

MINUTES
OF THE
ENVIRONMENTAL PROTECTION COMMISSION
MEETING
AUGUST 15, 2006

INGRAM OFFICE BUILDING
7900 HICKMAN ROAD
URBANDALE, IOWA

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MEETING MINUTES

CALL TO ORDER

The meeting of the Environmental Protection Commission was called to order by Chairperson Jerry Peckumn on August 15, 2006 in the Ingram Office Building, Urbandale, Iowa.

COMMISSIONERS PRESENT -

Suzanne Morrow
Darrell Hanson
Jerry Peckumn, Chair
Donna Buell
Francis Thicke, Vice Chair
Mary Gail Scott
David Petty – arrived at 10:45
Lisa Davis Cook, Secretary – arrived at 11:30
Henry Marquard – arrived at 10:40

ADOPTION OF AGENDA

Add: 11:00 – Present Item 12 - City of Des Moines – Referral to the Attorney General

Add: 1:00 – Appointment with Higman Sand and Gravel (Item 12 – Referral to the Attorney General)

Motion was made by Darrell Hanson to approve the agenda as amended. Seconded by Sue Morrow. Motion carried unanimously.

APPROVED AS AMENDED

APPROVAL OF MINUTES

Motion was made by Sue Morrow to approve the minutes of the July EPC meeting. Seconded by Donna Buell. Motion carried unanimously.

APPROVED AS PRESENTED

DIRECTORS REMARKS

Liz Christiansen attended the meeting on behalf of the Director, Jeff Vonk.

INFORMATIONAL ONLY

CONTRACT – REGION XII COUNCIL OF GOVERNMENTS – IOWA WASTE EXCHANGE PROGRAM

Monica Stone of the Environmental Services Division presented the following item.

The Department requests Commission approval of a contract not to exceed \$375,000 per year for up to three years with Region XII Council of Governments to deliver the services of the Iowa Waste Exchange program.

Region XII Council of Governments will partner with the Iowa Northland Regional Council of Governments (INRCOG), East Central Iowa Council of Governments (ECICOG), Eastern Iowa Community College District (EICCD) and Jim Reimer of the Iowa Materials Exchange (IME) to provide a total of 5.5 full-time equivalent positions to deliver the services of the Iowa Waste Exchange.

The Iowa Waste Exchange (IWE) is a 15-year old confidential, non-regulatory program that assists Iowa companies in matching and recycling their by-products with companies that can add value to those by-products. Since its inception, the IWE has matched almost 5,700 by-products and other waste materials. The IWE's success in matching materials has resulted in the diversion of more than 875,000 tons of waste from Iowa landfills with associated savings to businesses of more than \$24.5 million in avoided disposal costs. Participating businesses also realize savings from avoided purchases and reductions in transportation costs and storage space.

The Department of Natural Resources (DNR), Department of Economic Development (DED), and the Iowa Waste Reduction Center (IWRC) partner on strategic planning, collaboration and assistance to support the Iowa Waste Exchange. For the past several years, DNR has contracted with DED for administration of the IWE.

In January 2006 the DED, in conjunction with the DNR, hosted a business process improvement event for the IWE. This process improvement event was held in response to concerns voiced by current contractors regarding future program direction and funding. The process improvement team included staff of the DNR, DED, IWRC, current waste exchange contractors and area resource specialists, solid waste officials, and recycling market representatives. Customers of the program were invited, but unable to attend. The result of the process improvement event led to the following changes:

1. Establish one functional owner of the Iowa Waste Exchange and define their role to include primary responsibility for recycling market development, statewide marketing and program funding. It was determined that the owner should be an organization where the work of the IWE Aligns/supports the mission of the agency and has the potential to be integrated with other environment/economic business assistance goals and programs.
2. Maintain a minimum of five full time equivalent (FTE) field specialist positions.

Following the process improvement event, officials from DED and DNR met and determined that DNR should be the functional owner of the Iowa Waste Exchange.

A request for proposals for IWE services was issued in June 2006. The purpose of the RFP was to identify a streamlined, field based delivery mechanism for the IWE that would yield the greatest results within the existing budget.

Proposal reviewers included:

Jeff Beneke, Iowa Waste Reduction Center	Jeff Geerts, Dept of Natural Resources
Monica Stone, Dept of Natural Resources	Matt Rasmussen, Dept of Economic Development

Two proposals were received from the following organizations.

	Applicant	Service Area Proposed
1	Region XII Council of Governments	Statewide
2	Area 15 Regional Planning Commission	Regional or Statewide

The department chose the Region XII Council of Governments proposal for several reasons. The Region XII Council of Governments’ proposal includes three entities that are current contractors of the Iowa Waste Exchange, Region XII COG, INRCOG, and EICCD. Their proposal also includes 3.5 full-time equivalent (FTE) area resource specialists currently delivering the services of the waste exchange out in the field. The Region XII COG proposal proposed an additional .5 FTE more than the competing proposal and at a lower overall cost. The selected applicant will also provide the department the opportunity to have a single contract for waste exchange service delivery versus the current situation of having to maintain and monitor eight contracts resulting in increased efficiency and reduced administrative costs for the department.

The money for the Iowa Waste Exchange program comes from solid waste tonnage fees and is equivalent to approximately \$400,000 per year. Up to \$30,000 of the funding yearly is directed to the Iowa Waste Reduction Center by state law to provide technical services to the IWE.

Motion was made by Donna Buell to approve the contract as presented. Seconded by Francis Thicke. Motion carried unanimously.

APPROVED AS PRESENTED

CONTRACT – IOWA WASTE REDUCTION CENTER – IOWA WASTE EXCHANGE PROGRAM

Monica Stone of the Environmental Services Division presented the following item.

The Department requests Commission approval of a contract not to exceed \$30,000 per year for up to three years with the Iowa Waste Reduction Center of the University of Northern Iowa to provide technical assistance and training services for the Iowa Waste Exchange program.

The Iowa Waste Exchange (IWE) is a 15-year old confidential, non-regulatory program that assists Iowa companies in matching and recycling their by-products with companies that can add value to those by-products. Since its inception, the IWE has matched almost 5,700 by-products and other waste materials. The IWE's success in matching materials has resulted in the diversion of more than 875,000 tons of waste from Iowa landfills with associated savings to businesses of more than \$24.5 million in avoided disposal costs. Participating businesses also realize savings from avoided purchases and reductions in transportation costs and storage space. The IWE was formerly known as the By-products and Waste Search Service.

The Department of Natural Resources (DNR), Department of Economic Development (DED), and the Iowa Waste Reduction Center (IWRC) partner on IWE strategic planning, collaboration and assistance. Code of Iowa chapter 455E.11 states "The department shall expend not more than thirty thousand dollars of the moneys appropriated under this subparagraph subdivision to contract with the by-products and waste search service at the University of Northern Iowa to provide training and other technical services to grantees under the program."

The Iowa Waste Reduction Center has provided technical assistance and training for the Iowa Waste Exchange for more than a decade. The Iowa Waste Reduction Center provides their expertise to the IWE in a variety of manners including training of waste exchange service providers on issues such as hazardous materials regulations, reuse and recycling best practices, process improvement opportunities for waste exchange clients, and methods of conducting on-site by-product assessments for business and industry. In addition, the Iowa Waste Reduction Center assists the IWE in researching alternative uses for by-products, researching environmental compliance of markets used by the waste exchange and by assisting in designing, maintaining and updating the program's extensive database of client information.

The money for the Iowa Waste Exchange program comes from solid waste tonnage fees and is equivalent to approximately \$400,000 per year. Up to \$30,000 of the funding yearly is directed to the Iowa Waste Reduction Center by state law to provide technical services to the IWE.

Motion was made by Darrell Hanson to approve the contract pending completion of the budget negotiations. Seconded by Mary Gail Scott. Motion carried unanimously.

APPROVED AS PRESENTED

DAM BREACH ANALYSIS & SURVEY DATA – VJ ENGINEERING

Lori McDaniel, Environmental Program Supervisor of the Water Resources Section presented the following item.

The Department requests Commission approval of a contract in the amount of \$100,800 with VJ Engineer for Dam Breach Analysis & Survey Data.

The Iowa Department of Natural Resources is the state agency responsible for the dam safety program in Iowa. The dam safety program consists of reviewing proposals for new dams to assure that they meet all applicable department criteria and periodic inspections of existing major dam

structures. In addition, inspections are made of existing non-major dams in urbanizing areas to determine if urbanization has affected the downstream hazard class of the dam.

The Department's dam safety program is funded through a FEMA grant. The grant scope of work includes performing a dam breach analysis to make a determination of the effects of a dam failure on lands, buildings and other structures downstream of dams. The need for this information two fold. First, it is desirable to have a failure analysis and dam failure inundation mapping for all high hazard potential dams so that information can be incorporated into an emergency action plan for each dam. Second, there are existing dams for which the originally assigned hazard class is now in question because of development that has occurred downstream of the dam since its construction. The analysis is needed to better assess the current hazard class so as to determine if the dam meets current standards associated with its present hazard classification.

The funding for this project comes from the federally funded FEMA Dam Safety grant.

This contractor was chosen because the evaluation committee scored them the highest in regard to the scope of work, project cost, and reporting and timeframes.

A dam breach analysis will be performed on the following dams:

1. Lake Anita Dam – NE1/4 Section 32, T77N, R34W, Cass County
2. Lake Sundown Dam – SE1/4 Section 29, T70N, R16W, Appanoose County
3. Leisure Lake Dam – NE1/4 Section 30, T86N, R2E, Jackson County
4. Woodland Lakes Estates Dam – NE1/4 Section 7, T80N, R22W, Polk County
5. Marion County Roadgrade Dam – SW1/4 Section 17, T76N, R18W, Marion County
6. Lake Ponderosa Dam – NW/14 Section 10, T78N, R15W, Poweshiek County
7. Anderson Dam – SW1/4, SW1/4 Section 27, T78N, R27W, Dallas County

Motion was made by Francis Thicke to approve the contract as presented. Seconded by Darrell Hanson. Motion carried unanimously.

APPROVED AS PRESENTED

CONTRACT - ENVIRONMENTAL MONITORING AND LABORATORY SERVICES – UNIVERSITY OF IOWA HYGIENIC LAB

Dennis Ostwinkle of the Field Services and Compliance Bureau presented the following item.

The Department requests Commission approval of a contract in the amount of \$490,746 with the University of Iowa Hygienic Lab with the intent of aiding the Director of the Iowa Department of Natural Resources in determining the quality of the environment of the State of Iowa by providing field and laboratory services in support of environmental control programs and summarizing and reporting environmental quality data.

The contract scope of work includes:

- Water Quality Monitoring: Influent and effluent composite samples; fish kill monitoring; emergency response; fish tissue monitoring, and storm water runoff.
- Water Supply Support: Drinking water and public water supply monitoring.
- Management Services: One part-time staff position to develop and implement the Electronic Records Management System information and public relations work for the agency
- Director's Office: One part-time staff position to represent the Department on various boards and committees and coordinating Department activities involving agriculture with commodity organizations, wildlife groups, environmental organizations, federal and state agencies, and other stakeholder groups.
- UST Corrective Action Specialist: One staff position to manage corrective actions at high risk leaking underground storage tank (LUST) sites
- Iowa Great Lakes Watershed Assessment: One full-time staff position for technical assistance in completing a watershed assessment of the Iowa Great Lakes region and comprehensive plan to address water quality
- Dam Safety Inspection: Three part-time staff positions to inspect all dams (nearly 300) in the state that are classified as "major"

The University Hygienic Laboratory (UHL) is the State of Iowa's Environmental and Public Health Laboratory. The Department has several contracts with the laboratory to provide analytical and fields services.

This contract is federally funded through the U.S. EPA Performance Partnership Grant and the EPA Section 319 Nonpoint Source Management Program.

Motion was made by Donna Buell to approve the contract with UHL as presented. Seconded by Darrell Hanson. Motion carried unanimously.

APPROVED AS PRESENTED

FINAL RULE– CHAPTER 68 “COMMERCIAL SEPTIC TANK CLEANERS” AND 69 “ONSITE WASTEWATER TREATMENT AND DISPOSAL SYSTEMS”

Brent Parker, Environmental Engineer Senior of the Environmental Services Division presented the following item.

The Environmental Protection Commission is asked to consider changes to IAC Chapters 68 Commercial Septic Tank Cleaners. In the 2005 legislative session HF 834 was passed and signed into law. This law required the following changes to the rules related to pumping and cleaning of rural septic tanks and the disposal of the septage:

- Requires contractors to submit an annual waste disposal management plan.
- Requires an inspection of the sites used for disposal of septage
- Increases the licensing fees and allows the Department to contract for inspection services with county environmental specialists

- Increases fines for violation of these rules
- Establishes a dedicated fund for the deposit of septic tank pumping contractor fees

The Department convened a stakeholders committee in late summer of 2005 to review the rules and suggest changes. The committee was made up of licensed septic pumpers and sanitarians from several areas of the state. Representatives were chosen from urban as well and rural counties. It was decided the chapter is to be rescinded and reissued because of the large number of changes.

Major changes proposed for Chapter 68 include:

- Some new or modified definitions
- The requirement for submission of an annual waste management plan
- Increase in fees from \$25 per year to an average of \$500 per year based primarily upon volume of waste pumped
- Inspection requirements for pump trucks and land disposal sites and the authority to contract with counties to do the inspections
- Requirement that portable toilet waste be only taken to a public wastewater treatment plant
- Clarification of land spreading requirements
- Increases in the fines assessed for violation of the rules from \$25 to \$250

The subrule 69.17(1) which repeats sections of Chapter 68 will be deleted.

These rules were filed as a Notice of Intended Action and six public hearings were held to receive public input to these new procedures. Oral comments from 42 individuals and written comments from 1 organization and 3 individuals were received during the public comment period. The attached responsiveness summary addresses all written and oral comments. Significant change proposed based upon comments received:

The separation distance from dwellings was made more consistent with the livestock waste rules: 750 feet for surface spreading and just 250 feet for incorporation and injection.

A seventh hearing was scheduled in Des Moines for July 25. This was done to comply with the requirements of procedures set to fulfill a request by the Administrative Rules Review Committee for a regulatory analysis. This regulatory analysis was done to address the demands on counties to do inspections and the fees collected to pay for these inspections. This rule will go into effect on October 18th, 2006.

Brent Parker said that about 40% of the septage is land spread and 60% is treated by waste treatment facilities. With septic tank septage, we make assumptions on the amount of nitrogen. If it's more than the normal amount we do take tests for nitrogen. We do follow a number by EPA on how much septage can be spread on a certain number of acres. Most septage is treated with lime, which kills the bacteria. Not all treatment facilities have the capacity to handle more

sewage, which is why some areas of the state land apply it.

We will try to get as much enforcement as possible but that's difficult with the limited amount of people and money for funding additional staff.

Francis Thicke said that he is concerned with unincorporating the septage. A concern was raised by a citizen of Earlham about a septage hauler dumping a couple times a day near their home. I don't believe the separation distance is far enough away.

Donna Buell agreed.

