

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

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7035.0100 PURPOSE AND POLICY.

The high level of production required to meet the varied needs of an expanding population and high standard of living has resulted in a sharp rise in the amount of waste materials discarded annually. Inefficient and improper methods of waste disposal have caused ever increasing pollution of our vital air, land, and water resources threatening the utility of our resources and the quality of the environment in which we live. Improper waste storage, collection, transportation, and disposal endanger the public health, safety, and welfare, create public nuisances, result in scenic blight and adversely affect land values. The close interrelationship of air, land, and water pollution requires concerted action to preserve and improve the quality of our environment. A problem concerning solid waste will not be solved satisfactorily by creating air pollution, nor will a problem in air pollution be solved satisfactorily by intensifying the problems of water pollution. Immediate remedial action is needed to protect our valuable resources, and can only be accomplished through dedicated joint efforts.

The following solid waste disposal standards and rules apply to any solid waste management system located partially or wholly within the state of Minnesota. Rules are of general application throughout the state unless specifically indicated otherwise by their context. The official policy and purpose of the state of Minnesota in regard to solid waste control is set forth in Laws of Minnesota 1969, chapter 1046, codified as Minnesota Statutes, section 116.07.

The Pollution Control Agency shall also adopt standards for the control of the collection, transportation, and disposal of solid waste for the prevention and abatement of water, air, and land pollution, recognizing that due to variable factors, no single standard of solid waste control is applicable to all areas of the state. In adopting standards, the Pollution Control Agency shall give due recognition to the fact that elements of control which may be reasonable and proper in densely populated areas of the state may be unreasonable and improper in sparsely populated or remote areas of the state, and it shall take into consideration in this connection such factors, including others which it may deem proper, as existing physical conditions, topography, soils and geology, climate, transportation, and land use. Such standards of solid waste control shall be premised on technical criteria and commonly accepted practices.

Pursuant and subject to the provisions of chapter 14, and the provisions hereof, the Pollution Control Agency may adopt, amend, and rescind regulations and standards having the force of law relating to any purpose within the provisions of this act for the collection, transportation, and disposal of solid waste and the prevention, abatement, or control of water, air, and land pollution which may be related thereto, and the deposit in or on land of any other material that may tend to cause pollution. Any such rule or standard may be of general application throughout the state or may be limited as to times, places, circumstances, or conditions in order to make due allowance for variations therein. Without limitation, rules or standards may relate to collection, transportation, disposal, equipment, location, procedures, methods, systems or techniques, or to any other matter relevant to the prevention, abatement, or control of water, air, and land pollution which may be advised through the control of collection, transportation and disposal of solid waste, and the deposit in or on land of any other material that may tend to cause pollution.

Consistent with these objectives, it shall be the policy of the Pollution Control Agency to encourage the development and expansion of solid waste control programs in cities, counties, and other political subdivisions of the state and to provide planning, technical, and enforcement assistance.

Statutory Authority: *MS s 116.07 subd 4*

7035.0200 SCOPE.

These are rules and standards the provisions of which govern the storage, collection, transportation, treatment, utilization, processing, transfer, intermediate disposal, and final disposal of solid waste by any person and the issuing of permits for the construction and operation of solid waste disposal sites and facilities for the protection of the environment in keeping with Minnesota Statutes, chapters 115, 116, 400, and 473D.

Statutory Authority: *MS s 116.07 subd 4*

7035.0300 DEFINITIONS.

For the purpose of this chapter:

- A. "Agency" means the Minnesota Pollution Control Agency, its agent, or representative.
- B. "Cell" means compacted solid wastes that are enclosed by cover material in a land disposal site.
- C. "Composting" means the controlled biological decomposition of selected solid waste in a manner resulting in an innocuous final product.
- D. "Cover material" means material that is used to cover compacted solid waste in a land disposal site. Important general characteristics of good cover material are low permeability, uniform texture, cohesiveness, and compactibility. Suitable cover material includes sandy loam, loam, silt loam, sandy clay loam, silty clay loam, clay loam, sandy clay, and loamy sand.
- E. "Daily cover" means cover material that is spread and compacted on the top and side slopes of compacted solid waste at least at the end of each operating day in order to control vectors, fire, infiltration, and erosion and to assure an aesthetic appearance.
- F. "Decomposition gases" means gases produced by chemical or microbial activity during the decomposition of solid waste.
- G. "Director" means the director of the Minnesota Pollution Control Agency.
- H. "Final solid waste disposal" means the site, facility, operating procedures, and maintenance thereof for the complete and ultimate disposal of solid waste by the sanitary landfill method.
- I. "Flood plain" is as defined in Minnesota Statutes, chapter 104.
- J. "Free moisture" means liquid that will drain freely by gravity from solid materials.
- K. "Garbage" means discarded material resulting from the handling, processing, storage, preparation, serving, and consumption of food.
- L. "Incineration" means the process of burning wastes for the purpose of volume and weight reduction in facilities designed for such use.
- M. "Intermediate solid waste disposal" means the site, facility, operating procedures, and maintenance thereof, for the preliminary or incomplete disposal of solid waste including, but not limited to, transfer station, open burning, incomplete land disposal, incineration, composting, reduction, shredding, and compression.
- N. "Land disposal site" means any tract or parcel of land, including any constructed facility, at which solid waste is disposed of in or on the land.
- O. "Land pollution" means the presence in or on the land of any solid waste in such quantity, of such nature and duration, and under such condition as would affect injuriously any waters of the state, create air contaminants, or cause air pollution.
- P. "Leachate" means liquid that has percolated through solid waste and has extracted, dissolved, or suspended materials from it.

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Q. "Municipality" means a city, village, borough, county, town, sanitary district, or other governmental subdivision or public corporation, or agency created by the legislature.

R. "Open burning" means burning any matter whereby the resultant combustion products are emitted directly to the open atmosphere without passing through an adequate stack, duct, or chimney.

S. "Open dump" means a land disposal site at which solid waste is disposed of in a manner that does not protect the environment, is susceptible to open burning, and is exposed to the elements, flies, rodents, and scavengers.

T. "Person" means any human being, any municipality or other governmental or political subdivision or other public agency, any public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing, or any other legal entity, but does not include the Pollution Control Agency.

U. "Refuse" means putrescible and nonputrescible solid wastes, including garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, and market and industrial solid wastes, and including municipal treatment wastes which do not contain free moisture.

V. "Refuse collection service" means a public or private operation engaged in solid waste collection and solid waste transportation.

W. "Regional flood" is as defined in Minnesota Statutes, chapter 104.

X. "Rubbish" means nonputrescible solid wastes, including ashes, consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, or litter of any kind.

Y. "Runoff" means the portion of precipitation that drains from an area as surface flow.

Z. "Sanitary landfill" means a land disposal site employing an engineered method of disposing of solid waste on land in a manner that minimizes environmental hazards by spreading the solid waste in thin layers, compacting the solid waste to the smallest practical volume, and applying cover material at the end of each operating day, or at intervals as may be required by the agency.

AA. "Scavenging" means uncontrolled removal of solid waste materials.

BB. "Solid waste" means garbage, refuse, and other discarded solid materials, except animal waste used as fertilizer, including solid waste materials resulting from industrial, commercial, and agricultural operations, and from community activities. Solid waste does not include earthen fill, boulders, rock, and other materials normally handled in construction operations, solids, or dissolved material in domestic sewage or other significant pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents, dissolved materials in irrigation return flows, or other common water pollutants.

CC. "Solid waste collection" means the gathering of solid waste from public or private places.

DD. "Solid waste management system" means a total system for the storage, collection, transportation, intermediate, and final disposal of solid waste.

EE. "Solid waste storage" means the holding of solid waste near the point of generation.

FF. "Solid waste transportation" means the conveying of solid waste from one place to another, by means of vehicle, rail car, water vessel, conveyor, or other means.

GG. "Special infectious waste" means waste originating from the diagnosis, care, or treatment of a person or animal that has been or may have been exposed to a contagious or infectious disease. Special infectious waste includes, but is not limited to,

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(1) all wastes originating from persons placed in isolation for control and treatment of an infectious disease;

(2) bandages, dressings, casts, catheters, tubing, and the like, which have been in contact with wounds, burns, or surgical incisions and which are suspect or have been medically identified as hazardous;

(3) All anatomical waste, including human and animal parts or tissues removed surgically or at autopsy;

(4) laboratory and pathology waste of an infectious nature which has not been autoclaved;

(5) any other waste, as defined by the state commissioner of health, which, because of its infectious nature, requires handling and disposal in a manner prescribed for subitems (1) to (4).

HH. "Transfer station" means a facility in which solid waste from collection vehicles is concentrated for subsequent transport. A transfer station may be fixed or mobile.

II. "Underground water" means the water contained below the surface of the earth in the saturated zone including, without limitation, all waters whether under confined, unconfined, or perched conditions in near surface unconsolidated sediment or regolith, or in rock formations deeper underground. The term ground water shall be synonymous with underground water. Refer to Minnesota Pollution Control Agency, parts 7060.0100 to 7060.0900.

JJ. "Water monitoring system" means a system of wells, lysimeters, or other mechanisms used to obtain representative samples of both underground water and surface water where required in the vicinity of a land disposal site.

KK. "Water table" means the surface of the ground water at which the pressure is atmospheric. Generally this is the top of the saturated zone. Refer to Minnesota Pollution Control Agency, parts 7060.0100 to 7060.0900.

LL. "Wetland" means a natural marsh where water stands near, at, or above the soil surface during a significant portion of most years, and which is eligible for classification as an inland fresh water wetland type 3, 4, or 5 under United States Department of Interior classifications.

MM. "Working face" means that portion of the land disposal site where waste is discharged and is spread and compacted prior to the placement of cover material.

Statutory Authority: *MS s 116.07 subd. 4*

7035.0400 GENERAL CONDITIONS.

All solid waste shall be stored, collected, transferred, transported, utilized, processed, and disposed of, or reclaimed in a manner consistent with requirements of this chapter. The agency is responsible for enforcement of this chapter and encourages cooperation of municipalities which may adopt these parts for use in local laws, ordinances, or regulations.

Statutory Authority: *MS s 116.07 subd 4*

7035.0500 SEVERABILITY.

If any provision of any rule or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions or application of any other part of such rule or any other rule which can be given effect without the invalid provision of application, and to this end the provisions of all rules and the various applications thereof are declared to be severable.

Statutory Authority: *MS s 116.07 subd 4*

7035.0600 VARIANCES.

Whereupon written application of the responsible person or persons the

agency finds that by reason of exceptional circumstances strict conformity with any provisions of the rules contained herein would cause undue hardship, would be unreasonable, impractical, or not feasible under the circumstances, the agency may permit a variance from these parts upon such conditions and within such time limitations as it may prescribe for prevention, control, or abatement of air, land, or water pollution in harmony with the intent of the state and any applicable federal laws.

Statutory Authority: *MS s 116.07 subd 4*

7035.0700 STORAGE OF SOLID WASTE.

Subpart 1. Owner or occupant's duty. The owner and occupant of any premises, business establishment, or industry shall be responsible for the satisfactory storage of all solid waste accumulated at that premise, business establishment, or industry.

Subp. 2. Garbage. Garbage and similar putrescible waste shall be stored in:

A. durable, rust resistant, nonabsorbent, watertight, rodent proof, and easily cleanable containers, with close fitting, fly-tight covers and having adequate handles or bails to facilitate handling; or

B. other types of containers acceptable to the municipality and conforming to the intent of this part;

C. the size and allowable weight of the containers may be determined by the refuse collection service subject to requirements of the municipality;

Subp. 3. Refuse. Refuse shall be stored in durable containers or as otherwise provided in this part. Where garbage and similar putrescible wastes are stored in combination with nonputrescible refuse, containers for the storage of the mixture shall meet the requirements for garbage containers.

Subp. 4. Containers. All containers for the storage of solid waste shall be maintained in such a manner as to prevent the creation of a nuisance or menace to public health. Containers that are broken or otherwise fail to meet requirements of this part shall be replaced with acceptable containers.

Subp. 5. Oversize waste. Solid waste objects or materials too large or otherwise unsuitable for storage containers shall be stored in a pollution and nuisance free manner and in compliance with the regulations of federal, state, and local governments, and their regulatory agencies.

Statutory Authority: *MS s 116.07 subd 4*

7035.0800 COLLECTION AND TRANSPORTATION OF SOLID WASTE.

Subpart 1. Owner or occupant's duty. The owner and occupant of any premises, business establishment, or industry and/or the refuse collection service shall be responsible for the satisfactory collection and transportation of all solid waste accumulated at a premise, business establishment, or industry to a solid waste disposal site or facility, for which a permit has been issued by the agency unless otherwise provided in these parts.

Subp. 2. Containers or vehicles. Vehicles or containers used for the collection and transportation of garbage and similar putrescible wastes, or refuse containing such materials, shall be covered, leakproof, durable, and of easily cleanable construction. These shall be cleaned to prevent nuisances, pollution, or insect breeding, and shall be maintained in good repair.

Subp. 3. Spills. Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered when necessary to prevent blowing of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

Statutory Authority: *MS s 116.07 subd 4*

7035.0900 INTERMEDIATE AND FINAL DISPOSAL OF SOLID WASTE.

Subpart 1. **Open burning.** Open burning is prohibited at all intermediate and final solid waste disposal sites, except as shall be allowed by any rules of the agency now or hereafter adopted.

Subp. 2. **Water pollution.** Solid waste shall not be deposited at any intermediate or final solid waste disposal site in such a manner that material or leachings therefrom may cause pollution of ground or surface waters.

Subp. 3. **Permitted sites or facilities.** A person shall make an intermediate or final disposal of any solid waste, only at a site or facility for which a permit has been issued by the agency unless otherwise provided by these parts. Permits shall not be required for sites used for the disposal of solid waste from only a single family or household, a member of which is the owner, occupant, or lessee of the property, under these parts, but these shall be operated and maintained in a nuisance free, pollution free and aesthetic manner consistent with the intent of these parts.

Statutory Authority: MS s 116.07 subd 4

7035.1000 PLAN APPROVAL AND PERMIT ISSUANCE, DENIAL, AND REVOCATION.

Subpart 1. **Requirement.** It shall be unlawful for any person to establish, maintain, conduct, or operate an intermediate or final solid waste disposal site or facility except as provided in these parts without first obtaining a permit from the agency.

Subp. 2. **Conformance with other law.** Although a permit shall be granted the same shall become effective only if the location of the site or facility shall conform to all applicable federal, state, and local laws, ordinances, and regulations.

Subp. 3. **Plans required.** Each permit application shall be accompanied by plans as described in these parts and a plan of operation indicating procedures which will be followed to fulfill requirements of these parts.

Subp. 4. **Approval of plans; issuance of permit.** Plans and specifications shall be approved and a permit issued when the director of the agency believes that they are in accordance with the requirements as set forth in these parts.

Subp. 5. **Denial of permit.** When a permit is denied, applicant shall be notified in writing of the reasons therefor. A denial shall be without prejudice to the applicant's right to an appearance before the agency or for filing a further application after revisions are made to meet objections specified as reasons for the denial.

Subp. 6. **Revocation of permit.** Permits may be revoked for violation of these parts.

Statutory Authority: MS s 116.07 subd 4

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 Minitex 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 within 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.

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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.

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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 Statutes, 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*

SANITARY LANDFILLS

7035.1500 SANITARY LANDFILL; REQUIRED METHOD.

The sanitary landfill method shall be used for all final disposal of solid waste.

Statutory Authority: *MS s 116.07 subd 4*

7035.1600 PROHIBITED AREAS FOR LANDFILL SITES.

The fill and trench areas of sanitary landfill sites are prohibited within the following areas, as existing at the time of receipt of the permit application by the agency:

A. 1,000 feet from the normal high water mark of a lake, pond, or flowage.

B. 300 feet from a stream.

C. A regional flood plain (100 year flood).

D. Wetlands.

E. Within 1,000 feet of the nearest edge of the right-of-way of any state, federal, or interstate highway or of the boundary of a public park or of an occupied dwelling. Permission may be granted under this subsection, without these distance requirements, at the discretion of the director, taking into consid-

eration such factors as noise, dust, litter, and other aesthetic and environmental considerations.

