

Agenda

Environmental Protection Commission

Tuesday, May 17, 2022

Teleconference: 631-618-4607 PIN: 484 733 354#

Video Conference: <https://meet.google.com/rzo-uidn-tvg>

502 East 9th Street, Des Moines, Iowa 50319

DNR 2 North Conf Room

Tuesday, May 17, 2022

10:00 AM – EPC Business Meeting

If you are unable to attend the business meeting, comments may be submitted to Alicia Plathe at Alicia.Plathe@dnr.iowa.gov or 502 East 9th St, Des Moines IA 50319 up to 24 hours prior to the business meeting for the public record.

- | | | |
|----|--|-------------------------------|
| 1 | EPC Officer Election | |
| 2 | Approval of Agenda | |
| 3 | Approval of the Minutes (Packet Page 3) | |
| 4 | Monthly Reports (Packet Page 8) | Ed Tormey
(Information) |
| 5 | Director's Remarks | Kayla Lyon
(Information) |
| 6 | Derelict Building Grant Program-Grant Recommendations (Packet Page 14) | Reid Bermel
(Decision) |
| 7 | Grant Agreement Amendment with Region XII Council of Governments-Iowa Waste Exchange (Packet Page 17) | Bill Blum
(Decision) |
| 8 | Adopted and Filed-Chapters 567 IAC 100 and 122-Cathode Ray Tube Recycling (Packet Page 20) | Theresa Stiner
(Decision) |
| 9 | Adopted and Filed-Chapter 72-Floodplain Rules for Replacement Bridges (Packet Page 32) | Jonathan Garton
(Decision) |
| 10 | Contract with the University of Iowa on behalf of the State Hygienic Lab-Field Services and Compliance Bureau, Laboratory Services (Packet Page 36) | Christina Iiams
(Decision) |
| 11 | Contract with Iowa State University for Manure Applicator Certification (MAC) Training (Packet Page 50) | Christina Iiams
(Decision) |
| 12 | Contract with the University of Texas at Dallas (UT Dallas)-EPCRA Section 312 (Packet Page 56) | Christina Iiams
(Decision) |
| 13 | Contract with Iowa State University-GIS Services (Packet Page 60) | Kathryne Clark
(Decision) |
| 14 | Contract with the University of Iowa on behalf of the State Hygienic Lab-PFAS Sampling (Packet Page 61) | Kathy Lee
(Decision) |
| 15 | Referrals to the Attorney General (Packet Page 62) <ul style="list-style-type: none">• Tim Peters; TNT Disposal, LLC• David Omar Mercado | David Scott
(Decision) |
| 16 | General Discussion <ul style="list-style-type: none">• June Meeting Discussion, Temporary Officer Appointment | |
| 17 | Items for Next Month's Meeting <ul style="list-style-type: none">• Tuesday, June 21, 2022, Wallace Building• Wednesday, July 13, 2022, State Forest Nursery, Ames, IA | |

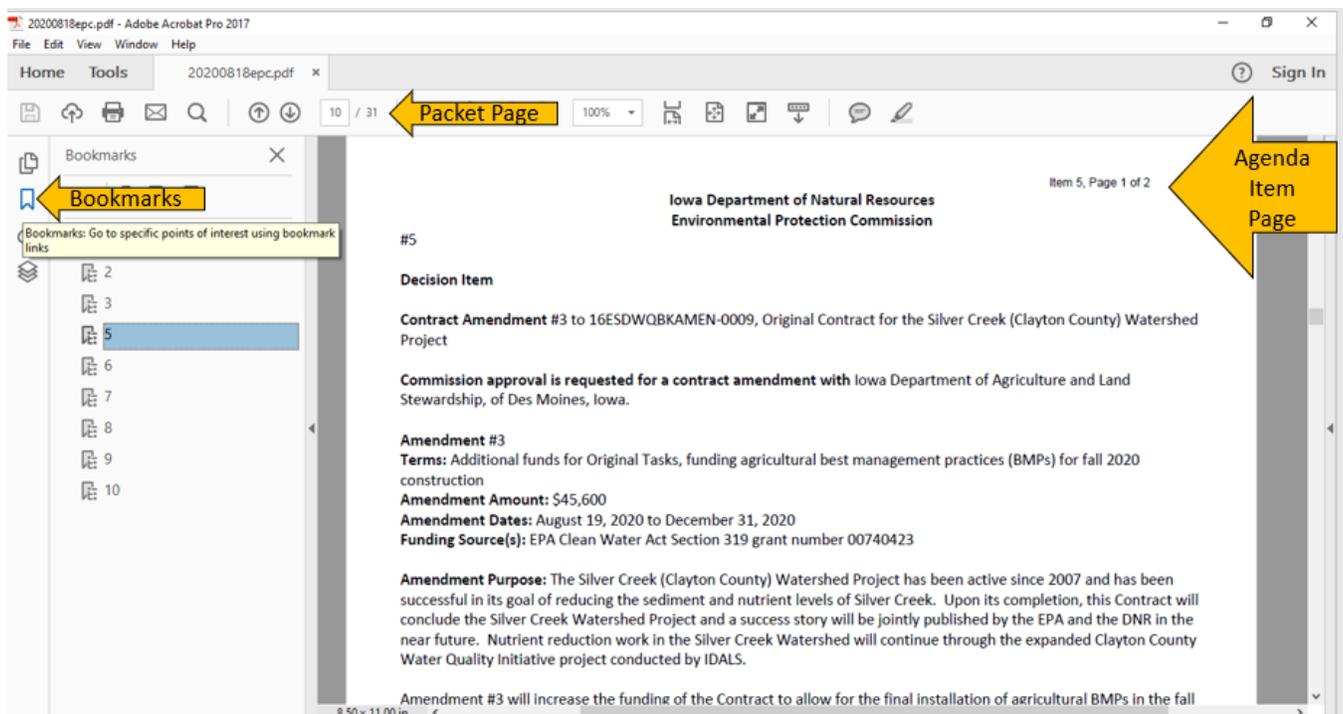
For details on the EPC meeting schedule, visit <http://www.iowadnr.gov/About-DNR/Boards-Commissions>

¹Comments during the public participation period regarding proposed rules or notices of intended action are not included in the official comments for that rule package unless they are submitted as required in the Notice of Intended Action.

Any person with special requirements such as those related to mobility or hearing impairments who wishes to participate in the public meeting should promptly contact the DNR or ADA Coordinator at 515-725-8200, Relay Iowa TTY Service 800-735-7942, or Webmaster@dnr.iowa.gov to advise of specific needs.

Utilize bookmarks to transition between agenda items or progress forwards and backwards in the packet page by page with the Packet Page number on the agenda.

The upper right-hand corner will indicate the Agenda Item Number and the page of the agenda item.



**MINUTES OF THE
ENVIRONMENTAL PROTECTION COMMISSION
MEETING**

April 19, 2022

**Video Teleconference
and
Wallace State Office Building**

Approved by the Commission **TBD**

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Meeting Minutes

CALL TO ORDER

The meeting of the Environmental Protection Commission (Commission or EPC) was called to order by Chairperson Ralph Lents at 10:03am on April 19, 2022 via a combination of in-person and video/teleconference attendees. A verbal attendance list was conducted for Commissioners, Department of Natural Resources (DNR) staff, and members of the public. Legal Counsel, Carrie Schoenbaum, stated for the record that the meeting was being held electronically because the requirements of Iowa Code section 21.8 were met by the brevity of the agenda.

COMMISSIONERS PRESENT

- Stephanie Dykshorn-video conference
- Amy Echard-video conference
- Patricia Foley
- Ralph Lents
- Harold Hommes
- Lisa Gochenour-video conference
- Rebecca Dostal-video conference
- Brad Bleam

COMMISSIONERS ABSENT

- Mark Stutsman

APPROVAL OF AGENDA

Motion was made by Harold Hommes to approve the agenda as presented. Seconded by Amy Echard. The Chairperson asked for the Commissioners to approve the agenda by saying aye. There were no nay votes. Motion passes.

AGENDA APPROVED AS PRESENTED

APPROVAL OF MINUTES

Motion was made by Stephanie Dykshorn to approve the March 15, 2022, EPC minutes as presented. Seconded by Harold Hommes. Rebecca Dostal-aye, Stephanie Dykshorn-aye, Mark Stutsman-absent, Harold Hommes-aye, Patricia Foley-aye, Amy Echard-aye, Brad Bleam-aye, Lisa Gochenour-aye, Ralph Lents-aye Motion passes.

APPROVED AS PRESENTED

MONTHLY REPORTS

- Ed Tormey, Division Administrator, reported that Catharine Fitzsimmons, former Bureau Chief of Air Quality, retired on March 31, 2022. Interviews for the replacement Bureau Chief position are scheduled for May 13.
- Ed also provided an update on the status of Avian Influenza in Iowa, noting that no new positives have been reported since April 5th. To date, 13 million birds have been euthanized in 12 different Iowa counties and at 16 different sites. Ed reported that all affected carcasses have been disposed of on site. Ed shared that Iowa has also had 37 positive wild bird tests to date. Chairperson Lents asked for additional information on the number of states affected and the facility downtime prior to repopulation. Answers were provided at the end of the meeting (see General Discussion).

INFORMATION

DIRECTOR’S REMARKS

- Director Lyon provided an update on the legislative session, focusing on the status of the budget and infrastructure bills. Both bills have passed out of the House and moved over to the Senate. The budget bill reflected a status quo budget for the DNR. The infrastructure bill included a status quo budget for the Lakes Restoration Program, \$6 million for Parks Infrastructure funding, \$1.5 million for Rivers, and \$250,000 for the derecho tree replant effort. She reported that the Legislative Session will be going into overtime.

INFORMATION

NOTICE OF INTENDED ACTION-CHAPTER 64-RENEWAL OF GENERAL PERMITS NOS. 5, 6, 7, 8, AND 9 WITH CLEANUP AND CLARIFICATION

Dave Schelling presented an amendment to the wastewater rules in Chapter 64 that will renew 5 general permits and update and align their effective dates to be July 1, 2023 through June 30, 2028. Additional cleanup edits were also included. Dave mentioned that there have not been any major issues with the proposals.

Public Comments – None

Written Comments – None

Motion was made by Brad Bleam to approve the item as presented. Seconded by Amy Echard.

Rebecca Dostal-aye, Stephanie Dykshorn-aye, Mark Stutsman-absent, Harold Hommes-aye, Patricia Foley-aye, Amy Echard-aye, Brad Bleam-aye, Lisa Gochenhour-aye, Ralph Lents-aye
Motion passes.

APPROVED AS PRESENTED

CONTRACT WITH UNIVERSITY OF IOWA STATE HYGIENIC LAB-BEACH MONITORING

Dan Kendall presented on a service contract with the University of Iowa State Hygienic Lab to provide assistance to DNR in the analysis of indicator bacteria and cyanobacteria toxin (microcystin) samples collected by the DNR as part of the beach monitoring program. Dan mentioned that the results of beach samples are highly dependent on the heat, wind, and rainfall and the timing of these weather patterns through the Spring and Summer. He also explained a sampling efficiency project that was performed last year and noted that the current sampling process has proven to provide good, quality data.

Public Comments – None

Written Comments – None

Motion was made by Harold Hommes to approve the item as presented. Seconded by Patricia Foley.

Rebecca Dostal-aye, Stephanie Dykshorn-aye, Mark Stutsman-absent, Harold Hommes-aye, Patricia Foley-aye, Amy Echard-aye, Brad Bleam-aye, Lisa Gochenhour-aye, Ralph Lents-aye
Motion passes.

APPROVED AS PRESENTED

CONTRACT EXTENSION WITH IOWA ASSOCIATION OF MUNICIPAL UTILITIES (IAMU)

Laurie Sharp presented on the contract amendment with Iowa Association of Municipal Utilities that would extend the existing contract out until April 29, 2023.

Public Comments – None

Written Comments – None

Motion was made by Stephanie Dykshorn to approve the item as presented. Seconded by Amy Echard.

Rebecca Dostal-aye, Stephanie Dykshorn-aye, Mark Stutsman-absent, Harold Hommes-aye, Patricia Foley-aye, Amy Echard-aye, Brad Bleam-aye, Lisa Gochenhour-aye, Ralph Lents-aye
Motion passes.

APPROVED AS PRESENTED

POLLUTION PREVENTION SERVICES AND INTERN PROGRAM PRESENTATION

Jeff Fiagle presented on the Pollution Prevention Services and Intern Program, which focuses on minimizing or eliminating waste at the source of Iowa's businesses.

INFORMATION

GENERAL DISCUSSION

- Chairperson Lents reminded Commissioners of the upcoming EPC Officer election, to be held during the EPC meeting on May 17, 2022. Chairperson Lents and Harold Hommes both encouraged Commissioners interested in an Officer position to state their intentions prior to the May meeting.
- Alicia Plathe provided dates for the May and June EPC Commission meetings and reminded Commissioners of the joint EPC/NRC meeting coming up in July.
- Ed Tormey provided responses to Chairperson Lents' questions regarding Avian Influenza, noting that 29 state have had postives for Avian Influenza to date (including Minnesota, North Dakota, South Dakota, and Wisconsin) and that the length of time a facility stays depopulated is case specific, but typically a minimum of 3 weeks.

ADJOURN

The Chairperson adjourned the Environmental Protection Commission meeting at 10:56 am on April 19, 2022.

ADJOURNED

Monthly Waiver Report							
March and April 2022							
Item #	DNR Reviewer	Facility/City	Program	Subject	Decision	Date	Agency Reference
1	John Curtin	HNI - North Campus	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement for two cure ovens for powder coatings.	Approved	3.1.22	22aqv051
2	John Curtin	Grain Processing Corporation	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement for Maltrin Packaging Area.	Approved	3.1.22	22aqv052
3	AJ Montefusco	City of West Des Moines	CP (Wastewater)	IWFDS 12.6 (Details of Construction) for the installation of gravity sewers by jack and bore method.	Approved	3.3.22	22cpv053
4	Fei Guo	Des Moines Metropolitan WRF	CP (wastewater)	The City of Altoona is requesting a waiver for the Design Standards Chapter 12.6, for the installation of gravity sewers using FRPM pipe by the method of direct jacking and using DR11 HDPE pipe by the method of directional boring.	Approved	3.1.22	22cpv054
5	John Curtin	American Bath Group	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement for a spray booth and assembly operations for spa manufacturing.	Approved	3.8.22	22aqv055
6	Ashley Dvorak	Colorbiotics, LLC	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	3.8.22	22aqv056
7	Lucas Tenborg	MidAmerican Energy - Louisa Station	AQ	Facility is requesting a variance from construction permit requirements to temporarily use eight portable diesel pumps. The pumps will power high pressure washers to clean boiler air heater hot end baskets.	Approved	3.8.22	22aqv057
8	Michael Hermsen	Marshall Ridge Renewable Energy, LLC	Air Quality Construction Permit	Waiver of Initial Stack Test Requirement.	Approved	3.8.22	22aqv058
9	Danjin Zulic	Industrial Laminates/Norplex, Inc	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	3.9.22	22aqv059
10	AJ Montefusco	Cedar Rapids	CP (Wastewater)	IWFDS 12.6 (Details of Construction) for the installation of gravity sewers by trenchless construction methods.	Approved	3.10.22	22cpv060
11	Lucas Tenborg	Athene USA	AQ	The facility requested a variance to conduct and open burn around the West Des Moines facility. The burn is planned to multiple clear prairie areas between March 12, 2022 and May 31, 2022.	Denied	3.14.22	22aqv061
12	Rachel Quill	Moveero Inc. - Armstrong	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	3.14.22	22aqv062
13	Ashley Dvorak	Van Diest Supply Company	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	3.14.22	22aqv063
14	Lucas Tenborg	MidAmerican Energy - Louisa	AQ	MidAmerican Energy – Louisa Generating Station is requesting a variance from construction permit requirements to temporarily use one diesel-powered pumps. The pump will be used for pressure washing the spray dryer absorbers during unit outage.	Approved	3.15.22	22aqv064
15	Nate Tatar	StineATP	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	3.15.22	22aqv065
16	Danjin Zulic	Clear Lake Water Department	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	3.16.22	22aqv066
17	Priyanka Painuly	C&C Machining, Inc.	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	3.17.22	22aqv067
18	Priyanka Painuly	C&C Machining, Inc.	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	3.17.22	22aqv068
19	Priyanka Painuly	C&C Machining, Inc.	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	3.17.22	22aqv069
20	Jennifer Christian	Gold 5, Facility ID #63739	AFO	A fire destroyed an AFO building containing 2,150 head of swine. The owner is requesting the approval of mass burial of the carcasses. The proposed location is in a low risk burial advisory zone and will meet all separation distance requirements.	Approved	3.17.22	22cpv070
21	Nate Tatar	Northern Natural Gas Co - Paullina	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	3.18.22	22aqv072

22	Danjin Zulic	Bayer Iowa Production Co, LLC - Boone	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	3.21.22	22aqv073
23	Lucas Tenborg	IPL - Ottumwa Generating Station	AQ	IPL – Ottumwa Generating Station wants the temporarily use a 536 hp tier 4 diesel powered air compressor to clean air heater baskets and SRC catalytic modules.	Approved	3.23.22	22aqv074
24	John Curtin	Grain Processing Corp.	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement for two gluten filters.	Approved	3.24.22	22aqv075
25	John Curtin	Grain Processing Corp.	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement for two gluten filters 6 and 7. (Project 22-043).	Approved	3.24.22	22aqv076
26	Gabe Lee	Woodbine Municipal Light and Power	Water Supply Construction (WC)	This waiver request is for the temporary installation a 2-inch water service lines to two (2) newly constructed residential properties. Later to be removed and replaced by a package booster pump station to serve the entire subdivision.	Approved	3.24.22	22wcv077
27	Nate Tatar	PB Leiner USA	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	3.25.22	22aqv078
28	Rachel Quill	Pella Corporation - Carroll Division	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	3.25.22	22aqv079
29	Rachel Quill	Pella Corporation - Pella Division	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	3.28.22	22aqv080
30	John Curtin	American Protein Corporation	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement for a spray dryer for animal blood protein.	Approved	3.24.22	22aqv081
31	Michael Hermsen	Hach Company	Air Quality Construction Permit	Waiver of Initial Stack Test Requirement.	Approved	3.28.22	22aqv082
32	Michael Hermsen	Hach Company	Air Quality Construction Permit	Waiver of Initial Stack Test Requirement.	Approved	3.28.22	22aqv083
33	Mark Fields	Homeland Energy Solutions	AQ	Request to adjust fermentation scrubber rates below most recent test. Also requested to test at less than maximum capacity.	Partial Approval	3.10.22	22aqv084
34	Mark Fields	NGPL Station 198	AQ	Request to extend stack testing deadline due to oil accumulation in fuel system, turbine can't operate without damage.	Approved	3.28.22	22aqv085
35	Karen Kuhn	Elma Locker & Grocery Inc.	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	3.30.22	22aqv086
36	Chris Roling	De Jong Manufacturing	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	4.1.22	22aqv087
37	James Oppelt	City of Grimes	CP (Wastewater)	The City of Grimes is requesting a waiver from complying with Section 12.5.7.4 of the Iowa Wastewater Facilities Design Standards which requires that a manhole be pre-cast or poured in place concrete.	Approved	4.4.22	22cpv088
38	Rachel Quill	Pella Corporation - Pella Division	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	4.6.22	22aqv089
39	Ashley Dvorak	Iowa Medical Classification Center	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	4.7.22	22aqv090
40	Robert Campbell	Southdale HOA	Water Supply Construction (WC)	Request to vary from the requirement that a minimum 400 feet of separation from a lagoon to an existing well.	Approved	3.25.22	22wcq091
41	Danjin Zulic	Pella Corporation - Shenandoah	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	4.8.22	22aqv092
42	Karen Kuhn	MidAmerican Energy George Neal North	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	4.13.22	22aqv093
43	Karen Kuhn	MidAmerican Energy Walter Scott Jr Energy	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	4.13.22	22aqv094
44	Karen Kuhn	MidAmerican Energy Louisa Station	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	4.13.22	22aqv095
45	Karen Kuhn	MidAmerican Energy George Neal South	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	4.13.22	22aqv096
46	Michael Hermsen	Van Diest Supply Company	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	4.13.22	22aqv097
47	Priyanka Painuly	PMI Iowa, LLC	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	4.14.22	22aqv098

