

MINUTES
OF THE
ENVIRONMENTAL PROTECTION COMMISSION
MEETING
MAY 18, 2010

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MEETING MINUTES

CALL TO ORDER

The meeting of the Environmental Protection Commission was called to order by Chairperson Charlotte Hubbell at 9:05 a.m. on May 18, 2010 at the Holiday Inn Express Conference Center in Sioux Center, IA.

COMMISSIONERS PRESENT

Gene Ver Steeg
Charlotte Hubbell, Chair
David Petty
Susan Heathcote
Martin Stimson, Vice-Chair
Lorna Puntillo

COMMISSIONERS ABSENT

Paul Johnson
Dale Cochran

ADOPTION OF AGENDA

Charlotte Hubbell switched the order of items 8 and 9.

Motion was made by David Petty to approve the agenda as amended. Seconded by Susan Heathcote. Motion carried unanimously.

APPROVED AS AMENDED

APPROVAL OF MINUTES

Charlotte Hubbell requested that the April EPC minutes be put on hold until June.

DIRECTORS REMARKS

- SERIP – the legislative reorganization bill provided goals for departments to eliminate 50% of the early retirement positions and downgrade 50% of the hireable early retirements. The DNR had 59 people sign up for the early retirement program. The department is working with DAS and DOM to approve a hiring plan for FY 11.
- State General Fund allocations to the department are down about 24% from previous years and we anticipate receiving another across the board budget cut soon. . The department is doing less with less. Permits will take longer to issue; park grass will not be cut, etc. The legislature mandated departments to reduce and the DNR will reduce.
- Sally Jagnandan, Division Administrator of Management Services, is retiring at the end of June.

- Emerald Ash Bore has arrived in Allamakee County, Iowa. An estimated \$3-5 billion economic impact. DNR is encouraging residents to not plant new ash trees or to cut down sick ash trees. Parks staff will inspect the firewood of campers.

INFORMATIONAL ONLY

ELECTION OF OFFICES

Election of Chair

*Susan Heathcote nominated Charlotte Hubbell as Chair. Charlotte accepted.
Ballot vote – 6 votes for Charlotte Hubbell*

CHARLOTTE HUBBELL, CHAIR

Election of Vice-Chair

*Gene VerSteeg nominated Marty Stimson as Vice Chair. Marty accepted.
Ballot vote – 6 votes for Marty Stimson*

MARTY STIMSON, VICE-CHAIR

Election of Secretary

*Marty Stimson nominated Lorna Puntillo for Secretary. Lorna accepted.
Ballot vote – 6 votes for Lorna Puntillo*

LORNA PUNTILLO, SECRETARY

CONTRACT – U OF I (IOWA FLOOD CENTER) FOR FLOOD PLAIN MAPPING RELATED SERVICES

Wayne Gieselman, Environmental Services Division Administrator presented the following item.

Recommendations:

Commission approval is requested for a four (4) year contract with the Iowa Flood Center at the University of Iowa, Iowa City, Iowa for flood plain mapping related services. The contract will begin on May 19, 2010 and terminate on June 30, 2014. The total amount of this contract shall not exceed \$10 million. DNR shall have the option to renew this contract as long as this contract and any extensions do not exceed a six-year period.

Funding Source:

This contract will be funded through a Federal appropriation from the Community Development Block Grant (CDBG) program as outlined in **Public Law 110-329** and administered by the Iowa Department of Economic Development.

Background:

The DNR was awarded \$15.0 million in CDBG Disaster Recovery Funds in 2009. This funding was allocated for the development of new flood plain maps and updating of existing maps for all of the 85 Iowa counties listed in the federal Disaster Declaration of 5/27/2008 (Declaration FEMA-1763-DR).

The DNR issued a Request for Information (RFI) regarding the work components associated with flood plain mapping for the State of Iowa in April 2009. The DNR also began work on a flood hazard mapping needs assessment and a flood plain mapping pilot project (Poweshiek County) in September of 2009. The RFI responses and results of the needs assessment and pilot project were all intended to educate the DNR on preferred methods, practices, costs, and capacity for a statewide flood plain mapping initiative. This education was expected to culminate in a Request for Qualifications (RFQ) for flood plain mapping related services to be issued in the spring of 2010. Selection of qualified consultants and issuance of contracts was expected during the summer of 2010.

During the 2010 legislative session, the Iowa General Assembly passed SF2389. Division 15 of this legislation requires the DNR to utilize the flood plain mapping services offered by the Iowa Flood Center, located at the University of Iowa, for \$10.0 million of the total \$15.0 million allocated to the DNR. The DNR and the Iowa Flood Center are working closely to determine the most efficient and effective methods of producing flood map products that satisfy both DNR and FEMA expectations.

Purpose:

The parties propose to enter into this Contract for the purpose of developing new flood plain maps, update and improve existing maps, and provide specified flood plain mapping related services in the 85 counties that are eligible for financial assistance from CDBG Disaster Recovery Funding awarded in 2009.

Contractor Selection Process:

The Iowa Flood Center at the University of Iowa was chosen based on Iowa legislative mandate. During the 2010 legislative session, the Iowa General Assembly passed SF2389. Division 15 of this legislation requires the DNR to utilize the flood plain mapping services offered by the Iowa Flood Center, located at the University of Iowa, for \$10.0 million of the total \$15.0 million allocated to the DNR.

Wayne distributed a copy of the statement of work and scope of services contract.

Marty asked when the maps would be available for viewing.

Wayne said there will be public meetings of the maps prior to sending to FEMA for final endorsement. DOE, RIO, communities, and other entities are all involved in this project.

Lorna Puntillo asked about the communities that do not qualify for FEMA funding, can they still participate in the program?

Wayne Gieselman said that Jefferson and Shelby counties chose not to be declared a disaster area. The department will eventually provide mapping for the non-disaster declared areas with other funding.

Motion was made by Marty Stimson to approve the contract as presented. Seconded by David Petty. Motion carried unanimously.

APPROVED AS PRESENTED

PUBLIC PARTICIPATION

WILLIAM DISBROW – Delta Sports Products, LLC – IAEAP reduction concern – the IAEAP has assisted smaller business to get their business into a good standing when historically they were not. IAEAP assists with portions of regulations to help small businesses stay in compliance. Hiring a full time person is just not budgetary feasible.

BYRON FIESER – Harvest Int. – IAEAP reduction concern – agrees with Mr. Disbrow's comments about assisting businesses to stay in compliance with air and wastewater requirements. The savings that IAEAP has provided to the company has been used to reinvest in the company's growth.

MARK DOUGLAS – President of the Iowa Utility Association – Submitted the following comments: Our association's membership is composed of the six investor-owned energy companies with electric, natural gas, transmission and nuclear facilities in Iowa. Today, however, my comments are on behalf of two of our utility member companies, Interstate Power & Light - Alliant Energy and MidAmerican Energy and directed at the Title V Air Quality Operating Permit fees that are on your agenda.

Members of our industry have been in front of this commission before expressing concerns about what have become annual increases in those fees that translate to higher costs for our companies and their customers.

I would like to begin by acknowledging that our association recognizes that the Title V program is an important part of the DNR's air program and that Title V funding is essential for the maintenance of clean air in the state of Iowa. We know you are poised today to, again, take action to raise those fees to the maximum cap.

