as provided in section 455B.17~~ may appeal
19 the suspension to the commission.

20 d. Nothing in this division II shall be construed to
21 supersede the jurisdiction of any local air pollution control
22 program in operation on the first of January, 1973, except
23 that any such program shall meet all requirements of said
24 division.

25 Sec. 22. Section four hundred fifty-five B point twenty-
26 five (455B.25), Code 1979, is amended to read as follows:

27 455B.25 CIVIL ACTION FOR COMPLIANCE. If any order ~~or~~,
28 rule or permit of the ~~commission~~ department is being violated,
29 the attorney general shall, at the request of ~~the commission~~
30 ~~or~~ the executive director with the approval of the commission,
31 institute a civil action in any district court for injunctive
32 relief to prevent any further violation of such order or rule,
33 or for the assessment of a fine civil penalty as determined
34 by the court, not to exceed five hundred dollars per day for
35 each day such violation continues, or both such injunctive

1 relief and ~~fine~~ civil penalty.

2 Sec. 23. Section four hundred fifty-five B point twenty-
3 six (455B.26), Code 1979, is amended by striking the section
4 and inserting in lieu thereof the following:

5 455B.26 FAILURE--PROCEDURE.

6 1. If the executive director fails to take action within
7 sixty days after an application for a variance is made, or
8 if the commission fails to enter a final order or determination
9 within sixty days after the final argument in a hearing on
10 appeal, the person seeking the action may treat the failure
11 to act as a grant of the requested variance, or of a finding
12 favorable to the respondent in a hearing on appeal, as the
13 case may be.

14 2. If the executive director fails to take action with-
15 in one hundred twenty days after an application for an instal-
16 lation permit is made, or if the commission fails to enter
17 a final order or determination within sixty days after the
18 final argument in a hearing on appeal, the person seeking
19 the action may treat the failure to act as a grant of the
20 requested permit, or of a finding favorable to the respondent
21 in a hearing on appeal, as the case may be.

22 3. The section shall not apply to an application for a
23 conditional permit for an electrical power generating facility
24 subject to chapter four hundred seventy-six A (476A) of the
25 Code.

26 Sec. 24. Section four hundred fifty-five B point twenty-
27 nine (455B.29), Code 1979, is amended to read as follows:

28 455B.29 PRIOR RULES. Any rule adopted or order or variance
29 issued under chapter 136B of prior Codes by the Iowa air
30 pollution control commission or by the state department of
31 health or under division two (II) of this chapter by the air
32 quality commission before January 1, 1980, shall remain
33 effective until modified or rescinded by action of the ~~air~~
34 ~~quality~~ quality commission unless ~~such~~ the rule is inconsistent or
35 contrary to this division II.

1 Sec. 25. Section four hundred fifty-five B point thirty
2 (455B.30), subsection eleven (11), Code 1979, is amended by
3 striking the subsection.

4 Sec. 26. Section four hundred fifty-five B point thirty-
5 two (455B.32), subsection six (6), Code 1979, is amended by
6 striking the subsection.

7 Sec. 27. Section four hundred fifty-five B point thirty-
8 two (455B.32), subsection ten (10), Code 1979, is amended
9 to read as follows:

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

22 Sec. 28. Section four hundred fifty-five B point thirty-
23 four (455B.34), subsection three (3), Code 1979, is amended
24 to read as follows:

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

28 Sec. 29. Section four hundred fifty-five B point forty-
29 two (455B.42), Code 1979, is amended to read as follows:

30 455B.42 VARIANCES AND EXEMPTIONS. The ~~commission~~ executive
31 director may, after public notice and hearing, grant exemptions
32 from a maximum contaminant level or treatment technique, or
33 both. The ~~commission~~ executive director may also grant a
34 variance from drinking water standards for public water supply
35 systems when the characteristics of the raw water sources,

1 which are available to a system, cannot meet the requirements
2 with respect to maximum contaminant level of ~~such~~ the standards
3 despite application of the best treatment techniques which
4 are generally available and ~~provided-that~~ if the ~~commission~~
5 executive director determines that the variance will not
6 result in an unreasonable risk to the public health. A
7 schedule of compliance may be prescribed by the ~~commission~~
8 executive director, at the time the variance or exemption
9 is granted. The ~~commission~~ executive director shall also
10 require ~~such~~ the interim measures to minimize the contaminant
11 levels of systems subject to the variance or exemption as
12 may reasonably be implemented. The executive director may
13 also issue variances from other rules of the commission if
14 necessary and appropriate. The denial of a variance or
15 exemption may be appealed to the commission.

16 Sec. 30. Section four hundred fifty-five B point forty-
17 nine (455B.49), subsection four (4), Code 1979, is amended
18 to read as follows:

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

32 Sec. 31. Section four hundred fifty-five B point fifty
33 (455B.50), subsection two (2), Code 1979, is amended by
34 striking the subsection.

35 Sec. 32. Section four hundred fifty-five B point fifty-

1 two (455B.52), subsection three (3), paragraph b, Code 1979,
2 is amended to read as follows:

3 b. Information relating to the contents of the examina-
4 tion to persons other than members of a board of certifica-
5 tion of another state or their employees or an employee of
6 the department.

7 Sec. 33. Section four hundred fifty-five B point fifty-
8 eight (455B.58), Code 1979, is amended to read as follows:

9 455B.58 DURATION. Certificates shall continue in ef-
10 fect from the date of issuance until the following June 30
11 thirtieth unless sooner revoked by the ~~executive-director~~
12 board, but such certificates shall remain the property of
13 the department and the certificate shall so state. The fee
14 for issuance of certificates as determined under section
15 455B.61 shall be prorated on a quarterly basis for any original
16 certificate issued for a period of less than twelve months.
17 A person who fails to renew a certificate by June 30 thirtieth
18 following its issuance shall be allowed to do so by July 31
19 thirty-first, but the executive director may assess a
20 reasonable penalty as established by rule of the commission.

21 Sec. 34. Section four hundred fifty-five B point fifty-
22 nine (455B.59), Code 1979, is amended to read as follows:

23 455B.59 REVOCATION OR SUSPENSION. The board may suspend
24 or revoke the certificate of an operator, following a hearing
25 before the board, when the operator is found guilty of the
26 following acts or offenses:

- 27 1. Fraud in procuring a license.
- 28 2. Professional incompetency.
- 29 3. Knowingly making misleading, deceptive, untrue or
30 fraudulent representations in the practice of his or her
31 profession or engaging in unethical conduct or practice harm-
32 ful or detrimental to the public. Proof of actual injury
33 need not be established.
- 34 4. Habitual intoxication or addiction to the use of drugs.
- 35 5. Conviction of a felony related to the profession or

1 occupation of the licensee, or the conviction of any felony
2 that would affect his or her ability to operate a water
3 treatment or wastewater treatment plant. A copy of the record
4 of conviction or plea of guilty shall be conclusive evidence.

5 6. Fraud in representation as to skill or ability.

6 7. Use of untruthful or improbable statements in ad-
7 vertisements.

8 8. Willful or repeated violations of ~~this Act~~ division
9 three (III) of this chapter.

10 Sec. 35. Section four hundred fifty-five B point sixty
11 (455B.60), subsection two (2), Code 1979, is amended to read
12 as follows:

13 2. A certificate of proper classification shall be issued
14 without examination to any operator who, prior to January
15 1, 1973, held a valid certificate to operate a particular
16 treatment plant or water distribution system. The certificate
17 so issued shall be valid only for that particular treatment
18 plant or system and shall remain in effect indefinitely unless
19 revoked ~~by the executive director~~ as provided in section
20 455B.59.

21 Sec. 36. Section four hundred fifty-five B point sixty-
22 two (455B.62), Code 1979, is amended to read as follows:

23 455B.62 RULES. The commission, with the advice of the
24 board, may promulgate such rules as are necessary to carry
25 out the provisions of this part 2 of division III. ~~The rules~~
26 ~~established shall be subject to the provisions of section~~
27 ~~455B.77-subsection-3-~~

28 Sec. 37. Section four hundred fifty-five B point sixty-
29 seven (455B.67), subsection two (2), Code 1979, is amended
30 by striking the subsection.

31 Sec. 38. Section four hundred fifty-five B point sixty-
32 seven (455B.67), subsection four (4), Code 1979, is amended
33 to read as follows:

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

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

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

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

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

13 Sec. 39. Section four hundred fifty-five B point sixty-
14 eight (455B.68), Code 1979, is amended to read as follows:

15 455B.68 GRANTS OF ASSISTANCE. The ~~commission~~ executive
16 director may make grants as funds are available to any
17 municipality to assist such municipality in the construction
18 of sewage treatment works.

19 Sec. 40. Section four hundred fifty-five B point sixty-
20 nine (455B.69), unnumbered paragraphs one (1) and two (2),
21 Code 1979, are amended to read as follows:

22 The ~~commission~~ executive director shall accept and ad-
23 minister all funds granted by the state pursuant to this part
24 3 of division III.

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

27 Sec. 41. Section four hundred fifty-five B point seventy
28 (455B.70), Code 1979, is amended to read as follows:

29 455B.70 CONTRACTS. The ~~commission~~ executive director
30 may, in the name of the state, contract with any municipality
31 concerning eligible projects, subject to the approval of the
32 ~~executive-committee~~ commission. ~~Any-such~~ The contract may
33 include such provisions as may be agreed upon by the parties,
34 and shall include, in substance, the following provisions:

35 1. An estimate of the reasonable cost of the project as

1 determined by the ~~commission~~ executive director.

