

**CHAPTER 1198****PERSONAL LIABILITY OF EMERGENCY VOLUNTEERS***H.F. 2344*

**AN ACT** relating to the personal liability of volunteer fire fighters and rescue service operators who render emergency assistance.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 613.17, Code 1981, is amended to read as follows:

613.17 **EMERGENCY ASSISTANCE IN AN ACCIDENT.** Any person, who in good faith renders emergency care or assistance without compensation ~~at the place of an emergency or accident,~~ shall not be liable for any civil damages for acts or omissions occurring at the place of an emergency or accident or while the person is in transit to or from the emergency or accident or while the person is at or being moved to or from an emergency shelter unless such acts or omissions constitute recklessness. For purposes of this section, if a volunteer fire fighter, a volunteer operator or attendant of an ambulance or rescue squad service, a volunteer paramedic, or a volunteer emergency medical technician receives nominal compensation not based upon the value of the services performed, that person shall be considered to be receiving no compensation. The operation of a motor vehicle in compliance with section 321.231 by a volunteer fire fighter, volunteer operator or attendant of an ambulance or rescue squad service, a volunteer paramedic, or volunteer emergency medical technician shall be considered rendering emergency care or assistance for purposes of this section.

Approved May 14, 1982

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**CHAPTER 1199****CREATION OF DEPARTMENT AND COMMISSION OF  
WATER, AIR AND WASTE MANAGEMENT***H.F. 2463*

**AN ACT** to consolidate the management and regulation of water and air resources and waste by creating a department of water, air and waste management and a water, air and waste management commission; transferring to the department of water, air and waste management and the department of soil conservation the powers and duties of the Iowa natural resources council and the department of environmental quality and the powers and duties of the state department of health relating to private water systems and water wells and private sewage disposal systems; making corresponding amendments to the Code; and providing civil penalties for violations, and an effective date.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 455B.1, subsections 1, 2, and 3, Code 1981, are amended to read as follows:

1. "Department" means the department of environmental quality water, air and waste management.

2. "Executive director" means the executive director of the department of environmental quality water, air and waste management or his a designee of the executive director.

3. "Commission" means the environmental quality water, air and waste management commission.

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

There is created a department of environmental quality water, air and waste management. The chief administrative officer of the department shall be is the executive director of environmental quality, who shall be appointed by the governor, subject to confirmation by the senate, and serve at the governor's pleasure.

Sec. 3. Section 455B.4, subsections 1 and 6, Code 1981, are amended to read as follows:

1. There is created an environmental quality a water, air and waste management commission consisting of nine members, not more than five of whom shall be from the same political party. The members shall be appointed by the governor subject to confirmation by the senate. Each member of the commission must be an elector of the state, and have interest and knowledge of the subjects embraced in this chapter. The membership of the commission shall be as follows: Three members actively engaged in livestock and grain farming, a member actively engaged in the management of a manufacturing company, one member actively engaged in the business of finance or commerce, and four members who are electors of the state. The members of the commission shall be appointed to four-year, staggered terms of office commencing and ending as provided in section 69.19. Vacancies occurring during a term of office shall be filled by appointment for the balance of the unexpired term subject to confirmation by the senate. A commission member shall not be appointed to serve more than two consecutive four-year terms.

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

Sec. 4. Section 455B.5, subsection 3, Code 1981, is amended to read as follows:

3. Adopt, modify, or repeal rules necessary to implement the provisions of this chapter and the rules deemed necessary for the effective administration of the department. A rule adopted under this chapter to carry out a federal regulation shall not become effective if the rule is more restrictive than required by the federal regulation unless the rule is approved by enactment of the general assembly. It is the intent of the general assembly that the commission exercise strict oversight of the operations of the department. The rules shall include departmental policy relating to the disclosure of information on a violation or alleged violation of the rules, standards, permits or orders issued by the department and keeping of confidential information obtained by the department in the administration and enforcement of the provisions of this chapter. Rules adopted by the executive committee before January 1, 1981 shall remain effective until modified or rescinded by action of the commission.

Sec. 5. Section 455B.5, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. Appoint a water coordinator who shall coordinate requests from the public for information or assistance relating to the administration of water resources laws and programs and the resolution of water-related problems.

Sec. 6. Section 455B.30, subsection 8, Code 1981, is amended by striking the subsection.

Sec. 7. Section 455B.30, subsection 19, Code 1981, is amended to read as follows:

19. "Public water supply system" means a system for the provision to the public of piped water for human consumption, if ~~such~~ the system has at least ~~fifteen~~ twenty service connections or regularly serves at least ~~twenty-five~~ one hundred individuals. ~~Such~~ The term includes any source of water and any collection, treatment, storage, and distribution facilities under control of the operator of ~~such~~ the system and used primarily in connection with ~~such~~ the system, and any collection or pretreatment storage facilities not under such control which are used primarily in connection with ~~such~~ the system.

Sec. 8. Section 455B.30, Code 1981, is amended by adding the following new subsections:

NEW SUBSECTION. "Private water supply" means any water supply for human consumption which has less than twenty service connections or regularly serves less than one hundred individuals.

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

Sec. 9. Section 455B.31, Code 1981, is amended to read as follows:

455B.31 ADMINISTRATIVE AGENCY.

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

2. The department is the state agency designated to carry out the state responsibilities related to private water supplies and private sewage disposal systems for the protection of the health of the citizens of this state. The commission shall adopt guidelines and provide model standards for private water supplies and private sewage disposal facilities for use of the local boards of health. Each local board of health is the agency to regulate private water supplies and private sewage disposal systems. Each local board of health shall adopt standards relating to the design and construction of private water supplies and private sewage disposal facilities.

Sec. 10. Section 455B.32, subsection 4, Code 1981, is amended by striking the subsection.

Sec. 11. Section 455B.45, subsection 1, Code 1981, is amended to read as follows:

1. The construction, installation or modification of any disposal system or public water supply distribution system or part thereof or any extension or addition thereto except those sewer extensions and water supply distribution system extensions that are subject to review and approval by a city or county public works department pursuant to this section. A permit shall be issued for the construction, installation or modification of a public water supply distribution system or part of a system if a qualified, registered engineer certifies to the commission that the plans for the system or part of the system meet the requirements of federal law or regulations. The permit shall state that approval is based only upon the engineer's certification that the system's design meets the requirements of all applicable federal laws and regulations.

Sec. 12. Section 455B.53, subsection 6, Code 1981, is amended to read as follows:

6. ~~Two members~~ One member who shall not be ~~is not a~~ certificated waterworks operators operator or certificated waste waterworks operators operator, but who shall be interested and knowledgeable in water supply or waste water collection and treatment, and who shall represent the general public.

Sec. 13. Section 455B.53, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. One member who is a director of the board of a rural water district established under chapter 357A or 504A.

Sec. 14. Chapter 455B, division III, Code 1981, is amended by adding sections 15 through 34 of this Act as a new part.

Sec. 15. NEW SECTION. DEFINITIONS. As used in this part of division III, unless the context otherwise requires:

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

2. "Floodway" means the channel of a river or stream and those portions of the flood plains adjoining the channel which are reasonably required to carry and discharge the flood water or flood flow of any river or stream.

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

4. "Ground water" means that water occurring beneath the surface of the ground.

5. "Diffused waters" means waters from precipitation and snowmelt which is not a part of any watercourse or basin including capillary soil water.

6. "Depleting use" means the storage, diversion, conveyance, or other use of a supply of water if the use may impair rights of lower or surrounding users, may impair the natural resources of the state, or may injure the public welfare if not controlled.

7. "Beneficial use" means the application of water to a useful purpose that inures to the benefit of the water user and subject to the user's dominion and control but does not include the waste or pollution of water.

8. "Nonregulated use" means the use of water for ordinary household purposes, use of water for poultry, livestock, and domestic animals, any beneficial use of surface flow from rivers bordering this state, any existing beneficial uses of water within the territorial boundaries of municipal corporations on May 16, 1957, and any other beneficial use of water by any person of less than twenty-five thousand gallons per day. However, industrial users of water, having their own water supply, within the territorial boundaries of municipal corporations, shall be regulated when their water use exceeds three percent more than the highest per day beneficial use prior to May 16, 1957.

