

## CHAPTER 97

### SEWAGE DISPOSAL REGULATION AND ENFORCEMENT

S.F. 407

**AN ACT** relating to counties and other regulated entities and the permitting and enforcement powers of the department of natural resources in relation to the inspection and construction of certain sewage disposal systems and authorizing penalties.

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

Section 1. Section 331.382, Code 2011, is amended by adding the following new subsection:

**NEW SUBSECTION.** 10. The board shall issue permits, conduct inspections, and adopt standards related to the construction of semipublic sewage disposal systems, as defined in section 455B.171, in relation to authority delegated by the department of natural resources pursuant to sections 455B.174 and 455B.183. Construction standards adopted pursuant to this subsection shall be consistent with and equivalent to the construction standards adopted by the environmental protection commission pursuant to section 455B.173, subsection 3. The county may adopt such standards by reference.

Sec. 2. Section 455B.174, subsection 4, Code 2011, is amended by adding the following new paragraph:

**NEW PARAGRAPH.** *f.* The department may enter into an agreement with a county to delegate to the county the duties of the department under this subsection as they relate to the construction of semipublic sewage disposal systems.

Sec. 3. Section 455B.175, Code 2011, is amended to read as follows:

#### **455B.175 Violations.**

1. If there is substantial evidence that any person has violated or is violating any provision of this part of this division, chapter 459, subchapter III, chapter 459A, or chapter 459B, or of any rule or standard established or permit issued pursuant thereto; then:

1. *a.* The director may issue an order directing the person to desist in the practice which constitutes the violation or to take such corrective action as may be necessary to ensure that the violation will cease. The person to whom such order is issued may cause to be commenced a contested case within the meaning of the Iowa administrative procedure Act, chapter 17A, by filing with the director within thirty days a notice of appeal to the commission. On appeal the commission may affirm, modify or vacate the order of the director; or

2. *b.* If it is determined by the director that an emergency exists respecting any matter affecting or likely to affect the public health, the director may issue any order necessary to terminate the emergency without notice and without hearing. Any such order shall be binding and effective immediately and until such order is modified or vacated at a hearing before the commission or by a court; or

3. *c.* The director, with the approval of the commission, may request the attorney general to institute legal proceedings pursuant to section 455B.191 or 459.604.

2. Notwithstanding the limitations on civil and criminal penalty amounts in sections 331.302 and 331.307, a county that has entered into an agreement with the department pursuant to sections 455B.174 and 455B.183 regarding the construction of semipublic sewage disposal systems may assess civil penalties in amounts consistent with and not exceeding the amounts established for such penalties under this division.

Sec. 4. Section 455B.183, Code 2011, is amended by adding the following new subsection:

**NEW SUBSECTION.** 8. The department may enter into an agreement with a county to delegate to the county the duties of the department under this section as they relate to the construction of semipublic sewage disposal systems.

Sec. 5. Section 455B.191, Code 2011, is amended by adding the following new subsection:  
NEW SUBSECTION. 8. Any civil penalty collected by the state or a county relating to the construction of semipublic sewage disposal systems shall be deposited in the unsewered community revolving loan fund created pursuant to section 16.141.

Sec. 6. Section 455B.199B, subsection 2, Code 2011, is amended to read as follows:

2. The department shall find that a regulated entity and the affected community are a disadvantaged community by ~~using~~ evaluating all of the following criteria:

a. ~~The ability of the regulated entity and the affected community to pay for a project based on the ratio of the total annual project costs per household to median household income.~~

b. Median household income in the community as a percentage of statewide household income and the unemployment rate of the county in which the community is located.

~~b. Annual water and sewer rates as a percentage of median household income.~~

~~c. Families below the poverty level in the community as a percentage of the statewide number of families below the poverty level.~~

~~d. Per capita The outstanding debt of the system as a percentage of median household income and the bond rating of the community.~~

~~e. Cost effectiveness calculated by determining construction costs per user.~~

Sec. 7. Section 455B.199B, Code 2011, is amended by adding the following new subsections:

NEW SUBSECTION. 2A. The department shall find that an unsewered community is a disadvantaged community by evaluating all of the following:

a. The ability of the community to pay for a project based on the ratio of the total annual project costs per household to median household income.

b. The unemployment rate in the county where the community is located.

c. The median household income of the community.

NEW SUBSECTION. 2B. The department shall not consider a regulated entity, affected community, or unsewered community a disadvantaged community if the ratio of compliance costs to median household income is below one percent.

NEW SUBSECTION. 3A. The department shall not require installation of a wastewater treatment system by an unsewered community if the department determines that such installation would create substantial and widespread economic and social impact.

Approved April 28, 2011