EPC COMMISSION MINUTES & AGENDA

MONTH July

YEAR 1988

HDM-1-1-1
July 1988

MINUTES
ENVIRONMENTAL PROTECTION COMMISSION
Wallace State Office Building
Des Moines, Iowa
July 18-19, 1988

The meeting of the Environmental Protection Commission was held at the Wallace State Office Building in Des Moines, Iowa on July 18 and 19, 1988 convening at 1:30 p.m. on Monday, July 18, 1988.

MEMBERS PRESENT

Keith Uhl, Nancylee Siebenmann, Richard Timmerman, Robert Schlutz, Charlotte Mohr, Clark Yeager

MEMBERS ABSENT

Gary Priebe, Catherine Dunn, Donna Hammitt

ADOPTION OF AGENDA

The following items were added to the agenda:

Appointment for Stan Moser on Tuesday, July 19, at 9:30 a.m.
Appointment for Farmers Coop Elevator on Tuesday, July 19, at 10:45 a.m.
Item #22, Subcommittee Report on Landfill Monitoring Rules

Item #10, State Revolving Fund Rules Proposal, should be deleted

Motion was made by Charlotte Mohr to approve the agenda as amended. Seconded by Richard Timmerman. Motion carried unanimously.

ADOPTION OF MINUTES

Motion was made by Nancylee Siebenmann to approve the minutes of June 20-21, 1988 as presented. Seconded by Clark Yeager. Motion carried unanimously.

DIRECTOR'S REPORT

Director Wilson reported that Dr. Dennis Keeney from Wisconsin has been selected as the director of the Leopold Center.

The CHEEC Board has selected Dr. Keith Cherryholmes of the University Hygienic Laboratory as the Advisory Board Chairman. His term will be for a three-year period. The next CHEEC meeting will be July 22 in Iowa City.

FY89 BUDGET AND FY90 BUDGET REQUEST STATUS

Stan Kuhn, Division Administrator, Administrative Services Division, presented the following item.

Introduction. This item is intended to inform the Commission of the status of the FY89 revised budget and the FY90 request. Included is narrative regarding the significant issues and changes as compared to current budget levels for

each division and most special programs. Attached are schedules presenting revenues by major categories and expenditures by division and special program. Generally, this includes actual data for FY86 and FY87, estimated actual data for FY88, and the projected budget for FY89. Please recognize that the estimated actual data for FY88 will probably change somewhat as final revenues are received and expenditures processed. Further review of the FY89 estimates will be made during the process of preparing the FY90 budget request.

Each commission is encouraged to ask questions regarding issues presented by staff and suggest additions, changes and priorities that should be addressed by staff. In the following months, additional data will be presented, estimates of revenues and expenditures refined, priorities established and the input of the commissions and others recognized. It is expected that each commission will be requested to approve the final budget request, ideally, at the September meetings.

General. The General Fund appropriations are as presented at the March meeting, except that salary adjustments have been added to the various operations related appropriations. Appropriations from the Fish and Wildlife Trust Fund are as requested by the DNR. Two million dollars was appropriated from the Lottery program. The appropriations for the Groundwater program are as previously presented, except that interest on account balances is credited to the Groundwater Fund, and some adjustments were made to the Solid Waste Account funded with sanitary landfill fees.

The major reasons for increases in the operating budgets relate to salary adjustments, continued implementation of the various groundwater initiatives and increased activity relating to Underground Storage Tanks (UST) and Superfund work. Salary adjustments generally include a four percent COLA adjustment for all staff and a Merit increase ranging from four percent to five percent for those not at the top of their salary ranges. Merit increases are granted on the employees' anniversary dates, not the beginning of the fiscal year, so the average increases are about six percent on an annual basis. For the remaining categories, no significant inflation is assumed.

Director's Office. This budget unit includes the operation of the Director's Office. It also includes per diem, travel and miscellaneous expenses for the commissions. No significant changes are anticipated, except that the FY89 budget includes funds to replace the word processors.

Coordination and Information Division. Staffing for this division is reduced slightly through the elimination of several part-time graphic artist positions. An authorized attorney position, long vacant, may be filled to support the implementation of the State Revolving Funding loan program for local sewage works. A number of planning surveys, Interior River Use, Pool 19, Park Use, etc., are being considered for either FY89 and FY90. Sources of survey funding have not been firmly established at this point. "Outside Services" reflects an aggressive publicity program for various programs. However, funding will probably be switched from this division to the programs' budgets.

The cost of the magazine and related postage has increased significantly. The equipment budget reflects the acquisition of several additional personal computers for division staff.

Administrative Services Division. Few significant changes are anticipated. Staffing is somewhat decreased because it appears that all of the positions anticipated initially to support the Groundwater program are not necessary. The office supply budget shows a significant increase due to the recent postage increase. All central office postage costs are pooled in this division. Likewise, the communications budget shows a significant increase due to telephones added to support the additional positions in the Groundwater program and the Waste Management Authority Division. The increase reflected in equipment is primarily for personal computers, chiefly for the Data Processing staff and Computer Aided Design (CAD) support for the Construction Services staff.

Parks, Recreation and Preserves Division. No significant changes as compared to FY88 are anticipated. Within the division, adjustments are being considered so that park and recreation areas with the heaviest use receive a higher priority for support.

For FY90, the division will continue to press for added support for facility maintenance and equipment replacement. The Preserves Board believes there is a need for more attention to preserve area management. However, the division does not anticipate requesting any additional staff in FY90.

Forests and Forestry. Current legislation mandates that 80 percent of the nursery budget be recovered with appropriate charges for stock in FY89, and that 100 percent be recovered in FY90. Thus, the budget will reflect a substantial increase in anticipated nursery stock income.

Legislation will be proposed to collect a "harvest fee" from timber buyers. This is estimated to provide about $300,000 per year. This revenue would be used to fund a "Forest Renewal Program," which includes the cost-sharing and promotion of tree planting and other forest management activities on private lands.

The Loess Hills Pioneer State Forest has grown to the point where active management is required. The FY90 request will include staffing and support for this purpose. No other significant changes are anticipated.

Energy and Geologic Resources Division. This division includes two bureaus--Energy and Geological Resources. The Energy Bureau is funded by Oil Overcharge Funds and allotments from unclaimed utility refunds. The Geology Bureau is funded through the General Fund and substantial funds through the Groundwater program.

In addition to administrating a variety of Energy Conservation programs funded with Oil Overcharge funds, the Energy Bureau was given the task of preparing a statewide comprehensive Energy plan by the last G.A. Five staff are being added to the bureau for handling the workload associated with the Oil Overcharge grants, state and school building energy programs and the preparation of the statewide comprehensive energy plan. No additional changes are expected in the FY90 request.

The Geology Bureau will be playing a major role in implementing the Groundwater program. Primary programs in this regard include the Big Springs

demonstration project and the Geographic Information System. Activities funded by the General Fund will remain at the current level.

For FY90, the Geology Bureau is considering expanding its program in the following areas: Missouri River aquifer investigations, analyzing a five-year backlog of well cores, basic research on the Forest City basin and research at the Manson meteor site.

Environmental Protection Division. The significant increase in staffing reflected in the attached schedule relates to the following programs: continued implementation of the Groundwater program, the Underground Storage Tank program and increased "Superfund" staff work. This increased level of activity is funded with Groundwater funds and federal support.

In FY90, the division will be requesting increased staff in the floodplain/dam regulation and management program. Increased support will be needed to continue an adequate level of air, water and waste analysis at the UHL. General funds will be requested to support these increases.

Fish and Wildlife Division. This division is supported by fishing and hunting license fees, federal aid and a variety of related receipts. The cash balance in the Fish and Wildlife Trust Fund on July 1, 1988, is estimated at $4.5 million. However, due to the need to support various capital projects and to fully utilize the D-J expansion monies, the amount of funds remaining to support operations is rapidly shrinking. Significant additional revenue, most likely a license fee increase, will be necessary in the near future to maintain current operations for the Fish and Wildlife Division.

A "spread sheet" is attached which details various fund income sources and cash flow, both historical and projected. Briefly, state and federal income is assigned to the extent possible to support operations. The remaining funds, earmarked state fees, federal aid and the state funds necessary to match federal aid, are assigned to capital projects. Any additional capital project desired will, of necessity, have to be funded with funds that could otherwise be used for operations. See also the narrative relating to the fish and wildlife capitals in the capitals section.

In FY90, a three person work team is being added to study various fisheries related issues on the Mississippi River. This effort is funded by a 100 percent federal contract and is generally related to the Lock and Dam 26 issue. Also, under the expanded D-J program, one person is being added at the Conservation Education Center for "Aquatic" education, one of the purposes mandated in this program. No other significant changes are anticipated in this division, either for FY89 or in the FY90 request.

Waste Management Authority Division. This division is funded with Oil Overcharge monies and Sanitary Landfill fees. This is a new division established by the 1987 G.A. Budget increases reflect implementation of programs and related staff and support. No significant changes are anticipated as compared to the original mission of this division.

Special Programs

State Revolving Fund (SRF). The 1988 G.A. established a State Revolving Fund for the purpose of providing low-cost loans to communities for sewage treatment projects. This revolving fund will be capitalized with 80 percent federal funds and a 20 percent state match. The state match will come from bonds issued by the Iowa Housing Finance Authority. For FY89, initial capitalization involves $16 million from the EPA and $3.2 million from state bonds. Over the six-year period of capitalization, a total of $112 million is expected from federal funds and $22.4 million from state bonds. This program will replace the direct federal and state subsidies for sewage works construction. It will be administered by the Environmental Protection Division.

Low-Level Radioactive Waste Compact. In FY88, the $60,000 assessment was paid from the DNR General Fund appropriation. The 1989 G.A. appropriated $78,000 from the General Fund. No appropriation will be necessary for FY90, as this cost will be handled by a fee on low-level waste from utilities within the compact area.

Green Thumb Program. This program was continued at the FY88 level in FY89 with a $200,000 General Fund appropriation. This amount is matched, 15 percent, by state and local grant recipients. The total is used exclusively to hire senior citizens for conservation related work. No significant changes are anticipated in the FY90 request.

USGS Cooperative Program. This General Fund appropriation of $185,983 is utilized, in cooperation with the USGS, for the stream gauging program and topographic map production. No significant change is anticipated in this program.

Capital Acquisition and Development

Park User Fee Program. Attached are schedules presenting fund receipts, expenditures and a list of anticipated FY89 projects. The DNR anticipates spending approximately $2.1 million on these projects in FY89.

Marine Fuel Tax Program. Attached are schedules presenting fund receipts, expenditures and a list of anticipated FY89 projects. The appropriation allows the DNR to spend the available resources in the fund for projects related to the DNR's recreational boating program and for purposes listed in Section 324.79.

Fish and Wildlife Capitals. The attached list of FY89 projects includes both projects originally included in the FY88 budget, but not initiated, and additional projects planned by the DNR. Also attached is a "spread sheet" detailing Fish and Wildlife Trust Fund receipts and expenditures, both history and projected.

The fish and wildlife capital program, at a minimum, must include the wildlife habitat program, the state waterfowl acquisition initiative and fisheries acquisition and development projects to the extent necessary to utilize

available D-J, federal fisheries restoration aid funds. Any additional capital projects must be funded out of receipts that can also be used for operations.

Even though the beginning FY89 balance of $4.8 million appears more than adequate, a license fee increase appears necessary in the near future, particularly if the DNR desires to undertake capital projects that will be funded with receipts otherwise needed for operations.

The attached schedules of FY89 projects will probably have to be scaled back to conserve resources. The staff is in the process of more closely analyzing cash flows, receipt estimates, capital projects and possible revenue increase. The attached material, at this point, is provided as background information only. It does not represent a staff recommendation.

Lottery Projects. The attached schedule and narrative generally outlines the current status and anticipated projects to be funded with lottery funds. A more precise recommendation will be presented following NRC meetings when the FY88 lottery receipts are known for certain.

Other Capitals. There are a number of other capital and special programs that, in previous years, would be suggested for funding from the General Fund. None of these have funding available for FY89. The staff will be making recommendations regarding which of these and from what source should be requested in FY89 at future NRC meetings. Input regarding all of these projects and possible additional projects is desirable at this point.

Iowa Department of Natural Resources
Park User Fee Fund
FY89 Budget

	Actual FY86	Actual FY87	Est. Actual FY88	Budget FY89
Sources of Funds:				
Balance Forward	---	503,010	1,514,196	2,088,196
Receipts:				
Park User Permits	503,010	1,244,596	1,127,000	958,000
Interest	---	59,238	85,000	90,000
Other	---	6,565	12,000	---
Total Receipts	503,010	1,310,400	1,224,000	1,048,000
Total Sources	503,010	1,813,410	2,738,196	3,136,196
Uses of Funds:				
Project Exp. and Enc.	---	299,214	650,000	2,130,400

Note: The above schedule is presented on a cash basis. The reduction of the fee occurred at the beginning of 1988. Thus, the revenue estimate for FY89 is based solely on the new fee structure. The estimate is based on the legislative projection, which may be optimistic.

As indicated by the number of projects on the following list carried forward from FY88, the DNR is behind schedule in getting these projects designed and let. Part of that is due to the failure of the Springbrook Dam and the Lake Macbride projects to come in at the original budget estimates. The DNR is in the process of hiring an architectural design consultant to increase the rate of progress.

The park user fee statute appropriates the fees solely for the renovation and replacement of park and recreation facilities. Thus, the printing cost of the stickers and other administrative costs are included in the operating budget instead of charged against fees. Since the fees are already appropriated in the original statute, no additional appropriation action by the General Assembly is needed to proceed with the projects. Project cost over- or underruns are handled by the unbudgeted fund balance at the end of FY89.

Iowa Department of Natural Resources
Park User Fee Fund
FY89

1.	Lake Macbride Beach Facility	$ 130,000
2.	Lake Wapello Beachhouse Renovation	40,000
3.	Lake Ahquabi Lodge Renovation	40,000
4.	Gull Point Shower and Toilet Building	100,000
5.	Clear Lake Shower and Toilet Building	100,000
6.	Honey Creek Shower and Toilet Building	100,000
7.	Honey Creek Wastewater System Renovation	50,000
8.	Fairport Shower and Toilet Building	100,000
9.	Lake Keomah Sewage System Renovation	20,000
10.	Prairie Rose Water System Renovation	75,000
11.	Wapsipinicon Horseshoe Picnic Area Modern Latrine	50,000
12.	Lacey-Keosauqua Shower and Toilet Building	100,000
13.	Lake of Three Fires Water and Wastewater System Renovation	150,000
14.	Lake of Three Fires Beachhouse Renovation	50,000
15.	Continued Trail Development, Unspecified Areas	50,000
16.	Black Hawk Shower and Toilet Building	100,000
17.	Red Haw Shower and Toilet Building	100,000
18.	Lacey-Keosauqua Cabin Foundation Renovation	45,000
19.	Geode Campground Electrical System Renovation	20,000
20.	McIntosh Woods Pit Latrine	25,000
21.	Palisades-Kepler Shower and Toilet Building	100,000
22.	Lake Wapello Shelter	40,000
23.	Lake Wapello Shower and Toilet Building	100,000
24.	Palisades-Kepler Lodge Well Replacement	5,400
25.	Green Valley Pit Latrine	25,000
26.	Backbone, Replace Four Cabins	50,000
27.	Big Creek Sewage System Repair	75,000
28.	Green Valley Campground Electrical System	25,000
29.	Red Haw Campground Electrical System	25,000
30.	Nine Eagles Water System Renovation	30,000

31.	Walnut Woods Lodge Water System Renovation	10,000
32.	Minor Renovation Projects	100,000
33.	Project Design and Contract Administration	100,000
	TOTAL	$2,130,400

The first 15 projects on this list are carry-forwards from the previous fiscal year. Of the 15, five are scheduled for letting at the forthcoming August NRC meeting.

Iowa Department of Natural Resources
Marine Fuel Tax Fund Recapitulation
Budget FY89

	Actual FY87	Est. Actual FY88	Budget FY89
Sources of Funds:			
Balance Forward	2,353,175	1,701,213	2,148,213
Reversions	432,374	---	---
Federal Aid	---	424,000	100,000
Receipts	1,811,900	1,820,000	2,020,000
Total Available	4,597,449	3,945,213	4,268,213
Uses of Funds:			
Fish and Wildlife, Law Enf. and Access Maintenance	100,000	100,000	150,000
Parks, Water and Boating Related Operations	397,000	397,000	430,000
Capital Acq. and Development	2,399,236	1,300,000	2,525,000
Total Uses	2,896,236	1,797,000	3,105,000

The Marine Fuel Tax Fund is supported by gas tax paid by Iowa's boaters, legislatively determined to be .9 of one percent of all gas tax receipts. Section 324.79 allows the revenue to be used for Iowa's recreational boating program including acquisition, development and maintenance of boating related facilities, renovation of natural lakes, etc. As shown above, some of the revenue is used to supplement normal operating budgets for law enforcement, parks and access maintenance. Normally, the General Assembly appropriates the funds used for supplementing operating budgets, and allows the DNR to spend the remainder of the receipts for various capital acquisition and development projects.

Iowa Department of Natural Resources
Marine Fuel Tax Capital Projects
FY89 Budget

1.	Meadow Lake Boat Ramp, Adair County	$ 20,000
2.	Lost Island Lake, Barringer Slough, Water Control Structure, Clay County	100,000
3.	Volga River, Grannis Creek Canoe Access, Fayette County	10,000
4.	Boone Forks, Boone River Boat Ramp, Hamilton County	20,000
5.	Rock Creek Park, Boat Ramp/Jetty, Jasper County	25,000
6.	Lake Macbride, Boat Ramp, Johnson County	20,000
7.	Miami Lake, Boat Ramp, Monroe County	30,000
8.	Viking Lake Park, Boat Ramp, Montgomery County	20,000
9.	LeClaire Access, Boat Ramp, Mississippi River, Scott County	35,000
10.	Elk Lake Water Control Structure, Clay County	20,000
11.	Blue Lake, East Access Boat Ramp, Monona County	35,000
12.	Saylorville WMA Boat Ramp, Des Moines River, Dallas County	45,000
13.	Templar Point, Double Ramp and Parking, Spirit Lake, Dickinson County (see Lottery Projects also)	130,000
14.	Black Hawk Lake, Renovation Design, etc., Sac County	200,000
15.	Iverson Bottoms Ramp, Allamakee County	14,000
16.	Sweet Marsh Ramps, Bremer County	75,000
17.	Otterville Access Ramp, Buchanan County	20,000
18.	Bel Air Access Ramp, Buena Vista	20,000
19.	Big Marsh Ramp, Butler County	20,000
20.	Elk Rock Ramp, Dickinson County	30,000
21.	Volga River Lake Ramp, Fayette	75,000
22.	Riverton Ramp, Fremont County	20,000
23.	Waubonsie Access, Fremont	35,000
24.	Bradgate Ramp, Humboldt	25,000
25.	Green Island Ramps, etc., Jackson County (see F/W also)	150,000
26.	South Sabula Lake Dredging and Road, Jackson County	100,000
27.	Skunk River Ramp, Keokuk	20,000
28.	Red Haw Lake, Ramp and Road, Lucas County	20,000
29.	Willow Slough Ramp, Mills County	12,000
30.	Lizard Lake Ramp, Palo Alto	20,000
31.	Big Creek Ramp, Polk County	45,000
32.	Black Hawk Park Ramp, Sac County	15,000
33.	Hendrickson Marsh Ramp, Story County	15,000
34.	Green Valley Park Ramp and Parking, Union County	30,000
35.	Lake Ahquabi Ramp, Warren County	25,000
36.	Bluffton Fir Stand, Upper Iowa, Ramp, Winneshiek County	12,000
37.	Ronan Ramp, Upper Iowa, Winneshiek County	17,000
38.	Water Access Renovation, Minor Projects	100,000
39.	Project Design	200,000
40.	Water Access, Local Project Cost-Share Grants	600,000
41.	Water Access Acquisition, Unspecified Locations	100,000
	TOTAL	$2,525,000

The first 13 projects are carried forward from the FY88 budget. The Marine Fuel Tax Fund is supported by gas tax paid by Iowa's boaters, legislatively determined to be .9 of one percent of all gas tax receipts. Section 324.79

allows the revenue to be used for Iowa's recreational boating program including acquisition, development and maintenance of boating related facilities, renovation of natural lakes, etc. As shown above, some of the revenue is used to supplement operating budgets for law enforcement, parks and maintenance of access areas. Normally, the General Assembly appropriates the funds used for supplementing operating budgets, and allows the DNR to spend the remainder for various projects and grants related to boating recreation.

REVENUE PROJECTION
FISH & WILDLIFE FUND
JUNE 88

	FY83 ACTUAL	FY84 ACTUAL	FY85 ACTUAL	FY86 ACTUAL	FY87 ACTUAL	FY88 PROJTN	FY89 BUDGET	FY90 PROJTN	FY91 PROJTN
FISH & WILDLIFE FUND									
BALANCE FORWARD	5571061	5273032	4833460	4833464	4238647	4575190	4877574	2251481	-722141
FEDERAL AID	3004667	2731980	2678847	2360913	3039890	4100000	4000000	4000000	4000000
MARINE FUEL TAX TRANSF	0	166496	168523	100000	100000	100000	100000	100000	100000
BOAT REG TRANSF	0	726608	757500	905600	905600	950000	1000000	1000000	1000000
SNOW MOBILE TRANSFER	0	48286	50461	67000	67000	145000	150000	150000	150000
OTHER TRANSF	0	0	0	0	2690	0	0	0	0
INTEREST INCOME	693192	561199	430063	419761	343305	308484	330707	252877	56992
DEER LICENCE FEES	1379259	1426774	1531622	2004788	2237354	2490000	2500000	2500000	2500000
TURKEY LIC FEES	182223	209093	264886	325482	346915	470000	470000	470000	470000
DUCK STAMPS	221785	218661	228680	184956	210079	219000	210000	210000	210000
HUNTING/FISHING LIC FEES	5001546	5045572	5963197	6558903	6985247	7210000	7200000	7200000	7200000
OTHER LIC FEES	254935	245284	262260	137242	193642	170000	180000	180000	180000
CONTROLLED HUNTING	27624	28200	29560	25972	24784	25000	25000	25000	25000
SALE OF ART		34700	36100	17600	33096	8900	9000	9000	9000
TROUT STAMPS	152945	162240	205447	213989	219360	205000	210000	210000	210000
NONGAME CERTIFICATES	9645	7410	5655	5700	3015	4500	4500	4500	4500
HABITAT STAMPS	787009	774815	716038	675662	731093	780000	780000	780000	780000
REFUNDS	24157	40490	70496	213583	111616	80000	80000	80000	80000
SALE OF JUNK	12446	20685	24644	33602	24698	30000	30000	30000	30000
SALE OF WOOD HAY ETC	21761	5395	9355	9283	4963	15000	15000	15000	15000
LAND MGT INCOME	233819	273455	226956	259665	178253	150000	175000	175000	175000
SALE OF PUBLICATIONS	9474	5741	3552	5522	13214	34000	10000	7500	7500
DONATIONS	0	0	0	17311	2054	1500	1500	1500	1500
CHICKADEE CHECK OFF	213187	202003	156108	144676	185813	180000	175000	175000	175000
MISCL	21590	20251	228371	44610	45671	20000	20000	20000	20000
FINES/PENALTIES	36908	61339	53153	55985	73921	77000	80000	80000	80000
DUCKS UNLIMITED	0	0	0	0	0	0	100000	100000	100000
TOTAL FISH & WILDLIFE REV	17859233	18289709	18934934	19621269	20321920	22348574	22729261	20126858	16856351
FISH & WILDLIFE EXPENDITURES									
OPERATIONS	8433413	9552326	9933443	10831350	11428218	12500000	13753800	14450000	15150000
F/W 27TH PAY PERIOD	0	0	0	0	0	0	355000	0	0
ADMINISTRATION	1634813	1851863	1910284	2063214	2173353	2175000	2519000	2650000	2750000
CAPITALS	2517975	2052060	2221346	2488058	2145159	2800000	3750000	3750000	3750000
CAPITALS CARRY FORWARD	0	0	0	0	0	0	0	0	0
TOTAL FISH & WILDLIFE EXP	12586201	13456249	14065073	15382622	15746730	17475000	20377800	20850000	21650000

Iowa Department of Natural Resources
Fish and Wildlife Trust Fund, Capital Improvements
FY89

Project Description Project Description	Federal Aid and Other and Other	$3,205,000 State	$3,205,000 Total
Wildlife Habitat Program			
State Habitat Acquisition	$ ---	$ 250,000	$ 250,000
Habitat Enhancement Cost-Share Programs	---	100,000	100,000
Property Taxes, State	---	50,000	50,000
County Cost-Share Program	---	400,000	400,000
Total Habitat	---	800,000	800,000
Waterfowl Acquisition	100,000	170,000	270,000
Habitat Grant to D.U.	---	30,000	30,000
Waterfowl Development			
Green Island, First Phase	---	600,000	600,000
Shimon Marsh, Water Control Structure	---	30,000	30,000
Princeton Pump House	---	25,000	25,000
Otter Creek Marsh, Water Control and Pump	---	40,000	40,000
Sweet Marsh, Dike Renovation	---	6,000	6,000
Colyn Spillway Renovation	---	15,000	15,000
Big Marsh, West Fork Control Structure	---	12,000	12,000
Weise Slough, Water Control Structure	---	5,000	5,000
Big Marsh, Middle Pool Spillway Extension	---	14,000	14,000
Fallow Marsh Water Control	---	10,000	10,000
Total Waterfowl Development	---	757,000	757,000
Wildlife Area Development			
Sand Creek Bridge	---	10,000	10,000
Sweet Marsh, Service Building Remodeling/Renovation	---	20,000	20,000
Fox Hills, Residence and Service Building	---	120,000	120,000
Wapello WMA Residence	---	75,000	75,000
Bays Branch Storage Building	---	20,000	20,000
Total Wildlife	---	245,000	245,000
Nongame Program			
Windbreak Cost-Share	---	25,000	25,000
Fisheries			
Decorah Hatchery (FY89 portion only)	1,200,000	400,000	1,600,000

Rathbun Hatchery, Intake,	225,000	75,000	300,000
Fishing Riffle,			
Little Sioux River	6,000	2,000	8,000
Raccoon River	6,000	2,000	8,000
Fish Culture Research			
Facility Design, Rathbun	37,500	12,500	50,000
Big Creek Fishing Pier	56,250	18,750	75,000
Guttenberg Boat Harbor			
Renovation-Hatchery	---	80,000	80,000
Black Hawk Lake, Fish Barrier	26,250	8,750	35,000
Spirit Lake, Fish Barrier	15,000	5,000	20,000
Fairport Hatchery, Design,			
Holding Facility	26,250	8,750	35,000
Decorah Hatchery, Renovate			
Office Building	---	40,000	40,000
Spirit Lake Hatchery,			
Security Fence	---	8,000	8,000
Beaver Lake, Dam Construction	382,500	127,500	510,000
Fish Cleaning Stations:			
McIntosh Woods	18,750	6,250	25,000
Marble Beach	18,750	6,250	25,000
Big Creek	18,750	6,250	25,000
Lake Macbride	18,750	6,250	25,000
Fisheries Acquisition:			
Fishing Lakes	300,000	100,000	400,000
Trout Streams	75,000	25,000	100,000
Total Fisheries	2,430,750	938,250	3,369,000
Other			
Boone Research Station Replacement	---	150,000	150,000
Upper Iowa, Lower Dam Removal	---	50,000	50,000
Enforcement Storage Buildings			
Lake Darling	---	20,000	20,000
Boone	---	20,000	20,000
Total Other	---	240,000	240,000
TOTAL, ALL	$2,530,750	$3,205,250	$5,736,000

This is an initial draft of the FY89 Fish and Wildlife capital budget. This includes a number of projects carried forward from FY88 in addition to new projects for FY89. It is possible that this list will be significantly reduced, and projects moved to FY90 and beyond. With current revenues and contracting capability, it is not reasonable to expect all of these projects to be funded in FY89.

Iowa Department of Natural Resources
Proposed FY89 Budget

Appropriation for FY89 from Lottery Revenues	$2,000,000
Uses:	
1. Western Iowa Loess Hills Forest, Continue Acquisition	400,000
2. County Recreation/Tourism Grant Program	600,000

3. Public/Private Cost-Share Program for the Purchase of Unique Natural Areas	400,000
4. Development of State Park and Recreation Areas	600,000
Total Uses	$2,000,000

The appropriation language mandates that $160,000 of the state area development funds be used to continue projects funded with federal funds. The obvious intent is to complete the Union Grove project. Absent further intent, legislative direction comes from the original lottery (Iowa Plan) appropriation which states that not more than $400,000 may be used for Forest, Park and Wildlife area acquisition; not more than $750,000 be used for county grants for recreation and tourism projects; not more than $500,000 be used for the public/private acquisition program; and the remainder for the development of state parks and recreation areas. The original intent of the Iowa Plan was that the development of state parks and recreation areas was to be directed to encouraging tourism and economic development.

The FY88 lottery appropriation was also for $2.0 million. At this point, DNR estimates that actually $1,900,000 will be available. Last year, $400,000 was set aside for forest acquisition. The G.A. mandated that $250,000 be set aside for county grants. Nothing was allotted for the public/private cost-share program. Legislative action earmarked $855,000 for specific projects. The remainder, currently estimated at $395,000, is available for state development at DNR's discretion.

Approximately $100,000 of the discretionary amount will be needed to complete development as currently planned at Pleasant Creek and Lake Manawa. Thus, approximately $295,000 is estimated to be available from FY88 lottery funds for other state development.

Assuming DNR receives the entire $2.0 million in FY89, $600,000 is proposed for state development. $250,000 is proposed for construction design related to the Brushy Creek dam. Thus, $350,000 would be available for other state development. Following is a list of the other state development projects proposed in both FY88 and in the FY89 request.

Templar Point, Spirit Lake, FY88	$ 148,000
Lighthouse Point, West Okoboji, FY88	182,000
Gull Point Park, FY88	170,000
Pikes Peak Park, FY88	376,000
Geode Park Water System, FY89	450,000
Maquoketa Caves Park Redevelopment, FY89	350,000
Mines of Spain, Initial Development, FY89	1,000,000
Volga River, Continue Development, FY89	1,000,000
Wilson Island, Water and Waste Improvements, FY89	400,000
Cedar Falls-Waterloo, Bike Trail Link, FY89	50,000

Thus, a total of $645,000, plus federal LAWCON cost-share as possible, is available for the state development projects listed above. The Parks, Recreation and Preserves Division proposes to proceed, to the extent possible, with the FY88 projects, the George Wyth bike trail link and Maquoketa Caves.

Iowa Department of Natural Resources
Capital Project Issues
FY90 Budget Request

The following is intended to outline, in a general manner, the capital acquisition and development issues that are not addressed in the schedules and narratives dealing with park user fees, MFT, fish and wildlife and lottery projects. It is further assumed that current initiatives under the lottery program will continue to be funded by that source.

1. Preserves Acquisition. $150,000 has been requested from the General Fund the past two sessions at a high priority. This has not received serious consideration from the General Assembly, although it is a very high priority of the Preserves Board.

2. Boone River Protected Water Area, and other protected water areas. $200,000 was requested to purchase easements and fee lands under this program from the General Fund. Although the Governor recommended this from lottery funds in 1987, this did not receive serious consideration from the General Assembly.