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

7 3. An agreement by the municipality:

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

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

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

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

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

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

32 Sec. 42. Section four hundred fifty-five B point seventy-
33 four (455B.74), Code 1979, is amended to read as follows:

34 455B.74 PRIOR RULES. Any rule adopted or order issued
35 under chapters 136A, 455B and 455C of prior Codes, by the

1 Iowa water pollution control commission or by the state
2 department of health or under this division by the water
3 quality commission before January 1, 1980, shall remain
4 effective until modified or rescinded by action of the ~~water~~
5 ~~quality~~ commission unless such the rule is inconsistent or
6 contrary to this division. Any permit issued under chapter
7 455B of prior Codes shall remain effective until modified
8 or revoked by the executive director.

9 Sec. 43. Section four hundred fifty-five B point seventy-
10 five (455B.75), subsection five (5), Code 1979, is amended
11 by striking the subsection.

12 Sec. 44. Section four hundred fifty-five B point seventy-
13 seven (455B.77), Code 1979, is amended by adding the following
14 new unnumbered paragraph:

15 NEW UNNUMBERED PARAGRAPH. The executive director may
16 issue, modify, or deny variances from the rules of the com-
17 mission. The applicant may appeal the decision of the execu-
18 tive director to the commission.

19 Sec. 45. Section four hundred fifty-five B point seventy-
20 eight (455B.78), Code 1979, is amended to read as follows:

21 455B.78 RULES ESTABLISHED. The commission shall establish
22 rules for the proper administration of the provisions of this
23 part 1 of division IV which shall reflect and accommodate
24 ~~insofar~~ as far as is reasonably possible those current and
25 generally accepted methods and techniques for treatment and
26 disposition of solid waste which will serve the purposes of
27 ~~said~~ part one (1) of this division which shall take into
28 consideration ~~such~~ the factors, including others which it
29 may deem proper, as existing physical conditions, topography,
30 soils and geology, climate, transportation, and land use,
31 ~~such~~ the rules including but not limited to rules relating
32 to the establishment and location of sanitary disposal
33 projects, sanitary practices, inspection of sanitary disposal
34 projects, collection of solid waste, disposal of solid waste,
35 pollution controls, the issuance of permits, approved methods

1 of private disposition of solid waste, the general operation
2 and maintenance of sanitary disposal projects, and the
3 implementation of said part one (1) of this division. Prior
4 to issuance of rules or amendments thereto, the commission
5 shall hold at least one public hearing on the proposed rules
6 or amendments, and shall give notice of ~~such~~ the hearing at
7 least thirty days in advance by publishing notice in a
8 newspaper of general circulation in the state. ~~The-air-quality~~
9 ~~commission-and-the-water-quality-commission-of-the-department~~
10 ~~shall-co-operate-with-the-commission-in-the-establishment~~
11 ~~of-such-rules---All-rules-promulgated-shall-be-subject-to~~
12 ~~the-provisions-of-chapter-17A-and-section-455B-7,-subsection~~
13 ~~3-~~

14 Sec. 46. Section four hundred fifty-five B point seventy-
15 nine (455B.79), unnumbered paragraph two (2), Code 1979, is
16 amended to read as follows:

17 Permits shall be issued without fee by the executive
18 director or at his or her direction, by a local board of
19 health, for each sanitary disposal project operated in this
20 state. Such permits shall be issued in the name of the city
21 or county or, where applicable, in the name of the public
22 or private agency operating such project. Each sanitary
23 disposal project shall be inspected annually by the department
24 or a local board of health. The permits issued pursuant to
25 this section shall be in addition to any other licenses,
26 permits or variances authorized or required by law, including,
27 but not limited to, the provisions of chapter 358A. A permit
28 may be suspended or revoked ~~after-notice-and-hearing-before~~
29 ~~the-commission-or-its-designee~~ by the executive director if
30 a sanitary disposal project is found not to meet the
31 requirements of the provisions of said part one (1) of this
32 division or rules issued pursuant-thereto under part one (1)
33 of this division. The suspension or revocation of a permit
34 may be appealed to the commission.

35 Sec. 47. Section four hundred fifty-five B point eighty-

1 two (455B.82), subsection one (1), Code 1979, is amended to
2 read as follows:

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

25 Sec. 48. Section four hundred fifty-five B point eighty-
26 three (455B.83), Code 1979, is amended to read as follows:

27 455B.83 APPEAL FROM ORDER. Any person aggrieved by an
28 order of ~~the commission or~~ the executive director may appeal
29 the ~~same~~ order by filing a written notice of appeal with the
30 executive director within thirty days of the issuance of the
31 order. The executive director shall schedule a hearing for
32 the purpose of hearing the arguments of the aggrieved person
33 within thirty days of the filing of the notice of appeal.
34 The hearing may be held before the commission or its designee.
35 A complete record shall be made of the proceedings. The

1 executive director shall issue the findings in writing to
2 the aggrieved person within thirty days of the conclusion
3 of ~~such~~ the hearing. Judicial review may be sought of actions
4 of the commission ~~or executive-director~~ in accordance with
5 the terms of the Iowa administrative procedure Act.

6 Notwithstanding the terms of ~~said~~ the Act, petitions for
7 judicial review may be filed in the district court of the
8 county ~~wherein~~ where the acts in issue occurred.

9 Sec. 49. Section four hundred fifty-five B point eighty-
10 four (455B.84), Code 1979, is amended to read as follows:

11 455B.84 MODIFICATION OF RULES. Any rule adopted or order
12 issued under chapter 406 of prior Codes by the commissioner
13 of public health or under part one (1) of this division by
14 the solid waste disposal commission before January 1, 1980

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

18 Sec. 50. Section four hundred fifty-five B point eighty-
19 five (455B.85), subsection four (4), Code 1979, is amended
20 by striking the subsection.

21 Sec. 51. Section four hundred fifty-five B point eighty-
22 seven (455B.87), Code 1979, is amended to read as follows:

23 455B.87 RULES FOR TRANSPORTING. The commission shall
24 provide, by rule, for the proper methods of transporting,
25 storage, and handling of radioactive material except that
26 the provisions of this section shall not apply to the trans-
27 portation, handling, or storage of radioactive material by
28 licensed physicians and surgeons, ~~or~~ licensed osteopathic
29 physicians and surgeons, licensed podiatrists, licensed
30 dentists or licensed pharmacists within the scope of their
31 practice or by qualified employees of licensed hospitals
32 within the scope of their duties. In adopting such rules,
33 the commission shall consider the methods and techniques used
34 by the United States ~~atomic-energy~~ nuclear regulatory
35 commission and radiation control agencies of other states

1 for the regulation of the transporting, handling, and storage
 2 of radioactive material. The commission shall also consult
 3 with the department of public safety in the development of
 4 rules for the transporting of radioactive material on the
 5 public roads of this state. ~~All rules adopted by the~~
 6 ~~commission under this section shall be subject to the~~
 7 ~~provisions of chapter 17A and section 455B.7, subsection 3.~~

8 Sec. 52. Section four hundred fifty-five B point eighty-
 9 eight (455B.88), unnumbered paragraph two (2), Code 1979,
 10 is amended by striking the unnumbered paragraph.

11 Sec. 53. Section four hundred fifty-five B point ninety-
 12 five (455B.95), subsection three (3), Code 1979, is amended
 13 by striking the subsection.

14 Sec. 54. Section four hundred fifty-five B point one hun-
 15 dred ten (455B.110), subsections six (6), seven (7), and eight
 16 (8), Code 1979, are amended by striking the subsections.

17 Sec. 55. Section four hundred fifty-five B point one hun-
 18 dred fourteen (455B.114), Code 1979, is amended to read as
 19 follows:

20 455B.114 STATE HAZARDOUS CONDITION CONTINGENCY PLAN.
 21 All public agencies, as defined in chapter 28E, shall ~~ee-~~
 22 ~~operate~~ cooperate in the development and implementation of
 23 a state hazardous condition contingency plan. The plan shall
 24 detail the manner in which public agencies shall participate
 25 in the response to a hazardous condition. The ~~department~~
 26 ~~executive director~~ may enter into agreements, ~~subject to~~
 27 ~~section 455B.7~~ with approval of the commission, with any state
 28 agency or unit of local government or with the federal
 29 government, as necessary to develop and implement the plan.
 30 The plan shall be ~~ee-ordinated~~ coordinated with the office
 31 of disaster services and any joint county-municipal disaster
 32 services and emergency planning administrations established
 33 pursuant to chapter 29C.

34 Sec. 56. Section four hundred fifty-five B point one hun-
 35 dred seventeen (455B.117), subsection two (2), Code 1979,

1 is amended to read as follows:

2 2. The executive director ~~of the commission~~ may request
3 that the attorney general institute legal proceedings for
4 a temporary or permanent injunction pursuant to section
5 455B.120 for purposes of enforcing an emergency order.

6 Sec. 57. Section four hundred fifty-five B point one hun-
7 dred nineteen (455B.119), subsection six (6), Code 1979, is
8 amended by striking the subsection.

9 Sec. 58. Chapter four hundred fifty-five B (455B), Division
10 four (IV), part four (4), Code 1979, is amended by adding
11 the following new section:

12 NEW SECTION. PRIOR RULES CONTINUED. Any rules adopted
13 or order issued under part four (4) of this division before
14 January 1, 1980 by the solid waste disposal commission shall
15 remain effective until modified or rescinded by action of
16 the commission.