F. Locations considered hazardous because of the proximity of airports.

G. An area which is unsuitable because of reasons of topography, geology, hydrology, or soils.

Statutory Authority: *MS s 116.07 subd 4*

7035.1700 REQUIRED PRACTICES FOR MAINTENANCE AND OPERATION OF LANDFILLS.

Any person who maintains or operates a sanitary landfill site or permits the use of property for such, shall maintain and operate the site in conformance with the following practices unless otherwise allowed by the agency in issuing the required permit:

A. Open burning shall be prohibited.

B. Solid waste shall not be deposited in such a manner that material or leachings therefrom may cause pollution of underground or surface water.

Proposed separation between the lowest portion of the landfill and the high water table elevation shall be a minimum of five feet. This requirement shall not be construed to render inoperative any other requirements specified herein and additional ground water protection shall be provided if needed.

C. Dumping of solid waste shall be confined to as small an area as practicable and with appropriate facilities to confine possible wind-blown material within the area. At the conclusion of each day of operation, all wind-blown material resulting from the operation shall be collected and returned to the area by the owner or operator.

D. Solid waste shall be compacted as densely as practicable and covered after each day of operation, or as specified by the director, with a compacted layer of at least six inches of suitable cover material. All previously filled areas shall be maintained with at least six inches of suitable cover material.

If refuse cells will be exposed to the elements for a period of 120 days or longer, an intermediate cover totaling at least 12 inches of compacted, suitable cover material shall be provided and maintained.

There shall be an available supply of suitable cover material, which, if necessary, shall be stockpiled and protected for winter operation.

The sanitary landfill shall be constructed and cover material graded so as to promote surface water runoff without excessive erosion.

E. Surface water drainage shall be diverted around and away from the landfill operating area.

F. A minimum separating distance of 20 feet, or greater as specified by the director, shall be maintained between the disposal operation and the adjacent property line.

G. Effective means shall be taken if necessary to control flies, rodents, and other insects or vermin.

H. The approach road to the disposal site and the access road on the site shall be of all-weather construction and maintained in good condition so that they will be passable at all times for any vehicle using the site.

I. Adequate dust control on the site shall be provided.

J. Equipment shall be available for adequate operation of the site. The equipment shall be provided with adequate safety devices and adequate noise control devices.

K. Equipment shall be provided and kept at the site during the hours of operation to control accidental fires and arrangements made with the local fire protection agency to immediately acquire their services when needed.

L. Adequate communication facilities shall be provided for emergency purposes.

M. Sanitary facilities and shelter shall be available for site personnel.

N. Scavenging shall be prohibited to avoid injury and prevent interference with operations.

O. The site shall be adequately screened by existing or provided means.

P. There shall be qualified personnel for general direction and operation of the site on duty at all times while it is open for public use.

Q. Access to the site shall be controlled. A gate shall be provided at the entrance to the site and kept locked when an attendant is not on duty.

R. A permanent sign, identifying the operation and showing the permit number of the site, and indicating the hours and days the site is open for public use, rates, the penalty for nonconforming dumping, and other pertinent information, shall be posted at the site entrance.

S. A water monitoring program shall be constructed and operated to determine whether or not solid waste or leachate therefrom is causing pollution of underground or surface water. The drilling and construction of all site wells, including those used for monitoring purposes, shall be done in compliance with Minnesota Statutes, chapter 747.

The conditions of monitoring, including the frequency and the analysis of water monitoring samples, shall be determined by the director and may be changed at his discretion.

T. Approved leachate collection and treatment systems shall be used where required to protect underground and surface water.

U. Decomposition gases shall not be allowed to migrate laterally from the sanitary landfill. They shall be vented into the atmosphere directly through the cover material, or into cut-off trenches, or into the atmosphere by forced ventilation, or by other means approved by the director so that explosive concentrations are prevented.

V. The following shall not be acceptable for deposit in sanitary landfills except in amounts normal in household waste:

(1) Liquids;

(2) Any of the following: digested sewage sludges, lime sludges, grit chamber cleanings, bar screenings, and other sludges, unless approved by the director. Approval will be based on consideration of such factors as chemical composition, free moisture content, and workability;

(3) In no case will special infectious waste, raw sewage sludge, raw animal manure, or septic tank pumpings be acceptable;

(4) Other substances that may be deemed unacceptable by the agency.

W. Dead animals shall be transported and disposed of in accordance with Minnesota Statutes, chapter 35. When received at a sanitary landfill, household pet animal carcasses should be buried along with other refuse. Larger animal carcasses may be buried in the fill and trench area under other refuse, but the carcass itself must first be completely covered separately with at least 12 inches of earth material. Animal carcasses may be buried in a separate area of the landfill site at a depth of at least three feet.

X. When disposed of at a sanitary landfill, certain demolition and construction type wastes may be disposed of in a separate area, as specified by the director.

Y. The permittee shall properly complete the agency operational report form and submit it monthly to the agency, whether or not the permitted landfill is yet constructed or whether or not it is in operation.

Z. Within one month after final termination of a site, or a major part thereof, the area shall be covered with at least two feet of compacted earth material, graded to a minimum two percent slope to promote surface water runoff without excessive erosion.

The finished surface of the filled area shall be covered and maintained with adequate top soil and seeded to provide suitable vegetation immediately upon completion, or immediately in the spring on areas terminated during winter conditions. If necessary, seeded slopes shall be covered with straw or similar material to prevent erosion.

Prior to completion of a sanitary landfill site, the agency shall be notified in order that a site investigation may be conducted by the agency staff before earth moving equipment is removed from the property.

After completion of a sanitary landfill site, a detailed description, including a plat, shall be recorded with the county register of deeds. The description shall include general types and location of wastes, depth of fill, and other information of interest to future land owners.

If the completed site is to be cultivated, the integrity of the finished surface shall not be disturbed by agricultural cultivation activities. If cultivated, a sufficient depth of cover material to allow cultivation and to support vegetation shall be maintained.

Statutory Authority: *MS s 116.07 subd 4*

7035.1800 PERMIT APPLICATION AND REQUIRED PLANS FOR LANDFILLS.

Plans, including a permit application, report, and drawings shall be prepared by a registered engineer of Minnesota. Three complete sets of the plans shall be submitted to the agency. The submitted plans shall include the following:

- A. A completed permit application form.
- B. An engineering report including:
 - (1) General information;
 - (2) Site analysis including consideration of each item in part 7035.1600 along with data and supplementary reports, including soil boring data and a hydrogeologic study. Attention to this requirement must include consideration of surface features, underground formations, soil boring data from soil borings of which at least one is to a minimum depth of 50 feet below proposed excavation and lowest elevation of the site, water table profile, direction of underground water flow, initial quality of water resources in the potential zone of influence of the landfill, use of water resources in the potential zone of influence of the landfill, need and availability of cover material, and existing refuse deposits. Also considered shall be climate, average rates of precipitation based on average monthly rates from records of rain gauge stations, evapotranspiration, runoff, and infiltration;
 - (3) Proposed operating procedures including consideration of each item in part 7035.1700;
 - (4) Equipment to be used for operation of the site.
- C. Drawings, folded to 8-1/2 inch by 11 inch size, including:
 - (1) An existing conditions plan of the area showing land use and zoning within one-fourth mile of the proposed solid waste disposal site. The plan shall show all buildings, lakes, ponds, watercourses, wetlands, sinkholes, rock out-croppings, roads, public parks, and other applicable details and shall indicate the general topography with contours and drainage patterns. An on-site bench mark shall be indicated and a north arrow drawn. A location insert map and a U.S.G.S. topographic map of the area shall be included. The scale of the existing conditions plan shall not be greater than 300 feet per inch;

(2) A development plan of the site and immediately adjacent area showing dimensions, contours, at contour intervals of two feet or less, soil boring locations with surface elevations and present and planned pertinent features, including but not limited to roads, screening, buffer zone, fencing, gate, shelter and equipment buildings, surface water diversion and drainage, and water monitoring system. The development plan shall show progressive development of trench and/or area fills and any phase construction. The scale of the development plan shall not be greater than 200 feet per inch.

The development plan shall include consideration of the ultimate land use, for example, replanned building islands, not to be used for landfilling or refuse;

(3) Cross sections plan including a minimum of two cross sections of each phase, perpendicular to one another, showing existing grade, excavation grade, final grade, any additional ground water protection, high water table profile and profile of a separation line five feet above, profile and identity of soils, and profile and identity of bedrock;

(4) An ultimate land use plan showing the land use after the site is completed, final contours, at contour intervals of two feet or less, and surface water drainage. Consideration shall be given in the design of an ultimate land use plan to gas control, erosion, and differential settlements. The scale of the ultimate land use plan shall not be greater than 200 feet per inch.

Statutory Authority: *MS s 116.07 subd 4*

7035.1900 BASIC PERMIT, CERTIFICATION, AND COMPLIANCE REQUIREMENTS FOR LANDFILLS.

A sanitary landfill shall not be opened or placed into operation until:

A. An agency permit has been issued.

B. A construction certification has been approved by the director. The certification, signed by the project engineer, shall certify, with any exceptions listed, that the construction has been completed in accordance with the plans and agency permit. It shall be certified that an agency approved water monitoring system is functional and includes an analysis of initial water monitoring samples.

If any construction has been scheduled in the plans for phase development subsequent to the initial operation, then a similar certification shall be approved for each phase before it shall be operated.

C. The site is consistent with the county solid waste management system plan.

These parts shall be effective as to the construction of permitted sanitary landfills when the permit applications and final plans are received after the date these parts are filed with the commissioner of administration; provided, however, the agency reserves the right to require compliance with any provision of these parts in order to abate pollution.

Statutory Authority: *MS s 116.07 subd 4*

7035.2000 INCINERATION.

Subpart 1. **Scope.** This part applies only to existing and new incinerators having a capacity greater than 6,000 pounds per hour.

Subp. 2. **Requirements.** All incinerators shall be designed and operated in a manner to conform to emission limitations of parts 7005.0600 to 7005.0650 and other air pollution control rules of the agency now or hereafter adopted. All incinerators shall have adequate disposal of liquid wastes. Any discharge to surface or ground waters of the state must meet the agency's rules of water quality or effluent standards now or hereafter adopted. Residue from all incinerators must be disposed of in conformance with these parts.

Subp. 3. **Permit required.** It is unlawful for any person to install a new incinerator or install or alter any incinerator appurtenances, except for routine maintenance, without first having been issued a permit by the agency.

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Subp. 4. Permit procedure. When a permit is desired, the following details shall be submitted to the agency for review:

A. a minimum of three sets of plans and specifications, folded to 8-1/2 inch by 11 inch size, prepared by a registered engineer of Minnesota, clearly indicating the construction which will be undertaken. These details shall include a plot plan showing land use, zoning, and the location, type, and height of all buildings within 500 feet of the proposed installation;

B. an engineering report including furnace design criteria and expected performance data, the present, and future population and area to be served by the incinerator, and the characteristics, quantities, and sources of solid waste to be incinerated;

C. plans for the disposal of incinerator residue, and emergency disposal of solid waste in the event of major incinerator plant breakdown;

D. information relating to part 7035.1000;

E. owner of the site and/or plant;

F. persons responsible for actual operation and maintenance of the plant and intended operating procedures;

G. such additional data and information as may be requested by the agency.

Subp. 5. Criteria governing permitted incinerators. The incinerator operation for each proposed installation shall be considered for approval on its own merits, shall be in compliance with the following criteria, and in accordance with accepted engineering practices.

A. The incinerator plant shall be so situated, equipped, operated, and maintained as to minimize interference with other activities in the area.

B. Shelter and sanitary facilities shall be available for plant personnel.

C. A permanent sign shall be posted at the site entrance identifying the operation and showing the permit number of the plant, and indicating the hours and days when the plant is open for public use. Access to the plant shall be limited to those times when authorized personnel are on duty.

D. All incoming solid waste to be incinerated at the plant shall be confined to the unloading area. Adequate holding bin capacity shall be provided.

E. Facilities shall be designed to provide for dust control in the unloading and charging areas.

F. The incinerator plant shall have weighing facilities available. The agency may require that permanent records be maintained for inspection as to the total weight of material incinerated, the total quantity of resulting residue, and total hours of plant operation.

G. Firefighting equipment, meeting the standards of Underwriters Laboratory, Inc., or other approved nationally recognized safety standards, shall be available in the storage and charging areas and elsewhere as needed.

H. Arrangements shall be made with the local fire protection agency to provide fire fighting forces in an emergency.

I. Adequate communication facilities shall be provided for emergency purposes.

J. Equipment shall be provided in the storage and charging areas and elsewhere as needed to allow cleaning after each day of operation or as may be required in order to maintain the plant in a sanitary condition.

K. The charging openings as well as all equipment throughout the plant shall be provided with safety equipment.

L. During normal operation, temperature in the combustion chambers shall conform to parts 7005.0600 to 7005.0650 and other air pollution control rules of the agency now or hereafter adopted, to produce a satisfactory residue and to result in an odor-free operation.

M. A continuously recording pyrometer shall be provided in order to maintain continuous records of temperature in the combustion chambers. A copy of such records shall be available for the agency upon request.

N. All residue removed from the incinerator plant shall be promptly disposed of at an approved site, and in a manner that will prevent nuisances, pollution, and public health hazards. Residue containing combustible material shall be disposed of in a sanitary landfill in conformance with parts 7035.1500 to 7035.1900.

O. Upon completion of the plant and prior to initial operation, the agency shall be notified to allow personnel of the agency to inspect the plant both prior to and during the performance tests.

P. Performance tests of the plant may be required by the agency. A report covering the results of the performance tests in such case shall be prepared by the design engineer of the project and submitted to the agency with the copy of all supporting data.

Subp. 6. **Existing incinerators.** Existing incinerators which do not meet the above criteria shall be reconstructed in order to meet the foregoing standards as specified in part 7035.2300.

Subp. 7. **Monthly reports.** Reports describing the total weight of material incinerated, the total quantity of resulting residue and residue disposition, and the total hours of plant operation shall be submitted to the agency every month, together with other information on the operation of the incinerator.

Statutory Authority: *MS s 116.07 subd 4*

7035.2100 COMPOSTING.

Subpart 1. **Permit required.** It is unlawful for any person to install or alter any composting operation without first having been issued a permit by the agency. (See also part 7035.0900.)

Subp. 2. **Documents required by agency.** When a permit is desired, the following details shall be submitted to the agency for review, prepared by a registered engineer of Minnesota:

A. A minimum of three sets of plans and specifications, folded to 8-1/2 inch by 11 inch size, clearly indicating the layout and construction which will be undertaken.

B. A minimum of three sets of maps or aerial photographs indicating land use and zoning within one-fourth mile of the facility. The map or aerial photograph shall be of adequate scale to show all homes, buildings, lakes, ponds, watercourses, wetlands, dry runs, rock outcroppings, roads, and other applicable details and shall indicate the general topography with contours and drainage patterns. Wells and soil boring locations should be identified on the map or aerial photograph.

C. Details relating to geological formations of the property whereon the proposed installation is to be located. Such details shall be determined by soil borings or other appropriate means to a depth of at least ten feet. The high water table should be included.

D. An engineering report outlining the proposed method of operation, the quantity and source of material to be processed, the proposed use and distribution of the processed material, and related details.

E. Information relating to part 7035.1000.

F. Owner of the site and/or plant.

G. Persons responsible for actual operation and maintenance of the plant.

H. Additional data or information may be required by the agency.

Subp. 3. **Manner of operation.** The operation shall be conducted in a manner which minimizes pollution, public health hazards, and nuisances.

Subp. 4. Sale of materials resulting from composting. Materials resulting from composting or similar processes and offered for sale shall contain no pathogenic organisms, shall not reheat upon standing, shall be innocuous, and shall contain no sharp particles which would cause injury to persons handling the compost.

Subp. 5. Handling of compost by-products. By-products removed during processing shall be handled in a pollution and nuisance free manner and shall be disposed of as provided in these parts.

Subp. 6. Monthly reports. Reports describing the types and amounts of waste composted, the amount of compost produced, and the amounts of by-products removed and the disposition of the by-products shall be submitted to the agency every month together with other information on the operation of the compost plant.

