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HOUSE FILE 2463

Place On Calendar

BY COMMITTEE ON NATURAL
RESOURCES

(Formerly Study Bill 736)

Passed House, Date 3-18-82 (p. 880) Passed Senate, Date 4-14-82 (p. 1187)
Vote: Ayes 87 Nays 2 Vote: Ayes 37 Nays 11
Approved 5-18-82

A BILL FOR

1 An Act to consolidate the regulation and management of water
2 resources by creating and transferring to the Iowa water
3 council, all of the powers and duties of the Iowa natural
4 resources council, the powers and duties of the depart-
5 ment of environmental quality relating to water pollution
6 control and water quality, the powers and duties of the
7 department of health relating to the regulation of the
8 construction, maintenance, and abandonment of nonpublic
9 water systems and wells, making corresponding amendments
10 to the Code, and providing penalties for violations and
11 an effective date.

2463

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

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1 Section 1. Section 455A.1, unnumbered paragraph 1, Code
2 1981, is amended to read as follows:

3 As used in this chapter, "council" means "Iowa Natural
4 Resources-Council water council";

5 Sec. 2. Section 455A.2, Code 1981, is amended to read
6 as follows:

7 455A.2 DECLARATION OF POLICY.

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

33 2. Water occurring in any a basin or ~~in-any~~ watercourse,
34 or other natural body of water of the state, is ~~hereby-declared~~
35 ~~to-be~~ public waters water and public wealth of the people

1 of the state ~~of Iowa~~ and subject to use in accordance with
2 ~~the provisions of~~ this chapter, and the control and development
3 and use of water for all beneficial purposes ~~shall be~~ is
4 vested in the state, which, in the exercise of its police
5 powers, shall take ~~such~~ measures ~~as shall~~ to effectuate full
6 utilization and protection of the water resources of the state
7 ~~of Iowa~~.

8 Sec. 3. Section 455A.3, Code 1981, is amended to read
9 as follows:

10 455A.3 CREATION. ~~There is hereby created and established~~
11 ~~an~~ An Iowa ~~natural resources~~ water council is created. The
12 council is established as an agency of the state government
13 to promote the policies set forth in this chapter and shall
14 represent the state of Iowa in all matters within the scope
15 of this chapter.

16 Sec. 4. Section 455A.9, subsection 1, Code 1981, is amended
17 to read as follows:

18 1. The council shall choose a director who shall not be
19 a member of the council and shall fix the compensation of
20 ~~such~~ the director, which shall be payable out of the funds
21 appropriated to the council. The director's appointment is
22 subject to confirmation by the senate. The council shall
23 follow the procedures for confirmation of appointments as
24 provided in section 2.32 to the extent applicable. The
25 director shall be qualified by training and experience. The
26 term of office of the director shall be during the pleasure
27 of the council. The director shall serve as the executive
28 officer of the council and shall have charge of the work of
29 the council subject to its orders and directions.

30 Sec. 5. Section 455A.19, subsection 11, including
31 unnumbered paragraphs 1 and 2, Code 1981, is amended by
32 striking the subsection.

33 Sec. 6. Section 455A.20, unnumbered paragraph 4, Code
34 1981, is amended to read as follows:

35 Until the council adopts a statewide water plan, all new

1 water permits issued for irrigation purposes, ~~except special~~
2 ~~permits~~, shall not exceed one year and all renewals thereof
3 of the permits shall also be limited to one year. The
4 preceding limitation ~~shall~~ does not apply to the renewal or
5 extension of any valid water permit granted prior to May 6,
6 1977. If it is determined, through monitoring of the per-
7 mitted withdrawal, that it will endanger the present or future
8 availability of groundwater ~~said~~ the permits may be modified
9 or canceled under ~~the provisions of~~ section 455A.28.

10 Sec. 7. Section 455A.37, Code 1981, is amended to read
11 as follows:

12 455A.37 JUDICIAL REVIEW. ~~Judicial~~ Except as provided
13 in section 24, subsection 6 of this Act, judicial review of
14 action of the council or the director may be sought in
15 accordance with ~~the terms of the Iowa administrative procedure~~
16 Act chapter 17A. Notwithstanding ~~the provisions of said Act~~
17 chapter 17A, petitions for judicial review may be filed in
18 the district court of Polk county or of any county in which
19 the property affected is located. If the director, the
20 council, the district court, or the supreme court ~~shall~~
21 ~~determine~~ determines that the order of the council or the
22 director shall be stayed, the petitioner shall file an
23 appropriate bond approved by the court.

24 Sec. 8. Chapter 455A, Code 1981, is amended by adding
25 sections 9 through 44 of this Act.

26 Sec. 9. NEW SECTION. DEFINITIONS. When used in sections
27 9 through 24 of this Act, unless the context otherwise
28 requires:

29 1. "Sewage" means the water-carried waste products from
30 residences, public buildings, institutions, or other buildings,
31 including the bodily discharges from human beings or animals
32 and the ground water infiltration and surface water as present.

33 2. "Industrial waste" means liquid, gaseous, radioactive,
34 or solid waste substance resulting from a process of industry,
35 manufacturing, trade, or business or from the development

1 of a natural resource.

2 3. "Other waste" means heat, garbage, municipal refuse,
3 lime, sand, ashes, offal, oil, tar, chemicals, and all other
4 wastes which are not sewage or industrial waste.

5 4. "Water pollution" means the contamination of any water
6 of the state so as to create a nuisance or render the water
7 unclean, noxious, or impure so as to be actually harmful,
8 detrimental, or injurious to public health, safety, or welfare,
9 to domestic, commercial, industrial, agricultural, or
10 recreational use or to livestock, wild animals, birds, fish,
11 or other aquatic life.

12 5. "Sewer system" means pipelines or conduits, pumping
13 stations, force mains, vehicles, vessels, conveyances,
14 injection wells, and all other constructions, devices, and
15 appliances appurtenant thereto used for conducting sewage
16 or industrial waste or other wastes to a point of ultimate
17 disposal or disposal to any water of the state. To the extent
18 that they are not subject to section 402 of the federal Water
19 Pollution Control Act as amended, ditches, pipes, and drains
20 that serve only to collect, channel, direct, and convey
21 nonpoint runoff from precipitation are not sewer systems for
22 the purposes of sections 9 through 24 of this Act.

23 6. "Treatment works" means any plant, disposal field,
24 lagoon, holding or flow-regulating basin, pumping station,
25 or other works installed for the purpose of treating,
26 stabilizing, or disposing of sewage, industrial waste, or
27 other wastes.

28 7. "Disposal system" means a system for disposing of
29 sewage, industrial waste, and other wastes and includes sewer
30 systems, treatment works, point sources, and dispersal systems.

31 8. "Detergent" means a cleaning compound composed of
32 inorganic components, including surface active agents, soaps,
33 water softening agents, builders, dispersing agents, corrosion
34 inhibitors, foaming agents, buffering agents, brighteners,
35 fabric softeners, dyes, perfumes, enzymes, and fillers, which

1 are available for household, personal, laundry, industrial,
2 and other uses in liquid, bar, spray, tablet, flake, powder,
3 or other form.

4 9. "Water of the state" means a stream, lake, pond, marsh,
5 watercourse, waterway, well, spring, reservoir, aquifer,
6 irrigation system, drainage system, or any other body or
7 accumulation of water, surface or underground, natural or
8 artificial, public or private, which is contained within,
9 flows through or borders upon the state or any portion of
10 the state.

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

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

24 12. "Pollutant" means sewage, industrial waste, or other
25 waste.

26 13. "New source" means a building, structure, facility,
27 or installation, from which there is or may be the discharge
28 of a pollutant, the construction of which is commenced after
29 the publication of proposed federal rules prescribing a
30 standard of performance which will be applicable to the source,
31 if the standard is promulgated.

32 14. "Schedule of compliance" means a schedule of remedial
33 measures including an enforceable sequence of actions or
34 operations leading to compliance with any effluent standard,
35 water quality standard, or any other requirement of sections

1 9 through 24 of this Act or any rule adopted pursuant to
2 sections 9 through 24 of this Act.

3 15. "Sewer extension" means pipelines or conduits
4 constituting main sewers, lateral sewers, or trunk sewers
5 used for conducting pollutants to a larger interceptor sewer
6 or to a point of ultimate disposal.

7 16. "Water supply distribution system extension" means
8 an extension to the pipelines or conduits which carry water
9 directly from the treatment facility, source, or storage
10 facility to the consumer's service connection.

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

14 18. "Public water supply system" means a system for the
15 provision of piped water to the public for human consumption,
16 if the system has at least fifteen service connections or
17 regularly serves at least twenty-five individuals. The term
18 includes any source of water and any collection, treatment,
19 storage, and distribution facilities under control of the
20 operator of the system and used primarily in connection with
21 the system, and any collection or pretreatment storage
22 facilities not under the operator's control which are used
23 primarily in connection with the system.

24 19. "Maximum contaminant level" means the maximum
25 permissible level of any physical, chemical, biological, or
26 radiological substance in water which is delivered to a user
27 of a public water supply system.

28 20. "Nonpublic water supply system" means a water system
29 which has less than fifteen service connections or serves
30 less than twenty-five persons, or any other water system which
31 provides services for less than sixty days per year.

32 21. "Federal Water Pollution Control Act" means the federal
33 Water Pollution Control Act Amendments of 1972, Pub. L. 92-
34 500, as published in 33 U.S.C. secs. 1251-1376, as amended
35 through December 31, 1981.

1 22. "Federal Safe Drinking Water Act" means the Safe
2 Drinking Water Act, Pub. L. 93-523, as published in 42 U.S.C.
3 secs. 201, 300f-300j-9, as amended through December 31, 1981.

4 Sec. 10. NEW SECTION. DECLARATION OF POLICY.

5 1. The general assembly finds that because the federal
6 Water Pollution Control Act provides for a permit system to
7 regulate the discharge of pollutants into the waters of the
8 United States and provides that permits may be issued by
9 states which are authorized to implement that Act, it is in
10 the interest of the people of Iowa to enact sections 9 through
11 24 of this Act to authorize the state to implement the federal
12 Water Pollution Control Act and federal regulations and
13 guidelines issued pursuant to that Act.

14 2. The general assembly further finds that because the
15 federal Safe Drinking Water Act provides for the implementation
16 of that Act by states which have adequate authority to do
17 so, it is in the interest of the people of Iowa to implement
18 the federal Safe Drinking Water Act and federal regulations
19 and guidelines issued pursuant to that Act.

20 Sec. 11. NEW SECTION. ADMINISTRATIVE AGENCY. The council
21 is the agency of the state to prevent, abate, or control water
22 pollution and to conduct the public water supply program.

23 Sec. 12. NEW SECTION. DUTIES. The council shall:

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

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

31 If the federal environmental protection agency has promulgated
32 an effluent standard or pretreatment standard pursuant to
33 section 301, 306, or 307 of the federal Water Pollution Control
34 Act, a pretreatment or effluent standard adopted pursuant
35 to this section shall not be more stringent than the federal

1 effluent or pretreatment standard for the source. This
2 subsection shall not preclude the establishment of a more
3 restrictive effluent limitation in the permit for a particular
4 point source if the more restrictive effluent limitation is
5 necessary to meet water quality standards, or if the
6 establishment of an effluent standard is for a source or class
7 of sources for which the federal environmental protection
8 agency has not promulgated standards pursuant to section 301,
9 306, or 307 of the federal Water Pollution Control Act.
10 Except as required by federal law or regulation, the council
11 shall not adopt an effluent standard more stringent with
12 respect to any pollutant than is necessary to reduce the
13 concentration of that pollutant in the effluent to the level
14 due to natural causes, including the mineral and chemical
15 characteristics of the land, existing in the water of the
16 state to which the effluent is discharged. Notwithstanding
17 any other provision of sections 9 through 24 of this Act,
18 any new source, the construction of which was commenced after
19 October 18, 1972, and which was constructed to meet all
20 applicable standards of performance for the new source or
21 any more stringent effluent limitation required to meet water
22 quality standards, is not subject to any more stringent
23 effluent limitations during a ten-year period beginning on
24 the date of completion of construction or during the period
25 of depreciation or amortization of the pollution control
26 equipment for the facility for the purposes of sections 167
27 and 169 or both sections of the Internal Revenue Code of 1954,
28 whichever period ends first.

29 3. Establish, modify, or repeal rules relating to the
30 location, construction, operation, and maintenance of disposal
31 systems, nonpublic water supply systems and wells, and public
32 water supply systems and specifying the conditions under which
33 the director shall issue, revoke, suspend, modify, or deny
34 permits for the operation, installation, construction, addition
35 to, or modification of any disposal system or public water

1 supply system, the construction, maintenance, and abandon-
2 ment of nonpublic water wells, or for the discharge of any
3 pollutant or for the disposal of water wastes resulting from
4 poultry and livestock operations. The rules specifying the
5 conditions under which the director shall issue permits for
6 the construction of an electric power generating facility
7 subject to chapter 476A shall provide for issuing a conditional
8 permit upon the submission of engineering descriptions, flow
9 diagrams, and schematics that qualitatively and quantitatively
10 identify effluent streams and alternative disposal systems
11 that will provide compliance with effluent standards or
12 limitations.

13 a. Rules shall not be adopted which regulate the hiring
14 or firing of operators of disposal systems or public water
15 supply systems except rules which regulate the certification
16 of operators as to their technical competency.

17 b. A publicly owned treatment works whose discharge meets
18 the final effluent limitations which were contained in its
19 discharge permit on the date that construction of the publicly
20 owned treatment works was approved by the department shall
21 not be required to meet more stringent effluent limitations
22 for a period of ten years from the date the construction was
23 completed and accepted but not longer than twelve years from
24 the date that construction was approved by the director.

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

31 5. Cooperate with other state or interstate water pollution
32 control agencies in establishing standards, objectives, or
33 criteria for the quality of interstate waters originating
34 or flowing through this state.

35 6. Adopt by rule a fee schedule for applications for

1 permits required under sections 9 through 24 of this Act.
2 The fee schedule shall be based on the reasonable cost of
3 reviewing, issuing, and enforcing the permits. The fee
4 schedule may be amended periodically by rule of the council.

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

12 8. Establish, modify, or repeal rules relating to
13 inspection, monitoring, record keeping, and reporting
14 requirements for the owner or operator of a public water
15 supply or a disposal system or of any source which is an
16 industrial user of a publicly or privately owned disposal
17 system.

18 9. Adopt a statewide plan for the provision of safe
19 drinking water under emergency circumstances. All public
20 agencies, as defined in chapter 28E, shall cooperate in the
21 development and implementation of the plan. The plan shall
22 detail the manner in which the various state and local agencies
23 shall participate in the response to an emergency. The
24 director may enter into any agreement, subject to approval
25 of the council, with any state agency or unit of local
26 government or with the federal government as necessary to
27 establish the role of the agencies in regard to the plan.
28 This plan shall be coordinated with disaster emergency plans.

29 10. Formulate and adopt specific and detailed statewide
30 standards pursuant to chapter 17A for review of plans and
31 specifications and the construction of sewer systems and water
32 supply distribution systems and extensions to the systems.
33 The standards shall be based on criteria contained in the
34 "Recommended Standards for Sewage Works" and "Recommended
35 Standards for Water Works" (ten states standards) as adopted

1 by the Great Lakes-Upper Mississippi river board of state
2 sanitary engineers, design manuals published by the department,
3 applicable federal guidelines and standards, standard
4 textbooks, current technical literature and applicable safety
5 standards. The material standards for polyvinyl chloride
6 pipe shall not exceed the specifications for polyvinyl chloride
7 pipe in designations D-1784-69, D-2241-73, D-2564-76, D-2672-
8 76, D-3036-73 and D-3139-73 of the American society of testing
9 and material. The rules adopted which directly pertain to
10 the construction of sewer systems and water supply distribution
11 systems and the review of plans and specifications for the
12 construction shall be known respectively as the Iowa standards
13 for sewer systems and the Iowa standards for water supply
14 distribution systems and shall be applicable in each
15 governmental subdivision of the state. Exceptions shall be
16 made to the standards so formulated only upon special request
17 to and receipt of permission from the director. The director
18 shall publish the standards and make copies of the standards
19 available to governmental subdivisions and to the public.

20 Sec. 13. NEW SECTION. DIRECTOR'S DUTIES. The director
21 shall:

22 1. Conduct investigations of alleged water pollution or
23 of alleged violations of sections 9 through 24 of this Act
24 or a rule adopted or permit issued pursuant to these sections
25 upon written request of any state agency, political
26 subdivision, local board of health, twenty-five residents
27 of the state, as directed by the council, or as necessary
28 to accomplish the purposes of sections 9 through 24 of this
29 Act.

30 2. Conduct periodic surveys and inspection of the
31 construction, operation, self-monitoring, record keeping,
32 and reporting of all public water supply systems and all
33 disposal systems except as provided in section 20 of this
34 Act.

35 3. Take any action allowed by law which, in the director's

1 judgment, is necessary to enforce or secure compliance with
2 sections 9 through 24 of this Act or of a rule or standard
3 established or permit issued pursuant to these sections.

4 4. Approve or disapprove the plans and specifications
5 for the construction of disposal systems or water supply
6 distribution systems except for those sewer extensions and
7 water supply distribution system extensions which are reviewed
8 by a city or county public works department as set forth in
9 section 20 of this Act. The director shall issue, revoke,
10 suspend, modify, or deny permits for the operation,
11 installation, construction, addition to, or modification of
12 a disposal system or water supply distribution system except
13 for sewer extensions and water supply distribution system
14 extensions which are reviewed by a city or county public works
15 department as set forth in section 20 of this Act. The
16 director shall also issue, revoke, suspend, modify, or deny
17 permits for the discharge of a pollutant. The permits shall
18 contain conditions and schedules of compliance as necessary
19 to meet the requirements of sections 9 through 24 of this
20 Act and the federal Water Pollution Control Act. A permit
21 shall not be issued to operate any disposal system unless
22 the conditions of the permit assure that discharge from the
23 disposal system meets or will meet all applicable state and
24 federal water quality standards and effluent standards and
25 the issuance of the permit is not otherwise prohibited by
26 the federal Water Pollution Control Act. An application for
27 a discharge permit is subject to public notice and opportunity
28 for public participation including public hearing as the
29 council by rule requires. The director shall promptly notify
30 the applicant in writing of the director's action and, if
31 the permit is denied, state the reasons for denial. The
32 applicant may appeal to the council from the denial of a
33 permit or from a condition in a permit if the applicant files
34 notice of appeal with the director within thirty days of the
35 notice of denial or issuance of the permit. The director

1 shall notify the applicant within thirty days of the time
2 and place of the hearing.

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

15 b. The director shall also issue or deny conditional
16 permits for the construction of disposal systems for electric
17 power generating facilities subject to chapter 476A. An
18 application for a conditional permit is subject to the notice
19 and opportunity for public participation required by the
20 council and consistent with chapter 476A and an agreement
21 pursuant thereto under chapter 28E. The applicant or an
22 intervenor may appeal to the council from the denial of a
23 conditional permit or any of its conditions. For the purposes
24 of chapter 476A, the issuance or denial of a conditional
25 permit by the director or the council upon appeal is a
26 determination that the electric power generating facility
27 does or does not meet the permit and licensing requirements
28 of the council. The issuance of a conditional permit does
29 not relieve the applicant of the responsibility to submit
30 final and detailed construction plans and drawings and an
31 application for a construction permit for a disposal system
32 that will meet the effluent limitations in the conditional
33 permit.

34 5. Conduct random inspections of work done by city and
35 county public works departments to ensure the public works

1 departments are complying with sections 9 through 24 of this
2 Act. If a city or county public works department is not
3 complying with section 20 of this Act in reviewing plans and
4 specifications or in granting permits or both, the director
5 shall perform these functions in that jurisdiction until the
6 city or county public works department is able to perform
7 them. Performance of these functions in a jurisdiction by
8 a local public works department shall not be suspended or
9 revoked until after notice and opportunity for hearing as
10 provided in chapter 17A. The director shall give technical
11 assistance to city and county public works departments upon
12 their request.

13 Sec. 14. NEW SECTION. VIOLATIONS. If there is conclusive
14 evidence that a person has violated or is violating any
15 provision of sections 9 through 24 of this Act, or of a rule
16 or standard established or permit issued pursuant to these
17 sections the following apply:

18 1. The director may issue an order directing the person
19 to desist in the practice which constitutes the violation
20 or to take the corrective action necessary to ensure that
21 the violation will cease. The person to whom the order is
22 issued may commence a contested case within the meaning of
23 chapter 17A by filing with the director within thirty days
24 a notice of appeal to the council. On appeal the council
25 may affirm, modify, or vacate the order of the director.

26 2. If it is determined by the director that an emergency
27 exists respecting any matter affecting or likely to affect
28 the public health, the director may issue any order necessary
29 to terminate the emergency without notice and without hearing.
30 The order is binding and effective immediately and until the
31 order is modified or vacated at a hearing before the council
32 or by a court.

33 3. The director, with the approval of the council, may
34 request the attorney general to institute legal proceedings
35 pursuant to section 24 of this Act.

1 Sec. 15. NEW SECTION. CRITERIA CONSIDERED. In
2 establishing, modifying, or repealing water quality standards
3 the council shall base its decision upon data gathered from
4 sources within the state regarding the following:

5 1. The protection of the public health.
6 2. The size, depth, surface area covered, volume, direction
7 and rate of flow, stream gradient, and temperature of the
8 affected water of the state.

9 3. The character and uses of the land area bordering the
10 affected water of the state.

11 4. The uses which have been made, are being made, or may
12 be made of the affected water of the state for public, private,
13 or domestic water supplies, irrigation, livestock watering,
14 propagation of wildlife, fish, and other aquatic life, bathing,
15 swimming, boating, or other recreational activity,
16 transportation, and disposal of sewage and wastes.

17 5. The extent of contamination resulting from natural
18 causes including the mineral and chemical characteristics.

19 6. The extent to which floatable or settleable solids
20 may be permitted.

21 7. The extent to which suspended solids, colloids, or
22 a combination of solids with other suspended substances may
23 be permitted.

24 8. The extent to which bacteria and other biological
25 organisms may be permitted.

26 9. The amount of dissolved oxygen that is to be present
27 and the extent of the oxygen demanding substances which may
28 be permitted.

29 10. The extent to which toxic substances, chemicals, or
30 deleterious conditions may be permitted.

31 11. The economic costs and benefits. The goal shall be
32 a reasonable balance between total costs to the people and
33 to the economy, and the resultant benefits to the people of
34 Iowa.

35 Sec. 16. NEW SECTION. TRADE SECRETS PROTECTED. Upon

1 a satisfactory showing by a person to the director that public
2 disclosure of a record, report, permit, permit application,
3 or other document or information or part thereof would divulge
4 methods or processes entitled to protection as a trade secret,
5 the record, report, permit, permit application, or other
6 document or part thereof other than effluent data and
7 analytical results of monitoring or public water supply
8 systems, shall be accorded confidential treatment.

9 Notwithstanding chapter 68A, a person in connection with
10 duties or employment by the council shall not make public
11 any information accorded confidential status, however a record
12 or other information accorded confidential status may be
13 disclosed or transmitted to other officers, employees, or
14 authorized representatives of this state or the United States
15 concerned with carrying out any proceeding under sections
16 9 through 24 of this Act.

17 Sec. 17. NEW SECTION. STAY ORDER. The granting of a
18 stay may be conditioned upon the furnishing by the appellant
19 of such reasonable security as the court directs. A stay
20 may be vacated on application of the director or any other
21 party after hearing by the court.

22 Sec. 18. NEW SECTION. VARIANCES AND EXEMPTIONS. The
23 director may, after public notice and hearing, grant exemptions
24 from a maximum contaminant level or treatment technique, or
25 both. The director may also grant a variance from drinking
26 water standards for public water supply systems when the
27 characteristics of the raw water sources, which are available
28 to a system, cannot meet the requirements with respect to
29 maximum contaminant level of the standards despite application
30 of the best treatment techniques which are generally available
31 and if the director determines that the variance will not
32 result in an unreasonable risk to the public health. A
33 schedule of compliance may be prescribed by the director at
34 the time the variance or exemption is granted. The director
35 shall also require the interim measures to minimize the

1 contaminant levels of systems subject to the variance or
2 exemption as may reasonably be implemented. The director
3 may also issue variances from other rules of the council if
4 necessary and appropriate. The denial of a variance or
5 exemption may be appealed to the council.

6 Sec. 19. NEW SECTION. FAILURE CONSTITUTES CONTEMPT.

7 Failure to obey an order issued by the director or the council
8 with reference to a violation of sections 9 through 24 of
9 this Act or any rule promulgated or permit issued pursuant
10 to sections 9 through 24 of this Act constitutes prima-facie
11 evidence of contempt. In that event, the director may certify
12 to the district court of the county in which the alleged
13 disobedience occurred the fact of the failure. The district
14 court after notice, as prescribed by the court, to the parties
15 in interest shall hear the matter and if it finds that the
16 order was lawful and reasonable it shall order the party to
17 comply with the order. If the person fails to comply with
18 the court order, that person is guilty of contempt and shall
19 be fined not to exceed five hundred dollars for each day that
20 the person fails to comply with the court order. The penalties
21 in this section are additional to a penalty which may be
22 imposed under the law relative to nuisances or any other
23 statute relating to the pollution of waters of the state or
24 related to public water supply systems and a conviction under
25 this section is not a bar to prosecution under any other penal
26 statute.

27 Sec. 20. NEW SECTION. WRITTEN PERMITS REQUIRED.

28 1. It is unlawful to carry on any of the following
29 activities without first securing a written permit from the
30 director, or from a city or county public works department
31 if the local public works department reviews the activity
32 under this section, as required by the council:

33 a. The construction, installation, or modification of
34 a disposal system or water supply distribution system or part
35 of the system or an extension or addition to the system except

1 those sewer extensions and water supply distribution system
2 extensions that are subject to review and approval by a city
3 or county public works department pursuant to this section.

4 b. The construction or use of a new point source for the
5 discharge of pollutant into any water of the state.

6 c. The operation of a waste disposal system or water
7 supply distribution system or a part of or extension or
8 addition to the system. This provision does not apply to
9 a pretreatment system the effluent of which is to be discharged
10 directly to another disposal system for final treatment and
11 disposal.

12 2. Upon adoption of standards by the council pursuant
13 to section 12, subsections 7 through 10 of this Act, plans
14 and specifications for sewer extensions and water supply
15 distribution system extensions covered by this section shall
16 be submitted to the city or county public works department
17 for approval if the local public works department employs
18 a qualified, registered engineer who reviews the plans and
19 specifications using the specific state standards known as
20 the Iowa standards for sewer systems and the Iowa standards
21 for water supply distribution systems that have been formulated
22 and adopted by the council pursuant to section 12, subsections
23 7 through 10 of this Act. The reviewing engineer shall be
24 a full-time employee of the governmental subdivision and the
25 qualifications of that engineer shall be submitted to the
26 director for approval prior to issuing written permits. The
27 local agency shall issue a written permit to construct if
28 all of the following criteria are met:

29 a. The submitted plans and specifications are in
30 substantial compliance with departmental rules and the Iowa
31 standards for sewer systems and the Iowa standards for water
32 supply distribution systems.

33 b. The extensions primarily serve residential consumers
34 and will not result in an increase greater than five percent
35 of the capacity of the treatment works or serve more than

1 two hundred fifty dwelling units or, in the case of an
2 extension to a water supply distribution system, the extension
3 will have a capacity of less than five percent of the system
4 or will serve fewer than two hundred fifty dwelling units.

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

8 d. The proposed water supply distribution system extension
9 will not exceed the production capacity of a water supply
10 distribution system constructed after 1972.

11 3. After issuing a permit, the city or county public works
12 department shall notify the director of the issuance by
13 forwarding a copy of the permit to the director. In addition,
14 the local agency shall submit quarterly reports to the director
15 including information as to capacity of local treatment plants
16 and production capacity of water supply distribution systems
17 as well as other necessary information requested by the
18 director for the purpose of implementing sections 9 through
19 24 of this Act.

20 4. Plans and specifications for all other waste disposal
21 systems and water supply distribution systems, including sewer
22 extensions and water supply distribution system extensions
23 not reviewed by a city or county public works department under
24 this section, shall be submitted to the director before a
25 written permit is issued. The construction of a waste disposal
26 system or water supply distribution system shall be in
27 accordance with standards formulated and adopted by the council
28 pursuant to section 12, subsections 7 through 10 of this Act,
29 or otherwise approved by the director. If it is necessary
30 or desirable to make material changes in the plans or
31 specifications, revised plans or specifications and the reasons
32 for the proposed changes must be submitted to the director
33 for a supplemental written permit.

34 5. The director may suspend or revoke delegation of review
35 and permit authority after notice and hearing as set forth

1 in chapter 17A if the director determines that a city or
2 county public works department has approved extensions which
3 do not comply with design criteria, which exceed the capacity
4 of waste treatment plants or the production capacity of water
5 supply distribution systems, or which otherwise violate state
6 or federal requirements.

sec:7 6. The director shall exempt a public water system from
8 a requirement respecting a maximum contaminant level or a
9 treatment technique requirement of an applicable national
10 drinking water regulation to the extent that these regulations
11 apply to contaminants which the council determines are harmless
12 or beneficial to the health of consumers, when the owner of
13 a public water supply system determines that funds are not
14 reasonably available to provide for controlling amounts of
15 those contaminants which are harmless or beneficial to the
16 health of consumers.

17 Sec. 21. NEW SECTION. DISPOSAL SYSTEM PLANS. The director
18 may require the owner of a disposal system discharging
19 pollutants into any water of the state, or of a public water
20 supply system to file with the council complete plans of the
21 whole or any part of the system and any other information
22 and records concerning the installation and operation of the
23 system.

24 Sec. 22. NEW SECTION. DATA FROM DEPARTMENTS. The council
25 and the director may request and receive from any agency of
26 the state, any political subdivision of the state, or from
27 any organization which has for its object the control or use
28 of any of the water resources of the state, the assistance
29 and data that will enable the council or the director to
30 properly carry out the activities and effectuate the purposes
31 of sections 9 through 24 of this Act. The council shall
32 reimburse the agencies for special expense resulting from
33 expenditures not normally a part of the operating expenses
34 of the agency.

35 Sec. 23. NEW SECTION. PROHIBITED DISCHARGES. A pollutant

1 shall not be disposed of by dumping, depositing, or discharging
2 it into any water of the state except that this section does
3 not prohibit the discharge of adequately treated sewage,
4 industrial waste, or other waste pursuant to a permit issued
5 by the director. A pollutant whether treated or untreated
6 shall not be discharged into any state-owned natural or
7 artificial lake.

8 Sec. 24. NEW SECTION. PENALTIES--BURDEN OF PROOF.

9 1. A person who violates a provision of sections 9 through
10 24 of this Act or a permit, rule, standard, or order issued
11 under sections 9 through 24 of this Act is subject to a civil
12 penalty not to exceed five thousand dollars for each day of
13 violation. The civil penalty is an alternative to a criminal
14 penalty provided under sections 9 through 24 of this Act.

15 2. A person who willfully or negligently discharges
16 pollutants in violation of section 20 or 23 of this Act or
17 in violation of a condition or limitation included in a permit
18 issued under section 20 of this Act or in violation of a water
19 quality standard or effluent standard or, with respect to
20 the introduction of pollutants into publicly owned treatment
21 works, violates a pretreatment standard or toxic effluent
22 standard, shall be punished by a fine not to exceed ten
23 thousand dollars for each day of violation. If the conviction
24 is for a violation committed by a person after the person's
25 first conviction under this section, the punishment shall
26 be a fine not to exceed twenty thousand dollars for each day
27 of violation.

28 3. Any person who knowingly makes any false statement,
29 representation, or certification in an application, record,
30 report, plan, or other document filed or required to be
31 maintained under sections 9 through 24 of this Act, or who
32 falsifies, tampers with, or knowingly renders inaccurate a
33 monitoring device or method required to be maintained under
34 sections 9 through 24 of this Act or by a permit, rule,
35 regulation, or order issued under sections 9 through 24 of

1 this Act, shall upon conviction be punished by a fine of not
2 more than ten thousand dollars or by imprisonment in the
3 county jail for not more than six months or by both fine and
4 imprisonment.

5 4. The attorney general shall, at the request of the
6 director with approval of the council, institute legal
7 proceedings, including an action for an injunction or a
8 temporary injunction, necessary to enforce the penalty
9 provisions of sections 9 through 24 of this Act or to obtain
10 compliance with sections 9 through 24 of this Act or any rules
11 promulgated or any provision of any permit issued under
12 sections 9 through 24 of this Act. In the action, any previous
13 findings of fact of the director or the council after notice
14 and hearing are conclusive if supported by substantial evidence
15 in the record when the record is viewed as a whole.

16 5. In all proceedings with respect to an alleged violation
17 of sections 9 through 24 of this Act or a rule established
18 by the council, the burden of proof is upon the council except
19 in an action for contempt as provided in section 19 of this
20 Act.

21 6. If the attorney general has instituted legal proceedings
22 in accordance with this section, all related issues which
23 could otherwise be raised by the alleged violator in a
24 proceeding for judicial review under section 455A.37 shall
25 be raised in the legal proceedings instituted in accordance
26 with this section.

27 Sec. 25. NEW SECTION. DEFINITIONS. When used in sections
28 25 through 38 of this Act, unless the context otherwise
29 requires:

30 1. "Board" means the board of certification.

31 2. "Certificate" means the certificate of competence
32 issued by the director stating that the operator has met the
33 requirements for the specified operator classification of
34 the certification program.

35 3. "Water supply system" means the system of pipes,

1 structures, and facilities through which a public water supply
2 is obtained, treated, and sold or distributed for human
3 consumption or household use.

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

7 5. "Waste water treatment plant" means the facility or
8 group of units used for the treatment of waste water from
9 public sewer systems and for the reduction and handling of
10 solids removed from the wastes.

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

15 7. "Operator" means a person who has direct responsibility
16 for the operation of a water treatment plant, water
17 distribution system, or waste water treatment plant.

18 Sec. 26. NEW SECTION. DIRECTOR'S DUTIES. The director
19 shall classify all water treatment plants, water distribution
20 systems, and waste water treatment plants affecting the public
21 welfare with regard to the size, type, character of water
22 and waste water to be treated, and other physical conditions
23 affecting the treatment plants and distribution systems, and
24 according to the skill, knowledge, and experience that an
25 operator must have to supervise the operation of the facilities
26 to protect the public health and prevent pollution.

27 Sec. 27. NEW SECTION. CERTIFICATION OF PERSONS.

28 1. The director shall certify persons as to their
29 qualifications to supervise the operation of treatment plants
30 and water distribution systems after considering the
31 recommendations of the board submitted through the council.

32 2. Applications for certification shall be on forms
33 prescribed and furnished by the board and shall not require
34 a photograph of the applicant. An applicant is not ineligible
35 for certification because of age, citizenship, sex, race,

1 religion, marital status, or national origin although the
2 application may require citizenship information. The board
3 may consider the past felony record of an applicant only if
4 the felony conviction relates directly to the practice of
5 operation of waterworks or waste waterworks. Character
6 references may be required, but shall not be obtained from
7 certificate holders.

8 3. A member of the board shall not disclose information
9 relating to the following:

10 a. Criminal history or prior misconduct of the applicant.

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

15 c. Information relating to the examination results other
16 than final score. However, information about the results
17 of an examination may be given to the person who took the
18 examination.

19 4. A member of the board who willfully communicates or
20 seeks to communicate information in violation of subsection
21 3, and a person who willfully requests, obtains, or seeks
22 to obtain information in violation of subsection 3, is guilty
23 of a simple misdemeanor.

24 Sec. 28. NEW SECTION. BOARD.

25 1. The governor shall appoint, subject to confirmation
26 by the senate, a board of certification consisting of the
27 following seven members:

28 a. One member who is a waterworks operator holding a valid
29 certificate of the highest classification issued by the
30 director.

31 b. One member who is a waterworks operator holding a valid
32 certificate and currently working for a water system in a
33 city of three thousand or less population.

34 c. One member who is a waste waterworks operator holding
35 a valid certificate of the highest classification issued by

1 the director.

2 d. One member who is a waste waterworks operator holding
3 a valid certificate and currently working for a waste water
4 system in a city of three thousand or less population.

5 e. One member employed by the council who is qualified
6 in water and waste waterworks operation.

7 f. Two members who are not certificated waterworks
8 operators or certificated waste waterworks operators, but
9 who are interested and knowledgeable in water supply or waste
10 water collection and treatment, and who represent the general
11 public.

12 2. The members prescribed in paragraphs a through e of
13 subsection 1 shall have been engaged in the practice of their
14 professions for five years preceding their appointments, the
15 last two years of which shall have been in Iowa.

16 3. Professional associations or societies composed of
17 waterworks operators or waste waterworks operators may
18 recommend the names of potential board members to the governor,
19 but the governor is not bound by the recommendations. Members
20 of the board are not required to be members of a professional
21 association or society.

22 4. The members of the board shall be appointed for three-
23 year terms beginning and ending as provided by section 69.19.
24 A vacancy shall be filled by appointment for the unexpired
25 term. Members shall be limited to serving three terms or
26 nine years, whichever is less.

27 Sec. 29. NEW SECTION. ORGANIZATION--COMPENSATION AND
28 EXPENSES. The initial board of certification shall organize
29 and elect a chairperson from its membership. Thereafter,
30 a chairperson shall be elected at the last meeting of the
31 fiscal year which shall be the annual meeting of the board.
32 The member of the board employed by the council shall serve
33 as secretary and maintain its records. The cost of the
34 assistance shall be paid by the board to the council from
35 funds appropriated to the board. At least one meeting of

1 the board per year shall be held at the seat of government.
2 Additional meetings may be held at the call of the chairperson.
3 A majority of members constitute a quorum. The members of
4 the board shall set their own per diem compensation at a rate
5 not exceeding forty dollars per day and shall be reimbursed
6 for necessary expenses and travel incurred while discharging
7 their official duties. All per diem and expense moneys paid
8 to the members shall be paid from funds appropriated to the
9 board. A member of the board who is employed by this state
10 shall not receive per diem compensation.

11 Sec. 30. NEW SECTION. EXAMINATION. The board shall hold
12 at least one examination each year for the purpose of examining
13 candidates for certification at a time and place designated
14 by the board. A written examination may be given by
15 representatives of the board. Examinations relating to theory
16 shall be in writing and the identity of the person taking
17 the examination shall be concealed until after the examination
18 papers have been graded. For examinations relating to
19 practice, the identity of the person taking the examination
20 shall also be concealed as far as possible. Those applicants
21 whose competency is acceptable to the board shall be
22 recommended to the director for certification. Applicants
23 who fail the examination shall be allowed to take the
24 examination at the next scheduled time. Thereafter, the
25 applicant shall be allowed to take the examination at the
26 discretion of the board. An applicant who has failed the
27 examination may request in writing information from the board
28 concerning the applicant's examination grade and subject areas
29 or questions which the applicant failed to answer correctly.
30 However, if the board administers a uniform, standardized
31 examination, the board is only required to provide the
32 examination grade and other information concerning the
33 applicant's examination results as is available to the board.
34 Sec. 31. NEW SECTION. CERTIFICATE ISSUED. When the
35 director is satisfied that an applicant is qualified by

1 examination or otherwise, and upon recommendation of the
2 board, the director shall issue a certificate attesting to
3 the competency of the applicant as an operator. The
4 certificate shall indicate the classification of works which
5 the operator is qualified to supervise.

6 Sec. 32. NEW SECTION. DURATION. Certificates shall be
7 for the multi-year period determined by the board unless
8 sooner revoked by the board, but the certificates shall remain
9 the property of the council and the certificate shall so
10 state. The fee for issuance of certificates as determined
11 under section 35 of this Act shall be prorated on a quarterly
12 basis for any original certificate issued for a period of
13 less than twelve months. A person who fails to renew a
14 certificate prior to its expiration shall be allowed to do
15 so within thirty days following its expiration, but the
16 director may assess a reasonable penalty as established by
17 rule of the council.

18 Sec. 33. NEW SECTION. REVOCATION OR SUSPENSION. The
19 board may suspend or revoke the certificate of an operator,
20 following a hearing before the board, when the operator is
21 found guilty of any one of the following acts or offenses:

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

1 7. Use of untruthful or improbable statements in
2 advertisements.

3 8. Willful or repeated violations of sections 9 through
4 44 of this Act.

5 Sec. 34. NEW SECTION. CERTIFICATE WITHOUT EXAMINATION.

6 1. A certificate in appropriate classification shall be
7 issued without examination to an operator who, prior to January
8 1, 1973, held a valid certificate attained by examination
9 and issued by the commissioner of public health.

10 2. A certificate of proper classification shall be issued
11 without examination to an operator who, prior to January 1,
12 1973, held a valid certificate to operate a particular
13 treatment plant or water distribution system. The certificate
14 so issued shall be valid only for that particular treatment
15 plant or system and shall remain in effect indefinitely unless
16 revoked as provided in section 33 of this Act.

17 Sec. 35. NEW SECTION. FEE. The director, with the
18 approval of the board submitted through the council, may
19 charge a fee for certificates issued under sections 25 through
20 38 of this Act. The fee for the certificates and for renewal
21 shall be based on the costs of administering and enforcing
22 sections 25 through 38 of this Act and paying the expenses
23 of the board. The council shall be reimbursed by the board
24 for all costs incurred. The board shall set a fee for the
25 examination which shall be based upon the annual cost of
26 administering the examinations. All fees collected shall
27 be remitted to the treasurer of state, who shall deposit the
28 fees in the general fund of the state. Moneys shall be
29 appropriated from the general fund to the board.

30 Sec. 36. NEW SECTION. RULES. The council, with the
31 advice of the board, may promulgate rules as necessary to
32 carry out sections 25 through 38 of this Act.

33 Sec. 37. NEW SECTION. COMPETENT OPERATOR REQUIRED. It
34 is unlawful for a person operating a water treatment plant,
35 water distribution system, or waste water treatment plant

1 to operate the plant or system unless the competency of the
2 operator to operate the plant or system is duly certified
3 by the director as provided in sections 25 through 38 of this
4 Act. It is unlawful for a person to perform the duties of
5 an operator, as defined in sections 25 through 38 of this
6 Act, without being duly certified as provided in sections
7 25 through 38 of this Act.

8 Sec. 38. NEW SECTION. PENALTY. A person who operates
9 a water treatment plant, water distribution system, or waste
10 water treatment plant in violation of a provision of sections
11 25 through 38 of this Act or a rule adopted under sections
12 25 through 38 of this Act after written notice of the violation
13 by the director is guilty of a simple misdemeanor. Each day
14 of operation in violation of a provision of sections 25 through
15 38 of this Act or a rule adopted under sections 25 through
16 38 of this Act constitutes a separate offense. The county
17 attorney shall commence to enjoin a continuing violation of
18 a provision of sections 25 through 38 of this Act or the rules
19 adopted under sections 25 through 38 of this Act.

20 Sec. 39. NEW SECTION. DEFINITIONS. When used in sections
21 39 through 44 of this Act, unless the context requires
22 otherwise:

23 1. "Treatment works" means a plant, disposal field, lagoon,
24 holding or flow-regulating basin, pumping station, interceptor
25 sewer, or other works installed for the purpose of treating,
26 stabilizing, or disposing of sewage, industrial waste, or
27 other wastes, which qualify for federal grants pursuant to
28 the federal Water Pollution Control Act or any other federal
29 Act or program.

30 2. "Construction" means the erection, building,
31 acquisition, alteration, reconstruction, improvement, or
32 extension of treatment works, preliminary planning to determine
33 the economic and engineering feasibility of treatment works,
34 the engineering, architectural, legal, fiscal, and economic
35 investigations and studies, surveys, designs, plans, working

1 drawings, specifications, procedures, inspection, and
2 supervision, and other action necessary in the construction
3 of treatment works.

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

6 a. For which approval of the director is required under
7 sections 39 through 44 of this Act.

8 b. Which is, in the judgment of the director, eligible
9 for federal pollution abatement assistance, whether or not
10 federal funds are then available for that purpose. Eligible
11 projects are those for which the construction contracts have
12 been entered into subsequent to July 1, 1966.

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

14 d. Which is, in the judgment of the director, necessary
15 for the accomplishment of the state's policy of water purity.

16 4. "Municipality" means the city, sanitary district, or
17 other governmental body or corporation empowered to provide
18 sewage collection and treatment services, or any combination
19 of two or more of such governmental bodies or corporations
20 acting jointly, in connection with an eligible project.

21 5. "Federal pollution abatement assistance" means funds
22 available to a municipality, either directly or through
23 allocation by the state, from the federal government as grants
24 for construction of sewage treatment works pursuant to the
25 federal Water Pollution Control Act as amended.

26 Sec. 40. NEW SECTION. GRANTS OF ASSISTANCE.

27 1. A sewage works construction fund is created. Moneys
28 appropriated to and deposited in the sewage works construction
29 fund are appropriated for and shall be used by the council
30 in carrying out the purposes of sections 39 through 44 of
31 this Act.

32 2. The director may make grants to a municipality as funds
33 are available to assist the municipality in the construction
34 of sewage treatment works.

35 Sec. 41. NEW SECTION. ACCEPTANCE OF GRANTS.

1 1. The director shall accept and administer all funds
2 granted by the state under sections 39 through 44 of this
3 Act.

4 2. In allocating state grants under sections 39 through
5 44 of this Act, the director shall consider the following:

6 a. The public benefits to be derived by the construction.

7 b. The ultimate cost of constructing and maintaining the
8 works.

9 c. The public interest and public necessity for the works.

10 d. The adequacy of the provisions made or proposed by
11 the municipality for assuring proper and efficient operation
12 and maintenance of the treatment works after the completion
13 of construction of the treatment works.

14 e. The applicant's readiness to start construction,
15 including financing and planning.

16 Sec. 42. NEW SECTION. CONTRACTS. The director may, in
17 the name of the state, contract with a municipality concerning
18 eligible projects, subject to the approval of the council.
19 The contract may include the provisions agreed upon by the
20 parties, and shall include, in substance, the following
21 provisions:

22 1. An estimate of the reasonable cost of the project as
23 determined by the director.

24 2. An agreement by the director to pay to the municipality,
25 during the progress of construction or following completion
26 of the construction as agreed upon by the parties, an amount
27 determined by appropriation of the general assembly.

28 3. An agreement by the municipality:

29 a. To proceed expeditiously with, and complete, the project
30 in accordance with plans approved pursuant to sections 39
31 through 44 of this Act and pursuant to sections 9 through
32 24 of this Act.

33 b. To commence operation of the sewage treatment works
34 on completion of the project, and not to discontinue operation
35 or dispose of the sewage treatment works without the approval

1 of the director.

2 c. To operate and maintain the sewage treatment works
3 in accordance with sections 9 through 24 of this Act and rules
4 of the council.

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

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

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

19 Sec. 43. NEW SECTION. RULES. The council may adopt rules
20 as necessary for the effective administration of sections
21 39 through 44 of this Act.

22 Sec. 44. NEW SECTION. REVIEW OF CONTRACTS.

23 1. Contracts entered into pursuant to sections 39 through
24 44 of this Act are subject to approval of the attorney general
25 as to form.

26 2. Payments by the state pursuant to the contracts shall
27 be made after review and by warrant of the state comptroller
28 to the credit of the municipality and shall be used for the
29 payment of costs of construction of an eligible project.
30 However, if the costs have been paid by the municipality,
31 the payment may be used by the municipality for any of the
32 following:

33 a. The payment of outstanding bonds or obligations incurred
34 for an eligible project.

35 b. An improvement or extension of an eligible project.

1 c. Any other lawful municipal purpose determined to be
2 necessary, reasonable, and in the interest of the public
3 welfare.

4 Sec. 45. Section 68B.2, subsection 4, Code 1981, is amended
5 to read as follows:

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

19 Sec. 46. Section 83A.3, subsection 5, Code 1981, is amended
20 to read as follows:

21 5. One member representing the Iowa ~~natural-resources~~
22 water council.

23 Sec. 47. Section 84.2, subsection 16, Code 1981, is amended
24 to read as follows:

25 16. "Council" means Iowa ~~natural-resources~~ water council
26 as defined in chapter 455A.

27 Sec. 48. Section 93.2, subsection 2, paragraph f, Code
28 1981, is amended to read as follows:

29 f. The director of the Iowa ~~natural-resources~~ water
30 council. If the Iowa ~~natural-resources~~ water council is
31 abolished or merged into another state agency by ~~an-Act-of~~
32 ~~the-general-assembly-that-becomes~~ law, the director of the
33 Iowa ~~natural-resources~~ water council shall cease to serve
34 as an ex officio nonvoting member of the energy policy council.

35 Sec. 49. Section 108.7, unnumbered paragraph 2, Code 1981,

1 is amended to read as follows:

2 Any action taken by the commission under ~~the provisions~~
3 of this section ~~shall be~~ is subject to the approval of the
4 Iowa ~~natural-resources~~ water council.

5 Sec. 50. Section 109.15, Code 1981, is amended to read
6 as follows:

7 109.15 INJURY TO DAM. It ~~shall be~~ is unlawful for any
8 owner or ~~his~~ an owner's agent to remove or destroy any existing
9 dam, or alter it in a way so as to lower the water level,
10 without having received written approval from the Iowa ~~natural~~
11 ~~resources~~ water council.

12 Sec. 51. Section 111.4, unnumbered paragraph 1, Code 1981,
13 is amended to read as follows:

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

30 Sec. 52. Section 111.18, Code 1981, is amended to read
31 as follows:

32 111.18 JURISDICTION. Jurisdiction over all meandered
33 streams and lakes of this state and of state lands bordering
34 ~~thereon~~ on the streams and lakes, not ~~now~~ used by some other
35 state body for state purposes as of April 16, 1949, is

1 conferred upon the commission. The exercise of this
2 jurisdiction shall-be is subject to the approval of the Iowa
3 ~~natural-resources~~ water council in matters relating to or
4 in any manner affecting flood control. The commission, with
5 the approval of the executive council, may establish parts
6 of ~~such~~ the property into state parks, and when so established
7 all of the provisions of this chapter relative to public parks
8 shall apply ~~thereto~~ to the property.

9 Sec. 53. Section 111.62, Code 1981, is amended to read
10 as follows:

11 111.62 COPY TO RESOURCES COUNCIL. A copy of the petition
12 and ~~such~~ the applications, plans, and specifications ~~as-are~~
13 required under ~~the-provisions-of~~ chapter 455A shall be filed
14 with the Iowa ~~natural-resources~~ water council and any approval
15 or permit required ~~thereunder~~ under chapter 455A shall be
16 obtained prior to the establishment of ~~said~~ the water
17 recreational area or the granting of a permit ~~therefor~~ for
18 establishing the area by the state conservation commission.

19 Sec. 54. Section 111D.1, Code 1981, is amended to read
20 as follows:

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

31 Sec. 55. Section 112.3, Code 1981, is amended to read
32 as follows:

33 112.3 HEARING--DAMAGES. After ~~said~~ the approval the
34 commission, if it wishes to proceed ~~further~~ with the project,
35 shall, with the consent of the Iowa ~~natural-resources~~ water

1 council, fix a date of hearing not less than two weeks from
2 date of approval of the plan. Notice of the day, hour and
3 place of hearing, relative to proposed work, shall be provided
4 by publication at least once a week for two consecutive weeks
5 in ~~some~~ a newspaper of general circulation published in the
6 county where the project is located, or in the county or
7 counties where the water elevations are affected, under the
8 tentative plan approved. The last of ~~such-publication-or~~
9 the publications shall not be less than five days prior to
10 the day set for hearing. Any claim by any persons ~~whomsoever~~,
11 for damages which may be caused by ~~said~~ the project shall
12 be filed with the commission at or prior to the time of the
13 hearing ~~provided-herein~~.

14 Sec. 56. Section 135.11, subsection 1, Code 1981, is
15 amended to read as follows:

16 1. Exercise general supervision over the public health,
17 promote public hygiene and sanitation, and unless otherwise
18 provided, enforce the laws relating to ~~the-same~~ those subjects.
19 However, the construction, maintenance, and abandonment of
20 wells associated with public water supply systems and nonpublic
21 water supply systems and wells are subject to regulation by
22 the Iowa water council under chapter 455A.

23 Sec. 57. Section 258A.3, subsection 2, paragraph a, Code
24 1981, is amended to read as follows:

25 a. Revoke a license, or suspend a license either until
26 further order of the board or for a specified period, upon
27 the grounds specified in sections 114.21, 115.8, 116.21,
28 117.29, 118.13, 118A.15, 120.10, 147.55, 148B.7, 153.34,
29 154A.24, 169.13, ~~455B-59~~ 33 of this Act, and chapters 135E,
30 151, 507B and 522 or upon any other grounds specifically
31 provided for in this chapter for revocation of the license
32 of a licensee subject to the jurisdiction of that board, or
33 upon failure of the licensee to comply with a decision of
34 the board imposing licensee discipline;

35 Sec. 58. Section 258A.4, subsection 1, paragraph f, Code

1 1981, is amended to read as follows:

2 f. Define by rule acts or omissions which are grounds
3 for revocation or suspension of a license under ~~the-provisions~~
4 ~~of~~ sections 114.21, 115.8, 116.21, 117.29, 118.13, 118A.15,
5 120.10, 147.55, 148B.7, 153.34, 154A.24, 169.13, ~~455B-49~~ 33
6 of this Act, and chapters 135E, 151, 507B and 522, and to
7 define by rule acts or omissions which constitute negligence,
8 careless acts, or omissions within the meaning of section
9 258A.3, subsection 2, paragraph "b", which licensees are
10 required to report to the board pursuant to section 258A.9,
11 subsection 2;

12 Sec. 59. Section 308.1, Code 1981, is amended to read
13 as follows:

14 308.1 PLANNING COMMISSION. The Mississippi parkway
15 planning commission shall be composed of ten members appointed
16 by the governor, five members to be appointed for two-year
17 terms beginning July 1, 1959, and five members to be appointed
18 for four-year terms beginning July 1, 1959. In addition ~~to~~
19 ~~the-above-members~~ there shall be seven advisory ex officio
20 members ~~who-shall-be~~ as follows: One member from the state
21 transportation commission, one member from the state
22 conservation commission, one member from the Iowa state soil
23 conservation commission, one member from the state historical
24 society of Iowa, one member from the faculty of the landscape
25 architectural division of the Iowa ~~State-University~~ state
26 university of science and technology, one member from the
27 Iowa development commission, and one member from the ~~natural~~
28 ~~resources~~ Iowa water council. Members and ex officio members
29 shall serve without pay, but the actual and necessary expenses
30 of members and ex officio members may be paid if the commission
31 so orders and if the commission has funds available for ~~such~~
32 that purpose.

33 Sec. 60. Section 357A.1, subsection 7, Code 1981, is
34 amended to read as follows:

35 7. "Council" means the Iowa ~~natural-resources~~ water

1 council.

2 Sec. 61. Section 358.9, unnumbered paragraph 3, Code 1981,
3 is amended to read as follows:

4 ~~In-eases-where~~ If the state of Iowa owns at least four
5 hundred acres of land contiguous to lakes within ~~said a~~
6 district, ~~then-and-only-then~~ the Iowa natural-resources water
7 council shall appoint two members of ~~said the~~ board of trustees
8 in addition to the three members ~~hereinbefore~~ selected as
9 otherwise provided in this section. The additional two members
10 shall be qualified ~~as-follows--They-shall-be~~ by being United
11 States citizens, not less than eighteen years of age, and
12 shall be property owners within ~~said the~~ district. ~~In-such~~
13 ~~eases-the~~ The two additional appointive members shall have
14 equal vote and authority with other members ~~of-trustees~~ and
15 shall hold office at the pleasure of the Iowa natural-resources
16 water council.

17 Sec. 62. Section 358A.24, Code 1981, is amended to read
18 as follows:

19 358A.24 CONFLICT WITH OTHER REGULATIONS. ~~Wherever~~ If
20 the regulations made under ~~authority-of~~ this chapter require
21 a greater width or size of yards, courts or other open spaces,
22 or require a lower height of building or less number of
23 stories, or require a greater percentage of lot to be left
24 unoccupied, or impose other higher standards than are required
25 in any other statute or local ordinance or regulation, the
26 ~~provisions-of-the~~ regulations made under ~~authority-of~~ this
27 chapter ~~shall~~ govern. ~~Wherever-the-provisions-of~~ If any other
28 statute or local ordinance or regulation ~~require~~ requires
29 a greater width or size of yards, courts or other open spaces,
30 or ~~require~~ a lower height of building or a less number of
31 stories, or ~~require~~ a greater percentage of lot to be left
32 unoccupied, or ~~impose~~ imposes other higher standards than
33 are required by the regulations made under ~~authority-of~~ this
34 chapter, the ~~provisions-of-such~~ other statute or local
35 ordinance or regulation ~~shall-govern~~ governs. ~~Wherever-any~~

1 If a regulation proposed or made under ~~authority-of~~ this
2 chapter relates to any structure, building, dam, obstruction,
3 deposit or excavation in or on the flood plains of any river
4 or stream, prior approval of the Iowa ~~natural-resources~~ water
5 council ~~shall-be~~ is required to establish, amend, supplement,
6 change, or modify ~~such~~ the regulation or to grant any variation
7 or exception ~~therefrom~~ from the regulation.

8 Sec. 63. Section 414.21, Code 1981, is amended to read
9 as follows:

10 414.21 CONFLICTING RULES, ORDINANCES, AND STATUTES.

11 ~~Wherever~~ If the regulations made under ~~authority-of~~ this
12 chapter require a greater width or size of yards, courts or
13 other open spaces, or ~~require~~ a lower height of building or
14 less number of stories, or ~~require~~ a greater percentage of
15 lot to be left unoccupied, or impose other higher standards
16 than are required in any other statute or local ordinance
17 or regulation, the ~~provisions-of-the~~ regulations made under
18 ~~authority-of~~ this chapter ~~shall~~ govern. ~~Wherever-the~~
19 ~~provisions-of~~ If any other statute or local ordinance or
20 regulation ~~require~~ requires a greater width or size of yards,
21 courts or other open spaces, or ~~require~~ a lower height of
22 building or a less number of stories, or ~~require~~ a greater
23 percentage of lot to be left unoccupied, or ~~impose~~ imposes
24 other higher standards than are required by the regulations
25 made under ~~authority-of~~ this chapter, the ~~provisions-of-such~~
26 other statute or local ordinance or regulation ~~shall-govern~~
27 governs. ~~Wherever-any~~ If a regulation proposed or made under
28 ~~authority-of~~ this chapter relates to any structure, building,
29 dam, obstruction, deposit or excavation in or on the flood
30 plains of any river or stream, prior approval of the Iowa
31 ~~natural-resources~~ water council ~~shall-be~~ is required to
32 establish, amend, supplement, change or modify ~~such~~ the
33 regulation or to grant any variation or exception ~~therefrom~~
34 from the regulation.

35 Sec. 64. Section 427.1, subsection 32, unnumbered para-

1 graphs 7, 8, and 9, Code 1981, are amended to read as follows:

2 The environmental quality commission of the department
3 of environmental quality shall adopt rules relating to
4 certification of air pollution-control property under this
5 subsection and information to be submitted for evaluating
6 air pollution-control property for which a certificate is
7 requested. The Iowa water council shall adopt rules relating
8 to certification of water pollution-control property under
9 this subsection and information to be submitted for evaluating
10 water pollution-control property for which a certification
11 is requested. The revenue department shall adopt any rules
12 necessary to implement this subsection, including rules on
13 identification and valuation of pollution-control property.
14 All rules adopted shall be subject to ~~the provisions of~~ chapter
15 17A.

16 For the purposes of this subsection "air or water pollution-
17 control property" means personal property or improvements
18 to real property, or any portion thereof, used primarily to
19 control or abate pollution of any air or water of this state
20 or used primarily to enhance the quality of any air or water
21 of this state. ~~in the event such~~ If the property shall also
22 ~~serve~~ serve other purposes or uses of productive benefit
23 to the owner of the property, only ~~such~~ the portion of the
24 assessed valuation ~~thereof as may~~ reasonably be calculated
25 to be necessary for and devoted to the control or abatement
26 of pollution or to the enhancement of the quality of the air
27 or water of this state ~~shall be~~ is exempt from taxation under
28 this subsection.

29 For the purposes of this subsection "pollution" means air
30 pollution as defined in section 455B.10 or water pollution
31 as defined in section ~~455B-30~~ 9 of this Act. "Water of the
32 state" means the water of the state as defined in section
33 ~~455B-30~~ 9 of this Act. "Enhance the quality" means to diminish
34 the level of pollutants below the air or water quality
35 standards established by the environmental quality commission

1 of the department of environmental quality or the Iowa water
2 council.

3 Sec. 65. Section 427.1, subsection 33, Code 1981, is
4 amended to read as follows:

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

1 structure" means any dam, earthfill or other structure used
2 to create an impoundment.

3 Sec. 66. Section 455.18, unnumbered paragraph 2, Code
4 1981, is amended to read as follows:

5 ~~where~~ If the object of the proposed district contemplates
6 ~~as-its-object~~ is flood control or soil conservance the engineer
7 shall include in ~~his~~ the report data describing any soil
8 conservance or flood control improvements, ~~the~~ their nature
9 ~~thereof~~, and ~~such-ether~~ any additional data ~~as-shall-be~~
10 prescribed by the Iowa ~~natural-resources~~ water council.

11 Sec. 67. Section 467C.5, Code 1981, is amended to read
12 as follows:

13 467C.5 APPROVAL OF COMMISSIONERS. ~~No~~ A district shall
14 not be established by ~~any~~ a board of supervisors under this
15 chapter unless the organization of ~~such~~ the district is
16 approved by the commissioners of any soil conservation district
17 established under ~~the-provisions-of~~ chapter 467A and which
18 is included all or in part within ~~such~~ the district, nor shall
19 ~~any-such~~ a district be established without the approval of
20 the state conservation commission and the Iowa ~~natural~~
21 ~~resources~~ water council.

22 Sec. 68. Section 467D.2, subsection 3, Code 1981, is
23 amended to read as follows:

24 3. "Council" means the Iowa ~~natural-resources~~ water
25 council.

26 Sec. 69. Section 469.1, Code 1981, is amended to read
27 as follows:

28 469.1 PROHIBITION--PERMIT. ~~No~~ A dam shall not be
29 constructed, maintained, or operated in this state in any
30 navigable or meandered stream for any purpose, or in any other
31 stream for manufacturing or power purposes, nor shall any
32 water be taken from ~~such~~ the streams for industrial purposes,
33 unless a permit has been granted by the Iowa ~~natural-resources~~
34 water council to the person, firm, corporation, or municipality
35 constructing, maintaining, or operating the ~~same~~ dam.

