CHAPTER 115A

WASTE MANAGEMENT

CITATION, PURPOSE, AND DEFINITIONS

115A.01 CITATION.

Chapter 115A shall be known as the waste management act.

History: *1980 c 564 art 1 s 1; 1989 c 325 s 1*

115A.02 LEGISLATIVE DECLARATION OF POLICY; PURPOSES.

(a) It is the goal of this chapter to protect the state's land, air, water, and other natural resources and the public health by improving waste management in the state to serve the following purposes:

(1) reduction in the amount and toxicity of waste generated;

(2) separation and recovery of materials and energy from waste;

(3) reduction in indiscriminate dependence on disposal of waste;

(4) coordination of solid waste management among political subdivisions; and

(5) orderly and deliberate development and financial security of waste facilities including disposal facilities.

(b) The waste management goal of the state is to foster an integrated waste management system in a manner appropriate to the characteristics of the waste stream and thereby protect the state's land, air, water, and other natural resources and the public health. The following waste management practices are in order of preference:

(1) waste reduction and reuse;

(2) waste recycling;

(3) composting of yard waste and food waste;

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

(5) land disposal.

History: *1980 c 564 art 1 s 2; 1989 c 325 s 2; 1991 c 337 s 5; 1992 c 593 art 1 s 4; 1994 c 585 s 2*

115A.03 DEFINITIONS.

Subdivision 1. **Applicability.** For the purposes of this chapter, the terms defined in this section have the meanings given them, unless the context requires otherwise.

Subd. 2. **Agency.** "Agency" means the pollution control agency.

Subd. 3. [Repealed, 1989 c 335 art 1 s 270]

Subd. 4. **Cities.** "Cities" means statutory and home rule charter cities and towns authorized to plan under sections 462.351 to 462.364.

Subd. 5. **Collection.** "Collection" means the aggregation of waste from the place at which it is generated and includes all activities up to the time the waste is delivered to a waste facility.

Subd. 6. **Commercial waste facility.** "Commercial waste facility" means a waste facility established and permitted to sell waste processing or disposal services to generators other than the owner and operator of the facility.

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

Subd. 7. **Construction debris.** "Construction debris" means waste building materials, packaging, and rubble resulting from construction, remodeling, repair, and demolition of buildings and roads.

Subd. 7a. **Containment.** "Containment" means isolating, controlling, and monitoring waste in a waste facility in order to prevent a release of waste from the facility that would have an adverse impact upon human health and the environment.

Subd. 8. **Development region.** "Development region" means a region designated pursuant to sections 462.381 to 462.397.

Subd. 8a. **Director.** "Director" means the director of the office of environmental assistance.

Subd. 9. **Disposal.** "Disposal" or "dispose" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste into or on any land or water so that the waste or any constituent thereof may enter the environment or be emitted into the air, or discharged into any waters, including ground waters.

Subd. 10. **Disposal facility.** "Disposal facility" means a waste facility permitted by the agency that is designed or operated for the purpose of disposing of waste on or in the land, together with any appurtenant facilities needed to process waste for disposal or transfer to another waste facility.

Subd. 11. **Generation.** "Generation" means the act or process of producing waste.

Subd. 12. **Generator.** "Generator" means any person who generates waste.

Subd. 13. **Hazardous waste.** "Hazardous waste" has the meaning given it in section 116.06, subdivision 11.

Subd. 13a. **Industrial waste.** "Industrial waste" means solid waste resulting from an industrial, manufacturing, service, or commercial activity that is managed as a separate waste stream.

Subd. 14. **Intrinsic hazard.** "Intrinsic hazard" of a waste means the propensity of the waste to migrate in the environment, and thereby to become exposed to the public, and the significance of the harm or damage likely to result from exposure of natural resources or the public to the waste, as a result of such inherent or induced attributes of the waste as its chemical and physical stability, solubility, bioconcentratability, toxicity, flammability, and corrosivity.

Subd. 15. **Intrinsic suitability.** "Intrinsic suitability" of a land area or site means that, based on existing data on the inherent and natural attributes, physical features, and location of the land area or site, there is no known reason why the waste facility proposed to be located in the area or site cannot reasonably be expected to qualify for permits in accordance with agency rules. Agency certification of intrinsic suitability shall be based on data submitted to the agency by the proposing entity and data included by the administrative law judge in the record of any public hearing on recommended certification, and applied against criteria in agency rules and any additional criteria developed by the agency in effect at the time the proposing entity submits the site for certification.

In the event that all candidate sites selected by the board before May 3, 1984, are eliminated from further consideration and a new search for candidate sites is commenced, "intrinsic suitability" of a land area or site shall mean that, because of the inherent and natural attributes, physical features, and location of the land area or site, the waste facility proposed to be located in the area or site would not be likely to result in material harm to the public health and safety and natural resources and that therefore the proposed facility can reasonably be expected to qualify for permits in accordance with agency rules.

Subd. 16. **Legislative commission on waste management.** "Legislative commission on waste management" or "legislative commission" means the commission established in section 115A.14.

Subd. 17. **Local government unit.** "Local government unit" means cities, towns, and counties.

Subd. 17a. **Major appliances.** "Major appliances" means clothes washers and dryers, dishwashers, hot water heaters, heat pumps, furnaces, garbage disposals, trash compactors, conventional and microwave ovens, ranges and stoves, air conditioners, dehumidifiers, refrigerators, and freezers.

Subd. 18. **Metropolitan area.** "Metropolitan area" has the meaning given it in section 473.121.

Subd. 19. **Metropolitan council.** "Metropolitan council" means the council established in chapter 473.

Subd. 20. [Repealed, 1994 c 628 art 3 s 209]

Subd. 21. **Mixed municipal solid waste.** "Mixed municipal solid waste" means garbage, refuse, and other solid waste from residential, commercial, industrial, and community activities that the generator of the waste aggregates for collection, but does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural wastes, tires, lead acid batteries, motor and vehicle fluids and fil-

ters, and other materials collected, processed, and disposed of as separate waste streams.

Subd. 22. **Natural resources.** "Natural resources" has the meaning given it in chapter 116B.

Subd. 22a. **Office.** "Office" means the office of environmental assistance.

Subd. 22b. **Packaging.** "Packaging" means a container and any appurtenant material that provide a means of transporting, marketing, protecting, or handling a product. "Packaging" includes pallets and packing such as blocking, bracing, cushioning, weatherproofing, strapping, coatings, closures, inks, dyes, pigments, and labels.

Subd. 23. **Person.** "Person" has the meaning given it in section 116.06, but does not include the office.

Subd. 24. **Political subdivision.** "Political subdivision" means any municipal corporation, governmental subdivision of the state, local government unit, special district, or local or regional board, commission, or authority authorized by law to plan or provide for waste management.

Subd. 24a. **Problem material.** "Problem material" means a material that, when it is processed or disposed of with mixed municipal solid waste, contributes to one or more of the following results:

(1) the release of a hazardous substance, or pollutant or contaminant, as defined in section 115B.02, subdivisions 8, 13, and 15;

(2) pollution of water as defined in section 115.01, subdivision 13;

(3) air pollution as defined in section 116.06, subdivision 4; or

(4) a significant threat to the safe or efficient operation of a solid waste facility.

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

Subd. 25. **Processing.** "Processing" means the treatment of waste after collection and before disposal. Processing includes but is not limited to reduction, storage, separation, exchange, resource recovery, physical, chemical, or biological modification, and transfer from one waste facility to another.

Subd. 25a. **Recyclable materials.** "Recyclable materials" means materials that are separated from mixed municipal solid waste for the purpose of recycling, including paper, glass, plastics, metals, automobile oil, and batteries. Refuse-derived fuel or other material that is destroyed by incineration is not a recyclable material.

Subd. 25b. **Recycling.** "Recycling" means the process of collecting and preparing recyclable materials and reusing the materials in their original form or using them in manufacturing processes that do not cause the destruction of recyclable materials in a manner that precludes further use.

Subd. 25c. **Recycling facility.** "Recycling facility" means a facility at which materials are prepared for reuse in their original form or for use in manufacturing processes that do not cause the destruction of the materials in a manner that precludes further use.

Subd. 26. **Regional development commission.** "Regional development commission" means a commission established pursuant to sections 462.381 to 462.397.

Subd. 27. **Resource recovery.** "Resource recovery" means the reclamation for sale, use, or reuse of materials, substances, energy, or other products contained within or derived from waste.

Subd. 28. **Resource recovery facility.** "Resource recovery facility" means a waste facility established and used primarily for resource recovery, including related and appurtenant facilities such as transmission facilities and transfer stations primarily serving the resource recovery facility.

Subd. 28a. **Retrievable storage.** "Retrievable storage" means a method of disposal whereby wastes are placed in a facility established pursuant to sections 115A.18 to

115A.30 for an indeterminate period in a manner designed to allow the removal of the waste at a later time.

Subd. 28b. **Sanitary district.** "Sanitary district" means a sanitary district with the authority to regulate solid waste.

Subd. 29. **Sewage sludge.** "Sewage sludge" means the solids and associated liquids in municipal wastewater which are encountered and concentrated by a municipal wastewater treatment plant. Sewage sludge does not include incinerator residues and grit, scum, or screenings removed from other solids during treatment.

Subd. 30. **Sewage sludge disposal facility.** "Sewage sludge disposal facility" means property owned or leased by a political subdivision and used for interim or final disposal or land spreading of sewage sludge.

Subd. 31. **Solid waste.** "Solid waste" has the meaning given it in section 116.06, subdivision 22.

Subd. 32. **Solid waste management district.** "Solid waste management district" or "waste district" means a geographic area extending into two or more counties in which the management of solid waste is vested in a special district established pursuant to sections 115A.62 to 115A.72.

Subd. 32a. **Stabilization.** "Stabilization" means a chemical or thermal process in which materials or energy are added to waste in order to reduce the possibility of migration of any hazardous constituents of the resulting stabilized waste in preparation for placement of the waste in a stabilization and containment facility.

Subd. 32b. **Stabilization and containment facility.** "Stabilization and containment facility" means a waste facility that is designed for stabilization and containment of waste, together with other appurtenant facilities needed to process waste for stabilization, containment, or transfer to another facility.

Subd. 33. **Transfer station.** "Transfer station" means an intermediate waste facility in which waste collected from any source is temporarily deposited to await transportation to another waste facility.

Subd. 34. **Waste.** "Waste" means solid waste, sewage sludge, and hazardous waste.

Subd. 35. **Waste facility.** "Waste facility" means all property, real or personal, including negative and positive easements and water and air rights, which is or may be needed or useful for the processing or disposal of waste, except property for the collection of the waste and property used primarily for the manufacture of scrap metal or paper. Waste facility includes but is not limited to transfer stations, processing facilities, and disposal sites and facilities.

Subd. 36. **Waste management.** "Waste management" means activities which are intended to affect or control the generation of waste and activities which provide for or control the collection, processing and disposal of waste.

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

(1) reusing a product in its original form;

(2) increasing the life span of a product;

(3) reducing material or the toxicity of material used in production or packaging; or

(4) changing procurement, consumption, or waste generation habits to result in smaller quantities or lower toxicity of waste generated.

Subd. 37. **Waste rendered nonhazardous.** "Waste rendered nonhazardous" means (1) waste excluded from regulation as a hazardous waste under the delisting requirements of United States Code, title 42, section 6921 and any federal and state delisting rules, and (2) other nonhazardous residual waste from the processing of hazardous waste.

History: *1980 c 564 art 1 s 3; 1981 c 352 s 1,2; 1983 c 373 s 5,6; 1984 c 640 s 32;*

1984 c 644 s 1,2; 1985 c 274 s 1-3; 1986 c 425 s 12-17; 1987 c 348 s 1,2; 1988 c 524 s 1; 1988 c 685 s 3,4; 1989 c 325 s 3; 1989 c 335 art 1 s 128,129,269; 1Sp1989 c 1 art 18 s 3; art 20 s 1,2; 1991 c 303 s 1; 1991 c 337 s 6,7; 1992 c 593 art 1 s 5-7; 1993 c 249 s 7,8,61; 1994 c 585 s 3; 1994 c 639 art 5 s 3

ENFORCEMENT

115A.034 ENFORCEMENT.

This chapter may be enforced under sections 115.071 and 116.072.

History: *1992 c 593 art 1 s 8; 1993 c 249 s 9*

OFFICE OF ENVIRONMENTAL ASSISTANCE

115A.04 [Repealed, 1989 c 335 art 1 s 270]

115A.05 [Repealed, 1989 c 335 art 1 s 270]

115A.055 OFFICE OF ENVIRONMENTAL ASSISTANCE.

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

History: *1989 c 335 art 1 s 130; 1994 c 639 art 5 s 1*

115A.06 POWERS OF THE OFFICE.

Subdivision 1. [Repealed, 1989 c 335 art 1 s 270]

Subd. 2. **Rules.** Unless otherwise provided, the director shall promulgate rules in accordance with chapter 14 to govern its activities and implement this chapter.

Subd. 3. [Repealed, 1989 c 335 art 1 s 270]

Subd. 4. **Acquisition of sites for hazardous waste facilities.** The office may direct the commissioner of administration to acquire by purchase, lease, condemnation, gift, or grant, any permanent or temporary right, title, and interest in and to real property, including positive and negative easements and water, air, and development rights, for sites and buffer areas surrounding sites for hazardous waste facilities approved by the office pursuant to sections 115A.18 to 115A.30 and 115A.32 to 115A.39. The office may also direct the commissioner of administration to acquire by purchase, lease, gift, or grant, development rights for sites and buffer areas surrounding sites for all or part of the period that the development limitations imposed by section 115A.21, subdivision 3, are in effect. Money for the acquisition of any real property and interest in real property pursuant to this subdivision shall come from the issuance of state waste management bonds in accordance with sections 115A.58 and 115A.59. The property shall be leased in accordance with terms determined by the office to the owner and operator of the hazardous waste facility located thereon at a rate sufficient to pay debt service on the bonds which provided funds used to acquire the property and to evaluate the eligibility of the property for inclusion in the inventory under section 115A.09 or candidacy under sections 115A.18 to 115A.30. Any local government unit and the commissioners of transportation, natural resources, and administration may convey or allow the use of any property for such sites and areas, subject to the rights of the holders of any bonds issued with respect thereto, with or without compensation and without an election or approval by any other government agency. Land owned by the state may be exchanged for land not owned by the state for the purpose of providing a site and buffer area for a commercial hazardous waste facility, in accordance with the provisions of section 94.341 to 94.347 and other law. The commissioner of administration may hold the property for the purposes for which it was acquired, and may lease, rent, or dispose of

the property so far as not needed for such purposes, upon the terms and in the manner the commissioner deems advisable. The right to acquire lands and property rights by condemnation shall be exercised in accordance with chapter 117. The commissioner of administration may take possession of any property for which condemnation proceedings have been commenced at any time after the issuance of a court order appointing commissioners for its condemnation. Where the property is acquired through eminent domain proceedings, the land owner's compensation shall be the fair market value of the property. Where the property is acquired by means other than through eminent domain proceedings, as by direct purchase or gift, the land owner's compensation shall be determined by the agreement of the parties involved. An award of compensation in a condemnation proceeding shall not be increased or decreased by reason of any increase or decrease in the value of the property caused by its designation in the inventory of preferred areas under section 115A.09 or as a candidate site under sections 115A.18 to 115A.30 or its selection as a site or buffer area.

Subd. 5. **Right of access.** Whenever the office or the director acting on behalf of the office deems it necessary to the accomplishment of its purposes, the office or any member, employee, or agent thereof, when authorized by it or the director, may enter upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations, provided that the entrance and activity is undertaken after reasonable notice and during normal business hours and provided that compensation is made for any damages to the property caused by the entrance and activity. The office may pay a reasonable estimate of the damages it believes will be caused by the entrance and activity before entering any property.

Subd. 5a. **Acquisition of easements.** If the office determines that any activity deemed necessary to accomplish its purposes under subdivision 5 constitutes a substantial interference with the possession, enjoyment, or value of the property where the activity will take place, the office may acquire a temporary easement interest in the property that permits the office to carry out the activity and other activities incidental to the accomplishment of the same purposes. The office may acquire temporary easement interests under this subdivision by purchase, gift, or condemnation. The right of the office to acquire a temporary easement is subject to the same requirements and may be exercised with the same authority as provided for acquisition of property interests by the commissioner of administration under subdivision 4.

Subd. 6. **Gifts and grants.** The office, or the director or commissioner of administration on behalf of the office, may apply for and accept gifts, loans, or other property from the United States, the state, or any person for any of the purposes of the office, may enter into any agreement required in connection therewith, and may hold, use, and dispose of the money or property in accordance with the terms of the gift, grant, loan or agreement.

Subd. 7. **Property exempt from taxation.** Any real or personal property owned, used, or occupied by the office or the commissioner of administration for any purpose referred to in sections 115A.01 to 115A.72 is declared to be acquired, owned, used, and occupied for public and governmental purposes, and shall be exempt from taxation by the state or any political subdivision of or other governmental unit of or within the state, provided that those properties shall be subject to special assessments levied for a local improvement in amounts proportionate to and not exceeding the special benefit received by the properties from the improvement. No possible use of the properties in any manner different from their use for hazardous waste management at the time shall be considered in determining the special benefit received by the properties.

Subd. 8. **Contracts.** The director may enter into any contract necessary or proper for the exercise of its powers or the accomplishment of its purposes.

Subd. 9. **Joint powers.** The director may act under the provisions of section 471.59, or any other law providing for joint or cooperative action.

Subd. 10. **Research.** The director may conduct research studies and programs, collect and analyze data, prepare reports, maps, charts, and tables, and order all necessary hearings and investigations in connection with its work and may advise and assist other

government units on planning matters within the scope of its powers, duties, and objectives.

Subd. 11. **Employees; contracts for services.** The director may employ persons and contract for services to perform research, engineering, legal, or other services necessary to carry out its functions.

Subd. 12. **Insurance.** The director may procure insurance in amounts it deems necessary to insure against liability of the office and employees or both, for personal injury or death and property damage or destruction, with the force and effect stated in chapter 466, and against risks of damage to or destruction of any of its property as it deems necessary.

Subd. 13. **Private and nonpublic data.** Any data held by the director which consists of trade secret information as defined by section 13.37, subdivision 1, clause (b), or sales information, shall be classified as private or nonpublic data as defined in section 13.02, subdivisions 9 and 12. When data is classified private or nonpublic pursuant to this subdivision the director may:

(a) Use the data to compile and publish analyses or summaries and to carry out the director's statutory responsibilities in a manner which does not identify the subject of the data; or

(b) Disclose the data when it is obligated to disclose it to comply with federal law or regulation but only to the extent required by the federal law or regulation.

The subject of data classified as private or nonpublic pursuant to this subdivision may authorize the disclosure of some or all of that data by the director.

Subd. 14. **Waste rendered nonhazardous and industrial waste.** The director shall encourage improved management of waste rendered nonhazardous and industrial waste that should be managed separately from mixed municipal solid waste, and may provide technical and planning assistance to political subdivisions, waste generators, and others for the purpose of identifying, developing, and implementing alternative management methods for those wastes.

History: *1980 c 564 art 2 s 3; 1981 c 311 s 39; 1981 c 352 s 4-6; 1982 c 545 s 24; 1982 c 569 s 1,2; 1983 c 373 s 9; 1984 c 644 s 3; 1986 c 425 s 19; 1986 c 444; 1987 c 348 s 3; 1989 c 335 art 1 s 269; 1991 c 199 art 2 s 7; 1991 c 326 s 5; 1991 c 337 s 8; 1994 c 639 art 5 s 3*

115A.07 DUTIES; GENERAL.

Subdivision 1. **Interagency coordination.** The director shall inform the commissioner of trade and economic development of the office's activities, solicit the advice and recommendations of the agency, and coordinate its work with the regulatory and enforcement activities of the agency.

Subd. 2. **Biennial report.** Before November 15 of each even-numbered year the director shall prepare and submit to the legislative commission a report of the office's operations and activities pursuant to sections 115A.01 to 115A.72 and any recommendations for legislative action. The report shall include a proposed work plan for the following biennium.

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

History: *1980 c 564 art 2 s 4; 1981 c 356 s 119,248; 1983 c 289 s 115 subd 1; 1986*

c 444; 1987 c 312 art 1 s 26 subd 2; 1987 c 384 art 2 s 18; 1989 c 335 art 1 s 269; 1992 c 593 art 1 s 9

115A.071 [Repealed, 1984 c 644 s 82]

115A.072 PUBLIC EDUCATION ON WASTE MANAGEMENT.

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

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

Subd. 2. **Duties; education.** In addition to the director's general duties established in subdivision 1, the director shall:

(1) develop a statewide waste management public education campaign with materials that may be easily adapted by political subdivisions to meet their program needs; and

(2) develop and make available to schools educational curricula on waste education for grades kindergarten to 12 to address at least waste reduction, recycling, litter, and proper management and disposal of problem materials.

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

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

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

Subd. 4. **Education, promotion, and procurement.** The director shall include waste reduction and reuse, including packaging reduction and reuse, as an element of the director's program of public education on waste management required under this section. The waste reduction and reuse education program must include dissemination of information and may include an award program for model waste reduction and reuse efforts. Waste reduction and reuse educational efforts must also include provision of information about and promotion of the model procurement program developed by the commissioner of administration under section 115A.15, subdivision 7, or any other model procurement program that results in significant waste reduction and reuse.

History: *1987 c 348 s 4; 1Sp1989 c 1 art 21 s 1; 1991 c 345 art 2 s 19; 1994 c 480 s 7; 1994 c 585 s 4; 1994 c 639 art 5 s 3*

115A.075 LEGISLATIVE POLICY AGAINST DISPOSAL OF HAZARDOUS WASTE.

The legislature finds that hazardous waste must be managed in a manner that pro-

tects the health, safety, and welfare of the citizens of the state and protects and conserves the state's natural resources and environment; that reduction of the amount of waste generated and processing, treatment, separation, and resource recovery are the preferred methods to manage hazardous waste; and that disposal of hazardous waste should be used only as a last resort when all other management methods are ineffective, and then only if an environmentally suitable site can be identified in the state.

The office, in its planning, facility approval, and other activities related to hazardous waste shall give first priority to eliminating the generation of hazardous waste and eliminating or reducing the hazardous character of the waste generated in the state through processing, treatment, separation, and resource recovery.

History: *1984 c 644 s 4; 1989 c 335 art 1 s 269*

115A.08 DUTIES OF THE BOARD; HAZARDOUS WASTE MANAGEMENT REPORTS.

Subdivision 1. **Report on liability and long-term care.** By January 1, 1981, the board through its chair shall report and make recommendations to the legislative commission on the management and financing of liability and postclosure monitoring and care for hazardous waste facilities in the state. The commissioner of energy and economic development, in consultation with the chair of the board, shall conduct background research and shall report to the board by July 1, 1980, on the subject of the report required by this subdivision and on additional research needed to complete the report and recommendations.

Subd. 2. **Report on private investment in hazardous waste management.** By January 1, 1981, the board through its chair shall report and make recommendations to the legislative commission on alternative state strategies to promote and secure private investment in hazardous waste management services, technologies, and facilities. The report at least shall evaluate: (a) strategies to promote and secure investments by generators in waste reduction, separation, pretreatment, and recovery; (b) strategies to secure generator assistance in the establishment and financing of hazardous waste facilities either directly through joint investment or indirectly through taxation; (c) strategies to protect the public against business failure by owners and operators of hazardous waste facilities; (d) strategies to promote and secure investment by the private waste management industry in hazardous waste facilities in the state. The report shall recommend priorities, objectives, and appropriate legislation for promoting and securing private investment in hazardous waste management. The commissioner of energy and economic development, in consultation with the chair of the board, shall conduct background research and shall report to the board by July 1, 1980, on the subject of the report required by this subdivision and on additional research needed to complete the report and recommendations.

Subd. 3. **Report on interstate cooperation.** By January 1, 1981, the board through its chair shall report and make recommendations to the legislative commission on actions to develop interstate cooperation in hazardous waste planning and management. The report shall make recommendations on uniformity of state laws, rules, and enforcement and on coordination of decisions on facility development and use. The commissioner of energy and economic development, in consultation with the chair of the board, shall conduct background research and shall report to the board by July 1, 1980, on the report required by this subdivision and on additional research needed to complete the report and recommendations.

Subd. 4. **Report on hazardous waste management.** By November 1, 1983, the board through its chair shall issue a report on hazardous waste management. The report shall include at least:

(a) an evaluation of alternative disposal facilities, disposal facility technologies, and disposal facility design and operating specifications;

(b) an evaluation of prospects, strategies, and methods for developing commercial hazardous waste disposal facilities of various types, sizes, and functions;

(c) an evaluation of all feasible and prudent alternatives to disposal, including waste reduction, separation, pretreatment, processing, and resource recovery, and the potential of the alternatives to reduce the need for and practice of disposal;

(d) an evaluation of feasible and prudent disposal abatement objectives, along with a description of hazardous waste management methods and technologies, private and government actions, facilities and services, development schedules, revenue-raising measures, and levels of public and private expenditure and effort necessary to the achievement of those objectives;

(e) an evaluation of implementation strategies, including at least:

(1) waste reduction, on-site processing, and off-site management by generators;

(2) changes and improvements in regulation, licensing, permitting, and enforcement;

(3) government tax and financing programs to encourage proper waste management;

(4) institutional alternatives, such as generator associations, cooperatives, franchises, public ownership, and flow control districts;

(5) promotion of private investment;

(6) interstate cooperation;

(f) an evaluation of the possibilities for negotiating long-term contracts with other states or with facilities in other states for disposal or processing of hazardous waste from Minnesota.

The report shall analyze the environmental, social, and economic effects of the alternatives and methods by which unavoidable adverse effects could be mitigated.

Subd. 5. **Report on mitigation of local effects of hazardous waste facilities.** The board through its chair shall report and make recommendations on methods of mitigating and compensating for the local risks, costs, and other adverse effects of various types of hazardous waste facilities and on methods of financing mitigation and compensation measures. The methods of mitigating and compensating to be considered must include but not be limited to the following: payment outside of levy limitations in lieu of taxes for all property taken off the tax rolls; preference in reviews of applications for federal funds conducted by the metropolitan council and regional development commissions; payment of all costs to service the facilities including the cost of roads, monitoring, inspection, enforcement, police and fire, and litter clean up costs; payment for buffer zone amenities and improvement; local control over buffer zone design; a guarantee against any and all liability that may occur. The recommendations on processing facilities must be made with the report required by subdivision 4. The recommendations on disposal facilities must be made with the report required by subdivision 5b.

Subd. 5a. **Report on assurance of security of hazardous waste facilities.** With the report required by subdivision 5, the board through its chair shall issue a report and make recommendations on methods of assuring the security of commercial hazardous waste facilities. The report and recommendations shall be based on the need to assure: effective monitoring and enforcement during operation; effective containment, control, and corrective action in any emergency situation; financial responsibility of the owner and operator throughout the operating life of the facility, using performance bonds, insurance, escrow accounts, or other means; proper closure; financial responsibility after closure; and perpetual postclosure monitoring and maintenance. The report shall include recommendations on the source of funds, including operator contributions, fee surcharges, taxes, and other sources; the amount of funds; effective protection and guarantee of funds; administration; regulatory and permit requirements; the role of local authorities; and other similar matters.

Subd. 5b. **Report on need and feasibility of hazardous waste disposal facilities.** The board through its chair shall issue a report on the estimate of need and the economic feasibility analysis required by section 115A.24. The report must be issued before the hearing required by section 115A.27. The board through its chair shall issue an interim report by February 1, 1985, on the research on need and economic feasibility.

