

Agenda

Environmental Protection Commission

Tuesday, October 17, 2023

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, October 17, 2023

10:00 AM – EPC Business Meeting

If you are unable to attend the business meeting, comments may be submitted for public record 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.

- | | | |
|----|--|---------------------------------|
| 1 | Approval of Agenda | |
| 2 | Approval of the Minutes (Packet Page 3) | |
| 3 | Monthly Reports (Packet Page 10) | Ed Tormey
(Information) |
| 4 | Director’s Remarks | Kayla Lyon
(Information) |
| 5 | Referral to the Attorney General-Regancrest Holsteins, LLC (Packet Page 18) | Kelli Book
(Decision) |
| 6 | Contract Amendment with Gresham Smith (Packet Page 30) | Laurie Rasmus
(Decision) |
| 7 | Nonpoint Source Plan Presentation (Packet Page 35) | Steve Hopkins
(Information) |
| 8 | Chapters 3, “Submission of Information and Complaints-Investigations”; Chapter 12, “Environmental Self-Audits”; and Chapter 17 “Compliance and Enforcement Procedures”-Notice of Intended Action (Packet Page 36) | Tamara McIntosh
(Decision) |
| 9 | Chapter 9, “Delegation of Construction Permitting Authority”-Notice of Intended Action (Packet Page 40) | Lori Mc Daniel
(Decision) |
| 10 | Chapter 14, “Environmental Covenants,”-Notice of Intended Action (Packet Page 44) | Amie Davidson
(Decision) |
| 11 | Chapter 16, “Revocation, Suspension, and Nonrenewal of License for Failure to Pay State Liabilities”-Notice of Intended Action (Packet Page 48) | Tamara McIntosh
(Decision) |
| 12 | Chapter 20, “Scope of Title—Definitions,” Chapter 25, “Measurement of Emissions,” Chapter 26, “Prevention of Air Pollution Emergency Episodes,” Chapter 28, “Ambient Air Quality Standards,” Chapter 29, “Qualification in Visual Determination of the Opacity of Emissions,” Chapter 32, “Animal Feeding Operations Field Study,” Chapter 34, “Provisions for Air Quality Emissions Trading Programs,” and Chapter 35, “Air Emissions Assistance Program” - Notices of Intended Action (Packet Page 52) | Christine Paulson
(Decision) |
| 13 | General Discussion | |
| 14 | Upcoming Meetings | |
| | <ul style="list-style-type: none">• Tuesday, November 14, 2023, Wallace Building• Tuesday, December 19, 2023, Wallace Building | |

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

Updated 07/2022

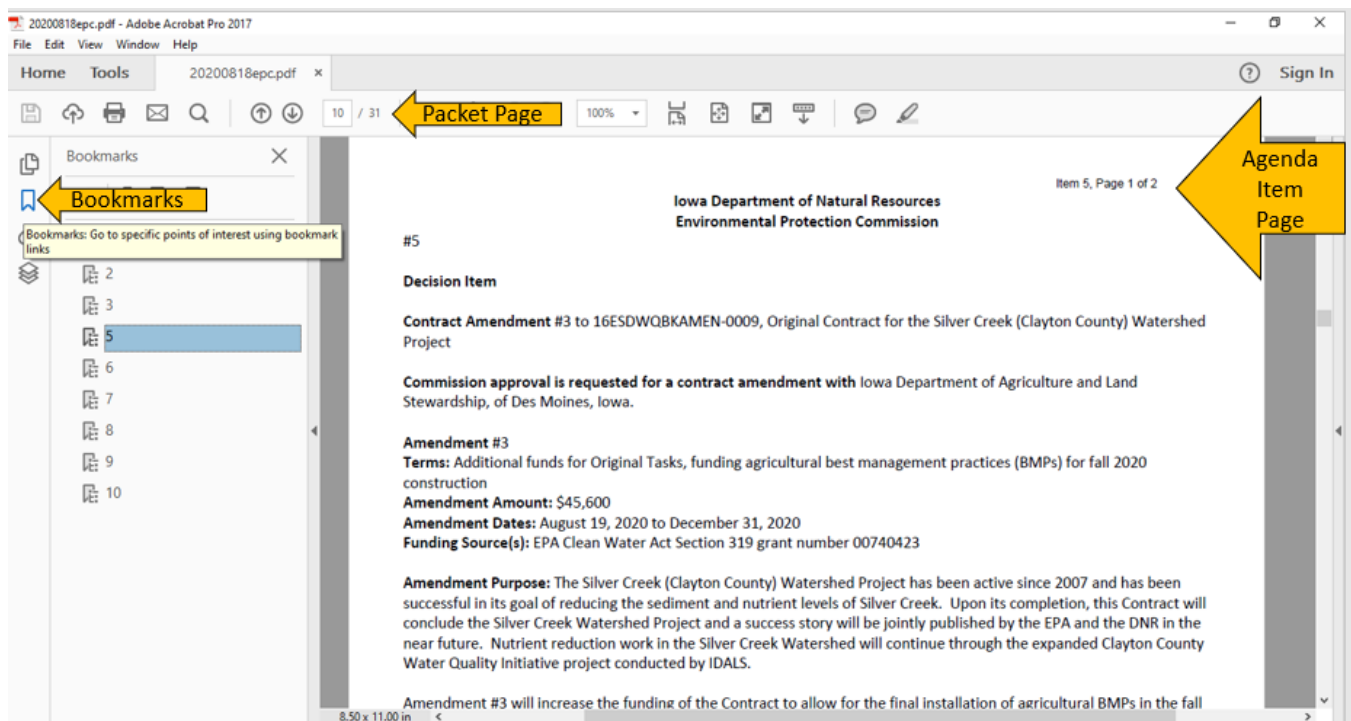
The Iowa Department of Natural Resources (DNR) does not discriminate on the basis of race, color, religion, sex, sexual orientation, gender identity, national origin, English-language proficiency, disability, or age in the administration of its programs or activities in accordance with applicable laws and regulations. DNR will not tolerate discrimination, intimidation, threats, coercion, or retaliation against any individual or group because they have exercised their rights protected by federal or state law.

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**

September 19, 2023

**Video Teleconference
and
Wallace State Office Building**

Approved by the Commission **TBD**

RECORD COPY
File Name <u>Admin 01-05</u>
Sender's Initials <u>ap</u>

Table of Contents

Call To Order	2
Commissioners Present	2
Commissioners Absent.....	2
Commissioner Oath of Office.....	2
Approval of Agenda	2
Approved as Presented	2
Approval of Minutes	2
Approved as Presented	2
Monthly Reports	2
Information.....	2
Director’s Remarks.....	2
FY 2025 Budget Request	3
Approved as Presented	3
Iowa Underserved Farmer and Farm Community Subaward Program Contracts-Caring Hands Outreach Center, Inc.....	3
Motion Denied.....	3
Iowa Underserved Farmer and Farm Community Subaward Program Contracts-City of Belle Plaine.....	3
Approved as Presented	3
Iowa Underserved Farmer and Farm Community Subaward Program Contracts-Golden Hills Resource Conservation and Development Area.....	3
Approved as Presented	4
Iowa Underserved Farmer and Farm Community Subaward Program Contracts-Iowa Soybean Association.....	4
Approved as Presented	4
Iowa Underserved Farmer and Farm Community Subaward Program Contracts-Iowa Valley Resource Conservation and Development Area.....	4
Motion Denied.....	4
Iowa Underserved Farmer and Farm Community Subaward Program Contracts-Luther College	4
Approved as Presented	4
Iowa Underserved Farmer and Farm Community Subaward Program Contracts-Maquoketa River Watershed Management Authority.....	4
Approved as Presented	5
Iowa Underserved Farmer and Farm Community Subaward Program Contracts-Resource Conservation and Development (RC7D) for Northeast Iowa, Inc. -Spillville	5
Approved as Presented	5
Iowa Underserved Farmer and Farm Community Subaward Program Contracts- Resource Conservation and Development for Northeast Iowa, Inc. -Postville	5
Approved as Presented	5
Contract with Iowa Department of Agriculture and Land Stewardship (IDALS), Silver Creek (Howard County) Water Quality Project.....	5
Approved as Presented	5
Contract with The United States Geological Survey	5
Approved as Presented	6
Solid Waste Alternatives Program-Contract Recommendations.....	6
Approved as Presented	6
Clean Water and Drinking Water State Revolving Loan Fund-FY 2024 Intended Use Plan Second Quarter Update.....	6
Approved as Presented	6
General Discussion.....	6
Adjourn	6
Adjourned.....	6

Meeting Minutes

CALL TO ORDER

The meeting of the Environmental Protection Commission (Commission or EPC) was called to order by Chairperson Harold Hommes at 10:03 am on September 19, 2023 via a combination of in-person and video/teleconference attendees. Chairperson Hommes started off the meeting by extending condolences to the Brad Bleam family for their loss. Brad Bleam was a current EPC Commissioner and in his role since 2021. Chairperson Hommes extended gratitude for Brad’s contributions to the EPC. A certificate of service will be provided to Brad Bleam’s family at a later date.

COMMISSIONERS PRESENT

- Patricia Foley
- Harold Hommes
- Roger Zylstra
- Mark Stutsman
- Amy Echard
- Rebecca Dostal
- Kyle Tobiason

COMMISSIONERS ABSENT

- Lisa Gochenour

COMMISSIONER OATH OF OFFICE

Director Lyon swore in Kyle Tobiason to the Commission.

APPROVAL OF AGENDA

The Chairperson asked for the Commissioners to approve the agenda by saying aye. There were no nay votes.

APPROVED AS PRESENTED

APPROVAL OF MINUTES

The Chairperson asked for the Commissioners to approve the Minutes of the August 9, 2023 meeting by saying aye. There were no nay votes.

APPROVED AS PRESENTED

MONTHLY REPORTS

- Division Administrator Ed Tormey invited Tim Hall with the DNR and Justin Glisan, State Climatologist, IDALS, to provide a drought update for the state of Iowa. Mr. Glisan and Mr. Hall gave an overview of the rainfall data from Spring, Summer and early Fall as well as a potential outlook for the remainder of the 2023 calendar year. Mr. Hall and Mr. Glisan responded to several questions regarding the data presented.

INFORMATION

DIRECTOR’S REMARKS

- Director Kayla Lyon extended a welcome to our new Commissioner, Kyle Tobiason.
- Director Lyon updated Commissioners on a committee that was put together by the Governor to review the efficiency and effectiveness of Iowa’s Boards and Commissions. The committee is tasked with making

recommendations to the Governor and Legislature and is currently taking public comment on their proposal. The report is due at the end of September, 2023.

FY 2025 BUDGET REQUEST

Jennifer Nelson requested Commission approval of the department’s FY 2025 budget request. Ms. Nelson responded to a question on how we manage a status quo budget and also clarified for the Commissioners that the upcoming office move for DNR Headquarters will be funded through the Department of Administrative Services.

Public Comments – None

Written Comments – None

Motion was made by Rebecca Dostal to approve the item as presented. Seconded by Patricia Foley.

Roger Zylstra-aye, Patricia Foley-aye, Lisa Gochenour-absent, Amy Echard-aye, Rebecca Dostal-absent, Mark Stutsman-aye, Kyle Tobiason-aye, Harold Hommes-aye. Motion passes.

APPROVED AS PRESENTED

IOWA UNDERSERVED FARMER AND FARM COMMUNITY SUBAWARD PROGRAM CONTRACTS-CARING HANDS OUTREACH CENTER, INC.

Steve Konrady requested Commission approval on a contract with Caring Hands Outreach Center, Inc. for a comprehensive conservation site plan, managing stormwater onsite. Mr. Konrady responded to questions regarding the potential cost of the project as outlined in the brief.

Public Comments – None

Written Comments – None

Chairperson Hommes asked for a roll call vote.

Rebecca Dostal-aye, Kyle Tobiason-aye, Mark Stutsman-nay, Roger Zylstra-aye, Patricia Foley-aye, Amy Echard-nay, Lisa Gochenour-absent, Harold Hommes-nay. Motion does not pass.

MOTION DENIED

IOWA UNDERSERVED FARMER AND FARM COMMUNITY SUBAWARD PROGRAM CONTRACTS-CITY OF BELLE PLAINE

Steve Konrady requested Commission approval on a contract with the City of Belle Plaine to provide funding for the city to improve both groundwater recharge and resilience to nonpoint source nitrate pollution.

Public Comments – None

Written Comments – None

Chairperson Hommes asked for a roll call vote.

Rebecca Dostal-aye, Kyle Tobiason-aye, Mark Stutsman-aye, Roger Zylstra-aye, Patricia Foley-aye, Amy Echard-aye, Lisa Gochenour-absent, Harold Hommes-aye. Motion passes.

