

CHAPTER 7035
MINNESOTA POLLUTION CONTROL AGENCY
SOLID AND HAZARDOUS WASTE DIVISION
SOLID WASTE

**COMPREHENSIVE SOLID WASTE
MANAGEMENT PLANNING AND
CERTIFICATE OF NEED**
7035 1100 DEFINITIONS
7035 1101 RESPONSIBILITY FOR
DEVELOPMENT OF PLANS
7035 1102 DIRECTOR NOTIFICATION TO
COUNTY AND DISTRICT
7035 1103 ACCELERATED PLAN
COMPLETION
7035 1104 PLAN COMPLIANCE AND
COMPATIBILITY
7035 1105 CONTENT OF PLAN
7035 1106 SUBMISSION OF PLAN OR
REVISION
7035 1107 PRELIMINARY APPROVAL

7035 1108 PUBLIC NOTICE AND COMMENTS
ON AGENCY'S PRELIMINARY
APPROVAL OF PLAN OR REVISION
AND INTENT TO ISSUE A
CERTIFICATE OF NEED
7035 1109 REQUEST FOR PUBLIC MEETING
OR CONTESTED CASE HEARING
7035 1110 FINAL APPROVAL OF PLAN OR
REVISION AND CERTIFICATE OF
NEED
7035 1111 PLAN AMENDMENTS
7035 1112 PLAN REVISIONS
7035 1113 REVIEW
7035 1114 REVOCATION OF CERTIFICATE OF
NEED
7035 1115 NONCOMPLIANCE

**COMPREHENSIVE SOLID WASTE MANAGEMENT PLANNING AND
CERTIFICATE OF NEED**

7035.1100 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 7035.1100 to 7035.1115, the terms defined in this part have the meanings given them.

Subp. 2. **Acceptable solid waste management plan.** "Acceptable solid waste management plan" means a solid waste management plan that provides planning information consistent with Minnesota Statutes, section 115A.46, and part 7035.1105.

Subp. 3. **Agency.** "Agency" means the Pollution Control Agency.

Subp. 4. **Board.** "Board" means the county board of commissioners, the Western Lake Superior Sanitary District board, or the board established for a solid waste management district.

Subp. 5. **Bulky items.** "Bulky items" means solid waste including appliances, furniture, trees, or other oversize waste that requires extraordinary handling methods to achieve compaction.

Subp. 6. **Composting.** "Composting" means the controlled microbial degradation of organic waste to yield a humus-like product.

Subp. 7. **Director.** "Director" means the executive director of the Pollution Control Agency.

Subp. 8. **Energy recovery.** "Energy recovery" means a technique or process to capture the heat value of solid waste, either by direct combustion or by first converting it into an intermediate fuel product.

Subp. 9. **Minnesota State Solid Waste Management Plan.** "Minnesota State Solid Waste Management Plan" is the State Solid Waste Management Plan (1980) required by the Federal Resource Conservation and Recovery Act and prepared under Code of Federal Regulations, title 40, parts 255 and 256. This document is available for review at the agency and is revised every five years.

Subp. 10. **Mixed municipal solid waste.** "Mixed municipal solid waste" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 21.

Subp. 11. **Metropolitan area.** "Metropolitan area" has the meaning given it in Minnesota Statutes, section 473.121, subdivision 2.

Subp. 12. **Permitted capacity.** "Permitted capacity" means the volume of

waste and cover material that a permit allows to be disposed of at a solid waste land disposal facility, measured over the operating life of the facility.

Subp. 13. **Person.** "Person" has the meaning given it in Minnesota Statutes, section 116.06, subdivision 8.

Subp. 14. **Plan.** "Plan" means a solid waste management plan prepared under parts 7035.1100 to 7035.1115.

Subp. 15. **Political subdivision.** "Political subdivision" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 24.

