

House Study Bill 180 - Introduced

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
ENVIRONMENTAL PROTECTION
BILL BY CHAIRPERSON OLSON)

A BILL FOR

1 An Act relating to the transfer of certain administrative
2 duties from the department of natural resources to the
3 department of agriculture and land stewardship, making
4 appropriations, and including effective date provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

DIVISION I
CLEAN WATER ACT

Section 1. Section 161A.4, subsection 2, Code 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. *j.* To provide state administration of section 319 of the federal Clean Water Act as defined in section 455B.291. The department of natural resources shall provide assistance in the preparation of the report required pursuant to 33 U.S.C. § 1329.

Sec. 2. Section 161C.4, subsection 2, Code 2011, is amended to read as follows:

2. The fund shall be divided into ~~two~~ three accounts, the water quality protection projects account ~~and~~, the water protection practices account, and the clean water account.

a. The ~~first~~ water quality protection projects account shall be used to carry out water quality protection projects to protect the state's surface and groundwater from point and nonpoint sources of contamination.

b. The ~~second~~ water protection practices account shall be used to establish water protection practices with individual landowners including but not limited to woodland establishment and protection, establishment of native grasses and forbs, sinkhole management, agricultural drainage well management, streambank stabilization, grass waterway establishment, stream buffer strip establishment, and erosion control structure construction. Twenty-five percent of funds appropriated to the water protection practices account shall be used for woodland establishment and protection, and establishment of native grasses and forbs. Soil and water conservation district commissioners shall give priority to applications for practices that implement their soil and water resource conservation plan.

c. Any moneys appropriated by the general assembly for purposes of providing state administration of section 319 of the federal Clean Water Act as defined in section 455B.291 and any other moneys available to and obtained or accepted by the

1 division for such purposes shall be credited to the clean water
2 account. Moneys in the clean water account are appropriated to
3 the division for purposes of administering section 319 of the
4 federal Clean Water Act as defined in section 455B.291.

5 Sec. 3. EFFECTIVE DATE. This division of this Act takes
6 effect November 1, 2011.

7 DIVISION II

8 WATER RESOURCES COORDINATING COUNCIL

9 Sec. 4. Section 466B.2, subsection 2, Code 2011, is amended
10 to read as follows:

11 2. "Department" means the department of ~~natural resources~~
12 agriculture and land stewardship.

13 Sec. 5. Section 466B.3, subsection 1, Code 2011, is amended
14 to read as follows:

15 1. Council established. A water resources coordinating
16 council is established within the ~~office of the governor~~
17 department of agriculture and land stewardship.

18 Sec. 6. Section 466B.3, subsection 4, paragraphs c and 1,
19 Code 2011, are amended to read as follows:

20 c. The secretary of agriculture, who shall be the
21 chairperson, or the secretary's designee. As the chairperson,
22 and in order to further the coordination efforts of the
23 council, the secretary may invite representatives from
24 any other public agency, private organization, business,
25 citizen group, or nonprofit entity to give public input at
26 council meetings, provided the entity has an interest in the
27 coordinated management of land resources, soil conservation,
28 flood mitigation, or water quality. The secretary shall also
29 invite and solicit advice from the following:

30 (1) The director of the Iowa water science center of the
31 United States geological survey or the director's designee.

32 (2) The state conservationist from the Iowa office of the
33 United States department of agriculture's natural resources
34 conservation service or the state conservationist's designee.

35 (3) The executive director for Iowa from the United States

1 department of agriculture's farm services agency or the
2 executive director's designee.

3 (4) The state director for Iowa from the United States
4 department of agriculture's office of rural development or the
5 state director's designee.

6 (5) The director of region seven of the United States
7 environmental protection agency or the director's designee.

8 (6) The corps commander from the United States army corps of
9 engineers' Rock Island district or the commander's designee.

10 ~~1. The governor, who shall be the chairperson, or the~~
11 ~~governor's designee. As the chairperson, and in order to~~
12 ~~further the coordination efforts of the council, the governor~~
13 ~~may invite representatives from any other public agency,~~
14 ~~private organization, business, citizen group, or nonprofit~~
15 ~~entity to give public input at council meetings, provided~~
16 ~~the entity has an interest in the coordinated management of~~
17 ~~land resources, soil conservation, flood mitigation, or water~~
18 ~~quality. The governor shall also invite and solicit advice~~
19 ~~from the following:~~

20 ~~(1) The director of the Iowa water science center of the~~
21 ~~United States geological survey or the director's designee.~~

22 ~~(2) The state conservationist from the Iowa office of the~~
23 ~~United States department of agriculture's natural resources~~
24 ~~conservation service or the state conservationist's designee.~~

25 ~~(3) The executive director for Iowa from the United States~~
26 ~~department of agriculture's farm services agency or the~~
27 ~~executive director's designee.~~

28 ~~(4) The state director for Iowa from the United States~~
29 ~~department of agriculture's office of rural development or the~~
30 ~~state director's designee.~~

31 ~~(5) The director of region seven of the United States~~
32 ~~environmental protection agency or the director's designee.~~

33 ~~(6) The corps commander from the United States army corps of~~
34 ~~engineers' Rock Island district or the commander's designee.~~

35 Sec. 7. Section 466B.3, subsection 5, paragraph a, Code

1 2011, is amended to read as follows:

2 *a.* The council shall be convened by the ~~office of the~~
3 ~~governor department~~ at least quarterly.