Make no mistake; we are appreciative of the Air Quality Bureau's transparent budget process which includes the active participation of the fee payers. We are also most appreciative of the staff's cooperation in working with all parties to try to fairly address our concerns.

We are certainly aware that the DNR Air Quality Bureau has increased funding requirements as a result of increases in administrative and personnel costs. However, herein lays the concern of our companies about the long-term sustainability of this DNR funding mechanism.

I would briefly note a few statistics that illustrate our industry's concerns.

1. The data shows there are some 278 facilities that hold Title V permits, which represent a total of 177 companies.
2. These 177 companies paid \$10.455 million dollars in Title V fees in 2009.
3. However, the distribution of the fees paid is highly skewed. The four (4) largest companies (1.4% of all companies) pay 52.6% of all fee amounts.
4. IPL - Alliant Energy was the largest single company fee payer and MidAmerican Energy was the second largest fee payer in 2009. Those two companies accounted for approximately 42 percent of Title V fees paid or over \$4 million. (Based on 2008 emissions, IPL paid 21.1% of all title V fees for a total of over \$2.2 million dollars. MidAmerican paid over 20% of all title V fees for a total of over \$2.08 million dollars.)
5. In 2008, those companies paid more in fees than the smallest 166 companies combined yet, clearly, I think you will find that the costs of administering the permits to those small companies was much higher than the 27 total facility permits of Alliant and MidAmerican.

In our view, one of the weaknesses of the current fee mechanism is that it allocates permit costs entirely on volumes of emissions. As we have stated before, there is no recognition of the significant emission reductions made by IUA-member companies over the past few years. In other words, as our emissions have reduced – the current fee structure increases our permit costs.

In the future, federal and state directives will mandate further emission reductions.

Members of the Commission, the point I would like to make today, is that we will continue to work with the staff in the months ahead to, hopefully, incorporate into the fee structure some recognition of the actual costs of administering the permits.

We would hope the commission will continue to support this work and encourage all parties to work toward a fee solution that is more equitable and more representative of the services provided.

BRANDON LOUDER – Arnold Motor Supply – IAEAP reduction concerns. Mr. Louder's sales team assists customers with questions regarding the state regulations but is unable to assist all. The IAEAP assists all their customers and will be a tough challenge for these companies to keep up without them.

LYLE VAN VOORST – NWICRA/ICRA – IAEAP reductions concern. The IAEAP came out to the shop for the first time in the 1990's to assist. If permits are going to take longer to process, IAEAP is able to help ensure the permit is accurate upon submittal to reduce the turnaround time. The wording in regulations can be difficult and the IAEAP assists with translating. IAEAP is not intimidating to work with compared to other government employees.

GARY TWEDT – Lyon County Cattleman – The economic impact of livestock is a good thing. Thank you for touring the animal/agricultural area of Sioux County. Livestock producers get tired of being beat up. Different entities issue different laws and it is difficult to understand and interpret each of the laws that keep changing. Farm families are concerned about the future of their open feedlot operations. We'd like to see consistency with the regulations that are handed down and time to implement the changes.

KIM VANZEE – Sioux Automation Center – Iowa Waste Reduction Center funding reduction concerns. The company does not have a dedicated person for regulation and safety reporting. The IAEAP assists with maintaining compliance by onsite reporting, inspections and training.

JEFF KOOPES – Farmers Coop Society – Livestock manure application provides a value to the industry. Manure has received a bad rap for a few poor application choices. Previously manure was seen as a waste product but now manure is an asset. The perception of farmers dumping manure on fields and adding commercial fertilizer is false. Farmers understand the value of manure and are trying to lower input cost and amount of fertilizer used.

GENE METZGER – Cattle feeding – Raising livestock provides an economic value, tax base, jobs, helps related industries, and increases crop production. The economic benefits are great and we don't want to see them go.

PERRY MOGLER – Farmer – The livestock industry provides great value to the community. The sustainability and viability of our small towns is vibrant. Businesses and schools are open. We recognize the value of clean air and water and we try to preserve our natural resources. Anyone with an interest in long term agriculture will preserve the resources for future generations.

SCOTT GRIFFIOEN – Sioux Body Shop Inc — IAEAP reduction concerns - We appreciate IAEAP coming in and assisting the company on areas that need improvement and how to complete the paperwork. IAEAP provides a valuable resource.

LARRY GRIFFIOEN – Sioux Body Shop Inc – agrees with Scott Griffioen's comments.

DAN ANDERSON – RJ Thomas Mft Co Inc – IWRC funding reduction concerns – IAEAP has been assisting the company for over 13 years on all of our reporting. IAEAP provides knowledgeable people to properly complete the paperwork. It is concerning if IAEAP is removed and then there are untrained, non-professionals assisting with the reporting.

MYRON KLARCHBEEK– Agrees with comments from Mr. Mogler and Mr. Koopes. With the current manure on frozen ground rules and timeframes, I am unable to financially increase my manure storage area and may need to leave the industry. I would like to see everyone work together on developing and creating rules.

MATT SCHUILEMAN – AJS Farms – He is conducting research involving crop production in an area with a sensitive shallow aquifer. This aquifer is responsible for approximately ½ of Sioux Center’s water. The city, DNR, and others began a research project of 5 different types of crop rotations to measure nutrient levels with economic and environmental value.

Marty Stimson asked questions of Mr. Schuileman regarding how he can share the results of this research.

Mr. Schuileman shared that the researchers of the project will publish the results and provide tours along with Iowa State University and the Leopold Center.

BERNIE PUNT – Siouxland Energy & Livestock – submitted the following comments: Thank you for coming to Northwest Iowa to see and hear how integrated agriculture can be, and the benefits that integrated agriculture can provide to the farmer, the environment, and the state of Iowa. A couple of decades ago farmers and their children started leaving their farms and the state in search of a better way of life, because agriculture as we knew it then was becoming less sustainable. Today the farm economy is strong in northwest Iowa. I have seen firsthand the benefits of diversity in agriculture, and the implementation of new farming practices, and the growth of value added agriculture which have benefited the environment, and the economy.

SELC is the oldest operating farmer owned ethanol refinery in Iowa. Our mission statement is to add value to our member’s corn and to provide high quality co-products to help feed the livestock industry. SELC’s goal is to help the farmers increase the value of the grain they grow, by processing it into fuel in the state, rather than export it to another state or country without adding value. The further goal is to produce high quality co-products to be used in livestock operations to produce food. Ethanol production plays an important role in the farm economy by creating 1000’s of jobs.

Ethanol production also helps to meet the goals of the Governor Culver’s office and the Office of Energy Independence by producing in excess of 3 billion gallons of ethanol in the state, and reducing our dependency on foreign oil, while improving the economy in the state. This has been a long term goal of the state. During the winter of 1999, I and many others traveled to Des Moines to attend a series of meetings sponsored by the Department of Ag, Farm Bureau, Iowa Corn Promotion Board and others to learn how Iowa could compete with surrounding states, who at that time were building ethanol plants very near the Iowa border, taking corn from Iowa and processing it into ethanol.

Production at SELC started in November of 2001. Being one of the first ethanol refineries to start in the state proved to be challenging in some areas such as meeting water quality standards. SELC has worked closely with the DNR and others to modify water quality regulations that are management for the ethanol industry and also for improving water quality in streams and rivers.

