

**Iowa Department of Natural Resources  
Environmental Protection Commission**

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ITEM

5

DECISION

TOPIC

**Notice of Intended Action – Chapter 101 – Solid Waste  
Comprehensive Planning Requirements**

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Attached for the Commission’s approval is a Notice of Intended Action to amend 567-Chapter 101 “Solid Waste Comprehensive Planning Requirements.” This amendment is being proposed for clarification and ease of use purposes and in order to correct inconsistencies between the Iowa Code and Iowa Administrative Code.

This chapter underwent a complete revision in 2005 prior to the 5th round of solid waste comprehensive plan submittals, which is now nearly complete. During this round of submittals, several items were identified as future revisions for clarification. Revisions are also proposed to the municipal solid waste and recycling survey, several of the fourteen (14) online forms which make up the online database, and the Quarterly Solid Waste Fee Schedule and Retained Fees Report. Revisions to these three areas are also included in this proposed rulemaking.

Several of the proposed revisions are in response to stakeholder input received during the 5<sup>th</sup> round of comprehensive plan update submittals. In addition, a memo outlining the proposed changes and requesting informal feedback and comment was mailed to all planning area responsible officials and sent by electronic mail to all Iowa municipal solid waste landfills and solid waste consultants on June 20, 2008. No feedback or comment was provided.

The following is a summary of the proposed revisions and clarifications to the chapter.

- 101.1(2) Applicability.

This section is not necessary as the Iowa Code Sections implemented are cited at the end of the chapter. Therefore propose to remove the section.

- 101.2 Definitions.

*Contaminated Soil*

Propose to remove the definition of contaminated soils from this rule chapter. A definition of contaminated soils will be developed as part of the rule revision of IAC 567-Chapter 108.

#### *Planning Cycle*

Propose the planning cycle remain as set (3 years) for the next round of plan updates but change to five (5) years for subsequent rounds (starting with the 7<sup>th</sup> round).

#### *Solid Waste*

Propose to revise the definition of Solid Waste to include wastes that have been exempted from federal hazardous waste regulation except to the extent that any such exempted substances are liquid wastes or wastewater.

- 101.3 Waste management hierarchy.

Revise 101.3 to be consistent with Iowa Code Section 455B.301A.

This moves combustion with energy recovery above other approved techniques of solid waste management.

- 101.7 Base year adjustment method.

Propose to remove the provision which states the department will perform a goal progress calculation 12 months prior to the due date of the comprehensive plan update for each planning cycle for planning purposes. It is unclear how beneficial this provision is for the planning areas and takes a great deal of staff time. When planning areas were asked provide comments on the benefits gained by this provision, no comments were submitted.

- 101.7(3)"c" – Contaminated soils.

Propose to remove this section. This section allows the exclusion of contaminated soils from goal progress calculations. In many cases, contaminated soils can be remediated to state and federal standards at which time it becomes dirt, which is specifically exempted from the statutory definition of solid waste. If disposal of contaminated soil is the result of an exceptional event, a request for exemption from goal progress calculation can be made under the provisions of 101.7(3). Therefore it is unnecessary for separate provisions.

- 101.10 Municipal solid waste and recycling survey.

Current rule allows for four (4) options when completing the municipal solid waste and recycling survey outlined in 101.10(1) through 101.10(4). The options outlined in 101.10(1) and 101.10(4) states the department will enter the data into the online database. It is proposed to remove the options that state the department will enter the data.

Completion of the previous round of comprehensive plans has fully populated the online database resulting in the need to only review and update the submitted information. It is the planning area's responsibility to ensure submitted data is accurate.

- 101.12 Solid waste comprehensive plan types.

Revise 101.12 to be consistent with Iowa Code Section 455B.306.

Recent changes to 455B.306 (Senate File 2276) clarifies language related to planning areas that choose to remain autonomous by closing all their landfills and using a transfer station to transfer waste to a facility in another planning area.

- 101.13 Types of comprehensive plan submittals to be filed.

Recent changes in Iowa Code section 455B.306 (Senate File 2276) remove the comprehensive planning requirement for non municipal solid waste facilities. Therefore propose to remove language which indicates comprehensive planning requirements for non municipal solid waste facilities.

- 101.13(2) Comprehensive plan updates: for permitted municipal solid waste landfills, construction and demolition waste disposal sites, material recovery facilities, and transfer stations.

Revise the heading of this section to state comprehensive plan updates for municipal solid waste sanitary disposal projects.

- 101.13(3) Transfer stations and construction and demolition waste disposal sites.

The provisions of this section are inconsistent with Iowa Code. Therefore propose to remove the section.

Iowa Code section 455B.306(1) specifies that a city, county, or private agency operating, or planning to operate, a municipal solid waste sanitary disposal projects shall file a comprehensive plan. Solid waste transfer stations are sanitary disposal projects, as determined by the Iowa Supreme Court in the case of ABC Disposal Systems, Inc. v. Department of Natural Resources, 681 N.W.2d 596 (Iowa 2004). Section 455B.306(7)“e” also states that a comprehensive plan must include a description of the geographic area to be served by the city, county, or private agency. Except in limited circumstances defined in the statute, the comprehensive plan shall not include a planning area or service area, any part of which is included in another comprehensive plan. The impact of this requirement is that a city or county must choose one planning area for the disposal of the solid waste generated in the city or county and can not be a part of more than one planning or service area. All waste generated within an entity's comprehensive planning area must be deposited at a facility within the comprehensive plan, however, this does not preclude waste being deposited at out of state facilities.

Subrule 101.13(3) allows transfer stations that take solid waste solid waste generated within Iowa and transports all of it out of state for disposal to meet comprehensive planning requirements by filing an operational plan with the department. Under current administrative code, the department requires any transfer station which uses an Iowa landfill to join the comprehensive plan established by the communities using that landfill and to only deliver waste collected within those communities. For transfer stations which haul all of their waste out of state, the department has attempted to strike an appropriate balance between the goals of comprehensive solid waste planning and any burden those goals may be alleged to place on interstate commerce. The department was requested by stakeholders to re-evaluate its position in regard to transfer stations that deposit all solid waste collected out of state and to enforce the same requirements as those for transfer stations that deposit solid waste at instate facilities. The department has determined that this attempt to interpret 455B.306(7)“e” so as to minimize potential impacts upon the interstate transportation of waste is not authorized by law.

Because the department has concluded subrule 101.13(3) to be inconsistent with Iowa Code 455B.306, we are proposing the removal of said subrule. This would result in all transfer stations, regardless of final solid waste deposit location, being required to follow the same solid waste comprehensive planning requirements and bring Iowa Administrative Code in compliance with Iowa Code in respect to this matter.

- 101.13(4) Comprehensive plan updates for permitted monowaste facilities.

Recent changes in Iowa Code section 455B.306 (Senate File 2276) remove the comprehensive planning requirement for non municipal solid waste facilities. Therefore propose to remove section.

- 101.13(5) Comprehensive plan updates for permitted monogenerator facilities.

Recent changes in Iowa Code section 455B.306 (Senate File 2276) remove the comprehensive planning requirement for non municipal solid waste facilities. Therefore propose to remove section.

- 101.13(6) Comprehensive plan updates for permitted incinerators.

Recent changes in Iowa Code section 455B.306 (Senate File 2276) remove the comprehensive planning requirement for non municipal solid waste facilities. Therefore propose to remove section.

- 101.14(2) Exclusions.

Revise 101.14(2)“a” to be consistent with Iowa Code Section 455B.310(5). This revision is being proposed for clarification purposes in order to correct inconsistencies between the Iowa Code and Iowa Administrative Code as they pertain to the exemption from tonnage fees for solid waste facilities disposing of construction & demolition (C&D) wastes.