4 Sec. 8. Section 466B.9, Code 2011, is amended to read as
5 follows:

6 **466B.9 Rulemaking authority.**

7 The department of natural resources and the department
8 of agriculture and land stewardship shall have the power
9 and authority reasonably necessary to carry out the duties
10 imposed by this chapter. ~~As to the department, this includes~~
11 ~~rulemaking authority to carry out the regional watershed~~
12 ~~assessment program described in section 466B.5. As to the~~
13 ~~department of agriculture and land stewardship, this includes~~
14 ~~rulemaking authority to assist in the implementation of~~
15 ~~community-based subwatershed improvement plans. The department~~
16 of agriculture and land stewardship shall adopt rules pursuant
17 to chapter 17A necessary for the implementation of this
18 chapter.

19 DIVISION III

20 TOTAL MAXIMUM DAILY LOADS

21 Sec. 9. Section 455B.193, Code 2011, is amended to read as
22 follows:

23 **455B.193 Qualifications for collection of credible data.**

24 For purposes of this part, all of the following shall apply:

25 1. Data is not credible data unless the data originates
26 from studies and samples collected by the department of
27 natural resources or the department of agriculture and land
28 stewardship, a professional designee of one of the department
29 departments, or a qualified volunteer. For purposes of this
30 subsection, "*professional designee*" includes governmental
31 agencies other than one of the department departments, and a
32 person hired by, or under contract for compensation with, one
33 of the department departments to collect or study data.

34 2. All information submitted by a qualified volunteer shall
35 be reviewed and approved or disapproved by the department of

1 natural resources or the department of agriculture and land
2 stewardship. The qualified volunteer shall submit a site
3 specific plan with data which includes information used to
4 obtain the data, the sampling and analysis plan, and quality
5 control and quality assurance procedures used in the monitoring
6 process. The qualified volunteer must provide proof to the
7 applicable department that the water monitoring plan was
8 followed. The applicable department shall review all data
9 collected by a qualified volunteer, verify the accuracy of the
10 data collected by a qualified volunteer, and determine that all
11 components of the water monitoring plan were followed.

12 3. The department of natural resources and the department of
13 agriculture and land stewardship shall retain all information
14 submitted by a qualified volunteer submitting the information
15 for a period of not less than ten years from the date of receipt
16 by the department. All information submitted shall be a public
17 record.

18 4. The department of natural resources and the department of
19 agriculture and land stewardship shall adopt rules establishing
20 requirements for a person to become a qualified volunteer.

21 The department of natural resources and the department of
22 agriculture and land stewardship shall develop a methodology
23 for water quality assessments as used in the section 303(d)
24 lists and assess the validity of the data.

25 Sec. 10. Section 455B.194, subsection 1, unnumbered
26 paragraph 1, Code 2011, is amended to read as follows:

27 The department of natural resources and the department of
28 agriculture and land stewardship, as applicable, shall use
29 credible data when doing any of the following:

30 Sec. 11. Section 455B.195, subsection 1, paragraphs e
31 through i, Code 2011, are amended to read as follows:

32 e. If a pollutant causing an impairment is unknown, the
33 water of the state may be placed on a section 303(d) list.

34 However, the department of natural resources or the department
35 of agriculture and land stewardship, as applicable, shall

1 continue to monitor the water of the state to determine the
2 cause of impairment before a total maximum daily load is
3 established for the water of the state and a water of the state
4 listed with an unknown status shall retain a low priority for
5 a total maximum daily load development until the cause of the
6 impairment is determined unless the either department, after
7 taking into consideration the use of the water of the state and
8 the severity of the pollutant, identifies compelling reasons as
9 to why the water of the state should not have a low priority.

10 *f.* When evaluating the waters of the state, the department
11 of natural resources or the department of agriculture and land
12 stewardship, as applicable, shall develop and maintain three
13 separate listings including a section 303(d) list, a section
14 305(b) report, and a listing for which further investigative
15 monitoring is necessary. The section 305(b) report shall be
16 a summary of all potential impairments for which credible
17 data is not required. If credible data is not required for a
18 section 305(b) report, the placement of a water of the state
19 on any section 305(b) report alone is not sufficient evidence
20 for the water of the state's placement on any section 303(d)
21 list. When developing a section 303(d) list, the ~~department~~
22 is departments are not required to use all data, but ~~the~~
23 ~~department~~ shall assemble and evaluate all existing and readily
24 available water quality-related data and information. The
25 ~~department~~ departments shall provide documentation to the
26 regional administrator of the federal environmental protection
27 agency to support the state's determination to list or not to
28 list its waters.

