

LEGISLATIVE BILL 254

Approved by the Governor April 16, 1973

Introduced by Interim on Pesticides, Pollution and Environment, Schmit, 23, Chmn.; R. Maresh, 32; Moylan, 6; F. Carstens, 30; DeCamp, 40; C. Carsten, 2

AN ACT to amend section 81-1504, Revised Statutes Supplement, 1972, relating to the Department of Environmental Control; to change the powers and duties of the department; to delete the provision restricting power to adopt standards and criteria; to provide a restriction on rules and regulations; to repeal the original section; and to declare an emergency.
Be it enacted by the people of the State of Nebraska,

Section 1. That section 81-1504, Revised Statutes Supplement, 1972, be amended to read as follows:

81-1504. The department shall have and may exercise the following powers and duties:

- (1) To exercise exclusive general supervision of the administration and enforcement of the provisions of sections 81-1501 to 81-1532 and all rules and regulations and orders promulgated thereunder;
- (2) To develop comprehensive programs for the prevention, control and abatement of new or existing pollution of the air, waters and land of the state;
- (3) To advise, consult, cooperate, and contract with other agencies of the state, the federal government, other states and interstate agencies, and with affected groups, political subdivisions, and industries in furtherance of the purposes of sections 81-1501 to 81-1532;
- (4) To accept and administer loans and grants from the federal government and from other sources, public or private, for carrying out any of its functions, which loans and grants shall not be expended for other than the purposes for which provided;
- (5) To encourage, participate in, or conduct studies, investigations, research and demonstrations relating to air, land, and water pollution and causes and effects, prevention, control, and abatement thereof as it

may deem advisable and necessary for the discharge of its duties under sections 81-1501 to 81-1532, using its own staff or by using private research organizations under contract;

(6) To collect and disseminate information and conduct educational and training programs relating to air, water and land pollution and the prevention, control and abatement thereof;

~~(7) To adopt, modify or repeal and promulgate standards and criteria of quality of the air, waters and land of the state under such conditions as the council may prescribe for the prevention, control and abatement of pollution; Provided, that such standards or criteria and rules and regulations having the force and effect of standards and criteria shall not be more restrictive or stringent than standards or criteria promulgated or issued by any agency of the United States government pertaining to the same subject matter;~~

~~(8) To adopt, modify, repeal and promulgate, after due notice and hearing, and to enforce, rules and regulations implementing or effectuating the powers and duties of the department under the provisions of sections 81-1501 to 81-1532 and as the council may deem necessary to prevent, control, and abate existing or potential pollution;~~

(9) (7) To issue, modify, or revoke orders: (a) Prohibiting or abating discharges of wastes into the air, waters or land of the state; (b) requiring the construction of new disposal systems or any parts thereof or the modification, extension of or the adoption of other remedial measures to prevent, control or abate pollution; and (c) setting standards of air, land, and water quality or evidencing any other determination by the council under the provisions of sections 81-1501 to 81-1532;

(10) (8) To administer state grants to political subdivisions for the construction of sewage treatment works and facilities to dispose of water treatment plant wastes;

(11) (9) To (a) hold such hearings and give notice thereof, (b) issue such subpoenas requiring the attendance of such witnesses and the production of such evidence, (c) administer such oaths, and (d) take such testimony as the council by resolution thereof deems necessary, and any of these powers may be exercised on behalf of the council by a hearing officer designated by resolution;

(12) (10) To require submission of plans, specifications, and other data relative to, and to inspect construction of, disposal systems or any part thereof prior to issuance of such permits or approvals as are required by sections 81-1501 to 81-1532;

(13) (11) To issue, continue in effect, revoke, modify or deny permits, under such conditions as the director may prescribe, consistent with the standards, rules and regulations adopted by the council, to prevent, control or abate pollution, or for the discharge of wastes into the air, land, or waters of the state, and for the installation, modification or operation of disposal systems or any parts thereof;

(14) (12) To require proper maintenance and operation of disposal systems;

(15) (13) To exercise all incidental powers necessary to carry out the purposes of sections 81-1501 to 81-1532;

(16) (14) To establish bureaus, divisions, or sections for the control of air pollution, water pollution, and solid wastes, to be administered by full-time salaried bureau, division or section chiefs, and to delegate and assign to each such bureau, division, or section and the officers and employees therein, the duties and powers granted to the department for the enforcement of the provisions of Chapter 81, article 15, and the standards, rules and regulations adopted pursuant thereto;

(17) (15) To require access to existing and available records relating to emissions or discharges which cause or contribute to air, land, or water pollution;

(18) (16) To obtain such scientific, technical, administrative and operational services including laboratory facilities, by contract or otherwise, as the council deems necessary;

(19) (17) To encourage voluntary cooperation by persons and affected groups to achieve the purposes of sections 81-1501 to 81-1532;

(20) (18) To encourage local units of government to handle air, land, and water pollution problems within their respective jurisdictions and on a cooperative basis, and to provide technical and consultative assistance therefor;

~~(24)~~ (19) To consult, upon the request of any person proposing to construct, install or otherwise acquire an air or water contaminant source or device or system for control thereof, with such person concerning the efficacy of such device or system, or the air or water pollution problem which may be related to the source, device or system. Nothing in any such consultation shall be construed to relieve any person from compliance with sections 81-1501 to 81-1532, rules and regulations in force pursuant thereto, or any other provision of law;

~~(22)~~ (20) To require all persons engaged or desiring to engage in operations which result or which may result in air, water or land pollution to secure a permit prior to installation or operation or continued operation;

~~(23)~~ (21) To enter and inspect, during reasonable hours, any building or place, except a building designed for and used exclusively for a private residence;

~~(24)~~ (22) To receive or initiate complaints of air, water or land pollution, hold hearings in connection with air, water or land pollution and institute legal proceedings in the name of the state for the control or prevention of air, water or land pollution and for the recovery of penalties, in accordance with sections 81-1501 to 81-1532;

~~(25)~~ (23) To delegate, by contract with governmental subdivisions which have adopted local air, water or land pollution control programs approved by the council, the enforcement of state-adopted air, water or land pollution control regulations within a specified region surrounding the jurisdictional area of the governmental subdivisions; Provided, prosecutions commenced under such contracts are conducted by the Attorney General or county attorneys as provided in sections 81-1501 to 81-1532; and

~~(26)~~ (24) To conduct tests and take samples of air, water or land contaminants, fuel, process materials or any other substance which affects or may affect discharges or emissions of air, water or land contaminants from any source, giving the owner or operator a receipt for the sample obtained; and

(25) To develop and enforce compliance schedules under such conditions as the director may prescribe, consistent with the standards, rules, and regulations adopted by the council, to prevent, control, or abate pollution; Provided, that the council shall adopt no

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rules or regulations which are less stringent than those requirements defined by federal guidelines.

Sec. 2. That original section 81-1504, Revised Statutes Supplement, 1972, is repealed.

Sec. 3. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.