Iowa Code 455B.310 specifies that the operator of a sanitary landfill shall pay a tonnage fee to the department for each ton of solid waste received and disposed of at a sanitary landfill. Tonnage fees remitted to the department are placed in the Groundwater Protection Fund for department operations and support of statewide solid waste programs such as Solid Waste Alternatives Financial Assistance, Solid Waste Facility Permitting, Comprehensive Planning, Special Waste Authorization, Iowa Waste Reduction Center, Iowa Waste Exchange and Household Hazardous Waste Regional Collection Centers. A portion of the tonnage fee is also retained locally for waste management plan development and implementation and environmental protection activities. The base tonnage fee is \$4.25; however, based on a planning area's progress towards state mandated goals, each landfill plays slightly more or slightly less than the base amount. On average \$2.78 per ton is remitted to the department and \$1.47 is retained locally.

Iowa Code section 455B.310(5) states in part, "Solid waste disposal facilities with special provisions which limit the site to disposal of construction and demolition waste"...are exempt from the tonnage fees imposed under this section." Furthermore, Iowa Administrative Code 567-Chapter 101, paragraph 101.14(2)"a" states in part, "The fees specified in subrule 101.14(3) do not apply to construction and demolition waste disposed of in an area of a sanitary landfill that has been designated exclusively for the disposal of construction and demolition waste based on plans and specifications approved by the department..."

Iowa Code section 455B.310(5) provides an exemption from the tonnage fee for sites limited to the disposal of C&D wastes only. Paragraph 101.14(2)"a" misinterprets the meaning of the term "site" as it is referred to in Iowa Code 455B.310(5) and erroneously extends the tonnage fee exemption of Iowa Code section 455B.310(5) to individual disposal areas at municipal solid waste (MSW) landfills known as "MSWLF units". The following examples are given to support the correct use of the term "site" as it pertains to sanitary landfills:

- Iowa Code section 455B.304(5) uses "site" to refer to the whole landfill.
- The siting provisions of Iowa Code section 455B.305A use "site" to refer to the entire location.
- Iowa Code section 455B.307(2) uses "site" in a way that refers to the whole property in that it refers to the hydrologic and geologic conditions of the disposal site and to disposal at a site for which an application has been made.
- Iowa Code section 455D.9A prohibits baling of solid waste except waste that is baled on-site. The on-site reference logically refers to the entire site.
- Iowa Code section 455B.305(6) uses "cell" to refer to an individual landfill cell.

These statutory uses of the term "site" are consistent with the definition of "site" previously adopted by the Department at 567 IAC 100.2. Rule 100.2 defines "site" as "any location, place or tract of land used for collection, storage, conversion, utilization, incineration or landfilling of solid waste, to include the landfill area, non-fill work areas, borrow areas plus a 100-foot wide perimeter surrounding the working areas or the property line if it is closer than 100 feet to the working areas." This administrative rule definition, while consistent with the use of the term "site" in the Iowa Code sections referenced above, is not consistent with current subrule 101.14.(2).

Subrule 101.14(2) is proposed to be amended by incorporating Iowa Code section 455B.310(5) verbatim so that the exemption from the tonnage fee is for sites dedicated wholly to the disposal of C&D wastes. Currently there are four sanitary landfills that meet this exemption.

- Implementation Paragraph

Update paragraph to include all applicable Iowa Code sections.

The Commission is asked to approve this Notice of Intended Action.

Mark R. Warren, Program Planner  
Land Quality Bureau  
Environmental Services Division

September 18, 2008

## ENVIRONMENTAL PROTECTION COMMISSION

### Notice of Intended Action

Pursuant to the authority of Iowa Code sections 455B.301A, 455B.302, 455B.306, 455B.310, and 455D.3, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 101, “Solid Waste Comprehensive Planning Requirements,” Iowa Administrative Code.

This amendment is being proposed for clarification and ease of use purposes and in order to correct inconsistencies between the Iowa Code and Iowa Administrative Code.

The proposed rules were written by the department largely in part due to suggested revisions received by stakeholders throughout the most recent cycle of solid waste comprehensive plan submittals.

The following is a summary of the proposed revisions and clarifications to the chapter.

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term “site” as it is referred to in Iowa Code 455B.310(5) and erroneously extends the tonnage fee exemption of Iowa Code section 455B.310(5) to individual disposal areas at municipal solid waste (MSW) landfills known as “MSWLF units”. The following examples are given to support the correct use of the term “site” as it pertains to sanitary landfills:

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Subrule 101.14(2) is proposed to be amended by incorporating Iowa Code section 455B.310(5) verbatim so that the exemption from the tonnage fee is for sites dedicated wholly to the disposal of C&D wastes. Currently there are four sanitary landfills that meet this exemption.

- Implementation Paragraph

Update paragraph to include all applicable Iowa Code sections.

Any interested person may make written suggestions or comments pertaining to the proposed amendment on or before 4:30 p.m. on November 25, 2008. Such written materials should be directed to Mark Warren, Land Quality Bureau, Iowa Department of Natural Resources, 502 East 9th Street, Wallace State Office Building, Des Moines, IA 50319-0034; fax (515)281-8646 or mark.warren@dnr.iowa.gov. Persons wishing to convey their views orally should contact Mr. Warren at (515)281-4968

When submitting comments, the department encourages stakeholders to utilize the following guidelines. These guidelines aid the department in accurately understanding and creating a record of your input.

1. Include your mailing address and contact information.
2. Please state if you are submitting comments on behalf of a business, organization or as an individual.
3. Cite the specific rule(s) on which you are commenting.
4. Explain your views as clearly as possible by describing any assumptions, data, or technical information you utilized.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative language to improve the specific rule(s) and explain why.

A public hearing will be held on November 25, 2008, from 1:00 PM to 3:00 PM in the Fifth Floor East Conference Room of the Wallace State Office Building, 502 East Ninth Street, Des

Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rule.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department of Natural Resources to advise of special needs.

These amendments are intended to implement Iowa Code sections 455B.301A, 455B.302, 455B.306, 455B310, and 455D.3.

The following amendments are proposed:

**ITEM 1. Amend 567 IAC 101.1 as follows:**

**567—101.1(455B,455D) Purpose and applicability.**

**101.1(1) Purpose.** The purpose of these rules is to provide general definitions and direction for comprehensive integrated solid waste management planning for every city and county of this state and to provide an orderly and efficient process for the assessment and collection of fees for the disposal of solid waste at a sanitary landfill.

~~**101.1(2) Applicability.** This chapter is intended to implement Iowa Code sections 455B.306, subsection 1 through subsection 5, and subsection 6, paragraph “e,” 455B.301A and 455D.3.~~

**101.1(32) Authority.** Rescinded IAB 6/8/05, effective 7/13/05.

**ITEM 2. Amend 567 IAC 101.2 as follows:**

**567—101.2(455B,455D) Definitions.** For the purpose of this chapter, the following definitions shall apply:

“Comprehensive plan” means a course of action developed and established cooperatively between cities, counties and sanitary disposal projects regarding their chosen integrated solid waste management system, its participants, waste reduction strategies, and disposal methods.

“Comprehensive plan amendment” means a notification, filed between comprehensive plan updates, that the planning agency seeks to change the participation or change the designated disposal project(s) as set out in the most recent approved comprehensive plan submittal.

“Comprehensive plan update” means a planning document that provides status reports on the integrated solid waste management system and that describes revision to the information and evaluation of the integrated solid waste management system and the proposed course of action for the next two planning cycles.

“Consumer price index” means the measure of the average change over time in the prices paid by urban consumers for a market basket of consumer goods and services. For the purpose of this chapter, consumer price index refers to All Urban Consumers (CPI-U), All Items, as published by the U.S. Bureau of Labor Statistics.

~~“Contaminated soil” means soil(s) that contains any harmful constituent in great enough concentration to harm human health.~~

“Fiscal year” means the state fiscal year from July 1 through June 30.

“Initial comprehensive plan” means a first or new comprehensive plan filed with the department of natural resources pursuant to the provisions of Iowa Code section 455B.306.

