

51 Grain received under a deferred payment contract under the pro-  
52 visions of this section shall not be deemed as stored grain.

53 Any grain which has been received at any unlicensed warehouse  
54 and for which the actual sale price has not been fixed and payment  
55 made within ten days from receipt of the grain, shall be construed to  
56 be grain held for storage within the meaning of this chapter. Bulk  
57 grain received at any unlicensed warehouse for any other purpose  
58 must either be returned to the depositor or disposed of by order of  
59 the depositor within ten days from date of actual deposit of the bulk  
60 grain.

61 If the depositor of bulk grain in an unlicensed warehouse fails to  
62 sell the grain or orders other disposition of the grain, the warehouse-  
63 man may purchase the grain on the tenth day after deposit at not less  
64 than the local market price at the close of business on the tenth day  
65 or return the grain to the depositor by the tenth day.

1 SEC. 7. Section five hundred forty-three point thirty-three  
2 (543.33), subsections three (3) and four (4), Code 1971, are  
3 amended to read as follows:

4 3. For the renewal or extension of each license, twenty-four dollars  
5 *per station*.

6 4. For the issuance of a license, two dollars for each month or frac-  
7 tion thereof of the period of time for which such license is issued *per*  
8 *station*.

1 SEC. 8. Section five hundred forty-three point nine (543.9), Code  
2 1971, is repealed.

Approved April 21, 1972.

## CHAPTER 1119

### DEPARTMENT OF ENVIRONMENTAL QUALITY

S. F. 85

AN ACT creating a department of environmental quality, specifying its powers, duties, and functions, and providing penalties for violations thereof.

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

#### DIVISION I

1 SECTION 1. When used in this Act, unless the context otherwise  
2 requires:

3 1. "Department" means the department of environmental quality.

4 2. "Executive director" means the executive director of the depart-  
5 ment of environmental quality or his designee.

6 3. "Executive committee" means the executive committee of the  
7 department of environmental quality.

1 SEC. 2. There is created a department of environmental quality.  
2 The chief administrative officer of the department shall be the execu-  
3 tive director of environmental quality, who shall be appointed by the

4 governor, with the approval of two-thirds of the members of the sen-  
5 ate, and serve at his pleasure.

6 The executive director shall be selected on the basis of his admin-  
7 istrative abilities. The salary of the executive director shall be initi-  
8 ally established by the governor, but it shall not exceed twenty-five  
9 thousand dollars per annum and, thereafter, it shall be determined  
10 by the general assembly. The appointment or removal of the execu-  
11 tive director shall not be subject to the provisions of chapter nineteen  
12 A (19A) of the Code.

1 SEC. 3. The executive director shall:

2 1. Recommend to the executive committee the adoption of rules and  
3 regulations that are necessary for the effective administration of the  
4 department.

5 2. Recommend to the appropriate commission within the depart-  
6 ment the adoption of rules and regulations to implement the pro-  
7 grams and services assigned to them.

8 3. Direct and administer the programs and services of the depart-  
9 ment in compliance with the rules and regulations adopted by the exec-  
10 utive committee and the commissions.

11 4. Perform other duties assigned by the executive committee.

12 5. Establish or reorganize, with the approval of the executive com-  
13 mittee, the administrative structure of the department.

14 6. Contract, with the approval of the executive committee, with  
15 public agencies of this state to provide all laboratory, scientific field  
16 measurement and environmental quality evaluation services neces-  
17 sary to implement the provisions of this Act. If the executive direc-  
18 tor finds that public agencies of this state cannot provide the labora-  
19 tory, scientific field measurement and environmental evaluation serv-  
20 ices required by the department, he may contract, with the approval  
21 of the executive committee, with any other public or private persons  
22 or agencies for such services.

23 7. Prepare, on or before the first of September of each even-num-  
24 bered year, the departmental budget request for each fiscal year of the  
25 ensuing biennium on the forms furnished, and including the informa-  
26 tion required, by the state comptroller.

27 The executive director may appoint, with the approval of the exec-  
28 utive committee, the technical, professional, secretarial, and clerical  
29 staff necessary to accomplish the purposes of this Act, subject to the  
30 provisions of chapter nineteen A (19A) of the Code.

31 The executive director may appoint a member of his staff to be  
32 acting director in his absence. Such acting executive director shall  
33 have the powers delegated to him by the executive director.

34 The executive director and other employees of the department shall  
35 receive, in addition to salary, their necessary traveling and related  
36 expenses when engaged in the performance of official business.

1 SEC. 4. There are created within the department the air quality  
2 commission, the water quality commission, the chemical technology  
3 commission, and the solid waste disposal commission. Each commis-  
4 sion shall establish policy for the programs and services assigned to  
5 it. The membership of the commissions shall be as follows:

6 1. The air quality commission shall consist of the president of the  
7 Iowa medical society or his designee and the following four members

8 appointed by the governor with the consent of two-thirds of the sen-  
9 ate:

10 a. A member actively engaged in diversified farming.

11 b. A member actively engaged in the management of a privately-  
12 owned manufacturing company.

13 c. Two members who are electors of the state.

14 2. The water quality commission shall consist of the chairman of  
15 the Iowa development commission or his designee and the following  
16 four members appointed by the governor with the consent of two-  
17 thirds of the senate:

18 a. A member actively engaged in diversified farming.

19 b. A member actively engaged in the management of a privately-  
20 owned manufacturing company.

21 c. Two members who are electors of the state.

22 3. The solid waste disposal commission shall consist of the presi-  
23 dent of the Iowa engineering society or his designee and the follow-  
24 ing four members appointed by the governor with the consent of two-  
25 thirds of the senate:

26 a. A member actively engaged in diversified farming.

27 b. A member actively engaged in the management of a privately-  
28 owned manufacturing company.

29 c. Two members who are electors of the state.

30 4. The chemical technology commission shall consist of the secre-  
31 tary of agriculture, the commissioner of public health, the director of  
32 the Iowa natural resources council, the chairman of the state soil  
33 conservation committee, the chief executive of the league of Iowa  
34 municipalities, the state conservation director, and the dean, college  
35 of agriculture of Iowa state university of science and technology, or  
36 their designees, a representative of a firm in Iowa actively engaged  
37 in the manufacture or formulation of agricultural chemicals, and a  
38 farmer experienced in the application of agricultural chemicals to be  
39 appointed by the governor with the consent of two-thirds of the sen-  
40 ate. The members appointed by the governor shall serve four-year  
41 terms, except that of the membership of the initial commission, the  
42 members appointed by the governor shall be the appointed members  
43 of the chemical technology review board abolished by this Act, whose  
44 terms expired on the thirtieth of June, 1974. The terms of these two  
45 members shall expire on the thirtieth of June, 1974.

46 Any commission member appointed by the governor may be re-  
47 moved by him for cause. The members of each commission shall be  
48 electors of the state. The term of office of each appointed member  
49 shall be four years, except that of the initial membership of the air  
50 quality commission, the water quality commission, and the solid waste  
51 disposal commission, the two members appointed to represent the gen-  
52 eral public shall be appointed to two-year terms. The term of office  
53 of each member shall commence on the first day of July of the year  
54 of the appointment except that the term of office of the initial mem-  
55 bership of the air quality commission, the water quality commission,  
56 and the solid waste disposal commission shall be computed as if such  
57 appointments were made effective July 1, 1972. Vacancies occurring  
58 during a term of office shall be filled by appointment for the balance  
59 of the unexpired term subject to the consent of two-thirds of the sen-

60 ate. No appointive member shall be appointed to serve more than  
61 two consecutive four-year terms.

62 Each commission shall meet at least four times a year. Other meet-  
63 ings shall be called by the chairman or upon written request of a  
64 majority of the members of the commission. The chairman shall  
65 preside at all meetings or in his absence the vice chairman shall pre-  
66 side. The executive director shall attend the meetings of the commis-  
67 sions and act as secretary for them. The members of each commis-  
68 sion shall be paid a per diem of thirty dollars while in session, ten  
69 cents a mile for travel, and their reasonable and necessary expenses  
70 while attending such meetings.

71 A majority of each commission shall constitute a quorum and the  
72 concurrence of a majority of a commission shall be required to deter-  
73 mine any matter relating to its duties.

1 SEC. 5. Each commission shall:

2 1. Organize annually and select a chairman and vice chairman.

3 2. Establish policy for the implementation of all programs under  
4 its jurisdiction.

5 3. Advise, consult, and cooperate with other commissions within  
6 the department, other agencies of the state, political subdivisions, and  
7 any other public or private agency to promote the orderly, efficient,  
8 and effective accomplishment of its responsibilities. Each commis-  
9 sion may request the assistance or advice of any public or private  
10 person in carrying out its assigned duties under this Act.

11 4. Adopt, modify, or repeal rules and regulations necessary to  
12 implement the programs assigned to it, subject to the provisions of  
13 section seven (7), subsection three (3), of this Act, and chapter sev-  
14 enteen A (17A) of the Code.

1 SEC. 6. The executive committee of the department shall consist  
2 of the chairmen of the four commissions within the department. The  
3 director of the state conservation commission, the administrative offi-  
4 cer of the department of soil conservation, the director of the bacterio-  
5 logical laboratory at the state university of Iowa, the secretary of  
6 agriculture, the commissioner of public health, and the state geologist,  
7 or their designees shall be ex officio, nonvoting members of the execu-  
8 tive committee. The executive committee shall organize annually dur-  
9 ing the month of July and select a chairman and vice chairman. The  
10 executive director shall act as the secretary of the executive commit-  
11 tee. Meetings shall be called by the chairman or upon written request  
12 of any two voting members. A majority of the executive committee  
13 shall constitute a quorum and the concurrence of a majority of the  
14 executive committee shall be required to determine any matter relat-  
15 ing to its duties. The voting members of the executive committee shall  
16 be paid a per diem of thirty dollars per day while in session, ten cents  
17 a mile for travel, and their reasonable and necessary expenses while  
18 attending such meetings.

1 SEC. 7. The executive committee shall:

2 1. Review the rules and regulations recommended by the executive  
3 director and adopt, amend or repeal, subject to the provisions of  
4 chapter seventeen A (17A) of the Code, the rules and regulations  
5 deemed necessary for the effective administration of the department.

6 The rules and regulations shall include departmental policy relating  
 7 to the disclosure of information on any violation or alleged violation  
 8 of the rules and regulations, standards, or orders issued by the depart-  
 9 ment and keeping of confidential information obtained by the depart-  
 10 ment in the administration and enforcement of the provisions of this  
 11 Act.

12 2. Approve the departmental budget request prior to submission  
 13 to the state comptroller. The executive committee may increase,  
 14 decrease, or strike any proposed expenditure within the departmen-  
 15 tal budget request before granting approval.

16 3. Issue orders and directives necessary to insure integration and  
 17 coordination of the programs administered by the department. Not-  
 18 withstanding any other provision of this Act to the contrary, each  
 19 commission within the department shall submit all of its proposed  
 20 rules and regulations to the executive committee for review to insure  
 21 that no conflict exists between such proposed rules and regulations  
 22 and the existing rules and regulations of another commission within  
 23 the department. If a conflict does exist, the executive committee shall  
 24 direct the commissions involved to resolve the conflict before the pro-  
 25 posed rules and regulations are submitted to the legislative depart-  
 26 mental rules review committee as provided in chapter seventeen A  
 27 (17A) of the Code.

28 4. Make a concise annual report to the governor and the general  
 29 assembly, which report shall contain information relating to the accom-  
 30 plishments and status of the programs administered by the depart-  
 31 ment and include recommendations for legislative action. The annual  
 32 report shall conform to the provisions of section seventeen point  
 33 three (17.3) of the Code.

34 5. Approve all contracts and agreements between the department  
 35 and other public or private persons or agencies.

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

1 SEC. 8. The state comptroller shall draw warrants on the trea-  
 2 surer of state for all disbursements authorized by the provisions of  
 3 this Act upon itemized and verified vouchers bearing the approval of  
 4 the executive director.

