

amount of tax remaining unpaid during each additional 30 days or fraction thereof, not exceeding 24 percent in the aggregate.

Sec. 28. Minnesota Statutes 1988, section 297C.14, subdivision 1, is amended to read:

Subdivision 1. **PENALTY ON UNPAID TAX.** If a tax imposed by this chapter, or any part of it, is not paid within the time required for the payment, or an extension of time, or within 30 days after final determination of an appeal to the tax court relating to it ~~if the taxpayer is not required to pay the amount in dispute pending appeal under section 271.061~~, there shall be added to the tax a penalty equal to three percent of the amount remaining unpaid if the failure is for not more than 30 days, with an additional penalty of three percent of the amount of tax unpaid during each additional 30 days or fraction thereof, not exceeding 24 percent in the aggregate.

Sec. 29. **REPEALER.**

(a) Minnesota Statutes 1988, sections 271.01, subdivision 6; 271.21, subdivision 4; and 271.22, are repealed.

(b) Minnesota Statutes 1988, sections 60A.151 and 271.061, are repealed.

Sec. 30. **EFFECTIVE DATE.**

Section 25 is effective the day following final enactment and applies to petitions dismissed on or after that date. Section 29, paragraph (b), is effective the day following final enactment and applies to appeals pending before the tax court and appeals filed on or after that date.

Presented to the governor May 26, 1989

Signed by the governor May 26, 1989, 6:00 p.m.

CHAPTER 325—S.F.No. 530

An act relating to waste management; defining waste reduction; extending the expiration date of waste advisory councils; authorizing counties to designate waste to landfills; requiring financial reports from landfills; clarifying the limits of political subdivision liability for superfund cleanup at landfills; authorizing the pollution control agency to acquire interests in real estate necessary for superfund; authorizing superfund to reimburse political subdivisions for costs incurred in responding to emergency releases of hazardous materials; making claims for injuries due to petroleum contamination eligible for compensation by the harmful substance compensation fund; authorizing transfer of money from the petroleum tank release cleanup fund; altering the metropolitan council's authority for solid waste planning; raising the solid waste disposal fee in the metropolitan area; clarifying the 1990 ban on disposal of unprocessed waste in the metropolitan area; extending the date until

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which metalcasters are not liable for payment of solid waste generator fees; requiring a study of solid waste management district legislation; appropriating money; amending Minnesota Statutes 1988, sections 115A.01; 115A.02; 115A.03, by adding a subdivision; 115A.12, subdivision 1; 115A.14, subdivision 2; 115A.46, subdivision 2; 115A.54, subdivision 2a; 115A.80; 115A.81, subdivision 2; 115A.83; 115A.84; 115A.85, subdivision 2; 115A.86, subdivisions 3 and 5; 115A.893; 115A.906, by adding a subdivision; 115A.919; 115A.921; 115A.94, by adding subdivisions; 115B.04, subdivision 4; 115B.17, by adding a subdivision; 115B.20, subdivision 2; 115B.25, subdivisions 1, 2, 7, and by adding subdivisions; 115B.26; 115B.27, subdivision 1; 115B.28, subdivision 2; 115B.29, subdivision 1; 115B.30, subdivision 3; 115B.34, subdivision 2; 115C.08, subdivision 4, and by adding a subdivision; 116.07, by adding a subdivision; 400.04, subdivision 3; 466.04, subdivision 1; 473.149, subdivisions 2d and 2e, and by adding a subdivision; 473.803, by adding a subdivision; 473.811, subdivision 4; 473.823, subdivision 3; 473.831, subdivision 2; 473.833, subdivisions 2 and 2a; 473.843, subdivisions 1 and 2; 473.844, subdivision 1a; 473.8441, subdivision 5; 473.845, subdivisions 1 and 2; and 473.848; Laws 1984, chapter 644, section 85, as amended; proposing coding for new law in Minnesota Statutes, chapter 115A; repealing Minnesota Statutes 1988, sections 115A.98; and 115B.29, subdivision 2.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1988, section 115A.01, is amended to read:

115A.01 CITATION.

~~Sections 115A.01 to 115A.72~~ Chapter 115A shall be known as the waste management act of 1980.

Sec. 2. Minnesota Statutes 1988, section 115A.02, is amended to read:

115A.02 LEGISLATIVE DECLARATION OF POLICY; PURPOSES.

(a) It is the goal of ~~sections 115A.01 to 115A.72~~ this chapter to improve waste management in the state to serve the following purposes:

- ~~(a)~~ (1) Reduction in waste generated;
- ~~(b)~~ (2) Separation and recovery of materials and energy from waste;
- ~~(c)~~ (3) Reduction in indiscriminate dependence on disposal of waste;
- ~~(d)~~ (4) Coordination of solid waste management among political subdivisions; and
- ~~(e)~~ (5) Orderly and deliberate development and financial security of waste facilities including disposal facilities.

(b) The waste management goal of the state is to foster an integrated waste management system in a manner appropriate to the characteristics of the waste stream. The following waste management practices are in order of preference:

- (1) waste reduction and reuse;

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(2) waste recycling and yard waste composting;

(3) resource recovery through mixed municipal solid waste composting or incineration; and

(4) land disposal.

Sec. 3. Minnesota Statutes 1988, section 115A.03, is amended by adding a subdivision to read:

Subd. 36a. WASTE REDUCTION. "Waste reduction" means an activity that prevents generation of waste including reusing a product in its original form, increasing the life span of a product, reducing material used in production or packaging, or changing procurement, consumption, or waste generation habits to result in smaller quantities of waste generated.

Sec. 4. Minnesota Statutes 1988, section 115A.12, subdivision 1, is amended to read:

Subdivision 1. **SOLID AND HAZARDOUS WASTE MANAGEMENT.**

(a) The chair of the board shall establish a solid waste management advisory council and a hazardous waste management planning council, and a market development coordinating council, that are broadly representative of the geographic areas and interests of the state. The councils shall have not less than nine nor more than 18 members each.

(b) The membership of the solid waste council shall consist of one-third citizen representatives, one-third representatives from local government units, and one-third representatives from private solid waste management firms. The solid waste council shall contain at least one member experienced in each of the following areas: state and municipal finance; solid waste collection, processing, and disposal; and solid waste reduction and resource recovery.

(c) The membership of the hazardous waste advisory council shall consist of one-third citizen representatives, one-third representatives from local government units, and one-third representatives of hazardous waste generators and private hazardous waste management firms.

(d) The market development coordinating council shall consist of one representative from the department of trade and economic development, the department of administration, the pollution control agency, the Greater Minnesota Corporation, the metropolitan council, and the legislative commission on waste management. The other members shall represent local government units, private recycling markets, and private recycling collectors. The market development coordinating council expires June 30, 1994.

(e) The chairs of the advisory councils shall be appointed by the chair of the board. The chair of the board shall provide administrative and staff services for the advisory councils. The advisory councils shall have such duties as are assigned by law or the chair of the board. The solid waste advisory council shall make

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recommendations to the board on its solid waste management activities. The hazardous waste advisory council shall make recommendations to the board on its activities under sections 115A.08, 115A.09, 115A.10, 115A.11, 115A.20, 115A.21, and 115A.24. Members of the advisory councils shall serve without compensation but shall be reimbursed for their reasonable expenses as determined by the chair of the board. The solid waste management advisory council and the hazardous waste management planning council expire ~~as provided in section 15.059, subdivision 5~~ June 30, 1994.

Sec. 5. Minnesota Statutes 1988, section 115A.14, subdivision 2, is amended to read:

Subd. 2. **STAFF.** The commission is authorized, without regard to the civil service laws and rules, to appoint and fix the compensation of such additional legal and other personnel and consultants as may be necessary to enable it to carry out its functions, or to contract for services to supply necessary data, except that any state employees subject to the civil service laws and rules who may be assigned to the commission shall retain civil service status without interruption or loss of status or privilege. ~~The staff shall be hired and supervised for the commission by the executive director of the legislative commission on Minnesota resources.~~

Sec. 6. Minnesota Statutes 1988, section 115A.46, subdivision 2, is amended to read:

Subd. 2. **CONTENTS.** (a) The plans shall describe existing collection, processing, and disposal systems, including schedules of rates and charges, financing methods, environmental acceptability, and opportunities for improvements in the systems.

(b) The plans shall include an estimate of the land disposal capacity in acre-feet which will be needed through the year 2000, on the basis of current and projected waste generation practices. In assessing the need for additional capacity for resource recovery or land disposal, the plans shall take into account the characteristics of waste stream components and shall give priority to waste reduction, separation, and recycling.

(c) The plans shall require the most feasible and prudent reduction of the need for and practice of land disposal of mixed municipal solid waste.

(d) The plans shall address at least waste reduction, separation, recycling, and other resource recovery options, and shall include specific and quantifiable objectives, immediately and over specified time periods, for reducing the land disposal of mixed municipal solid waste and for the implementation of feasible and prudent reduction, separation, recycling, and other resource recovery options. These objectives shall be consistent with statewide objectives as identified in statute. The plans shall describe specific functions to be performed and activities to be undertaken to achieve the abatement, reduction, separation, recycling, and other resource recovery objectives and shall describe the estimated cost, proposed manner of financing, and timing of the functions and activities.

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(e) The plans shall include a comparison of the costs of the activities to be undertaken, including capital and operating costs, and the effects of the activities on the cost to generators and on persons currently providing solid waste collection, processing, and disposal services. The plans shall include alternatives which could be used to achieve the abatement objectives if the proposed functions and activities are not established.

(f) The plans shall designate how public education shall be accomplished. The plans shall, to the extent practicable and consistent with the achievement of other public policies and purposes, encourage ownership and operation of solid waste facilities by private industry. For solid waste facilities owned or operated by public agencies or supported primarily by public funds or obligations issued by a public agency, the plans shall include criteria and standards to protect comparable private and public facilities already existing in the area from displacement unless the displacement is required in order to achieve the waste management objectives identified in the plan.

(g) The plans shall establish a siting procedure and development program to assure the orderly location, development, and financing of new or expanded solid waste facilities and services sufficient for a prospective ten-year period, including estimated costs and implementation schedules, proposed procedures for operation and maintenance, estimated annual costs and gross revenues, and proposals for the use of facilities after they are no longer needed or usable.

(h) The plans shall describe existing and proposed county and municipal ordinances and license and permit requirements relating to solid waste management and shall describe existing and proposed regulation and enforcement procedures.

Sec. 7. Minnesota Statutes 1988, section 115A.54, subdivision 2a, is amended to read:

Subd. 2a. **SOLID WASTE MANAGEMENT PROJECTS.** (a) The board shall provide technical and financial assistance for the acquisition and betterment of solid waste management projects as provided in this subdivision and section 115A.52. Money appropriated for the purposes of this subdivision must be distributed as grants.