APPROVED AS PRESENTED

IOWA UNDERSERVED FARMER AND FARM COMMUNITY SUBAWARD PROGRAM CONTRACTS-GOLDEN HILLS RESOURCE CONSERVATION AND DEVELOPMENT AREA

Steve Konrady requested Commission approval on a contract with Golden Hills Resource Conservation and Development Area to support their efforts in working with underserved producers to install up to 500 acres of regenerative agricultural practices to meet water quality and water management goals of the WMAs.

Public Comments – None

Written Comments – None

Chairperson Hommes asked for a roll call vote.

Rebecca Dostal-aye, Kyle Tobiason-aye, Mark Stutsman-aye, Roger Zylstra-aye, Patricia Foley-aye, Amy Echard-aye, Lisa Gochenour-absent, Harold Hommes-aye. Motion passes.

APPROVED AS PRESENTED

IOWA UNDERSERVED FARMER AND FARM COMMUNITY SUBAWARD PROGRAM CONTRACTS-IOWA SOYBEAN ASSOCIATION

Steve Konrady requested Commission approval on a contract with the Iowa Soybean Association to implement oxbow restorations and saturated buffer installations within the Skunk River Watershed. Mr. Konrady clarified the location of the oxbows on the Skunk River and provided more detail regarding the oxbow restoration toolkit that is mentioned in the brief.

Public Comments – None

Written Comments – None

Chairperson Hommes asked for a roll call vote.

Rebecca Dostal-aye, Kyle Tobiason-aye, Mark Stutsman-aye, Roger Zylstra-aye, Patricia Foley-aye, Amy Echard-aye, Lisa Gochenhour-absent, Harold Hommes-aye. Motion passes.

APPROVED AS PRESENTED

IOWA UNDERSERVED FARMER AND FARM COMMUNITY SUBAWARD PROGRAM CONTRACTS-IOWA VALLEY RESOURCE CONSERVATION AND DEVELOPMENT AREA

Steve Konrady requested Commission approval on a contract with the Iowa Valley Resource Conservation and Development Area to develop a stormwater capture and rainwater harvesting system to support rainwater retention and reuse as irrigation onsite. Mr. Konrady related this contract request to the contract request with Caring Hands Outreach Center, Inc.

Public Comments – None

Written Comments – None

Chairperson Hommes asked for a roll call vote.

Mark Stutsman-nay, Roger Zylstra-nay, Patricia Foley-aye, Amy Echard-nay, Lisa Gochenhour-absent, Rebecca Dostal-aye, Kyle Tobiason-nay, Harold Hommes-nay. Motion does not pass.

MOTION DENIED

IOWA UNDERSERVED FARMER AND FARM COMMUNITY SUBAWARD PROGRAM CONTRACTS-LUTHER COLLEGE

Steve Konrady requested Commission approval on a contract with Luther College to work with identified partners to implement soil health improvements within the Driftless Region of Iowa, focusing on underserved landowners and producers within Winneshiek County and the Upper Iowa, Turkey and Yellow River Watersheds.

Public Comments – None

Written Comments – None

Chairperson Hommes asked for a roll call vote.

Rebecca Dostal-aye, Kyle Tobiason-aye, Mark Stutsman-aye, Roger Zylstra-aye, Patricia Foley-aye, Amy Echard-nay, Lisa Gochenhour-absent, Harold Hommes-aye. Motion passes.

APPROVED AS PRESENTED

IOWA UNDERSERVED FARMER AND FARM COMMUNITY SUBAWARD PROGRAM CONTRACTS-MAQUOKETA RIVER WATERSHED MANAGEMENT AUTHORITY

Steve Konrady requested Commission approval on a contract with the Maquoketa River Watershed Management Authority for a cover crop initiative with the experienced assistance of PFI who have a proven track record of working with conservation minded farmers and providing high quality outreach, education, and practice implementation assistance across the state.

Public Comments – None

Written Comments – None

Chairperson Hommes asked for a roll call vote.

Rebecca Dostal-aye, Kyle Tobiason-aye, Mark Stutsman-aye, Roger Zylstra-aye, Patricia Foley-aye, Amy Echard-aye, Lisa Gochenhour-absent, Harold Hommes-aye. Motion passes.

APPROVED AS PRESENTED

IOWA UNDERSERVED FARMER AND FARM COMMUNITY SUBAWARD PROGRAM CONTRACTS-RESOURCE CONSERVATION AND DEVELOPMENT FOR NORTHEAST IOWA, INC. (NORTHEAST IOWA RC&D) -SPILLVILLE

Steve Konrady requested Commission approval on a contract with the Northeast Iowa RC&D for local collaboration to strategically address contamination concerns and educate community residents and area landowners on source water protection strategies.

Public Comments – None

Written Comments – None

Chairperson Hommes asked for a roll call vote.

Rebecca Dostal-aye, Kyle Tobiason-aye, Mark Stutsman-aye, Roger Zylstra-aye, Patricia Foley-aye, Amy Echard-aye, Lisa Gochenhour-absent, Harold Hommes-aye. Motion passes.

APPROVED AS PRESENTED

IOWA UNDERSERVED FARMER AND FARM COMMUNITY SUBAWARD PROGRAM CONTRACTS- RESOURCE CONSERVATION AND DEVELOPMENT FOR NORTHEAST IOWA, INC. (NORTHEAST IOWA RC&D) -POSTVILLE

Steve Konrady requested Commission approval on a contract with Northeast Iowa RC&D to work with identified partners to implement soil health improvements within the Driftless Region of Iowa, focusing on underserved landowners and producers within Winneshiek County and the Upper Iowa, Turkey, and Yellow River Watersheds.

Public Comments – None

Written Comments – None

Chairperson Hommes asked for a roll call vote.

Rebecca Dostal-aye, Kyle Tobiason-aye, Mark Stutsman-aye, Roger Zylstra-aye, Patricia Foley-aye, Amy Echard-aye, Lisa Gochenhour-absent, Harold Hommes-aye. Motion passes.

APPROVED AS PRESENTED

CONTRACT WITH IOWA DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP (IDALS), SILVER CREEK (HOWARD COUNTY) WATER QUALITY PROJECT

Miranda Haes requested Commission approval on a contract with IDALS to fund best management practices as outlined in the Silver Creek Project watershed management plan. Mrs. Haes responded to questions regarding assistance provided to upgrade septic systems that was outlined in the project.

Public Comments – None

Written Comments – None

Motion was made by Rebecca Dostal to approve the item as presented. Seconded by Patricia Foley.

Rebecca Dostal-aye, Kyle Tobiason-aye, Mark Stutsman-aye, Roger Zylstra-aye, Patricia Foley-aye, Amy Echard-aye, Lisa Gochenhour-absent, Harold Hommes-aye. Motion passes.

APPROVED AS PRESENTED

CONTRACT WITH THE UNITED STATES GEOLOGICAL SURVEY

Dan Kendall requested Commission approval on a contract with The United States Geological Survey for ongoing water quality monitoring and data collection.

Public Comments – None

Written Comments – None

Motion was made by Amy Echard to approve the item as presented. Seconded by Rebecca Dostal.

Rebecca Dostal-aye, Kyle Tobiason-aye, Mark Stutsman-aye, Roger Zylstra-aye, Patricia Foley-aye, Amy Echard-aye, Lisa Gochenour-absent, Harold Hommes-aye. Motion passes.

APPROVED AS PRESENTED

SOLID WASTE ALTERNATIVES PROGRAM-CONTRACT RECOMMENDATIONS

Tom Anderson requested Commission approval for three contract recommendations for the Solid Waste Alternatives Program. Mr. Anderson replied to questions regarding the repayment of funds for the grant program, which is done automatically via an ACH process. He also responded to a question pertaining to the size and proposed compostable waste generated by the facility outlined in the Mayflower grant proposal.

Public Comments – None

Written Comments – None

Motion was made by Roger Zylstra to approve the item as presented. Seconded by Amy Echard.

Rebecca Dostal-aye, Kyle Tobiason-aye, Mark Stutsman-aye, Roger Zylstra-aye, Patricia Foley-aye, Amy Echard-aye, Lisa Gochenour-absent, Harold Hommes-aye. Motion passes.

APPROVED AS PRESENTED

CLEAN WATER AND DRINKING WATER STATE REVOLVING LOAN FUND-FY 2024 INTENDED USE PLAN SECOND QUARTER UPDATE

Theresa Enright requested Commission approval for the second quarter FY 2024 Intended Use Plan for the Clean Water and Drinking Water State Revolving Loan Fund.

Public Comments – None

Written Comments – None

Motion was made by Patricia Foley to approve the item as presented. Seconded by Amy Echard.

Roger Zylstra-aye, Patricia Foley-aye, Lisa Gochenour-absent, Amy Echard-aye, Brad Bleam-aye, Rebecca Dostal-absent, Mark Stutsman-absent, Harold Hommes-aye. Motion passes.

APPROVED AS PRESENTED

GENERAL DISCUSSION

- Commissioner Kyle Tobiason introduced himself to the Commission.
- Alicia Plathe provided a highlight for the upcoming training for EPC Commissioners.

ADJOURN

Chairperson Hommes adjourned the Environmental Protection Commission meeting at 12:10 pm on September 19, 2023.

ADJOURNED

**Monthly Waiver Report
September 2023**

Item #	DNR Reviewer	Facility/City	Program	Subject	Decision	Date	Agency
1	Erik Day, Kelli Book, Brian Jergenson	Shawn Sterk/S&W Pork, LLC	Animal Feeding Operation	Animal confinement building was constructed approximately 128 feet from an existing private shallow well. Owner requested variance from the 200' minimum due to site conditions, well drilling costs, well quality and protection of well.	Approved	8.28.23	23cpw179
2	Lucas Tenborg	Atlas Roofing Corporation	AQ	Atlas is requesting a variance to initiate underground construction and developing utility infrastructure prior to the issuance of the air quality construction permit(s).	Approved	8.29.23	23aqw180
3	Rachel Quill	Ronan Plattet and Crating	AQ	Waiver of Initial Stack Test Requirement.	Approved	8.29.23	23aqw181
4	Danjin Zulic	BARD Materials - Anamosa	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	8.29.23	23aqw182
5	Nate Tatar	LDJ Manufacturing, Inc.	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	8.29.23	23aqw183
6	Julie Duke	Bertch Cabinet	AQ	Request to construct a new non-production lab booth prior to permit issuance	Approved	8.4.23	23aqw184
7	Julie Duke	Absolute Energy	AQ	to start construction of a new heat recovery system (Emission Unit S10) prior to permit issuance. Pour a concrete housekeeping pad for a tank and preform tie ins to piping for a heat recovery system.	Approved	8.30.23	23aqw185
8	John Curtin	Excel Engineering	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement for equipment used to test internal combustion engines (i.e. engine test cells).	Approved	9.5.23	23aqw186
9	Chris Roling	IDT Crossspark Synthetic Biology	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	9.5.23	23aqw187
10	Danjin Zulic	DFS Oskaloosa	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	9.5.23	23aqw188
11	Danjin Zulic	Bierlein Companies, Inc	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	9.6.23	23aqw189
12	Nate Tatar	Major Erickson Funeral Home and Cremato	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	9.7.23	23aqw190
13	Michael Hermsen	SSAB Iowa, Inc - Muscatine	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	9.6.23	23aqw191
14	Michael Hermsen	John Deere Ottumwa Works	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	9.11.23	23aqw192
15	Jon Ryk	JAB Pork LLC (Facility ID 68953)	AFO	Due to a fire the facility had a mass casualty of approximately 2000 hogs. The owner requests approval to mass bury the carcasses. The proposed location is in a low risk burial advisory zone and will meet all separation distances	Approved	9.5.23	23cpw193
16	Danjin Zulic	The Andersons Marathon Holdings, LLC	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	9.13.23	23aqw194
17	Michael Hermsen	SSAB Iowa, Inc - Muscatine	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	9.13-23	23aqw195
18	Mark Fields	Glen-GeryCorporation	AQ	Facility is having difficulty with start up of tunnel kiln and control equipment that requires manufacturer to come from Germany to assist. This will cause the passing of the stack test due date before equipment and control equipment is operating.	Approved	9.12.23	23aqw196
19	Karen Kuhn	Southwest Iowa Renewable Energy LLC	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	9.14.23	23aqw197
20	Paul Petitti, Kelli Book, Alison Manz	Guthrie Center Egg Farm Site	Animal Feeding Operation	A livestock producer is proposing to use fiberglass rebar in the floor only of a dry poultry manure storage structure. Currently fiberglass rebar is allowed by Iowa Code 457.307 however it is not specifically allowed in Chapter 65 rules.	Approved	9.15.23	23cpw198
21	Karen Kuhn	Tyson Fresh Meats, Inc. - Waterloo	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	9.18.23	23aqw199
22	Nate Tatar	Prairie Farms Dairy, Inc. - Luana	Air Quality Construction Permits	Waiver of Initial Stack Test Requirement.	Approved	9.21.23	23aqw200
23	Amie Davidson	Iowa DNR Land Quality Bureau	UST/Contaminated Sites/Solid Waste	Two employees hold certification as a Groundwater Professional under 567 IAC Chapter 134. Subrule 134.3(2) requires renewal fee of \$200 every two years. Four employees were previously granted waiver. A request has been made to waive the fee.	Approved	9.26.23	23utw201

