

IOWA DEPARTMENT OF NATURAL RESOURCES

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Solid Waste Administrative Rule Review: 567 IAC 109

Special Waste Authorizations

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 109

The intent of this administrative chapter was to provide a regulatory program for the safe and proper disposal of certain wastes (e.g. industrial process waste, pollution control waste or toxic waste) which present a threat to human health or the environment, or wastes with inherent properties that make disposal in a sanitary landfill difficult to manage. The provisions of this chapter assist sanitary landfills and waste generators in making waste determinations (per 40 Code of Federal Regulations (CFR), Part 261.2) and in evaluating various reuse and waste handling options.

DNR's legal authority

The provisions of this administrative chapter directly implement the statutory obligations expressed in Iowa Code section 455B.304(17), by establishing a special waste authorization program.

Improvement opportunities for discussion

- "General special wastes" are special wastes (i.e. asbestos-containing material; petroleum-contaminated soil (PCS); and stabilized grit, bar screenings and grease skimmings) that are commonly accepted by sanitary landfills that have specific handling requirements for disposal that are explicitly listed in 567 IAC 109.11. While the intent of specifying certain wastes as "general special waste" was done to streamline the handling and disposal process, in doing so, further options for management at a sanitary landfill have as a result

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.

been excluded. The management provisions specified for these wastes should be set as guidance unless federal regulations apply (e.g. asbestos), and not a mandate of how the waste must be handled in all instances.

- Pursuant to 567 IAC 109.11(2)“h,” PCS that has been remediated to 100 ppm total hydrocarbon content may be used as daily cover material or incorporated into the working face of a municipal solid waste sanitary landfill. However, 567 IAC 113.8(1)“b”(10) states that municipal solid waste sanitary landfills can only accept PCS that has been managed pursuant to 567 IAC 120. The concentration levels expressed in 567 IAC 120.12 are Tier I levels pulled from 567 IAC 135.9 and represent “clean” soil. To further complicate matters, 567 IAC 108.4(14)“b” states that PCS that has been remediated to the contaminant levels in 567 IAC 120.12 can be used as either fill material at the original excavation site pursuant to 567 IAC 108.6(1), or an alternative cover material at a sanitary landfill pursuant to 567 IAC 108.8. As a result, there are four administrative chapters that have varying levels of remediation that provide for varying levels of reuse. These discrepancies must be resolved and those authorized applications post-remediation clearly expressed.
- It’s unclear whether the infectious waste provisions of 567 IAC 109.9 were adopted to address in some part, the statutory obligations of Iowa Code section 455B.501(2) that requires the DNR to recommend for adoption standards for the on-site and offsite treatment of infectious waste. There needs to be further guidance as to how to dispose of infectious waste if the waste generator is not affiliated with a hospital treatment facility (uncodified provision of 1993 Iowa Acts, Chapter 103, section 2; moratorium not applicable to medical waste incinerators already in operation by hospitals).

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.