“Integrated solid waste management” means any solid waste management system which is focused on planned development of programs and facilities that reduce waste volume and toxicity, recycle marketable materials and provide for safe disposal of any residuals.

“Monogenerator facility” means any permitted facility that accepts waste(s) from a sole generator that is also the owner/operator of the facility.

“Monowaste facility” means any permitted facility with special permit provisions which limit the site to a single solid waste including, but not limited to, coal combustion residue, construction and demolition debris, cement kiln dust and foundry sand.

“Planning agency” means the designated contact agency on file with the department.

“Planning area” means the combined jurisdiction of the local governments and the designated sanitary disposal project(s) involved in a comprehensive plan. A planning area may include one or more sanitary disposal projects.

“Planning cycle” means the length of time between the due dates for each comprehensive plan update submittal as approved by the department, ~~which is the same frequency as sanitary disposal project permitting~~ shall be five years effective March 1, 2011.

“Plan participants” means any individual, group, government or private entity that has direct involvement in an integrated solid waste management system.

“Private agency” means an individual or any form of business organization authorized under the laws of this or any other state.

“Public agency” means any political subdivision of this state, including Iowa Code chapter 28E agencies.

“Sanitary disposal project” means 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.

“Service area” means an area served by a specific sanitary disposal project defined in terms of the jurisdictions of the local governments using the facility. A planning area may include more than one service area.

~~“Solid waste” means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials including, but not limited to, such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles as defined by Iowa Code section 321.1, subsection 90. However, division IV of Iowa Code chapter 455B does not prohibit the use of dirt, stone, brick, or similar inorganic material for fill, landscaping, excavation or grading at places other than a sanitary disposal project. Solid waste does not include hazardous waste as defined in Iowa Code section 455B.411 or source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979, or petroleum-contaminated soil which has been remediated to acceptable state or federal standards has the same meaning as in Iowa Code section 455B.301. Pursuant to 455B.301(23)“b”, the department has determined that solid waste includes those wastes exempted from federal hazardous waste regulation pursuant to 40 CFR 261.4(b), as amended through (date of rule adoption), except to the extent that any such exempted substances are liquid wastes or wastewater.~~

**ITEM 3. Amend 567 IAC 101.3 as follows:**

**567—101.3(455B,455D) Waste management hierarchy.** The state’s waste management hierarchy is listed in descending order of preference:

1. Volume reduction at the source;
2. Recycling and reuse, including composting;
3. Combustion with energy recovery;

4. Other approved techniques of solid waste management including, but not limited to, combustion with energy recovery, combustion for waste disposal, and disposal in sanitary landfills.

**ITEM 4. Amend 567 IAC 101.7 as follows:**

~~567—101.7(455B,455D) Base year adjustment method.—Using the base year adjustment method, the department will perform a goal progress calculation 12 months prior to the due date of the comprehensive plan update for each planning cycle. This goal progress calculation provided 12 months prior to the due date of the comprehensive plan update is for planning purposes only and is to be used to evaluate progress toward the state’s waste volume reduction and recycling goals. Planning agencies may request that the department complete a goal progress recalculation once per fiscal year to resolve any discrepancies and to further evaluate progress toward the state’s waste volume reduction and recycling goals. At the time of approval of a comprehensive plan or comprehensive plan update, the department will use the most current complete fiscal year data set available to complete goal progress calculations, which will be used to meet the requirements outlined in subrule 101.13(8) and rule 567—101.14(455B,455D).~~

**101.7(1)** The base year adjustment method (see Formula 1) controls for population, employment, and taxable sales to more accurately determine progress toward the state’s waste volume reduction and recycling goals. Factors included within the base year adjustment method include:

- a. Base year residential waste disposal tonnage – (A).
- b. Base year commercial waste disposal tonnage – (B).
- c. Base year population data (U.S. Bureau of the Census) - (C).

- d. Base year employment data - total nonfarm (Iowa Department of Workforce Development) - (D).
- e. Base year taxable sales data (Iowa Department of Revenue) - (E).
- f. Base year consumer price index - (F).
- g. Most current complete fiscal year data set available for waste disposal tonnage - (G).
- h. Most current complete fiscal year data set available for population (U.S. Bureau of the Census) - (H).
- i. Most current complete fiscal year data set available for employment - total nonfarm (Iowa Department of Workforce Development) - (I).IAC/05, 2/15/06
- j. Most current complete fiscal year data set available for taxable sales (Iowa Department of Revenue) - (J).
- k. Most current complete fiscal year data set available for consumer price index - (K).

Formula I

$$100\% - \left[ \frac{G}{\frac{A}{\frac{H}{C} + \frac{\left[ \frac{I}{D} + \frac{\frac{J}{E}}{K} \right]}{2}} + B \left[ \frac{I}{D} + \frac{\frac{J}{E}}{K} \right]} \right] \cdot 100\%$$

**101.7(2)** Planning agencies must document the amount of waste disposed of in both the base year and the most current fiscal year where a complete data set is available. If no changes have occurred within the planning area that would affect the base year, then only data for the most

current fiscal year for which a complete data set is available need to be presented in the comprehensive plan update, since information on each planning area's base year tonnage is presented in prior comprehensive plan submittals. Tonnage data sources that each planning agency must identify include, but are not limited to:

- a. Landfill(s) within the planning area and its respective service area(s).
- b. Transfer station(s) or hauler(s) transporting waste into or out of the planning area for final disposal.
- c. Incineration with or without energy recovery of waste within the planning area.
- d. Allowable base year adjustment method exemptions, including exceptional events, waste originating from out of state, and solid waste generated outside the planning area.

**101.7(3)** Waste generated as part of an exceptional event should not negatively affect a planning area's goal progress calculation.

a. Exceptional events include, but are not limited to, such unforeseen disasters as storms, fires, floods, tornadoes, or train wrecks. Exceptional events do not include economic development, derelict housing removal, or other planned activities/demolitions. Written requests to exempt exceptional event debris from goal progress calculations shall be made to the department on the required Quarterly Solid Waste Fee Schedule and Retained Fees Report, DNR Form 542-3276.

Requests for goal progress calculation exemptions must be made within six months after initial disposal of the debris. The determination to exempt exceptional event debris from goal progress calculations shall be made solely by the department and shall not be made independently by individual sanitary disposal projects or planning agencies. Sanitary disposal projects required to remit tonnage fees shall continue to pay solid waste tonnage fees until written notification of fee

exemption is received, at which time any applicable fee credit shall be granted by the department. Upon review of the request, the department will notify the sanitary disposal project and planning agency of the determination in writing or request further documentation.

(1) Exemption requests shall, at a minimum, include:

1. Date(s) of duration of the exceptional event.
2. Type of event (i.e., flood, tornado, combination thereof).
3. Description of affected area(s), including approximate number of buildings and addresses, if available.
4. Type(s) of waste to be exempted.
5. Actual tonnage of debris disposed of during the quarter.
6. Preliminary estimate of the total tonnage to be exempted (i.e., tons already disposed of and potential tons to be disposed of in future quarters).

(2) Additional documentation to verify the exceptional event and the debris it generated may be requested by the department. Failure to submit requested documentation may result in denial of the goal progress calculation or solid waste tonnage fee exemption request(s), including any fee credits authorized by the department. Documentation may include:

1. Protocol used by the sanitary disposal project staff for determining which waste(s) coming into the facility was attributed to the exceptional event.
2. Summary of existing policies to divert storm debris from disposal, as well as the amount of waste(s) diverted.
3. Copies of scale tickets and summary report of scale tickets.
4. Federal Emergency Management Agency (FEMA) reports, if any.
5. Newspaper articles or pictures of affected areas.

6. Supporting documentation indicating estimated remaining tonnage expected as a result of the exceptional event (i.e., supporting documentation from local insurance companies or municipal building inspectors).