48	Julie Duke	Northern Natural Gas	AQ	Request to cooperate temporary flare during in-line inspection that would otherwise be vented to atmosphere. In association with partnership in EPA Methane Challenge Program, Northern Natural Gas prefers to capture control and flare the natural gas	Approved	4.8.22	22aqv099
49	Julie Duke	Templeton Rye Spirits LLC	AQ	Request to construct barrel storage warehouse (EP-AGING2) prior to permit issuance.	Approved	4.8.22	22aqv100
50	Nate Tatar	Winterset Municipal Utilities	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	4.15.22	22aqv101
51	Chris Roling	Procter & Gamble Hair Care LLC	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	4.15.22	22aqv102
52	Karen Kuhn	Tama Paperboard	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	4.15.22	22aqv103
53	Chad Billings	Prop RRD and IAIS RR Bridges	Flood Plain Management and Dam Safety	A Q100 backwater criteria waiver/variance to Iowa Administrative Code 567--72.1(1)a for bridges and roadway embankments. The proposed two bridges do not meet the 1.5 feet Q100 backwater requirement.	Approved	4.11.22	22fpv104
54	Michael Hermsen	Mo. Valley Grain, Inc.	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	4.18.22	22aqv105
55	Mark Fields	Koch Fertilizer Fort Dodge, LLC	AQ	Koch Fertilizer has requested to temporarily exceed the NOx lb/hr emission limit for EP 21 until plant shutdown in July 2022 when repairs can be made.	Approved	4.15.22	22aqv106
56	AJ Montefusco	City of Perry	CP (Wastewater)	IWFDS - 12.5.3, for the installation of an 8-inch gravity sewer with a slope of less than 0.40%	Approved	4.19.22	22cpv107
57	Nate Tatar	Xerxes Corporation	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	4.21.22	22aqv108
58	Nate Tatar	TrinityRail Maintenance Services	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	4.21.22	22aqv109

**Iowa Department of Natural Resources
Environmental Services Division
First Quarter 2022 Report of Wastewater By-passes**

During the period January 1, 2021 through March 31, 2021, 37 reports of wastewater by-passes were received by the department. A general summary and count by field office is presented below. This does not include by-passes resulting from precipitation events (including flood water infiltration) or bypasses resulting in basement backups.

Quarter	Total	Avg. Length (days)	Avg. Volume (MGD)	Sampling Required	Fish Kill
1 ST Quarter '22	37 (36)	0.353	0.359	3	0(0)
2 ND Quarter '21	40 (38)	0.204	0.159	3	0(0)
3 RD Quarter '21	32 (34)	0.672	0.022	1	0(0)
4 TH Quarter '21	25 (28)	0.562	0.017	0	0(0)

(numbers in parentheses are for same period last year)

Total Number of Incidents per Field Office This Quarter:

Field Office	1	2	3	4	5	6
Reports	6	2	8	4	3	14



**Iowa Department of Natural Resources
Environmental Services Division
First Quarter Report of Manure Releases**

During the period January 1, 2022, through March 31, 2022, 3 reports of manure releases were forwarded to the central office. A general summary and count by field office is presented below.

		Total Incidents		Surface Water Impacts		Feedlot		Confinement		Land Application		Transport		Hog		Cattle		Poultry		Other	
Month	Year	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago
Jan	2022	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Feb	2022	1	1	1	0	0	0	1	1	0	0	0	0	0	1	1	0	0	0	0	0
Mar	2022	2	0	1	0	0	0	2	0	0	0	0	0	0	0	2	0	0	0	0	0
Total		3	1	2	0	0	0	3	1	0	0	0	0	0	1	3	0	0	0	0	0

Total Number of Incidents per Field Office for the Selected Period	Field Office 1		Field Office 2		Field Office 3		Field Office 4		Field Office 5		Field Office 6	
	Current	Previous										
Total	1	0	0	0	2	1	0	0	0	0	0	0



Iowa Department of Natural Resources Environmental Services Division First Quarter Report of Hazardous Conditions

During the period January 1, 2022, through March 31, 2022, 102 reports of hazardous conditions were forwarded to the central office. A general summary and count by field office is presented below. This does not include releases from underground storage tanks, which are reported separately.

		Substance								Mode													
		Total Incidents		Agrichemical		Petroleum Products		Other Chemicals		Transport		Fixed Facility		Pipeline		Railroad		Fire		Other*		CR-ERNS	
Month	Year	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago	Cur	Yr Ago
Jan	2022	33	32	2	1	18	19	14	14	10	11	19	12	0	0	0	0	0	0	1	2	3	7
Feb	2022	35	27	2	0	22	17	13	10	11	9	14	15	0	0	0	1	0	0	4	1	6	1
Mar	2022	34	28	1	1	26	22	7	7	9	11	18	13	0	1	0	0	0	0	6	1	1	2
Total		102	87	5	2	66	58	34	31	30	31	51	40	0	1	0	1	0	0	11	4	10	10

*Other includes dumping, theft, vandalism and unknown
 ** CR-ERNS incidents are ongoing releases as defined by Federal regulations. These reports are included in "Total Incidents" and "Substance" counts but not in "Mode" counts.

Total Number of Incidents per Field Office This Selected Period	Field Office 1		Field Office 2		Field Office 3		Field Office 4		Field Office 5		Field Office 6	
	Current	Year Ago										
Total	8	9	13	14	8	5	24	21	16	18	33	20

**Iowa Department of Natural Resources
Environmental Protection Commission**

ITEM

6

DECISION

TOPIC

Derelict Building Grant Program – Grant Recommendations

The Derelict Building Grant Program is a program established by 2011 Legislation for purposes of providing funding assistance to eligible communities to address abandoned buildings by promoting public and environmental health through asbestos abatement and landfill diversion with deconstruction of building components for reuse and recycling.

Eligible communities include a city with a population of 5,000 or fewer. Eligible costs for program assistance include but are not limited to asbestos and other hazardous material abatement and removal, the recovery of recyclable or reusable material through the selective deconstruction of abandoned buildings, and reimbursement for purchased recycled content materials used in the renovation of buildings.

The Department received 10 applications, requesting \$520,549.75 in financial assistance, for consideration during the February 2022 round of funding. Seven (7) projects were selected for funding with a total recommended award amount not to exceed \$400,000.00 based on all deconstruction achieving maximum landfill diversion. Five (5) of the 7 project award recommendations exceed \$25,000.00 and are presented to the Commission for approval.

The review committee is comprised of 5 people representing: DNR Land Quality Bureau, Iowa Economic Development Authority, Iowa Society of Solid Waste Operations, Iowa Recycling Association, and Keep Iowa Beautiful.

A description of the recommended projects, and the amount and type of funding assistance is attached.

At this time, the Department is requesting Commission approval to enter into agreements with selected applicants whose recommended awards are in excess of \$25,000.

Reid Bermel, Environmental Specialist Senior, Land Quality Bureau
Environmental Services Division
May 17, 2021

Attachment

- a) Recommended Project Descriptions

DERELICT BUILDING GRANT PROGRAM

PROPOSAL RECOMMENDATIONS

The following provides a description of each project for which Commission approval is requested.

City of Sac City	Award: \$80,275.00
	Cash Match: \$51,600.00
Contact: Jamie Lawrence	Total Project Cost: \$131,875.00
city.admin@saccity.city	
712-622-7593	
Description:	<p>The City of Sac City has targeted the use of grant funds towards the following:</p> <ul style="list-style-type: none"> • Abatement, and proper disposal of any asbestos along with other hazardous material. • Deconstruction of the existing structure with brick, concrete, and metal separated for reuse and recycling. <p>The city plans to have the area used as a trailhead and green space with potentially the future site of a farmer's market.</p>

City of Griswold	Award: \$94,625.00
	Cash Match: \$38,375.00
Contact: Ted Marciniak	Total Project Cost: \$133,000.00
tedmarciniak.griswold@gmail.com	
712-778-2713	
Description:	<p>The City of Griswold has targeted the use of these grant funds toward the following:</p> <ul style="list-style-type: none"> • Abatement and proper disposal of any identified asbestos and other hazardous material. • Deconstruction of the existing structure with concrete and brick separated for reuse and recycling. <p>The city plans to redevelop the site for a new daycare center, which is in high demand for the area.</p>

City of Carson (119 Broadway St.)	Award: \$69,891.00
	Cash Match: \$77,373.00
Contact: Amy Spiering	Total Project Cost: \$147,264.00
cityofcarsonmsc@gmail.com	
402-681-6948	
Description:	<p>The City of Carson has targeted the use of these grant funds toward the following:</p> <ul style="list-style-type: none"> • Abatement and proper disposal of any identified asbestos and other hazardous material. • Deconstruction of the existing structure with concrete and brick separated for reuse and recycling. <p>The city plans to redevelop the site for a new daycare center (in conjunction with 121 Broadway St.) which is in high demand for the area.</p>

City of Carson (121 Broadway St.)

Award: \$66,884.00

Cash Match: \$28,750.00

Total Project Cost: \$95,634.00

Contact: Amy Spiering

cityofcarsonmsc@gmail.com

402-681-6948

Description: The City of Wall Lake has targeted the use of Derelict Building grant funds toward the following:

- Abatement and proper disposal of any identified asbestos and other hazardous material.
- Deconstruction of the existing structure with concrete and brick separated for reuse and recycling.

This building is essentially the same as 119 Broadway St and will be have the same end use.

City of Corydon

Award: \$43,200.00

Cash Match: \$22,100.00

Total Project Cost: \$65,300.00

Contact: Stacy Gibbs

cityclerk@cityofcorydoniowa.com

641-872-1826

Description: The City of Corydon has targeted the use of these grant funds toward the following:

- Abatement and proper disposal of any identified asbestos and other hazardous material.
- Deconstruction of the existing structure with concrete and brick separated for reuse and recycling.

The City's plan is to develop a green space/pocket park for citizens to enjoy.

Iowa Department of Natural Resources

Environmental Protection Commission

7

Decision Item

Grant Agreement Amendment #4 to the original Grant Agreement with Region XII Council of Governments

Commission approval is requested for a Grant Agreement amendment with Region XII Council of Governments, of Carroll, Iowa

Amendment #4 Terms:

Amendment Amount: An additional \$520,000

Amendment Dates: July 1, 2022 to June 30, 2023

Funding Source: Iowa Code section 455E.11(2)(a)(2)(c), Groundwater Protection Fund, Solid Waste Account.

Amendment Purpose: The purpose of the Grant Agreement Amendment is to extend the time allowed to perform the Tasks set out in the Original Grant Agreement, to provide for additional money being paid out by the DNR, and to update other provisions from Amendment #3 (see Attachment A, the Statement of Work Table from section 5 of the original Grant Agreement).

Original Grant Agreement Purpose: Under Iowa Code section 455E.11, the DNR is to provide competitive grants to Iowa Community Colleges and/or Councils of Governments for a by-products and waste exchange system, which, since 1990, has been the Iowa Waste Exchange (IWE). The IWE is a confidential, non-regulatory program that enables the recycling of used and unwanted materials by matching parties that have those materials with others who look to obtain and add value to these resources. IWE services are delivered at no cost to customers. DNR oversight and support for the IWE is conducted through the Financial and Business Assistance section of the Land Quality Bureau in the DNR's Environmental Services Division.

The DNR entered into the original Grant Agreement with Region XII Council of Governments (Grantee) to fulfill the DNR's statutory duty to award grant-funding for the operation of the IWE. The Grantee is responsible for sub-contracting and supervising the work of regionally-based Resource Specialists, who provide Iowans a range of services for diverting from landfills the most tons of by-products and excess materials possible, as well as for managing and reducing waste streams, and enhancing pollution prevention.

Original Selection Process Summary: In 2018, a formal competitive process was undertaken to acquire professional services. A Request for Proposals (RFP) was posted on the Dept. of Administrative Services "State of Iowa Bid Opportunities" web-page, and a notification e-mail was sent to the Community Colleges and to the Iowa Association of Regional Councils of Governments. One proposal was received, and a three-person committee reviewed and evaluated it. The committee met to discuss the proposal, and achieved consensus on the selection of Region XII Council of Governments due to the quality of their proposal, their understanding of the DNR's goals for the program, and the experience of their team.

Grant Agreement History:

Original Grant Agreement Terms: Amount \$468,000; Timeframe: July 1, 2018 to June 30, 2019; Purpose: to fulfill the DNR's statutory duty to award grant-funding for the operation of the IWE.

Amendments:

Amendment-1 Terms: Amount \$416,000; Timeframe: 7/1/19 to 6/30/20; Purpose: extend time to perform the original Grant Agreement Tasks, provide additional funding, and update time-related provisions of the original Grant Agreement.

Amendment-2 Terms: Amount \$440,000; Timeframe: 7/1/20 to 6/30/21; Purpose: extend time to perform the updated Grant Agreement Tasks, provide additional funding, and update time-related provisions of Amendment-1.

Amendment-3 Terms: Amount \$480,000; Timeframe: 7/1/21 to 6/30/22; Purpose: extend time to perform the updated Grant Agreement Tasks, provide additional funding, and update time-related provisions of Amendment-2.

Bill Blum, Program Planner 3, Environmental Services Division, Land Quality Bureau
May 17, 2022

Attachment A

STATEMENT OF WORK

The Iowa Waste Exchange (IWE) Grantee is principally responsible for the work of regionally-based Resource Specialists who provide to businesses, schools, hospitals, government institutions, industries, and individuals a range of services for diverting by-products and excess materials from Iowa landfills, for managing and reducing waste streams, and enhancing pollution prevention.

The Grantee shall perform the following Tasks by the Task Milestone Dates set out in the following table:

Deliverables	Task Milestone Dates
<p>Task 1: Recruit and subcontract IWE Resource Specialists.</p> <p>Description: IWE program services should be delivered by approximately 4 to 5 Full-Time Equivalent positions operating in approximately 4 to 5 service regions to cover the entire state. IWE services are to be available statewide.</p> <ul style="list-style-type: none"> • Particular attention is to be paid to prospective Resource Specialist’s qualifications related to: technical competence, especially regarding solid waste management, high productivity, being team players, interpersonal skills, and customer focus. • All prospective Resource Specialist’s resumes and pre-interview evaluations are to be submitted to the DNR for review prior to commencing the interview process. • The DNR retains the right of final approval of all IWE Resource Specialist subcontracts. 	No later than July 1, 2018, and on-going as vacancies happen
<p>Task 2: Direct/oversee IWE Resource Specialists’ work, review/evaluate on-going performance.</p> <p>Description: Assure that IWE Resource Specialists –</p> <ul style="list-style-type: none"> • Actively search for generators and users of excess materials and by-products, and facilitate the matching and transfer of excess materials and by-products between generators and users. • Establish working relationships with generators and users of excess materials and by-products by: <ul style="list-style-type: none"> ○ Responding to written or telephone requests for information or technical assistance no more than 2 business days after receiving each request, ○ Conducting ‘walk-throughs of customer facilities to identify opportunities for improving waste management and pollution prevention, ○ Working with solid waste agencies to help them meet their waste diversion goals, and, ○ Identifying client needs and accessing the team of experts including each other, the Iowa Economic Development Authority (IEDA), the Iowa Waste Reduction Center (IWRC), and the DNR to help meet those client needs. • Focus on obtaining the greatest <u>reduction</u> in by-product generation and the landfilling of excess materials. Priorities, in no particular order, are: <ul style="list-style-type: none"> <li style="width: 50%;">•Old corrugated containers and kraft bags <li style="width: 50%;">•Mixed recyclable paper <li style="width: 50%;">•Demolition/renovation/construction debris <li style="width: 50%;">•Non-treated wood <li style="width: 50%;">•Renewable energy by-products <li style="width: 50%;">•Compostable paper <li style="width: 50%;">•Industrial by-products/materials <li style="width: 50%;">•Hazardous materials <li style="width: 50%;">•Food & food processing residuals <li style="width: 50%;">•Plastic film/wrap/bags • Continue to develop the comprehensive Schools Waste Minimization and Recycling Implementation Project. Along with the DNR, IWRC and IEDA, IWE Resource Specialists will: <ul style="list-style-type: none"> ○ Continue to survey and obtain data from as many as possible of the approximately total 1,524 public and private Iowa schools, using a variety of means, including — online correspondence, telephone calls, onsite visits, and through interested third parties (haulers/contractors), ○ Continue to establish waste reduction/sustainability contacts at the schools according to the respective IWE service areas, ○ Continue to compile and document the data, ○ Analyze and evaluate the data in order to establish school waste reduction focus areas, and, 	On-going, over the course of the Grant

<ul style="list-style-type: none"> ○ Based on the waste reduction focus areas, continue to plan and implement waste minimization and recycling projects and programs in Iowa's schools. ● Enter performance data and complete bi-weekly updates in the IWE database. 	
<p>Task 3. Support program communications and on-site contacts. Description: Make available to all IWE Resource Specialists:</p> <ul style="list-style-type: none"> ● A cell phone, ● Internet service, ● A secure wireless laptop computer, tablet computer or other electronic means to maintain contact with other services providers while in the field and to provide timely assistance to program customers, and, ● Compensation for in-Iowa travel. 	On-going, over the course of the Grant
<p>Task 4. Require attendance of all Resource Specialists at quarterly meetings. Description: Items covered to include:</p> <ul style="list-style-type: none"> ● Progress on quarterly objectives, ● Roundtable discussion of issues concerning excess materials and by-products matches, and, ● Professional development training. 	Within 3 weeks of the end of each fiscal quarter
<p>Task 5. Meet with the DNR to discuss contractual progress. Description: Items covered to include:</p> <ul style="list-style-type: none"> ● Resource Specialists' performance, ● Budget items, ● Progress on goals, ● Primary duties listed in this RFP and other items as needed, and, ● Coordination and tracked delivery of additional projects &/or programs as new challenges and opportunities develop. 	When requested
<p>Task 6. Track progress toward program goals. Description: These include:</p> <ul style="list-style-type: none"> ● Diverting at least 100,000 tons of materials and by-products from landfills, ● Completion of a combined minimum of 3,200 IWE client contacts, with tracking each Resource Specialist's both on-site visits to assist clients and in-house client assists, ● On-site visits are in-person site visits to, and tours of, client facilities for purposes of offering assistance. A single client can be counted for multiple on-site visits, as long as each visit counted is a legitimate, new assistance initiative. An on-site visit does not include subsequent follow-ups by telephone, e-mail or letters relating to the initial on-site visit, ● In-house assistance includes calls, e-mails and letters to clients to provide help with a specific market referral or other specific information. A client can be counted as in-house assistance multiple times for legitimate, new assistance initiatives. In-house assistance does not include subsequent assistance via telephone, e-mail or letter relating to the initial in-house assistance, and, ● Submittal to the DNR of at least one IWE success story from each of the Service Areas per year. 	On-going, over the course of the Grant
<p>Task 7. Direct the IWE Resource Specialists to use the special allocation in the Grant Award for publicity, promotion and marketing. Description: As part of general program expectations, Grantee(s) and the IWE Resource Specialists will:</p> <ul style="list-style-type: none"> ● Represent the DNR and its FABA programs in presentations on current waste management and pollution prevention programs and practices, ● Share information on excess materials and by-products uses and markets via on-site visits, e-mail, phone calls, and at quarterly IWE meetings, ● Advise clients on the services of the Iowa Waste Reduction Center, and provide referrals as appropriate, and, ● Complete other special promotion and information projects as directed or approved by the DNR. 	On-going, over the course of the Grant

**Iowa Department of Natural Resources
Environmental Protection Commission**

ITEM

#8

DECISION

TOPIC

Adopted and Filed - Chapters 567 IAC 100 and 122 – Cathode Ray Tube Recycling

The Commission is requested to approve this Adopted and Filed rule to amend Chapter 567 IAC 100 and to rescind and replace Chapter 567 IAC 122 Cathode Ray Tube Device (CRT) Recycling.

