



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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Chapter¹ Number: Chapter 106

Chapter Name: Citizen Convenience Centers And Transfer Stations

1. DOES THIS CHAPTER² 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 a convenient and efficient means of consolidating residential and commercial (in the case of transfer stations) waste into larger, high-volume transfer vehicles for more economical shipment. These facilities reduce overall transportation costs, air emissions, energy use, truck traffic and road wear and tear. The requirements of this administrative chapter ensure the use of best management practices in siting, design, and operation to maximize facility effectiveness and efficiency, while minimizing their impact on the surrounding community.

¹ 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.).

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

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.

At the conclusion of this administrative chapter there is a chapter implementation sentence that states, "These rules are intended to implement Iowa Code section 455B.304."

[Iowa Code section 455B.304](#) - 455B.304(1) and 455B.304(8)

[Iowa Code section 455B.305](#) - 455B.305(1) and 455B.305(4)

[Iowa Code section 455B.306](#) - 455B.306(1), 455B.306(2), 455B.306(7)"a", "d" and "e", and 455B.306(9)"a", "c" and "d"

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

While there are specific rules within this administrative chapter that have direct statutory authority (e.g. emergency response and remedial action plan in Iowa Code section 455B.306(7)"d" and financial assurance in Iowa Code section 455B.304(8) and 455B.306(9)), many requirements are based upon the broad authority 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." Within the examples given in Iowa Code section 455B.304(1) is the authority to establish rules for "the issuance of permits" and for the "general operation and maintenance" of SDPs. In addition, Iowa Code section 455B.305 provides further statutory authority for the issuance of SDP permits by the DNR, and Iowa Code sections 455B.306(1) and (2) outline applicable solid waste comprehensive planning requirements.

Iowa Code section 455B.301 defines "Sanitary disposal project" as "all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the executive director." Given solid waste transfer stations are facilities which "facilitate the final disposition of solid waste", they are therefore sanitary disposal projects (SDP) by definition. In support of the DNR's legal authority to regulate, the Iowa Supreme Court case of ABC Disposal vs. Iowa Department of Natural Resources, 681 N.W.2d 596, 605-606 (Iowa 2004) concluded that solid waste transfer

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stations are indeed SDPs.

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.

For any public or private entity deemed to require an SDP permit for their solid waste transfer station or citizen convenience center (CCC) activities, the provisions of this administrative chapter are applied equally to all.

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)

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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.

An unintended consequence has been the inclusion of CCCs as permitted SDPs in need of an individual facility permit. While the functions of a CCC closely parallel that which occurs at a transfer station (i.e. solid waste consolidation), it does so on a significantly smaller scale. A case could be made that these limited environmental risk sites do not warrant the same level of permitting as a transfer station, and that any nuisance conditions would be minor and could be addressed through existing local zoning or nuisance ordinances. There are many examples of waste collection activities that are similar to CCCs that do not require a permit, such as a dumpster at an apartment or business complex. This could be considered inequitable treatment to those who are required to comply with the CCC provisions of this administrative chapter.

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.

For the most part, the layout of this administrative chapter has been the framework for many of the other SDP permitting chapters. However, there are requirements within this administrative chapter that are overly prescriptive (e.g. emergency response and remedial action plan, operating requirements), and the administrative chapter does not allow for any equivalent options without needing to go through the variance process.

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.

Solid waste transfer stations and CCCs are very similar in how they operate and have similar permit requirements. There are very few requirements that differ from one facility to another. With this in mind, the goal of this administrative chapter could be achieved in a more efficient/streamlined manner by employing a "general permit" or "permit-by-rule" approach to oversight of these facilities.

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

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agency?

- Iowa Code section 455B.304(18) provides the authority for “general permits” to be issued for a type of solid waste facility that is representative of a class of facilities across the state. This approach would expedite permit issuance, as well as minimize unnecessary paperwork and staff oversight. Additional advantages include a simplified application form, no submittal of engineering plans, reduced DNR review and processing time, improved permit consistency, and explicit permit requirements prior to application. As solid waste consolidation and transfer operations occur indoors, most environmental concerns and any potential impact to groundwater have been eliminated. This is supported by the sound compliance track record maintained by these facilities since permitting was initiated.

Several states undertake a “general permit” approach to transfer station permitting, so there are several models available to construct an Iowa-specific approach. If it’s determined that CCCs must be permitted as an SDP, then a “permit-by-rule” approach with minimal notification and reporting requirements could be considered, which would be more appropriate given the limited environmental risks posed.