7. Contact information for the person(s) responsible for compiling the exceptional event report(s).

b. If the governor of the state of Iowa declares a city or county a disaster area as a result of an exceptional event, the sanitary disposal project or planning agency may request that the debris be exempt from solid waste tonnage fees. A request to waive tonnage fees must be submitted in writing on the facility's or planning agency's letterhead prior to or in the same submittal as the Quarterly Solid Waste Fee Schedule and Retained Fees Report, DNR Form 542-3276. Requests to waive tonnage fees, as provided for in this rule, must be made within 6 months after the initial disposal of the debris. A copy of the proclamation of disaster emergency declared by the governor of the state of Iowa is required in order for approval of tonnage fee exemptions. Any continuing documentation shall be submitted with each Quarterly Solid Waste Fee Schedule and Retained Fees Report, DNR Form 542-3276, within the length of time authorized by the department. Solid waste disposed of outside the window of time authorized by the department shall not be eligible for exemption. To be eligible for an exemption, all exceptional event waste must be disposed of within the following time lines:

(1) For debris clearance and emergency protective measures, as defined by FEMA guidelines, 6 months from the end of the exceptional event.

(2) For permanent repair work, as defined by FEMA guidelines, 18 months from the end of the exceptional event.

Upon written request, with supporting rationale, extensions to these time lines may be granted solely by the department on a case-by-case basis.

~~e. Contaminated soils removed as part of a brownfield or contaminated site cleanup should not negatively affect a planning area's goal progress calculation. If the contaminated soil is to be disposed of in a sanitary disposal project, the sanitary disposal project or planning agency must request the goal progress exemption in writing, in accordance with the procedures outlined in this rule. Written requests to exempt contaminated soil from goal progress calculations shall be made to the department on the Quarterly Solid Waste Fee Schedule and Retained Fees Report, DNR Form 542-3276. Requests for goal progress exemptions must be made within 6 months after initial disposal of the contaminated soil.~~

~~The determination to exempt contaminated soil from goal progress calculations shall be made solely by the department and shall not be made independently by individual sanitary disposal projects or planning agencies. The department shall notify the sanitary disposal project or planning agency in writing of the determination or shall request further clarification to make an exemption decision. Failure to submit additional information requested by the department regarding the request to exempt contaminated soil may result in a denial of the goal progress calculation exemption request. Contaminated soil occurrences not eligible for goal progress exemption include, but are not limited to, illegal municipal solid waste disposal sites and contaminated soils formed for the sole purpose of requesting goal progress exemption. Exemption requests shall include, at a minimum, the following:~~

- ~~(1) Contact information of the primary and any other government agency overseeing or involved with site cleanup.~~
- ~~(2) Address of the brownfield or contaminated site.~~

- ~~(3) Date(s) when the site was believed to have been contaminated, if known.~~
- ~~(4) Type of operation and owners of the operation that led to the contamination, if known.~~
- ~~(5) Constituents of concern present in the soil.~~
- ~~(6) Types of miscellaneous waste mixed with the soil, if any.~~
- ~~(7) Appropriate testing for identified contaminants of the contaminated soil.~~
- ~~(8) Actual tonnage of contaminated soil disposed of during the quarter.~~
- ~~(9) Preliminary estimate of the total tonnage to be exempted (i.e., tons of contaminated soil already disposed of and potential tons to be disposed of in future quarters).~~
- ~~(10) Narrative justification to explain why disposal in a sanitary disposal project is the best site cleanup methodology.~~

**ITEM 5. Amend 567 IAC 101.10 as follows:**

**567—101.10(455B,455D) Municipal solid waste and recycling survey.** During each planning cycle, local governments are required to complete and submit the Municipal Solid Waste and Recycling Survey, DNR Form 542–8134. The department will not provide access to the comprehensive planning online database, described further in rule 567—101.11(455B,455D), until the department receives copies of all completed Municipal Solid Waste and Recycling Survey forms from the planning area. The department will contact each planning agency 12 months prior to the due date of the comprehensive plan update to determine the planning agency’s preferred Municipal Solid Waste and Recycling Survey option. To facilitate the completion, submittal, and data input of the Municipal Solid Waste and Recycling Survey form, the methodology as set forth in one of the following subrules shall be used:

~~**101.10(1)**—The department shall distribute the Municipal Solid Waste and Recycling Survey forms to the planning area’s member communities. The department will input the data into the~~

~~online database after receiving all completed Municipal Solid Waste and Recycling Survey forms from a planning agency. Once all data is inputted into the online database, the department will, upon request, provide copies of the completed Municipal Solid Waste and Recycling Survey forms to the planning agency.~~

**101.10(21)** The department shall distribute the Municipal Solid Waste and Recycling Survey forms to the planning area's member communities. The planning agency will receive and input the data into the online database.

**101.10(32)** The planning agency shall distribute the Municipal Solid Waste and Recycling Survey forms to its member communities. The planning agency will receive and input the data into the online database.

~~**101.10(4)** The planning agency shall distribute the Municipal Solid Waste and Recycling Survey forms to its member communities. The department will input the data into the online database after receiving all completed Municipal Solid Waste and Recycling Survey forms. Once all data is inputted into the online database, the department will, upon request, provide copies of the completed Municipal Solid Waste and Recycling Survey forms to the planning agency.~~

**ITEM 6. Amend 567 IAC 101.12 as follows:**

~~**567—101.12(455B,455D) Solid waste comprehensive plan—categories types.**—Public or private entities A city, county, or private agency operating, or planning to operate a municipal solid waste sanitary disposal project in Iowa, in conjunction with all local governments using the sanitary disposal project, shall file with the director one of two ~~categories~~ types of comprehensive plans detailing the method by which the ~~public or private entity, in conjunction with all local governments using the sanitary disposal project,~~ city, county, or private agency will~~

comply with solid waste comprehensive planning requirements. The first ~~category type~~ is a comprehensive plan in which ~~municipal~~ solid waste is disposed of in a sanitary landfill within the planning area. The second ~~category type~~ is a comprehensive plan in which all municipal solid waste is consolidated at, and transported from, a permitted transfer station for disposal at a sanitary landfill in another comprehensive planning area or state.

**101.12(1)** A planning area that closes all of the municipal solid waste sanitary landfills located in the planning area and chooses instead to use a municipal solid waste sanitary landfill in another planning area ~~that may choose to retain its autonomy as long as the sanitary landfill in the other planning area complies with all the requirements under Subtitle D of the federal Resource Conservation and Recovery Act, with of this chapter, and~~ all solid waste generated within the planning area ~~being closing its landfills is~~ consolidated at, and transported from, a permitted transfer station, ~~may elect to retain autonomy as a planning area and.~~ For purposes of this subsection, a planning area closing its own landfills that chooses to retain its autonomy shall not be required to join the planning area where the that contains the landfill being used it is using for final disposal of its solid waste is located.

**101.12(2)** If a planning area ~~makes the election~~ chooses to retain autonomy ~~under subrule 101.12(1) pursuant to this subsection,~~ the planning area receiving ~~the~~ solid waste from the planning area ~~making the election~~ sending it shall not be required to include the ~~planning area making the election in a sending planning area in its~~ comprehensive plan provided that no services other than the acceptance of solid waste for disposal are shared between the two planning areas ~~other than the acceptance of solid waste for sanitary landfill disposal.~~ The A planning area receiving ~~the~~ solid waste shall only be responsible for the permitting, planning, and

waste reduction and diversion programs ~~in the planning area receiving the solid waste~~ within that planning area.