9. "Regulated use" means any depleting use except a use specifically designated as a nonregulated use.

10. "Permit" means a written authorization issued by the department to a permittee which is limited as to quantity, time, place, and rate of diversion, storage, or withdrawal in accordance with the policies and principles of beneficial use as specified in this part.

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

12. "Waste" means any of the following:

a. Permitting ground water or surface water to flow, or taking it or using it in any manner so that it is not put to its full beneficial use.

b. Transporting ground water from its source to its place of use in such a manner that there is an excessive loss in transit.

c. Permitting or causing the pollution of a water-bearing strata through any act which will cause salt water, highly mineralized water, or otherwise contaminated water to enter it.

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

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

15. "Established average minimum flow" means the average minimum flow for a given watercourse at a given point determined and established by the commission. The "average minimum flow" for a given watercourse shall be determined by the following factors:

a. Average of minimum daily flows occurring during the preceding years chosen by the commission as more nearly representative of changing conditions and needs of a given drainage area at a particular time.

b. Minimum daily flows shown by experience to be the limit at which further withdrawals would be harmful to the public interest in any particular drainage area.

c. The minimum daily flows shown by established discharge records and experiences to be definitely harmful to the public interest.

The determination shall be based upon available data, supplemented, when available data are incomplete, with whatever evidence is available.

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

Sec. 16. NEW SECTION. DECLARATION OF POLICY.

1. It is recognized that the protection of life and property from floods, the prevention of damage to lands from floods, and the orderly development, wise use, protection, and conservation of the water resources of the state by their considered and proper use is of paramount importance to the welfare and prosperity of the people of the state, and to realize these objectives, it is the policy of the state to correlate and vest the powers of the state in a single agency, the department, with the duty and authority to assess the water needs of all water users at five-year intervals for the twenty years beginning January 1, 1983, and ending December 31, 2003, utilizing a data base developed and managed by the Iowa geological survey, and prepare a general plan of water allocation in this state considering the types of water resources available in this state designed to meet the specific needs of the water users. The general welfare of the people of the state requires that the water resources of the state be put to beneficial use to the fullest extent possible, and that the waste or unreasonable use, or unreasonable methods of use of water be prevented, and that the conservation of water resources be encouraged with the view to their reasonable and beneficial use in the interest of the people, and that the public and private funds for the promotion and expansion of the beneficial use of water resources be invested to the end that the best interests and welfare of the people are served.

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

Sec. 17. NEW SECTION. DUTIES.

1. a. Not later than January 15, 1985, the commission shall deliver to the secretary of the senate and the chief clerk of the house identical joint resolutions enacting a general plan of water allocation priorities for this state, considering the types of water resources available in the state and the water needs of all types of water users in this state, with a recommendation on the most effective means of implementation of the plan. It is the intent of this subsection that the general assembly shall bring the joint resolution to a vote in either chamber under a procedure or rule permitting no amendments except those of a purely corrective nature. If by the end of the fourth week of the 1985 regular session, the joint resolution embodying the plan is not approved by a constitutional majority in both chambers, the commission shall, by the end of the sixth week of the 1985 regular session, prepare and deliver to the secretary of the senate and the chief clerk of the house identical joint resolutions embodying a second plan, taking into account the reasons cited by either the secretary of the senate or chief clerk of the house for the failure of the first plan.

b. If, proceeding under a procedure or rule permitting amendments in the same manner as other joint resolutions, the joint resolution embodying the second plan is not adopted by a constitutional majority in both chambers by the end of the tenth week of the 1985 regular session, the commission shall, by the end of the eleventh week of the 1985 regular session, prepare and deliver to the secretary of the senate and the chief clerk of the house identical joint resolutions embodying a third plan, taking into account the reasons cited by either the secretary of the senate or chief clerk of the house for failure of the second plan. It is the intent of this subsection that the third joint resolution be subject to amendment in the same manner as other joint resolutions, and be adopted by the end of the 1985 Session, including any extraordinary sessions of the general assembly.

2. The commission shall designate the official representative of this state on all comprehensive water resources planning groups for which state participation is provided. The commission shall coordinate state planning with local and national planning and, in safeguarding the interests of the state and its people, shall undertake the resolution of any conflicts that may arise between the water resources policies, plans, and projects of the federal government and the water resources policies, plans, and projects of the state, its agencies, and its people. This section does not limit or supplant the functions, duties, and responsibilities of other state or local agencies or institutions with regard to planning of water-associated projects within the particular area of responsibility of those state or local agencies or institutions.

3. The commission shall enter into negotiations and agreements with the federal government relative to the operation of, or the release of water from, any project that has been authorized or constructed by the federal government when the commission deems the negotiations and agreements to be necessary for the achievement of the policies of this state relative to its water resources.

4. The commission, on behalf of the state, shall enter into negotiations with the federal government relative to the inclusion of conservation storage features for water supply in any project that has been authorized by the federal government when the commission deems the negotiations to be necessary for the achievement of the policies of this state, however, an agreement reached pursuant to these negotiations does not bind the state until enacted into law by the general assembly.

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

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

- a. To protect the health, safety, and general welfare of the people of the state.
- b. To achieve the purposes of this chapter.
- c. To provide that the state is not responsible to any person if the waters involved are insufficient for performance.

The commission may designate and describe any such contract, and describe the relationships to which it relates, as a sale of storage capacity, a sale of water release services, a contract for the storage or sale of water, or any similar terms suggestive of the creation of a property interest. The term of the contracts shall be commensurate with the investment and use concerned, but the commission shall not enter into any such contract for a term in excess of the maximum period provided for water use permits.

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

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

9. In carrying out its duties, the commission may accept gifts, contributions, donations and grants, and use them for any purpose within the scope of this part.

**Sec. 18. NEW SECTION. JURISDICTION—DIVERSION OF WATER.**

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

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

3. Upon application by any person for approval of the construction or maintenance of any structure, dam, obstruction, deposit, or excavation to be erected, used, or maintained in or on the flood plains of any river or stream, the department shall investigate the effect of the construction or maintenance project on the efficiency and capacity of the floodway and on the plan of water allocation priorities for this state. In determining the effect of the proposal the department shall consider fully its effect on flooding of or flood control for any proposed works and adjacent lands and property, on the wise use and protection of water resources, on the quality of water, on fish, wildlife, and recreational facilities or uses, and on all other public rights and requirements.

**Sec. 19. NEW SECTION. PERMITS FOR DIVERSION, STORAGE, AND WITHDRAWAL.** If the department determines after due investigation that the diversion, storage, or withdrawal of water will not be detrimental to the public interests, including drainage and levee districts, or to the interests of property owners with prior or superior rights who may be affected, the department shall grant a permit for the diversion, storage, or withdrawal. Permits may be granted for any period of time not exceeding ten years except permits for the storage of water which may be granted for the life of the structure unless revoked by the commission. All existing storage permits are extended for the life of the structure unless withdrawn for good cause. Permits may be granted which provide for less diversion, storage, or withdrawal of waters than set forth in the application. A permit granted shall

remain as an appurtenance of the land described in the permit through the date specified in the permit and any extension of the permit or until earlier date if the permit or any extension of the permit is modified or canceled under section 25 of this Act. Upon application for a permit prior to the termination date specified in the permit, a permit may be renewed by the department for any period of time not to exceed ten years.

