

Natural Resources: Groth, Chair; Stueland and Tabor.

Amend for 3562 + De Pass 4/6/83

MAR 7 1983

SENATE FILE 368

BY COMMITTEE ON NATURAL RESOURCES

(FORMERLY SSB 59 & 60)

Approved 3/7 (p. 656)

Passed Senate, Date 3-14-83 (p. 136) Passed House, Date 4-12-83 (p. 1667)

Vote: Ayes 43 Nays 1 Vote: Ayes 96 Nays 2

Proposed Senate for House amendment as amended 4-25-83 (p. 1396) 42-1

Approved May 24, 1983

*Motion to reconsider (p. 1250) 4/10 4/14/83
Repassed House as further amended by Senate 4-29-83 (p. 1667) 93-1*

A BILL FOR

- 1 An Act relating to the powers and duties of the department
- 2 of water, air and waste management.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SENATE AMENDMENT TO HOUSE AMENDMENT TO SENATE FILE 368

H-3862

- 1 Amend the House amendment, S-3571, to Senate File
- 2 368 as passed by the Senate, as follows:
- 3 1. Page 1, by striking lines 39 through 45 and
- 4 inserting in lieu thereof the following:
- 5 "5. Page 12, by striking lines 11 and 12 and
- 6 inserting in lieu thereof the following: "Permits
- 7 may shall be granted for any a period of time-not
- 8 exceeding ten years except permits for withdrawal
- 9 of water which may be granted for less than ten years
- 10 if geological data on the capacity of the aquifer
- 11 and the rate of its recharge are indeterminate and
- 12 permits for the storage of water".
- 13 2. By renumbering sections.

H-3862 FILED APRIL 27, 1983

RECEIVED FROM THE SENATE

House concurred 4/29/83 (p. 1667)

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2571 Section 1. Section 455B.105, subsection 3, Code 1983,
2 is amended to read as follows:

3 3. Adopt, modify, or repeal rules necessary to implement
4 ~~the provisions of~~ this chapter and the rules deemed necessary
5 for the effective administration of the department. A ~~rule~~
6 ~~adopted under this chapter to carry out a federal regulation~~
7 ~~shall not become effective if the rule is more restrictive~~
8 ~~than required by the federal regulation unless the rule is~~
9 ~~approved by enactment of the general assembly.~~ When the
10 commission proposes or adopts rules to implement a specific
11 federal environmental program and the rules impose requirements
12 more restrictive than the federal program being implemented
13 requires, the commission shall identify in its notice of
14 intended action or adopted rule preamble each rule that is
15 more restrictive than the federal program requires and shall
16 state the reasons for proposing or adopting the more

3522 17 restrictive requirement. It is the intent of the general
18 assembly that the commission exercise strict oversight of
19 the operations of the department. The rules shall include
20 departmental policy relating to the disclosure of information
21 on a violation or alleged violation of the rules, standards,
22 permits or orders issued by the department and keeping of
23 confidential information obtained by the department in the
24 administration and enforcement of ~~the provisions of~~ this
25 chapter. Rules adopted by the executive committee before
26 January 1, 1981 shall remain effective until modified or
27 rescinded by action of the commission.

28 Sec. 2. Section 455B.171, subsections 19, 21, and 22,
29 Code 1983, are amended to read as follows:

30 19. "Public water supply system" means a system for the
31 provision to the public of piped water for human consumption,
32 if the system has at least twenty fifteen service connections
33 or regularly serves at least one-hundred twenty-five
34 individuals. The term includes any source of water and any
35 collection, treatment, storage, and distribution facilities

1 under control of the operator of the system and used primarily
2 in connection with the system, and any collection or
3 pretreatment storage facilities not under such control which
4 are used primarily in connection with the system.

5 21. "Private water supply" means any water supply for
6 human consumption which has less than ~~twenty~~ fifteen service
7 connections ~~or~~ and regularly serves less than ~~one-hundred~~
8 twenty-five individuals.

35479 22. "Private sewage disposal system" means a system which
10 provides for the treatment or disposal of domestic sewage
11 from ~~four-or-fewer-dwelling-units~~ the equivalent of less than
12 sixteen individuals and which does not discharge to a water
13 of the state.

14 Sec. 3. Section 455B.172, subsection 2, Code 1983, is
15 amended to read as follows:

16 2. The department is the state agency designated to carry
17 out the state responsibilities related to private water sup-
18 plies and private sewage disposal systems for the protection
19 of the health of the citizens of this state. The commission
20 shall adopt ~~guidelines~~ minimum standards and provide model
21 standards for private water supplies and private sewage dis-
22 posal facilities for use of the local boards of health. Each
23 local board of health is the agency to regulate private water
24 supplies and private sewage disposal systems. Each local
25 board of health shall adopt standards relating to the design
26 and construction of private water supplies and private sewage
27 disposal facilities, which standards shall not be lower than
28 the minimum standards adopted by the commission.

29 Sec. 4. Section 455B.174, subsection 4, unnumbered
30 paragraph 1, Code 1983, is amended to read as follows:

31 Approve or disapprove the plans and specifications for
32 the construction of disposal systems or public water supply
33 ~~distribution~~ systems except for those sewer extensions and
34 water supply distribution system extensions which are reviewed
35 by a city or county public works department as set forth in

1 section 455B.183. The executive director shall issue, revoke,
2 suspend, modify or deny permits for the operation,
3 installation, construction, addition to or modification of
4 any disposal system or public water supply ~~distribution~~ system
5 except for sewer extensions and water supply distribution
6 system extensions which are reviewed by a city or county
7 public works department as set forth in section 455B.183.
8 The executive director shall also issue, revoke, suspend,
9 modify or deny permits for the discharge of any pollutant.
10 The permits shall contain conditions and schedules of
11 compliance as necessary to meet the requirements of this part
12 of this division and the federal Water Pollution Control Act.
13 A permit shall not be issued to operate or discharge from
14 any disposal system unless the conditions of the permit assure
15 that any discharge from the disposal system meets or will
16 meet all applicable state and federal water quality standards
17 and effluent standards and the issuance of the permit is not
18 otherwise prohibited by the federal Water Pollution Control
19 Act. All applications for discharge permits are subject to
20 public notice and opportunity for public participation
21 including public hearing as the commission may by rule require.
22 The executive director shall promptly notify the applicant
23 in writing of the executive director's action and, if the
24 permit is denied, state the reasons for denial. The applicant
25 may appeal to the commission from the denial of a permit or
26 from any condition in any permit if the applicant files notice
27 of appeal with the executive director within thirty days of
28 the notice of denial or issuance of the permit. The executive
29 director shall notify the applicant within thirty days of
30 the time and place of the hearing.

31 Sec. 5. Section 455B.175, unnumbered paragraph 1, Code
32 1983, is amended to read as follows:

33 If there is ~~exclusive~~ substantial evidence that any person
34 has violated or is violating any provision of this part of
35 this division, or of any rule or standard established or

1 permit issued pursuant thereto; then:

2 Sec. 6. Section 455B.183, Code 1983, is amended to read
3 as follows:

4 455B.183 WRITTEN PERMITS REQUIRED. It ~~shall-be~~ is unlawful
5 to carry on any of the following activities without first
6 securing a written permit from the executive director, or
7 from a city or county public works department if ~~such-legal~~
8 the public works department reviews the activity under this
9 section, as required by the commission:

10 1. The construction, installation or modification of any
11 disposal system or public water supply ~~distribution~~ system
12 or part thereof or any extension or addition thereto except
13 those sewer extensions and water supply distribution system
14 extensions that are subject to review and approval by a city
15 or county public works department pursuant to this section
16 and private sewage disposal systems. ~~A-permit-shall-be-issued~~
17 ~~for-the-construction,-installation-or-modification-of-a-public~~
18 ~~water-supply-distribution-system-or-part-of-a-system-if-a~~
19 ~~qualified,-registered-engineer-certifies-to-the-commission~~
20 ~~that-the-plans-for-the-system-or-part-of-the-system-meet-the~~
21 ~~requirements-of-federal-law-or-regulations.-.-The-permit-shall~~
22 ~~state-that-approval-is-based-only-upon-the-engineer's~~
23 ~~certification-that-the-system's-design-meets-the-requirements~~
24 ~~of-all-applicable-federal-laws-and-regulations-~~

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

27 3. The operation of any waste disposal system or public
28 water supply ~~distribution~~ system or any part of or extension
29 or addition to such system. This provision ~~shall~~ does not
30 apply to any pretreatment system the effluent of which is
31 to be discharged directly to another disposal system for final
32 treatment and disposal or any private sewage disposal system.