1 Sec. 70. Section 469.2, unnumbered paragraph 1 and subsec-
2 tion 6, Code 1981, are amended to read as follows:

3 Any person, firm, corporation, or municipality making
4 application for a permit to construct, maintain, or operate
5 a dam in any of the waters, including canals, raceways, and
6 other constructions necessary or useful in connection with
7 the development and utilization of the water or water power,
8 shall file with the Iowa ~~natural-resources~~ water council a
9 written application, which shall contain the following
10 information:

11 6. ~~Such additional~~ Additional information as ~~may be~~
12 required by the Iowa ~~natural-resources~~ water council.

13 Sec. 71. Section 469.3, Code 1981, is amended to read
14 as follows:

15 469.3 NOTICE OF HEARING. When any application for a
16 permit to construct, maintain, or operate a dam from and after
17 the passage of this chapter is received, the Iowa ~~natural~~
18 ~~resources~~ water council shall fix a time for hearing, and
19 it shall give notice of the time and place of ~~such~~ the hearing
20 by publication once each week for two successive weeks in
21 at least one newspaper in each county in which riparian lands
22 will be affected by the dam.

23 Sec. 72. Section 469.9, unnumbered paragraph 1, Code 1981,
24 is amended to read as follows:

25 Every person, firm, or corporation, excepting a
26 municipality, to whom a permit is granted to construct or
27 to maintain and operate a dam already constructed in or across
28 any stream for the purpose ~~herein~~ specified in this chapter,
29 shall pay to the Iowa ~~natural-resources~~ water council a permit
30 fee of one hundred dollars and shall pay an annual inspection
31 and license fee, to be fixed by the Iowa ~~natural-resources~~
32 water council, on or before the first day of January ~~7-1925~~
33 ~~and annually thereafter~~ of each year, but in no case shall
34 the annual inspection and license fee be less than twenty-
35 five dollars. All fees shall be paid into the general fund

1 of the state treasury.

2 Sec. 73. Section 469.10, Code 1981, is amended to read
3 as follows:

4 469.10 CONSTRUCTION AND OPERATION. The Iowa ~~natural~~
5 ~~resources~~ water council shall investigate methods of
6 construction, reconstruction, operation, maintenance, and
7 equipment of dams, so as to determine the best methods to
8 conserve and protect as far as possible all public and riparian
9 rights in the waters of the state and so as to protect the
10 life, health, and property of the general public, ~~and the~~
11 The method of construction, operation, maintenance, and
12 equipment of ~~any and~~ all dams of any character or for any
13 purpose in ~~such~~ the waters ~~shall be~~ of the state is subject
14 to the approval of the Iowa ~~natural-resources~~ water council.

15 Sec. 74. Section 469.26, Code 1981, is amended to read
16 as follows:

17 469.26 REVOCATION OR FORFEITURE OF PERMIT. If the person
18 to whom a permit is issued under ~~the provisions of~~ this chapter
19 does not begin the construction or the improvement of the
20 dam or raceway within one year from the date of the granting
21 of the permit, ~~his~~ the permit may be revoked by the Iowa
22 ~~natural-resources~~ water council, and if any permit holder
23 does not finish and have in operation the plant for which
24 the dam is constructed within three years after the granting
25 of the permit, unless for good cause shown the council has
26 extended the time for completion, ~~such~~ the permit shall be
27 forfeited.

28 Sec. 75. Section 469.29, Code 1981, is amended to read
29 as follows:

30 469.29 PERMITS FOR EXISTING DAMS. All licenses and permits
31 issued by the state executive council prior to April 17, 1949,
32 or the Iowa natural resources council prior to January 1,
33 1983, and in force just prior to the effective date of this
34 Act are ~~hereby declared to be~~ in full force and effect on
35 the effective date of this Act and all of the powers of

1 administration relating to licenses or permits heretofore
2 issued are hereby vested in the Iowa natural-resources water
3 council.

4 Sec. 76. PRIOR ACTIONS.

5 1. A rule adopted, permit or order issued, or approval
6 given by the water quality commission, the environmental
7 quality commission, or the executive director of the department
8 of environmental quality relating to water quality and water
9 pollution control under chapter 455B, division III, before
10 the effective date of this Act and in force just prior to
11 the effective date of this Act remains effective until modified
12 or rescinded by action of the Iowa water council or its
13 director unless the rule, order, permit, or approval is
14 inconsistent with or contrary to this Act.

15 2. A certificate of competence issued to the operator
16 of a water treatment plant or water distribution system by
17 the executive director of the department of environmental
18 quality and in force just prior to the effective date of this
19 Act is valid until it expires or is suspended or revoked by
20 action of the public water supply board of certification as
21 provided by law.

22 3. A rule adopted, permit or order issued, or approval
23 given under chapter 84, 108, 109, 111, 112, 357A, 358A, 414,
24 427, 455A, 467A, 467C, or 467D, before the effective date
25 of this Act and in force just prior to the effective date
26 of this Act, by the Iowa natural resources council or its
27 director remains effective until modified or rescinded by
28 action of the Iowa water council or its director unless the
29 rule, order, permit, or approval is inconsistent with or
30 contrary to this Act.

31 4. A rule adopted, permit or order issued, or approval
32 given by the state department of health or the commissioner
33 of public health relating to nonpublic water supply systems
34 or water wells under chapter 135, before the effective date
35 of this Act and in force just prior to the effective date

1 of this Act remains effective until modified or rescinded
2 by action of the Iowa water council or its director unless
3 the rule, order, permit, or approval is inconsistent with
4 or contrary to this Act.

5 Sec. 77. TRANSFER OF EMPLOYEES. All employees of the
6 Iowa natural resources council and those employees of the
7 state department of health, and the department of environmental
8 quality who are employed to administer programs relating to
9 water pollution control, water quality, or nonpublic water
10 supply systems and wells are transferred to the Iowa water
11 council. However, an employee of the state department of
12 health or the department of environmental quality whose duty
13 assignments will be terminated because of this Act may be
14 reassigned to other duties or may be transferred to the Iowa
15 water council. The Iowa merit employment commission shall
16 adopt rules to carry out the reassignment or transfer and
17 shall arbitrate and decide a written appeal made by an employee
18 concerning a transfer, reassignment, or reclassification
19 made necessary by this Act. An employee shall not lose
20 benefits accrued, including but not limited to salary,
21 retirement, vacation, or sick leave, because of reassignment.

22 Sec. 78. EFFECTIVE DATE--TRANSITION. The effective date
23 of this Act is January 1, 1983, except that this section is
24 effective on July 1, 1982. After July 1, 1982, the governor
25 may appoint the members of the Iowa water council in the same
26 manner as the members of the Iowa natural resources were
27 appointed under section 455A.4 and may authorize the Iowa
28 water council to organize as provided in this Act, to appoint
29 a director of the council, and to plan for the transfer of
30 powers, duties, records, equipment, personnel, and other
31 property as applicable. The membership of the initial Iowa
32 water council may include persons who are serving unexpired
33 terms as members of the Iowa natural resources council. The
34 persons shall serve concurrently as members of both councils
35 until January 1, 1983, when the terms of members of the Iowa

1 natural resources council shall expire. The persons may be
2 reappointed as provided in this Act. If a director of the
3 Iowa water council is appointed before January 1, 1983, the
4 director shall cooperate with the Iowa natural resources
5 council in preparing for an orderly transfer of powers and
6 duties, including representing the new council in budgetary
7 and appropriation matters. The director and members of the
8 Iowa water council, appointed and authorized to exercise
9 powers and duties before January 1, 1983 as provided in this
10 section may be paid salary or per diem as applicable and
11 necessary expenses from funds appropriated to the Iowa natural
12 resources council.

13 This Act does not affect the appointments or terms of of-
14 fice of the members of the board of certification appointed
15 under section 455B.53. However, a vacancy exists on the board
16 of certification if the member who is also an employee of
17 the department of environmental quality before the effec-
18 tive date of this Act is not transferred to and does not
19 become an employee of the Iowa water council on the effective
20 date of this Act.

21 Sec. 79. Sections 455B.30 through 455B.74, Code 1981,
22 are repealed.

23 **EXPLANATION**

24 This bill provides for the creation of an Iowa water council
25 to replace the Iowa natural resources council and to assume
26 all of its powers and duties, transfers from the department
27 of environmental quality to the new council the authority
28 to administer water quality and water pollution control
29 programs, and transfers from the department of health to the
30 new council the authority to regulate nonpublic water supply
31 systems and water wells.

32 The new council has the same nine voting members and one
33 nonvoting member. The nine voting members must be electors
34 of the state and selected on the basis of their qualifications
35 and fitness for the position. The tenth nonvoting member

1 is the executive director of the department of environmental
2 quality or a designee of the executive director. Terms of
3 office are six years.

4 This bill is effective January 1, 1983, but the governor
5 may appoint the new council and may authorize the new council
6 to meet and appoint a director, and plan for the orderly
7 transfer of powers and duties after July 1, 1982.

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HOUSE FILE 2463

H-5456

1 Amend House File 2463 as follows:

2 1. By striking everything after the enacting
3 clause and inserting in lieu thereof the following:

4 "Section 1. Section 455B.4, subsection 6, Code
5 1981, is amended to read as follows:

6 6. The executive director shall notify the
7 secretary of agriculture, the commissioner of public
8 health, the chief administrative officer of the
9 department of soil conservation, ~~the director of the~~
10 ~~Iowa-natural-resources-council~~, the director of the
11 state conservation commission and the director of
12 the state hygienic laboratory of the scheduled meetings
13 of the commission.

14 Sec. 2. Section 455B.30, subsection 8, Code 1981,
15 is amended by striking the subsection.

16 Sec. 3. Section 455B.30, Code 1981, is amended
17 by adding the following new subsections:

18 NEW SUBSECTION. "Private water supply" means any
19 water supply for human consumption which has less
20 than fifteen service connections or regularly serves
21 less than twenty-five individuals.

22 NEW SUBSECTION. "Private sewage disposal system"
23 means a system for the treatment or disposal of
24 domestic sewage from four or fewer dwelling units.

25 Sec. 4. Section 455B.31, Code 1981, is amended
26 to read as follows:

27 455B.31 ADMINISTRATIVE AGENCY.

28 1. The department ~~shall be~~ is the agency of the
29 state to prevent, abate, or control water pollution
30 and to conduct the public water supply program.

31 2. The department is the state agency designated
32 to carry out the state responsibilities related to
33 private water supplies and private sewage disposal
34 systems. The commission shall adopt guidelines and
35 recommend standards for private water supplies and
36 private sewage disposal facilities. Each local board
37 of health is the agency to regulate private water
38 supplies and private sewage disposal systems. Each
39 local board of health shall adopt standards relating
40 to the design, construction, operation, and maintenance
41 of the private water supplies and private sewage
42 disposal facilities. The department shall encourage
43 the local boards of health to establish programs to
44 license and enforce the standards for private water
45 supplies and private sewage disposal facilities.

46 Sec. 5. Section 455B.32, subsection 4, Code 1981,
47 is amended by striking the subsection.

48 Sec. 6. Chapter 455B, division III, Code 1981,
49 is amended by adding sections 7 through 30 of this
50 Act as a new part.

1 Sec. 7. NEW SECTION. DEFINITIONS. As used in
2 this part of division III, unless the context otherwise
3 requires:
4 1. "Flood plains" means the area adjoining a river
5 or stream which has been or is covered by flood water.
6 2. "Floodway" means the channel of a river or
7 stream and those portions of the flood plains adjoining
8 the channel which are reasonably required to carry
9 and discharge the flood water or flood flow of any
10 river or stream.
11 3. "Surface water" means the water occurring on
12 the surface of the ground.
13 4. "Ground water" means that water occurring
14 beneath the surface of the ground.
15 5. "Diffused waters" means waters from
16 precipitation and snowmelt which is not a part of
17 any watercourse or basin including capillary soil
18 water.
19 6. "Depleting use" means the storage, diversion,
20 conveyance, or other use of a supply of water if the
21 use may impair rights of lower or surrounding users,
22 may impair the natural resources of the state, or
23 may injure the public welfare if not controlled.
24 7. "Beneficial use" means the application of water
25 to a useful purpose that inures to the benefit of
26 the water user and subject to the user's dominion
27 and control but does not include the waste or pollution
28 of water.
29 8. "Nonregulated use" means the application of
30 water for ordinary household purposes, use of water
31 for poultry, livestock, and domestic animals, any
32 beneficial use of surface flow from rivers bordering
33 this state, any existing beneficial uses of water
34 within the territorial boundaries of municipal
35 corporations on May 16, 1957, and any other beneficial
36 use of water by any person of less than twenty-five
37 thousand gallons per day. However, industrial users
38 of water, having their own water supply, within the
39 territorial boundaries of municipal corporations,
40 shall be regulated when their water use exceeds three
41 percent more than the highest per day beneficial use
42 prior to May 16, 1957.
43 9. "Regulated use" means any depleting use except
44 a use specifically designated as a nonregulated use.
45 10. "Permit" means a written authorization issued
46 by the executive director to a permittee which is
47 limited as to quantity, time, place, and rate of
48 diversion, storage, or withdrawal in accordance with
49 the policies and principles of beneficial use as
50 specified in this part.

1 11. "Permittee" means a person who obtains a
2 permit from the executive director authorizing the
3 person to take possession by diversion or otherwise
4 and to use and apply an allotted quantity of water
5 for a designated beneficial use, and who makes actual
6 use of the water for that purpose.

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

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

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

26 15. "Established average minimum flow" means the
27 average minimum flow for a given watercourse at a
28 given point determined and established by the
29 commission. The "average minimum flow" for a given
30 watercourse shall be determined by the following
31 factors:
32 a. Average of minimum daily flows occurring during
33 the preceding years chosen by the commission as more
34 nearly representative of changing conditions and needs
35 of a given drainage area at a particular time.
36 b. Minimum daily flows shown by experience to
37 be the limit at which further withdrawals would be
38 harmful to the public interest in any particular
39 drainage area.
40 c. The minimum daily flows shown by established
41 discharge records and experiences to be definitely
42 harmful to the public interest.
43 The determination shall be based upon available
44 data, supplemented, when available data are incomplete,
45 with whatever evidence is available.

46 16. "Impounded or stored water" means that water
47 captured and stored on the land by anyone taking it
48 pursuant to this chapter, and the party impounding
49 the water shall become the absolute owner of the
50 stored water.

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1 Sec. 8. NEW SECTION. DECLARATION OF POLICY.

2 1. It is recognized that the protection of life
3 and property from floods, the prevention of damage
4 to lands from floods, and the orderly development,
5 wise use, protection, and conservation of the water
6 resources of the state by their considered and proper
7 use is of paramount importance to the welfare and
8 prosperity of the people of the state, and to realize
9 these objectives, it is the policy of the state to
10 correlate and vest the powers of the state in a single
11 agency, the department of environmental quality, with
12 the duty and authority to establish and enforce an
13 appropriate comprehensive state-wide program for the
14 control, utilization, and protection of the surface
15 and ground-water resources of the state. The general
16 welfare of the people of the state requires that the
17 water resources of the state be put to beneficial
18 use to the fullest extent possible, and that the waste
19 or unreasonable use, or unreasonable methods of use,
20 of water be prevented, and that the conservation of
21 water resources be exercised with the view to their
22 reasonable and beneficial use in the interest of the
23 people, and that the public and private funds for
24 the promotion and expansion of the beneficial use
25 of water resources be invested to the end that the
26 best interests and welfare of the people are served.

27 2. Water occurring in a basin or watercourse,
28 or other natural body of water of the state, is public
29 water and public wealth of the people of the state
30 and subject to use in accordance with this chapter,
31 and the control and development and use of water for
32 all beneficial purposes is vested in the state, which,
33 in the exercise of its police powers, shall take
34 measures to effectuate full utilization and protection
35 of the water resources of the state.

36 Sec. 9. NEW SECTION. WATER RESOURCES ADVISORY
37 COUNCIL.

38 1. An advisory council on water resources is
39 created to advise the commission on matters related
40 to water resources, water use, flood plain management,
41 and other matters as the commission may request.

42 2. The advisory council shall consist of nine
43 members appointed by the commission, who shall be
44 selected from the residents of the state solely with
45 regard to their qualifications and fitness to discharge
46 the duties of the council and without regard to their
47 political affiliation.

48 3. The members of the advisory council who are
49 not in the full-time employment of a public agency
50 shall be paid a per diem of forty dollars while engaged

1 in the performance of the duties of office. Members
2 shall be reimbursed for their actual and necessary
3 expenses while performing the duties of office. Per
4 diem and expenses shall be paid from funds appro-
5 priated to the department.

6 4. The advisory council shall organize by the
7 election of a chairperson and shall meet quarterly
8 or as it deems necessary. The chairperson shall be
9 elected annually at the meeting of the advisory council
10 held in July. Meetings may be called by the
11 chairperson and shall be called by the chairperson
12 as regularly scheduled or at the request of the commis-
13 sion. A majority of the advisory council is a quorum
14 and the concurrence of a majority of the advisory
15 council is required for determination of matters
16 within its powers and duties.

17 5. The commission shall establish the scope of
18 the duties of the advisory council and shall define
19 the manner in which the advisory council assists the
20 commission in the discharge of its duties.

21 6. The advisory council and the terms of its
22 members shall expire two years from the effective
23 date of this Act unless the advisory council is
24 continued by law upon recommendation of the commission.
25 The recommendation shall include a detailed proposal
26 for the functions and duties of a permanent council
27 and the size and representation of the council.

28 Sec. 10. NEW SECTION. EMINENT DOMAIN--GIFTS.

29 1. For the purposes of this part, the commission
30 has the right to exercise the power of eminent domain.
31 The provisions of law relating to condemnation of
32 land for public state purposes shall apply to the
33 extent applicable. The executive council shall
34 institute and maintain the condemnation proceedings.

35 2. The commission may accept gifts, contributions,
36 donations and grants, and use them for any purpose
37 within the scope of this part.

38 Sec. 11. NEW SECTION. TITLE TO LAND AND OTHER
39 PROPERTY. The title to all lands, easements, or other
40 interests in land, or other property or rights acquired
41 by the commission shall be approved by the attorney
42 general and taken in the name of the state.

43 Sec. 12. NEW SECTION. POWERS AND DUTIES.

44 1. The commission shall establish and enforce
45 a comprehensive statewide plan for the control,
46 utilization, and protection of the water resources
47 of the state, which plan shall include all uses and
48 developments of water resources and shall provide
49 for the optimum control, protection, development,
50 utilization, and allocation of water resources,

1 including the relative priority of each user group
2 for water allocation and the development of criteria
3 for the commission to establish by rule the relative
4 priority of each water source for use. All uses and
5 developments of water resources regulated under this
6 part must be found to be compatible with the state
7 comprehensive plan after its adoption prior to the
8 granting of a permit by the executive director or
9 an approval order by the commission. In making and
10 formulating the state comprehensive plan for the
11 future control, development, protection, allocation,
12 and utilization of the water resources of the state,
13 the department shall make surveys and investigations
14 of the water resources of the state and shall give
15 consideration to the needs of agriculture, industry,
16 health, fish and wildlife, recreation, pollution,
17 and allied matters as they relate to flood control
18 and water resources. Before implementation of the
19 statewide plan, the commission shall submit the plan
20 to the general assembly which shall approve or
21 disapprove the plan pursuant to a concurrent resolu-
22 tion. Approval of the plan shall require the
23 affirmative vote of a majority of the members of each
24 house of the general assembly.

25 2. The commission shall designate the official
26 representative of this state on all comprehensive
27 water resources planning groups for which state
28 participation is provided. The commission shall
29 coordinate state planning with local and national
30 planning and, in safeguarding the interests of the
31 state and its people, shall undertake the resolution
32 of any conflicts that may arise between the water
33 resources policies, plans, and projects of the federal
34 government and the water resources policies, plans,
35 and projects of the state, its agencies, and its
36 people. This section, assigning the overall respon-
37 sibility for comprehensive planning of water resources
38 to the commission, does not limit or supplant the
39 functions, duties, and responsibilities of other state
40 or local agencies or institutions with regard to
41 planning of water-associated projects within the
42 particular area of responsibility of those state or
43 local agencies or institutions.

44 3. The commission shall enter into negotiations
45 and agreements with the federal government relative
46 to the operation of, or the release of water from,
47 any project that has been authorized or constructed
48 by the federal government when the commission deems
49 the negotiations and agreements to be necessary for
50 the achievement of the policies of this state rela-

1 tive to its water resources.

2 4. The commission, on behalf of the state, shall
3 enter into negotiations with the federal government
4 relative to the inclusion of conservation storage
5 features for water supply in any project that has
6 been authorized by the federal government when the
7 commission deems the negotiations to be necessary
8 for the achievement of the policies of this state
9 and the state comprehensive plan for water resources,
10 however, an agreement reached pursuant to these
11 negotiations does not bind the state until enacted
12 into law by the general assembly.

13 5. A water user who benefits from the development
14 by the federal government of conservation storage
15 for water supply shall be encouraged to assume the
16 responsibility for repaying to the federal government
17 any reimbursable costs incurred in the development,
18 and a user who accepts benefits from the developments
19 financed in whole or part by the state shall assume
20 by contract the responsibility of repaying to the
21 state the user's reasonable share of the state's
22 obligations in accordance with a basis which will
23 assure payment within the life of the development.
24 An appropriation, diversion, or use shall not be made
25 by a person of any waters of the state that have been
26 stored or released from storage either under the
27 authority of the state or pursuant to an agreement
28 between the state and the federal government until
29 the person has assumed by contract the person's
30 repayment responsibility. However, this subsection
31 does not infringe upon any vested property interests.

32 6. In its contracts with water users for the
33 payment of state obligations incurred in the
34 development of conservation storage for water supply,
35 the commission shall include the terms deemed
36 reasonable and necessary:

37 a. To protect the health, safety, and general
38 welfare of the people of the state.

39 b. To achieve the purposes of this chapter.

40 c. To provide that the state is not responsible
41 to any person if the waters involved are insufficient
42 for performance.

43 The commission may designate and describe any such
44 contract, and describe the relationships to which
45 it relates, as a sale of storage capacity, a sale
46 of water release services, a contract for the storage
47 or sale of water, or any similar terms suggestive
48 of the creation of a property interest. The term
49 of the contracts shall be commensurate with the
50 investment and use concerned, but the commission shall

1 not enter into any such contract for a term in excess
2 of the maximum period provided for water use permits.
3 7. The commission shall procure flood control
4 works and water resources projects from or by
5 cooperation with any agency of the United States,
6 by cooperation with the cities and other subdivisions
7 of the state under the laws of the state relating
8 to flood control and use of water resources, and by
9 cooperation with the action of landowners in areas
10 affected by the works or projects when the commissioner
11 deems the projects to be necessary for the achievement
12 of the policies of this state and the state
13 comprehensive plan for water resources.

14 8. The commission shall promote the policies set
15 forth in this part and shall represent this state
16 in all matters within the scope of this part. The
17 commission shall adopt rules pursuant to chapter 17A
18 as necessary to transact its business and for the
19 administration and exercise of its powers and duties.

20 Sec. 13. NEW SECTION. JURISDICTION--DIVERSION
21 OF WATER.

22 1. The commission has jurisdiction over the public
23 and private waters in the state and the lands adjacent
24 to the waters necessary for the purposes of carrying
25 out this part. The commission may construct flood
26 control works or any part of the works. In the
27 construction of the works, in making surveys and
28 investigations, or in formulating plans and programs
29 relating to the water resources of the state, the
30 commission may cooperate with an agency of another
31 state or the United States, or with any other person.

32 2. Upon application by any person for permission
33 to divert, pump, or otherwise take waters from any
34 watercourse, underground basin or watercourse, drainage
35 ditch, or settling basin within this state for any
36 purpose other than a nonregulated use, the executive
37 director shall investigate the effect of the use upon
38 the natural flow of the watercourse, the effect of
39 the use upon the owners of any land which might be
40 affected by the use, and the effect of the use upon
41 the state comprehensive plan for water resources.

42 3. Upon application by any person for approval
43 of the construction or maintenance of any structure,
44 dam, obstruction, deposit, or excavation to be erected,
45 used, or maintained in or on the flood plans of any
46 river or stream, the executive director shall
47 investigate the effect of the construction or
48 maintenance project on the efficiency and capacity
49 of the floodway and on the state comprehensive plan
50 for water resources. In determining the effect of

1 the proposal the executive director shall consider
2 fully its effect on flooding of or flood control for
3 any proposed works and adjacent lands and property,
4 on the wise use and protection of water resources,
5 on the quality of water, on fish, wildlife, and
6 recreational facilities or uses, and on all other
7 public rights and requirements.

8 Sec. 14. NEW SECTION. PERMITS FOR DIVERSION,
9 STORAGE, AND WITHDRAWAL. If the executive director
10 determines after due investigation that the diversion,
11 storage, or withdrawal of water will not be detrimental
12 to the public interests, including drainage and levee
13 districts, or to the interests of property owners
14 with prior or superior rights who may be affected,
15 the executive director shall grant a permit for the
16 diversion, storage, or withdrawal. Permits may be
17 granted for any period of time not exceeding ten years
18 except permits for the storage of water which may
19 be granted for the life of the structure unless
20 withdrawn for good cause. All existing storage permits
21 are extended for the life of the structure unless
22 withdrawn for good cause. Permits may be granted
23 which provide for less diversion, storage, or
24 withdrawal of waters than set forth in the application.
25 A permit granted shall remain as an appurtenance of
26 the land described in the permit through the date
27 specified in the permit and any extension of the
28 permit or until earlier date if the permit or any
29 extension of the permit is modified or canceled under
30 section 20 of this Act. Upon application for a permit
31 prior to the termination date specified in the permit,
32 a permit may be renewed by the executive director
33 for any period of time not to exceed ten years.

34 Sec. 15. NEW SECTION. PRIORITY OF PERMITS FOR
35 DIVERSION, STORAGE, AND WITHDRAWAL.

36 1. In the consideration of applications for
37 permits, priority in processing shall be given to
38 persons in the order that the applications are
39 received. The executive director or the commission
40 on appeal shall determine the duration and frequency
41 of withdrawal and the quantity of water for which
42 a permit may be granted. The use of water for ordinary
43 household purposes, and for poultry, livestock, and
44 domestic animals shall have priority over other uses.
45 Any person with an existing irrigation system in use
46 prior to May 16, 1957, shall be issued a permit to
47 continue unless its use damages some other riparian
48 user. In the consideration of applications for per-
49 mits by regulated users, the declared policies and
50 principles of beneficial use as set forth in this

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1 part are the standards for the determination of the
2 disposition of the applications for permits. If there
3 is competition for water, the use of water for
4 irrigation except for research has a lower priority
5 than other beneficial uses of water subject to
6 conditions which the commission may establish by rule.
7 This part does not impair the vested right of any
8 person.

9 2. When permits are modified or canceled, priority
10 for permits shall be given to applicants or permit
11 holders who use water for agricultural research.
12 This subsection does not give priority to those
13 applicants or permit holders in preference to other
14 classes granted priority by this section.

15 Sec. 16. NEW SECTION. PERMITS FOR BENEFICIAL
16 USE--PROHIBITIONS.

17 1. The executive director and the commission may
18 issue a permit for beneficial use of water in a
19 watercourse if the established average minimum water
20 flow is preserved.

21 2. A use of water shall not be authorized if it
22 will impair the effect of this chapter or any other
23 pollution control law of this state.

24 3. A permit shall not be issued or continued if
25 it will impair the navigability of any navigable
26 watercourse.

27 Sec. 17. NEW SECTION. WHEN PERMIT REQUIRED.

28 1. A permit shall be required for the following:

29 a. A municipal corporation or a person supplying
30 a municipal corporation which increases its water
31 use in excess of one hundred thousand gallons or three
32 percent, whichever is the greater, per day more than
33 its highest per day beneficial use prior to May 16,
34 1957. The corporation or person shall make reasonable
35 provision for the storage of water at times when the
36 daily use of the water by the corporation or person
37 is less than the amount specified in this subsection.

38 b. Except for a nonregulated use, a person using
39 in excess of twenty-five thousand gallons of water
40 per day, diverted, stored, or withdrawn from any
41 source of supply except a municipal water system or
42 any other source specifically exempted under this
43 part.

44 c. A person who diverts water or any material
45 from the surface directly into an underground
46 watercourse or basin. However, a diversion of water
47 or material from the surface directly into an
48 underground watercourse or basin existing upon May
49 16, 1957, does not require a permit if the diversion
50 does not create waste or pollution.

1 d. Industrial users of water having their own
2 water supply within the territorial boundaries of
3 municipal corporations when the water use exceeds
4 three percent more than the highest per day beneficial
5 use prior to May 16, 1957.

6 2. The commission may adopt, modify, or repeal
7 rules specifying the conditions under which the
8 executive director may authorize specific nonrecurring
9 minor uses of water for periods not to exceed one
10 year through registration.

11 3. Notwithstanding any exemptions from permit
12 requirements, nothing in this part exempts water users
13 from requirements for reporting which the commission
14 adopts by rule.

15 Sec. 18. NEW SECTION. TAKING WATER PROHIBITED.
16 A person shall not take water from a natural
17 watercourse, underground basin or watercourse, drainage
18 ditch, or settling basin within this state for any
19 purpose other than a nonregulated use except in
20 compliance with this part. However, existing uses
21 may be continued during the period of the pendency
22 of an application for a permit.

23 Sec. 19. NEW SECTION. RIGHTS PRESERVED. This
24 part does not deprive any person of the right to use
25 diffused waters, to drain land by use of tile, open
26 ditch, or surface drainage, or to construct an
27 impoundment on the person's property or across a
28 stream that originates on the person's property if
29 provision is made for safe construction and for a
30 continued established average minimum flow when the
31 flow is required to protect the rights of water users
32 below.

33 Sec. 20. NEW SECTION. MODIFICATION OR CANCELLATION
34 OF PERMITS. Each permit issued under this part is
35 irrevocable for its term and for any extension of
36 its term except as follows:

37 1. A permit may be modified or canceled by the
38 executive director with the consent of the permittee.

39 2. Subject to appeal to the commission, a permit
40 may be modified or canceled by the executive director
41 if any of the following occur:

42 a. There is a breach of the terms of the permit.

43 b. There is a violation of the law pertaining
44 to the permit by the permittee or the permittee's
45 agents.

46 c. There is a circumstance of nonuse as provided
47 in section 21 of this Act.

48 d. The executive director finds that modification
49 or cancellation is necessary to protect the public
50 health or safety, to protect the public interests

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1 in lands or waters, or to prevent substantial injury
2 to persons or property in any manner. Before the
3 modification or cancellation is effective, the
4 executive director shall give at least thirty days'
5 written notice mailed to the permittee at the
6 permittee's last known address, stating the grounds
7 of the proposed modification or cancellation and
8 giving the permittee an opportunity to be heard on
9 the proposal.

10 3. By written order to the permittee, the executive
11 director may suspend operations under a permit if
12 the executive director finds it necessary in an
13 emergency to protect the public health or safety,
14 to protect the public interest in lands or waters
15 against imminent danger of substantial injury in any
16 manner or to an extent not expressly authorized by
17 the permit, or to protect persons or property against
18 the danger. The executive director may require the
19 permittee to take measures necessary to prevent or
20 remedy the injury, but an order shall not be in effect
21 for more than thirty days from the date of issue
22 without giving the permittee at least ten days' written
23 notice of the order and an opportunity to be heard
24 on the order.

25 Sec. 21. NEW SECTION. TERMINATION OF PERMIT.
26 The right of the permittee and the permittee's
27 successors to the use of water shall terminate when
28 the permittee or the permittee's successors fail for
29 three consecutive years to use it for the specific
30 beneficial purpose authorized in the permit and, after
31 notification by the executive director of intent to
32 cancel the permit for nonuse, the permittee or the
33 permittee's successors fail to demonstrate adequate
34 plans to use water within a reasonable time.

35 Sec. 22. NEW SECTION. DISPOSAL OF PERMIT. A
36 permittee may sell, transfer, or assign a permit by
37 conveying, leasing, or otherwise transferring the
38 ownership of the land described in the permit, but
39 the permit does not constitute ownership or absolute
40 rights of use of the waters. The waters remain sub-
41 ject to the principle of beneficial use and the orders
42 of the executive director or commission.

43 Sec. 23. NEW SECTION. POWER OF EMINENT DOMAIN.
44 The state of Iowa or a subdivision of the state, for
45 the purpose of carrying out any permission granted
46 under this part may exercise the power of eminent
47 domain.

48 Sec. 24. NEW SECTION. UNAUTHORIZED DEPLETING
49 USES. If a person files a complaint with the executive
50 director that another person is making a depleting

1 use of water not expressly exempted as a nonregulated
2 use under this part and without a permit to do so,
3 the executive director shall cause an investigation
4 to be made and if the facts stated in the complaint
5 are verified the executive director shall order the
6 discontinuance of the use.

7 Sec. 25. NEW SECTION. PROHIBITED ACTS--POWERS
8 OF COMMISSION AND EXECUTIVE DIRECTOR.

9 1. A person shall not erect, use or maintain a
10 structure, deposit, or excavation in or on a floodway
11 or flood plains, which will adversely affect the ef-
12 ficiency of or unduly restrict the capacity of the
13 floodway, adversely affect the control, development,
14 protection, allocation, or utilization of the water
15 resources of the state, or adversely affect or
16 interfere with the state comprehensive plan for water
17 resources or an approved local water resources plan,
18 and the same are declared to be public nuisances.
19 However, this subsection does not apply to dams
20 constructed and operated under the authority of chapter
21 469.

22 2. The executive director may commence, maintain,
23 and prosecute any appropriate action to enjoin or
24 abate a nuisance, including any of the nuisances
25 specified in subsection 1 and any other nuisance which
26 adversely affects flood control.

27 3. If a person desires to erect or make or to
28 permit a structure, dam, obstruction, deposit or
29 excavation, other than a dam constructed and operated
30 under chapter 469, to be erected, made, used, or
31 maintained in or on any floodway or flood plains,
32 the person shall file a verified written application
33 with the executive director, setting forth information
34 as required by rule of the commission. The executive
35 director, after an investigation, shall approve or
36 deny the application imposing conditions and terms
37 as prescribed by the executive director.

38 4. The executive director may maintain an action
39 in equity to enjoin a person from erecting or making
40 or permitting to be made a structure, dam, obstruction,
41 deposit, or excavation other than a dam constructed
42 and operated under the authority of chapter 469, for
43 which a permit has not been granted. The executive
44 director may also abate as a public nuisance any
45 structure, dam, obstruction, deposit, or excavation
46 erected or made without the permit required under
47 this part within one year of cessation of con-
48 struction. The costs of the abatement shall be borne
49 by the violator.

50 5. The executive director may remove or eliminate

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1 a structure, dam, obstruction, deposit, or excavation
2 in a floodway which adversely affects the efficiency
3 of or unduly restricts the capacity of the floodway,
4 by an action in condemnation, and in assessing the
5 damages in the proceeding, the appraisers and the
6 court shall take into consideration whether the
7 structure, dam, obstruction, deposit, or excavation
8 is lawfully in or on the floodway in compliance with
9 this part.

10 6. The executive director may require, as a
11 condition of an approval order or permit granted
12 pursuant to this part or chapter 469, the furnishing
13 of a performance bond with good and sufficient surety,
14 conditioned upon full compliance with the order or
15 permit and the rules of the commission. In determining
16 the need for and amount of bond, the executive director
17 shall give consideration to the hazard posed by the
18 construction and maintenance of the approved works
19 and the protection of the health, safety, and welfare
20 of the people of the state. This subsection does
21 not apply to orders or permits granted to a
22 governmental entity.

23 7. When approving a request to straighten a stream,
24 the executive director or commission may establish
25 as a condition of approval a permanent prohibition
26 against tillage of land owned by the person receiving
27 the approval and lying within a minimum distance from
28 the stream sufficient in the judgment of the director
29 or commission to hold soil erosion to reasonable
30 limits. The executive director shall record the
31 prohibition in the office of the county recorder of
32 the appropriate county and the prohibition shall
33 attach to the land.

34 8. The commission shall establish, by rule,
35 thresholds for dimensions and effects, and any
36 structure, dam, obstruction, deposit, or excavation
37 having smaller dimensions and effects than those es-
38 tablished by the commission is not subject to regu-
39 lation under this section. The thresholds shall be
40 established so that only those structures, dams,
41 obstructions, deposits, or excavations posing a
42 significant threat to the well-being of the public
43 and the environment are subject to regulation.

44 Sec. 26. NEW SECTION. FLOOD PLAINS--ENCROACHMENT
45 LIMITS. The commission may establish and enforce
46 rules for the orderly development and wise use of
47 the flood plains of any river or stream within the
48 state and alter, change, or revoke the rules. The
49 commission shall determine the characteristics of
50 floods which reasonably may be expected to occur and

1 may establish by order encroachment limits, protection
2 methods, and minimum protection levels appropriate
3 to the flooding characteristics of the stream and
4 to reasonable use of the flood plains. The order
5 shall fix the length of flood plains to be regulated
6 at any practical distance, the width of the zone
7 between the encroachment limits so as to include por-
8 tions of the flood plains adjoining the channel, which
9 with the channel, are required to carry and discharge
10 the flood waters or flood flow of the river or stream,
11 and the design discharge and water surface elevations
12 for which protection shall be provided for projects
13 outside the encroachment limits but within the limits
14 of inundation. Plans for the protection of projects
15 proposed for areas subject to inundation shall be
16 reviewed as plans for flood control works within the
17 purview of section 27 of this Act. An order
18 establishing encroachment limits shall not be issued
19 until due notice of the proposed order is given and
20 opportunity for public hearing given for the
21 presentation of protests against the order. In
22 establishing the limits, the commission shall avoid
23 to the greatest possible degree the evacuation of
24 persons residing in the area of a floodway, the removal
25 of residential structures occupied by the persons
26 in the area of a floodway, and the removal of
27 structures erected or made prior to July 4, 1965,
28 which are located on the flood plains of a river or
29 stream but not within the area of a floodway.

30 The commission may cooperate with and assist local
31 units of government in the establishment of
32 encroachment limits, flood plain regulations, and
33 zoning ordinances relating to flood plain areas within
34 their jurisdiction. Encroachment limits, flood plain
35 regulations, or flood plain zoning ordinances proposed
36 by local units of government shall be submitted to
37 the executive director for review and approval prior
38 to adoption by the local units of government. Changes
39 or variations from an approved regulation or ordinance
40 as it relates to flood plain use are subject to
41 approval by the executive director prior to adoption.
42 Individual applications, plans, and specifications
43 and individual approval orders shall not be required
44 for works on the flood plains constructed in conformity
45 with encroachment limits, flood plain regulations,
46 or zoning ordinances adopted by the local units of
47 government and approved by the executive director.

48 Sec. 27. NEW SECTION. FLOOD CONTROL WORKS
49 COORDINATED. All flood control works in the state,
50 which are established and constructed after the

1 effective date of this Act, shall be coordinated in
2 design, construction, and operation according to sound
3 and accepted engineering practice so as to effect
4 the best flood control obtainable throughout the
5 state. A person shall not construct or install works
6 of any nature for flood control until the proposed
7 works and the plans and specifications for the works
8 are approved by the executive director. The executive
9 director shall consider all the pertinent facts
10 relating to the proposed works which will affect flood
11 control and water resources in the state and shall
12 determine whether the proposed works in the plans
13 and specifications will be in aid of and acceptable
14 as part of, or will adversely affect and interfere
15 with flood control in the state, adversely affect
16 the control, development, protection, allocation,
17 or utilization of the water resources of the state,
18 or adversely affect or interfere with the state
19 comprehensive plan for water resources or an approved
20 local water resources plan. In the event of
21 disapproval, the executive director shall set forth
22 the objectionable features so that the proposed works
23 and the plans and specifications for the proposed
24 works may be corrected or adjusted to obtain approval.
25 This section applies to drainage districts, soil
26 conservation districts, the state conservation
27 commission, political subdivisions of the state, and
28 private persons undertaking projects relating to flood
29 control.

30 Sec. 28. NEW SECTION. PERMIT APPLICATION
31 PROCEDURES.

32 1. The commission shall adopt, modify, or repeal
33 rules establishing procedures by which permits required
34 under this part shall be issued, suspended, revoked,
35 modified, or denied. The procedures shall include
36 provisions for application, an application fee
37 sufficient to pay the administrative costs of the
38 permit process, public notice and opportunity for
39 public hearing, and contested cases.

40 2. Action by the executive director upon an
41 application for a permit required under this part
42 may be appealed to the commission by the applicant
43 or any affected person within thirty days of the
44 executive director's action. A hearing before the
45 commission or its designee is a contested case. The
46 hearings and judicial review of decisions of the
47 commission shall be carried out in accordance with
48 chapter 17A. Notwithstanding chapter 17A, petitions
49 for judicial review may be filed in the district court
50 of Polk county or of any county in which the property

1 affected is located. If the commission, the district
2 court, or the supreme court determines that the action
3 of the commission shall be stayed, the petitioner
4 shall file an appropriate bond approved by the court.

5 Sec. 29. NEW SECTION. VIOLATION.

6 1. The executive director may issue any order
7 necessary to secure compliance with or prevent a
8 violation of this part or the rules adopted pursuant
9 to this part. The attorney general shall, on request
10 of the department, institute any legal proceedings
11 necessary in obtaining compliance with an order of
12 the commission or the executive director.

13 2. A person who violates a provision of this part
14 or a rule or order adopted or promulgated or the
15 conditions of a permit issued pursuant to this part
16 is subject to a civil penalty not to exceed five
17 hundred dollars for each day that a violation occurs.

18 Sec. 30. NEW SECTION. COORDINATION WITH
19 CONSERVANCY DISTRICTS. The commission and the boards
20 of the conservancy districts established by chapter
21 467D shall coordinate their efforts in carrying out
22 the purposes of this chapter and chapter 467D. In
23 addition to other powers and duties conferred by law,
24 the commission and the executive director shall:

25 1. Offer advice and assistance as appropriate
26 to the boards of the several conservancy districts
27 in the state in discharging their powers and duties.

28 2. Review and make recommendations as necessary
29 to bring the plan of each of the conservancy districts,
30 and any subsequent changes in the plan, into conformity
31 with the statewide water resources plan established
32 by the commission pursuant to section 12 of this Act.

33 3. Inform the board of any conservancy district
34 of any of the following:

35 a. The receipt of each application for a permit
36 to divert, store, or withdraw either surface or
37 underground waters at any place within the district,
38 filed with the executive director pursuant to this
39 part.

40 b. The receipt of each application for approval
41 of a proposed dam, obstruction, deposit, or excavation
42 in or on any floodway or flood plain in the district,
43 filed with the executive director pursuant to section
44 25 of this Act.

45 c. Any proposed order which would establish
46 encroachment limits and zoning regulations on any
47 flood plain in the district, filed with the executive
48 director pursuant to section 26 of this Act.

49 d. The receipt of each application for approval
50 of a proposed flood control structure or works, filed

1 with the executive director pursuant to section 27
2 of this Act.

3 Sec. 31. Section 68B.2, subsection 4, Code 1981,
4 is amended to read as follows:

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

20 Sec. 32. Section 83A.3, subsection 5, Code 1981,
21 is amended to read as follows:

22 5. One member representing the ~~Iowa-natural~~
23 ~~resources-council~~ department of environmental quality.

24 Sec. 33. Section 84.2, subsections 11, 12, 14,
25 and 16, Code 1981, are amended to read as follows:

26 11. "Illegal oil" means oil which has been produced
27 from any well within the state in excess of the
28 quantity permitted by any rule or order of the ~~council~~
29 department.

30 12. "Illegal gas" means gas which has been produced
31 from any well within this state in excess of the
32 quantity permitted by any rule or order of the ~~council~~
33 department.

34 14. "Certificate of clearance" means a permit
35 prescribed by the ~~council~~ department for the
36 transportation or the delivery of oil or gas or product
37 and issued or registered in accordance with the rule
38 or order requiring ~~such~~ the permit.

39 16. "~~Council~~" "Department" means ~~Iowa-natural~~
40 ~~resources-council-as-defined-in-chapter-455A~~ the
41 department of environmental quality.

42 Sec. 34. Section 84.2, Code 1981, is amended by
43 adding the following new subsection:

44 NEW SUBSECTION. "Commission" means the
45 environmental quality commission.

46 Sec. 35. Section 84.4, unnumbered paragraph 1,
47 Code 1981, as amended by Acts of the Sixty-ninth
48 General Assembly, 1981 Session, chapter 41, section
49 3, is amended to read as follows:

50 The ~~council~~ department has the duty of administering

1 this chapter. The state geologist shall act as
2 administrator with the duty of enforcing the
3 regulations and orders of the ~~conseil~~ department
4 applicable to the crude petroleum oil and natural
5 gas and metallic mineral resources of this state and
6 the provisions of this chapter. The ~~conseil~~ department
7 has the duty to make investigations it deems proper
8 to determine whether waste exists or is imminent or
9 whether other facts exist which justify action. The
10 ~~conseil~~ department acting through the office of the
11 state geologist has the authority:

12 Sec. 36. Section 84.4, subsection 1, paragraphs
13 d, e, and i, Code 1981, are amended to read as follows:

14 d. The furnishing of a reasonable bond with good
15 and sufficient surety, conditioned upon the full
16 compliance with ~~the provisions of~~ this chapter, and
17 the rules of the ~~conseil~~ commission prescribed to
18 govern the production of oil and gas on state and
19 private lands within the state of Iowa;

20 e. That the production from wells be separated
21 into gaseous and liquid hydrocarbons, and that each
22 be accurately measured by ~~such~~ the means and upon
23 ~~such~~ standards ~~as may be~~ prescribed by the ~~conseil~~
24 commission;

25 i. That every person who produces, sells,
26 purchases, acquires, stores, transports, refines,
27 or processes native and indigenous Iowa produced crude
28 oil or gas in this state shall keep and maintain
29 within this state complete and accurate records of
30 the quantities ~~thereof~~ of oil or gas, which records
31 shall be available for examination by the ~~conseil~~
32 ~~or its agents~~ department at all reasonable times,
33 and that every such person file with the ~~conseil~~-~~such~~
34 department the reports as it may prescribe with respect
35 to ~~such~~ the oil or gas or the products ~~thereof~~ of
36 the oil or gas.

37 Sec. 37. Section 84.5, Code 1981, as amended by
38 Acts of the Sixty-ninth General Assembly, 1981 Session,
39 chapter 41, section 4, is amended to read as follows:

40 84.5 DRILLING PERMIT REQUIRED. It is unlawful
41 to commence operations for the drilling of a well
42 for oil or gas or the production of metallic minerals
43 or to commence operations to deepen any well to a
44 different geological formation without first giving
45 the state geologist notice of intention to drill,
46 and without first obtaining a permit from the state
47 geologist, under rules prescribed by the ~~conseil~~
48 commission and paying to the ~~conseil~~ department a
49 fee ~~of fifty dollars~~ established by rule of the de-
50 partment for the well. The fee shall be ~~used by the~~

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1 ~~council-for-administering-this-chapter,-including~~
2 ~~the-payment-of-expenses-incurred-in-publishing-legal~~
3 ~~notice~~ deposited in the general fund of the state.

4 Sec. 38. Section 84.6, Code 1981, is amended to
5 read as follows:

6 84.6 ~~COUNCIL~~ DEPARTMENT SHALL DETERMINE MARKET
7 DEMAND AND REGULATE THE AMOUNT OF PRODUCTION. The
8 ~~council~~ department shall determine market demand for
9 each marketing district and regulate the amount of
10 production as follows:

11 1. The ~~council~~ department shall limit the
12 production of oil and gas within each marketing
13 district to that amount which can be produced without
14 waste, and which does not exceed the reasonable market
15 demand.

16 2. ~~Whenever~~ When the ~~council~~ department limits
17 the total amount of oil or gas which may be produced
18 in the state or a marketing district, the ~~council~~
19 department shall allocate or distribute the allowable
20 production among the pools ~~therein~~ in the district
21 on a reasonable basis, giving, where reasonable under
22 the circumstances to each pool with small wells of
23 settled production, an allowable production which
24 prevents the general premature abandonment of ~~such~~
25 the wells in the pool.

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

42 4. In allocating the market demand for gas as
43 between pools within marketing districts, the ~~council~~
44 department shall give due regard to the fact that
45 gas produced from oil pools is to be regulated in
46 a manner as which will protect the reasonable use
47 of its energy for oil production.

48 5. The ~~council-shall~~ department is not be required
49 to determine the reasonable market demand applicable
50 to any single pool, except in relation to all other

1 pools within the same marketing district, and in
2 relation to the demand applicable to the marketing
3 district. In allocating allowables to pools, the
4 ~~commission~~ department may consider, but shall is not
5 be bound by nominations of purchasers to purchase
6 from particular fields, pools, or portions thereof.
7 The ~~commission~~ department shall allocate the total
8 allowable for the state in such a manner as which
9 prevents undue discrimination between marketing
10 districts, fields, pools, or portions thereof resulting
11 from selective buying or nomination by purchasers.

12 Sec. 39. Section 84,7, unnumbered paragraph 1
13 and subsections 1 and 4, Code 1981, are amended to
14 read as follows:

15 The ~~commission~~ department shall set spacing units
16 as follows:

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

28 4. An order establishing units for a pool shall
29 cover all lands determined or believed to be underlaid
30 by such the pool, and may be modified by the state
31 geologist from time to time to include additional
32 areas determined to be underlaid by such the pool.
33 When found necessary for the prevention of waste,
34 or to avoid the drilling of unnecessary wells or to
35 protect correlative rights, an order establishing
36 spacing units in a pool may be modified by the state
37 geologist to increase the size of spacing units in
38 the pool or any zone ~~thereof of the pool~~, or to permit
39 the drilling of additional wells on a reasonable
40 uniform plan in the pool, or any zone ~~thereof of the~~
41 pool. Orders of the state geologist may be appealed
42 to the ~~commission~~ department within thirty days.

43 Sec. 40. Section 84.8, Code 1981, is amended to
44 read as follows:

45 84.8 INTEGRATION OF FRACTIONAL TRACTS.

46 1. When two or more separately owned tracts are
47 embraced within a spacing unit, or when there are
48 separately owned interests in all or a part of the
49 spacing unit, then the owners and royalty owners
50 thereof of the tracts may pool their interests for

1 the development and operation of the spacing unit.
2 In the absence of voluntary pooling the ~~council~~
3 department upon the application of any interested
4 person, shall enter an order pooling all interests
5 in the spacing unit for the development and operations
6 thereof of the unit. Each ~~such~~ pooling order shall
7 be made after notice and hearing, and shall be upon
8 terms and conditions that are just and reasonable,
9 and that afford to the owner of each tract or interest
10 in the spacing unit the opportunity to recover or
11 receive, without unnecessary expense, ~~his~~ a just and
12 equitable share. Operations incident to the drilling
13 of a well upon any portion of a spacing unit covered
14 by a pooling order shall be deemed for all purposes,
15 to be the conduct of such the operations upon each
16 separately owned tract in the drilling unit by the
17 several owners ~~thereof of the unit~~. That portion
18 of the production allocated to each tract included
19 in a spacing unit covered by a pooling order shall,
20 when produced, be deemed for all purposes to have
21 been produced from ~~such the~~ tract by a well drilled
22 thereon on it.

23 2. Each ~~such~~ pooling order shall make provision
24 for the drilling and operation of a well on the spacing
25 unit, and for the payment of the reasonable actual
26 cost ~~thereof of the well~~ by the owners of interests
27 in the spacing unit, plus a reasonable charge for
28 supervision. In the event of any dispute as to such
29 costs the ~~council~~ department shall determine the
30 proper costs. If ~~one-or-more-of-the-owners~~ an owner
31 shall drill and operate, or pay the expenses of
32 drilling and operating the well for the benefit of
33 others, then, the owner ~~or-owners~~ so drilling or
34 operating shall, upon complying with the terms of
35 section 84.10, have a lien on the share of production
36 from the spacing unit accruing to the interest of
37 each of the other owners for the payment of ~~his~~ a
38 proportionate share of ~~such the~~ expenses. All the
39 oil and gas subject to the lien shall be marketed
40 and sold and the proceeds applied in payment of the
41 expenses secured by ~~such the~~ lien as provided for
42 in section 84.10.

43 Sec. 41. Section 84.9, Code 1981, is amended to
44 read as follows:

45 84.9 VOLUNTARY AGREEMENTS FOR UNIT OPERATION
46 VALID. An agreement for the unit or co-operative
47 development and operation of a field or pool, in
48 connection with the conduct of a repressuring or
49 pressure maintenance operations, cycling or recycling
50 operations, including the extraction and separation

1 of liquid hydrocarbons from natural gas ~~in connection~~
2 ~~therewith~~, or any other method of operation, including
3 water floods, ~~is authorized and~~ may be performed and
4 ~~shall not be held or construed to violate~~ without
5 being in violation of any of the statutes of this
6 state relating to trusts, monopolies, or contracts
7 and combinations in restraint of trade, if the
8 agreement is approved by the ~~council~~ department as
9 being in the public interest, protective of correlative
10 rights, and reasonably necessary to increase ultimate
11 recovery or to prevent waste of oil or gas. ~~Such~~
12 The agreements bind only the persons who execute them,
13 and their heirs, successors, assigns, and legal
14 representatives.

15 Sec. 42. Section 84.11, Code 1981, is amended
16 to read as follows:

17 84.11 RULES COVERING PRACTICE BEFORE ~~COUNCIL~~
18 DEPARTMENT.

19 1. The ~~council~~ commission shall prescribe rules
20 governing the practice and procedure before it.

21 2. ~~No An~~ order, or amendment thereof of an order,
22 except in an emergency, shall not be made by the
23 ~~council~~ department without a public hearing upon at
24 least ten days' notice. The public hearing shall
25 be held at ~~such~~ the time and place as ~~may be~~ prescribed
26 by the ~~council~~ commission, and any interested person
27 shall be ~~is~~ entitled to be heard.

28 3. When an emergency requiring immediate action
29 is found to exist the ~~council~~ is authorized to
30 department may issue an emergency order without notice
31 of hearing, which shall be effective upon promulgation.
32 ~~No An~~ emergency order shall not remain effective for
33 more than fifteen days.

34 4. Any notice required by this chapter shall be
35 given at the election of the ~~council~~ department either
36 by personal service or by letter to the last recorded
37 address and one publication in a newspaper of general
38 circulation in the state capital city and in a
39 newspaper of general circulation in the county where
40 the land affected, or some part ~~thereof~~, of the land
41 is situated. The notice shall issue in the name of
42 the state, shall be signed by the state geologist,
43 shall specify the style and number of the proceeding,
44 the time and place of the hearing, and shall briefly
45 state the purpose of the proceeding. Should the
46 ~~council~~ department elect to give notice by personal
47 service, ~~such~~ the service may be made by any officer
48 authorized to serve process, or by any agent of the
49 ~~council~~ department, in the same manner as is provided
50 by law for the service of original notices in civil

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1 actions in the district court of the state. Proof
2 of the service by such agent shall be by the affidavit
3 of the person making personal service.

4 5. All orders issued by the ~~county~~ department
5 shall be in writing, shall be entered in full and
6 indexed in books to be kept by the state geologist
7 for that purpose, and shall be public records open
8 for inspection at all times during reasonable office
9 hours. A copy of any rule or order certified by the
10 state geologist or any officer of the ~~county~~
11 department shall be received in evidence in all courts
12 of this state with the same effect as the original.

13 6. The ~~county~~ department may act upon its own
14 motion, or upon the petition of any interested person.
15 On the filing of a petition concerning any matter
16 within the jurisdiction of the ~~county~~ department,
17 the ~~county~~ department shall promptly fix a date for
18 a hearing ~~thereon~~, and shall cause notice of the
19 hearing to be given. The hearing shall be held without
20 undue delay after the filing of the petition. The
21 ~~county~~ department shall enter its order within thirty
22 days after the hearing.

23 Sec. 43. Section 84.12, Code 1981, is amended
24 to read as follows:

25 84.12 SUMMONING WITNESSES, ADMINISTERING OATHS,
26 REQUIRING PRODUCTION OF RECORDS--HEARING EXAMINERS
27 APPOINTED.

28 1. ~~The county shall have the power to~~ department
29 may summon witnesses, administer oaths, and require
30 the production of records, books, and documents for
31 examination at any hearing or investigation conducted.
32 ~~No~~ A person shall not be excused from attending and
33 testifying, or from producing books, papers, and
34 records before the ~~county~~ department or a court,
35 or from obedience to the subpoena of the ~~county~~
36 department or a court, on the ground or for the reason
37 that the testimony or evidence, documentary or
38 otherwise, required of ~~him~~ the person may tend to
39 incriminate ~~him~~ the person or subject ~~him~~ the person
40 to a penalty or forfeiture, ~~provided, that nothing~~
41 ~~herein contained shall be construed as requiring any.~~
42 However this subsection does not require a person
43 to produce any books, papers, or records, or to testify
44 in response to any inquiry not pertinent to some
45 question lawfully before such county the department
46 or court for determination. No A natural person shall
47 be subjected is not subject to criminal prosecution
48 or to any penalty or forfeiture for or on account
49 of any transaction, matter, or thing concerning which,
50 in spite of his objections, he the person may be

1 required to testify or produce as evidence, documentary
2 or otherwise, before the ~~county~~ department or court,
3 or in obedience to subpoena, ~~provided, that no.~~
4 However, a person testifying shall not be exempted
5 from prosecution and punishment for perjury committed
6 in so testifying.

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

21 3. The ~~county~~ department may appoint a hearing
22 examiner or examiners to conduct hearings required
23 by this chapter. When so appointed, ~~such~~ the hearing
24 examiner ~~or examiners shall have and~~ may exercise
25 all of the powers delegated to the ~~county~~ department
26 by this section.

27 Sec. 44. Section 84.14, subsection 1, Code 1981,
28 is amended to read as follows:

29 1. Judicial review of an action of the ~~county~~
30 department may be sought in accordance with the terms
31 of ~~the Iowa administrative procedure Act chapter 17A.~~
32 Notwithstanding ~~the terms of the Iowa administrative~~
33 ~~procedure Act that~~ chapter, petitions for judicial
34 review may be filed in the district court of Polk
35 county or in the district court of any county in which
36 the property affected or some portion thereof ~~of the~~
37 property is located.

38 Sec. 45. Section 84.14, subsections 2 and 3, Code
39 1981, are amended by striking the subsections.

40 Sec. 46. Section 84.15, subsections 1 and 2, Code
41 1981, are amended to read as follows:

42 1. The sale, purchase, acquisition, transportation,
43 refining, processing, or handling of illegal oil,
44 illegal gas, or illegal product is hereby prohibited.
45 However, ~~no~~ a penalty by way of fine shall not be
46 imposed upon a person who sells, purchases, acquires,
47 transports, refines, processes, or handles illegal
48 oil, illegal gas, or illegal product unless:

49 a. ~~Such~~ The person knows, or is put on notice,
50 of facts indicating that illegal oil, illegal gas,

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1 or illegal product is involved, ~~or~~.

2 b. ~~Sueh~~ The person fails to obtain a certificate
3 of clearance with respect to ~~sueh~~ the oil, gas, or
4 product where prescribed by order of the ~~couneit~~
5 department, or fails to follow any other method
6 prescribed by an order of the ~~couneit~~ department for
7 the identification of ~~sueh~~ the oil, gas or product.
8 2. Illegal oil, illegal gas, and illegal product
9 are declared to be contraband and are subject to
10 seizure and sale ~~as-herein-provided~~; seizure and sale
11 to be in addition to any ~~and-all~~ other remedies and
12 penalties provided in this chapter for violations
13 relating to illegal oil, illegal gas, or illegal
14 product. ~~Whenever~~ When the ~~couneit~~ department believes
15 that any oil, gas or product is illegal, the ~~couneit~~
16 department acting by the attorney general, shall bring
17 a civil action in rem in the district court of the
18 county where ~~sueh~~ the oil, gas, or product is found,
19 to seize and sell the same, or the ~~couneit~~ department
20 may include ~~sueh~~ an action in rem for the seizure
21 and sale of illegal oil, illegal gas, or illegal
22 products in any suit brought for an injunction or
23 penalty involving illegal oil, illegal gas, or illegal
24 product. Any person claiming an interest in oil,
25 gas, or product affected by ~~any-sueh~~ the action shall
26 ~~have-the-right-to~~ may intervene as an interested party
27 in ~~sueh~~ the action.

28 Sec. 47. Section 84.16, Code 1981, is amended
29 to read as follows:

30 84.16 PENALTIES.

31 1. Any person who violates any provision of this
32 chapter, or any rule or order of the ~~couneit~~ department
33 where no other penalty is provided ~~shall-be~~ is guilty
34 of a simple misdemeanor.

35 2. If any person, for the purpose of evading this
36 chapter, or any rule or order of the ~~couneit~~
37 department, ~~shall-make~~ makes or ~~cause~~ causes to be
38 made any false entry or statement in a report required
39 by this chapter or by any ~~sueh~~ rule or order, or shall
40 ~~make~~ makes or ~~cause~~ causes to be made any false entry
41 in any record, account, or memorandum required by
42 this chapter, or by any ~~sueh~~ rule or order, or shall
43 ~~omit~~ omits, or ~~cause~~ causes to be omitted, from any
44 ~~sueh~~ record, account, or memorandum, full, true, and
45 correct entries as required by this chapter, or by
46 any ~~sueh~~ rule or order, or ~~shall-remove~~ removes from
47 this state or ~~destroy,-mutilate,-alter~~ destroys,
48 mutilates, alters, or ~~falsify~~ falsifies any such
49 record, account, or memorandum, ~~sueh~~ the person shall
50 be is guilty of a fraudulent practice.

1 3. Any person knowingly aiding or abetting any
2 other person in the violation of any provision of
3 this chapter, or any rule or order of the ~~commission~~
4 ~~shall-be~~ department is subject to the same penalty
5 as that prescribed by this chapter for the violation
6 by ~~such~~ the other person.

7 Sec. 48. Section 84.17, Code 1981, is amended
8 to read as follows:

9 84.17 ACTION TO RESTRAIN VIOLATION OR THREATENED
10 VIOLATION.