Subd. 6. **Preparation of hazardous waste reports; procedures; public involvement.** By January 1, 1981, the board through its chair shall submit a proposed scope of work and work program for the hazardous waste reports required by subdivisions 4 and 5 to the legislative commission for review. During the preparation of the proposed scope of work and work plan and the reports, the board and the chair on behalf of the board shall encourage public debate and discussion of the issues relating to the reports. Representatives of the board, including at least one permanent member, shall meet with local officials and sponsor at least one public meeting in areas of the state affected by the inventory of preferred processing facility areas prepared pursuant to section 115A.09. The board and the chair on behalf of the board shall follow the procedures set out in section 115A.22, for consulting with citizens in areas affected by the selection of candidate sites for disposal facilities. To assist it in preparing the reports, the plan, and the certification of need required by subdivisions 4 to 5a and sections 115A.11 and 115A.24, the board through its chair shall make grants to each local project review committee established for a candidate site for disposal identified under sections 115A.18 to 115A.30. The grants may be used by the committee to employ staff, pay administrative expenses, or contract with affected units of government or qualified consultants. The board and the chair on behalf of the board shall request recommendations from the private waste management industry, the board's advisory councils, affected regional development commissions, and the metropolitan council and shall consult with them on the board's intended disposition of the recommendations. The reports of the board shall summarize the comments received and the board's response to the comments. Copies of the reports must be submitted to the legislative commission on waste management.

History: *1980 c 564 art 2 s 5; 1981 c 352 s 7-9; 1981 c 356 s 248; 1982 c 569 s 4; 1983 c 289 s 115 subd 1; 1983 c 373 s 10-13; 1984 c 644 s 5,6; 1985 c 248 s 70; 1986 c 444*

115A.09 DUTIES OF THE BOARD; INVENTORY OF PREFERRED AREAS FOR HAZARDOUS WASTE PROCESSING FACILITIES.

Subdivision 1. **Board responsibility.** By January 1, 1982, the board shall prepare an inventory of preferred areas of up to ten square miles in size for commercial hazardous waste processing facilities. No preferred area may extend into more than one statutory or home rule charter city or town, but the board may propose adjoining preferred areas in adjacent cities and towns. The inventory shall include at least three areas for each of the following categories of processing facilities: (a) a commercial chemical processing facility for hazardous waste, (b) a commercial incineration facility for hazardous waste, and (c) a commercial transfer and storage facility for hazardous waste.

Subd. 2. **Evaluation of areas.** The board shall not be required to promulgate rules pursuant to chapter 14 to govern its evaluation and selection of areas under this section. The board and the chair on behalf of the board shall evaluate the areas in consultation with the board's advisory councils, the affected counties and regions, generators of hazardous waste, and prospective facility developers. The evaluation shall consider at least the consistency of areas with state and federal regulations, local land use and land use controls, the protection of agriculture and natural resources, existing and future development patterns, transportation and other services appropriate to the hazardous waste facilities, the quality of other potential areas, and the location of hazardous waste generators. The agency shall prepare a report on the suitability of each proposed area for the use intended.

Subd. 3. **Procedures.** The board shall propose the inventory of areas by August 1, 1981 by publication in the state register and newspapers of general circulation in the state and by mail to each regional development commission or metropolitan council, and local government unit containing a proposed area. The publications and mailing shall include notice of hearings on the board's proposal. The hearings shall be conducted by the state office of administrative hearings in a manner determined by the administrative law judge to be consistent with the completion of the proceedings and

the administrative law judge's report in the time allowed by this section. At the hearing, any local government unit in which an area is proposed for inclusion in the inventory may propose an alternative area or areas within its jurisdiction. The hearing shall afford all interested persons an opportunity to testify and present evidence on the subject of the hearing. The subject of the hearing shall be limited to information submitted by the board and additional information on the proposed area or alternative areas which is relevant to the board's decision on the areas to be included in the inventory. The rulemaking and contested case procedures of chapter 14 shall not apply to this hearing. The administrative law judge may consolidate hearings. The report of the administrative law judge shall contain findings of fact, conclusions, and recommendations on the subject of the hearing. When any area in the inventory becomes unavailable as a hazardous waste facility site, the inventory shall be amended, in the manner of its original adoption, provided, however, that during the period when the inventory is being amended any other area in the inventory may be reviewed and approved under sections 115A.32 to 115A.39. No action of the board shall be held invalid by reason of the board's failure to notify any of the entities listed in this subdivision.

Subd. 4. **Grants; technical assistance.** To assist counties participating in the inventory required by this section, the board through its chair may make grants to the counties to be used to employ staff, pay administrative expenses, or contract with qualified consultants. The board through its chair shall ensure the delivery to the counties of technical information and assistance by appropriate state agencies.

Subd. 5. [Repealed, 1990 c 604 art 10 s 32]

History: *1980 c 564 art 2 s 6; 1980 c 615 s 60; 1981 c 352 s 10; 1982 c 424 s 130; 1984 c 640 s 32; 1984 c 644 s 7; 1986 c 444*

115A.10 DUTIES OF THE OFFICE; HAZARDOUS WASTE FACILITIES; ENCOURAGEMENT OF PRIVATE ENTERPRISE.

The office and the director on behalf of the office shall encourage the development and operation of hazardous waste facilities by private enterprise to the extent practicable and consistent with the purposes of sections 115A.01 to 115A.72 and the office's hazardous waste management plan adopted pursuant to section 115A.11. In preparing the reports under section 115A.08 and the inventory of processing facility sites under section 115A.09, in adopting the management plan, and in its actions and decisions under sections 115A.18 to 115A.30 and 115A.32 to 115A.39, the office and the director on behalf of the office shall solicit the active participation of private waste management firms and shall so conduct its activities as to encourage private permit applications for facilities needed in the state. The office shall promulgate rules for accepting and evaluating applications for permits for the construction and operation of facilities at sites preferred by the office pursuant to section 115A.09. The rules shall include standards and procedures for making determinations on the minimum qualifications, including technical competence and financial capability, of permit applicants.

History: *1980 c 564 art 2 s 7; 1983 c 373 s 14; 1986 c 444; 1989 c 335 art 1 s 269*

115A.11 HAZARDOUS WASTE MANAGEMENT PLAN.

Subdivision 1. **Requirement.** The office shall adopt, amend as appropriate, and implement a hazardous waste management plan.

Subd. 1a. **Policy.** In developing and implementing the plan, the highest priority of the office must be placed upon alternatives to land disposal of hazardous wastes including: technologies to modify industrial processes or introduce new processes that will reduce or eliminate hazardous waste generation; recycling, reuse, and recovery methods to reduce or eliminate hazardous waste disposal; and conversion and treatment technologies to reduce the degree of environmental risk from hazardous waste. The office shall also consider technologies for retrievable storage of hazardous wastes for later recycling, reuse, recovery, conversion, or treatment.

Subd. 1b. **Contents.** The plan must include at least the elements prescribed in this subdivision.

(a) The plan must estimate the types and quantities of hazardous waste that will be generated in the state through the year 2000.

(b) The plan must set out specific and quantifiable objectives for reducing to the greatest feasible and prudent extent the need for and use of disposal facilities located within the state, through waste reduction, pretreatment, retrievable storage, processing, and resource recovery.

(c) The plan must estimate the minimum disposal capacity and capability required by generators in the state for use through the year 2000. The estimate must be based on the achievement of the objectives under paragraph (b).

(d) The plan must describe and recommend the implementation strategies required to assure availability of disposal capacity for the types and quantities of waste estimated under paragraph (c) and to achieve the objectives required by paragraph (b). The recommendations must address at least the following: the necessary private and government actions; the types of facilities and programs required; the availability and use of specific facilities outside of the state; development schedules for facilities, services, and rules that should be established in the state; revenue-raising and financing measures; levels of public and private effort and expenditure; legal and institutional changes; and other similar matters.

(e) The plan must provide for the orderly development of hazardous waste management sites and facilities to protect the health and safety of rural and urban communities. In preparing the plan the office shall consider its impact upon agriculture and natural resources.

(f) The plan must include methods and procedures that will encourage the establishment of programs, services, and facilities that the office recommends for development in the state for the recycling, reuse, recovery, conversion, treatment, destruction, transfer, storage, or disposal, including retrievable storage, of hazardous waste.

The plan must be consistent with the estimate of need and feasibility analysis prepared under section 115A.24, the analysis provided in the phase I environmental impact statement determined to be adequate under section 115A.25, subdivision 1a, and the decisions made by the office under sections 115A.28 and 115A.291.

The office may make the implementation of elements of the plan contingent on actions of the legislature that have been recommended in the draft plan.

Subd. 2. **Procedure.** The plan and the procedures for hearings on the plan are not subject to the rulemaking or contested case provisions of chapter 14. Before revising the draft plan or amending its adopted plan, the office shall provide notice and hold a public meeting.

Subd. 3. [Repealed, 1989 c 335 art 1 s 270]

History: *1980 c 564 art 2 s 8; 1980 c 615 s 60; 1981 c 352 s 11; 1982 c 424 s 130; 1982 c 569 s 5; 1983 c 373 s 15,16; 1984 c 644 s 8; 1986 c 444; 1987 c 348 s 5; 1989 c 335 art 1 s 269*

115A.12 ADVISORY COUNCILS.

(a) The director shall establish a solid waste management advisory council, a hazardous waste management planning council, and a market development coordinating council, that are broadly representative of the geographic areas and interests of the state.

(b) The solid waste council shall have not less than nine nor more than 21 members. The membership of the solid waste council shall consist of one-third citizen representatives, one-third representatives from local government units, and one-third representatives from private solid waste management firms. The solid waste council shall contain at least three members experienced in the private recycling industry and at least one member experienced in each of the following areas: state and municipal finance; solid waste collection, processing, and disposal; and solid waste reduction and resource recovery.

(c) The hazardous waste council shall have not less than nine nor more than 18 members. The membership of the hazardous waste advisory council shall consist of one-third citizen representatives, one-third representatives from local government units, and one-third representatives of hazardous waste generators and private hazardous waste management firms.

(d) The market development coordinating council shall have not less than nine nor more than 18 members and shall consist of one representative from the department of trade and economic development, the department of administration, the pollution control agency, Minnesota Technology, Inc., the metropolitan council, and the legislative commission on waste management. The other members shall represent local government units, private recycling markets, and private recycling collectors. The market development coordinating council expires June 30, 1997.

(e) The chairs of the advisory councils shall be appointed by the director. The director shall provide administrative and staff services for the advisory councils. The advisory councils shall have such duties as are assigned by law or the director. The solid waste advisory council shall make recommendations to the office on its solid waste management activities. The hazardous waste advisory council shall make recommendations to the office on its activities under sections 115A.08, 115A.09, 115A.10, 115A.11, 115A.20, 115A.21, and 115A.24. Members of the advisory councils shall serve without compensation but shall be reimbursed for their reasonable expenses as determined by the director. The solid waste management advisory council and the hazardous waste management planning council expire June 30, 1997.

History: *1980 c 564 art 2 s 9; 1981 c 356 s 120; 1983 c 289 s 115 subd 1; 1986 c 444; 1987 c 312 art 1 s 5; 1987 c 384 art 2 s 19; 1988 c 629 s 18; 1989 c 325 s 4; 1Sp1989 c 1 art 18 s 4; 1991 c 322 s 19; 1994 c 480 s 8*

115A.13 [Repealed, 1987 c 348 s 52]

LEGISLATIVE COMMISSION ON WASTE MANAGEMENT

115A.14 LEGISLATIVE COMMISSION ON WASTE MANAGEMENT.

Subdivision 1. **Creation, membership, vacancies.** There is created in the legislative branch a legislative commission on waste management. The commission shall consist of ten members appointed as follows:

(1) Five members of the senate to be appointed by the subcommittee on committees and to serve until their successors are appointed;

(2) Five members of the house to be appointed by the speaker and to serve until their successors are appointed;

(3) Vacancies occurring on the commission shall not affect the authority of the remaining members of the commission to carry out the functions thereof, and such vacancies shall be filled in the same manner as the original positions.

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

Subd. 3. **Data from state agencies; availability.** The commission may request information from any state officer or agency in order to assist it in carrying out its duties and such officer or agency is authorized and directed to promptly furnish any data required, subject to applicable requirements or restrictions imposed by chapter 13 and section 15.17.

Subd. 4. **Powers and duties.** (a) The commission shall oversee the activities of the office, agency, and metropolitan council relating to solid and hazardous waste management, and direct such changes or additions in the work plan of the office, agency, and

council relating to solid and hazardous waste management as the commission deems fit.

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

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

Subd. 5. [Repealed, 1988 c 685 s 44]

Subd. 6. [Repealed, 1988 c 685 s 44]

History: *1980 c 564 art 2 s 11; 1981 c 311 s 39; 1982 c 545 s 24; 1985 c 248 s 70; 1986 c 425 s 21; 1986 c 444; 1986 c 465 art 3 s 3; 1987 c 384 art 2 s 20; 1988 c 685 s 5; 1988 c 690 art 1 s 1; 1989 c 325 s 5; 1989 c 335 art 1 s 269; art 4 s 34; 1991 c 337 s 9*

STATE RESOURCE RECOVERY PROGRAM

115A.15 STATE GOVERNMENT RESOURCE RECOVERY.

Subdivision 1. **Establishment of program.** There is established within state government a resource recovery program to promote the reduction of waste generated by state agencies, the separation and recovery of recyclable and reusable commodities, the procurement of recyclable commodities and commodities containing recycled materials, and the uniform disposition of recovered materials and surplus property. The program shall be administered by the commissioner of administration.

Subd. 1a. **Definitions.** For the purposes of this section, the following terms have the meanings given them.

(a) "Recyclable commodities" means materials, pieces of equipment, and parts which are not reusable but which contain recoverable resources.

(b) "Reusable commodities" means materials, pieces of equipment, parts, and used supplies which can be reused for their original purpose in their existing condition.

Subd. 2. **Duties of commissioner.** The commissioner of administration shall develop policies to require state agencies and the state legislature to separate all recyclable and reusable commodities wherever feasible. The commissioner shall develop and institute procedures for the separation, collection, and storage of used commodities wherever feasible in state agencies and shall establish policies for the reuse, sale, or disposition of recovered materials and surplus property. The commissioner shall promote and publicize the waste reduction and waste separation and recovery procedures on an ongoing basis to all state employees. The commissioner shall issue guidelines for the procurement of recyclable commodities and commodities containing recycled materials that include definitions of recycled materials, the percentage of recycled materials to be contained in each commodity and performance specifications. To the extent practicable, the guidelines shall be written so as to give preference to recyclable commodities and commodities containing recycled materials. The commissioner shall inform state agencies whenever recycled commodities are available for purchase. The commissioner shall investigate opportunities for the inclusion of and may include local governments and regional agencies in administrative state programs to reduce waste, and to separate and recover recyclable and reusable commodities.

Subd. 3. **Powers of commissioner.** The commissioner of administration shall have such powers as are necessary to implement and operate the program. All state agencies shall comply with the policies, guidelines, and procedures established by the commissioner pursuant to this section. The commissioner shall have the power to issue orders to compel compliance.

Subd. 4. **Staff.** The commissioner of administration shall employ an administrator to manage the resource recovery program and other staff and consultants as are necessary to carry out the program.

Subd. 5. **Reports.** (a) By January 1 of each odd-numbered year, the commissioner of administration shall submit a report to the governor and to the legislative commission summarizing past activities and proposed goals of the program for the following biennium. The report shall include at least:

(1) a summary list of product and commodity purchases that contain recycled materials;

(2) the results of any performance tests conducted on recycled products and agencies' experience with recycled products used;

(3) a list of all organizations participating in and using the cooperative purchasing program; and

(4) a list of products and commodities purchased for their recyclability and of recycled products reviewed for purchase.

(b) By July 1 of each even-numbered year, the commissioner of the pollution control agency and the commissioner of public service shall submit recommendations to the commissioner regarding the operation of the program.

Subd. 6. **Use of funds.** All funds appropriated by the state for the resource recovery program, all revenues resulting from the sale of recyclable and reusable commodities made available for sale as a result of the resource recovery program and all reimbursements to the commissioner of expenses incurred by the commissioner in developing and administering resource recovery systems for state agencies, governmental units, and nonprofit organizations must be deposited in the general fund. The commissioner shall determine the waste disposal cost savings associated with recycling and reuse activities.

Subd. 7. **Waste reduction procurement model.** To reduce the amount of solid waste generated by the state and to provide a model for other public and private procurement systems, the commissioner, in cooperation with the director of the office of waste management, shall develop waste reduction procurement programs, including an expanded life cycle costing system for procurement of durable and repairable items by November 1, 1991. On implementation of the model procurement system, the commissioner, in cooperation with the director, shall develop and distribute informational materials for the purpose of promoting the procurement model to other public and private entities under section 115A.072, subdivision 4.

Subd. 8. **Recycled materials purchasing.** The commissioner of administration shall develop and implement a cooperative purchasing program under section 471.59 to include state agencies, local governmental units, and, where feasible, other state governments and the federal government, for the purpose of purchasing materials made from recycled materials. By July 1, 1991, the commissioner shall develop a program to promote the cooperative purchasing program to those units of government and other persons.

Subd. 9. **Recycling goal.** By December 31, 1993, the commissioner shall recycle at least 40 percent by weight of the solid waste generated by state offices and other state operations located in the metropolitan area. By March 1 of each year the commissioner shall report to the office and the metropolitan council the estimated recycling rates by county for state offices and other state operations in the metropolitan area for the previous calendar year. The office shall incorporate these figures into the reports submitted by the counties under section 115A.557, subdivision 3, to determine each county's progress toward the goal in section 115A.551, subdivision 2.

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

Subd. 10. **Materials recovery facility; materials collection; waste audits.** (a) The commissioner of the department of administration shall establish a central materials recovery facility to manage recyclable materials collected from state offices and other state operations in the metropolitan area. The facility must be located as close as practicable to the state capitol complex and must be large enough to accommodate temporary storage of recyclable materials collected from state offices and other state operations in the metropolitan area and the processing of those materials for market.

(b) The commissioner shall establish a recyclable materials collection and transportation system for state offices and other state operations in the metropolitan area that will maximize the types and amount of materials collected and the number of state offices and other state operations served, and will minimize barriers to effective and efficient collection, transportation, and marketing of recyclable materials.

(c) The commissioner shall perform regular audits on the solid waste and recyclable materials collected to identify materials upon which to focus waste reduction, reuse, and recycling activities and to measure:

(1) progress made toward the recycling goal in subdivision 9;

(2) progress made to reduce waste generation; and

(3) potential for additional waste reduction, reuse, and recycling.

(d) The commissioner may contract with private entities for the activities required in this subdivision if the commissioner determines that it would be cost-effective to do so.

History: *1980 c 564 art 2 s 12; 1981 c 356 s 121; 1982 c 569 s 6-8; 1983 c 289 s 115 subd 1; 1985 c 274 s 4; 1986 c 425 s 22; 1986 c 444; 1987 c 186 s 15; 1987 c 312 art 1 s 10 subd 2; 1987 c 348 s 6; 1988 c 613 s 20; 1Sp1989 c 1 art 18 s 5-8; 1990 c 594 art 3 s 5; 1991 c 304 s 1,2; 1991 c 337 s 10,11; 1992 c 514 s 15; 1992 c 593 art 1 s 10*

115A.151 STATE AND LOCAL FACILITIES.

By January 1, 1991, a state agency or local unit of government or school district in the metropolitan area or by January 1, 1993, a state agency or local unit of government or school district outside of the metropolitan area shall:

(1) ensure that facilities under its control, from which mixed municipal solid waste is collected, have containers for at least three of the following recyclable materials: paper, glass, plastic, and metal; and

(2) transfer all recyclable materials collected to a recycler.

History: *1Sp1989 c 1 art 18 s 9; 1991 c 337 s 12*

HAZARDOUS AND INDUSTRIAL WASTE: TECHNICAL AND FINANCIAL AID

115A.152 TECHNICAL AND RESEARCH ASSISTANCE TO GENERATORS.

Subdivision 1. **Purposes.** The director shall provide for the establishment of a technical and research assistance program for generators of hazardous and industrial waste in the state. The program must be designed to assist generators in the state to obtain information about management of hazardous and industrial wastes, to identify and apply methods of reducing the generation of hazardous and industrial wastes, to facilitate improved management of hazardous and industrial waste and compliance with hazardous and industrial waste rules, and for other similar purposes. The program must emphasize assistance to smaller businesses that have inadequate technical and financial resources for obtaining information, assessing waste management methods, and developing and applying waste reduction techniques. Information and techniques developed under this program must be made available through the program to all generators in the state.

Subd. 2. **Assistance.** The assistance program must include at least the following elements:

(1) outreach programs including on-site consultation at locations where hazardous and industrial waste is generated, seminars, workshops, training programs, and other similar activities designed to assist generators to evaluate their hazardous and industrial waste generation and management practices, identify opportunities for waste reduction and improved management, and identify subjects that require additional information and research;

(2) a program to assemble, catalog, and disseminate information about hazardous and industrial waste reduction and management methods, available commercial waste management facilities and consultant services, and regulatory programs (provided that specific questions by generators about interpretation or application of waste management rules should be referred to appropriate regulatory agencies);

(3) evaluation and interpretation of information needed by generators to improve their management of hazardous and industrial waste; and

(4) informational and technical research to identify alternative technical solutions that can be applied by specific generators to reduce the generation of hazardous and industrial waste.

Subd. 3. **Administration; evaluation.** The assistance program must be coordinated with other public and private programs that provide management and technical assistance to smaller businesses and generators of small quantities of hazardous and industrial waste, including programs operated by public and private educational institutions. The director may make grants to a public or private person or association that will establish and operate the elements of the program, but the grants must require that the assistance be provided at no cost to the generators and that the grantees provide periodic reports on the improvements in waste management, waste reduction, and regulatory compliance achieved by generators through the assistance provided.

History: *1984 c 644 s 9; 1985 c 248 s 70; 1987 c 348 s 7; 1989 c 335 art 1 s 269; 1994 c 639 art 5 s 3*

115A.154 WASTE REDUCTION GRANTS.

Subdivision 1. **Proposals and grants.** The director may make grants to generators of hazardous and industrial waste in the state for studies to determine the feasibility of applying specific methods and technologies to reduce the generation of hazardous and industrial waste. Grants may be awarded only on the basis of proposals submitted to the director by generators. The director shall select proposals that offer the greatest opportunity to significantly reduce the generation of hazardous or industrial waste by the generators making the proposal and, if applied generally, to significantly reduce the generation of hazardous or industrial waste in the state. The significance of waste reduction may be measured by the volume of hazardous or industrial waste that is eliminated or by the reduction in risk to public health and safety and the environment that is achieved by the reduction. In awarding grants, the director may consider the extent of any financial and technical support that will be available from other sources for the study. The director may adopt additional criteria for awarding grants consistent with the purposes of this section.

Subd. 2. **Limitations.** The waste reduction information and techniques developed using grants awarded under this section must be made available to all hazardous and industrial waste generators in the state through the technical assistance and research program established under section 115A.152. Grant money awarded under this section may not be spent for capital improvements or equipment.

History: *1984 c 644 s 10; 1987 c 348 s 8; 1989 c 335 art 1 s 269; 1994 c 639 art 5 s 3*

115A.156 WASTE PROCESSING AND COLLECTION FACILITIES AND SERVICES; DEVELOPMENT GRANTS.

Subdivision 1. **Purpose.** The director may make grants to eligible recipients to determine the feasibility and method of developing and operating specific types of com-

mercial facilities and services for collecting, processing, or containment of hazardous waste and for improving management of waste rendered nonhazardous and industrial waste. Grants may be made for:

(1) market assessment, including generator surveys;

(2) conceptual design and preliminary engineering;

(3) financial and business planning necessary to address sources of funding, financial security, liability, pricing structure, and similar matters necessary to the development and proper operation of a facility or service;

(4) environmental impact and site analysis, preparation of permit applications, and environmental and permit reviews;

(5) analysis of methods of overcoming identified technical, institutional, legal, regulatory, market, or other constraints; and

(6) analysis of other factors affecting development, operation, and use of a facility or service.

Subd. 2. **Eligibility.** A person proposing to develop and operate specific collection, processing, or containment facilities or services to serve generators in the state and persons seeking to develop or operate specific types of facilities or services to manage industrial waste generated in the state, are eligible for a grant. The director may give preference to applications by associations of two or more generators in the state proposing to develop and operate commercial facilities or services for collection, processing, or containment of their hazardous wastes.

Subd. 3. **Procedure for awarding grants.** (a) The director may establish procedures for awarding grants under this section. The procedures for awarding grants shall include consideration of the following factors:

(1) the need to provide collection, processing, or containment for a variety of types of hazardous wastes;

(2) the extent to which the facility or service would provide a significant amount of processing, collection, or containment capacity for waste generated in the state, measured by the volume of waste to be managed, the number and geographic distribution of generators to be served, or the reduction of risk to public health and safety and the environment achieved by the operation of the facility or service;

(3) the availability of the facility or service to all generators needing the service in the area to be served;

(4) the contribution of the facility or service to achieving the policies and objectives of the hazardous waste management plan;

(5) participation by persons with demonstrated experience in developing, designing, or operating hazardous waste collection, processing, or containment facilities or services;

(6) the need for assistance from the director to accomplish the work;

(7) the extent to which a proposal would produce and analyze new information; and

(8) other factors established by the director consistent with the purposes of this section.

(b) The director may adopt emergency rules under sections 14.29 to 14.36 to implement the grant program. Emergency rules adopted by the director remain in effect for 360 days or until permanent rules are adopted, whichever occurs first.

Subd. 4. **Limitations.** A grant may not exceed $50,000. The director may award more than one grant for a single proposed facility or service if the director finds that results of previous studies justify additional work on other aspects of the development and operation of the facility or service. Grant money may not be spent for capital improvements or equipment.

Subd. 5. **Matching funds required.** (a) For hazardous waste, a recipient other than an association of generators in the state must agree to pay at least 50 percent of the cost

of the study. An association of two or more generators in the state must agree to pay at least 20 percent of the cost of the study.

(b) For industrial waste, a grant must be matched by money or in-kind services provided by the grantee covering at least 50 percent of the project cost.

History: *1984 c 640 s 32; 1984 c 644 s 11; 1987 c 348 s 9-11; 1988 c 685 s 6-8; 1989 c 335 art 1 s 269; 1994 c 639 art 5 s 3*

115A.158 DEVELOPMENT OF PROCESSING AND COLLECTION FACILITIES AND SERVICES; REQUESTS FOR PROPOSALS.

Subdivision 1. **Request by office; contents of proposal.** The director shall request proposals for the development and operation of specific types of commercial hazardous waste processing and collection facilities and services, and improved management of waste rendered nonhazardous and industrial waste, that offer the greatest possibility of achieving the policies and objectives of the waste management plan including the goal of reducing to the greatest extent feasible and prudent the need for and practice of disposal. The proposals must contain at least the following information:

(1) the technical, managerial, and financial qualifications and experience of the proposer in developing and operating facilities and services of the type proposed;

(2) the technical specifications of the proposed facility or service including the process that will be used, the amount and types of hazardous or industrial waste that can be handled, the types, volume, and proposed disposition of any residuals, and a description of anticipated adverse environmental effects;

(3) the requirements of the site or sites needed to develop and operate the facility or service and the likelihood that a suitable site or sites will be available for the facility or service;

(4) projections of the costs and revenues of the facility or service, the types and numbers of generators who will use it, and the fee structure and estimated user charges necessary to make the facility or services economically viable;

(5) the schedule for developing and commencing operation of the facility or service; and

(6) the financial, technical, institutional, legal, regulatory, and other constraints that may hinder or prevent the development or operation of the facility or service and the actions that could be taken by state and local governments or by the private sector to overcome those constraints.

The information provided in the proposal must be based on current and projected market conditions, hazardous or industrial waste streams, legal and institutional arrangements, and other circumstances specific to the state.

Subd. 2. **Procedure; evaluation; report.** In requesting proposals, the office shall inform potential developers of the assistance available to them in siting and establishing hazardous waste processing and collection facilities and services in the state and improved industrial waste management in the state, including the availability of sites listed on the office's inventory of preferred areas for hazardous waste processing facilities, the authority of the office to acquire sites and order the establishment of facilities in those areas, the policies and objectives of the hazardous waste management plan, and the availability of information developed by the office on hazardous or industrial waste generation and management in the state.

The office shall evaluate the proposals received in response to its request and determine the extent to which the proposals demonstrate the qualifications of the developers, the technical and economic feasibility of the proposed facility or service, and the extent to which the proposed facility or service will contribute in a significant way to the achievement of the policies and objectives of the hazardous waste management plan.

