

Reprinted 5/2

FILED MAR 26 1979

SENATE FILE 477

By COMMITTEE ON NATURAL RESOURCES
Approved 3/22 (p. 976)

Passed Senate, Date 4-27-79 (p. 1441) Passed House, Date _____

Vote: Ayes 44 Nays 0 Vote: Ayes _____ Nays _____

Approved March 28, 1980

A BILL FOR

1 An Act relating to the control, abatement and prevention of
2 air pollution by the department of environmental quality,
3 and providing a civil penalty.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section four hundred fifty-five B point ten
2 (455B.10), subsection seven (7), Code 1979, is amended to
3 read as follows:

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

11 Sec. 2. Section four hundred fifty-five B point ten
12 (455B.10), Code 1979, is amended by adding the following new
13 subsections:

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

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

26 Sec. 3. Section four hundred fifty-five B point twelve
27 (455B.12), subsections one (1), two (2), and three (3), Code
28 1979, are amended to read as follows:

29 1. ~~Direct-the-development-of-a~~ Develop comprehensive plan
30 plans and programs for the abatement, control, and prevention
31 of air pollution in this state, recognizing varying
32 requirements for different areas in the state. The plans
33 may include emission limitations, schedules and timetables
34 for compliance with the limitations, measures to prevent the
35 significant deterioration of air quality and other measures

1 as necessary to assure attainment and maintenance of ambient
2 air quality standards.

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

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

15 Sec. 4. Section four hundred fifty-five B point twelve
16 (455B.12), subsection four (4), Code 1979, is amended by
17 striking the subsection and inserting in lieu thereof the
18 following:

19 4. Adopt, amend or repeal emission limitations or standards
20 relating to the maximum quantities of air contaminants that
21 may be emitted from any air contaminant source.

22 a. (1) The commission shall establish standards of
23 performance unless in the judgment of the commission it is
24 not feasible to adopt or enforce a standard of performance.
25 If it is not feasible to adopt or enforce a standard of
26 performance, the commission may adopt a design, equipment,
27 work practice or operational standard, or combination of those
28 standards in order to establish reasonably available control
29 technology in nonattainment areas or in order to adopt the
30 emission limitations promulgated by the administrator of the
31 United States environmental protection agency under section
32 111 or 112 of the federal Clean Air Act as amended to January
33 1, 1979.

34 (2) If a person establishes to the satisfaction of the
35 commission that an alternative means of emission limitation

1 will achieve a reduction in emissions of an air pollutant
2 at least equivalent to the reduction in emissions of the air
3 pollutant achieved under the design, equipment, work practice
4 or operational standard, the commission shall amend its rules
5 to permit the use of the alternative by the source for purposes
6 of compliance with this paragraph with respect to the
7 pollutant.

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

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

18 b. If the maximum standards for the emission of sulphur
19 dioxide from solid fuels have to be reduced in an area to
20 meet ambient air quality standards, a contract for coal
21 produced in Iowa and burned by a facility in that area that
22 met the sulphur dioxide emission standards in effect at the
23 time the contract went into effect shall be exempted from
24 the decreased requirement until the expiration of the contract
25 period or December 31, 1983, whichever first occurs, if there
26 is any other reasonable means available to satisfy the ambient
27 air quality standards. To qualify under this subsection,
28 the contract must be recorded with the county recorder of
29 the county where the burning facility is located within thirty
30 days after the signing of the contract.

31 c. The degree of emission limitation required for control
32 of an air contaminant under an emission standard shall not
33 be affected by that part of the stack height of a source that
34 exceeds good engineering practice, as defined in rules, or
35 any other dispersion technique. This paragraph shall not

1 apply to stack heights in existence before December 30, 1970,
2 or dispersion techniques implemented before that date.

3 Sec. 5. Section four hundred fifty-five B point twelve
4 (455B.12), subsection seven (7), Code 1979, is amended by
5 striking the subsection.

