

Reprinted

MAR 23 1979

HOUSE FILE 719

Place On Calendar

By COMMITTEE ON ENERGY

(Formerly Study Bill 90)

Passed House, Date 4-2-79 (p. 1256) Passed Senate, Date _____

Vote: Ayes 85 Nays _____ Vote: Ayes _____ Nays _____

Approved June 10, 1979

A BILL FOR

1 An Act relating to hazardous waste management and providing
2 penalties and injunctive relief.

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

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HOUSE FILE 719

H-3575

1 Amend House File 719 as follows:

2 1. Page 1, line 21, by striking the word

3643-3 "substantial".

H-3575 FILED *Adopted as amended by* BY PERKINS of Greene
MARCH 26, 1979 *3643 3/29 (p. 1232)*

1 Section 1. Chapter four hundred fifty-five B (455B), Code
2 1979, is amended by adding sections two (2) through ten (10)
3 of this Act as a new part of Division four (IV).

4 Sec. 2. NEW SECTION. DEFINITIONS. As used in this Act,
5 unless the context otherwise requires:

6 1. "Commission" means the solid waste disposal commission
7 of the department.

8 2. "Disposal" means the discharge, deposit, injection,
9 dumping, spilling, leaking or placing of a hazardous waste
10 into or on land or water so that the hazardous waste or a
11 constituent of the hazardous waste may enter the environment
12 or be emitted into the air or discharged into any waters,
13 including ground waters.

14 3. a. "Hazardous waste" means a waste or combination
15 of wastes that, because of its quantity, concentration, or
16 physical, chemical, or infectious characteristics, has either
17 of the following effects:

18 (1) Causes, or significantly contributes to an increase
19 in mortality or an increase in serious irreversible, or
20 incapacitating reversible, illness.

21 (2) Poses a substantial danger to human health or the
22 environment. "Hazardous waste" may include but is not limited
23 to wastes that are toxic, corrosive or flammable or irritants,
24 strong sensitizers or explosives.

25 b. "Hazardous waste" does not include:

26 (1) Agricultural wastes, including manures and crop
27 residues that are returned to the soil as fertilizers or soil
28 conditioners.

29 (2) Sewage sludge from publicly-owned treatment works.

30 (3) Source, special nuclear, or by-product material as
31 defined in the Atomic Energy Act of 1954, as amended to January
32 1, 1979.

33 4. "Manifest" means the form used for identifying the
34 quantity, composition, and the origin, routing, and destina-
35 tion of hazardous waste during its transportation from the

1 point of generation to the point of disposal, treatment or
2 storage.

3 5. "Storage" means the containment of a hazardous waste,
4 either on a temporary basis or for a period of years, in a
5 manner that does not constitute disposal of the hazardous
6 waste.

7 6. "Treatment" means a method, technique, or process,
8 including neutralization, designed to change the physical,
9 chemical or biological character or composition of a hazardous
10 waste so as to neutralize the waste or to render the waste
11 nonhazardous, safer for transport, amenable for recovery,
12 amenable for storage, or to reduce the waste in volume.
13 Treatment includes any activity or processing designed to
14 change the physical form or chemical composition of hazardous
15 waste to render the waste nonhazardous.

16 Sec. 3. NEW SECTION. DUTIES OF THE COMMISSION. The
17 commission shall:

18 1. Develop comprehensive plans and programs for the state
19 for the management of hazardous waste. As part of the
20 hazardous waste management plan, the commission shall conduct
21 a study of hazardous waste management in Iowa and shall report
22 its findings to the general assembly not later than eighteen
23 months after the effective date of this Act. The study shall
24 include the following:

25 a. A description of current sources of hazardous waste
26 within the state, including the types and quantities of
27 hazardous wastes.

28 b. A description of current hazardous waste trans-
29 portation, storage, treatment and disposal practices and costs
30 within the state.

31 c. A description of practices and methods that would
32 reduce at the source the amount of hazardous waste generated.

33 d. Identification and evaluation of alternatives to land
34 disposal of hazardous wastes.

35 e. Identification of the general geologic and other

3597- 1 criteria for a site for land disposal of hazardous wastes
2 and the areas in Iowa that might meet the general criteria
3597- 3 if alternatives to land disposal are not feasible.

4 f. The proper role and activities of the state in addition
3597- 5 to those established in this part and the federal Solid Waste
3597- 6 Disposal Act in facilitating safe and efficient disposal of
7 hazardous waste, including but not limited to a determination
8 of the most appropriate procedures for receiving public
9 comments and approving permits for siting hazardous waste
3597- 10 disposal facilities.

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11 2. Adopt rules establishing criteria for identifying
12 the characteristics of hazardous wastes and listing hazardous
3597- 13 wastes that are subject to the provisions of this part. The
14 commission shall consider toxicity, persistence and
15 degradability in nature, potential for accumulation in tissue,
16 and related factors including flammability, corrosiveness,
17 and other hazardous characteristics.

18 3. Adopt rules, applicable to generators or transporters
19 of or owners or operators of facilities for the treatment,
20 storage, or disposal of hazardous waste listed by the
21 commission under subsection two (2) of this section, as
22 necessary to protect human health and the environment. The
23 rules shall include establishment of a manifest system.

24 4. Adopt rules establishing standards and procedures
25 for the certification of supervisory personnel and operators
26 at hazardous waste treatment, storage or disposal facilities
27 required to have a permit under section six (6) of this Act.

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28 Sec. 4. NEW SECTION. EXECUTIVE DIRECTOR'S DUTIES. The
29 executive director shall:

30 1. Issue, revoke, suspend, modify or deny permits for
31 persons owning or operating a facility for the treatment,
32 storage or disposal of a hazardous waste listed by the
33 commission under section three (3), subsection two (2) of
34 this Act. Permits shall be issued for such period as the
35 commission may by rule prescribe.

1 2. Administer examinations to determine the competence
2 of operators and supervisory personnel at facilities for the
3 treatment, storage or disposal of hazardous waste that are
4 required to have a permit under section six (6) of this Act.
5 The executive director shall issue, revoke, suspend, or deny
6 certificates of competency for persons as supervisory or
7 operating personnel at facilities for the treatment, storage
8 or disposal of hazardous waste.

9 3. Inspect and investigate hazardous waste generators
10 and transporters and treatment, storage and disposal facilities
3591-11 as may be necessary to determine compliance with this part and
12 rules adopted and permits and orders issued pursuant to
13 sections two (2) through eleven (11) of this Act. The
14 executive director shall periodically survey or inspect the
15 construction, operation and monitoring, reporting and record-
16 keeping systems of hazardous waste generators and transporters
17 and treatment, storage and disposal facilities.

18 Sec. 5. NEW SECTION. HAZARDOUS WASTE NOTIFICATION.

19 1. A person who on the effective date of a rule adopted
20 under section three (3), subsection two (2) of this Act list-
21 ing a hazardous waste as subject to this Act is generating
22 or transporting the listed hazardous waste or owns or is
23 operating a treatment, storage or disposal facility handling
24 the listed hazardous waste shall file with the executive
25 director a notification stating the waste handled by the
26 person and the location and a general description of the
27 activity involving the waste. The notice shall be given
28 within ninety days after the effective date of the rule listing
29 the waste.

30 2. Except as provided in subsection one (1) of this sec-
31 tion, a person shall not commence to transport or generate
32 a hazardous waste listed by rule under section three (3),
33 subsection two (2) of this Act without first notifying the
34 executive director of the proposed activity. The notice shall
35 state the waste to be handled, and the location and a general

1 description of the activity involving the listed waste.

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2 Sec. 6. NEW SECTION. PERMIT REQUIRED.

3 1. Except as provided in subsections two (2) and four
4 (4) of this section, a person shall not operate a facility
5 for the treatment, storage or disposal of a hazardous waste
6 listed under section three (3), subsection two (2) of the
7 Act unless the owner or operator has obtained a permit for
8 the facility from the executive director.

9 2. The owner or operator of a facility for the treat-
10 ment, storage or disposal of a hazardous waste listed under
11 section three (3), subsection two (2) of the Act existing
12 on the effective date of the rule listing the waste shall
13 obtain a permit for the facility within six months of the
14 effective date of the rule. A person owning or operating
15 a facility for the treatment, storage or disposal of a
16 hazardous waste that existed on the effective date of the
17 rule listing the waste and that is required to have a permit
18 under this Act is considered to have a permit until such time
19 as final administrative determination is made if the person
20 meets the following conditions:

21 a. The person has given notice as required by section
22 five (5) of this Act.

23 b. The person has applied for a permit.

24 c. The executive director has determined that the failure
25 to issue the permit is not the result of the failure of the
26 applicant to furnish information reasonably required or
27 requested to process the application.

28 3. The commission may by rule specify the information
29 required to be submitted with the application for a permit
30 and the conditions under which the executive director shall
31 issue, deny, revoke, suspend or modify permits. However,
32 a permit shall not be issued for a treatment, storage or dis-
33 posal facility unless the applicant presents evidence of
34 financial responsibility and continuity of operation con-
35 sistent with the degree and duration of risks associated with

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357-1 the treatment, storage or disposal of the hazardous waste
2 as determined by the commission.

3 4. A permit is not required for the storage of a hazardous
4 waste listed under section three (3), subsection two (2) of
5 this Act when the only purpose of the storage is to accumulate
6 sufficient quantities of the waste for transportation, treat-
7 ment or disposal unless a permit for the storage is required
8 under federal law.

9 5. A permit issued pursuant to this section shall be in
10 addition to other licenses, permits or variances authorized
11 or required by law, including, but not limited to, the
12 requirements of chapter three hundred fifty-eight A (358A)
13 of the Code.

14 6. If the executive director denies a permit, the executive
15 director shall inform the applicant in writing of the reasons
16 for the denial. The applicant may appeal to the commission
17 from the denial of a permit or from a condition of a permit
18 if the applicant files a notice of appeal with the executive
19 director within thirty days of receipt of the denial or
20 issuance of the permit.

21 Sec. 7. NEW SECTION. INSPECTIONS.

22 1. For purposes of developing a rule, or conducting a
23 study of hazardous waste management, or enforcing the
24 provisions of this part, a person who generates, stores,
25 treats, transports, disposes of or otherwise handles hazardous
26 waste shall, upon request of the executive director, furnish
27 or permit the executive director at reasonable times to have
28 access to and copy records relating to the waste. For the
29 purpose of developing a rule or enforcing the provisions of
30 this part, the executive director may:

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31 a. Enter at reasonable times an establishment or other
32 place maintained by a person where hazardous waste is
33 generated, stored, treated or disposed of, or a vehicle
34 transporting hazardous waste.

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35 b. Inspect and obtain samples from a person of a hazardous

1 waste and of containers or labeling associated with the waste.

2 c. Install, service and take samples from monitoring
3 equipment on the property.

4 The inspection shall be completed within a reasonable
5 period of time.

6 2. If the officer or employee obtains a sample, prior
7 to leaving the premises, the officer or employee shall give
8 the owner, operator, or agent in charge a receipt describing
9 the sample obtained and if requested a portion of each sample
10 equal in volume or weight to the portion retained. If the
11 sample is analyzed, a copy of the results of the analysis
12 shall be furnished promptly to the owner, operator, or agent
13 in charge.