33 Upon adoption of standards by the commission pursuant to
34 section 455B.173, subsections 6 to 9, plans and specifications
35 for sewer extensions and water supply distribution system

1 extensions covered by this section shall be submitted to the
2 city or county public works department for approval if the
3 local public works department employs a qualified, registered
4 engineer who reviews the plans and specifications using the
5 specific state standards known as the Iowa Standards for Sewer
6 Systems and the Iowa Standards for Water Supply Distribution
7 Systems that have been formulated and adopted by the commission
8 pursuant to section 455B.173, subsections 6 to 9. The
9 reviewing engineer shall be a full-time employee of the
10 governmental subdivision and the qualifications of that
11 engineer shall be submitted to the executive director or ~~his~~
12 the executive director's designee for approval prior to issuing
13 written permits. The local agency shall issue a written
14 permit to construct if all of the following apply:

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, ~~such~~ the
24 extension will have a capacity of less than five percent of
25 ~~such~~ the system or will serve fewer than two hundred fifty
26 dwelling units ~~and~~.

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

30 d. The proposed water supply distribution system extension
31 will not exceed the production capacity of any public water
32 supply ~~distribution~~ system constructed after 1972.

33 After issuing a permit, the city or county public works
34 department shall notify the executive director of such issuance
35 by forwarding a copy of the permit to the executive director.

1 In addition, the local agency shall submit quarterly reports
2 to the executive director including such information as
3 capacity of local treatment plants and production capacity
4 of public water supply ~~distribution~~ systems as well as other
5 necessary information requested by the executive director
6 for the purpose of implementing this chapter.

7 Plans and specifications for all other waste disposal
8 systems and public water supply ~~distribution~~ systems, including
9 sewer extensions and water supply distribution system
10 extensions not reviewed by a city or county public works
11 department under this section, shall be submitted to the
12 department before a written permit may be issued. The
13 construction of any such waste disposal system or public water
14 supply ~~distribution~~ system shall be in accordance with
15 standards formulated and adopted by the commission pursuant
16 to section 455B.173, subsections 6 to 9, or otherwise approved
17 by the department. If it is necessary or desirable to make
18 material changes in ~~such~~ the plans or specifications, revised
19 plans or specifications together with reasons for the proposed
20 changes must be submitted to the department for a supplemental
21 written permit.

22 Prior to the adoption of statewide standards, the department
23 may delegate the authority to review plans and specifications
24 to those governmental subdivisions if in addition to compliance
25 with subsection 3 ~~that the~~ governmental subdivision-agrees
26 subdivisions agree to comply with all state and federal
27 regulations and ~~submits-a-plan~~ submit plans for the review
28 of plans and specifications including a complete set of local
29 standard specifications for such improvements.

30 The executive director may suspend or revoke delegation
31 of review and permit authority after notice and hearing as
32 set forth in chapter 17A if the executive director determines
33 that a city or county public works department has approved
34 extensions which do not comply with design criteria, which
35 exceed the capacity of waste treatment plants or the production

1 capacity of public water supply ~~distribution~~ systems or which
2 otherwise violate state or federal requirements.

3 The department shall exempt any public water supply system
4 from any requirement respecting a maximum contaminant level
5 or any treatment technique requirement of an applicable
6 national drinking water regulation ~~insofar as~~ if these
7 regulations apply to contaminants which the commission
8 determines are harmless or beneficial to the health of
9 consumers, ~~when~~ and if the owner of a public water supply
10 system determines that funds are not reasonably available
11 to provide for controlling amounts of those contaminants which
12 are harmless or beneficial to the health of consumers.

13 Sec. 7. Section 455B.261, subsections 1, 10, and 11, Code
14 1983, are amended to read as follows:

15 1. "Flood plains" means the area adjoining a river or
16 stream which has been or ~~is~~ may be covered by flood water.

17 10. "Permit" means a written authorization issued by the
18 department to a permittee which ~~is~~ authorizes diversion,
19 storage, or withdrawal of water limited as to quantity, time,
20 place, and rate ~~of diversion, storage, or withdrawal~~ in
21 accordance with ~~the policies and principles of beneficial~~
22 ~~use as specified in~~ this part or authorizes construction,
23 use, or maintenance of a structure, dam, obstruction, deposit,
24 or excavation in a floodway or flood plain in accordance with
25 the principles and policies of protecting life and property
26 from floods as specified in this part.

27 11. "Permittee" means a person who obtains a permit from
28 the department authorizing the person to take possession by
29 diversion or otherwise and to use and apply an allotted quan-
30 tity of water for a designated beneficial use, and who makes
31 actual use of the water for that purpose or a person who
32 obtains a permit from the department authorizing construction,
33 use, or maintenance of a structure, dam, obstruction, deposit,
34 or excavation in a floodway or flood plain for a designated
35 purpose.

1 Sec. 8. Section 455B.261, subsection 16, Code 1983, is
2 amended by striking the subsection.

3 Sec. 9. Section 455B.262, Code 1983, is amended by strik-
4 ing the section and inserting in lieu thereof the following:

5 455B.262 DECLARATION OF POLICY AND PLANNING REQUIREMENTS.

6 1. It is recognized that the protection of life and
7 property from floods, the prevention of damage to lands from
8 floods, and the orderly development, wise use, protection,
9 and conservation of the water resources of the state by their
10 considered and proper use is of paramount importance to the
11 welfare and prosperity of the people of the state, and to
12 realize these objectives, it is the policy of the state to
13 correlate and vest the powers of the state in a single agency,
14 the department, with the duty and authority to assess the
15 water needs of all water users at five-year intervals for
16 the twenty years beginning January 1, 1985, and ending December
17 31, 2004, utilizing a data base developed and managed by the
18 Iowa geological survey, and prepare a general plan of water
19 allocation in this state considering the quantity and quality
20 of water resources available in this state designed to meet
21 the specific needs of the water users. The department shall
22 also develop and the commission shall adopt no later than
23 January 1, 1985, a plan for delineation of flood plain and
24 floodway boundaries for selected stream reaches in the various
25 river basins of the state. Selection of the stream reaches
26 and assignment of priorities for mapping of the selected
27 reaches shall be based on consideration of flooding
28 characteristics, the type and extent of existing and
29 anticipated flood plain development in particular stream
30 reaches, and the needs of local governmental bodies for
31 assistance in delineating flood plain and floodway boundaries.
32 The plan of flood plain mapping shall be for the period from
33 January 1, 1985, to December 31, 2004. After the commission
34 adopts a plan of flood plain mapping, the department shall
35 submit a progress report and proposed implementation schedule

1 to the general assembly biennially. The commission may modify
2 the flood plain mapping plan as needed in response to changing
3 circumstances.

4 2. The general welfare of the people of the state requires
5 that the water resources of the state be put to beneficial
6 use to the fullest extent possible, and that the waste or
7 unreasonable use, or unreasonable methods of use of water
8 be prevented, and that the conservation of water resources
9 be encouraged with the view to their reasonable and beneficial
10 use in the interest of the people, and that the public and
11 private funds for the promotion and expansion of the beneficial
12 use of water resources be invested to the end that the best
13 interests and welfare of the people are served.

14 3. Water occurring in a basin or watercourse, or other
15 natural body of water of the state, is public water and public
16 wealth of the people of the state and subject to use in
17 accordance with this chapter, and the control and development
18 and use of water for all beneficial purposes is vested in
19 the state, which shall take measures to encourage full
20 utilization and protection of the water resources of the
21 state.

