

## CHAPTER 247—S.F.No. 462

*An act relating to the environment; implementing the transfer of solid waste management duties of the metropolitan council to the office of environmental assistance; providing for the management of waste; providing penalties; amending Minnesota Statutes 1992, section 115A.33, as reenacted; Minnesota Statutes 1994, sections 16B.122, subdivision 3; 115.071, subdivision 1; 115A.055; 115A.07, subdivision 3; 115A.072, subdivisions 1, 3, and 4; 115A.12; 115A.14, subdivision 4; 115A.15, subdivision 9; 115A.191, subdivisions 1 and 2; 115A.32; 115A.411; 115A.42; 115A.45; 115A.46, subdivisions 1 and 5; 115A.55, subdivision 3, and by adding a subdivision; 115A.5501, subdivisions 2, 3, and 4; 115A.5502; 115A.551, subdivisions 2a, 4, 5, 6, and 7; 115A.554; 115A.557, subdivisions 3 and 4; 115A.558; 115A.63, subdivision 3; 115A.84, subdivision 3; 115A.86, subdivision 2; 115A.919, subdivision 3; 115A.921, subdivision 1; 115A.923, subdivision 1; 115A.9302, subdivisions 1 and 2; 115A.951, subdivision 4; 115A.96, subdivision 2; 115A.965, subdivision 1; 115A.9651, subdivision 2; 115A.97, subdivisions 5 and 6; 115A.981, subdivision 3; 115D.03, subdivision 5, and by adding a subdivision; 115D.05; 115D.07, subdivisions 1 and 2; 115D.08, subdivision 1; 115D.10; 116.07, subdivisions 4a and 4j; 116.072; 116.66, subdivisions 2 and 4; 116.92, subdivision 4; 325E.0951, subdivision 5; 400.16; 400.161; 473.149, subdivisions 1, 2d, 2e, 3, 4, and 6; 473.151; 473.516, subdivision 2; 473.801, subdivision 1, and by adding subdivisions; 473.8011; 473.803, subdivisions 1, 1c, 2, 2a, 3, 4, and 5; 473.804; 473.811, subdivisions 1, 4a, 5, 5c, 7, and 8; 473.813, subdivision 2; 473.823, subdivisions 3, 5, and 6; 473.843, subdivision 1; 473.844, subdivisions 1a and 4; 473.8441, subdivisions 2, 4, and 5; 473.845, subdivision 4; 473.846; and 473.848, subdivisions 2 and 4; Laws 1994, chapters 585, section 51; 628, article 3, section 209; proposing coding for new law in Minnesota Statutes, chapters 16B; 115A; 116; and 480; repealing Minnesota Statutes 1994, sections 115A.165; 115A.81, subdivision 3; 115A.90, subdivision 3; 116.94; 383D.71, subdivision 2; 473.149, subdivisions 2, 2a, 2c, 2f, and 5; 473.181, subdivision 4; and 473.803, subdivisions 1b and 1e.*

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

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ARTICLE 1

POLICY

Section 1. Minnesota Statutes 1994, section 16B.122, subdivision 3, is amended to read:

Subd. 3. **PUBLIC ENTITY PURCHASING.** (a) Notwithstanding section 365.37, 375.21, 412.311, or 473.705, a public entity may purchase recycled materials when the price of the recycled materials does not exceed the price of nonrecycled materials by more than ten percent. In order to maximize the quantity and quality of recycled materials purchased, a public entity also may use other appropriate procedures to acquire recycled materials at the most economical cost to the public entity.

(b) When purchasing commodities and services, a public entity shall apply

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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. A public entity, in developing bid specifications, shall consider the extent to which a commodity or product is durable, reusable, or recyclable and marketable through the applicable local or regional recycling program and the extent to which the commodity or product contains postconsumer material. When a project by a public entity involves the replacement of carpeting, the public entity may require all persons who wish to bid on the project to designate a carpet recycling company in their bids.

**Sec. 2. [16B.124] CONSIDERATION OF ENVIRONMENTAL IMPACTS OF METAL RECYCLING FACILITIES.**

(a) The state, counties, towns, and home rule charter or statutory cities shall include consideration of environmental impacts in selecting a recycling facility for the recycling of scrap metal.

(b) For the purposes of this section, "recycling facility" has the meaning given in section 115A.03, subdivision 25c.

**Sec. 3. [115A.0715] CONSOLIDATED GRANT AND LOAN PROGRAMS.**

The director may consolidate and jointly administer the following grant and loan programs: public education under section 115A.072, technical and research assistance under section 115A.152, waste reduction under section 115A.154, waste processing and collection facilities and services under section 115A.156, market development under section 115A.48, waste separation projects under section 115A.53, solid waste reduction under section 115A.55, used oil under section 115A.9162, litter under section 115A.991, pollution prevention assistance under section 115D.04, and pollution prevention under section 115D.05.

Sec. 4. Minnesota Statutes 1994, section 115A.072, subdivision 3, is amended to read:

Subd. 3. **EDUCATION GRANTS.** (a) The director shall provide grants to persons for the purpose of developing and distributing waste education information.

(b) ~~The director shall provide grants and technical assistance to formal and informal education facilities to develop and implement a model program to incorporate waste reduction, recycling, litter prevention, and proper management of problem materials into educational operations.~~

(c) ~~The director shall provide grants or awards and technical assistance to formal and informal education facilities to develop or implement ongoing programs for waste reduction, recycling, litter prevention, and proper management of problem materials programs.~~

Sec. 5. Minnesota Statutes 1994, section 115A.072, subdivision 4, is amended to read:

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Subd. 4. **EDUCATION, PROMOTION, AND PROCUREMENT.** The director shall include: (1) waste reduction and reuse, including packaging reduction and reuse; and (2) the hazards of open burning, as defined in section 88.01, of mixed municipal solid waste, especially the hazards of dioxin emissions to children, as an element elements of the director's program of public education on waste management required under this section. The waste reduction and reuse education program must include dissemination of information and may include an award program for model waste reduction and reuse efforts. Waste reduction and reuse educational efforts must also include provision of information about and promotion of the model procurement program developed by the commissioner of administration under section 115A.15, subdivision 7, or any other model procurement program that results in significant waste reduction and reuse.

Sec. 6. Minnesota Statutes 1992, section 115A.33, as reenacted by sections 60 and 64, is amended to read:

**115A.33 ELIGIBILITY; REQUEST FOR REVIEW.**

The following persons shall be eligible to request supplementary review by the board pursuant to sections 115A.32 to 115A.39: (a) a generator of sewage sludge within the state who has been issued permits by the agency for a facility to dispose of sewage sludge or solid waste resulting from sewage treatment; (b) a political subdivision which has been issued permits by the agency, or a political subdivision acting on behalf of a person who has been issued permits by the agency, for a solid waste facility which is no larger than 250 acres, not including any proposed buffer area, and located outside the metropolitan area; (c) a generator of hazardous waste within the state who has been issued permits by the agency for a hazardous waste facility to be owned and operated by the generator, on property owned by the generator, and to be used by the generator for managing the hazardous wastes produced by the generator only; (d) a person who has been issued permits by the agency for a commercial hazardous waste processing facility at a site included in the board's inventory of preferred sites for such facilities adopted pursuant to section 115A.09; (e) a person who has been issued permits by the agency for a disposal facility for the nonhazardous sludge, ash, or other solid waste generated by a permitted hazardous waste processing facility operated by the person. ~~The metropolitan waste control commission shall not be eligible to request review under clause (a) for a sewage sludge disposal facility. The metropolitan waste control commission shall not be eligible to request review under clause (a) for a solid waste facility with a proposed permitted life of longer than four years.~~ The board may require completion of a plan conforming to the requirements of section 115A.46, before granting review under clause (b). A request for supplementary review shall show that the required permits for the facility have been issued by the agency and that a political subdivision has refused to approve the establishment or operation of the facility.

Sec. 7. Minnesota Statutes 1994, section 115A.411, is amended to read:

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**115A.411 SOLID WASTE MANAGEMENT POLICY; CONSOLIDATED REPORT.**

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 July 1 of each ~~even-numbered~~ odd-numbered year and ~~may~~ shall include reports required under sections 115A.55, subdivision 4, paragraph (b); 115A.551, subdivision 4; and; 115A.557, subdivision 4; 473.149, subdivision 6; 473.846; and 473.848, subdivision 4.

Subd. 2. **CONTENTS.** (a) The report must also include:

(1) a summary of the current status of solid waste management, including the amount of solid waste generated, the manner in which it is collected, processed, and disposed, the extent of separation, recycling, reuse, and recovery of solid waste, and the facilities available or under development to manage the waste;

~~(2) a summary of current state solid waste management policies, goals, and objectives, including their statutory, administrative, and regulatory basis and the state agencies and political subdivisions responsible for implementation;~~

~~(3)~~ (2) an evaluation of the extent and effectiveness of implementation and an assessment of progress in accomplishing state policies, goals, and objectives, including those listed in paragraph (b);

~~(4) estimates of the generation of solid waste anticipated for the future, the manner in which the waste is likely to be managed, and the programs and facilities that will be available and needed for proper waste management;~~

~~(5)~~ (3) identification of issues requiring further research, study, and action, the appropriate scope of the research, study, or action, the state agency or political subdivision that should implement the research, study, or action, and a schedule for completion of the activity; and

~~(6)~~ (4) recommendations for establishing or modifying state solid waste management policies, authorities, and programs.

(b) Beginning in 1997, and every sixth year thereafter, the report shall be expanded to include the metropolitan area solid waste policy plan required in section 473.149, subdivision 1, and strategies for the office to advance the goals of this chapter, to manage waste as a resource, to further reduce the need for expenditures on resource recovery and disposal facilities, and to further reduce long-term environmental and financial liabilities. The expanded report must include strategies for:

(1) achieving the maximum feasible reduction in waste generation;

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(2) encouraging manufacturers to design products that eliminate or reduce the adverse environmental impacts of resource extraction, manufacturing, use, and waste processing and disposal;

(3) educating businesses, public entities, and other consumers about the need to consider the potential environmental and financial impacts of purchasing products that may create a liability or that may be expensive to recycle or manage as waste, due to the presence of toxic or hazardous components;

(4) eliminating or reducing toxic or hazardous components in compost from municipal solid waste composting facilities, in ash from municipal solid waste incinerators, and in leachate and air emissions from municipal solid waste landfills, in order to reduce the potential liability of waste generators, facility owners and operators, and taxpayers;

(5) encouraging the source separation of materials to the extent practicable, so that the materials are most appropriately managed and to ensure that resources that can be reused or recycled are not disposed of or destroyed; and

(6) maximizing the efficiency of the waste management system by managing waste and recyclables close to the point of generation, taking into account the characteristics of the resources to be recovered from the waste and the type and capacity of local facilities.

Sec. 8. Minnesota Statutes 1994, section 115A.46, subdivision 5, is amended to read:

Subd. 5. **JURISDICTION OF PLAN.** (a) After a county plan has been submitted for approval under subdivision 1, a ~~political subdivision~~ public entity, as defined in section 16B.122, subdivision 1, within the county may not enter into a binding agreement governing a solid waste management activity that is inconsistent with the county plan without the consent of the county.

(b) After a county plan has been approved under subdivision 1, the plan governs all solid waste management in the county and a ~~political subdivision~~ public entity, as defined in section 16B.122, subdivision 1, within the county may not develop or implement a solid waste management activity, other than an activity to reduce waste generation or reuse waste materials, that is inconsistent with the county plan that the county is actively implementing without the consent of the county.

Sec. 9. **[115A.471] PUBLIC ENTITIES; MANAGEMENT OF SOLID WASTE.**

(a) Prior to entering into or approving a contract for the management of mixed municipal solid waste which would manage the waste using a waste management practice that is ranked lower on the list of preferred waste management practices in section 115A.02, paragraph (b), than the waste management practice selected for such waste in the county plan for the county in which the waste was generated, a public entity must:

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(1) determine the potential liability to the public entity and its taxpayers for managing the waste in this manner;

(2) develop and implement a plan for managing the potential liability; and

(3) submit the information from clauses (1) and (2) to the agency.

(b) For the purpose of this subdivision, "public entity" means the state; an office, agency, or institution of the state; the metropolitan council; a metropolitan agency; the metropolitan mosquito control district; the legislature; the courts; a county; a statutory or home rule charter city; a town; a school district; another special taxing district; or any other general or special purpose unit of government in the state.

Sec. 10. Minnesota Statutes 1994, section 115A.55, subdivision 3, is amended to read:

Subd. 3. **FINANCIAL ASSISTANCE.** (a) The director shall make loans and grants to any person for the purpose of developing and implementing projects or practices to prevent or reduce the generation of solid waste including those that involve reuse of items in their original form or in manufacturing processes that do not cause the destruction of recyclable materials in a manner that precludes further use, or involve procuring, using, or producing products with long useful lives. Grants may be used to fund studies needed to determine the technical and financial feasibility of a waste reduction project or practice or for the cost of implementation of a waste reduction project or practice that the director has determined is technically and financially feasible.

(b) In making grants or loans, the director shall give priority to waste reduction projects or practices that have broad application in the state and that have the potential for significant reduction of the amount of waste generated.

(c) All information developed as a result of a grant or loan shall be made available to other solid waste generators through the public information program established in subdivision 2.

(d) The director shall adopt rules for the administration of this program and may administer the program in conjunction with the grant program established under section 115D.05. The rules must prescribe the level or levels of matching funds required for grants or loans under this subdivision.

Sec. 11. Minnesota Statutes 1994, section 115A.55, is amended by adding a subdivision to read:

Subd. 4. STATEWIDE SOURCE REDUCTION GOAL. (a) It is a goal of the state that there be a minimum ten percent per capita reduction in the amount of mixed municipal solid waste generated in the state by December 31, 2000, based on a reasonable estimate of the amount of mixed municipal solid waste that was generated in calendar year 1993.

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(b) As part of the 1997 report required under section 115A.411, the director shall submit to the legislative commission on waste management a proposed strategy for meeting the goal in paragraph (a). The strategy must include a discussion of the different reduction potentials to be found in various sectors and may include recommended interim goals. The director shall report progress on meeting the goal in paragraph (a), as well as recommendations and revisions to the proposed strategy, as part of the 1999 report required under section 115A.411.

Sec. 12. Minnesota Statutes 1994, section 115A.5501, subdivision 4, is amended to read:

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. The director shall use the statistical mean for the data collected in determining whether the goal has been met and shall include in the analysis a discussion of the margin of error and statistical reliability for the data collected.

