

IOWA DEPARTMENT OF NATURAL RESOURCES

LEADING IOWANS IN CARING FOR OUR NATURAL RESOURCES

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Solid Waste Administrative Rule Review (SWRR)

Background

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 administrative 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.

Scope of Review

The following Iowa Administrative Code (IAC) chapters have undergone a broad preliminary review by DNR staff, which took into consideration factors ranging from regulatory authority and identifying more efficient alternatives, to unintended consequences and the chapter's affect on business and job creation.

[Chapter 567-100](#) - Definitions, Scope of Title
[Chapter 567-102](#) - Permits
[Chapter 567-103](#) - Sanitary Landfills: Coal Combustion Residue
[Chapter 567-104](#) - Sanitary Disposal Projects With Processing Facilities
[Chapter 567-105](#) - Organic Materials Composting Facilities
[Chapter 567-106](#) - Citizen Convenience Centers and Transfer Stations
[Chapter 567-108](#) - Beneficial Use Determinations
[Chapter 567-109](#) - Special Waste Authorizations
[Chapter 567-110](#) - Hydrogeologic Investigation and Monitoring
[Chapter 567-112](#) - Sanitary Landfills: Biosolids Monofills
[Chapter 567-113](#) - Sanitary Landfills: Municipal Solid Waste
[Chapter 567-114](#) - Sanitary Landfills: Construction and Demolition Wastes
[Chapter 567-115](#) - Sanitary Landfills: Industrial Monofills
[Chapter 567-116](#) - Registration of Waste Tire Haulers
[Chapter 567-117](#) - Waste Tire Management
[Chapter 567-118](#) - Discarded Appliance Demanufacturing
[Chapter 567-120](#) - Landfarming of Petroleum Contaminated Soil
[Chapter 567-121](#) - Land Application of Wastes
[Chapter 567-122](#) - Cathode Ray Tube Device Recycling
[Chapter 567-218](#) - Waste Tire Stockpile Abatement Program

To help facilitate this review and dialogue with stakeholders, the DNR has also prepared brief review summaries highlighting key issues and opportunities identified for each chapter. These brief summaries and their detailed preliminary reviews (i.e., Phase 2 - Part C) are available at www.iowadnr.gov/SWRR.

Regulatory Authority

An integral step in this process is to re-evaluate existing requirements in the context of the underlying authorities and changes to the solid waste disposal and recycling industries since the enactment of those authorities. From this, the DNR intends to revise and update the regulations to better conform to statutory authority and stakeholder feedback received through this effort.

Currently, the DNR has the authority to require a permit for the operation of a sanitary disposal project (SDP), which is defined in Iowa Code section 455B.301(21) as:

"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."

Because the phrase "final disposition of solid waste" remains undefined, the DNR must look to the use of the term in the context of the statute, the origin of the statute, and case law to determine the meaning of this phrase and therefore the scope of the DNR's permitting authority. In doing so, the DNR has determined that the intent of Iowa Code Chapter 455B, Division IV "Solid Waste Disposal," Part 1 "Solid Waste" (Iowa Code sections 455B.301-455B.316) is to regulate and permit the final disposal of solid waste through landfilling or combustion without energy recovery, which would include solid waste transfer stations and citizen convenience centers that deliver solid waste to such facilities. Based upon this authority, an SDP permit may only be required for these types of facilities, and may not be required for facilities engaged primarily in recycling, reuse or other diversion activities.

To view the DNR's regulatory authority assessment, please visit www.iowadnr.gov/SWRR and view the document titled, "Iowa Statutory Authority For The Regulation Of Solid Waste."

For those facilities or operations that do not meet the definition of an SDP, there must be other statutory authority granted to the DNR to regulate such activities. The following is a list of Iowa Code provisions that place oversight authority upon the DNR regarding certain solid waste and recycling activities, which are not classified as SDPs:

- [455D.9](#) - Land disposal of yard waste prohibited
- [455D.10](#) - Land disposal of lead-acid batteries prohibited
- [455D.11](#) - Land disposal of waste tires prohibited
- [455D.11A](#) - Financial assurance for waste tire collection or processing sites
- [455D.11B](#) - Permitting of waste tire collection or processing sites
- [455D.11C](#) - Waste tire management fund
- [455D.11G](#) - Waste tire disposal fees and abatement costs
- [455D.11I](#) - Registration of waste tire haulers
- [455D.6\(4\)](#) - Adoption of rules necessary to implement a strategy for white goods and waste oil
- [455D.6\(5\)](#) - Adoption of rules necessary to implement a strategy for the recycling of electronic goods
- [455B.304\(14\)](#) - Adoption of rules for the land application of soils resulting from underground storage tank releases
- [455B.304\(17\)](#) - Adoption of rules to establish a special waste authorization program
- [455B.304\(19\)](#) - Adoption of rules for determining when the utilization of a solid by-product, including energy recovery, constitutes beneficial use rather than disposal of solid waste.

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:

- 1) **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.
- 2) **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.

- 3) **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.
- 4) **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 administrative rule reviews 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.

For more information

If you have questions about the DNR's solid waste administrative rule review process, please submit them to SWRR@dnr.iowa.gov (include contact information), and a DNR representative will promptly get back to you.

***Further in-depth rule reviews and supporting documents are available at www.iowadnr.gov/SWRR**