22 Sec. 10. Section 455B.263, subsections 1 and 7, Code 1983,
23 are amended to read as follows:

24 1. a. Not later than January 15, 1985, the commission
25 shall deliver to the secretary of the senate and the chief
26 clerk of the house identical ~~joint-resolutions-enacting bills~~
27 embodying a general plan of water allocation priorities for
28 this state, considering the types of water resources available
29 in the state, the principles and policies of beneficial use,
30 and the water needs of all types of water users in this state,
31 with a recommendation on the most effective means of
32 implementation of the plan. It is the intent of this
33 subsection that the general assembly shall bring the ~~joint~~
34 ~~resolution~~ bill to a vote in either chamber under a procedure
35 or rule permitting no amendments except those of a purely

1 corrective nature. If by the end of the fourth week of the
2 1985 regular session, the ~~joint-resolution~~ bill embodying
3 the plan is not approved by a constitutional majority in both
4 chambers, the commission shall, by the end of the sixth week
5 of the 1985 regular session, prepare and deliver to the
6 secretary of the senate and the chief clerk of the house
7 identical ~~joint-resolutions~~ bills embodying a second plan,
8 taking into account the reasons cited by either the secretary
9 of the senate or chief clerk of the house for the failure
10 of the first plan.

11 b. If, proceeding under a procedure or rule permitting
12 amendments in the same manner as other ~~joint-resolutions~~
13 bills, the ~~joint-resolution~~ bill embodying the second plan
14 is not adopted by a constitutional majority in both chambers
15 by the end of the tenth week of the 1985 regular session,
16 the commission shall, by the end of the eleventh week of the
17 1985 regular session, prepare and deliver to the secretary
18 of the senate and the chief clerk of the house identical ~~joint~~
19 ~~resolutions~~ bills embodying a third plan, taking into account
20 the reasons cited by either the secretary of the senate or
21 chief clerk of the house for failure of the second plan.
22 It is the intent of this subsection that the third ~~joint~~
23 ~~resolution~~ bill be subject to amendment in the same manner
24 as other ~~joint-resolutions~~ bills, and be ~~adopted~~ enacted by
25 the end of the 1985 Session, including any extraordinary
26 sessions of the general assembly.

27 7. The commission shall procure flood control works and
28 water resources projects from or by cooperation with any
29 agency of the United States, by cooperation with the cities
30 and other subdivisions of the state under the laws of the
31 state relating to flood control and use of water resources,
32 and by cooperation with the action of landowners in areas
33 affected by the works or projects when the ~~commissioner~~
34 commission deems the projects to be necessary for the
35 achievement of the policies of this state.

1 Sec. 11. Section 455B.264, Code 1983, is amended to read
2 as follows:

3 455B.264 JURISDICTION--DIVERSION-OF WATER AND FLOOD PLAINS.

4 1. The commission has jurisdiction over the public and
5 private waters in the state and the lands adjacent to the
6 waters necessary for the purposes of carrying out this part.
7 The commission may construct flood control works or any part
8 of the works. In the construction of the works, in making
9 surveys and investigations, or in formulating plans and
10 programs relating to the water resources of the state, the
11 commission may cooperate with an agency of another state or
12 the United States, or with any other person.

13 2. Upon application by any person for permission to divert,
14 pump, or otherwise take waters from any watercourse,
15 underground basin or watercourse, drainage ditch, or settling
16 basin within this state for any purpose other than a
17 nonregulated use, the executive director shall investigate
18 the effect of the use upon the natural flow of the watercourse,
19 the effect of the use upon the owners of any land which might
20 be affected by the use, and whether the use is consistent
21 with the plan of water allocation priorities for this state,
22 ~~and shall hold a hearing.~~

23 3. Upon application by any person for approval of the
24 construction or maintenance of any structure, dam, obstruc-
25 tion, deposit, or excavation to be erected, used, or main-
26 tained in or on the flood plains of any river or stream, the
27 department shall investigate the effect of the construction
28 or maintenance project on the efficiency and capacity of the
29 floodway ~~and on the plan of water allocation priorities for~~
30 ~~this state.~~ In determining the effect of the proposal the
31 department shall consider fully its effect on flooding of
32 or flood control for any proposed works and adjacent lands
33 and property, on the wise use and protection of water
34 resources, on the quality of water, on fish, wildlife, and
35 recreational facilities or uses, and on all other public

1 rights and requirements.

2 Sec. 12. Section 455B.265, Code 1983, is amended to read
3 as follows:

4 455B.265 PERMITS FOR DIVERSION, STORAGE, AND WITHDRAWAL.

5 If the department determines after due investigation that
6 the diversion, storage, or withdrawal of water will not be
7 detrimental to the public interests, including drainage and
8 levee districts, or to the interests of property owners with
9 prior or superior rights who may be affected, the department
10 shall grant a permit for the diversion, storage, or withdrawal.

11 Permits ~~may~~ shall be granted for any a period of ~~time-not~~
12 ~~exceeding~~ ten years except permits for the storage of water
13 which may be granted for the life of the structure unless
14 revoked by the commission. All existing storage permits are
15 extended for the life of the structure unless withdrawn for
16 good cause. Permits may be granted which provide for less
17 diversion, storage, or withdrawal of waters than set forth
18 in the application. A permit granted shall remain as an
19 appurtenance of the land described in the permit through the
20 date specified in the permit and any extension of the permit
21 or until an earlier date ~~if~~ when the permit or any extension
22 of the permit is ~~modified-or~~ canceled under section 455B.271.
23 Upon application for a permit prior to the termination date
24 specified in the permit, a permit may be renewed by the
25 department for any a period of ~~time-not-to-exceed~~ ten years.

26 Sec. 13. Section 455B.266, Code 1983, is amended to read
27 as follows:

28 455B.266 PRIORITY OF PERMITS FOR DIVERSION, STORAGE, AND
29 WITHDRAWAL. In the consideration of applications for permits,
30 priority in processing shall be given to persons in the order
31 that the applications are received, except that this processing
32 priority shall not affect the substantive priorities
33 established under the plan of water allocation priorities
34 for this state and except where the application of this
35 priority system prevents the prompt approval of routine

1 applications or where the public health, safety or welfare
2 will be threatened by delay. The executive director or the
3 commission on appeal shall determine the duration and frequency
4 of withdrawal and the quantity of water for which a permit
5 may be granted. Any person with an existing irrigation system
6 in use prior to May 16, 1957, shall be issued a permit to
7 continue unless its use damages some other riparian user.

8 ~~In the consideration of applications for permits by regulated~~
9 ~~users, the plan of water allocation priorities for this state~~
10 ~~as adopted by the general assembly establishes standards for~~
11 ~~the determination of the disposition of the applications for~~
12 ~~permits. If there is competition for water, the use of water~~
13 ~~for irrigation has a lower priority than other beneficial~~
14 ~~uses of water subject to conditions which the commission may~~

15 ~~establish by rule.~~ Until the plan of water allocation
16 priorities is enacted as provided in section 455B.263,
17 subsection 1, the principles and policies of beneficial use
18 shall establish the standards for the determination of the
19 disposition of permit applications. After it is enacted as
20 provided in section 455B.263, subsection 1, the plan of water
21 allocation priorities shall establish the standards for
22 determination of the disposition of permit applications.

23 This part does not impair the vested right of any person.

24 Sec. 14. Section 455B.269, Code 1983, is amended to read
25 as follows:

26 455B.269 TAKING WATER PROHIBITED. A person shall not
27 take water from a natural watercourse, underground basin or
28 watercourse, drainage ditch, or settling basin within this
29 state for any purpose other than a nonregulated use except
30 in compliance with the sections of this part which relate
31 to the withdrawal, diversion, or storage of water. However,
32 existing uses may be continued during the period of the
33 pendency of an application for a permit.

34 Sec. 15. Section 455B.270, Code 1983, is amended to read
35 as follows:

1 455B.270 RIGHTS PRESERVED. ~~This-part-does~~ The sections
2 of this part which relate to the withdrawal, diversion, or
3 or storage of water do not deprive any person of the right
4 to use diffused waters, to drain land by use of tile, open
5 ditch, or surface drainage, or to construct an impoundment
6 on the person's property or across a stream that originates
7 on the person's property if provision is made for safe con-
8 struction and for a continued established average minimum
9 flow when the flow is required to protect the rights of water
10 users below.