(b) Except as provided in paragraph (c), a project may receive grant assistance up to 25 percent of the capital cost of the project or \$2,000,000, whichever is less.

(c) A recycling project or a project to compost or co-compost waste may receive grant assistance up to 50 percent of the capital cost of the project or \$2,000,000, whichever is less.

(d) Notwithstanding paragraph (e), the agency may award grants for transfer stations that will initially transfer waste to landfills if the transfer stations are part of a planned resource recovery project, the county where the planned

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resource recovery facility will be located has a comprehensive solid waste management plan approved by the agency, and the solid waste management plan proposes the development of the resource recovery facility. If the proposed resource recovery facility is not in place and operating within five years of the date of the grant award, the recipient shall repay the grant amount to the state.

(e) Projects without resource recovery are not eligible for assistance.

(f) In addition to any assistance received under clause (b) or (c), a project may receive grant assistance for the cost of tests necessary to determine the appropriate pollution control equipment for the project or the environmental effects of the use of any product or material produced by the project.

(g) In addition to the application requirements of section 115A.51, an application for a project serving eligible jurisdictions in only a single county must demonstrate that cooperation with jurisdictions in other counties to develop the project is not needed or not feasible. Each application must also demonstrate that the project is not financially prudent without the state assistance, because of the applicant's financial capacity and the problems inherent in the waste management situation in the area, particularly transportation distances and limited waste supply and markets for resources recovered.

(h) For the purposes of this subdivision, a "project" means a processing facility, together with any transfer stations, transmission facilities, and other related and appurtenant facilities primarily serving the processing facility. The board shall adopt rules for the program by July 1, 1985.

Sec. 8. [115A.556] MATERIALS USED FOR RECYCLING.

Materials and products used for recycling such as containers, receptacles, and storage bins with short life cycles must be recyclable and made at least in part from recycled materials from this state, if available.

Sec. 9. Minnesota Statutes 1988, section 115A.80, is amended to read:

115A.80 DESIGNATION OF RESOURCE RECOVERY SOLID WASTE MANAGEMENT FACILITIES; PURPOSE.

In order to further the state policies and purposes expressed in section 115A.02, and to advance the public purposes served by ~~resource recovery effective~~ solid waste management, the legislature finds and declares that it may be necessary pursuant to sections 115A.80 to 115A.89 to authorize a qualifying solid waste management district or county to designate a ~~resource recovery solid waste processing or disposal~~ facility.

Sec. 10. Minnesota Statutes 1988, section 115A.81, subdivision 2, is amended to read:

Subd. 2. **DESIGNATION.** "Designation" means a requirement by a waste management district or county that all or any portion of the mixed municipal

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solid waste that is generated within its boundaries or any service area thereof be delivered to a ~~resource recovery~~ processing or disposal facility identified by the district or county.

Sec. 11. Minnesota Statutes 1988, section 115A.83, is amended to read:

115A.83 EXEMPTION.

The designation may not apply to or include:

(1) materials that are separated from solid waste and recovered for reuse in their original form or for use in manufacturing processes; or

(2) materials that are processed at ~~another~~ a resource recovery facility at the capacity in operation at the time that the designation plan is approved by the reviewing authority.

Sec. 12. Minnesota Statutes 1988, section 115A.84, is amended to read:

115A.84 DESIGNATION PLAN.

Subdivision 1. **REQUIREMENT.** Before commencing the designation procedure under section 115A.85, the district or county shall adopt a comprehensive solid waste management plan or, under chapter 473, a master plan. ~~The comprehensive or master plan must include~~ county or district shall then submit a plan for designation to be approved under this section. A county's or district's designation plan must be consistent with its solid waste management plan or master plan and with statewide and regional waste management goals.

Subd. 2. **DESIGNATION; PLAN CONTENTS.** (a) The designation plan must evaluate:

(1) the benefits of the designation, including the public purposes achieved by the conservation and recovery of resources, the furtherance of local and any district or regional waste management plans and policies, and the furtherance of the state policies and purposes expressed in section 115A.02; and

(2) the estimated costs of the designation, including the direct capital, operating, and maintenance costs of the facility designated, the indirect costs, and the long-term effects of the designation.

(b) In particular the designation plan must evaluate:

(1) whether the designation will result in the recovery of resources or energy from materials which would otherwise be wasted;

(2) whether the designation will lessen the demand for and use of indiscriminate land disposal;

(3) whether the designation is necessary for the financial support of the facility;

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(4) whether less restrictive methods for ensuring an adequate solid waste supply are available; ~~and~~

(5) other feasible and prudent waste ~~processing management~~ alternatives for accomplishing the purposes of the proposed designation, the direct and indirect costs of the alternatives, including capital and operating costs, and the effects of the alternatives on the cost to generators; and

(6) whether the designation takes into account and promotes local, regional, and state waste management goals.

(c) When the plan proposes designation to disposal facilities, the designation plan must also evaluate:

(1) whether the disposal facility is part of an integrated waste management system involving a processing facility and the designation is necessary for the financial support of the processing facility;

(2) whether the designation will better serve to protect public health and safety;

(3) the impacts on other disposal facilities inside and outside the area;

(4) whether the designation is necessary to promote regional waste management programs and cooperation; and

(5) the extent to which the design and operation of the disposal facility protects the environment including whether it is permitted under current agency rules and whether any portion of the facility's site is listed under section 115B.17, subdivision 13.

(d) When the plan proposes designation to a disposal facility, mixed municipal solid waste that is subject to a contract between a hauler and a different facility that is in effect on the date notice is given under section 115A.85, subdivision 2, is not subject to the designation during the contract period.

Subd. 3. **PLAN APPROVAL.** (a) A district or county planning a designation for waste generated wholly within the metropolitan area defined in section 473.121 shall submit its designation plan to the metropolitan council for review and approval or disapproval. Other districts or counties shall submit the designation plan to the waste management board for review and approval or disapproval.

(b) The reviewing authority shall complete its review and make its decision within 120 days following submission of the plan for review. The reviewing authority shall approve the designation plan if the plan satisfies the requirements of subdivision 2 and, in the case of designation to disposal facilities, if the reviewing authority finds that the plan has demonstrated that the designation is necessary and is consistent with section 115A.02. The reviewing authority may attach conditions to its approval that relate to matters required in a designation

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ordinance under section 115A.86, subdivision 1, paragraph (a), clauses (1) to (4), and paragraph (b). Amendments to plans must be submitted for review in accordance with this subdivision.

Subd. 4. **EXCLUSION OF CERTAIN MATERIALS.** (a) When ~~it~~ the reviewing authority approves the designation plan ~~the reviewing authority it~~ shall exclude from the designation materials that the reviewing authority determines will be processed at ~~another~~ a resource recovery facility separate from the designated facility if:

(1) the ~~other~~ resource recovery facility requesting the exclusion is substantially completed or will be substantially completed within 18 months of the time that the designation plan is approved by the reviewing authority; ~~and~~

(2) the ~~other~~ facility requesting the exclusion has or will have contracts for purchases of its product; and

(3) the materials are or will be under contract for delivery to the ~~other~~ facility requesting the exclusion at the time ~~the other~~ that facility is completed.

(b) In order to qualify for the exclusion of materials under this subdivision, the operator or owner of the ~~other~~ resource recovery facility requesting the exclusion shall file with the reviewing authority and the district or county or counties a written description of the facility, its intended location, its waste supply sources, purchasers of its products, its design capacity and other information that the reviewing authority and the district or county or counties may reasonably require. The information must be filed as soon as it becomes available but not later than 30 days following the date when the county or district submits its designation plan for approval.

(c) The reviewing authority may revoke the exclusion granted under this subdivision when it approves the designation ordinance under section 115A.86 if in its judgment the excluded materials will not be processed at the other facility.

Sec. 13. Minnesota Statutes 1988, section 115A.85, subdivision 2, is amended to read:

Subd. 2. **HEARING.** (a) The district or county shall hold a public hearing to take testimony on the designation. Notice of the hearing must be:

(1) published in a newspaper of general circulation in the area for two successive weeks ending at least 15 days before the date of the hearing; ~~and must be~~

(2) mailed to political subdivisions, ~~landfill~~ processing and disposal facility operators, and licensed solid waste collectors who may be expected to use the facility.

(b) The notification must:

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(1) describe the area in which the designation will apply and the plans for the use of the solid waste;

(2) specify the point or points of delivery of the solid waste;

(3) estimate the types and quantities of solid waste subject to the designation; and

(4) estimate the fee to be charged for the use of the facilities and for any products of the facilities.

(c) A designation or contract for use is not invalid by reason of the failure of the district or county to provide written notice to an entity listed in this subdivision.

Sec. 14. Minnesota Statutes 1988, section 115A.86, subdivision 3, is amended to read:

Subd. 3. **IMPLEMENTATION.** The designation may not be placed into effect ~~no less than before~~ 60 days ~~following~~ after the approval required in subdivision 2. The effective date of the designation must be specified at least 60 days in advance. If the designation is not placed into effect within two years of approval, the designation must be resubmitted to the reviewing authority for approval or disapproval under subdivision 2, unless bonds have been issued to finance the ~~resource recovery~~ facility to which the designation applies.

Sec. 15. Minnesota Statutes 1988, section 115A.86, subdivision 5, is amended to read:

Subd. 5. **AMENDMENTS.** (a) Amendments to a designation ordinance must be submitted to the reviewing authority for approval. The reviewing authority shall approve the amendment if the amendment is in the public interest and in furtherance of the state policies and purposes expressed in section 115A.02. If the reviewing authority finds that the proposed amendment is a substantive change from the existing designation plan, the reviewing authority may require that the county or solid waste management district submit a revised designation plan to the reviewing authority for approval. After receiving approval for the designation plan amendment from the reviewing authority, the county or district shall follow the procedure outlined in section 115A.85 prior to submitting the amended designation ordinance to the reviewing authority for approval. If the reviewing authority does not act within 90 days after receiving the proposed amendment to the designation ordinance, the amendment is approved.

(b) Prior to amending an ordinance to designate solid waste to a disposal facility, a county or district shall submit an amended designation plan to the reviewing authority for approval, and shall follow the procedures outlined in section 115A.85.

Sec. 16. Minnesota Statutes 1988, section 115A.893, is amended to read:

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115A.893 PETITION FOR EXCLUSION.

Subdivision 1. PETITION FOR EXCLUSION. Any person proposing to own or operate a ~~resource recovery~~ processing facility using waste materials subject to a designation ordinance may petition the waste district or county for exclusion of the materials from the designation ordinance. In order to qualify for the exclusion of materials under this section, the petitioner shall submit with the petition a written description of the proposed facility, its intended location, its waste supply sources, purchasers of its products, its design capacity, and other information that the district or county may reasonably require.

