

**Iowa Department of Natural Resources  
Environmental Protection Commission**

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<b>ITEM</b>	<b>10</b>	<b>INFORMATION</b>
<b>TOPIC</b>	<b>Proposed Rule – Chapter 101.14(2)“a” - “Solid Waste Comprehensive Planning Requirements”</b>	

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Attached for the Commission’s information and review is a draft Notice of Intended Action to amend paragraph 101.14(2)“a” of 567-Chapter 101 “Solid Waste Comprehensive Planning Requirements.”

This amendment is being proposed for clarification purposes in order to correct inconsistencies between the Iowa Code and Iowa Administrative Code as they pertain to the exemption from tonnage fees for solid waste facilities disposing of construction & demolition (C&D) wastes.

Iowa Code 455B.310 specifies that the operator of a sanitary landfill shall pay a tonnage fee to the department for each ton of solid waste received and disposed of at a sanitary landfill. Tonnage fees remitted to the department are placed in the Groundwater Protection Fund for department operations and support of statewide solid waste programs such as the Solid Waste Alternatives Financial Assistance, Solid Waste Facility Permitting, Comprehensive Planning, Special Waste Authorization, Iowa Waste Reduction Center, Iowa Waste Exchange and Household Hazardous Waste Regional Collection Centers.

Iowa Code section 455B.310(5) states in part, “Solid waste disposal facilities with special provisions which limit the site to disposal of construction and demolition waste”...”are exempt from the tonnage fees imposed under this section.” Furthermore, Iowa Administrative Code 567-Chapter 101, paragraph 101.14(2)“a” states in part, “The fees specified in subrule 101.14(3) do not apply to construction and demolition waste disposed of in an area of a sanitary landfill that has been designated exclusively for the disposal of construction and demolition waste based on plans and specifications approved by the department...”

The intent of Iowa Code section 455B.310(5) is to provide an exemption from the tonnage fee for sites limited to the disposal of C&D wastes only. Paragraph 101.14(2)“a” was intended to provide further clarification of Iowa Code section 455B.310(5) by specifying that the tonnage fee exemption is applicable as well for disposal units at municipal solid waste (MSW) landfills, constructed in accordance with C&D waste landfill design requirements as opposed to those for MSW landfills, and wholly dedicated to the disposal of C&D wastes. Paragraph 101.14(2)“a” has been erroneously interpreted to provide an exemption to all C&D waste disposal, regardless

of whether or not a separate disposal area exists and is limited to the disposal of C&D waste. This has led to the temporary designation (daily, weekly, monthly, etc.) of areas within the existing MSW landfill for C&D waste disposal in order to claim the tonnage fee exemption. From July 2006 to July 2007, a total of 303,107 tons of C&D waste were reported as exempt from the tonnage fee at MSW landfills. This equates to \$759,213 not remitted to the department for support of the statewide solid waste programs referenced above and \$446,490 not retained locally. The amount retained locally is used for comprehensive plan implementation and environmental protection activities such as the development and preparation of detailed engineering site plans and specifications.

The department has allowed this practice to occur in the past but upon further examination does not believe that such an exemption is allowed by the Iowa Code. In order to provide notice to regulated parties the Department has decided to undertake rulemaking rather than simply notifying those parties of the applicable statutory requirement. Paragraph 101.14(2)“a” has been revised to clarify that the exemption from tonnage fees is for C&D landfills built in accordance with the C&D landfill regulations or disposal units at MSW landfills designed and constructed for the purpose of disposing of C&D waste only.

The Commission will be asked to approve this Notice of Intended Action at its June meeting.

Alex Moon, Environmental Program Supervisor  
Land Quality Bureau  
Environmental Services Division

April 3, 2008

## **ENVIRONMENTAL PROTECTION COMMISSION**

### **Notice of Intended Action**

Pursuant to the authority of Iowa Code sections 455B.304, the Environmental Protection Commission hereby gives Notice of Intended Action to amend paragraph 101.14(2)“a” of Chapter 101, “Solid Waste Comprehensive Planning Requirements,” Iowa Administrative Code.

This amendment is being proposed for clarification purposes in order to correct inconsistencies between the Iowa Code and Iowa Administrative Code as they pertain to the exemption from tonnage fees for solid waste facilities disposing of construction & demolition (C&D) wastes.