3. Pine Lake Dams Renovation Project. The agency has requested funding for this project at about the $1.8 million level for a number of sessions. The 1987 session requested the DNR to study raising the dam instead. The preliminary estimate for this is $5.7 million.

4. Other Dam Renovation Projects. Renovation of the Springbrook Park dam will cost about $200,000. Consultants will shortly be preparing reports on two more dams that appear to require extensive renovation, Lake Keomah and Lake Darling.

5. Forestry Capital Facility Needs. For several years, the Forestry Division has requested funds for a service building at Shimek, chemical storage buildings at the nursery and Stephens, and a storage and fabrication building at Yellow River. A service/storage building complex will shortly be needed at the Loess Hills Forest. There is no earmarked funding readily available for Forestry maintenance and service facilities. The estimated cost of these projects is $182,000.

6. Cedar Falls-Waterloo Lakes Proposal. Is the state going to become more involved in this project, and what is the anticipated DNR role expected to be.

7. Des Moines River Greenbelt. Many of the projects in this program will require matching funds by either state or local government.

8. Open Spaces Plan. This is due to be submitted to the G.A. by the DNR shortly. Is it appropriate at this point to propose funding for this initiative?

9. Park Residences. The Parks Bureau believes that it is not appropriate to use either lottery or park user fees for residence construction or renovation. That leaves only General Funds as a possible source. Last session, the DNR

requested funds for a residence at Pleasant Creek and renovation of a residence at Stone Park.

10. Education Center. The parking lot needs to be resurfaced. The kitchen needs new equipment and renovation.

11. Energy Conservation. Bond funding for energy conservation in state buildings for those not previously receiving funding has been eliminated. The Energy Bureau estimates that a capital expenditure of approximately $300,000 for DNR facilities would generate savings with a payback of six years or less. When the specific recommendations are available for DNR, they will probably be included in staff recommendations.

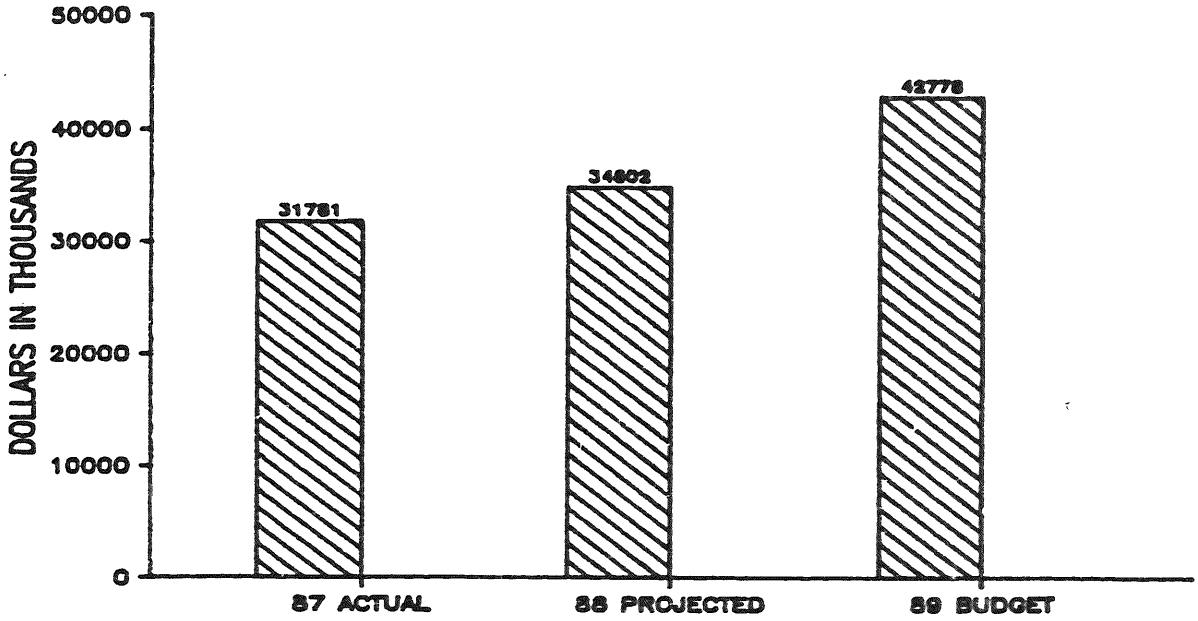
Input is invited from the Natural Resources Commission regarding these and possible other capital project proposals. The DNR staff intends to present a solid proposal concerning these issues, and possible others, at the August NRC meeting.

(Expenditure charts are shown on the following 11 pages)

RECEIPT SCHEDULE

	1987 ACTUAL	1988 PROJECTED	1989 BUDGET
FISH & WILDLIFE FUND			
BALANCE FORWARD	4238647	4575190	5373574
FEDERAL AID	3039890	4100000	4000000
MARINE FUEL TAX TRANSF	100000	100000	100000
BOAT REG TRANSF	905600	950000	1000000
SNOW MOBILE TRANSFER	67000	145000	150000
OTHER TRANSF	2690	0	0
INTEREST INCOME	343303	308484	348207
DEER LICENCE FEES	2237354	2490000	2500000
TURKEY LIC FEES	346915	470000	470000
DUCK STAMPS	210079	219000	210000
HUNTING/FISHING LIC FEES	6985247	7210000	7200000
OTHER LIC FEES	193642	170000	180000
CONTROLLED HUNTING	24784	25000	25000
SALE OF ART	33096	8900	9000
TROUT STAMPS	219360	205000	210000
NONGAME CERTIFICATES	3015	4500	4500
HABITAT STAMPS	731093	780000	780000
REFUNDS	111616	80000	80000
SALE OF JUNK	24698	30000	30000
SALE OF WOOD HAY ETC	4963	15000	15000
LAND MGT INCOME	178253	150000	175000
SALE OF PUBLICATIONS	13214	34000	10000
DONATIONS	2054	1500	1500
CHICKADEE CHECK OFF	185813	180000	175000
MISCL	45673	20000	20000
FINES/PENALTIES	73921	77000	80000
DUCKS UNLIMITED	0	0	100000
TOTAL FISH & WILDLIFE FUND	20321920	22348574	23246781
LAND & WATERS FUND			
FEDERAL AID	88811	104000	106000
MARINE FUEL TAX TRANSF	396238	397000	397000
OTHER LICENCES	12614	12000	10000
SNOW MOBL OPERATOR CERTS	1392	1500	1000
REFUNDS	9421	13000	10000
SALE OF JUNK	3990	9000	5000
CONCESSION LEASES	65143	47000	40000
COTTAGE & CAMPING RECEIPTS	842537	875000	820000
RENTAL INCOME	30234	26000	25000
SALE OF WOOD HAY ETC	191587	140000	150000
LAND MGT INCOME	46800	98000	80000
DEPARTMENTAL RULE #55	69895	143000	140000
SAND & GRAVEL ROYALTIES	92738	129000	100000
SALE OF NURSERY STOCK	306586	357000	430000
DONATIONS	2410	8900	9000
MISCL	1979	7400	7000
TOTAL LANDS & WATERS FUND	2162375	2367800	2330000
ADMINISTRATIVE FUND			
REFUNDS	2735	2000	2000
COTTAGE & CAMPING RECEIPTS	42621	46000	43000
SALE OF PUBLICATIONS	219821	285000	275000
MISCL	33611	32000	30000
EXP REDUCTIONS	0	0	0
TOTAL ADMINISTRATIVE FUND	298788	365000	350000
BOAT REGISTRATION	1745172	450000	2000000
PARK USER	1710400	1155000	1150000
SNOWMOBILE REGISTRATION	542439	140000	1000000
HAZARDOUS WASTE REMEDIAL FUND	130244	170000	130000
OPERATOR CERTIFICATION	82095	18000	18000
WATER PERMITS	8075	6000	6000
WATER SUPPLY FEES	95290	125000	125000
MARINE FUEL TAXES	1875264	2000000	2000000
CORPS WILDLIFE MGT PROJECTS	154963	276000	250000
GROUNDWATER			
STORAGE TANK ACCT	142900	220000	220000
SOLID WASTE ACCT	414734	559000	1750000
AGRICULTURE MGT ACCT	0	1207770	2000000
HOUSEHOLD HAZ WASTE ACCT	0	164575	750000
TOTAL OTHER FUNDS	6461576	6450945	12590000
TOTAL ALL FUNDS	29244659	31532319	38525781

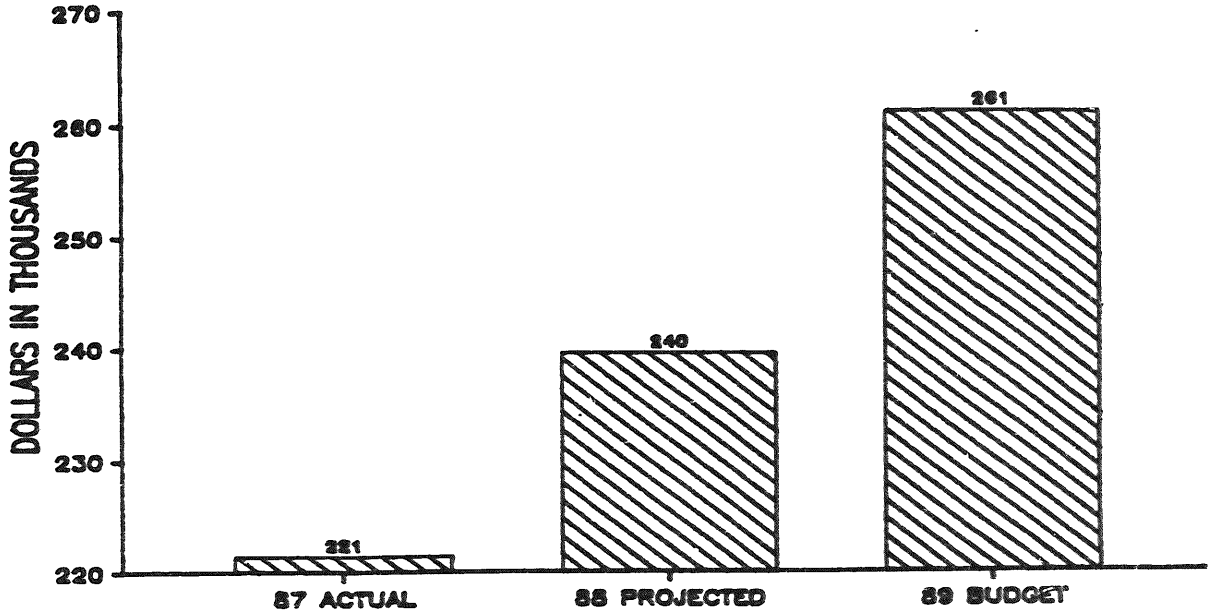
DEPARTMENT OF NATURAL RESOURCES
TOTAL EXPENDITURES OPERATIONS



EXPENDITURES

#FTE BUDGETED	912.36	973.10	968.54
#FTE ACTUAL	855.55	875.50	.00
PERSONNEL	21851609	24308000	28317540
PERSONAL TRAVEL	641096	658000	779959
VEHICLE OPERATION	666081	704000	766203
VEHICLE DEPRECIATN	688030	915000	1005924
OFFICE SUPPLIES	658876	689300	721512
FAC MAINT SUPPLIES	855418	833500	1091562
EQUIP MAINT SUPPL	698606	740900	681848
PROF/SCIENT SUPPL	450	6000	33052
CONS SUPPLIES	404268	446500	447754
OTHER SUPPLIES	184443	210500	230990
PRINTING	493294	583300	637144
UNIFORMS	153086	189700	190216
COMMUNICATIONS	457488	446200	512420
RENTALS	119603	116100	158003
UTILITIES	500890	514000	540500
PROF/SCIEN SERV	1427082	1496000	4047779
OUTSIDE SERVICES	413155	545800	504586
ADVERTISING	6744	28000	32841
OUTSIDE REPAIRS	4712	0	0
DATA PROCESSING	341253	303300	407495
AUDITED REIMBMENT	20089	37000	70000
STATE REIMBMENT	154251	146400	126673
EQUIPMENT	936789	873000	1458316
OTHER EXPENSE	100895	4100	11842
LICENCE FEES	3771	2150	4267
TOTAL EXPENDITURES	31781179	34802250	42778385

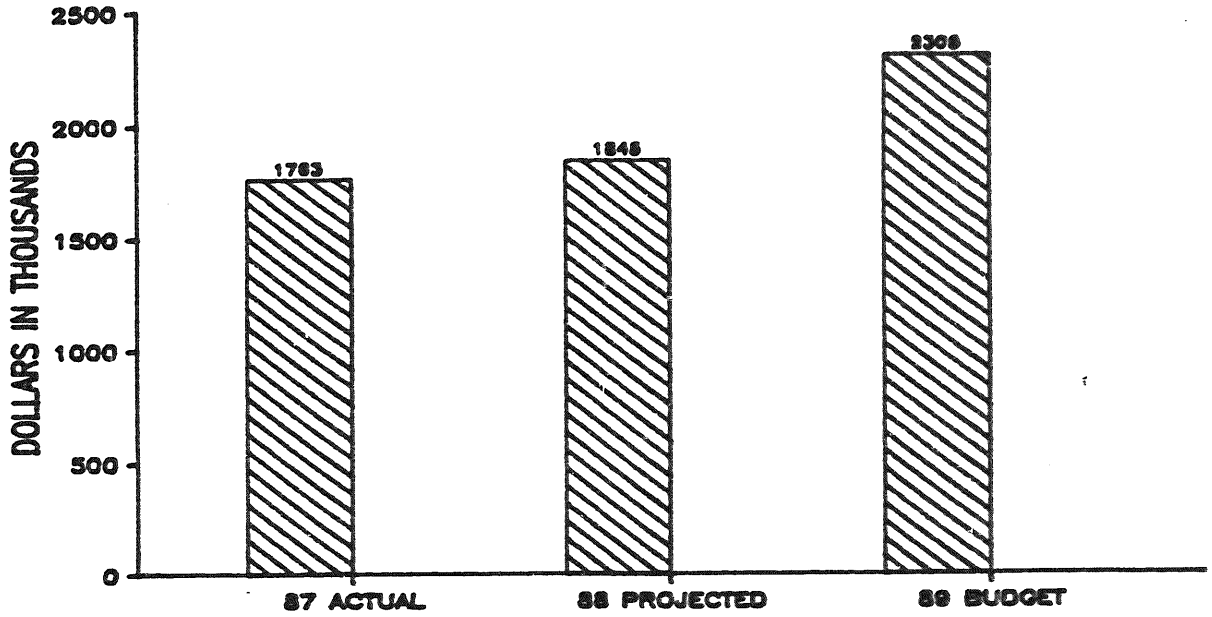
DEPARTMENT OF NATURAL RESOURCES
DIRECTORS OFFICE



EXPENDITURES

#FTE BUDGETED	6.15	5.95	5.95
#FTE ACTUAL	6.15	5.95	
PERSONNEL	171680	192000	196532
PERSONAL TRAVEL	34218	31000	37000
OFFICE SUPPLIES	4046	1300	4200
EQUIP MAINT SUPPL	772	900	750
OTHER SUPPLIES	6	1000	100
PRINTING	4753	5300	5000
UNIFORMS	0	200	0
COMMUNICATIONS	73	200	300
RENTALS	77	600	100
PROF/SCIEN SERVICE	500	0	1000
OUTSIDE SERVICES	351	300	750
ADVERTISING	340	500	0
DATA PROCESSING	4494	3800	5000
STATE REIMBURSEMNT	108	2400	200
EQUIPMENT	0	0	10000
TOTAL EXPENDITURES	221418	239500	260932

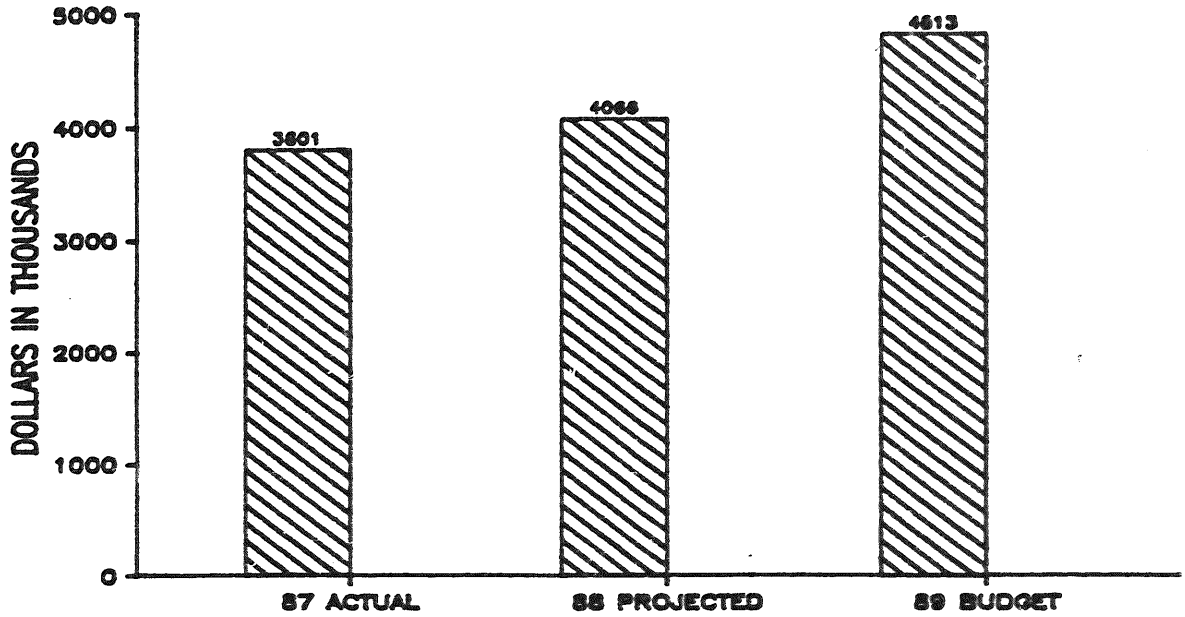
DEPARTMENT OF NATURAL RESOURCES
COORDINATION & INFORMATION DIVISION



EXPENDITURES

#FTE BUDGETED	43.50	44.32	42.45
#FTE ACTUAL	38.84	37.50	
PERSONNEL	1228868	1228000	1451615
PERSONAL TRAVEL	37572	24000	41600
VEHICLE OPERATION	5550	7000	6500
VEHICLE DEPRECIATN	6820	8000	8472
OFFICE SUPPLIES	67400	92000	75160
FAC MAINT SUPPLIES	22767	18000	20500
EQUIP MAINT SUPPL	10816	14000	10000
PROF/SCIENT SUPPL	64	0	0
CONS SUPPLIES	2178	1000	500
OTHER SUPPLIES	28682	36000	26800
PRINTING	246220	295000	304100
UNIFORMS	1839	3000	2250
COMMUNICATIONS	5461	8000	7030
RENTALS	1817	2000	1850
UTILITIES	25797	25000	27550
PROF/SCIEN SERVICE	7990	8000	153000
OUTSIDE SERVICES	36846	47000	75000
ADVERTISING	0	1000	0
DATA PROCESSING	10790	6000	24950
STATE REIMBURSEMNT	12160	2500	435
EQUIPMENT	2520	19000	67600
LICENCE FEES	30	50	0
TOTAL EXPENDITURES	1763187	1844550	2304913

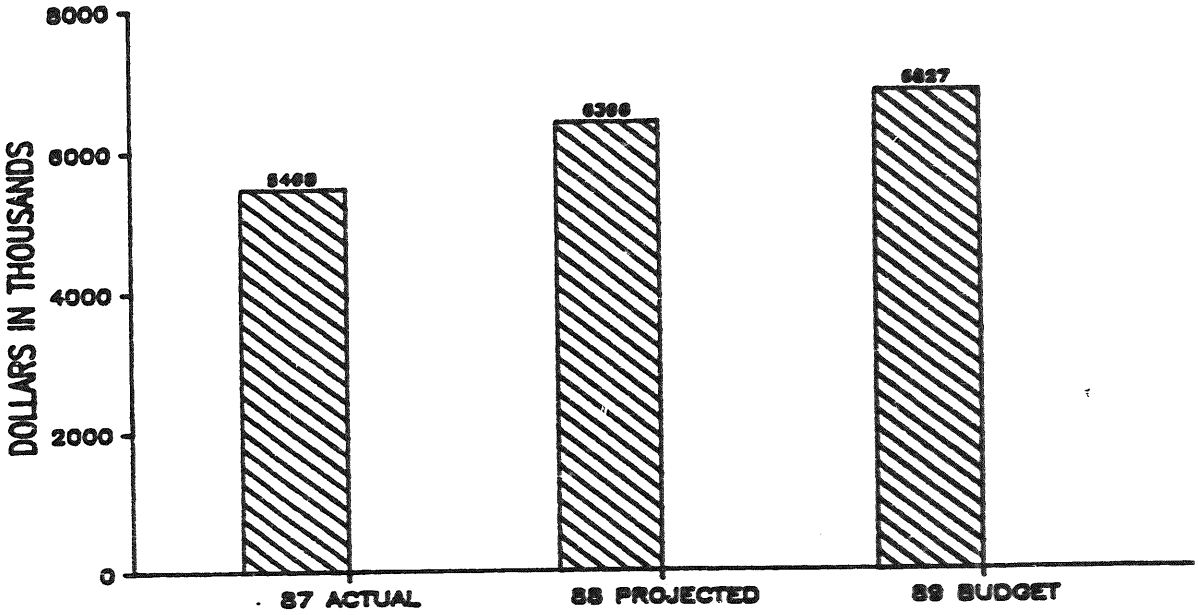
DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE SERVICES DIVISION



EXPENDITURES

#FTE BUDGETED	121.90	130.85	127.15
#FTE ACTUAL	110.07	115.00	
PERSONNEL	2837690	3140000	3613148
PERSONAL TRAVEL	36969	55000	56200
VEHICLE OPERATION	34323	45000	52431
VEHICLE DEPRECIATN	24470	55000	60732
OFFICE SUPPLIES	273233	288000	348350
FAC MAINT SUPPLIES	980	1500	5500
EQUIP MAINT SUPPL	74484	54000	57850
OTHER SUPPLIES	16761	11000	9500
PRINTING	21708	23000	16950
UNIFORMS	2641	4500	3800
COMMUNICATIONS	170827	164000	205500
RENTALS	2935	1000	31500
OUTSIDE SERVICES	22638	37000	30650
ADVERTISING	260	500	1400
DATA PROCESSING	163783	109000	133100
AUDITORS REIMBURSE	20089	37000	70000
STATE REIMBURSEMNT	10672	12000	10000
EQUIPMENT	86606	28000	106500
OTHER EXPENSE	135	100	100
LICENCE FEES	120	100	200
TOTAL EXPENDITURES	3801324	4065700	4813411

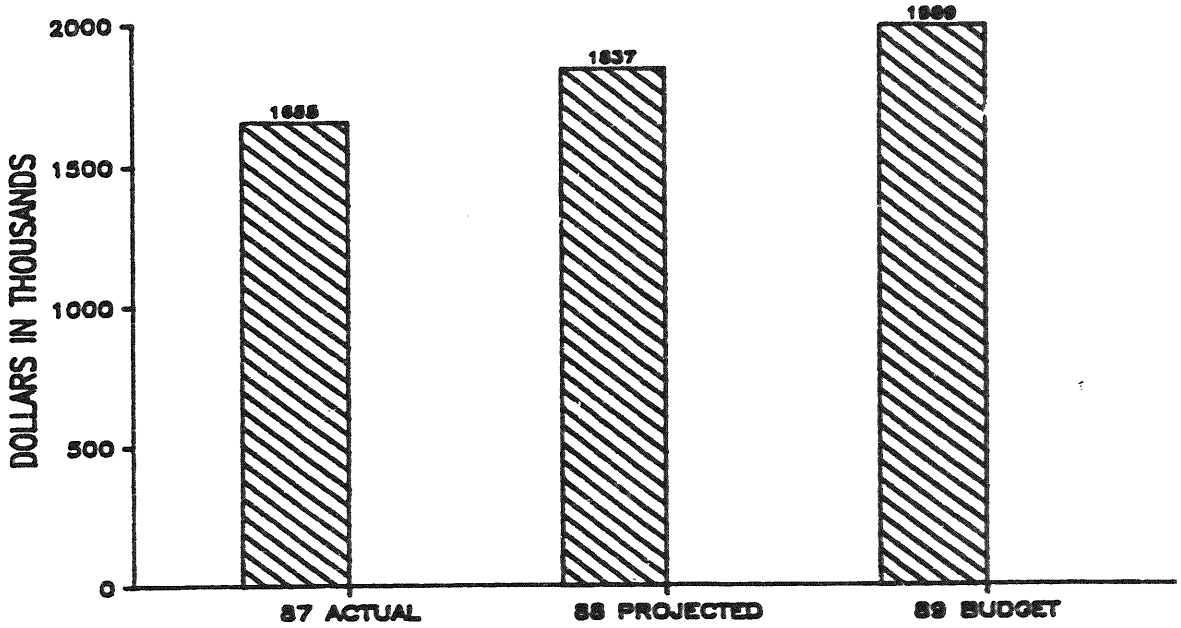
DEPARTMENT OF NATURAL RESOURCES
PARKS, PRESERVES & RECREATION DIVISION



EXPENDITURES

#FTE BUDGETED	203.35	206.99	202.99
#FTE ACTUAL	186.23	194.00	
PERSONNEL	3690001	4287000	4736257
PERSONAL TRAVEL	61995	72000	65460
VEHICLE OPERATION	153426	150000	176439
VEHICLE DEPRECIATN	166425	250000	276708
OFFICE SUPPLIES	63334	54000	65202
FAC MAINT SUPPLIES	342058	409000	372802
EQUIP MAINT SUPPL	240990	272000	248000
PROF/SCIENT SUPPL	0	0	1000
CONS SUPPLIES	19602	14000	19500
OTHER SUPPLIES	19009	20000	20750
PRINTING	20452	48000	93650
UNIFORMS	33968	48000	47050
COMMUNICATIONS	66600	66000	67020
RENTALS	24242	21000	23548
UTILITIES	280634	293000	267000
PROF/SCIEN SERVICE	2279	65000	47600
OUTSIDE SERVICES	176075	191000	151000
ADVERTISING	0	4000	4080
OUTSIDE REPAIRS	3535	0	0
DATA PROCESSING	4941	3000	8000
STATE REIMBURSEMNT	6210	3000	3552
EQUIPMENT	87400	122000	128000
OTHER EXPENSE	1956	3000	2100
LICENCE FEES	2471	1000	2498
TOTAL EXPENDITURES	5467603	6396000	6827216

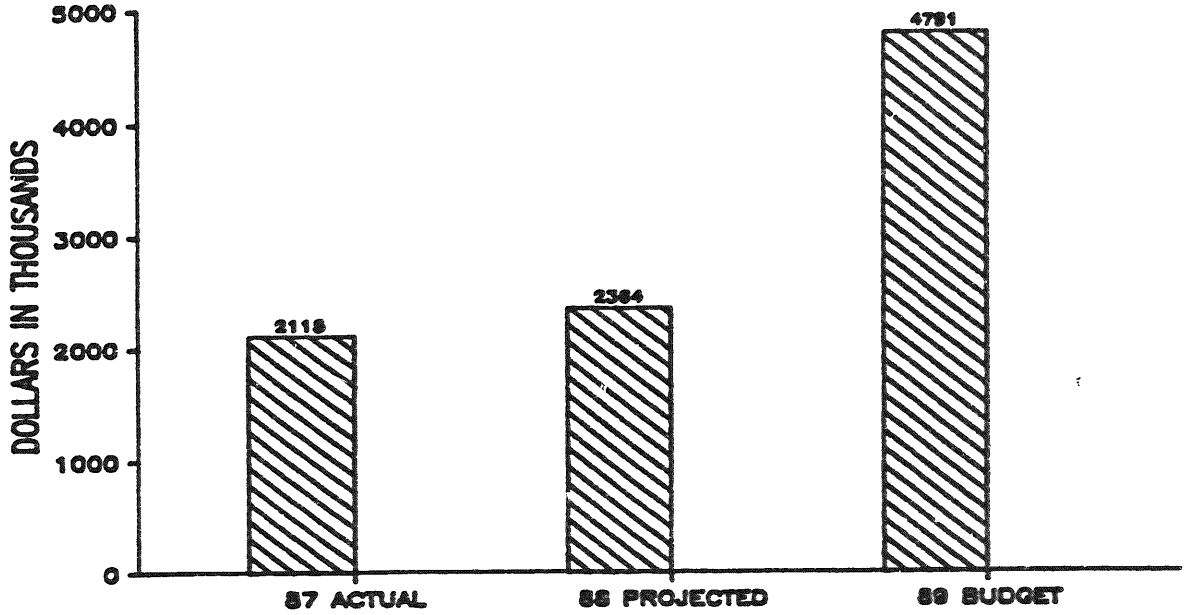
DEPARTMENT OF NATURAL RESOURCES
FORESTS & FORESTRY DIVISION



EXPENDITURES

#FTE BUDGETED	55.13	51.64	51.64
#FTE ACTUAL	48.34	46.50	
PERSONNEL	1213261	1296000	1461992
PERSONAL TRAVEL	26848	28000	27500
VEHICLE OPERATION	49875	51000	57400
VEHICLE DEPRECIATN	69170	106000	118962
OFFICE SUPPLIES	11774	24000	12800
FAC MAINT SUPPLIES	16040	20000	16700
EQUIP MAINT SUPPL	47577	45000	42010
CONS SUPPLIES	59017	95000	65900
OTHER SUPPLIES	9899	7000	13375
PRINTING	4058	4000	7695
UNIFORMS	9569	12000	11350
COMMUNICATIONS	22804	21000	21780
RENTALS	16553	19000	13305
UTILITIES	25025	26000	27000
PROF/SCIEN SERVICE	0	5000	0
OUTSIDE SERVICES	62040	59000	64900
ADVERTISING	715	1000	650
DATA PROCESSING	7617	10000	7000
STATE REIMBURSEMNT	840	1000	2[illegible]
EQUIPMENT	2213	7000	15000
OTHER EXPENSE	0	0	300
LICENCE FEES	321	0	800
TOTAL EXPENDITURES	1655216	1837000	1988539