Subd. 2. DECISION. The district or county, after appropriate notice and hearing, shall issue a written decision with findings of fact and conclusions on all material issues. The district or county shall grant the petition if it determines that:

(a) (1) the materials will be processed at the ~~resource recovery~~ facility; and

(b) (2) the exclusion can be implemented without impairing the financial viability of the designated facility or impairing contractual obligations or preventing the performance of contracts by the facility owner or operator, the district or county, or users of the facility.

Subd. 3. APPEAL OF DECISION. Any A person aggrieved by the decision of the district or county may appeal to the reviewing authority. The review is confined to the record. The decision of the reviewing authority must be based on the standards stated in this section.

Subd. 4. CONFORMANCE OF DESIGNATION ORDINANCE. If the reviewing authority approves the petition, the designation ordinance must be amended in conformance with the decision of the reviewing authority. The petition may be amended during the proceedings by agreement between the petitioner and the district or county.

Sec. 17. Minnesota Statutes 1988, section 115A.906, is amended by adding a subdivision to read:

Subd. 2a. EMERGENCY ABATEMENT. (a) The commissioner may take emergency action to abate a waste tire nuisance without following the procedures of subdivision 2 if the commissioner determines that the nuisance constitutes a clear and immediate danger of uncontrollable fire or other hazard requiring immediate action to prevent, minimize, or mitigate damage to the public health and welfare or the environment.

(b) Before taking an action under this subdivision, the commissioner shall make all reasonable efforts, taking into account the urgency of the situation and any historical pattern of responses by the tire collector to any past problems or abatement orders, to follow as much of the procedure in subdivision 2 as is practical.

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(c) Emergency action under this subdivision may include all of the activities authorized for an abatement order.

Sec. 18. Minnesota Statutes 1988, section 115A.919, is amended to read:

115A.919 COUNTY FEE AUTHORITY.

A county may impose a fee, by cubic yard of waste or its equivalent, on operators of facilities for the disposal of mixed municipal solid waste located within the county. The revenue from the fees shall be credited to the county general fund and shall be used only for landfill abatement purposes, or costs of closure, postclosure care, and response actions or for purposes of mitigating and compensating for the local risks, costs, and other adverse effects of facilities.

Waste residue from recycling facilities at which recyclable materials are separated or processed for the purpose of recycling, or from energy and resource recovery facilities at which solid waste is processed for the purpose of extracting, reducing, converting to energy, or otherwise separating and preparing solid waste for reuse shall be exempt from ~~one-half the amount~~ of the fee imposed by a county under this section if there is at least an 85 percent volume reduction in the solid waste processed. Before any fee is reduced, the verification procedures of section 473.843, subdivision 1, paragraph (c), must be followed and submitted to the appropriate county.

Sec. 19. Minnesota Statutes 1988, section 115A.921, is amended to read:

115A.921 CITY OR TOWN FEE AUTHORITY.

A city or town may impose a fee, not to exceed ~~35 cents~~ \$1 per cubic yard of waste, or its equivalent, on operators of facilities for the disposal of mixed municipal solid waste located within the city or town. The revenue from the fees must be credited to the city or town general fund. Revenue produced by 25 cents of the fee must be used only for purposes of landfill abatement or for purposes of mitigating and compensating for the local risks, costs, and other adverse effects of facilities. Revenue produced by ~~ten cents~~ the balance of the fee may be used for any general fund purpose. Waste residue from recycling facilities at which recyclable materials are separated or processed for the purpose of recycling, or from energy and resource recovery facilities at which solid waste is processed for the purpose of extracting, reducing, converting to energy, or otherwise separating and preparing solid waste for reuse shall be exempt from ~~one-half the amount~~ of the fee imposed by a city or town under this section if there is at least an 85 percent volume reduction in the solid waste processed. Before any fee is reduced, the verification procedures of section 473.843, subdivision 1, paragraph (c), must be followed and submitted to the appropriate city or town.

Sec. 20. **[115A.922] DEFINITIONS.**

Subdivision 1. APPLICABILITY. The definitions in this section apply to sections 20 to 25.

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Subd. 2. CLOSURE. “Closure” means actions that will prevent, mitigate, or minimize the threat to public health and the environment posed by a closed solid waste disposal facility including application of final cover; grading and seeding of final cover; installation of an adequate monitoring system, if necessary; and construction of ground and surface water diversion structures.

Subd. 3. MIXED MUNICIPAL SOLID WASTE DISPOSAL FACILITY. “Mixed municipal solid waste disposal facility” means a waste facility used for the disposal of mixed municipal solid waste.

Subd. 4. OPERATOR. “Operator” means:

(1) the permittee of a mixed municipal solid waste disposal facility that has an agency permit; or

(2) the person in control of a mixed municipal solid waste disposal facility that does not have an agency permit.

Subd. 5. POSTCLOSURE, POSTCLOSURE CARE. “Postclosure” and “postclosure care” mean actions taken for the care, long-term maintenance, and monitoring of a solid waste disposal facility after closure that will prevent, mitigate, or minimize the threat to public health and environment posed by the closed facility.

Subd. 6. RESPONSE. “Response” has the meaning given it in section 115B.02, subdivision 18.

Subd. 7. SOLID WASTE DISPOSAL FACILITY. “Solid waste disposal facility” means a waste facility which is used for the disposal of solid waste.

Sec. 21. [115A.923] GREATER MINNESOTA LANDFILL CLEANUP FEE.

Subdivision 1. AMOUNT OF FEE. (a) The operator of a mixed municipal solid waste disposal facility outside of the metropolitan area shall pay a fee on solid waste accepted and disposed of at the facility as follows:

(1) a facility that weighs the waste that it accepts must pay a fee of \$2 per cubic yard based on equivalent cubic yards of waste accepted at the entrance of the facility;

(2) a facility that does not weigh the waste but that measures the volume of the waste that it accepts must pay a fee of \$2 per cubic yard of waste accepted at the entrance of the facility; and

(3) waste residue from recycling facilities at which recyclable materials are separated or processed for the purpose of recycling, or from energy and resource recovery facilities at which solid waste is processed for the purpose of extracting, reducing, converting to energy, or otherwise separating and preparing solid waste for reuse is exempt from the fee imposed by this subdivision if there is at least an 85 percent volume reduction in the solid waste processed.

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(b) To qualify for exemption under paragraph (a), clause (3), waste residue must be brought to a disposal facility separately. The commissioner of revenue, with the advice and assistance of the agency, shall prescribe procedures for determining the amount of waste residue qualifying for exemption.

Subd. 2. DISPOSITION OF PROCEEDS. After reimbursement to the department of revenue for costs incurred in administering this section, the proceeds of the fees imposed under this section, including interest and penalties, must be deposited as follows:

(1) three-quarters of the proceeds must be deposited in the greater Minnesota landfill maintenance fund; and

(2) one-quarter of the proceeds must be deposited in the greater Minnesota landfill contingency action fund.

Subd. 3. PAYMENT OF FEE. On or before the 20th day of each month each operator shall pay the fee due under this section for the previous month, using a form provided by the commissioner of revenue.

Subd. 4. EXCHANGE OF INFORMATION. Notwithstanding the provisions of section 116.075, the agency may provide the commissioner of revenue with the information necessary for the enforcement of this section. Information disclosed in a return filed under this section is public information. Information exchanged between the commissioner and the agency is public unless the information is of the type determined to be for the confidential use of the agency under section 116.075 or is trade secret information classified under section 13.37. Information obtained in the course of an audit by the department of revenue is private or nonpublic data to the extent that it would not be directly divulged in a return.

Subd. 5. PENALTIES AND ENFORCEMENT. The audit, penalty, and enforcement provisions applicable to taxes imposed under chapter 290 apply to the fees imposed under this section. The commissioner of revenue shall administer and enforce the provisions.

Subd. 6. RULES. The commissioner of revenue may adopt rules necessary to implement this section.

Sec. 22. [115A.924] **GREATER MINNESOTA LANDFILL MAINTENANCE FUND.**

Subdivision 1. ESTABLISHMENT. The greater Minnesota landfill maintenance fund is established as an account in the state treasury to assist counties and sanitary districts with authority to regulate solid waste with landfill maintenance responsibilities, including closure and postclosure care. The fund consists of revenue deposited in the fund under section 21, subdivision 2, clause (1), and interest earned on investment of money in the fund.

Subd. 2. USE OF FUNDS. The money in the greater Minnesota landfill

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maintenance fund may be spent only for landfill maintenance assistance related to closure and postclosure activities to counties and sanitary districts with authority to regulate solid waste outside of the metropolitan area that:

(1) host, or have hosted, solid waste disposal facilities or are responsible for landfill maintenance expenditures under a joint powers agreement; and

(2) have incurred or will incur expenses relating to closure and postclosure activities.

Subd. 3. DISTRIBUTION OF FUNDS. The commissioner of revenue shall distribute the funds to counties and sanitary districts with authority to regulate solid waste qualifying under subdivision 2. Of the amount in the fund:

(1) 50 percent must be distributed based on a qualifying county's population; and

(2) 50 percent must be distributed based on a qualifying county's share of mixed municipal solid waste disposal facilities.

Subd. 4. COUNTY REPORTING REQUIREMENT. A county that receives money from the greater Minnesota landfill maintenance fund shall submit to the agency a fiscal report on the county's use of the funds. The fiscal report must be submitted by the end of the first quarter of each even-numbered year. The fiscal report must describe separately the fiscal activities of the previous two years.

Sec. 23. [115A.925] GREATER MINNESOTA LANDFILL CONTINGENCY ACTION FUND.

Subdivision 1. ESTABLISHMENT. The greater Minnesota landfill contingency action fund is established as an account in the state treasury. The fund consists of:

(1) revenue deposited in the fund under section 21, subdivision 2, clause (2);

(2) amounts recovered under subdivision 6; and

(3) interest earned on investment of money in the fund.

Subd. 2. EXPENDITURES FROM THE FUND. Money in the greater Minnesota landfill contingency action fund may only be appropriated to the agency for expenditure for:

(1) reasonable and necessary expenses for closure and postclosure care of a mixed municipal solid waste disposal facility outside of the metropolitan area for a 20-year period after closure, if the agency determines that the operator or owner will not take the necessary actions requested by the agency for closure and postclosure in the manner and within the time requested; and

(2) reasonable and necessary response and postclosure costs at a mixed

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municipal solid waste disposal facility outside of the metropolitan area that has been closed for 20 years in compliance with the closure and postclosure rules of the agency.

Subd. 3. COMMISSION RECOMMENDATION. The legislative commission on waste management shall make recommendations to the standing legislative committees on finance and appropriations about appropriations from the fund.

Subd. 4. DUTY TO PROVIDE INFORMATION. The operator or owner of a mixed municipal solid waste disposal facility or a solid waste disposal facility shall provide the necessary information to the agency required by sections 20 to 25 or by agency rules.

