

b. Parents with a family income at or below one hundred percent of the federal poverty level who are under the age of twenty-one years and are participating, at a satisfactory level, in an approved training program or in an educational program.

c. Families with an income of more than one hundred percent but not more than one hundred forty percent of the federal poverty level whose members are employed at least twenty-eight hours per week.

d. Families with an income at or below one hundred seventy-five percent of the federal poverty level whose members are employed at least twenty-eight hours per week with a special needs child as a member of the family.

6. Nothing in this section shall be construed as or is intended as, or shall imply, a grant of entitlement for services to persons who are eligible for assistance due to an income level or other eligibility circumstance addressed in this section. Any state obligation to provide services pursuant to this section is limited to the extent of the funds appropriated for the purposes of state child care assistance.

Sec. 16. Section 239B.24, subsection 1, Code Supplement 1999, is amended to read as follows:

1. The following persons are deemed to be eligible for benefits under the state child care assistance program administered by the department in accordance with section 237A.13, notwithstanding the program's eligibility requirements or any waiting list:<sup>2</sup>

Sec. 17. CHILD CARE REIMBURSEMENT ALTERNATIVES. The department of human services shall review alternatives for applying child care reimbursement rates on a county, cluster, and regional basis. The department shall prepare a report concerning the review, including findings and recommendations. The report shall be submitted to the members of the joint appropriations subcommittee on human services, legislative fiscal bureau, and legislative service bureau on or before December 15, 2000.

Approved April 7, 2000

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## CHAPTER 1068

### WATER QUALITY INITIATIVES

S.F. 2371

**AN ACT** relating to the establishment of a water quality initiative program by the department of agriculture and land stewardship and the department of natural resources, defining and providing for the use of credible data for quality control and assurance procedures, and providing for other properly related matters, and providing an applicability date.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. NEW SECTION. 466.1 SHORT TITLE.

This chapter shall be known and may be cited as "Initiative on Improving Our Watershed Attributes (I on IOWA)".

Sec. 2. NEW SECTION. 466.2 LEGISLATIVE GOAL.

The goal of this chapter is to develop a comprehensive water quality program that will result in water quality improvements while reducing proposed regulatory impacts. The program shall use information, education, monitoring, technical assistance, data gathering

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<sup>2</sup> See chapter 1232, §91 herein

and evaluation, incentives, and more efficient issuance of permits. The program is expected to have a menu of initiatives and approaches to appeal to a broad audience of participants and shall be coordinated so that individual initiatives work toward the objective of improved water quality. The departments of agriculture and land stewardship and natural resources shall work cooperatively with federal agencies to obtain waivers and changes in rules and procedures at national and state levels to improve the federal programs' environmental and economic performance for Iowans. State agencies shall collaborate with other state agencies to attain the overall goal of improved water quality. The state department of transportation and the department of natural resources shall collaborate to provide for the preservation of topsoil, erosion control, water impoundment during highway construction and reconstruction, and restoration and management of roadside right-of-way for prairie restoration, wildlife habitat, and erosion control.

Sec. 3. NEW SECTION. 466.2A IOWA CLEAN WATER AWARD.

An Iowa clean water award is created. The governor and the general assembly shall give the award annually to a city or other political subdivision which has met criteria established by the department of natural resources and the department of agriculture and land stewardship identifying exemplary efforts to improve water quality within its jurisdiction.

Sec. 4. NEW SECTION. 466.3 CONSERVATION BUFFER STRIP PROGRAM.

1. As used in this section, "conservation buffer strip" means a riparian buffer, filter strip, waterway, contour buffer strip, shallow water area for wildlife, field border, or any vegetative barrier on private land that meets the criteria established by the United States department of agriculture, natural resources conservation service.