**IOWA DEPARTMENT OF NATURAL RESOURCES
LEGAL SERVICES BUREAU**

DATE: October 2023
TO: Environmental Protection Commission
FROM: Tamara McIntosh
SUBJECT: Attorney General Referrals (July 2023 – September 2023)

Name, Location and Region Number	Program	Alleged Violation	DNR Action	Status	Date
City of Sioux City (3)	Wastewater	Inadequate wastewater treatment	Referred to Attorney General	Referred Petition Filed Answer Filed by City Discovery Served Trial set for May 2023 continued; Trial set for April 23, 2024	6/27/16 1/07/22 2/21/22 4/8/22 6/23/22 3/8/23 3/29/23
Global Fiberglass Solutions, LLC	Solid Waste	Illegal Stockpile	Referred to Attorney General	Referred	7/7/21
Hanson & Songs Tire and Auto	Solid Waste	Tire Storage	Referred to Attorney General	Referred	4/18/23
Peters, Mercado, and TNT Disposal LLC (6)	Solid Waste	Open Dumping	Referred to Attorney General	Petition filed in Scott County Motion for Default Entry Entry of Default Application for Order to Show Cause Show Cause Hearing continued to July 12, 2023 Show Cause Hearing-Finding of Contempt – suspended 10-day jail sentence pending clean up	6/15/22 8/18/22 8/22/22 11/21/22 3/6/23 9/12/23
Apex Construction Group Cedar Rapids (1)	Air Quality	Asbestos	Referred to Attorney General	Referred Petition Filed Order scheduling trial for 7/8/24	11/15/22 5/19/23 8/23/23
Shane and Michelle Larsen	Animal Feeding Operation	Failure to submit MMP; illegal land application	Referred to Attorney General	Referred Consent Decree Approved - \$16,500 penalty and injunctive relief Satisfaction of Judgment Filed	10/11/22 6/8/23 6/20/23
Chamness Technology, Inc. Eddyville (6)	Solid Waste	Failure to comply with AO and closure plan	Referred to Attorney General	Referred	4/18/23

**IOWA DEPARTMENT OF NATURAL RESOURCES
LEGAL SERVICES BUREAU**

DATE: October 2023
TO: Environmental Protection Commission
FROM: Tamara McIntosh
SUBJECT: Contested Cases (July 2023 – September 2023)

Date Received	Name Of Case	Action Appealed	Program	Assigned Attorney	Status
6/10/13	Mike Jahnke	Dam Application	FP	Schoenebaum	<p>Hearing held 7/30/14. ALJ upheld the permit issued by the Department. Mr. Jahnke appealed but on 11/3/14 he asked that his appeal be put on hold until April, 2015. For various reasons has asked that the appeal be postponed. Sept. 2017 – Mr. Jahnke called and asked that his appeal be put on hold until Spring 2018. September 2018 Mr. Jahnke called and asked that the matter be postponed to Spring '19. Jan. 2019 no changes, matter was postponed to Spring 2019.</p> <p>April 2019 – no change; matter postponed to Spring 2019.</p> <p>July 2019 – No changes.</p> <p>10/25/19 – Mr Jahnke has called many times to discuss his ongoing medical problems and his families' each time he asks for the matter not to be placed on the agenda and asks for a delay. He again asked for a delay until Spring.</p> <p>1/24/20 – Mr. Jahnke called again and explain ongoing medical problems and that he cannot be present for a winter meeting and asked that the matter continue to be delayed.</p> <p>5/25/20 to the 2/21/23 – no changes</p> <p>3/22.2023 – sent letter asking if he would like to withdraw his appeal or set it to go before the commission. A response was requested no later than April 12, 2023.</p> <p>April 2023 - Mr. Jahnke requested this not be set for argument before the EPC until October 2023 because of on-going health reasons.</p> <p>September 18, 2023, letter sent to Mr. Jahnke asking for a response NLT September 28, 2023 indicating if he would like to move forward with</p>

					appeal or withdraw the appeal.
11/9/17	IA Regional Utilities Association	Permit Issuance	WW	Poppelreiter (Crotty)	<p>10/25/18 –Negotiating before setting a hearing date. A final meeting with facility’s new director is expected before the end of 2018.</p> <p>01/24/19 –Negotiating before setting a hearing date. Meeting with permittee 1/24/19. Permittee must discuss options with Board. Decision from Permittee on whether to withdraw appeal or move forward with hearing is expected in Spring 2019. April 2019 – Waiting on permittee to decide whether to set a hearing or withdraw appeal. 10/25/19 – Permittee and DNR still in negotiations re: engineering proposals at the facility. No change in the appeal status. 1/24/20 – Finalizing the report on the progress they have made and will meet with DNR’s Wastewater staff in February to discuss settlement options.</p> <p>5/25/20 – No Changes</p> <p>11/18/2020 - Ongoing negotiations with IRUA. No hearing set as yet. Looking into alternative solutions.</p> <p>3/25/2021 - Continuing discussions with IRUA. Both parties are interested in non-litigation solutions. No hearing set.</p> <p>5/27/21 to the present – No Changes</p>
7/6/22	Supreme Beef, LLC	Permit issuance	Water use and allocation	Poppelreiter	9/19/23 – Active litigation. Evidentiary hearing continued to December 7-8 to allow for ALJ to rule on DNR’s motion for summary judgment and appellants’ motion for summary judgment.
9/18/23	Osceola Rural Water Supply	Permit issuance	Water use and allocation	Poppelreiter	9/19/23 – Has not been transmitted to DIA. DNR and appellants are in negotiations.

//// /

**IOWA DEPARTMENT OF NATURAL RESOURCES
LEGAL SERVICES BUREAU**

DATE: October 2023
TO: Environmental Protection Commission
FROM: Tamara McIntosh
SUBJECT: Enforcement Report Update (July 2023 through October 2023)

The following new enforcement actions were taken during this reporting period:

Individual/Entity	Program	Alleged Violation	Type of Order/Action	Penalty Amount Due	Date
Cat-Nip Ridge Manure Application, Inc.	AFO	Manure discharge	Consent	\$8,000.00	6/27/23
New Cooperative, Inc.	AQ	Construction permit	Consent	\$6,000.00	6/28/23
Kunkel Enterprises, LLC and Mike Kunkel	AFO	Applicator certification and Manure release	Unilateral	\$8,000.00	7/14/23
Randy Less	FP	Construction permit	Consent	\$2,500.00	7/19/23
Kent Nutrition Group, Inc.	AQ	Construction permit	Consent	\$8,500.00	7/21/23
Latta Well & Pump Corp	WW	Prohibited discharge	Consent	\$4,850.00	7/21/23
Casey's General Stores	WS	Monitoring and Recordkeeping	Consent	\$6,000.00	7/27/23
Interstate Land Properties, LLC	WW	Stormwater permit	Consent	\$6,500.00	8/8/23
Sunrise Village LLC and Havenpark Management LLC	WW	Compliance schedule	Amendment	0	8/18/23
Indian Hills Community College Development Corporation, Inc.	WW	Stormwater permit	Consent	\$4,000.00	8/24/23
Por Platinum Construction and Remodeling, Inc.	AQ	Asbestos	Consent	\$4,000.00	9/6/23
Home Depot U.S.A., Inc.	WW	Prohibited discharge	Consent	\$5,500.00	9/7/23
Gabe Janes	AFO	Manure management plan	Unilateral	\$3,000.00	9/11/23
Jim Ziebell	AQ/SW	Asbestos and Improper disposal	Unilateral	\$10,000.00	9/11/23
Chanchai Sooksawan	AQ/SW	Asbestos and Improper disposal	Unilateral	\$10,000.00	9/11/23

City of Winfield	WW	Prohibited discharge	Consent	\$4,500.00	9/11/23
City of Tama	WW	Operator certification	Consent	0	9/11/23
Kodiak Property Management, Inc. and Fawn Creek MHC, LLC	AQ	Asbestos	Consent	\$8,400.00	9/12/23
Grand Total				\$99,750.00	

**IOWA DEPARTMENT OF NATURAL RESOURCES
LEGAL SERVICES BUREAU**

DATE: October 2023
TO: Environmental Protection Commission
FROM: Tamara McIntosh
SUBJECT: Summary of Administrative Penalties (July 2023 – September 2023)

The following administrative penalties are being collected by DRF:

NAME	PROGRAM	AMOUNT (remaining)
Jon Knabel	AQ/SW	\$1,037.33
Randy Wise; Wise Construction	AQ/SW	\$2,081.32
Gary Eggers	SW/WW	\$10,000.00
Dennis R. Phillips; Marty's Convenience Mart	UT	\$9,954.53
Frank Robak	UT	\$10,000.00
Randy Cates	AQ/SW	\$10,000.00
Jeff Gray dba Grayz Metal Recycling	AQ/SW	\$918.53
Jayson Schlafke	AFO	\$3,000.00
Strickler Farms, LTD	AFO	\$2,592.78
Steve Seelye	AQ	750.00
Brandon Stewart	AQ/SW	\$2,100.00
North Iowa Custom Finishing	AFO	\$2,250.00
North Iowa Custom Finishing	AFO	\$4,100.00
Harold Chapman	WW	\$1,350.00
Jason Larabee	AFO	\$7,500.00
Larrell DeJong	AFO	\$4,000.00
Larrell DeJong	AFO	\$10,000.00
Scott Ellsworth	AFO	\$5,000.00
Jacob Wagoner	AQ	\$4,000.00
Total		\$90,634.49

The following administrative penalties are DUE:

NAME	PROGRAM	AMOUNT (remaining)
Sport Wade, Inc.	UT	\$10,000.00
Recycling Services	WW/HC/SW	\$7,000.00
Michael Pearson	WW	\$5,000.00
Lu Jen Farms	AFO	\$5,000.00
Blue Hyll Dairy Farm, LLC	AFO	\$6,500.00
Michael Matthews	AQ	\$4,630.00
Bar K Cattle, LLC	AFO	\$5,000.00
Robert Bryant	AFO	\$2,000.00
Amritdeep Kaur – Pari, Inc.	UT	\$7,000.00
Amritdeep Kaur – Cissy's II	UT	\$8,890.00
Ronald Stratton	FP	\$5,000.00
Jaymaharaj, L.L.C. and Monaj Desai	HC	\$7,000.00
CJ's Construction, Inc.	WW	\$5,000.00
RAM Development	AQ	\$500.00
Tyler Investment Company, Inc.	WW	\$10,000.00
Wright Materials Company	AQ	\$2,500.00

Tim Peters and TNT Disposal	SW	\$10,000.00
David Omar Mercado	SW	\$10,000.00
Regancrest Holsteins, LLC	AFO	\$1,500.00
Upcountry Fab LLC/Alexander Buck	AQ/SW	\$1,530.00
Nick and Ray Ohl	AQ	\$3,000.00
Brookstone Specialty Servicing, Inc.	WW	\$10,000.00
Daniel and Linda Troyer	AQ/WW	\$500.00
North Filter Media	AQ	\$10,000.00
Nolan Junker	AFO	\$3,000.00
Chad Roche	SW	\$10,000.00
James and Debbie Whistler	SW/AQ	\$5,000.00
Kunkel Enterprises, LLC and Mike Kunkel	AFO	\$8,000.00
Presley Bland	AQ	\$2,000.00
Mammoet USA North Inc.	WW	\$3,000.00
Total		\$168,550.00

The following administrative penalties have been COLLECTED:

NAME	PROGRAM	AMOUNT (Collected)
City of Keokuk	WW	\$20,000.00
Justin Pollard	Attorney General/SW	\$1,650.00
Soil Conditioning Solutions LLC	Restitution/AFO	\$2,290.00
New Cooperative, Inc.	AQ	\$6,000.00
Thomas Stevenson	AQ/SW	\$1,000.00
Cat-Nip Manure Application, Inc.	AFO	\$2,000.00
McAninch Corporation	WW	\$6,500.00
Knuth Farms Inc.	AFO	\$3,000.00
Rock Bottom Dairy	Restitution/AFO	\$18,045.00
Kent Nutrition Group	AQ	\$8,500.00
Latta Well & Pump Corp	WW	\$4,850.00
LCNJ Farms LLC	Restitution/AFO/WW	\$1,100.00
Casey's General Stores	WS	\$6,000.00
Pro Platinum Construction and Remodeling LLC	AQ	\$4,000.00
Indian Hills Community College	WW	\$4,000.00
Chamness Technology, Inc.	Attorney General/SW	\$10,000.00
Home Depot	WW	\$5,500.00
Total		\$104,435.00

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

ITEM

#5

DECISION**TOPIC****Referral to the Attorney General**

The Director requests the referral of the following matter to the Attorney General for appropriate legal action. Litigation reports have been provided to the commissioners. Regancrest Holsteins, LLC has 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).