6 Sec. 6. Section four hundred fifty-five B point twelve
7 (455B.12), subsection ten (10), Code 1979, is amended to read
8 as follows:

9 10. a. Require, by rules, notice of the construction
10 or the installation of any equipment which may cause or
11 contribute to air pollution, and the submission of plans and
12 specifications to the department, or ~~such~~ other information
13 deemed necessary, for the installation of equipment from which
14 air contaminants may be emitted to the atmosphere and related
15 control equipment. The rules relating to a conditional permit
16 for an electric power generating facility subject to chapter
17 476A shall allow the submission of engineering descriptions,
18 flow diagrams and schematics that quantitatively and
19 qualitatively identify emission streams and alternative control
20 equipment that will provide compliance with emission standards.
21 Such rules shall not specify any particular method to be used
22 to reduce undesirable levels of emissions, nor type, design,
23 or method of installation of any equipment to be used to
24 reduce such levels of emissions, nor the type, design, or
25 method of installation or type of construction of any
26 manufacturing processes or kinds of equipment, nor specify
27 the kind or composition of fuels permitted to be sold, stored,
28 or used unless authorized by subsection four (4) of this
29 section.

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

33 Sec. 7. Section four hundred fifty-five B point twelve
34 (455B.12), Code 1979, is amended by adding the following new
35 subsection:

1 NEW SUBSECTION. Adopt, amend, or repeal rules specifying
2 the conditions under which the executive director may issue,
3 revoke, suspend, modify or deny permits for the operation
4 of a major stationary source.

5 Sec. 8. Section four hundred fifty-five B point eighteen
6 (455B.18), Code 1979, is amended by striking the section and
7 inserting in lieu thereof the following:

8 455B.18 ENERGY OR ECONOMIC EMERGENCY.

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

35 2. If a plan revision has been submitted to the

1 administrator of the United States environmental protection
2 agency under section 110 of the federal Clean Air Act as
3 amended to January 1, 1979, and if the commission determines
4 that the revision meets the requirements of that section and
5 the revision is necessary to prevent the closing of an air
6 contaminant source for one year or more and to prevent
7 substantial increases in unemployment which would result from
8 the closing, and if the administrator has not approved or
9 disapproved within the required four-month period, the
10 commission may issue a temporary emergency suspension of the
11 part of the applicable implementation plan which is proposed
12 to be revised with respect to the source. The determination
13 under this subsection shall not be made with respect to a
14 source which would close without regard to whether or not
15 the proposed plan revision is approved. A temporary emergency
16 suspension issued under this subsection shall remain in effect
17 for a maximum of four months. A temporary emergency suspension
18 under this subsection may include a provision directing the
19 executive director to delay for a period identical to the
20 period of the suspension a compliance schedule or increment
21 of progress to which the source is subject under section 119
22 of the federal Clean Air Act as in effect prior to August
23 7, 1977, or section 113, subsection d of the federal Clean
24 Air Act as amended to January 1, 1979, upon a finding that
25 the source is unable to comply with the schedule or increment
26 solely because of the conditions on the basis of which a
27 suspension was issued under this subsection.

28 Sec. 9. Section four hundred fifty-five B point twenty-
29 five (455B.25), Code 1979, is amended by striking the section
30 and inserting in lieu thereof the following:

31 455B.25 PENALTIES. A person who violates a provision
32 of this division, or a rule adopted, or a permit or order
33 issued under this division two (II) is subject to a civil
34 penalty, as determined by the court, not to exceed five
35 thousand dollars per day for each day that a violation

1 continues.

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

5 455B.27 FEES. The owner or operator of a major stationary
6 source shall pay to the department a fee, as determined from
7 the fee schedule adopted by the commission under section four
8 hundred fifty-five B point twelve (455B.12) of the Code, for
9 the issuance of a permit required under this division. The
10 fees collected shall be remitted to the treasurer of state
11 who shall deposit the money in the general fund of the state.
12 A local air pollution control program shall establish and
13 collect the fees for major stationary sources within its
14 jurisdiction.

15 Sec. 11. Section four hundred fifty-five B point twenty
16 (455B.20), Code 1979, is repealed.

17 EXPLANATION

18 This bill amends Chapter 455B, Division II of the Code
19 to provide the department of environmental quality with the
20 authority to carry out certain federal requirements relating
21 to air quality control as provided in the Clean Air Act
22 Amendments of 1977. The bill defines and provides for the
23 regulation of major stationary sources of air pollutants,
24 provides for the temporary emergency suspension of the
25 provisions of Chapter 455B, Division II of the Code if there
26 exists in the vicinity of an air contaminant source high
27 levels of unemployment or loss of necessary energy supplies
28 for residential buildings and the suspension will alleviate
29 the high unemployment levels or the energy problems. The
30 bill raises the maximum civil penalties for noncompliance
31 with the orders or rules of the department by air contaminant
32 sources.