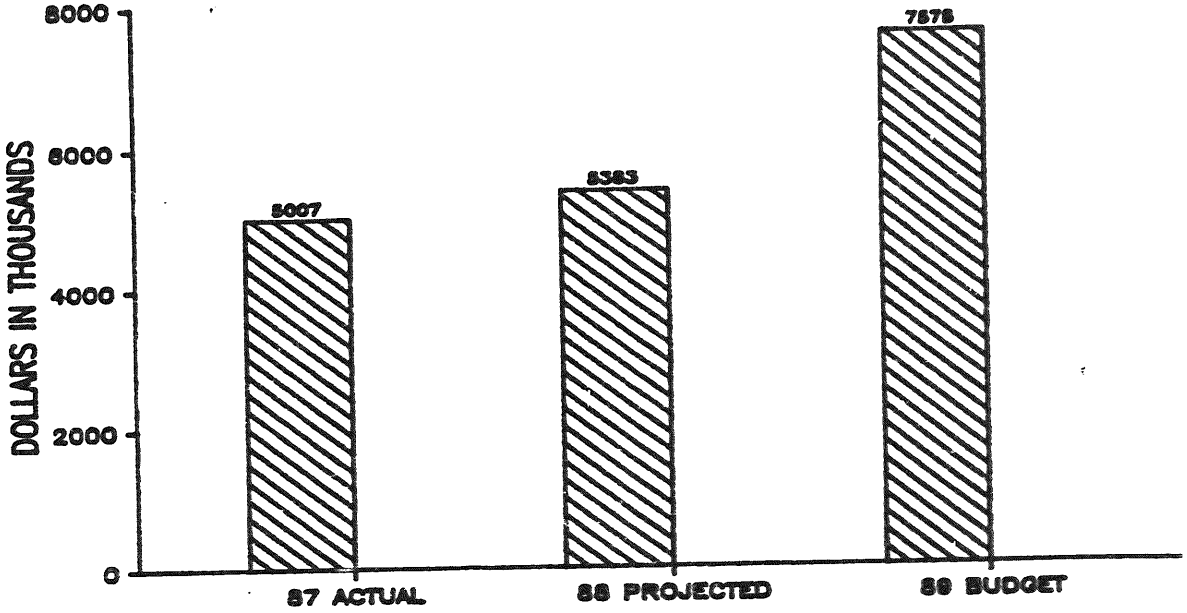
DEPARTMENT OF NATURAL RESOURCES
ENERGY & GEOLOGICAL SERVICES DIVISION



EXPENDITURES

#FTE BUDGETED	43.93	53.50	58.12
#FTE ACTUAL	41.65	49.00	
PERSONNEL	1301309	1567000	1963503
PERSONAL TRAVEL	49185	58000	83885
VEHICLE OPERATION	18030	18000	21734
VEHICLE DEPRECIATN	10880	21000	23364
OFFICE SUPPLIES	13262	11000	14840
FAC MAINT SUPPLIES	1406	18000	1500
EQUIP MAINT SUPPL	1531	1500	3150
PROF/SCIENT SUPPL	367	6000	26052
CONS SUPPLIES	110	0	0
OTHER SUPPLIES	18756	32000	47980
PRINTING	28025	32000	67103
UNIFORMS	0	0	2000
COMMUNICATIONS	16646	17000	18510
RENTALS	5262	7500	3100
UTILITIES	810	1000	700
PROF/SCIEN SERVICE	599330	508000	2436201
OUTSIDE SERVICES	22455	10500	8050
ADVERTISING	1071	3000	1050
OUTSIDE REPAIRS	777	0	0
DATA PROCESSING	17798	17000	33653
STATE REIMBURSEMNT	1494	5500	3600
EQUIPMENT	10609	30000	31335
LICENCE FEES	340	0	60
TOTAL EXPENDITURES	2115043	2364000	4791430

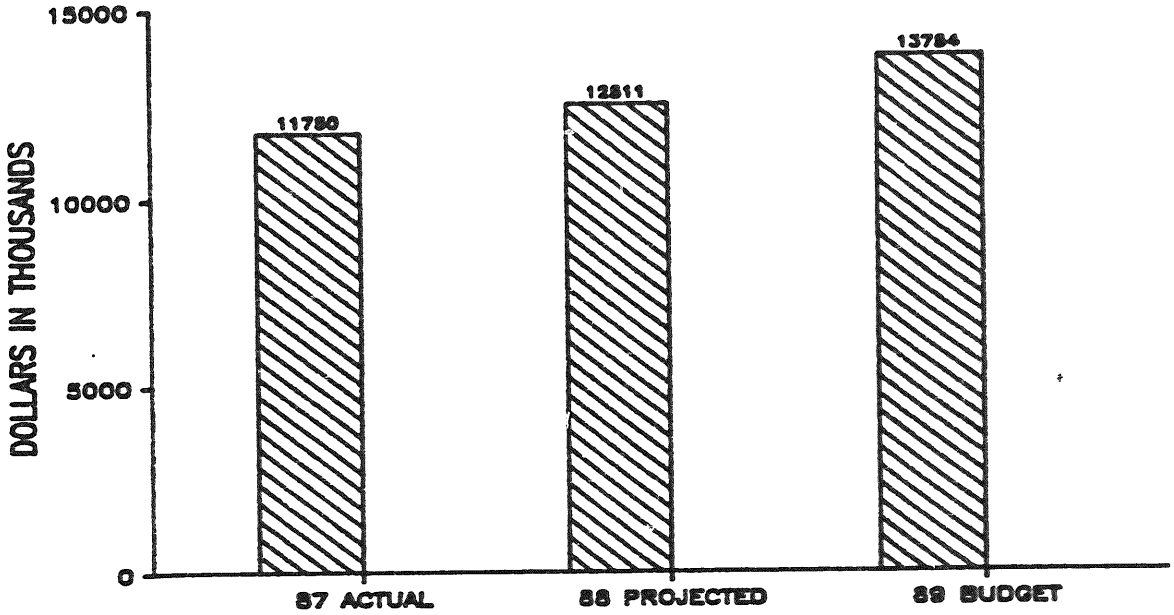
DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION DIVISION



EXPENDITURES

#FTE BUDGETED	123.50	143.50	146.00
#FTE ACTUAL	110.95	110.00	
PERSONNEL	3817877	4052000	5335404
PERSONAL TRAVEL	65627	66000	131403
VEHICLE OPERATION	21547	25000	31000
VEHICLE DEPRECIATN	19520	35000	38082
OFFICE SUPPLIES	19322	21000	26100
FAC MAINT SUPPLIES	571	3000	1000
EQUIP MAINT SUPPL	6749	4500	3000
PROF/SCIENT SUPPL	19	0	5000
CONS SUPPLIES	665	2500	1000
OTHER SUPPLIES	4659	10500	6910
PRINTING	8410	10000	13316
UNIFORMS	622	1000	2500
COMMUNICATIONS	26515	28000	30000
RENTALS	38458	34000	45050
UTILITIES	6526	6000	32500
PROF/SCIEN SERVICE	650274	715000	1260970
OUTSIDE SERVICES	8695	83000	28955
ADVERTISING	1289	1000	1375
DATA PROCESSING	120969	130000	136582
STATE REIMBURSEMNT	6502	10000	10459
EQUIPMENT	181975	145000	433852
LICENCE FEES	396	0	285
TOTAL EXPENDITURES	5007187	5382500	7574743

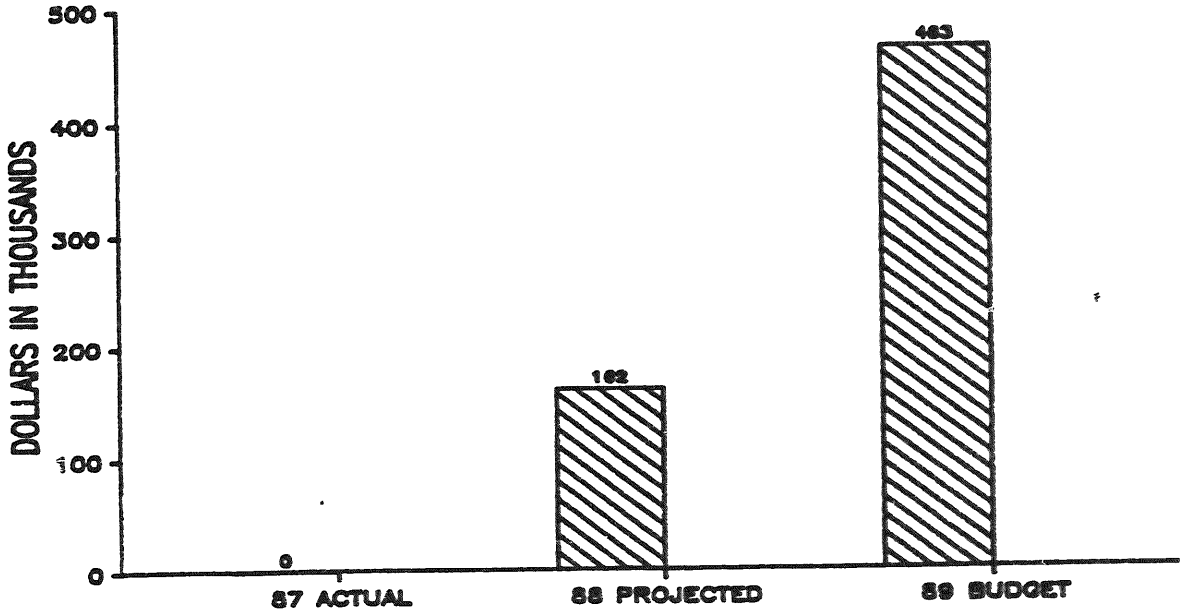
DEPARTMENT OF NATURAL RESOURCES
FISH & WILDLIFE DIVISION



EXPENDITURES

#FTE BUDGETED	314.90	325.35	323.24
#FTE ACTUAL	313.32	315.00	
PERSONNEL	7590923	8468000	9238138
PERSONAL TRAVEL	328682	317000	318911
VEHICLE OPERATION	383330	408000	420699
VEHICLE DEPRECIATN	390745	440000	479604
OFFICE SUPPLIES	206505	188000	171860
FAC MAINT SUPPLIES	471596	364000	673560
EQUIP MAINT SUPPL	315687	349000	317088
PROF/SCIENT SUPPL	0	0	1000
CONS SUPPLIES	322696	374000	360854
OTHER SUPPLIES	86671	93000	93575
PRINTING	159668	172000	109330
UNIFORMS	104447	121000	121266
COMMUNICATIONS	148562	142000	162280
RENTALS	30259	31000	39550
UTILITIES	162098	167000	185750
PROF/SCIEN SERVICE	166709	195000	144968
OUTSIDE SERVICES	84055	118000	107287
ADVERTISING	2669	17000	24286
DATA PROCESSING	15271	25000	57700
STATE REIMBURSEMNT	116265	94000	95107
EQUIPMENT	564466	510000	519[illegible]
OTHER EXPENSE	98804	1000	9742
LICENCE FEES	97	1000	420
TOTAL EXPENDITURES	11750201	12511000	13753890

DEPARTMENT OF NATURAL RESOURCES
WASTE MANAGEMENT AUTHORITY DIVISION



EXPENDITURES

#FTE BUDGETED	.00	11.00	11.00
#FTE ACTUAL	.00	2.55	
PERSONNEL	0	78000	320901
PERSONAL TRAVEL	0	7000	18000
OFFICE SUPPLIES	0	10000	3000
OTHER SUPPLIES	0	0	12000
PRINTING	0	34000	20000
PROF/SCIEN SERVICE	0	0	4000
OUTSIDE SERVICES	0	0	38000
DATA PROCESSING	0	0	1500
STATE REIMBURSEMNT	0	16000	0
EQUIPMENT	0	17000	46000
TOTAL EXPENDITURES	0	162000	463401

Discussion followed regarding understaffing in relation to field personnel; groundwater quality in relation to the Brushy Creek dam project; computer expenditures; timber harvest fee; expenditures for Parks Section shower and toilet buildings; number of staff added for UST program; and RCRA funds as part of the department's legislative package.

Keith Uhl expressed concerns with the Brushy Creek project and a possibility of the entire department budget being looked at on a line-by-line basis.

Director Wilson stated that the department could have one of the DNR people, or ISU scientists, make a presentation on the water quality at the proposed Brushy Creek Lake. This is an example of a project which could affect both commissions.

This was an informational item; no action was required.

BEAVER LAKE -- DALLAS COUNTY -- CHAPTER 112

Stan Kuhn, Division Administrator, Administrative Services Division, presented the following item.

Chapter 112, Code of Iowa, requires that when the DNR desires to erect a dam, the Natural Resources Commission must first adopt a resolution of necessity and then fix a date of hearing at which time any claim by any persons for damages which may be caused by the project may be filed with the Natural Resources Commission.

The DNR plans to construct a dam on public land in Dallas County for the purpose of providing a fishing lake. The land has been purchased with 75 percent federal fisheries restoration aid and 25 percent state license revenues for the purpose of constructing the lake. Surface area of the proposed lake is 35 acres. The drainage area is 979 acres, the drainage area ratio is 29:1 and the maximum depth is 40 feet. Construction plans have been prepared for the dam and the estimated construction cost is $508,000. Funding will come from the same sources as for the land purchases. The lake will be entirely upon public property, and no damage claims from private persons are expected.

Under Chapter 112, the Environmental Protection Commission must also consent to the hearing for damages. The DNR approved the dam plan at their July 7 meeting. Concurrence in this action as required by section 112.3 from the EPC is requested. The date of the hearing would be August 4, the next meeting of the NRC. Approval by the EPC at this time is necessary to allow a two-week period for public advertising of the hearing as required by Chapter 112, and to proceed with the hearing on August 4.

Motion was made by Richard Timmerman to approve a hearing for damages as required under Chapter 112 for Beaver Lake, Dallas County. Seconded by Charlotte Mohr. Motion carried unanimously.

SOLID WASTE COMPREHENSIVE PLANNING GUIDELINES -- PART I

Stu Schmitz, Waste Management Authority Division, presented the following item.

The planning guidelines for Solid Waste Comprehensive Plans -- Part I have been developed over the past two months with the assistance of an advisory committee representing landfills, counties, private industry, environmental groups and EPD. These guidelines will assist those responsible for preparation of comprehensive plans and will be used as the basis for rule development.

Stu Schmitz distributed a copy of the proposed guidlines and gave a detailed explanation of same.

Discussion followed regarding the recycling of concrete.

This was an informational item; no action was required.

SOLID WASTE LANDFILL ALTERNATIVE GRANTS

Stu Schmitz, Waste Management Authority Division, presented the following item.

Solid waste grant proposals were submitted under a competitive grants program for energy conservation and renewable resource projects which is funded by oil overcharge funds through the Groundwater Protection Fund. Of the forty grant proposals received to date, two have received approval for funding by the Energy Fund Disbursement Council. Two other proposals remain under consideration.

One approved grant proposal is over $25,000 and requires Commission approval.

1. A grant with Northwest Iowa Area Solid Waste Agency to establish a pilot recovery system for material classification. The pilot plant will be supplied with materials from source separation programs in the cities of Hawarden, Orange City and Spencer. The project also includes an educational program designed to provide a basis of understanding of reducing solid waste flow to the landfill and to provide a method to reduce hazardous waste material flows from commercial and residential activities. The total cost of the project is $256,025. The original grant request was for $174,520 (68 percent). WMAD has negotiated a contract amount of $120,000 to reduce the state's match.

A grant with the city of West Des Moines and the city of Urbandale has also been approved by the Disbursement Council to establish a program to promote mulching and composting in order to reduce the volume of waste going to the landfill. Total cost of the project is $18,926.90. The original grant request was for this amount. WMAD is negotiating with the grantee to reduce the grant amount to a maximum of $15,000.

Two potential grantees have been negotiated with to determine the possibility of decreasing their grant requests. Final authority from the Disbursement Council has not been received to enter into a contract.

1. Cherokee County Solid Waste Commission -- to establish a complete recycling center utilizing the Lundell Separation System. Total project cost

is $1,285,000. The grant request was for $435,000. Negotiations have established $375,000 as the maximum amount that would be funded by the state.

2. Waste Resource Recycling Company of Iowa Falls, Inc. -- to establish a recycling center utilizing the Lundell Separation System. Total project cost is $1,561,000. The grant request was for $200,000. Negotiations are in progress to determine if any reduction in the grant amount is feasible.

Negotiations will continue over the next week regarding specific budget items in both proposals, and final negotiated figures will be provided at the July 18 meeting for approval.

Solid Waste Grant Contract

IOWA DEPARTMENT OF NATURAL RESOURCES

Contractor: Northwest Iowa Area Solid Waste Agency **Grant Contract No.**

Contractor Officer: David J. Honkomp **Grant Contract Amt:** $120,000

Grant Contract Title:

DNR Project Officer: Stu Schmitz **Distribution Copies:** Copy 1: DNR Copy 2: Contractor

Time of Performance:

Submit Claim Voucher To:

Iowa Department of Natural Resources
Waste Management Authority Division
Wallace State Office Building
Des Moines, IA 50319-0034
515/281-8499

Issue Payment To: Northwest Iowa Area Solid Waste Agency
R.R. 2, Box 174A
Sheldon, IA 51201
712/324-4026

The Contractor agrees to deliver all supplies and perform all services set forth in the attached Special Conditions, for the consideration stated herein. The rights and obligations of the parties to this Grant Contract shall be subject to and governed by the Attachments, the Special conditions and the General Conditions. To the extent of any inconsistency between the attachments, Special and General Conditions and any specifications or other conditions which are made a part of this Grant Contract by reference or otherwise, the Special and the General Conditions shall control. To the extent of any inconsistency between the Special and the General Conditions, the Special Conditions shall control.

Grant Contract No.

IN WITNESS WHEREOF, the parties hereto have executed this Grant Contract.

NORTHWEST IOWA AREA SOLID WASTE AGENCY

BY: _____

TYPED NAME: William Tobin

TITLE: Chairman

DATE: _____

IOWA DEPT. OF NATURAL RESOURCES

BY: _____

TYPED NAME: Larry J. Wilson

TITLE: Director

DATE: _____

WASTE MANAGEMENT AUTHORITY DIVISION

BY: _____

TYPED NAME: Teresa D. Hay

TITLE: Administrator

DATE: _____

SPECIAL CONDITIONS

ARTICLE I. IDENTIFICATION OF PARTIES AND PROJECT

This Grant Contract is entered into by and between the Northwest Iowa Area Solid Waste Agency (hereinafter referred to as the Contractor) and the Iowa Department of Natural Resources (hereinafter referred to as the Department) to complete the project, , (hereinafter referred to as the Project).

ARTICLE II. DESIGNATION OF OFFICIALS

2.1 Department. The Director of the Department is the official authorized to execute any changes in the terms, conditions, or amounts specified in this Grant Contract. Teresa Hay is designated to negotiate on behalf of the Department and, subject to the approval of the Director, make any changes to this Grant Contract.

2.2 Contractor. The Contractor Officer authorized to execute any changes in the terms, conditions, or amounts specified in this Grant Contract is as indicated on the title page of this Grant Contract.

2.3 Key Personnel for Contract.

Dave Honkomp
Teresa Hay
Stu Schmitz

ARTICLE III. TIME OF PERFORMANCE

The Contractor shall commence work on this Grant Contract on the beginning date and complete Contract tasks by the ending date, as set forth on the title page of this Grant Contract under "Time of Performance," unless changed by mutual written agreement.

ARTICLE IV. STATEMENT OF PURPOSE

This Grant Contract is entered into to . Upon successful demonstration this solid waste management alternative to landfilling, the Contractor shall assist the DNR to promote to other public and private sector entities.

ARTICLE V. SCOPE OF WORK

5.1 The Contractor shall establish a specific education program that will emphasize solid waste handling techniques in the areas of 1) recyclable materials, 2) source separation, 3) yard and garden disposal alternatives, 4) rubble disposal, 5) local methods to reduce waste volumes, 6) small quantity hazardous waste generators, and 7) household hazardous waste disposal. The program shall also consist of promotional materials that will be distributed to the public to increase citizen participation in the recycling program.

5.2 The Contractor shall investigate the potential markets available for the recyclables and, where potential exists, solicit bids for the purchase of recycled materials. Preference for the purchase of the recyclables collected will be given to Iowa companies. When appropriate, contracts for recyclables purchased shall be obtained. The Contractor shall submit a report to the Department detailing an analysis of the available markets and those that may be utilized for the Project. The final report shall include information on which markets were actually utilized for the Project.

5.3 The Contractor shall prepare detailed plans for the material recovery center and detailed specifications for the collection program. The Contractor shall pursue rental and donation options for all buildings and equipment used in the material recovery center and the collection program. The Contractor shall submit plans and specifications for the material recovery center and for the collection program to the Environmental Protection Division of the Department and shall secure a permit from the Department before construction of the Project begins.

5.4 The Contractor shall purchase on a formal competitive basis the equipment and buildings (if needed) specified in the plans costing over $10,000. The Department will fund the purchase of equipment and buildings only after the Contractor documents that items in sections 5.1, 5.2, and 5.3 have been addressed and receives approval from the Department. The purchase of equipment and buildings will be cost shared with the Department on a 20% local matching basis for buildings and a 10% local matching basis for equipment. In the vent that the project fails and the Contractor sells any equipment and buildings for up to five years after the end of the contract, the Contractor shall pay to the Department 80% of the sale price of buildings and 90% of the sale price of equipment.

5.5 The Contractor shall monitor, on a daily basis, the ingoing and outgoing loads containing recoverable materials to the material recovery center. The information above shall be maintained on each recyclable item that is collected at the material recovery center.

5.6 The Contractor will submit monthly reports on the Project. The reports shall discuss the status of the Project.

5.7 The Contractor will develop a pictorial history via slides of the Project complete with data on project development from early initiation through construction, start-up and contract completion necessary for presentation of the project at Waste Management Conferences, trade journals and other sources to disseminate the results of the project. The Contractor will conduct at least one media-notified open house after the project is operational and will encourage visits at other times on a scheduled basis.

5.8 The Contractor will submit a final report on the project. The final report will include:

1) Information on the amount of recyclable material collected during the term of this contract, citizen participation rates, operation and maintenance costs, waste diversion and future expectations in these areas.
2) The energy savings derived from the project and the environmental impact of the Project.
3) Assessment on the viability of conducting this type of project in other communities, counties and regions within the State of Iowa.
4) Details on all aspects of the Project during the term of the contract.

The Contractor will also provide a detailed annual report thereafter for four (4) years detailing information described in part 1 above.

ARTICLE VI. MILESTONES

Date	Activity

ARTICLE VII. REPORTS

7.1 The Contractor shall submit to the Department monthly progress reports due on the 15th day of each month. Progress reports should cover what has been accomplished in Article V.

7.2 The Contractor shall submit three (3) copies of a final report describing all activities performed and the results obtained with supporting data. This report shall include information as described in Article V, Scope of Work, and meet all Contractor requirements. The final report shall be submitted no later than thirty (30) days following the expiration of this Grant Contract. The final report shall contain the following disclaimer: "This (report) was prepared with a grant from the U.S. Department of Energy for the Petroleum Violation Escrow projects. However, any opinions, findings, conclusions, or recommendations expressed herein are those of the author(s) and do not necessarily reflect the view of DOE."

7.3 The Contractor shall furnish to the Department a detailed and documented description of all costs and expenses for the Project within sixty (60) days following the expiration of this Grant Contract.

7.4 The Department will review and comment on all reports submitted by the Contractor within twenty (20) working days after the Department's receipt of the reports. Failure to reply within the allotted time constitutes approval by the Department.

ARTICLE VIII. REVIEW OF WORK

The Department or its advisors shall have the right to review and observe at any time, completed work or work in progress on the Project.

ARTICLE IX. FUNDING

ARTICLE X. PAYMENT

10.1 The Contractor shall submit four (4) copies of the state of Iowa Claim Voucher and contract expense form (see Appendix B) to the Department for completed portions of the Project. Receipts for items of reimbursement requested are to be attached to the invoice. Reports specified in Article 7.1 of these Special Conditions shall coincide with the invoices submitted. A final invoice is due within sixty (60) days following the expiration of this Grant Contract.

10.2 The Department will make payments to the Contractor within forty-five (45) days of receipt of a completed state claim voucher.

10.3 No costs can be incurred before the beginning date or after the ending date as set forth in Time of Performance on the Title page.

10.4 The Department will allow up to a five percent (5%) deviation in any budget line item without prior written approval provided that the total

budget is not exceeded. Any other budget changes require the prior written approval of the Department.

ARTICLE XI. REVISIONS IN GENERAL CONDITIONS

Grant Contract No.

APPENDIX A

Budget Categories	Grant	Contractor Match	Total Cost

Mr. Schmitz explained each project in detail.

Discussion followed regarding the similarity of the two projects. Also discussed was the authority of the Energy Fund Disbursement Council to approve the projects.

Mr. Schmitz explained that projects over $25,000 must be approved by the Environmental Protection Commission with final approval by the Energy Fund Disbursement Council.

Larry Bean, Division Administrator, Energy and Geological Resources Division, explained the establishment, purpose, and responsibilities of the Energy Fund Disbursement Council.

Discussion followed regarding amount of individual grants, and the total of all grant requests.

Mr. Schmitz stated that approval is being requested for the Northwest Iowa Area Solid Waste Agency grant, and also for the grant for the city of West Des Moines and the city of Urbandale. Additionally, prior approval is being sought for either the Cherokee County Solid Waste Commission project or the Waste Resource Recycling Company of Iowa Falls, Inc. project.

Motion was made by Richard Timmerman to approve the grant for Northwest Iowa Area Solid Waste Agency as presented. Seconded by Charlotte Mohr.

Mr. Schmitz pointed out that the item brief was prepared and it was later learned that the grant amount for the Northwest Iowa Area Solid Waste Agency would be $163,000 rather than $120,000.

Richard Timmerman withdrew his motion for approval of the grant. Charlotte Mohr concurred.

Motion was made by Keith Uhl to table this item until the next day. Seconded by Nancylee Siebenmann. Motion carried unanimously.

APPEAL OF HEARING OFFICER'S DECISION -- CITY OF WAPELLO

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

On July 30, 1987, the department issued Administrative Order No. 87-WW-48 to the city of Wapello. That action required the city to comply with an implementation schedule for wastewater facility improvements and to pay a $500 penalty. That action was appealed, and the matter proceeded to administrative hearing on October 27, 1987. The hearing officer issued the Proposed Findings of Fact, Conclusions of Law, and Order on January 13, 1988. The decision affirmed the Director's Order.

The City appealed this order to the Commission, and that matter was presented to the Commission in March. The Commission tabled the case, allowing the city to present more information to the staff for consideration. That has been done, and the staff has determined that its original decision stands. Thus, the Commission needs to resume consideration of the appeal, including the events since March.

The Proposed Decision and pertinent documents have been distributed to the Commissioners. The entire record, including hearing tapes and exhibits are available for your review. The parties will be available to argue their respective positions and respond to your questions. You may then affirm the Proposed Decision, or modify or reverse it, substituting your own findings of fact and conclusions of law based on your conclusions from your review of the record and legal argument.

Motion was made by Keith Uhl to remove the case for the city of Wapello from the table. Seconded by Richard Timmerman. Motion carried unanimously.

Diana Hansen, Government Liaison Bureau, presented the history of this case. Mrs. Hansen stated that the city is not operating its facility properly, as a controlled discharge facility. It operates in a continuous fashion. Mrs. Hansen stated that, according to the department, the city also did not properly conduct its monitoring. The hearing officer concluded that the facility was operated correctly and the department is asking that this be amended. The hearing officer found that the city did receive hydraulic and organic loading such that the city could not consistently comply with treatment equivalent to secondary treatment standards.

Roger Huddle, City Attorney for the city of Wapello, addressed the Commission stating that the city still requests the more relaxed standards of treatment equivalent to secondary treatment for their wastewater facility. Mr. Huddle explained legislative history in looking at, and encouraging, the more relaxed treatment standards. He stated that they are operating in conformance with the standards for which it was designed. Mr. Huddle reviewed the five criteria for meeting treatment equivalent to secondary standards, and he further explained how the city meets the criteria. He stated that the city and DNR are in agreement except for the fifth criteria in the area of "consistently complying." Mr. Huddle presented compliance data for 1985-87. He added that it is the contention of the city that they were in compliance on CBOD 34 of 36 months, and in compliance on solids 35 of the 36 months. In conclusion, Mr. Huddle stated that he is asking the Commission to give consideration to the fact that the city qualifies for treatment equivalent to secondary treatment standards.

Mrs. Hansen clarified data regarding compliance in 1985-87 stating the city did not comply three of 37 months. Mrs. Hansen stated that the department argues that the city's facility does exceed the original design loadings for organically and hydraulically. She added that this is causing equivalent to secondary treatment effluent limits violations, and the city should not be granted treatment equivalent to secondary treatment standards.

A lengthy discussion took place regarding the interpretation of consistently complying.

Richard Timmerman stated that the problem is with accepting a percentage number for consistently complying; and since there is no specific number in the rules as to what consistent means, the Commission should uphold the hearing officer's decision. Mr. Timmerman stated that the department might possibly need to review the rules.

Motion was made by Richard Timmerman to uphold the hearing officer's decision with the exception of Findings of Fact point #18. Seconded by Nancylee Siebenmann.

Discussion followed regarding whether or not the city of Wapello demonstrated substantial compliance to meet the rules criteria for consistent compliance.

Chairman Schlutz requested a roll call vote on Richard Timmerman's motion. "Aye" votes were cast by Commissioners Mohr, Siebenmann, Timmerman, and Uhl. "Nay" votes were cast by Commissioners Yeager and Schlutz. Motion failed 4 to 2 due to a lack of concurrence of a majority of the Commission.

Motion was made by Keith Uhl to modify the findings of the hearing officer to accurately reflect that there is a factual basis to determine that the city of Wapello has met the exceptions for treatment equivalent to secondary treatment. Seconded by Clark Yeager.

Chairman Schlutz requested a roll call vote. "Aye" votes were cast by Commissioners Mohr, Siebenmann, Uhl, Yeager, and Schlutz. "Nay" vote was cast by Commissioner Timmerman. Motion carried 5 to 1.

RECESS

Chairman Schlutz recessed the meeting at 4:55 p.m. on Monday, July 18, 1988.

MEETING RECONVENES 8:30 A.M., TUESDAY, JULY 19, 1988

SOLID WASTE LANDFILL ALTERNATIVE GRANTS (Continued)

Motion was made by Charlotte Mohr to remove this item from the table. Seconded by Keith Uhl. Motion carried unanimously.

Chairman Schlutz requested that this item be tabled until next month to allow staff to acquire additional information.

Motion was made by Keith Uhl to table this item until next month. Seconded by Charlotte Mohr. Motion carried unanimously.

MONTHLY REPORTS

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

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. Enforcement Status Report
5. Contested Case Status Report

Members of the department will be present to expand upon these reports and answer questions.

