§ 27-1309. Access to records and sites.

1. Every person shall, upon the written request of the commissioner or a designee, permit a duly designated officer or employee of the department at all reasonable times to have access to and to copy all books, papers, documents and records relating to the current and past hazardous waste generating, transporting or disposal activities of such person.

2. The commissioner may sign and issue subpoenas in the name of the department requiring the production of books, papers, documents and other records and may take testimony by depositions under oath of any person relating to the current and past waste generating, transporting or disposal activities of such person. Such subpoenas and depositions shall be regulated by the civil practice law and rules. The commissioner may invoke the powers of the supreme court of the state of New York to compel compliance with any such subpoena or any request to take such depositions.

3. Any duly designated officer or employee of the department, or of any state agency, and any agent, consultant, contractor, or other person, including an employee, agent, consultant, or contractor of a responsible person acting at the direction of the department, so authorized in writing by the commissioner, may enter any inactive hazardous waste disposal site and areas near such site and inspect and take samples of wastes, soils, air, surface water, and groundwater. In order to take such samples, the department or authorized person may utilize or cause to be utilized such sampling methods as it determines to be necessary including, but not limited to, soil borings and monitoring wells.

4. The department or authorized person shall not take any samples involving the substantial disturbance of the ground surface of any property unless it has made a reasonable effort to identify the owner of the property and to notify such owner of the intent to take such samples. If the owner can be identified, the department shall provide such owner with a minimum of ten days' written notice of the intent to

take such samples, unless the commissioner makes a written determination that such ten day notice will not allow the department to protect the environment or public health, in which case two days' written notice shall be sufficient. Any inspection of the property and each such taking of samples shall take place at reasonable times and shall be commenced and completed with reasonable promptness. If any officer, employee, agent, consultant, contractor, or other person so authorized in writing by the commissioner obtains any samples prior to leaving the premises, he or she shall give to the owner or operator a receipt describing the sample obtained and, if requested, a portion of such sample equal in volume or weight to the portion retained. If any analysis is made of such samples, a copy of the results of such analysis shall be furnished promptly to the owner or operator. Upon the completion of all sampling activities, the department or authorized person shall remove, or cause to be removed, all equipment and well machinery and return the ground surface of the property to its condition prior to such sampling, unless the department or authorized person, and the owner of property shall otherwise agree.

5. The expense of any such sampling and analysis shall be paid by the department, but may be recovered from any responsible person in any action or proceeding brought pursuant to this title or common law; provided, that if the person so authorized in writing shall be an employee, agent, consultant, or contractor of a responsible person acting at the direction of the department, then the expense of any such sampling and analysis shall be paid by the responsible person.