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SENATE FILE 477

S-3321

- 1 Amend Senate File 477 as follows:
2 1. Page 4, by striking lines 3 through 5.
3 2. Page 6, by inserting after line 27 the
4 following:
5 "Sec. ____ . Section four hundred fifty-five B point
6 twenty (455B.20), Code 1979, is amended by striking
7 the section and inserting in lieu thereof the
8 following:
9 455B.20 FEE SCHEDULE. The commission may adopt,
10 amend or repeal rules establishing a fee schedule
11 for construction and operation permits for major
12 stationary sources. The fee shall be sufficient to
13 cover the reasonable costs of reviewing and acting
14 upon an application for a construction permit and,
15 if the owner or operator receives a permit for the
16 source, the reasonable costs of implementing and
17 enforcing the terms and conditions of an operation
18 permit excluding court costs or other costs associated
19 with an enforcement action."
20 3. Page 7, line 8, by striking the word and figure
21 "twelve (455B.12)" and inserting in lieu thereof the
22 word and figure "twenty (455B.20)".
23 4. Page 7, by striking lines 15 and 16.
24 5. By renumbering sections to conform to this
25 amendment.

S-3321 FILED *Adopted 3/30 (p. 10-20)* BY NORMAN J. GOODWIN
MARCH 29, 1979 *Master to the Commission (p. 10-20) W/5 name 4/11 (p. 11-33)*

SENATE FILE 477

S-3289

- 1 Amend Senate File 477 as follows:
2 1. Page 5, lines 31 and 32, by striking the
3 words ", subsection one (1), paragraph a".

S-3289 FILED *Adopted 3/30 (p. 10-20)* BY NORMAN J. GOODWIN
MARCH 27, 1979

SENATE FILE 477

S-3408

1 Amend Senate File 477 as follows:

2 1. Page 4, by striking lines 3 through 5.

3 2. Page 5, by striking lines 5 through 8 and
4 inserting in lieu thereof the following:

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

8 455B.25 CIVIL ACTION FOR COMPLIANCE. If any
9 order, permit or rule of the commission is being
10 violated, the attorney general shall, at the request
11 of the commission or the executive director, institute
12 a civil action in any district court for injunctive
13 relief to prevent any further violation of ~~such~~ the
14 order, permit or rule, or for the assessment of a
15 fine civil penalty as determined by the court, not
16 to exceed five hundred thousand dollars per day for
17 each day such violation continues, or both such
18 injunctive relief and ~~fine~~ civil penalty.

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

23 455B.26 FAILURE--PROCEDURE.

24 1. If the executive director fails to take action
25 within sixty days after an application for a variance
26 is made, or if the commission fails to enter a final
27 order or determination within sixty days after the
28 final argument in hearing on appeal, the person seeking
29 the action may treat the failure to act as a grant
30 of the requested variance, or of a finding favorable
31 to the respondent in hearing on appeal, as the case
32 may be.

33 2. If the executive director fails to take action
34 within one hundred twenty days after an application
35 for an installation permit is made, or if the
36 commission fails to enter a final order or
37 determination within sixty days after the final
38 argument in a hearing on appeal of the permit, the
39 person seeking the action may treat the failure to
40 act as a grant of the requested permit, or of a finding
41 favorable to the respondent in a hearing on appeal,
42 as the case may be.

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

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

50 NEW SECTION. ENERGY OR ECONOMIC EMERGENCY."

S-3408

- 1 3. By striking page 6, line 28 through page 7,
2 line 1.
3 4. Page 7, lines 7 and 8, by striking the words
4 and figure "section four hundred fifty-five B point
5 twelve (455B.12) of the Code" and inserting in lieu
6 thereof the words "this section".
7 5. Page 7, line 14, by adding after the word
8 "jurisdiction." the following: "The commission may
9 adopt, amend or repeal rules establishing a fee
10 schedule for construction and operation permits for
11 major stationary sources. The fee shall be sufficient
12 to cover the reasonable costs of reviewing and acting
13 upon an application for a construction permit and,
14 if the owner or operator receives a permit for the
15 source, the reasonable costs of implementing and
16 enforcing the terms and conditions of an operation
17 permit excluding court costs or other costs associated
18 with an enforcement action."
19 6. Page 7, by striking lines 15 and 16.
20 7. By renumbering sections to conform to this
21 amendment.