IOWA DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION COMMISSION
RULEMAKING STATUS REPORT
JULY 1, 1988

PROPOSAL	DRAFT TO COMMISSION	NOTICE PUBLISHED	RULES REVIEW COMMITTEE	HEARING	SUMMARY OF COMMENTS & RECOMMENDATIONS TO COMMISSION	RULES ADOPTED	RULES PUBLISHED	RULE EFFECTIVE
1. Ch. 2 - Public Records	7/18/88	*8/10/88		---				
2. Ch. 7 - Contested Case Procedures	3/21/88	4/20/88		---				
3. Ch. 8 - Contracts	7/18/88	*8/10/88		---				
4. Ch. 20, 22, 26, 28 PM10	6/20/88							
5. Ch. 22 - Air Quality Permitting	4/25/88	5/18/88	6/14/88	6/08/88 6/15/88 6/22/88	7/18/88	7/18/88	*8/10/88	*9/14/88
6. Ch. 39 - Well Plugging	3/21/88	4/21/88	5/10/88	5/12/88 5/13/88 5/16/88				
7. Ch. 40, 41 - Water Supply	4/25/88	5/18/88	6/14/88	6/13/88 6/14/88 6/15/88	7/18/88	7/18/88	*8/10/88	*9/14/88
8. Ch. 51 Agricultural Drainage Wells	---	---	---	---	7/18/88	7/18/88	*8/10/88	*9/14/88
9. Ch. 70 - Channel Changes	4/25/88	5/18/88	6/14/88	6/09/88	7/18/88	7/18/88	*8/10/88	*9/14/88

*Projected

MONTHLY VARIANCE REPORT 6/30/88

No.	Facility	Program	Engineer	Subject	Decision	Date
1	Oxenford Farm-Green Co	Air Quality		Structures	denied	06/01/88
2	Dittmer Co's.-Clinton	Air Quality		Rubbish	denied	06/24/88
3	Glidden, City of	Wastewater Const.	MER Engineering	Clarifier Depth	approved	06/15/88
4	Chariton, City of	Wastewater Const.	Garden & Associates	Sewer Grade	approved	06/24/88
5	TimberlakeSubd-J'sn Co	Wastewater Const.	Shoemaker & Haaland	Lagoon Multi-Level Drawoffs	denied	06/24/88
6	TimberlakeSubd-J'sn Co	Wastewater Const.	Shoemaker & Haaland	Lagoon Flow Measurement	denied	06/24/88
7	TimberlakeSubd-J'sn Co	Wastewater Const.	Shoemaker & Haaland	Lagoon Riprap	denied	06/24/88
8	TimberlakeSubd-J'sn Co	Wastewater Const.	Shoemaker & Halland	Number of Lagoon Cells	approved	06/24/88
9	E Z Livin-Hazelton	Underground Tanks		Closure	approved	06/06/88
10	Pep Stop-Mt.Pleasant	Underground Tanks		Closure	approved	06/24/88

REPORTS OF HAZARDOUS CONDITIONS

During the period of June 1, 1988 through June 30, 1988, reports of 77 hazardous conditions were forwarded to the Central Office. Two incidents are highlighted, followed by a general summary and the number per field office.

Date Reported and County	Description: Material, Amount, Date of Incident, Cause, Location, Impact	Responsible Party	Response and Corrective Actions
6/02/88 BOONE	A locomotive being rotated on a yard terminal rolled forward off the front wheels and had its fuel tanks punctured by a rail on June 2, 1988 in Boone, Iowa. About 3,500 gallons of diesel fuel were spilled into a containment area.	Chicago and Northwestern Railroad 900 Story St., Boone, Iowa	Sumps were dug and about 2,000 gallons of product were pumped into an empty tanker. Absorbant pads were used to recover residual material, and soil was excavated to approximately one foot in depth. Soil will be applied on land for aeration.
6/17/88 WRIGHT	A flange gasket failed on a storage tank in Eagle Grove, Iowa on June 17, 1988, and about 2,800 gallons of sulfuric acid leaked through the containment structure and a water letdown valve.	Ag Processing, Inc. North Commercial, Eagle Grove, Iowa	A limestone berm was constructed around the area of the spill. A sump was dug and about 450 gallons were pumped into drums. Acid that flowed off the property was scraped up, along with contaminated soil, and piled on the responsible party's property. Lime was used to neutralize the remaining acid.

Numbers in Parentheses Represent Reports for the Same Period in Fiscal Year 1987

		Substance Type				Mode				
Month	Total # of Incidents	Petroleum Product	Agri. Chemical	Other Chemicals and Substances	Handling and Storage	Pipeline	Highway Incident	RR Incident	Fire	Other
Oct	69	47	4	18	53	0	9	1	2	4
Nov	48	35	3	10	37	0	4	0	1	6
Dec	46	36	3	7	39	1	2	0	0	4
Jan	54	43	4	7	45	1	5	1	1	2
Feb	51	30	2	19	37	1	9	3	1	0
Mar	67	41	10	16	49	1	11	2	0	4
Apr	130	58	50	22	85	0	36	2	2	5
May	99	39	42	18	48	0	42	2	1	6
Jun	77 (73)	37 (34)	14 (11)	26 (28)	51 (47)	0 (1)	19 (14)	4 (1)	0(2)	3(8)
		UST-17			UST-17					

Total # of Incidents Per Field Office This Period	01	02	03	04	05	06
	16	7	7	6	25	16

Enforcement Report Update

The following new enforcement actions were taken last month:

Name, Location and Field Office Number	Program	Alleged Violation	Action	Date
Larry's DX, Garwin (5)	Underground Tanks	Remedial Action	Order	6/13/88
Argyle Rural Water District (6)	Drinking Water	Monitoring/Reporting - Bacteria	Order/Penalty	6/13/88
Olds Water Supply (6)	Drinking Water	MCL - Radioactivity	Order/Penalty	6/13/88
The R.J.S. Enterprises, Corp. (6)	Air Quality	Operation without Permit	Amended Order	6/13/88
Glenn C. Sevick, Mason City (2)	Solid Waste	Open Dumping	Order/Penalty	6/13/88
Fort Dodge Asphalt Co. (2)	Solid Waste	Open Dumping	Order/Penalty	6/13/88
Cindi's Chanti, Elgin (1)	Drinking Water	Bacteria MCL; Public Notice; Failure to Monitor Bacteria and Nitrate	Order/Penalty	6/15/88
New Hampton Farmers Cooperative (1)	Hazardous Condition	Abandoned Sites	Amended Order	6/15/88
Merle Kuppinger, Mason City (2)	Solid Waste	Open Dumping	Order/Penalty	6/15/88
City of Mason City (2)	Solid Waste	Open Dumping	Order/Penalty	6/15/88
City of Glidden (4)	Wastewater	MIP	Referred to AG	6/22/88
Ottumwa-Wapello Co. Sanitary Landfill Commission	Solid Waste	Operational Violations	Referred to AG	6/22/88
Richard and Sonja Davis (5)	Solid Waste	Open, Unpermitted Dumping	Referred to AG	6/22/88
Vernon Heights Mobile Home Court (1)	Drinking Water	Monitoring/Reporting - Bacteria	Referred to AG	6/22/88

Summary of Administrative Penalties

The following administrative penalties are due:

NAME/LOCATION	AMOUNT	DUE DATE
*Shelter Shield (Buffalo Center)	$1,000	12-03-86
*Cedar Hills Apartments (Dubuque)	1,000	12-29-86
*City of Dysart	400	3-13-87
*JTM Indust./MacDade/Leamer (Pleasant Valley)	1,000	8-12-87
*Big Rock Tap	660	9-21-87
*Twelve Mile House (Bernard)	339	10-28-87
*OK Lounge (Marion)	448	11-01-87
*Richard Davis (Albia)	1,000	2-28-88
*Ellie's Bar and Grill (Grand River)	515	3-05-88
**Don Scribner (Nashua)	1,000	3-28-88
Lake Hendricks Park (Howard Co.)	50	5-09-88
*Vernon Heights MHP (Cedar Rapids)	1,000	5-09-88
63-I80 Truckstop (Poweshiek Co.)	1,000	5-21-88
**Lawrence Payne (Ottumwa)	525	6-15-88
Mike's Prairie Home (Ollie)	100	6-16-88
Marv's Lakeside Tap (Davenport)	200	6-30-88
City of Hospers	150	6-30-88
First Place Lanes (Audubon)	1,000	7-05-88
Rippey Municipal Water Supply	230	7-09-88
**Chico's Supper Club (Burr Oak)	283	7-10-88
**Jesco's Steakhouse Lounge (Castana)	100	7-10-88
Clear View Acres Store (Delhi)	230	7-11-88
**Pleasant Creek Estates (Shellsburg)	150	7-20-88

*Referred to the Attorney General
**On Payment Schedule

NAME/LOCATION	AMOUNT	DUE DATE
Dumont Auto Parts (Dumont)	600	7-20-88
City of Malcom	500	7-20-88
Fort Dodge Asphalt Co.	200	8-16-88
Argyle Rural Water District	230	8-17-88
Glenn C. Sevick (Mason City)	600	8-17-88
City of Mason City	300	8-17-88
Merle Kuppinger (Mason City)	500	8-20-88

The following administrative penalties have been appealed:

NAME/LOCATION	AMOUNT
Handi-Klasp, Inc. (Webster City)	1,000
Iowa City Regency MHP	1,000
Thomas E. Lennon (Barnum)	700
Great Rivers Coop (Atavia)	1,000
City of Wapello	500
1st Iowa State Bank (Albia)	1,000
Gradert, Ernest and Kevin (Sibley)	500
Stan Moser (Hudson)	250
City of University Park	500
Cloyd Foland (Decatur)	800
Lynn Mennenga Feedlot (Wright Co.)	600
Motel Grinnell	1,000
Land O' Lakes, Inc. (Ellsworth)	1,000
Harry Brocka (Dumont)	800
Conoco Gas and West Branch Inn (West Branch)	1,000
City of Marcus	1,000
Milo Chalfant, et.al. (Webster City)	1,000
City of Neola	1,000
Winnebago Industries, Inc. (Forest City)	1,000
Cindi's Chanti (Elgin)	560
Bill Keough (Fertile)	700
The Hayloft Tavern (Grant)	960
Ernest Nelson (Rowan)	500
Superior-Ideal, Inc. (Oskaloosa)	1,000
City of Olds	1,000

*Referred to the Attorney General
**On Payment Schedule

The following administrative penalties were paid in June:

NAME/LOCATION	AMOUNT
White Consolidated Industries, Inc. (Webster City)	500
Linn Hollow Mobile Home Court (Washington)	75
**Elings/Catron/Frey (Des Moines) - Payment complete	400
**Chico's Supper Club (Burr Oak)	671
David Francy (New London)	400
Wiltgen Construction Co. (Calmar)	500
Fred Iben (Monticello)	100
DeWitt Moose Lodge (DeWitt)	200
Camp Okoboji (Milford)	230
**Pleasant Creek Estates Assn. (Shellsburg)	50
City of Sheldon	967.50
Hwy. #3 Mobile Home Park (Waverly)	100
Wilfred McFee (Union Co.)	100
TOTAL	$4,293.50

The $1,000.00 penalty assessed to Clarmond Country Club of Clarion was rescinded.

* Referred to the Attorney General
** On Payment Schedule

DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION COMMISSION
ATTORNEY GENERAL REFERRALS
JULY 1, 1988

Name, Location and Region Number	New or Updated	Program	Alleged Violation	DNR Action	Status	Date
Aidex Corporation Council Bluffs (4)		Hazardous Waste	Release of Hazardous Substances	Referred to Attornet General	Referred EPA suit filed State intervention Motion to dismiss granted/denied Filed interlocutory appeal	12/16/82 2/26/87 3/05/87 2/26/88 3/11/88
ASPRO, Inc. Waterloo (1)		Air Quality	Excess Emissions	Order	Referred	2/16/88
Big Rock Tap Big Rock (6)		Drinking Water	Monitoring	Order/Penalty	Referred Suit Filed	11/17/87 1/25/88
Bozarth and Bell, Inc. Davenport (6)		Solid Waste	Open Dumping	Order	Referred Suit Filed Default Judgment $7500 Motion to set aside overruled Funds condemned ($2,628)	2/20/87 4/23/87 6/22/87 10/30/87 3/18/88
Bryant, Robert E. Cherokee (3)		Wastewater	Prohibited Discharge	Order	Referred Suit Filed Bankruptcy Proceedings Discovery Proceeding	6/01/86 9/08/86
Caraway, Don (1)	Updated	Flood Plain	Unpermitted Levie	Order	Referred Suit Filed Dismissed	5/17/88 6/15/88 6/20/88
Cedar Hills Apts. Dubuque (1)	Updated	Water Supply	Monitoring; Operating without permit	Order/Penalty	Referred Suit Filed Motion for Sum. Judgment Denied Consent Decree	2/20/87 4/27/87 12/30/87 7/01/88
Cooper, Kenneth Minburn (5)		Storage Tank	Spill Cleanup	Order	Referred	10/27/87
Davis, Richard & Sanjo (5)	New	Solid Waste	Open Unpermitted Dumping	Referred to Attorney General	Referred	6/22/88
Donnellson, City of (6)		Wastewater	MIP	Order	Referred	2/16/88
Eilers, Dwayne Waterloo (1)		Flood Plain	Unauthorized Fill	Referred to Attorney General	Referred Suit Filed Default Judgment Bankruptcy	6/19/84 11/01/85 1/12/87
Elings, Catron Des Moines (5)	Updated	Solid Waste	Open Dumping	Order/Penalty	Referred Paid Balance Due	10/20/87 6/21/88
Finlan Landfill Chickasaw County (1)		Solid Waste	Permit/Fee	Court Order	Referred Suit Filed	11/17/87 3/08/88
Garner, City of (2)	Updated	Wastewater	Compliance Schedule	Order	Referred Suit Filed Consent Decree	9/21/87 2/16/88 6/13/88
Glidden, City of (4)	New	Wastewater	MIP	Referred to Attorney General	Referred	6/12/88
IBP, inc. (Langenfeld) Denison (4)		Wastewater	Prohibited Discharge	Order	Referred	11/17/87
Jungling Farms', Inc. Butler County (2)		Wastewater	Prohibited Discharge	Order	Referred Suit Filed	7/21/86 1/31/87
King, James & Julia Warren County (5)		Flood Plain	Channel Change	Order	Referred Suit Filed Trial	8/20/87 10/08/87 11/ /88
Lakewood Sanitary District (5)		Wastewater	Maintenance		Referred	4/26/88
Leamer, Delbert; JTM Ind. Pleasant Valley (6)		Solid Waste	Open Dumping	Order/Penalty	Referred	11/17/87

DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION COMMISSION
ATTORNEY GENERAL REFERRALS
JULY 1, 1988

Name, Location and Region Number	New or Updated	Program	Alleged Violation	DNR Action	Status	Date
Lynnille, City of (5)	Updated	Wastewater	Monitoring	Order	Referred Informal Settlement	5/17/88 6/18/88
Long Grove, City of (6)	Updated	Wastewater	MIP	Order	Referred Consent Decree	3/24/88 6/27/88
Mechanicsville, City of (6)	Updated	Wasterwater	MIP	Order	Referred Consent Decree	5/17/88 7/01/88
Mt. Pleasant, City of (6)		Wastewater	MIP	Order	Referred	4/26/88
Newell, City of (3)	Updated	Wastewater	MIP Compliance Schedule	Order/Penalty	Referred Consent Decree	1/21/88 6/07/88
J.R. Nylen, Ltd. (3)		Solid Waste	Open Dumping	Referred to Attorney General	Referred	5/17/88
Ottumwa - Wapello Co. Sanitary Landfill	New	Solid Waste	Operational Violation	Referred to Attorney General	Referred	6/22/88
Pester Derby Oil Company Davenport (6)		Wastewater	Prohibited Discharge	Referred to Attorney General	Petition Filed Judgment Amended Cleanup Plan Approved	34 /83 10/12/84 10/24/84 1/27/86
Pleasant Creek Est. Benton Co. (1)		Drinking Water	Penalty Non-payment	Order/Penalty	Referred Informal Settlement	1/21/88 4/13/88
Poggemiller, William et.al. Louisa County (6)		Flood Plain	Channel Change	Referred to Attorney General	Referred Suit Filed	3/20/87 6/25/87
Salisbury, Ronald, Presto-X Des Moines (5)		Hazardous Waste	Treatment and Storage Violations	Referred to Attorney General	Referred Judgment Appealed to Sup. Court Decided in our favor	9/18/84 5/86 7/86 12/23/87
Sheldon WWTF, City of	Updated	Wastewater	Monitoring	Order	Referred Informal Settlement	4/26/88 6/10/88
Shelter Shield Buffalo Center (6)		Air Quality	Excess Emissions; Construction w/o permit	Order/Penalty	Referred Suit Filed Default Judgement $7,500	2/20/87 6/30/87 12/22/87
Sidney, City of (4)	Updated	Wastewater	MIP	Order	Referred Consent Decree	3/24/88 6/27/88
Twelve Mile House Bernard (1)	Updated	Drinking Water	Monitoring; Operation Permit	Order/Penalty	Referred Consent Decree	1/21/88 6/20/88
Vernon Heights Mobile (1)	New	Drinking Water	Monitoring/Reporting Bacteria	Referred to Attorney General	Referred	6/22/88
Wilton Steel Processing (6)		Wastewater	Prohibited Discharge	Referred to Attorney General	Referred	5/17/88
Waterhouse, James & Berna Washington County (6)		Flood Plain	Channel Change	Referred to Attorney General	Referred Suit Filed Trail Set	3/16/87 5/13/87 5/13/88
Wolleson, Robert C. Buena Vista and Cherokee Counties (3)		Wastewater	Prohibited Discharge	Order	Referred Consent Decree Contempt Finding Contempt Finding Contempt Finding	11/27/84 4/25/85 7/02/85 9/25/86 8/24/87
Woodland Pork Jones County (1)		Wastewater	Prohibited Discharge	Order	Referred Suit Filed Temporary Injunction	7/31/86 11/19/86 2/13/87
Yocum, Max Johnson (6)		Flood Plain	Prohibited Construction	Defending Referred to Attorney General	Suit Filed Motion to Dismiss Denied Referred Counter Claim Filed Trial Held Judgment for Department Appealed to Supreme Court	12/18/84 3/06/85 8/07/85 7/12/85 10/85 6/16/87 8/18/87 9/01/87

DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION COMMISSION
CONTESTED CASES
JULY, 1988

DATE RECEIVED	NAME OF CASE	ACTION APPEALED	PROGRAM	ASSIGNED TO	STATUS
10-17-85	City of Bevington	Administrative Order	WW	Hansen	Settlement offered to city 5-25-88.
1-23-86	Oelwein Soil Service	Administrative Order	WW	Landa	Hearing continued; cleanup study progressing.
6-12-86	ADM - Clinton	Administrative Order	Air	Landa	Hearing continued.
12-03-86	City of Waukee	Administrative Order	WS	Hansen	Hearing continued; settlement close.
12-11-86	Eloise Reese	Permit Condition	FP	Clark	Permit decision affirmed.
12-24-86	Francis Heaberlin	Administrative Order	FP	Clark	Order reversed.
5-12-87	Iowa City Regency MHP	Administrative Order	WW	Hansen	Hearing held 11-03-87.
6-08-87	Willow Creek Dam/Zarble et.al	Permit Issuance	FP	Clark	Permit surrendered. Appeal moot.
6-11-87	Thomas Lennon	Administrative Order	FP	Clark	Order upheld - appealed to EPC.
8-10-87	Great Rivers Co-op	Administrative Order	HC	Landa	Clean-up proceeding.
8-17-87	City of Mapello	Administrative Order	WW	Hansen	DNR met with City. 7/88 EPC
9-17-87	Gradert, Kevin and Ernest	Administrative Order	AQ	Landa	Decision rendered. Order affirmed.
10-22-87	University Park	Administrative Order	WW	Hansen	Hearing continued. Settlement close.
12-07-87	Stan Moser	Administrative Order	SW	Murphy	Proposed decision 4-12-88; appealed.
12-11-87	Finlan Landfill	Permit Revocation	SW	Kennedy	Settlement negotiations.
12-15-87	Delaware Co. Conc. Cit. (IBP)	Permit Issuance	WR	Clark	Permit surrendered - case dismissed.
12-31-87	City of Tipton	Administrative Order	WW	Hansen	Received information. Settlement close.
12-31-87	Wilfred McFee	Administrative Order	WW	Murphy	Settled.
1-15-88	First Iowa State Bank	Administrative Order	SW	Kennedy	Continued. Settlement pending.
1-22-88	IBP, Fort Dodge	NPDES Permit	WW	Hansen	Negotiating before filing.
2-04-88	Beaverdale Heights, Woodsman; Westwood Hills	Administrative Order	SW	Landa	Plans approved. Continued pending resolution.
2-05-88	Warren County Brenton Bank	Administrative Order	UT	Landa	Phase I complete. Additional investigation necessary
2-22-88	Amana	Tax Certification Denial	AQ/WW	Landa	Appealed. Request for additional information.
2-29-88	Lynn Mennenga Feedlot	Administrative Order	WW	Murphy	Negotiating before filing.
3-01-88	Cloyd Foland	Administrative Order	FP	Clark	Hearing held 6/28/88.
3-03-88	Motel Grinnel	Administrative Order	WW	Hansen	Hearing continued. Negotiating.
4-13-88	Land O'Lakes, Inc.	Administrative Order	WW	Murphy	Negotiating before filing.
4-28-88	Harry Brocka, Engelana Brocka, Gordon Brocka	Administrative Order	FP	Clark	Hearing set for 7-12-88.
5-10-88	Harv's Lakeside	Administrative Order	WS	Murphy	Settled.
5-11-88	Conoco Gas & West Branch Inn	Administrative Order	WS	Murphy	Hearing held 6/29/88.
5-16-88	Hospers, City of	Administrative Order	WS	Murphy	Settled.
5-16-88	Harcus, City of	Administrative Order	WS	Landa	Negotiating before filing.
5-24-88	IBP, Columbus Junction	NPDEA Permit	WW	Hansen	Sent to DIA.
6-03-88	Milo Chalfant, et.al.	Administrative Order	SW	Landa	Appealed.
6-03-88	Neola, City of	Administrative Order	WW	Murphy	Negotiating before filing.
6-07-88	Winnebago Industries, Inc.	Administrative Order	AQ	Landa	Appealed.
6-07-88	Hayloft Tavern	Administrative Order	WS	Murphy	Hearing set for 8-09-88.
6-09-88	Jescoe's Steakhouse Lounge	Administrative Order	WS	Murphy	Settled.
6-14-88	Iowa Army Ammunition Plant	Open Burning Variance Denial	AQ	Landa	Appealed.
6-22-88	Cindi's Chanti	Administrative Order	WS	Murphy	Negotiating before filing.
6-24-88	Ernest Nelson	Administrative Order	WS	Kennedy	Settled.

Discussion followed regarding the status of previous Attorney General referrals.

Chairman Schlutz requested that a status report on referrals be presented next month by a representative of the Attorney General's Office.

FINAL RULE -- CHAPTER 22, AIR QUALITY PERMIT RULE AGRICULTURAL EXEMPTION

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The Commission is requested to approve the proposed amendment to Chapter 22 of the Iowa Administrative Code.

The proposal addresses exemptions from the requirement to obtain air quality construction permits before the construction or use of certain equipment used in the agricultural sector. The revisions clarify the existing exemption applicable to "agricultural purposes" to address changes in farm production and management practices which have occurred since these rules were first adopted.

Three public hearings on the proposed amendment to Chapter 22 were held. One hearing was held in Oakdale on June 8; one in Atlantic on June 15, and one in Des Moines on June 22. The notice of intended action was published in the Iowa Administrative Bulletin on May 18, 1988.

No oral or written comments were received by the Department.

ENVIRONMENTAL PROTECTION COMMISSION [567]
Adopted Rule

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission adopts an amendment to Chapter 22, "Controlling Pollution," Iowa Administrative Code. Specifically, the Department amends subrule 22.1(2), the sources exempt from the permit requirements.

Currently, paragraph 22.1(2)"d" provides that equipment used on farms and ranches for agricultural purposes, other than anaerobic lagoons, is exempt from the requirement to obtain an air permit prior to construction, installation, reconstruction or alteration. As a result of the changes in technological and management practices of the farming and ranching industry, the existing exemption no longer clearly identifies the equipment exempt from the permit requirements. In addition, the term "agricultural purposes" has become a term of art, defined by courts in the context of numerous and widely varied statutory exclusions and is, therefore, no longer descriptive of the equipment regulated by the Department. For this reason, the term "agricultural purposes" is removed.

A detailed explanation of the exemption is as follows:

1. "Equipment used for cultivating land, harvesting crops or raising livestock other than anaerobic lagoons" refers to equipment which, if used for specific activities, is exempt from the Department's permit requirements.

2. This exemption does not apply if the equipment is used to remove substances from grain which were applied to the grain by another person.

The Department has become aware of the practice of companies which treat large quantities of grain with antifungal agents and the sale of these grains to farmers and ranchers. The individual farmers and ranchers in turn roast these grains to remove the chemicals to acceptable levels for feed or distribution. Because of the type and quantity of toxic air contaminants which result from this practice, the exemption does not apply to equipment used to remove these types of substances.

3. This exemption also does not apply to equipment used by a person to manufacture commercial feed, as defined in Iowa Code section 198.3, which is normally not fed to livestock owned by that person or another person in a feedlot, as defined in Iowa Code section 172D.1, subsection 6, or a confinement building owned or operated by that person and located in this state. These units are typically large and result in the release of a large quantity of air contaminants.

This exemption does apply to grain driers of all types and grain roasters used for the drying or roasting of wet or moldy grains.

The Department conducted three public hearings to receive comments on this amendment. They were held on June 8, in the Gold Conference Room, University of Iowa, Oakdale Campus, Oakdale Hall, Oakdale (Exit 240, I-80 to Hwy. 965); on June 15, in the Atlantic Municipal Utilities Building Conference Room, 15 West Third Street, Atlantic and June 22, in the Wallace State Office Building, 5-East Conference Room, 900 East Grand Avenue, Des Moines, Iowa 50319-0034. No oral or written comments were received by the Department.

This amendment is intended to implement Iowa Code section 455B.133. It appeared as a Notice of Intended Action as ARC 8746 in the May 18, 1988 Iowa Administrative Bulletin. It becomes effective on _____.

Rescind paragraph 22.1(2)"d" in its entirely and insert in lieu thereof the following:

d. Equipment used for cultivating land, harvesting crops, or raising livestock other than anaerobic lagoons, This exemption is not applicable if the equipment is used to remove substances from grain which were applied to the grain by another person. This exemption is also not applicable to equipment used by a person to manufacture commercial feed, as defined in Iowa Code section 198.3, which is normally not fed to livestock, owned by that person or another person, in a feedlot, as defined in section 172D.1, subsection 6, or a confinement building owned or operated by that person and located in this state.

_____
Date

_____
Larry J. Wilson, Director

Motion was made by Richard Timmerman to approve Final Rule--Chapter 22, Air Quality Permit Rule Agricultural Exemption. Seconded by Keith Uhl. Motion carried unanimously.

FINAL RULE -- CHAPTER 70, WAIVER OF ENGINEERING PLANS FOR FLOODPLAIN PROJECTS

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The Commission is requested to approve the attached rule amendment which allows the department greater latitude when considering whether to waive the submission of certified engineering plans as part of an application for a floodplain development permit.

Notice of Intended Action to amend 567--70.4(2)"b" was published in the IAB on May 15, 1988. Written comments or suggestions were accepted through June 10, 1988 and a public hearing was provided for on June 9, 1988 in the Wallace Building. No written comments were received, nor did any parties appear at the scheduled hearing. In addition, no intra-agency comments were received.

ENVIRONMENTAL PROTECTION COMMISSION [567]
Adopted and Filed

Pursuant to the authority of Iowa Code section 455B.278, the Environmental Protection Commission has adopted an amendment to Chapter 70, "Scope of Title--Definitions--Forms--Rules of Practice," Iowa Administrative Code.

The amendment to paragraph 70.4(2)"b" removes the requirement that a floodplain project be "minor in scope" before the department can waive the submission of certified engineering plans. An application for a floodplain development permit must normally be accompanied by certified engineering plans unless the waiver criteria of paragraph 70.4(2)"b" can be met. The amendment allows the department to waive the submission of certified engineering plans if engineering plans and data are not necessary to determine compliance with applicable criteria or if adequate engineering data are already available, irrespective of whether the project is minor in scope.

Notice of Intended Action was published in the May 18, 1988 Iowa Administrative Bulletin as ARC 8748. No oral or written comments were received during the comment period or at the public hearing.

This rule amendment is identical to that published as Notice of Intended Action.

This rule amendment was adopted by the Environmental Protection Commission at its July __, 1988 meeting and will become effective on September __, 1988.

This rule amendment is intended to implement Iowa Code section 455B.278.

Paragraph 70.4(2)"b" is amended to read as follows:

b. Waiver of submission of certified plans. The department may waive the requirement in paragraph "a" of this subrule that the application for approval of a floodplain project be supported by certified engineering plans by making <u>one of</u> the following determinations in the order which approves or disapproves the project:

1) Engineering data are not required to determine that the project ~~is minor in scope and~~ conforms to all applicable administrative and statutory criteria; or

2) Adequate engineering data used to evaluate the dimensions and effects of the project were already available to the engineering staff.

_____
Date

_____
Larry J. Wilson, Director

Motion was made by Charlotte Mohr to approve Final Rule--Chapter 70, Waiver of Engineering Plans for Floodplain Projects. Seconded by Richard Timmerman. Motion carried unanimously.

AMENDMENTS TO CHAPTER 41 -- WATER SUPPLY RULES

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

The Commission will be asked to adopt the attached proposed rules. These rules were revised as indicated in the attached Responsiveness Summary. The rules are intended to conform state of Iowa regulations to the recently adopted federal rules under the mandate of the federal Safe Drinking Water Act.

ENVIRONMENTAL PROTECTION COMMISSION [567]
Adopted and Filed

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission of the Department of Natural Resources amends 567--Chapter 40, "Scope of Division - Definitions - Forms - Rules of Practice," and Chapter 41, "Water Supplies," Iowa Administrative Code.

The Notice of Intended Action was published in the May 18, 1988 Iowa Administrative Bulletin as ARC 8747. Public hearings were held on June 13, 1988, June 14, 1988, and June 15, 1988. The amendments were adopted on July 18, 1988. Changes to the amendment to Chapters 40 and 41 proposed in the Notice of Intended Action have been made as the result of input from departmental staff and comments from the Environmental Protection Agency.

The definition of "nontransient noncommunity water system" contained in rule 40.2 has been modified to make the required time period for service 26 or more weeks per year. The notice referred to 26 or more weeks per year in the first sentence of the definition and six or more months per year in the last sentence of the definition. The last sentence of this definition was changed to provide that hotels, resorts, hospitals and restaurants are considered to be nontransient noncommunity water systems if they employ 25 or more people rather than if they employ more than 25 people. The definition of "best available technology" has been revised by changing the word "examination" to "examinations."

Subrule 41.4(5)"j"(3) has been changed to correctly reflect the title for the testing method. Subrule 41.4(5)"j" has been revised to contain the correct zip code for the EPA Cincinnati Laboratory. The reference to "any public water system" in new rule 41.15 has been changed to "any public water supply system" to be consistent with the definition in Iowa Code section 455B.171. The phrase "serving more than 10,000 persons has been deleted from subrule 41.4(5)"o" since EPA will be deleting this phrase in its proposed technical corrections. Subrules 41.4(5)"k"(1), 41.4(5)"k"(2), and 41.4(5)"q" have been modified to reflect the date of the most recent amendment to the federal regulation. Subrule 41.4(5)"p" has been revised to be consistent with a proposed EPA technical amendment.

Subrule 41.4(7)"g" has had the word "follow" changed to "follows." Subrule 41.4(7)"h" has been modified to give the date of the most recent federal regulation amendment.

Subrule 41.5(2)"b" has been modified to include nontransient noncommunity water systems in the public notification requirements. Subrule 41.5(4) is

revised to show that three items on a list are subparts of the second item on the list concerning when lead levels in drinking water are likely to be highest. Subrule 41.16(2)"b" has been revised to reflect the correct date references for federal regulations referred to in the subrule.

Comments received have been responded to in a written responsiveness summary.

These rules are intended to implement Iowa Code chapter 455B, division III, part I. These rules are intended to become effective September 14, 1988 after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

ITEM 1. Amend rule 40.2(455B) by adding the following definitions in alphabetical order.