Subd. 5. ACCESS TO INFORMATION AND PROPERTY. The commissioner of the pollution control agency or a member, employee, or agent of the agency authorized by the agency, upon presentation of credentials, may:

(1) examine and copy any books, papers, records, memoranda, or data of any person who has a duty to provide information to the agency under sections 20 to 25; and

(2) enter upon any property, public or private, for the purpose of taking an action authorized by this section including obtaining information from a person who has a duty to provide the information, conducting surveys or investigations, and taking response action.

Subd. 6. RECOVERY OF EXPENSES. If the agency incurs expenses for response actions at a facility, the agency is subrogated to any right of action that the operator or owner of the facility may have against any other person for the recovery of the expenses. The attorney general may bring an action to recover amounts spent by the agency under this section from persons who may be liable for them. Amounts recovered, including money paid under any agreement, stipulation, or settlement must be credited to the greater Minnesota landfill contingency action fund.

Subd. 7. CIVIL PENALTIES. A person who violates this section is subject to the civil penalties of section 115.071. All money recovered by the state under any statute or rule related to the regulation of solid waste outside of the metropolitan area, including civil penalties and money paid under any agreement, stipulation, or settlement, shall be credited to the greater Minnesota landfill contingency action fund.

Sec. 24. [115A.927] REPORT TO THE LEGISLATURE.

By July 1 of each even-numbered year, the agency shall report to the legislative commission on waste management, the house of representatives appropriations committee, and the senate finance committee on the activities for which money from the greater Minnesota landfill maintenance fund and the greater Minnesota landfill contingency action fund has been spent during the previous two years.

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Sec. 25. [115A.928] OPERATOR OR OWNER LIABILITY FOR RESPONSE EXPENSES.

The operator or owner of a mixed municipal solid waste disposal facility is not liable under any other law for response costs incurred by the agency at that facility under section 23, if the facility has been closed for 20 years in compliance with the closure and postclosure rules of the agency. A provision of this section that relieves the operator or owner of a facility from liability for the payment of the agency's response costs must not be construed to affect the liability of any other person who may be liable for those costs.

Sec. 26. Minnesota Statutes 1988, section 115A.94, is amended by adding a subdivision to read:

Subd. 6. ORGANIZED COLLECTION NOT REQUIRED OR PREVENTED. Except as provided in subdivision 5, a city, town, or county is not:

(1) required to organize collection; or

(2) prevented from organizing collection of solid waste or recyclable material.

Sec. 27. Minnesota Statutes 1988, section 115A.94, is amended by adding a subdivision to read:

Subd. 7. ANTICOMPETITIVE CONDUCT. (a) A political subdivision that organizes collection under this section is authorized to engage in anticompetitive conduct to the extent necessary to plan and implement its chosen organized collection system and is immune from liability under state laws relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or commerce.

(b) An organization of solid waste collectors, an individual collector, and their officers, members, employees, and agents who cooperate with a political subdivision that organizes collection under this section are authorized to engage in anticompetitive conduct to the extent necessary to plan and implement the organized collection system, provided that the political subdivision actively supervises the participation of each entity. An organization, entity, or person covered by this paragraph is immune from liability under state law relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or commerce.

Sec. 28. [115A.981] SOLID WASTE DISPOSAL FACILITIES ANNUAL REPORTING.

Subdivision 1. RECORDKEEPING REQUIREMENTS. The owner or operator of a solid waste disposal facility must maintain the records necessary to comply with the requirements of subdivision 2.

Subd. 2. ANNUAL REPORTING. (a) The owner or operator of a solid waste disposal facility must:

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(1) submit an annual report to the agency under section 115A.32;

(2) annually certify that it has established financial assurance for closure, postclosure care, and corrective action at the facility by using one or more of the financial assurance mechanisms specified by rule; and

(3) file a fee schedule with the agency with the annual report.

(b) The fee schedule must list all tipping fees, rates, charges, surcharges, and any other fees charged by each classification of customer. The agency may suspend the operation of a disposal facility whose permittee fails to file the information required under this subdivision. The owner or operator of a facility may not increase fees until 30 days after the owner or operator has submitted a fee schedule amendment to the agency.

Subd. 3. AGENCY REPORT. The agency shall report to the legislative commission on waste management by July 1 of each year on the viability of the state's waste processing and disposal capability, the status of competitive forces in the market including recycling, composting, waste reduction and incineration, the extent to which existing fees for services are sufficient for facility development, engineering, environmental and safety factors, the progress of the industry in meeting the state's waste management goals, and recommendations for regulations to ensure protection of human health and the environment. In preparing the report, the agency shall consider information received under subdivision 2.

Sec. 29. Minnesota Statutes 1988, section 115B.04, subdivision 4, is amended to read:

Subd. 4. LIABILITY OF POLITICAL SUBDIVISIONS. (a) The liability of a political subdivision under this section is subject to the limits imposed under section 466.04, subdivision 1, except when the political subdivision is liable under this section as the owner or operator of a disposal facility as defined in section 115A.03, subdivision 10.

(b) When a political subdivision is liable as an owner or operator of a disposal facility, the liability of each political subdivision is limited to \$400,000 at each facility unless the facility was owned or operated under a valid joint powers agreement by three or more political subdivisions, in which case the aggregate liability of all political subdivisions that are parties to the joint powers agreement is limited to \$1,200,000.

(c) The limits on the liability of a political subdivision for ownership or operation of a disposal facility apply to the costs of remedial action incurred between the date a request for response action is issued by the agency and the date one year after the construction certificate of completion is approved by the commissioner, excluding costs incurred during negotiation of a consent order agreement.

(d) When a political subdivision takes remedial action as the owner or

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operator of a disposal facility between the dates in paragraph (c), it may receive, after approval by the agency, reimbursement of any amount spent pursuant to an approved work plan that exceeds the applicable liability limit specified in this subdivision.

Sec. 30. Minnesota Statutes 1988, section 115B.17, is amended by adding a subdivision to read:

Subd. 15. ACQUISITION OF PROPERTY. The agency may acquire, by purchase or donation, an interest in real property, including easements and leases, that the agency determines is necessary for response action. The agency may acquire an easement by condemnation only if the agency is unable, after reasonable efforts, to acquire an interest in real property by purchase or donation. The provisions of chapter 117 govern condemnation proceedings by the agency under this subdivision. A donation of an interest in real property to the agency is not effective until the agency executes a certificate of acceptance. The state is not liable under this chapter solely as a result of acquiring an interest in real property under this subdivision.

Sec. 31. Minnesota Statutes 1988, section 115B.20, subdivision 2, is amended to read:

Subd. 2. PURPOSES FOR WHICH MONEY MAY BE SPENT. Subject to appropriation by the legislature the money in the fund may be spent for any of the following purposes:

(a) Preparation by the agency for taking removal or remedial action under section 115B.17, including investigation, monitoring and testing activities, enforcement and compliance efforts relating to the release of hazardous substances, pollutants or contaminants under section 115B.17 or 115B.18;

(b) Removal and remedial actions taken or authorized by the agency or the commissioner of the pollution control agency under section 115B.17, including related enforcement and compliance efforts under section 115B.17 or 115B.18, and payment of the state share of the cost of remedial action which may be carried out under a cooperative agreement with the federal government pursuant to the Federal Superfund Act, under United States Code, title 42, section 9604(c)(3) for actions related to facilities other than commercial hazardous waste facilities located under the siting authority of chapter 115A;

(c) Reimbursement to any private person for expenditures made before July 1, 1983 to provide alternative water supplies deemed necessary by the agency and the department of health to protect the public health from contamination resulting from the release of a hazardous substance;

(d) Removal and remedial actions taken or authorized by the agency or the commissioner of the pollution control agency under section 115B.17 including related enforcement and compliance efforts under section 115B.17 or 115B.18, and payment of the state share of the cost of remedial action which may be

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carried out under a cooperative agreement with the federal government pursuant to the Federal Superfund Act, under United States Code, title 42, section 9604(c)(3) for actions related to commercial hazardous waste facilities located under the siting authority of chapter 115A;

(e) Compensation as provided by law, after submission by the waste management board of the report required under section 115A.08, subdivision 5, to mitigate any adverse impact of the location of commercial hazardous waste processing or disposal facilities located pursuant to the siting authority of chapter 115A;

(f) Planning and implementation by the commissioner of natural resources of the rehabilitation, restoration or acquisition of natural resources to remedy injuries or losses to natural resources resulting from the release of a hazardous substance;

(g) Inspection, monitoring and compliance efforts by the agency, or by political subdivisions with agency approval, of commercial hazardous waste facilities located under the siting authority of chapter 115A;

(h) Grants by the agency or the waste management board to demonstrate alternatives to land disposal of hazardous waste including reduction, separation, pretreatment, processing and resource recovery, for education of persons involved in regulating and handling hazardous waste;

(i) Intervention and environmental mediation by the legislative commission on waste management under chapter 115A; ~~and~~

(j) Grants by the agency to study the extent of contamination and feasibility of cleanup of hazardous substances and pollutants or contaminants in major waterways of the state;

(k) Acquisition of a property interest under section 30;

(l) Reimbursement, in an amount to be determined by the agency in each case, to a political subdivision that is not a responsible person under section 115B.03, for reasonable and necessary expenditures resulting from an emergency caused by a release or threatened release of a hazardous substance, pollutant, or contaminant; and

(m) Reimbursement to a political subdivision for expenditures in excess of the liability limit under section 29.

Sec. 32. Minnesota Statutes 1988, section 115B.25, subdivision 1, is amended to read:

Subdivision 1. ~~GENERAL APPLICABILITY.~~ The terms used in sections ~~115B.25 to 115B.37~~ have The definitions given them in section 115B.02 and this section apply to sections 115B.25 to 115B.37.

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Sec. 33. Minnesota Statutes 1988, section 115B.25, subdivision 2, is amended to read:

Subd. 2. **BOARD.** "Board" means the ~~hazardous~~ harmful substance ~~injury~~ compensation board established in section 115B.27.

Sec. 34. Minnesota Statutes 1988, section 115B.25, is amended by adding a subdivision to read:

Subd. 6a. FACILITY. "Facility" has the meaning given it in section 115B.02, subdivision 5.

Sec. 35. Minnesota Statutes 1988, section 115B.25, subdivision 7, is amended to read:

Subd. 7. **FUND.** "Fund" means the ~~hazardous~~ harmful substance ~~injury~~ compensation fund established in section 115B.26.