S-3408 FILED
APRIL 5, 1979

Adopted 4/27 (7-14-79)

BY NORMAN J. GOODWIN

SENATE FILE 477

S-3361

- 1 Amend the amendment, S-3321, to Senate File 477
2 as follows:
3 1. Page 1, by striking lines 3 through 22 and
4 inserting in lieu thereof the following:
5 "_____. Page 7, lines 7 and 8, by striking the words
6 and figure "section four hundred fifty-five B point
7 twelve (455B.12) of the Code" and inserting in lieu
8 thereof the words "this section".
9 "_____. Page 7, line 14, by adding after the word
10 "jurisdiction." the following: "The commission may
11 adopt, amend or repeal rules establishing a fee
12 schedule for construction and operation permits for
13 major stationary sources. The fee shall be sufficient
14 to cover the reasonable costs of reviewing and acting
15 upon an application for a construction permit and,
16 if the owner or operator receives a permit for the
17 source, the reasonable costs of implementing and
18 enforcing the terms and conditions of an operation
19 permit excluding court costs or other costs associated
20 with an enforcement action."
21 2. By numbering sections to conform to this
22 amendment.

S-3361 FILED
APRIL 3, 1979

Out of order 4/27 (7-14-79)

BY NORMAN J. GOODWIN
ALVIN V. MILLER

Has Natural Resources 5/2

Amend per 5341 to Do Pass 3/29 (p 126)

SENATE FILE 477
BY COMMITTEE ON NATURAL RESOURCES

(AS AMENDED AND PASSED BY THE SENATE APRIL 27, 1979)

Passed Senate, Date 3-10-80 (p. 840) Passed House, Date 3-10-80 (p. 840)

Vote: Ayes 92 Nays 0 Vote: Ayes 92 Nays 0

Approved March 28, 1980

Proposed Senate per House amendment
3-12-80 (p. 814)
47-1

A BILL FOR

1 An Act relating to the control, abatement and prevention of
2 air pollution by the department of environmental quality,
3 and providing a civil penalty.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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————— = New Language
by the Senate

* = Language Stricken
by the Senate

1 Section 1. Section four hundred fifty-five B point ten
2 (455B.10), subsection seven (7), Code 1979, is amended to
3 read as follows:

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

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15 stationary air contaminant source which directly emits, or
16 has the potential to emit, one hundred tons or more of an
17 air pollutant per year including a major source of fugitive
18 emissions of a pollutant as determined by rule by the
19 commission or the administrator of the United States
20 environmental protection agency.

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

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27 (455B.12), subsections one (1), two (2), and three (3), Code
28 1979, are amended to read as follows:

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30 plans and programs for the abatement, control, and prevention
31 of air pollution in this state, recognizing varying
32 requirements for different areas in the state. The plans
33 may include emission limitations, schedules and timetables
34 for compliance with the limitations, measures to prevent the
35 significant deterioration of air quality and other measures

1 as necessary to assure attainment and maintenance of ambient
2 air quality standarus.

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

10 3. ~~Establisn, -modify~~ Adopt, amend, or repeal ambient air
11 quality standards for the atmosphere of this state on the
12 basis of providing air quality necessary to ~~minimize-air~~
13 ~~pollution-after-at-least-sixty-days'-public-notice-and-public~~
14 ~~hearings~~ protect the public health and welfare.

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16 (455B.12), subsection four (4), Code 1979, is amended by
17 striking the subsection and inserting in lieu thereof the
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19 4. Adopt, amend or repeal emission limitations or standards
20 relating to the maximum quantities of air contaminants that
21 may be emitted from any air contaminant source.

