



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

561

565

567

571

575

Chapter¹ Number: Chapter 118

Chapter Name: Discarded Appliance Demanufacturing

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 keep hazardous substances out of the environment through the proper removal and disposal of components commonly found in discarded appliances. The requirements of this administrative chapter have helped level the playing field considerably for those who are going through the expense of properly managing refrigerant, mercury and polychlorinated biphenyls (PCBs) found in appliances. It has also increased awareness of federal regulations that appliance demanufacturers may not have otherwise been aware of.

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.304 and 455D.6(6)." The correct Iowa Code citation for this administrative chapter is 455D.6(4), not 455D.6(6).

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

[Iowa Code section 455D.6\(4\)](#) – 455D.6(4)

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

The provisions of this administrative chapter directly implement the statutory obligations expressed in Iowa Code section 455D.6(4), by establishing operating, record-keeping, training and closure standards for appliance demanufacturing operations. These standards are implemented through the issuance of permits to appliance demanufacturers.

In addition, Iowa Code section 455D.304(1) states that the commission shall establish rules for the administration of the laws pertaining to solid waste management. While there are specific rules within this administrative chapter that have direct statutory authority, 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."

It should be noted that the authorities granted in Iowa Code section 455D.6(4) are vague and provide the DNR with the latitude to establish requirements in a variety of ways. However, it's questionable whether the DNR has authority to implement some portions of the current appliance demanufacturing permitting program because they're a reflection of the Toxic Substances Control Act (TSCA) and the Resource Conservation and Recovery Act (RCRA) Subtitle C hazardous waste programs, which Iowa has not been delegated the authority to administer.

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.

567 IAC 118.6(8) requires an applicant submit a copy of the U.S. Environmental Protection Agency's (EPA) Refrigerant Recovery or Recycling Device Acquisition Certification Form.

Some of the requirements of 40 CFR, Part 273 are implemented by 567 IAC 118.10, titled "Mercury-containing component removal and disposal requirements."

567 IAC 118.11, titled "Capacitor removal requirements", makes several references to the provisions of 40 CFR, Part 761.

567 IAC 118.12, titled "Spills", requires spills of PCBs to be cleaned up in accordance with 40 CFR, Part 761.130 and 40 CFR, Part 761.180.

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

Requiring a copy of the U.S. EPA Refrigerant Recovery or Recycling Device Acquisition Certification Form shows that the applicant has refrigerant recovery equipment that is approved by the U.S. EPA. The DNR does not have regulatory authority for refrigerant removal, thus the permit requirement is to assure compliance with U.S. EPA refrigerant regulations.

Mercury-containing components are not required to be removed from discarded appliances pursuant to U.S. EPA regulations, but there is an agreement (i.e. Institute of Scrap Recycling Industries (ISRI)) between the U.S. EPA and metal shredding facilities that a source reduction program be in place for shredder fluff to be reused beneficially. The storage, handling and disposal of mercury-containing components would fall under U.S. EPA regulation. The requirements in 567 IAC 118.10 are intended to reiterate the federal requirements for handling mercury-containing components as a universal waste, pursuant to 40 CFR, Part 273.

As is the case with mercury-containing components, federal regulations do not require PCB capacitors be removed from discarded appliances, but there is an agreement between the U.S. EPA and metal shredding facilities that a source reduction program be in place for shredder fluff to be reused beneficially. The storage, handling and disposal of PCBs falls under U.S. EPA regulation. The U.S. EPA does allow intact, non-leaking small capacitors (i.e. less than 3 lbs. of PCBs) to be disposed of as municipal solid waste in a sanitary landfill.

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.

The following are specific examples within this administrative chapter where state provisions are more stringent than federal regulatory requirements:

Pursuant to 567 IAC 118.4(3), no more than 1,000 discarded appliances may be stored at a location prior to demanufacturing. Federal regulations do not stipulate the number or amount of appliances, but this has helped limit illegal dumping and the abandonment of a solid waste in Iowa.

Pursuant to 567 IAC 118.4(4), discarded appliances may not be stored for more than 270 days prior to demanufacture. This was adopted to enforce federal the PCB regulations, but the U.S. EPA does not regulate the disposal of small capacitors.

Pursuant to 567 IAC 118.5, a person must obtain an appliance demanufacturing permit (ADP) before conducting any demanufacturing activities. However, the U.S. EPA does not require appliance recyclers obtain a permit.