1 SEC. 9. The executive council shall provide the department with  
 2 appropriate office facilities.

1 SEC. 10. Section two hundred sixty-three point eight (263.8), un-  
 2 numbered paragraphs two (2) and three (3), Code 1971, are amended  
 3 as follows:

4 In addition to its regular work, the laboratory shall perform with-  
 5 out charge all bacteriological, seriological, and epidemiological exam-  
 6 inations and investigations which may be required by the state depart-  
 7 ment of health ~~or the Iowa water pollution control commission~~ and  
 8 said department shall establish rules therefor. *The laboratory shall*  
 9 *also provide, those laboratory, scientific field measurement, and envi-*  
 10 *ronmental quality services which, by contract, are requested by the*  
 11 *department of environmental quality.*

12 The laboratory also shall perform all laboratory examinations and  
 13 studies which may be requested by the state department of health  
 14 and the air pollution control commission. The laboratory is author-  
 15 ized to perform such laboratory determinations relating to air con-  
 16 taminants as may be requested by political subdivisions or other per-  
 17 sons, and the laboratory also is hereby authorized to charge political  
 18 subdivisions or other persons fees covering transportation of samples  
 19 and the actual costs of examinations performed upon their request.

#### DIVISION II

1 SEC. 11. When used in sections eleven (11) through twenty-eight  
 2 (28) of this Act, unless the context otherwise requires:

3 1. "Air contaminant" means dust, fume, mist, smoke, other par-  
 4 ticulate matter, gas, vapor (except water vapor), odorous substance,  
 5 radioactive substance, or any combination thereof.

6 2. "Air contaminant source" means any and all sources of emission  
 7 of air contaminants whether privately or publicly owned or operated.

8 Air contaminant source includes, but is not limited to, all types of  
 9 businesses, commercial and industrial plants, works, shops, and stores,  
 10 heating and power plants and stations, buildings and other structures  
 11 of all types including single and multiple family residences, office build-  
 12 ings, hotels, restaurants, schools, hospitals, churches and other insti-  
 13 tutional buildings, automobiles, trucks, tractors, buses, aircraft, and  
 14 other motor vehicles, garages, vending and service locations and sta-  
 15 tions, railroad locomotives, ships, boats, and other water-borne craft,  
 16 portable fuel-burning equipment, indoor and outdoor incinerators of  
 17 all types, refuse dumps and piles, and all stack and other chimney  
 18 outlets from any of the foregoing.

19 3. "Air pollution" means presence in the outdoor atmosphere of one  
 20 or more air contaminants in sufficient quantities and of such charac-  
 21 teristics and duration as is or may reasonably tend to be injurious to  
 22 human, plant, or animal life, or to property, or which unreasonably  
 23 interferes with the enjoyment of life and property.

24 4. "Atmosphere" means all space outside of buildings, stacks or  
 25 exterior ducts.

26 5. "Emission" means a release of one or more air contaminants into  
 27 the outside atmosphere.

28 6. "Commission" means the air quality commission of the depart-  
 29 ment.

30 7. "Person" means an individual, partnership, copartnership, co-  
 31 operative, firm, company, public or private corporation, political sub-  
 32 division, agency of the state, trust, estate, joint stock company, or any  
 33 other legal entity, or their legal representative, agent or assigns.

34 8. "Political subdivision" means any municipality, township, or  
 35 county, or district, or authority, or any portion, or combination of two  
 36 or more thereof.

1 SEC. 12. The department shall be the agency of the state to pre-  
 2 vent, abate, or control air pollution.

1 SEC. 13. The commission shall:

2 1. Direct the development of a comprehensive plan for the abate-  
 3 ment, control, and prevention of air pollution in this state, recogniz-  
 4 ing varying requirements for different areas in the state.

5 2. Establish, modify, or repeal rules and regulations pertaining to  
6 the evaluation, abatement, control, and prevention of air pollution  
7 after at least sixty days public notice and public hearings.

8 3. Establish, modify, or repeal air quality standards for the atmos-  
9 phere of this state on the basis of providing air quality necessary to  
10 minimize air pollution after at least sixty days public notice and public  
11 hearings.

12 4. Establish, modify, or repeal emission standards relating to the  
13 maximum quantities of air contamination that may be emitted from  
14 any air contaminant source after at least sixty days public notice and  
15 public hearings.

16 5. Consider complaints of conditions reported to, or considered  
17 likely to, constitute air pollution; and instruct the department to  
18 investigate such complaints upon receipt of the written petition of  
19 any state agency, the governing body of any political subdivision, a  
20 local board of health, or twenty-five affected residents of the state.

21 6. Hold public hearings except when the evidence to be received is  
22 confidential pursuant to section seventeen (17) of this Act, necessary  
23 to accomplish the purposes of sections eleven (11) through twenty-  
24 eight (28) of this Act. The commission may issue subpoenas requir-  
25 ing the attendance of witnesses and the production of evidence perti-  
26 nent to such hearings. If any person refuses to obey a subpoena issued  
27 by the commission, the district court of the county where the pro-  
28 ceeding is pending shall have jurisdiction, upon application of the  
29 commission or its authorized representative, to issue such person an  
30 order to appear and testify or produce evidence, and any failure to  
31 obey such court order may be punished by the court as contempt.

32 7. Issue orders necessary to cause the abatement or control of air  
33 pollution. In making such orders, the commission shall consider the  
34 facts and circumstances bearing upon the reasonableness of the emis-  
35 sions involved, including but not limited to, the character and degree  
36 of injury to, or interference with, the protection of health and the  
37 physical property of the public; the practicability of reducing or limit-  
38 ing the emissions from such air pollution source; and the suitability  
39 or unsuitability of the air pollution source to the area where it is  
40 located. Any such order may include advisory recommendations for  
41 the control of emissions from any air contaminant source and the  
42 reduction of the emission of air contaminants.

43 8. Cause to be instituted by the attorney general, in the name of the  
44 state, legal proceedings to compel compliance with any of its orders.

45 9. Classify air contaminant sources according to levels and types  
46 of emissions, and other characteristics which relate to air pollution.  
47 The commission may require, by rule and regulation, the owner or  
48 operator of any air contaminant source to establish and maintain such  
49 records, make such reports, install, use and maintain such monitoring  
50 equipment or methods, sample such emissions in accordance with such  
51 methods at such locations and intervals, and using such procedures as  
52 the commission shall prescribe, and provide such other information as  
53 the commission may reasonably require. Such classifications may be  
54 for application to the state as a whole, or to any designated area of the  
55 state, and shall be made with special reference to effects on health,  
56 economic and social factors, and physical effects on property.

57 10. Require, by rules and regulations, notice of the construction or  
58 the installation of any equipment which may cause or contribute to

59 air pollution, and the submission of plans and specifications to the  
60 department, or such other information deemed necessary, for the  
61 installation of equipment from which air contaminants may be emitted  
62 to the atmosphere and related control equipment. Such rules and  
63 regulations shall not specify any particular method to be used to  
64 reduce undesirable levels of emissions, nor type, design, or method  
65 of installation of any equipment to be used to reduce such levels of  
66 emissions, nor the type, design, or method of installation or type of  
67 construction of any manufacturing processes or kinds of equipment,  
68 nor specify the kind or composition of fuels permitted to be sold,  
69 stored, or used.

70 The commission may give technical advice pertaining to the con-  
71 struction or installation of such equipment or any other recommen-  
72 dation.

73 11. Review and evaluate air pollution control programs conducted  
74 by political subdivisions of the state with respect to whether such  
75 programs are consistent with the provisions of sections eleven (11)  
76 through twenty-eight (28) of this Act and any rules and regulations  
77 adopted by the commission.

78 12. Represent the state in all matters pertaining to plans, proce-  
79 dures, negotiations, and agreements for interstate compacts relating  
80 to the control of air pollution, subject to the provisions of section  
81 seven (7), subsection five (5) of this Act.

82 13. Encourage voluntary cooperation by persons or affected groups  
83 in restoring and preserving a reasonable quality of air within the  
84 state.

85 14. Encourage political subdivisions to handle air pollution prob-  
86 lems within their respective jurisdictions.

1 SEC. 14. The executive director shall:

2 1. Publish and administer the rules, regulations, and standards  
3 established by the commission. The department shall furnish a copy  
4 of such rules, regulations, or standards to any person upon request.

5 2. Provide technical, scientific, and other services required by the  
6 commission or for the effective administration of sections eleven (11)  
7 through twenty-eight (28) of this Act.

8 3. Conduct investigations of complaints received directly or referred  
9 by the commission, or such other investigations deemed necessary.  
10 The executive director shall participate, on behalf of the state, in  
11 hearings before the commission.

12 While conducting an investigation, the executive director may enter  
13 at any reasonable time in and upon any private or public property,  
14 except private dwellings, to investigate any actual or possible viola-  
15 tion of the provisions of this Act or the rules, regulations, or standards  
16 adopted under this Act.

17 a. If the executive director is denied admittance to property subject  
18 to inspection under this Act, he may apply to the district court of the  
19 county in which the property is located for issuance of a search war-  
20 rant. In the application, the executive director shall state that he  
21 believes that a search of the property designated in the application is  
22 necessary for the proper administration and enforcement of the pro-  
23 visions of this Act or the rules, regulations, or standards adopted  
24 under this Act. If the court is satisfied that a search warrant is jus-  
25 tified he shall grant the application and issue the warrant.



26 b. If the executive director establishes, under oath, probable cause  
 27 that a violation of the provisions of this Act or the rules, regulations,  
 28 or standards adopted under this Act has occurred, and that the evi-  
 29 dence required to prove such violation is of a nature that it may be  
 30 easily or quickly dissipated, camouflaged, or disposed of, he may apply  
 31 for and the court may issue a search warrant without evidence that  
 32 admission to the property was denied and prior to any attempt by the  
 33 executive director to gain admittance.

34 4. Grant, modify, or deny permits for the installation of new equip-  
 35 ment capable of emitting air contaminants to produce air pollution and  
 36 for related control equipment, subject to the rules and regulations  
 37 adopted by the commission. The department shall furnish necessary  
 38 application forms for such permits.

39 a. No equipment which may cause or contribute to air pollution or  
 40 which is intended primarily to prevent or to control the emission of  
 41 air contaminants shall be installed, altered so that it significantly  
 42 affects operation efficiency, or placed in use unless a permit has been  
 43 issued for such equipment.

44 b. The condition of expected performance must be reasonably de-  
 45 tailed in the permit unless it is agreed between the department and  
 46 the permit holder that a condition of development and adjustment  
 47 exists.

48 c. Upon denial of such a permit, the applicant shall be notified of  
 49 such denial and informed of the reason or reason\* therefor, and such  
 50 applicant shall be entitled to a hearing before the commission as  
 51 provided in section thirteen (13), subsection six (6) of this Act.

52 5. Determine by field studies and sampling the quality of atmos-  
 53 phere and the degree of air pollution in this state or any part thereof.

54 6. Conduct and encourage studies, investigations, and research  
 55 relating to air pollution and its causes, effects, abatement, control,  
 56 and prevention.

57 7. Accept, receive and administer grants or other funds or gifts  
 58 from public or private agencies, including the federal government,  
 59 for the abatement, prevention, or control of air pollution, subject to  
 60 the approval of the executive committee.

61 8. Provide technical assistance to political subdivisions of this state  
 62 requesting such aid for the furtherance of air pollution control.

63 9. Collect and disseminate information, and conduct educational and  
 64 training programs, relating to air pollution and its abatement, pre-  
 65 vention, and control.

1 SEC. 15. Nothing contained in sections eleven (11) through  
 2 twenty-eight (28) of this Act shall be deemed to grant to the com-  
 3 mission or the executive director any authority or jurisdiction with  
 4 respect to air pollution existing solely within residences; or solely  
 5 within commercial and industrial plants, works, or shops under the  
 6 jurisdiction of chapters eighty-eight (88), eighty-eight A (88A) and  
 7 ninety-one (91) of the Code; or to affect the relations between  
 8 employers and employees with respect to, or arising out of, any  
 9 condition of air pollution.