Subp. 16. **Priority one open dump.** "Priority one open dump" means those active unpermitted open dumps which are listed in the Inventory of Open Dumps (EPA/530-SW-84-003) published annually by the United States Environmental Protection Agency, Office of Solid Waste and Emergency Response (1984). This publication is incorporated by reference. It is available through the Minnetex interlibrary loan system. It is subject to frequent change.

Subp. 17. **Recycling.** "Recycling" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 25b.

Subp. 18. **Solid waste management.** "Solid waste management" means a planned program for effectively controlling the generation, storage, collection, transportation, processing and reuse, conversion, or disposal of solid wastes. It includes all administrative, financial, environmental, legal, and planning functions. Solid waste management also includes the operational aspects of solid waste handling and disposal and alternatives to land disposal necessary to achieve established objectives.

Subp. 19. **Solid waste land disposal facility.** "Solid waste land disposal facility" means property owned or leased and designed or operated for the purpose of disposing of solid waste in or on the land, including all on-site structures for controlling surface water drainage, and for collecting and treating of leachate, and including all monitoring devices.

Subp. 20. **Waste facility.** "Waste facility" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 35.

Subp. 21. **Waste reduction.** "Waste reduction" means the prevention of the generation of waste at its sources either by redesigning products and packaging or by changing societal patterns of production and consumption.

Statutory Authority: *MS.s 115A.42; 115A.46; 115A.917, 116.07 subd 4*

History: *10 SR 2009*

7035.1101 RESPONSIBILITY FOR DEVELOPMENT OF PLANS.

Subpart 1. **Scope.** Parts 7035.1100 to 7035.1115 apply to all counties and districts within the state, except those located within the metropolitan area.

Subp. 2. **Timing.** Counties or districts shall develop or revise plans and submit them for approval under part 7035.1106, according to the following schedule:

A. Counties.

(1) A county that contains either one or more mixed municipal solid waste land disposal facilities with less than five years permitted capacity as determined by the agency, or one or more priority one open dumps shall complete and submit a draft plan within two years after the effective date of this part.

(2) A county in MPCA Region V - Rochester or Region II - Brainerd that is not covered by subitem (1) shall complete and submit a draft plan within three years after the effective date of this part.

(3) A county in MPCA Region III - Detroit Lakes that is not covered by subitem (1) shall complete and submit a draft plan within four years after the effective date of this part.

(4) A county in MPCA Region I - Duluth or Region IV - Marshall

that is not covered by subitem (1) shall complete and submit a draft plan within five years after the effective date of this part.

B. Solid waste management districts. A county that is seeking to be part of a solid waste management district formed under Minnesota Statutes, sections 115A.62 to 115A.72, shall obtain approval of a plan by the agency prior to formation of the district as required by Minnesota Statutes, section 115A.63, subdivision 3.

C. Western Lake Superior Sanitary District. The Western Lake Superior Sanitary District, established by Laws of Minnesota 1971, chapter 478, as amended, shall submit a draft plan to the agency under subpart 2, item A, subitem (1) or (4), whichever is applicable.

Statutory Authority: *MS s 115A.42; 115A 46; 115A 917, 116.07 subd 4*

History: *10 SR 2009*

7035.1102 DIRECTOR NOTIFICATION TO COUNTY AND DISTRICT.

The director shall notify a county or district of its classification under part 7035.1101, subpart 2 at least one year before the draft plan must be completed.

Statutory Authority: *MS s 115A.42; 115A.46; 115A.917, 116.07 subd 4*

History: *10 SR 2009*

7035.1103 ACCELERATED PLAN COMPLETION.

A county or district may submit a preliminary draft of a plan or a revision to the director for approval before the director notifies the county or district of the deadline for the plan completion.

Statutory Authority: *MS s 115A.42; 115A.46; 115A 917; 116 07 subd 4*

History: *10 SR 2009*

7035.1104 PLAN COMPLIANCE AND COMPATIBILITY.

Subpart 1. **Board's responsibility.** The board shall prepare a solid waste management plan which establishes a solid waste management program for a ten-year period. The board must adopt, maintain, and implement the plan approved by the agency according to part 7035.1110.