A public hearing was held on April 12, 2022 via conference call. No one attended the hearing. No public comments were received. No changes from the notice have been made.

This rule making reduces and simplifies Iowa's CRT regulations by focusing on federal regulations found at 40 CFR Parts 260 and 261. The federal rules focus on the proper storage of CRTs and on the tracking of CRT recycling. This structure will more effectively prevent the speculative accumulation of CRTs compared to Iowa's current rules. Preventing the unlawful speculative accumulation of CRTs will be more protective of human health and the environment than cleaning up stockpiles after-the-fact.

Notably, the proposed rule removes two current state requirements that are unnecessarily burdensome or redundant. First, the proposed rule strikes the requirement that CRT recyclers carry financial assurance. The proposed rule's structure with more detailed tracking and reporting coupled with heightened standards on storage will more effectively prevent any speculative accumulation from occurring, rendering financial assurance unnecessary. Second, the proposed rule strikes all requirements related to batteries, circuit boards, mercury-containing components, and PCB capacitors. These components are not typically found in CRTs and are governed by other federal hazardous and universal waste regulations.

Timeline for rulemaking

- The Commission voted to approve the Notice of Intended Action (NOIA) on January 19, 2022.
- The NOIA for this rule making was published in the Iowa Administrative Bulletin on March 23, 2022, as ARC 6261C.
- Public comments were accepted through April 12, 2022. None were received.
- If this rule is adopted by the Commission the effective date will be July 20, 2022.

Theresa Stiner, Environmental Specialist Senior
Solid Waste and Contaminated Sites, Land Quality Bureau
Environmental Services Division

May 17, 2022

Attachments – Adopted and Filed

ENVIRONMENTAL PROTECTION COMMISSION [567]**Adopted and Filed**

The Environmental Protection Commission hereby amends Chapter 100, “Scope of Title — Definitions — Forms — Rules of Practice,” rescinds Chapter 122, “Cathode Ray Tube Device Recycling,” and adopts a new Chapter 122, “Cathode Ray Tube Recycling,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 455D.6(5).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 455D.6(5).

Purpose and Summary

Chapter 122 regulates the recycling of discarded cathode ray tubes (CRTs). This rule making reduces and simplifies Iowa’s CRT regulations by focusing on federal regulations found at 40 CFR Parts 260 and 261. The federal rules focus on the proper storage of CRTs and on the tracking of CRT recycling. New Chapter 122 will more effectively prevent the speculative accumulation of CRTs compared to Iowa’s current rules. Preventing the unlawful speculative accumulation of CRTs will be more protective of human health and the environment than cleaning up stockpiles after the fact.

Notably, the amendments remove two current state requirements that are unnecessarily burdensome or redundant. First, new Chapter 122 removes the requirement that CRT recyclers carry financial assurance. The chapter’s structure on more detailed tracking and reporting coupled with heightened standards on storage will more effectively prevent any speculative accumulation from occurring, rendering financial assurance unnecessary. Second, new Chapter 122 removes all requirements related to batteries, circuit boards, mercury-containing components, and polychlorinated biphenyl (PCB) capacitors. These components are not typically found in CRTs and are governed by other federal hazardous and universal waste regulations.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 23, 2022, as **ARC 6261C**.

A public hearing was held on April 12, 2022, at 2:00 p.m. via conference call. No one attended the hearing. No public comments were received. No changes from the notice have been made.

Adoption of Rule Making

This rule making was adopted by the Environmental Protection Commission on May 17, 2022.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa. A copy of the fiscal impact statement is available from the Department of Natural Resources (Department) upon request.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found. A copy of the jobs impact statement is available from the Department upon request.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 561—Chapter 10.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on July 20, 2022.

The following rule-making action is adopted:

Item 1. Adopt the following **new** definitions of “Cathode ray tube,” “CFR,” “CRT collection,” “CRT collection facility,” “CRT glass,” “CRT recycling,” “CRT recycling facility,” “Discarded” and “Short-term CRT collection event” in rule **567—100.2(455B,455D)**:

“*Cathode ray tube*” or “*CRT*” means a vacuum tube composed primarily of leaded glass which is the visual or video display component of an electronic device. An intact CRT means a CRT whose vacuum has not been released. A broken CRT means glass removed from its housing or casing whose vacuum has been released.

“*CFR*” means Code of Federal Regulations.

“*CRT collection*” means any activity by a CRT recycling facility or CRT collection facility involving the collection of discarded CRTs that is not a short-term CRT collection event.

“*CRT collection facility*” means a property where ongoing CRT collection is the only CRT recycling activity performed.

“*CRT glass*” means any glass generated from CRTs.

“*CRT recycling*” means any process by which discarded CRTs that would otherwise become waste are collected, processed and returned to use in the form of raw materials or products. CRT recycling includes but is not limited to receiving broken or intact CRTs, intentionally breaking intact CRTs or further breaking or separating broken CRTs, and sorting or otherwise managing glass removed from CRT monitors.

“*CRT recycling facility*” means a property where CRT recycling takes place. A CRT recycling facility may also collect CRTs.

“*Discarded*” means no longer to be used for the original intended purpose and means the letting go or throwing away of materials that have become useless or superfluous though often not intrinsically valueless. CRTs that are returned to the original owner are not “discarded.”

“*Short-term CRT collection event*” means any temporary activity involving the collection of discarded CRTs for recycling that is not on the premises of a CRT recycling facility or CRT collection facility.

Item 2. Rescind 567—Chapter 122 and adopt the following **new** chapter in lieu thereof:

CHAPTER 122

CATHODE RAY TUBE RECYCLING

567—122.1(455D) Purpose. These rules are intended to satisfy the requirements of Iowa Code section [455D.6\(5\)](#). The purpose of this chapter is to implement rules for the recycling of discarded CRTs and the disassembly and removal of toxic parts from discarded CRTs in a manner that is safe for human health and the environment.

567—122.2(455D) Applicability and compliance. This chapter applies to discarded CRTs that are collected for recycling and to CRT glass processed for recycling. This chapter does not apply to CRTs collected for disposal.

122.2(1) This chapter applies to facilities and short-term CRT collection events that perform CRT recycling functions including but not limited to the collection, demanufacturing, and processing of discarded CRTs.

122.2(2) This chapter does not apply to CRT reuse activities, CRT service and repair activities or CRT refurbishing activities that do not otherwise qualify as CRT recycling.

122.2(3) The issuance of a permit or registration by the department in no way relieves the applicant of the responsibility of complying with all other local, state, or federal statutes, ordinances, and rules or other requirements applicable to the construction, operation, and closure of a CRT collection facility or CRT recycling facility.

122.2(4) All discarded CRTs collected for recycling, including those generated by a household, once collected by a CRT collection facility or CRT recycling facility, shall be managed in accordance with 40 CFR 261.39 and this chapter. If there is a conflict, the more stringent regulation applies.

567—122.3(455D) Definitions. For the purposes of this chapter, the definitions found in 567—Chapter 100 shall apply.

567—122.4(455D) Short-term CRT collection events. All short-term CRT collection events shall be conducted in a manner that complies with this rule. Short-term CRT collection event organizers are not required to register the event as a CRT collection facility.

122.4(1) Within one week of collection, all discarded CRTs and CRT glass shall be transported to a properly permitted CRT recycling facility or registered CRT collection facility.

122.4(2) During the period between collection and transport, all broken CRTs and CRT glass shall be stored in one of the following ways:

- a.* In a fully enclosed building with a roof, floor and walls, or
- b.* In a container that is constructed, filled and closed to minimize releases to the environment of CRT glass (including fine solid materials).

122.4(3) During the period between collection and transport, intact discarded CRTs shall be stored in one of the following ways:

- a.* In a fully enclosed building with a roof, floor and walls, or
- b.* In a secure container (e.g., package or vehicle) that is constructed and maintained to minimize breakage of electronic waste and to prevent releases of hazardous materials to the environment.

567—122.5(455D) Registration for CRT collection facilities. A CRT collection facility shall register with the department using Form 542-0060.

122.5(1) The registration application shall include proof of the applicant's ownership of the property or legal entitlement to use the property for CRT collection. If the facility is leased, the application shall also include a statement, signed by the property owner, stating that the property owner is aware that CRT collection is taking place at the site and that the property owner may be held liable for wastes abandoned at the property.

122.5(2) CRT collection facilities registered prior to [the effective date of these amendments] shall submit their first registration renewal by February 1 of the year following the first full calendar year after [the effective date of these amendments]. The registration will expire on March 1 of the same year if the renewal is not received, is incomplete, or shows noncompliance with this chapter. In addition to the reporting requirements in rule 567—122.11(455D), the first registration renewal shall include proof of the facility's ownership of the property or legal entitlement to use the property for CRT collection. If the facility is leased, the application shall also include a statement, signed by the property owner, stating that the property owner is aware that CRT collection is taking place at the site and that the property owner may be held liable for wastes abandoned at the site.

122.5(3) Registration will expire March 1 of each year if renewal has not been made and approved.

122.5(4) Annual registration renewal occurs by complying with the reporting requirements in rule 567—122.11(455D). Once a complete report is received and confirmed complete in writing by the department, the facility's registration will be renewed until March 1 of the following year.

122.5(5) The department may deny or revoke CRT collection facility registration if one or more of the following is determined by the department:

- a.* The registration application is incomplete.
- b.* There is a violation of a requirement of this chapter, including but not limited to failing to submit accurate and timely reports as required in rule 567—122.11(455D).
- c.* There is or was a misrepresentation made in obtaining a registration or registration renewal under this chapter.
- d.* The registrant fails to correct a condition as agreed to in an agreed order with the department or fails to come into compliance with this chapter within the time frame established in the agreed order.
- e.* The permittee has lost legal entitlement to use the property identified in the registration.
- f.* Upon notice to the department by the permittee that the permittee no longer wishes to retain the registration for future operation.

567—122.6(455D) CRT recycling facility permits.

122.6(1) *Permit required.* A CRT recycling facility shall not be operated without a permit from the department.

122.6(2) *Notification of change in status.* CRT recycling facilities must notify the department 30 days prior to any significant change of status of the operation, including any change in the ownership or operation of the facility or location of the facility.

122.6(3) *Denial or revocation of permit.* The department may deny, revoke, or limit the length of a permit if one or more of the following is determined:

- a.* The department has revoked the applicant's previous permit under this chapter.

- b. The application form is incomplete.
- c. There is a violation of a requirement of this chapter or a condition of the permit.
- d. There is a failure to disclose all relevant facts in obtaining a permit under this chapter.
- e. There is a misrepresentation made in obtaining a permit under this chapter.
- f. There is a misrepresentation in the annual report required in rule 567—122.11(455D).
- g. The permittee fails to meet the requirements for a permit.
- h. The permittee fails to correct a condition as agreed to in an agreed order with the department or fails to come into compliance with the permit or this chapter within the time frame established in the agreed order.
 - i. The permittee has lost legal entitlement to use the property identified in the permit.
 - j. Upon notice to the department by the permittee that the permittee no longer wishes to retain the permit for future operation.

122.6(4) *Permit conditions.* The department may place conditions on any permit deemed necessary by the department to ensure compliance with this chapter and to protect human health and the environment.

122.6(5) *Effect of revocation.* If a permit held by any public or private agency is revoked by the director, then no new permit shall be issued to that agency for that CRT recycling facility for a period of one year from the date of revocation. Such revocation shall not prohibit the issuance of a permit for the facility to another public or private agency.

122.6(6) *Duration and renewal of permits.* A permit shall be issued for the life of the facility, unless otherwise authorized by the department.

567—122.7(455D) CRT recycling facility permit application requirements.

122.7(1) A CRT recycling facility permit applicant shall submit the following permit application information to the department:

- a. The name, address, and telephone number of:
 - (1) The owner of the site where the project will be located.
 - (2) The permit applicant.

- (3) The individual responsible for the operation of the project.
- (4) The agency to be served by the project, if any.
- (5) The responsible official of the agency to be served, if any.
- b.* The physical location of the facility, and any collection sites if separate from the main facility.
- c.* Proof of the applicant's ownership of the property or legal entitlement to use the property for CRT recycling. If the facility is leased, the applicant shall submit a signed statement from the property owner stating that the property owner is aware that CRT collection or recycling is taking place at the property and that the property owner may be held liable for wastes left at the property.
- d.* Documentation that the facility meets local zoning requirements.
- e.* A brief description of the facility and the CRT processing that will take place.

122.7(2) If the department finds the permit application information to be incomplete, it shall notify the applicant of that fact and of the specific deficiencies. If the deficiencies are not corrected within 30 days, the department may deny the application. The applicant may reapply without prejudice.

567—122.8(455D) Discarded CRT management requirements. CRT collection facilities and CRT recycling facilities shall manage all discarded CRTs in accordance with 40 CFR 261.39 and 40 CFR 260.43.

122.8(1) Discarded CRTs and processed CRT glass shall not be speculatively accumulated pursuant to 40 CFR 261.1(c)(8).

122.8(2) Broken CRTs and processed CRT glass shall be stored either:

- a.* In a building with a roof, floor and walls, or
- b.* In a container (e.g., a package or a vehicle) that is constructed, filled, and closed to minimize releases to the environment of CRT glass (including fine solid materials).

122.8(3) Intact discarded CRTs shall be stored either:

- a.* In a building with a roof, floor, and walls, or
- b.* In a secure container (e.g., package or vehicle) that is constructed and maintained to minimize breakage of electronic waste and to prevent releases of hazardous materials to the environment.

122.8(4) Each container of broken CRTs or CRT glass must be labeled or marked clearly with one of the following phrases: “Used cathode ray tube(s)-contains leaded glass. Do not mix with other glass materials” or “Leaded glass from televisions or computers. Do not mix with other glass materials.” Each container shall also be labeled with the first date that material began to be accumulated in the container.

122.8(5) Each container or pallet of intact discarded CRTs shall be labeled with the first date that any material began to accumulate in the container or on the pallet.

122.8(6) Broken CRTs must be transported in a container meeting the requirements of subrule 122.8(2).

122.8(7) CRT collection facilities or CRT recycling facilities that export broken CRTs shall also comply with 40 CFR 261.39(a)(5).

122.8(8) All processing of CRTs shall be processed according to 40 CFR 261.39(b).

122.8(9) Failure to comply with this rule and the CFR sections referenced is grounds for termination of any permit or registration authorized by this rule.

567—122.9(455B,455D) Record-keeping requirements for CRT collection facilities.

122.9(1) All CRT collection facilities shall maintain the following records on a calendar-year basis:

- a.* The name and address of the facility receiving a shipment that left the CRT collection facility, and contact information for the receiving facility.
- b.* The type of service the receiving facility will provide to the CRT collection facility.
- c.* A description of the shipment contents.
- d.* All bills of lading.
- e.* All hazardous waste manifests.

122.9(2) Records must be maintained at the facility, must be submitted to the department upon request, and may be destroyed after three years.

567—122.10(455D) Record-keeping requirements for CRT recycling facilities.

122.10(1) All CRT recycling facilities shall maintain the following records on a calendar-year basis:

- a.* The total aggregate weight and receipt date of each shipment of discarded CRTs received from businesses, institutions, CRT collection facilities, short-term CRT collection events, and other permitted CRT recycling facilities.
- b.* The name, address, and contact information for shipments reported pursuant to subrule 122.11(1).
- c.* The total aggregate weight and date of each shipment leaving the CRT recycling facility.
- d.* The name and address of the facility receiving a shipment that left the CRT recycling facility, contact information for the receiving facility and a description of the shipment contents including all applicable bills of lading.
- e.* The type of service the receiving facility will provide to the CRT recycling facility.
- f.* All hazardous waste manifests.

122.10(2) Records must be maintained at the facility, must be available for review by the department on demand, and may be destroyed after three years.

567—122.11(455D) Reporting requirements. CRT collection facilities and CRT recycling facilities shall report the following information on Form 542-8131, provided by the department, to the department by February 1 of each year for the previous calendar year.

122.11(1) The amount, either by weight or volume, of discarded CRTs and processed CRT glass on site on January 1.

122.11(2) The amount, either by weight or by volume, of discarded CRTs and CRT glass recycled or transferred for recycling during the calendar year.

122.11(3) The amount, either by weight or by volume, of discarded CRTs and processed CRT glass on site on December 31.

122.11(4) Indication of whether the CRTs received over the past year were generated by households, businesses, or both households and businesses.

567—122.12(455D) Closure requirements for CRT recycling facilities. A CRT recycling facility and CRT collection facility shall submit to the department written notice of intent to permanently close at least 60 days before closure. Closure shall not be official until the department field office with jurisdiction over the facility has given written certification of the proper disposal of all solid waste, discarded CRTs, and materials derived from discarded CRTs at the site.

These rules are intended to implement Iowa Code section [455D.6\(5\)](#).

**Iowa Department of Natural Resources
Environmental Protection Commission**

ITEM #9 **DECISION**

TOPIC **Adopted and Filed - Chapter 72 – Floodplain Rules for Replacement Bridges**

The Commission is requested to approve this Adopted and Filed rule to update 567 Iowa Administrative Code Chapter 72 in regards to floodplain permitting of replacement bridges.

The proposed rule is the outcome of input from stakeholders especially the Iowa Department of Transportation.

Chapter 72 regulates bridges constructed in a floodplain. Currently, the permitting rules distinguish between new bridges and replacement bridges. Replacement bridges are not allowed to increase backwater at all, whereas new bridges can cause up to one foot of backwater. Backwater is upstream flooding caused by constricting the flow of water. A replacement bridge may cause an increase in backwater for justifiable reasons. For instance, backwaters may increase when the bridge is redesigned to lessen the likelihood of a road closure during high water events. Preventing high water from overtopping the roadway increases the amount of water flowing under the bridge. This can result in minor (up to several inches) of increased backwater.

Under the current rules, the Department has had to issue many design waivers to permit a replacement bridge under conditions that are approved for a new bridge. This is burdensome and costly for permittees and time-consuming for staff. The proposed amendment will allow new bridges and replacement bridges to adhere to the same standards. This change will avoid the need for waivers in the future.

Timeline for rulemaking:

- During the month of November, informal stakeholder feedback was solicited with primarily positive support received.
- The Notice of Intended Action was approved by the Commission on January 19, 2022.
- Public comments were accepted through April 12, 2022. No public comments were received and no changes to the proposed rule were made.
- If this rule is adopted by the Commission, the effective date will be July 20, 2022.

