

455B.133 Duties.

The commission shall:

1. Develop comprehensive 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. Adopt, amend, or repeal rules pertaining to the evaluation, abatement, control, and prevention of air pollution. 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, 1991.

3. Adopt, amend, or repeal ambient air quality standards for the atmosphere of this state on the basis of providing air quality necessary to protect the public health and welfare and to reduce emissions contributing to acid rain pursuant to Tit. IV of the federal Clean Air Act Amendments of 1990.

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 through January 1, 1991. 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. This also does not prohibit the commission from adopting an emission standard or limitation for infectious medical waste treatment or disposal facilities which exceeds 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 through January 1, 1991. The commission shall not adopt an emission standard or limitation for infectious medical waste treatment or disposal facilities prior to January 1, 1995, which exceeds 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 through January 1, 1991, for a hospital, or a group of hospitals, licensed under [chapter 135B](#) which has been operating an infectious medical waste treatment or disposal facility prior to January 1, 1991.

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 through January 1, 1991.

(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. 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.

5. Classify air contaminant sources according to levels and types of emissions, and other characteristics which relate to air pollution. The commission may require, by rule, the owner or operator of any air contaminant source to establish and maintain such records, make such reports, install, use and maintain such monitoring equipment or methods, sample such emissions in accordance with such methods at such locations and intervals, and using such procedures as the commission shall prescribe, and provide such other information as the commission may reasonably require. Such classifications may be for application to the state as a whole, or to any designated area of the state, and shall be made with special reference to effects on health, economic and social factors, and physical effects on property.

6. a. Require, by rules, notice of the construction of any air contaminant source which may cause or contribute to air pollution, and the submission of plans and specifications to the department, or other information deemed necessary, for the installation of air contaminant sources and related control equipment. The rules relating to 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 4 of this section](#).

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

7. Commission rules establishing maximum permissible sulfate content shall not apply to an expansion of an industrial anaerobic lagoon facility which was constructed prior to February 22, 1979.

8. a. (1) Adopt rules consistent with the federal Clean Air Act Amendments of 1990, Pub. L. No. 101-549, including those amendments effective on January 1, 1991, regulations promulgated by the United States environmental protection agency pursuant to that Act, the provisions of [this chapter](#), and rules adopted by the commission pursuant to [this chapter](#), which require the owner or operator of an air contaminant source to obtain an operating permit prior to operation of the source. The rules shall specify the information required to be submitted with the application for an operating permit and the conditions under which a permit may be granted, modified, suspended, terminated, revoked, reissued, or denied. For sources subject to the provisions of Tit. IV of the federal Clean Air Act Amendments of 1990, operating permit conditions shall include emission allowances for sulfur dioxide emissions.

(2) (a) The commission may establish fees to be imposed and collected by the department, including operating permit application fees and fees upon regulated pollutants emitted from an air contaminant source, in an amount sufficient to cover, on a state fiscal year basis as described in [section 455B.133B](#), all reasonable costs, direct and indirect, required to implement and administer the operating permit program as described in subparagraph (1) in conformance with the federal Clean Air Act Amendments of 1990. Affected units regulated under Tit. IV of the federal Clean Air Act Amendments of 1990 shall pay fees in the same manner as other sources subject to operating permit requirements, except as provided in section 408 of that Act.

(b) The fees collected by the department pursuant to subparagraph division (a) shall be credited to the appropriate accounts of the air contaminant source fund created pursuant to [section 455B.133B](#), and shall be utilized to cover all reasonable costs required to implement and administer the programs required by Tit. V of the federal Clean Air Act Amendments of 1990, including the operating permit program pursuant to section 502 of that Act and the small business stationary source technical and environmental compliance assistance program

pursuant to section 507 of that Act. The amount of the fees credited to and expended from each account of the air contaminant source fund shall be subject to the limitations provided in [section 455B.133B](#).

(c) Fees established pursuant to this subparagraph (2) shall not be imposed for the regulation of an activity that exceeds the requirements of the federal Clean Air Act Amendments of 1990.

b. Adopt rules allowing the department to issue a state operating permit to an owner or operator of an air contaminant source. The state operating permit granted under this paragraph may only be issued at the request of an air contaminant source and will be used to limit its potential to emit to less than one hundred tons per year of a criteria pollutant as defined by the United States environmental protection agency or ten tons per year of a hazardous air pollutant or twenty-five tons of any combination of hazardous air pollutants.

c. Adopt rules for the issuance of a single general permit, after notice and opportunity for a public hearing. The single general permit shall cover numerous sources to the extent that the sources are representative of a class of facilities which can be identified and conditioned by a single permit.

9. Adopt rules allowing asphalt shingles to be burned in a fire set for the purpose of bona fide training of public or industrial employees in fire fighting methods only if a notice is provided to the director containing testing results indicating that the asphalt shingles do not contain asbestos. Each fire department shall be permitted to host two fires per year as allowed under [this subsection](#).

10. Adopt rules allowing a city to conduct a controlled burn of a demolished building subject to the requirements that are in effect for the proper removal of all asbestos-containing materials prior to demolition and burning. The rules shall include provisions that a burn site have controlled access, that a burn site be supervised by representatives of the city at all times, and that the burning be conducted only when weather conditions are favorable with respect to surrounding property. For a burn site located outside of a city, the rules shall include a provision that a city may undertake not more than one such controlled burn per day and that a burn site be limited to an area located at least six-tenths of a mile from any inhabited building. For burn sites located within a city, the rules shall include a provision that a city may undertake not more than one such controlled burn in every six-tenths-of-a-mile-radius circle in each calendar year. The rules shall prohibit a controlled burn of a demolished building in Cedar Rapids, Marion, Hiawatha, Council Bluffs, Carter Lake, Des Moines, West Des Moines, Clive, Windsor Heights, Urbandale, Pleasant Hill, Buffalo, Davenport, Mason City, or any other area where area-specific state implementation plans require the control of particulate matter.

[C71, §136B.4; C73, 75, 77, 79, 81, §455B.12; [82 Acts, ch 1124, §1](#)]

C83, §455B.133

[91 Acts, ch 242, §1](#); [91 Acts, ch 255, §8](#); [92 Acts, ch 1163, §87 – 89](#); [93 Acts, ch 137, §3](#); [94 Acts, ch 1040, §1](#); [95 Acts, ch 2, §1](#); [2002 Acts, ch 1162, §45](#); [2002 Acts, 2nd Ex, ch 1003, §241, 262](#); [2004 Acts, ch 1138, §1](#); [2010 Acts, ch 1061, §180](#); [2014 Acts, ch 1010, §2](#); [2015 Acts, ch 30, §131](#); [2015 Acts, ch 100, §1, 7](#)

Referred to in [§455B.133B](#), [§455B.134](#)

For the commission's authority to establish certain designated fees on and after January 1, 2016, see [2015 Acts, ch 100, §4](#)

Fees established by the commission pursuant to subsection 8 and in effect immediately prior to May 15, 2015, remain in effect and the fee amount remains in effect until adjusted by the commission; [2015 Acts, ch 100, §5](#)

Subsection 4, paragraph b stricken and former paragraph c redesignated as b

Subsection 8, paragraph a amended