

IOWA DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION DIVISION

POLICY/PROCEDURE STATEMENT

TOPIC: AS-BUILT ENFORCEMENT POLICY

Policy Procedure Number: 3-b-02


Replaces Number: N/A

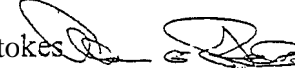
Date: 10/24/97

Effective Date: ~~July 1, 1997~~ October 24, 1997

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Approval: Bureau Chief: Peter Hamlin  **Date:** 10/24/97

Division Administrator: Allan Stokes  **Date:** 10/24/97

Applicable Code of Iowa or Iowa Administrative Code Rule: IAC 567-22.1(1)

Attachments: None

Background

The purpose of this policy is to continue the success of the Bureau's amnesty period for unpermitted as-built sources. Many businesses remain unaware of environmental regulations affecting them. Iowa's Air Quality rules (567 IAC 22.1(1)) require a facility to obtain a construction permit, whenever installing or modifying a stationary source after September 23, 1970, unless exempted in 567 IAC 22.1(2)(Exemptions). Many facilities have installed or modified a source without obtaining a construction permit and therefore are in violation of the rule. If the facility subsequently discovers a permit is required for a source, it has two options. The facility can do nothing, waiting for the DNR to discover the source, or it can voluntarily disclose to the DNR that it has an unpermitted source and seek to have it permitted. The Air Quality Bureau amnesty period for facilities with unpermitted sources, ended July 1, 1997. This amnesty allowed facilities with unpermitted sources to obtain permits without the fear of a penalty.

Since the amnesty period ended, Linda King, Department of Economic Development, Small Business Liaison for Air Quality, proposed a policy for bringing unpermitted sources into compliance. The Bureau, Linda King, and the Iowa Air Emission Assistance Program have worked to develop this policy.

Iowa has the authority to exercise enforcement discretion and to grant exemptions or variances to sources not subject to NSPS, NESHAP, or PSD requirements, or those required to meet nonattainment permitting requirements. These are the sources this policy is targeting. The application of the voluntary disclosure provisions of this policy may not be made for sources that are subject to federal standards. Because NSPS and NESHAP programs are federal programs

delegated to the state, the Bureau has less enforcement latitude in working with these sources. Similarly, PSD is a federal program adopted into Iowa's State Implementation Plan (SIP). Therefore, the Bureau can not give exemptions for PSD violations, either. At any facility where sources are subject to PSD, only those sources which do not emit those pollutants subject to that PSD permitting would be eligible to utilize the Voluntary Disclosure. Likewise, sources subject to federally established nonattainment area permitting ('pollutant specific) may not utilize this voluntary disclosure provision.

Details

All cases of failure to obtain a construction permit will be reviewed on a case-by-case basis.

1. Voluntary Disclosure of Non-compliance

1.1 Voluntary disclosure occurs when a facility informs the IDNR it has an unpermitted source. This may be done by submitting a completed permit application to the IDNR or submitting a statement of non-compliance with a compliance plan to the IDNR. The facility should request that their disclosure be reviewed under this policy. For valid application of this policy the submission must be done before the IDNR discovers the unpermitted source. The IDNR will not impose an initial fine upon an eligible facility. The facility will receive a notification, stating the facility's non-compliance with Iowa's regulations, and must submit an acceptable compliance plan within 15 days.

1.2 A source will not be eligible under this option if:

- IDNR has evidence the facility had prior knowledge of the requirement to obtain a construction permit. Evidence of knowledge may include, but is not limited to:
 - The facility has an IDNR construction permit.
 - 3 In the past, IDNR has taken enforcement action against the facility for failure to obtain a construction permit.
 - 3 The facility has received written notification from the IDNR stating the facility needs to obtain a construction permit.
- The source is subject to an NSPS or NESHAP standard.
- The source is subject to PSD.

2. IDNR discovers the unpermitted source

An unpermitted source is discovered by the IDNR. This is a violation of IAC 567-22.1(1). When this occurs, the IDNR will issue an Administrative Order with a de minimus fine of \$500. This amount is flexible based on the facility's ability to pay and the severity of the violation. The facility will receive a Notice of Violation (NOV) and must submit an acceptable compliance plan within 15 days.

3. Continued Non-Compliance

This occurs when the facility fails to meet the deadlines or obligations imposed by options 1 or 2. When this occurs, the IDNR will follow normal enforcement policy, which may include an Administrative Order with a monetary penalty and/or referral to the Iowa Attorney General's office.