Motion was made by Francis Thicke to remove the wording on chapter 567-68.10(2)c.2.8 (deleted text: "The separation distance requirement to residences provided in this subparagraph shall be reduced to 250 feet if either one of the following apply:

The liquid manure is injected into the soil or incorporated within the soli not later than six hours from the original application.

The titleholder of the land benefiting from the separation distance requirement executes a written waiver with the titleholder of the land where the manure is applied.

Seconded by Darrell Hanson. Motion carried unanimously to approve the amendment.

Francis Thicke said that 750 feet seems too close for a hauler to dump waste in regards to a residency.

Motion was made by Francis Thicke to change the 750 separation distance to 1,250 feet from an occupied residence. Seconded by Donna Buell.

Darrell Hanson said that the 1,250 feet separation distance is too much of a change. Implementing the 750 feet distance will be a good step in the right direction. We could always increase it later depending on how this change goes over. Enforcement is what will make the difference, not necessarily adopting a further separation distance.

David Petty agreed with Darrell's comments. We can always come back and present the 1,250 feet separation distance at a later date.

Roll call vote went as follows: Henry Marquard – nay; Sue Morrow – aye; Darrell Hanson – nay; David Petty – nay; Donna Buell – aye; Mary Gail Scott – aye; Francis Thicke – aye; Jerry Peckumn - nay . Motion failed to approve the 1,250 feet separation distance.

Motion was made by Darrell Hanson to approve the final rule – Chapter 68 and 69 as amended. Seconded by Donna Buell. Motion carried unanimously.

APPROVED AS AMENDED

REFERRAL TO THE ATTORNEY GENERAL

CITY OF DES MOINES / DES MOINES METROPOLITAN WASTEWATER RECLAMATION AUTHORITY – WASTEWATER

Jon Tack presented the following information.

We are asking for the referral of the City of Des Moines because of the need for a formal judicial consent order to formally require a long term control plan (LTCP). Mainly, because a permit cannot be renewed without a formal enforceable compliance schedule. The City's current LTCP does not provide for an active program to maximize the use of storage capacity within the collection system, as required by the nine minimum controls. The system does not have any controls in place for collection of solid and floatable materials from combined sewer waters prior to discharge from the CSO's, as required by the nine minimum controls.

Jim Stricker, of the DNR is working with the City on what the control plan should include.

The City of Des Moines representatives are here today but are not objecting the referral.

Motion was made by Darrell Hanson to refer the City of Des Moines to the Attorney General. Seconded by David Petty. Motion carried unanimously.

REFERRED

PUBLIC PARTICIPATION

SCOTT SMITH, President of Iowa Society of Solid Waste Operations presented the following:

Thank you for providing the opportunity to comment on proposed rulemaking for Chapter 113-Sanitary Landfills for Municipal Solid Waste: Groundwater Protection Systems for the disposal of Non-Hazardous Wastes. The Iowa Society of Solid Waste Operations (ISOSWO) is an organization committed to improving the environment everyday through its members' involvement in every aspect of solid waste management.

ISOSWO believes that Iowa's landfill rules, which were approved by the United States Environmental Protection Agency (US EPA) in 1997, remain in conformance with federal standards. The only substantive changes in Federal landfill rules since that time have been intended to encourage new technologies, and have not materially changed the design or operating standards for landfills. The scope of the proposed rule change goes beyond Federal standards and the information item rationale presented to the EPC with its agenda.

ISOSWO notes that rules enforcement is also an issue. Consistent and appropriate enforcement of the rules approved by US EPA in 1997 would resolve, without further modification, some of the landfill liner-related that Iowa Department of Natural Resources (DNR) is currently attempting to address through modifications to the existing US EPA – approved rules.

Regardless of any changes to the current rules, effective and consistent compliance with Federal regulations is unlikely to be achieved unless DNR also addresses this enforcement issue.

For these reasons ISOSWO asked DNR to stop the rulemaking process for Chapter 113. This position was stated in a letter from ISOSWO to DNR dated June 5, 2006 (enclosure). In response, DNR indicated in a letter dated June 30, 2006 (enclosure) the rulemaking process will go forward without delay. However, DNR in a meeting on July 31, 2006, agreed to request a response from US EPA regarding the adequacy of the language approved in the 1997 Solid Waste Permitting Program submittal.

ISOSWO requests a stay of the rulemaking until the EPA response is received.

HAL MORTON, Executive Director of the DMC Regional Waste Commission presented the following:

Landfilling is only one component of that system, which provides virtually all of the residential recycling, some of the commercial recycling, yardwaste composting, household hazardous waste management and other waste reduction programs for our area. Our integrated system approach has achieved and sustained a waste reduction program for our area. Our integrated system approach has achieved and sustained a waste reduction level of about 45%. Three quarters of our staff work full time in waste diversion activities, and even our landfill crew work directly in the processing of recycled glass, yardwaste composting, woodwaste recycling and other recycling activities. The point of this introduction is that our agency focus is environmental protection, not waste disposal.

I'd like to call your attention to the description in your agenda packet for Item 14. On the first page, the second paragraph begins with a summary statement similar to the one in the "Form for Regulatory Action Description" filed for SFY 2006. Specifically:

"This new chapter is intended to implement minimum federal standards promulgated on October 9, 1991 by the US EPA..."

The next sentence is a little confusing, in that it implies full EPA approval has not been achieved. However, it makes the point that

"...Iowa must have and enforce standards technically comparable to 40 CFR part 258 (RCRA Subtitle D)..."

The fourth paragraph correctly states that

"EPA approved the current MSWLF rules (Ch. 113) in 1997 as Subtitle D equivalent..."

The rest of the sentence is a little misleading, in that it again implies that Iowa has not implemented Subtitle D requirements. Referring back to the second paragraph, the only aspect

of Subtitle D implementation lacking in Iowa is ENFORCEMENT. We have the Subtitle D standards. They have been approved by EPA since 1997. They have not yet been enforced.

As the fourth paragraph correctly notes,

“This issue is that some landfills are still utilizing disposal units that do not meet the RCRA Subtitle D equivalent requirements for liners and leachate collection systems IN CURRENT IAC 567 – CHAPTER 113.” [emphasis added]

As a director of a solid waste agency; as a solid waste industry professional; and as a member of ISOSWO, I can unequivocally state that I have heard no quarrel with this description of the problem. However, the attached draft rule does not address the problem. Not amount of rule writing will solve a lack of enforcement. In fact, it appears that the entire goal of this agenda item could be achieved most effectively through enforcement of the existing rules without any rulemaking whatsoever.

As DNR has pointed out at the end of the third paragraph,

“Landfills that are RCRA Subtitle D compliant provide the maximum practical protection for Iowa’s groundwater and citizens.”

The problem then lies with those facilities that do not meet the current standards. The problem is not lack of Subtitle D standards. The statement toward the end of the fourth paragraph is again misleading.

“...DNR plans to incorporate a final compliance date for all MSWLF’s, as well as other regulatory updates...”

The compliance date has been established and unchallenged for some time. The current rules require that new regulatory standards be imposed at times of permit renewal or modification. Since the 1997 EPA approval, DNR has renewed every landfill permit more than once.

As for ‘...other regulatory updates...,’ the 117 pages of proposed changes to a rule that is currently only 31 pages long are clearly more than incidental. The proceeding sentence in your packet would lead to the assumption that “regulatory updates” refers to the new RD&D provisions adopted at the federal level since 1997.

Without any demonstrated strategy to enforce the current or proposed rules, additional requirements only become a burden on those landfills that voluntarily comply. Landfills not meeting the current standards are not likely to comply with any new ones either unless they face enforcement action. In other words, in the absence of enforcement action by DNR, the new rules in effect target the landfills already complying with Subtitle D rather than those that don’t.

The draft rules is not what is indicated in the preamble, nor will it help achieve the goal of bringing noncompliant landfills up to Subtitle D standards. I urge the EPC to stay the

rulemaking and to direct DNR to develop a plan for enforcing the existing rules before they propose any new ones.

JULIE KETCHUM, with Waste Management said that she shares the same environmental goals as the DNR and the Environmental Protection Commission.

Waste Management operates over 300 landfills nationally. All of which meet or exceed the subtitle D federal standards that protect the environment. Waste Management is the largest recycler in the U.S. We have two landfills in Iowa. One in Spirit Lake and one in Dickinson. Both meet the subtitle D requirements. Waste Management has been involved with the rulemaking process for the last 18 months. We have provided written comments.

We agree with the goals of environmental protection but the manner in which the DNR and Waste management think the goals should be achieved have diverged.

History of subtitle D and the existing rule, the existing Chapter 113 rules are adequate enough to meet the requirements of EPA.

Brief overview of technical comment.

Questions on previous approval by DNR's as far as design and activities that have been permitted by DNR. Will those permitted activities will have retroactive applicability

The purpose of this rulemaking has been to implement the federal minimum landfill criteria. The history of rule development in Iowa suggests that this purpose has been fulfilled. Subtitle D went into effect on October 9, 1991, the DNR saw it and received approval from EPA on August 19, 1997 for the rule. The correspondence was submitted to the DNR and received on October 22, 2004. In the letter from EPA, it states that we are pleased that the IDNR saw it and received approval for the solid waste permitting program on August 19, 1997 which implemented these criterion in Iowa. The letter further states that returning to Iowa's regulatory situation a compliance schedule for facilities to meet the liner requirements is recommended. The municipal Solid waste landfill Criteria have been in place for 13 years has been approved for 7 years.

We respectfully request that this process be delayed until Waste Management and the rest of the regulated community to work with the IDNR on a rule that is protective, robust and will stand the test of time.

TERRY JOHNSON, with Waste Management from Burnsville Minnesota said that there are a couple of elements with the Chapter 113 rule that needs to be worked out. There needs to be a clear purpose on what this rule is seeking to accomplish and a technical rationale. I would encourage a more collaborative process in the DNR for the regulatory parties.

Henry Marquard asked if Iowa was currently in compliance with the federal rules.

Terry Johnson said that based off of the correspondence from EPA, I would feel that Iowa is in full compliance with the Subtitle D requirements since 1997. I can not answer that for each landfill in Iowa.

JOE ROBERTSON, of the Solid Waste Management Commission in Marshall County said that I agree and support the comments made by Scott Smith as well as Waste Managements. We are concerned about moving forward with the rule that is proposed. It leaves a lot of issues to be addressed. I feel that Iowa is in compliance with Subtitle D requirements with the current regulations. We need to address the facilities that are not compliant with the current Subtitle D requirements. One of our large concerns is that we want it to remain cost sensitive. If we were required to come into compliance with the proposed rule, it would raise the cost of landfill fees. We could end up with backyard burning of garbage. I urge you to stay with the current rulemaking until some of these concerns have been addressed.

Donna Buell said that these rulemaking meetings have been going on for three years. And now you're requesting for more time?

Joe Robertson said that we are waiting for a letter from EPA to see if Iowa's current regulations are in compliance with the federal requirements.

CINDY TURKLE, with Turkle-Clark Environmental Consulting firm said that we as an industry have not seen these rules until March of this year. We have not been working on Chapter 113 rulemaking for three years. The DNR has been putting together rules in house based on what they have decided to choose from other states. A few of the industries comments were included but not substantially. The current rules are compliant with Subtitle D requirements. The current rules do provide for Subtitle D landfills. They are the same rules found in other states around the country, the problem is enforcement of the rules. Some of my clients have closed down their landfills and put in transfer stations, other landfills have went ahead to meet the current rules. DNR staff is coming back and asking us to go beyond the Subtitle D requirements. Why?? Why do we need to go beyond, what's the justification and reason? We have not heard from the DNR on the reasons why we need to go beyond the current Subtitle D rules. I support Scott Smith and Hal Morton's comments. I ask that you defer this proposed rule.

TOM HADDEN, Executive Director of Metro Waste Authority said that he would like to see the rulemaking go forward. The EPA put these rules into place more than 15 years ago and Iowa is the of the last states to comply. The October 2007 deadline has been set by EPA for all landfills in Iowa must come into compliance on the landfill liner requirements. We trust that the DNR will use the public comment to approve the rules to make them consistent, clear, enforceful and compliant with EPA. The Metro Waste landfill is undergoing extensive liner construction right now for \$8 million dollars. We believe that it is very important to protect the environment. We urge you to go ahead with the rulemaking process.

It's very frustrating as an industry when you spend millions of dollars to be in compliance only for the smaller competing landfills that are operating with little to no compliance. There's not a lot of enforcement.

VLADIMIR RYDZOVSKY, of JR Appliance commented on the Appliance Demanufacturing rule (Chapter 118).

Reports are required to track hazardous waste from appliances such as PCBs, Sodium chromates, mercury, etc.

I asked the DNR field office who reviews the reports from each site. The Field Offices said that the Central Offices reviews the reports, so I call the Central office and they told me that the Field office reviews the reports on hazardous waste.

We can not compete with other appliance demanufacturing sites that are not in compliance. We can't stay in business. They have no record of shipping out PCB's. J.R. Appliance is in compliance and we do record the tracking of PCB's. There needs to be more enforcement and oversight.

GARY JASPERSON, of Wilton Iowa said the DNR has received half a million for water and soil testing. I called the DNR last month requesting that they do sampling tests near the Salvage yard that adjoins my sister's property. They informed me that there was not enough information to test the site. In the newspaper (January 16, 2003) it states that sodium chromate boxes and PCB's were found. My sister's well is within 100 yards from this site. I'm just asking that the DNR test the water and soil.

Donna Buell asked what the salvage yard is called.

Gary Jasperson said that it was owned by Don Munk. The business was located on city property. Don Munk is in business in a 100 year floodplain in Muscatine down on the island.

EMILY PIPER, from Iowa Rural Water Association commented on Item 16- Chapter 43 – Water Supplies – Design and Operation. I want to thank the DNR for being so responsive in putting the fees in place. The fees have meet the required needs and they can propose capping the \$5,000 on an annual basis for pipelines and \$16,000 annually for any other pipe line work that requires a construction permit fee. I ask that you move forward on this rulemaking and I appreciate all of the support.

-----End of Public Participation-----

Dennis Ostwinkle from the Field office said that he doesn't know a lot of the details. I do know of Munk Salvage yard but I don't recall this particular complaint. I will look into this further and get back to you on the results of the samples taken.

Gary Jasperson said that the owner owed the City of Wilton \$15,000 for the clean up of the site. He skipped out on the fine, left town and set up business down on the island in Muscatine.

Henry Marquard said that it seems if the City of Wilton had to clean up his last site, it would be logical if we pursued the fine before issuing another permit especially under these types of conditions. Enforcement actions need to be taken by the DNR.

Jerry Peckum said that the Commission needs a response from the DNR at next month's meeting regarding this situation.

FINAL RULE: CHAPTERS 20, 22 AND 33, AIR QUALITY PROGRAM RULES – PREVENTION OF SIGNIFICANT DETERIORATION (PSD) RULES

Christine Paulson, Environmental Specialist Senior of the Program Development Section presented the following item.