Subp. 2. **Compatibility.** The plan must be compatible with the most recent edition of the Minnesota State Solid Waste Management Plan and the policies expressed in Minnesota Statutes, chapters 115A, 116D, and 116F, by incorporating methods of solid waste management that emphasize the reduction, recovery and recycling of solid waste, and the conversion of solid waste to energy.

Subp. 3. **Certificate of need.** The plan is the basis for agency certification of need for additional land disposal capacity as required by Minnesota Statutes, section 115A.917. The certificate of need will be issued based on a determination of net land disposal capacity computed in part 7035.1105, subpart 4. The process for certifying need for additional land disposal capacity is contained in parts 7035.1108 to 7035.1114.

Statutory Authority: *MS s 115A.42; 115A 46, 115A 917, 116 07 subd 4*

History: *10 SR 2009*

7035.1105 CONTENT OF PLAN.

Subpart 1. **Goals and objectives.** The county or district must establish goals and objectives in the plan that will allow the county or district to achieve the maximum reduction of the need for and practice of land disposal of mixed municipal solid waste.

Subp. 2. **Solid waste management system evaluation.** A plan must contain descriptions, estimates, or assessments of the solid waste management system, including the following:

A. An inventory and description of existing waste facilities and the collection, storage, transportation, and disposal systems used by the political subdivision being studied, including:

(1) The physical location, size, and ownership of the facilities and systems.

(2) The solid waste received, by: (i) classification of waste generated, including: residential and commercial solid waste, industrial waste, demolition materials, and tires, (ii) composition of the waste and; (iii) volume or weight of solid waste received annually in the county or district for the last five years. Seasonal variations must be identified for each classification of waste generated

(3) The remaining permitted capacity of the mixed municipal solid waste land disposal facilities in cubic yards and years and the remaining useful life of solid waste facilities in years.

(4) Schedules of rates and charges for each collection, storage, transportation, and disposal system described. The rates and charges must be described annually for the last five years and the current year.

(5) The financing methods used by the waste facilities

(6) Existing and potential environmental effects.

(7) Opportunities for improvements with each element of the solid waste management system described in this subpart. The plan must develop solutions to specific problems and propose a course of action to rectify these problems.

B. A short description of solid waste management planning completed by the county or district in the last five years. The description may include establishment of advisory committees, reports, and budgets.

C. An identification of solid waste issues of regional concern, including an assessment of the feasibility of planning and implementing solid waste management systems on a regional basis. The plan must include a process for ensuring the ongoing involvement of and consultation with those who are concerned with solid waste management including regional authorities, adjacent counties or districts and local units of government and waste service companies within a county or district.

D. An estimate of the land disposal capacity needed for a ten-year period to serve the political subdivisions being studied. The estimate shall be calculated on the basis of current and projected waste generation practices, and shall be stated in acre-feet and cubic yards. Abatement of land disposal capacity by proposed alternatives that have not yet been implemented shall not be included in the estimate

E. A description of existing county and municipal ordinances, licenses and permit requirements that relate to solid waste management. The plan must identify specific problems caused by the existing regulations and enforcement procedures and propose a course of action to rectify those problems.

Subp. 3. **Assessment of alternatives to land disposal.** The following apply to a plan:

A. A plan must include an assessment of specific alternative functions and activities to reduce the need for land disposal through the use of waste reduction, recycling, composting, and energy recovery. This assessment must be structured into two waste management systems:

(1) a proposed system that requires the most reduction of the need for land disposal; and

(2) an alternative system that could be used to meet abatement goals and objectives if proposed activities and functions are not undertaken for the ten-year planning period.

The plan must include a description and comparative cost analysis of the

existing system, the proposed system and the alternative system. The description must address the potential environmental effects of those systems. The plan must also include a description of the timing of the specific functions and activities to be undertaken for the proposed system and a description of alternatives, including waste reduction and recycling, for collecting, processing, and disposing of waste tires and bulky items.