14 3. Documents or information obtained from a person under
15 this section shall be available to the public except as
16 provided in this subsection. Upon a showing satisfactory
17 to the executive director by a person that documents or
18 information, or a particular part of the documents or
19 information to which the executive director has access under
20 this section if made public would divulge commercial or
21 financial information obtained from a person and privileged
22 or confidential or a trade secret, the executive director
23 shall consider the documents or information or the particular
24 portion of the documents or information confidential. However
25 the document or information may be disclosed to officers,
26 employees or authorized representatives of the United States
27 charged with implementing the federal Solid Waste Disposal
28 Act, to employees of the state of Iowa or of other states
29 when the document or information is relevant to the discharge
30 of their official duties, and when relevant in any proceeding
31 under the federal Solid Waste Disposal Act or this part.

32 Sec. 8. NEW SECTION. PROHIBITED ACTS--PENALTIES.

33 1. A person shall not knowingly do any of the following
34 acts:

35 a. Transport a hazardous waste listed under the

1 commission's rules to a hazardous waste storage, treatment
2 of disposal facility that is located in Iowa that does not
3 have a permit under section six (6), subsection one (1) of
4 this Act.

5 b. Dispose of a hazardous waste listed under this Act
6 without having obtained a permit for the disposal under section
7 six (6), subsection one (1) of this Act.

8 c. Make a false statement or representation in an
9 application, label, manifest, record, report, permit or other
10 document filed, maintained or used for purposes of compliance
11 with the provisions of this Act.

12 2. A person who violates the provisions of subsection
13 one (1) of this section is subject upon conviction to a fine
14 of not more than twenty-five thousand dollars or to
15 imprisonment for not to exceed one year, or both. If the
16 conviction is for a violation committed after a first
17 conviction, punishment shall be by a fine of not more than
18 fifty thousand dollars or by imprisonment for not more than
19 two years, or both.

20 3. A person who fails to take corrective action within
21 the time specified in an order issued pursuant to section
22 nine (9), subsection one (1), paragraphs a or b of this Act
23 is subject to a civil penalty commensurate with the severity
24 of the violation but of not more than twenty-five thousand
25 dollars for each day of continued noncompliance.

26 4. A person shall not transport, treat, store or dispose
27 of a hazardous waste listed by the commission under section
28 three (3), subsection two (2) of this Act unless notification
29 has been given in accordance with rules adopted under section
30 three (3), subsection three (3) of this Act. A person who
31 violates this subsection is subject to a civil penalty not
32 to exceed five hundred dollars for each day of violation.

33 Sec. 9. NEW SECTION. ENFORCEMENT.

34 1. If the executive director has conclusive evidence that
35 a person has violated or is violating a provision of this

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1 part, or of a rule or standard established or permit issued
2 pursuant to this part and subsection four (4) of this section
3 does not apply:

4 a. The executive director may issue an order directing
5 the person to desist in the practice that constitutes the
6 violation or to take corrective action as necessary to ensure
7 that the violation will cease. Before issuing the order the
8 executive director shall notify the person of the violation
9 and that if compliance is not achieved within thirty days
10 following the receipt of the notice the order may be issued.
11 The person to whom the order is issued may commence a contested
12 case within the meaning of chapter seventeen A (17A) of the
13 Code by filing with the executive director within thirty days
14 of receipt of the order a notice of appeal to the commission.
15 On appeal, the commission may affirm, modify or vacate the
16 order of the executive director.

17 b. If it is determined by the executive director that
18 an emergency exists, the executive director may issue without
19 notice or hearing an order necessary to terminate the
20 emergency. The order shall be binding and effective im-
21 mediately and until the order is modified or vacated at a
22 hearing before the commission or by a court. "Emergency"
23 as used in this subsection means a situation where the
24 handling, storage, treatment, transportation or disposal of
25 a hazardous waste is presenting an imminent and substantial
26 threat to human health or the environment.

27 c. When the executive director determines that a disposal
28 site contains hazardous waste in an amount and under condi-
29 tions that cause an imminent threat to human health and that
30 the person responsible for the site will not properly and
31 promptly remove the waste or eliminate the threat, the execu-
32 tive director may take action as necessary to remove the waste
33 or permanently alleviate or eliminate the threat to human
34 health. The costs of removing the waste or alleviating or
35 eliminating the threat shall be recovered from the person

1 responsible for the disposal site.

2 d. The executive director with the approval of the
3 commission, may request the attorney general to institute
4 legal proceedings pursuant to subsection two (2) of this
5 section.

6 2. The attorney general shall, at the request of the
7 executive director pursuant to paragraph d of subsection one
8 (1) of this section, institute legal proceedings, including
9 an action for an injunction, necessary to enforce the penalty
10 provisions of this Act or to obtain compliance with this Act
11 or a rule promulgated or a condition of a permit or order
12 issued under this Act. In the action, previous findings of
13 fact by the commission in a contested case shall be conclusive
14 if supported by substantial evidence in the record made before
15 the commission when that record is viewed as a whole.

16 3. If the attorney general has instituted legal proceedings
17 in accordance with subsection two (2) of this section, all
18 related issues which could otherwise be raised by the alleged
19 violator in a proceeding for judicial review under section
20 eleven (11) of this Act shall be raised in the legal
21 proceedings instituted in accordance with this section.

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22 4. When hazardous waste was placed in a disposal site
23 in whole or in large measure in accordance with the law
24 existing at the time of placement, and the presence of such
25 waste in the site is subsequently found to be in conflict
26 with laws or rules adopted at a later date and to constitute
27 a serious and imminent threat to human health which must be
28 reduced or eliminated, the executive director shall request
29 the attorney general to institute legal proceedings to
30 determine how the threat may best be reduced or eliminated
31 and how the cost of reducing or eliminating the threat shall
32 be allocated to or among the past and present owners and
33 operators of the site, and other parties including the state
34 and its political subdivisions deemed by the court to bear
35 some responsibility for the threat or to benefit from the

1 removal or elimination of the threat. The courts may stay
2 reduction or elimination of the threat until such time as
3 public funds have been appropriated to cover the costs of
3592-4 reduction or elimination of the threat allocated to the state.

5 The court shall base an allocation of costs upon the
6 following criteria:

7 a. The extent to which parties complied with the law and
8 attempted to comply with the law.

9 b. The extent to which parties profited by acting contrary
10 to the law.

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11 c. The extent to which parties exercised good judgment
12 and discharged their responsibilities to society in accordance
13 with the perceptions of the time.

14 d. The ability of parties to pay for corrective measures.

15 e. The extent to which parties would benefit from the
16 elimination of the threat to human health.

17 f. The broad implications for society of an allocation
18 of costs.

19 g. The damages to other persons associated with the hazard
20 created by the disposal site.

21 h. Other criteria as the court deems pertinent.

29, 3623
22 Sec. 10. NEW SECTION. RULES. Rules adopted by the com-
23 mission under this Act shall be consistent with and shall
24 not exceed the requirements of 42 U.S.C. 6921-6931 (1979)
25 and rules and regulations promulgated pursuant to those
3672 26 sections.

27 Sec. 11. NEW SECTION. JUDICIAL REVIEW. Judicial review
28 of actions of the commission or the executive director may
29 be sought in accordance with the provision of chapter seventeen
30 A (17A) of the Code. Notwithstanding the provisions of chapter
31 seventeen A (17A) of the Code, petitions for judicial review
32 may be filed in the district court of the county where the
362- 33 acts in issue occurred.

34 Sec. 12. Section three hundred seven point ten (307.10),
35 Code 1979, is amended by adding the following new subsection:

1 NEW SUBSECTION. The commission may adopt, after consulta-
2 tion with the department of environmental quality and the
3 department of public safety, rules to enforce the rules regard-
4 ing transportation of hazardous wastes promulgated by the
5 solid waste disposal commission of the department of environ-
6 mental quality under section three (3), subsection three (3)
7 of this Act. The department and the division of the highway
8 safety patrol of the department of public safety shall carry
9 out the rules through the use of the director's powers and
10 duties of enforcement and inspection.

11 Sec. 13. This Act is effective January first following
12 its enactment.

13 EXPLANATION

14 This bill gives the department of environmental quality

FISCAL NOTE
HOUSE FILE 719

Requested by Representative Evans
March 27, 1979

In compliance with a written request, there is hereby submitted
a Fiscal Note for House File 719 pursuant to Joint Rule 16.

H.F. 719, An Act relating to hazardous waste management and providing penalties
and injunctive relief.

This bill gives the department of environmental quality the authority to regulate
the storage, treatment, transportation and disposal of hazardous wastes. It is
intended to conform to the provisions of the federal Resource Conservation and
Recovery Act of 1976. It requires the solid waste disposal commission to identify
hazardous wastes that would be subject to the Act. Persons owning or operating a
facility for the treatment, storage or disposal of a hazardous waste must obtain a
permit for the activity from the executive director. Generators and transporters
must notify the executive director of their activity. The bill also provides for
the certification of hazardous waste treatment, disposal and storage facility
operators and supervisory personnel. Penalties are provided for violation of the
hazardous waste provisions as well as enforcement authority, including the
authority to seek injunctive relief.

Due to lack of information, the fiscal impact cannot be determined.

Source: Department of Environmental Quality

FILED MARCH 29, 1979

GERRY D. RANKIN
Legislative Fiscal Bureau

H-3596

1 Amend House File 719 as follows:

2 1. Page 1, by inserting after line 5 the following
3 subsection:

4 "____. "Authorized disposal" means disposal of
5 a hazardous waste in accordance with this Act and
6 rules adopted under this Act."

7 2. Page 1, line 8, by inserting after the word
8 "means" the words "either authorized disposal or".

9 3. Page 3, line 1, by inserting after the words
10 "site for" the word "authorized".

11 4. Page 3, line 3, by inserting after the word
12 "to" the word "authorized".

13 5. Page 3, line 6, by inserting after the word
14 "efficient" the word "authorized".

15 6. Page 3, line 10, by striking the word
16 "disposal".

17 7. Page 5, line 32, by inserting after the word
18 "or" the word "authorized".

19 8. Page 6, line 1, by inserting after the word
20 "or" the word "authorized".

H-3596 FILED *W/Drawn 3/29 (p. 123)* BY EVANS of Grundy
MARCH 27, 1979

H-3595

1 Amend House File 719 as follows:

2 1. Page 8, line 19, by inserting after the word
3 "both." the words and figure "A fine imposed under
4 this subsection is subject to the limits of subsection
5 five (5) of this section."

6 2. Page 8, line 25, by inserting after the word
7 "noncompliance." the words and figure "A fine imposed
8 under this subsection is subject to the limits of
9 subsection five (5) of this section."

10 3. Page 8, line 32, by inserting after the word
11 "violation." the words and figure "A fine imposed
12 under this subsection is subject to the limits of
13 subsection five (5) of this section."