22 a. (1) The commission shall establish standards of
23 performance unless in the judgment of the commission it is
24 not feasible to adopt or enforce a standard of performance.
25 If it is not feasible to adopt or enforce a standard of
26 performance, the commission may adopt a design, equipment,
27 work practice or operational standard, or combination of those
28 standards in order to establish reasonably available control
29 technology in nonattainment areas or in order to adopt the
30 emission limitations promulgated by the auministrator of the
31 United States environmental protection agency under section
32 111 or 112 of the federal Clean Air Act as amended to January
33 1, 1979.

34 (2) If a person establishes to the satisfaction of the
35 commission that an alternative means of emission limitation

1 will achieve a reduction in emissions of an air pollutant
2 at least equivalent to the reduction in emissions of the air
3 pollutant achieved under the design, equipment, work practice
4 or operational standard, the commission shall amend its rules
5 to permit the use of the alternative by the source for purposes
6 of compliance with this paragraph with respect to the
7 pollutant.

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

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

18 b. If the maximum standards for the emission of sulphur
19 dioxide from solid fuels have to be reduced in an area to
20 meet ambient air quality standards, a contract for coal
21 produced in Iowa and burned by a facility in that area that
22 met the sulphur dioxide emission standards in effect at the
23 time the contract went into effect shall be exempted from
24 the decreased requirement until the expiration of the contract
25 period or December 31, 1983, whichever first occurs, if there
26 is any other reasonable means available to satisfy the ambient
27 air quality standards. To qualify under this subsection,
28 the contract must be recorded with the county recorder of
29 the county where the burning facility is located within thirty
30 days after the signing of the contract.

31 c. The degree of emission limitation required for control
32 of an air contaminant under an emission standard shall not
33 be affected by that part of the stack height of a source that
34 exceeds good engineering practice, as defined in rules, or
35 any other dispersion technique. This paragraph shall not

1 apply to stack heights in existence before December 30, 1970,
2 or dispersion techniques implemented before that date.

* 3 Sec. 5. Section four hundred fifty-five B point twelve
4 (455B.12), subsection ten (10), Code 1979, is amended to read
5 as follows:

6 10. a. Require, by rules, notice of the construction
7 or the installation of any equipment which may cause or
8 contribute to air pollution, and the submission of plans and
9 specifications to the department, or ~~such~~ other information
10 deemed necessary, for the installation of equipment from which
11 air contaminants may be emitted to the atmosphere and related
12 control equipment. The rules relating to a conditional permit
13 for an electric power generating facility subject to chapter
14 476A shall allow the submission of engineering descriptions,
15 flow diagrams and schematics that quantitatively and
16 qualitatively identify emission streams and alternative control
17 equipment that will provide compliance with emission standards.
18 Such rules shall not specify any particular method to be used
19 to reduce undesirable levels of emissions, nor type, design,
20 or method of installation of any equipment to be used to
21 reduce such levels of emissions, nor the type, design, or
22 method of installation or type of construction of any
23 manufacturing processes or kinds of equipment, nor specify
24 the kind or composition of fuels permitted to be sold, stored,
25 or used unless authorized by subsection four (4) of this
26 section.

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

30 Sec. 6. Section four hundred fifty-five B point twelve
31 (455B.12), Code 1979, is amended by adding the following new
32 subsection:

33 NEW SUBSECTION. Adopt, amend, or repeal rules specifying
34 the conditions under which the executive director may issue,
35 revoke, suspend, modify or deny permits for the operation

1 of a major stationary source.

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

4 455B.25 CIVIL ACTION FOR COMPLIANCE. If any order, permit
5 or rule of the commission is being violated, the attorney
6 general shall, at the request of the commission or the
7 executive director, institute a civil action in any district
8 court for injunctive relief to prevent any further violation
9 of such the order, permit or rule, or for the assessment of
10 a fine civil penalty as determined by the court, not to exceed
11 five hundred thousand dollars per day for each day such
12 violation continues, or both such injunctive relief and fine
13 civil penalty.

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

17 455B.26 FAILURE--PROCEDURE.

18 1. If the executive director fails to take action within
19 sixty days after an application for a variance is made, or
20 if the commission fails to enter a final order or determination
21 within sixty days after the final argument in hearing on
22 appeal, the person seeking the action may treat the failure
23 to act as a grant of the requested variance, or of a finding
24 favorable to the respondent in hearing on appeal, as the case
25 may be.