The office shall report to the legislative commission on the proposals that it has received and evaluated, and on the legislative, regulatory, and other actions needed to develop and operate the proposed facilities or services.

Subd. 3. **Time for proposals.** The office shall issue the first round of requests under this section by June 1, 1984. The first round proposals must be returned to the office by November 1, 1984. The office shall submit its report on these proposals to the legislative commission by January 1, 1985. The office may issue additional requests in 1985 and in future years.

History: *1984 c 644 s 12; 1986 c 444; 1987 c 348 s 12,13; 1989 c 335 art 1 s 269*

115A.159 DEVELOPMENT OF HAZARDOUS WASTE COLLECTION AND TRANSPORTATION SERVICES.

The board through its chair shall request, pursuant to the first round of requests under section 115A.158, proposals for the development and operation of a system of commercial collection and transportation services for hazardous waste especially designed to serve smaller businesses and generators of small quantities of hazardous waste that have difficulty securing effective and reliable collection and shipment services and acceptance of wastes at appropriate waste facilities. The board's request under this section should require proposals containing at least the following elements:

(1) a collection service;

(2) assistance to clients about on-site waste management;

(3) a shipping coordination service, which may include transfer and temporary storage and bulking facilities and computerized inventory tracking capabilities, as the proposer deems appropriate and necessary to provide efficient and reliable combined shipment of wastes from generators to processing and disposal facilities;

(4) a brokerage service to ensure acceptance of wastes at appropriate processing and disposal facilities;

(5) recommendations on the utility of local or regional associations of generators to increase the efficiency and reliability of the services; and

(6) recommendations on processing facilities, including mobile modular processing units, that would complement the collection and transportation system.

The board's request must require proposals that offer the delivery of services in stages commencing no later than July 1, 1985. The board should specify or require specification of immediate and staged performance standards for the services proposed, which may include standards relating to the volume and types of waste, the number and geographic distribution of generators served, accessibility, the percent of total waste and generators served, and other appropriate matters. After evaluating proposals received in response to its request, the board may select a proposer as the recipient of a development grant under section 115A.156. Notwithstanding the provisions of section 115A.156, subdivisions 4 and 5, on the amount of the grant and the required match, the grant made under this section may be up to $350,000 and may not require a match greater than ten percent of the grant award.

History: *1984 c 644 s 13; 1986 c 444*

115A.162 [Repealed, 1989 c 335 art 1 s 270]

115A.165 EVALUATION OF GRANT AND LOAN PROGRAMS; REPORT.

By November 1 of each even-numbered year, the director shall evaluate the extent to which the programs provided in sections 115A.152 to 115A.159 have contributed to the achievement of the policies and objectives of the hazardous waste management plan and other related planning documents prepared by the director. The evaluation must consider the amount of waste reduction achieved by generators through the technical and research assistance and waste reduction grant programs and the progress in reducing the need for and practice of disposal achieved through the development grants and the request for proposal program. The director shall report the results of the evaluation to the legislative commission with recommendations for further action.

History: *1984 c 644 s 15; 1988 c 685 s 10; 1989 c 335 art 1 s 269; 1991 c 199 art 2 s 1; 1994 c 639 art 5 s 3*

115A.17 [Repealed, 1986 c 425 s 46]

HAZARDOUS WASTE FACILITIES

115A.175 SITING AND FACILITY DEVELOPMENT AUTHORITY; LIMITATIONS.

Subdivision 1. **Siting activity.** The office shall terminate all activity under sections 115A.18 to 115A.30 relating to the selection and evaluation of sites for hazardous waste facilities, except as provided in this section.

Subd. 2. **Dismissal of candidate sites.** All candidate sites remaining under section 115A.21, subdivision 1, are dismissed from further consideration as candidate sites for hazardous waste facilities.

Subd. 3. **Alternative siting procedure.** The office shall proceed with site evaluation and selection in accordance with sections 115A.191 to 115A.194. In evaluating and selecting sites under sections 115A.191 to 115A.194, the board shall act in accordance with sections 115A.18 to 115A.20, except as otherwise provided in sections 115A.191 to 115A.194.

Subd. 4. **Stabilization and containment facility; restrictions; containment standards to protect human health and environment.** No facility may be sited under sections 115A.18 to 115A.30 except a stabilization and containment facility. The facility must be above grade unless the office determines, after environmental review under section 115A.194, subdivision 2, that an alternative design would provide greater protection for human health and the environment. No waste may be accepted for containment at the facility except the following:

(a) waste rendered nonhazardous;

(b) industrial waste; and

(c) waste that is not eligible for acceptance under clause (a) or (b), if the agency determines that all of the following requirements are met:

(1) there is no feasible and prudent alternative to containment of the waste that would minimize adverse impact upon human health and the environment;

(2) the waste has been treated using feasible and prudent technology that minimizes the possibility of migration of any hazardous constituents of the waste; and

(3) the waste meets the standards adopted to protect human health and the environment under the authority of United States Code, title 42, section 6924(m), and any additional protective standards adopted by the agency under section 116.07, subdivision 4.

If no federal or state standards have been adopted for a waste as provided in clause (3), the waste may not be accepted for containment.

A person proposing a waste for containment at the facility has the burden of demonstrating that the waste may be accepted under the requirements of this subdivision. The demonstration under clause (c) must document in a form satisfactory to the agency the manner in which the person has attempted to meet the standard for acceptance of the waste under clause (a) and the characteristics of the waste that prevent compliance with that standard.

Subd. 5. **Agency adoption of rules.** The agency shall adopt rules under chapter 14 establishing procedures by which a person must demonstrate that a hazardous waste can be accepted by the facility as provided in subdivision 4. The agency shall adopt all rules necessary to implement the provisions of subdivision 4 and this subdivision before granting any permit for operation of the facility.

History: *1986 c 425 s 23; 1989 c 335 art 1 s 269*

115A.18 LEGISLATIVE FINDINGS; PURPOSE.

The legislature finds that proper management of hazardous waste generated in the state is needed to conserve and protect the natural resources in the state and the health,

safety, and welfare of its citizens, that the establishment of safe commercial disposal facilities in the state may be necessary and practicable to properly manage the waste, that this cannot be accomplished solely by the activities of private persons and political subdivisions acting alone or jointly, and that therefore it is necessary to provide a procedure for making final determinations on whether commercial stabilization and containment facilities should be established in the state and on the locations, sizes, types, and functions of any such facilities.

History: *1980 c 564 art 3 s 1; 1984 c 644 s 17; 1986 c 425 s 47*

115A.19 PROCEDURE NOT EXCLUSIVE.

Except as provided in Minnesota Statutes 1980, section 115A.21, subdivision 1, the procedure established by sections 115A.18 to 115A.30 for the permitting of hazardous waste stabilization and containment facilities shall not preclude the issuance of permits by the agency pursuant to section 116.07 for stabilization and containment facilities at sites not reviewed under sections 115A.18 to 115A.30.

History: *1980 c 564 art 3 s 2; 1981 c 352 s 12; 1986 c 425 s 47*

115A.191 VOLUNTARY CONTRACTS WITH COUNTIES.

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

Subd. 2. **Resolution of interest in negotiating; eligibility.** A county is eligible to negotiate a contract under this section if the county board files with the office of waste management and the office accepts a resolution adopted by the county board that expresses the county board's interest in negotiations and its willingness to accept the preliminary evaluation of one or more study areas in the county for consideration as a location of a stabilization and containment facility. The county board resolution expressing interest in negotiations must provide for county cooperation with the office, as necessary to facilitate the evaluation of study areas in the county, and for the appointment of a member of the county board or an officer or employee of the county as official liaison with the office with respect to the matters provided in the resolution and future negotiations with the office. A county board by resolution may withdraw a resolution of interest, and the office of waste management may withdraw its acceptance of such a resolution, at any time before the parties execute a contract under this section. A county that is eligible to negotiate a contract shall receive the benefits as provided in section 477A.012.

Subd. 3. **Evaluation of study areas.** The director, in cooperation with the county board, may engage in activities necessary for the evaluation of study areas in any county that is eligible to negotiate a contract under this section. The determination of whether any study area may be considered or excluded from consideration under sections 115A.18 to 115A.20 and sections 115A.191 to 115A.194 is exclusively the authority of the office. Before entering a contract under this section, the office shall determine whether the study area identified in the contract is appropriate for preparation of an environmental impact statement.

Subd. 4. **Requirements of contract.** A contract between the office and a county must include provisions by which:

(a) the state, acting through the office, agrees to implement the terms of the contract and provide the benefits and implement the procedures and practices agreed upon pursuant to subdivision 5;

(b) the state, acting through the office, agrees to provide benefits to the county under section 477A.012; and

(c) the county agrees that the study area or areas in the county that have been determined by the office to be appropriate for preparation of an environmental impact statement are subject to evaluation and selection by the office as provided in section 115A.194.

After executing the contract, the study areas identified in the contract remain subject to the provisions of section 115A.194 until the study areas are dismissed from further consideration by the office.

Subd. 5. **Negotiated terms.** A contract executed under subdivision 4 may contain any terms agreed upon by the state and the county, including:

(a) procedures relating to the evaluation and selection of a site and the construction, operation, and maintenance of a proposed facility, including procedures for cooperation, consultation, and coordination between the office and the county or political subdivisions in the county on those matters;

(b) practices and procedures necessary to assure and demonstrate safe operation of a proposed facility;

(c) services, compensation, or benefits to be provided by the state to the county or political subdivisions in the county, including (i) payments in lieu of taxes on a publicly owned site; (ii) compensation for property owners adjoining or in close proximity to the facility through property tax relief or assurance of property value; (iii) compensation for local public expenditures necessitated by the facility; (iv) compensation for demonstrable private and community impacts from the facility; (v) monetary compensation to the county and other parties affected by the facility, in addition to compensation for necessary expenditures and demonstrable impacts; (vi) provision of services or benefits to promote the health, safety, comfort, and economic development and well-being of the county and its citizens;

(d) provision for amendment of the contract; and

(e) provisions for resolutions of disputes under the contract.

Terms of the contract requiring enactment of additional state law, including an appropriation law, are contingent on that enactment. The contract may provide for implementation of its terms during evaluation of a study area in the county under section 115A.194 and in the event that a study area in the county is selected as the site for a facility under that section.

Subd. 6. **Referendum contract.** (a) **Requirement.** If a county board enters into negotiations for a contract, makes a binding offer to enter a contract, or enters a contract under this section, the county board shall submit the question of whether to proceed with the contract to a vote of the eligible voters of the county at the general election to be held on November 6, 1990. The election may be held before a final determination has been made on the acceptability of a site in the county.

(b) **Election procedure.** The election shall be held in the manner provided for a state general election under Minnesota election law as far as practicable. The question on the ballot shall be "Shall the county proceed with the terms and conditions of its contract with the state of Minnesota for siting and operating a hazardous waste stabilization and containment facility in the county?" The question is approved if a majority of those voting on the question vote "Yes." The result of the election shall be certified to the county board of commissioners and is binding upon the county and the state as set forth in paragraph (c).

(c) **Effect of referendum.** If the question is approved, the county and the state may proceed to implement the terms and conditions of the binding offer or of the contract. If the question is not approved, the stabilization and containment facility authorized under sections 115A.175 to 115A.194, shall not be located in the county.

History: *1986 c 425 s 24; 1989 c 335 art 1 s 269; 1990 c 359 s 1*

115A.192 SELECTION OF DEVELOPER OF STABILIZATION AND CONTAINMENT FACILITY; REQUEST FOR PROPOSALS.

Subdivision 1. **Request for proposals.** The director shall issue requests for proposals for the development and operation of a stabilization and containment facility. The request must be designed to obtain detailed information about the qualifications of a respondent to develop and operate the facility; the capital and operating costs of the facility and the sources and methods by which the respondent plans to finance the facility; the technical specifications of the proposed facility and the technologies to be employed for processing, stabilization, containment, and monitoring; the requirements of the site for the proposed facility; the schedule for developing and commencing operation of the facility; and other matters which the director deems necessary for the office to evaluate and select a developer and operator for the facility. Before issuing the requests, the director shall prepare a draft of clauses (a) to (e) of the report required by section 115A.193. The draft must accompany the requests for proposals.

Subd. 2. **Selection of developer; procedure.** After evaluating responses to the request for proposals and before selecting a site as provided in section 115A.194, the office shall decide whether to select a developer for a stabilization and containment facility. If the office selects a developer it shall proceed as provided in section 115A.194 to select a site for the development of a facility. If the office decides not to select a developer, the office shall proceed as provided in section 115A.194 to select and acquire a site for potential future development of a facility.

History: *1986 c 425 s 25; 1989 c 335 art 1 s 269*

115A.193 REPORT ON FACILITY DEVELOPMENT.

The director shall prepare a report concerning the development of a stabilization and containment facility. The report must include:

(a) a conceptual plan that describes and evaluates the proposed design and operation of the facility, including an evaluation of technical feasibility, a description and evaluation of the types and quantities of hazardous waste and nonhazardous residual waste from hazardous waste processing that the facility would be designed to accept, and a description and evaluation of technologies needed or desired at the facility for processing, stabilization, and containment, including above grade containment;

(b) procedures and standards for the operation of the facility that require the use of reduction, recycling, and recovery of any hazardous waste before the waste is accepted for stabilization when the alternative or additional management method is feasible and prudent and would materially reduce adverse impact on human health and the environment;

(c) evaluation of the design and use of the facility for processing, stabilization, or containment of industrial waste, including technical and regulatory issues and alternative management methods;

(d) evaluation of feasible and prudent technologies that may substantially reduce the possibility of migration of any hazardous constituents of wastes that the facility would be designed to accept;

(e) a general analysis of the necessary and desirable physical, locational, and other characteristics of a site for the facility;

(f) an evaluation of the prospects of and conditions required for the regulatory delisting of residual waste from hazardous waste processing;

(g) an evaluation of the feasibility of an interstate, regional approach to the management of hazardous waste; and

(h) an economic feasibility analysis of the development and operation of the facility, including the anticipated use of the facility by Minnesota generators from within and outside the state, and sources of private and public financing that may be available or necessary for development or operation.

The director shall submit a draft of the report to the office and the legislative com-

mission on waste management by July 1, 1988, and before executing contracts under section 115A.191.

History: *1986 c 425 s 26; 1989 c 335 art 1 s 269*

115A.194 EVALUATION AND SELECTION OF SITES; PERMITS.

Subdivision 1. **Office; determination of siting procedure.** The office shall proceed to take the actions provided in subdivisions 2 and 4 pursuant to any contracts executed under section 115A.191.

Subd. 2. **Office; requirements before decisions.** Before the office makes decisions under subdivision 4:

(a) the office shall complete environmental impact statements on the environmental effects of the decisions, in the manner provided in chapter 116D and the rules issued under that chapter; and

(b) the director shall present to the office the report on facility development prepared as provided in section 115A.193.

Subd. 3. **Agencies; report on permit conditions and application requirements.** Within 30 days following the determination of the adequacy of the environmental impact statements and the presentation of the report on facility development, after consulting with the office, facility developers, and affected local government units, the chief executive officer of each permitting state agency shall issue to the office reports on permit conditions and permit application requirements at each location. The reports must indicate, to the extent possible based on existing information, the probable terms, conditions, and requirements of permits, and the probable supplementary documentation that will be required for the environmental impact statement and permit applications under subdivision 5. If the office has selected a developer, the report of the agency must include a description of the rules necessary to implement the provisions of section 115A.175, subdivision 4.

Subd. 4. **Office decisions.** Within 90 days after the office has determined the adequacy of the environmental impact statement, the office shall: (1) specify the type, capacity, and function of the stabilization and containment facility, including operating and design standards for the facility; and (2) select one of the study areas evaluated under this section as the site for the facility, unless the office determines, based upon potential significant adverse effects on the environment, that none of the study areas should be selected as the site consistent with the reasonable requirements of the public health, safety, and welfare and the state's paramount concern for the protection of its air, water, land, and other natural resources from pollution, impairment, or destruction. The provisions of sections 115A.28, subdivisions 2 and 3 and 115A.30 apply to any office decision to select a study area as a site under this subdivision.

If the office selects a study area as a site under this subdivision, the office shall dismiss all other study areas from further consideration. If the office does not select a study area as a site under this subdivision, the office shall dismiss all study areas from further consideration.

Subd. 5. **Agency; permits; environmental review.** Before the agency issues permits for the facility, the agency shall complete an environmental impact statement specifically on the environmental effects of permitting decisions required to be made by permitting agencies. The statement must be completed in the manner provided in chapter 116D and the rules issued under that chapter.

History: *1986 c 425 s 27; 1989 c 335 art 1 s 269*

115A.195 PUBLIC PARTICIPATION IN OWNERSHIP AND MANAGEMENT OF FACILITY.

The stabilization and containment facility developed under sections 115A.18 to 115A.30 may be wholly owned by the state or jointly owned by the state and a developer selected by the office under section 115A.192. The director may negotiate and the office may enter agreements with a selected developer providing terms and conditions for the

development and operation of the facility. If the agreements provide for capital improvements or equipment, or for payment of state money, the agreements may be implemented only if funds are appropriated and available to the office for those purposes.

History: *1988 c 683 s 1; 1989 c 209 art 1 s 9; 1989 c 339 art 1 s 269*

115A.20 EVALUATION OF SITES.

The office shall not be required to promulgate rules pursuant to chapter 14 to govern its evaluation and selection of sites for commercial stabilization and containment facilities under sections 115A.18 to 115A.30, nor shall the agency be required to promulgate rules pursuant to chapter 14 on criteria and standards to govern its certification of intrinsic suitability of sites for commercial stabilization and containment facilities under sections 115A.18 to 115A.30. In evaluating and selecting sites for stabilization and containment facilities, the office shall consider at least the following factors:

(a) economic feasibility, including proximity to concentrations of generators of the types of hazardous wastes likely to be proposed and permitted for stabilization and containment;

(b) intrinsic suitability of the sites;

(c) federal and state pollution control and environmental protection rules;

(d) the risk and effect for local residents, units of government, and the local public health, safety, and welfare, including such dangers as an accidental release of wastes during transportation to a facility or at a facility, water, air, and land pollution, and fire or explosion;

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

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

No land shall be excluded from consideration except land determined by the agency to be intrinsically unsuitable for the use intended.

History: *1980 c 564 art 3 s 3; 1981 c 352 s 13; 1982 c 424 s 130; 1986 c 425 s 47; 1989 c 335 art 1 s 269*

115A.201 BEDROCK STABILIZATION AND CONTAINMENT.

Subdivision 1. **Evaluation of technology; study areas.** The board shall evaluate the feasibility of bedrock stabilization and containment of hazardous waste. If the board determines that bedrock stabilization and containment is or may be a feasible stabilization and containment technology, the board shall identify bedrock study areas of up to four square miles in size for further evaluation.

Subd. 2. **Participation by affected localities.** A plan review committee shall be established for each study area and a temporary board member shall be appointed as provided in this subdivision, to participate in the preparation of the draft plan and certification of need to be issued under section 115A.11 and adopted under sections 115A.11 and 115A.24. Within 30 days following the identification of a bedrock study area by the board, the governor shall appoint the chair and members of a plan review committee, ensuring a balanced representation of all parties with a legitimate and direct interest in the review of the plan and certification of need. The plan review committee shall be eligible for technical assistance and grants pursuant to section 115A.08, subdivision 6, to assist it in participating in the plan and certification of need. Within 30 days following the appointment of a plan review committee, the committee shall select a temporary board member to be added to the board. Temporary board members may be members of the local plan review committee, and they shall be residents of the

county in which the study area is primarily located. Temporary board members shall serve for terms lasting so long as the location the member represents is a study area. Temporary board members shall not participate or vote in decisions affecting the selection and certification of sites under this section and section 115A.21.

Subd. 3. **Candidate sites.** If the board determines that candidate sites are to be selected in the bedrock study areas, the candidate sites must be proposed and selected as provided in section 115A.21, subdivisions 1 and 2a.

History: *1983 c 373 s 17; 1986 c 425 s 47*

115A.21 CANDIDATE SITES.

Subdivision 1. **Selection.** The board shall select more than one location in the state, no more than one site per county, as candidate sites for commercial stabilization and containment facilities for hazardous waste. Candidate sites must be reviewed pursuant to sections 115A.22 to 115A.30. No location shall be selected as a candidate site unless the agency certifies its intrinsic suitability for the use intended pursuant to subdivision 2a.

Subd. 1a. **Volunteer candidate sites.** The board may select candidate sites under this subdivision in addition to sites selected under subdivision 1. The board may submit a site to the agency if the site is proposed as a candidate site by a facility operator with the approval of the owners of the site and the statutory or home rule charter city or town and county in which the site is located. A location may be selected as a candidate site under this subdivision if the agency determines and certifies that the site is intrinsically suitable for the use intended. The commissioner of the agency shall identify the information needed by the agency to make the determination of intrinsic suitability. The board shall obtain the necessary information and provide it to the commissioner.

The commissioner of the agency shall make a recommendation to the agency board on intrinsic suitability within 30 days after receiving the information from the board. The agency board shall make the determination on intrinsic suitability not later than the first regular meeting of the agency board held at least ten days after the commissioner's recommendation.

The decisions of the board and the agency under this subdivision are not subject to the contested case or rulemaking provisions of chapter 14, or the procedures provided in subdivision 2a.

Subd. 2. **Search procedure.** The board shall consult with the agency and the private waste management industry in selecting candidate sites. Any sites proposed in applications for permits for stabilization and containment facilities being reviewed by the agency may be included by the board as candidate sites, provided the agency certifies the intrinsic suitability of the sites. The agency shall suspend its review of any permit application being reviewed by the board for inclusion as a candidate site until the site is eliminated from consideration as a candidate site.

As soon as practicable, the board through its chair shall publish a request soliciting proposals and permit applications for hazardous waste stabilization and containment facilities from potential developers and operators of such facilities. Notice of the request shall be published in the State Register and newspapers of general circulation in the state and shall be transmitted to all regional development commissions, the metropolitan council, and all counties in the state. The board may select conceptual design and operating specifications for a variety of hazardous waste stabilization and containment facilities in sufficient detail and extent in the judgment of the board to assist the evaluation of sites and the selection of candidate sites. By November 1, 1980, the board through its chair shall notify each regional development commission, or the metropolitan council, and each local government unit within whose jurisdiction the board intends to search for candidate sites. The notification shall explain the selection of the jurisdiction as a search area; shall summarize any conceptual specifications and the evaluation factors, criteria, standards, and procedures the board intends to use in

selecting candidate sites; and shall describe the relationship of the candidate site selection process to the other review procedures under sections 115A.18 to 115A.30 and the hazardous waste reports and plans required under sections 115A.055 to 115A.15. The notification shall request recommendations and suggestions from each such commission, the metropolitan council, and local government unit on the criteria, standards, and procedures the board should use in selecting candidate sites within the time allowed. The board through its chair shall make a written response to any recommendations, explaining its disposition of the recommendations. No action of the board may be held invalid by reason of the board's failure to notify any of the entities listed in this subdivision.

Subd. 2a. **Intrinsic suitability certification.** The board shall provide to the agency data relating to the intrinsic suitability of a site to be proposed as a candidate site as soon as available. The commissioner of the agency shall issue notice indicating whether the commissioner recommends that the proposed sites should be certified as intrinsically suitable. The board through its chair and the commissioner shall publish notice of hearings on the board's proposal and the commissioner's recommendations. Notice shall be published in the state register and newspapers of general circulation in the state and shall be sent by mail to all regional development commissions, or the metropolitan council, and to local government units containing a proposed candidate site. The hearings shall be conducted by the state office of administrative hearings in a manner consistent with the completion of the proceedings and the administrative law judge's report to the agency and board in the time allowed by this section. The hearing shall afford all interested persons an opportunity to testify and present evidence on the subject of the hearing. The subject of the hearing shall be limited to information submitted by the board and additional information on the proposed sites which is relevant to the board's decision on candidate sites and the agency's decision on intrinsic suitability. The rulemaking and contested case procedures of chapter 14 shall not apply to this hearing. The administrative law judge may consolidate hearings. The report of the administrative law judge shall contain findings of fact, conclusions, and recommendations on the subject of the hearing. The agency shall make a final determination as to the intrinsic suitability of each proposed site and shall certify sites accordingly. No action of the board or agency may be held invalid by reason of the board's or agency's failure to notify any of the entities listed in this subdivision.

Subd. 3. **Development limitations.** In order to permit the comparative evaluation of sites and buffer areas and the participation of affected localities in decisions about the use of sites and buffer areas, development in each candidate site and in a buffer area identified by the board surrounding and at least equal in area to the site shall be limited to development consistent with the development plans, land use classifications, and zoning and other official controls applying to the property on February 1, 1983. No development inconsistent with the plans, use classification, controls, and zoning requirements; no transfers or change of use of public land; and no conditional uses may be permitted. The development limitations shall extend until six months following final action of the board pursuant to section 115A.28. No plan, land use classification, official control, or zoning of any political subdivision shall permit or be amended to permit development inconsistent with the requirements of this section, nor shall any political subdivision sanction or approve any subdivision, permit, license, or other authorization which would allow development inconsistent with the requirements of this section.

History: *1980 c 564 art 3 s 4; 1981 c 352 s 14-16; 1982 c 424 s 130; 1982 c 569 s 9; 1983 c 373 s 18; 1984 c 640 s 32; 1984 c 644 s 18,19; 1986 c 425 s 47; 1986 c 444; 1987 c 186 s 15; 1991 c 199 art 2 s 1*

115A.22 PARTICIPATION BY AFFECTED LOCALITIES.

Subdivision 1. **General.** In order systematically to involve those who would be affected most directly by stabilization and containment facilities in all decisions leading to their establishment, the board's decisions on reports referred to in subdivision 7, the plan adopted under section 115A.11, and the estimates and analysis required under sec-

tion 115A.24 shall not be made until after the establishment of local project review committees for each candidate site, with representation on the board, pursuant to this section.

Subd. 2. **Establishment of local project review committees.** A local project review committee shall be established for each location selected as a candidate site. The local committee shall exist, and its members shall serve, so long as the location for which the committee was formed is a candidate site or, for the site or sites finally chosen, until the commencement of the operation of the facility at that site.

Subd. 3. **Membership on local committees.** Within 60 days following the selection of a candidate site under section 115A.21, the governor shall appoint the chair and members of the local project review committee, ensuring a balanced representation of all parties with a legitimate and direct interest in the outcome of the project review. The governor shall consult particularly with affected local units of government before selecting members. Members may be added to the local committee from time to time by the governor.

Subd. 4. **Appointment of temporary board members.** Within 30 days following the appointment of a local project review committee, the local committee shall select a temporary board member to be added to the board for the purposes of the reports to be issued under section 115A.08, the plan to be adopted under section 115A.11, and the estimates, the analysis and the review of candidate sites conducted under sections 115A.18 to 115A.30. Temporary board members shall not participate or vote in decisions affecting the selection and certification of sites under sections 115A.201 and 115A.21. If a local committee fails to appoint a temporary board member within the time permitted by this subdivision, the governor shall appoint a temporary board member to represent the committee on the board. Temporary board members may be members of the local project review committee, and they shall be residents of the county where the candidate site is located. Temporary board members shall serve for terms lasting as long as the location the member represents is a candidate site or, in the case of members representing a site or sites finally chosen for the facility, until the commencement of the operation of the facility at that site.

Subd. 5. **Duties of local committees.** During the review, the local project review committee shall: inform affected local communities, government units, and residents of the proposed land containment and stabilization and containment facilities and of the planning and environmental review process relating to the proposed facilities; solicit and record local attitudes and concerns respecting the proposed facilities and represent and communicate such attitudes and concerns to the board, the legislative commission, the environmental quality board, the agency, and other units and agencies of government; and act as a forum for the exchange of local attitudes and concerns and the development, where possible, of local consensus.

Subd. 6. **Technical assistance; grants.** To assist local project review committees to participate in the preparation of environmental impact statements and permit applications, the board through its chair shall make grants to the committees to be used to employ staff, pay administrative expenses, or contract with affected units of government or qualified consultants. The board through its chair shall ensure the delivery to the committees of technical information and assistance by appropriate state agencies.