- Permit renewals are required every three years, yet very few changes occur at solid waste transfer stations or CCCs within this timeframe. As there are costs associated with preparing permit renewal documents, changing to a “general permit” or “permit-by-rule” approach, or extending the permit duration beyond three years are key opportunities to achieve the appropriate level of oversight.
- The financial assurance requirements could be made more efficient by eliminating the Iowa-licensed professional engineer cost estimate requirement. In addition, a range of closure cost estimate amounts could be established in rule based upon data from facility tonnage amounts and cost estimates submitted in previous years. The primary benefit of this approach is the cost savings to the permit applicant from not needing to pay a professional engineer to prepare certified closure cost estimates at permit issuance and renewal.
- Iowa Code section 455B.306(7)“d” states, “An emergency response and remedial action plan including established provisions to minimize the possibility of fire, explosion, or any release to air, land, or water of pollutants that could threaten human health and the environment, and the identification of possible occurrences that may endanger human health and environment.” However, the provisions in 567 IAC 106.19 are overly prescriptive and at times, not applicable to solid waste transfer stations and CCCs. Adopting the language verbatim from statute would be more appropriate and less prescriptive. Perhaps already existing facility safety plan(s) required by another entity (e.g. OSHA, County zoning) could be used to satisfy this ERRAP requirement.

- Operator training is required for facilities accepting more than 20,000 tons annually. A discussion with industry regarding whether or not this is necessary, or if it should be required of all facilities regardless of the amount of waste accepted, is suggested. The requirement that operators be certified also requires the DNR track such certifications to ensure they're current, and those resources may be better utilized elsewhere.
- The financial assurance requirements of 567 IAC 106 are virtually identical to every other SDP administrative chapter. As a means to streamline and reduce duplication, these provisions could be consolidated into a single administrative chapter for all permitted solid waste facilities.

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?

The alternatives expressed above would not only streamline the permitting process for the DNR and the permit applicant, but would result in reduced costs (particularly at time of permit renewal) realized through those efficiencies. The time and financial resources saved in not having to periodically submit the same permit application documentation to the DNR could be significant, not to mention the shorter timeframe with which the DNR could review and issue permits.

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

The costs of this administrative chapter do not outweigh the benefits. Solid waste transfer stations are, and will continue to be, a prominent waste management option for many lowans. Despite the suggested amendments noted above regarding the permitting process and the DNR's administration of such, this administrative chapter sets forth clear and concise requirements that are for the most part not overly prescriptive or unnecessary. However, as with any administrative chapter, there are opportunities to streamline the permitting process that would reduce the amount of paperwork, engineering consulting, and associated costs needed to maintain a permit.

6. DOES THE CHAPTER AFFECT BUSINESS OR INDUSTRY?

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 public or private agency operating or planning to operate a solid waste transfer station or CCC shall comply with this administrative chapter. Depending upon the proximity of any local

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landfill(s), the availability of a solid waste transfer station to serve commercial and industrial generators could impact whether those businesses locate in the area, or if they're able to expand operations.

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

Yes No (check or circle)

6d. Explain your response to question 6c.

Solid waste transfer stations are now much more than simple waste consolidation centers, but rather serve as important waste diversion and recycling centers. Communities are relying on transfer stations for much of their waste management needs; and with access to fewer local landfills, will continue to emerge as the primary waste management option for many rural Iowa residents and businesses.

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?

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| <p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> (check or circle)</p> <p><i>If the answer is "yes," then answer questions 7b and 7c. If not, then proceed to question 8.</i></p> |
| <p>7b. If this chapter affects job creation, in what manner does that occur?</p> <p>Not Applicable</p> |
| <p>7c. If this chapter is required by state or federal statutes, or federal regulations, how has the department minimized negative job impacts?</p> <p>Not Applicable</p> |