The Commission will be asked to approve amendments to Chapter 20 “Scope of Title-Definitions-Forms-Rules of Practice,” Chapter 22 “Controlling Pollution,” and to adopt a new Chapter 33 “Special Regulations and Construction Permit Requirements for Major Stationary Sources – Prevention of Significant Deterioration (PSD)” of the 567 Iowa Administrative Code.

The primary purpose of the rule changes is to adopt into the state air quality rules major changes to the federal New Source Review regulations (commonly called NSR Reform).

A public hearing was held on July 10, 2006. No comments were presented at the hearing. One set of written comments, from EPA Region VII, was received prior to the close of the public comment period. The public comment period closed on July 12, 2006. Responses to the written comments are provided on the attached responsiveness summary.

In response to comments, the Department made minor corrections and clarifications in the final rules. These changes are noted in the preamble of the attached rulemaking.

The Department originally proposed NSR Reform rules in a Notice of Intended Action published in the Iowa Administrative Bulletin (IAB) as ARC 4005B on February 16, 2005. The public comment period for ARC 4005B closed on May 2, 2005. The Department was in the process of preparing final rules when the U.S Court of Appeals, District of Columbia, issued a ruling, vacating and remanding several provisions of the federal regulations.

Because the Court ruling had serious implications for the Department's rulemaking, the Department awaited guidance from the U.S. Environmental Protection Agency (EPA) on how to proceed. However, the procedural deadline for the Department's rulemaking approached, and no EPA guidance was forthcoming. As such, the Department elected to terminate the rulemaking. The Notice of Termination was published in the IAB as ARC 4563B on October 12, 2005.

Since the termination of the original rulemaking, EPA has provided guidance that is sufficient for the Department to proceed with NSR Reform rules. The Department is now adopting NSR Reform rules to comply with the EPA's requirements to modify Iowa's State Implementation Plan (SIP) to adopt NSR Reform.

A detailed explanation of the important aspects and dates of the federal NSR Reform regulations, the Department's activities to adopt NSR Reform, and the changes from the original Notice is

contained in the preamble of the attached Adopted and Filed rules. These activities are summarized below.

On December 31, 2002, the U.S. Environmental Protection Agency (EPA) promulgated revisions to the federal Nonattainment New Source Review (NSR) provisions and the Prevention of Significant Deterioration (PSD) provisions for attainment area NSR. Collectively, the NSR program of the Clean Air Act is a preconstruction review and permitting program applicable to new or modified major stationary sources of air pollutants. The Department estimates that there are approximately 300 major stationary sources in the state.

Prior to proposing the original NSR reform rulemaking, the Department convened a technical workgroup (facilitated by the Department of Economic Development) to review the elements of the major NSR program affected by this rulemaking. The workgroup was tasked with making recommendations to the Department regarding the adoption of the federal rulemaking into the Iowa Administrative Code. The workgroup was composed of affected stakeholders who have experience and knowledge of the major NSR program and was supported by the Department's permitting staff.

The workgroup's recommendations, public comments made for the original rulemaking, and EPA's guidance and recommendations, were considered in development of the new rulemaking. The Department provided the workgroup members an opportunity to review the Notice prior to preparation for the EPC agenda in May. The Department did not receive any suggested revisions from workgroup members.

Some of the significant changes from the Department's original NSR Reform rulemaking include the following:

- At the request of EPA, the Department elected not to adopt the nonattainment portion of the federal NSR reform regulations. EPA confirmed that, since Iowa currently does not have any nonattainment areas, the Department does not need to adopt these federal regulations at this time. The Department is adopting only the PSD portion of the federal NSR Reform regulations.
- The workgroup members recommended adopting the text of the federal regulations rather than adopting by reference. However, one of EPA's recurring requests was that the Department adopt NSR Reform by reference. To accommodate both interests, the Department is adopting a combination of EPA and the workgroup's recommendations. Portions of the federal regulations that are the foundation of the PSD program, such as the definitions and applicability provisions, are written into the final rules. Other federal provisions are adopted by reference.
- Previous provisions for Clean Units and Pollution Control Projects are not included in the final rules. These programs were vacated by the Court. EPA has confirmed that it is appropriate to remove these provisions from the Department's rulemaking.
- A portion of the federal NSR Reform rules referred to as the Equipment Replacement Rule (ERP) is not included in the rulemaking. The D.C. Court of Appeals had stayed

these provisions in 2003. On March 17, 2006, the Court took final action and overturned the ERP provisions. As such, the Department is proposing to include the PSD program provisions for routine repair and replacement that existed in state and federal rule prior to NSR reform.

- The Department is adopting recordkeeping provisions under the "source obligation" portion of the rulemaking that are different from the federal provisions. These provisions are meant to address the Court's remand of the federal recordkeeping provisions back to EPA. EPA has not taken any official action on the Court's remand, and has not issued any formal guidance to states on this issue. However, EPA Region VII has offered informal recommendations that EPA Region VII suggested may address the Court's underlying concerns. The Department is adopting recordkeeping language that incorporates EPA Region VII's informal recommendations, as well as text that is similar to what some other states are currently proposing.

If the Commission approves these final rules, they will be published in the Iowa Administrative Code on September 13, 2006 and will become effective on October 18, 2006.

Christine Paulson said that rules are essentially the same as EPA rules, they are just organized differently. The NSR rules are unique since the federal rules do not address this issue.

Motion was made by Lisa Davis Cook to approve the final rule as presented. Seconded by Darrell Hanson. Motion carried unanimously.

APPROVED AS PRESENTED

NOTICE OF INTENDED ACTION – AMEND IAC 567 CHAPTER 118– “DISCARDED APPLIANCE DEMANUFACTURING”

Theresa Stiner, Environmental Specialist Senior of Energy & Waste Management Bureau presented the following item.

The Commission is requested to approve the attached Notice of Intended Action (NOIA) to rescind and replace IAC 567—Chapter 118 “Discarded Appliance Demanufacturing.” This proposed rule revision will improve the department’s ability to ensure that hazardous materials from appliances are being handled in an environmentally sound manner by revising the record keeping and annual reporting requirements, easing storage time limits on PCB articles that are disposed of through a Regional Collection Center, and incorporating federal requirements. The chapter has also been reformatted to be consistent with other chapters and to improve readability.

The annual reports are intended to verify that the demanufacturer is removing refrigerant, PCBs and mercury switches. Currently, the annual reports only include the amounts or mercury, refrigerant and PCBs shipped for disposal and the total weight of demanufactured appliances shipped to a recycler. It does not include the amount of hazardous materials removed from

appliances but are stored on site waiting disposal or the number or type of appliances demanufactured making it very difficult for the department to determine if a reasonable amount of refrigerant, PCBs and mercury switches are being removed from the appliances. The new record keeping and reporting requirements will include the actual number of appliances demanufactured by type and the number of PCB capacitors, mercury devices and amount of refrigerant and removed each year. This will enable the department to make a correlation between the number and type of appliances being demanufactured and the amount of material recovered.

Currently PCBs must be disposed of by incineration, recycling or another approved method within one year of removal from the appliance. Because most appliance demanufacturers recover very small quantities of PCB capacitors, it is often costly to dispose of the capacitors within this time frame. The proposed change will allow Regional Collection Centers that accept PCB capacitors from appliance demanufacturers to dispose of the capacitors within one year of receiving it from the demanufacturer rather than within one year of when the demanufacturer removed it from the appliance.

There are also a number of changes to reflect changes in federal regulations and to better incorporate federal regulations.

The Department does inspections at disposal sites to look for contaminants. The first time a contaminant is found, a notice of violation is issued first and then the DNR will help them get into compliance.

There is an 8 hour training session for collectors on the regulations. This has to be done before a permit can be issued. They also need the proper equipment in place.

Donna Buell asked if someone reads the reports.

Sue Morrow stated her concerns with enforcement from the DNR.

Theresa said that the Central office reviews them to make sure that it's in reason, then we forward it out to the field office for more depth research since they are more familiar with the location.

Wayne Gieselman said that there is only one full-time staff person per field office that is involved with handling all solid waste issues. We have had funding issues for the solid waste section.

Motion was made by Donna Buell to approve the NOIA for Chapter 118 as presented. Seconded by Sue Morrow. Motion carried unanimously.

APPROVED AS PRESENTED

NOTICE OF INTENDED ACTION – ADOPT IAC 567 CHAPTER 215– “MERCURY SWITCH RECOVERY FROM END-OF-LIFE VEHICLES”

Theresa Stiner, Environmental Specialist Senior of the Energy & Waste Management Bureau presented the following item.

The Commission is requested to approve the attached of Intended Action to adopt IAC 567—Chapter 215 “Mercury Switch Recovery from End-of-Life Vehicles.” This rulemaking is in response to House File 2362, Mercury Free Recycling Act, passed by the 2006 Iowa Legislature.

The proposed rule is taken directly from the legislation that was passed with only minor formatting changes.

Mercury switches were used in convenience lighting in vehicles as recently as 2002. If the mercury switches are not removed when the vehicle is retired, the mercury will be released to the environment when the metal is recycled. The Mercury-Free Recycling Act requires auto manufacturers to implement a system to recover at least 90% mercury switches from end-of-life vehicles. Manufacturers will submit a plan to the Environmental Protection Commission (EPC) by September 30, 2006 detailing how they will implement, operate and maintain the collection system. Manufacturers are responsible for all of the costs of the system including labor to remove the switches, packaging, shipping, recycling or disposal, training for program participants and public education.

Reporting Requirements

One year after the implementation of a removal, collection, and recovery system, and annually thereafter, a manufacturer subject to section 455B.803 shall report to the department concerning the performance under the manufacturer's plan. The report shall include statistical information received under section 455B.803. The report shall also include but not be limited to all of the following:

- a. The number of mercury-added switches collected.
- b. An estimate of the amount of mercury contained in the collected switches.
- c. The capture rate as defined in section 455B.802.
- d. The estimated number of vehicles manufactured by the manufacturer containing mercury-added switches.
- e. The estimated number of vehicles manufactured by the manufacturer that have been processed for recycling by vehicle recyclers.

The Mercury Free Recycling Act includes a provision that will repeal the act if a national agreement is reached that has a 90% target recovery rate and a funding mechanism that provides for the total cost of the program. A national agreement has been finalized.

A public hearing will be held on October 4th, 2006. The final rule will be brought back at the November EPC meeting for final approval.

Motion was made by Darrell Hanson to approve the NOIA – Chapter 215 as presented. Seconded by Lisa Davis Cook. Motion carried unanimously.

APPROVED AS PRESENTED

REFERRALS TO THE ATTORNEY GENERAL

HIGMAN SAND AND GRAVEL, INC. (PLYMOUTH COUNTY) – FLOOD PLAIN DEVELOPMENT / WATER USE / WASTEWATER

Randy Clark, DNR Attorney, presented the following information on behalf of the Department.

Higman Sand and Gravel Inc. operates a sand and gravel mining operation located in Westfield Township in Plymouth County.

On May 2, 2005, Department Field Office #3 (FO3) staff investigated a complaint that levees and other obstructions constructed by Higman on the flood plain along the Big Sioux River were causing adverse flooding impacts on adjacent landowners. (maps were distributed along with photos) FO3 staff observed a levee being constructed along the Big Sioux River. Subsequent investigation by FO3 determined that there was no flood plain permit authorizing any construction. The area where the levee was constructed, the floodway, is required to be left open for flood flows, so even if there would have been an application for permit, it would not have been approved since it would have obstructed flood flows.

FO3 staff also observed that a dewatering pump was installed in the gravel pit. Subsequently, DNR staff also determined that there were no general permits authorizing discharges. (NPDES General Permit 3 and NPDES General Permit 5).

A certified letter was sent by DNR to Higman (received on May 24, 2005) notifying Higman that the levee construction and dewatering/storm water discharges were unauthorized and violated state law. They were also directed to remove the recently constructed levee within 60 days, and then submit within 30 days an as-built survey of all levees constructed by Higman in Plymouth County and to submit, within 30 days, completed notices of intent calling for coverage under General Permits 3 and 5.

On July 21, 2005, FO3 was notified by Higman's attorney that the as-built levee survey was being prepared and the engineers were working on the hydraulic analysis and application necessary to obtain a permit for the levee that was built back in May.

On October 20, 2005 the DNR received the as-built levee survey. The floodplain permit applications are reviewed in the order they are received by the DNR, so a backlog of applications prevented review for 7-9 months.

There was a notification for coverage under NPDES permit #5, which came in on July 26, 2005.

On April 5, 2006, FO3 staff inspected the areas when the Big Sioux River was at flood stage of 19 feet. No new levees were observed at that time.

On April 10, 2006, FO3 staff confirmed a complaint that Higman had constructed a new levee. It was approximately 10 feet high and ¼ mile long. It appeared to be blocking the flow of flood waters to the north.

On May 19, 2006, FO3 staff confirmed a complaint that Higman was withdrawing water from its south pit and discharging it to the Big Sioux River.

By letter dated May 26, 2006, Higman was notified by Department that the unauthorized new levee and water withdrawals were illegal and that they should stop all levee construction and water withdrawal until authorization from the Department is obtained.

On May 31, 2006, FO 3 staff visited the site and observed that unauthorized water withdrawals continued and the new levee had not been removed.

On June 9, 2006, the Department received Higman's application to modify an existing water withdrawal permit issued to Plymouth County.

On July 6, 2006, the Department issued Registration to Higman authorizing the water withdrawals for the limited purpose of providing construction materials for a highway bypass project in LaMars.

In summary, the Department documented:

- Multiple days of floodplain violations. (A floodplain permit is used for construction, use and maintenance of floodplain activities.) \$500 per day
- One to two days of water withdrawal violations.
- Violation for multiple days without NPDES permits. \$5,000 per day

They may come forward today and say they are working on fixing the problem (which would be good) but in the spring and fall they continued to operate their business despite not having permits.

This needs to be referred to the Attorney General to institute legal proceedings necessary to obtain compliance with the law pertaining to flood plain and water use.

Jeff Sar, Attorney in Sioux City representing Higman Sand and Gravel presented the following.

Harold Higman – Owner

Justin Higman – Son of Harold

Shelly Pangburn- Safety inspector and to make sure Higman is in compliance with DNR rules

Pat Bickett – Engineer and Surveyor

Linn Neugebauer – expertise in hydrology

Higman Sand and Gravel is a family owned business and has been since the 1940's.

There is full compliance with both general permit No. 3 and 5. This is a continuous project. It is our belief that the litigation report submitted to you doesn't really present a fair summary of what transpired out there.

On May 2, 2005 – DNR staff investigated a complaint. Each complaint referenced in the report has come from one source. There is some bad history with this one individual but not from other folks. Complaints from damages, harm and unhappiness doesn't exist. The nearest neighbors are in Akron and Harold Higman is the mayor of Akron.

Higman supplies all the road gravel to Plymouth County. The pit area that has caused us some trouble was previously owned by the County. Higman is now operating the former Plymouth County pit.