Iowa Code 455B.310 specifies that the operator of a sanitary landfill shall pay a tonnage fee to the department for each ton of solid waste received and disposed of at a sanitary landfill. Tonnage fees remitted to the department are placed in the Groundwater Protection Fund for department operations and support of statewide solid waste programs such as Solid Waste Alternatives Financial Assistance, Solid Waste Facility Permitting, Comprehensive Planning, Special Waste Authorizations, the Iowa Waste Reduction Center, the Iowa Waste Exchange and Household Hazardous Waste Regional Collection Centers.

Iowa Code section 455B.310(5) states in part, “Solid waste disposal facilities with special provisions which limit the site to disposal of construction and demolition waste”...”are exempt from the tonnage fees imposed under this section.” Furthermore, Iowa Administrative Code 567-Chapter 101, paragraph 101.14(2)“a” states in part, “The fees specified in subrule 101.14(3) do not apply to construction and demolition waste disposed of in an area of a sanitary landfill

that has been designated exclusively for the disposal of construction and demolition waste based on plans and specifications approved by the department...”

The intent of Iowa Code section 455B.310(5) is to provide an exemption from the tonnage fee for sites limited to the disposal of C&D wastes only. Paragraph 101.14(2)“a” was intended to provide further clarification of Iowa Code section 455B.310(5) by specifying that the tonnage fee exemption is applicable as well for disposal units at municipal solid waste (MSW) landfills, constructed in accordance with C&D waste landfill design requirements as opposed to those for MSW landfills, and wholly dedicated to the disposal of C&D wastes. Paragraph 101.14(2)“a” has been erroneously interpreted to provide an exemption to all C&D waste disposal, regardless of whether or not a separate disposal area exists and is limited to the disposal of C&D waste. This has led to the temporary designation (daily, weekly, monthly, etc.) of areas within the existing MSW landfill for C&D waste disposal in order to claim the tonnage fee exemption. From July 2006 to July 2007, a total of 303,107 tons of C&D waste were reported as exempt from the tonnage fee at MSW landfills. This equates to \$759,213 not remitted to the department for support of the statewide solid waste programs referenced above and \$446,490 not retained locally. The amount retained locally is used for comprehensive plan implementation and environmental protection activities such as the development and preparation of detailed engineering site plans and specifications.

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with the C&D landfill regulations or disposal units at MSW landfills designed and constructed for the purpose of disposing of C&D waste only.

Any interested person may make written suggestions or comments pertaining to the proposed amendment on or before 4:30 p.m. on \_\_\_\_\_, 2008. Such written materials should be directed to Chad Stobbe, Land Quality Bureau, Iowa Department of Natural Resources, 502 East 9th Street, Wallace State Office Building, Des Moines, IA 50319-0034; fax (515)281-8646 or chad.stobbe@dnr.iowa.gov. Persons wishing to convey their views orally should contact Mr. Stobbe at (515)242-5851.

When submitting comments, the Department encourages stakeholders to utilize the following guidelines. These guidelines aid the Department in accurately understanding and creating a record of your input.

1. Include your mailing address and contact information.
2. Please state if you are submitting comments on behalf of a business, organization or as an individual.
3. Cite the specific rule(s) on which you are commenting.
4. Explain your views as clearly as possible by describing any assumptions, data, or technical information you utilized.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative language to improve the specific rule(s) and explain why.

A public hearing will be held on \_\_\_\_\_, 2008, at \_\_\_\_\_ in the Fifth Floor Conference Rooms of the Wallace State Office Building, 502 East Ninth Street, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing,

persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rule.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department of Natural Resources to advise of special needs.

These amendments are intended to implement Iowa Code section 455B.304.

The following amendment is proposed:

**ITEM 1. Amend 567 IAC 101.14(2)“a” as follows:**

**101.14(2) Exclusions.**

a. The fees specified in subrule 101.14(3) do not apply to construction and demolition waste landfills having obtained a permit pursuant to 567-Chapter 114 or disposed of in an area of a separate disposal unit at a municipal solid waste sanitary landfill that has been designated constructed exclusively for the disposal of construction and demolition waste based on plans and specifications approved by the department; or to solid waste disposal facilities with special permit provisions which limit the site to the management of landscape waste and to disposal of coal combustion waste, cement kiln dust, construction and demolition waste and foundry sand; or to solid waste materials approved by the department for lining or capping or constructing berms, dikes or roads in the project.

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Date

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Richard A. Leopold, Director