

the time fixed for hearing on ~~said-improvement~~ the proposed improvements, with the county auditor, or auditors in case the district extends into more than one county. If ~~such a~~ a remonstrance is filed, the board shall discontinue and dismiss all further proceedings on ~~said--improvement~~ the proposed improvements and charge the costs incurred to date for ~~said~~ the proposed improvement improvements to the district. Any interested party ~~shall-have-the-right-of~~ may appeal from such orders in the manner provided in this chapter. ~~Provided,--however,--that--the--provisions--of~~ However, this section ~~shall~~ does not affect the procedures of section 455.142 covering the common outlet.

Approved March 26, 1981

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CHAPTER 151  
HAZARDOUS WASTE MANAGEMENT  
S. F. 485

AN ACT relating to hazardous waste management, including new prohibited acts and providing penalties for violations.

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

Section 1. Section 455B.130, subsection 2, paragraph b, subparagraph (2), Code 1981, is amended by striking the subparagraph.

Sec. 2. Section 455B.133, subsection 3, Code 1981, is amended by striking the subsection and inserting in lieu thereof the following:

3. When the commission amends a rule adopted under section 455B.131, subsection 2, identifying additional characteristics of hazardous waste or listing an additional substance as hazardous waste, the commission may require a person to file the notification required by subsection 1 or 2 of this section.

Sec. 3. Section 455B.135, subsections 1 and 2, Code 1981, are amended to read as follows:

1. For purposes of developing a rule, ~~or~~ conducting a study of hazardous waste management, compiling a site inventory, or enforcing sections 455B.130 to 455B.140, a person who generates, stores, treats, transports, disposes of or otherwise handles or has handled hazardous waste shall, upon request of the executive director, furnish ~~or~~ information relating to the hazardous waste and permit the executive director at reasonable times to have access to and copy records relating to the waste. For the purpose of developing a rule or enforcing sections 455B.130 to 455B.140, the executive director may:

a. Enter at reasonable times an establishment or other place ~~maintained by--a--person~~ where hazardous waste is or has been generated, stored, treated or disposed of, or a vehicle transporting hazardous waste.

b. Inspect and obtain samples from a person of a hazardous waste and of containers or labeling associated with the waste.

c. Install, service and take samples from monitoring equipment on the property.

The inspection shall be completed within a reasonable period of time.

2. If the ~~officer-or-employee~~ executive director obtains a sample, prior to leaving the premises, the ~~officer-or--employee~~ executive director shall give the owner, operator, or agent in charge a receipt describing the sample obtained and if requested a portion of each sample equal in volume or weight to the portion retained. If the sample is analyzed, a copy of the results of the analysis shall be furnished promptly to the owner, operator, or agent in charge.

Sec. 4. Section 455B.135, Code 1981, is amended by adding the following new subsection:

NEW SUBSECTION.

a. If upon receipt of any information, the executive director determines that the presence of a hazardous waste at a facility or site at which hazardous waste is, or has been, stored, treated, or disposed of, or the release of the waste from the facility or site may present a substantial hazard to human health or the environment, the executive director may issue an order requiring the owner or operator of the facility or site to conduct reasonable monitoring, testing, analysis, and reporting with respect to the facility or site to determine the nature and extent of the hazard.

b. In the case of a facility or site not in operation at the time a determination is made regarding the facility or site under this subsection, if the executive director finds that the owner of the facility or site could not reasonably be expected to have actual knowledge of the presence of hazardous waste at the facility or site and of its potential for release, the executive director may issue an order requiring the most recent previous owner or operator of the facility or site who could reasonably be expected to have actual knowledge to carry out the actions referred to in this subsection.

c. An order under this subsection shall require the person to whom the order is issued to submit to the executive director within thirty days from the issuance of the order a proposal for carrying out the required monitoring, testing, analysis, and reporting. The executive director may, after providing the person with an opportunity to confer with the executive director on the proposal, require the person to carry out the monitoring, testing, analysis, and reporting in accordance with the proposal, which may be modified as the executive director deems reasonable to determine the nature and extent of the hazard or to remove the hazard.

d. If the executive director determines that no owner or operator referred to in this subsection is able to conduct monitoring, testing, analysis, or reporting satisfactory to the executive director, if the executive director deems any action carried out by an owner or operator to be unsatisfactory, or if the executive director cannot initially determine that there is an owner or operator referred to in this subsection who is able to conduct monitoring, testing, analysis, or reporting, the executive director

may conduct reasonable monitoring, testing, or analysis to determine the nature and extent of the hazard associated with the site. The executive director may require the owner or operator referred to in this subsection to reimburse the executive director or other authority or person for the costs of the monitoring, testing, analysis, or reporting. The executive director shall not order a person to pay the costs of monitoring, testing, analysis, or reporting carried out by the executive director which confirms the results of monitoring, testing, or analysis done pursuant to an earlier order of the executive director.

e. For purposes of carrying out this subsection, the executive director may exercise the powers set forth in subsection 1.