The report states that levees were built. They were stock piles of dirt and materials. Trucks are coming and going all the time to load up. There is only flood plain mapping to the north edge of Akron. They are not building levees. They are digging sand and gravel and the piles get moved around. It may not mean anything in technical terms. At some point, we decided to use the county's permit. We transferred all of the names and information. Basically, the issues set forth have been resolved. DNR requested an as built survey, they have it. There was also a request for hydrology analysis, which has been done by Mr. Neugebauer and is in the DNR file.

In April of this year, the flood waters were coming up and they did slap a levee up. There are dikes that line the Big Sioux River. These dikes precede any governmental regulation. What was observed was the Higman mining operations. Higman removed the top soil and stock piles it on site for eventual reclamation purposes. The aggregates are excavated and temporarily stock piled until such a time as they are hauled away. Frequently, a pond results in which water collects. Sediment falls out. Upon occasion, the pond is pumped. Upon completion of the mining, reclamation occurs. There is a dike that was built in the 1950's. It prevents any further flow to the south. The water began backing up and as it got further to the north, Justin put up a levee to limit damage arising from emergency flooding. This shouldn't have happened. No levee should have been constructed. They cut a hole in the levy, towards the roadside. The levee has been removed. There was no damage from this instance. We could bring every neighbor excluding the one mentioned earlier and each one would testify that no damage occurred.

Paperwork for the dewatering is in order. Higman is making every effort to learn and follow all of the applicable rules and regulations and believes it has done so.

Mr. Neugebauer said that this is not a typical flood plain. I have been working with flood plain regulations since 1975. I have worked with the DNR and I understand floodplains. An assumption was made that the levees would breach. This is not a federal levee, it was privately constructed. The levee did not breach; instead the water went through a hole in the levee. The water flow was flowing from south to north. They were probably trying to stop the backing up of water into their operation so they could meet the contracts that needed materials. The operation has been in this place for 60 years and the floodplain was added just in the last ten years. The permit we applied for, which we haven't had a response on, increased the flood flows. We included stockpiling in a long pier that would go with the flow of the water and not block it. If there is a government easement, Higman would be willing, at its cost, to repair the breach in the dike if appropriate approval is received.

Francis Thicke asked how long the hole was in the levee.

Harold Higman said that the hole has been there for years, it is on the property of Mr. Ohlerking. Mr. Ohlerking has come to me and said that I should buy him out or he'll break me. That is his intent. The levees were originally built to protect houses and the city of Akron. There were three families and wells that could have potentially been damaged. I was just trying to protect the property, like we were trying to do when we were protecting the town.

Darrell Hanson asked about the chronology of events. It looks like a 30 day deadline was given but the next response from Higman wasn't until 60 days later. Than another deadline was given and again not met on time.

Jeff **Sar** said that we did miss some deadlines but there was communication with the Central office and the Spencer Field office. There had been communications regardless of some of the comments from the litigation report.

Pat Bickett said that he worked on the as built survey. I talked with Bryon Whiting on June 13th to discuss the schedule as far as getting out to do the survey and getting an extension until July 24th. There was some question with the General permit 3, and whether it would be required. Bryon said I would need it, but I had some questions. So I talked with Joe Griffin in Stormwater Section and he said that we wouldn't need it if you're not discharging. There was some delay because of the situation.

Randy Clark said that it is a requirement to have their own NPDES permit. They can't operate under the Plymouth County Permit. They have a totally different operation.

A water use permit can transfer with the land at the specified location. The permit that Higman has is not for the specified location, therefore it is invalid.

Shelly Pangburn clarified all of the permit confusion. There is one General Permit No. 3 - storm water, one General Permit No. 5 – for pumping water and a discharging permit. We did not have No. 3 or No.5. We didn't even know that we needed to have them. When it was brought to our attention we proceeded to get all of the required permits. We did modify the Water Use Permit

from the county, to make the process less paperwork. I didn't know until after meeting with the Central office that I had to modify the water permit.

Randy Clark said that the main concern is the flood plain and NPDES permits. We really need to evaluate the flood plain application to determine if there is full compliance. As of late, they are taking steps to get into compliance but we still have a period of violations from the past that are not okay. They operate as they need to and then after the fact they get involved.

Harold Higman said that Randy is saying that we are doing business and then trying to back up. He cannot speak for me, we are making every effort. I hired Shelly to find out what we need to do to get into compliance. It's confusing when you receive mixed messages from the DNR on what we need and or don't need.

Motion was made by Donna Buell to refer Higman Sand and Gravel to the Attorney General.

Darrell Hanson said that if Higman received two different communications on whether or not they needed a permit by DNR. You can't hardly penalize them for that.

Mary Gail Scott said that DNR is for assistance not to show you how to run your business. You are responsible for the laws.

Lisa Davis Cook asked about the language stating that the "levee" was removed after the flood waters receded, but I have a picture from August 10th showing that it's still there.

Jeff **Sar** said that there was a cut made.

Lisa Davis Cook said that when she hears the term removed, that means it's non-existing. It's now August 2006 and since 2005, you knew it wasn't supposed to be there without a permit.

Jeff **Sar** said that it has been removed. The language in the report is not correct. It was cut, not removed.

Seconded by Darrell Hanson.

Jeff Sar asked the Commission to defer this until we can determine if Higman Sand and Gravel can stay in business. We just dig gravel up and down the Big Sioux River. We won't build dikes or levees, we put it in piles. This injunction could shut us down.

Randy Clark said that the injunction would not shut them down but would require compliance with flood plain and water use requirements. The flood plain permit can authorize stock piles on flood plains. There are numerous operations that have flood plain permits. The Department of Agriculture is involved with the digging part of gravel pits.

Henry Marquard said that it makes sense for an operation to construct a quick "pile" to block waters from harming their operation. If it takes six months to get a flood plain, there could be

many rains until you have authorization. I oppose referral of this facility. An injunctive relief does not seem necessary.

Randy Clark said that there are exceptions which allow getting a flood plain permit at a quicker time. Operations, especially those along a river, should anticipate waters and flooding.

Francis Thicke said that he is concerned that DNR is being too harsh on this case.

Roll call vote went as follows: Lisa Davis Cook – aye; Mary Gail Scott – aye; Darrell Hanson – aye; Donna Buell – aye; Francis Thicke – nay; Henry Marquard – nay; David Petty – nay; Sue Morrow – nay; Jerry Peckumn – nay. Motion failed to refer.

REFERRALS TO THE ATTORNEY GENERAL

ROBERT MILLER (BATAVIA) – SOLID WASTE / AIR QUALITY / WASTEWATER

John Tack presented the following information.

The Director requests the referral of the following to the Attorney General for appropriate legal action. Litigation reports have been provided to the commissioners and are confidential pursuant to Iowa Code section 22.7(4). The parties have been informed of this action and may appear to discuss this matter. If the Commission needs to discuss strategy with counsel on any matter where the disclosure of matters discussed would be likely to prejudice or disadvantage its position in litigation, the Commission may go into closed session pursuant to Iowa Code section 21.5(1)(c).

Robert Miller owns a small metal salvage operation located within the city limits of Batavia. Mr. Miller does not have an NPDES Stormwater permit. In addition to the stormwater permit violation, Mr. Miller has engaged in the illegal disposal of appliances through open dumping and open burning. He has indicated no interest in complying. We are asking you to refer.

Motion was made by Darrell Hanson to refer Robert Miller as presented. Seconded by Donna Buell. Motion carried unanimously.

REFERRED

DYERSVILLE IMPLEMENT, INC

Jon tack said that this item is tabled. Staff is continuing their communications with Dyersville.

TABLED

PROPOSED RULE – AMEND IAC CHAPTER 567-11 “TAX CERTIFICATION OF POLLUTION CONTROL OR RECYCLING PROPERTY”

Theresa Stiner of the Environmental Services Division presented the following item.

Legislative changes in 2006 expanded the scope of Iowa’s recycling property tax exemption. Prior to this legislation, Iowa companies processing wastepaper products, waste paperboard, waste plastic, or waste wood into a new raw material or product could receive a property tax exemption. The new legislation expanded the property tax exemption by amending the definition of recycling property to include property used to convert waste glass products into new raw materials or products.

The proposed amendments reflect the expansion of the property tax exemption to include property used to process waste glass products and include removal of an out-of-date reference to the Department of Water, Air, and Waste Management.

The commission will be requested to approve this Notice of Intended Action at its September meeting.

INFORMATIONAL

TERRY JOHNSON, presented the following comments.

There are two alternatives to follow a prescriptive approach – were you tell someone how to do something with specific guidelines or to follow a performance approach.

We do have both of these things in the rulemaking.

Having worked with different regulatory environments in other states, we have been through roughly 15 years of subtitle D. Subtitle D is very performance based approach, which has stood the test of time. This seems to be the best approach because you encourage innovation and trying to do things better. If you set the standard, that’s what you will get every time. We are at a site specific business with landfills and what types of materials we have, we need the flexibility to be able to best use the materials per each site.

These regulations when they do follow the performance based approach will stand the test of time much longer. I am working with the state of Missouri and Michigan. Both states were using a prescriptive approach that they wanted to change to a performance approach.

The intent is to improve the environmental intent but the consequences could reduce our ability to detect a release.

PROPOSED RULE – RESCIND 567-CHAPTER 113 “SANITARY LANDFILLS: MUNICIPAL SOLID WASTE” AND ADOPT THE FOLLOWING NEW CHAPTER IN LIEU THEREOF AS 567-CHAPTER 113 “SANITARY LANDFILLS FOR MUNICIPAL SOLID WASTE: GROUNDWATER PROTECTION SYSTEMS FOR THE DISPOSAL OF NON-HAZARDOUS WASTES”

Alex Moon, Environmental Program Supervisor of the Energy & Waste Management Bureau presented the following information.

Attached for the Commission’s information and review is a draft Notice of Intended Action to rescind 567-Chapter 113 “Sanitary Landfills: Municipal Solid Waste” and adopt the following new chapter in lieu thereof as 567-Chapter 113 “Sanitary Landfills for Municipal Solid Waste: Groundwater Protection Systems for the Disposal of Non-Hazardous Wastes.”

This new chapter is intended to implement minimum federal standards promulgated on October 9, 1991 by the U.S. Environmental Protection Agency (EPA) for municipal solid waste landfills (MSWLFs). In order to obtain full approval from EPA, Iowa must have and enforce standards technically comparable to 40 Code of Federal Regulations (CFR) part 258 (commonly referred to as RCRA Subtitle D standards), which establishes the minimum national criteria for all MSWLFs.

Subtitle D equivalent landfills offer significant benefits to all Iowans. As stated in 40 CFR 258.1(a): “These minimum national criteria ensure the protection of human health and the environment.” Moreover, 80% of Iowa residents obtain their drinking water from groundwater and 50% of Iowa’s industrial and commercial facilities utilize groundwater. Iowa’s Groundwater Protection Act sets the policy of the state as “... to prevent further contamination of groundwater from any source to the maximum extent practical.” Landfills that are RCRA Subtitle D compliant provide the maximum practical protection for Iowa’s groundwater and citizens.

EPA approved the current MSWLF rules (IAC 567—Chapter 113) in 1997 as RCRA Subtitle D equivalent, however; Iowa is the last state in EPA Region 7 (which also includes Kansas, Missouri, and Nebraska) to fully implement the RCRA Subtitle D requirements for MSWLFs. The issue is that some landfills (32 out of 59) are still utilizing disposal units that do not meet the RCRA Subtitle D equivalent requirements for liners and leachate collection systems in current IAC 567—Chapter 113. Moreover, EPA has passed new rules since 1997 (such as the new Research, Development & Demonstration (RD&D) rule provisions) that can benefit the environmental performance of MSWLFs in Iowa. Thus, the Iowa DNR plans to incorporate a final compliance date for all MSWLFs, as well as other regulatory updates, into the new 567-Chapter 113. The Department’s timeline for RCRA Subtitle D compliance is October 1, 2007, which is sixteen years after the RCRA Subtitle D regulations were finalized by EPA.

This rulemaking also updates references to 567-Chapter 113 contained in other solid waste related rules. In addition, subrules that are no longer applicable to 567-Chapter 113 (i.e., solid waste incinerator operator certification and postclosure requirements for landfills closed prior to October 9, 1994) are moved to other solid waste related rules.

The Commission will be asked to approve this Notice of Intended Action at its September meeting.

Mary Gail Scott asked if the state is currently in compliance with the current rules.

Alex Moon said that despite some comments today, we are not in compliance with the federal minimum rules.

Mary Gail Scott asked if the rulemaking was necessary.

Alex Moon said absolutely!

EPA has looked at our draft rules. Our current groundwater monitoring requirements are good, but EPA has to review the whole rulemaking draft. We can't just put one item in. We are the last state to come into compliance with the subtitle D requirements in Region 7. We have provided EPA with a compliance schedule. We want everyone in compliance by the summer of 2006 with the deadline for the rule implementation of October 2007. This will require existing landfills not in compliance with the liner requirements to get into compliance. There can be a horizontal expansion of a facility with a liner. You don't have to find another piece of property.

Without meeting the minimum federal requirements, DNR is open to citizen lawsuits.

Francis Thicke asked if the DNR was trying to get around the comments made by the industry.

Alex Moon said no, the industry has been involved for a long time, over three years. It has been in our rulemaking plans since 2000. Of the 300 comments we received, 120 were used in making changes to the rule package. As far as having a technical advisory group, it would be difficult to develop a technical advisory group that could represent the intentions of all 59 landfills in Iowa and reach consensus. However, we meet with their technical advisors and held three informal meetings. We are open to comments throughout the rulemaking.

In portions of the rule that are more prescriptive, there is provision that states *unless otherwise modified by the Department*. That is the open door to allow for the more performance based approach.

The federal rules are a framework for the states. I would say the rules are protective. There is a need for clarification on some of the language. People will continue to have the chance to comment.

Donna Buell asked if the DNR has a plan to get everyone into compliance.

Alex Moon said that it is not our intent to close any landfills, it could be a result. The intent is to get people into minimum compliance. I know there will be at least 10-11 landfills closing regardless of this rule.

Henry Marquard said that he wants the DNR to be sure to consider public input.

Francis Thicke encouraged the industry to organize their thinking and comments.

INFORMATIONAL

Wayne Gieselman said that the department has spent a lot of time working on these rules. (3 years) We need to move forward. I would request that the industry choose 3-4 people from solid waste organization to be the speaker on behalf of these rules.

Mary Wittry, from Iowa Society of Solid Waste Operations said that we have heard that the last three years we have been working on these rules. DNR staff has been at our board meetings the last several years and I don't think there has been a meeting where we haven't asked how the rule making was coming along. The first time that we have seen a draft copy of these rules as late March or early April of this year. We have been working on these rules for a long time but the regulated community has only seen them since April of this year. That is a very short time.

We are concerned with environmental protection. We want to do the right thing. With more work from the industry, we could have a better set of rules that are more workable by everyone.

PROPOSED RULE—RESCIND 567 IAC CHAPTER 47, PRIVATE WELL SAMPLING, REHABILITATION, AND CLOSURE—GRANTS TO COUNTIES

Brent Parker of the Water Supply Operations Section presented the following item.