Pursuant to 567 IAC 118.7, applicants are required to submit proof of certain site location requirements (e.g. zoning, 100-year flood elevation) in order to obtain an appliance demanufacturing permit. However, the U.S. EPA does not place comparable operating and permitting requirements upon appliance demanufacturing activities.

Pursuant to 567 IAC 118.8, at least one owner or employee of an appliance demanufacturing facility must have a training certificate from a DNR-approved training course. The U.S. EPA does not require comparable training for entities that recycle appliances.

567 IAC 118.10 addresses mercury-containing component removal and disposal. These requirements follow RCRA storage, handling and disposal regulations for hazardous mercury, however, the U.S. EPA does not regulate the removal of such components in appliances prior to shredding.

Pursuant to 567 IAC 118.11, all PCB capacitors must be removed from discarded appliances unless the appliance manufacturer certifies in writing that no PCBs were used in the manufacture of the appliance. However, federal regulations allow intact, non-leaking small capacitors to be handled as municipal solid waste. Thus, no storage timeframe, federal ID

This document has been created as a preliminary internal review tool for DNR staff to use in the initial analysis of rules and rule chapters. Any information contained in this document is subject to change and is not meant to imply any specific intention to request that any further evaluation or formal rulemaking process should occur.

number, or labeling is required under applicable federal regulations.

Pursuant to 567 IAC 118.13, permit holders are required to submit annual reporting to the DNR and to maintain records onsite. However, the U.S. EPA does not require appliance recyclers keep records onsite of appliance recycling activities, unless the facility is part of U.S. EPA's RAD program.

Pursuant to 567 IAC 118.16, permit holders are required to maintain financial assurance to cover proper site closure costs. However, the U.S. EPA does not require appliance recyclers maintain financial assurance.

Pursuant to 567 IAC 118.11(5)“b,” appliance demanufacturers are given an alternative option for the disposal of PCB capacitors at regional collection centers (RCCs) through an agreement with the U.S. EPA. Although federal regulations (i.e. 40 CFR, Part 761.60(ii)) allow for the disposal of small PCB capacitors in sanitary landfills, Iowa administrative code does not. This discrepancy between state and federal regulations needs to be addressed.

Pursuant to 567 IAC 118.10, all components containing mercury must be handled as a "universal waste;" however, an option should be given to handle mercury-containing components as RCRA hazardous waste. Universal wastes and hazardous wastes have differing levels of regulatory oversight, and in some instances it may be advantageous to manage the material as a RCRA hazardous waste. For example, 567 IAC 118.10(2) & (3) detail the labeling of mercury components and 567 IAC 118.10(4) states that mercury-containing components cannot be stored for longer than one year; both of which are in accordance with federal universal waste regulations. However, for a conditionally exempt small quantity generator (CESQG) managing mercury-containing materials as a RCRA hazardous waste, there are no labeling requirements and no time limit for storage per 40 CFR, Part 261.5(g)(2).

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.

567 IAC 118.10(9) states that mercury must be handled as universal waste pursuant to 40 CFR, Part 273. Under U.S. EPA regulations, it can also be handled as a hazardous waste. The appliance demanufacturer should be given a choice as to which manner they want to handle the waste, as it could provide a cost saving to the facility.

Mobile appliance demanufacturers are able to provide demanufacturing services at their clients' location rather than having to collect and transport them to a fixed location. Financial

This document has been created as a preliminary internal review tool for DNR staff to use in the initial analysis of rules and rule chapters. Any information contained in this document is subject to change and is not meant to imply any specific intention to request that any further evaluation or formal rulemaking process should occur.

assurance is required for all permitted appliance demanufacturers, however, the financial assurance estimate is based on the number of appliances collected. Since these facilities do not store or collect appliances, and all removed components are required to be removed the same day, the financial assurance estimate would be zero. This administrative chapter could be rewritten to exempt mobile demanufacturing operations from providing financial assurance based on the lack of storage of discarded appliances or removed components.

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.

Not Applicable

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.

The financial assurance requirements are particularly onerous to a large segment of the community that engages in scrap metal recycling. Appliance demanufacturing is not "final disposition" and therefore should not be required to maintain financial assurance. The financial assurance requirement should be considered for removal, which in turn would reduce the financial burden by eliminating the engineering cost estimate and the financial assurance costs; reducing a permitting hurdle that may encourage more people to obtain a permit for appliance demanufacturing.