* 17 Sec. 59. Section sixty-eight B point two (68B.2), sub-
18 section four (4), Code 1979, is amended to read as follows:

19 4. "Regulatory agency" means department of agriculture,
20 industrial commissioner, bureau of labor, occupational safety
21 and health review commission, department of job service,
22 department of banking, insurance department of Iowa, state
23 department of health, department of public safety, department
24 of public instruction, state board of regents, department
25 of social services, department of revenue, Iowa state commerce
26 commission, Iowa beer and liquor control department, board
27 of pharmacy examiners, state conservation commission, state
28 department of transportation, Iowa state civil rights
29 commission, department of soil conservation, department of
30 public defense, department of environmental quality and Iowa
31 natural resources council.

32 Sec. 60. Section one hundred seventy-two D point three
33 (172D.3), subsection two (2), paragraph b, unnumbered para-
34 graph one (1), Code 1979, is amended to read as follows:

35 Applicability of rules of the department other than those

1 ~~issued-by-the-air-quality-commission~~ relating to air quality
2 under division two (II) of chapter four hundred fifty-five
3 B (455B) of the Code.

4 Sec. 61. Section one hundred seventy-two D point three
5 (172D.3), subsection two (2), paragraph c, Code 1979, is
6 amended to read as follows:

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

10 (1) A rule of the ~~air-quality-commission~~ department under
11 division two (II) of chapter four hundred fifty-five B (455B)
12 of the Code in effect on November 1, 1976 shall apply to a
13 feedlot with an established date of operation prior to November
14 1, 1976.

15 (2) A rule of the ~~air-quality-commission~~ department un-
16 der division two (II) of chapter four hundred fifty-five B
17 (455B) of the Code shall apply to a feedlot with an established
18 date of operation subsequent to the effective date of the
19 rule.

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

27 (4) A rule of the ~~air-quality-commission~~ department under
28 division two (II) of chapter four hundred fifty-five B (455B)
29 of the Code pertaining to feedlot design standards adopted
30 after November 1, 1976 shall not apply to any feedlot having
31 an established date of operation prior to the effective date
32 of the rule for either a period of ten years from the
33 established date of operation of the feedlot or two years
34 from the effective date of the rule, whichever time period
35 is greater. However, any design standard rule pertaining

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

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

6 Sec. 62. Section two hundred point five (200.5), Code
7 1979, is amended by adding the following new subsection:

8 NEW SUBSECTION. The secretary shall appoint an advisory
9 committee to advise the secretary and the department on the
10 registration of a product of commercial fertilizer or soil
11 conditioner under the provisions of this chapter.

12 Sec. 63. Section two hundred six point two (206.2),
13 subsection twenty-three (23), Code 1979, is amended to read
14 as follows:

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

20 Sec. 64. Section two hundred six point eleven (206.11),
21 subsection one (1), paragraph d, subparagraph five (5), Code
22 1979, is amended to read as follows:

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

26 Sec. 65. Section two hundred six point fourteen (206.14),
27 Code 1979, is amended by adding the following new subsection:

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

33 Sec. 66. Section two hundred six point nineteen (206.19),
34 Code 1979, is amended by striking the section and inserting
35 in lieu thereof the following:

1 206.19 RULES. The department shall, by rule, after public
2 hearing following due notice:

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

6 2. Determine the proper use of pesticides including but
7 not limited to their formulations, times and methods of
8 application, and other conditions of use.

9 Sec. 67. Chapter two hundred six (206), Code 1979, is
10 amended by adding the following new sections:

11 NEW SECTION. ADVISORY COMMITTEE CREATED--DUTIES.

12 1. An advisory committee to the secretary is created.

13 The advisory committee shall have the following members:

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

16 b. The dean, college of medicine, university of Iowa,
17 or his or her designee;

18 c. An entomologist, botanist, geneticist, horticulturist,
19 agronomist and two persons representing the general public
20 appointed by the secretary.

21 Appointive members of the advisory committee shall serve
22 terms of four years.

23 2. The advisory committee shall assist the secretary in
24 obtaining scientific data and coordinating agricultural
25 chemical regulatory, enforcement, research, and educational
26 functions of the state. The advisory committee shall recommend
27 rules regarding the sale, use, or disuse of agricultural
28 chemicals to the secretary.

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

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

35 NEW SECTION. PRIOR RULES CONTINUED. A rule adopted or

1 order issued under chapter two hundred six A (206A) of prior
2 Codes by the chemical technology review board or under division
3 five (V) of chapter four hundred fifty-five B (455B) of the
4 Code by the chemical technology commission before January
5 1, 1980, is effective until modified or rescinded by action
6 of the department of agriculture.

7 Sec. 68. Section three hundred five point one (305.1),
8 Code 1979, is amended by striking the section and inserting
9 in lieu thereof the following:

10 305.1 GEOLOGICAL SURVEY CREATED. There is created a
11 geological survey of the state.

12 Sec. 69. Section three hundred five point two (305.2),
13 Code 1979, is amended by striking the section and inserting
14 in lieu thereof the following:

15 305.2 STATE GEOLOGIST AND ASSISTANTS.

16 1. The governor shall appoint the state geologist. The
17 state geologist must have a degree in geology from an ac-
18 credited college or university and must have at least five
19 years of geological experience. The annual salary of the
20 state geologist shall be determined by the governor as provided
21 by law.

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

25 Sec. 70. Section three hundred five point four (305.4),
26 Code 1979, is amended to read as follows:

27 305.4 INVESTIGATIONS--COLLECTION--RENTING SPACE. The
28 state geologist shall investigate the characters of the various
29 soils and their capacities for agricultural purposes, ~~the~~
30 ~~growth-of-timber, the animal and plant life of the state,~~
31 the streams ~~and water power~~, and other scientific and natural
32 history resource matters that may be of practical importance
33 and interest. For the purpose of preserving well drilling
34 samples, rock cores, fossils, and other materials as may be
35 necessary to carry on investigations, the state geologist

1 shall have the authority to lease or rent sufficient space
 2 for storage of these materials with the approval of the
 3 director of the department of general services. A complete
 4 cabinet collection may~~7-at-the-option-of-the-board7~~ be made
 5 to illustrate the natural products of the state, and the ~~board~~
 6 state geologist may also furnish suites of materials, rocks,
 7 and fossils for colleges and public museums within the state,
 8 if it can be done without impairing the general state
 9 collection.

10 Sec. 71. Section three hundred five point seven (305.7),
 11 Code 1979, is amended to read as follows:

12 305.7 ANNUAL REPORT. The state geologist shall, annually,
 13 at the time provided by law, make to the governor a full
 14 report~~7-approved-by-the-board7~~, of the work in the preceding
 15 year, which report shall be accompanied by such other re-
 16 ports and papers as may be considered desirable for publica-
 17 tion.

18 Sec. 72. Section three hundred five point eight (305.8),
 19 Code 1979, is amended to read as follows:

20 305.8 ~~CO-OPERATION~~ COOPERATION. The state geologist shall
 21 ~~co-operate~~ cooperate with the United States geological survey,
 22 with other federal and state organizations, and with adjoining
 23 state surveys in the making of topographic maps and the study
 24 of geologic problems of the state when, in the opinion of
 25 the ~~geological-board~~ state geologist, such ~~co-operation~~
 26 cooperation will result in profit to the state.

27 Sec. 73. Section three hundred five point nine (305.9),
 28 Code 1979, is amended to read as follows:

29 305.9 PUBLICATION OF REPORTS. The ~~board~~ state geologist
 30 may direct the preparation and publication of special re-
 31 ports and bulletins of educational and scientific value or
 32 containing information of immediate use to the people.

33 Sec. 74. Section three hundred five point ten (305.10),
 34 Code 1979, is amended to read as follows:

35 305.10 DISTRIBUTION AND SALE OF REPORTS. All publica-

1 tions of the geological survey shall be distributed by the
2 state as are other published reports of state officers when
3 no special provision is made. When such distribution has
4 been made the ~~board~~ state geologist shall retain a suffi-
5 cient number of copies to supply probable future demands and
6 any copies in excess of such number shall be sold to persons
7 making application therefor at the cost price of publication,
8 the money thus accruing to be turned into the treasury of
9 the state.

10 Sec. 75. Section three hundred five point eleven (305.11),
11 Code 1979, is amended to read as follows:

12 305.11 EXPENSES. ~~The members-of-the-board-shall-serve~~
13 ~~without-compensation,-but-the~~ state geologist and ~~such-board~~
14 ~~and-its~~ his or her assistants shall be allowed their actual
15 travel and other necessary expenses incurred in the performance
16 of their duties.

17 Sec. 76. Section four hundred twenty-seven point one
18 (427.1), subsection thirty-two (32), unnumbered paragraphs
19 five (5), six (6), seven (7) and nine (9), Code 1979, are
20 amended to read as follows:

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

30 A taxpayer may ~~appeal~~ seek judicial review of a
31 determination of the ~~air-quality-commission-or-the-water~~
32 ~~quality-commission~~ executive director or, on appeal, of the
33 environmental quality commission in accordance with the
34 provisions of ~~sections-455B-19-and-455B-39~~ chapter seventeen
35 A (17A) of the Code.