2. a. The department of agriculture and land stewardship, in consultation with the department of natural resources, shall establish a program to accelerate the United States department of agriculture's program to install conservation buffer strips in this state.

b. The department of agriculture and land stewardship shall request waivers from the United States department of agriculture to initiate projects that reward landowners maintaining current conservation practices. The goal of the projects is to discourage the destruction of existing conservation buffer strips and to monetarily reward landowners who maintain quality conservation practices. If the waivers are granted, up to twenty-five percent of the program resources shall be committed to establishing projects.

c. The department of agriculture and land stewardship shall request a waiver from the United States department of agriculture for the purpose of establishing that a person who is subject to a twenty-five percent reduction in conservation buffer strip payments due to grazing, shall be allowed ninety days to graze animals.

d. The department of natural resources shall establish a prairie seed harvest program to assist in the restoration of prairies and provide for private land stewardship and public resource management through assistance with the implementation of buffer and filter strip practices, and public or private habitat development and management. The department shall carry out these efforts through landowner contacts and cooperation with private and public organizations.

e. The five-year goal of the conservation buffer strip program shall be to meet the objective of water quality improvement by enrolling an additional four hundred seven thousand five hundred acres.

Sec. 5. NEW SECTION. 466.4 CONSERVATION RESERVE ENHANCEMENT PROGRAM.

1. A conservation reserve enhancement program is established within the department of agriculture and land stewardship to restore or construct wetlands for the purposes of intercepting tile line runoff, reducing nutrient loss, improving water quality, and enhancing agricultural production practices. The program shall be directed primarily, but not exclusively, toward the tile-drained areas of the state.

2. The department of agriculture and land stewardship shall request the assistance of and consult with the United States department of agriculture natural resources conservation

service and farm service agency to implement the conservation reserve enhancement program. The department shall also consult with county boards of supervisors, county conservation boards, drainage district representatives, department of natural resources, and soil and water conservation districts affected by the implementation of the conservation reserve enhancement program. The department shall also collaborate with other public agencies and private organizations to develop wetland habitat and related projects to improve water quality.

3. The department of agriculture and land stewardship shall maintain a record of all wetlands established pursuant to the conservation reserve enhancement program including any conditions that may apply to the landowner's right to remove the wetland after the provisions of the conservation reserve enhancement program contract or easement are concluded.

4. When establishing a wetland under this subsection, the department of agriculture and land stewardship shall be governed by the following requirements:

a. Wetland construction or restoration shall not damage the value of property in any public or private drainage system without the property owner's consent.

b. Wetland construction or restoration shall improve water quality and provide aesthetic and habitat benefits.

c. Wetland construction or restoration under this section may be used to mitigate wetland removal by the landowner if it meets the requirements of federal agencies with wetland jurisdictional authorities. Where practicable, priority shall be given to mitigating wetland removal within the same United States geological survey hydrologic unit code 8 watershed, but a watershed confines shall not limit the use of duly authorized wetland mitigation banks.

5. The five-year goal of the conservation reserve enhanced program is the establishment of thirty-two thousand five hundred acres of wetlands.<sup>1</sup>

Sec. 6. NEW SECTION. 466.5 WATER QUALITY MONITORING.

The department of natural resources shall operate water quality monitoring stations for the purpose of gathering information and data to establish benchmarks for water quality in this state.

Sec. 7. NEW SECTION. 466.6 WATER QUALITY PROTECTION PROGRAM.

1. The department of agriculture and land stewardship shall implement, in conjunction with the federal government and other entities, a program that provides multiobjective resource protections for flood control, water quality, erosion control, and natural resource conservation.

2. The department of agriculture and land stewardship shall implement a statewide, voluntary farm management demonstration program to demonstrate the effectiveness and adaptability of emerging practices in agronomy that protect water resources and provide other environmental benefits. A demonstration program under this subsection may complement, but shall not duplicate, projects conducted by Iowa state university extension service. The demonstration program shall be designed to concentrate on management techniques in both the livestock and crop genres and shall be offered to farm operators through an educational setting and demonstration projects. The demonstration program shall be offered in conjunction with the community colleges, Iowa state university, and private farmer demonstrations. Continuing education units shall be offered. The educational program shall be offered at no cost to farm operators who file a schedule F with the Internal Revenue Service and do not have permitted livestock facilities or are certified under a manure management plan.

3. The department of agriculture and land stewardship shall provide financial assistance for the establishment of permanent soil and water conservation practices.

4. The department of natural resources shall establish a program to assist homeowners residing outside the boundaries of a city with improving on-site wastewater systems. The department shall adopt rules to administer the on-site wastewater system program. At a minimum, the rules shall determine criteria for enrollment into the program, identify methods

<sup>1</sup> See chapter 1232, §75 herein

and tools available for making and securing loans, establish limits for loan amounts and terms, and provide assistance to county environmental health officials to inspect on-site systems. The department of natural resources shall report to the general assembly on the progress of the on-site wastewater system program. Notwithstanding section 8.33, unencumbered or unobligated funds remaining from the funds appropriated for this subsection shall not revert and shall be available for expenditure during subsequent fiscal years.

