

House Study Bill 179 - Introduced

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

A BILL FOR

1 An Act relating to environmental protection, including solid
2 waste, sewage works, hazardous waste, infectious medical
3 waste, and pesticide and fertilizer contamination.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 29C.8A, subsection 1, Code 2011, is
2 amended to read as follows:

3 1. An emergency response fund is created in the state
4 treasury. The first one hundred thousand dollars received
5 annually by the treasurer of state for the civil penalties
6 and fines imposed by the court pursuant to sections 455B.146,
7 455B.191, 455B.386, ~~455B.417, 455B.454, 455B.466,~~ and 455B.477
8 shall be deposited in the waste volume reduction and recycling
9 fund created in section 455D.15. The next hundred thousand
10 dollars shall be deposited in the emergency response fund and
11 any additional moneys shall be deposited in the household
12 hazardous waste account. All moneys received annually by
13 the treasurer of the state for the fines imposed by sections
14 716B.2, 716B.3, and 716B.4 shall also be deposited in the
15 emergency response fund.

16 Sec. 2. Section 161.2, subsections 1, 2, 5, 6, 11, 14, and
17 15, Code 2011, are amended to read as follows:

18 1. "*Action level*" means ~~the same as defined in section~~
19 ~~455B.602~~ cleanup standards provided in section 455H.201.

20 2. "*Active site cleanup*" means ~~the same as defined in~~
21 ~~section 455B.602~~ treating, dispersing, removing, or disposing
22 of contamination located in soil or water, including but not
23 limited to excavating soil or installing institutional or
24 technological controls to water quality.

25 5. "*Contaminated site*" means ~~the same as defined in section~~
26 ~~455B.602~~ a site upon which contamination has been discovered.

27 6. "*Contamination*" means ~~the same as defined in section~~
28 ~~455B.602~~ the presence of one or more pesticides or the presence
29 of fertilizer in soil or groundwater at levels above those
30 levels that would result from normal field application rates or
31 above background levels.

32 11. "*Passive site cleanup*" means ~~the same as defined in~~
33 ~~section 455B.602~~ the removal or treatment of a contaminant in
34 soil or water through management practices or the construction
35 of barriers, trenches, and other similar facilities for

1 prevention of contamination, as well as the use of natural
2 processes such as groundwater recharge, natural decay, and
3 chemical or biological decomposition.

4 14. ~~"Remediation"~~ means ~~the same as defined in section~~
5 ~~455B.602.~~ a process used to protect the public health and
6 safety or the environment from contamination, including by
7 doing all of the following:

8 a. Controlling, containing, or stabilizing the effects
9 caused by a prohibited release.

10 b. Investigating, identifying, or analyzing a contaminant or
11 a contamination source; collecting samples, including soil and
12 water samples; assessing the condition of a site; monitoring
13 a contaminated site; providing for structural testing; or
14 providing for engineering services.

15 c. Providing for site cleanup.

16 15. ~~"Responsible person"~~ means ~~the same as defined~~
17 ~~in section 455B.602~~ a person who is legally liable for
18 contamination or who is legally responsible for abating
19 contamination under any applicable law, including chapters
20 455B and 455E and the common law. "Responsible person" may
21 include a person causing, allowing, or otherwise participating
22 in the activities or events which cause contamination, persons
23 who have failed to conduct their activities so as to prevent
24 the release of contaminants into groundwater, persons who are
25 obligated to abate a condition, or persons responsible for or
26 a successor to such persons. "Responsible person" does not
27 include a person who caused contamination by acting in a manner
28 unauthorized by the owner of the pesticide or fertilizer,
29 including a person who trespasses upon a site.

30 Sec. 3. Section 161.2, Code 2011, is amended by adding the
31 following new subsection:

32 NEW SUBSECTION. 3A. "Background levels" means
33 concentrations of a contaminant generally present in the
34 environment in the vicinity of a site or an affected area and
35 not the result of release.

1 Sec. 4. Section 161.5, Code 2011, is amended to read as
2 follows:

3 **161.5 Remediation standards.**

4 Remediation conducted pursuant to a plan of remediation
5 incorporated within a remediation agreement as required in
6 section 161.8 shall be performed according to standards adopted
7 by the department of natural resources pursuant to section
8 ~~455B.601~~ 455H.201.

9 Sec. 5. Section 455B.104, subsection 1, Code 2011, is
10 amended to read as follows:

11 1. The department shall either approve or deny a permit
12 to a person applying for a permit under this chapter within
13 six months from the date that the department receives a
14 completed application for the permit. An application which
15 is not approved or denied within the six-month period shall
16 be approved by default. The department shall issue a permit
17 to the applicant within ten days following the date of
18 default approval. However, this subsection shall not apply to
19 applications for permits which are issued under division II or
20 division IV, parts 2 through 75.

21 Sec. 6. Section 455B.411, subsections 5 through 11, Code
22 2011, are amended by striking the subsections.

23 Sec. 7. Section 455B.426, subsection 2, Code 2011, is
24 amended to read as follows:

25 2. The director shall investigate all known or suspected
26 hazardous waste or hazardous substance disposal sites and
27 determine whether each site should be included in the registry.
28 In the evaluation of known or suspected hazardous waste or
29 hazardous substance disposal sites, the director may enter
30 private property and perform tests and analyses ~~in the manner~~
31 ~~provided in section 455B.416~~.