Sec. 13. Minnesota Statutes 1994, section 115A.5502, is amended to read:

**115A.5502 PACKAGING PRACTICES; PREFERENCES; GOALS.**

Packaging forms a substantial portion of solid waste and contributes to environmental degradation and the costs of managing solid waste. It is imperative to reduce the amount and toxicity of packaging that must be managed as solid waste. In order to achieve significant reduction of packaging in solid waste and to assist packagers and others to meet the packaging reduction goal in section 115A.5501, the goal of the state is that items be distributed without any packaging where feasible and, only when necessary to protect health and safety or product integrity, with the minimal amount of packaging possible. The following categories of packaging are listed in order of preference for use by all persons who find it necessary to package items for distribution or use in the state:

(1) minimal packaging that contains no intentionally introduced toxic materials and that is designed to be and actually is reused for its original purpose at least five times;

(2) minimal packaging that contains no intentionally introduced toxic materials and consists of a significant percentage of postconsumer material;

(3) minimal packaging that contains no intentionally introduced toxic materials, that is recyclable, and is regularly collected through recycling collection programs available to at least 75 percent of the residents of the state;

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~~(3)~~ (4) minimal packaging that does not comply with ~~clauses~~ clause (1) ~~and~~, (2), ~~or~~ (3) because it is required under federal or state law and for which there does not exist a commercially feasible alternative that does comply with ~~clauses~~ clause (1) ~~and~~, (2), ~~or~~ (3);

(4) (5) packaging that contains no intentionally introduced toxic materials but does not comply with clauses (1) to ~~(3)~~ (4); and

~~(5)~~ (6) all other packaging.

Sec. 14. Minnesota Statutes 1994, section 115A.551, subdivision 2a, is amended to read:

Subd. 2a. **SUPPLEMENTARY RECYCLING GOALS.** (a) By 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~~ 35 percent by weight of total solid waste generation;

(2) for a metropolitan county, ~~45~~ 50 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" have the meanings given them in subdivision 1, except that neither includes yard waste.~~

(b) For a county that, by January 1, 1995, is implementing a solid waste reduction program that is approved by the director, the director shall apply three percentage points toward achievement of the recycling goals in this subdivision. In addition, the director shall apply demonstrated waste reduction that exceeds three percent reduction toward achievement of the goals in this subdivision.

(c) No more than five percentage points may be applied toward achievement of the recycling goals in this subdivision for management of yard waste. The five percentage points must be applied as provided in this paragraph. The director shall apply three percentage points for a county in which residents, by January 1, 1996, are provided with:

(1) an ongoing comprehensive education program under which they are informed about how to manage yard waste and are notified of the prohibition in section 115A.931; and

(2) the opportunity to drop off yard waste at specified sites or participate in curbside yard waste collection.

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The director shall apply up to an additional two percentage points toward achievement of the recycling goals in this subdivision for additional activities approved by the director that are likely to reduce the amount of yard waste generated and to increase the on-site composting of yard waste.

Sec. 15. Minnesota Statutes 1994, section 115A.551, subdivision 4, is amended to read:

Subd. 4. **INTERIM MONITORING.** ~~The director, 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 goals in subdivisions 2 and 2a. The director shall report to the legislative commission on waste management on the progress of the counties by July 1 of each odd-numbered year. The metropolitan council shall report to the legislative commission on waste management on the progress of the counties by July 1 of each year.~~ If the director ~~or the council~~ finds that a county is not progressing toward the goals in 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 goals, such as organized collection, curbside collection of source-separated materials, and volume-based pricing.

~~In even-numbered years The progress report may shall be included in the solid waste management policy report required under section 115A.411. The metropolitan council's progress report shall be included in the report required by section 473.149.~~

Sec. 16. Minnesota Statutes 1994, section 115A.551, subdivision 6, is amended to read:

Subd. 6. **COUNTY SOLID WASTE PLANS.** (a) Each county shall include in its solid waste management plan described in section 115A.46, or its solid waste master plan described in section 473.803, a plan recycling implementation strategy for implementing meeting the recycling goal established in subdivision ~~2~~ 2a along with mechanisms for providing financial incentives to solid waste generators to reduce the amount of waste generated and to separate recyclable materials from the waste stream. ~~The recycling plan must include detailed recycling implementation information to form the basis for the strategy required in subdivision 7.~~

(b) Each county required to submit its plan to the director under section 115A.46 shall amend its plan to comply with this subdivision within one year after October 4, 1989.

Sec. 17. Minnesota Statutes 1994, section 115A.551, subdivision 7, is amended to read:

Subd. 7. **RECYCLING IMPLEMENTATION STRATEGY.** ~~Within one year of approval of the portion of the plan required in subdivision 6, Each non-metropolitan county shall submit to the director for approval a local the recy-~~

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cling implementation strategy required in subdivision 6. The local recycling implementation strategy must be submitted by October 31, 1995, and must:

- (1) be consistent with the approved county solid waste management plan;
- (2) identify the materials that are being and will be recycled in the county to meet the goals under this section and the parties responsible and methods for recycling the material; ~~and~~
- (3) ~~define the need for funds to ensure continuation of local recycling, methods of raising and allocating such funds, and permanent sources and levels of local funding for recycling~~ provide a budget to ensure adequate funding for needed county and local programs and demonstrate an ongoing commitment to spending the money on recycling programs; and
- (4) include a schedule for implementing recycling activities needed to meet the goals in subdivision 2a.

Sec. 18. Minnesota Statutes 1994, section 115A.554, is amended to read:

#### 115A.554 AUTHORITY OF SANITARY DISTRICTS.

A sanitary district has the authorities and duties of counties within the district's boundary for purposes of sections 115A.46, subdivision 4; 115A.48; 115A.551; 115A.552; 115A.553; 115A.919; 115A.929; 115A.93; 115A.96, subdivision 6; 115A.961; 115A.991; 116.072; 375.18, subdivision 14; 400.08, except subdivision 4, paragraph (b); 400.16; and 400.161.

Sec. 19. Minnesota Statutes 1994, 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 director 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.
- (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 April 1 of each year to the director detailing how the money was spent and the resulting gains achieved in solid waste management practices during the previous calendar year; and

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(3) provide evidence to the director 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 director 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. 20. Minnesota Statutes 1994, section 115A.557, subdivision 4, is amended to read:

Subd. 4. **REPORT.** By July 1 of each odd-numbered year, the director shall report on how the money was spent and the resulting statewide improvements in solid waste management to the house of representatives and senate appropriations and finance committees and the legislative commission on waste management. ~~In even-numbered years~~ The report may shall be included in the ~~solid waste management policy~~ report required under section 115A.411.

Sec. 21. Minnesota Statutes 1994, section 115A.919, subdivision 3, is amended to read:

Subd. 3. **EXEMPTIONS.** (a) 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 any fee imposed by a county under this section if there is at least an 85 percent ~~volume~~ weight 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, except that for facilities operating outside of the metropolitan area the commissioner shall prescribe procedures for verifying the required 85 percent ~~volume~~ weight reduction.

(b) A facility permitted for the disposal of construction debris is exempt from 25 percent of a fee imposed under subdivision 1 if the facility has implemented a recycling program approved by the county and 25 percent if the facility contains a liner and leachate collection system approved by the agency.

Sec. 22. Minnesota Statutes 1994, section 115A.921, subdivision 1, is amended to read:

Subdivision 1. **MIXED MUNICIPAL SOLID WASTE.** A city or town may impose a fee, not to exceed \$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 the balance of the fee may be used for any general fund purpose.

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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 the fee imposed by a city or town under this section if there is at least an 85 percent ~~volume~~ weight 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, except that for facilities operating outside of the metropolitan area the commissioner shall prescribe procedures for verifying the required 85 percent ~~volume~~ weight reduction.

Sec. 23. Minnesota Statutes 1994, section 115A.923, subdivision 1, is amended to read:

Subdivision 1. **AMOUNT OF FEE.** (a) The operator of a mixed municipal solid waste disposal facility outside of the metropolitan area shall charge 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 charge 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 charge 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~~ weight reduction in the solid waste processed.

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

Sec. 24. Minnesota Statutes 1994, section 115A.9302, subdivision 1, is amended to read:

Subdivision 1. **DISCLOSURE REQUIRED.** (a) By January 1, 1994, and at least annually thereafter between January 1 and March 31, a person that collects construction debris, industrial waste, or mixed municipal solid waste for transportation to a waste facility shall disclose to each waste generator from whom waste is collected the name, location, and type of, and the number of the permit issued by the agency, or its counterpart in another state, if applicable, for the processing or disposal facility or facilities, excluding a transfer station, at which

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the waste will be deposited. The collector shall note ~~both the approximate percentage of waste deposited at each of the two primary facility at which the collector most often deposits waste facilities used for the type of waste collected from the generator in the county in which the generator generates the waste and any alternative facilities regularly used by the collector-~~ for the type of waste collected from the generator in the county in which the generator generates the waste.

(b) All written disclosures must include the following statement:

"You may be responsible for any liability that results from contamination at a facility where your waste has been deposited. Minnesota believes that its waste management system provides substantially more financial and environmental protection than depositing waste in landfills in other states. Managing your waste in Minnesota may minimize your potential liability."

All oral disclosures must include the following statement:

"You may be responsible for any liability that results from contamination at a facility where your waste has been deposited. Minnesota believes that its waste management system offers more protection from liability than the waste management systems of other states."

(c) If any of the primary or alternative disposal facilities identified by the collector in paragraph (a) are not located in Minnesota, the disclosure must state "The landfill to which your waste may be sent during the current calendar year is not a Minnesota landfill."

Sec. 25. Minnesota Statutes 1994, section 115A.9302, subdivision 2, is amended to read:

Subd. 2. **FORM OF DISCLOSURE.** (a) A collector shall make the disclosure to the waste generator in writing at least once per year ~~or~~ between January 1 and March 31 and on any written contract for collection services for that year. The written disclosure must include all of the information described in subdivision 1. The oral disclosure required in this section need only include the statement required in subdivision 1, paragraph (b), and the statement required in subdivision 1, paragraph (c), if that paragraph applies. If the license issued by the county to the collector for collection within the county does not require the collector to submit a copy of the disclosure to the county, the collector shall submit a copy to the commissioner by March 31 of each year.

(b) An oral disclosure is only required with regard to the collection of mixed municipal solid waste. A collector must provide the required disclosure orally to a waste generator at the time the generator agrees to purchase regular collection service and must provide written disclosure to the generator within 45 days from the date of request. This oral disclosure is not required if the city or county within which the waste is generated selects the collector that may provide collection services to the generator.

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(c) If a collector provides one-time or occasional service to a waste generator, the collector must orally provide the generator with the required disclosure at the time the generator agrees to purchase the service. The collector shall then provide written disclosure to the generator within 45 days from the date of request.

(d) If an additional facility becomes either a primary facility or an alternative facility during the year, the collector shall make the disclosure set forth in subdivision 1 within 30 days. A local government unit that collects solid waste without direct charges to waste generators shall make the disclosure on any statement that includes an amount for waste management, provided that, at a minimum, disclosure to waste generators must be made at least twice annually in a form likely to be available to all generators.

(e) The agency may develop standard disclosure forms containing the information that is required in this section. Collectors may use the form developed by the agency.

Sec. 26. Minnesota Statutes 1994, section 115A.96, subdivision 2, is amended to read:

Subd. 2. **MANAGEMENT PROGRAM.** (a) The agency shall establish a statewide program to manage household hazardous wastes. The program must include:

(1) the establishment and operation of collection sites; and

(2) the provision of information, education, and technical assistance regarding proper management of household hazardous wastes.

~~(b) The agency shall report on its progress on establishing permanent collection sites to the legislative commission on waste management by November 1, 1994.~~

Sec. 27. Minnesota Statutes 1994, section 115A.965, subdivision 1, is amended to read:

Subdivision 1. **PACKAGING.** (a) As soon as feasible but not later than August 1, 1993, no manufacturer or distributor may sell or offer for sale or for promotional purposes in this state packaging or a product that is contained in packaging if the packaging itself, or any inks, dyes, pigments, adhesives, stabilizers, or any other additives to the packaging contain any lead, cadmium, mercury, or hexavalent chromium that has been intentionally introduced as an element during manufacture or distribution of the packaging. Intentional introduction does not include the incidental presence of any of the prohibited elements.

(b) For the purposes of this section:

(1) "distributor" means a person who imports packaging or causes packaging to be imported into the state; and

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(2) until August 15, ~~1995~~ 1996, "packaging" does not include steel strapping containing a total concentration level of lead, cadmium, mercury, and hexavalent chromium, added together, of less than 100 parts per million by weight.

Sec. 28. Minnesota Statutes 1994, section 115A.9651, subdivision 2, is amended to read:

Subd. 2. **TEMPORARY EXEMPTION.** (a) An item listed in subdivision 1 is exempt from this section until July 1, ~~1997~~ 1998, if the manufacturer of the item ~~submits~~ submitted to the commissioner a written request for an exemption by August 1, 1994. The request must include at least:

(1) an explanation of why compliance is not technically feasible at the time of the request;

(2) how the manufacturer will comply by July 1, 1997; and

(3) the name, address, and telephone number of a person the commissioner can contact for further information.

(b) By September 1, 1994, a person who uses an item listed in subdivision 1, into which one of the listed metals has been intentionally introduced, may submit, on behalf of the manufacturer, a request for temporary exemption only if the manufacturer fails to submit an exemption request as provided in paragraph (a). The request must include:

(1) an explanation of why the person must continue to use the item and a discussion of potential alternatives;

(2) an explanation of why it is not technically feasible at the time of the request to formulate or manufacture the item without intentionally introducing a listed metal;

(3) that the person will seek alternatives to using the item by July 1, 1997, if it still contains an intentionally introduced listed metal; and

(4) the name, address, and telephone number of a person the commissioner can contact for further information.

(c) A person who submits a request for temporary exemption under paragraph (b) may submit a request for a temporary exemption after September 1, 1994, for an item that the person will use as an alternative to the item for which the request was originally made as long as the new item has a total concentration level of all the listed metals that is significantly less than in the original item. An exemption under this paragraph expires July 1, ~~1997~~ 1998, and the person who requests it must submit the progress description required in paragraph (e).

(d) By October 1, 1994, and annually thereafter if requests are received under paragraph (c), the commissioner shall submit to the legislative commission on waste management a list of manufacturers and persons that have

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requested an exemption under this subdivision and the items for which exemptions were sought, along with copies of the requests.

