

Reprinted

HOUSE FILE 661
BY COMMITTEE ON ENERGY
AND ENVIRONMENTAL
PROTECTION

MAR 26 1991

Place On Calendar

(SUCCESSOR TO HSB 53)

Passed House, Date 4/3/91 (p 1049) Passed Senate, Date 4/17/91 (p 1328)
Vote: Ayes 89 Nays 6 Vote: Ayes 48 Nays 0

Approved May 6, 1991

*Motion to reconsider (p 1070)
preceded 4/8*

*Repassed House 4/8/91 (p 1070)
Ayes 91, Nays 0* A BILL FOR

351834041 An Act relating to general permits for activities affecting the
2 environment.

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

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HF 661

3518,2402

Section 1. NEW SECTION. 455B.103A GENERAL PERMITS --
2 ISSUED BY DIRECTOR.

3 1. If a permit is required pursuant to this chapter and a
4 facility to be permitted is representative of a class of
5 facilities which could be described and conditioned by a
6 single permit, the director may issue, modify, deny, or revoke
7 a general permit for all of the following conditions:

8 a. If adoption of a general permit is proposed, the terms,
9 conditions, and limitations of the permit shall be drafted
10 into a notice of intended action and adopted in accordance
11 with the provisions of chapter 17A as a rule of the
12 department. The same process of adoption shall be used for
13 modification of a general permit.

14 b. Following the effective date of a general permit, a
15 person proposing to conduct activities covered by the general
16 permit shall provide a notice of intent to conduct a covered
17 activity on a form provided by the department. Notice of the
18 discontinuation of a permitted activity shall be provided in
19 the same manner.

20 c. If the department finds that a proposed activity is not
21 covered by a general permit, the department shall notify the
22 affected person and shall provide the person with a permit
23 application if the practice is one which could be authorized
24 by individual permit.

25 d. A person holding an existing permit is subject to the
26 terms of the existing permit until it expires. If the person
27 holding an existing permit continues the activity beyond the
28 expiration date of the existing permit, an applicable,
29 approved general permit shall become effective.

30 e. A variance or alteration of the terms and conditions of
31 a general permit shall not be granted. If a variance or
32 modification of an operation authorized by a general permit is
33 desired, the applicant shall apply for an individual permit.

34 2. General permits are not subject to the requirements
35 applicable to individual permits.

1 Sec. 2. Section 455B.105, subsection 11, paragraph a,
2 unnumbered paragraph 1, Code 1991, is amended to read as
3 follows:

4 Adopt, by rule, procedures and forms necessary to implement
5 the provisions of this chapter relating to permits, or
6 conditional permits, and general permits. The commission may
7 also adopt, by rule, a schedule of fees for permit and
8 conditional permit applications and a schedule of fees which
9 may be periodically assessed for administration of permits and
10 conditional permits. In determining the fee schedules, the
11 commission shall consider:

3/16/67

12 EXPLANATION

13 This bill authorizes the director of the department of
14 natural resources to issue general permits for activities
15 regulated by the department. The department is directed to
16 develop the specifications for general permits.

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HOUSE FILE 661

H-3406

1 Amend House File 661 as follows:

2 1. Page 1, line 1, by inserting after the word
3 "PERMITS --" the following: "STORMWATER SYSTEM --".

4 2. Page 1, line 3, by inserting after the word
5 "chapter" the following: "for a stormwater system".

6 3. Page 1, line 13, by inserting after the word
7 "permit." the following: "Notwithstanding section
8 17A.4, subsection 1, paragraph "b", a public hearing
9 shall be held regarding the proposed rules in two or
10 more locations throughout the state."

11 4. Page 1, line 17, by inserting after the word
12 "department." the following: "A person shall also
13 provide public notice of intent to conduct activities
14 covered under the general permit by publishing notice
15 in two newspapers with the largest circulation in the
16 area in which the facility is located."

17 5. Page 1, by inserting after line 33, the
18 following:

19 "_____. The department shall perform on-site
20 inspections and review monitoring data to assess the
21 effectiveness of general permits. If a significant
22 adverse environmental problem exists for an individual
23 facility or class of facilities due to regulation
24 under a general permit, the facility or class of
25 facilities shall be required to obtain individual
26 permits.

27 _____. An applicant for a general permit shall pay a
28 fee for the costs of monitoring and on-site
29 inspections as required by rule of the commission.
30 Fees shall be remitted to the department and shall be
31 used to administer the general permit program.

32 _____. The department shall establish a procedure
33 for the filing of complaints by persons believing
34 themselves to be adversely affected by a facility
35 operating under a general permit under this section."