32 Sec. 8. Section 455B.426, Code 2011, is amended by adding
33 the following new subsections:

34 NEW SUBSECTION. 3. Beginning July 1, 2011, a new site shall
35 not be placed on the registry of confirmed hazardous waste or

1 hazardous substance disposal sites.

2 NEW SUBSECTION. 4. A site placed on the registry of
3 confirmed hazardous waste or hazardous substance disposal sites
4 prior to July 1, 2011, shall be removed upon the execution of
5 a uniform environmental covenant pursuant to the provisions
6 of chapter 455I relating to the contaminated portions of the
7 property listed on the registry. A site may also be removed
8 from the registry pursuant to section 455B.427, subsection 4.

9 NEW SUBSECTION. 5. If no sites remain listed on the
10 registry of confirmed hazardous waste or hazardous substance
11 disposal sites, the department shall recommend to the general
12 assembly the repeal of this section and sections 455B.427
13 through 455B.432.

14 Sec. 9. Section 455D.15, subsection 3, paragraph a, Code
15 2011, is amended by striking the paragraph.

16 Sec. 10. Section 455H.102, Code 2011, is amended to read as
17 follows:

18 **455H.102 Scope.**

19 The environmental remediation standards established under
20 this chapter shall be used for any response action or other
21 site assessment or remediation that is conducted at a site
22 enrolled pursuant to this chapter notwithstanding provisions
23 regarding water quality in chapter 455B, division III;
24 hazardous conditions in chapter 455B, division IV, part 4;
25 hazardous waste and substance management in chapter 455B,
26 division IV, part 5; underground storage tanks, other than
27 petroleum underground storage tanks, in chapter 455B, division
28 IV, part 8; ~~contaminated sites in chapter 455B, division VIII,~~
29 and groundwater protection in chapter 455E.

30 Sec. 11. Section 558.69, subsection 1, paragraph e, Code
31 2011, is amended to read as follows:

32 e. That no known hazardous waste as defined in section
33 455B.411, subsection 3, ~~or listed by the department pursuant~~
34 ~~to section 455B.412, subsection 1,~~ exists on the property, or
35 if known hazardous waste does exist, that the waste is being

1 managed in accordance with rules adopted by the department of
2 natural resources.

3 Sec. 12. Section 716B.1, subsections 5 and 6, Code 2011, are
4 amended to read as follows:

5 5. "*Storage*" or "*store*" means ~~storage as defined in section~~
6 ~~455B.411, subsection 9~~ the containment of a hazardous waste,
7 either on a temporary basis or for a period of years, in a
8 manner that does not constitute disposal of the hazardous
9 waste.

10 6. "*Treatment*" or "*treat*" means ~~treatment as defined~~
11 ~~in section 455B.411, subsection 10~~ a method, technique, or
12 process, including neutralization, designed to change the
13 physical, chemical, or biological character or composition of a
14 hazardous waste so as to neutralize the waste or to render the
15 waste nonhazardous, safer for transport, amenable for recovery,
16 amenable for storage, or to reduce the waste in volume.
17 "Treatment" includes any activity or processing designed to
18 change the physical form or chemical composition of hazardous
19 waste to render the waste nonhazardous.

20 Sec. 13. REPEAL. Sections 455B.116, 455B.241, 455B.242,
21 455B.243, 455B.244, 455B.245, 455B.246, 455B.312, 455B.316,
22 455B.412, 455B.413, 455B.414, 455B.415, 455B.416, 455B.417,
23 455B.418, 455B.419, 455B.420, 455B.421, 455B.441, 455B.442,
24 455B.443, 455B.444, 455B.445, 455B.446, 455B.447, 455B.448,
25 455B.449, 455B.450, 455B.451, 455B.452, 455B.453, 455B.454,
26 455B.455, 455B.461, 455B.462, 455B.463, 455B.465, 455B.466,
27 455B.467, 455B.468, 455B.504, 455B.601, and 455B.602, Code
28 2011, are repealed.

29 Sec. 14. REPEAL. Section 455D.8, Code 2011, is repealed.

30 EXPLANATION

31 This bill relates to solid waste, sewage works, hazardous
32 waste, infectious medical waste, and pesticide and fertilizer
33 contamination.

34 The bill repeals Code sections relating to the pollution
35 hotline program; sewage works construction; the waste

1 abatement program; a penalty for making a false statement or
2 representation in a solid waste comprehensive plan; certain
3 duties of the department of natural resources related to
4 hazardous waste and substance management including the issuance
5 of hazardous waste treatment, storage, or disposal facility
6 permits; hazardous waste sites and facilities; disposal
7 of hazardous waste on land; permit requirements for owners
8 and operators of an infectious medical waste collection
9 or transportation operation; and pesticide and fertilizer
10 contaminated sites. The bill makes necessary conforming
11 amendments.

12 The bill provides that, beginning July 1, 2011, a new site
13 shall not be placed on the registry of confirmed hazardous
14 waste or hazardous substance disposal sites. The bill provides
15 that a site placed on the registry of confirmed hazardous
16 substance or hazardous disposal sites prior to July 1, 2011,
17 shall be removed upon the execution of a uniform environmental
18 covenant or through the proper closure of the site. The bill
19 provides that if no sites remain listed on the registry of
20 confirmed hazardous waste or hazardous disposal sites, the
21 department of natural resources shall recommend to the general
22 assembly the repeal of Code sections 455B.426 through 455B.432,
23 relating to the registry.