



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 117

Chapter Name: Waste Tire Management

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 lowans and our natural resources?

Yes No (check or circle)

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

The intent of this administrative chapter was to establish guidelines for the proper management of waste tires, including disposal, collection, storage, processing, and beneficial reuse of waste tires and processed waste tire materials in a manner that is protective of human health and the environment. Improper management of waste tires may lead to future problems such as the burning of tires, risk of disease from discarded tires creating a breeding ground for disease carrying mosquitoes and rodents, and a blight on the landscape that may attract further dumping of other solid waste.

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 sections 455B.301 to 455B.307 and 455D.11 to 455D.11H."

[Iowa Code section 455D.11](#) - 455D.11(1) through (7)

[Iowa Code section 455D.11A](#)

[Iowa Code section 455D.11B](#)

[Iowa Code section 455D.11C](#) - 455D.11C(1) and (2)

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

The stated purpose of this administrative chapter was to establish guidelines for the proper management of waste tires, including disposal, collection, storage, processing, and beneficial reuse of waste tires and processed waste tire materials. The provisions of this administrative chapter directly implement the enabling statutes of Iowa Code section 455D.11, 455D.11A, and 455D.11B by establishing permitting programs for waste tire stockpile and processing sites, which include financial assurance, to ensure such activities are conducted in a manner that is protective of human health and the environment.

While there is no specific code provision that states "the commission shall develop rules for the issuance of permits to waste tire processing facilities," it is implied within multiple statutory provisions (e.g. Iowa Code sections 455D.11(1)(b), 455D.11(3)(d), 455D.11A(1), 455D.11B and 455D.11C(2)(a)(1)). Furthermore, while Iowa Code section 455D.11C is not directly implemented by this administrative chapter, it does address how existing moneys in the waste tire management fund are to be used to cover certain waste tire administrative expenses.

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 the most part, any public or private entity deemed to require a permit for their waste tire stockpiling or processing activities, or a determination from the DNR regarding a proposed beneficial use of waste tires, the provisions of this administrative chapter are applied equally to all. However, there are specific provisions regarding underground storage that pertain only to sites that can meet certain conditions (i.e. licensed grain warehouse). For those undertaking above ground storage, there are more limitations upon their operations than are placed upon underground storage operations. This could be considered inequitable treatment.

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.

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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.

567 IAC 117.4(2) and (3) provide for the issuance of waste tire stockpile permits to those facilities that store more than 500 passenger tire equivalents (PTEs) on any one site. This permit was originally devised as a way to allow entities to collect tires in an environmentally responsible way (and prevent illegal dumping), with the intention of the waste tires becoming a valued commodity. These sites then became some of the largest waste tire clean-ups paid for by the taxpayers of Iowa. History has shown that waste tires are unlikely to ever have a positive value due to more stringent air quality regulations and the difficulty in breaking down waste tires into various commodities. No other waste material is allowed to accumulate indefinitely with no clear plans of recycling or disposal. 567 IAC 117.4(2) should be considered for removal from this administrative chapter, as stockpiling tires without any end-market is not a proper management method. To accomplish this would also require a legislative change to Iowa Code section 455D.11(5), as this places a requirement upon the DNR to develop criteria for the issuance of permits to qualified stockpiling facilities.

567 IAC 117.4(2)"a" makes allowances for authorized vehicle recyclers (as licensed by the Iowa Department of Transportation (IDOT)) for storage of up to 3,500 PTEs without a waste tire stockpile permit. 567 IAC 117.6(1)"d" goes on further to exempt businesses and individuals (that cut, grind, or compact for disposal waste tires generated directly from operations at their own on-site manufacturing operation or service facility) from a waste tire processing permit if the processed tires are disposed of at least every 30 days at a permitted facility and no more than 500 waste tires are processed monthly. These exemption criteria are vague and difficult for the DNR to verify compliance. Additional discussion with the industry and interested parties is needed to determine what regulatory requirements are applicable to these types of operations, and whether these businesses should be treated differently than any other business under the storage provisions of 567 IAC 117.4(1).

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.

567 IAC 117.8 provides for the beneficial use of waste tires. While the enabling statutes for

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waste tires are contained within Iowa Code section 455D.11, beneficial use allowances were not included within these statutory provisions. Iowa Code section 455D.11E titled, "Use by regents institutions of tire-derived fuels and other beneficial uses of waste tires" included beneficial uses of waste tires, however, this section was repealed by 2004 Acts, ch 1173, § 2. As a result, the inclusion of beneficial uses of waste tires within 567 IAC 117 appears to be broader than what authorities have been granted to the DNR pursuant to Iowa Code section 455D.11.