Subd. 7. **Hazardous waste management reports.** The chair and the board shall prepare and submit the hazardous waste management reports required by section 115A.08, subdivisions 4 to 5a, in consultation with the local project review committees. The chair and the board shall request recommendations from the local committees and shall consult with the committees on the board's intended disposition of the recommendations. The reports of the board shall summarize the recommendations of the committees and the board's response to the recommendations. Before submitting the reports, the board shall hold at least one public meeting in each county in which a candidate site is located. A majority of the permanent members shall be present at each meeting. Notice of the meeting shall be published in a newspaper or newspapers of general circulation in the area for two successive weeks ending at least 15 days before the date of

the meeting. The notice shall describe the proposed facilities, the proposed location, the purpose of the board's report to the legislature, and the subsequent and related activities of the board.

History: *1980 c 564 art 3 s 5; 1981 c 352 s 17,18; 1983 c 373 s 19-23; 1984 c 644 s 20,21; 1986 c 425 s 47; 1986 c 444*

115A.23 [Repealed, 1983 c 373 s 72]

115A.24 STABILIZATION AND CONTAINMENT FACILITIES; ESTIMATE OF NEED; ANALYSIS OF ECONOMIC FEASIBILITY.

Subdivision 1. **Estimate of need for stabilization and containment facilities.** The board shall develop an estimate of the number, types, capacity, and function or use of any hazardous waste stabilization and containment facilities needed in the state.

In developing its estimate the board shall:

(1) prepare a preliminary estimate of the types and quantities of waste generated in the state for which stabilization and containment will be needed through the year 2000 based to the extent practical on data obtained from generators who are likely to use the facility;

(2) estimate the disposal capacity located outside of the state, taking into account the status of facility permits, current and planned capacity, and prospective restrictions on expansion of capacity;

(3) estimate the prospects for the continued availability of capacity outside of the state for disposal of waste generated in the state;

(4) estimate the types and quantities of waste likely to be generated as residuals of the commercial hazardous waste processing facilities recommended by the board for development in the state and for which stabilization and containment will be needed, taking into account the likely users of the facilities; and

(5) compare the indirect costs and benefits of developing stabilization and containment facilities in the state or relying on facilities outside the state to dispose of hazardous waste generated in the state, taking into account the effects on business, employment, economic development, public health and safety, the environment, and the development of collection and processing facilities and services in the state.

In preparing the estimate, the board may identify need for stabilization and containment only to the extent that the board has determined that there are no feasible and prudent alternatives, including waste reduction, separation, pretreatment, processing, and resource recovery, which would minimize adverse impact upon air, water, land and all other natural resources. Economic considerations alone may not justify an estimate of need for stabilization and containment nor the rejection of alternatives. Alternatives that are speculative and conjectural are not feasible and prudent. The board shall consider all technologies being developed in other countries as well as in the United States when it considers the alternatives to hazardous waste stabilization and containment.

Subd. 2. [Repealed, 1983 c 121 s 33]

Subd. 3. **Radioactive waste.** The board's estimate of need shall not allow the use of a facility for stabilization and containment of radioactive waste, as defined by section 116C.71, subdivision 6.

Subd. 4. **Economic feasibility analysis.** The board shall prepare an economic feasibility analysis for stabilization and containment facilities of the type, capacity, and function or use estimated by the board to be needed in the state under subdivision 1. The analysis must be specific to the sites where the facilities are proposed to be located. The analysis must include at least the following elements:

(1) an estimate of the capital, operating, and other direct costs of the facilities and the fee schedules and user charges necessary to make the facilities economically viable;

(2) an assessment of the other costs of using the stabilization and containment facilities, such as transportation costs and stabilization and containment surcharges;

(3) an assessment of the market for the facility for waste generated in the state, that identifies the generators that would use the facility under existing and likely future market conditions, describes the methods otherwise available to those generators to manage their wastes and the costs of using those methods, and establishes the level at which the cost of using the proposed facilities would be competitive with the cost of using other available methods of waste management;

(4) an estimate of the subsidy, if any, needed to make the facility competitive for Minnesota generators under existing market conditions and the changes in market conditions that would increase or lower any subsidy.

History: *1980 c 564 art 3 s 7; 1981 c 352 s 20; 1982 c 424 s 130; 1982 c 569 s 10,11; 1983 c 121 s 26; 1983 c 373 s 24; 1984 c 644 s 22; 1986 c 425 s 47*

115A.241 PARTICIPATION BY FACILITY DEVELOPERS AND OPERATORS.

The board shall solicit the participation of private developers and operators of waste facilities in the evaluation of hazardous waste stabilization and containment sites and facility specifications. The board shall request developers and operators to submit letters of intent to participate in evaluating sites, economic feasibility of stabilization and containment facilities, and facility specifications. The letters must be submitted to the board by September 1, 1984. To qualify for selection as a developer or operator, a person shall submit operability reports to the board at least 60 days before the board's hearings under section 115A.27, and shall submit an amended report within 60 days following the decisions under section 115A.28. The letters of intent and reports must be in the form and contain the information deemed appropriate by the board.

History: *1983 c 373 s 25; 1984 c 644 s 23; 1986 c 425 s 47*

115A.25 ENVIRONMENTAL REVIEW PROCEDURES.

Subdivision 1. **Environmental impact statement.** A phased environmental impact statement must be completed by the board and the agency before any permits are issued under section 115A.291. The statement must be prepared and reviewed in accordance with chapter 116D and the rules issued pursuant thereto, except as otherwise required by this section and sections 115A.11, 115A.28, and 115A.30. The board and agency shall follow the procedures in subdivisions 2 and 3 in lieu of the scoping requirements of chapter 116D and rules issued pursuant thereto. The statement must be completed in two phases as provided in subdivisions 1a and 1b.

Subd. 1a. **Phase I.** Phase I of the statement must be completed by the board on the environmental effects of the decisions that the board is required to make under section 115A.28. Phase I of the statement must not address or reconsider alternatives that have been eliminated from consideration by the board's decisions under sections 115A.201 and 115A.21. The determination of the adequacy of phase I of the statement is exclusively the authority of the board. The governor shall establish an interagency advisory group to comment on the scope of phase I of the statement, to review drafts, and to provide technical assistance in the preparation and review of phase I of the statement. The advisory group must include representatives of the agency, the departments of natural resources, health, agriculture, trade and economic development, and transportation, and the Minnesota geological survey. In order to obtain the staff assistance necessary to prepare the statement, the chair of the board may request reassignment of personnel pursuant to section 16B.37, subdivision 5, and may arrange to have other agencies prepare parts of the statement pursuant to section 16B.37, subdivision 4.

Subd. 1b. **Phase II.** Phase II of the statement must be completed by the agency as a supplement to phase I specifically for the purpose of examining the environmental effects of any permitting decisions that may be required to be made by the permitting agencies under section 115A.291. In preparing, reviewing, and determining the adequacy of phase II of the statement, the agency shall not repeat or duplicate the research and analysis contained in phase I of the statement, unless the agency determines that the information available is not adequate or that additional information is necessary

to examine the environmental effects of the permitting decisions. Phase II of the statement may not address or reconsider alternatives that have been eliminated from consideration by the board's decisions under sections 115A.201, 115A.21, and 115A.28. The determination of adequacy of phase II of the statement must be made by the agency within 180 days following submission of the preliminary permit application or applications under section 115A.291. The determination of the adequacy of phase II of the statement is exclusively the authority of the agency.

Subd. 2. **Public disclosure.** Before commencing preparation of a phase of the environmental impact statement, the board or agency shall issue a document summarizing and making full disclosure of the intended objectives and contents of the environmental impact statement and the environmental review. Announcement of the disclosure shall be published in the State Register, the Environmental Quality Board Monitor, and appropriate newspapers of general distribution. The disclosure shall:

(a) identify the candidate sites;

(b) summarize facility specifications and indicate where and when the specifications are available for inspection;

(c) describe as fully as possible the object of the review, including the significant actions, issues, alternatives, types of impacts, and compensation and mitigation measures expected to be addressed in the statement; the depth of the analysis expected; and subjects which the statement will not address in depth because they have been disposed of previously or because they are believed to be insignificant or remote and speculative;

(d) identify, by reference and brief summary, any related planning activities and environmental reviews which have been, are being, or will be conducted, and the substantive, chronological, and procedural relationship between the proposed review and the other activities and reviews;

(e) identify the membership and address of the local project review committees and the names of the local representatives on the board;

(f) summarize the comments and suggestions received from the public pursuant to subdivision 3 and the board's or agency's response.

Subd. 3. **Public participation procedures.** The public disclosure document shall be issued following diligent effort to involve the public in determining the objective and contents of the environmental impact statement. At least one public meeting shall be held in each county with a candidate site. The advice of the board, facility developers, state agencies, the local project review committees, and local units of government shall be actively solicited. The board or agency may engage the state administrative law judge to conduct meetings and make recommendations concerning the review. Each local project review committee shall present to the board or agency a written report summarizing local concerns and attitudes about the proposed action and the specific issues which the local communities and residents wish to see addressed in the environmental review.

History: *1980 c 564 art 3 s 8; 1983 c 289 s 115 subd 1; 1983 c 373 s 26-30; 1984 c 640 s 32; 1984 c 644 s 24-26; 1986 c 444; 1987 c 312 art 1 s 26 subd 2; 1987 c 384 art 2 s 1; 1991 c 199 art 2 s 1*

115A.26 AGENCIES; REPORT ON PERMIT CONDITIONS AND APPLICATION REQUIREMENTS.

Within 30 days following the board's determination of the adequacy of phase I of the environmental impact statement, and after consulting with the board, facility developers, affected local government units, and the local project review committees, the chief executive officer of each permitting state agency shall issue to the board draft reports on permit conditions and permit application requirements at each candidate site. The reports must indicate, to the extent possible based on existing information, the probable terms, conditions, and requirements of permits, including the types and categories of waste eligible for disposal with or without pretreatment, and the probable supplementary documentation that will be required for phase II of the environmental

impact statement under section 115A.25 and for permit applications under section 115A.291. The reports may be revised following the hearings under section 115A.27 as the chief executive officer deems necessary.

History: *1980 c 564 art 3 s 9; 1981 c 352 s 21; 1983 c 373 s 31; 1984 c 644 s 27*

115A.27 HEARINGS.

Subdivision 1. [Repealed, 1983 c 373 s 72]

Subd. 2. **Board hearings.** Within 120 days following the board's determination of the adequacy of phase I of the environmental impact statement under section 115A.25, the board shall conduct a hearing in each county containing a candidate site, for the purpose of receiving testimony on the decisions required under section 115A.28. The hearings must be ordered by the chair of the board. The subject of the board hearing may not extend to matters previously decided in the board's decision on sites under sections 115A.201 and 115A.21. The record of the hearings must include the estimate of need for stabilization and containment facilities and the economic feasibility analysis prepared under section 115A.24, the phase I environmental impact statement, and the reports on permit conditions issued under section 115A.26. The hearing must be conducted for the board by the state office of administrative hearings in a manner consistent with the completion of the proceedings in the time allowed. The proceedings and the hearing procedures are not subject to the rulemaking or contested case provisions of chapter 14. The hearing officer may not issue a report but shall preside at the hearings to ensure that the hearings are conducted in a fair, orderly, and expeditious manner and in accordance with the hearing procedures of the board. A majority of the permanent members of the board shall be present at the hearing.

History: *1980 c 564 art 3 s 10; 1980 c 615 s 60; 1982 c 424 s 130; 1983 c 373 s 32; 1984 c 644 s 28; 1986 c 425 s 47; 1986 c 444*

115A.28 FINAL DECISION.

Subdivision 1. **Decision of board.** Within 60 days following the conclusion of the hearings under section 115A.27, subdivision 2, and after consulting with private facility developers, the permitting agencies, affected local government units, and the local project review committees, the board shall make the decisions as required by this subdivision. If the board decides that a stabilization and containment facility should not be developed in the state, it shall dismiss the candidate sites from further consideration. If the board determines and certifies that a stabilization and containment facility is needed and should be developed in the state, the board shall select a site or sites and specify the number, type, capacity, function, and use of any facilities to be established under sections 115A.18 to 115A.30. Sites that are not selected by the board cease to be candidate sites. If the chair of the board determines that an agency report on permit conditions and application requirements has been substantially revised following hearings held pursuant to section 115A.27, subdivision 2, the chair may delay the decision for 30 days and may order a public hearing to receive further testimony on the sites and facilities to be established. The proceeding must be conducted as provided in section 115A.27, subdivision 2, except that hearings shall not be separately held in the affected counties and the issues relating to all agency reports must be considered at one hearing.

The board may not make any final decision under this subdivision until the board:

(1) determines the current status of and future prospects for the final development of commercial hazardous waste processing facilities in the state based on the responses to the board's requests for proposals, the results of the board's processing facility development grant and loan programs, and any applications which have been filed for processing facility operation permits; and

(2) adjusts the estimate of need prepared under section 115A.24 to reflect the types and quantities of hazardous waste likely to be generated as residuals of processing facilities based on the office's determination under clause (1).

Subd. 2. **Office's decision paramount.** The office's decision under subdivision 1 shall be final and shall supersede and preempt requirements of state agencies and political subdivisions and the requirements of sections 473H.02 to 473H.17; except that a facility established pursuant to the decision shall be subject to terms, conditions, and requirements in permits of state or federal permitting agencies, the terms of lease determined by the office under section 115A.06, subdivision 4, and any requirements imposed pursuant to subdivision 3. Except as otherwise provided in this section, no charter provision, ordinance, rule, permit, or other requirement of any state agency or political subdivision shall prevent or restrict the establishment, operation, expansion, continuance, or closure of a facility in accordance with the final decision and leases of the office and permits issued by state or federal permitting agencies.

Subd. 3. **Local requirements.** A political subdivision may impose reasonable requirements respecting the construction, inspection, operation, monitoring, and maintenance of a facility. Any such requirements shall be subject to review by the office to determine their reasonableness and consistency with the establishment and use of a facility in accordance with the final decision and lease of the office and by the agency to determine their reasonableness and consistency with permits of state and federal permitting agencies. The office or agency may approve, disapprove, suspend, modify, or reverse any such requirements. The decision of the office or agency shall be final.

History: *1980 c 564 art 3 s 11; 1981 c 352 s 22; 1983 c 373 s 33-35; 1984 c 644 s 29; 1985 c 248 s 70; 1986 c 425 s 47; 1986 c 444; 1989 c 335 art 1 s 269*

115A.29 RECONCILIATION AND INTERVENTION PROCEDURES.

Subdivision 1. **Reports to legislative commission.** At least 30 days before making final decisions on final site selection and permit application under section 115A.28, the board through its chair may report to the legislative commission describing permit conditions or requirements being considered which are not within the existing authority of the agency or the board or which would require legislation or public financial assistance. The report shall not raise issues previously decided by the board's certification of need. In any such report the chair of the board may request intervention in the review pursuant to subdivisions 2 and 3.

Subd. 2. **Preintervention assessment.** If the legislative commission determines that intervention might be warranted under the terms of subdivision 1, the commission may suspend the review process for up to 60 days to allow a preintervention assessment. The preintervention assessment shall be conducted by an independent, impartial, and qualified public intervenor appointed by the commission with the advice and consent of the parties to the dispute. The intervenor shall report to the commission. The report shall include:

(a) an assessment of whether the dispute is ripe for mediation and whether the parties are willing to mediate;

(b) an assessment of whether, within the terms of subdivision 1, substantive issues exist which were not decided by the certification of need and which cannot be resolved effectively through normal administrative and judicial procedures;

(c) a preliminary definition of the facts and issues in dispute and actions and decisions being considered;

(d) a description of the diverse parties having a legitimate and direct interest in the outcome of the dispute.

Subd. 3. **Suspension of review process; intervention proceeding.** Following the report of the intervenor, the legislative commission may suspend the review process for an additional period not to exceed 90 days for an intervention proceeding. The intervention proceeding shall not consider issues previously decided by the board's certification of need. The intervenor shall be in charge of the intervention proceeding and may call for such participation and establish such procedures as the intervenor deems necessary and appropriate to facilitate agreement. The intervenor shall keep the chair of the legislative commission informed on the progress of the intervention proceeding, partic-

ularly with respect to agreements or proposed agreements which may require action or decisions not within the authority of the agency or board, legislative action, or public financial assistance. The intervenor shall make recommendations to the commission respecting any such agreements or proposed agreements. The commission may make recommendations to the intervenor respecting any such agreement or proposed agreement. If the commission approves of an agreement, or a decision based upon an agreement, which requires action or decisions not within the authority of the agency or board, legislative action, or public financial assistance, the commission shall cause the matter and recommendations to be submitted to the legislature for consideration.

History: *1980 c 564 art 3 s 12; 1986 c 444*

115A.291 PERMITS.

Research and analysis necessary to the permit applications and permit decisions required under this chapter, and the supporting environmental study, must commence immediately following the board's decision to apply for permits under this section. Within 180 days following its decisions under section 115A.28, the board shall conclude its analysis of the financial requirements for the facility and shall decide whether to submit, or cause to be submitted by a developer and operator selected by the board, a preliminary application for permits for a facility or facilities consistent with its decision under section 115A.28. Following review by the permitting agencies and within 60 days following the agency's determination of the adequacy of phase II of the environmental impact statement, the board shall revise the application, or cause it to be revised, in accordance with the recommendations of the permitting agencies. In preparing its revised permit application, the board may amend its facility specifications under section 115A.28, if the board finds and determines, based upon the recommendations of the permitting agencies, that: (a) the amendments are necessary to secure permits for the construction and operation of the proposed facility at the proposed site, and (b) the recommendations and amendments are the result of new information or rules produced after the board's decisions under section 115A.28. Within 210 days following the submission of the revised permit application, the permitting agencies shall issue the necessary permits unless the pollution control agency determines that the facility or facilities proposed for permitting present environmental problems which cannot be addressed through the imposition of permit conditions. The permits may not allow the use of the facility for stabilization and containment of radioactive waste, as defined by section 116C.71, subdivision 6.

History: *1983 c 373 s 36; 1984 c 644 s 30; 1986 c 425 s 47*

115A.30 JUDICIAL REVIEW.

Any civil action maintained by or against the agency or office under sections 115A.18 to 115A.30 shall be brought in the county where the office is located and shall take precedence over all other matters of a civil nature and be expedited to the maximum extent possible. Any person aggrieved by a decision of the office or an agency under sections 115A.18 to 115A.30 may appeal therefrom within 30 days following all final decisions on the issuance of permits. Any appeal shall be conducted as a review of the administrative record as provided in sections 14.63 to 14.69. No civil action shall be maintained pursuant to section 116B.03 with respect to conduct taken by a person pursuant to any environmental quality standard, limitation, rule, order, license, stipulation agreement or permit issued by the office under sections 115A.18 to 115A.30. Notwithstanding any provision of chapter 116B to the contrary, in any action brought under that chapter with respect to any decision or conduct undertaken by any person or the office or agency pursuant to sections 115A.18 to 115A.30 after the period for appeal under this section has lapsed, the plaintiff shall have the burden of proving that the evidence required under section 116B.10 was not reasonably available within the time provided for appeal. The trial court shall, upon motion of any prevailing nongovernmental party, award costs, disbursements, reasonable attorney's fees, and reasonable expert witness fees, if the court finds the action hereunder was commenced or defended in bad faith or was frivolous.

History: *1980 c 564 art 3 s 13; 1982 c 424 s 130; 1983 c 373 s 37; 1985 c 248 s 70; 1987 c 384 art 2 s 1; 1989 c 335 art 1 s 269*

115A.301 INDEMNIFICATION FOR CERTAIN DAMAGES ARISING FROM STABILIZATION AND CONTAINMENT FACILITY.

Subdivision 1. **Indemnification by operator; exceptions.** (a) As a condition of obtaining an agency permit and except as provided in paragraph (b), the operator of a hazardous waste stabilization and containment facility established under sections 115A.18 to 115A.30, upon the acceptance of any hazardous waste for stabilization and containment, shall agree to indemnify any other person for any liability the person may have under chapter 115B as a result of a release or threatened release of hazardous waste from the stabilization and containment facility to the extent of the financial responsibility requirement established in subdivision 2.

(b) The operator is not required to indemnify any person for liability to the extent that:

(1) the liability is the result of a violation by that person of state or federal law that governs the handling, transportation, or disposal of hazardous substances;

(2) the liability is the result of a negligent act or omission of that person with respect to the handling, transportation, or disposal of hazardous substances; or

(3) the liability is one for which a claim has been or may be paid by the Federal Postclosure Liability Fund under United States Code, title 42, section 9607(k).

The operator is not required to indemnify any person for any claim filed more than 30 years after closure of the stabilization and containment facility in accordance with agency rules.

(c) The operator may intervene as of right in any action that may result in a claim for indemnification under this subdivision.

Subd. 2. **Financial responsibility.** (a) As a condition of obtaining a permit to operate a hazardous waste stabilization and containment facility established under sections 115A.18 to 115A.30, the operator shall demonstrate financial responsibility to pay claims of liability for personal injury, economic loss, response costs, and natural resources damage that the operator may incur as a result of a release or threatened release of a hazardous waste from the facility, including liability for which the operator is required to indemnify other persons under subdivision 1. The amount of the operator's financial responsibility must be at least $40,000,000.

(b) The agency may require a higher level of financial responsibility as a condition of a permit for a stabilization and containment facility depending upon the size of the facility, the location of the facility, the types of waste that will be accepted at the facility, and other factors affecting the risk of a release and potential liability. The operator may demonstrate financial responsibility by any mechanism approved by the agency's hazardous waste rules. The operator shall maintain financial responsibility as provided in this subdivision during operation of the facility and until 30 years after facility closure in accordance with agency rules, provided that the operator shall maintain financial responsibility after 30 years in the amount and for the time necessary to satisfy any outstanding claims filed within 30 years after facility closure.

Subd. 3. **Liability trust fund.** (a) A state facility liability trust fund is established as an account in the state treasury. Money in the fund shall be held in trust by the state to pay claims of liability resulting from the release or threatened release of hazardous waste from a disposal facility established under sections 115A.18 to 115A.30, and to purchase insurance to pay the claims. Subject to the limitations provided in paragraph (b), the fund and insurance purchased by the fund shall pay claims to the extent that the claims are not satisfied by the operator of the facility under subdivision 1, by the Federal Postclosure Liability Fund under United States Code, title 42, section 9607(k), or by any person, including the operator, who is liable for the claim as a result of violation of a state or federal law or a negligent act or omission.

(b) The state is not obligated to pay any claims in excess of the amount of money in the fund and the limits of any insurance purchased by the fund.

(c) Interest earned by the money in the fund must be credited to the fund.

Subd. 4. **Determination of amounts in fund.** The office shall determine the amount

of money that will be needed in the state facility liability trust fund to maintain insurance coverage for each facility of at least $10,000,000 during the operating life of the facility and to accumulate a balance of at least $10,000,000 within 20 years after the facility begins operation. The office may require insurance coverage and accumulation of a fund balance in amounts greater than those provided in this subdivision based upon the factors that the agency must consider in establishing the level of financial responsibility under subdivision 2 and the amount of claims for which the fund is likely to be liable under subdivision 3. Based on the amounts required to purchase insurance and accumulate the fund balance, the office shall establish a surcharge amount to be collected under subdivision 5. The office may adjust the amount of the surcharge based on the actual quantities of waste received at the facility. Determinations by the office under this subdivision are subject to the rulemaking provisions of chapter 14.

Subd. 5. **Stabilization and containment surcharge.** A surcharge must be paid for every ton or part of a ton of hazardous waste accepted for stabilization and containment at a facility. The operator shall collect and hold the surcharge in a separate account. By the first day of each month, the operator shall pay any money in this account to the commissioner of finance for credit to the state facility liability trust fund.

Subd. 6. **Administration.** (a) The commissioner of finance shall administer the state facility liability trust fund. Money in the fund is appropriated to the commissioner of finance for expenditure as provided in subdivision 3. The commissioner shall establish separate accounts in the fund for purchase of insurance and for accumulation of a fund balance as required by the office under subdivision 4. After closure of the facility in accordance with agency rules, the commissioner shall consolidate the two accounts and may use any interest income from the fund to purchase insurance to pay claims for which the fund may be liable.

(b) The commissioner, in consultation with the attorney general, may settle any claims that the fund may be required to pay. If two or more claims are made against the fund, the amount of which would exceed the amount in the fund, the commissioner shall pay any valid claims on a pro rata basis. The commissioner, on behalf of the fund, may intervene as of right in an action that may result in a claim against the fund.

Subd. 7. **Rights preserved.** Nothing in this section affects the right of any person to bring an action under any law to recover costs or damages arising out of the release or threatened release of a hazardous substance from a disposal facility established under sections 115A.18 to 115A.30. Any costs or damages recoverable in such an action shall be reduced to the extent that the costs or damages have been paid under subdivisions 1 to 3.

History: *1984 c 644 s 31; 1986 c 425 s 47; 1989 c 335 art 1 s 269*

115A.31 LOCAL GOVERNMENT DECISIONS; TIMELINES.

If a county applies for or requests approval of establishment of a solid waste facility within the boundaries of a local government unit, the local government unit shall approve or disapprove the application or request within 120 days following the delivery by the county to the local government unit of the application or request completed in accordance with the requirements of applicable local ordinances.

If the proposed facility is one for which an environmental impact statement or environmental assessment worksheet is required under section 116D.04, the local government unit shall approve or disapprove the application or request within 90 days after the final determination of adequacy of the environmental impact statement or environmental assessment worksheet.

History: *1991 c 337 s 13*

SUPPLEMENTARY REVIEW OF CERTAIN WASTE FACILITIES

115A.32 RULES.

The board shall promulgate rules pursuant to chapter 14 to govern its activities

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

History: *1980 c 564 art 4 s 1; 1982 c 424 s 130; 1989 c 335 art 1 s 269; 1992 c 593 art 1 s 11*

115A.33 [Repealed, 1994 c 628 art 3 s 209]

115A.34 APPOINTMENT OF TEMPORARY BOARD MEMBERS.

Within 45 days of the submission of a request determined by the board to satisfy the requirements for review under sections 115A.32 to 115A.39, temporary members shall be added to the board for the purpose of the supplementary review. Three members shall be selected by the governing body of the city or town in which the chair of the board determines the facility would be principally located, and three members shall be selected by the governing body of the county in which the chair of the board determines the proposed facility would be principally located. If the proposed facility is located in unorganized territory, all six members shall be selected by the governing board of the county. Temporary members shall be residents of the county in which the proposed facility would be located and shall be selected to represent broadly the local interests that would be directly affected by the proposed facility. At least one member appointed by the city or town shall live within one mile of the proposed facility, and at least one member appointed by the county shall be a resident of a city or town in which the proposed facility would be located. If the appointing authority fails to appoint temporary members in the period allowed, the governor shall appoint the temporary members to represent the local interests in accordance with this section. Temporary members shall serve for terms lasting until the board has taken final action on the facility.

History: *1980 c 564 art 4 s 3; 1981 c 352 s 24; 1986 c 444; 1989 c 335 art 1 s 269; 1992 c 593 art 1 s 54*

115A.35 REVIEW PROCEDURE.

The board shall meet to commence the supplementary review within 90 days of the submission of a request determined by the board to satisfy the requirements for review under this section. At the meeting commencing the review the chair shall recommend and the board establish a scope and procedure, in accordance with the rules of the board, for review and final decision on the proposed facility. The procedure shall require the board to make a final decision on the proposed facility within 90 days following the commencement of review. The procedure shall require the board to hold, at the call of the chair, at least one public hearing in the county within which the proposed facility would be located. A majority of permanent members of the board shall be present at the hearing. The hearing shall be conducted for the board by the state office of administrative hearings in a manner determined by the administrative law judge to be consistent with the expeditious completion of the proceedings as required by sections 115A.32 to 115A.39. The hearing shall not be deemed a contested case under chapter 14. Notice of the hearing shall be published in a newspaper or newspapers of general circulation in the area for two successive weeks ending at least 15 days before the date of the meeting. The notice shall describe the proposed facility, its location, the permits, and the board's scope and procedure for review. The notice shall identify a location or locations within the city or town and county where the permit applications, the agency permits, and the board's scope and procedure for review are available for review and where copies may be obtained.

