

CHAPTER 141  
HAZARDOUS WASTE

[Prior to 7/1/83, DEQ Ch 45—Chapter 45 was previously adopted by the Solid Waste Disposal Commission on September 18, 1980, after full notice and public participation. The Environmental Quality Commission formally adopted Chapter 45, effective 1/20/81]

[Prior to 12/3/86, Water, Air and Waste Management[900]]

**567—141.1(455B) Hazardous waste management system: General.**

**141.1(1)** The following is adopted by reference: 40 CFR Part 260 as amended through July 15, 1985.

Provided that “Underground source of drinking water (USDW)” means an aquifer or its portion:

- a. Which supplies any public water system, or
- b. Which contains a sufficient quantity of groundwater to supply a public water system, and
  - (1) Currently supplies drinking water for human consumption, or
  - (2) Contains fewer than 10,000 mg/l total dissolved solids.

**141.1(2)** Unless otherwise provided in this chapter, or unless the context would require otherwise, references in 40 CFR Parts 260 through 265 to “EPA,” the “EPA Administrator,” or the “EPA Regional Administrator” shall be deemed to be references to the “Iowa Department of Natural Resources.”

**567—141.2(455B) Identification, listing, and exclusions of hazardous waste.**

**141.2(1)** The following is adopted by reference: 40 CFR Part 261 as amended through October 23, 1985.

Provided that any general reference to 40 CFR Part 124 shall mean 141.13(455B) of these rules.

**141.2(2)** Exclusions:

- a. The Maytag Company, Newton, Iowa. Wastewater treatment sludge (EPA Hazardous Waste No. F006) generated by Maytag Waste and Water Treatment Plant.
- b. Reserved.

This rule is intended to implement Iowa Code section 455B.412.

**567—141.3(455B) Standards applicable to generators of hazardous waste.** The following is adopted by reference: 40 CFR Part 262 as amended through July 15, 1985.

Provided that the commission finds 40 CFR §262.51 to be a reasonable interpretation of Iowa Code section 455B.419, as applied to a farmer who uses pesticides on the farmer’s own land. Other persons who use federally approved agricultural chemicals would not be in violation of Iowa Code section 455B.419 or of this chapter if they comply with the requirements of 455B.419.

Provided further that the advance notification of international shipment required by 40 CFR §262.50(b) should be provided to the EPA administrator rather than to the director.

Provided further that if an exception report is required by 40 CFR §262.42, the generator must send a copy of the exception report, in addition to the director, to: the state agency administering the hazardous waste program (or to the EPA regional administrator in an unauthorized state) where the facility designated on the manifest is located; and to the state agency administering the hazardous waste program (or the EPA regional administrator in an unauthorized state) for the facility to which the shipment may have been delivered. (A list of authorized state programs and EPA regional administrators is available from the director.)

**567—141.4(455B) Standards applicable to transporters of hazardous waste.** The following is adopted by reference: 40 CFR Part 263 as amended through April 1, 1983.

Provided that if a hazardous waste in transit is discharged in Iowa, the transporter shall notify local and state offices as required in 567—Chapter 131.

**567—141.5(455B) Standards for owners and operators of hazardous waste treatment, storage and disposal facilities.** The following is adopted by reference: 40 CFR Part 264 as amended through July 15, 1985.

Provided that in 40 CFR §§264.143(f)(3)(ii) and (iii), 264.145(f)(3)(ii) and (iii), and 264.147(f)(3)(ii) and (iii) the specified reports shall be written by an independent certified public accountant who is eligible to practice in Iowa in conformance with Iowa Code chapter 542.

Also provided that in 40 CFR §264.115 the certification of closure shall be performed by both the owner or operator and an independent professional engineer registered in Iowa pursuant to Iowa Code chapter 542B.

Provided that in 40 CFR §264.119 the preparation and certification of a survey plat indicating the location and dimension of the disposal areas shall be performed by an independent professional land surveyor registered in Iowa pursuant to Iowa Code chapter 542B.

Also provided further that where 40 CFR 264 references 40 CFR Part 124 it shall mean rule 141.13(455B).

This rule is intended to implement Iowa Code section 455B.412.

**567—141.6(455B) Interim status standards for owners and operators of hazardous waste treatment, storage and disposal facilities.** The following is adopted by reference: 40 CFR Part 265 as amended through July 15, 1985.

