

**567—113.4(455B) Permits.**

**113.4(1) *Permit required.*** An MSWLF unit shall not be constructed or operated without a permit from the department.

**113.4(2) *Construction and operation.*** An MSWLF unit shall be constructed and operated according to this chapter, any plans and specifications approved by the department, and the conditions of the permit. Any approved plans and specifications shall constitute a condition of the permit.

**113.4(3) *Transfer of title and permit.*** If title to an MSWLF unit is transferred, then the department shall transfer the permit within 60 days if the department has found that the following requirements have been met:

*a.* The title transferee has applied in writing to the department to request a transfer of the permit within 30 days of the transfer of the title.

*b.* The permitted facility is in compliance with Iowa Code chapters 455B and 455D, this chapter and the conditions of the permit.

*c.* The transferee possesses the equipment and personnel to operate the project in conformance with Iowa Code chapter 455B and these rules and the terms of the permit.

**113.4(4) *Permit conditions.*** Any permit may be issued subject to conditions specified in writing by the department that are necessary to ensure that the facility is constructed and operated in a safe and effective manner, and in compliance with Iowa Code chapters 455B and 455D, this chapter and the conditions of the permit.

**113.4(5) *Effect of revocation.*** If an MSWLF permit held by any public or private agency is revoked by the department, then no new permit shall be issued to that agency for that MSWLF for a period of one year from the date of revocation. Such revocation shall not prohibit the issuance of a permit for the facility to another public or private agency.

**113.4(6) *Inspection of site and operation.*** The department shall be notified when the construction of a new facility or MSWLF unit or significant components thereof have been completed so that the department may inspect the facility to determine if the project has been constructed in accordance with the design approved by the department. The department shall inspect and approve a new facility or MSWLF unit before MSW may be accepted. The department shall inspect a facility and its operations on a regular basis to determine if the facility is in compliance with this chapter.

**113.4(7) *Duration and renewal of permits.***

*a. Operating permits.* An MSWLF permit shall be issued and may be renewed for a period no longer than five years, unless the MSWLF adopts research, development and demonstration (RD&D) provisions pursuant to subrule 113.4(10). An MSWLF permit with RD&D provisions pursuant to subrule 113.4(10) shall be issued and may be renewed for a period no longer than three years.

*b. Closure permits.* An MSWLF closure permit shall be issued only after a facility no longer accepts solid waste. A closure permit shall initially be issued for a period of 30 years. If the department extends the postclosure period beyond 30 years, then the duration of the subsequent closure permit will be determined on a site-specific basis. An MSWLF requires a closure permit until the department determines that postclosure operations are no longer necessary.

**113.4(8) *Request for permit renewal.***

*a. Operating permits.* A request for an operating permit renewal shall be in writing and filed at least 90 days before the expiration of the current permit. If the applicant is found not to be in compliance with this chapter or the permit requirements, then the applicant shall achieve compliance or be placed on a compliance schedule approved by the department before the permit may be renewed.

*b. Closure permits.* A request for a closure permit renewal or termination shall be filed at least 180 days before the expiration of the current permit. If the department finds that an MSWLF has completed all required postclosure activities and no longer presents a significant risk to human health or the environment, then the department shall issue written notification that a closure permit is no longer required for the facility.

**113.4(9) *Request for permit amendment.*** Requests for permit amendments must be submitted in writing to the department with supporting documentation and justification.

**113.4(10) RD&D permits.** The department may issue an RD&D permit that overrides the applicable portions of this chapter, as listed below, without issuing a variance. A permit amendment from the department for leachate recirculation only does not require an RD&D permit.

*a.* The department may issue an RD&D permit for a new MSWLF unit, existing MSWLF unit, or lateral expansion, for which the owner or operator proposes to utilize innovative and new methods which vary from either or both of the following criteria, provided that the MSWLF unit has a leachate collection system designed and constructed to maintain less than a 30-cm (i.e., 12-inch) depth of leachate on the liner:

- (1) The run-on control systems in subrule 113.7(8); and
- (2) The liquids restrictions in subparagraph 113.8(1)“b”(3).

*b.* The department may issue a permit for a new MSWLF unit, existing MSWLF unit, or lateral expansion, for which the owner or operator proposes to utilize innovative and new methods which vary from the final cover criteria of subrules 113.12(1) and 113.12(2), provided that the MSWLF unit owner or operator demonstrates that the infiltration of liquid through the alternative cover system will not cause contamination of groundwater or surface water, or cause leachate depth on the liner to exceed 30 cm (i.e., 12 inches).

*c.* Any permit issued under subrule 113.4(10) must include such terms and conditions at least as protective as the criteria for MSWLFs to ensure protection of human health and the environment. Such permits shall:

- (1) Provide for the construction and operation of such facilities as necessary, for not longer than three years, unless renewed as provided in paragraph 113.4(10)“e”;
- (2) Provide that the MSWLF unit must receive only those types and quantities of municipal solid waste and nonhazardous wastes which the department deems appropriate for the purposes of determining the efficacy and performance capabilities of the technology or process;
- (3) Include such requirements as necessary to protect human health and the environment, including such requirements as necessary for testing and providing information to the department with respect to the operation of the facility;
- (4) Require the owner or operator of an MSWLF unit permitted under subrule 113.4(10) to submit an annual report to the department showing whether and to what extent the site is progressing in attaining project goals. The report shall also include a summary of all monitoring and testing results, as well as any other operating information specified by the department in the permit; and
- (5) Require compliance with all criteria in this chapter, except as permitted under subrule 113.4(10).

