

## CHAPTER 593—S.F.No. 2199

*An act relating to waste management; defining postconsumer material; emphasizing and clarifying waste reduction; setting requirements for use of labels on products and packages indicating recycled content; authorizing the director of the office of waste management to establish rules for reporting waste statistics; setting a goal for reduction of packaging in the waste stream; amending provisions related to designation of waste; strengthening the requirement for pricing of waste collection based on volume or weight of waste collected; requiring recycled content in and recyclability of telephone directories and requiring recycling of waste directories; changing provisions relating to financial responsibility requirements and low-level radioactive waste; prohibiting the use of petroleum-based sweeping compound products; requiring labeling of rechargeable batteries; prohibiting the imposition of fees on the generation of certain hazardous wastes that are reused or recycled; requiring studies on automobile waste, degradable packing material, construction debris, and used motor oil; and making various other amendments and additions related to solid waste management; providing for the Minnesota hazardous materials incident response act; appropriating money; amending Minnesota Statutes 1990, sections 16B.121; 115A.03, subdivision 36a, and by adding subdivisions; 115A.07, by adding a subdivision; 115A.32; 115A.551, subdivision 5; 115A.557, subdivision 3; 115A.63, subdivision 3; 115A.81, subdivision 2; 115A.87; 115A.93, by adding a subdivision; 115A.981; 116.12, subdivision 2; 325E.125, subdivision 1; 400.08, subdivisions 4 and 5; 400.161; 473.811, subdivision 5b; and 473.844, subdivision 4; Minnesota Statutes 1991 Supplement, sections 16B.122, subdivision 2; 115A.02; 115A.15, subdivision 9; 115A.411, subdivision 1; 115A.551, subdivisions 2a and 4; 115A.83; 115A.9157, subdivisions 4 and 5; 115A.93, subdivision 3; 115A.931; 115E.04, subdivision 2; 116.07, subdivision 4h; 116.90; 116C.852; and 473.849; Laws 1990, chapter 600, section 7; Laws 1991, chapter 337, section 90; proposing coding for new law in Minnesota Statutes, chapters 16B; 115A; 221; 299A; 299K; and 325E.*

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

## ARTICLE 1

Section 1. Minnesota Statutes 1990, section 16B.121, is amended to read:

**16B.121 PURCHASE OF RECYCLED, REPAIRABLE, AND DURABLE MATERIALS.**

The commissioner shall take the recycled content and recyclability of commodities to be purchased into consideration in bid specifications. ~~The commissioner shall apply weighting factors to the recycled content and recyclability criteria in order to give a preferential treatment to those criteria. State agencies shall purchase recycled materials when specifications allow the practical use of the recycled materials and the price does not exceed the price of nonrecycled materials by more than ten percent. If possible, state agencies should purchase materials recycled from waste generated in this state. When feasible and when the price of recycled materials does not exceed the price of nonrecycled materi-~~

New language is indicated by underline, deletions by ~~strikeout~~.

als by more than ten percent, the commissioner, and state agencies when purchasing under delegated authority, shall purchase recycled materials. In order to maximize the quantity and quality of recycled materials purchased, the commissioner, and state agencies when purchasing under delegated authority, may also use other appropriate procedures to acquire recycled materials at the most economical cost to the state.

When purchasing commodities and services, the commissioner, and state agencies when purchasing under delegated authority, shall apply and promote the preferred waste management practices listed in section 115A.02, with special emphasis on reduction of the quantity and toxicity of materials in waste. The commissioner, and state agencies when purchasing under delegated authority, in developing bid specifications, shall consider the extent to which a commodity or product is durable, reusable, or recyclable and marketable through the state resource recovery program.

Sec. 2. Minnesota Statutes 1991 Supplement, section 16B.122, subdivision 2, is amended to read:

Subd. 2. **PURCHASES; PRINTING.** (a) Whenever practicable, a public entity shall:

- (1) purchase uncoated office paper and printing paper;
  - (2) purchase recycled content paper with at least ten percent postconsumer material by weight;
  - (3) purchase paper which has not been dyed with colors, excluding pastel colors;
  - (4) purchase recycled content paper that is manufactured using little or no chlorine bleach or chlorine derivatives;
  - (5) use no more than two colored inks, standard or processed, except in formats where they are necessary to convey meaning;
  - (6) use reusable binding materials or staples and bind documents by methods that do not use glue;
  - (7) use soy-based inks; and
  - (8) produce reports, publications, and periodicals that are readily recyclable within the state ~~resources~~ resource recovery program.
- (b) Paragraph (a), clause (1), does not apply to coated paper that is made with at least 50 percent fiber that has been recycled after use by a consumer postconsumer material.

(c) A public entity shall print documents on both sides of the paper where commonly accepted publishing practices allow.

New language is indicated by underline, deletions by ~~strikeout~~.

**Sec. 3. [16B.123] PACKING MATERIALS.**

Whenever technically feasible, a public entity shall purchase and use degradable loose foam packing material manufactured from vegetable starches or other renewable resources, unless the cost of the packing material is more than ten percent greater than the cost of packing material made from nonrenewable resources. For the purposes of this section, "packing material" means loose foam material, other than an exterior packaging shell, that is used to stabilize, protect, cushion, or brace the contents of a package.

Sec. 4. Minnesota Statutes 1991 Supplement, section 115A.02, is amended to read:

**115A.02 LEGISLATIVE DECLARATION OF POLICY; PURPOSES.**

(a) It is the goal of this chapter to improve waste management in the state to serve the following purposes:

- (1) Reduction in the amount and toxicity of waste generated;
- (2) Separation and recovery of materials and energy from waste;
- (3) Reduction in indiscriminate dependence on disposal of waste;
- (4) Coordination of solid waste management among political subdivisions;  
and
- (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;
- (2) waste recycling;
- (3) composting of yard waste and food waste;
- (4) resource recovery through mixed municipal solid waste composting or incineration; and
- (5) land disposal.

Sec. 5. Minnesota Statutes 1990, section 115A.03, is amended by adding a subdivision to read:

Subd. 6a. COMMISSIONER. "Commissioner" means the commissioner of the pollution control agency.

Sec. 6. Minnesota Statutes 1990, section 115A.03, is amended by adding a subdivision to read:

New language is indicated by underline, deletions by ~~strikeout~~.

**Subd. 24b. POSTCONSUMER MATERIAL.** “Postconsumer material” means a finished material that would normally be discarded as a solid waste having completed its life cycle as a consumer item.

Sec. 7. Minnesota Statutes 1990, section 115A.03, subdivision 36a, is amended to read:

**Subd. 36a. WASTE REDUCTION; SOURCE REDUCTION.** “Waste reduction” or “source reduction” means an activity that prevents generation of waste or the inclusion of toxic materials in waste, including:

- (1) reusing a product in its original form;
- (2) increasing the life span of a product;
- (3) reducing material or the toxicity of material used in production or packaging; or
- (4) changing procurement, consumption, or waste generation habits to result in smaller quantities or lower toxicity of waste generated.

Sec. 8. **[115A.034] ENFORCEMENT.**

Chapter 115A may be enforced under section 116.072.

Sec. 9. Minnesota Statutes 1990, section 115A.07, is amended by adding a subdivision to read:

**Subd. 3. UNIFORM WASTE STATISTICS; RULES.** The director, after consulting with the commissioner, the metropolitan council, local government units, and other interested persons, may adopt rules to establish uniform methods for collecting and reporting waste reduction, generation, collection, transportation, storage, recycling, processing, and disposal statistics necessary for proper waste management and for reporting required by law. Prior to publishing proposed rules, the director shall submit draft rules to the legislative commission on waste management for review and comment. Rules adopted under this subdivision apply to all persons and units of government in the state for the purpose of collecting and reporting waste-related statistics requested under or required by law.