History: *1980 c 564 art 4 s 4; 1980 c 615 s 60; 1982 c 424 s 130; 1984 c 640 s 32; 1986 c 444; 1989 c 335 art 1 s 269; 1992 c 593 art 1 s 54*

115A.36 SCOPE AND CONTENT OF REVIEW.

In its review and final decision on the proposed facility, the board shall consider at least the following matters:

(a) the risk and effect of the proposed facility on local residents, units of government, and the local public health, safety, and welfare, including such dangers as an accidental release of wastes during transportation to the facility, water, air, and land pollution, and fire or explosion where appropriate, and the degree to which the risk or effect may be alleviated;

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

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

(d) the need for the proposed facility, especially its contribution to abating solid and hazardous waste disposal, the availability of alternative sites, and opportunities to mitigate or eliminate need by additional and alternative waste management strategies or actions of a significantly different nature;

(e) whether, in the case of solid waste resource recovery facilities, the applicant has considered the feasible and prudent waste processing alternatives for accomplishing the purposes of the proposed project 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.

History: *1980 c 564 art 4 s 5; 1989 c 335 art 1 s 269; 1992 c 593 art 1 s 54*

115A.37 FINAL DECISION OF BOARD.

Subdivision 1. **Approval or disapproval.** In its final decision on the proposed facility, the board may either approve or disapprove the proposed facility at the proposed site. The board's approval shall embody all terms, conditions, and requirements of the permitting agencies, provided that the board may: (a) finally resolve any conflicts between state agencies regarding permit terms, conditions, and requirements, and (b) require more stringent permit terms, conditions, and requirements respecting the design, construction, operation, inspection, monitoring, and maintenance of the proposed facility at the proposed site. The board's resolution of conflicts under clause (a) shall be in favor of the more stringent terms, conditions, and requirements.

Subd. 2. **Decision paramount.** The decision of the board to approve a facility shall be final and shall supersede and preempt requirements of state agencies and political subdivisions and the requirements of sections 473H.02 to 473H.17; except that the facility shall be subject to those terms, conditions, and requirements of permitting agencies embodied in the board's approval and any requirements imposed pursuant to subdivision 3. The permitting agencies shall issue or amend the permits for the facility within 60 days following and in accordance with the final decision of the board, and all permits shall conform to the terms, conditions, and requirements of the board's decision. No charter provision, ordinance, rule, permit, or other requirement of any state agency or political subdivision shall prevent or restrict the establishment, operation, expansion, continuance, or closure of the facility in accordance with the final decision of the board and permits issued pursuant thereto.

Subd. 3. **Local requirements.** A political subdivision may impose reasonable requirements respecting the construction, inspection, operation, monitoring, and maintenance of a facility. Any such requirements shall be subject to review by the agency to determine their reasonableness and consistency with the establishment and use of a facility in accordance with the final decision of the board and permits issued pursuant thereto. The agency may approve, disapprove, suspend, modify, or reverse any such requirements. The decision of the agency shall be final.

History: *1980 c 564 art 4 s 6; 1981 c 352 s 25; 1985 c 248 s 70; 1989 c 335 art 1 s 269; 1992 c 593 art 1 s 54*

115A.38 RECONCILIATION PROCEDURES.

Subdivision 1. **Reports to legislative commission.** At least 30 days before making a final decision under section 115A.37 in a review brought pursuant to section 115A.33, clause (d), the chair of the board may report to the legislative commission describing permit conditions or requirements being considered which are not within the existing authority of the agency or the board or which would require legislation or public financial assistance. In any such report the chair of the board may request intervention in the review pursuant to subdivisions 2 and 3.

Subd. 2. **Preintervention assessment.** If the legislative commission determines that intervention might be warranted under the terms of subdivision 1, the commission may suspend the review process for up to 60 days to allow a preintervention assessment. The preintervention assessment shall be conducted by an independent, impartial, and qualified public intervenor appointed by the commission with the advice and consent of the parties to the dispute. The intervenor shall report to the commission. The report shall include:

(a) an assessment of whether the dispute is ripe for mediation and whether the parties are willing to mediate;

(b) an assessment of whether, within the terms of subdivision 1, substantive issues exist which cannot be resolved effectively through normal administrative and judicial procedures;

(c) a preliminary definition of the facts and issues in dispute and actions and decisions being considered;

(d) a description of the diverse parties having a legitimate and direct interest in the outcome of the dispute.

Subd. 3. **Suspension of review process; intervention proceeding.** Following the report of the intervenor, the legislative commission may suspend the review process for an additional period not to exceed 90 days for an intervention proceeding. The intervenor shall be in charge of the intervention proceeding and may call for such participation and establish such procedures as the intervenor deems necessary and appropriate to facilitate agreement. The intervenor shall keep the chair of the legislative commission informed on the progress of the intervention proceeding, particularly with respect to agreements or proposed agreements which may require action or decisions not within the authority of the agency or board, legislative action, or public financial assistance. The intervenor shall make recommendations to the commission respecting any such agreements or proposed agreements. The commission may make recommendations to the intervenor respecting any such agreement or proposed agreement. If the commission approves of an agreement, or a decision based upon an agreement, which requires action or decisions not within the authority of the agency or board, legislative action, or public financial assistance, the commission shall cause the matter and recommendations to be submitted to the legislature for consideration.

History: *1980 c 564 art 4 s 7; 1986 c 444; 1989 c 335 art 1 s 269; 1992 c 593 art 1 s 54*

115A.39 JUDICIAL REVIEW.

Judicial review with respect to conduct or decisions in supplementary reviews brought pursuant to section 115A.33, clause (c) or (d), shall be as provided in section 115A.30.

History: *1980 c 564 art 4 s 8*

SOLID WASTE MANAGEMENT POLICY AND PROGRAMS

115A.41 [Repealed, 1988 c 685 s 44]

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

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

Subd. 2. **Contents.** The report must include:

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

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

(3) an evaluation of the extent and effectiveness of implementation and an assessment of progress in accomplishing state policies, goals, and objectives;

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

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

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

History: *1987 c 348 s 14; 1989 c 335 art 1 s 269; 1991 c 337 s 14; 1992 c 593 art 1 s 12*

115A.415 SUBSTANDARD DISPOSAL FACILITIES.

Beginning July 1, 1995:

(1) a person may not deliver unprocessed mixed municipal solid waste to a substandard disposal facility; and

(2) an operator of a substandard disposal facility may not accept unprocessed mixed municipal solid waste for deposit in the disposal facility.

For the purpose of this section, "substandard disposal facility" means a disposal facility that does not meet the design, construction, and operation requirements for a new mixed municipal solid waste facility contained in state rules in effect as of January 1, 1993.

For the purpose of this section, waste is "unprocessed" if it has not, after collection and before disposal, undergone at least one process, as defined in section 115A.03, subdivision 25, excluding storage, exchange, and transfer of the waste.

History: *1993 c 249 s 10*

115A.42 ESTABLISHMENT AND ADMINISTRATION.

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

History: *1980 c 564 art 5 s 1; 1982 c 424 s 130; 1982 c 569 s 12; 1987 c 348 s 15; 1987 c 404 s 137; 1989 c 335 art 1 s 269*

115A.43 [Repealed, 1987 c 348 s 52]

115A.44 [Repealed, 1987 c 348 s 52]

115A.45 TECHNICAL ASSISTANCE.

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

History: *1980 c 564 art 5 s 4; 1987 c 348 s 16; 1987 c 404 s 139; 1989 c 335 art 1 s 269; 1994 c 639 art 5 s 3*

115A.46 REQUIREMENTS.

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

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

(c) Plans shall address:

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

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

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

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

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

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

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

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

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

(d) The plans shall address at least waste reduction, separation, recycling, and other resource recovery options, and shall include specific and quantifiable objectives, immediately and over specified time periods, for reducing the land disposal of mixed municipal solid waste and for the implementation of feasible and prudent reduction, separation, recycling, and other resource recovery options. These objectives shall be consistent with statewide objectives as identified in statute. The plans shall describe methods for identifying the portions of the waste stream such as leaves, grass, clippings, tree and plant residue, and paper for application and mixing into the soil and use in agricultural practices. The plans shall describe specific functions to be performed and activities to be undertaken to achieve the abatement, reduction, separation, recycling, and other resource recovery objectives and shall describe the estimated cost, proposed manner of financing, and timing of the functions and activities. The plans shall describe proposed mechanisms for complying with the recycling requirements of section 115A.551, and the household hazardous waste management requirements of section 115A.96, subdivision 6.

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

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

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

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

Subd. 3. [Repealed, 1984 c 644 s 82]

Subd. 4. **Delegation of solid waste responsibilities.** A county or a solid waste management district established under sections 115A.62 to 115A.72 may not delegate to another governmental unit or other person any portion of its responsibility for solid waste management unless it establishes a funding mechanism to assure the ability of the entity to which it delegates responsibility to adequately carry out the responsibility delegated.

Subd. 5. **Jurisdiction of plan.** (a) After a county plan has been submitted for approval under subdivision 1, a political subdivision within the county may not enter into a binding agreement governing a solid waste management activity that is inconsistent with the county plan without the consent of the county.

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

History: *1980 c 564 art 5 s 5; 1982 c 569 s 13; 1984 c 644 s 32,33; 1987 c 404 s 140;*

1989 c 131 s 3; 1989 c 325 s 6; 1989 c 335 art 1 s 269; 1Sp1989 c 1 art 20 s 3,4; 1991 c 337 s 15,16

115A.47 SOLID WASTE MANAGEMENT; USE OF ENVIRONMENTALLY INFERIOR FACILITIES.

Subdivision 1. **Legislative findings.** The legislature finds that:

(1) public health and the environment are threatened when persons who arrange for management of solid waste choose to manage the waste in an environmentally inferior manner;

(2) historical state and local efforts to protect public health and the environment and to take responsibility for waste generated by their citizens, as encouraged under the federal Resource Conservation and Recovery Act and required under this chapter and chapter 473, are undermined when persons choose to manage waste in an environmentally inferior manner;

(3) a person who arranges for management of solid waste in an environmentally inferior manner, places generators at additional risk of liability for contamination that is likely to occur from environmentally inferior facilities and practices;

(4) as provided in section 115A.02, land disposal is the least environmentally preferred solid waste management practice, and solid waste disposal facilities that do not meet the standards for new facilities in Code of Federal Regulations, title 40, chapters 257 and 258, are environmentally inferior to facilities that do meet these standards;

(5) under federal law, land disposal facilities are not required to provide financial assurance for response costs to clean up contamination until the contamination occurs and under state rules have not been required to provide financial assurance for the total amount of potential response costs;

(6) the partial financial assurance for response costs at land disposal facilities located in the state that is required under present state rules amounts to an average of $2.80 per cubic yard or $9.25 per ton of waste managed at a disposal facility that does not meet the standards for new facilities in Code of Federal Regulations, title 40, chapters 257 and 258, and 60 cents per cubic yard or $2 per ton of waste managed at a disposal facility that does meet those standards;

(7) the potential defense costs for response actions under the federal Comprehensive Environmental Response, Compensation and Liability Act, United States Code, title 42, sections 9601 to 9675, amount to approximately 130 percent of the actual costs to respond to contamination; and

(8) it is not in the public interest, in a county that has developed a comprehensive solid waste management plan under this chapter or chapter 458D or 473 and is implementing that plan, that a solid waste generator continue to accrue liability for contamination from a waste management facility or method that is environmentally inferior to a facility or method chosen by the county for management of the waste generated in the county.

Subd. 2. **Definitions.** (a) The definitions in sections 115A.03 and 115B.02 and this subdivision apply to this section.

(b) "Arrange for management" means an activity undertaken by a person that determines the ultimate disposition of solid waste that is under the control of the person, including delivery of the waste to a transfer station for transport to another solid waste management facility. Knowledge of the destination of waste by a generator is by itself insufficient for arranging for management unless the generator knows that the destination is an environmentally inferior facility as defined in this section, has the ability to redirect the waste to an environmentally superior facility and ensure its delivery to that facility, and chooses not to redirect the waste.

(c) "County" means a county or the Western Lake Superior Sanitary District established in chapter 458D.

(d) "Environmentally inferior" means a solid waste management method that is lower on the list of preferred waste management methods in section 115A.02 than a

solid waste management method chosen by a county or, as applied to a facility, means a waste management facility that utilizes a waste management method that is lower on the list of preferred waste management methods than the waste management method chosen by a county. In addition, as applied to disposal facilities, a facility that does not meet the standards for new facilities in Code of Federal Regulations, title 40, chapters 257 and 258, is environmentally inferior to a facility that does meet these standards.

(e) "Inferior disposal facility" means a solid waste disposal facility that does not meet the standards for a new facility in Code of Federal Regulations, title 40, chapters 257 and 258.

(f) "Superior disposal facility" means a solid waste disposal facility that meets the standards for a new facility in Code of Federal Regulations, title 40, chapters 257 and 258.

(g) "Waste management method chosen by a county" means:

(1) a waste management method that is mandated for waste generated in the county by section 115A.415, 473.848, 473.849, or other state law, or by county ordinance based on the county solid waste management plan developed, adopted, and approved under section 115A.46 or 458D.05 or the county solid waste management master plan developed, adopted, and approved under section 473.803; or

(2) a waste management facility or facilities, developed under the county solid waste management plan or master plan, to which solid waste generated in a county is directed by an ordinance developed, adopted, and approved under sections 115A.80 to 115A.893.

Subd. 3. **Indemnification; financial assurance for land disposal.** (a) A person who arranges for management of solid waste at a facility that uses a primary waste management method that is environmentally inferior to the primary waste management method chosen by the county in which the waste is generated:

(1) shall indemnify and hold harmless each solid waste generator whose waste is under the control of the person who arranges for management for all costs that may be assessed against the generator for response to a release from the facility of a hazardous substance or pollutant or contaminant under chapter 115B or United States Code, title 42, sections 9601 to 9675; and

(2) shall defend each generator indemnified under clause (1) against any action to recover response costs related to that facility.

(b) When the environmentally inferior facility chosen by the person who arranges for management is a disposal facility, the person shall also provide to the commissioner proof of the person's financial capability to provide for response and defense costs. For the purpose of this paragraph, "proof of financial capability" means a trust fund into which the person must pay:

(1) $6.45 per cubic yard or $21.25 per ton of waste delivered to an inferior disposal facility or to an intermediate facility that transfers waste to an inferior disposal facility; or

(2) $1.38 per cubic yard or $4.60 per ton of waste delivered to a superior disposal facility or to an intermediate facility that transfers waste to a superior disposal facility.

(c) A person required to provide proof of financial capability under paragraph (b) shall make payments into a trust fund on a monthly basis for use of the environmentally inferior facility or for use of intermediate facilities that transfer waste to the facility. A person that arranges for management of solid waste at more than one environmentally inferior facility that is a disposal facility may establish a single trust fund with separate accounting for each facility.

(d) The trustee of a trust required in paragraph (b) must be an entity that has the authority to act as a trustee and whose trust operations are regulated under state or federal law.

(e) Until 30 years after closure of the facility, money in a trust fund established under paragraphs (b) and (c) may be spent only on approval of the commissioner for response and defense costs as provided in paragraph (a).

(f) A person subject to this subdivision shall provide a quarterly report to the commissioner that includes:

(1) the number of cubic yards or tons of waste for which the person arranged for management at an environmentally inferior facility during each quarter;

(2) the amount paid or to be paid into the trust fund each quarter;

(3) any request for use of money in the trust fund; and

(4) any other information necessary for the commissioner to adequately monitor and audit the trust fund or the need for payment from it.

(g) The requirements of this section that apply to an environmentally inferior facility also apply to a transfer station from which waste is primarily transferred to the facility.

(h) A person required to make payments to a trust fund under this subdivision shall pay to the commissioner a fee of 30 cents per cubic yard or $1 per ton of waste delivered to the environmentally inferior facility. Proceeds of the fee must be credited to the environmental fund and are annually appropriated to the commissioner for implementation of this section.

Subd. 4. **Rules.** The commissioner shall adopt rules to implement this section.

Subd. 5. **Record keeping.** A hauler of solid waste shall keep records at its central record keeping location regarding the date, amount of solid waste by cubic yard or ton, and facility to which each load of solid waste is delivered for disposal by the hauler. The hauler shall keep the records for two years and, when reasonable notice has been given, shall make the records available to the commissioner for inspection. Records inspected by the commissioner under this section are nonpublic data as defined in section 13.02, subdivision 9, and may be used solely for the purpose of enforcing this section.

Subd. 6. **Enforcement.** The commissioner may enforce this section under section 116.072.

Subd. 7. **Effect.** This section has no effect on the operation of an ordinance adopted under sections 115A.80 to 115A.893. Nothing in this section authorizes a person to arrange for the management of solid waste that is subject to a designation ordinance at a facility other than the designated facility or facilities.

History: *1994 c 548 s 1*

NOTE: Except for subdivision 4, this section, as added by Laws 1994, chapter 548, section 1, is effective February 1, 1995, or when the rules adopted under subdivision 4 are effective, whichever is sooner. Subdivision 4 is effective May 5, 1994. See Laws 1994, chapter 548, section 2.

115A.48 MARKET DEVELOPMENT FOR RECYCLABLE MATERIALS AND COMPOST.

Subdivision 1. **Authority.** The director shall assist and encourage the development of specific facilities, services, and uses needed to provide adequate, stable, and reliable markets for recyclable materials, solid waste suitable for land application, and compost generated in the state. In carrying out this duty, the director shall coordinate and cooperate with the solid waste management efforts of other public agencies and political subdivisions.

Subd. 2. **Facility development proposals.** In order to determine the feasibility and method of developing and operating specific types of facilities and services to use recyclable materials, solid waste suitable for land application, and compost generated in the state, the director shall request proposals from and may make grants to persons seeking to develop or operate the facilities or services. Grants may be made for the purposes in section 115A.156, subdivision 1, clauses (1) to (6). A grant must be matched by money or in-kind services provided by the grantee covering at least 50 percent of the project cost. In requesting proposals under this section, the director shall follow the procedures provided in section 115A.158, subdivisions 1 and 2, as far as practicable.

Subd. 3. **Public procurement.** The director shall provide technical assistance and advice to political subdivisions and other public agencies to encourage solid waste

reduction and development of markets for recyclable materials and compost through procurement policies and practices. Political subdivisions, educational institutions, and other public agencies shall aggressively pursue procurement practices that encourage solid waste reduction, recycling, and development of markets for recyclable materials and compost and shall, whenever practical, procure products containing recycled materials.

Subd. 4. **Land application of solid waste.** The director shall provide technical assistance and advice to political subdivisions on separating portions of the waste stream such as leaves, grass, clippings, tree and plant residue, and paper for application and mixing into the soil and for use in agricultural practices.

Subd. 5. **Recyclable material market development.** (a) The director shall make grants and loans and shall provide technical assistance to persons for research and development or for the acquisition and betterment of projects that develop markets or end uses for recyclable materials. At least 50 percent of all funds appropriated under Laws 1989, First Special Session chapter 1, article 24, for market development efforts must be used to support county market development efforts. Grants to counties for market development must be made available to those counties that achieve significant land disposal abatement through use of source separation of recyclable materials. The director may use any means specified in section 115A.52 to provide technical assistance.

(b) A project may receive a loan for up to 50 percent of the capital cost of the project or $2,000,000, whichever is less.

(c) A project may receive a grant for up to 25 percent of the capital cost of the project or $500,000, whichever is less.

(d) The director shall adopt rules for the program.

History: *1987 c 348 s 17; 1988 c 685 s 11; 1989 c 131 s 4-6; 1989 c 335 art 1 s 269; 1Sp1989 c 1 art 18 s 10,11; 1994 c 639 art 5 s 3*

115A.49 ESTABLISHMENT; PURPOSES AND PRIORITIES.

There is established a program to encourage and assist cities, counties, solid waste management districts, and sanitary districts in the development and implementation of solid waste management projects and to transfer the knowledge and experience gained from such projects to other communities in the state. The program must be administered to encourage local communities to develop feasible and prudent alternatives to disposal, including waste reduction; waste separation by generators, collectors, and other persons; and waste processing. The director shall administer the program in accordance with the requirements of sections 115A.49 to 115A.54 and rules promulgated under chapter 14. In administering the program, the director shall give priority to projects in the order of preference of the waste management practices listed in section 115A.02. The director shall give special consideration to areas where natural geologic and soil conditions are especially unsuitable for land disposal of solid waste; areas where the capacity of existing solid waste disposal facilities is determined by the director to be less than five years; and projects serving more than one local government unit.

History: *1980 c 564 art 6 s 1; 1982 c 424 s 130; 1Sp1985 c 15 s 32; 1987 c 348 s 18; 1987 c 404 s 141; 1988 c 524 s 2; 1989 c 335 art 1 s 269; 1991 c 337 s 17*

115A.50 ELIGIBLE RECIPIENTS.

Eligible recipients for assistance under the program shall be limited to cities, counties, solid waste management districts established pursuant to sections 115A.62 to 115A.72, and sanitary districts. Eligible recipients may apply for assistance under sections 115A.52 and 115A.53 on behalf of other persons.

History: *1980 c 564 art 6 s 2; 1988 c 524 s 3*

115A.51 APPLICATION REQUIREMENTS.

Applications for assistance under the program shall demonstrate: (a) that the proj-

ect is conceptually and technically feasible; (b) that affected political subdivisions are committed to implement the project, to provide necessary local financing, and to accept and exercise the government powers necessary to the project; (c) 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 financial assistance, will be sufficient to pay all costs over the projected life of the project; (d) 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. The director may require completion of a comprehensive solid waste management plan conforming to the requirements of section 115A.46, before accepting an application.

History: *1980 c 564 art 6 s 3; 1987 c 348 s 19; 1987 c 404 s 142; 1989 c 335 art 1 s 269; 1994 c 639 art 5 s 3*

115A.52 TECHNICAL ASSISTANCE FOR PROJECTS.

The director shall ensure the delivery of technical assistance for projects eligible under the program. The director may contract for the delivery of technical assistance by any state or federal agency, a regional development commission, the metropolitan council, or private consultants and may use program funds to reimburse the agency, commission, council, or consultants. The director shall prepare and publish an inventory of sources of technical assistance, including studies, publications, agencies, and persons available. The director shall ensure statewide benefit from projects assisted under the program by developing exchange and training programs for local officials and employees and by using the experience gained in projects to provide technical assistance and education for other solid waste management projects in the state.

History: *1980 c 564 art 6 s 4; 1Sp1985 c 15 s 33; 1987 c 348 s 20; 1987 c 404 s 143; 1989 c 335 art 1 s 269; 1994 c 639 art 5 s 3*

115A.53 WASTE SEPARATION PROJECTS.

The director shall provide grants to develop and implement projects for waste separation by generators, collectors, and other persons; and collection systems for separated waste. Activities eligible for assistance under this section include legal, financial, economic, educational, marketing, social, governmental, and administrative activities related to the development and implementation of the project. Preliminary planning and development, feasibility study, and conceptual design costs are eligible activities, but no more than 20 percent of program funds shall be used to fund those activities. Projects may include the management of household hazardous waste, as defined in section 115A.96. The director shall give priority to innovative methods for waste separation for reuse and recycling. The director shall prescribe by rule the level or levels of local funding required for grants under this section.

History: *1980 c 564 art 6 s 5; 1987 c 348 s 21; 1987 c 404 s 144; 1989 c 335 art 1 s 269; 1991 c 337 s 18*

115A.54 WASTE PROCESSING FACILITIES.

Subdivision 1. **Purposes; public interest; declaration of policy.** The legislature finds that the establishment of waste processing facilities and transfer stations serving such facilities is needed to manage properly the solid waste generated in the state and to conserve and protect the natural resources in the state and the health, safety, and welfare of its citizens; that opportunities to establish the facilities and transfer stations are not being fully realized by individual political subdivisions or by agreements among subdivisions; and that therefore it is necessary to provide capital assistance to stimulate and encourage the acquisition and betterment of the facilities and transfer stations.

Subd. 2. **Administration; assurance of funds.** The director shall provide technical and financial assistance for the acquisition and betterment of the facilities and transfer stations from revenues derived from the issuance of bonds authorized by section

115A.58. Facilities for the incineration of solid waste without resource recovery are not eligible for assistance. Money appropriated for the purposes of the demonstration program may be distributed as grants or loans. An individual project may receive assistance totaling up to 100 percent of the capital cost of the project and grants up to 50 percent of the capital cost of the project. No grant or loan shall be disbursed to any recipient until the director has determined the total estimated capital cost of the project and ascertained that financing of the cost is assured by funds provided by the state, by an agency of the federal government within the amount of funds then appropriated to that agency and allocated by it to projects within the state, by any person, or by the appropriation of proceeds of bonds or other funds of the recipient to a fund for the construction of the project.

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

(b) Except as provided in paragraph (c), a project may receive grant assistance up to 25 percent of the capital cost of the project or $2,000,000, whichever is less, except that projects constructed as a result of intercounty cooperative agreements may receive (1) grant assistance up to 25 percent of the capital cost of the project; or (2) $2,000,000 times the number of participating counties, whichever is less.

(c) A recycling project or a project to compost or cocompost waste may receive grant assistance up to 50 percent of the capital cost of the project or $2,000,000, whichever is less, except that projects completed as a result of intercounty cooperative agreements may receive (1) grant assistance up to 50 percent of the capital cost of the project; or (2) $2,000,000 times the number of participating counties, whichever is less. The following projects may also receive grant assistance in the amounts specified in this paragraph:

(1) a project to improve control of or reduce air emissions at an existing resource recovery facility; and

(2) a project to substantially increase the recovery of materials or energy, substantially reduce the amount or toxicity of waste processing residuals, or expand the capacity of an existing resource recovery facility to meet the resource recovery needs of an expanded region if each county from which waste is or would be received has achieved a recycling rate in excess of the goals in section 115A.551, and is implementing aggressive waste reduction and household hazardous waste management programs.

(d) Notwithstanding paragraph (e), the director may award grants for transfer stations that will initially transfer waste to landfills if the transfer stations are part of a planned resource recovery project, the county where the planned resource recovery facility will be located has a comprehensive solid waste management plan approved by the director, and the solid waste management plan proposes the development of the resource recovery facility. If the proposed resource recovery facility is not in place and operating within eight years of the date of the grant award, the recipient shall repay the grant amount to the state.

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

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

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

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

(i) Notwithstanding anything in this subdivision to the contrary, a project to construct a new mixed municipal solid waste transfer station that has an enforceable commitment of at least ten years, or of sufficient length to retire bonds sold for the facility, to serve an existing resource recovery facility may receive grant assistance up to 75 percent of the capital cost of the project if addition of the transfer station will increase substantially the geographical area served by the resource recovery facility and the ability of the resource recovery facility to operate more efficiently on a regional basis and the facility meets the criteria in paragraph (c), the second clause (2). A transfer station eligible for assistance under this paragraph is not eligible for assistance under any other paragraph of this subdivision.

Subd. 3. **Obligations of recipient.** No grant or loan for any project shall be disbursed until the governing body of the recipient has made an irrevocable undertaking, by resolution, to use all funds made available exclusively for the capital cost of the project and to pay any additional amount by which the cost of the project exceeds the estimate by appropriation to the construction fund of additional funds or proceeds of additional bonds of the recipient. The resolution shall also indicate that any subsequent withdrawal of allocated or additional funds of the recipient will impair the obligation of contract between the state of Minnesota, the recipient, and the bondholders. The resolution shall pledge payment to the debt service account of all revenues of the project to the extent that they exceed costs and shall also obligate the recipient to levy a tax sufficient to make timely payments under the loan agreement, if a deficiency occurs in the amount of user charges, taxes, special assessments, or other money pledged for payment under the loan agreement. Each loan made to a recipient shall be secured by resolutions adopted by the director and the governing body of the recipient, obligating the recipient to repay the loan to the state treasurer in annual installments including both principal and interest. Installments shall be in an amount sufficient to pay the principal amount within the period required by the director. The interest on the loan shall be calculated on the declining balance at a rate not less than the average annual interest rate on the state bonds of the issue from which proceeds of the loan were made. The resolution shall obligate the recipient to provide money for the repayment from user charges, taxes, special assessments or any other funds available to it.