1 The ~~air-quality~~ environmental quality commission and the
 2 ~~water-quality-commission~~ of the department of environmental
 3 quality shall adopt rules relating to certification under
 4 this subsection and information to be submitted for evaluating
 5 pollution-control property for which a certificate is
 6 requested. The revenue department shall adopt any rules
 7 necessary to implement this subsection, including rules on
 8 identification and valuation of pollution-control property.
 9 All rules adopted shall be subject to the provisions of the
 10 statutes on administrative rules.

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

19 Sec. 77. Section four hundred fifty-five A point twenty-
 20 five (455A.25), subsection three (3), Code 1979, is amended
 21 to read as follows:

22 3. Any person who diverts water or any material from the
 23 surface directly into any underground watercourse or basin.
 24 ~~Provided, however, that~~ However, any diversion of water or
 25 material from the surface directly into any underground
 26 watercourse or basin existing upon May 16, 1957, shall not
 27 require a permit if ~~said~~ the diversion does not create waste
 28 or pollution. No permit shall be issued under this subsection
 29 until the approval of the ~~Iowa-water-pollution-control~~
 30 ~~commission~~ executive director of the department of
 31 environmental quality has been obtained.

32 Sec. 78. Section four hundred fifty-five C point one
 33 (455C.1), subsection nine (9), Code 1979, is amended to read
 34 as follows:

35 9. "Commission" means the ~~solid-waste-disposal~~ environ-

1 mental quality commission of the department of environmental
2 quality.

3 Sec. 79. Chapter four hundred fifty-five C (455C), Code
4 1979, is amended by adding the following new section:

5 NEW SECTION. PRIOR RULES CONTINUED. Rules adopted under
6 this chapter before January 1, 1980 by the solid waste disposal
7 commission shall remain effective until modified or rescinded
8 by action of the commission.

9 Sec. 80. Section four hundred sixty-seven D point six
10 (467D.6), subsection one (1), Code 1979, is amended to read
11 as follows:

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

21 Sec. 81. Sections four hundred fifty-five B point seven
22 (455B.7), four hundred fifty-five B point twenty-eight
23 (455B.28), four hundred fifty-five B point seventy-three
24 (455B.73), four hundred fifty-five B point ninety-nine
25 (455B.99), four hundred fifty-five B point one hundred thirty
26 (455B.130), four hundred fifty-five B point one hundred thirty-
27 one (455B.131), four hundred fifty-five B point one hundred
28 thirty-two (455B.132), four hundred fifty-five B point one
29 hundred thirty-three (455B.133), four hundred fifty-five B
30 point one hundred thirty-four (455B.134), four hundred fifty-
31 five B point one hundred thirty-five (455B.135), four hundred
32 thirty-six (455B.136), four
33 hundred fifty-five B point one hundred thirty-seven (455B.137),
34 four hundred sixty-nine point six (469.6), four hundred sixty-
35 nine point seven (469.7) and four hundred sixty-nine point

1 eight (469.8), Code 1979, are repealed.

2 Sec. 82. PRIOR ACTIONS. A rule adopted or approval given
3 under section four hundred twenty-seven point one (427.1),
4 subsection thirty-two (32) of the Code, before the effective
5 date of this Act, by the air quality commission or the water
6 quality commission of the department of environmental quality
7 shall remain effective until modified or rescinded by action
8 of the department of environmental quality as provided in
9 this Act.

10 Sec. 83. EFFECTIVE DATE--TRANSITION. The effective date
11 of this Act is January 1, 1980, except that this section shall
12 be effective July 1, 1979. After July 1, 1979, the governor
13 may appoint the members of the environmental quality
14 commission, authorize the environmental quality commission
15 to organize as provided in this Act and authorize the
16 environmental quality commission to plan for the transfer
17 of powers, duties, records, and other property as applicable.
18 The terms of the persons initially appointed to the
19 environmental quality commission for four-year terms shall
20 commence July 1, 1979 and end June 30, 1983, and the terms
21 of persons initially appointed for two-year terms shall
22 commence July 1, 1979 and end June 30, 1981. The persons
23 may be reappointed as provided in this Act. The members of
24 the environmental quality commission authorized to meet before
25 January 1, 1980, may be paid per diem and necessary expenses
26 from funds appropriated to the department of environmental
27 quality.

28 The terms of office of members of the geology board and
29 the executive committee, water quality commission, air quality
30 commission, solid waste disposal commission and the chemical
31 technology commission of the department of environmental
32 quality shall expire on December 31, 1979.

33

EXPLANATION

34 This bill provides for the reorganization of the department
35 of environmental quality. In the reorganization of the

1 department of environmental quality, the four policy-making
2 commissions and the executive committee are replaced by a
3 single policy-making commission, the environmental quality
4 commission. The new commission will consist of seven members
5 appointed by the governor with consent of two-thirds of the
6 membership of the senate for four-year, overlapping terms.
7 In addition, administrative duties currently assigned to the
8 executive committee and the four commissions are assigned
9 to the executive director. The commission remains the
10 authority to determine the policy of the department, to adopt,
11 amend or repeal rules, and to hear appeals from the decisions
12 of the executive director. The bill also provides for the
13 redistribution of the authority over agricultural chemicals
14 between the departments of agriculture and environmental
15 quality.

16 The bill also abolishes the geology board and removes from
17 the duties of the state geologist requirements relating to
18 the investigation of the growth of timber, animal and plant
19 life, and water power capabilities in the state. Section
20 305.11 is also amended to reflect current state policy
21 regarding reimbursement for travel and other necessary expenses
22 incurred by the geology board, the state geologist and other
23 employees of the geological survey in the performance of their
24 duties.

25 This bill is effective January 1, 1980, but commission
26 members may be appointed and planning for the orderly transfer
27 of powers and duties may be initiated after July 1, 1979.

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SF 205
tj/slc/26

SENATE FILE 205

H-5230

- 1 Amend Senate File 205, as amended, passed and
2 reprinted by the Senate, as follows:
- 3 1. Page 3, line 6, by adding after the word
4 "environment." the following: "Any agreement is
5 subject to the approval of the commission."
6 2. Page 3, by striking lines 18 through 24 and
7 inserting in lieu thereof the following: "membership
8 of the commission shall be as follows: three members
9 actively engaged in livestock and grain farming, a
10 member actively engaged in the management of a
11 manufacturing company, one member actively engaged
12 in the business of finance or commerce, and four
13 members who".
- 14 3. Page 3, lines 26 and 27, by striking the words
15 and figures "commencing July 1, 1979".
- 16 4. Page 4, by striking lines 15 through 19 and
17 inserting in lieu thereof the following:
18 "4. The members of the commission who are not
19 in the full-time employment of a public agency shall
20 be paid a per diem of forty dollars while engaged
21 in the performance of the duties of office. Members
22 shall be reimbursed for their actual and necessary
23 expenses while performing the duties of office. Per
24 diem and expenses shall be paid from funds appropriated
25 to the department."
- 26 5. Page 4, line 22, by striking the word "five"
27 and inserting in lieu thereof the word "ten".
- 28 6. Page 5, line 30, by striking the date "1980"
29 and inserting in lieu thereof the date "1981".
- 30 7. Page 6, line 28, by striking the word "five"
31 and inserting in lieu thereof the word "four".
- 32 8. Page 6, line 32, by striking the word
33 "statement" and inserting in lieu thereof the words
34 "comprehensive estimate".
- 35 9. Page 7, line 5, by striking the word "one"
36 and inserting in lieu thereof the word "three".
- 37 10. Page 8, line 6, by striking the word
38 "necessary" and inserting in lieu thereof the words
39 "consistent with rules".
- 40 11. Page 15, line 32, by striking the date "1980"
41 and inserting in lieu thereof the date "1981".
- 42 12. Page 22, line 3, by striking the date "1980"
43 and inserting in lieu thereof the date "1981".
- 44 13. Page 25, line 14, by striking the date "1980"
45 and inserting in lieu thereof the date "1981".
- 46 14. Page 27, line 14, by striking the date "1980"
47 and inserting in lieu thereof the date "1981".
- 48 15. Page 27, by inserting after line 16 the
49 following:
50 "Sec. ____ . Acts of the Sixty-eighth General

H-5230

Page two

1 Assembly, 1979 Session, chapter one hundred eleven
2 (111), section two (2), subsection one (1), is amended
3 by striking the subsection.

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

8 SEC. 13. Section three hundred seven point ten
9 (307.10), Code 1979, is amended by adding the following
10 new subsection unnumbered paragraph:

11 NEW SUBSECTION UNNUMBERED PARAGRAPH. The
12 commission may adopt, after consultation with the
13 department of environmental quality and the department
14 of public safety, rules to enforce the rules regarding
15 transportation of hazardous wastes promulgated by
16 the solid-waste-disposal environmental quality
17 commission of the department of environmental quality
18 under section three (3), subsection three (3) of this
19 Act. The department and the division of the highway
20 safety patrol of the department of public safety shall
21 carry out the rules through the use of the director's
22 powers and duties of enforcement and inspection.

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

27 455B.130 RESTRICTIONS ON USE OF AGRICULTURAL
28 CHEMICALS.