(e) By July 1, 1996, each manufacturer on the list shall submit to the commissioner a description of the progress the manufacturer has made toward compliance with subdivision 1, and the date compliance has been achieved or the date on or before July 1, ~~1997~~ 1998, by which the manufacturer anticipates achieving compliance. By July 1, 1996, each person who has requested an exemption under paragraph (b) or (c) shall submit to the commissioner:

(1) a description of progress made to eliminate the listed metal or metals from the item or progress made by the person to find a replacement item that does not contain an intentionally introduced listed metal; and

(2) the date or anticipated date the item is or will be free of intentionally introduced metals or the date the person has stopped or will stop using the item.

By October 1, 1996, the commissioner shall submit to the legislative commission a summary of the progress made by the manufacturers and other persons and any recommendations for appropriate legislative or other action to ensure that products are not distributed in the state after July 1, ~~1997~~ 1998, that violate subdivision 1.

Sec. 29. Minnesota Statutes 1994, section 115D.03, subdivision 5, is amended to read:

Subd. 5. **ELIGIBLE RECIPIENTS.** "Eligible recipients" means persons who use, generate, or release toxic pollutants, hazardous substances, or hazardous wastes, or individuals or organizations that provide assistance to these persons.

Sec. 30. Minnesota Statutes 1994, section 115D.03, is amended by adding a subdivision to read:

Subd. 6a. OFFICER OF THE COMPANY. "Officer of the company" means one of the following:

(1) an owner or sole proprietor;

(2) a partner;

(3) for a corporation incorporated under chapter 300, the president, secretary, treasurer, or other officer as provided for in the corporation's bylaws or certificate of incorporation;

(4) for a corporation incorporated under chapter 302A, an individual exercising the functions of the chief executive officer or the chief financial officer under section 302A.305 or another officer elected or appointed by the directors of the corporation under section 302A.311;

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(5) for a corporation incorporated outside this state, an officer of the company as defined by the laws of the state in which the corporation is incorporated; or

(6) for a limited liability company organized under chapter 322B, the chief manager or treasurer.

Sec. 31. Minnesota Statutes 1994, section 115D.05, is amended to read:

**115D.05 POLLUTION PREVENTION GRANTS.**

Subdivision 1. **PURPOSE.** The director may make grants to ~~study or demonstrate the feasibility of applying specific technologies and methods to prevent develop or implement~~ pollution prevention projects or practices.

Subd. 2. **ELIGIBILITY.** (a) Eligible recipients may receive grants under this section.

(b) Grants may be awarded up to a maximum of ~~two-thirds~~ three-quarters of the total cost of the project. ~~Grant money awarded under this section may not be spent for capital improvements or equipment.~~

Subd. 3. **PROCEDURE FOR AWARDING GRANTS.** (a) In determining whether to award a grant, the director shall consider at least the following:

(1) the potential of the project to prevent pollution;

(2) the likelihood that the project will ~~develop techniques or processes that will~~ minimize the transfer of pollution from one environmental medium to another;

(3) the extent to which information to be developed through the project will be applicable and disseminated to other persons in the state; and

(4) ~~the willingness of the grant applicant to implement feasible methods and technologies developed under the grant;~~

(5) ~~the willingness of the grant applicant to assist the director in disseminating information about the pollution prevention methods to be developed through the project; and~~

(6) ~~the extent to which the project will conform to the pollution prevention policy established in section 115D.02.~~

(b) The director shall adopt rules to administer the grant program and may administer the grant program in conjunction with the grant program established under section 115A.55, subdivision 3. ~~Prior to completion of any new rulemaking, the director may administer the program under the procedures established in rules promulgated under section 115A.154.~~

Sec. 32. Minnesota Statutes 1994, section 115D.07, subdivision 1, is amended to read:

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Subdivision 1. **REQUIREMENT TO PREPARE AND MAINTAIN A PLAN.** (a) Persons who operate a facility required by United States Code, title 42, section 11023, or section 299K.08, subdivision 3, to submit a toxic chemical release form shall prepare a toxic pollution prevention plan for that facility. A facility that is required to submit a toxic chemical release form but does not release a toxic chemical is exempt from the requirements of this subdivision. The plan must contain the information listed in subdivision 2.

(b) Except as provided in paragraphs (d) and (e), for facilities that release a total of 10,000 pounds or more of toxic pollutants annually, the plan must be completed as follows:

(1) on or before July 1, 1991, for facilities having a two-digit standard industrial classification of 35 to 39;

(2) by January 1, 1992, for facilities having a two-digit standard industrial classification of 28 to 34; and

(3) by July 1, 1992, for all other persons required to prepare a plan under this subdivision.

(c) Except as provided in paragraphs (d) and (e), facilities that release less than a total of 10,000 pounds of toxic pollutants annually must complete their plans by July 1, 1992.

(d) For the following facilities, the plan must be completed as follows:

(1) by January 1, 1995, for facilities required to report under section 299K.08, subdivision 3, that have a two-digit standard industrial classification of 01 to 50; and

(2) by ~~July 1, 1995~~ January 1, 1996, for facilities required to report under section 299K.08, subdivision 3, that have a two-digit standard industrial classification of 51 to 99.

(e) For facilities that become subject to this subdivision after July 1, 1993, the plan must be completed by six months after the first submittal for the facility under United States Code, title 42, section 11023, or section 299K.08, subdivision 3.

(f) Each plan must be updated ~~every two years~~ by January 1 of every even-numbered year and must be maintained at the facility to which it pertains.

Sec. 33. Minnesota Statutes 1994, section 115D.07, subdivision 2, is amended to read:

Subd. 2. **CONTENTS OF PLAN.** (a) Each toxic pollution prevention plan must establish a program identifying the specific technically and economically practicable steps that could be taken during at least the three years following the date the plan is due, to eliminate or reduce the generation or release of toxic pol-

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lutants reported by the facility. Toxic pollutants resulting solely from research and development activities need not be included in the plan.

(b) At a minimum, each plan must include:

(1) a policy statement articulating upper management support for eliminating or reducing the generation or release of toxic pollutants at the facility;

(2) a description of the current processes generating or releasing toxic pollutants that specifically describes the types, sources, and quantities of toxic pollutants currently being generated or released by the facility;

(3) a description of the current and past practices used to eliminate or reduce the generation or release of toxic pollutants at the facility and an evaluation of the effectiveness of these practices;

(4) an assessment of technically and economically practicable options available to eliminate or reduce the generation or release of toxic pollutants at the facility, including options such as changing the raw materials, operating techniques, equipment and technology, personnel training, and other practices used at the facility. The assessment may include a cost benefit analysis of the available options;

(5) a statement of objectives based on the assessment in clause (4) and a schedule for achieving those objectives. Wherever technically and economically practicable, the objectives for eliminating or reducing the generation or release of each toxic pollutant at the facility must be expressed in numeric terms based on a specified base year that is no earlier than 1987. Otherwise, the objectives must include a clearly stated list of actions designed to lead to the establishment of numeric objectives as soon as practicable;

(6) an explanation of the rationale for each objective established for the facility;

(7) a listing of options that were considered not to be economically and technically practicable; and

(8) a certification, signed and dated by the facility manager and an officer of the company under penalty of section 609.63, attesting to the accuracy of the information in the plan.

Sec. 34. Minnesota Statutes 1994, section 115D.08, subdivision 1, is amended to read:

Subdivision 1. **REQUIREMENT TO SUBMIT PROGRESS REPORT.** (a) All persons required to prepare a toxic pollution prevention plan under section 115D.07 shall submit an annual progress report to the commissioner that may be drafted in a manner that does not disclose proprietary information. Progress reports are due on October 1 of each year. The first progress reports are due in 1992.

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(b) At a minimum, each progress report must include:

(1) a summary of each objective established in the plan, including the base year for any objective stated in numeric terms, and the schedule for meeting the each objective;

(2) a summary of progress made during the past year, if any, toward meeting each objective established in the plan including the quantity of each toxic pollutant eliminated or reduced;

(3) a statement of the methods through which elimination or reduction has been achieved;

(4) if necessary, an explanation of the reasons objectives were not achieved during the previous year, including identification of any technological, economic, or other impediments the facility faced in its efforts to achieve its objectives; and

(5) a certification, signed and dated by the facility manager and an officer of the company under penalty of section 609.63, attesting that a plan meeting the requirements of section 115D.07 has been prepared and also attesting to the accuracy of the information in the progress report.

Sec. 35. Minnesota Statutes 1994, section 115D.10, is amended to read:

**115D.10 TOXIC POLLUTION PREVENTION EVALUATION REPORT.**

The director, in cooperation with the commissioner and commission, shall report to the environment and natural resources committees of the legislature and the legislative commission on waste management on progress being made in achieving the objectives of sections 115D.01 to 115D.12. The report must be submitted by February 1 of each even-numbered year.

**Sec. 36. [116.011] ANNUAL POLLUTION REPORT.**

A goal of the pollution control agency is to reduce the amount of pollution that is emitted in the state. The pollution control agency shall include in its annual performance report information detailing the best estimate of the agency of the total volume of water and air pollution that was emitted in the state in the previous calendar year. The agency shall report its findings for both water and air pollution:

(1) in gross amounts, including the percentage increase or decrease over the previous calendar year; and

(2) in a manner which will demonstrate the magnitude of the various sources of water and air pollution.

Sec. 37. Minnesota Statutes 1994, section 116.07, subdivision 4a, is amended to read:

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Subd. 4a. **PERMITS.** (a) The pollution control agency may issue, continue in effect or deny permits, under such conditions as it may prescribe for the prevention of pollution, for the emission of air contaminants, or for the installation or operation of any emission facility, air contaminant treatment facility, treatment facility, potential air contaminant storage facility, or storage facility, or any part thereof, or for the sources or emissions of noise pollution.

The pollution control agency may also issue, continue in effect or deny permits, under such conditions as it may prescribe for the prevention of pollution, for the storage, collection, transportation, processing, or disposal of waste, or for the installation or operation of any system or facility, or any part thereof, related to the storage, collection, transportation, processing, or disposal of waste.

The pollution control agency may revoke or modify any permit issued under this subdivision and section 116.081 whenever it is necessary, in the opinion of the agency, to prevent or abate pollution.

(b) The pollution control agency has the authority for approval over the siting, expansion, or operation of a solid waste facility with regard to environmental issues. However, the agency's issuance of a permit does not release the permittee from any liability, penalty, or duty imposed by any applicable county ordinances. Nothing in this chapter precludes, or shall be construed to preclude, a county from enforcing land use controls, regulations, and ordinances existing at the time of the permit application and adopted pursuant to sections 366.10 to 366.181, 394.21 to 394.37, or 462.351 to 462.365, with regard to the siting, expansion, or operation of a solid waste facility.

Sec. 38. Minnesota Statutes 1994, section 116.07, subdivision 4j, is amended 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 waste resource recovery or disposal facility as defined in section 115A.03 unless each county using or projected in the permit to use the facility has in place a solid waste management plan approved under section 115A.46 or 473.803 and amended as required by section 115A.96, subdivision 6. 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 office of environmental assistance. 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.

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(c) Within 30 days of receipt by the agency of a permit application for a solid waste facility, the commissioner shall notify the applicant in writing whether the application is complete and if not, what items are needed to make it complete, and shall give an estimate of the time it will take to process the application. Within 180 days of receipt of a completed application, the agency shall approve, disapprove, or delay decision on the application, with reasons for the delay, in writing.

Sec. 39. Minnesota Statutes 1994, section 116.072, is amended to read:

**116.072 ADMINISTRATIVE PENALTIES.**

Subdivision 1. **AUTHORITY TO ISSUE PENALTY ORDERS.** (a) The commissioner may issue an order requiring violations to be corrected and administratively assessing monetary penalties for violations of this chapter and chapters 115, 115A, 115D, and 115E, any rules adopted under those chapters, and any standards, limitations, or conditions established in an agency permit; and for failure to respond to a request for information under section 115B.17, subdivision 3. The order must be issued as provided in this section.

(b) A county board may adopt an ordinance containing procedures for the issuance of administrative penalty orders and may issue orders beginning August 1, 1996. Before adopting ordinances, counties shall work cooperatively with the agency to develop an implementation plan for the orders that substantially conforms to a model ordinance developed by the counties and the agency. After adopting the ordinance, the county board may issue orders requiring violations to be corrected and administratively assessing monetary penalties for violations of county ordinances adopted under section 400.16, 400.161, or 473.811 or chapter 115A that regulate solid and hazardous waste and any standards, limitations, or conditions established in a county license issued pursuant to these ordinances. For violations of ordinances relating to hazardous waste, a county's penalty authority is described in subdivisions 2 to 5. For violations of ordinances relating to solid waste, a county's penalty authority is described in subdivision 5a. Subdivisions 6 to 11 apply to violations of ordinances relating to both solid and hazardous waste.

(c) Monetary penalties collected by a county must be used to manage solid and hazardous waste. A county board's authority is limited to violations described in paragraph (b). Its authority to issue orders under this section expires August 1, 1999.

Subd. 2. **AMOUNT OF PENALTY; CONSIDERATIONS.** (a) The commissioner or county board may issue an order assessing a penalty up to \$10,000 for all violations identified during an inspection or other compliance review.

(b) In determining the amount of a penalty the commissioner or county board may consider:

- (1) the willfulness of the violation;

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(2) the gravity of the violation, including damage to humans, animals, air, water, land, or other natural resources of the state;

(3) the history of past violations;

(4) the number of violations;

(5) the economic benefit gained by the person by allowing or committing the violation; and

(6) other factors as justice may require, if the commissioner or county board specifically identifies the additional factors in the commissioner's or county board's order.

(c) For a violation after an initial violation, the commissioner or county board shall, in determining the amount of a penalty, consider the factors in paragraph (b) and the:

(1) similarity of the most recent previous violation and the violation to be penalized;

(2) time elapsed since the last violation;

(3) number of previous violations; and

(4) response of the person to the most recent previous violation identified.

Subd. 3. **CONTENTS OF ORDER.** An order assessing an administrative penalty under this section shall include:

(1) a concise statement of the facts alleged to constitute a violation;

(2) a reference to the section of the statute, rule, ordinance, variance, order, stipulation agreement, or term or condition of a permit or license that has been violated;

(3) a statement of the amount of the administrative penalty to be imposed and the factors upon which the penalty is based; and

(4) a statement of the person's right to review of the order.

Subd. 4. **CORRECTIVE ORDER.** (a) The commissioner or county board may issue an order assessing a penalty and requiring the violations cited in the order to be corrected within 30 calendar days from the date the order is received.