29 *g.* The department of natural resources or the department
30 of agriculture and land stewardship, as applicable, shall take
31 into consideration any naturally occurring condition when
32 placing or removing any water of the state on any section
33 303(d) list, and establishing or allocating responsibility for
34 a total maximum daily load.

35 *h.* Numerical standards shall have a preference over

1 narrative standards. A narrative standard shall not constitute
2 the basis for determining an impairment unless the department
3 of natural resources or the department of agriculture and land
4 stewardship, as applicable, identifies specific factors as to
5 why a numeric standard is not sufficient to assure adequate
6 water quality.

7 *i.* If the department of natural resources or the department
8 of agriculture and land stewardship, as applicable, has
9 obtained credible data for a water of the state, the department
10 may also use historical data for that particular water of the
11 state for the purpose of determining whether any trends exist
12 for that water of the state.

13 Sec. 12. Section 455B.195, subsection 2, Code 2011, is
14 amended to read as follows:

15 2. This section shall not be construed to require or
16 authorize the department of natural resources or the department
17 of agriculture and land stewardship to perform any act listed
18 in section 455B.194, subsection 1, not otherwise required or
19 authorized by applicable law.

20 Sec. 13. Section 455B.195, Code 2011, is amended by adding
21 the following new subsections:

22 NEW SUBSECTION. 3. The division of soil conservation of the
23 department of agriculture and land stewardship shall implement
24 total maximum daily loads assigned to nonpoint sources and
25 agricultural sources through voluntary programs. The division
26 shall implement waste load allocations assigned to agricultural
27 sources or concentrated animal feeding operations if such
28 sources are required to obtain a national pollutant discharge
29 elimination system permit. The department of natural resources
30 shall implement all other waste load allocations.

31 NEW SUBSECTION. 4. The division of soil conservation
32 of the department of agriculture and land stewardship shall
33 develop and implement a water quality management plan required
34 by 33 U.S.C. § 1329 as it relates to total maximum daily
35 loads, nonpoint sources, agricultural sources, and effluent

1 limitations for concentrated animal feeding operations.
2 The department of agriculture and land stewardship and the
3 department of natural resources shall jointly submit water
4 quality management plans to the United States environmental
5 protection agency.

6 Sec. 14. ENVIRONMENT FIRST FUND APPROPRIATION — FY
7 2012-2013. There is appropriated from the environment first
8 fund to the soil conservation division of the department of
9 agriculture and land stewardship for the fiscal year beginning
10 July 1, 2012, and ending June 30, 2013, the following amount,
11 or so much thereof as is necessary, to be used for the purposes
12 designated:

13 For water quality monitoring, including salaries, support,
14 maintenance, and miscellaneous purposes:
15 \$ 2,955,000

16 Sec. 15. EFFECTIVE DATE. This division of this Act takes
17 effect November 1, 2012.

18 DIVISION IV

19 MANURE APPLICATION MANAGEMENT

20 Sec. 16. Section 459.102, subsections 18 and 24, Code 2011,
21 are amended to read as follows:

22 18. "Covered" means organic or inorganic material placed
23 upon an animal feeding operation structure used to store manure
24 as provided by rules adopted by the department of agriculture
25 and land stewardship after receiving recommendations which
26 shall be submitted to the department of agriculture and land
27 stewardship by the college of agriculture and life sciences at
28 Iowa state university of science and technology.

29 24. "Document" means any form required to be processed
30 by the department of natural resources or the department of
31 agriculture and land stewardship under this chapter regulating
32 animal feeding operations, including but not limited to
33 applications or related materials for permits as provided in
34 section 459.303, manure management plans as provided in section
35 459.312, comment or evaluation by a county board of supervisors

1 considering an application for a construction permit, the
2 applicable department's analysis of the application including
3 using and responding to a master matrix pursuant to section
4 459.304, and notices required under those sections.

5 Sec. 17. Section 459.103, subsection 2, Code 2011, is
6 amended to read as follows:

7 2. Any provision referring generally to compliance with
8 the requirements of this chapter as applied to animal feeding
9 operations also includes compliance with requirements in rules
10 adopted by the commission or the department of agriculture
11 and land stewardship pursuant to this section, orders issued
12 by the department of natural resources or the department of
13 agriculture and land stewardship as authorized under this
14 chapter, and the terms and conditions applicable to licenses,
15 certifications, permits, or manure management plans required
16 under subchapter III. However, for purposes of approving
17 or disapproving an application for a construction permit as
18 provided in section 459.304, conditions for the approval of an
19 application based on results produced by a master matrix are
20 not requirements of this chapter until the department approves
21 or disapproves an application based on those results.

22 Sec. 18. Section 459.103, Code 2011, is amended by adding
23 the following new subsection:

24 NEW SUBSECTION. 3. The department of agriculture and land
25 stewardship shall administer sections 459.310 through 459.319
26 and shall establish by rule adopted pursuant to chapter 17A,
27 requirements related to the administration of sections 459.310
28 through 459.319.

29 Sec. 19. Section 459.302, Code 2011, is amended to read as
30 follows:

31 **459.302 Document processing requirements.**

32 1. The department of natural resources and the department
33 of agriculture and land stewardship shall adopt and promulgate
34 forms required to be completed in order to comply with this
35 subchapter including forms for documents that the ~~department~~

1 departments shall make available on the internet.

2 2. a. The department of natural resources and the
3 department of agriculture and land stewardship shall provide
4 for procedures for the receipt, filing, processing, and
5 return of documents in an electronic format, including but not
6 limited to the transmission of documents by the internet. The
7 ~~department~~ departments shall provide for authentication of the
8 documents that may include electronic signatures as provided in
9 chapter 554D.

10 b. The department of natural resources and the department of
11 agriculture and land stewardship shall to every extent feasible
12 provide for the processing of permits and manure management
13 plans required under this subchapter using electronic systems,
14 including programming, necessary to ensure the completeness and
15 accuracy of the documents in accordance with the requirements
16 of this subchapter.

17 Sec. 20. Section 459.303, subsection 7, paragraph a, Code
18 2011, is amended to read as follows:

19 a. The department of natural resources shall not issue a
20 permit to a person under this section if an enforcement action
21 by the department of agriculture and land stewardship, relating
22 to a violation of this chapter concerning a confinement feeding
23 operation in which the person has an interest, is pending, as
24 provided in section 459.317.

25 Sec. 21. Section 459.305, subsection 1, unnumbered
26 paragraph 1, Code 2011, is amended to read as follows:

27 The department of natural resources, in cooperation with the
28 department of agriculture and land stewardship, shall adopt
29 rules for the development and use of a master matrix. The
30 purpose of the master matrix is to provide a comprehensive
31 assessment mechanism in order to produce a statistically
32 verifiable basis for determining whether to approve or
33 disapprove an application for the construction, including
34 expansion, of a confinement feeding operation structure
35 requiring a permit pursuant to section 459.303.

1 Sec. 22. Section 459.310, subsection 2, Code 2011, is
2 amended to read as follows:

3 2. Except as provided in subsection 4, a confinement feeding
4 operation structure shall not be constructed on land that is
5 part of a one hundred year floodplain as designated by rules
6 adopted ~~by the department~~ pursuant to section 459.301.

7 Sec. 23. Section 459.312, subsection 7, Code 2011, is
8 amended to read as follows:

9 7. *a.* The department of natural resources shall not
10 approve an application for a permit to construct a confinement
11 feeding operation structure unless the owner of the confinement
12 feeding operation applying for approval submits an original
13 manure management plan together with the application for the
14 construction permit as provided in section 459.303.

15 *b.* The department of natural resources shall not file a
16 construction design statement as provided in section 459.306
17 unless the owner of the confinement feeding operation structure
18 submits an original manure management plan together with
19 the construction design statement. The construction design
20 statement and manure management plan may be submitted as part
21 of an application for a construction permit as provided in
22 section 459.303.

23 Sec. 24. Section 459.313B, subsection 1, Code 2011, is
24 amended to read as follows:

25 1. On or before February 15 of each year, ~~the director of~~
26 ~~the department~~ secretary of agriculture, or the ~~department's~~
27 secretary's designee, shall appear before and present a
28 report to the standing committees of the senate and house
29 of representatives having jurisdiction over agriculture
30 and environmental protection. The report shall include
31 all instances in which persons have applied liquid manure
32 originating from a manure storage structure, that is part of a
33 confinement feeding operation, on snow covered ground or frozen
34 ground because of an emergency as provided in section 459.313A.
35 The report shall include an assessment of the application's

1 impact on water quality, including the success of actions taken
2 to prevent or remediate such impact.

3 Sec. 25. Section 459.317, subsections 3 and 4, Code 2011,
4 are amended to read as follows:

5 3. A person who receives a controlling interest in a suspect
6 site pursuant to a suspect transaction must submit a notice of
7 the transaction to the department of natural resources or the
8 department of agriculture and land stewardship, as applicable,
9 within thirty days. If, after notice and opportunity to be
10 heard, pursuant to the contested case provisions of chapter
11 17A, the department of natural resources or the department of
12 agriculture and land stewardship finds that one purpose of the
13 transaction was to avoid the conditions and enhanced penalties
14 imposed upon a habitual violator, the person shall be subject
15 to the same conditions and enhanced penalties as applied to the
16 habitual violator at the time of the transaction.

17 4. The department of natural resources and the department of
18 agriculture and land stewardship shall cooperatively conduct an
19 annual review of each confinement feeding operation which is
20 a habitual violator and each confinement feeding operation in
21 which a habitual violator holds a controlling interest.

22 Sec. 26. Section 459.318, subsection 2, Code 2011, is
23 amended to read as follows:

24 2. The requirements of this subchapter which regulate
25 animal feeding operations, including rules adopted by
26 the department of natural resources and the department of
27 agriculture and land stewardship pursuant to section 459.103,
28 shall not apply to research activities and experiments
29 performed under the authority and regulations of a research
30 college, if the research activities and experiments relate to
31 animal feeding operations, including but not limited to the
32 confinement of animals and the storage and disposal of manure
33 originating from animal feeding operations.

34 Sec. 27. Section 459.400, Code 2011, is amended to read as
35 follows:

1 **459.400 Compliance fees.**

2 1. The department of natural resources and the department
3 of agriculture and land stewardship, as applicable, shall
4 establish, assess, and collect all of the following compliance
5 fees:

6 *a.* A construction permit application fee that is required to
7 accompany an application submitted to the department of natural
8 resources for approval to construct a confinement feeding
9 operation structure as provided in section 459.303. The amount
10 of the construction permit application fee shall not exceed two
11 hundred fifty dollars.

12 *b.* A manure management plan filing fee that is required
13 to accompany an original manure management plan submitted
14 to the department of agriculture and land stewardship for
15 approval as provided in section 459.312. However, the manure
16 management plan required to be filed as part of an application
17 for a construction permit shall be paid together with the
18 construction permit application fee. The amount of the manure
19 management plan filing fee shall not exceed two hundred fifty
20 dollars.

21 *c.* An annual compliance fee that is required to accompany
22 an updated manure management plan submitted to the department
23 of agriculture and land stewardship for approval as provided
24 in section 459.312. The amount of the annual compliance fee
25 shall not exceed a rate of fifteen cents per animal unit
26 based on the animal unit capacity of the confinement feeding
27 operation covered by the manure management plan. If the person
28 submitting the manure management plan is a contract producer,
29 as provided in chapter 202, the active contractor shall be
30 assessed the annual compliance fee.

31 *d.* Educational program fees paid by persons required by the
32 department of agriculture and land stewardship to be certified
33 as commercial manure service representatives or confinement
34 site manure applicators pursuant to section 459.315. The
35 amount of the educational program fees together with commercial

1 manure service licensing fees shall be adjusted annually by the
2 department of agriculture and land stewardship based on the
3 costs of administering section 459.315 and paying the expenses
4 of the department of agriculture and land stewardship relating
5 to certification.

6 (1) The fee for certification of a commercial manure service
7 representative shall not be more than seventy-five dollars. A
8 commercial manure service licensed pursuant to section 459.314A
9 may pay for the annual certification of its employees. If a
10 commercial manure service makes payment for an employee to be
11 certified as a commercial manure service representative and
12 that employee leaves employment, the commercial manure service
13 may substitute a new employee to be certified for the former
14 employee. The department of agriculture and land stewardship
15 shall not charge for the certification of the substituted
16 employee. The department of agriculture and land stewardship
17 may require that the commercial manure service provide the
18 department with documentation that the substitution is valid.
19 The department of agriculture and land stewardship shall not
20 charge the fee to a person who is a manager of a commercial
21 manure service licensed pursuant to section 459.314A. The
22 department of agriculture and land stewardship may require
23 that the commercial manure service provide documentation that
24 a person is a manager.

25 (2) A person who is certified as a confinement site manure
26 applicator as provided in section 459.315 is exempt from paying
27 the certification fee if all of the following apply:

28 (a) The person is certified within one year from the date
29 that a family member has been certified as a confinement site
30 manure applicator.

31 (b) The family member has paid the fee for that family
32 member's own certification.

33 e. Fees paid by persons required by the department of
34 agriculture and land stewardship to be licensed as a commercial
35 manure service as provided in section 459.314A. The fee for a

1 commercial manure service license shall not be more than two
2 hundred dollars. The amount of the licensing fees together
3 with educational program fees shall be adjusted annually by the
4 department of agriculture and land stewardship based on the
5 costs of administering section 459.315 and paying the expenses
6 of the department of agriculture and land stewardship relating
7 to certification.

8 2. Compliance fees collected by the department of
9 natural resources and the department of agriculture and land
10 stewardship shall be deposited into the animal agriculture
11 compliance fund created in section 459.401.

12 a. Except as provided in paragraph "b", moneys collected
13 from all fees shall be deposited into the compliance fund's
14 general account.

15 b. Moneys collected from the annual compliance fee shall
16 be deposited into the compliance fund's assessment account.
17 Moneys collected from commercial manure service license fees
18 and educational program fees shall be deposited into the
19 compliance fund's educational program account.

20 3. At the end of each fiscal year the department of
21 agriculture and land stewardship shall determine the balance of
22 unencumbered and unobligated moneys in the assessment account
23 and the educational program account of the animal agriculture
24 compliance fund created pursuant to section 459.401.

25 a. If on June 30, the balance of unencumbered and
26 unobligated moneys in the assessment account is one million
27 dollars or more, the department of agriculture and land
28 stewardship shall adjust the rate of the annual compliance
29 fee for the following fiscal year. The adjusted rate for
30 the annual compliance fee shall be based on the department's
31 estimate of the amount required to ensure that at the end
32 of the following fiscal year the balance of unencumbered and
33 unobligated moneys in the assessment account is not one million
34 dollars or more.

35 b. If on June 30, the balance of unencumbered and

1 unobligated moneys in the educational program account is
2 twenty-five thousand dollars or more, the department of
3 agriculture and land stewardship shall adjust the rate of the
4 commercial manure service license fee and the educational
5 program fee for the following fiscal year. The adjusted rate
6 for the fees shall be based on the department's estimate of
7 the amount required to ensure that at the end of the following
8 fiscal year the balance of unencumbered and unobligated moneys
9 in the assessment account is not twenty-five thousand dollars
10 or more.

11 Sec. 28. Section 459.401, Code 2011, is amended to read as
12 follows:

13 **459.401 Animal agriculture compliance fund.**

14 1. An animal agriculture compliance fund is created in
15 the state treasury under the control of the department of
16 management. The compliance fund is separate from the general
17 fund of the state.

18 2. The compliance fund is composed of three accounts, the
19 general account, the assessment account, and the educational
20 program account.

21 a. The general account is composed of moneys appropriated
22 by the general assembly and moneys available to and obtained
23 or accepted by the department of management, the department
24 of natural resources, and the department of agriculture and
25 land stewardship from the United States government or private
26 sources for placement in the compliance fund. Unless otherwise
27 specifically provided in statute, moneys required to be
28 deposited in the compliance fund shall be deposited into the
29 general account. The general account shall include moneys
30 deposited into the account from all of the following:

31 (1) The construction permit application fee required
32 pursuant to section 459.303.

33 (2) The manure management plan filing fee required pursuant
34 to section 459.312.

35 (3) Educational program fees required to be paid by

1 commercial manure service representatives or confinement site
2 manure applicators pursuant to section 459.400.

3 (4) A commercial manure service license fee as provided in
4 section 459.400.

5 (5) The collection of civil penalties assessed by the
6 department of natural resources and the department of
7 agriculture and land stewardship and interest on civil
8 penalties, arising out of violations involving animal feeding
9 operations as provided in sections 459.602, 459.603, 459A.502,
10 and 459B.402.

11 b. The assessment account is composed of moneys collected
12 from the annual compliance fee required pursuant to section
13 459.400.

14 c. The educational program account is composed of moneys
15 collected from the commercial manure service license fee and
16 the educational program fee required pursuant to section
17 459.400.

18 3. Moneys in the compliance fund are appropriated to the
19 department of management exclusively to pay the expenses of
20 the department of natural resources and the department of
21 agriculture and land stewardship in administering and enforcing
22 the provisions of subchapters II and III as applicable and
23 necessary to ensure that animal feeding operations comply with
24 all applicable requirements of those provisions, including
25 rules adopted or orders issued by the ~~department~~ departments
26 pursuant to those provisions. The moneys shall not be
27 transferred, used, obligated, appropriated, or otherwise
28 encumbered except as provided in this subsection. The
29 department of management shall not transfer moneys from
30 the compliance fund's assessment account to another fund or
31 account, including but not limited to the fund's general
32 account.

33 4. Moneys in the fund, which may be subject to warrants
34 written by the director of the department of administrative
35 services, shall be drawn upon the written requisition of the

1 director of the department of ~~natural resources~~ management or
2 an authorized representative of the director.

3 5. Notwithstanding section 8.33, any unexpended balance in
4 an account of the compliance fund at the end of the fiscal year
5 shall be retained in that account. Notwithstanding section
6 12C.7, subsection 2, interest, earnings on investments, or time
7 deposits of the moneys in an account of the compliance fund
8 shall be credited to that account.

9 Sec. 29. Section 459.402, Code 2011, is amended to read as
10 follows:

11 **459.402 Animal agriculture compliance fees — delinquencies.**

12 If a fee imposed under this chapter for deposit into
13 the animal agriculture compliance fund is delinquent,
14 the department of natural resources or the department of
15 agriculture and land stewardship may charge interest on any
16 amount of the fee that is delinquent. The rate of interest
17 shall not be more than the current rate published in the Iowa
18 administrative bulletin by the department of revenue pursuant
19 to section 421.7. The interest amount shall be computed from
20 the date that the fee is delinquent, unless the applicable
21 department designates a later date. The interest amount shall
22 accrue for each month in which a delinquency is calculated as
23 provided in section 421.7, and counting each fraction of a
24 month as an entire month. The interest amount shall become
25 part of the amount of the fee due.

26 Sec. 30. Section 459.604, subsection 1, paragraph e,
27 unnumbered paragraph 1, Code 2011, is amended to read as
28 follows:

29 Failing to submit a manure management plan as required
30 pursuant to section 459.312, or operating a confinement feeding
31 operation without having a manure management plan approved by
32 the department of agriculture and land stewardship.

33 Sec. 31. AMENDMENT DIRECTIVE. Unless otherwise amended in
34 this division, sections 459.310, 459.311, 459.311C, 459.312,
35 459.313, 459.313A, 459.314, 459.314A, 459.314B, 459.315,

1 and 459.315A are amended by striking from the sections the
2 word "department" and inserting in lieu thereof the words
3 "department of agriculture and land stewardship".

4 Sec. 32. EFFECTIVE DATES.

5 1. The portion of the amendment directive section of this
6 division of this Act amending section 459.315 takes effect July
7 1, 2011.

8 2. Except as provided in subsection 1, this division takes
9 effect July 1, 2012.

10

DIVISION V

11

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMITS

12

Sec. 33. NEW SECTION. 161C.8 National pollutant discharge

13

elimination system permits — fund.

14

15 1. The department may issue a permit related to the
16 administration of the national pollutant discharge elimination
17 system (NPDES) permit program pursuant to the federal Water
18 Pollution Control Act, 33 U.S.C. ch. 26, as amended, and
19 40 C.F.R. pt. 124. Permits issued by the department shall
20 be limited to permits related to agricultural sources and
21 concentrated animal feeding operations. The department may
22 provide for the receipt of applications and the issuance of
23 permits as provided by rules adopted by the department which
24 are consistent with this section. The department shall assess
25 and collect fees for the processing of applications and the
26 issuance of permits. The department shall deposit the fees
27 into the agricultural-related national pollutant discharge
28 elimination system permit fund created in subsection 2.

28

29 2. An agricultural-related national pollutant discharge
30 elimination system permit fund is created as a separate fund in
31 the state treasury under the control of the department. The
32 fund is composed of moneys appropriated to the department for
33 deposit into the fund and moneys available to and obtained or
34 accepted by the department from the United States or private
35 sources for placement in the fund. The fund shall include
36 moneys deposited into the fund from fees charged for the

1 processing of applications for the issuance of permits related
2 to the national pollutant discharge elimination system as
3 provided in subsection 1. Moneys in the agricultural-related
4 national pollutant discharge elimination system permit fund are
5 appropriated to the department each fiscal year for purposes
6 of administering this section and expediting the department's
7 processing of agriculture-related national pollutant discharge
8 elimination system applications and the issuance of permits,
9 including for salaries, support, maintenance, and other costs
10 of administering this section. Section 8.33 shall not apply to
11 moneys credited to the agricultural-related national pollutant
12 discharge elimination system permit fund. Notwithstanding
13 section 12C.7, moneys earned as income or interest from the
14 fund shall remain in the fund until expended as provided in
15 this section.

16 Sec. 34. Section 455B.197, unnumbered paragraph 1, Code
17 2011, is amended to read as follows:

18 The Except for the types of permits that may be issued by
19 the department of agriculture and land stewardship pursuant
20 to section 161C.8, the department of natural resources may
21 issue a permit related to the administration of the national
22 pollutant discharge elimination system (NPDES) permit program
23 pursuant to the federal Water Pollution Control Act, 33 U.S.C.
24 ch. 26, as amended, and 40 C.F.R. pt. 124 including but not
25 limited to storm water discharge permits issued pursuant to
26 section 455B.103A. The department may provide for the receipt
27 of applications and the issuance of permits as provided by
28 rules adopted by the department which are consistent with this
29 section. The department shall assess and collect fees for
30 the processing of applications and the issuance of permits as
31 provided in this section. The department shall deposit the
32 fees into the national pollutant discharge elimination system
33 permit fund created in section 455B.196. The fees shall be
34 established as follows:

35 Sec. 35. Section 455B.197, subsection 3, paragraph h, Code

1 2011, is amended by striking the paragraph.

2 Sec. 36. Section 459.311, subsection 2, Code 2011, is
3 amended to read as follows:

4 2. Notwithstanding subsection 1, a confinement feeding
5 operation that is a concentrated animal feeding operation as
6 defined in 40 C.F.R. § 122.23(b) shall comply with applicable
7 national pollutant discharge elimination system permit
8 requirements as provided in the federal Water Pollution Control
9 Act, 33 U.S.C. ch. 26, as amended, and 40 C.F.R. pts. 122 and
10 412, pursuant to rules that shall be adopted by the ~~commission~~
11 department of agriculture and land stewardship. Any rules
12 adopted pursuant to this subsection shall be no more stringent
13 than requirements under the federal Water Pollution Control
14 Act, 33 U.S.C. ch. 26, as amended, and 40 C.F.R. pts. 122 and
15 412.

16 Sec. 37. EFFECTIVE DATE. This division takes effect
17 November 1, 2013.

18 DIVISION VI

19 TRANSITIONAL PROVISIONS

20 Sec. 38. DELEGATION AGREEMENTS. The department of natural
21 resources shall assist in the transfer of duties under this Act
22 and in the amending of any applicable delegation agreement with
23 the United States environmental protection agency necessitated
24 by the provisions of this Act.

25 Sec. 39. CONTRACTS.

26 1. By August 1, 2011, the department of natural resources
27 shall provide to the department of agriculture and land
28 stewardship copies of any outstanding contracts relating to the
29 administration of any duties addressed in this Act.