Sec. 10. Minnesota Statutes 1991 Supplement, section 115A.15, subdivision 9, is amended to read:

**Subd. 9. RECYCLING GOAL.** By December 31, 1993, the commissioner shall recycle at least 40 percent by weight of the solid waste generated by state offices and other state operations located in the metropolitan area. By ~~August~~ March 1 of each year the commissioner shall report to the office and the metropolitan council the estimated recycling rates by county for state offices and other state operations in the metropolitan area for the previous ~~fiscal~~ calendar year. The office shall incorporate these figures into the reports submitted by the coun-

New language is indicated by underline, deletions by ~~strikeout~~.

ties under section 115A.557, subdivision 3, to determine each county's progress toward the goal in section 115A.551, subdivision 2.

Each state agency in the metropolitan area shall work to meet the recycling goal individually. If the goal is not met by an agency, the commissioner shall notify that agency that the goal has not been met and the reasons the goal has not been met and shall provide information to the employees in the agency regarding recycling opportunities and expectations.

Sec. 11. Minnesota Statutes 1990, section 115A.32, is amended to read:

#### 115A.32 RULES.

The ~~office~~ board shall promulgate rules pursuant to chapter 14 to govern its activities under sections 115A.32 to 115A.39. For the purposes of sections 115A.32 to 115A.39, "board" means the environmental quality board established in section 116C.03. In all of its activities and deliberations under sections 115A.32 to 115A.39, the board shall consult with the director of the office of waste management.

Sec. 12. Minnesota Statutes 1991 Supplement, section 115A.411, subdivision 1, is amended to read:

Subdivision 1. **AUTHORITY; PURPOSE.** The director with assistance from the commissioner shall prepare and adopt a report on solid waste management policy excluding the metropolitan area. The report must be submitted by the director to the legislative commission on waste management by ~~November 15~~ July 1 of each even-numbered year and may include reports required under sections 115A.551, subdivision 4, and 115A.557, subdivision 4.

#### Sec. 13. ~~[115A.5501]~~ REDUCTION OF PACKAGING IN WASTE.

Subdivision 1. STATEWIDE WASTE PACKAGING REDUCTION GOAL. It is the goal of the state that there be a minimum 25 percent statewide per capita reduction in the amount of discarded packaging delivered to solid waste composting, incineration, refuse derived fuel and disposal facilities by December 31, 1995, based on a reasonable estimate of the amount of packaging that was delivered to solid waste composting, incineration, and disposal facilities in calendar year 1992.

Subd. 2. MEASUREMENT; PROCEDURES. To measure the overall percentage of packaging in the statewide solid waste stream, the commissioner and the chair of the metropolitan council, in consultation with the director, shall each conduct an annual four-season solid waste composition study in the non-metropolitan and metropolitan areas respectively or shall develop an alternative method that is as statistically reliable as a waste composition study to measure the percentage of packaging in the waste stream.

Beginning in 1993, the chair of the council shall submit the results from the metropolitan area to the commissioner by March 1 of each year. The commissioner shall average the nonmetropolitan and metropolitan results and submit

New language is indicated by underline, deletions by ~~strikeout~~.

the statewide percentage, along with a statistically reliable margin of error, to the director by April 1 of each year. The director shall report the information to the legislative commission on waste management by July 1 of each year.

Subd. 3. FACILITY COOPERATION AND REPORTS. The owner or operator of a solid waste composting, incineration, refuse derived fuel or disposal facility shall allow access upon reasonable notice to authorized office, agency, or metropolitan council staff for the purpose of conducting waste composition studies or otherwise assessing the amount of total packaging in the waste delivered to the facility under this section.

Beginning in 1993, by February 1 of each year the owner or operator of a facility governed by this subdivision shall submit a report to the commissioner, on a form prescribed by the commissioner, information specifying the total amount of solid waste received by the facility between January 1 and December 31 of the previous year. The commissioner shall calculate the total amount of solid waste delivered to solid waste facilities from the reports received from the facility owners or operators and shall report the aggregate amount to the director by April 1 of each year. The commissioner shall assess a nonforgivable administrative penalty under section 116.072 of \$500 plus any forgivable amount necessary to enforce this subdivision on any owner or operator who fails to submit a report required by this subdivision.

Subd. 4. REPORT. The director shall apply the statewide percentage determined under subdivision 2 to the aggregate amount of solid waste determined under subdivision 3 to determine the amount of packaging in the waste stream. By July 1, 1996, the director shall submit to the legislative commission on waste management an analysis of the extent to which the waste packaging reduction goal in subdivision 1 has been met. In determining whether the goal has been met, the margin of error must be applied in favor of meeting the goal.

Sec. 14. Minnesota Statutes 1991 Supplement, section 115A.551, subdivision 2a, is amended to read:

Subd. 2a. **SUPPLEMENTARY RECYCLING GOALS.** By ~~July~~ December 31, 1996, each county will have as a goal to recycle the following amounts:

(1) for a county outside of the metropolitan area, 30 percent by weight of total solid waste generation;

(2) for a metropolitan county, 45 percent by weight of total solid waste generation.

Each county will develop and implement or require political subdivisions within the county to develop and implement programs, practices, or methods designed to meet its recycling goal. Nothing in this section or in any other law may be construed to prohibit a county from establishing a higher recycling goal. For the purposes of this subdivision "recycle" and "total solid waste generation" has have the meaning meanings given it them in subdivision 1, except that ~~it does not include~~ neither includes yard waste.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 15. Minnesota Statutes 1991 Supplement, section 115A.551, subdivision 4, is amended to read:

Subd. 4. **INTERIM MONITORING.** The office, for counties outside of the metropolitan area, and the metropolitan council, for counties within the metropolitan area, shall monitor the progress of each county toward meeting the recycling ~~goal goals~~ goals in ~~subdivision subdivisions 2 and 2a~~ subdivisions 2 and 2a and shall report to the legislative commission on waste management on the progress of the counties by November 15 of each year. If the office or the council finds that a county is not progressing toward the ~~goal goals~~ goals in ~~subdivision subdivisions 2 and 2a~~ subdivisions 2 and 2a, it shall negotiate with the county to develop and implement solid waste management techniques designed to assist the county in meeting the ~~goal goals~~ goals, such as organized collection, curbside collection of source-separated materials, and volume-based pricing.

In even-numbered years the progress report may be included in the solid waste management policy report required under section 115A.411.

Sec. 16. Minnesota Statutes 1990, section 115A.551, subdivision 5, is amended to read:

Subd. 5. **FAILURE TO MEET GOAL.** (a) A county failing to meet the interim goals in subdivision 3 shall, as a minimum:

(1) notify county residents of the failure to achieve the goal and why the goal was not achieved; and

(2) provide county residents with information on recycling programs offered by the county.

(b) If, based on the recycling monitoring described in subdivision 4, the office or the metropolitan council finds that a county will be unable to meet the recycling ~~goal goals~~ goals established in ~~subdivision subdivisions 2 and 2a~~ subdivisions 2 and 2a, the office or council shall, after consideration of the reasons for the county's inability to meet the ~~goal goals~~ goals, recommend legislation for consideration by the legislative commission on waste management to establish mandatory recycling standards and to authorize the office or council to mandate appropriate solid waste management techniques designed to meet the standards in those counties that are unable to meet the ~~goal goals~~ goals.

Sec. 17. Minnesota Statutes 1990, section 115A.557, subdivision 3, is amended to read:

Subd. 3. **ELIGIBILITY TO RECEIVE MONEY.** (a) To be eligible to receive money distributed by the office under this section, a county shall within one year of October 4, 1989:

(1) create a separate account in its general fund to credit the money; and

(2) set up accounting procedures to ensure that money in the separate account is spent only for the purposes in subdivision 2.

New language is indicated by underline, deletions by ~~strikeout~~.