14 4. Page 8, by inserting after line 32 the following
15 subsection:

16 "5. The total amount of fines imposed upon a
17 person under subsections two (2), three (3) and four
18 (4) of this section in a calendar year shall not
19 exceed the greater of the following:

20 a. Ten percent of the net worth of the person.
21 b. Twenty percent of the adjusted gross income
22 of the person for the preceding tax year as calculated
23 for federal income tax purposes."

H-3595 FILED *W/Drawn 4/2 (p. 125)* BY EVANS of Grundy
MARCH 27, 1979
VAN MAANEN of Mahaska
PELLETT of Cass
WEST of Marshall
DE GROOT of Lyon

HOUSE FILE 719

H-3591

- 303a
- 1 Amend House File 719 as follows:
 - 2 1. Page 3, line 5, by striking the word "part"
 - 3 and inserting in lieu thereof the word "Act".
 - 4 2. Page 3, line 13, by striking the words "the
 - 5 provisions of this part" and inserting in lieu thereof
 - 6 the words "this Act".
 - 7 3. Page 4, line 11, by striking the word "part"
 - 8 and inserting in lieu thereof the word "Act".
 - 9 4. Page 6, lines 23 and 24, by striking the words
 - 10 "the provisions of this part" and inserting in lieu
 - 11 thereof the words "this Act".
 - 12 5. Page 6, lines 29 and 30, by striking the words
 - 13 "the provisions of this part" and inserting in lieu
 - 14 thereof the words "this Act".
 - 15 6. Page 7, line 31, by striking the word "part"
 - 16 and inserting in lieu thereof the word "Act".
 - 17 7. Page 8, line 2, by striking the word "of" and
 - 18 inserting in lieu thereof the word "or".
 - 19 8. Page 9, line 1, by striking the word "part"
 - 20 and inserting in lieu thereof the word "Act".
 - 21 9. Page 9, line 2, by striking the word "part"
 - 22 and inserting in lieu thereof the word "Act".
 - 23 10. Page 9, line 2, by inserting before the word
 - 24 "subsection" the word "if".
 - 25 11. Page 10, line 22, by striking the word "When"
 - 26 and inserting in lieu thereof the words
 - 27 "Notwithstanding any other provisions of this Act,
 - 28 when".

H-3591 FILED *Adopted as amended* BY EVANS of Grundy
MARCH 27, 1979 *by 36.32 4/2 (p. 1249)* RITSEMA of Sioux
PERKINS of Greene

HOUSE FILE 719

H-3600

- 1 Amend House File 719 as follows:
- 2 1. Page 1, line 18, by striking the word
- 3 "significantly".

H-3600 FILED *Last 3/29 (p. 1232)* BY PERKINS of Greene
MARCH 27, 1979

HOUSE FILE 719

H-3608

- 1 Amend House File 719 as follows:
- 2 1. Page 10, line 22, by striking the word
- 3 "was" and inserting in lieu thereof the word "is".

H-3608 FILED *drawn 4/2 (p. 1252)* BY ARNOULD of Scott
MARCH 27, 1979

HOUSE FILE 719

H-3603

- a 1 Amend House File 719 as follows:
2 1. Page 2, line 19, by inserting after the word
3 "waste." the words "The commission shall give highest
4 priority to the development of plans and a program
5 for assuring that suitable facilities and sites for
6 the treatment and disposal of hazardous wastes in
7 accordance with this Act are readily available to
8 persons generating hazardous wastes."
- b 9 2. Page 2, line 32, by inserting after the word
10 "generated" the words "and an estimate of the cost
11 of these practices".
12 3. Page 3, by inserting after line 10 the following
13 paragraph:
14 "_____. The estimated private and public capital
15 and annual operating costs of implementing the
16 hazardous waste management plan recommended by the
17 commission."
18 4. Page 3, by inserting after line 27 the following
19 subsection:
20 "_____. Annually prepare a reasonable estimate of
21 public and private expenditures during the preceding
22 calendar year attributed to compliance with this Act.
23 The commission shall submit a report to the general
24 assembly listing these costs and the methods used
25 to estimate them by March first of each year. The
26 commission shall adopt rules as necessary to implement
27 this subsection."
- c 28 5. Page 10, by striking lines 12 through 21 and
29 inserting in lieu thereof the words "issued under
30 this Act."
- d 31 6. Page 10, by inserting before line 22 the
32 following subsection:
33 "_____. In a case arising from the violation of
34 an order issued under subsection one (1), paragraphs
35 a and b of this section, the burden of proof shall
36 be on the state to show that the time specified in
37 the order within which the individual must take
38 corrective action is reasonable."
- e 39 7. Page 11, by inserting after line 21 the
40 following section:
41 "Sec. _____. NEW SECTION. LIMITATION ON POWERS.
42 A criminal or civil penalty shall not be imposed upon
43 a person for improper disposal or treatment of
44 hazardous waste until such time as a means of proper
45 disposal or treatment is reasonably available to the
46 person. This section does not limit or diminish the
47 powers of the executive director, the commission or
48 the court to act to accomplish any of the following:
49 1. To terminate an emergency as provided in section
50 nine (9), subsection one (1), paragraph b of this

Page two
H-3603

1 Act.
2 2. To compel a person to provide, for that person's
3 own use, facilities or equipment for the proper
4 disposal or treatment of hazardous waste generated
5 by that person when such action is reasonable based
6 on the hazard posed, the quantity of waste involved
7 and the financial resources of the person.
8 3. To compel a person to cease an activity or
9 desist from a practice that violates this Act or rules
10 adopted under this Act."

11 8. Page 11, line 33, by inserting after the word
12 "occurred." the following: "In addition to other
13 rights of judicial review authorized by this section,
14 a person who has complied with an order issued by
15 the executive director or commission may within two
16 years of compliance with the order seek relief in
17 the district court on the grounds that the requirements
18 imposed by the order are excessive, that the benefits
19 to society are not commensurate with the costs of
20 complying with the order and that society can be
21 protected in a less costly manner. Upon a finding
22 that the requirements imposed by the order are
23 excessive, the court may modify or vacate the order
24 and may order the state to reimburse the person for
25 unreasonable costs incurred as a result of compliance
26 with the order."

27 9. By renumbering and correcting internal
28 references as necessary.

H-3603 FILED *A. adopted 3/29 (p. 1235)* BY EVANS of Grundy
MARCH 27, 1979 *B. C. 4/2 (p. 1243)*

D. Adopted as amended by 3633 (p. 1243)
E. Lost 4/2 (p. 1245) Reconsidered, amended, lost 4/2 (p. 1256)
F. Adopted as amended by 3667 (p. 1248)
HOUSE FILE 719

H-3601

1 Amend House File 719 as follows:
2 1. Page 1, line 15, by inserting after the word
3 "concentration," the words "biological degradation,
4 leaching from precipitation over long periods of
5 time,".

H-3601 FILED *Adopted 3/29 (p. 1232)* BY PERKINS of Greene
MARCH 27, 1979

HOUSE FILE 719

H-3592

1 Amend House File 719 as follows:
2 1. Page 11, line 4, by inserting after the word
3 "state" the words "or a governmental subdivision".

H-3592 FILED *Adopted 4/2 (1253)* BY RITSEMA of Sioux
MARCH 27, 1979

HOUSE FILE 719

H-3643

- 1 Amend amendment H-3575 to House File 719 as
- 2 follows:
- 3 1. Page 1, line 3, by inserting after the word
- 4 "substantial" the words "and inserting in lieu
- 5 thereof the word "significant".

H-3643 FILED
 MARCH 29, 1979
 ADOPTED (p. 1232)

BY EVANS of Grundy

HOUSE FILE 719

H-3648

- 1 Amend amendment H-3603, to House File 719, as
- 2 follows:
- 3 1. Page 1, line 23, by striking the word "order"
- 4 and inserting in lieu thereof the word "order."
- 5 2. Page 1, by striking lines 24 through 26.

H-3648 FILED *Lost 4/2 (p. 1247)*
 MARCH 29, 1979

BY PELTON of Clinton

HOUSE FILE 719

H-3656

- 3678 1
 3677 2 Amend House File 719 as follows:
 3 1. Page 10, by striking lines 22 through 35.
 4 2. Page 11, by striking lines 1 through 21.

H-3656 FILED *W/drawn 4/2 (p. 1252)*
 MARCH 29, 1979

BY PERKINS of Greene

HOUSE FILE 719

H-3667

- 1 Amend amendment H-3603 to House File 719 as
- 2 follows:
- 3 1. Page 2, lines 15 and 16 by striking the words
- A 4 "two years" and inserting in lieu thereof the words
- 5 "six months".
- 6 2. Page 2, line 24, by inserting after the word
- B 7 "and" the words ", subject to an appropriation by
- 8 the general assembly for that purpose,".

H-3667 FILED
 APRIL 2, 1979
 DIV. A - ADOPTED (p. 1247)
 DIV. B - ADOPTED (p. 1248)

BY EVANS of Grundy

HOUSE FILE 719

H-3612

- 1 Amend House File 719 as follows:
2 1. Page 12, by striking lines 11 and 12.

H-3612 FILED *Adopted 4/2 (p. 1253)* BY HOWELL of Floyd
MARCH 28, 1979

HOUSE FILE 719

H-3633

- 1 Amend amendment H-3603 to House File 719 as
2 follows:
3 1. Page 1, line 34, by striking the word
4 "paragraphs" and inserting in lieu thereof the
5 word "paragraph".
6 2. Page 1, line 35, by striking the word and
7 letter "and b".

H-3633 FILED *Adopted 4/2 (p. 1243)* BY PERKINS of Greene
MARCH 28, 1979

HOUSE FILE 719

H-3632

- 1 Amend H-3591 to House File 719 as follows:
2 1. Page 1, by inserting after line 1 the
3 following:
4 "1. Page 1, line 2, by striking the word and
5 number "ten (10)" and inserting in lieu thereof
6 the word and number "eleven (11)".
7 2. By renumbering as necessary.

H-3632 FILED *Adopted 4/2 (p. 1249)* BY HULLINGER of Decatur
MARCH 28, 1979

HOUSE FILE 719

H-3637

- 1 Amend amendment H-3603 to House File 719 as
2 follows:
3 1. Page 2, by inserting after line 10 the
4 following:
5 "8. Page 11, line 26, by inserting after the
6 word "sections" the words "on or before March 15,
7 1979".
8 2. By renumbering as necessary.

H-3637 FILED *Ruled not in order 4/2* BY HULLINGER of Decatur
MARCH 28, 1979 *(p. 1244)*

H-3669

1 Amend House File 719 as follows:

2 1. Page 5, by inserting after line 1 the follow-
3 ing subsection:

4 "3. A person who produces or disposes of not
A 5 more than two hundred twenty pounds of hazardous
6 waste in any one month period or any retailer other
7 than a retailer of waste oil shall be exempt from
8 the notification requirements of this Act."

9 2. Page 11, by inserting after line 21 the fol-
10 lowing new section:

11 "Sec. ____ . NEW SECTION. AGRICULTURAL CHEMICALS.