36 6. Page 1, by inserting after line 35, the
37 following:

38 "_____. Three years after the adoption of a general
39 permit by rule, the department shall assess the
40 activities which have been conducted under the general
41 permit and determine whether any significant adverse
42 environmental consequences have resulted."

43 7. Page 2, by inserting after line 11, the
44 following:

45 "Sec. _____. NEW SECTION. 455B.146A CRIMINAL
46 ACTION.

47 A person who negligently or knowingly violates a
48 provision of this division of this chapter, a permit,
49 rule, standard, or order issued under this division of
50 this chapter, a condition or limitation included in

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Page 2

1 any permit issued under this division of this chapter,
2 or who negligently or knowingly introduces into the
3 air a pollutant or hazardous substance which the
4 person knew or reasonably should have known could
5 cause personal injury, property damage, or adverse
6 environmental impacts, is guilty of a serious
7 misdemeanor for a negligent violation and is guilty of
8 an aggravated misdemeanor for a knowing violation. A
9 conviction for a negligent violation is punishable by
10 a fine of not more than twenty-five thousand dollars
11 for each day of violation or by imprisonment for not
12 more than one year, or both. If the conviction is for
13 a second or subsequent negligent violation committed
14 by a person under this section, the conviction is
15 punishable by a fine of not more than fifty thousand
16 dollars for each day of violation or by imprisonment
17 for not more than two years, or both. A conviction
18 for a knowing violation is punishable by a fine of not
19 more than fifty thousand dollars for each day of
20 violation or by imprisonment for not more than two
21 years, or both. If the conviction is for a second or
22 subsequent violation committed by a person under this
23 section, the conviction is punishable by a fine of not
24 more than one hundred thousand dollars for each day of
25 violation or by imprisonment for not more than five
26 years, or both. As used in this section, "hazardous
27 substance" means hazardous substance as defined in
28 section 455B.381 or 455B.411.

29 A person who knowingly makes a false statement,
30 representation, or certification in an application,
31 record, report, plan or other document filed or
32 required to be maintained under this division of this
33 chapter, or who falsifies, tampers with or knowingly
34 renders inaccurate a monitoring device or method
35 required to be maintained under this division of this
36 chapter or by a permit, rule, regulation, or order
37 issued under this division of this chapter, is guilty
38 of an aggravated misdemeanor and is subject to a fine
39 of not more than ten thousand dollars or imprisonment
40 in the county jail for not more than six months, or
41 both.

42 Sec. _____. Section 455B.307, Code 1991, is amended
43 by adding the following new subsection:

44 NEW SUBSECTION. 4. A person who negligently or
45 knowingly violates a provision of this part of this
46 division, a permit, rule, standard, or order issued
47 under this part of this division, or a condition or
48 limitation included in a permit issued under this part
49 of this division, is guilty of a serious misdemeanor
50 for a negligent violation and is guilty of an

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3 Page 3

1 aggravated misdemeanor for a knowing violation. A
2 conviction for a negligent violation is punishable by
3 a fine of not more than twenty-five thousand dollars
4 for each day of violation or by imprisonment for not
5 more than one year, or both. If the conviction is for
6 a second or subsequent negligent violation committed
7 by a person under this subsection, the conviction is
8 punishable by a fine of not more than fifty thousand
9 dollars for each day of violation or by imprisonment
10 for not more than two years, or both. A conviction
11 for a knowing violation is punishable by a fine of not
12 more than fifty thousand dollars for each day of
13 violation or by imprisonment for not more than two
14 years, or both. If the conviction is for a second or
15 subsequent violation committed by a person under this
16 subsection, the conviction is punishable by a fine of
17 not more than one hundred thousand dollars for each
18 day of violation or by imprisonment for not more than
19 five years, or both.

20 A person who knowingly makes a false statement,
21 representation, or certification in an application,
22 record, report, plan or other document filed or
23 required to be maintained under this part of this
24 division, or who falsifies, tampers with or knowingly
25 renders inaccurate a monitoring device or method
26 required to be maintained under this part of this
27 division, or by a permit, rule, regulation, or order
28 issued under this part of this division, is guilty of
29 an aggravated misdemeanor and is subject to a fine of
30 not more than ten thousand dollars or imprisonment in
31 the county jail for not more than six months, or both.

32 Sec. _____. Section 455D.9, subsection 2, Code 1991,
33 is amended to read as follows:

34 2. The department shall assist ~~local communities~~
35 cities and counties in the development of collection
36 systems for yard waste generated from residences and
37 shall assist in the establishment of local composting
38 facilities. Within one hundred twenty days of the
39 adoption of rules by the department regarding yard
40 waste, each city and county shall, by ordinance,
41 require persons within the city or county to separate
42 yard waste from other solid waste generated.

