



## Department of Natural Resources

### Five-Year Rule Review Worksheet

#### Phase 2 - Part C

#### BASIC INFORMATION

Date Part C Review Concluded: December 1, 2014

Reviewer Name(s): Chad Stobbe, Susan Johnson, Theresa Stiner, Amie Davidson

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Chapter<sup>1</sup> Number: Chapter 100

Chapter Name: Scope of Title - Definitions – Forms – Rules of Practice

#### 1. DOES THIS CHAPTER<sup>2</sup> DO THE JOB IT SETS OUT TO DO?

1a. Is this chapter effective at protecting the health, welfare, and safety of Iowans and our natural resources?

Yes  No  (check or circle)

1b. Explain how the chapter protects the health, welfare, and safety of Iowans and our natural resources.

The intent of this administrative chapter was to provide general definitions and procedures applicable to the administrative rule chapters the Iowa Department of Natural Resources (DNR) administers regarding solid waste management and disposal. Over time, variations to these definitions have been incorporated into other solid waste administrative chapters, which at times have conflicted with definitions contained in Iowa Code section 455B.301. This has resulted in the regulated community and general public having to navigate multiple administrative chapters to look for the applicable definition(s). Also, some of the permit application forms listed are seldom used, as newer forms have been adopted and amended into

<sup>1</sup> If the Phase 1 Worksheet addresses a portion of a chapter, rather than a whole chapter, then this follow-up worksheet should address the same portion of the chapter (e.g. rule or rules, paragraph, etc.).

<sup>2</sup> Throughout this worksheet, the word "chapter" is meant to apply to the chapter or portion of a chapter to which the worksheet applies.

other administrative chapters since this chapter was last substantively revised.

## 2. IS THERE LEGAL AUTHORITY FOR THIS CHAPTER?

2a. Is the chapter intended to implement any state statutes?

Yes  No  (check or circle)

*If this chapter is intended to implement any state statutes, then answer questions 2b and 2c. If not, then proceed to question 2d.*

2b. Provide citations for the specific provisions of the Iowa Code implemented by this chapter.

[Iowa Code chapter 455D](#) – Entire chapter

[Iowa Code section 455B.304](#) - 455B.304(1)

[Iowa Code section 455B.307](#) – 455B.307(1)

2c. Provide a narrative summary of how the state statutes are implemented by this chapter.

There is no specific Iowa statute that requires the DNR adopt rules that provide for Scope of title in 567 IAC 100.1, Definitions in 567 IAC 100.2, Forms and rules of practice in 567 IAC 100.3, or Disruption and excavation of sanitary landfills or closed dumps in 567 IAC 100.5. Rather, broad authority is given under Iowa Code section 455B.304(1) to adopt rules for the proper administration of Division IV “Solid Waste Disposal,” Part 1 “Solid Waste.”

The justification for 567 IAC 100.3 (Forms and rules of practice) can be construed from the authorities granted to the DNR to issue permits under Iowa Code section 455B.305; in that the term “permit applicant” is used which implies that an application is required. This is supported by the rule’s parenthetical implementation citation referencing Iowa Code chapter 455B.

The justification for 567 IAC 100.4 (General conditions of solid waste disposal) is provided in Iowa Code section 455B.307(1), where the DNR is granted the power to authorize the disposal of solid waste at a location other than a sanitary disposal project (SDP), when such a location is owned or leased by a waste generator.

The applicability of Iowa Code chapter 455D to this administrative chapter is tenuous in that the parenthetical implementation citation referencing Iowa Code chapter 455D pertains to the definitions expressed 567 IAC 100.3. While most administrative definitions are taken from Iowa Code section 455B.301, there are some definitions (e.g. recycling, waste reduction) within this administrative chapter that are taken from Iowa Code chapter 455D.

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2d. Does the chapter implement any **federal statutes or regulations**?

Yes  No  (check or circle)

*If this chapter is intended to implement any federal statutes or regulations, then answer questions 2e and 2f. If not, then proceed to question 3.*

2e. Provide citations for the specific provisions of federal statutes and regulations implemented by this chapter.

Not Applicable

2f. Provide a summary of how federal statutes and regulations are implemented by this chapter.

Not Applicable

### 3. DOES THE CHAPTER GO BEYOND FEDERAL LEGAL REQUIREMENTS?

3a. Is this chapter more stringent than federal statutory or regulatory requirements?