(b) The person to whom the order was issued shall provide information to the commissioner or county board before the 31st day after the order was received demonstrating that the violation has been corrected or that appropriate steps toward correcting the violation have been taken. The commissioner or county board shall determine whether the violation has been corrected and

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notify the person subject to the order of the commissioner's or county board's determination.

Subd. 5. **PENALTY.** (a) Except as provided in paragraph (b), if the commissioner or county board determines that the violation has been corrected or appropriate steps have been taken to correct the action, the penalty must be forgiven. Unless the person requests review of the order under subdivision 6 or 7 before the penalty is due, the penalty in the order is due and payable:

(1) on the 31st day after the order was received, if the person subject to the order fails to provide information to the commissioner or county board showing that the violation has been corrected or that appropriate steps have been taken toward correcting the violation; or

(2) on the 20th day after the person receives the commissioner's or county board's determination under subdivision 4, paragraph (b), if the person subject to the order has provided information to the commissioner or county board that the commissioner or county board determines is not sufficient to show the violation has been corrected or that appropriate steps have been taken toward correcting the violation.

(b) For a repeated or serious violation, the commissioner or county board may issue an order with a penalty that will not be forgiven after the corrective action is taken. The penalty is due by 31 days after the order was received unless review of the order under subdivision 6, 7, or 8 has been sought.

(c) Interest at the rate established in section 549.09 begins to accrue on penalties under this subdivision on the 31st day after the order with the penalty was received.

**Subd. 5a. COUNTY PENALTY AUTHORITY FOR SOLID WASTE VIOLATIONS.** (a) A county board's authority to issue a corrective order and assess a penalty for all violations relating to solid waste that are identified during an inspection or other compliance review is as described in this subdivision. The model ordinance described in subdivision 1, paragraph (b), must include provisions for letters or warnings that may be issued following the inspection and before proceeding under paragraph (b).

(b) For all violations described in paragraph (a), a county attorney or county department with responsibility for environmental enforcement may first issue a notice of violation that complies with the requirements of subdivision 4, except that no penalty may be assessed unless, in the opinion of the county board, the gravity of the violation and its potential for damage to, or actual damage to, public health or the environment is such that a penalty under paragraph (c) or (d) is warranted. In that case the county attorney or department may proceed directly to paragraph (c) or (d).

(c) If the violations are not corrected, if appropriate steps have not been taken to correct them, or if the county board has determined that the gravity of

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the violations are such that action under this paragraph is warranted, a county board may issue a corrective order as described in subdivision 4, except that the penalty may not exceed \$2,000.

(d) If the violations are still not corrected, if appropriate steps have not been taken to correct them, or if the county board has determined that the gravity of the violations are such that action under this paragraph is warranted, a county board may issue a corrective order as described in subdivision 4, except that the penalty may not exceed \$5,000.

(e) In determining the amount of the penalty in paragraph (c) or (d), the county board shall be governed by subdivision 2, paragraphs (b) and (c). The penalty assessed under paragraph (c) or (d) shall be due and payable, forgiven, or assessed without forgiveness as described in subdivision 5.

Subd. 6. **EXPEDITED ADMINISTRATIVE HEARING.** (a) Within 30 days after receiving an order or within 20 days after receiving notice that the commissioner or county board has determined that a violation has not been corrected or appropriate steps have not been taken, the person subject to an order under this section may request an expedited hearing, utilizing the procedures of Minnesota Rules, parts 1400.8510 to 1400.8612, to review the commissioner's or county board's action. The hearing request must specifically state the reasons for seeking review of the order. The person to whom the order is directed and the commissioner or county board are the parties to the expedited hearing. The commissioner or county board must notify the person to whom the order is directed of the time and place of the hearing at least 20 days before the hearing. The expedited hearing must be held within 30 days after a request for hearing has been filed with the commissioner or county board unless the parties agree to a later date.

(b) All written arguments must be submitted within ten days following the close of the hearing. The hearing shall be conducted under Minnesota Rules, parts 1400.8510 to 1400.8612, as modified by this subdivision. The office of administrative hearings may, in consultation with the agency, adopt rules specifically applicable to cases under this section.

(c) The administrative law judge shall issue a report making recommendations about the commissioner's or county board's action to the commissioner or county board within 30 days following the close of the record. The administrative law judge may not recommend a change in the amount of the proposed penalty unless the administrative law judge determines that, based on the factors in subdivision 2, the amount of the penalty is unreasonable.

(d) If the administrative law judge makes a finding that the hearing was requested solely for purposes of delay or that the hearing request was frivolous, the commissioner or county board may add to the amount of the penalty the costs charged to the agency by the office of administrative hearings for the hearing.

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(e) If a hearing has been held, the commissioner or county board may not issue a final order until at least five days after receipt of the report of the administrative law judge. The person to whom an order is issued may, within those five days, comment to the commissioner or county board on the recommendations and the commissioner or county board will consider the comments. The final order may be appealed in the manner provided in sections 14.63 to 14.69.

(f) If a hearing has been held and a final order issued by the commissioner or county board, the penalty shall be paid by 30 days after the date the final order is received unless review of the final order is requested under sections 14.63 to 14.69. If review is not requested or the order is reviewed and upheld, the amount due is the penalty, together with interest accruing from 31 days after the original order was received at the rate established in section 549.09.

Subd. 7. **DISTRICT COURT HEARING.** (a) Within 30 days after the receipt of an order from the commissioner or a county board or within 20 days of receipt of notice that the commissioner or a county board has determined that a violation has not been corrected or appropriate steps have not been taken, the person subject to an order under this section may file a petition in district court for review of the order in lieu of requesting an administrative hearing under subdivision 6. The petition shall be filed with the court administrator with proof of service on the commissioner or county board. The petition shall be captioned in the name of the person making the petition as petitioner and the ~~director~~ commissioner or county board as respondent. The petition shall state with specificity the grounds upon which the petitioner seeks rescission of the order, including the facts upon which each claim is based.

(b) At trial, the commissioner or county board must establish by a preponderance of the evidence that a violation subject to this section occurred, the petitioner is responsible for the violation, a penalty immediately assessed as provided for under subdivision 5, paragraph (b) or (c), is justified by the violation, and the factors listed in subdivision 2 were considered when the penalty amount was determined and the penalty amount is justified by those factors.

Subd. 8. **MEDIATION.** In addition to review under subdivision 6 or 7, the commissioner or county board is authorized to enter into mediation concerning an order issued under this section if the commissioner or county board and the person to whom the order is issued both agree to mediation.

Subd. 9. **ENFORCEMENT.** (a) The attorney general ~~may proceed~~ on behalf of the state, or the county attorney on behalf of the county, may proceed to enforce penalties that are due and payable under this section in any manner provided by law for the collection of debts.

(b) The attorney general or county attorney may petition the district court to file the administrative order as an order of the court. At any court hearing, the only issues parties may contest are procedural and notice issues. Once entered, the administrative order may be enforced in the same manner as a final judgment of the district court.

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(c) If a person fails to pay the penalty, the attorney general or county attorney may bring a civil action in district court seeking payment of the penalties, injunctive, or other appropriate relief including monetary damages, attorney fees, costs, and interest.

Subd. 10. **REVOCATION AND SUSPENSION OF PERMIT.** If a person fails to pay a penalty owed under this section, the agency or county board has grounds to revoke or refuse to reissue or renew a permit or license issued by the agency or county board.

Subd. 11. **CUMULATIVE REMEDY.** The authority of the agency or county board to issue a corrective order assessing penalties is in addition to other remedies available under statutory or common law, except that the state or county board may not seek civil penalties under any other provision of law for the violations covered by the administrative penalty order. The payment of a penalty does not preclude the use of other enforcement provisions, under which penalties are not assessed, in connection with the violation for which the penalty was assessed.

Subd. 12. **REPORT; ADMINISTRATIVE PENALTY ORDER.** (a) All counties that have adopted ordinances allowing them to issue administrative penalty orders shall report to the legislative auditor by September 1, 1998, on administrative penalty activity through August 1, 1998. The reports must include at least the following information: the nature and number of orders and penalties issued or forgiven, the nature and outcome of appeals taken, how much revenue was collected from penalties and how it was spent, and any other information a county board finds relevant.

(b) The legislative audit commission is requested to direct the legislative auditor to evaluate the data and report to the legislative commission on waste management by January 1, 1999, on at least the following matters: the degree to which penalties were suitable to the gravity of the violation, compliance with the implementation plan, and any other information the auditor finds relevant. In preparing the report, the auditor shall solicit information from counties and the regulated community and shall make recommendations as to whether the administrative penalty authority should be continued, discontinued, or continued with modifications and make any other recommendations the auditor wishes to propose as a result of the study.

Sec. 40. Minnesota Statutes 1994, section 116.66, subdivision 2, is amended to read:

Subd. 2. **FACILITY EVALUATIONS; ENVIRONMENTAL ASSESSMENT.** (a) The commissioner of the pollution control agency shall conduct facility evaluations to evaluate ongoing waste management practices and shall provide technical assistance for corrective action at motor vehicle salvage facilities.

(b) The commissioner ~~shall~~ may conduct environmental assessments at a

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representative group of motor vehicle salvage facilities to determine the extent and magnitude of any contamination and environmental impacts, develop criteria, and determine appropriate cleanup methods, and set priorities for cleanup actions at motor vehicle salvage facility sites, under the criteria in Minnesota Rules, chapter 7044.

Sec. 41. Minnesota Statutes 1994, section 116.66, subdivision 4, is amended to read:

Subd. 4. **REPEALER.** This section is repealed on the day that the repeal of section 115A.908 is effective June 30, 1999.

Sec. 42. **[116.67] COST-SHARING PROGRAM; CLEANUP OF CERTAIN MOTOR VEHICLE SALVAGE FACILITIES.**

The pollution control agency may enter into cost-sharing agreements with owners and operators of motor vehicle salvage facilities for the cleanup of motor vehicle salvage facility sites, based on the findings of the environmental assessment of motor vehicle salvage facilities conducted under section 116.66, subdivision 2. An agreement under this section must provide that the agency will be responsible for paying 90 percent of the costs of removal and remedial actions at the site, and the owner or operator of the motor vehicle salvage facility must pay the remaining ten percent of the costs. For the purposes of this section, the terms "removal" and "remedial actions" have the meanings given in section 115B.02, subdivisions 16 and 17.

Sec. 43. Minnesota Statutes 1994, section 116.92, subdivision 4, is amended to read:

Subd. 4. **REMOVAL FROM SERVICE; PRODUCTS CONTAINING MERCURY.** (a) When an item listed in subdivision 3 is removed from service the mercury in the item must be reused, recycled, or otherwise managed to ensure compliance with section 115A.932.

(b) A person who is in the business of replacing or repairing an item listed in subdivision 3 in households shall ensure, or deliver the item to a facility that will ensure, that the mercury contained in an item that is replaced or repaired is reused or recycled or otherwise managed in compliance with section 115A.932.

(c) A person may not crush a motor vehicle unless the person has first made a good faith effort to remove all of the mercury switches in the motor vehicle.

Sec. 44. Minnesota Statutes 1994, section 325E.0951, subdivision 5, is amended to read:

Subd. 5. **RULES SUPERSEDED.** This section supersedes Minnesota Rules, part ~~7005.1190~~ 7023.0120, to the extent the rule is inconsistent with this section.

Sec. 45. Minnesota Statutes 1994, section 400.16, is amended to read:

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

**400.16 SOLID WASTE AND SEWAGE SLUDGE DISPOSAL MANAGEMENT REGULATIONS.**

The county may by ordinance establish and revise rules, regulations, and standards for solid waste and sewage sludge management and land pollution, relating to (a) the location, sanitary operation, and maintenance of solid waste facilities and sewage sludge disposal facilities by the county and any municipality or other public agency and by private operators; (b) the collection, processing, and disposal of solid waste and sewage sludge; (c) the amount and type of equipment required in relation to the amount and type of material received at any solid waste facility or sewage sludge disposal facility; (d) the control of salvage operations, water or air or land pollution, and rodents at such facilities; (e) the termination or abandonment of the facilities or activities; and (f) other matters relating to the facilities as may be determined necessary for the public health, welfare, and safety. The county may issue permits or licenses for solid waste facilities and may require that the facilities be registered with an appropriate county office. The county shall adopt the ordinances for mixed municipal solid waste management. The county shall make provision for issuing permits or licenses for mixed municipal solid waste facilities and shall require that the facilities be registered with an appropriate county office. No permit or license shall be issued for a mixed municipal solid waste facility unless the applicant has demonstrated to the satisfaction of the county board the availability of revenues necessary to operate the facility in accordance with applicable state and local laws, ordinances, and rules. No permit shall be issued for a solid waste facility used primarily for resource recovery or a transfer station serving such a 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 county finds and determines that adequate markets exist for the products recovered and that any displacement of existing resource recovery facilities and transfer stations serving such facilities that may result from the establishment of the new facility is required in order to achieve the waste management objectives of the county. The county ordinance shall require appropriate procedures for termination or abandonment of any mixed municipal solid waste facilities or services, which shall include provision for long term monitoring for possible land pollution, and for the payment by the owners or operators thereof, or both, of any costs incurred by the county in completing the procedures. The county may require the procedures and payments with respect to any facilities or services regulated pursuant to this section. In the event the operators or owners fail to complete the procedures in accordance with the ordinance, 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 to be collected as other taxes are collected. The ordinance may be enforced by injunction, action to compel performance, ~~or~~ other appropriate action in the district court, or administrative penalty order authorized under section 116.072. Any ordinance enacted under this section shall embody minimum standards and requirements established by rule of the agency.

