

455B.306 Plans filed.

1. A city, county, or private agency operating, or planning to operate, a municipal solid waste sanitary disposal project shall file with the director one of two types of comprehensive plans detailing the method by which the city, county, or private agency will comply with this part 1. The first type is a comprehensive plan in which solid waste is disposed of in a sanitary landfill within the planning area. The second type is a comprehensive plan in which all solid waste is consolidated at, and transported from, a transfer station for disposal at a sanitary landfill in another comprehensive planning area or state.

a. All cities and counties shall also file with the director a comprehensive plan detailing the method by which the city or county will comply with the requirements of section 455B.302 to establish and implement a comprehensive solid waste reduction program for its residents.

b. A public agency managing the waste stream for cities or counties pursuant to chapter 28E shall file one comprehensive plan on behalf of its members. Filing of a comprehensive plan constitutes full compliance by the public agency's members with the filing requirements of this section.

c. If both a public agency managing the waste stream for a city or county pursuant to chapter 28E, and one or more of the public agency's member cities or counties file a comprehensive plan under this subsection, the director shall, following notice to the agency, make a determination that any plan filed by a member city or county is compatible with the comprehensive plan of the chapter 28E public agency. If the director determines that a city's or county's comprehensive plan is not compatible with the comprehensive plan of a public agency, as defined in chapter 28E, the director shall require the city or county to provide justification for the approval of the comprehensive plan based upon the following factors: the innovative nature of the comprehensive plan, the urgency of the plan's implementation, any unique features of the city's or county's comprehensive plan, and whether the plan otherwise complies with the provisions of this chapter.

d. This subsection does not prevent the director from approving pilot projects which otherwise comply with the provisions of this chapter.

e. The director shall review each comprehensive plan submitted and may reject, suggest modification, or approve the proposed plan. The director shall aid in the development of comprehensive plans for compliance with this part. The director shall make available to cities, counties, and private agencies the forms appropriate for the submission of comprehensive plans, and the director may hold hearings for the purpose of implementing this part.

f. The director, and any governmental agencies with primary responsibility for the development and conservation of energy resources, shall provide research and assistance when cities and counties operating, or planning to operate, sanitary disposal projects request aid in planning and implementing resource recovery systems.

g. A comprehensive plan filed by a private agency operating, or planning to operate, a sanitary disposal project required by section 455B.302 shall be developed in cooperation and consultation with the city or county responsible for establishing and operating a sanitary disposal project.

h. The director shall review a completed plan for the control and treatment of leachate, to meet the requirements of subsection 7, paragraph "b", and shall reject the plan, suggest modifications, or approve it within six months of the time the plan was submitted. If the director has not acted on the plan within those six months, the plan shall be considered approved. However, the director, upon a request to renew or reissue a previously issued permit may require that the plan be updated.

2. 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 may choose to retain its autonomy as long as the sanitary landfill in the other planning area complies with all the requirements of this chapter, and all solid waste generated within the planning area closing its landfills is consolidated at, and transported from, a permitted transfer station. 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 that contains the landfill it is using for final disposal of its solid waste.

a. If a planning area chooses to retain autonomy pursuant to this subsection, the planning

area receiving solid waste from the planning area sending it shall not be required to include the 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. A planning area receiving solid waste shall only be responsible for the permitting, planning, and waste reduction and diversion programs within that planning area.

b. If the department determines that solid waste cannot reasonably be consolidated and transported from a particular transfer station, the department may establish permit conditions to address the transport and disposal of the solid waste. A planning area sending solid waste for disposal in another planning area may retain autonomy under this subsection only if both comprehensive planning areas enter into an agreement pursuant to chapter 28E that includes all of the following:

(1) A detailed methodology of the manner in which solid waste will be tracked and reported between the two planning areas.

(2) A detailed methodology of the manner in which the receiving sanitary landfill will collect, remit, and report tonnage fees, pursuant to 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.

3. The plan required by subsection 1 for sanitary disposal projects shall be filed with the department at the time of initial application for the construction and operation of a sanitary disposal project and at a minimum shall be updated and refiled with the department at the time of each subsequent application for renewal or reissuance of a previously issued permit. The department may, consistent with rules of the commission, require filing or updating of a plan at other times.

4. A city or county required to file with the director a comprehensive plan detailing the method by which the city or county will comply with the requirements of section 455B.302 to establish and implement a comprehensive solid waste reduction program for its residents and which seeks approval of the inclusion of refuse-derived fuel as a component of its percentage of waste reduction, shall file an annual report with the director regarding the percentage of reduction attributable to refuse-derived fuel and the justification for such inclusion. The director shall approve or reject the inclusion. The percentage of reduction attributable to refuse-derived fuel and allowable for inclusion shall not exceed fifty percent.

5. A comprehensive plan filed pursuant to this section shall incorporate and reflect the waste management hierarchy of the state solid waste management policy and shall at a minimum address the following general topics:

a. The extent to which solid waste is or can be recycled.

b. The economic and technical feasibility of using other existing sanitary disposal project facilities in lieu of initiating or continuing the sanitary landfill currently used.

c. The expected environmental impact of alternative solid waste disposal methods, including the use of sanitary landfills.

d. A specific plan and schedule for implementing technically and economically feasible solid waste disposal methods that will result in minimal environmental impact.