1 SEC. 16. The commission and the executive director may request  
 2 and receive assistance from any other agency, department, or educa-

\*According to enrolled Act.

3 tional institution of the state, or political subdivision thereof, when it  
4 is deemed necessary or beneficial by the commission or the executive  
5 director. The department may reimburse such agencies for special  
6 expense resulting from expenditures not normally a part of the oper-  
7 ating expenses of any such agency.

1 SEC. 17. Information received by the commission or any employ-  
2 ees of the department through filed reports, inspections, or as other-  
3 wise authorized in sections eleven (11) through twenty-eight (28) of  
4 this Act concerning trade secrets, secret industrial processes, or other  
5 privileged communications, except emission data, shall not be dis-  
6 closed or opened to public inspection, except as may be necessary in  
7 a proceeding concerning a violation of sections eleven (11) through  
8 twenty-eight (28) of this Act or of any rules and regulations promul-  
9 gated thereunder, or as otherwise authorized or ordered by appro-  
10 priate court action or proceedings. Nothing herein shall be construed  
11 to prevent the executive director from compiling or publishing analy-  
12 ses or summaries relating to the general condition of the atmosphere;  
13 provided that such analyses or summaries do not reveal any informa-  
14 tion otherwise confidential under this section.

1 SEC. 18. Whenever the commission or the executive director has  
2 evidence that a violation of any provision of sections eleven (11)  
3 through twenty-eight (28) of this Act, or rule, regulation, or standard  
4 established by the commission has occurred, the executive director  
5 shall notify the alleged violator and, by informal negotiation, attempt  
6 to resolve the problem. If such negotiations fail to resolve the prob-  
7 lem within a reasonable period of time, the commission shall hold a  
8 public hearing, subject to the provisions of section seventeen (17) of  
9 this Act.

10 1. Notice of the time and place of the public hearing shall be served  
11 upon each alleged violator at least ten days prior to such hearing.  
12 Such notice shall be served in the manner required for the service of  
13 notice of the commencement of a civil action in a district court.

14 2. After such hearing, if the commission finds that a violation has  
15 occurred, it shall issue an appropriate order directing the violator  
16 to prevent, abate, or control the emissions or air pollution involved.  
17 The order shall prescribe the date by which the violation shall cease  
18 and may prescribe timetables for necessary action in preventing, abat-  
19 ing, or controlling the emissions of air pollution.

20 3. The executive director shall keep a complete record of the public  
21 hearings and such record shall be open to public inspection, subject  
22 to section seventeen (17) of this Act. A copy of the transcript shall  
23 be furnished to the violator or alleged violator at his request and at  
24 his expense.

1 SEC. 19. If the commission or the executive director has evidence  
2 that any person is causing air pollution and that such pollution creates  
3 an emergency requiring immediate action to protect the public health  
4 and safety, or property, either may, without notice or hearing, issue  
5 an emergency order requiring such person to reduce or discontinue  
6 immediately the emission of air contaminants. A copy of the emer-  
7 gency order shall be served as provided in section eighteen (18), sub-  
8 section one (1) of this Act. An emergency order issued by the com-  
9 mission or the executive director shall be effective immediately and

10 binding until reviewed by the commission at a public hearing or  
11 modified or rescinded by a district court.

1 SEC. 20. An appeal may be taken by any aggrieved party from  
2 any order issued as provided in sections eighteen (18) and nineteen  
3 (19) of this Act to the district court of the county in which the  
4 alleged offense was committed. Notice of appeal from an order shall  
5 be served upon the commission or the executive director by certified  
6 mail or by personal service. Failure to serve such notice of appeal  
7 within thirty days after receipt of the order shall operate as a waiver  
8 of the right to appeal. An order by the commission shall not be stayed  
9 by an appeal except by order of the district court after hearing for  
10 good cause shown by the aggrieved party. The hearing on appeal shall  
11 be tried as a suit in equity and shall be de novo. The court may receive  
12 additional testimony and evidence and may affirm, modify, or reverse  
13 the order of the commission.

1 SEC. 21. If action to prevent, control, or abate air pollution is not  
2 taken in accordance with the rules or regulations established, or  
3 orders issued by the commission, or if the commission or the executive  
4 director has evidence that an emergency exists by reason of air pollu-  
5 tion which requires immediate action to protect the public health or  
6 property, the attorney general, at the request of the commission or  
7 the executive director, shall commence legal action, in the name of the  
8 state, for an injunction to prevent any further or continued violation  
9 of such rule, regulation, or order. In an action for an injunction, any  
10 previous findings of the commission, after due notice and hearing,  
11 shall be prima facie evidence of the fact or facts found therein.

1 SEC. 22. In all proceedings with respect to any alleged violation  
2 of the provisions of sections eleven (11) through twenty-eight (28)  
3 of this Act or any rule or regulation established by the commission,  
4 the burden of proof shall be upon the commission except in an action  
5 for an injunction as provided in section twenty-one (21) of this Act.

1 SEC. 23. Any person who owns or operates any plant, building,  
2 structure, process, or equipment may apply for a variance from the  
3 rules, regulations, or standards governing the quality, nature, dura-  
4 tion, or extent of emissions by filing an application with the depart-  
5 ment. The application shall be accompanied by such information and  
6 data required by the commission.

7 1. The executive director shall promptly investigate the application  
8 and recommend to the commission the disposition of such application.  
9 The commission may grant a variance if it finds that:

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

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

15 2. A public hearing, subject to the provisions of section seventeen  
16 (17) of this Act, shall be held if the commission concludes that a hear-  
17 ing is advisable. The applicant may request a review hearing before  
18 the commission if his application is denied.

19 3. In determining under what conditions and to what extent a vari-  
20 ance may be granted, the commission shall give due recognition to the

21 progress which the applicant has made toward eliminating or prevent-  
 22 ing air pollution. In such a case, the commission shall consider the  
 23 reasonableness of the request, conditioned upon such applicant effect-  
 24 ing a partial abatement of the particular air pollution within a reason-  
 25 able period of time, or the commission may prescribe other require-  
 26 ments with which such applicant shall comply.

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

1 SEC. 24. 1. Any political subdivision may conduct an air pollu-  
 2 tion control program within the boundaries of its jurisdiction, or may  
 3 jointly conduct an air pollution control program with other political  
 4 subdivisions of this state or of other states, except that every joint  
 5 program shall be established and administered as provided in chap-  
 6 ter twenty-eight E (28E) of the Code. In conducting such programs,  
 7 political subdivisions may adopt and enforce rules, regulations, or  
 8 standards to secure and maintain adequate air quality within their  
 9 respective jurisdictions.

10 2. If the board of supervisors in any county establishes an air pol-  
 11 lution control program and has obtained a certificate of acceptance,  
 12 the agency implementing the program may regulate air pollution  
 13 within the county including any incorporated areas therein until such  
 14 incorporated areas obtain a certificate of acceptance as a joint or sep-  
 15 arate agency.

1 SEC. 25. When an air pollution control program conducted by a  
 2 political subdivision, or a combination thereof, is deemed upon review  
 3 as provided in section thirteen (13), subsection eleven (11), of this  
 4 Act to be consistent with the provisions of sections eleven (11)  
 5 through twenty-eight (28) of this Act or the rules and regulations  
 6 established thereunder, the commission shall accept such program in  
 7 lieu of state administration and regulation of air pollution within the  
 8 political subdivisions involved. Nothing contained in this section  
 9 shall be construed to limit the power of the commission or the execu-  
 10 tive director to take emergency action under the provisions of sections  
 11 nineteen (19) and twenty-one (21) of this Act.

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

14 a. Ordinances, rules, regulations, and standards establishing require-  
 15 ments consistent with, or more strict than, those imposed by sections  
 16 eleven (11) through twenty-eight (28) of this Act, or rules, regula-  
 17 tions, and standards adopted by the commission.

18 b. Enforcement of such requirements by appropriate administra-  
 19 tive and judicial process.

20 c. Administrative organization, staff, financial and other resources  
 21 necessary to administer an efficient and effective program.

22 2. Upon acceptance of a local air pollution control program, the  
 23 commission shall issue a certificate of acceptance to the appropriate  
 24 local agency.

25 a. Any political subdivision desiring a certificate of acceptance shall  
26 apply to the department on forms prescribed by the commission.

27 b. The executive director shall promptly investigate the application  
28 and recommend the disposition of such application to the commission.  
29 The commission may conduct a public hearing before action is taken  
30 on the recommendation. If the recommendation is against issuing a  
31 certificate, the political subdivision shall be entitled to a public hear-  
32 ing as provided in section eighteen (18) of this Act. At the public  
33 hearing, the commission shall decide whether the local program is  
34 substantially consistent with the provisions of sections eleven (11)  
35 through twenty-eight (28) of this Act, or rules and regulations  
36 adopted thereunder, and whether the local program is being enforced.  
37 The burden of proof shall be upon the political subdivision.

38 c. If the commission determines at any time that a local air pollu-  
39 tion program is being conducted in a manner inconsistent with the sub-  
40 stantive provisions of sections eleven (11) through twenty-eight (28)  
41 of this Act or the rules and regulations adopted thereunder, the com-  
42 mission shall notify the political subdivision, citing the deviations  
43 from the acceptable standards and the corrective measures to be com-  
44 pleted within a reasonable amount of time. If the corrective meas-  
45 ures are not implemented as prescribed, the commission shall suspend  
46 the certificate of acceptance of such political subdivision and shall  
47 administer the regulatory provisions of sections eleven (11) through  
48 twenty-eight (28) of this Act within the political subdivision until  
49 the appropriate standards are met. Upon receipt of evidence that  
50 necessary corrective action has been taken, the commission shall rein-  
51 state the suspended certificate of acceptance, and the political subdi-  
52 vision shall resume the administration of the local air pollution con-  
53 trol program within its jurisdiction. In cases where the certificate of  
54 acceptance is suspended, the political subdivision is entitled to a public  
55 hearing as provided in section eighteen (18) of this Act.

56 d. Nothing in sections eleven (11) through twenty-eight (28) of  
57 this Act shall be construed to supersede the jurisdiction of any local  
58 air pollution control program in operation on the first of January,  
59 1973, except that any such program shall meet all requirements of  
60 sections eleven (11) through twenty-eight (28) of this Act.

1 SEC. 26. If any order, rule or regulation of the commission is being  
2 violated, the attorney general shall, at the request of the commission  
3 or the executive director, institute a civil action in any district court  
4 for injunctive relief to prevent any further violation of such order,  
5 rule or regulation, or for the assessment of a fine as determined by  
6 the court, not to exceed five hundred dollars per day for each day such  
7 violation continues, or both such injunctive relief and fine.

1 SEC. 27. Upon failure of the executive director to take action  
2 within sixty days after an application for installation permit or vari-  
3 ance, or upon failure of the commission to enter a final order or deter-  
4 mination within sixty days after the final argument in a public hear-  
5 ing, the person seeking such action shall be entitled to treat such fail-  
6 ure to act as a grant of the requested permit or variance, or of a find-  
7 ing favorable to the respondent in a public hearing, as the case may be.

1 SEC. 28. No fees shall be charged by the executive director or the  
2 commission for the performance of their respective functions as pro-  
3 vided in sections eleven (11) through twenty-eight (28) of this Act.

1 SEC. 29. The powers, duties, and functions vested in the air qual-  
2 ity commission under the provisions of sections eleven (11) through  
3 twenty-eight (28) of this Act shall not be construed to affect the  
4 powers, duties and functions vested in the department under any  
5 other provisions of this Act or the Code.

1 SEC. 30. Any rule or regulation adopted or order or variance  
2 issued under chapter one hundred thirty-six B (136B) of the Code,  
3 prior to the effective date of this Act, by the Iowa air pollution con-  
4 trol commission or by the state department of health, shall remain  
5 effective until modified or rescinded by action of the air quality com-  
6 mission unless such rule or regulation is inconsistent or contrary to  
7 sections eleven (11) through twenty-nine (29) of this Act.