B. The cost analysis required in item A must be on worksheets provided by the director or must be in a format approved by the director under item C. The director may require submission of the assumptions used to generate data in the comparative cost analysis, if it would assist in determining plan approval under part 7035.1106.

(1) Categories for the cost analysis must include the capital and operating costs, revenues, and a transportation analysis.

(2) The analysis of each system must contain the degrees of reduction of mixed municipal solid waste achievable over one-year intervals during the ten-year planning period, the effects of the specific alternative functions and activities on the cost to persons providing solid waste collection, processing, and disposal services; the relative cost of each waste management system to the generators of the waste, including an assessment of the cost per capita per month and the cost per household per month; and the financing options of each of the systems evaluated.

C. A county or district that chooses to establish its own format for the cost analysis required by item A must submit the format to the director for approval at least six months prior to the required plan completion date established in part 7035.1101, subpart 2. The format must contain the following:

(1) Capital costs. Capital costs must include general construction costs such as land and buildings, site preparation and improvement, equipment, contractors and overhead, and contingencies. Capital costs must be adjusted for inflation. Capital costs must be expressed in dollars per ton of daily capacity based on 365 days per year.

(2) Operating and maintenance costs. Operating and maintenance costs must include labor costs; utilities; maintenance of vehicles, stationary equipment, buildings and roads; water monitoring and analysis, parts and supplies; services; equipment replacement; financial assurance; insurance, licenses and permits; taxes; residue disposal; and debt service. Operating and maintenance costs must be expressed in cost per ton of daily capacity.

(3) Revenues. The revenue portion of the cost analysis must include recycled material sales, compost sales, and other sources of income.

(4) Transportation costs. The transportation portion of the cost analysis must estimate the transportation cost changes which would result from implementation of alternative waste management systems.

(5) Cost adjustment for environmental values. The comparative analysis of alternative waste management systems must also account for the environmental goals established in Minnesota Statutes, chapters 115A and 116D. To accomplish this, the following maximum abatement goals are established for each portion of the solid waste stream. The abatement components are, in order of preference: waste reduction, recycling, yard waste composting, co-composting or energy recovery or both, and land disposal of residuals. Waste reduction has an abatement goal of three percent reduction by weight, of the solid waste stream, recycling has an abatement goal of 25 percent reduction by weight, of the solid waste stream; yard waste composting has an abatement goal of 12 percent reduction by weight, of the solid waste stream; co-composting or energy recovery or both has an abatement goal to process 60 percent, by weight, of the solid waste stream. These abatement goals will result in 20 percent of the waste stream being disposed of in land disposal facilities as residuals. The cost analysis of the waste

management systems must be adjusted so it reflects any differences between the solid waste management systems and the abatement goals for co-composting, energy recovery, and land disposal. The adjustment must be made in the following manner:

(a) deduct the amount of waste in the abatement goal (G_i) processed under each component from the planned amount of waste (P_i) abated for that component.

$P_i - G_i$, in which i represents waste management components (e.g., energy recovery, etc.)

(b) add the positive values derived in the first step.

$$\sum_{i=1}^n (P_i - G_i), \text{ for all } (P_i - G_i) > 0$$

(c) divide this sum by the total amount of waste generated (W).

$$P_E = \frac{\sum_{i=1}^n (P_i - G_i)}{W}$$

(d) adjust cost estimates for each of the components selected in the second step. Multiply each component's total cost, cost per ton, cost per household, and cost per capita by $(1 + P_E)$.

Subp. 4. Net land disposal capacity. The plan must contain a computation of net land disposal capacity. Net land disposal capacity is computed by subtracting the amount of waste managed by the proposed waste management system, calculated in subpart 3, item A, from the estimate of land disposal capacity needed based on current and projected waste generation practices calculated in subpart 2, item D. The result of this computation is net land disposal capacity needed for a ten-year period in a county or district.