"Best available technology" or "BAT" means the best technology, treatment techniques, or other means which the state finds, after examinations, for efficacy under field conditions and not solely under laboratory conditions, are available (taking cost into consideration).

"Deep well" means a well located and constructed in such a manner that there is a continuous layer of low permeability soil or rock at least five feet thick located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn.

"Lead free" when used with respect to solder and flux refers to solders and flux containing not more than 0.2 percent lead, and when used with respect to pipes and pipe fittings refers to pipes and pipe fittings containing not more than 8.0 percent lead.

"Nontransient noncommunity water system" or "NTNCWS" means a public water system that is not a community water system and that regularly serves at least 25 of the same persons four hours or more per day, for four or more days per week, for 26 or more weeks per year. Examples of NTNCWSs are schools, day-care centers, factories, offices and other public water systems which provide water to a fixed population of 25 or more people. In addition, other service areas such as hotels, resorts, hospitals and restaurants are considered as NTNCWS if they employ 25 or more people and are open for 26 or more weeks of the year.

"Point-of-entry treatment device" is a treatment device applied to the drinking water entering a house or building for the purpose of reducing contaminants in the drinking water distributed throughout the house or building.

"Point-of-use treatment device" is a treatment device applied to a single tap used for the purpose of reducing contaminants in drinking water at that one tap.

"Shallow well" means a well located and constructed in such a manner that there is not a continuous layer of low permeability soil or rock at least five feet thick located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn.

ITEM 2. Amend subrule 41.3(2) to read as follows:

41.3(2) Organic chemicals. The following are the maximum contaminant levels for organic chemicals. ~~The maximum contaminant levels in paragraphs "a" and "b" of this subrule apply to all community water systems. The maximum contaminant level for total trihalomethanes in paragraph "c" of this subrule applies only to community water systems which serve a population of 10,000 or more individuals and which add a disinfectant (oxidant) to the water in any part of the drinking water treatment process. Compliance with maximum~~

~~contaminant-levels-for-organic-chemicals-is-calculated-pursuant-to-41.4(4)-and 41.4(5).~~

a. Chlorinated hydrocarbons: ~~(effective--June-24,--1977).~~ The maximum contaminant levels apply to all community water systems. Compliance with the maximum contaminant levels is calculated pursuant to 41.4(4).

	Level in milligrams per liter
Endrin (1,2,3,4,10, 10-hexachloro-6, 7-epoxy-1,4, 4a,5,6,7,8,8a-octa-hydro-1,4-endo, endo-5,8-dimethano naphthalene).	0.0002
Lindane (1,2,3,4,5,6-hexachloro-cyclohexane, gamma isomer).	0.004
Methoxychlor (1,1,1-Trichloro-2, 2-bis [p-methoxyphenyl] ethane).	0.1
Toxaphene (C_{10},$H_{10}Cl_8$-Technical chlorinated camphene, 67-69 percent chlorine).	0.005

b. Chlorophynoxys: ~~(effective -June-24, -1977).~~ The maximum contaminant levels apply to all community water systems. Compliance with the maximum contaminant level is calculated pursuant to 41.4(4).

	Level in milligrams per liter
2,4,-D (2,4-Dichlorophenoxyacetic acid).	0.1
2,4,5-TP Silvex (2,4,5-Trichloro-phenoxypropionic acid).	0.01

	Level in milligrams per liter
c. Total trihalomethanes.	0.10

The maximum contaminant level for total trihalomethanes applies to community water systems which serve a population of 10,000 or more individuals and which add a disinfectant (oxidant) to the water in any part of the treatment process. Compliance with the maximum contaminant level is calculated pursuant to 41.4(6). Total trihalomethanes is the sum of the concentrations of bromodichloromethane, dibromochloromethane, tribromomethane (bromoform) and trichloromethane (chloroform). ~~The-total-trihalomethane-maximum-contaminant level-shall-become-effective-on-November-29,-1981-for-community-water-systems serving-75,000-or-more-individuals-and-on-November-29,-1983-for-community water-systems-serving-10,000-to-74,999-individuals.~~

ITEM 3. Amend subrule 41.3(2) by adding the following new paragraph:

d. Synthetic organic contaminants. The maximum contaminant levels for synthetic organic contaminants (SOC) apply to community water systems and nontransient noncommunity water systems. Compliance with the maximum contaminant level is calculated pursuant to 41.4(5)"i".

	Level in milligrams per liter
Benzene	0.005
Vinyl chloride	0.002
Carbon tetrachloride	0.005
1,2-Dichloroethane	0.005
Trichloroethylene	0.005
1,1-Dichloroethylene	0.007
1,1,1-Trichloroethane	0.20
para-Dichlorobenzene	0.075

ITEM 4. Rescind paragraph "d" of subrule 41.4(4). Reletter paragraph "e" as paragraph "d" and paragraph "f" as paragraph "e".

ITEM 5. Renumber subrule 41.4(5) as 41.4(6) and 41.4(6) as 41.4(8), and add the following new subrule 41.4(5):

41.4(5) Analysis of the contaminants listed in 41.3(2)"d" for purposes of determining compliance with the maximum contaminant levels shall be conducted as follows:

a. Groundwater systems shall sample at points of entry to the distribution system representative of each well. Sampling must be conducted at the same location or a more representative location each quarter. Groundwater systems must sample every three months for each entry point to the distribution system except as provided in subparagraph "h"(1) of this subrule.

b. Surface water systems shall sample at points in the distribution system representative of each source or at entry points to the distribution system after any application of treatment every three months except as provided in subparagraph "h"(2) of this subrule. Sampling must be conducted at the same location or a more representative location each quarter.

c. If the system draws water from more than one source and sources are combined before distribution, the system must sample at the entry point to the distribution system. The sample must be collected during periods of normal operating conditions.

d. All community water systems and nontransient noncommunity water systems serving more than 10,000 people shall analyze all distribution or entry-point samples, as appropriate, representing all source waters beginning no later than 45 days after the effective date of these rules. All community water systems and nontransient noncommunity water systems serving from 3,300 to 10,000 people shall analyze all distribution or entry-point samples, as required in this subparagraph during the calendar quarter that begins January 1, 1989. All other community and nontransient noncommunity water systems shall analyze distribution or entry-point samples, as required in this paragraph during the calendar quarter that begins January 1, 1991.

e. The department may require confirmation samples for positive or negative results. If a confirmation sample(s) is required by the department, then the sample result(s) shall be averaged with the first sampling result and used for compliance determination in accordance with paragraph "i" of this subrule. The department has the discretion to delete results of sampling errors from this calculation.

f. Analysis for vinyl chloride is required for groundwater systems and surface water systems that have detected one or more of the following two-carbon organic compounds: trichloroethylene, tetrachloroethylene, 1,2-dichloroethane, 1,1,1-trichloroethane, cis-1,2-dichloroethylene, trans-1,2-dichloroethylene or 1,1-dichloroethylene. The analysis for vinyl chloride is required at each entry point to the distribution system at which one or more of the two-carbon organic compounds were found. If the first analysis does not detect vinyl chloride, the department may reduce the frequency of vinyl chloride monitoring to once every three years for that sample location or other sample locations which are more representative of the same source.

g. Upon request, the department may allow public water systems to composite up to five samples from one or more sources. Compositing of samples is to be done in the laboratory by the procedures listed below. Samples should be analyzed within 14 days of collection. If any organic contaminant listed in 41.3(2)"d" is detected in the original composite sample, a sample from each source that made up the composite sample must be reanalyzed individually

within 14 days from sampling. The sample for reanalysis cannot be the original sample, but can be a duplicate sample. If duplicates of the original samples are not available, new samples must be taken from each source used in the original composite and analyzed for the SOCs specified in 41.3(2)"d". Reanalysis must be accomplished within 14 days of the second sample. To composite samples, the following procedure must be followed:

(1) Compositing samples prior to gas chromatograph analysis.

Add 5 ml or equal larger amounts of each sample (up to five samples are allowed) to a 25 ml glass syringe. Special precautions must be made to maintain zero headspace in the syringe.

The samples must be cooled at 4°C. during this step to minimize volatilization losses.

Mix well and draw out a 5-ml aliquot for analysis.

Follow sample introduction, purging, and desorption steps described in the method.

If less than five samples are used for compositing, a proportionately smaller syringe may be used.

(2) Compositing samples prior to gas chromatograph/mass spectrometric analysis.

Inject 5 ml or equal larger amounts of each aqueous sample (up to five samples are allowed) into a 25-ml purging device using the sample introduction technique described in the method.

The total volume of the sample in the purging device must be 25 ml.

Purge and desorb as described in the method.

h. The department may reduce the monitoring frequency specified in paragraphs "a" and "b" of this subrule as follows:

(1) The monitoring frequency for groundwater systems is as follows:

When SOCs are not detected in the first sample (or any subsequent samples that may be taken) and the system is not vulnerable as defined in subparagraph "h"(4) of this subrule, monitoring must be repeated every five years.

When SOCs are not detected in the first sample (or any subsequent sample that may be taken) and the system is vulnerable as defined in subparagraph "h"(4) of this section,

Monitoring must be repeated in three years for systems with equal to or greater than 500 service connections; and

Monitoring must be repeated every five years for systems with less than 500 service connections.

If SOCs are detected in the first sample (or any subsequent sample that may be taken), regardless of vulnerability, monitoring must be repeated every three months, as required under paragraph "a" of this subrule.

(2) The repeat monitoring frequency for surface water systems is as follows:

When SOCs are not detected in the first year of quarterly sampling (or any other subsequent sample that may be taken) and the system is not vulnerable as defined in subparagraph "h"(4), monitoring is required every five years.

When SOCs are not detected in the first year of quarterly sampling (or any other subsequent sample that may be taken) and the system is vulnerable as defined in subparagraph "h"(4) of this subrule,

Monitoring must be repeated in three years for systems with equal to or greater than 500 service connections; and

Monitoring must be repeated every five years for systems with less than 500 service connections.

When SOCs are detected in the first year of quarterly sampling (or any other subsequent sample that may be taken), regardless of vulnerability, monitoring

must be repeated every three months, as required under paragraph "b" of this subrule.

(3) The department may reduce the frequency of monitoring to once per year for a groundwater system or surface water system detecting SOCs at levels consistently less than the MCL for three consecutive years.

(4) Vulnerability of each public water system shall be determined by the department based upon an assessment of the following factors.

Previous monitoring results. A system will be classified vulnerable if any sample was analyzed to contain one or more contaminants listed in 41.3(2)"d" or 41.4(7)"e" except for trihalomethanes or other demonstrated disinfection byproducts.

Proximity of surface water supplies to commercial or industrial use, disposal or storage of volatile synthetic organic chemicals. Surface waters which withdraw water directly from reservoirs are considered vulnerable if the drainage basin upgradient and within two miles of the shoreline at the maximum water level contains major transportation facilities such as primary highways or railroads or any of the contaminant sources listed in this subparagraph. Surface water supplies which withdraw water directly from flowing water courses are considered vulnerable if the drainage basin upgradient and within two miles of the water intake structure contains major transportation facilities such as primary highways or railroads or any of the contaminant sources listed in this subparagraph.

Proximity of groundwater supplies to commercial or industrial use, disposal or storage of volatile synthetic organic chemicals. Wells that are not separated from sources of contamination by at least the following distances will be considered vulnerable.

Sources Of Contamination	Shallow Wells as defined in 40.2(455B)	Deep Wells as defined in 40.2(455B)
Sanitary and industrial point discharges	400 ft.	400 ft.
Mechanical waste treatment plants	400 ft.	200 ft.
Lagoons	1,000 ft.	400 ft.
Chemical & mineral storage (above ground)	200 ft.	100 ft.
Chemical & mineral storage including underground storage tanks on or below ground	400 ft.	200 ft.
Solid waste disposal site	1,000 ft.	1,000 ft.

(5) A system is deemed to be vulnerable for a period of three years after any positive measurement of one or more contaminants listed in either 41.3(2)"d" or 41.4(7)"e" except for trihalomethanes or other demonstrated disinfection byproducts.

i. Compliance with 41.3(2)"d" shall be determined based on the results of running annual average of quarterly sampling for each sampling location. If one location's average is greater than the MCL, then the system shall be deemed to be out of compliance. If a public water system has a distribution system separable from other parts of the distribution system with no interconnections, only that part of the system that exceeds any MCL as specified in 41.3(2)"d" will be deemed out of compliance. The department may reduce the public notice requirement to that portion of the system which is out of compliance. If any one sample result would cause the annual average to be exceeded, then the system shall be deemed to be out of compliance

immediately. For systems that only take one sample per location because no SOCs were detected, compliance shall be based on that one sample.

j. Analysis under this paragraph shall be conducted using the following approved methods or their equivalent as approved by the department. These methods are contained in "Methods for the Determination of Organic Compounds in Finished Drinking Water and Raw Source Water," September 1966, available from Environmental Monitoring and Support Laboratory (EMSL), EPA, Cincinnati, OH 45268 or the department.

(1) Method 502.1, "Volatile Halogenated Organic Chemicals in Water by Purge and Trap Gas Chromatography."

(2) Method 503.1, "Volatile Aromatic and Unsaturated Organic Compounds in Water by Purge and Trap Gas Chromatography."

(3) Method 524.1, "Volatile Organic Compounds in Water by Purge and Trap Gas Chromatography/Mass Spectrometry."

(4) Method 524.2, "Volatile Organic Compounds in Water by Purge and Trap Capillary Column Gas Chromatography/Mass Spectrometry."

(5) Method 502.2, "Volatile Organic Compounds in Water by Purge and Trap Capillary Gas Chromatography with Photoionization and Electrolytic Conductivity Detectors in Series."

k. Analysis under this subrule shall only be conducted by laboratories that have received conditional approval by the department according to the following conditions:

(1) To receive conditional approval to conduct analyses for benzene, vinyl chloride, carbon tetrachloride, 1,2-dichloroethane, trichloroethylene, 1,1-dichloroethylene, 1,1,1-trichloroethane, and paradichlorobenzene the laboratory must:

Analyze performance evaluation samples which include these substances provided by EPA Environmental Monitoring and Support Laboratory or equivalent samples provided by the department.

Achieve the quantitative acceptance limits under this subparagraph for at least six of the seven subject organic chemicals.

Achieve quantitative results on the analyses performed under this subparagraph that are within ±20 percent of the actual amount of the substances in the performance evaluation sample when the actual amount is greater than or equal to 0.010 mg/l.

Achieve quantitative results on the analyses performed under this subparagraph that are within ±40 percent of the actual amount of the substances in the performance evaluation sample when the actual amount is less than 0.010 mg/l.

Achieve a method detection limit of 0.0005 mg/l, according to the procedures in 40 CFR, Appendix B of Part 135, June 30, 1986.

Be currently approved by the department for the analyses of trihalomethanes under 41.4(6).

(2) To receive conditional approval for vinyl chloride, the laboratory must:

Analyze performance evaluation samples provided by EPA Environmental Monitoring and Support Laboratory or equivalent samples provided by the department.

Achieve quantitative results on the analyses performed under this subparagraph that are within ±40 percent of the actual amount of vinyl chloride in the performance evaluation sample.

Achieve a method detection limit of 0.0005 mg/l, according to the procedures in 40 CFR, Appendix B of Part 136, June 30, 1986.

Receive approval or be currently approved by the department under subparagraph "k"(1) of this subrule.

l. The department may allow the use of monitoring data collected after January 1, 1983, for purposes of monitoring compliance. If the data is consistent with the other requirements in this paragraph, the department may use that data to represent the initial monitoring if the system is determined by the department not to be vulnerable under the requirements of this section. In addition, the results of the U.S. Environmental Protection Agency's Groundwater Supply Survey can be used in a similar manner for systems supplied by a single well.

m. The department may increase required monitoring where necessary to detect variations within the system.

n. The department may determine compliance or initiate enforcement action based upon analytical results and other information compiled by their sanctioned representatives and agencies.

o. The department may exempt a public water system that obtains treated water from another public water system from conducting compliance monitoring for the organic chemicals under 41.3(2)"d," provided that the system from which the water is obtained has conducted the analyses required under 41.3(2)"d".

p. Public water systems serving fewer than 10,000 persons and which are exempted from monitoring by the Department under paragraph "o" must monitor for trihalomethanes (chloroform, bromodichloromethane, chlorodibromomethane and bromoform) if the water in the system is disinfected or the water supplied by the previous public water system is disinfected.

q. Each approved laboratory must determine the method detection limit (MDL), as defined in 40 CFR, Appendix B of Part 136, June 30, 1986, at which it is capable of detecting SOCs. The acceptable MDL is 0.0005 mg/l. This concentration is the detection level for purposes of subparagraphs "e", "f", "g" and "h" of this subrule.

ITEM 6. Amend renumbered subrule 41.4(6), paragraph "a" as follows:

a. Community water systems which serve a population of 10,000 or more individual and which add disinfectant (oxidant) to the water in any part of the drinking water treatment process shall analyze for total trihalomethanes in accordance with this subrule. ~~For--systems--serving--75,000--or--more individuals,-sampling-and-analyses-shall-begin-before-November-29,-1980.--For systems -serving -10,000 -to -74,999 -individuals, -sampling -and -analyses -shall begin-before-November-29,-1982.~~ For the purpose of this subrule, samples to be taken by the system shall be based on the number of treatment plants used by the system, except that multiple wells drawing water from a single aquifer may, with approval of the department, be considered as one treatment plant for determining the minimum number of samples. All samples required within a calendar quarter shall be collected within a 24-hour period.

ITEM 7. Subrule 41.4(7) is renumbered as 41.4(9). Add the following new subrule as 41.4(7):

41.4(7) Special monitoring for organic chemicals.

a. All community and nontransient noncommunity water systems shall monitor for the contaminants listed in paragraph "e" in this subrule by the date specified below:

Number of Persons Served	Monitoring to begin no later than
Over 10,000	Within 45 Days Of Rule Effective Date
3,300 to 10,000	Jan. 1, 1989
Less than 3,300	Jan. 1, 1991

b. Surface water systems shall sample in the distribution system representative of each water source or at entry points to the distribution system. The minimum number of samples is one year of quarterly samples per water source.

c. Groundwater systems shall sample at points of entry to the distribution system representative of each well. The minimum number of samples is one sample per entry point to the distribution system.

d. The department may require confirmation samples for positive or negative results.

e. Community water systems and nontransient noncommunity water systems shall monitor for the following contaminants except as provided in paragraph "f" of this subrule.

(1) Chloroform
(2) Bromodichloromethane
(3) Chlorodibromomethane
(4) Bromoform
(5) trans-1,2-Dichloroethylene
(6) Chlorobenzene
(7) m-Dichlorobenzene
(8) Dichloromethane
(9) cis-1,2-Dichloroethylene
(10) o-Dichlorobenze
(11) Dibromomethane
(12) 1,1-Dichloropropene
(13) Tetrachloroethylene
(14) Toluene
(15) p-Xylene
(16) o-Xylene
(17) m-Xylene
(18) 1,1-Dichloroethane
(19) 1,2-Dichloropropane
(20) 1,1,2,2-Tetrachloroethane
(21) Ethylbenzene
(22) 1,3-Dichloropropane
(23) Styrene
(24) Chloromethane
(25) Bromomethane
(26) 1,2,3-Trichloropropane
(27) 1,1,1,2-Tetrachloroethane
(28) Chloroethane
(29) 1,1,2-Trichloroethane
(30) 2,2-Dichloropropane
(31) o-Chlorotoluene
(32) p-Chlorotoluene
(33) Bromobenzene

(34) 1,3-Dichloropropene
(35) Ethylene dibromide (EDB)
(36) 1,2-Dibromo-3-chloropropane (DBCP)

f. Community water systems and nontransient noncommunity water systems must monitor for ethylene dibromode (EDB) and 1,2-Dibromo-3-chloropropane (DBCP) only if the department determines they are vulnerable to contamination by either or both of these substances. For the purpose of this paragraph, a vulnerable system is defined as a system which is potentially contaminated by EDB and DBCP, including surface water systems where these two compounds are applied, manufactured, stored, disposed of, or shipped upstream, and for groundwater systems in areas where the compounds are applied, manufactured, stored, disposed of, or shipped in the groundwater recharge basin, or for groundwater systems, shallow wells as defined in 40.2(455B) that are less than 400 feet and deep wells as defined in 40.2(455B) that are less than 200 feet from underground storage tanks that contain leaded gasoline.

g. Analysis under this subrule shall be conducted using the recommended methods as follows, or their equivalent as determined by the department: 502.1, "Volatile Halogenated Organic Compounds in water by Purge and Trap Gas Chromatography," 503.1, "Volatile Aromatic and Unsaturated Organic Compounds in Water by Purge and Trap Gas Chromatography," 524.1, "Volatile Organic Compounds in Water by Purge and Trap Gas Chromatography/Mass Spectrometry," 524.2, "Volatile Organic Compounds in Water by Purge and Trap Capillary Column Gas Chromatography/Mass Spectrometry, or 502.2, "Volatile Organic Compounds in Water by Purge and Trap gas Chromatography with Photoionization and Electrolytic Conductivity Detectors in Series." These methods are contained in "Methods for the Determination of Organic Compounds in Finished Drinking Water and Raw Source Water," September 1986, available from Environmental Monitoring and Support Laboratory (EMSL), EPA, Cincinnati, Ohio 45268. Analysis of 1,2-dibromo-3-chloropropane (DBCP) and 1,2-dibromoethane (ECB) shall be conducted by Method 504, "Measurement of 1,2-Dibromoethane (EDB) and 1,2-Dibromo-3-chloropropane (DBCP) in Drinking Water by Microextraction and Gas Chromatography," September 1986, available from EMSL, Cincinnati, Ohio 45268.

h. Analysis under this subrule shall only be conducted by laboratories approved under 41.4(5)"k". In addition to the requirements of 41.4(5)"k", each laboratory analyzing for ethylene dibromide (EDB) and 1,2-dibromo-3-chloropropane (DBCP) must achieve a method detection limit for EDB and DBCP of 0.00002 mg/l, according to the procedures in 40 CFR Appendix B of Part 136, June 30, 1986.

i. Public water systems may use monitoring data collected anytime after January 1, 1983 to meet the requirements for unregulated monitoring, provided that the monitoring program was consistent with the requirements of this subrule.

j. Monitoring for the following compounds is required at the discretion of the department.

(1) 1,2,4-Trimethylbenzene
(2) 1,2,4-Trichlorobenzene
(3) 1,2,3-Trichlorobenzene
(4) n-Propylbenzene
(5) n-Butylbenzene
(6) Naphthalene
(7) Hexachlorobutadiene
(8) 1,3,5-Trimethylbenzene
(9) p-Isopropyltoluene

(10) Iscpropylbenzene
(11) Tert-butylbenzene
(12) Sec-butylbenzene
(13) Fluorotrichloromethane
(14) Dichlorodifluoromethane
(15) Bromochloromethane

k. Instead of performing the monitoring required by this subrule, a community water system or nontransient noncommunity water system serving fewer than 150 service connections may send a letter to the department stating that its system is available for sampling. Samples are not required unless requested by the department. The letter must be sent to the state no later than January 1, 1991. All community and nontransient noncommunity water systems shall repeat the monitoring required in this subrule no less frequently than every five years from the dates specified in 41.4(7)"a".

ITEM 8. Renumber subrule 41.4(8) as 41.4(10), subrule 41.4(9) as 41.4(11), and subrule 41.4(10) as 41.4(12).

ITEM 9. Renumber subrule 41.4(11) as 41.4(13) and amend the first sentence to read as follows:

For the purpose of determining compliance with 41.4(1) ~~to~~ through ~~41.4(10)~~ 41.4(12), samples may be considered only if they have been analyzed by a laboratory currently certified by the department except that measurements for turbidity, temperature, pH and free chlorine residual may be performed by any person acceptable to the department.

ITEM 10. Renumber subrule 41.4(12) as 41.4(14), subrule 41.4(13) as 41.4(15), subrule 41.4(14) as 41.4(16), and subrule 41.4(15) as 41.4(17).

ITEM 11. Amend subrule 41.5(1) by adding new paragraph "c" as follows:

c. The owner or operator shall notify persons served by the system of the availability of the results of sampling conducted under 41.4(7) by including a notice in the first set of water bills issued by the system after the receipt of the results or written notice within three months. The notice shall identify a person and supply the telephone number to contact for information on the monitoring results.

ITEM 12. Strike the catch words of subrule 41.5(2) and insert in lieu thereof the following:

General public notification requirements.

ITEM 13. Amend subrule 41.5(2)"b" to read as follows:

41.5(2)"b" In the case of a community or nontransient noncommunity water system (as defined in 40.2(455B), notification shall be implemented as follows and given each quarter thereafter until the problem is corrected:

ITEM 14. Add new subrule 41.5(4) to read as follows:

41.5(4) Public notification requirements pertaining to lead.

a. Applicability of public notice requirements.

(1) Except as provided in subparagraph "a"(2) of this subrule, within 30 days after the effective date of these rules, the owner or operator of each community water system and each nontransient noncommunity water system shall issue a notice to persons served by the system that may be affected by lead contamination of their drinking water. The department may require subsequent notices. The owner or operator shall provide notice under 41.5(4) even if there is no violation of the lead maximum contaminant level as prescribed in 41.3(1).

(2) Notice required under subparagraph "a"(1) of this subrule is not required if the system demonstrates to the department that the water system, including the residential and nonresidential portions connected to the water system, are lead free as defined in 40.2(455B).

b. Manner of notice. Notice shall be given to persons served by the system either by: (1) Three newspaper notices (one for each of three consecutive months and the first no later than 30 days after the effective date of these rules); or

(2) Once by mailing the notice with the water bill or in a separate mailing within 30 days after the effective date of these rules; or

(3) Once by hand delivery within 30 days after the effective date of these rules. For nontransient noncommunity water systems, notice may be given by continuous posting. If posting is used, the notice shall be posted in a conspicuous place in the area served by the system and start no later than 30 days after the effective date of these rules, and continue for three months.

c. General content of the notice.

(1) Notices issued under this subrule shall provide a clear and readily understandable explanation of the potential sources of lead in drinking water, potential adverse health effects, reasonably available methods of mitigating known or potential lead content in drinking water, and the necessity for seeking alternative water supplies, if any. Use of the mandatory language in paragraph "d" of this subrule in the notice will be sufficient to explain potential adverse health effects.

(2) Each notice shall also include specific advice on how to determine if materials containing lead have been used in homes or the water distribution system and how to minimize exposure to water likely to contain high levels of lead. Each notice shall be conspicuous and shall not contain unduly technical language, unduly small print, or similar problems that frustrate the purpose of the notice. Each notice shall contain the telephone number of the owner, operator, or designee of the public water system as a source of additional information regarding the notice. Where appropriate, the notice shall be multilingual.

d. Mandatory health effects information. When providing the information in public notices required under paragraph "c" of this subrule on the potential adverse health effects of lead in drinking water, the owner or operator of the water system shall include the following specific language in the notice:

"The United States Environmental Protection Agency (EPA) sets drinking water standards and has determined that lead is a health concern at certain levels of exposure. There is currently a standard of 0.050 parts per million (ppm). Based on new health information, EPA is likely to lower this standard significantly.

"Part of the purpose of this notice is to inform you of the potential adverse health effects of lead. This is being done even though your water may not be in violation of the current standard.

"EPA and others are concerned about lead in drinking water. Too much lead in the human body can cause serious damage to the brain, kidneys, nervous system, and red blood cells. The greatest risk, even with short-term exposure, is to young children and pregnant women.

"Lead levels in your drinking water are likely to be highest:

° if your home or water system has lead pipes, or

° if your home has copper pipes with lead solder, and

- if the home is less than five years old, or
- if you have soft or acidic water, or
- if water sits in the pipes for several hours."

ITEM 15. Amend subrule 41.6(5) by adding paragraph "c" as follows:

c. If the department determines that a treatment method identified in 41.12(10) is technically feasible, the department may require the system to install or use that treatment method in connection with a compliance schedule

issued under the provisions of this subrule. The department's determination shall be based upon studies by the system and other relevant information.

ITEM 15. Amend rule 41.12(455) by adding a new subrule as follows:

41.12(10) Best available treatment technology.

a. The department identifies the following as the best technology, treatment techniques, or other means available for achieving compliance with the maximum contaminant level for synthetic organic chemicals listed in 41.3(2)"d": Central treatment using packed tower aeration or central treatment using granular activated carbon (except vinyl chloride).

b. The department shall require community water systems and nontransient noncommunity water systems to install or use any treatment method identified in 41.12(10) as a condition for granting an interim contaminant level except as provided in paragraph "c". If, after the system's installation of the treatment method, the system cannot meet the maximum contaminant level, that system shall be eligible for a compliance schedule with an interim contaminant level granted under the provisions of 41.7(455B).

c. If a system can demonstrate through comprehensive engineering assessments, which may at the direction of the department include pilot plant studies, that the treatment methods identified in 41.12(10) would only achieve a de minimis reduction in contaminants, the department may issue a schedule of compliance that requires the system to examine other treatment methods as a condition of obtaining an interim contaminant level.

d. If the department determines that a treatment method identified in paragraph "c" of this subrule is technically feasible, the department may require the system to install or use that treatment method in connection with a compliance schedule issued under the provisions of 41.7(455B). The department's determination shall be based upon studies by the system and other relevant information.

ITEM 17. Add the following new rules:

567--41.15(455B) Prohibition on the use of lead pipes, solder and flux. Any pipe, solder or flux which is used in the installation or repair of any public water supply system or any plumbing in a residential or nonresidential facility providing water for human consumption which is connected to a public water supply system shall be lead free as defined in 40.2(455B). This action shall not apply to leaded joints necessary for the repair of cast iron pipe.

567--41.16(455B) Use of noncentralized treatment devices.

41.16(1) Public water systems shall not use bottled water, point-of-use (POU) or point-of-entry (POE) devices to achieve compliance with a maximum contaminant level in 41.3(2)"d".

41.16(2) The department may require a public water system exceeding a maximum contaminant level specified in 41.3(2)"d" to use bottled water as a condition of an interim compliance schedule or as a temporary measure to avoid an unreasonable risk to health. The system must meet the following requirements:

a. Submit for approval to the department a monitoring program for bottled water. The monitoring program must provide reasonable assurances that the bottled water meets all the maximum contaminant levels in 41.3. The public water system must monitor a representative sample of bottled water for all contaminants regulated under 41.3(2)"d" the first quarter that it supplies the bottled water to the public, and annually thereafter. Results of the monitoring program shall be provided to the department annually.

b. The public water system must receive a certification from the bottled water company that the bottled water supplied has been taken from an "approved source" as defined in 21 CFR, Part 129, Subpart A, Section 129.3(a) revised as

of March 6, 1979; the bottled water company has conducted monitoring in accordance with 21 CFR, Part 129, Subpart E, Sections 129.80(g)(1) through (3) revised as of March 6, 1979; and the bottled water does not exceed any maximum contaminant levels or quality limits as set out in 21 CFR, Part 103, Subpart B, Section 103.35 revised as of March 19, 1984; 21 CFR revised as of June 19, 1986, Part 110 and 21 CFR, Part 129 revised as of March 6, 1979. The public water system shall provide the certification to the department the first quarter after it supplies bottled water and annually thereafter.

c. The public water system is fully responsible for the provision of sufficient quantities of bottled water to every person supplied by the public water system, via door-to-door bottled water delivery.

