

# IOWA DEPARTMENT OF NATURAL RESOURCES

## LEADING IOWANS IN CARING FOR OUR NATURAL RESOURCES

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### Solid Waste Administrative Rule Review: 567 IAC 121

#### Land Application of Wastes

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 121

The intent of this administrative chapter was to establish guidelines for where wastes can be land applied and the allowable levels of contaminants the waste(s) may contain in order to be protective of human health and the environment.

#### DNR's legal authority

While Iowa Code section 455B.304(2) provides specific authority to adopt rules for the use of wet and dry sludge from publicly owned treatment works for land application, that is carried out by the rules adopted by the DNR's Wastewater section. As such, it's not clear whether this administrative chapter has any specific statutory authority except for the broad authority granted in Iowa Code section 455B.304(1) to adopt rules for the proper administration of Division IV "Solid Waste Disposal," Part 1 "Solid Waste."

#### Improvement opportunities for discussion

- As stated in 567 IAC 121.1, "The department has jurisdiction over the disposal of solid waste including the land application of those wastes." This permitting program has shown over time that few wastes are ever land applied just as a means of disposal, without any noted benefit to the recipient (e.g. agronomic value as a fertilizer or physical benefit as a soil conditioner). As such, the land application of these materials under 567 IAC 121 can be viewed as duplicative to the Iowa Department of Agriculture and Land Stewardship's (IDALS) fertilizer, soil conditioner and liming agent programs, and the DNR's wastewater program. If this administrative chapter was rescinded, wastes that do not fall under the DNR's wastewater program or IDALS's fertilizer, soil conditioner

#### 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 9<sup>th</sup> Street  
Des Moines, IA 50319  
Fax: (515) 725-8202  
Email: [SWRR@dnr.iowa.gov](mailto:SWRR@dnr.iowa.gov)

#### For more information

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

or liming agent programs could potentially be regulated pursuant to 567 IAC 108; which establishes rules for determining when a solid by-product can be used in a beneficial manner as a resource and not a solid waste.

- Determining whether the land application of solid waste is considered final disposition, or a form of reuse, impacts whether other sanitary disposal project (SDP) permitting requirements (e.g. flow control and financial assurance) are applicable. If land application is considered final disposal, then the applicability of 567 IAC 108 as a possible alternative management option for such wastes may not be appropriate, as the beneficial use program sets a process of determining when a solid by-product is a resource and not a solid waste.
- Given the allowable constituent levels in 567 IAC 121.6(1)“b,” some wastes could potentially exceed the maximum toxicity levels allowed for disposal in a sanitary landfill in Iowa. The definition of “solid waste” in 567 IAC 121 does not specifically exclude hazardous wastes, as does the definition of “solid waste” in Iowa Code section 455B.301. Additionally, the total metals chart implies that as long as the heavy metals are below the amount listed, the material may be land applied. When in fact, these levels could fail the toxicity characteristic leaching procedure (TCLP) test, in which case the waste would need to be managed as a hazardous waste.
- The regulations in 567 IAC 121 are less restrictive than those for similar by-products regulated pursuant to DNR’s wastewater regulations or IDALS’ fertilizer, soil conditioner and liming agent regulations. This has resulted in the request and issuance of land application permits for materials that should have been managed pursuant to IDALS or DNR Wastewater authorities. This has allowed businesses to avoid significant costs associated with the various permitting requirements expressed within IDALS and DNR regulations, placing them at a competitive advantage.

### 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](http://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](mailto: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](http://www.iowadnr.gov/SWRR).