

IOWA DEPARTMENT OF NATURAL RESOURCES

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

CHUCK GIPP, DIRECTOR
BRUCE TRAUTMAN, DEPUTY DIRECTOR

Solid Waste Administrative Rule Review: 567 IAC 120

Landfarming of Petroleum Contaminated Soil

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 120

This intent of this administrative chapter was to establish rules for the safe and effective remediation and disposal of petroleum-contaminated soil (PCS). The spreading of PCS on land allows for the contaminants of concern to volatilize into the atmosphere, leaving remediated soil. The requirements of this administrative chapter ensure the use of best management practices in siting, design and operation to maximize facility effectiveness and efficiency, while minimizing their impact on the surrounding community.

DNR's legal authority

This administrative chapter directly implements the provisions of Iowa Code section 455B.304(14), in that it provides specific siting, design and operating requirements to ensure the safe and proper remediation of PCS via land application.

Improvement opportunities for discussion

- A fundamental issue that must first be addressed is to ensure that the DNR has the statutory authority to administer a regulatory program for the remediation of PCS resulting from activities other than underground storage tank releases.
- Multiuse landfarm permit requirements could be rescinded due to the remediation activities being identical to those occurring at sites issued a single-use landfarm applicator permit. Those best management practices applicable only to multiuse landfarm permits (e.g. groundwater monitoring, sediment control measures) could be

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,

considered for inclusion within the provisions relevant to single-use landfarm applicator permits to monitor and minimize any possible negative environmental impact.

- Given the design and operating requirements placed upon Resource Conservation and Recovery Act (RCRA) Subtitle D compliant municipal solid waste sanitary landfills (e.g. composite liners, leachate and methane collection systems), further consideration should be given to the direct disposal of PCS. There are those heavier petroleum products such as motor oils, lubricants and hydraulic oils, which cannot be readily remediated. The level of effort required to achieve the mandated remediation standards for these types of wastes may not be justified by the incremental increase in environmental protection.
- Pursuant to 567 IAC 120.12, PCS that has been remediated to Tier I contaminant levels (from 567 IAC 135.9) is considered “clean” soil and does not have any use restrictions. In addition, 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. Pursuant to the general special waste provisions of 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. 567 IAC 113.8(1)“b”(1) specifically prohibits a municipal solid waste sanitary landfill from disposing of PCS unless managed and remediated pursuant to 567 IAC 120. These regulatory inconsistencies must be addressed to provide the regulated community and the public with certainty that appropriate petroleum remediation standards and practices are in place.

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.