As the industry continues to grow, and as ethanol plants add new technology and processes for cellulosic ethanol, it will be important that we continue to monitor, measure, and work cooperatively to meet the needs of everyone.

In the last 2 decades farmers have installed terraces and buffer strips in their fields which help to reduce erosion and runoff from the fields. Seeds being planted in the ground today are much different that they used to be. Genetically modified seed has made it possible to use less herbicide and pesticides than in the past, and more improvements are still being developed. A new study released last fall shows that the level of pesticides in rivers and streams has been declining, even as crop production is rapidly increasing.

The ethanol industry has made great strides in the last 2 decades in the efficiency of ethanol production, and is becoming more environmentally friendly each year. Ethanol is an alcohol primarily produced from corn that contains octane and oxygen, resulting in a fuel that burns more completely and creaste less tail pipe emissions. Ethanol lowers harmful carbon monoxide (CO) emissions by 30%, and reduces carbon dioxide (CO₂) emissions by 27%. The use of clean burning ethanol reduces the amount of noxious fumes and volatile organic compounds (VOCs) that standard gasoline spews into the air. Those VOCs clog our lungs. Of the more than 200 compounds found in gasoline, ethanol is the safest. Studies have found that ethanol poses no threat to ground water.

Much progress has also been made to make the ethanol production process more efficient. In 1998 on average it took 6 gallons of water to make 1 gallon of ethanol. Today on average it takes approximately 3 gallons of water to make one gallon of ethanol. As a comparison, approximately 95 gallons of water is used to make just one gallon of gasoline. 10 years ago the average ethanol yield was 2.5 gallons of ethanol per bushel of corn. Today the average ethanol yield is over 2.8 gallons per bushel of corn.

SELC has also worked aggressively to reduce the amount of energy consumed to make a gallon of ethanol. We allow grain producers to deliver high moisture corn directly from their fields to the ethanol plant in the fall. Much energy is saved in the reduction of additional transportation and grain handling which would normally occur if the farmer stored and dried the grain using traditional storage practices. Much energy is also saved because the corn is not dried down from 22% moisture down to 15% moisture, as it would normally be if it was stored at the farmer's grain storage facility or at a local elevator.

The largest energy savings opportunity SELC has is possible because we have large numbers of livestock in the region. All of the co-products produced by SELC are used within a distance of approximately 30 miles from SELC. The ethanol co-products have high levels of protein and energy, and replace a large portion of the corn and protein otherwise used to finish the livestock. Inn this way the corn can be sued to grow food and produce fuel. SELC uses approximately 1/3 less natural gas than the average dry mill ethanol plant due to the fact that we do not have to dry the co-products before shipping them to livestock producers. In the last 10 years as the ethanol industry has grown, the livestock industry has also expanded to take advantage of the co-products. The number of cattle on feed in Iowa has nearly doubled in the last 10 years. The combination of the growth in the ethanol and livestock industries has helped to revitalize towns, cities, and the farming economy in Iowa, adding 1000's of jobs, and providing economic and

environmental benefits to the state. The SELC business model combines many value added opportunities for grain and livestock producers, the local communities, and the state. The SELC ethanol production facility is also much greener than the average dry mill ethanol refinery and I believe is currently producing fuel with one of the lowest carbon foot prints in the nation.

In northwest Iowa, Farmers believe one of the most valuable things they have is the high quality soil that they have to work with. They care for it and will continue to do so.

In closing I would say that to create and maintain a sustainable rural and state economy, and to further improve the environmental, we must continue to work together to find those opportunities, to use new methods and new technology, to improve on what we have done in the past. I believe Northwest Iowa is thriving today because we have embraces some of the ideas I talked about today.

ROGER KNOBLOCK – IGGA – Over the past 45 years, he has seen a lot of change to preserve the land with terraces, grass strips, and manure management. Your food comes from the agriculture industry. We need it to live. We also live in our environment, it’s important for us to take care of our land and water. We need good natural resources for the future generations.

JODY VANREGENMORTER – Family Farm – Diversification of the land is important. The family farm includes the whole family and the value of family on the farm is important. There is a lot of pride in the community and in my family to maintain and preserve our land.

BRAD DEVRIES – Farmers Coop Society – Provided a summary of Sioux County statistics to represent the volume and value of agriculture supporting the community. We want to preserve our land and resources and create an environment that maximizes the economy. This will greatly benefit the future generations to come.

LEE MAASSEN – Western Iowa Dairy Alliance – I agree with all of the previous comments related to the agricultural industry and how it is an economic benefit. Mr. Maassen challenged the commission to think about what we all want to do or be at in the future.

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

AIR QUALITY - TITLE V FEE BUDGET REVIEW

Wendy Rains, Environmental Specialist Senior with the Air Quality Bureau presented the following item.

The Commission is asked to approve the Title V budget establishing the annual Title V fee at \$56.00 per ton of air pollution emitted from Title V Operating Permit subject sources. This is an increase of \$4.00 per ton from the current fiscal year to accommodate personnel and program increases and reflects a full utilization of the prior year’s fund balance.

Program Background

A Title V operating permit is required for those facilities with potential emissions that exceed the major stationary source thresholds. A major stationary source is a facility that has the potential

to emit 100 tons per year (tpy) or more of any air pollutant; or the potential to emit 10 tpy or more of any individual hazardous air pollutant; or the potential to emit 25 tpy or more of any combination of hazardous air pollutants. Currently Iowa has approximately 275 major stationary sources, also referred to as Title V facilities. Examples of Title V facilities include electric utilities, grain processors, cement plants, and manufacturing operations.

The Title V fee is based on the first 4,000 tons of each regulated air pollutant emitted each year from each major stationary source in the state. Regulated pollutants include: particulate matter less than 10 micrometers in diameter (PM₁₀) and particulate matter less than 2.5 micrometers in diameter (PM_{2.5}), sulfur dioxide (SO₂), nitrogen oxides (NO_x), volatile organic compounds (VOC), lead (Pb), and hazardous air pollutants (HAP). The fee is used to support the development and administration of activities associated with major sources subject to the Title V Operating Permit Program.

Overall Program Funding - Clean Air Act (CAA) section 105 money is awarded to the department through a Performance Partnership Grant (PPG) with the EPA. The PPG is the financial component of the Performance Partnership Agreement (PPA). The department negotiates the PPG on an annual cycle while the PPA is negotiated on a two-year cycle. The PPA contains the mutually agreed upon goals that the EPA and DNR will work together to achieve during the two year agreement period. For air quality, the tasks that must be accomplished to achieve the agreed upon goals are contained in the 105 work plan, which is an attachment to the PPA. As indicated in Table 1, CAA section 105 funds require state matching dollars whereas CAA section 103 funds do not. No Title V money is included in the PPG.

