

MAR 26 1991

Place On Calendar

HOUSE FILE 649

BY COMMITTEE ON ENERGY AND
ENVIRONMENTAL PROTECTION

(SUCCESSOR TO HSB 283)

Passed House, Date 4/5/91 (p. 1125) Passed Senate, Date 4/25/91 (p. 1496)
Vote: Ayes 90 Nays 0 Vote: Ayes 47 Nays 0
Approved May 9, 1991 (p. 246)

A BILL FOR

- 1 An Act relating to hazardous waste and hazardous substance
- 2 disposal sites.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HOUSE FILE 649

S-3358

- 1 Amend House File 649 as follows:
- 2 1. Page 1, by inserting after line 20 the
- 3 following:
- 4 "Hazardous waste or hazardous substance disposal
- 5 site" does not include any sanitary landfill as
- 6 defined in section 455B.301, subsection 19 that has
- 7 since January 1, 1980, placed in its facility material
- 8 excluded under 40 C.F.R. § 260.20 and 40 C.F.R. §
- 9 260.22 and has been in substantial compliance with the
- 10 federal regulations under the Resource Conservation
- 11 and Recovery Act and its amendments since 1980."

By JOE J. WELSH

MIKE CONNOLLY

S-3358 FILED APRIL 9, 1991

4/15 4/25/91 (p. 1496)

HF 649

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S.F. _____

H.F. 649

1 Section 1. Section 455B.381, subsection 2, Code 1991, is
2 amended to read as follows:

3 2. "Hazardous condition" means any situation involving the
4 actual, imminent, or probable spillage, leakage, or release of
5 a hazardous substance onto the land, into a water of the
6 state, or into the atmosphere, which creates an immediate or
7 potential danger to the public health or safety or to the
8 environment. For purposes of this division, a site which is
9 an abandoned-or-uncontrolled a hazardous waste or hazardous
10 substance disposal site as defined in section 455B.411,
11 subsection 1, is a hazardous condition.

12 Sec. 2. Section 455B.411, subsection 1, Code 1991, is
13 amended to read as follows:

14 1. "Abandoned-or-uncontrolled Hazardous waste or hazardous
15 substance disposal site" means real property which has been
16 used for the disposal of hazardous waste or hazardous
17 substances either illegally or prior to regulation as a
18 hazardous waste or a hazardous substance under this chapter
19 part and any adjoining real property and groundwater affected
20 by the disposal activities.

21 Sec. 3. Section 455B.423, subsection 2, paragraphs a, b,
22 and e, Code 1991, are amended to read as follows:

23 a. Administrative services for the identification,
24 assessment and cleanup of abandoned-or-uncontrolled hazardous
25 waste or hazardous substance disposal sites.

26 b. Payments to other state agencies for services
27 consistent with the management of abandoned-or-uncontrolled
28 hazardous waste or hazardous substance disposal sites.

29 e. Financing the cost of cleanup and site rehabilitation
30 activities as well as postclosure operation and maintenance
31 costs of abandoned-or-uncontrolled hazardous waste or
32 hazardous substance disposal sites that do not qualify for
33 federal cost-sharing pursuant to the Federal Comprehensive
34 Environmental Response, Compensation and Liability Act of
35 1980.

1 Sec. 4. Section 455B.423, subsection 3, Code 1991, is
2 amended to read as follows:

3 3. Neither the state nor its officers, employees, or
4 agents are liable for an injury caused by a dangerous
5 condition at ~~an abandoned or uncontrolled~~ a hazardous waste or
6 hazardous substance disposal site unless the condition is the
7 result of gross negligence on the part of the state, its
8 officers, employees, or agents.

9 Sec. 5. Section 455B.423, subsection 5, Code 1991, is
10 amended to read as follows:

11 5. Moneys shall not be used from the fund for abandoned
12 hazardous waste or hazardous substance disposal site cleanup
13 unless the director has made all reasonable efforts to secure
14 voluntary agreement to pay the costs of necessary remedial
15 actions from owners or operators of ~~abandoned or uncontrolled~~
16 hazardous waste or hazardous substance disposal sites or other
17 responsible persons.

