



Ohio Revised Code Section 3748.16 Facility inspections.

Effective: June 27, 2005

Legislation: Senate Bill 124 - 126th General Assembly

(A)(1) The director of health shall conduct regular inspections of the facility for the disposal of low-level radioactive waste in accordance with rules adopted under division (J) of section 3748.04 of the Revised Code and, in accordance with those rules, shall provide for at least one resident inspector at the facility.

(2) Concentrations of radioactive materials released into the environment during operation, closure, institutional control, and long-term care of the facility shall be kept as low as are reasonably achievable and shall not exceed levels established in rules adopted under division (A)(7) of section 3748.04 of the Revised Code or the standards set forth in 10 C.F.R. 61.41, whichever are more stringent. The director shall establish a program to monitor concentrations of radioactive materials so released and shall conduct an investigation if monitoring results indicate concentrations of radioactive materials at levels that are greater than the established background for a monitoring point to determine the source of the increased radiation level.

(B)(1) An officer of an agency of the state or of a political subdivision, acting in the officer's representative capacity, or any person may file a written complaint with the director, in accordance with rules adopted under division (K) of section 3748.04 of the Revised Code, regarding the failure or alleged failure of the facility for the disposal of low-level radioactive waste to comply with health or safety requirements established under this chapter or Chapter 3747. of the Revised Code or rules adopted under them. The complaint shall be verified by an affidavit of the complainant or the complainant's agent or attorney. The affidavit may be made before any person authorized by law to administer oaths and shall be signed by the officer or person who makes it. The person before whom it was taken shall certify that it was sworn to before that person and signed in that person's presence, and the certificate signed officially by that person shall be evidence that the affidavit was made, that the name of the officer or person was written by that officer or person, and that the signer was that officer or person.

(2) Upon receipt of a complaint under division (B)(1) of this section, the director shall cause a



prompt investigation to be conducted as is reasonably necessary to determine whether the facility has failed or is failing to comply with the health or safety requirements identified in the complaint. The investigation shall include a discussion of the complaint with the contractor.

(3) The director may hold a hearing on the complaint. Not less than twenty days before the hearing, the director shall cause publication of a notice of the hearing in the county in which the facility is located and shall mail written notice by certified mail, return receipt requested, to the complainant and to the contractor. The hearing shall be conducted before the director or a hearing examiner designated by the director. The department of health and the contractor shall be parties. The complainant may participate as a party by filing with the director, at any time prior to the hearing, a written notice of the complainant's intent to participate. Any other person may be permitted to intervene upon the granting by the director or hearing examiner of a motion to intervene filed in accordance with rules adopted under division (K) of section 3748.04 of the Revised Code.

If the director does not hold a hearing, the director shall provide an opportunity to the complainant and the contractor to attend a conference with the director concerning the complaint.

(4) Following the completion of the investigation under division (B)(2) of this section and the hearing or conference under division (B)(3) of this section, if the director determines that the facility is in compliance with the health or safety requirements identified in the complaint, the director shall dismiss the complaint. If the director determines that the facility is not in compliance with those requirements, the director shall issue an order under division (B)(4) of section 3748.05 of the Revised Code requiring the contractor to bring the facility into compliance and to submit a written discussion of how that will be accomplished. The director also may do any or all of the following:

(a) Suspend or revoke the facility's license in accordance with rules adopted under division (A) of section 3748.04 of the Revised Code;

(b) Issue an order assessing an administrative penalty in accordance with rules adopted under division (A)(6) of section 3748.05 of the Revised Code;

(c) Request the attorney general, in writing, to commence appropriate legal proceedings, including a civil action for imposition of a civil penalty under section 3748.19 of the Revised Code and criminal



prosecution.

(C) If the director suspends or revokes the license of the facility for the disposal of low-level radioactive waste for any reason in accordance with rules adopted under division (A) or (B) of section 3748.04 of the Revised Code, the contractor shall indemnify the state for any loss suffered by the state as a result of the lack of disposal capacity for low-level radioactive waste that otherwise would have been disposed of at the facility.

(D) The provisions of division (A) of this section establishing requirements governing the director and divisions (B) and (C) of this section apply only if the state becomes an agreement state pursuant to section 3748.03 of the Revised Code.