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

42 2. The commission shall submit to the secretary
43 of agriculture its findings on the unreasonable,
44 adverse effect that the agricultural chemical causes
45 to humans or the environment. The department of
46 agriculture shall prepare an estimate of the economic
47 impact of restricting the use of the agricultural
48 chemical. The economic impact statement, the
49 commission's findings and the report of the advisory
50 committee created under section sixty-seven (67) of

5230

Page three

1 this Act shall be available at the time of publication
 2 of the intended rule action by the secretary. The
 3 secretary of agriculture and the advisory committee
 4 shall review the commission's findings and collect,
 5 analyze and interpret any other scientific data
 6 relating to the agricultural chemical. The secretary
 7 and the committee shall consider any official reports,
 8 academic studies, expert opinions or testimony, or
 9 other matters deemed to have probative value and shall
 10 consider the toxicity, hazard, effectiveness, public
 11 need for the agricultural chemical or other means
 12 of control other than the chemical in question, and
 13 the economic impact on the members of the public and
 14 agencies affected by it.

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

21 16. Page 29, by striking lines 8 through 11 and
 22 inserting in lieu thereof the following:

23 "NEW SUBSECTION. The advisory committee created
 24 in section sixty-seven (67) of this Act shall advise
 25 and assist the secretary on the registration of a
 26 product of commercial fertilizer or soil conditioner
 27 under the provisions of this chapter."

28 17. Page 31, line 5, by striking the date "1980" c
 29 and inserting in lieu thereof the date "1981".

30 18. Page 34, lines 9 and 10, by striking the words E
 31 "the statutes on administrative rules" and inserting
 32 in lieu thereof the words "~~the-statutes-on~~
 33 administrative-rules chapter seventeen A (17A) of
 34 the Code".

35 19. Page 35, line 6, by striking the date "1980" c
 36 and inserting in lieu thereof the date "1981".

37 20. Page 35, lines 25 and 26, by striking the f
 38 words and figures "four hundred fifty-five B point
 39 one hundred thirty (455B.130),".

40 21. Page 36, by striking lines 10 through 32 and c
 41 inserting in lieu thereof the following:

42 "Sec. 83. EFFECTIVE DATE--TRANSITION. The
 43 effective date of this Act is January 1, 1981, except
 44 that this section shall be effective July 1, 1980.
 45 After July 1, 1980, the governor may appoint the
 46 members of the environmental quality commission,
 47 authorize the environmental quality commission to
 48 organize as provided in this Act and authorize the
 49 environmental quality commission to plan for the
 50 transfer of powers, duties, records, and other property

H-5230
Page four

1 as applicable. The terms of the persons initially
2 appointed to the environmental quality commission
3 for four-year terms shall commence July 1, 1980 and
4 end June 30, 1984, and the terms of persons initially
5 appointed for two-year terms shall commence July 1,
6 1980 and end June 30, 1982. The persons may be
7 reappointed as provided in this Act. The members
8 of the environmental quality commission authorized
9 to meet before January 1, 1981, may be paid per diem
10 and necessary expenses from funds appropriated to
11 the department of environmental quality.

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

18 22. By renumbering sections and internal references
19 to sections to conform to this amendment.

H-5230 FILED
FEBRUARY 14, 1980
Adopted 2/27 (p. 674)

By COMMITTEE ON STATE GOVERNMENT
CRAWFORD, Chair

SENATE FILE 205

H-5302

- 1 Amend Senate File 205 as follows:
- 2 1. Page 19, by striking line 27, and inserting in
- 3 lieu thereof the following: "455B-77-subsection-3. No
- 4 rule or regulation promulgated by any branch of the
- 5 United States government may be effective without the
- 6 prior approval of the standing committees of the
- 7 senate and house of representatives of the general
- 8 assembly of the state of Iowa having jurisdiction
- 9 over bills relating to natural resources."

H-5302 FILED

BY MILLER of Buchanan

FEBRUARY 25, 1980

*Adopted as amended by 5306
2/27 (p. 683)*

SENATE FILE 205

H-5301

- 1 Amend Senate File 205 as follows:
- 2 1. Page 2, line 14, by inserting after the word
- 3 "chapter." the following: "However, the owner or
- 4 person in charge shall be notified."

H-5301 FILED

BY MILLER of Buchanan

FEBRUARY 25, 1980

Adopted 2/27 (p. 680)

SENATE FILE 205

H-5325

- 1 Amend the Committee on State Government amendment
- 2 H-5230 as follows:
- 3 1. Page 1, by striking lines 11 and 12 and
- 4 inserting in lieu thereof the following:
- 5 "manufacturing company, one member who is a
- 6 registered professional engineer, and four".

H-5325 FILED

BY PERKINS of Greene

FEBRUARY 27, 1980

LOST (p. 674)

SENATE FILE 205

H-5293

1 Amend Senate File 205 as amended, passed and
2 reprinted by the Senate, as follows:
3 1. Page 1, by inserting after line 6 the following:
4 "Sec. ____ . Section four hundred fifty-five B point
5 two (455B.2), Code 1979, is amended by striking the
6 section and inserting in lieu thereof the following:
7 455B.2 DEPARTMENT CREATED. There is created a
8 department of environmental quality."
9 2. Page 5, by inserting after line 16 the following
10 subsection:
11 " ____ . Appoint an executive director who shall
12 serve at the pleasure of the commission and who shall
13 not be a member of the commission. The executive
14 director shall not hold another office under the laws
15 of the United States or of this or another state or
16 hold another position for profit. The executive
17 director shall not engage in an occupation, business
18 or profession interfering with or inconsistent with
19 the duties of executive director, serve on or under
20 a committee of a political party or contribute to
21 the political campaign fund of a person or political
22 party. The executive director shall be appointed
23 on the basis of executive and administrative abilities
24 and shall devote full time to the duties of the
25 position of executive director. The executive director
26 shall receive a salary as fixed by the general
27 assembly."
28 3. By renumbering sections and subsections to
29 conform to this amendment.

-5293 FILED BY WELDEN of Hardin
FEBRUARY 25, 1980
Adopted 2/27 (p. 675)

SENATE FILE 205

H-5294

1 Amend Senate File 205 as amended, passed and
2 reprinted by the Senate, as follows:
3 1. Page 5, by striking line 22 and inserting in A
4 lieu thereof the following:
5 "the provisions of this chapter and the rules B
6 deemed necessary".
7 2. Page 7, line 5, by striking the words
8 "or a hearing officer".
9 3. Page 11, line 16, by striking the words C
10 "endanger or tend to".

-5294 FILED BY WELDEN of Hardin
FEBRUARY 25, 1980
*A - adopted, B - Lost, C - 4/20
2/27 (p. 680)*

H-5318

- 1 Amend the amendment, H-5293, to Senate File 205,
 2 as amended, passed and reprinted by the Senate,
 3 as follows:
 4 1. Page 1, line 26, by striking the word "fixed"
 5 and inserting in lieu thereof the words "determined"
 6 by the governor within a salary range specified".

H-5318 FILED

BY SPEAR of Lee

FEBRUARY 26, 1980

Adopted 2/27 (p. 675)

SENATE FILE 205

H-5316

- 1 Amend amendment H-5293 to Senate File 205 as
 2 amended, passed and reprinted by the Senate, as
 3 follows:
 4 1. Page 1, by striking lines 19 through 22 and
 5 inserting in lieu thereof the following: "the duties
 6 of executive director, or serve on or under a
 7 committee of a political party. The executive director
 8 shall be appointed".

H-5316 FILED

BY SPEAR of Lee

FEBRUARY 26, 1980

Adopted 2/27 (p. 675)

SENATE FILE 205

H-5317

- 1 Amend Senate File 205 as follows:
 2 1. Page 19, by striking lines 6 and 7.
 3 2. Page 19, line 8, by striking the figure "8" and
 4 inserting in lieu thereof the figure "7".

H-5317 FILED *2/27 (p. 681)* BY SPEAR of Lee

FEBRUARY 26, 1980

SENATE FILE 205

H-5314

- 1 Amend the amendment, H-5293, to Senate File 205,
 2 as amended, passed and reprinted by the Senate, as
 3 follows:
 4 1. Page 1, by inserting after line 27 the
 5 following:
 6 "_____. Page 5, line 23, by inserting after the
 7 word "department." the following: "The standards or
 8 limitations adopted by rule of the commission relating
 9 to programs administered under this chapter shall
 10 not exceed the standards or limitations promulgated
 11 by the administrator of the United States environmental
 12 protection agency or the requirements of the federal
 13 Clean Air Act as amended to January 1, 1980, the
 14 federal Water Pollution Control Act amendments of
 15 1972, the federal Safe Drinking Water Act, or the
 16 federal Solid Waste Disposal Act."
 17 2. By renumbering sections and subsections to
 18 conform to this amendment.

H-5314 FILED *2/27* BY TYRRELL of IowaFEBRUARY 26, 1980 *(p. 677)*

SENATE FILE 205

H-5305

1 Amend Senate File 205, as amended, passed and
2 reprinted by the Senate, as follows:
3 1. Page 1, line 22, by striking the words "or
4 reorganize" and inserting in lieu thereof the words
5 "~~er-reorganize~~".
6 2. Page 1, line 24, by inserting after the word
7 "department." the following: "The administrative
8 structure shall include an operations division and
9 an administrative services division.

10 a. The operations division shall consist of an
11 operations branch which is responsible for the programs
12 relating to air and land, water quality, and water
13 supply and a planning, permits and grants branch which
14 is responsible for planning, program development and
15 grant administration.

