

Senate Study Bill 1186 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
NATURAL RESOURCES AND
ENVIRONMENT BILL BY
CHAIRPERSON DEARDEN)

A BILL FOR

1 An Act relating to operations and procedures of the department
2 of natural resources and the environmental protection
3 commission.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 455B.103, subsection 2, Code 2011, is
2 amended to read as follows:

3 2. Recommend to the commission the adoption of rules to
4 implement the programs and services assigned to it. The
5 director shall not recommend the adoption of any rules, allow
6 the department to engage in any enforcement actions, or impose
7 permit conditions or requirements that exceed the requirements
8 of federal law or regulations.

9 Sec. 2. Section 455B.103A, subsection 1, paragraph b, Code
10 2011, is amended to read as follows:

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

20 Sec. 3. Section 455B.105, subsection 3, Code 2011, is
21 amended to read as follows:

22 3. Adopt, modify, or repeal rules necessary to implement
23 this chapter, chapter 459, chapter 459A, and chapter 459B, and
24 the rules deemed necessary for the effective administration of
25 the department. ~~When the~~ The ~~commission proposes or adopts~~
26 shall not propose or adopt rules to implement a specific
27 federal environmental program ~~and the rules that~~ impose
28 requirements more restrictive than the federal program being
29 implemented ~~requires, the commission shall identify in its~~
30 ~~notice of intended action or adopted rule preamble each rule~~
31 ~~that is more restrictive than the federal program requires and~~
32 ~~shall state the reasons for proposing or adopting the more~~
33 ~~restrictive requirement. In addition, the.~~ When proposing or
34 adopting rules to implement a specific federal environmental
35 program, the commission shall include with its reasoning

1 produce a financial impact statement detailing the general
2 impact of the rules or proposed rules upon the affected
3 parties. It is the intent of the general assembly that the
4 commission exercise strict oversight of the operations of
5 the department. The rules shall include departmental policy
6 relating to the disclosure of information on a violation
7 or alleged violation of the rules, standards, permits, or
8 orders issued by the department and keeping of confidential
9 information obtained by the department in the administration
10 and enforcement of this chapter, chapter 459, chapter 459A,
11 and chapter 459B. Rules adopted by the executive committee
12 before January 1, 1981, shall remain effective until modified
13 or rescinded by action of the commission.

14 Sec. 4. Section 455B.197, unnumbered paragraph 1, Code
15 2011, is amended to read as follows:

16 The department may issue a permit related to the
17 administration of the national pollutant discharge elimination
18 system (NPDES) permit program pursuant to the federal Water
19 Pollution Control Act, 33 U.S.C. ch. 26, as amended, and
20 40 C.F.R. pt. 124 including but not limited to storm water
21 discharge permits issued pursuant to section 455B.103A. The
22 department shall not engage in enforcement actions or impose
23 permit conditions or requirements that exceed the requirements
24 of federal law or regulation. When an objection is issued by
25 the federal government regarding the issuance of a permit under
26 this section and the objection is based on federal policy or
27 guidance or a new or revised regulatory interpretation not yet
28 formally adopted by the administrator of the United States
29 environmental protection agency and not subject to judicial
30 review, the department shall proceed to issue the permit as
31 allowed by state law. The department may provide for the
32 receipt of applications and the issuance of permits as provided
33 by rules adopted by the department which are consistent with
34 this section. The department shall assess and collect fees
35 for the processing of applications and the issuance of permits

1 as provided in this section. The department shall deposit the
2 fees into the national pollutant discharge elimination system
3 permit fund created in section 455B.196. The fees shall be
4 established as follows:

5 EXPLANATION

6 This bill relates to operations and procedures of the
7 department of natural resources and the environmental
8 protection commission.

9 The bill prohibits the director of the department of
10 natural resources from recommending the adoption of any rules,
11 allowing the department to engage in any enforcement actions,
12 or imposing permit conditions or requirements that exceed the
13 requirements of federal law or regulations.

14 The bill eliminates a requirement for holders of certain
15 general permits that notice of activities must be published
16 in two newspapers with the largest circulation in the area in
17 which the facility is located.

18 Currently, when the environmental protection commission
19 proposes or adopts rules to implement a specific federal
20 environmental program and the rules impose requirements
21 more restrictive than the federal program being implemented
22 requires, the commission is required to identify in its
23 notice of intended action or adopted rule preamble each rule
24 that is more restrictive than the federal program requires
25 and to state the reasons for proposing or adopting the more
26 restrictive requirement. The bill eliminates these provisions
27 and prohibits the commission from proposing or adopting rules
28 that impose requirements more restrictive than the federal
29 program requires.

30 The bill eliminates a requirement that the commission
31 exercise strict oversight of the operations of the department.

32 The bill provides that when an objection is issued by
33 the federal government regarding the issuance of a permit
34 related to the national pollutant discharge elimination system
35 permit program and the objection is based on federal policy

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2 yet formally adopted by the administrator of the United States
3 environmental protection agency and not subject to judicial
4 review, the department shall proceed to issue the permit as
5 allowed by state law.