**101.12(3)** If the department determines that solid waste cannot reasonably be consolidated and transported from a particular transfer station (e.g., asbestos or bulky construction and demolition waste), the department may establish permit conditions to address the transport and disposal of the solid waste. ~~An election may be made~~ A planning area sending solid waste for disposal in another planning area may retain autonomy under this ~~subrule subsection~~ only if ~~the two~~ both comprehensive planning areas enter into an agreement, pursuant to Iowa Code chapter 28E, that includes, ~~at a minimum,~~ all of the following:

~~into a~~101.12(3) If the department determines that solid waste cannot reasonably be consolidated and transported from a particular transfer station (e.g., asbestos or bulky construction and demolition waste), the department may establish permit conditions to address the transport and disposal of the solid waste. An election may be made under this subrule only if the two comprehensive planning areas enter into an agreement, pursuant to Iowa Code chapter 28E, that includes, at a minimum, all of the following: agreement, pursuant to Iowa Code chapter 28E, that includes, at a minimum, all of the following:

- a. A detailed methodology of the manner in which solid waste will be tracked and reported between the two planning areas.
- b. A detailed methodology of the manner in which the receiving sanitary landfill will collect, remit, and report tonnage fees, pursuant to Iowa Code section 455B.310, paid by the planning area that is transporting the solid waste. The methodology shall include both the remittances of tonnage fees to the state and the retained tonnage fees.

**ITEM 7. Amend 567 IAC 101.13 as follows:**

**567—101.13(455B,455D) Types of comprehensive plan submittals to be filed.** There are three types of comprehensive plan submittals: initial, updates, and amendments. The purpose of these types of comprehensive plans is the development of a specific plan and schedule for implementing technically and economically feasible solid waste management methods that will prevent or minimize any adverse environmental impact and meet the state’s waste volume reduction and recycling goals pursuant to rule 567—101.6(455B,455D).

Cities and counties planning to use a sanitary disposal project in Iowa must participate in a comprehensive plan with all other cities and counties using that sanitary disposal project. Cities and counties planning to use an out-of-state disposal facility(ies) must file a comprehensive plan that identifies the out-of-state facility(ies) used. Cities or counties using an out-of-state disposal facility(ies) are still required to meet all comprehensive plan submittal requirements.

If it is demonstrated to the department that any of the provisions outlined in paragraphs “1” through “3” below will not impact the planning area significantly, then the department may consider accepting a comprehensive plan amendment. This chapter also provides the comprehensive planning requirements that apply to ~~composting, recycling, solid waste processing, monowaste, monogenerator, and~~ transfer station, and medical waste incineration facilities. If during the planning cycle a change occurs to an existing planning area, the submission of an initial comprehensive plan may be required. An initial comprehensive plan is needed if:

1. A new planning area is established.
2. A change increases or decreases the population or the disposal tonnage of the planning area by more than 30 percent.

3. The solid waste disposal method has changed or a new method has been initiated, including siting of a new municipal solid waste landfill or municipal solid waste incinerator.

**101.13(1)** Content of an initial comprehensive plan. In fulfillment of the requirements of Iowa Code section 455B.301A and Iowa Code chapter 455D, an initial comprehensive plan shall include the following information:

a. A description of the planning area and the public and private agencies involved in the integrated solid waste management system, including a description of each agency's role in managing solid waste generated in the area.

b. A resolution or resolutions from all local governments or 28E agencies established for the purpose of managing solid waste or implementing integrated solid waste management systems, or both, on behalf of local governments, and letters of cooperation from private sanitary disposal projects participating in the comprehensive plan. The resolution(s) shall include a statement that the comprehensive plan participants have reviewed the initial comprehensive plan and will adopt the implementation schedule contained within the initial comprehensive plan. Letters of cooperation from private agencies shall include a statement that the private agencies have reviewed the comprehensive plan and support the waste volume reduction and recycling efforts outlined therein. The letter of cooperation shall briefly summarize the implementation schedule. If a local government included in the planning area refuses to provide a resolution, then that local government must prepare its own comprehensive plan and is no longer considered to be in the original planning area. In such cases, the original comprehensive plan may still be approved if it includes a brief addendum stating the effect of the change on the waste stream, but the sanitary disposal project(s) in the planning area may no longer accept waste from the local government that has withdrawn from the comprehensive plan. Private sanitary disposal projects failing to

provide letters of cooperation will be unable to receive a permit or permit renewal. If a city, county, or other public agency complies with comprehensive planning requirements by means of a contract(s) with an agency holding a sanitary disposal project permit or with a hauler(s) that has a contract(s) with an agency holding a sanitary disposal project permit, a list of those contracts shall be submitted as provided in rule 567—101.5(455B,455D).

c. A detailed description of public participation, including:

(1) Details of ongoing strategies to provide the public with opportunities to provide input.

(2) A list of all public hearings or meetings that were held in conjunction with the development of the initial comprehensive plan and the methods used to publicize public meetings on the initial comprehensive plan.

(3) An account of opportunities for the public to comment on the initial comprehensive plan and minutes from any meetings regarding initial comprehensive plan development.

(4) Proof that a minimum of two public meetings were held during the development of the initial comprehensive plan. The first meeting shall inform the public of the initial comprehensive plan development process, while the second meeting shall provide the public with an opportunity for review and comment on the initial comprehensive plan.

d. A description of past local and regional planning activities.

e. A report of the base year waste stream in total tons per year. Progress toward meeting the state's waste volume reduction and recycling goals pursuant to rule 567—101.6(455B,455D) shall be demonstrated through methods described in this chapter.

f. A description of population, employment, and industrial production as of the planning area's base year waste stream.

g. A description of the current waste composition and waste generation rates and a projection of waste composition and waste generation rates spanning two planning cycles. This description should include the effects of anticipated planning area modifications on waste generation and composition in the future. These factors may include economic changes, population changes, loss or addition of communities to the planning area, and any other modification expected to affect the amount of waste generated.

h. A description of the current integrated solid waste management system that contains a specific methodology for meeting the state's waste volume reduction and recycling goals pursuant to rule 567—101.6(455B,455D). This description shall include:

(1) Details of strategies and educational efforts designed to:

1. Increase public awareness about proper recycling and disposal options for motor oil and lead-acid batteries.

2. Encourage residents of the planning area to dispose of household appliances properly.

3. Encourage tire stewardship and proper tire recycling and disposal.

4. Encourage backyard composting and proper management of yard waste.

5. Encourage residents of the planning area to properly manage household hazardous waste.

(2) A list of collectors/recyclers used by the permitted sanitary disposal project(s) for the proper management of tires or household appliances.

(3) A detailed narrative of all other existing waste management programs in the planning area that addresses all components of the state's waste management hierarchy. This narrative must include specific methodologies for the separation of glass, paper, plastic and metal. For each specific waste management program, the following shall be included:

1. Program description.

2. Responsibility for program oversight.
3. Funding source(s).
4. Public education strategies employed.
5. Targeted audiences (business and industry, urban residents, rural residents, local governments, and public institutions).

6. The anticipated impact on the waste stream and diversion over at least two planning cycles.

(4) A discussion of the strengths and weaknesses of existing programs, efforts and strategies in the current integrated solid waste management system.

(5) An evaluation of the planning area's progress toward meeting the state's waste volume reduction and recycling goals. This evaluation shall address the goal progress calculation that was most recently provided in writing by the department. The department, upon written notification of intent to submit an initial comprehensive plan, will, within 30 days after receipt of notification, perform a goal progress calculation using the most current complete fiscal year data set available.

i. An assessment of alternative waste management systems, programs and strategies that addresses each of the following tiers of the state's waste management hierarchy:

(1) Source reduction options including, but not limited to, backyard composting and management of household hazardous waste.

(2) Recycling and reuse options.

(3) Combustion options with or without energy recovery. Any programs using incineration, with or without energy recovery, must include methodologies for prior removal of recyclable and reusable material, material that will result in uncontrolled toxic or hazardous air emissions when

burned, and hazardous or toxic materials which are not rendered nonhazardous or nontoxic by incineration.

(4) Use of other existing or planned sanitary landfills or transfer stations.

j. If construction of a new or purchase of an existing sanitary disposal project is considered or proposed, an initial comprehensive plan shall include:

(1) A summary of established and anticipated regulatory requirements regarding future siting, operation, closure and postclosure of each facility.

