

### **88.6 Inspections, investigations, and recordkeeping.**

1. *Entrance and inspections.* In order to carry out the purposes of this chapter, the commissioner or the commissioner's representative, upon presenting appropriate credentials to the owner, operator, or agent in charge, is authorized:

a. To enter without delay and at reasonable times any factory, plant, establishment, construction site, or other area, workplace or environment where work is performed by an employee of an employer.

b. To inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and within a reasonable manner, any such place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any such employer, owner, operator, agent or employee.

2. *Subpoena of witness and evidence.* In making inspections and investigations under this chapter, the commissioner may require the attendance and testimony of witnesses and the production of evidence under oath. Witnesses shall be paid the same fees and mileage that are paid witnesses in the district courts of this state. In case of contumacy, failure, or refusal of any person to obey such an order, any appropriate district court within the jurisdiction of which such person is found, or resides, or transacts business, upon the application by the commissioner, shall have jurisdiction to issue to such person an order requiring such person to appear, to produce evidence, if, as, and when so ordered and to give testimony relating to the matter under investigation or in question, and any failure to obey such order of the court may be punished by said court as a contempt thereof.

3. *Accident and illness records.*

a. Each employer shall make, keep and preserve, and make available to the commissioner such records regarding the employer's activities relating to this chapter as the commissioner may prescribe by regulation as necessary or appropriate for the enforcement of this chapter or for developing information regarding the causes and prevention of occupational accidents and illnesses. In order to carry out the provisions of this paragraph such regulations may include provisions requiring employers to conduct periodic inspections. The commissioner shall also issue regulations requiring that employers, through posting of notices or other appropriate means, keep their employees informed of their protection and obligations under this chapter, including the provisions of applicable standards.

b. The commissioner shall prescribe regulations requiring an employer to maintain accurate records of, and to make periodic reports on, work related deaths, injuries, and illnesses other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job.

c. The commissioner shall issue regulations requiring employers to maintain accurate records of employee exposures to potentially toxic materials or harmful physical agents which are required to be monitored or measured under section 88.5, subsection 2. Such regulations shall provide employees or their authorized employee representative with an opportunity to observe such monitoring or measuring, and to have access to the records thereof. Such regulations shall also make appropriate provisions for each employee or former employee to have access to such records that will indicate the employee's own exposure to toxic materials or harmful physical agents. Each employer shall promptly notify any employee who has been or is being exposed to toxic materials or harmful physical agents in concentrations or at levels which exceed those prescribed by an applicable occupational safety and health standard promulgated under section 88.5, subsection 2, and shall inform any employee who is being thus exposed of the corrective action being taken.

d. All employers in the state of Iowa are required to make all reports to the secretary required by federal law as if this chapter were not in effect.

e. The commissioner will make such reports to the secretary in such form and containing such information, as the secretary shall from time to time require pursuant to federal law.

f. The regulations referred to in this subsection shall not prescribe requirements different from those provided by the federal law and regulations.

4. *Representatives of employers and employees.* Subject to regulations issued by the

commissioner, a representative of the employer and an authorized employee representative shall be given an opportunity to accompany the commissioner or the commissioner's authorized representative during the physical inspection of any workplace under subsection 1 of this section, for the purpose of aiding such inspection. Where there is no authorized employee representative, the commissioner or the commissioner's authorized representative shall consult with a reasonable number of employees concerning matters of health and safety in the workplace.

5. *Special inspections.* Any employees or authorized employee representative who believes that a violation of a safety or health standard exists that threatens physical harm, or that an imminent danger exists, may request an inspection by giving notice to the commissioner or the commissioner's authorized representative of such violation or danger. Any such notice shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employees or authorized employee representative, and a copy shall be provided the employer or the employer's agent no later than at the time of inspection, except that upon the request of the person giving such notice the person's identifying information and the identifying information of individual employees referred to in the notice shall not appear in such copy or on any record published, released, or made available. If, upon receipt of such notification, the commissioner determines that there are reasonable grounds to believe that such violation or danger exists, the commissioner shall make a special inspection in accordance with the provisions of this section as soon as practicable, to determine if such violation or danger exists. If the commissioner determines that there are no reasonable grounds to believe that a violation or danger exists, the commissioner shall notify the employees or authorized employee representative in writing of such determination. For purposes of this subsection, "*identifying information*" means specific personal information including, but not limited to, the person's name, home address, telephone number, social security number, and handwriting and language idiosyncrasies. In circumstances when the release of any fact may be used to identify the person, that fact shall not be released.

6. *Notice of violations.* During any inspection of a workplace, any employee or representative of employees employed in such workplace may notify the commissioner or any representative of the commissioner responsible for conducting the inspection, in writing, of any violation of this chapter which they have reason to believe exists in such workplace. The commissioner shall, by regulation, establish procedures for an informal review of any refusal by a representative of the commissioner to issue a citation with respect to any such alleged violation and shall furnish the employees or authorized employee representative requesting such review a written statement of the reason for the commissioner's final disposition of the case.

7. *General.* Any information obtained by the commissioner under this chapter shall be obtained with a minimum burden upon employers. Except for the purpose of administration of this chapter, no information received by the commissioner or the commissioner's representative from an employer, in compliance with and pursuant to this chapter, shall be admissible in any action brought by or for the benefit of any person. Unnecessary duplication of efforts in obtaining information shall be reduced to the maximum extent feasible.

8. *Confidentiality.* Notwithstanding chapter 22, records prepared or obtained by the commissioner relating to an enforcement action conducted pursuant to this chapter shall be kept confidential until the enforcement action is complete.

a. For purposes of this subsection, an enforcement action is complete when any of the following occurs:

(1) An inspection file is closed without the issuance of a citation.

(2) A citation or noncompliance notice resulting from an inspection becomes a final order of the employment appeal board and all applicable courts pursuant to sections 88.8 and 88.9, and abatement is verified.

(3) A determination and any subsequent action is final in an occupational safety and health discrimination case.

b. A citation or noncompliance notice shall remain a confidential record until received by the appropriate employer.

c. This subsection shall not affect the discovery rights of any party to a contested case.

9. *Reports — fire fighters.* Reports of inspections and investigations involving the occupational safety and health for fire fighters shall be presented to the state fire service and emergency response council.

[C66, 71, §88.11, 88.12, 88A.10, 88A.14; C73, 75, 77, 79, 81, §88.6]

98 Acts, ch 1105, §1, 2; 2000 Acts, ch 1117, §6; 2000 Acts, ch 1232, §47; 2008 Acts, ch 1032, §173