*d.* The department may order an immediate termination of all operations at the facility allowed under subrule 113.4(10) or other corrective measures at any time the department determines that the overall goals of the project are not being attained, including protection of human health or the environment.

*e.* Any permit issued under subrule 113.4(10) shall not exceed 3 years, and each renewal of a permit may not exceed 3 years.

- (1) The total term for a permit for a project including renewals may not exceed 12 years; and
- (2) During permit renewal, the applicant shall provide a detailed assessment of the project showing the status with respect to achieving project goals, a list of problems and the status with respect to problem resolutions, and any other requirements that the department determines necessary for permit renewal.

**113.4(11) Factors in permit issuance decisions.** The department may request that additional information be submitted for review to make a permit issuance decision. The department may review and inspect the facility, its agents and operators, and compliance history. The department may consider compliance with related requirements, such as financial assurance and comprehensive planning. The department may review whether or not a good-faith effort to maintain compliance and protect human health and the environment is being made, and whether a compliance schedule is being followed.

**113.4(12) Notice and public participation in the MSWLF permit issuance and postpermit actions process.**

*a.* For the purposes of this subrule, “postpermit actions” includes permit renewals and requests for major facility modifications as defined below:

- (1) Change in an MSWLF facility boundary or an MSWLF unit.
- (2) Application for an RD&D permit pursuant to subrule 113.4(10).
- (3) Installation of a landfill gas collection system.
- (4) Application for a closure permit for a MSWLF unit.
- (5) Transfer of an MSWLF permit to a new owner.
- (6) Variance from this chapter under rule 567—113.15(455B).
- (7) Change in the postclosure land use of the property.
- (8) Other significant permit actions that are determined by the department to require public notice and participation. Such actions may include requests to change any of the requirements set forth as special provisions in the permit.

*b.* Prior to the issuance of approval or denial for an MSWLF permit or postpermit action, public notice shall be circulated in a manner designed to inform interested and potentially interested persons of the permit or postpermit action request. Procedures for the circulation of public notice shall include at least the following procedures:

(1) Upon receipt of the permit application or postpermit action request, the department shall make a determination of whether public notice is required in accordance with this subrule. If the determination is made that public notice is required, then the department shall prepare the public notice which shall be circulated by the owner or operator within the service area of the MSWLF by posting the public notice near the entrance to the MSWLF; and by publishing the public notice in periodicals or, if appropriate, in a newspaper(s) of general circulation.

(2) The public notice shall be mailed by the department to any person upon request and posted on the department's Web site.

*c.* The department shall provide a period of not less than 30 days following the date of the public notice during which time interested persons may submit their written views with respect to the MSWLF permit application or postpermit action request. All written comments submitted during the 30-day comment period shall be retained by the department and considered by the department in the formulation of the department's final determinations with respect to the permit application or postpermit action request. The period for comment may be extended at the discretion of the department.

*d.* The contents of the public notice shall include at least the following:

- (1) The name, address, and telephone number of the department.
- (2) The name and address of each applicant.
- (3) A brief description of each applicant's activities or operations which result in the submittal of the permit application or postpermit action request.
- (4) A statement that any person may submit written and signed comments, or may request a public hearing, or both, on the proposed permit or postpermit action request. A statement of procedures to request a public hearing pursuant to paragraph 113.4(12) "e" shall be included.

(5) Locations where copies of the permit application or postpermit action request may be reviewed, including the closest department field office, and the times at which the copies shall be available for public inspection.

*e.* The applicant, any interested agency, person or group of persons may request or petition for a public hearing with respect to an MSWLF permit application or postpermit action request. Any such request shall clearly state issues and topics to be addressed at the hearing. Any such request or petition for public hearing must be filed with the department within the 30-day period prescribed in paragraph 113.4(12) "c" and shall indicate the interest of the party filing such request and the reasons why a hearing is warranted. The department shall hold an informal and noncontested case hearing if there is a significant public interest (including the filing of requests or petitions for such hearing) in holding such a hearing. Frivolous or insubstantial requests for hearing may be denied by the department. Instances of doubt should be resolved in favor of holding the hearing. Any hearing requested pursuant to this subrule shall be held in the service area of the MSWLF, or other appropriate area at the discretion of the department.

*f.* If the department determines that a public hearing is warranted, then the department shall prepare the public notice of the hearing. Public notice of any hearing held shall be circulated at least as widely as was the notice of the permit application or postpermit action request.

*g.* The contents of public notice of any hearing held pursuant to paragraph 113.4(12)“*e*” shall include at least the following:

- (1) The name, address, and telephone number of the department;
- (2) The name and address of each applicant whose application will be considered at the hearing;
- (3) A brief reference to the public notice issued for each permit application and postpermit action request;
- (4) Information regarding the time and location for the hearing;
- (5) The purpose of the hearing;
- (6) A concise statement of the issues raised by the person requesting the hearing;
- (7) Locations where copies of the permit application or postpermit action may be reviewed, including the closest department field office, and the times at which the copies shall be available for public inspection; and
- (8) A brief description of the nature of the hearing, including the rules and procedures to be followed.

*h.* The department shall keep a record of the commenters and of the issues raised during the public participation process and shall prepare written responses to all comments received. At the time a final decision is made, the record and copies of the department’s responses shall be made available to the public.