#### DIVISION III

1 SEC. 31. When used in sections thirty-one (31) through fifty (50)  
2 of this Act, unless the context otherwise requires:

3 1. "Sewage" means the water-carried waste products from resi-  
4 dences, public buildings, institutions, or other buildings, including the  
5 bodily discharges from human beings or animals together with such  
6 ground water infiltration and surface water as may be present.

7 2. "Industrial waste" means any liquid, gaseous, radioactive, or  
8 solid waste substance resulting from any process of industry, manu-  
9 facturing, trade or business or from the development of any natural  
10 resource.

11 3. "Other waste" means garbage, municipal refuse, lime, sand,  
12 ashes, offal, oil, tar, chemicals and all other substances which are not  
13 sewage or industrial waste which may pollute the waters of the state.

14 4. "Water pollution" means the contamination of any water of the  
15 state so as to create a nuisance or render such water unclean, noxious  
16 or impure so as to be actually harmful, detrimental or injurious to  
17 public health, safety or welfare, to domestic, commercial, industrial,  
18 agricultural or recreational use or to livestock, wild animals, birds,  
19 fish or other aquatic life.

20 5. "Sewer system" means pipelines or conduits, pumping stations,  
21 force mains and all other constructions, devices and appliances appur-  
22 tenant thereto used for conducting sewage or industrial waste or  
23 other wastes to a point of ultimate disposal.

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

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

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

36 dry, industrial, and other uses in liquid, bar, spray, tablet, flake, pow-  
37 der, or other form.

38 9. "Water of the state" means any stream, lake, pond, marsh, water-  
39 course, waterway, well, spring, reservoir, aquifer, irrigation system,  
40 drainage system, and any other body or accumulation of water, sur-  
41 face or underground, natural or artificial, public or private, which are  
42 contained within, flow through or border upon the state or any por-  
43 tion thereof.

44 10. "Person" means the state or any agency or institution thereof,  
45 any municipality, governmental subdivision, public or private corpo-  
46 ration, individual, partnership, or other entity and includes any officer  
47 or governing or managing body of any municipality, governmental  
48 subdivision or public or private corporation.

49 11. "Commission" means the water quality commission of the  
50 department.

1 SEC. 32. The department shall be the agency of the state to pre-  
2 vent, abate, or control water pollution.

1 SEC. 33. The commission shall:

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

4 2. Establish, modify, or repeal quality standards and effluent stand-  
5 ards for the water of the state. The effluent standards may provide  
6 for maintaining the existing quality of the water of the state where  
7 the quality thereof exceeds the requirements of the water quality  
8 standards.

9 3. Establish, modify, or repeal rules and regulations specifying the  
10 conditions under which the executive director shall issue, revoke, mod-  
11 ify, or deny permits for the installation or operation of disposal sys-  
12 tems, or for the discharge of sewage, industrial waste or other wastes,  
13 or for the disposal of water wastes resulting from poultry and live-  
14 stock operations. Persons engaged in livestock and poultry opera-  
15 tions or persons intending to initiate such operations shall register  
16 with the department and provide information relating to their opera-  
17 tions or intended operations as the executive director may reasonably  
18 require. Except as otherwise provided in section forty-six (46) of  
19 this Act, no such registrant shall be required to make application and  
20 obtain a permit for disposal of waste water unless the department  
21 determines that the livestock and poultry operations of such regis-  
22 trant are polluting or may pollute the water of the state.

23 4. Recognize existing permits for the continuance of every disposal  
24 system operating under legal authority. The commission may direct  
25 the executive director to modify or revoke such permits in the same  
26 manner as other permits.

27 5. Establish, modify or repeal rules and regulations governing the  
28 labeling of detergents which contain phosphorus. Any rules and regu-  
29 lations shall be formulated to provide potential purchasers with  
30 accurate information concerning the percent of phosphorus in the  
31 formula and the weight in grams of phosphorus per recommended  
32 use level.

33 6. Cooperate with other state or interstate water pollution control  
34 agencies in establishing standards, objectives, or criteria for the qual-  
35 ity of interstate waters originating or flowing through this state.

36 7. Conduct public hearings necessary for the discharge of its duties.  
 37 The commission may authorize the executive director to conduct such  
 38 hearings.

1 SEC. 34. The executive director shall:

2 1. Conduct investigations of alleged water pollution upon the writ-  
 3 ten request of any state agency, political subdivision, local board of  
 4 health, or twenty-five residents of the state, or as directed by the  
 5 commission.

6 2. Approve or disapprove of plans and specifications for disposal  
 7 systems or any part thereof.

8 3. Issue, modify, or revoke orders, in accordance with rules and  
 9 regulations established by the commission, for the prevention or dis-  
 10 continuance of the discharge of sewage, industrial waste or other  
 11 wastes in any water of the state resulting in water pollution in excess  
 12 of the applicable quality standard established by the commission.

1 SEC. 35. All investigations conducted by the department shall be  
 2 full and complete and may include engineering studies, bacteriologi-  
 3 cal, biological, and chemical analyses of the water and the location  
 4 and character of the source of contamination. If water pollution is  
 5 found to exist, taking into consideration the criteria set forth in sec-  
 6 tion thirty-six (36) of this Act, the executive director shall notify the  
 7 alleged offender and by informal negotiation attempt to resolve the  
 8 problem. Failing to resolve the problem within a reasonable period  
 9 of time, the commission or the executive director shall issue an order  
 10 fixing the time and place of a public hearing.

1 SEC. 36. In establishing, modifying, or repealing quality stand-  
 2 ards for the water of the state, or in establishing, modifying, or re-  
 3 pealing effluent standards for disposal systems, the commission shall  
 4 consider:

5 1. The protection of the public health;

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

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

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

17 5. The extent of contamination resulting from natural causes in-  
 18 cluding the mineral and chemical characteristics;

19 6. The extent to which floatable or settleable solids may be per-  
 20 mitted;

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

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

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



27 10. The extent to which toxic substances, chemicals or deleterious  
28 conditions may be permitted;

1 SEC. 37. Authorized employees of the department may enter upon  
2 any land or water in the state or bordering on the state, to investi-  
3 gate, examine, survey, or study the quality or pollution of such  
4 waters.

1 SEC. 38. When the commission or the executive director conducts  
2 any hearing or investigation, any member of the commission or any  
3 employee or agent authorized in writing by the commission or the  
4 executive director may administer oaths, examine witnesses and  
5 issue, in the name of the commission, subpoenas requiring the attend-  
6 ance and testimony of witnesses and the production of evidence rele-  
7 vant to any matter involved in such hearing or investigation. Wit-  
8 nesses shall receive the same fees and mileage as in civil actions.

9 1. Notice of the time and place of hearing shall be served upon  
10 each alleged offender at least ten days before the hearing. Such notice  
11 shall be in the manner required for the service of notice of the com-  
12 mencement of an ordinary action in a court of record.

13 2. Notwithstanding the provisions of subsection one (1) of this  
14 section the commission or the executive director when it has first been  
15 determined that an emergency exists respecting any matter affecting  
16 or likely to affect the public health, may make an order without notice  
17 and without hearing. A copy of such order shall be served as pro-  
18 vided in subsection one (1) of this section. Any such order entered  
19 by the commission or the executive director shall be binding and effec-  
20 tive immediately until such order is reviewed by a hearing or is modi-  
21 fied or reversed by the court.

22 3. After such hearing the commission or the executive director may,  
23 if it finds the alleged offender is guilty of the charges, enter an order  
24 directing such person to desist in the practice found to be the cause  
25 of such pollution, taking into account the use to which the water is  
26 being or may be put or the commission or the executive director may  
27 order a change in the method of discharging sewage, industrial wastes  
28 and other wastes into the water so that the same will not result in  
29 pollution and the method shall be in compliance with the effluent or  
30 water quality standards adopted by the commission.

31 4. If any such change is ordered, unless such practice is rendering  
32 such water dangerous to the public health, a reasonable time shall be  
33 granted to the offender in which to put in use the method ordered.

34 5. The executive director shall keep a complete record of such pro-  
35 ceedings, including all the evidence taken, and such record shall be  
36 open to public inspection. However, it shall be unlawful for any per-  
37 son in connection with his duties or employment by the department,  
38 to make public or give any information relating to secret processes or  
39 methods of manufacture or production at any public hearing or other-  
40 wise, and all such information shall be kept strictly confidential.

1 SEC. 39. If any person refuses to obey a subpoena issued under  
2 provisions of sections thirty-one (31) through fifty (50) of this Act,  
3 the district court of the county where the proceeding is pending shall  
4 have jurisdiction, upon application of the commission or the executive  
5 director to issue to such person an order requiring him to appear and

6 testify or produce evidence and any failure to obey such order of the  
7 court may be punished by the court as a contempt thereof.

1 SEC. 40. An appeal may be taken by any aggrieved party from  
2 any order entered in such proceedings to the district court of the  
3 county in which the alleged offense was committed or such final order  
4 was entered. Such appeal shall be perfected by serving a written  
5 notice on the executive director within thirty days of the entry of  
6 such order. The hearing on appeal shall be tried as a suit in equity  
7 and shall be de novo. The court may receive additional testimony  
8 and may affirm, modify or reverse the order of the commission or the  
9 executive director. The setting aside of such order by the court shall  
10 not preclude the commission or the executive director from again  
11 instituting proceedings against the same person if the commission or  
12 the executive director feels that the public health is endangered.

1 SEC. 41. Within thirty days after an application for an appeal is  
2 filed with the executive director, he shall make, certify and file in the  
3 office of the clerk of the court to which an appeal is taken a full and  
4 complete transcript of all documents and papers relating to the case  
5 including a copy of the order, rule, regulation or decision appealed  
6 from and a copy of any findings of fact, rulings or conclusions of law  
7 made by the department in the matter.

1 SEC. 42. Action of the department shall not be stayed by an appeal  
2 except by order of the court for good cause shown by the appellant.  
3 The granting of a stay may be conditioned upon the furnishing by the  
4 appellant of such reasonable security as the court may direct. A stay  
5 may be vacated on application of the department or any other party  
6 after hearing by the court.

1 SEC. 43. If no appeal is taken from an order, rule, regulation, or  
2 other decision of the department as provided in sections thirty-one  
3 (31) through fifty (50) of this Act, or if the action of the department  
4 is affirmed on appeal, the action of the department in the matter in-  
5 volved shall be deemed conclusive and the validity and reasonableness  
6 thereof shall not be raised in any other action or proceeding, but this  
7 shall not preclude the department from modifying or rescinding its  
8 action.

1 SEC. 44. Any person, firm, corporation, municipality, or any offi-  
2 cer or agent thereof causing water pollution as defined in section  
3 thirty-one (31) of this Act of any waters of the state or placing or  
4 causing to be placed any sewage, industrial waste, or other wastes  
5 in a location where they will probably cause pollution of any waters  
6 of the state may be enjoined from continuing such action.

7 The attorney general shall, upon the request of the department,  
8 bring an action for an injunction against any person, firm, corpora-  
9 tion, municipality, or agent thereof violating the provisions of this  
10 section. In any such action, any previous findings of the department  
11 after due notice and hearing shall be prima facie evidence of the fact  
12 or facts found therein.

1 SEC. 45. Failure to obey any order issued by the department with  
2 reference to matters pertaining to the pollution of water of the state

3 shall constitute prima facie evidence of contempt. In such event the  
4 department may certify to the district court of the county in which  
5 such alleged disobedience occurred the fact of such failure. The dis-  
6 trict court after notice, as prescribed by the court, to the parties in  
7 interest shall then proceed to hear the matter and if it finds that the  
8 order was lawful and reasonable it shall order the party to comply  
9 with the order. If the person fails to comply with the court order, he  
10 shall be guilty of contempt and shall be fined not to exceed five hun-  
11 dred dollars for each day that he fails to comply with the court order.  
12 The penalties provided in this section shall be considered as additional  
13 to any penalty which may be imposed under the law relative to nuis-  
14 ances or any other statute relating to the pollution of waters of the  
15 state and a conviction under this section shall not be a bar to prose-  
16 cution under any other penal statute.