18 Sec. 6. Section 455B.424, subsection 4, paragraph c, Code
19 1991, is amended to read as follows:

20 c. Hazardous wastes created or retrieved as a result of
21 remedial actions at ~~an abandoned or uncontrolled~~ a hazardous
22 waste or hazardous substance disposal site.

23 Sec. 7. Section 455B.426, Code 1991, is amended to read as
24 follows:

25 455B.426 REGISTRY OF ~~ABANDONED~~ HAZARDOUS WASTE OR
26 ~~UNCONTROLLED~~ HAZARDOUS SUBSTANCE DISPOSAL SITES.

27 1. The director shall maintain and make available for
28 public inspection a registry of confirmed ~~abandoned or~~
29 ~~uncontrolled~~ hazardous waste or hazardous substance disposal
30 sites in the state. The director shall take all necessary
31 action to ensure that the registry provides a complete listing
32 of all sites. The registry shall contain the exact location
33 of each site and identify the types of waste found at each
34 site.

35 2. The director shall investigate all known or suspected

1 abandoned-or-uncontrolled hazardous waste or hazardous
2 substance disposal sites and determine whether each site
3 should be included in the registry. In the evaluation of
4 known or suspected abandoned-or-uncontrolled hazardous waste
5 or hazardous substance disposal sites, the director may enter
6 private property and perform tests and analyses in the manner
7 provided in section 455B.416.

8 Sec. 8. Section 455B.427, subsections 1, 4, and 5, Code
9 1991, are amended to read as follows:

10 1. The director shall annually on January 1 transmit a
11 report to the general assembly and the governor identifying
12 all abandoned-or-uncontrolled hazardous waste or hazardous
13 substance disposal sites in the state listed on the registry.
14 A copy of the report shall also be sent to the board of
15 supervisors of every county containing a site.

16 4. A site classified as properly closed under subsection
17 3, paragraph "e", shall be removed from all subsequent annual
18 reports and the register of abandoned-or-uncontrolled
19 hazardous waste or hazardous substance disposal sites.

20 5. The director shall work with the Iowa department of
21 public health when assessing the effects of an abandoned-or-
22 uncontrolled a hazardous waste or hazardous substance disposal
23 site on human health.

24 Sec. 9. Section 455B.428, subsections 1 and 2, Code 1991,
25 are amended to read as follows:

26 1. The director shall investigate each abandoned-or
27 uncontrolled hazardous waste or hazardous substance disposal
28 site listed in the registry to determine its relative
29 priority.

30 2. The director shall identify each abandoned-or
31 uncontrolled hazardous waste or hazardous substance disposal
32 site by providing all of the following:

33 a. The address and site boundaries.

34 b. The time period of use for disposal of hazardous waste
35 or hazardous substances.

1 c. The name of the current owner and operator and names of
2 reported owners and operators during the time period of use
3 for disposal of hazardous waste or hazardous substances.

4 d. The names of persons responsible for the generation and
5 transportation of the hazardous waste or hazardous substances
6 disposed of at the site.

7 e. The type, quantity and manner of hazardous waste or
8 hazardous substances disposal.

9 Sec. 10. Section 455B.430, subsections 1, 2, 3, and 5,
10 Code 1991, are amended to read as follows:

11 1. A person shall not substantially change the manner in
12 which an-abandoned-or-uncontrolled a hazardous waste or
13 hazardous substance disposal site on the registry pursuant to
14 section 455B.426 is used without the written approval of the
15 director.

16 2. A person shall not sell, convey, or transfer title to
17 an-abandoned-or-uncontrolled a hazardous waste or hazardous
18 substance disposal site which is on the registry pursuant to
19 section 455B.426 without the written approval of the director.
20 The director shall respond to a request for a change or
21 ownership within thirty days of its receipt.

22 3. Decisions of the director concerning the use or
23 transfer of an-abandoned-or-uncontrolled a hazardous waste or
24 hazardous substance disposal site may be appealed in the
25 manner provided in section 455B.429.