11 Sec. 16. Section 455B.271, unnumbered paragraph 1, Code
12 1983, is amended to read as follows:

13 Each permit issued under ~~this-part~~ section 455B.265 is
14 irrevocable for its term and for any extension of its term
15 except as follows:

16 Sec. 17. Section 455B.272, Code 1983, is amended to read
17 as follows:

18 455B.272 TERMINATION OF PERMIT. The right of the permittee
19 and the permittee's successors to the use of water shall
20 terminate when the permittee or the permittee's successors
21 fail for three consecutive years to use it for the specific
22 beneficial purpose authorized in the permit and, after
23 notification by the department of intent to cancel the permit
24 for nonuse, the permittee or the permittee's successors fail
25 to demonstrate adequate plans to use water within a reasonable
26 time. However, nonuse of water due to adequate rainfall does
27 not constitute grounds for cancellation of a permit to use
28 water for irrigation.

29 Sec. 18. Section 455B.275, subsections 1 and 4, Code 1983,
30 are amended to read as follows:

31 1. A person shall not permit, erect, use or maintain a
32 structure, dam, obstruction, deposit, or excavation in or
33 on a floodway or flood plains, which will adversely affect
34 the efficiency of or unduly restrict the capacity of the
35 floodway, or adversely affect the control, development,

1 protection, allocation, or utilization of the water resources
2 of the state, and the same are declared to be public nuisances.
3 However, this subsection does not apply to dams constructed
4 and operated under the authority of chapter 469.

5 4. The department may maintain an action in equity to
6 enjoin a person from erecting or making or permitting to be
7 made a structure, dam, obstruction, deposit, or excavation
8 other than a dam constructed and operated under the authority
9 of chapter 469, for which a permit has not been granted.
10 The department may also seek judicial abatement of any
11 structure, dam, obstruction, deposit, or excavation erected
12 or made without a permit required under this part. The
13 abatement proceeding may be commenced to enforce an
14 administrative determination of the department in a contested
15 case proceeding that a public nuisance exists and should be
16 abated. The costs of abatement shall be borne by the violator.
17 Notwithstanding section 93A.11, a structure, dam, obstruction,
18 deposit, or excavation on a floodway or flood plain in an
19 agricultural area established under chapter 93A is not exempt
20 from the sections of this part which relate to regulation
21 of flood plains and floodways.

22 Sec. 19. Section 455B.276, unnumbered paragraph 1, Code
23 1983, is amended to read as follows:

24 The commission may establish and enforce rules for the
25 orderly development and wise use of the flood plains of any
26 river or stream within the state and alter, change, or revoke
27 the rules. The commission shall determine the characteristics
28 of floods which reasonably may be expected to occur and may
29 establish by order encroachment limits, protection methods,
30 and minimum protection levels appropriate to the flooding
31 characteristics of the stream and to reasonable use of the
32 flood plains. The order shall fix the length of flood plains
33 to be regulated at any practical distance, the width of the
34 zone between the encroachment limits so as to include por-
35 tions of the flood plains adjoining the channel, which with

1 the channel, are required to carry and discharge the flood
2 waters or flood flow of the river or stream, and the design
3 discharge and water surface elevations for which protection
4 shall be provided for projects outside the encroachment limits
5 but within the limits of inundation. Plans for the protection
6 of projects proposed for areas subject to inundation shall
7 be reviewed as plans for flood control works within the purview
8 of section 455B.277. An order establishing encroachment
9 limits shall not be issued until due notice of the proposed
10 order is given and opportunity for public hearing given for
11 the presentation of protests against the order. In
12 establishing the limits, the commission shall avoid to the
13 greatest possible degree the evacuation of persons residing
14 in the area of a floodway, the removal of residential
15 structures occupied by the persons in the area of a floodway,
16 and the removal of structures erected or made prior to July
17 4, 1965, which are located on the flood plains of a river
18 or stream but not within the area of a floodway.

19 Sec. 20. Section 455B.277, unnumbered paragraph 1, Code
20 1983, is amended to read as follows:

21 All flood control works in the state, which are established
22 and constructed after ~~July 17, 1983~~ April 16, 1949, shall be
23 coordinated in design, construction, and operation according
24 to sound and accepted engineering practice so as to effect
25 the best flood control obtainable throughout the state. A
26 person shall not construct or install works of any nature
27 for flood control until the proposed works and the plans and
28 specifications for the works are approved by the ~~commission~~
29 department. The ~~commission~~ department shall consider all
30 the pertinent facts relating to the proposed works which will
31 affect flood control and water resources in the state and
32 shall determine whether the proposed works in the plans and
33 specifications will be in aid of and acceptable as part of,
34 or will adversely affect and interfere with flood control
35 in the state, adversely affect the control, development,

1 protection, allocation, or utilization of the water resources
2 of the state, or adversely affect or interfere with ~~the state~~
3 ~~comprehensive plan for water resources or~~ an approved local
4 water resources plan. In the event of disapproval, the
5 ~~commission~~ department shall set forth the objectionable
6 features so that the proposed works and the plans and
7 specifications for the proposed works may be corrected or
8 adjusted to obtain approval.

9 Sec. 21. Section 455B.278, subsection 1, Code 1983, is
10 amended to read as follows:

11 1. The commission shall adopt, modify, or repeal rules
12 establishing procedures by which permits required under this
13 part shall be issued, suspended, revoked, modified, or denied.
14 ~~The procedures~~ rules shall include provisions for application,
15 an public notice and opportunity for public hearing, contested
16 cases, and a schedule of application fee fees sufficient to
17 pay all or part of the administrative costs of the permit
18 ~~process, public notice and opportunity for public hearing,~~
19 ~~and contested cases.~~ Public notice of a decision by the
20 executive director to issue a permit shall be given in a
21 manner designed to inform persons who may be adversely affected
22 by the permitted project or activity.

23 Sec. 22. Section 455B.279, subsection 1, Code 1983, is
24 amended to read as follows:

25 1. The commission may issue any order necessary to se-
26 cure compliance with or prevent a violation of this part or
27 the rules adopted pursuant to this part. ~~The attorney general~~
28 ~~shall, on request of the department, institute any legal~~
29 ~~proceedings necessary in obtaining compliance with an order~~
30 ~~of the commission~~ department may request legal services as
31 required from the attorney general, including any legal
32 proceeding necessary to obtain compliance with this part and
33 rules and orders issued under this part.

34 Sec. 23. Section 455B.441, Code 1983, is amended to read
35 as follows:

1 455B.441 PURPOSE AND GUIDELINES. The purpose of this
2 part is to protect the public health and the environment by
3 providing a procedure for establishing appropriate sites and
4 properly designed facilities for the treatment, storage and
5 disposal of hazardous waste. It is the intent of the general
6 assembly that in the implementation of this part the department
7 of ~~environmental-quality water, air and waste management~~ shall
8 emphasize alternatives to land burial of hazardous waste
9 whenever possible with emphasis on the following management
10 methods in the following order: source reduction, reuse,
11 resource recovery, incineration, and detoxification.

12 Sec. 24. Section 455B.442, subsection 2, Code 1983, is
13 amended to read as follows:

14 2. "Hazardous waste" means a hazardous waste as defined
15 in section 455B.411, subsection 2 and listed by the environ-
16 ~~mental-quality~~ commission under section 455B.412, subsection
17 2.

18 Sec. 25. Section 455B.442, subsections 3 and 4, Code 1983,
19 are amended by striking the subsections.

20 Sec. 26. Section 93A.4, subsection 4, Code 1983, is amended
21 to read as follows:

22 4. The state department of agriculture, office for plan-
23 ning and programming, department of soil conservation, state
24 conservation commission, ~~Iowa-natural-resources-council~~, de-
25 partment of ~~environmental-quality water, air and waste manage-~~
26 ment, geological survey, state agricultural extension service,
27 and the Iowa development commission shall, upon request, pro-
28 vide to each county commission any pertinent land use informa-
29 tion available to assist in the compiling of the county land
30 use inventories.