43 ~~Municipalities~~ Cities and counties which provide a
44 collection system for solid waste shall provide for a
45 collection system for yard waste which is not
46 composted. Cities may utilize different types of
47 collection systems for solid waste and yard waste."

48 8. Title page, line 1, by striking the words
49 "general permits for".

50 9. Title page, line 2, by inserting after the

H-3406

Page 4

1 word "environment" the following: ", and providing
2 penalties".

3 10. By renumbering and relettering as necessary.
By HOLVECK of Polk

H-3406 FILED MARCH 28, 1991

A- Lost, B- Build not german 4/13/91

HOUSE FILE 661

S-3394

1 Amend House File 661, as amended, passed, and re-
2 printed by the House, as follows:

3 1. Page 2, by inserting after line 20 the
4 following:

5 "4. An applicant to be covered under a general
6 permit shall pay a permit fee, as established by rule
7 of the commission, which is sufficient in the
8 aggregate to defray the costs of the permit program.
9 Moneys collected shall be remitted to the department."

By COMMITTEE ON ENVIRONMENT
AND ENERGY UTILITIES AMENDMENT

S-3394 FILED APRIL 11, 1991

Adopted 4/17/91 (p. 1328)

HOUSE FILE 661

S-3407

1 Amend House File 661, as amended, passed, and
2 reprinted by the House as follows:

3 1. Page 2, by inserting after line 31, the
4 following:

5 "Sec. ____ . EFFECTIVE DATE. This Act, being deemed
6 of immediate importance, takes effect upon enactment."

7 2. Title page, line 2, by inserting after the
8 word "environment" the following: "and providing an
9 effective date".

10 3. By renumbering as necessary.

By RALPH ROSENBERG

S-3407 FILED APRIL 12, 1991

Adopted 4/17/91

SENATE AMENDMENT TO HOUSE FILE 661

H-3755

1 Amend House File 661, as amended, passed, and
2 reprinted by the House as follows:

3 1. Page 2, by inserting after line 20 the
4 following:

5 "4. An applicant to be covered under a general
6 permit shall pay a permit fee, as established by rule
7 of the commission, which is sufficient in the
8 aggregate to defray the costs of the permit program.
9 Moneys collected shall be remitted to the department."

10 2. Page 2, by inserting after line 31, the
11 following:

12 "Sec. ____ . EFFECTIVE DATE. This Act, being deemed
13 of immediate importance, takes effect upon enactment."

14 3. Title page, line 2, by inserting after the
15 word "environment" the following: "and providing an
16 effective date".

17 4. By renumbering, relettering, or redesignating
18 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-3755 FILED APRIL 19, 1991

House received 4/23/91 (p 1449)

HOUSE FILE 661

H-3518

1 Amend House File 661 as follows:

2 1. Page 1, line 1, by inserting after the word
3 "PERMITS --" the following: "STORMWATER DISCHARGE --".

4 2. Page 1, line 3, by inserting after the word
5 "chapter" the following: "for stormwater discharge".

6 3. Page 1, line 17, by inserting after the word
7 "department." the following: "A person shall also
8 provide public notice of intent to conduct activities
9 covered under the general permit by publishing notice
10 in two newspapers with the largest circulation in the
11 area in which the facility is located."

12 4. Page 1, by inserting after line 33, the
13 following:

14 "_____. The department shall perform on-site
15 inspections and review monitoring data to assess the
16 effectiveness of general permits. If a significant
17 adverse environmental problem exists for an individual
18 facility or class of facilities due to regulation
19 under a general permit, the facility or class of
20 facilities shall be required to obtain individual
21 permits.

22 "_____. The department shall establish a procedure
23 for the filing of complaints by persons believing
24 themselves to be adversely affected by the
25 environmental impact of the discharge of a facility
26 operating under a general permit under this section."

27 5. Page 1, by inserting after line 35, the
28 following:

29 "_____. Three years after the adoption of a general
30 permit by rule, the department shall assess the
31 activities which have been conducted under the general
32 permit and determine whether any significant adverse
33 environmental consequences have resulted."

34 6. Title page, line 1, by inserting after the
35 word "to" the following: "certain".

36 7. By renumbering and relettering as necessary.

