

455B.416 Inspections.

1. For purposes of developing a rule, conducting a study of hazardous waste management, compiling a site inventory, or enforcing sections 455B.411 to 455B.421, a person who generates, stores, treats, transports, disposes of or otherwise handles or has handled hazardous waste shall, upon request of the director, furnish information relating to the hazardous waste and permit the 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.411 to 455B.421, the director may:

a. Enter at reasonable times an establishment or other place 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 director obtains a sample, prior to leaving the premises, the 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.

3. Documents or information obtained from a person under this section shall be available to the public except as provided in this subsection. Upon a showing satisfactory to the director by a person that documents or information, or a particular part of the documents or information to which the director has access under this section if made public would divulge commercial or financial information obtained from a person and privileged or confidential or a trade secret, the director shall consider the documents or information or the particular portion of the documents or information confidential. However the document or information may be disclosed to officers, employees or authorized representatives of the United States charged with implementing the federal Solid Waste Disposal Act, to employees of the state of Iowa or of other states when the document or information is relevant to the discharge of their official duties, and when relevant in any proceeding under the federal Solid Waste Disposal Act or this part 5.

4. a. If upon receipt of any information, the 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 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 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 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 director within thirty days from the issuance of the order a proposal for carrying out the required monitoring, testing, analysis, and reporting. The director may, after providing the person with an opportunity to confer with the 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 director deems reasonable to determine the nature and extent of the hazard or to remove the hazard.

d. If the director determines that no owner or operator referred to in this subsection is able to conduct monitoring, testing, analysis, or reporting satisfactory to the director, if the director deems any action carried out by an owner or operator to be unsatisfactory, or if the 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 director may conduct reasonable monitoring, testing, or analysis to determine the nature and extent of the hazard associated with the site. The director may require the owner or operator referred to in this subsection to reimburse the director or other authority or person for the costs of the monitoring, testing, analysis, or reporting. The director shall not order a person to pay the costs of monitoring, testing, analysis, or reporting carried out by the director which confirms the results of monitoring, testing, or analysis done pursuant to an earlier order of the director.

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

[C81, § 455B.135; 81 Acts, ch 151, § 3, 4]

C83, § 455B.416

86 Acts, ch 1245, § 1899

Footnotes

Partial suspension; applicability; 2000
Acts, ch 1073, § 1