(b) In each following year, each county shall also:

(1) have in place an approved solid waste management plan or master plan including a recycling implementation strategy under section 115A.551, subdivision 7, or 473.803, subdivision 1e, and a household hazardous waste management plan under section 115A.96, subdivision 6, by the dates specified in those provisions;

(2) submit a report by ~~August~~ March 1 of each year to the office detailing how the money was spent and the resulting gains achieved in solid waste management practices during the previous ~~fiscal~~ calendar year; and

(3) provide evidence to the office that local revenue equal to 25 percent of the money sought for distribution under this section will be spent for the purposes in subdivision 2.

(c) The office shall withhold all or part of the funds to be distributed to a county under this section if the county fails to comply with this subdivision and subdivision 2.

Sec. 18. **[115A.56] RECYCLED CONTENT; LABELS.**

A person may not label or otherwise indicate on a product or package for sale or distribution that the product or package contains recycled material unless the label or other indication states the minimum percentage of postconsumer material in the product or package:

(1) by weight for a finished nonpaper product or package; and

(2) by fiber content for a finished paper product or package.

For the purposes of this section "product" includes advertising materials and campaign material as defined in section 211B.01, subdivision 2.

Sec. 19. Minnesota Statutes 1990, section 115A.63, subdivision 3, is amended to read:

Subd. 3. **RESTRICTIONS.** No waste district shall be established within the boundaries of the Western Lake Superior Sanitary District established by Laws 1971, chapter 478, as amended. No waste district shall be established wholly within one county. The ~~office~~ director shall not establish a waste district within or extending into the metropolitan area, nor define or alter the powers or boundaries of a district, without the approval of the metropolitan council. The council shall not approve a district unless the articles of incorporation of the district require that the district will have the same procedural and substantive responsibilities, duties, and relationship to the metropolitan agencies as a metropolitan county. ~~The office shall not establish a district unless the petitioners demonstrate that they are unable to fulfill the purposes of a district through joint action under section 471.59.~~ The office director shall require the completion of a comprehensive solid waste management plan conforming to the requirements of section 115A.46, by petitioners seeking to establish a district.

New language is indicated by underline, deletions by ~~strikeout~~.



Sec. 20. Minnesota Statutes 1990, 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~~ solid waste that is generated within its boundaries or any service area thereof be delivered to a processing or disposal facility identified by the district or county.

Sec. 21. Minnesota Statutes 1991 Supplement, section 115A.83, is amended to read:

**115A.83 ~~EXEMPTION~~ WASTES SUBJECT TO DESIGNATION;  
EXEMPTIONS.**

Subdivision 1. APPLICATION. Designation applies to the following wastes:

(1) mixed municipal solid waste; and

(2) other solid waste that prior to final processing or disposal:

(i) is not managed as a separate waste stream; or

(ii) is managed as a separate waste stream using a waste management practice that is ranked lower on the list of waste management practices in section 115A.02, paragraph (b), than the primary waste management practice that would be used on the waste at the designated facility.

Subd. 2. EXEMPTION. The designation may not apply to or include:

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

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

(3) materials that are separated at a permitted transfer station located within the boundaries of the designating authority for the purpose of recycling the materials if: (i) the transfer station was in operation on January 1, 1991; or (ii) the materials were not being separated for recycling at the designated facility at the time the transfer station began separation of the materials; or

(4) recyclable materials that are being recycled, and residuals from recycling if there is at least an 85 percent volume reduction in the solid waste processed at the recycling facility and the residuals are managed as separate waste streams.

For the purposes of this section, "manufacturing processes" does not include the treatment of waste after collection for the purpose of composting.

The exemptions in this section apply to only those materials separated from ~~mixed municipal~~ solid waste that are managed in a manner that is preferred over the primary management method of the designated facility under section 115A.02, paragraph (b).

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 22. Minnesota Statutes 1990, section 115A.87, is amended to read:

**115A.87 JUDICIAL REVIEW.**

An action challenging a designation must be brought within 60 days of the approval of the designation by the reviewing authority. The action is subject to section 562.02.

In any action challenging a designation ordinance or the implementation of a designation ordinance, the person bringing the challenge shall notify the attorney general. The attorney general may intervene in any administrative or court action to represent the state's interest in designation of solid waste.

Sec. 23. Minnesota Statutes 1991 Supplement, section 115A.9157, subdivision 4, is amended to read:

Subd. 4. **PILOT PROJECTS.** By April 15, 1992, manufacturers whose rechargeable batteries or products powered by ~~nonremovable~~ rechargeable batteries are sold in this state shall implement pilot projects for the collection and proper management of all rechargeable batteries and the participating manufacturers' products powered by nonremovable rechargeable batteries. Manufacturers may act as a group or through a representative organization. The pilot projects must run for a minimum of 18 months and be designed to collect sufficient statewide data for the design and implementation of permanent collection and management programs that may be reasonably expected to collect at least 90 percent of waste rechargeable batteries and the participating manufacturers' products powered by rechargeable batteries that are generated in the state.

By December 1, 1991, the manufacturers or their representative organization shall submit plans for the projects to the legislative commission. At least every six months during the pilot projects the manufacturers shall submit progress reports to the commission. The commission shall review the plans and progress reports.

By November 1, 1993, the manufacturers or their representative organization shall report to the legislative commission the final results of the projects and plans for implementation of permanent programs. The commission shall review the final results and plans.

Sec. 24. Minnesota Statutes 1991 Supplement, section 115A.9157, subdivision 5, is amended to read:

Subd. 5. **COLLECTION AND MANAGEMENT PROGRAMS.** By April 15, 1994, the manufacturers or their representative organization shall implement permanent programs, based on the results of the pilot projects required in subdivision ~~3~~ 4, that may be reasonably expected to collect 90 percent of the waste rechargeable batteries and the participating manufacturers' products powered by rechargeable batteries that are generated in the state. The batteries and products collected must be recycled or otherwise managed or disposed of properly.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 25. Minnesota Statutes 1991 Supplement, section 115A.93, subdivision 3, is amended to read:

Subd. 3. **LICENSE REQUIREMENTS; PRICING BASED ON VOLUME OR WEIGHT.** (a) A licensing authority shall require ~~that licensees to impose~~ charges for collection of mixed municipal solid waste ~~vary that increase~~ with the volume or weight of the waste collected.

(b) A licensing authority may impose requirements that are consistent with the county's solid waste policies as a condition of receiving and maintaining a license.

(c) A licensing authority shall prohibit mixed municipal solid waste collectors from imposing a greater charge on residents who recycle than on residents who do not recycle.

Sec. 26. Minnesota Statutes 1990, section 115A.93, is amended by adding a subdivision to read:

**Subd. 3a. VOLUME REQUIREMENT.** A licensing authority that requires a pricing system based on volume instead of weight under subdivision 3 shall determine a base unit size for an average small quantity household generator and establish, or require the licensee to establish, a multiple unit pricing system that ensures that amounts of waste generated in excess of the base unit amount are priced higher than the base unit price.

Sec. 27. **[115A.9301] SOLID WASTE COLLECTION; VOLUME- OR WEIGHT-BASED PRICING.**

**Subdivision 1. REQUIREMENT.** A local government unit that collects charges for solid waste collection directly from waste generators shall implement charges that increase as the volume or weight of the waste collected on-site from each generator's residence or place of business increases.

**Subd. 2. VOLUME REQUIREMENT.** If a local government unit implements a pricing system based on volume instead of weight under subdivision 1, it shall determine a base unit size for an average small quantity household generator and establish a multiple unit pricing system that ensures that amounts of waste generated in excess of the base unit amount are priced higher than the base unit price.

Sec. 28. Minnesota Statutes 1991 Supplement, section 115A.931, is amended to read:

**115A.931 YARD WASTE PROHIBITION.**

(a) Except as authorized by the agency, in the metropolitan area after January 1, 1990, and outside the metropolitan area after January 1, 1992, a person may not place yard waste:

New language is indicated by underline, deletions by ~~strikeout~~.