Statutory Authority: *MS s 116.07 subd 4*

7035.2200 REQUIREMENTS FOR OTHER METHODS OF SOLID WASTE HANDLING, PROCESSING, AND DISPOSAL.

Before a site or facility for any method of solid waste handling, processing, and disposal, including transfer stations, not otherwise provided for in these parts is practiced or placed into operation, three sets of complete plans, specifications, design data, ultimate land use plan, and proposed operating procedures shall be submitted to the agency for review and permit issuance. All such information shall be prepared and submitted by a registered professional engineer of Minnesota.

Statutory Authority: *MS s 116.07 subd 4*

7035.2300 NONCONFORMING SITES AND FACILITIES.

Modification of existing sites and facilities, and of operating procedures to conform to the requirements of these parts shall be accomplished. When the degree of necessary improvement is of such extent that immediate compliance cannot be accomplished, special consideration may be given by the agency. In such event, the owner of the nonconforming site or facility shall, not later than six months after the effective date of these parts, submit to the agency a report setting forth a program and plan for compliance with these parts. Included with this report shall be a time schedule for submission of plans and specifications and a time schedule requiring commencement and completion of construction of necessary operations or improvements. In any event such construction shall be completed by not later than July 1, 1972.

Statutory Authority: *MS s 116.07 subd 4*

7035.2400 EXEMPTIONS FOR SOLID WASTE DISPOSAL FACILITIES LOCATED IN SPARSELY POPULATED AREAS AND COUNTY SOLID WASTE MANAGEMENT PLANS.

Subpart 1. Modified landfill permits. The agency shall issue permits for the operation of land disposal sites located in sparsely populated areas. These permits shall be entitled "modified landfill permits" and shall be issued to proposed land disposal sites provided:

A. the proposed land disposal site will be utilized by a year-round, permanent residential population of less than 2,500;

B. no prudent and feasible alternative to the proposed modified landfill exists as demonstrated by an economic and environmental analysis of at least the following alternatives: canister systems, transfer stations, use of an existing permitted solid waste facility;

C. no material adverse economic and environmental impact on existing solid waste disposal systems currently operating under agency permits will be caused by the operation of the proposed modified landfill;

D. the proposed modified landfill will not cause pollution, impairment, or destruction of the environment as defined in Minnesota Statutes, chapter 116B;

E. the proposed modified landfill will not accept any hazardous waste as defined in part 7045.0100 to 7045.0170.

In order to show the existence of the above criteria, the applicant may provide the agency with information relating to seasonal fluctuations in population; large areas of publicly-owned lands; circuitous transportation routes; topography, soils, or geologic conditions; adverse climatic conditions; economics; waste types; waste quantities; and energy considerations.

Subp. 2. Locational and operational requirements. Locational and operational requirements for modified sanitary landfills shall comply with parts 7035.1600 and 7035.1700 with the following exceptions:

A. Part 7035.1700, item A shall not apply, rather, open burning of certain materials shall be allowed in accordance with parts 7005.0700 to 7005.0820 provided the burning is done in a separate, controlled access area at least 200 feet from any fill area and permits are obtained.

B. Part 7035.1700, item C shall not apply; rather, dumping of solid waste shall be confined to as small an area as practicable and with appropriate facilities to confine windblown material within the area. All windblown material resulting from the operation shall be collected and returned to the site by the owner or operator as necessary to prevent nuisance conditions.

C. The first paragraph of part 7035.1700, item D, as it relates to the time of covering and compaction shall not apply; rather, covering and compaction of waste material shall take place on a weekly basis from May 1 to November 30 of each year and on a monthly basis from December 1 to April 30 of each year or in accordance with a less stringent cover and compaction plan approved by the agency. Agency approval shall be given for a less stringent cover and compaction plan upon a showing that such a plan will not cause pollution, impairment, or destruction of a protectable natural resource or that there exists no prudent and feasible alternative in accordance with Minnesota Statutes, chapter 116B.

D. Part 7035.1700, item K shall not apply; rather, equipment shall be available for adequate operation and fire protection of the site but does not have to be maintained at the site.

E. Part 7035.1700, items M, T, and U shall not apply to the operation of modified sanitary landfills permitted in accordance with this part.

F. Part 7035.1700, item Y shall not apply; rather, the permittee shall properly complete the agency's operational report forms and submit them quarterly.

Subp. 3. Permit applications for modified landfills. Permit applications for the operation of modified landfills shall comply with part 7035.1800 with the following exceptions:

A. The permit application requirements in part 7035.1800, item B, subitem (2) shall not be required; however, a site analysis shall be submitted with the permit application and shall include surface features, underground formations, soil boring data, water table profile, direction of underground water flow, need and availability of cover material, and existing refuse deposits.

B. The permit application requirements in part 7035.1800, item C, subitem (2) shall apply in total except those requirements relating to contour intervals of two feet or less and hazardous waste storage areas which shall not be required; rather, contour intervals sufficient to show drainage shall be provided by the applicant.

C. The permit application requirements in part 7035.1800, item C, subitem (4) relating to an ultimate landuse plan shall not be required.

Subp. 4. Further requirements for modified landfills. A modified landfill shall not be placed in operation until compliance with the provisions of part 7035.1900.

Subp. 5. Submission of plans to agency. On or before July 1, 1971, each county shall submit to the agency a workable preliminary plan for a solid waste management system within such county. On or before July 1, 1972, each county shall submit for the approval of the agency a workable final plan for a solid waste management system within such county. The plan shall be amended from time to time as changing conditions occur, by filing revisions for the approval of the agency. Such plans and revisions shall be adopted by the board of commissioners of the county prior to filing with the agency.

Each county shall provide for a solid waste management system plan to serve all persons within the county. Two or more counties may elect to submit a joint plan.

Subp. 6. Public hearings. Any person may request a public hearing on any matter relating to the administration of this rule in accordance with part 7000.0900. If the agency denies a county plan or a revision to a county plan submitted in accordance with subpart 5, the agency shall grant a public hearing when requested to do so by a resolution duly and properly passed by a majority of the county board whose plan or revision was denied.

Subp. 7. Severability. If any provision of this rule or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions of this rule or application of any other part of this rule which can be given effect without application of the invalid provision. To this end the provisions of all sections, subsections, and subdivisions thereof are declared to be severable.

Subp. 8. Variance. Any person may apply for a variance from any requirements of this rule. Such variances shall be applied for and acted upon by the agency in accordance with Minnesota Statutes, section 116.07, subdivision 5, and other applicable statutes and rules.

Statutory Authority: *MS s 116.07 subd 4*

7035.2500 SOLID WASTE LAND DISPOSAL SITE ABANDONMENT.

Subpart 1. Scope. This part applies to all land disposal sites, including abandoned dumps.

Subp. 2. Duty to close site. The person or persons as defined in part 7035.0300 having the responsibility for the operation of the site must accomplish the closure of the site.

Subp. 3. Closure procedure. The closure of the site shall include the following procedures:

A. Designate a substitute site or facility which has been approved by the agency and notify the media and the general public of the closing and of the substitute site.

B. Close access to the site and prohibit refuse disposal.

C. Stop any burning.

D. Eradicate rodents.

E. Provide measures to protect underground and surface water.

F. Divert surface water drainage around and away from the disposal area.

G. Compact refuse and cover with a minimum of two feet of compacted earth material.

H. Establish and maintain final grade to promote surface water runoff without excessive erosion. Seed to provide suitable vegetation.

I. Record a detailed description, including a plat, with the county recorder. The description shall include general types and location of wastes, depth of fill, and other information of interest to potential land owners.

J. An authorized official shall properly complete the disposal site closure record and submit it to the agency.

Statutory Authority: *MS s 116.07 subd 4*

ABANDONED MOTOR VEHICLES AND SCRAP METAL

7035.3000 SCOPE.

Parts 7035.3000 to 7035.3600 pertain to the disposal and reuse of abandoned motor vehicles and other scrap metal for the protection of the environment, pursuant to Minnesota Statutes, chapters 115, 116, 168B, and 400, as amended. All abandoned motor vehicles and other scrap metal shall be collected, reduced, transported, and processed in a manner consistent with these parts and all other applicable state and federal laws and regulations not inconsistent with these parts.

Statutory Authority: *MS s 116.07 subds 2,4; 168B.10*

7035.3100 DEFINITIONS.

Subpart 1. **Abandoned motor vehicle.** "Abandoned motor vehicle" means a motor vehicle, as defined in Minnesota Statutes, section 169.01, that:

A. has remained for a period of more than 48 hours on public property illegally;

B. has remained for a period of more than 48 hours on public property and is lacking vital component parts such that it is in an inoperable condition;

C. has remained for a period of more than 48 hours on private property without the consent of the person in control of such property;

D. has remained for a period of more than 48 hours on private property, with or without the consent of the person in control of such property, which is in an inoperable condition such that it has no substantial potential further use consistent with its usual functions, unless it is kept in an enclosed garage or storage building;

E. has been voluntarily surrendered by its owner to a unit of government or a person duly licensed pursuant to Minnesota Statutes, section 168B.10 and these parts.

A classic car or pioneer car, as defined in Minnesota Statutes, section 168.10 shall not be considered an abandoned motor vehicle within the meaning of these parts.

Subp. 2. **Agency.** "Agency" means the Minnesota Pollution Control Agency, its agents, or representatives.

Subp. 3. **Collection.** "Collection" means the gathering or consolidating of abandoned motor vehicles and other scrap metal at regional collection sites.

Subp. 4. **Collector.** "Collector" means a person holding a valid license from the agency to engage in the collection of abandoned motor vehicles and other scrap metal.

Subp. 5. **Disposal contract.** "Disposal contract" means a contract entered into between a unit of government or the agency acting on its behalf and a site operator, disposer, or other qualified person for the purpose of storage, collection, transportation, reduction, scrap processing, or other services necessary to prepare abandoned motor vehicles and other scrap metal for recycling or other methods of disposal.

Subp. 6. **Disposer.** "Disposer" means a person licensed by the agency as a collector, transporter, reducer, or scrap processor.

Subp. 7. **Other scrap metal.** "Other scrap metal" means scrap metal, other than abandoned motor vehicles, including, but not limited to, discarded metal in the form of machinery, appliances, and motor vehicle parts.

Subp. 8. **Reducer.** "Reducer" means a person holding a valid license from the

agency to engage in the reduction of abandoned motor vehicles and other scrap metal.

Subp. 9. Reduction. "Reduction" means the decrease or diminishment in bulk or mass of abandoned motor vehicles or other scrap metal by methods approved by the agency, including, but not limited to, incineration, crushing, shearing, or baling.

Subp. 10. Regional collection site. "Regional collection site" means a location designated by a unit of government with agency approval where abandoned motor vehicles and other scrap metal can be consolidated and stored.

Subp. 11. Scrap processing. "Scrap processing" means converting of abandoned motor vehicles and other scrap metal to a form usable in the manufacture of new metal products.

Subp. 12. Scrap processor. "Scrap processor" means a person holding a valid license from the agency to engage in processing scrap from abandoned vehicles and other scrap metal.

Subp. 13. Site operator. "Site operator" means the operator of a regional collection site, whether the operation be a unit of government or a person under contract with a unit of government to operate the site.

Subp. 14. Storage. "Storage" means the holding of abandoned motor vehicles and other scrap metal in regional collection sites.

Subp. 15. Storage costs. "Storage costs" means costs of acquisition, rental, construction maintenance, and operation of regional collection sites and facilities.

Subp. 16. Transporter. "Transporter" means a person holding a license from the agency to engage in transporting abandoned vehicles and other scrap metal.

Subp. 17. Unit of government. "Unit of government" means a state department or agency, special purpose district, county, city, village, borough, town, or other municipality.

Subp. 18. Vital component parts. "Vital component parts" means those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle, including, but not limited to, the motor, drive train, and wheels.

Statutory Authority: *MS s 116.07 subds 2,4; 168B.10*

7035.3200 SEVERABILITY.

If any provision of any rule or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions or application of any other part of such rules which can be given effect without application of the invalid provision. To this end the provisions of all rules and the various applications thereof are declared to be severable.

Statutory Authority: *MS s 116.07 subds 2,4; 168B.10*

7035.3300 REGIONAL COLLECTION SITES.

Subpart 1. In general. All units of government may maintain or contract for the maintenance of one or more regional collection sites. Such regional collection sites shall satisfy the requirements specified herein.

Subp. 2. Location. Regional collection sites shall be those sites designated as such by one or more counties, separately or in cooperation with another county or counties, and approved by the agency. Where feasible, they should be located at or near locations where accumulations or motor vehicle hulks are already present and where haul distances needed to accumulate an adequate number of hulks are minimized.

Subp. 3. Size. Regional collection sites must be of size and location which will permit access by large heavy transport vehicles by means of all weather roads.

Subp. 4. Site users. Regional collection sites shall be open to any person

desiring to dispose of an abandoned motor vehicle or vehicles or other scrap metal therein, and such person may voluntarily surrender the vehicle, vehicles, or other scrap metal by depositing the same at a regional collection site and either transferring any applicable certificate of title to the site operator, or executing a release of any interest in the vehicle or scrap metal to the site operator upon a form approved by the agency. Each site operator shall publicize, within the area served by the site, the existence and location of the site, its hours of operation, and its availability for disposition of abandoned motor vehicles and other scrap metal.

Subp. 5. **Site operator.** There shall be a site operator for every regional collection site. The site operator shall have responsibility for the operation, maintenance, and administration of the site.

Statutory Authority: *MS s 116.07 subds 2,4; 168B.10*

7035.3400 COLLECTION AND SALE.

All abandoned motor vehicles taken into custody shall be deposited at the nearest regional collection site. If the vehicle is not reclaimed by the owner or lienholder, it shall be sold to the highest bidder at public auction or sale, following at least 15 days notice by the site operator. Such notice shall be published, shall be given in writing to any person whom the operator knows or has reason to believe may be the owner or lienholder, and shall be given in writing to those persons holding valid licenses from the agency as reducers or transporters.

All abandoned motor vehicles and other scrap metal to be sold at an auction shall be sold subject to a package bid.

The site operator shall require as a condition of the sale that the purchaser shall:

A. remove all abandoned motor vehicles and other scrap metal from the regional collection site;

B. dispose of the abandoned motor vehicles and other scrap metal in a manner approved by the agency;

C. police the grounds; and

D. dispose of all solid waste, such as tires, seats, and similar materials, in a solid waste disposal facility approved by the agency.

Statutory Authority: *MS s 116.07, subds 2,4; 168B.10*

7035.3500 REIMBURSABLE CONTRACTS.

Subpart 1. **Reimbursement to units of government.** The agency will reimburse any unit of government for a percentage of costs incurred under a disposal contract approved by the agency. The percentage of reimbursement shall be established annually by the agency. Agency approval, subject to annual review, will be granted to disposal contracts entered into with site operators, licensed disposers, and other qualified persons, and which:

A. appear likely to result in substantially greater amounts of abandoned motor vehicles and other scrap metal being processed in the region covered by the disposal contract in question than have been processed without such a contract;

B. are made after public solicitation of bids, pursuant to the laws applicable to such unit of government, as modified by Minnesota Statutes, chapter 168B;

C. are made on a form provided by the agency; and

D. are reasonable in price.

Subp. 2. **Proceeds from a sale.** Where the agency has made reimbursement and the abandoned motor vehicles and other scrap metal thus collected are ultimately sold by the site operator to a disposer or other person, the proceeds thus obtained shall be deposited in the state treasury.

Subp. 3. Records. Every site operator shall keep books of account and records available for review by authorized representatives of the agency, including therein such information as the agency may reasonably request.

Statutory Authority: *MS s 116.07, subds 2,4; 168B.10*

7035.3600 LICENSING AND REVOCATION.

Subpart 1. Collectors. Any person may apply to be licensed as a collector by submitting an application to the agency upon a form provided by the agency. In the application, an applicant must demonstrate that he owns or has access to at least one tow truck and equipment having the capacity to haul two or more abandoned motor vehicles at one time. Upon issuance of a license, every collector shall conduct his operation in such a manner as to satisfy the foregoing conditions. The licensee shall also keep a record in a form prescribed by the agency of all abandoned motor vehicles and other scrap metal collected, which record shall be subject to review by the site operator and the agency.