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.

Because all waste tire provisions (i.e. hauling, processing, storage and beneficial use) are outside of the authorities granted in Iowa Code Chapter 455B, Division IV "Solid Waste Disposal," Part 1 "Solid Waste," those chapters dealing with waste tire management (i.e. 567 IAC 116 and 117) should likely remain separate from any consolidated solid waste permitting chapter(s). However, combining those provisions of 567 IAC 116 and 117 that have statutory authority into a single administrative chapter should be further evaluated as a means to streamline and consolidate administrative provisions.

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

The objective of this administrative chapter was to set clear requirements regarding the storage, processing and beneficial use of waste tires. While this chapter was written in a way that attempts to provide opportunities for waste tire management with minimal DNR oversight, there are opportunities to streamline and clarify requirements (see response to 10b) that would improve applicant understanding and compliance. Additional detail and suggestions have been expressed in a companion Phase 2 review for 567 IAC 116.

A primary example is that the requirements of 567 IAC Chapters 116 and 117 could be combined into one comprehensive waste tire management chapter. Combining chapters would address areas of redundancy, as well as those provisions that are contradictory (e.g. storage timeframes, amounts, operational criteria). In addition, the design and operating requirements for waste tire processing facilities are expressed in detail within this administrative chapter, which could lend itself well to a "general permit" approach, as a means to further streamline the permitting process.

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 suggested revisions above and in response to question 10b below do not substantially alter how the program is administered, but rather look to streamline and standardize the permitting process for both the applicant and the DNR. The time and financial resources saved by not having to periodically submit the same permit application documentation to the DNR could be considerable, not to mention the shorter timeframe with which the DNR could review and issue such permits. While these revisions may result in some cost savings to registrants and the DNR,

they are limited somewhat by current statutory authorities.

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. Because there is a land disposal ban on waste tires (unless processed in a manner established by the DNR), an orderly means of addressing this waste stream must be provided. The permitting of waste tire processing and storage sites, as well as the beneficial use of waste tires, provides a means for limited regulatory oversight to ensure the proper management of waste tires. This administrative chapter has been implemented for more than a decade without major modification, and with few concerns raised by those whom it regulates. The provisions of this administrative chapter have undoubtedly minimized the environmental and human health impacts of further illegal disposal and improper stockpiling of waste tires in Iowa.

As with the waste tire hauler program in 567 IAC 116, this waste tire permitting program is no longer financially supported by the IDOT's road use tax fund. As such, there is no revenue source for the DNR to administer this program. While Iowa Code section 455D.11B provides the DNR with the authority to collect \$850 annually from each permitted waste tire stockpile or waste tire processor, this revenue is not sufficient to offset expenses incurred in the administration of this program. This annual fee is to cover expenses related to staff time in tracking and issuing waste tire stockpile and processor permits, ongoing technical assistance to such facilities, and field office time in conducting site inspections and enforcement follow-up. As part of this administrative rule review process, a more in-depth analysis of the costs incurred by the DNR in administering this program will need to be conducted to determine a more accurate (i.e. budget neutral) fee. However, given this amount is dictated in Iowa Code, it would require a legislative change to be revised.

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 wanting to undertake waste tire processing, storage or beneficial use activities shall comply with the provisions of this administrative chapter. Examples of such entities would include tire retailers and service shops, salvage yards, tire manufacturers, and recycled tire markets (e.g. TDF, civil engineering applications).

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

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Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> (check or circle)
6d. Explain your response to question 6c. While some burden is always placed upon an applicant/registrant to obtain the proper authorization, this program provides businesses and the public with the assurance that their waste tires are being properly managed. While there are some revisions that have been suggested that will streamline and clarify the permitting, the current rule requirements do not appear to place unnecessary burdens upon entities wanting to properly manage waste tires. <i>If the answer to question 6c is "yes," then answer question 6e. If not, then proceed to questions 6f through 6i.</i>
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 <input type="checkbox"/> No <input checked="" type="checkbox"/> (check or circle) <i>If the answer is "yes," answer questions 6g through 6i as applicable. If not, proceed to question 7.</i>
6g. Have industry standards changed since the adoption of this chapter? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> (check or circle) <i>If the answer is "yes," answer questions 6h and 6i. If not, proceed to question 7.</i>
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 <input type="checkbox"/> No <input checked="" type="checkbox"/> (check or circle) <i>If the answer is "yes," then answer questions 7b and 7c. If not, then proceed to question 8.</i>
7b. If this chapter affects job creation, in what manner does that occur?