- (1) in mixed municipal solid waste;
  - (2) in a disposal facility; or
  - (3) in a resource recovery facility except for the purposes of reuse, composting, or co-composting.
- (b) Yard waste subject to this subdivision ~~is~~ includes garden wastes, leaves, lawn cuttings, weeds, shrub and tree waste, and prunings.

Sec. 29. [115A.951] TELEPHONE DIRECTORIES.

Subdivision 1. DEFINITION. For the purposes of this section, a "telephone directory" means a printed list of residential, governmental, or commercial telephone service subscribers or users, or a combination of subscribers or users, that contains more than 7,500 listings and is distributed to the subscribers or users.

Subd. 2. PROHIBITION. A person may not place a telephone directory:

- (1) in solid waste;
- (2) in a disposal facility; or
- (3) in a resource recovery facility, except a recycling facility.

Subd. 3. RECYCLABILITY. A person may not distribute a telephone directory to any person in this state unless the telephone directory:

- (1) is printed on paper that is recyclable;
- (2) is printed with inks that contain no heavy metals or other toxic materials; and
- (3) is bound with materials that pose no unreasonable barriers to recycling of the directory.

Subd. 4. COLLECTION OF USED DIRECTORIES. Each publisher or distributor of telephone directories shall:

- (1) provide for the collection and delivery to a recycler of waste telephone directories;
- (2) inform recipients of directories of the collection system; and
- (3) submit a report to the office of waste management by August 1 of each year that specifies the percentage of distributed directories collected as waste directories by distribution area and the locations where the waste directories were delivered for recycling and that verifies that the directories have been recycled.

Sec. 30. Minnesota Statutes 1990, section 115A.981, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

**115A.981 SOLID WASTE DISPOSAL FACILITIES ANNUAL REPORTING MANAGEMENT; ECONOMIC STATUS AND OUTLOOK.**

Subdivision 1. **RECORD KEEPING 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:~~

~~(1) shall submit an annual report to the agency under section 115A.32; commissioner that includes:~~

~~(2) (1) annually certify a certification that it the owner or operator 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 specification of the financial assurance mechanism used, including the amount paid in or assured during the past year and the total amount of financial assurance accumulated to date; and~~

~~(3) (2) file a fee schedule with the agency with the annual report.~~

~~(b) The fee schedule must list of fees charged by the facility for waste management, including all tipping fees, rates, charges, surcharges, and any other fees charged by to each classification of customer.~~

~~(b) 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 commissioner.~~

Subd. 3. **AGENCY REPORT.** (a) The agency commissioner shall report to the legislative commission on waste management by July 1 of each odd-numbered year on the viability economic status and outlook of the state's solid waste processing and disposal capability; the status of competitive forces in the market including recycling, composting, waste reduction and incineration; management sector including:

(1) an estimate of the extent to which existing fees prices for services are sufficient for facility development, engineering, solid waste management paid by consumers reflect costs related to environmental and safety factors; the progress of the industry in meeting the state's waste management goals; public health protection, including a discussion of how prices are publicly and privately subsidized and how identified costs of waste management are not reflected in the prices;

(2) a discussion of how the market structure for solid waste management influences prices, considering:

(i) changes in the solid waste management market structure;

New language is indicated by underline, deletions by ~~strikeout~~.

(ii) the relationship between public and private involvement in the market; and

(iii) the effect on market structures of waste management laws and rules; and

(3) any recommendations for regulations strengthening or improving the market structure for solid waste management to ensure protection of human health and the environment, taking into account the preferred waste management practices listed in section 115A.02 and considering the experiences of other states.

(b) In preparing the report, the agency commissioner shall:

(1) consult with the director; the metropolitan council; local government units; solid waste collectors, transporters, and processors; owners and operators of solid waste disposal facilities; and other interested persons;

(2) consider information received under subdivision 2; and

(3) analyze information gathered and comments received relating to the most recent solid waste management policy report prepared under section 115A.411.

The commissioner shall also recommend any legislation necessary to ensure adequate and reliable information needed for preparation of the report.

(c) If an action recommended by the commissioner under paragraph (a) would significantly affect the solid waste management market structure, the commissioner shall, in consultation with the entities listed in paragraph (b), clause (1), prepare and include in the report an analysis of the potential impacts and effectiveness of the action, including impacts on:

(1) the public and private waste management sectors;

(2) future innovation and responsiveness to new approaches to solid waste management; and

(3) the costs of waste management.

(d) The report must also include:

(1) statewide and facility by facility estimates of the total potential costs and liabilities associated with solid waste disposal facilities for closure and postclosure care, response costs under chapter 115B, and any other potential costs, liabilities, or financial responsibilities;

(2) statewide and facility by facility requirements for proof of financial responsibility under section 116.07, subdivision 4h; and

(3) an annual update addressing how each facility is meeting its financial responsibility under section 116.07, subdivision 4h, and how each facility is meeting those requirements.

New language is indicated by underline, deletions by strikeout.

Sec. 31. Minnesota Statutes 1991 Supplement, section 116.07, subdivision 4h, is amended to read:

Subd. 4h. **FINANCIAL RESPONSIBILITY RULES.** (a) The agency shall adopt rules requiring the operator or owner of a solid waste disposal facility to submit to the agency proof of the operator's or owner's financial capability to provide reasonable and necessary response during the operating life of the facility and for 20 years after closure, and to provide for the closure of the facility and postclosure care required under agency rules. Proof of financial responsibility is required of the operator or owner of a facility receiving an original permit or a permit for expansion after adoption of the rules. Within 180 days of the effective date of the rules or by July 1, 1987, whichever is later, proof of financial responsibility is required of an operator or owner of a facility with a remaining capacity of more than five years or 500,000 cubic yards that is in operation at the time the rules are adopted. Compliance with the rules and the requirements of paragraph (b) is a condition of obtaining or retaining a permit to operate the facility.

(b) ~~The agency shall amend the rules adopted under paragraph (a) to allow~~ A municipality, as defined in section 475.51, subdivision 2, including a sanitary district, that owns or operates a solid waste disposal facility that was in operation on May 15, 1989, ~~to may~~ meet its financial responsibility for all or a portion of the contingency action portion of the reasonable and necessary response costs at the facility ~~through its authority to issue bonds, provided that the method developed in the rules will ensure that when funds are needed for a contingency action, sufficient bonds can and will be issued by the municipality by pledging its full faith and credit~~ to meet its responsibility.

The rules must include at least The pledge must be made in accordance with the requirements in chapter 475 for issuing bonds of the municipality, and the following additional requirements:

(1) ~~a requirement that~~ The governing body of the municipality shall enact an ordinance that clearly accepts responsibility for the costs of contingency action at the facility and that reserves, during the operating life of the facility and for 20 years after closure, a portion of the debt limit of the municipality, as established under section 475.53 or other law, that is equal to the total contingency action costs ~~calculated under the rules.~~

(2) ~~a requirement that~~ The municipality assure shall require that all collectors that haul to the facility implement a plan for reducing solid waste by using volume-based pricing, recycling incentives, or other means.

(3) ~~a requirement that~~ When a municipality opts ~~under the rules~~ to meet a portion of its financial responsibility by relying on its authority to issue bonds, it shall also begin setting aside ~~funds~~ in a dedicated long-term care trust fund money that will cover a portion of the potential contingency action costs at the facility, the amount to be determined by the agency for each facility based on at least the amount of waste deposited in the disposal facility each year, and the

New language is indicated by underline, deletions by ~~strikeout~~.

likelihood and potential timing of conditions arising at the facility that will necessitate response action; ~~and~~. The agency may not require a municipality to set aside more than five percent of the total cost in a single year.

(4) ~~a requirement that~~ A municipality shall have and consistently maintain an investment grade bond rating as a condition of using bonding authority to meet financial responsibility under this section.