Sec. 20. NEW SECTION. PRIORITY OF PERMITS FOR DIVERSION, STORAGE, AND WITHDRAWAL. In the consideration of applications for permits, priority in processing shall be given to persons in the order that the applications are received, except that this processing priority shall not affect the substantive priorities established under the plan of water allocation priorities for this state and except where the application of this priority system prevents the prompt approval of routine applications or where the public health, safety or welfare will be threatened by delay. The executive director or the commission on appeal shall determine the duration and frequency of withdrawal and the quantity of water for which a permit may be granted. Any person with an existing irrigation system in use prior to May 16, 1957, shall be issued a permit to continue unless its use damages some other riparian user. In the consideration of applications for permits by regulated users, the plan of water allocation priorities for this state as adopted by the general assembly establishes standards for the determination of the disposition of the applications for permits. If there is competition for water, the use of water for irrigation has a lower priority than other beneficial uses of water subject to conditions which the commission may establish by rule. This part does not impair the vested right of any person.

Sec. 21. NEW SECTION. PERMITS FOR BENEFICIAL USE—PROHIBITIONS.

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

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

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

Sec. 22. NEW SECTION. WHEN PERMIT REQUIRED.

1. A permit shall be required for the following:

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

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

c. A person who diverts water or any material from the surface directly into an underground watercourse or basin.

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

2. The commission may adopt, modify, or repeal rules pursuant to chapter 17A specifying the conditions under which the executive director may authorize specific nonrecurring minor uses of water for periods not to exceed one year through registration.

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



Sec. 23. NEW SECTION. TAKING WATER PROHIBITED. A person shall not take water from a natural watercourse, underground basin or watercourse, drainage ditch, or settling basin within this state for any purpose other than a nonregulated use except in compliance with this part. However, existing uses may be continued during the period of the pendency of an application for a permit.

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

Sec. 25. NEW SECTION. MODIFICATION OR CANCELLATION OF PERMITS. Each permit issued under this part is irrevocable for its term and for any extension of its term except as follows:

1. A permit may be modified or canceled by the department with the consent of the permittee.

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

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

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

c. There is a circumstance of nonuse as provided in section 26 of this Act.

d. The department finds that modification or cancellation is necessary to protect the public health or safety, to protect the public interests in lands or waters, or to prevent substantial injury to persons or property in any manner. Before the modification or cancellation is effective, the department shall give at least thirty days' written notice mailed to the permittee at the permittee's last known address, stating the grounds of the proposed modification or cancellation and giving the permittee an opportunity to be heard on the proposal.

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

Sec. 26. NEW SECTION. TERMINATION OF PERMIT. The right of the permittee and the permittee's successors to the use of water shall terminate when the permittee or the permittee's successors fail for three consecutive years to use it for the specific beneficial purpose authorized in the permit and, after notification by the department of intent to cancel the permit for nonuse, the permittee or the permittee's successors fail to demonstrate adequate plans to use water within a reasonable time.

Sec. 27. NEW SECTION. DISPOSAL OF PERMIT. A permittee may sell, transfer, or assign a permit by conveying, leasing, or otherwise transferring the ownership of the land described in the permit, but the permit does not constitute ownership or absolute rights of use of the waters. The waters remain subject to the principle of beneficial use and the orders of the executive director or commission.

Sec. 28. NEW SECTION. UNAUTHORIZED DEPLETING USES. If a person files a complaint with the department that another person is making a depleting use of water not

expressly exempted as a nonregulated use under this part and without a permit to do so, the department shall cause an investigation to be made and if the facts stated in the complaint are verified the department shall order the discontinuance of the use.

Sec. 29. NEW SECTION. PROHIBITED ACTS—POWERS OF COMMISSION AND EXECUTIVE DIRECTOR.

1. A person shall not erect, use or maintain a structure, deposit, or excavation in or on a floodway or flood plains, which will adversely affect the efficiency of or unduly restrict the capacity of the floodway, adversely affect the control, development, protection, allocation, or utilization of the water resources of the state, and the same are declared to be public nuisances. However, this subsection does not apply to dams constructed and operated under the authority of chapter 469.

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

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

4. The department may maintain an action in equity to enjoin a person from erecting or making or permitting to be made a structure, dam, obstruction, deposit, or excavation other than a dam constructed and operated under the authority of chapter 469, for which a permit has not been granted. The department may also seek judicial abatement of any structure, dam, obstruction, deposit, or excavation erected or made without a permit required under this part. The abatement proceeding may be commenced to enforce an administrative determination of the department in a contested case proceeding that a public nuisance exists and should be abated.

5. The department may remove or eliminate a structure, dam, obstruction, deposit, or excavation in a floodway which adversely affects the efficiency of or unduly restricts the capacity of the floodway, by an action in condemnation, and in assessing the damages in the proceeding, the appraisers and the court shall take into consideration whether the structure, dam, obstruction, deposit, or excavation is lawfully in or on the floodway in compliance with this part.

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

7. When approving a request to straighten a stream, the department may establish as a condition of approval a permanent prohibition against tillage of land owned by the person receiving the approval and lying within a minimum distance from the stream sufficient in the judgment of the director or commission to hold soil erosion to reasonable limits. The department shall record the prohibition in the office of the county recorder of the appropriate county and the prohibition shall attach to the land.

8. The commission shall establish, by rule, thresholds for dimensions and effects, and any structure, dam, obstruction, deposit, or excavation having smaller dimensions and effects than

those established by the commission is not subject to regulation under this section. The thresholds shall be established so that only those structures, dams, obstructions, deposits, or excavations posing a significant threat to the well-being of the public and the environment are subject to regulation.

Sec. 30. **NEW SECTION. FLOOD PLAINS—ENCROACHMENT LIMITS.** The commission may establish and enforce rules for the orderly development and wise use of the flood plains of any river or stream within the state and alter, change, or revoke the rules. The commission shall determine the characteristics of floods which reasonably may be expected to occur and may establish by order encroachment limits, protection methods, and minimum protection levels appropriate to the flooding characteristics of the stream and to reasonable use of the flood plains. The order shall fix the length of flood plains to be regulated at any practical distance, the width of the zone between the encroachment limits so as to include portions of the flood plains adjoining the channel, which with the channel, are required to carry and discharge the flood waters or flood flow of the river or stream, and the design discharge and water surface elevations for which protection shall be provided for projects outside the encroachment limits but within the limits of inundation. Plans for the protection of projects proposed for areas subject to inundation shall be reviewed as plans for flood control works within the purview of section 31 of this Act. An order establishing encroachment limits shall not be issued until due notice of the proposed order is given and opportunity for public hearing given for the presentation of protests against the order. In establishing the limits, the commission shall avoid to the greatest possible degree the evacuation of persons residing in the area of a floodway, the removal of residential structures occupied by the persons in the area of a floodway, and the removal of structures erected or made prior to July 4, 1965, which are located on the flood plains of a river or stream but not within the area of a floodway.

The commission shall cooperate with and assist local units of government in the establishment of encroachment limits, flood plain regulations, and zoning ordinances relating to flood plain areas within their jurisdiction. Encroachment limits, flood plain regulations, or flood plain zoning ordinances proposed by local units of government shall be submitted to the department for review and approval prior to adoption by the local units of government. Changes or variations from an approved regulation or ordinance as it relates to flood plain use are subject to approval by the commission prior to adoption. Individual applications, plans, and specifications and individual approval orders shall not be required for works on the flood plains constructed in conformity with encroachment limits, flood plain regulations, or zoning ordinances adopted by the local units of government and approved by the commission.

Sec. 31. **NEW SECTION. FLOOD CONTROL WORKS COORDINATED.** All flood control works in the state, which are established and constructed after the effective date of this Act, shall be coordinated in design, construction, and operation according to sound and accepted engineering practice so as to effect the best flood control obtainable throughout the state. A person shall not construct or install works of any nature for flood control until the proposed works and the plans and specifications for the works are approved by the commission. The commission shall consider all the pertinent facts relating to the proposed works which will affect flood control and water resources in the state and shall determine whether the proposed works in the plans and specifications will be in aid of and acceptable as part of, or will adversely affect and interfere with flood control in the state, adversely affect the control, development, protection, allocation, or utilization of the water resources of the state, or adversely affect or interfere with the state comprehensive plan for water resources or an approved local water resources plan. In the event of disapproval, the commission shall set forth the objectionable features so that the proposed works and the plans and specifications for the proposed works may be corrected or adjusted to obtain approval.