Yes  No  Not Applicable  (check or circle)

*If the answer is "yes," then answer question 3b. If not, then proceed to question 4.*

3b. Provide a narrative statement regarding how this chapter is more stringent than required by federal statutes and regulations, and a short justification of why it is more stringent.

Not Applicable

### 4. DOES THIS CHAPTER HAVE UNINTENDED CONSEQUENCES?

4a. Does the chapter result in the equitable treatment of those required to comply with it?

Yes  No  (check or circle)

4b. Provide a narrative summary of your response.

The Definitions in 567 IAC 100.2, the Forms and rules of practice in 567 IAC 100.3, and the Disruption and excavation of sanitary landfills or closed dumps in 567 IAC 100.5 are applied equally to all entities. However, the provisions of 567 IAC 100.4 provide certain disposal exemptions to private entities that dispose of farm waste (e.g. vehicles, machinery, equipment), farm buildings and/or dead farm animals on their own property. These same wastes would be required to be disposed of at a permitted SDP (e.g. sanitary landfill or waste transfer station), if they were generated by public or private entities not involved in crop production or with livestock or poultry raising and feeding operations.

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4c. Does the chapter result in the inequitable treatment of anyone affected by the chapter but not required to comply with it?

Yes  No  (check or circle)

4d. Provide a narrative summary of your response.

None Known

4e. Are there known negative unintended consequences of this chapter?

Yes  No  (check or circle)

*If the answer is "yes," then answer question 4f. If not, then proceed to question 5.*

4f. Specifically state the nature of any negative unintended consequences.

Not Applicable

## 5. CAN THE GOALS OF THE CHAPTER BE ACHIEVED IN A MORE EFFICIENT OR STREAMLINED MANNER?

5a. Is the chapter broader than necessary to accomplish its purpose or objective?

Yes  No  (check or circle)

5b. Provide a narrative summary of your response.

This chapter is brief and fairly succinct. The alternatives listed in response to 5e below streamline requirements and provide improved regulatory clarity.

5c. Is the purpose of this chapter achieved in the least restrictive manner?

Yes  No  (check or circle)

5d. Provide a narrative summary of your response.

The primary purpose of this administrative chapter was to have a singular location for all solid waste definitions, but definitions are also included in each solid waste related administrative chapter. Over time, additional administrative and disposal requirements (e.g. application requirements, general conditions of solid waste disposal) were adopted. This has resulted in regulatory requirements that are outdated or duplicative of those requirements in other solid waste administrative chapters.

5e. What, if any, reasonable and practical alternatives to this chapter are available by the agency?

- Returning to a single administrative chapter dedicated solely to solid waste definitions would minimize duplication and assist the public in locating the desired information.
- The provisions of 567 IAC 100.3 titled, "Forms and rules of practice" could be addressed within the various SDP permit application forms themselves, or perhaps moved to a

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single universal permitting chapter for all SDPs.

- The provisions of 567 IAC 100.4 regarding the on-site burial of dead farm animals are duplicative and at times conflicting with 21 IAC 61 titled, “Dead Animal Disposal,” which is administered by the Iowa Department of Agriculture and Land Stewardship (IDALS). Iowa Code section 159.6(5) gives IDALS the authority to enforce laws relative to the use and disposal of dead animals. Administration of these requirements under a single state agency could provide greater clarity and transparency to livestock producers and those engaged in the disposal of dead animals.
- The provisions of 567 IAC 100.4 regarding the on-site burial of farm waste and farm buildings could be considered for inclusion under a broader section of rules (rather than a chapter dedicated to definitions) pertaining to permitting of solid waste management, as Iowa Code requires the DNR issue a permit for this activity. Compliance with permitting requirements of Iowa Code section 455B.307(1) could be achieved by a permit-by-rule approach in administrative rule.
- The provisions of 567 IAC 100.5 regarding the disruption and excavation of waste at sanitary landfills and closed dumps could be moved to another more applicable solid waste administrative chapter (e.g. sanitary landfill permitting), rather than being included in a chapter dedicated to definitions.

5f. How do the economic and social costs of various alternatives to this chapter, if known, appear to compare to the known economic costs of this chapter?

At issue is not necessarily the content of the provisions, but rather the appropriate location within solid waste administrative rules to improve regulatory clarity. The alternatives expressed above not only result in aligning requirements with the appropriate regulatory authority, but identify opportunities to streamline the permitting process (i.e. general permits) for the DNR and the permit applicant. As a result, it's not anticipated that these suggested revisions would result in an increase in costs to either the DNR or the regulated public.