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

29 2. If the ~~commission-shall-fail~~ department fails
30 to bring suit to enjoin a violation or threatened
31 violation of any provision of this chapter, or any
32 rule or order of the ~~commission~~ department, within ten
33 days after receipt of written request to do so by
34 any person who is or will be adversely affected by
35 ~~such~~ the violation, the person making ~~such~~ the request
36 may bring suit in ~~his~~ the person's own behalf to
37 restrain ~~such~~ the violation or threatened violation
38 in any court in which the ~~commission~~ department might
39 have brought suit. The ~~commission~~ department shall be
40 made a party defendant in ~~such~~ the suit in addition
41 to the person violating or threatening to violate
42 a provision of this chapter, or a rule or order of
43 the ~~commission~~ department, and the action shall proceed
44 and injunctive relief may be granted to the ~~commission~~
45 department or the petitioner without bond in the same
46 manner as if suit had been brought by the ~~commission~~
47 department.

48 Sec. 49. Section 108.7, unnumbered paragraph 2,
49 Code 1981, is amended to read as follows:

50 Any action taken by the commission under the

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1 ~~provisions of~~ this section shall be is subject to
2 the approval of the ~~Iowa-natural-resources-council~~
3 department of environmental quality.

4 Sec. 50. Section 109.15, Code 1981, is amended
5 to read as follows:

6 109.15 INJURY TO DAM. It shall be is unlawful
7 for any owner or ~~his~~ the owner's agent to remove or
8 destroy any existing dam, or alter it in a way so
9 as to lower the water level, without having received
10 written approval from the ~~Iowa-natural-resources~~
11 council department of environmental quality.

12 Sec. 51. Section 111.4, unnumbered paragraph 1,
13 Code 1981, is amended to read as follows:

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

33 Sec. 52. Section 111.18, Code 1981, is amended
34 to read as follows:

35 111.18 JURISDICTION. Jurisdiction over all
36 meandered streams and lakes of this state and of state
37 lands bordering thereon, not now used by some other
38 state body for state purposes, is conferred upon the
39 commission. The exercise of this jurisdiction shall
40 be is subject to the approval of the ~~Iowa-natural~~
41 ~~resources-council~~ department of environmental quality
42 in matters relating to or in any manner affecting
43 flood control. The commission, with the approval
44 of the executive council, may establish parts of ~~such~~
45 the property into state parks, and when so established
46 all of the provisions of this chapter relative to
47 public parks shall apply thereto to the property.

48 Sec. 53. Section 111.62, Code 1981, is amended
49 to read as follows:

50 111.62 COPY TO RESOURCES-COUNCIL DEPARTMENT.

1 A copy of the petition and such the applications,
2 plans, and specifications as-are required under the
3 provisions-of chapter 455A shall be filed with the
4 Iowa-natural-resources-council department of
5 environmental quality and any approval or permit
6 required thereunder under chapter 455A shall be
7 obtained prior to the establishment of said the water
8 recreational area or the granting of a permit therefor
9 for the area by the state conservation commission.

10 Sec. 54. Section 111D.1, Code 1981, is amended
11 to read as follows:

12 111D.1 ACQUISITION BY OTHER THAN CONDEMNATION.
13 The state conservation commission, the ~~Iowa-natural~~
14 ~~resources-council~~ department of environmental quality,
15 any county conservation board, and any city or agency
16 thereof of a city may acquire by purchase, gift,
17 contract, or other voluntary means, but not by eminent
18 domain, conservation easements in land to preserve
19 scenic beauty, wildlife habitat, riparian lands, wet
20 lands, or forests, promote outdoor recreation, or
21 otherwise conserve for the benefit of the public the
22 natural beauty, natural resources, and public
23 recreation facilities of the state.

24 Sec. 55. Section 112.3, Code 1981, is amended
25 to read as follows:

26 112.3 HEARING--DAMAGES. After said the approval
27 the commission, if it wishes to proceed further with
28 the project, shall, with the consent of the Iowa
29 natural-resources-council department of environmental
30 quality, fix a date of hearing not less than two weeks
31 from date of approval of the plan. Notice of the
32 day, hour and place of hearing, relative to proposed
33 work, shall be provided by publication at least once
34 a week for two consecutive weeks in some newspaper
35 of general circulation published in the county where
36 the project is located, or in the county-or counties
37 where the water elevations are affected, under the
38 tentative plan approved. The last of-such publication
39 or-publications shall not be less than five days prior
40 to the day set for hearing. Any claim by any persons
41 whomsoever, for damages which may be caused by said
42 the project shall be filed with the commission at
43 or prior to the time of the hearing provided-herein.

44 Sec. 56. Section 308.1, Code 1981, is amended
45 to read as follows:

46 308.1 PLANNING COMMISSION. The Mississippi parkway
47 planning commission shall be composed of ten members
48 appointed by the governor, five members to be appointed
49 for two-year terms beginning July 1, 1959, and five
50 members to be appointed for four-year terms beginning

1 July 1, 1959. In addition to the above members there
2 shall be seven advisory ex officio members who shall
3 be as follows: One member from the state
4 transportation commission, one member from the state
5 conservation commission, one member from the Iowa
6 state soil conservation commission, one member from
7 the state historical society of Iowa, one member from
8 the faculty of the landscape architectural division
9 of the Iowa State-University state university of
10 science and technology, one member from the Iowa
11 development commission, and one member from the ~~natural~~
12 ~~resources-council~~ department of environmental quality.
13 Members and ex officio members shall serve without
14 pay, but the actual and necessary expenses of members
15 and ex officio members may be paid if the commission
16 so orders and if the commission has funds available
17 for ~~such~~ that purpose.

18 Sec. 57. Section 357A.1, subsection 7, Code 1981,
19 is amended by striking the subsection and inserting
20 in lieu thereof the following:

21 7. "Department" means the department of
22 environmental quality.

23 Sec. 58. Section 357A.5, Code 1981, is amended
24 to read as follows:

25 357A.5 WHO MAY BE HEARD. At the hearing on the
26 petition, any owner or occupant of land within the
27 boundaries of the area described in the petition may
28 appear, in person or by ~~his~~ a designated
29 representative, and any representative of the ~~council~~
30 department may also appear, in favor of or in
31 opposition to the incorporation and organization of
32 the proposed district. ~~Such~~ The appearances may also
33 be filed in writing prior to the time set for the
34 hearing.

35 Sec. 59. Section 357A.12, Code 1981, is amended
36 to read as follows:

37 357A.12 PLANS AND SPECIFICATIONS. As soon as
38 reasonably possible after incorporation of a district,
39 the board shall file with the supervisors and the
40 ~~council~~ department copies of the plans and
41 specifications for, and estimates of the cost of,
42 any improvements authorized by this chapter which
43 the board proposes to construct or acquire. The board
44 shall determine a reasonable fee which each member
45 shall pay for the privilege of utilizing the district's
46 facilities which shall be known as a benefit unit.
47 Benefit units may be classified. The board, by
48 publication in a newspaper of general circulation
49 in the district, shall generally describe the planned
50 improvements, the area to be served and the fee members

1 will be required to pay for each service connected
2 to the water system.

3 Sec. 60. Section 357A.19, Code 1981, is amended
4 to read as follows:

5 357A.19 NOT EXEMPT FROM OTHER REQUIREMENTS.
6 ~~Nothing in this~~ This chapter shall be construed to
7 does not exempt any district from the requirements
8 of any other statute, whether enacted prior to or
9 subsequent to July 1, 1970, under which the district
10 is required to obtain the permission or approval of,
11 or to notify, the ~~council~~ department, the Iowa commerce
12 commission, or any other agency of this state or of
13 any of its political subdivisions prior to proceeding
14 with construction, acquisition, operation, enlargement,
15 extension, or alteration of any works or facilities
16 which the district is authorized to undertake pursuant
17 to this chapter.

18 Sec. 61. Section 358.9, unnumbered paragraph 3,
19 Code 1981, is amended to read as follows:

20 In cases where the state of Iowa owns at least
21 four hundred acres of land contiguous to lakes within
22 ~~said the district, then and only then the Iowa natural~~
23 ~~resources council~~ the state conservation commission
24 shall appoint two members of said the board of trustees
25 in addition to the three members ~~hereinafore~~ provided
26 in this section. The additional two members shall
27 be ~~qualified as follows:--They shall be~~ United States
28 citizens, not less than eighteen years of age, and
29 shall be property owners within said the district.
30 ~~in such cases the~~ The two additional appointive members
31 shall have equal vote and authority with other members
32 of trustees and shall hold office at the pleasure
33 of the ~~Iowa natural resources council~~ state
34 conservation commission.

35 Sec. 62. Section 358A.24, Code 1981, is amended
36 to read as follows:

37 358A.24 CONFLICT WITH OTHER REGULATIONS. ~~Wherever~~
38 If the regulations made under ~~authority of~~ this chapter
39 require a greater width or size of yards, courts or
40 other open spaces, or require a lower height of
41 building or less number of stories, or require a
42 greater percentage of lot to be left unoccupied, or
43 impose other higher standards than are required in
44 any other statute or local ordinance or regulation,
45 ~~the provisions of the~~ regulations made under authority
46 ~~of this chapter shall govern. Wherever the provisions~~
47 ~~of~~ If any other statute or local ordinance or
48 regulation ~~require~~ requires a greater width or size
49 of yards, courts or other open spaces, or ~~require~~
50 requires a lower height of building or a less number

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1 of stories, or ~~require~~ a greater percentage of lot
2 to be left unoccupied, or ~~impose~~ imposes other higher
3 standards than are required by the regulations made
4 under ~~authority-of~~ this chapter, the ~~provisions-of~~
5 ~~such other~~ statute or local ordinance or regulation
6 ~~shall-govern~~ governs. ~~Wherever-any~~ If a regulation
7 proposed or made under ~~authority-of~~ this chapter
8 relates to any structure, building, dam, obstruction,
9 deposit or excavation in or on the flood plains of
10 any river or stream, prior approval of the ~~Iowa-natural~~
11 ~~resources-council-shall-be~~ department of environmental
12 quality is required to establish, amend, supplement,
13 change, or modify ~~such the~~ regulation or to grant
14 any variation or exception ~~therefrom~~ from the
15 regulation.

16 Sec. 63. Section 414.21, Code 1981, is amended
17 to read as follows:

18 414.21 CONFLICTING RULES, ORDINANCES, AND STATUTES.
19 ~~Wherever~~ If the regulations made under ~~authority-of~~
20 this chapter require a greater width or size of yards,
21 courts or other open spaces, or ~~require~~ a lower height
22 of building or less number of stories, or ~~require~~
23 a greater percentage of lot to be left unoccupied,
24 or impose other higher standards than are required
25 in any other statute or local ordinance or regulation,
26 the ~~provisions-of-the~~ regulations made under ~~authority~~
27 ~~of this chapter shall~~ govern. ~~Wherever-the-provisions~~
28 ~~of~~ If any other statute or local ordinance or
29 regulation ~~require~~ requires a greater width or size
30 of yards, courts or other open spaces, or ~~require~~
31 a lower height of building or a less number of stories,
32 or ~~require~~ a greater percentage of lot to be left
33 unoccupied, or impose other higher standards than
34 are required by the regulations made under ~~authority~~
35 ~~of this chapter, the provisions-of-such other~~ statute
36 or local ordinance or regulation ~~shall-govern~~ governs.
37 ~~Wherever-any~~ If a regulation proposed or made under
38 ~~authority-of~~ this chapter relates to any structure,
39 building, dam, obstruction, deposit or excavation
40 in or on the flood plains of any river or stream,
41 prior approval of the ~~Iowa-natural-resources-council~~
42 ~~shall-be~~ department of environmental quality is
43 required to establish, amend, supplement, change or
44 modify ~~such the~~ regulation or to grant any variation
45 or exception ~~therefrom~~ from the regulation.

46 Sec. 64. Section 427.1, subsection 33, Code 1981,
47 is amended to read as follows:

48 33. IMPOUNDMENT STRUCTURES. The impoundment
49 structure and any land underlying an impoundment
50 located outside any incorporated city, which are not

1 developed or used directly or indirectly for
2 nonagricultural income-producing purposes and which
3 are maintained in a condition satisfactory to the
4 soil conservation district commissioners of the county
5 in which the impoundment structure and the impoundment
6 are located. Any person owning land which qualifies
7 for a property tax exemption under this subsection
8 shall apply to the county assessor each year before
9 the first of July for the exemption. The application
10 shall be made on forms prescribed by the department
11 of revenue. The first application shall be accompanied
12 by a copy of the water storage permit approved by
13 ~~the water-commissioner-of-the-Iowa-natural-resources~~
14 ~~council~~ department of environmental quality and a
15 copy of the plan for the construction of the
16 impoundment structure and the impoundment. The
17 construction plan shall be used to determine the total
18 acre-feet of the impoundment and the amount of land
19 which is eligible for the property tax exemption
20 status. The county assessor shall annually review
21 each application for the property tax exemption under
22 this subsection and submit it, with the recommendation
23 of the soil conservation district commissioners, to
24 the board of supervisors for approval or denial.
25 Any applicant for a property tax exemption under this
26 subsection may appeal the decision of the board of
27 supervisors to the district court. As used in this
28 subsection, "impoundment" means any reservoir or pond
29 which has a storage capacity of at least eighteen
30 acre-feet of water or sediment at the time of
31 construction; "storage capacity" means the total area
32 below the crest elevation of the principal spillway
33 including the volume of any excavation in such area;
34 and "impoundment structure" means any dam, earthfill
35 or other structure used to create an impoundment.

36 Sec. 65. Section 455.18, unnumbered paragraph
37 2, Code 1981, is amended to read as follows:

38 Where the proposed district contemplates as its
39 object flood control or soil conservance the engineer
40 shall include in ~~his~~ the report data describing any
41 soil conservance or flood control improvements, the
42 nature ~~thereof~~ of the improvements, and ~~such~~ other
43 ~~additional~~ data as shall ~~be~~ prescribed by the ~~Iowa~~
44 ~~natural-resources-council~~ department of environmental
45 quality.

46 Sec. 66. Section 467A.3, subsection 15, Code 1981,
47 is amended by striking the subsection.

48 Sec. 67. Section 467A.4, subsections 1 and 3,
49 Code 1981, are amended to read as follows:

50 1. There is hereby established, to serve as an

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1 agency of the state and to perform the functions
2 conferred upon it in this chapter, the department
3 of soil conservation. The department shall be
4 administered in accordance with the policies of the
5 state soil conservation committee, which shall approve
6 administrative rules proposed by the department before
7 the rules are ~~promulgated~~ adopted pursuant to chapter
8 17A. The state soil conservation committee shall
9 consist of a chairperson and twelve members. The
10 following shall serve as ex officio nonvoting members
11 of the committee: The director of the state
12 agricultural extension service, or the director's
13 designee, the secretary of agriculture, or the
14 secretary's designee, the director of the state
15 conservation commission or the director's designee,
16 and the executive director of the ~~Iowa-natural~~
17 ~~resources-council~~ department of environmental quality
18 or the executive director's designee. Eight voting
19 members shall be appointed by the governor subject
20 to confirmation by the senate. Six of the appointive
21 members shall be persons engaged in actual farming
22 operations, one of whom shall be a resident of each
23 of the six conservancy districts established by section
24 467D.3, and no more than one of whom shall be a
25 resident of any one county. The seventh and eighth
26 appointive members shall be chosen by the governor
27 from the state at large with one appointed to be a
28 representative of cities and one appointed to be a
29 representative of the mining industry. The committee
30 may invite the secretary of agriculture of the United
31 States to appoint one person to serve with the above-
32 mentioned members, and the president of the Iowa
33 county engineers association may designate a member
34 of the association to serve in the same manner, but
35 these persons shall have no vote and shall serve in
36 an advisory capacity only. ~~The-director-of-the~~
37 ~~department-of-environmental-quality-shall-be-an-ex~~
38 ~~officio-nonvoting-member.~~ The committee shall adopt
39 a seal, which seal shall be judicially noticed, and
40 may perform acts, hold public hearings, and ~~promulgate~~
41 adopt rules as provided in chapter 17A as necessary
42 for the execution of its functions under this chapter.

43 3. The committee shall designate its chairperson,
44 and may change such the designation. The members
45 appointed by the governor shall serve for a period
46 of six years. Members shall be appointed in each
47 odd-numbered year to succeed members whose terms
48 expire as provided by section 69.19. Appointments
49 may be made at other times and for other periods as
50 are necessary to fill vacancies on the committee.

1 Members shall not be appointed to serve more than
2 two complete six-year terms. Members designated to
3 represent the secretary of agriculture, director of
4 the state conservation commission, or the executive
5 director of the Iowa-natural-resources-council
6 department of environmental quality shall serve at
7 the pleasure of the officer making the designation.
8 A majority of the voting members of the committee
9 constitutes a quorum, and the concurrence of a majority
10 of the voting members of the committee in any matter
11 within their duties shall ~~be~~ is required for its
12 determination. The chairperson and members of the
13 committee, not otherwise in the employ of the state,
14 or any political subdivision, shall receive forty
15 dollars per diem as compensation for their services
16 in the discharge of their duties as members of the
17 committee. The committee shall determine the number
18 of days for which any committee member may draw per
19 diem compensation, but the total number of days for
20 which per diem compensation is allowed for the entire
21 committee shall not exceed four hundred days per year.
22 They shall ~~are~~ also be entitled to expenses, including
23 traveling expenses, necessarily incurred in the
24 discharge of their duties as members of the committee.
25 The per diem and expenses paid to the committee members
26 shall be paid from funds appropriated to the committee.
27 The committee shall provide for the execution of
28 surety bonds for all employees and officers who shall
29 ~~be~~ are entrusted with funds or property, shall provide
30 for the keeping of a full and accurate record of all
31 proceedings and of all resolutions, regulations, and
32 orders issued or adopted, and shall provide for an
33 annual audit of the accounts of receipts and
34 disbursements.

35 Sec. 68. Section 467A.4, subsection 4, paragraph
36 n, subparagraph (5), Code 1981, is amended by striking
37 the subparagraph.

38 Sec. 69. Section 467C.5, Code 1981, is amended
39 to read as follows:

40 467C.5 APPROVAL OF COMMISSIONERS. No A district
41 shall not be established by any board of supervisors
42 under this chapter unless the organization of such
43 the district is approved by the commissioners of any
44 soil conservation district established under the
45 provisions of chapter 467A and which is included all
46 or in part within such the district, nor shall any
47 such district be established without the approval
48 of the state conservation commission and the Iowa
49 natural-resources-council department of environmental
50 quality.

1 Sec. 70. Section 467D.2, subsection 3, Code 1981,
2 is amended by striking the subsection.

3 Sec. 71. Section 467D.6, subsections 1 and 11,
4 Code 1981, are amended to read as follows:

5 1. Exercise ~~such~~ supervision over the water
6 resources of the conservancy district, including water
7 in any basin, watercourse, or other body of water
8 in the conservancy district, and have authority to
9 ~~promulgate~~ adopt and repeal, with approval of the
10 department, and enforce ~~such~~ rules, except those rules
11 relating to water resources under the authority of
12 ~~the council~~ and the department of environmental
13 quality, as necessary to achieve the objectives of
14 this chapter as set forth in section 467D.1.

15 11. Maintain at its office a record of all the
16 conservancy district's proceedings, rules and orders,
17 and furnish copies ~~thereof~~ of them to the department
18 and the ~~council~~ department of environmental quality
19 upon request.

20 Sec. 72. Section 467D.16, unnumbered paragraph
21 1, Code 1981, is amended to read as follows:

22 The board shall prepare a plan for accomplishment
23 of the objectives of this chapter within the
24 conservancy district. For this purpose the board
25 may request and shall obtain from any state agency
26 or political subdivision information which the agency
27 or subdivision may have already collected which is
28 pertinent to preparation of the plan, and may conduct
29 ~~such~~ hearings as it deems necessary. The plan shall
30 establish an order of priorities for carrying out
31 projects necessary to accomplish the objectives of
32 this chapter, shall conform as nearly as practicable
33 to the comprehensive state-wide water resources plan
34 established by the ~~council~~ department of environmental
35 quality pursuant to section ~~455A-17~~ 12 of this Act
36 and shall reflect the following general policies:

37 Sec. 73. Section 467D.17, Code 1981, is amended
38 to read as follows:

39 467D.17 PLAN PRESENTED TO DEPARTMENT AND COUNCIL.
40 The board shall tentatively adopt the plan by
41 resolution and shall present the plan to the department
42 and the ~~council~~ department of environmental quality
43 for review. The ~~council~~ department of environmental
44 quality shall within ninety days review the plan as
45 presented and make ~~such~~ recommendations as which,
46 in its discretion, it deems necessary to bring the
47 conservancy district's plan into conformity with the
48 comprehensive state-wide water resources plan
49 established by the ~~council~~ department of environmental
50 quality pursuant to section ~~455A-17~~ 12 of this Act.

1 The department shall review the plan as presented
2 and, with such amendments as-are necessary to bring
3 the plan into conformity with the state-wide water
4 resources plan, give final approval within one hundred
5 twenty days.

6 Sec. 74. Section 467D.19, Code 1981, is amended
7 to read as follows:

8 467D.19 IMPLEMENTATION. After final approval
9 of the plan, the board shall begin to implement the
10 plan as expeditiously as possible, within the
11 limitations of available appropriations and other
12 financial resources. When implementation of the plan
13 involves construction or improvement of any internal
14 improvement by the conservancy district, the board
15 may order the preparation of detailed plans and
16 specifications, and a refined cost estimate. Upon
17 completion of ~~such the~~ plans, specifications and cost
18 estimate to ~~their~~ its satisfaction, the board shall
19 adopt ~~the-same them,~~ subject to the approval of the
20 department, and shall let ~~the-contract-or~~ contracts
21 ~~therefor~~ in accordance with section 467D.20. Any
22 approval or permits from the ~~council~~ department of
23 environmental quality required under ~~other provisions~~
24 ~~of~~ law shall be obtained by the conservancy district
25 prior to initiation of any construction activity.

26 Sec. 75. Section 469.1, Code 1981, is amended
27 to read as follows:

28 469.1 PROHIBITION--PERMIT. No A dam shall not
29 be constructed, maintained, or operated in this state
30 in any navigable or meandered stream for any purpose,
31 or in any other stream for manufacturing or power
32 purposes, nor shall any water be taken from ~~such the~~
33 streams for industrial purposes, unless a permit has
34 been granted by the ~~Iowa-natural-resources-council~~
35 department of environmental quality to the person,
36 firm, corporation, or municipality constructing,
37 maintaining, or operating the same dam.

38 Sec. 76. Section 469.2, unnumbered paragraph 1
39 and subsection 6, Code 1981, are amended to read as
40 follows:

41 Any person, firm, corporation, or municipality
42 making application for a permit to construct, maintain,
43 or operate a dam in any of the waters, including
44 canals, raceways, and other constructions necessary
45 or useful in connection with the development and
46 utilization of the water or water power, shall file
47 with the ~~Iowa-natural-resources-council~~ department
48 of environmental quality a written application, which
49 shall contain the following information:

50 6. Such Any additional information as-may-be

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1 required by the ~~Iowa-natural-resources-council~~
2 department of environmental quality.

3 Sec. 77. Section 469.3, Code 1981, is amended
4 to read as follows:

5 469.3 NOTICE OF HEARING. When any an application
6 for a permit to construct, maintain, or operate a
7 dam ~~from-and~~ after the passage of this chapter is
8 received, the ~~Iowa-natural-resources-council~~ department
9 of environmental quality shall fix a time for hearing,
10 and it shall give notice of the time and place of
11 ~~such~~ the hearing by publication once each week for
12 two successive weeks in at least one newspaper in
13 each county in which riparian lands will be affected
14 by the dam.

15 Sec. 78. Section 469.4, Code 1981, is amended
16 to read as follows:

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

23 Sec. 79. Section 469.5, Code 1981, is amended
24 to read as follows:

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

39 Sec. 80. Section 469.9, unnumbered paragraph 1,
40 Code 1981, is amended to read as follows:

41 Every person, firm, or corporation, ~~excepting~~
42 except a municipality, to whom a permit is granted
43 to construct or to maintain and operate a dam already
44 constructed in or across any stream for the purpose
45 ~~herein~~ specified in this chapter, shall pay to the
46 ~~Iowa-natural-resources-council~~ department of
47 environmental quality a permit fee of one hundred
48 dollars and shall pay an annual inspection and license
49 fee, to be fixed by the ~~Iowa-natural-resources-council~~
50 environmental quality commission, on or before the

1 first day of January, 1925, and annually thereafter,
2 but in no case shall the annual inspection and license
3 fee be less than twenty-five dollars. All fees shall
4 be paid into the general fund of the state treasury.

5 Sec. 81. Section 469.10, Code 1981, is amended
6 to read as follows:

7 469.10 CONSTRUCTION AND OPERATION. The ~~Iowa~~
8 ~~natural-resources-council~~ department of environmental
9 quality shall investigate methods of construction,
10 reconstruction, operation, maintenance, and equipment
11 of dams,--so-as to determine the best methods to
12 conserve and protect as far as possible all public
13 and riparian rights in the waters of the state and
14 ~~so-as~~ to protect the life, health, and property of
15 the general public; and the method of construction,
16 operation, maintenance, and equipment of ~~any-and~~ all
17 dams of any character or for any purpose in such the
18 waters shall-be is subject to the approval of the
19 ~~Iowa-natural-resources-council~~ department of
20 environmental quality.

21 Sec. 82. Section 469.11, Code 1981, is amended
22 to read as follows:

23 469.11 ACCESS TO WORKS. ~~Such-council-or-any~~
24 ~~member-agent-or-employee-thereof~~ The department
25 of environmental quality shall at all times be accorded
26 full access to all parts of any dam and its
27 appurtenances being constructed, operated, or
28 maintained in such waters.

29 Sec. 83. Section 469.12, Code 1981, is amended
30 to read as follows:

31 469.12 DUTY TO ENFORCE STATUTES. ~~It-shall-be~~
32 ~~the-duty-of-the-council-to~~ The department of
33 environmental quality shall require that all existing
34 statutes of the state, including ~~the-provisions-of~~
35 this chapter, with reference to the construction of
36 dams, ~~shall-be~~ are enforced.

37 Sec. 84. Section 469.26, Code 1981, is amended
38 to read as follows:

39 469.26 REVOCATION OR FORFEITURE OF PERMIT. If
40 the person to whom a permit is issued under ~~the~~
41 ~~provisions-of~~ this chapter does not begin the
42 construction or the improvement of the dam or raceway
43 within one year from the date of the granting of the
44 permit, ~~his~~ the permit may be revoked by the ~~Iowa~~
45 ~~natural-resources-council~~ department of environmental
46 quality, and if any permit holder does not finish
47 and have in operation the plant for which the dam
48 is constructed within three years after the granting
49 of the permit, unless for good cause shown ~~the council~~
50 department has extended the time for completion, ~~such~~

1 the permit shall be forfeited.

2 Sec. 85. Section 469.29, Code 1981, is amended
3 to read as follows:

4 469.29 PERMITS FOR EXISTING DAMS. All licenses
5 and permits issued by the state executive council
6 prior to April 17, 1949, or by the Iowa natural
7 resources council prior to January 1, 1983, and in
8 force immediately prior to January 1, 1983, are hereby
9 ~~declared-to-be~~ in full force and effect and all of
10 the powers of administration relating to licenses
11 or permits ~~heretofore~~ issued are hereby vested in
12 the ~~Iowa-natural-resources-council~~ department of
13 environmental quality.

14 Sec. 86. PRIOR ACTIONS.

15 1. A rule adopted, permit or order issued, or
16 approval given under chapter 84, 108, 109, 111, 112,
17 357A, 358A, 414, 427, 455A, 467A, 467C, or 467D,
18 before the effective date of this Act and in force
19 just prior to the effective date of this Act, by the
20 Iowa natural resources council or its director remains
21 effective until modified or rescinded by action of
22 the department of environmental quality or its
23 executive director unless the rule, order, permit,
24 or approval is inconsistent with or contrary to this
25 Act.

26 2. A rule adopted, permit or order issued, or
27 approval given by the state department of health or
28 the commissioner of public health relating to private
29 water supply systems, private sewage disposal systems,
30 or water wells under chapter 135, before the effective
31 date of this Act and in force just prior to the
32 effective date of this Act remains effective until
33 modified or rescinded by action of the department
34 of environmental quality or its executive director
35 unless the rule, order, permit, or approval is
36 inconsistent with or contrary to this Act.

37 Sec. 87. EMPLOYEE TRANSFER OR TERMINATION. The
38 employees of the Iowa natural resources council
39 employed pursuant to chapter 455A, whose duty
40 assignments are not terminated or otherwise combined
41 because of this Act are transferred to the department
42 of environmental quality. However, an employee whose
43 duty assignment is terminated because of this Act
44 may be reassigned to other duties. The Iowa merit
45 employment commission shall adopt rules to carry out
46 the reassignment or transfer and shall arbitrate and
47 decide a written appeal made by an employee concerning
48 a transfer, reassignment, or reclassification made
49 necessary by this Act. An employee shall not lose
50 benefits accrued, including but not limited to salary,

March 18, 1982

5456

e Forty-one

1 retirement, vacation, or sick leave, because of
2 transfer or reassignment.

3 Sec. 88. EFFECTIVE DATE--TRANSITION. The effective
4 date of this Act is January 1, 1983, except that this
5 section is effective July 1, 1982. After July 1,
6 1982, the governor may authorize the environmental
7 quality commission and the executive director of the
8 department of environmental quality to plan for the
9 transfer of powers, duties, records, equipment, other
10 property, and personnel as provided in this Act.

11 The terms of office of the members of the Iowa
12 natural resources council expire effective January
13 1, 1983.

14 Sec. 89. Chapter 455A and sections 84.13 and
15 135.20, Code 1981, are repealed."

16 2. Amend the title, by striking lines 1 through
17 11 and inserting in lieu thereof the following: "An
18 Act to consolidate the management and regulation of
19 water resources by transferring to the department
20 of environmental quality the powers and duties of
21 the Iowa natural resources council and the powers
22 and duties of the state department of health relating
23 to the regulation of the construction, maintenance,
24 and abandonment of nonpublic water systems and water
25 wells, making corresponding amendments to the Code,
26 and providing civil penalties for violations and an
27 effective date."

H-5456 FILED
MARCH 17, 1982

BY COOK of Hardin
TOFTE of Winneshiek

W/D S/12 (p. 315)

HOUSE FILE 2463

H-5452

1 Amend House File 2463 as follows:

- 2 1. Page 12, line 4, by inserting after the word
A 3 "disapprove" the following: ", with consent of the
4 council,".
5 2. Page 12, line 9, by inserting after the word
6 "director" the following: ", with council approval,".
7 3. Page 12, line 16, by inserting after the word
8 "director" the following: ", with council approval,".
9 4. Page 12, line 30, by striking the word
10 "director's" and inserting in lieu thereof the word
11 "council".
12 5. Page 13, line 15, by inserting after the word
13 "director" the following: ", with council approval,".
B 14 6. Page 14, line 28, by striking the word
15 "director" and inserting in lieu thereof the word
16 "council".
17 7. Page 16, line 25, by inserting after the word
A 18 "director" the following: ", with council approval,".
19 8. Page 17, line 2, by inserting after the word
20 "director" the following: ", with council approval,".
21 9. Page 20, line 7, by inserting after the word
22 "director" the following: ", with council approval,".
23 10. Page 30, line 32, by inserting after the word
24 "director" the following: ", with council approval,".

H-5452 FILED MARCH 17, 1982

BY TYRRELL of Iowa

A. *Leach*

B. *W/15 3/15 (of 878)*

HOUSE FILE 2463

H-5464

- 1 Amend House File 2463 as follows:
2 1. By striking page 4, line 31 through page 5,
3 line 3.
4 2. Page 9, by striking lines 25 through 30.
5 3. By renumbering subsections to conform to this
6 amendment.

H-5464 FILED MARCH 17, 1982 BY HUMMEL of Benton

*A. H. B.
B. L. L. 2/18 (p. 877)*

HOUSE FILE 2463

H-5471

- 1 Amend House File 2463 as follows:
2 1. Page 13, line 20, by striking the word "an" and
3 inserting in lieu thereof the word "any".

H-5471 FILED MARCH 17, 1982 BY PELLETT of Cass

Adopted 3/18 (p. 878)

HOUSE FILE 2463

H-5472

- 1 Amend House File 2463 as follows:
2 1. Page 46, line 23, by striking the word "January"
3 and inserting in lieu thereof the word "July".
4 2. Page 46, by striking line 24 and inserting
5 in lieu thereof the following: "effective on January
6 1, 1983. After January 1, 1983, the governor".
7 3. Page 46, line 35, by striking the word "January"
8 and inserting in lieu thereof the word "July".
9 4. Page 47, line 3, by striking the word "January"
10 and inserting in lieu thereof the word "July".
11 5. Page 47, line 9, by striking the word "January"
12 and inserting in lieu thereof the word "July".

H-5472 FILED
MARCH 17, 1982
Adopted 3/18 (p. 879)

BY JAY of Appanoose
COCHRAN of Webster
DAVITT of Warren

HOUSE FILE 2463

H-5468

- 1 Amend House File 2463 as follows:
2 1. Page 24, lines 25 and 26, by striking the words
3 ", subject to confirmation by the senate,".

H-5468 FILED MARCH 17, 1982 BY JOHNSON of Linn

Lost 3/18 (p. 879)

HOUSE FILE 2463

H-5465

- 1 Amend House File 2463 as follows:
- 2 1. Page 10, by striking line 3 and inserting in
- 3 lieu thereof the words "reviewing and issuing the
- 4 permits. The fee".
- 5 2. Page 28, line 21, by striking the words "and
- 6 enforcing".

H-5465 FILED MARCH 17, 1982 BY HUMMEL of Benton
Adopted 2/18 (p. 877)

HOUSE FILE 2463

H-5467

- 1 Amend House File 2463 as follows:
- 2 1. Page 2, by inserting after line 15 the
- 3 following:
- 4 "Sec. 4. Section 455A.4, Code 1981, is amended
- 5 to read as follows:
- 6 455A.4 APPOINTMENT. The council shall consist
- 7 of ~~ten members, nine of whom shall be~~ members who
- 8 are electors of the state of Iowa and shall be selected
- 9 from the state at large solely with regard to their
- 10 qualifications and fitness to discharge the duties
- 11 of office without regard to their political affiliation
- 12 have knowledge of and interest in the subjects embraced
- 13 in this chapter. The tenth member shall be the
- 14 executive director of the department of environmental
- 15 quality or the executive director's designee, who
- 16 shall be a nonvoting member. The appointive members
- 17 of the council shall be appointed by the governor
- 18 subject to confirmation by the senate and shall be
- 19 appointed for overlapping terms of ~~six~~ four years.
- 20 The terms of ~~three~~ members of the council shall begin
- 21 and expire in each odd-numbered year years as provided
- 22 by section 69.19. Two members must be actively engaged
- 23 in livestock and grain farming, one member must be
- 24 a soil conservation district commissioner, one member
- 25 must be engaged in the management of a manufacturing
- 26 company, and one member must be a registered
- 27 professional engineer."
- 28 2. Page 46, by striking lines 25 through 28 and
- 29 inserting in lieu thereof the following: "shall
- 30 appoint the members of the Iowa water council, and
- 31 may authorize the Iowa water council to organize as
- 32 provided in this Act, to appoint".
- 33 3. Page 46, line 31, by inserting after the word
- 34 "applicable." the following: "Five members of the
- 35 initial Iowa water council shall be appointed to terms
- 36 expiring on April 30, 1987 and four members shall
- 37 be appointed to terms expiring on April 30, 1985."

H-5467 FILED
MARCH 17, 1982

Adopted 3/18 (p. 880)

BY BENNETT of Ida
STUELAND of Clinton
PELLETT of Cass

COCHRAN of Webster
COOK of Hardin

HOUSE FILE 2463

H-5475

1 Amend amendment H-5467 to page 2 of House File
2 2463 as follows:
3 1. Page 1, line 26, by inserting after the word
4 "company," the words "one member must be actively
5 engaged in surface mining,".

H-5475 FILED MARCH 18, 1982 BY VAN MAANEN of Mahaska
LOST (p. 880)

HOUSE FILE 2463

H-5476

1 Amend amendment H-5467 to page 2 of House File
2 2463 as follows:
3 1. Page 1, line 18, by striking the words "subject
4 to confirmation by the senate".

H-5476 FILED MARCH 18, 1982 BY JOHNSON of Linn
WITHDRAWN (p. 880)

in natural Resources 3/24
Amend per 5762
to Pass 4/2 (p 1018)

HOUSE FILE 2463

BY COMMITTEE ON NATURAL
RESOURCES

(As Amended and Passed by the House)

Re Passed House, Date 4-24-82 (p 1854) Passed Senate, Date 4-14-82 (p 1157)
Vote: Ayes 54 Nays 44 Vote: Ayes 27 Nays 11
Approved 5-18-82

A BILL FOR

1 An Act to consolidate the regulation and management of water
2 resources by creating and transferring to the Iowa water
3 council, all of the powers and duties of the Iowa natural
4 resources council, the powers and duties of the depart-
5 ment of environmental quality relating to water pollution
6 control and water quality, the powers and duties of the
7 department of health relating to the regulation of the
8 construction, maintenance, and abandonment of nonpublic
9 water systems and wells, making corresponding amendments
10 to the Code, and providing penalties for violations and
11 an effective date.

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

13 *Conference Committee Appointed 4/21*
14 *Representatives Stueckland (Chair), Cook, Anderson of Audubon, Jay, & Bulliver (1615)*
15 *Senators Schwegel (Chair) Landon, Fisher, Rogers, Gallagher (p 1323)*
16 *Passed per Conference Committee Report*
17 *Senate 4-24-82 (p 1479)*
18 *4-2-3*

19
20 House Amendments _____

21
22
23
24
25

5462

1 Section 1. Section 455A.1, unnumbered paragraph 1, Code
2 1981, is amended to read as follows:

3 As used in this chapter, "council" means "Iowa Natural
4 Resources-Council water council";

5 Sec. 2. Section 455A.2, Code 1981, is amended to read
6 as follows:

7 455A.2 DECLARATION OF POLICY.

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

33 2. Water occurring in any a basin or ~~in-any~~ watercourse,
34 or other natural body of water of the state, is ~~hereby-declared~~
35 ~~to-be~~ public waters water and public wealth of the people

1 of the state ~~of Iowa~~ and subject to use in accordance with
 2 ~~the provisions of~~ this chapter, and the control and development
 3 and use of water for all beneficial purposes shall ~~be~~ is
 4 vested in the state, which, in the exercise of its police
 5 powers, shall take such measures ~~as shall~~ to effectuate full
 6 utilization and protection of the water resources of the state
 7 ~~of Iowa~~.

8 Sec. 3. Section 455A.3, Code 1981, is amended to read
 9 as follows:

10 455A.3 CREATION. ~~There is hereby created and established~~
 11 an An Iowa natural resources water council is created. The
 12 council is established as an agency of the state government
 13 to promote the policies set forth in this chapter and shall
 14 represent the state of Iowa in all matters within the scope
 15 of this chapter.

16 Sec. 4. Section 455A.4, Code 1981, is amended to read
 17 as follows:

18 455A.4 APPOINTMENT. The council shall consist of ten
 19 members, nine of whom shall be members who are electors of
 20 the state of Iowa and shall be selected from the state at
 21 large solely with regard to their qualifications and fitness
 22 to discharge the duties of office without regard to their
 23 political affiliation have knowledge of and interest in the
 24 subjects embraced in this chapter. The tenth member shall
 25 be the executive director of the department of environmental
 26 quality or the executive director's designee, who shall be
 27 a nonvoting member. The appointive members of the council
 28 shall be appointed by the governor subject to confirmation
 29 by the senate and shall be appointed for overlapping terms
 30 of six four years. The terms of three members of the council
 31 shall begin and expire in each odd-numbered year years as
 32 provided by section 69.19. Two members must be actively
 33 engaged in livestock and grain farming, one member must be
 34 a soil conservation district commissioner, one member must
 35 be engaged in the management of a manufacturing company, and

1 one member must be a registered professional engineer.

2 Sec. 5. Section 455A.9, subsection 1, Code 1981, is amended
3 to read as follows:

4 1. The council shall choose a director who shall not be
5 a member of the council and shall fix the compensation of
6 ~~such~~ the director, which shall be payable out of the funds
7 appropriated to the council. The director's appointment is
8 subject to confirmation by the senate. The council shall
9 follow the procedures for confirmation of appointments as
10 provided in section 2.32 to the extent applicable. The
11 director shall be qualified by training and experience. The
12 term of office of the director shall be during the pleasure
13 of the council. The director shall serve as the executive
14 officer of the council and shall have charge of the work of
15 the council subject to its orders and directions.

16 Sec. 6. Section 455A.19, subsection 11, including
17 unnumbered paragraphs 1 and 2, Code 1981, is amended by
18 striking the subsection.

19 Sec. 7. Section 455A.20, unnumbered paragraph 4, Code
20 1981, is amended to read as follows:

21 Until the council adopts a statewide water plan, all new
22 water permits issued for irrigation purposes, ~~except special~~
23 ~~permits,~~ shall not exceed one year and all renewals ~~thereof~~
24 of the permits shall also be limited to one year. The
25 preceding limitation ~~shall~~ does not apply to the renewal or
26 extension of any valid water permit granted prior to May 6,
27 1977. If it is determined, through monitoring of the per-
28 mitted withdrawal, that it will endanger the present or future
29 availability of groundwater ~~said~~ the permits may be modified
30 or canceled under ~~the provisions of~~ section 455A.28.

31 Sec. 8. Section 455A.37, Code 1981, is amended to read
32 as follows:

33 455A.37 JUDICIAL REVIEW. ~~Judicial~~ Except as provided
34 in section 26, subsection 6 of this Act, judicial review of
35 action of the council or the director may be sought in

1 accordance with ~~the terms of the Iowa administrative procedure~~
2 Act chapter 17A. Notwithstanding ~~the provisions of said Act~~
3 chapter 17A, petitions for judicial review may be filed in
4 the district court of Polk county or of any county in which
5 the property affected is located. If the director, the
6 council, the district court, or the supreme court ~~shall~~
7 ~~determine~~ determines that the order of the council or the
8 director shall be stayed, the petitioner shall file an
9 appropriate bond approved by the court.

10 Sec. 9. Chapter 455A, Code 1981, is amended by adding
11 sections 10 through 45 of this Act.

12 Sec. 10. NEW SECTION. DEFINITIONS. When used in sections
13 10 through 25 of this Act, unless the context otherwise
14 requires:

15 1. "Sewage" means the water-carried waste products from
16 residences, public buildings, institutions, or other buildings,
17 including the bodily discharges from human beings or animals
18 and the ground water infiltration and surface water as present.

19 2. "Industrial waste" means liquid, gaseous, radioactive,
20 or solid waste substance resulting from a process of industry,
21 manufacturing, trade, or business or from the development
22 of a natural resource.

23 3. "Other waste" means heat, garbage, municipal refuse,
24 lime, sand, ashes, offal, oil, tar, chemicals, and all other
25 wastes which are not sewage or industrial waste.

26 4. "Water pollution" means the contamination of any water
27 of the state so as to create a nuisance or render the water
28 unclean, noxious, or impure so as to be actually harmful,
29 detrimental, or injurious to public health, safety, or welfare,
30 to domestic, commercial, industrial, agricultural, or
31 recreational use or to livestock, wild animals, birds, fish,
32 or other aquatic life.

33 5. "Sewer system" means pipelines or conduits, pumping
34 stations, force mains, vehicles, vessels, conveyances,
35 injection wells, and all other constructions, devices, and

1 appliances appurtenant thereto used for conducting sewage
2 or industrial waste or other wastes to a point of ultimate
3 disposal or disposal to any water of the state. To the extent
4 that they are not subject to section 402 of the federal Water
5 Pollution Control Act as amended, ditches, pipes, and drains
6 that serve only to collect, channel, direct, and convey
7 nonpoint runoff from precipitation are not sewer systems for
8 the purposes of sections 10 through 25 of this Act.

9 6. "Treatment works" means any plant, disposal field,
10 lagoon, holding or flow-regulating basin, pumping station,
11 or other works installed for the purpose of treating,
12 stabilizing, or disposing of sewage, industrial waste, or
13 other wastes.

14 7. "Disposal system" means a system for disposing of
15 sewage, industrial waste, and other wastes and includes sewer
16 systems, treatment works, point sources, and dispersal systems.

17 8. "Detergent" means a cleaning compound composed of
18 inorganic components, including surface active agents, soaps,
19 water softening agents, builders, dispersing agents, corrosion
20 inhibitors, foaming agents, buffering agents, brighteners,
21 fabric softeners, dyes, perfumes, enzymes, and fillers, which
22 are available for household, personal, laundry, industrial,
23 and other uses in liquid, bar, spray, tablet, flake, powder,
24 or other form.

25 9. "Water of the state" means a stream, lake, pond, marsh,
26 watercourse, waterway, well, spring, reservoir, aquifer,
27 irrigation system, drainage system, or any other body or
28 accumulation of water, surface or underground, natural or
29 artificial, public or private, which is contained within,
30 flows through or borders upon the state or any portion of
31 the state.

32 10. "Effluent standard" means a restriction or prohibition
33 on quantities, rates, and concentrations of chemical, physical,
34 biological, radiological, and other constituents which are
35 discharged from point sources into any water of the state

1 including an effluent limitation, a water quality related
2 effluent limitation, a standard of performance for a new
3 source, a toxic effluent standard, or other limitation.

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

10 12. "Pollutant" means sewage, industrial waste, or other
11 waste.

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

18 14. "Schedule of compliance" means a schedule of remedial
19 measures including an enforceable sequence of actions or
20 operations leading to compliance with any effluent standard,
21 water quality standard, or any other requirement of sections
22 10 through 25 of this Act or any rule adopted pursuant to
23 sections 10 through 25 of this Act.

24 15. "Sewer extension" means pipelines or conduits
25 constituting main sewers, lateral sewers, or trunk sewers
26 used for conducting pollutants to a larger interceptor sewer
27 or to a point of ultimate disposal.

28 16. "Water supply distribution system extension" means
29 an extension to the pipelines or conduits which carry water
30 directly from the treatment facility, source, or storage
31 facility to the consumer's service connection.

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

35 18. "Public water supply system" means a system for the

1 provision of piped water to the public for human consumption,
2 if the system has at least fifteen service connections or
3 regularly serves at least twenty-five individuals. The term
4 includes any source of water and any collection, treatment,
5 storage, and distribution facilities under control of the
6 operator of the system and used primarily in connection with
7 the system, and any collection or pretreatment storage
8 facilities not under the operator's control which are used
9 primarily in connection with the system.

10 19. "Maximum contaminant level" means the maximum
11 permissible level of any physical, chemical, biological, or
12 radiological substance in water which is delivered to a user
13 of a public water supply system.

14 20. "Nonpublic water supply system" means a water system
15 which has less than fifteen service connections or serves
16 less than twenty-five persons, or any other water system which
17 provides services for less than sixty days per year.

18 21. "Federal Water Pollution Control Act" means the federal
19 Water Pollution Control Act Amendments of 1972, Pub. L. 92-
20 500, as published in 33 U.S.C. secs. 1251-1376, as amended
21 through December 31, 1981.

22 22. "Federal Safe Drinking Water Act" means the Safe
23 Drinking Water Act, Pub. L. 93-523, as published in 42 U.S.C.
24 secs. 201, 300f-300j-9, as amended through December 31, 1981.

25 Sec. 11. NEW SECTION. DECLARATION OF POLICY.

26 1. The general assembly finds that because the federal
27 Water Pollution Control Act provides for a permit system to
28 regulate the discharge of pollutants into the waters of the
29 United States and provides that permits may be issued by
30 states which are authorized to implement that Act, it is in
31 the interest of the people of Iowa to enact sections 10 through
32 25 of this Act to authorize the state to implement the federal
33 Water Pollution Control Act and federal regulations and
34 guidelines issued pursuant to that Act.

35 2. The general assembly further finds that because the

1 federal Safe Drinking Water Act provides for the implementation
2 of that Act by states which have adequate authority to do
3 so, it is in the interest of the people of Iowa to implement
4 the federal Safe Drinking Water Act and federal regulations
5 and guidelines issued pursuant to that Act.

6 Sec. 12. NEW SECTION. ADMINISTRATIVE AGENCY. The council
7 is the agency of the state to prevent, abate, or control water
8 pollution and to conduct the public water supply program.

9 Sec. 13. NEW SECTION. DUTIES. The council shall:

- 10 1. Develop comprehensive plans and programs for the
11 prevention, control, and abatement of water pollution.
- 12 2. Establish, modify, or repeal water quality standards,
13 pretreatment standards, and effluent standards. The effluent
14 standards may provide for maintaining the existing quality
15 of the water of the state where the quality of the water
16 exceeds the requirements of the water quality standards.
17 If the federal environmental protection agency has promulgated
18 an effluent standard or pretreatment standard pursuant to
19 section 301, 306, or 307 of the federal Water Pollution Control
20 Act, a pretreatment or effluent standard adopted pursuant
21 to this section shall not be more stringent than the federal
22 effluent or pretreatment standard for the source. This
23 subsection shall not preclude the establishment of a more
24 restrictive effluent limitation in the permit for a particular
25 point source if the more restrictive effluent limitation is
26 necessary to meet water quality standards, or if the
27 establishment of an effluent standard is for a source or class
28 of sources for which the federal environmental protection
29 agency has not promulgated standards pursuant to section 301,
30 306, or 307 of the federal Water Pollution Control Act.
31 Except as required by federal law or regulation, the council
32 shall not adopt an effluent standard more stringent with
33 respect to any pollutant than is necessary to reduce the
34 concentration of that pollutant in the effluent to the level
35 due to natural causes, including the mineral and chemical

1 characteristics of the land, existing in the water of the
2 state to which the effluent is discharged. Notwithstanding
3 any other provision of sections 10 through 25 of this Act,
4 any new source, the construction of which was commenced after
5 October 18, 1972, and which was constructed to meet all
6 applicable standards of performance for the new source or
7 any more stringent effluent limitation required to meet water
8 quality standards, is not subject to any more stringent
9 effluent limitations during a ten-year period beginning on
10 the date of completion of construction or during the period
11 of depreciation or amortization of the pollution control
12 equipment for the facility for the purposes of sections 167
13 and 169 or both sections of the Internal Revenue Code of 1954,
14 whichever period ends first.

15 3. Establish, modify, or repeal rules relating to the
16 location, construction, operation, and maintenance of disposal
17 systems, nonpublic water supply systems and wells, and public
18 water supply systems and specifying the conditions under which
19 the director shall issue, revoke, suspend, modify, or deny
20 permits for the operation, installation, construction, addition
21 to, or modification of any disposal system or public water
22 supply system, the construction, maintenance, and abandon-
23 ment of nonpublic water wells, or for the discharge of any
24 pollutant or for the disposal of water wastes resulting from
25 poultry and livestock operations. The rules specifying the
26 conditions under which the director shall issue permits for
27 the construction of an electric power generating facility
28 subject to chapter 476A shall provide for issuing a conditional
29 permit upon the submission of engineering descriptions, flow
30 diagrams, and schematics that qualitatively and quantitatively
31 identify effluent streams and alternative disposal systems
32 that will provide compliance with effluent standards or
33 limitations.

34 a. Rules shall not be adopted which regulate the hiring
35 or firing of operators of disposal systems or public water

1 supply systems except rules which regulate the certification
2 of operators as to their technical competency.

3 b. A publicly owned treatment works whose discharge meets
4 the final effluent limitations which were contained in its
5 discharge permit on the date that construction of the publicly
6 owned treatment works was approved by the department shall
7 not be required to meet more stringent effluent limitations
8 for a period of ten years from the date the construction was
9 completed and accepted but not longer than twelve years from
10 the date that construction was approved by the director.

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

17 5. Cooperate with other state or interstate water pollution
18 control agencies in establishing standards, objectives, or
19 criteria for the quality of interstate waters originating
20 or flowing through this state.

21 6. Adopt by rule a fee schedule for applications for
22 permits required under sections 10 through 25 of this Act.
23 The fee schedule shall be based on the reasonable cost of
24 reviewing, issuing, and enforcing the permits. The fee
25 schedule may be amended periodically by rule of the council.

26 7. Establish, modify, or repeal rules relating to drinking
27 water standards for public water supply systems. The standards
28 shall specify maximum contaminant levels or treatment
29 techniques necessary to protect the public health and welfare.
30 The drinking water standards shall assure compliance with
31 federal drinking water standards adopted pursuant to the
32 federal Safe Drinking Water Act.

33 8. Establish, modify, or repeal rules relating to
34 inspection, monitoring, record keeping, and reporting
35 requirements for the owner or operator of a public water

1 supply or a disposal system or of any source which is an
2 industrial user of a publicly or privately owned disposal
3 system.

4 9. 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 cooperate in the
7 development and implementation of the plan. The plan shall
8 detail the manner in which the various state and local agencies
9 shall participate in the response to an emergency. The
10 director may enter into any agreement, subject to approval
11 of the council, with any state agency or unit of local
12 government or with the federal government as necessary to
13 establish the role of the agencies in regard to the plan.
14 This plan shall be coordinated with disaster emergency plans.

15 10. Formulate and adopt specific and detailed statewide
16 standards pursuant to chapter 17A for review of plans and
17 specifications and the construction of sewer systems and water
18 supply distribution systems and extensions to the systems.
19 The standards shall be based on criteria contained in the
20 "Recommended Standards for Sewage Works" and "Recommended
21 Standards for Water Works" (ten states standards) as adopted
22 by the Great Lakes-Upper Mississippi river board of state
23 sanitary engineers, design manuals published by the department,
24 applicable federal guidelines and standards, standard
25 textbooks, current technical literature and applicable safety
26 standards. The material standards for polyvinyl chloride
27 pipe shall not exceed the specifications for polyvinyl chloride
28 pipe in designations D-1784-69, D-2241-73, D-2564-76, D-2672-
29 76, D-3036-73 and D-3139-73 of the American society of testing
30 and material. The rules adopted which directly pertain to
31 the construction of sewer systems and water supply distribution
32 systems and the review of plans and specifications for the
33 construction shall be known respectively as the Iowa standards
34 for sewer systems and the Iowa standards for water supply
35 distribution systems and shall be applicable in each

1 governmental subdivision of the state. Exceptions shall be
2 made to the standards so formulated only upon special request
3 to and receipt of permission from the director. The director
4 shall publish the standards and make copies of the standards
5 available to governmental subdivisions and to the public.

6 Sec. 14. NEW SECTION. DIRECTOR'S DUTIES. The director
7 shall:

8 1. Conduct investigations of alleged water pollution or
9 of alleged violations of sections 10 through 25 of this Act
10 or a rule adopted or permit issued pursuant to these sections
11 upon written request of any state agency, political
12 subdivision, local board of health, twenty-five residents
13 of the state, as directed by the council, or as necessary
14 to accomplish the purposes of sections 10 through 25 of this
15 Act.

16 2. Conduct periodic surveys and inspection of the
17 construction, operation, self-monitoring, record keeping,
18 and reporting of all public water supply systems and all
19 disposal systems except as provided in section 21 of this
20 Act.

21 3. Take any action allowed by law which, in the director's
22 judgment, is necessary to enforce or secure compliance with
23 sections 10 through 25 of this Act or of a rule or standard
24 established or permit issued pursuant to these sections.

25 4. Approve or disapprove the plans and specifications
26 for the construction of disposal systems or water supply
27 distribution systems except for those sewer extensions and
28 water supply distribution system extensions which are reviewed
29 by a city or county public works department as set forth in
30 section 21 of this Act. The director shall issue, revoke,
31 suspend, modify, or deny permits for the operation,
32 installation, construction, addition to, or modification of
33 a disposal system or water supply distribution system except
34 for sewer extensions and water supply distribution system
35 extensions which are reviewed by a city or county public works

1 department as set forth in section 21 of this Act. The
2 director shall also issue, revoke, suspend, modify, or deny
3 permits for the discharge of a pollutant. The permits shall
4 contain conditions and schedules of compliance as necessary
5 to meet the requirements of sections 10 through 25 of this
6 Act and the federal Water Pollution Control Act. A permit
7 shall not be issued to operate any disposal system unless
8 the conditions of the permit assure that discharge from the
9 disposal system meets or will meet all applicable state and
10 federal water quality standards and effluent standards and
11 the issuance of the permit is not otherwise prohibited by
12 the federal Water Pollution Control Act. An application for
13 a discharge permit is subject to public notice and opportunity
14 for public participation including public hearing as the
15 council by rule requires. The director shall promptly notify
16 the applicant in writing of the director's action and, if
17 the permit is denied, state the reasons for denial. The
18 applicant may appeal to the council from the denial of a
19 permit or from a condition in a permit if the applicant files
20 notice of appeal with the director within thirty days of the
21 notice of denial or issuance of the permit. The director
22 shall notify the applicant within thirty days of the time
23 and place of the hearing.

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

1 b. The director shall also issue or deny conditional
2 permits for the construction of disposal systems for electric
3 power generating facilities subject to chapter 476A. An
4 application for a conditional permit is subject to the notice
5 and opportunity for public participation required by the
6 council and consistent with chapter 476A and any agreement
7 pursuant thereto under chapter 28E. The applicant or an
8 intervenor may appeal to the council from the denial of a
9 conditional permit or any of its conditions. For the purposes
10 of chapter 476A, the issuance or denial of a conditional
11 permit by the director or the council upon appeal is a
12 determination that the electric power generating facility
13 does or does not meet the permit and licensing requirements
14 of the council. The issuance of a conditional permit does
15 not relieve the applicant of the responsibility to submit
16 final and detailed construction plans and drawings and an
17 application for a construction permit for a disposal system
18 that will meet the effluent limitations in the conditional
19 permit.

20 5. Conduct random inspections of work done by city and
21 county public works departments to ensure the public works
22 departments are complying with sections 10 through 25 of this
23 Act. If a city or county public works department is not
24 complying with section 21 of this Act in reviewing plans and
25 specifications or in granting permits or both, the director
26 shall perform these functions in that jurisdiction until the
27 city or county public works department is able to perform
28 them. Performance of these functions in a jurisdiction by
29 a local public works department shall not be suspended or
30 revoked until after notice and opportunity for hearing as
31 provided in chapter 17A. The director shall give technical
32 assistance to city and county public works departments upon
33 their request.

34 Sec. 15. NEW SECTION. VIOLATIONS. If there is conclusive
35 evidence that a person has violated or is violating any

1 provision of sections 10 through 25 of this Act, or of a rule
2 or standard established or permit issued pursuant to these
3 sections the following apply:

4 1. The director may issue an order directing the person
5 to desist in the practice which constitutes the violation
6 or to take the corrective action necessary to ensure that
7 the violation will cease. The person to whom the order is
8 issued may commence a contested case within the meaning of
9 chapter 17A by filing with the director within thirty days
10 a notice of appeal to the council. On appeal the council
11 may affirm, modify, or vacate the order of the director.

12 2. If it is determined by the director that an emergency
13 exists respecting any matter affecting or likely to affect
14 the public health, the director may issue any order necessary
15 to terminate the emergency without notice and without hearing.
16 The order is binding and effective immediately and until the
17 order is modified or vacated at a hearing before the council
18 or by a court.

19 3. The director, with the approval of the council, may
20 request the attorney general to institute legal proceedings
21 pursuant to section 25 of this Act.

22 Sec. 16. NEW SECTION. CRITERIA CONSIDERED. In
23 establishing, modifying, or repealing water quality standards
24 the council shall base its decision upon data gathered from
25 sources within the state regarding the following:

26 1. The protection of the public health.
27 2. The size, depth, surface area covered, volume, direction
28 and rate of flow, stream gradient, and temperature of the
29 affected water of the state.

30 3. The character and uses of the land area bordering the
31 affected water of the state.

32 4. The uses which have been made, are being made, or may
33 be made of the affected water of the state for public, private,
34 or domestic water supplies, irrigation, livestock watering,
35 propagation of wildlife, fish, and other aquatic life, bathing,

1 swimming, boating, or other recreational activity,
2 transportation, and disposal of sewage and wastes.

3 5. The extent of contamination resulting from natural
4 causes including the mineral and chemical characteristics.

5 6. The extent to which floatable or settleable solids
6 may be permitted.

7 7. The extent to which suspended solids, colloids, or
8 a combination of solids with other suspended substances may
9 be permitted.

10 8. The extent to which bacteria and other biological
11 organisms may be permitted.

12 9. The amount of dissolved oxygen that is to be present
13 and the extent of the oxygen demanding substances which may
14 be permitted.

15 10. The extent to which toxic substances, chemicals, or
16 deleterious conditions may be permitted.

17 11. The economic costs and benefits. The goal shall be
18 a reasonable balance between total costs to the people and
19 to the economy, and the resultant benefits to the people of
20 Iowa.

21 Sec. 17. NEW SECTION. TRADE SECRETS PROTECTED. Upon
22 a satisfactory showing by a person to the director that public
23 disclosure of a record, report, permit, permit application,
24 or other document or information or part thereof would divulge
25 methods or processes entitled to protection as a trade secret,
26 the record, report, permit, permit application, or other
27 document or part thereof other than effluent data and
28 analytical results of monitoring or public water supply
29 systems, shall be accorded confidential treatment.

30 Notwithstanding chapter 68A, a person in connection with
31 duties or employment by the council shall not make public
32 any information accorded confidential status, however a record
33 or other information accorded confidential status may be
34 disclosed or transmitted to other officers, employees, or
35 authorized representatives of this state or the United States

1 concerned with carrying out any proceeding under sections
2 10 through 25 of this Act.

3 Sec. 18. NEW SECTION. STAY ORDER. The granting of a
4 stay may be conditioned upon the furnishing by the appellant
5 of such reasonable security as the court directs. A stay
6 may be vacated on application of the director or any other
7 party after hearing by the court.

8 Sec. 19. NEW SECTION. VARIANCES AND EXEMPTIONS. The
9 director may, after public notice and hearing, grant exemptions
10 from a maximum contaminant level or treatment technique, or
11 both. The director may also grant a variance from drinking
12 water standards for public water supply systems when the
13 characteristics of the raw water sources, which are available
14 to a system, cannot meet the requirements with respect to
15 maximum contaminant level of the standards despite application
16 of the best treatment techniques which are generally available
17 and if the director determines that the variance will not
18 result in an unreasonable risk to the public health. A
19 schedule of compliance may be prescribed by the director at
20 the time the variance or exemption is granted. The director
21 shall also require the interim measures to minimize the
22 contaminant levels of systems subject to the variance or
23 exemption as may reasonably be implemented. The director
24 may also issue variances from other rules of the council if
25 necessary and appropriate. The denial of a variance or
26 exemption may be appealed to the council.