31 Sec. 27. Section 93A.11, subsection 2, Code 1983, is
32 amended to read as follows:

33 2. WATER PRIORITY. In the application for a permit to
34 divert, store, or withdraw water and in the allocation of
35 available water resources under a water permit system, the

1 ~~Iowa-natural-resources-council~~ department of water, air and
2 waste management shall give priority to the use of water
3 resources by a farm or farm operations, exclusive of irriga-
4 tion, located in an agricultural area over all other uses
5 except the competing uses of water for ordinary household
6 purposes.

7 Sec. 28. Section 467D.6, subsection 1, Code 1983, is
8 amended to read as follows:

9 1. Exercise supervision over the water resources of the
10 conservancy district, including water in any basin,
11 watercourse, or other body of water in the conservancy
12 district, and have authority to adopt and repeal, with approval
13 of the department, and enforce rules, except those rules
14 relating to water resources under the authority of the
15 department of ~~environmental-quality~~ water, air and waste
16 management, as necessary to achieve the objectives of this
17 chapter as set forth in section 467D.1.

18 Sec. 29. 1982 Iowa Acts, chapter 1199, section 94, subsec-
19 tions 1, 2, and 4, are amended to read as follows:

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

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

1 until modified or rescinded by action of the department of
2 environmental-quality water, air and waste management or its
3 executive director unless the rule, order, permit, or approval
4 is inconsistent with or contrary to this Act.

5 4. A rule adopted, permit or order issued, or approval
6 given by the environmental quality commission or the executive
7 director of the department of environmental quality under
8 chapter 455B, 455C, and section 427.1, subsection 32, before
9 the effective date of this Act and in force just prior to
10 the effective date of this Act remains effective until modified
11 or rescinded by action of the water, air and waste management
12 commission or its executive director unless the rule, order,
13 permit, or approval is inconsistent with or contrary to this
14 Act.

15 Sec. 30. 1982 Iowa Acts, chapter 1199, section 94, is
16 amended by adding the following new subsection:

17 NEW SUBSECTION. The repeal of chapter 455A of the 1981
18 Code does not legalize a structure, dam, obstruction, deposit,
19 or excavation erected or made while that chapter was in effect.

20 EXPLANATION

21 This bill amends chapter 455B relating to the powers and
22 duties of the department of water, air and waste management
23 and makes corresponding amendments to the Code.

24 Section 1 strikes a limitation on the rule-making authority
25 of the department which states that a rule adopted to carry
26 out a federal regulation shall not become effective if the
27 rule is more restrictive than required by the federal regula-
28 tion unless the rule is approved by the general assembly.

29 If a rule imposes requirements more restrictive than federal
30 program requirements, the reasons for proposing or adopting
31 the more restrictive requirements are to be placed in the
32 notice of intended action or preamble of an adopted rule.

33 Section 2 amends the definition of public water supply
34 system to conform to federal law. The definitions of private
35 water supply and private sewage disposal system are also

1 amended to complement the definition of public water supply
2 system.

3 Section 3 requires the commission to adopt minimum standards
4 for private water supplies and private sewage disposal
5 facilities.

6 Sections 4 and 6 replace references to "water supply
7 distribution system" with the term "public water supply system"
8 to eliminate a discrepancy between the authority of the
9 department of water, air and waste management to adopt rules
10 for the issuance of permits for "public water supply systems"
11 in section 455B.173 and the authority to issue permits for
12 "water supply distribution systems" in sections 455B.174 and
13 455B.183. The section also corrects erroneous references
14 to "director" rather than to "executive director" which is
15 the correct title for the chief administrative officer of
16 the department. Section 6 also deletes a requirement that
17 permits be issued for water distribution systems without
18 departmental review, exempts private sewage disposal systems
19 from permit requirements, and replaces the term "water supply
20 distribution system" with "public water supply system".

21 Section 5 changes the standard for determining when
22 enforcement action by the executive director may commence.
23 The term "conclusive" is changed to the term "substantial"
24 as an adjective to describe the "evidence" required to show
25 that a violation has occurred or is occurring.

26 Section 7 restores the definition of flood plain to include
27 areas of possible future flooding and expands the definitions
28 of permit and permittee to include approvals of projects or
29 activities on flood plains or floodways.

30 Section 8 strikes the definition of impounded or stored
31 water which is not used in the chapter and is inconsistent
32 with the concept of beneficial use.

33 Section 9 changes the time period covered by the plan for
34 water allocation priorities and requires the department to
35 undertake mapping of certain flood plains and floodways as

1 proposed in a plan which the commission must adopt by January
2 1, 1985.

3 Section 10 adds a requirement that the plan for water al-
4 location priorities takes into consideration the principles
5 and policies of beneficial use and makes a technical correction
6 by changing the word "commissioner" to the word "commission".
7 The section also provides for the use of a bill rather than
8 joint resolution to present the general plan for water
9 priorities to the general assembly for enactment.

10 Section 11 removes a requirement for a public hearing on
11 an application for a permit to divert, pump, or take water
12 and a requirement that the investigation of an application
13 for the construction or maintenance of a structure, dam,
14 obstruction, deposit, or excavation on a flood plain be based
15 on its effect on the plan for water allocation priorities.

16 Section 12 corrects a grammatical error and provides that
17 a permit to divert, withdraw or store water will remain an
18 appurtenance to the land described in the permit through the
19 date specified even if the permit or an extension of the per-
20 mit is modified.

21 Section 13 modifies the criteria for permit issuance.
22 Until the plan of water allocation priorities is effective,
23 the principles and policies of beneficial use will be the
24 criteria, but when the plan is effective, the plan will
25 establish criteria for permit issuance.

26 Sections 14 and 15 restrict internal reference to "this
27 part" to certain sections relating to the withdrawal,
28 diversion, or storage of water.

29 Section 16 specifically refers to the section under which
30 water permits are issued.

31 Section 17 provides that the nonuse of water because of
32 adequate rainfall does not constitute grounds for cancellation
33 of a permit to use water for irrigation.

34 Section 18 specifically identifies a "dam" and an "obstruc-
35 tion" as items along with "structures", "deposits", and "exca-

1 vations" which cannot be allowed to adversely affect a
2 floodway. Also, the verb "permit" is included to parallel
3 other language which makes it unlawful for a person "to suffer
4 or permit" a prohibited flood plain project. The section
5 also provides that the cost of abating a prohibited activity
6 or construction, excavation or deposit is borne by the violator
7 and that an obstruction, dam, excavation or deposit in an
8 agricultural area established under chapter 93A (land use)
9 is not exempt from regulation.

10 Section 19 strikes the word "due" from the term "due no-
11 tice". The term "due notice" is no longer defined in the
12 chapter.

13 Section 20 restores the date "April 16, 1949" to section
14 455B.277 to avoid confusion as to which flood control works
15 are subject to design, construction and operation require-
16 ments. The term "department" is substituted for the term
17 "commission" in the section.

18 Section 21 authorizes the adoption of a schedule of ap-
19 plication fees sufficient to pay all or part of the costs
20 of the permit process. The section also specifies that public
21 notice of a decision to issue a permit should be given par-
22 ticularly to persons who may be adversely affected by the
23 permitted project or activity.

24 Section 22 authorizes the department to request legal ser-
25 vices from the attorney general when necessary to obtain com-
26 pliance with chapter 455B and its rules and orders, not only
27 after an order has been issued by the commission.

28 Sections 23, 24 and 25 make corrections to the hazardous
29 waste law adopted in 1981. References to department of
30 environmental quality and environmental quality commission
31 are changed or deleted.

32 Sections 26, 27, 28, and 29 correct references to the Iowa
33 natural resources council and the department of environmental
34 quality in chapter 93A (land use), section 467D.6, and 1982
35 Iowa Acts, chapter 1199, section 94.

1 Section 30 provides that the repeal of chapter 455A of
2 the 1981 Code does not legalize a structure, dam, obstruction,
3 deposit, or excavation erected or made improperly or illegally
4 while the chapter was in effect.