Table1. Summary of Cost Centers and Funding Sources

Program Area	Expenditures (Cost Center)	Funding Source*
Air Title V includes		
Legal Services	1430	TV Fees
IT Support	3520	TV Fees
Title V Operating Permit Program	7230	TV Fees
Title V Field Program	7421	TV Fees
Air Quality Program includes:		
Air Quality central office base program	7220	CAA 105 & GF
PM 2.5 Monitoring network	7240	CAA 103
Greenhouse Gas Activities	7250	Env. First/TV Fees
Air Quality field office base program	7419	CAA 105 & GF
Ambient Air Monitoring	17HA	Env. First
Diesel Emission Reduction Grants	7260 & 7270	Federal Grant

* TV Fees – Title V fees

CAA 105 – Clean Air Act section 105 grant with a state match required

CAA 103 – Clean Air Act section 103 grant with no state match required

Env. First – Funding under the state Environment First Fund

GF – Legislatively appropriated General Funds or other state funds

Federal Grants – federal diesel emission reduction grants

Carryover Funds - The Bureau has been working each year since the program's inception to develop a budget that more accurately reflects the amount of funding required to implement the Title V program. In past years, the budget was planned with approximately a one percent reserve, however, the carry over funds have accumulated each year to an amount greater than 1%. The Bureau implemented measures in SFY 2009 to reduce the amount carried over into SFY 2010. The Bureau anticipates carrying forward approximately \$447,000 based on a projection of the remaining expenses. The carry forward is increased from the prior year. Significant efforts were made to reduce Title V expenses in the remaining quarter.

Changes in Emissions Projections –Each budget cycle uses the prior year's tonnage as the planning estimate. The Title V tonnage for SFY 2010 was approximately 200,000 tons, 24,000 tons or over a 10% decline from the prior year. Given the continued economic downturn the Bureau estimated a continued decline of 7,500 tons or 3.8% for the March Commission meeting. The reported tons of approximately 166,400 tons used to calculate the SFY 2011 budget came in almost 17% lower than anticipated. The reduced tons created a deficit of approximately \$1,200,000 from the draft budget proposed at the March EPC meeting.

Reductions and Cost Savings Measures – Steps to balance the Title V budget include reassigning staff and vacancies downgraded (\$288,000), eliminating contingent funding for laboratory analysis (\$221,000), delaying the purchase of ambient monitoring equipment (\$150,000), not filling vacant positions (\$126,000), refined personnel projections (\$96,000), and reduced travel and miscellaneous office items (\$40,000). The remaining reduction is in the professional service contract with the UNI-Small Business Assistance agreement with the Iowa Air Emissions Assistance Program (\$282,000).

One FTE (Communications Bureau staff member) previously funded with Title V funds will be paid for with indirect rates. A recent kaizen event recommended funding communication staff by indirect rates rather than each program area or bureau providing dedicated funding.

In January 2010, the Department of Administrative Services renegotiated the lease for the 7900 Hickman location resulting in a savings of approximately \$9,000 per year. The Bureau anticipates remaining at this location for SYF 2011. Given the reduced revenue the Bureau is unable to allocate funds for moving expenses to return to the Wallace Building.

The Bureau is replacing some office equipment with leased equipment. The DNR's Management Services Division has found cost savings with leasing certain equipment. The combination of the reduced building rental costs and new cost of leased equipment result in a net decrease of \$4,000.

One vehicle was not replaced in the current fiscal year, leaving the Bureau with 6 vehicles. The reduction in the Bureau's fleet is not anticipated to adversely impact work activities. Vehicles are needed primarily for asbestos inspections, stack test observations, and permitting assistance visits. In a typical year Bureau staff cumulatively will drive 100,000 miles. In 2009 staff drove 130,000 miles. A vehicle typically costs about \$6,300 per year for fuel, depreciation, and maintenance costs.

Program Changes - The Bureau reassigned personnel from the review of minor source emission inventories to major source inventories during SFY 2010. Significant errors were being found in inventories submitted by major source facilities. Major source emissions inventories are increasingly being used for national planning efforts such as interstate transportation of air pollution. Additional review is essential to quality assure the data submitted to the Bureau as it is relied on for both national and regional planning. The data will be essential as non-attainment becomes increasingly more likely.

Ambient Air Monitoring Changes – The ambient air monitoring program continues to prepare for the many changes to federal ambient air quality standards. The ambient monitoring program projects minimal increases for SFY 2011. The equipment replacement deployment funded in the current year will be at approximately the midpoint of completion by the end of the year. The remaining equipment deployment will continue into SFY 2011. EPA may establish new monitoring requirements during the year which may require additional resources.

There continues to be a potential for significant change in the federal Clean Air Act (CAA) Section 103 grant that supports PM 2.5 monitoring. The PM 2.5 laboratory analysis, estimated at over \$221,000 annually, has been funded by this grant. Given the ongoing uncertainty with the grant, the entire amount of the lab analysis was tentatively budgeted by Title V fees for the March Commission meeting. The reduced tonnage no longer allows for this contingency.

Summary – Total Title V Fund expenditures are proposed to decrease from the current SFY 2010 budget levels by an estimate of 8.8% or \$952,000 in the SFY 2011 budget. The reported tonnage reflects a 16.8% decline or 33,600 tons less than the prior year. The decline in emissions results in over \$1,200,000 in reduced revenue. The estimated carry forward amount is \$447,000. Estimated interest for SFY 2011 has also been lowered by \$75,000. The fee is proposed to increase by \$4.00, or 7.7%, from \$52.00 per ton to \$56.00 per ton.

Jim McGraw provided handout that summarized the UNI reduction in funding and proposed contract duties. Mr. McGraw highlighted the reductions and eliminations of the Air Quality program activities prior to choosing to reduce UNI's contract.

- Reduced staffing - \$551,364
- Reduced ambient AQ funding - \$371,319
- Reduced IEAEP \$282,217
- Total reductions - \$1,204,900

The proposed new contract would require UNI to provide mainly training and guidance and would remove their function of completing permit applications and handling reporting for small business. Instead, UNI would teach companies on how to complete the paperwork for themselves.

Richard Leopold stated the program has worked very well and the funding reductions are not related to UNI's performance of the contract. The elimination of writing permits for small business is similar to other states and private contractors are available to assist in this work.

Marty Stimson asked about the additional fees for services.

Wayne Gieselman said that we can't ask or add additional fees at this point and that is a directive from the Governor's Office.

Dan Nickey, Director of the IAEA, provided a summary of the history of the program, services they provide, and how the reductions would affect small businesses.

As the Manager of the Iowa Air Emission Assistance Program I feel it is my responsibility to provide you a:

- brief back ground on the IAEAP,
- its assistance efforts,
- its impact on Iowa small businesses and
- the affect the proposed current budget cut will have on the program if it is approved.

The Iowa Waste Reduction Center at the University of Northern Iowa has been managing the Iowa Air Emission Assistance Program since 1992. The Department of Natural Resources has been funding the IAEAP from Title V fees as mandated by the 1990 Clean Air Act Amendments. The IAEAP has been the one-stop shop for Iowa small businesses providing one-on-one air quality assistance to Iowa small businesses since its inception. This assistance has covered both state and federal air quality regulations with particular services including:

- Completing compliance audits
- Providing detail compliance reports
- Completing construction permit applications
- Completing Emission Inventory Questionnaires, and
- Training businesses on new air quality rules

The fact sheet that I provided you lists the services that the IAEAP has provided Iowa small businesses over the last 12 months.

Thanks to the generous funding from the Iowa Department of Natural Resources the IAEAP historically has been one of the most effective and premier small business air quality assistance programs in the country. The IAEAP has been a blue print that other state programs have chosen to model their programs after.