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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 and subsequent permitting actions (e.g. semiannual reporting). This required documentation ensures waste tires are being collected, stored and processed by legitimate waste tire management facilities, and that waste tires are used beneficially in a manner that is protective of human health and the environment.

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

Waste tire stockpile and processor permit applications and periodic reporting are reviewed by DNR central office program staff and field office staff, and serve as the basis for permit issuance and documentation of compliance with operating requirements, and proof of financial assurance coverage.

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

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 reporting requirements serve as the basis to approve an entity's permit application request, and provides the public with information on who, what and how the waste tires are being managed at the site. These application and reporting requirements are vital to the permitting process to ensure waste tire management activities are adequately protective of human health and the environment.

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

As stated prior, while there are opportunities to streamline the permit application and reporting process, the current paperwork requirements are minimal. The revisions being considered would be to make the application and reporting process more efficient by allowing for internet based submittals, online fee payments, and evaluation of a "general permit"

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approach to regulatory oversight.

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.)

Pursuant to 567 IAC 117.8, civil engineering applications using waste tires may be considered acceptable beneficial use applications when conducted under the immediate direction of one of the following entities:

- U.S. Army Corps of Engineers (USACE) - if involving navigable waterways and other waterways over which it has jurisdiction,
- U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS),
- U.S. Department of the Interior's Bureau of Land Management (BLM),
- Iowa Department of Transportation (IDOT),
- Iowa DNR's Floodplain Management Program,
- National Fire Protection Association's Uniform Fire Code, and
- Any applicable local building codes, zoning and land-use covenants, ordinances, and guidelines.

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.

While the organizations referenced above may not directly regulate the management of waste tires, they serve to ensure those applications where waste tires are a part of the management activity, are designed and applied in a manner that is protective of human health and the environment.

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

Any duplication occurring in this administrative chapter is with regard to certain waste tire operational requirements (e.g. use of registered waste tire hauler, beneficial use of waste tires), which already exist in some manner in 567 IAC 116 and 567 IAC 108. As stated prior, perhaps consolidating the two waste tire chapters into a single administrative chapter would address

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any areas of duplication or confusion. Also, the beneficial use of waste tires in 567 IAC 117.8 could be considered for inclusion with 567 IAC 108, which would consolidate all beneficial use provisions within a single administrative chapter.

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 revisions that can be made to streamline requirements and improve the readability. They include:

- The provisions of 567 IAC 117.3(1) are inconsistent in that the first sentence specifically prohibits the land disposal of cut tires, and the second sentence allows this conditionally. This subrule should be revised to add clarity and allow for processing and disposal as stipulated in Iowa Code 455D.11(2).
- 567 IAC 117.4(3)"a"(12) states, "The site must be graded to prevent any standing pools of water and to limit the runoff and run-on of precipitation." These requirements seem somewhat contradictory in that if the site is graded to prevent standing pools of water, it will promote runoff from the site. See 567 IAC 117.6(2)"a" for consistency of wording.
- 576 IAC 117.7(2)"c" states in part, "Waste tire processing sites shall have financial assurance coverage equal to 85 cents per waste tire stored above the permitted three-day processing capacity." This only pertains to pre-processed "whole" tires and not any processed tire material. While most permitted sites must include all residuals in their closure cost estimate (no discounting for recyclables), waste tire processing facilities are not required to, which is an issue of consistency and equitable treatment. As this requirement is pulled directly from Iowa Code section 455D.11A(5), it would require a legislative change to address.
- 567 IAC 117.6(1)"b" states in part, "Facilities that accept waste tires to cut, grind, or compact only for final disposal at a permitted sanitary disposal project shall be required to obtain a waste tire processing permit in accordance with these rules." This paragraph directly contradicts the definition of a tire processor, who produces a material "that is readily suitable for marketing into product manufacturing, energy recovery, or other

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beneficial reuse markets.”