5g. Do the known economic costs of the chapter outweigh the known economic and social benefits?

The costs of this chapter do not outweigh the benefits. Definitions and forms do not have any associated costs, and the remaining provisions either provide exemptions to more comprehensive and costly permitting requirements, or establish minimal notification and disposal requirements. As indicated prior, the provisions of 567 IAC 100.4 provide for the on-site burial of farm waste, farm buildings and dead farm animals; which provide another waste management option to private agencies generating these wastes.

## 6. DOES THE CHAPTER AFFECT BUSINESS OR INDUSTRY?

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6a. Does the chapter affect businesses operating in Iowa?

Yes  No  (check or circle)

*If the answer is "yes," then answer questions 6b through 6i as applicable. If not, then proceed to question 6f.*

6b. What kinds of businesses are affected by this chapter?

Any entity operating or planning to operate an SDP, public or private agencies depositing solid waste at any place other than an SDP, public or private agency that disturbs and/or excavates solid waste at a sanitary landfill or closed dumps, private agency generating farm waste, farm buildings and/or dead farm animals.

6c. Does this chapter create a burden for businesses?

Yes  No  (check or circle)

6d. Explain your response to question 6c.

This chapter does not create a burden for businesses. In fact, the provisions of 567 IAC 100.4 regarding on-site burial of farm waste, farm buildings and dead farm animals provides an alternative waste management option that may result in cost savings.

*If the answer to question 6c is "yes," then answer question 6e. If not, then proceed to questions 6f through 6i.*

6e. If this rule does create a burden for businesses, what options are available to address those burdens?

Not Applicable

6f. Do industry standards affect the subject matter of this chapter?

Yes  No  (check or circle)

*If the answer is "yes," answer questions 6g through 6i as applicable. If not, proceed to question 7.*

6g. Have industry standards changed since the adoption of this chapter?

Yes  No  (check or circle)

*If the answer is "yes," answer questions 6h and 6i. If not, proceed to question 7.*

6h. What industry standards have changed since the adoption of this chapter?

Not Applicable

6i. Would revision of the chapter be useful in implementing the purposes of the chapter in light of any industry standard revisions? (Cite the portions of the chapter that could be revised.)

Not Applicable

## 7. DOES THIS CHAPTER AFFECT JOB CREATION?

7a. Does the chapter affect job creation?

Yes  No  (check or circle)

*If the answer is "yes," then answer questions 7b and 7c. If not, then proceed to question 8.*

7b. If this chapter affects job creation, in what manner does that occur?

Not Applicable

7c. If this chapter is required by state or federal statutes, or federal regulations, how has the department minimized negative job impacts?

Not Applicable

## 8. IS THERE ANY DOCUMENTATION OR PAPERWORK REQUIRED BY THIS CHAPTER?

8a. Is there any documentation or paperwork required by this chapter?

Yes  No  (check or circle)

*If documentation or paperwork is required, then answer questions 8b through 8e. If not, then proceed to question 9.*

8b. What is the purpose of the documentation or paperwork?

The rules within this administrative chapter that require the submittal of paperwork, pertain to minimum permit application requirements or are required in lieu of more comprehensive SDP permit application requirements (e.g. notification in writing and submittal of operation plan to DNR for excavation of closed dumps). The minimum permit application documentation required in this administrative chapter serves as the basis of information to include in a facility's SDP permit. This provides the DNR and the public with information on who, what and how solid waste materials are being managed at a site.

8c. Who reviews the paperwork required by the chapter?

Permit applications and management plans are reviewed by DNR central office program staff and field office staff, and serve as the basis of information to include within a permit issued to a solid waste management facility. The closed dump waste excavation plan is also read by both internal program staff and field office staff.

8d. How is the documentation or paperwork required by this chapter informative or useful for the public?

The minimum permit application documentation required in this administrative chapter serves as the basis of information to include in a facility's SDP permit. This provides the DNR and the

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public with information on who, what and how solid waste materials are being managed at a site.

Regarding the disruption and excavation of solid waste, the notification and operations plan requirements detail the scope of the project and provides the public assurance that the excavated material is being properly managed. This also allows the DNR to follow up to ensure activities are conducted in accordance with Iowa Code.

8e. How, if possible, can the documentation or paperwork requirements be reduced?

The documentation and reporting requirements of this administrative chapter are minimal and further limiting them in detail could impede the DNR's effort to protect human health and the environment from improper solid waste management practices.