(2) A financial plan detailing the actual cost of the sanitary disposal project, including the funding sources of the project, and a description that spans two planning cycles of the methods of financing. The financial plan shall address:

1. Initial capital expenditures, including land acquisition, if applicable.
2. Local approval costs, including legal, engineering, and administrative fees.
3. Long-term costs, operations, closure and postclosure.
4. A mechanism to fund closure and postclosure costs.
5. Projected annual revenues.

(3) A description of expected environmental impacts from the construction of a new or purchase of an existing sanitary disposal project.

k. A specific plan and schedule spanning two planning cycles for implementing the initial comprehensive plan. Items that shall be addressed include:

- (1) Proposed activities and locations.
- (2) Responsible organization(s).
- (3) Implementation milestones.
- (4) Public education strategies.

(5) Anticipated impact on the waste stream and diversion.

**101.13(2)** Comprehensive plan updates- for ~~permitted~~ municipal solid waste sanitary disposal projects ~~landfills, construction and demolition waste disposal sites, and transfer stations~~. The department shall notify a planning agency of the due dates of the comprehensive plan update submittal a minimum of 12 months prior to the beginning of the planning cycle. In fulfillment of the requirements of Iowa Code section 455B.301A and Iowa Code chapter 455D, a comprehensive plan update shall include the following information:

a. A narrative that describes any permanent change in the planning area that has resulted in change in the waste stream, if applicable. An amendment to the comprehensive plan update is required prior to the facility's receiving waste on an ongoing basis from outside the delineated planning area.

b. A resolution or resolutions from all local governments or 28E agencies established for the purpose of managing solid waste or implementing integrated solid waste management systems, or both, on behalf of local governments, and letters of cooperation from private sanitary disposal projects participating in the comprehensive plan update. The resolution(s) shall include a statement that the comprehensive plan participants have reviewed the comprehensive plan update and will adopt the implementation schedule contained in the comprehensive plan update. Letters of cooperation from private agencies shall include a statement that they have reviewed the comprehensive plan update and support the waste reduction and recycling efforts outlined therein. The letter of cooperation shall briefly summarize the implementation schedule. If a local government included in the planning area refuses to provide a resolution, then that local government must prepare its own comprehensive plan and is no longer considered to be in the original planning area. In such cases, the original comprehensive plan update may still be

approved if it includes a brief addendum stating the effect of the change on the waste stream, but the sanitary disposal project(s) in the planning area may no longer accept waste from the local government that has withdrawn from the comprehensive plan. Private sanitary disposal projects failing to provide letters of cooperation will be unable to receive a permit or permit renewal. If a city, county, or other public agency complies with comprehensive planning requirements by means of a contract(s) with an agency holding a sanitary disposal project permit or with a hauler(s) that has a contract(s) with an agency holding a sanitary disposal project permit, a list of those contracts shall be submitted as provided in rule 567—101.5(455B,455D).

c. A description of public participation, including:

(1) A summary of ongoing strategies to provide the public with opportunities to provide input.

(2) A list of all public hearings or meetings that were held in conjunction with the development of the comprehensive plan update and the methods used to publicize public meetings.

(3) Proof that a minimum of two public meetings were held during the development of the comprehensive plan update. The first meeting shall inform the public of the comprehensive plan update development process, while the second meeting shall provide the public with an opportunity for review and comment on the comprehensive plan update.

(4) An account of opportunities for the public to comment on the comprehensive plan update and minutes from any meetings regarding comprehensive plan update development.

d. A report of the base year waste stream in total tons per year. This base year data and landfill tonnage information for the most current completed fiscal year data set available will be used to demonstrate progress toward meeting the state's waste volume reduction and recycling goals pursuant to rule 567—101.6(455B,455D) through methods described in this chapter.

e. A description of changes in population, employment, and industrial production since the last approved comprehensive plan or comprehensive plan update.

f. A description of current waste composition and waste generation rates, including:

(1) Changes since the last approved comprehensive plan or comprehensive plan update.

(2) The effects of anticipated planning area modifications on waste generation and composition in the future. These factors may include economic changes, population changes, loss or addition of communities to the planning area and any other modification expected to affect the amount of waste generated.

g. A discussion of changes to the integrated solid waste management system since the last approved comprehensive plan or comprehensive plan update, including:

(1) New and evolving strategies, efforts, and programs implemented within the planning area to:

1. Increase public awareness about proper recycling and disposal options for motor oil and lead–acid batteries.

2. Encourage residents of the planning area to dispose of household appliances properly.

3. Encourage tire stewardship and proper tire recycling and disposal.

4. Encourage backyard composting and proper management of yard waste.

5. Encourage residents of the planning area to properly manage household hazardous waste.

6. Provide for the separation of glass, paper, plastic and metal.

(2) A list of collectors/recyclers used by the permitted sanitary disposal project(s) for the proper management of tires or household appliances.

(3) A detailed narrative of all waste management programs implemented since the last approved comprehensive plan or comprehensive plan update that addresses all components of the

state's waste management hierarchy. For each specific waste management program implemented since the last approved comprehensive plan or comprehensive plan update, the following shall be included:

1. Program description.
  2. Responsibility for program oversight.
  3. Public education strategies employed.
  4. Targeted audiences (business and industry, urban residents, rural residents, local governments, and public institutions).
  5. The anticipated impact on the waste stream and diversion over at least two planning cycles.
- h. An evaluation of progress toward meeting the state's waste volume reduction and recycling goals using the goal progress calculation provided by the department 12 months prior to the due date of the comprehensive plan update. This analysis may use any combination of the following methodologies:

- (1) Trend analysis of goal progress since the initial comprehensive plan.
- (2) Formal, stakeholder-based collaborative goal-setting process leading to development of long-range integrated solid waste management system goals. The process shall include development of detailed objective-based strategies to achieve the desired goals. If programs have been implemented since the establishment of the goals, the comprehensive plan update shall include analysis of their impact on the long-range goals.
- (3) An analysis of the effectiveness or benefit of existing programs, individually and in aggregate, including a discussion of opportunities and need for improvement, modification or expansion.

i. Analysis of the impact of alternative solid waste management methods not currently employed, but being considered within the planning area.

j. A specific plan and schedule spanning two planning cycles for implementing the comprehensive plan. Items that shall be addressed include:

- (1) Proposed activities and locations.
- (2) Responsible organization(s).
- (3) Implementation milestones.
- (4) Public education strategies.
- (5) Anticipated impact on the waste stream and diversion.

~~**101.13(3)**—Transfer stations and construction and demolition waste disposal sites. If a transfer station or a construction and demolition waste disposal site as defined in 567—Chapter 100 is not part of an existing comprehensive plan, then each facility must submit its own comprehensive plan. A transfer station that takes solid waste generated within Iowa and transports all of it out of state for disposal shall meet the comprehensive planning requirements by filing an operational plan with the department in accordance with 567—paragraph 106.8(1)“k” and by submitting quarterly reports to the department in accordance with rule 567—106.14(455B,455D).~~

~~**101.13(4)**—Comprehensive plan updates for permitted monowaste facilities. If monowaste facilities are not part of an existing comprehensive plan, they must submit their own comprehensive plan. Comprehensive plan updates for these facilities shall include:~~

- ~~a. Service area descriptions. These descriptions shall include:~~

~~(1) Information about where the landfilled waste(s) is generated, including information about each facility using the landfill, and a description of what waste(s) is being landfilled from each facility. This information and description shall:~~

~~1. Provide an explanation of the process(es) in which the waste(s) is generated.~~

~~2. Describe why the current management method was chosen.~~

~~(2) An evaluation of the environmental impact of this management method.~~

~~(3) If the landfill accepts waste(s) from more than one company, letters of cooperation from each company are required. These letters of cooperation express the company's willingness to work toward the waste reduction and recycling goals outlined in the comprehensive plan.~~

~~b. A description of all waste(s) managed by the permitted facility, including:~~