Respectfully submitted,
Jonathan Garton, Supervisor
Flood Plain and Dam Safety Section, Land Quality Bureau
Environmental Services Division

Adopted and Filed Attachments – Final Rule

ENVIRONMENTAL PROTECTION COMMISSION [567]**Adopted and Filed**

The Environmental Protection Commission (Commission) hereby amends Chapter 72, “Criteria for Approval,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 455B.275(9), 455B.276(1), and 455B.278(1).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 455B.262, 455B.264(3), and 455B.275.

Purpose and Summary

Chapter 72 regulates, among other structures, bridges constructed in a floodplain. Currently, the permitting rules distinguish between new bridges and replacement bridges. Replacement bridges are not allowed to increase backwater at all, whereas new bridges can cause up to one foot of backwater. Backwater is upstream flooding caused by constricting the flow of water.

A replacement bridge may cause an increase in backwater for justifiable reasons. For instance, backwaters may increase when the bridge is redesigned to lessen the likelihood of a road closure during high water events. Preventing high water from overtopping the roadway increases the amount of water flowing under the bridge. This can result in minor (up to several inches) of increased backwater.

Previously, the Department of Natural Resources (Department), on behalf of the Commission, has issued many design waivers permitting a replacement bridge under conditions

that are approved by rule for a new bridge. This was burdensome and costly for permittees and time-consuming for staff. The new rule amendment will subject new bridges and replacement bridges to the same standards. This change will avoid the need for waivers in the future.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on March 23, 2022, as **ARC 6262C**.

A public hearing was held on April 12th, at 2:00 pm. No persons requested to attend the public hearing and no public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Commission on May 17, 2022.

Fiscal Impact

This rule making has no fiscal impact to the state of Iowa. A copy of the fiscal impact statement is available from the Department upon request.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found. A copy of the jobs impact statement is available from the Department upon request.

Waivers

This rule is subject to the waiver provisions of 561—Chapter 10. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request

by any individual or group, review this rule making at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on July 20, 2022.

The following rule-making action is adopted:

Amend paragraph **72.1(2)“a”** as follows:

a. Backwater Q100.

(1) The maximum allowable Q100 backwater for ~~new~~ bridges and road embankments is 1.0 foot.

~~(2) The maximum allowable Q100 backwater for replacement bridges and roadway embankments is the lesser of the following: Q100 backwater for the existing bridge and road embankment or 1.0 foot.~~

~~(3)~~ (2) For a ~~new~~ bridge and road embankment located within a stream reach for which the Federal Emergency Management Agency has published a detailed Flood Insurance Study which includes a floodway, the backwater for Q100 shall not exceed the surcharge associated with the delineation for the floodway at that location.

~~(4)~~ (3) In no case shall the Q100 backwater effects of a bridge or road embankment reduce the existing level of protection provided by certain flood control works, unless equivalent remedial measures are provided.

**Iowa Department of Natural Resources
Environmental Protection Commission**

ITEM 10

DECISION

Contract with THE UNIVERSITY OF IOWA on behalf of the STATE HYGIENIC LABORATORY

Recommendation: Commission approval is requested for a service contract with the State Hygienic Laboratory (SHL) at the University of Iowa.

Contract Terms:**Amount:** Not to exceed \$542,992.00**Dates:** July 1, 2022 to June 30, 2025**Funding Source(s):** EPA/DNR Environmental Performance Partnership Grant (PPG); Water Pollution Control – Clean Water Act, Section 106; and Public Water System Supervision – Safe Drinking Water Act, Section 1443(a). Minimal funding is also from the state program for Storm Water Permit Fees**Statutory Authority:** Iowa Code Section 455B.103(3)

Contract Background: This Contract is to provide DNR's Field Services and Compliance Bureau with laboratory services to provide valid and verifiable sample results. Scientifically sound testing results enable the DNR to accurately evaluate environmental compliance in the field. Analyses include routine and special laboratory tests for a variety of possible contaminants. SHL has the capability, capacity and protocols in place to provide sampling, analysis, and QA/QC practices that comply with EPA standards.

Contract Purpose: The parties propose to enter into this Contract to retain SHL to provide professional independent laboratory analysis and documentation of field samples, to determine whether contaminants are present in the samples and, if they are present, to measure their concentration.

Contractor Selection Process: The DNR is allowed to contract with the University of Iowa pursuant to Iowa Code section 455B.103(3).

Contract History: DNR has contracted for services with SHL for over 20 years. The services covered under the contract have varied through time, as central office contract staff for special projects were added (SFY 2006 – 2010) then later removed. Prior to 2006, the contract was managed by central office project managers. From 2006 on, the contract has been managed through Field Services.

The total value of the contract has also varied through time, corresponding with changes in central office contract staffing. Since SFY 2011, the contract has been limited to field sampling and analysis after the central office moved contract staff to other contracts, or completed projects and no longer needed outside staffing resources. Please see the contract budget history in the table below.

Contract Timeframe	Cost per Year	Total
7/1/10-6/30/11 (SFY 11)	\$159,506	\$159,506.00
7/1/11-6/30/12 (SFY 12)	\$159,506	\$159,506.00
7/1/12-6/30/13 (SFY 13)	\$159,506	\$159,506.00
7/1/13-6/30/15 (SFY14, SFY 15)	\$159,506 (2 years)	\$319,012.00
7/1/15-6/30/16 (SFY 16)	\$159,506	\$159,506.00
7/1/16-6/30/19 (SFY 17, SFY 18, SFY 19)	\$165,338 (3 years)	\$496,014.00
7/1/19-6/30/22 (SFY 20, SFY 21, SFY 22)	\$165,338 (3 years)	\$496,014.00
7/1/22-6/30/25 (SFY 23, SFY 24, SFY 25)	\$180,997 (3 years)	\$542,992.00

Christina Iiams, Management Analyst 3, Field Services & Compliance Bureau
Environmental Services Division
May 17, 2022

5.1 Statement of Work. Contractor shall perform the following Tasks. Contractor shall complete its obligations under this Contract by the Task Milestone Dates set out in the following table.

Table 1: Tasks and Milestone Dates

Obligation	Task Milestone Date
<p>Task 1: Wastewater Treatment Facility Compliance Sample Collection, for each State Fiscal Year covered by this contract (Sample Code 03WQCSI, and Sample Code 03WQCSI-WETT for Acute Toxicity)</p> <p>Description:</p> <p>Part 1. Wastewater Treatment Facility Quarterly Sampling Schedule:</p> <ul style="list-style-type: none"> a) For each quarter during the term of this Contract, DNR Field Services and Compliance Bureau will provide to SHL a list of the following information: the facilities where sampling will occur, the location of the sampling sites, the types of samples to be collected, and the analyses required. This information will be provided to SHL approximately one month prior to the beginning of each quarter. b) Using the information provided by DNR, SHL shall develop, and provide to DNR in writing, a proposed quarterly sampling schedule. SHL shall make changes to the proposed sampling schedule at DNR’s request. The final written sampling schedule shall be provided by SHL to Jason Marcel, Chief of the DNR Field Services and Compliance Bureau. The quarterly sampling schedule shall designate timelines that apply to Sample Collection, below. <p>Part 2. Wastewater Treatment Facility Sample Collection:</p> <ul style="list-style-type: none"> a) SHL shall collect a maximum of two hundred (200) 24-hour influent and effluent composite samples from no more than thirty (30) wastewater treatment facilities during compliance sampling inspections. Samples may also be collected and submitted to SHL by DNR personnel. b) SHL shall collect a maximum of three (3) Acute Toxicity composite samples, unless the DNR Contract Manager approves additional samples in writing. c) SHL shall collect time and flow-weighted composite samples during the compliance sampling, as directed by the DNR ESD Field Staff performing the inspection. SHL shall offer a split of all samples to the treatment facility. DNR estimates that approximately 50% of the requested sample analyses will include uninhibited BOD5. Twenty-four (24) hour flow measurements shall be obtained for the day of sampling. Guidance will be given by the relevant DNR Field Office on the locations for taking flow, dissolved oxygen, and other measurements. Sample collection, storage, preservation, transportation and chain-of-custody shall conform to the procedures specified in the 2017, US EPA NPDES Compliance Inspection Manual, Chapter 5, located on the US EPA website. d) SHL shall check the accuracy of installed flow measuring devices within each facility, as allowed by facility configuration and treatment plant policy. The results of this evaluation shall be noted on the sampling results sheet. e) SHL shall code samples collected for the activity as 03WQCSI or 03WQCSI-WETT for Acute Toxicity. All samples submitted to SHL by DNR or SHL staff shall be coded by the sample collector and the sample collector shall include a detailed written or photocopied list of the analyses to be performed (unless other arrangements have been made before shipment of the sample to SHL). SHL log-in procedures shall accommodate this code. 	<p>No later than:</p> <p>Part 1. Proposed quarterly sampling schedule shall be submitted to DNR within fifteen (15) calendar days of receipt of the sampling request information from DNR, and the schedule shall become final unless DNR requests changes within 10 business days of receipt of the schedule. If DNR requests changes within 10 days of receipt of the schedule, DNR and SHL will work together to find a solution.</p> <p>Part 2. The Part 2 schedule shall be consistent with the sampling schedule developed by SHL and accepted by DNR, under Part 1, above.</p> <p>Part 3. On-going.</p>

<p>Part 3. Sampling Equipment Maintenance: SHL shall maintain samplers in good and reliable working condition, and may purchase miscellaneous equipment, including intake tubing, pump tubing, intake strainers, power packs/batteries, and other associated parts necessary to maintain the sampling equipment.</p>	
<p>Task 2: Wastewater Treatment Facility Sample Analysis and Reporting, for each State Fiscal Year covered by this contract (Sample Code 03WQCSI, and Sample Code 03WQCSI-WETT for Acute Toxicity)</p> <p>Description:</p> <p>Part 1. Sample analysis and reporting as directed by DNR: SHL shall analyze samples collected under Task 1, Part 2, a), and under Task 1, Part 2, b), above, for regulated pollutants, selected parameters having water quality standards, and other characteristic pollutants, as specified for each quarter.</p> <p>Part 2. SHL shall report results of the analyses of samples and flow verification (if collected) to the DNR Field Office requesting the inspection. Results shall be reported in the format agreed to by the parties. The results shall indicate if 24-hour flow or time composites were collected.</p> <p>Part 3. SHL shall provide access to a report of analytical results via the online web site as set forth in Task 9, below.</p> <p>Part 4. SHL shall provide copies of QA/QC information and Standard Operating Procedure Manuals (available from the laboratory) to DNR upon request.</p>	<p>No later than:</p> <p>Part 1 and Part 2. Analyses of samples collected shall be completed and results reported to the DNR submitter within 15 calendar days of receipt of samples unless analytical work warrants extra time. If SHL determines that extra time is needed to complete required analyses and reporting, then a written notification shall be made to the DNR submitter. The notification shall include the reason for the delay and the specific analysis or analyses to be delayed. The notification shall occur as soon as possible after the SHL has determined the need for a delay. The notification shall include a revised completion date.</p> <p>Part 3: See Task 9, below.</p> <p>Part 4: SHL shall provide information and Manuals, as requested by DNR Field Offices, within a time frame agreed upon by the DNR Field Office and SHL at the time the request is made.</p>
<p>Task 3: Analyze and Report samples collected by DNR ESD Field staff for field activities support, for each State Fiscal Year covered by this contract (sample code 04WQFS)</p> <p>Description:</p> <p>Part 1. SHL shall provide sample containers and ice chests for sample transport.</p>	<p>No later than:</p> <p>Part 1: As requested by DNR Field Offices, and within a time frame agree upon by the DNR Field Office and SHL at the time the request is made.</p>

Part 2. SHL shall analyze samples for any of the parameters specified in “Table 1: WQ1 - Field Support Parameters”, below, or for other additional parameters as specified by DNR staff. The samples will be submitted by DNR ESD Field staff. These samples will be collected during compliance evaluation inspections of wastewater treatment plants and sanitary landfills, and investigations of feedlot complaints and other sources of surface water contamination not covered elsewhere in this Statement of Work.

Part 3. SHL shall code samples collected for the activity as 04WQFS. All samples submitted to SHL by DNR ESD Field staff or SHL staff shall be coded by the sample collector and the sample collector shall include a detailed written or photocopied list of the analyses to be performed, selected from “Table 1: WQ1 – FIELD SUPPORT PARAMETERS”, below (unless other arrangements have been made before shipment of the sample to SHL). SHL log-in procedures shall accommodate this code.

TABLE 1: WQ1 – FIELD SUPPORT PARAMETERS

BOD ₅	Inhibited BOD ₅
Total Suspended Solids	Ammonia Nitrogen
pH	Oil and Grease
Heavy Metals	Solids Series
	Fecal Coliform/E. coli (April – October)
Organics:	
Petroleum Products	
Semi-Volatiles, including Pesticides	
Common Herbicides	
Organophosphate Insecticides	
Chlorinated Hydrocarbon Insecticides/PCBs	
Acid Herbicides	
Polycyclic Aromatic Hydrocarbons (PAHs)	

Part 4. SHL shall provide access to a report of analytical results via the online web site as set forth in Task 9, below.

Part 2: Analyses of samples shall be completed and results reported to the submitter within 15 calendar days of receipt of samples unless analytical work warrants extra time. If SHL determines that extra time is needed to complete required analyses and reporting, then a written notification shall be made to the DNR submitter. The notification shall include the reason for the delay and the specific analysis or analyses to be delayed. The notification shall occur as soon as possible after SHL has determined the need for a delay. The notification shall include a revised completion date.

Part 3: On-going.

Part 4: See Task 9, below.

<p>Part 5. SHL shall provide copies of QA/QC information and Standard Operating Procedure Manuals (available from the laboratory) to DNR upon request.</p>	<p>Part 5: SHL shall provide information and Manuals, as requested by DNR Field Offices, within a time frame agree upon by the DNR Field Office and SHL at the time the request is made.</p>
<p>Task 4: Analyze and report water, fish and/or waste samples collected by DNR ESD Field staff during fish kill investigations, for each State Fiscal Year covered by this contract (sample code 05WQFK)</p> <p>Description:</p> <p>Part 1. SHL shall provide sample containers and ice chests for sample transport.</p> <p>Part 2. SHL shall analyze water, fish and/or waste samples collected by DNR ESD Field staff during the investigation of fish kills not related to emergency response spills. The samples shall be analyzed for any of the parameters listed in the “Table 2: WQ2 – Fish Kill Samples”, list below, and for any additional parameters requested by the DNR investigating personnel. SHL staff shall be available for consultation with DNR staff to determine what analyses should be performed. The analytical results shall be submitted to the DNR Field Office that investigated the fish kill.</p> <p>Part 3. SHL shall code samples collected for the activity as 05WQFK. All samples submitted to SHL by DNR ESD Field staff or SHL staff shall be coded by the sample collector and the sample collector shall include a detailed written or photocopied list of the analyses to be performed (unless other arrangements have been made before shipment of the sample to SHL). SHL log-in procedures shall accommodate this code.</p> <p>Part 4. Payments for samples analyzed for fish kill investigations shall be negotiated on a case-by-case basis by SHL and DNR, but in no event shall the cost of these negotiated</p>	<p>No later than:</p> <p>Part 1: As requested by DNR Field Offices, and within a time frame agree upon by the DNR Field Office and SHL at the time the request is made.</p> <p>Part 2: Analyses of samples shall be completed and results reported to the submitter within 15 calendar days of receipt of samples unless analytical work warrants extra time. If SHL determines that extra time is needed to complete required analyses and reporting, then a written notification shall be made to the DNR submitter. The notification shall include the reason for the delay and the specific analysis or analyses to be delayed. The notification shall occur as soon as possible after SHL has determined the need for a delay. The notification shall include a revised completion date.</p> <p>Part 3: On-going.</p> <p>Part 4: On-going.</p>

fees cause the annual cumulative expenditure for Task 4 to exceed the annual contract budget for Task 4, unless the Contract Manager approves additional expenditure in writing.

TABLE 2: WQ2 – FISH KILL SAMPLES

BOD ₅	Ammonia
Total Suspended Solids	pH
Chloride	Fungicides
Heavy Metals	Pesticides

Part 5. SHL shall provide access to a report of analytical results via the online web site as set forth in Task 9, below.

Part 6. SHL shall provide copies of QA/QC information and Standard Operating Procedure Manuals (available from the laboratory) to DNR upon request.

Part 5: See Task 9, below.

Part 6: SHL shall provide information and Manuals, as requested by DNR Field Offices, within a time frame agree upon by the DNR Field Office and SHL at the time the request is made.

Task 5: Analyze and report water, fish, or solid samples collected by DNR ESD Field staff during emergency response investigations, for each State Fiscal Year covered by this Contract (sample code 07WQER)

Description:

Part 1. SHL shall provide sample containers and ice chests for sample transport.

Part 2. SHL shall analyze water, fish, or solid samples collected by DNR ESD Field staff during emergency response investigations. The types of analyses to be performed shall be identified by the DNR sample collector but will generally fall into any combination of three categories: industrial chemicals, such as solvents and PCBs; agricultural chemicals, including pesticides and fertilizers; and metals. SHL staff shall be available for consultation with DNR ESD Field staff regarding the analyses that will need to be performed.

No later than:

Part 1: As requested by DNR Field Offices, and within a time frame agree upon by the DNR Field Office and SHL at the time the request is made.

Part 2: Analyses of samples shall be completed and results reported to the DNR submitter within 15 calendar days of receipt of samples unless analytical work warrants extra time. If SHL determines that extra time is needed to complete required analyses and reporting, then a written notification shall be made to the DNR submitter. The notification shall include the reason for the delay and the specific analysis or analyses to be delayed. The notification shall occur as soon as possible after SHL has determined the need for a delay. The notification shall include a revised completion date.