(5) The municipality shall file with the commissioner of revenue its consent to have the amount of its contingency action costs deducted from state aid payments otherwise due the municipality and paid instead to the environmental response, compensation, and compliance account created in section 115B.20, if the municipality fails to conduct the contingency action at the facility when ordered by the agency. If the agency notifies the commissioner that the municipality has failed to conduct contingency action when ordered by the agency, the commissioner shall deduct the amounts indicated by the agency from the state aids in accordance with the consent filed with the commissioner.

(6) The municipality shall file with the agency written proof that it has complied with the requirements of paragraph (b).

(c) ~~Counties shall comply with existing financial responsibility rules until those rules are amended under paragraph (b), and, after that time, counties shall comply with the amended rules.~~ The method for proving financial responsibility developed under paragraph (b) may not be applied to a new solid waste disposal facility or to expansion of an existing facility, unless the expansion is a vertical expansion. Vertical expansions of qualifying existing facilities cannot be permitted for a duration of longer than three years.

Sec. 32. Minnesota Statutes 1990, section 116.12, subdivision 2, is amended to read:

Subd. 2. **HAZARDOUS WASTE GENERATOR FEE.** (a) Each generator of hazardous waste shall pay a fee on the hazardous waste generated by that generator. The agency shall compute the amount of the fee due based on the hazardous waste disclosures submitted by the generators and other information available to the agency. The agency shall annually prepare a statement of the amount of the fee due from each generator. The fee shall be paid annually commencing with the first day of the calendar quarter after the date of the statement.

(b) The agency may exempt generators of small quantities of hazardous wastes otherwise subject to the fee if it finds that the cost of administering a fee on those generators is excessive relative to the proceeds of the fee. The fee shall consist of a minimum fee for each generator not exempted by the agency and an additional fee based on the quantity of wastes generated by the generator.

(c) If any metropolitan counties recover the costs of administering county hazardous waste regulations by charging fees, the fees charged by the agency out-

New language is indicated by underline, deletions by ~~strikeout~~.



side of those counties shall not exceed the fees charged by those counties. The agency shall not charge a fee in any metropolitan county which charges such a fee. The agency shall impose a fee calculated as a surcharge on the fees charged by the metropolitan counties and by the agency to reflect the agency's expenses in carrying out its statewide hazardous waste regulatory responsibilities. The surcharge imposed on the fees charged by the metropolitan counties shall be collected by the metropolitan counties in the manner in which the counties collect their generator fees. Metropolitan counties shall remit the proceeds of the surcharge to the agency by the last day of the month following the month in which they were collected.

(d) The agency may not impose a fee under this subdivision on material that is reused at the facility where the material is generated in a manner that the facility owner or operator can demonstrate does not increase the toxicity of, or the level of hazardous substances or pollutants or contaminants in, products that leave the facility.

Sec. 33. Minnesota Statutes 1991 Supplement, section 116.90, is amended to read:

#### 116.90 REFUSE DERIVED FUEL.

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

(b) "Agency" means the pollution control agency.

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

~~(d)~~ (d) "Refuse derived fuel" means a product resulting from the processing of mixed municipal solid waste in a manner that reduces the quantity of non-combustible 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.

~~(e)~~ (e) "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.

Subd. 2. **USE OF REFUSE DERIVED FUEL.** (a) Existing or new solid fuel fired boilers may utilize refuse derived fuel in an amount up to 30 percent by weight of the fuel feed stream 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 emissions

New language is indicated by underline, deletions by ~~strikeout~~.

limitations or ambient air quality standards applicable to the solid fuel fired boiler;

(3) the solid fuel fired boiler has a valid permit to operate; ~~and~~

(4) the refuse derived fuel is manufactured and sold in compliance with permits issued by the agency and:

(i) is produced by a facility for which a permit was issued by the agency before June 1, 1991; or

(ii) is produced by an agency-permitted facility designed as part of a regional waste management system at which facility the waste is mechanically and hand sorted to avoid inclusion of items containing mercury or other heavy metals in the waste that is processed into refuse derived fuel, and the refuse derived fuel producer has contracted with an end user to combust the fuel; and

(5) the owner or operator of the solid fuel fired boiler gives prior written notice to the commissioner of the agency of the amount of refuse derived fuel expected to be used and the date on which the use is expected to begin.

(b) A facility that produces refuse derived fuel that is sold for use in a solid fuel fired boiler may accept waste for processing only from counties that provide for the removal of household hazardous waste from the waste.

(c) The agency may not require, as a condition of using refuse derived fuel under this section, any additional monitoring or testing of a solid fuel fired boiler's air emissions beyond the monitoring or testing required by state or federal law or by the terms of the solid fuel fired boiler's permit issued by the agency.

Sec. 34. Minnesota Statutes 1991 Supplement, section 116C.852, is amended to read:

#### 116C.852 LOW-LEVEL RADIOACTIVE WASTE DISPOSAL.

~~All~~ (a) Except as provided in paragraph (b), low-level radioactive waste that may not be treated, recycled, stored, or disposed of in this state shall conform to applicable federal and state requirements except at a facility that is specifically licensed for treatment, recycling, storage, or disposal of low-level radioactive waste, regardless of whether or not the waste has been reclassified as "below regulatory concern" by the United States Nuclear Regulatory Commission pursuant to under a generic rule or standard adopted after January 4 July 2, 1990.

(b) Paragraph (a) does not apply to treatment, recycling, storage, or disposal of low-level radioactive waste that is specifically authorized under a license issued by the United States Nuclear Regulatory Commission, or is otherwise authorized under regulations of the United States Nuclear Regulatory Commission in effect on July 2, 1990.

Sec. 35. Minnesota Statutes 1990, section 325E.125, subdivision 1, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subdivision 1. **IDENTIFICATION LABELING.** (a) The manufacturer of a button cell battery that is to be sold in this state shall ensure that each battery is labeled to clearly identify as to identify for the final consumer of the battery the type of electrode used in the battery.

(b) The manufacturer of a rechargeable battery that is to be sold in this state shall ensure that each rechargeable battery is labeled to clearly identify for the final consumer of the battery the type of electrode and the name of the manufacturer. The manufacturer of a rechargeable battery shall also provide clear instructions for properly recharging the battery.

**Sec. 36. [325E.40] SALE OF PETROLEUM-BASED SWEEPING COMPOUND PRODUCTS PROHIBITED.**

Subdivision 1. PROHIBITION. A person may not offer for sale or sell any sweeping compound product that the person knows contains petroleum oil.

Subd. 2. LABELING. The manufacturer of sweeping compound that is to be sold in this state shall label the packaging for the compound to clearly indicate the type of oil contained in the compound.

Subd. 3. ENFORCEMENT. In addition to the enforcement mechanisms available for this chapter, the commissioner of the pollution control agency may enforce this section under section 116.072.

Sec. 37. Minnesota Statutes 1990, section 400.08, subdivision 4, is amended to read:

Subd. 4. **COLLECTION.** (a) The rates and charges may be billed and collected in a manner the board shall determine.

(b) On or before October 15 in each year, the county board may certify to the county auditor all unpaid outstanding charges, and a description of the lands against which the charges arose. It shall be the duty of the county auditor, upon order of the county board, to extend the assessments, with interest not to exceed the interest rate provided for in section 279.03, subdivision 1, upon the tax rolls of the county for the taxes of the year in which the assessment is filed. For each year ending October 15 the assessment with interest shall be carried into the tax becoming due and payable in January of the following year, and shall be enforced and collected in the manner provided for the enforcement and collection of real property taxes in accordance with the provisions of the laws of the state. The charges, if not paid, shall become delinquent and be subject to the same penalties and the same rate of interest as the taxes under the general laws of the state.

(c) In addition to any other manner of collection that may be established under paragraph (a), a county may:

(1) require as a condition of a license issued under section 115A.93 that the licensee collect service charges established under subdivision 3 from solid waste generators for remittance to the county; and

New language is indicated by underline, deletions by ~~strikeout~~.