5 This bill takes effect July 1 following its enactment.

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H-3567

1 Amend Senate File 368 as follows:

2 1. Page 1, by striking lines 1 through 27.

3 2. Page 2, by striking lines 9 through 13 and
4 inserting in lieu thereof the following:

5 "22. "Private sewage disposal system" means a
6 system which provides for the treatment or disposal
7 of domestic sewage from four or fewer dwelling units
8 or the equivalent of less than sixteen individuals
9 on a continuing basis."

10 3. Page 5, by striking lines 8 through 13 and

11 inserting in lieu thereof the following: "pursuant
12 to section 455B.173 subsections 6 to 9. The reviewing
13 engineer shall be a full-time employee of the
14 governmental subdivision and the qualifications of
15 that engineer shall be submitted to the executive
16 director or his designee for approval prior to issuing
17 written permits. The local agency shall issue a
18 written".

H-3567 FILED APRIL 7, 1983 BY WELDEN of Hardin

A - Lost 4/12/83 (p. 1228)

B. Adopted as amended by 3692 (p. 1228)

C - Adopted (p. 1228)

SENATE FILE 368

H-3562

1 Amend Senate File 368, as passed by the Senate,
2 as follows:

3 1. Page 1, by striking line 17 and inserting in
4 lieu thereof the following: "restrictive requirement.
5 In addition, the commission shall include with its
6 reasoning a financial impact statement detailing the
7 general impact upon the affected parties. It is the
8 intent of the general".

9 2. Page 4, by striking lines 16 through 24 and
10 inserting in lieu thereof the following: "and private
11 sewage disposal systems. A permit shall be issued
12 for the construction, installation or modification
13 of a public water supply distribution system or part
14 of a system if a qualified, registered engineer
15 certifies to the commission that the plans for the
16 system or part of the system meet the requirements
17 of state and federal law or regulations. The permit
18 shall state that approval is based only upon the
19 engineer's certification that the system's design
20 meets the requirements of all applicable state and
21 federal laws and regulations."

22 3. Page 13, by striking lines 12 through 15 and
23 inserting in lieu thereof the following: "permits.
24 If there is competition for water, the use of water
25 for irrigation has a lower priority than other
26 beneficial uses of water subject to conditions which
27 the commission may establish by rule. Except as
28 otherwise provided in this section, until the plan
29 of water allocation".

H-3562 FILED APRIL 7, 1983

BY COMMITTEE ON NATURAL RESOURCES

Adopted 4/12/83 (p. 1226)

SENATE FILE 368

H-3653

- 1 Amend Senate File 368 as follows:
- 2 1. Page 12, by striking lines 11 and 12, and inserting
- 3 in lieu thereof the following: "Permits may be granted
- 4 for any period of time not exceeding ten years except permits
- 5 for the storage of water".
- 6 2. Page 12, by striking line 25, and inserting in
- 7 lieu thereof the following: "department for any period of
- 8 time not to exceed ten years."

H-3653 FILED APRIL 11, 1983

BY BLANSHAN of Greene

Adopted 4/12/83 (p. 1229)

SENATE FILE 368

H-3673

- 1 Amend the amendment, H-3562, to Senate File 368,
- 2 as passed by the Senate, as follows:
- 3 1. Page 1, by striking lines 22 through 29.

H-3673 FILED APRIL 11, 1983

BY SCHROEDER of Pottawattamie

Lost 4/12 (p. 1226)

SENATE FILE 368

H-3677

- 1 Amend Senate File 368 as passed by the Senate,
- 2 as follows:
- 3 1. Page 12, line 10, by inserting after the word
- 4 "withdrawal." the following: "Action granting or
- 5 denying a permit shall be completed within ninety
- 6 days of receipt of a completed application by the
- 7 department unless the department notifies the applicant
- 8 that specific factors unique to the application
- 9 necessitate additional time for investigation and
- 10 action, but the additional time for investigation
- 11 and action shall not exceed one hundred eighty days."

H-3677 FILED APRIL 12, 1983

BY HERMANN of Scott

MOTION TO SUSPEND RULES, LOST *(p. 1229)*

SENATE FILE 368

H-3692

- 1 Amend amendment H-3567 to page 1 of Senate File 368
- 2 as follows:
- 3 1. Page 1, line 9, by inserting after the word "basis"
- 4 the following words ", which does not discharge into the
- 5 waters of the state".

H-3692 FILED APRIL 12, 1983

BY GROTH of Buena Vista

ADOPTED BY UNANIMOUS CONSENT *(p. 1228)*

HOUSE AMENDMENT TO SENATE FILE 368

S-3571

Amend Senate File 368, as passed by the Senate,
as follows:

3 1. Page 1 by striking line 17 and inserting in
4 lieu thereof the following: "restrictive requirement.
5 In addition, the commission shall include with its
6 reasoning a financial impact statement detailing the
7 general impact upon the affected parties. It is the
8 intent of the general".

9 2. Page 2, by striking lines 9 through 13 and
10 inserting in lieu thereof the following:
11 "22. Private sewage disposal system" means a
12 system which provides for the treatment or disposal
13 of domestic sewage from four or fewer dwelling units
14 or the equivalent of less than sixteen individuals
15 on a continuing basis, which does not discharge into
16 the waters of the state."

17 3. Page 4, by striking lines 16 through 24 and
18 inserting in lieu thereof the following: "and private
19 sewage disposal systems. A permit shall be issued
20 for the construction, installation or modification
21 of a public water supply distribution system or part
22 of a system if a qualified, registered engineer
23 certifies to the commission that the plans for the
24 system or part of the system meet the requirements
25 of state and federal law or regulations. The permit
26 shall state that approval is based only upon the
27 engineer's certification that the system's design
28 meets the requirements of all applicable state and
29 federal laws and regulations."

30 4. Page 5, by striking lines 8 through 13 and
31 inserting in lieu thereof the following: "pursuant
32 to section 455B.173 subsections 6 to 9. ~~The reviewing~~
33 ~~engineer shall be a full-time employee of the~~
34 ~~governmental subdivision and the qualifications of~~
35 ~~that engineer shall be submitted to the executive~~
36 ~~director or his designee for approval prior to issuing~~
37 ~~written permits. The local agency shall issue a~~
38 ~~written~~".

39 5. Page 12, by striking lines 11 and 12, and
40 inserting in lieu thereof the following: "Permits
41 may be granted for any period of time not exceeding
42 ten years except permits for the storage of water".

43 6. Page 12, by striking line 25, and inserting
44 in lieu thereof the following: "department for any
45 period of time not to exceed ten years."

46 7. Page 13, by striking lines 12 through 15 and
47 inserting in lieu thereof the following: "~~permits.~~
48 If there is competition for water, the use of water
49 for irrigation has a lower priority than other
beneficial uses of water subject to conditions which

PAGE 2

1 the commission may establish by rule. Except as
2 otherwise provided in this section, until the plan
3 of water allocation".

SENATE FILE 368

S-3638

1 Amend the House amendment, S-3571, to Senate File
2 368, as passed by the Senate as follows:
3 1. Page 1, by striking lines 39 through 45.
4 2. By renumbering the sections to conform to this
5 amendment.

S-3638 FILED
APRIL 21, 1983

Placed out of order 4/25 (p. 139c)

BY BASS VAN GILST
ARNE WALDSTEIN
DONALD DOYLE
JACK HESTER
RICHARD DRAKE

SENATE FILE 368

S-3664

1 Amend the House amendment, S-3571, to Senate File
2 368 as passed by the Senate, as follows:
3 1. Page 1, by striking lines 39 through 45 and
4 inserting in lieu thereof the following:
5 "5. Page 12, by striking lines 11 and 12 and
6 inserting in lieu thereof the following: "Permits
7 may shall be granted for any a period of time-not
8 exceeding ten years except permits for withdrawal
9 of water which may be granted for less than ten years
10 if geological data on the capacity of the aquifer
11 and the rate of its recharge are indeterminate and
12 permits for the storage of water"."
13 2. By renumbering sections.