### 9. DO OTHER STATE AGENCIES REGULATE THE ISSUES ADDRESSED BY THIS CHAPTER?

9a. Do any other state agencies regulate any issue(s) addressed by this chapter?

Yes  No  (check or circle)

*If the answer is "yes," then answer questions 9b to 9e. If not, then proceed to question 10.*

9b. If other state agencies regulate any issue(s) addressed by this chapter, provide the name of each agency, a description of how each agency is involved, and specify the subject matter regulated by each agency.

IDALS has the primary jurisdiction over the disposal of dead farm animals (i.e. 21 IAC 61, Iowa Code chapter 167). 567 IAC 100.4, as it pertains to dead farm animal disposal, creates a scenario of two state agencies regulating the same disposal activity.

9c. Is there a need for more than one set of rules?

Yes  No  (check or circle)

*If the answer is "yes," then proceed to question 9d. If not, then proceed to question 9e.*

9d. If any other state agencies regulate any issue(s) addressed by this chapter and one or more of the other sets of rules are necessary, explain why.

Not Applicable

9e. If this chapter or a portion thereof is duplicative, explain how and why.

Provisions of both 21 IAC 61 and 567 IAC 100 address the management and disposal of dead farm animals. Specifically, both have burial depth requirements which are not consistent. Consolidating requirements into one administrative chapter could provide greater clarity and be easier for the regulated public to navigate.

## 10. IS THE CHAPTER USER FRIENDLY?

10a. Is the chapter written and organized in a clear and concise manner so that those to whom it applies can readily understand it?

Yes  No  (check or circle)

*If the answer is "no," then answer question 10b. If not, then proceed to question 11.*

10b. If not, explain what changes can be made to improve readability, eliminate ambiguity, or increase understanding. Be specific, to the extent possible.

There are several opportunities to consider in addressing the ambiguity within this administrative chapter. They include:

- Returning to a single administrative chapter dedicated solely to solid waste definitions to minimize duplication and aid in the public's understanding of the chapter and its purpose.
- While 567 IAC 100.2 states, "The definitions set out in Iowa Code section 455B.301 shall be considered to be incorporated verbatim in these rules", actually including the applicable Iowa Code definition language verbatim within this chapter would be beneficial. Requiring the public to look up another Iowa Code provision just to find the desired definition language is inefficient and burdensome. Incorporating statutory language verbatim would also address those instances where there are discrepancies between IAC and Iowa Code definitions (i.e. Leachate, Rubble, Sanitary landfill).
- Having solid waste definitions and permit application requirements in this chapter, as well as in subsequent administrative chapters, is duplicative and confusing for entities trying to understand the full scope of requirements to abide by. Not being aware of additional provisions within subsequent administrative chapters often results in the submittal of materially deficient applications or plans to the DNR. Having like definitions in multiple administrative chapters lends itself to inconsistency and variation, specifically when future rulemaking updates are undertaken and definitions are not updated simultaneously in all other solid waste chapters.
- Regarding the on-site burial of dead farm animals and the apparent dual regulation of this waste stream by IDALS, additional clarity and transparency could be afforded to livestock producers (and those engaged in the disposal of dead farm animals) if these requirements were administered by a single state agency.
- Those provisions dealing with solid waste excavation and disposal could be moved to another more applicable solid waste administrative chapter, as they're difficult to locate

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given their position within this chapter, and the fact that the title of this chapter and its stated purpose do not adequately describe the full scope of requirements contained within.

- While 567 IAC 100.4 is titled “General conditions of solid waste disposal,” the actual disposal provisions pertain only to a very small, well defined segment of the solid waste stream (i.e. farm waste, farm buildings and dead animals). This rule’s catchwords imply these conditions are applicable to most solid wastes, which can be confusing as its provisions only apply to those wastes specifically cited in the rule.
- Remaining points of ambiguity pertain to provisions that are either incorrect or outdated, or their inclusion within another more applicable administrative chapter would provide greater clarity to the regulated public (e.g. Forms and rules of practice).

### 11. ARE THE CITATIONS IN THE CHAPTER ACCURATE?

11a. If this chapter contains Iowa Code citations, are those citations proper and current?

Yes  No  Not Applicable  (check or circle one option)

*If the answer is “no,” then answer question 11b. If not, then proceed to question 11c.*

11b. If not, list and explain the corrections that need to be made to the Iowa Code citations.