6. The comprehensive plan shall provide details of a local recycling program which shall contain a methodology for meeting the state volume reduction goal pursuant to section 455D.3, and a methodology for implementing a program of separation of wastes including but not limited to glass, plastic, paper, and metal.

7. In addition to the above requirements, the following specific areas must be addressed in detail in a comprehensive plan filed in conjunction with the issuance, renewal, or reissuance of a permit for a sanitary disposal project:

a. A closure and postclosure plan detailing the schedule for and the methods by which the operator will meet the conditions for proper closure and postclosure adopted by rule by the commission. The plan shall include, but is not limited to, the proposed frequency and types of actions to be implemented prior to and following closure of an operation, the proposed postclosure actions to be taken to return the area to a condition suitable for other uses, and an estimate of the costs of closure and postclosure and the proposed method of meeting these costs. The postclosure plan shall reflect the thirty-year time period requirement for postclosure responsibility.

b. A plan for the control and treatment of leachate, including financial considerations proposed in meeting the costs of control and treatment in order to meet the requirements of section 455B.305, subsection 3.

c. A financial plan detailing the actual cost of the sanitary disposal project and including the funding sources of the project. In addition to the submittal of the financial plan filed pursuant to this subsection, the operator of an existing sanitary landfill shall submit an annual financial statement to the department.

d. An emergency response and remedial action plan including established provisions to minimize the possibility of fire, explosion, or any release to air, land, or water of pollutants that could threaten human health and the environment, and the identification of possible occurrences that may endanger human health and environment.

e. A description of the planning area and service area to be served by the city, county, or private agency under the comprehensive plan. Except as provided in subsection 2, a comprehensive plan shall not include a planning area or service area, any part of which is included in another comprehensive plan.

8. When a proposed plan is subject to review and approval by several state and local agencies, if the plan is substantially modified after approval by an agency, the plan shall be resubmitted as a new proposal to all other agencies to ensure that all agencies have approved the same plan.

9. In addition to the comprehensive plan filed pursuant to subsection 1, a person operating, or proposing to operate, a sanitary disposal project shall provide a financial assurance instrument to the department prior to the initial approval of a permit or prior to the renewal of a permit for an existing or expanding facility beginning July 1, 1988.

a. The financial assurance instrument shall meet all requirements adopted by rule by the commission, and shall not be canceled, revoked, disbursed, released, or allowed to terminate without the approval of the department. Following the cessation of operation or the closure of a sanitary disposal project, neither the guarantor nor the operator shall cancel, revoke, or disburse the financial assurance instrument or allow the instrument to terminate until the operator is released from closure, postclosure, and monitoring responsibilities.

b. The operator of a sanitary landfill shall maintain closure and postclosure accounts. The commission shall adopt by rule the amounts to be contributed to the accounts based upon the amount of solid waste received by the facility. The accounts established shall be specific to the facility.

(1) Money in the accounts shall not be assigned for the benefit of creditors with the exception of the state.

(2) Money in an account shall not be used to pay any final judgment against a licensee arising out of the ownership or operation of the site during its active life or after closure.

(3) Conditions under which the department may gain access to the accounts and circumstances under which the accounts may be released to the operator after closure and postclosure responsibilities have been met, shall be established by the commission.

c. The commission shall adopt by rule the minimum amounts of financial responsibility for sanitary disposal projects.

d. Financial assurance instruments may include any of the instruments described in section 455B.301, subsection 9.

e. The annual financial statement submitted to the department pursuant to subsection 7, paragraph "c", shall include the current amounts established in each of the accounts and the projected amounts to be deposited in the accounts in the following year.

10. If a city, county, or private agency does not incorporate the elements of the solid waste hierarchy of the state solid waste management policy in a proposed initial or adopted comprehensive plan, the city council or county board of supervisors governing the city or county in which the sanitary landfill is proposed to be located or is located shall hold a public hearing to address the basis for not including any of the elements in the plan.

11. A city council or county board of supervisors governing the area in which a sanitary disposal project is proposed to be located or is located shall hold a public hearing to address the issue of including or not including local curbside recycling in the comprehensive plan.

12. This section shall not apply to a sanitary landfill project owned by an electric

generating facility and used exclusively for the disposal of coal combustion residue. A utility under this subsection may demonstrate financial assurance by any of the instruments described in section 455B.301, subsection 9, or by an alternative method acceptable to the department. The financial assurance instrument submitted must ensure the facility's financial capability to provide reasonable and necessary response during the lifetime of the project and for a specified period of time following closure as required by rules adopted by the commission.

[C71, §406.7; C73, 75, 77, 79, 81, §455B.80]

C83, §455B.306

86 Acts, ch 1175, §3; 86 Acts, ch 1245, §1899; 87 Acts, ch 225, §411 – 414; 89 Acts, ch 272, §31, 32; 90 Acts, ch 1255, §24; 92 Acts, ch 1213, §1; 92 Acts, ch 1215, §7 – 9; 2004 Acts, ch 1078, §1; 2005 Acts, ch 31, §2 – 4; 2006 Acts, ch 1030, §42; 2007 Acts, ch 215, §115; 2008 Acts, ch 1118, §5 – 7

Referred to in §28G.1, 28G.2, 331.381, 455B.305, 455B.310, 455F.8A