

CHAPTER 1149
AIR POLLUTION CONTROL

S. F. 477

AN ACT relating to the control, abatement and prevention of air pollution by the department of environmental quality, and providing a civil penalty.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section four hundred fifty-five B point ten (455B.10), subsection seven (7), Code 1979, is amended to read as follows:

7. "Person" means an individual, partnership, copartnership, cooperative, firm, company, public or private corporation, political subdivision, agency of the state, trust, estate, joint stock company, an agency or department of the federal government or any other legal entity, ~~or their~~ or a legal representative, agent, officer, employee or assigns of such entities.

Sec. 2. Section four hundred fifty-five B point ten (455B.10), Code 1979, is amended by adding the following new subsections:

NEW SUBSECTION. "Major stationary source" means a stationary air contaminant source which directly emits, or has the potential to emit, one hundred tons or more of an air pollutant per year including a major source of fugitive emissions of a pollutant as determined by rule by the commission or the administrator of the United States environmental protection agency.

NEW SUBSECTION. "Schedule and timetable of compliance" means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an emission limitation, other limitation, prohibition, or standard.

Sec. 3. Section four hundred fifty-five B point twelve (455B.12), subsections one (1), two (2), and three (3), Code 1979, are amended to read as follows:

1. ~~Direct--the--development--of--a~~ Develop comprehensive plan plans and programs for the abatement, control, and prevention of air pollution in this state, recognizing varying requirements for different areas in the state. The plans may include emission limitations, schedules and timetables for compliance with the limitations, measures to prevent the significant deterioration of air quality and other measures as necessary to assure attainment and maintenance of ambient air quality standards.

2. ~~Establish,--modify~~ Adopt, amend, or repeal rules pertaining to the evaluation, abatement, control, and prevention of air pollution ~~after--at least--sixty--days--public-notice-and-public-hearings.~~ those that are necessary to obtain approval of the state implementation plan under section 110 of the federal Clean Air Act as amended through January 1, 1979.

3. ~~Establish,--modify~~ Adopt, amend, or repeal ambient air quality standards for the atmosphere of this state on the basis of providing air quality necessary to ~~minimize-air-pollution-after-at-least-sixty-days¹-public notice-and-public-hearings~~ protect the public health and welfare.

Sec. 4. Section four hundred fifty-five B point twelve (455B.12), subsection four (4), Code 1979, is amended by striking the subsection and inserting in lieu thereof the following:

4. Adopt, amend or repeal emission limitations or standards relating to the maximum quantities of air contaminants that may be emitted from any air contaminant source. The standards or limitations adopted under this section shall not exceed the standards or limitations promulgated by the administrator of the United States environmental protection agency or the requirements of the federal Clean Air Act as amended to January 1, 1979. This does not prohibit the commission from adopting a standard for a source or class of sources for which the United States environmental protection agency has not promulgated a standard.

a. (1) The commission shall establish standards of performance unless in the judgment of the commission it is not feasible to adopt or enforce a standard of performance. If it is not feasible to adopt or enforce a standard of performance, the commission may adopt a design, equipment, material, work practice or operational standard, or combination of those standards in order to establish reasonably available control technology or the lowest achievable emission rate in nonattainment areas, or in order to establish best available control technology in areas subject to prevention of significant deterioration review, or in order to adopt the emission limitations promulgated by the administrator of the United States environmental protection agency under section 111 or 112 of the federal Clean Air Act as amended to January 1, 1979.

(2) If a person establishes to the satisfaction of the commission that an alternative means of emission limitation will achieve a reduction in emissions of an air pollutant at least equivalent to the reduction in emissions of the air pollutant achieved under the design, equipment, material, work practice or operational standard, the commission shall amend its rules to permit the use of the alternative by the source for purposes of compliance with this paragraph with respect to the pollutant.

(3) A design, equipment, material, work practice or operational standard promulgated under this paragraph shall be promulgated in terms of a standard of performance when it becomes feasible to promulgate and enforce the standard in those terms.

(4) For the purpose of this paragraph, the phrase "not feasible to adopt or enforce a standard of performance" refers to a situation in which the commission determines that the application of measurement methodology to a particular class of sources is not practicable due to technological or economic limitations.

b. If the maximum standards for the emission of sulphur dioxide from solid fuels have to be reduced in an area to meet ambient air quality standards, a contract for coal produced in Iowa and burned by a facility in that area that met the sulphur dioxide emission standards in effect at the

time the contract went into effect shall be exempted from the decreased requirement until the expiration of the contract period or December 31, 1983, whichever first occurs, if there is any other reasonable means available to satisfy the ambient air quality standards. To qualify under this subsection, the contract must be recorded with the county recorder of the county where the burning facility is located within thirty days after the signing of the contract.

c. The degree of emission limitation required for control of an air contaminant under an emission standard shall not be affected by that part of the stack height of a source that exceeds good engineering practice, as defined in rules, or any other dispersion technique. This paragraph shall not apply to stack heights in existence before December 30, 1970, or dispersion techniques implemented before that date.