(2) audit a licensed collector's records of the charges collected under clause (1) and the amount of waste collected only to the extent necessary to ensure that all charges required to be collected are remitted to the county.

Data received under clause (2) are private or nonpublic data as defined in section 13.02, subdivision 9 or 12.

Sec. 38. Minnesota Statutes 1990, section 400.08, subdivision 5, is amended to read:

Subd. 5. **FINANCIAL INCENTIVES TO RECYCLE.** A county may:

(1) charge or may require any person who collects solid waste in the county to charge solid waste generators rates for ~~collection or disposal~~ solid waste management services that ~~vary depending on the increase as the weight or~~ volume of waste generated increases;

(2) require collectors to provide financial incentives to solid waste generators who separate recyclable materials from their waste; or

(3) require use of any other mechanism to provide encouragement or rewards to solid waste generators who reduce their waste generation or who separate recyclable materials from their waste.

Sec. 39. Minnesota Statutes 1990, section 400.161, is amended to read:

#### 400.161 HAZARDOUS WASTE REGULATIONS.

(a) The county may by ordinance establish and revise rules, regulations, and standards relating to ~~(a)~~ (1) identification of hazardous waste, ~~(b)~~ (2) the labeling and classification of hazardous waste, ~~(c)~~ (3) the collection, transportation, processing, disposal, and storage of hazardous waste, ~~(d)~~ and (4) other matters as may be determined necessary for the public health, welfare and safety. The county may issue permits or licenses for hazardous waste generation and may require the generators be registered with a county office. The ordinance may require appropriate procedures for the payment by the generator of any costs incurred by the county in completing such procedures. If the generator fails to complete such procedures, the county may recover the costs of completion in a civil action in any court of competent jurisdiction or, in the discretion of the board, the costs may be certified to the county auditor as a special tax against the land as other taxes are collected. The ordinance may be enforced by injunction, action to compel performance, or other action in district court. County hazardous waste ordinances shall embody and be consistent with agency hazardous waste rules. Counties shall submit adopted ordinances to the agency for review. In the event that agency rules are modified, each county shall modify its ordinances accordingly and shall submit the modification to the agency for review within 120 days. Issuing, denying, modifying, imposing conditions upon, or revoking permits or licenses and county hazardous waste regulations and ordinances shall be subject to review, denial, suspension, modification, and

New language is indicated by underline, deletions by ~~strikeout~~.

reversal by the pollution control agency. The pollution control agency shall after written notification have 15 days in the case of hazardous waste permits and licenses and 30 days in the case of hazardous waste ordinances to review, deny, suspend, modify, or reverse the action of the county. After this period, the action of the county board shall be final subject to appeal to the district court as provided in section 115.05.

(b) A county may not impose a fee under this section on material that is reused at the facility where the material is generated in a manner that the facility owner or operator can demonstrate does not increase the toxicity of, or the level of hazardous substances or pollutants or contaminants in, products that leave the facility.

Sec. 40. Minnesota Statutes 1990, section 473.811, subdivision 5b, is amended to read:

Subd. 5b. **ORDINANCES; HAZARDOUS WASTE MANAGEMENT.** (a) Each metropolitan county shall by ordinance establish and revise rules, regulations, and standards relating to ~~(a)~~ (1) the identification of hazardous waste, ~~(b)~~ (2) the labeling and classification of hazardous waste, ~~(c)~~ (3) the collection, storage, transportation, processing, and disposal of hazardous waste, and ~~(d)~~ (4) other matters necessary for the public health, welfare and safety. The county shall require permits or licenses for the generation, collection, processing, and disposal of hazardous waste and shall require registration with a county office. County hazardous waste ordinances shall embody and be consistent with agency hazardous waste rules. Counties shall submit adopted ordinances to the agency for review. In the event that agency rules are modified, each county shall modify its ordinances accordingly and shall submit the modification to the agency for review within 120 days. Issuing, denying, suspending, modifying, imposing conditions upon, or revoking hazardous waste permits or licenses, and county hazardous waste regulations and ordinances, shall be subject to review, denial, suspension, modification, and reversal by the agency. The agency shall after written notification have 15 days in the case of hazardous waste permits and licenses and 30 days in the case of hazardous waste ordinances to review, suspend, modify, or reverse the action of the county. After this period, the action of the county board shall be final subject to appeal to the district court in the manner provided in chapter 14.

(b) A metropolitan county may not impose a fee under this subdivision on material that is reused at the facility where the material is generated in a manner that the facility owner or operator can demonstrate does not increase the toxicity of, or the level of hazardous substances or pollutants or contaminants in, products that leave the facility.

Sec. 41. Minnesota Statutes 1990, section 473.844, subdivision 4, is amended to read:

Subd. 4. **RESOURCE RECOVERY GRANTS AND LOANS.** The grant and loan program under this subdivision is administered by the metropolitan

New language is indicated by underline, deletions by ~~strikeout~~.

council. Grants and loans may be made to any person for resource recovery projects. The grants and loans may include the cost of planning, acquisition of land and equipment, and capital improvements. Grants and loans for planning may not exceed 50 percent of the planning costs. Grants and loans for acquisition of land and equipment and for capital improvements may not exceed 50 percent of the cost of the project. Grants and loans may be made for public education on the need for the resource recovery projects. A grant or loan for land, equipment, or capital improvements may not be made until the metropolitan council has determined the total estimated capital cost of the project and ascertained that full financing of the project is assured. Grants and loans made to cities, counties, or solid waste management districts must be for projects that are in conformance with approved master plans. A grant or loan to a city or town must be reviewed and approved by the county for conformance with the county master plan. The council shall require, where practical, cooperative purchase between cities, counties, and districts of capital equipment.

Sec. 42. Minnesota Statutes 1991 Supplement, section 473.849, is amended to read:

**473.849 PROHIBITION; SOLID WASTE DISPOSAL.**

No person may place ~~processed or unprocessed mixed municipal, or transport for placement,~~ solid waste that is generated in the metropolitan area in a portion of a disposal facility that does not comply with the minimum requirements for design, construction, and operation of a new mixed municipal solid waste disposal facility under Minnesota Rules in effect on January 1, 1991 for the type of solid waste being disposed. Each metropolitan county shall, and each county in which is located a disposal facility may, enforce this prohibition and may impose penalties and recover attorney fees and court costs to the same extent as for enforcement of a designation ordinance under section 115A.86, subdivision 6. The commissioner of the pollution control agency may enforce this section under section 115.071 or 116.072.

Sec. 43. Laws 1991, chapter 337, section 90, is amended to read:

**Sec. 90. REPEALER.**

(a) Minnesota Statutes 1990, sections 16B.125; 115A.953; 325E.045; and 473.844, subdivision 3, are repealed. Laws 1989, chapter 325, section 74 72, subdivision 2, is repealed.

(b) Minnesota Statutes 1990, sections 473.149, subdivision 2b; 473.803, subdivision 1a; 473.806; 473.831; 473.833; and 473.840, are repealed.

Sec. 44. Laws 1990, chapter 600, section 7, is amended to read:

**Sec. 7. DUTIES OF THE ADVISORY TASK FORCE ON LOW-LEVEL RADIOACTIVE WASTE DEREGULATION.**

The advisory task force on low-level radioactive waste deregulation shall:

New language is indicated by underline, deletions by ~~strikeout~~.

(1) design and initiate a study that will be a cost-benefit analysis of deregulation of "low-level" radioactive waste costs, including health, and environmental costs and effects, including both dollar and nondollar effects in both the long-term and the short-term;

(2) determine who will conduct the study;

(3) determine the timelines for the study;

(4) evaluate the cost-benefit study; and

(5) make a recommendation on continuation of the moratorium and other recommendations to the legislature by January 1, ~~1994~~ 1996.