12 A person using or disposing of federally approved
13 agricultural chemicals or the empty containers
14 thereof shall not be in violation of this Act by
15 reason of such use or disposal provided that the
16 person:

B 17 1. Applies or disposes of the chemicals in
18 accordance with the manufacturer's instructions,
19 and

20 2. Triple rinses each chemical container after
21 it has been emptied and uses the rinsate as make-
22 up water in a tank-mix and applies the mix to crop-
23 land at an application rate that does not exceed
24 the manufacturer's instructions."

H-3669 FILED

APRIL 2, 1979

DIV. A - ADOPTED (p. 1251)

DIV. B - ADOPTED (p. 1251)

BY HULLINGER of Decatur
EVANS of Grundy
VAN MAANEN of Mahaska
DAVITT of Warren

HOUSE FILE 719

H-3672

1 Amend House File 719 as follows:

2 1. Page 11, line 26, by inserting after the
3 word "sections" the words "on or before March 15,
4 1979".

H-3672 FILED APRIL 2, 1979

Suspended rules by
unanimous consent -

ADOPTED (p. 1253)

BY HULLINGER of Decatur

HOUSE FILE 719

H-3677

1 Amend amendment H-3656, to page 10 of House File
2 719, as follows:

3 1. Page 1, by striking lines 2 and 3 and insert-
4 ing in lieu thereof the following:

5 "1. Page 11, by striking lines 1 through 21 and
6 inserting in lieu thereof the following: "removal
7 or elimination of the threat."

H-3677 FILED
APRIL 2, 1979

LOST

Lost 4/2 (p. 1252)

BY PERKINS of Greene

HOUSE FILE 719

H-3678

1 Amend the amendment H-3656, to House File 719,
2 as follows:

3 1. Page 1, by inserting after line 1 the
4 following:

5 "1. Page 10, by inserting after line 21 the
6 following:

7 "4. If a waste is placed in a disposal site in
8 accordance with the laws existing at the time of
9 placement and is subsequently found to pose a danger
10 to human health or the environment, the executive
11 director shall conduct a study which shall include
12 but not be limited to an analysis of the wastes
13 disposed, an indication of the person responsible
14 for disposing the waste at the site, a reasonable
15 estimate of the cost of treating, neutralizing or
16 removing the waste, and a statement as to the
17 financial burden which the cost of treating,
18 neutralizing or removing the waste would place on
19 the person responsible for disposing the waste.
20 If the person responsible for disposing the waste
21 cannot be located or has since been declared defunct,
22 the executive director shall so indicate. The
23 executive director shall forward the findings of
24 the study to the governor, who shall make a final
25 recommendation, including state funds to be
26 appropriated, if any, and the parties involved
27 and degree of responsibility, to the General Assembly
28 within thirty days, or immediately if the waste has
29 been disposed in a manner which poses an imminent
30 danger to human health or the environment."

H-3678 FILED *Lost 4/2 (p. 1252)*
APRIL 2, 1979
LOST

BY GROTH of Buena Vista

HOUSE FILE 719

H-3685

1 Amend amendment H-3603, to page 2 of House File
2 719, as follows:

3 1. Page 1, by striking lines 42 through 46 and
4 inserting in lieu thereof the following: "A criminal
5 or civil action shall not be brought under this Act
6 for improper disposal or treatment of hazardous waste
7 until such time as a proper disposal area or treatment
8 is both reasonably available to the person disposing
9 of hazardous waste and approved for hazardous waste
10 disposal. This section does not limit or diminish the".

H-3685 FILED
APRIL 2, 1979
ADOPTED (*p. 1255*)

BY SCHROEDER of Pottawattamie
EVANS of Grundy
SHIMANEK of Jones

*Sew. Energy 4/4
Do Pass per 3423 4/6 (p. 1131)*

HOUSE FILE 719

By COMMITTEE ON ENERGY

(As Amended and Passed by the House)

Passed House, Date 5-10-79 (p. 224) Passed Senate, Date 4-18-79 (p. 1264)

Vote: Ayes 90 Nays 2 Vote: Ayes 47 Nays 0

Approved June 10 1979
*Repassed Senate per House Amendment
5-10-79 (p. 1660)*
46-2

A BILL FOR

1 An Act relating to hazardous waste management and providing
2 penalties and injunctive relief.

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

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_____ House Amendments

1 Section 1. Chapter four hundred fifty-five B (455B), Code
2 1979, is amended by adding sections two (2) through eleven
3 (11) of this Act as a new part of Division four (IV).

4 Sec. 2. NEW SECTION. DEFINITIONS. As used in this Act,
5 unless the context otherwise requires:

6 1. "Commission" means the solid waste disposal commission
7 of the department.

8 2. "Disposal" means the discharge, deposit, injection,
9 dumping, spilling, leaking or placing of a hazardous waste
10 into or on land or water so that the hazardous waste or a
11 constituent of the hazardous waste may enter the environment
12 or be emitted into the air or discharged into any waters,
13 including ground waters.

14 3. a. "Hazardous waste" means a waste or combination
15 of wastes that, because of its quantity, concentration,
16 biological degradation, leaching from precipitation over long
17 periods of time, or physical, chemical, or infectious
18 characteristics, has either of the following effects:

19 (1) Causes, or significantly contributes to an increase
20 in mortality or an increase in serious irreversible, or
21 incapacitating reversible, illness.

22 (2) Poses a significant danger to human health or the
23 environment. "Hazardous waste" may include but is not limited
24 to wastes that are toxic, corrosive or flammable or irritants,
25 strong sensitizers or explosives.

26 b. "Hazardous waste" does not include:

27 (1) Agricultural wastes, including manures and crop
28 residues that are returned to the soil as fertilizers or soil
29 conditioners.

30 (2) Sewage sludge from publicly-owned treatment works.

31 (3) Source, special nuclear, or by-product material as
32 defined in the Atomic Energy Act of 1954, as amended to January
33 1, 1979.

34 4. "Manifest" means the form used for identifying the
35 quantity, composition, and the origin, routing, and destina-

1 tion of hazardous waste during its transportation from the
2 point of generation to the point of disposal, treatment or
3 storage.

4 5. "Storage" means the containment of a hazardous waste,
5 either on a temporary basis or for a period of years, in a
6 manner that does not constitute disposal of the hazardous
7 waste.

8 6. "Treatment" means a method, technique, or process,
9 including neutralization, designed to change the physical,
10 chemical or biological character or composition of a hazardous
11 waste so as to neutralize the waste or to render the waste
12 nonhazardous, safer for transport, amenable for recovery,
13 amenable for storage, or to reduce the waste in volume.
14 Treatment includes any activity or processing designed to
15 change the physical form or chemical composition of hazardous
16 waste to render the waste nonhazardous.

17 Sec. 3. NEW SECTION. DUTIES OF THE COMMISSION. The
18 commission shall:

19 1. Develop comprehensive plans and programs for the state
20 for the management of hazardous waste. The commission shall
21 give highest priority to the development of plans and a program
22 for assuring that suitable facilities and sites for the
23 treatment and disposal of hazardous wastes in accordance with
24 this Act are readily available to persons generating hazardous
25 wastes. As part of the hazardous waste management plan, the
26 commission shall conduct a study of hazardous waste management
27 in Iowa and shall report its findings to the general assembly
28 not later than eighteen months after the effective date of
29 this Act. The study shall include the following:

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30 a. A description of current sources of hazardous waste
31 within the state, including the types and quantities of
32 hazardous wastes.

33 b. A description of current hazardous waste trans-
34 portation, storage, treatment and disposal practices and costs
35 within the state.

1 c. A description of practices and methods that would
2 reduce at the source the amount of hazardous waste generated
3 and an estimate of the cost of these practices.

4 d. Identification and evaluation of alternatives to land
5 disposal of hazardous wastes.

6 e. Identification of the general geologic and other
7 criteria for a site for land disposal of hazardous wastes
8 and the areas in Iowa that might meet the general criteria
9 if alternatives to land disposal are not feasible.

10 f. The proper role and activities of the state in addition
11 to those established in this Act and the federal Solid Waste
12 Disposal Act in facilitating safe and efficient disposal of
13 hazardous waste, including but not limited to a determination
14 of the most appropriate procedures for receiving public
15 comments and approving permits for siting hazardous waste
16 disposal facilities.

354 17 g. The estimated private and public capital and annual
18 operating costs of implementing the hazardous waste management
354 19 plan recommended by the commission.

20 2. Adopt rules establishing criteria for identifying the
21 characteristics of hazardous wastes and listing hazardous
22 wastes that are subject to this Act. The commission shall
23 consider toxicity, persistence and degradability in nature,
24 potential for accumulation in tissue, and related factors
25 including flammability, corrosiveness, and other hazardous
26 characteristics.

27 3. Adopt rules, applicable to generators or transporters
28 of or owners or operators of facilities for the treatment,
29 storage, or disposal of hazardous waste listed by the
30 commission under subsection two (2) of this section, as
31 necessary to protect human health and the environment. The
32 rules shall include establishment of a manifest system.

33 4. Adopt rules establishing standards and procedures for
34 the certification of supervisory personnel and operators at
35 hazardous waste treatment, storage or disposal facilities

1 required to have a permit under section six (6) of this Act.
2 5. Annually prepare a reasonable estimate of public and
3 private expenditures during the preceding calendar year
4 attributed to compliance with this Act. The commission shall
5 submit a report to the general assembly listing these costs
6 and the methods used to estimate them by March first of each
7 year. The commission shall adopt rules as necessary to
8 implement this subsection.

9 Sec. 4. NEW SECTION. EXECUTIVE DIRECTOR'S DUTIES. The
10 executive director shall:

11 1. Issue, revoke, suspend, modify or deny permits for
12 persons owning or operating a facility for the treatment,
13 storage or disposal of a hazardous waste listed by the
14 commission under section three (3), subsection two (2) of
15 this Act. Permits shall be issued for such period as the
16 commission may by rule prescribe.

17 2. Administer examinations to determine the competence
18 of operators and supervisory personnel at facilities for the
19 treatment, storage or disposal of hazardous waste that are
20 required to have a permit under section six (6) of this Act.
21 The executive director shall issue, revoke, suspend, or deny
22 certificates of competency for persons as supervisory or
23 operating personnel at facilities for the treatment, storage
24 or disposal of hazardous waste.

25 3. Inspect and investigate hazardous waste generators
26 and transporters and treatment, storage and disposal facilities
27 as may be necessary to determine compliance with this Act
28 and rules adopted and permits and orders issued pursuant to
29 sections two (2) through eleven (11) of this Act. The
30 executive director shall periodically survey or inspect the
31 construction, operation and monitoring, reporting and record-
32 keeping systems of hazardous waste generators and transporters
33 and treatment, storage and disposal facilities.

34 Sec. 5. NEW SECTION. HAZARDOUS WASTE NOTIFICATION.

35 1. A person who on the effective date of a rule adopted

1 under section three (3), subsection two (2) of this Act list-
2 ing a hazardous waste as subject to this Act is generating
3 or transporting the listed hazardous waste or owns or is
4 operating a treatment, storage or disposal facility handling
5 the listed hazardous waste shall file with the executive
6 director a notification stating the waste handled by the
7 person and the location and a general description of the
8 activity involving the waste. The notice shall be given
9 within ninety days after the effective date of the rule listing
10 the waste.