This section applies to drainage districts, soil conservation districts, the state conservation commission, political subdivisions of the state, and private persons undertaking projects relating to flood control.

**Sec. 32. NEW SECTION. PERMIT APPLICATION PROCEDURES.**

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

2. Action by the department upon an application for a permit required under this part may be appealed to the commission by the applicant or any affected person within thirty days of the department's action. A hearing before the commission or its designee is a contested case. The hearings and judicial review of decisions of the commission shall be carried out in accordance with chapter 17A. Notwithstanding chapter 17A, petitions for judicial review may be filed in the district court of Polk county or of any county in which the property affected is located. If the commission, the district court, or the supreme court determines that the action of the commission shall be stayed, the petitioner shall file an appropriate bond approved by the court.

**Sec. 33. NEW SECTION. VIOLATION.**

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

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

**Sec. 34. NEW SECTION. COORDINATION WITH CONSERVANCY DISTRICTS.** The commission and the boards of the conservancy districts established by chapter 467D shall coordinate their efforts in carrying out the purposes of this chapter and chapter 467D. In addition to other powers and duties conferred by law, the department shall:

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

2. Review and make recommendations as necessary to bring the plan of each of the conservancy districts, and any subsequent changes in the plan, into conformity with the statewide water resources plan established by the commission pursuant to section 17 of this Act.

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

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

b. The receipt of each application for approval of a proposed dam, obstruction, deposit, or excavation in or on any floodway or flood plain in the district, filed with the executive director pursuant to section 29 of this Act.

c. Any proposed order which would establish encroachment limits and zoning regulations on any flood plain in the district, filed with the executive director pursuant to section 30 of this Act.

d. The receipt of each application for approval of a proposed flood control structure or works, filed with the executive director pursuant to section 31 of this Act.

**Sec. 35.** Section 68B.2, subsection 4, Code 1981, is amended to read as follows:

4. "Regulatory agency" means department of agriculture, industrial commissioner, bureau of labor, occupational safety and health review commission, department of job service, department of banking, insurance department of Iowa, state department of health, department of public safety, department of public instruction, state board of regents, department of social services, department of revenue, Iowa state commerce commission, Iowa beer and liquor control department, board of pharmacy examiners, state conservation commission, state department of transportation, Iowa state civil rights commission, department of soil conservation, department of public defense, and department of environmental quality and Iowa natural resources council water, air and waste management.

Sec. 36. Section 83A.3, subsection 5, Code 1981, is amended to read as follows:

5. One member representing the Iowa natural resources council department of water, air and waste management.

Sec. 37. Section 84.2, subsections 11, 12, 14, and 16, Code 1981, are amended to read as follows:

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

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

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

16. "Council" "Department" means Iowa natural resources council as defined in chapter 455A the department of soil conservation.

Sec. 38. Section 84.2, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION. "Committee" means the state soil conservation committee.

Sec. 39. Section 84.4, unnumbered paragraph 1, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 41, section 3, is amended to read as follows:

The council department has the duty of administering this chapter. The state geologist shall act as administrator with the duty of enforcing the regulations and orders of the council department applicable to the crude petroleum oil and natural gas and metallic mineral resources of this state and the provisions of this chapter. The council department has the duty to make investigations it deems proper to determine whether waste exists or is imminent or whether other facts exist which justify action. The council department acting through the office of the state geologist has the authority:

Sec. 40. Section 84.4, subsection 1, paragraphs d, e, and i, Code 1981, are amended to read as follows:

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

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

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

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

84.5 DRILLING PERMIT REQUIRED. It is unlawful to commence operations for the drilling of a well for oil or gas or the production of metallic minerals or to commence operations to deepen any well to a different geological formation without first giving the state geologist notice of intention to drill, and without first obtaining a permit from the state geologist, under rules prescribed by the council committee and paying to the council department a fee of fifty dollars established by rule of the department for the well. The fee shall be used by the council for administering this chapter, including the payment of expenses incurred in publishing legal notice deposited in the general fund of the state.

Sec. 42. Section 84.6, Code 1981, is amended to read as follows:

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

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

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

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

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

5. The council shall department ~~is not~~ be required to determine the reasonable market demand applicable to any single pool, except in relation to all other pools within the same marketing district, and in relation to the demand applicable to the marketing district. In allocating allowables to pools, the council department may consider, but ~~shall~~ is not be bound by nominations of purchasers to purchase from particular fields, pools, or portions thereof. The council department shall allocate the total allowable for the state in ~~such~~ a manner as which prevents undue discrimination between marketing districts, fields, pools, or portions thereof resulting from selective buying or nomination by purchasers.

Sec. 43. Section 84.7, unnumbered paragraph 1 and subsections 1 and 4, Code 1981, are amended to read as follows:

The council department shall set spacing units as follows:

1. When necessary to prevent waste, to avoid the drilling of unnecessary wells, or to protect correlative rights, the council department shall establish spacing units for a pool. Spacing units when established shall be of uniform size and shape for the entire pool,

except that when found to be necessary for any of the purposes above mentioned, the council is authorized to ~~department~~ may divide any pool into zones and establish spacing units for each zone, which units may differ in size and shape from those established in any other zone.

4. An order establishing units for a pool shall cover all lands determined or believed to be underlain by ~~such the~~ pool, and may be modified by the state geologist from time to time to include additional areas determined to be underlain by ~~such the~~ pool. When found necessary for the prevention of waste, or to avoid the drilling of unnecessary wells or to protect correlative rights, an order establishing spacing units in a pool may be modified by the state geologist to increase the size of spacing units in the pool or any zone ~~thereof of the pool~~, or to permit the drilling of additional wells on a reasonable uniform plan in the pool, or any zone ~~thereof of the pool~~. Orders of the state geologist may be appealed to the ~~council department~~ within thirty days.

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

#### 84.8 INTEGRATION OF FRACTIONAL TRACTS.

1. When two or more separately owned tracts are embraced within a spacing unit, or when there are separately owned interests in all or a part of the spacing unit, then the owners and royalty owners ~~thereof of the tracts~~ may pool their interests for the development and operation of the spacing unit. In the absence of voluntary pooling the ~~council department~~ upon the application of any interested person, shall enter an order pooling all interests in the spacing unit for the development and operations ~~thereof of the unit~~. Each ~~such~~ pooling order shall be made after notice and hearing, and shall be upon terms and conditions that are just and reasonable, and that afford to the owner of each tract or interest in the spacing unit the opportunity to recover or receive, without unnecessary expense, ~~his a~~ just and equitable share. Operations incident to the drilling of a well upon any portion of a spacing unit covered by a pooling order shall be deemed for all purposes, to be the conduct of ~~such the~~ operations upon each separately owned tract in the drilling unit by the several owners ~~thereof of the unit~~. That portion of the production allocated to each tract included in a spacing unit covered by a pooling order shall, when produced, be deemed for all purposes to have been produced from ~~such the~~ tract by a well drilled ~~thereon~~ on it.

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

Sec. 45. Section 84.9, Code 1981, is amended to read as follows:

84.9 VOLUNTARY AGREEMENTS FOR UNIT OPERATION VALID. An agreement for the unit or co-operative development and operation of a field or pool, in connection with the conduct of a repressuring or pressure maintenance operations, cycling or recycling operations, including the extraction and separation of liquid hydrocarbons from natural gas ~~in connection therewith~~, or any other method of operation, including water floods, is ~~authorized and may be performed and shall not be held or construed to violate without being in violation of~~ any of the statutes of this state relating to trusts, monopolies, or contracts and combinations in restraint of trade, if the agreement is approved by the ~~council department~~ as being in the public

interest, protective of correlative rights, and reasonably necessary to increase ultimate recovery or to prevent waste of oil or gas. ~~Such~~ The agreements bind only the persons who execute them, and their heirs, successors, assigns, and legal representatives.