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Sec. 46. Minnesota Statutes 1994, 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 (1) identification of hazardous waste, (2) the labeling and classification of hazardous waste, (3) the collection, transportation, processing, disposal, and storage of hazardous waste, 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, or administrative penalty order authorized under section 116.072. 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 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. 47. Minnesota Statutes 1994, section 473.149, subdivision 1, is amended to read:

Subdivision 1. **POLICY PLAN; GENERAL REQUIREMENTS.** ~~The metropolitan council shall prepare and by resolution adopt as part of its development guide a~~ director of the office of environmental assistance may revise the metropolitan long range policy plan for solid waste management in the metropolitan area. When adopted, and revised by the metropolitan council prior to the transfer of powers and duties in Laws 1994, chapter 639, article 5, section 2. The plan shall be followed in the metropolitan area. Until the director revises it,

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~~the plan adopted and revised by the council on September 26, 1991, remains in effect. The plan shall address the state policies and purposes expressed in section 115A.02. In revising the plan the director shall substantially conform to all policy statements, purposes, goals, standards, maps and plans in development guide sections and plans adopted by the council, provided that no land shall be thereby excluded from consideration as a solid waste facility site except land determined by the agency to be intrinsically unsuitable for such use follow the procedures in subdivision 3. The plan shall include goals and policies for solid waste management, including recycling consistent with section 115A.551, and household hazardous waste management consistent with section 115A.96, subdivision 6, in the metropolitan area and, to the extent appropriate, statements and information similar to that required under section 473.146, subdivision 1.~~

The plan shall include criteria and standards for solid waste facilities and solid waste facility sites respecting the following matters: general location; capacity; operation; processing techniques; environmental impact; effect on existing, planned, or proposed collection services and waste facilities; and economic viability. The plan 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 plan shall include additional 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. In ~~developing~~ revising the plan, the ~~council~~ director shall consider the orderly and economic development, public and private, of the metropolitan area; the preservation and best and most economical use of land and water resources in the metropolitan area; the protection and enhancement of environmental quality; the conservation and reuse of resources and energy; the preservation and promotion of conditions conducive to efficient, competitive, and adaptable systems of waste management; and the orderly resolution of questions concerning changes in systems of waste management. Criteria and standards for solid waste facilities shall be consistent with rules adopted by the pollution control agency pursuant to chapter 116 and shall be at least as stringent as the guidelines, regulations, and standards of the federal Environmental Protection Agency.

Sec. 48. Minnesota Statutes 1994, section 473.149, subdivision 2d, is amended to read:

Subd. 2d. **LAND DISPOSAL ABATEMENT PLAN.** (a) ~~After considering any county land disposal abatement proposals and waste stream analysis that have been submitted under section 473.803, subdivision 1b; The council~~ director shall amend its include in the 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.

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(b) The objectives must be stated in annual increments through the year 1990 ~~and thereafter in five-year~~ six-year increments 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~~ six-year increment ~~and the general area of the region where the capacity should be developed.~~

(c) The plan must include objectives for waste reduction and measurable objectives for local abatement of solid waste through resource recovery, recycling, and source separation programs for each metropolitan county stated in annual increments through the year 1990 ~~and in five-year~~ six-year increments for a period of at least 20 years from the date of adoption of policy plan revisions.

(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~~ director in determining whether a metropolitan county has implemented the ~~council's~~ metropolitan land disposal abatement plan and has achieved the objectives for local abatement.

Sec. 49. Minnesota Statutes 1994, section 473.149, subdivision 2e, is amended to read:

Subd. 2e. **SOLID WASTE DISPOSAL FACILITIES DEVELOPMENT SCHEDULE CAPACITY NEEDS.** (a) After requesting and considering recommendations from the counties, cities, and towns, the ~~council~~ director as part of its the policy plan shall determine ~~the number of sites and the capacity of sites needed within~~ to serve the metropolitan area for disposal of solid waste ~~disposal~~ facilities:

(b) The council shall adopt a schedule of disposal capacity to be developed within the metropolitan area, including residuals and ash, in ~~five-year~~ six-year increments for a period of at least 20 years from adoption of ~~development~~ schedule policy plan revisions. In making the schedule may not allow capacity in excess of determination, the director must take into account the council's reduced estimate of the disposal capacity needed because of the council's land disposal abatement plan.

(c) The council shall make the implementation of elements of the schedule contingent on actions of each county in adopting and implementing abatement plans pursuant to section 473.803, subdivision 1b. The council may review the development schedule every year and revise the development schedule based on the progress made 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 based on significant changes in the landfill capacity of the metropolitan area. The schedule must include procedures and criteria for making revisions:

(d) The schedule director's determination must include standards and pro-

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cedures for ~~council~~ certification of need pursuant to section 473.823. ~~The schedule must also include a closure schedule and plans for postclosure management and disposition of facilities, including facilities in existence before the adoption of the development schedule.~~

Sec. 50. Minnesota Statutes 1994, section 473.149, subdivision 3, is amended to read:

Subd. 3. **PREPARATION ~~AND~~; ADOPTION; AND REVISION.** (a) The solid waste policy plan shall be prepared, adopted, and ~~amended~~ revised as necessary in accordance with paragraphs (c) to (e), after consultation with the metropolitan counties and the pollution control agency. ~~Any comprehensive plan adopted by the council shall remain in force and effect while new or amended plans are being prepared and adopted by the council. No~~

(b) Revisions to the policy plan are exempt from the rulemaking provisions of chapter 14.

(c) Before beginning preparation of revisions to the policy plan, the director shall publish a predrafting notice in the State Register that includes a statement of the subjects expected to be covered by the revisions, including a summary of the important problems and issues. The notice must solicit comments from the public and state that the comments must be received by the director within 45 days of publication of the notice. The director shall consider the comments in preparing the revisions.

(d) After publication of the predrafting notice and before adopting revisions to the policy plan, the director shall publish a notice in the State Register that:

(1) contains a summary of the proposed revisions;

(2) invites public comment;

(3) lists locations where the proposed revised policy plan can be reviewed and states that copies of the proposed revised policy plan can also be obtained from the office;

(4) states a location for a public meeting on the revisions at a time no earlier than 30 days from the date of publication; and

(5) advises the public that they have 30 days from the date of the public meeting in clause (4) to submit comments on the revisions to the director.

(e) At the meeting described in paragraph (d), clause (4), the public shall be given an opportunity to present their views on the policy plan revisions. The director shall incorporate any amendments to the proposed revisions that, in the director's view, will help to carry out the requirements of subdivisions 1, 2d, and 2e. At or before the time that policy plan revisions are finally adopted, the director shall issue a report that addresses issues raised in the public comments. The report shall be made available to the public and mailed to interested persons who have submitted their names and addresses to the director.

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(f) The criteria and standards adopted in the policy plan for review of solid waste facility permits pursuant to section 473.823, subdivision 3; for issuance of certificates of need pursuant to section 473.823, subdivision 6; and for review of solid waste contracts pursuant to section 473.813 may be appealed to the court of appeals within 30 days after final adoption of the policy plan. The court may declare the challenged portion of the policy plan invalid if it violates constitutional provisions, is in excess of statutory authority of the director, or was adopted without compliance with the procedures in this subdivision. The review shall be on the record created during the adoption of the policy plan, except that additional evidence may be included in the record if the court finds that the additional evidence is material and there were good reasons for failure to present it in the proceedings described in paragraphs (c) to (e).

(g) The metropolitan council or a metropolitan county, local government unit, commission, or person shall not acquire, construct, improve or operate any solid waste facility in the metropolitan area except in accordance with the council's plan and section 473.823, provided that no solid waste facility in use when a plan is adopted shall be discontinued solely because it is not located in an area designated in the plan as acceptable for the location of such facilities.

Sec. 51. Minnesota Statutes 1994, section 473.149, subdivision 6, is amended to read:

Subd. 6. **REPORT TO LEGISLATURE.** The council director shall report on abatement to the legislative commission on waste management by July 1 of each odd-numbered year. The report must include an assessment of whether the objectives of the metropolitan abatement plan have been met and whether each county and each class of city within each county have achieved the objectives set for it in the council's plan. The report must recommend any legislation that may be required to implement the plan. The report shall include the reports be included in the report required by sections ~~115A.551, subdivision 4; 473.846; and 473.848, subdivision 4~~ section 115A.411. If in any year the council director reports that the objectives of the council's abatement plan have not been met, the council director shall evaluate and report on the need to reassign governmental responsibilities among cities, counties, and metropolitan agencies to assure implementation and achievement of the metropolitan and local abatement plans and objectives.

The report in each even-numbered year must include a report on the operating, capital, and debt service costs of solid waste facilities in the metropolitan area; changes in the costs; the methods used to pay the costs; and the resultant allocation of costs among users of the facilities and the general public. The facility costs report must present the cost and financing analysis in the aggregate and broken down by county and by major facility.

Sec. 52. Minnesota Statutes 1994, section 473.803, subdivision 1c, is amended to read:

Subd. 1c. **COUNTY ABATEMENT PLAN.** Each county shall revise its

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master plan to include a land disposal abatement element to implement the council's metropolitan land disposal abatement plan adopted under section 473.149, subdivision 2d, and shall submit the revised master plan to the council director for review under subdivision 2 within nine months after the adoption of the council's metropolitan abatement plan. The county plan must implement the local abatement objectives for the county and cities within the county as stated in the council's metropolitan abatement plan. The county abatement plan must include specific and quantifiable county objectives, based on the council's objectives in the metropolitan abatement plan, 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 generated in the county, stated in annual increments through the date specified in section 473.848 and in two five-year six-year increments thereafter for a period of at least 20 years from the date of metropolitan policy plan revisions. The plan must include measurable performance standards for local abatement of solid waste through resource recovery and waste reduction and separation programs and activities for the county as a whole and for statutory or home rule charter cities of the first, second, and third class, respectively, in the county, stated in annual increments through the date specified in section 473.848 and in two five-year six-year increments thereafter for a period of at least 20 years from the date of metropolitan policy plan revisions. The performance standards must implement the metropolitan and county abatement objectives. The plan must include standards and procedures to be used by the county in determining annually under subdivision 3 whether a city within the county has implemented the plan and has satisfied the performance standards for local abatement. The master plan revision required by this subdivision must be prepared in consultation with the advisory committee established pursuant to subdivision 4.

Sec. 53. Minnesota Statutes 1994, section 473.803, subdivision 2, is amended to read:

Subd. 2. **COUNCIL DIRECTOR REVIEW.** The council director shall review each master plan or revision thereof to determine whether it is consistent with the council's metropolitan policy plan. If it is not consistent, the council director shall disapprove and return the plan with its comments to the county for revision and resubmittal. The county shall have 90 days to revise and resubmit the plan for council the director's approval. Any county solid waste plan or report approved by the council prior to ~~April 9, 1976~~ July 1, 1994, shall remain in effect until a new master plan is submitted to and approved by the council director in accordance with this section.

The council director shall review the household hazardous waste management portion of each county's plan in cooperation with the agency.

Sec. 54. Minnesota Statutes 1994, section 473.803, subdivision 4, is amended to read:

Subd. 4. **ADVISORY COMMITTEE.** ~~By July 1, 1984,~~ Each county shall

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establish a solid waste management advisory committee to aid in the preparation of the county master plan, any revisions thereof, and such additional matters as the county deems appropriate. The committee must consist of citizen representatives, representatives from towns and cities within the county, and representatives from private waste management firms. The committee must include residents of towns or cities within the county containing solid waste disposal facilities. Members of the ~~council's~~ solid waste advisory committee established under section 473.149, subdivision 4, who reside in the county are ex officio members of the county advisory committee. ~~A representative of the metropolitan council~~ The director or the director's appointee is an ex officio member of the committee.

Sec. 55. Minnesota Statutes 1994, section 473.811, subdivision 5c, is amended to read:

Subd. 5c. **COUNTY ENFORCEMENT.** Each metropolitan county shall be responsible for insuring that waste facilities, solid waste collection operations licensed or regulated by the county and hazardous waste generation and collection operations are brought into conformance with, or terminated and abandoned in accordance with, applicable county ordinances; rules and requirements of the state; and the policy plan ~~of the council~~. Counties may provide by ordinance that operators or owners or both of such facilities or operations shall be responsible to the county for satisfactorily performing the procedures required. If operators or owners or both fail to perform, the county may recover the costs incurred by the county in completing the procedures 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. The ordinances may be enforced by action in district court or administrative penalty order authorized under section 116.072. The county may prescribe a criminal penalty for the violation of any ordinance enacted under this section not exceeding the maximum which may be specified for a misdemeanor.

Sec. 56. Minnesota Statutes 1994, section 473.843, subdivision 1, is amended to read:

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 \$6.66 per ton 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 \$2 per cubic yard of waste accepted at the entrance of the facility. This fee and the tipping fee must be calculated on the same basis.

(c) Waste residue, from recycling facilities at which recyclable materials are separated or processed for the purposes of recycling, or from energy and

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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 weight~~ 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~~ director and the agency, shall prescribe procedures for determining the amount of waste residue qualifying for exemption.

Sec. 57. Minnesota Statutes 1994, section 473.846, is amended to read:

**473.846 REPORT TO LEGISLATURE.**

The agency and ~~metropolitan council~~ the director shall submit to the senate finance committee, the house ways and means committee, and the legislative commission on waste management separate reports describing the activities for which money from the landfill abatement account and contingency action trust fund has been spent. The agency shall report by November 1 of each year on expenditures during its previous fiscal year. The ~~council~~ director shall report on expenditures during the previous calendar year and must incorporate its report in the report required by section ~~473.149~~ 115A.411, due July 1 of each ~~odd-numbered~~ year. The ~~council~~ director shall make recommendations to the legislative commission on waste management on the future management and use of the metropolitan landfill abatement account.

**Sec. 58. [480.0515] PAPERS TO BE SUBMITTED ON RECYCLED PAPER.**

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

(b) "Attorney" means an attorney at law admitted to practice law in this state.

(c) "Document" means a document that is required or permitted to be filed with a court concerning an action that is to be commenced or is pending before the court.

Subd. 2. REQUIREMENT. (a) Except as provided in subdivision 3, a document submitted by an attorney to a court of this state, and all papers appended to the document, must be submitted on paper containing not less than ten percent postconsumer material, as defined in section 115A.03, subdivision 24b.

(b) A court may not refuse a document solely because the document was not submitted on recycled paper.

Subd. 3. EXCEPTIONS. (a) Subdivision 1 does not apply to:

(1) a photograph;

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(2) an original document that was prepared or printed before January 1, 1996;

(3) a document that was not created at the direction or under the control of the submitting attorney;

(4) a facsimile copy otherwise permitted to be filed with the court in lieu of the original document, provided that if the original is also required to be filed, it must be submitted in compliance with this section; or

(5) nonrecycled paper and preprinted forms acquired or printed before January 1, 1996.

(b) This section does not apply if recycled paper is not readily available.

Sec. 59. Laws 1994, chapter 585, section 51, is amended to read:

**Sec. 51. ELECTRONIC APPLIANCES; REPORT.**

By ~~July~~ August 1, 1995, the director of the office of waste management, in consultation with the commissioner of the pollution control agency and counties, shall submit a report to the legislative commission on waste management regarding management of waste electronic appliances that:

(1) identifies types of electronic appliances that contain materials that pose problems in the solid waste management system;

(2) explains how those waste appliances are presently managed and identifies any adverse environmental effects of present management; and

(3) recommends, if necessary, legislation to govern management of waste electronic appliances.