1 SEC. 46. It shall be unlawful to carry on any of the following  
2 activities without first securing a written permit from the depart-  
3 ment as required by the commission for the disposal of all sewage, in-  
4 dustrial waste, or other wastes which are or may be discharged into  
5 the water of the state.

6 1. The construction, installation or modification of any disposal  
7 system or part thereof or any extension or addition thereto.

8 2. The construction or use of any new outlet for the discharge of  
9 any sewage or wastes directly into the water of the state. However,  
10 no permit shall be required for any new disposal system or extension  
11 or addition to any existing disposal system that receives only domestic  
12 or sanitary sewage from a building, housing or occupied by fifteen  
13 persons or less.

14 Plans and specifications for any waste disposal system covered by  
15 this section shall be submitted to the department before a written per-  
16 mit may be issued and the construction of any such waste disposal  
17 system shall be in accordance with plans and specifications approved  
18 by the department. If it is necessary or desirable to make material  
19 changes in such plans or specifications, revised plans or specifications  
20 together with reasons for the proposed changes must be submitted to  
21 the department for a supplemental written permit.

22 Any person convicted of violating this section shall be fined in a sum  
23 not to exceed one thousand dollars.

1 SEC. 47. The department may require the owner of a waste dis-  
2 posal system, discharging sewage or wastes into any of the water of  
3 the state to file with it complete plans of the whole or any part of  
4 such system and any other information and records concerning the  
5 installation and operation of such system.

1 SEC. 48. The commission and the executive director may request  
2 and receive from any department, division, board, bureau, commis-  
3 sion, public body, or agency of the state, or of any political subdivision  
4 thereof, or from any organization, incorporated or unincorporated,  
5 which has for its object the control or use of any of the water resources  
6 of the state, such assistance and data as will enable the commission or  
7 the executive director to properly carry out their activities and effec-  
8 tuate the purposes of sections thirty-one (31) through fifty (50) of  
9 this Act. The department shall reimburse such agencies for special

10 expense resulting from expenditures not normally a part of the oper-  
11 ating expenses of any such agency.

1 SEC. 49. No sewage, industrial waste or other wastes whether  
2 treated or untreated shall be discharged directly into any state-  
3 owned natural or artificial lake but this section shall not be con-  
4 strued to prohibit the discharge of adequately treated sewage or indus-  
5 trial wastes into a stream tributary to a lake upon the written per-  
6 mission of the department.

1 SEC. 50. In all proceedings with respect to any alleged violation of  
2 the provisions of sections thirty-one (31) through forty-nine (49) of  
3 this Act or any rule or regulation established by the commission or the  
4 department, the burden of proof shall be upon the commission or the  
5 department except in an action for contempt as provided in section  
6 forty-five (45) of this Act.

1 SEC. 51. When used in sections fifty-one (51) through sixty-seven  
2 (67) of this Act, unless the context otherwise requires:

- 3 1. "Board" means the board of certification.
- 4 2. "Commission" means the water quality commission of the depart-  
5 ment.
- 6 3. "Certificate" means the certificate of competence issued by the  
7 executive director stating that the operator has met the requirements  
8 for the specified operator classification of the certification program.
- 9 4. "Water supply system" means the system of pipes, structures,  
10 and facilities through which a public water supply is obtained, treated  
11 and sold or distributed for human consumption or household use.
- 12 5. "Water treatment plant" means that portion of the water supply  
13 system which in some way alters the physical, chemical, or bacterio-  
14 logical quality of the water.
- 15 6. "Wastewater treatment plant" means the facility or group of  
16 units used for the treatment of wastewater from public sewer systems  
17 and for the reduction and handling of solids removed from such  
18 wastes.
- 19 7. "Water distribution system" means that portion of the water  
20 supply system in which water is conveyed from the water treatment  
21 plant or other supply point to the premises of the consumer.
- 22 8. "Operator" means a person who has direct responsibility for the  
23 operation of a water treatment plant, water distribution system, or  
24 wastewater treatment plant.

1 SEC. 52. The executive director shall classify all water treatment  
2 plants, water distribution systems, and wastewater treatment plants  
3 affecting the public welfare with regard to the size, type, character  
4 of water and wastewater to be treated and other physical conditions  
5 affecting such treatment plants and distribution systems, and accord-  
6 ing to the skill, knowledge, and experience that an operator must have  
7 to supervise the operation of such facilities to protect the public health  
8 and prevent pollution.

1 SEC. 53. The executive director shall certify persons as to their  
2 qualifications to supervise the operation of such treatment plants and  
3 water distribution systems after considering the recommendations of  
4 the board submitted through the commission.

1 SEC. 54. The commission shall appoint a board of certification con-  
2 sisting of the following five members:

3 1. One member who is a waterworks operator holding a valid cer-  
4 tificate of the highest classification issued by the department.

5 2. One member who is a waste waterworks operator holding a valid  
6 certificate of the highest classification issued by the department.

7 3. One member employed by the department who is qualified in  
8 water and waste waterworks operation.

9 4. One member who is a university or college faculty member and  
10 whose major field is related to water supply or waste water collection  
11 and treatment.

12 5. One member who is an employee of a municipality required to  
13 employ a certified operator and who holds a position of city manager,  
14 city engineer, director of public works, or an equivalent position.

15 The members of the board shall be appointed for three-year terms.  
16 Any vacancy shall be filled by appointment for the unexpired term.

1 SEC. 55. The initial board of certification shall have five members,  
2 three of whom shall be the appointed members of the board of certifi-  
3 cation abolished by this Act, whose terms do not expire on the thirtieth  
4 of June, 1972. These three members shall continue to serve their  
5 unexpired terms. The remaining two members shall be appointed for  
6 three-year terms.

1 SEC. 56. The initial board of certification shall organize and elect  
2 a chairman from its membership. Thereafter, a chairman shall be  
3 elected at the last meeting of the fiscal year which shall be the annual  
4 meeting of the board. The member of the board employed by the  
5 department shall serve as secretary and maintain its records. Addi-  
6 tional meetings may be held at the call of the chairman. Three mem-  
7 bers shall constitute a quorum. The members of the board shall serve  
8 without compensation, except for actual and necessary expenses in-  
9 curred while discharging their official duties.

1 SEC. 57. The commission shall hold at least one examination each  
2 year for the purpose of examining candidates for certification at a  
3 time and place designated by the commission. Those applicants whose  
4 competency is acceptable to the commission shall be recommended to  
5 the executive director for certification.

1 SEC. 58. When the executive director is satisfied that an applicant  
2 is qualified by examination or otherwise, and upon recommendation of  
3 the commission, the executive director shall issue a certificate attest-  
4 ing to the competency of the applicant as an operator. The certificate  
5 shall indicate the classification of works which the operator is qualified  
6 to supervise.

1 SEC. 59. Certificates shall continue in effect for one year from the  
2 date of issuance unless sooner revoked by the executive director, but  
3 such certificates shall remain the property of the department and the  
4 certificate shall so state.

1 SEC. 60. The executive director may revoke the certificate of an  
2 operator, following a hearing before the executive director when it is  
3 found that the operator has practiced fraud or deception in obtaining  
4 the certificate or in the performance of his duties as an operator;

5 when it is found that reasonable care, judgment, or the application of  
6 his knowledge or ability was not used in the performance of his duties;  
7 or when it is found that the operator is incompetent or unable prop-  
8 erly to perform his duties as an operator.

1 SEC. 61.

2 1. A certificate in appropriate classification shall be issued without  
3 examination to any operator who, prior to the effective date of this  
4 Act, held a valid certificate attained by examination and issued by the  
5 commissioner of public health.

6 2. A certificate of proper classification shall be issued without exam-  
7 ination to any operator who, prior to the effective date of this Act,  
8 held a valid certificate to operate a particular treatment plant or water  
9 distribution system. The certificate so issued shall be valid only for  
10 that particular treatment plant or system and shall remain in effect  
11 indefinitely unless revoked by the executive director as provided in  
12 section sixty (60) of this Act.

1 SEC. 62. The executive director, with the approval of the board  
2 submitted through the commission, is authorized to charge a fee for  
3 certificates issued under the provisions of sections fifty-one (51)  
4 through sixty-seven (67) of this Act, but such fees shall not exceed  
5 five dollars for an initial certificate, nor more than three dollars for  
6 the annual renewal certificate. All such fees collected shall be re-  
7 mitted to the treasurer of state, who shall hold such moneys in a  
8 special fund to be known as the "operators certification fund," to be  
9 used by the department to administer and enforce the provisions of  
10 sections fifty-one (51) through sixty-seven (67) of this Act and to  
11 pay the expenses of the board. Such fund shall be subject at all times  
12 to the warrant of the state comptroller, drawn upon written requis-  
13 ition of the executive director.

1 SEC. 63. The commission, with the advice of the board, may pro-  
2 mulgate such rules and regulations as are necessary to carry out the  
3 provisions of sections fifty-one (51) through sixty-seven (67) of this  
4 Act. The rules and regulations established shall be subject to the  
5 provisions of section seven (7), subsection three (3) of this Act.

1 SEC. 64. It shall be unlawful for any person, firm, corporation,  
2 municipal corporation, or other governmental subdivision or agency,  
3 operating a water treatment plant, water distribution system or waste-  
4 water treatment plant to operate same unless the competency of the  
5 operator to operate such plant or system is duly certified to by the  
6 executive director under the provisions of sections fifty-one (51)  
7 through sixty-seven (67) of this Act. It shall also be unlawful for  
8 any person to perform the duties of an operator, as defined herein,  
9 without being duly certified under the provisions of sections fifty-one  
10 (51) through sixty-seven (67) of this Act.

1 SEC. 65. Any person, including any firm, corporation, municipal  
2 corporation, or other governmental subdivision or agency, violating  
3 any provisions of sections fifty-one (51) through sixty-seven (67) of  
4 this Act, or the rules and regulations adopted thereunder after written  
5 notice thereof by the executive director is guilty of a misdemeanor.  
6 Each day of operation in such violation of sections fifty-one (51)

7 through sixty-seven (67) of this Act or any rules or regulations  
 8 adopted thereunder shall constitute a separate offense. Upon conviction,  
 9 such persons shall be fined not exceeding one hundred dollars,  
 10 or be imprisoned in the county jail for not more than thirty days, or  
 11 by both\* such fine and imprisonment. It shall be the duty of the appropriate  
 12 county attorney to secure injunctions of continuing violations  
 13 of any provisions of sections fifty-one (51) through sixty-seven (67)  
 14 of this Act, or the rules and regulations adopted thereunder.

1 SEC. 66. The commission shall establish policy, by rule and regulation,  
 2 relative to the installation and operation of public water supplies,  
 3 sewer systems, and sewage treatment plants. The rules and regulations  
 4 established are subject to the provisions of section seven (7),  
 5 subsection three (3) of this Act.

1 SEC. 67. The executive director shall inspect the public water supplies,  
 2 sewer systems, and sewage treatment plants, and direct the method  
 3 of installation and operation of the same.

1 SEC. 68. There is established a fund to be known as the "sewage  
 2 works construction fund". All moneys appropriated to and deposited  
 3 in the sewage works construction fund are hereby appropriated for  
 4 and shall be used by the department in carrying out the purposes of  
 5 sections sixty-eight (68) through seventy-three (73), inclusive, of this  
 6 Act.

7 When used in sections sixty-eight (68) through seventy-four (74)  
 8 of this Act, inclusive, and unless the context requires otherwise:

9 1. "Treatment works" means any plant, disposal field, lagoon, holding  
 10 or flow-regulating basin, pumping station, interceptor sewer, or  
 11 other works installed for the purpose of treating, stabilizing, or disposing  
 12 of sewage, industrial waste, or other wastes, which qualify for  
 13 federal grants pursuant to the federal water pollution Act of 1956,  
 14 as amended, or any other federal Act or program.

15 2. "Commission" means the water quality commission of the department.  
 16

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

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

27 a. For which approval of the commission is required under sections  
 28 sixty-eight (68) through seventy-three (73) of this Act.

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

34 c. Which conforms with applicable rules and regulations of the  
 35 commission.

\*Indictment, see ch 773 of the Code.