Subp. 2. Transporters and reducers. Any person may apply to be licensed as a transporter or reducer by submitting an application to the agency upon a form provided by the agency. In the application, the applicant must demonstrate:

A. that he has ready access to a market for any and all abandoned motor vehicles and other scrap metal which he may reduce;

B. that he owns or has adequate transportation or reduction equipment;
and

C. that he will provide adequate fire fighting equipment at each regional collection site.

Upon being issued a license, every transporter or reducer shall conduct his operations in such manner as to satisfy the foregoing conditions. The licensee shall also keep a record in a form prescribed by the agency, identifying all abandoned motor vehicles and other scrap metal transported or reduced, which record shall be subject to review by the site operator and the agency. Unless specifically authorized in writing by the agency, reduction of abandoned motor vehicles and other scrap metal is prohibited by open burning or incineration by means of equipment which is not subject to an agency permit. Unless specifically authorized in writing by the agency, no person shall possess, transport, employ, or use abandoned motor vehicles which have been reduced by means of open burning or incineration, unless the incinerator used in the reduction is subject to an agency permit. In the event of reduction by means of incineration pursuant to an agency permit said person shall have in his possession an affidavit from the permittee holding a permit from the agency for such incinerator, verifying that the abandoned motor vehicles or other scrap metal in his possession were reduced in an incinerator subject to an agency permit.

Subp. 3. Scrap processors. Any person may apply to be licensed as a scrap processor by submitting an application to the agency upon a form provided by the agency. In the application, the applicant must demonstrate that he owns or has access to a hydraulic baler, shears, shredder, or other equipment capable of converting a large volume of scrap metal to a form usable in the manufacture of new metal products. Upon issuance of a license, every scrap processor shall conduct his operation in such a manner as to satisfy the foregoing conditions. The licensee shall also keep records in a form prescribed by the agency. Such records shall be subject to review by the site operator and the agency. No person shall possess, process, employ, or use abandoned motor vehicles which have been reduced by open burning or incineration unless the incinerator used in the reduction is subject to an agency permit. In the event of reduction by means of incineration pursuant to an agency permit, said person shall have in his possession an affidavit from the permittee holding a permit from the agency for such incinerator, verifying that the abandoned motor vehicles or other scrap metal in his possession were reduced in an incinerator subject to an agency permit.

Subp. 4. **Revocation.** Any license is subject to revocation upon five days notice by the agency for violation of its rules, breach of contract by the licensee, conviction of a felony or gross misdemeanor, misrepresentation, or other just cause.

Statutory Authority: *MS s 116.07 subds 2,4; 168B.10*

SOLID WASTE PROGRAMS AND PROJECTS

7035.4000 SCOPE AND GENERAL CONDITIONS.

Parts 7035.4000 to 7035.4600 pertain to the application procedure for grants-in-aid, state requirements, approval of applications, and payments for programs or projects which will encourage both the reduction of the amount of material entering the solid waste stream and the reuse and recycling of solid waste, pursuant to Minnesota Statutes, chapter 116F. All programs and projects shall be reviewed, approved, maintained, and operated in a manner consistent with these parts and all other applicable state and federal laws and rules not inconsistent with these parts.

Statutory Authority: *MS s 116.07 subd 4*

7035.4100 DEFINITIONS.

Subpart 1. **Agency.** "Agency" means the Minnesota Pollution Control Agency.

Subp. 2. **Institution.** "Institution" means an incorporated private organization.

Subp. 3. **Metropolitan area.** "Metropolitan area" means the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Subp. 4. **Metropolitan council.** "Metropolitan council" means that body as constituted by Minnesota Statutes, chapter 473B.

Subp. 5. **Municipality.** "Municipality" means any city, village, borough, or any designated agency thereof.

Subp. 6. **Region.** "Region" means any county, group of counties, group of municipalities, any special district, or any designated agency thereof.

Subp. 7. **Resource conservation programs.** "Resource conservation programs" means programs which encourage solid materials conservation and the reduction of environmental impact from solid waste, including, but not limited to, public education and encouragement of market demand for reusable or recyclable materials. Generally such programs are not directly linked to the ultimate construction of a particular resource recovery facility but may include the initial feasibility study.

Subp. 8. **Resource recovery facility.** "Resource recovery facility" means structures, machinery, or devices which, singly or in combination, are designed, constructed, and operated so as to separate, process, connect, treat, or prepare collected solid waste in such a manner that component materials, substances, or recoverable resources may be used as a raw material or for other productive purposes.

Subp. 9. **Resource recovery system.** "Resource recovery system" means any system used for the recovery of material or energy from solid waste, or for the collection, transportation, separation, sorting, processing, or storage of solid materials which aids in the recovery of materials or energy from solid waste.

Subp. 10. **Resource recovery projects.** "Resource recovery projects" means projects which result in the design, installation, implementation, or operation of resource recovery systems or resource recovery facilities.

Statutory Authority: *MS s 116.07 subd 4*

7035.4200 SEVERABILITY.

If any provision of any rule or the application thereof to any person or

circumstances is held to be invalid, such invalidity shall not affect other provisions or application of any other part of such rule or any other rule which can be given effect without the invalid provision of application, and to this end the provisions of all rules and the various applications thereof are declared to be severable.

Statutory Authority: *MS s 116.07 subd 4*

7035.4300 VARIANCES.

Where, upon written application of the responsible person or persons, the agency finds that by reason of exceptional circumstances strict conformity with any provisions of the parts contained herein would cause undue hardship, would be unreasonable, impractical, or not feasible under the circumstances, the agency may permit a variance from these parts upon such conditions and within such time limitations as it may prescribe.

Statutory Authority: *MS s 116.07 subd 4*

7035.4400 APPLICATION PROCEDURE FOR GRANTS-IN-AID.

Subpart 1. Requirement. A region, municipality, or institution shall make application for a state grant-in-aid on forms provided by the agency.

Subp. 2. Application information. Each application shall include the following information, where applicable:

A. Each application for a grant-in-aid by a region or municipality shall be accompanied by a resolution adopted by the region or municipality authorizing the filing of the grant-in-aid application.

B. All applications shall be signed by the person who has been authorized to submit the application.

C. In the event that more than one region, municipality, or institution desires to make application for a joint resource recovery project or resource conservation program, a single application for state aid shall be executed by all participating parties. Such application shall be accompanied by a joint resolution setting forth responsibilities of each of the parties.

D. A description of the operation and maintenance of the resource recovery project after construction is completed or the system is implemented.

E. A market analysis defining markets for saleable products, particularly those for which no purchase commitments are included in the proposal, shall be submitted with any proposal for a detailed engineering study or construction of a resource recovery facility or system.

F. If a proposal for a detailed engineering study for a resource recovery facility or system is submitted, the application shall include proof of intentions to purchase the saleable materials.

G. If a proposal for construction of a resource recovery system or facility is submitted, the application shall include proof of commitments to purchase the saleable materials.

H. A description of the resource conservation program or the resource recovery project, including the following: benefits, major objectives, method of obtaining major objectives, ultimate goal, operational and management personnel's background, education, and experience.

I. If the private sector is involved in the project or program, an explanation of the commitments in terms of capital, operation and maintenance, and manpower of each private person or other entity which will have a major role in the operation of the project or program is needed.

J. An explanation of the existence and extent of local public support for the project or program. Local support includes, but is not limited to, that from universities, citizen groups, and environmental groups.

K. If the proposed project or program is to serve more than one institution, municipality, or region, the following information shall be included in the application:

(1) A written commitment by each participating party to dispose of a stated amount of its solid waste through the proposed system or facility.

(2) A specific definition of the contribution to capital and operating and maintenance costs of each.

(3) A specific definition of the operating and management roles of each.

L. Total cost of the project or program, which includes an itemization of the following costs: investment costs, annual operating costs, fixed costs, other costs.

M. Revenue to be generated by the project or program.

N. Such other additional information, documents, transcripts, or other data which the agency deems necessary to determine eligibility of the region, municipality, or institution.

Statutory Authority: *MS s 116.07 subd 4*

7035.4500 CRITERIA FOR ELIGIBILITY.

Subpart 1. Consistency with other plans. To be eligible for state assistance, a program or project shall be consistent with all agency approved solid waste management plans of all affected counties. All projects or programs in the metropolitan area shall be consistent with the metropolitan council's plan for solid waste management.

Subp. 2. High priority. A high priority shall be given to applications for projects or programs designed to service more than one county or designed to service areas of the state where natural geologic conditions make sanitary landfill undesirable.

Subp. 3. Environmental impact. The agency shall seek those alternatives which maximize the conservation of energy and materials while minimizing the environmental impact and the cost to the people of the state.

Subp. 4. Compliance with other law. In addition to such other requirements as may be provided for by law, any project for which an application is submitted, shall comply in all respects with any local, state, and federal regulations, guidelines, instructions, criteria, standards, or other documents promulgated or issued by the local, state, and federal governments relative to such program or project.

Subp. 5. Contracts. All contract documents prepared by any region, municipality, or institution relative to a program or project pursuant to these parts shall conform to all state and local laws, ordinances, and rules, and in the event of more than one party seeking state aid for such project or program, all contracts shall be executed by each of the parties involved.

Subp. 6. Prohibited funding. Funding shall not be made available to any resource recovery system or facility which accepts solid waste material which is transported to the facility primarily in motor vehicles with a load capacity of less than ten cubic yards.

Subp. 7. Review of grant applications. In addition to other considerations provided for in these parts and other applicable laws for resource recovery projects and resource conservation programs, in reviewing grant applications the agency shall consider the following:

A. the size of the service area if it is a resource recovery project;

B. the degree of county, multicounty, or regional participation in the program or project;

C. the priority of the program or project in relationship to the agency's immediate and long range goals for resource recovery in the state;

- D. the availability of other sources of financing;
- E. the state's share of the cost of the program or project;
- F. the time schedule for completion;
- G. conformance with county and regional solid waste management plans and other applicable laws;
- H. the statewide applicability of the program or project;
- I. the demand placed on other public service or commercial facilities;
- J. benefits, objectives, methods of obtaining the objectives, and the ultimate goal;
- K. the total cost of the project or program, and the proportion of the cost attributable to each phase of the project or program;
- L. the revenue to be generated upon completion of the project or program;
- M. the amount of materials or energy or both recovered from the solid waste entering the system;
- N. the degree to which the program or project promotes solid materials conservation and reduces the environmental impact of solid waste generation;
- O. the steps taken to assure proper, efficient, and economical operation and maintenance of the resource recovery project after construction is completed or the resource recovery system is implemented;
- P. the percentage of salable materials for which the applicant has obtained purchase commitments if the application is for a resource recovery project. If the application is for an engineering study for a resource recovery project, the commitments shall be an intention to purchase recoverable materials of a specified quality. If the application is for construction of a resource recovery project, the commitments shall be legally binding agreements specifying product quality and price acceptable to the purchaser. The agency shall not approve an application unless the application has commitments to purchase at least 50 percent by weight or of energy, by appropriate output measure, of the salable materials, unless the applicant can justify the failure to have such commitments.

Statutory Authority: *MS s 116.07 subd 4*

7035.4600 ADMINISTRATION OF GRANTS-IN-AID.

Subpart 1. Final approval by agency. The agency shall give final approval of any resource recovery project or resource conservation program funded under provisions of these parts.

Subp. 2. Metropolitan council review. All applications for projects or programs in the metropolitan area shall be submitted to the metropolitan council for its review.

Subp. 3. Payment upon partial completion of project. The region, municipality, or institution which obtains a state grant under these parts shall be paid in installments when 25 percent, 50 percent, and 75 percent of the cost of the program or project has been completed. Additional installment payments may be authorized upon a showing of good cause by the grantee. Final payment shall be released only after final inspection by the agency of construction, performance, or operation of the program or project or upon review of the final report as required by the grant contract.

Subp. 4. Grant limitation. Grants-in-aid payments made by the agency shall not exceed 50 percent of the total cost of the program or project funded.

Subp. 5. Agency planning assistance. The agency may assist in the planning and development of resource recovery projects and resource conservation programs funded under these parts.

Subp. 6. Status, evaluation, and final reports. The grant contract shall provide for the periodic submission of status and evaluation reports on technical, product,

market, and economic aspects of the project or program. A final report shall be submitted to the agency upon completion of the project or program.

Statutory Authority: *MS s 116.07 subd 4*

SOLID WASTE MANAGEMENT PLANNING ASSISTANCE PROGRAM

7035.5000 PURPOSE.

Parts 7035.5000 to 7035.6000 implement the solid waste management planning assistance program, created and described in the Waste Management Act of 1980, Minnesota Statutes, sections 115A.42 to 115A.46, by establishing the substantive criteria and procedural conditions according to which the agency shall award solid waste management planning assistance grants.

Statutory Authority: *MS s 115A.42*

7035.5100 OVERVIEW OF PROCEDURES FOR APPLYING FOR AND RECEIVING A GRANT.

Subpart 1. Application for a grant. To be eligible for a grant under parts 7035.5000 to 7035.6000, an applicant shall apply for a grant. The procedures the applicant shall follow in applying for a grant are set out in part 7035.5600. The information and documentation the applicant shall provide in the grant application are set out in part 7035.5700.

Subp. 2. Award of a grant. The agency shall award the applicant a grant in accordance with the procedures and limitations set out in part 7035.5800, if the agency determines:

- A. that the applicant, cost, and project specified in the grant application are grant eligible;
- B. that the application deadlines are met; and
- C. that sufficient funds are available.

The criteria the agency shall use in determining the grant eligibility of the applicant are set out in part 7035.5300; the criteria the agency shall use in determining the grant eligibility of the costs are set out in part 7035.5400; the criteria the agency shall use in determining the grant eligibility of the project are set out in part 7035.5500; and the criteria the agency shall use in determining compliance with deadlines are set out in parts 7035.5600 and 7035.5800.

Statutory Authority: *MS s 115A.42*

7035.5200 DEFINITIONS.

Subpart 1. Acceptable plan. "Acceptable plan" means a written report prepared by a grantee to provide the planning information set out in Minnesota Statutes, section 115A.46. To be considered an acceptable plan under parts 7035.5000 to 7035.6000, the written report shall:

A. contain descriptions, estimates, or assessments of existing and proposed waste practices, including the following:

(1) a description of the existing collection, storage, transportation, processing, and disposal systems used within the political subdivision being studied by the named grantee, including schedules of rates and charges, financing methods, environmental acceptability, and opportunities for improvements in the systems;

(2) an estimate, calculated on the basis of current and projected waste generation practices, of the land disposal capacity in acre-feet which will be needed to serve the political subdivisions being studied by the named grantee through the year 2000;

(3) an assessment of specific opportunities to reduce the need for land disposal through the use of waste reduction and resource recovery, as defined in Minnesota Statutes, section 115A.03, subdivision 27, including an

assessment of the alternative degrees of reduction achievable, the comparative costs of the alternatives, including capital and operating costs, and the effects of the alternatives on the cost to generators of the waste; and

(4) a description of existing and proposed county and municipal ordinances and license and permit requirements relating to solid waste management, including a description of the existing and proposed regulations and enforcement procedures relevant to those requirements;

B. establish a detailed siting procedure and development program to assure the orderly location, development, and financing of new or expanded solid waste facilities and services sufficient for a prospective ten-year period, which procedure and program shall be consistent with all applicable rules of the agency and shall include:

- (1) estimated costs and implementation schedules;
- (2) proposed procedures for operation and maintenance;
- (3) estimated annual costs and gross revenues; and
- (4) feasible proposals for the use of facilities after they are no longer needed or usable;

C. include an evaluation and recommendation of specific options, consistent with all applicable rules of the agency, 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

D. establish a schedule of actions which need to be undertaken to put the procedures, programs, and resolutions described in the plan into effect, including a statement of the appropriate entity to take each action.

Subp. 2. **Agency.** "Agency" means the Minnesota Pollution Control Agency, as constituted pursuant to Minnesota Statutes, section 116.02, subdivision 1.

Subp. 3. **Director.** "Director" means the executive director and chief executive officer of the agency or a person expressly designated by the director to discharge a duty or responsibility of the director.

Subp. 4. **Grant eligible; grant eligibility.** "Grant eligible" or "grant eligibility" means meeting the criteria to receive funding assistance under parts 7035.5000 to 7035.6000. The fact that an item or person is "grant eligible" under parts 7035.5000 to 7035.6000 does not automatically assure that a grant will be awarded. A grant shall only be awarded if the grant eligibility criteria are met.