- Regancrest Holsteins, LLC

Tamara McIntosh, General Counsel
Legal Services Bureau

October 17, 2023

LITIGATION REPORT

Prepared By: Kelli Book
Date: September 25, 2023

I. Summary

The DNR seeks referral of Regancrest Holsteins, LLC (Regancrest) to the Attorney General's Office for an appropriate enforcement action for manure releases from its animal feeding operation (AFO) that resulted in water quality violations. This referral includes the following violations: 1) prohibited discharges of a pollutant to a water of the state; 2) general water quality violations; 3) failure to meet the minimum open feedlot effluent control; 4) failure to contain all manure from confinement structures between periods of application; and 5) failure to comply with Administrative Consent Order No. 2022-AFO-06.

II. Alleged Violator

Sheri Danhof, Registered Agent
Regancrest Holsteins, LLC
1095 Highway 9
Waukon, Iowa 52172

William Regan, Facility Contact
Regancrest Holsteins, LLC
1121 Highway 9
Lansing, Iowa 52151

III. Description of Facility

Regancrest is a large combined concentrated animal feeding operation (CAFO) with a capacity of 990 head of mature dairy cattle, 16 head of beef finishing, and 260 head of immature dairy cattle, all in confinement. During the field office investigation cited in this litigation report it was noted there were 250 head of hut calves in open feedlot (huts with outside pens) and an unknown number of heifers and dry cattle in open feedlot pens. The 990 head of mature dairy cattle in confinement meets the definition of a large CAFO. The facility has modern facilities for housing the milk-producing cattle and manure in confinement structures, and a separate, older section of the facility utilized to house the open feedlot cattle. The facility is located at 1095 Highway 9, Waukon, Iowa (Section 2, Makee Township, Allamakee County).

LITIGATION REPORT for REGANCREST HOLSTEINS, LLC
OCTOBER 2023 EPC MEETING

IV. Alleged Violations

a. Facts

February 2023 Open Feedlot Manure Release

On February 13, 2023, DNR Field Office 1 received a complaint regarding a possible discharge from the open feedlot at Regancrest. The complainant noted that on the previous day they observed a foul odor and foaming water in a nearby ravine downhill from Regancrest. The complainant took a sample of the water in the ravine and offered it to the DNR.

On February 14, 2023, Brian Jergenson, DNR Field Office 1 environmental specialist senior, traveled to the impacted area and met with a representative for the complainant. The complainant's representative provided a summary of water sampling that occurred in 2020 that was collected by the Coalition to Support Iowa's Farmers on behalf of the neighboring property owner¹. The representative also informed Mr. Jergenson that the complainant's cattle had failed to calve in the previous years and questioned if drinking the possibly contaminated water from the ravine could have been the cause.

Mr. Jergenson and the representative traveled to the ravine and Mr. Jergenson observed water coming from the Regancrest property. Mr. Jergenson noted the foul odor, high turbidity, and foaming water in the ravine. Mr. Jergenson conducted multiple field tests in impacted areas of the ravine. All the field tests indicated a strong presence of ammonia nitrogen (>3 ppm) and the entire ravine had the odor of manure. Approximately 450 feet south of the property line, Mr. Jergenson noted a spring in the sidehill contributing to the water flow in the ravine. In the combined ravine water, the field test continued to indicate a strong presence of ammonia nitrogen (>3 ppm) and the water continued to have a strong manure odor. Mr. Jergenson also collected a laboratory sample from the combined ravine water and the laboratory sample indicated an ammonia nitrogen concentration of 36 mg/L.

¹ In 2020, Kent Mowrer with the Coalition to Support Iowa's Farmers collected a sample of the water in the ravine near the complainant's property. The sample indicated an E.coli concentration of over 7,000 cfu. In an email from the water quality section of the Iowa Soybean Association it was explained to Mr. Mowrer that the sample result is above the standard for stream impairment and the sample would not meet the fishable swimmable standard.

LITIGATION REPORT for REGANCREST HOLSTEINS, LLC OCTOBER 2023 EPC MEETING



LITIGATION REPORT for REGANCREST HOLSTEINS, LLC
OCTOBER 2023 EPC MEETING

Foaming Water in Ravine, Very Strong Manure Odor 2/14/23
Sample: **Regancrest**
36 mg/L Ammonia Nitrogen as N



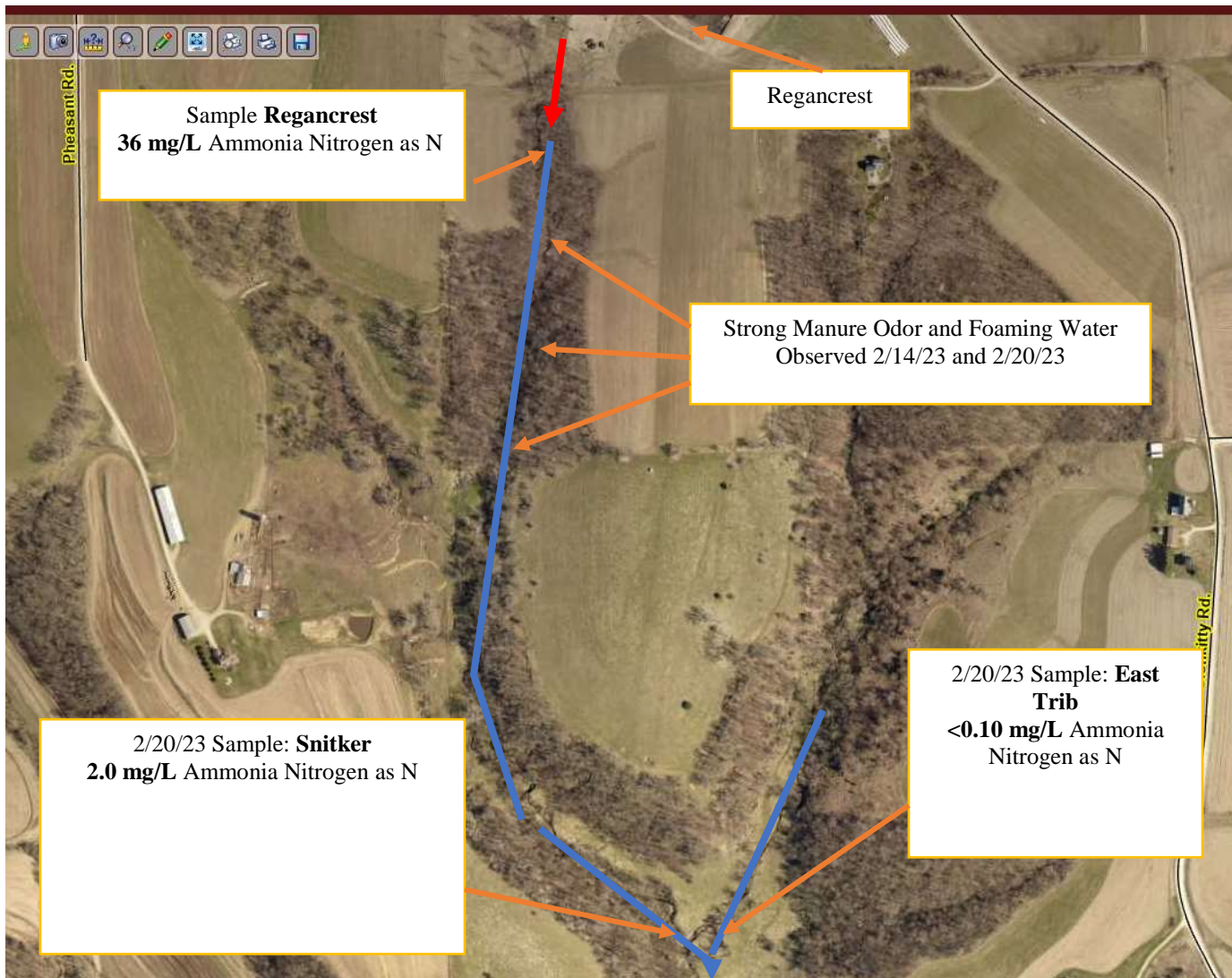
LITIGATION REPORT for REGANCREST HOLSTEINS, LLC
OCTOBER 2023 EPC MEETING

Mr. Jergenson then traveled down Clonkitty Road approximately 1.6 miles where the water crossed under the bridge into Jones Creek. At this time, water was not flowing in Jones Creek. Mr. Jergenson then went to the facility and met with Frank and Bill Regan, representatives of Regancrest. Mr. Jergenson explained the reason for his visit. Bill Regan accompanied Mr. Jergenson to the area near the calf huts. Water was observed running off the property from calf huts in the direction of the ravine. Mr. Jergenson noted that the surface runoff from the calf huts was combing with the discharges from two tile lines daylighting just north of the property boundary. Mr. Jergenson conducted a field test from three sources and noted a strong presence of ammonia nitrogen (>3ppm) from each source. Bill Regan said he did not know exactly how the two discharging tile lines were oriented on the property (where they started or what areas they drained). Mr. Jergenson concluded that both tile lines appeared to run under the calf huts and north toward the confinement barns and feed storage area. There are no other AFO facilities nearby that drain toward the location of the daylighting tile lines. The two tile lines discharging on the south end of the Regancrest property had a strong manure odor and the water was dark in color.

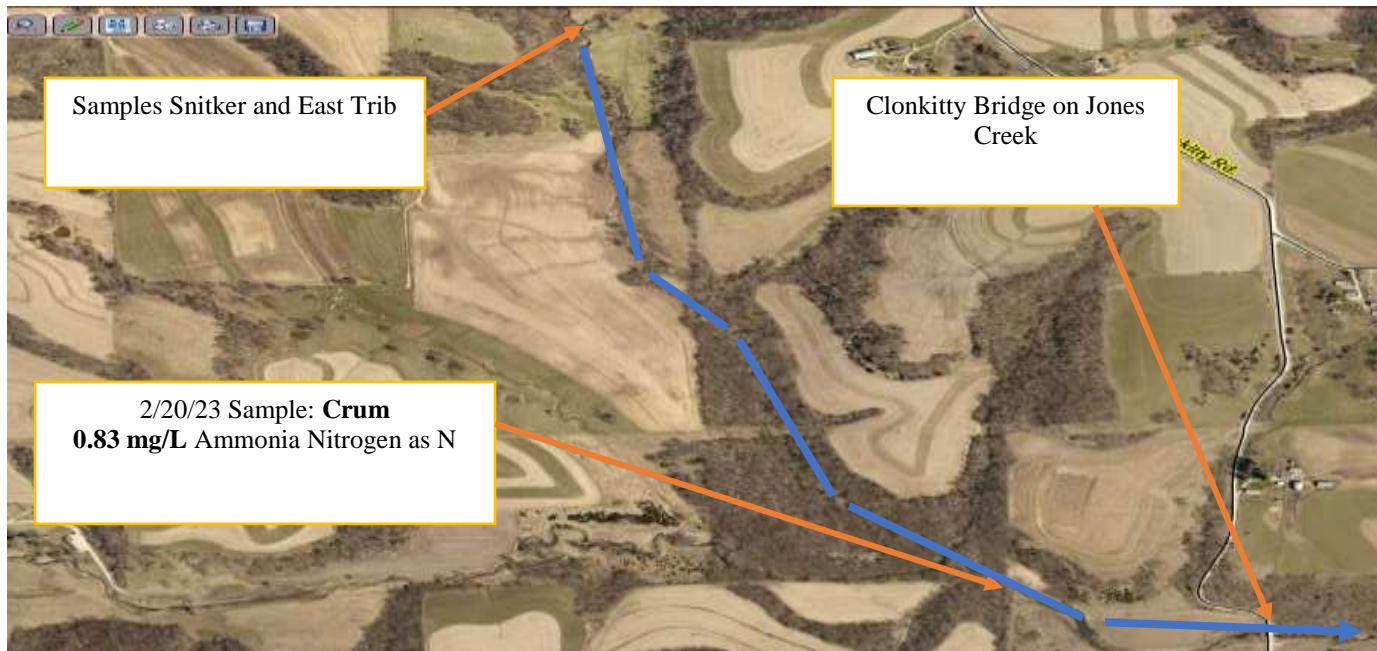
Mr. Jergenson informed Mr. Regan that the facility was a large, unpermitted CAFO and the facility was not allowed to discharge manure and/or processed wastewater to a water of the state. Mr. Jergenson told Mr. Regan that he had collected samples from the neighbor's ravine. Mr. Jergenson also asked about EPA's 2018 inspection and 2020 laboratory results that were collected by the Coalition to Support Iowa's Farmers on behalf of the neighboring property owner. Mr. Regan stated he remembered talking about the laboratory results with a member of the Coalition to Support Iowa's Farmers.