36 d. Which is, in the judgment of the commission, necessary for the  
37 accomplishment of the state's policy of water purity.

38 5. "Municipality" means the city, town, sanitary district, or other  
39 governmental body or corporation empowered to provide sewage col-  
40 lection and treatment services, or any combination of two or more of  
41 such governmental bodies or corporations acting jointly, in connection  
42 with an eligible project.

43 6. "Federal pollution abatement assistance" means funds available  
44 to a municipality, either directly or through allocation by the state,  
45 from the federal government as grants for construction of sewage  
46 treatment works pursuant to the federal water pollution Act of 1956  
47 as amended.

1 SEC. 69. The commission may make grants as funds are available  
2 to any municipality to assist such municipality in the construction of  
3 sewage treatment works.

1 SEC. 70. The commission shall accept and administer all funds  
2 granted by the state pursuant to sections sixty-eight (68) through  
3 seventy-three (73), inclusive, of this Act.

4 In allocating state grants under sections sixty-eight (68) through  
5 seventy-three (73), inclusive, of this Act the commission shall give  
6 consideration to:

- 7 1. The public benefits to be derived by the construction.
- 8 2. The ultimate cost of constructing and maintaining the works.
- 9 3. The public interest and public necessity for the works.
- 10 4. The adequacy of the provisions made or proposed by the munici-  
11 pality for assuring proper and efficient operation and maintenance of  
12 the treatment works after the completion of construction thereof.
- 13 5. The applicant's readiness to start construction, including financ-  
14 ing and planning.

1 SEC. 71. The commission may, in the name of the state, contract  
2 with any municipality concerning eligible projects, subject to the  
3 approval of the executive committee. Any such contract may include  
4 such provisions as may be agreed upon by the parties, and shall  
5 include, in substance, the following provisions:

- 6 1. An estimate of the reasonable cost of the project as determined  
7 by the commission.
- 8 2. An agreement by the commission to pay to the municipality,  
9 during the progress of construction or following completion of the  
10 construction as may be agreed upon by the parties, an amount equal  
11 to one half of that portion of the actual cost of the project, or the  
12 reasonable cost of the project as determined by the commission,  
13 whichever is less, that is not paid by the federal government but not  
14 less than twenty-five percent of the cost as determined.
- 15 3. An agreement by the municipality:
  - 16 a. To proceed expeditiously with, and complete, the project in  
17 accordance with plans approved pursuant to sections sixty-eight (68)  
18 through seventy-three (73), inclusive, and pursuant to sections thirty-  
19 one (31) through fifty (50) of this Act.
  - 20 b. To commence operation of the sewage treatment works on com-  
21 pletion of the project, and not to discontinue operation or dispose of  
22 the sewage treatment works without the approval of the commission.



23 c. To operate and maintain the sewage treatment works in accord-  
24 ance with applicable provisions of sections thirty-one (31) through  
25 fifty (50) of this Act and rules and regulations of the commission.

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

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

31 4. A provision that, in the event federal assistance which was not  
32 included in the calculation of the state payment pursuant to subsec-  
33 tion two (2) of this section becomes available to the municipality, the  
34 amount of the state payment shall be recalculated with the inclusion  
35 of such additional federal assistance and the municipality shall pay  
36 to the state the amount by which the state payment actually made  
37 exceeds the state payment determined by the recalculation.

1 SEC. 72. The commission may adopt such rules and regulations as  
2 are necessary for the effective administration of sections sixty-eight  
3 (68) through seventy-three (73), inclusive.

1 SEC. 73. All contracts entered into pursuant to sections sixty-  
2 eight (68) through seventy-three (73), inclusive, shall be subject to  
3 approval of the attorney general as to form. All payments by the state  
4 pursuant to such contracts shall be made after review and by warrant  
5 of the state comptroller to the credit of the municipality and shall be  
6 used for the payment of costs of construction of an eligible project.  
7 However, if such costs have been paid by the municipality, then such  
8 payment may be used by the municipality for:

9 1. The payment of outstanding bonds or obligations incurred for  
10 any such eligible project.

11 2. Any improvement or extension of an eligible project.

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

1 SEC. 74. The powers, duties, and functions vested in the commis-  
2 sion under the provisions of sections thirty-one (31) through seventy-  
3 three (73) of this Act shall not be construed to affect the powers,  
4 duties and functions vested in the department under any other provi-  
5 sions of this Act or the Code.

1 SEC. 75. Any rule or regulation adopted or order or permit issued  
2 under chapters one hundred thirty-six A (136A), four hundred fifty-  
3 five B (455B) and four hundred fifty-five C (455C) of the Code, prior  
4 to the effective date of this Act, by the Iowa water pollution control  
5 commission or by the state department of health, shall remain effective  
6 until modified or rescinded by action of the water quality commission  
7 unless such rule or regulation is inconsistent or contrary to sections  
8 thirty-one (31) through seventy-four (74) of this Act.

#### DIVISION IV

1 SEC. 76. As used in sections seventy-six (76) through eighty-four  
2 (84) of this Act, unless the context clearly indicates a contrary intent:

3 1. "Public agency" means a public agency as defined in section  
4 twenty-eight E point two (28E.2) of the Code.

5 2. "Private agency" means a private agency as defined in section  
6 twenty-eight E point two (28E.2) of the Code.

7 3. "Sanitary disposal project" means all facilities and appurte-  
8 nances including all real and personal property connected with such  
9 facilities, which are acquired, purchased, constructed, reconstructed,  
10 equipped, improved, extended, maintained, or operated to facilitate  
11 the final disposition of solid waste without creating a significant haz-  
12 ard to the public health or safety, and which are approved by the exec-  
13 utive director.

14 4. "Solid waste" means garbage, refuse, rubbish, and other similar  
15 discarded solid or semisolid materials, including but not limited to  
16 such materials resulting from industrial, commercial, agricultural,  
17 and domestic activities. Solid waste may include vehicles, as defined  
18 by subsection one (1) of section three hundred twenty-one point one  
19 (321.1) of the Code. Nothing herein shall be construed as prohibi-  
20 ting the use of dirt, stone, brick, or similar inorganic material for fill,  
21 landscaping, excavation or grading at places other than a sanitary  
22 disposal.

23 5. "Commission" means the solid waste disposal commission of the  
24 department.

1 SEC. 77. Every city, town and county of this state shall provide  
2 for the establishment and operation of a sanitary disposal project for  
3 final disposal of solid waste by its residents not later than the first of  
4 July, 1975. Sanitary disposal projects may be established either sep-  
5 arately or through cooperative efforts for the joint use of the partici-  
6 pating public agencies as provided by law.

7 Cities, towns and counties may execute with public and private  
8 agencies contracts, leases, or other necessary instruments, purchase  
9 land and do all things necessary not prohibited by law for the collec-  
10 tion of solid waste, establishment and operation of sanitary disposal  
11 projects, and general administration of the same. Any agreement  
12 executed with a private agency for the operation of a sanitary dis-  
13 posal project shall provide for the posting of a sufficient surety bond  
14 by the private agency conditioned upon the faithful performance of  
15 the agreement.

1 SEC. 78. The executive director shall administer the provisions of  
2 sections seventy-six (76) through eighty-four (84) of this Act, sub-  
3 ject to the rules and regulations established by the commission.

4 Local boards of health shall cooperate in the enforcement of the  
5 provisions of sections seventy-six (76) through eighty-four (84) of  
6 this Act and the executive director may seek their aid and delegate  
7 administrative duties of the department to the local boards of health  
8 in matters relating to solid waste, refuse disposal plants, and sanitary  
9 disposal projects.

1 SEC. 79. The commission shall establish rules for the proper ad-  
2 ministration of the provisions of sections seventy-six (76) through  
3 eighty-four (84) of this Act which shall reflect and accommodate in-  
4 sofar as is reasonably possible those current and generally accepted  
5 methods and techniques for treatment and disposition of solid waste  
6 which will serve the purposes of sections seventy-six (76) through  
7 eighty-four (84) of this Act, which shall take into consideration  
8 such factors, including others which it may deem proper, as existing  
9 physical conditions, topography, soils and geology, climate, trans-

10 portation, and land use, such rules including but not limited to rules  
11 relating to the establishment and location of sanitary disposal proj-  
12 ects, sanitary practices, inspection of sanitary disposal projects, col-  
13 lection of solid waste, disposal of solid waste, pollution controls, the  
14 issuance of permits, approved methods of private disposition of solid  
15 waste, the general operation and maintenance of sanitary disposal  
16 projects, and the implementation of sections seventy-six (76) through  
17 eighty-four (84) of this Act. Prior to issuance of rules and regu-  
18 lations or amendments thereto, the commission shall hold at least  
19 one public hearing on the proposed rules or amendments, and shall  
20 give notice of such hearing at least thirty days in advance by publish-  
21 ing notice in a newspaper of general circulation in the state. The air  
22 quality commission and the water quality commission of the depart-  
23 ment shall cooperate with the commission in the establishment of such  
24 rules. All rules promulgated shall be subject to the provisions of  
25 chapter seventeen A (17A) of the Code and section seven (7), sub-  
26 section three (3) of this Act.

1 SEC. 80. The executive director shall certify if disposal projects  
2 operated or planned to be operated by or for cities, towns, counties  
3 and those operated by private agencies meet the standards provided  
4 for by sections seventy-six (76) through eighty-four (84) of this Act  
5 and the rules and regulations of the commission, by issuing a permit  
6 for existing disposal projects which fully comply, and for planned  
7 sanitary disposal projects whose plans fully comply, with all provi-  
8 sions of sections seventy-six (76) through eighty-four (84) of this  
9 Act and rules and regulations issued pursuant thereto. Permits shall  
10 be issued for existing disposal sites which have not met all the provi-  
11 sions of sections seventy-six (76) through eighty-four (84) of this  
12 Act and rules and regulations issued pursuant thereto, if a compre-  
13 hensive plan for compliance within the time limitations required by  
14 sections seventy-six (76) through eighty-four (84) of this Act is  
15 developed by a city, town, county or private agency and is approved  
16 by the executive director. Every city, town or county of this state  
17 and every private agency involved in the final disposal of solid waste  
18 shall qualify for a permit by the first of July, 1975 or be subject to  
19 such legal actions authorized by section eighty-three (83) of this Act.

20 Permits shall be issued without fee by the executive director or at  
21 his direction, by a local board of health, for each sanitary disposal  
22 project operated in this state. Such permits shall be issued in the  
23 name of the city, town or county or, where applicable, in the name  
24 of the public or private agency operating such project. Each sani-  
25 tary disposal project shall be inspected annually by the department  
26 or a local board of health. The permits issued pursuant to this sec-  
27 tion shall be in addition to any other licenses, permits or variances  
28 authorized or required by law, including, but not limited to, the pro-  
29 visions of chapter three hundred fifty-eight A (358A) of the Code.  
30 A permit may be suspended or revoked after notice and hearing be-  
31 fore the commission or its designee if a sanitary disposal project is  
32 found not to meet the requirements of the provisions of sections seven-  
33 ty-six (76) through eighty-four (84) of this Act or rules and regula-  
34 tions issued pursuant thereto.

1 SEC. 81. Not later than the first of January, 1973, every city,  
2 town, county and every private agency operating or planning to oper-  
3 ate a sanitary disposal project shall file with the executive director a  
4 plan detailing the method by which the city, town, county or private  
5 agency will comply with the provisions of sections seventy-six (76)  
6 through eighty-four (84) of this Act. The executive director shall  
7 review each plan submitted and may reject, suggest modification, or  
8 approve the proposed plan. The executive director shall aid in the  
9 development of plans for compliance with the provisions of sections  
10 seventy-six (76) through eighty-four (84) of this Act. The execu-  
11 tive director shall make available to each city, town, county and pri-  
12 vate agency appropriate forms for the submission of plans and may  
13 hold hearings for the purpose of implementing the provisions of sec-  
14 tions seventy-six (76) through eighty-four (84) of this Act.

