

CHAPTER 104_DRAFT 5
SOLID WASTE COMPREHENSIVE PLANNING AND
ENVIRONMENTAL MANAGEMENT SYSTEM REQUIREMENTS

567—104.1(455B,455D,455J) 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. This chapter also establishes methods and criteria for the environmental management system program, a voluntary alternative to comprehensive planning for planning areas or service areas.

567—104.2(28E,455B,455D,455J) Definitions.

For the purposes of this rule, the following definitions, definitions in 567-100 and those found in Iowa Code sections 28E, 455B, 455D and 455J shall apply.

“Annual compliance report” or “Annual report” means the required submittal to the department that documents an environmental management system’s compliance with the requirements of Iowa Code section 455J.3.

“Solid waste agency” means an established private and/or public agency for the purpose of managing solid waste and/or implementing integrated solid waste management systems on behalf of cities and counties.

567—104.3(455B,455D) Duties of cities and counties

104.3(1) Notwithstanding any requirements in Iowa Code, including 455B.302, all cities, counties and solid waste agencies shall demonstrate compliance with the provisions of this chapter by either participating in a comprehensive plan approved by the department or being within the planning or service area of an environmental management system.

104.3(2) If a planning agency refuses any particular solid waste type for management or disposal, the planning agency must identify another municipal solid waste sanitary disposal project for that waste within the planning area. If no other municipal solid waste sanitary disposal project exists within the planning area, the planning agency must, in cooperation with the waste generator, establish or arrange for access to another municipal solid waste sanitary disposal project. Municipal solid waste sanitary disposal projects are required to maintain written approval from both the department and the planning agency in the planning area of origin in order to accept any Iowa-generated waste from outside the planning area.

567—104.4(455B,455D,455J) State volume reduction and recycling goals. The goal of the state is to reduce the amount of materials in the waste stream, existing as of July 1, 1988, by an intermediate goal of 25 percent, and by a final goal of at least 50 percent, through the practice of waste volume reduction at the source and through recycling. The updated goal progress calculations provided by the department for each planning area shall be used by the department in reporting to the general assembly on the state’s progress toward meeting the 25 and 50 percent goals. The specific methodology for determining goal progress is outlined in subrule 567—104.5. A planning area designated as an environmental management system pursuant to section 455J.7 is exempt from the waste stream reduction goals of this section. (455B,455D, 455J).

567—104.5(455B,455D) Base year adjustment method. 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 567—104.8(455B,455D).

104.5(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).
- 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 1

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

104.5(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.

104.5(3) Waste generated as part of an exceptional event or contaminated site cleanup should not negatively affect a planning area's goal progress calculation. Requests for goal progress calculation exemptions must be made to the department within six months after initial disposal. The determination to exempt tonnages from goal progress calculations shall be made solely by the department.

a. Exceptional events include, but are not limited to, disasters proclaimed by the governor. Requests to exempt exceptional event debris from goal progress calculations shall be made on a form provided by the department.

b. Requests from the municipal solid waste sanitary disposal project or planning agency to exempt contaminated site cleanup waste from goal progress calculations shall be made on a form provided by the department.

567—104.6(455B,455D) Forms of comprehensive plan submittals to be filed. Notwithstanding any of the requirements of 455B.306, there are three forms of comprehensive plan submittals: initial, updates, and amendments.

104.6(1) *Initial comprehensive plan.* An initial comprehensive shall be submitted as determined by the department, including but not limited to when a new planning area is established, or a new solid waste landfill or municipal solid waste incinerator is sited. Initial comprehensive plans shall be submitted on a form provided by the department.

104.6(2) *Comprehensive plan updates.* A comprehensive plan update shall be submitted according to planning cycle due dates established by the department. Comprehensive plan updates shall be submitted on a form provided by the department.