11 2. Except as provided in subsection one (1) of this sec-
12 tion, a person shall not commence to transport or generate
13 a hazardous waste listed by rule under section three (3),
14 subsection two (2) of this Act without first notifying the
15 executive director of the proposed activity. The notice shall
16 state the waste to be handled, and the location and a general
17 description of the activity involving the listed waste.

18 3. A person who produces or disposes of not more than
19 two hundred twenty pounds of hazardous waste in any one month
20 period or any retailer other than a retailer of waste oil
21 shall be exempt from the notification requirements of this
22 Act.

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23 Sec. 6. NEW SECTION. PERMIT REQUIRED.

24 1. Except as provided in subsections two (2) and four
25 (4) of this section, a person shall not operate a facility
26 for the treatment, storage or disposal of a hazardous waste
27 listed under section three (3), subsection two (2) of the
28 Act unless the owner or operator has obtained a permit for
29 the facility from the executive director.

30 2. The owner or operator of a facility for the treat-
31 ment, storage or disposal of a hazardous waste listed under
32 section three (3), subsection two (2) of the Act existing
33 on the effective date of the rule listing the waste shall
34 obtain a permit for the facility within six months of the
35 effective date of the rule. A person owning or operating

1 a facility for the treatment, storage or disposal of a
2 hazardous waste that existed on the effective date of the
3 rule listing the waste and that is required to have a permit
4 under this Act is considered to have a permit until such time
5 as final administrative determination is made if the person
6 meets the following conditions:

7 a. The person has given notice as required by section
8 five (5) of this Act.

9 b. The person has applied for a permit.

10 c. The executive director has determined that the failure
11 to issue the permit is not the result of the failure of the
12 applicant to furnish information reasonably required or
13 requested to process the application.

14 3. The commission may by rule specify the information
15 required to be submitted with the application for a permit
16 and the conditions under which the executive director shall
17 issue, deny, revoke, suspend or modify permits. However,
18 a permit shall not be issued for a treatment, storage or dis-
19 posal facility unless the applicant presents evidence of
20 financial responsibility and continuity of operation con-
21 sistent with the degree and duration of risks associated with
22 the treatment, storage or disposal of the hazardous waste
23 as determined by the commission.

24 4. A permit is not required for the storage of a hazardous
25 waste listed under section three (3), subsection two (2) of
3542 26 this Act when the only purpose of the storage is to accumulate
27 sufficient quantities of the waste for transportation, treat-
28 ment or disposal unless a permit for the storage is required
29 under federal law.

30 5. A permit issued pursuant to this section shall be in
31 addition to other licenses, permits or variances authorized
32 or required by law, including, but not limited to, the
33 requirements of chapter three hundred fifty-eight A (358A)
34 of the Code.

35 6. If the executive director denies a permit, the executive

1 director shall inform the applicant in writing of the reasons
2 for the denial. The applicant may appeal to the commission
3 from the denial of a permit or from a condition of a permit
4 if the applicant files a notice of appeal with the executive
5 director within thirty days of receipt of the denial or
6 issuance of the permit.

7 Sec. 7. NEW SECTION. INSPECTIONS.

8 1. For purposes of developing a rule, or conducting a
9 study of hazardous waste management, or enforcing this Act,
10 a person who generates, stores, treats, transports, disposes
11 of or otherwise handles hazardous waste shall, upon request
12 of the executive director, furnish or permit the executive
13 director at reasonable times to have access to and copy records
14 relating to the waste. For the purpose of developing a rule
15 or enforcing this Act, the executive director may:

16 a. Enter at reasonable times an establishment or other
17 place maintained by a person where hazardous waste is
18 generated, stored, treated or disposed of, or a vehicle
19 transporting hazardous waste.

20 b. Inspect and obtain samples from a person of a hazardous
21 waste and of containers or labeling associated with the waste.

22 c. Install, service and take samples from monitoring
23 equipment on the property.

24 The inspection shall be completed within a reasonable
25 period of time.

26 2. If the officer or employee obtains a sample, prior
27 to leaving the premises, the officer or employee shall give
28 the owner, operator, or agent in charge a receipt describing
29 the sample obtained and if requested a portion of each sample
30 equal in volume or weight to the portion retained. If the
31 sample is analyzed, a copy of the results of the analysis
32 shall be furnished promptly to the owner, operator, or agent
33 in charge.

34 3. Documents or information obtained from a person under
35 this section shall be available to the public except as

1 provided in this subsection. Upon a showing satisfactory
2 to the executive director by a person that documents or
3 information, or a particular part of the documents or
4 information to which the executive director has access under
5 this section if made public would divulge commercial or
6 financial information obtained from a person and privileged
7 or confidential or a trade secret, the executive director
8 shall consider the documents or information or the particular
9 portion of the documents or information confidential. However
10 the document or information may be disclosed to officers,
11 employees or authorized representatives of the United States
12 charged with implementing the federal Solid Waste Disposal
13 Act, to employees of the state of Iowa or of other states
14 when the document or information is relevant to the discharge
15 of their official duties, and when relevant in any proceeding
16 under the federal Solid Waste Disposal Act or this Act.

17 Sec. 8. NEW SECTION. PROHIBITED ACTS--PENALTIES.

18 1. A person shall not knowingly do any of the following
19 acts:

20 a. Transport a hazardous waste listed under the
21 commission's rules to a hazardous waste storage, treatment
22 or disposal facility that is located in Iowa that does not
23 have a permit under section six (6), subsection one (1) of
24 this Act.

25 b. Dispose of a hazardous waste listed under this Act
26 without having obtained a permit for the disposal under section
27 six (6), subsection one (1) of this Act.

28 c. Make a false statement or representation in an
29 application, label, manifest, record, report, permit or other
30 document filed, maintained or used for purposes of compliance
31 with the provisions of this Act.

32 2. A person who violates the provisions of subsection
33 one (1) of this section is subject upon conviction to a fine
34 of not more than twenty-five thousand dollars or to
35 imprisonment for not to exceed one year, or both. If the

1 conviction is for a violation committed after a first
2 conviction, punishment shall be by a fine of not more than
3 fifty thousand dollars or by imprisonment for not more than
4 two years, or both.

5 3. A person who fails to take corrective action within
6 the time specified in an order issued pursuant to section
7 nine (9), subsection one (1), paragraphs a or b of this Act
8 is subject to a civil penalty commensurate with the severity
9 of the violation but of not more than twenty-five thousand
10 dollars for each day of continued noncompliance.

11 4. A person shall not transport, treat, store or dispose
12 of a hazardous waste listed by the commission under section
13 three (3), subsection two (2) of this Act unless notification
14 has been given in accordance with rules adopted under section
15 three (3), subsection three (3) of this Act. A person who
16 violates this subsection is subject to a civil penalty not
17 to exceed five hundred dollars for each day of violation.

18 Sec. 9. NEW SECTION. ENFORCEMENT.

19 1. If the executive director has conclusive evidence that
20 a person has violated or is violating a provision of this
21 Act, or of a rule or standard established or permit issued
22 pursuant to this Act and if subsection four (4) of this section
23 does not apply:

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24 a. The executive director may issue an order directing
25 the person to desist in the practice that constitutes the
26 violation or to take corrective action as necessary to ensure
27 that the violation will cease. Before issuing the order the
28 executive director shall notify the person of the violation
29 and that if compliance is not achieved within thirty days
30 following the receipt of the notice the order may be issued.
31 The person to whom the order is issued may commence a contested
32 case within the meaning of chapter seventeen A (17A) of the
33 Code by filing with the executive director within thirty days
34 of receipt of the order a notice of appeal to the commission.
35 On appeal, the commission may affirm, modify or vacate the

1 order of the executive director.

2 b. If it is determined by the executive director that
3 an emergency exists, the executive director may issue without
4 notice or hearing an order necessary to terminate the
5 emergency. The order shall be binding and effective im-
6 mediately and until the order is modified or vacated at a
7 hearing before the commission or by a court. "Emergency"
8 as used in this subsection means a situation where the
9 handling, storage, treatment, transportation or disposal of
10 a hazardous waste is presenting an imminent and substantial
11 threat to human health or the environment.

12 c. When the executive director determines that a disposal
13 site contains hazardous waste in an amount and under condi-
14 tions that cause an imminent threat to human health and that
15 the person responsible for the site will not properly and
16 promptly remove the waste or eliminate the threat, the execu-
17 tive director may take action as necessary to remove the waste
18 or permanently alleviate or eliminate the threat to human
19 health. The costs of removing the waste or alleviating or
20 eliminating the threat shall be recovered from the person
21 responsible for the disposal site.

22 d. The executive director with the approval of the
23 commission, may request the attorney general to institute
24 legal proceedings pursuant to subsection two (2) of this
25 section.

26 2. The attorney general shall, at the request of the
27 executive director pursuant to paragraph d of subsection one
28 (1) of this section, institute legal proceedings, including
29 an action for an injunction, necessary to enforce the penalty
30 provisions of this Act or to obtain compliance with this Act
31 or a rule promulgated or a condition of a permit or order
32 issued under this Act.

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33 3. In a case arising from the violation of an order issued
34 under subsection one (1), paragraph a of this section, the
35 burden of proof shall be on the state to show that the time

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1 specified in the order within which the individual must take
2 corrective action is reasonable.

3 4. Notwithstanding any other provisions of this Act, when
4 hazardous waste was placed in a disposal site in whole or
5 in large measure in accordance with the law existing at the
6 time of placement, and the presence of such waste in the site
7 is subsequently found to be in conflict with laws or rules
8 adopted at a later date and to constitute a serious and
9 imminent threat to human health which must be reduced or
10 eliminated, the executive director shall request the attorney
11 general to institute legal proceedings to determine how the
12 threat may best be reduced or eliminated and how the cost
13 of reducing or eliminating the threat shall be allocated to
14 or among the past and present owners and operators of the
15 site, and other parties including the state and its political
16 subdivisions deemed by the court to bear some responsibility
17 for the threat or to benefit from the removal or elimination
18 of the threat. The courts may stay reduction or elimination
19 of the threat until such time as public funds have been
20 appropriated to cover the costs of reduction or elimination
21 of the threat allocated to the state or a governmental
22 subdivision.

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23 The court shall base an allocation of costs upon the
24 following criteria:

- 25 a. The extent to which parties complied with the law and
26 attempted to comply with the law.
- 27 b. The extent to which parties profited by acting contrary
28 to the law.
- 29 c. The extent to which parties exercised good judgment
30 and discharged their responsibilities to society in accordance
31 with the perceptions of the time.
- 32 d. The ability of parties to pay for corrective measures.
- 33 e. The extent to which parties would benefit from the
34 elimination of the threat to human health.
- 35 f. The broad implications for society of an allocation

1 of costs.

2 g. The damages to other persons associated with the hazard
3 created by the disposal site.

4 h. Other criteria as the court deems pertinent.