For the purposes of this section, "electronic appliances" includes at least audio, video, computing, printing, communication, and telecommunication equipment and apparatuses that contain electronic components, including but not limited to radios, televisions, computers, computer printers, small electronic kitchen appliances, telefacsimile equipment, and household and commercial communication transmission and reception equipment, but does not include major appliances as defined in Minnesota Statutes, section 115A.03, subdivision 17a.

Sec. 60. Laws 1994, chapter 628, article 3, section 209, is amended to read:

**Sec. 209. REPEALER.**

(a) Minnesota Statutes 1992, sections 115A.03, subdivision 20; ~~115A.33~~; 174.22, subdivision 4; 473.121, subdivisions 15 and 21; 473.122; 473.146, subdivisions 2, 2a, 2b, and 2c; 473.153; 473.161; 473.163; 473.181, subdivision 3; 473.325, subdivision 5; 473.384, subdivision 9; 473.388, subdivision 6; 473.404, as amended by Laws 1993, chapter 119, section 1; 473.405, subdivisions 2, 6, 7,

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8, 11, 13, and 14; 473.417; 473.435; 473.436, subdivision 7; 473.445, subdivisions 1 and 3; 473.501, subdivision 2; 473.503; 473.504, subdivisions 1, 2, 3, 7, and 8; 473.511, subdivision 5; 473.517, subdivision 8; 473.543, subdivision 5; and 473.553, subdivision 4a, are repealed.

(b) Minnesota Statutes 1992, sections 473.121, subdivision 14a; 473.141, as amended by Laws 1993, chapter 314, sections 3 and 4; 473.373, as amended by Laws 1993, chapter 314, section 5; 473.375, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 10, 16, 17, and 18; 473.377; 473.38; Minnesota Statutes 1993 Supplement, section 473.3996, are repealed.

#### Sec. 61. REPORT.

The commissioner of the pollution control agency and the agency board shall each, by February 1, 1996, report to the chairs of the senate governmental operations and veterans committee, and the house of representatives governmental operations committee on the effect of the agency board's activities on the agency's ability to operate in a timely, efficient, and effective manner. The report must include recommended changes to improve the agency's ability to further the policy in Minnesota Statutes, section 116.01.

#### Sec. 62. TEMPORARY EXEMPTION FOR CARPET RECYCLING FACILITIES.

Until August 1, 1996, waste residue from a used carpet recycling facility is exempt from the fee imposed by Minnesota Statutes, section 473.843, if there is at least a 50 percent weight reduction in the solid waste processed at the facility. For the purposes of this section, "used carpet" means carpet that is no longer suitable for its original intended purpose because of wear, damage, or defect.

#### Sec. 63. STUDY ON BARRIERS TO INCREASED RECYCLING OF CORRUGATED PAPER PRODUCTS AND USED CARPETING.

By November 1, 1995, the office of environmental assistance shall conduct an analysis and make recommendations to the legislative commission on waste management regarding measures to remove barriers that prevent increased recycling of corrugated paper products and used carpeting. For purposes of this section, "corrugated paper products" means boxes, containers, liners, sheets, or other products made from corrugated paper. "Used carpeting" means carpeting that is no longer suitable for its original intended purpose because of wear, damage, or defect.

#### Sec. 64. REENACTMENT.

Notwithstanding Minnesota Statutes, section 645.36, Minnesota Statutes 1992, section 115A.33, as repealed by Laws 1994, chapter 628, article 3, section 209, is reenacted.

#### Sec. 65. APPLICATION.

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

Sections 47 to 57 apply in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

**Sec. 66. INSTRUCTION TO REVISOR.**

The revisor shall recodify Minnesota Statutes, sections 115A.47, subdivision 2, paragraphs (b), (d), and (g), and 115A.931, paragraph (b), as definitions in Minnesota Statutes, section 115A.03, and recast the language as necessary to conform to the other definitions in that section.

**Sec. 67. REPEALER.**

(a) Minnesota Statutes 1994, sections 116.94; 473.149, subdivisions 2, 2a, 2c, and 2f; and 473.803, subdivision 1b, are repealed.

(b) Minnesota Statutes 1994, section 473.803, subdivision 1e, is repealed.

(c) Minnesota Statutes 1994, section 115A.165, is repealed.

**Sec. 68. EFFECTIVE DATE.**

Sections 4, 5, 37, 47 to 54, 59, 66, and 67, paragraph (a), are effective on the day following final enactment.

Sections 8 and 9 are effective on June 15, 1995.

Section 58 is effective January 1, 1996.

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**ARTICLE 2**

**TECHNICAL**

Section 1. Minnesota Statutes 1994, section 115A.055, is amended to read:

**115A.055 OFFICE OF ENVIRONMENTAL ASSISTANCE.**

Subdivision 1. ORGANIZATION OF OFFICE. The office of environmental assistance is an agency in the executive branch headed by a director appointed by the commissioner of the pollution control agency, with the advice and consent of the senate, to serve in the unclassified service. The director may appoint two assistant directors in the unclassified service and may appoint other employees, as needed, in the classified service. The office is a department of the state only for purposes of section 16B.37, subdivision 2.

Subd. 2. TRANSFER OF ADDITIONAL POWERS AND DUTIES. After July 1, 1994, the solid and hazardous waste management powers and duties of the office and director transferred to them from the metropolitan council by Laws 1994, chapter 639, article 5, section 2, are governed by sections 473.149, 473.151, and 473.801 to 473.849.

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Sec. 2. Minnesota Statutes 1994, section 115A.07, subdivision 3, is amended 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. 3. Minnesota Statutes 1994, section 115A.072, subdivision 1, is amended to read:

Subdivision 1. **WASTE EDUCATION COALITION.** (a) The director shall provide for the development and implementation of a program of general public education on waste management in cooperation and coordination with the pollution control agency, ~~metropolitan council~~, department of education, department of agriculture, environmental quality board, environmental education board, educational institutions, other public agencies with responsibility for waste management or public education, and three other persons who represent private industry and who have knowledge of or expertise in recycling and solid waste management issues. The objectives of the program are to: develop increased public awareness of and interest in environmentally sound waste management methods; encourage better informed decisions on waste management issues by business, industry, local governments, and the public; and disseminate practical information about ways in which households and other institutions and organizations can improve the management of waste.

(b) The director shall appoint an advisory task force, to be called the waste education coalition, of up to 18 members to advise the director in carrying out the director's responsibilities under this section and whose membership represents the agencies and entities listed in this subdivision. The task force expires on June 30, 1997.

Sec. 4. Minnesota Statutes 1994, section 115A.12, is amended to read:

**115A.12 ADVISORY COUNCILS.**

(a) The director shall establish a solid waste management advisory council, 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.

(b) The solid waste council shall have not less than nine nor more than 21

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members. 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 three members experienced in the private recycling industry and 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 hazardous waste council shall have not less than nine nor more than 18 members. 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 have not less than nine nor more than 18 members and shall consist of one representative from the department of trade and economic development, the department of administration, the pollution control agency, Minnesota Technology, Inc., ~~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, 1997.

(e) The chairs of the advisory councils shall be appointed by the director. The director shall provide administrative and staff services for the advisory councils. The advisory councils shall have such duties as are assigned by law or the director. The solid waste advisory council shall make recommendations to the office on its solid waste management activities. The hazardous waste advisory council shall make recommendations to the office 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 director. The solid waste management advisory council and the hazardous waste management planning council expire June 30, 1997.

Sec. 5. Minnesota Statutes 1994, section 115A.14, subdivision 4, is amended to read:

Subd. 4. **POWERS AND DUTIES.** (a) The commission shall oversee the activities of the office; and agency; and ~~metropolitan council~~ relating to solid and hazardous waste management, and direct such changes or additions in the work plan of the office; and agency; and ~~council~~ relating to solid and hazardous waste management as the commission deems fit.

(b) The commission shall make recommendations to the standing legislative committees on finance and appropriations for appropriations from the environmental response, compensation, and compliance account in the environmental fund under section 115B.20, subdivision 5.

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(c) The commission may conduct public hearings and otherwise secure data and expressions of opinion. The commission shall make such recommendations as it deems proper to assist the legislature in formulating legislation. Any data or information compiled by the commission shall be made available to any standing or interim committee of the legislature upon request of the chair of the respective committee.

Sec. 6. Minnesota Statutes 1994, 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 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 calendar year. The office shall incorporate these figures into the reports submitted by the counties 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. 7. Minnesota Statutes 1994, section 115A.191, subdivision 1, is amended to read:

Subdivision 1. **OFFICE TO SEEK CONTRACTS.** The office of ~~waste management~~ and any eligible county board may enter a contract as provided in this section expressing their voluntary and mutually satisfactory agreement concerning the location and development of a stabilization and containment facility. The director shall negotiate contracts with eligible counties and shall present drafts of the negotiated contracts to the office for its approval. The director shall actively solicit, encourage, and assist counties, together with developers, landowners, the local business community, and other interested parties, in developing resolutions of interest. The county shall provide affected political subdivisions and other interested persons with an opportunity to suggest contract terms.

Sec. 8. Minnesota Statutes 1994, section 115A.191, subdivision 2, is amended to read:

Subd. 2. **RESOLUTION OF INTEREST IN NEGOTIATING; ELIGIBILITY.** A county is eligible to negotiate a contract under this section if the county board files with the office of ~~waste management~~ and the office accepts a resolution adopted by the county board that expresses the county board's interest in negotiations and its willingness to accept the preliminary evaluation of

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one or more study areas in the county for consideration as a location of a stabilization and containment facility. The county board resolution expressing interest in negotiations must provide for county cooperation with the office, as necessary to facilitate the evaluation of study areas in the county, and for the appointment of a member of the county board or an officer or employee of the county as official liaison with the office with respect to the matters provided in the resolution and future negotiations with the office. A county board by resolution may withdraw a resolution of interest, and the office of ~~waste management~~ may withdraw its acceptance of such a resolution, at any time before the parties execute a contract under this section. A county that is eligible to negotiate a contract shall receive the benefits as provided in section 477A.012.

Sec. 9. Minnesota Statutes 1994, section 115A.32, is amended to read:

#### 115A.32 RULES.

The 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. 10. Minnesota Statutes 1994, section 115A.42, is amended to read:

#### 115A.42 ESTABLISHMENT AND ADMINISTRATION.

There is established a program to encourage and improve regional and local solid waste management planning activities and efforts and to further the state policies and purposes expressed in section 115A.02. The program under sections 115A.42 to 115A.46 is administered by the ~~office~~ director pursuant to rules promulgated under chapter 14, except in the metropolitan area where the program is administered by the ~~metropolitan council pursuant to chapter 473~~ director pursuant to section 473.149. The ~~office and the metropolitan council~~ director shall ensure conformance with federal requirements and programs established pursuant to the Resource Conservation and Recovery Act of 1976 and amendments thereto.

Sec. 11. Minnesota Statutes 1994, section 115A.45, is amended to read:

#### 115A.45 TECHNICAL ASSISTANCE.

The ~~director and metropolitan council~~ shall provide for technical assistance to encourage and improve solid waste management and to assist political subdivisions in preparing the plans described in section 115A.46. The ~~director and metropolitan council~~ shall provide model plans for regional and local solid waste management. The ~~director and metropolitan council~~ may contract for the delivery of technical assistance by a regional development commission, any state or federal agency, private consultants, or other persons. The director shall prepare

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and publish an inventory of sources of technical assistance for solid waste planning, including studies, publications, agencies, and persons available.

Sec. 12. Minnesota Statutes 1994, section 115A.46, subdivision 1, is amended to read:

Subdivision 1. **GENERAL.** (a) Plans shall address the state policies and purposes expressed in section 115A.02 and may not be inconsistent with state law.

(b) Plans for the location, establishment, operation, maintenance, and post-closure use of facilities and facility sites, for ordinances, and for licensing, permit, and enforcement activities shall be consistent with the rules adopted by the agency pursuant to chapter 116.

(c) Plans shall address:

(1) the resolution of conflicting, duplicative, or overlapping local management efforts;

(2) the establishment of joint powers management programs or waste management districts where appropriate; and

(3) other matters as the rules of the office may require consistent with the purposes of sections 115A.42 to 115A.46.

(d) Political subdivisions preparing plans under sections 115A.42 to 115A.46 shall consult with persons presently providing solid waste collection, processing, and disposal services.

(e) Plans must be submitted to the director, ~~or the metropolitan council pursuant to section 473.803,~~ for approval. When a county board is ready to have a final plan approved, the county board shall submit a resolution requesting review and approval by the director ~~or the metropolitan council.~~ After receiving the resolution, the director ~~or the metropolitan council~~ shall notify the county within 45 days whether the plan as submitted is complete and, if not complete, the specific items that need to be submitted to make the plan complete. Within 90 days after a complete plan has been submitted, the director ~~or the metropolitan council~~ shall approve or disapprove the plan. If the plan is disapproved, reasons for the disapproval must be provided.

(f) After initial approval, each plan must be updated and submitted for approval every five years. The plan must be revised as necessary so that it is not inconsistent with state law.

Sec. 13. Minnesota Statutes 1994, section 115A.5501, subdivision 2, is amended to read:

Subd. 2. **MEASUREMENT; PROCEDURES.** To measure the overall percentage of packaging in the statewide solid waste stream, the director ~~and the~~

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~~chair of the metropolitan council~~, in consultation with the commissioner, shall ~~each~~ conduct ~~an~~ annual solid waste composition ~~study~~ studies 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.

The ~~chair of the council~~ shall submit the results from the metropolitan area to the director by ~~May 1~~ of each year. The director shall average the non-metropolitan and metropolitan results and submit the statewide percentage, along with a statistically reliable margin of error, to the legislative commission on waste management by July 1 of each year. The 1994 report must include a discussion of the reliability of data gathered under this subdivision and the methodology used to determine a statistically reliable margin of error.

Sec. 14. Minnesota Statutes 1994, section 115A.5501, subdivision 3, is amended to read:

Subd. 3. **FACILITY COOPERATION AND REPORTS.** The owner or operator of a facility shall allow access upon reasonable notice to authorized office; or 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, 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.

Sec. 15. Minnesota Statutes 1994, 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 director ~~or the metropolitan council~~ finds that a county will be unable to meet

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the recycling goals established in subdivisions 2 and 2a, the director ~~or council~~ shall, after consideration of the reasons for the county's inability to meet the goals, recommend legislation for consideration by the legislative commission on waste management to establish mandatory recycling standards and to authorize the director ~~or council~~ to mandate appropriate solid waste management techniques designed to meet the standards in those counties that are unable to meet the goals.