Sec. 46. Section 84.11, Code 1981, is amended to read as follows:

84.11 RULES COVERING PRACTICE BEFORE COUNCIL DEPARTMENT.

1. The ~~council~~ committee shall prescribe rules governing the practice and procedure before it.

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

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

4. Any notice required by this chapter shall be given at the election of the ~~council~~ department either by personal service or by letter to the last recorded address and one publication in a newspaper of general circulation in the state capital city and in a newspaper of general circulation in the county where the land affected, or some part thereof, of the land is situated. The notice shall issue in the name of the state, shall be signed by the state geologist, shall specify the style and number of the proceeding, the time and place of the hearing, and shall briefly state the purpose of the proceeding. Should the ~~council~~ department elect to give notice by personal service, ~~such~~ the service may be made by any officer authorized to serve process, or by any agent of the ~~council~~ department, in the same manner as is provided by law for the service of original notices in civil actions in the district court of the state. Proof of the service by such agent shall be by the affidavit of the person making personal service.

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

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

Sec. 47. Section 84.12, Code 1981, is amended to read as follows:

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

1. The ~~council~~ shall have the power to ~~department~~ may summon witnesses, administer oaths, and require the production of records, books, and documents for examination at any hearing or investigation conducted. ~~No~~ A person shall not be excused from attending and testifying, or from producing books, papers, and records before the ~~council~~ department or a court, or from obedience to the subpoena of the ~~council~~ department or a court, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of ~~him~~ the person may tend to incriminate ~~him~~ the person or subject ~~him~~ the person to a penalty or forfeiture; ~~provided, that nothing herein contained shall be construed as requiring any.~~ However this subsection does not require a person to produce any books, papers, or



records, or to testify in response to any inquiry not pertinent to some question lawfully before such council the department or court for determination. No A natural person shall be subjected is not subject to criminal prosecution or to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which, in spite of his objections, he the person may be required to testify or produce as evidence, documentary or otherwise, before the council department or court, or in obedience to subpoena; ~~provided, that no.~~ However, a person testifying shall not be exempted from prosecution and punishment for perjury committed in so testifying.

2. In case of failure or refusal on the part of any person to comply with the subpoena issued by the council department, or in case of the refusal of any witness to testify as to any matter regarding which he the witness may be interrogated, any court in the state, upon the application of the council department, may issue an attachment for such the person and compel him the person to comply with such the subpoena, and to attend before the council department and produce such the records, books, and documents, for examination, and to give his testimony. Such The courts shall have the power to may punish for contempt as in the case of disobedience to a like subpoena issued by the court, or for refusal to testify therein.

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

Sec. 48. Section 84.14, subsection 1, Code 1981, is amended to read as follows:

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

Sec. 49. Section 84.14, subsections 2 and 3, Code 1981, are amended by striking the subsections.

Sec. 50. Section 84.15, subsections 1 and 2, Code 1981, are amended to read as follows:

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

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

b. Such The person fails to obtain a certificate of clearance with respect to such the oil, gas, or product where prescribed by order of the council department, or fails to follow any other method prescribed by an order of the council department for the identification of such the oil, gas or product.

2. Illegal oil, illegal gas, and illegal product are declared to be contraband and are subject to seizure and sale as herein provided; seizure and sale to be in addition to any and all other remedies and penalties provided in this chapter for violations relating to illegal oil, illegal gas, or illegal product. ~~Whenever~~ When the council department believes that any oil, gas or product is illegal, the council department acting by the attorney general, shall bring a civil action in rem in the district court of the county where such the oil, gas, or product is found, to seize and sell the same, or the council department may include such an action in rem for the seizure and sale of illegal oil, illegal gas, or illegal product in any suit brought for an injunction or penalty involving illegal oil, illegal gas, or illegal product. Any person claiming an interest in oil, gas, or product affected by any such the action shall have the right to may intervene as an interested party in such the action.

Sec. 51. Section 84.16, Code 1981, is amended to read as follows:

84.16 PENALTIES.

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

2. If any person, for the purpose of evading this chapter, or any rule or order of the council department, ~~shall make~~ makes or ~~cause~~ causes to be made any false entry or statement in a report required by this chapter or by any ~~such~~ rule or order, or ~~shall make~~ makes or ~~cause~~ causes to be made any false entry in any record, account, or memorandum required by this chapter, or by any ~~such~~ rule or order, or ~~shall omit~~ omits, or ~~cause~~ causes to be omitted, from any ~~such~~ record, account, or memorandum, full, true, and correct entries as required by this chapter, or by any ~~such~~ rule or order, or ~~shall remove~~ removes from this state or ~~destroy, mutilate, alter~~ destroys, mutilates, alters, or falsify falsifies any such record, account, or memorandum, ~~such the person shall be~~ is guilty of a fraudulent practice.

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

Sec. 52. Section 84.17, Code 1981, is amended to read as follows:

84.17 ACTION TO RESTRAIN VIOLATION OR THREATENED VIOLATION.

1. ~~Whenever~~ If it appears that any person is violating or threatening to violate any provision of this chapter, or any rule or order of the council department, the council department shall bring suit against ~~such the~~ person in the district court of any county where the violation occurs or is threatened, to restrain ~~such the~~ person from continuing ~~such the~~ violation or from carrying out the threat of violation. In any ~~such the~~ suit, the court ~~shall have~~ has jurisdiction to grant to the council department, without bond or other undertaking, ~~such the~~ prohibitory and mandatory injunctions as the facts may warrant, including temporary restraining orders, preliminary injunctions, temporary, preliminary, or final orders restraining the movement or disposition of any illegal oil, illegal gas, or illegal product, any of which the court may order to be impounded or placed in the custody of an agent appointed by the court.

2. If the council department ~~shall fail~~ fails to bring suit to enjoin a violation or threatened violation of any provision of this chapter, or any rule or order of the council department, within ten days after receipt of written request to do so by any person who is or will be adversely affected by ~~such the~~ violation, the person making ~~such the~~ request may bring suit in ~~his~~ the person's own behalf to restrain ~~such the~~ violation or threatened violation in any court in which the council department might have brought suit. The council department shall be made a party defendant in ~~such the~~ suit in addition to the person violating or threatening to violate a provision of this chapter, or a rule or order of the council department, and the action shall proceed and injunctive relief may be granted to the council department or the petitioner without bond in the same manner as if suit had been brought by the council department.

Sec. 53. Section 108.7, unnumbered paragraph 2, Code 1981, is amended to read as follows:

Any action taken by the commission under ~~the provisions~~ of this section ~~shall be~~ is subject to the approval of the Iowa natural resources council department of water, air and waste management.

Sec. 54. Section 109.15, Code 1981, is amended to read as follows:

109.15 INJURY TO DAM. It ~~shall be~~ is unlawful for any owner or ~~his the~~ owner's agent to remove or destroy any existing dam, or alter it in a way so as to lower the water level, without having received written approval from the Iowa natural resources council department of water, air and waste management.

Sec. 55. Section 111.4, unnumbered paragraph 1, Code 1981, is amended to read as follows:

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

Sec. 56. Section 111.18, Code 1981, is amended to read as follows:

111.18 JURISDICTION. Jurisdiction over all meandered streams and lakes of this state and of state lands bordering thereon, not now used by some other state body for state purposes, is conferred upon the commission. The exercise of this jurisdiction ~~shall be~~ is subject to the approval of the Iowa natural resources council department of water, air and waste management in matters relating to or in any manner affecting flood control. The commission, with the approval of the executive council, may establish parts of ~~such~~ the property into state parks, and when so established all of the provisions of this chapter relative to public parks shall apply ~~thereto~~ to the property.

Sec. 57. Section 111.62, Code 1981, is amended to read as follows:

111.62 COPY TO RESOURCES COUNCIL DEPARTMENT. A copy of the petition and ~~such~~ the applications, plans, and specifications as are required under the provisions of chapter 455A shall be filed with the Iowa natural resources council department of water, air and waste management and any approval or permit required ~~thereunder~~ under chapter 455A shall be obtained prior to the establishment of said the water recreational area or the granting of a permit ~~therefor~~ for the area by the state conservation commission.