Based on EPA's Small Business Ombudsman's latest report on the "Status of State Small Business Compliance Assistance Programs" the average annual state budget for small business assistance programs is \$430,000 and has an average of 3.9 FTEs. Before the proposed DNR budget cuts the IAEAP was above the national average and after the budget cuts below the national mean.

If the proposed IAEAP Title V budget reduction is approved, the IAEAP's one-on-one air quality permit application and emission inventory assistance will no longer be available to Iowa small businesses. This reduction in services will adversely impact Iowa small businesses as documented in the comments of the small business representatives that took time out of their busy schedules to share with us their concerns.

A small business owner may be company president, its human resource officer and often times a hands-on production and the maintenance worker. These individuals don't have the time, money or expertise to complete the detailed and complex paperwork necessary for compliance. Without the IAEAP hands on assistance Iowa small businesses will be required to spend more of their limited

time and resources to maintain compliance with air quality rules taking away from day-to-day business operations. It follows; these proposed reductions in assistance could directly impact the economic development of Iowa small businesses.

Not only does the IAEAP impact small businesses but also large businesses that are not eligible for IAEAP services by:

- Ensuring their small business suppliers are in compliance
- If DNR gets high quality permit applications and inventories from small businesses it will have to spend less resources on reviewing this work and can spend these resources in processing applications from the larger businesses, and
- The educational material the IAEAP develops is available to all Iowa businesses.

I understand that the Air Quality Bureau is experiencing a budget shortfall. Based on the information provided, the bureau reported a revenue reduction \$1.2 million in its Title V air quality program creating a shortfall of approximately 10% of its budget. The IAEAP accounts for approximately only 5% of the overall Title V budget. However, we are being asked to reduce our total budget and staffing by approximately 50%.

I certainly appreciate that economic conditions affect governmental agencies and private sector businesses alike. However, the request to surrender 50% of our funding to help subsidize a 10% overall DNR program shortfall does not seem equitable. This proposed budget cut would appear to be a setback to Iowa small businesses and their competitiveness.

It is my opinion; the DNR budget cuts are a short term solution that will have a long term impact on Iowa small businesses and the DNR itself. In the future, DNR will spend more resources in obtaining compliance with Iowa small businesses by spending more time reviewing small businesses applications and Iowa small businesses will incur more cost without effective hands on small business program to assist them.

I would like to think that a budget compromise between the IWRC and DNR can be developed so Iowa small businesses will not see a reduction in services and that will also assist DNR in meeting its current budget shortfall.

Iowa small businesses have become accustomed to hands on effective small businesses assistance program and I hope this will continue.

Gene VerSteege asked Dan Nickey if a fee could be charged for the services. Mr. Nickey said they could look at the statute to see if that would be possible.

Motion was made by David Petty to approve the Air Quality Title V budget as presented. Seconded by Marty Stimson. Motion carried unanimously.

APPROVED AS PRESENTED

NOTICE OF INTENDED ACTION - CHAPTERS 23, 24, AND 28: AIR QUALITY PROGRAM RULES UPDATES, REVISIONS, AND ADDITIONS

Jim McGraw, Air Quality Supervisor in the Environmental Services Division presented the following item.

The Department is requesting permission from the Commission to proceed with the rulemaking process and publish a Notice of Intended Action to amend Chapter 23 "Emission Standards for Contaminants," Chapter 24 "Excess Emissions," and Chapter 28 "Ambient Air Quality Standards" of 567 Iowa Administrative Code.

This rulemaking was presented to the Commission for information in April. The Notice of Intended Action (NOIA) is identical to what was presented for information, with the exception of the additions described for Items 7 and 8. The primary purpose of the rule changes is to update state air quality rules for new federal requirements, including adoption of new National Ambient Air Quality Standards (NAAQS) and adoption of several new or amended federal air quality standards. The rulemaking also provides the option to submit initial excess emissions reports by e-mail.

Over the last year, the U.S. Environmental Protection Agency (EPA) finalized several new air quality regulations under two programs authorized by the federal Clean Air Act (CAA), the New Source Performance Standards (NSPS) program and the National Emission Standards for Hazardous Air Pollutants (NESHAP) program.

New Source Performance Standards (NSPS) – Items 1, 2 and 3

The NSPS program requires new and existing facilities in a particular industry sector that construct and operate specific equipment to meet uniform standards for air pollutant emissions. NSPS requirements vary depending on the processes, activities or equipment being regulated, and whether the processes, activities or equipment are considered to be new or existing.

EPA recently finalized amendments to three regulations under the NSPS program (40 Code of Regulations (CFR) Part 60). Item 1 adopts by reference amendments to the NSPS as follows:

- On April 28, 2009, EPA finalized amendments to the NSPS for nonmetallic mineral processing plants (Subpart OOO). This NSPS affects facilities such as aggregate processing plants or concrete batch plants which commence construction, modification, or reconstruction on or after April 22, 2008. These amendments include new emission limits, additional testing and monitoring requirements, changes to simplify the notification requirements, and changes to definitions and various clarifications.

The Department estimates that approximately 200 portable and fixed plants are subject to the original NSPS Subpart OOO requirements. However, these facilities are only subject to the requirements in the new amendments if they commenced construction, modification or reconstruction after April 22, 2008. The Department is aware of only a few facilities that are affected by the new NSPS requirements at this time. More facilities may become subject in the future. The Department is working with individual facilities regarding the new Subpart OOO requirements as facilities submit permit applications for

construction or modification.

- On October 8, 2009, EPA finalized amendments to the NSPS coal preparation and processing plants (40 CFR 60 Subpart Y). This NSPS affects facilities that prepare and process coal, such as electric utilities and industrial operations. These amendments include revisions to the emission limits for particulate matter and opacity standards for thermal dryers, pneumatic coal cleaning equipment, and coal handling equipment. The revised limits apply to affected facilities that commence construction, modification, or reconstruction on or after April 28, 2008.

The amendments also establish a sulfur dioxide (SO₂) emission limit and a combined nitrogen oxide (NO_x) and carbon monoxide (CO) emissions limit for thermal dryers. In addition, the amendments establish work practice standards to control fugitive coal dust emissions from open storage piles. The SO₂ limit, the NO_x/CO limit, and the work practice standards apply to affected facilities that commence construction, modification, or reconstruction on or after May 27, 2009.

The Department estimates that approximately 50 facilities are subject to the original Subpart Y requirements. However, only facilities that undergo construction, modification or reconstruction on or after the dates noted above are subject to the new requirements. At this time, the Department has identified only a few facilities that are affected by the new NSPS requirements. More facilities may be subject in the future. The Department is working with individual facilities that may be subject to the new Subpart Y requirements as facilities submit permit applications for construction or modification.

- On October 6, 2009, EPA amended the NSPS and emissions guidelines for new hospital and medical waste incinerators (HMIWI) (Subparts Ce and Ec). The Department is **not** adopting these new amendments because Iowa no longer has any operating incinerators affected under HMIWI, and anticipates that no new HMIWI will be constructed in Iowa. Many HMIWI throughout the U.S. have shut down because less expensive alternative waste disposal options are available.

