



STATE OF IOWA

CHESTER J. CULVER, GOVERNOR
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DEPARTMENT OF NATURAL RESOURCES
RICHARD A. LEOPOLD, DIRECTOR

To: Iowa Stakeholders
From: Chad A. Stobbe, Environmental Specialist Senior, Land Quality Bureau
Re: Iowa Administrative Code (IAC) 567 Chapter 108
Date: July 17, 2008

The Iowa Department of Natural Resources is seeking feedback regarding proposed amendments to IAC 567 Chapter 108, titled "Beneficial Use Determinations: Solid By-Products As Resources And Alternative Cover Material". Substantive revisions to Chapter 108 were last completed in 2003, which provided clarification and reflected modern best management practices. Based upon recommendations from the 2003 stakeholder advisory committee, the department is revisiting the chapter, taking into consideration the cooperative experience of industry and the department to encourage increased waste diversion, while adequately protecting human health and the environment.

Due to the scope of changes being proposed and the extent of regulated public affected, the formation of a small stakeholder group to assist in the development of this rule revision was not practical. Instead, the department is providing stakeholders with the opportunity to provide comments on the proposed amendments prior to initiating the formal rulemaking process. The department anticipates presenting this proposed rule as an informational item to the Environmental Protection Commission in October.

Please provide the department with written suggestions or comments pertaining to the proposed amendments on or before August 8, 2008. The department will evaluate and incorporate stakeholder feedback and resubmit the proposed rule for secondary review by August 22, 2008. Written suggestions or comments pertaining to the secondary review will be required on or before September 12, 2008. Such written comments should be directed to Chad A. Stobbe, Land Quality Bureau, Iowa Department of Natural Resources, 502 East 9th Street, Wallace State Office Building, Des Moines, Iowa 50319-0034; fax (515) 281-8895; or e-mail Chad.Stobbe@dnr.iowa.gov. Information regarding this rulemaking will be posted by the end of July on the department's website at <http://www.iowadnr.com/waste/policy/beneficialuse.html>.

Some of the more significant changes to Chapter 108 include:

- The application process for a "Beneficial Use Determination" has been refined to ensure solid by-products proposed for beneficial use be characterized to confirm that the proposed use is adequately protective of human health, safety and the environment, and that the solid by-product possesses physical characteristics and chemical properties which make the material suitable for the proposed use.
- As sanitary landfills are required to amend their sanitary disposal project permits prior to actual utilization of solid by-products as alternative cover material, the rule pertaining to universally approved beneficial use determinations for alternative cover material has been removed. Additionally, the requirements for alternative cover material at sanitary landfills have been revised to ensure the performance of the waste material or cover product is adequate to perform to the required specifications.

- While the use of solid by-products for fill can provide benefits, such fill projects will no longer be beneficial use projects. These activities more closely resemble monofill and landfill projects than beneficial use projects. Such fill projects include quarry and sand and gravel reclamation projects, and ravine filling activities. These fill projects will be permitted and operated in accordance with their respective sanitary landfill rules. For example, fill projects involving coal combustion residue shall be regulated pursuant to 567—Chapter 103.
- The list of universally approved beneficial use determinations has been updated to facilitate beneficial use of solid by-products generated from the steel and electric utility industries. The list of universally approved beneficial use determinations has also been revised to remove all references to fill material, alternative cover material, and soil amendments pursuant to 567—Chapter 121.
- Exemption from the tonnage fee imposed by Iowa Code section 455B.310 and the sanitary landfill tonnage measurements used for state goal progress and waste diversion calculations has been updated and clarified for solid by-products beneficially used as alternative cover material.
- IAC 567 Chapter 121, titled “Land Application of Wastes” will be rescinded with this rule change. The land application of solid waste is considered disposal and not a beneficial use. Waste sludge from an industrial facility will be regulated under IAC 567 Chapter 64, titled “Wastewater Construction and Operation Permits.” Manure from animal feeding operations will be regulated under IAC 567 Chapter 65, titled “Animal Feeding Operations.” All other fertilizers or soil amendments will be regulated under the laws of the Iowa Department of Agriculture and Land Stewardship (Iowa Code Chapters 200 and 200A).