Sec. 36. Minnesota Statutes 1988, section 115B.25, is amended by adding a subdivision to read:

Subd. 7a. HARMFUL SUBSTANCE. "Harmful substance" means:

(1) any commercial chemical designated under the Federal Water Pollution Control Act, United States Code, title 33, section 1321(b)(2)(A);

(2) any hazardous air pollutant listed under the Clean Air Act, United States Code, title 42, section 7412;

(3) any hazardous waste;

(4) petroleum as defined in section 115C.02, subdivision 10; and

(5) pesticide as defined in chapter 18B, or fertilizer, plant amendment, or soil amendment as defined in chapter 17.

Sec. 37. Minnesota Statutes 1988, section 115B.25, is amended by adding a subdivision to read:

Subd. 7b. HAZARDOUS WASTE. "Hazardous waste" has the meaning given in section 115B.02, subdivision 9.

Sec. 38. Minnesota Statutes 1988, section 115B.25, is amended by adding a subdivision to read:

Subd. 7c. PERSON. "Person" has the meaning given in section 115B.02, subdivision 12.

Sec. 39. Minnesota Statutes 1988, section 115B.25, is amended by adding a subdivision to read:

Subd. 9. RELEASE. "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment which occurred at a point in time or which continues to occur.

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"Release" does not include:

(a) Emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, watercraft, or pipeline pumping station engine;

(b) Release of source, by-product, or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954, under United States Code, title 42, section 2014, if the release is subject to requirements with respect to financial protection established by the federal Nuclear Regulatory Commission under United States Code, title 42, section 2210;

(c) Release of source, by-product or special nuclear material from any processing site designated pursuant to the Uranium Mill Tailings Radiation Control Act of 1978, under United States Code, title 42, section 7912(a)(1) or 7942(a);

(d) Discharges or designed venting of petroleum from a tank allowed under the rules of the pollution control agency; or

(e) The use of a pesticide, fertilizer, plant amendment or soil amendment in accordance with its labeling.

Sec. 40. Minnesota Statutes 1988, section 115B.26, is amended to read:

115B.26 HAZARDOUS HARMFUL SUBSTANCE INJURY COMPENSATION FUND.

Subdivision 1. **ESTABLISHMENT.** A ~~hazardous harmful~~ hazardous harmful substance ~~injury~~ compensation fund is established as an account in the state treasury. Earnings, such as interest, dividends, and any other earnings arising from fund assets, must be credited to the fund.

Subd. 2. **APPROPRIATION.** The amount necessary to pay for staff assistance, administrative services, and office space under section 115B.28, subdivision 4, and to pay claims of compensation granted by the board under sections 115B.25 to 115B.37 is appropriated to the board from the ~~hazardous harmful~~ hazardous harmful substance ~~injury~~ compensation fund.

Subd. 3. **PAYMENT OF CLAIMS WHEN FUND INSUFFICIENT.** If the amount of the claims granted exceeds the amount in the fund, the board shall request a transfer from the general contingent account to the ~~hazardous harmful~~ hazardous harmful substance ~~injury~~ compensation fund as provided in section 3.30. If no transfer is approved, the board shall pay the claims which have been granted in the order granted only to the extent of the money remaining in the fund. The board shall pay the remaining claims which have been granted after additional money is credited to the fund.

Subd. 4. FUND TRANSFER REQUEST. At the end of each fiscal year, the board shall submit a request to the petroleum tank release compensation board for transfer to the harmful substance compensation fund from the petroleum tank release cleanup fund under section 47 of an amount equal to the compensa-

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tion granted by the board for claims related to petroleum releases plus administrative costs related to determination of those claims.

Sec. 41. Minnesota Statutes 1988, section 115B.27, subdivision 1, is amended to read:

Subdivision 1. **ESTABLISHMENT OF BOARD.** The ~~hazardous~~ harmful substance ~~injury~~ compensation board is established. The board consists of five members who will serve part time and who will be appointed by the governor with the advice and consent of the senate. One member must be a physician knowledgeable in toxicology; one member must be a member of the bar of this state; one member must be a health professional knowledgeable in the area of ~~hazardous~~ harmful substance injuries; and two members must be members of the general public. The board shall annually elect a member to serve as chair for a term of one year. Filling of vacancies on the board and removal of members are governed by section 15.0575.

Sec. 42. Minnesota Statutes 1988, section 115B.28, subdivision 2, is amended to read:

Subd. 2. **POWERS.** In addition to exercising any powers specified in sections 115B.25 to 115B.37 or in other law, the board may:

(1) in reviewing a claim, consider any information relevant to the claim, in accordance with the evidentiary standards contained in section 115B.35;

(2) contract for consultant or other services necessary to carry out the board's duties under sections 115B.25 to 115B.37;

(3) grant reasonable partial compensation on an emergency basis pending the final decision on a claim; ~~subject to the adoption of rules by the board,~~ if the claim is one with respect to which an award will probably be made and undue hardship will result to the claimant if immediate payment is not made;

(4) limit access to information collected and maintained by the board and take any other action necessary to protect ~~privileged or confidential~~ not public data as defined in section 13.02, subdivision 8a, and protected information, in accordance with the limitations contained in section 115B.35.

Sec. 43. Minnesota Statutes 1988, section 115B.29, subdivision 1, is amended to read:

Subdivision 1. **PERSONAL INJURY AND CERTAIN PROPERTY CLAIMS.** A person may file a claim with the board pursuant to this section for compensation for an eligible injury, or for eligible property damage ~~described in section 115B.34, subdivision 2, paragraph (a), clause (1),~~ that could reasonably have resulted from an exposure in Minnesota to a ~~hazardous~~ harmful substance released from a facility.

Sec. 44. Minnesota Statutes 1988, section 115B.30, subdivision 3, is amended to read:

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Subd. 3. **TIME FOR FILING CLAIM.** (a) A claim is not eligible for compensation from the fund unless it is filed with the board within the time provided in this subdivision.

~~(a)~~ (b) A claim for compensation for personal injury must be filed within two years after the injury and its connection to exposure to a ~~hazardous~~ harmful substance was or reasonably should have been discovered.

~~(b)~~ (c) A claim for compensation for property damage must be filed within ~~six two~~ two years after the ~~damage was or reasonably should have been discovered~~ full amount of compensable losses can be determined.

(d) Notwithstanding the provisions of this subdivision, claims for compensation that would otherwise be barred by any statute of limitations provided in sections 115B.25 to 115B.37 may be filed not later than January 1, ~~1988~~ 1992.

Sec. 45. Minnesota Statutes 1988, section 115B.34, subdivision 2, is amended to read:

Subd. 2. **PROPERTY DAMAGE LOSSES.** (a) Losses compensable by the fund for property damage are limited to the following losses caused by damage to the principal residence of the claimant:

(1) the reasonable cost of replacing or decontaminating the primary source of drinking water for the property not to exceed the amount actually expended by the claimant or assessed by a local taxing authority, if the department of health has ~~determined confirmed that the remedy provides safe drinking water and advised that the water is contaminated not be used for drinking or has included the property in a well advisory area and has certified determined that the replacement or decontamination of the source of drinking water effectively has or will eliminate the contamination was necessary,~~ confirmed that the remedy provides safe drinking water and advised that the water is contaminated not be used for drinking or has included the property in a well advisory area and has certified determined that the replacement or decontamination of the source of drinking water effectively has or will eliminate the contamination was necessary, up to a maximum of \$25,000; ~~and~~

(2) losses incurred as a result of a bona fide sale of the property at less than the appraised market value under circumstances that constitute a hardship to the owner, limited to 75 percent of the difference between the appraised market value and the selling price, but not to exceed \$25,000; ~~and~~

(3) losses incurred as a result of the inability of an owner in hardship circumstances to sell the property due to the presence of harmful substances, limited to the increase in costs associated with the need to maintain two residences, but not to exceed \$25,000.

(b) In computation of the loss under paragraph (a), clause (3), the board shall offset the loss by the amount of any income received by the claimant from the rental of the property.

~~(b)~~ (c) For purposes of paragraph (a), the following definitions apply:

(1) "appraised market value" means an appraisal of the market value of the

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property disregarding any decrease in value caused by the presence of a ~~hazardous~~ harmful substance in or on the property; and

(2) "hardship" means an urgent need to sell the property based on a special circumstance of the owner including catastrophic medical expenses, inability of the owner to physically maintain the property due to a physical or mental condition, and change of employment of the owner or other member of the owner's household requiring the owner to move to a different location.

(e) (d) Appraisals are subject to board approval. The board may adopt rules governing approval of appraisals, criteria for establishing a hardship, and other matters necessary to administer this subdivision.

Sec. 46. Minnesota Statutes 1988, section 115C.08, subdivision 4, is amended to read:

Subd. 4. **EXPENDITURES.** Money in the fund may only be spent:

(1) to administer the petroleum tank release cleanup program established in sections 115C.03 to 115C.10;

(2) for agency administrative costs under sections 116.46 to 116.50, sections 115C.03 to 115C.06, and costs of corrective action taken by the agency under section 115C.03, including investigations;

(3) for costs of recovering expenses of corrective actions under section 115C.04; ~~and~~

(4) for training, certification, and rulemaking under sections 116.46 to 116.50; ~~and~~

(5) for reimbursement of the harmful substance compensation fund under sections 40, subdivision 4; and 47.

Sec. 47. Minnesota Statutes 1988, section 115C.08, is amended by adding a subdivision to read:

Subd. 5. FUND TRANSFER. The board shall authorize the commissioner of finance to transfer to the harmful substance compensation fund the amount requested by the harmful substance compensation board under section 40, subdivision 4. Transfer of the amount must be made at the earliest practical date after authorization by the board. If the unexpended balance in the fund is less than \$1,000,000 the transfer must be made at the earliest practical date after the unexpended balance in the fund exceeds that amount.

Sec. 48. Minnesota Statutes 1988, section 116.07, is amended by adding a subdivision to read:

Subd. 4j. PERMITS; SOLID WASTE FACILITIES. (a) The agency may not issue a permit for new or additional capacity for a mixed municipal solid

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waste resource recovery or disposal facility as defined in section 115A.03 unless each county projected in the permit to use the facility has in place a solid waste management plan approved under section 115A.46 or 473.803. The agency shall issue the permit only if the capacity of the facility is consistent with the needs for resource recovery or disposal capacity identified in the approved plan or plans. Consistency must be determined by the metropolitan council for counties in the metropolitan area and by the agency for counties outside the metropolitan area. Plans approved before January 1, 1990, need not be revised if the capacity sought in the permit is consistent with the approved plan or plans.

(b) The agency shall require as part of the permit application for a waste incineration facility identification of preliminary plans for ash management and ash leachate treatment or ash utilization. The permit issued by the agency must include requirements for ash management and ash leachate treatment.