Sec. 5. Section four hundred fifty-five B point twelve (455B.12), subsection ten (10), Code 1979, is amended to read as follows:

10. a. Require, by rules, notice of the construction ~~or the installation~~ of any equipment air contaminant source which may cause or contribute to air pollution, and the submission of plans and specifications to the department, or ~~such~~ other information deemed necessary, for the installation of equipment from which air contaminants may be emitted to the atmosphere air contaminant sources and related control equipment. The rules shall allow the owner or operator of a major stationary source to elect to obtain a conditional permit in lieu of a construction permit. The rules relating to a conditional permit for an electric power generating facility subject to chapter 476A and other major stationary sources shall allow the submission of engineering descriptions, flow diagrams and schematics that quantitatively and qualitatively identify emission streams and alternative control equipment that will provide compliance with emission standards. Such rules shall not specify any particular method to be used to reduce undesirable levels of emissions, nor type, design, or method of installation of any equipment to be used to reduce such levels of emissions, nor the type, design, or method of installation or type of construction of any manufacturing processes or kinds of equipment, nor specify the kind or composition of fuels permitted to be sold, stored, or used unless authorized by subsection four (4) of this section.

b. The commission may give technical advice pertaining to the construction or installation of ~~such~~ the equipment or any other recommendation.

Sec. 6. Section four hundred fifty-five B point thirteen (455B.13), subsection three (3), Code 1979, is amended to read as follows:

3. Grant, modify, or deny permits for the ~~installation construction~~ of new equipment-capable-of-emitting-air-contaminants-to-produce--air--pollution or modified air contaminant sources and for related control equipment, and conditional permits for electric power generating facilities subject to chapter 476A and other major stationary sources, subject to the rules adopted by the commission. The department shall furnish necessary application forms for such permits.

a. ~~No equipment which may cause or contribute to air pollution or which is intended primarily to prevent or to control the emission of air contaminants~~ air contaminant source shall be installed, altered so that it significantly affects ~~operation efficiency~~ emissions, or placed in use unless a construction or conditional permit has been issued for ~~such equipment~~ the source.

b. The condition of expected performance ~~must~~ shall be reasonably detailed in the construction or conditional permit ~~unless it is agreed between the department and the permit holder that a condition of development and adjustment exists~~.

c. All applications for permits other than conditional permits for electric generating facilities shall be subject to such notice and public participation as may be provided by rule by the commission. Upon denial or limitation of such a permit other than a conditional permit for an electric generating facility, the applicant shall be notified of such denial and informed of the reason or reasons therefor, and such applicant shall be entitled to a hearing before the commission as provided in section 455B.12, subsection 6.

d. All applications for conditional permits for electric power generating facilities shall be subject to such notice and opportunity for public participation as may be consistent with chapter 476A or any agreement pursuant thereto under chapter 28E. The applicant or intervenor may appeal to the commission from the denial of a conditional permit or any of its conditions. For the purposes of chapter 476A, the issuance or denial of a conditional permit by the executive director or by the commission upon appeal shall be a determination that the electric power generating facility does or does not meet the permit and licensing requirements of the commission. The issuance of a conditional permit shall not relieve the applicant of the responsibility to submit final and detailed construction plans and drawings and an application for a construction permit for control equipment that will meet the emission limitations established in the conditional permit.

Sec. 7. Section four hundred fifty-five B point twenty-five (455B.25), Code 1979, is amended to read as follows:

455B.25 CIVIL ACTION FOR COMPLIANCE. If any order, permit or rule of the commission is being violated, the attorney general shall, at the request of the commission or the executive director, institute a civil action in any district court for injunctive relief to prevent any further violation of ~~such~~ the order, permit or rule, or for the assessment of a fine civil penalty as determined by the court, not to exceed five hundred thousand dollars per day for each day such violation continues, or both such injunctive relief and fine civil penalty.

Sec. 8. Section four hundred fifty-five B point twenty-six (455B.26), Code 1979, is amended by striking the section and inserting in lieu thereof the following:

455B.26 FAILURE--PROCEDURE.