Subp. 5. **Landfill.** "Landfill" means a sanitary landfill or a modified landfill which has a valid permit issued by the agency.

Subp. 6. **Metropolitan area.** "Metropolitan area" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 18.

Subp. 7. **Population growth rate.** "Population growth rate" means the rate at which population in a proposed study area either increased or decreased during the decade between 1970 and 1980. The director shall determine the population growth rate of a proposed study area by determining the difference in population in the proposed study area, as reported in the 1970 and 1980 United States Census Bureau data, dividing this difference by the 1970 population of the proposed study area and multiplying this result by 100. The growth rate will thus be expressed as a percentage.

Subp. 8. **Project manager.** "Project manager" means an employee of the grantee who is given the responsibility and the authority to direct and coordinate all aspects of the project as defined in the contractual agreement between the grantee and the agency. The project manager shall assume the responsibility for performing all contract and project management functions.

Subp. 9. **Political subdivision.** "Political subdivision" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 24.

Subp. 10. **Regional development commission.** "Regional development commission" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 26.

Statutory Authority: *MS s 115A.42*

7035.5300 ELIGIBLE APPLICANTS.

Except for political subdivisions located within the seven county metropolitan area, any political subdivision within the state of Minnesota is grant eligible.

Statutory Authority: *MS s 115A.42*

7035.5400 ELIGIBLE COSTS.

Subpart 1. **Grant eligible costs.** The following costs are grant eligible:

A. salaries of staff persons, consultants, and other persons employed to develop and publish an acceptable plan;

B. costs associated with the drafting and execution of necessary contracts between the grantee and other units of government or qualified consultants employed to develop or publish an acceptable plan, including reasonable attorney's fees;

C. costs associated with holding meetings to inform the public of the development of the plan and to provide an opportunity for the public to participate in and comment on the development of the plan, including costs associated with providing notices of and recording the meeting;

D. costs associated with the printing and distribution of plans and draft plan materials;

E. costs of any travel in the state, the primary purpose of which is to attend meetings or gather information needed for the development and publication of an acceptable plan, including reimbursement for mileage consistent with state allowances;

F. overhead costs; and

G. costs of any necessary supplies required for the development and publication of an acceptable plan. The costs of any commodities, materials, capital expenditures, and equipment which could be used after the plan is completed shall not be considered supplies and are, therefore, not grant eligible under parts 7035.5000 to 7035.6000.

Subp. 2. **Limitation to grant amount.** The amount of the grants available under parts 7035.5000 to 7035.6000 is limited as follows:

A. For planning by a regional development commission, joint planning by two or more contiguous counties, or joint planning by political subdivisions located in two or more contiguous counties:

(1) Except as provided in item E, the agency shall award grants to cover 90 percent of the eligible costs specified in the grant application or the percentage of eligible costs requested in the grant application, whichever is less; and

(2) The grantee shall assume the responsibility for the remaining costs of completing the planning efforts.

B. For all planning efforts other than that described in item A:

(1) Except as provided in item E, the agency shall award grants to cover 50 percent of the eligible costs specified in the grant application or the percentage of eligible costs requested in the grant application, whichever is less; and

(2) The grantee shall assume the responsibility for the remaining costs of completing the planning efforts.

C. For item A grants and item B grants, the maximum amount that a grantee shall be awarded to complete the plan is 90 percent and 50 percent,

respectively, of the total project cost detailed by the grantee in its application. Within these maximums, adjustments between funds awarded to cover the costs specified in this part shall be made if the agency and the grantee determine that the adjustments will result in the development of an acceptable plan in a more efficient manner.

D. If, while working to complete the grant, a grantee finds that more funds are needed, the grantee shall not be awarded additional funds unless the grantee makes application for an additional grant in accordance with the grant application procedures set out in part 7035.5600. The agency shall treat an application for an additional grant in the same manner as it treats applications for original grants, as provided in part 7035.5800.

E. If available funds are not adequate to meet the funding requests of all applicants assigned to group number one under part 7035.5800, subpart 3, item B, the agency shall reduce the state share of the eligible costs sufficiently to enable all applicants assigned to group number one to receive funding, but the size of the grant awards in item A, subitem (1) and item B, subitem (1) shall not be less than 60 percent and 33 percent, respectively. If available funds are not adequate under this reduced funding level to meet the funding requests of all applicants assigned to group number one under part 7035.5800, subpart 3, item B, grants shall be awarded at the reduced amount in the order established under part 7035.5800, subpart 3, item C.

Subp. 3. Performance of tasks. Grants shall be awarded to cover the eligible costs of only those tasks which are undertaken and completed during the grant period established in the grant agreement. Grants shall not be awarded to cover any cost associated with tasks performed prior to the award of a grant or after the expiration of the grant agreement.

Subp. 4. Availability of funds. The availability of funds is a precondition to the award of any grant by the agency.

Statutory Authority: *MS s 115A.42*

7035.5500 ELIGIBLE PROJECTS.

Subpart 1. In general. The agency shall consider grant eligible all projects which are reasonably designed to result in the development and publication of an acceptable plan, as defined in part 7035.5200, subpart 1. A project shall not be considered eligible if it is proposed to include a study area for which an acceptable plan has previously been approved by the agency under this grant program.

Subp. 2. Determinations by the director. The director shall determine that a project is reasonably designed to result in an acceptable plan if the director finds that the grant application required to be submitted under part 7035.5600 is complete. The director shall determine that a grant application is complete if the application contains all the information and meets all the requirements set out in part 7035.5700.

Statutory Authority: *MS s 115A.42*

7035.5600 GRANT APPLICATION PROCEDURES.

Subpart 1. Deadline for submission. A grant applicant shall submit a grant application to the agency no later than 4:30 p.m. on the first Monday of August of each year. The application must be received by the agency by this deadline or must have a postmark dated no later than the Friday immediately preceding the deadline in order to qualify as meeting that deadline.

Subp. 2. Contents of application. The grant application submitted to the agency shall include all the information and documentation set out in part 7035.5700.

Subp. 3. Review of application. Upon receiving a grant application, the

director shall promptly review the application and make a determination as to the eligibility of the applicant, costs, and project specified in the application.

Subp. 4. Notice of director's determination. Within two weeks after receiving the application, the director shall notify each applicant of the following:

A. If the director determines that the applicant, the costs, and the project specified in the application are grant eligible, the application shall be considered final as of the date it was received and the applicant shall be so notified. The application shall then be treated in accordance with the agency review provisions established in part 7035.5800.

B. If the director determines that the applicant is not grant eligible, the application shall not be further considered and the applicant shall be so notified.

C. If the director determines that any of the costs described in the application are not grant eligible or that the application is otherwise incomplete, the director shall note the inadequacies in the application and shall so notify the applicant. The applicant shall have an opportunity to cure the inadequacies noted by the director. However, no information received by the agency after the 42nd day beyond the appropriate deadline in subpart 1, except as provided in subpart 5, shall be considered by the agency in determining the grant eligibility of the applicant, costs, or project.

An application which is considered inadequate under parts 7035.5000 to 7035.6000 shall not be considered final until the agency receives the information or documentation which cures the inadequacies described by the director.

An application which is considered inadequate under parts 7035.5000 to 7035.6000 shall be considered final on the date all necessary supplemental information is received by the agency.

Once the application is considered final, it shall be treated in accordance with the agency review provisions established in part 7035.5800.

Subp. 5. Extension of review period. If the agency exceeds the two-week review period in subpart 4 for an application, the 42-day periods specified in subpart 4, item C, and part 7035.5800, subpart 2 shall be extended for only that application by the number of days equal to the number of review days in excess of two weeks.

Statutory Authority: *MS s 115A.42*

7035.5700 GRANT APPLICATION CONTENT.

Applications for grants shall include the following information:

A. the name of each political subdivision making the grant application;
B. resolutions from each political subdivision named on the application
which:

(1) demonstrate the political subdivision's desire to make the grant application and interest in the planning efforts described in the grant application; and

(2) demonstrate the political subdivision's commitment to provide the required financial input to complete the planning efforts described in the grant application;

C. in the case of a regional development commission, resolutions from each of the counties represented by the regional development commission, which demonstrate the counties' interest in and support for the planning efforts described in the grant application;

D. the name, address, and qualifications of the project manager;

E. the total project cost;

F. the amount of grant funding requested;

G. the amount and sources of all other funding contributions, including the amount of funds to be contributed by the applicant;

H. the regional boundaries of, and the population in, the area to be considered in the planning study;

I. a list of all the landfills which receive solid waste from each of the counties in the proposed study area and the percent of each county's refuse which is currently being disposed at each of the landfills; and

J. a work plan which provides the following information and details:

(1) a brief description of the problem which the grantee hopes to address through the planning efforts, including a statement of any known waste management problems to be addressed by the grantee and any present support or opposition to current or proposed solid waste disposal alternatives;

(2) a breakdown of the specific work tasks to be completed under the terms of the grant, including each of the tasks required to be completed by Minnesota Statutes, section 115A.46;

(3) a breakdown of the number of work hours needed to complete each of the tasks specified in subitem (2);

(4) a breakdown of all the costs associated with completing each of the tasks specified in subitem (2), including an explanation of how each cost was calculated;

(5) a breakdown of the staff, consultants, and units of government associated with completing each of the tasks specified in subitem (2);

(6) a breakdown of the amount of time needed to complete each of the tasks specified in subitem (2);

(7) an overall time schedule for the project showing estimated dates of completion of the tasks specified in subitem (2); and

(8) a description of the program to be completed by the applicant to ensure public participation in the planning efforts.

Statutory Authority: *MS s 115A.42*

7035.5800 AGENCY REVIEW OF GRANT APPLICATIONS AND AWARD OF GRANTS.

Subpart 1. Agency duty. The agency shall review all applications received prior to the appropriate deadline specified in part 7035.5600, subpart 1, and shall exclude from consideration all applications received after that deadline.

Subp. 2. Final grant applications. Only grant applications considered final pursuant to part 7035.5600, subpart 4, items A and C, as of 4:30 p.m. on the 42nd day following the application deadlines specified in part 7035.5600, subpart 1, except as provided in part 7035.5600, subpart 5, shall be eligible for a grant award.

Subp. 3. Establishing priorities. The agency shall assign a priority ranking to each of the applications which are eligible for a grant award under subpart 2. This priority ranking shall be made pursuant to items A to C.

A. The agency shall make the lists and determinations specified in subitems (1) to (5).

(1) The agency shall make a list of the counties proposed to be studied under the grant eligible applications identified under subpart 2.

(2) The agency shall make a list of the landfills available to and being used by each county identified in subitem (1).

(3) The agency shall determine whether the remaining permitted landfill capacity available to and being used for a majority of the refuse from each of the counties identified in subitem (1) is greater than or equal to five years or is less than five years. An applicant may provide recent, reliable data to the agency to assist it in making these determinations.

(4) The agency shall determine whether the location of each of the landfills identified in subitem (2) is environmentally undesirable. The agency

shall determine that a landfill's location is environmentally undesirable if the landfill meets one or more of the following criteria:

- (a) the landfill is located less than 1,000 feet from the normal high water level of a lake, pond, or flowage;
- (b) the landfill is located less than 300 feet from a stream;
- (c) the landfill is located within a 100 year flood plain;
- (d) the landfill is located within a wetland; and
- (e) the landfill is located on Karst bedrock.

An applicant may provide recent, reliable data to the agency to assist it in making these determinations.

(5) After making the determinations specified in subitem (4), the agency shall determine which counties contribute a majority of their solid wastes to landfills that are considered to be in environmentally undesirable locations. An applicant may provide recent, reliable data to the agency to assist it in making these determinations.

B. The agency shall divide the grant applications into two groups. All applications whose study areas contain one or more counties that contribute a majority of their solid wastes to landfills having less than five years of permitted landfill capacity remaining, as determined under item A, subitem (3), or that contribute a majority of their solid wastes to landfills that are determined to be in environmentally undesirable locations, as determined under item A, subitem (5), shall be placed in group number one. All other applications shall be placed in group number two.

C. The agency shall determine the population growth rate within each application's proposed study area using 1970 and 1980 United States Census Bureau data. The agency shall assign a priority ranking to applications in groups one and two as provided in subitems (1) and (2).

(1) First, the agency shall divide the applications in group one and in group two into subgroups. Subgroup 1 shall contain the applications for planning by a regional development commission, for joint planning by two or more contiguous counties, and for joint planning by political subdivisions located in two or more contiguous counties. Subgroup 2 shall contain all other applications.

(2) Funds shall be awarded, on a priority basis, in the following order. Priority shall be determined by growth rate, with the highest priority within each subgroup being given to the applicant with the highest growth rate:

- (a) group 1, subgroup 1;
- (b) group 1, subgroup 2;
- (c) group 2, subgroup 1; and
- (d) group 2, subgroup 2.

Subp. 4. Granting of awards. The agency shall award grants to applicants in the order of the priority ranking in subpart 3, item C. No awards shall be made to any applicant in group two until all applicants in group one have been awarded grants.

Subp. 5. Agency action after determination of grantees. Once the agency has determined which applicants will receive grants, the agency shall proceed as follows:

A. the agency shall provide a complete listing of grant awards and of applicant rankings to each applicant; and

B. within three weeks of the notification required by item A, the agency shall draft a grant agreement for each applicant which is to receive a grant in accordance with the requirements and conditions set out in part 7035.5900.

Statutory Authority: *MS.s 115A.42*

7035.5900 GRANT AGREEMENT.

Subpart 1. **Incorporation of grant application.** The grant agreement shall incorporate by reference the final grant application submitted to the agency in accordance with part 7035.5700.

Subp. 2. **Terms of grant.** The grant agreement shall establish the term of the grant. All grants awarded under parts 7035.5000 to 7035.6000 shall have a maximum term of one year, unless the agency determines for a specific grantee that a longer term is necessary due to circumstances beyond the control of the grantee in order to produce an acceptable plan. The agency shall then set the term of the grant.

Subp. 3. **Forfeit of funds.** Funds for projects not performed or completed in accordance with the terms and conditions of the grant agreement, including time schedules, shall be forfeited unless the agency determines that the variances from the grant requirements are due to factors outside the control of the grantee.

Subp. 4. **Payment schedule.** The grant agreement shall include a payment schedule. This payment schedule shall provide for reimbursement of stated travel costs in a manner described in the grant agreement and shall require that the last 25 percent of the total grant award, except reimbursable travel costs, be retained by the agency until the director determines that the report submitted under the grant is an acceptable plan. If the director determines that a report is deficient, the director shall notify the grantee of the deficiency. The agency shall pay the withheld 25 percent of the grant as soon as the deficiency is corrected and the director determines that the report is an acceptable plan.

Subp. 5. **Special conditions of grant agreement.** The grant agreement shall provide that the grantee is authorized to enter into contracts to complete the work specified in the grant. The grant agreement shall also require that all such contracts name the agency as a third-party beneficiary to that contract.

Statutory Authority: *MS s 115A.42*

7035.6000 SEVERABILITY.

If any provision of parts 7035.5000 to 7035.5900 or the application of it to any person or circumstance is held to be invalid, the invalidity shall not affect any other provision or the application of any other part of these parts or any other part which can be given effect without the invalid provision or application. To this end, the provisions of these parts and the various applications of it are severable.

Statutory Authority: *MS s 115A.42*

MINNESOTA SOLID WASTE MANAGEMENT DEMONSTRATION PROGRAM**7035.6500 PURPOSE.**

Parts 7035.6500 to 7035.7700 implement the solid waste management demonstration assistance program, created and described in article VI of the Waste Management Act of 1980, Minnesota Statutes, sections 115A.49 to 115A.54, by establishing the substantive criteria and procedural conditions according to which the agency shall award grants to demonstrate the conceptual and technical feasibility of waste reduction and source separation projects.

Statutory Authority: *MS s 115A.49*

7035.6600 OVERVIEW OF PROCEDURES FOR APPLYING FOR AND RECEIVING A GRANT.

Subpart 1. **Application for a grant.** To be eligible for a grant under parts 7035.6500 to 7035.7700, an applicant shall make an application for a grant. The procedures the applicant shall follow in applying for a grant are set out in part 7035.7100. The information and documentation the applicant shall provide in the grant application are set out in parts 7035.7200 to 7035.7400.