~~(1) Landfilled waste at the permitted facility, which includes:~~

~~1. Annual tonnage of each type of waste based upon the fiscal year; and~~

~~2. Current waste composition. A breakdown by percentage of all waste(s) shall be included.~~

~~(2) The amount of waste reused and recycled.~~

~~(3) Projected tonnage spanning two planning cycles. This projection shall include supporting information and any assumptions used in the projections.~~

~~(4) Projected waste composition spanning two planning cycles. This projection shall include supporting information and any assumptions used in the projections.~~

~~(5) Units of production for the current fiscal year to normalize waste generation for changes in production in order to evaluate progress toward meeting the state's solid waste volume reduction and recycling goals.~~

~~c. Base year tonnage information (the later of fiscal year 1988 tonnage landfilled or first year in operation), including:~~

~~(1) Only the waste(s) that is landfilled in the permitted monowaste facility and not all waste(s) generated.~~

~~(2) Units of production for the base year.~~

~~d. Alternatives analysis, which shall:~~

~~(1) Include details of how the waste(s) is recycled or reused.~~

~~(2) Describe the alternatives or other options that were explored or considered for each type of waste landfilled. If alternatives are not feasible at this time, information explaining why the alternatives are not feasible shall be provided.~~

~~(3) Indicate the opportunities that exist for source reduction of waste(s).~~

~~(4) Indicate the opportunities that exist for recycling.~~

~~(5) Indicate the opportunities that exist for reuse of the waste(s).~~

~~e. A report on other waste(s) managed at the facility, including but not limited to:~~

~~(1) A description of how other waste(s) is managed, including final disposal.~~

~~(2) A description of recycling programs employed.~~

~~f. Implementation time line spanning two planning cycles, which shall:~~

~~(1) Outline plans for increasing recycling/reuse of waste or decreasing the amount landfilled.~~

~~(2) Include planned activities spanning two planning cycles. Long term projects should indicate milestones throughout the time span.~~

**101.13(5)** ~~Comprehensive plan updates for permitted monogenerator facilities. If a monogenerator facility is not part of an existing comprehensive plan, then the facility must submit its own comprehensive plan. Comprehensive plan updates for these facilities shall include:~~

~~a. A service area description, including information about where the landfilled waste is generated, and an explanation of the process(es) in which the waste(s) is generated. This description and explanation shall:~~

~~(1) Describe why the current management method was chosen; and~~

~~(2) Evaluate the environmental impact of this management method.~~

~~b. A description of all waste(s) managed by the permitted facility, including:~~

~~(1) Landfilled waste at the permitted sanitary disposal project, which includes:~~

~~1. Annual tonnage of each type of waste(s) based upon the fiscal year; and~~

~~2. Current waste composition. A breakdown by percentage of all waste(s) shall be included.~~

~~(2) The amount of waste reused or recycled.~~

~~(3) Projected tonnage spanning two planning cycles. This projection shall include supporting information and any assumptions used in the projections.~~

~~(4) Projected waste composition spanning two planning cycles. This projection shall include supporting information and any assumptions used in the projections.~~

~~(5) Units of production for the current fiscal year to normalize waste generation for changes in production in order to evaluate progress toward meeting the state's solid waste volume reduction and recycling goals.~~

~~c. Base year tonnage information (the later of fiscal year 1988 tonnage landfilled or first year in operation), including:~~

~~(1) Only the waste(s) that is landfilled in the permitted monogenerator facility and not all waste(s) generated.~~

~~(2) Units of production for the base year.~~

~~d. Alternative analysis, which shall:~~

- ~~(1) Include details of how the waste(s) is recycled or reused.~~
- ~~(2) Describe the alternatives or other options that were explored or considered for each type of waste landfilled. If alternatives are not feasible at this time, information explaining why the alternatives are not feasible shall be provided.~~
- ~~(3) Indicate the opportunities that exist for source reduction of the waste(s).~~
- ~~(4) Indicate the opportunities that exist for recycling.~~
- ~~(5) Indicate the opportunities that exist for reuse of the waste(s).~~
- ~~e. A report on other waste(s) managed at the facility, including but not limited to:
  - ~~(1) A description of how other waste(s) is managed, including final disposal.~~
  - ~~(2) A description of recycling programs employed.~~~~
- ~~f. Implementation time line spanning two planning cycles, which shall:
  - ~~(1) Outline plans for increasing recycling/reuse of waste and decreasing the amount landfilled.~~
  - ~~(2) Include planned activities spanning two planning cycles. Long term projects should indicate milestones throughout the time span.~~~~

~~**101.13(6)** Comprehensive plan updates for permitted incinerators. If a permitted incinerator is not part of an existing comprehensive plan, then the facility must submit its own comprehensive plan. Comprehensive plan updates for these facilities shall include:~~

- ~~a. A service area description, including information about where the incinerated waste(s) is generated, and an explanation of the process(es) in which the waste(s) is generated. If applicable, certification that only infectious waste as defined by Iowa Code section 455B.501 is being treated. This description and explanation shall:
  - ~~(1) Describe why the current management method was chosen; and~~
  - ~~(2) Evaluate the environmental impact of this management method.~~~~

- ~~b. A description of all waste(s) incinerated at the permitted facility, including:~~
- ~~(1) Annual tonnage of each type of waste(s) based upon the fiscal year; and~~
  - ~~(2) Current waste composition. A breakdown by percentage of all waste(s) incinerated shall be included.~~
- ~~c. Of the total amount of waste(s) generated, the following shall be included:~~
- ~~(1) The amount of waste landfilled; and~~
  - ~~(2) The amount of waste reused or recycled.~~
- ~~d. Projected tonnage spanning two planning cycles. This projection shall include supporting information and any assumptions used in the projections.~~
- ~~e. Projected waste composition spanning two planning cycles. This projection shall include supporting information and any assumptions used in the projections.~~
- ~~f. Units of production for the current fiscal year to normalize waste generation for changes in production in order to evaluate progress toward meeting the state's solid waste volume reduction and recycling goals.~~
- ~~g. Base year tonnage information (the later of fiscal year 1988 tonnage landfilled or first year in operation), including:~~
- ~~(1) Only the waste(s) that is incinerated at the permitted incineration facility and not all waste(s) generated.~~
  - ~~(2) Units of production for the base year.~~
- ~~h. Alternative analysis, which shall:~~
- ~~(1) Include details of how the incinerated waste(s) is recycled or reused.~~

~~(2) Describe the alternatives or other options that were explored or considered for each type of waste incinerated. If alternatives are not feasible at this time, information explaining why the alternatives are not feasible shall be provided.~~

~~(3) Indicate the opportunities that exist for source reduction of the waste(s).~~

~~(4) Indicate the opportunities that exist for recycling.~~

~~(5) Indicate the opportunities that exist for reuse of the waste(s).~~

~~i.—A report on other waste(s) managed at the facility, including but not limited to:~~

~~(1) A description of how other waste(s) is managed, including final disposal.~~

~~(2) A description of recycling programs employed.~~

~~j.—Implementation time line spanning two planning cycles, which shall:~~

~~(1) Outline plans for increasing recycling/reuse of waste and decreasing the amount incinerated.~~

~~(2) Include planned activities spanning two planning cycles. Long term projects should indicate milestones throughout the time span.~~

**ITEM 8. Amend 567 IAC 101.14(2) as follows:**

**101.14(2) Exclusions.**

a. ~~The fees specified in subrule 101.14(3) do not apply to construction and demolition waste disposed of in an area of a sanitary landfill that has been designated exclusively for the disposal of construction and demolition waste based on plans and specifications approved by the department; or to solid waste disposal facilities with special permit provisions which limit the site to the management of landscape waste and to disposal of coal combustion waste, cement kiln dust, construction and demolition waste and foundry sand; or to solid waste materials approved by the department for lining or capping or constructing berms, dikes or roads in the project.~~

Solid waste disposal facilities with special provisions which limit the site to disposal of construction and demolition waste, landscape waste, coal combustion waste, cement kiln dust, foundry sand, and solid waste materials approved by the department for lining or capping, or for construction berms, dikes, or roads in a sanitary disposal project or sanitary landfill are exempt from the tonnage fees imposed under this section.

b. Fees do not apply to wastes which will not be buried at a sanitary landfill if such material is salvaged or recycled in accordance with the provisions of the landfill permit.