27 Sec. 20. NEW SECTION. FAILURE CONSTITUTES CONTEMPT.
28 Failure to obey an order issued by the director or the council
29 with reference to a violation of sections 10 through 25 of
30 this Act or any rule promulgated or permit issued pursuant
31 to sections 10 through 25 of this Act constitutes prima-facie
32 evidence of contempt. In that event, the director may certify
33 to the district court of the county in which the alleged
34 disobedience occurred the fact of the failure. The district
35 court after notice, as prescribed by the court, to the parties

1 in interest shall hear the matter and if it finds that the
2 order was lawful and reasonable it shall order the party to
3 comply with the order. If the person fails to comply with
4 the court order, that person is guilty of contempt and shall
5 be fined not to exceed five hundred dollars for each day that
6 the person fails to comply with the court order. The penalties
7 in this section are additional to a penalty which may be
8 imposed under the law relative to nuisances or any other
9 statute relating to the pollution of waters of the state or
10 related to public water supply systems and a conviction under
11 this section is not a bar to prosecution under any other penal
12 statute.

13 Sec. 21. NEW SECTION. WRITTEN PERMITS REQUIRED.

14 1. It is unlawful to carry on any of the following
15 activities without first securing a written permit from the
16 director, or from a city or county public works department
17 if the local public works department reviews the activity
18 under this section, as required by the council:

19 a. The construction, installation, or modification of
20 a disposal system or water supply distribution system or part
21 of the system or an extension or addition to the system except
22 those sewer extensions and water supply distribution system
23 extensions that are subject to review and approval by a city
24 or county public works department pursuant to this section.

25 b. The construction or use of a new point source for the
26 discharge of pollutant into any water of the state.

27 c. The operation of a waste disposal system or water
28 supply distribution system or a part of or extension or
29 addition to the system. This provision does not apply to
30 a pretreatment system the effluent of which is to be discharged
31 directly to another disposal system for final treatment and
32 disposal.

33 2. Upon adoption of standards by the council pursuant
34 to section 13, subsections 7 through 10 of this Act, plans
35 and specifications for sewer extensions and water supply

1 distribution system extensions covered by this section shall
2 be submitted to the city or county public works department
3 for approval if the local public works department employs
4 a qualified, registered engineer who reviews the plans and
5 specifications using the specific state standards known as
6 the Iowa standards for sewer systems and the Iowa standards
7 for water supply distribution systems that have been formulated
8 and adopted by the council pursuant to section 13, subsections
9 7 through 10 of this Act. The reviewing engineer shall be
10 a full-time employee of the governmental subdivision and the
11 qualifications of that engineer shall be submitted to the
12 director for approval prior to issuing written permits. The
13 local agency shall issue a written permit to construct if
14 all of the following criteria are met:

15 a. The submitted plans and specifications are in
16 substantial compliance with departmental rules and the Iowa
17 standards for sewer systems and the Iowa standards for water
18 supply distribution systems.

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

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

29 d. The proposed water supply distribution system extension
30 will not exceed the production capacity of a water supply
31 distribution system constructed after 1972.

32 3. After issuing a permit, the city or county public works
33 department shall notify the director of the issuance by
34 forwarding a copy of the permit to the director. In addition,
35 the local agency shall submit quarterly reports to the director

1 including information as to capacity of local treatment plants
2 and production capacity of water supply distribution systems
3 as well as other necessary information requested by the
4 director for the purpose of implementing sections 10 through
5 25 of this Act.

6 4. Plans and specifications for all other waste disposal
7 systems and water supply distribution systems, including sewer
8 extensions and water supply distribution system extensions
9 not reviewed by a city or county public works department under
10 this section, shall be submitted to the director before a
11 written permit is issued. The construction of a waste disposal
12 system or water supply distribution system shall be in
13 accordance with standards formulated and adopted by the council
14 pursuant to section 13, subsections 7 through 10 of this Act,
15 or otherwise approved by the director. If it is necessary
16 or desirable to make material changes in the plans or
17 specifications, revised plans or specifications and the reasons
18 for the proposed changes must be submitted to the director
19 for a supplemental written permit.

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

28 6. The director shall exempt a public water system from
29 a requirement respecting a maximum contaminant level or a
30 treatment technique requirement of an applicable national
31 drinking water regulation to the extent that these regulations
32 apply to contaminants which the council determines are harmless
33 or beneficial to the health of consumers, when the owner of
34 a public water supply system determines that funds are not
35 reasonably available to provide for controlling amounts of

1 those contaminants which are harmless or beneficial to the
2 health of consumers.

3 Sec. 22. NEW SECTION. DISPOSAL SYSTEM PLANS. The director
4 may require the owner of a disposal system discharging
5 pollutants into any water of the state, or of a public water
6 supply system to file with the council complete plans of the
7 whole or any part of the system and any other information
8 and records concerning the installation and operation of the
9 system.

10 Sec. 23. NEW SECTION. DATA FROM DEPARTMENTS. The council
11 and the director may request and receive from any agency of
12 the state, any political subdivision of the state, or from
13 any organization which has for its object the control or use
14 of any of the water resources of the state, the assistance
15 and data that will enable the council or the director to
16 properly carry out the activities and effectuate the purposes
17 of sections 10 through 25 of this Act. The council shall
18 reimburse the agencies for special expense resulting from
19 expenditures not normally a part of the operating expenses
20 of the agency.

21 Sec. 24. NEW SECTION. PROHIBITED DISCHARGES. A pollutant
22 shall not be disposed of by dumping, depositing, or discharging
23 it into any water of the state except that this section does
24 not prohibit the discharge of adequately treated sewage,
25 industrial waste, or other waste pursuant to a permit issued
26 by the director. A pollutant whether treated or untreated
27 shall not be discharged into any state-owned natural or
28 artificial lake.

29 Sec. 25. NEW SECTION. PENALTIES--BURDEN OF PROOF.

30 1. A person who violates a provision of sections 10 through
31 25 of this Act or a permit, rule, standard, or order issued
32 under sections 10 through 25 of this Act is subject to a civil
33 penalty not to exceed five thousand dollars for each day of
34 violation. The civil penalty is an alternative to a criminal
35 penalty provided under sections 10 through 25 of this Act.

1 2. A person who willfully or negligently discharges
2 pollutants in violation of section 21 or 24 of this Act or
3 in violation of a condition or limitation included in a permit
4 issued under section 21 of this Act or in violation of a water
5 quality standard or effluent standard or, with respect to
6 the introduction of pollutants into publicly owned treatment
7 works, violates a pretreatment standard or toxic effluent
8 standard, shall be punished by a fine not to exceed ten
9 thousand dollars for each day of violation. If the conviction
10 is for a violation committed by a person after the person's
11 first conviction under this section, the punishment shall
12 be a fine not to exceed twenty thousand dollars for each day
13 of violation.

14 3. Any person who knowingly makes any false statement,
15 representation, or certification in an application, record,
16 report, plan, or other document filed or required to be
17 maintained under sections 10 through 25 of this Act, or who
18 falsifies, tampers with, or knowingly renders inaccurate a
19 monitoring device or method required to be maintained under
20 sections 10 through 25 of this Act or by a permit, rule,
21 regulation, or order issued under sections 10 through 25 of
22 this Act, shall upon conviction be punished by a fine of not
23 more than ten thousand dollars or by imprisonment in the
24 county jail for not more than six months or by both fine and
25 imprisonment.

26 4. The attorney general shall, at the request of the
27 director with approval of the council, institute legal
28 proceedings, including an action for an injunction or a
29 temporary injunction, necessary to enforce the penalty
30 provisions of sections 10 through 25 of this Act or to obtain
31 compliance with sections 10 through 25 of this Act or any
32 rules promulgated or any provision of any permit issued under
33 sections 10 through 25 of this Act. In the action, any
34 previous findings of fact of the director or the council after
35 notice and hearing are conclusive if supported by substantial

1 evidence in the record when the record is viewed as a whole.

2 5. In all proceedings with respect to an alleged violation
3 of sections 10 through 25 of this Act or a rule established
4 by the council, the burden of proof is upon the council except
5 in an action for contempt as provided in section 20 of this
6 Act.

7 6. If the attorney general has instituted legal proceedings
8 in accordance with this section, all related issues which
9 could otherwise be raised by the alleged violator in a
10 proceeding for judicial review under section 455A.37 shall
11 be raised in the legal proceedings instituted in accordance
12 with this section.

13 Sec. 26. NEW SECTION. DEFINITIONS. When used in sections
14 26 through 39 of this Act, unless the context otherwise
15 requires:

16 1. "Board" means the board of certification.

17 2. "Certificate" means the certificate of competence
18 issued by the director stating that the operator has met the
19 requirements for the specified operator classification of
20 the certification program.

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

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

28 5. "Waste water treatment plant" means the facility or
29 group of units used for the treatment of waste water from
30 public sewer systems and for the reduction and handling of
31 solids removed from the wastes.

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

1 7. "Operator" means a person who has direct responsibility
2 for the operation of a water treatment plant, water
3 distribution system, or waste water treatment plant.

4 Sec. 27. NEW SECTION. DIRECTOR'S DUTIES. The director
5 shall classify all water treatment plants, water distribution
6 systems, and waste water treatment plants affecting the public
7 welfare with regard to the size, type, character of water
8 and waste water to be treated, and other physical conditions
9 affecting the treatment plants and distribution systems, and
10 according to the skill, knowledge, and experience that an
11 operator must have to supervise the operation of the facilities
12 to protect the public health and prevent pollution.

13 Sec. 28. NEW SECTION. CERTIFICATION OF PERSONS.

14 1. The director shall certify persons as to their
15 qualifications to supervise the operation of treatment plants
16 and water distribution systems after considering the
17 recommendations of the board submitted through the council.

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

29 3. A member of the board shall not disclose information
30 relating to the following:

- 31 a. Criminal history or prior misconduct of the applicant.
32 b. Information relating to the contents of the examination
33 to persons other than members of a board of certification
34 of another state or their employees or an employee of the
35 department.

1 c. Information relating to the examination results other
2 than final score. However, information about the results
3 of an examination may be given to the person who took the
4 examination.

5 4. A member of the board who willfully communicates or
6 seeks to communicate information in violation of subsection
7 3, and a person who willfully requests, obtains, or seeks
8 to obtain information in violation of subsection 3, is guilty
9 of a simple misdemeanor.

10 Sec. 29. NEW SECTION. BOARD.

11 1. The governor shall appoint, subject to confirmation
12 by the senate, a board of certification consisting of the
13 following seven members:

14 a. One member who is a waterworks operator holding a valid
15 certificate of the highest classification issued by the
16 director.

17 b. One member who is a waterworks operator holding a valid
18 certificate and currently working for a water system in a
19 city of three thousand or less population.

20 c. One member who is a waste waterworks operator holding
21 a valid certificate of the highest classification issued by
22 the director.

23 d. One member who is a waste waterworks operator holding
24 a valid certificate and currently working for a waste water
25 system in a city of three thousand or less population.

26 e. One member employed by the council who is qualified
27 in water and waste waterworks operation.

28 f. Two members who are not certificated waterworks
29 operators or certificated waste waterworks operators, but
30 who are interested and knowledgeable in water supply or waste
31 water collection and treatment, and who represent the general
32 public.

33 2. The members prescribed in paragraphs a through e of
34 subsection 1 shall have been engaged in the practice of their
35 professions for five years preceding their appointments, the

1 last two years of which shall have been in Iowa.

2 3. Professional associations or societies composed of
3 waterworks operators or waste waterworks operators may
4 recommend the names of potential board members to the governor,
5 but the governor is not bound by the recommendations. Members
6 of the board are not required to be members of a professional
7 association or society.

8 4. The members of the board shall be appointed for three-
9 year terms beginning and ending as provided by section 69.19.
10 A vacancy shall be filled by appointment for the unexpired
11 term. Members shall be limited to serving three terms or
12 nine years, whichever is less.

13 Sec. 30. NEW SECTION. ORGANIZATION--COMPENSATION AND
14 EXPENSES. The initial board of certification shall organize
15 and elect a chairperson from its membership. Thereafter,
16 a chairperson shall be elected at the last meeting of the
17 fiscal year which shall be the annual meeting of the board.
18 The member of the board employed by the council shall serve
19 as secretary and maintain its records. The cost of the
20 assistance shall be paid by the board to the council from
21 funds appropriated to the board. At least one meeting of
22 the board per year shall be held at the seat of government.
23 Additional meetings may be held at the call of the chairperson.
24 A majority of members constitute a quorum. The members of
25 the board shall set their own per diem compensation at a rate
26 not exceeding forty dollars per day and shall be reimbursed
27 for necessary expenses and travel incurred while discharging
28 their official duties. All per diem and expense moneys paid
29 to the members shall be paid from funds appropriated to the
30 board. A member of the board who is employed by this state
31 shall not receive per diem compensation.

32 Sec. 31. NEW SECTION. EXAMINATION. The board shall hold
33 at least one examination each year for the purpose of examining
34 candidates for certification at a time and place designated
35 by the board. A written examination may be given by

1 representatives of the board. Examinations relating to theory
2 shall be in writing and the identity of the person taking
3 the examination shall be concealed until after the examination
4 papers have been graded. For examinations relating to
5 practice, the identity of the person taking the examination
6 shall also be concealed as far as possible. Those applicants
7 whose competency is acceptable to the board shall be
8 recommended to the director for certification. Applicants
9 who fail the examination shall be allowed to take the
10 examination at the next scheduled time. Thereafter, the
11 applicant shall be allowed to take the examination at the
12 discretion of the board. An applicant who has failed the
13 examination may request in writing information from the board
14 concerning the applicant's examination grade and subject areas
15 or questions which the applicant failed to answer correctly.
16 However, if the board administers a uniform, standardized
17 examination, the board is only required to provide the
18 examination grade and other information concerning the
19 applicant's examination results as is available to the board.

20 Sec. 32. NEW SECTION. CERTIFICATE ISSUED. When the
21 director is satisfied that an applicant is qualified by
22 examination or otherwise, and upon recommendation of the
23 board, the director shall issue a certificate attesting to
24 the competency of the applicant as an operator. The
25 certificate shall indicate the classification of works which
26 the operator is qualified to supervise.

27 Sec. 33. NEW SECTION. DURATION. Certificates shall be
28 for the multi-year period determined by the board unless
29 sooner revoked by the board, but the certificates shall remain
30 the property of the council and the certificate shall so
31 state. The fee for issuance of certificates as determined
32 under section 36 of this Act shall be prorated on a quarterly
33 basis for any original certificate issued for a period of
34 less than twelve months. A person who fails to renew a
35 certificate prior to its expiration shall be allowed to do

1 so within thirty days following its expiration, but the
2 director may assess a reasonable penalty as established by
3 rule of the council.

4 Sec. 34. NEW SECTION. REVOCATION OR SUSPENSION. The
5 board may suspend or revoke the certificate of an operator,
6 following a hearing before the board, when the operator is
7 found guilty of any one of the following acts or offenses:
8 1. Fraud in procuring a license.
9 2. Professional incompetency.
10 3. Knowingly making misleading, deceptive, untrue or
11 fraudulent representations in the practice of the operator's
12 profession or engaging in unethical conduct or practice harmful
13 or detrimental to the public. Proof of actual injury need
14 not be established.
15 4. Habitual intoxication or addiction to the use of drugs.
16 5. Conviction of a felony related to the profession or
17 occupation of the licensee, or the conviction of a felony
18 that would affect the licensee's ability to operate a water
19 treatment or wastewater treatment plant. A copy of the record
20 of conviction or plea of guilty is conclusive evidence.
21 6. Fraud in representation as to skill or ability.
22 7. Use of untruthful or improbable statements in
23 advertisements.
24 8. Willful or repeated violations of sections 10 through
25 45 of this Act.

26 Sec. 35. NEW SECTION. CERTIFICATE WITHOUT EXAMINATION.
27 1. A certificate in appropriate classification shall be
28 issued without examination to an operator who, prior to January
29 1, 1973, held a valid certificate attained by examination
30 and issued by the commissioner of public health.
31 2. A certificate of proper classification shall be issued
32 without examination to an operator who, prior to January 1,
33 1973, held a valid certificate to operate a particular
34 treatment plant or water distribution system. The certificate
35 so issued shall be valid only for that particular treatment

1 plant or system and shall remain in effect indefinitely unless
2 revoked as provided in section 34 of this Act.

3 Sec. 36. NEW SECTION. FEE. The director, with the
4 approval of the board submitted through the council, may
5 charge a fee for certificates issued under sections 26 through
6 39 of this Act. The fee for the certificates and for renewal
7 shall be based on the costs of administering and enforcing
8 sections 26 through 39 of this Act and paying the expenses
9 of the board. The council shall be reimbursed by the board
10 for all costs incurred. The board shall set a fee for the
11 examination which shall be based upon the annual cost of
12 administering the examinations. All fees collected shall
13 be remitted to the treasurer of state, who shall deposit the
14 fees in the general fund of the state. Moneys shall be
15 appropriated from the general fund to the board.

16 Sec. 37. NEW SECTION. RULES. The council, with the
17 advice of the board, may promulgate rules as necessary to
18 carry out sections 26 through 39 of this Act.

19 Sec. 38. NEW SECTION. COMPETENT OPERATOR REQUIRED. It
20 is unlawful for a person operating a water treatment plant,
21 water distribution system, or waste water treatment plant
22 to operate the plant or system unless the competency of the
23 operator to operate the plant or system is duly certified
24 by the director as provided in sections 26 through 39 of this
25 Act. It is unlawful for a person to perform the duties of
26 an operator, as defined in sections 26 through 39 of this
27 Act, without being duly certified as provided in sections
28 26 through 39 of this Act.

29 Sec. 39. NEW SECTION. PENALTY. A person who operates
30 a water treatment plant, water distribution system, or waste
31 water treatment plant in violation of a provision of sections
32 26 through 39 of this Act or a rule adopted under sections
33 26 through 39 of this Act after written notice of the violation
34 by the director is guilty of a simple misdemeanor. Each day
35 of operation in violation of a provision of sections 26 through

1 39 of this Act or a rule adopted under sections 26 through
2 39 of this Act constitutes a separate offense. The county
3 attorney shall commence to enjoin a continuing violation of
4 a provision of sections 26 through 39 of this Act or the rules
5 adopted under sections 26 through 39 of this Act.

6 Sec. 40. NEW SECTION. DEFINITIONS. When used in sections
7 40 through 45 of this Act, unless the context requires
8 otherwise:

9 1. "Treatment works" means a plant, disposal field, lagoon,
10 holding or flow-regulating basin, pumping station, interceptor
11 sewer, or other works installed for the purpose of treating,
12 stabilizing, or disposing of sewage, industrial waste, or
13 other wastes, which qualify for federal grants pursuant to
14 the federal Water Pollution Control Act or any other federal
15 Act or program.

16 2. "Construction" means the erection, building,
17 acquisition, alteration, reconstruction, improvement, or
18 extension of treatment works, preliminary planning to determine
19 the economic and engineering feasibility of treatment works,
20 the engineering, architectural, legal, fiscal, and economic
21 investigations and studies, surveys, designs, plans, working
22 drawings, specifications, procedures, inspection, and
23 supervision, and other action necessary in the construction
24 of treatment works.

25 3. "Eligible project" means a project for construction
26 of a sewage treatment works:

27 a. For which approval of the director is required under
28 sections 40 through 45 of this Act.

29 b. Which is, in the judgment of the director, eligible
30 for federal pollution abatement assistance, whether or not
31 federal funds are then available for that purpose. Eligible
32 projects are those for which the construction contracts have
33 been entered into subsequent to July 1, 1966.

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

35 d. Which is, in the judgment of the director, necessary

1 for the accomplishment of the state's policy of water purity.

2 4. "Municipality" means the city, sanitary district, or
3 other governmental body or corporation empowered to provide
4 sewage collection and treatment services, or any combination
5 of two or more of such governmental bodies or corporations
6 acting jointly, in connection with an eligible project.

7 5. "Federal pollution abatement assistance" means funds
8 available to a municipality, either directly or through
9 allocation by the state, from the federal government as grants
10 for construction of sewage treatment works pursuant to the
11 federal Water Pollution Control Act as amended.

12 Sec. 41. NEW SECTION. GRANTS OF ASSISTANCE.

13 1. A sewage works construction fund is created. Moneys
14 appropriated to and deposited in the sewage works construction
15 fund are appropriated for and shall be used by the council
16 in carrying out the purposes of sections 40 through 45 of
17 this Act.

18 2. The director may make grants to a municipality as funds
19 are available to assist the municipality in the construction
20 of sewage treatment works.

21 Sec. 42. NEW SECTION. ACCEPTANCE OF GRANTS.

22 1. The director shall accept and administer all funds
23 granted by the state under sections 40 through 45 of this
24 Act.

25 2. In allocating state grants under sections 40 through
26 45 of this Act, the director shall consider the following:

- 27 a. The public benefits to be derived by the construction.
- 28 b. The ultimate cost of constructing and maintaining the
29 works.
- 30 c. The public interest and public necessity for the works.
- 31 d. The adequacy of the provisions made or proposed by
32 the municipality for assuring proper and efficient operation
33 and maintenance of the treatment works after the completion
34 of construction of the treatment works.
- 35 e. The applicant's readiness to start construction,

1 including financing and planning.

2 Sec. 43. NEW SECTION. CONTRACTS. The director may, in
3 the name of the state, contract with a municipality concerning
4 eligible projects, subject to the approval of the council.
5 The contract may include the provisions agreed upon by the
6 parties, and shall include, in substance, the following
7 provisions:

8 1. An estimate of the reasonable cost of the project as
9 determined by the director.

10 2. An agreement by the director to pay to the municipality,
11 during the progress of construction or following completion
12 of the construction as agreed upon by the parties, an amount
13 determined by appropriation of the general assembly.

14 3. An agreement by the municipality:

15 a. To proceed expeditiously with, and complete, the project
16 in accordance with plans approved pursuant to sections 40
17 through 45 of this Act and pursuant to sections 10 through
18 25 of this Act.

19 b. To commence operation of the sewage treatment works
20 on completion of the project, and not to discontinue operation
21 or dispose of the sewage treatment works without the approval
22 of the director.

23 c. To operate and maintain the sewage treatment works
24 in accordance with sections 10 through 25 of this Act and
25 rules of the council.

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

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

32 4. A provision that, if federal assistance which was not
33 included in the calculation of the state payment pursuant
34 to subsection 2 becomes available to the municipality, the
35 amount of the state payment shall be recalculated with the

1 inclusion of the additional federal assistance and the
2 municipality shall pay to the state the amount by which the
3 state payment actually made exceeds the state payment
4 determined by the recalculation.

5 Sec. 44. NEW SECTION. RULES. The council may adopt rules
6 as necessary for the effective administration of sections
7 40 through 45 of this Act.

8 Sec. 45. NEW SECTION. REVIEW OF CONTRACTS.

9 1. Contracts entered into pursuant to sections 40 through
10 45 of this Act are subject to approval of the attorney general
11 as to form.

12 2. Payments by the state pursuant to the contracts shall
13 be made after review and by warrant of the state comptroller
14 to the credit of the municipality and shall be used for the
15 payment of costs of construction of an eligible project.
16 However, if the costs have been paid by the municipality,
17 the payment may be used by the municipality for any of the
18 following:

19 a. The payment of outstanding bonds or obligations incurred
20 for an eligible project.

21 b. An improvement or extension of an eligible project.

22 c. Any other lawful municipal purpose determined to be
23 necessary, reasonable, and in the interest of the public
24 welfare.

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25 Sec. 46. Section 68B.2, subsection 4, Code 1981, is amended
26 to read as follows:

27 4. "Regulatory agency" means department of agriculture,
28 industrial commissioner, bureau of labor, occupational safety
29 and health review commission, department of job service,
30 department of banking, insurance department of Iowa, state
31 department of health, department of public safety, department
32 of public instruction, state board of regents, department
33 of social services, department of revenue, Iowa state commerce
34 commission, Iowa beer and liquor control department, board
35 of pharmacy examiners, state conservation commission, state

1 department of transportation, Iowa state civil rights
2 commission, department of soil conservation, department of
3 public defense, department of environmental quality and Iowa
4 ~~natural-resources~~ water council.

5 Sec. 47. Section 83A.3, subsection 5, Code 1981, is amended
6 to read as follows:

7 5. One member representing the Iowa ~~natural-resources~~
8 water council.

9 Sec. 48. Section 84.2, subsection 16, Code 1981, is amended
10 to read as follows:

11 16. "Council" means Iowa ~~natural-resources~~ water council
12 as defined in chapter 455A.

13 Sec. 49. Section 93.2, subsection 2, paragraph f, Code
14 1981, is amended to read as follows:

15 f. The director of the Iowa ~~natural-resources~~ water
16 council. If the Iowa ~~natural-resources~~ water council is
17 abolished or merged into another state agency by ~~an Act of~~
18 ~~the general assembly that becomes~~ law, the director of the
19 Iowa ~~natural-resources~~ water council shall cease to serve
20 as an ex officio nonvoting member of the energy policy council.

21 Sec. 50. Section 108.7, unnumbered paragraph 2, Code 1981,
22 is amended to read as follows:

23 Any action taken by the commission under ~~the provisions~~
24 ~~of this section shall be~~ is subject to the approval of the
25 Iowa ~~natural-resources~~ water council.

26 Sec. 51. Section 109.15, Code 1981, is amended to read
27 as follows:

28 109.15 INJURY TO DAM. It ~~shall be~~ is unlawful for any
29 owner or ~~his~~ an owner's agent to remove or destroy any existing
30 dam, or alter it in a way so as to lower the water level,
31 without having received written approval from the Iowa ~~natural~~
32 ~~resources~~ water council.

33 Sec. 52. Section 111.4, unnumbered paragraph 1, Code 1981,
34 is amended to read as follows:

35 No A person, association or corporation shall not build

1 or erect any pier, wharf, sluice, piling, wall, fence,
2 obstruction, building or erection of any kind upon or over
3 any state-owned land or water under the jurisdiction of the
4 commission, without first obtaining from ~~such~~ the commission
5 a written permit, ~~provided, however, that~~ but this provision
6 ~~shall~~ does not apply to dams constructed and operated under
7 the authority of chapter 469. ~~No such~~ A permit, in matters
8 relating to or in any manner affecting flood control, shall
9 not be issued without approval of the Iowa ~~natural-resources~~
10 water council. ~~No~~ A person shall not maintain or erect any
11 a structure beyond the line of private ownership along or
12 upon the shores of state-owned waters in ~~such~~ a manner as
13 ~~to obstruct~~ which obstructs the passage of pedestrians along
14 the shore between the ordinary high-water mark and the water's
15 edge, except by permission of the commission.

16 Sec. 53. Section 111.18, Code 1981, is amended to read
17 as follows:

18 111.18 JURISDICTION. Jurisdiction over all meandered
19 streams and lakes of this state and of state lands bordering
20 ~~thereon on the streams and lakes~~, not ~~now~~ used by some other
21 state body for state purposes as of April 16, 1949, is
22 conferred upon the commission. The exercise of this
23 jurisdiction ~~shall be~~ is subject to the approval of the Iowa
24 ~~natural-resources~~ water council in matters relating to or
25 in any manner affecting flood control. The commission, with
26 the approval of the executive council, may establish parts
27 of ~~such~~ the property into state parks, and when ~~so~~ established
28 all of the provisions of this chapter relative to public parks
29 ~~shall~~ apply ~~thereto~~ to the property.

30 Sec. 54. Section 111.62, Code 1981, is amended to read
31 as follows:

32 111.62 COPY TO RESOURCES COUNCIL. A copy of the petition
33 and ~~such~~ the applications, plans, and specifications ~~as are~~
34 required under ~~the provisions of~~ chapter 455A shall be filed
35 with the Iowa ~~natural-resources~~ water council and any approval

1 or permit required ~~thereunder~~ under chapter 455A shall be
2 obtained prior to the establishment of ~~said~~ the water
3 recreational area or the granting of a permit ~~therefor~~ for
4 establishing the area by the state conservation commission.

5 Sec. 55. Section 111D.1, Code 1981, is amended to read
6 as follows:

7 111D.1 ACQUISITION BY OTHER THAN CONDEMNATION. The state
8 conservation commission, the Iowa ~~natural-resources~~ water
9 council, any county conservation board, and any city or agency
10 ~~thereof~~ of a city may acquire by purchase, gift, contract,
11 or other voluntary means, but not by eminent domain,
12 conservation easements in land to preserve scenic beauty,
13 wildlife habitat, riparian lands, wet lands, or forests,
14 promote outdoor recreation, or otherwise conserve for the
15 benefit of the public the natural beauty, natural resources,
16 and public recreation facilities of the state.

17 Sec. 56. Section 112.3, Code 1981, is amended to read
18 as follows:

19 112.3 HEARING--DAMAGES. After ~~said~~ the approval the
20 commission, if it wishes to proceed ~~further~~ with the project,
21 shall, with the consent of the Iowa ~~natural-resources~~ water
22 council, fix a date of hearing not less than two weeks from
23 date of approval of the plan. Notice of the day, hour and
24 place of hearing, relative to proposed work, shall be provided
25 by publication at least once a week for two consecutive weeks
26 in ~~some~~ a newspaper of general circulation published in the
27 county where the project is located, or in the county or
28 counties where the water elevations are affected, under the
29 tentative plan approved. The last of ~~such-publication-or~~
30 the publications shall not be less than five days prior to
31 the day set for hearing. Any claim by any persons ~~whomsoever~~,
32 for damages which may be caused by ~~said~~ the project shall
33 be filed with the commission at or prior to the time of the
34 hearing ~~provided-herein~~.

35 Sec. 57. Section 135.11, subsection 1, Code 1981, is

1 amended to read as follows:

2 1. Exercise general supervision over the public health,
3 promote public hygiene and sanitation, and unless otherwise
4 provided, enforce the laws relating to ~~the-same~~ those subjects.
5 However, the construction, maintenance, and abandonment of
6 wells associated with public water supply systems and nonpublic
7 water supply systems and wells are subject to regulation by
8 the Iowa water council under chapter 455A.

9 Sec. 58. Section 258A.3, subsection 2, paragraph a, Code
10 1981, is amended to read as follows:

11 a. Revoke a license, or suspend a license either until
12 further order of the board or for a specified period, upon
13 the grounds specified in sections 114.21, 115.8, 116.21,
14 117.29, 118.13, 118A.15, 120.10, 147.55, 148B.7, 153.34,
15 154A.24, 169.13, ~~455B-59~~ 34 of this Act, and chapters 135E,
16 151, 507B and 522 or upon any other grounds specifically
17 provided for in this chapter for revocation of the license
18 of a licensee subject to the jurisdiction of that board, or
19 upon failure of the licensee to comply with a decision of
20 the board imposing licensee discipline;

21 Sec. 59. Section 258A.4, subsection 1, paragraph f, Code
22 1981, is amended to read as follows:

23 f. Define by rule acts or omissions which are grounds
24 for revocation or suspension of a license under ~~the-provisions~~
25 ~~of~~ sections 114.21, 115.8, 116.21, 117.29, 118.13, 118A.15,
26 120.10, 147.55, 148B.7, 153.34, 154A.24, 169.13, ~~455B-49~~ 34
27 of this Act, and chapters 135E, 151, 507B and 522, and to
28 define by rule acts or omissions which constitute negligence,
29 careless acts, or omissions within the meaning of section
30 258A.3, subsection 2, paragraph "b", which licensees are
31 required to report to the board pursuant to section 258A.9,
32 subsection 2;

33 Sec. 60. Section 308.1, Code 1981, is amended to read
34 as follows:

35 308.1 PLANNING COMMISSION. The Mississippi parkway

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

19 Sec. 61. Section 357A.1, subsection 7, Code 1981, is
20 amended to read as follows:

21 7. "Council" means the Iowa ~~natural-resources~~ water
22 council.

23 Sec. 62. Section 358.9, unnumbered paragraph 3, Code 1981,
24 is amended to read as follows:

25 ~~in-cases-where~~ If the state of Iowa owns at least four
26 hundred acres of land contiguous to lakes within ~~said~~ a
27 district, ~~then-and-only-then~~ the Iowa ~~natural-resources~~ water
28 council shall appoint two members of ~~said~~ the board of trustees
29 in addition to the three members ~~hereinbefore~~ selected as
30 otherwise provided in this section. The additional two members
31 shall be qualified ~~as-folllows:-They-shall-be~~ by being United
32 States citizens, not less than eighteen years of age, and
33 shall be property owners within ~~said~~ the district. ~~in-such~~
34 ~~eases-the~~ The two additional appointive members shall have
35 equal vote and authority with other members ~~of-trustees~~ and

1 shall hold office at the pleasure of the Iowa natural-resources
2 water council.

3 Sec. 63. Section 358A.24, Code 1981, is amended to read
4 as follows:

5 358A.24 CONFLICT WITH OTHER REGULATIONS. ~~Wherever~~ If
6 the regulations made under ~~authority-of~~ this chapter require
7 a greater width or size of yards, courts or other open spaces,
8 or require a lower height of building or less number of
9 stories, or require a greater percentage of lot to be left
10 unoccupied, or impose other higher standards than are required
11 in any other statute or local ordinance or regulation, the
12 ~~provisions-of-the~~ regulations made under ~~authority-of~~ this
13 chapter ~~shall~~ govern. ~~Wherever-the-provisions-of~~ If any other
14 statute or local ordinance or regulation ~~require~~ requires
15 a greater width or size of yards, courts or other open spaces,
16 or ~~require~~ a lower height of building or a less number of
17 stories, or ~~require~~ a greater percentage of lot to be left
18 unoccupied, or ~~impose~~ imposes other higher standards than
19 are required by the regulations made under ~~authority-of~~ this
20 chapter, the ~~provisions-of-such~~ other statute or local
21 ordinance or regulation ~~shall-govern~~ governs. ~~Wherever-any~~
22 If a regulation proposed or made under ~~authority-of~~ this
23 chapter relates to any structure, building, dam, obstruction,
24 deposit or excavation in or on the flood plains of any river
25 or stream, prior approval of the Iowa natural-resources water
26 council ~~shall-be~~ is required to establish, amend, supplement,
27 change, or modify ~~sueh~~ the regulation or to grant any variation
28 or exception ~~therefrom~~ from the regulation.

29 Sec. 64. Section 414.21, Code 1981, is amended to read
30 as follows:

31 414.21 CONFLICTING RULES, ORDINANCES, AND STATUTES.
32 ~~Wherever~~ If the regulations made under ~~authority-of~~ this
33 chapter require a greater width or size of yards, courts or
34 other open spaces, or ~~require~~ a lower height of building or
35 less number of stories, or ~~require~~ a greater percentage of

1 lot to be left unoccupied, or impose other higher standards
2 than are required in any other statute or local ordinance
3 or regulation, the ~~provisions-of-the~~ regulations made under
4 ~~authority-of~~ this chapter shall govern. ~~Wherever-the~~
5 ~~provisions-of~~ If any other statute or local ordinance or
6 regulation ~~require~~ requires a greater width or size of yards,
7 courts or other open spaces, or ~~require~~ a lower height of
8 building or a less number of stories, or ~~require~~ a greater
9 percentage of lot to be left unoccupied, or ~~impose~~ imposes
10 other higher standards than are required by the regulations
11 made under ~~authority-of~~ this chapter, the ~~provisions-of-such~~
12 other statute or local ordinance or regulation shall-govern
13 governs. ~~Wherever-any~~ If a regulation proposed or made under
14 ~~authority-of~~ this chapter relates to any structure, building,
15 dam, obstruction, deposit or excavation in or on the flood
16 plains of any river or stream, prior approval of the Iowa
17 ~~natural-resources~~ water council shall-be is required to
18 establish, amend, supplement, change or modify such the
19 regulation or to grant any variation or exception ~~therefrom~~
20 from the regulation.

21 Sec. 65. Section 427.1, subsection 32, unnumbered para-
22 graphs 7, 8, and 9, Code 1981, are amended to read as follows:

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

1 17A.

2 For the purposes of this subsection "air or water pollution-
3 control property" means personal property or improvements
4 to real property, or any portion thereof, used primarily to
5 control or abate pollution of any air or water of this state
6 or used primarily to enhance the quality of any air or water
7 of this state. ~~in-the-event-such~~ If the property shall also
8 ~~serve~~ serve other purposes or uses of productive benefit
9 to the owner of the property, only ~~such~~ the portion of the
10 assessed valuation ~~thereof-as-may~~ reasonably be calculated
11 to be necessary for and devoted to the control or abatement
12 of pollution or to the enhancement of the quality of the air
13 or water of this state ~~shall-be~~ is exempt from taxation under
14 this subsection.

15 For the purposes of this subsection "pollution" means ~~air~~
16 pollution as defined in section 455B.10 or water pollution
17 as defined in section ~~455B-30~~ 10 of this Act. "Water of the
18 state" means the water of the state as defined in section
19 ~~455B-30~~ 10 of this Act. "Enhance the quality" means to
20 diminish the level of pollutants below the air or water quality
21 standards established by the environmental quality commission
22 of the department of environmental quality or the Iowa water
23 council.

24 Sec. 66. Section 427.1, subsection 33, Code 1981, is
25 amended to read as follows:

26 33. IMPOUNDMENT STRUCTURES. The impoundment structure
27 and any land underlying an impoundment located outside any
28 incorporated city, which are not developed or used directly
29 or indirectly for nonagricultural income-producing purposes
30 and which are maintained in a condition satisfactory to the
31 soil conservation district commissioners of the county in
32 which the impoundment structure and the impoundment are
33 located. Any person owning land which qualifies for a property
34 tax exemption under this subsection shall apply to the county
35 assessor each year before the first of July for the exemption.

1 The application shall be made on forms prescribed by the
 2 department of revenue. The first application shall be
 3 accompanied by a copy of the water storage permit approved
 4 by the water commissioner of the Iowa ~~natural-resources~~ water
 5 council and a copy of the plan for the construction of the
 6 impoundment structure and the impoundment. The construction
 7 plan shall be used to determine the total acre-feet of the
 8 impoundment and the amount of land which is eligible for the
 9 property tax exemption status. The county assessor shall
 10 annually review each application for the property tax exemption
 11 under this subsection and submit it, with the recommendation
 12 of the soil conservation district commissioners, to the board
 13 of supervisors for approval or denial. Any applicant for
 14 a property tax exemption under this subsection may appeal
 15 the decision of the board of supervisors to the district
 16 court. As used in this subsection, "impoundment" means any
 17 reservoir or pond which has a storage capacity of at least
 18 eighteen acre-feet of water or sediment at the time of
 19 construction; "storage capacity" means the total area below
 20 the crest elevation of the principal spillway including the
 21 volume of any excavation in such area; and "impoundment
 22 structure" means any dam, earthfill or other structure used
 23 to create an impoundment.

24 Sec. 67. Section 455.18, unnumbered paragraph 2, Code
 25 1981, is amended to read as follows:

26 ~~Where~~ If the object of the proposed district contemplates
 27 ~~as-its-object~~ is flood control or soil conservance the engineer
 28 shall include in ~~his~~ the report data describing any soil
 29 conservance or flood control improvements, ~~the~~ their nature
 30 ~~thereof~~, and ~~such-ether~~ any additional data ~~as-shall-be~~
 31 prescribed by the Iowa ~~natural-resources~~ water council.

32 Sec. 68. Section 467C.5, Code 1981, is amended to read
 33 as follows:

34 467C.5 APPROVAL OF COMMISSIONERS. No A district shall
 35 not be established by any a board of supervisors under this

1 chapter unless the organization of ~~such~~ the district is
2 approved by the commissioners of any soil conservation district
3 established under ~~the-provisions-of~~ chapter 467A and which
4 is included all or in part within ~~such~~ the district, nor shall
5 ~~any-such~~ a district be established without the approval of
6 the state conservation commission and the Iowa ~~natural~~
7 ~~resources~~ water council.

8 Sec. 69. Section 467D.2, subsection 3, Code 1981, is
9 amended to read as follows:

10 3. "Council" means the Iowa ~~natural-resources~~ water
11 council.

12 Sec. 70. Section 469.1, Code 1981, is amended to read
13 as follows:

14 469.1 PROHIBITION--PERMIT. ~~No~~ A dam shall not be
15 constructed, maintained, or operated in this state in any
16 navigable or meandered stream for any purpose, or in any other
17 stream for manufacturing or power purposes, nor shall any
18 water be taken from ~~such~~ the streams for industrial purposes,
19 unless a permit has been granted by the Iowa ~~natural-resources~~
20 water council to the person, firm, corporation, or municipality
21 constructing, maintaining, or operating the ~~same~~ dam.

22 Sec. 71. Section 469.2, unnumbered paragraph 1 and subsec-
23 tion 6, Code 1981, are amended to read as follows:

24 Any person, firm, corporation, or municipality making
25 application for a permit to construct, maintain, or operate
26 a dam in any of the waters, including canals, raceways, and
27 other constructions necessary or useful in connection with
28 the development and utilization of the water or water power,
29 shall file with the Iowa ~~natural-resources~~ water council a
30 written application, which shall contain the following
31 information:

32 6. ~~Such-additional~~ Additional information as ~~may-be~~
33 required by the Iowa ~~natural-resources~~ water council.

34 Sec. 72. Section 469.3, Code 1981, is amended to read
35 as follows:

1 469.3 NOTICE OF HEARING. When any application for a
2 permit to construct, maintain, or operate a dam from and after
3 the passage of this chapter is received, the Iowa ~~natural~~
4 ~~resources~~ water council shall fix a time for hearing, and
5 it shall give notice of the time and place of ~~such~~ the hearing
6 by publication once each week for two successive weeks in
7 at least one newspaper in each county in which riparian lands
8 will be affected by the dam.

9 Sec. 73. Section 469.9, unnumbered paragraph 1, Code 1981,
10 is amended to read as follows:

11 Every person, firm, or corporation, excepting a
12 municipality, to whom a permit is granted to construct or
13 to maintain and operate a dam already constructed in or across
14 any stream for the purpose ~~herein~~ specified in this chapter,
15 shall pay to the Iowa ~~natural-resources~~ water council a permit
16 fee of one hundred dollars and shall pay an annual inspection
17 and license fee, to be fixed by the Iowa ~~natural-resources~~
18 water council, on or before the first day of January, ~~1925,~~
19 ~~and-annually-thereafter~~ of each year, but in no case shall
20 the annual inspection and license fee be less than twenty-
21 five dollars. All fees shall be paid into the general fund
22 of the state treasury.

23 Sec. 74. Section 469.10, Code 1981, is amended to read
24 as follows:

25 469.10 CONSTRUCTION AND OPERATION. The Iowa ~~natural~~
26 ~~resources~~ water council shall investigate methods of
27 construction, reconstruction, operation, maintenance, and
28 equipment of dams, so as to determine the best methods to
29 conserve and protect as far as possible all public and riparian
30 rights in the waters of the state and so as to protect the
31 life, health, and property of the general public, ~~and-the~~
32 The method of construction, operation, maintenance, and
33 equipment of ~~any-and~~ all dams of any character or for any
34 purpose in ~~such~~ the waters ~~shall-be~~ of the state is subject
35 to the approval of the Iowa ~~natural-resources~~ water council.

1 Sec. 75. Section 469.26, Code 1981, is amended to read
2 as follows:

3 469.26 REVOCATION OR FORFEITURE OF PERMIT. If the person
4 to whom a permit is issued under ~~the provisions of~~ this chapter
5 does not begin the construction or the improvement of the
6 dam or raceway within one year from the date of the granting
7 of the permit, ~~his~~ the permit may be revoked by the Iowa
8 ~~natural-resources~~ water council, and if any permit holder
9 does not finish and have in operation the plant for which
10 the dam is constructed within three years after the granting
11 of the permit, unless for good cause shown the council has
12 extended the time for completion, ~~such~~ the permit shall be
13 forfeited.

14 Sec. 76. Section 469.29, Code 1981, is amended to read
15 as follows:

16 469.29 PERMITS FOR EXISTING DAMS. All licenses and permits
17 issued by the state executive council prior to April 17, 1949,
18 or the Iowa natural resources council prior to January 1,
19 1983, and in force just prior to the effective date of this
20 Act are hereby declared to be in full force and effect on
21 the effective date of this Act and all of the powers of
22 administration relating to licenses or permits ~~heretofore~~
23 issued are ~~hereby~~ vested in the Iowa ~~natural-resources~~ water
24 council.

25 Sec. 77. PRIOR ACTIONS.

26 1. A rule adopted, permit or order issued, or approval
27 given by the water quality commission, the environmental
28 quality commission, or the executive director of the department
29 of environmental quality relating to water quality and water
30 pollution control under chapter 455B, division III, before
31 the effective date of this Act and in force just prior to
32 the effective date of this Act remains effective until modified
33 or rescinded by action of the Iowa water council or its
34 director unless the rule, order, permit, or approval is
35 inconsistent with or contrary to this Act.

1 2. A certificate of competence issued to the operator
2 of a water treatment plant or water distribution system by
3 the executive director of the department of environmental
4 quality and in force just prior to the effective date of this
5 Act is valid until it expires or is suspended or revoked by
6 action of the public water supply board of certification as
7 provided by law.

8 3. A rule adopted, permit or order issued, or approval
9 given under chapter 84, 108, 109, 111, 112, 357A, 358A, 414,
10 427, 455A, 467A, 467C, or 467D, before the effective date
11 of this Act and in force just prior to the effective date
12 of this Act, by the Iowa natural resources council or its
13 director remains effective until modified or rescinded by
14 action of the Iowa water council or its director unless the
15 rule, order, permit, or approval is inconsistent with or
16 contrary to this Act.

17 4. A rule adopted, permit or order issued, or approval
18 given by the state department of health or the commissioner
19 of public health relating to nonpublic water supply systems
20 or water wells under chapter 135, before the effective date
21 of this Act and in force just prior to the effective date
22 of this Act remains effective until modified or rescinded
23 by action of the Iowa water council or its director unless
24 the rule, order, permit, or approval is inconsistent with
25 or contrary to this Act.

26 Sec. 78. TRANSFER OF EMPLOYEES. All employees of the
27 Iowa natural resources council and those employees of the
28 state department of health, and the department of environmental
29 quality who are employed to administer programs relating to
30 water pollution control, water quality, or nonpublic water
31 supply systems and wells are transferred to the Iowa water
32 council. However, an employee of the state department of
33 health or the department of environmental quality whose duty
34 assignments will be terminated because of this Act may be
35 reassigned to other duties or may be transferred to the Iowa

1 water council. The Iowa merit employment commission shall
2 adopt rules to carry out the reassignment or transfer and
3 shall arbitrate and decide a written appeal made by an employee
4 concerning a transfer, reassignment, or reclassification made
5 necessary by this Act. An employee shall not lose benefits
6 accrued, including but not limited to salary, retirement,
7 vacation, or sick leave, because of reassignment.

8 Sec. 79. EFFECTIVE DATE--TRANSITION. The effective date
9 of this Act is July 1, 1983, except that this section is
10 effective on January 1, 1983. After January 1, 1983, the
11 governor shall appoint the members of the Iowa water council,
12 and may authorize the Iowa water council to organize as
13 provided in this Act, to appoint a director of the council,
14 and to plan for the transfer of powers, duties, records,
15 equipment, personnel, and other property as applicable. Five
16 members of the initial Iowa water council shall be appointed
17 to terms expiring on April 30, 1987 and four members shall
18 be appointed to terms expiring on April 30, 1985. The
19 membership of the initial Iowa water council may include
20 persons who are serving unexpired terms as members of the
21 Iowa natural resources council. The persons shall serve
22 concurrently as members of both councils until July 1, 1983,
23 when the terms of members of the Iowa natural resources council
24 shall expire. The persons may be reappointed as provided
25 in this Act. If a director of the Iowa water council is
26 appointed before July 1, 1983, the director shall cooperate
27 with the Iowa natural resources council in preparing for an
28 orderly transfer of powers and duties, including representing
29 the new council in budgetary and appropriation matters. The
30 director and members of the Iowa water council, appointed
31 and authorized to exercise powers and duties before July
32 1, 1983 as provided in this section may be paid salary or
33 per diem as applicable and necessary expenses from funds
34 appropriated to the Iowa natural resources council.

35 This Act does not affect the appointments or terms of of-

1 fice of the members of the board of certification appointed
2 under section 455B.53. However, a vacancy exists on the board
3 of certification if the member who is also an employee of
4 the department of environmental quality before the effec-
5 tive date of this Act is not transferred to and does not
6 become an employee of the Iowa water council on the effective
7 date of this Act.

8 Sec. 80. Sections 455B.30 through 455B.74, Code 1981,
9 are repealed.

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HOUSE FILE 2463
FISCAL NOTE

REQUESTED BY SENATOR SCHWENGELS

In compliance with a written request there is hereby submitted a Fiscal Note for Amendment S-5462 to House File 2463 pursuant to Joint Rule 16.

H.F. 2463 as amended by S-5462 is an Act to consolidate the regulation and management of water resources by transferring to the Iowa department of environmental quality (DEQ) all the powers and duties of the Iowa natural resources council (INRC). The fiscal impact of this Act will be reviewed from DEQ's perspective of potential areas of duplication.

The current staffing of INRC is 25 FTE's, DEQ feels it could administer all INRC programs on an increase of only 14 FTE's. DEQ assumes it could absorb administrative support functions, all top level managerial functions, and some technical functions. This would translate into a savings of \$223,728 a year.

<u>Expenditure</u>	<u>Expenditure</u>
<u>Current Law</u>	<u>Proposed Law</u>
\$638,928*	\$415,200

The other provisions of this Act are already budgeted for and funds appropriated.

* Figures are based upon 12 month FY 1983 operations.

SOURCE: DEQ

FILED:
APRIL 14, 1982

BY GERRY RANKIN, FISCAL DIRECTOR

HOUSE FILE 2463

5462

1 Amend House File 2463, as amended, passed and
2 reprinted by the House, as follows:

3 1. By striking everything after the enacting
4 clause and inserting in lieu thereof the following:

5 "Section 1. Section 455B.4, subsection 6, Code
6 1981, is amended to read as follows:

7 6. The executive director shall notify the
8 secretary of agriculture, the commissioner of public
9 health, the chief administrative officer of the
10 department of soil conservation, ~~the director of the~~
11 ~~Iowa natural resources council~~, the director of the
12 state conservation commission and the director of
13 the state hygienic laboratory of the scheduled meetings
14 of the commission.

15 Sec. 2. Section 455B.5, subsection 3, Code 1981,
16 is amended to read as follows:

17 3. Adopt, modify, or repeal rules necessary to
18 implement the provisions of this chapter and the rules
19 deemed necessary for the effective administration
20 of the department. It is the intent of the general
21 assembly that the commission exercise strict oversight
22 of the operations of the department. The rules shall
23 include departmental policy relating to the disclosure
24 of information on a violation or alleged violation
25 of the rules, standards, permits or orders issued
26 by the department and keeping of confidential
27 information obtained by the department in the
28 administration and enforcement of the provisions of
29 this chapter. Rules adopted by the executive committee
30 before January 1, 1981 shall remain effective until
31 modified or rescinded by action of the commission.

32 Sec. 3. Section 455B.30, subsection 8, Code 1981,
33 is amended by striking the subsection.

34 Sec. 4. Section 455B.30, Code 1981, is amended
35 by adding the following new subsections:

36 NEW SUBSECTION. "Private water supply" means any
37 water supply for human consumption which has less
38 than fifteen service connections or regularly serves
39 less than twenty-five individuals.

40 NEW SUBSECTION. "Private sewage disposal system"
41 means a system for the treatment or disposal of
42 domestic sewage from four or fewer dwelling units.

43 Sec. 5. Section 455B.31, Code 1981, is amended
44 to read as follows:

45 455B.31 ADMINISTRATIVE AGENCY.

46 1. The department ~~shall be~~ is the agency of the
47 state to prevent, abate, or control water pollution
48 and to conduct the public water supply program.

49 2. The department is the state agency designated
50 to carry out the state responsibilities related to

1 private water supplies and private sewage disposal
2 systems for the protection of the health of the
3 citizens of this state. The commission shall adopt
4 guidelines and provide model standards for private
5 water supplies and private sewage disposal facilities
6 for use of the local boards of health. Each local
7 board of health is the agency to regulate private
8 water supplies and private sewage disposal systems.
9 Each local board of health shall adopt standards
10 relating to the design, construction, operation, and
11 maintenance of the private water supplies and private
12 sewage disposal facilities. The department shall
13 encourage the local boards of health to establish
14 programs to license and enforce the standards for
15 private water supplies and private sewage disposal
16 facilities.

17 Sec. 6. Section 455B.32, subsection 4, Code 1981,
18 is amended by striking the subsection.

19 Sec. 7. Chapter 455B, division III, Code 1981,
20 is amended by adding sections 8 through 28 of this
21 Act as a new part.

22 Sec. 8. NEW SECTION. DEFINITIONS. As used in
23 this part of division III, unless the context otherwise
24 requires:

25 1. "Flood plains" means the area adjoining a river
26 or stream which has been or is covered by flood water.

27 2. "Floodway" means the channel of a river or
28 stream and those portions of the flood plains adjoining
29 the channel which are reasonably required to carry
30 and discharge the flood water or flood flow of any
31 river or stream.

32 3. "Surface water" means the water occurring on
33 the surface of the ground.

34 4. "Ground water" means that water occurring
35 beneath the surface of the ground.

36 5. "Diffused waters" means waters from
37 precipitation and snowmelt which is not a part of
38 any watercourse or basin including capillary soil
39 water.

40 6. "Depleting use" means the storage, diversion,
41 conveyance, or other use of a supply of water if the
42 use may impair rights of lower or surrounding users,
43 may impair the natural resources of the state, or
44 may injure the public welfare if not controlled.

45 7. "Beneficial use" means the application of water
46 to a useful purpose that inures to the benefit of
47 the water user and subject to the user's dominion
48 and control but does not include the waste or pollution
49 of water.

50 8. "Nonregulated use" means the use of water for

1 ordinary household purposes, use of water for poultry,
2 livestock, and domestic animals, any beneficial use
3 of surface flow from rivers bordering this state,
4 any existing beneficial uses of water within the
5 territorial boundaries of municipal corporations on
6 May 16, 1957, and any other beneficial use of water
7 by any person of less than twenty-five thousand gallons
8 per day. However, industrial users of water, having
9 their own water supply, within the territorial
10 boundaries of municipal corporations, shall be
11 regulated when their water use exceeds three percent
12 more than the highest per day beneficial use prior
13 to May 16, 1957.

14 9. "Regulated use" means any depleting use except
15 a use specifically designated as a nonregulated use.

16 10. "Permit" means a written authorization issued
17 by the department to a permittee which is limited
18 as to quantity, time, place, and rate of diversion,
19 storage, or withdrawal in accordance with the policies
20 and principles of beneficial use as specified in this
21 part.

22 11. "Permittee" means a person who obtains a
23 permit from the department authorizing the person
24 to take possession by diversion or otherwise and to
25 use and apply an allotted quantity of water for a
26 designated beneficial use, and who makes actual use
27 of the water for that purpose.

28 12. "Waste" means any of the following:

29 a. Permitting ground water or surface water to
30 flow, or taking it or using it in any manner so that
31 it is not put to its full beneficial use.

32 b. Transporting ground water from its source to
33 its place of use in such a manner that there is an
34 excessive loss in transit.

35 c. Permitting or causing the pollution of a water-
36 bearing strata through any act which will cause salt
37 water, highly mineralized water, or otherwise
38 contaminated water to enter it.

39 13. "Watercourse" means any lake, river, creek,
40 ditch, or other body of water or channel having
41 definite banks and bed with visible evidence of the
42 flow or occurrence of water, except lakes or ponds
43 without outlet to which only one landowner is riparian.

44 14. "Basin" means a specific subsurface water-
45 bearing reservoir having reasonably ascertainable
46 boundaries.

47 15. "Established average minimum flow" means the
48 average minimum flow for a given watercourse at a
49 given point determined and established by the
50 commission. The "average minimum flow" for a given

1 watercourse shall be determined by the following
2 factors:

3 a. Average of minimum daily flows occurring during
4 the preceding years chosen by the commission as more
5 nearly representative of changing conditions and needs
6 of a given drainage area at a particular time.

7 b. Minimum daily flows shown by experience to
8 be the limit at which further withdrawals would be
9 harmful to the public interest in any particular
10 drainage area.

11 c. The minimum daily flows shown by established
12 discharge records and experiences to be definitely
13 harmful to the public interest.

14 The determination shall be based upon available
15 data, supplemented, when available data are incomplete,
16 with whatever evidence is available.

17 16. "Impounded or stored water" means that water
18 captured and stored on the land by anyone taking it
19 pursuant to this chapter, and the party impounding
20 the water shall become the absolute owner of the
21 stored water.

22 Sec. 9. NEW SECTION. DECLARATION OF POLICY.

23 1. It is recognized that the protection of life
24 and property from floods, the prevention of damage
25 to lands from floods, and the orderly development,
26 wise use, protection, and conservation of the water
27 resources of the state by their considered and proper
28 use is of paramount importance to the welfare and
29 prosperity of the people of the state, and to realize
30 these objectives, it is the policy of the state to
31 correlate and vest the powers of the state in a single
32 agency, the department of environmental quality, with
33 the duty and authority to establish an appropriate
34 comprehensive statewide program for developing a data
35 base in conjunction with the Iowa geological survey
36 for the assessment of the water needs of all water
37 users for the next five years, ten years, fifteen
38 years, and twenty years and preparing a water plan
39 to meet the specific needs of the water users. The
40 general welfare of the people of the state requires
41 that the water resources of the state be put to
42 beneficial use to the fullest extent possible, and
43 that the waste or unreasonable use, or unreasonable
44 methods of use of water be prevented, and that the
45 conservation of water resources be encouraged with
46 the view to their reasonable and beneficial use in
47 the interest of the people, and that the public and
48 private funds for the promotion and expansion of the
49 beneficial use of water resources be invested to the
50 end that the best interests and welfare of the people

1 are served.

2 2. Water occurring in a basin or watercourse,
3 or other natural body of water of the state, is public
4 water and public wealth of the people of the state
5 and subject to use in accordance with this chapter,
6 and the control and development and use of water for
7 all beneficial purposes is vested in the state, which
8 shall take measures to encourage full utilization
9 and protection of the water resources of the state.

10 Sec. 10. NEW SECTION. WATER RESOURCES ADVISORY
11 COUNCIL.

12 1. An advisory council on water resources is
13 created to advise the commission on matters related
14 to water resources, water use, flood plain management,
15 and other matters as the commission may request.

16 2. The commission shall appoint the advisory
17 council consisting of the following nine members:

18 a. One member who is knowledgeable of the operation
19 of a water supply system in a city of three thousand
20 or less population.

21 b. One member who is knowledgeable of the operation
22 of a water supply system in a city of more than three
23 thousand population.

24 c. One member who is a director of the board of
25 a rural water district established under chapter 357A.

26 d. One member actively engaged in the management
27 of a manufacturing company.

28 e. One member who is actively engaged in the
29 management of an electrical utility company.

30 f. Two members who are actively engaged in
31 livestock or grain farming.

32 g. Two members who are electors of the state.

33 The members of the advisory council shall be residents
34 of the state and shall be selected with regard to
35 their political affiliation.

36 3. The members of the advisory council who are
37 not in the full-time employment of a public agency
38 shall be paid a per diem of forty dollars while engaged
39 in the performance of the duties of office. Members
40 shall be reimbursed for their actual and necessary
41 expenses while performing the duties of office. Per
42 diem and expenses shall be paid from funds appro-
43 priated to the department.

44 4. The advisory council shall organize by the
45 election of a chairperson and shall meet quarterly
46 or as it deems necessary. The chairperson shall be
47 elected annually at the meeting of the advisory council
48 held in July. Meetings may be called by the
49 chairperson and shall be called by the chairperson
50 as regularly scheduled or at the request of the commis-

1 sion. A majority of the advisory council is a quorum
2 and the concurrence of a majority of the advisory
3 council is required for determination of matters
4 within its powers and duties.

5 5. The commission shall establish the scope of
6 the duties of the advisory council and shall define
7 the manner in which the advisory council assists the
8 commission in the discharge of its duties.

5510 9 6. The advisory council and the terms of its
10 members shall expire two years from the effective
11 date of this Act unless the advisory council is
12 continued by law upon recommendation of the commission.
13 The recommendation shall include a detailed proposal
14 for the functions and duties of a permanent council
15 and the size and representation of the council.

16 Sec. 11. NEW SECTION. DUTIES.

17 1. The commission shall establish and enforce
18 a comprehensive statewide plan for the control,
19 utilization, and protection of the water resources
20 of the state, which plan shall include all uses and
21 developments of water resources and shall provide
22 for the optimum control, protection, development,
23 utilization, and allocation of water resources,
24 including the relative priority of each user group
25 for water allocation and the development of criteria
26 for the commission to establish by rule the relative
27 priority of each water source for use. All uses and
28 developments of water resources regulated under this
29 part must be found to be compatible with the state
30 comprehensive plan after its adoption prior to the
31 granting of a permit by the executive director or
32 an approval order by the commission. In making and
33 formulating the state comprehensive plan for the
34 future control, development, protection, allocation,
35 and utilization of the water resources of the state,
36 the department shall make surveys and investigations
37 of the water resources of the state and shall give
38 consideration to the needs of agriculture, industry,
39 health, fish and wildlife, recreation, pollution,
40 and allied matters as they relate to flood control
41 and water resources. Before implementation of the
42 statewide plan, the commission shall submit the plan
43 to the general assembly which shall approve or
44 disapprove the plan pursuant to a concurrent resolu-
45 tion. Approval of the plan shall require the
46 affirmative vote of a majority of the members of each
47 house of the general assembly.

48 2. The commission shall designate the official
49 representative of this state on all comprehensive
50 water resources planning groups for which state

1 participation is provided. The commission shall
2 coordinate state planning with local and national
3 planning and, in safeguarding the interests of the
4 state and its people, shall undertake the resolution
5 of any conflicts that may arise between the water
6 resources policies, plans, and projects of the federal
7 government and the water resources policies, plans,
8 and projects of the state, its agencies, and its
9 people. This section, assigning the overall respon-
10 sibility for comprehensive planning of water resources
11 to the commission, does not limit or supplant the
12 functions, duties, and responsibilities of other state
13 or local agencies or institutions with regard to
14 planning of water-associated projects within the
15 particular area of responsibility of those state or
16 local agencies or institutions.

17 3. The commission shall enter into negotiations
18 and agreements with the federal government relative
19 to the operation of, or the release of water from,
20 any project that has been authorized or constructed
21 by the federal government when the commission deems
22 the negotiations and agreements to be necessary for
23 the achievement of the policies of this state rela-
24 tive to its water resources.