1. If the executive director fails to take action within sixty days after an application for a variance is made, or if the commission fails to enter a final order or determination within sixty days after the final argument in

hearing on appeal, the person seeking the action may treat the failure to act as a grant of the requested variance, or of a finding favorable to the respondent in hearing on appeal, as the case may be.

2. If the executive director fails to take action within one hundred twenty days after a completed application for a construction permit is made, or if the commission fails to enter a final order or determination within sixty days after the final argument in a hearing on appeal of the permit, the person seeking the action may treat the failure to act as a grant of the requested permit, or of a finding favorable to the respondent in a hearing on appeal, as the case may be.

3. The section shall not apply to an application for a conditional permit for an electrical power generating facility subject to chapter four hundred seventy-six A (476A) of the Code.

Sec. 9. Chapter four hundred fifty-five B (455B), division two (II), Code 1979, is amended by adding the following new section:

NEW SECTION. ENERGY OR ECONOMIC EMERGENCY.

1. Upon application by the owner or operator of a fuel-burning stationary source, and after notice and opportunity for public hearing, the commission may petition the president, under section 110, subsection f, paragraph 1 of the federal Clean Air Act as amended to January 1, 1979, for a determination that a national or regional energy emergency exists. If the president determines an emergency exists, the commission may suspend any requirement of this division or a rule or permit issued under this division. A temporary emergency suspension under this subsection shall be issued only if there exists in the vicinity of the source a temporary emergency involving high levels of unemployment or loss of necessary energy supplies for residential buildings and if the unemployment or loss can be totally or partially alleviated by the suspension. Only one suspension may be issued for a source on the basis of the same set of circumstances or on the basis of the same emergency. A suspension shall remain in effect for a maximum of four months. The commission may include in a suspension a provision directing the executive director to delay for a period identical to the period of the suspension a compliance schedule or increment of progress to which the source is subject under section four hundred fifty-five B point seventeen (455B.17) of the Code, if the source is unable to comply with the schedule or increment solely because of the conditions on the basis of which the suspension was issued.

2. If a plan revision has been submitted to the administrator of the United States environmental protection agency under section 110 of the federal Clean Air Act as amended to January 1, 1979, and if the commission determines that the revision meets the requirements of that section and the revision is necessary to prevent the closing of an air contaminant source for one year or more and to prevent substantial increases in unemployment which would result from the closing, and if the administrator has not approved or disapproved within the required four-month period, the commission may issue a temporary emergency suspension of the part of the applicable implementation plan which is proposed to be revised with respect to the source. The determination under this subsection shall not be made with respect to a

source which would close without regard to whether or not the proposed plan revision is approved. A temporary emergency suspension issued under this subsection shall remain in effect for a maximum of four months. A temporary emergency suspension under this subsection may include a provision directing the executive director to delay for a period identical to the period of the suspension a compliance schedule or increment of progress to which the source is subject under section 119 of the federal Clean Air Act as in effect prior to August 7, 1977, or section 113, subsection d of the federal Clean Air Act as amended to January 1, 1979, upon a finding that the source is unable to comply with the schedule or increment solely because of the conditions on the basis of which a suspension was issued under this subsection.

Sec. 10. Section four hundred fifty-five B point twenty-seven (455B.27), Code 1979, is amended by striking the section and inserting in lieu thereof the following:

455B.27 FEES. The owner or operator of a major stationary source shall pay to the department a fee, as determined from the fee schedule adopted by the commission under this section, for the issuance of a permit required under this division. The fees collected shall be remitted to the treasurer of state who shall deposit the money in the general fund of the state. A local air pollution control program shall establish and collect the fees for major stationary sources within its jurisdiction. The commission may adopt, amend or repeal rules establishing a fee schedule for construction and conditional permits for major stationary sources. The fee shall be sufficient to cover the reasonable costs of reviewing and acting upon an application for a permit and, if the owner or operator receives a permit for the source, the reasonable costs of implementing and enforcing the terms and conditions of the permit excluding court costs or other costs associated with an enforcement action.

Approved March 28, 1980

CHAPTER 1150
WATERWORKS OPERATORS
H. F. 2540

AN ACT relating to the membership of the board of certification of waterworks and waste waterworks operators.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section four hundred fifty-five B point fifty-three (455B.53), Code 1979, is amended to read as follows:

455B.53 BOARD. The governor shall appoint, subject to the approval of two-thirds of the members of the senate, a board of certification consisting of the following ~~five~~ seven members: