

**Senate Study Bill 1046 - 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.