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Subp. 2. **Award of a grant.** The agency shall award the applicant a grant, in accordance with the procedures and limitations set out in part 7035.7500, if the agency determines:

A. that the applicant specified in the grant application is grant eligible (see part 7035.6800);

B. that the costs specified in the grant application are grant eligible (see part 7035.6900); and

C. that the project specified in the grant application is grant eligible (see part 7035.7000).

Statutory Authority: *MS s 115A.49*

7035.6700 DEFINITIONS.

Subpart 1. **Acceptable project.** "Acceptable project" means:

A. for pre-implementation projects, a project which results in an acceptable written report on the conceptual and technical feasibility of implementing a particular source separation or waste reduction program, as defined in subparts 16 and 18, respectively. To be considered an acceptable written report under parts 7035.6500 to 7035.7700, the report shall:

(1) describe a particular waste reduction or source separation program proposed to be implemented in a specified area;

(2) establish the solid waste management objectives to be accomplished through the implementation of the proposed program;

(3) evaluate the feasibility and anticipated success of accomplishing those objectives through the implementation of the proposed program;

(4) estimate the operating revenues, if any, to be obtained from the proposed program, considering the availability and security of sources of solid waste and of markets for recovered resources, together with any proposed federal, state, or local financial assistance; and

(5) describe the potential statewide significance or the transferability of knowledge or experience gained from the project to other communities in the state;

B. for implementation projects, a project which:

(1) is undertaken to demonstrate the conceptual and technical feasibility of implementing a particular source separation or waste reduction program, as defined in subparts 16 and 18, respectively; and

(2) results in a report which includes an analysis of the conceptual and technical feasibility of implementing the project and the potential statewide significance of the project or the transferability of the knowledge or experience gained from the project to other communities in the state.

The agency shall determine that a project is reasonably designed to demonstrate the conceptual and technical feasibility of implementing a particular waste reduction or source separation program if the grant application required to be submitted under part 7035.7100 is complete.

Subp. 2. **Agency.** "Agency" means the Minnesota Pollution Control Agency, as constituted pursuant to Minnesota Statutes, section 116.02, subdivision 1.

Subp. 3. **Application submittal date.** "Application submittal date" means the date by which an application is required to be submitted to the agency in order for the applicant to be eligible to receive a grant under parts 7035.6500 to 7035.7700.

Subp. 4. **City.** "City" has the meaning given to it in Minnesota Statutes, section 115A.03, subdivision 4.

Subp. 5. **Collection.** "Collection" has the meaning given to it in Minnesota Statutes, section 115A.03, subdivision 5.

Subp. 6. **County.** "County" means a subdivision of the state organized pursuant to Minnesota Statutes, chapter 373.

Subp. 7. **Curbside collection.** "Curbside collection" means the source separation method whereby generators of household refuse segregate and set out recyclable materials for collection and transportation to a resource recovery facility or to a transfer station.

Subp. 8. **Director.** "Director" means the executive director and chief executive officer of the agency or a person expressly designated by the director to discharge a duty or responsibility of the director.

Subp. 9. **Drop off center.** "Drop off center" means a location where persons can bring or drop off recycled materials derived primarily from households for consolidation and transportation to a resource recovery facility.

Subp. 10. **Grant eligible; grant eligibility.** "Grant eligible" or "grant eligibility" means meets the criteria to receive funding assistance under parts 7035.6500 to 7035.7700.

Subp. 11. **Implementation project.** "Implementation project" means a project undertaken to demonstrate the feasibility and practicability of a particular source separation or waste reduction method(s).

Subp. 12. **Person.** "Person" has the meaning given to it in Minnesota Statutes, section 115A.03, subdivision 23.

Subp. 13. **Pre-implementation project.** "Pre-implementation project" means a project undertaken to accomplish preliminary planning and development of, to study the feasibility and practicability of, or to do the conceptual design of a particular source separation or waste reduction method(s).

Subp. 14. **Resource recovery facility.** "Resource recovery facility" has the meaning given to it in Minnesota Statutes, section 115A.03, subdivision 28.

Subp. 15. **Solid waste management district.** "Solid waste management district" has the meaning given to it in Minnesota Statutes, section 115A.03, subdivision 32.

Subp. 16. **Source separation; source separation program.** "Source separation" or "source separation program" means the process of segregation and accumulation of recyclable materials at the source of generation of those materials and also means the process of collection and transportation of those materials for resource recovery.

Subp. 17. **Transfer station.** "Transfer station" has the meaning given to it in Minnesota Statutes, section 115A.03, subdivision 33.

Subp. 18. **Waste reduction; waste reduction program.** "Waste reduction" or "waste reduction program" means measures taken by persons to change product or packaging design or consumption habits and thereby reduce the quantity of waste generated.

Statutory Authority: *MS s 115A.49*

7035.6800 ELIGIBLE APPLICANTS.

Any city, county, or solid waste management district within the state of Minnesota is grant eligible. Eligible applicants may apply for grants on behalf of any person that is not an eligible applicant, but the named grantee shall be the city, county, or solid waste management district.

Statutory Authority: *MS s 115A.49*

7035.6900 ELIGIBLE COSTS FOR PRE-IMPLEMENTATION PROJECTS.

Subpart 1. **Pre-implementation projects.** For pre-implementation projects:

A. The following costs are grant eligible:

(1) consultant fees and salaries of staff persons employed to develop an acceptable project;

(2) costs associated with the drafting and execution of necessary contracts between the grantee and other units of government or qualified consultants employed to carry out project tasks, including, but not limited to, reasonable attorneys' fees;

(3) costs associated with holding meetings to inform the public of the development of the project and to provide an opportunity for the public to participate in and comment on the development of the project;

(4) costs associated with printing and distributing project materials and the project report;

(5) costs of any in-state travel, the primary purpose of which is to attend meetings or gather information needed for the development of the project report, including, but not limited to, reimbursement for mileage consistent with state allowances;

(6) costs of any necessary supplies required for the development and publication of the report. The costs of leasing equipment needed for the development and publication of the report are eligible for funding. The costs of any commodities, materials, capital expenditures, and equipment which could be used after the project is completed shall not be considered supplies and are, therefore, not grant eligible under parts 7035.6500 to 7035.7700.

(7) overhead costs.

B. The agency shall award grants to cover 90 percent of the eligible costs specified in the grant application and the grantee shall either fund or obtain from another source funding for the remaining costs of completing the project, provided, however, that to the extent the grantee has obtained a nonagency grant(s) to fund any portion of the project, the agency shall fund only 90 percent of the remaining (i.e., nonagency funded) eligible costs.

C. The maximum amount of a pre-implementation grant for each category listed in part 7035.7500, subparts 3 and 4 shall be \$3,500. If a grantee submits an application for a grant relating to more than one category, the maximum amount of the grant to be awarded by the agency shall be \$3,500 for each category funded.

Subp. 2. Implementation projects. For implementation projects:

A. The following costs are grant eligible:

(1) consultant fees and salaries of staff persons employed to develop an acceptable project;

(2) costs associated with the drafting and execution of necessary contracts between the grantee and other units of government or qualified consultants employed to carry out project tasks, including, but not limited to, reasonable attorneys' fees;

(3) costs associated with holding meetings to inform the public of the development of the project and to provide an opportunity for the public to participate in and comment on the development of the project;

(4) costs associated with printing and distributing project materials;

(5) costs of any in-state travel, the primary purpose of which is to attend meetings or gather information needed for the development of the project report, including, but not limited to, reimbursement for mileage consistent with state allowances;

(6) costs of any necessary supplies required for the development of the project and the publication of the report. The costs of leasing equipment needed for the development of the project and the publication of the report are eligible for funding. The costs of any commodities, materials, capital expenditures, and equipment which could be used after the project is completed shall not be considered supplies and are, therefore, not grant eligible under parts 7035.6500 to 7035.7700.

(7) overhead costs.

B. The agency shall award grants to cover 90 percent of the eligible costs specified in the grant application and the grantee shall either fund or obtain from another source funding for the remaining costs of completing the project, provided, however, that to the extent the grantee has obtained a nonagency grant(s) to fund any portion of the project, the agency shall fund only 90 percent of the remaining (i.e., nonagency funded) eligible costs.

C. The maximum amount of an implementation grant for each category listed in part 7035.7500, subparts 3 and 4 shall be \$15,000. If a grantee submits an application for a grant relating to more than one category, the maximum amount of the grant to be awarded by the agency shall be \$15,000 for each category funded.

Subp. 3. **Adjustments in funds.** Once a grant has been awarded, adjustments between funds awarded to cover the costs specified in subpart 1, item A, subitem (1) and subpart 2, item A shall be made if the agency and the grantee agree that such adjustments shall result in the development of the project in a more efficient manner.

Subp. 4. **Need for more funds.** If, while working to complete the project, a grantee finds that more funds are needed, the grantee shall proceed as follows:

A. if the grantee finds that the amount of additional funding that is needed is more than 20 percent of the original grant, the grantee shall submit a new application which shall be treated in accordance with the procedures set out in part 7035.7500, subparts 1 to 6;

B. if the grantee finds that the amount of additional funding that is needed is less than 20 percent of the original grant, and that the original grant was for an amount less than the maximum grants allowed under subpart 1, item C, and subpart 2, item C, the grantee shall submit an amended grant application which shall be treated in accordance with the procedures set out in part 7035.7500, subpart 6.

Subp. 5. **Performance.** Grants shall be awarded to cover the eligible costs of only those tasks which are undertaken and completed during the grant period established in the grant agreement. Grants shall not be awarded to cover any cost associated with tasks performed prior to the award of a grant or after the expiration of the grant agreement.

Subp. 6. **Availability of funds.** The availability of funds is a precondition to the award of any grant or grant amendment by the agency.

Subp. 7. **Award of a grant.** The fact that an item or person is "grant eligible" under parts 7035.6500 to 7035.7700 does not automatically assure that a grant shall be awarded. A grant shall only be awarded if the grant eligibility criteria are met and if sufficient funds are available to cover the grant.

Statutory Authority: *MS s 115A.49*

7035.7000 ELIGIBLE PROJECTS.

Subpart 1. **In general.** The agency shall consider grant eligible all projects that are reasonably designed to result in an acceptable project, as defined in part 7035.6700, subpart 1.

Subp. 2. **Complete application.** The agency shall determine that a project is reasonably designed to result in an acceptable project if the agency finds that the grant application required to be submitted under part 7035.7100 is complete. The agency shall determine that a grant application is complete if the application contains all the information and meets all the requirements set out in parts 7035.7200 to 7035.7400.

Subp. 3. **Priorities.** The agency shall prioritize and limit the award of grants to eligible projects in accordance with the procedures and limitations set out in part 7035.7500.

Statutory Authority: *MS s 115A.49*

7035.7100 GRANT APPLICATION PROCEDURES.

Subpart 1. **Fiscal year ending June 30, 1981.** For grants to be awarded during the fiscal year ending June 30, 1981:

As soon as possible and no later than April 15, 1981, a grant applicant shall submit a grant application to the agency. The grant application to be submitted to the agency shall include all the information and documentation set out in parts 7035.7200 to 7035.7400. Upon receiving a grant application, the director shall promptly review the application and shall make a determination as to the eligibility of the applicant specified in the application, the eligibility of the costs specified in the application, and the eligibility of the project specified in the application.

Within two weeks after receiving the application, the director shall notify each applicant as to the director's determinations. If the director determines that the applicant, the costs and the project specified in the application are grant eligible, the application shall be considered final as of the date it was received and the applicant shall be so notified. The application shall then be treated in accordance with the agency review provisions established in part 7035.7500.

If the director determines that the applicant is not grant eligible, the application shall not be further considered and the applicant shall be so notified.

If the director determines that any of the costs described in the application are not grant eligible or that the application is otherwise incomplete, the director shall note the inadequacies in the application and shall so notify the applicant. The applicant shall have two weeks after the date of the director's notification to cure the inadequacies noted by the director or shall have two weeks after the application submittal date, whichever gives the applicant more time to cure the inadequacies noted. An application which is considered inadequate under this section shall not be considered final until the agency receives the information or documentation which cures the inadequacies described by the director. An application which is considered inadequate under this section shall be considered final on the date all necessary supplemental information is received by the agency.

Once the application is considered final, it shall be treated in accordance with the agency review provisions established in part 7035.7500.

Subp. 2. **All other awards of grants.** For grants to be awarded during all fiscal years other than that described in subpart 1:

A. There shall be two application submittal dates: June 30 and December 31 of each year.

B. As soon as possible and no later than the application submittal dates, a grant applicant shall submit a grant application to the agency.

C. The grant application to be submitted to the agency shall include all the information and documentation set out in parts 7035.7200 to 7035.7400.

D. Upon receiving a grant application, the director shall promptly review the application and shall make a determination as to the eligibility of the applicant specified in the application; the eligibility of the costs specified in the application; and the eligibility of the project specified in the application.

E. Within two weeks after receiving the application, the director shall notify each applicant as to the director's determinations.

If the director determines that the applicant, the costs, and the project specified in the application are grant eligible, the application shall be considered final as of the date it was received and the applicant shall be so notified. The application shall then be treated in accordance with the agency review provisions established in part 7035.7500.

If the director determines that the applicant is not grant eligible, the application shall not be further considered and the applicant shall be so notified.

If the director determines that any of the costs described in the application are not grant eligible or that the application is otherwise incomplete, the director shall note the inadequacies in the application and shall so notify the applicant. The applicant shall have two weeks after the date of the director's notification to cure the inadequacies noted by the director or shall have two weeks after the application submittal date, whichever gives the applicant more time to cure the inadequacies noted.

An application which is considered inadequate under this section shall not be considered final until the agency receives the information or documentation which cures the inadequacies described by the director.

An application which is considered inadequate under this section shall be considered final on the date all necessary supplemental information is received by the agency.

Once the application is considered final, it shall be treated in accordance with the agency review provisions established in part 7035.7500.

Subp. 3. Additional funds; more than 20 percent. If, while working to complete a project which has been funded under parts 7035.6500 to 7035.7700, a grantee finds that more funds are needed to complete the project and that the amount of additional funding needed is more than 20 percent of the original grant, the grantee shall submit a new grant application which shall be treated in accordance with the procedures set out in part 7035.7500, subparts 1 to 6. The total amount awarded for any one project (including all additional funding) shall in no event exceed the maximums established in part 7035.6900, subpart 1, item C and subpart 2, item C.

Subp. 4. Additional funds; less than 20 percent. If, while working to complete a project which has been funded under parts 7035.6500 to 7035.7700, a grantee finds that more funds are needed to complete the project, that the amount of additional funding is less than 20 percent of the original grant, and that the original grant was for an amount less than the maximum grants allowed under part 7035.6900, subpart 1, item C and subpart 2, item C:

A. the grantee shall submit an amended grant application to the agency;

B. the amended grant application shall include all the information and documentation set out in part 7035.7400;

C. upon receiving the amended grant application, the director shall promptly review the amended grant application and shall make a determination as to the eligibility of the costs specified in the amended grant application, and the difference between the maximum amount of funding the project is eligible to receive and the amount of funding the project has received to date;

D. within two weeks after receiving the amended grant application, the director shall notify the applicant as to the eligibility of the costs specified in the amended grant application.

If the director determines that the costs are not eligible, the amended grant application shall not be further considered and the applicant shall be so notified. If the director determines that the costs are eligible, the application shall be considered final as of the date it was received and the applicant shall be so notified. The application shall then be treated in accordance with the agency review provisions established in part 7035.7500, subpart 7.

If the director determines that the amended grant application is incomplete, the director shall note the inadequacies in the application and shall so notify the applicant. The applicant shall have two weeks from the date of the director's notification to cure the inadequacies noted by the director.

An application which is considered inadequate under this section shall not be considered final until the agency receives the information or documentation which cures the inadequacies described by the director.

An application which is considered inadequate under this section shall be

considered final on the date all necessary supplemental information is received by the agency.

Once the application is considered final, it shall be treated in accordance with the agency review provisions established in part 7035.7500.

