



FILE MEMO

DATE: November 6, 2017
TO: FILE
FROM: Chad A. Stobbe, Environmental Specialist Senior
SUBJECT: Solid Waste Consolidation and Recycling

While both state and federal laws have waste reduction and recycling components, they contain little authority for ensuring that waste management processes associated with recycling activities are conducted with a similar system of environmental controls as are in place for waste disposal facilities. Without clear criteria to define what recycling is or is not, it's been presumed that any entity engaged in the recycling of solid waste is excluded from the state's solid waste regulations. Moreover, because of the economic incentives for managing solid waste outside the state regulatory system, there is potential for entities engaged in solid waste management to claim that the activity(s) they are engaged in is recycling, when in fact, they are undertaking a regulated activity (i.e., facilitating final disposal).

Per Iowa's solid waste statutory authority, the collection and processing of source-separated materials for recycling or reuse purposes does not constitute a sanitary disposal project (SDP). To be an SDP, the facility must not only "facilitate the final disposition of solid waste," but must also be "acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated" for that purpose (ABC Disposal v. Iowa Dept. of Natural Resources, 681 N.W.2d 596, 605-606 (Iowa 2004)). This ruling was based upon the idea that one must look to the purpose of the facility as a whole. If the primary purpose of the facility were to manufacture a product, then it would not be an SDP. When applying this reasoning to the determination of whether a recycling facility is required to obtain an SDP permit, so long as the primary purpose of the facility is not "final disposition" (i.e., disposal), or the facilitation of final disposal, the facility does not constitute an SDP.

While diversion of recyclable commodities from the solid waste stream is encouraged by the DNR, there are regulatory limitations upon where and by whom these activities can occur. Recycling is defined in part within 567 IAC 100.2(455B,455D) as, "any process by which waste or materials which otherwise become waste are collected, separated, or processed and reused or returned to use in the form of raw materials or products..." For additional clarification, salvaging is defined in 567 IAC 100.2(455B,455D) as "the systematic removal of salvageable material in a formal and orderly manner as a part of the normal operating procedure of a sanitary disposal project." It's important to note that source-separation of materials from the solid waste stream is a fundamental condition of recycling, and that salvaging is a function of SDP operations. However, the removal of recyclable materials from the municipal solid waste stream beyond that conducted by the individual waste generators, or that conducted at an SDP or facility whose primary purpose is recycling, is considered scavenging and is prohibited by Iowa law.

With regard to solid waste hauling, this is a segment of Iowa's integrated solid waste management system that has largely been excluded from regulatory oversight. This is principally due to Iowa's solid waste authority (Iowa Code Chapter 455B, Division IV "Solid Waste Disposal," Part 1 "Solid Waste") being directed at those facilities engaged in final disposal (i.e., sanitary landfills), and those that facilitate the final disposition of the solid waste (i.e., solid waste transfer stations). However, solid waste collection and consolidation activities are detailed within 567 IAC 106(455B,455D) by identifying those solid waste management activities that constitute "facilitation of final disposal," and therefore subject to SDP permitting.

For example, any facility that receives solid waste from solid waste collection vehicles and deposits said waste on the ground or on a tipping floor for management and/or subsequent loading into solid waste transport vehicles, shall be considered a solid waste transfer station subject to the permitting requirements of 567 IAC 106(455B,455D). The process of depositing solid waste on the ground or a tipping floor presents more health and environmental nuisances than waste being transferred directly from solid waste collection vehicles into solid waste transport vehicles. Unloading waste on the ground or a tipping floor increases the likelihood of exposing workers to the hazards of uncontained waste,

contributes to litter problems and leachate generation, and increases vector control problems. Furthermore, the “truck-to-truck transfer” of solid waste, that is not incidental solid waste transfer, is not allowed outside of a transfer station building. Truck-to-truck transfer is defined as the direct transfer of solid waste from one vehicle to a second vehicle with no intermediary handling. Incidental solid waste transfer is defined as the truck-to-truck transfer of solid waste from a satellite solid waste collection vehicle to a solid waste collection vehicle, if that solid waste could be collected only by a satellite solid waste collection vehicle due to vehicle access restrictions.

As a result, the practice of some waste haulers to stockpile, scavenge, and consolidate collected solid waste to maximize economies of scale for transport to a final disposal facility, outside of an SDP permit, is prohibited by Iowa law. In these instances, not only are the operations facilitating final disposal, but they are undoubtedly “acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated” for that purpose. The DNR will undertake an effort to identify where this is occurring, and will reach out to those entities to ensure they are aware of the regulatory requirements, and that those operations warranting regulation as an SDP initiate the permitting process, or cease such waste management activity(s).

For persons interested in additional information, contact Chad A. Stobbe at (515) 201-8272 or Chad.Stobbe@dnr.iowa.gov.

Relevant Regulatory Definitions

[Iowa Code section 455B.301\(21\)](#) defines a *Sanitary Disposal Project* 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.”

[Iowa Code section 455D.1\(5\)](#) defines *Recycling* as, “any process by which waste, or materials which would otherwise become waste, are collected, separated, or processed and revised or returned to use in the form of raw materials or products. “Recycling” includes but is not limited to the composting of yard waste which has been previously separated from other waste, but does not include any form of energy recovery.”

[567 IAC 106.2\(455B,455D\)](#) defines

Transfer Station, as “a permanent, fixed-location, enclosed transportation terminal that has the primary purpose of receiving solid waste from solid waste collection vehicles and loading that solid waste into solid waste transport vehicles. Truck-to-truck transfer of solid waste that is not incidental solid waste transfer is not allowed outside a transfer station building. A transfer station is a sanitary disposal project and may hold or store solid waste before transport for a short period of time. A transfer station is not a final disposal facility.”

Truck-to-truck transfer as, “the direct transfer of solid waste from one vehicle to a second vehicle with no intermediary handling. Truck-to-truck transfer of solid waste that is not incidental solid waste transfer is not allowed outside a transfer station building.”

Incidental solid waste transfer as, “the truck-to-truck transfer of solid waste from a satellite solid waste collection vehicle to a solid waste collection vehicle, if that solid waste could be collected only by a satellite solid waste collection vehicle due to vehicle access restrictions.”

Solid waste collection vehicle as, “a vehicle that has the primary purpose of collecting solid waste from a variety of locations, including at curbside and from dumpsters, compactors, and roll-off boxes.”

[567 IAC 100.2\(455B,455D\)](#) defines

Scavenging as, “uncontrolled removal of materials from the unloading or working area of a sanitary disposal project.”

Salvaging as, “the systematic removal of salvageable material in a formal and orderly manner as a part of the normal operating procedure of a sanitary disposal project.”