30 2. The department of natural resources shall assign and the
31 department of agriculture and land stewardship shall assume
32 all outstanding contracts entered into by the department
33 of natural resources and the United States environmental
34 protection agency related to the use of moneys for purposes
35 of section 319 of the federal Clean Water Act, total maximum

1 daily load development, nonpoint source management plans, and
2 manure applicator certification training. Contracts related
3 to enforcement or enforcement investigation are not included
4 under this subsection.

5 Sec. 40. EFFECTIVE UPON ENACTMENT. This division of this
6 Act, being deemed of immediate importance, takes effect upon
7 enactment.

8 EXPLANATION

9 This bill relates to the transfer of certain administrative
10 duties from the department of natural resources to the
11 department of agriculture and land stewardship. The bill is
12 organized by divisions.

13 CLEAN WATER ACT. The division transfers the administrative
14 responsibilities for section 319 of the federal Clean Water Act
15 from the department of natural resources to the department of
16 agriculture and land stewardship. The division creates a clean
17 water account within the water protection fund administered
18 by the division of soil conservation in the department of
19 agriculture and land stewardship. Moneys in the account are
20 appropriated to the division for purposes of administering
21 section 319 of the federal Clean Water Act.

22 The division takes effect November 1, 2011.

23 WATER RESOURCES COORDINATING COUNCIL. Currently, the water
24 resources coordinating council is established within the office
25 of the governor with the governor, or the governor's designee,
26 serving as the chairperson. The division moves the council
27 to the department of agriculture and land stewardship and
28 changes the chairperson to the secretary of agriculture, or
29 the secretary's designee. The department of agriculture and
30 land stewardship is given rulemaking authority necessary for
31 the council.

32 TOTAL MAXIMUM DAILY LOADS. The division provides that the
33 division of soil conservation of the department of agriculture
34 and land stewardship shall implement total maximum daily loads
35 assigned to nonpoint sources and agricultural sources through

1 voluntary programs. The division requires the division of soil
2 conservation to implement waste load allocations assigned to
3 agricultural sources or concentrated animal feeding operations
4 if such sources are required to obtain a national pollutant
5 discharge elimination system permit. The division requires the
6 department of natural resources to implement all other waste
7 load allocations.

8 The division requires the division of soil conservation
9 of the department of agriculture and land stewardship to
10 develop and implement a water quality management plan required
11 by 33 U.S.C. § 1329 as it relates to total maximum daily
12 loads, nonpoint sources, agricultural sources, and effluent
13 limitations for concentrated animal feeding operations. The
14 division requires the department of agriculture and land
15 stewardship and the department of natural resources to jointly
16 submit water quality management plans to the United States
17 environmental protection agency.

18 The division makes an appropriation from the environment
19 first fund to the division of soil conservation for FY
20 2012-2013 for water quality monitoring.

21 The division takes effect November 1, 2012.

22 MANURE APPLICATION MANAGEMENT. This division transfers
23 administration of Code sections 459.310 through 459.319 from
24 the department of natural resources to the department of
25 agriculture and land stewardship. The Code sections relate
26 to certain distance requirements related to manure control,
27 stockpiling of dry manure, manure management plans, the
28 application of manure to land, and licensure, certification,
29 and educational requirements related to manure application.
30 The division makes conforming amendments.

31 The amendment of Code section 459.315, relating to
32 certification and educational requirements for commercial
33 manure service representatives, takes effect July 1, 2011. The
34 remaining sections of the division take effect July 1, 2012.

35 NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMITS.

1 This division allows the department of agriculture and land
2 stewardship to issue permits related to the administration
3 of the national pollutant discharge elimination system
4 permit program. Such permits are limited to permits related
5 to agricultural sources and concentrated animal feeding
6 operations. The division allows fees to be charged in relation
7 to the permits and requires fees to be deposited in the
8 agriculture-related national pollutant discharge elimination
9 system permit fund. The fund is created as a separate fund in
10 the state treasury under the control of the department. Moneys
11 in the fund are appropriated to the department for purposes of
12 administering the permit program. Currently, the department
13 of natural resources issues all permits related to the
14 administration of the national pollutant discharge elimination
15 system permit program.

16 The division takes effect November 1, 2013.

17 TRANSITIONAL PROVISIONS. This division requires the
18 department of natural resources to assist in the transfer of
19 duties under the bill and in the amending of any delegation
20 agreement with the United States environmental protection
21 agency.

22 By August 1, 2011, the division requires the department of
23 natural resources to provide the department of agriculture and
24 land stewardship copies of any outstanding contracts relating
25 to the administration of any duties addressed in the bill.

26 The division requires the department of natural resources
27 to assign and the department of agriculture and land
28 stewardship to assume all outstanding contracts entered
29 into by the department of natural resources and the United
30 States environmental protection agency related to the use of
31 moneys for purposes of section 319 of the federal Clean Water
32 Act, total maximum daily load development, nonpoint source
33 management plans, and manure applicator certification training.
34 Contracts related to enforcement or enforcement investigation
35 are not included.

H.F. _____

- 1 The division takes effect upon enactment.