Sec. 49. Minnesota Statutes 1988, section 400.04, subdivision 3, is amended to read:

Subd. 3. ACQUISITION, CONSTRUCTION AND OPERATION OF PROPERTY AND FACILITIES. A county may acquire, construct, enlarge, improve, repair, supervise, control, maintain, and operate any and all solid waste facilities and other property and facilities needed, used, or useful for solid waste management purposes. Notwithstanding any other law to the contrary, a county may contract for recycling services, and purchase and lease materials, equipment, machinery and such other personal property as is necessary for such purposes upon terms and conditions determined by the board, with or without advertisement for bids including the use of conditional sales contracts and lease-purchase agreements. If a county contract is let by negotiation, without advertising for bids, the county shall conduct such negotiation and award the contract using a fair and open procedure and in full compliance with section 471.705. If a county contract is to be awarded by bid, the county may, after notice to the public and prospective bidders, conduct a fair and open process of prequalification of bidders prior to advertisement for bids. A county may employ such personnel as are reasonably necessary for the care, maintenance and operation of such property and facilities. A county shall contract with private persons for the construction, maintenance, and operation of solid waste facilities where the facilities are adequate and available for use and competitive with other means of providing the same service.

Sec. 50. Minnesota Statutes 1988, section 466.04, subdivision 1, is amended to read:

Subdivision 1. LIMITS; PUNITIVE DAMAGES. (a) Liability of any municipality on any claim within the scope of sections 466.01 to 466.15 shall not exceed:

(a) (1) \$200,000 when the claim is one for death by wrongful act or omission and \$200,000 to any claimant in any other case;

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(b) (2) \$600,000 for any number of claims arising out of a single occurrence;
or

(e) (3) twice the limits provided in clauses (a) (1) and (b); but not less than \$300,000 per claim; (2) when the claim arises out of the release or threatened release of a hazardous substance, whether the claim is brought under sections 115B.01 to 115B.15 or under any other law.

(b) No award for damages on any such claim shall include punitive damages.

Sec. 51. Minnesota Statutes 1988, section 473.149, subdivision 2d, is amended to read:

Subd. 2d. **LAND DISPOSAL ABATEMENT PLAN.** ~~By January 1, 1985,~~
(a) After considering any county land disposal abatement proposals and waste stream analysis that have been submitted ~~by that date, pursuant to~~ under section 473.803, subdivision 1b, the council shall amend its policy plan to include specific and quantifiable metropolitan objectives for abating to the greatest feasible and prudent extent the need for and practice of land disposal of mixed municipal solid waste and of specific components of the solid waste stream, including residuals and ash, either by type of waste or class of generator.

(b) The objectives must be stated in annual increments through the year 1990 and thereafter in five-year increments ~~through the year 2000 for a period of at least 20 years from the date of adoption of policy plan revisions.~~ The plan must include a reduced estimate of the capacity, based on the council's abatement objectives, needed for the disposal of various types of waste in each five-year increment and the general area of the region where the capacity should be developed. ~~The plan must include a reduced estimate, based on the council's abatement objectives, of the added solid waste disposal capacity needed in appropriate sectors of the metropolitan area, stated in annual increments through the year 1990 and thereafter in five year increments through the year 2000.~~

(c) The plan must include objectives for waste reduction and measurable objectives for local abatement of solid waste through resource recovery ~~and waste reduction, recycling, and source separation programs and activities~~ for each metropolitan county ~~and for cities of the first class, the second class, and the third class, respectively,~~ stated in annual increments through the year 1990 and in five-year increments ~~through the year 2000 for a period of at least 20 years.~~

(d) The standards must be based upon and implement the council's metropolitan abatement objectives. The council's plan must include standards and procedures to be used by the council in determining whether a metropolitan county ~~or class of cities within a metropolitan county~~ has implemented the council's metropolitan land disposal abatement plan and has achieved the objectives for local abatement.

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Sec. 52. Minnesota Statutes 1988, section 473.149, subdivision 2e, is amended to read:

Subd. 2e. **SOLID WASTE DISPOSAL FACILITIES DEVELOPMENT SCHEDULE.** (a) ~~By January 1, 1985,~~ After requesting and considering recommendations from the counties, cities, and towns, the council as part of its policy plan shall determine the number of sites and the capacity of sites to be acquired within each the metropolitan county area for solid waste disposal facilities in accordance with section 473.833.

(b) The council shall adopt a schedule of disposal capacity to be developed in each county ~~through the year 2000~~ within the metropolitan area in five-year increments for a period of at least 20 years from adoption of development schedule revisions. The schedule may not allow capacity in excess of the council's reduced estimate of the disposal capacity needed because of the council's land disposal abatement plan, except as the council deems necessary to allow reallocation of capacity as required by this subdivision.

(c) The council shall make the implementation of elements of the schedule, including the disposal capacity allocated to each county, contingent on actions of each county ~~and class of city in that county~~ in adopting and implementing abatement plans pursuant to section 473.803, subdivision 1b. The council ~~shall~~ may review the development schedule every year and ~~shall~~ shall revise the development schedule and the allocation of disposal capacity required for each county based on the progress made in that county in the implementation of the council's abatement plans and achievement of metropolitan and local abatement objectives. The council shall review and revise, by resolution following public hearing, the development schedule and the allocation of disposal capacity required based on significant changes in the landfill capacity of the metropolitan area. The schedule must include procedures and criteria for making revisions. A site for which an environmental impact statement was being prepared as of January 1, 1989, under section 473.833, subdivision 2a, and that is not selected under section 473.833, subdivision 3, must be eliminated from the inventory of solid waste disposal sites established under section 473.149, subdivision 2b, and may not be considered as a waste disposal site in the future.

(d) The schedule may include procedures to be used by counties in selecting sites for acquisition pursuant to section 473.833. The schedule must include standards and procedures for council certification of need pursuant to section 473.823. The schedule must include a facility closure schedule and plans for postclosure management and disposition, for the use of property after acquisition and before facility development, and for the disposition of property and development rights, as defined in section 473.833, no longer needed for disposal facilities. The schedule must also include a closure schedule and plans for postclosure management for facilities in existence before the adoption of the development schedule.

Sec. 53. Minnesota Statutes 1988, section 473.149, is amended by adding a subdivision to read:

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Subd. 2f. FUTURE SOLID WASTE DISPOSAL CAPACITY. The council, as part of its policy plan, shall determine the number and capacity of solid waste disposal sites needed in the metropolitan area, including sites for disposal of solid waste residuals and ash, for a period of at least 20 years from the date of adoption of policy plan revisions. The plan must include a reduced estimate of capacity, based on the council's waste abatement objectives, needed for the disposal of various types of waste in five-year increments and the general area of the metropolitan area where the capacity should be developed.

Sec. 54. Minnesota Statutes 1988, section 473.803, is amended by adding a subdivision to read:

Subd. 2a. WASTE ABATEMENT. The council may require any county that fails to meet the waste abatement objectives contained in the council's policy plan to amend its master plan to address methods to achieve the objectives. The master plan amendment is subject to council review and approval as provided in subdivision 2 and must consider at least:

- (1) minimum recycling service levels for solid waste generators;
- (2) mandatory generator participation in recycling programs including separation of recyclable material from mixed municipal solid waste;
- (3) use of organized solid waste collection under section 115A.94; and
- (4) waste abatement participation incentives including provision of storage bins, weekly collection of recyclable material, expansion of the types of recyclable material for collection, collection of recyclable material on the same day as collection of solid waste, and financial incentives such as basing charges to generators for waste collection services on the volume of waste generated and discounting collection charges for generators who separate recyclable material for collection separate from their solid waste.

Sec. 55. Minnesota Statutes 1988, section 473.811, subdivision 4, is amended to read:

Subd. 4. COUNTY CONTRACTS. Each metropolitan county may contract for the acquisition or use of existing public or private solid waste facilities or any facilities deemed necessary or useful for resource recovery from solid waste and may contract with any person for the operation or maintenance, or both, of any solid waste facility owned by the county. The contract shall provide for the operation or maintenance, or both, of the facility in accordance with any regulations, criteria, and standards of the agency, the metropolitan council and the county relating thereto. Any contract for the operation or maintenance of a solid waste facility may provide for the sale of solid waste, materials, electric energy, steam or other product to the operator or for a fee payable to the operator, which may be a fixed fee, or a fee based on tonnage or a percentage of income or other measure, or any combination thereof. A metropolitan county may warrant to the operator of a solid waste facility or contract

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purchaser of any solid waste, materials, electric energy, steam or other product the quality, composition and available quantity of the solid waste, materials, electric energy, steam or other product to be sold or delivered. A metropolitan county may enter into an agreement with any local government unit or the University of Minnesota for the purpose of compensating for the local risks, costs, or other effects of a waste processing facility.

Sec. 56. Minnesota Statutes 1988, section 473.823, subdivision 3, is amended to read:

Subd. 3. SOLID WASTE FACILITIES; REVIEW PROCEDURES. (a) The agency shall request applicants for solid waste facility permits to submit all information deemed relevant by the council to its review, including without limitation information relating to the geographic areas and population served, the need, the effect on existing facilities and services, the effectiveness of proposed buffer areas to ensure, at a minimum, protection of surrounding land uses from adverse or incompatible impacts due to landfill operation and related activities, the anticipated public cost and benefit, the anticipated rates and charges, the manner of financing, the effect on metropolitan plans and development programs, the supply of waste, anticipated markets for any product, and alternative means of disposal or energy production. ~~Ne~~

(b) A permit may not be issued for the operation of a solid waste facility in the metropolitan area which is not in accordance with the metropolitan council's solid waste policy plan. The metropolitan council shall determine whether a permit is in accordance with the policy plan. In making its determination, the council shall consider the areawide need and benefit of the applicant facility and the effectiveness of proposed buffer areas to adequately protect surrounding land uses in accordance with its policy plan, and may consider, without limitation, the effect of the applicant facility on existing and planned solid waste facilities described in a waste control commission implementation plan or county report or master plan.

(c) If the council determines that a permit is in accordance with its policy plan, the council shall approve the permit. If the council determines that a permit is not in accordance with its policy plan, it shall disapprove the permit. The council's approval of permits may be subject to conditions necessary to satisfy criteria and standards in its policy plan, including conditions respecting the type, character, and quantities of waste to be processed at a solid waste facility used primarily for resource recovery and the geographic territory from which a resource recovery facility or transfer station serving such a facility may draw its waste.

(d) For the purpose of this review and approval by the council, the agency shall send a copy of each permit application and any supporting information furnished by the applicant to the metropolitan council within 15 days after receipt of the application and all other information requested from the applicant. Within 60 days after the application and supporting information are

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received by the council, unless a time extension is authorized by the agency, the council shall issue to the agency in writing its determination whether the permit is disapproved, approved, or approved with conditions. If the council does not issue its determination to the agency within the 60-day period, unless a time extension is authorized by the agency, the permit shall be deemed to be in accordance with the council's policy plan. ~~Ne~~

(e) ~~A~~ permit ~~shall~~ may not be issued in the metropolitan area for a solid waste facility used primarily for resource recovery or a transfer station serving ~~such a~~ the facility, if the facility or station is owned or operated by a public agency or if the acquisition or betterment of the facility or station is secured by public funds or obligations issued by a public agency, unless the council finds and determines that adequate markets exist for the products recovered and that establishment of the facility is consistent with the criteria and standards in the metropolitan and county plans respecting the protection of existing resource recovery facilities and transfer stations serving such facilities.