<p>Part 3. SHL shall code samples collected for the activity as 07WQER. All samples submitted to SHL by DNR ESD Field staff or SHL staff shall be coded by the sample collector and the sample collector shall include a detailed written or photocopied list of the analyses to be performed (unless other arrangements have been made before shipment of the sample to SHL). SHL log-in procedures shall accommodate this code.</p> <p>Part 4. SHL shall provide access to a report of analytical results via the online web site as set forth in Task 9, below.</p> <p>Part 5. SHL shall provide copies of QA/QC information and Standard Operating Procedure Manuals (available from the laboratory) to DNR upon request.</p>	<p>Part 3: On-going.</p> <p>Part 4: See Task 9, below.</p> <p>Part 5: SHL shall provide information and Manuals, as requested by DNR Field Offices, within a time frame agree upon by the DNR Field Office and SHL at the time the request is made.</p>
<p>Task 6: Analyze and report samples collected by DNR ESD Field staff from storm water runoff, for each State Fiscal Year covered by this contract (sample code WQSWR)</p> <p>Description:</p> <p>Part 1. SHL shall provide sample containers and ice chests for sample transport.</p> <p>Part 2. SHL shall analyze samples for any of the parameters specified in “Table 3: WQ4 – Storm Water Runoff Monitoring Parameters” below, or other parameters as specified by the DNR submitter. The samples will be submitted by DNR ESD Field staff. These samples will be collected during evaluations of storm water runoff from industrial activities or municipal storm sewer systems.</p> <p>Part 3. SHL shall code samples collected for the activity as WQSWR. All samples submitted to SHL by DNR ESD Field staff or SHL staff shall be coded by the sample collector and the sample collector shall include a detailed written or photocopied list of the analyses to be performed (unless other arrangements have been made before shipment of the sample to SHL). SHL log-in procedures shall accommodate this code.</p>	<p>No later than:</p> <p>Part 1: As requested by DNR Field Offices, and within a time frame agree upon by the DNR Field Office and SHL at the time the request is made.</p> <p>Part 2: Analyses of samples shall be completed and results reported to the submitter within 15 calendar days of receipt of samples unless analytical work warrants extra time. If SHL determines that extra time is needed to complete required analyses and reporting, then a written notification shall be made to the DNR submitter. The notification shall include the reason for the delay and the specific analysis or analyses to be delayed. The notification shall occur as soon as possible after SHL has determined the need for a delay. The notification shall include a revised completion date.</p>

TABLE 3: WQ4 – STORM WATER RUNOFF MONITORING PARAMETERS

5-day Biological Oxygen	Total Magnesium
5-day Carbonaceous Oxygen Demand	Total Mercury
Ammonia – Nitrogen	Total Nickel
Total Arsenic	Nitrate+Nitrite (Total as N)
Total Barium	Oil and Grease
Bicarbonate	Total Phosphorous
Total Cadmium	Pentachlorophenol
Calcium	Potassium
Chemical Oxygen Demand	Propylene Glycol
Chloride	Total Selenium
Total Chromium	Total Silver
Total Copper	Sodium
Total Cyanide	Sulfate
Ethylene Glycol	Total Dissolved Solids
Fecal Coliform	Total Organic Carbon
Total Iron	Total Suspended Solids
Total Kjeldahl Nitrogen	Total Zinc
Total Lead	pH
Dissolved Magnesium	

Part 4. SHL shall provide access to a report of analytical results via the online data access web site as set forth in Task 9, below.

Part 5. SHL shall provide copies of QA/QC information and Standard Operating Procedure Manuals (available from the laboratory) to DNR upon request.

Part 3: On-going.

Part 4: See Task 9, below.

Part 5: SHL shall provide information and Manuals, as requested by DNR Field Offices, within a time frame agree upon by the DNR Field Office and SHL at the time the request is made.

Task 7: Analyze and report samples collected by DNR ESD Field staff for water supply monitoring, for each State Fiscal Year covered by this contract (sample codes 16WSCOMP, 17WSTECH and IDNR AMMONIA)

Description:

Part 1. SHL shall analyze samples of raw, intermediate, or finished water collected from public water supplies by DNR ESD Field staff, or by DNR ESD Central Office staff specifically authorized by the DNR Contract Manager to submit samples. DNR ESD Field staff will identify those analytes that are of specific interest and that shall be analyzed for each sample. In addition, SHL shall report all analytes determined by any U.S. EPA analytical drinking water method utilized for analysis of the samples.

- a) SHL shall analyze samples of raw or finished water collected from public water supplies where synthetic organic compounds (SOCs) or pesticides are suspected, have previously been detected, or if the system source has been determined vulnerable by DNR. Samples will be collected by DNR ESD Field staff, or by DNR ESD Central Office staff specifically authorized by the DNR Contract Manager to submit samples. DNR Field Office or DNR Central Office sample collectors will submit a minimum of two liters per sample. (Additionally, three 40-ml vials will be submitted if analyses of volatiles are requested).

No later than:

Part 1: Analyses of samples shall be completed and results reported to the submitter within 15 calendar days of receipt of samples unless analytical work warrants extra time. If SHL determines that extra time is needed to complete

- b) SHL shall analyze samples of raw or finished water collected from public water supplies where parameters for analysis include regulated compounds or unregulated compounds for which a health advisory, established by U.S. EPA, exists. In addition, analysis for ethylene dibromide and 1,2-dibromo-3-chloropropane may be requested by notification from Jason Marcel, Chief of the Field Services and Compliance Bureau. The fees for these two compounds shall be billed to DNR separately. Samples will be collected by DNR ESD Field staff, or by DNR ESD Central Office staff specifically authorized by the DNR Contract Manager to submit samples.
- c) SHL shall analyze samples of drinking water collected from public water systems by DNR ESD Field staff, or by DNR ESD Central Office staff specifically authorized by the DNR Contract Manager to submit samples, during the investigation by DNR of complaints by the public, not involving identified spills or aesthetic problems.
- d) SHL shall analyze drinking water samples for the parameters identified by the DNR sample collector and shall include metals, solvents, or petroleum products. Because of the possible health consequences of this contamination, the analysis shall be given highest priority among samples analyzed under this Statement of Work. Samples shall be collected by DNR ESD Field staff, or by DNR ESD Central Office staff specifically authorized by the DNR Contract Manager to submit samples.
- e) SHL shall analyze drinking water samples for parameters identified by the sample collector, to include iron, manganese, iron bacteria, or any other regulated or unregulated contaminants. Samples shall be collected by DNR ESD Field staff, or by DNR ESD Central Office staff specifically authorized by the DNR Contract Manager to submit samples.
- f) SHL shall analyze drinking water samples from public water supplies collected by DNR ESD Field staff, or by DNR ESD Central Office staff specifically authorized by the DNR Contract Manager to submit samples, during the investigation of complaints by the public regarding aesthetic problems.

Part 2. SHL shall analyze drinking water samples collected by DNR ESD Field staff through sanitary surveys, MCL investigations and technical assistance for bacterial analyses. Samples submitted to SHL shall be coded by SHL as Water Supply Support Bacteria.

Part 3. Ammonia Sampling Project: SHL shall analyze a maximum of two hundred (200) drinking water samples for Ammonia, 20 drinking water samples for Nitrite, and 15 drinking water samples for TKN.

required analyses and reporting, then a written notification shall be made to the DNR submitter. The notification shall include the reason for the delay and the specific analysis or analyses to be delayed. The notification shall occur as soon as possible after SHL has determined the need for a delay. The notification shall include a revised completion date.

Part 2 and Part 3: Analyses of samples shall be completed and results reported to the DNR submitter within 15 calendar days of receipt of samples unless analytical work warrants extra time. If SHL determines that extra time is needed to complete required analyses and reporting, then a written notification shall be made to the DNR submitter. The notification shall include the reason for the delay and the specific analysis or analyses to be delayed. The notification shall occur as

Part 4. Samples submitted to SHL shall be coded as follows: 16WSCOMP: samples used for compliance purposes. 17WSTECH: samples used for routine technical assistance to a public water supply. IDNR AMMONIA: samples taken as part of the Ammonia Project.

All samples properly identified and submitted to SHL by DNR ESD Field staff or SHL staff shall be coded to a specific monitoring activity for the Safe Drinking Water Act (SDWA) and shall include a detailed written or photocopied list of analyses. SHL log-in procedures shall accommodate this code. For those submittals not properly identified, SHL shall notify the DNR personnel who submitted the sample that the sample will be rejected.

Part 5. SHL shall perform all analyses in accordance with the applicable procedures and detection limits as specified in the Federal Register and the specific U.S. EPA method number. Quality control shall conform at a minimum to the standards listed in EPA's *"Manual for the Certification of Laboratories Analyzing Drinking Water: Criteria and Procedures Quality Assurance, Fifth Edition,"* (EPA 815-R-05-004, January, 2005), including Supplements 1 and 2, to the Fifth Edition, as appropriate (at: <https://nepis.epa.gov/Exe/ZyPURL.cgi?Dockey=30006MXP.txt>), or shall conform to alternative DNR/EPA-approved controls. SHL shall specify quantitation limits for each analyte with each analytical result.

Part 6. SHL shall enter the analytical results of all DNR drinking water supply monitoring into the State Drinking Water Information System (SDWIS) for any contaminant that has a contaminant identification number. DNR will notify SHL of additional contaminant identification numbers, and SHL shall use them.

soon as possible after SHL has determined the need for a delay. The notification shall include a revised completion date.

Part 4. On-going.

Part 5. On-going

Part 6. With the exception of radiological results (see below), analytical results shall be entered into SDWIS by the seventh day of the month following the month in which the samples were analyzed, except that samples received within the last week of the month that are unavailable by the seventh day of the month shall be transmitted within three working days of sample release.

If SHL determines that extra time is needed to complete required analyses and reporting, then a written notification shall be made to

<p>Part 7. SHL shall provide access to a report of analytical results via the online web site as set forth in Task 9, below.</p> <p>Part 8. SHL shall provide copies of QA/QC information and Standard Operating Procedure Manuals (available from the laboratory) to DNR upon request.</p>	<p>the DNR submitter. The notification shall include the reason for the delay and the specific analysis or analyses to be delayed. The notification shall occur as soon as possible after SHL has determined the need for a delay. The notification shall include a revised completion date.</p> <p>Exception: For Radiological Results, analytical results shall be entered into SDWIS within 50 calendar days of sample receipt, or by the 10th day of the month following the end of the calendar quarter in which all of the analyses on a given sample were completed.</p> <p>Part 7: See Task 9, below.</p> <p>Part 8: SHL shall provide information and Manuals, as requested by DNR Field Offices, within a time frame agree upon by the DNR Field Office and SHL at the time the request is made.</p>
<p>Task 8: Training</p> <p>Description: SHL shall provide training for new DNR staff and shall provide refresher training for current DNR ESD field staff at the DNR’s request, for each State Fiscal Year covered by this contract. Training shall address the use of proper sampling techniques and containers, holding times, use of data sheets and chain of custody forms, and any other topic which DNR Field Office personnel and/or SHL staff indicate needs to be addressed.</p>	<p>No later than: Annually or bi-annually, at the DNR’s discretion.</p>
<p>Task 9: Data Transfer</p> <p>Description: SHL shall make the data generated pursuant to this Contract available to the DNR electronically through the State Hygienic Laboratory OpenELIS database web portal. Data shall be available for download by DNR ESD Field staff in a mutually agreeable format. The available sample information shall include the STORET station identification number, which will be provided by DNR for all station locations. Data shall be retrievable via the web portal by DNR ESD Field staff.</p>	<p>No later than: SHL shall make completed data and results available to DNR via the SHL OpenELIS web portal not later than 15 calendar days after the end of each month.</p> <p>If SHL determines that extra time for analysis should be allowed in specific cases, then a written notification</p>

<p>Analytical reports may be retrieved electronically by DNR ESD Field staff having the appropriate authorization. SHL shall assist DNR ESD Field staff in obtaining appropriate authorization when requested.</p>	<p>shall be made to the DNR Project Manager, stating that analytical results from a sample will be delayed and the reasons for the delay. This notification shall occur as soon as possible but not later than 15 days following receipt of the sample.</p>
<p>When accessing electronic data, the following information is required:</p> <ul style="list-style-type: none"> • SHL OpenELIS/Telcor Organization ID number (as provided by SHL: 3052) • SHL Project Code (as provided by SHL: 03WQCSI, 03WQCSI-WETT, 04WQFS, 05WQFK, 07WQER, WQSWR, 16WSCOMP, 17WSTECH, and IDNR AMMONIA) 	

Table 2: Contract Budget

Task*	Total Amount of compensation allotted to Task** (Variable Payment)
<p>Task 1: Wastewater treatment facility compliance sampling inspections (CSI's), sample collection (sample Code 03WQCSI and 03WQCSI-WETT)</p>	<p>Variable Maximum per state fiscal year for sampling, including a maximum of \$1,500 per state fiscal year for sampling equipment maintenance: SFY 2023: \$45,000 SFY 2024: \$45,000 SFY 2025: \$45,000 Three-Year Contract Maximum: \$135,000</p>
<p>Task 2: Wastewater treatment facility compliance sampling inspections (CSI's), sample analysis and reporting (sample code 03WQCSI and 03WQCSI-WETT)</p>	<p>Variable Maximum per state fiscal year: SFY 2023: \$27,500 SFY 2024: \$27,500 SFY 2025: \$27,500 Three-Year Contract Maximum: \$82,500</p>
<p>Task 3: Analyze and Report samples collected by the DNR ESD Field staff for field activities support (sample code 04WQFS)</p>	<p>Variable Maximum per state fiscal year: SFY 2023: \$54,600 SFY 2024: \$54,600 SFY 2025: \$54,600 Three-Year Contract Maximum: \$163,800</p>
<p>Task 4: Analyze and report water, fish and/or waste samples collected by DNR ESD Field staff during fish kill investigations (sample code 05WQFK)</p>	<p>Variable Maximum per state fiscal year: SFY 2023: \$5,025 SFY 2024: \$5,025 SFY 2025: \$5,025 Three-Year Contract Maximum: \$15,075</p>
<p>Task 5: Analyze and report water, fish, or solid samples collected by DNR ESD Field staff during emergency response investigations (sample code 07WQER)</p>	<p>Variable Maximum per state fiscal year: SFY 2023: \$12,975 SFY 2024: \$12,975 SFY 2025: \$12,975 Three-Year Contract Maximum: \$38,925</p>

<p>Task 6: Analyze and report samples collected by DNR ESD field staff from storm water runoff (sample code WQSWR)</p>	<p>Variable</p> <p>Maximum per state fiscal year: SFY 2023: \$5,000 SFY 2024: \$5,000 SFY 2025: \$5,000</p> <p>Three-Year Contract Maximum: \$15,000</p>
<p>Task 7: Analyze and report samples collected by DNR ESD Field staff for water supply monitoring (sample codes 16WSCOMP, 17WSTECH, and IDNR AMMONIA)</p>	<p>Variable</p> <p>Bacteria (16WSCOMP or 17WSTECH): Maximum per state fiscal year: SFY 2023: \$1,350 SFY 2024: \$1,350 SFY 2025: \$1,350</p> <p>Three-Year Contract Maximum: \$4,050</p> <hr/> <p>Compliance (16WSCOMP): Maximum per state fiscal year: SFY 2023: \$6,250 SFY 2024: \$6,250 SFY 2025: \$6,250</p> <p>Three-Year Contract Maximum: \$18,750</p> <hr/> <p>Routine Technical Assistance (17WSTECH): Maximum per state fiscal year: SFY 2023: \$4,890 SFY 2024: \$4,890 SFY 2025: \$4,890</p> <p>Three-Year Contract Maximum: \$14,670</p> <hr/> <p>Ammonia Sampling Technical Assistance Project (IDNR AMMONIA): Maximum per state fiscal year: SFY 2023: \$5,000 SFY 2024: \$5,000 SFY 2025: \$5,000</p> <p>Three-Year Contract Maximum: \$15,000</p> <hr/> <p>Task 7 Maximum per SFY: SFY 2023: \$17,490 SFY 2024: \$17,490 SFY 2025: \$17,490</p> <p>Task 7 Contract Maximum: \$52,470</p>

Task 8: Training	No Charge
Task 9: Data Transfer	No Charge
Sub-totals	SFY 2023: \$ 167,590 SFY 2024: \$ 167,590 SFY 2025: \$ 167,590
Facilities and Administrative Costs @ 8%	SFY 2023: \$ 13,407 SFY 2024: \$ 13,407 SFY 2025: \$ 13,407
Total	Not to exceed State Fiscal Year Budgets: SFY 2023: \$ 180,997 SFY 2024: \$ 180,997 SFY 2025: \$ 180,997 ----- Not to Exceed Contract Grand Total: \$542,992

*Payment for completion of Tasks where specific payment is allotted shall be dependent upon the timely completion of corresponding items required by Tasks where no specific payment is allotted.

**Payment also shall conform to any pricing Tables contained in this Contract and referenced in the Budget Table above; or to the relevant SHL Pricing Table. Tables contained in this Contract shall take precedence, in the event of any inconsistency.

***Variable payment” shall mean that the number of specific analyses per Task may vary, and the Contractor shall be paid only for the number of specific analyses performed per Task. “Fixed payment” shall mean that the Contractor shall be paid an amount that is fixed in the Contract, with no variations based on analyses per Task actually performed.

**Iowa Department of Natural Resources
Environmental Protection Commission**

ITEM #11

DECISION

Contract with IOWA STATE UNIVERSITY for Manure Applicator Certification (MAC) Training

Recommendation:

Commission approval is requested for a service contract with Iowa State University, for Manure Applicator Certification (MAC) Training.

Contract Terms:

Amount: Not to exceed \$621,000 (\$207,000 per fiscal year)

Dates: July 1, 2022 to June 30, 2025

Funding Source(s): Manure applicator license and education fees, Manure Compliance Fund.

Statutory Authority: Iowa Code section 455B.103(3)

Contract Background: The DNR and Iowa State University (ISU) have contracted for many years for ISU to provide manure applicator certification training. This will assist the DNR in training and testing of commercial manure service representatives and confinement site applicators, as required by Iowa Code sections 459.314A and 459.315, and 567 Iowa Administrative Code (IAC) 65.19.

Contract Purpose: The parties propose to enter into this Contract for ISU to conduct activities in developing manure applicator certification training and testing material for commercial manure service representatives and confinement site manure applicators, including online versions of certification training materials. These materials will be utilized, as appropriate, by ISU and the DNR to implement the manure applicator certification requirements contained in Iowa Code sections 459.314A and 459.315, and 567 IAC 65.19.

Contractor Selection Process: Intergovernmental contracting is authorized by 11 IAC 118.4. ISU was chosen for this project because of over a decade of successful contracting history.

Contract History: DNR has contracted with ISU since at least 2007 to develop and provide manure applicator certification training. The services covered under the contract have not changed in the last five years. A summary of the previous contracts is identified in the table below.

Contract Timeframe	Cost per Year	Total
7/1/15-6/30/17	\$222,100 (SFY16) & \$213,654 (SFY17)	\$435,754
7/1/17-6/30/18	\$214,001	\$214,001
7/1/18-6/30/20	\$207,000	\$414,000
7/1/20-6/30/22	\$207,000	\$414,000
7/1/22-6/30/25	\$207,000	\$621,000

Christina Iiams, Management Analyst 3, Field Services & Compliance Bureau
Environmental Services Division
May 17, 2022

5.1 Statement of Work. Contractor shall perform the following Tasks. Contractor shall complete its obligations under this Contract by the Task Milestone Dates set out in the following table.