On February 20, 2023, Mr. Jergenson traveled to the area for a follow up investigation. Mr. Jergenson secured access to private property between the Clonkitty Road bridge and the Regancrest facility. Mr. Jergenson conducted field tests and collected samples from three areas as noted on the map below.

LITIGATION REPORT for REGANCREST HOLSTEINS, LLC OCTOBER 2023 EPC MEETING



LITIGATION REPORT for REGANCREST HOLSTEINS, LLC OCTOBER 2023 EPC MEETING



The first area sampled is noted as the Snitker sample, which came from the unnamed tributary coming from the facility runoff. The water was clear with a swift flow. The field test indicated the presence of ammonia nitrogen (~2 ppm) and the laboratory result indicated an ammonia nitrogen concentration of 2.0 mg/L. The second area is noted as the East Trib sample, which is water from a valley free of facility run-off. The field test did not indicate the presence of ammonia nitrogen and the laboratory result indicated an ammonia nitrogen concentration of <0.10 mg/L. The third area sampled is noted as the Crum sample, which is farther downstream of where the Snitker and East Trib waters combine. The field test indicated the presence of ammonia nitrogen (~2 ppm) and the laboratory result indicated an ammonia nitrogen concentration of 0.83 mg/L.

Mr. Jergenson then returned to the complainant's property and accessed the ravine where the property boundary is shared with Regancrest. Water was observed coming from the facility. The field test indicated the presence of high levels of ammonia nitrogen, similar to what was noted during the earlier February visit. Mr. Jergenson followed the ravine approximately 1,250 feet and the water had a strong manure odor and contained foam.

On March 15, 2023, DNR issued a Notice of Violation letter to Regancrest for the violations noted in February 2023. The letter noted the violations may be referred for further enforcement.

July 2023 Confinement Manure Release

LITIGATION REPORT for REGANCREST HOLSTEINS, LLC OCTOBER 2023 EPC MEETING

On July 19, 2023, Sean Regan, with Regancrest, contacted DNR Field Office 1 to report a manure spill from the confinement portion of the facility. Mr. Regan stated that in the middle of the night, a Regancrest employee activated a pump to transfer manure from one of the facility's below barn pits to another barn where it was supposed to flow to an outdoor concrete manure storage structure. The employee left the pumping process for approximately 20-30 minutes and when the employee returned it was noted that manure was being released due to the hose disconnecting. The employee shut the pump down. Prior to Mr. Jergenson leaving the field office he spoke to Allamakee County Emergency Management and was informed there was dirty water in isolated pools in the unnamed tributary to Jones Creek.

On July 19, 2023, Mr. Jergenson and Andrea Errthum, DNR Field Office 1 environmental specialist, traveled to the Regancrest facility and met with Sean Regan. They noted a flow path of manure from the barn exterior when the coupling broke, around the concrete manure storage structure, and down the hill to the tile intake leading to a wooded ravine above the unnamed tributary. The field office personnel noted the presence of flattened grass and dead worms between the spill location and the tile intake.

The group continued down the ravine to the unnamed tributary. The water had a manure odor and was dark in appearance. The field office personnel conducted a field test and collected a laboratory sample. The field test indicated a strong presence of ammonia nitrogen and the laboratory sample indicate an ammonia nitrogen concentration of 30 mg/L.

The group traveled approximately 700 feet further downstream and noted the water in the tributary had a manure odor and was dark in appearance. The field office personnel conducted a field test and collected a laboratory sample. The field test indicated a strong presence of ammonia nitrogen and the laboratory sample indicate an ammonia nitrogen concentration of 120 mg/L.

The field office personnel informed Mr. Regan that the facility was to remediate the manure spill in the ravine and the unnamed tributary.

On August 2, 2023, DNR issued a Notice of Violation letter to the facility for the violations discovered during the July 2023 investigation. The letter informed the facility that the DNR may be taking further enforcement for the violations, as well as any other violations.

PAST HISTORY

Previous Administrative Consent Order

In 2022, DNR issued Administrative Consent Order No. 2022-AQ-06 to Regancrest for multiple manure releases that occurred at the facility. The order

LITIGATION REPORT for REGANCREST HOLSTEINS, LLC OCTOBER 2023 EPC MEETING

required Regancrest to: 1) operate the facility and all other animal feeding operations under its control in compliance with the applicable DNR rules and regulations; 2) develop a Standard Operating Procedure to ensure operational or maintenance failures involving the manure transfer equipment do not cause a manure release; and 3) pay a \$1,500.00 administrative penalty. As part of the SOP, the facility instituted training programs, developed signage and incorporated best management practices to prevent future releases. These practices were confirmed by a field office inspection in June 2020.

The administrative consent order encompassed the following three manure releases:

1: In February 2018, DNR Field Office 1 received an anonymous complaint regarding a manure release from the facility. Manure from the confinement portion of the facility flowed down the ravine from the facility. The manure was released when there was an equipment failure in the transfer equipment at the confinement building. A Notice of Violation letter was issued to the facility for the manure release.

2: In March 2018, Regancrest contacted DNR Field Office 1 to report a manure release from the confinement portion of the facility. The same equipment failure as in February 2018, caused manure to be released. The manure remained on the facility's property.

3: In September 2018, Regancrest contacted DNR Field Office 1 to report a manure release from the confinement portion of the facility. The release was the result of the same equipment failure as occurred in February and March 2018. The manure released from the facility flowed over several driveways and onto the neighboring property. A Notice of Violation letter was issued to the facility for the manure release.

The administrative penalty was submitted on September 25, 2023.

Previous Inspections and Correspondence

In February 2018, a representative from the United States Environmental Protection Agency (EPA) visited the Regancrest facility. During the inspection the EPA representative informed Regancrest representatives that the facility was considered a large CAFO and the facility must control all process wastewater, including feedstock storage, manure stockpiles, waste feed stockpiles, calf huts, donor cow lot, and land application areas of the facility. The EPA representative informed the facility representative that discharges of the process wastewater could be considered an unauthorized discharge. In June 2018, EPA sent a letter to Regancrest providing the findings of the February inspection. The letter set out the options for Regancrest to comply with the regulations: 1) permanently eliminate all pollutants discharges from the facility; 2) apply for and obtain a

**LITIGATION REPORT for REGANCREST HOLSTEINS, LLC
OCTOBER 2023 EPC MEETING**

NPDES permit; or 3) reduce the number of animals at the facility below the large CAFO threshold (less than 700 head of mature dairy cattle). The letter required that a written response be provided to the EPA. In October 2018, the facility provided a response to the EPA. The facility stated that basins would be used to contain the nutrients and to minimize the release of nutrients from the calf huts the nutrients would be stockpiled at a different farm or land applied immediately

In May 2018, DNR Field Office 1 received a complaint alleging runoff from the facility's feed storage and calf hut areas was flowing downstream to the ravine. In June 2018, Brian Jergenson visited the facility and at the time there was no discharge; however, he observed the potential for runoff from the calf huts and feed storage area. Mr. Jergenson reminded the facility representatives that a discharge from this area would be a violation.

In 2020, DNR Field Office 1 conducted a routine inspection of the facility and the inspection report sent to the facility after the inspection specifically informed the owners that the facility was considered a large CAFO and as a result could not discharge any manure or any storm water runoff containing manure without an NPDES permit.

b. Law

1. Iowa Code section 455B.186 and 567 IAC 62.1(1) state that a pollutant shall not be disposed of by dumping, depositing, or discharging such pollutant into any water of the state except that this section shall not be construed to prohibit the discharge of adequately treated sewage, industrial waste, or other waste in accordance with DNR rules. During the February 2023 investigations and the August 2023 investigation, DNR Field Office 1 personnel found evidence that the manure from the Regancrest facility was discharged to an unnamed tributary of Jones Creek. The above facts indicate violations of these provisions.

2. 567 IAC 61.3(2) provides general water quality criteria and prohibits discharges that will produce objectionable color, odor or other aesthetically objectionable conditions; settle to form sludge deposits; interfere with livestock watering; or are toxic to animal or plant life. The manure releases in February and August 2023 caused a manure odor in the water, caused the water to be discolored, and created elevated pollutants in the water. The above-mentioned facts indicate violations of the general water quality criteria.

3. 567 IAC 65.101(3) states that an open feedlot operation which has an animal unit capacity of 1,000 animal units or more, or an open feedlot operation which is a large CAFO, or a medium CAFO, or a designated CAFO, shall not discharge manure, process wastewater, settled open feedlot effluent, settleable solids or open feedlot effluent from an open feedlot operation structure or production area into any waters of the United States, unless the discharge is

LITIGATION REPORT for REGANCREST HOLSTEINS, LLC
OCTOBER 2023 EPC MEETING

pursuant to an NPDES permit. During the two February 2023 inspections, DNR Field Office 1 noted that manure from calf hut areas of the Regancrest facility entered the ravine and unnamed tributary of Jones Creek; the facility is a large CAFO and did not have a NPDES permit. The above-mentioned facts indicate violations of this provision.

4. 567 IAC 65.2(3) states that the minimum level of manure control for a confinement feeding operation shall be the retention of all manure produced in the confinement enclosures between periods of manure application. In no case shall manure from a confinement feeding operation be discharged directly into a water of the state or into a tile line that discharges to waters of the state. In August 2023, DNR Field Office 1 observed manure originating from the confinement portion of the Regancrest facility entered the ravine and unnamed tributary of Jones Creek. The above-mentioned facts indicate a violation of this provision.

5. Administrative Consent Order No. 2022-AFO-06 required Regancrest to: 1) operate the facility and all other animal feeding operations under its control in compliance with the applicable DNR rules and regulations; 2) develop a Standard Operating Procedure to ensure operational or maintenance failures involving the manure transfer equipment do not cause a manure release; and 3) pay a \$1,500.00 administrative penalty. Since the issuance of the administrative consent order, Regancrest has had multiple violations of the DNR rules and regulations (see the manure releases in February 2023 and August 2023). Additionally, the August 2023 release was due to equipment failure with the manure transfer equipment, and Regancrest did not pay the administrative penalty until September 25, 2023. The above-mentioned facts indicate that Regancrest has failed to comply with the provisions of the administrative consent order.

6. Iowa Code section 455B.191(4) authorizes the Attorney General to institute legal proceedings necessary to secure enforcement of the water quality provisions of the law. Iowa Code section 455B.191(1) authorizes civil penalties of up to \$5,000 per day of violation of statutory provisions or DNR rules. Iowa Code section 455B.191(2) authorizes more serious criminal sanctions for negligent or knowing violations.

V. Witnesses

The following DNR personnel will be potential witnesses: Brian Jergenson and Andrea Errthum. Mr. Jergenson will be available during the October 2023 EPC meeting to answer additional questions.

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

#6

Decision Item**Contract 21ESDLQBLRASM-0001 Amendment #2 to the original contract with Gresham Smith**

Commission approval is requested for a Contract Amendment with Gresham Smith, Columbus, OH.

Amendment #2 to the original contract Terms:

Amendment Amount: \$71,790.00

Amendment Dates: January 1, 2024 to December 31, 2024

Funding Source: G550 (solid waste account of the Groundwater Protection Fund)

Statutory Authority: Iowa Code Chapter 455J

Amendment Purpose: The purpose of the Contract Amendment is to extend the present contract for professional services to the Environmental Management System (EMS) program and program participants. With the expertise of contracted consultants, DNR developed the program in FY2009. Due to the technical nature of both the program system, expertise from consultants with professional experience in EMS has continued. This Contract Amendment will ensure that both the DNR and its EMS participants will continue to receive informed, proven advice, training and consultation.

Original Contract Purpose: Iowa Code Chapter 455J establishes criteria for solid waste planning/service areas to be designated as EMS program participants. Participants require assistance to effectively adopt and implement the program, benefitting the State of Iowa. The original contract secured technical and supportive services to the DNR and its EMS program participants. Gresham Smith has supported DNR's continuous improvement of the EMS program by providing informed, researched advice and assisting with the planning, development and coordination of participant training. In addition, Gresham Smith has provided technical assistance to new, existing and potentially future participants during focused trainings and individual consultations.