- 567 IAC 117.4(2)“a” states in part, “Any tire collector, business or individual storing more than 500 passenger tire equivalents on any one site must obtain a waste tire stockpile permit.” Entities and individuals that have accumulated significant waste tire stockpiles should not be allowed to move waste tires to multiple sites to meet the 500 passenger tire equivalent exemption from a waste tire stockpile permit. This provision of “on any one site” should be revisited to account for all property owned/managed by the entity stockpiling the waste tires.
- The allowance for underground storage of waste tires in 567 IAC 117.4(3)“c” should be reviewed and considered for rescission from this administrative chapter. History has proven that underground storage of waste tires has the propensity for final disposal, which is a waste tire management practice that should not be supported.
- The provisions of 567 IAC 117.4(1)“a” should be revised to account for permitted waste tire processing facilities. Currently this paragraph makes reference to needing only the waste tire stockpile permit and nothing else. The 3-day processing capacity indicated in 567 IAC 117.6(3)“a” may often exceed 500 tires, and the provisions of 567 IAC 117.4(1)“a” imply they may only need to obtain a waste tire stockpile permit.
- 567 IAC 117.4(2)“d”(6) indicates that the emergency response and remedial action plan (ERRAP) “shall be developed with the input and review of the local fire department and local emergency management coordinator.” Perhaps a letter in the facility’s file, or submitted to the DNR from the local fire marshal indicating that they’ve reviewed the ERRAP and that it is appropriate, should be adequate to address this regulatory requirement.
- As with most solid waste permits issued by the DNR, it seems the permit application requirements could be expressed within an application form (adopt DNR Form # in rule), rather than listing out all the individual requirements that must be included within the application in rule. This change would streamline the administrative chapter and allow for minor revisions to the application form without having to go through formal rulemaking. In those instances where a significant change to the application was warranted, the DNR would undertake a formal rulemaking change to ensure the regulated public had ample opportunity to voice any concerns to the proposed revision.
- The permit cycle for waste tire stockpile and waste tire processing permits could be revisited and perhaps extended from 3 years, as required in 567 IAC 117.4(2)“c” and 117.6(1)“e.” This could lessen the regulatory burden upon permit holders and the DNR, without lessening human health and environmental protection safeguards.

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- Some of the definitions expressed in 567 IAC 117.2 are not verbatim from those definitions expressed in the enabling statute (Iowa Code section 455B.11). To ensure a clear understanding of applicable requirements, all shared definitions must be consistent with Iowa Code.
- Several requirements regarding waste tire storage are duplicative (e.g. dimensions of piles, setback distances, worker safety precautions) depending upon whether it's a whole tire, cut tire, baled tire or processed tire material. There are opportunities through consolidation to reduce duplication and improve consistency, which would also aid in improving operator compliance.
- There are also opportunities to streamline the application requirements through the use of a single permit application form for waste tire stockpile permits and waste tire processor permits, as the requirements are very similar.
- 567 IAC 117.4(2)"d"(4) indicates that a vector control plan is required for waste tire stockpiles. If this is appropriate for a waste tire stockpile permit, this requirement should also be applied to a waste tire processor permit. Given most waste tire processors will have more than 500 PTEs stockpiled onsite, the justification of this exclusion is unclear.
- For those facilities that cut, grind or compact waste tires for final disposal from their own operations, 567 IAC 117.6(1)"d" provides an exemption from a waste tire processing permit if no more than 500 PTEs are processed monthly. It's unclear why there are differing permitting requirements dependent upon whether the waste tires are the result from one's own operations or if they're sought out. Perhaps the same permit exemption allowance should be extended to those facilities that accept waste tires from external generators to cut, grind, or compact for final disposal. Further discussion regarding this regulatory exemption is needed to ensure entities are equitably treated.
- It's unclear what accounts for the difference (i.e. 300 ft. and 50 ft. respectively) in setback distances between waste tire stockpiles (567 IAC 117.4(3)"a"(17)) and waste tire processors (567 IAC 117.6(3)"f"(6)). The pre-and post-processed waste tire storage requirements at waste tire stockpile and processing facilities should be revisited, and perhaps consolidated into a single rule for consistency, unless minor nuances are dictated by applicable fire codes.
- 567 IAC 117.8(11)"b" states that waste tire materials shall be stored in accordance with the requirements of 567 IAC 117.4(3) and 117.6(4)"c". It should be noted that these referenced requirements allow for significant quantities of materials to be stockpiled. Given 567 IAC 117.8(11)"a" allows applicants to stockpile these tire materials for no

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longer than 60 days prior to the date of application, this could allow entities to legally establish significant stockpiles before an application is even submitted. This could result in sites having significant stockpiles that require clean-up if the project fails to be implemented. This could also conflict with the waste tire stockpile permit requirements of 567 IAC 117.4(2)“a” if an entity stores more than 500 PTEs on any one site.