History: *1980 c 564 art 6 s 6; 1981 c 352 s 26; 1983 c 373 s 38; 1985 c 274 s 5; 1Sp1985 c 15 s 34; 1987 c 348 s 22; 1989 c 325 s 7; 1989 c 335 art 1 s 269; 1990 c 594 art 1 s 50; 1993 c 249 s 11; 1994 c 585 s 5; 1994 c 639 art 5 s 3*

115A.541 PLAN; GRANT REQUIREMENT.

The director may approve a plan under section 115A.46 or make a grant for a recycling facility under section 115A.54, subdivision 2a, only if the director finds that the applicant demonstrates a commitment to recycle materials separated by generators to the extent the program is cost-effective in meeting recycling goals.

History: *1988 c 685 s 12; 1989 c 335 art 1 s 269; 1994 c 639 art 5 s 3*

115A.542 COMPOSTING PROJECT GRANTS.

The director of the office of waste management shall award grants to optimize operations at mixed municipal solid waste composting facilities owned by multicounty project boards. Before awarding a grant under this section, the director of the office of waste management and the commissioner of the pollution control agency must approve a facility optimization plan submitted by the multicounty project board. The plan must include a financial and technical feasibility analysis.

History: *1993 c 371 s 2; 1994 c 465 art 1 s 14*

NOTE: This section is repealed by Laws 1994, chapter 585, section 57, effective July 1, 1995.

115A.55 SOLID WASTE REDUCTION.

Subdivision 1. **Coordination.** The director shall develop and coordinate solid waste reduction programs to include at least public education, promotion of waste reduction, and technical and financial assistance to solid waste generators.

Subd. 2. **Technical assistance.** The director shall provide technical assistance to solid waste generators to enable the waste generators to implement programs or methods to reduce the amount of solid waste generated. The director may use any means specified in section 115A.52 to provide technical assistance.

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

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

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

(d) The director shall adopt rules for the administration of this program. The rules must prescribe the level or levels of matching funds required for grants or loans under this subdivision.

History: *1Sp1989 c 1 art 20 s 5; 1994 c 639 art 5 s 3*

115A.5501 REDUCTION OF PACKAGING IN WASTE.

Subdivision 1. **Statewide waste packaging reduction goal.** It is the goal of the state that there be a minimum 25 percent statewide per capita reduction in the amount of discarded packaging delivered to facilities by December 31, 1995, based on a reasonable estimate of the amount of packaging that was delivered to facilities in calendar year 1992.

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

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

Subd. 3. **Facility cooperation and reports.** The owner or operator of a facility shall allow access upon reasonable notice to authorized office, agency, or metropolitan council staff for the purpose of conducting waste composition studies or otherwise assessing the amount of total packaging in the waste delivered to the facility under this section.

Beginning in 1993, by February 1 of each year the owner or operator of a facility governed by this subdivision shall submit a report to the commissioner, on a form prescribed by the commissioner, specifying the total amount of solid waste received by the facility between January 1 and December 31 of the previous year. The commissioner

shall calculate the total amount of solid waste delivered to solid waste facilities from the reports received from the facility owners or operators and shall report the aggregate amount to the director by April 1 of each year. The commissioner shall assess a nonforgivable administrative penalty under section 116.072 of $500 plus any forgivable amount necessary to enforce this subdivision on any owner or operator who fails to submit a report required by this subdivision.

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

Subd. 5. **Recommendations for further reduction goals.** If the goal in subdivision 1 is met, the director shall include in the report required in subdivision 4 recommendations for appropriate goals for further reducing the amount of discarded packaging delivered to facilities. The report must include an analysis of the costs of further reductions.

Subd. 6. **Definition.** For the purposes of this section, "facility" means a composting, incineration, refuse-derived fuel, or disposal facility that accepts mixed municipal solid waste or construction waste.

History: *1992 c 593 art 1 s 13; 1993 c 249 s 12; 1994 c 585 s 6-10; 1994 c 632 art 2 s 30*

115A.5502 PACKAGING PRACTICES; PREFERENCES; GOALS.

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

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

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

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

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

(5) all other packaging.

History: *1994 c 585 s 11*

115A.551 RECYCLING.

Subdivision 1. **Definition.** (a) For the purposes of this section, "recycling" means, in addition to the meaning given in section 115A.03, subdivision 25b, yard waste composting, and recycling that occurs through mechanical or hand separation of materials that are then delivered for reuse in their original form or for use in manufacturing processes that do not cause the destruction of recyclable materials in a manner that precludes further use.

(b) For the purposes of this section, "total solid waste generation" means the total by weight of:

(1) materials separated for recycling;

(2) materials separated for yard waste composting;

(3) mixed municipal solid waste plus yard waste, motor and vehicle fluids and filters, tires, lead acid batteries, and major appliances; and

(4) residential waste materials that would be mixed municipal solid waste but for the fact that they are not collected as such.

Subd. 2. **County recycling goals.** By December 31, 1993, each county outside of the metropolitan area will have as a goal to recycle a minimum of 25 percent by weight of total solid waste generation; and by December 31, 1993, each county within the metropolitan area will have as a goal to recycle a minimum of 35 percent by weight of total solid waste generation. Each county will develop and implement or require political subdivisions within the county to develop and implement programs, practices, or methods designed to meet its recycling goal. Nothing in this section or in any other law may be construed to prohibit a county from establishing a higher recycling goal.

Subd. 2a. **Supplementary recycling goals.** By December 31, 1996, each county will have as a goal to recycle the following amounts:

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

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

Each county will develop and implement or require political subdivisions within the county to develop and implement programs, practices, or methods designed to meet its recycling goal. Nothing in this section or in any other law may be construed to prohibit a county from establishing a higher recycling goal. For the purposes of this subdivision "recycle" and "total solid waste generation" have the meanings given them in subdivision 1, except that neither includes yard waste.

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

Subd. 3. **Interim goals; nonmetropolitan counties.** The director shall establish interim recycling goals for the nonmetropolitan counties to assist them in meeting the goals established in subdivision 2.

Subd. 4. **Interim monitoring.** The director, for counties outside of the metropolitan area, and the metropolitan council, for counties within the metropolitan area, shall monitor the progress of each county toward meeting the recycling goals in subdivisions 2 and 2a. The director shall report to the legislative commission on waste management on the progress of the counties by July 1 of each year. The metropolitan council shall report to the legislative commission on waste management on the progress of the counties by July 1 of each year. If the director or the council finds that a county is not progressing toward the goals in subdivisions 2 and 2a, it shall negotiate with the county to develop and implement solid waste management techniques designed to assist the county in meeting the goals, such as organized collection, curbside collection of source-separated materials, and volume-based pricing.

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

Subd. 5. **Failure to meet goal.** (a) A county failing to meet the interim goals in subdivision 3 shall, as a minimum:

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

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

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

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

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

Subd. 7. **Recycling implementation strategy.** Within one year of approval of the portion of the plan required in subdivision 6, each nonmetropolitan county shall submit for approval a local recycling implementation strategy. The local recycling implementation strategy must:

(1) be consistent with the approved county solid waste management plan;

(2) identify the materials that are being and will be recycled in the county to meet the goals under this section and the parties responsible and methods for recycling the material; and

(3) define the need for funds to ensure continuation of local recycling, methods of raising and allocating such funds, and permanent sources and levels of local funding for recycling.

History: *1Sp1989 c 1 art 18 s 12; 1991 c 337 s 19-21; 1992 c 593 art 1 s 14-16,54; 1993 c 249 s 13,14,61; 1994 c 639 art 5 s 3*

115A.552 OPPORTUNITY TO RECYCLE.

Subdivision 1. **County requirement.** Counties shall ensure that residents, including residents of single and multifamily dwellings, have an opportunity to recycle. At least one recycling center shall be available in each county. Opportunity to recycle means availability of recycling and curbside pickup or collection centers for recyclable materials at sites that are convenient for persons to use. Counties shall also provide for the recycling of problem materials and major appliances. Counties shall assess the operation of existing and proposed recycling centers and shall give due consideration to those centers in ensuring the opportunity to recycle. To the extent practicable, the costs incurred by a county for collection, storage, transportation, and recycling of major appliances must be collected from persons who discard the major appliances.

Subd. 2. **Recycling opportunities.** An opportunity to recycle must include:

(1) a local recycling center in the county and sites for collecting recyclable materials that are located in areas convenient for persons to use them;

(2) curbside pickup, centralized drop-off, or a local recycling center for at least four broad types of recyclable materials in cities with a population of 5,000 or more persons; and

(3) monthly pickup of at least four broad types of recyclable materials in cities of the first and second class and cities with 5,000 or more population in the metropolitan area.

Subd. 3. **Recycling information, education, and promotion.** (a) Each county shall provide information on how, when, and where materials may be recycled, including a

promotional program that publishes notices at least once every three months and encourages source separation of residential, commercial, industrial, and institutional materials.

(b) The director shall develop materials for counties to use in providing information on and promotion of recycling.

(c) The director shall provide technical assistance to counties to help counties implement recycling programs.

Subd. 4. **Nonresidential recycling.** Each county shall encourage building owners and managers, business owners and managers, and collectors of commercial mixed municipal solid waste to provide appropriate recycling services and opportunities to generators of commercial, industrial, and institutional solid waste in the county.

History: *1Sp1989 c 1 art 18 s 13; 1991 c 337 s 22-24; 1994 c 639 art 5 s 3*

115A.553 COLLECTION AND TRANSPORTATION OF RECYCLABLE MATERIALS.

Subdivision 1. **Collection centers and transportation required.** Each county must ensure alone or in conjunction with other counties that materials separated for recycling are taken to markets for sale or to recyclable material processing centers. An action may not be taken by a county under this section to preclude a person generating or collecting solid waste from delivering recyclable materials to a recycling facility of the generator's or collector's choice.

Subd. 2. **Licensing of recyclable materials collection.** Counties may require county or municipal licenses for collection of recyclable materials.

Subd. 3. **Transportation systems.** The director and the commissioner of transportation shall develop an efficient transportation system for recyclable materials to reach markets and processing centers that may be used by counties. The system may include regional collection centers.

History: *1Sp1989 c 1 art 18 s 14; 1994 c 639 art 5 s 3*

115A.554 AUTHORITY OF SANITARY DISTRICTS.

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

History: *1Sp1989 c 1 art 18 s 15; 1991 c 337 s 25; 1994 c 585 s 12*

115A.555 RECYCLING CENTER DESIGNATION.

The agency shall designate recycling centers for the purpose of section 173.086. To be designated as a recycling center, a recycling facility must be open a minimum of 12 operating hours each week, 12 months each year, and must accept for recycling:

(1) at least four different materials such as paper, glass, plastic, and metal; and

(2) if the recycling center accepts metal, hazard signs, as defined in section 161.242, subdivision 2, paragraph (h), to the same extent that a junk yard dealer must accept hazard signs under section 161.242, subdivision 6a.

History: *1Sp1989 c 1 art 18 s 16; 1991 c 197 s 1*

115A.556 MATERIALS USED FOR RECYCLING.

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

History: *1989 c 325 s 8*

115A.557 COUNTY WASTE REDUCTION AND RECYCLING FUNDING.

Subdivision 1. **Distribution; formula.** Any funds appropriated to the director for the purpose of distribution to counties under this section must be distributed each fiscal year by the director based on population, except a county may not receive less than $55,000 in a fiscal year. For purposes of this subdivision, "population" has the definition given in section 477A.011, subdivision 3. A county that participates in a multicounty district that manages solid waste and that has responsibility for recycling programs as authorized in section 115A.552, must pass through to the districts funds received by the county in excess of the $55,000 annual base under this section in proportion to the population of the county served by that district.

Subd. 2. **Purposes for which money may be spent.** A county receiving money distributed by the director under this section may use the money only for the development and implementation of programs to:

(1) reduce the amount of solid waste generated;

(2) recycle the maximum amount of solid waste technically feasible;

(3) create and support markets for recycled products;

(4) remove problem materials from the solid waste stream and develop proper disposal options for them;

(5) inform and educate all sectors of the public about proper solid waste management procedures;

(6) provide technical assistance to public and private entities to ensure proper solid waste management; and

(7) provide educational, technical, and financial assistance for litter prevention.

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

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

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

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

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

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

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

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

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

History: *1Sp1989 c 1 art 19 s 1; 1991 c 337 s 26; 1992 c 593 art 1 s 17,54; 1994 c 585 s 13; 1994 c 639 art 5 s 3*

115A.558 SAFETY GUIDE.

The pollution control agency, in cooperation with the office of waste management

and the metropolitan council, shall prepare and distribute to all interested persons a guide for operation of a recycling or yard waste composting facility to protect the environment and public health.

History: *1Sp1989 c 1 art 22 s 2*

115A.56 RECYCLED CONTENT; LABELS.

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

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

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

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

(b) Paragraph (a) does not apply to products that qualify for and use the recycling emblem established by the state of New York that was in effect on December 14, 1990.

History: *1992 c 593 art 1 s 18; 1993 c 249 s 15*

STATE WASTE MANAGEMENT BONDS

115A.57 [Repealed, 1989 c 271 s 36]

115A.58 MINNESOTA STATE WASTE MANAGEMENT BONDS.

Subdivision 1. **Authority to issue bonds.** The commissioner of finance shall sell bonds of the state of Minnesota for the prompt and full payment of which, together with interest, the full faith, credit, and taxing powers of the state are irrevocably pledged. Bonds shall be sold only upon request of the director and in the amount as may otherwise be authorized by this or a subsequently enacted law which authorizes the sale of additional bonds and the deposit of the proceeds in a waste management account in the bond proceeds fund. Any authorized amount of bonds in this law or any subsequently enacted law authorizing the issuance of bonds for the purposes of the waste management account, together with this section, constitute complete authority for the issue. The bonds shall not be subject to restrictions or limitations contained in any other law.

Subd. 2. **Issuance of bonds.** Upon request by the director and upon authorization as provided in subdivision 1, the commissioner of finance shall sell Minnesota state waste management bonds. The bonds shall be in the aggregate amount requested, and sold upon sealed bids upon the notice, at the price in the form and denominations, bearing interest at the rate or rates, maturing in the amounts and on the dates (with or without option of prepayment upon notice and at specified times and prices), payable at a bank or banks within or outside the state (with provisions, if any, for registration, conversion, and exchange and for the issuance of temporary bonds or notes in anticipation of the sale or delivery of definitive bonds), and in accordance with further provisions as the commissioner of finance shall determine, subject to the approval of the attorney general, but not subject to the provisions of sections 14.02, 14.04 to 14.36, 14.38, 14.44 to 14.45, and 14.57 to 14.62. The bonds shall be executed by the commissioner of finance and attested by the state treasurer under their official seals. The signatures of the officers on the bonds and any interest coupons and their seals may be printed, lithographed, engraved, stamped, or otherwise reproduced thereon, except that each bond shall be authenticated by the manual signature on its face of one of the officers or of an authorized representative of a bank designated by the commissioner of finance as registrar or other authenticating agent. The commissioner of finance shall ascertain and certify to the purchasers of the bonds the performance and existence of all acts, conditions, and things necessary to make them valid and binding general obligations of the state of Minnesota, subject to the approval of the attorney general.

Subd. 3. **Expenses.** All expenses incidental to the sale, printing, execution, and delivery of bonds pursuant to this section, including but not limited to actual and necessary travel and subsistence expenses of state officers and employees for these purposes, and any expenses of litigation relating to the validity of the bonds, shall be paid from the waste management account, and the amounts necessary are appropriated from that account.

Subd. 4. **Debt service account.** The commissioner of finance shall maintain in the state bond fund a separate account to be called the state waste management debt service account. It shall record receipts of premium and accrued interest, loan repayments, project revenue or other money transferred to the fund and income from the investment of the money and record any disbursements to pay the principal and interest on waste management bonds. Income from investment shall be credited to the account in each fiscal year. The amount credited shall be equal to the average return that year on all funds invested by the state treasurer, as determined by the treasurer, times the average balance in the account that year.

Subd. 5. **Appropriations to debt service account; appropriation from account to pay debt service.** The premium and accrued interest received on each issue of Minnesota state waste management bonds, and all payments received in repayment of loans and other revenues received, are appropriated to the debt service account. All income from the investment of the waste management account in the bond proceeds fund is appropriated to the debt service account. In order to reduce the amount of taxes otherwise required to be levied, there is also appropriated to the debt service account from any funds available in the general fund on November 1 in each year, a sum of money sufficient in amount, when added to the balance then on hand, to pay all principal and interest on Minnesota waste management bonds due and to become due before July 1 in the second ensuing year. So much of the debt service account as is necessary to pay principal and interest on waste management bonds is annually appropriated from the debt service account for the payment of principal and interest of the waste management bonds. All funds appropriated by this subdivision shall be available in the debt service account prior to any levy of the tax in any year required by the Minnesota Constitution, article XI, section 7.

Subd. 6. **Security.** On or before December 1 in each year the state auditor shall levy on all taxable property within the state whatever tax may be necessary to produce an amount sufficient, with all money currently credited to the debt service account, to pay the entire amount of principal and interest currently due and the principal and interest to become due before July 1 in the second year thereafter on Minnesota waste management bonds. This tax shall be subject to no limitation of rate or amount until all the bonds and interest thereon are fully paid. The proceeds of this tax are appropriated to the debt service account. The principal of and interest on the bonds are payable from the proceeds of this tax.

History: *1980 c 564 art 7 s 2; 1982 c 424 s 130; 1983 c 301 s 110; 1Sp1985 c 14 art 4 s 13; 1989 c 271 s 11-14; 1989 c 335 art 1 s 269; 1994 c 639 art 5 s 3*

115A.59 BOND AUTHORIZATION AND APPROPRIATION OF PROCEEDS.

The commissioner of finance is authorized, upon request of the director, to sell state bonds in the amount of up to $8,800,000 for the purpose of the waste processing facility capital assistance program under section 115A.54, and in the amount of up to $6,200,000 for the purpose of acquiring real property and interests in real property for hazardous waste facility sites and buffer areas as authorized by section 115A.06, subdivision 4. The bonds shall be sold in the manner and upon the conditions prescribed in sections 16A.631 to 16A.675, and in the Minnesota Constitution, article XI, sections 4 to 7. The amount of bonds issued pursuant to this authorization shall not exceed at any time the amount needed to produce a balance in the waste management account equal to the aggregate amount of the loans and grants then approved and not previously disbursed, plus the amount of the loans and grants to be approved in the current and the following fiscal year, as estimated by the director.

History: *1980 c 564 art 7 s 3; 1989 c 271 s 15; 1989 c 335 art 1 s 269; 1994 c 639 art 5 s 3*

SOLID WASTE MANAGEMENT DISTRICTS

115A.62 PURPOSE; PUBLIC INTEREST; DECLARATION OF POLICY.

The legislature finds that the development of integrated and coordinated solid waste management systems is needed to manage properly the solid waste generated in the state, to conserve and protect the natural resources in the state and the health, safety, and welfare of its citizens, and to further the state policies and purposes expressed in section 115A.02; that this need cannot always be met solely by the activities of individual political subdivisions or by agreements among subdivisions; and that therefore it is necessary to establish a procedure for the creation of solid waste management districts having the powers and performing the functions prescribed in sections 115A.62 to 115A.72.

History: *1980 c 564 art 8 s 1; 1982 c 569 s 14*

115A.63 SOLID WASTE MANAGEMENT DISTRICTS.

Subdivision 1. **Legal status.** Solid waste management districts established pursuant to sections 115A.62 to 115A.72 shall be public corporations and political subdivisions of the state.

Subd. 2. **Establishment.** The director may establish waste districts as public corporations and political subdivisions of the state, define the powers of such districts in accordance with sections 115A.62 to 115A.72, define and alter the boundaries of the districts as provided in section 115A.64, and terminate districts as provided in section 115A.66. The director shall promulgate rules pursuant to chapter 14 governing the establishment, alteration, and termination of districts.

Subd. 3. **Restrictions.** No waste district shall be established within the boundaries of the Western Lake Superior Sanitary District established under chapter 458D. No waste district shall be established wholly within one county. The director shall not establish a waste district within or extending into the metropolitan area, nor define or alter the powers or boundaries of a district, without the approval of the metropolitan council. The council shall not approve a district unless the articles of incorporation of the district require that the district will have the same procedural and substantive responsibilities, duties, and relationship to the metropolitan agencies as a metropolitan county. The director shall require the completion of a comprehensive solid waste management plan conforming to the requirements of section 115A.46, by petitioners seeking to establish a district.

History: *1980 c 564 art 8 s 2; 1982 c 424 s 130; 1989 c 335 art 1 s 269; 1992 c 464 art 1 s 15; 1992 c 593 art 1 s 19; 1994 c 639 art 5 s 3*

115A.64 PROCEDURE FOR ESTABLISHMENT AND ALTERATION.

Subdivision 1. **Local petition.** Waste districts shall be established and their powers and boundaries defined or altered by the director only after petition requesting the action jointly submitted by the governing bodies of petitioners comprising at least one-half of the counties partly or wholly within the district. A petition for alteration shall include a resolution by the board of directors of the district approving the alteration.

Subd. 2. **Petition contents.** (a) A petition requesting establishment or alteration of a waste district must contain the information the director may require, including at least the following:

(1) the name of the proposed district;

(2) a description of the territory and political subdivisions within and the boundaries of the proposed district or alteration thereto, along with a map showing the district or alteration;

(3) resolutions of support for the district, as proposed to the director, from the governing body of each of the petitioning counties;

(4) a statement of the reason, necessity, and purpose for the district, plus a general description of the solid waste management improvements and facilities contemplated

for the district showing how its activities will accomplish the purpose of the district and the purposes for waste resource districts stated in sections 115A.62 to 115A.72;

(5) articles of incorporation stating:

(i) the powers of the district consistent with sections 115A.62 to 115A.72, including a statement of powers proposed pursuant to sections 115A.70, 115A.71, and 115A.715; and

(ii) provisions for representation and election of the board of directors of the district.

(b) After the petition has been filed, no petitioner may withdraw from it except with the written consent of all other petitioners for the district.

Subd. 3. **Local review and comment.** At least 60 days before submitting the petition to the director, the petitioners shall publish notice of the petition in newspapers of general circulation in the proposed district and shall cause a copy of the petition to be served upon the agency, the governing body of each political subdivision which is wholly or partly within the proposed district or is affected by the proposed alteration and each regional development commission affected by the proposed district or alteration. Each entity receiving service shall have 60 days within which to comment to the petitioners on the petition and the proposed district or alteration. Proof of service, along with any comments received, shall be attached to the petition when it is submitted to the director.

Subd. 4. **Review procedures.** Upon receipt of the petition, the director shall determine whether the petition conforms in form and substance to the requirements of law and rule. If the petition does not conform to the requirements, the director shall return it immediately to the petitioners with a statement describing the deficiencies and the amendments necessary to rectify them. If the petition does conform to the requirements, and if comments have been received objecting to the establishment or alteration of the district as proposed, the director shall request the office of administrative hearings to conduct a hearing on the petition. The hearing shall be conducted in the proposed district in the manner provided in chapter 14 for contested cases. If no comments have been received objecting to the establishment of the district as proposed, the director may proceed to grant or deny the petition without the necessity of conducting a contested case hearing. If the petition conforms to the requirements of law and rule, the director shall also immediately submit the petition to the solid waste and the technical advisory councils for review and recommendation and shall forward the petition to the commissioner of the agency, who shall prepare and submit to the director a report containing recommendations on the disposition of the petition. The commissioner's report shall contain at least the commissioner's findings and conclusions on whether the proposed boundaries, purposes, powers, and management plans of the district or alteration thereto serve the purposes of waste resource districts, are appropriately related to the waste generation, collection, processing, and disposal patterns in the area, and are generally consistent with the purposes of the agency's regulatory program.

Subd. 5. **Corrections allowed.** No petition submitted by the requisite number of counties shall be void or dismissed on account of defects exposed in the hearing documents or report. The director shall permit the petition to be amended in form and substance to conform to the facts by correcting any errors in the description of the territory or any other defects.

Subd. 6. **Order.** After considering the reports of the administrative law judge, if a contested case hearing has been held, and the recommendations of the advisory councils commissioner of the agency, the director shall make a final decision on the petition. If the director finds and determines that the establishment or alteration of a district as proposed in the petition would not be in the public interest and would not serve the purposes of sections 115A.62 to 115A.72, the director shall give notice to the petitioners of intent to deny the petition. If a contested case hearing has not been held, the petitioners may request a hearing within 30 days of the notice of intent to deny the petition. The request shall be granted. Following the hearing and the report of the administrative law judge, the director shall make a final decision on the petition and mail a copy of

the decision to the governing body of each affected political subdivision. If the director finds and determines that the establishment or alteration of a district as proposed in the petition would be in the public interest and would serve the purposes of sections 115A.62 to 115A.72, the director shall, by order, establish the district, define its boundaries, and give it a corporate name by which, in all proceedings, it shall thereafter be known. The order shall include articles of incorporation stating the powers of the district and the location of its registered office. Upon the filing of a certified copy of the order of the director with the secretary of state, the district shall become a political subdivision of the state and a public corporation, with the authority, power, and duties prescribed in sections 115A.62 to 115A.72 and the order of the director. At the time of filing, a copy of the order shall be mailed by the director to the governing body of each political subdivision wholly or partly within the district or affected by the alteration of the district.

History: *1980 c 564 art 8 s 3; 1980 c 615 s 60; 1982 c 424 s 130; 1984 c 640 s 32; 1986 c 444; 1987 c 186 s 15; 1989 c 335 art 1 s 269; 1991 c 337 s 27; 1994 c 639 art 5 s 3*

115A.65 PERPETUAL EXISTENCE.

A waste district created under the provisions of sections 115A.62 to 115A.72 shall have perpetual existence to the extent necessary to perform all acts necessary and proper for carrying out and exercising the powers and duties expressly given in it. A district shall not be terminated except pursuant to section 115A.66.

History: *1980 c 564 art 8 s 4*

115A.66 TERMINATION.

Subdivision 1. **Petition.** Proceedings for the termination of a district shall be initiated by the filing of a petition with the director. The petition shall be submitted by the governing bodies of not less than one-half of the counties which are wholly or partly in the district. The petition shall state that the existence of the district is no longer in the public interest. The petitioners shall publish notice of the petition in newspapers of general circulation in the district and shall cause to be served upon each political subdivision wholly or partly within the district a copy of the petition, and proof of service shall be attached to the petition filed with the director.

Subd. 2. **Bond; payment of costs.** If the petition is dismissed or denied, the petitioners shall be required to pay all costs and expenses of the proceeding for termination. At the time of filing the petition a bond shall be filed by the petitioners with the board in such sum as the director determines to be necessary to ensure payment of costs.

Subd. 3. **Hearing; decision.** If objection is made to the director against the petition for termination, a contested case hearing on the petition shall be held in the waste district pursuant to chapter 14. If the director determines that the termination of the district as proposed in the petition would not be in the public interest, the director shall give notice to the petitioner of intent to deny the petition. If a contested case hearing has not been held, the petitioner may request a hearing within 30 days of the notice of intent to deny the petition. The request shall be granted. Following the hearing and the report of the administrative law judge, the director shall make a final decision on the petition. If the petition is dismissed all costs of the proceeding shall be assessed against the petitioner. If the director determines that the existence of the district is no longer in the public interest, the director shall by findings and order terminate the district. Upon the filing of a certified copy of the findings and order with the secretary of state the district shall cease to be a public corporation and a political subdivision of the state.

Subd. 4. **Limitation.** The director shall not entertain a petition for termination of a district within five years from the date of the formation of the district nor shall the director entertain a petition for termination of the same district more often than once in five years.

History: *1980 c 564 art 8 s 5; 1982 c 424 s 130; 1984 c 640 s 32; 1989 c 335 art 1 s 269; 1994 c 639 art 5 s 3*

115A.67 ORGANIZATION OF DISTRICT.