_____
Date

_____
Larry J. Wilson, Director

July 14, 1988

DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION DIVISION

Rules Pertaining To Chapters 40 and 41
"Scope of Division - Definitions - Forms - Rules of Practice
"Water Supplies"

PUBLIC PARTICIPATION RESPONSIVENESS SUMMARY

FOR

CHAPTER 40 - SCOPE OF DIVISION - DEFINITIONS - FORMS - RULES OF PRACTICE

CHAPTER 41 - WATER SUPPLIES
The attached information constitutes a summary of written
comments received on the proposed rules
Chapter 40 - Scope of Division - Definition - Forms - Rules of Practice
Chapter 41 - Water Supplies

Seventeen comments were received from two commentors.

The following summarizes the comments received through June 27, 1988. Public hearings were held on June 13, 1988 at Des Moines; on June 14, 1988 at Council Bluffs; and June 15, 1988 at Iowa City. No oral comments were received during the hearings. Comments 1 through 9 were submitted by the Drinking Water Branch, U.S. Environmental Protection Agency, Kansas City, Kansas. Comment 10 through 12 were submitted by the Iowa Association of Municipal Utilities, Des Moines. The responsiveness summary addresses all comments or group of similar-type comments. Each comment or group of comments is followed by a response and staff recommendation.

1. Comment: The definition of nontransient noncommunity water system in Item 1 uses "26 or more weeks per year" in one sentence and "6 or more months" in another sentence. Suggest the definition be revised for internal consistency using only one of the two phrases.

   Response: The definition is modified as suggested.

   Action Taken: The definition of nontransient noncommunity water system is modified so that the length of service characteristic is consistently described as "26 or more weeks".

2. Comment: The last sentence in the definition of "nontransient noncommunity water system" in Item 1 states that hotels, resorts, hospitals and restaurants are considered as nontransient noncommunity water systems if they employ more than 25 people. The definition should be changed to read "...employ 25 or more people..." to be as stringent as federal requirements.

   Response: The definition is modified as suggested.

   Action Taken: The last sentence in the definition of nontransient noncommunity water system is modified to provide that hotels, resorts, hospitals and restaurants are considered as nontransient noncommunity water systems if they employ 25 or more people.

3. Comment: The following comments are concerned with grammatical and minor technical changes.

   a. The current title for Method 524.1 cited in Item 5, subrule 41.4(5)"j"(3) is "Volatile Organic Compounds in Water by Purge Trap Gas Chromatography/Mass Spectrometry."

   b. The October 26, 1984 date for Appendix B of 40 CFR Part 136 indicated in Item 5, subrule 41.4(5)"k"(1), 41.4(5)"k"(2) and 41.4(5)"q" should be revised to reflect the most recent date of the amendment which is June 30, 1986.

   c. The October 26, 1984 date for Appendix B of 40 CFR Part 136 indicated in Item 7, subrule 41.4(7)"h" should be revised to reflect the most recent date of the amendment which is June 14, 1986.

   d. The definition of best available technology in Item 1 contains the word "examination." To make this definition consistent with federal regulations change "examination" to "examinations."

e. Change the word "follow" to "follows" in the first sentence of Item 7, subrule 41.4(7)"g".

f. The zip code indicated in Item 5, subrule 41.4(5)"j" for the EPA Cincinnati Laboratory is incorrect. Change the zip code from "45266" to "45268."

Action Taken: The proposed rules were modified in accordance with the suggestions.

4. Comment: EPA commented that Item 5, subrule 41.4(5)"o", as currently drafted, is equivalent to the corresponding federal requirement. However, EPA noted that that the phrase "serving more than 10,000 persons" will be deleted with the proposed technical corrections to the July 8, 1987 rule.

Response: Recommend the rule be modified to correspond to the proposed EPA technical correction.

Action Taken: The phrase "serving more than 10,000 persons" is deleted from subrule 41.4(5)"o". This change makes the proposed rules less stringent than originally proposed.

5. Comment: EPA commented that Item 5, subrule 41.4(5)"p", as currently drafted, is equivalent to the corresponding federal requirement under 141.24(g)(17). However, EPA noted that the subrule will be amended by the technical corrections to the July 8, 1987 rule to read: "Public water systems serving fewer than 10,000 persons and which are exempted from monitoring by the State under Section 141.24(g)(16) must monitor for THMs if the water in that system is disinfected or the water supplied by a previous public water supply is disinfected." EPA also indicated the paragraph will be redesignated in the federal rules from Section 141.24(g)(17) to Section 141.40(m).

Response: Recommend the rule be modified to correspond to the proposed EPA technical correction.

Action Taken: Revise the wording of Item 5, subrule 41.4(5)"p" to read: "Public water systems serving fewer than 10,000 persons and which are exempted from monitoring by the department under paragraph "o" must monitor for trihalomethanes (chloromethane, bromodichloromethane, chlorodibromomethane and bromoform) if the water in that system is disinfected or the water supplied by a previous public water supply is disinfected."

6. Comment: Item 12 indicates a change in the title of subrule 41.5(2) from "Public Notification Requirements" to "General Public Notification Requirements." EPA commented that this change is not sufficient to meet the requirements of Section 141.32(a) as revised by the VOC rules. The VOC rules revised the current general public notification requirements of 40 CFR 141.32(a) to require the general public notification (e.g., in the case of an MCL violation, etc.) by a nontransient noncommunity water systems in the same manner as for community water systems. The current state general public notification rules require nontransient noncommunity

water systems to give notice the same as for transient noncommunity water systems.

Response: Subrule 41.5(2) is modified to include nontransient noncommunity water systems in the public notification requirements.

Action Taken: Subrule 41.5(2)"b" is amended to read: In the case of community or nontransient noncommunity water systems (as defined in 40.2(455B), notification shall be implemented as follows and given each quarter thereafter until the problem is corrected.

7. Comment: Item 15, subrule 41.12(10) contains the term "interim maximum contaminant level." EPA indicated the use of this term is acceptable with the understanding that any "interim maximum contaminant levels" established by the Department under this subrule must not exceed those levels allowed by 40 CFR Part 142 Subparts E and F, which are concerned with the issuance of variances and exemptions.

Response: EPA's comment is noted. 40 CFR Part 142 Subparts E and F will be reviewed to insure that any "interim contaminant levels" established by the Department do not exceed EPA guidelines.

Action Taken: No rule modification is anticipated.

8. Comment: The Iowa Code, section 455B.171, Definitions, defines a "public water supply system" whereas the requirements of new rules 567 --41.15 (455B) of the proposed rules relate to "any public water system." Suggest changing the reference from "any public water system" in the proposed rule to "any public water supply system." This will provide consistency between the Iowa Code definition and the proposed rule.

Response: The wording is changed as suggested.

Action Taken: The reference to "any public water system" in new rule 41.15(455B) is changed to "any public water supply system."

9. Comment: The proposed rule addition in subrule 41.5(4) addresses the lead public notification issue. This new paragraph corresponds directly with the EPA regulations of 40 CFR 141.34 with one minor error. Subsection (d) of 40 CFR 141.34 states in pertinent part:

> "Lead levels in your drinking water are likely to be highest:
> ° if your home or water system has lead pipes, or
> ° if your home has copper pipes with lead solder, and
> - if your home is less than 5 years old, or
> - if you have soft or acidic water, or
> - if the water sits in the pipes for several hours."

The proposed rule does not indicate that the last three items of the list are subparts of the second item. Recommend this error be corrected to avoid changing the meaning of this paragraph.

Response: The paragraph is changed as suggested.

Action Taken: The proposed subrule 41.5(4) is amended so that the last three items of the list are subparts of the second item.

10. Comment: Subrule 41.4(5)"f" requires both ground and surface water systems to monitor for vinyl chloride if certain two-carbon organic compounds are found. This requirement is more stringent than the federal regulations since the federal regulations only require ground water systems to conduct this monitoring. This additional requirement may significantly increase the cost of compliance. Where the Environmental Protection Commission (EPC) chooses to impose requirements not mandated by the federal regulations it seems appropriate to request that the EPC articulate the policy concerns that justify the additional level of scrutiny.

Response: Subrule 41.4(5)"f" corresponds to the federal regulation 40 CFR 141.24(g)(6), as added by 50 FR 25712, July 8, 1987. The federal regulation provides the State with discretion in determining the vinyl chloride monitoring requirement for surface water systems. Therefore, the rule is not more stringent. It interprets the specific requirements that the Department will use. What the rule says is that if other two-carbon organic compounds are found the surface water system will be treated the same as a ground water system and be required to analyze for vinyl chloride. Based on the results of the One Time Testing Program required by 567--42.42 I.A.C. we do not expect any surface water suppliers having to test for vinyl chloride. If required, we do not believe the vinyl chloride analysis will significantly increase the cost of compliance. Officials at the University Hygienic Laboratory have indicated that the analytical costs for the synthetic organic compounds with maximum contaminant levels (excluding vinyl chloride) is $110. The additional analysis for vinyl chloride would increase the analytical costs $10.

Action Taken: Since we are clarifying the rule and not being more stringent, no modification in this proposed rule is warranted at this time.

11. Comment: Proposed subrule 567--41.4(5)"n"(4) contains the criteria for determining the vulnerability of a water system to contamination from synthetic organic compounds. The proposed rules are far more detailed than their federal counterparts on one hand, but eliminate several federal criteria on the other. A comparison of the federal requirements and the Environmental Protection Commission's proposal follows:

Vulnerability Criteria

Federal Regulation	IDNR Proposed Rule
Vulnerability of each public water system shall be determined by the State based on an assessment of the following factors:	567-41.4(5)"h"(4) Vulnerability of each public water system shall be determined by the department based upon an assessment of the following factors:

Previous monitoring results.	Previous monitoring results. A system will be classified vulnerable if any sample was analyzed to contain one or more contaminants listed in 41.3(2)"d" or 41.4(7)"e" except for trihalomethanes or other demonstrated disinfection products.
Number of persons served by the public water system.	No IDNR language.
Proximity of a smaller system to a larger system.	No IDNR language.
Proximity to commercial or industrial use, disposal, or storage of volatile synthetic organic chemicals.	Proximity of surface water supplies to commercial or industrial use, disposal or storage of volatile synthetic organic chemicals. Surface waters which withdraw water directly from reservoirs are considered vulnerable if the drainage basin up-gradient and within two miles of the shoreline at the maximum water level contains major transportation facilities such as primary
Federal Regulation	IDNR Proposed Rule
	highways or railroads or any of the contaminant sources listed in this subparagraph. Surface water supplies which withdraw water directly from flowing water sources are considered vulnerable if the drainage basin up-gradient and within two miles of the water intake structure contains major transportation facilities such as primary highways or railroads or any of the contaminant sources listed in this subparagraph.
	Proximity of ground water supplies to commercial or industrial use, disposal or storage of volatile synthetic organic chemicals. Wells that are not separated from sources of contamination by at least the

following distances will be considered vulnerable.

Sources of Contamination	Shallow Wells as defined in 40.2(455B)	Deep Wells as defined in 40.2(455B)
Sanitary and Industrial point discharges	400 ft.	400 ft.
Mechanical waste treatment plants	400 ft.	200 ft.
Lagoons	1,000 ft.	400 ft.
Chemical & mineral storage (above ground)	200 ft.	100 ft.
Chemical & mineral storage including underground storage tanks on or below ground	400 ft.	200 ft.
Solid waste disposal site	1,000 ft.	1,000 ft.

Protection of the water source. No IDNR language.

This raises the question whether the proposed criteria for determining vulnerability may tend to impact disproportionately on the state's smaller water systems.

Response: EPA indicated in their Statement of Basis and Purpose document that accompanied the VOC rules that the vulnerability criteria were to be considered as "broad guidelines" to assess the potential for contamination by synthetic organic contaminants. It was EPA's intent to provide the states with flexibility in determining the vulnerability criteria. We chose to modify the federal criteria so that local conditions could be taken into consideration. We also believe it is important to place in rule, specific criteria that will be used to evaluate water sources. This will provide for consistency in our actions and allow water suppliers to be aware of our evaluation criteria. In addition, the Administrative Procedure Act subsection 17A.2(7), Code of Iowa requires that agency procedures that describe requirements must be contained in a rule.

The following briefly discusses the Department's rationale for the vulnerability criteria we proposed:

Previous Monitoring Results. We specifically identified those contaminants that would be considered in determining vulnerability. We do not believe the proposed criterion is more stringent than its federal counterpart or will impact disproportionately on the state's smallest water systems.

Number of Persons Served by the Water System. Appendix A of 50 FR 46931, November 13, 1985 discusses how the number of persons served by a water system can have an impact on vulnerability. EPA's studies have indicated that the larger systems are more vulnerable to contamination and recommended considering any system serving more than 3,300 people as vulnerable. We found no correlation between contamination incidence and the number of persons served during the one time sampling of public water systems for synthetic organic compounds and pesticides. It is also a very subjective exercise to identify a population where contamination is likely to occur. We do not believe population served is an appropriate criterion to judge vulnerability. We do not believe our decision to not consider population served as a vulnerability criterion makes the proposed vulnerability criteria more stringent than their federal counterpart or will impact disporportionately on the state's smallest water systems.

Proximity of a Smaller System to a Larger System. EPA believes the proximity of a smaller system to a larger system may increase the vulnerability of the smaller system because nearby discharges into surface waters or into ground water recharge areas can contaminate local drinking water supples (Appendix A of 50 FR 46931, November 13, 1985). Proximity to determine vulnerability is a very difficult concept to define. We considered a number of possibilities (e.g., flow rates between monitoring points, hydraulic gradients, Standard Metropolitan Statistical Areas, etc.) and most were considered either too technical or difficult to administer. We believe the proposed criterion that considers well separation distances and water shed characteristics will adequately identify vulnerable water systems. Our decision to exclude the specific consideration of the proximity of a smaller system to a larger system as a vulnerability criterion will not make the proposed vulnerability criterion more stringent than their federal counterpart or impact disproportionately on the state's smallest water systems.

Proximity to Commercial or Industrial Use, Disposal or Storage of Volatile Synthetic Organic Chemicals. We believed it was necessary to clarify the federal guideline by providing specific criteria for making vulnerability decisions regarding the proximity of a water source to the use, storage or disposal of volatile synthetic organic compounds. The specific criteria also provide for consistency in our actions and allow water suppliers to be aware of our evaluation criteria. The section of the proposed rule concerning well separation distances from potential sources of contamination and the definition of deep and shallow wells was taken from our current rules. The surface water vulnerability determination factors also provide a more precise interpretation of a current rule. We do not believe the proposed criterion is more stringent than its federal

counterpart or will impact disproportionately on the state's smallest water systems.

Protection of the Water Source. We believe this item is adequately addressed in the vulnerability criteria proposed, and it was not necessary to consider it individually. We do not believe our action will result in a proposed rule more stringent than its federal counterpart or will impact disproportionately on the state's smallest water systems.

Action Taken: Since we are clarifying the rule and not being more stringent, no modification in the proposed rules are warranted at this time.

12. Comment: Point-of-use (POU) and point-of-entry (POE) devices are a subject of considerable controversy in the industry. The state's determination to eliminate them from use may well be justified, but it is difficult to provide meaningful comment without some understanding of the underlying rationale.

Response: POU devices treat the drinking water in the home, providing treated water at a single tap. They are installed as faucet mounted devices or under the sink as line bypass devices. POE devices treat the water as it enters the home and provide treated water through the entire home. The federal rules allow water systems to use POE devices to comply with a synthetic organic compound (SOC) maximum contaminant level (MCL). POU devices may be required by the state as an interim treatment method to prevent any unreasonable risk to health while an SOC MCL is being corrected and are not allowed as a permanent solution under EPA regulations. Because POE and POU devices are different from central treatment alternatives, and present a potential that the public health will not be protected to the same degree as with central treatment, EPA established rigorous criteria for installation, operation, maintenance and testing of the devices.

We also believe it is difficult to monitor the reliability of POE and POU devices in a manner comparable to a central treatment facility. In addition, POU devices only treat drinking water at a single tap. In most instances the monitoring and maintenance costs to assure treatment device reliability would exceed the financial and technical capabilities of small water systems. EPA also requires the review of treatment device engineering design. It would be difficult for the DNR to conduct this review because industry engineering design standards are not available. When treatment is appropriate, central treatment should be the primary means of attaining compliance with an MCL.

Our proposed rules do not specifically prohibit the use of POE or POU. Subrule 41.12(2)"c" allows variances from the IDNR design standards if the water supplier's proposal will provide at least equivalent effectiveness while significantly reducing costs. We do not believe our restriction on the use of POE and POU will result in a proposed rule more stringent than the federal requirements or will impact disproportionately on the state's smallest water systems.

Action Taken: We do not believe a modification in the proposed rules are warranted at this time.

Motion was made by Richard Timmerman to approve Final Rule--Chapter 41, Water Supply Rule Maximum Contamination Level for VOCs. Seconded by Keith Uhl. Motion carried unanimously.

CHAPTER 39, WELL ABANDONMENT RULES -- ECONOMIC IMPACT STATEMENT

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

This department requests Commission approval for publication of the Economic Impact Statement on proposed new Chapter 39 rules relating to properly plugging abandoned wells.

This new chapter was scheduled for consideration for approval by the Commission at the June, 1988 meeting. The Iowa General Assembly Administrative Rules Review Committee at its meeting on June 14, 1988, voted to request that a formal Economic Impact Statement be prepared by DNR on sections of the proposed rule.

The requested statement has been prepared and copies will be made available to members of the Commission and other interested parties.

If approved, the statement can be filed July 22, 1988. At least 15 days must elapse between publication of the statement and adoption of the rule; therefore, following this schedule, the rule cannot be adopted until the September Commission meeting. The effective date of the rule would fall in November, 1988.

ECONOMIC IMPACT STATEMENT
for
PROPOSED NEW CHAPTER 39 RULES
on
PROPERLY PLUGGING ABANDONED WELLS

Prepared by
Environmental Protection Division
Iowa Department of Natural Resources
June, 1988

INTRODUCTION

At its June 14, 1988 meeting, the Iowa General Assembly Administrative Rules Review Committee (ARRC) voted to request a formal economic impact statement concerning proposed rules appearing as 567 IAC Chapter 39, in volume X, number 22 of the IAB (4-20-88). The portion of the rule of concern to the ARRC is rule 39.5 through 39.7, identifying the types of wells to be plugged and the procedure to plug them.

The ARRC requested that the impact statement estimate the number of wells in each of the four categories and the comparative costs for plugging each type of well. (Note: The proposed rule divides abandoned wells into four categories by priority and into six types for plugging procedures.)

The ARRC request continues: certain types of wells may only be plugged by a registered driller; the statement should also estimate the number of drillers available and the specific number of wells requiring their services, along with a comparison of the cost for professional closing of a well versus a "do-it-yourself" operation.

The ARRC request is made pursuant to the provisions of Iowa Code section 17A.4.

SUMMARY

The comparative estimated costs for plugging the six types of wells described in the rules are presented. These costs range from $100 for a Type 3 well to $1600 for a Type 6 well if the work is done by a registered well driller. Costs for plugging by the well owners is estimated at $175 for Type 1 wells and $50 for Type 3 wells. Due to the initial costs of equipment required, the costs for well owners to properly plug their own Types 2, 4, 5 and 6 wells is expected to be higher than the costs of having these types of wells plugged by registered well drillers.

There are currently 167 registered well drillers in Iowa and the estimated number of abandoned wells that require registered well drillers for proper plugging is 31,500.

The costs of closing Type 1 wells is $350 by a registered well driller and $175 for a "do-it-yourself" approach by the well owner. For a Type 3 well, the plugging cost would be $100 by a registered well driller and $50 by the owner. Total program costs for Type 1 and 3 wells would be $12,600,000 by registered well drillers and $6,300,000 by the well owners.

Total program cost for plugging all abandoned wells, assuming Type 1 and 3 are done by the well owners, is estimated at $29,760,000.

RULE-MAKING HISTORY

Pursuant to the authority of 1987 Iowa Code Supplement section 455B.190, the Environmental Protection Commission proposes to adopt a new Chapter 39, "Requirements for Properly Plugging Abandoned Wells."

1987 Iowa Code Supplement section 455B.190 requires that all abandoned wells be properly plugged in accordance with a closure program implemented by the Department of Natural Resources. Accordingly, the proposed rules establish a time schedule for plugging various types of abandoned wells; set forth proper procedures and materials to be employed; and require certification of each plugged well by completing a new form entitled, "Abandoned Water Well Plugging Record."

Notice of Intended Action was published in the April 20, 1988 Iowa Administrative Bulletin as ARC 8658. Thirty-seven oral and written comments were received during the comment period and at three public hearings.

Significant changes from the Notice of Intended Action that apply to the sections of concern to the ARRC are as follows:

> Subrule 39.5(2) provides that Category I wells must be properly plugged by July 1, 1989, instead of six months after the effective date of the rules.
>
> Paragraph 39.7(2)"c" requires the services of a registered well driller to plug a sandpoint well only if the sandpoint and casing cannot be extracted.

These rules were scheduled to be adopted by the Environmental Protection Commission at its June 20, 1988 meeting and would have become effective on August 17, 1988.

GENERAL DISCUSSION

Section 305 of H.F. 631 included the following requirements:

All abandoned wells, as defined in section 455B.171, shall be properly plugged in accordance with the schedule established by the department. The department shall develop a prioritized closure program and a time frame for the completion of the program and shall adopt rules to implement the program.

The following prioritized closure program and schedule was developed by the department and included in Chapter 39 in accordance with these requirements:

> Category I - Safety. Abandoned wells eight inches or larger in diameter abandoned prior to the effective date of the rule must be properly plugged by July 1, 1989.
>
> These represent the wells with the highest hazard potential for injury to persons or livestock; the minimum size selected was that of the Texas well into which a child fell during the past year. The sooner that such wells can be properly plugged, the less chance there will be for the occurrence of a similar incident in Iowa. In addition, these also include many shallow bored or dug wells which are generally the most common type in Iowa, the largest in diameter, in the most shallow aquifers and of most concern due to potential for contamination of the groundwater.

Category II - Contamination. Wells abandoned prior to the effective date of the rule and located within specified distances of point sources of potential contamination must be properly plugged by July 1, 1990.

These wells were given a high priority for plugging because they are particularly vulnerable to pollution and then can become sources of aquifer contamination.

Category III - All other wells abandoned prior to the effective date of this rule. All other wells abandoned prior to the effective date of this rule must be properly plugged by July 1, 1993.

A five-year period was allowed for plugging of the backlog of old abandoned wells not included in the first two categories.

Category IV - Wells abandoned after the effective date of this rule. Wells abandoned after the effective date of this rule must be properly plugged within 90 days of the date of abandonment.

For wells abandoned in the future (starting with the effective date of the rule), plugging must be kept on a current basis. This is consistent with the current practice of many reputable well drillers who insist that abandoned wells be properly plugged when new wells are constructed to replace them.

Abandoned wells were also classified by type in addition to the priority categories described above so proper plugging procedures could be identified. The type of well describes the construction and proper methods of plugging are prescribed for each of six types of wells in the rule.

Category I wells, the highest plugging priority due to safety and potential for contamination, includes all types of wells except sandpoints. Multiple types of wells are also represented in each of Categories II, III and IV.

NUMBER OF WELLS BY CATEGORY

A report, "Estimates of Rural Wells in Iowa," by Hallberg, Hoyer, Dorpinghaus and Ludvigson of the Iowa Geological Survey (now the Geological Survey Bureau of the Department of Natural Resources) was prepared in 1985 as directed by H.F. 2382 of the 69th General Assembly of the Iowa Legislature. The report included an estimate of 36,300 abandoned rural wells. To this must be added an unknown number of non-rural abandoned wells, estimated at 3,700, to result in a total estimate of 40,000 abandoned water supply wells in the state. This would result in an average of approximately one abandoned well for each 900 acres based on the total area of the state.

It is generally thought that the number of abandoned wells in the state may be considerably higher than the figure derived above. This could be due to a tendency toward under-reporting because the respondents were apprehensive about the purpose of the survey and the use which might be made of the information, and there was no corroboration by field investigations of the accuracy of the information gathered. It was assumed for lack of a better alternative that the percentage of abandoned wells to active wells was the same for those responding and those not responding to the survey, and this may not be the case. Those not responding may have had higher numbers and percentages of abandoned wells, and that may have been a factor influencing them to not respond.

For these reasons, a separate estimate has been developed for this statement to represent what is thought to be a reasonable upper limit on the total number of abandoned wells in the state. This will serve to provide a higher upper limit on the estimated economic impact of the well closure program and

reduce the possibility that such effects are being minimized or under-estimated.

The number of farmsteads in Iowa has declined by over 100,000, and if it is assumed that each had a well and that one-half of those wells still exist as abandoned wells that have not been plugged or lost, that would represent 50,000 abandoned wells. The GSB report indicates there may be an average of one abandoned well for every six active wells, and assuming only one active well per present farmstead, this would result in about 16,000 additional abandoned wells. To this must be added about 4,000 non-rural abandoned wells. This results in an estimated total of 70,000 abandoned wells which will be used in this statement. This is an average of about one abandoned well for each 500 acres for the total area of the state.

For the purposes of this statement, estimates for the total number of abandoned wells in the state divided into the various categories are presented in the following table.

TABLE 1

NUMBER OF ABANDONED WELLS

Well Category	Estimated Number	Percent of Total
I	35,000 (18" dia. or more)	50%
	2,100 (8-18" dia.)	3%
II	29,400	42%
III	3,500	5%
Totals	70,000	100%

The wells in Category IV are not included in the above figures since they represent wells to be abandoned and plugged after the effective date of the rule. The number of wells constructed each year over a period of years was analyzed and found to vary over a wide range. It was assumed that the number of wells abandoned was about 16% of the number of new wells constructed. On that basis, the number of wells to be plugged in Category IV is expected to range from about 240 to 1,100 per year.

WELL PLUGGING COSTS BY TYPE OF WELL

The costs of well plugging vary not only from one type of well to another, but also within a single type of well according to diameter, depth, location, complexity, accessibility, availability of materials, cost of materials and labor costs. Nonetheless, by contacting a number of well drillers in all regions of the state, it was possible to assemble enough data to develop

estimated costs for properly plugging typical wells of each of the six types of wells. This information is presented in the following table.

Also shown are the estimated costs for the plugging of two types of wells by the well owners. These are the only types of wells which do not require plugging by a registered well driller (unless a sandpoint well casing cannot be extracted from the ground by the well owner).

The costs of the specialized equipment required for properly plugging well Types 2, 4, 5 and 6 in accordance with the rules is so high that it would cost a well owner more for a "do-it-yourself" approach on plugging these wells than to have the work performed by a registered well driller who already has the required equipment. Therefore, there are no cost estimates provided for the "do-it-yourself" approach for these types of wells.

TABLE 2

ESTIMATED WELL PLUGGING COSTS

Type of Well	Assumed Conditions Diameter Inches	Assumed Conditions Depth Feet	Estimated Plugging Cost by Registered Driller	Estimated Plugging Cost by Well Owner
In Quaternary Sediments:				
1. 18" dia. or more 100' or less depth	18 or more	50	$350	$175
2. Less than 18" dia. or more than 100' depth	Less than 18	100	500	--
3. Sandpoint Wells	1 1/2	50	100	50
Bedrock Wells:				
4. Confined Aquifer	4	300	700	--
	5	300	800	--
	6	300	900	--
5. Unconfined Aquifer	4	200	450	--
	5	200	550	--
	6	200	650	--
6. Multiple Aquifers	4	500	1200	--
	5	500	1400	--
	6	500	1600	--

REGISTRATION OF WATER WELL CONTRACTORS

According to Chapter 37 IAC, a person or contractor must register before engaging in the construction or reconstruction of water wells. Such persons or contractors are referred to as registered well drillers in Chapter 39 IAC. Chapter 39 requires that plugging of all wells shall be performed by registered well drillers with the exception of large-diameter wells less than 100 feet in depth and sandpoint wells from which the casing and sandpoint can be pulled out of the ground by the well owner (well Types 1 and 3 in Table 2).

To obtain registration as a well driller, an applicant only needs to submit a completed application form along with a fee of $30 per year. There are no other requirements for registration such as experience, knowledge, bonding, financial responsibility or proof of having the equipment and capability of performing the tasks associated with well construction, reconstruction or plugging. Registration of well drillers provides a list of those engaging in this type of activity but gives no assurance that those registered are competent to perform the work involved. It may be assumed that most registered well drillers are those who do this type of work full time.

Currently, there are 167 registered well drillers in Iowa, including both the individual and business categories. This compares to a mailing list of 300 to 350 pump installers and well drillers maintained by the Iowa Water Well Association. That organization estimates that there are about 300 well drillers or pump installers capable of performing well plugging in the state at the present time.

It is estimated that there may be 35,000 Type 1 wells and 3,500 Type 3 wells which can be plugged by the well owners. The remaining 31,500 Type 2, 4, 5 and 6 wells require the services of a registered well driller for properly plugging.

WELL PLUGGING COST COMPARISON

Comparisons of the unit costs and total program costs for plugging Type 1 and 3 wells by the well owners (the "do-it-yourself" approach) and by registered well drillers are presented in the following tables.

TABLE 3

UNIT COSTS OF WELL PLUGGING

Type of Well	Estimated Plugging Cost by Registered Driller	Estimated Plugging Cost by Well Owner	Difference in Plugging Cost
1. 18" dia. or more 100' or less in depth	$350	$175	$175
3. Sandpoint Wells	100	50	50

TABLE 4

TOTAL PROGRAM COSTS OF WELL PLUGGING
(Costs in thousands of dollars)

Type of Well	Number of Wells	Total Program Plugging Costs by Registered Drillers	Total Program Plugging Costs by Well Owners	Difference in Total Program Plugging Costs
1.	35,000	$12,250	$6,125	$6,125
3.	3,500	350	175	175
Totals		$12,600	$6,300	$6,300

The figures in Table 4 indicate that total costs for all well owners to plug their own Type 1 and 3 wells are estimated to be six million three hundred thousand dollars ($6,300,000). That would also represent a savings of six million three hundred thousand dollars ($6,300,000) over having the plugging done by registered well drillers. The cost of plugging each well by the owner is estimated to be $175 for a Type 1 well and $50 for a Type 3 well, as shown in Table 3.

It is not known how many abandoned wells are in each of Categories I, II, III and IV, and it is not known how many of each of the six well types fall into each of the four categories. Therefore assumptions were made for use in this statement to develop estimates of the number of abandoned wells in each of the categories based on experience and judgment and the results of a GSB survey on the number of wells and abandoned wells.

The costs for plugging wells of six different types with assumed diameters and depths have been developed and presented. These costs for plugging by registered well drillers range from a low of $100 for a Type 3 sandpoint well 1 1/2" in diameter and 50 feet deep, to a high of $1,600 for a Type 6 bedrock well in multiple aquifers 6" in diameter and 500 feet deep.

The consensus of those most familiar with wells is that the vast majority of rural water supply wells are of the first three types in Table 2 and that the largest number of abandoned wells are Type 1. Plugging costs for well Types 1, 2 and 3 are less than the plugging costs for bedrock wells, Types 4, 5 and 6. Also, Type 1 wells of the size shown can be plugged by the well owners at an estimated cost of $175, and Type 3 wells as shown can be plugged by the well owners for an estimated cost of $50.

Estimated total costs of the well plugging program for Type 1 and Type 3 wells done by registered well drillers was compared with the estimated total costs if these wells were plugged by the well owners as permitted by the rules. Total plugging program costs for these wells are estimated at twelve million six hundred thousand dollars ($12,600,000) if done by registered well drillers and six million three hundred thousand ($6,300,000) if done by the well owners, representing a savings for the well owners of six million three hundred thousand dollars ($6,300,000).

The total program costs for plugging all abandoned wells in the state (assuming Types 1 and 3 plugged by the well owners), including Types 1 through 6, is $29,760,000.

CONCLUSIONS

According to H.F. 631, it is the policy of the state to prevent further contamination of groundwater from any source to the maximum extent practical; and the intent of the state is to prevent contamination of groundwater from point and nonpoint sources of contamination to the maximum extent practical, and if necessary, to restore the groundwater to a potable state, regardless of present condition, use or characteristics.

Chapter 39 provides the rules needed for an effective abandoned well plugging program to implement the above policy by reducing the potential for groundwater contamination from abandoned wells. The plugging requirements have been carefully researched and developed based on technical references, information from other states with well plugging programs, input from experienced well drillers and organizations representing them, guidance from various state and federal agencies and written and oral comments made during the period of public notice and hearings.

The rule on properly plugging abandoned wells adequately addresses the issues as they are now known and is needed to carry out the intent and policy of the state as given in H.F. 631.

Discussion followed regarding costs for closing wells, enforcement of program, estimated number of abandoned wells, and anticipated level of compliance.

Motion was made by Richard Timmerman to approve the Economic Impact Statement for Chapter 39--Well Abandonment Rules. Seconded by Charlotte Mohr. Motion carried unanimously.

EMERGENCY ADOPTED AND IMPLEMENTED RULES. CHAPTER 51, REGISTRATION OF AGRICULTURAL DRAINAGE WELLS

Allan Stokes, Division Administrator, Environmental Protection Division, presented the following item.

Senate File 38, 1988 Iowa Acts, extended the deadline for registering agricultural wells from January 1, 1988 to September 30, 1988. Therefore, rule changes are necessary to reflect the revised registration deadline.

The Commission is requested to emergency adopt and file the attached rule amendments.

ENVIRONMENTAL PROTECTION COMMISSION [567]
Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.263, the Environmental Protection Commission emergency adopts amendments to Chapter 51, "Water Permit or Registration--When Required," to extend the registration deadline for agricultural drainage wells.

In compliance with Iowa Code section 17A.4(2), the Commission finds that public notice and participation are impractical and contrary to the public interest in that the 1988 Iowa Acts, Senate File 38, section 1, amends 1987 Iowa Code Supplement section 159.29, subsection 1, to extend the agricultural drainage well registration deadline to September 30, 1988. Rules implementing the agricultural drainage well registration requirements of the Groundwater Protection Act (1987 Iowa Acts, House File 631, section 303) were previously adopted and became effective on October 23, 1987. The current rule change simply amends those rules to reflect the legislative extension of the registration deadline from January 1, 1988 to September 30, 1988.

The Commission also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of this amendment, thirty-five days after publication, should be waived and the amendment be made effective upon filing with the Administrative Rules Coordinator on _____, 1988 as it confers a benefit upon the public by making the administrative rules consistent with the provisions of 1988 Iowa Acts, Senate File 38.

The Environmental Protection Commission adopted this rule amendment at a meeting on July ___, 1988.

This amendment implements 1988 Iowa Acts, Senate File 38, section 1.

The following rule amendment is adopted:

ITEM 1. Rule 51.8(159) is amended to read as follows:

Agricultural drainage wells. All agricultural drainage wells must be registered by the owner with the department by ~~January 30, 1988,~~ September 30, 1988, on the form provided by the department. Registration of an agricultural drainage well is not considered a permit as required under rule 51.3(455B).

ITEM 2. The implementation paragraph at the end of Chapter 51 is amended to read as follows:

These rules are intended to implement Iowa Code sections 455B.262, 455B.264 to 455B.274, and 455B.278, and 1987 Iowa ~~Acts, House File 631.~~ Code Supplement Section 159.29, and 1988 Iowa Acts, Senate File 38.

_____

Date

_____

Larry J. Wilson, Director

Motion was made by Nancylee Siebenmann to approve Emergency Adopted Rule--Chapter 51, Agricultural Drainage Well Registration. Seconded by Charlotte Mohr. Motion carried unanimously.

NOTICE OF INTENDED ACTION -- CHAPTER 2, PUBLIC RECORDS

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

Attached are proposed revisions to DNR rules on public and confidential records. Most of the changes are mandated by changes in the law, referred to as the Fair Information Practices Act, or incorporate uniform rules in this area. We have kept those portions of our existing rules that we feel should be

kept, and incorporated what we feel is mandatory from the new law. Rules 2.14 and 2.15 contain most of the new material.

As with other procedural rules, the director is proceeding with adoption of these as DNR rules, Part 561 of the Administrative Code. The Commissions in turn will be asked to adopt the DNR rules by reference. Any comments or changes will be presented to the Commissions prior to adoption at a later date. The Commission is requested today to approve a Notice of Intended Action on the attached rules.

DEPARTMENT OF NATURAL RESOURCES [561]
Notice of Intended Action

Pursuant to the authority of Chapters 455A, 93, 17A, and 22, the Department of Natural Resources gives notice of intended action to repeal Chapter 2, "Public and Confidential Information" and adopt in lieu thereof a new "Chapter 2, Fair Information Practices Act Regulations," Iowa Administrative Code.

This chapter implements Iowa Code Section 22.11, the Iowa Fair Information Practices Act. These rules describe records maintained by the office and also describe what records are confidential. Another primary purpose of these rules is to establish procedures for implementing the public records law.

Rule 2.1 defines the purpose and scope of this chapter.

Rules 2.2 through 2.8 generally follow the proposed rules number as X.1(17A, 22), X.3(17A, 22) through X.8(17A, 22) in the final report of the Governor's Task Force on uniform administrative rules, as published on March 3, 1988 in the Iowa Administrative Bulletin. The general substance of the Task Force recommended rule X.2(17A, 22) is incorporated in Rule 2.1(1) in this notice.

Rule 2.2 provides definitions. Although most of this chapter applies to all records, Section 22.11 proposes special rulemaking requirements for "Personally Identifiable Information."

Rule 2.3 establishes procedures by which the public may request access to records. These rules provide that telephone requests may be accommodated where appropriate. The rule provides for copying costs and search and supervisory fees and indicates when advance payment of fees will be required. Rule 2.3(7) sets the copying fees. The Task Force Report left the issue of search fees to individual agency rules. Search fees are addressed in Rule 2.3(7d).

Rule 2.4 would provide additional requirements for access to confidential records. Rule 2.4(6) specifically excludes certain environmental data from confidential treatment.

Rule 2.5 would establish a mechanism for persons to claim that a particular record is confidential by law. Rule 2.5(7) contains specific procedures for claiming confidential treatment for trade secrets. Many federal agencies utilize similar procedures for trade secret claims.

Rule 2.6 specifies how the subject of a record may ask to have a statement entered into a record.

Rules 2.7 and 2.11 govern consentual disclosure of confidential records.

Rule 2.8 describes the various ways in which persons supplying information of themselves will be informed of the use that will be made of the information. This Department has added a provision indicating that this will be given only where the person is asked to complete an agency form and will not be given in discovery requests, subpeonas, investigations of possible violations of law, etc.

Rules 2.9 and 2.10 provide information about various types of disclosures which may occur without further notice to the subject.

Rule 2.12 governs release of a confidential record to the subject of the record. Rule 2.12(2) concerns release of a confidential record having mulitple subjects.

Rule 2.13 describes generally the availability of records to the public. Rule 2.13(2) describes what records are confidential. Rule 2.4(3) states that the agency may exercise discretion to disclose some confidential records under the applicable law. Where the agency decides to do so, it may give notice to the subject and temporarily withhold the record to permit the subject to seek injunctive relief.

Rule 2.14 describes records which the agency can retrieve by the name or number of individuals.

Rule 2.15 describes other agency records. These records may include information about individuals, but these records are not retrieved by the name of individuals.

Rule 2.16 states that the agencies data processing systems do not compare personally identifiable information contained in different record systems.

The proposed rule will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

This Department has determined that this proposed rule will not have an impact on small business within the meaning of Iowa Code Section 17A.31.

Any interested person may make written suggestions or comments on this proposed rule on or before August 3, 1988. Written or oral comments should be addressed to Victor N. Kennedy, Department of Natural Resources, 900 East Grand Avenue, Des Moines, Iowa 50319-0034; phone 515/281-8889.

A public hearing on the proposed rule will be held at 11:00 a.m. on August 3, 1988 in the fourth floor west conference room, Wallace State Office Building, 900 East Grand Avenue, Des Moines, Iowa.

ITEM 1. Rule 561--Chapter 2 is hereby repealed and new Chapter 2 enacted in lieu thereof.

ITEM 2. New Rule 561--Chapter 2 is hereby proposed as follows:

CHAPTER 2
FAIR INFORMATION PRACTICES ACT REGULATIONS

561--2.1(17A,22) Purpose and scope.

2.1(1) This chapter implements Iowa Code section 22.11 by establishing agency policies and procedures for the maintenance of records. The purpose of this chapter is to facilitate public access to open records. It also seeks to facilitate sound agency determinations with respect to the handling of confidential records and the implementation of the Fair Information Practices Act. This agency is committed to the policies set forth in Iowa Code Chapter 22; agency staff shall cooperate with members of the public in implementing the provisions of that chapter.

2.1(2) This chapter does not:

a. Require the agency to index or retrieve records which contain information about individuals by that person's name or other personal identifier.

b. Make available to the general public records which would otherwise not be available under the public records law, Iowa Code Chapter 22.

c. Govern the maintenance or disclosure of, notification of or access to, records in the possession of the agency which are governed by the regulations of another agency.

d. Apply to grantees, including local governments or subdivision thereof, administering state funded programs.

e. Make available records compiled in reasonable anticipation of court litigation or formal administrative proceedings. The availability of such records to the general public or to any subject individual or party to such litigation or proceedings shall be governed by applicable constitutional principles, statutes, rules of discovery, evidentiary privileges, and applicable regulations.

2.1(3) This chapter applies to the Department of Natural Resources.

561--2.2(17A,22) Definitions. As used in this chapter:

(a) "Agency" in these rules means the Department of Natural Resources.

(b) "Confidential record" in these rules means a record which is not available as a matter of right for examination and copying by members of the public under applicable provisions of law. Confidential records include records of information contained in records that the agency is prohibited by law from making available for examination by members of the public, and records or information contained in records that are specified as confidential by Iowa Code §22.7 or other provision of law, but that may be disclosed upon order of a court, the lawful custodian of the record, or by another person duly authorized to release the record. Mere inclusion in a record of information declared confidential by an applicable provision of law does not necessarily make that entire record a confidential record.

(c) "Custodian" in these rules means the Department of Natural Resources, or a person lawfully delegated authority by its director to act for the agency in implementing Iowa Code Chapter 22.

(d) "Open record" in these rules means a record other than a confidential record.

(e) "Personally identifiable information" in these rules means information about or pertaining to an individual in a record which identifies the individual and which is contained in a record system.

(f) "Record" in these rules means the whole or a part of a "public record" as defined in Iowa Code §22.1.

(g) "Record system" in these rules means any group of records under the control of the agency from which a record may be retrieved by a personal identifier such as the name of an individual, number, symbol or other unique retriever assigned to an individual.

561--2.3(17A,22) Requests for access to records.

2.3(1) Location of record. A request for access to a record should be directed to the director or the particular agency office where the record is kept. If the location of the record is not known by the requester, the request shall be directed to the director, Department of Natural Resources, 900 East Grand Avenue, Fourth Floor, Wallace State Office Building, Des Moines, Iowa 50319-0034, If a request for access to a record is misdirected, agency personnel will promptly forward the request to the appropriate person within the agency.

2.3(2) Office hours. Open records shall be made available during all customary office hours which are 8:00 a.m. to 4:30 p.m., Monday through Friday, except legal holidays.

2.3(3) Request for access. Requests for access to open records may be made in writing or in person. The office may also accommodate telephone requests where appropriate. Requests shall identify the particular records sought by name or description in order to facilitate the location of the record. Mail or telephone requests shall include the name, address and phone number of the

person requesting the information. A person shall not be required to give a reason for requesting an open record.

2.3(4) Response to requests. Access to an open record shall be provided promptly upon request unless the size of nature of the request makes prompt access infeasible. If the size or nature of the request for access to an open record requires time for compliance, the custodian shall comply with the request as soon as feasible. Access to an open record may be delayed for one of the purposes authorized by Iowa Code §22.8(4) or 22.10(4). The custodian shall promptly give notice to the requester of the reason for any delay in access to an open record and an estimate of the length of that delay and, upon request, shall promptly provide that notice to the requester in writing.

The custodian of a record may deny access to the record by members of the public only on the grounds that such a denial is warranted under Iowa Code §22.8(4), 22.10(4) or that it is a confidential record, or that its disclosure is prohibited by a court order. Access by members of the public to a confidential record is limited by law and, therefore, may generally be provided only in accordance with the provisions of rule 2.4 and other applicable provisions of law.

2.3(5) Security of record. No person may, without permission from the custodian, search or remove any record from agency files. Examination and copying of agency records shall be supervised by the custodian or a designee of the custodian. Records shall be protected from damage and disorganization.

2.3(6) Copying. A reasonable number of copies of an open record may be made in the agency's office. If photocopy equipment is not available in the agency office where an open record is kept, the custodian shall permit its examination in that office and shall arrange to have copies promptly made elsewhere.

2.3(7) Fees.

a. When charged. To the extent permitted by applicable provisions of law, the payment of fees may be waived when the imposition of fees is inequitable or when a waiver is in the public interest.

b. Copying and postage costs. Anyone making a request for reproduction of the department's records will prepay for services at the following rates, in addition to actual mailing costs:

(1) Photocopies (direct copies on 8 1/2 x 11", 8 1/2 x 14", or 11" x 17" paper)-- 40 cents per page.

(2) Paper copy from microfilm records--50 cents per page.

(3) Microfiche copy from microfilm records--$1.00 per fiche.

(4) The actual reproduction cost will be charged for any blueprint, picture, oral tape or any other work product not subject to photocopying.

(5) Computer stored information:

(a) Tape files--$1.00 per file, copied only to 9-track tape with standard IBM labels.

(b) 3 UP gummed mailing labels and 4 UP Cheshire labels 30 cents per 1,000 records read, and $10.00 per 1,000 labels written. A minimum charge of $15.00 or actual cost will be assessed, whichever is greater. Programming time over ten minutes will be charged at the rate of $25.00 per hour or any portion of an hour.

c. Supervisory fee. An hourly fee may be charged for actual agency expenses in supervising the examination and copying of requested records when the supervision time required is in excess on one-half hour. The custodian shall prominently post in agency offices the hourly fee to be charged for supervision of records during examination and copying. That hourly fee shall not be in

excess of the hourly wage of an agency clerical employee who ordinarily would be appropriate and suitable to perform this supervisory function.

d. Search fees. If the request requires research or if the record or records cannot reasonably be readily retrieved by the office, the requestor will be advised of this fact. Reasonable search fees may be charged where appropriate. In addition, all costs for retrieval and copying of information stored in electronic storage systems may be charged to the requestor.

e. Advance deposits.

(1) When the estimated total fee chargeable under this subrule exceeds $25.00, the custodian may require a requester to make an advance payment to cover all or a part of the estimated fee.

(2) When a requester has previously failed to pay a fee chargeable under this subrule, the custodian may require advance payment of the full amount of any estimated fee before the custodian processes a new request from that requester.

561--2.4(17A,22) Access to confidential records. Under Iowa Code §22.7, or other applicable provisions of law, the lawful custodian may disclose certain confidential records to one or more members of the public. Other provisions of law authorize or require the custodian to release specified confidential records under certain circumstances or to particular persons. In requesting the custodian to permit the examination and copying of such a confidential record, the following procedures apply and are in addition to those specified for requests for access to records in rule 2.3.

2.4(1) Proof of identity. A person requesting access to a confidential record may be required to provide proof of identity or authority to secure access to the record.

2.4(2) Requests. The custodian may require that a request to examine and copy a confidential record be in writing. A person requesting access to such a record may be required to sign a certified statement or affidavit enumerating the specific reasons justifying access to the confidential record and to provide any proof necessary to establish relevant facts.

2.4(3) Notice to subject of record and opportunity to obtain injunction. After the custodian receives a request for access to a confidential record, and before the custodian releases such a record, the custodian may make reasonable efforts to notify promptly any person who is a subject of that record, is identified in that record, and whose address or telephone number is contained in that record. To the extent such a delay is practicable and in the public interest, the custodian may give the subject of such a confidential record to whom notification is transmitted a reasonable opportunity to seek an injunction under Iowa Code §22.8, and indicate to the subject of the record the specified period of time during which disclosure will be delayed for that purpose.

2.4(4) Request denied. When the custodian denies a request for access to a confidential record, the custodian shall promptly notify the requester. If the requester indicates to the custodian that a written notification of the denial is desired, the custodian shall promptly provide such a notification that is signed by the custodian and that includes:

a. The name and title or position of the custodian responsible for the denial; and

b. A citation to the provision of law vesting authority in the custodian to deny disclosure of the record and a brief statement of the reasons for the denial to this requester.

2.4(5) Request granted. When the custodian grants a request for access to a confidential record to a particular person, the custodian shall notify that person and indicate any lawful restrictions imposed by the custodian on that person's examination and copying of the record.

2.4(6) Not withstanding any other provision, the following information will not be considered confidential by the department:

a. Emission data;

b. Analytical results of monitoring or public water supply systems;

c. Name and address of any permit applicant;

d. NPDES permits, application (including any information required by NPDES application forms) and effluent data.

561--2.5(17A,22) Requests for treatment of a record as a confidential record and its withholding from examination. The custodian may treat a record as a confidential record and without it from examination only to the extent that the custodian is authorized by Iowa Code §22.7, another applicable provision of law, or a court order, to refuse to disclose that record to members of the public.

2.5(1) Persons who may request. Any person who would be aggrieved or adversely affected by disclosure of a record and who asserts that Iowa Code §22.7, another applicable provision of law, or a court order, authorizes the custodian to treat the record as a confidential record, may request the custodian to treat that record as a confidential record and to withhold it from public inspection.

2.5(2) Request. A request that a record be treated as a confidential record and be withheld from public inspection shall be in writing and shall be filed with the custodian. The request must set forth the legal and factual basis justifying such confidential record treatment for that record, and the name, address, and telephone number of the person authorized to respond to any inquiry or action of the custodian concerning the request. A person requesting treatment of a record as a confidential record may also be required to sign a certified statement or affidavit enumerating the specific reasons justifying the treatment of that record as a confidential record and to provide any proof necessary to establish relevant facts. Requests for treatment of a record as such a confidential record for a limited time period shall also specify the precise period of time for which that treatment is requested.

A person filing such a request shall, if possible, accompany the request with a copy of the record in question from which those portions for which such confidential record treatment has been requested have been deleted. If the original record is being submitted to the agency by the person requesting such confidential treatment at the time the request is filed, the person shall indicate conspicuously on the original record that all or portions of it are confidential.

2.5(3) Failure to request. Failure of a person to request confidential record treatment for a record does not preclude the custodian from treating it as a confidential record. However, if a person who has submitted business information to the agency does not request that it be withheld from public inspection under Iowa Code §22.7(3) or (6), the custodian of records containing that information may proceed as if that person has no objection to its disclosure to members of the public.

2.5(4) Timing of decision. A decision by the custodian with respect to the disclosure of a record to members of the public may be made when a request for its treatment as a confidential record that is not available for public

inspection is filed, or when the custodian receives a request for access to the record by a member of the public.

2.5(5) Request granted or deferred. If a request for such confidential record treatment is granted, or if action on such a request is deferred, a copy of the record form which the matter in question has been deleted and a copy of the decision to grant the request or to defer action upon the request will be made available for public inspection in lieu of the original record. If the custodian subsequently receives a request for access to the original record, the custodian will make reasonable and timely efforts to notify any person who has filed a request for its treatment as a confidential record that is not available for public inspection of the pendency of that subsequent request.

2.5(6) Request denied and opportunity to seek injunction. If a request that a record be treated as a confidential record and be withheld from public inspection is denied, the custodian shall notify the requester in writing of that determination and the reasons therefor. On application by the requester, the custodian may engage in a good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief under the provisions of Iowa Code §22.8 or other applicable provision of law. However, such a record need not be withheld from public inspection for any period of time if the custodian determines that the requester had no reasonable grounds to justify the treatment of that record as a confidential record. The custodian shall notify requester in writing of the time period allowed to seek injunctive relief or the reason for the determination that no reasonable grounds exist to justify the treatment of that record as a confidential record. The custodian may extend the period of good faith, reasonable delay in allowing examination of the record so that the requester may seek injunctive relief only if no request of examination of that record has been received, or if a court directs the custodian to treat it as a confidential record, or to the extent permitted by another applicable provision of law, or with the consent of the person requesting access.

2.5(7) Processing of business confidentiality claims.

a. Applicability/availability. Businesses which provide information to the department in applications, reports or otherwise in recorded form, or from or about which information is obtained and recorded by the department, may request that information not be disclosed to others for reasons of business confidentiality. Until such time as a request for confidentiality is received by the department, all information not within subrule 2.4(6) will be available to the public pursuant to rule 2.3(3). If a claim is received after the information itself is received, the department will make such efforts as are administratively practicable to associate the claim with all copies of the previously received information. However, the department cannot assure that such efforts will be effective, in light of the possibility of prior disclosure or dissemination of the information beyond the department's reasonable control.

b. Form. A business which submits information to the department may assert a business confidentiality claim in the manner prescribed in the application or instruction, if any, otherwise by placing on or attaching to the information, at the time it is submitted, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret," "proprietary," or "company confidential." When only a portion of the information is claimed to be confidential, only that portion shall be deleted from the application, report or other recorded submission, with appropriate reference to a separate claim for business confidentiality, which separate claim shall be submitted as specified above. If a request not to disclose information is filed with the department, the party shall file together with

the document a second copy of the document from which has been deleted the information for which such party wishes to claim confidential treatment. The business shall conspicuously indicate on the face of the original document that it is confidential information and shall file a claim for confidential status in accordance with the provisions of 2.5(7)"c".

A business which has reason to believe that the department has received information which the business asserts to be confidential may request that such information, described with reasonable specificity, be maintained as confidential, in the same manner as specified above.

c. Contents of claim. All claims for confidentiality must be substantiated with the following information:

(1) A statement of all measures the business has taken to protect the confidentiality of the information, and a statement of intent to continue to take such measures;

(2) Practices and policies of other businesses, if known, regarding confidentiality of similar information;

(3) A statement that the information is not, and has not been, reasonably attainable without the consent of the business by other persons other than government bodies by use of legitimate means;

(4) A statement demonstrating that disclosure of the information is likely to cause substantial harm to the business's competitive position;

(5) A reference to any other determinations of confidential status of the information or similar information.

d. Initial action by department. All claims will be reviewed within ten (10) days of receipt for completeness and applicability of subrule 2.4(6). If the claim does not include the substantiation required by 2.5(7)"c", or if the claim relates to information within 2.4(6), the business making the claim will be so notified by certified mail. If the substantiation or comment regarding the inapplicability of 2.4(6) is not received by the department within ten (10) days of the date on the return receipt, the department will place the information in the public file. Otherwise, all information claimed to be confidential will be treated as such by the department until further notice. A timely response from the notice under this paragraph will be ruled on by the department within ten (10) days, based on the applicability of 2.4(6) or compliance with 2.5(7)"c" as appropriate.

e. Initiation of official determination. All claims not rejected under 2.5(7)"d" shall receive an official determination when a request for disclosure covering such information is received by the department or when the department deems it advisable to make a determination because a request for disclosure is likely to be received or because of administrative burdens in maintaining the information confidential. The procedures and criteria below shall be followed.

f. Substantive criteria for use in confidentiality determinations. Determinations shall hold that business information is entitled to confidential treatment for the benefit of a particular person if:

(1) The business has taken and intends to continue to take reasonable measures to protect the confidentiality of the information;

(2) The information is not readily obtainable by others by legitimate means;

(3) The claim is not unreasonable in view of the nature of the information, the interests, and normal practices of the business, and the practices of other businesses;

(4) No statute or rule specifically requires disclosure of the information; and

(5) There is a substantial likelihood that disclosure of the information would cause substantial harm to the competitive position of the business.

Prior determinations by the courts, the department or other agencies on the information or similar information shall be given due consideration and effect.

g. Preliminary determination -- opportunity for comment. The department shall transmit its preliminary determination regarding a claim for business confidentiality to the claimant by certified mail, notifying the claimant of the opportunity to provide comments within ten (10) days subject to reasonable extension upon written request, and that failure to comment will be construed to indicate agreement with the preliminary determination. If the determination is in response to a request for disclosure, the person requesting the disclosure shall be sent a similar notice in the same manner within ten (10) days of the request.

h. Final determination. A final decision shall be issued within ten (10) days after the close of the comment period to the preliminary determination. If any substantial comments are received, the final decision shall be made by the director or designee. If no substantial comments are received, the claimant and the person requesting disclosure, if any, shall be notified that the preliminary determination is the final decision.

i. All procedures within this rule shall not be considered contested case proceedings as provided in Iowa Code chapter 17A.

561--2.6(17A,22) Procedure by which additions, dissents or objections may be entered into certain records. Except as otherwise provided by law, a person may file a request with the custodian to review, and to have a written statement of additions, dissents or objections entered into, a record containing personally identifiable information pertaining to that person. However, this does not authorize a person who is a subject to such a record to alter the original copy of the record or to expand the official record of any agency proceeding. Requester shall send the request to review such a record or the written statement of additions, dissents or objections to the custodian or to the Attorney General. The request to review a written statement must be dated and signed by requester, and shall include the current address and phone number of the requester or the requester's representative.

561--2.7(17A,22) Consent to disclosure by the subject of a confidential record. To the extent permitted by any applicable provision of law, a person who is the subject of a confidential record may have a copy of the portion of that record concerning the subject disclosed to a third party. A request for such a disclosure must be in writing and must identify the particular record or records that may be disclosed, and the particular person or class of persons to whom the record may be disclosed (and, where applicable, the time period during which the record may be disclosed). The person who is the subject of the record and, where applicable, the person to whom the record is to be disclosed, may be required to provide proof of identity. (Additional requirements may be necessary for special classes of records.) Appearance of counsel on behalf of a person who is the subject of a confidential record is deemed to constitute consent for the agency to disclose records about that person to the person's attorney.

561--2.8(17A,22) Notice to suppliers of information. When an agency form requests that a person to supply information about that person, the agency shall notify the person of the use that will be made of the information, which persons outside the agency might routinely be provided this information, which parts of the requested information are required and which are optional, and the consequences of a failure to provide the information requested. This notice

may be given in these rules, on the written form used to collect the information, on a separate fact sheet or letter, in brochures, in formal agreements, in contracts, in handbooks, in manuals, verbally or by other appropriate means. Notice need not be given in connection with discovery requests in litigation or administrative proceedings, subpoenas, investigations of possible violations of law or similar demands for information.

561--2.9(17A,22) Disclosure without the content of the subject.

2.9(1) Open records are routinely disclosed without the consent of the subject.

2.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

a. For a routine use as defined in rule 2.10 or in any notice for a particular record system.

b. To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record; provided that the record is transferred in a form that does not identify the subject.

c. to another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.

d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last known address of the subject.

e. To the legislative fiscal bureau under Iowa Code section 2.52.

f. Disclosures in the course of employee disciplinary proceedings.

g. In response to a court order or subpoena.

561.2.10(17A,22) Routine use

2.10(1) Defined. "Routine use" means the disclosure of a record without the consent of the subject or subjects for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code Chapter 22.

2.10(2) To the extent allowed by law, the following uses are considered routine uses of all agency records:

a. Disclosure to those officers, employees and agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may, upon request of any officer or employee or on the custodian's own initiative, determine what constitutes legitimate need to use confidential records.

b. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action or regulatory order.

c. Disclosure to the agency or officer which this office is advising or representing in the matter in question or to the Department of Inspections and Appeals for matters in which it is performing services or functions on behalf of the agency.

d. Transfer of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.

e. Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.

f. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

2.11 Consensual disclosure of confidential records.

2.11(1) Consent to disclosure by a subject individual. To the extent permitted by law, the subject may consent in writing to agency disclosure of confidential records as provided in rule 2.7.

2.11(2) Complaints to public officials. A letter from a subject of a confidential record to a public official which seeks the official's intervention on behalf of the subject in a matter that involves the agency may to the extent permitted by law be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

2.12 Release to subject.

2.12(1) The subject of a confidential record may file a written request to review confidential records about that person as provided in rule 2.6. However, the agency need not release the following records to the subject:

a. The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.

b. Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.

c. Peace officers investigative reports may be withheld from the subject, except as required by the Iowa Code (see Iowa Code section 22.7(5)).

d. As otherwise authorized by law.

2.12(2) Where a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

2.13 Availability of records.

2.13(1) General. Agency records are open for public inspection and copying unless otherwise provided by rule or law.

2.13(2) Confidential records. The following records may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. Sealed bids received prior to the time set for public opening of bids;

b. Tax records made available to the agency;

c. Records which are exempt from disclosure under Iowa Code section 22.7;

d. Minutes of closing meetings of a government body;

e. Identifying details in final orders, decisions and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1)"d";

f. Those portions of agency staff manuals, instructions or other statements issued which set forth criteria or guidelines to be used by staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements, or in the selection or handling of cases such as operational tactics or allowable tolerances or criteria for the defense, prosecution or settlement of cases when disclosure of these statements would:

1) Enable law violators to avoid detection;

2) Facilitate disregard of requirements imposed by law; or

3) Give a clear improper advantage to persons who are in an adverse position to the agency.

g. Records which constitute attorney work product, attorney-client communications, or which are otherwise privileged. Attorney work product is confidential under Iowa Code 22.7(4), 622.10 and 622.11, Iowa R.C.P. 122(c), Fed R. Civ. P. 26(b)(3), and case law. Attorney-client communications are confidential under Iowa Code 622.10 and 622.11, the rules of evidence, the Code of Professional Responsibility, and case law.

h. Any other records made confidential by law.

2.13(3) Authority to release confidential records. The agency may have discretion to disclose some confidential records which are exempt from disclosure under Iowa Code 22.7 or other law. Any person may request permission to inspect records withheld from inspection under a statute which authorizes limited or discretionary disclosure as provided in rule 2.4. If the agency initially determines that it will release such records, the agency may where appropriate notify interested parties and withhold the records from inspection as provided in subrule 2.4(3).