Obligation	Task Milestone Date
<p>Task 1a: Development of Commercial Certification Course</p> <p>Description: For each Calendar Year during the term of this Contract, ISU shall develop a three-hour manure certification course for commercial manure service representatives. ISU shall develop the following for use in the course or in connection with the course:</p> <ul style="list-style-type: none"> • Recruitment materials; • Training materials (as required by Task 3); • DVD studio recordings of training (as required by Task 1b, 1c, 2b, and 2c); • A DVD of outdoor demonstrations (as required by Task 1c and 2c); • Online training materials (as required by Task 4); and • Program evaluation materials (see Task 10). <p>The development of this course shall take into account the content and topics recommended by the Advisory Committee (See Task 6) and any recommendations made following the ISU Field Specialist meeting (see Task 7).</p> <p>ISU shall develop, update and maintain Spanish language training materials for use during the Contract period.</p>	<p>Development of the course and related materials shall be completed by no later than December 31 of each Calendar Year for the following Calendar Year.</p>
<p>Task 1b: Presentation of Commercial Certification Course</p> <p>Description: During each Calendar Year of this Contract, ISU shall publicize and shall conduct at least one statewide training presentation of the three-hour manure certification course for commercial manure service representatives, using the ISU studio-recorded DVD presentation developed for Task 1a, above. This statewide presentation shall be available for viewing in at least 40 ISU Extension & Outreach offices.</p> <p>A live version of the presentation may be presented, with pre-approval by DNR, at an alternate location, such as Pork Congress, ISU Field Day, or at an industry trade show.</p> <p>The DVD presentation shall be used for training at ISU Extension & Outreach offices through the remainder of the Calendar Year.</p>	<p>A statewide live presentation shall occur no later than January 15 of each Calendar Year.</p>
<p>Task 1c: Pre-recorded Presentation and Accompanying Printed Materials of Commercial Certification Course</p> <p>Description: An archived pre-recorded (DVD) presentation and accompanying printed materials of the course for the current Calendar Year shall be available for viewing during regular business hours, with an appointment, at ISU county extension offices.</p>	<p>This task shall be performed throughout the Contract term.</p>

Obligation	Task Milestone Date
<p>Task 2a: Development of Confinement Certification Courses</p> <p>Description: For each Calendar Year during the term of this Contract, ISU shall develop a two-hour manure certification course for confinement site manure applicators. ISU shall develop the following for use in the courses or in connection with the courses:</p> <ul style="list-style-type: none"> • Recruitment materials; • Training materials for live training (as required by Task 3); • DVD studio recordings of training (as required by Task 1b, 1c, 2b, and 2c); • A DVD of outdoor demonstrations (as required by Task 1c and 2c); • Online training materials (as required by Task 4); and • Program evaluation materials (see Task 10). <p>The courses shall be designed to be delivered and shall be delivered live by ISU Teaching Teams, which shall consist of ISU Field Specialists and campus specialists or other qualified personnel.</p> <p>The development of these courses shall take into account content and topics recommended by the Advisory Committee (see Task 6) and any recommendations made following the ISU Field Specialist meeting (see Task 7).</p> <p>ISU shall develop, update and maintain Spanish language training materials for use during the Contract period.</p>	<p>Development of the course and related materials shall be completed by no later than December 31, 2022, for Calendar Year 2023; by no later than December 31, 2023 for Calendar Year 2024; and by no later than December 31, 2024, for Calendar Year 2025.</p>
<p>Task 2b: Presentation of Confinement Certification Courses</p> <p>Description: During each Calendar Year of this Contract, ISU shall publicize, schedule and conduct certification courses using these course materials in most counties throughout the state, where the courses shall be delivered by members of the ISU Teaching Teams. ISU shall prepare and distribute sets of course teaching materials to appropriate ISU Teaching Teams, including pre-recorded DVD training materials and other DNR-approved training materials.</p> <p>No less than 45 live presentations shall occur at ISU county extension offices. With pre-approval by DNR, live presentations may occur at alternate locations, such as Pork Congress, ISU Field Day, or at industry trade shows.</p> <p>The DVD presentation shall be used for training at ISU Extension & Outreach offices through the remainder of the Calendar Year.</p>	<p>Live presentations shall occur for each Calendar Year throughout that Calendar Year.</p>
<p>Task 2c: Pre-recorded Presentation of Confinement Certification Course</p> <p>Description: Delivery of the pre-recorded DVD presentation materials for the relevant Calendar Year shall occur as often as needed throughout each Calendar Year. DVDs of the courses shall be available for viewing during regular business hours, with an appointment, at ISU county extension offices.</p>	<p>This Task shall be performed throughout the Contract term.</p>

Obligation	Task Milestone Date
<p>Task 3: Update Training Materials</p> <p>Description: During each Calendar Year of this Contract, ISU shall update current manure applicator certification training materials, including online training materials (see Task 4) and ISU-generated fact sheets for applicators.</p> <p>Training materials shall address:</p> <ul style="list-style-type: none"> • handling, application and storage of manure; • potential effects of manure on surface water and groundwater; • procedures to remediate the potential effects on surface water and groundwater; • manure nutrient values; • manure use to maximize crop production benefits and prevent contamination of surface water and groundwater; • requirements of Iowa law, including statutes, DNR rules and any relevant federal law; • timing of land application based on manure storage levels, crop needs, weather and soil conditions; • best management practices for manure application and management recommended by DNR and ISU; • development of safety and emergency action plans, availability of technical and educational assistance; • practical and cost-effective methods to prevent and limit the impact of manure spills, especially from manure storage structures. <p>In addition to the training materials designed for live presentation, an outdoor video for demonstration purposes shall be created or updated, as necessary.</p>	<p>Training Materials shall be developed for each Calendar Year by December 31 of the previous Calendar Year.</p>
<p>Task 4: Video footage and other training materials</p> <p>Description: During each Calendar Year of this Contract, ISU shall provide formatted and edited online training materials that are revised and updated as necessary to be consistent with other training materials during that Calendar Year. These training materials shall be formatted into modules that are no more than 15 minutes in length to be compliant with and to be used in conjunction with DNR's Learning Management System (LMS) known as Modular Object Oriented Dynamic Learning Environment (MOODLE). This content shall be submitted in the DNR LMS in Sharable Content Object Reference Model (SCORM) compliant format using content software agreed upon by DNR and ISU. Video footage and other learning materials shall be formatted and edited to produce the following low definition products:</p> <ol style="list-style-type: none"> (a) A three-hour manure certification training course for commercial manure service representatives, as designated in 567 IAC 65.19(6)(a); and (b) A two-hour confinement site manure applicator training course for confinement site manure applicators, as designated in 567 IAC 65.19(6)(b). (c) A three-hour dry manure applicator training course suitable for training designated by 567 IAC 65.19(6)(a) or 567 IAC 65.19(6)(b) and pre-recorded between August and December preceding the Calendar Year during which it is used for training. <p>ISU shall deploy the online content to DNR's production LMS on DNR's website. As requested by DNR, Contractor shall assist DNR in ensuring that the online training materials are successfully deployed and are consistently available on DNR's website for use by members of the public.</p>	<p>Online training, including any revisions and updates, shall be ready for deployment by no later than January 2 of each Calendar Year.</p> <p>Deployment to the DNR Learning Management System shall occur by no later than January 2 of each Calendar Year.</p>
<p>Task 5: Update Certification Exams</p> <p>Description: During each Calendar Year of this Contract, ISU shall update manure applicator certification exams as requested by DNR in writing, and ISU shall test the exams on members of ISU Teaching Teams, following DNR review.</p>	<p>Updates requested by DNR shall be completed no later than 90 days following the date of request, but in any event no later than December 31 of the</p>

	Calendar Year during which the request was made.
Obligation	Task Milestone Date
<p>Task 6: Advisory Committee Recruitment and Advisory Committee Meeting</p> <p>Description: During each Calendar Year of this Contract, ISU shall identify commercial manure service representatives to serve on an Advisory Committee for development of manure applicator training materials. Members of the Advisory Committee shall include at least the following: ISU representatives and DNR representatives. Other persons or organizations may be included as determined by ISU. The purpose of the Advisory Committee shall be to develop a list of potential content and topics for the education courses and training materials to be developed during the following Calendar Year.</p> <p>The Advisory Committee shall meet at least once during each Calendar Year, by no later than August 31, and shall develop a list of potential content and topics for the courses and training materials to be developed by December 31 of that Calendar Year for use during the following Calendar Year.</p>	<p>This Task shall be performed throughout the Contract term.</p>
<p>Task 7: ISU Field Specialist Meeting, and In-Service Training for ISU Field Staff Support Personnel</p> <p>Description: During each Calendar Year of this Contract, ISU shall schedule and, with DNR, shall conduct one meeting of ISU Field Specialists. The purpose of the meeting shall be to discuss the implementation of the following Calendar Year training materials for the Manure Applicator Certification program.</p> <p>During each Calendar Year of this Contract, ISU and DNR shall provide in-service training to ISU Field Staff support personnel responsible for county extension program delivery to implement training using pre-recorded courses and printed materials, and administrative paperwork for the Manure Applicator Certification program.</p>	<p>No later than December 31 of each Calendar Year for the following Calendar Year.</p>
<p>Task 8: Website Maintenance</p> <p>Description: In addition to the online training materials provided pursuant to Task 4 of this Contract, during each Calendar Year of this Contract, ISU shall ensure that the public may download copies of current Calendar Year course materials, topics and other training materials at the following internet address: http://www.extension.iastate.edu/immag/.</p> <p>ISU shall ensure that the materials available on this website include a current list of times and locations for course presentations, and information regarding the online training created and deployed on DNR's website pursuant to Task 4 above. This website also shall include a current list of certified commercial applicators and the Final Report due pursuant to section 6.4 of this Contract, as well as the Final Reports from the previous five Calendar Years. The website shall be maintained and updated by ISU as needed throughout the term of this Contract.</p>	<p>This Task shall be performed through the Contract term.</p>
<p>Task 9: Continuing External Information</p> <p>Description: During each Calendar Year of this Contract, ISU shall keep the public, support groups, and external partners who are members, or potential members, of the Advisory Committee informed about the program. Methods to publish information shall include, but shall not be limited to, mass media and personal contact.</p> <p>Within two months of the end of each Calendar Year, ISU shall publish evaluation results and behavior change resulting from the certification program at the following internet address: http://www.extension.iastate.edu/immag/.</p>	<p>This Task shall be performed through the Contract term.</p>

7.3 Budget. The budget for this Contract shall be as follows:

Task*	Amount of compensation allotted to Task per Fiscal Year	Amount of compensation allotted to Task for three-year Contract term
Task 1a: Development of Commercial Certification Course	Not more than \$50,000 per Fiscal Year	Not more than \$150,000
Task 1b: Presentation of Commercial Certification Course	Not more than \$20,000 per Fiscal Year	Not more than \$60,000
Task 1c: Pre-recorded Presentation and Accompanying Printed Materials of Commercial Certification Course	Not more than \$11,000 per Fiscal Year	Not more than \$33,000
Task 2a: Development of Confinement Certification Courses	Not more than \$50,000 per Fiscal Year	Not more than \$150,000
Task 2b: Presentation of Confinement Certification Courses	Not more than \$20,000 per Fiscal Year	Not more than \$60,000
Task 2c: Pre-recorded Presentation of Confinement Certification Course	Not more than \$11,000 per Fiscal Year	Not more than \$33,000
Task 3: Update Training Materials	Not more than \$5,000 per Fiscal Year	Not more than \$15,000
Task 4: Video footage and other training materials	Not more than \$10,000 per Fiscal Year	Not more than \$30,000
Task 5: Update Certification Exams	No separate amount is allotted for this Task	No separate amount is allotted for this Task
Task 6: Advisory Committee Recruitment and Advisory Committee Meeting	Not more than \$10,000 per Fiscal Year	Not more than \$30,000
Task 7: ISU Field Specialist Meeting, and In-Service Training for ISU Field Staff Support Personnel	Not more than \$5,000 per Fiscal Year	Not more than \$15,000
Task 8: Website Maintenance	Not more than \$5,000 per Fiscal Year	Not more than \$15,000
Task 9: Continuing External Information	Not more than \$10,000 per Fiscal Year	Not more than \$30,000
Total	Not more than \$207,000 per Fiscal Year	Not more than \$621,000

*If the actual costs per Task deviate by more than 10% from those stated in the table above, then ISU shall inform DNR in writing within 30 days.

Environmental Protection Commission

ITEM #12

DECISION

Contract with THE UNIVERSITY OF TEXAS at DALLAS (UT Dallas)

Recommendation: Commission approval is requested for a service contract with the University of Texas at Dallas (UT Dallas).

Contract Terms:

Amount: Not to exceed \$40,000

Dates: July 1, 2022, to June 30, 2023

Funding Source(s): 100% - Field Services Bureau Management General Fund, cost center 7490

Statutory Authority: 455A.4(6)

Contract Background: The Emergency Planning and Community Right-to-Know Act (EPCRA), section 312, requires facilities to submit information about the types and locations of hazardous chemicals over certain quantities. The DNR utilizes the section 312 (Tier II) data for planning and response during disasters, and makes the information available to emergency planners and first responders.

UT Dallas partnered with the U.S. EPA and U.S. Department of Homeland Security to research and develop the E-Plan system. The highly secure E-Plan program for hazmat responders runs on the internet 24/7/365 so that Tier II data will be instantly available when needed by state and local first responders. E-Plan is known nationally and meets the needs for first responders and local emergency planners. E-Plan is available only through UT Dallas. There are currently 11 states and 7 counties that use E-Plan.

Contract Purpose: The parties propose to enter into this Contract to retain UT Dallas to provide E-Plan access and support to more than 4,200 Tier II facilities in Iowa and 171 emergency planners and first responders.

Contractor Selection Process: Intergovernmental contracting is authorized by 11 IAC 118.4. UT Dallas was chosen for this project because E-Plan was originally developed under a federal U.S. EPA grant and is available only through UT Dallas.

Contract History: DNR has contracted with UT Dallas since 2019 for their E-plan services. The services delivered under the contract have not changed. Previous contracts with UT Dallas included a trial period cost rate to accommodate preliminary testing and configurations. Participating state agencies like DNR are expected to pay a \$10 per facility rate per year to cover ongoing costs to support and maintain E-Plan, which is significantly less than the cost it would take for DNR to develop its own custom software.

Christina Iiams, Management Analyst 3, Field Services & Compliance Bureau
Environmental Services Division
May 17, 2022

5.1 Statement of Work. Contractor shall perform the following Tasks by the Task Milestone Dates set out in the following table:

Obligation	Task Milestone Date
<p>Task 1: E-Plan services Description: The scope of E-Plan services shall include:</p> <ol style="list-style-type: none"> 1. E-Plan shall support facilities in Iowa to file their EPCRA Sections 312 (Tier II), 302, and 311 directly into the E-Plan online reporting system (website: https://tier2.erplan.net). 2. E-Plan shall provide an 8:00 AM to 5:00 PM Central Time call line, 24/7 online request tracking system, and online webinars for Tier II filers in January and February of each year. 3. E-Plan shall offer service support for the current and new first responders in Iowa who would use E-Plan for planning and response purposes (website: https://erplan.net). 4. These services shall be provided for the 4,213 current Tier II facilities in Iowa, the 171 current Tier II first responders in Iowa, and any additional Tier II facilities and emergency planners and first responders in Iowa. 	<p>7/1/22 to 6/30/23</p>

7.3 Budget and Submission of Invoices. The budget for this Contract and the submission of invoices shall be as stated in the table below:

Task Milestone Date	Amount of Compensation Allotted to Task	Invoice Due No Later Than
<p>Task 1: E-Plan Services (July 1, 2022-June 30, 2023)</p>	<p>Not to exceed \$40,000</p>	<p>July 1, 2022 Payment Terms: Net 60</p>
<p>Total</p>	<p>Not to exceed \$40,000</p>	

When Seconds Count—Planning Pays Off

Iowa's Planners and First Responders Get Vital Information From E-Plan

When disaster hits, emergency managers have seconds to act.

In the past, first responders could arrive at the scene not knowing the chemical hazard they faced. Sometimes they had to get someone out of bed and wait for them to run to the office and retrieve the information.

With [E-Plan](#), HAZMAT (hazardous materials) teams, fire departments, police and emergency managers rush to respond—retrieving chemical inventories on the way. By the time they arrive, they know what products are onsite and where they are stored.

Overview

E-Plan provides online access to chemical inventories. The instant access protects the response team as they choose the gear and response they need. And, it protects the community.

Most of the time, local response agencies use E-Plan to prepare for events they hope will never happen. Planning ensures communities have the specific resources and training they need. Local emergency planning committees (LEPCs) use annual chemical inventory reports on the storage, use and releases of hazardous substances. Reporting is required under the federal Emergency Planning and Community Right-to-Know Act ([EPCRA](#)).

Why E-Plan is Essential

- Provides vital information for first responders
- Saves time. Saves lives.
- Always available—in seconds, 24/7
- Replaces thousands of paper records
- Essential for planning
- Ensures availability of proper equipment and training
- Helps determine adjacent vulnerable populations, e.g., schools
- Identifies physical and health hazards
- Efficient and cost-saving for 4,600 companies to report

First responders use E-Plan, an online system, to figure out how to respond to a hazardous (Tier II) chemical release.



When a company has hazardous chemicals, the owner or operator must collect [information](#) and submit a Tier II report with specific information about each chemical. Reporting is required for smaller amounts of extremely hazardous chemicals, such as ammonia. There are some exemptions such as food or food additives.

“The E-Plan system is more convenient and easy to use compared to the previous method of filing.”

—Mona Bond, facility submitter

E-Plan is a fast, accurate and convenient way to organize the annual reports required by state, federal and local governments. Chemical lists are available—at your fingertips—24/7 for first responders. E-Plan replaces piles of paper which previously had to be scanned and saved.

“The time savings are not insignificant. And, I suspect there are fewer errors...such as mailing them to the wrong county. The savings in paper, ink, envelopes and postage...must be huge as well.”

—Penny Vossler, Boone County GIS coordinator

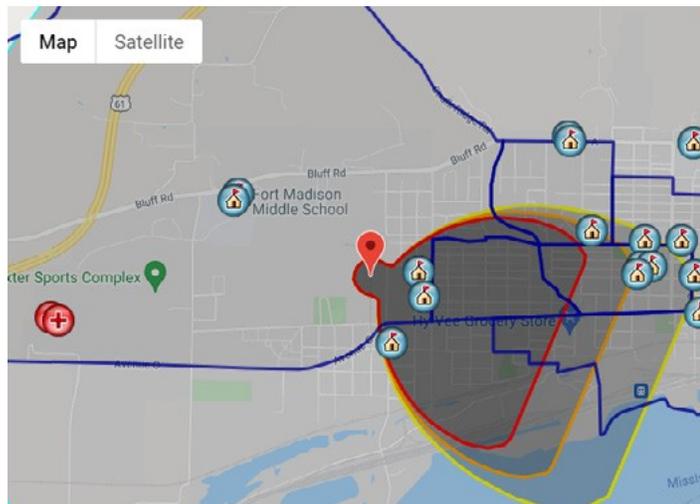
Emergency Response

In addition to Tier II data, E-Plan instantly makes available other important information, such as:

- Maps of the area surrounding a fixed facility showing schools and hospitals
- Facility Emergency Response Plans including diagrams and floor plans
- Safety Data Sheets for thousands of chemicals
- Emergency Response Guidebook pages
- National Fire Protection Association codes.

“Another feature I really like is the ability to demonstrate the ‘Plume’ scenarios. This will be the highlight of our first LEPC discussion, and this demonstration and discussion will develop into an actual tabletop exercise.”

—Brian Hall,
Emergency Management Coordinator,
Louisa County



E-Plan creates maps of the spill site, including the locations of hospitals and schools where vulnerable populations may need to be evacuated. The maps incorporate wind speed and direction to show three plumes—from the likely most contaminated area to the least.

Reporting

Approximately 4,600 Iowa businesses have been using E-Plan since 2019. While there’s a mix of companies including petroleum, chemical and manufacturing facilities, the most hazardous chemicals come from the agricultural, water and wastewater, and telecommunications sectors.

Companies with Extremely Hazardous Substances

Company Type	Number of Companies	Top Three Extremely Hazardous Substances
Ag Co-ops	919	Ammonia
Drinking water and wastewater treatment plants	153	Chlorine
Manufacturing companies	> 2500	May have sulfuric acid in forklifts
Telecommunications, power companies and windfarms	854	Sulfuric Acid
Petroleum and Chemical	100	Varies

E-Plan has been a welcomed improvement—allowing companies to submit an electronic form to one website instead of mailing paper forms and Tier II HAZMAT sheets to DNR and multiple counties.

After two years, companies found using E-Plan was efficient, saving staff time and effort. One feature they really like is being able to replicate the previous year’s submission and make minor changes at that time.

The DNR is providing E-Plan to these companies free-of-charge. However, DNR absorbs the administrative costs and annual costs of using E-Plan software.