25 4. The commission, on behalf of the state, shall
26 enter into negotiations with the federal government
27 relative to the inclusion of conservation storage
28 features for water supply in any project that has
29 been authorized by the federal government when the
30 commission deems the negotiations to be necessary
31 for the achievement of the policies of this state
32 and the state comprehensive plan for water resources,
33 however, an agreement reached pursuant to these
34 negotiations does not bind the state until enacted
35 into law by the general assembly.

36 5. A water user who benefits from the development
37 by the federal government of conservation storage
38 for water supply shall be encouraged to assume the
39 responsibility for repaying to the federal government
40 any reimbursable costs incurred in the development,
41 and a user who accepts benefits from the developments
42 financed in whole or part by the state shall assume
43 by contract the responsibility of repaying to the
44 state the user's reasonable share of the state's
45 obligations in accordance with a basis which will
46 assure payment within the life of the development.
47 An appropriation, diversion, or use shall not be made
48 by a person of any waters of the state that have been
49 stored or released from storage either under the
50 authority of the state or pursuant to an agreement

1 between the state and the federal government until
2 the person has assumed by contract the person's
3 repayment responsibility. However, this subsection
4 does not infringe upon any vested property interests.

5 6. In its contracts with water users for the
6 payment of state obligations incurred in the
7 development of conservation storage for water supply,
8 the commission shall include the terms deemed
9 reasonable and necessary:

10 a. To protect the health, safety, and general
11 welfare of the people of the state.

12 b. To achieve the purposes of this chapter.

13 c. To provide that the state is not responsible
14 to any person if the waters involved are insufficient
15 for performance.

16 The commission may designate and describe any such
17 contract, and describe the relationships to which
18 it relates, as a sale of storage capacity, a sale
19 of water release services, a contract for the storage
20 or sale of water, or any similar terms suggestive
21 of the creation of a property interest. The term
22 of the contracts shall be commensurate with the
23 investment and use concerned, but the commission shall
24 not enter into any such contract for a term in excess
25 of the maximum period provided for water use permits.

26 7. The commission shall procure flood control
27 works and water resources projects from or by
28 cooperation with any agency of the United States,
29 by cooperation with the cities and other subdivisions
30 of the state under the laws of the state relating
31 to flood control and use of water resources, and by
32 cooperation with the action of landowners in areas
33 affected by the works or projects when the commissioner
34 deems the projects to be necessary for the achievement
35 of the policies of this state and the state
36 comprehensive plan for water resources.

37 8. The commission shall promote the policies set
38 forth in this part and shall represent this state
39 in all matters within the scope of this part. The
40 commission shall adopt rules pursuant to chapter 17A
41 as necessary to transact its business and for the
42 administration and exercise of its powers and duties.

43 9. In carrying out its duties, the commission
44 may accept gifts, contributions, donations and grants,
45 and use them for any purpose within the scope of this
46 part.

47 Sec. 12. NEW SECTION. JURISDICTION--DIVERSION
48 OF WATER.

49 1. The commission has jurisdiction over the public
50 and private waters in the state and the lands adjacent

1 to the waters necessary for the purposes of carrying
2 out this part. The commission may construct flood
3 control works or any part of the works. In the
4 construction of the works, in making surveys and
5 investigations, or in formulating plans and programs
6 relating to the water resources of the state, the
7 commission may cooperate with an agency of another
8 state or the United States, or with any other person.

9 2. Upon application by any person for permission
10 to divert, pump, or otherwise take waters from any
11 watercourse, underground basin or watercourse, drainage
12 ditch, or settling basin within this state for any
13 purpose other than a nonregulated use, the executive
14 director shall investigate the effect of the use upon
15 the natural flow of the watercourse, the effect of
16 the use upon the owners of any land which might be
17 affected by the use, and the effect of the use upon
18 the state comprehensive plan for water resources.

19 3. Upon application by any person for approval
20 of the construction or maintenance of any structure,
21 dam, obstruction, deposit, or excavation to be erected,
22 used, or maintained in or on the flood plans of any
23 river or stream, the department shall investigate
24 the effect of the construction or maintenance project
25 on the efficiency and capacity of the floodway and
26 on the state comprehensive plan for water resources.
27 In determining the effect of the proposal the
28 department shall consider fully its effect on flooding
29 of or flood control for any proposed works and adjacent
30 lands and property, on the wise use and protection
31 of water resources, on the quality of water, on fish,
32 wildlife, and recreational facilities or uses, and
33 on all other public rights and requirements.

34 Sec. 13. NEW SECTION. PERMITS FOR DIVERSION,
35 STORAGE, AND WITHDRAWAL. If the department determines
36 after due investigation that the diversion, storage,
37 or withdrawal of water will not be detrimental to
38 the public interests, including drainage and levee
39 districts, or to the interests of property owners
40 with prior or superior rights who may be affected,
41 the department shall grant a permit for the diversion,
42 storage, or withdrawal. Permits may be granted for
43 the life of the structure unless revoked by the
44 commission. All existing storage permits are extended
45 for the life of the structure unless withdrawn for
46 good cause. Permits may be granted which provide
47 for less diversion, storage, or withdrawal of waters
48 than set forth in the application. A permit granted
49 shall remain as an appurtenance of the land described
50 in the permit through the date specified in the permit

1 and any extension of the permit or until earlier date
2 if the permit or any extension of the permit is
3 modified or canceled under section 19 of this Act.
4 Upon application for a permit prior to the termination
5 date specified in the permit, a permit may be renewed
6 by the executive director for any period of time not
7 to exceed ten years.

8 Sec. 14. NEW SECTION. PRIORITY OF PERMITS FOR
9 DIVERSION, STORAGE, AND WITHDRAWAL.

10 1. In the consideration of applications for
11 permits, priority in processing shall be given to
12 persons in the order that the applications are
13 received. The executive director or the commission
14 on appeal shall determine the duration and frequency
15 of withdrawal and the quantity of water for which
16 a permit may be granted. The use of water for ordinary
17 household purposes, and for poultry, livestock, and
18 domestic animals shall have priority over other uses.
19 Any person with an existing irrigation system in use
20 prior to May 16, 1957, shall be issued a permit to
21 continue unless its use damages some other riparian
22 user. In the consideration of applications for per-
23 mits by regulated users, the declared policies and
24 principles of beneficial use as set forth in this
25 part are the standards for the determination of the
26 disposition of the applications for permits. This
27 part does not impair the vested right of any person.

28 2. When permits are modified or canceled, priority
29 for permits shall be given to applicants or permit
30 holders who use water for agricultural research.
31 This subsection does not give priority to those
32 applicants or permit holders in preference to other
33 classes granted priority by this section.

34 Sec. 15. NEW SECTION. PERMITS FOR BENEFICIAL
35 USE--PROHIBITIONS.

36 1. The executive director with approval of the
37 commission may issue a permit for beneficial use of
38 water in a watercourse if the established average
39 minimum water flow is preserved.

40 2. A use of water shall not be authorized if it
41 will impair the effect of this chapter or any other
42 pollution control law of this state.

43 3. A permit shall not be issued or continued if
44 it will impair the navigability of any navigable
45 watercourse.

46 Sec. 16. NEW SECTION. WHEN PERMIT REQUIRED.

47 1. A permit shall be required for the following:

48 a. A municipal corporation or a person supplying
49 a municipal corporation which increases its water
50 use in excess of one hundred thousand gallons or three

1 percent, whichever is the greater, per day more than
2 its highest per day beneficial use prior to May 16,
3 1957. The corporation or person shall make reasonable
4 provision for the storage of water at times when the
5 daily use of the water by the corporation or person
6 is less than the amount specified in this subsection.

7 b. Except for a nonregulated use, a person using
8 in excess of twenty-five thousand gallons of water
9 per day, diverted, stored, or withdrawn from any
10 source of supply except a municipal water system or
11 any other source specifically exempted under this
12 part.

13 c. A person who diverts water or any material
14 from the surface directly into an underground
15 watercourse or basin.

16 d. Industrial users of water having their own
17 water supply within the territorial boundaries of
18 municipal corporations when the water use exceeds
19 three percent more than the highest per day beneficial
20 use prior to May 16, 1957.

21 2. The commission may adopt, modify, or repeal
22 rules pursuant to chapter 17A specifying the conditions
23 under which the executive director may authorize
24 specific nonrecurring minor uses of water for periods
25 not to exceed one year through registration.

26 3. Notwithstanding any exemptions from permit
27 requirements, nothing in this part exempts water users
28 from requirements for reporting which the commission
29 adopts by rule.

30 Sec. 17. NEW SECTION. TAKING WATER PROHIBITED.
31 A person shall not take water from a natural
32 watercourse, underground basin or watercourse, drainage
33 ditch, or settling basin within this state for any
34 purpose other than a nonregulated use except in
35 compliance with this part. However, existing uses
36 may be continued during the period of the pendency
37 of an application for a permit.

38 Sec. 18. NEW SECTION. RIGHTS PRESERVED. This
39 part does not deprive any person of the right to use
40 diffused waters, to drain land by use of tile, open
41 ditch, or surface drainage, or to construct an
42 impoundment on the person's property or across a
43 stream that originates on the person's property if
44 provision is made for safe construction and for a
45 continued established average minimum flow when the
46 flow is required to protect the rights of water users
47 below.

48 Sec. 19. NEW SECTION. MODIFICATION OR CANCELLATION
49 OF PERMITS. Each permit issued under this part is
50 irrevocable for its term and for any extension of

1 its term except as follows:

2 1. A permit may be modified or canceled by the
3 department with the consent of the permittee.

4 2. Subject to appeal to the commission, a permit
5 may be modified or canceled by the executive director
6 if any of the following occur:

7 a. There is a breach of the terms of the permit.

8 b. There is a violation of the law pertaining
9 to the permit by the permittee or the permittee's
10 agents.

11 c. There is a circumstance of nonuse as provided
12 in section 20 of this Act.

13 d. The department finds that modification or
14 cancellation is necessary to protect the public health
15 or safety, to protect the public interests in lands
16 or waters, or to prevent substantial injury to persons
17 or property in any manner. Before the modification
18 or cancellation is effective, the department shall
19 give at least thirty days' written notice mailed to
20 the permittee at the permittee's last known address,
21 stating the grounds of the proposed modification
22 or cancellation and giving the permittee an opportunity
23 to be heard on the proposal.

24 3. By written order to the permittee, the
25 department may suspend operations under a permit if
26 the executive director finds it necessary in an
27 emergency to protect the public health, to protect
28 the public interest in waters against imminent danger
29 of substantial injury in any manner or to an extent
30 not expressly authorized by the permit. The department
31 may require the permittee to take measures necessary
32 to prevent or remedy the injury, but an order shall
33 not be in effect for more than thirty days from the
34 date of issue without giving the permittee at least
35 ten days' written notice of the order and an
36 opportunity to be heard on the order.

37 Sec. 20. NEW SECTION. TERMINATION OF PERMIT.

38 The right of the permittee and the permittee's
39 successors to the use of water shall terminate when
40 the permittee or the permittee's successors fail for
41 three consecutive years to use it for the specific
42 beneficial purpose authorized in the permit and, after
43 notification by the department of intent to cancel
44 the permit for nonuse, the permittee or the permittee's
45 successors fail to demonstrate adequate plans to use
46 water within a reasonable time.

47 Sec. 21. NEW SECTION. DISPOSAL OF PERMIT. A
48 permittee may sell, transfer, or assign a permit by
49 conveying, leasing, or otherwise transferring the
50 ownership of the land described in the permit, but

1 the permit does not constitute ownership or absolute
2 rights of use of the waters. The waters remain sub-
3 ject to the principle of beneficial use and the orders
4 of the executive director or commission.

5 Sec. 22. NEW SECTION. UNAUTHORIZED DEPLETING
6 USES. If a person files a complaint with the
7 department that another person is making a depleting
8 use of water not expressly exempted as a nonregulated
9 use under this part and without a permit to do so,
10 the department shall cause an investigation to be
11 made and if the facts stated in the complaint are
12 verified the department shall order the discontinuance
13 of the use.

14 Sec. 23. NEW SECTION. PROHIBITED ACTS--POWERS
15 OF COMMISSION AND EXECUTIVE DIRECTOR.

16 1. A person shall not erect, use or maintain a
17 structure, deposit, or excavation in or on a floodway
18 or flood plains, which will adversely affect the ef-
19 ficiency of or unduly restrict the capacity of the
20 floodway, adversely affect the control, development,
21 protection, allocation, or utilization of the water
22 resources of the state, or adversely affect or
23 interfere with the state comprehensive plan for water
24 resources or an approved local water resources plan,
25 and the same are declared to be public nuisances.
26 However, this subsection does not apply to dams
27 constructed and operated under the authority of chapter
28 469.

29 2. The department may commence, maintain, and
30 prosecute any appropriate action to enjoin or abate
31 a nuisance, including any of the nuisances specified
32 in subsection 1 and any other nuisance which adversely
33 affects flood control.

34 3. If a person desires to erect or make or to
35 permit a structure, dam, obstruction, deposit or
36 excavation, other than a dam constructed and operated
37 under chapter 469, to be erected, made, used, or
38 maintained in or on any floodway or flood plains,
39 the person shall file a verified written application
40 with the department, setting forth information as
41 required by rule of the commission. The department,
42 after an investigation, shall approve or deny the
43 application imposing conditions and terms as prescribed
44 by the department.

45 4. The department may maintain an action in equity
46 to enjoin a person from erecting or making or
47 permitting to be made a structure, dam, obstruction,
48 deposit, or excavation other than a dam constructed
49 and operated under the authority of chapter 469, for
50 which a permit has not been granted. The department

1 may also abate as a public nuisance any structure,
2 dam, obstruction, deposit, or excavation erected or
3 made without the permit required under this part
4 within one year of cessation of construction. The
5 costs of the abatement shall be borne by the violator.

6 5. The department may remove or eliminate a struc-
7 ture, dam, obstruction, deposit, or excavation in
8 a floodway which adversely affects the efficiency
9 of or unduly restricts the capacity of the floodway,
10 by an action in condemnation, and in assessing the
11 damages in the proceeding, the appraisers and the
12 court shall take into consideration whether the
13 structure, dam, obstruction, deposit, or excavation
14 is lawfully in or on the floodway in compliance with
15 this part.

16 6. The department may require, as a condition
17 of an approval order or permit granted pursuant to
18 this part or chapter 469, the furnishing of a
19 performance bond with good and sufficient surety,
20 conditioned upon full compliance with the order or
21 permit and the rules of the commission. In determining
22 the need for and amount of bond, the department shall
23 give consideration to the hazard posed by the
24 construction and maintenance of the approved works
25 and the protection of the health, safety, and welfare
26 of the people of the state. This subsection does
27 not apply to orders or permits granted to a
28 governmental entity.

29 7. When approving a request to straighten a stream,
30 the department may establish as a condition of appro-
31 val a permanent prohibition against tillage of land
32 owned by the person receiving the approval and lying
33 within a minimum distance from the stream sufficient
34 in the judgment of the director or commission to hold
35 soil erosion to reasonable limits. The department
36 shall record the prohibition in the office of the
37 county recorder of the appropriate county and the
38 prohibition shall attach to the land.

39 8. The commission shall establish, by rule,
40 thresholds for dimensions and effects, and any
41 structure, dam, obstruction, deposit, or excavation
42 having smaller dimensions and effects than those es-
43 tablished by the commission is not subject to regu-
44 lation under this section. The thresholds shall be
45 established so that only those structures, dams,
46 obstructions, deposits, or excavations posing a
47 significant threat to the well-being of the public
48 and the environment are subject to regulation.

49 Sec. 24. NEW SECTION. FLOOD PLAINS--ENCROACHMENT
50 LIMITS. The commission may establish and enforce

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1 rules for the orderly development and wise use of
2 the flood plains of any river or stream within the
3 state and alter, change, or revoke the rules. The
4 commission shall determine the characteristics of
5 floods which reasonably may be expected to occur and
6 may establish by order encroachment limits, protection
7 methods, and minimum protection levels appropriate
8 to the flooding characteristics of the stream and
9 to reasonable use of the flood plains. The order
10 shall fix the length of flood plains to be regulated
11 at any practical distance, the width of the zone
12 between the encroachment limits so as to include por-
13 tions of the flood plains adjoining the channel, which
14 with the channel, are required to carry and discharge
15 the flood waters or flood flow of the river or stream,
16 and the design discharge and water surface elevations
17 for which protection shall be provided for projects
18 outside the encroachment limits but within the limits
19 of inundation. Plans for the protection of projects
20 proposed for areas subject to inundation shall be
21 reviewed as plans for flood control works within the
22 purview of section 25 of this Act. An order
23 establishing encroachment limits shall not be issued
24 until due notice of the proposed order is given and
25 opportunity for public hearing given for the
26 presentation of protests against the order. In
27 establishing the limits, the commission shall avoid
28 to the greatest possible degree the evacuation of
29 persons residing in the area of a floodway, the removal
30 of residential structures occupied by the persons
31 in the area of a floodway, and the removal of
32 structures erected or made prior to July 4, 1965,
33 which are located on the flood plains of a river or
34 stream but not within the area of a floodway.
35 The commission shall cooperate with and assist
36 local units of government in the establishment of
37 encroachment limits, flood plain regulations, and
38 zoning ordinances relating to flood plain areas within
39 their jurisdiction. Encroachment limits, flood plain
40 regulations, or flood plain zoning ordinances proposed
41 by local units of government shall be submitted to
42 the department for review and approval prior to
43 adoption by the local units of government. Changes
44 or variations from an approved regulation or ordinance
45 as it relates to flood plain use are subject to
46 approval by the commission prior to adoption.
47 Individual applications, plans, and specifications
48 and individual approval orders shall not be required
49 for works on the flood plains constructed in conformity
50 with encroachment limits, flood plain regulations,

1 or zoning ordinances adopted by the local units of
2 government and approved by the commission.

3 Sec. 25. NEW SECTION. FLOOD CONTROL WORKS
4 COORDINATED. All flood control works in the state,
5 which are established and constructed after the
6 effective date of this Act, shall be coordinated in
7 design, construction, and operation according to sound
8 and accepted engineering practice so as to effect
9 the best flood control obtainable throughout the
10 state. A person shall not construct or install works
11 of any nature for flood control until the proposed
12 works and the plans and specifications for the works
13 are approved by the commission. The commission shall
14 consider all the pertinent facts relating to the
15 proposed works which will affect flood control and
16 water resources in the state and shall determine
17 whether the proposed works in the plans and
18 specifications will be in aid of and acceptable as
19 part of, or will adversely affect and interfere with
20 flood control in the state, adversely affect the
21 control, development, protection, allocation, or
22 utilization of the water resources of the state, or
23 adversely affect or interfere with the state
24 comprehensive plan for water resources or an approved
25 local water resources plan. In the event of
26 disapproval, the commission shall set forth the objec-
27 tionable features so that the proposed works and the
28 plans and specifications for the proposed works may
29 be corrected or adjusted to obtain approval.

30 This section applies to drainage districts, soil
31 conservation districts, the state conservation
32 commission, political subdivisions of the state, and
33 private persons undertaking projects relating to flood
34 control.

35 Sec. 26. NEW SECTION. PERMIT APPLICATION
36 PROCEDURES.

37 1. The commission shall adopt, modify, or repeal
38 rules establishing procedures by which permits required
39 under this part shall be issued, suspended, revoked,
40 modified, or denied. The procedures shall include
41 provisions for application, an application fee
42 sufficient to pay the administrative costs of the
43 permit process, public notice and opportunity for
44 public hearing, and contested cases.

45 2. Action by the department upon an application
46 for a permit required under this part may be appealed
47 to the commission by the applicant or any affected
48 person within thirty days of the department's action.
49 A hearing before the commission or its designee is
50 a contested case. The hearings and judicial review

1 of decisions of the commission shall be carried out
2 in accordance with chapter 17A. Notwithstanding
3 chapter 17A, petitions for judicial review may be
4 filed in the district court of Polk county or of any
5 county in which the property affected is located.
6 If the commission, the district court, or the supreme
7 court determines that the action of the commission
8 shall be stayed, the petitioner shall file an
9 appropriate bond approved by the court.

10 Sec. 27. NEW SECTION. VIOLATION.

11 1. The commission may issue any order necessary
12 to secure compliance with or prevent a violation of
13 this part or the rules adopted pursuant to this part.
14 The attorney general shall, on request of the
15 department, institute any legal proceedings necessary
16 in obtaining compliance with an order of the
17 commission.

18 2. A person who violates a provision of this part
19 or a rule or order adopted or promulgated or the
20 conditions of a permit issued pursuant to this part
21 is subject to a civil penalty not to exceed five
22 hundred dollars for each day that a violation occurs.

23 Sec. 28. NEW SECTION. COORDINATION WITH
24 CONSERVANCY DISTRICTS. The commission and the boards
25 of the conservancy districts established by chapter
26 467D shall coordinate their efforts in carrying out
27 the purposes of this chapter and chapter 467D. In
28 addition to other powers and duties conferred by law,
29 the department shall:

30 1. Offer advice and assistance as appropriate
31 to the boards of the several conservancy districts
32 in the state in discharging their powers and duties.

33 2. Review and make recommendations as necessary
34 to bring the plan of each of the conservancy districts,
35 and any subsequent changes in the plan, into conformity
36 with the statewide water resources plan established
37 by the commission pursuant to section 11 of this Act.

38 3. Inform the board of any conservancy district
39 of any of the following:

40 a. The receipt of each application for a permit
41 to divert, store, or withdraw either surface or
42 underground waters at any place within the district,
43 filed with the executive director pursuant to this
44 part.

45 b. The receipt of each application for approval
46 of a proposed dam, obstruction, deposit, or excavation
47 in or on any floodway or flood plain in the district,
48 filed with the executive director pursuant to section
49 23 of this Act.

50 c. Any proposed order which would establish

1 encroachment limits and zoning regulations on any
2 flood plain in the district, filed with the executive
3 director pursuant to section 24 of this Act.

4 d. The receipt of each application for approval
5 of a proposed flood control structure or works, filed
6 with the executive director pursuant to section 25
7 of this Act.

8 Sec. 29. Section 68B.2, subsection 4, Code 1981,
9 is amended to read as follows:

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

25 Sec. 30. Section 83A.3, subsection 5, Code 1981,
26 is amended to read as follows:

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

29 Sec. 31. Section 84.2, subsections 11, 12, 14,
30 and 16, Code 1981, are amended to read as follows:

31 11. "Illegal oil" means oil which has been produced
32 from any well within the state in excess of the
33 quantity permitted by any rule or order of the ~~ecouncil~~
34 department.

35 12. "Illegal gas" means gas which has been produced
36 from any well within this state in excess of the
37 quantity permitted by any rule or order of the ~~ecouncil~~
38 department.

39 14. "Certificate of clearance" means a permit
40 prescribed by the ~~ecouncil~~ department for the
41 transportation or the delivery of oil or gas or product
42 and issued or registered in accordance with the rule
43 or order requiring ~~such~~ the permit.

44 16. "~~Ecouncil~~" "Department" means ~~Iowa-natural~~
45 ~~resources-council-as-defined-in-chapter-455A~~ the
46 department of soil conservation.

47 Sec. 32. Section 84.2, Code 1981, is amended by
48 adding the following new subsection:

49 NEW SUBSECTION. "Committee" means the state soil
50 conservation committee.

1 Sec. 33. Section 84.4, unnumbered paragraph 1,
2 Code 1981, as amended by Acts of the Sixty-ninth
3 General Assembly, 1981 Session, chapter 41, section
4 3, is amended to read as follows:

5 The ~~ecouneit~~ department has the duty of administering
6 this chapter. The state geologist shall act as
7 administrator with the duty of enforcing the
8 regulations and orders of the ~~ecouneit~~ department
9 applicable to the crude petroleum oil and natural
10 gas and metallic mineral resources of this state and
11 the provisions of this chapter. The ~~ecouneit~~ department
12 has the duty to make investigations it deems proper
13 to determine whether waste exists or is imminent or
14 whether other facts exist which justify action. The
15 ~~ecouneit~~ department acting through the office of the
16 state geologist has the authority:

17 Sec. 34. Section 84.4, subsection 1, paragraphs
18 d, e, and i, Code 1981, are amended to read as follows:

19 d. The furnishing of a reasonable bond with good
20 and sufficient surety, conditioned upon the full
21 compliance with ~~the provisions of~~ this chapter, and
22 the rules of the ~~ecouneit~~ committee prescribed to
23 govern the production of oil and gas on state and
24 private lands within the state of Iowa;

25 e. That the production from wells be separated
26 into gaseous and liquid hydrocarbons, and that each
27 be accurately measured by ~~such~~ the means and upon
28 ~~such~~ standards as ~~may be~~ prescribed by the ~~ecouneit~~
29 committee;

30 i. That every person who produces, sells,
31 purchases, acquires, stores, transports, refines,
32 or processes native and indigenous Iowa produced crude
33 oil or gas in this state shall keep and maintain
34 within this state complete and accurate records of
35 the quantities ~~thereof~~ of oil or gas, which records
36 shall be available for examination by the ~~ecouneit~~
37 ~~ex-its-agents~~ department at all reasonable times,
38 and that every such person file with the ~~ecouneit~~-~~such~~
39 department the reports as it may prescribe with respect
40 to ~~such~~ the oil or gas or the products ~~thereof~~ of
41 the oil or gas.

42 Sec. 35. Section 84.5, Code 1981, as amended by
43 Acts of the Sixty-ninth General Assembly, 1981 Session,
44 chapter 41, section 4, is amended to read as follows:

45 84.5 DRILLING PERMIT REQUIRED. It is unlawful
46 to commence operations for the drilling of a well
47 for oil or gas or the production of metallic minerals
48 or to commence operations to deepen any well to a
49 different geological formation without first giving
50 the state geologist notice of intention to drill,

1 and without first obtaining a permit from the state
2 geologist, under rules prescribed by the ~~council~~
3 ~~committee~~ and paying to the ~~council~~ department a fee
4 ~~of fifty dollars~~ established by rule of the department
5 for the well. The fee shall be used ~~by the council~~
6 ~~for administering this chapter, including the payment~~
7 ~~of expenses incurred in publishing legal notice~~
8 ~~deposited in the general fund of the state.~~

9 Sec. 36. Section 84.6, Code 1981, is amended to
10 read as follows:

11 84.6 ~~COUNCIL~~ DEPARTMENT SHALL DETERMINE MARKET
12 DEMAND AND REGULATE THE AMOUNT OF PRODUCTION. The
13 ~~council~~ department shall determine market demand for
14 each marketing district and regulate the amount of
15 production as follows:

16 1. The ~~council~~ department shall limit the
17 production of oil and gas within each marketing
18 district to that amount which can be produced without
19 waste, and which does not exceed the reasonable market
20 demand.

21 2. ~~Whenever~~ When the ~~council~~ department limits
22 the total amount of oil or gas which may be produced
23 in the state or a marketing district, the ~~council~~
24 department shall allocate or distribute the allowable
25 production among the pools ~~therein~~ in the district
26 on a reasonable basis, giving, where reasonable under
27 the circumstances to each pool with small wells of
28 settled production, an allowable production which
29 prevents the general premature abandonment of such
30 the wells in the pool.

31 3. ~~Whenever~~ When the ~~council~~ department limits
32 the total amount of oil or gas which may be produced
33 in any pool in this state to an amount less than that
34 amount which the pool could produce if no restriction
35 were imposed, which limitation is imposed either
36 incidental to, or without, a limitation of the total
37 amount of oil or gas produced in the marketing district
38 wherein the pool is located, the ~~council~~ department
39 shall allocate or distribute the allowable production
40 among the ~~several~~ wells or producing properties in
41 the pool on a reasonable basis, preventing or
42 minimizing reasonable avoidable drainage, so that
43 each property will have the opportunity to produce
44 or to receive its just and equitable share, subject
45 to the reasonable necessities for the prevention of
46 waste.

47 4. In allocating the market demand for gas as
48 between pools within marketing districts, the ~~council~~
49 department shall give due regard to the fact that
50 gas produced from oil pools is to be regulated in

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1 a manner as which will protect the reasonable use
2 of its energy for oil production.

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

17 Sec. 37. Section 84.7, unnumbered paragraph 1
18 and subsections 1 and 4, Code 1981, are amended to
19 read as follows:

20 The ~~energy~~ department shall set spacing units
21 as follows:

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

33 4. An order establishing units for a pool shall
34 cover all lands determined or believed to be underlaid
35 by ~~such~~ the pool, and may be modified by the state
36 geologist from time to time to include additional
37 areas determined to be underlaid by ~~such~~ the pool.
38 When found necessary for the prevention of waste,
39 or to avoid the drilling of unnecessary wells or to
40 protect correlative rights, an order establishing
41 spacing units in a pool may be modified by the state
42 geologist to increase the size of spacing units in
43 the pool or any zone ~~thereof~~ of the pool, or to permit
44 the drilling of additional wells on a reasonable
45 uniform plan in the pool, or any zone ~~thereof~~ of the
46 pool. Orders of the state geologist may be appealed
47 to the ~~energy~~ department within thirty days.

48 Sec. 38. Section 84.8, Code 1981, is amended to
49 read as follows:

50 84.8 INTEGRATION OF FRACTIONAL TRACTS.

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

28 2. Each ~~such~~ pooling order shall make provision
29 for the drilling and operation of a well on the spacing
30 unit, and for the payment of the reasonable actual
31 cost thereof of the well by the owners of interests
32 in the spacing unit, plus a reasonable charge for
33 supervision. In the event of any dispute as to such
34 costs the ~~owner~~ department shall determine the
35 proper costs. If ~~one-or-more-of-the-owners~~ an owner
36 shall drill and operate, or pay the expenses of
37 drilling and operating the well for the benefit of
38 others, then, the owner ~~or-owners~~ so drilling or
39 operating shall, upon complying with the terms of
40 section 84.10, have a lien on the share of production
41 from the spacing unit accruing to the interest of
42 each of the other owners for the payment of his a
43 proportionate share of ~~such~~ the expenses. All the
44 oil and gas subject to the lien shall be marketed
45 and sold and the proceeds applied in payment of the
46 expenses secured by ~~such~~ the lien as provided for
47 in section 84.10.

48 Sec. 39. Section 84.9, Code 1981, is amended to
49 read as follows:

50 84.9 VOLUNTARY AGREEMENTS FOR UNIT OPERATION

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1 VALID. An agreement for the unit or co-operative
2 development and operation of a field or pool, in
3 connection with the conduct of a repressuring or
4 pressure maintenance operations, cycling or recycling
5 operations, including the extraction and separation
6 of liquid hydrocarbons from natural gas ~~in connection~~
7 ~~therewith~~, or any other method of operation, including
8 water floods, ~~is authorized and~~ may be performed and
9 ~~shall not be held or construed to violate~~ without
10 being in violation of any of the statutes of this
11 state relating to trusts, monopolies, or contracts
12 and combinations in restraint of trade, if the
13 agreement is approved by the council department as
14 being in the public interest, protective of correlative
15 rights, and reasonably necessary to increase ultimate
16 recovery or to prevent waste of oil or gas. Such
17 The agreements bind only the persons who execute them,
18 and their heirs, successors, assigns, and legal
19 representatives.

20 Sec. 40. Section 84.11, Code 1981, is amended
21 to read as follows:

22 84.11 RULES COVERING PRACTICE BEFORE COUNCIL
23 DEPARTMENT.

24 1. The council committee shall prescribe rules
25 governing the practice and procedure before it.

26 2. No An order, or amendment thereof of an order,
27 except in an emergency, shall not be made by the
28 council department without a public hearing upon at
29 least ten days' notice. The public hearing shall
30 be held at such the time and place as may be prescribed
31 by the council committee, and any interested person
32 shall be is entitled to be heard.

33 3. When an emergency requiring immediate action
34 is found to exist the council ~~is authorized to~~
35 department may issue an emergency order without notice
36 of hearing, which shall be effective upon promulgation.
37 No An emergency order shall not remain effective for
38 more than fifteen days.

39 4. Any notice required by this chapter shall be
40 given at the election of the council department either
41 by personal service or by letter to the last recorded
42 address and one publication in a newspaper of general
43 circulation in the state capital city and in a
44 newspaper of general circulation in the county where
45 the land affected, or some part thereof, of the land
46 is situated. The notice shall issue in the name of
47 the state, shall be signed by the state geologist,
48 shall specify the style and number of the proceeding,
49 the time and place of the hearing, and shall briefly
50 state the purpose of the proceeding. Should the

1 ~~county~~ department elect to give notice by personal
2 service, ~~such the~~ service may be made by any officer
3 authorized to serve process, or by any agent of the
4 ~~county~~ department, in the same manner as is provided
5 by law for the service of original notices in civil
6 actions in the district court of the state. Proof
7 of the service by such agent shall be by the affidavit
8 of the person making personal service.

9 5. All orders issued by the ~~county~~ department
10 shall be in writing, shall be entered in full and
11 indexed in books to be kept by the state geologist
12 for that purpose, and shall be public records open
13 for inspection at all times during reasonable office
14 hours. A copy of any rule or order certified by the
15 state geologist or any officer of the ~~county~~
16 department shall be received in evidence in all courts
17 of this state with the same effect as the original.

18 6. The ~~county~~ department may act upon its own
19 motion, or upon the petition of any interested person.
20 On the filing of a petition concerning any matter
21 within the jurisdiction of the ~~county~~ department,
22 the ~~county~~ department shall promptly fix a date for
23 a hearing ~~thereon~~, and shall cause notice of the
24 hearing to be given. The hearing shall be held without
25 undue delay after the filing of the petition. The
26 ~~county~~ department shall enter its order within thirty
27 days after the hearing.

28 Sec. 41. Section 84.12, Code 1981, is amended
29 to read as follows:

30 84.12 SUMMONING WITNESSES, ADMINISTERING OATHS,
31 REQUIRING PRODUCTION OF RECORDS--HEARING EXAMINERS
32 APPOINTED.

33 1. ~~The county shall have the power to~~ department
34 may summon witnesses, administer oaths, and require
35 the production of records, books, and documents for
36 examination at any hearing or investigation conducted.
37 ~~No~~ A person shall not be excused from attending and
38 testifying, or from producing books, papers, and
39 records before the ~~county~~ department or a court,
40 or from obedience to the subpoena of the ~~county~~
41 department or a court, on the ground or for the reason
42 that the testimony or evidence, documentary or
43 otherwise, required of ~~him~~ the person may tend to
44 incriminate ~~him~~ the person or subject ~~him~~ the person
45 to a penalty or forfeiture, ~~provided, that nothing~~
46 ~~herein contained shall be construed as requiring any.~~
47 However this subsection does not require a person
48 to produce any books, papers, or records, or to testify
49 in response to any inquiry not pertinent to some
50 question lawfully before ~~such county~~ the department

1 or court for determination. No A natural person shall
2 ~~be subjected~~ is not subject to criminal prosecution
3 or to any penalty or forfeiture for or on account
4 of any transaction, matter, or thing concerning which,
5 in spite of his objections, he the person may be
6 required to testify or produce as evidence, documentary
7 or otherwise, before the ~~county~~ department or court,
8 or in obedience to subpoena, ~~provided that no~~.
9 However, a person testifying shall not be exempted
10 from prosecution and punishment for perjury committed
11 in so testifying.

12 2. In case of failure or refusal on the part of
13 any person to comply with the subpoena issued by the
14 ~~county~~ department, or in case of the refusal of any
15 witness to testify as to any matter regarding which
16 ~~he the witness~~ may be interrogated, any court in the
17 state, upon the application of the ~~county~~ department,
18 may issue an attachment for ~~such the person~~ and compel
19 ~~him the person~~ to comply with ~~such the~~ subpoena, and
20 to attend before the ~~county~~ department and produce
21 ~~such the~~ records, books, and documents, for
22 examination, and to give his testimony. Such The
23 ~~courts shall have the power to~~ may punish for contempt
24 as in the case of disobedience to a like subpoena
25 issued by the court, or for refusal to testify ~~therein~~.

26 3. The ~~county~~ department may appoint a hearing
27 examiner or examiners to conduct hearings required
28 by this chapter. When so appointed, ~~such the~~ hearing
29 ~~examiner or examiners shall have and~~ may exercise
30 all of the powers delegated to the ~~county~~ department
31 by this section.

32 Sec. 42. Section 84.14, subsection 1, Code 1981,
33 is amended to read as follows:

34 1. Judicial review of an action of the county
35 department may be sought in accordance with the terms
36 ~~of the Iowa Administrative Procedure Act chapter 17A.~~
37 ~~Notwithstanding the terms of the Iowa Administrative~~
38 ~~procedure Act that chapter~~, petitions for judicial
39 review may be filed in the district court of Polk
40 county or in the district court of any county in which
41 the property affected or some portion ~~thereof~~ of the
42 property is located.

43 Sec. 43. Section 84.14, subsections 2 and 3, Code
44 1981, are amended by striking the subsections.

45 Sec. 44. Section 84.15, subsections 1 and 2, Code
46 1981, are amended to read as follows:

47 1. The sale, purchase, acquisition, transportation,
48 refining, processing, or handling of illegal oil,
49 illegal gas, or illegal product is hereby prohibited.
50 However, ~~no~~ a penalty by way of fine shall not be

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1 imposed upon a person who sells, purchases, acquires,
2 transports, refines, processes, or handles illegal
3 oil, illegal gas, or illegal product unless:
4 a. ~~Such~~ The person knows, or is put on notice,
5 of facts indicating that illegal oil, illegal gas,
6 or illegal product is involved, ~~or~~.
7 b. ~~Such~~ The person fails to obtain a certificate
8 of clearance with respect to ~~such~~ the oil, gas, or
9 product where prescribed by order of the ~~conseil~~
10 department, or fails to follow any other method
11 prescribed by an order of the ~~conseil~~ department for
12 the identification of ~~such~~ the oil, gas or product.
13 2. Illegal oil, illegal gas, and illegal product
14 are declared to be contraband and are subject to
15 seizure and sale ~~as herein provided~~; seizure and sale
16 to be in addition to any ~~and all~~ other remedies and
17 penalties provided in this chapter for violations
18 relating to illegal oil, illegal gas, or illegal
19 product. ~~Whenever~~ When the ~~conseil~~ department believes
20 that any oil, gas or product is illegal, the ~~conseil~~
21 department acting by the attorney general, shall bring
22 a civil action in rem in the district court of the
23 county where ~~such~~ the oil, gas, or product is found,
24 to seize and sell the same, or the ~~conseil~~ department
25 may include ~~such~~ an action in rem for the seizure
26 and sale of illegal oil, illegal gas, or illegal
27 products in any suit brought for an injunction or
28 penalty involving illegal oil, illegal gas, or illegal
29 product. Any person claiming an interest in oil,
30 gas, or product affected by ~~any such~~ the action shall
31 ~~have the right to~~ may intervene as an interested party
32 in ~~such~~ the action.
33 Sec. 45. Section 84.16, Code 1981, is amended
34 to read as follows:
35 84.16 PENALTIES.
36 1. Any person who violates any provision of this
37 chapter, or any rule or order of the ~~conseil~~ department
38 where no other penalty is provided shall ~~be~~ is guilty
39 of a simple misdemeanor.
40 2. If any person, for the purpose of evading this
41 chapter, or any rule or order of the ~~conseil~~
42 department, shall ~~make~~ makes or ~~cause~~ causes to be
43 made any false entry or statement in a report required
44 by this chapter or by any ~~such~~ rule or order, or shall
45 make makes or cause causes to be made any false entry
46 in any record, account, or memorandum required by
47 this chapter, or by any ~~such~~ rule or order, or shall
48 ~~omit~~ omits, or ~~cause~~ causes to be omitted, from any
49 ~~such~~ record, account, or memorandum, full, true, and
50 correct entries as required by this chapter, or by

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1 any ~~such~~ rule or order, or ~~shall-remove~~ removes from
2 this state or ~~destroy, mutilate, alter~~ destroys,
3 mutilates, alters, or falsify falsifies any such
4 record, account, or memorandum, such the person shall
5 be is guilty of a fraudulent practice.

6 3. Any person knowingly aiding or abetting any
7 other person in the violation of any provision of
8 this chapter, or any rule or order of the ~~conseil~~
9 department is subject to the same penalty
10 as that prescribed by this chapter for the violation
11 by ~~such the~~ other person.

12 Sec. 46. Section 84.17, Code 1981, is amended
13 to read as follows:

14 84.17 ACTION TO RESTRAIN VIOLATION OR THREATENED
15 VIOLATION.

16 1. ~~Whenever if~~ it appears that any person is
17 violating or threatening to violate any provision
18 of this chapter, or any rule or order of the ~~conseil~~
19 department, the conseil department shall bring suit
20 against such the person in the district court of any
21 county where the violation occurs or is threatened,
22 to restrain ~~such the~~ person from continuing ~~such the~~
23 violation or from carrying out the threat of violation.
24 In ~~any-such the~~ suit, the court ~~shall-have~~ has
25 jurisdiction to grant to the ~~conseil~~ department,
26 without bond or other undertaking, ~~such the~~ prohibitory
27 and mandatory injunctions as the facts may warrant,
28 including temporary restraining orders, preliminary
29 injunctions, temporary, preliminary, or final orders
30 restraining the movement or disposition of any illegal
31 oil, illegal gas, or illegal product, any of which
32 the court may order to be impounded or placed in the
33 custody of an agent appointed by the court.

34 2. If the ~~conseil-shall-fail~~ department fails
35 to bring suit to enjoin a violation or threatened
36 violation of any provision of this chapter, or any
37 rule or order of the ~~conseil~~ department, within ten
38 days after receipt of written request to do so by
39 any person who is or will be adversely affected by
40 ~~such the~~ violation, the person making ~~such the~~ request
41 may bring suit in ~~his the~~ person's own behalf to
42 restrain ~~such the~~ violation or threatened violation
43 in any court in which the ~~conseil~~ department might
44 have brought suit. The ~~conseil~~ department shall be
45 made a party defendant in ~~such the~~ suit in addition
46 to the person violating or threatening to violate
47 a provision of this chapter, or a rule or order of
48 the ~~conseil~~ department, and the action shall proceed
49 and injunctive relief may be granted to the ~~conseil~~
50 department or the petitioner without bond in the same

1 manner as if suit had been brought by the ~~ecouneil~~
2 department.

3 Sec. 47. Section 108.7, unnumbered paragraph 2,
4 Code 1981, is amended to read as follows:

5 Any action taken by the commission under the
6 ~~provisions of~~ this section shall ~~be~~ is subject to
7 the approval of the ~~Iowa-natural-resources-ecouneil~~
8 department of environmental quality.

9 Sec. 48. Section 109.15, Code 1981, is amended
10 to read as follows:

11 109.15 INJURY TO DAM. It shall ~~be~~ is unlawful
12 for any owner or ~~his~~ the owner's agent to remove or
13 destroy any existing dam, or alter it in a way so
14 as to lower the water level, without having received
15 written approval from the ~~Iowa-natural-resources~~
16 ~~ecouneil~~ department of environmental quality.

17 Sec. 49. Section 111.4, unnumbered paragraph 1,
18 Code 1981, is amended to read as follows:

19 No ~~A~~ person, association or corporation shall not
20 build or erect any pier, wharf, sluice, piling, wall,
21 fence, obstruction, building or erection of any kind
22 upon or over any state-owned land or water under the
23 jurisdiction of the commission, without first obtaining
24 from ~~such~~ the commission a written permit, ~~provided,~~
25 ~~however, that.~~ However, this provision shall ~~do~~
26 not apply to dams constructed and operated under the
27 ~~authority of~~ chapter 469. ~~No such~~ A permit, in matters
28 relating to or in any manner affecting flood control,
29 shall not be issued without approval of the ~~Iowa~~
30 ~~natural-resources-ecouneil~~ department of environmental
31 quality. ~~No~~ A person shall not maintain or erect
32 any structure beyond the line of private ownership
33 along or upon the shores of state-owned waters in
34 ~~such~~ a manner as to obstruct the passage of pedestrians
35 along the shore between the ordinary high-water mark
36 and the water's edge, except by permission of the
37 commission.

38 Sec. 50. Section 111.18, Code 1981, is amended
39 to read as follows:

40 111.18 JURISDICTION. Jurisdiction over all
41 meandered streams and lakes of this state and of state
42 lands bordering thereon, not now used by some other
43 state body for state purposes, is conferred upon the
44 commission. The exercise of this jurisdiction shall
45 be is subject to the approval of the ~~Iowa-natural~~
46 ~~resources-ecouneil~~ department of environmental quality
47 in matters relating to or in any manner affecting
48 flood control. The commission, with the approval
49 of the executive council, may establish parts of ~~such~~
50 the property into state parks, and when so established

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1 all of the provisions of this chapter relative to
2 public parks shall apply thereto to the property.

3 Sec. 51. Section 111.62, Code 1981, is amended
4 to read as follows:

5 111.62 COPY TO RESOURCES-COUNCIL DEPARTMENT.

6 A copy of the petition and ~~such~~ the applications,
7 plans, and specifications ~~as-are~~ required under the
8 ~~provisions-of~~ chapter 455A shall be filed with the
9 ~~Iowa-natural-resources-council~~ department of
10 environmental quality and any approval or permit
11 ~~required thereunder~~ under chapter 455A shall be
12 obtained prior to the establishment of ~~said~~ the water
13 recreational area or the granting of a permit ~~therefor~~
14 for the area by the state conservation commission.

15 Sec. 52. Section 111D.1, Code 1981, is amended
16 to read as follows:

17 111D.1 ACQUISITION BY OTHER THAN CONDEMNATION.

18 The state conservation commission, the ~~Iowa-natural~~
19 ~~resources-council~~ department of environmental quality,
20 any county conservation board, and any city or agency
21 ~~thereof of a city~~ may acquire by purchase, gift,
22 contract, or other voluntary means, but not by eminent
23 domain, conservation easements in land to preserve
24 scenic beauty, wildlife habitat, riparian lands, wet
25 lands, or forests, promote outdoor recreation, or
26 otherwise conserve for the benefit of the public the
27 natural beauty, natural resources, and public
28 recreation facilities of the state.

29 Sec. 53. Section 112.3, Code 1981, is amended
30 to read as follows:

31 112.3 HEARING--DAMAGES. After ~~said~~ the approval
32 the commission, if it wishes to proceed further with
33 the project, shall, with the consent of the ~~Iowa~~
34 ~~natural-resources-council~~ department of environmental
35 quality, fix a date of hearing not less than two weeks
36 from date of approval of the plan. Notice of the
37 day, hour and place of hearing, relative to proposed
38 work, shall be provided by publication at least once
39 a week for two consecutive weeks in some newspaper
40 of general circulation published in the county where
41 the project is located, or in the ~~county-of~~ counties
42 where the water elevations are affected, under the
43 tentative plan approved. The last ~~of-such~~ publication
44 ~~ex-publications~~ shall not be less than five days prior
45 to the day set for hearing. Any claim by any persons
46 ~~whomsoever,~~ for damages which may be caused by ~~said~~
47 the project shall be filed with the commission at
48 or prior to the time of the hearing ~~provided-herein.~~

49 Sec. 54. Section 308.1, Code 1981, is amended
50 to read as follows:

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

23 Sec. 55. Section 357A.1, subsection 7, Code 1981,
24 is amended by striking the subsection and inserting
25 in lieu thereof the following:

26 7. "Department" means the department of
27 environmental quality.

28 Sec. 56. Section 357A.5, Code 1981, is amended
29 to read as follows:

30 357A.5 WHO MAY BE HEARD. At the hearing on the
31 petition, any owner or occupant of land within the
32 boundaries of the area described in the petition may
33 appear, in person or by ~~his~~ a designated
34 representative, and any representative of the ~~council~~
35 department may also appear, in favor of or in
36 opposition to the incorporation and organization of
37 the proposed district. ~~Such~~ The appearances may also
38 be filed in writing prior to the time set for the
39 hearing.

40 Sec. 57. Section 357A.12, Code 1981, is amended
41 to read as follows:

42 357A.12 PLANS AND SPECIFICATIONS. As soon as
43 reasonably possible after incorporation of a district,
44 the board shall file with the supervisors and the
45 ~~council~~ department copies of the plans and
46 specifications for, and estimates of the cost of,
47 any improvements authorized by this chapter which
48 the board proposes to construct or acquire. The board
49 shall determine a reasonable fee which each member
50 shall pay for the privilege of utilizing the district's

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1 facilities which shall be known as a benefit unit.
2 Benefit units may be classified. The board, by
3 publication in a newspaper of general circulation
4 in the district, shall generally describe the planned
5 improvements, the area to be served and the fee members
6 will be required to pay for each service connected
7 to the water system.

8 Sec. 58. Section 357A.19, Code 1981, is amended
9 to read as follows:

10 357A.19 NOT EXEMPT FROM OTHER REQUIREMENTS.
11 ~~Nothing-in-this~~ This chapter shall ~~be construed to~~
12 ~~does not~~ exempt any district from the requirements
13 of any other statute, whether enacted prior to or
14 subsequent to July 1, 1970, under which the district
15 is required to obtain the permission or approval of,
16 or to notify, the ~~county~~ department, the Iowa commerce
17 commission, or any other agency of this state or of
18 any of its political subdivisions prior to proceeding
19 with construction, acquisition, operation, enlargement,
20 extension, or alteration of any works or facilities
21 which the district is authorized to undertake pursuant
22 to this chapter.

23 Sec. 59. Section 358.9, unnumbered paragraph 3,
24 Code 1981, is amended to read as follows:

25 In cases where the state of Iowa owns at least
26 four hundred acres of land contiguous to lakes within
27 ~~said the~~ district, ~~then-and-only-then-the-Iowa-natural~~
28 ~~resources-county~~ the state conservation commission
29 shall appoint two members of ~~said the~~ board of trustees
30 in addition to the three members ~~hereinbefore~~ provided
31 in this section. The additional two members shall
32 be ~~qualified-as-follows--They-shall-be~~ United States
33 citizens, not less than eighteen years of age, and
34 ~~shall-be~~ property owners within ~~said the~~ district.
35 ~~In-such-cases-the~~ The two additional appointive members
36 shall have equal vote and authority with other members
37 of trustees and shall hold office at the pleasure
38 of the ~~Iowa-natural-resources-county~~ state
39 conservation commission.

40 Sec. 60. Section 358A.24, Code 1981, is amended
41 to read as follows:

42 358A.24 CONFLICT WITH OTHER REGULATIONS. ~~Wherever~~
43 ~~If~~ the regulations made under ~~authority-of~~ this chapter
44 require a greater width or size of yards, courts or
45 other open spaces, or require a lower height of
46 building or less number of stories, or require a
47 greater percentage of lot to be left unoccupied, or
48 impose other higher standards than are required in
49 any other statute or local ordinance or regulation,
50 the ~~provisions-of-the~~ regulations made under ~~authority~~

1 of this chapter shall govern. ~~Wherever-the-provisions~~
2 of ~~If~~ any other statute or local ordinance or
3 regulation ~~require~~ requires a greater width or size
4 of yards, courts or other open spaces, or ~~require~~
5 requires a lower height of building or a less number
6 of stories, or ~~require~~ a greater percentage of lot
7 to be left unoccupied, or ~~impose~~ imposes other higher
8 standards than are required by the regulations made
9 under ~~authority-of~~ this chapter, the ~~provisions-of~~
10 ~~such other~~ statute or local ordinance or regulation
11 ~~shall-govern~~ governs. ~~Wherever-any~~ If a regulation
12 proposed or made under ~~authority-of~~ this chapter
13 relates to any structure, building, dam, obstruction,
14 deposit or excavation in or on the flood plains of
15 any river or stream, prior approval of the ~~Iowa-natural~~
16 ~~resources-council-shall-be~~ department of environmental
17 quality is required to establish, amend, supplement,
18 change, or modify ~~such the~~ regulation or to grant
19 any variation or exception ~~therefrom~~ from the
20 regulation.

21 Sec. 61. Section 414.21, Code 1981, is amended
22 to read as follows:

23 414.21 CONFLICTING RULES, ORDINANCES, AND STATUTES.
24 ~~Wherever~~ If the regulations made under ~~authority-of~~
25 this chapter require a greater width or size of yards,
26 courts or other open spaces, or ~~require~~ a lower height
27 of building or less number of stories, or ~~require~~
28 a greater percentage of lot to be left unoccupied,
29 or impose other higher standards than are required
30 in any other statute or local ordinance or regulation,
31 the ~~provisions-of-the~~ regulations made under ~~authority~~
32 of this chapter shall govern. ~~Wherever-the-provisions~~
33 of ~~If~~ any other statute or local ordinance or
34 regulation ~~require~~ requires a greater width or size
35 of yards, courts or other open spaces, or ~~require~~
36 a lower height of building or a less number of stories,
37 or ~~require~~ a greater percentage of lot to be left
38 unoccupied, or impose other higher standards than
39 are required by the regulations made under ~~authority~~
40 of this chapter, the ~~provisions-of-such other~~ statute
41 or local ordinance or regulation shall governs.
42 ~~Wherever-any~~ If a regulation proposed or made under
43 ~~authority-of~~ this chapter relates to any structure,
44 building, dam, obstruction, deposit or excavation
45 in or on the flood plains of any river or stream,
46 prior approval of the ~~Iowa-natural-resources-council~~
47 shall-be department of environmental quality is
48 required to establish, amend, supplement, change or
49 modify ~~such the~~ regulation or to grant any variation
50 or exception ~~therefrom~~ from the regulation.

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1 Sec. 62. Section 427.1, subsection 33, Code 1981,
2 is amended to read as follows:
3 33. IMPOUNDMENT STRUCTURES. The impoundment
4 structure and any land underlying an impoundment
5 located outside any incorporated city, which are not
6 developed or used directly or indirectly for
7 nonagricultural income-producing purposes and which
8 are maintained in a condition satisfactory to the
9 soil conservation district commissioners of the county
10 in which the impoundment structure and the impoundment
11 are located. Any person owning land which qualifies
12 for a property tax exemption under this subsection
13 shall apply to the county assessor each year before
14 the first of July for the exemption. The application
15 shall be made on forms prescribed by the department
16 of revenue. The first application shall be accompanied
17 by a copy of the water storage permit approved by
18 ~~the water-commissioner-of-the-iowa-natural-resources~~
19 ~~council~~ department of environmental quality and a
20 copy of the plan for the construction of the
21 impoundment structure and the impoundment. The
22 construction plan shall be used to determine the total
23 acre-feet of the impoundment and the amount of land
24 which is eligible for the property tax exemption
25 status. The county assessor shall annually review
26 each application for the property tax exemption under
27 this subsection and submit it, with the recommendation
28 of the soil conservation district commissioners, to
29 the board of supervisors for approval or denial.
30 Any applicant for a property tax exemption under this
31 subsection may appeal the decision of the board of
32 supervisors to the district court. As used in this
33 subsection, "impoundment" means any reservoir or pond
34 which has a storage capacity of at least eighteen
35 acre-feet of water or sediment at the time of
36 construction; "storage capacity" means the total area
37 below the crest elevation of the principal spillway
38 including the volume of any excavation in such area;
39 and "impoundment structure" means any dam, earthfill
40 or other structure used to create an impoundment.
41 Sec. 63. Section 455.18, unnumbered paragraph
42 2, Code 1981, is amended to read as follows:
43 Where the proposed district contemplates as its
44 object flood control or soil conservance the engineer
45 shall include in ~~his~~ the report data describing any
46 soil conservance or flood control improvements, the
47 nature ~~thereof~~ of the improvements, and ~~such~~ other
48 ~~additional~~ data as shall-be prescribed by the ~~iowa~~
49 ~~natural-resources-council~~ department of environmental
50 quality.

1 Sec. 64. Section 455B.53, subsection 6, Code 1981,
2 is amended to read as follows:

3 6. ~~Two members~~ One member who shall not be is
4 not a certificated waterworks operators operator or
5 certificated waste waterworks operators operator,
6 but who shall be interested and knowledgeable in water
7 supply or waste water collection and treatment, and
8 who shall represent the general public.

9 Sec. 65. Section 455B.53, Code 1981, is amended
10 by adding the following new subsection:

11 NEW SUBSECTION. One member who is a director of
12 the board of a rural water district established under
13 chapter 357A.

14 Sec. 66. Section 467A.3, subsection 15, Code 1981,
15 is amended by striking the subsection.

16 Sec. 67. Section 467A.4, subsections 1 and 3,
17 Code 1981, are amended to read as follows:

18 1. There is hereby established, to serve as an
19 agency of the state and to perform the functions
20 conferred upon it in this chapter, the department
21 of soil conservation. The department shall be
22 administered in accordance with the policies of the
23 state soil conservation committee, which shall approve
24 administrative rules proposed by the department before
25 the rules are promulgated adopted pursuant to chapter
26 17A. The state soil conservation committee shall
27 consist of a chairperson and twelve members. The
28 following shall serve as ex officio nonvoting members
29 of the committee: The director of the state
30 agricultural extension service, or the director's
31 designee, the secretary of agriculture, or the
32 secretary's designee, the director of the state
33 conservation commission or the director's designee,
34 and the executive director of the ~~Iowa natural~~
35 ~~resources council~~ department of environmental quality
36 or the executive director's designee. Eight voting
37 members shall be appointed by the governor subject
38 to confirmation by the senate. Six of the appointive
39 members shall be persons engaged in actual farming
40 operations, one of whom shall be a resident of each
41 of the six conservancy districts established by section
42 467D.3, and no more than one of whom shall be a
43 resident of any one county. The seventh and eighth
44 appointive members shall be chosen by the governor
45 from the state at large with one appointed to be a
46 representative of cities and one appointed to be a
47 representative of the mining industry. The committee
48 may invite the secretary of agriculture of the United
49 States to appoint one person to serve with the above-
50 mentioned members, and the president of the Iowa

1 county engineers association may designate a member
2 of the association to serve in the same manner, but
3 these persons shall have no vote and shall serve in
4 an advisory capacity only. ~~The director of the~~
5 ~~department of environmental quality shall be an ex~~
6 ~~officio nonvoting member.~~ The committee shall adopt
7 a seal, which seal shall be judicially noticed, and
8 may perform acts, hold public hearings, and promulgate
9 adopt rules as provided in chapter 17A as necessary
10 for the execution of its functions under this chapter.

11 3. The committee shall designate its chairperson,
12 and may change ~~such~~ the designation. The members
13 appointed by the governor shall serve for a period
14 of six years. Members shall be appointed in each
15 odd-numbered year to succeed members whose terms
16 expire as provided by section 69.19. Appointments
17 may be made at other times and for other periods as
18 are necessary to fill vacancies on the committee.
19 Members shall not be appointed to serve more than
20 two complete six-year terms. Members designated to
21 represent the secretary of agriculture, director of
22 the state conservation commission, or the executive
23 director of the Iowa natural resources council
24 department of environmental quality shall serve at
25 the pleasure of the officer making the designation.
26 A majority of the voting members of the committee
27 constitutes a quorum, and the concurrence of a majority
28 of the voting members of the committee in any matter
29 within their duties ~~shall be~~ is required for its
30 determination. The chairperson and members of the
31 committee, not otherwise in the employ of the state,
32 or any political subdivision, shall receive forty
33 dollars per diem as compensation for their services
34 in the discharge of their duties as members of the
35 committee. The committee shall determine the number
36 of days for which any committee member may draw per
37 diem compensation, but the total number of days for
38 which per diem compensation is allowed for the entire
39 committee shall not exceed four hundred days per year.
40 They ~~shall~~ are also be entitled to expenses, including
41 traveling expenses, necessarily incurred in the
42 discharge of their duties as members of the committee.
43 The per diem and expenses paid to the committee members
44 shall be paid from funds appropriated to the committee.
45 The committee shall provide for the execution of
46 surety bonds for all employees and officers who ~~shall~~
47 be are entrusted with funds or property, shall provide
48 for the keeping of a full and accurate record of all
49 proceedings and of all resolutions, regulations, and
50 orders issued or adopted, and shall provide for an

1 annual audit of the accounts of receipts and
2 disbursements.

3 Sec. 68. Section 467A.4, subsection 4, paragraph
4 n, subparagraph (5), Code 1981, is amended by striking
5 the subparagraph.

6 Sec. 69. Section 467C.5, Code 1981, is amended
7 to read as follows:

8 467C.5 APPROVAL OF COMMISSIONERS. No A district
9 shall not be established by any board of supervisors
10 under this chapter unless the organization of ~~such~~
11 the district is approved by the commissioners of any
12 soil conservation district established under the
13 provisions of chapter 467A and which is included all
14 or in part within ~~such~~ the district, nor shall any
15 such district be established without the approval
16 of the state conservation commission and the ~~fewa~~
17 ~~natural-resources-council~~ department of environmental
18 quality.

19 Sec. 70. Section 467D.2, subsection 3, Code 1981,
20 is amended by striking the subsection.

21 Sec. 71. Section 467D.6, subsections 1 and 11,
22 Code 1981, are amended to read as follows:

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

33 11. Maintain at its office a record of all the
34 conservancy district's proceedings, rules and orders,
35 and furnish copies ~~thereof~~ of them to the department
36 and the ~~council~~ department of environmental quality
37 upon request.