Subp. 5. Waste facility siting program. The plan must contain a detailed siting procedure and development program to assure the orderly location, development, and financing of new or expanded waste facilities and services sufficient for the ten-year planning period. The procedure and program must be consistent with all applicable rules of the agency, the department of natural resources, the environmental quality board, and other state agencies. The procedure and program must include:

- A. estimated capital costs and implementation schedules;
- B. proposed procedures for operation and maintenance;
- C. estimated annual costs and gross revenues;
- D. feasible proposals for the ultimate use of waste facilities upon completion of their original use;
- E. siting criteria; and
- F. a program for public participation.

Subp. 6. Waste management implementation system. The plan must identify management responsibilities and institutional arrangements necessary for the implementation of the course of action identified in subpart 2, item A, subitem (7) and for the proposed waste management system identified in subpart 3, by including:

A. an identification of the existing structure of persons, municipalities, counties, and regional, state, and federal agencies that affect solid waste management in the political subdivisions being studied;

B. an evaluation and recommendation of specific options for the resolution of conflicting, duplicative, or overlapping local management efforts, including the possible establishment of joint powers management programs or waste management districts; and

C. a recommended management system for plan implementation, including:

(1) identification of those local political subdivisions, entities, or personnel that have responsibilities to plan, implement, and enforce the solid waste management system;

(2) identification of necessary training and education programs, including public education;

(3) a strategy for plan implementation, review, and evaluation, including the responsibilities of all local political subdivisions, entities, or personnel that have assigned duties within the management system;

(4) a financial program that identifies solid waste management funding sources for local political subdivisions, entities, or personnel assigned responsibilities under the plan; and

(5) a timetable to implement each element of the plan over the ten-year planning period.

Statutory Authority: *MS s 115A.42, 115A.46; 115A.917; 116 07 subd 4*

History: *10 SR 2009*

7035.1106 SUBMISSION OF PLAN OR REVISION.

Subpart 1. Submission of draft plan or revision. A board shall submit for agency review two copies of its draft plan or revision to the director according to the schedule established in part 7035.1101, subpart 2. The director shall review the draft plan within 120 days. After reviewing the draft plan or revision, the director shall notify the board of any part of the draft plan or revision that requires redrafting and resubmission. The county or district shall redraft the plan or revision and submit it as the final plan or revision to the director within 90 days.

Subp. 2. Resolution. When the redrafted plan or revision is completed, the county or district shall adopt a resolution that approves it as the final plan or revision before submission under subpart 3.

Subp. 3. Submission of final plan or revision. The board shall submit four copies of the final plan or revision to the director. The final plan or revision must be accompanied by a certified copy of the resolution required in subpart 2.

Subp. 4. Disapproval. If the director disapproves of the final plan or revision in whole or in part, the director shall notify the board of the parts that require resubmission. The board shall resubmit the final plan or revision with the required modifications and resolution of adoption within 90 days after notification by the director.

Subp. 5. Approval. The agency shall approve plans or revisions if the following conditions are satisfied:

A. The plan or revised plan contains each element of an acceptable plan as defined in part 7035.1100, subpart 2.

B. The plan or revised plan has required the most feasible and prudent reduction of the need for and the practice of land disposal of mixed municipal solid waste. "Feasible" means a known method or technology that can be put successfully into practice in a manner that addresses the potential environmental effects and abates the land disposal of solid waste. An alternative may not be considered feasible if it is experimental, theoretical, or not capable of commercial scale application. "Prudent" means the least costly solid waste management system as demonstrated by the cost analysis done under part 7035.1105, subpart 3.

Statutory Authority: *MS s 115A.42; 115A.46; 115A.917, 116.07 subd 4*

History: *10 SR 2009*

7035.1107 PRELIMINARY APPROVAL.

Within 30 days after receiving the final plan or revision, the director shall notify the board of the agency's preliminary approval of the plan or revision according to part 7035.1106, subpart 5, including the net land disposal capacity calculated in part 7035.1105, subpart 4 and intent to issue a certificate of need.