“This program has also allowed better access to important information needed by Local Emergency Planning Committees and HAZMAT Teams.

—Doug Bahr, Cargill, EHS Professional

Resources

For more information, check DNR’s Emergency Planning and Community Right-to-Know Act webpage ([EPCRA](#)). Or, find information about [E-Plan](#).



**Iowa Department of Natural Resources
Environmental Protection Commission**

ITEM #13

DECISION

Contract with IOWA STATE UNIVERSITY**Recommendation:**

Commission approval is requested for a service contract with Iowa State University (ISU) GIS Facility.

Contract Terms:

Amount: Not to exceed \$300,000

Dates: July 1, 2022, to June 30, 2025.

Funding Sources: Projects will be funded through GIS infrastructure funds or federal grant dollars. Funding will vary by Task Order.

Statutory Authority: Authority to contract with the ISU GIS Facility is authorized by Iowa Code section 455B.103(3) and 11 Iowa Administrative Code section 118.4.

Contract Background: Over the past several years, the DNR GIS Section has routinely contracted with the ISU GIS Facility for basic GIS services. This Contract is a renewal of an existing contract that is set to expire in June 2022. The existing contract has met the DNR's needs as an effective tool to access high quality, affordable GIS support.

Contract Purpose: The purpose of this Contract is to acquire entry-level GIS services from the ISU GIS Facility. This Contract will allow DNR to pursue short-term, time intensive projects that would be difficult to accomplish without contract labor. Examples of typical projects include data entry, digitizing, photo scanning and rectification, and field data collection.

Contractor Selection Process: The ISU GIS Facility has been selected for this Contract because of its demonstrated ability to provide services when needed and to complete projects according to specifications of each Task Order.

Contract History:

The DNR has had a contract with the ISU GIS facility since June of 2013. The existing contract began in June of 2016 and has been amended one time to increase the total dollar amount and to extend the end date of the contract. The existing contract scope of work is the same as the Contract being proposed. The proposed Contract is essentially an update to allow us to continue a beneficial contractual relationship.

	<u>Amount</u>	<u>Timeframe</u>	<u>Purpose</u>
Original Contract Terms	\$300,000	6/20/2016 to 6/21/2019	Provide basic GIS services
Amendment #1	\$200,000	6/21/2019 to 6/30/2022	Add dollars and extend time
Total	\$500,000		

Kathryne Clark, Environmental Program Supervisor, Land Quality Bureau
Environmental Services Division
May 17, 2022

**Iowa Department of Natural Resources
Environmental Protection Commission**

ITEM #14

DECISION

Contract with THE UNIVERSITY OF IOWA**Recommendation:**

Commission approval is requested for a service contract with the State Hygienic Laboratory at the University of Iowa.

Contract Terms:

Amount: Not to exceed \$150,000

Dates: June 1, 2022 to May 31, 2024

Funding Source(s): The Superfund combined Cooperative Agreement Fund (pre-remedial)

Statutory Authority: Iowa Code Section 455B.103(3)

Contract Background: The DNR PFAS Action Plan, dated January 30, 2020, includes sampling representative public water supplies for PFAS analytes. Data collected will help inform future work. The activity supports Focus Area I of the plan which is to identify and minimize exposures of Iowans to PFAS.

Contract Purpose: The parties propose to enter into this Contract to retain the Contractor to provide analyses of drinking water samples for PFAS analytes.

Contractor Selection Process: DNR is allowed to contract with the University of Iowa pursuant to Iowa Code section 455B.103(3).

Contract History: This is the first contract with the State Hygienic Laboratory to analyze drinking water samples for PFAS analytes. There was a previous contract with a commercial laboratory to perform the analyses. The cost of that contract was approximately \$93,000.

Statement of Work:

Task	Total Amount of compensation allotted to Task	Task Milestone Date
Task 1: Sampling Supplies	No Charge	Weekly or on a mutually agreeable schedule.
Task 2: Receipt and inspection of submitted samples.	No Charge	DNR shall be notified within two business days if there are samples that do not temperature and preservation requirements.
Task 3: Analysis of Samples	Max. price for each sample: \$370.00 Not to Exceed \$138,000.00.	Extraction and analysis of samples within 30 business days of receipt of samples by the laboratory.
Task 4: Initial Reporting of Data	No Charge	The Contractor shall make completed data and results available to DNR within 30 business days of receipt of samples by the laboratory.
Task 5: Data transmission of Data to SDWIS	No Charge	The Contractor shall electronically transmit data to SDWIS within three business days after notification by DNR.
Sub-totals	\$138,000.00	
Facilities and Administrative Costs @ 8%	\$11,040.00	
Total	\$149,040.00	

Lori McDaniel, Chief – Water Quality Bureau
Environmental Services Division
May 17, 2022

**Iowa Department of Natural Resources
Environmental Protection Commission**

ITEM**#15****DECISION****TOPIC****Referrals to the Attorney General**

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

- Tim Peters; TNT Disposal, LLC
- David Omar Mercado

Tamara McIntosh, General Counsel
Legal Services Bureau

May 17, 2022

LITIGATION REPORT

Prepared By: David Scott
Date: May 17, 2022

I. Summary

The Department of Natural Resources (DNR) seeks referral of Tim Peters, former Co-manager of the now-dissolved company TNT Removal LLC, to the Iowa Attorney General's Office for violations of Iowa's waste tire storage, disposal, and transportation regulations.

DNR's Order requiring compliance with applicable regulations (2022-SW-01) is attached. The Order was issued on January 3, 2022 and was not appealed. The Order was issued after on-going efforts by the DNR to reach settlement proved unsuccessful.

The matter involves the illegal storage and disposal of waste tires at a property in Davenport, Iowa. Mr. Peters resided at the property, along with the other former co-manager of company, Mr. David Mercado. DNR staff received multiple complaints about tires being piled on the property. Repeated efforts by DNR staff and staff of the city of Davenport to pursue removal, including multiple face-to-face discussions with the two individuals, has yielded little, if any, response.

The initial complaints concerning this matter were received in 2021. As of DNR's most recent site visit in late April, 2022, there were estimated to be 2,000 passenger tire equivalents on the property.

In addition to illegal storage and disposal, there are allegations involving Mr. Peters as to illegally transporting tires without authorization. This would represent a separate violation of Iowa tire regulations located at 567 IAC 116.

II. Alleged Violator

Tim Peters.

III. Description of Facility/Property

Tires have been illegally stored and disposed of at 14164 113th Avenue, Davenport, Iowa since at least the summer of 2021.

IV. Basis for Referral Request

a. Facts/ Chronological

The attached Orders provide a detailed list of the facts relevant to this matter. Since December, 2021, DNR staff have visited the property on multiple occasions, including

LITIGATION REPORT
TIM PETERS
MAY 17, 2022 EPC MEETING

discussions with Mr. Peters, notifying him of the ongoing violations and seeking removal of the tires. There has been no response.

b. Applicable Law

- Iowa Code § **455D.11(2)** prohibits the land disposal of waste tires, unless the tire has been processed in a manner established by the DNR. The tires at issue in this matter have not be processed.
- Iowa Code § **455D.4A(3)** authorizes the DNR to deem material that is not legitimately recycled, such as waste tires, to be solid waste.
- Iowa Code § **455B.307** prohibits a person from dumping or depositing or allowing the dumping or depositing of any solid waste at any place other than a sanitary disposal project approved by the Director unless the entity has been granted a permit by the DNR which allows the dumping or depositing of solid waste on land owned or leased by the entity. The property in question in this matter is not a permitted solid waste disposal site.
- This Commission has adopted **567 IAC Chapter 117** to regulate the storage, disposal and transportation of waste tires.
 - **567 IAC 117.4(1)** prevents accumulation of waste tires on a property. The provision states that no business or individual shall store more than 500 “passenger tire equivalents” without obtaining a permit for a waste tire stockpile pursuant to 117.4(2). The location where these tires are located is not a permitted storage site.
- Additionally, **567 IAC Chapter 116** regulates those individuals or businesses that charge fees to collect and haul waste tires for disposal and includes specific registration and bonding requirements in order for a company to legally haul waste tires in Iowa. Mr. Peters is not a registered waste tire hauler in Iowa.

V. Available DNR Witnesses

Staff from DNR’s Land Quality Bureau Solid Waste program and DNR Field Offices will be available either in person or remotely to answer questions.

VI. Public comments

There may be public comment on this matter. It was not confirmed as of the date this report was due. Representatives from the City of Davenport may seek to speak in favor of referral.

VII. Exhibits

- DNR Administrative Order 2022-SW-01.
- Recent site-inspection photos.

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER**

<p>IN THE MATTER OF:</p> <p>Tim Peters; TNT Disposal, LLC</p>	<p>ADMINISTRATIVE ORDER</p> <p>NO. 2022-SW-<u>01</u></p>
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To: Tim Peters
14164 113th Avenue
Davenport, Iowa 52804

TNT Disposal, LLC
Registered Agents, Inc.
315 E. 5th Street, Suite 202
Waterloo, Iowa 50703

RE: Illegal Hauling and Disposal of Waste Tires.

I. SUMMARY

This administrative order (Order) is issued by the Iowa Department of Natural Resources (DNR) to Mr. Tim Peters to address the illegal hauling and disposal of waste tires. Mr. Peters is required to immediately cease waste tire hauling and disposal, and to remove and properly dispose of waste tires pursuant to the provisions below. Mr. Peters is also required to pay an administrative penalty of \$10,000.00 due to the ongoing and repeated nature of these violations.

Any questions regarding this Order should be directed to:

Relating to technical requirements:

Bert Noll, Environmental Specialist
Iowa Department of Natural Resources
Field Office No. 6
1023 W. Madison St.
Washington, Iowa 52353
Ph: (319) 653-2135

**Relating to legal requirements,
administrative penalty and appeal:**

David Scott, Attorney
Iowa Department of Natural Resources
Legal Services Division
1023 W. Madison St.
Washington, Iowa 52353
Ph: (319) 653-2135

II. JURISDICTION

This Order is issued pursuant to Iowa Code § 455B.307(2), which authorizes the Director of the DNR to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division IV, Part 1 (solid waste) and the rules and regulations adopted pursuant to that part; Iowa

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER
ISSUED TO: TIM PETERS; TNT DISPOSAL, LLC

Code Chapter 455D, which addresses waste tire disposal and the criteria for legitimate recycling in Iowa, and authorize the Director to issue any order necessary to secure compliance with those criteria, including removal and proper disposal of solid waste; and, Iowa Code § 455B.109 and 567 Iowa Administrative Code (IAC) 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

The following relevant facts are stated in chronological order:

1. Tim Peters currently resides at 14164 113th Avenue, Davenport, Iowa, 52804 which is a residential class property in Scott County. Mr. Peters rents this property and has hauled and accumulated well in excess of 500 passenger tire equivalents (PTE) to this property.

2. On March 30, 2020, DNR Field Office (FO) 6 received a complaint alleging that there were over 1,000 waste tires being stored at 1510 9th Street, Dewitt, Iowa. The building was owned by John Smith who had rented it to Mr. Billy Peters (the brother of Tim Peters). Billy Peters had filled the back half of the building with tires, in addition to stacking tires outside the building. According to Mr. Smith, Billy Peters told him he was going to operate a used tire business. By late 2020, it became apparent that there was not going to be a used tire business and Mr. Billy Peters was unreachable, apparently having left the state of Iowa. At this time, Mr. Tim Peters became involved with the situation and convinced Mr. Smith that he would operate a used tire business and planned to eventually have the majority of the waste tires removed. As with Billy Peters, Tim Peters also abandoned the site and Mr. Smith was eventually stuck with the cost of disposing of the tires himself. Although Billy Peters had brought the waste tires to this particular site, Tim Peters was advised verbally and through DNR correspondence that it was a violation to haul any waste tires without first obtaining a waste tire hauler's license.

3. On November 16, 2020, DNR received an incomplete application to become an Iowa registered Waste Tire Hauler from Tim Peters.

4. On November 24, 2020, DNR issued a letter and email to Tim Peters detailing that the application for Waste Tire Hauler Registration was received but was incomplete and that he, therefore, was not authorized to haul waste tires in Iowa. The letter explained the additional information that was necessary to complete the registration process, but no additional information was received.

5. On September 7, 2021, DNR FO 6 received an email from the Scott County Health Department (SCH) that it had received a complaint that two individuals were hauling and storing waste tires at 14164 113th Avenue, Davenport, Iowa. SCH investigated the complaint and provided DNR with pictures and information regarding the individuals who reside at this residence. According

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER
ISSUED TO: TIM PETERS; TNT DISPOSAL, LLC

to the information provided by SCH, one of the individuals who resided at the address was Tim Peters. The individuals were reportedly being paid by local businesses to pick up waste tires, thereby undercutting legitimate licensed waste tire haulers and recyclers. According to the SCH investigation, there were two semi-truck cargo boxes full of waste tires on the property and a large pile of waste tires in the backyard.

6. Also, on September 7, 2021, the company TNT Disposal, LLC was administratively dissolved by the Iowa Secretary of State due to its failure to comply with Iowa corporate regulations.

7. On September 8, 2021, SCH received information from the Scott County Sheriff's office that the tenants at 14164 113th Avenue, Davenport, were Timothy James Peters and David Omar Mercado.

8. On September 10, 2021, DNR FO6 received further information from SCH that its staff had visited several local tire businesses who stated that Tim Peters had been picking up their waste tires. SCH spoke with the deed holder at 14164 113th Avenue, Davenport, Ms. Sara Anders, who said she rented the house to Tim Peters and was unaware of the situation. Ms. Anders reportedly spoke with Tim Peters who assured her he would be grinding the waste tires and disposing of them. SCH also reportedly received a phone call from Tim Peters who explained that his intent was to purchase a grinder and grind and dispose of the waste tires but that the plan somehow fell-through. He further explained that he had ordered a trailer from K&S Tire Recycling, Inc., located in Chicago Heights, Illinois, to pick up and dispose of some of the tires. He said the trailer would arrive the following day.

9. On September 13, 2021, SCH staff met with Tim Peters at his residence. Mr. Peters provided receipts for 10 tons of tires that were picked up by K&S Tire Recycling, Inc. Tim explained to SCH that he needed to pick up further tires from local businesses to pay for the trailer pick up from K&S. Tim also indicated that Billy Peters had dumped approximately 50,000 tires at Billy's aunt's property near Lowden, Iowa, as well as at a separate storage unit in Davenport.

10. On September 15, 2021, SCH was notified by Gravert's Auto Company that Tim Peters had picked up their waste tires the previous day and provided a receipt. SCH advised Gravert's to obtain the services of a licensed tire hauler and recycler for future waste tire disposal.

11. On September 21, 2021, a Notice of Violation (NOV) was issued to Tim Peters informing him he was in violation of waste tire hauling and storage regulations.

12. On September 28, 2021, staff from SCH and DNR FO6 met with Tim Peters at his residence at 14164 113th Avenue, Davenport, IA, to discuss the

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER
ISSUED TO: TIM PETERS; TNT DISPOSAL, LLC

waste tire hauling and accumulation in violation of Iowa law. According to SCH staff observations, one of the storage containers on the property had been half empty at the time of her last visit and was now full again. DNR staff informed Tim Peters that the DNR was proceeding with an administrative order requiring him to cease hauling tires as he was not permitted to do so, and to also cease the accumulation of any more waste tires as there were well over 500 PTE's at the residence. Tim indicated that he had not received the recent NOV as he had not been checking his mail.

13. On September 30, 2021, DNR staff spoke with the owner of "All Kinds of Things" storage in Davenport, Iowa. He notified DNR that Tim Peters had rented two storage units (one 10'x40' and one 10'x30') and filled them both with waste tires. According to the owner, Tim Peters promised to remove the tires from the units but, to date, he had not and he had ceased paying rent.

14. On October 12, 2021, staff from DNR and SCH visited with Mr. Mercado at the residence at 14164 113th Avenue, Davenport, Iowa, to review the status of tire disposal. SCH had received a call from a neighbor that Mr. Mercado and Mr. Peters had brought another trailer-load of tires to the house. At the time, the number of tires on the property did not appear to have been reduced.

15. On November 16, 2021, DNR staff Mr. Peters' and Mr. Mercado's residence at 14164 113th Avenue, in Davenport, Iowa, to check on any progress of properly disposing of waste tires. No one was home at the time but there appeared to be more tires on the property than on previous visits.

16. On December 13, 2021, DNR staff again visited the residence to follow up on any progress disposing of the waste tires there. It did not appear that the number of tires on property has been reduced.

IV. CONCLUSION OF LAW

1. Iowa Code § 455B.307 prohibits a private entity from dumping or depositing or allowing the dumping or depositing of any solid waste at any place other than a sanitary disposal project approved by the Director unless the entity has been granted a permit by the DNR which allows the dumping or depositing of solid waste on land owned or leased by the entity. The above-stated facts establish a violation of this statutory prohibition.

2. Iowa Code Chapter 455D regulates recycling of materials that would otherwise be solid waste. Section 455D.4A addresses the requirements a facility must meet to establish that the facility is legitimately recycling material.

3. Iowa Code § 455D.4A(3) authorizes the DNR to deem material that is not legitimately recycled to be solid waste.

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER
ISSUED TO: TIM PETERS; TNT DISPOSAL, LLC

4. Iowa Code § 455D.11(2) prohibits the land disposal of waste tires, unless the tire has been processed in a manner established by the DNR. The above-stated facts establish a violation of this statutory prohibition.

5. Iowa Code § 455D.23 authorizes the DNR to require material that is not legitimately recycled to be properly disposed of.

6. Iowa Code § 455B.304 provides that the Environmental Protection Commission (Commission) shall establish rules governing the handling and disposal of solid waste. The Commission has adopted such rules at 567 Iowa Administrative Code (IAC) chapters 100-123.

7. The Commission has adopted 567 IAC 100.4 for the regulation of open dumping in Iowa. The provision prohibits a private entity from dumping or depositing, or permitting the dumping or depositing, of any solid waste at any place other than a sanitary disposal project approved by the Director and pursuant to the terms of a permit granted by the DNR authorizing the disposal of solid waste. The above-stated facts establish multiple and continued violations of this prohibition on open dumping.

8. The Commission has adopted 567 IAC 116.3 which, in part, requires waste tire haulers to register annually with the DNR. Only registered waste tire haulers are authorized to haul tires in the state of Iowa. The above-stated facts establish multiple violations of this regulation.

9. The Commission has adopted 567 IAC 117.4(1) to prevent accumulation of waste tires on a property. The provision states that no business or individual shall store more than 500 passenger tire equivalents without obtaining a permit for a waste tire stockpile pursuant to 117.4(2). The above-stated facts establish a violation of this regulation.

V. ORDER

THEREFORE, the DNR orders the following:

1. Mr. Peters must immediately cease the hauling of waste tires in the state of Iowa, and must comply with applicable Iowa waste tire hauling regulations in the future.

2. Mr. Peters must immediately cease the open dumping of waste tires in the state of Iowa, and must comply with all waste tire disposal regulations in the future.

3. Within 60 days of the date this Order is signed by the Director, Mr. Peters must remove and properly dispose of all tires located in Davenport, Iowa,

IOWA DEPARTMENT OF NATURAL RESOURCES
 ADMINISTRATIVE ORDER
 ISSUED TO: TIM PETERS; TNT DISPOSAL, LLC

or at any other location in the state of Iowa. Proof of proper disposal must be provided to DNR FO6 within 10 days of such disposal.