During city-wide curbside pickup events, many appliances get "worked over" by scrappers taking copper and anything of value, leaving the rest behind. This may leave hazardous waste on the property for the owner to deal with. In addition, many permitted appliance demanufacturers refuse to take appliances that have been scavenged because the value of the appliance is gone and it's difficult to obtain the required paperwork to verify it was previously scavenged.

There are few requirements for those who collect appliances. They may have more appliances stored onsite than a demanufacturer, but do not need a permit or financial assurance.

Because Iowa's rules are more restrictive than federal regulations and other states lack rules specific to appliance demanufacturing, discarded appliances are being transported out-of-state, creating a competitive disadvantage for permitted appliance demanufacturers in state. While this is a federal interstate commerce issue outside of our regulatory authority, it is an unintended consequence of this administrative chapter.

The provisions of this administrative chapter stipulate that mercury must be handled as a "universal waste," when an option should be given to handle it as a hazardous waste, as those regulations can at times be less burdensome. IAC 567 118.10(2) & (3) detail the labeling of mercury-containing components and 567 IAC 118.10(4) states that it cannot be stored for longer than one year. As a conditionally exempt small quantity generator (CESQG) of hazardous waste, there are no labeling requirements and no time limit for storage (40 CFR, Part 261.5(g)(2)).

Due to a lack of specificity within this administrative chapter, the cost closure estimates can vary greatly from facility to facility due to the price of metals and the Iowa-licensed professional engineer providing the estimate. Further detail should be incorporated into the financial assurance provisions to standardize facility cost closure estimates.

The unique marking symbols as required in 567 IAC 118.7(5) are difficult to track because they cannot be entered into a database. If a person wanted to see whose mark is on a demanufactured appliance, the person would need to have a copy of all the unique marks and go through them one by one. Marking the demanufactured appliance with the permit number would be a much more efficient way of identifying the demanufacturer.

Although this administrative chapter has significantly improved compliance regarding proper hazardous component management, it has not solved the problem of unpermitted demanufacturers that sell the metal from undemanded appliances. Because little infrastructure is needed to demanufacture appliances, new demanufacturers surface when the price of scrap metal is high. Although scrap metal has value, there is a cost associated with properly managing the hazardous components. Permitted facilities that properly manage the hazardous components may charge a small fee to take the appliance, while unpermitted demanufacturers do not have the same expense and often take the discarded appliance free of charge. Further escalating the issue, some appliance retailers will leave discarded appliances outside overnight for unpermitted demanufacturers to collect.

An appliance collector may have multiple properties with up to 1,000 appliances stockpiled at each site. The limit should be based upon the total number of discarded appliances on all property under the ownership of that entity, to avoid significant stockpiles from being established.

There seems to be confusion regarding regulations on discarded appliances that are brought in from out-of-state, and discarded appliances collected in Iowa and transported to another state. The DNR can only regulate activities that take place within Iowa. Discarded appliances may be collected in Iowa and transported out-of-state and demanufactured and recycled according to that state's regulations. Discarded appliances that are collected out-of-state and brought into Iowa must be demanufactured to Iowa's regulations. The transport of discarded appliances out-of-state cannot be restricted due to federal interstate commerce provisions.

Further clarification is needed regarding when appliances are collected for parts and reuse,

This document has been created as a preliminary internal review tool for DNR staff to use in the initial analysis of rules and rule chapters. Any information contained in this document is subject to change and is not meant to imply any specific intention to request that any further evaluation or formal rulemaking process should occur.

versus being recycled or deemed a solid waste by state law. Some facilities have collected thousands of appliances and stored them outside, yet claim that the appliances are for parts or are destined for future repair. As a result, they're not considered "discarded" and subject to the provisions of 567 IAC 118. Clarifying when an appliance is discarded would assist in determining which facilities are subject to permitting requirements.

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.

Iowa has no authority regarding the implementation of RCRA, Subtitle C hazardous waste requirements.

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.

This administrative chapter is limited to household appliances that have the potential to contain refrigerant, mercury and PCBs, and regulatory oversight could be achieved in a manner other than permitting (e.g. expanded education and outreach, streamlined permit-by-rule approach).

