

IOWA DEPARTMENT OF NATURAL RESOURCES

LEADING IOWANS IN CARING FOR OUR NATURAL RESOURCES

502 E. NINTH STREET, DES MOINES, IA 50319
WWW.IOWADNR.GOV

CHUCK GIPP, DIRECTOR
BRUCE TRAUTMAN, DEPUTY DIRECTOR

Solid Waste Administrative Rule Review: 567 IAC 108

Beneficial Use Determinations: Solid By-Products As Resources And Alternative Cover Material

This summary is an invitation for stakeholders to participate in the Iowa DNR's solid waste administrative rule review process. We would like your input and to discuss your concerns before developing draft rule revisions.

Why is the DNR seeking stakeholder input?

The Solid Waste Section is conducting a detailed review of Iowa's solid waste regulations in accordance with Iowa Code section 17A.7(2), which requires all state agencies perform ongoing comprehensive five-year reviews of all administrative rules. The intent of this review is to eliminate unnecessary regulations, remove duplication and confusion, and ensure statutory authority exists for each chapter. Our goal is to ensure all solid waste administrative rules meet present and future needs, are plain-spoken and logical, and carry out the laws of Iowa and federally-mandated programs without imposing unnecessary regulatory burdens upon stakeholders

The purpose of 567 IAC 108

The intent of this administrative chapter was to encourage the beneficial use of solid by-products in order to preserve resources, conserve energy and reduce or eliminate the need to dispose of solid by-products in sanitary landfills. Furthermore, this chapter encourages to the maximum extent possible, consistent with accepted engineering practices, the utilization of solid by-products as resources when such utilization improves, or at a minimum does not adversely affect, human health and the environment.

DNR's legal authority

The provisions of this administrative chapter directly implement the statutory obligations of Iowa Code section 455B.304(19), which states in part, "The commission shall adopt rules for determining when the utilization of a solid by-product, including energy recovery, constitutes beneficial use rather than the disposal of solid waste." Furthermore, 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."

Improvement opportunities for discussion

- Universally approved beneficial use determinations were made for select solid by-products in order to expedite their use when such use did not adversely affect human health or the environment. However, the vagueness of

How can I provide input?

The DNR seeks stakeholder input on opportunities for improvement identified during the rule review process. When preparing your comments be sure to:

- Explain your views as clearly as possible;
- Describe assumptions used;
- Provide technical information and/or data used to support your views;
- Explain how you arrived at your estimate for potential burdens, benefits or costs; and
- Provide specific examples to illustrate your views and offer alternatives.

Please submit comments to:

Solid Waste Administrative Rule Review
Iowa Department of Natural Resources
Wallace State Office Building
502 East 9th Street
Des Moines, IA 50319
Fax: (515) 725-8202
Email: SWRR@dnr.iowa.gov

For more information

If you have questions about the DNR's solid waste administrative rule review process or information contained within this summary, please submit them to SWRR@dnr.iowa.gov.

some of the universally approved beneficial use descriptions (e.g. soil stabilization for construction purposes, fill material) often results in confusion by applicants and poses enforcement concerns for the DNR.

- A fundamental concern is that increasing environmental controls (e.g. emissions control devices) being required of waste generators will result in elevated contaminant levels in the resulting waste streams. As a result, the initial characterization that was the basis for inclusion as a universally approved beneficial use may no longer be representative of the material being generated. In addition, there is a concern of whether an appropriate level of initial by-product characterization is being conducted for all beneficial uses. Potentially inadequate evaluation may be resulting in a lack of appropriate environmental controls and regulatory oversight.
- Perhaps the most conflicting development is the use of various universally approved solid by-products (e.g. coal combustion residue, foundry sand) for the reclamation of mines and quarries under the stance of beneficial fill. This activity is analogous to landfill disposal and has subsequently created conflicting regulatory scenarios, with vastly different environmental controls and oversight, depending upon whether it's called a beneficial fill project or it's called an industrial monofill pursuant to 567 IAC 103 or 567 IAC 115. Given the unique geology and hydrogeology at these quarry sites, perhaps owners should be required to conduct a soil and hydrogeologic investigation and develop a Hydrologic Monitoring System Plan comparable to that required of sanitary landfills, to document whether these long-term large-scale filling activities are impacting groundwater. Additional dialogue with industry and the public is needed regarding this reuse application.

What input does the DNR seek?

- Should the DNR consider an alternative approach?
- How might the objectives of this chapter be better achieved?
- What considerations or information should the DNR take into account when developing rule revision language?

Rulemaking process

Because this review effort encompasses multiple chapters, spanning a broad range of complex issues, they will be divided into smaller groupings to facilitate a more manageable and phased rulemaking approach. All chapters will follow the process outlined below:

- **External Stakeholder Rule Review.** This step is intended to obtain input from external stakeholders in regard to the DNR's initial analysis of existing rules. To facilitate an open and collaborative dialogue, the DNR will host a series of stakeholder meetings and accept written stakeholder input on the preliminary rule reviews.
- **Discussion and Consensus Building.** This step entails continued dialogue with external stakeholders to build consensus regarding proposed changes and rule revisions. After the initial stakeholder review period, the DNR will evaluate feedback received and facilitate additional stakeholder engagement as needed, to further develop supported administrative rule revisions.
- **Draft Proposed Revisions.** This step will seek public input prior to submitting the proposed revisions to the Governor's Office for approval to proceed with formal rulemaking. All proposed rules will at this stage, go through an external stakeholder input process and be analyzed for fiscal and job impacts.
- **Begin formal rulemaking.** This process is set out in Iowa Code chapter 17A. All proposed revisions will be open for interested party review and comment prior to final adoption or repeal by the DNR, in accordance with the procedures expressed in Iowa Code chapter 17A. It should be noted that Iowa Code chapter 17A provides additional opportunities for public comment on draft rule revisions prior to any final agency action.

Throughout this process, further in-depth rule reviews, meeting summaries, and submitted comments will be available at www.iowadnr.gov/SWRR.

How can I track rules review and development progress?

Stakeholders are encouraged to sign up for the DNR's electronic mailing list, which provides automatic updates regarding the solid waste administrative rule review process. Registered users will receive periodic progress updates and be notified when information is posted to the rulemaking website. To subscribe, please send a blank e-mail to join-dnrswrr@lists.ia.gov. The subject line is left blank.

*Further in-depth rule reviews and supporting documents are available at www.iowadnr.gov/SWRR.