16 b. The administrative services division shall
17 consist of an operating services branch which is
18 responsible for data processing, centralized records,
19 word processing and secretarial support functions
20 and a support services branch which is responsible
21 for personnel, procurement, accounting and public
22 information functions.

23 c. The director may create additional divisions
24 or branches within divisions and specify their duties
25 and responsibilities with the approval of the
26 commission."

H-5305 FILED *Adopted 2/27 (p. 674)* BY HALL of Linn
FEBRUARY 26, 1980

SENATE FILE 205

H-5306

1 Amend the amendment, H-5302, to Senate File 205,
2 as amended, passed and reprinted by the Senate, as
3 follows:

4 1. Page 1, by striking lines 2 through 9 and
5 inserting in lieu thereof the following:
6 "1. Page 5, line 29, by inserting after the word
7 "chapter." the following: "A rule adopted by the
8 commission or the executive director under this
9 chapter may be rescinded by a resolution adopted by
10 either house of the general assembly. The resolution
11 shall be included in the next publication of the Iowa
12 administrative bulletin.""

H-5306 FILED
FEBRUARY 26, 1980

BY MILLER of Buchanan

Adopted 2/27 (p. 682)

1 Amend Senate File 205, as amended passed and
2 reprinted by the Senate, as follows:

3 1. Page 2, line 14, by inserting after the word
4 "chapter." the following: "However, the owner or
5 person in charge shall be notified."

6 2. Page 3, line 6, by adding after the word
7 "environment." the following: "Any agreement is
8 subject to the approval of the commission."

9 3. Page 3, by striking lines 18 through 24 and
10 inserting in lieu thereof the following: "membership
11 of the commission shall be as follows: three members
12 actively engaged in livestock and grain farming, a
13 member actively engaged in the management of a
14 manufacturing company, one member actively engaged
15 in the business of finance or commerce, and four
16 members who"

17 4. Page 3, lines 26 and 27, by striking the words
18 and figures "commencing July 1, 1979".

19 5. Page 4, by striking lines 15 through 19 and
20 inserting in lieu thereof the following:

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

29 6. Page 4, line 22, by striking the word "five"
30 and inserting in lieu thereof the word "ten".

31 7. Page 5, by striking line 22 and inserting in
32 lieu thereof the following: "the provisions of this
33 chapter and the rules deemed necessary".

34 8. Page 5, line 29, by inserting after the word
35 "chapter." the following: "A rule adopted by the
36 commission or the executive director under this chapter
37 may be rescinded by a resolution adopted by either
38 house of the general assembly. The resolution shall
39 be included in the next publication of the Iowa
40 administrative bulletin."

41 9. Page 5, line 30, by striking the date "1980"
42 and inserting in lieu thereof the date "1981".

43 10. Page 6, line 28, by striking the word "five"
44 and inserting in lieu thereof the word "four".

45 11. Page 6, line 32, by striking the word
46 "statement" and inserting in lieu thereof the words
47 "comprehensive estimate".

48 12. Page 7, line 5, by striking the word "one"
49 and inserting in lieu thereof the word "three".

50 13. Page 8, line 6, by striking the word

1 "necessary" and inserting in lieu thereof the words
2 "consistent with rules".
3 14. Page 15, line 32, by striking the date "1980"
4 and inserting in lieu thereof the date "1981".
5 15. Page 22, line 3, by striking the date "1980"
6 and inserting in lieu thereof the date "1981".
7 16. Page 25, line 14, by striking the date "1980"
8 and inserting in lieu thereof the date "1981".
9 17. Page 27, line 14, by striking the date "1980"
10 and inserting in lieu thereof the date "1981".
11 18. Page 27, by inserting after line 16 the
12 following:
13 "Sec. _____. Acts of the Sixty-eighth General
14 Assembly, 1979 Session, chapter one hundred eleven
15 (111), section two (2), subsection one (1), is amended
16 by striking the subsection.
17 Sec. _____. Acts of the Sixty-eighth General
18 Assembly, 1979 Session, chapter one hundred eleven
19 (111), section thirteen (13), is amended to read as
20 follows:
21 SEC. 13. Section three hundred seven point ten
22 (307.10), Code 1979, is amended by adding the following
23 new subsection unnumbered paragraph:
24 NEW SUBSECTION UNNUMBERED PARAGRAPH. The
25 commission may adopt, after consultation with the
26 department of environmental quality and the department
27 of public safety, rules to enforce the rules regarding
28 transportation of hazardous wastes promulgated by
29 the ~~solid-waste-disposal~~ environmental quality
30 commission of the department of environmental quality
31 under section three (3), subsection three (3) of this
32 Act. The department and the division of the highway
33 safety patrol of the department of public safety shall
34 carry out the rules through the use of the director's
35 powers and duties of enforcement and inspection.
36 Sec. _____. Section four hundred fifty-five B point
37 one hundred thirty (455B.130), Code 1979, is amended
38 by striking the section and inserting in lieu thereof
39 the following:
40 455B.130 RESTRICTIONS ON USE OF AGRICULTURAL
41 CHEMICALS.
42 1. If the commission determines that an
43 agricultural chemical causes an unreasonable, adverse
44 effect on humans or the environment, the commission
45 shall submit to the secretary of agriculture its
46 findings and recommended actions. The secretary of
47 agriculture shall propose rules implementing the
48 recommended actions and shall hold a public hearing
49 to determine the effects of the proposed rules as
50 provided in chapter two hundred six (206) of the Code

S-5253

Page 3

1 after review and consideration of the findings as
2 provided in subsection two (2) of this section. A
3 rule of the secretary shall be adopted pursuant to
4 chapter seventeen A (17A) of the Code.

5 2. The commission shall submit to the secretary
6 of agriculture its findings on the unreasonable,
7 adverse effect that the agricultural chemical causes
8 to humans or the environment. The department of
9 agriculture shall prepare an estimate of the economic
10 impact of restricting the use of the agricultural
11 chemical. The economic impact statement, the
12 commission's findings and the report of the advisory
13 committee created under section sixty-seven (67) of
14 this Act shall be available at the time of publication
15 of the intended rule action by the secretary. The
16 secretary of agriculture and the advisory committee
17 shall review the commission's findings and collect,
18 analyze and interpret any other scientific data
19 relating to the agricultural chemical. The secretary
20 and the committee shall consider any official reports,
21 academic studies, expert opinions or testimony, or
22 other matters deemed to have probative value and shall
23 consider the toxicity, hazard, effectiveness, public
24 need for the agricultural chemical or other means
25 of control other than the chemical in question, and
26 the economic impact on the members of the public and
27 agencies affected by it.

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

34 19. Page 29, by striking lines 8 through 11 and
35 inserting in lieu thereof the following:

36 "NEW SUBSECTION. The advisory committee created
37 in section sixty-seven (67) of this Act shall advise
38 and assist the secretary on the registration of a
39 product of commercial fertilizer or soil conditioner
40 under the provisions of this chapter."

41 20. Page 31, line 5, by striking the date "1980"
42 and inserting in lieu thereof the date "1981".

43 21. Page 34, lines 9 and 10, by striking the words
44 "the statutes on administrative rules" and inserting
45 in lieu thereof the words "the-statutes-on
46 administrative-rules chapter seventeen A (17A) of
47 the Code".

48 22. Page 35, line 6, by striking the date "1980"
49 and inserting in lieu thereof the date "1981".

50 23. Page 35, lines 25 and 26, by striking the

S-5253
PAGE 4

1 words and figures "four hundred fifty-five B point
2 one hundred thirty (455B.130),".
3 24. Page 36, by striking lines 10 through 32 and
4 inserting in lieu thereof the following:
5 "Sec. 83. EFFECTIVE DATE--TRANSITION. The
6 effective date of this Act is January 1, 1981, except
7 that this section shall be effective July 1, 1980.
8 After July 1, 1980, the governor may appoint the
9 members of the environmental quality commission,
10 authorize the environmental quality commission to
11 organize as provided in this Act and authorize the
12 environmental quality commission to plan for the
13 transfer of powers, duties, records, and other property
14 as applicable. The terms of the persons initially
15 appointed to the environmental quality commission
16 for four-year terms shall commence July 1, 1980 and
17 end June 30, 1984, and the terms of persons initially
18 appointed for two-year terms shall commence July 1,
19 1980 and end June 30, 1982. The persons may be
20 reappointed as provided in this Act. The members
21 of the environmental quality commission authorized
22 to meet before January 1, 1981, may be paid per diem
23 and necessary expenses from funds appropriated to
24 the department of environmental quality.
25 The terms of office of members of the geology board
26 and the executive committee, water quality commission,
27 air quality commission, solid waste disposal commission
28 and the chemical technology commission of the
29 department of environmental quality shall expire on
30 December 31, 1980."
31 25. Renumbering sections and internal references
32 to sections to conform to this amendment.

S-5253 FILED
MARCH 4, 1980

Adopt

RECEIVED FROM THE HOUSE

*Revised by 5293 & 5325 &
concurred 3/12 (p. 813)*

SENATE FILE 205

S-5293

1 Amend the amendment, S-5253, to Senate File 205,
2 as amended, passed and reprinted by the Senate, as
3 follows:
4 1. Page 1, line 12, by striking the word "and"
5 and inserting in lieu thereof the word "or".
6 2. Page 1, by striking lines 34 through 40.