The Department is not required to adopt federal NSPS for which there are no affected facilities and for which the Department can reasonably expect that the state will not have any affected facilities in the future. If a new HMIWI does locate in Iowa or if a currently exempt facility changes operations to become a newly affected facility, federal NSPS standards for HMIWI will still apply. At such time, the Department will determine if it is appropriate to adopt the federal NSPS regulations for HMIWI into state rules.

The Department is taking additional rulemaking action regarding the currently adopted HMIWI regulations, as explained under Item 3 and Item 6.

- Item 2 amends the explanation accompanying the adoption by reference of the NSPS for municipal waste combustors (Subpart Eb). When the Department previously adopted amendments to the NSPS in 2006, the Department did not at that time modify the explanatory text to be consistent with the federal amendments. The Department is now

proposing to modify the text so that it is identical to the current federal regulations.

- Item 3 rescinds adoption by reference of the original, federal NSPS regulations for HMIWI (Subpart Ec). As explained above, the state does not have any HMIWI affected under NSPS Subpart Ec and does not expect to have any affected HMIWI in the future.

National Emission Standards for Hazardous Air Pollutants (NESHAP) – Item 4 and Item 5

The Department proposes to adopt by reference new NESHAP and NESHAP amendments that EPA recently promulgated under 40 CFR Part 63. The NESHAP program requires facilities in a particular industry sector that construct and operate specific equipment to meet uniform standards for hazardous air pollutants (HAP), also called “air toxics.” NESHAP requirements for source sectors vary depending on the processes, activities or equipment being regulated. The NESHAP affect both new and existing major sources and area sources. Area sources are usually smaller commercial or industrial operations. Specifically, area sources have potential emissions less than 10 tons per year (tpy) of any single HAP and 25 tpy of any combination of HAP. Area sources are classified as minor sources for HAP. Facilities that have potential HAP emissions greater than or equal to the 10/25 tpy levels are classified as major sources for HAP.

This rule making includes adoption of new or amended NESHAP potentially impacting some facilities or businesses that previously had few, if any, air quality requirements. Because of the potential impacts to small businesses and previously unregulated facilities, the Department is developing implementation strategies in conjunction with the proposed rulemaking. The strategies include cooperative efforts with the University of Northern Iowa – Iowa Air Emissions Assistance Program (UNI), Iowa Department of Economic Development (IDED), the Linn and Polk County local air quality programs, and other interested associations and organizations to provide outreach and compliance assistance to stakeholders.

The Department's outreach strategy will be specific to each rule and will depend on a number of factors, including: the estimated number of facilities and small businesses affected, the compliance date of the rule, the requirements of the rule (such as emissions control, work practices standards, etc.), and current level of air quality knowledge (such as air permits or active industry associations). As Department resources allow, outreach may include informational meetings, workshops, fact sheets, guides, and internet-based tools. It is hoped that this rulemaking in conjunction with current and future efforts of the Department and its compliance assistance partners will result in reductions in air toxic and other air pollutant emissions, while minimizing the regulatory burden to small businesses and other affected facilities.

Stationary Reciprocating Internal Combustion Engines (RICE) (Subpart ZZZZ) – Item 4

On March 3, 2010, EPA amended the RICE NESHAP to include requirements to control HAP emissions from certain engines that were not previously covered under the NESHAP. The amendments apply to stationary existing diesel engines located at both area sources and major sources that meet specific siting, age and size criteria. In general, existing emergency engines are subject to work practice and management standards. Some larger existing engines and existing non-emergency engines are subject to emission standards, control requirements and compliance testing requirements. Affected facilities have until May 3, 2013, to comply with the new NESHAP requirements.

Some existing stationary engines are not affected by the NESHAP amendments. In particular, existing emergency engines located at area source residential, commercial or institutional facilities are not subject to the NESHAP. Additionally, the amendments do not address existing stationary spark ignition (SI) engines, such as gasoline powered engines. EPA intends to address these SI engines in a later rulemaking.

The Department estimates that thousands of existing stationary diesel engines may be affected by the NESHAP. However, many of these engines will be subject only to work practice or management standards, such as regular oil changes. The Department expects that owners and operators of engines that will require add-on control or emissions testing will elect to change-out their engines for new, cleaner engines that are manufacturer certified to meet EPA emissions specifications. Since the NESHAP compliance date is not until May 2013, the Department and its compliance assistance partners will begin working with interested stakeholders in the next one to two years to better characterize the affected facilities and to develop appropriate outreach and compliance assistance strategies.

Area Source NESHAP – Item 5

The Department is proposing to three newly promulgated NESHAP for area sources, as follows:

- *Chemical Manufacturing (Subpart VVVVVV)*: This NESHAP affects area sources under several chemical manufacturing sectors, including pharmaceutical production, agricultural chemicals manufacturing, and organic chemical manufacturing that emit one or more of 15 specific HAP. The NESHAP includes management practices and, in some cases, add-on control, to reduce emissions from process vessels, storage tanks, transfer racks, heat exchange systems and wastewater. Existing facilities have until October 29, 2012, to be in compliance with the NESHAP.

The Department estimates that there may be up to 100 facilities subject to this NESHAP. However, many facilities may not be emitting the affected HAP in regulated quantities or may elect to discontinue use prior to the NESHAP compliance date. Many other facilities are already following management practices under other federal standards that are identical or similar to the NESHAP requirements. In the near term, the Department expects to work individually with facilities on NESHAP applicability, particularly as these facilities submit permit applications for review. Over the next six months, the Department and its compliance assistance partners will determine if a more extensive NESHAP outreach strategy is appropriate.

- *Paint and Allied Products Manufacturing (Subpart CCCCCC)*: This NESHAP affects area sources that manufacture paint, ink or adhesive that process, use, or generate materials containing chromium, lead, nickel or cadmium, benzene or methyl chloride. Affected facilities are required to operate particulate control equipment to control metal air toxics and must use management practices to control volatile air toxic emissions. Existing facilities have until December 3, 2012, to comply with the NESHAP requirements.

Currently, the Department estimates that 50 facilities may be subject to this NESHAP.

However, many facilities may not use, or may elect to discontinue use of, the affected HAP before the NESHAP compliance date. In the near term, the Department expects to work individually with facilities on NESHAP applicability, particularly as these facilities submit permit applications for review. Over the next year, the Department and its compliance assistance partners will determine if a more extensive NESHAP outreach strategy is appropriate.

- *Prepared Feeds Manufacturing (Subpart DDDDDDD)*: This NESHAP affects area sources that produce animal feed products and use materials that contain chromium or manganese. Affected facilities must apply management practices in the area of the facility where materials containing chromium or manganese are stored, used or handled. Facilities that produce more than 50 tons per day of feed will also be required to operate control equipment to reduce chromium and manganese emissions from pelleting and pellet cooling operations. Existing facilities will have until January 5, 2012, to comply with the NESHAP requirements.

The Department estimates that approximately 200 feed mills are currently operating in the state. However, it is expected that many feed mills do not use chromium or manganese materials at the levels regulate by the NESHAP, or will qualify for one of the other exemptions in the NESHAP. Of facilities that are affected, it is expected that many will be subject to only the management practices, which include activities to minimize dust. Over the next year, the Department and its compliance assistance partners will be working closely with interested stakeholders to better characterize the affected facilities and to develop appropriate outreach and compliance assistance strategies.

The Department is **not** proposing to adopt two other recently promulgated area source NESHAP, the NESHAP for Asphalt Processing & Asphalt Roofing Manufacturing (Subpart AAAAAAA) and the NESHAP for Chemical Preparation (Subpart BBBBBBB). Iowa does not have any facilities subject to these NESHAP and is unlikely to have any subject facilities in the future.

Existing Hospital/Medical Infectious Waste Incinerators (HMIWI) - Item 6

The Department is proposing to rescind the rules containing the emission guidelines for existing HMIWI. EPA originally promulgated emission guidelines for existing HMIWI in 1997, and the Department adopted these emission guidelines into state rules in 1998. At that time, Iowa had two operating HMIWI affected under the emission guidelines. These two HMIWI have since shut down. The Department is proposing to rescind the existing emission guidelines because Department is not required to retain federal emission guidelines for which the state has no subject facilities, and for which the Department can reasonably expect not to have any subject facilities in the future. If a currently exempt facility changes operations to become an affected HMIWI, federal standards for existing HMIWI will apply. At such time, the Department will determine if it is appropriate to adopt the federal emissions guidelines for existing HMIWI into state rules.

E-mail Option for Initial Report of Excess Emissions (Item 7 and Item 8)

Owners and operators of facilities that experience an incident of excess emissions and do not operate continuous monitoring equipment are required to provide both an oral and a written

report of the incident within specified time frames. Currently, an oral report of excess emissions must be provided by phone or in-person to the appropriate Department field office.

The Department is proposing to allow owners and operators to make their initial excess emissions report to the Department by e-mail. In some cases, e-mail will be a more accurate and efficient method for owners and operators to provide these reports. Additionally, Department field staff will be able to receive the report in the field through mobile electronic devices. E-mail reporting will eliminate Department staff time in transcribing the initial report and will enable staff to more efficiently input the information into reports and databases. Since e-mail may not be available or convenient in all cases, owners and operators will still be allowed to make an initial report of excess emissions in-person or by telephone.

Owners and operators must still follow-up their initial excess emissions report with a written, hard-copy report. The Department is not proposing an e-mail option for written excess emissions reporting at this time due to EPA's requirements under the federal Cross-Media Electronic Reporting Rule (CROMERR). CROMERR requires special electronic verification that the Department has not yet established for excess emissions reports. The Department hopes to provide an electronic option for these reports in the future.

These amendments were originally presented to the Commission for information in March as part of the electronic reporting rulemaking package. Because that rulemaking has been delayed, the Department is proceeding with these amendments as part of this rulemaking instead.

New NAAQS for Nitrogen Dioxide (NO₂) – Item 9

Item 9 adopts the new National Ambient Air Quality Standards (NAAQS) for nitrogen dioxide (NO₂). On February 9, 2010, EPA strengthened the NAAQS for NO₂ by adding a new one hour standard to more adequately protect public health and welfare. EPA set the new 1-hour NO₂ standard at the level of 100 parts per billion (ppb). In addition to establishing an averaging time and level, EPA also set a new "form" for the standard. The form is the air quality statistic used to determine if an area meets the standard. The form for the 1-hour NO₂ standard is the 3-year average of the 98th percentile of the annual distribution of daily maximum 1-hour average concentrations. EPA retained, with no change, the current annual average NO₂ standard of 53 ppb.

EPA expects to designate areas as attaining or not attaining the new standard by January 2012 using NO₂ monitoring data from the current community-wide monitoring network. Once the expanded network of NO₂ monitors required under the new standard is fully deployed and three years of data have been collected, EPA intends to re-designate areas in 2016 or 2017, as appropriate, based on the air quality data from the new monitoring network. The Department will need to complete and submit revisions to the State Implementation Plan (SIP) for NO₂ by January 2013. The SIP revision will include any rule changes necessary to implement the new standard.

If the Commission approves this Notice of Intended Action, a public hearing will be held at 1 p.m. on Monday, July 19, 2010, at the Department's Air Quality Bureau offices. The public comment period for the proposed rules will close on Tuesday, July 20, 2010.

Lorna Puntillo asked why there was only one public comment meeting.

Catharine Fitzsimmons shared that this in an adoption of Federal rules.

Motion was made by Susan Heathcote to approve the Notice of Intended Action as presented. Seconded by Gene VerSteeg. Motion carried unanimously.

APPROVED AS PRESENTED

**FINAL RULE – NEW CHAPTER 567-210 “BEAUTIFICATION GRANT PROGRAM”
ADOPTED AND FILED EMERGENCY**

Wayne Gieselman, Administrator of the Environmental Services Division presented the following item.

The Commission is requested to approve the Final Rule that adopts new Chapter 210. This new chapter establishes a “Beautification Grant Program” pursuant to 2010 Iowa Acts, House File 2525, Section 24.

The purpose of the program is to provide financial assistance in the form of an annual grant not to exceed \$200,000 for the fiscal period beginning July 1, 2010 and ending June 30, 2014. The grant will be awarded to a single entity that meets the following eligibility criteria set forth in the legislation and that is incorporated verbatim in the new chapter:

- a. Assists communities and organizations in cleanup and beautification projects;
- b. Conducts research to assist in the understanding of reasons for littering and illegal dumping;
- c. Administers antilittering and beautification education programs; and
- d. Increases public awareness of the costs of littering and illegal dumping.

The moneys shall be used for:

- Development and implementation of a public education and awareness initiative designed to reduce littering and illegal dumping. As stipulated in the legislation and rule, not more than \$100,000 of the grant can be used for this initiative.
- Establishment of a community partnership grant program designed to support community beautification projects including the deconstruction, renovation, or removal of derelict buildings. As stipulated in the legislation and rule, not more than \$100,000 of the grant can be used for this program, and only cities of 5,000 or less in population are eligible recipients.

In order to expedite the effective date of this chapter and the awarding of the grant authorized by the General Assembly the commission is requested to approve this emergency rulemaking. Justification for doing so is found Iowa Code section 17A.4(3), in that department staff find that

notice and public participation are impracticable due to the immediate need for rule making to administer the program approved by the Legislature which becomes effective on July 1, 2010. Staff also finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of the rule should be waived and it should be made effective upon filing with the Administrative Rules Coordinator on May 26, 2010, as it as it confers a benefit on the public to award the grant as soon as possible after July 1, 2010.

Motion was made by Susan Heathcote to approve the final rule as presented. Seconded by Lorna Puntillo. Motion carried unanimously.

APPROVED AS PRESENTED

CONTRACT – IOWA STATE UNIVERSITY – DEVELOPMENT OF A WETLAND CONDITION INDEX

Wayne Gieselman, Division Administrator of the Environmental Services Division presented the following item.

Recommendation:

The Department requests Commission approval of a contract in the amount of \$140,170 with Iowa State University and Dr. Timothy Stewart for three years.

<i>Contract</i>	<i>Begin Date</i>	<i>End Date</i>	<i>Cost</i>
Development of a Wetland Condition Index	May 18, 2010	Jan. 30, 2013	\$140,170

Funding Source:

This project will be funded through Federal EPA State and Tribal Wetland Development Grant dollars.