Sec. 58. Section 111D.1, Code 1981, is amended to read as follows:

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

Sec. 59. Section 112.3, Code 1981, is amended to read as follows:

112.3 HEARING - DAMAGES. After said the approval the commission, if it wishes to proceed further with the project, shall, with the consent of the Iowa natural resources council department of water, air and waste management, fix a date of hearing not less than two weeks from date of approval of the plan. Notice of the day, hour and place of hearing, relative to proposed work, shall be provided by publication at least once a week for two consecutive weeks in some newspaper of general circulation published in the county where the project is located, or in the county or counties where the water elevations are affected, under the tentative plan approved. The last of ~~such~~ publication or publications shall not be less than five days prior to the day set for hearing. Any claim by any persons ~~whomsoever~~, for damages which may be caused by said the project shall be filed with the commission at or prior to the time of the hearing provided herein.

Sec. 60. WATER INFORMATION SYSTEM. By January 15, 1983, the state geologist shall prepare and submit to the general assembly a plan for a comprehensive water information system to be managed by the state geological survey for monitoring on a continuing basis

the quantity and quality of water resources in this state. In preparing this plan, the state geologist may request the assistance of the Iowa department of transportation, department of environmental quality, Iowa natural resources council, department of health, state conservation commission, and department of agriculture.

Sec. 61. Section 308.1, Code 1981, is amended to read as follows:

308.1 PLANNING COMMISSION. The Mississippi parkway planning commission shall be composed of ten members appointed by the governor, five members to be appointed for two-year terms beginning July 1, 1959, and five members to be appointed for four-year terms beginning July 1, 1959. In addition to the above members there shall be seven advisory ex officio members who shall be as follows: One member from the state transportation commission, one member from the state conservation commission, one member from the Iowa state soil conservation commission, one member from the state historical society of Iowa, one member from the faculty of the landscape architectural division of the Iowa State University state university of science and technology, one member from the Iowa development commission, and one member from the natural resources council department of water, air and waste management. Members and ex officio members shall serve without pay, but the actual and necessary expenses of members and ex officio members may be paid if the commission so orders and if the commission has funds available for such that purpose.

Sec. 62. Section 357A.1, subsection 7, Code 1981, is amended by striking the subsection and inserting in lieu thereof the following:

7. "Department" means the department of water, air and waste management.

Sec. 63. Section 357A.5, Code 1981, is amended to read as follows:

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

Sec. 64. Section 357A.12, Code 1981, is amended to read as follows:

357A.12 PLANS AND SPECIFICATIONS. As soon as reasonably possible after incorporation of a district, the board shall file with the supervisors and the council department copies of the plans and specifications for, and estimates of the cost of, any improvements authorized by this chapter which the board proposes to construct or acquire. The board shall determine a reasonable fee which each member shall pay for the privilege of utilizing the district's facilities which shall be known as a benefit unit. Benefit units may be classified. The board, by publication in a newspaper of general circulation in the district, shall generally describe the planned improvements, the area to be served and the fee members will be required to pay for each service connected to the water system.

Sec. 65. Section 357A.19, Code 1981, is amended to read as follows:

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

Sec. 66. Section 358.9, unnumbered paragraph 3, Code 1981, is amended to read as follows:

In cases where the state of Iowa owns at least four hundred acres of land contiguous to lakes

within said the district, then and only then the Iowa natural resources council the state conservation commission shall appoint two members of said the board of trustees in addition to the three members hereinbefore provided in this section. The additional two members shall be qualified as follows: They shall be United States citizens, not less than eighteen years of age, and shall be property owners within said the district. In such cases the The two additional appointive members shall have equal vote and authority with other members of trustees and shall hold office at the pleasure of the Iowa natural resources council state conservation commission.

Sec. 67. Section 358A.24, Code 1981, is amended to read as follows:

358A.24 CONFLICT WITH OTHER REGULATIONS. Wherever If the regulations made under authority of this chapter require a greater width or size of yards, courts or other open spaces, or require a lower height of building or less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the provisions of the regulations made under authority of this chapter shall govern. Wherever the provisions of If any other statute or local ordinance or regulation require requires a greater width or size of yards, courts or other open spaces, or require requires a lower height of building or a less number of stories, or require a greater percentage of lot to be left unoccupied, or impose imposes other higher standards than are required by the regulations made under authority of this chapter, the provisions of such other statute or local ordinance or regulation shall govern governs. Wherever any If a regulation proposed or made under authority of this chapter relates to any structure, building, dam, obstruction, deposit or excavation in or on the flood plains of any river or stream, prior approval of the Iowa natural resources council shall be department of water, air and waste management is required to establish, amend, supplement, change, or modify such the regulation or to grant any variation or exception therefrom from the regulation.

Sec. 68. Section 414.21, Code 1981, is amended to read as follows:

414.21 CONFLICTING RULES, ORDINANCES, AND STATUTES. Wherever If the regulations made under authority of this chapter require a greater width or size of yards, courts or other open spaces, or require a lower height of building or less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the provisions of the regulations made under authority of this chapter shall govern. Wherever the provisions of If any other statute or local ordinance or regulation require requires a greater width or size of yards, courts or other open spaces, or require a lower height of building or a less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the regulations made under authority of this chapter, the provisions of such other statute or local ordinance or regulation shall govern governs. Wherever any If a regulation proposed or made under authority of this chapter relates to any structure, building, dam, obstruction, deposit or excavation in or on the flood plains of any river or stream, prior approval of the Iowa natural resources council shall be department of water, air and waste management is required to establish, amend, supplement, change or modify such the regulation or to grant any variation or exception therefrom from the regulation.

Sec. 69. Section 427.1, subsection 33, Code 1981, is amended to read as follows:

33. IMPOUNDMENT STRUCTURES. The impoundment structure and any land underlying an impoundment located outside any incorporated city, which are not developed or used directly or indirectly for nonagricultural income-producing purposes and which are maintained in a condition satisfactory to the soil conservation district commissioners of the county in which the impoundment structure and the impoundment are located. Any person owning land which qualifies for a property tax exemption under this subsection shall apply to the

county assessor each year before the first of July for the exemption. The application shall be made on forms prescribed by the department of revenue. The first application shall be accompanied by a copy of the water storage permit approved by the ~~water commissioner of the Iowa natural resources council~~ department of water, air and waste management and a copy of the plan for the construction of the impoundment structure and the impoundment. The construction plan shall be used to determine the total acre-feet of the impoundment and the amount of land which is eligible for the property tax exemption status. The county assessor shall annually review each application for the property tax exemption under this subsection and submit it, with the recommendation of the soil conservation district commissioners, to the board of supervisors for approval or denial. Any applicant for a property tax exemption under this subsection may appeal the decision of the board of supervisors to the district court. As used in this subsection, "impoundment" means any reservoir or pond which has a storage capacity of at least eighteen acre-feet of water or sediment at the time of construction; "storage capacity" means the total area below the crest elevation of the principal spillway including the volume of any excavation in such area; and "impoundment structure" means any dam, earthfill or other structure used to create an impoundment.

Sec. 70. Section 455.18, unnumbered paragraph 2, Code 1981, is amended to read as follows:

Where the proposed district contemplates as its object flood control or soil conservance the engineer shall include in ~~his~~ the report data describing any soil conservance or flood control improvements, the nature ~~thereof of the~~ improvements, and ~~such other additional data as shall~~ be prescribed by the ~~Iowa natural resources council~~ department of water, air and waste management.

Sec. 71. Section 455C.1, subsections 7, 8, and 9, Code 1981, are amended to read as follows:

7. "Director" means the executive director of the department of ~~environmental quality water, air and waste management~~.

8. "Department" means the department of ~~environmental quality water, air and waste management~~.

9. "Commission" means the ~~environmental quality water, air and waste management~~ commission of the department of ~~environmental quality water, air and waste management~~.

Sec. 72. Section 467A.3, subsection 15, Code 1981, is amended by striking the subsection.

