

**House Study Bill 679 - Introduced**

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED DEPARTMENT OF  
NATURAL RESOURCES BILL)

**A BILL FOR**

1 An Act relating to permits issued under the national pollutant  
2 discharge elimination system, and making penalties  
3 applicable.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I  
PERSONS CONTESTING THE DENIAL  
OF APPLICATIONS OR PERMITS ISSUED UNDER NPDES

Section 1. Section 455B.174, subsection 4, paragraph b, Code Supplement 2009, is amended to read as follows:

b. In addition to the requirements of paragraph "a", a permit shall not be issued to operate or discharge from any disposal system unless the conditions of the permit assure that any discharge from the disposal system meets or will meet all applicable state and federal water quality standards and effluent standards and the issuance of the permit is not otherwise prohibited by the federal Water Pollution Control Act. All applications for discharge permits are subject to public notice and opportunity for public participation including public hearing as the department may by rule require. The director shall promptly notify the applicant in writing of the director's action and, if the permit is denied, state the reasons for denial. ~~The~~ A person who is an applicant or permittee may appeal to the commission from contest the denial of a permit or from any condition in any of a permit issued by the director, if the applicant files notice of appeal with person notifies the director within thirty days of the director's notice of denial or issuance of the permit. The director shall notify the applicant within thirty days of the time and place of the hearing. Notwithstanding section 17A.11, subsection 1, if the applicant or permittee timely contests the director's action, the presiding officer in the resulting contested case proceeding shall be an administrative law judge assigned by the division of administrative hearings pursuant to sections 10A.801 and 17A.11.

DIVISION II  
NPDES PERMITS ISSUED TO CONFINEMENT FEEDING OPERATIONS

Sec. 2. Section 459.311, Code Supplement 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. Notwithstanding subsection 1, a

1 confinement feeding operation that is a concentrated animal  
2 feeding operation as defined in 40 C.F.R. § 122.23(b) shall  
3 comply with applicable national pollutant discharge elimination  
4 system permit requirements as provided in the federal Water  
5 Pollution Control Act, 33 U.S.C. ch. 26, as amended, and 40  
6 C.F.R. pts. 122 and 412, pursuant to rules that shall be  
7 adopted by the commission. Any rules adopted pursuant to this  
8 subsection shall be no more stringent than requirements under  
9 the federal Water Pollution Control Act, 33 U.S.C. ch. 26, as  
10 amended, and 40 C.F.R. pts. 122 and 412.

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EXPLANATION

12 DIVISION I — PERSONS CONTESTING THE DENIAL OF APPLICATIONS  
13 OR PERMITS ISSUED UNDER NPDES. This division provides for  
14 water pollution control permits issued under the federal  
15 national pollutant discharge elimination system (NPDES). Code  
16 section 455B.174 provides that a person who has been denied  
17 an NPDES permit or who has been issued an NPDES permit by the  
18 director of the department of natural resources may appeal the  
19 director's decision to the environmental protection commission.  
20 The commission's decision is the agency's final decision (or  
21 final agency action) under the Iowa administrative procedure  
22 Act (Code chapter 17A), meaning that the person may appeal the  
23 decision to district court under Code section 17A.19. This  
24 bill provides a substitute procedure. In lieu of a commission  
25 hearing, the person may initiate a contested case proceeding  
26 under Code chapter 17A which must be heard by an administrative  
27 law judge (ALJ).

28 DIVISION II — NPDES PERMITS ISSUED TO CONFINEMENT FEEDING  
29 OPERATIONS. This division amends Code chapter 459, the  
30 animal agriculture compliance Act (Code section 459.101).  
31 Generally, a confinement feeding operation is prohibited from  
32 discharging manure directly into water of the state or into  
33 a tile line that discharges directly into water of the state  
34 (Code section 459.311). This bill provides that a confinement  
35 feeding operation that is classified as a concentrated animal

1 feeding operation under the NPDES must comply with applicable  
2 NPDES permit requirements pursuant to rules adopted by the  
3 environmental protection commission. The rules cannot be more  
4 stringent than federal law.

5 A person who violates a provision in Code chapter 459  
6 relating to water quality is subject to penalties as provided  
7 in Code section 455B.109 or 455B.191 (see Code section  
8 459.603). A person in violation of a requirement may be  
9 assessed a civil penalty by the commission, according to a  
10 schedule, not to exceed \$10,000 or may be assessed a judicially  
11 assessed civil penalty of up to \$5,000 per each day of the  
12 violation.