

House File 677

H-1216

1 Amend House File 677 as follows:

2 1. By striking everything after the enacting clause and
3 inserting:

4 <DIVISION I

5 ADMINISTRATIVE APPEALS TIMELINE

6 Section 1. NEW SECTION. 455B.110 **Administrative appeal**
7 **orders — deadline.**

8 1. An order issued by the director or the department
9 pursuant to authority granted in this chapter may be appealed,
10 resulting in the scheduling of a contested case hearing as
11 provided for in chapter 17A. The appeal must be received
12 by the director within the applicable timeframe established
13 in this section. If the appeal is not received within the
14 applicable timeframe, the appeal is not timely and the order
15 is final agency action.

16 2. For a person that holds a permit issued by the
17 department, an appeal must be received by the director within
18 sixty days of the issuance of the order to the address of
19 the person identified in the permit and the address of the
20 responsible party listed in the permit, if any.

21 3. For a person that is required to maintain a registered
22 agent or a registered office in the state and does not hold a
23 permit issued by the department, an appeal must be received by
24 the director within sixty days of the issuance of the order
25 to the official registered agent address on file with the
26 secretary of state.

27 4. For any other person, an appeal must be received by
28 the director within sixty days of issuance to the last known
29 address.

30 5. The director or the department shall provide a copy of
31 the order by ordinary mail or electronic mail to the person's
32 attorney if the attorney has been identified to the department
33 as representing the person.

34 6. *a.* For the purposes of this section, the date of
35 issuance of an order by the director or the department is the

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1 postmarked date that the order is sent by the department to the
2 registered agent or party by certified mail. For the purposes
3 of this section, the date of receipt by the director is the
4 postmarked date that the appeal was sent to the director.

5 Sec. 2. Section 455B.138, subsection 1, Code 2019, is
6 amended to read as follows:

7 1. When the director has evidence that a violation of
8 any provision of division II of this chapter or chapter 459,
9 subchapter II, or rule, standard or permit established or
10 issued under division II or chapter 459, subchapter II, has
11 occurred, the director shall notify the alleged violator and,
12 by informal negotiation, attempt to resolve the problem.
13 If the negotiations fail to resolve the problem within a
14 reasonable period of time, the director shall issue an order
15 directing the violator to prevent, abate or control the
16 emissions or air pollution involved. The order shall prescribe
17 the date by which the violation shall cease and may prescribe
18 timetables for necessary action to prevent, abate or control
19 the emissions of air pollution. The order may be appealed to
20 the commission. The applicable timeframes for the issuance and
21 appeal of the order are defined in section 455B.110.

22 Sec. 3. Section 455B.175, subsection 1, paragraph a, Code
23 2019, is amended to read as follows:

24 a. The director may issue an order directing the person
25 to desist in the practice which constitutes the violation or
26 to take such corrective action as may be necessary to ensure
27 that the violation will cease. The person to whom such order
28 is issued may cause to be commenced a contested case within
29 the meaning of the Iowa administrative procedure Act, chapter
30 17A, by filing with the director ~~within thirty days~~ a notice
31 of appeal to the commission. The applicable timeframes for
32 the issuance and appeal of the order are defined in section
33 455B.110. On appeal the commission may affirm, modify or
34 vacate the order of the director; or

35 Sec. 4. Section 455B.183, Code 2019, is amended by adding

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1 the following new subsection:

2 NEW SUBSECTION. 9. A rural water association organized
3 under chapter 357A or chapter 504 that employs or retains
4 a licensed engineer shall be considered to have met the
5 permitting requirements of this section for the purposes
6 of sewer extensions and water supply distribution system
7 extensions. The department shall not disqualify a rural
8 water system if the system's hydraulic modeling complies with
9 standards for water supply distribution systems adopted by the
10 commission pursuant to this chapter.

11 Sec. 5. Section 455B.279, subsection 1, Code 2019, is
12 amended to read as follows:

13 1. The director may issue any order necessary to secure
14 compliance with or prevent a violation of this part or the
15 rules adopted pursuant to this part. ~~Within thirty days of~~
16 ~~issuance, the~~ The order may be appealed to the commission by
17 filing a notice of appeal with the director. The appeal shall
18 be conducted as a contested case pursuant to [chapter 17A](#) and
19 the commission may affirm, modify, or revoke the order. The
20 department may request legal services as required from the
21 attorney general, including any legal proceeding necessary to
22 obtain compliance with this part and rules and orders issued
23 under this part. The applicable timeframes for the issuance
24 and appeal of an order are defined in section 455B.110.

25 Sec. 6. Section 455B.308, Code 2019, is amended to read as
26 follows:

27 **455B.308 Appeal from order.**

28 Any person aggrieved by an order of the director may appeal
29 the order by filing a written notice of appeal with the
30 director ~~within thirty days of the issuance of the order in~~
31 accordance with section 455B.110. The director shall schedule
32 a hearing for the purpose of hearing the arguments of the
33 aggrieved person within thirty days of the filing of the notice
34 of appeal. The hearing may be held before the commission
35 or its designee. A complete record shall be made of the

1 proceedings. The director shall issue the findings in writing
2 to the aggrieved person within thirty days of the conclusion
3 of the hearing. Judicial review may be sought of actions
4 of the commission in accordance with the terms of the Iowa
5 administrative procedure Act, [chapter 17A](#). Notwithstanding the
6 terms of the Act, petitions for judicial review may be filed
7 in the district court of the county where the acts in issue
8 occurred.