26 5. Immediately upon the listing of real property in the
27 registry of abandoned-or-uncontrolled hazardous waste or
28 hazardous substance disposal sites, a person liable for
29 cleanup costs shall submit to the director a report consisting
30 of documentation of the responsible person's liabilities and
31 assets, including if filed, a copy of the annual report
32 submitted to the secretary of state pursuant to chapter 490.
33 A subsequent report pursuant to this section shall be
34 submitted annually on April 15 for the period the site remains
35 on the registry.

1 Sec. 11. Section 455B.467, subsection 2, Code 1991, is
2 amended to read as follows:

3 2. When the materials sought to be disposed of resulted
4 from remediation or cleanup of ~~abandoned-or-uncontrolled~~
5 hazardous waste or hazardous substance disposal sites.

6 EXPLANATION

7 The bill replaces the term "abandoned and uncontrolled
8 sites" with "hazardous waste or hazardous substance disposal
9 sites" relating to the portions of the Code regarding haz-
10 ardous activities and hazardous waste and substance manage-
11 ment. The bill also provides that a hazardous waste or
12 hazardous substance disposal site includes the adjoining real
13 property and groundwater affected by the disposal activities
14 and provides that the regulation of the sites pertains to
15 hazardous waste and not solid waste disposal prior to the
16 regulation of the hazardous waste.

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NSP 283

MWB

ENERGY AND
ENVIRONMENTAL PROTECTION

HOUSE FILE 649

BY (PROPOSED COMMITTEE ON ENERGY
AND ENVIRONMENTAL PROTECTION
BILL BY CHAIRPERSON OSTERBERG)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to hazardous waste and hazardous substance
2 disposal sites.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 455B.381, subsection 2, Code 1991, is
2 amended to read as follows:

3 2. "Hazardous condition" means any situation involving the
4 actual, imminent, or probable spillage, leakage, or release of
5 a hazardous substance onto the land, into a water of the
6 state, or into the atmosphere, which creates an immediate or
7 potential danger to the public health or safety or to the
8 environment. For purposes of this division, a site which is
9 an-abandoned-or-uncontrolled a hazardous waste or hazardous
10 substance disposal site as defined in section 455B.411,
11 subsection 1, is a hazardous condition.

12 Sec. 2. Section 455B.411, subsection 1, Code 1991, is
13 amended to read as follows:

14 1. "Abandoned-or-uncontrolled Hazardous waste or hazardous
15 substance disposal site" means real property which has been
16 used for the disposal of hazardous waste or hazardous
17 substances either illegally or prior to regulation as a
18 hazardous waste or a hazardous substance under this chapter
19 part and any adjoining real property and groundwater affected
20 by the disposal activities.

21 Sec. 3. Section 455B.423, subsection 2, paragraphs a, b,
22 and e, Code 1991, are amended to read as follows:

23 a. Administrative services for the identification,
24 assessment and cleanup of abandoned-or-uncontrolled hazardous
25 waste or hazardous substance disposal sites.

26 b. Payments to other state agencies for services
27 consistent with the management of abandoned-or-uncontrolled
28 hazardous waste or hazardous substance disposal sites.

29 e. Financing the cost of cleanup and site rehabilitation
30 activities as well as postclosure operation and maintenance
31 costs of abandoned-or-uncontrolled hazardous waste or
32 hazardous substance disposal sites that do not qualify for
33 federal cost-sharing pursuant to the federal Comprehensive
34 Environmental Response, Compensation and Liability Act of
35 1980.

1 Sec. 4. Section 455B.423, subsection 3, Code 1991, is
2 amended to read as follows:

3 3. Neither the state nor its officers, employees, or
4 agents are liable for an injury caused by a dangerous
5 condition at an-abandoned-or-uncontrolled a hazardous waste or
6 hazardous substance disposal site unless the condition is the
7 result of gross negligence on the part of the state, its
8 officers, employees, or agents.