26 2. If the executive director fails to take action within
27 one hundred twenty days after an application for an
28 installation permit is made, or if the commission fails to
29 enter a final order or determination within sixty days after
30 the final argument in a hearing on appeal of the permit, the
31 person seeking the action may treat the failure to act as
32 a grant of the requested permit, or of a finding favorable
33 to the respondent in a hearing on appeal, as the case may
34 be.

35 3. The section shall not apply to an application for a

1 conditional permit for an electrical power generating facility
2 subject to chapter four hundred seventy-six A (476A) of the
3 Code.

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

7 NEW SECTION. ENERGY OR ECONOMIC EMERGENCY.

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

34 2. If a plan revision has been submitted to the
35 administrator of the United States environmental protection

1 agency under section 110 of the federal Clean Air Act as
 2 amended to January 1, 1979, and if the commission determines
 3 that the revision meets the requirements of that section and
 4 the revision is necessary to prevent the closing of an air
 5 contaminant source for one year or more and to prevent
 6 substantial increases in unemployment which would result from
 7 the closing, and if the administrator has not approved or
 8 disapproved within the required four-month period, the
 9 commission may issue a temporary emergency suspension of the
 10 part of the applicable implementation plan which is proposed
 11 to be revised with respect to the source. The determination
 12 under this subsection shall not be made with respect to a
 13 source which would close without regard to whether or not
 14 the proposed plan revision is approved. A temporary emergency
 15 suspension issued under this subsection shall remain in effect
 16 for a maximum of four months. A temporary emergency suspension
 17 under this subsection may include a provision directing the
 18 executive director to delay for a period identical to the
 19 period of the suspension a compliance schedule or increment
 20 of progress to which the source is subject under section 119
 21 of the federal Clean Air Act as in effect prior to August
 22 7, 1977, or section 113, subsection d of the federal Clean
 23 Air Act as amended to January 1, 1979, upon a finding that
 24 the source is unable to comply with the schedule or increment
 25 solely because of the conditions on the basis of which a
 26 suspension was issued under this subsection.

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

30 455B.27 FEES. The owner or operator of a major stationary
 31 source shall pay to the department a fee, as determined from
 * 32 the fee schedule adopted by the commission under this section,
 33 for the issuance of a permit required under this division.
 34 The fees collected shall be remitted to the treasurer of state
 35 who shall deposit the money in the general fund of the state.

1 A local air pollution control program shall establish and
2 collect the fees for major stationary sources within its
3 jurisdiction. The commission may adopt, amend or repeal rules
4 establishing a fee schedule for construction and operation
5 permits for major stationary sources. The fee shall be
6 sufficient to cover the reasonable costs of reviewing and
7 acting upon an application for a construction permit and,
8 if the owner or operator receives a permit for the source,
9 the reasonable costs of implementing and enforcing the terms
10 and conditions of an operation permit excluding court costs
11 or other costs associated with an enforcement action.

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SF 477
tj/slc/26c

HOUSE CLIP SHEET

MONDAY, MARCH 3, 1980

SENATE FILE 477

H-5341

1 Amend Senate File 477 as amended, passed and
2 reprinted by the Senate as follows:

3 1. Page 2, line 21, by inserting after the word
4 "source." the following:

5 "The standards or limitations adopted under this
6 section shall not exceed the standards or limitations
7 promulgated by the administrator of the United States
8 environmental protection agency or the requirements
9 of the federal Clean Air Act as amended to January
10 1, 1979. This does not prohibit the commission from
11 adopting a standard for a source or class of sources
12 for which the United States environmental protection
13 agency has not promulgated a standard."

14 2. Page 2, line 26, by inserting after the word
15 "equipment," the word "material".

16 3. Page 2, line 29, by striking the words "in
17 nonattainment areas" and inserting in lieu thereof
18 the words "or the lowest achievable emission rate
19 in nonattainment areas, or in order to establish best
20 available control technology in areas subject to
21 prevention of significant deterioration review,".

22 4. Page 3, line 3, by inserting after the word
23 "equipment," the word "material".

24 5. Page 3, line 8, by inserting after the word
25 "equipment," the word "material".