Background:

EPA provides grant money to the DNR for the purpose of developing wetland monitoring and assessment programs. DNR received grant funding in 2010 to continue the previous wetland monitoring efforts by using new and existing data to develop a wetland condition index. This index can be used to report on whether a wetland is in good, fair, or poor condition and to help DNR understand the reasons for this condition, so that management activities can be focused on improving wetland resources. Iowa code 455B.103 requires contracting with state agencies for laboratory services.

Purpose:

The purpose of this contract is to provide DNR with a wetland condition index that can be used to assess the health and ecological function of depressional wetlands in Iowa. Reporting on water body health is a part of the Clean Water Act reporting and EPA is encouraging states to begin to develop wetland monitoring and assessment programs.

Consulting Firm Selection Process:

ISU was chosen as contractor based on the Code of Iowa (455B.103), which directs the DNR to contract with public agencies of the state. Tim Stewart and ISU were also chosen for this project due to their expertise in monitoring wetland systems and developing condition indices.

Motion was made by Susan Heathcote to approve the contract as presented. Seconded by Gene VerSteege. Motion carried unanimously.

APPROVED AS PRESENTED

CONTRACT – UNIVERSITY OF IOWA HYGIENIC LABORATORY – MONITORING PERFORMANCE OF SHALLOW LAKE RESTORATION

Wayne Gieselman, Division Administrator of the Environmental Services Division presented the following item.

Recommendation:

The Department requests Commission approval of a contract in the amount of \$53,533.44 with University of Iowa Hygienic Laboratory for one year.

<i>Contract</i>	<i>Begin Date</i>	<i>End Date</i>	<i>Cost</i>
Monitoring Performance of Shallow Lake Restoration	May 18, 2010	March 31, 2011	\$53,533.44

Funding Source:

This project will be funded through Federal Fish and Wildlife JV Flex Funds, Iowa DNR Environment First Water Monitoring Funds, Duck’s Unlimited Grant funds.

Background:

The Department of Natural Resources water monitoring program has been collecting water samples at a small set of shallow lakes for the past several years to build a database of information on these unique resources. Recently, lake restoration efforts have focused on shallow lakes for innovative new restoration techniques. Monitoring of these restoration efforts is important to determining if the techniques used are successful in improving the quality of shallow lakes.

Purpose:

The purpose of this contract is to provide DNR with a shallow lake monitoring data that can be used to assess the performance of shallow lake restoration efforts in 16 shallow lakes in Iowa. The lakes were selected so that pre- and post monitoring data can be collected to provide a statistically valid assessment of the program effectiveness. Partnering agencies and non-profit organizations will also use the data to inform future management of these important water resources.

Consulting Firm Selection Process:

UHL was chosen as contractor based on the Code of Iowa (455B.103), which directs the DNR to contract with public agencies of the state. UHL was also chosen for this project due to their expertise in laboratory analytical services.

Charlotte Hubbell asked for a map of the shallow lakes in Iowa.

Wayne Gieselman said that he will get the list and map to the Commissioners.

Motion was made by David Petty to approve the contract as presented. Seconded by Marty Stimson. Motion carried unanimously.

APPROVED AS PRESENTED

FINAL RULE -- CHAPTER 16 - REVOCATION, SUSPENSION, AND NON-RENEWAL OF LICENSE FOR FAILURE TO PAY STATE LIABILITIES

Ed Tormey, Bureau Chief of Legal Services presented the following item.

The Commission is requested to approve new Chapter 16, "Revocation, Suspension, and Non-Renewal of License for Failure to Pay State Liabilities," Iowa Administrative Code.

The Legislature adopted a law in 2008 allowing the Department of Revenue to require license-issuing state agencies to suspend, revoke, and not renew licenses for failure to pay state liabilities. The Iowa College Student Aid Commission gained similar authority prior to that session. The new Chapter 16 provides a mechanism through which the department is able to comply with the requirement to suspend, revoke, or deny issuance or renewal of licenses of persons who owe the state money, in compliance with the requirements in Iowa Code chapter 272D and section 261.126.

A Notice of Intended Action was published in the Administrative Bulletin on March 10, 2010 as ARC 8597B and comments were taken until April 13, 2010. No comments were received.

All state departments are required to adopt this rule package.

Charlotte Hubbell asked if this would include child support.
Ed Tormey said that child support recovery is already addressed in another statute and rule provision .

Motion was made by David Petty to approve the final rule as presented. Seconded by Marty Stimson. Motion carried unanimously.

APPROVED AS PRESENTED

PROPOSED CONTESTED CASE DECISION – S&P HAULING, INC.

Edmund J. Tormey, Chief of Legal Services presented the following item.

On June 30, 2009, the department issued Administrative Order No. 2009-AFO-24 to S&P Hauling, Inc. The order was issued as a result of DNR Field Office 2 inspections in January 2008 and March 2008. During the inspections DNR Field Office 2 personnel determined that two of the manure applicators for S&P Hauling, Inc. were not properly certified and manure that had been applied to a field had discharged to a water of the state causing water quality violations. The order required S&P Hauling, Inc. to 1) properly certify all applicators; 2) apply manure to fields in a manner that will not cause surface and groundwater pollution; and 3) pay an administrative penalty of \$10,000.00. S&P Hauling, Inc. appealed the order, and an administrative hearing on this matter was held on April 2, 2010.

A Proposed Decision was issued on April 19, 2010. The Proposed Decision affirmed Administrative Order No. 2009-AFO-24, including the assessment of the administrative penalty in the amount of \$10,000.00.

There has been no appeal of this Proposed Decision. In the absence of an appeal the Commission may decide on its own motion to review the Proposed Decision. If there is no review of this Proposed Decision, it automatically becomes the final decision of the agency.

NO ACTION TAKEN

MONTHLY REPORTS

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

The following monthly reports are enclosed with the agenda for the Commission's information and have been posted on the DNR website under the appropriate meeting month:
<http://www.iowadnr.com/epc/index.html>

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

Susan Heathcote asked about a fish restitution article in the paper. Fish restitution administrative claims are prepared by the department and are appealable to the Natural Resource Commission.

In June the commission will receive a summary of the legislative season and a presentation on septage application.

INFORMATION

GENERAL DISCUSSION

- Charlotte Hubbell asked about why the MMP reporting requirements are every other year rather than yearly. Ken Hassenius said that currently full reports are submitted every four years and yearly for updates. Legislative changes would be required to change the current structure including the additional submittal to counties.
- Charlotte Hubbell asked the department to begin drafting a bill to remove EPC from the appeal process after the administrative law judge makes a decision.
- Charlotte Hubbell asked for commissioners to read the President's Cancer Council report for discussion in June.
- Charlotte Hubbell asked for additional information regarding aerial application of chemicals. Barb Lynch responded that her team along with IDALS will be presenting in June on the topic.
- Barb Lynch presented the Field Services and Emergency Response Annual Report. This document is also available online.
- Wayne Gieselmann handed out information from EPA regarding options for rules on coal ash residue.

NEXT MEETING DATES

June 15, 2010

ADJOURNMENT

With no further business to come before the Environmental Protection Commission, Chairperson adjourned the meeting at 2:14 p.m., Tuesday, May 18, 2010.

Richard A. Leopold, Director

Charlotte Hubbell, Chair

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