104.6(3) *Comprehensive plan amendments.* If a municipal solid waste sanitary disposal project or city or county requests to be included in a planning area after completion of an initial comprehensive plan or a comprehensive plan update but before the next comprehensive plan update is due, the department may determine that a comprehensive plan amendment may be submitted and approved to fulfill requirements until the beginning of the next planning cycle. Comprehensive Plan Amendments shall be submitted to the department on a form provided by the department.

567—104.7(455J) Environmental Management Systems. Notwithstanding any other requirements, a planning or service area that has been designated as environmental management system and that seeks to continue to be so designated in this voluntary program, is exempt from filing its comprehensive plan. By September 1 of each year, an annual report shall be submitted to the department on a form provided by the department.

104.7(1) *Annual report evaluation criteria.*

a. Completeness in terms of addressing all of the elements set forth in the form provided by the department.

b. Clear demonstration of continuous improvement in terms of progress toward achieving the objectives and targets set forth in the environmental management system.

104.7(2) *Annual report evaluation outcomes.*

a. If the department determines that the annual report adequately demonstrates compliance with the requirements of Iowa Code section 455J.3, the planning or service area shall remain designated as an environmental management system and shall continue to be qualified for the incentives set forth in Iowa Code section 455J.5.

b. Clear demonstration of continuous improvement in terms of progress toward achieving the objectives and targets set forth in the environmental management system. If the department determines that the annual report clearly demonstrates that the planning or service area's environmental management system is no longer in compliance with Iowa Code section 455J.3, the department may recommend to the Environmental Protection Commission the revocation of the environmental management system designation. If the Commission concurs with the department's recommendation, the planning or service area shall adhere to comprehensive planning requirements.

c. Failure by a planning or service area to submit an annual report by September 1 in any year will result in revocation of the environmental management system designation, following which the planning or service area shall adhere to the comprehensive planning requirements.

567—104.8(455B,455D) Fees for disposal of solid waste at sanitary landfills.

104.8(1) Authority, purpose and applicability.

a. Authority. Pursuant to Iowa Code section 455B.310, the department has authority to collect fees for the disposal of solid waste at sanitary landfills. All tonnage fees received by the department under this rule shall be deposited in the solid waste account of the groundwater protection fund created under Iowa Code section 455E.11(1).

b. Purpose. The purpose of this rule is to provide an orderly and efficient process for the assessment and collection of fees for the disposal of solid waste at a sanitary landfill. This rule clarifies the applicability of the fees and sets forth a fee schedule, means of filing, and record-keeping requirements.

c. Applicability. Except as provided in subrule 104.8(2), operators of all sanitary landfills located within Iowa and subject to the permitting requirements of the department shall pay a fee for each ton of solid waste disposed of in the landfill.

104.8(2) Exclusion. 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.

104.8(3) Fee schedule.

a. The base tonnage fee is \$4.25 per ton of solid waste.

b. The statewide goal progress average is 36 percent, as determined by the department on July 1, 1999.

c. If at any time the department notifies a planning agency or municipal solid waste sanitary disposal project(s) that the planning area has either failed to meet the 25 percent goal or has met or exceeded the 25 percent goal, the 36 percent statewide average or the 50 percent goal, all municipal solid waste sanitary disposal projects within that planning area that are required to remit state tonnage fees shall collect, remit and retain tonnage fees according to Table 1 in this subrule, starting with the next scheduled fee payment. Moneys due to the department under this paragraph shall be remitted until such time as evidence of a change in the planning area's progress toward meeting the state's waste volume reduction and recycling goals is documented and approved in writing by the department.

d. A solid waste planning or service area designated as an environmental management system pursuant to Iowa Code section 455J.7 shall qualify, pursuant to Iowa Code 455J.5 for a reduced tonnage fee of three dollars and sixty-five cents per ton of which two dollars and ten centers shall be remitted to the department.

Table 1 sets forth the solid waste tonnage fee schedule.