S-5293 FILED
MARCH 7, 1980

Adopted 3/12 (p. 813)

BY RICHARD F. DRAKE

SENATE FILE 205

S-5325

1 Amend the House amendment, S-5253, to Senate File
2 205, as amended, passed and reprinted by the Senate,
3 as follows:
4 1. Page 2, by inserting after line 2 the following:
5 " . By striking page 14, line 25 through page
6 15, line 25."
7 2. By renumbering sections to conform to this
8 amendment.

S-5325 FILED
MARCH 10, 1980

BY RICHARD F. DRAKE

SENATE AMENDMENT TO HOUSE AMENDMENT
TO SENATE FILE 205

H-5520

1 Amend the House amendment, S-5253, to Senate File
2 205, as amended, passed and reprinted by the Senate as
3 follows:
4 1. Page 1, line 12, by striking the word "and"
5 and inserting in lieu thereof the word "or".
6 2. Page 1, by striking lines 34 through 40.
7 3. Page 2, by inserting after line 2 the following:
8 " . By striking page 14, line 25 through page 15,
9 line 25."

H-5520 FILED
MARCH 14, 1980

RECEIVED FROM THE SENATE

*House refused to concur 4/8 (p. 1424)
Senate insisted 4/14 (p. 1423)*

REPORT OF THE CONFERENCE COMMITTEE
ON SENATE FILE 205

To the President of the Senate and the Speaker of the House of Representatives:

We, the undersigned members of the conference committee appointed to consider the difference between the Senate and the House of Representatives on Senate File 205, a bill for an Act relating to certain natural resource agencies of the state and the regulation and use of natural resources, by reorganizing the department of environmental quality; creating an environmental quality commission, transferring the powers and duties of the executive committee, air quality commission, water quality commission, and solid waste disposal commission to the environmental commission; by transferring the powers and duties of the chemical technology commission to the department of agriculture; abolishing the geology board and amending provisions of chapter three hundred five (305) of the Code relating to the duties of the state geologist and

REPORT OF THE CONFERENCE COMMITTEE ON S.F. 205 - PAGE 2

expense reimbursement for the state geologist and employees of the geological survey; making coordinating amendments to the Code; and subjecting violators to penalties, respectfully submit the following recommendations:

1. That the Senate recede from its amendment to the House amendment.

2. That the House amendment, S-5253, to Senate File 205, as amended, passed and reprinted by the Senate, be amended as follows:

1. Page 1, by inserting after line 8 the following:

"___. Page 3, line 8, by inserting after the date "1979," the words "as amended by Acts of the Sixty-eighth General Assembly, 1980 Session, Senate File two thousand three hundred one (2301), section sixty-nine (69),".

___. Page 3, lines 14 and 15, by striking the words "with the consent of two-thirds of the members of" and inserting in lieu thereof the words "subject to confirmation by"."

2. Page 1, by striking lines 17 and 18 and inserting in lieu thereof the following:

"___. Page 3, by striking lines 26 through 29 and inserting in lieu thereof the following: "be appointed to four-year terms of office commencing and ending as provided in Acts of the Sixty-eighth General Assembly, 1980 Session, Senate File two thousand three hundred one (2301), section three (3). Vacancies occurring".

___. By striking page 3, line 31 through page 4, line 2, and inserting in lieu thereof the following: "the balance of the unexpired term subject to confirmation by the Senate. A commission"."

3. Page 1, by striking lines 34 through 40.

4. Page 2, by inserting after line 2 the following:

"___. By striking page 14, line 25 through page 15, line 25."

5. Page 2, by inserting after line 35 the following:

"Sec. ___. Chapter four hundred fifty-five B (455B), Code 1979, is amended by adding the following new section to the

REPORT OF THE CONFERENCE COMMITTEE ON S. F. 205 - PAGE 3

new part of division four (IV) added by Acts of the Sixty-eighth General Assembly, 1979 Session, chapter one hundred eleven (111):

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

6. Page 4, by striking lines 14 through 19 and inserting in lieu thereof the following: "as applicable. Four of the members initially appointed to the environmental quality commission shall be appointed to terms of two years beginning and ending as provided in Acts of the Sixty-eighth General

REPORT OF THE CONFERENCE COMMITTEE ON S.F. 205 - PAGE 4

Assembly, 1980 Session, Senate File two thousand three hundred one (2301), section three (3). The persons may be".

7. Page 4, by inserting after line 30 the following:

"___. Amend the title, line 10, by inserting before the word "abolishing" the words "authorizing the acquisition and lease of land for hazardous waste treatment or disposal;".

8. By numbering sections to conform to this amendment.

ON THE PART OF THE SENATE:

RICHARD F. DRAKE, CHAIRPERSON
PATRICK J. DELUHERY
ARTHUR L. GRATIAS
TOM SLATER
FORREST V. SCHWENGELS

ON THE PART OF THE HOUSE:

DELWYN STROPER, CHAIRPERSON
REID W. CRAWFORD
GREGORY D. CUSACK

FILED:
APRIL 24, 1980

Senate adopted 4/25 (p. 1745)

SENATE FILE 205

AN ACT

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

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

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

3. "Commission" means the environmental quality commission.

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

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

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

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

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

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

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

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

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

chapter. However, the owner or person in charge shall be notified.

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

(2) in a reasonable manner, and any property seized shall be treated in accordance with the provisions of ~~chapter 95;~~ chapters eight hundred eight (808) and eight hundred nine (809) of the Code.

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

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

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

NEW SUBSECTION. Accept, receive and administer grants or other funds or gifts from public or private agencies, including the federal government, for the abatement, prevention, or control of pollution, or other environmental programs, subject to the approval of the commission.

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

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

455B.4 ENVIRONMENTAL QUALITY COMMISSION.

1. There is created an environmental quality commission consisting of nine members, not more than five of whom shall be from the same political party. The members shall be appointed by the governor subject to confirmation by the senate. Each member of the commission must be an elector of the state, and have interest and knowledge of the subjects embraced in this chapter. The membership of the commission shall be as follows: three members actively engaged in livestock and grain farming, a member actively engaged in the management of a manufacturing company, one member actively engaged in the business of finance or commerce, and four members who are electors of the state. The members of the commission shall be appointed to four-year terms of office commencing and ending as provided in Acts of the Sixty-eighth General Assembly, 1980 Session, Senate File two thousand three hundred one (2301), section three (3). Vacancies occurring during a term of office shall be filled by appointment for the balance of the unexpired term subject to confirmation by the Senate. A commission member shall not be appointed to serve more than two consecutive four-year terms.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9. Hold public hearings, except when the evidence to be received is confidential pursuant to this chapter or chapter sixty-eight A (68A) of the Code, necessary to carry out its powers and duties. The commission may issue subpoenas requiring the attendance of witnesses and the production of evidence pertinent to the hearings. A subpoena shall be issued and enforced in the same manner as provided in civil actions.

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

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

455B.6 APPEAL BOARD. In lieu of an appeal being heard by the full membership of the commission, the chairperson of the commission may appoint an appeal board consisting of three or more members of the commission or a hearing officer to conduct a hearing on the appeal of an aggrieved person from the action or order of the executive director as provided in chapter seventeen A (17A) of the Code.

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

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

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

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

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

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

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

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

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

NEW SUBSECTION. Issue orders consistent with rules to cause the abatement or control of air pollution. In making the orders, the executive director shall consider the facts and circumstances bearing upon the reasonableness of the emissions involved, including but not limited to, the character and degree of injury to, or interference with, the protection of health and the physical property of the public, the practicability of reducing or limiting the emissions from the air pollution source, and the suitability or unsuitability of the air pollution source to the area where it is located. An order may include advisory recommendations for the control

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

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

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

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

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

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

455B.17 RESOLUTION OF VIOLATIONS--APPEAL.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- a. The emissions occurring or proposed to occur do not endanger or tend to endanger human health or safety or property; and
 - b. Compliance with the rules or standards from which the variance is sought will produce serious hardship without equal or greater benefits to the public.
2. ~~A public hearing subject to the provisions of section 455B.16, shall be held if the commission concludes that a hearing is advisable.~~ The applicant may request a review hearing before the commission if ~~his~~ the application is denied.
3. In determining under what conditions and to what extent a variance may be granted, the ~~commission~~ executive director shall give due recognition to the progress which the applicant has made toward eliminating or preventing air pollution. In such a case, the ~~commission~~ executive director shall consider the reasonableness of the request, conditioned upon such applicant effecting a partial abatement of the particular air pollution within a reasonable period of time, or the ~~commission~~ executive director may prescribe other requirements with which such applicant shall comply.
4. The ~~commission~~ executive director may grant a variance for a specified period of time, not exceeding one year, and the ~~commission~~ executive director may further specify that the applicant make periodic reports specifying the progress that has been made toward compliance with any rule for which the variance was granted. A variance may be extended from year to year by affirmative action of the ~~commission~~ executive director.
5. The executive director shall maintain a record of each variance granted specifying the reasons for its issuance or extension.

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

455B.24 ACCEPTANCE OF LOCAL PROGRAM. When an air pollution control program conducted by a political subdivision, or a

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

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

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

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

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

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

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

within its jurisdiction. In cases where the certificate of acceptance is suspended, the political subdivision ~~is entitled to a public hearing as provided in section 455B.17~~ may appeal the suspension to the commission.

d. Nothing in this division II shall be construed to supersede the jurisdiction of any local air pollution control program in operation on the first of January, 1973, except that any such program shall meet all requirements of said division.