- Because the authority granted to the DNR in Iowa Code chapter 455D is limited to waste tires, it does not appear the DNR has the authority to place storage requirements upon used tires as expressed in 567 IAC 117.5(1). However, the DNR does have the authority to determine what criteria must be met in order to be a waste tire, as is expressed in 567 IAC 117.5(2).
- 567 IAC 117.4(2)“d”(6) and 567 IAC 117.6(1)“g” state that a waste tire stockpile or processor permit applicant must submit an ERRAP in accordance with 567 IAC 102. An ERRAP is a requirement of an SDP and is included in Iowa Code section 455B.306. It is important that waste tire management facilities have an ERRAP, but it’s not clear whether referencing the ERRAP requirements in 567 IAC 102 is statutorily appropriate given the waste tire enabling authority is in Iowa Code section 455D.11.
- 567 IAC 117.8(11)“c” states, “Any storage of waste tires associated with a proposed beneficial reuse project at a site of end use for longer than 60 days without implementation of completion of a beneficial reuse project shall be subject to the waste tire storage permitting requirements as contained in rule 117.4(455B,455D).” While it’s assumed that the waste tire storage provisions of 567 IAC 117.4(3) are only applicable after an entity has been issued a waste tire stockpile permit pursuant to 567 IAC 117.4(2), further clarification is needed as to which specific provisions are being referenced in 567 IAC 117.8(11).
- It should be noted that Iowa Code section 455D.11(8) requires the DNR adopt rules relating to the storage and disposal of nonpneumatic tires, however, these provisions have not yet been drafted for incorporation into this administrative chapter or any other waste tire administrative chapter.
- Further discussion and clarification is needed regarding the provisions of 567 IAC 117.6(1)“b” and how the DNR should interpret “generated directly from operations at their own on-site manufacturing operation or service facility.” For example, how should waste tires be treated if a salvage yard accepts them for a fee, but not part of any vehicle salvage? Are they then “generated directly from operations at their own on-site manufacturing operation or service facility” or are they operating more as a waste tire processor?
- It should be noted that 567 IAC 117.8 pertains to the beneficial use of waste tires,

however, there is no statutory authority in Iowa Code chapter 455D that provides such oversight to the DNR. Rather, the authority to draft rules regarding the beneficial use of solid by-products is in Iowa Code section 455B.304(19) and codified in 567 IAC 108. Perhaps a more appropriate location for the beneficial use of waste tires would be within 567 IAC 108. However, the definition of a solid by-product in 567 IAC 108 would exclude waste tires because they are not a “secondary material or residual, produced or created by an industrial, commercial or institutional process or activity” and are not “composed of materials suitable for disposal as solid waste in a sanitary landfill.” Iowa Code section 455D.11(2) places a prohibition upon the disposal of waste tires (unless processed in a manner established by the DNR) in a sanitary landfill. As a result, if waste tire beneficial use provisions are to be left within 567 IAC 117, legislative action will likely be required to provide the applicable authority.

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.

Not Applicable

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.

567 IAC 117.6(3)"g" states in part, "Any remaining indoor storage shall comply with the requirements of 117.4(3)"b," subparagraphs (3) through (7), and the following:" The correct citation should be "117.4(3)"b," subparagraphs (3) through (6)."

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.

567 IAC 117.4(2)"d"(6) states in part, "An emergency response and remedial action plan, developed and implemented according to applicable provisions of 567—102.16(455B)." The correct citation is 567 IAC 102.14.

567 IAC 117.6(1)"g" states in part, "A permitted processing facility shall have an emergency response and remedial action plan, developed and implemented according to applicable provisions of 567—102.16(455B)." The correct citation is 567 IAC 102.14.

567 IAC 117.8(6)"f" states, "Leachate drainage medium at a permitted municipal landfill, provided that the medium meets engineering and design requirements for the landfill's operating permit, pursuant to 567—Chapter 102." The correct citation is 567 IAC 113.

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.

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.

Not Applicable

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 waste tire collection, processing or beneficial use project in Iowa, currently registered waste tire haulers, DNR/DEQ in bordering states because of transportation of waste tires across state lines, Iowa Society of Solid Waste Operations (ISOSWO), Association of Business and Industry (ABI), Farm Bureau, Iowa Department of Transportation (IDOT), Iowa Solid Waste Comprehensive Planning Areas, Iowa Environmental Council (IEC), Iowa Recycling Association (IRA), Sierra Club – Iowa Chapter, Iowa Tire Dealers Association (ITD), 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.

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