9 Sec. 7. Section 455B.476, subsection 1, Code 2019, is
10 amended to read as follows:

11 1. If there is substantial evidence that a person has
12 violated or is violating a provision of this part or a
13 rule adopted under this part the director may issue an
14 order directing the person to desist in the practice which
15 constitutes the violation, and to take corrective action as
16 necessary to ensure that the violation will cease, and may
17 impose appropriate administrative penalties pursuant to section
18 455B.109. The person to whom the order is issued may appeal
19 the order to the commission as provided in [chapter 17A](#). On
20 appeal, the commission may affirm, modify or vacate the order
21 of the director. The applicable timeframes for the issuance
22 and appeal of the order are defined in section 455B.110.

23 Sec. 8. Section 455D.23, Code 2019, is amended to read as
24 follows:

25 **455D.23 Administrative enforcement — compliance orders.**

26 The director may issue any order necessary to secure
27 compliance with or prevent a violation of the provisions of
28 this chapter or any rule adopted or permit or order issued
29 pursuant to [this chapter](#). Any order issued to enforce section
30 455D.4A may include a requirement to remove and properly
31 dispose of materials being accumulated speculatively from a
32 property and impose costs and penalties as determined by the
33 department by rule. The person to whom such compliance order
34 is issued may cause to be commenced a contested case within the
35 meaning of [chapter 17A](#) by filing ~~within thirty days~~ a notice

1 of appeal to the commission. On appeal, the commission may
2 affirm, modify, or vacate the order of the director. The
3 applicable timeframes for the issuance and appeal of the order
4 are defined in section 455B.110.

5 Sec. 9. Section 458A.11, subsection 2, Code 2019, is amended
6 to read as follows:

7 2. An order or amendment of an order, except in an
8 emergency, shall not be made by the department without a
9 public hearing upon at least ten days' notice. The public
10 hearing shall be held at the time and place prescribed by the
11 department, and any interested person is entitled to be heard.
12 The applicable timeframes for the issuance and appeal of the
13 order are defined in section 455B.110.

14 DIVISION II

15 ADMINISTRATIVE CHANGES FOR WASTE DISPOSAL SYSTEMS AND PUBLIC
16 WATER SUPPLY SYSTEMS

17 Sec. 10. Section 455B.103A, subsection 1, paragraph b, Code
18 2019, is amended to read as follows:

19 b. Following the effective date of a general permit, a
20 person proposing to conduct activities covered by the general
21 permit shall provide a notice of intent to conduct a covered
22 activity on a form provided by the department. ~~A person shall~~
23 ~~also provide public notice of intent to conduct activities~~
24 ~~covered under the general permit by publishing notice in one~~
25 ~~newspaper with the largest circulation in the area in which the~~
26 ~~facility is located.~~ Notice of intent to conduct activities
27 covered under the general permit shall also be provided by
28 the department electronically. Notice of the discontinuation
29 of a permitted activity other than storm water and allowable
30 nonstorm water discharges shall be provided in the same manner.

31 Sec. 11. Section 455B.183, subsection 1, paragraph c, Code
32 2019, is amended to read as follows:

33 c. The operation of any waste disposal system or public
34 water supply system or any part of or extension or addition
35 to the system. This provision paragraph does not apply to a

1 pretreatment system, the effluent of which is to be discharged
2 directly to another disposal system for final treatment and
3 disposal; a semipublic sewage disposal system, the construction
4 of which has been approved by the department and ~~which that~~
5 does not discharge into a water of the state; or a private
6 sewage disposal system ~~which that~~ does not discharge into
7 a water of the state. The commission may adopt additional
8 exemptions for a class of disposal systems that do not
9 discharge into a water of the state or the director may waive
10 the permit requirement for an individual system that does
11 not discharge into a water of the state. The commission or
12 director shall consider the volume, location, frequency, and
13 nature of disposal from a system or class of systems before
14 granting a waiver or exemption. Sludge from a semipublic
15 or private sewage disposal system shall be disposed of in
16 accordance with the rules adopted by the department pursuant to
17 chapter 17A. ~~The exemption of this paragraph shall not apply~~
18 ~~to any industrial waste discharges.~~

19 Sec. 12. Section 455B.265, subsection 5, Code 2019, is
20 amended to read as follows:

21 5. Prior to the issuance of a new permit or modification
22 of a permit under [this section](#) to a community public water
23 supply, the department shall publish a notice of recommendation
24 to grant a permit. The notice shall include a brief summary
25 of the proposed permit ~~and shall be published in a newspaper~~
26 ~~of general circulation within the county of the proposed~~
27 ~~water source as provided in [section 618.3](#).~~ If the newspaper
28 ~~of general circulation is not the newspaper of the nearest~~
29 ~~locality to the proposed water source that publishes a~~
30 ~~newspaper, the notice shall also be published in the newspaper~~
31 ~~of the nearest locality to the proposed water source that~~
32 ~~publishes a newspaper and the department may charge the~~
33 ~~applicant for the expenses associated with publishing the~~
34 ~~notice in the second newspaper.~~

35 Sec. 13. Section 455B.265, subsection 6, paragraphs a and c,

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1 Code 2019, are amended to read as follows:

2 *a.* The amount of a fee shall be based on the department's
3 reasonable cost of reviewing applications, issuing permits,
4 ensuring compliance with the terms of the permits, and
5 resolving water interference complaints. The commission shall
6 calculate the fees to produce total revenues of not more than
7 five hundred thousand dollars for each fiscal year, ~~commencing~~
8 ~~with the fiscal year beginning July 1, 2009, and ending June~~
9 ~~30, 2010.~~

10 *c.* The commission shall annually review the amount of moneys
11 generated by the fees, the balance in the water use permit
12 fund, and the anticipated expenses for ~~the~~ succeeding fiscal
13 ~~year~~ years.>

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