5 Sec. 10. NEW SECTION. AGRICULTURAL CHEMICALS. A person
6 using or disposing of federally approved agricultural chemicals
7 or the empty containers thereof shall not be in violation
8 of this Act by reason of such use or disposal provided that
9 the person:

342- 10 1. Applies or disposes of the chemicals in accordance
11 with the manufacturer's instructions, and

12 2. Triple rinses each chemical container after it has
13 been emptied and uses the rinsate as makeup water in a tank-
14 mix and applies the mix to cropland at an application rate
15 that does not exceed the manufacturer's instructions.

16 Sec. 11. NEW SECTION. RULES. Rules adopted by the com-
17 mission under this Act shall be consistent with and shall
342- 18 not exceed the requirements of 42 U.S.C. 6921-6931 (1979)
19 and rules and regulations promulgated pursuant to those
423- 20 sections on or before March 15, 1979.

21 Sec. 12. NEW SECTION. JUDICIAL REVIEW. Judicial review
22 of actions of the commission or the executive director may
23 be sought in accordance with the provision of chapter seventeen
24 A (17A) of the Code. Notwithstanding the provisions of chapter
25 seventeen A (17A) of the Code, petitions for judicial review
26 may be filed in the district court of the county where the
27 acts in issue occurred. In addition to other rights of
28 judicial review authorized by this section, a person who has
29 complied with an order issued by the executive director or
30 commission may within six months of compliance with the order
31 seek relief in the district court on the grounds that the
32 requirements imposed by the order are excessive, that the
33 benefits to society are not commensurate with the costs of
34 complying with the order and that society can be protected
35 in a less costly manner. Upon a finding that the requirements

1 imposed by the order are excessive, the court may modify or
2 vacate the order and, subject to an appropriation by the
3 general assembly for that purpose, may order the state to
4 reimburse the person for unreasonable costs incurred as a
5 result of compliance with the order.

8423

6 Sec. 13. Section three hundred seven point ten (307.10),
7 Code 1979, is amended by adding the following new subsection:

8 NEW SUBSECTION. The commission may adopt, after consulta-
9 tion with the department of environmental quality and the
10 department of public safety, rules to enforce the rules regard-
11 ing transportation of hazardous wastes promulgated by the
12 solid waste disposal commission of the department of environ-
13 mental quality under section three (3), subsection three (3)
14 of this Act. The department and the division of the highway
15 safety patrol of the department of public safety shall carry
16 out the rules through the use of the director's powers and
17 duties of enforcement and inspection.

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S-3423

1 Amend House File 719 as amended, passed and
 2 reprinted by the House as follows:

- 3 1. Page 1, lines 16 and 17, by striking the words
 4 "over long periods of time".
 5 2. Page 1, line 22, by striking the word
 6 "significant" and inserting in lieu thereof the word
 7 "substantial".
 8 3. Page 4, by striking lines 2 through 8.
 9 4. Page 5, by striking lines 18 through 22.
 10 5. Page 12, by striking lines 5 through 15.
 11 6. Page 12, line 18, by inserting after the figure
 12 "(1979)" the words and figures "as amended to March
 13 15, 1979".
 14 7. Page 12, by striking line 20 and inserting
 15 in lieu thereof the word "sections."
 16 8. Page 12, by striking lines 27 through 35.
 17 9. Page 13, by striking lines 1 through 5 and
 18 inserting in lieu thereof the words "acts at issue
 19 occurred."
 20 10. By renumbering as necessary.

S-3423 FILED *Adopted* BY COMMITTEE ON ENERGY
 APRIL 6, 1979 *4/8 (p. 1262)* RICHARD R. RAMSEY, CHAIRPERSON

HOUSE FILE 719

S-3545

- 1 | Amend House File 719 as amended, passed and
- 2 reprinted by the House as follows:
- 3 1. Page 10, by striking line 33 through page
- 4 11, line 2.

S-3545 FILED & LOST (p. 1264) BY ARTHUR A. SMALL, JR.
APRIL 18, 1979

HOUSE FILE 719

S-3546

- 1 | Amend House File 719 as amended, passed, and
- 2 reprinted by the House as follows:
- 3 1. Page 11, by striking lines 18 through 22 and
- 4 inserting in lieu thereof the words "of the threat."

S-3546 FILED & ADOPTED (p. 1264) BY NORMAN RODGERS
APRIL 18, 1979

HOUSE FILE 719

S-3548

- 1 | Amend House File 719 as amended, passed and
- 2 reprinted by the House as follows:
- 3 1. Page 2, line 20, by striking the words
- 4 "The commission shall" and inserting in lieu thereof
- 5 the following: "In the development of plans and
- 6 programs, the commission shall recognize the need
- 7 for assuring that suitable facilities and sites
- 8 for treatment and disposal are available for
- 9 hazardous wastes generated in Iowa."
- 10 2. Page 2, by striking lines 21 through 24.
- 11 3. Page 2, line 25, by striking the word
- 12 "wastes."

S-3548 FILED & ADOPTED (p. 1262) BY DICK RAMSEY
APRIL 18, 1979 NORMAN RODGERS

HOUSE FILE 719

S-3541

- 1 Amend House File 719 as amended, passed, and
2 reprinted by the House as follows:
3 1. Page 3, by striking lines 17 through 19.

S-3541 FILED & LOST (p. 1262) BY ARTHUR A. SMALL, JR.
APRIL 18, 1979 NORMAN RODGERS

HOUSE FILE 719

S-3542

- 1 Amend House File 719 as amended, passed, and
2 reprinted by the House as follows:
3 1. Page 3, line 19, by inserting after the word
4 "commission" the words "and an estimate of the
5 potential cost in lives, health care costs, property
6 values, agricultural productivity, fish and wildlife
7 loss, and other costs associated with potential
8 environmental degradation which would be caused by
9 failing to implement the plan".

S-3542 FILED & ADOPTED (p. 1263) BY NORMAN RODGERS
APRIL 18, 1979

HOUSE FILE 719

S-3543

- 1 Amend House File 719 as amended, passed and
2 reprinted by the House as follows:
3 1. Page 6, by striking lines 24 through 29.

S-3543 FILED & ADOPTED (p. 1263) BY ARTHUR A. SMALL, JR.
APRIL 18, 1979

HOUSE FILE 719

S-3544

- 1 Amend House File 719 as amended, passed, and
2 reprinted by the house as follows:
3 1. Page 9, by striking lines 22 through 23 and
4 inserting in lieu thereof the words "pursuant to this
5 Act".
6 2. Page 11, by striking line 3 through page
7 12, line 4.

S-3544 FILED & LOST (p. 1264) BY ARTHUR A. SMALL, JR.
APRIL 18, 1979

HOUSE FILE 719

S-3528

- 1 Amend the Committee on Energy amendment, S-3423, 1
 2 to House File 719 as follows:
 3 1. Page 1, line 4, by striking the word "over" and
 4 inserting in lieu thereof the words "leaching from
 5 precipitation over".
 6 2. Page 1, lines 6 and 7, by striking the words
 7 "and inserting in lieu thereof the word "substantial".
 8 3. Page 1, by inserting after line 9 the following:
 9 "____. Page 6, by striking lines 24 through 29."

S-3528 FILED & WITHDRAWN (p. 1262) BY ARTHUR A. SMALL, JR.
 APRIL 18, 1979

HOUSE FILE 719

S-3529

- 1 Amend the Committee on Energy amendment S-3423 to
 2 House File 719 as follows:
 3 1. Page 1, by inserting after line 9 the follow-
 4 ing:
 5 "____. Page 10, by striking lines 33 through 35.
 6 _____. Page 11, by striking lines 1 and 2."
 7 2. By renumbering as necessary.

S-3529 FILED & WITHDRAWN (p. 1262) BY ARTHUR A. SMALL
 APRIL 18, 1979

HOUSE FILE 719

S-3530

- 1 Amend the Committee on Energy amendment S-3423 to
 2 House File 719 as follows:
 3 1. Page 1, by inserting after line 9 the follow-
 4 ing:
 5 "____. Page 9, lines 22 and 23, by striking the
 6 words and figure "and if subsection four (4) of this
 7 section does not apply".
 8 _____. Page 11, by striking lines 1 through 35.
 9 _____. Page 12, by striking lines 1 through 4."
 10 2. By renumbering as necessary.

S-3530 FILED & WITHDRAWN (p. 1262) BY ARTHUR A. SMALL, JR.
 APRIL 18, 1979

HOUSE FILE 719

S-3540

- 1 Amend House File 719 as amended, passed, and
 2 reprinted by the House as follows:
 3 1. Page 2, line 20, by striking the words "The
 4 commission shall".
 5 2. Page 2, by striking lines 21 through 24.
 6 3. Page 2, line 25, by striking the word
 7 "wastes".

S-3540 FILED
 APRIL 18, 1979
 RULED OUT OF ORDER (p. 1262)

BY NORMAN RODGERS
 ARTHUR A. SMALL, jr.

HOUSE CLIP SHEET

MONDAY, APRIL 23, 1979

SENATE AMENDMENT TO
HOUSE FILE 719

H-4031

- 1 Amend House File 719 as amended, passed and
- 2 reprinted by the House as follows:
- 3 1. Page 1, lines 16 and 17, by striking the words
- 4 "over long periods of time".
- 5 2. Page 1, line 22, by striking the word
- 6 "significant" and inserting in lieu thereof the word
- 7 "substantial".
- 8 3. Page 2, line 20, by striking the words "The
- 9 commission shall" and inserting in lieu thereof the
- 10 following: "In the development of plans and programs,
- 11 the commission shall recognize the need for assuring
- 12 that suitable facilities and sites for treatment and
- 13 disposal are available for hazardous wastes generated
- 14 in Iowa."
- 15 4. Page 2, by striking lines 21 through 24.
- 16 5. Page 2, line 25, by striking the word "wastes."
- 17 6. Page 3, line 19, by inserting after the word
- 18 "commission" the words "and an estimate of the
- 19 potential cost in lives, health care costs, property
- 20 values, agricultural productivity, fish and wildlife
- 21 loss, and other costs associated with potential
- 22 environmental degradation which would be caused by
- 23 failing to implement the plan".
- 24 7. Page 4, by striking lines 2 through 8.
- 25 8. Page 5, by striking lines 18 through 22.
- 26 9. Page 6, by striking lines 24 through 29.
- 27 10. Page 11, by striking lines 18 through 22 and
- 28 inserting in lieu thereof the words "of the threat."
- 29 11. Page 12, by striking lines 5 through 15.
- 30 12. Page 12, line 18, by inserting after the
- 31 figure "(1979)" the words and figures "as amended
- 32 to March 15, 1979".
- 33 13. Page 12, by striking line 20 and inserting
- 34 in lieu thereof the word "sections."
- 35 14. Page 12, by striking lines 27 through 35.
- 36 15. Page 13, by striking lines 1 through 5 and
- 37 inserting in lieu thereof the words "acts at issue
- 38 occurred."
- 39 16. Renumbering as necessary.

H-4031 FILED
APRIL 20, 1979

RECEIVED FROM THE SENATE

House amended & concurred 5/10 (p. 2241)

HOUSE FILE 719

H-4179

1 Amend the Senate amendment, H-4031, to
2 House File 719 as amended, passed and reprinted
3 by the House, as follows:

- 4 1. Page 1, by striking lines 17 through 23.
5 2. Page 1, by striking line 25 and inserting

6 in lieu thereof the following:

A 7 "8. Page 5, line 18, by striking the word "A"
8 and inserting in lieu thereof the words "After two
9 years from the effective date of this Act, a"."