Sec. 73. Section 467A.4, subsections 1 and 3, Code 1981, are amended to read as follows:

1. There is ~~hereby~~ established, to serve as an agency of the state and to perform the functions conferred upon it in this chapter, the department of soil conservation. The department shall be administered in accordance with the policies of the state soil conservation committee, which shall approve administrative rules proposed by the department before the rules are ~~promulgated~~ adopted pursuant to chapter 17A. The state soil conservation committee shall consist of a chairperson and twelve members. The following shall serve as ex officio nonvoting members of the committee: The director of the state agricultural extension service, or the director's designee, the secretary of agriculture, or the secretary's designee, the director of the state conservation commission or the director's designee, and the ~~executive director of the Iowa natural resources council~~ department of water, air and waste management or the ~~executive director's designee~~. Eight voting members shall be appointed by the governor subject to confirmation by the senate. Six of the appointive members shall be persons engaged in actual farming operations, one of whom shall be a resident of each of the six conservancy districts established by section 467D.3, and no more than one of whom shall be a resident of any one county. The seventh and eighth appointive members shall be chosen by the governor

from the state at large with one appointed to be a representative of cities and one appointed to be a representative of the mining industry. The committee may invite the secretary of agriculture of the United States to appoint one person to serve with the above-mentioned members, and the president of the Iowa county engineers association may designate a member of the association to serve in the same manner, but these persons shall have no vote and shall serve in an advisory capacity only. ~~The director of the department of environmental quality shall be an ex officio nonvoting member.~~ The committee shall adopt a seal, which seal shall be judicially noticed, and may perform acts, hold public hearings, and ~~promulgate~~ adopt rules as provided in chapter 17A as necessary for the execution of its functions under this chapter.

3. The committee shall designate its chairperson, and may change ~~such~~ the designation. The members appointed by the governor shall serve for a period of six years. Members shall be appointed in each odd-numbered year to succeed members whose terms expire as provided by section 69.19. Appointments may be made at other times and for other periods as ~~are~~ necessary to fill vacancies on the committee. Members shall not be appointed to serve more than two complete six-year terms. Members designated to represent the secretary of agriculture, director of the state conservation commission, or the ~~executive director of the Iowa natural resources council~~ department of water, air and waste management shall serve at the pleasure of the officer making the designation. A majority of the voting members of the committee constitutes a quorum, and the concurrence of a majority of the voting members of the committee in any matter within their duties ~~shall be~~ is required for its determination. The chairperson and members of the committee, not otherwise in the employ of the state, or any political subdivision, shall receive forty dollars per diem as compensation for their services in the discharge of their duties as members of the committee. The committee shall determine the number of days for which any committee member may draw per diem compensation, but the total number of days for which per diem compensation is allowed for the entire committee shall not exceed four hundred days per year. They ~~shall~~ are also ~~be~~ entitled to expenses, including traveling expenses, necessarily incurred in the discharge of their duties as members of the committee. The per diem and expenses paid to the committee members shall be paid from funds appropriated to the committee. The committee shall provide for the execution of surety bonds for all employees and officers who ~~shall be~~ are entrusted with funds or property, shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted, and shall provide for an annual audit of the accounts of receipts and disbursements.

Sec. 74. Section 467A.4, subsection 4, paragraph n, subparagraph (5), Code 1981, is amended by striking the subparagraph.

Sec. 75. Section 467C.5, Code 1981, is amended to read as follows:

467C.5 APPROVAL OF COMMISSIONERS. ~~No~~ A district shall ~~not~~ be established by any board of supervisors under this chapter unless the organization of ~~such~~ the district is approved by the commissioners of any soil conservation district established under the provisions of chapter 467A and which is included all or in part within ~~such~~ the district, nor shall any such district be established without the approval of the state conservation commission and the ~~Iowa natural resources council~~ department of water, air and waste management.

Sec. 76. Section 467D.2, subsection 3, Code 1981, is amended by striking the subsection.

Sec. 77. Section 467D.6, subsections 1 and 11, Code 1981, are amended to read as follows:

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

11. Maintain at its office a record of all the conservancy district's proceedings, rules and orders, and furnish copies thereof of them to the department and the council department of water, air and waste management upon request.

Sec. 78. Section 467D.16, unnumbered paragraph 1, Code 1981, is amended to read as follows:

The board shall prepare a plan for accomplishment of the objectives of this chapter within the conservancy district. For this purpose the board may request and shall obtain from any state agency or political subdivision information which the agency or subdivision may have already collected which is pertinent to preparation of the plan, and may conduct ~~such~~ hearings as it deems necessary. The plan shall establish an order of priorities for carrying out projects necessary to accomplish the objectives of this chapter, shall conform as nearly as practicable to the comprehensive state-wide water resources plan established by the council department of water, air and waste management pursuant to section ~~455A.17~~ 17 of this Act and shall reflect the following general policies:

Sec. 79. Section 467D.17, Code 1981, is amended to read as follows:

467D.17 PLAN PRESENTED TO DEPARTMENT AND COUNCIL. The board shall tentatively adopt the plan by resolution and shall present the plan to the department and the council department of water, air and waste management for review. The council department of water, air and waste management shall within ninety days review the plan as presented and make ~~such~~ recommendations as which, in its discretion, it deems necessary to bring the conservancy district's plan into conformity with the comprehensive state-wide water resources plan established by the council department of water, air and waste management pursuant to section ~~455A.17~~ 17 of this Act. The department shall review the plan as presented and, with such amendments as ~~are~~ necessary to bring the plan into conformity with the state-wide water resources plan, give final approval within one hundred twenty days.

Sec. 80. Section 467D.19, Code 1981, is amended to read as follows:

467D.19 IMPLEMENTATION. After final approval of the plan, the board shall begin to implement the plan as expeditiously as possible, within the limitations of available appropriations and other financial resources. When implementation of the plan involves construction or improvement of any internal improvement by the conservancy district, the board may order the preparation of detailed plans and specifications, and a refined cost estimate. Upon completion of ~~such the~~ plans, specifications and cost estimate to ~~their~~ its satisfaction, the board shall adopt ~~the same them~~, subject to the approval of the department, and shall let ~~the contract or~~ contracts ~~therefor~~ in accordance with section 467D.20. Any approval or permits from the council department of water, air and waste management required under other provisions of law shall be obtained by the conservancy district prior to initiation of any construction activity.

Sec. 81. Section 469.1, Code 1981, is amended to read as follows:

469.1 PROHIBITION—PERMIT. ~~No~~ A dam shall not be constructed, maintained, or operated in this state in any navigable or meandered stream for any purpose, or in any other stream for manufacturing or power purposes, nor shall any water be taken from ~~such the~~ streams for industrial purposes, unless a permit has been granted by the Iowa natural resources council department of water, air and waste management to the person, firm, corporation, or municipality constructing, maintaining, or operating the same dam.

Sec. 82. Section 469.2, unnumbered paragraph 1 and subsection 6, Code 1981, are amended to read as follows:

Any person, firm, corporation, or municipality making application for a permit to construct, maintain, or operate a dam in any of the waters, including canals, raceways, and other constructions necessary or useful in connection with the development and utilization of the water or water power, shall file with the Iowa natural resources council department



of water, air and waste management a written application, which shall contain the following information:

6. Such Any additional information as may be required by the Iowa natural resources council department of water, air and waste management.

Sec. 83. Section 469.3, Code 1981, is amended to read as follows:

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

Sec. 84. Section 469.4, Code 1981, is amended to read as follows:

469.4 HEARING. At the time fixed for ~~such the~~ the hearing or at any adjournment thereof of the hearing, the council department of water, air and waste management shall take evidence offered by the applicant and any other person, either in support of or in opposition to the proposed construction.