38 Sec. 72. Section 467D.16, unnumbered paragraph
39 1, Code 1981, is amended to read as follows:

40 The board shall prepare a plan for accomplishment
41 of the objectives of this chapter within the
42 conservancy district. For this purpose the board
43 may request and shall obtain from any state agency
44 or political subdivision information which the agency
45 or subdivision may have already collected which is
46 pertinent to preparation of the plan, and may conduct
47 ~~such~~ hearings as it deems necessary. The plan shall
48 establish an order of priorities for carrying out
49 projects necessary to accomplish the objectives of
50 this chapter, shall conform as nearly as practicable

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1 to the comprehensive state-wide water resources plan
2 established by the ~~conseil~~ department of environmental
3 quality pursuant to section ~~455A-17~~ 11 of this Act
4 and shall reflect the following general policies:
5 Sec. 73. Section 467D.17, Code 1981, is amended
6 to read as follows:
7 467D.17 PLAN PRESENTED TO DEPARTMENT AND COUNCIL.
8 The board shall tentatively adopt the plan by
9 resolution and shall present the plan to the department
10 and the ~~conseil~~ department of environmental quality
11 for review. The ~~conseil~~ department of environmental
12 quality shall within ninety days review the plan as
13 presented and make such recommendations as which,
14 in its discretion, it deems necessary to bring the
15 conservancy district's plan into conformity with the
16 comprehensive state-wide water resources plan
17 established by the ~~conseil~~ department of environmental
18 quality pursuant to section ~~455A-17~~ 12 of this Act.
19 The department shall review the plan as presented
20 and, with such amendments ~~as-are~~ necessary to bring
21 the plan into conformity with the state-wide water
22 resources plan, give final approval within one hundred
23 twenty days.
24 Sec. 74. Section 467D.19, Code 1981, is amended
25 to read as follows:
26 467D.19 IMPLEMENTATION. After final approval
27 of the plan, the board shall begin to implement the
28 plan as expeditiously as possible, within the
29 limitations of available appropriations and other
30 financial resources. When implementation of the plan
31 involves construction or improvement of any internal
32 improvement by the conservancy district, the board
33 may order the preparation of detailed plans and
34 specifications, and a refined cost estimate. Upon
35 completion of such the plans, specifications and cost
36 estimate to ~~their~~ its satisfaction, the board shall
37 adopt ~~the-same~~ them, subject to the approval of the
38 department, and shall let ~~the-contract-or~~ contracts
39 ~~therefor~~ in accordance with section 467D.20. Any
40 approval or permits from the ~~conseil~~ department of
41 environmental quality required under ~~other provisions~~
42 of law shall be obtained by the conservancy district
43 prior to initiation of any construction activity.
44 Sec. 75. Section 469.1, Code 1981, is amended
45 to read as follows:
46 469.1 PROHIBITION--PERMIT. No A dam shall not
47 be constructed, maintained, or operated in this state
48 in any navigable or meandered stream for any purpose,
49 or in any other stream for manufacturing or power
50 purposes, nor shall any water be taken from such the

1 streams for industrial purposes, unless a permit has
2 been granted by the ~~Iowa-natural-resources-council~~
3 department of environmental quality to the person,
4 firm, corporation, or municipality constructing,
5 maintaining, or operating the same dam.

6 Sec. 76. Section 469.2, unnumbered paragraph 1
7 and subsection 6, Code 1981, are amended to read as
8 follows:

9 Any person, firm, corporation, or municipality
10 making application for a permit to construct, maintain,
11 or operate a dam in any of the waters, including
12 canals, raceways, and other constructions necessary
13 or useful in connection with the development and
14 utilization of the water or water power, shall file
15 with the ~~Iowa-natural-resources-council~~ department
16 of environmental quality a written application, which
17 shall contain the following information:

18 6. ~~Such~~ Any additional information as may be
19 required by the ~~Iowa-natural-resources-council~~
20 department of environmental quality.

21 Sec. 77. Section 469.3, Code 1981, is amended
22 to read as follows:

23 469.3 NOTICE OF HEARING. When any an application
24 for a permit to construct, maintain, or operate a
25 dam ~~from~~ and after the passage of this chapter is
26 received, the ~~Iowa-natural-resources-council~~ department
27 of environmental quality shall fix a time for hearing,
28 and it shall give notice of the time and place of
29 ~~such~~ the hearing by publication once each week for
30 two successive weeks in at least one newspaper in
31 each county in which riparian lands will be affected
32 by the dam.

33 Sec. 78. Section 469.4, Code 1981, is amended
34 to read as follows:

35 469.4 HEARING. At the time fixed for ~~such~~ the
36 hearing or at any adjournment ~~thereof~~ of the hearing,
37 the ~~council~~ department of environmental quality shall
38 take evidence offered by the applicant and any other
39 person, either in support of or in opposition to the
40 proposed construction.

41 Sec. 79. Section 469.5, Code 1981, is amended
42 to read as follows:

43 469.5 WHEN PERMIT GRANTED. If it ~~shall~~ appear
44 appears to the ~~council~~ department of environmental
45 quality that the construction, operation, or
46 maintenance of the dam will not materially obstruct
47 existing navigation, ~~or~~ materially affect other public
48 rights, ~~will not~~ or endanger life or public health,
49 and any water taken from the stream in connection
50 with the project, excepting water taken by a

1 municipality for distribution in its water mains,
2 is returned ~~thereto~~ to the stream at the nearest
3 practicable place without being materially diminished
4 in quantity ~~or~~, polluted or rendered deleterious to
5 fish life, it shall grant the permit, upon ~~such~~ the
6 terms and conditions as it may prescribe.

7 Sec. 80. Section 469.9, unnumbered paragraph 1,
8 Code 1981, is amended to read as follows:

9 Every person, firm, or corporation, ~~excepting~~
10 except a municipality, to whom a permit is granted
11 to construct or to maintain and operate a dam already
12 constructed in or across any stream for the purpose
13 ~~herein~~ specified in this chapter, shall pay to the
14 ~~Iowa-natural-resources-council~~ department of
15 environmental quality a permit fee of one hundred
16 dollars and shall pay an annual inspection and license
17 fee, to be fixed by the ~~Iowa-natural-resources-council~~
18 environmental quality commission, on or before the
19 first day of January, 1925, and annually thereafter,
20 but in no case shall the annual inspection and license
21 fee be less than twenty-five dollars. All fees shall
22 be paid into the general fund of the state treasury.

23 Sec. 81. Section 469.10, Code 1981, is amended
24 to read as follows:

25 469.10 CONSTRUCTION AND OPERATION. The ~~Iowa~~
26 ~~natural-resources-council~~ department of environmental
27 quality shall investigate methods of construction,
28 reconstruction, operation, maintenance, and equipment
29 of dams, ~~so-as~~ to determine the best methods to
30 conserve and protect as far as possible all public
31 and riparian rights in the waters of the state and
32 ~~so-as~~ to protect the life, health, and property of
33 the general public; and the method of construction,
34 operation, maintenance, and equipment of ~~any-and~~ all
35 dams of any character or for any purpose in ~~such~~ the
36 waters ~~shall-be~~ is subject to the approval of the
37 ~~Iowa-natural-resources-council~~ department of
38 environmental quality.

39 Sec. 82. Section 469.11, Code 1981, is amended
40 to read as follows:

41 469.11 ACCESS TO WORKS. ~~Such-council-or-any~~
42 ~~member-agent-or-employee-thereof~~ The department
43 of environmental quality shall at all times be accorded
44 full access to all parts of any dam and its
45 appurtenances being constructed, operated, or
46 maintained in such waters.

47 Sec. 83. Section 469.12, Code 1981, is amended
48 to read as follows:

49 469.12 DUTY TO ENFORCE STATUTES. ~~It-shall-be~~
50 ~~the-duty-of-the-council-to~~ The department of

1 environmental quality shall require that all existing
2 statutes of the state, including ~~the provisions of~~
3 this chapter, with reference to the construction of
4 dams, ~~shall be~~ are enforced.

5 Sec. 84. Section 469.26, Code 1981, is amended
6 to read as follows:

7 469.26 REVOCATION OR FORFEITURE OF PERMIT. If
8 the person to whom a permit is issued under the
9 ~~provisions of~~ this chapter does not begin the
10 construction or the improvement of the dam or raceway
11 within one year from the date of the granting of the
12 permit, ~~his~~ the permit may be revoked by the ~~Iowa~~
13 ~~natural-resources-council~~ department of environmental
14 quality, and if any permit holder does not finish
15 and have in operation the plant for which the dam
16 is constructed within three years after the granting
17 of the permit, unless for good cause shown the ~~council~~
18 department has extended the time for completion, ~~such~~
19 the permit shall be forfeited.

20 Sec. 85. Section 469.29, Code 1981, is amended
21 to read as follows:

22 469.29 PERMITS FOR EXISTING DAMS. All licenses
23 and permits issued by the state executive council
24 prior to April 17, 1949, or by the Iowa natural
25 resources council prior to July 1, 1983, and in force
26 immediately prior to July 1, 1983, are hereby declared
27 ~~to be~~ in full force and effect and all of the powers
28 of administration relating to licenses or permits
29 ~~heretofore~~ issued are hereby vested in the ~~Iowa natural~~
30 resources-council department of environmental quality.

31 Sec. 86. PRIOR ACTIONS.

32 1. A rule adopted, permit or order issued, or
33 approval given under chapter 108, 109, 111, 112, 357A,
34 358A, 414, 427, 455A, 467A, 467C, or 467D, before
35 the effective date of this Act and in force just prior
36 to the effective date of this Act, by the Iowa natural
37 resources council or its director remains effective
38 until modified or rescinded by action of the department
39 of environmental quality or its executive director
40 unless the rule, order, permit, or approval is
41 inconsistent with or contrary to this Act.

42 2. A rule adopted, permit or order issued, or
43 approval given by the state department of health or
44 the commissioner of public health relating to private
45 water supply systems, private sewage disposal systems,
46 or water wells under chapter 135, before the effective
47 date of this Act and in force just prior to the
48 effective date of this Act remains effective until
49 modified or rescinded by action of the department
50 of environmental quality or its executive director

1 unless the rule, order, permit, or approval is
2 inconsistent with or contrary to this Act.
3 3. A rule adopted, permit or order issued or
4 approval given under chapter 84 before the effective
5 date of this Act and in force just prior to the
6 effective date of this Act, by the Iowa natural
7 resources council or its director remains effective
8 until modified or rescinded by action of the department
9 of soil conservation unless the rule, order, permit,
10 or approval is inconsistent with or contrary to this
11 Act.

12 Sec. 87. EMPLOYEE TRANSFER OR TERMINATION. The
13 employees of the Iowa natural resources council
14 employed pursuant to chapter 455A, whose duty
15 assignments are not terminated or otherwise combined
16 because of this Act are transferred to the department
17 of environmental quality. However, an employee whose
18 duty assignment is terminated because of this Act
19 may be reassigned to other duties. The Iowa merit
20 employment commission shall adopt rules to carry out
21 the reassignment or transfer and shall arbitrate and
22 decide a written appeal made by an employee concerning
23 a transfer, reassignment, or reclassification made
24 necessary by this Act. An employee shall not lose
25 benefits accrued, including but not limited to salary,
26 retirement, vacation, or sick leave, because of
27 transfer or reassignment.

28 Sec. 88. EFFECTIVE DATE--TRANSITION. The effective
29 date of this Act is July 1, 1983, except that this
30 section is effective January 1, 1983. After January
31 1, 1983, the governor may authorize the environmental
32 quality commission, the executive director of the
33 department of environmental quality, the state soil
34 conservation committee and the director of soil
35 conservation to plan for the transfer of powers,
36 duties, records, equipment, other property, and
37 personnel as provided in this Act.

38 The terms of office of the members of the Iowa
39 natural resources council expire effective July 1,
40 1983.

41 Sec. 89. Chapter 455A and sections 84.13 and
42 135.20, Code 1981, are repealed."

43 2. Amend the title, by striking lines 1 through
44 11 and inserting in lieu thereof the following: "An
45 Act to consolidate the management and regulation of
46 water resources by transferring to the department
47 of environmental quality and the department of soil
48 conservation the powers and duties of the Iowa natural
49 resources council and the powers and duties of the
50 state department of health relating to the regulation

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1 of the construction, maintenance, and abandonment
2 of private water systems and water wells and private
3 sewage disposal systems, making corresponding
4 amendments to the Code, and providing civil penalties
5 for violations and an effective date."

S-5462 FILED
APRIL 2, 1982

BY COMMITTEE ON NATURAL RESOURCES
FORREST V. SCHWENGELS, CHAIR

*Adopted as amended by 5576
4/14 (p. 1186)*

S-5531

1 Amend the amendment, S-5462, to House File 2463,
2 as amended, passed and reprinted by the House, as
3 follows:

4 1. Page 2, by inserting after line 18 the
5 following:

6 "Sec. ____ Section 455B.45, subsection 1, Code
7 1981, is amended to read as follows:

8 1. The construction, installation or modification
9 of any disposal system or water supply distribution
10 system or part thereof or any extension or addition
11 thereto except those sewer extensions and water supply
12 distribution system extensions that are subject to
13 review and approval by a city or county public works
14 department pursuant to this section. A permit shall
15 be issued for the construction, installation or
16 modification of a water supply distribution system
17 or part of a system if a qualified, registered engineer
18 certifies that the plans for the system or part of
19 the system meet the requirements of federal law or
20 regulations."

21 2. By numbering sections and internal references
22 to sections to conform to this amendment.

S-5531 FILED

BY FORREST V. SCHWENGELS

APRIL 8, 1982

Placed out of order 4/14 (j 1186)

HOUSE FILE 2463

S-5532

1 Amend the amendment, S-5462, to House File 2463,
2 as amended, passed and reprinted by the House, as
3 follows:

4 1. Page 1, line 20, by inserting after the word
5 "department." the words "A rule adopted under this
6 chapter to carry out a federal regulation shall not
7 become effective if the rule is more restrictive than
8 required by the federal regulation unless the rule
9 is approved by enactment of the general assembly."

S-5532 FILED

BY FORREST V. SCHWENGELS

APRIL 8, 1982

Placed out of order 4/14

HOUSE FILE 2463

S-5509

- 1 Amend the Amendment S-5462 to House File 2463 as
- 2 amended, passed and reprinted by the House as follows:
- 3 1. By striking Page 5, line 10 through Page 6, line
- 4 15.

S-5509 FILED
APRIL 7, 1982

BY JAMES V. GALLAGHER

Placed out of order 4/14 (p. 1186)

HOUSE FILE 2463

S-5510

- 1 Amend the Amendment S-5462 to House File 2463 as
- 2 amended, passed and reprinted by the House as follows:
- 3 1. Page 6, by striking lines 11 through 15 and
- 4 inserting in lieu thereof the words "date of this Act."

S-5510 FILED

BY JAMES V. GALLAGHER

April 7, 1982

Placed out of order 4/14

HOUSE FILE 2463

S-5515

- 1 Amend the Amendment S-5462 to House File 2463 as
- 2 amended, passed and reprinted by the House as follows:
- 3 1. Page 9, line 13, by inserting after the word
- 4 "resources" the words ", and shall hold a hearing".

S-5515 FILED

BY JAMES V. GALLAGHER

APRIL 7, 1982

DALE L. TIEDEN

Placed out of order 4/14

S-5546

1 Amend the amendment, S-5462 to House File 2463
2 as amended, passed and reprinted by the House, as
3 follows:

4 1. Page 18, by inserting after line 7 the
5 following:

6 "Sec. ____ . NEW SECTION. A state agency shall
7 not adopt or enforce any rules which will cause
8 interference with the placement of a pit over the
9 top of a well.

10 Sec. ____ . NEW SECTION. A state agency shall not
11 adopt or enforce any rules regarding augered wells
12 except rules which require the access level to be
13 at least one foot above ground level and the earth
14 around the access be sloped downward away from the
15 well for drainage.

16 Sec. ____ . NEW SECTION. A state agency shall not
17 adopt or enforce any rules which would prohibit the
18 use of a windmill and force pump placed within and
19 over the top of a well."

20 2. By numbering sections to conform to this
21 amendment.

S-5546 FILED

BY JAMES E. BRILES

APRIL 12, 1982

Placed out of order 4/14 (p. 1186)

HOUSE FILE 2463

S-5547

1 Amend House File 2463 as amended, passed and
2 reprinted by the House, as follows:

3 1. Page 33, by inserting after line 24 the
4 following:

5 "Sec. ____ . NEW SECTION. A state agency shall
6 not adopt or enforce any rules which will cause
7 interference with the placement of a pit over the
8 top of a well.

9 Sec. ____ . NEW SECTION. A state agency shall not
10 adopt or enforce any rules regarding augered wells
11 except rules which require the access level to be
12 at least one foot above ground level and the earth
13 around the access be sloped downward away from the
14 well for drainage.

15 Sec. ____ . NEW SECTION. A state agency shall not
16 adopt or enforce any rules which would prohibit the
17 use of a windmill and force pump placed within and
18 over the top of a well."

19 2. By numbering sections to conform to this
20 amendment.

S-5547 FILED

BY JAMES E. BRILES

APRIL 12, 1982

4/15 4/14 (p. 1176)

HOUSE FILE 2463

H-5885

1 Amend the amendment, H-5845, to House File 2463,
2 as amended, passed and reprinted by the House, as
3 follows:

4 1. Page 1, lines 29 and 30, by striking the words
5 "board, and" and inserting in lieu thereof the words
6 "board or".

H-5885 FILED APRIL 19, 1982

BY VAN MAANEN of Mahaska

S-5574

- 1 Amend the amendment, S-5462, to House File 2463,
2 as amended, passed and reprinted by the House, as
3 follows:
- 4 1. Page 1, line 12, by inserting after the word
5 "commission" the words "the Iowa geological survey".
 - 6 2. Page 4, by striking lines 34 through 39 and
7 inserting in lieu thereof the following:
8 "comprehensive statewide program for the utilization
9 and protection of the surface and ground waters of
10 the state, for the assessment of the water needs of
11 all water users at five-year intervals for the twenty
12 years beginning January 1, 1983, and ending December
13 31, 2003, utilizing a data base developed and managed
14 by the Iowa geological survey, and for the preparation
15 of a water plan to meet the specific needs of the
16 water users. The".
 - 17 3. Page 5, line 34, by striking the word "with"
18 and inserting in lieu thereof the word "without".
 - 19 4. Page 10, line 13, by inserting after the word
20 "received" the words ", except where the application
21 of this priority system prevents the prompt approval
22 of routine applications or where the public health,
23 safety or welfare will be threatened by delay".
 - 24 5. Page 10, line 26, by inserting after the word
25 "permits." the words "If there is competition for
26 water, the use of water for irrigation except for
27 research has a lower priority than other beneficial
28 uses of water subject to conditions which the
29 commission may establish by rule."
 - 30 6. Page 10, line 36, by striking the words "with
31 approval of" and inserting in lieu thereof the word
32 "or".
 - 33 7. Page 12, line 30, by inserting after the word
34 "permit" the words ", or to protect persons or property
35 against imminent danger".
 - 36 8. Page 41, by striking lines 12 through 27 and
37 inserting in lieu thereof the following:
38 "Sec. 87. EMPLOYEE TRANSFER OR TERMINATION. The
39 employees of the Iowa natural resources council
40 employed pursuant to chapter 455A are transferred
41 to the department of environmental quality. After
42 transfer of the employees under this section, any
43 employee of the department of environmental quality
44 whose duty assignment is terminated because of this
45 Act may be reassigned to other duties or terminated.
46 The Iowa merit employment commission shall adopt rules
47 to carry out the transfer of employees under this
48 section and to carry out subsequent reclassifications,
49 reassignments, or terminations made necessary by this
50 Act. The Iowa merit employment commission shall

SENATE 33
APRIL 14, 1982

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PAGE 2

1 arbitrate and decide a written appeal made by an
2 employee concerning a transfer, reassignment,
3 reclassification, or termination made necessary by
4 this Act. An employee shall not lose benefits accrued,
5 including but not limited to salary, retirement,
6 vacation, or sick leave because of transfer or
7 reassignment."

S-5574 FILED
APRIL 13, 1982

BY DALE L. TIEDEN

*Placed out of order
4/14 (p. 6186)*

HOUSE FILE 2463

S-5567

1 Amend the amendment, S-5462, to House File 2463,
2 as amended, passed and reprinted by the House, as
3 follows:
4 1. By striking page 1, line 5 through page 42,
5 line 5 and inserting in lieu thereof the following:
6 "Section 1. WATER RESOURCES ADVISORY COUNCIL.
7 1. An advisory council on water resources is
8 created. The advisory council shall make
9 recommendations to the general assembly on matters
10 related to statewide water resources planning, the
11 development of a water resource data base, water use,
12 flood plain management, and the organization and
13 administration of the water resource and flood plain
14 management laws and programs in this state.
15 2. The advisory council shall consist of the
16 following eleven members:
17 a. One member who is knowledgeable of the operation
18 of a water supply system in a city of three thousand
19 or less population.
20 b. One member who is knowledgeable of the operation
21 of a water supply system in a city of more than three
22 thousand population.
23 c. The chairperson of the environmental quality
24 commission.
25 d. The chairperson of the Iowa natural resources
26 council.
27 e. The state geologist.
28 f. One member who is a member of a local board
29 of health established under chapter 137.
30 g. One member who is a director of the board of
31 a rural water district established under chapter 357A.
32 h. One member who is actively engaged in the
33 management of a manufacturing company.
34 i. One member who is actively engaged in livestock
35 or grain farming.
36 j. One member who is a registered engineer
37 experienced in surface-water hydrology and hydraulics.
38 k. One member who is an elector of this state.
39 Except for those members specified under paragraphs
40 c, d, and e, the members of the advisory council shall
41 be appointed by the governor as soon as possible after
42 the effective date of this Act. The members of the
43 advisory council shall be residents of the state and
44 shall be selected without regard to their political
45 affiliation.
46 3. The members of the advisory council who are
47 not in the full-time employment of a public agency
48 shall be paid a per diem of forty dollars while engaged
49 in the performance of the duties of office. Members
50 shall be reimbursed for their actual and necessary

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PAGE 7

1 expenses while performing the duties of office. The
2 per diem and other expenses of the advisory council
3 incurred in carrying out its duties shall be paid
4 from funds appropriated to the department of
5 environmental quality and the Iowa natural resources
6 council. The total costs of the advisory council
7 shall be shared equally by the department and the
8 council.

9 4. The advisory council shall organize by the
10 election of a chairperson and shall meet as it deems
11 necessary. The chairperson shall be elected at the
12 first meeting of the advisory council. Meetings may
13 be called by the chairperson and shall be called by
14 the chairperson as regularly scheduled. A majority
15 of the advisory council is a quorum and the concurrence
16 of a majority of the advisory council is required
17 for determination of final recommendations to the
18 general assembly.

19 5. The advisory council shall prepare and submit
20 its recommendations on the organization and
21 administration of the water resource and flood plain
22 management laws and programs in this state to the
23 general assembly not later than January 15, 1983.

24 6. The advisory council and the terms of its
25 members shall expire on February 15, 1983."

26 2. Page 42, by inserting after line 5 the following:

27 "2. Amend the title, by striking lines 1 through 11
28 and inserting in lieu thereof the following: "An Act
29 creating an advisory council on water resources, and
30 specifying its duties."

S-5567 FILED
APRIL 13, 1982

*Placed out of order
4/14 (p. 186)*

BY NORMAN RODGERS
BILL HUTCHINS
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CLARENCE CARNEY
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BASS VAN GILST
GARY BAUGHER
TOM SLATER
JAMES V. GALLAGHER
ELVIE DREESZEN

S-5576

1 Amend the amendment, S-5462, to House File 2463,
2 as amended, passed and reprinted by the House, as
3 follows:

4 1. By striking page 1, line 5 through page 42,
5 line 5 and inserting in lieu thereof the following:

6 "Section 1. WATER RESOURCES ADVISORY COUNCIL.

7 1. An advisory council on water resources is
8 created. The advisory council shall make
9 recommendations to the general assembly on matters
10 related to statewide water resources planning, the
11 development of a water resource data base, water use,
12 flood plain management, and the organization and
13 administration of the water resource and flood plain
14 management laws and programs in this state.

15 2. The advisory council shall consist of the
16 following eleven members:

17 a. One member who is knowledgeable of the operation
18 of a water supply system in a city of three thousand
19 or less population.

20 b. One member who is knowledgeable of the operation
21 of a water supply system in a city of more than three
22 thousand population.

23 c. The chairperson of the environmental quality
24 commission.

25 d. The chairperson of the Iowa natural resources
26 council.

27 e. The state geologist.

28 f. One member who is a member of a local board
29 of health established under chapter 137.

30 g. One member who is a director of the board,
31 and who is actively engaged in the management of
32 a rural water district established under chapter 357A
33 or 504A.

34 h. One member who is actively engaged in the
35 management of a manufacturing company.

36 i. Two members who are actively engaged in
37 livestock or grain farming.

38 j. One member who is an elector of this state.

39 Except for those members specified under paragraphs
40 c, d, and e, the members of the advisory council shall
41 be appointed by the governor as soon as possible after
42 the effective date of this Act. The members of the
43 advisory council shall be residents of the state and
44 shall be selected without regard to their political
45 affiliation.

46 3. The members of the advisory council who are
47 not in the full-time employment of a public agency
48 shall be paid a per diem of forty dollars while engaged
49 in the performance of the duties of office. Members
50 shall be reimbursed for their actual and necessary

APRIL 15, 1982

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1 expenses while performing the duties of office. The
 2 per diem and other expenses of the advisory council
 3 incurred in carrying out its duties shall be paid
 4 from funds appropriated to the department of
 5 environmental quality and the Iowa natural resources
 6 council. The total costs of the advisory council
 7 shall be shared equally by the department and the
 8 council.

9 4. The advisory council shall organize by the
 10 election of a chairperson and shall meet as it deems
 11 necessary. The chairperson shall be elected at the
 12 first meeting of the advisory council. Meetings may
 13 be called by the chairperson and shall be called by
 14 the chairperson as regularly scheduled. A majority
 15 of the advisory council is a quorum and the concurrence
 16 of a majority of the advisory council is required
 17 for determination of final recommendations to the
 18 general assembly.

19 5. The advisory council shall prepare and submit
 20 its recommendations on the organization and
 21 administration of the water resource and flood plain
 22 management laws and programs in this state to the
 23 general assembly not later than January 15, 1983.

24 6. The advisory council and the terms of its
 25 members shall expire on February 15, 1983."

26 2. Page 42, by inserting after line 5 the
 27 following:

28 "2. Amend the title, by striking lines 1 through 11
 29 and inserting in lieu thereof the following: "An
 30 Act creating an advisory council on water resources
 31 and specifying its duties."

S-5576 FILED & ADOPTED
 APRIL 14, 1982 (p 1185)

BY NORMAN RODGERS
 ARNE WALDSTEIN GEORGE R. KINLEY
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 CLARENCE S. CARNEY BILL HUTCHINS
 TOM SLATER GARY L. BAUGHER
 BASS VAN GILST

HOUSE FILE 2463

S-5578

1 Amend the Amendment S-5462 to House File 2463 as
 2 amended, passed and reprinted by the House as follows:
 3 1. Page 1, by striking lines 36 through 39, and
 4 inserting in lieu thereof the following:
 5 "NEW SUBSECTION. "Private water supply" means any
 6 water supply for human consumption which has less than
 7 twenty service connections or regularly serves less
 8 than a total of five persons per service connection."

S-5578 FILED BY RAY TAYLOR
 APRIL 14, 1982
 RULED OUT OF ORDER (p 1186)

SENATE AMENDMENT TO HOUSE FILE 2463

H-5845

1 Amend House File 2463, as amended, passed and
2 reprinted by the House, as follows:

3 1. By striking everything after the enacting
4 clause and inserting in lieu thereof the following:

5 "Section 1. WATER RESOURCES ADVISORY COUNCIL.

6 1. An advisory council on water resources is
7 created. The advisory council shall make
8 recommendations to the general assembly on matters
9 related to statewide water resources planning, the
10 development of a water resource data base, water use,
11 flood plain management, and the organization and
12 administration of the water resource and flood plain
13 management laws and programs in this state.

14 2. The advisory council shall consist of the
15 following eleven members:

16 a. One member who is knowledgeable of the operation
17 of a water supply system in a city of three thousand
18 or less population.

19 b. One member who is knowledgeable of the operation
20 of a water supply system in a city of more than three
21 thousand population.

22 c. The chairperson of the environmental quality
23 commission.

24 d. The chairperson of the Iowa natural resources
25 council.

26 e. The state geologist.

27 f. One member who is a member of a local board
28 of health established under chapter 137.

29 g. One member who is a director of the board,
30 and who is actively engaged in the management of a
31 rural water district established under chapter 357A
32 or 504A.

33 h. One member who is actively engaged in the
34 management of a manufacturing company.

35 i. Two members who are actively engaged in
36 livestock or grain farming.

37 j. One member who is an elector of this state.

38 Except for those members specified under paragraphs
39 c, d, and e, the members of the advisory council shall
40 be appointed by the governor as soon as possible after
41 the effective date of this Act. The members of the
42 advisory council shall be residents of the state and
43 shall be selected without regard to their political
44 affiliation.

45 3. The members of the advisory council who are
46 not in the full-time employment of a public agency
47 shall be paid a per diem of forty dollars while engaged
48 in the performance of the duties of office. Members
49 shall be reimbursed for their actual and necessary
50 expenses while performing the duties of office. The

1 per diem and other expenses of the advisory council
2 incurred in carrying out its duties shall be paid
3 from funds appropriated to the department of
4 environmental quality and the Iowa natural resources
5 council. The total costs of the advisory council
6 shall be shared equally by the department and the
7 council.

8 4. The advisory council shall organize by the
9 election of a chairperson and shall meet as it deems
10 necessary. The chairperson shall be elected at the
11 first meeting of the advisory council. Meetings may
12 be called by the chairperson and shall be called by
13 the chairperson as regularly scheduled. A majority
14 of the advisory council is a quorum and the concurrence
15 of a majority of the advisory council is required
16 for determination of final recommendations to the
17 general assembly.

18 5. The advisory council shall prepare and submit
19 its recommendations on the organization and
20 administration of the water resource and flood plain
21 management laws and programs in this state to the
22 general assembly not later than January 15, 1983.

23 6. The advisory council and the terms of its
24 members shall expire on February 15, 1983."

25 2. Amend the title, by striking lines 1 through
26 11 and inserting in lieu thereof the following: "An
27 Act creating an advisory council on water resources
28 and specifying its duties."

H-5845 FILED APRIL 14, 1982

RECEIVED FROM THE SENATE

*House referred to Concur 4/19 (p 1542)
Senate insisted 4/21 (p 1331)*

HOUSE FILE 2463

H-5853

1 Amend the Senate amendment, H-5845, to House File
2 2463, as amended, passed and reprinted by the House,
3 as follows:

4 1. By striking page 1, line 3 through page 2,
5 line 28, and inserting in lieu thereof the following:

6 "1. Page 33, by inserting after line 24 the
7 following:

8 "Sec. ____ . The following provisions of the rules
9 regulating nonpublic water wells found in Iowa
10 administrative code 470-45, published on June 11,
11 1980 with amendments published on March 18, 1981,
12 are void and the following provisions shall be
13 withdrawn:

- 14 1. 470-45.3 Iowa administrative code.
- 15 2. 470-45.5(3) and (4) Iowa administrative code.
- 16 3. 470-45.6(2), (3)"a", (4), (5), (7) and (9)
17 Iowa administrative code.
- 18 4. 470-45.7(1)"a" and (2) Iowa administrative
19 code.
- 20 5. 470-45.8(1) Iowa administrative code.
- 21 6. 470-45.9(1) and (3) Iowa administrative code.
- 22 7. 470-45.11 Iowa administrative code.
- 23 8. 470-45.12 Iowa administrative code."

24 2. By numbering and renumbering sections to conform
25 to this amendment."

H-5853 FILED APRIL 14, 1982

BY SCHROEDER of Pottawattamie

with House 4-19-82 (p. 642)

REPORT OF THE CONFERENCE COMMITTEE
ON HOUSE FILE 2463

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

We, the undersigned members of the conference committee appointed to resolve the differences between the Senate and the House of Representatives on House File 2463, a bill for an Act to consolidate the regulation and management of water resources by creating and transferring to the Iowa water council, all of the powers and duties of the Iowa natural resources council, the powers and duties of the department of environmental quality relating to water pollution control and water quality, the powers and duties of the department of health relating to the regulation of the construction, maintenance, and abandonment of nonpublic water systems and wells, making corresponding amendments to the Code, and providing penalties for violations and an effective date, respectfully make the following report:

1. That the Senate recedes from its amendment.

2. That House File 2463, as amended, passed, and reprinted by the House, be amended by striking everything after the enacting clause and inserting in lieu thereof the following:

"Section 1. Section 455B.1, subsections 1, 2, and 3, Code 1981, are amended to read as follows:

1. "Department" means the department of environmental quality water, air and waste management.

2. "Executive director" means the executive director of the department of environmental-quality water, air and waste management or his a designee of the executive director.

3. "Commission" means the environmental-quality water, air and waste management commission.

Sec. 2. Section 455B.2, unnumbered paragraph 1, Code 1981, is amended to read as follows:

There is created a department of environmental-quality

water, air and waste management. The chief administrative officer of the department shall ~~be~~ is the executive director ~~of environmental quality,~~ who shall be appointed by the governor, subject to confirmation by the senate, and serve at the governor's pleasure.

Sec. 3. Section 455B.4, subsections 1 and 6, Code 1981, are amended to read as follows:

1. There is created ~~an environmental quality~~ a water, air and waste management 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, staggered terms of office commencing and ending as provided in section 69.19. 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.

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, the Iowa geological survey, and the director of the state hygienic laboratory of the scheduled meetings of the commission.

Sec. 4. Section 455B.5, subsection 3, Code 1981, is amended to read as follows:

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. A rule adopted under this chapter to carry out a federal regulation shall not become effective if the rule is more restrictive than required by the federal regulation unless the rule is approved by enactment of the general assembly. It is the intent of the general assembly that the commission exercise strict oversight of the operations 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.

Sec. 5. Section 455B.5, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. Appoint a water coordinator who shall coordinate requests from the public for information or assistance relating to the administration of water resources laws and programs and the resolution of water-related problems.

Sec. 6. Section 455B.30, subsection 8, Code 1981, is amended by striking the subsection.

Sec. 7. Section 455B.30, subsection 19, Code 1981, is amended to read as follows:

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

Sec. 8. Section 455B.30, Code 1981, is amended by adding the following new subsections:

NEW SUBSECTION. "Private water supply" means any water supply for human consumption which has less than twenty service connections or regularly serves less than one hundred individuals.

NEW SUBSECTION. "Private sewage disposal system" means a system for the treatment or disposal of domestic sewage from four or fewer dwelling units.

Sec. 9. Section 455B.31, Code 1981, is amended to read as follows:

455B.31 ADMINISTRATIVE AGENCY.

1. The department ~~shall be~~ is the agency of the state to prevent, abate, or control water pollution and to conduct the public water supply program.

2. The department is the state agency designated to carry out the state responsibilities related to private water supplies and private sewage disposal systems for the protection of the health of the citizens of this state. The commission shall adopt guidelines and provide model standards for private water supplies and private sewage disposal facilities for use of the local boards of health. Each local board of health is the agency to regulate private water supplies and private sewage disposal systems. Each local board of health shall adopt standards relating to the design and construction of private water supplies and private sewage disposal facilities.

Sec. 10. Section 455B.32, subsection 4, Code 1981, is amended by striking the subsection.

Sec. 11. Section 455B.45, subsection 1, Code 1981, is amended to read as follows:

1. The construction, installation or modification of any disposal system or public water supply distribution system or part

thereof or any extension or addition thereto except those sewer extensions and water supply distribution system extensions that are subject to review and approval by a city or county public works department pursuant to this section. A permit shall be issued for the construction, installation or modification of a public water supply distribution system or part of a system if a qualified, registered engineer certifies to the commission that the plans for the system or part of the system meet the requirements of federal law or regulations. The permit shall state that approval is based only upon the engineer's certification that the system's design meets the requirements of all applicable federal laws and regulations.

Sec. 12. Section 455B.53, subsection 6, Code 1981, is amended to read as follows:

6. ~~Two members~~ One member who ~~shall not be~~ is not a certificated waterworks operators operator or certificated waste waterworks operators operator, but who shall be interested and knowledgeable in water supply or waste water collection and treatment, and who shall represent the general public.

Sec. 13. Section 455B.53, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. One member who is a director of the board of a rural water district established under chapter 357A or 504A.

Sec. 14. Chapter 455B, division III, Code 1981, is amended by adding sections 15 through 34 of this Act as a new part.

Sec. 15. NEW SECTION. DEFINITIONS. As used in this part of division III, unless the context otherwise requires:

1. "Flood plains" means the area adjoining a river or stream which has been or is covered by flood water.

2. "Floodway" means the channel of a river or stream and those portions of the flood plains adjoining the channel which are reasonably required to carry and discharge the flood water or flood flow of any river or stream.

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

4. "Ground water" means that water occurring beneath the surface of the ground.

5. "Diffused waters" means waters from precipitation and snowmelt which is not a part of any watercourse or basin including capillary soil water.

6. "Depleting use" means the storage, diversion, conveyance, or other use of a supply of water if the use may impair rights of lower or surrounding users, may impair the natural resources of the state, or may injure the public welfare if not controlled.

7. "Beneficial use" means the application of water to a useful purpose that inures to the benefit of the water user and subject to the user's dominion and control but does not include the waste or pollution of water.

8. "Nonregulated use" means the use of water for ordinary household purposes, use of water for poultry, livestock, and domestic animals, any beneficial use of surface flow from rivers bordering this state, any existing beneficial uses of water within the territorial boundaries of municipal corporations on May 16, 1957, and any other beneficial use of water by any person of less than twenty-five thousand gallons per day. However, industrial users of water, having their own water supply, within the territorial boundaries of municipal corporations, shall be regulated when their water use exceeds three percent more than the highest per day beneficial use prior to May 16, 1957.

9. "Regulated use" means any depleting use except a use specifically designated as a nonregulated use.

10. "Permit" means a written authorization issued by the department to a permittee which is limited as to quantity, time, place, and rate of diversion, storage, or withdrawal in accordance with the policies and principles of beneficial use as specified in this part.

11. "Permittee" means a person who obtains a permit from

the department authorizing the person to take possession by diversion or otherwise and to use and apply an allotted quantity of water for a designated beneficial use, and who makes actual use of the water for that purpose.

12. "Waste" means any of the following:

a. Permitting ground water or surface water to flow, or taking it or using it in any manner so that it is not put to its full beneficial use.

b. Transporting ground water from its source to its place of use in such a manner that there is an excessive loss in transit.

c. Permitting or causing the pollution of a water-bearing strata through any act which will cause salt water, highly mineralized water, or otherwise contaminated water to enter it.

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

14. "Basin" means a specific subsurface water-bearing reservoir having reasonably ascertainable boundaries.

15. "Established average minimum flow" means the average minimum flow for a given watercourse at a given point determined and established by the commission. The "average minimum flow" for a given watercourse shall be determined by the following factors:

a. Average of minimum daily flows occurring during the preceding years chosen by the commission as more nearly representative of changing conditions and needs of a given drainage area at a particular time.

b. Minimum daily flows shown by experience to be the limit at which further withdrawals would be harmful to the public interest in any particular drainage area.

c. The minimum daily flows shown by established discharge records and experiences to be definitely harmful to the public

interest.

The determination shall be based upon available data, supplemented, when available data are incomplete, with whatever evidence is available.

16. "Impounded or stored water" means that water captured and stored on the land by anyone taking it pursuant to this chapter, and the party impounding the water shall become the absolute owner of the stored water.

Sec. 16. NEW SECTION. DECLARATION OF POLICY.

1. It is recognized that the protection of life and property from floods, the prevention of damage to lands from floods, and the orderly development, wise use, protection, and conservation of the water resources of the state by their considered and proper use is of paramount importance to the welfare and prosperity of the people of the state, and to realize these objectives, it is the policy of the state to correlate and vest the powers of the state in a single agency, the department, with the duty and authority to assess the water needs of all water users at five-year intervals for the twenty years beginning January 1, 1983, and ending December 31, 2003, utilizing a data base developed and managed by the Iowa geological survey, and prepare a general plan of water allocation in this state considering the types of water resources available in this state designed to meet the specific needs of the water users. The general welfare of the people of the state requires that the water resources of the state be put to beneficial use to the fullest extent possible, and that the waste or unreasonable use, or unreasonable methods of use of water be prevented, and that the conservation of water resources be encouraged with the view to their reasonable and beneficial use in the interest of the people, and that the public and private funds for the promotion and expansion of the beneficial use of water resources be invested to the end that the best interests and welfare of the people are served.

2. Water occurring in a basin or watercourse, or other

natural body of water of the state, is public water and public wealth of the people of the state and subject to use in accordance with this chapter, and the control and development and use of water for all beneficial purposes is vested in the state, which shall take measures to encourage full utilization and protection of the water resources of the state.

Sec. 17. NEW SECTION. DUTIES.

1. a. Not later than January 15, 1985, the commission shall deliver to the secretary of the senate and the chief clerk of the house identical joint resolutions enacting a general plan of water allocation priorities for this state, considering the types of water resources available in the state and the water needs of all types of water users in this state, with a recommendation on the most effective means of implementation of the plan. It is the intent of this subsection that the general assembly shall bring the joint resolution to a vote in either chamber under a procedure or rule permitting no amendments except those of a purely corrective nature. If by the end of the fourth week of the 1985 regular session, the joint resolution embodying the plan is not approved by a constitutional majority in both chambers, the commission shall, by the end of the sixth week of the 1985 regular session, prepare and deliver to the secretary of the senate and the chief clerk of the house identical joint resolutions embodying a second plan, taking into account the reasons cited by either the secretary of the senate or chief clerk of the house for the failure of the first plan.

b. If, proceeding under a procedure or rule permitting amendments in the same manner as other joint resolutions, the joint resolution embodying the second plan is not adopted by a constitutional majority in both chambers by the end of the tenth week of the 1985 regular session, the commission shall, by the end of the eleventh week of the 1985 regular session, prepare and deliver to the secretary of the senate and the chief clerk of the house identical joint resolutions

embodying a third plan, taking into account the reasons cited by either the secretary of the senate or chief clerk of the house for failure of the second plan. It is the intent of this subsection that the third joint resolution be subject to amendment in the same manner as other joint resolutions, and be adopted by the end of the 1985 Session, including any extraordinary sessions of the general assembly.

2. The commission shall designate the official representative of this state on all comprehensive water resources planning groups for which state participation is provided. The commission shall coordinate state planning with local and national planning and, in safeguarding the interests of the state and its people, shall undertake the resolution of any conflicts that may arise between the water resources policies, plans, and projects of the federal government and the water resources policies, plans, and projects of the state, its agencies, and its people. This section does not limit or supplant the functions, duties, and responsibilities of other state or local agencies or institutions with regard to planning of water-associated projects within the particular area of responsibility of those state or local agencies or institutions.

3. The commission shall enter into negotiations and agreements with the federal government relative to the operation of, or the release of water from, any project that has been authorized or constructed by the federal government when the commission deems the negotiations and agreements to be necessary for the achievement of the policies of this state relative to its water resources.

4. The commission, on behalf of the state, shall enter into negotiations with the federal government relative to the inclusion of conservation storage features for water supply in any project that has been authorized by the federal government when the commission deems the negotiations to be necessary for the achievement of the policies of this state, however, an agreement reached pursuant to these negotiations

does not bind the state until enacted into law by the general assembly.

5. A water user who benefits from the development by the federal government of conservation storage for water supply shall be encouraged to assume the responsibility for repaying to the federal government any reimbursable costs incurred in the development, and a user who accepts benefits from the developments financed in whole or part by the state shall assume by contract the responsibility of repaying to the state the user's reasonable share of the state's obligations in accordance with a basis which will assure payment within the life of the development. An appropriation, diversion, or use shall not be made by a person of any waters of the state that have been stored or released from storage either under the authority of the state or pursuant to an agreement between the state and the federal government until the person has assumed by contract the person's repayment responsibility. However, this subsection does not infringe upon any vested property interests.

6. In its contracts with water users for the payment of state obligations incurred in the development of conservation storage for water supply, the commission shall include the terms deemed reasonable and necessary:

- a. To protect the health, safety, and general welfare of the people of the state.
- b. To achieve the purposes of this chapter.
- c. To provide that the state is not responsible to any person if the waters involved are insufficient for performance.

The commission may designate and describe any such contract, and describe the relationships to which it relates, as a sale of storage capacity, a sale of water release services, a contract for the storage or sale of water, or any similar terms suggestive of the creation of a property interest. The term of the contracts shall be commensurate with the investment and use concerned, but the commission shall not enter into any such contract for a term in excess of the

maximum period provided for water use permits.

7. The commission shall procure flood control works and water resources projects from or by cooperation with any agency of the United States, by cooperation with the cities and other subdivisions of the state under the laws of the state relating to flood control and use of water resources, and by cooperation with the action of landowners in areas affected by the works or projects when the commissioner deems the projects to be necessary for the achievement of the policies of this state.

8. The commission shall promote the policies set forth in this part and shall represent this state in all matters within the scope of this part. The commission shall adopt rules pursuant to chapter 17A as necessary to transact its business and for the administration and exercise of its powers and duties.

9. In carrying out its duties, the commission may accept gifts, contributions, donations and grants, and use them for any purpose within the scope of this part.

Sec. 18. NEW SECTION. JURISDICTION--DIVERSION OF WATER.

1. The commission has jurisdiction over the public and private waters in the state and the lands adjacent to the waters necessary for the purposes of carrying out this part. The commission may construct flood control works or any part of the works. In the construction of the works, in making surveys and investigations, or in formulating plans and programs relating to the water resources of the state, the commission may cooperate with an agency of another state or the United States, or with any other person.

2. Upon application by any person for permission to divert, pump, or otherwise take waters from any watercourse, underground basin or watercourse, drainage ditch, or settling basin within this state for any purpose other than a nonregulated use, the executive director shall investigate the effect of the use upon the natural flow of the watercourse, the effect of the use upon the owners of any land which might

be affected by the use, whether the use is consistent with the plan of water allocation priorities for this state, and shall hold a hearing.

3. Upon application by any person for approval of the construction or maintenance of any structure, dam, obstruction, deposit, or excavation to be erected, used, or maintained in or on the flood plains of any river or stream, the department shall investigate the effect of the construction or maintenance project on the efficiency and capacity of the floodway and on the plan of water allocation priorities for this state. In determining the effect of the proposal the department shall consider fully its effect on flooding of or flood control for any proposed works and adjacent lands and property, on the wise use and protection of water resources, on the quality of water, on fish, wildlife, and recreational facilities or uses, and on all other public rights and requirements.

Sec. 19. NEW SECTION. PERMITS FOR DIVERSION, STORAGE, AND WITHDRAWAL. If the department determines after due investigation that the diversion, storage, or withdrawal of water will not be detrimental to the public interests, including drainage and levee districts, or to the interests of property owners with prior or superior rights who may be affected, the department shall grant a permit for the diversion, storage, or withdrawal. Permits may be granted for any period of time not exceeding ten years except permits for the storage of water which may be granted for the life of the structure unless revoked by the commission. All existing storage permits are extended for the life of the structure unless withdrawn for good cause. Permits may be granted which provide for less diversion, storage, or withdrawal of waters than set forth in the application. A permit granted shall remain as an appurtenance of the land described in the permit through the date specified in the permit and any extension of the permit or until earlier date if the permit or any extension of the permit is modified or

canceled under section 25 of this Act. Upon application for a permit prior to the termination date specified in the permit, a permit may be renewed by the department for any period of time not to exceed ten years.

Sec. 20. NEW SECTION. PRIORITY OF PERMITS FOR DIVERSION, STORAGE, AND WITHDRAWAL. In the consideration of applications for permits, priority in processing shall be given to persons in the order that the applications are received, except that this processing priority shall not affect the substantive priorities established under the plan of water allocation priorities for this state and except where the application of this priority system prevents the prompt approval of routine applications or where the public health, safety or welfare will be threatened by delay. The executive director or the commission on appeal shall determine the duration and frequency of withdrawal and the quantity of water for which a permit may be granted. Any person with an existing irrigation system in use prior to May 16, 1957, shall be issued a permit to continue unless its use damages some other riparian user. In the consideration of applications for permits by regulated users, the plan of water allocation priorities for this state as adopted by the general assembly establishes standards for the determination of the disposition of the applications for permits. If there is competition for water, the use of water for irrigation has a lower priority than other beneficial uses of water subject to conditions which the commission may establish by rule. This part does not impair the vested right of any person.

Sec. 21. NEW SECTION. PERMITS FOR BENEFICIAL USE-- PROHIBITIONS.

1. The executive director or the commission may issue a permit for beneficial use of water in a watercourse if the established average minimum water flow is preserved.

2. A use of water shall not be authorized if it will impair the effect of this chapter or any other pollution control law of this state.

3. A permit shall not be issued or continued if it will impair the navigability of any navigable watercourse.

Sec. 22. NEW SECTION. WHEN PERMIT REQUIRED.

1. A permit shall be required for the following:

a. A municipal corporation or a person supplying a municipal corporation which increases its water use in excess of one hundred thousand gallons or three percent, whichever is the greater, per day more than its highest per day beneficial use prior to May 16, 1957. The corporation or person shall make reasonable provision for the storage of water at times when the daily use of the water by the corporation or person is less than the amount specified in this subsection.

b. Except for a nonregulated use, a person using in excess of twenty-five thousand gallons of water per day, diverted, stored, or withdrawn from any source of supply except a municipal water system or any other source specifically exempted under this part.

c. A person who diverts water or any material from the surface directly into an underground watercourse or basin.

d. Industrial users of water having their own water supply within the territorial boundaries of municipal corporations when the water use exceeds three percent more than the highest per day beneficial use prior to May 16, 1957.

2. The commission may adopt, modify, or repeal rules pursuant to chapter 17A specifying the conditions under which the executive director may authorize specific nonrecurring minor uses of water for periods not to exceed one year through registration.

3. Notwithstanding any exemptions from permit requirements, nothing in this part exempts water users from requirements for reporting which the commission adopts by rule.

Sec. 23. NEW SECTION. TAKING WATER PROHIBITED. A person shall not take water from a natural watercourse, underground basin or watercourse, drainage ditch, or settling basin within this state for any purpose other than a nonregulated use except in compliance with this part. However, existing uses

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

Sec. 24. NEW SECTION. RIGHTS PRESERVED. This part does not deprive any person of the right to use diffused waters, to drain land by use of tile, open ditch, or surface drainage, or to construct an impoundment on the person's property or across a stream that originates on the person's property if provision is made for safe construction and for a continued established average minimum flow when the flow is required to protect the rights of water users below.

Sec. 25. NEW SECTION. MODIFICATION OR CANCELLATION OF PERMITS. Each permit issued under this part is irrevocable for its term and for any extension of its term except as follows:

1. A permit may be modified or canceled by the department with the consent of the permittee.

2. Subject to appeal to the commission, a permit may be modified or canceled by the executive director if any of the following occur:

a. There is a breach of the terms of the permit.

b. There is a violation of the law pertaining to the permit by the permittee or the permittee's agents.

c. There is a circumstance of nonuse as provided in section 26 of this Act.

d. The department finds that modification or cancellation is necessary to protect the public health or safety, to protect the public interests in lands or waters, or to prevent substantial injury to persons or property in any manner. Before the modification or cancellation is effective, the department shall give at least thirty days' written notice mailed to the permittee at the permittee's last known address, stating the grounds of the proposed modification or cancellation and giving the permittee an opportunity to be heard on the proposal.

3. By written order to the permittee, the department may suspend operations under a permit if the executive director

finds it necessary in an emergency to protect the public health, to protect the public interest in waters against imminent danger of substantial injury in any manner or to an extent not expressly authorized by the permit, or to protect persons or property against imminent danger. The department may require the permittee to take measures necessary to prevent or remedy the injury, but an order shall not be in effect for more than thirty days from the date of issue without giving the permittee at least ten days' written notice of the order and an opportunity to be heard on the order.

Sec. 26. NEW SECTION. TERMINATION OF PERMIT. The right of the permittee and the permittee's successors to the use of water shall terminate when the permittee or the permittee's successors fail for three consecutive years to use it for the specific beneficial purpose authorized in the permit and, after notification by the department of intent to cancel the permit for nonuse, the permittee or the permittee's successors fail to demonstrate adequate plans to use water within a reasonable time.

Sec. 27. NEW SECTION. DISPOSAL OF PERMIT. A permittee may sell, transfer, or assign a permit by conveying, leasing, or otherwise transferring the ownership of the land described in the permit, but the permit does not constitute ownership or absolute rights of use of the waters. The waters remain subject to the principle of beneficial use and the orders of the executive director or commission.

Sec. 28. NEW SECTION. UNAUTHORIZED DEPLETING USES. If a person files a complaint with the department that another person is making a depleting use of water not expressly exempted as a nonregulated use under this part and without a permit to do so, the department shall cause an investigation to be made and if the facts stated in the complaint are verified the department shall order the discontinuance of the use.

Sec. 29. NEW SECTION. PROHIBITED ACTS--POWERS OF COMMISSION AND EXECUTIVE DIRECTOR.

1. A person shall not erect, use or maintain a structure, deposit, or excavation in or on a floodway or flood plains, which will adversely affect the efficiency of or unduly restrict the capacity of the floodway, adversely affect the control, development, protection, allocation, or utilization of the water resources of the state, and the same are declared to be public nuisances. However, this subsection does not apply to dams constructed and operated under the authority of chapter 469.

2. The department may commence, maintain, and prosecute any appropriate action to enjoin or abate a nuisance, including any of the nuisances specified in subsection 1 and any other nuisance which adversely affects flood control.

3. If a person desires to erect or make or to permit a structure, dam, obstruction, deposit or excavation, other than a dam constructed and operated under chapter 469, to be erected, made, used, or maintained in or on any floodway or flood plains, the person shall file a verified written application with the department, setting forth information as required by rule of the commission. The department, after an investigation, shall approve or deny the application imposing conditions and terms as prescribed by the department.

4. The department may maintain an action in equity to enjoin a person from erecting or making or permitting to be made a structure, dam, obstruction, deposit, or excavation other than a dam constructed and operated under the authority of chapter 469, for which a permit has not been granted. The department may also seek judicial abatement of any structure, dam, obstruction, deposit, or excavation erected or made without a permit required under this part. The abatement proceeding may be commenced to enforce an administrative determination of the department in a contested case proceeding that a public nuisance exists and should be abated.

5. The department may remove or eliminate a structure, dam, obstruction, deposit, or excavation in a floodway which

adversely affects the efficiency of or unduly restricts the capacity of the floodway, by an action in condemnation, and in assessing the damages in the proceeding, the appraisers and the court shall take into consideration whether the structure, dam, obstruction, deposit, or excavation is lawfully in or on the floodway in compliance with this part.

6. The department may require, as a condition of an approval order or permit granted pursuant to this part or chapter 469, the furnishing of a performance bond with good and sufficient surety, conditioned upon full compliance with the order or permit and the rules of the commission. In determining the need for and amount of bond, the department shall give consideration to the hazard posed by the construction and maintenance of the approved works and the protection of the health, safety, and welfare of the people of the state. This subsection does not apply to orders or permits granted to a governmental entity.

7. When approving a request to straighten a stream, the department may establish as a condition of approval a permanent prohibition against tillage of land owned by the person receiving the approval and lying within a minimum distance from the stream sufficient in the judgment of the director or commission to hold soil erosion to reasonable limits. The department shall record the prohibition in the office of the county recorder of the appropriate county and the prohibition shall attach to the land.

8. The commission shall establish, by rule, thresholds for dimensions and effects, and any structure, dam, obstruction, deposit, or excavation having smaller dimensions and effects than those established by the commission is not subject to regulation under this section. The thresholds shall be established so that only those structures, dams, obstructions, deposits, or excavations posing a significant threat to the well-being of the public and the environment are subject to regulation.

Sec. 30. NEW SECTION. FLOOD PLAINS--ENCROACHMENT LIMITS.

The commission may establish and enforce rules for the orderly development and wise use of the flood plains of any river or stream within the state and alter, change, or revoke the rules. The commission shall determine the characteristics of floods which reasonably may be expected to occur and may establish by order encroachment limits, protection methods, and minimum protection levels appropriate to the flooding characteristics of the stream and to reasonable use of the flood plains. The order shall fix the length of flood plains to be regulated at any practical distance, the width of the zone between the encroachment limits so as to include portions of the flood plains adjoining the channel, which with the channel, are required to carry and discharge the flood waters or flood flow of the river or stream, and the design discharge and water surface elevations for which protection shall be provided for projects outside the encroachment limits but within the limits of inundation. Plans for the protection of projects proposed for areas subject to inundation shall be reviewed as plans for flood control works within the purview of section 31 of this Act. An order establishing encroachment limits shall not be issued until due notice of the proposed order is given and opportunity for public hearing given for the presentation of protests against the order. In establishing the limits, the commission shall avoid to the greatest possible degree the evacuation of persons residing in the area of a floodway, the removal of residential structures occupied by the persons in the area of a floodway, and the removal of structures erected or made prior to July 4, 1965, which are located on the flood plains of a river or stream but not within the area of a floodway.

The commission shall cooperate with and assist local units of government in the establishment of encroachment limits, flood plain regulations, and zoning ordinances relating to flood plain areas within their jurisdiction. Encroachment limits, flood plain regulations, or flood plain zoning ordinances proposed by local units of government shall be

submitted to the department for review and approval prior to adoption by the local units of government. Changes or variations from an approved regulation or ordinance as it relates to flood plain use are subject to approval by the commission prior to adoption. Individual applications, plans, and specifications and individual approval orders shall not be required for works on the flood plains constructed in conformity with encroachment limits, flood plain regulations, or zoning ordinances adopted by the local units of government and approved by the commission.

Sec. 31. NEW SECTION. FLOOD CONTROL WORKS COORDINATED. All flood control works in the state, which are established and constructed after the effective date of this Act, shall be coordinated in design, construction, and operation according to sound and accepted engineering practice so as to effect the best flood control obtainable throughout the state. A person shall not construct or install works of any nature for flood control until the proposed works and the plans and specifications for the works are approved by the commission. The commission shall consider all the pertinent facts relating to the proposed works which will affect flood control and water resources in the state and shall determine whether the proposed works in the plans and specifications will be in aid of and acceptable as part of, or will adversely affect and interfere with flood control in the state, adversely affect the control, development, protection, allocation, or utilization of the water resources of the state, or adversely affect or interfere with the state comprehensive plan for water resources or an approved local water resources plan. In the event of disapproval, the commission shall set forth the objectionable features so that the proposed works and the plans and specifications for the proposed works may be corrected or adjusted to obtain approval.

This section applies to drainage districts, soil conservation districts, the state conservation commission, political subdivisions of the state, and private persons undertaking

projects relating to flood control.

Sec. 32. NEW SECTION. PERMIT APPLICATION PROCEDURES.

1. The commission shall adopt, modify, or repeal rules establishing procedures by which permits required under this part shall be issued, suspended, revoked, modified, or denied. The procedures shall include provisions for application, an application fee sufficient to pay the administrative costs of the permit process, public notice and opportunity for public hearing, and contested cases.

2. Action by the department upon an application for a permit required under this part may be appealed to the commission by the applicant or any affected person within thirty days of the department's action. A hearing before the commission or its designee is a contested case. The hearings and judicial review of decisions of the commission shall be carried out in accordance with chapter 17A. Notwithstanding chapter 17A, petitions for judicial review may be filed in the district court of Polk county or of any county in which the property affected is located. If the commission, the district court, or the supreme court determines that the action of the commission shall be stayed, the petitioner shall file an appropriate bond approved by the court.

Sec. 33. NEW SECTION. VIOLATION.

1. The commission may issue any order necessary to secure compliance with or prevent a violation of this part or the rules adopted pursuant to this part. The attorney general shall, on request of the department, institute any legal proceedings necessary in obtaining compliance with an order of the commission.

2. A person who violates a provision of this part or a rule or order adopted or promulgated or the conditions of a permit issued pursuant to this part is subject to a civil penalty not to exceed five hundred dollars for each day that a violation occurs.

Sec. 34. NEW SECTION. COORDINATION WITH CONSERVANCY DIS-

TRICTS. The commission and the boards of the conservancy districts established by chapter 467D shall coordinate their efforts in carrying out the purposes of this chapter and chapter 467D. In addition to other powers and duties conferred by law, the department shall:

1. Offer advice and assistance as appropriate to the boards of the several conservancy districts in the state in discharging their powers and duties.

2. Review and make recommendations as necessary to bring the plan of each of the conservancy districts, and any subsequent changes in the plan, into conformity with the statewide water resources plan established by the commission pursuant to section 17 of this Act.

3. Inform the board of any conservancy district of any of the following:

a. The receipt of each application for a permit to divert, store, or withdraw either surface or underground waters at any place within the district, filed with the executive director pursuant to this part.

b. The receipt of each application for approval of a proposed dam, obstruction, deposit, or excavation in or on any floodway or flood plain in the district, filed with the executive director pursuant to section 29 of this Act.

c. Any proposed order which would establish encroachment limits and zoning regulations on any flood plain in the district, filed with the executive director pursuant to section 30 of this Act.

d. The receipt of each application for approval of a proposed flood control structure or works, filed with the executive director pursuant to section 31 of this Act.

Sec. 35. Section 68B.2, subsection 4, Code 1981, 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, and department of environmental-quality-and Iowa-natural-resources-eonei1 water, air and waste management.

Sec. 36. Section 83A.3, subsection 5, Code 1981, is amended to read as follows:

5. One member representing the Iowa-natural-resources eonei1 department of water, air and waste management.

Sec. 37. Section 84.2, subsections 11, 12, 14, and 16, Code 1981, are amended to read as follows:

11. "Illegal oil" means oil which has been produced from any well within the state in excess of the quantity permitted by any rule or order of the eonei1 department.

12. "Illegal gas" means gas which has been produced from any well within this state in excess of the quantity permitted by any rule or order of the eonei1 department.

14. "Certificate of clearance" means a permit prescribed by the eonei1 department for the transportation or the delivery of oil or gas or product and issued or registered in accordance with the rule or order requiring such the permit.

16. "Eonei1" "Department" means Iowa-natural-resources eonei1-as-defined-in-chapter-455A the department of soil conservation.

Sec. 38. Section 84.2, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. "Committee" means the state soil conservation committee.

Sec. 39. Section 84.4, unnumbered paragraph 1, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 41, section 3, is amended to read as follows:

The eonei1 department has the duty of administering this

chapter. The state geologist shall act as administrator with the duty of enforcing the regulations and orders of the ~~energy~~ department applicable to the crude petroleum oil and natural gas and metallic mineral resources of this state and the provisions of this chapter. The ~~energy~~ department has the duty to make investigations it deems proper to determine whether waste exists or is imminent or whether other facts exist which justify action. The ~~energy~~ department acting through the office of the state geologist has the authority:

Sec. 40. Section 84.4, subsection 1, paragraphs d, e, and i, Code 1981, are amended to read as follows:

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

e. That the production from wells be separated into gaseous and liquid hydrocarbons, and that each be accurately measured by ~~such~~ the means and upon ~~such~~ standards as ~~may be~~ prescribed by the ~~energy~~ committee;

i. That every person who produces, sells, purchases, acquires, stores, transports, refines, or processes native and indigenous Iowa produced crude oil or gas in this state shall keep and maintain within this state complete and accurate records of the quantities ~~thereof~~ of oil or gas, which records shall be available for examination by the ~~energy~~ department at all reasonable times, and that every such person file with the ~~energy~~ department the reports as it may prescribe with respect to ~~such~~ the oil or gas or the products ~~thereof~~ of the oil or gas.

