

455B.174 Director's duties.

The director shall:

1. Conduct investigations of alleged water pollution or of alleged violations of this part of this division, chapter 459, subchapter III, chapter 459A, chapter 459B, or any rule adopted or any permit issued pursuant thereto upon written request of any state agency, political subdivision, local board of health, twenty-five residents of the state, as directed by the department, or as may be necessary to accomplish the purposes of this part of this division, chapter 459, subchapter III, chapter 459A, or chapter 459B.

2. Conduct periodic surveys and inspection of the construction, operation, self-monitoring, recordkeeping, and reporting of all public water supply systems and all disposal systems except as provided in section 455B.183.

3. Take any action or actions allowed by law which, in the director's judgment, are necessary to enforce or secure compliance with the provisions of this part of this division or chapter 459, subchapter III, or of any rule or standard established or permit issued pursuant thereto.

4. a. (1) Approve or disapprove the plans and specifications for the construction of disposal systems or public water supply systems except for those sewer extensions and water supply distribution system extensions which are reviewed by a city or county public works department as set forth in section 455B.183. The director shall issue, revoke, suspend, modify, or deny permits for the operation, installation, construction, addition to, or modification of any disposal system or public water supply system except for sewer extensions and water supply distribution system extensions which are reviewed by a city or county public works department as set forth in section 455B.183. The director shall also issue, revoke, suspend, modify, or deny permits for the discharge of any pollutant, or for the use or disposal of sewage sludge. The permits shall contain conditions and schedules of compliance as necessary to meet the requirements of this part of this division or chapter 459, subchapter III, the federal Water Pollution Control Act and the federal Safe Drinking Water Act. A permit issued under this chapter for the use or disposal of sewage sludge is in addition to and must contain references to any other permits required under this chapter. The director shall not issue or renew a permit to a disposal system or a public water supply system which is not viable. If the director has reasonable grounds to believe that a disposal system or public water supply system is not viable, the department may require the system to submit a business plan as a means of determining viability. This plan shall include the following components:

(a) A facilities plan which describes proposed new facilities and the condition of existing facilities, rehabilitation and replacement needs, and future needs to meet the requirements of the federal Water Pollution Control Act and the federal Safe Drinking Water Act.

(b) A management plan which consists of an administrative plan describing methods to assure performance of functions necessary to administer the system, including credentials of management personnel; and an operation and maintenance plan describing how all operating and maintenance duties necessary to the system's proper function will be accomplished.

(c) A financial plan which describes provisions for assuring that adequate revenues will be available to meet cash flow requirements, based on the full cost of providing the service, adequate initial capitalization, and access to additional capital for contingencies.

(2) If, upon submission and review of the business plan, the department determines that the disposal system or public water supply system is not viable, the director may require the system to take actions to become viable within a time period established pursuant to section 455B.173, or to make alternative arrangements in providing treatment or water supply services as determined by rule.

b. In addition to the requirements of paragraph "a", a permit shall not be issued to operate or discharge from any disposal system unless the conditions of the permit assure that any discharge from the disposal system meets or will meet all applicable state and federal water quality standards and effluent standards and the issuance of the permit is not otherwise prohibited by the federal Water Pollution Control Act. All applications for discharge permits are subject to public notice and opportunity for public participation including public hearing as the department may by rule require. The director shall promptly notify the applicant in

writing of the director's action and, if the permit is denied, state the reasons for denial. A person who is an applicant or permittee may contest the denial of a permit or any condition of a permit issued by the director if the person notifies the director within thirty days of the director's notice of denial or issuance of the permit. Notwithstanding section 17A.11, subsection 1, if the applicant or permittee timely contests the director's action, the presiding officer in the resulting contested case proceeding shall be an administrative law judge assigned by the division of administrative hearings pursuant to sections 10A.801 and 17A.11.

c. Copies of all forms or other paper instruments required to be filed during on-site inspections or investigations shall be given to the owner or operator of the disposal system or public water supply system being investigated or inspected before the inspector or investigator leaves the site. Any other report, statement, or instrument shall not be filed with the department unless a copy is sent by ordinary mail to the owner or operator of the disposal system or public water supply system within ten working days of the filing. If an inspection or investigation is done in cooperation with another state department, the department involved and the areas inspected shall be stated.

d. The director shall also issue or deny conditional permits for the construction of disposal systems for electric power generating facilities subject to chapter 476A. All applications for conditional permits shall be subject to such notice and opportunity for public participation as may be required by the department and as may be consistent with chapter 476A and any agreement pursuant thereto under chapter 28E. The applicant or an intervenor may appeal to the department from the denial of a conditional permit or any of its conditions. For the purposes of chapter 476A, the issuance or denial of a conditional permit by the director or the department upon appeal shall be a determination that the electric power generating facility does or does not meet the permit and licensing requirements of the department. The issuance of a conditional permit shall not relieve the applicant of the responsibility to submit final and detailed construction plans and drawing and an application for a construction permit for a disposal system that will meet the effluent limitations in the conditional permit.

e. If a public water supply has a groundwater source that contains petroleum, a fraction of crude oil, or their degradation products, or is located in an area deemed by the department as likely to be contaminated by such materials, and after consultation with the public water supply system and consideration of all applicable rules relating to remediation, the department may require the public water supply system to replace that groundwater source in order to receive a permit to operate. The requirement to replace the source shall only be made by the department if the public water supply system is fully compensated for any additional design, construction, operation, and monitoring costs from the Iowa comprehensive petroleum underground storage tank fund created by chapter 455G or from any other funds that do not impose a financial obligation on the part of the public water supply system. Funds available to or provided by the public water supply system may be used for system improvements made in conjunction with replacement of the source. The department cannot require a public water supply system to replace its water source with a less reliable water source or with a source that does not meet federal primary, secondary, or other health-based standards unless treatment is provided to ensure that the drinking water meets these standards. Nothing in this paragraph shall affect the public water supply system's right to pursue recovery from a responsible party.

f. The department may enter into an agreement with a county to delegate to the county the duties of the department under this subsection as they relate to the construction of semipublic sewage disposal systems.

5. a. Conduct random inspections of work done by city and county public works departments 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.

b. The department shall give technical assistance to city and county public works departments upon request of such local public works departments.

[C97, §2565; C24, 27, 31, 35, 39, §2191; C46, 50, 54, 58, 62, §135.11(7); C66, 71, §135.11(7), 455B.9 – 455B.11, 455B.15, 455B.17; C73, 75, §455B.33, 455B.37, 455B.66; C77, 79, 81, §455B.33; 82 Acts, ch 1050, §3]

C83, §455B.174

83 Acts, ch 137, §4; 86 Acts, ch 1245, §1899, 1899B; 92 Acts, ch 1041, §4; 96 Acts, ch 1079, §14; 97 Acts, ch 137, §4; 2004 Acts, ch 1175, §260; 2005 Acts, ch 19, §57; 2009 Acts, ch 155, §28, 34; 2010 Acts, ch 1029, §1; 2011 Acts, ch 97, §2

Referred to in §331.382, 455B.172, 455B.173, 455B.175, 455B.183A