Statutory Authority: *MS s 115A.42, 115A.46; 115A 917; 116 07 subd 4*

History: *10 SR 2009*

7035.1108 PUBLIC NOTICE AND COMMENTS ON AGENCY'S PRELIMINARY APPROVAL OF PLAN OR REVISION AND INTENT TO ISSUE A CERTIFICATE OF NEED.

Subpart 1. Contents; duration of comment period. The director shall prepare and issue a public notice of the agency's intent to approve the plan or revision and issue a certificate of need for net land disposal capacity. The public comment period is 30 days. The public notice must include, at a minimum:

A. the address and telephone number of the main agency office and the appropriate agency regional office, and a statement that additional information may be obtained at these offices;

B. the name and address of the chair of the board whose solid waste management system is the subject of the plan or revision and whose land disposal capacity is the subject of the certificate of need,

C. a concise description of the waste management system established by the plan or revision,

D. a concise description of the determination of need for land disposal capacity expressed in cubic yards and acre feet;

E. a statement of the duration of the certificate of need and of the plan or revision approval;

F. any conditions of approval of the plan or revision by the agency;

G. any conditions of approval of the certificate of need by the agency, including at a minimum revocation and reissuance;

H. a brief description of the procedures for the agency to reach a final decision on approval of the plan or revision and certificate of need, including procedures for requesting a public informational meeting or contested case hearing; and

I. a statement that during the public comment period a person may submit comments to the agency on the plan or revision and certificate of need, a statement of the dates on which the public comment period begins and ends, and a statement of the information a person is required by part 7001.0110 to include in the comments.

Subp. 2. Distribution of public notice. The director shall distribute the public notice in the following manner:

A. The director shall make a copy of the public notice available at the main agency office and the appropriate agency regional office.

B. The director shall mail a copy of the public notice to the chair of the board whose plan or revision is subject to approval and whose land disposal capacity is the subject of the certificate of need.

C. The director shall circulate the public notice within the county or district whose plan or revision is subject to approval and whose land disposal capacity is the subject of the certificate of need. The director shall circulate the public notice by posting the notice in the post office, public library, or other buildings used by the general public in the county or district and by publishing the notice in one or more newspapers or periodicals of general circulation in the county or district.

Subp. 3. Public comments. During the 30-day public comment period, an

interested person, including the chair of the board, may submit written comments on the plan or revision and certificate of need. Comments must include the following:

A. a statement of the person's interest in the plan or revision and certificate of need;

B. a statement of the action the person wishes the agency to take, including specific references to the plan or revision or the determination of net land disposal capacity calculated in part 7035.1105, subpart 4, that the person believes should be changed; and

C. the reasons for the person's position, stated with sufficient specificity to allow the director to assess the merits of the person's statements. The agency shall retain comments submitted in writing by interested persons during the public comment period and shall consider them in the final determinations concerning approval of the plan or revision and the certificate of need.

Subp. 4. **Extension of comment period.** The director may extend the public comment period if the director finds an extension of time is necessary to facilitate additional public comment.

Statutory Authority: *MS s 115A 42; 115A 46, 115A.917, 116 07 subd 4*

History: *10 SR 2009*

7035.1109 REQUEST FOR PUBLIC MEETING OR CONTESTED CASE HEARING.

Subpart 1. **Contents of request.** If a person requests a public informational meeting or a contested case hearing, the request must include the items in part 7035.1108, subpart 3, and a statement why the agency should hold a public informational meeting or contested case hearing; and the issues the agency should address at the public informational meeting or contested case hearing.

Subp. 2. **Need for public informational meeting.** If the director determines that a public informational meeting would help clarify and resolve issues regarding the plan or revision and certificate of need or if the director has received a request under part 7001.0670, subpart 1, the director shall hold a public informational meeting.