While this administrative chapter reflects certain federal hazardous waste regulations, its rescission would not result in appliance demanufacturers no longer having to comply with those same federal requirements. As this permitting program has evolved, additional requirements and detail have been included at the request of stakeholders to provide additional clarification. In fact, some have pushed to make these requirements more restrictive than they currently are.

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

- Switching from an individual facility permit to a "general permit" or a permit-by-rule approach would streamline the regulatory process, while not lessening environmental protection standards.
- This administrative chapter could be rescinded, since Iowa has no authority to implement the RCRA, Subtitle C hazardous waste program. The state could focus solely on providing education and technical assistance instead of permitting, or look to the U.S. EPA Region 7 office to implement the hazardous waste program in Iowa. Given most provisions of 567

This document has been created as a preliminary internal review tool for DNR staff to use in the initial analysis of rules and rule chapters. Any information contained in this document is subject to change and is not meant to imply any specific intention to request that any further evaluation or formal rulemaking process should occur.

IAC 118 were adopted to reinforce federal hazardous waste regulations, deferring to the entity that yields the regulatory authority would be appropriate.

- A level playing field could be achieved if scrap metal salvaging operations agree to only accept discarded appliances from businesses that are part of an accredited appliance recycling program. Getting this type of agreement could possibly be achieved legislatively, administratively or through a cooperative agreement between auto shredders, the DNR and/or the U.S. EPA.
- In lieu of the existing permitting program, a registration program could be established for all appliance demanufacturers. Requirements for the program could include notification of facility location, proof of training and certification on how to dismantle appliances and annual reporting. This would minimize the burden of applying for a permit and the costs associated with it, yet still ensure that entities are trained and a network of known demanufacturers remains available to the public.
- To limit the abandonment of discarded appliance stockpiles, perhaps a permit-by-rule approach similar to the CRT collection site registration program could be adopted. This could help close the loop on discarded appliance management from the point of collection through demanufacturing.

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?

A “general permit” approach could redirect the DNR’s limited resources toward assisting businesses on the proper management of hazardous components, and the federal regulations that govern such activities. This approach would improve facility understanding of applicable regulations, and the “general permit” approach could result in a reduction in costs associated with maintaining regulatory compliance.

In addition to a “general permit” approach, switching from an individual facility permit to a registration program for appliance demanufacturers could also result in a significant cost savings to appliance demanufacturers through the reduction in paperwork involved and the need to maintain financial assurance.

If the state rescinded its regulatory program for appliance demanufacturers, those facilities undertaking such activities would still be required to comply with applicable federal regulations (e.g. TSCA and RCRA) and state regulations (e.g. stormwater permit). The DNR could then focus its resources toward education and technical assistance on proper management methods to appliance demanufacturers and the public.

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

Although there are no costs for the permit itself, there are cost incurred by the applicant, such

as the appliance demanufacturing course, the time to prepare the permit application and annual reports and financial assurance. The facilities would still have costs of complying with federal regulations, such as labeling and proper containers. The benefit of this administrative chapter is that the hazardous components of discarded appliances are managed in a manner that is protective of human health and the environment.

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?

Appliance demanufacturers, metal recyclers, appliance retailers, hazardous waste disposal companies and environmental consulting companies.

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

Yes No (check or circle)

6d. Explain your response to question 6c.

Because Iowa's rules are more restrictive than federal regulations, and other states lack rules specific to appliance demanufacturing, discarded appliances are being transported out-of-state creating a competitive disadvantage for permitted appliance demanufacturers in Iowa.

Although this administrative chapter has significantly improved compliance regarding proper hazardous component management, it has not solved the problem of unpermitted demanufacturers selling metal from undemanufactured appliances. Because little infrastructure is needed to demanufacture appliances, new demanufacturers surface when the price of scrap metal is high. Although scrap metal has value, there is a cost associated with properly managing the hazardous components. Permitted facilities that properly manage the hazardous components may charge a small fee to take the appliance, while unpermitted demanufacturers do not have the same expense and often take the discarded appliance free of charge. Further escalating the issue, some appliance retailers will leave discarded appliances outside overnight for unpermitted demanufacturers to collect.