567 IAC 100.3 references Iowa Code chapter 17A, however, it's not clear how the "Iowa Administrative Procedure Act" provides the referenced authority for this rule.

567 IAC 100.5 specifies Iowa Code section 455B.307, however, it's not clear how this statutory provision provides such authority for this rule.

11c. If this chapter contains federal statutory citations, are those citations proper and current?

Yes  No  Not Applicable  (check or circle one option)

*If the answer is “no,” then answer question 11d. If not, then proceed to question 11e.*

11d. If not, list and explain the corrections that need to be made to the federal statutory citations.

Not Applicable

11e. If this chapter contains federal regulatory citations, are those citations proper and current?

Yes  No  Not Applicable  (check or circle one option)

*If the answer is “no,” then answer question 11f. If not, then proceed to question 11g.*

11f. If not, list and explain the corrections that need to be made to the federal regulatory

citations.

Not Applicable

11g. If this chapter contains internal cross-reference citations, are those citations correct and current?

Yes  No  Not Applicable  **(check or circle one option)**

*If the answer is "no," then answer question 11h. If not, then proceed to question 11i.*

11h. If not, list and explain the corrections that need to be made to the internal cross-references.

Not Applicable

11i. If the chapter contains cross-reference citations to other chapters, are those citations correct and current?

Yes  No  Not Applicable  **(check or circle one option)**

*If the answer is "no," then answer question 11j. If not, then proceed to question 11k.*

11j. If not, list and explain the corrections that need to be made to the cross-references to other chapters or outside sources.

Not Applicable

11k. If this chapter contains website references, are those website references necessary, correct and current?

Yes  No  Not Applicable  **(check or circle one option)**

*If the answer is "no," then answer question 11l. If not, then proceed to question 11m.*

11l. List and explain any necessary corrections to the website references.

Not Applicable

11m. If the chapter contains addresses and phone numbers, are the addresses and phone numbers necessary, correct and current?

Yes  No  Not Applicable  **(check or circle one option)**

*If the answer is "no," then answer question 11n. If not, then proceed to question 11o.*

11n. List and explain any corrections that need to be made to the addresses and phone numbers contained in the chapter.

In 567 IAC 100.3, the proper mailing address should be:

Land Quality Bureau  
Environmental Protection Division  
Iowa Department of Natural Resources

502 East 9<sup>th</sup> Street  
Des Moines, IA 50319

11o. If the chapter contains adoptions by reference, are those adoptions by reference correct and current?

Yes  No  Not Applicable  **(check or circle one option)**

*If the answer is "no," then answer question 11p. If not, then proceed to question 11q.*

11p. List and explain any corrections that need to be made to update adoptions by reference.

Not Applicable

11q. If the chapter contains DNR-created documents adopted by references, are those document references necessary, correct and current?

Yes  No  Not Applicable  **(check or circle one option)**

*If the answer is "no," then answer question 11r. If not, then proceed to question 12.*

11r. List and explain any corrections that need to be made to update the DNR-created document references.

The adoptions by reference included within 567 IAC 100 pertain to permit application forms and renewals in 567 IAC 100.3. 567 IAC 100.3(1)"b"(1)-(3) makes reference to "Form 43. 542-3199, Form 44. 542-1012, and Form 45. 542-3208", which are no longer the correct form numbers. These forms are outdated and have been replaced with permit application forms for those specific solid waste management activities.

## 12. WHAT PUBLIC GROUPS ARE AFFECTED BY THE CHAPTER?

12a. List any stakeholder groups, workgroups, public groups or other public participants impacted by the issues in the chapter.

Potential interested parties: Public and private agencies operating or planning to operate a sanitary disposal project (SDP) in Iowa, agencies generating farm waste, farm buildings or dead farm animals, Iowa Society of Solid Waste Operations (ISOSWO), Association of Business and Industry (ABI), Farm Bureau, Iowa Solid Waste Comprehensive Planning Areas, Iowa Department of Agriculture and Land Stewardship (IDALS), Iowa Environmental Council (IEC), Iowa Recycling Association (IRA), Sierra Club – Iowa Chapter, Iowa State Association of Counties (ISAC), Iowa League of Cities, County Environmental Health Sanitarians.

12b. If any stakeholders have already been included in a review process for this chapter during the past five years, state the names of those stakeholder groups, workgroups, public groups, or other public participants, and explain the nature of their involvement.

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External stakeholder feedback has not been sought in the past five years regarding revisions to this administrative chapter.

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