By HOLVECK of Polk
BANKS of Plymouth

H-3518 FILED APRIL 4, 1991

Adopted 4/3/91 (p. 1140)

HOUSE FILE 661
BY COMMITTEE ON ENERGY
AND ENVIRONMENTAL
PROTECTION

(SUCCESSOR TO HSB 53)

(As Amended and Passed by the House April 8, 1991)

<sup>new
H-3755</sup>
Passed House, Date 4/23/91 (p. 1449) Passed Senate, Date 4/17/91 (p. 1328)
Vote: Ayes 95 Nays Vote: Ayes 48 Nays 0
Approved May 6, 1991 (p. 2141)

A BILL FOR

1 An Act relating to certain general permits for activities
2 affecting the environment.

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

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House Amendments _____

1 Section 1. NEW SECTION. 455B.103A GENERAL PERMITS --
2 STORMWATER DISCHARGE -- ISSUED BY DIRECTOR.

3 1. If a permit is required pursuant to this chapter for
4 stormwater discharge and a facility to be permitted is
5 representative of a class of facilities which could be
6 described and conditioned by a single permit, the director may
7 issue, modify, deny, or revoke a general permit for all of the
8 following conditions:

9 a. If adoption of a general permit is proposed, the terms,
10 conditions, and limitations of the permit shall be drafted
11 into a notice of intended action and adopted in accordance
12 with the provisions of chapter 17A as a rule of the
13 department. The same process of adoption shall be used for
14 modification of a general permit.

15 b. Following the effective date of a general permit, a
16 person proposing to conduct activities covered by the general
17 permit shall provide a notice of intent to conduct a covered
18 activity on a form provided by the department. A person shall
19 also provide public notice of intent to conduct activities
20 covered under the general permit by publishing notice in two
21 newspapers with the largest circulation in the area in which
22 the facility is located. Notice of the discontinuation of a
23 permitted activity shall be provided in the same manner.

24 c. If the department finds that a proposed activity is not
25 covered by a general permit, the department shall notify the
26 affected person and shall provide the person with a permit
27 application if the practice is one which could be authorized
28 by individual permit.

29 d. A person holding an existing permit is subject to the
30 terms of the existing permit until it expires. If the person
31 holding an existing permit continues the activity beyond the
32 expiration date of the existing permit, an applicable,
33 approved general permit shall become effective.

34 e. A variance or alteration of the terms and conditions of
35 a general permit shall not be granted. If a variance or

1 modification of an operation authorized by a general permit is
2 desired, the applicant shall apply for an individual permit.

3 f. The department shall perform on-site inspections and
4 review monitoring data to assess the effectiveness of general
5 permits. If a significant adverse environmental problem
6 exists for an individual facility or class of facilities due
7 to regulation under a general permit, the facility or class of
8 facilities shall be required to obtain individual permits.

9 g. The department shall establish a procedure for the
10 filing of complaints by persons believing themselves to be
11 adversely affected by the environmental impact of the
12 discharge of a facility operating under a general permit under
13 this section.

14 2. General permits are not subject to the requirements
15 applicable to individual permits.

16 3. Three years after the adoption of a general permit by
17 rule, the department shall assess the activities which have
18 been conducted under the general permit and determine whether
19 any significant adverse environmental consequences have
20 resulted.

21 Sec. 2. Section 455B.105, subsection 11, paragraph a,
22 unnumbered paragraph 1, Code 1991, is amended to read as
23 follows:

24 Adopt, by rule, procedures and forms necessary to implement
25 the provisions of this chapter relating to permits, or
26 conditional permits, and general permits. The commission may
27 also adopt, by rule, a schedule of fees for permit and
28 conditional permit applications and a schedule of fees which
29 may be periodically assessed for administration of permits and
30 conditional permits. In determining the fee schedules, the
31 commission shall consider:

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HSB 53
ENERGY AND ENVIRONMENTAL PROTECTION

SENATE/HOUSE FILE 661
BY (PROPOSED GOVERNOR'S BILL)

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

A BILL FOR

1 An Act relating to general permits for activities affecting the
2 environment.

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

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S.F. _____ H.F. _____

1 Section 1. NEW SECTION. 455B.103A GENERAL PERMITS --
2 ISSUED BY DIRECTOR.

3 1. If a permit is required pursuant to this chapter and a
4 facility to be permitted is representative of a class of
5 facilities which could be described and conditioned by a
6 single permit, the director may issue, modify, deny, or revoke
7 a general permit for all of the following conditions:

8 a. If adoption of a general permit is proposed, the terms,
9 conditions, and limitations of the permit shall be drafted
10 into a notice of intended action and adopted in accordance
11 with the provisions of chapter 17A as a rule of the
12 department. The same process of adoption shall be used for
13 modification of a general permit.