Sec. 41. Section 84.5, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 41, section 4, is amended to read as follows:

84.5 DRILLING PERMIT REQUIRED. It is unlawful to commence operations for the drilling of a well for oil or gas or the production of metallic minerals or to commence operations

to deepen any well to a different geological formation without first giving the state geologist notice of intention to drill, and without first obtaining a permit from the state geologist, under rules prescribed by the ~~ecouneil~~ committee and paying to the ~~ecouneil~~ department a fee ~~of fifty dollars~~ established by rule of the department for the well. The fee shall be ~~used-by-the-ecouneil-for-administering-this-chapter,-including-the-payment-of-expenses-incurred-in-publishing-legal-notice~~ deposited in the general fund of the state.

Sec. 42. Section 84.6, Code 1981, is amended to read as follows:

84.6 ~~ECOUNEIL~~ DEPARTMENT SHALL DETERMINE MARKET DEMAND AND REGULATE THE AMOUNT OF PRODUCTION. The ~~ecouneil~~ department shall determine market demand for each marketing district and regulate the amount of production as follows:

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

2. ~~Whenever~~ When the ~~ecouneil~~ department limits the total amount of oil or gas which may be produced in the state or a marketing district, the ~~ecouneil~~ department shall allocate or distribute the allowable production among the pools ~~therein~~ in the district on a reasonable basis, giving, where reasonable under the circumstances to each pool with small wells of settled production, an allowable production which prevents the general premature abandonment of ~~such~~ the wells in the pool.

3. ~~Whenever~~ When the ~~ecouneil~~ department limits the total amount of oil or gas which may be produced in any pool in this state to an amount less than that amount which the pool could produce if no restriction were imposed, which limitation is imposed either incidental to, or without, a limitation of the total amount of oil or gas produced in the marketing district wherein the pool is located, the ~~ecouneil~~ department shall allocate or distribute the allowable production among

the several wells or producing properties in the pool on a reasonable basis, preventing or minimizing reasonable avoidable drainage, so that each property will have the opportunity to produce or to receive its just and equitable share, subject to the reasonable necessities for the prevention of waste.

4. In allocating the market demand for gas as between pools within marketing districts, the ~~energy~~ department shall give due regard to the fact that gas produced from oil pools is to be regulated in a manner as which will protect the reasonable use of its energy for oil production.

5. The ~~energy-shall~~ department is not be required to determine the reasonable market demand applicable to any single pool, except in relation to all other pools within the same marketing district, and in relation to the demand applicable to the marketing district. In allocating allowables to pools, the ~~energy~~ department may consider, but ~~shall~~ is not be bound by nominations of purchasers to purchase from particular fields, pools, or portions thereof. The ~~energy~~ department shall allocate the total allowable for the state in such a manner as which prevents undue discrimination between marketing districts, fields, pools, or portions thereof resulting from selective buying or nomination by purchasers.

Sec. 43. Section 84.7, unnumbered paragraph 1 and subsections 1 and 4, Code 1981, are amended to read as follows:

The ~~energy~~ department shall set spacing units as follows:

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

4. An order establishing units for a pool shall cover

all lands determined or believed to be underlaid by ~~such~~ the pool, and may be modified by the state geologist from time to time to include additional areas determined to be underlaid by ~~such~~ the pool. When found necessary for the prevention of waste, or to avoid the drilling of unnecessary wells or to protect correlative rights, an order establishing spacing units in a pool may be modified by the state geologist to increase the size of spacing units in the pool or any zone ~~thereof~~ of the pool, or to permit the drilling of additional wells on a reasonable uniform plan in the pool, or any zone ~~thereof~~ of the pool. Orders of the state geologist may be appealed to the ~~engineer~~ department within thirty days.

Sec. 44. Section 84.8, Code 1981, is amended to read as follows:

84.8 INTEGRATION OF FRACTIONAL TRACTS.

1. When two or more separately owned tracts are embraced within a spacing unit, or when there are separately owned interests in all or a part of the spacing unit, then the owners and royalty owners ~~thereof~~ of the tracts may pool their interests for the development and operation of the spacing unit. In the absence of voluntary pooling the ~~engineer~~ department upon the application of any interested person, shall enter an order pooling all interests in the spacing unit for the development and operations ~~thereof~~ of the unit. Each ~~such~~ pooling order shall be made after notice and hearing, and shall be upon terms and conditions that are just and reasonable, and that afford to the owner of each tract or interest in the spacing unit the opportunity to recover or receive, without unnecessary expense, ~~his~~ a just and equitable share. Operations incident to the drilling of a well upon any portion of a spacing unit covered by a pooling order shall be deemed for all purposes, to be the conduct of ~~such~~ the operations upon each separately owned tract in the drilling unit by the several owners ~~thereof~~ of the unit. That portion of the production allocated to each tract included in a spacing unit covered by a pooling order shall, when produced, be

deemed for all purposes to have been produced from ~~such~~ the tract by a well drilled thereon on it.

2. Each ~~such~~ pooling order shall make provision for the drilling and operation of a well on the spacing unit, and for the payment of the reasonable actual cost ~~thereof~~ of the well by the owners of interests in the spacing unit, plus a reasonable charge for supervision. In the event of any dispute as to such costs the ~~council~~ department shall determine the proper costs. If ~~one-or-more-of-the-owners~~ an owner shall drill and operate, or pay the expenses of drilling and operating the well for the benefit of others, then, the owner ~~or-owners~~ so drilling or operating shall, upon complying with the terms of section 84.10, have a lien on the share of production from the spacing unit accruing to the interest of each of the other owners for the payment of ~~his~~ a proportionate share of ~~such~~ the expenses. All the oil and gas subject to the lien shall be marketed and sold and the proceeds applied in payment of the expenses secured by ~~such~~ the lien as provided for in section 84.10.

Sec. 45. Section 84.9, Code 1981, is amended to read as follows:

84.9 VOLUNTARY AGREEMENTS FOR UNIT OPERATION VALID. An agreement for the unit or co-operative development and operation of a field or pool, in connection with the conduct of a repressuring or pressure maintenance operations, cycling or recycling operations, including the extraction and separation of liquid hydrocarbons from natural gas ~~in connection therewith~~, or any other method of operation, including water floods, ~~is authorized and~~ may be performed ~~and shall not be held or construed to violate~~ without being in violation of any of the statutes of this state relating to trusts, monopolies, or contracts and combinations in restraint of trade, if the agreement is approved by the ~~council~~ department as being in the public interest, protective of correlative rights, and reasonably necessary to increase ultimate recovery or to prevent waste of oil or gas. ~~Such~~

The agreements bind only the persons who execute them, and their heirs, successors, assigns, and legal representatives.

Sec. 46. Section 84.11, Code 1981, is amended to read as follows:

84.11 RULES COVERING PRACTICE BEFORE COUNCIL DEPARTMENT.

1. The ~~council~~ committee shall prescribe rules governing the practice and procedure before it.

2. ~~No~~ An order, or amendment ~~thereof~~ of an order, except in an emergency, shall not be made by the ~~council~~ department without a public hearing upon at least ten days' notice.

The public hearing shall be held at ~~such~~ the time and place ~~as may be~~ prescribed by the ~~council~~ committee, and any interested person shall ~~be~~ is entitled to be heard.

3. When an emergency requiring immediate action is found to exist the ~~council is authorized to~~ department may issue an emergency order without notice of hearing, which shall be effective upon promulgation. ~~No~~ An emergency order shall not remain effective for more than fifteen days.

4. Any notice required by this chapter shall be given at the election of the ~~council~~ department either by personal service or by letter to the last recorded address and one publication in a newspaper of general circulation in the state capital city and in a newspaper of general circulation in the county where the land affected, or some part thereof, of the land is situated. The notice shall issue in the name of the state, shall be signed by the state geologist, shall specify the style and number of the proceeding, the time and place of the hearing, and shall briefly state the purpose of the proceeding. Should the ~~council~~ department elect to give notice by personal service, ~~such~~ the service may be made by any officer authorized to serve process, or by any agent of the ~~council~~ department, in the same manner as is provided by law for the service of original notices in civil actions in the district court of the state. Proof of the service by such agent shall be by the affidavit of the person making personal service.

5. All orders issued by the ~~ecouneiz~~ department shall be in writing, shall be entered in full and indexed in books to be kept by the state geologist for that purpose, and shall be public records open for inspection at all times during reasonable office hours. A copy of any rule or order certified by the state geologist or any officer of the ~~ecouneiz~~ department shall be received in evidence in all courts of this state with the same effect as the original.

6. The ~~ecouneiz~~ department may act upon its own motion, or upon the petition of any interested person. On the filing of a petition concerning any matter within the jurisdiction of the ~~ecouneiz~~ department, the ~~ecouneiz~~ department shall promptly fix a date for a hearing thereon, and shall cause notice of the hearing to be given. The hearing shall be held without undue delay after the filing of the petition. The ~~ecouneiz~~ department shall enter its order within thirty days after the hearing.

Sec. 47. Section 84.12, Code 1981, is amended to read as follows:

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

1. ~~The ecouneiz shall have the power to~~ department may summon witnesses, administer oaths, and require the production of records, books, and documents for examination at any hearing or investigation conducted. ~~No~~ A person shall not be excused from attending and testifying, or from producing books, papers, and records before the ~~ecouneiz~~ department or a court, or from obedience to the subpoena of the ~~ecouneiz~~ department or a court, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of ~~him~~ the person may tend to incriminate ~~him~~ the person or subject ~~him~~ the person to a penalty or forfeiture, ~~provided, that nothing herein contained shall be construed as requiring any.~~ However this subsection does not require a person to produce any books, papers, or records, or to testify in response to any inquiry not pertinent to some question lawfully before such

~~employee~~ the department or court for determination. No A natural person ~~shall-be-subjected~~ is not subject to criminal prosecution or to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which, in spite of his objections, he the person may be required to testify or produce as evidence, documentary or otherwise, before the ~~employee~~ department or court, or in obedience to subpoena, ~~provided, that no.~~ However, a person testifying shall not be exempted from prosecution and punishment for perjury committed in so testifying.

2. In case of failure or refusal on the part of any person to comply with the subpoena issued by the ~~employee~~ department, or in case of the refusal of any witness to testify as to any matter regarding which he the witness may be interrogated, any court in the state, upon the application of the ~~employee~~ department, may issue an attachment for ~~sueh~~ the person and compel ~~him~~ the person to comply with ~~sueh~~ the subpoena, and to attend before the ~~employee~~ department and produce ~~sueh~~ the records, books, and documents, for examination, and to give his testimony. ~~Sueh~~ The courts shall ~~have the power to~~ may punish for contempt as in the case of disobedience to a like subpoena issued by the court, or for refusal to testify ~~therein~~.

3. The ~~employee~~ department may appoint a hearing examiner or examiners to conduct hearings required by this chapter. When so appointed, ~~sueh~~ the hearing examiner ~~or examiners~~ shall ~~have and~~ may exercise all of the powers delegated to the ~~employee~~ department by this section.

Sec. 48. Section 84.14, subsection 1, Code 1981, is amended to read as follows:

1. Judicial review of an action of the ~~employee~~ department may be sought in accordance with the terms of ~~the Iowa~~ administrative procedure Act chapter 17A. Notwithstanding ~~the terms of the Iowa administrative procedure Act~~ that chapter, petitions for judicial review may be filed in the district court of Polk county or in the district court of

any county in which the property affected or some portion thereof of the property is located.

Sec. 49. Section 84.14, subsections 2 and 3, Code 1981, are amended by striking the subsections.

Sec. 50. Section 84.15, subsections 1 and 2, Code 1981, are amended to read as follows:

1. The sale, purchase, acquisition, transportation, refining, processing, or handling of illegal oil, illegal gas, or illegal product is hereby prohibited. However, no a penalty by way of fine shall not be imposed upon a person who sells, purchases, acquires, transports, refines, processes, or handles illegal oil, illegal gas, or illegal product unless:

a. ~~Such~~ The person knows, or is put on notice, of facts indicating that illegal oil, illegal gas, or illegal product is involved, ~~or.~~

b. ~~Such~~ The person fails to obtain a certificate of clearance with respect to ~~such~~ the oil, gas, or product where prescribed by order of the ~~county~~ department, or fails to follow any other method prescribed by an order of the ~~county~~ department for the identification of ~~such~~ the oil, gas or product.

2. Illegal oil, illegal gas, and illegal product are declared to be contraband and are subject to seizure and sale ~~as herein provided~~; seizure and sale to be in addition to any ~~and all~~ other remedies and penalties provided in this chapter for violations relating to illegal oil, illegal gas, or illegal product. ~~Whenever~~ When the ~~county~~ department believes that any oil, gas or product is illegal, the ~~county~~ department acting by the attorney general, shall bring a civil action in rem in the district court of the county where ~~such~~ the oil, gas, or product is found, to seize and sell the same, or the ~~county~~ department may include ~~such~~ an action in rem for the seizure and sale of illegal oil, illegal gas, or illegal products in any suit brought for an injunction or penalty involving illegal oil, illegal gas, or illegal product. Any person claiming an interest in oil, gas, or product affected

by any ~~sueh~~ the action ~~shall-have-the-right-to~~ may intervene as an interested party in ~~sueh~~ the action.

Sec. 51. Section 84.16, Code 1981, is amended to read as follows:

84.16 PENALTIES.

1. Any person who violates any provision of this chapter, or any rule or order of the ~~eeuneil~~ department where no other penalty is provided ~~shall-be~~ is guilty of a simple misdemeanor.

2. If any person, for the purpose of evading this chapter, or any rule or order of the ~~eeuneil~~ department, ~~shall-make~~ makes or ~~eaue~~ causes to be made any false entry or statement in a report required by this chapter or by any ~~sueh~~ rule or order, or ~~shall-make~~ makes or ~~eaue~~ causes to be made any false entry in any record, account, or memorandum required by this chapter, or by any ~~sueh~~ rule or order, or ~~shall-omit~~ omits, or ~~eaue~~ causes to be omitted, from any ~~sueh~~ record, account, or memorandum, full, true, and correct entries as required by this chapter, or by any ~~sueh~~ rule or order, or ~~shall-remove~~ removes from this state or ~~destroy~~, ~~mutilate~~, ~~alter~~ destroys, mutilates, alters, or falsify falsifies any such record, account, or memorandum, ~~sueh~~ the person ~~shall~~ be is guilty of a fraudulent practice.

3. Any person knowingly aiding or abetting any other person in the violation of any provision of this chapter, or any rule or order of the ~~eeuneil~~-~~shall-be~~ department is subject to the same penalty as that prescribed by this chapter for the violation by ~~sueh~~ the other person.

Sec. 52. Section 84.17, Code 1981, is amended to read as follows:

84.17 ACTION TO RESTRAIN VIOLATION OR THREATENED VIOLATION.

1. ~~Whenever~~ If it appears that any person is violating or threatening to violate any provision of this chapter, or any rule or order of the ~~eeuneil~~ department, the ~~eeuneil~~ department shall bring suit against ~~sueh~~ the person in the district court of any county where the violation occurs or is threatened, to restrain ~~sueh~~ the person from continuing

such the violation or from carrying out the threat of violation. In any-such the suit, the court shall-have has jurisdiction to grant to the ~~commission~~ department, without bond or other undertaking, such the prohibitory and mandatory injunctions as the facts may warrant, including temporary restraining orders, preliminary injunctions, temporary, preliminary, or final orders restraining the movement or disposition of any illegal oil, illegal gas, or illegal product, any of which the court may order to be impounded or placed in the custody of an agent appointed by the court.

2. If the ~~commission~~-shall-fail department fails to bring suit to enjoin a violation or threatened violation of any provision of this chapter, or any rule or order of the ~~commission~~ department, within ten days after receipt of written request to do so by any person who is or will be adversely affected by such the violation, the person making such the request may bring suit in ~~his~~ the person's own behalf to restrain such the violation or threatened violation in any court in which the ~~commission~~ department might have brought suit. The ~~commission~~ department shall be made a party defendant in such the suit in addition to the person violating or threatening to violate a provision of this chapter, or a rule or order of the ~~commission~~ department, and the action shall proceed and injunctive relief may be granted to the ~~commission~~ department or the petitioner without bond in the same manner as if suit had been brought by the ~~commission~~ department.

Sec. 53. Section 108.7, unnumbered paragraph 2, Code 1981, is amended to read as follows:

Any action taken by the commission under the-provisions of this section shall-be is subject to the approval of the ~~Iowa-Natural-resources-commission~~ department of water, air and waste management.

Sec. 54. Section 109.15, Code 1981, is amended to read as follows:

109.15 INJURY TO DAM. It shall-be is unlawful for any owner or ~~his~~ the owner's agent to remove or destroy any

existing dam, or alter it in a way so as to lower the water level, without having received written approval from the Iowa ~~natural-resources-council~~ department of water, air and waste management.

Sec. 55. Section 111.4, unnumbered paragraph 1, Code 1981, is amended to read as follows:

No A person, association or corporation shall not build or erect any pier, wharf, sluice, piling, wall, fence, obstruction, building or erection of any kind upon or over any state-owned land or water under the jurisdiction of the commission, without first obtaining from ~~such~~ the commission a written permit, ~~provided, however, that~~. However, this provision shall does not apply to dams constructed and operated under the ~~authority of~~ chapter 469. No ~~such~~ A permit, in matters relating to or in any manner affecting flood control, shall not be issued without approval of the Iowa ~~natural resources-council~~ department of water, air and waste management. No A person shall not maintain or erect any structure beyond the line of private ownership along or upon the shores of state-owned waters in ~~such~~ a manner as to obstruct the passage of pedestrians along the shore between the ordinary high-water mark and the water's edge, except by permission of the commission.

Sec. 56. Section 111.18, Code 1981, is amended to read as follows:

111.18 JURISDICTION. Jurisdiction over all meandered streams and lakes of this state and of state lands bordering thereon, not now used by some other state body for state purposes, is conferred upon the commission. The exercise of this jurisdiction shall ~~be~~ is subject to the approval of the Iowa ~~natural-resources-council~~ department of water, air and waste management in matters relating to or in any manner affecting flood control. The commission, with the approval of the executive council, may establish parts of ~~such~~ the property into state parks, and when so established all of the provisions of this chapter relative to public parks shall

apply ~~thereto~~ to the property.

Sec. 57. Section 111.62, Code 1981, is amended to read as follows:

111.62 COPY TO RESOURCES-COUNCIL DEPARTMENT. A copy of the petition and ~~such~~ the applications, plans, and specifications ~~as are required under the provisions of~~ chapter 455A shall be filed with the ~~Iowa-natural-resources-council~~ department of water, air and waste management and any approval or permit required ~~thereunder~~ under chapter 455A shall be obtained prior to the establishment of ~~said~~ the water recreational area or the granting of a permit ~~therefor~~ for the area by the state conservation commission.

Sec. 58. Section 111D.1, Code 1981, is amended to read as follows:

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

Sec. 59. Section 112.3, Code 1981, is amended to read as follows:

112.3 HEARING--DAMAGES. After ~~said~~ the approval the commission, if it wishes to proceed further with the project, shall, with the consent of the ~~Iowa-natural-resources-council~~ department of water, air and waste management, fix a date of hearing not less than two weeks from date of approval of the plan. Notice of the day, hour and place of hearing, relative to proposed work, shall be provided by publication at least once a week for two consecutive weeks in some newspaper of general circulation published in the county where

the project is located, or in the ~~county-er~~ counties where the water elevations are affected, under the tentative plan approved. The last ~~ef-sueh~~ publication ~~er-publieations~~ shall not be less than five days prior to the day set for hearing. Any claim by any persons ~~whemseevef~~, for damages which may be caused by ~~said~~ the project shall be filed with the commission at or prior to the time of the hearing ~~previded~~ ~~herein~~.

Sec. 60. WATER INFORMATION SYSTEM. By January 15, 1983, the state geologist shall prepare and submit to the general assembly a plan for a comprehensive water information system to be managed by the state geological survey for monitoring on a continuing basis the quantity and quality of water resources in this state. In preparing this plan, the state geologist may request the assistance of the Iowa department of transportation, department of environmental quality, Iowa natural resources council, department of health, state conservation commission, and department of agriculture.

Sec. 61. Section 308.1, Code 1981, is amended to read as follows:

308.1 PLANNING COMMISSION. The Mississippi parkway planning commission shall be composed of ten members appointed by the governor, five members to be appointed for two-year terms beginning July 1, 1959, and five members to be appointed for four-year terms beginning July 1, 1959. In addition to the above members there shall be seven advisory ex officio members who shall be as follows: One member from the state transportation commission, one member from the state conservation commission, one member from the Iowa state soil conservation commission, one member from the state historical society of Iowa, one member from the faculty of the landscape architectural division of the Iowa State-~~University~~ state university of science and technology, one member from the Iowa development commission, and one member from the ~~natural~~ ~~reseources-council~~ department of water, air and waste management. Members and ex officio members shall serve without

pay, but the actual and necessary expenses of members and ex officio members may be paid if the commission so orders and if the commission has funds available for such that purpose.

Sec. 62. Section 357A.1, subsection 7, Code 1981, is amended by striking the subsection and inserting in lieu thereof the following:

7. "Department" means the department of water, air and waste management.

Sec. 63. Section 357A.5, Code 1981, is amended to read as follows:

357A.5 WHO MAY BE HEARD. At the hearing on the petition, any owner or occupant of land within the boundaries of the area described in the petition may appear, in person or by ~~his~~ a designated representative, and any representative of the ~~county~~ department may also appear, in favor of or in opposition to the incorporation and organization of the proposed district. ~~Such~~ The appearances may also be filed in writing prior to the time set for the hearing.

Sec. 64. Section 357A.12, Code 1981, is amended to read as follows:

357A.12 PLANS AND SPECIFICATIONS. As soon as reasonably possible after incorporation of a district, the board shall file with the supervisors and the ~~county~~ department copies of the plans and specifications for, and estimates of the cost of, any improvements authorized by this chapter which the board proposes to construct or acquire. The board shall determine a reasonable fee which each member shall pay for the privilege of utilizing the district's facilities which shall be known as a benefit unit. Benefit units may be classified. The board, by publication in a newspaper of general circulation in the district, shall generally describe the planned improvements, the area to be served and the fee members will be required to pay for each service connected to the water system.

Sec. 65. Section 357A.19, Code 1981, is amended to read

as follows:

357A.19 NOT EXEMPT FROM OTHER REQUIREMENTS. ~~Nothing in this~~ This chapter shall ~~be construed to~~ does not exempt any district from the requirements of any other statute, whether enacted prior to or subsequent to July 1, 1970, under which the district is required to obtain the permission or approval of, or to notify, the ~~conseil~~ department, the Iowa commerce commission, or any other agency of this state or of any of its political subdivisions prior to proceeding with construction, acquisition, operation, enlargement, extension, or alteration of any works or facilities which the district is authorized to undertake pursuant to this chapter.

Sec. 66. Section 358.9, unnumbered paragraph 3, Code 1981, is amended to read as follows:

In cases where the state of Iowa owns at least four hundred acres of land contiguous to lakes within said the district, ~~then and only then the Iowa natural resources conseil~~ the state conservation commission shall appoint two members of said the board of trustees in addition to the three members hereinafter provided in this section. The additional two members shall be ~~qualified as follows:--They shall be~~ United States citizens, not less than eighteen years of age, and shall be property owners within said the district. ~~In such cases the~~ The two additional appointive members shall have equal vote and authority with other members of trustees and shall hold office at the pleasure of the ~~Iowa natural resources conseil~~ state conservation commission.

Sec. 67. Section 358A.24, Code 1981, is amended to read as follows:

358A.24 CONFLICT WITH OTHER REGULATIONS. ~~Wherever~~ If the regulations made under ~~authority of~~ this chapter require a greater width or size of yards, courts or other open spaces, or require a lower height of building or less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the

~~provisions-of-the~~ regulations made under ~~authority-of~~ this chapter shall govern. ~~Wherever-the-provisions-of~~ If any other statute or local ordinance or regulation ~~require~~ requires a greater width or size of yards, courts or other open spaces, or ~~require~~ requires a lower height of building or a less number of stories, or ~~require~~ a greater percentage of lot to be left unoccupied, or ~~impose~~ imposes other higher standards than are required by the regulations made under ~~authority~~ of this chapter, the ~~provisions-of-such~~ other statute or local ordinance or regulation shall-govern governs. ~~Wherever-any~~ If a regulation proposed or made under ~~authority-of~~ this chapter relates to any structure, building, dam, obstruction, deposit or excavation in or on the flood plains of any river or stream, prior approval of the ~~Iowa-natural-resources-council~~ shall-be department of water, air and waste management is required to establish, amend, supplement, change, or modify ~~such~~ the regulation or to grant any variation or exception ~~therefrom~~ from the regulation.

Sec. 68. Section 414.21, Code 1981, is amended to read as follows:

414.21 CONFLICTING RULES, ORDINANCES, AND STATUTES. ~~Wherever~~ If the regulations made under ~~authority-of~~ this chapter require a greater width or size of yards, courts or other open spaces, or ~~require~~ a lower height of building or less number of stories, or ~~require~~ a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the ~~provisions-of-the~~ regulations made under ~~authority-of~~ this chapter shall govern. ~~Wherever-the~~ ~~provisions-of~~ If any other statute or local ordinance or regulation ~~require~~ requires a greater width or size of yards, courts or other open spaces, or ~~require~~ a lower height of building or a less number of stories, or ~~require~~ a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the regulations made under ~~authority-of~~ this chapter, the ~~provisions-of-such~~ other

statute or local ordinance or regulation shall-govern governs.
Wherever-any If a regulation proposed or made under authority
of this chapter relates to any structure, building, dam,
obstruction, deposit or excavation in or on the flood plains
of any river or stream, prior approval of the ~~fewa-natural~~
~~resources-council-shall-be~~ department of water, air and waste
management is required to establish, amend, supplement, change
or modify such the regulation or to grant any variation or
exception ~~therefrom~~ from the regulation.

Sec. 69. Section 427.1, subsection 33, Code 1981, is
amended to read as follows:

33. IMPOUNDMENT STRUCTURES. The impoundment structure
and any land underlying an impoundment located outside any
incorporated city, which are not developed or used directly
or indirectly for nonagricultural income-producing purposes
and which are maintained in a condition satisfactory to the
soil conservation district commissioners of the county in
which the impoundment structure and the impoundment are
located. Any person owning land which qualifies for a property
tax exemption under this subsection shall apply to the county
assessor each year before the first of July for the exemption.
The application shall be made on forms prescribed by the
department of revenue. The first application shall be
accompanied by a copy of the water storage permit approved
by the ~~water-commissioner-of-the-fewa-natural-resources-council~~
department of water, air and waste management and a copy of
the plan for the construction of the impoundment structure
and the impoundment. The construction plan shall be used
to determine the total acre-feet of the impoundment and the
amount of land which is eligible for the property tax exemption
status. The county assessor shall annually review each
application for the property tax exemption under this
subsection and submit it, with the recommendation of the soil
conservation district commissioners, to the board of
supervisors for approval or denial. Any applicant for a
property tax exemption under this subsection may appeal the

decision of the board of supervisors to the district court. As used in this subsection, "impoundment" means any reservoir or pond which has a storage capacity of at least eighteen acre-feet of water or sediment at the time of construction; "storage capacity" means the total area below the crest elevation of the principal spillway including the volume of any excavation in such area; and "impoundment structure" means any dam, earthfill or other structure used to create an impoundment.

Sec. 70. Section 455.18, unnumbered paragraph 2, Code 1981, is amended to read as follows:

Where the proposed district contemplates as its object flood control or soil conservance the engineer shall include in ~~his~~ the report data describing any soil conservance or flood control improvements, the nature ~~thereof~~ of the improvements, and ~~such other additional data as shall be~~ prescribed by the Iowa-natural-resources-council department of water, air and waste management.

Sec. 71. Section 455C.1, subsections 7, 8, and 9, Code 1981, are amended to read as follows:

7. "Director" means the executive director of the department of ~~environmental-quality~~ water, air and waste management.

8. "Department" means the department of ~~environmental-quality~~ water, air and waste management.

9. "Commission" means the ~~environmental-quality~~ water, air and waste management commission of the department of ~~environmental-quality~~ water, air and waste management.

Sec. 72. Section 467A.3, subsection 15, Code 1981, is amended by striking the subsection.

Sec. 73. Section 467A.4, subsections 1 and 3, Code 1981, are amended to read as follows:

1. There is hereby established, to serve as an agency of the state and to perform the functions conferred upon it in this chapter, the department of soil conservation. The department shall be administered in accordance with the

policies of the state soil conservation committee, which shall approve administrative rules proposed by the department before the rules are ~~premulgated~~ adopted pursuant to chapter 17A. The state soil conservation committee shall consist of a chairperson and twelve members. The following shall serve as ex officio nonvoting members of the committee: The director of the state agricultural extension service, or the director's designee, the secretary of agriculture, or the secretary's designee, the director of the state conservation commission or the director's designee, and the executive director of the Iowa-natural-resources-council department of water, air and waste management or the executive director's designee. Eight voting members shall be appointed by the governor subject to confirmation by the senate. Six of the appointive members shall be persons engaged in actual farming operations, one of whom shall be a resident of each of the six conservancy districts established by section 467D.3, and no more than one of whom shall be a resident of any one county. The seventh and eighth appointive members shall be chosen by the governor from the state at large with one appointed to be a representative of cities and one appointed to be a representative of the mining industry. The committee may invite the secretary of agriculture of the United States to appoint one person to serve with the above-mentioned members, and the president of the Iowa county engineers association may designate a member of the association to serve in the same manner, but these persons shall have no vote and shall serve in an advisory capacity only. ~~The-director-of-the department-of-environmental-quality-shall-be-an-ex-officie nonvoting-member.~~ The committee shall adopt a seal, which seal shall be judicially noticed, and may perform acts, hold public hearings, and ~~premulgate~~ adopt rules as provided in chapter 17A as necessary for the execution of its functions under this chapter.

3. The committee shall designate its chairperson, and may change such the designation. The members appointed by

the governor shall serve for a period of six years. Members shall be appointed in each odd-numbered year to succeed members whose terms expire as provided by section 69.19. Appointments may be made at other times and for other periods as are necessary to fill vacancies on the committee. Members shall not be appointed to serve more than two complete six-year terms. Members designated to represent the secretary of agriculture, director of the state conservation commission, or the executive director of the ~~Iowa-natural-resources-council~~ department of water, air and waste managment shall serve at the pleasure of the officer making the designation. A majority of the voting members of the committee constitutes a quorum, and the concurrence of a majority of the voting members of the committee in any matter within their duties ~~shall-be~~ is required for its determination. The chairperson and members of the committee, not otherwise in the employ of the state, or any political subdivision, shall receive forty dollars per diem as compensation for their services in the discharge of their duties as members of the committee. The committee shall determine the number of days for which any committee member may draw per diem compensation, but the total number of days for which per diem compensation is allowed for the entire committee shall not exceed four hundred days per year. They ~~shall~~ are also be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of their duties as members of the committee. The per diem and expenses paid to the committee members shall be paid from funds appropriated to the committee. The committee shall provide for the execution of surety bonds for all employees and officers who ~~shall-be~~ are entrusted with funds or property, shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted, and shall provide for an annual audit of the accounts of receipts and disbursements.

Sec. 74. Section 467A.4, subsection 4, paragraph n, subparagraph (5), Code 1981, is amended by striking the

subparagraph.

Sec. 75. Section 467C.5, Code 1981, is amended to read as follows:

467C.5 APPROVAL OF COMMISSIONERS. No A district shall not be established by any board of supervisors under this chapter unless the organization of ~~such~~ the district is approved by the commissioners of any soil conservation district established under the provisions of chapter 467A and which is included all or in part within ~~such~~ the district, nor shall any such district be established without the approval of the state conservation commission and the ~~Iowa-natural-resources~~ ~~council~~ department of water, air and waste management.

Sec. 76. Section 467D.2, subsection 3, Code 1981, is amended by striking the subsection.

Sec. 77. Section 467D.6, subsections 1 and 11, Code 1981, are 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~~ adopt 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 department of environmental quality, as necessary to achieve the objectives of this chapter as set forth in section 467D.1.

11. Maintain at its office a record of all the conservancy district's proceedings, rules and orders, and furnish copies ~~thereof~~ of them to the department and the ~~council~~ department of water, air and waste management upon request.

Sec. 78. Section 467D.16, unnumbered paragraph 1, Code 1981, is amended to read as follows:

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

is pertinent to preparation of the plan, and may conduct such hearings as it deems necessary. The plan shall establish an order of priorities for carrying out projects necessary to accomplish the objectives of this chapter, shall conform as nearly as practicable to the comprehensive state-wide water resources plan established by the ~~county~~ department of water, air and waste management pursuant to section ~~455A-17~~ 17 of this Act and shall reflect the following general policies:

Sec. 79. Section 467D.17, Code 1981, is amended to read as follows:

467D.17 PLAN PRESENTED TO DEPARTMENT AND COUNCIL. The board shall tentatively adopt the plan by resolution and shall present the plan to the department and the ~~county~~ department of water, air and waste management for review. The ~~county~~ department of water, air and waste management shall within ninety days review the plan as presented and make such recommendations as which, in its discretion, it deems necessary to bring the conservancy district's plan into conformity with the comprehensive state-wide water resources plan established by the ~~county~~ department of water, air and waste management pursuant to section ~~455A-17~~ 17 of this Act. The department shall review the plan as presented and, with such amendments ~~as are~~ necessary to bring the plan into conformity with the state-wide water resources plan, give final approval within one hundred twenty days.

Sec. 80. Section 467D.19, Code 1981, is amended to read as follows:

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

the board shall adopt ~~the same~~ them, subject to the approval of the department, and shall let ~~the contract or~~ contracts ~~therefor~~ in accordance with section 467D.20. Any approval or permits from the ~~esuei~~ department of water, air and waste management required under other ~~provisions of~~ law shall be obtained by the conservancy district prior to initiation of any construction activity.

Sec. 81. Section 469.1, Code 1981, is amended to read as follows:

469.1 PROHIBITION--PERMIT. No A dam shall not be constructed, maintained, or operated in this state in any navigable or meandered stream for any purpose, or in any other stream for manufacturing or power purposes, nor shall any water be taken from ~~suek~~ the streams for industrial purposes, unless a permit has been granted by the ~~Iowa-natural-resources~~ ~~esuei~~ department of water, air and waste management to the person, firm, corporation, or municipality constructing, maintaining, or operating the same dam.

Sec. 82. Section 469.2, unnumbered paragraph 1 and subsection 6, Code 1981, are amended to read as follows:

Any person, firm, corporation, or municipality making application for a permit to construct, maintain, or operate a dam in any of the waters, including canals, raceways, and other constructions necessary or useful in connection with the development and utilization of the water or water power, shall file with the ~~Iowa-natural-resources-esuei~~ department of water, air and waste management a written application, which shall contain the following information:

6. ~~Suek~~ Any additional information ~~as may be~~ required by the ~~Iowa-natural-resources-esuei~~ department of water, air and waste management.

Sec. 83. Section 469.3, Code 1981, is amended to read as follows:

469.3 NOTICE OF HEARING. When any an application for a permit to construct, maintain, or operate a dam ~~from and~~ after the passage of this chapter is received, the ~~Iowa-natural~~

~~resources-council~~ department of water, air and waste management shall fix a time for hearing, and it shall give notice of the time and place of ~~such~~ the hearing by publication once each week for two successive weeks in at least one newspaper in each county in which riparian lands will be affected by the dam.

Sec. 84. Section 469.4, Code 1981, is amended to read as follows:

469.4 HEARING. At the time fixed for ~~such~~ the hearing or at any adjournment ~~thereof~~ of the hearing, the ~~council~~ department of water, air and waste management shall take evidence offered by the applicant and any other person, either in support of or in opposition to the proposed construction.

Sec. 85. Section 469.5, Code 1981, is amended to read as follows:

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

Sec. 86. Section 469.9, unnumbered paragraph 1, Code 1981, is amended to read as follows:

Every person, firm, or corporation, ~~excepting~~ except a municipality, to whom a permit is granted to construct or to maintain and operate a dam already constructed in or across any stream for the purpose ~~herein~~ specified in this chapter, shall pay to the ~~ewa-natural-resources-council~~ department of water, air and waste management a permit fee of one hundred dollars and shall pay an annual inspection and license fee,

to be fixed by the ~~Iowa-natural-resources-council~~ water, air and waste management commission, on or before the first day of January, 1925, and annually thereafter, but in no case shall the annual inspection and license fee be less than twenty-five dollars. All fees shall be paid into the general fund of the state treasury.

Sec. 87. Section 469.10, Code 1981, is amended to read as follows:

469.10 CONSTRUCTION AND OPERATION. The ~~Iowa-natural-resources-council~~ department of water, air and waste management shall investigate methods of construction, reconstruction, operation, maintenance, and equipment of dams, ~~so as to~~ determine the best methods to conserve and protect as far as possible all public and riparian rights in the waters of the state and ~~so as to~~ protect the life, health, and property of the general public; and the method of construction, operation, maintenance, and equipment of any ~~and~~ all dams of any character or for any purpose in such the waters shall be is subject to the approval of the ~~Iowa-natural-resources-council~~ department of water, air and waste management.

Sec. 88. Section 469.11, Code 1981, is amended to read as follows:

469.11 ACCESS TO WORKS. ~~Such-council-or-any-member, agent,-or-employee-thereof~~ The department of water, air and waste management shall at all times be accorded full access to all parts of any dam and its appurtenances being constructed, operated, or maintained in such waters.

Sec. 89. Section 469.12, Code 1981, is amended to read as follows:

469.12 DUTY TO ENFORCE STATUTES. ~~It-shall-be-the-duty of-the-council-to~~ The department of water, air and waste management shall require that all existing statutes of the state, including ~~the-provisions-of~~ this chapter, with reference to the construction of dams, shall ~~be~~ are enforced.

Sec. 90. Section 469.26, Code 1981, is amended to read as follows:

469.26 REVOCATION OR FORFEITURE OF PERMIT. If the person to whom a permit is issued under ~~the provisions of~~ this chapter does not begin the construction or the improvement of the dam or raceway within one year from the date of the granting of the permit, ~~his~~ the permit may be revoked by the ~~Iowa natural resources council~~ department of water, air and waste management, and if any permit holder does not finish and have in operation the plant for which the dam is constructed within three years after the granting of the permit, unless for good cause shown the ~~council~~ department has extended the time for completion, ~~sueh~~ the permit shall be forfeited.

Sec. 91. Section 469.29, Code 1981, is amended to read as follows:

469.29 PERMITS FOR EXISTING DAMS. All licenses and permits issued by the state executive council prior to April 17, 1949, or by the Iowa natural resources council prior to July 1, 1983, and in force immediately prior to July 1, 1983, are ~~hereby declared to be~~ in full force and effect and all of the powers of administration relating to licenses or permits ~~heretofore~~ issued are hereby vested in the ~~Iowa natural resources council~~ department of water, air and waste management.

Sec. 92. Sections 93.2, 93.7, 93A.4, 101.10, 107.1, 136B.2, 170.10, 170A.8, 170B.9, 172D.1, 307.10, and 427.1, Code 1981, are amended by striking the words "department of environmental quality" and inserting in lieu thereof the words "department of water, air and waste management".

Sec. 93. Sections 307.10 and 427.1, Code 1981, are amended by striking the words "environmental quality commission" and inserting in lieu thereof the words "water, air and waste management commission".

Sec. 94. PRIOR ACTIONS.

1. A rule adopted, permit or order issued, or approval given under chapter 108, 109, 111, 112, 357A, 358A, 414, 427, 455A, 467A, 467C, or 467D, before the effective date of this Act and in force just prior to the effective date of this

Act, by the Iowa natural resources council or its director remains effective until modified or rescinded by action of the department of environmental quality or its executive director unless the rule, order, permit, or approval is inconsistent with or contrary to this Act.

2. A rule adopted, permit or order issued, or approval given by the state department of health or the commissioner of public health relating to private water supply systems, private sewage disposal systems, or water wells under chapter 135, before the effective date of this Act and in force just prior to the effective date of this Act remains effective until modified or rescinded by action of the department of environmental quality or its executive director unless the rule, order, permit, or approval is inconsistent with or contrary to this Act.

3. A rule adopted, permit or order issued or approval given under chapter 84 before the effective date of this Act and in force just prior to the effective date of this Act, by the Iowa natural resources council or its director remains effective until modified or rescinded by action of the department of soil conservation unless the rule, order, permit, or approval is inconsistent with or contrary to this Act.

4. A rule adopted, permit or order issued, or approval given by the environmental quality commission or the executive director of the department of environmental quality under chapter 455B before the effective date of this Act and in force just prior to the effective date of this Act remains effective until modified or rescinded by action of the water, air and waste management commission or its executive director unless the rule, order, permit, or approval is inconsistent with or contrary to this Act.

Sec. 95. EMPLOYEE TRANSFER OR TERMINATION. The employees of the Iowa natural resources council employed pursuant to chapter 455A and the employees of the department of environmental quality employed pursuant to chapter 455B are transferred to the department of water, air and waste

management. After transfer of the employees under this section, any employee of the department of water, air and waste management whose duty assignment is terminated because of this Act may be reassigned to other duties or terminated. The Iowa merit employment commission shall adopt rules to carry out the transfer of employees under this section and to carry out subsequent reclassifications, reassignments, or terminations made necessary by this Act. The Iowa merit employment commission shall arbitrate and decide a written appeal made by an employee concerning a transfer, reassignment, reclassification, or termination made necessary by this Act. An employee shall not lose benefits accrued, including but not limited to salary, retirement, vacation, or sick leave because of transfer or reassignment.

Sec. 96. EFFECTIVE DATE--TRANSITION.

1. The effective date of this Act is July 1, 1983, except that sections 5, 60 and 98, and this section are effective on July 1, 1982.

2. After July 1, 1982, the governor may appoint the members of the water, air and waste management commission, appoint the executive director of the department of water, air and waste management, and may authorize the water, air and waste management commission to organize and plan for the transfer of powers, duties, records, equipment, personnel, and other property as applicable. The governor may select the executive director of the department of environmental quality or the director of the Iowa natural resources council to serve as executive director of the department of water, air and waste management without reappointment or confirmation.

3. Notwithstanding section 455B.4, the initial water, air and waste management commission shall have thirteen members. The membership shall include nine members of the environmental quality commission and four members of the Iowa natural resources council. Two members of the Iowa natural resources council shall be appointed by the governor to terms of office which expire on April 30, 1985, and two members

shall be appointed by the governor to terms of office which expire on April 30, 1987. Effective May 1, 1985, the commission created under this Act shall have eleven members and effective May 1, 1987, the commission created under this Act shall have nine members. Except for the number of members, section 455B.4 shall apply to the operation of the commission created under this Act.

4. The members of the environmental quality commission shall serve concurrently as members of the commission created under this Act and the environmental quality commission until July 1, 1983, when the members shall continue to serve their unexpired terms as members of the environmental quality commission as members of the commission created under this Act. The members may be reappointed as provided in this Act.

5. The members of the Iowa natural resource council appointed to the commission created under this Act shall serve concurrently as members of the commission and the Iowa natural resources council until July 1, 1983, when the terms of office of the members of the Iowa natural resource council shall expire. The four members appointed to the commission shall continue to serve the terms to which appointed as provided in subsection 3. The members may be reappointed as provided in this Act.

6. If an executive director of the department of water, air and waste management is selected or appointed before July 1, 1983, the executive director shall cooperate with the Iowa natural resources council and the department of environmental quality in preparing for an orderly transfer of powers and duties, including representing the new department in budgetary and appropriation matters. The executive director and the members of the water, air and waste management commission, appointed and authorized to exercise powers and duties before July 1, 1983, as provided in this section may be paid a salary or per diem as applicable and necessary expenses from funds appropriated to the department of environmental quality.

7. Notwithstanding section 455B.53, a director of the

board of a rural water district established under chapter 357A or 504A shall not become a member of certification of waterworks and waste waterworks operators until the term of office of the first of the two members appointed to represent the general public expires.

Sec. 97. Chapter 455A and sections 84.13 and 135.20, Code 1981, are repealed.

Sec. 98. The legislative council shall create a bipartisan interim legislative oversight committee consisting of five members of the senate and five members of the house to study and make recommendations to the legislative council and the general assembly on matters related to statewide water resources planning, the development of a water resource data base, water use, flood plain management, and the organization and administration of water resource and flood plain management laws and programs in this state. The committee shall be authorized at least five meeting days and shall submit a report of its recommendations, including any necessary bill drafts to implement its recommendations, to the general assembly not later than January 15, 1983."

3. Amend the title, by striking lines 1 through 11 and inserting in lieu thereof the following: "An Act to consolidate the management and regulation of water and air resources and waste by creating a department of water, air and waste management and a water, air and waste management commission; transferring to the department of water, air and waste management and the department of soil conservation the powers and duties of the Iowa natural resources council and the department of environmental quality and the powers and duties of the state department of health relating to private water systems and water wells and private sewage disposal systems; making corresponding amendments to the Code;

FINAL DAY

and providing civil penalties for violations, and an effective date."

ON THE PART OF THE HOUSE:

VICTOR STUELAND, Chair
JAMES O. ANDERSON
LISLE COOK

ON THE PART OF THE SENATE:

FORREST V. SCHWENGELS, Chair
JAMES GALLAGHER
NORMAN J. GOODWIN
NORMAN RODGERS
DALE L. TIEDEN

FILED APRIL 24, 1982
CONFERENCE COMMITTEE REPORT ADOPTED

Senate 4/24 (p. 1479)
House 4/24 (p. 1854)

STATE OF IOWA
F I S C A L N O T E

Request No. 82-294

ompliance with a written request received March 9, 19 82, there is hereby submitted a Fiscal Note for HF 2463 pursuant to Joint Rule 16. Background information used in developing this Fiscal Note is available from the Legislative Fiscal Bureau, to members of the Legislature upon request.

H.F. 2463 transfers the authority over numerous aspects of water regulation and planning from various departments and places it in the newly created Iowa Water Council. The proposed bill transfers authority from three basic areas:

- All the powers and duties of the Iowa Natural Resources Council (INRC)
- The powers and duties of the Department of Health relating to nonpublic water systems and wells
- The powers and duties of the Department of Environmental Quality (DEQ) relating to water pollution and water quality

The fiscal impact of these changes will be reviewed separately and then will be summarized to estimate the overall fiscal impact.

Powers and Duties of INRC transferred to the Iowa Water Council

<u>Expenditure</u> <u>Current Law</u>	<u>Expenditure</u> <u>Proposed Law</u>
\$638,928*	\$638,928

All powers and duties of INRC are transferred and the funding required would remain the same.

Powers and Duties of Department of Health relating to nonpublic water and wells to the Iowa Water Council

<u>Expenditure</u> <u>Current Law</u>	<u>Expenditure</u> <u>Proposed Law</u>
\$6,650	\$94,752

Currently the Department of Health administers a minimal program which meets only the most pressing of problems. The estimate of \$94,752 for the proposed law is what the Department of Health feels it would take to fully implement the program as originally envisioned. There are three basic activities to be included in this program.

- Promulgate and update administrative rules
- Routine spot checks, special investigations and enforcement
- Public information, consultation and publications

* All figures, for comparison sake, are based upon 12 month FY 1983 operations.

Powers and Duties of DEQ relating to water pollution and water quality to the Iowa Water Council

<u>Expenditure Current Law</u>	<u>Expenditure Proposed Law</u>
\$762,000	\$762,000

The programs operated by DEQ to be transferred, water pollution and water quality, involve a number of federal matching funds. The federal funds and state requirements which would be transferred will remain the same under SSB 562.

The difference of \$88,102 between the current and proposed law is accounted for by the Department of Health estimate of the cost to fully implement the nonpublic water and wells program. Some qualifications must be made about this estimate:

- Many of the people needed to implement the nonpublic water and wells program would have the identical function as those transferring from DEQ's water supply program
- Fees are mandated for DEQ's operator certification and water supply programs the funds collected from these fees would lower the state cost. Currently, the DEQ Commission is looking into a permit fee structure which would eliminate the states cost of \$762,000 to administer water quality and water pollution programs
- Duplication might exist in many areas which could be eliminated

Sources: DEQ
INRC
Department of Health

FILED MARCH 18, 1982

BY GERRY RANKIN, Fiscal Director

HOUSE FILE 2463

AN ACT

TO CONSOLIDATE THE MANAGEMENT AND REGULATION OF WATER AND AIR RESOURCES AND WASTE BY CREATING A DEPARTMENT OF WATER, AIR AND WASTE MANAGEMENT AND A WATER, AIR AND WASTE MANAGEMENT COMMISSION; TRANSFERRING TO THE DEPARTMENT OF WATER, AIR AND WASTE MANAGEMENT AND THE DEPARTMENT OF SOIL CONSERVATION THE POWERS AND DUTIES OF THE IOWA NATURAL RESOURCES COUNCIL AND THE DEPARTMENT OF ENVIRONMENTAL QUALITY AND THE POWERS AND DUTIES OF THE STATE DEPARTMENT OF HEALTH RELATING TO PRIVATE WATER SYSTEMS AND WATER WELLS AND PRIVATE SEWAGE DISPOSAL SYSTEMS; MAKING CORRESPONDING AMENDMENTS TO THE CODE; AND PROVIDING CIVIL PENALTIES FOR VIOLATIONS, AND AN EFFECTIVE DATE.

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

Section 1. Section 455B.1, subsections 1, 2, and 3, Code 1981, are amended to read as follows:

1. "Department" means the department of environmental quality water, air and waste management.
2. "Executive director" means the executive director of the department of environmental-quality water, air and waste management or his a designee of the executive director.

3. "Commission" means the environmental-quality water, air and waste management commission.

Sec. 2. Section 455B.2, unnumbered paragraph 1, Code 1981, is amended to read as follows:

There is created a department of environmental-quality water, air and waste management. The chief administrative officer of the department ~~shall be~~ is the executive director of ~~environmental-quality~~, who shall be appointed by the governor, subject to confirmation by the senate, and serve at the governor's pleasure.

Sec. 3. Section 455B.4, subsections 1 and 5, Code 1981, are amended to read as follows:

1. There is created an ~~environmental-quality~~ water, air and waste management 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, staggered terms of office commencing and ending as provided in section 69.19. 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.

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

H.F. 2463

director of the state conservation commission, the Iowa geological survey, and the director of the state hygienic laboratory of the scheduled meetings of the commission.

Sec. 4. Section 455B.5, subsection 3, Code 1981, is amended to read as follows:

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. A rule adopted under this chapter to carry out a federal regulation shall not become effective if the rule is more restrictive than required by the federal regulation unless the rule is approved by enactment of the general assembly. It is the intent of the general assembly that the commission exercise strict oversight of the operations 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.

Sec. 5. Section 455B.5, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. Appoint a water coordinator who shall coordinate requests from the public for information or assistance relating to the administration of water resources laws and programs and the resolution of water-related problems.

Sec. 6. Section 455B.30, subsection 8, Code 1981, is amended by striking the subsection.

Sec. 7. Section 455B.30, subsection 10, Code 1981, is amended to read as follows:

10. "Public water supply system" means a system for the provision to the public of piped water for human consumption, ~~if such~~ if the system has at least ~~fifteen~~ twenty service

connections or regularly serves at least ~~twenty-five~~ one hundred individuals. ~~Such~~ The term includes any source of water and any collection, treatment, storage, and distribution facilities under control of the operator of ~~such~~ such the system and used primarily in connection with ~~such~~ such the system, and any collection or pretreatment storage facilities not under such control which are used primarily in connection with ~~such~~ such the system.

Sec. 8. Section 455B.30, Code 1981, is amended by adding the following new subsections:

NEW SUBSECTION. "Private water supply" means any water supply for human consumption which has less than twenty service connections or regularly serves less than one hundred individuals.

NEW SUBSECTION. "Private sewage disposal system" means a system for the treatment or disposal of domestic sewage from four or fewer dwelling units.

Sec. 9. Section 455B.31, Code 1981, is amended to read as follows:

455B.31 ADMINISTRATIVE AGENCY.

1. ~~The department shall be~~ is the agency of the state to prevent, abate, or control water pollution and to conduct the public water supply program.

2. The department is the state agency designated to carry out the state responsibilities related to private water supplies and private sewage disposal systems for the protection of the health of the citizens of this state. The commission shall adopt guidelines and provide model standards for private water supplies and private sewage disposal facilities for use of the local boards of health. Each local board of health is the agency to regulate private water supplies and private sewage disposal systems. Each local board of health shall adopt standards relating to the design and construction of private water supplies and private sewage disposal facilities.

Sec. 10. Section 455B.32, subsection 4, Code 1981, is amended by striking the subsection.

Sec. 11. Section 455B.45, subsection 1, Code 1981, is amended to read as follows:

1. The construction, installation or modification of any disposal system or public water supply distribution system or part thereof or any extension or addition thereto except those sewer extensions and water supply distribution system extensions that are subject to review and approval by a city or county public works department pursuant to this section. A permit shall be issued for the construction, installation or modification of a public water supply distribution system or part of a system if a qualified, registered engineer certifies to the commission that the plans for the system or part of the system meet the requirements of federal law or regulations. The permit shall state that approval is based only upon the engineer's certification that the system's design meets the requirements of all applicable federal laws and regulations.

Sec. 12. Section 455B.53, subsection 6, Code 1981, is amended to read as follows:

6. ~~Two members~~ One member who shall ~~not be~~ is not a certificated waterworks ~~operators~~ operator or certificated waste waterworks ~~operators~~ operator, but who shall be interested and knowledgeable in water supply or waste water collection and treatment, and who shall represent the general public.

Sec. 13. Section 455B.53, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. One member who is a director of the board of a rural water district established under chapter 357A or 504A.

Sec. 14. Chapter 455B, division III, Code 1981, is amended by adding sections 15 through 34 of this Act as a new part.

Sec. 15. NEW SECTION. DEFINITIONS. As used in this part of division III, unless the context otherwise requires:

1. "Flood plains" means the area adjoining a river or stream which has been or is covered by flood water.

2. "Floodway" means the channel of a river or stream and those portions of the flood plains adjoining the channel which are reasonably required to carry and discharge the flood water or flood flow of any river or stream.

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

4. "Ground water" means that water occurring beneath the surface of the ground.

5. "Diffused waters" means waters from precipitation and snowmelt which is not a part of any watercourse or basin including capillary soil water.

6. "Depleting use" means the storage, diversion, conveyance, or other use of a supply of water if the use may impair rights of lower or surrounding users, may impair the natural resources of the state, or may injure the public welfare if not controlled.

7. "Beneficial use" means the application of water to a useful purpose that inures to the benefit of the water user and subject to the user's dominion and control but does not include the waste or pollution of water.

8. "Nonregulated use" means the use of water for ordinary household purposes, use of water for poultry, livestock, and domestic animals, any beneficial use of surface flow from rivers bordering this state, any existing beneficial uses of water within the territorial boundaries of municipal corporations on May 16, 1957, and any other beneficial use of water by any person of less than twenty-five thousand gallons per day. However, industrial users of water, having their own water supply, within the territorial boundaries of municipal corporations, shall be regulated when their water use exceeds three percent more than the highest per day beneficial use prior to May 16, 1957.

9. "Regulated use" means any depleting use except a use specifically designated as a nonregulated use.

10. "Permit" means a written authorization issued by the department to a permittee which is limited as to quantity, time, place, and rate of diversion, storage, or withdrawal in accordance with the policies and principles of beneficial use as specified in this part.

11. "Permittee" means a person who obtains a permit from the department authorizing the person to take possession by diversion or otherwise and to use and apply an allotted quantity of water for a designated beneficial use, and who makes actual use of the water for that purpose.

12. "Waste" means any of the following:

a. Permitting ground water or surface water to flow, or taking it or using it in any manner so that it is not put to its full beneficial use.

b. Transporting ground water from its source to its place of use in such a manner that there is an excessive loss in transit.

c. Permitting or causing the pollution of a water-bearing strata through any act which will cause salt water, highly mineralized water, or otherwise contaminated water to enter it.

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

14. "Basin" means a specific subsurface water-bearing reservoir having reasonably ascertainable boundaries.

15. "Established average minimum flow" means the average minimum flow for a given watercourse at a given point determined and established by the commission. The "average minimum flow" for a given watercourse shall be determined by the following factors:

a. Average of minimum daily flows occurring during the preceding years chosen by the commission as more nearly representative of changing conditions and needs of a given drainage area at a particular time.

b. Minimum daily flows shown by experience to be the limit at which further withdrawals would be harmful to the public interest in any particular drainage area.

c. The minimum daily flows shown by established discharge records and experiences to be definitely harmful to the public interest.

The determination shall be based upon available data, supplemented, when available data are incomplete, with whatever evidence is available.

16. "Impounded or stored water" means that water captured and stored on the land by anyone taking it pursuant to this chapter, and the party impounding the water shall become the absolute owner of the stored water.

Sec. 16. NEW SECTION. DECLARATION OF POLICY.

1. It is recognized that the protection of life and property from floods, the prevention of damage to lands from floods, and the orderly development, wise use, protection, and conservation of the water resources of the state by their considered and proper use is of paramount importance to the welfare and prosperity of the people of the state, and to realize these objectives, it is the policy of the state to correlate and vest the powers of the state in a single agency, the department, with the duty and authority to assess the water needs of all water users at five-year intervals for the twenty years beginning January 1, 1983, and ending December 31, 2003, utilizing a data base developed and managed by the Iowa geological survey, and prepare a general plan of water allocation in this state considering the types of water resources available in this state designed to meet the specific needs of the water users. The general welfare of the people of the state requires that the water resources of the state

be put to beneficial use to the fullest extent possible, and that the waste or unreasonable use, or unreasonable methods of use of water be prevented, and that the conservation of water resources be encouraged with the view to their reasonable and beneficial use in the interest of the people, and that the public and private funds for the promotion and expansion of the beneficial use of water resources be invested to the end that the best interests and welfare of the people are served.

2. Water occurring in a basin or watercourse, or other natural body of water of the state, is public water and public wealth of the people of the state and subject to use in accordance with this chapter, and the control and development and use of water for all beneficial purposes is vested in the state, which shall take measures to encourage full utilization and protection of the water resources of the state.

Sec. 17. NEW SECTION. DUTIES.

1. a. Not later than January 15, 1985, the commission shall deliver to the secretary of the senate and the chief clerk of the house identical joint resolutions enacting a general plan of water allocation priorities for this state, considering the types of water resources available in the state and the water needs of all types of water users in this state, with a recommendation on the most effective means of implementation of the plan. It is the intent of this subsection that the general assembly shall bring the joint resolution to a vote in either chamber under a procedure or rule permitting no amendments except those of a purely corrective nature. If by the end of the fourth week of the 1985 regular session, the joint resolution embodying the plan is not approved by a constitutional majority in both chambers, the commission shall, by the end of the sixth week of the 1985 regular session, prepare and deliver to the secretary of the senate and the chief clerk of the house identical joint

resolutions embodying a second plan, taking into account the reasons cited by either the secretary of the senate or chief clerk of the house for the failure of the first plan.

b. If, proceeding under a procedure or rule permitting amendments in the same manner as other joint resolutions the joint resolution embodying the second plan is not adopted by a constitutional majority in both chambers by the end of the tenth week of the 1985 regular session, the commission shall, by the end of the eleventh week of the 1985 regular session, prepare and deliver to the secretary of the senate and the chief clerk of the house identical joint resolutions embodying a third plan, taking into account the reasons cited by either the secretary of the senate or chief clerk of the house for failure of the second plan. It is the intent of this subsection that the third joint resolution be subject to amendment in the same manner as other joint resolutions, and be adopted by the end of the 1985 Session, including any extraordinary sessions of the general assembly.

2. The commission shall designate the official representative of this state on all comprehensive water resources planning groups for which state participation is provided. The commission shall coordinate state planning with local and national planning and, in safeguarding the interests of the state and its people, shall undertake the resolution of any conflicts that may arise between the water resources policies, plans, and projects of the federal government and the water resources policies, plans, and projects of the state, its agencies, and its people. This section does not limit or supplant the functions, duties, and responsibilities of other state or local agencies or institutions with regard to planning of water-associated projects within the particular area of responsibility of those state or local agencies or institutions.

3. The commission shall enter into negotiations and agreements with the federal government relative to the operation

of, or the release of water from, any project that has been authorized or constructed by the federal government when the commission deems the negotiations and agreements to be necessary for the achievement of the policies of this state relative to its water resources.

4. The commission, on behalf of the state, shall enter into negotiations with the federal government relative to the inclusion of conservation storage features for water supply in any project that has been authorized by the federal government when the commission deems the negotiations to be necessary for the achievement of the policies of this state. However, an agreement reached pursuant to these negotiations does not bind the state until enacted into law by the general assembly.

5. A water user who benefits from the development by the federal government of conservation storage for water supply shall be encouraged to assume the responsibility for repaying to the federal government any reimbursable costs incurred in the development, and a user who accepts benefits from the development financed in whole or part by the state shall assume by contract the responsibility of repaying to the state the user's reasonable share of the state's obligations in accordance with a basis which will assure payment within the life of the development. An appropriation, diversion, or use shall not be made by a person of any waters of the state that have been stored or released from storage either under the authority of the state or pursuant to an agreement between the state and the federal government until the person has assumed by contract the person's repayment responsibility. However, this subsection does not infringe upon any vested property interests.

6. In its contracts with water users for the payment of state obligations incurred in the development of conservation storage for water supply, the commission shall include the terms deemed reasonable and necessary:

a. To protect the health, safety, and general welfare of the people of the state.

b. To achieve the purposes of this chapter.

c. To provide that the state is not responsible to any person if the waters involved are insufficient for performance.

The commission may designate and describe any such contract, and describe the relationships to which it relates, as a sale of storage capacity, a sale of water release services, a contract for the storage or sale of water, or any similar terms suggestive of the creation of a property interest. The term of the contracts shall be commensurate with the investment and use concerned, but the commission shall not enter into any such contract for a term in excess of the maximum period provided for water use permits.

7. The commission shall procure flood control works and water resources projects from or by cooperation with any agency of the United States, by cooperation with the cities and other subdivisions of the state under the laws of the state relating to flood control and use of water resources, and by cooperation with the action of landowners in areas affected by the works or projects when the commissioner deems the projects to be necessary for the achievement of the policies of this state.

8. The commission shall promote the policies set forth in this part and shall represent this state in all matters within the scope of this part. The commission shall adopt rules pursuant to chapter 17A as necessary to transact its business and for the administration and exercise of its powers and duties.

9. In carrying out its duties, the commission may accept gifts, contributions, donations and grants, and use them for any purpose within the scope of this part.

Sec. 16. NEW SECTION. JURISDICTION--DIVERSION OF WATER.