The cost closure estimates per 567 IAC 118.16(5) lack consistency. Facilities are required to maintain a financial assurance instrument in the amount of the cost closure estimate. One facility with 1,000 appliances may have a cost closure estimate of \$10,000, and another facility with only 100 appliances may have the same cost closure estimate of \$10,000. This variability in closure cost estimates is outside of the control of the DNR, and at times results in smaller

This document has been created as a preliminary internal review tool for DNR staff to use in the initial analysis of rules and rule chapters. Any information contained in this document is subject to change and is not meant to imply any specific intention to request that any further evaluation or formal rulemaking process should occur.

facilities not being able to secure the required financial assurance coverage.

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?

As stated above in response to 5e, there are several alternatives to this administrative chapter that would reduce the burden upon businesses. A fundamental question that must first be addressed is whether the DNR should be implementing a permitting program that deals predominantly with hazardous materials for which the U.S. EPA has not delegated such authority to. If it's determined that the DNR should maintain a regulatory program over the demanufacturing of discarded appliances, that process can be streamlined through a "general permit" approach or a permit-by-rule approach to regulatory oversight. The DNR could also look to an expanded education and technical assistance efforts in lieu of any specific permitting program, which would lessen the burden upon businesses.

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?

As of April 2013, the Institute of Scrap Recycling Industries (ISRI), in consultation with the U.S. EPA, developed a set of voluntary procedures related to separating and recycling plastic materials from shredder residue generated by metal recycling facilities. The scrap industry must have a documented source control program aimed at preventing the introduction of PCBs regulated for disposal into the shredder feedstock materials and be subject to a third party audit.

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.)

The agreement between U.S. EPA and ISRI is voluntary and as such does not require a change to this administrative chapter. However, the DNR could work with scrap recyclers that are implementing the voluntary agreement to help develop educational materials required by the agreement and a list of businesses that are permitted appliance demanufacturers.

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?

The permitting process may be considered burdensome, so some entities may choose to not start up an appliance demanufacturing business. Some previously permitted appliance demanufacturers have voluntarily rescinded their permit, as some salvage operations have taken discarded appliances that have not been demanufactured, which directly impacts the viability of their demanufacturing operation.

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

The DNR minimizes negative impacts by providing assistance and outreach at trainings and site visits to regulated facilities and the general public. Assistance is also provided for completing permit application and reporting forms and providing information that assists in achieving compliance.

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 that are found in nearly all solid waste administrative chapters (e.g. annual reporting, financial assurance, training).

Demanufacturers annually report the number of appliances demanufactured and the amount of refrigerant, mercury and PCBs removed. This enables the DNR to make a reasonable determination that the toxic components are being removed by the demanufacturer. It also gives an overall view of the amount of hazardous materials still in appliances. If at some point the amount of toxic components decreases to a minimal amount there will no longer be a need

This document has been created as a preliminary internal review tool for DNR staff to use in the initial analysis of rules and rule chapters. Any information contained in this document is subject to change and is not meant to imply any specific intention to request that any further evaluation or formal rulemaking process should occur.

for the program.

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

DNR central office program staff and field office staff review permit applications, annual 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.

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 management plans required in this administrative chapter provide the DNR and the public with information on who, what and how solid waste and hazardous 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.

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," through a broader permit-by-rule approach to regulatory oversight, or a registration program. 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). Also, 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)

This document has been created as a preliminary internal review tool for DNR staff to use in the initial analysis of rules and rule chapters. Any information contained in this document is subject to change and is not meant to imply any specific intention to request that any further evaluation or formal rulemaking process should occur.

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.

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:

- There seems to be confusion regarding regulations on discarded appliances that are brought in from out-of-state, and discarded appliances collected in Iowa and transported to another state. The DNR can only regulate those appliance demanufacturing activities that take place within Iowa. Discarded appliances may be collected in Iowa and transported out-of-state and demanufactured and recycled according to that state's regulations. Discarded appliances that are collected out-of-state and brought into Iowa must be demanufactured to Iowa's regulations. The transport of discarded appliances out-of-state cannot be restricted due to federal interstate commerce provisions.
- 567 IAC 118.10(9) states that mercury must be handled as universal waste pursuant to 40 CFR, Part 273. Under U.S. EPA regulations, it can also be handled as a hazardous waste. The appliance demanufacturer should be given a choice as to which manner they want to handle the waste, as it could provide a cost saving to their facility.
- Mobile appliance demanufacturers are able to provide demanufacturing services at their clients' location rather than having to collect and transport them to a fixed location. Financial assurance is required for all permitted appliance demanufacturers, however, the financial assurance estimate is based on the number of appliances collected. Since these

