

CHAPTER 1023

NATURAL RESOURCES — DEPARTMENTAL DUTIES — PROGRAMS

H.F. 2303

AN ACT relating to the duties of and programs administered by the department of natural resources, and making penalties applicable.

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

Section 1. [Section 455A.4, subsection 1](#), paragraph b, Code 2018, is amended to read as follows:

b. Provide overall supervision, direction, and coordination of functions to be administered by the administrators under [chapters 321G, 321I, 455B, 455C, 456, 456A, 456B, 457A, 458A, 459, 459A, 459B, 461A, 462A, 462B, 464A, 465C, 473, 481A, 481B, 483A, 484A, and 484B](#).

Sec. 2. [Section 455B.105, subsection 5](#), Code 2018, is amended to read as follows:

5. Make a concise ~~annual~~ biennial report to the governor and the general assembly, which report shall contain information relating to the accomplishments and status of the programs administered by the department and include recommendations for legislative action which may be required to protect or enhance the environment or to modernize the operation of the department or any of the programs or services assigned to the department and recommendations for the transfer of powers and duties of the department as deemed advisable by the commission. The ~~annual~~ biennial report shall conform to the provisions of [section 7A.3](#).

Sec. 3. [Section 455B.174, subsection 5](#), paragraph a, Code 2018, is amended to read as follows:

a. ~~Conduct random inspections of work done~~ Periodically review permits and reports submitted by city and county public works departments in accordance with [section 455B.183, subsection 3](#), to ensure such public works departments are complying with this part of this division. If a city or county public works department is not complying with [section 455B.183](#) in reviewing plans and specifications or in granting permits or both, the department shall perform these functions in that jurisdiction until the city or county public works department is able to perform them. Performance of these functions in a jurisdiction by a local public works department shall not be suspended or revoked until after notice and opportunity for hearing as provided in [chapter 17A](#).

Sec. 4. [Section 455B.301, subsection 23](#), Code 2018, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. Material that is legitimately recycled pursuant to [section 455D.4A](#).

Sec. 5. [Section 455D.1, subsection 5](#), Code 2018, is amended to read as follows:

5. “Recycling” means any process by which waste, or materials ~~which that~~ would otherwise become waste, are collected, separated, or processed and revised or returned to use in the form of raw materials or products pursuant to [section 455D.4A](#). “Recycling” includes but is not limited to the composting of yard waste which has been previously separated from other waste, but does not include any form of energy recovery.

Sec. 6. [Section 455D.1](#), Code 2018, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. “Scrap metal” means any ferrous or nonferrous metal suitable for reprocessing into a viable market commodity grade specification.

Sec. 7. NEW SECTION. **455D.4A Recycling.**

1. For the purpose of [this section](#), “recycling facility” means any facility, business, or operation that has the stated primary purpose of facilitating the recycling of materials that would otherwise be solid waste.

2. Recycling of materials for the purpose of being excluded from the solid waste provisions of [chapter 455B, division IV, part 1](#), must be legitimate. A material that is not legitimately

recycled is discarded material and is a solid waste. In determining if recycling is legitimate, recycling facilities must establish all of the following:

a. The material is potentially recyclable and has a feasible means of being recycled into a valuable product.

b. The material is being managed as a valuable commodity while under their control.

c. The material is not being accumulated speculatively pursuant to [subsection 7](#).

3. If the department determines that a facility is not legitimately recycling material, the department may allow the facility owner or operator an opportunity to comply with the criteria in [subsection 2](#), or may immediately deem the facility subject to the solid waste provisions of [chapter 455B, division IV, part 1](#).

4. The criteria in [subsection 2](#) are intended to mitigate the risk posed by facilities that accumulate materials speculatively prior to recycling by preventing materials that are not otherwise regulated under [chapter 455B, division IV, part 1](#), from being stored indefinitely and potentially causing a public health nuisance or adverse environmental impact. In response to enforcement initiated by the department for alleged violations of [this section](#), the burden of proof falls on the recycling facility owner or operator to establish that materials are being legitimately recycled.

5. To establish that a material is potentially recyclable and has a feasible means of being recycled into a valuable product, a recycling facility owner or operator shall maintain with an end user at least one purchase contract, a letter of understanding, or other formal agreement. Such documentation must be provided to the department upon request. In addition, if the material is going to be recycled in an unusual manner, the owner or operator may use technical specifications from the end user or other documentation to prove recycling the material in such manner will result in a valuable product.

6. To establish that a material is being managed as a valuable commodity while under their control, a recycling facility owner or operator shall ensure that stockpiled material is not speculatively accumulated by maintaining current inventory records and is managed in a manner consistent with comparable recyclable materials or products in an equally protective manner.