Statutory Authority: *MS s 115A.49*

7035.7200 GRANT APPLICATIONS FOR PRE-IMPLEMENTATION PROJECTS.

Applications for grants for pre-implementation projects shall include the following information:

- A. the name(s) of each applicant making the grant application;
- B. the name(s) of each person on whose behalf the grant application is submitted;

- C. the name(s) of each political subdivision(s) affected by the project, located in the area studied in the project, or located in the area in which the project is intended to be implemented;

- D. resolutions from each political subdivision named in the application which demonstrate that the political subdivision is committed to implement the project, is committed to provide necessary local financing, and is committed to accept and exercise the government powers necessary to the project;

- E. the name(s) and address(es) of the project manager(s);

- F. total project cost;

- G. amount of grant funding requested;

- H. amount and sources of all other funding contributions, including the amount of funds to be contributed by the applicant;

- I. boundaries of and population of any areas which would be served by the program if the project were implemented;

- J. a work plan which provides the following information and details how the grantee will make the evaluations necessary to complete an acceptable project within the meaning of part 7035.6700, subpart 1, item A:

- (1) a brief description of the waste reduction and/or source separation program the grantee proposes to evaluate;

- (2) a breakdown of the specific work tasks to be completed under the terms of the grant, including but not limited to, an evaluation of the conceptual and technical feasibility of implementing the project; an evaluation of the solid waste management objectives to be accomplished through the implementation of the project; an estimate of the operating revenues, if any, to be obtained from the proposed program, considering the availability and security of sources of solid waste and of markets for recovered resources, together with any proposed federal, state, or local financial assistance; and the drafting of a final report describing the work done and conclusions made by the grantee;

- (3) a breakdown of the number of work hours needed to complete each of the work tasks specified in subitem (2);

- (4) a breakdown of all the costs associated with completing each of the tasks specified in subitem (2), including an explanation of how each cost was calculated;

- (5) a breakdown of the staff, consultants, and units of government associated with completing each of the tasks specified in subitem (2);

- (6) a breakdown of the amount of time needed to complete each of the tasks specified in subitem (2);

- (7) a discussion of the reports, documents, and other written materials to be developed;

- (8) a discussion of the applicability of the project results to other areas of the state; and

(9) a discussion of the existing solid waste management system, the impact the project may have on that system, and a statement of the landfill(s) currently serving the area which would be served by the project if it were implemented.

Statutory Authority: *MS s 115A.49*

7035.7300 GRANT APPLICATIONS FOR IMPLEMENTATION PROJECTS.

Applications for grants for implementation projects shall include the following information:

- A. the name(s) of each applicant making the grant application;
- B. the name(s) of each person on whose behalf the grant application is submitted;
- C. the name(s) of each political subdivision(s) affected by the project, located in the area studied in the project, or located in the area in which the project is intended to be implemented;
- D. resolutions from each political subdivision named in the application which demonstrate that the political subdivision is committed to implement the project; is committed to provide necessary local financing; and is committed to accept and exercise the government powers necessary to the project;
- E. the name(s) and address(es) of the project manager(s);
- F. total project cost;
- G. amount of grant funding requested;
- H. amount and sources of all other funding contributions, including the amount of funds to be contributed by the applicant;
- I. boundaries of and population of any areas which would be served by the program if the project were implemented;
- J. statements, together with supporting information, that demonstrate:
 - (1) that the project is conceptually and technically feasible;
 - (2) that operating revenues from the project, considering the availability and security of sources of solid waste and of markets for recovered resources, together with any proposed federal, state, or local financing assistance, will be sufficient to pay all costs over the projected life of the project; and
 - (3) that the applicant has evaluated the feasible and prudent alternatives to disposal and has compared and evaluated the costs of the alternatives, including capital and operating costs, and the effects of the alternatives on the cost to generators;
- K. a work plan which provides the following information and details how the grantee will take the action necessary to complete an acceptable project within the meaning of part 7035.6700, subpart 1, item B:
 - (1) a brief description of the waste reduction and/or source separation program the grantee proposes to undertake;
 - (2) a breakdown of the specific work tasks to be completed under the terms of the grant;
 - (3) a breakdown of the number of work hours needed to complete each of the work tasks specified in subitem (2);
 - (4) a breakdown of all the costs associated with completing each of the tasks specified in subitem (2), including an explanation of how each cost was calculated;
 - (5) a breakdown of the staff, consultants, and units of government associated with completing each of the tasks specified in subitem (2);
 - (6) a breakdown of the amount of time needed to complete each of the tasks specified in subitem (2);
 - (7) a discussion of the reports, documents, and other written materials to be developed;

(8) a discussion of the applicability of the project results to other areas of the state; and

(9) a discussion of the existing solid waste management system, the impact the project may have on that system, and a statement of the landfill(s) currently serving the area which would be served by the project if it were implemented.

Statutory Authority: *MS s 115A.49*

7035.7400 AMENDED GRANT APPLICATIONS.

Amended grant applications shall include the following information:

- A. the name(s) of each applicant making the amended grant application;
- B. the additional funds requested by the applicant;
- C. justification for the request for additional funds;
- D. a statement of the amount of funds already obtained from the agency to complete the project;
- E. a statement of the total amount of funds expended and anticipated to be expended to complete the project;
- F. a statement of the amount and sources of all funds not provided by the agency; and
- G. a discussion of the work proceeding to date under the grant and a statement as to whether the work is being completed on schedule and, if not, a discussion as to why it is not proceeding on schedule.

Statutory Authority: *MS s 115A.49*

7035.7500 AGENCY REVIEW AND AWARD OF GRANT APPLICATIONS AND AMENDMENTS.

Subpart 1. **In general.** Grants shall be awarded to eligible grantees, to the extent funding is available, in accordance with the procedures and limitations set out in this part.

Subp. 2. **Categories.** Within 45 days after each application submittal date, the agency shall categorize each eligible project:

A. by determining whether the project is a waste reduction or a source separation project, and

B. by identifying the category within which each eligible project falls. The categories of eligible projects are the following in subparts 3 and 4.

Subp. 3. **Waste reduction.** Waste reduction:

A. Pre-implementation projects that study or design the following methods of waste reduction:

- (1) change in procurement policies;
- (2) public awareness programs;
- (3) marketing programs;
- (4) office waste reduction;
- (5) reduction of solid materials generated by an industry or commercial establishment; and
- (6) curriculum development.

B. Implementation projects that demonstrate the following methods of waste reduction:

- (1) change in procurement policies;
- (2) public awareness programs;
- (3) marketing programs;
- (4) office waste reduction;
- (5) reduction of solid materials generated by an industry or commercial establishment; and

(6) curriculum use.

Subp. 4. Source separation. Source separation:

A. Pre-implementation projects that study or design the following methods or source:

- (1) public awareness programs;
- (2) marketing program;
- (3) office waste recycling;
- (4) source separation of solid materials generated by an industry or commercial establishment;
- (5) separation of yard waste;
- (6) curriculum development;
- (7) drop off center;
- (8) mandatory curbside collection;
- (9) voluntary curbside collection; and
- (10) separation at a transfer station.

B. Implementation projects that demonstrate the following methods of source separation:

- (1) public awareness programs;
- (2) marketing program;
- (3) office waste recycling;
- (4) source separation of solid materials generated by an industry or commercial establishment;
- (5) separation of yard waste;
- (6) curriculum use;
- (7) drop off center;
- (8) mandatory curbside collection;
- (9) voluntary curbside collection; and
- (10) separation at a transfer station.

Subp. 5. Ranking projects. Also within 45 days after each application submittal date, the agency shall rank the projects within each category by assigning that project one point for each of the following statements that correctly describes that project:

A. the project relates specifically to an area where natural geologic and soil conditions are unsuitable for land disposal of solid waste;

B. the project relates specifically to an area where the available capacity of existing solid waste disposal facilities is determined by the agency to be less than five years;

C. the project relates specifically to an area outside the metropolitan area and would serve more than one local government unit; and

D. the project is being carried out pursuant to the findings or recommendations of a solid waste management plan which meets the requirements of Minnesota Statutes, section 115A.46, and parts 7035.5000 to 7035.6000.

Subp. 6. Procedures for awarding grants. The agency shall award grants as follows:

A. The agency shall award a grant to the project with the highest point ranking within each category. If there are insufficient moneys to fund the highest ranking project within each category, the agency shall first award a grant to the project with the highest ranking, shall second award a grant to the project with the second highest ranking, shall third award a grant to the project with the third highest ranking, and so on until all grant moneys are obligated. For projects with equal rankings, the agency shall first award a grant to the grantee whose final

application was submitted earliest, shall second award a grant to the grantee whose final application was submitted second earliest, shall third award a grant to the grantee whose final application was submitted third earliest, and so on until grant moneys are obligated. If grant applications with equal rankings were submitted on the same date, the agency shall determine the priority of the projects by lottery.

B. After the agency has awarded a grant to the projects that rank the highest within each category, the agency shall award a grant to the projects that rank the second highest within each category. In awarding grants for these projects, the agency shall follow the procedure described in item A.

C. After the agency has awarded a grant to the projects that rank the second highest within each category, the agency shall award a grant to the project that ranks the third highest within each category. The agency shall continue in this fashion until all grant moneys have been obligated.

Subp. 7. **Supplemental grants.** The agency shall award grants on a first come, first serve basis to applicants for a supplemental grant that meet the description set out at part 7035.7100, subpart 4. These awards shall be made within one month after a completed eligible application for a grant amendment has been received by the agency. Grant amendments shall not be subject to the ranking procedures set out in this part.

Statutory Authority: *MS s 115A.49*

7035.7600 GRANT AGREEMENT.

Subpart 1. **Incorporation of grant application.** The grant agreement shall incorporate by reference the final grant application submitted to the agency in accordance with parts 7035.7200 to 7035.7400.

Subp. 2. **Term of grant.** The grant agreement shall establish the term of the grant. All grants awarded under these parts shall have a maximum term of two years.

Subp. 3. **Forfeiture; variances.** Grants not completed in accordance with the terms and conditions of the grant agreement, including time schedules, shall be forfeited unless the agency determines that the variances from the grant requirements are due to factors outside the control of the grantee.

Subp. 4. **Payment schedule.** The grant agreement shall include a payment schedule. This payment schedule shall provide for reimbursement of stated travel costs in a manner described in the grant agreement and shall require that ten percent of each payment made under the grant agreement (except reimbursable travel costs) be retained by the agency until the director determines that the report submitted under the grant is an acceptable project. If the director determines that the report is deficient, the director shall notify the grantee of the deficiency. The agency shall pay the withheld ten percent of the grant as soon as the director determines that the report is an acceptable project.

Subp. 5. **Specific provisions.** The grant agreement shall provide that the grantee shall be authorized to enter into contracts to complete the work specified in the grant. The grant agreement shall further provide that if any person other than the grantee is to receive any grant moneys for completing work under the grant, the grantee must enter into a written agreement with that person for the work to be done by that person. The grant agreement shall further require that all written agreements for work to be done under this grant shall name the agency as a third-party beneficiary to those agreements.

Subp. 6. **Amendments.** The grant agreement shall provide that, upon the agreement of the grantee and the director, the grant agreement shall be amended.

Subp. 7. **Extension of expiration date.** The grant agreement shall provide that the director shall extend the expiration date of the grant upon request and justification of the change by the grantee. The grantee shall justify a request for

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extension by demonstrating that the factors which resulted in the delay of the project were beyond the control of the grantee.

Statutory Authority: *MS s 115A.49*

7035.7700 APPORTIONMENT OF FUNDS.

Subpart 1. **Articles V and VI grants.** The agency shall apportion funds allocated to it by the legislature for the grant programs set out in articles V and VI of the Waste Management Act, Minnesota Statutes, sections 115A.42 to 115A.54 as follows:

A. Article V grants (grants awarded under other rules): 40 percent of the amount appropriated to the agency.

B. Article VI grants (grants awarded under this rule): 60 percent of the amount appropriated to the agency.

C. If the agency receives more eligible requests for grant assistance under article VI than the agency has funds available and the agency receives less eligible requests for grant assistance under article V than it has funds available, the agency shall adjust the apportionment described in this part. Similarly, if the agency receives less eligible requests for grant assistance under article VI than the agency has funds available to it and more eligible request for grant assistance under article V than it has funds available, the agency shall adjust the apportionment described in this part. No such adjustment shall be made until the last date that grant applications are permitted to be submitted to the agency under this rule and the rule developed to implement article V of the Waste Management Act.

Subp. 2. **Pre-implementation and implementation grants.** For pre-implementation and implementation grants, the agency shall apportion funds allocated to it by the legislature as follows:

A. Pre-implementation grants: 20 percent of the amount appropriated to the agency; and

B. Implementation grants: 80 percent of the amount appropriated to the agency.

Severability. If any provision of this rule or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect any other provision or application of any other part of this rule or any other rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule and the various applications thereof are declared to be severable.

Statutory Authority: *MS s 115A.49*

WASTE TIRE DUMP ABATEMENT

7035.8000 SCOPE.

Parts 7035.8000 to 7035.8080 establish the procedures that the agency shall follow in moving to abate tire dumps, the procedures that a responsible tire collector shall follow in abating a tire dump pursuant to agency request, and the technical standards that a responsible tire collector must meet during the abatement process.

Statutory Authority: *MS s 115A.914 subd 1*

History: *11 SR 1113*

7035.8010 DEFINITIONS.

Subpart 1. **Applicability.** For the purposes of parts 7035.8000 to 7035.8080, the terms in subparts 2 to 22 have the meanings given them.

Subp. 2. **Abate or abatement.** "Abate" or "abatement" means processing and removing waste tires in a manner accepted by the agency.

Subp. 3. **Abatement increment.** "Abatement increment" means period of

time, not greater than six months and not less than one month, as specified in an abatement plan, during which a specified number of waste tires will be removed from the tire dump and processed.

Subp. 4. **Agency.** "Agency" means the Minnesota Pollution Control Agency.

Subp. 5. **Director.** "Director" means the executive director of the Minnesota Pollution Control Agency.

Subp. 6. **Flood plain.** "Flood plain" means any land area that is subject to a one percent or greater chance of flooding in any given year from any source.

Subp. 7. **Operator.** "Operator" means the person responsible for the overall operation of the tire dump. A tire dump operator is a tire collector as defined in Minnesota Statutes, section 115A.90, subdivision 8.

Subp. 8. **Owner.** "Owner" means a person who owns, in whole or in part, the waste tires located in a tire dump, or the land on which the tire dump is located. As used in parts 7035.8000 to 7035.8080, "owner" includes one who holds an interest in the property on which the tire dump is located, as in the case of a lessee. An owner is a tire collector as defined in Minnesota Statutes, section 115A.90, subdivision 8.

Subp. 9. **Person.** "Person" has the meaning given in Minnesota Statutes, section 115A.90, subdivision 5.

Subp. 10. **Processing.** "Processing" has the meaning given in Minnesota Statutes, section 115A.90, subdivision 6.

Subp. 11. **Ravine.** "Ravine" means a deep, narrow cleft or gorge in the earth's surface. A ravine cannot be smoothed out by ordinary tillage.

Subp. 12. **Residuals from processing.** "Residuals from processing" means the unusable material resulting from any chemical or physical processing of waste tires.

Subp. 13. **Responsible tire collector.** "Responsible tire collector" means a person who is the recipient of the abatement request. A responsible tire collector is an owner or operator of a tire dump, as defined in this part.

Subp. 14. **Shoreland.** "Shoreland" means land located within 1,000 feet from the normal high water mark of a lake, pond, or flowage, or land within 300 feet of a river or stream, or a flood plain as established by ordinance.

Subp. 15. **Sinkhole.** "Sinkhole" means a closed depression formed by subsidence of the underlying bedrock.

Subp. 16. **Tire.** "Tire" has the meaning given in Minnesota Statutes, section 115A.90, subdivision 7.

Subp. 17. **Tire collector.** "Tire collector" has the meaning given in Minnesota Statutes, section 115A.90, subdivision 8.

Subp. 18. **Tire-derived products.** "Tire-derived products" means usable materials produced from the chemical or physical processing of a waste tire.

Subp. 19. **Tire dump.** "Tire dump" has the meaning given in Minnesota Statutes, section 115A.90, subdivision 9.

Subp. 20. **Tire processor.** "Tire processor" has the meaning given in Minnesota Statutes, section 115A.90, subdivision 10.