Subdivision 1. **Board.** The chair shall be elected from outside the board of directors by majority vote of the board of directors. The first chair shall serve for a term of two years. Members of the board of directors shall be residents of the district.

Subd. 2. **First meeting.** The first meeting of the board of directors shall be held at the call of the chair, after notice, for the purpose of proposing the bylaws, electing officers and for any other business that comes before the meeting. The bylaws of the district, and amendments thereto, shall be adopted by a majority vote of the board of directors unless the certificate of incorporation requires a greater vote.

Subd. 3. **Bylaws.** The bylaws shall state:

(a) the manner and time of calling regular meetings of the representatives and the board of directors, not less than once annually;

(b) the title, manner of selection, and term of office of officers of the district;

(c) the term of office of members of the board of directors, the manner of their removal, and the manner of filling vacancies on the board of directors;

(d) the powers and duties of the board of directors consistent with the order and articles of incorporation establishing the district;

(e) the definition of a quorum for meetings of the board of directors, which shall be not less than a majority of the members;

(f) the compensation and reimbursement for expenses for members of the board of directors, which shall not exceed that provided for in section 15.0575, subdivision 3; and

(g) such other provisions for regulating the affairs of the district as the board of directors shall determine to be necessary.

History: *1980 c 564 art 8 s 6; 1983 c 373 s 39; 1986 c 444; 1989 c 335 art 1 s 269; 1991 c 337 s 28*

115A.68 REGISTERED OFFICE.

Every district shall maintain an office in this state to be known as its registered office. When a district desires to change the location of its registered office, it shall file with the secretary of state, the office, and the commissioner of the agency, a certificate stating the new location by city, town, or other community and the effective date of change. When the certificate has been duly filed, the board of directors may make the change without any further action.

History: *1980 c 564 art 8 s 7; 1987 c 186 s 15; 1989 c 335 art 1 s 269*

115A.69 POWERS.

Subdivision 1. **General.** A district shall have all powers necessary or convenient to perform its duties, including the powers provided in this section.

Subd. 2. **Actions.** The district may sue and be sued, and shall be a public body within the meaning of chapter 562.

Subd. 3. **Acquisition of property.** The district may acquire by purchase, lease, condemnation, gift, or grant, any right, title, and interest in and to real or personal property deemed necessary for the exercise of its powers or the accomplishment of its purposes, including positive and negative easements and water and air rights. Any local government unit and the commissioners of transportation, natural resources, and administration may convey to or permit the use of any property or facilities by the district, subject to the rights of the holders of any bonds issued with respect thereto, with or without compensation and without an election or approval by any other government agency. The district may hold the property for its purposes, and may lease or rent the property so far as not needed for its purposes, upon the terms and in the manner as it deems advisable. The right to acquire lands and property rights by condemnation shall be exercised in accordance with chapter 117. The district may take possession of any property for which condemnation proceedings have been commenced at any time after the issuance of a court order appointing commissioners for its condemnation.

Subd. 4. **Right of entry.** Whenever the district deems it necessary to the accomplishment of its purposes, the district or any member, employee, or agent thereof, when authorized by it, may enter upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations, provided that the entrance and activity is undertaken after reasonable notice and during normal business hours and provided that compensation is made for any damage to the property caused by the entrance and activity.

Subd. 5. **Gifts and grants.** The district may apply for and accept gifts, loans, or other property from the United States, the state, or any person for any of its purposes, may enter into any agreement required in connection therewith, and may hold, use, and dispose of the money or property in accordance with the terms of the gift, grant, loan or agreement.

Subd. 6. **Property exempt from taxation.** Any real or personal property owned, used, or occupied by the district for any authorized purpose is declared to be acquired, owned, used and occupied for public and governmental purposes, and shall be exempted from taxation by the state or any political subdivision of the state, provided that those properties shall be subject to special assessments levied by a political subdivision for a local improvement in amounts proportionate to and not exceeding the special benefit received by the properties from the improvement. No possible use of the properties in any manner different from their use for solid waste management at the time shall be considered in determining the special benefit received by the properties.

Subd. 7. **Facilities and services.** The district may construct, equip, develop, enlarge, improve, and operate solid waste facilities and services as it deems necessary and may negotiate contracts for the use of public or private facilities and services. The district shall contract with private persons for the construction, maintenance, and operation of facilities and services where the facilities and services are adequate and available for use and competitive with other means of providing the same service.

Subd. 8. **Rates; charges.** The district may establish and collect rates and charges for the facilities and services provided by the district and may negotiate and collect rates and charges for facilities and services contracted for by the district. The board of directors of the district may agree with the holders of district obligations which are secured by revenues of the district as to the maximum or minimum amounts which the district shall charge and collect for services provided by the district. Before establishing or raising any rates and charges the board of directors shall hold a public hearing regarding the proposed rates and charges. Notice of the hearing shall be published at least once in a legal newspaper of general circulation throughout the area affected by the rates and charges. Publication shall be no more than 45 days and no less than 15 days prior to the date of the hearing.

Subd. 9. **Disposition of property.** The district may sell or otherwise dispose of any real or personal property acquired by it which is no longer required for accomplishment of its purposes. The property shall be sold in the manner provided by section 469.065, insofar as practical. The district shall give notice of sale which it deems appropriate. When the district determines that any property which has been acquired from a government unit without compensation is no longer required, the district shall transfer it to the government unit.

Subd. 10. **Disposition of products and energy.** The district may use, sell, or otherwise dispose of all of the products and energy produced by its facilities. Section 471.345 shall not apply to the sale of products and energy. The district shall give particular consideration to the needs of purchasers in this state and shall actively promote sales to such purchasers so long as this can be done at prices and under conditions that meet constitutional requirements and that are consistent with the district's object of being financially self supporting to the greatest extent possible.

Subd. 11. **Contracts.** The district may enter into any contract necessary or proper for the exercise of its powers or the accomplishment of its purposes.

Subd. 12. **Joint powers.** The district may act under the provisions of section 471.59, or any other law providing for joint or cooperative action between government units.

Subd. 13. **Research.** The district may conduct research studies and programs, collect and analyze data, prepare reports, maps, charts, and tables, and conduct all necessary hearings and investigations in connection with its work and may advise and assist other government units on planning matters within the scope of its powers, duties, and objectives.

Subd. 14. **Employees; contracts for services.** The district may employ persons or firms and contract for services to perform engineering, legal or other services necessary to carry out its functions.

Subd. 15. **Insurance.** The district may require any employee to obtain and file with it an individual bond or fidelity insurance policy. It may procure insurance in amounts it deems necessary to insure against liability of the board of directors and employees or both, for personal injury or death and property damage or destruction, with the force and effect stated in chapter 466, and against risks of damage to or destruction of any of its facilities, equipment, or other property as it deems necessary.

Subd. 16. **Review of projects.** The district may require that persons shall not acquire, construct, alter, reconstruct or operate a solid waste facility within the district without prior consultation with and approval of the district.

History: *1980 c 564 art 8 s 8; 1982 c 569 s 15; 1983 c 213 s 3; 1987 c 291 s 195*

115A.70 DESIGNATION OF RESOURCE RECOVERY FACILITIES; REQUIRED USE.

Subdivision 1. [Repealed, 1984 c 644 s 82]

Subd. 2. [Repealed, 1984 c 644 s 82]

Subd. 3. [Repealed, 1984 c 644 s 82]

Subd. 4. [Repealed, 1984 c 644 s 82]

Subd. 5. [Repealed, 1984 c 644 s 82]

Subd. 6. [Repealed, 1984 c 644 s 82]

Subd. 7. [Repealed, 1984 c 644 s 82]

Subd. 8. **Authority.** A waste management district possessing designation authority in its articles of incorporation may be authorized to designate a resource recovery facility under sections 115A.80 to 115A.89.

History: *1980 c 564 art 8 s 9; 1982 c 569 s 16-18; 1983 c 373 s 40,41; 1984 c 644 s 34*

115A.71 BONDING POWERS.

Subdivision 1. **General.** A district may exercise the bonding powers provided in this section to the extent the powers are authorized by the order of the director establishing the district and by its articles of incorporation.

Subd. 2. **Debt.** The district's bonds shall be sold, issued, and secured in the manner provided in chapter 475 for revenue bonds and the district shall have the same powers and duties as a municipality and its governing body in issuing revenue bonds under that chapter. No election shall be required. The bonds may be sold at any price and at public or private sale as determined by the district and shall not be subject to any limitation as to rate.

Subd. 3. **Revenue bonds.** A district may borrow money and incur indebtedness by issuing bonds and obligations which are payable solely:

(a) from revenues, income, receipts, and profits derived by the district from its operation and management of solid waste facilities;

(b) from the proceeds of warrants, notes, revenue bonds, debentures, or other evidences of indebtedness issued and sold by the district which are payable solely from such revenues, income, receipts, and profits;

(c) from federal or state grants, gifts, or other moneys received by the district which are available therefor.

Every issue of revenue bonds by the district shall be payable out of any funds or revenues from any facility of the district, subject only to agreements with the holders of particular bonds or notes pledging particular revenues or funds. If any facility of the district is funded in whole or in part by Minnesota waste management bonds issued under sections 115A.58 and 115A.59, the state bonds shall take priority. The district may provide for priorities of liens in the revenues between the holders of district obligations issued at different times or under different resolutions. The district may provide for the refunding of any district obligation through the issuance of other district obligations entitled to rights and priorities similar in all respects to those held by the obligations that are refunded.

History: *1980 c 564 art 8 s 10; 1989 c 335 art 1 s 269; 1991 c 199 art 2 s 1; 1994 c 639 art 5 s 3*

115A.715 SOLID WASTE AUTHORITY.

A district has all the authority of a county for solid waste management purposes that is given to counties under this chapter and chapters 400 and 473, except the authority to issue general obligation bonds or to levy property taxes. A district has the authority of a county to issue general obligation bonds and to levy property taxes only if and only to the extent that the governing body of each county that is a member of the district agrees to delegate the authority to the district. The delegation of the authority is irrevocable unless the governing body of each county that is a member of the district agrees to the revocation.

History: *1991 c 337 s 29*

115A.72 AUDIT.

The board of directors, at the close of each year's business, shall cause an audit of the books, records and financial affairs of the district to be made by a certified public accountant or the state auditor. Copies of a written report of the audit, certified to by the auditors, shall be placed and kept on file at the principal place of business of the district and shall be filed with the secretary of state and the director.

History: *1980 c 564 art 8 s 11; 1989 c 335 art 1 s 269; 1994 c 639 art 5 s 3*

DESIGNATION OF SOLID WASTE MANAGEMENT FACILITIES

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

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

History: *1984 c 644 s 35; 1989 c 325 s 9*

115A.81 DEFINITIONS.

Subdivision 1. **Scope.** The terms used in sections 115A.80 to 115A.893 have the meanings given them in this section.

Subd. 2. **Designation.** "Designation" means a requirement by a waste management district or county that all or any portion of the solid waste that is generated within its boundaries or any service area thereof be delivered to a processing or disposal facility identified by the district or county.

Subd. 3. **Reviewing authority.** "Reviewing authority" means the agency responsible for reviewing and approving a designation plan under section 115A.84, subdivision 3, and a designation ordinance under section 115A.86, subdivision 2.

History: *1984 c 644 s 36; 1985 c 274 s 6; 1987 c 348 s 23; 1989 c 325 s 10; 1992 c 593 art 1 s 20*

115A.82 ELIGIBILITY.

Facilities may be designated under sections 115A.80 to 115A.89 by (1) a solid waste management district established pursuant to sections 115A.62 to 115A.72 and possessing designation authority in its articles of incorporation; or (2) a county, but only for waste generated outside of the boundaries of a district qualifying under clause (1) or the Western Lake Superior Sanitary District established under chapter 458D.

History: *1984 c 644 s 37; 1992 c 464 art 1 s 16*

115A.83 WASTES SUBJECT TO DESIGNATION; EXEMPTIONS.

Subdivision 1. **Application.** Designation applies to the following wastes:

(1) mixed municipal solid waste; and

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

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

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

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

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

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

(3) materials that are separated at a permitted transfer station located within the boundaries of the designating authority for the purpose of recycling the materials if:

(i) the transfer station was in operation on January 1, 1991; or

(ii) the materials were not being separated for recycling at the designated facility at the time the transfer station began separation of the materials; or

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

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

History: *1984 c 644 s 38; 1989 c 325 s 11; 1991 c 337 s 30; 1992 c 593 art 1 s 21; 1994 c 639 art 5 s 3*

115A.84 DESIGNATION PLAN.

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

Subd. 2. **Designation; plan contents.** (a) The designation plan must evaluate:

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

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

(b) In particular the designation plan must evaluate:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The reviewing authority shall complete its review and make its decision within 120 days following submission of the plan for review. The reviewing authority shall approve the designation plan if the plan satisfies the requirements of subdivision 2 and, in the case of designation to disposal facilities, if the reviewing authority finds that the plan has demonstrated that the designation is necessary and is consistent with section 115A.02. The reviewing authority may attach conditions to its approval that relate to matters required in a designation ordinance under section 115A.86, subdivision 1, paragraph (a), clauses (1) to (4), and paragraph (b). Amendments to plans must be submitted for review in accordance with this subdivision.

Subd. 4. **Exclusion of certain materials.** (a) When the director approves the designation plan, the director shall exclude from the designation materials that the director determines will be processed at a resource recovery facility separate from the designated facility if:

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

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

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

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

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

Subd. 5. **Exclusion of materials separated at certain facilities.** (a) A county or district shall exclude from the designation, subject to approval by the director, materials that the county or district determines will be separated for recycling at a transfer station located outside of the area subject to designation if:

(1) the residual materials left after separation of the recyclable materials are delivered to a facility designated by the county or district;

(2) each waste collector who would otherwise be subject to the designation ordinance and who delivers waste to the transfer station has not been found in violation of the designation ordinance in the six months prior to filing for an exclusion;

(3) the materials separated at the transfer station are delivered to a recycler and are actually recycled; and

(4) the owner or operator of the transfer station agrees to report and actually reports to the county or district the quantities of materials, by categories to be specified by the county or district, that are recycled by the facility that otherwise would have been subject to designation.

(b) In order to qualify for the exclusion in this subdivision, the owner of a transfer station shall file with the county or district a written description of the transfer station, its operation, location, and waste supply sources, the quantity of waste delivered to the transfer station by the owner of the transfer station, the market for the materials separated for recycling, where the recyclable materials are delivered for recycling, and other information the county or district may reasonably require. Information received by the county or district is nonpublic data as defined in section 13.02, subdivision 9.

(c) A county or district that grants an exclusion under this subdivision may revoke the exclusion if any of the conditions of paragraph (a) are not being met.

History: *1984 c 644 s 39; 1985 c 274 s 7,8; 1989 c 325 s 12; 1989 c 335 art 1 s 269; 1991 c 337 s 31,32; 1994 c 639 art 5 s 3*

115A.85 PROCEDURE.

Subdivision 1. **Requirement.** A district or county with an approved designation plan shall proceed as provided in this section when designating facilities. A district need not repeat the designation procedures in this section to the extent that the procedures have been completed by each county having territory in the district or by a joint powers board composed of each county having territory in the district.

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

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

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

(b) The notification must:

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

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

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

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

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

Subd. 3. **Negotiated contracts for use.** During a period of 90 days following the hearing, the district or county shall negotiate with the persons entitled to written notice under subdivision 2 for the purpose of developing contractual agreements that will require use of the facilities proposed to be designated.

Subd. 4. **Designation decision.** At the end of the 90-day contract negotiation period the district or county may proceed to secure approval for and implement the designation as provided in section 115A.86.

History: *1984 c 644 s 40; 1989 c 325 s 13*

115A.86 IMPLEMENTATION OF DESIGNATION.

Subdivision 1. **Designation ordinance.** (a) The district or county shall prepare a designation ordinance to implement a designation. The designation ordinance must: (1) define the geographic area and the types and quantities of solid waste subject to designation; (2) specify the point or points of delivery of the solid waste; (3) require that the designated solid waste be delivered to the specified point or points of delivery; (4) require the designated facility to accept all designated solid waste delivered to the specified point or points of delivery, unless the facility has notified waste collectors in the designated area that the facility is inoperative; (5) set out the procedures and principles to be followed by the county or district in establishing and amending any rates and charges at the designated facility; and (6) state any additional regulations governing waste collectors or other matters necessary to implement the designation.

(b) The designation ordinance must provide an exception for: (1) materials that are exempt or excluded from the designation under section 115A.83 or 115A.84, subdivision 4; and (2) materials otherwise subject to the designation for which negotiated contractual arrangements exist that will require and effect the delivery of the waste to the facility for the term of the contract.

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

Subd. 3. **Implementation.** The designation may not be placed into effect before 60 days after the approval required in subdivision 2. The effective date of the designation must be specified at least 60 days in advance. If the designation is not placed into effect within two years of approval, the designation must be resubmitted to the director for approval or disapproval under subdivision 2, unless bonds have been issued to finance the facility to which the designation applies.

Subd. 4. **Effect.** The designation is binding on all political subdivisions, landfill operators, solid waste generators, and solid waste collectors in the designation area.

Subd. 5. **Amendments.** (a) Except for an amendment authorized under subdivision 6, amendments to a designation ordinance must be submitted to the director for approval. The director shall approve the amendment if the amendment is in the public interest and in furtherance of the state policies and purposes expressed in section 115A.02. If the director finds that the proposed amendment is a substantive change

from the existing designation plan, the director may require that the county or solid waste management district submit a revised designation plan to the director for approval. After receiving approval for the designation plan amendment from the director, the county or district shall follow the procedure outlined in section 115A.85 prior to submitting the amended designation ordinance to the director for approval. If the director does not act within 90 days after receiving the proposed amendment to the designation ordinance, the amendment is approved.

(b) Except for an amendment authorized under subdivision 6, prior to amending an ordinance to designate solid waste to a disposal facility, a county or district shall submit an amended designation plan to the director for approval, and shall follow the procedures outlined in section 115A.85.

Subd. 6. **Penalties.** (a) A county may include in its designation ordinance civil and misdemeanor penalties for violation of the ordinance. Subdivision 5 does not govern a designation ordinance amendment adopted under this paragraph.

(b) A county may by ordinance impose civil and misdemeanor penalties for delivery of mixed municipal solid waste to a processing or disposal facility in the county that is not a facility designated to receive the waste under a designation ordinance adopted by another county under this section.

(c) A civil penalty adopted under paragraph (a) or (b) must be payable to the county and may not exceed a fine of $10,000 per day of violation plus the cost of mitigating any damages caused by the violation and the attorney fees and court costs incurred by the county to enforce the ordinance.

History: *1984 c 644 s 41; 1985 c 274 s 9; 1989 c 325 s 14,15; 1989 c 335 art 1 s 269; 1991 c 337 s 33,34; 1994 c 639 art 5 s 3*

115A.87 JUDICIAL REVIEW; ATTORNEY GENERAL TO PROVIDE COUNSEL.

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

In any action challenging a designation ordinance or the implementation of a designation ordinance, the person bringing the challenge shall notify the attorney general. The attorney general may intervene in any administrative or court action to represent the state's interest in designation of solid waste, and, on request of a county whose designation ordinance has been challenged, provide legal representation for the county in any administrative or court action related to the challenge.

History: *1984 c 644 s 42; 1992 c 593 art 1 s 22; 1994 c 585 s 14; 1994 c 639 art 5 s 3*

115A.88 SERVICE GUARANTEE.

The district or county may not arbitrarily terminate, suspend, or curtail services provided to any person required by contract or designation ordinance to use designated facilities without the consent of the person or without just cause.

History: *1984 c 644 s 43*

115A.882 RECORDS; INSPECTION.

Subdivision 1. **Definitions.** For the purposes of this section:

(1) "origin" means a general geographical description that at a minimum names the local governmental unit within a county from which waste was collected; and

(2) "type" means a best estimate of the percentage of each truck load that consists of residential, commercial, industrial, construction, or any other general type of waste.

Subd. 2. **Records; collectors; facilities.** Each person who collects solid waste in a county in which a designation ordinance is in effect shall maintain records regarding the volume or weight, type, and origin of waste collected. Each day, a record of the origin, type, and weight of the waste collected that day and the identity of the waste facility

at which that day's collected waste is deposited must be kept on the waste collection vehicle. If the waste is measured by volume at the waste facility at which it is deposited, the record may show the volume rather than the weight of the waste.

The owner or operator of a solid waste facility shall maintain records regarding the weight of the waste, or the volume of the waste if the waste is measured by volume; the general type or types of waste; the origin of the waste delivered to the facility; the date and time of delivery; and the name of the waste collector that delivered the waste to the facility.

Subd. 3. **Inspection.** A person authorized by a county in which a designation ordinance is effective may, anywhere in the state:

(1) upon presentation of identification and without a search warrant, inspect or copy the records required to be kept on a waste collection vehicle under subdivision 2 and inspect the waste on the vehicle at the time of deposit of the waste at a facility;

(2) when reasonable notice under the circumstances has been given, upon presentation of identification and without a search warrant, inspect or copy the records of an owner or operator of a solid waste facility that are required to be maintained under subdivision 2;

(3) request, in writing, copies of records of a solid waste collector that indicate the type, origin, and weight or, if applicable, the volume of waste collected, the identity of the facility at which the waste was deposited, and the date of deposit at the facility; and

(4) upon presentation of identification and without a search warrant, inspect or copy that portion of the business records of a waste collector necessary to comply with clause (3) at the central record keeping location of the waste collector only if the collector fails to provide copies of the records within 15 days of receipt of a written request for them, unless the time has been extended by agreement of the parties.

Records or information received, inspected, or copied by a county under this section are classified as nonpublic data as defined in section 13.02, subdivision 9, and may be used by the county solely for enforcement of a designation ordinance. A waste collector or the owner or operator of a waste facility shall maintain business records needed to comply with this section for two years.

Subd. 4. **Civil enforcement; venue.** (a) A person who fails to comply with this section is subject to:

(1) an action to compel performance or to restrain or enjoin any activity that interferes with the requirement to keep records in subdivision 2 or the requirement to allow timely entry and inspection in subdivision 3;

(2) damages caused by the failure to keep records or by refusal to allow timely entry or inspection;

(3) a civil penalty payable to the county seeking enforcement of up to $10,000 per day for each day of refusal to allow timely entry or inspection; or

(4) any or all of the above.

(b) A county in which a designation ordinance is in effect may enforce this section by commencing an action in district court in the county in which the facility is located or in the county in which the designation ordinance is in effect. The court may compel performance in any manner deemed appropriate by the court, including, but not limited to, issuance of an order to show cause, a temporary restraining order, or an injunction. In addition, the court may order payment of damages or a civil penalty or both. In an action brought by a county to enforce this section in which the county substantially prevails, the court may order payment by the defendant of the county's costs and disbursements, including reasonable attorney fees.

History: *1988 c 521 s 1; 1991 c 337 s 35; 1994 c 585 s 15,16*

115A.89 SUPERVISION OF IMPLEMENTATION.

The director shall: (1) require regular reports on the implementation of each designation; (2) periodically evaluate whether each designation as implemented has accom-

plished its purposes and whether the designation is in the public interest and in furtherance of the state policies and purposes expressed in section 115A.02; and (3) report periodically to the legislature on the director's conclusions and recommendations.

History: *1984 c 644 s 44; 1994 c 639 art 5 s 3*

115A.893 PETITION FOR EXCLUSION.

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

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

(1) the materials will be processed at the facility; and

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

Subd. 3. **Appeal of decision.** A person aggrieved by the decision of the district or county may appeal to the director. The review is confined to the record. The decision of the director must be based on the standards stated in this section.

Subd. 4. **Conformance of designation ordinance.** If the director approves the petition, the designation ordinance must be amended in conformance with the decision of the director. The petition may be amended during the proceedings by agreement between the petitioner and the district or county.

History: *1985 c 274 s 10; 1989 c 325 s 16; 1994 c 639 art 5 s 3*

WASTE TIRES, LEAD ACID BATTERIES, AND USED OIL

115A.90 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to sections 115A.90 to 115A.914.

Subd. 2. MS 1990 [Renumbered subd 3]

Subd. 2. **Collection site.** "Collection site" means a permitted site, or a site exempted from permit, used for the storage of waste tires.

Subd. 3. MS 1990 [Renumbered subd 2]

Subd. 3. **Office.** "Office" means the office of waste management.

Subd. 4. [Repealed, 1988 c 685 s 44]

Subd. 5. **Person.** "Person" has the meaning given in section 116.06, subdivision 17.

Subd. 6. **Processing.** "Processing" means producing or manufacturing usable materials, including fuel, from waste tires including necessary incidental temporary storage activity.

Subd. 6a. **Shredder residue.** "Shredder residue" means the residue generated by shredding a motor vehicle, an appliance, or other source of recyclable steel after removing the reusable and recyclable materials.

Subd. 7. **Tire.** "Tire" means a pneumatic tire or solid tire for motor vehicles as defined in section 169.01.

Subd. 8. **Tire collector.** "Tire collector" means a person who owns or operates a site used for the storage, collection, or deposit of more than 50 waste tires.

Subd. 9. **Tire dump.** "Tire dump" means an establishment, site, or place of business without a required tire collector or tire processor permit that is maintained, operated, used, or allowed to be used for storing, keeping, or depositing unprocessed waste tires.

Subd. 10. **Tire processor.** "Tire processor" means a person engaged in the processing of waste tires.

Subd. 11. **Waste tire.** "Waste tire" means a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect.

History: *1984 c 654 art 2 s 92; 1988 c 685 s 45; 1989 c 335 art 1 s 269; 1993 c 172 s 58*

115A.902 PERMIT; TIRE COLLECTORS, PROCESSORS.

Subdivision 1. **Permit required.** A tire collector or tire processor with more than 500 waste tires shall obtain a permit from the office unless exempted in subdivision 2. The office may by rule require tire collectors or tire processors with less than 500 waste tires to obtain permits unless exempted by subdivision 2.

Subd. 2. **Exemptions.** A permit is not required for:

(1) a retail tire seller for the retail selling site if no more than 500 waste tires are kept on the business premises;

(2) an owner or operator of a tire retreading business for the business site if no more than 3,000 waste tires are kept on the business premises;

(3) an owner or operator of a business who, in the ordinary course of business, removes tires from motor vehicles if no more than 500 waste tires are kept on the business premises;

(4) a permitted landfill operator with less than 10,000 waste tires stored above ground at the permitted site; or

(5) a person using waste tires for agricultural purposes if the waste tires are kept on the site of use.

Subd. 3. **Local authority.** The issuance of an office permit does not replace a permit or license required under section 400.16 or 473.811.

Subd. 4. **Permit fee.** The revenue from permit fees shall be credited to the general fund.

History: *1984 c 654 art 2 s 93; 1988 c 685 s 45; 1989 c 335 art 1 s 269*

115A.904 LAND DISPOSAL PROHIBITED.

The disposal of waste tires in the land is prohibited after July 1, 1985. This does not prohibit the storage of unprocessed waste tires at a collection or processing facility.

History: *1984 c 654 art 2 s 94; 1Sp1985 c 13 s 230; 1Sp1985 c 16 art 2 s 42 subd 1*

115A.906 WASTE TIRE NUISANCE; ABATEMENT.

Subdivision 1. **Nuisance.** A tire dump unreasonably endangers the health, safety, and comfort of individuals and the public and is a nuisance.

Subd. 2. **Abatement.** The office may abate a nuisance by processing and removing the tires. Before taking any action to abate a nuisance, the office shall give notice to the tire collector responsible for the nuisance that the tires to be processed and removed constitute a nuisance and demand that the tires be shredded or chipped or removed within a specified period. Failure of the tire collector to take the required action within the specified period shall result in the issuance of an office order to abate the nuisance. The abatement order may include entering the property where the nuisance is located, taking tires into public custody, and providing for their processing and removal. The office order may be enforced pursuant to the provisions of sections 115.071 and 116.072.

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

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

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

Subd. 3. **Recovery of expenses.** Any reasonable and necessary expenses incurred by the office for abatement costs, and administrative and legal expenses, may be recovered in a civil action brought by the attorney general against any tire collector responsible for the nuisance. The office's certification of expenses shall be prima facie evidence that the expenses are reasonable and necessary.