Sec. 16. Minnesota Statutes 1994, section 115A.558, is amended to read:

**115A.558 SAFETY GUIDE.**

The pollution control agency, in cooperation with the office ~~of waste management and the metropolitan council~~, shall prepare and distribute to all interested persons a guide for operation of a recycling or yard waste composting facility to protect the environment and public health.

Sec. 17. Minnesota Statutes 1994, 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 under chapter 458D. No waste district shall be established wholly within one county. The 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 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.

Sec. 18. Minnesota Statutes 1994, section 115A.84, subdivision 3, is amended to read:

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 director for review and approval or disapproval.~~

(b) The ~~reviewing authority~~ director shall complete ~~its~~ the review and make ~~its a~~ decision within 120 days following submission of the plan for review. The ~~reviewing authority~~ director 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~~ director finds that the plan has demonstrated that the designation is necessary and is consistent with section 115A.02. The ~~reviewing authority~~ director may attach conditions to ~~its~~ the approval that relate

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to matters required in a designation 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.

Sec. 19. Minnesota Statutes 1994, section 115A.86, subdivision 2, is amended to read:

Subd. 2. **APPROVAL.** A district or county ~~whose designation applies wholly within the metropolitan area defined in section 473.121 shall submit the designation ordinance, together with any negotiated contracts assuring the delivery of solid waste, to the metropolitan council for review and approval or disapproval. Other districts or counties~~ shall submit the designation ordinance, together with any negotiated contracts assuring the delivery of solid waste, to the director for review and approval or disapproval. The director shall complete the review and make a decision within 90 days following submission of the designation for review. The director shall approve the designation if the director determines that the designation procedure specified in section 115A.85 was followed and that the designation is based on a plan approved under section 115A.84. The director may attach conditions to the approval.

Sec. 20. Minnesota Statutes 1994, section 115A.951, subdivision 4, is amended to read:

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. 21. Minnesota Statutes 1994, section 115A.97, subdivision 5, is amended to read:

Subd. 5. **PLANS; REPORT.** A county solid waste plan, or revision of a plan, that includes incineration of mixed municipal solid waste must clearly state how the county plans to meet the goals in subdivision 1 of reducing the toxicity and quantity of incinerator ash and of reducing the quantity of processing residuals that require disposal. The director, in cooperation with the agency; and the counties, and the metropolitan council; may develop guidelines for counties to use to identify ways to meet the goals in subdivision 1.

~~The director, in cooperation with the agency, the counties, and the metropolitan council, shall develop and propose statewide goals and timetables for the~~

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reduction of the noncombustible fraction of mixed municipal solid waste prior to incineration or processing into refuse-derived fuel and for the reduction of the toxicity of the incinerator ash. ~~By January 1, 1990, the director shall report to the legislative commission on waste management on the proposal goals and timetables with recommendations for their implementation.~~

Sec. 22. Minnesota Statutes 1994, section 115A.97, subdivision 6, is amended to read:

Subd. 6. **PERMITS; AGENCY REPORT.** An application for a permit to build or operate a mixed municipal solid waste incinerator, including an application for permit renewal, must clearly state how the applicant will achieve the goals in subdivision 1 of reducing the toxicity and quantity of incinerator ash and of reducing the quantity of processing residuals that require disposal. The agency, in cooperation with the director, and the counties, and the metropolitan council, may develop guidelines for applicants to use to identify ways to meet the goals in subdivision 1.

If, by January 1, 1990, the rules required by subdivision 3 are not in at least final draft form, the agency shall report to the legislative commission on waste management on the status of current incinerator ash management programs with recommendations for specific legislation to meet the goals of subdivision 1.

Sec. 23. Minnesota Statutes 1994, section 115A.981, subdivision 3, is amended to read:

Subd. 3. **REPORT.** (a) The commissioner shall report to the legislative commission on waste management by July 1 of each odd-numbered year on the economic status and outlook of the state's solid waste management sector including an estimate of the extent to which prices for solid waste management paid by consumers reflect costs related to environmental and 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.

(b) In preparing the report, the 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 facilities; and other interested persons;

(2) consider and analyze information received under subdivision 2 and information available under section 115A.929; 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.

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(c) 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 how each facility is meeting those requirements.

Sec. 24. Minnesota Statutes 1994, section 473.149, subdivision 4, is amended to read:

Subd. 4. **ADVISORY COMMITTEE.** The council director shall establish an advisory committee to aid in the preparation of the policy plan, the performance of the council's director's responsibilities under subdivisions ~~2 to 2d and~~ 2e, the review of county master plans and reports and applications for permits for waste facilities, under sections 473.151; and 473.801 to 473.823, ~~and 473.831~~; and other duties determined by the council director. The committee shall consist of one-third citizen representatives, one-third representatives from metropolitan counties and municipalities, and one-third representatives from private waste management firms. A representative from the pollution control agency; ~~one from the office of waste management established under section 115A.055~~; and one from the Minnesota health department shall serve as ex officio members of the committee.

Sec. 25. Minnesota Statutes 1994, section 473.151, is amended to read:

**473.151 DISCLOSURE.**

For the purpose of the rules, plans, and reports required or authorized by sections 473.149, 473.516, 473.801 to 473.823 and this section, each generator of hazardous waste and each owner or operator of a collection service or waste facility annually shall make the following information available to the agency, council, office of environmental assistance, and metropolitan counties: a schedule of rates and charges in effect or proposed for a collection service or the processing of waste delivered to a waste facility and a description, in aggregate amounts indicating the general character of the solid and hazardous waste collection and processing system, of the types and the quantity, by types, of waste generated, collected, or processed. The county, council, office, and agency shall act in accordance with the provisions of section 116.075, subdivision 2, with respect to information for which confidentiality is claimed.

Sec. 26. Minnesota Statutes 1994, section 473.516, subdivision 2, is amended to read:

Subd. 2. **GENERAL REQUIREMENTS.** With respect to its activities under this section, the council shall be subject to and comply with the applicable

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provisions of this chapter. Property acquired by the council under this section shall be subject to the provisions of section 473.545. Any site or facility owned or operated for or by the council shall conform to the policy plan adopted by the council under section 473.149. The council shall contract with private persons for the construction, maintenance, and operation of waste facilities, subject to the bidding requirements of section 473.523, where the facilities are adequate and available for use and competitive with other means of providing the same service.

Sec. 27. Minnesota Statutes 1994, section 473.801, subdivision 1, is amended to read:

Subdivision 1. **TERMS.** For the purposes of sections 473.801 to ~~473.845 and Laws 1985, chapter 274, section 45~~ 473.849, the terms defined in this section have the meanings given them.

Sec. 28. Minnesota Statutes 1994, section 473.801, is amended by adding a subdivision to read:

Subd. 5. DIRECTOR. "Director" means the director of the office of environmental assistance.

Sec. 29. Minnesota Statutes 1994, section 473.801, is amended by adding a subdivision to read:

Subd. 6. OFFICE. "Office" means the office of environmental assistance.

Sec. 30. Minnesota Statutes 1994, section 473.8011, is amended to read:

**473.8011 METROPOLITAN AGENCY RECYCLING GOAL.**

By December 31, 1993, the metropolitan council, each metropolitan agency as defined in section 473.121, and the metropolitan mosquito control district established in section 473.702 shall recycle at least 40 percent by weight of the solid waste generated by their offices or other operations. The ~~council~~ director shall provide information and technical assistance to the council, agencies, and the district to implement effective recycling programs.

By August 1 of each year, the council, each agency, and the district shall submit to the office ~~of waste management~~ a report for the previous fiscal year describing recycling rates, specified by the county in which the council, agency, or operation is located, and progress toward meeting the recycling goal. The office shall incorporate the recycling rates reported in the respective county's recycling rates for the previous fiscal year.

If the goal is not met, the council, agency, or district must include in its 1994 report reasons for not meeting the goal and a plan for meeting it in the future.

Sec. 31. Minnesota Statutes 1994, section 473.803, subdivision 1, is amended to read:

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Subdivision 1. **COUNTY MASTER PLANS; GENERAL REQUIREMENTS.** Each metropolitan county, following adoption or revision of the ~~council's~~ solid waste metropolitan policy plan and in accordance with the dates specified therein, and after consultation with all affected local government units, shall prepare and submit to ~~the council for its~~ the director for approval, a county solid waste master plan to implement the policy plan. The master plan shall be revised and resubmitted at such times as the ~~council's~~ metropolitan policy plan may require. The master plan shall describe county solid waste activities, functions, and facilities; the existing system of solid waste generation, collection, and processing, and disposal within the county; proposed mechanisms for complying with the recycling requirements of section 115A.551, and the household hazardous waste management requirements of section 115A.96, subdivision 6; existing and proposed county and municipal ordinances and license and permit requirements relating to solid waste facilities and solid waste generation, collection, and processing, and disposal; existing or proposed municipal, county, or private solid waste facilities and collection services within the county together with schedules of existing rates and charges to users and statements as to the extent to which such facilities and services will or may be used to implement the policy plan; and any solid waste facility which the county owns or plans to acquire, construct, or improve together with statements as to the planned method, estimated cost and time of acquisition, proposed procedures for operation and maintenance of each facility; an estimate of the annual cost of operation and maintenance of each facility; an estimate of the annual gross revenues which will be received from the operation of each facility; and a proposal for the use of each facility after it is no longer needed or usable as a waste facility. The master plan 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 master plan shall contain 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.

Sec. 32. Minnesota Statutes 1994, section 473.803, subdivision 2a, is amended to read:

Subd. 2a. **WASTE ABATEMENT.** The ~~council~~ director may require any county that fails to meet the waste abatement objectives contained in the ~~council's~~ metropolitan 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;

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(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. 33. Minnesota Statutes 1994, section 473.803, subdivision 3, is amended to read:

Subd. 3. **ANNUAL REPORT.** By April 1 of each year, each metropolitan county shall prepare and submit to the ~~council~~ director for its approval a report containing information, as ~~the council may prescribe~~ prescribed in its the metropolitan policy plan, concerning solid waste generation and management within the county. The report shall include a statement of progress in achieving the land disposal abatement objectives for the county and classes of cities in the county as stated in the ~~council's~~ metropolitan policy plan and county master plan. The report must list cities that have not satisfied the county performance standards for local abatement required by subdivision 1c. The report must include a schedule of rates and charges in effect or proposed for the use of any solid waste facility owned or operated by or on its behalf, together with a statement of the basis for such charges.

The report shall contain the recycling development grant report required by section 473.8441 and the annual certification report required by section 473.848.

Sec. 34. Minnesota Statutes 1994, section 473.803, subdivision 5, is amended to read:

Subd. 5. **ROLE OF PRIVATE SECTOR; COUNTY OVERSIGHT.** A county may include in its solid waste management master plan and in its plan for county land disposal abatement a determination that the private sector will achieve, either in part or in whole, the goals and requirements of sections 473.149 and 473.803, as long as the county:

(1) retains active oversight over the efforts of the private sector and monitors performance to ensure compliance with the law and the goals and standards of in the council and the county as expressed in the metropolitan solid waste management policy plan and the county master plan;

(2) continues to meet its responsibilities under the law for ensuring proper waste management, including, at a minimum, enforcing waste management law, providing waste education, promoting waste reduction, and providing its residents the opportunity to recycle waste materials; and

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(3) continues to provide all required reports on the county's progress in meeting the waste management goals and standards of this chapter and chapter 115A.

Sec. 35. Minnesota Statutes 1994, section 473.804, is amended to read:

**473.804 HOUSEHOLD HAZARDOUS WASTE MANAGEMENT.**

By June 30, 1992, each metropolitan county shall develop and implement a permanent program to manage household hazardous waste. Each program must include at least quarterly collection of wastes. Each program must be consistent with the ~~council's~~ metropolitan policy plan and must be described as part of each county's solid waste master plan revision as required under section 473.803, subdivision 1.

Sec. 36. Minnesota Statutes 1994, section 473.811, subdivision 1, is amended to read:

Subdivision 1. **COUNTY ACQUISITION OF FACILITIES.** To accomplish the purpose specified in section 473.803, each metropolitan county may acquire by purchase, lease, gift or condemnation as provided by law, upon such terms and conditions as it shall determine, including contracts for deed and conditional sales contracts, solid waste facilities or properties or easements for solid waste facilities which are in accordance with rules adopted by the agency, the policy plan ~~adopted by the council~~ and the approved county master plan as ~~approved by the council~~, and may improve or construct improvements on any property or facility so acquired. No metropolitan city, county or town shall own or operate a hazardous waste facility, except a facility to manage household hazardous waste. Each metropolitan county is authorized to levy a tax in anticipation of need for expenditure for the acquisition and betterment of solid waste facilities. If a tax is levied in anticipation of need, the purpose must be specified in a resolution of the county directing that the levy and the proceeds of the tax may be used only for that purpose. Until so used, the proceeds shall be retained in a separate fund or invested in the same manner as surplus in a sinking fund may be invested under section 475.66. The right of condemnation shall be exercised in accordance with chapter 117.

For the purposes of this section "solid waste facility" includes a facility to manage household hazardous waste.

Sec. 37. Minnesota Statutes 1994, section 473.811, subdivision 4a, is amended to read:

Subd. 4a. **ORDINANCES; GENERAL CONDITIONS; RESTRICTIONS; APPLICATION.** Ordinances of counties and local government units related to or affecting waste management shall embody plans, policies, rules, standards and requirements adopted by any state agency authorized to manage or plan for or regulate the management of waste and the waste management plans ~~adopted by the council~~ under section 473.149 and shall be consistent with approved county

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master plans ~~approved by the council~~. Except as provided in this subdivision, a county may establish and operate or contract for the establishment or operation of a solid waste disposal facility without complying with local ordinances if the ~~council~~ director certifies need under section 473.823, subdivision 6. With the approval of the ~~council~~ director, local government units may impose and enforce reasonable conditions respecting the construction, operation, inspection, monitoring, and maintenance of the disposal facilities. No local government unit shall prevent the establishment or operation of any solid waste facility in accordance with the ~~council's~~ director's decision under section 473.823, subdivision 5, except that, with the approval of the ~~council~~ director, the local government unit may impose reasonable conditions respecting the construction, inspection, monitoring, and maintenance of a facility.