S-3664 FILED & ADOPTED
APRIL 25, 1983 *(p. 139c)*

BY BASS VAN GILST
ARNE WALDSTEIN
JOHN NYSTROM
DONALD V. DOYLE
JACK HESTER
BILL HUTCHINS
FORREST SCHWENGELS
RICHARD VANDE HOEF

SENATE FILE 368

AN ACT

RELATING TO THE POWERS AND DUTIES OF THE DEPARTMENT OF WATER,
AIR AND WASTE MANAGEMENT.

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

Section 1. Section 455B.105, subsection 3, Code 1983,
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.~~ When the
commission proposes or adopts rules to implement a specific
federal environmental program and the rules impose requirements
more restrictive than the federal program being implemented
requires, the commission shall identify in its notice of
intended action or adopted rule preamble each rule that is
more restrictive than the federal program requires and shall
state the reasons for proposing or adopting the more
restrictive requirement. In addition, the commission shall
include with its reasoning a financial impact statement
detailing the general impact upon the affected parties. 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. 2. Section 455B.171, subsections 19, 21, and 22,
Code 1983, are 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 the system has at least ~~twenty~~ fifteen service connections
or regularly serves at least ~~one hundred~~ twenty-five
individuals. The term includes any source of water and any
collection, treatment, storage, and distribution facilities
under control of the operator of the system and used primarily
in connection with the system, and any collection or
pretreatment storage facilities not under such control which
are used primarily in connection with the system.

21. "Private water supply" means any water supply for
human consumption which has less than ~~twenty~~ fifteen service
connections or and regularly serves less than ~~one hundred~~
twenty-five individuals.

22. "Private sewage disposal system" means a system which
provides for the treatment or disposal of domestic sewage
from four or fewer dwelling units or the equivalent of less
than sixteen individuals on a continuing basis, which does
not discharge into the waters of the state.

Sec. 3. Section 455B.172, subsection 2, Code 1983, is
amended to read as follows:

2. The department is the state agency designated to carry
out the state responsibilities related to private water sup-
plies and private sewage disposal systems for the protection
of the health of the citizens of this state. The commission

shall adopt ~~guideline~~ minimum standards 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, which standards shall not be lower than the minimum standards adopted by the commission.

Sec. 4. Section 455B.174, subsection 4, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Approve or disapprove the plans and specifications for the construction of disposal systems or public water supply distribution systems except for those sewer extensions and water supply distribution system extensions which are reviewed by a city or county public works department as set forth in section 455B.183. The executive director shall issue, revoke, suspend, modify or deny permits for the operation, installation, construction, addition to or modification of any disposal system or public water supply distribution system except for sewer extensions and water supply distribution system extensions which are reviewed by a city or county public works department as set forth in section 455B.183. The executive director shall also issue, revoke, suspend, modify or deny permits for the discharge of any pollutant. The permits shall contain conditions and schedules of compliance as necessary to meet the requirements of this part of this division and the federal Water Pollution Control Act. A permit shall not be issued to operate or discharge from any disposal system unless the conditions of the permit assure that any discharge from the disposal system meets or will meet all applicable state and federal water quality standards and effluent standards and the issuance of the permit is not otherwise prohibited by the federal Water Pollution Control Act. All applications for discharge permits are subject to

public notice and opportunity for public participation including public hearing as the commission may by rule require. The executive director shall promptly notify the applicant in writing of the executive director's action and, if the permit is denied, state the reasons for denial. The applicant may appeal to the commission from the denial of a permit or from any condition in any permit if the applicant files notice of appeal with the executive director within thirty days of the notice of denial or issuance of the permit. The executive director shall notify the applicant within thirty days of the time and place of the hearing.

Sec. 5. Section 455B.175, unnumbered paragraph 1, Code 1983, is amended to read as follows:

If there is ~~convincive~~ substantial evidence that any person has violated or is violating any provision of this part of this division, or of any rule or standard established or permit issued pursuant thereto, then:

Sec. 6. Section 455B.183, Code 1983, is amended to read as follows:

455B.183 WRITTEN PERMITS REQUIRED. It ~~shall be~~ is unlawful to carry on any of the following activities without first securing a written permit from the executive director, or from a city or county public works department if ~~such-leave~~ the public works department reviews the activity under this section, as required by the commission:

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 and private sewage disposal systems. 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 state and 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 state and federal laws and regulations.

2. The construction or use of any new point source for the discharge of any pollutant into any water of the state.

3. The operation of any waste disposal system or public water supply ~~distribution~~ system or any part of or extension or addition to such system. This provision ~~shall~~ does not apply to any pretreatment system the effluent of which is to be discharged directly to another disposal system for final treatment and disposal or any private sewage disposal system.

Upon adoption of standards by the commission pursuant to section 45B.173, subsections 6 to 9, plans and specifications for sewer extensions and water supply distribution system extensions covered by this section shall be submitted to the city or county public works department for approval if the local public works department employs a qualified, registered engineer who reviews the plans and specifications using the specific state standards known as the Iowa Standards for Sewer Systems and the Iowa Standards for Water Supply Distribution Systems that have been formulated and adopted by the commission pursuant to section 45B.173, subsections 6 to 9. ~~The reviewing engineer shall be a full-time employee of the governmental subdivision and the qualifications of that engineer shall be submitted to the executive director or his designee for approval prior to issuing written permits.~~ The local agency shall issue a written permit to construct if all of the following apply:

a. The submitted plans and specifications are in substantial compliance with departmental rules and the Iowa Standards for Sewer Systems and the Iowa Standards for Water Supply Distribution Systems.

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

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

d. The proposed water supply distribution system extension will not exceed the production capacity of any public water supply ~~distribution~~ system constructed after 1972.

After issuing a permit, the city or county public works department shall notify the executive director of such issuance by forwarding a copy of the permit to the executive director. In addition, the local agency shall submit quarterly reports to the executive director including such information as capacity of local treatment plants and production capacity of public water supply ~~distribution~~ systems as well as other necessary information requested by the executive director for the purpose of implementing this chapter.

Plans and specifications for all other waste disposal systems and public water supply ~~distribution~~ systems, including sewer extensions and water supply distribution system extensions not reviewed by a city or county public works department under this section, shall be submitted to the department before a written permit may be issued. The construction of any such waste disposal system or public water supply ~~distribution~~ system shall be in accordance with standards formulated and adopted by the commission pursuant to section 45B.173, subsections 6 to 9, or otherwise approved by the department. If it is necessary or desirable to make material changes in such the plans or specifications, revised

plans or specifications together with reasons for the proposed changes must be submitted to the department for a supplemental written permit.

Prior to the adoption of statewide standards, the department may delegate the authority to review plans and specifications to those governmental subdivisions if in addition to compliance with subsection 3 ~~that the governmental subdivision agrees~~ subdivisions agree to comply with all state and federal regulations and ~~submits a plan~~ submit plans for the review of plans and specifications including a complete set of local standard specifications for such improvements.

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

The department shall exempt any public water supply system from any requirement respecting a maximum contaminant level or any treatment technique requirement of an applicable national drinking water regulation ~~insofar as~~ if these regulations apply to contaminants which the commission determines are harmless or beneficial to the health of consumers, ~~when~~ and if the owner of a public water supply system determines that funds are not reasonably available to provide for controlling amounts of those contaminants which are harmless or beneficial to the health of consumers.

Sec. 7. Section 455B.261, subsections 1, 10, and 11, Code 1983, are amended to read as follows:

1. "Flood plains" means the area adjoining a river or stream which has been or ~~is~~ may be covered by flood water.

10. "Permit" means a written authorization issued by the department to a permittee which ~~is~~ authorizes diversion,

storage, or withdrawal of water 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 or authorizes construction, use, or maintenance of a structure, dam, obstruction, deposit, or excavation in a floodway or flood plain in accordance with the principles and policies of protecting life and property from floods 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 or a person who obtains a permit from the department authorizing construction, use, or maintenance of a structure, dam, obstruction, deposit, or excavation in a floodway or flood plain for a designated purpose.