26 6. Page 4, by striking lines 6 through 26, and
27 inserting in lieu thereof the following:

28 "10. a. Require, by rules, notice of the
29 ~~construction ex-the-installation~~ of any equipment
30 ~~air contaminant source~~ which may cause or contribute
31 to air pollution, and the submission of plans and
32 specifications to the department, or such other
33 information deemed necessary, for the installation
34 of ~~equipment-from-which-air-contaminants-may-be-emitted~~
35 ~~to-the-atmosphere~~ air contaminant sources and related
36 control equipment. The rules shall allow the owner
37 or operator of a major stationary source to elect
38 to obtain a conditional permit in lieu of a
39 construction permit. The rules relating to a
40 conditional permit for an electric power generating
41 facility subject to chapter 476A and other major
42 stationary sources shall allow the submission of
43 engineering descriptions, flow diagrams and schematics
44 that quantitatively and qualitatively identify emission
45 streams and alternative control equipment that will
46 provide compliance with emission standards. Such
47 rules shall not specify any particular method to be
48 used to reduce undesirable levels of emissions, nor
49 type, design, or method of installation of any
50 equipment to be used to reduce such levels of

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1 emissions, nor the type, design, or method of
2 installation or type of construction of any
3 manufacturing processes or kinds of equipment, nor
4 specify the kind or composition of fuels permitted
5 to be sold, stored, or used unless authorized by
6 subsection four (4) of this section."

7 7. Page 4, by striking lines 30 through 35.

8 8. Page 5, by striking line 1.

9 9. Page 5, by inserting before line 2, the
10 following:

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

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

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

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

36 c. All applications for permits other than
37 conditional permits for electric generating facilities
38 shall be subject to such notice and public
39 participation as may be provided by rule by the
40 commission. Upon denial or limitation of such a
41 permit other than a conditional permit for an electric
42 generating facility, the applicant shall be notified
43 of such denial and informed of the reason or reasons
44 therefor, and such applicant shall be entitled to
45 a hearing before the commission as provided in section
46 455B.12, subsection 6.

47 d. All applications for conditional permits for
48 electric power generating facilities shall be subject
49 to such notice and opportunity for public participation
50 as may be consistent with chapter 476A or any agreement

MARCH 3, 1980

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Page Three

1 pursuant thereto under chapter 28E. The applicant
2 or intervenor may appeal to the commission from the
3 denial of a conditional permit or any of its conditions.
4 For the purposes of chapter 476A, the issuance or
5 denial of a conditional permit by the executive
6 director or by the commission upon appeal shall be
7 a determination that the electric power generating
8 facility does or does not meet the permit and licensing
9 requirements of the commission. The issuance of a
10 conditional permit shall not relieve the applicant
11 of the responsibility to submit final and detailed
12 construction plans and drawings and an application
13 for a construction permit for control equipment that
14 will meet the emission limitations established in
15 the conditional permit."

16 10. Page 5, lines 27 and 28, by striking the words
17 "an application for an installation" and inserting
18 in lieu thereof the words "a completed application
19 for a construction".

20 11. Page 8, line 4, by striking the word
21 "operation", and inserting in lieu thereof the word
22 "conditional".

23 12. Page 8, line 7, by striking the word
24 "construction".

25 13. Page 8, line 10, by striking the words "an
26 operation" and inserting in lieu thereof the word
27 "the".

28 14. By renumbering sections to conform to this
29 amendment.