#### Sec. 45. INTERIM ORGANIZED SOLID WASTE COLLECTION.

(a) A city with a population, according to the 1990 federal census, of more than 10,000 and less than 12,000 that, before the effective date of this section, has begun the process of organizing solid waste collection under Minnesota Statutes, section 115A.94, and that is a party to an exclusive contract for collection of solid waste that will expire before the new organized collection system will be effective, may:

(1) negotiate an extension of the existing exclusive contract to the date the new organized collection system will be effective;

(2) negotiate one or more separate waste collection contracts for the period between the expiration of the existing exclusive contract and the date the new organized collection system will be effective; or

(3) otherwise negotiate, with or without competitive bids, an interim waste collection system that may not be extended beyond the date the new organized collection system will be effective.

(b) This section does not affect the applicability of Minnesota Statutes, section 115A.94, to the city's new organized collection system.

#### Sec. 46. AUTOMOBILE WASTE; STUDY AND RECOMMENDATIONS.

The legislative commission on waste management, in consultation with the commissioner of the pollution control agency, the director of the office of waste management, and other interested persons, shall study the existing system for managing automobile-related wastes other than air emissions and, if necessary, recommend appropriate legislation for consideration during the 1993 legislative session to ensure that materials from automobiles that cause damage if released into the environment are properly removed and managed during maintenance and prior to recycling or disposal of the automobiles and to ensure that waste automobile hulks are properly recycled or disposed.

New language is indicated by underline, deletions by ~~strikeout~~.

**Sec. 47. CONSTRUCTION DEBRIS AND NONHAZARDOUS INDUSTRIAL WASTE; STUDY AND RECOMMENDATIONS.**

The commissioner of the pollution control agency shall gather information about construction debris and nonhazardous industrial waste, including composition, possibilities for source reduction, recyclability and recycling rates, processibility and processing rates, and existing disposal system. The commissioner shall summarize the information and present the summary to the legislative commission on waste management by August 15, 1993, including, if the commissioner determines that legislation is necessary to adequately regulate generation and management of construction debris or nonhazardous industrial waste, recommendations for appropriate legislation.

**Sec. 48. USED MOTOR OIL; STUDY AND RECOMMENDATIONS.**

The commissioner of the pollution control agency, in consultation with the director of the office of waste management, shall identify locations for the retail sale of motor oil and locations for the deposit and collection of used motor oil across the state to determine the extent of compliance with Minnesota Statutes, section 325E.11, and to determine whether used oil is being properly managed. By August 15, 1993, the commissioner shall report to the legislative commission on waste management on compliance with the law, the general management system for used motor oil, and any appropriate recommendations for legislation to ensure that used motor oil is properly managed and that persons who generate used motor oil have reasonably convenient opportunities for discarding the used oil.

**Sec. 49. ASSESSMENT OF REGIONAL WASTE MANAGEMENT NEEDS.**

By July 15, 1993, the director of the office of waste management, in consultation with, and after approval of metropolitan area information by, the chair of the metropolitan council, shall submit to the legislative commission on waste management a preliminary assessment of the need for additional regional solid waste management capacity in the state, including the metropolitan area. The preliminary assessment must be based on a review of existing county solid waste management plans, the current metropolitan solid waste management policy plan, and the current metropolitan counties' solid waste management master plans. The preliminary assessment of need for additional capacity must identify likely regions of the state, based on the current patterns for the flow and management of waste, within which the needs for capacity can be most efficiently and economically met. The assessment must be made in light of existing facilities and the waste management priorities and policies stated in Minnesota Statutes, section 115A.02, with strong emphasis given to the potential for significant improvements in waste reduction and recycling. The assessment must include estimates of the capital costs necessary to ensure sufficient solid waste management capacity for a period of at least 20 years, the extent to which fees and other existing financing methods can cover those costs, the extent to which those

New language is indicated by underline, deletions by ~~strikeout~~.



costs will need to be publicly subsidized, and the extent to which private investment is likely to occur in building and operating new capacity statewide.

Sec. 50. **DEGRADABLE LOOSE PACKING MATERIAL; STUDY.**

The director of the office of waste management, in consultation with the commissioner of agriculture, shall evaluate the relative economic, recycling, and waste management advantages and disadvantages of loose packing material manufactured from vegetable starches and loose packing material manufactured from petroleum products. The director shall report the findings of the evaluation, along with any legislative recommendations the director deems necessary, to the legislative commission on waste management by January 1, 1993.

Sec. 51. **ASSESSMENT OF LAND DISPOSAL FACILITIES.**

(a) For the purposes of this section, "facility" means a permitted mixed municipal solid waste disposal facility, as defined in Minnesota Statutes, section 115A.03.

(b) By October 9, 1994, the commissioner of the pollution control agency shall inspect all facilities and portions of facilities that have stopped accepting waste by October 9, 1993, to determine the status of closure activities and to evaluate the environmental and public health threats posed by the facility. The commissioner may undertake activities necessary to:

(1) evaluate the adequacy of final cover, slopes, vegetation, and erosion control;

(2) determine the presence and concentration of hazardous substances, pollutants or contaminants, and decomposition gases; and

(3) determine the boundaries of the fill areas.

(c) The commissioner of the pollution control agency shall identify actions that are necessary to achieve compliance with the following closure requirements at facilities inspected under paragraph (b):

(1) for a facility or portion of a facility that stopped accepting waste before November 15, 1988, the closure requirements in rules of the pollution control agency in effect on the effective date of this section; and

(2) for a facility or portion of a facility that stopped accepting waste after November 15, 1988, the closure requirements in the facility's permit and the rules of the pollution control agency in effect on the effective date of this section.

Actions identified by the commissioner under this paragraph may include moving or consolidating waste from facilities.

(d) The commissioner of the pollution control agency shall establish a proposed priority list of the evaluated facilities based on the relative risk or danger

New language is indicated by underline, deletions by ~~strikeout~~.

to public health or welfare or the environment, taking into consideration to the extent possible the population at risk, the hazardous potential of substances at the facility, the potential for contamination of drinking water supplies, the potential for direct human contact, the potential for destruction of sensitive ecosystems, and other appropriate factors.

**Sec. 52. COUNTY RECYCLING; REPORT; 1991.**

For the reports due on August 1, 1992, under Minnesota Statutes, section 115A.557, subdivision 3, counties shall report recycling rates and information for calendar year 1991 rather than for the previous fiscal year.

**Sec. 53. EFFECTIVE DATE OF SECTION 325E.125.**

The requirements of Minnesota Statutes, section 325E.125, subdivision 1, do not apply to batteries manufactured before July 1, 1993.

**Sec. 54. INSTRUCTION TO REVISOR.**

(a) The revisor of statutes is directed to change the words "office," "office's," "director," and "director of the office of waste management" wherever they appear in Minnesota Statutes, sections 115A.32 to 115A.39, to "board," "board's," "chair," and "chair of the board" respectively in the 1992 and subsequent editions of Minnesota Statutes.

(b) The revisor of statutes is directed to change the words "November 15" to the words "July 1" in Minnesota Statutes, sections 115A.551, subdivision 4, and 115A.557, subdivision 4, in Minnesota Statutes 1992 and subsequent editions of the statutes.

**Sec. 55. EFFECTIVE DATE.**

Except as provided in this section, article 1 is effective August 1, 1992.

Sections 22, 31 to 34, 37 to 40, and 45 are effective the day following final enactment.

Section 43 is effective August 1, 1991.

Sections 12; 17; 24; 27, subdivision 1; 29, subdivision 3; and 36 are effective January 1, 1993, and section 36 applies to sweeping compound manufactured on or after that date.

Section 18 is effective for products and packaging manufactured on or after January 1, 1993.

Section 35 is effective July 1, 1993, and applies to batteries manufactured on or after that date.

Sections 3 and 29, subdivision 2, are effective August 1, 1993.

**New language is indicated by underline, deletions by ~~strikeout~~.**

Sections 26 and 27, subdivision 2, are effective January 1, 1994.

Section 29, subdivision 4, clauses (1) and (2), are effective August 1, 1994.