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| <p align="center">8. IS THERE ANY DOCUMENTATION OR PAPERWORK REQUIRED BY THIS CHAPTER?</p> |
| <p>8a. Is there any documentation or paperwork required by this chapter?</p> <p>Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> (check or circle)</p> <p><i>If documentation or paperwork is required, then answer questions 8b through 8e. If not, then proceed to question 9.</i></p> |
| <p>8b. What is the purpose of the documentation or paperwork?</p> <p>The rules within this administrative chapter that require the submittal of paperwork pertain to minimum SDP permit application requirements and subsequent permitting actions that are found in nearly all solid waste administrative chapters (e.g. tonnage, destination of waste, training).</p> |
| <p>8c. Who reviews the paperwork required by the chapter?</p> <p>DNR central office program staff and field office staff review permit applications, quarterly reports and site inspection reports to ensure compliance with regulations and to ensure such activities are protective of human health and the environment. The minimum permit application and management plans required in this administrative chapter serve as the basis for permit issuance, documentation of compliance with operating requirements, and proof of operator certification.</p> |
| <p>8d. How is the documentation or paperwork required by this chapter informative or useful for the public?</p> <p>Because all paperwork is made public, it provides transparency and a level playing field for all required to comply with this administrative chapter. The minimum permit application and management plans required in this administrative chapter provide the DNR and the public with information on who, what and how solid waste materials are being managed at a site. These application requirements are vital to the permitting process to ensure solid waste management activities are adequately protective of human health and the environment.</p> |

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

There are several opportunities to streamline the permitting process; either through the issuance of “general permits” or through a broader “permit-by-rule” approach to regulatory oversight. Opportunities exist to restructure and simplify the required plans that must accompany each permit application, and opportunities to reduce paperwork through streamlining and standardizing reporting requirements (e.g. online application and reporting, financial assurance). Many of the alternatives provided in response to question 5e above reduce the paperwork required by this administrative chapter.

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.)

Not Applicable

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.

Not Applicable

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.

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

While the chapter is written and organized in a clear and concise manner, there are several opportunities to consider in addressing ambiguity within this administrative chapter. They include:

- An area of confusion to some is the CCC exemption provision of 567 IAC 106.3(2) which states, “If a citizen convenience center is located at a permitted recycling or composting facility or sanitary disposal project, it shall not require its own permit; instead, the citizen convenience center shall be amended into the host facility’s permit.” While identified as a permit exemption, it doesn’t exempt the CCC from anything. The permit provisions are included within another permit, rather than an individual CCC facility permit. Also, this subrule makes reference to permitted recycling facilities. The DNR does not have the authority to permit recycling facilities as they do not “facilitate the final disposition of solid waste.”
- It’s debatable whether the annual transfer station inspection by an Iowa-licensed professional engineer provides any tangible benefit toward protecting human health and the environment. Furthermore, these reports rarely lead to substantive corrective actions, are not so complex as to warrant a professional engineer, and often are completed at substantial cost to the facility.
- Costs to comply with financial assurance requirements by having an Iowa-licensed professional engineer complete a closure cost estimate at each permit renewal could be considered excessive when very little changes from one year to the next. Any financial assurance impacts could be addressed when operation and design changes are made at the facility, rather than requiring a closure cost estimate be done every three years at permit renewal.
- It’s not necessary for triplicate engineering plans and specifications be submitted to the DNR, as stipulated in 567 IAC 106.8(1)“j.” The DNR has already implemented changes allowing only one copy to be submitted and electronic submittals. The rule should be updated to reflect current practices.
- It’s not necessary that a new CCC be inspected prior to commencing operations as stipulated in 567 IAC 106.3(7), as these facilities often consist of a few empty roll-offs and a recycling bin. Site photos submitted by the applicant during the application process would be sufficient to proceed with permit issuance.

11. ARE THE CITATIONS IN THE CHAPTER ACCURATE?

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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 106.19(2)"b"(1) states, "Iowa Code section 455B.306(6)"d" criteria citation." The correct citation is Iowa Code section 455B.306(7)"d."

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

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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.

Not Applicable

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.

567 IAC 106.18(5)"f"(5) refers to Government Accounting Standards Board (GASB) Statement 18. GASB 18 pertains only to accounting standards for municipal solid waste landfill closure and postclosure care costs; not any activity this administrative chapter regulates.

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.

567 IAC 106.3(9) states in part, "A request for permit renewal shall be in writing and must be filed at least 90 days before the expiration of the current permit by submitting Form 50 (542-1542) to the department." The correct form numbers are 542-1603 for solid waste transfer stations and 542-1604 for citizen convenience centers.

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 an SDP in Iowa, Iowa Society of Solid Waste Operations (ISOSWO), Association of Business and Industry (ABI), Iowa Solid Waste Comprehensive Planning Areas, Iowa Environmental Council (IEC), Iowa Recycling Association (IRA), Sierra Club – Iowa Chapter, Iowa League of Cities, Iowa State Association of Counties (ISAC), County Environmental Health Sanitarians, current permitted solid waste transfer stations and CCCs.

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.

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