9 Sec. 5. Section 455B.423, subsection 5, Code 1991, is
10 amended to read as follows:

11 5. Moneys shall not be used from the fund for abandoned
12 hazardous waste or hazardous substance disposal site cleanup
13 unless the director has made all reasonable efforts to secure
14 voluntary agreement to pay the costs of necessary remedial
15 actions from owners or operators of abandoned-or-uncontrolled
16 hazardous waste or hazardous substance disposal sites or other
17 responsible persons.

18 Sec. 6. Section 455B.424, subsection 4, paragraph c, Code
19 1991, is amended to read as follows:

20 c. Hazardous wastes created or retrieved as a result of
21 remedial actions at an-abandoned-or-uncontrolled a hazardous
22 waste or hazardous substance disposal site.

23 Sec. 7. Section 455B.426, Code 1991, is amended to read as
24 follows:

25 455B.426 REGISTRY OF ABANDONED HAZARDOUS WASTE OR
26 UNCONTROLLED HAZARDOUS SUBSTANCE DISPOSAL SITES.

27 1. The director shall maintain and make available for
28 public inspection a registry of confirmed abandoned-or
29 uncontrolled hazardous waste or hazardous substance disposal
30 sites in the state. The director shall take all necessary
31 action to ensure that the registry provides a complete listing
32 of all sites. The registry shall contain the exact location
33 of each site and identify the types of waste found at each
34 site.

35 2. The director shall investigate all known or suspected

1 abandoned-or-uncontrolled hazardous waste or hazardous
2 substance disposal sites and determine whether each site
3 should be included in the registry. In the evaluation of
4 known or suspected abandoned-or-uncontrolled hazardous waste
5 or hazardous substance disposal sites, the director may enter
6 private property and perform tests and analyses in the manner
7 provided in section 455B.416.

8 (Sec. 8.) Section 455B.427, subsections 1, 4, and 5, Code
9 1991, are amended to read as follows:

10 1. The director shall annually on January 1 transmit a
11 report to the general assembly and the governor identifying
12 all abandoned-or-uncontrolled hazardous waste or hazardous
13 substance disposal sites in the state listed on the registry.
14 A copy of the report shall also be sent to the board of
15 supervisors of every county containing a site.

16 4. A site classified as properly closed under subsection
17 3, paragraph "e", shall be removed from all subsequent annual
18 reports and the register of abandoned-or-uncontrolled
19 hazardous waste or hazardous substance disposal sites.

20 5. The director shall work with the Iowa department of
21 public health when assessing the effects of an-abandoned-or
22 uncontrolled a hazardous waste or hazardous substance disposal
23 site on human health.

24 (Sec. 9.) Section 455B.428, subsections 1 and 2, Code 1991,
25 are amended to read as follows:

26 1. The director shall investigate each abandoned-or
27 uncontrolled hazardous waste or hazardous substance disposal
28 site listed in the registry to determine its relative
29 priority.

30 2. The director shall identify each abandoned-or
31 uncontrolled hazardous waste or hazardous substance disposal
32 site by providing all of the following:

33 a. The address and site boundaries.

34 b. The time period of use for disposal of hazardous waste
35 or hazardous substances.

1 c. The name of the current owner and operator and names of
2 reported owners and operators during the time period of use
3 for disposal of hazardous waste or hazardous substances.

4 d. The names of persons responsible for the generation and
5 transportation of the hazardous waste or hazardous substances
6 disposed of at the site.

7 e. The type, quantity and manner of hazardous waste or
8 hazardous substances disposal.

9 Sec. 10. Section 455B.430, subsections 1, 2, 3, and 5,
10 Code 1991, are amended to read as follows:

11 1. A person shall not substantially change the manner in
12 which an-abandoned-or-uncontrolled a hazardous waste or
13 hazardous substance disposal site on the registry pursuant to
14 section 455B.426 is used without the written approval of the
15 director.

16 2. A person shall not sell, convey, or transfer title to
17 an-abandoned-or-uncontrolled a hazardous waste or hazardous
18 substance disposal site which is on the registry pursuant to
19 section 455B.426 without the written approval of the director.
20 The director shall respond to a request for a change of
21 ownership within thirty days of its receipt.