This document has been created as a preliminary internal review tool for DNR staff to use in the initial analysis of rules and rule chapters. Any information contained in this document is subject to change and is not meant to imply any specific intention to request that any further evaluation or formal rulemaking process should occur.

facilities do not store or collect appliances, and all removed components are required to be removed the same day, the financial assurance estimate would be zero. This administrative chapter could be rewritten to exempt mobile demanufacturing operations from providing financial assurance based on the lack of storage of discarded appliances or removed components.

- Training certificates for appliance demanufacturers are issued without any testing. The issuance of a certification to an individual implies that individual has retained a minimum level of understanding, which is difficult to determine without testing. The addition of a testing component can take place under the current language in 567 IAC 118.8, so this would be more of a policy change than an administrative rulemaking revision.
- Further clarification is needed regarding when appliances are collected for parts and reuse, versus being recycled or deemed a solid waste by state law. Some facilities have collected thousands of appliances and stored them outside, yet claim that the appliances are for parts or are destined for future repair. As a result, they're not considered "discarded" and subject to the provisions of 567 IAC 118. Clarifying when an appliance is discarded would assist in determining which facilities are subject to permitting requirements. To make the storage limitations consistent for all facilities storing appliances, whether it's a collector storing appliances for parts or those collecting appliances to be recycled, would require a legislative change.
- The cost closure estimates per 567 IAC 118.16(5) lack consistency. Facilities are required to maintain a financial assurance instrument in the amount of the cost closure estimate. One facility with 1,000 appliances may have a cost closure estimate of \$10,000, and another facility with only 100 appliances may have the same cost closure estimate of \$10,000. This variability in closure cost estimates is outside of the control of the DNR, and at times results in smaller facilities not being able to secure the required financial assurance coverage.
- Instead of requiring a cost closure estimate from an Iowa-licensed professional engineer, base the financial assurance on the size of the operation. For example, if they handle 0-500 appliances per year, 500-5,000 appliances per year or 5,000 or more, the cost closure estimates could be set in administrative rule.
- An appliance collector may have multiple properties with up to 1,000 appliances stockpiled at each site. The limit should be based upon the total number of discarded appliances on all property under the ownership of that entity (or as authorized by the DNR), to avoid significant stockpiles from being established.
- An agreement or "buy in" from the shredding facilities that they only accept discarded appliances from those recyclers who properly manage waste components would

dramatically improve compliance. Currently there is an agreement between the U.S. EPA and shredding facilities that if there is a source reduction plan concerning hazardous waste, the shredder fluff can be reused and not considered hazardous. Noting which shredding facilities acknowledge this agreement would be helpful. The DNR could then assist with education and spot checks of these facilities to ensure compliance.

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 118.1 references that this administrative chapter is intended to satisfy the requirements of Iowa Code sections 455D.6(7). The correct citation in Iowa Code chapter 455D is 455D.6(4). This incorrect Iowa Code reference is also reiterated within the implementation sentence at the end of this administrative chapter.

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-

This document has been created as a preliminary internal review tool for DNR staff to use in the initial analysis of rules and rule chapters. Any information contained in this document is subject to change and is not meant to imply any specific intention to request that any further evaluation or formal rulemaking process should occur.

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.

IAC 567 118.6(12) contains a U.S. EPA address of where to obtain the PCB identification number form. It's worded different than the mailing address printed on the form. The address in 567 IAC 118.6 should be removed, leaving just the form number.

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: Institute of Scrap Recycling Industries, Iowa State Association of Counties (ISAC), Iowa League of Cities, Iowa Association of Business and Industry (ABI), Iowa Society of Solid Waste Operations (ISOSWO), Hazardous waste disposal companies, Iowa Retailers Association, Iowa Recycling Association (IRA), Regional Collection Centers (RCCs), current permitted appliance demanufacturers, Farm Bureau, Iowa Environmental Council (IEC), Keep Iowa Beautiful (KIB), Sierra Club – Iowa Chapter, Iowa Department of Transportation (IDOT).

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.