Sec. 85. Section 469.5, Code 1981, is amended to read as follows:

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

Sec. 86. Section 469.9, unnumbered paragraph 1, Code 1981, is amended to read as follows:

Every person, firm, or corporation, ~~excepting~~ except a municipality, to whom a permit is granted to construct or to maintain and operate a dam already constructed in or across any stream for the purpose ~~herein specified in this chapter~~, shall pay to the Iowa natural resources council department of water, air and waste management a permit fee of one hundred dollars and shall pay an annual inspection and license fee, to be fixed by the Iowa natural resources council water, air and waste management commission, on or before the first day of January, 1925, and annually thereafter, but in no case shall the annual inspection and license fee be less than twenty-five dollars. All fees shall be paid into the general fund of the state treasury.

Sec. 87. Section 469.10, Code 1981, is amended to read as follows:

469.10 CONSTRUCTION AND OPERATION. The Iowa natural resources council department of water, air and waste management shall investigate methods of construction, reconstruction, operation, maintenance, and equipment of dams, ~~so as to determine the best methods to conserve and protect as far as possible all public and riparian rights in the waters of the state and so as to protect the life, health, and property of the general public; and the method of construction, operation, maintenance, and equipment of any and all dams of any character or for any purpose in such the waters shall be is~~ subject to the approval of the Iowa natural resources council department of water, air and waste management.

Sec. 88. Section 469.11, Code 1981, is amended to read as follows:

469.11 ACCESS TO WORKS. ~~Such council or any member, agent, or employee thereof~~ The department of water, air and waste management shall at all times be accorded full access to all parts of any dam and its appurtenances being constructed, operated, or maintained in such waters.

Sec. 89. Section 469.12, Code 1981, is amended to read as follows:

**469.12 DUTY TO ENFORCE STATUTES.** ~~It shall be the duty of the council to~~ The department of water, air and waste management shall require that all existing statutes of the state, including the provisions of this chapter, with reference to the construction of dams, shall be enforced.

Sec. 90. Section 469.26, Code 1981, is amended to read as follows:

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

Sec. 91. Section 469.29, Code 1981, is amended to read as follows:

**469.29 PERMITS FOR EXISTING DAMS.** All licenses and permits issued by the state executive council prior to April 17, 1949, or by the Iowa natural resources council prior to July 1, 1983, and in force immediately prior to July 1, 1983, are hereby declared to be in full force and effect and all of the powers of administration relating to licenses or permits ~~heretofore~~ issued are hereby vested in the ~~Iowa natural resources council~~ department of water, air and waste management.

Sec. 92. Sections 93.2, 93.7, 93A.4, 101.10, 107.1, 136B.2, 170.10, 170A.8, 170B.9, 172D.1, 307.10, and 427.1, Code 1981, are amended by striking the words "department of environmental quality" and inserting in lieu thereof the words "department of water, air and waste management".

Sec. 93. Sections 307.10 and 427.1, Code 1981, are amended by striking the words "environmental quality commission" and inserting in lieu thereof the words "water, air and waste management commission".

Sec. 94. **PRIOR ACTIONS.**

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

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

3. A rule adopted, permit or order issued or approval given under chapter 84 before the effective date of this Act and in force just prior to the effective date of this Act, by the Iowa natural resources council or its director remains effective until modified or rescinded by action of the department of soil conservation unless the rule, order, permit, or approval is inconsistent with or contrary to this Act.

4. A rule adopted, permit or order issued, or approval given by the environmental quality commission or the executive director of the department of environmental quality under chapter 455B before the effective date of this Act and in force just prior to the effective date of this Act remains effective until modified or rescinded by action of the water, air and waste

\*Water, air and waste management probably intended.

management commission or its executive director unless the rule, order, permit, or approval is inconsistent with or contrary to this Act.

Sec. 95. **EMPLOYEE TRANSFER OR TERMINATION.** The employees of the Iowa natural resources council employed pursuant to chapter 455A and the employees of the department of environmental quality employed pursuant to chapter 455B are transferred to the department of water, air and waste management. After transfer of the employees under this section, any employee of the department of water, air and waste management whose duty assignment is terminated because of this Act may be reassigned to other duties or terminated. The Iowa merit employment commission shall adopt rules to carry out the transfer of employees under this section and to carry out subsequent reclassifications, reassignments, or terminations made necessary by this Act. The Iowa merit employment commission shall arbitrate and decide a written appeal made by an employee concerning a transfer, reassignment, reclassification, or termination made necessary by this Act. An employee shall not lose benefits accrued, including but not limited to salary, retirement, vacation, or sick leave because of transfer or reassignment.

Sec. 96. **EFFECTIVE DATE — TRANSITION.**

1. The effective date of this Act is July 1, 1983, except that sections 5, 60 and 98, and this section are effective on July 1, 1982.

2. After July 1, 1982, the governor may appoint the members of the water, air and waste management commission, appoint the executive director of the department of water, air and waste management, and may authorize the water, air and waste management commission to organize and plan for the transfer of powers, duties, records, equipment, personnel, and other property as applicable. The governor may select the executive director of the department of environmental quality or the director of the Iowa natural resources council to serve as executive director of the department of water, air and waste management without reappointment or confirmation.

3. Notwithstanding section 455B.4, the initial water, air and waste management commission shall have thirteen members. The membership shall include nine members of the environmental quality commission and four members of the Iowa natural resources council. Two members of the Iowa natural resources council shall be appointed by the governor to terms of office which expire on April 30, 1985, and two members shall be appointed by the governor to terms of office which expire on April 30, 1987. Effective May 1, 1985, the commission created under this Act shall have eleven members and effective May 1, 1987, the commission created under this Act shall have nine members. Except for the number of members, section 455B.4 shall apply to the operation of the commission created under this Act.

4. The members of the environmental quality commission shall serve concurrently as members of the commission created under this Act and the environmental quality commission until July 1, 1983, when the members shall continue to serve their unexpired terms as members of the environmental quality commission as members of the commission created under this Act. The members may be reappointed as provided in this Act.

5. The members of the Iowa natural resources council appointed to the commission created under this Act shall serve concurrently as members of the commission and the Iowa natural resources council until July 1, 1983, when the terms of office of the members of the Iowa natural resources council shall expire. The four members appointed to the commission shall continue to serve the terms to which appointed as provided in subsection 3. The members may be reappointed as provided in this Act.

6. If an executive director of the department of water, air and waste management is selected or appointed before July 1, 1983, the executive director shall cooperate with the Iowa natural resources council and the department of environmental quality in preparing for an orderly transfer of powers and duties, including representing the new department in

budgetary and appropriation matters. The executive director and the members of the water, air and waste management commission, appointed and authorized to exercise powers and duties before July 1, 1983, as provided in this section may be paid a salary or per diem as applicable and necessary expenses from funds appropriated to the department of environmental quality.

7. Notwithstanding section 455B.53, a director of the board of a rural water district established under chapter 357A or 504A shall not become a member of certification of waterworks and waste waterworks operators until the term of office of the first of the two members appointed to represent the general public expires.

Sec. 97. Chapter 455A and sections 84.13 and 135.20, Code 1981, are repealed.

Sec. 98. The legislative council shall create a bipartisan interim legislative oversight committee consisting of five members of the senate and five members of the house to study and make recommendations to the legislative council and the general assembly on matters related to statewide water resources planning, the development of a water resource data base, water use, flood plain management, and the organization and administration of water resource and flood plain management laws and programs in this state. The committee shall be authorized at least five meeting days and shall submit a report of its recommendations, including any necessary bill drafts to implement its recommendations, to the general assembly not later than January 15, 1983.

Approved May 18, 1982

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**CHAPTER 1200**  
**EXEMPT RAILROAD CROSSINGS**  
*H.F. 2485*

**AN ACT** to allow the driver of a motor vehicle carrying passengers for hire, the driver of a school bus, or the driver of a vehicle carrying hazardous materials to proceed through certain designated railroad crossings.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 321.343, unnumbered paragraph 2, Code 1981, is amended to read as follows:

No stop need be made at any such a crossing where a police peace officer or a traffic-control signal device directs traffic to proceed. No stop need be made at a crossing designated by an "exempt" sign. An "exempt" sign shall be posted only where the tracks have been partially removed on either side of the roadway.

Approved May 21, 1982