14 b. Following the effective date of a general permit, a
15 person proposing to conduct activities covered by the general
16 permit shall provide a notice of intent to conduct a covered
17 activity on a form provided by the department. Notice of the
18 discontinuation of a permitted activity shall be provided in
19 the same manner.

20 c. If the department finds that a proposed activity is not
21 covered by a general permit, the department shall notify the
22 affected person and shall provide the person with a permit
23 application if the practice is one which could be authorized
24 by individual permit.

25 d. A person holding an existing permit is subject to the
26 terms of the existing permit until it expires. If the person
27 holding an existing permit continues the activity beyond the
28 expiration date of the existing permit, an applicable,
29 approved general permit shall become effective.

30 e. A variance or alteration of the terms and conditions of
31 a general permit shall not be granted. If a variance or
32 modification of an operation authorized by a general permit is
33 desired, the applicant shall apply for an individual permit.

34 2. General permits are not subject to the requirements
35 applicable to individual permits.

1 Sec. 2. Section 455B.105, subsection 11, paragraph a,
2 unnumbered paragraph 1, Code 1991, is amended to read as
3 follows:

4 Adopt, by rule, procedures and forms necessary to implement
5 the provisions of this chapter relating to permits, or
6 conditional permits, and general permits. The commission may
7 also adopt, by rule, a schedule of fees for permit and
8 conditional permit applications and a schedule of fees which
9 may be periodically assessed for administration of permits and
10 conditional permits. In determining the fee schedules, the
11 commission shall consider:

12 EXPLANATION

13 This bill authorizes the director of the department of
14 natural resources to issue general permits for activities
15 regulated by the department. The department is directed to
16 develop the specifications for general permits.

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HOUSE FILE 661

AN ACT

RELATING TO CERTAIN GENERAL PERMITS FOR ACTIVITIES AFFECTING
THE ENVIRONMENT AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. NEW SECTION. 455B.103A GENERAL PERMITS -
STORMWATER DISCHARGE -- ISSUED BY DIRECTOR.

1. If a permit is required pursuant to this chapter for stormwater discharge and a facility to be permitted is representative of a class of facilities which could be described and conditioned by a single permit, the director may issue, modify, deny, or revoke a general permit for all of the following conditions:

a. If adoption of a general permit is proposed, the terms, conditions, and limitations of the permit shall be drafted into a notice of intended action and adopted in accordance with the provisions of chapter 17A as a rule of the department. The same process of adoption shall be used for modification of a general permit.

b. Following the effective date of a general permit, a person proposing to conduct activities covered by the general permit shall provide a notice of intent to conduct a covered activity on a form provided by the department. A person shall also provide public notice of intent to conduct activities covered under the general permit by publishing notice in two newspapers with the largest circulation in the area in which the facility is located. Notice of the discontinuation of a permitted activity shall be provided in the same manner.

c. If the department finds that a proposed activity is not covered by a general permit, the department shall notify the affected person and shall provide the person with a permit application if the practice is one which could be authorized by individual permit.

d. A person holding an existing permit is subject to the terms of the existing permit until it expires. If the person holding an existing permit continues the activity beyond the expiration date of the existing permit, an applicable, approved general permit shall become effective.

e. A variance or alteration of the terms and conditions of a general permit shall not be granted. If a variance or modification of an operation authorized by a general permit is desired, the applicant shall apply for an individual permit.

1. The department shall perform on-site inspections and review monitoring data to assess the effectiveness of general permits. If a significant adverse environmental problem exists for an individual facility or class of facilities due to regulation under a general permit, the facility or class of facilities shall be required to obtain individual permits.

9. The department shall establish a procedure for the filing of complaints by persons believing themselves to be adversely affected by the environmental impact of the discharge of a facility operating under a general permit under this section.

2. General permits are not subject to the requirements applicable to individual permits.

3. Three years after the adoption of a general permit by rule, the department shall assess the activities which have been conducted under the general permit and determine whether any significant adverse environmental consequences have resulted.

4. An applicant to be covered under a general permit shall pay a permit fee, as established by rule of the commission, which is sufficient in the aggregate to defray the costs of the permit program. Moneys collected shall be remitted to the department.

Sec. 2. Section 455B.105, subsection 11, paragraph a, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Adopt, by rule, procedures and forms necessary to implement the provisions of this chapter relating to permits, or conditional permits, and general permits. The commission may also adopt, by rule, a schedule of fees for permit and conditional permit applications and a schedule of fees which may be periodically assessed for administration of permits and conditional permits. In determining the fee schedules, the commission shall consider:

Sec. 3. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

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 661, Seventy-fourth General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved May 6, 1991

TERRY E. BRANSTAD
Governor