7. To establish that a material is not being accumulated speculatively, the recycling facility owner or operator must document that, during a given calendar year, the amount of material that is recycled, or transferred to a different site for recycling, equals at least seventy-five percent by weight or volume of the amount of material accumulated at the beginning of the period. Materials must be placed in a storage unit with a label indicating the first date that the material began to be accumulated. If placing a label on the storage unit is not practicable, the accumulation period must be documented through an inventory log or other appropriate method.

8. Failure to provide documentation upon request to the department relative to the requirements of [this section](#) is grounds for the department to immediately deem the facility not in compliance with [this section](#).

9. Scrap metal as defined in [section 455D.1](#) is not subject to the provisions of [this section](#).

Sec. 8. [Section 455D.16, subsection 7](#), paragraph c, Code 2018, is amended by striking the paragraph.

Sec. 9. [Section 455D.22](#), Code 2018, is amended to read as follows:

455D.22 Civil penalty.

A person who violates [section 455D.4A](#), [455D.6, subsection 4](#), [section 455D.11](#), [455D.11A](#), [455D.11B](#), [455D.11I](#), or [455D.19](#), or any rule, permit, or order issued pursuant thereto shall be subject to a civil penalty which shall be established, assessed, and collected in the same manner as provided in [section 455B.109](#). Any civil penalty collected shall be deposited in the general fund of the state.

Sec. 10. [Section 455D.23](#), Code 2018, is amended to read as follows:

455D.23 Violations.

The director may issue any order necessary to secure compliance with or prevent a violation of the provisions of [this chapter](#) or any rule adopted or permit or order issued pursuant to

this chapter. Any order issued to enforce section 455D.4A may include a requirement to remove and properly dispose of materials being accumulated speculatively from a property and impose costs and penalties as determined by the department by rule. The person to whom such compliance order is issued may cause to be commenced a contested case within the meaning of chapter 17A, by filing within thirty days a notice of appeal to the commission. On appeal, the commission may affirm, modify, or vacate the order of the director.

Sec. 11. Section 455D.25, subsection 2, Code 2018, is amended to read as follows:

2. Any person who violates section 455D.4A, 455D.10A, 455D.11, 455D.11A, 455D.11B, 455D.11I, or 455D.19, or any order or permit issued or rule adopted pursuant to section 455D.6, subsection 4, section 455D.10A, 455D.11, 455D.11A, 455D.11B, 455D.11I, or 455D.19, shall be subject to a civil penalty, not to exceed ten thousand dollars for each day of such violation.

Sec. 12. Section 456.1, Code 2018, is amended by striking the section and inserting in lieu thereof the following:

456.1 Geological survey created.

A geological survey of the state is created within the state university of Iowa, under the jurisdiction and authority of the state board of regents.

Sec. 13. Section 456.2, Code 2018, is amended to read as follows:

456.2 State geologist — qualifications.

The director state board of regents shall appoint the state geologist. The state geologist must, at a minimum, have a master's degree in geology from an accredited college or university and must have at least five years of geological experience. The annual salary of the state geologist shall be determined by the director state board of regents.

Sec. 14. Section 456.4, Code 2018, is amended to read as follows:

456.4 Investigations — collection — ~~renting space.~~

The state geologist shall investigate the characters of the various soils and their capacities for agricultural purposes, the streams, and other scientific and natural resource matters that may be of practical importance and interest. ~~For the purpose of preserving well drilling samples, rock cores, fossils, and other materials as may be necessary to carry on investigations, the state geologist shall have the authority to lease or rent sufficient space for storage of these materials with the approval of the director of the department of administrative services. A complete cabinet collection may shall be made to illustrate the natural products of the state, and the state geologist may also furnish suites of materials, rocks, and fossils for colleges and public museums within the state, if it can be done without impairing the general state collection.~~

Sec. 15. Section 456.7, Code 2018, is amended to read as follows:

456.7 Annual report.

The state geologist shall, annually, at the time provided by law, make to the governor and the general assembly a full report of the work in the preceding year, which report shall be accompanied by such other reports and papers as may be considered desirable for publication.

Sec. 16. Section 456.10, Code 2018, is amended to read as follows:

456.10 Distribution and sale of reports.

All publications of the geological survey shall be distributed by the state as are other published reports of state officers when no special provision is made. When such distribution has been made the state geologist shall retain a sufficient number of copies to supply probable future demands and any copies in excess of such number shall be sold to persons making application therefor at the cost price of publication, the money thus accruing to be turned into the treasury of the state made available electronically via an internet site maintained for that purpose.

Sec. 17. REPEAL. Section [455C.17](#), Code 2018, is repealed.

Approved March 21, 2018