10 3. Page 1, by striking line 26.

B 11 4. Page 1, line 28, by inserting after the word
12 "threat." the following sentence: "The courts may
13 stay that part of the reduction or elimination of the
14 threat allocated to the state or governmental
15 subdivision until such time as public funds have been
16 appropriated to cover those allocated costs."

17 5. Page 1, by striking line 29.

A 18 6. Page 1, by striking lines 35 through 38 and
19 inserting in lieu thereof the following:

20 "14. Page 13, by striking lines 2 through 5
21 and inserting in lieu thereof the words "vacate the
22 order." "

H-4179 FILED *A-Adopted 5/10* BY RITSEMA of Sioux
APRIL 27, 1979 *B-Drawn (p. 2240)* EVANS of Grundy

HOUSE FILE 719

H-4195

1 Amend the Senate amendment H-4031, to House File
2 719 as amended, passed and reprinted by the House,
3 as follows:

4 1. Page 1, by striking line 26 and inserting in
5 lieu thereof the following:

6 "9. Page 6, by inserting after line 26 the words
7 "for a period of up to ninety days"."

H-4195 FILED *Adopted 5/10 (p. 2240)* BY RITSEMA of Sioux
APRIL 30, 1979 EVANS of Grundy

HOUSE FILE 719

H-4083

1 Amend the Senate amendment, H-4031, to House
2 File 719 as follows:

- 3 1. Page 1, by striking lines 3 and 4.
4 2. Page 1, by striking lines 5 through 7.

H-4083 FILED *Drawn 5/10 (p. 2239)* BY PERKINS of Greene
APRIL 24, 1979

HOUSE FILE 719

H-4377

- 1 Amend amendment H-4370 to the Senate amendment,
 2 H-4031, to House File 719 as follows:
 3 1. Page 1, line 12, by inserting after the word
 4 "container." the following: "The provisions of
 5 section one hundred twenty-three point forty-nine,
 6 subsection two, paragraph c (123.49(2)(c)) shall not
 7 apply to sales of beer by a class "A" beer permit
 8 holder to a class "C" beer permit holder."

H-4377 FILED
 MAY 10, 1979

*Placed out of order
 5/10 (p. 2246)*

BY SCHROEDER of Pottawattamie

HOUSE FILE 719

H-4370

- 1 Amend the Senate amendment, H-4031, to House
 2 File 719 as follows:
 3 1. Page 1, by inserting after line 38, the
 4 following:
 5 " . Page 13, by inserting after line 17,
 6 the following:
 7 "Sec. . Section four hundred fifty-five C
 8 point three (455C.3), Code 1979, is amended by
 9 adding the following new subsection:
 10 NEW SUBSECTION. A distributor shall not be
 11 required to pay to a manufacturer a deposit or refund
 12 value on a nonrefillable beverage container."

H-4370 FILED
 MAY 9, 1979

**Drawn 5/10
 (p. 2246)*

BY PELTON of Clinton
 EVANS of Grundy

LARSEN of Wapello
 KIRKENSLAGER OF DesMo

HOUSE FILE 719

H-4347

- 1 Amend the Senate Amendment, H-4031, to House
 2 File 719 as amended, passed and reprinted by the House,
 3 as follows:
 4 1. Page 1, line 28, by inserting after the word
 5 "threat." the following sentence: "Upon a finding
 6 by a court that a serious and imminent threat to human
 7 health exists the court may act and may stay that
 8 part of the reduction or elimination of the threat
 9 allocated to the state or governmental subdivision
 10 until such time as public funds have been appropriated
 11 to cover those allocated costs."

H-4347 FILED
 MAY 8, 1979

Adopted 5/10 (p. 2246)

BY EVANS of Grundy
 RITSEMA of Sioux

HOUSE AMENDMENT TO SENATE AMENDMENT
TO HOUSE FILE 719

S-3785

- 1 Amend the Senate amendment, H-4031, to House File
2 719 as amended, passed and reprinted by the House,
3 as follows:
- 4 1. Page 1, by striking lines 17 through 23.
5 2. Page 1, by striking line 25 and inserting in
6 lieu thereof the following:
7 "8. Page 5, line 18, by striking the word "A"
8 and inserting in lieu thereof the words "After two
9 years from the effective date of this Act, a"."
10 3. Page 1, by striking line 26 and inserting in
11 lieu thereof the following:
12 "9. Page 6, by inserting after line 26 the words
13 "for a period of up to ninety days"."
14 4. Page 1, line 28, by inserting after the word
15 "threat." the following sentence: "Upon a finding
16 by a court that a serious and imminent threat to human
17 health exists the court may act and may stay that
18 part of the reduction or elimination of the threat
19 allocated to the state or governmental subdivision
20 until such time as public funds have been appropriated
21 to cover those allocated costs."
22 5. Page 1, by striking line 29.
23 6. Page 1, by striking lines 35 through 38 and
24 inserting in lieu thereof the following:
25 "14. Page 13, by striking lines 2 through 5 and
26 inserting in lieu thereof the words "vacate the
27 order.""

S-3785 FILED
MAY 10, 1979

RECEIVED FROM THE HOUSE

Senate concurred 5/10 (p. 1660)

HOUSE FILE 719

AN ACT

RELATING TO HAZARDOUS WASTE MANAGEMENT AND PROVIDING PENALTIES
AND INJUNCTIVE RELIEF.

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

Section 1. Chapter four hundred fifty-five B (455B), Code 1979, is amended by adding sections two (2) through twelve (12) of this Act as a new part of Division four (IV).

Sec. 2. NEW SECTION. DEFINITIONS. As used in this Act, unless the context otherwise requires:

1. "Commission" means the solid waste disposal commission of the department.

2. "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of a hazardous waste into or on land or water so that the hazardous waste or a constituent of the hazardous waste may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

3. a. "Hazardous waste" means a waste or combination of wastes that, because of its quantity, concentration, biological degradation, leaching from precipitation, or physical, chemical, or infectious characteristics, has either of the following effects:

(1) Causes, or significantly contributes to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.

(2) Poses a substantial danger to human health or the environment. "Hazardous waste" may include but is not limited to wastes that are toxic, corrosive or flammable or irritants, strong sensitizers or explosives.

b. "Hazardous waste" does not include:

(1) Agricultural wastes, including manures and crop residues that are returned to the soil as fertilizers or soil conditioners.

(2) Sewage sludge from publicly-owned treatment works.

(3) Source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.

4. "Manifest" means the form used for identifying the quantity, composition, and the origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment or storage.

5. "Storage" means the containment of a hazardous waste, either on a temporary basis or for a period of years, in a manner that does not constitute disposal of the hazardous waste.

6. "Treatment" means a method, technique, or process, including neutralization, designed to change the physical, chemical or biological character or composition of a hazardous waste so as to neutralize the waste or to render the waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or to reduce the waste in volume. Treatment includes any activity or processing designed to change the physical form or chemical composition of hazardous waste to render the waste nonhazardous.

Sec. 3. NEW SECTION. DUTIES OF THE COMMISSION. The commission shall:

1. Develop comprehensive plans and programs for the state for the management of hazardous waste. In the development of plans and programs, the commission shall recognize the need for assuring that suitable facilities and sites for treatment and disposal are available for hazardous wastes generated in Iowa. As part of the hazardous waste management plan, the commission shall conduct a study of hazardous waste management in Iowa and shall report its findings to the general assembly not later than eighteen months after the effective date of this Act. The study shall include the following:

a. A description of current sources of hazardous waste within the state, including the types and quantities of hazardous wastes.

b. A description of current hazardous waste transportation, storage, treatment and disposal practices and costs within the state.

c. A description of practices and methods that would reduce at the source the amount of hazardous waste generated and an estimate of the cost of these practices.

d. Identification and evaluation of alternatives to land disposal of hazardous wastes.

e. Identification of the general geologic and other criteria for a site for land disposal of hazardous wastes and the areas in Iowa that might meet the general criteria if alternatives to land disposal are not feasible.

f. The proper role and activities of the state in addition to those established in this Act and the federal Solid Waste Disposal Act in facilitating safe and efficient disposal of hazardous waste, including but not limited to a determination of the most appropriate procedures for receiving public comments and approving permits for siting hazardous waste disposal facilities.

g. The estimated private and public capital and annual operating costs of implementing the hazardous waste management plan recommended by the commission.

2. Adopt rules establishing criteria for identifying the characteristics of hazardous wastes and listing hazardous wastes that are subject to this Act. The commission shall consider toxicity, persistence and degradability in nature, potential for accumulation in tissue, and related factors including flammability, corrosiveness, and other hazardous characteristics.

3. Adopt rules, applicable to generators or transporters of or owners or operators of facilities for the treatment, storage, or disposal of hazardous waste listed by the commission under subsection two (2) of this section, as necessary to protect human health and the environment. The rules shall include establishment of a manifest system.

4. Adopt rules establishing standards and procedures for the certification of supervisory personnel and operators at hazardous waste treatment, storage or disposal facilities required to have a permit under section six (6) of this Act.

Sec. 4. NEW SECTION. EXECUTIVE DIRECTOR'S DUTIES. The executive director shall:

1. Issue, revoke, suspend, modify or deny permits for persons owning or operating a facility for the treatment, storage or disposal of a hazardous waste listed by the commission under section three (3), subsection two (2) of this Act. Permits shall be issued for such period as the commission may by rule prescribe.

2. Administer examinations to determine the competence of operators and supervisory personnel at facilities for the treatment, storage or disposal of hazardous waste that are required to have a permit under section six (6) of this Act. The executive director shall issue, revoke, suspend, or deny certificates of competency for persons as supervisory or operating personnel at facilities for the treatment, storage or disposal of hazardous waste.

3. Inspect and investigate hazardous waste generators and transporters and treatment, storage and disposal facilities as may be necessary to determine compliance with this Act and rules adopted and permits and orders issued pursuant to sections two (2) through twelve (12) of this Act. The executive director shall periodically survey or inspect the construction, operation and monitoring, reporting and record-keeping systems of hazardous waste generators and transporters and treatment, storage and disposal facilities.

Sec. 5. NEW SECTION. HAZARDOUS WASTE NOTIFICATION.

1. A person who on the effective date of a rule adopted under section three (3), subsection two (2) of this Act listing a hazardous waste as subject to this Act is generating or transporting the listed hazardous waste or owns or is operating a treatment, storage or disposal facility handling the listed hazardous waste shall file with the executive

director a notification stating the waste handled by the person and the location and a general description of the activity involving the waste. The notice shall be given within ninety days after the effective date of the rule listing the waste.

2. Except as provided in subsection one (1) of this section, a person shall not commence to transport or generate a hazardous waste listed by rule under section three (3), subsection two (2) of this Act without first notifying the executive director of the proposed activity. The notice shall state the waste to be handled, and the location and a general description of the activity involving the listed waste.

