



June 20, 2012

*Clarification of Iowa solid waste regulations in regards to final disposition and facilities that convert solid waste to fuels.*

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Through a review of existing Iowa laws pertaining to solid waste management, the Department is issuing the following clarifications:

1. "Final disposition" as used in the definition of a sanitary disposal project<sup>1</sup> means final disposal with no further use, i.e., disposal in a landfill, and incineration without energy recovery.
2. The Department will not regulate waste-to-fuel conversion facilities as sanitary disposal projects under the State's solid waste laws but in a manner that is protective of human health and the environment under the state's existing applicable air pollution control and water quality laws<sup>2</sup>.

Even with Iowa's 25% and 50% goals for waste stream reduction, too much solid waste that has potential economic value continues to be disposed of in landfills. There has been increasing interest throughout the country in better utilizing this material as an alternative fuel source. This can be done through a broad range of technologies that use solid waste to produce liquid fuels such as biodiesel or ethanol, combustible gases such as methane, or chemicals and products such as oils and synthetic gases. The waste management hierarchy in Iowa Code section 455B.301A recognizes the continuing necessity for the existence of landfills, but encourages alternative methods of managing solid waste and a reduction in the reliance upon land disposal of solid waste.

The Department has authority to issue permits for sanitary disposal projects (SDP), which include all facilities maintained and operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety. Although "final disposition" is not defined in the law, from the context it is apparent that it is intended to refer to activities that result in final disposal with no further use. The waste management hierarchy established by Iowa Code section 455B.301A establishes four tiers. The first, volume reduction at the source, creates no waste and therefore cannot be final disposition. The second tier, recycling and reuse, keeps a material in the stream of commerce and therefore prevents final disposition. These two tiers are clearly not sanitary disposal projects. A clear determination has not been previously made by the Department in regard to the third tier, combustion with energy recovery. It is the determination of the Department that because this activity results in the

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<sup>1</sup> "Sanitary disposal project" means all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the executive director.

<sup>2</sup> Waste tire collection, storage, processing and recovery facilities are NOT included in this clarification and remain subject to all applicable solid waste rules [see Iowa Code section 455D.11].

production of a product, energy, it more closely resembles the top two tiers of the hierarchy rather than final disposition.

Facilities that facilitate final disposition are landfills, incinerators that do not recover energy and transfer stations for sending waste to one of the prior examples. The regulatory provisions of Iowa Code Chapter 455B, Division IV, Part 1 are focused on the regulation of these types of facilities and support the Department's determination that such facilities are the intended target of the solid waste regulatory structure. Therefore, waste-to-fuel conversion facilities do not provide or facilitate final disposition and do not need a sanitary disposal project permit.

The activities related to processing solid waste such as magnetic separation, hand sorting, drying, pressing, baling, and crushing that typically occur at recycling facilities are similar to those that would occur at waste-to-fuel conversion facilities. Also, like recycling facilities, waste-to-fuel conversion facilities produce a valuable commodity. Recycling facilities are not sanitary disposal projects.

The Department has issued SDP permits to facilities that physically convert waste into a fuel through processes such as sorting, shredding and pelletizing. However; after further consideration, the Department has concluded that physical conversion of waste to a fuel is not final disposition. It is the Department's intent to rectify this inconsistency through Iowa Administrative Code revisions.

Physical, thermal and biological waste-to-fuel conversion facilities are currently subject to the Department's air pollution control requirements and may require a permit for emission sources and material handling operations. In addition, if these facilities have wastewater discharges, they are required to obtain appropriate permits or authorizations for these discharges. The Department's storm water permitting program ensures that adequate controls are in place to prevent contaminated run-off from outdoor material handling or storage.

Given the above, the Department has determined it can regulate waste-to-fuel conversion facilities in a manner that is protective of human health and the environment under the Department's existing air pollution control and water quality laws. If necessary, the Department and local authorities can still use solid waste and public nuisance laws to address public nuisances and open dumping issues at waste-to-fuel conversion facilities.

The Department believes that this approach supports the Governor's Executive Order 71, which states; "when adopting regulations to protect the health, safety and welfare of the people of the State of Iowa, state agencies should seek to achieve statutory goals as effectively and efficiently as possible without imposing unnecessary burdens that reduce jobs and hurt job growth".