Sec. 38. Minnesota Statutes 1994, section 473.811, subdivision 5, is amended to read:

Subd. 5. **ORDINANCES; SOLID WASTE COLLECTION AND TRANSPORTATION.** (a) Each metropolitan county may adopt ordinances governing the collection of solid waste. A county may adopt, but may not be required to adopt, an ordinance that requires the separation from mixed municipal waste, by generators before collection, of materials that can readily be separated for use or reuse as substitutes for raw materials or for transformation into a usable soil amendment.

(b) Each local unit of government within the metropolitan area shall adopt an ordinance governing the collection of solid waste within its boundaries. If the county within which it is located has adopted a collection ordinance, the local unit shall adopt either the county ordinance by reference or a more strict ordinance. If the county within which it is located has adopted a separation ordinance, the ordinance applies in all local units within the county that have failed to meet the local abatement performance standards, as stated in the most recent annual county report.

(c) Ordinances of counties and local government units may establish reasonable conditions respecting but shall not prevent the transportation of solid waste by a licensed collector through and between counties and local units, except as required for the enforcement of any designation of a facility by a county under chapter 115A or for enforcement of the prohibition on disposal of unprocessed mixed municipal solid waste under sections 473.848 and 473.849.

(d) A licensed collector or a metropolitan county or local government unit may request review by the ~~council~~ director of an ordinance adopted under this subdivision. The ~~council~~ director shall approve or disapprove the ordinance within 60 days of the submission of a request for review. The ordinance shall remain in effect unless it is disapproved.

(e) Ordinances of counties and local units of government:

(1) shall provide for the enforcement of any designation of facilities by the counties under chapter 115A;

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(2) may require waste collectors and transporters to deliver unprocessed mixed municipal waste generated in the county to processing facilities; and

(3) may prohibit waste collectors and transporters from delivering unprocessed mixed municipal solid waste generated in the county to disposal facilities for final disposal.

(f) Nothing in this subdivision limits the authority of the local government unit to regulate and license collectors of solid waste or to require review or approval by the ~~council~~ director for ordinances regulating collection.

Sec. 39. Minnesota Statutes 1994, section 473.811, subdivision 7, is amended to read:

Subd. 7. **JOINT ACTION.** Any local governmental unit or metropolitan agency may act together with any county, city, or town within or without the metropolitan area, or with the pollution control agency or the office of ~~waste management~~ under the provisions of section 471.59 or any other appropriate law providing for joint or cooperative action between government units, to accomplish any purpose specified in sections 473.149, 473.151, 473.801 to 473.823, 473.834, 116.05 and 115A.06.

Any agreement regarding data processing services relating to the generation, management, identification, labeling, classification, storage, collection, treatment, transportation, processing or disposal of waste and entered into pursuant to section 471.59, or other law authorizing joint or cooperative action may provide that any party to the agreement may agree to defend, indemnify and hold harmless any other party to the agreement providing the services, including its employees, officers or volunteers, against any judgments, expenses, reasonable attorney's fees and amounts paid in settlement actually and reasonably incurred in connection with any third party claim or demand arising out of an alleged act or omission by a party to the agreement, its employees, officers or volunteers occurring in connection with any exchange, retention, storage or processing of data, information or records required by the agreement. Any liability incurred by a party to an agreement under this subdivision shall be subject to the limitations set forth in section 3.736 or 466.04.

Sec. 40. Minnesota Statutes 1994, section 473.811, subdivision 8, is amended to read:

Subd. 8. **COUNTY SALE OR LEASE.** Each metropolitan county may sell or lease any facilities or property or property rights previously used or acquired to accomplish the purposes specified by sections 473.149, 473.151, 473.801 to 473.823, and 473.834. Such property may be sold in the manner provided by section 469.065, or may be sold in the manner and on the terms and conditions determined by the county board. Each metropolitan county may convey to or permit the use of any such property by a local government unit, with or without compensation, without submitting the matter to the voters of the county. No real property or property rights acquired pursuant to this section; may be dis-

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posed of in any manner unless and until the county shall have submitted to the agency and the ~~metropolitan council~~ director for review and comment the terms on and the use for which the property will be disposed of. The agency and the ~~council~~ director shall review and comment on the proposed disposition within 60 days after each has received the data relating thereto from the county.

Sec. 41. Minnesota Statutes 1994, section 473.813, subdivision 2, is amended to read:

Subd. 2. Before a city, county, or town enters into any contract pursuant to subdivision 1 for a period of more than five years, the city, county, or town shall submit the proposed contract and a description of the proposed activities under the contract to the ~~council~~ director for review and approval. The ~~council~~ director shall approve the proposed contract if ~~it~~ the director determines that the contract is consistent with the ~~council's~~ metropolitan policy plan, permits issued under section 473.823, and county reports or approved master plans ~~approved by the council~~. The ~~council~~ director may consolidate ~~its~~ the review of contracts submitted under this section with ~~its~~ the review of related permit applications submitted under section 473.823 and for this purpose may delay the review required by this section.

Sec. 42. Minnesota Statutes 1994, 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~~ director for 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.

(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~~ director shall determine whether a permit is in accordance with the policy plan. In making ~~its~~ this determination, the ~~council~~ director 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~~ the policy plan, and may consider, without limitation, the effect of the applicant facility on existing and planned solid waste facilities.

(c) If the ~~council~~ director determines that a permit is in accordance with ~~its~~ the policy plan, the ~~council~~ director shall approve the permit. If the ~~council~~ director determines that a permit is not in accordance with ~~its~~ the policy plan, ~~it~~

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the director shall disapprove the permit. ~~The council's~~ Approval of permits may be subject to conditions the director determines are necessary to satisfy criteria and standards in ~~its~~ the 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~~ director 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 received by the ~~council~~ director, unless a time extension is authorized by the agency, the ~~council~~ director shall issue to the agency in writing ~~its~~ a determination whether the permit is disapproved, approved, or approved with conditions. If the ~~council~~ director does not issue ~~its~~ a 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.

(e) A permit may not be issued in the metropolitan area for a solid waste facility used primarily for resource recovery or a transfer station serving 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~~ director 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. 43. Minnesota Statutes 1994, section 473.823, subdivision 5, is amended to read:

Subd. 5. **REVIEW OF WASTE PROCESSING FACILITIES.** (a) A metropolitan county may establish a waste processing facility within the county without complying with local ordinances, if the action is approved by the ~~council~~ director in accordance with the review process established by this subdivision. A county requesting review ~~by the council~~ shall show that:

(1) the required permits for the proposed facility have been or will be issued by the agency;

(2) the facility is consistent with the ~~council's~~ metropolitan policy plan and the approved county master plan; and

(3) a local government unit has refused to approve the establishment or operation of the facility, has failed to deny or approve establishment or operation of the facility within the time period required in section 115A.31, or has approved the application or request with conditions that are unreasonable or impossible for the county to meet.

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(b) The ~~council~~ director shall ~~meet to~~ commence the review within 90 days of the submission of a request determined by the ~~council~~ director to satisfy the requirements for review under this subdivision. ~~At the meeting~~ Upon commencing the review the ~~chair~~ director shall ~~recommend and the council~~ establish a scope and procedure, including criteria, for ~~its~~ the review and final decision on the proposed facility. The procedure shall require the ~~council~~ director to make a final decision on the proposed facility within 120 days following the commencement of review. For facilities other than waste incineration and mixed municipal solid waste composting facilities, the ~~council~~ director shall ~~meet to~~ commence the review within 45 days of submission of the request and shall make a final decision within 75 days following commencement of review.

(c) The ~~council~~ director shall conduct at least one public hearing in the city or town within which the proposed facility would be located. Notice of the hearing shall be published in a newspaper or newspapers of general circulation in the area for two successive weeks ending at least 15 days before the date of the hearing. The notice shall describe the proposed facility, its location, the proposed permits, and the ~~council's~~ scope, procedure, and criteria for review. The notice shall identify a location or locations within the local government unit and county where the permit applications and the ~~council's~~ scope, procedure, and criteria for review are available for review and where copies may be obtained.

(d) In ~~its~~ the review and final decision on the proposed facility, the ~~council~~ director shall consider at least the following matters:

(1) the risk and effect of the proposed facility on local residents, units of government, and the local public health, safety, and welfare, and the degree to which the risk or effect may be alleviated;

(2) the consistency of the proposed facility with, and its effect on, existing and planned local land use and development; local laws, ordinances, and permits; and local public facilities and services;

(3) the adverse effects of the facility on agriculture and natural resources and opportunities to mitigate or eliminate such adverse effects by additional stipulations, conditions, and requirements respecting the design and operation of the proposed facility at the proposed site;

(4) the need for the proposed facility and the availability of alternative sites;

(5) the consistency of the proposed facility with the county master plan adopted pursuant to section 473.803 and the ~~council's~~ policy plan adopted pursuant to section 473.149; and

(6) transportation facilities and distance to points of waste generation.

(e) ~~In its final decision in the review,~~ The ~~council~~ director may either approve or disapprove the proposed facility at the proposed site. The ~~council's~~ approval shall embody all terms, conditions, and requirements of the permitting

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state agencies, provided that the ~~council~~ director may require more stringent permit terms, conditions, and requirements respecting the design, construction, operation, inspection, monitoring, and maintenance of the proposed facility at the proposed site.

Sec. 44. Minnesota Statutes 1994, section 473.823, subdivision 6, is amended to read:

Subd. 6. **COUNCIL; CERTIFICATION OF NEED.** No new mixed municipal solid waste disposal facility or capacity shall be permitted in the metropolitan area without a certificate of need issued by the ~~council~~ director indicating ~~the council's~~ a determination that the additional disposal capacity planned for the facility is needed in the metropolitan area. The ~~council~~ director shall amend ~~its~~ the policy plan, adopted pursuant to section 473.149, to include standards and procedures for certifying need that conform to the certification standards stated in this subdivision. The standards and procedures shall be based on the ~~council's~~ metropolitan disposal abatement plan adopted pursuant to section 473.149, subdivision 2d, the ~~council's~~ solid waste disposal facilities development schedule adopted under section 473.149, subdivision 2e, and the provisions of any master plans of counties that have been approved by the ~~council~~ under section 473.803, subdivision 2, and that are consistent with the ~~council's~~ abatement plan and development schedule. The ~~council~~ director shall certify need only to the extent that there are no feasible and prudent alternatives to the disposal facility, including waste reduction, source separation and resource recovery which would minimize adverse impact upon natural resources. Alternatives that are speculative or conjectural shall not be deemed to be feasible and prudent. Economic considerations alone shall not justify the certification of need or the rejection of alternatives.

Sec. 45. Minnesota Statutes 1994, section 473.844, subdivision 1a, is amended to read:

Subd. 1a. **USE OF FUNDS.** (a) The money in the account 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;

(3) program administration ~~by the metropolitan council;~~

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

(5) solid waste research; and

(6) grants to multicounty groups for regionwide planning for solid waste management system operations and use of management capacity.

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

Sec. 46. Minnesota Statutes 1994, 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 council~~ director. 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~~ director 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~~ director shall require, where practical, cooperative purchase between cities, counties, and districts of capital equipment.

Sec. 47. Minnesota Statutes 1994, section 473.8441, subdivision 2, is amended to read:

Subd. 2. **PROGRAM.** The ~~council~~ director shall encourage the development of permanent local recycling programs throughout the metropolitan area. ~~By January 1, 1988, the council shall develop performance indicators for local recycling that will measure the availability and use of recycling throughout the metropolitan area.~~ The ~~council~~ director shall make grants to qualifying metropolitan counties as provided in this section.

Sec. 48. Minnesota Statutes 1994, section 473.8441, subdivision 4, is amended to read:

Subd. 4. **GRANT CONDITIONS.** The ~~council~~ director shall administer grants so that the following conditions are met:

(a) A county must apply for a grant in the manner determined by the ~~council~~ director. The application must describe the activities for which the grant will be used.

(b) The activities funded must be consistent with the ~~council's~~ metropolitan policy plan and the county master plan.

(c) A grant must be matched by equal county expenditures for the activities for which the grant is made.

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(d) All grant funds must be used for new activities or to enhance or increase the effectiveness of existing activities in the county.

(e) Counties shall provide support to maintain effective municipal recycling where it is already established.

Sec. 49. Minnesota Statutes 1994, section 473.8441, subdivision 5, is amended to read:

Subd. 5. **GRANT ALLOCATION PROCEDURE.** (a) The ~~council~~ director shall distribute the funds annually so that each qualifying county receives 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.

(b) To qualify for distribution of funds, a county, by April 1 of each year, must submit ~~for council to the director for~~ to the director for 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. The report shall be included in the county report required by section 473.803, subdivision 3.

Sec. 50. Minnesota Statutes 1994, section 473.845, subdivision 4, is amended to read:

Subd. 4. **EXPENDITURE NOTIFICATION.** The commissioner shall notify the ~~chair~~ director of the office and the director of the legislative commission on waste management before making expenditures from the fund.

Sec. 51. Minnesota Statutes 1994, section 473.848, subdivision 2, is amended to read:

Subd. 2. **COUNTY CERTIFICATION; ~~COUNCIL~~ OFFICE APPROVAL.** (a) By April 1 of each year, each county shall submit an annual certification report to the ~~council~~ office detailing:

- (1) the quantity of waste generated in the county that was not processed prior to transfer to a disposal facility during the year 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
- (4) any progress made by the county in reducing the amount of unprocessed waste.

The report shall be included in the county report required by section 473.803, subdivision 3.

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(b) The ~~council~~ office shall approve a county's certification 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~~ office 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~~ office does not approve two or more consecutive reports from any one county, the ~~council~~ office 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~~ office.

Sec. 52. Minnesota Statutes 1994, section 473.848, subdivision 4, is amended to read:

Subd. 4. **COUNCIL OFFICE REPORT.** The ~~council~~ office 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~~ office may adopt standards for determining when waste is unprocessable and procedures for expediting certification and reporting of unprocessed waste.

Sec. 53. **APPLICATION.**

Sections 24 to 52 apply in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

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

The revisor shall substitute the term "office of environmental assistance" for the term "office of waste management" in Minnesota Statutes, sections 15A.081, 41A.066, 43A.08, 115B.20, 116.07, 116.101, 116.99, and 477A.012.

Sec. 55. **REPEALER.**

Minnesota Statutes 1994, sections 115A.47; 115A.81, subdivision 3; 115A.90, subdivision 3; 383D.71, subdivision 2; 473.149, subdivision 5; and 473.181, subdivision 4, are repealed.

Sec. 56. **EFFECTIVE DATE.**

Sections 1 to 53 and 55 are effective on the day following final enactment.

Presented to the governor May 30, 1995

Signed by the governor June 1, 1995, 11:28 a.m.

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