3. After two years from the effective date of this Act, a person who produces or disposes of not more than two hundred twenty pounds of hazardous waste in any one month period or any retailer other than a retailer of waste oil shall be exempt from the notification requirements of this Act.

Sec. 6. NEW SECTION. PERMIT REQUIRED.

1. Except as provided in subsections two (2) and four (4) of this section, a person shall not operate a facility for the treatment, storage or disposal of a hazardous waste listed under section three (3), subsection two (2) of the Act unless the owner or operator has obtained a permit for the facility from the executive director.

2. The owner or operator of a facility for the treatment, storage or disposal of a hazardous waste listed under section three (3), subsection two (2) of the Act existing on the effective date of the rule listing the waste shall obtain a permit for the facility within six months of the effective date of the rule. A person owning or operating a facility for the treatment, storage or disposal of a hazardous waste that existed on the effective date of the rule listing the waste and that is required to have a permit under this Act is considered to have a permit until such time as final administrative determination is made if the person meets the following conditions:

a. The person has given notice as required by section five (5) of this Act.

b. The person has applied for a permit.

c. The executive director has determined that the failure to issue the permit is not the result of the failure of the applicant to furnish information reasonably required or requested to process the application.

3. The commission may by rule specify the information required to be submitted with the application for a permit and the conditions under which the executive director shall issue, deny, revoke, suspend or modify permits. However, a permit shall not be issued for a treatment, storage or disposal facility unless the applicant presents evidence of financial responsibility and continuity of operation consistent with the degree and duration of risks associated with the treatment, storage or disposal of the hazardous waste as determined by the commission.

4. A permit is not required for the storage of a hazardous waste listed under section three (3), subsection two (2) of this Act when the only purpose of the storage is to accumulate for a period of up to ninety days sufficient quantities of the waste for transportation, treatment or disposal unless a permit for the storage is required under federal law.

5. A permit issued pursuant to this section shall be in addition to other licenses, permits or variances authorized or required by law, including, but not limited to, the requirements of chapter three hundred fifty-eight A (358A) of the Code.

6. If the executive director denies a permit, the executive director shall inform the applicant in writing of the reasons for the denial. The applicant may appeal to the commission from the denial of a permit or from a condition of a permit if the applicant files a notice of appeal with the executive director within thirty days of receipt of the denial or issuance of the permit.

Sec. 7. NEW SECTION. INSPECTIONS.

1. For purposes of developing a rule, or conducting a study of hazardous waste management, or enforcing this Act, a person who generates, stores, treats, transports, disposes of or otherwise handles hazardous waste shall, upon request of the executive director, furnish or permit the executive director at reasonable times to have access to and copy records relating to the waste. For the purpose of developing a rule or enforcing this Act, the executive director may:

- a. Enter at reasonable times an establishment or other place maintained by a person where hazardous waste is generated, stored, treated or disposed of, or a vehicle transporting hazardous waste.
- b. Inspect and obtain samples from a person of a hazardous waste and of containers or labeling associated with the waste.
- c. Install, service and take samples from monitoring equipment on the property.

The inspection shall be completed within a reasonable period of time.

2. If the officer or employee obtains a sample, prior to leaving the premises, the officer or employee shall give the owner, operator, or agent in charge a receipt describing the sample obtained and if requested a portion of each sample equal in volume or weight to the portion retained. If the sample is analyzed, a copy of the results of the analysis shall be furnished promptly to the owner, operator, or agent in charge.

3. Documents or information obtained from a person under this section shall be available to the public except as provided in this subsection. Upon a showing satisfactory to the executive director by a person that documents or information, or a particular part of the documents or information to which the executive director has access under this section if made public would divulge commercial or financial information obtained from a person and privileged or confidential or a trade secret, the executive director

shall consider the documents or information or the particular portion of the documents or information confidential. However the document or information may be disclosed to officers, employees or authorized representatives of the United States charged with implementing the federal Solid Waste Disposal Act, to employees of the state of Iowa or of other states when the document or information is relevant to the discharge of their official duties, and when relevant in any proceeding under the federal Solid Waste Disposal Act or this Act.

Sec. 8. NEW SECTION. PROHIBITED ACTS--PENALTIES.

1. A person shall not knowingly do any of the following acts:

- a. Transport a hazardous waste listed under the commission's rules to a hazardous waste storage, treatment or disposal facility that is located in Iowa that does not have a permit under section six (6), subsection one (1) of this Act.
- b. Dispose of a hazardous waste listed under this Act without having obtained a permit for the disposal under section six (6), subsection one (1) of this Act.
- c. Make a false statement or representation in an application, label, manifest, record, report, permit or other document filed, maintained or used for purposes of compliance with the provisions of this Act.

2. A person who violates the provisions of subsection one (1) of this section is subject upon conviction to a fine of not more than twenty-five thousand dollars or to imprisonment for not to exceed one year, or both. If the conviction is for a violation committed after a first conviction, punishment shall be by a fine of not more than fifty thousand dollars or by imprisonment for not more than two years, or both.

3. A person who fails to take corrective action within the time specified in an order issued pursuant to section nine (9), subsection one (1), paragraph a or b of this Act is subject to a civil penalty commensurate with the severity

of the violation but of not more than twenty-five thousand dollars for each day of continued noncompliance.

4. A person shall not transport, treat, store or dispose of a hazardous waste listed by the commission under section three (3), subsection two (2) of this Act unless notification has been given in accordance with rules adopted under section three (3), subsection three (3) of this Act. A person who violates this subsection is subject to a civil penalty not to exceed five hundred dollars for each day of violation.

Sec. 9. NEW SECTION. ENFORCEMENT.

1. If the executive director has conclusive evidence that a person has violated or is violating a provision of this Act, or of a rule or standard established or permit issued pursuant to this Act and if subsection four (4) of this section does not apply:

a. The executive director may issue an order directing the person to desist in the practice that constitutes the violation or to take corrective action as necessary to ensure that the violation will cease. Before issuing the order the executive director shall notify the person of the violation and that if compliance is not achieved within thirty days following the receipt of the notice the order may be issued. The person to whom the order is issued may commence a contested case within the meaning of chapter seventeen A (17A) of the Code by filing with the executive director within thirty days of receipt of the order a notice of appeal to the commission. On appeal, the commission may affirm, modify or vacate the order of the executive director.

b. If it is determined by the executive director that an emergency exists, the executive director may issue without notice or hearing an order necessary to terminate the emergency. The order shall be binding and effective immediately and until the order is modified or vacated at a hearing before the commission or by a court. "Emergency" as used in this subsection means a situation where the handling, storage, treatment, transportation or disposal of

a hazardous waste is presenting an imminent and substantial threat to human health or the environment.

c. When the executive director determines that a disposal site contains hazardous waste in an amount and under conditions that cause an imminent threat to human health and that the person responsible for the site will not properly and promptly remove the waste or eliminate the threat, the executive director may take action as necessary to remove the waste or permanently alleviate or eliminate the threat to human health. The costs of removing the waste or alleviating or eliminating the threat shall be recovered from the person responsible for the disposal site.

d. The executive director with the approval of the commission, may request the attorney general to institute legal proceedings pursuant to subsection two (2) of this section.

2. The attorney general shall, at the request of the executive director pursuant to paragraph d of subsection one (1) of this section, institute legal proceedings, including an action for an injunction, necessary to enforce the penalty provisions of this Act or to obtain compliance with this Act or a rule promulgated or a condition of a permit or order issued under this Act.

3. In a case arising from the violation of an order issued under subsection one (1), paragraph a of this section, the burden of proof shall be on the state to show that the time specified in the order within which the individual must take corrective action is reasonable.

4. Notwithstanding any other provisions of this Act, when hazardous waste was placed in a disposal site in whole or in large measure in accordance with the law existing at the time of placement, and the presence of such waste in the site is subsequently found to be in conflict with laws or rules adopted at a later date and to constitute a serious and imminent threat to human health which must be reduced or eliminated, the executive director shall request the attorney

general to institute legal proceedings to determine how the threat may best be reduced or eliminated and how the cost of reducing or eliminating the threat shall be allocated to or among the past and present owners and operators of the site, and other parties including the state and its political subdivisions deemed by the court to bear some responsibility for the threat or to benefit from the removal or elimination of the threat. Upon a finding by a court that a serious and imminent threat to human health exists the court may act and may stay that part of the reduction or elimination of the threat allocated to the state or governmental subdivision until such time as public funds have been appropriated to cover those allocated costs.

The court shall base an allocation of costs upon the following criteria:

- a. The extent to which parties complied with the law and attempted to comply with the law.
- b. The extent to which parties profited by acting contrary to the law.
- c. The extent to which parties exercised good judgment and discharged their responsibilities to society in accordance with the perceptions of the time.
- d. The ability of parties to pay for corrective measures.
- e. The extent to which parties would benefit from the elimination of the threat to human health.
- f. The broad implications for society of an allocation of costs.
- g. The damages to other persons associated with the hazard created by the disposal site.
- h. Other criteria as the court deems pertinent.

Sec. 10. NEW SECTION. AGRICULTURAL CHEMICALS. A person using or disposing of federally approved agricultural chemicals or the empty containers thereof shall not be in violation of this Act by reason of such use or disposal provided that the person:

1. Applies or disposes of the chemicals in accordance with the manufacturer's instructions, and
2. Triple rinses each chemical container after it has been emptied and uses the rinsate as makeup water in a tank-mix and applies the mix to cropland at an application rate that does not exceed the manufacturer's instructions.

Sec. 11. NEW SECTION. RULES. Rules adopted by the commission under this Act shall be consistent with and shall not exceed the requirements of 42 U.S.C. 6921-6931 (1979) as amended to March 15, 1979 and rules and regulations promulgated pursuant to those sections.

Sec. 12. NEW SECTION. JUDICIAL REVIEW. Judicial review of actions of the commission or the executive director may be sought in accordance with the provision of chapter seventeen A (17A) of the Code. Notwithstanding the provisions of chapter seventeen A (17A) of the Code, petitions for judicial review may be filed in the district court of the county where the acts in issue occurred. In addition to other rights of judicial review authorized by this section, a person who has complied with an order issued by the executive director or commission may within six months of compliance with the order seek relief in the district court on the grounds that the requirements imposed by the order are excessive, that the benefits to society are not commensurate with the costs of complying with the order and that society can be protected in a less costly manner. Upon a finding that the requirements imposed by the order are excessive, the court may modify or vacate the order.

Sec. 13. Section three hundred seven point ten (307.10), Code 1979, is amended by adding the following new subsection:
NEW SUBSECTION. The commission may adopt, after consultation with the department of environmental quality and the department of public safety, rules to enforce the rules regarding transportation of hazardous wastes promulgated by the solid waste disposal commission of the department of environmental quality under section three (3), subsection three (3)

of this Act. The department and the division of the highway safety patrol of the department of public safety shall carry out the rules through the use of the director's powers and duties of enforcement and inspection.

FLOYD H. MILLEN
Speaker of the House

TERRY E. BRANSTAD
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 719, Sixty-eighth General Assembly.

DAVID L. WRAY
Chief Clerk of the House

Approved June 10, 1979

ROBERT D. RAY
Governor