1 SEC. 82. The board of supervisors of any county may, in lieu of  
2 the levy authorized by section three hundred thirty-two point thirty-  
3 two (332.32) of the Code, annually levy a tax not to exceed one-fourth  
4 mill on all taxable property in the county outside the incorporated lim-  
5 its of any city or town for the purpose of planning a sanitary disposal  
6 project or of paying the interest and principal of bonds issued pursu-  
7 ant to the provisions of section three hundred forty-six point twenty-  
8 three (346.23) of the Code as they become due. The levy authorized  
9 by this section shall be the only mill levy that the board of supervi-  
10 sors may authorize for the purposes of this section, notwithstanding  
11 the provisions of section three hundred forty-six point eleven (346.11)  
12 of the Code or any other provision of law.

1 SEC. 83. 1. Commencing July 1, 1975, it shall be unlawful for any  
2 private agency or public agency to dump or deposit or permit the  
3 dumping or depositing of any solid waste at any place other than a  
4 sanitary disposal project approved by the executive director. This  
5 section shall not prohibit a private agency or public agency from  
6 dumping or depositing\* solid waste resulting from its own residential,  
7 farming, manufacturing, mining or commercial activities on land  
8 owned or leased by it if such action does not violate any statute of  
9 this state or rules and regulations promulgated by the commission or  
10 local boards of health, or local ordinances, or rules and regulations  
11 issued by the air quality commission or water quality commission of  
12 the department. A violation of this subsection shall be a misdemeanor.

13 2. The executive director may issue any order necessary to secure  
14 compliance with or prevent a violation of the provisions of sections  
15 seventy-six (76) through eighty-four (84) of this Act or the rules and  
16 regulations promulgated pursuant thereto. The attorney general shall,  
17 on request of the department, institute any legal proceedings neces-  
18 sary in obtaining compliance with an order of the commission or the  
19 executive director or prosecuting any person for a violation of the  
20 provisions of sections seventy-six (76) through eighty-four (84) of  
21 this Act or rules and regulations issued pursuant thereto.

1 SEC. 84. Any person aggrieved by an order of the commission or  
2 the executive director may appeal the same by filing a written notice

\*According to enrolled Act.

3 of appeal with the executive director within thirty days of the issuance  
4 of the order. The executive director shall schedule a hearing for the  
5 purpose of hearing the arguments of the aggrieved person within  
6 thirty days of the filing of the notice of appeal. The hearing may be  
7 held before the commission or its designee. A complete record shall  
8 be made of the proceedings. The executive director shall issue the  
9 findings in writing to the aggrieved person within thirty days of the  
10 conclusion of such hearing. If such person is not satisfied with the  
11 findings of the commission, he may appeal such findings to the district  
12 court of the county wherein the acts in issue occurred. Such appeal  
13 shall be made within thirty days of the issuance of the findings of the  
14 commission and a copy of the same shall be filed with the commission.  
15 The court upon the filing of such appeal shall hear the appeal in  
16 equity.

1 SEC. 85. Any rule or regulation adopted or order issued under  
2 chapter four hundred six (406) of the Code, prior to the effective  
3 date of this Act, by the commissioner of public health shall remain  
4 effective until modified or rescinded by action of the solid waste dis-  
5 posal commission unless such rule or regulation is inconsistent or  
6 contrary to sections seventy-six (76) through eighty-four (84) of this  
7 Act.

1 SEC. 86. As used in sections eighty-six (86) through ninety-five  
2 (95) of this Act, unless the context otherwise requires:

3 1. "Radiation" means any ionizing radiation including, but not  
4 limited to, high-speed electrons, neutrons, protons and other nuclear  
5 particles, but not sound waves.

6 2. "Radioactive material" means any solid, liquid, or gaseous  
7 material which emits radiation spontaneously.

8 3. "Nuclear waste disposal site" means all facilities and appurten-  
9 ances including all real and personal property connected with such  
10 facilities, which are acquired, leased, purchased, constructed, recon-  
11 structed, equipped, improved, extended, maintained, or operated to  
12 facilitate the final disposition of radioactive waste without creating  
13 a significant hazard to the public health or safety, and which are  
14 approved by the executive director.

15 4. "Commission" means solid waste disposal commission of the  
16 department.

1 SEC. 87. The department shall be the agency of the state to  
2 establish policy for the transportation, storage, handling, and disposal  
3 of radioactive material for the purpose of protecting the public health  
4 and safety.

1 SEC. 88. The commission shall provide, by rule and regulation,  
2 for the proper methods of transporting, storage, and handling of  
3 radioactive material except that the provisions of this section shall  
4 not apply to the transportation, handling, or storage of radioactive  
5 material by licensed physicians and surgeons or licensed osteopathic  
6 physicians and surgeons within the scope of their practice or by  
7 qualified employees of licensed hospitals within the scope of their  
8 duties. In adopting such rules and regulations, the commission shall  
9 consider the methods and techniques used by the United States

10 atomic energy commission and radiation control agencies of other  
 11 states for the regulation of the transporting, handling, and storage  
 12 of radioactive material. The commission shall also consult with the  
 13 department of public safety in the development of rules and regula-  
 14 tions for the transporting of radioactive material on the public roads  
 15 of this state. All rules and regulations adopted by the commission  
 16 under this section shall be subject to the provisions of chapter seven-  
 17 teen A (17A) of the Code and section seven (7), subsection three (3)  
 18 of this Act.

1 SEC. 89. The commission may approve or prohibit the establish-  
 2 ment and operation of a nuclear waste disposal site in this state by  
 3 a private person. In determining whether to grant or deny a license  
 4 to establish and operate a nuclear waste disposal site, the commission  
 5 shall consider the need for a nuclear waste disposal site and the  
 6 existing physical conditions, topography, soils and geology, climate,  
 7 transportation, and land use at the proposed site. If the commission  
 8 decides to issue a license to establish and operate a nuclear waste  
 9 disposal site, it shall establish, by rule and regulation, standards  
 10 and procedures for the safe operation and maintenance of the proposed  
 11 site. The commission shall also require the licensee to provide a suffi-  
 12 cient surety bond or other financial commitment to insure the per-  
 13 petual maintenance and monitoring of the nuclear waste disposal site.  
 14 All rules and regulations adopted by the commission under this  
 15 section shall be subject to the provisions of chapter seventeen A (17A)  
 16 of the Code and section seven (7), subsection three (3) of this Act.

1 SEC. 90. The executive director:  
 2 1. Shall enforce any rules and regulations adopted under the pro-  
 3 visions of sections eighty-six (86) through ninety-five (95) of this  
 4 Act, and furnish a copy of such rules and regulations to each appli-  
 5 cant for any license required under sections eighty-six (86) through  
 6 ninety-five (95) of this Act.  
 7 2. May license any person transporting, handling, or storing any  
 8 radioactive material under rules and regulations adopted by the com-  
 9 mission.  
 10 3. May require the maintenance of records relating to the receipt,  
 11 storage, transfer, or disposal of radioactive material.  
 12 4. May inspect any nuclear waste disposal site or other facilities  
 13 relating to the transportation, storage and handling of radioactive  
 14 materials. The executive director may enter at any reasonable time  
 15 upon any private or public property for the purpose of determining  
 16 whether or not a radiation hazard exists, or whether there is com-  
 17 pliance with, or violation of, any provisions of sections eighty-six  
 18 (86) through ninety-five (95) of this Act, or any rules or regulations  
 19 adopted under sections eighty-six (86) through ninety-five (95) of  
 20 this Act.  
 21 5. May issue, modify, or revoke orders in accordance with the  
 22 provisions of sections eighty-six (86) through ninety-five (95) of this  
 23 Act or the rules and regulations adopted under sections eighty-six  
 24 (86) through ninety-five (95) of this Act.  
 25 6. May require the submission of plans and specifications for the  
 26 design, construction, maintenance, and monitoring of nuclear waste  
 27 disposal sites for review and appraisal.

1     SEC. 91. If the executive director determines that there are rea-  
2 sonable grounds to believe a violation of sections eighty-six (86)  
3 through ninety-five (95) of this Act or of the rules and regulations  
4 issued under sections eighty-six (86) through ninety-five (95) of this  
5 Act has occurred, he shall give written notice by certified mail to the  
6 alleged violator specifying the alleged violations involved and specify-  
7 ing a period of time in which to eliminate the violation. If the al-  
8 leged violator fails to comply within such specified time, the execu-  
9 tive director shall schedule a hearing and give written notice to the  
10 alleged violator by certified mail. In connection with the hearings, the  
11 executive director may issue subpoenas requiring the attendance of  
12 witnesses and the production of records pertinent to such hearing.  
13 On the basis of the findings, the executive director shall issue a final  
14 order which shall be forwarded to the alleged violator by certified mail.

1     SEC. 92. Whenever the executive director finds that an emergency  
2 exists requiring immediate action to protect the public health and  
3 safety, he may, without notice or hearing, issue an emergency order  
4 reciting that an emergency exists and requiring that such action be  
5 taken as he deems necessary to meet the emergency. The order may  
6 be issued orally to the person whose operation constitutes the emer-  
7 gency by the executive director and confirmed by a copy of such order  
8 to be sent by certified mail within twenty-four hours after the issu-  
9 ance of the oral order. The emergency order shall be effective immedi-  
10 ately. Any person receiving an emergency order may request a hear-  
11 ing before the commission within thirty days following the receipt  
12 of the order. The commission shall schedule a hearing within four-  
13 teen days after receipt of the request for a hearing and give written  
14 notice to the alleged violator by certified mail. The commission may  
15 also schedule a hearing in the absence of a request by the alleged  
16 violator. On the basis of the findings, the commission shall issue a  
17 final order which shall be forwarded to the alleged violator by certi-  
18 fied mail.

19     The executive director may, if an emergency exists, impound or  
20 order the impounding of any radioactive material in the possession  
21 of any person who is not equipped to observe, or fails to observe,  
22 the provisions of sections eighty-six (86) through ninety-five (95)  
23 of this Act or any rules or regulations adopted under sections eighty-  
24 six (86) through ninety-five (95) of this Act.

1     SEC. 93. An appeal may be taken from any final order of the  
2 commission to the district court of the county in which the alleged  
3 violation was committed or such final order was entered. Notice of  
4 appeal from a final order shall be served upon the executive director  
5 by certified mail. Failure to serve the notice of appeal within thirty  
6 days after receipt of the final order shall operate as a waiver of the  
7 right to appeal. A final order by the commission shall not be stayed  
8 by an appeal except by order of the district court after hearing for  
9 good cause shown by the alleged violator. The hearing on appeal  
10 shall be tried as a suit in equity. The court may receive additional  
11 testimony and evidence and may affirm, modify, or reverse the final  
12 order of the commission.

1 SEC. 94. Whenever, in the judgment of the executive director,  
2 any person has engaged in or is about to engage in any acts or prac-  
3 tices which constitute or will constitute a violation of the provisions  
4 of sections eighty-six (86) through ninety-five (95) of this Act, or  
5 any rule, regulation, or order promulgated under sections eighty-six  
6 (86) through ninety-five (95) of this Act, he may request the attorney  
7 general to make application in the name of the state to the district  
8 court of the county in which such acts or practices may be performed,  
9 for an order enjoining such acts or practices notwithstanding the  
10 existence or pursuit of any other remedy, and the attorney general  
11 shall make such application.

1 SEC. 95. Any person who violates any provisions of sections  
2 eighty-six (86) through ninety-five (95) of this Act or rules or regu-  
3 lations adopted under sections eighty-six (86) through ninety-five  
4 (95) of this Act, or any order of the commission or executive director  
5 issued pursuant to sections eighty-six (86) through ninety-five (95)  
6 of this Act, shall be punished by a fine of not more than five hundred  
7 dollars or by imprisonment not to exceed six months or punished by  
8 both such fine and imprisonment and, in addition, he may be enjoined  
9 from continuing such violation. Each day of continued violation after  
10 notice that a violation is being committed shall constitute a separate  
11 violation.

1 SEC. 96. As used in sections ninety-six (96) through one hundred  
2 (100) of this Act, unless the context otherwise requires:

3 1. "Litter" means any garbage, rubbish, trash, refuse, waste ma-  
4 terials, or debris.