Provided that in 40 CFR §265.115 the certification of closure shall be performed by both the owner or operator and an independent professional engineer registered in Iowa pursuant to Iowa Code chapter 542B. In 40 CFR §§265.147(f)(3)(ii) and (iii), §§265.143(e)(3)(ii) and (iii), and §§265.145(e)(3)(ii) and (iii) the specified reports shall be written by an independent certified public accountant who is eligible to practice in conformance with Iowa Code chapter 542.

Provided that in 40 CFR §265.119 the preparation and certification of a survey plat indicating the location and dimension of the disposal areas shall be performed by an independent professional surveyor registered in Iowa pursuant to Iowa Code chapter 542B.

Also provided further that where 40 CFR 265 references 40 CFR Part 124 it shall mean rule 141.13(455B).

This rule is intended to implement Iowa Code section 455B.412.

**567—141.7(455B) Disposal of hazardous waste into wells.** The disposal of hazardous wastes into wells is prohibited within Iowa in accordance with rule 567—62.9(455B).

**567—141.8 to 141.10** Rescinded, effective 11/16/83.

**567—141.11** Reserved.

**567—141.12(455B) Notification.**

**141.12(1)** *Notification upon effective date of hazardous waste listing.* Iowa Code subsection 455B.414(2) requires that a person who, on the effective date of a rule listing a hazardous waste, is generating or transporting a listed hazardous waste or who owns or is operating a facility that treats, stores, or disposes of the listed hazardous waste shall file with the director within 90 days a notification stating the waste handled by the person and the location and a description of the activity involving the waste.

Provided that small quantity generators who generate less than 2,200 pounds of hazardous waste in a calendar month shall be subject to the notification requirements of 40 CFR §261.5 as adopted by reference in rule 141.2(455B).

**141.12(2)** *Notification prior to commencement of activity.* Iowa Code subsection 455B.414(2) requires that a person who plans to commence generating or transporting a hazardous waste on or after the effective date of such a rule shall file a notification prior to commencing that activity.

**141.12(3)** *Notification in lieu of state requirements.* A person who has filed a satisfactory notification with EPA will be deemed to have complied with the notification requirements under Iowa Code section 455B.414.

**141.12(4) Notification form.** A person who files a notification shall do so by using the federal form (EPA Form 8700-12 (6-80), see 45 Federal Register 12750-12754 February 26, 1980) or by submitting the following information on 8½- x 11-inch type pages:

- a. Name, mailing address, and location of the installation.
- b. Name, title and telephone number of the primary contact person at the installation.
- c. Name of owner and type of ownership as either federal or nonfederal.
- d. Identification of hazardous waste activity as: generation; treat/store/dispose; underground injection; transportation (identify mode of transportation as air, rail, highway, water, other).
- e. A description of each listed hazardous waste handled at the installation through the use of the four-digit code in accordance with rule 141.2(455B) (see 40 CFR §§261.31, 261.32 and 261.33).
- f. A description of the characteristics of non-listed hazardous wastes as ignitable, corrosive, reactive or toxic in accordance with rule 141.2(455B) (see 40 CFR §§261.21 through 261.24).
- g. An indication as to whether this is an initial or revised notification.

**567—141.13(455B) Permitting procedures.** This rule describes those procedures which are followed by the department when it issues permits to operate hazardous waste treatment, storage, and disposal facilities. The rule also describes the methods by which a permit applicant must notify the public of the department's intent to issue a permit.

**141.13(1)** The director shall not issue a permit before receiving a copy of a completed application. The director shall determine whether the application is in substantial compliance with the information requirements and shall either accept the application or notify the applicant of any deficiencies.

**141.13(2)** The director shall notify the applicant in writing of specific deficiencies and shall specify a date for submission of information to correct the deficiencies. Existing facilities which fail or refuse to correct deficiencies in the permit application by the specified date shall have their interim status terminated.

**141.13(3)** If a site visit is necessary, the director shall notify the applicant in writing of the scheduled date.

**141.13(4)** The director shall prepare and mail to the applicant a project decision schedule outlining target dates for:

- a. Preparing a draft permit.
- b. Giving public notice.
- c. Concluding the public comment period and any public hearings.
- d. Issuing a final permit.