The Department is requesting permission from the Commission to rescind 567 IAC Chapter 47 "Private Well Sampling, Rehabilitation, and Closure—Grants To Counties", which has been replaced by a new chapter, 641 IAC Chapter 24, "Private Well Testing, Reconstruction, and Plugging—Grants To Counties," administered by the Iowa Department of Public Health (IDPH), effective July 1, 2006.

The administrative portion of the Grants To Counties program, which provides for the transfer and accounting of program funds to counties, was transferred from the Department to the IDPH on July 1, 2002. The technical assistance portion of the program, which provides technical assistance and education to the 98 participating counties on the proper plugging, renovation, and testing of private wells, is still provided by the Department's Water Supply Operations Section staff.

The adoption of 641 IAC Chapter 24 completes the transfer of administrative authority for the Grants To Counties program from the Department to IDPH. The new rules institute several program changes, summarized below:

1. The county contracts will be administered through the county board of health, instead of by the county board of supervisors.
2. Fee changes are established.
3. Water well tests must be taken by a “qualified” county employee. Counties will not be able to distribute water test kits to homeowners for sampling.

The Notice of Intended Action will be brought back in September for the Commission’s approval.

INFORMATIONAL

PROPOSED RULE – CHAPTER 43 – WATER SUPPLIES – DESIGN AND OPERATION

Roy Ney of the Water Quality Bureau presented the following item.

The Commission will be asked to review a draft Notice of Intended Action to amend Chapter 43: Water Supplies – Design and Operation of the Iowa Administrative Code (IAC). This proposed rulemaking will be brought back to the Commission as early as September. Approval to initiate rulemaking will be requested at that time.

This chapter pertains to the water supply requirements for design and operation. The changes being proposed are listed below.

- Correct the fee schedule for a time extension request.
- Institute a maximum construction permit fee per public water system owner of \$5,000 in a calendar year for any water-main projects.
- Institute a maximum construction permit fee per public water system owner of \$16,000 in a calendar year for any non-water-main-related project.

The fee schedule for the time extension request was corrected to a flat fee. Currently, a few public water supply system owners are paying more than the maximum amount that was originally anticipated. This rulemaking will institute a cap on the per system owner construction permitting fees in each calendar year. It is estimated that the new fee structure will reduce the fee receipts each year by approximately \$25,000 to \$30,000. No stakeholder meetings have been held since this is a reduction in fees to the regulated community.

INFORMATIONAL

MONTHLY REPORTS

Wayne Gieselman, Division Administrator, Environmental Protection Division, presented the following items.

The following monthly reports are enclosed with the agenda for the Commission's information.

1. Rulemaking Status Report
2. Variance Report
3. Hazardous Substance/Emergency Response Report
4. Manure Releases Report
5. Enforcement Status Report
6. Administrative Penalty Report
7. Attorney General Referrals Report
8. Contested Case Status Report
9. Waste Water By-passes Report

**IOWA DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION COMMISSION
RULEMAKING STATUS REPORT
August, 2006**

Proposal	Notice to Comm	Notice published	ARC#	Rules Review Committee	Hearing	Comment Period	Final Summary to Comm	Rules Adopted	Rules published	ARC#	Rules Review Committee	Rule Effective
1. Ch. 14, 135 – Uniform Environmental Covenants Policy and Procedures	2/20/06	3/15/06	4983B	4/04/06	4/05/06	4/07/06	6/19/06	6/19/06	7/19/06	5245B	8/08/06	*8/23/06
2. Ch. 20, 22, 31 and 33 – Air Quality Program Rules; PSD Rules	5/15/06	6/07/06	5154B	7/11/06	7/10/06	7/12/06	8/21/06	*8/21/06	*9/13/06		*10/10/06	*10/18/06
3. Ch. 22, 23 – Air Quality Program Rules – Updates, Revisions and Additions	3/20/06	4/12/06	5041B	5/09/06	5/12/06	5/16/06	6/19/06	6/19/06	7/19/06	5246B	8/08/06	*8/23/06
4. Ch. 64 – Fee Collection for Wastewater Permits	10/17/05	11/09/05	4652B	12/13/05	11/29, 30/05 12/01/05	12/02/05	6/19/06	7/28/06 6/19/06	*8/16/06 7/19/06	5244B	*9/05/06 8/08/06	*8/23/06 *8/23/06
5. Ch	11/21/	12/21/0	4771B	1/10/0	1/19, 25, 26, 31/06	2/01/06	6/19/06	6/19/06	7/19/06	5242B	8/08/06	*8/23/

65 - Designated Wetlands	05	5		6								06
6. Ch. 65 - Evaluation, Denial or Condition of Construction Permits or Disapproval or Modification of MMPs for Confinement Feeding Operations	1/17/06	2/15/06	4898B	3/07/06	3/7-10/06	3/10/06	6/19/06	6/19/06	7/19/06	5243B	8/08/06	*8/23/06
7. Ch. 68 - Commercial Septic Tank Cleaners ; Ch. 69 - Onsite Wastewater Treatment and Disposal Systems	3/20/06	4/12/06	5042B	5/09/06	5/3-4, 9, 10-11, 16/06	5/17/06	8/21/06	*8/21/06	*9/13/06		*10/10/06	*10/18/06
8. 118 - Discarded Appliance Demanufacturing	8/21/06	*9/13/06		*10/10/06	*10/04/06	*10/04/06	*12/18/06	*12/18/06	*1/17/07		*2/06/07	*2/21/07
9. 215 - Mercury Switch Removal	8/21/06	*9/13/06		*10/10/06	*10/04/06	*10/04/06	*12/18/06	*12/18/06	*1/17/07		*2/06/07	*2/21/07

Monthly Variance Report July 2006						
Item No.	Facility/City	Program	DNR Reviewer	Subject	Decision	Date
1	Audubon County Sanitary Landfill	Waste Management	Alex Moon	Postclosure Dedicated Fund	Approved	6/26/2006
2	AMSCO, Inc	Waste Management	Nina Koger	Synthetic Precipitation	Approved	7/10/2006

				leaching procedure		
3	Fremont County Sanitary Landfill	Waste Management	Chad Stone	Financial Assurance Requirements	Approved	7/12/2006
4	MidAmerican Energy	Air Quality	Diane Brockshus	Test Burn	Approved	7/14/2006
5	Union Pacific Railroad Company	Dam Safety	Jeff Simmons	Bridge Design Freeboard	Approved	7/14/2006
6	City of Cedar Rapids	Waste Water	Steve Williams	Sewage Sludge Disposal	Approved	7/18/2006
7	Harrison County Wastewater Project	Waste Water	Satya Chennupati	Two-cell Lagoon & DIP influent lines	Approved	7/25/2006
8	East Fork of the Grand River	Dam Safety	Dave Allen	Spillway Design	Approved	7/25/2006
9	City of Mason City	Waste Water	Satya Chennupati	Sewer Grade	Approved	7/28/2006

**Iowa Department of Natural Resources
Environmental Services Division**

During the period July 1, 2006, through July 25, 2006, 39 reports of hazardous conditions were forwarded to the central office. A general summary and count by field office is presented below. This does not include releases from underground storage tanks, which are reported separately.

Month	Total Incidents	Agricultural Products	Substance					Mode		
			Petroleum	Other Chemical	Transport Facility	Fixed	Pipeline	Railroad	Fire	Other*
October	48 (52)	6 (2)	29 (29)	13 (21)	13 (17)	28 (27)	0 (2)	2 (2)	1 (0)	4 (4)
November	55 (68)	10 (14)	35 (33)	10 (20)	16 (21)	28 (34)	0 (1)	3 (2)	1 (0)	7 (10)
December	51 (58)	5 (8)	32 (34)	14 (16)	18 (19)	29 (29)	2 (3)	1 (2)	0 (0)	1 (5)
January	62 (58)	4 (6)	35 (36)	23 (16)	18 (20)	32 (28)	0 (1)	1 (1)	0 (1)	11 (7)
February	49 (46)	2 (4)	36 (25)	11 (17)	10 (12)	35 (24)	1 (4)	2 (2)	0 (1)	1 (3)
March	54 (70)	2 (11)	40 (43)	12 (16)	16 (25)	29 (33)	2 (1)	2 (1)	0 (3)	5 (7)
April	96 (102)	32 (35)	39 (46)	25 (21)	26 (32)	56 (51)	1 (2)	3 (3)	1 (3)	9 (11)
May	59 (60)	14 (20)	34 (29)	11 (11)	24 (23)	29 (29)	0 (1)	1 (3)	1 (0)	4 (4)
June	82 (88)	19 (12)	43 (56)	20 (20)	28 (22)	43 (52)	0 (2)	0 (6)	1 (1)	10 (5)
July	39 (60)	2 (6)	19 (35)	18 (19)	4 (19)	19 (27)	2 (2)	3 (4)	0 (0)	11 (8)
August	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
September	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)

Total 595 (662) 96 (118) 342 (366) 157 (177) 173 (210) 328 (334) 8 (19) 18 (26) 5 (9) 63 (64)

(numbers in parentheses for same period
Total Number of Incidents Per Field Office this period last year)

*Other includes dumping, theft, vandalism and unknown

1	2	3	4	5	6
2	9	8	4	8	8

**Iowa Department of Natural Resources
Environmental Services Division**

During the period July 1, 2006, through July 25, 2006, 4 reports of manure releases were forwarded to the central office. A general summary and count by field office is presented below.

Month	Total Incidents	Feedlot ent	Confinem Application	Land	Transport	Hog	Cattle	Fowl	Other	Surface Water
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										Impacts
October	13 (15)	1 (0)	2 (6)	1 (6)	9 (3)	12 (13)	1 (2)	0 (0)	0 (0)	1 (2)
November	8 (9)	0 (2)	1 (4)	3 (1)	4 (2)	6 (6)	2 (2)	0 (0)	0 (1)	1 (1)
December	2 (2)	0 (0)	1 (2)	0 (0)	1 (0)	0 (2)	2 (0)	0 (0)	0 (0)	0 (0)
January	3 (0)	0 (0)	2 (0)	1 (0)	0 (0)	1 (0)	2 (0)	0 (0)	0 (0)	0 (0)
February	2 (1)	0 (0)	1 (0)	0 (0)	1 (1)	1 (0)	1 (0)	0 (1)	0 (0)	0 (0)
March	2 (1)	1 (0)	1 (1)	0 (0)	0 (0)	0 (0)	2 (1)	0 (0)	0 (0)	2 (1)
April	6 (6)	0 (0)	2 (2)	2 (1)	2 (3)	6 (5)	0 (1)	0 (0)	0 (0)	1 (0)
May	6 (3)	0 (1)	3 (1)	3 (0)	0 (1)	5 (2)	1 (1)	0 (0)	0 (0)	0 (0)
June	2 (2)	0 (0)	0 (1)	0 (0)	2 (1)	2 (0)	0 (2)	0 (0)	0 (0)	0 (0)
July	4 (2)	2 (0)	0 (2)	1 (0)	1 (0)	2 (2)	2 (0)	0 (0)	0 (0)	0 (1)
August	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
September	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)
Total	48 (41)	4 (3)	13 (19)	11 (8)	20 (11)	35 (30)	13 (9)	0 (1)	0 (1)	5 (5)

(numbers in parentheses for the same
Total Number of Incidents Per Field period last year)

1	2	3	4	5	6
2	0	1	0	0	1

DATE: August 1, 2006

TO: EPC

FROM: Ed Tormey

RE: Enforcement Report Update

The following new enforcement actions were taken last month:

Name, Location and Field Office Number	Program	Alleged Violation	Action	Date
Jack and Nancy Hemingson d/b/a Gold Key Motel Hampton (2)	Drinking Water	Monitoring/Reporting - Other; Compliance Schedule	Consent Amendment - Rescission	6/22/06
Bruce and Jill Rewoldt, Eldora (2)	Animal Feeding Operation	Order Rescission	Rescission	7/03/06
United States Gypsum Co., Ft. Dodge (2)	Air Quality	Operational Violations	Consent Order \$10,000	7/06/06
Barilla America, Inc., Ames (5)	Air Quality	Construction Without Permit	Consent Order \$9,000	7/06/06
Fairwinds Corp., Inc. d/b/a Envirobate Management Services, Dunlap (4)	Air Quality	Asbestos	Consent Amendment	7/07/06
Fairfield, City of (6)	Underground Tank	Financial Responsibility	Consent Order \$6,750	7/08/06
Troy Mills Sanitary District, Troy Mills (1)	Wastewater	Discharge Limits	Consent Order Stip. Penalties	7/13/06

**IOWA DEPARTMENT OF NATURAL RESOURCES
COMPLIANCE AND ENFORCEMENT BUREAU**

DATE: August 1, 2006
TO: Environmental Protection Commission
FROM: Ed Tormey
SUBJECT: Summary of Administrative Penalties

The following administrative penalties are due:

DATE	NAME/LOCATION	PROGRAM	AMOUNT	DUE
	Robert and Sally Shelley (Guthrie Center)	SW	1,000	3-04-91
	Verna and Don Reed; Andrea Silsby (Union Co.)	SW	1,000	4-07-94
	Elery Fry; Allen Fry; Becky Sandeen (Monroe Co.)	SW	6,000	1-20-96
	Daryl & Karen Hollingsworth d/b/a Medora Store (Indianola)	UT	10,000	3-15-96