561--2.14(17A,22) Personally identifiable information. This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in records system as defined in rule 2.2. For each record system, this rule describes the legal authority for the collection of that information, the means of storage of that information and indicates whether a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system. The record systems maintained by the agency are:

1.14(1) Environmental Protection Commission.

a. Payroll and personnel information system.
b. Certification (master file, renewal applications, examines).*
c. Air monitoring equipment.*
d. Water use permits (nonrecurring, abandoned, denied or withdrawn).*
e. Water storage permits.
f. Flood plain permits, engineering and insurance.*
g. Open burning variance files.
h. Agricultural operations.
i. Water quality county files.
j. Stream pollution reports.
k. Industrial reports.
l. Clean lakes - lake restoration projects.
m. Corp of Engineers - lock and dam report.
n. Corps of Engineers 401 Certification.
o. Construction grants (needs surveys, applications).*
p. Radiation surveillance.
q. Water quality planning surveys, and basin planning.
r. Ground water hazard statements.
s. Underground storage tank registrations.*
t. Wells (abandoned, current agricultural, new construction).
u. container deposit files.
v. Various grant planning files, confidential trade secrets, litigation files.
w. Referrals to the Attorney General.
x. Tort claims investigations.
y. Environmental violation investigations.
z. National pollutant discharge elimination system (NPDES).*
aa. Dam Inventory and Water Supply.

bb. Emissions Comprehensive Data System (EPA).*
cc. Emissions Inventory.*
dd. RUST Special Waste.*

All of the above listed records are collected pursuant to the authority of Chapter 455A, 455B, 455C, 455E, 455F and 469. All are stored in paper form with those items noted by an asterisk (*) also stored in electronic form. Supplementary records in these categories are stored in paper form or on microfilm or microfiche. None of the information stored can be matched, collected or compared.

2.14(2) Natural Resource Commission.

a. Tort Claims Investigations.
b. Numerous licensing files.*
c. Lifetime licenses.
d. Boat registrations.*
e. Docks, mooring, buoys or raft registrations.*
f. Snowmobile registrations.*
g. Miscellaneous mailing list (magazine, etc.).*
h. Payroll and personal information system.
i. Fur buyer reports.
j. Fish and game violations.
k. Safety certified students (hunter safety, snowmobile safety, boating safety).*
l. Special events applications and permits.
m. Snowmobile accident reports.
n. Boating accident reports.
o. Drowning reports.
p. Timber buyer reports and bonds.
q. Work programs with ISU.
r. Timber management and forestry.
s. State park ranger violation reports.*
t. Incident reports.
u. Donations.
v. Real estate acquisition.*
w. Encroachments.
x. Campground host program.
y. Law enforcement intelligence network (LEIN) and turn in poachers (TIP).
z. Park leases and concessions.*

All the above listed records are collected pursuant to the authority of Chapters 106, 1987, 109, 109B, 110, 110A, 110B, 111, 111A, 111B, 112 and 321G.

All storage is in paper form with those items noted by an asterisk (*) also stored in electronic form. None of the information can be matched, collected or compared.

2.14(3) Energy Bureau.

a. Payroll and personnel information system. Grants programs. See professional service agreements.

b. Building energy maintenance program. All of the above listed records are collected pursuant to the authority of Chapter 93 of the Code of Iowa. All are stored in paper form with those noted by an asterisk also stored in electronic form. None of the information can be matched, collated or compared.

2.14(4) Geological Survey Bureau (Iowa City).

a. Payroll and personnel information system.

b. Professional and scientific employee - employment status information system. Publication mailing lists.

c. Geological core and cutting samplings.

d. Abandoned mine lands inventory. Geological data information.
e. Municipal water supply inventory.
f. National coal resources data.
g. Setimentology programs.
h. Water resources information.

All of the above listed records are collected pursuant to the authority of Chapters 84 and 305. All are stored in electronic form. Supplementary records in these categories are stored in paper form or on microfilm or microfiche. Information cannot be matched, collated or compared.

561--2.15(17A,22) Other groups of records.

This rule describes groups of records maintained by the agency other than record systems as defined in rule 2.2.

These records are routinely available to the public. However, the agencies files of these records may contain confidential information. In addition, some records may contain information about individuals. All records are stored on paper and some cases in automated data processing systems.

2.15(1) Rulemaking. Rulemaking records may contain information about individuals making written or oral comments or proposed rules. This information is collected pursuant to Iowa Code section 117A.4. This information is not stored in an automated data processing system.

2.15(2) Commission records. Agendas, minutes and materials presented to the Environmental Protection Commission, and the Natural Resources Commission are available from the office of the Director, except these records concerning closed sessions which are confidential under Iowa Code Section 21.5(4). Commission records contain information about people who participate in meetings. This information is collected pursuant to Iowa Code Section 21.3. This information is not stored in an automated data processing system.

2.15(3) Publications. News releases, annual reports, Iowa Conservationist, project reports, agency newsletters, etc., are available from the department offices for public information. Brochures describing various department programs are available at local offices of teh department. Department news releases, project reports, the Conservationist, and newsletters may contain information about individuals, including department staff or members of the commission or committees.

2.15(4) Statistical reports. Periodic reports for various department programs are available from the departments offices for public information.

2.15(5) Grants or loans. Records on persons and institutions receiving grants or loans are available through the institutions, also for public information. The records may contain information about employees of a grantee.

2.15(6) Published materials. The agency uses many legal and technical publications in its work. The public may inspect these publications upon request. Some of these materials may be protected by copyright law.

2.15(7) Policy manuals. The agency employees manual, containing the policies and procedures for programs administered by the department, is available in every office of the department. Policy manuals do not contain information about individuals.

2.15(8) All other records that are not exempted from disclosure by law. The department maintains a variety of records which do not generally contain information pertaining to named individuals.

2.15(9) All other records that are not exempted from disclosure by law.

_____ Dated this _____ day of June, 1988.

LARRY J. WILSON
DIRECTOR

Motion was made by Richard Timmerman to approve Notice of Intended Action--Chapter 2, Public Records. Seconded by Keith Uhl. Motion carried unanimously.

NOTICE OF INTENDED ACTION -- CHAPTER 8, CONTRACTS

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

Attached are rules on contracting procedures, being adopted by the Director as DNR rules, and by the Natural Resource Commission as its rules. This Commission does not have rules in this area. These are being presented to you for your consideration with our request that you approve our filing a Notice of Intended Action to adopt these rules by reference, as has been done with other rules of this nature. We feel that it is in the best interests of the department and the public to have uniform rules in this area.

NATURAL RESOURCES DEPARTMENT [561]
Notice of Intended Action

Pursuant to the authority of Iowa Code section 455A.4, the Department of Natural Resources hereby gives Notice of Intended Action to adopt a new Chapter 8, "Contracts For Public Improvements and Professional Services," Iowa Administrative Code.

The purpose of these rules is to govern the contracting for public improvements and professional services.

Any interested person may make written suggestions or comments on these proposed rules prior to April 12, 1988. Written materials should be directed to Victor Kennedy, Government Liaison Bureau, Iowa Department of Natural Resources, Wallace State Office Building, Des Moines, Iowa 50319-0034. Persons who wish to convey their views orally should contract Victor Kennedy at 515/281-8889.

These rules are intended to implement Iowa Code section 455A.4.

ITEM 1. Adopt a new Chapter 8 as follows:

Chapter 8
CONTRACTS FOR PUBLIC IMPROVEMENTS AND PROFESSIONAL SERVICES

561--8.1(17A, 93, 107, 111, 455B) Contract policy.

8.1(1) All public improvements and professional services contracts with the department shall be awarded on a competitive basis to the maximum practical extent. All contracts shall be in written form and receive approval of the director and the appropriate commission where required by statute or rule of department.

8.1(2) Exceptions for compliance with federal rules and guidelines. Whenever adherence to these contracting procedures would result in the loss of federal aid for any public improvement project or professional services project, the applicable rules or guidelines shall be followed to the extent necessary to quality for the federal funds.

561--8.2(17A, 93, 107, 111, 455B) Contracts for public improvements.

8.2(1) Definition. As used in these rules, "public improvement" means any building or construction work, including road or bridge construction, reconstruction and maintenance, to be paid for in whole or in part by the use of state funds. Iowa Code section 23.21, relating to reciprocal resident bidder preference, shall apply to department contracts for public improvements.

8.2(2) Invitation for bids. When the total cost of a public improvement project exceeds the sum of $25,000 as estimated by the department or the construction services bureau of the administrative services division, the department shall advertise for sealed bids by publishing a notice in at least one newspaper of statewide circulation, one newspaper published in the county seat of the county in which the work is to be done and such other means as may be appropriate in sufficient time to enable prospective bidders to prepare and submit bids, provided that one of said notices shall be not less than 15 days prior to the date set for receiving bids. Where work is to be done under the contract in more than three counties, the requirement of publication in the county seat shall not be required so long as other means of notice to bidders is given, as in trade journals or other such means. Plans, specifications and the contract form shall be provided to all prospective bidders as provided in the invitation for bids.

8.2(3) Invitation for bids. The invitation for bids must state the following items:

a. The time and place for filing sealed proposals.

b. The time and place sealed proposals will be opened and considered on behalf of the department.

c. The general nature of the public improvement on which bids are requested.

d. The general terms when the work must be commenced and when it must be completed.

e. Any further information or requirements which the department deems pertinent or advisable.

All sealed bids shall be publicly opened as specified in the notice to bidders. The bids shall be tabulated and made available in a written form to any interested party.

8.2(4) Solicitation of quotations. Competitive quotations may be solicited on public improvement projects estimated by the department to cost less than $25,000. At least three quotations shall be solicited unless there are an insufficient number of local, qualified contractors interested in the project.

8.2(5) Failure to receive a qualified bid or quotation. In the event that no qualified sealed bids or quotations are received, the department may negotiate a contract with a qualified contractor.

8.2(6) Exceptions to the requirement for bids or quotations. The director may authorize the negotiation of a contract for a public improvement project without first soliciting quotations or advertising for bids under the following circumstances:

a. If the contemplated project involves the provision of utility services or the construction of a utility system and it would not be practicable to allow someone other than the utility company to perform the work.

b. Where competition is precluded because of patent rights, secret processes, or control of basic raw materials.

c. Where the project involves work of such a specialized nature that only one firm or person can reasonably be expected to accomplish it.

d. Where the service or product is provided by a nonprofit private corporation, a governmental body or an educational institution.

e. When emergency repair of a public improvement is necessary and delay for advertising or solicitation of quotations might cause serious loss or injury to the state.

561--8.3(17A, 93, 107, 111, 455B) Contracts for professional services.

8.3(1) Professional services defined. The term "professional services" shall include planning, design, architectural, engineering, landscape architecture, land surveying, land appraising, consulting, legal and management review services.

8.3(2) Notification of professional firms or individuals. The department shall keep a record of professional firms and individuals desirous of providing services and shall encourage from time to time the submission of letters detailing a firm's or individual's capabilities.

If a contact is estimated to cost more than $25,000, firms or individuals shall be invited to notify the department of their interest in and capabilities for providing the service. Such firms or individuals shall be informed by an advertisement in at least one newspaper of statewide circulation, one newspaper published in the county seat of the county in which the work is to be done, and such other means as may be appropriate. Where work is to be done under the contract in more than three counties, the requirement of publication in the county seat shall not be required so long as other means of notice to bidders is given, as in trade journals or other such means. AT least one of said advertisements shall be not less than 15 days prior to the date set by the department for the preliminary review of said documents. Based upon this information, the department may select a group of at least five firms or individuals, unless fewer than that number have indicated interest, who shall be invited to submit proposals for the performance of the desired service.

In explaining their capabilities, firms or individuals are encouraged to provide information relative to the number, qualifications, and experience of their professional and technical staff; their performance records for timeliness, quality, and project management; their geographical location; and any specialized expertise which may be appropriate.

8.3(3) Selection of firm or individual.

a. For any contract for professional services estimated to cost less than $5,000, the department may select a firm or individual and negotiate a professional services contract. The bureau chief or division administrator shall prepare a memorandum for the project file stating the reasons why that particular firm or individual was selected. However, quotations may be solicited if it is in the best interest of the state.

b. For contracts estimated to cost from $5,000, to $25,000 at least three firms or individuals who appear to be qualified shall be invited to submit proposals for the performance of the desired service unless fewer than that number have indicated that availability, capability or willingness to perform the desired service.

c. When a project requiring professional services is divided into several phases, the selection of a professional firm or individual for the first project phase ~~shall~~ may be accomplished in the manner prescribed for the cost

estimate relating to the entire project. The contract cost for subsequent phases may be established by negotiation.

The proposals shall also contain an hourly estimate of professional services. These fees and associated costs shall be submitted as directed by the department.

d. Upon the acceptance of a proposal by the director and the appropriate commission, if required by statute, the total estimated cost shall become the maximum contract cost which shall not be increased, except to the extent that a contract amendment increases the objectives and scope of services or projects that are unrelated but identical in nature. The proposals submitted for those contacts over $10,000 shall be reviewed, and members of the firms or individuals may be interviewed by a department selection committee established by the director. At least ~~two~~ one-thirds of the selection committee shall be composed of individuals not responsible for the contract administration. This committee shall evaluate each proposal relative to the following criteria:

(1) Sufficiency of professional and technical staff to meet the project schedule and work requirements.

(2) Performance records for timeliness, quality and project management.

(3) Geographical location.

(4) Specialized expertise.

(5) Proposed method of accomplishing the desired service.

(6) Total estimated cost.

(7) Total estimated life cycle costs, if appropriate.

After evaluating the proposals, the committee shall submit a written recommendation to the director.

e. The director may authorize the negotiation of a contract without solicitation of quotations or advertising for proposals if the service is to be provided by another governmental entity or educational institution or nonprofit corporation; or if the service is of a specialized nature where only one firm or individual can reasonably provide the service, or where delay for solicitation of quotations or advertising for proposals might reasonably be expected to result in serious loss or injury to the state.

561--8.4(17A, 93, 107, 111, 455B) Approval and award of contracts.

8.4(1) Contract approval. All contracts for public improvement or professional services in excess of $25,000 shall be approved by the director and the appropriate commission if required by statute. Contracts less than $25,000 shall be approved by the director and the appropriate commission only if required by statute or rule of the commission.

8.4(2) Contract award. The contract shall be awarded to the firm or individual whose bid or proposal is believed to be the most advantageous to the state. Bids or proposals may be rejected if they do not appear to be reasonable or if there is reason to believe that the firm or individual is not sufficiently qualified to accomplish the desired work or service.

8.4(3) Change orders and extra work orders. All change orders and extra work orders shall be approved by the director before the work or service is performed, except in emergency situations, or where such approval would result in unreasonable delay. In addition, any order or accumulation of orders which increases the amount of the original contract by more than $25,000 or 10 percent of the original contract, whichever is greater, shall also be approved by the appropriate commission, if required by statute.

561--8.5(17A, 107, 111) Contract for sale of timber.

8.5(1) Invitation for bids. When the total cost of a public sale of timber exceeds the sum of $5,000 as estimated by the state forests and management bureau of the forests and forestry division, the department shall advertise for sealed bids by publishing a notice in at least one newspaper of statewide circulation, one newspaper published in the county seat of the county in which the timer is situated and such other means as may be appropriate in sufficient time to enable prospective bidders to prepare and submit bids, provided that one of said notices shall be not less than 15 days prior to the date set for receiving bids. The notice to bidders (invitation for bids) shall conform as nearly as possible to the provisions of 8.2(3).

8.5(2) Failure to receive a bid or quotation. In the event that no sealed bids or quotations are received, the state forests and management bureau of the forests and forestry division may negotiate a contract with a qualified timber buyer.

8.5(3) Exceptions to the requirement for bids or quotations. The director may authorize the negotiation of a contract for a timber sale project without first soliciting quotations or advertising for bids under the following circumstances:

a. If the contemplated timber sale is an addition to an existing timber sale.

b. If no bidders are available.

8.5(4) Bonds. All timber buyers and timber sales agreements must comply in all respects with Iowa Code section 107.36. For purposes of bond requirements, a timber buyer is the logger who cuts down the tree or who deals with the owner of the tree and is required to have a bond. If the timber buyer exhibits a copy of a contract for lumber sale with a sawmill or other third party who is bonded and responsible for payment to the timber owner, the bonding requirements for the timber buyer are satisfied.

561--8.6(455B) Emergency response. The emergency response officials of the department shall have the authority under the director's supervision to contract with firms and individuals without advertising for bids or solicitation of quotations to clean up hazardous conditions, toxic or polluting substances on public or private property in situations where time is insufficient to allow for advertising for bids or solicitation of quotations in order to prevent further injury to the environment.

Adopted this _____ day of June, 1988.

_____

Larry J. Wilson, Director

Motion was made by Clark Yeager to approve Notice of Intended Action--Chapter 8, Contracts. Seconded by Charlotte Mohr. Motion carried unanimously.

APPEAL OF HEARING OFFICER'S DECISION -- STAN MOSER

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

On November 3, 1987, the department issued administrative order 87-SW-26 to Stan Moser. That action assessed an administrative penalty and directed Mr. Moser to cease and clean up alleged unpermitted solid waste disposal. That action was appealed, and the matter proceeded to administrative hearing on March 7, 1988. The hearing officer issued the Proposed Findings of Fact, Conclusions of Law, and Order on April 12, 1988. The decision affirmed the department's order.

Mr. Moser has appealed this order to the Commission. Last month, the Commission tabled this matter to give Mr. Moser an opportunity to review the hearing tapes. The Proposed Decision and pertinent documents have been distributed to the Commissioners. The entire record, including hearing tapes and exhibits, are available for your review. The parties will be available to argue their respective positions and respond to your questions. You may then affirm the Proposed Decision, or modify or reverse it, substituting your own findings of fact and conclusions of law based on your conclusions from your review of the record and legal argument.

Motion was made by Richard Timmerman to affirm the hearing officer's decision. Seconded by Keith Uhl. Motion carried unanimously.

REFERRALS TO ATTORNEY GENERAL

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

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).

Keokuk Landfill (tabled item)
Don Scribner (Nashua) -- solid waste penalty collection
Farmers Cooperative Elevator Assn. (Radcliffe) -- wastewater

Keokuk Landfill

Motion was made by Clark Yeager to remove the Keokuk Landfill referral from the table. Seconded by Keith Uhl. Motion carried unanimously.

Mr. Combs stated that, at the June meeting, this item was tabled for 30 days only. He related that staff is still working to resolve this case and would ask that it be tabled again.

Motion was made by Clark Yeager to table the Keokuk Landfill referral. Seconded by Keith Uhl. Motion carried unanimously.

Don Scribner (Nashua)

Mr. Combs briefed the Commission on the history of this case.

Motion was made by Richard Timmerman for referral to the Attorney General's Office. Seconded by Nancylee Siebenmann. Motion carried unanimously.

CHEEC REPORT -- NANCYLEE SIEBENMANN

Commissioner Siebenmann reported that she attended a CHEEC meeting on July 14 at Oakdale. Keith Cherryholmes was elected as Chairman of the group for a term of three years. The first year's budget of $79,000 was fully utilized, and the projected budget for 1989 is $111,000. A preliminary annual report has been produced to cover their first year. Mrs. Siebenmann stated that a great deal of time was spent discussing the survey on county grants to look at nitrates and chloroform in private wells. They felt that this survey has great reliability and would be the best document on which to build their research and conclusions. The advisory council will meet with the executive group and legislators to talk about the demonstration of the data base, funding concerns, and so forth. The next CHEEC meeting will be in early October. Mrs. Siebenmann stated that there was concern about the absenteeism of representatives to these meetings. She added that they discussed the possibility of having substitutes attend the meetings, or that they be replaced by new members to the committee.

PROPOSED LEGISLATION FOR 1989

James Combs, Division Administrator, Coordination and Information Division, presented the following item.

Information and discussion of proposed legislation items for 1989 will be presented.

The following list was presented for consideration as legislative items for 1989:

1. AIDEX Repay
2. RCRA Authority
3. Recycling
4. UST Insurance
5. Surface Water Protection
6. UST "Owner" definition
7. Spill Authority
   - All Types Orders
   - Violation to negligently/willfully allow, cause or hamper clean-up of hazardous conditions
8. Flood Plain and Solid Waste Penalties to $1,000
9. Groundwater Protection Funding

Mr. Combs stated that numbers 3, 4 and 5 are legislator-introduced bills, rather than department bills, and are provided for information purposes.

Mr. Combs explained each of the legislative proposals in detail.

The Commission decided that their legislative committee should meet sometime before the next Commission meeting.

SUBCOMMITTEE REPORT ON LANDFILL MONITORING RULES -- CLARK YEAGER

Clark Yeager reported that he attended a meeting of this committee last week. Mr. Yeager distributed copies of a list of facility costs at various sized

landfills, a list of facility descriptions, and facilities by cost/ton (descending). He stated that possibilities that were discussed were as follows: The number of sampling times might be cut down to once a year, rather than four times a year; the distance of wells in regards to 300-500 feet may be further studied; may be looking at quite a few variances due to some landfills being below the water table, and others below bedrock. Mr. Yeager stated that the timeframe for implementation is critical because over half of the landfills are supported by public funds, and they have to set a budget to implement these changes. Federal rules have been proposed, but it is not known when they will be put in place.

Mr. Yeager stated that there will also be leachate collection system rules, as well as financial responsibility rules, coming before the Commission.

A lengthy discussion followed regarding the proposed rules. The Commission decided that Chairman Schlutz, Commissioner Yeager, and Allan Stokes should meet to decide exactly what should be included in the proposed rules.

Keith Uhl stated that the larger picture, rather than looking at the rules piecemeal, is to address what steps should be taken to develop a transportation system, to develop regional permitting, to give authority for regional permitting, and how to set up regional landfills. The bottom line is that there will be landfill controls and the push is going to be on recycling.

Richard Timmerman commented that grant funds should be directed in the direction of recycling rather than separating wastes at curbside.

PUBLIC PARTICIPATION

Frank Sloan, resident of Runnells, addressed the Commission expressing concerns about red bag waste from local hospitals being disposed of at a local landfill. Mr. Sloan also stated concerns about sludge, from the landfill, on the creek near his property. He stated that the DNR and the landfill office have not done anything about his complaints concerning these matters. In conclusion, Mr. Sloan asked that the department not issue any more special waste authorization permits to the landfill.

Dave Peterson, Pleasant Hill City Councilman, addressed the Commission expressing concerns that the DNR has been lackadaisical in performing their duties of the department in regards to infectious and hazardous waste being dumped in the local landfill. He asked that the Polk County landfill on the east side be closed and that they start using the ground that has been purchased for a landfill in Grimes.

Dick Burdock, resident near the Metro Landfill, addressed the Commission expressing concerns with analysis of the DNR testing of wells around the Metro Landfill. He was also concerned that the Commission was to tour the landfill last year and then canceled the tour. Mr. Burdock expressed concerns with the number of special authorization permits being issued to landfills by DNR. He stated that residents near the landfill would like the department to install an air monitor at the landfill.

Craig Pollock, member of the Pleasant Hill Development Commission, addressed the Commission stating that the useful life of the landfill is about ten years, and this one has already been there for twenty years, and it should be shut down. He expressed concerns with enforcement of regulations of the landfill by DNR. Mr. Pollock stated that someone is needed at the landfill to inspect the waste as it comes into the landfill.

Charlotte Mohr stated that she is concerned with what was said here today and staff should not wait 30 days to check it out. She stated that the Commission needs to see both sides of the situation and that if the landfill needs to be closed, the Commission should consider closing it.

Keith Uhl stated that this should be included as an agenda item next month to provide an opportunity to other interested parties to respond.

Charlotte Mohr suggested that the Commission make a field trip to the landfill.

Keith Uhl was excused from the meeting at this time, due to another commitment.

REFERRALS TO THE ATTORNEY GENERAL (Continued)

Farmers Cooperative Elevator Assn. (Radcliffe)

Mike Murphy, Government Liaison Bureau, briefed the Commission on the history of this case.

Mark Feldman, representing Farmers Coop of Radcliffe, addressed the Commission and stated that he has not been a part of the previous discussions between the department and the Coop; therefore, had asked two Coop board members to accompany him. Mr. Feldman introduced Brad Stensland and Lee Coburn, board members of the Coop.

Mr. Coburn stated that the board is trying to steer the Coop in a new direction. He stated that they have shut down the cattle confinement and are not using the lagoon. He added that they have a plan for the lagoon and want to implement it this fall. He stated that the wastewater discharge was an accident and they want to do what is feasible to get it resolved. Mr. Coburn explained that the main reason for delay in resolving the problem was a financial problem.

Dennis Frette, General Manager of the Coop, explained the problems they encountered with the past manager, which added to the delay for resolving the problem. He stated that a new plan has been submitted to allow stirring, pumping, and ejecting into nearby fields. Mr. Frette asked that the Commission take into consideration that they have been working with the DNR on a plan.

Discussion followed regarding the plan submitted to the department.

Motion was made by Clark Yeager to go into closed session pursuant to Iowa Code Section 21.5(1)c to discuss strategy with counsel in matters that are presently in litigation or where litigation is imminent where its disclosure would be likely to prejudice or disadvantage the position of the governmental body in that litigation. Seconded by Charlotte Mohr.

Chairman Schlutz requested a roll call vote. "Aye" votes were cast by Commissioners Mohr, Siebenmann, Timmerman, Yeager and Schlutz. Motion carried 5 to 0.

Motion was made by Charlotte Mohr to adjourn the closed session and go into open session. Seconded by Clark Yeager. Motion carried unanimously.

Motion was made by Clark Yeager for referral to the Attorney General's Office with a reasonable fine figure, and that the Coop perform the required cleaning of the facility by December 1, 1988 or further penalties will be assessed. Seconded by Charlotte Mohr. Motion carried unanimously.

ADDRESS ITEMS FOR NEXT MEETING

Report from the Attorney General's Office on the status of referrals
Water quality report on Brushy Creek Lake
Consolidation of landfills

MERCY HOSPITAL -- CLOSED SESSION

Motion was made by Richard Timmerman to go into closed session pursuant to Iowa Code section 21.5(1)c, g and h to discuss matters with counsel in matters that are presently in litigation or where litigation is imminent where its disclosure would be likely to prejudice or disadvantage the position of the governmental body in that litigation; to avoid disclosure of specified law enforcement matters such as current or proposed investigation, inspection or auditing techniques or schedules, which if disclosed would enable law violators to avoid detection; to avoid disclosure of specific law enforcement matters such as allowable tolerances or criteria for the selection, prosecution or settlement of cases, which if disclosed would facilitate disregard of requirements imposed by law. Seconded by Nancylee Siebenmann.

Chairman Schlutz requested a roll call vote. "Aye" votes were cast by Commissioners Mohr, Siebenmann, Timmerman, Yeager and Schlutz. Motion carried 5 to 0.

Motion was made by Charlotte Mohr to adjourn the closed session and resume open session. Seconded by Nancylee Siebenmann. Motion carried unanimously.

Chairman Schlutz announced that no action was taken in closed session.

NEXT MEETING DATES

August 15-16, 1988
September 19-20, 1988
October 17-18, 1988

ADJOURNMENT

Motion was made by Richard Timmerman to adjourn the meeting. Seconded by Clark Yeager. Motion carried unanimously.

With no further business to come before the Environmental Protection Commission, Chairman Schlutz adjourned the meeting at 12:40 p.m., Tuesday, July 19, 1988.

Larry J. Wilson, Director

Charlotte Mohr, Secretary

(7-88.MIN/sc)

MEETING AGENDA
ENVIRONMENTAL PROTECTION COMMISSION
WALLACE STATE OFFICE BUILDING
July 18-19, 1988

Meeting Convenes at 1:30 p.m., July 18, 1988 in the fourth floor conference room and reconvenes on July 19, 8:30 a.m.

Break	3:00 p.m.
Appointments:	
City of Wapello	3:30 p.m.

Meeting Reconvenes 8:30 a.m., July 19, 1988

Stan Moser	9:30 a.m.
Break	10:00 a.m.
Public Participation	10:30 a.m.
Farmers Coop Elevator - Radcliffe	10:45 a.m.

1. Approval of Agenda.
2. Approval of Minutes of June 20-21, 1988
3. Director's Report. (Wilson) Informational.
4. FY 89 Budget and FY 90 Budget Request Status. (Kuhn) Informational.
5. Beaver Lake, Dallas County - Chapter 112. (Kuhn) Decision
6. Solid Waste Comprehensive Plans Guidelines. (Hay) Informational.
7. Solid Waste Landfill Alternative Grants. (Hay) Decision.
8. Monthly Reports. (Stokes) Informational.
9. Appeal of Hearing Officer Decision -- City of Wapello. (Combs) Decision.
10. Delete - ~~State Revolving Fund Rules Proposal. (Stokes) Informational.~~
11. Final Rule--Chapter 22, Air Quality Permit Rule Agricultural Exemption. (Stokes) Decision.
12. Final Rule--Chapter 70, Waiver of Engineering Plans for Floodplain Projects. (Stokes) Decision.
13. Final Rule--Chapter 41, Water Supply Rule Maximum Contamination Level for VOC's. (Stokes) Decision.
14. Approval of EIS for Chapter 39, Well Abandonment Rules. (Stokes) Decision.
    (Environmental Impact Statement)
15. Emergency Adopted Rule--Chapter 51, Agricultural Drainage Well Registration. (Stokes) Decision.

16. Notice of Intended Action--Chapter 2, Public Records. (Combs) Decision.

17. Notice of Intended Action--Chapter 8, Contracts. (Combs) Decision.

18. Appeal of Hearing Officer Decision -- Stan Moser. (Combs) Decision.

19. Referrals to the Attorney General. (Combs) Decision.

20. Proposed Legislation for 1989. (Combs) Informational.

21. Address Items for Next Meeting.

22. Sub-Committee report on Landfill Monitoring rules.

NEXT MEETING DATES
August 15-16, 1988
September 19-20, 1988
October 17-18, 1988

ENVIRONMENTAL PROTECTION COMMISSION

July 18, 1988 July 18, 1988

NAME	COMPANY OR AGENCY	CITY
(Please print)		
DON JENSEN	CORNBELT POWER	HUMBOLDT
Amy Ryder	C.R. Gazette	Cedar Rapids
JANE McALLISTER	AHLERS LAW FIRM	DES MOINES
Dave Braga	Tribune Radio	DSM.
THERESA KEHOE	State Senate	DSM.
Kenneth Pins	DM. Register	DSM
Winton Etchen	IFCA	
ROGER HUDDLE	City Atty	Wapello
L. J. Thompson	Mayor	city of Wapello
Ronald R Meyer	CITY ENGINEER	CITY OF WAPELLO
TED YANELER	IA FARM BUREAU	West Des Moines

July 19, 1988

JACK SOENER	IA ASSOC. BUS. & IND	DES MOINES
Theresa Kehoe	Sen. Demo Caucus	Des Moines
Rich Gomez	Public Disp.	Cresco, Ia
DAVE PETERSON	CITY OF P.H.	PLEASANT Hill
FRANK SLOAN	RUNNELLS	
DICK BURDOCK	MITCHELLVILLE	
Craig Pollock	Pleasant Hill	

ENVIRONMENTAL PROTECTION COMMISSION

NAME	COMPANY OR AGENCY	CITY
(Please print)		
Laurie Graves	WHO RADIO NEWS	DSM, IA
Sue Mason	TV 8 News	DM
Kelly Carter	Des Moines Register	DM
Mark Feldmann	Radcliffe Group	
Brad Stensland	Radcliffe	
Lee Coburn	Radcliffe	
Dennis Prette	Radcliffe	
Greg Bostelmann	Iowa Hospital Association TV 13	DSM