22 3. Decisions of the director concerning the use or
23 transfer of an-abandoned-or-uncontrolled a hazardous waste or
24 hazardous substance disposal site may be appealed in the
25 manner provided in section 455B.429.

26 5. Immediately upon the listing of real property in the
27 registry of abandoned-or-uncontrolled hazardous waste or
28 hazardous substance disposal sites, a person liable for
29 cleanup costs shall submit to the director a report consisting
30 of documentation of the responsible person's liabilities and
31 assets, including if filed, a copy of the annual report
32 submitted to the secretary of state pursuant to chapter 490.
33 A subsequent report pursuant to this section shall be
34 submitted annually on April 15 for the period the site remains
35 on the registry.

1 Sec. 11. Section 455B.467, subsection 2, Code 1991, is
2 amended to read as follows:

3 2. When the materials sought to be disposed of resulted
4 from remediation or cleanup of ~~abandoned-or-uncontrolled~~
5 hazardous waste or hazardous substance disposal sites.

6 EXPLANATION

7 The bill replaces the term "abandoned and uncontrolled
8 sites" with "hazardous waste or hazardous substance disposal
9 sites" relating to the portions of the Code regarding haz-
10 ardous activities and hazardous waste and substance manage-
11 ment. The bill also provides that a hazardous waste or
12 hazardous substance disposal site includes the adjoining real
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14 and provides that the regulation of the sites pertains to
15 hazardous waste and not solid waste disposal prior to the
16 regulation of the hazardous waste.

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HOUSE FILE 649

AN ACT

RELATIVE TO HAZARDOUS WASTE AND HAZARDOUS SUBSTANCE DISPOSAL
SITES.

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

Section 1. Section 455B.381, subsection 2, Code 1991, is amended to read as follows:

2. "Hazardous condition" means any situation involving the actual, imminent, or probable spillage, leakage, or release of a hazardous substance onto the land, into a water of the state, or into the atmosphere, which creates an immediate or potential danger to the public health or safety or to the environment. For purposes of this division, a site which is an abandoned-or-uncontrolled hazardous waste or hazardous substance disposal site as defined in section 455B.411, subsection 1, is a hazardous condition.

Sec. 2. Section 455B.411, subsection 1, Code 1991, is amended to read as follows:

1. "Abandoned-or-uncontrolled Hazardous waste or hazardous substance disposal site" means real property which has been used for the disposal of hazardous waste or hazardous substances either illegally or prior to regulation as a hazardous waste or a hazardous substance under this chapter part and any adjoining real property and groundwater affected by the disposal activities.

Sec. 3. Section 455B.423, subsection 2, paragraphs a, b, and e, Code 1991, are amended to read as follows:

a. Administrative services for the identification, assessment and cleanup of abandoned-or-uncontrolled hazardous waste or hazardous substance disposal sites.

b. Payments to other state agencies for services consistent with the management of abandoned-or-uncontrolled hazardous waste or hazardous substance disposal sites.

e. Financing the cost of cleanup and site rehabilitation activities as well as postclosure operation and maintenance costs of abandoned-or-uncontrolled hazardous waste or hazardous substance disposal sites that do not qualify for federal cost-sharing pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980.

Sec. 4. Section 455B.423, subsection 3, Code 1991, is amended to read as follows:

3. Neither the state nor its officers, employees, or agents are liable for an injury caused by a dangerous condition at an abandoned-or-uncontrolled hazardous waste or hazardous substance disposal site unless the condition is the result of gross negligence on the part of the state, its officers, employees, or agents.

Sec. 5. Section 455B.423, subsection 5, Code 1991, is amended to read as follows:

5. Moneys shall not be used from the fund for abandoned hazardous waste or hazardous substance disposal site cleanup unless the director has made all reasonable efforts to secure voluntary agreement to pay the costs of necessary remedial actions from owners or operators of abandoned-or-uncontrolled hazardous waste or hazardous substance disposal sites or other responsible persons.

Sec. 6. Section 455B.424, subsection 4, paragraph c, Code 1991, is amended to read as follows:

c. Hazardous wastes created or retrieved as a result of remedial actions at an abandoned-or-uncontrolled hazardous waste or hazardous substance disposal site.