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Robert Jeff White (Dallas Co.)	AQ/SW	10,000	7-14-97
Greg Morton; Brenda Hornyak (Decatur Co.)	SW/AQ/WW	3,000	11-04-98
Ray Stamper; Bryan Zenor (Polk Co.)	SW	2,000	12-12-98
Otter Creek Station (Dubuque Co.)	WS	325	3-04-99
Lindhahl & Sons Salvage (Boone)	AQ/SW	10,000	11-29-00
R & R Ranch (Osceola)	WW	10,000	8-30-00
Alice Hillhouse; Hillhouse Real Estate Corp. (Denison)	UT	3,000	2-28-01
Teckenburg, Inc.; Jerry Teckenburg (Cedar Rapids)	UT	6,380	7-06-01
Donald and Marie Phillips (Milo)	WW	949	7-09-01
Keith Craig; The Farm (Council Bluffs)	UT	3,890	8-08-01
James Harter (Fairfield)	WW	1,780	8-01-01
Wisconsin North dba National Petroleum, Inc. (Clinton)	UT	5,000	8-04-01
# Troy DeGroot; Casey DeGroot (Butler Co.)	AFO/AQ/SW	242	3-08-02
Charlotte Caves (Oskaloosa)	HC	10,000	4-03-02
# Practical Pig Corporation (Clinton Co.)	AFO	2,000	5-26-02
Mobile World, L.C. (Camanche)	WW	2,000	5-27-02
M-F Real Estate; Fred "Butch" Levell (Carter Lake)	HC	1,701	8-18-02
Midway Oil Co.; David Requet (Davenport)	UT	5,355	9-20-02
Dale Schaffer (Union Co.)	AQ/SW	10,000	11-05-02
Wilbur McNear d/b/a McNear Oil Co. (Onawa)	UT	3,930	12-17-02
Jeff Reed d/b/a Reed's Service (Lenox)	UT	7,250	1-12-03
	UT	32,690	2-28-03
U.S. PETRO, INC.; SSSJG PETROLEUM; SUKHDEV SINGH			
	UT	44,900	2-28-03
MIDWAY OIL CO.; DAVID REQUET; JOHN BLISS			
Duane Crees (Muscatine Co.)	AQ/SW	963	3-01-03
Midway Oil Company (West Branch)	UT	7,300	5-03-03
Midway Oil Company (Davenport)	UT	5,790	5-03-03
Efren Valdez (Warren Co.)	SW	2,782	6-09-03
Mobile World LC (Clinton Co.)	SW	2,250	6-29-03
McMahon's Bar & Ballroom (Andover)	WS	500	8-08-03
Albert Miller (Kalona)	AQ/SW	10,000	9-26-03
* Jerry Feilen and Rick Bain (Pottawattamie Co.)	AQ/SW	2,233	12-15-03
Robert L. Nelson (Orient)	UT	657	12-26-03
Mark Anderson (Des Moines Co.)	AQ/SW	6,188	3-22-04
Mike Phillips aka Jeff Phillips (Cambridge)	AQ	5,000	3-27-04
Mike Messerschmidt (Martinsburg)	AQ/SW	500	4-13-04
Interchange Service Co., Inc., et.al. (Onawa)	WW	6,000	5-07-04
R. Victor Hanks; Mobile World L.C. (Camanche)	WW	10,000	5-23-04
Emer Carlson (Fairfield)	AQ	6,500	6-01-04
#*Floyd Kroeze (Butler Co.)	AFO	1,500	6-01-04
Iowa Falls Evangelical Free Church (Iowa Falls)	WS	750	6-13-04
Mitchell Town Pump (Mitchell)	WS	2,080	6-16-04
# Dunphy Poultry (Union Co.)	AFO	1,500	6-27-04
Shane Preder (Ft. Madison)	AQ	682	7-12-04
James L. Heal d/b/a A-1 Domestic (Homestead)	SW/WW	1,800	7-16-04
Ranch Supper Club (Swisher)	WS	300	8-02-04
Ossian Agri Center, Inc. (Ossian)	WW/HC	181	8-02-04
# Phillip Renze; Doug Renze (Sac Co.)	AFO	2,000	8-03-04
#*James Boller (Kalona)	AFO	4,304	8-19-04
# Cash Brewer (Cherokee Co.)	AFO/SW	10,000	8-25-04
Spillway Supper Club (Harpers Ferry)	WS	1,500	9-06-04
David Niklasen (Shelby Co.)	SW	100	9-11-04

# Doorenbos Poultry; Scott Doorenbos (Sioux Co.)	AFO	1,500	10-09-04
T & T Corner Bar (McIntire)	WS	3,000	10-26-04
Rock N Row Adventures (Eldora)	WS	3,000	10-23-04
# Jason Fox (Audubon Co.)	AFO	1,000	11-27-04
# Norm Cleveringa (Lyon Co.)	AFO	750	11-27-04
Americana Bowl (Ft. Madison)	WS	100	11-28-04
Howard Traver, Jr. (Cass Co.)	SW	3,000	12-14-04
Valley Country Café; NOO Investment Co. (Cass Co.)	WS	5,000	2-18-05
Denzel Edwards (Cass Co.)	AQ/SW/HC	500	3-01-05
Roquette America, Inc. (Keokuk)	WW	10,000	3-04-05
* Fran Oil Company (Council Bluffs)(3 Admin. Orders)	UT	4,300	4-09-05
# Mike Rausch; Justin Rausch (O'Brien Co.)	AFO	2,000	4-02-05
Virgil Ehlers; Ehlers Oil Co. (Soldier)	UT	8,040	4-23-05
ARC Communities 8 LLC; Sunrise MHP (Newton)	WW	2,000	4-23-05
Harold Linnaberry (Clinton Co.)	SW	1,000	5-18-05
#*Dennis VanDerWeide (Sioux Co.)	AFO	500	6-01-05
* Country Stores of Carroll, Ltd. (Carroll)	UT	1,658	6-06-05
Mehmert Tiling, Inc. (Cresco)	UT	8,849	6-10-05
Elery Fry; Allen Fry; Mel Fry; Ron Fry (Moravia)	SW	10,000	6-20-05
Fedler and Company; Tony Fedler (Mt. Pleasant)	HC	3,670	6-25-05
# Matt Hoffman (Plymouth Co.)	AFO	750	8-08-05
S.K. Food & Gas, Inc.; Diwan LLC (Davenport)	UT	8,500	12-29-05
Vernon Kinsinger (Washington Co)	SW	3,930	12-31-05
* Paul Shimp & S & V Fence Co. (Eldridge) (\$950/SEP)	AQ	550	1-16-06
Iowa Regional Utilities Assoc.	WS	8,400	1-19-06
# Joel McNeil (Kossuth Co.)	AFO	2,500	1 21-06
# Dale Schumann (Buena Vista Co.)	AFO	4,000	1-29-06
Carl Cliburn (Wapello Co.)	AQ/SW	3,500	2-03-06
TOMA Properties, LLC (Washington)	WS	1,000	2-17-06
Robert Plendl; Plendl Brothers Trucking (Kingsley)	UT	3,000	2-25-06
Anamosa, City of	WW	4,500	3-17-06
#*Randy Hauan (Winnebago Co.)	AFO	1,092	4-03-06
Affordable Asbestos Removal, Inc. (Monticello)	AQ	7,000	4-28-06
#*Paul Rehder (O'Brien Co.)	AFO	1,875	5-01-06
* Dennis Gailey (Moorland)	AQ/SW	2,200	5-01-06
Jeff Albrecht (Humboldt Co.)	AQ	500	5-06-06
Edward Branstad; Jordan Branstad (Winnebago Co.)	AQ/SW	8,000	5-10-06
CRM Enterprises; Envirobest, Inc. (Iowa City)	AQ	7,000	5-21-06
#*Richard Beelner; Beelner 1 and 2 (Plymouth Co.)	AFO	1,400	6-01-06
Ernest J. Smith; Smith Fertilizer & Grain (Knoxville)	AQ/SW	3,000	6-09-06
West Central Cooperative (Ralston)	WW	3,000	6-12-06
Point Builders LLC; Steve Crawford (Mason City)	WW	2,000	6-16-06
James L. Heal; A-1 Imports (Homestead)	WW/SW	10,000	6-18-06
#*Galen Drent (Boyden)	AFO	2,672	7-01-06
* Curt Kline; Connie Kline (Dunlap)	AQ	2,500	7-01-06
#*John Kajewski (Cylinder)	AFO	750	7-01-06
#*Tony Mertens (Mt. Pleasant)	AFO	2,644	7-20-06
#*Rick Halma (Lyon Co.)	AFO	1,800	8-01-06
#*Rick Nikkel (Jasper Co.)	AFO	1,750	8-01-06
* Crestview Mobile Home Park (Ames)	WW	3,500	8-01-06
* Country Terrace Mobile Home Park (Ames)	WW	1,680	8-01-06
#*E & N Farms, Ltd. (Lyon Co.)	AFO	1,400	8-01-06
Fairwinds Corp.; Envirobate Mgmt. (Urbandale)	AQ	6,000	8-07-06

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# Harvey Driesen (Sioux Co.)	AFO	3,000	8-13-06
Michael Drea (Woodbury Co.)	AQ	6,000	8-13-06
* Fred Miller; Earthworks Contracting (Quimby)	AQ	8,320	8-15-06
#*Randy Gergen; R & D Farms (Sioux Co.)	AFO	2,250	8-15-06
* Midway Water & Lighting Co., Inc. (Marion)	WS	2,200	8-20-06
* John Danker (Lee Co.)	AQ/SW	4,162	8-22-06
* Wayne Staab (Plymouth Co.)	AQ	500	10-01-06
#*Dennis Kuehl (Cass Co.)	AFO	1,500	10-15-06
Green Valley Mobile Home Park (Mt. Pleasant)	WW	5,000	-----
Rock Valley Rural Water System	WS	8,000	-----
Barilla America, Inc. (Ames)	AQ	9,000	-----
United States Gypsum Co. (Ft. Dodge)	AQ	10,000	-----
	TOTAL	529,944	

The following cases have been referred to the Attorney General:

Long Branch Tavern (Monmouth)	WS	100
Long Branch Tavern (Monmouth)	WS	6,400
Long Branch Tavern (Monmouth)	WS	200
The Universal Assembly of Christians; Marsha Leigh	AQ/SW	10,000
Pat Kelly d/b/a Kelly Construction (Denison)	UT	1,860
Roger Ginger d/b/a L & L Standard (Everly)	UT	5,750
# Jim Dos (Black Hawk Co.)	AFO	3,000
# Travis Aldag (Ida Co.)	AFO	3,000
S.K. Food & Gas, Inc.; Diwan LLC (Davenport)	UT	7,300
S.K. Food & Gas, Inc.; Diwan LLC (Davenport)	UT	6,000
Relative, Inc.; Doug Smuck (Des Moines)	UT	3,070
Relative, Inc.; Doug Smuck (Des Moines)	UT	600
Paul Underwood d/b/a Underwood Excavating (Cedar Rapids)	AQ	4,000
Randy Ballard (Fayette Co.)	FP	2,000
Edward Bodensteiner (Des Moines)	UT	3,200
Hofer's Danceland Ballroom (Walford)	WS	3,200
James LaFollette d/b/a Jim's Tree Service; Kurt Douglas (Marion Co.)	AQ/SW	2,000
Russell Zook d/b/a Haskin's Recycling (Washington Co.)	AQ/SW	5,000
#*Harold Unternahrer (Washington Co.)	AFO	700
Hofer's Danceland Ballroom (Walford)	WS	100
Phillips Recycling; Jeff Phillips (Story Co.)	WW	1,800
Jim Walker (Johnson Co.)	AQ/SW	3,000
Iowa Millenium Investors, LLC (Sumner)	UT	4,000
Jim Ledenbach d/b/a Paper Recovery Company (Cedar Rapids)	SW	5,000
Organic Technologies Corp.; Tim Danley; Ken Renfro (Warren Co.)	SW/WW	10,000
Plain Salvage Inc. (Sac City)	AQ/SW	10,000
Wisconsin North dba National Petroleum (Clinton)	UT	2,840
Bee Rite Tire Disposal; Jerry Yeomens (Marshall Co.)	SW	10,000
Marvin Oberly (Burlington)	WW	1,300
Mark Buringrud fdba Carpenter Bar & Grill (Carpenter)	WS	2,500
Richard Davis (Monroe Co.)	AQ	8,000
Honey Creek Campground (Crescent)	WS	1,000
Ryan Barton; Theresa Barton (Kellerton)	AQ/SW	1,000
Mobile World LC (Camanche)	AQ/SW	10,000

Oran Pub & Grill (Fairbank)	WS	100
M.A., Inc.; Spring Grove Mobile Home Park (Burlington)	WW	7,000
M.A., Inc.; Westside Park for Mobile Homes (Lee Co.)	WW	7,000
Dave Paplow (Indianola)	AQ/SW	5,000
Meadow Mist Motel (Fayette Co.)	WS	500
Park View Motel (Oelwein)	WS	750
Plantation Village Mobile Home Park (Burlington)	WS	500
# Dean Pedersen (Pocahontas Co.)	AFO	450
TOTAL		159,220

The following administrative penalties have been appealed:

NAME/LOCATION	PROGRAM	AMOUNT
Dallas County Care Facility (Adel)	WW	2,500
Gerald and Judith Vens (Scott Co.)	FP	5,000
# Iowa Select Farms, L.P.; AG Waste Consultants (Hamilton Co.)	AFO	3,000
# Dan Witt (Clinton Co.)	AFO	3,000
Dallas County Care Facility (Adel)	WW	5,000
Kevin Wallerich (Keota)	SW/WW	500
# Doug Wedemeyer (Adair Co.)	AFO	2,500
Mt. Pleasant, City of	WW	500
# Kenneth Dahlhauser (Whittemore)	AFO	2,500
Stanley Siems (Hardin Co.)	AQ/SW	10,000
Schell Family Partnership (Boone Co.)	HC/SW	5,000
Chelsea, City of	WW	3,000
# Doug Osweiler (South English)	AFO	5,000
# Ray Slach (Cedar Co.)	AFO	3,000
# Iowa Select Farms, LP; Swartz Finisher Farm (Hardin Co.)	AFO	500
# Natural Pork Production, II LLC (Shelby Co.)	AFO	5,000
Roger Eblen; Eblen Develop.; (Whispering Woods- Council Bluffs) (10,000/each)	WW	20,000
# Iowa Select Farms, L.P.; Kerrigan Facility (Union Co.)	AFO	1,000
# D & D Ag Enterprises, LLC (Union Co.)	AFO	2,000
# Iowa Select Farms, Inc.; Clarke Sow (Clarke/Union Co.)	AFO	5,000
# Southern Waste Handling, Inc. (Mr. Ayr)	AFO	7,000
Country Living MHP (Altoona)	WW	5,000
Strawberry Point, City of	WW	10,000
B & H Food & Gas, Inc. (Davenport)	UT	10,000
U.S. Nation Mart, Inc. (Davenport)	UT	10,000
Tegh, Inc. (Bettendorf)	UT	8,500
# Jeff Holland (Winnebago Co.)	AFO	5,500
Pocahontas, City of	WW	5,000
# T. Patrick and Laurie Cashman (Deep River)	AFO	750
# Bob Kerrigan (Union Co.)	AFO	750
Carpenter Bar & Grill (Carpenter)	WS	10,000
# Swine USA; Davis Finishing Site (Clarke Co.)	AFO	750
# Gettler Dairy (Guthrie Co.)	AFO	5,000
Iowa Ethanol, LLC; Reilly Construction Co. (Worth Co.)	WW	10,000