Subp. 21. **Waste tire.** "Waste tire" has the meaning given in Minnesota Statutes, section 115A.90, subdivision 11.

Subp. 22. **Wetland.** "Wetland" means any area that is covered by standing water during any portion of a year. As used in this part, "wetland" includes but is not limited to wetlands as defined in Classification of Wetlands and Deep Water Habitats of the United States, 1979. This publication was issued by the United States Department of the Interior, Fish and Wildlife Service, Washington, D.C. 20402. This publication is available at the Minnesota State Government Law Library, Ford Building, 117 University Avenue, Saint Paul, Minnesota.

This publication is incorporated into this definition by reference and is not subject to frequent change.

Statutory Authority: *MS s 115A.914 subd 1*

History: *11 SR 1113*

7035.8020 ABATEMENT PROCEDURES.

Subpart 1. Scope. Subparts 2, 3, and 4 describe the criteria the agency shall use in deciding which tire dumps to abate first, the procedures that the agency shall follow in abating tire dumps, and the actions that responsible tire collectors must take to comply with an agency request to abate.

Subp. 2. Abatement priorities. The agency shall issue a request for abatement action to tire collectors responsible for tire dumps that meet the following priority criteria:

A. First priority: tire dumps with over 1,000,000 waste tires. Tire dumps with over 1,000,000 waste tires shall be ranked based on the priority criteria in items B and C.

B. Second priority: tire dumps posing fire hazards. In ranking tire dumps that are fire hazards, the agency shall consider the number of waste tires in the tire dump; the proximity of the tire dump to population concentrations; the proximity of the tire dump to natural resources that would be affected by a fire at the tire dump; and the characteristics of the tire dump that might make it susceptible to fire, including but not limited to the absence of fire lanes, the lack of emergency equipment, the presence of easily combustible materials, and the lack of site access control.

C. Third priority: tire dumps in densely populated areas. In ranking tire dumps located in densely populated areas, the agency shall consider the population concentration within five miles of the tire dump; the number of waste tires in the tire dump; the hazardous characteristics of the tire dump, including but not limited to its susceptibility to fire or to mosquito infestation; and whether the tire dump is visible from any public way.

D. Fourth priority: remaining tire dumps. For tire dumps that do not meet the priority criteria in subpart 3, items A to C, the agency shall consider the number of waste tires located at the tire dump; the hazardous characteristics of the tire dump, including but not limited to its susceptibility to fire or mosquito infestation; and the population and natural resources that might be affected by the presence of the tire dump.

Subp. 3. Request for abatement action. The agency shall issue a request for abatement action to all responsible tire collectors. A request for abatement action shall be in writing, specify the action that must be taken to comply, the time allowed for response, the reasons for requesting the action, and the actions that the agency will take if the requested action is not taken in the requested time.

Subp. 4. Requested action. The request for abatement action shall require that the responsible tire collector or collectors submit to the director an abatement plan meeting the criteria established in part 7035.8030. The request for abatement action shall require that the responsible tire collector or collectors agree to implement the abatement plan by entering into a stipulation agreement with the agency.

Statutory Authority: *MS s 115A.914 subd 1*

History: *11 SR 1113*

7035.8030 CONTENTS OF ABATEMENT PLAN.

Subpart 1. Goal. The abatement of a tire dump subject to an agency abatement action shall be accomplished through the processing and removal of the waste tires present in the tire dump. Abatement action must be in accordance with a plan that meets the criteria in this part. If approved by the director, a plan

that meets the criteria in this part shall be incorporated into a stipulation agreement signed by the responsible tire collector or collectors and the agency.

Subp. 2. Processing on-site. If the responsible tire collector elects to process the waste tires on the tire dump site, the following information must be included in the abatement plan submitted to the director in compliance with the request for abatement action:

A. A description of the processing techniques.

B. A description of the equipment that will be used on the site to process and remove the waste tires. The function of each piece of equipment should be specifically noted.

C. The name, address, and telephone number of the ultimate user of the tire-derived products produced from the processing of the waste tires constituting the tire dump.

D. A description of how any residuals from processing the waste tires will be disposed.

E. A time schedule for removal and processing of the waste tires constituting the tire dump. Abatement of the tire dump must be completed within five years of the execution of the stipulation agreement incorporating the abatement plan. Abatement increments must be established.

F. A time schedule for bringing the tire dump into compliance with the technical and operational standards in parts 7035.8050 to 7035.8060. The tire dump must be in compliance with all technical and operational standards within six months, unless otherwise agreed to in the stipulation agreement incorporating the abatement plan. An emergency preparedness manual meeting the standards in part 7035.8060, subpart 8, must be submitted to the director as part of the abatement plan.

G. A description of how records on the number of waste tires processed and removed will be maintained.

H. If the responsible tire collector will seek reimbursement under part 7035.8070, an estimate of the net cost of processing the waste tires using the most cost-effective processing alternative. This estimate must be supported through submission of documentation of the net cost of processing the waste tires.

Subp. 3. Processing off-site. If the responsible tire collector elects to remove the waste tires to another location for processing, the following information must be included in the abatement plan submitted to the director in compliance with the request for abatement action.

A. A description of the equipment that will be used to pick up and transport the waste tires to the tire processor.

B. If the responsible tire collector will contract with another person or firm for the transportation of the waste tires, the name, address, and telephone number of that person or firm.

C. The name, address, and telephone number of the facility at which the waste tires will be processed, and a description of the processing techniques employed by that tire processor.

D. A time schedule for the removal of the waste tires constituting the tire dump. The abatement of the tire dump must be completed within five years of the execution of the stipulation agreement incorporating the abatement plan. Abatement increments must be established.

E. A time schedule for bringing the tire dump into compliance with the technical and operational standards in parts 7035.8050 to 7035.8060. The tire dump must be in compliance with all technical standards within six months, unless otherwise agreed to in the stipulation agreement incorporating the abatement plan. An emergency preparedness manual meeting the standards in part 7035.8060, subpart 8, must be submitted to the director as part of the abatement plan.

F. A description of how records on the number of waste tires removed will be maintained.

G. If the responsible tire collector will seek reimbursement under part 7035.8070, an estimate of the net cost of processing the waste tires using the most cost-effective processing alternative. This estimate must be supported through submission of documentation of the net cost of processing the waste tires.

Subp. 4. Permitting during abatement. If the responsible tire collector wishes to obtain an agency permit for the site that is the subject of the abatement action, the responsible tire collector must notify the director of this intent at the time the abatement plan is submitted, and agree to develop a plan for bringing the site into compliance with the technical rules for waste tire storage, transfer, or processing facilities once rules governing these facilities are in place.

Subp. 5. New waste tires. If the responsible tire collector wants to continue to receive new waste tires during the time the tire dump is being abated, the responsible tire collector must notify the director of this intent at the time the abatement plan is submitted, and agree to develop a plan for processing and removal of the new waste tires.

Statutory Authority: *MS s 115A.914 subd 1*

History: *11 SR 1113*

7035.8040 INADEQUATE RESPONSE TO A REQUEST FOR ABATEMENT ACTION.

Subpart 1. Inadequate response. The agency shall determine if a responsible tire collector has failed to make an adequate response to a request for abatement action. The following constitute grounds for the agency to find that a response has been inadequate:

A. the responsible tire collector has not responded to the request for abatement action within the time period specified in the request for abatement action;

B. the responsible tire collector has failed to submit an abatement plan that meets the criteria in part 7035.8030;

C. the responsible tire collector has failed to sign a stipulation agreement incorporating the abatement plan approved by the director; or

D. the responsible tire collector has failed to comply with a term or condition of the stipulation agreement incorporating the abatement plan.

Subp. 2. Abatement order. A finding that a responsible tire collector has failed to make an adequate response to a request for abatement constitutes grounds for the agency to issue a tire dump abatement order to the responsible tire collector. If the agency determines that agency abatement is required, the tire dump abatement order shall provide for entering the property where the tire dump is located, taking the waste tires into public custody, and arranging for their processing and removal.

Statutory Authority: *MS s 115A.914 subd 1*

History: *11 SR 1113*

7035.8050 TECHNICAL STANDARDS.

Subpart 1. Scope. During the time a tire dump is being abated according to an abatement plan approved by the director, the responsible tire collector shall operate and maintain the tire dump in compliance with the following standards.

Subp. 2. Indoor storage. Waste tires stored indoors shall be stored under conditions that meet or exceed those in The Standard for Storage of Rubber Tires, NFPA 231D-1980 edition, adopted by the National Fire Protection Association, San Diego, California. This publication is available at the Minnesota State Government Law Library, Ford Building, 117 University Avenue, Saint

Paul, Minnesota; the Office of Public Safety, Fire Marshal Division; or any local fire department. This publication is incorporated by reference and is not subject to frequent change.

Subp. 3. Location of waste tire piles. No waste tires shall be stored in any area where they may be subjected to immersion in water, including but not limited to flood plains, wetlands, shorelands, sinkholes, or ravines.

Subp. 4. Dimensions of waste tire piles. No individual waste tire pile shall have an area greater than 10,000 square feet or a vertical height greater than 20 feet. A 50-foot fire lane shall be placed around the perimeter of each waste tire pile. This fire lane shall be maintained free of rubbish, equipment, and vegetation at all times.

Statutory Authority: *MS s 115A.914 subd 1*

History: *11 SR 1113*

7035.8060 OPERATIONAL STANDARDS.

Subpart 1. Scope. During the time a tire dump is being abated pursuant to an abatement plan approved by the director, the tire dump must be operated in compliance with the following standards.

Subp. 2. Burning. No operations involving the use of open flames, blow torches, or highly flammable substances shall be conducted within ten feet of a waste tire pile.

Subp. 3. Emergency equipment. Equipment for the control of accidental fires shall be provided and maintained at the tire dump.

Subp. 4. Emergency communications. Communication equipment shall be provided and maintained at the tire dump. Arrangements to acquire fire protection services for the tire dump shall be made through agreement with local fire protection authorities.

Subp. 5. Access. An approach and access road to the tire dump shall be maintained passable for any vehicle at all times. Access to the tire dump shall be strictly controlled through use of fences and gates.

Subp. 6. Vegetation. The tire dump shall be maintained free of grass, underbrush, and other potentially flammable vegetation at all times.

Subp. 7. Storage limitation. Only waste tires or tire-derived products may be stored at the tire dump.

Subp. 8. Emergency manual. The operator of the tire dump shall prepare and maintain at the tire dump site an emergency preparedness manual containing the following elements:

A. a list of names and numbers of persons to be contacted in the event of a fire, flood, or other emergency involving the tire dump;

B. a list of the emergency response equipment present at the tire dump, its location, and how it should be used in the event of a fire or other emergency; and

C. a description of the procedures that should be followed in the event of a fire at the tire dump, including procedures to contain and dispose of the oily material generated by the combustion of large numbers of tires.

The procedures in the emergency preparedness manual shall be followed in the event of an emergency at the tire dump. The emergency preparedness manual shall be updated once a year, upon changes in operations at the tire dump, or if required by the director.

Subp. 9. Emergency notification and reports. The operator of the tire dump shall immediately notify the director in the event of a fire or other emergency at the tire dump with potential off-site impacts. Within two weeks of any emergency involving potential off-site impact, the operator of the tire dump shall submit to the director a report on the emergency. This report shall set out the origins of the

emergency, the actions that were taken to deal with the emergency, the results of the actions that were taken, and an analysis of the success or failure of the actions.

Subp. 10. Operational record. The operator of the tire dump shall maintain records of the number of waste tires received at the tire dump, stored at the tire dump, and shipped from the tire dump. Records shall also be kept of the amount of tire-derived products received, stored, or shipped from the tire dump. At the completion of an abatement increment, the responsible tire collector shall submit to the director a record of the approximate number of waste tires remaining in the tire dump; the amount of tire-derived products stored at the tire dump; and the number of waste tires or amount of tire-derived products received at the tire dump and shipped from the tire dump during the abatement increment. For waste tires and tire-derived products shipped to another location, the date and the amount shipped must be included.

Subp. 11. Inspection. At the completion of each abatement increment, the responsible tire collector shall notify the director so that an inspection of the tire dump may be conducted to certify the completion of the required abatement.

Statutory Authority: *MS s 115A.914 subd 1*

History: *11 SR 1113*

7035.8070 REIMBURSEMENT.

Subpart 1. Scope. The agency shall reimburse a responsible tire collector for the cost of abating the tire dump according to the criteria and limits in this part and as set out in the stipulation agreement incorporating the abatement plan.

Subp. 2. Eligibility of responsible tire collector. Only those tire collectors who notified the agency under part 7035.8030 [Emergency], who are recipients of an agency request to abate a tire dump, and who have entered into a stipulation agreement incorporating an abatement plan may request the agency for abatement cost reimbursement.

Subp. 3. Eligible costs. Only the cost of abatement of waste tires collected before November 21, 1985, is eligible for reimbursement.

Subp. 4. Reimbursement rate. A reimbursement rate shall be established in the stipulation agreement incorporating the abatement plan. The director shall establish the reimbursement rate. The reimbursement rate shall be based on the most cost-effective means of abating the tire dump, considering all alternatives available to the responsible tire collector, and the amount of money available to the agency for tire dump abatement. In calculating the reimbursement rate for waste tires that do not exceed an 18-inch rim diameter, 35-inch outside diameter, and a 14-inch tire width, the director shall use the following formula to determine which abatement alternative is the most cost effective.

$$R = (M \times \$0.125) + \text{or} - PC$$

(transport cost)

(processing cost)

Where R is the potential reimbursement rate in dollars per ton; M is the miles needed to transport the waste tires to the processing facility; the figure \$0.125 represents the cost of transporting a ton of waste tires one mile; and PC is the net dollar cost per ton to the responsible tire collector of processing these waste tires. If the responsible tire collector's processing revenues exceed processing costs, in other words, there is no net cost but instead a net profit, the amount of revenue shall be subtracted from the transportation cost portion of the formula. PC shall not exceed \$66 per ton.

The reimbursement rate for waste tires exceeding an 18-inch rim diameter, a 35-inch outside diameter, or a 14-inch tire width, shall be established by the director on a case-by-case basis. If the responsible tire collector seeks reimbursement for the cost of abating these waste tires, the responsible tire collector must submit information on the most cost-effective method of transporting (if the

waste tires are to be processed off-site) and processing these waste tires when submitting the information required in part 7035.8030, subpart 2, item H, and subpart 3, item G. The director will choose a reimbursement rate that reflects the most cost-effective method of transporting and processing these waste tires.

Subp. 5. Reimbursement total. The director shall establish the total amount of money that will be available for reimbursement of all eligible abatement costs incurred at any site. This total shall be based on the reimbursement rate, the total amount of money available to the agency for abatement of tire dumps, and the spending priorities established by the legislature in Minnesota Statutes, section 115A.912, subdivision 2. This total shall be incorporated into the stipulation agreement incorporating the abatement plan. To change the total, an amendment of the stipulation agreement shall be required. The agency shall not consider or approve requests for reimbursement for more than ten percent above the dollar amount established in the original stipulation agreement.

Statutory Authority: *MS s 115A.914 subd 1*

History: *11 SR 1113*

7035.8080 REIMBURSEMENT DISBURSEMENT.

Subpart 1. Request for disbursement. After the completion of an abatement increment, the responsible tire collector may request the director for reimbursement of the costs incurred during that abatement increment.

Subp. 2. Findings. Before any money is disbursed as reimbursement for the cost of abatement, the director shall make the following determinations:

A. the abatement increment for which reimbursement is sought has been certified as complete;

B. the abatement cost for which reimbursement is sought was actually incurred; and

C. the responsible tire collector is in compliance with all terms and conditions of the stipulation agreement.

Subp. 3. Documentation. The responsible tire collector shall submit to the director documentation the director reasonably requires to enable the director to make the determinations in subpart 1.

Subp. 4. Disbursement. The amount of money to be disbursed as reimbursement for the cost of abatement shall be based on the actual costs to the responsible tire collector, provided that those costs are not in excess of the reimbursement rate established in the stipulation agreement. No money shall be disbursed to reimburse abatement expenses that exceed the total reimbursement amount set under part 7035.8070, subpart 5, and as incorporated into the stipulation agreement.

Statutory Authority: *MS s 115A.914 subd 1*

History: *11 SR 1113*