## ARTICLE 2

Section 1. Minnesota Statutes 1991 Supplement, section 115E.04, subdivision 2, is amended to read:

Subd. 2. **TIMING.** (a) A person required to be prepared under section 115E.03, other than a person who owns or operates a motor vehicle, rolling stock, or a facility that stores less than 250,000 gallons of oil or a hazardous substance, shall complete the response plan required by this section by March 1, 1993, unless one of the commissioners orders the person to demonstrate preparedness at an earlier date under section 115E.05. Plans must be updated every three years. Plans must be updated before three years following a significant discharge, upon significant change in vessel or facility operation or ownership, upon significant change in the national or area contingency plans under the Oil Pollution Act of 1990, or upon change in the capabilities or role of a person named in a plan who has an important response role.

(b) A person who owns or operates a motor vehicle, rolling stock, or a facility that stores less than 250,000 gallons of oil or a hazardous substance shall complete the response plan required by this section by January 1, 1994.

Sec. 2. [221.0335] **HAZARDOUS MATERIALS TRANSPORTATION REGISTRATION; FEES.**

A person required to file a registration statement under section 106(c) of the federal Hazardous Materials Transportation Safety Act of 1990 may not transport a hazardous material unless the person files an annual hazardous materials registration statement with the commissioner and pays a fee. The commissioner shall adopt rules to implement this section, including administration of the registration program and establishing registration fees. A fee may not exceed a person's annual registration fee under the federal act. Fees must be set in accordance with section 16A.128, subdivision 1a, to cover the costs of administering and enforcing this section and the costs of hazardous materials incident response capability under sections 3 to 8. All fees collected under this section must be deposited in the general fund.

Sec. 3. [299A.48] **CITATION.**

Sections 3 to 8 may be cited as the "Minnesota hazardous materials incident response act."

Sec. 4. [299A.49] **DEFINITIONS.**

New language is indicated by underline, deletions by ~~strikeout~~.

Subdivision 1. SCOPE. For the purposes of sections 3 to 8, the following terms have the meanings given them.

Subd. 2. CHEMICAL ASSESSMENT TEAM. "Chemical assessment team" means a team trained and equipped to evaluate a hazardous materials incident and recommend the best means of controlling the hazard after consideration of life safety concerns, environmental effects, exposure hazards, quantity and type of hazardous material, availability of local resources, or other relevant factors.

Subd. 3. COMMISSIONER. "Commissioner" means the commissioner of public safety.

Subd. 4. HAZARDOUS MATERIALS. "Hazardous materials" means substances or materials that, because of their chemical, physical, or biological nature, pose a potential risk to life, health, or property if they are released. "Hazardous materials" includes any substance or material in a particular form or quantity that may pose an unreasonable risk to health, safety, and property, or any substance or material in a quantity or form that may be harmful to humans, animals, crops, water systems, or other elements of the environment if accidentally released. Hazardous substances so designated may include explosives, radioactive materials, etiologic agents, flammable liquids or solids, combustible liquids or solids, poisons, oxidizing or corrosive materials, and flammable gases.

Subd. 5. LOCAL UNIT OF GOVERNMENT. "Local unit of government" means a county, home rule charter or statutory city, or town.

Subd. 6. PERSON. "Person" means any individual, partnership, association, public or private corporation or other entity including the United States government, any interstate body, the state, and any agency, department, or political subdivision of the state.

Subd. 7. REGIONAL HAZARDOUS MATERIALS RESPONSE TEAM. "Regional hazardous materials response team" means a team trained and equipped to respond to and mitigate a hazardous materials release. A regional hazardous materials response team may include strategically located chemical assessment teams.

#### Sec. 5. [299A.50] RESPONSE PLAN.

Subdivision 1. ELEMENTS OF PLAN; RULES. (a) After consultation with the commissioners of natural resources, agriculture, transportation, and the pollution control agency, the state fire marshal, the emergency response commission, appropriate technical emergency response representatives, and representatives of affected parties, the commissioner shall adopt rules to implement a statewide hazardous materials incident response plan. The plan must include:

- (1) the locations of up to five regional hazardous materials response teams,

New language is indicated by underline, deletions by ~~strikeout~~.

based on the location of hazardous materials, response time, proximity to large population centers, and other factors;

(2) the number and qualifications of members on each team;

(3) the responsibilities of regional hazardous materials response teams;

(4) equipment needed for regional hazardous materials response teams;

(5) procedures for selecting and contracting with local governments or non-public persons to establish regional hazardous materials response teams;

(6) procedures for dispatching teams at the request of local governments;

(7) a fee schedule for reimbursing local governments or nonpublic persons responding to an incident; and

(8) coordination with other state departments and agencies, local units of government, other states, Indian tribes, the federal government, and other non-public persons.

Subd. 2. CONTRACTS AND AGREEMENTS. The commissioner may cooperate with and enter into contracts with other state departments and agencies, local units of government, other states, Indian tribes, the federal government, or nonpublic persons to implement the response plan.

#### Sec. 6. [299A.51] LIABILITY AND WORKERS' COMPENSATION.

Subdivision 1. LIABILITY. During operations authorized under section 5, members of a regional hazardous materials response team operating outside their geographic jurisdiction are "employees of the state" as defined in section 3.736.

Subd. 2. WORKERS' COMPENSATION. During operations authorized under section 5, members of a regional hazardous materials response team operating outside their geographic jurisdiction are considered state employees for purposes of chapter 176.

Subd. 3. LIMITATION. A person who provides personnel and equipment to assist at the scene of a hazardous materials response incident outside the person's geographic jurisdiction or property, at the request of the state or a local unit of government, is not liable for any civil damages resulting from acts or omissions in providing the assistance, unless the person acts in a willful and wanton or reckless manner in providing the assistance.

#### Sec. 7. [299A.52] RESPONSIBLE PERSON.

Subdivision 1. RESPONSE LIABILITY. A responsible person, as described in section 115B.03, is liable for the reasonable and necessary costs, including legal and administrative costs, of response to a hazardous materials incident incurred by a regional hazardous materials response team or local unit of gov-

New language is indicated by underline, deletions by strikeout.

ernment. For the purposes of this section, "hazardous substance" as used in section 115B.03 means "hazardous material" as defined in section 4.

Subd. 2. EXPENSE RECOVERY. The commissioner shall assess the responsible person for the regional hazardous materials response team costs of response. The commissioner may bring an action for recovery of unpaid costs, reasonable attorney fees, and any additional court costs.

Subd. 3. ATTEMPTED AVOIDANCE OF LIABILITY. For purposes of sections 3 to 8, a responsible person may not avoid liability by conveying any right, title, or interest in real property or by any indemnification, hold harmless agreement, or similar agreement.

#### **Sec. 8. [299K.095] HAZARDOUS MATERIALS INCIDENT RESPONSE FEES.**

(a) Persons, except individuals engaged in a farming operation, required under section 11002 of the federal act to notify the commission of the storage of an extremely hazardous substance shall pay an annual fee of \$75 for each facility.

(b) Persons required under section 11023 of the federal act to submit a toxic chemical release form to the commission shall pay an annual fee of \$200 for zero releases and transfers annually, \$400 for more than zero releases and transfers but not exceeding 25,000 pounds annually, and \$800 for releases and transfers exceeding 25,000 pounds annually. This fee is in addition to fees collected under section 115D.12.

(c) All fees collected under this section must be deposited in the general fund.

#### **Sec. 9. APPROPRIATION.**

\$115,000 is appropriated from the general fund to the commissioner of transportation for the purposes of section 2. The approved complement of the department of transportation is increased by two positions.

\$1,128,000 is appropriated from the general fund to the commissioner of public safety for the purposes of sections 3 to 8. The approved complement of the department of public safety is increased by three positions.

Presented to the governor April 17, 1992

Signed by the governor April 27, 1992, 2:16 p.m.

New language is indicated by underline, deletions by ~~strikeout~~.