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Broin & Assoc., Inc.; Iowa Ethanol, LLC (Worth Co.)	WS/WW	10,000
Broin & Assoc., Inc.; Otter Creek Ethanol (Osceola Co.)	WW	10,000
# Tim Trostel (Butler Co.)	AFO	2,000
# James Axtell (Hardin Co.)	AFO	500
Iowa Falls, City of	WW	10,000
LeMars, City of	WW	9,000
Ben Haven Mobile Home Park (Quasqueton)	WS	3,000
Alton, City of	FP	5,000
# Jansma Cattle Co., Inc. (Lyon Co.)	AFO	10,000
# Phillip Renze; Doug Renze (Sac Co.)	AFO	2,000
# Michael Veenstra; Allan Veenstra (Mahaska Co.)	AFO	5,000
# Robin Hewer (Clinton Co.)	AFO	3,000
Marvin Bates (Iowa Co.)	AQ/SW/WW	10,000
# Dennis Rowenhorst (Sioux Co.)	AFO	3,000
F. J. Krob & Co. (Walker)	WW/HC	10,000
Gary Hart (Clinton)	AQ/SW	4,250
Cedar Rapids, City of	WW	5,000
Goose Lake, City of	WS	1,000
# Monty Unkrich (Jefferson Co.)	AFO	3,000
# Mike Elsbernd (Winneshiek Co.)	AFO	3,000
Leland Heisdorffer (Keokuk Co.)	AQ/SW/WW	10,000
# Ted T. Smith (Buena Vista Co.)	AFO	3,000
# Natural Pork Production II, LLC (Shelby Co.)	AFO	300
# Jerry Vander Platts (O'Brien Co.)	AFO	3,000
S. J. Louis Construction, Inc. (Pleasant Hill)	WW	5,000
MKKS, LLC (Urbandale)	UT	4,600
MKKS, LLC (Windsor Heights)	UT	6,500
MKKS, LLC (West Des Moines)	UT	4,600
Monty Branstad (Winnebago Co.)	AQ/SW	8,000
Pleasant Hill, City of	WW	10,000
Lawler, City of	WW	3,000
Honey Creek Campground (Pottawattamie Co.)	WW	1,000
Peeters Development Co.; Mt. Joy MHP (Scott Co.)	WW	10,000
Randy Griffin (Jasper Co.)	AQ/SW	5,000
Hoover Land Corp.; River Road Golf Club (Algona)	WS	1,375
Colleen Weber (Mitchell Co.)	AQ/SW	1,500
Dirk Graves (Glenwood)	AQ	1,000
Ruby Field, Inc.; Ed Grafke (Sigourney)	UT	5,112
Goettsch Trucking and Seed, Inc. (Galva)	HC	5,500
Reginald Parcel (Henry Co.)	AQ/SW	1,000
Iowa Quality Beef Supply Cooperative (Tama)	WW	10,000
Larry Bergen (Worth Co.)	AQ/SW	2,000
# Douglas J. Pudenz (Carroll Co.)	AFO	8,000
# Scott Lenz (Carroll Co.)	AFO	8,000
# Larry Krogman (Lyon Co.)	AFO	3,000
# Alan Bakker (Sioux Co.)	AFO	6,000
David Carlisle (Ringgold Co.)	SW	3,500
	TOTAL	410,987

The following administrative penalties were paid last month:

NAME/LOCATION	PROGRAM	AMOUNT
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#*Greg Gerber (Lyon Co.)	AFO	250
Fairfield, City of	UT	6,750
* V. A. Enterprises, Inc. (Williamsburg) PAID IN FULL	WW	2,000
#*Tony Mertens (Mt. Pleasant)	AFO	333
* Midway Water & Lighting Co., Inc. (Marion)	WS	100
* Wayne Staab (Plymouth Co.)	AQ	250
#*Rick Halma (Lyon Co.)	AFO	300
* Crestview Mobile Home Park (Ames)	WW	250
#*Rick Nikkel (Jasper Co.)	AFO	250
Whispering Pines Development (Muscatine)	FP	3,750
* Fred Miller; Earthworks Contracting (Quimby)	AQ	416
* Country Terrace Mobile Home Park (Ames)	WW	110
#*E & N Farms, Ltd. (Lyon Co.)	AFO	600
#*Randy Gergen; R & D Farms (Sioux Co.)	AFO	375
#*Greg Gerber (Lyon Co.) PAID IN FULL	AFO	250
* John Danker (Lee Co.)	AQ/SW	139
Clinton, City of	UT	5,476
Northwestern Plastics Ltd.; Industrial Service Corp.	AQ/SW	2,500
		32,497
	TOTAL	

The following penalties have been rescinded.

Jack and Mary Hemmingson; Gold Key Motel (Hampton)	WS	5,215
# Bruce and Jill Rewoldt (Hardin Co.)	AFO	8,000

The following penalties were collected by Revenue during
The Month of May

Ossian Agri Center, Inc. (Ossian)	WW/HC	375
Dennis Seversson d/b/a Huxley Dry Cleaners (Huxley)	AQ	2,805
James Harter (Fairfield)	WW	21
Donald and Marie Phillips (Milo)	WW	120
Shane Preder (Ft. Madison)	AQ	68
Dennis Seversson d/b/a Huxley Dry Cleaners (Huxley)	AQ	1,695
John Jolin; Michael Kolbold (Sioux City)	UT	1,000
Ossian Agri Center, Inc. (Ossian)	WW/HC	375
Ranch Supper Club (Swisher)	WS	1,600
* Jerry Feilen and Rick Bain (Pottawattamie Co.)	AQ/SW	225
Donald and Marie Phillips (Milo)	WW	120
John Jolin; Michael Kolbold (Sioux City)	UT	7,760
Donald and Marie Phillips (Milo)	WW	111
Allan Scott (Marion Co.)	SW/WW	1,150
	TOTAL	17,425
	TOTAL MONIES RECEIVED IN JULY	41,524

Attorney General Referrals

Name, Location and Region Number	Program	Alleged Violation	DNR Action	New or Updated Info.	Date
Aldag, Travis Ida Co. (3)	Animal Feeding Operation	Failure to Submit Plan	Order/Penalty	Referred Petition Filed Answer Filed	7/18/05 11/29/05 12/01/05
Bulk Petroleum Corporation 28 Sites (1) (6) NEW	Underground Tank	Operation and Maintenance Violations	Referred to Attorney General	Referred	6/19/06
Clinton, City of (6)	Wastewater	Compliance Schedule; Discharge Limits	Referred to Attorney General	Referred	9/19/05
Dos, Jim Black Hawk Co. (1)	Animal Feeding Operation	Failure to Submit Plan	Order/Penalty	Referred Petition Filed Answer Filed Trial Date	7/18/05 11/29/05 12/28/05 11/06/06
Farmers Co-Operative Society Sioux Center (3)	Animal Feeding Operation	Discharge Limits; Prohibited Discharge – Confinement/Open Feedlot; Land Application Separation Distance; Failure to Report a Release; WQ Violations – General Criteria	Referred to Attorney General	Referred	3/20/06
Grain Processing Corp. Muscatine UPDATED	(6) Air Quality	Emission Standards	Referred to Attorney General	Referred Petition Filed Consent Decree (\$538,000 civil penalty; injunction; facility-wide modeling)	2/21/05 7/17/06 7/17/06
Kruse Dairy Farm, Inc. Dyersville (1)	Animal Feeding Operation	Failure to Submit Plan	Order/Penalty	Referred	12/19/05
Landfill of Des Moines #4 Des Moines (5)	Solid Waste	Operation Permit Violations – Other	Referred to Attorney General	Referred	4/17/06
Leigh, Marsha Glenwood (4)	Air Quality Solid Waste	Open Burning; Illegal Disposal	Order/Penalty	Referred Petition Filed Defendant's Motion to Dismiss State's Resistance/Motion to Dismiss Motion to Intervene Hearing on Motion to Dismiss Ruling Denying Motion to Dismiss	9/20/04 3/29/05 4/20/05 5/02/05 5/12/05 5/23/05 5/23/05 5/23/05 6/27/05 6/29/05 12/05/05 9/12/05

				Resistance to Motion to Intervene	12/7/05
				Hearing on Motion to Intervene	
				Ruling Denying Motion to Intervene	
				Hearing on Defense Motions	
				Motion for Judgment on Default	
				Order Granting Default Judgment	
				(\$100,000/Civil; \$10,000/Admin. & Injunction)	
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Mobile World LC Camanche (6)	Air Quality Solid Waste	Illegal Disposal Open Burning	Order/Penalty	Referred Petition Filed Bankruptcy Petition Filed Plan for Reorganization Appearance by State in Bankruptcy Notice of Intent to Seek Default Appearance by Defendant Trial Date	8/16/04 4/08/05 4/13/05 4/13/05 6/17/05 3/03/06 3/08/06 11/19/06
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Moellers, Kenneth Cresco (1)	Animal Feeding Operation	Prohibited Discharge – Open Feedlot; Failure to Report a Release; WQ Violations – General Criteria	Referred to AG	Referred	2/20/06
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Northeast Iowa Citizens for Clean Water (NICCW)	Wastewater	DNR Defendant	Defense	Petition Filed DNR's Answer NICCW's Application for Stay NICCW's Brief for Stay DNR's Resistance DNR's Brief in Resistance Hearing on Motion Ruling Denying Stay NICCW's Motion to Reconsider DNR's Resistance Hearing on Motion to Reconsider Ruling Denying Motion to Reconsider NICCW's Application for Interlocutory Appeal DNR's Resistance to Interlocutory Appeal Supreme Court Order Denying NICCW's Appeal NICCW's Motion for Summary	8/29/03 9/25/03 10/21/03 10/21/03 11/05/03 11/14/03 12/22/03 1/29/04 2/04/04 3/01/04 4/08/04 4/20/04 4/28/04 5/11/04 6/08/04 2/25/05 2/27/06 5/16/05 6/02/05 6/22/05 11/04/05

Peterson, David Lake Mills (2)		Animal Feeding Operation	Application in Excess of Crop Usage Rate; Prohibited Discharge – Confinement; Failure to Report a Release; WQ Violations – General Criteria	Referred to Attorney General	Referred	11/21/05
Plymouth Dairy Farms Plymouth Co. (3)		Animal Feeding Operation	Prohibited Discharge – Confinement; Record Keeping; Application in Excess of Crop Usage Rate; Freeboard	Referred to Attorney General	Referred Petition Filed	9/19/05 1/10/06
Roney, Jerry Huxley (5)		Underground Tank	Site Assessment	Order	Referred Petition Filed Application for Default Order Granting Default Motion to Set Aside Default Order Setting Aside Default Trial Date	5/16/05 12/08/05 1/13/06 1/31/06 2/17/06 3/14/06 6/08/06
Roquette America Keokuk (6)	UPDATED	Air Quality	DNR Defendant	Defense	Petition Filed DNR's Answer DNR's Resistance to Temporary Injunction Hearing on Temporary Injunction DNR's Brief in Resistance Roquette's Brief Ruling on Temporary Injunction Trial Scheduling Conference Trial Date Motion for Continuance Order Granting Continuance Trial Date Trial Roquette's Request to Reopen Evidence IDNR Resistance to Reopening Evidence Roquette's Reply to Resistance IDNR Motion/Supp. Resistance Order Denying Roquette's Request to Reopen Evidence	8/28/03 9/11/03 9/11/03 9/11/03 9/29/03 9/30/03 1/14/04 1/06/05 10/24/05 6/29/05 6/29/05 4/24/06 4/24-28/06 5/25/06 6/02/06 6/19/06 6/21/06 7/05/06
Rose Bowl, The Mason City (2)	NEW	Drinking Water	Monitoring/Reporting – Bacteria, Nitrate; Public Notice	Referred to Attorney General	Referred	7/17/06

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Schoenberr, R. B. d/b/a Long Branch Tavern Monmouth (1)	Drinking Water	Permit Renewal	Orders/Penalties	Referred	6/20/97
				Court Order	12/09/98
				Re-Referred	11/21/02
				Petition Filed	3/11/05
				Application for	3/11/05
				Contempt	4/01/05
				Contempt Hearing	8/05/05
				Order for Contempt (\$3,000 fine)	4/01/05 5/03/05
				Arrest Warrant Issued	
				Contempt/Temporary	5/03/05
				Injunction	7/06/05
				Hearing	8/05/05
				Temporary Injunction Granted	8/05/05
				Contempt Hearing Date	1/31/06
				Contempt Hearing Order Finding Defendant in Contempt \$3,000 Fine Amended Petition	
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Simpson, Barry Worth Co.	Animal Feeding Operation	DNR Defendant	Defense	Petition Filed	10/18/04
				Answer Filed	11/04/04
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Stone v. Rembrand Enterprises, Inc. UPDATED	Animal Feeding Operation	DNR Defendant	Defense	Petition Filed	12/06/04
				State Motion to Dismiss	1/10/05
				Hearing	3/07/05
				Ruling Dismissing	5/17/05
				Damage Claims	2/27/06
				State's Motion for	3/20/06
				Summary Judgment	5/01/06
				Order Granting	6/19/06
				Continuance	
				Hearing on Summary Judgment	
				State's Supp. Reply to Plaintiff's Resistance to Motion for Summary Judgment	
				<hr/>	
Williams, Dean Stuart (2)	Underground Tank	Remedial Action	Referred to Attorney General	Referred	10/17/05
				Petition Filed	12/08/05
				Answer Filed	12/23/05
				Motion for Partial Summary Judgment	6/05/06

Contested Case Status

4/26/99	Gerald and Judith Vens	6	Order/Penalty	FP	Clark	9/20/04 – DNR staff gathering information to submit to DNR management.
12/01/99 12/08/99	Iowa Select Farms, L.P./AG Waste Consultants, Inc.	2	Order/Penalty	AFO	Clark	4/20/04 – ISF and Dept. attorneys unsuccessful attempt to contact AG Wastes Consultants attorney.
7/13/00	Dan Witt	6	Order/Penalty	AFO	Clark	4/26/04 – Settlement invitation letter sent.
10/02/01	Daryl Larson	6	Order	AFO	Clark	Negotiating before filing.