Subp. 3. **Location of meeting.** The director must hold the public informational meeting in the geographical area included in the plan or revision and certificate of need. Otherwise, the public informational meeting must be held in a place generally convenient to persons expected to attend the meeting.

Subp. 4. **Notice of public informational meeting.** The director shall prepare a notice of the public informational meeting. The notice must contain a reference to the public notice of the preliminary approval of the plan or revision and certificate of need including the dates of issuance of the public notice; the date, time, and location of the public informational meeting; the information described in part 7001.0100, subpart 4, items A to F; a concise description of the manner in which the public informational meeting will be conducted; and the issues to be discussed.

Subp. 5. **Distribution of notice.** The director shall publish the notice in a newspaper of general circulation in the geographical area of the plan or revision and certificate of need, and shall mail a copy of the notice to the board and all other persons determined by the director to have an interest in the plan or revision and certificate of need. If applicable, the director shall comply with part 7001.0670, subpart 3.

Subp. 6. **Consolidation of issues.** If the director or the agency determines that no person would be adversely affected by consolidation, the director or the agency may consolidate two or more matters, issues, or related groups of plans or revisions and certificates of need for which a public informational meeting will be held.

Subp. 7. **Required contested case hearing.** The agency shall hold a contested case hearing if it finds all of the following:

A. that a person requesting the contested case hearing has raised a material issue of fact or the application of facts to law related to the agency's approval of the plan or revision and certificate of need;

B. that the agency has jurisdiction to make determinations of the issues of fact or of the application of facts to law raised by the person requesting the contested case hearing; and

C. that there is a reasonable basis underlying issues of fact or law raised by the person requesting the contested case hearing such that the holding of a contested case hearing would aid the agency in making a final determination on the plan or revision and certificate of need.

Subp. 8. **Public informational meeting.** If the agency finds that the holding of a contested case hearing is not justified under subpart 7, the agency shall nevertheless hold a public informational meeting if the agency determines that a public informational meeting would help clarify or resolve issues regarding approval of the plan or revision and the certificate of need.

Subp. 9. **Hearing notice and order.** If the agency decides to hold a contested case hearing, the director shall prepare a notice of and order for hearing. The notice of and order for hearing must contain:

A. the information required by part 1400.5600 of the rules of the Office of Administrative Hearings,

B. a reference to the public notice of the agency's intent to approve the plan or revision and issue the certificate of need and the dates of issuance of the public notice,

C. identification of the existing parties and a concise description of the issues which have been raised by any party; and

D. the address of the agency office or offices where interested persons may inspect or obtain copies of the public notice of the plan or revision and the certificate of need and other information relevant to the plan or revision and the certificate of need and the holding of the hearing.

Subp. 10. **Relevant law.** The notice of hearing, distribution of the notice, and the conduct of the contested case hearing are governed by Minnesota Statutes, sections 14.57 to 14.62; the rules of the Office of Administrative Hearings, parts 1400.5100 to 1400.8500; and, if applicable, by part 7001.0670, subparts 2, 3, and 4.

Statutory Authority: *MS s 115A 42; 115A 46; 115A 917; 116.07 subd 4*

History: *10 SR 2009*

7035.1110 FINAL APPROVAL OF PLAN OR REVISION AND CERTIFICATE OF NEED.

Subpart 1 **Agency action.** The agency shall approve the plan or revision if the agency determines the plan or revised plan complies with part 7035.1106, subpart 5.

Subp. 2. **Certificate of need.** The agency shall issue, reissue, or revoke and reissue a certificate of need for a ten-year period based on the net land disposal capacity calculated in part 7035.1105, subpart 4.

Statutory Authority: *MS s 115A 42, 115A 46, 115A 917; 116.07 subd 4*

History: *10 SR 2009*

7035.1111 PLAN AMENDMENTS.

A county or district shall amend a plan as conditions change after approval of the plan, by filing amendments for approval by the agency. The board shall adopt the amendments to the plan or revision by resolution before it is submitted to the director.