H-5341 FILED

FEBRUARY 29, 1980

BY COMMITTEE ON NATURAL RESOURCES
SMALLEY, Chair

Adopted 2/29/80

HOUSE AMENDMENT TO SENATE FILE 477

S-5322

1 Amend Senate File 477 as amended, passed and
2 reprinted by the Senate as follows:
3 1. Page 2, line 21, by inserting after the word
4 "source." the following:
5 "The standards or limitations adopted under this
6 section shall not exceed the standards or limitations
7 promulgated by the administrator of the United States
8 environmental protection agency or the requirements
9 of the federal Clean Air Act as amended to January
10 1, 1979. This does not prohibit the commission from
11 adopting a standard for a source or class of sources
12 for which the United States environmental protection
13 agency has not promulgated a standard."
14 2. Page 2, line 26, by inserting after the word
15 "equipment," the word "material,".
16 3. Page 2, line 29, by striking the words "in
17 nonattainment areas" and inserting in lieu thereof
18 the words "or the lowest achievable emission rate
19 in nonattainment areas, or in order to establish best
20 available control technology in areas subject to
21 prevention of significant deterioration review,".
22 4. Page 3, line 3, by inserting after the word
23 "equipment," the word "material,".
24 5. Page 3, line 8, by inserting after the word
25 "equipment," the word "material,".
26 6. Page 4, by striking lines 6 through 26, and
27 inserting in lieu thereof the following:
28 "10. a. Require, by rules, notice of the
29 construction or-the-installation of any equipment
30 air contaminant source which may cause or contribute
31 to air pollution, and the submission of plans and
32 specifications to the department, or such other
33 information deemed necessary, for the installation
34 of equipment-from-which-air-contaminants-may-be-emitted
35 to-the-atmosphere air contaminant sources and related
36 control equipment. The rules shall allow the owner
37 or operator of a major stationary source to elect
38 to obtain a conditional permit in lieu of a
39 construction permit. The rules relating to a
40 conditional permit for an electric power generating
41 facility subject to chapter 476A and other major
42 stationary sources shall allow the submission of
43 engineering descriptions, flow diagrams and schematics
44 that quantitatively and qualitatively identify emission
45 streams and alternative control equipment that will
46 provide compliance with emission standards. Such
47 rules shall not specify any particular method to be
48 used to reduce undesirable levels of emissions, nor
49 type, design, or method of installation of any
50 equipment to be used to reduce such levels of

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1 emissions, nor the type, design, or method of
2 installation or type of construction of any
3 manufacturing processes or kinds of equipment, nor
4 specify the kind or composition of fuels permitted
5 to be sold, stored, or used unless authorized by
6 subsection four (4) of this section."

7 7. Page 4, by striking lines 30 through 35.

8 8. Page 5, by striking line 1.

9 9. Page 5, by inserting before line 2, the
10 following:

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

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

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

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

36 c. All applications for permits other than
37 conditional permits for electric generating facilities
38 shall be subject to such notice and public
39 participation as may be provided by rule by the
40 commission. Upon denial or limitation of such a
41 permit other than a conditional permit for an electric
42 generating facility, the applicant shall be notified
43 of such denial and informed of the reason or reasons
44 therefor, and such applicant shall be entitled to
45 a hearing before the commission as provided in section
46 455B.12, subsection 6.

47 d. All applications for conditional permits for
48 electric power generating facilities shall be subject
49 to such notice and opportunity for public participation
50 as may be consistent with chapter 476A or any agreement

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1 pursuant thereto under chapter 28E. The applicant
2 or intervenor may appeal to the commission from the
3 denial of a conditional permit or any of its conditions.
4 For the purposes of chapter 476A, the issuance or
5 denial of a conditional permit by the executive
6 director or by the commission upon appeal shall be
7 a determination that the electric power generating
8 facility does or does not meet the permit and licensing
9 requirements of the commission. The issuance of a
10 conditional permit shall not relieve the applicant
11 of the responsibility to submit final and detailed
12 construction plans and drawings and an application
13 for a construction permit for control equipment that
14 will meet the emission limitations established in
15 the conditional permit."

16 10. Page 5, lines 27 and 28, by striking the words
17 "an application for an installation" and inserting
18 in lieu thereof the words "a completed application
19 for a construction".

20 11. Page 8, line 4, by striking the word
21 "operation", and inserting in lieu thereof the word
22 "conditional".

23 12. Page 8, line 7, by striking the word
24 "construction".

25 13. Page 8, line 10, by striking the words "an
26 operation" and inserting in lieu thereof the word
27 "the".

28 14. By renumbering sections to conform to this
29 amendment.

S-5322 FILED
MARCH 10, 1980

RECEIVED FROM THE HOUSE

Line to ... 5/12 (to 5/12)

SENATE FILE 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, co-operative, 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.~~ The rules may include 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-days-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.

TERRY E. BRANSTAD
President of the Senate

WILLIAM H. HARBOR
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 477, Sixty-eighth General Assembly.

FRANK J. STORK
Secretary of the Senate

Approved March 29, 1980

ROBERT D. RAY
Governor