11/27/01	Dallas County Care Facility	5	Order/Penalty	WW	Hansen	10/03 – Letter to County attorney regarding appeal resolution. 1/04 – Letter to attorney regarding appeal. 4/04 – Dept. letter to attorney regarding appeal. 9/04 – Dept. letter to attorney regarding appeal.
1/23/02	Clearview Mobile Home Park	6	Permit Conditions	WW	Hansen	10/31/02 – Construction permit issued for improvement to lagoon system. 10/31/03 – Update on construction project requested from Dept. engineer. 1/30/04 – Status report requested from Dept. staff. 2/24/04 – Letter sent to attorney regarding resolving appeal. 3/15/04 – Letter from facility attorney regarding proposed upgrade with sand filters. 4/26/04 – Dept. letter to MHP attorney requesting construction schedule for project. 5/17/04 – Letter from MHP attorney with new schedule.
7/18/02	Mt. Pleasant, City of	6	Order/Penalty	WW	Hansen	\$500 penalty payment received for uncontested portion. 12/03 – Dept. letter with settlement offer. 1/30/04 – Dept. letter sent regarding settlement. 2/24/04 & 3/31/04 – Follow-up letters sent regarding settlement. 4/26/04 – Letter received from City attorney regarding Dept. settlement proposal.
7/23/02	Doug Wedemeyer	4	Order/Penalty	AFO	Clark*	4/30/04 – DNR letter sent.
8/25/02	Kenneth Dahlhauser	2	Order/Penalty	AFO	Clark	3/1/04 – Appellant's attorney agrees to send another settlement letter to client.
11/22/02	Schell Family Partnership	5	Order/Penalty	SW/HC	Tack	Follow-up letter sent 4/17/06. Working through Brownsfields process.
11/27/02	Chelsea, City of	5	Order/Penalty	WW	Hansen*	9/18/03 – DNR letter. Will monitor for compliance through winter of 2004.
2/10/03	Doug Osweiler	6	Order/Penalty	AFO	Clark	Negotiating before filing.
2/24/03	Ray Slach	6	Order/Penalty	AFO	Clark	4/29/04 – Settlement invitation letter sent.
3/04/03	Iowa Select Farms; Swartz Finisher Farm	2	Order/Penalty	AFO	Clark	5/28/04 – Dept. makes counter offer in response to appellant's settlement offer. 6/15/04 – Second round of offers.
4/04/03	Natural Pork Production II, LLP (03-AFO-13)	6	Order/Penalty	AFO	Clark*	1/02/04 – DNR letter.
4/25/03	Ag Processing Inc.	2	Permit Conditions	AQ	Preziosi	Continuing to negotiate.
6/23/03	Iowa Select Farms, L.P.; Iowa Select Farms, Inc. (Kerrigan Gilt/Union Co.)	5	Order/Penalty	AFO	Clark	Negotiating before filing.
6/23/03	D & D Ag Enterprises LLC	4	Order/Penalty	AFO	Clark	Negotiating before filing.
7/10/03	Iowa Select Farms, L.P.; Iowa Select Farms, Inc. (Clarke/Union)	5	Order/Penalty	AFO	Clark	Negotiating before filing.
8/12/03	Southern Waste Handling, Inc.	5	Order/Penalty	AFO	Clark	Negotiating before filing.
8/29/03	Country Living Mobile Home Park	5	Order/Penalty	WW	Hansen	6/23/04 – Construction permit issued. Settlement offer will be made. 9/04 – Status report from Dept. engineer requested regarding project construction status. 10/05 – Status report

						requested from Dept. engineer. 11/05 – Facility upgrade completed. New NPDES permit requested for upgraded facility. 12/16/05 – Settlement offer received from MHP attorney.
9/05/03	Strawberry Point, City of	1	Order/Penalty	WW	Hansen*	1/5/04 – City to upgrade facilities, compliance will be monitored through 2005.
10/08/03	TEGH, Inc. (03-UT-15)	6	Order/Penalty	UT	Wornson	TEGH, Inc. no longer operator; questionable as a viable corporation. Review options.
10/27/03	B & Food & Gas, Inc. (03-UT-12)	6	Order/Penalty	UT	Wornson	B & H no longer operator; questionable as a viable corporation. Review options.
10/27/03	U.S. Nation Mart, Inc. (03-UT-14)	6	Order/Penalty	UT	Wornson	Proposed settlement terms.
12/02/03	Jeff Holland	2	Order/Penalty	AFO	Clark	Negotiating before filing.
12/15/03	AGP (Emmetsburg)	3	Permit Conditions	AQ	Preziosi	Continuing to negotiate.
12/29/03	T. Patrick Cashman; Laurie Cashman	5	Order/Penalty	AFO	Clark	Negotiating before filing.
1/21/04	Bob Kerrigan	4	Order/Penalty	AFO	Clark	Negotiating before filing.
1/30/04	John Schmall d/b/a Carpenter Bar & Grill	2	Order/Penalty	WS	Hansen	2/26/04 – Letter to WS attorney regarding resolving appeal. 9/04 – Per WS section, facility has returned to compliance.
2/09/04	Swine USA, LP	5	Order/Penalty	AFO	Clark	Negotiating before filing.
2/16/04	Iowa Ethanol, LLC; Reilly Construction Co., Inc.	2	Order/Penalty	WW	Clark*	Meeting held 4/07/04.
2/17/04	Broin & Assoc., Inc. aka Otter Creek Ethanol, LLC	3	Order/Penalty	WW	Clark*	Meeting held 4/07/04.
2/17/04	Broin & Assoc., Inc. aka Iowa Ethanol, LLC	2	Order/Penalty	WS/WW	Clark*	Meeting held 4/07/04.
2/18/04	Gettler Dairy, Inc.; Dave and Kristen Gettler	4	Order/Penalty	AFO	Clark	Negotiating before filing.
3/04/04	Tim Trostel	2	Order/Penalty	AFO	Clark	Negotiating before filing.
3/15/04	Iowa Falls, City of	2	Order/Penalty	WW	Hansen	6/04 – Dept. letter to City attorney regarding settlement.
3/16/04	Axtell Finishers; James Axtell	2	Order/Penalty	AFO	Clark	7/29/04 – Dept. reject Axtell's settlement offer and inquires if immediate transfer to DIA is desired.
4/02/04	LeMars, City of	3	Order/Penalty	WW	Hansen	4/02/04 – Meeting held to discuss settlement. 1/05 – Tentative agreement reached on settlement.
4/08/04	Silver Creek Feeders	4	Permit Conditions	AFO	Clark	Negotiating before filing.
4/16/04	Ag Processing Inc. (Sheldon)	3	Permit Conditions	AQ	Preziosi	Continuing to negotiate.
4/16/04	Ben Haven Mobile Home Park	1	Order/Penalty	WS	Clark	Negotiating before filing.
5/12/04	Ag Processing, Inc.	3	Permit Conditions	AQ	Preziosi	Continuing to negotiate.
5/18/04	Alton, City of	3	Order/Penalty	FP	Clark	Negotiating before filing.
5/25/04	CDI, LLC	6	Permit Conditions	AQ	Preziosi	Hearing set for 6/12/06. Pre-hearing conference set for 5/02/06.
5/27/04	CDI – Charles City	2	Permit Conditions	AQ	Preziosi	Hearing set for 6/12/06. Pre-hearing conference set for 5/02/06.
6/11/04	University of Iowa	6	NPDES Permit	WW	Hansen	Negotiating before filing.
6/18/04	CDI – Charles City	2	Title V Permit Determination	AQ	Preziosi	Hearing set for 6/12/06. Pre-hearing conference set for 5/02/06.
6/18/04	Phillip Renze	3	Order/Penalty	AFO	Clark	Negotiating before filing.
6/24/04	Jansma Cattle Co., Inc.	3	Order/Penalty	AFO	Tack*	Negotiating before filing.
6/28/04	Michael Veenstra; Alan Veenstra	5	Order/Penalty	AFO	Clark	Negotiating before filing.
6/28/04	Robin Hewer	6	Order/Penalty	AFO	Book	Hearing rescheduled for 6/30/06.

						Settled, no hearing – awaiting final settlement documents.
8/06/04	Eldora, City of	1	Permit Conditions	WW	Hansen	WW Permits drafted NPDES permit with revised permit limits and compliance schedule. Legal Services to draft amended order with interim limits.
9/29/04	EnviroBate	4	Order/Penalty	AQ	Book	7/25/06 – Consent amendment signed and penalty received. Case closed.
10/08/04	Goose Lake, City of	6	Order/Penalty	WS	Hansen	To be set for hearing.
10/12/04	Gary Hart	6	Order/Penalty	AQ/SW	Tack	Cleaning up property.
10/13/04	Charlie Van Meter; Van Meter Feedyard	5	Permit Conditions	WW	Clark	Negotiating before filing.
10/19/04	Cedar Rapids, City of	1	Order/Penalty	WW	Hansen*	To be set for hearing.
10/21/04	Eugene Kramer	1	Permit Denial	WR	Clark	Negotiating before filing.
10/26/04	Monty Unkrich	6	Order/Penalty	AFO	Book	Hearing rescheduled for 9/13/06.
11/02/04	Mike Elsbernd	1	Order/Penalty	AFO	Book	Order and penalty affirmed. Inability to pay claim being evaluated by Department.
11/10/04	Ted T. Smith	3	Order/Penalty	AFO	Clark	Negotiating before filing.
12/06/04	Jerry Vander Platts	3	Order/Penalty	AFO	Book	Order and majority of penalty affirmed. Sent to DRF for collections 6/6/06.
12/10/04	IPSCO, Inc.	6	Permit Conditions	AQ	Preziosi	Hearing set for 5/09/06. Motion to compel, discovery filed. Pre-hearing conference set for 4/25/06.
1/05/05	S.J. Louis Construction	5	Order/Penalty	WW	Hansen	To be set for hearing, 5/31/06 – Letter regarding appeal sent to company. Follow-up letter to be sent.
1/18/05	MKKS, LC (5 sites)	5	Order/Penalty	UT	Wornson	Hearing set.
1/20/05	Pleasant Hill, City of	5	Order/Penalty	WW	Hansen	4/08/05 – Meeting with City regarding appeal and settlement. City made settlement offer regarding penalty. Offer rejected by DNR. City to provide further response by 5/05. No response received. To be set for hearing. 5/31/06 – Letter to City Attorney regarding appeal. Letter received from City Attorney regarding appeal.
1/20/05	Monty Branstad	2	Order/Penalty	AQ/SW	Preziosi	Amended order issued. 3/28/06 – Amended order appealed. Setting up settlement meeting.
1/24/05	Lawler, City of	4	Order/Penalty	WW	Hansen	Negotiating before filing.
2/04/05	Honey Creek Campground	4	Order/Penalty	WW	Hansen	12/07/05 – Telephone call with Honey Creek attorney regarding hearing and compliance issues. 3/22/06 – Meeting at FO 4 with wastewater owner and attorney. 4/5/06 – FO4 inspection of campground. 5/12/06 – FO letter to facility regarding inspection. 5/22/06 – Letter received from Honey Creek attorney requesting waiver of penalty in view of inspection. Letter to Honey Creek attorney rejecting request to waive penalty.
2/17/05	CDI, LLC	2	Permit Conditions	AQ	Preziosi	Hearing set for 6/12/06. Pre-hearing conference set for 5/2/06.

2/24/05	Mt. Joy Mobile Home Park	1	Order/Penalty	WW	Hansen	Negotiating before filing.
3/08/05	Randy Griffin	5	Order/Penalty	AQ/SW	Tack	Clean-up underway.
3/16/05	S.K. Food and Gas, Inc.; DIWAN LLC 05-UT- 02/Brady St., Davenport 8606991	6	Order/Penalty	UT	Wornson	Settlement.
3/16/05	S.K. Food and Gas, Inc.; DIWAN LLC 05-UT- 02/Brady St., Davenport 8606991	6	Order/Penalty	UT	Wornson	Settlement.
3/23/05	IPSCO (Muscatine)	6	Permit Conditions	AQ	Preziosi	Hearing reset for 5/09/06. Pre-hearing conference set for 4/25/06.
3/25/05	Hoover Land Corp.	2	Order/Penalty	WS	Hansen	Negotiating before filing.
4/04/05	Ruby Field; Ed Grafke	6	Order/Penalty	UT	Wornson	Financial inability claimed. Bank foreclosing. Request inability to pay documentation; discuss with bank.
4/05/05	Dirk D. Graves	4	Order/Penalty	AQ	Tack	Clean -up underway.
5/02/05	Goetsch Trucking and Seed Co.	3	Order/Penalty	HC	Wornson	Set for hearing.
5/25/05	Iowa Quality Beef Cooperative	5	Order/Penalty	WW	Hansen	6/26/06 – FO meeting with company officials to discuss reopening of plant. 7/12/06 – FO inspection of plant.
8/05/05	Scott Lenz	4	Order/Penalty	AFO	Book	Waiting to hear from producer.
8/11/05	Douglas Pudenz	4	Order/Penalty	AFO	Book	Waiting to hear from producer.
11/21/05	CDI, LLC	2	Construction Permit	AQ	Preziosi	Negotiating before filing.
1/27/06	Gold Key Motel	2	Order/Penalty	WS	Hansen	4/25/06 – Settlement offer discussed with WS owner rejected. 5/06 – Settled. Consent order terms agreed to by WS. 6/06 – Consent order signed and issued. Penalty waived. Case closed.
2/27/06	Greig & Co., Inc.	3	NPDES Permit	WW	Clark	Negotiating before filing.
3/07/06	Larry Bergen	2	Order/Penalty	AQ/SW	Schoenebaum	Hearing set for 9/25/06.
3/23/06	Larry Krogman	3	Order/Penalty	AFO	Book	Waiting to hear from producer.
3/28/06	Jordan Branstad; Edward Branstad	2	Order/Penalty	AQ/SW	Preziosi	Negotiating before filing.
4/07/06	Alan Bakker	3	Order/Penalty	AFO	Book	Hearing continued until 7/28/06.
6/21/06	David Carlisle	4	Order/Penalty	SW	Tack	Hearing set for 9/11/06.

Iowa Department of Natural Resources
Environmental Services
Report of WW By-passes

During the period July 1, 2006 through July 25, 2006, 6 reports of wastewater by-passes were received. A general summary and count by field office is presented below. This does not include by-passes resulting from precipitation events.

Month	Total	Avg. Length (days)	Avg. Volume (MGD)	Sampling Required	Fish Kill
October '05	11(9)	0.672	0.691	3	0(0)
November '05	7(11)	0.167	0.045	2	0(0)
December '05	7(7)	0.028	0.010	2	0(0)
January '06	10(6)	0.441	0.002	2	0(0)
February '06	6(9)	0.238	0.006	2	0(0)
March '06	12(9)	0.155	0.026	1	0(0)
April '06	12(14)	0.073	0.134	2	0(0)
May '06	11(18)	0.135	0.004	3	0(0)
June '06	9(7)	0.342	0.076	5	0(0)
July '06	6(5)	0.076	0.005	1	0(0)
August '05	8(13)	0.072	0.019	3	0(0)
September '05	3(5)	0.361	0.003	0	0(0)

(numbers in parentheses for same period last year)

Total Number of Incidents Per Field Office This Period:

1	2	3	4	5	6
1	0	2	0	1	2

-----End of Monthly Reports-----

GENERAL DISCUSSION

Department Discretion Rule

Wayne Gieselmann said that the Department Discretion rule for animal feeding operations was passed through the Administration Rules Review Committee with two objections. The rule will take effect on August 23rd. This will not impact any permits submitted before then only those submitted on or after August 23, 2006.

Prairie Meadows

Prairie Meadows is a CAFO, though it is not currently registered as one. They have no manure management plan in place, but they do dispose of roughly 60 tons of manure per day. They have about 1,200 head of horses, which counts as 2 animal units each.

Appliance demanufacturing

The Department has been working with Vladimir and JR Appliance over the past years. The rules passed today will help with addressing some of the concerns raised today. This issue has been going on for a lot of years.

Wayne Gieselman said that there are five full time field staff in various areas of the state that cover a wide range of environmental issues such as open dumping, illegal burnings, sewage issues, landfill inspections, etc. Field inspections are limited due to the lack of funding for additional staff.

Solid Waste rulemaking

Francis Thicke asked for more clarification on the technical side of the landfill rule and the liner requirements.

Review of Current Commission Meeting day

Next meeting will be held on Tuesday, September 19th.

The Commission agreed to hold their monthly meetings on the first Tuesday of each month. (October 3rd, November 7th and December 5th)

Other

Sue Morrow asked for a flow sheet of the contracts and the money used.

Tammie Krausman said that the proposed FY08 budget will be presented at next month's meeting.

Petition for Rulemaking of Chapter 65

Will be brought back next month.

NEXT MEETING DATE

September 17, 2006

ADJOURNMENT

Motion was made by Mary Gail Scott to adjourn the meeting. Seconded by Sue Morrow. Motion carried unanimously.

With no further business to come before the Environmental Protection Commission, Chairperson Jerry Peckumn adjourned the meeting at 4:15 p.m., Monday, August 15, 2006.

Jeffrey R. Vonk, Director

Jerry Peckumn, Chair

Lisa Davis Cook, Secretary

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