5. The department of natural resources shall provide local watershed managers with geographic information system data for their use in developing, monitoring, and displaying results of their watershed work. The local watershed data shall be considered public records and are accessible to the public pursuant to chapter 22.

6. The department of natural resources shall develop a program that provides support to local volunteer management efforts to the different programs concerned with water quality. The department shall assist in coordinating and tracking of the volunteer component of these programs to increase efficiency and avoid duplication of efforts in water quality monitoring and watershed improvement.

7. The department of natural resources shall provide for activities supporting the analysis of water quality monitoring data for trends and for the preparation and presentation of data to the public.

8. The department of natural resources shall contract to assist its staff with the review of national pollutant discharge elimination system permits.

9. The department of natural resources shall expand floodplain protection education to better inform local officials that make decisions with regard to floodplain management.

10. The department of natural resources shall continue the establishment of an effective and efficient method of developing a total maximum daily load program, based on information gathered on other states' programs and investigation into alternative methods for satisfying the requirements.

Sec. 8. Section 161C.2, subsection 1, Code 1999, is amended to read as follows:

1. a. Each soil and water conservation district, alone and whenever practical in conjunction with other districts, shall carry out district-wide and multiple-district projects to support water protection practices in the district or districts, including projects to protect this state's groundwater and surface water from point and nonpoint sources of contamination, including but not limited to contamination by agricultural drainage wells, sinkholes, sedimentation, or chemical pollutants.

b. Any work project with an estimated cost of twenty-five thousand dollars or more shall be undertaken as a public contract as provided in chapters 73A and 573. The local contracting organization shall designate a contracting officer and shall establish procedures to manage the contract, approve bills for payment, and review proposed change orders or amendments to the contract.

Sec. 9. Section 455B.171, Code 1999, is amended by adding the following new subsections:

NEW SUBSECTION. 10A. "Credible data" means scientifically valid chemical, physical, or biological monitoring data collected under a scientifically accepted sampling and analysis plan, including quality control and quality assurance procedures. Data dated more than five years before the department's date of listing or other determination under section 455B.194, subsection 1, shall be presumed not to be credible data unless the department identifies compelling reasons as to why the data is credible.

NEW SUBSECTION. 14A. "Historical data" means data collected more than five years before the department's date of listing or other determination under section 455B.194, subsection 1.

NEW SUBSECTION. 19A. "Naturally occurring condition" means any condition affecting water quality which is not caused by human influence on the environment including, but not limited to, soils, geology, hydrology, climate, wildlife influence on the environment, and water flow with specific consideration given to seasonal and other natural variations.

NEW SUBSECTION. 31A. "Section 303(d) list" means any list required under 33 U.S.C. § 1313(d).

NEW SUBSECTION. 31B. "Section 305(b) list" means any report or list<sup>2</sup> required under 33 U.S.C. § 1315(b).

NEW SUBSECTION. 39A. "Total maximum daily load" means the same as in the federal Water Pollution Control Act.

Sec. 10. NEW SECTION. 455B.193 QUALIFICATIONS FOR COLLECTION OF CREDIBLE DATA.

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

1. Data is not credible data unless the data originates from studies and samples collected by the department, a professional designee of the department, or a qualified volunteer. For purposes of this subsection, "professional designee" includes governmental agencies other than the department, and a person hired by, or under contract for compensation with, the department to collect or study data.

2. All information submitted by a qualified volunteer shall be reviewed and approved or disapproved by the department. The qualified volunteer shall submit a site specific plan with data which includes information used to obtain the data, the sampling and analysis plan, and quality control and quality assurance procedures used in the monitoring process. The qualified volunteer must provide proof to the department that the water monitoring plan was followed. The department shall review all data collected by a qualified volunteer, verify the accuracy of the data collected by a qualified volunteer, and determine that all components of the water monitoring plan were followed.

3. The department shall retain all information submitted by a qualified volunteer submitting the information for a period of not less than ten years from the date of receipt by the department. All information submitted shall be a public record.