4. Mr. Peters must pay an administrative penalty of \$10,000.00 due to the ongoing and repeated violations referenced herein within 60 days of this Order being signed by the Director.

VI. CIVIL PENALTY

1. Iowa Code § 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000.00 that may be assessed administratively. The Commission has adopted this schedule with procedures authorizing the Director to assess administrative penalties at 567 IAC 10.

2. Iowa Code § 455B.307(3) provides for civil penalties of up to \$5,000.00 per day for solid waste violations.

3. 567 IAC 10 establishes the criteria that the DNR must consider in determining whether an administrative penalty is warranted, and if so how much the penalty should be. The general categories for consideration are the economic benefit of the alleged non-compliance by the violator, the gravity of the alleged violation, and the culpability of the violator. The administrative penalty assessed by this Order is determined as follows:

a) Economic Benefit: 567 IAC chapter 10 requires that the DNR consider the costs saved or likely to be saved by noncompliance. 567 IAC 10.2(1) states that “where the violator received an economic benefit through the violation or by not taking timely compliance or corrective measures, the department shall take enforcement action which includes penalties which at least offset the economic benefit.” 567 IAC 10.2(1) further states, “reasonable estimates of economic benefit should be made where clear data are not available.”

There was a significant economic benefit realized by Tim Peters by a) failing to obtain a waste tire hauler license, b) failing to properly dispose of waste tires, and c) receiving payment to dispose of waste tires. The annual registration fee for a waste tire hauler license is \$50.00, plus the cost of a \$150,000 (minimum) financial assurance bond (estimated to cost approximately \$1,500.00 per year). Additionally, the economic benefit from the illegal disposal of waste tires including handling, transportation, and tire disposal costs is estimated to be \$7,500.00. This estimate is based on the estimated 2,500 waste tires located at the Davenport property multiplied by a \$3.00 per tire disposal cost. This does not account for the tires illegally disposed of at the storage facility in Davenport. As such DNR estimates, very conservatively, a \$9,050.00 economic benefit.

IOWA DEPARTMENT OF NATURAL RESOURCES
 ADMINISTRATIVE ORDER
 ISSUED TO: TIM PETERS; TNT DISPOSAL, LLC

As such, DNR assesses a penalty of \$9,050.00 for this factor.

b) Gravity of the Violations: Elements to consider when determining the gravity of a violation include the actual or threatened harm to the environment or public health and safety, and whether the violation threatens the integrity of the regulatory program.

Open dumping of waste tires damages the environment, prevents proper management of disposing of solid waste and may encourage or inspire others to open dump. Open dumping of waste tires threatens the integrity of Iowa DNR's environmental programs and efforts to protect our natural resources. Similarly, failure to obtain the proper registration to haul waste tires prevents the DNR from protecting interests associated with the proper management of waste tires, including protecting those businesses that do comply with Iowa's waste tire regulations.

As such, \$3,000.00 is assessed for this factor.

c) Culpability: The factors to be considered in determining the culpability of the violator include the degree of intent or negligence, and whether the violator has taken remedial measures to address the harm caused by the violations.

Waste tire and open dumping prohibitions have been in place in Iowa for more than 40 years. It is the responsibility of Tim Peters to know and abide by these rules and he is fully aware of them from previous DNR correspondence.

Given the magnitude of the non-compliance including the most recent illegal disposal of tires at the storage facility in Davenport, \$3,000.00 is assessed for this factor.

4. As DNR's administrative penalty authority is capped at \$10,000.00 by rule, DNR assesses a penalty of \$10,000.00 for the violations enumerated in this Order.

VII. APPEAL RIGHTS

This Order is subject to appeal pursuant to Iowa Code § 455B.110 and the contested case rules promulgated pursuant to that section. An appeal must be received by the DNR within 60 days of the date this Order issued, at which time a contested case hearing will be scheduled before an Administrative Law Judge. Failure to appeal will result in this Order being considered final agency action.

IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER
ISSUED TO: TIM PETERS; TNT DISPOSAL, LLC

VIII. NONCOMPLIANCE WITH THIS ORDER

Failure to comply with any requirement of this Order will result in the imposition of further administrative penalties or referral to the Iowa Attorney General to obtain injunctive relief and/or civil penalties.



Digitally signed by Kayla Lyon
Date: 2022.01.03 11:15:33 -06'00'

Kayla Lyon, Director
Iowa Department of Natural Resources

CC: DNR Field Office 6,
David Scott,
Sara Anders, 625 Cedar St, Davenport, Iowa, 52802 (Property Owner)

VI.C.





LITIGATION REPORT

Prepared By: David Scott
Date: May 17, 2022

I. Summary

The Department of Natural Resources (DNR) seeks referral of David Mercado, former Co-manager of the now-dissolved company TNT Removal LLC, to the Iowa Attorney General's Office for violations of Iowa's waste tire storage and disposal regulations.

DNR's Order requiring compliance with applicable regulations (2022-SW-02) is attached. The Order was issued on January 3, 2022 and was not appealed. The Order was issued after on-going efforts by the DNR to reach settlement proved unsuccessful.

The matter involves the illegal storage and disposal of waste tires at a property in Davenport, Iowa. Mr. Mercado resided at the property, along with the other former co-manager of company, Mr. Tim Peters. DNR staff received multiple complaints about tires being piled on the property. Repeated efforts by DNR staff and staff of the city of Davenport to pursue removal, including multiple face-to-face discussions with the two individuals, has yielded little, if any, response.

The initial complaints were received in late 2021. As of DNR's most recent site visit in late April, 2022, there were estimated to be 2,000 passenger tire equivalents on the property.

In addition to illegal storage and disposal, there are allegations involving Mr. Mercado as to illegally transporting tires without authorization. This would represent a separate violation of Iowa tire regulations at 567 IAC 116.

II. Alleged Violator

David Mercado.

III. Description of Facility/Property

Tires have been illegally stored and disposed of at 14164 113th Avenue, Davenport, Iowa since at least September of 2021.

IV. Basis for Referral Request

a. Facts/ Chronological

The attached Orders provide a detailed list of the facts relevant to this matter. Since December, 2021, DNR staff have visited the property on multiple occasions, including

LITIGATION REPORT
DAVID MERCADO
MAY 17, 2022 EPC MEETING

discussions with Mr. Mercado, notifying him of the ongoing violations and seeking removal of the tires. There has been no response.

b. Applicable Law

- Iowa Code § **455D.11(2)** prohibits the land disposal of waste tires, unless the tire has been processed in a manner established by the DNR. The tires at issue in this matter have not be processed.
- Iowa Code § **455D.4A(3)** authorizes the DNR to deem material that is not legitimately recycled, such as waste tires, to be solid waste.
- Iowa Code § **455B.307** prohibits a person from dumping or depositing or allowing the dumping or depositing of any solid waste at any place other than a sanitary disposal project approved by the Director unless the entity has been granted a permit by the DNR which allows the dumping or depositing of solid waste on land owned or leased by the entity. The property in question in this matter is not a permitted solid waste disposal site.
- Finally, this Commission has adopted **567 IAC Chapter 117** to regulate the storage, disposal and transportation of waste tires.
 - **567 IAC 117.4(1)** prevents accumulation of waste tires on a property. The provision states that no business or individual shall store more than 500 “passenger tire equivalents” without obtaining a permit for a waste tire stockpile pursuant to 117.4(2). The location where these tires are located is not a permitted storage site.
- Additionally, **567 IAC Chapter 116** regulates those individuals or businesses that charge fees to collect and haul waste tires for disposal and includes specific registration and bonding requirements in order for a company to legally haul waste tires in Iowa. Mr. Mercado is not a registered waste tire hauler in Iowa.

V. Available DNR Witnesses

Staff from DNR’s Land Quality Bureau Solid Waste program and DNR Field Office 6 will be available either in person or remotely to answer questions.

VI. Public comments

There may be public comment on this matter. It was not confirmed as of the date this report was due. Representatives from the City of Davenport may seek to speak in favor of referral.

VII. Exhibits

- DNR Administrative Order 2022-SW-02.
- Recent site-inspection photos.

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER**

<p>IN THE MATTER OF:</p> <p>David Omar Mercado</p>	<p>ADMINISTRATIVE ORDER</p> <p>NO. 2022-SW-<u>02</u></p>
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To: David Omar Mercado
14164 113th Avenue
Davenport, Iowa 52804

RE: Illegal Hauling and Disposal of Waste Tires.

I. SUMMARY

This administrative order (Order) is issued by the Iowa Department of Natural Resources (DNR) to Mr. David Omar Mercado to address the illegal hauling and disposal of waste tires. Mr. Mercado is required to immediately cease waste tire hauling and disposal, and to remove and properly dispose of waste tires pursuant to the provisions below. Mr. Mercado is also required to pay an administrative penalty of \$10,000.00 due to the ongoing and repeated nature of these violations.

Any questions regarding this Order should be directed to:

Relating to technical requirements:

Bert Noll, Environmental Specialist
Iowa Department of Natural Resources
Field Office No. 6
1023 W. Madison St.
Washington, Iowa 52353
Ph: (319) 653-2135

Relating to legal requirements and administrative penalty:

David Scott, Attorney
Iowa Department of Natural Resources
Legal Services Division
1023 W. Madison St.
Washington, Iowa 52353
Ph: (319) 653-2135

II. JURISDICTION

This Order is issued pursuant to Iowa Code § 455B.307(2), which authorizes the Director of the DNR to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division IV, Part 1 (solid waste) and the rules and regulations adopted pursuant to that part; Iowa Code Chapter 455D, which addresses waste tire disposal and the criteria for legitimate recycling in Iowa, and authorize the Director to issue any order necessary to secure compliance with those criteria, including removal and proper

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disposal of solid waste; and, Iowa Code § 455B.109 and 567 Iowa Administrative Code (IAC) 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

The following relevant facts are stated in chronological order:

1. Mr. Mercado currently resides at 14164 113th Avenue, Davenport, Iowa, 52804, which is a residential class property in Scott County. Mr. Mercado rents this property and has hauled and accumulated well in excess of 500 passenger tire equivalents (PTE) to this property.

2. On September 7, 2021, DNR Field Office (FO) 6 received an email from the Scott County Health Department (SCH) that it had received a complaint that two individuals were hauling and storing waste tires at 14164 113th Avenue, Davenport, Iowa. SCH investigated the complaint and provided DNR with pictures and information regarding the individuals who reside at this residence. According to the information provided by SCH, one of the individuals who resided at the address was David Mercado. The individuals were reportedly being paid by local businesses to pick up waste tires, thereby undercutting legitimate licensed waste tire haulers and recyclers. According to the SCH investigation, there were two semi-truck cargo boxes full of waste tires on the property and a large pile of waste tires in the backyard.

3. On September 8, 2021, SCH received information from the Scott County Sheriff's office that the tenants at 14164 113th Avenue, Davenport, were Timothy Peters and David Omar Mercado.

4. On September 10, 2021, DNR FO6 received further information from SCH that its staff had visited several local tire businesses who stated that Mr. Mercado had been picking up their waste tires.

5. On September 13, 2021, SCH staff met with Mr. Mercado at his residence. Mr. Peters provided receipts for 10 tons of tires that were picked up by K&S Tire Recycling, Inc. He explained to SCH that he needed to pick up further tires from local businesses to pay for the trailer pick up from K&S.

6. On September 15, 2021, SCH was notified by Gravert's Auto Company that Mr. Peters and Mr. Mercado had picked up their waste tires the previous day and provided a receipt. SCH advised Gravert's to obtain the services of a licensed tire hauler and recycler for future waste tire disposal.

7. On September 28, 2021, staff from SCH and DNR FO6 met with Tim Peters and Mr. Mercado at 14164 113th Avenue, Davenport, IA, to discuss the waste tire hauling and accumulation in violation of Iowa law. According to SCH

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staff observations, one of the storage containers on the property had been half empty at the time of her last visit and was now full again.

8. On October 6, 2021, DNR staff spoke with the owner of “All Kinds of Things” storage in Davenport, Iowa. He notified DNR that Mr. Mercado had rented two storage units (one 10’x40’ and one 10’x30’) and filled them both with waste tires. According to the owner, Mr. Mercado promised to remove the tires from the units but, to date, he had not and he had ceased paying rent.

9. On October 14, 2021, a Notice of Violation was issued to Mr. Mercado for non-compliance with Iowa law.

10. On November 16, 2021, DNR staff visited Mr. Peters’ and Mr. Mercado’s residence at 14164 113th Avenue, in Davenport, Iowa to determine if any waste tires on the property had been removed. No one was home at the time, and there appeared to be more tires on the property than during previous visits.

11. On December 12, 2021, DNR staff again visited the property and noted that there had been no progress on tire removal.

IV. CONCLUSION OF LAW

1. Iowa Code § 455B.307 prohibits a private entity from dumping or depositing or allowing the dumping or depositing of any solid waste at any place other than a sanitary disposal project approved by the Director unless the entity has been granted a permit by the DNR which allows the dumping or depositing of solid waste on land owned or leased by the entity. The above-stated facts establish a violation of this statutory prohibition.

2. Iowa Code Chapter 455D regulates recycling of materials that would otherwise be solid waste. Section 455D.4A addresses the requirements a facility must meet to establish that the facility is legitimately recycling material.

3. Iowa Code § 455D.4A(3) authorizes the DNR to deem material that is not legitimately recycled to be solid waste.

4. Iowa Code § 455D.11(2) prohibits the land disposal of waste tires, unless the tire has been processed in a manner established by the DNR. The above-stated facts establish a violation of this statutory prohibition.

5. Iowa Code § 455D.23 authorizes the DNR to require material that is not legitimately recycled to be properly disposed of.

6. Iowa Code § 455B.304 provides that the Environmental Protection Commission (Commission) shall establish rules governing the handling and

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disposal of solid waste. The Commission has adopted such rules at 567 Iowa Administrative Code (IAC) chapters 100-123.

7. The Commission has adopted 567 IAC 100.4 for the regulation of open dumping in Iowa. The provision prohibits a private entity from dumping or depositing, or permitting the dumping or depositing, of any solid waste at any place other than a sanitary disposal project approved by the Director and pursuant to the terms of a permit granted by the DNR authorizing the disposal of solid waste. The above-stated facts establish multiple and continued violations of this prohibition on open dumping.

8. The Commission has adopted 567 IAC 116.3 which, in part, requires waste tire haulers to register annually with the DNR. Only registered waste tire haulers are authorized to haul tires in the state of Iowa. The above-stated facts establish multiple violations of this regulation.

9. The Commission has adopted 567 IAC 117.4(1) to prevent accumulation of waste tires on a property. The provision states that no business or individual shall store more than 500 passenger tire equivalents without obtaining a permit for a waste tire stockpile pursuant to 117.4(2). The above-stated facts establish a violation of this regulation.

V. ORDER

THEREFORE, the DNR orders the following:

1. Mr. Mercado must immediately cease the hauling of waste tires in the state of Iowa, and must comply with applicable Iowa waste tire hauling regulations in the future.

2. Mr. Mercado must immediately cease the open dumping of waste tires in the state of Iowa, and must comply with all waste tire disposal regulations in the future.

3. Within 60 days of the date this Order is signed by the Director, Mr. Mercado must remove and properly dispose of all tires located in Davenport, Iowa, or at any other location in the state of Iowa. Proof of proper disposal must be provided to DNR FO6 within 10 days of such disposal.

4. Mr. Mercado must pay an administrative penalty of \$10,000.00 due to the ongoing and repeated violations referenced herein within 60 days of this Order being signed by the Director.

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VI. CIVIL PENALTY

1. Iowa Code § 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000.00 that may be assessed administratively. The Commission has adopted this schedule with procedures authorizing the Director to assess administrative penalties at 567 IAC 10.

2. Iowa Code § 455B.307(3) provides for civil penalties of up to \$5,000.00 per day for solid waste violations.

3. 567 IAC 10 establishes the criteria that the DNR must consider in determining whether an administrative penalty is warranted, and if so how much the penalty should be. The general categories for consideration are the economic benefit of the alleged non-compliance by the violator, the gravity of the alleged violation, and the culpability of the violator. The administrative penalty assessed by this Order is determined as follows:

a) Economic Benefit: 567 IAC chapter 10 requires that the DNR consider the costs saved or likely to be saved by noncompliance. 567 IAC 10.2(1) states that “where the violator received an economic benefit through the violation or by not taking timely compliance or corrective measures, the department shall take enforcement action which includes penalties which at least offset the economic benefit.” 567 IAC 10.2(1) further states, “reasonable estimates of economic benefit should be made where clear data are not available.”

There was a significant economic benefit realized by Mr. Mercado by a) failing to obtain a waste tire hauler license, b) failing to properly dispose of waste tires, and c) receiving payment to dispose of waste tires. The annual registration fee for a waste tire hauler license is \$50.00, plus the cost of a \$150,000 (minimum) financial assurance bond (estimated to cost approximately \$1,500.00 per year). Additionally, the economic benefit from the illegal disposal of waste tires including handling, transportation, and tire disposal costs is estimated to be \$7,500.00. This estimate is based on the estimated 2,500 waste tires located at the Davenport property multiplied by a \$3.00 per tire disposal cost. This does not account for the tires illegally disposed of at the storage facility in Davenport. As such DNR estimates, very conservatively, a \$9,050.00 economic benefit.

As such, DNR assesses a penalty of \$9,050.00 for this factor.

b) Gravity of the Violations: Elements to consider when determining the gravity of a violation include the actual or threatened harm to the environment or public health and safety, and whether the violation threatens the integrity of the regulatory program.

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Open dumping of waste tires damages the environment, prevents proper management of disposing of solid waste and may encourage or inspire others to open dump. Open dumping of waste tires threatens the integrity of Iowa DNR's environmental programs and efforts to protect our natural resources. Similarly, failure to obtain the proper registration to haul waste tires prevents the DNR from protecting interests associated with the proper management of waste tires, including protecting those businesses that do comply with Iowa's waste tire regulations.

As such, \$3,000.00 is assessed for this factor.

c) Culpability: The factors to be considered in determining the culpability of the violator include the degree of intent or negligence, and whether the violator has taken remedial measures to address the harm caused by the violations.

Waste tire and open dumping prohibitions have been in place in Iowa for more than 40 years. It is the responsibility of Mr. Mercado to know and abide by these rules and he is fully aware of them from previous DNR correspondence.

Given the magnitude of the non-compliance including the most recent illegal disposal of tires at the storage facility in Davenport, \$3,000.00 is assessed for this factor.

4. As DNR's administrative penalty authority is capped at \$10,000.00 by rule, DNR assesses a penalty of \$10,000.00 for the violations enumerated in this Order.

VII. APPEAL RIGHTS

This Order is subject to appeal pursuant to Iowa Code § 455B.110 and the contested case rules promulgated pursuant to that section. An appeal must be received by the DNR within 60 days of the date this Order issued, at which time a contested case hearing will be scheduled before an Administrative Law Judge. Failure to appeal will result in this Order being considered final agency action.

VIII. NONCOMPLIANCE WITH THIS ORDER

Failure to comply with any requirement of this Order may result in the

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imposition of further administrative penalties or referral to the Iowa Attorney General to obtain injunctive relief and/or civil penalties.



Digitally signed by Kayla Lyon
Date: 2022.01.03 11:17:31 -06'00'

Kayla Lyon, Director
Iowa Department of Natural Resources

CC: DNR Field Office 6,
David Scott,
Sara Anders, 625 Cedar St, Davenport, Iowa, 52802 (Property Owner)

VI.C.