Statutory Authority: *MS s 115A 42; 115A.46, 115A 917; 116.07 subd 4*

History: *10 SR 2009*

7035.1112 PLAN REVISIONS.

Subpart 1. Five-year review. The board must review and, where necessary, revise the plan every five years after plan approval to ensure the plan remains consistent with the most recent edition of the Minnesota State Solid Waste Management Plan and parts 7035.1100 to 7035.1115.

Subp. 2. Update report. A county or district shall submit a report to the director indicating the parts of the plan that must be updated. A county or district shall submit the report to the director by the fourth anniversary date of the plan approval. The report serves as the basis for revising or not revising the plan. The report must address:

A. The adequacy of the system evaluation completed in part 7035.1105, subpart 2, item A, including waste generation and projected disposal quantities. Any changes in the system evaluation must describe the effect on net land disposal capacity as computed in part 7035.1105, subpart 4.

B. The consistency with state policies as expressed in Minnesota Statutes, chapters 115A and 116D, and the most recent edition of the Minnesota State Solid Waste Management Plan.

C. Changes in the cost analyses of alternatives required by part 7035.1105, subpart 3.

D. The implementation schedule required by part 7035.1105, subpart 6, item C, subitem (5).

E. Current and future management system required by part 7035.1105, subpart 6, item C, subitem (3).

F. Changes in funding sources required by part 7035.1105, subpart 6, item C, subitem (4).

G. Functions and activities of the plan that were not implemented or successfully accomplished and why.

H. New plan implementation tasks that have arisen as a result of changes in circumstances or facts.

Subp. 3. Determination of necessary plan revision. The director shall determine whether a plan revision is necessary based on the update report required in subpart 2. The director shall require a plan revision if the elements addressed in the update report significantly affect the net land disposal capacity computed in part 7035.1105, subpart 4. A county or district shall submit a draft revision of the plan within one year after the director determines that a revision is necessary. The board shall comply with part 7035.1106.

Statutory Authority: *MS s 115A.42; 115A.46; 115A 917; 116.07 subd 4*

History: *10 SR 2009*

7035.1113 REVIEW.

The agency, upon submittal of a revision to a plan according to part 7035.1112, may review and amend the certificate of need, by revoking and reissuing as specified in part 7035.1110, subpart 2, to ensure the certificate of need remains compatible with the plan. The agency shall comply with part 7035.1108.

Statutory Authority: *MS s 115A 42; 115A.46, 115A 917; 116.07 subd 4*

History: *10 SR 2009*

7035.1114 REVOCATION OF CERTIFICATE OF NEED.

If the county or district revises its plan according to part 7035.1112 or the agency finds the county or district has not fulfilled all applicable requirements of Minnesota Statutes, chapter 115A, or the rules adopted under Minnesota Stat-

MINNESOTA RULES 1986

49

SOLID WASTE 7035.1115

utes, chapter 115A, including parts 7035.1100 to 7035.1115, this finding constitutes justification for the agency to revoke, or revoke and reissue a certificate of need.

Statutory Authority: *MS s 115A.42; 115A.46; 115A.917, 116.07 subd 4*

History: *10 SR 2009*

7035.1115 NONCOMPLIANCE.

Subpart 1. Notification. If a county or district has been notified as specified in part 7035.1102 of the required completion date of the solid waste management plan according to part 7035.1101, subpart 2, and the director determines a county or district has not initiated the planning process, the director shall issue a letter notifying the board of the director's intent to pursue the agency action as specified in subpart 2. The county or district shall respond to the notice within 30 days, stating the reasons why the planning process has not been initiated.

Subp. 2. Compliance order. If the board fails to respond to the notice in subpart 1 or initiate the planning process, the agency may issue an order for compliance with parts 7035.1100 to 7035.1114. Issuance of a compliance order does not preclude the agency from taking other actions prescribed by law.

Statutory Authority: *MS s 115A.42; 115A.46; 115A.917; 116.07 subd 4*

History: *10 SR 2009*