4. The department shall adopt rules establishing requirements for a person to become a qualified volunteer.

The department of natural resources shall develop a methodology for water quality assessments as used in the section 303(d) listings<sup>3</sup> and assess the validity of the data.

Sec. 11. NEW SECTION. 455B.194 CREDIBLE DATA REQUIRED.

1. The department shall use credible data when doing any of the following:

- a. Developing and reviewing any water quality standard.
- b. Developing any statewide water quality inventory or other water assessment report.
- c. Determining whether any water of the state is to be placed on or removed from any section 303(d) list.
- d. Determining whether any water of the state is supporting its designated use or other classification.
- e. Determining any degradation of a water of the state under 40 C.F.R. § 131.12.
- f. Establishing a total maximum daily load for any water of the state.

2. Notwithstanding subsection 1, credible data shall not be required for any section 305(b) report and credible data shall not be required for the establishment of a designated use or other classification of a water of the state.

3. This section shall not be construed to require credible data as defined in section 455B.171, subsection 10A, in order for the department to bring an enforcement action for an illegal discharge.

Sec. 12. NEW SECTION. 455B.195 USE OR ANALYSIS OF CREDIBLE DATA.

1. For any use or analysis of credible data described in section 455B.194, subsection 1, all of the following shall apply:

a. The use of credible data shall be consistent with the requirements of the federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.

<sup>2</sup> See chapter 1232, §72 herein

<sup>3</sup> See chapter 1232, §73 herein

b. The data quality for removal of water of the state from any list of impaired waters including any section 303(d) list shall be the same as the data quality for adding a water to that list.

c. A water of the state shall not be placed on any section 303(d) list if the impairment is caused solely by violations of national pollutant discharge elimination system program permits or stormwater permits issued pursuant to section 455B.103A and the enforcement of the pollution control measures is required.

d. A water of the state shall not be placed on any section 303(d) list if the data shows an impairment, but existing technology-based effluent limits or other required pollution control measures are adequate to achieve applicable water quality standards.

e. If a pollutant causing an impairment is unknown, the water of the state may be placed on a section 303(d) list. However, the department shall continue to monitor the water of the state to determine the cause of impairment before a total maximum daily load is established for the water of the state and a water of the state listed with an unknown status shall retain a low priority for a total maximum daily load development until the cause of the impairment is determined unless the department, after taking into consideration the use of the water of the state and the severity of the pollutant, identifies compelling reasons as to why the water of the state should not have a low priority.

f. When evaluating the waters of the state, the department shall develop and maintain three separate listings including a section 303(d) list, a section 305(b) report, and a listing for which further investigative monitoring is necessary. The section 305(b) report shall be a summary of all potential impairments for which credible data is not required. If credible data is not required for a section 305(b) report, the placement of a water of the state on any section 305(b) report alone is not sufficient evidence for the water of the state's placement on any section 303(d) list. When developing a section 303(d) list, the department is not required to use all data, but the department shall assemble and evaluate all existing and readily available water quality-related data and information. The department shall provide documentation to the regional administrator of the federal environmental protection agency to support the state's determination to list or not to list its waters.

g. The department shall take into consideration any naturally occurring condition when placing or removing any water of the state on any section 303(d) list, and establishing or allocating responsibility for a total maximum daily load.

h. Numerical standards shall have a preference over narrative standards. A narrative standard shall not constitute the basis for determining an impairment unless the department identifies specific factors as to why a numeric standard is not sufficient to assure adequate water quality.

i. If the department has obtained credible data for a water of the state, the department may also use historical data for that particular water of the state for the purpose of determining whether any trends exist for that water of the state.

2. This section shall not be construed to require or authorize the department to perform any act listed in section 455B.194, subsection 1, not otherwise required or authorized by applicable law.

Sec. 13. LEGISLATIVE STUDY. The legislative council is requested to establish an interim study relating to the use of plant nutrients on Iowa soil. The committee is directed to submit its findings, with any recommendations, in a report to the general assembly not later than January 15, 2001.

Sec. 14. APPLICABILITY OF SECTION 303(d) LISTS. This Act takes effect July 1, 2000. However, any requirements under this Act which apply to a section 303(d) list shall not apply for the section 303(d) list for the year 2000, but any requirements shall take effect for all section 303(d) lists created after the year 2000 list.