Original Selection Process Summary:

A formal, competitive bid process was initiated by posting a Notice on the TSB website and issuing a Request for Proposals. Two proposals were received and evaluated by a committee of five DNR staff members, which resulted in the recommendation of Gresham Smith. The following table summarizes the two proposals that were received.

Name	Location	Average Score	Rank	Bid Amount
Gresham Smith	Columbus, OH	172 of 200	1	\$128,660
Burns & McDonnell	Alpharetta, GA	121 of 200	2	\$205,957

Contract History:

The DNR has had continual contractual agreements with Gresham Smith since October 20, 2009. The current contract amendment with Gresham Smith will expire on December 31, 2023 and is summarized below.

Contract 21ESDLQBLRASM-0001, original:

Amount: \$128,600 for 24 months

Timeframe: January 1, 2021 to December 31, 2022

Extension Options: DNR shall have the option to extend this contract for up to six years from the beginning date of the original contract by executing a signed amendment prior to the expiration of this contract.

Contract 21ESDLQBLRASM-0001, Amendment 1:

Amount: \$70,720 for 12 months

Timeframe: January 1, 2023 to December 31, 2023

Task	Amount of compensation in Original Contract	Amount of compensation Amendment #1	Amount of compensation Amendment #2 (Requested)	Grand Total
Timeframe – Calendar Years	2021 – 2022	2023	2024	
Task 1: DNR Assistance and Participant Assistance	Not to exceed \$113,004.00	Not to exceed \$64,148.00	Not to exceed \$64,630.00	Not to exceed \$241,782.00
Task 2: Program Management	Not to exceed \$15,656.00	Not to exceed \$6,572.00	Not to exceed \$7,160.00	Not to exceed \$29,388.00
Total	Not to exceed \$128,660.00	Not to exceed \$70,720.00	Not to exceed \$71,790.00	Not to exceed \$271,170.00

Laurie Rasmus, Program Planner, Land Quality Bureau
Environmental Services Division
October 17, 2023

Attachment #1: Statement of Work for Contract 21ESDLQBRASM-0001 Amendment #2

Deliverable	Task Milestone Date	Amount of compensation allotted to Task	Invoice Due No Later Than
Task 1. DNR and EMS Participant Assistance. Contractor will serve as an advisor for DNR and EMS Participants to provide the services summarized below.	Ongoing throughout Contract Amendment	\$64,630	Contractor shall invoice DNR on a monthly basis.
Task 1.1 Advice, Coordination and Planning. Assist DNR with program planning, coordination, and occasional advice. This task includes the following activities: <ul style="list-style-type: none"> • Develop a calendar of activities to support the EMS Program and its participant agencies. • Develop the concepts and hosting preparations for EMS conferences, workshops and trainings, including identifying speakers and preparing agendas. Note: the material preparation and attendance for these events is covered under the event-specific subtasks. • Periodically provide DNR and EMS participants professional assistance, research and advice upon request. 			
Original Sub-task 1.2 is revised as follows: Task 1.2 EMS Focused Training. Conduct training focused on one or more EMS topics. This task includes the following activities: <ul style="list-style-type: none"> • Consult with DNR to determine areas of focus for trainings. • Develop training materials. • Conduct virtual trainings for up to two half days. 			
Task 1.3 On-going EMS Participant Training. Conduct the following activities to support continual improvement for EMS participants as needed: <ul style="list-style-type: none"> • Provide up to four web-hosted meetings for individual or groups of EMS agencies per year. • Review EMS implementation progress and provide guidance to participant agencies. 			
Original Sub-task 1.4 is revised as follows: Task 1.4 EMS Annual Summer Workshop. Develop materials for and conduct a one-day, on-site EMS workshop during the summer of 2024.			
Original Sub-task 1.5 is revised as follows: Task 1.5 EMS Annual Fall Conference. Develop materials for and conduct a one-day, on-site EMS conference during November 2024.			
Original Sub-task 1.6 is revised as follows: Task 1.6 Materials to Benefit Participants and Program. Develop and revise promotional or guidance materials for the EMS program as needed.			
Original Sub-task 1.7 is revised as follows: Task 1.7 New Participant Training. Provide initial training and support for up to two Tier 1 EMS participant agencies as needed: <ul style="list-style-type: none"> • Develop materials for and conduct an EMS kickoff meeting for each new participant. 			

<ul style="list-style-type: none"> • Develop materials for and conduct up to four webinar trainings on initial EMS development for new participants. • Develop materials for and conduct up to two on-site trainings for each new participant. • Conduct up to five conference calls for each new participant to provide feedback and advice during the development of their plans and policies to implement the ten EMS Elements. 			
<p>Task 1.8 EMS Participant Recruitment Assistance. Support DNR in recruiting new EMS participant agencies as needed.</p>			
<p>Task 1.9 Additional Assistance. Provide additional assistance for EMS program participants as requested and agreed upon between Contractor and DNR. Potential assistance needs may include feedback and guidance on developing objectives/targets, determining steps for an action plan or revising a written policy.</p>			
<p>Original Task 1 Assumptions are revised as follows: Task 1 Assumptions.</p> <ul style="list-style-type: none"> • DNR may determine that some or all on-site events may instead be held virtually. A means for estimating the exclusion of travel costs and printing costs for virtual events is to be included. • Contractor will provide printing for on-site workshop and conference materials, assuming approximately 40 pages for each event for up to 50 attendees. • Contractor will provide printing for the on-site EMS Focused Training, assuming reprinting of the DNR EMS Audit Guide or similar (25 color copies) as well as handouts (30 pages, 8.5" x 11", for up to 30 attendees). • With the assumption that events are held on-site, Contractor will travel for kickoff meetings for new Tier 1 participants (1 trip), Summer Workshop (1 trip) and annual EMS Conference (1 trip). Up to two Contractor staff will attend each event. • Up to two Tier 1 agencies may join the EMS program during the Contract period. 			
<p>Task 2. Program Management. Contractor will provide on-going EMS program management as summarized below.</p> <p>Task 2.1. Ongoing Project management, scheduling and documentation as required and including:</p> <ul style="list-style-type: none"> • Managing project budget, scope and schedule. • Providing monthly billing invoices. • Providing a summary of costs broken down by tasks, subtasks and expenses. 	<p>Ongoing throughout Contract Amendment</p>	<p>\$7,160</p>	<p>Contractor shall invoice DNR on a monthly basis.</p>
<p>Total</p>		<p>\$71,790</p>	

Iowa Department of Natural Resources
Environmental Protection Commission

ITEM	#7	INFORMATION
TOPIC	Nonpoint Source Plan Update	

The Environmental Protection Agency (EPA) requires that each state and tribe receiving an EPA Clean Water Act 319 Grant have an approved Nonpoint Source Management Program Plan, which must be updated every five years. To be eligible for Section 319 funding, states must develop a Plan that includes EPA's Nine Key Elements for State Nonpoint Source Management Programs. Iowa's Nonpoint Source Plan was last updated in 2018 and is currently undergoing a 2023 update.

Over the past year, the DNR Water Quality Improvement Section's 319 program has worked with an interagency advisory committee (including staff from DNR, IDALS, and Iowa State University (ISU) Extension) and an interagency workgroup to develop new goals and objectives for the 2023 plan. DNR has also worked directly with staff from ISU's Conservation Learning Group, who are contracted to write the narrative and format a draft of the 2023 plan. DNR and ISU recently convened a public meeting with nonpoint source stakeholder groups to discuss new goals and objectives for the draft 2023 plan.

The draft 2023 plan includes four new goals, plus new objectives for each goal. The goals and objectives will help set priorities for watershed projects and other water quality projects funded by and supported by the DNR Section 319 program and partners over the next five years. The draft 2023 plan has been submitted to EPA for review and comment. DNR will work to address EPA's comments this fall, and we anticipate having a new plan approved by the end of 2023.

For more information about Iowa's current Nonpoint Source Management Plan, see the following DNR webpage:
<https://www.iowadnr.gov/Environmental-Protection/Water-Quality/Watershed-Improvement/Nonpoint-Source-Plan>

Steve Hopkins, DNR Nonpoint Source Coordinator
Water Quality Bureau
Environmental Services Division

October 17, 2023

Iowa Department of Natural Resources
Environmental Protection Commission

Decision Item

8. Chapters 3, “Submission of Information and Complaints – Investigations”; Chapter 12, “Environmental Self-Audits”; and Chapter 17, “Compliance and Enforcement Procedures” – Notice of Intended Action

The Commission is requested to approve the Notice of Intended Action to rescind Chapters 3, 12, and 17. This recommendation is the result of the Legal Service Bureau’s Executive Order 10 rule review.

Chapters 2, 12, and 17 govern environmental inspections, compliance, self-audits, and enforcement. These chapters will be edited for length and clarity and incorporated into the Notice of Intended Action for new Chapter 10, which is being proposed concurrently with this rule making.

Tamara McIntosh, General Counsel
Legal Services
Meeting Date: October 17, 2023

Attached: Chapters 3, 12, and 17 - NOIA

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

Rescind and reserve

The Environmental Protection Commission (Commission) hereby proposes to rescind and reserve Chapter 3, “Submission of Information and Complaints – Investigations;” Chapter 12, “Environmental Self- Audits;” and Chapter 17, “Compliance and Enforcement Procedures,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 17A.3(1), 455B.105(3), 455B.109(1), and 455K.12.

State or Federal Law Implemented

This rule making implements, in whole or in part, Executive Order 10, Iowa Administrative Bulletin, Vol. XLV, No. 16 (Feb. 8, 2023), p. 2145, and Iowa Code section 17A.7(2).

Purpose and Summary

The Commission is requested to approve the Notice of Intended Action to rescind Chapters 3, 12, and 17. These chapters governed environmental inspections, compliance, self-audits, and enforcement.

These chapters will be edited for length and clarity and incorporated into the Notice of Intended Action for new Chapter 10, which is being proposed concurrently with this rule making. New Chapter 10 consolidates these regulations along with other enforcement-related rules.

Fiscal Impact

This rule making has no fiscal impact to the state of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

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.

Public Comment

Any interested person may submit comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 pm on January 26, 2024. Comments should be submitted electronically to Kelli Book at kelli.book@dnr.iowa.gov and include “Chapter 10 comments” in the subject of the email.

Public Hearing

A public hearing will be held as follows:

January 25, 2024; 10:00 am – 11:30 am; virtual meeting via Zoom

A link for the virtual meeting will be provided to those who make a request to take part in the virtual hearing. The request for the link shall be submitted to Ms. Book by 8:00 am on January 25, 2024.

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend a hearing and have special requirements, such as those related to hearing or visual impairments, should contact the Department and advise of specific needs.

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).

The following rule making action proposed:

ITEM 1. Rescind and reserve **567—Chapter 3.**

ITEM 2. Rescind and reserve **567—Chapter 12.**

ITEM 3. Rescind and reserve **567—Chapter 17.**

Iowa Department of Natural Resources
Environmental Protection Commission

Decision Item

9. Chapter 9, “Delegation of Construction Permitting Authority” – Notice of Intended Action

The Commission is requested to approve the Notice of Intended Action to rescind Chapter 9. This Notice of Intended Action is the result of the Water Quality Bureau’s Executive Order 10 rule review.

Chapter 9 is unnecessary for the implementation of the delegated permitting program in Iowa Code section 455B.183 due to the self-enacting nature of the statute and because of the existence of statewide engineering design standards for drinking water and wastewater. Both provide the regulatory framework to local entities to issue certain wastewater construction and drinking water construction permits without the need for rules. The DNR intends to provide guidance to local permitting authorities to help their proper implementation of the Code.

Lori McDaniel, Water Quality Bureau Chief
Environmental Services Division
Meeting Date: October 17, 2023

Attached: Chapter 9 – NOIA

ENVIRONMENTAL PROTECTION COMMISSION[567]

Rescind and reserve chapter

Notice of Intended Action

The Environmental Protection Commission (Commission) hereby proposes to rescind and reserve Chapter 9, “Delegation of Construction Permitting Authority,” Iowa Administrative Code.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 455B.105 and 455B.173.

State or Federal Law Implemented

This rule making implements, in whole or in part, Executive Order 10, Iowa Administrative Bulletin, Vol. XLV, No. 16 (Feb. 8, 2023), p. 2145, and Iowa Code section 17A.7(2).

Purpose and Summary

This proposed rulemaking will rescind Chapter 9. Importantly, the delegated authority program of Iowa Code section 455.183 will remain in full force and effect through the direct implementation of the statute.

The intended benefit of the rule was to provide a framework for the water supply and wastewater extension delegated authority program in Iowa Code section 455B.183. However, the rule is unnecessary for the implementation of the program due to the self-enacting nature of the Code provisions and the existence of statewide engineering design standards for drinking water and wastewater. The DNR intends to provide guidance to local permitting authorities to help their proper implementation of the Code.