Table 1	
Planning areas with less than 25% diversion level:	
Collect	\$4.75 per ton
Remit	\$3.30 per ton to the department
Retain	\$1.45 per ton (\$0.95 per ton for implementing planning, \$0.50 per ton for environmental protection, comprehensive plan development and implementation)
Planning areas over 25% diversion, under the state average, and under 50%:	
Collect	\$3.65 per ton
Remit	\$2.20 per ton to the department
Retain	\$1.45 per ton (\$0.95 per ton for implementing planning, \$0.50 per ton for environmental protection, comprehensive plan development and implementation)
Planning areas over 25% diversion, over the state average, and under 50% and planning or service areas designated as an environmental management system:	
Collect	\$3.65 per ton
Remit	\$2.10 per ton to the department
Retain	\$1.55 per ton (\$1.05 per ton for implementing planning, \$0.50 per ton for environmental protection, comprehensive plan development and implementation)
Planning areas over 50% diversion:	
Collect	\$3.25 per ton
Remit	\$1.95 per ton to the department
Retain	\$1.30 per ton (\$0.80 per ton for implementing planning, \$0.50 per ton for environmental protection, comprehensive plan development and implementation)

e. Retained tonnage fees collected pursuant to this subrule shall be approved by the department and used for implementation of programs and services designed to satisfy the requirements of this chapter.

f. For purposes of calculating tonnage fees, sanitary landfills shall utilize scales and shall base the fee assessment on the net scale weight of solid wastes disposed of at the landfill during the reporting period.

g. If special conditions existing at a sanitary landfill make it impractical to use the landfill's scales to determine waste tonnages, the landfill may propose, for department review and approval, an alternate method for determining the weight of disposed solid waste.

104.8(4) Form, manner, time and place of filing.

a. Form. Any person to whom or entity to which this rule applies shall submit a form provided by the department.

b. Manner, time and place. Fees are to be paid on a quarterly basis. Sanitary landfills serving more than one planning area, as expressed in 455B.306(1) and 455B.306(2), shall

submit separate Quarterly Solid Waste Fee Schedule and Retained Fees Reports for each planning area. The fees and report on retained fees will be due January 1, April 1, July 1, and October 1 for the quarters ending September 30, December 31, March 31, and June 30, respectively. The completed form shall be submitted with the appropriate fees to Accounting, Department of Natural Resources.

104.8(5) Reporting and record keeping.

Operating records. Those sanitary landfill operators who are subject to the fee assessment requirements of this rule shall maintain adequate records to determine and document the weight of solid waste received at and disposed of in the sanitary landfill during the calendar year. Planning areas entering into an agreement pursuant to Iowa Code Supplement section 455B.306(2) shall submit documentation to the department and a planning area receiving the solid waste under such an agreement shall, in addition, submit evidence to the department demonstrating that required retained fees were returned in a timely manner to other planning area(s) under the agreement.

a. Retention of records. All records used in determining the solid waste fee assessment must be kept for a period of at least three years from the end of the calendar year which the records represent.

b. Availability of records. All records required under this rule must be furnished upon request and be made available at all reasonable times for inspection to any officer, employee, or representative of the department who is duly designated by the director.

104.8(6) Failure to pay fees. If it is found that a person or entity has failed to pay the fees assessed by this rule, the director shall enforce the collection of the delinquent fees. A person or entity required to pay fees as required by Iowa Code section 455B.310 that fails or refuses to pay the fees by the due date shall be assessed a penalty of 2 percent of the quarterly fee due, to be assessed on January 2, April 2, July 2, and October 2, and on a monthly basis on the first day of each month thereafter, until paid. A person or entity required to retain fees as required by Iowa Code section 455B.310 that fails or refuses to report the use of the retained fees by the due date shall be assessed a penalty of 2 percent of the retained fees due to the department, with said penalty to be assessed on January 2, April 2, July 2, and October 2, and on a monthly basis on the first day of each month thereafter, until paid. All penalties shall be paid in addition to the fees due.

These rules are intended to implement Iowa Code sections 455B.301A, 455B.302, 455B.306, 455B.310, 455D.3 and 455J.