Sec. 8. Section 455B.261, subsection 16, Code 1983, is amended by striking the subsection.

Sec. 9. Section 455B.262, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

455B.262 DECLARATION OF POLICY AND PLANNING REQUIREMENTS.

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, 1985, and ending December 31, 2004, 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 quantity and quality of water resources available in this state designed to meet the specific needs of the water users. The department shall also develop and the commission shall adopt no later than January 1, 1985, a plan for delineation of flood plain and floodway boundaries for selected stream reaches in the various river basins of the state. Selection of the stream reaches and assignment of priorities for mapping of the selected reaches shall be based on consideration of flooding characteristics, the type and extent of existing and anticipated flood plain development in particular stream reaches, and the needs of local governmental bodies for assistance in delineating flood plain and floodway boundaries. The plan of flood plain mapping shall be for the period from January 1, 1985, to December 31, 2004. After the commission adopts a plan of flood plain mapping, the department shall submit a progress report and proposed implementation schedule to the general assembly biennially. The commission may modify the flood plain mapping plan as needed in response to changing circumstances.

2. 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.

3. 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. 10. Section 455B.263, subsections 1 and 7, Code 1983, are amended to read as follows:

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~~ bills embodying a general plan of water allocation priorities for this state, considering the types of water resources available in the state, the principles and policies of beneficial use, 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~~ bill 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~~ bill 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~~ bills 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~~ bills, the ~~joint-resolution~~ bill 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 bills~~ 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 bill~~ be subject to amendment in the same manner as other ~~joint-resolutions bills~~, and be ~~adopted enacted~~ by the end of the 1985 Session, including any extraordinary sessions of the general assembly.

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~~ commission deems the projects to be necessary for the achievement of the policies of this state.

Sec. 11. Section 455B.264, Code 1983, is amended to read as follows:

455B.264 JURISDICTION--~~DIVERSION-OF WATER AND FLOOD PLAINS.~~

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, and 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. 12. Section 455B.265, Code 1983, is amended to read as follows:

455B.265 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 shall be granted for any a period of time-not exceeding ten years except permits for withdrawal of water which may be granted for less than ten years if geological data on the capacity of the aquifer and the rate of its recharge are indeterminate and 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 an earlier date ~~if~~ when the permit or any extension of the permit is ~~modified or~~ canceled under section 455B.271. Upon application for a permit prior to the termination date specified in the permit, a permit may be renewed by the department for ~~any~~ a period of ~~time-not-to~~ ~~exceed~~ ten years.

Sec. 13. Section 455B.266, Code 1983, is amended to read as follows:

455B.266 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. Except as otherwise provided in this section, until the plan of water allocation priorities is enacted as provided in section 455B.263, subsection 1, the principles and policies of beneficial use shall establish the standards for the determination of the disposition of permit applications. After it is enacted as provided in section 455B.263, subsection 1, the plan of water allocation priorities shall establish the standards for determination of the disposition of permit applications. This part does not impair the vested right of any person.

Sec. 14. Section 455B.269, Code 1983, is amended to read as follows:

455B.269 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 the sections of this part which relate to the withdrawal, diversion, or storage of water. However, existing uses may be continued during the period of the pendency of an application for a permit.

Sec. 15. Section 455B.270, Code 1983, is amended to read as follows:

455B.270 RIGHTS PRESERVED. ~~This part does~~ The sections of this part which relate to the withdrawal, diversion, or storage of water do 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. 16. Section 455B.271, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Each permit issued under ~~this part~~ section 455B.265 is irrevocable for its term and for any extension of its term except as follows:

Sec. 17. Section 455B.272, Code 1983, is amended to read as follows:

455B.272 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. However, nonuse of water due to adequate rainfall does not constitute grounds for cancellation of a permit to use water for irrigation.

Sec. 18. Section 455B.275, subsections 1 and 4, Code 1983, are amended to read as follows:

1. A person shall not permit, erect, use or maintain a structure, dam, obstruction, 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, or 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.

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. The costs of abatement shall be borne by the violator. Notwithstanding section 93A.11, a structure, dam, obstruction, deposit, or excavation on a floodway or flood plain in an agricultural area established under chapter 93A is not exempt from the sections of this part which relate to regulation of flood plains and floodways.

Sec. 19. Section 455B.276, unnumbered paragraph 1, Code 1983, is amended to read as follows:

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 455B.277. 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.

Sec. 20. Section 455B.277, unnumbered paragraph 1, Code 1983, is amended to read as follows:

All flood control works in the state, which are established and constructed after ~~July 1, 1983~~ April 16, 1949, 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~~ department. The ~~commission~~ department 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~~ department 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.

Sec. 21. Section 455B.278, subsection 1, Code 1983, is amended to read as follows:

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~~ rules shall include provisions for application, an public notice and opportunity for public hearing, contested cases, and a schedule of application fee fees sufficient to pay all or part of the administrative costs of the permit process, ~~public notice and opportunity for public hearing, and contested cases.~~ Public notice of a decision by the executive director to issue a permit shall be given in a manner designed to inform persons who may be adversely affected by the permitted project or activity.

Sec. 22. Section 455B.279, subsection 1, Code 1983, is amended to read as follows:

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 department may request legal services as required from the attorney general, including any legal proceeding necessary to obtain compliance with this part and rules and orders issued under this part.~~

Sec. 23. Section 455B.441, Code 1983, is amended to read as follows:

455B.441 PURPOSE AND GUIDELINES. The purpose of this part is to protect the public health and the environment by providing a procedure for establishing appropriate sites and properly designed facilities for the treatment, storage and disposal of hazardous waste. It is the intent of the general assembly that in the implementation of this part the department of environmental quality water, air and waste management shall emphasize alternatives to land burial of hazardous waste whenever possible with emphasis on the following management methods in the following order: source reduction, reuse, resource recovery, incineration, and detoxification.

Sec. 24. Section 455B.442, subsection 2, Code 1983, is amended to read as follows:

2. "Hazardous waste" means a hazardous waste as defined in section 455B.411, subsection 2 and listed by the ~~environ-~~mental-quality commission under section 455B.412, subsection 2.

Sec. 25. Section 455B.442, subsections 3 and 4, Code 1983, are amended by striking the subsections.

Sec. 26. Section 93A.4, subsection 4, Code 1983, is amended to read as follows:

4. The state department of agriculture, office for planning and programming, department of soil conservation, state conservation commission, ~~Iowa-natural-resources-council~~, department of environmental-quality water, air and waste management, geological survey, state agricultural extension service, and the Iowa development commission shall, upon request, provide to each county commission any pertinent land use information available to assist in the compiling of the county land use inventories.

Sec. 27. Section 93A.11, subsection 2, Code 1983, is amended to read as follows:

2. WATER PRIORITY. In the application for a permit to divert, store, or withdraw water and in the allocation of available water resources under a water permit system, the ~~Iowa-natural-resources-council~~ department of water, air and waste management shall give priority to the use of water resources by a farm or farm operations, exclusive of irrigation, located in an agricultural area over all other uses except the competing uses of water for ordinary household purposes.

Sec. 28. Section 467D.6, subsection 1, Code 1983, is amended to read as follows:

1. Exercise 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 adopt and repeal, with approval of the department, and enforce rules, except those rules relating to water resources under the authority of the department of environmental-quality water, air and waste management, as necessary to achieve the objectives of this chapter as set forth in section 467D.1.

Sec. 29. 1982 Iowa Acts, chapter 1199, section 94, subsections 1, 2, and 4, are amended to read as follows:

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 water, air and waste management 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 water, air and waste management or its executive director 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, 455C, and section 427.1, subsection 32, 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. 30. 1982 Iowa Acts, chapter 1199, section 94, is amended by adding the following new subsection:

NEW SUBSECTION. The repeal of chapter 455A of the 1981 Code does not legalize a structure, dam, obstruction, deposit, or excavation erected or made while that chapter was in effect.

ROBERT T. ANDERSON
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 368, Seventieth General Assembly.

K. MARIE THAYER
Secretary of the Senate

Approved May 24, 1983

TERRY E. BRANSTAD
Governor

S.F. 368