Fiscal Impact

This proposed rulemaking has no fiscal impact to the state of Iowa.

Jobs Impact

After analysis and review of this proposed rulemaking, no impact on jobs has been found.

Public Comment

Any interested person may submit comments concerning this proposed rulemaking. Written comments in response to this proposed rulemaking must be received by the Department no later than 4:30 p.m. on January 18, 2024. Comments should be directed to:

Adam Schnieders
Iowa DNR
502 E 9th Street
Des Moines, IA 50319
Adam.Schnieders@dnr.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally will be held as follows. Persons who wish to attend the public hearing must contact Adam Schnieders at Adam.Schnieders@dnr.iowa.gov. A virtual meeting link and conference call number will be provided prior to the hearing. Persons who wish to make comments at the public hearing must submit a request to Mr. Schnieders prior to the hearing to facilitate an orderly hearing.

January 18, 2024 at 11AM - 12 PM via Google Meets

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend the hearing and have special requirements, such as those related to hearing impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking 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).

The following rulemaking action is proposed:

ITEM 1. Rescind **567—Chapter 9**.

Iowa Department of Natural Resources
Environmental Protection Commission

Decision Item

10. Chapter 14, "Environmental Covenants," – Notice of Intended Action

The Commission is requested to approve the Notice of Intended Action to rescind Chapter 14. This Notice of Intended Action is the result of the Land Quality Bureau's Executive Order 10 rule review.

This proposed rulemaking will rescind and reserve Chapter 14. The Uniform Environmental Covenants Act found in Iowa Code chapter 455I is self-enacting. Therefore, rules are not necessary, nor expressly authorized. Rescinding this chapter will not impact the Department of Natural Resources' ability to enter into effective environmental covenants with interested landowners.

Amie Davidson, Bureau Chief - Land Quality Bureau
Environmental Services Division
Meeting Date: October 17, 2023

Attached: Chapter 14 - NOIA

**ENVIRONMENTAL PROTECTION COMMISSION [567]
Notice of Intended Action**

Proposing to rescind and reserve chapter

The Environmental Protection Commission (Commission) hereby proposes to rescind and reserve Chapter 14, “Environmental Covenants,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 455A.6(6)“a”.

State or Federal Law Implemented

This rule making implements, in whole or in part, Executive Order 10, Iowa Administrative Bulletin, Vol. XLV, No. 16 (Feb. 8, 2023), p. 2145, and Iowa Code section 17A.7(2).

Purpose and Summary

This proposed rulemaking will rescind and reserve Chapter 14. The Uniform Environmental Covenants Act found in Iowa Code chapter 455I is self-enacting. Therefore, rules are not necessary, nor expressly authorized. Rescinding this chapter will not impact the Department of Natural Resources’ (Department) ability to enter into effective environmental covenants with interested landowners.

Fiscal Impact

This rule making has no fiscal impact to the state of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

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 Commission for a waiver of the discretionary provisions, if any, pursuant to 567-Chapter 13.

Public Comment

Any interested person may submit comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 17, 2024. Comments should be directed to Keith.Wilken@dnr.iowa.gov.

Public Hearing

Two public hearings at which persons may present their views orally will be held by conference call as follows. Persons who wish to attend the conference call should contact Keith Wilken at Keith.Wilken@dnr.iowa.gov. A conference call number will be provided prior to the hearing. Persons who wish to make oral comments at the conference call public hearing must submit a request to Mr. Wilken prior to the hearing to facilitate an orderly hearing.

January 16, 2024 at 1:00PM

and

January 17, 2024 at 11:00AM

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

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).

The following rule-making action is proposed:

ITEM 1. Rescind and reserve **567—Chapter 14.**

Iowa Department of Natural Resources
Environmental Protection Commission

Decision Item

11. Chapter 16, "Revocation, Suspension, and Nonrenewal of License for Failure to Pay State Liabilities," – Notice of Intended Action

The Commission is requested to approve the Notice of Intended Action to rescind Chapter 16. This Notice of Intended Action is the result of the Legal Services Bureau's Executive Order 10 rule review.

This chapter is unnecessary. It is duplicative to underlying state law and to other related rules promulgated by the Department in 561 Iowa Administrative Code Chapter 15.

Tamara McIntosh, General Counsel
Legal Services
Meeting Date: October 17, 2023

Attached: Chapter 16 - NOIA

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

Proposing to rescind chapter

The Environmental Protection Commission (Commission) hereby proposes to rescind Chapter 16, “Revocation, Suspension, and Nonrenewal of License for Failure to Pay State Liabilities,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 455A.6(6)“a”.

State or Federal Law Implemented

This rule making implements, in whole or in part, Executive Order 10, Iowa Administrative Bulletin, Vol. XLV, No. 16 (Feb. 8, 2023), p. 2145, and Iowa Code section 17A.7(2).

Purpose and Summary

The Commission proposes to rescind and reserve Chapter 16, “Revocation, Suspension, and Nonrenewal of License for Failure to Pay State Liabilities.” This chapter is unnecessary. It is duplicative to underlying state law and to other related rules promulgated by the Department of Natural Resources (Department). See IOWA CODE 272D.8(2) and 561 IOWA ADMINISTRATIVE CODE CHAPTER 15.

Fiscal Impact

This rule making has no fiscal impact to the state of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

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 Commission for a waiver of the discretionary provisions, if any, pursuant to 567-Chapter 13.

Public Comment

Any interested person may submit comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 16, 2024. Comments should be directed to:

Tamara McIntosh
Iowa Department of Natural Resources
Wallace State Office Building
502 E 9th Street
Des Moines, IA 50319
tamara.mcintosh@dnr.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

January 16, 2024, 1-2PM, Wallace State Office Building, Conference room 4E

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

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).

The following rule-making action proposed:

ITEM 1. Rescind and reserve **567—Chapter 16**.

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

Decision Item

12. Chapter 20, “Scope of Title—Definitions,” Chapter 25, “Measurement of Emissions,” Chapter 26, “Prevention of Air Pollution Emergency Episodes,” Chapter 28, “Ambient Air Quality Standards,” Chapter 29, “Qualification in Visual Determination of the Opacity of Emissions,” Chapter 32, “Animal Feeding Operations Field Study,” Chapter 34, “Provisions for Air Quality Emissions Trading Programs,” and Chapter 35, “Air Emissions Assistance Program” - Notices of Intended Action

The Commission is requested to approve the Notices of Intended Action to rescind Chapters 20, 25, 26, 28, 29, 32, 34, and 35. These Notices of Intended Action are the result of the Air Quality Bureau’s Executive Order 10 (EO10) review.

As required by EO10 and with stakeholder participation and input, the Air Quality Bureau has determined that these chapters are no longer needed and can be rescinded. A summary of each chapter’s current contents and the proposed actions related to the chapter rescissions are as follows:

- **Chapter 20:** This chapter includes the definitions for the air quality chapters in the IAC. The Department has determined that the air quality definitions are more appropriately placed in the subject matter chapters. Further, several definitions are obsolete and will be rescinded entirely. The remaining and updated definitions will be moved to new chapters 21, 22, and 23.
- **Chapter 25:** This chapter specified the required methods for measuring emissions, which includes stack testing and continuous emissions monitoring. The streamlined provisions of Chapter 25 are proposed to be moved to new Chapter 21, since the test methods are related to determining if excess emissions have occurred.
- **Chapter 26:** This chapter includes the required actions for emergency episodes of excess air pollution. The streamlined provisions of these rules are being moved to new Chapter 21, since the provisions are related to excess emissions.
- **Chapter 28.** This chapter adopted the National Ambient Air Quality Standards (NAAQS) by reference. These provisions are proposed to be moved to new Chapter 22, since attainment of the NAAQs is a requirement for the Department to issue air construction permits.
- **Chapter 29:** This chapter specifies the federal test method for determining visible emissions (opacity) and the requirement to become certified in this test method. These provisions are proposed to be moved to new Chapter 21 because they are related to the measurement of emissions.
- **Chapter 32:** This chapter specified the requirements that the Department perform a field study to determine airborne levels of ammonia, hydrogen sulfide, and odor near animal feeding operations. These provisions are no longer needed because the required study was completed in 2005 and the Department issued its final report in January 2006. The study report and additional documents will continue to be available on the Department’s website.
- **Chapter 34:** This chapter included the requirements for various emissions trading programs. These rules are no longer needed because the federal trading programs are no longer active or are being administered by the US Environmental Protection Agency.
- **Chapter 35:** This chapter included the requirements for administering federal grants related to air quality, specifically for federal grants related to retrofitting or replacing diesel buses. These programs have either been concluded or are no longer being administered by the Department.

Christine Paulson -- Environmental Specialist Senior, Program Development
Air Quality Bureau
Environmental Service Division
Meeting Date: October 17, 2023

Attached: Chapters 20, 25, 26, 28, 29, 32, 34, and 35 - Notices of Intended Action

ENVIRONMENTAL PROTECTION COMMISSION [567]

Notice of Intended Action

Proposing to rescind and reserve chapter

The Environmental Protection Commission (Commission) hereby proposes to rescind and reserve Chapter 20, “Scope of Title - Definitions,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 455B.133(3).

State or Federal Law Implemented

This rule making implements, in whole or in part, Executive Order 10, Iowa Administrative Bulletin, Vol. XLV, No. 16 (Feb. 8, 2023), p. 2145, and Iowa Code section 17A.7(2).

Purpose and Summary

The Commission proposes to rescind Chapter 20. This chapter sets forth the Scope of Title and the definitions applicable to air quality rules in Chapters 20 through 35. After a review consistent with Executive Order 10, the Department of Natural Resources (Department) determined that the Scope of Title is no longer needed because the information is generally covered in the administrative chapters of 567 Iowa Administrative Code Chapters 1-19. Further, the Department concluded that the relevant definitions would be more appropriately placed in the subject matter chapters, specifically Chapters 21, 22, and 23. Notices of Intended Action to rescind and adopt new Chapters 21, 22, and 23 that include the appropriate definitions are being proposed concurrently with this rule making. Rescission of Chapter 20 is therefore appropriate.

Fiscal Impact

This rulemaking has no fiscal impact to the state of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

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.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 29, 2024. Written comments should be directed to:

Christine Paulson
Department of Natural Resources
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319
Email: christine.paulson@dnr.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally will be held as follows. Persons who wish to attend the public hearing should contact Christine Paulson at christine.paulson@dnr.iowa.gov or by phone at 515-725-9510. A virtual meeting link and conference call number will be provided prior to the hearing. The public hearing information will be also be provided through the Air Quality e-newsletter (GovDelivery) and on the Department’s webpage (url TBD). Persons who wish to make comments at the public hearing must submit a request to Ms. Paulson prior to the hearing to facilitate an orderly hearing.

January 29, 2024 at 1PM

Virtual hearing / teleconference

Persons who wish to make comments at the public hearing will be asked to state their names for

the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to participate in the hearing and have special requirements, such as those related to hearing or vision impairments, should contact the Department and advise of specific needs.

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).

The following rule making action is proposed:

ITEM 1. Rescind and reserve **567—Chapter 20**.

ENVIRONMENTAL PROTECTION COMMISSION [567]

Notice of Intended Action

Proposing to rescind and reserve chapter

The Environmental Protection Commission (Commission) hereby proposes to rescind and reserve Chapter 25, “Measurement of Emissions,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 455B.133.

State or Federal Law Implemented

This rule making implements, in whole or in part, Executive Order 10, Iowa Administrative Bulletin, Vol. XLV, No. 16 (Feb. 8, 2023), p. 2145, and Iowa Code section 17A.7(2).

Purpose and Summary

The Commission proposes to rescind Chapter 25. This chapter establishes the state and federal standards for testing and monitoring air emissions. After a review consistent with Executive Order 10, the Department of Natural Resources (Department) determined that reference to rules for the measurement of emissions would be more appropriately placed in another subject matter chapter, specifically Chapter 21. A Notice of Intended Action to rescind and adopt a new Chapter 21 that includes updated provisions from Chapter 25 is being proposed concurrently with this rule making. Rescission of Chapter 25 is therefore appropriate.

Fiscal Impact

This rulemaking has no fiscal impact to the state of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

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.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 29, 2024. Written comments should be directed to:

Christine Paulson
Department of Natural Resources
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319
Email: christine.paulson@dnr.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally will be held as follows. Persons who wish to attend the public hearing should contact Christine Paulson at christine.paulson@dnr.iowa.gov or by phone at 515-725-9510. A virtual meeting link and conference call number will be provided prior to the hearing. The public hearing information will be also be provided through the Air Quality e-newsletter (GovDelivery) and on the Department’s webpage (url TBD). Persons who wish to make comments at the public hearing must submit a request to Ms. Paulson prior to the hearing to facilitate an orderly hearing.