**141.13(5)** If the director tentatively decides to deny the permit application, the director shall issue a notice of intent to deny. A notice of intent to deny the permit application is a type of draft permit which follows the same procedures as any draft permit prepared under this rule. If the director's final decision is that the tentative decision to deny the permit application was incorrect, the director shall withdraw the notice of intent to deny and proceed to prepare a draft permit under subrule 141.13(6).

**141.13(6)** If the director tentatively decides to issue the draft permit, the draft permit shall contain the following information:

- a. A list of wastes or classes of wastes to be handled.
- b. A description of the processes to be used including the design capacities of each storage, treatment, and disposal unit.
- c. All required general conditions.
- d. Standards for treatment, storage, or disposal.
- e. All monitoring requirements.
- f. All compliance schedules.
- g. Other permit conditions.

**141.13(7)** A fact sheet shall be prepared to accompany each draft permit. The fact sheet shall briefly set forth the principal facts and the legal, methodological, and policy questions considered in preparing the draft permit. The director shall send this fact sheet to the applicant and, on request, to any other person. The fact sheet shall include the following information, when applicable:

- a. A brief description of the type of facility or activity which is the subject of the draft permit.
- b. A legal description of the location of the facility.
- c. The type and quantity of wastes, fluids or pollutants which are proposed to be or are being treated, stored, disposed of, emitted, or discharged.
- d. A brief summary of the basis for the draft permit conditions including references to applicable legal authority.
- e. Reasons why any requested variances or alternatives to required standards do or do not appear justified.
- f. A description of procedures for reaching a final decision on the draft permit including the beginning and ending dates of the comment period and the address where comments will be received, procedures for requesting a hearing and nature of that hearing, and any other procedures by which the public may participate in the final decision.
- g. Name and telephone number of the department representative to contact for additional information.

**141.13(8)** The administrative record shall consist of:

- a. The permit application.
- b. The draft permit or notice of intent to deny the application or terminate the permit.
- c. The fact sheet.
- d. All comments received during the public comment period.
- e. The tape or transcript of any hearings.
- f. Written materials submitted at any hearing.
- g. The director's response to public comments in accordance with subrule 141.13(16) or any new material placed in the record.
- h. Other supporting documents.
- i. The final permit.

**141.13(9)** The director shall give public notice that the following actions have occurred:

- a. A draft permit has been prepared.
- b. A public hearing has been scheduled.
- c. A permit application has been tentatively denied.

**141.13(10)** The method for issuing a public notice shall be by mailing a copy of the notice (unless voluntarily waived) to:

- a. The applicant.
- b. EPA.
- c. The federal Fish and Wildlife Service, the fish and wildlife division of the department, the historical division of the department of cultural affairs, any other state or federal agency upon request or which the director determines should be notified, including affected states.
- d. Persons on a hazardous waste mailing list. The director shall develop this list by including those who request, in writing, to be on the list; by soliciting persons for "area lists" from participants in past permit proceedings in that area; and by notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in such publications as regional and state-funded newsletters, environmental bulletins, or state law journals. (The director may update the mailing list from time to time by requesting written indication of continued interest from those listed. The director may delete from the list the name of any person who fails to respond to such a request.)
- e. Any unit of local government with jurisdiction over the area.
- f. Any state agency with authority over construction or operation of such facility.

**141.13(11)** The director shall publish and broadcast the notice of intent to issue a permit in one major daily or weekly local newspaper and one local radio station within ten days of receipt of a notice of intent to issue a permit. The public notice shall contain:

- a. Name, address and telephone number of a department representative from whom persons may obtain further information.
- b. Name and address of the permit applicant and, if different, the address of the facility.
- c. A brief description of the business conducted at the facility.

*d.* A brief description of the public comment procedure and the time and place of any hearing, including a statement of the procedure to request a hearing.

**141.13(12)** The director shall allow at least 45 days for public comment during which time any interested person may make written comments or make a written request for a public hearing. Any request for a public hearing shall state the nature of the issues to be raised in the hearing.

**141.13(13)** The director shall provide a copy of the draft permit and fact sheet to the applicant and EPA at the time of public notice issuance. All other federal, state, and local agencies shall receive a copy of the draft permit and fact sheet upon request.

**141.13(14)** The administrative record (see subrule 141.13(8)) shall be available for public inspection at the central office of the department and the nearest regional office. Copies of the administrative record shall be provided upon request for the cost of reproduction.