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

455B.29 PRIOR RULES. Any rule adopted or order or variance issued under chapter 136B of prior Codes by the Iowa air pollution control commission or by the state department of health or under division two (II) of this chapter by the air quality commission before January 1, 1981, shall remain effective until modified or rescinded by action of the ~~air quality~~ commission unless such the rule is inconsistent or contrary to this division II.

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

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

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

10. Adopt a statewide plan for the provision of safe drinking water under emergency circumstances. All public agencies, as defined in chapter 28E, shall ~~co-operate~~ cooperate in the development and implementation of the plan. The plan shall detail the manner in which the various state and local agencies shall participate in the response to an emergency. The department may enter into any agreement, subject to ~~section~~

~~455B.7~~ approval of the commission, with any state agency or unit of local government or with the federal government which may be necessary to establish the role of such agencies in regard to the plan. This plan shall be ~~co-ordinated~~ coordinated with ~~civil-defense~~ disaster emergency plans.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

c. Which conforms with applicable rules of the commission.

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

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

455B.68 GRANTS OF ASSISTANCE. The ~~commission executive~~

~~director~~ may make grants as funds are available to any municipality to assist such municipality in the construction of sewage treatment works.

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

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

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

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

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

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

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

3. An agreement by the municipality:

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

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

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

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

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

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

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

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

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

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

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

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

455B.78 RULES ESTABLISHED. The commission shall establish rules for the proper administration of the provisions of this part 1 of division IV which shall reflect and accommodate ~~insofar as far~~ as far as is reasonably possible those current and generally accepted methods and techniques for treatment and disposition of solid waste which will serve the purposes of ~~said part one (1) of this division~~ said part one (1) of this division which shall take into consideration ~~such~~ the factors, including others which it may deem proper, as existing physical conditions, topography, soils and geology, climate, transportation, and land use, ~~such~~ the rules including but not limited to rules relating to the establishment and location of sanitary disposal projects, sanitary practices, inspection of sanitary disposal projects, collection of solid waste, disposal of solid waste, pollution controls, the issuance of permits, approved methods of private disposition of solid waste, the general operation and maintenance of sanitary disposal projects, and the implementation of ~~said part one (1) of this division~~ said part one (1) of this division. Prior to issuance of rules or amendments thereto, the commission shall hold at least one public hearing on the proposed rules or amendments, and shall give notice of ~~such~~ the hearing at least thirty days in advance by publishing notice in a newspaper of general circulation in the state. ~~The air quality commission and the water quality commission of the department shall co-operate with the commission in the establishment of such rules. All rules promulgated shall be subject to the provisions of chapter 17A and section 456B-7, subsection 3-~~

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

Permits shall be issued without fee by the executive director or at his or her direction, by a local board of health, for each sanitary disposal project operated in this state. Such permits shall be issued in the name of the city or county or, where applicable, in the name of the public or private agency operating such project. Each sanitary disposal project shall be inspected annually by the department or a local board of health. The permits issued pursuant to this section shall be in addition to any other licenses, permits or variances authorized or required by law, including, but not limited to, the provisions of chapter 358A. A permit may be suspended or revoked ~~after notice and hearing before the commission or its designee~~ by the executive director if a sanitary disposal project is found not to meet the requirements of the provisions of ~~said part one (1) of this division~~ or rules issued ~~pursuant thereto under part one (1) of this division~~. The suspension or revocation of a permit may be appealed to the commission.

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

1. It shall be unlawful for any private agency or public agency to dump or deposit or permit the dumping or depositing of any solid waste at any place other than a sanitary disposal project approved by the executive director. This section shall not prohibit a private agency or public agency from dumping or depositing solid waste resulting from its own residential, farming, manufacturing, mining or commercial activities on land owned or leased by it if ~~such the~~ action does not violate any statute of this state or rules promulgated by the commission or local boards of health, or local ordinances, ~~or rules issued by the air quality commission~~

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

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

455B.83 APPEAL FROM ORDER. Any person aggrieved by an order of ~~the commission or~~ the executive director may appeal the ~~same~~ order by filing a written notice of appeal with the executive director within thirty days of the issuance of the order. The executive director shall schedule a hearing for the purpose of hearing the arguments of the aggrieved person within thirty days of the filing of the notice of appeal. The hearing may be held before the commission or its designee. A complete record shall be made of the proceedings. The executive director shall issue the findings in writing to the aggrieved person within thirty days of the conclusion of ~~such the~~ hearing. Judicial review may be sought of actions of the commission ~~or executive director~~ in accordance with the terms of the Iowa administrative procedure Act. Notwithstanding the terms of ~~said the~~ Act, petitions for judicial review may be filed in the district court of the county ~~wherein where~~ the acts in issue occurred.

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

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

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

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

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

455B.87 RULES FOR TRANSPORTING. The commission shall provide, by rule, for the proper methods of transporting, storage, and handling of radioactive material except that the provisions of this section shall not apply to the transportation, handling, or storage of radioactive material by licensed physicians and surgeons, ~~or~~ licensed osteopathic physicians and surgeons, licensed podiatrists, licensed dentists or licensed pharmacists within the scope of their practice or by qualified employees of licensed hospitals within the scope of their duties. In adopting such rules, the commission shall consider the methods and techniques used by the United States ~~atomic-energy~~ nuclear regulatory commission and radiation control agencies of other states for the regulation of the transporting, handling, and storage of radioactive material. The commission shall also consult with the department of public safety in the development of rules for the transporting of radioactive material on the public roads of this state. ~~All rules adopted by the commission under this section shall be subject to the provisions of chapter 17A and section 455B.7, subsection 3.~~

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

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

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

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

455B.114 STATE HAZARDOUS CONDITION CONTINGENCY PLAN. All public agencies, as defined in chapter 28E, shall ~~operate~~ cooperate in the development and implementation of a state hazardous condition contingency plan. The plan shall detail the manner in which public agencies shall participate in the response to a hazardous condition. The ~~department~~ executive director may enter into agreements, ~~subject to section 455B.7 with approval of the commission,~~ with any state agency or unit of local government or with the federal government, as necessary to develop and implement the plan. The plan shall be ~~co-ordinated~~ coordinated with the office of disaster services and any joint county-municipal disaster services and emergency planning administrations established pursuant to chapter 29C.

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

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

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

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

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

January 1, 1981 by the solid waste disposal commission shall remain effective until modified or rescinded by action of the commission.

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

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

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

NEW SUBSECTION UNNUMBERED PARAGRAPH. The commission may adopt, after consultation with the department of environmental quality and the department of public safety, rules to enforce the rules regarding transportation of hazardous wastes promulgated by the ~~solid-waste-disposal~~ environmental quality commission of the department of environmental quality under section three (3), subsection three (3) of this Act. The department and the division of the highway safety patrol of the department of public safety shall carry out the rules through the use of the director's powers and duties of enforcement and inspection.

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

NEW SECTION. ACQUISITION AND LEASE OF SITES. The commission shall adopt rules establishing criteria for the identification of land areas or sites which are suitable for the operation of a treatment or disposal facility. Upon request, the department shall assist the executive council in locating suitable sites for the location of a treatment or disposal facility. The commission may recommend to the

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

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

455B.130 RESTRICTIONS ON USE OF AGRICULTURAL CHEMICALS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 67. Section two hundred six point fourteen (206.14), Code 1979, is amended by adding the following new subsection:
NEW SUBSECTION. The secretary shall require, by rule, that veterinarians licensed and practicing veterinary medicine in the state promptly report to the department a case of domestic livestock poisoning or suspected poisoning by agricultural chemicals.

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

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

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

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

NEW SECTION. ADVISORY COMMITTEE CREATED--DUTIES.

1. An advisory committee to the secretary is created. The advisory committee shall have the following members:
 - a. The dean, college of veterinary medicine, Iowa state university of science and technology, or his or her designee;
 - b. The dean, college of medicine, university of Iowa, or his or her designee;
 - c. An entomologist, botanist, geneticist, horticulturist, agronomist and two persons representing the general public appointed by the secretary.
 Appointive members of the advisory committee shall serve terms of four years.
2. The advisory committee shall assist the secretary in obtaining scientific data and coordinating agricultural chemical regulatory, enforcement, research, and educational

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

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

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

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

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

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

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

305.2 STATE GEOLOGIST AND ASSISTANTS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

pollution-control property is to control or abate pollution of any air or water of this state or to enhance the quality of any air or water of this state.

A taxpayer may ~~appeal~~ seek judicial review of a determination of the ~~air-quality-commission-or-the-water quality-commission~~ executive director or, on appeal, of the environmental quality commission in accordance with the provisions of ~~sections-455B-19-and-455B-29~~ chapter seventeen A (17A) of the Code.

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

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

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

3. Any person who diverts water or any material from the surface directly into any underground watercourse or basin. ~~Provided-however-that~~ However, any diversion of water or material from the surface directly into any underground

watercourse or basin existing upon May 16, 1957, shall not require a permit if ~~said~~ the diversion does not create waste or pollution. No permit shall be issued under this subsection until the approval of the ~~sewa-water-pollution-control commission executive director of the department of environmental quality~~ has been obtained.

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

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

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

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

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

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

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

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

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

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

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

TERRY E. BRANSTAD
President of the Senate

WILLIAM H. HARBOR
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 205, Sixty-eighth General Assembly.

FRANK J. STORK
Secretary of the Senate

Approved May 22, 1980

ROBERT D. RAY
Governor