Sec. 5. Section 455B.136, subsection 1, paragraphs b and c, Code 1981, are amended to read as follows:

b. ~~Dispose~~ Treat, store, or dispose of a hazardous waste listed under sections 455B.130 to 455B.140 either without having obtained a permit for the treatment, storage, or disposal under section 455B.134, subsection 1 or in violation of a material condition or requirement of a permit.

c. Make a false material statement or representation in an application, label, manifest, record, report, permit or other document filed, maintained or used for purposes of compliance with the provisions of sections 455B.130 to 455B.140.

Sec. 6. Section 455B.136, subsection 1, Code 1981, is amended by adding the following new lettered paragraph:

NEW LETTERED PARAGRAPH. d. Destroy, alter or conceal after the effective date of this Act any record required to be kept under rules adopted by the commission under this part. This paragraph applies to all persons who generated, stored, treated, transported, disposed of, or otherwise handled hazardous waste after November 19, 1980.

Sec. 7. Section 455B.136, subsection 2, Code 1981, is amended to read as follows:

2. A person who violates ~~the provisions of~~ subsection 1 ~~of this section~~ is subject upon conviction to a fine of not more than twenty-five thousand dollars or to imprisonment for not to exceed one year, or both for each day of violation. If the conviction is for a violation committed after a first conviction, punishment shall be by a fine of not more than fifty thousand dollars or by imprisonment for not more than two years, or both for each day of violation.

Sec. 8. Section 455B.136, Code 1981, is amended by adding the following new subsections:

NEW SUBSECTION. A person who fails or refuses to comply with an order issued under section 4 of this Act is subject to a civil penalty of not more than five thousand dollars for each day the failure or refusal occurs and the court may require the person to comply with the order.

NEW SUBSECTION. A person who violates a requirement of this part or of a rule adopted under this part is in addition to the penalty provided in subsection 2 subject to a civil penalty not to exceed twenty-five thousand dollars for each violation. Each day of violation constitutes a separate violation.

Sec. 9. Section 455B.137, subsection 1, unnumbered paragraph 1, Code 1981, is amended to read as follows:

If the executive director has ~~conclusive~~ substantial evidence that a person has violated or is violating a provision of sections 455B.130 to 455B.140, or of a rule or standard established or permit issued pursuant to sections 455B.130 to 455B.140 ~~and-if-subsection-4-of-this-section-does-not apply:~~

Sec. 10. Section 455B.137, subsection 1, paragraph a, Code 1981, is amended to read as follows:

a. The executive director may issue an order directing the person to desist in the practice that constitutes the violation or to take corrective action as necessary to ensure that the violation will cease. ~~Before-issuing the-order-the-executive-director-shall-notify-the-person-of-the-violation-and-that-if-compliance-is-not-achieved-within-thirty-days-following--the--receipt-of-the-notice-the-order-may-be-issued.~~ The person to whom the order is issued may commence a contested case within the meaning of chapter 17A by filing with the executive director within thirty days of receipt of the order a notice of appeal to the commission. On appeal, the commission may affirm, modify or vacate the order of the executive director.

Sec. 11. Section 455B.137, subsection 4, Code 1981, is amended by striking the subsection.

Sec. 12. Section 455B.139, Code 1981, is amended to read as follows:

455B.139 RULES. Rules adopted by the commission under sections 455B.130 to 455B.140 shall be consistent with and shall not exceed the requirements of 42 U.S.C. ~~6921--6931--(1979)~~ secs. 6921-6934 as amended to ~~March--15--1979~~ January 1, 1981 and rules and regulations ~~promulgated~~ adopted pursuant to those sections.

Approved May 14, 1981

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CHAPTER 152  
HAZARDOUS WASTES  
S. F. 420

AN ACT relating to the siting of hazardous waste treatment, storage and disposal facilities, providing penalties and imposing a surcharge on the fee for land burial of hazardous waste.

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

Section 1. NEW SECTION. PURPOSE AND GUIDELINES. The purpose of this Act is to protect the public health and the environment by providing a procedure for establishing appropriate sites and properly designed facilities for the treatment, storage and disposal of hazardous waste. It is the intent of the general assembly that in the implementation of this Act the department of