

CHAPTER 1158
REGULATION OF HAZARDOUS WASTE
S.F. 2214

AN ACT relating to the regulation of hazardous waste and subjecting violators to a civil penalty.

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

Section 1. Section 455B.103, subsection 8, unnumbered paragraph 1, Code 1983, is amended to read as follows:

Conduct investigations of complaints received directly or referred by the commission created in section 455B.104 or ~~such~~ other investigations deemed necessary. While conducting an investigation, the executive director may enter at any reasonable time in and upon any private or public property, ~~except private dwellings,~~ to investigate any actual or possible violation of the ~~provisions~~ of this chapter or the rules or standards adopted under this chapter. However, the owner or person in charge shall be notified.

Sec. 2. Section 455B.411, subsection 2, paragraph a, subparagraph (2), Code 1983, is amended to read as follows:

(2) Poses a substantial ~~danger present or potential hazard~~ to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. "Hazardous waste" may include but is not limited to wastes that are toxic, corrosive or flammable or irritants, strong sensitizers or explosives.

Sec. 3. Section 455B.412, subsection 3, Code 1983, is amended to read as follows:

3. Adopt rules, applicable to generators or transporters of or owners or operators of facilities for the treatment, storage, or disposal of hazardous waste listed or identified by the commission under subsection 2 of this section, as necessary to protect human health and the environment. The rules shall include establishment of a manifest system.

Sec. 4. Section 455B.413, subsection 1, Code 1983, is amended to read as follows:

1. Issue, revoke, suspend, modify or deny permits for persons owning or operating a facility for the treatment, storage or disposal of a hazardous waste listed identified by the commission under section 455B.412, subsection 2. Permits shall be issued for such a period as the commission may by rule prescribe.

Sec. 5. Section 455B.414, Code 1983, is amended to read as follows:

455B.414 HAZARDOUS WASTE NOTIFICATION.

1. A person who on the effective date of a rule adopted under section 455B.412, subsection 2 ~~listing identifying~~ a hazardous waste as subject to sections 455B.411 to 455B.421 is generating or transporting the listed identified hazardous waste or owns or is operating a treatment, storage or disposal facility handling the listed identified hazardous waste shall file with the executive director a notification stating the waste handled by the person and the location and a general description of the activity involving the waste. The notice shall be given within ninety days after the effective date of the rule ~~listing identifying~~ the waste.

2. Except as provided in subsection 1 of this section, a person shall not commence to transport or generate a hazardous waste listed identified by rule under section 455B.412, subsection 2 without first notifying the executive director of the proposed activity. The notice shall state the waste to be handled, and the location and a general description of the activity involving the listed identified waste.

3. When the commission amends a rule adopted under section 455B.412, subsection 2, identifying additional characteristics of hazardous waste or listing identifying 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. 6. Section 455B.415, subsections 1, 2, and 4, Code Supplement 1983, is amended to read as follows:

1. Except as provided in subsections 2 and 4, a person shall not construct or operate a facility for the treatment, storage or disposal of a hazardous waste listed identified under section 455B.412, subsection 2 unless the owner or operator has obtained a permit for the facility from the executive director.

2. The owner or operator of a facility for the treatment, storage or disposal of a hazardous waste listed identified under section 455B.412, subsection 2 existing on the effective date of the rule listing the waste shall obtain a permit for the facility within six months of the effective date of the rule. A person owning or operating a facility for the treatment, storage or disposal of a hazardous waste that existed on the effective date of the rule listing identifying the waste and that is required to have a permit under sections 455B.411 to 455B.421 is considered to have a permit until such time as a final administrative determination is made if the person meets the following conditions:

- a. The person has given notice as required by section 455B.414.
- b. The person has applied for a permit.
- c. The executive director has determined that the failure to issue the permit is not the result of the failure of the applicant to furnish information reasonably required or requested to process the application.

4. A permit is not required for the storage of a hazardous waste listed identified under section 455B.412, subsection 2 when the only purpose of the storage is to accumulate for a period of up to ninety days sufficient quantities of the waste for transportation, treatment or disposal unless a permit for the storage is required under federal law.

Sec. 7. Section 455B.417, subsection 1, paragraphs a and b, Code 1983, is amended to read as follows:

a. Transport a hazardous waste listed identified under the commission's rules to a hazardous waste storage, treatment or disposal facility that is located in Iowa and that does not have a permit under section 455B.415, subsection 1.

b. Treat, store, or dispose of a hazardous waste listed identified under sections 455B.411 to 455B.421 either without having obtained a permit for the treatment, storage, or disposal under section 455B.415, subsection 1, or in violation of a material condition or requirement of a permit.

Sec. 8. Section 455B.417, subsections 3, 4, 5, and 6, Code 1983, are amended by striking the subsections and inserting in lieu thereof the following:

3. A person who violates a provision of this part or a rule, permit, or order adopted or issued under this part is subject to a civil penalty not to exceed ten thousand dollars for each violation. Each day of violation constitutes a separate violation.

Sec. 9. Section 455B.419, Code 1983, is amended to read as follows:

455B.419 AGRICULTURAL CHEMICALS.

1. A person farmer using or disposing of federally approved agricultural chemicals or the empty containers thereof shall of agricultural chemicals is not be in violation of sections 455B.411 to 455B.421 by reason of such the use or disposal provided that if the person farmer does both of the following:

1 a. Applies or disposes of the chemicals in accordance with the manufacturer's instructions, and.

2 b. Triple rinses each chemical container after it has been emptied and uses the rinsing as makeup water in a tankmix and applies the mix to the farmer's cropland at an application rate that does not exceed the manufacturer's instructions.

2. As used in this section, farmer means an owner or tenant of a farm unit, a member of the family of the owner or tenant, or an employee of the owner or tenant. Farmer does not include a commercial applicator of agricultural chemicals.

Approved April 30, 1984

CHAPTER 1159

DEPARTMENT OF WATER, AIR AND WASTE MANAGEMENT
ENFORCEMENT REMEDIES

S.F. 2217

AN ACT establishing uniform enforcement remedies for the department of water, air and waste management, and imposing civil penalties.

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

Section 1. **NEW SECTION. 455B.109 SCHEDULE OF FINES—MINOR VIOLATIONS.**

1. The commission may establish, by rule, a schedule or range of civil penalties which may be administratively assessed. The schedule shall provide procedures and criteria for the administrative assessment of penalties of not more than one thousand dollars for minor violations of this chapter or rules, permits or orders adopted or issued under this chapter. In adopting a schedule or range of penalties and in proposing or assessing a penalty, the commission and executive director shall consider among other relevant factors the following:

- a. The costs saved or likely to be saved by noncompliance by the violator.
- b. The gravity of the violation.
- c. The degree of culpability of the violator.
- d. The maximum penalty authorized for that violation under this chapter.

Penalties may be administratively assessed only after an opportunity for a contested case hearing which may be combined with a hearing on the merits of the alleged violation. Major violations, violations not fitting within the schedule, or violations which the commission determines should be referred to the attorney general for legal action shall not be governed by the schedule established under this subsection.