**141.13(15)** The director shall schedule a public hearing if there is opposition or significant public interest in the draft permit, including the filing of requests for such a hearing. Frivolous or insubstantial requests for a hearing may be denied by the director. Instances of doubt should be resolved in favor of holding the hearing. The director may also hold a public hearing at the director's discretion whenever, for instance, such a hearing might clarify one or more issues involved in the permit decision. Whenever possible, the director shall schedule a hearing at a location convenient to the nearest population center to the facility. A public notice of a hearing shall be issued at least 30 days prior to the hearing. The public notice of a hearing shall contain the following:

- a.* Reference to the date of previous public notices relating to the permit;
- b.* Date, time and place of the hearing; and
- c.* A brief description of the nature and purpose of the hearing, including the applicable rules and procedures.

**141.13(16)** In issuing any final permit, the director shall briefly describe and respond to all significant comments raised during the public comment period or during any hearing and make the response available to the public. The director shall specify any changes in the final permit not appearing in the draft permit and justify these changes.

**141.13(17)** If the director denies a permit, the director shall inform the applicant in writing of the reasons for the denial. The applicant may appeal to the commission from the denial of a permit or from a condition of a permit if the applicant files a notice of appeal with the director within 30 days of receipt of the denial or issuance of the permit.

**141.13(18)** Permit modification, revocation and reissuance, or termination.

*a.* A permit may be modified, revoked and reissued, or terminated at the written request of the permittee or upon the initiative of the director for the causes specified in rule 141.14(455B). The permittee may appeal any such action to the commission in accordance with subrule 141.13(17) except as provided by rule 141.14(455B).

*b.* The director may deny any request for permit changes. If so, the director shall provide a written response giving a reason for the decision. Denials are not subject to public notice, comment or hearings; however, the requester may appeal the decision to the commission in accordance with subrule 141.13(17).

*c.* For a decision to modify, or revoke and reissue, the director shall prepare a draft permit incorporating the proposed changes except as provided in rule 141.14(455B). The director may request additional information and, in the case of a modified permit, may require a submission of an updated permit application. In the case of a revoked and reissued permit, the director shall require the submission of a new application.

*d.* In a permit modification under this subrule, only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. When a permit is revoked and reissued under this subrule, the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and reissuance proceeding the permittee shall comply with all conditions of the existing permit until a new final permit is issued.

*e.* Suitability of facility location shall not be considered at the time of permit modification or revocation and reissuance unless new information or standards indicate that a threat to human health or the environment exists which was unknown at the time of permit issuance.

*f.* If the director tentatively decides to terminate a permit, a notice of intent to terminate shall be issued. A notice of intent to terminate is a type of draft permit which follows the procedures specified in this rule.

**567—141.14(455B) The hazardous waste permit program.** The following is adopted by reference; 40 CFR Part 270 as promulgated through April 24, 1984.

**567—141.15(455B) Confidentiality of information.** Claims of confidentiality shall be processed in accordance with 567—Chapter 4.

**567—141.16(455B) Permit in lieu of a state hazardous waste permit.** A permit required by the Environmental Protection Agency for hazardous waste management facilities may serve in lieu of a state permit until its expiration or replacement by a state permit.

These rules are intended to implement Iowa Code sections 455B.411 to 455B.422.

[Filed 9/26/80, Notices 4/16/80, 6/11/80, 7/23/80—published 10/15/80, effective 11/19/80]

[Filed emergency 1/20/81—published 2/18/81, effective 1/20/81]

[Filed 4/23/81, Notice 2/18/81—published 5/13/81, effective 7/23/81]

[Filed emergency 6/19/81—published 7/8/81, effective 7/23/81]

[Filed emergency 6/3/83—published 6/22/83, effective 7/1/83]

[Filed 9/23/83, Notice 7/20/83—published 10/12/83, effective 11/16/83]

[Filed 9/20/84, Notice 7/18/84—published 10/10/84, effective 11/14/84]

[Filed 11/27/85, Notice 10/9/85—published 12/18/85, effective 1/22/86]

[Filed 5/30/86, Notice 3/12/86—published 6/18/86, effective 7/23/86]

[Filed emergency 11/14/86—published 12/3/86, effective 12/3/86]