Sec. 57. Minnesota Statutes 1988, section 473.831, subdivision 2, is amended to read:

Subd. 2. **USE OF PROCEEDS.** (a) The proceeds of bonds issued under subdivision 1 shall be used by the council:

~~(a) (1)~~ (1) to provide funds for the environmental analysis of solid waste disposal sites; ~~and~~

~~(b) (2)~~ (2) to make grants to metropolitan counties to pay for: ~~(1)~~ (i) the cost of the environmental review of sites, ~~(2)~~ the acquisition of development rights for all or part of the period that the development limitation imposed by section 473.806 is in effect, ~~(3)~~ (ii) the acquisition of permanent or temporary right, title, or interests in property, including easements and development rights, for solid waste disposal sites and surrounding buffer areas required to be acquired by the county, pursuant to sections 473.833 and 473.840, by the council's policy plan and development schedule adopted pursuant to section 473.149, subdivision 2e, and ~~(4)~~ (iii) the acquisition and improvement of resource recovery facilities; ~~and~~

(3) to reimburse a city or town that contains a solid waste disposal site identified by the council under section 473.149, subdivision 2b, for costs incurred by the city or town after publication of an environmental impact statement preparation notice for the site.

(b) Under paragraph (a), clause (3):

(1) reimbursement may not exceed \$100,000 for a city or town;

(2) costs eligible for reimbursement are those incurred for data collection, technical review and analysis necessary to evaluate the draft environmental impact statement prepared by the county under section 473.833, subdivision 2a, and the site selection decision made under section 473.833, subdivision 3; and

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(3) legal fees are not eligible for reimbursement.

(c) If the council is required by law or rule to prepare environmental analyses on one or more solid waste disposal sites and surrounding buffer areas, the council may use the proceeds of the bonds issued under subdivision 1 to contract for consultant services in the preparation of such analyses only upon a finding that equivalent expertise is not available among its own staff.

Sec. 58. Minnesota Statutes 1988, section 473.833, subdivision 2, is amended to read:

Subd. 2. **REQUIREMENT.** Each metropolitan county shall select and acquire sites and buffer areas for solid waste disposal facilities in accordance with this section and the council's policy plan and development schedule adopted pursuant to section 473.149, subdivision 2e. Each county in which a site is selected and acquired must ensure development of the site in accordance with the landfill development schedule in the council's policy plan if the site is permissible by the agency and if its development is prudent as determined by the council.

Sec. 59. Minnesota Statutes 1988, section 473.833, subdivision 2a, is amended to read:

Subd. 2a. **ENVIRONMENTAL IMPACT STATEMENT.** (a) Each metropolitan county shall complete an environmental impact statement on the environmental effects of the decision required by subdivision 3. The statement shall be prepared and reviewed in accordance with chapter 116D and the rules issued pursuant thereto under chapter 116D, except as otherwise required by section 473.149 and this section. The determination of adequacy must be made within one year following the council's adoption of the facilities development schedule pursuant to section 473.149, subdivision 2e. The statement must be consistent with the establishment of facilities in accordance with the requirements of the council's development schedule, must not address or reconsider alternatives eliminated from consideration under sections 473.149, 473.803, subdivisions 1, 1a, and 1b, and this section, and must not address matters to be determined by the council under section 473.823, subdivision 6. The statement must address matters respecting permitting under section 473.823 only to the extent deemed necessary for the siting decision required by subdivision 3.

(b) The pollution control agency and the council shall assist and advise counties in the scoping decision and the preparation notice.

(c) The site selection authority established in subdivision 3, or the council, if it makes the selection under subdivision 3, shall prepare a record of decision, including specific findings of fact, that identifies how the environmental impact statement required by this subdivision was used by the site selection authority to make its site selection decision.

Sec. 60. Minnesota Statutes 1988, section 473.843, subdivision 1, is amended to read:

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Subdivision 1. **AMOUNT OF FEE; APPLICATION.** The operator of a mixed municipal solid waste disposal facility in the metropolitan area shall pay a fee on solid waste accepted and disposed at the facility as follows:

(a) A facility that weighs the waste that it accepts must pay a fee of ~~50 cents~~ \$2 per cubic yard based on equivalent cubic yards of waste accepted at the entrance of the facility.

(b) A facility that does not weigh the waste but that measures the volume of the waste that it accepts must pay a fee of ~~50 cents~~ \$2 per cubic yard of waste accepted at the entrance of the facility.

(c) Waste residue, from recycling facilities at which recyclable materials are separated or processed for the purposes of recycling, or from energy and resource recovery facilities at which solid waste is processed for the purpose of extracting, reducing, converting to energy, or otherwise separating and preparing solid waste for reuse, is exempt from ~~one-half of the amount of~~ fee imposed by this subdivision if there is at least an 85 percent volume reduction in the solid waste processed. To qualify for exemption under this clause, waste residue must be brought to a disposal facility separately. The commissioner of revenue, with the advice and assistance of the council and the agency, shall prescribe procedures for determining the amount of waste residue qualifying for exemption.

Sec. 61. Minnesota Statutes 1988, section 473.843, subdivision 2, is amended to read:

Subd. 2. **DISPOSITION OF PROCEEDS.** After reimbursement to the department of revenue for costs incurred in administering this section, the proceeds of the fees imposed under this section, including interest and penalties, must be deposited as follows:

(a) ~~one-half~~ (1) three-fourths of the proceeds must be deposited in the landfill abatement fund established in section 473.844; and

(b) ~~one-half~~ (2) one-fourth of the proceeds must be deposited in the metropolitan landfill contingency action fund established in section 473.845.

Sec. 62. Minnesota Statutes 1988, section 473.844, subdivision 1a, is amended to read:

Subd. 1a. **USE OF FUNDS.** (a) The money in the fund may be spent only for the following purposes:

(1) assistance to any person for resource recovery projects funded under subdivision 4 or projects to develop and coordinate markets for reusable or recyclable waste materials, including related public education, planning, and technical assistance;

(2) grants to counties under section 473.8441; ~~and~~

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(3) program administration by the metropolitan council;

(4) public education on solid waste reduction and recycling; and

(5) solid waste research.

(b) The council shall allocate at least 50 percent of the annual revenue received by the fund for grants to counties under section 473.8441.

Sec. 63. Minnesota Statutes 1988, section 473.8441, subdivision 5, is amended to read:

Subd. 5. **GRANT ALLOCATION PROCEDURE.** (a) The council shall distribute the funds annually so that each qualifying county receives a base amount of \$25,000 an equal share of 50 percent of the council's allocation to the program described in this section, plus a proportionate share of the remaining funds available for the program. A county's proportionate share is an amount that has the same proportion to the total remaining funds as the number of households in the county has to the total number of households in all metropolitan counties. ~~The council shall distribute the funds in two parts:~~

(b) ~~The first distribution consists of the base amount plus one-third of the county's proportionate share. To qualify for the first distribution, a county must submit an application for council approval before December 1, 1987. Not more than one-half of the first distribution may be spent for planning and consultants.~~

(c) ~~The second distribution consists of the remaining funds available for the program. To qualify for the second distribution, a county must have received funds under the first distribution and must submit for council approval by December 1, 1988, a report on expenditures and activities under the program, a local recycling implementation strategy as required by section 473.803, subdivision 1e, and a proposed performance funding system that will allocate all of the remaining funds available under the program for recycling implementation activities in accordance with performance.~~

(b) To qualify for distribution of funds, a county, by August 15 of each year, must submit for council approval a report on expenditures and activities under the program during the preceding fiscal year and any proposed changes in its recycling implementation strategy or performance funding system.

Sec. 64. Minnesota Statutes 1988, section 473.845, subdivision 1, is amended to read:

Subdivision 1. **ESTABLISHMENT.** The metropolitan landfill contingency action fund is created as an account in the state treasury. The fund consists of revenue deposited in the fund under section 473.843, subdivision 2, clause (b); amounts recovered under subdivision 6 7; and interest earned on investment of money in the fund.

Sec. 65. Minnesota Statutes 1988, section 473.845, subdivision 2, is amended to read:

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Subd. 2. **WATER SUPPLY MONITORING AND HEALTH ASSESSMENTS.** Up to ten percent of the money in the fund may be appropriated to the commissioner of health for water supply monitoring and health assessments. The commissioner shall monitor the quality of water in public water supply wells and may monitor private water supply wells in the metropolitan area that may be affected by their location in relation to a facility for mixed municipal solid waste. Testing under this subdivision must be for substances not funded under the Federal Safe Drinking Water Act. The health assessments must be conducted in areas that may be affected by contaminants from mixed municipal solid waste facilities.

Sec. 66. Minnesota Statutes 1988, section 473.848, is amended to read:

473.848 **RESTRICTION ON DISPOSAL.**

Subdivision 1. RESTRICTION. (a) After January 1, 1990, a person may not dispose of unprocessed mixed municipal solid waste at waste disposal facilities located in the metropolitan area may not accept mixed municipal solid waste for disposal unless:

(1) the waste has been certified as unprocessable by a county under subdivision 2; or

(2)(i) the waste has been transferred to the disposal facility from a resource recovery facility identified by the council;

(ii) no other resource recovery facility in the metropolitan area is capable of processing the waste; and

(iii) the waste has been certified as unprocessable by the operator of the resource recovery facility under subdivision 3.

(b) For purposes of this section, mixed municipal solid waste does not include street sweepings, construction debris, mining waste, foundry sand, and other materials, if they are not capable of being processed by resource recovery as determined by the council.

Subd. 2. COUNTY CERTIFICATION; COUNCIL APPROVAL. (a) Each county that has not implemented designation of all or a portion of its mixed municipal solid waste to a resource recovery facility shall submit a semiannual certification report to the council detailing:

(1) the quantity of waste generated in the county that was not processed prior to transfer to a disposal facility during the six months preceding the report;

(2) the reasons the waste was not processed;

(3) a strategy for development of techniques to ensure processing of waste including a specific timeline for implementation of those techniques; and

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(4) any progress made by the county in reducing the amount of unprocessed waste.

(b) The council shall approve a county's report if it determines that the county is reducing and will continue to reduce the amount of unprocessed waste, based on the report and the county's progress in development and implementation of techniques to reduce the amount of unprocessed waste transferred to disposal facilities. If the council does not approve a county's report, it shall negotiate with the county to develop and implement specific techniques to reduce unprocessed waste. If the council does not approve three or more consecutive reports from any one county, the council shall develop specific reduction techniques that are designed for the particular needs of the county. The county shall implement those techniques by specific dates to be determined by the council.

