



## IOWA CHAPTER

March 5, 2007

Alex Moon  
Environmental Program Supervisor  
Energy & Waste Management Bureau  
IOWA DEPARTMENT OF NATURAL RESOURCES  
502 East 9<sup>th</sup> St.  
Des Moines, IA 50319-0034

Dear Alex:

On behalf of the approximately 6,000 members of the Iowa Chapter of Sierra Club, please accept these comments about the Notice of Intended Action to rescind 567-Chapter 113 “Sanitary Landfills: Municipal Solid Waste” (MSW) and to adopt a new chapter in lieu thereof as 567-Chapter 113 “Sanitary Landfills for Municipal Solid Waste: Groundwater Protection Systems for the Disposal of Non-Hazardous Wastes” as approved at the November 2005 Environmental Protection Commission (EPC) meeting.

Federal law authorizes EPA to “...promulgate regulations to assist in the development and implementation of state solid waste management plans. In establishing such regulation, EPA must consider...protection of groundwater and surface water from leachate...”<sup>i</sup> among other things. In addition, “...a state program must meet the minimum requirements...includ[ing] closing or upgrading existing open dumps, recovering resources from all solid waste or disposing of such waste in a sanitary landfill...”<sup>ii</sup>

The Sierra Club, Iowa Chapter supports the Department of Natural Resources’ (DNR’s) proposed rules because they are designed to protect Iowa’s groundwater from leachate seeping out of municipal solid waste landfills. We also support DNR’s requiring MSW landfills to meet the minimum federal requirements for operating over a Resource Conservation and Recovery Act (RCRA) Subtitle D compliant liner by October 1, 2007.

We’ve heard stories from landfill operators that permits were issued even though the facility was out of compliance with regulations. In answering an Environmental Protection commissioner’s question posed in August 2006, Barbara Funke from the Adair County Sanitary Landfill and Recycling Center responded by first repeating the question, “Why are only half of the landfills not subtitle D compliant? I can only speak for the landfill that I represent. The answer for this facility is that for the last nine years, every three years, the landfill permit was renewed with the State of Iowa by the DNR. This includes old and new staff during this nine-year period. If current Iowa law is not being enforced, [and] the DNR [is] not willing to work with each landfill [to] become compliant in a

specific time table, then why implement a process that will double or even triple the requirements now.”<sup>iii</sup>

The answer is simple. If the DNR has been issuing permits on schedule but not requiring facilities to get into compliance, the time has come to enact the proposed rules and enforce them so that all facilities can become compliant within a reasonably short time period.

MSW landfill operators have complained that they didn't have enough input in the process. Scott Smith with the Boone County Landfill stated at the November 2006 EPC meeting. "...[W]e feel that the process of developing these proposed rules have failed to actively involve the professionals and experts in the solid waste management industry.”<sup>iv</sup> At the same meeting, Mary Wittry of Carroll County Solid Waste stated, "The rulemaking took six years to complete and now we only have six months to address our concerns.”<sup>v</sup>

The law referred to as RCRA is actually a combination of the first federal solid waste statute and all subsequent amendments. RCRA was most recently amended by the Land Disposal Program Flexibility Act of 1996.<sup>vi</sup>

We recognize that our state's solid waste operators are conscientious and want to provide the best possible services to their communities. We also recognize that the rules have been contentious within the MSW operators' community – not to mention a long time coming -- but we believe that 10 years is long enough to bring Iowa's landfills into federal compliance.

Americans landfilled approximately 55.4 percent (130.8 million tons) of municipal solid waste in 2003.<sup>vii</sup> As the population increases, more Americans will dispose of more waste resulting in more risk that contaminants will enter the groundwater supply near the facilities. Subtitle D requires landfills to install a compliant liner. "The design criteria require each new landfill to have a liner consisting of a flexible membrane and a minimum of two feet of compacted soil, as well as a leachate collection system...States with approved MSW[landfill] permit programs can allow the use of an alternative liner design that controls ground water contamination. The liner and collection system prevent the potentially harmful leachate from contaminating the soil and ground water below the landfill.”<sup>viii</sup>

Today, 32 of the 59 operating landfills in Iowa do not have a compliant liner. We applaud the DNR for finally taking the initiative to address liner requirements. Although it may be impractical to expect these 32 landfills to comply with the liner requirements by October of this year, we believe they should be required to comply within as short a time frame as absolutely necessary.

“In order to check the performance of system design, MSW[landfill] facility managers must also establish a ground water monitoring program. Through a series of monitoring wells, the facility owner and operator is alerted if the landfill is leaking and causing contamination. If contamination is detected, the owner and operator of the landfill must perform corrective action (i.e., clean up the contamination caused by the landfill).”<sup>ix</sup> The EPA provides basic groundwater monitoring parameters and suggests that selected parameters should be based on site-specific circumstances. Although each parameter may not be required for a site, we support including all of the EPA-recommended parameters in the rules and including provisions for site-specific circumstances.

We also support the DNR's new requirement that monitoring wells be no more than 300 feet apart. We believe the department's compromise from the 600-foot separation distance in current rules is fair since the department originally considered a 200-foot separation distance.

The proposed rule also requires an operator to submit documents to the department rather than simply requiring the operator to notify the department whenever the facilities document are placed in the operating record as required in federal rule. We support requiring documents be submitted to the department in order for the public to have better access to the documents

Current rule requires that a liner be constructed in 8-inch lifts of compacted soil. Because this rule is less restrictive than the federal guidance of 6-inch lifts, we support including the federal guidance recommendation into the department's proposed rule.

DNR is proposing extending the length of an operating permit from three years to five years. The proposed rule does not explain the rationale for increasing the time period for which a permit is effective. However, if the landfill adopts research, development and demonstration for a new MSW landfill unit, existing 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 criteria provided that the unit has a leachate collection system designed and constructed to maintain less than a 30-cm depth of leachate on the liner provision pursuant to subrule 113.4(10), the permit shall be issued for no longer than three years. We believe operating permits should be issued for no more than three years at a time.

Thank you for the opportunity to comment on this important rule. If you have questions, please contact our office at 515-277-8868.

Sincerely,



Pam Mackey-Taylor  
Chair

---

i "RCRA Statutory Overview," <http://www.epa.gov/epaoswer/hotline/training/statov.txt>

ii Ibid

iii Barbara Funke, Environmental Protection Commission minutes, November 14, 2006.  
<http://www.iowadnr.com/epc/archive/06nov14m.pdf>

iv Scott Smith, *ibid*

v Mary Wittry, *ibid*

vi "RCRA Statutory Overview," <http://www.epa.gov/epaoswer/hotline/training/statov.txt>

vii "Managing Nonhazardous Solid Waste," <http://www.epa.gov/epaoswer/general/orientat/rom2.pdf>

viii Ibid

ix Ibid