Sec. 7. Section 455B.426, Code 1991, is amended to read as follows:

455B.426. REGISTRY OF ABANDONED HAZARDOUS WASTE OR UNCONTROLLED HAZARDOUS SUBSTANCE DISPOSAL SITES.

1. The director shall maintain and make available for public inspection a registry of abandoned or uncontrolled hazardous waste or hazardous substance disposal sites in the state. The director shall take all necessary

action to ensure that the registry provides a complete listing of all sites. The registry shall contain the exact location of each site and identify the types of waste found at each site.

2. The director shall investigate all known or suspected abandoned-or-uncontrolled hazardous waste or hazardous substance disposal sites and determine whether each site should be included in the registry. In the evaluation of known or suspected abandoned-or-uncontrolled hazardous waste or hazardous substance disposal sites, the director may enter private property and perform tests and analyses in the manner provided in section 455B.416.

Sec. 8. Section 455B.427, subsections 1, 4, and 5, Code 1991, are amended to read as follows:

1. The director shall annually on January 1 transmit a report to the general assembly and the governor identifying all abandoned-or-uncontrolled hazardous waste or hazardous substance disposal sites in the state listed on the registry. A copy of the report shall also be sent to the board of supervisors of every county containing a site.

4. A site classified as properly closed under subsection 3, paragraph "e", shall be removed from all subsequent annual reports and the register of abandoned-or-uncontrolled hazardous waste or hazardous substance disposal sites.

5. The director shall work with the Iowa department of public health when assessing the effects of an abandoned-or-uncontrolled hazardous waste or hazardous substance disposal site on human health.

Sec. 9. Section 455B.428, subsections 1 and 2, Code 1991, are amended to read as follows:

1. The director shall investigate each abandoned or uncontrolled hazardous waste or hazardous substance disposal site listed in the registry to determine its relative priority.

2. The director shall identify each abandoned or uncontrolled hazardous waste or hazardous substance disposal site by providing all of the following:

a. The address and site boundaries;

b. The time period of use for disposal of hazardous waste or hazardous substances;

c. The name of the current owner and operator and names of reported owners and operators during the time period of use for disposal of hazardous waste or hazardous substances;

d. The names of persons responsible for the generation and transportation of the hazardous waste or hazardous substances disposed of at the site;

e. The type, quantity and manner of hazardous waste or hazardous substances disposal.

Sec. 10. Section 455B.430, subsections 1, 2, 3, and 5, Code 1991, are amended to read as follows:

1. A person shall not substantially change the manner in which an abandoned-or-uncontrolled hazardous waste or hazardous substance disposal site on the registry pursuant to section 455B.426 is used without the written approval of the director.

2. A person shall not sell, convey, or transfer title to an abandoned-or-uncontrolled hazardous waste or hazardous substance disposal site which is on the registry pursuant to section 455B.426 without the written approval of the director. The director shall respond to a request for a change of ownership within thirty days of its receipt.

3. Decisions of the director concerning the use or transfer of an abandoned-or-uncontrolled hazardous waste or hazardous substance disposal site may be appealed in the manner provided in section 455B.429.

5. Immediately upon the listing of real property in the registry of abandoned-or-uncontrolled hazardous waste or hazardous substance disposal sites, a person liable for cleanup costs shall submit to the director a report consisting of documentation of the responsible person's liabilities and assets, including if filed, a copy of the annual report submitted to the secretary of state pursuant to chapter 490. A subsequent report pursuant to this section shall be submitted annually on April 15 for the period the site remains on the registry.

Sec. 11. Section 455B.467, subsection 2, Code 1991, is amended to read as follows:

2. When the materials sought to be disposed of resulted from remediation or cleanup of ~~abandoned-or-uncontrolled~~ hazardous waste or hazardous substance disposal sites.

ROBERT C. ARNOULD
Speaker of the House

JOE J. WELSH
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 649, Seventy-fourth General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved May 9, 1991

TERRY E. BRANSTAD
Governor

HF 649