1. The commission has jurisdiction over the public and private waters in the state and the lands adjacent to the

waters necessary for the purposes of carrying out this part. The commission may construct flood control works or any part of the works. In the construction of the works, in making surveys and investigations, or in formulating plans and programs relating to the water resources of the state, the commission may cooperate with an agency of another state or the United States, or with any other person.

2. Upon application by any person for permission to divert, pump, or otherwise take waters from any watercourse, underground basin or watercourse, drainage ditch, or settling basin within this state for any purpose other than a nonregulated use, the executive director shall investigate the effect of the use upon the natural flow of the watercourse, the effect of the use upon the owners of any land which might be affected by the use, whether the use is consistent with the plan of water allocation priorities for this state, and shall hold a hearing.

3. Upon application by any person for approval of the construction or maintenance of any structure, dam, obstruction, deposit, or excavation to be erected, used, or maintained in or on the flood plains of any river or stream, the department shall investigate the effect of the construction or maintenance project on the efficiency and capacity of the floodway and on the plan of water allocation priorities for this state. In determining the effect of the proposal the department shall consider fully its effect on flooding of or flood control for any proposed works and adjacent lands and property, on the wise use and protection of water resources, on the quality of water, on fish, wildlife, and recreational facilities or uses, and on all other public rights and requirements.

Sec. 19. NEW SECTION. PERMITS FOR DIVERSION, STORAGE, AND WITHDRAWAL. If the department determines after due investigation that the diversion, storage, or withdrawal of water will not be detrimental to the public interests,

including drainage and levee districts, or to the interests of property owners with prior or superior rights who may be affected, the department shall grant a permit for the diversion, storage, or withdrawal. Permits may be granted for any period of time not exceeding ten years except permits for the storage of water which may be granted for the life of the structure unless revoked by the commission. All existing storage permits are extended for the life of the structure unless withdrawn for good cause. Permits may be granted which provide for less diversion, storage, or withdrawal of waters than set forth in the application. A permit granted shall remain as an appurtenance of the land described in the permit through the date specified in the permit and any extension of the permit or until earlier date if the permit or any extension of the permit is modified or canceled under section 25 of this Act. Upon application for a permit prior to the termination date specified in the permit, a permit may be renewed by the department for any period of time not to exceed ten years.

Sec. 20. NEW SECTION. PRIORITY OF PERMITS FOR DIVERSION, STORAGE, AND WITHDRAWAL. In the consideration of applications for permits, priority in processing shall be given to persons in the order that the applications are received, except that this processing priority shall not affect the substantive priorities established under the plan of water allocation priorities for this state and except where the application of this priority system prevents the prompt approval of routine applications or where the public health, safety or welfare will be threatened by delay. The executive director or the commission on appeal shall determine the duration and frequency of withdrawal and the quantity of water for which a permit may be granted. Any person with an existing irrigation system in use prior to May 16, 1957, shall be issued a permit to continue unless its use damages some other riparian user. In the consideration of applications for permits by regulated

users, the plan of water allocation priorities for this state as adopted by the general assembly establishes standards for the determination of the disposition of the applications for permits. If there is competition for water, the use of water for irrigation has a lower priority than other beneficial uses of water subject to conditions which the commission may establish by rule. This part does not impair the vested right of any person.

Sec. 21. NEW SECTION. PERMITS FOR BENEFICIAL USE-- PROHIBITIONS.

1. The executive director or the commission may issue a permit for beneficial use of water in a watercourse if the established average minimum water flow is preserved.
2. A use of water shall not be authorized if it will impair the effect of this chapter or any other pollution control law of this state.
3. A permit shall not be issued or continued if it will impair the navigability of any navigable watercourse.

Sec. 22. NEW SECTION. WHEN PERMIT REQUIRED.

1. A permit shall be required for the following:
 - a. A municipal corporation or a person supplying a municipal corporation which increases its water use in excess of one hundred thousand gallons or three percent, whichever is the greater, per day more than its highest per day beneficial use prior to May 16, 1957. The corporation or person shall make reasonable provision for the storage of water at times when the daily use of the water by the corporation or person is less than the amount specified in this subsection.
 - b. Except for a nonregulated use, a person using in excess of twenty-five thousand gallons of water per day, diverted, stored, or withdrawn from any source of supply except a municipal water system or any other source specifically exempted under this part.
 - c. A person who diverts water or any material from the surface directly into an underground watercourse or basin.

d. Industrial users of water having their own water supply within the territorial boundaries of municipal corporations when the water use exceeds three percent more than the highest per day beneficial use prior to May 16, 1957.

2. The commission may adopt, modify or repeal rules pursuant to chapter 17A specifying the conditions under which the executive director may authorize specific nonregulating minor uses of water for periods not to exceed one year through registration.

3. Notwithstanding any exemptions from permit requirements, nothing in this part exempts water users from requirements for reporting which the commission adopts by rule.

Sec. 23. NEW SECTION. TAKING WATER PROHIBITED. A person shall not take water from a natural watercourse, underground basin or watercourse, drainage ditch, or settling basin within this state for any purpose other than a nonregulated use except in compliance with this part. However, existing uses may be continued during the period of the pendency of an application for a permit.

Sec. 24. NEW SECTION. RIGHTS PRESERVED. This part does not deprive any person of the right to use diffused waters, to drain land by use of tile, open ditch, or surface drainage, or to construct an impoundment on the person's property or across a stream that originates on the person's property if provision is made for safe construction and for a continued established average minimum flow when the flow is required to protect the rights of water users below.

Sec. 25. NEW SECTION. MODIFICATION OR CANCELLATION OF PERMITS. Each permit issued under this part is irrevocable for its term and for any extension of its term except as follows:

1. A permit may be modified or canceled by the department with the consent of the permittee.

2. Subject to appeal to the commission, a permit may be modified or canceled by the executive director if any of the following occur:

- a. There is a breach of the terms of the permit.
- b. There is a violation of the law pertaining to the permit by the permittee or the permittee's agents.
- c. There is a circumstance of nonuse as provided in section 26 of this Act.
- d. The department finds that modification or cancellation is necessary to protect the public health or safety, to protect the public interests in lands or waters, or to prevent substantial injury to persons or property in any manner. Before the modification or cancellation is effective, the department shall give at least thirty days' written notice mailed to the permittee at the permittee's last known address, stating the grounds of the proposed modification or cancellation and giving the permittee an opportunity to be heard on the proposal.

3. By written order to the permittee, the department may suspend operations under a permit if the executive director finds it necessary in an emergency to protect the public health, to protect the public interest in waters against imminent danger of substantial injury in any manner or to an extent not expressly authorized by the permit, or to protect persons or property against imminent danger. The department may require the permittee to take measures necessary to prevent or remedy the injury, but an order shall not be in effect for more than thirty days from the date of issue without giving the permittee at least ten days' written notice of the order and an opportunity to be heard on the order.

Sec. 26. NEW SECTION. TERMINATION OF PERMIT. The right of the permittee and the permittee's successors to the use of water shall terminate when the permittee or the permittee's successors fail for three consecutive years to use it for the specific beneficial purpose authorized in the permit and, after notification by the department of intent to cancel the permit for nonuse, the permittee or the permittee's successors fail to demonstrate adequate plans to use water within a reasonable time.

Sec. 27. NEW SECTION. DISPOSAL OF PERMIT. A permittee may sell, transfer, or assign a permit by conveying, leasing, or otherwise transferring the ownership of the land described in the permit, but the permit does not constitute ownership or absolute rights of use of the waters. The waters remain subject to the principle of beneficial use and the orders of the executive director or commission.

Sec. 28. NEW SECTION. UNAUTHORIZED DEPLETING USES. If a person files a complaint with the department that another person is making a depleting use of water not expressly exempted as a nonregulated use under this part and without a permit to do so, the department shall cause an investigation to be made and if the facts stated in the complaint are verified the department shall order the discontinuance of the use.

Sec. 29. NEW SECTION. PROHIBITED ACTS--POWERS OF COMMISSION AND EXECUTIVE DIRECTOR.

1. A person shall not erect, use or maintain a structure, deposit, or excavation in or on a floodway or flood plains, which will adversely affect the efficiency of or unduly restrict the capacity of the floodway, adversely affect the control, development, protection, allocation, or utilization of the water resources of the state, and the same are declared to be public nuisances. However, this subsection does not apply to dams constructed and operated under the authority of chapter 469.

2. The department may commence, maintain, and prosecute any appropriate action to enjoin or abate a nuisance, including any of the nuisances specified in subsection 1 and any other nuisance which adversely affects flood control.

3. If a person desires to erect or make or to permit a structure, dam, obstruction, deposit or excavation, other than a dam constructed and operated under chapter 469, to be erected, made, used, or maintained in or on any floodway or flood plains, the person shall file a verified written

application with the department, setting forth information as required by rule of the commission. The department, after an investigation, shall approve or deny the application imposing conditions and terms as prescribed by the department.

4. The department may maintain an action in equity to enjoin a person from erecting or making or permitting to be made a structure, dam, obstruction, deposit, or excavation other than a dam constructed and operated under the authority of chapter 469, for which a permit has not been granted. The department may also seek judicial abatement of any structure, dam, obstruction, deposit, or excavation erected or made without a permit required under this part. The abatement proceeding may be commenced to enforce an administrative determination of the department in a contested case proceeding that a public nuisance exists and should be abated.

5. The department may remove or eliminate a structure, dam, obstruction, deposit, or excavation in a floodway which adversely affects the efficiency of or unduly restricts the capacity of the floodway, by an action in condemnation, and in assessing the damages in the proceeding, the appraisers and the court shall take into consideration whether the structure, dam, obstruction, deposit, or excavation is lawfully in or on the floodway in compliance with this part.

6. The department may require, as a condition of an approval order or permit granted pursuant to this part or chapter 469, the furnishing of a performance bond with good and sufficient surety, conditioned upon full compliance with the order or permit and the rules of the commission. In determining the need for and amount of bond, the department shall give consideration to the hazard posed by the construction and maintenance of the approved works and the protection of the health, safety, and welfare of the people of the state. This subsection does not apply to orders or permits granted to a governmental entity.

7. When approving a request to straighten a stream, the department may establish as a condition of approval a permanent prohibition against tillage of land owned by the person receiving the approval and lying within a minimum distance from the stream sufficient in the judgment of the director or commission to hold soil erosion to reasonable limits. The department shall record the prohibition in the office of the county recorder of the appropriate county and the prohibition shall attach to the land.

8. The commission shall establish, by rule, thresholds for dimensions and effects, and any structure, dam, obstruction, deposit, or excavation having smaller dimensions and effects than those established by the commission is not subject to regulation under this section. The thresholds shall be established so that only those structures, dams, obstructions, deposits, or excavations posing a significant threat to the well-being of the public and the environment are subject to regulation.

Sec. 30. NEW SECTION. FLOOD PLAINS--ENCROACHMENT LIMITS. The commission may establish and enforce rules for the orderly development and wise use of the flood plains of any river or stream within the state and alter, change, or revoke the rules. The commission shall determine the characteristics of floods which reasonably may be expected to occur and may establish by order encroachment limits, protection methods, and minimum protection levels appropriate to the flooding characteristics of the stream and to reasonable use of the flood plains. The order shall fix the length of flood plains to be regulated at any practical distance, the width of the zone between the encroachment limits so as to include portions of the flood plains adjoining the channel, which with the channel, are required to carry and discharge the flood waters or flood flow of the river or stream, and the design discharge and water surface elevations for which protection shall be provided for projects outside the encroachment limits.

but within the limits of inundation. Plans for the protection of projects proposed for areas subject to inundation shall be reviewed as plans for flood control works within the purview of section 31 of this Act. An order establishing encroachment limits shall not be issued until due notice of the proposed order is given and opportunity for public hearing given for the presentation of protests against the order. In establishing the limits, the commission shall avoid to the greatest possible degree the evacuation of persons residing in the area of a floodway, the removal of residential structures occupied by the persons in the area of a floodway, and the removal of structures erected or made prior to July 4, 1965, which are located on the flood plains of a river or stream but not within the area of a floodway.

The commission shall cooperate with and assist local units of government in the establishment of encroachment limits, flood plain regulations, and zoning ordinances relating to flood plain areas within their jurisdiction. Encroachment limits, flood plain regulations, or flood plain zoning ordinances proposed by local units of government shall be submitted to the department for review and approval prior to adoption by the local units of government. Changes or variations from an approved regulation or ordinance as it relates to flood plain use are subject to approval by the commission prior to adoption. Individual applications, plans, and specifications and individual approval orders shall not be required for works on the flood plains constructed in conformity with encroachment limits, flood plain regulations, or zoning ordinances adopted by the local units of government and approved by the commission.

Sec. 31. NEW SECTION. FLOOD CONTROL WORKS COORDINATED. All flood control works in the state, which are established and constructed after the effective date of this Act, shall be coordinated in design, construction, and operation according to sound and accepted engineering practice so as to effect

the best flood control obtainable throughout the state. A person shall not construct or install works of any nature for flood control until the proposed works and the plans and specifications for the works are approved by the commission. The commission shall consider all the pertinent facts relating to the proposed works which will affect flood control and water resources in the state and shall determine whether the proposed works in the plans and specifications will be in aid of and acceptable as part of, or will adversely affect and interfere with flood control in the state, adversely affect the control, development, protection, allocation, or utilization of the water resources of the state, or adversely affect or interfere with the state comprehensive plan for water resources or an approved local water resources plan. In the event of disapproval, the commission shall set forth the objectionable features so that the proposed works and the plans and specifications for the proposed works may be corrected or adjusted to obtain approval.

This section applies to drainage districts, soil conservation districts, the state conservation commission, political subdivisions of the state, and private persons undertaking projects relating to flood control.

Sec. 32. NEW SECTION. PERMIT APPLICATION PROCEDURES.

1. The commission shall adopt, modify, or repeal rules establishing procedures by which permits required under this part shall be issued, suspended, revoked, modified, or denied. The procedures shall include provisions for application, an application fee sufficient to pay the administrative costs of the permit process, public notice and opportunity for public hearing, and contested cases.

2. Action by the department upon an application for a permit required under this part may be appealed to the commission by the applicant or any affected person within thirty days of the department's action. A hearing before the commission or its designee is a contested case. The

hearings and judicial review of decisions of the commission shall be carried out in accordance with chapter 17A. Notwithstanding chapter 17A, petitions for judicial review may be filed in the district court of Polk county or of any county in which the property affected is located. If the commission, the district court, or the supreme court determines that the action of the commission shall be stayed, the petitioner shall file an appropriate bond approved by the court.

Sec. 33. NEW SECTION. VIOLATION.

1. The commission may issue any order necessary to secure compliance with or prevent a violation of this part or the rules adopted pursuant to this part. The attorney general shall, on request of the department, institute any legal proceedings necessary in obtaining compliance with an order of the commission.

2. A person who violates a provision of this part or a rule or order adopted or promulgated or the conditions of a permit issued pursuant to this part is subject to a civil penalty not to exceed five hundred dollars for each day that a violation occurs.

Sec. 34. NEW SECTION. COORDINATION WITH CONSERVANCY DISTRICTS. The commission and the boards of the conservancy districts established by chapter 467D shall coordinate their efforts in carrying out the purposes of this chapter and chapter 467D. In addition to other powers and duties conferred by law, the department shall:

1. Offer advice and assistance as appropriate to the boards of the several conservancy districts in the state in discharging their powers and duties.
2. Review and make recommendations as necessary to bring the plan of each of the conservancy districts, and any subsequent changes in the plan, into conformity with the statewide water resources plan established by the commission pursuant to section 17 of this Act.

3. Inform the board of any conservancy district of any of the following:

- a. The receipt of each application for a permit to divert, store, or withdraw either surface or underground waters at any place within the district, filed with the executive director pursuant to this part.
- b. The receipt of each application for approval of a proposed dam, obstruction, deposit, or excavation in or on any floodway or flood plain in the district, filed with the executive director pursuant to section 29 of this Act.
- c. Any proposed order which would establish encroachment limits and zoning regulations on any flood plain in the district, filed with the executive director pursuant to section 30 of this Act.
- d. The receipt of each application for approval of a proposed flood control structure or works, filed with the executive director pursuant to section 31 of this Act.

Sec. 35. Section 68B.2, subsection 4, Code 1981, 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, and department of ~~environmental-quality-and~~ Iowa-natural-resources-council ~~water, air and waste management.~~

Sec. 36. Section 83A.3, subsection 5, Code 1981, is amended to read as follows:

5. One member representing the ~~Iowa-natural-resources~~
~~council~~ department of water, air and waste management.

Sec. 37. Section 84.2, subsections 11, 12, 14, and 16, Code 1981, are amended to read as follows:

11. "Illegal oil" means oil which has been produced from any well within the state in excess of the quantity permitted by any rule or order of the ~~council~~ department.

12. "Illegal gas" means gas which has been produced from any well within this state in excess of the quantity permitted by any rule or order of the ~~council~~ department.

14. "Certificate of clearance" means a permit prescribed by the ~~council~~ department for the transportation or the delivery of oil or gas or product and issued or registered in accordance with the rule or order requiring ~~such~~ the permit.

16. "~~Council~~" "Department" means ~~Iowa-natural-resources~~
~~council-as-defined-in-chapter-455A~~ the department of soil conservation.

Sec. 38. Section 84.2, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. "Committee" means the state soil conservation committee.

Sec. 39. Section 84.4, unnumbered paragraph 1, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 41, section 3, is amended to read as follows:

The ~~council~~ department has the duty of administering this chapter. The state geologist shall act as administrator with the duty of enforcing the regulations and orders of the ~~council~~ department applicable to the crude petroleum oil and natural gas and metallic mineral resources of this state and the provisions of this chapter. The ~~council~~ department has the duty to make investigations it deems proper to determine whether waste exists or is imminent or whether other facts exist which justify action. The ~~council~~ department acting through the office of the state geologist has the authority:

Sec. 40. Section 84.4, subsection 1, paragraphs d, e, and f, Code 1981, are amended to read as follows:

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

e. That the production from wells be separated into gaseous and liquid hydrocarbons, and that each be accurately measured by ~~such~~ the means and upon ~~such~~ standards ~~as-may-be~~ prescribed by the ~~council~~ committee:

1. That every person who produces, sells, purchases, acquires, stores, transports, refines, or processes native and indigenous Iowa produced crude oil or gas in this state shall keep and maintain within this state complete and accurate records of the quantities ~~thereof~~ of oil or gas, which records shall be available for examination by the ~~council-or-its~~
~~agents~~ department at all reasonable times, and that every such person file with the ~~council-such~~ department the reports ~~as~~ it may prescribe with respect to ~~such~~ the oil or gas or the products ~~thereof~~ of the oil or gas.

Sec. 41. Section 84.5, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 41, section 4, is amended to read as follows:

84.5 DRILLING PERMIT REQUIRED. It is unlawful to commence operations for the drilling of a well for oil or gas or the production of metallic minerals or to commence operations to deepen any well to a different geological formation without first giving the state geologist notice of intention to drill, and without first obtaining a permit from the state geologist, under rules prescribed by the ~~council~~ committee and paying to the ~~council~~ department a fee of ~~fifty-dollars~~ established by rule of the department for the well. The fee shall be ~~used-by-the-council-for-administering-this-chapter, including~~
~~the-payment-of-expenses-incurred-in-publishing-legal-notice~~ deposited in the general fund of the state.

Sec. 42. Section 84.6, Code 1981, is amended to read as follows:

84.6 ~~GEORGIA~~ DEPARTMENT SHALL DETERMINE MARKET DEMAND AND REGULATE THE AMOUNT OF PRODUCTION. The ~~energy~~ department shall determine market demand for each marketing district and regulate the amount of production as follows:

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

2. ~~Whenever when~~ the ~~energy~~ department limits the total amount of oil or gas which may be produced in the state or a marketing district, the ~~energy~~ department shall allocate or distribute the allowable production among the pools ~~therein~~ in the district on a reasonable basis, giving, where reasonable under the circumstances to each pool with small wells of settled production, an allowable production which prevents the general premature abandonment of ~~such~~ the wells in the pool.

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

4. In allocating the market demand for gas ~~as~~ between pools within marketing districts, the ~~energy~~ department shall give due regard to the fact that gas produced from oil pools

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

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

Sec. 43. Section 84.7, unnumbered paragraph 1 and subsections 1 and 4, Code 1981, are amended to read as follows:

The ~~energy~~ department shall set spacing units as follows:

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

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

increase the size of spacing units in the pool or any zone thereof of the pool, or to permit the drilling of additional wells on a reasonable uniform plan in the pool, or any zone thereof of the pool. Orders of the state geologist may be appealed to the ~~council~~ department within thirty days.

Sec. 44. Section 84.8, Code 1981, is amended to read as follows:

84.8 INTEGRATION OF FRACTIONAL TRACTS.

1. When two or more separately owned tracts are embraced within a spacing unit, or when there are separately owned interests in all or a part of the spacing unit, then the owners and royalty owners thereof of the tracts may pool their interests for the development and operation of the spacing unit. In the absence of voluntary pooling the ~~council~~ department upon the application of any interested person, shall enter an order pooling all interests in the spacing unit for the development and operations thereof of the unit. Each such pooling order shall be made after notice and hearing, and shall be upon terms and conditions that are just and reasonable, and that afford to the owner of each tract or interest in the spacing unit the opportunity to recover or receive, without unnecessary expense, his a just and equitable share. Operations incident to the drilling of a well upon any portion of a spacing unit covered by a pooling order shall be deemed for all purposes, to be the conduct of such the operations upon each separately owned tract in the drilling unit by the several owners thereof of the unit. That portion of the production allocated to each tract included in a spacing unit covered by a pooling order shall, when produced, be deemed for all purposes to have been produced from such the tract by a well drilled thereon on it.

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

a reasonable charge for supervision. In the event of any dispute as to such costs the ~~council~~ department shall determine the proper costs. If ~~one-or-more-of-the-owners~~ an owner shall drill and operate, or pay the expenses of drilling and operating the well for the benefit of others, then, the owner ~~or-owners~~ so drilling or operating shall, upon complying with the terms of section 84.10, have a lien on the share of production from the spacing unit accruing to the interest of each of the other owners for the payment of his a proportionate share of such the expenses. All the oil and gas subject to the lien shall be marketed and sold and the proceeds applied in payment of the expenses secured by such the lien as provided for in section 84.10.

Sec. 45. Section 84.9, Code 1981, is amended to read as follows:

84.9 VOLUNTARY AGREEMENTS FOR UNIT OPERATION VALID. An agreement for the unit or co-operative development and operation of a field or pool, in connection with the conduct of a repressuring or pressure maintenance operations, cycling or recycling operations, including the extraction and separation of liquid hydrocarbons from natural gas ~~in connection therewith~~, or any other method of operation, including water floods, ~~is authorized and~~ may be performed ~~and shall not be held or construed to violate without being~~ in violation of any of the statutes of this state relating to trusts, monopolies, or contracts and combinations in restraint of trade, if the agreement is approved by the ~~council~~ department as being in the public interest, protective of correlative rights, and reasonably necessary to increase ultimate recovery or to prevent waste of oil or gas. Such The agreements bind only the persons who execute them, and their heirs, successors, assigns, and legal representatives.

Sec. 46. Section 84.11, Code 1981, is amended to read as follows:

84.11 RULES COVERING PRACTICE BEFORE COUNCIL DEPARTMENT.

1. The ~~council~~ committee shall prescribe rules governing the practice and procedure before it.

2. ~~No~~ An order, or amendment thereof of an order, except in an emergency, shall not be made by the ~~council~~ department without a public hearing upon at least ten days' notice. The public hearing shall be held at ~~such~~ the time and place ~~as may be~~ prescribed by the ~~council~~ committee, and any interested person shall be is entitled to be heard.

3. When an emergency requiring immediate action is found to exist the ~~council is authorized to~~ department may issue an emergency order without notice of hearing, which shall be effective upon promulgation. ~~No~~ An emergency order shall not remain effective for more than fifteen days.

4. Any notice required by this chapter shall be given at the election of the ~~council~~ department either by personal service or by letter to the last recorded address and one publication in a newspaper of general circulation in the state capital city and in a newspaper of general circulation in the county where the land affected, or some part thereof, of the land is situated. The notice shall issue in the name of the state, shall be signed by the state geologist, shall specify the style and number of the proceeding, the time and place of the hearing, and shall briefly state the purpose of the proceeding. Should the ~~council~~ department elect to give notice by personal service, ~~such~~ the service may be made by any officer authorized to serve process, or by any agent of the ~~council~~ department, in the same manner as is provided by law for the service of original notices in civil actions in the district court of the state. Proof of the service by such agent shall be by the affidavit of the person making personal service.

5. All orders issued by the ~~council~~ department shall be in writing, shall be entered in full and indexed in books to be kept by the state geologist for that purpose, and shall

be public records open for inspection at all times during reasonable office hours. A copy of any rule or order certified by the state geologist or any officer of the ~~council~~ department shall be received in evidence in all courts of this state with the same effect as the original.

6. The ~~council~~ department may act upon its own motion, or upon the petition of any interested person. On the filing of a petition concerning any matter within the jurisdiction of the ~~council~~ department, the ~~council~~ department shall promptly fix a date for a hearing thereon, and shall cause notice of the hearing to be given. The hearing shall be held without undue delay after the filing of the petition. The ~~council~~ department shall enter its order within thirty days after the hearing.

Sec. 47. Section 84.12, Code 1981, is amended to read as follows:

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

1. The ~~council shall have the power to~~ department may summon witnesses, administer oaths, and require the production of records, books, and documents for examination at any hearing or investigation conducted. ~~No~~ A person shall not be excused from attending and testifying, or from producing books, papers, and records before the ~~council~~ department or a court, or from obedience to the subpoena of the ~~council~~ department or a court, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of ~~him~~ the person may tend to incriminate ~~him~~ the person or subject ~~him~~ the person to a penalty or forfeiture, ~~provided--that nothing herein contained shall be construed as requiring any.~~ However, this subsection does not require a person to produce any books, papers, or records, or to testify in response to any inquiry not pertinent to some question lawfully before ~~such~~ the department or court for determination. ~~No~~ A natural person shall be subjected is not subject to criminal

prosecution or to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which, in spite of his objections, he the person may be required to testify or produce as evidence, documentary or otherwise, before the ~~council~~ department or court, or in obedience to subpoena ~~provided, that no.~~ However, a person testifying shall not be exempted from prosecution and punishment for perjury committed in so testifying.

2. In case of failure or refusal on the part of any person to comply with the subpoena issued by the ~~council~~ department, or in case of the refusal of any witness to testify as to any matter regarding which he the witness may be interrogated, any court in the state, upon the application of the ~~council~~ department, may issue an attachment for ~~such the person and compel him the person~~ such the person to comply with ~~such the subpoena, and to attend before the council department and produce such the records, books, and documents, for examination, and to give his testimony. Such the courts shall have the power to may~~ such the subpoena, and to attend before the council department and produce such the records, books, and documents, for examination, and to give his testimony. Such the courts shall have the power to may punish for contempt as in the case of disobedience to a like subpoena issued by the court, or for refusal to testify therein.

3. The ~~council~~ department may appoint a hearing examiner or examiners to conduct hearings required by this chapter. When so appointed, ~~such the hearing examiner or examiners shall have and may exercise all of the powers delegated to the council department by this section.~~ such the hearing examiner or examiners shall have and may exercise all of the powers delegated to the council department by this section.

Sec. 46. Section 84.14, subsection 1, Code 1981, is amended to read as follows:

1. Judicial review of an action of the council department may be sought in accordance with the terms of ~~the Iowa administrative-procedure-Aet chapter 17A. Notwithstanding the terms of the Iowa administrative-procedure-Aet that chapter,~~ an action of the council department petitions for judicial review may be filed in the district court of Polk county or in the district court of any county in which the property affected or some portion thereof of the property is located.

Sec. 49. Section 84.14, subsections 2 and 3, Code 1981, are amended by striking the subsections.

Sec. 50. Section 84.15, subsections 1 and 2, Code 1981, are amended to read as follows:

1. The sale, purchase, acquisition, transportation, refining, processing, or handling of illegal oil, illegal gas, or illegal product is ~~hereby~~ prohibited. ~~However, no~~ a penalty by way of fine shall not be imposed upon a person who sells, purchases, acquires, transports, refines, processes, or handles illegal oil, illegal gas, or illegal product unless:

a. ~~Such the person~~ Such the person knows, or is put on notice, of facts indicating that illegal oil, illegal gas, or illegal product is involved ~~or.~~

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

2. Illegal oil, illegal gas, and illegal product are declared to be contraband and are subject to seizure and sale ~~as herein provided;~~ seizure and sale to be in addition to any ~~and all~~ other remedies and penalties provided in this chapter for violations relating to illegal oil, illegal gas, or illegal product. ~~Whenever~~ When the ~~council~~ department believes that any oil, gas or product is illegal, the ~~council~~ department acting by the attorney general, shall bring a civil action in rem in the district court of the county where ~~such the oil, gas, or product is found, to seize and sell the same, or the council department may include such an action in rem for the seizure and sale of illegal oil, illegal gas, or illegal product in any suit brought for an injunction or penalty involving illegal oil, illegal gas, or illegal product. Any person claiming an interest in oil, gas, or product affected by any such the action shall have the right to may~~ such the oil, gas, or product is found, to seize and sell the same, or the council department may include such an action in rem for the seizure and sale of illegal oil, illegal gas, or illegal product in any suit brought for an injunction or penalty involving illegal oil, illegal gas, or illegal product. Any person claiming an interest in oil, gas, or product affected by any such the action shall have the right to may intervene as an interested party in ~~such the~~ such the action.

Sec. 51. Section 84.16, Code 1981, is amended to read as follows:

84.16 PENALTIES.

1. Any person who violates any provision of this chapter, or any rule or order of the ~~conseil~~ department where no other penalty is provided ~~shall-be~~ is guilty of a simple misdemeanor.

2. If any person, for the purpose of evading this chapter, or any rule or order of the ~~conseil~~ department, ~~shall-make~~ makes or ~~cause~~ causes to be made any false entry or statement in a report required by this chapter or by any ~~such~~ rule or order, or ~~shall-make~~ makes or ~~cause~~ causes to be made any false entry in any record, account, or memorandum required by this chapter, or by any ~~such~~ rule or order, or ~~shall-omit~~ omits, or ~~cause~~ causes to be omitted, from any ~~such~~ record, account, or memorandum, full, true, and correct entries as required by this chapter, or by any ~~such~~ rule or order, or ~~shall-remove~~ removes from this state or ~~destroy, mutilate,~~ destroys, mutilates, alters, or ~~falsify~~ falsifies any such record, account, or memorandum, ~~such~~ the person ~~shall~~ be is guilty of a fraudulent practice.

3. Any person knowingly aiding or abetting any other person in the violation of any provision of this chapter, or any rule or order of the ~~conseil~~ department is subject to the same penalty as that prescribed by this chapter for the violation by ~~such~~ the other person.

Sec. 52. Section 84.17, Code 1981, is amended to read as follows:

84.17 ACTION TO RESTRAIN VIOLATION OR THREATENED VIOLATION.

1. Whenever ~~if~~ it appears that any person is violating or threatening to violate any provision of this chapter, or any rule or order of the ~~conseil~~ department, the ~~conseil~~ department shall bring suit against ~~such~~ the person in the district court of any county where the violation occurs or is threatened, to restrain ~~such~~ the person from continuing ~~such~~ the violation or from carrying out the threat of

violation. In ~~any-such~~ the suit, the court ~~shall-have~~ has jurisdiction to grant to the ~~conseil~~ department, without bond or other undertaking, ~~such~~ the prohibitory and mandatory injunctions as the facts may warrant, including temporary restraining orders, preliminary injunctions, temporary, preliminary, or final orders restraining the movement or disposition of any illegal oil, illegal gas, or illegal product, any of which the court may order to be impounded or placed in the custody of an agent appointed by the court.

2. If the ~~conseil~~ department ~~fails~~ fails to bring suit to enjoin a violation or threatened violation of any provision of this chapter, or any rule or order of the ~~conseil~~ department, within ten days after receipt of written request to do so by any person who is or will be adversely affected by ~~such~~ the violation, the person making ~~such~~ the request may bring suit in ~~his~~ the person's own behalf to restrain ~~such~~ the violation or threatened violation in any court in which the ~~conseil~~ department might have brought suit. The ~~conseil~~ department shall be made a party defendant in ~~such~~ the suit in addition to the person violating or threatening to violate a provision of this chapter, or a rule or order of the ~~conseil~~ department, and the action shall proceed and injunctive relief may be granted to the ~~conseil~~ department or the petitioner without bond in the same manner as if suit had been brought by the ~~conseil~~ department.

Sec. 53. Section 108.7, unnumbered paragraph 2, Code 1981, is amended to read as follows:

Any action taken by the commission under ~~the-provisions~~ of this section ~~shall-be~~ is subject to the approval of the ~~Iowa-Natural-Resources-Conseil~~ department of water, air and waste management.

Sec. 54. Section 109.15, Code 1981, is amended to read as follows:

109.15 INJURY TO DAM. It ~~shall-be~~ is unlawful for any owner or ~~his~~ the owner's agent to remove or destroy any

existing dam, or alter it in a way so as to lower the water level, without having received written approval from the ~~Iowa natural-resources-council~~ department of water, air and waste management.

Sec. 55. Section 111.4, unnumbered paragraph 1, Code 1981, is amended to read as follows:

No A person, association or corporation shall not build or erect any pier, wharf, sluice, piling, wall, fence, obstruction, building or erection of any kind upon or over any state-owned land or water under the jurisdiction of the commission, without first obtaining from such the commission a written permit, ~~provided, however, that~~. However, this provision ~~shall~~ does not apply to dams constructed and operated under ~~the authority of~~ chapter 469. No ~~such A~~ permit, in matters relating to or in any manner affecting flood control, shall not be issued without approval of the ~~Iowa-natural-resources-council~~ department of water, air and waste management. No A person shall not maintain or erect any structure beyond the line of private ownership along or upon the shores of state-owned waters in such a manner as to obstruct the passage of pedestrians along the shore between the ordinary high-water mark and the water's edge, except by permission of the commission.

Sec. 56. Section 111.18, Code 1981, is amended to read as follows:

111.18 JURISDICTION. Jurisdiction over all meandered streams and lakes of this state and of state lands bordering thereon, not now used by some other state body for state purposes, is conferred upon the commission. The exercise of this jurisdiction ~~shall be~~ is subject to the approval of the ~~Iowa-natural-resources-council~~ department of water, air and waste management in matters relating to or in any manner affecting flood control. The commission, with the approval of the executive council, may establish parts of such the property into state parks, and when so established all of

the provisions of this chapter relative to public parks ~~shall~~ apply thereto to the property.

Sec. 57. Section 111.52, Code 1981, is amended to read as follows:

111.52 COPY TO ~~RESOURCES-COUNCIL~~ DEPARTMENT. A copy of the petition and such the applications, plans, and specifications ~~are~~ are required under ~~the provisions of~~ chapter 455A shall be filed with the ~~Iowa-natural-resources-council~~ department of water, air and waste management and any approval or permit required ~~thereunder under~~ chapter 455A shall be obtained prior to the establishment of ~~said the~~ the water recreational area or the granting of a permit ~~therefor for~~ the area by the state conservation commission.

Sec. 58. Section 111D.1, Code 1981, is amended to read as follows:

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

Sec. 59. Section 112.3, Code 1981, is amended to read as follows:

112.3 HEARING--DAMAGES. After ~~said the~~ the approval the commission, if it wishes to proceed further with the project, shall, with the consent of the ~~Iowa-natural-resources-council~~ department of water, air and waste management, fix a date of hearing not less than two weeks from date of approval of the plan. Notice of the day, hour and place of hearing, relative to proposed work, shall be provided by publication

at least once a week for two consecutive weeks in some newspaper of general circulation published in the county where the project is located, or in the ~~county or~~ counties where the water elevations are affected, under the tentative plan approved. The last ~~of such~~ publication ~~or publication~~ shall not be less than five days prior to the day set for hearing. Any claim by any persons ~~whomsoever~~, for damages which may be caused by ~~said~~ the project shall be filed with the commission at or prior to the time of the hearing ~~provided herein~~.

Sec. 60. WATER INFORMATION SYSTEM. By January 15, 1983, the state geologist shall prepare and submit to the general assembly a plan for a comprehensive water information system to be managed by the state geological survey for monitoring on a continuing basis the quantity and quality of water resources in this state. In preparing this plan, the state geologist may request the assistance of the Iowa department of transportation, department of environmental quality, Iowa natural resources council, department of health, state conservation commission, and department of agriculture.

Sec. 61. Section 309.1, Code 1981, is amended to read as follows:

309.1 PLANNING COMMISSION. The Mississippi parkway planning commission shall be composed of ten members appointed by the governor, five members to be appointed for two-year terms beginning July 1, 1959, and five members to be appointed for four-year terms beginning July 1, 1959. In addition to the above members there shall be seven advisory ex officio members who shall be as follows: One member from the state transportation commission, one member from the state conservation commission, one member from the Iowa state soil conservation commission, one member from the state historical society of Iowa, one member from the faculty of the landscape architectural division of the Iowa State ~~University~~ state university of science and technology, one member from the

Iowa development commission, and one member from the ~~natural resources council~~ department of water, air and waste management. Members and ex officio members shall serve without pay, but the actual and necessary expenses of members and ex officio members may be paid if the commission so orders and if the commission has funds available for ~~such~~ that purpose.

Sec. 62. Section 357A.1, subsection 7, Code 1981, is amended by striking the subsection and inserting in lieu thereof the following:

7. "Department" means the department of water, air and waste management.

Sec. 63. Section 357A.5, Code 1981, is amended to read as follows:

357A.5 WHO MAY BE HEARD. At the hearing on the petition, any owner or occupant of land within the boundaries of the area described in the petition may appear, in person or by ~~him~~ a designated representative, and any representative of the ~~county~~ department may also appear, in favor of or in opposition to the incorporation and organization of the proposed district. ~~Such~~ The appearances may also be filed in writing prior to the time set for the hearing.

Sec. 64. Section 357A.12, Code 1981, is amended to read as follows:

357A.12 PLANS AND SPECIFICATIONS. As soon as reasonably possible after incorporation of a district, the board shall file with the supervisors and the ~~county~~ department copies of the plans and specifications for, and estimates of the cost of, any improvements authorized by this chapter which the board proposes to construct or acquire. The board shall determine a reasonable fee which each member shall pay for the privilege of utilizing the district's facilities which shall be known as a benefit unit. Benefit units may be classified. The board, by publication in a newspaper of general circulation in the district, shall generally describe

the planned improvements, the area to be served and the fee members will be required to pay for each service connected to the water system.

Sec. 65. Section 357A.19, Code 1981, is amended to read as follows:

357A.19 NOT EXEMPT FROM OTHER REQUIREMENTS. ~~Nothing in this~~ This chapter ~~shall be construed to~~ does not exempt any district from the requirements of any other statute, whether enacted prior to or subsequent to July 1, 1970, under which the district is required to obtain the permission or approval of, or to notify, the ~~council~~ department, the Iowa commerce commission, or any other agency of this state or of any of its political subdivisions prior to proceeding with construction, acquisition, operation, enlargement, extension, or alteration of any works or facilities which the district is authorized to undertake pursuant to this chapter.

Sec. 66. Section 358.9, unnumbered paragraph 3, Code 1981, is amended to read as follows:

In cases where the state of Iowa owns at least four hundred acres of land contiguous to lakes within ~~said~~ the district, ~~then and only then the Iowa natural resources council~~ the state conservation commission shall appoint two members of ~~said~~ the board of trustees in addition to the three members hereinbefore provided in this section. The additional two members shall be ~~qualified as follows--They shall be~~ United States citizens, not less than eighteen years of age, and ~~shall be~~ property owners within ~~said~~ the district. ~~in such cases the~~ The two additional appointive members shall have equal vote and authority with other members of trustees and shall hold office at the pleasure of the ~~Iowa natural resources council~~ state conservation commission.

Sec. 67. Section 358A.24, Code 1981, is amended to read as follows:

358A.24 CONFLICT WITH OTHER REGULATIONS. ~~Wherever if~~ the regulations made under ~~authority of~~ this chapter require

a greater width or size of yards, courts or other open spaces, or require a lower height of building or less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the ~~provisions of the~~ regulations made under ~~authority of~~ this chapter ~~shall~~ govern. ~~Wherever the provisions of~~ If any other statute or local ordinance or regulation ~~require~~ requires a greater width or size of yards, courts or other open spaces, or ~~require~~ requires a lower height of building or a less number of stories, or ~~require~~ requires a greater percentage of lot to be left unoccupied, or ~~impose~~ imposes other higher standards than are required by the regulations made under ~~authority of~~ this chapter, the ~~provisions of such other~~ statute or local ordinance or regulation ~~shall govern~~ governs. ~~Wherever any~~ If a regulation proposed or made under ~~authority of~~ this chapter relates to any structure, building, dam, obstruction, deposit or excavation in or on the flood plains of any river or stream, prior approval of the ~~Iowa natural resources council~~ department of water, air and waste management is required to establish, amend, supplement, change, or modify ~~such the~~ regulation or to grant any variation or exception ~~therefrom from the regulation~~.

Sec. 68. Section 414.21, Code 1981, is amended to read as follows:

414.21 CONFLICTING RULES, ORDINANCES, AND STATUTES. ~~Wherever if~~ the regulations made under ~~authority of~~ this chapter require a greater width or size of yards, courts or other open spaces, or ~~require~~ a lower height of building or less number of stories, or ~~require~~ a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the ~~provisions of the~~ regulations made under ~~authority of~~ this chapter ~~shall~~ govern. ~~Wherever the~~ ~~provisions of~~ If any other statute or local ordinance or

regulation ~~require~~ requires a greater width or size of yards, courts or other open spaces, or ~~require~~ a lower height of building or a less number of stories, or ~~require~~ a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the regulations made under ~~authority of~~ this chapter, the ~~provisions of such other statute or local ordinance or regulation shall govern~~. ~~Wherever any~~ If a regulation proposed or made under ~~authority of~~ this chapter relates to any structure, building, dam, obstruction, deposit or excavation in or on the flood plains of any river or stream, prior approval of the ~~town-natural resources-committee shall be~~ department of water, air and waste management is required to establish, amend, supplement, change or modify ~~each~~ the regulation or to grant any variation or exception ~~therefrom from the regulation~~.

Sec. 69. Section 427.1, subsection 33, Code 1981, is amended to read as follows:

33. **IMPONDMENT STRUCTURES.** The impoundment structure and any land underlying an impoundment located outside any incorporated city, which are not developed or used directly or indirectly for nonagricultural income-producing purposes and which are maintained in a condition satisfactory to the soil conservation district commissioners of the county in which the impoundment structure and the impoundment are located. Any person owning land which qualifies for a property tax exemption under this subsection shall apply to the county assessor each year before the first of July for the exemption. The application shall be made on forms prescribed by the department of revenue. The first application shall be accompanied by a copy of the water storage permit approved by the ~~water-committee-of-the-town-natural-resources-committee~~ department of water, air and waste management and a copy of the plan for the construction of the impoundment structure and the impoundment. The construction plan shall be used to determine the total acre-feet of the impoundment and the

amount of land which is eligible for the property tax exemption status. The county assessor shall annually review each application for the property tax exemption under this subsection and submit it, with the recommendation of the soil conservation district commissioners, to the board of supervisors for approval or denial. Any applicant for a property tax exemption under this subsection may appeal the decision of the board of supervisors to the district court. As used in this subsection, "impoundment" means any reservoir or pond which has a storage capacity of at least eighteen acre-feet of water or sediment at the time of construction; "storage capacity" means the total area below the crest elevation of the principal spillway including the volume of any excavation in such area; and "impoundment structure" means any dam, earthen or other structure used to create an impoundment.

Sec. 70. Section 455.18, unnumbered paragraph 2, Code 1981, is amended to read as follows:

Where the proposed district contemplates as its object flood control or soil conservation the engineer shall include in ~~his~~ the report data describing any soil conservation or flood control improvements, the nature ~~thereof of the~~ improvements, and ~~such other additional data as shall be~~ prescribed by the town-natural-resources-committee department of water, air and waste management.

Sec. 71. Section 455C.1, subsections 7, 8, and 9, Code 1981, are amended to read as follows:

7. "Director" means the executive director of the department of ~~environmental-quality water, air and waste management~~.

8. "Department" means the department of ~~environmental quality water, air and waste management~~.

9. "Commission" means the ~~environmental-quality water, air and waste management~~ environmental-quality water, air and waste management commission of the department of ~~environmental-quality water, air and waste management~~.

Sec. 72. Section 467A.3, subsection 15, Code 1981, is amended by striking the subsection.

Sec. 73. Section 467A.4, subsections 1 and 3, Code 1981, are amended to read as follows:

1. There is hereby established, to serve as an agency of the state and to perform the functions conferred upon it in this chapter, the department of soil conservation. The department shall be administered in accordance with the policies of the state soil conservation committee, which shall approve administrative rules proposed by the department before the rules are promulgated ~~adopted~~ pursuant to chapter 17A. The state soil conservation committee shall consist of a chairperson and twelve members. The following shall serve as ex officio nonvoting members of the committee: The director of the state agricultural extension service, or the director's designee, the secretary of agriculture, or the secretary's designee, the director of the state conservation commission or the director's designee, and the executive director of the ~~Iowa-Natural-Resources-Council~~ department of water, air and waste management or the executive director's designee. Eight voting members shall be appointed by the governor subject to confirmation by the senate. Six of the appointive members shall be persons engaged in actual farming operations, one of whom shall be a resident of each of the six conservancy districts established by section 467D.3, and no more than one of whom shall be a resident of any one county. The seventh and eighth appointive members shall be chosen by the governor from the state at large with one appointed to be a representative of cities and one appointed to be a representative of the mining industry. The committee may invite the secretary of agriculture of the United States to appoint one person to serve with the above-mentioned members, and the president of the Iowa county engineers association may designate a member of the association to serve in the same manner, but these persons shall have no vote and shall

serve in an advisory capacity only. ~~The director of the department of environmental quality shall be an ex-officio nonvoting member.~~ The committee shall adopt a seal, which seal shall be judicially noticed, and may perform acts, hold public hearings, and promulgate ~~adopt~~ rules as provided in chapter 17A as necessary for the execution of its functions under this chapter.

3. The committee shall designate its chairperson, and may change ~~such~~ the designation. The members appointed by the governor shall serve for a period of six years. Members shall be appointed in each odd-numbered year to succeed members whose terms expire as provided by section 69.19. Appointments may be made at other times and for other periods as are necessary to fill vacancies on the committee. Members shall not be appointed to serve more than two complete six-year terms. Members designated to represent the secretary of agriculture, director of the state conservation commission, or the executive director of the ~~Iowa-Natural-Resources-Council~~ department of water, air and waste management shall serve at the pleasure of the officer making the designation. A majority of the voting members of the committee constitutes a quorum, and the concurrence of a majority of the voting members of the committee in any matter within their duties shall be required for its determination. The chairperson and members of the committee, not otherwise in the employ of the state, or any political subdivision, shall receive forty dollars per diem as compensation for their services in the discharge of their duties as members of the committee. The committee shall determine the number of days for which any committee member may draw per diem compensation, but the total number of days for which per diem compensation is allowed for the entire committee shall not exceed four hundred days per year. They ~~shall~~ are also be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of their duties as members of the committee. The per diem

and expenses paid to the committee members shall be paid from funds appropriated to the committee. The committee shall provide for the execution of surety bonds for all employees and officers who ~~shall be~~ are entrusted with funds or property, shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted, and shall provide for an annual audit of the accounts of receipts and disbursements.

Sec. 74. Section 467A.4, subsection 4, paragraph n, subparagraph (5), Code 1981, is amended by striking the subparagraph.

Sec. 75. Section 467C.5, Code 1981, is amended to read as follows:

467C.5 APPROVAL OF COMMISSIONERS. ~~No~~ A district shall not be established by any board of supervisors under this chapter unless the organization of ~~such~~ the district is approved by the commissioners of any soil conservation district established under the provisions of chapter 467A and which is included all or in part within ~~such~~ the district, nor shall any such district be established without the approval of the state conservation commission and the ~~law-natural-resources~~ council department of water, air and waste management.

Sec. 76. Section 467D.2, subsection 3, Code 1981, is amended by striking the subsection.

Sec. 77. Section 467D.6, subsections 1 and 11, Code 1981, are 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~~ adopt 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 department of environmental quality, as necessary to achieve the objectives of this chapter as set forth in section 467D.1.

11. Maintain at its office a record of all the conservancy district's proceedings, rules and orders, and furnish copies ~~thereof of them~~ to the department and the ~~council~~ department of water, air and waste management upon request.

Sec. 78. Section 467D.16, unnumbered paragraph 1, Code 1981, is amended to read as follows:

The board shall prepare a plan for accomplishment of the objectives of this chapter within the conservancy district. For this purpose the board may request and shall obtain from any state agency or political subdivision information which the agency or subdivision may have already collected which is pertinent to preparation of the plan, and may conduct ~~such~~ hearings ~~as~~ it deems necessary. The plan shall establish an order of priorities for carrying out projects necessary to accomplish the objectives of this chapter, shall conform as nearly as practicable to the comprehensive state-wide water resources plan established by the ~~council~~ department of water, air and waste management pursuant to section ~~455A-17~~ 17 of ~~this Act~~ and shall reflect the following general policies:

Sec. 79. Section 467D.17, Code 1981, is amended to read as follows:

467D.17 PLAN PRESENTED TO DEPARTMENT AND COUNCIL. The board shall tentatively adopt the plan by resolution and shall present the plan to the department and the ~~council~~ department of water, air and waste management for review. The ~~council~~ department of water, air and waste management shall within ninety days review the plan as presented and make ~~such~~ recommendations ~~as~~ which, in its discretion, it deems necessary to bring the conservancy district's plan into conformity with the comprehensive state-wide water resources plan established by the ~~council~~ department of water, air and waste management pursuant to section ~~455A-17~~ 17 of ~~this Act~~. The department shall review the plan as presented and, with such amendments ~~as-are~~ necessary to bring the plan into conformity with the state-wide water resources plan, give final approval within one hundred twenty days.

Sec. 80. Section 467D.19, Code 1981, is amended to read as follows:

467D.19 IMPLEMENTATION. After final approval of the plan, the board shall begin to implement the plan as expeditiously as possible, within the limitations of available appropriations and other financial resources. When implementation of the plan involves construction or improvement of any internal improvement by the conservancy district, the board may order the preparation of detailed plans and specifications, and a refined cost estimate. Upon completion of ~~such~~ the plans, specifications and cost estimate to ~~their~~ its satisfaction, the board shall adopt ~~the same~~ them, subject to the approval of the department, and shall let ~~the contract or~~ contracts ~~therefor~~ in accordance with section 467D.20. Any approval or permits from the ~~consent~~ department of water, air and waste management required under other provisions of law shall be obtained by the conservancy district prior to initiation of any construction activity.

Sec. 81. Section 469.1, Code 1981, is amended to read as follows:

469.1 PROHIBITION--PERMIT. ~~No~~ A dam shall not be constructed, maintained, or operated in this state in any navigable or meandered stream for any purpose, or in any other stream for manufacturing or power purposes, nor shall any water be taken from ~~such~~ the streams for industrial purposes, unless a permit has been granted by the ~~Iowa-natural-resources-council~~ consent department of water, air and waste management to the person, firm, corporation, or municipality constructing, maintaining, or operating the ~~same~~ dam.

Sec. 82. Section 469.2, unnumbered paragraph 1 and subsection 6, Code 1981, are amended to read as follows:

Any person, firm, corporation, or municipality making application for a permit to construct, maintain, or operate a dam in any of the waters, including canals, raceways, and other constructions necessary or useful in connection with

the development and utilization of the water or water power, shall file with the ~~Iowa-natural-resources-council~~ department of water, air and waste management a written application, which shall contain the following information:

6. ~~Such~~ Any additional information ~~as may be~~ required by the ~~Iowa-natural-resources-council~~ department of water, air and waste management.

Sec. 83. Section 469.3, Code 1981, is amended to read as follows:

469.3 NOTICE OF HEARING. When ~~any~~ an application for a permit to construct, maintain, or operate a dam ~~from and~~ after the passage of this chapter is received, the ~~Iowa-Natural Resources-Council~~ department of water, air and waste management shall fix a time for hearing, and it shall give notice of the time and place of ~~such~~ the hearing by publication once each week for two successive weeks in at least one newspaper in each county in which riparian lands will be affected by the dam.

Sec. 84. Section 469.4, Code 1981, is amended to read as follows:

469.4 HEARING. At the time fixed for ~~such~~ the hearing or at any adjournment ~~thereof~~ of the hearing, the ~~consent~~ department of water, air and waste management shall take evidence offered by the applicant and any other person, either in support of or in opposition to the proposed construction.

Sec. 85. Section 469.5, Code 1981, is amended to read as follows:

469.5 WHEN PERMIT GRANTED. If it ~~shall appear~~ appears to the ~~consent~~ department of water, air and waste management that the construction, operation, or maintenance of the dam will not materially obstruct existing navigation, ~~or~~ materially affect other public rights, ~~will not~~ or endanger life or public health, and any water taken from the stream in connection with the project, excepting water taken by a municipality for distribution in its water mains, is returned

therein to the stream at the nearest practicable place without being materially diminished in quantity or polluted or rendered deleterious to fish life, it shall grant the permit, upon such the terms and conditions as it may prescribe.

Sec. 85. Section 469.9, unnumbered paragraph 1, Code 1981, is amended to read as follows:

Every person, firm, or corporation, ~~excepting~~ except a municipality, to whom a permit is granted to construct or to maintain and operate a dam already constructed in or across any stream for the purpose ~~herein~~ specified in this chapter, shall pay to the ~~Iowa-Natural-Resources-Council~~ department of water, air and waste management a permit fee of one hundred dollars and shall pay an annual inspection and license fee, to be fixed by the ~~Iowa-Natural-Resources-Council~~ water, air and waste management commission, on or before the first day of January, 1925, and annually thereafter, but in no case shall the annual inspection and license fee be less than twenty-five dollars. All fees shall be paid into the general fund of the state treasury.

Sec. 87. Section 469.10, Code 1981, is amended to read as follows:

469.10 CONSTRUCTION AND OPERATION. The ~~Iowa-Natural-Resources-Council~~ department of water, air and waste management shall investigate methods of construction, reconstruction, operation, maintenance, and equipment of dams ~~so-as~~ to determine the best methods to conserve and protect as far as possible all public and riparian rights in the waters of the state and ~~so-as~~ to protect the life, health, and property of the general public; and the method of construction, operation, maintenance, and equipment of ~~any-and~~ all dams of any character or for any purpose in ~~such~~ the waters shall be ~~is~~ subject to the approval of the ~~Iowa-Natural-Resources-Council~~ department of water, air and waste management.

Sec. 88. Section 469.11, Code 1981, is amended to read as follows:

469.11 ACCESS TO WORKS. ~~Such-owner-or-any-member-agent-or-employee-thereof~~ The department of water, air and waste management shall at all times be accorded full access to all parts of any dam and its appurtenances being constructed, operated, or maintained in such waters.

Sec. 89. Section 469.12, Code 1981, is amended to read as follows:

469.12 DUTY TO ENFORCE STATUTES. ~~It-shall-be-the-duty-of-the-council-to~~ The department of water, air and waste management shall require that all existing statutes of the state, including ~~the-provisions-of~~ this chapter, with reference to the construction of dams, ~~shall-be~~ are enforced.

Sec. 90. Section 469.26, Code 1981, is amended to read as follows:

469.26 REVOCATION OR FORFEITURE OF PERMIT. If the person to whom a permit is issued under ~~the-provisions-of~~ this chapter does not begin the construction or the improvement of the dam or roadway within one year from the date of the granting of the permit, ~~the~~ the permit may be revoked by the ~~Iowa-Natural-Resources-Council~~ department of water, air and waste management, and if any permit holder does not finish and have in operation the plant for which the dam is constructed within three years after the granting of the permit, unless for good cause shown the ~~council~~ department has extended the time for completion, ~~such~~ the permit shall be forfeited.

Sec. 91. Section 469.29, Code 1981, is amended to read as follows:

469.29 PERMITS FOR EXISTING DAMS. All licenses and permits issued by the state executive council prior to April 15, 1949, or by the Iowa Natural Resources Council prior to July 1, 1983, and in force immediately prior to July 1, 1983, are ~~hereby-declared-to-be~~ in full force and effect and all of the powers of administration relating to licenses or permits ~~heretofore~~ issued are ~~hereby~~ vested in the ~~Iowa-Natural-Resources-Council~~ department of water, air and waste management.

Sec. 92. Sections 93.2, 93.7, 93A.4, 101.10, 107.1, 136B.2, 170.10, 170A.8, 170B.9, 172D.1, 307.10, and 427.1, Code 1981, are amended by striking the words "department of environmental quality" and inserting in lieu thereof the words "department of water, air and waste management".

Sec. 93. Sections 307.10 and 427.1, Code 1981, are amended by striking the words "environmental quality commission" and inserting in lieu thereof the words "water, air and waste management commission".

Sec. 94. PRIOR ACTIONS.

1. A rule adopted, permit or order issued, or approval given under chapter 108, 109, 111, 112, 357A, 358A, 419, 427, 455A, 467A, 467C, or 467D, before the effective date of this Act and in force just prior to the effective date of this Act, by the Iowa natural resources council or its director remains effective until modified or rescinded by action of the department of environmental quality or its executive director unless the rule, order, permit, or approval is inconsistent with or contrary to this Act.

2. A rule adopted, permit or order issued, or approval given by the state department of health or the commissioner of public health relating to private water supply systems, private sewage disposal systems, or water wells under chapter 135, before the effective date of this Act and in force just prior to the effective date of this Act remains effective until modified or rescinded by action of the department of environmental quality or its executive director unless the rule, order, permit, or approval is inconsistent with or contrary to this Act.

3. A rule adopted, permit or order issued or approval given under chapter 84 before the effective date of this Act and in force just prior to the effective date of this Act, by the Iowa natural resources council or its director remains effective until modified or rescinded by action of the department of soil conservation unless the rule, order, permit, or approval is inconsistent with or contrary to this Act.

4. A rule adopted, permit or order issued, or approval given by the environmental quality commission or the executive director of the department of environmental quality under chapter 455B before the effective date of this Act and in force just prior to the effective date of this Act remains effective until modified or rescinded by action of the water, air and waste management commission or its executive director unless the rule, order, permit, or approval is inconsistent with or contrary to this Act.

Sec. 95. EMPLOYEE TRANSFER OR TERMINATION. The employees of the Iowa natural resources council employed pursuant to chapter 455A and the employees of the department of environmental quality employed pursuant to chapter 455B are transferred to the department of water, air and waste management. After transfer of the employees under this section, any employee of the department of water, air and waste management whose duty assignment is terminated because of this Act may be reassigned to other duties or terminated. The Iowa merit employment commission shall adopt rules to carry out the transfer of employees under this section and to carry out subsequent reclassifications, reassignments, or terminations made necessary by this Act. The Iowa merit employment commission shall arbitrate and decide a written appeal made by an employee concerning a transfer, reassignment, reclassification, or termination made necessary by this Act. An employee shall not lose benefits accrued, including but not limited to salary, retirement, vacation, or sick leave because of transfer or reassignment.

Sec. 96. EFFECTIVE DATE--TRANSITION.

1. The effective date of this Act is July 1, 1983, except that sections 5, 60 and 98, and this section are effective on July 1, 1982.

2. After July 1, 1982, the governor may appoint the members of the water, air and waste management commission, appoint the executive director of the department of water, air and

waste management, and may authorize the water, air and waste management commission to organize and plan for the transfer of powers, duties, records, equipment, personnel, and other property as applicable. The governor may select the executive director of the department of environmental quality or the director of the Iowa natural resources council to serve as executive director of the department of water, air and waste management without reappointment or confirmation.

3. Notwithstanding section 455B.4, the initial water, air and waste management commission shall have thirteen members. The membership shall include nine members of the environmental quality commission and four members of the Iowa natural resources council. Two members of the Iowa natural resources council shall be appointed by the governor to terms of office which expire on April 30, 1985, and two members shall be appointed by the governor to terms of office which expire on April 30, 1987. Effective May 1, 1985, the commission created under this Act shall have eleven members and effective May 1, 1987, the commission created under this Act shall have nine members. Except for the number of members, section 455B.4 shall apply to the operation of the commission created under this Act.

4. The members of the environmental quality commission shall serve concurrently as members of the commission created under this Act and the environmental quality commission until July 1, 1983, when the members shall continue to serve their unexpired terms as members of the environmental quality commission as members of the commission created under this Act. The members may be reappointed as provided in this Act.

5. The members of the Iowa natural resources council appointed to the commission created under this Act shall serve concurrently as members of the commission and the Iowa natural resources council until July 1, 1983, when the terms of office of the members of the Iowa natural resources council shall expire. The four members appointed to the commission shall

continue to serve the terms to which appointed as provided in subsection 3. The members may be reappointed as provided in this Act.

6. If an executive director of the department of water, air and waste management is selected or appointed before July 1, 1983, the executive director shall cooperate with the Iowa natural resources council and the department of environmental quality in preparing for an orderly transfer of powers and duties, including representing the new department in budgetary and appropriation matters. The executive director and the members of the water, air and waste management commission, appointed and authorized to exercise powers and duties before July 1, 1983, as provided in this section may be paid a salary or per diem as applicable and necessary expenses from funds appropriated to the department of environmental quality.

7. Notwithstanding section 455B.53, a director of the board of a rural water district established under chapter 457A or 499A shall not become a member of certification of waterworks and waste waterworks operators until the term of office of the first of the two members appointed to represent the general public expires.

Sec. 97. Chapter 455A and sections 84.13 and 135.20, Code 1981 are repealed.

Sec. 98. The legislative council shall create a bipartisan interim legislative oversight committee consisting of five members of the senate and five members of the house to study and make recommendations to the legislative council and the general assembly on matters related to statewide water resources planning, the development of a water resource data base, water use, flood plain management, and the organization and administration of water resource and flood plain management laws and programs in this state. The committee shall be authorized at least five meeting days and shall submit a report of its recommendations, including any necessary bill

drafts to implement its recommendations, to the general assembly not later than January 15, 1983.

DELWYN STROMER
Speaker of the House

TERRY E. BRANSTAD
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2463, Sixty-ninth General Assembly.

ELIZABETH A. ISAACSON
Chief Clerk of the House

Approved 5/18, 1982

ROBERT D. RAY
Governor