ITEM 9. Amend 567 IAC 101 Implementation Paragraph as follows:

These rules are intended to implement Iowa Code sections 455B.301A, 455B.302, 455B.304, 455B.306, 455B.310, and 455D.73.

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Date

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Richard A. Leopold, Director

Administrative Rule Fiscal Impact Statement

Date:9/18/08

Agency: **Iowa Department of Natural Resources**  
IAC Citation: **567-IAC Chapter 101**  
Agency Contact: **Mark R. Warren, 281-4968**

Summary of the Rule: **Revisions are proposed for clarification and ease of use purposes and in order to correct inconsistencies between the Iowa Code and Iowa Administrative Code.**

*Fill in this box if the impact meets these criteria:*

- No Fiscal Impact to the State.  
 Fiscal Impact of less than \$100,000 annually or \$500,000 over 5 years.  
 Fiscal Impact cannot be determined.

**Brief Explanation:**

*Fill in the form below if the impact does not fit the criteria above:*

Fiscal Impact of \$100,000 annually or \$500,000 over 5 years.

\* Fill in the rest of the Fiscal Impact Statement form.

**Assumptions:** A fiscal impact will be incurred through the revision of subrule 101.14(2) pertaining to the statewide tonnage fee exemption for municipal solid waste (MSW) landfills that dispose of construction and demolition (C&D) wastes. By correcting this subrule to be consistent with Iowa Code section 455B.310(5), MSW landfills will no longer be allowed to avoid collecting the statewide tonnage fee for C&D wastes disposed of at the landfill. The fee exemption will still apply to permitted C&D waste landfills however.

Tonnage fees remitted to the department are placed in the Groundwater Protection Fund for department operations and support of statewide solid waste programs such as Solid Waste Alternatives Financial Assistance, Solid Waste Facility Permitting, Comprehensive Planning, Special Waste Authorization, Iowa Waste Reduction Center, Iowa Waste Exchange and Household Hazardous Waste Regional Collection Centers. A portion of the tonnage fee is also retained locally for waste management plan development and implementation and environmental protection activities. The base tonnage fee is \$4.25; however, based on a planning area's progress towards state mandated goals, each landfill plays slightly more or slightly less than the base amount. On average, \$2.78 per ton is remitted to the department and \$1.47 is retained locally.

For fiscal year 2007 (July 2006 to June 2007), a total of 303,107 tons of C&D waste were reported as exempt from the tonnage fee at MSW landfills. This equates to \$759,213 not remitted to the department for support of the statewide solid waste programs referenced above. The amount of waste disposed of in Iowa landfills had remained consistent each year. The department intends to use the additional retained fees to focus on reducing and recycling efforts for the C&D waste stream. Through reducing and recycling C&D wastes the amount of the tonnage fee to be remitted to the department in future years will likely decrease.

There is a potential fiscal impact to transfer stations which collect Iowa waste and deposit all of it at an out of state disposal facility pursuant to subrule 101.13(3). Currently, this rule has been interpreted to allow such transfer stations to collect solid waste from a service area that may be comprised of multiple comprehensive planning areas. The proposed revision to this subrule would require those transfer stations to become a member of the comprehensive plan for the cities and counties which they provide solid waste services for. If they serve cities or counties within multiple planning areas, they would have to choose a single planning area to become a member of. This could result in a loss of revenue if they could no longer provide services for cities or counties outside of the planning area that they participate in. There are currently four transfer stations in the state that collect solid waste from cities and counties within an existing comprehensive planning area which they are not a participating member of. Of the four transfer stations potentially affected by the proposed rule revision requiring the transfer stations to become a member of the planning area for which they provide waste disposal services for, one has not been in operation since June 2005 and another has discontinued services and the process to voluntarily rescind their permit is underway. Therefore, currently there are two transfer stations with the potential to be affected by the proposed revision.

For fiscal year 2007, (July 2006 to June 2007) the two transfer stations potentially affected by the revision collected 65.67 tons and 6,198 tons of solid waste respectively. However, the transfer station that collected 6,198 tons of solid waste in fiscal year 2007 deposited the waste in state due to market conditions associated with transportation costs to an out of state disposal facility. It is also important to note that neither of these transfer stations collect solid waste from more than one comprehensive planning area.

*Describe how estimates were derived:* Quarterly Solid Waste Fee Schedule and Retained Fees Reports for fiscal year 07 (July 2006 to June 2007) were reviewed for all MSW landfills. C&D wastes reported as fee exempt were compiled for the fiscal year. The \$4.25 tonnage fee was further separated into the portion that would have been remitted to the state and the amount that would have been retained locally.

Quarterly Transfer Station Tonnage Reports for fiscal year 07 (July 2006 to June 2007) were reviewed for all transfer stations. Transfer stations that transport all waste collected out of state and not a member of current comprehensive plan were identified and their tonnages were compiled.

**Estimated Impact to the State by Fiscal Year**

	<u>Year 1 (FY 10 )</u>	<u>Year 2 (FY 11 )</u>
Revenue by Each Source:		
<b>GENERAL FUND</b>		
<b>FEDERAL FUNDS</b>		
<b>Other (specify)</b>	<b>\$759,213</b>	<b>\$759,213</b>
Groundwater Protection Fund		
<b>TOTAL REVENUE</b>	<b>\$759,213</b>	<b>\$759,213</b>
Expenditures:		
<b>GENERAL FUND</b>		
<b>FEDERAL FUNDS</b>		
<b>Other (specify)</b>		
<b>TOTAL EXPENDITURES</b>	<b>\$0</b>	<b>\$0</b>
<b>NET IMPACT</b>	<b>\$759,213</b>	<b>\$759,213</b>

This rule is required by State law or Federal mandate.

*Please identify the state or federal law:*

Iowa Code Section 455B.304

Funding has been provided for the rule change.

*Please identify the amount provided and the funding source:*

Funding has not been provided for the rule.

*Please explain how the agency will pay for the rule change:*

*Fiscal impact to persons affected by the rule:* Persons disposing of C&D wastes at MSW landfills will be the affected parties. Waste disposal data from fiscal year 2007 (July 2006 through June 2007) indicates that 303,107 tons of C&D waste at 35 MSW landfills were reported as exempt from the statewide tonnage fee. Requiring MSW landfills to collect the tonnage fee on C&D wastes disposed of at the landfill equates to an additional \$1,205,703 of which \$759,213 is remitted to the department for support of the statewide solid waste programs including Solid Waste Alternatives Financial Assistance, Solid Waste Facility Permitting, Comprehensive Planning, Special Waste Authorization, Iowa Waste Reduction Center, Iowa Waste Exchange and Household Hazardous Waste Regional Collection Centers and \$446,490 is retained locally to be used for comprehensive plan implementation and environmental protection activities such as the development and preparation of detailed engineering site plans and specifications and the establishment and operation of local recycling programs.

*Fiscal impact to Counties or other Local Governments (required by Iowa Code 25B.6):* Additional monies in the amount of approximately \$450,000 would be retained locally throughout the state to provide waste management services for cities and counties. It is possible that the portion of the tonnage fee that will be remitted for waste disposed of at C&D landfills will be borne by those same residents receiving the benefits of local waste reduction programs. In other words, the disposal fee that residents pay could be increased by MSW landfill owners in order to cover the collection of the statewide tonnage fee. Through the earmarked tonnage fee retainage of approximately \$450,000 annually, local waste reduction and recycling efforts will gain revenue to expand and enhance programs.

\* If additional explanation is needed, please attach extra pages.

Agency Representative preparing estimate: Mark Warren  
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