5 2. "Discard" means to place, cause to be placed, throw, deposit,  
6 or drop.

7 3. "Commission" means the solid waste disposal commission of the  
8 department.

1 SEC. 97. The executive director, at the direction of the commis-  
2 sion, shall establish programs to encourage the active support of busi-  
3 ness, industry and the general public for litter control.

4 The executive director, at the direction of the commission, shall  
5 coordinate and encourage the cooperation of state and local public  
6 agencies in the administration of sections ninety-six (96) through  
7 ninety-nine (99) of this Act.

1 SEC. 98. No person shall discard any litter onto or in any water  
2 or land of this state, except that nothing in this section shall be  
3 construed to affect the authorized collection and discarding of such  
4 litter in or on areas or receptacles provided for such purpose.

5 When litter is discarded from a motor vehicle, the driver of the  
6 motor vehicle shall be responsible for the act in any case where doubt  
7 exists as to which occupant of the motor vehicle actually discarded  
8 the litter.

1 SEC. 99. Any person violating the provisions of section ninety-  
2 eight (98) of this Act, shall be guilty of a misdemeanor and, upon  
3 conviction, shall be subject to a fine of not less than fifteen dollars  
4 nor more than one hundred dollars or be imprisoned in the county jail  
5 not to exceed thirty days. The court, in lieu of or in addition to any



6 other sentence imposed, may direct and supervise a labor of litter  
7 gathering.

1 SEC. 100. The powers, duties, and functions vested in the com-  
2 mission under the provisions of sections seventy-six (76) through  
3 ninety-nine (99) of this Act shall not be construed to affect the  
4 powers, duties and functions vested in the department under any other  
5 provisions of this Act or the Code.

#### DIVISION V

1 SEC. 101. As used in sections one hundred one (101) through  
2 one hundred six (106) of this Act, unless the context otherwise  
3 requires:

4 1. "Commission" means the chemical technology commission of the  
5 department.

6 2. "Agricultural chemical" means a pesticide as defined in subsec-  
7 tion three (3) of this section and also means any feed or soil addi-  
8 tive, other than a pesticide, which is designed for and used to promote  
9 the growth of plants or animals.

10 3. "Pesticide" means (a) any substance or mixture of substances  
11 intended for preventing, destroying, repelling, or mitigating directly  
12 or indirectly any insects, rodents, nematodes, fungi, weeds, and other  
13 forms of plant or animal life or viruses, except viruses on or in living  
14 man, which the executive director shall declare to be a pest, and (b)  
15 any substances intended for use as a plant growth regulator, defoliant  
16 or desiccant.

17 4. "Plant growth regulator" means any substance or mixture of  
18 substances intended, through physiological action, for accelerating or  
19 retarding the rate of growth or rate of maturation, or for otherwise  
20 altering the behavior of ornamental or crop plants or the produce  
21 thereof, but shall not include substances to the extent that they are  
22 intended as plant nutrients, trace elements, nutritional chemicals,  
23 plant inoculants, and soil amendments.

1 SEC. 102. The commission shall collect, analyze, and interpret  
2 information relating to agricultural chemicals and their use. The com-  
3 mission shall coordinate the regulation and information responsibil-  
4 ities of state agencies on matters relating to the sale and use of  
5 agricultural chemicals. It shall adopt rules relating to the sale, use  
6 and disuse of agricultural chemicals and may, by rule, restrict or  
7 prohibit the sale, distribution, or use of any agricultural chemical. In  
8 determining whether to restrict or prohibit the sale, distribution, or  
9 use of any agricultural chemical, the board shall consider any official  
10 reports, academic studies, expert opinions or testimony, or other mat-  
11 ter deemed to have probative value. Any such evidence shall be  
12 received at a public hearing held for such purpose.

13 The commission shall consider the toxicity, hazard, effectiveness  
14 and public need for the agricultural chemicals, and the availability  
15 of less toxic or less hazardous agricultural chemicals and substances  
16 or other means of control.

1 SEC. 103. The commission shall, by rule and regulation, after a  
2 public hearing following due notice:

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

6 2. Specify the conditions under which containers of pesticides may  
7 be transported, stored, or disposed.

8 3. Determine the proper use of pesticides, including their formula-  
9 tions, and the times and methods of application and other conditions  
10 of use.

11 4. Require that all veterinarians licensed and practicing veterinary  
12 medicine in the state promptly report any case of domestic livestock  
13 poisoning or suspected poisoning to the executive director and the  
14 veterinary medical diagnostic laboratory at Iowa state university of  
15 science and technology.

1 SEC. 104. The rules and regulations promulgated by the com-  
2 mission shall be subject to the provisions of chapter seventeen A  
3 (17A) of the Code and section seven (7), subsection three (3) of this  
4 Act.

1 SEC. 105. The attorney general shall institute, at the request of  
2 the executive director, legal action to condemn any agricultural  
3 chemical sold, offered for sale, used, transported, or stored in this  
4 state in violation of sections one hundred one (101) through one  
5 hundred four (104) of this Act or any rules and regulations adopted  
6 by the commission under sections one hundred one (101) through one  
7 hundred four (104) of this Act.

1 SEC. 106. Any person violating the provisions of sections one  
2 hundred one (101) through one hundred four (104) of this Act or  
3 the rules or regulations adopted by the commission under sections  
4 one hundred one (101) through one hundred four (104) of this Act  
5 is guilty of a misdemeanor.

1 SEC. 107. The powers, duties, and functions vested in the chemical  
2 technology commission under the provisions of sections one hundred  
3 one (101) through one hundred six (106) of this Act shall not be  
4 construed to affect the powers, duties, and functions vested in the  
5 department under any other provisions of this Act or the Code.

1 SEC. 108. Any rule or regulation adopted or order issued under  
2 chapter two hundred six A (206A) of the Code, prior to the effective  
3 day of this Act, by the chemical technology review board shall remain  
4 effective until modified or rescinded by action of the chemical tech-  
5 nology commission unless such rule or regulation is inconsistent or  
6 contrary to sections one hundred one (101) through one hundred  
7 seven (107) of this Act.

1 SEC. 109. Section one hundred seven point one (107.1), Code 1971,  
2 is amended as follows:

3 **107.1 Creation of commission—membership.** There is hereby cre-  
4 ated a state conservation commission which shall consist of seven citi-  
5 zens of the state who are interested in and have substantial knowledge  
6 of the subjects embraced in this chapter *and the executive director of*  
7 *the department of environmental quality or his designee who shall*  
8 *be a nonvoting member.* Not more than four of ~~said~~ *the seven citizen*

9 members shall, when appointed, belong to the same political party.  
10 No person appointed to said commission shall during his term hold  
11 any other state or federal office.

1 SEC. 110. Section four hundred fifty-five A point four (455A.4),  
2 Code 1971, is amended as follows:

3 **455A.4 Appointment.** The council shall consist of ~~nine~~ *ten* mem-  
4 bers, ~~who nine of whom~~ shall be electors of the state of Iowa and shall  
5 be selected from the state at large solely with regard to their quali-  
6 fications and fitness to discharge the duties of office without regard  
7 to their political affiliation. *The tenth member shall be the executive*  
8 *director of the department of environmental quality or his designee,*  
9 *who shall be a nonvoting member.* The appointive members of the  
10 council shall be appointed by the governor with the approval of two-  
11 thirds of the members of the senate and shall be appointed for over-  
12 lapping terms of six years. The terms of three members of the  
13 council shall expire on July 1 of each odd-numbered year. Within  
14 sixty days following the organization of each biennial regular session  
15 of the general assembly, appointments shall be made of successors  
16 to members of the council whose terms shall expire on the first of  
17 July next thereafter and of members to fill the unexpired portion of  
18 vacant terms.

1 SEC. 111. Section four hundred sixty-seven A point four (467A.4),  
2 subsection one (1), Code 1971, as amended by chapter two hundred  
3 twenty-seven (227), section twenty-seven (27), Acts of the Sixty-  
4 fourth General Assembly, First Session, and as amended by House  
5 File eleven hundred seventy-six (1176), section one (1), Acts of the  
6 Sixty-fourth General Assembly, Second Session, is amended to read  
7 as follows:

8 1. There is hereby established, to serve as an agency of the state  
9 and to perform the functions conferred upon it in this chapter, the  
10 department of soil conservation. The department shall be adminis-  
11 tered in accordance with the policies of the state soil conservation  
12 committee, which shall consist of a chairman and ten members. The  
13 following shall serve as ex officio nonvoting members of the com-  
14 mittee: The director of the state agricultural extension service or his  
15 designee, the secretary of agriculture, or his designee, the director of  
16 the state conservation commission or his designee, and the director  
17 of the Iowa natural resources council or his designee. Seven voting  
18 members shall be appointed by the governor and confirmed by the sen-  
19 ate. Six of the appointive members shall be persons engaged in actual  
20 farming operations, one of whom shall be a resident of each of the six  
21 conservancy districts established by section three (3) of this Act, and  
22 no more than one of whom shall be a resident of any one county. The  
23 seventh appointive member shall be chosen by the governor from the  
24 state at large and shall be a representative of cities and towns. The  
25 committee may invite the secretary of agriculture of the United States  
26 to appoint one person to serve with the above mentioned members, and  
27 the president of the Iowa county engineers association may designate  
28 a member of the association to serve in the same manner, but these  
29 persons shall have no vote and shall serve in an advisory capacity only.  
30 *The director of the department of environmental quality shall be an*  
31 *ex officio nonvoting member.* The committee shall adopt a seal, which

32 seal shall be judicially noticed, and may perform such acts, hold such  
 33 public hearings, and promulgate such rules and regulations as may be  
 34 necessary for the execution of its functions under this chapter.

1 SEC. 112. Section one hundred thirty-five point eleven (135.11),  
 2 subsection seven (7), section one hundred thirty-six point three  
 3 (136.3), subsection two (2), paragraph c, section two hundred six point  
 4 three (206.3), subsection two (2), paragraph d, section two hundred  
 5 six point six (206.6), subsection one (1), and chapters one hundred  
 6 thirty-six A (136A), one hundred thirty-six B (136B), two hundred  
 7 six A (206A), four hundred fifty-five B (455B), four hundred fifty-  
 8 five C (455C), four hundred six (406), Code 1971, are repealed.

1 SEC. 113. The effective date of this Act shall be the first of Janu-  
 2 ary, 1973, except that the governor may, prior to the first of January,  
 3 1973, by executive order, appoint the necessary commission members,  
 4 authorize the commissions to organize themselves as provided in this  
 5 Act, and transfer the functions, records, equipment, funds, other prop-  
 6 erty, and personnel provided in this Act to the department. Any powers,  
 7 duties, functions, responsibilities and programs not so transferred,  
 8 shall be transferred by operation of law on the first of January, 1973.

9 The governor may also by executive order prior to the first of  
 10 January, 1973, after he has determined that the boards and commis-  
 11 sions abolished by this Act no longer have any significant functions  
 12 to perform, provide that the offices of the members thereof be abol-  
 13 ished. Thereafter, such offices shall stand abolished and the members  
 14 thereof shall not be entitled to any further compensation.

15 Officers and employees of the department appointed, and members  
 16 of the commissions and the executive committee authorized to meet,  
 17 prior to the first of January, 1973, may be compensated as provided  
 18 in this Act from existing funds transferred by executive order to the  
 19 department.

Approved April 21, 1972.

## CHAPTER 1120

### HIGHWAY COMMISSION CONDEMNATION

S. F. 1038

AN ACT relating to eminent domain.

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

1 SECTION 1. In any condemnation proceedings instituted by the  
 2 state highway commission and pending on or filed subsequent to Janu-  
 3 ary 1, 1968, in any court of the state, under chapter four hundred sev-  
 4 enty-two (472) of the Code, wherein the property owner has served a  
 5 proper notice of appeal on the applicant for condemnation within the  
 6 statutory period, but has failed to serve notice of appeal on a lien-  
 7 holder within the statutory period as required by section four hundred  
 8 seventy-two point eighteen (472.18) of the Code, such failure shall not