January 29, 2024 at 1PM

Virtual hearing / teleconference

Persons who wish to make comments at the public hearing will be asked to state their names for

the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to participate in the hearing and have special requirements, such as those related to hearing or vision impairments, should contact the Department and advise of specific needs.

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).

The following rule making action is proposed:

ITEM 1. Rescind and reserve **567—Chapter 25**.

ENVIRONMENTAL PROTECTION COMMISSION [567]

Notice of Intended Action

Proposing to rescind and reserve chapter

The Environmental Protection Commission (Commission) hereby proposes to rescind and reserve Chapter 26, “Prevention of Air Pollution Emergency Episodes,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 455B.133.

State or Federal Law Implemented

This rule making implements, in whole or in part, Executive Order 10, Iowa Administrative Bulletin, Vol. XLV, No. 16 (Feb. 8, 2023), p. 2145, and Iowa Code section 17A.7(2).

Purpose and Summary

The Commission proposes to rescind Chapter 26. This chapter establishes Iowa’s plans and procedures to prevent air pollution emergencies, as required by the U.S. Clean Air Act and codified in 40 Code of Regulations Part 51, Appendix L. After a review consistent with Executive Order 10, the Department of Natural Resources (Department) determined that rules for the prevention of air pollution emergency episodes would be more appropriately placed in another subject matter chapter, specifically Chapter 21. A Notice of Intended Action to rescind and adopt a new Chapter 21 that includes updated provisions from Chapter 26 is being proposed concurrently with this rule making. Rescission of Chapter 26 is therefore appropriate.

Fiscal Impact

This rulemaking has no fiscal impact to the state of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

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.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 29, 2024. Written comments should be directed to:

Christine Paulson
Department of Natural Resources
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319
Email: christine.paulson@dnr.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally will be held as follows. Persons who wish to attend the public hearing should contact Christine Paulson at christine.paulson@dnr.iowa.gov or by phone at 515-725-9510. A virtual meeting link and conference call number will be provided prior to the hearing. The public hearing information will be also be provided through the Air Quality e-newsletter (GovDelivery) and on the Department’s webpage (url TBD). Persons who wish to make comments at the public hearing must submit a request to Ms. Paulson prior to the hearing to facilitate an orderly hearing.

January 29, 2024 at 1PM

Virtual hearing / teleconference

Persons who wish to make comments at the public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to participate in the hearing and have special requirements, such as those related to hearing or vision impairments, should contact the Department and advise of specific needs.

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).

The following rule making action is proposed:

ITEM 1. Rescind and reserve **567—Chapter 26**.

ENVIRONMENTAL PROTECTION COMMISSION [567]

Notice of Intended Action

Proposing to rescind and reserve chapter

The Environmental Protection Commission (Commission) hereby proposes to rescind and reserve Chapter 28, “Ambient Air Quality Standards,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 455B.133(3).

State or Federal Law Implemented

This rule making implements, in whole or in part, Executive Order 10, Iowa Administrative Bulletin, Vol. XLV, No. 16 (Feb. 8, 2023), p. 2145, and Iowa Code section 17A.7(2).

Purpose and Summary

The Commission proposes to rescind Chapter 28. This chapter establishes that the state of Iowa ambient air quality standards shall be the National Ambient Air Quality Standards (NAAQS). The NAAQS consist of both primary and secondary standards for six criteria air pollutants, as published in 40 Code of Federal Regulations Part 50. After a review consistent with Executive Order 10, the Department of Natural Resources (Department) determined that reference to the adoption of the NAAQS would be more appropriately placed in the subject matter chapter, specifically Chapter 22. A Notice of Intended Action to rescind and adopt a new Chapter 22 that includes the adoption of the NAAQS is being proposed concurrently with this rule making. Rescission of Chapter 28 is therefore appropriate.

Fiscal Impact

This rulemaking has no fiscal impact to the state of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

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.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 29, 2024. Written comments should be directed to:

Christine Paulson
Department of Natural Resources
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319
Email: christine.paulson@dnr.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally will be held as follows. Persons who wish to attend the public hearing should contact Christine Paulson at christine.paulson@dnr.iowa.gov or by phone at 515-725-9510. A virtual meeting link and conference call number will be provided prior to the hearing. The public hearing information will be also be provided through the Air Quality e-newsletter (GovDelivery) and on the Department’s webpage (url TBD). Persons who wish to make comments at the public hearing must submit a request to Ms. Paulson prior to the hearing to facilitate an orderly hearing.

January 29, 2024 at 1PM

Virtual hearing / teleconference

Persons who wish to make comments at the public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to participate in the hearing and have special requirements, such as those related to hearing or vision impairments, should contact the Department and advise of specific needs.

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).

The following rule making action is proposed:

ITEM 1. Rescind and reserve **567—Chapter 28**.

ENVIRONMENTAL PROTECTION COMMISSION [567]

Notice of Intended Action

Proposing to rescind and reserve chapter

The Environmental Protection Commission (Commission) hereby proposes to rescind and reserve Chapter 29, “Qualification in Visual Determination of the Opacity of Emissions,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 455B.133.

State or Federal Law Implemented

This rule making implements, in whole or in part, Executive Order 10, Iowa Administrative Bulletin, Vol. XLV, No. 16 (Feb. 8, 2023), p. 2145, and Iowa Code section 17A.7(2).

Purpose and Summary

The Commission proposes to rescind Chapter 29. This chapter establishes the federal reference method for the determination of the opacity of emissions (visible emissions) and the requirements for qualified observers. After a review consistent with Executive Order 10, the Department of Natural Resources (Department) determined that rules for the qualification in visual determination of the opacity of emissions would be more appropriately placed in another subject matter chapter, specifically Chapter 21. A Notice of Intended Action to rescind and adopt a new Chapter 21 that includes updated provisions from Chapter 29 is being proposed concurrently with this rule making. Rescission of Chapter 29 is therefore appropriate.

Fiscal Impact

This rulemaking has no fiscal impact to the state of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

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.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 29, 2024. Written comments should be directed to:

Christine Paulson
Department of Natural Resources
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319
Email: christine.paulson@dnr.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally will be held as follows. Persons who wish to attend the public hearing should contact Christine Paulson at christine.paulson@dnr.iowa.gov or by phone at 515-725-9510. A virtual meeting link and conference call number will be provided prior to the hearing. The public hearing information will be also be provided through the Air Quality e-newsletter (GovDelivery) and on the Department’s webpage (url TBD). Persons who wish to make comments at the public hearings must submit a request to Ms. Paulson prior to the hearing to facilitate an orderly hearing.

January 29, 2024 at 1PM

Virtual hearing / teleconference

Persons who wish to make comments at the public hearing will be asked to state their names for

the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to participate in the hearing and have special requirements, such as those related to hearing or vision impairments, should contact the Department and advise of specific needs.

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).

The following rule making action is proposed:

ITEM 1. Rescind and reserve **567—Chapter 29**.

ENVIRONMENTAL PROTECTION COMMISSION [567]

Notice of Intended Action

Proposing to rescind and reserve chapter

The Environmental Protection Commission (Commission) hereby proposes to rescind and reserve Chapter 32, “Animal Feeding Operations Field Study,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 455B.133.

State or Federal Law Implemented

This rule making implements, in whole or in part, Executive Order 10, Iowa Administrative Bulletin, Vol. XLV, No. 16 (Feb. 8, 2023), p. 2145, and Iowa Code section 17A.7(2).

Purpose and Summary

The Commission proposes to rescind Chapter 32. This chapter specified how the Department of Natural Resources (Department) would conduct a field study to measure the levels of hydrogen sulfide, ammonia and odor near animal feeding operations. The required field study took place between 2003 – 2005, and final report was issued in January 2006. The final report and associated study documents are available on the Department’s website at iowadnr.gov/Environmental-Protection/Air-Quality/Animal-Feeding-Operations. A complete chapter rescission is therefore appropriate.

Fiscal Impact

This rulemaking has no fiscal impact to the state of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

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.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 29, 2024. Written comments should be directed to:

Christine Paulson
Department of Natural Resources
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319
Email: christine.paulson@dnr.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally will be held as follows. Persons who wish to attend the public hearing should contact Christine Paulson at christine.paulson@dnr.iowa.gov or by phone at 515-725-9510. A virtual meeting link and conference call number will be provided prior to the hearing. The public hearing information will be also be provided through the Air Quality e-newsletter (GovDelivery) and on the Department’s webpage (url TBD). Persons who wish to make comments at the public hearing must submit a request to Ms. Paulson prior to the hearing to facilitate an orderly hearing.

January 29, 2024 at 1PM

Virtual hearing / teleconference

Persons who wish to make comments at the public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to participate in the hearing and have special requirements, such as those related to hearing or vision impairments, should contact the Department and advise of specific needs.

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).

The following rule making action is proposed:

ITEM 1. Rescind and reserve **567—Chapter 32**.

ENVIRONMENTAL PROTECTION COMMISSION [567]

Notice of Intended Action

Proposing to rescind and reserve chapter

The Environmental Protection Commission (Commission) hereby proposes to rescind and reserve Chapter 34, “Provisions for Air Quality Emissions Trading Programs,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 455B.133.

State or Federal Law Implemented

This rule making implements, in whole or in part, Executive Order 10, Iowa Administrative Bulletin, Vol. XLV, No. 16 (Feb. 8, 2023), p. 2145, and Iowa Code section 17A.7(2).

Purpose and Summary

The Commission proposes to rescind Chapter 34. This chapter implemented the federal air emissions trading programs to reduce emissions of specific air pollutants. The air emissions trading programs included in Chapter 34 have either been replaced by other programs or are no longer applicable. Over time, nearly all of the provisions within this chapter have been rescinded. A complete chapter rescission is therefore appropriate.

Fiscal Impact

This rulemaking has no fiscal impact to the state of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

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.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 29, 2024. Written comments should be directed to:

Christine Paulson
Department of Natural Resources
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319
Email: christine.paulson@dnr.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally will be held as follows. Persons who wish to attend the public hearing should contact Christine Paulson at christine.paulson@dnr.iowa.gov or by phone at 515-725-9510. A virtual meeting link and conference call number will be provided prior to the hearing. The public hearing information will be also be provided through the Air Quality e-newsletter (GovDelivery) and on the Department’s webpage (url TBD). Persons who wish to make comments at the public hearing must submit a request to Ms. Paulson prior to the hearing to facilitate an orderly hearing.

January 29, 2024 at 1PM

Virtual hearing / teleconference

Persons who wish to make comments at the public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to participate in the hearing and have special requirements, such as those related to hearing or vision impairments, should contact the Department and advise of specific needs.

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).

The following rule making action is proposed:

ITEM 1. Rescind and reserve **567—Chapter 34**.

ENVIRONMENTAL PROTECTION COMMISSION [567]

Notice of Intended Action

Proposing to rescind and reserve chapter

The Environmental Protection Commission (Commission) hereby proposes to rescind and reserve Chapter 35, “Air Emissions Reduction Assistance Programs,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 455B.133.

State or Federal Law Implemented

This rule making implements, in whole or in part, Executive Order 10, Iowa Administrative Bulletin, Vol. XLV, No. 16 (Feb. 8, 2023), p. 2145, and Iowa Code section 17A.7(2).

Purpose and Summary

The Commission proposes to rescind Chapter 35. This chapter specified the process for the Department of Natural Resources (Department) to provide financial assistance to eligible applicants to reduce air pollution. The rules in Chapter 35 were developed in 2009 in response to grant funds made available to the Department under the American Recovery and Reinvestment Act (ARRA). The rules assisted the Department in creating and implementing the Reduce Iowa Diesel Exhaust (RIDE) grant program. The RIDE program ended in 2011 when the ARRA grant was closed. Rescinding Chapter 35 is therefore appropriate.

Fiscal Impact

This rulemaking has no fiscal impact to the state of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

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.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 29, 2024. Written comments should be directed to:

Christine Paulson
Department of Natural Resources
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319
Email: christine.paulson@dnr.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally will be held as follows. Persons who wish to attend the public hearing should contact Christine Paulson at christine.paulson@dnr.iowa.gov or by phone at 515-725-9510. A virtual meeting link and conference call number will be provided prior to the hearing. The public hearing information will be also be provided through the Air Quality e-newsletter (GovDelivery) and on the Department’s webpage (url TBD). Persons who wish to make comments at the public hearing must submit a request to Ms. Paulson prior to the hearing to facilitate an orderly hearing.

January 29, 2024 at 1PM

Virtual hearing / teleconference

Persons who wish to make comments at the public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to participate in the hearing and have special requirements, such as those

related to hearing or vision impairments, should contact the Department and advise of specific needs.

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).

The following rule making action is proposed:

ITEM 1. Rescind and reserve **567—Chapter 35**.