Subd. 3. FACILITY CERTIFICATION; COUNTY REPORTS. (a) The operator of each resource recovery facility that receives waste from counties in the metropolitan area shall certify as unprocessable each load of mixed municipal solid waste it does not process. Certification must be made to each county that sends its waste to the facility at intervals specified by the county. Certification must include at least the number and size of loads certified as unprocessable and the reasons the waste is unprocessable. Loads certified as unprocessable must include the loads that would otherwise have been processed but were not processed because the facility was not in operation, but nothing in this section relieves the operator of its contractual obligations to process mixed municipal solid waste.

(b) A county that sends its waste to a resource recovery facility shall submit a semiannual report to the council detailing the quantity of waste generated within the county that was not processed during the six months preceding the report, the reasons the waste was not processed, and a strategy for reducing the amount of unprocessed mixed municipal solid waste.

Subd. 4. COUNCIL REPORT. The council shall include, as part of its report to the legislative commission on waste management required under section 473.149, an accounting of the quantity of unprocessed waste transferred to disposal facilities, the reasons the waste was not processed, a strategy for reducing the amount of unprocessed waste, and progress made by counties to reduce the amount of unprocessed waste. The council may adopt standards for determining when waste is unprocessable and procedures for expediting certification and reporting of unprocessed waste.

Sec. 67. Laws 1984, chapter 644, section 85, as amended by Laws 1987, chapter 348, section 50, is amended to read:

Sec. 85. EFFECTIVE DATE.

Sections 1 to 45, 48 to 51, 56 to 72, and 78 to 84 are effective the day following final enactment. Sections 46, 47, and 73 to 77 are effective January 1, 1985, except that the fees imposed in sections 46, 47, and 73 shall be effective

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January 1, ~~1990~~ 1991, with respect to nonhazardous solid waste from metalcasting facilities. Prior to January 1, ~~1990~~ 1991, an operator of a facility that is located in the metropolitan area for the disposal of mixed municipal solid waste shall deduct from the disposal charge for nonhazardous solid waste from metalcasting facilities the fee imposed under sections 46, 47, and 73.

Section 52 is effective for taxable years after December 31, 1983. Section 55 is effective for sales after June 30, 1984. Sections 53 and 54 are effective for taxable years after December 31, 1984.

Sec. 68. SOLID WASTE MANAGEMENT DISTRICT; STUDY.

The pollution control agency shall conduct a study of the legislation authorizing the establishment of solid waste management districts, Minnesota Statutes 1988, sections 115A.62 to 115A.72, and related mechanisms, such as joint powers agreements authorized by Minnesota Statutes, section 471.59, to determine their effectiveness in the area of solid waste management. By December 1, 1989, the agency shall report its findings, together with any recommendation for legislation, to the legislative commission on waste management.

Sec. 69. METROPOLITAN COUNCIL; SOLID WASTE POLICY PLAN.

At the earliest practical date, the metropolitan council shall amend its solid waste management policy plan, required under Minnesota Statutes, section 473.149, to include a definition of and standards and criteria for a buffer area as that term is used in relation to the inventory of solid waste disposal sites in section 473.149, subdivision 2b, and other related state law. The definition of buffer area must ensure, at a minimum, protection of surrounding land uses from adverse or incompatible impacts due to landfill operation and related activities.

Sec. 70. CLOSED MUNICIPAL LANDFILLS; FINANCIAL ASSURANCE AND CLOSURE REQUIREMENTS.

A mixed municipal solid waste disposal facility that is open to the public and stops accepting waste before July 1, 1990, is exempt from Minnesota Rules, parts 7035.2665 to 7035.2805, relating to financial assurance requirements.

A mixed municipal solid waste disposal facility that is open to the public and is not permitted by the pollution control agency may close under agency rules that were in effect before November 14, 1988, if the facility does not accept solid waste after May 14, 1990, and completes closure activities as approved by the agency before November 14, 1990.

This section does not eliminate public owner or operator responsibility and liability for closure or postclosure care required of facilities under Minnesota Statutes, section 116.07 and the rules promulgated under it.

The pollution control agency shall study additional alternatives within the financial assurance requirements in Minnesota Rules, parts 7035.2665 to 7035.2805, and report to the legislative commission on waste management by January 1, 1990.

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Sec. 71. INTERIM PERMITTING AND USE REQUIREMENTS FOR COMBUSTION OF REFUSE DERIVED FUEL.

Subdivision 1. DEFINITIONS. (a) The definitions in this subdivision apply to this section.

(b) "Refuse derived fuel" means a product resulting from the processing of mixed municipal solid waste in a manner that reduces the quantity of noncombustible material present in the waste, reduces the size of waste components through shredding or other mechanical means, and produces a fuel suitable for combustion in existing or new solid fuel fired boilers.

(c) "Solid fuel fired boiler" means a device that is designed to combust solid fuel, including but not limited to: wood, coal, biomass, or lignite to produce steam or heat water.

(d) "Minor physical or operational modifications" means physical or operational changes that do not increase the rated energy production capacity of a solid fuel fired boiler and which do not involve capital costs in excess of 20 percent of a new solid fuel fired boiler having the same rated capacity.

Subd. 2. INTERIM PERMITTING AND USE OF REFUSE DERIVED FUEL. (a) The provisions in this subdivision are applicable to the permitting and use of refuse derived fuel in solid fuel fired boilers for an interim period that expires on occurrence of the earliest of the following events:

(1) final promulgation of rules by the United States Environmental Protection Agency establishing new permitting, emissions or performance requirements for municipal waste combustion facilities;

(2) final promulgation of rules by the pollution control agency establishing new standards of performance for incinerators or solid waste energy recovery facilities; or

(3) June 30, 1991.

(b) Existing or new solid fuel fired boilers may utilize refuse derived fuel for up to 25 percent of their rated heat input capacity during the interim period under the following conditions:

(1) utilization of refuse derived fuel involves no modification or only minor modification to the solid fuel fired boiler;

(2) utilization of refuse derived fuel does not cause a violation of existing emissions limitations or ambient air quality standards applicable to the solid fuel fired boiler; and

(3) the solid fuel fired boiler has a valid permit to operate.

Sec. 72. ASH DEMONSTRATION PROJECTS.

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Subdivision 1. SEWAGE SLUDGE ASH DEMONSTRATION PROJECT.

The metropolitan waste control commission and the commissioner of transportation shall jointly conduct one or more demonstration projects to determine the long-term potential and effects of the use of sewage sludge ash generated by the commission as a fine aggregate in asphalt for use in state paving projects. The metropolitan waste control commission and the commissioners of transportation and the pollution control agency shall assess the practicality, costs, and potential environmental effects of use of the ash in asphalt and shall report to the legislative commission on waste management by November 1, 1990. The report must include a description of the projects undertaken, findings, and recommendations for further research needs and the future use of ash in asphalt.

Subd. 2. SOLID WASTE ASH PROJECT; REPORT. The Hennepin county board and the commissioner of transportation shall jointly conduct a demonstration project to determine the long-term potential and effects of using solid waste ash as an aggregate in asphalt for use in road projects. The commissioners of transportation and the pollution control agency shall assess the practicality, costs, and potential effects of the use of the ash in asphalt and shall submit a report to the legislative commission on waste management by May 1, 1990. The report must include a description of the projects undertaken, findings, and recommendations for the future research needs and future use of ash in asphalt.

Subd. 3. INDEMNIFICATION. The state, through the general fund, assumes any and all liability related to the projects authorized in this section that is imposed on the metropolitan waste control commission, the commissioner of transportation, the county of Hennepin, and their employees, agents, and contractors, if the liability is based on classification of the ash as hazardous waste or a pollutant or contaminant under state or federal law. The state assumes the liability only if:

(1) the project is conducted in compliance with a permit issued by the pollution control agency; and

(2) if the entity held liable used due care in implementing the project.

The commissioner of transportation and the commissioner's agents and contractors are not responsible parties under chapters 115 and 115B for a release that occurs as a result of a project authorized by this section.

Sec. 73. COLLECTOR COMPENSATION REPORT.

The legislative commission on waste management with the participation of representatives of local government and of the solid waste collection industry shall prepare a report which examines whether and under what circumstances a local unit of government shall ensure just and reasonable compensation to solid waste collectors who are displaced when a local unit of government organizes solid waste collection under Minnesota Statutes, section 115A.94. The commission shall complete its report and recommend for legislative action any compensation mechanism found necessary by January 31, 1990.

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Sec. 74. EVALUATION OF GREATER MINNESOTA LANDFILL CLEANUP FUND.

The legislative commission on waste management shall evaluate the effectiveness of the greater Minnesota landfill cleanup fund and the fees deposited in the fund to meet the needs for closure and post-closure care and provide recommendations for any legislative changes regarding the fee or the fund.

Sec. 75. USE OF GREATER MINNESOTA LANDFILL CLEANUP FEE UNTIL JULY 1, 1990.

Notwithstanding section 21, subdivisions 2 and 3, and section 22, the entire amount of the fee imposed under section 21, subdivision 1, until July 1, 1990, shall be paid by the operator of facilities to the county where the facilities are located. The fees received by the counties may be spent only as provided in Minnesota Statutes, section 115A.919.

Sec. 76. APPROPRIATION.

\$10,000 is appropriated for fiscal year 1990 from the general fund for the purposes of section 73.

Sec. 77. REPEALER.

Minnesota Statutes 1988, sections 115A.98 and 115B.29, subdivision 2, are repealed.

Sec. 78. INSTRUCTION TO REVISOR.

The revisor of statutes is directed to change the words "hazardous substance" whenever they appear in Minnesota Statutes 1988, sections 13.771 and 115B.28 to 115B.33, to "harmful substance" in the 1990 edition of Minnesota Statutes and subsequent editions to the statutes.

Sec. 79. EFFECTIVE DATE; APPLICATION.

Section 6 is effective January 1, 1990.

Sections 20 and 22 to 25 are effective August 1, 1989.

Section 21 is effective January 1, 1990.

Section 8 is effective August 1, 1990.

Section 28 is effective June 30, 1989.

Sections 29 and 50 are effective the day following final enactment and apply to all response actions initiated or pending on or after that date.

Section 31 is effective the day following final enactment and section 31, paragraph (1), applies to expenditures resulting from emergencies that occur after January 1, 1988.

Sections 51 to 66 apply in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington and are effective August 1, 1989; except sections 60 to 63 are effective January 1, 1990; and section 59 is effective the day following final enactment.

Section 69 is effective the day following final enactment.

Presented to the governor May 30, 1989

Signed by the governor June 1, 1989, 11:49 p.m.

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