Subd. 4. **Other abatement.** This section does not change the existing authority of a person or political subdivision to abate a tire dump nuisance. The office may reimburse a person or political subdivision for the costs of abatement.

History: *1984 c 654 art 2 s 95; 1988 c 685 s 45; 1989 c 325 s 17; 1989 c 335 art 1 s 269; 1991 c 347 art 1 s 18*

115A.908 MOTOR VEHICLE TRANSFER FEE.

Subdivision 1. **Fee charged.** A fee of $4 shall be charged on the initial registration and each subsequent transfer of title within the state, other than transfers for resale purposes, of every motor vehicle weighing more than 1,000 pounds. The fee shall be collected in an appropriate manner by the motor vehicle registrar. Registration plates or certificates may not be issued by the motor vehicle registrar for the ownership or operation of a motor vehicle subject to the transfer fee unless the fee is paid. The fee may not be charged on the transfer of:

(1) previously registered vehicles if the transfer is to the same person;

(2) vehicles subject to the conditions specified in section 297A.25, subdivision 11; or

(3) vehicles purchased in another state by a resident of another state if more than 60 days have elapsed after the date of purchase and the purchaser is transferring title to this state and has become a resident of this state after the purchase.

Subd. 2. **Deposit of revenue.** Revenue collected shall be credited to the motor vehicle transfer account in the environmental fund.

Subd. 3. **Repealer.** This section is repealed on December 31, 1996.

History: *1984 c 654 art 2 s 96; 1Sp1985 c 13 s 231; 1989 c 335 art 4 s 35; 1993 c 172 s 59,60*

115A.909 SHREDDER RESIDUE; MANAGEMENT.

The commissioner, in consultation with persons who are engaged in the business of shredding motor vehicles, appliances, and other sources of recyclable steel, shall study management of shredder residue. To the extent possible under state and federal law, the commissioner shall encourage reduction in the amount of residue generated, allow beneficial use of the residue, and minimize costs of management and disposal. The commissioner shall study all reasonably ascertainable alternatives for management of the residue, including use as cover material at solid waste disposal facilities, use in manufacture of refuse-derived fuel, and any other resource recovery management technique.

History: *1993 c 172 s 61*

115A.912 WASTE TIRE MANAGEMENT.

Subdivision 1. **Purpose.** Money appropriated to the office for waste tire management may be spent for elimination of health and safety hazards of tire dumps and collection sites, tire dump abatement, collection, management and clean up of waste tires, regulation of permitted waste tire facilities, research and studies to determine the technical and economic feasibility of uses for tire derived products, public education on waste tire management, and grants and loans under section 115A.913.

Subd. 2. **Priorities for spending.** The office shall apply the following criteria to establish priorities: (1) tire dumps or collection sites determined by the office to contain more than 1,000,000 tires; (2) abatement of fire hazard nuisances; (3) abatement of nuisance in densely populated areas; and (4) collection and clean up of waste tires including abatement of tire dumps.

Subd. 3. **Contracts with counties.** The office may contract with counties for the abatement of waste tire nuisances and may reimburse a county for up to 85 percent of the cost of abatement. A contract with a county for abatement of waste tire nuisances must incorporate a plan approved by the office that provides for the removal and processing of the waste tires in a manner consistent with office standards and ongoing office abatement activities. A county may recover by civil action its part of abatement costs from the tire collector responsible for a nuisance.

History: *1984 c 654 art 2 s 97; 1988 c 685 s 14; 1989 c 335 art 1 s 269*

115A.913 WASTE TIRE PROGRAMS.

Subdivision 1. **Loans and grants.** (a) The office may make loans to waste tire processing businesses for the capital costs of land, buildings, equipment, and other capital improvements needed for the construction or betterment of waste tire processing facilities, and for the capital cost of equipment needed to transport waste tires to a waste tire processing facility. The office may also make loans to businesses that use waste tire derived products in manufacturing processes, for the capital costs of land, buildings, and equipment used in the manufacturing process.

(b) The office may make grants for studies necessary to demonstrate the technical and economic feasibility of a proposed waste tire processing project, or of a proposed use for waste tire derived products in a manufacturing process. A grant may not exceed $30,000 and may not exceed 75 percent of the costs of a study.

Subd. 2. **Collection and transportation.** The office may make grants to local government units for the cost of establishing waste tire collection sites. Grants may be used for the capital costs of land, structures, and equipment needed to establish waste tire collection sites, and to collect and transport waste tires. A grant may not exceed 50 percent of the cost to a local government unit to establish a waste tire collection site.

Subd. 3. **Feasibility studies.** The office may conduct research and studies to determine the technical and economic feasibility of uses for waste tire derived products.

Subd. 4. **Public education.** The office may conduct a program to inform the public about proper handling and opportunities for processing of waste tires consistent with section 115A.072.

Subd. 5. **Report.** By November 15 of each year, the office shall prepare and submit to the legislative commission on waste management a progress report of the office's operations and activities under sections 115A.90 to 115A.914.

History: *1988 c 685 s 15; 1989 c 335 art 1 s 269*

115A.914 ADMINISTRATION; COUNTY PLANNING AND ORDINANCES.

Subdivision 1. **Regulatory and enforcement powers.** For purposes of implementing and enforcing the waste tire programs in sections 115A.90 to 115A.914, the office may exercise the regulatory and enforcement powers of the agency under chapters 115 and 116.

Subd. 2. **Office rules.** The office shall adopt rules for administration of waste tire

collector and processor permits, waste tire nuisance abatement, and waste tire collection.

Subd. 3. **County planning; ordinances.** Counties shall include collection and processing of waste tires in the solid waste management plan prepared under sections 115A.42 to 115A.46 and shall adopt ordinances under sections 400.16 and 473.811 for management of waste tires that embody, but may be more restrictive than, office rules.

History: *1984 c 654 art 2 s 98; 1Sp1985 c 13 s 232; 1988 c 685 s 16; 1989 c 335 art 1 s 269*

115A.915 LEAD ACID BATTERIES; LAND DISPOSAL PROHIBITED.

A person may not place a lead acid battery in mixed municipal solid waste or dispose of a lead acid battery after January 1, 1988. A person who violates this section is guilty of a misdemeanor. This section may be enforced by the agency pursuant to sections 115.071 and 116.072.

History: *1987 c 348 s 24; 1Sp1989 c 1 art 20 s 6; 1991 c 347 art 1 s 18*

115A.9152 TRANSPORTATION OF USED LEAD ACID BATTERIES.

(a) A person who transports used lead acid batteries from a retailer must deliver the batteries to a recycling facility.

(b) A person who violates paragraph (a) is guilty of a misdemeanor. The failure to deliver each used lead acid battery to a recycler is a separate violation.

History: *1Sp1989 c 1 art 20 s 7*

115A.9155 DISPOSAL OF CERTAIN DRY CELL BATTERIES.

Subdivision 1. **Prohibition.** A person may not place in mixed municipal solid waste a dry cell battery containing mercuric oxide electrode, silver oxide electrode, nickel-cadmium, or sealed lead-acid that was purchased for use or used by a government agency, or an industrial, communications, or medical facility.

Subd. 2. **Manufacturer responsibility.** (a) A manufacturer of batteries subject to subdivision 1 shall:

(1) ensure that a system for the proper collection, transportation, and processing of waste batteries exists for purchasers in Minnesota; and

(2) clearly inform each final purchaser of the prohibition on disposal of waste batteries and of the system or systems for proper collection, transportation, and processing of waste batteries available to the purchaser.

(b) To ensure that a system for the proper collection, transportation, and processing of waste batteries exists, a manufacturer shall:

(1) identify collectors, transporters, and processors for the waste batteries and contract or otherwise expressly agree with a person or persons for the proper collection, transportation, and processing of the waste batteries; or

(2) accept waste batteries returned to its manufacturing facility.

(c) At the time of sale of a battery subject to subdivision 1, a manufacturer shall provide in a clear and conspicuous manner a telephone number that the final consumer of the battery can call to obtain information on specific procedures to follow in returning the battery for recycling or proper disposal.

The manufacturer may include the telephone number and notice of return procedures on an invoice or other transaction document held by the purchaser. The manufacturer shall provide the telephone number to the commissioner of the agency.

(d) A manufacturer shall ensure that the cost of proper collection, transportation, and processing of the waste batteries is included in the sales transaction or agreement between the manufacturer and any purchaser.

(e) A manufacturer that has complied with this subdivision is not liable under subdivision 1 for improper disposal by a person other than the manufacturer of waste batteries.

History: *1990 c 409 s 1; 1991 c 257 s 1*

115A.9157 RECHARGEABLE BATTERIES AND PRODUCTS.

Subdivision 1. **Definition.** For the purpose of this section "rechargeable battery" means a sealed nickel-cadmium battery, a sealed lead acid battery, or any other rechargeable battery, except a rechargeable battery governed by section 115A.9155 or exempted by the commissioner under subdivision 9.

Subd. 2. **Prohibition.** Effective August 1, 1991, a person may not place in mixed municipal solid waste a rechargeable battery, a rechargeable battery pack, a product with a nonremovable rechargeable battery, or a product powered by rechargeable batteries or rechargeable battery pack, from which all batteries or battery packs have not been removed.

Subd. 3. **Collection and management costs.** A manufacturer of rechargeable batteries or products powered by rechargeable batteries is responsible for the costs of collecting and managing its waste rechargeable batteries and waste products to ensure that the batteries are not part of the solid waste stream.

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

By December 1, 1991, the manufacturers or their representative organization shall submit plans for the projects to the legislative commission.

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

By October 1, 1994, and by October 1, 1995, each manufacturer or a representative organization shall submit to the commission additional reports that detail progress made toward implementing permanent management programs. The October 1, 1995, report must include a description of the programs implemented under subdivision 5. These progress reports must include the estimated amount of rechargeable batteries subject to this section sold in the state by each manufacturer and the amount of batteries each collected during the previous year. A representative organization may report amounts in aggregate for all the members of the organization.

Subd. 5. **Collection and management programs.** By September 20, 1995, the manufacturers or their representative organization shall implement permanent programs, based on the results of the pilot projects required in subdivision 4, that may be reasonably expected to collect 90 percent of the waste rechargeable batteries and the participating manufacturers' products powered by rechargeable batteries that are generated in the state. The batteries and products collected must be recycled or otherwise managed or disposed of properly.

In every odd-numbered year after 1995, each manufacturer or a representative organization shall provide information to the commission that specifies at least the estimated amount of rechargeable batteries subject to this section sold in the state by each manufacturer and the amount of batteries each collected during the previous two years. A representative organization may report the amounts in aggregate for all the members of the organization.

Subd. 6. **List of participants.** A manufacturer or its representative organization shall inform the legislative commission on waste management when they begin participating in the projects and programs and immediately if they withdraw participation. The list of participants shall be available to retailers, distributors, governmental agen-

cies, and other interested persons who provide a self-addressed stamped envelope to the commission.

Subd. 7. **Contracts.** A manufacturer or a representative organization of manufacturers may contract with the state or a political subdivision to provide collection services under this section. The manufacturer or organization shall fully reimburse the state or political subdivision for the value of any contractual services rendered under this subdivision.

Subd. 8. **Anticompetitive conduct.** A manufacturer or organization of manufacturers and its officers, members, employees, and agents who participate in projects or programs to collect and properly manage waste rechargeable batteries or products powered by rechargeable batteries are immune from liability under state law relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or commerce for activities related to the collection and management of batteries and products required under this section.

Subd. 9. **Exemptions.** To ensure that new types of batteries do not add additional hazardous or toxic materials to the mixed municipal solid waste stream, the commissioner of the agency may exempt a new type of rechargeable battery from the requirements of this section if it poses no unreasonable hazard when placed in and processed or disposed of as part of a mixed municipal solid waste.

History: *1991 c 257 s 2; 1992 c 593 art 1 s 23,24; 1994 c 585 s 17,18*

115A.916 MOTOR AND VEHICLE FLUIDS AND FILTERS; PROHIBITIONS.

(a) A person may not knowingly place motor oil, brake fluid, power steering fluid, transmission fluid, motor oil filters, or antifreeze:

(1) in solid waste or in a solid waste management facility other than a recycling facility or a household hazardous waste collection facility;

(2) in or on the land, unless approved by the agency; or

(3) in or on the waters of the state or in a stormwater or wastewater collection or treatment system.

(b) For the purposes of this section, "antifreeze" does not include small amounts of antifreeze contained in water used to flush the cooling system of a vehicle after the antifreeze has been drained and does not include deicer that has been used on the exterior of a vehicle.

(c) This section does not apply to antifreeze placed in a wastewater collection system that includes a publicly or privately owned treatment works that is permitted by the agency until December 31, 1996.

(d) Notwithstanding paragraph (a), motor oil filters and portions of motor oil filters may be processed at a permitted mixed municipal solid waste resource recovery facility that directly burns the waste if:

(1) the facility is subject to an industrial waste management plan that addresses management of motor oil filters and the owner or operator of the facility can demonstrate to the satisfaction of the commissioner that the facility is in compliance with that plan;

(2) the facility recovers ferrous metal after incineration for recycling as part of its operation; and

(3) the motor oil filters are collected separately from mixed municipal solid waste and are not combined with it except for the purpose of incinerating the waste.

History: *1987 c 348 s 25; 1988 c 685 s 17; 1991 c 347 art 1 s 18; 1993 c 249 s 16; 1994 c 585 s 19*

115A.9162 USED OIL LOANS AND GRANTS.

Subdivision 1. **Loans.** The director may make loans to businesses for the purchase of used oil processing equipment.

Subd. 2. **Grants.** The director may make grants to local government units for

installation of storage tanks to collect used oil. To be eligible for a grant, an applicant must obtain approval from the commissioner of the agency for the type of tank to be used, the location and installation of the tank, and the proposed ongoing maintenance and monitoring of the collection site. A tank may be located on public or private property and must be made available to the public for used oil disposal. A grant for a single tank may not exceed $2,500 and a local government unit may not receive more than $5,000 in grants for storage tanks.

History: *1988 c 685 s 18; 1989 c 335 art 1 s 269; 1991 c 337 s 36; 1994 c 639 art 5 s 3*

NEW DISPOSAL FACILITIES; CERTIFICATE OF NEED

115A.917 CERTIFICATE OF NEED.

No new capacity for disposal of mixed municipal solid waste may be permitted in counties outside the metropolitan area without a certificate of need issued by the director indicating the director's determination that the additional disposal capacity is needed in the county. A certificate of need may not be issued until the county has a plan approved under section 115A.46. If the original plan was approved more than five years before, the director may require the plan to be revised before a certificate of need is issued under this section. The director shall certify need only to the extent that there are no feasible and prudent alternatives to the additional disposal capacity, including waste reduction, source separation, and resource recovery, that would minimize adverse impact upon natural resources. Alternatives that are speculative or conjectural are not feasible and prudent. Economic considerations alone do not justify the certification of need or the rejection of alternatives.

History: *1984 c 644 s 45; 1987 c 404 s 145; 1989 c 335 art 1 s 269; 1994 c 639 art 5 s 3*

DISPOSAL FACILITIES; LOCAL FEE AUTHORITY

115A.918 DEFINITIONS.

Subdivision 1. **Scope.** The definitions in this section apply to this section and sections 115A.919 to 115A.929.

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

Subd. 2a. **Equivalent.** For mixed municipal solid waste, the measure of "equivalent" or "equivalent cubic yards of waste" is 3.33 cubic yards per ton of waste.

Subd. 3. **Operator.** "Operator" means:

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

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

Subd. 4. **Postclosure, postclosure care.** "Postclosure" and "postclosure care" mean actions taken for the care, maintenance, and monitoring of a solid waste disposal facility after closure that will prevent, mitigate, or minimize the threat to public health and environment posed by the closed facility.

Subd. 5. **Response.** "Response" has the meaning given it in section 115B.02, subdivision 18.

History: *1985 c 274 s 11; 1994 c 585 s 20,21*

115A.919 COUNTY FEE AUTHORITY.

Subdivision 1. **Fee.** (a) A county may impose a fee, by cubic yard of waste or its equivalent, on operators of facilities for the disposal of mixed municipal solid waste or construction debris located within the county. The revenue from the fees shall be credited to the county general fund and shall be used only for landfill abatement purposes, or costs of closure, postclosure care, and response actions or for purposes of mitigating and compensating for the local risks, costs, and other adverse effects of facilities.

(b) Fees for construction debris facilities may not exceed 50 cents per cubic yard. Revenues from the fees must offset any financial assurances required by the county for a construction debris facility. The maximum revenue that may be collected for a construction debris facility must be determined by multiplying the total permitted capacity of the facility by 15 cents per cubic yard. Once the maximum revenue has been collected for a facility, the fee may no longer be imposed. The limitation on the fees in this paragraph and in section 115A.921, subdivision 2, are not intended to alter the liability of the facility operator or the authority of the agency to impose financial assurance requirements.

Subd. 2. **Additional fee.** A county may impose a fee, by cubic yard or the equivalent of waste collected outside the county, in addition to a fee imposed under subdivision 1, on operators of mixed municipal solid waste disposal facilities located within the county. The fee may not exceed $7.50 per cubic yard or the equivalent. A person licensed to collect solid waste in a county that designates the waste under sections 115A.80 to 115A.893 who is referred to a disposal facility outside the county due to temporary closure of the designated facility is exempt from the additional fee; the designated facility is responsible for the fee. Revenue generated from the additional fee must be credited to the county general fund and may be used only for the purposes listed in subdivision 1.

Subd. 3. **Exemptions.** (a) Waste residue from recycling facilities at which recyclable materials are separated or processed for the purpose of recycling, or from energy and resource recovery facilities at which solid waste is processed for the purpose of extracting, reducing, converting to energy, or otherwise separating and preparing solid waste for reuse shall be exempt from any fee imposed by a county under this section if there is at least an 85 percent volume reduction in the solid waste processed. Before any fee is reduced, the verification procedures of section 473.843, subdivision 1, paragraph (c), must be followed and submitted to the appropriate county, except that for facilities operating outside of the metropolitan area the commissioner shall prescribe procedures for verifying the required 85 percent volume reduction.

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

History: *1984 c 644 s 46; 1985 c 274 s 12; 1988 c 685 s 19; 1989 c 325 s 18; 1991 c 337 s 37; 1994 c 585 s 22*

115A.921 CITY OR TOWN FEE AUTHORITY.

Subdivision 1. **Mixed municipal solid waste.** A city or town may impose a fee, not to exceed $1 per cubic yard of waste, or its equivalent, on operators of facilities for the disposal of mixed municipal solid waste located within the city or town. The revenue from the fees must be credited to the city or town general fund. Revenue produced by 25 cents of the fee must be used only for purposes of landfill abatement or for purposes of mitigating and compensating for the local risks, costs, and other adverse effects of facilities. Revenue produced by the balance of the fee may be used for any general fund purpose.

Waste residue from recycling facilities at which recyclable materials are separated or processed for the purpose of recycling, or from energy and resource recovery facilities at which solid waste is processed for the purpose of extracting, reducing, converting

to energy, or otherwise separating and preparing solid waste for reuse shall be exempt from the fee imposed by a city or town under this section if there is at least an 85 percent volume reduction in the solid waste processed. Before any fee is reduced, the verification procedures of section 473.843, subdivision 1, paragraph (c), must be followed and submitted to the appropriate city or town, except that for facilities operating outside of the metropolitan area the commissioner shall prescribe procedures for verifying the required 85 percent volume reduction.

Subd. 2. **Construction debris.** (a) A city or town may impose a fee, not to exceed 50 cents per cubic yard of waste, or its equivalent, on operators of facilities for the disposal of construction debris located within the city or town. The revenue from the fees must be credited to the city or town general fund. Two-thirds of the revenue must be used only for purposes of landfill abatement or for purposes of mitigating and compensating for the local risks, costs, and other adverse effects resulting from the facilities.

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

(c) Two-thirds of the revenue from fees collected under this subdivision must offset any financial assurances required by the city or town for a construction debris facility.

(d) The maximum revenue that may be collected under this subdivision must be determined by multiplying the total permitted capacity of a facility by 15 cents per cubic yard. Once the maximum revenue has been collected for a facility, the fees in this subdivision may no longer be imposed.

History: *1984 c 644 s 47; 1987 c 348 s 26; 1988 c 685 s 20; 1989 c 325 s 19; 1991 c 337 s 38; 1994 c 585 s 23*

115A.922 [Repealed, 1990 c 604 art 10 s 32]

115A.923 GREATER MINNESOTA LANDFILL CLEANUP FEE.

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

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

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

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

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

Subd. 1a. **Payment of the greater Minnesota landfill cleanup fee.** The operator of a disposal facility in greater Minnesota shall remit the fees collected under subdivision 1 to the county or sanitary district where the facility is located, except that the operator of a facility that is owned by a statutory or home rule city shall remit the fees to the city that owns the facility. The county, city, or sanitary district may use the revenue from the fees only for the purposes specified in section 115A.919.

Subd. 2. [Repealed, 1990 c 604 art 10 s 32]

Subd. 3. [Repealed, 1990 c 604 art 10 s 32]

Subd. 4. [Repealed, 1990 c 604 art 10 s 32]

Subd. 5. [Repealed, 1990 c 604 art 10 s 32]

Subd. 6. [Repealed, 1994 c 416 art 4 s 5]

History: *1989 c 325 s 21; 1990 c 604 art 10 s 26; 1991 c 337 s 39,40; 1994 c 416 art 4 s 1*

115A.924 [Repealed, 1990 c 604 art 10 s 32]

115A.925 [Repealed, 1990 c 604 art 10 s 32]

115A.927 [Repealed, 1990 c 604 art 10 s 32]

115A.928 [Repealed, 1990 c 604 art 10 s 32]

115A.929 FEES; ACCOUNTING.

Each political subdivision that provides for solid waste management shall account for all revenue collected from waste management fees, together with interest earned on revenue from the fees, separately from other revenue collected by the political subdivision and shall report revenue collected from the fees and use of the revenue separately from other revenue and use of revenue in any required financial report or audit. For the purposes of this section, "waste management fees" means:

(1) all fees, charges, and surcharges collected under sections 115A.919, 115A.921, and 115A.923;

(2) all tipping fees collected at waste management facilities owned or operated by the political subdivision;

(3) all charges imposed by the political subdivision for waste collection and management services; and

(4) any other fees, charges, or surcharges imposed on waste or for the purpose of waste management, whether collected directly from generators or indirectly through property taxes or as part of utility or other charges for services provided by the political subdivision.

History: *1991 c 337 s 41; 1993 c 249 s 17; 1994 c 585 s 24*

SOLID WASTE COLLECTION REQUIREMENTS

115A.93 LICENSING OF SOLID WASTE COLLECTION.

Subdivision 1. **License required.** A person may not collect mixed municipal solid waste for hire without a license from the jurisdiction where the mixed municipal solid waste is collected.

Subd. 2. **Licensing.** (a) Each city and town may issue licenses for persons to collect mixed municipal solid waste for hire within their jurisdictions.

(b) County boards shall by resolution adopt the licensing authority of a city or town that does not issue licenses. A county may delegate its licensing authority to a consortium of counties or to municipalities to license collection of mixed municipal solid waste within the county.

Subd. 3. **License requirements; pricing based on volume or weight.** (a) A licensing authority shall require licensees to impose charges for collection of mixed municipal solid waste that increase with the volume or weight of the waste collected.

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

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

Subd. 3a. **Volume requirement.** A licensing authority that requires a pricing system based on volume instead of weight under subdivision 3 shall determine a base unit size for an average small quantity household generator and establish, or require the licensee

to establish, a multiple unit pricing system that ensures that amounts of waste generated in excess of the base unit amount are priced higher than the base unit price.

Subd. 4. **Date certain.** By January 1, 1993, each county shall ensure that each city or town within the county requires each mixed municipal solid waste collector that provides curbside collection service in the city or town to obtain a license under this section or the county shall directly require and issue the licenses. No person may collect mixed municipal solid waste after January 1, 1993, without a license.

Subd. 5. **Customer data.** Customer lists provided to counties or cities by solid waste collectors are private data on individuals as defined in section 13.02, subdivision 12, with regard to data on individuals, or nonpublic data as defined in section 13.02, subdivision 9, with regard to data not on individuals.

History: *1Sp1989 c 1 art 20 s 8; 1991 c 337 s 42,43; 1992 c 593 art 1 s 25,26; 1993 c 351 s 23*

115A.9301 SOLID WASTE COLLECTION; VOLUME- OR WEIGHT-BASED PRICING.

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

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

Subd. 3. **Alternative.** A local government unit may satisfy the requirements of this section by establishing at least three price categories for collection of household mixed municipal solid waste to include, for households that generate small volumes of waste, a waste collection unit that is smaller than and priced lower than for other generators if the local government unit:

(1) operates or contracts for the operation of a residential recycling program that collects more categories of recyclable materials than required in section 115A.552;

(2) has a residential participation rate in its recycling programs of at least 70 percent or in excess of the participation rate for the county in which it is located, whichever is greater;

(3) is located in a county that has exceeded the recycling goals in section 115A.551; and

(4) generates, by all waste generators in the city, an amount of mixed municipal solid waste that is managed by incineration, production of refuse-derived fuel, mixed municipal solid waste composting, or disposal that is no greater, in proportion to the total amount of waste managed as listed above by all waste generators in the county in which the city is located, than it was for calendar year 1993.

History: *1992 c 593 art 1 s 27; 1994 c 585 s 25*

115A.9302 WASTE DEPOSIT DISCLOSURE.

Subdivision 1. **Disclosure required.** By January 1, 1994, and at least annually thereafter, a person that collects construction debris, industrial waste, or mixed municipal solid waste for transportation to a waste facility shall disclose to each waste generator from whom waste is collected the name, location, and type of, and the number of the permit issued by the agency, or its counterpart in another state, if applicable, for the processing or disposal facility or facilities, excluding a transfer station, at which the waste will be deposited. The collector shall note both the primary facility at which the collector most often deposits waste and any alternative facilities regularly used by the collector.

Subd. 2. **Form of disclosure.** A collector shall make the disclosure to the waste generator in writing at least once per year or on any written contract for collection services for that year. If an additional facility becomes either a primary facility or an alternative facility during the year, the collector shall make the disclosure set forth in subdivision 1 within 30 days. A local government unit that collects solid waste without direct charges to waste generators shall make the disclosure on any statement that includes an amount for waste management, provided that, at a minimum, disclosure to waste generators must be made at least twice annually in a form likely to be available to all generators.

Subd. 3. **Transfer stations.** If the collector deposits waste at a transfer station, the collector need not disclose the name and location of the transfer station but must disclose the destination of the waste when it leaves the transfer station.

History: *1993 c 249 s 18*

PROHIBITIONS: YARD WASTE, MERCURY, AND SOLID WASTE IMPORTATION

115A.931 YARD WASTE PROHIBITION.

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

(1) in mixed municipal solid waste;

(2) in a disposal facility; or

(3) in a resource recovery facility except for the purposes of reuse, composting, or cocomposting.

(b) Yard waste subject to this subdivision includes garden wastes, leaves, lawn cuttings, weeds, shrub and tree waste, and prunings.

History: *1988 c 685 s 21; 1991 c 337 s 44; 1992 c 593 art 1 s 28*

115A.932 MERCURY PROHIBITION.

Subdivision 1. **Prohibitions.** (a) A person may not place mercury or a thermostat, thermometer, electric switch, appliance, or medical or scientific instrument from which the mercury has not been removed for reuse or recycling:

(1) in solid waste; or

(2) in a wastewater disposal system.

(b) A person may not knowingly place mercury or a thermostat, thermometer, electric switch, appliance, or medical or scientific instrument from which the mercury has not been removed for reuse or recycling:

(1) in a solid waste processing facility; or

(2) in a solid waste disposal facility, as defined in section 115.01, subdivision 4.

(c) A person may not knowingly place a fluorescent or high intensity discharge lamp:

(1) in solid waste; or

(2) in a solid waste facility, except a household hazardous waste collection or recycling facility.

This paragraph does not apply to waste lamps generated by households until August 1, 1994.

Subd. 2. **Enforcement.** (a) Except as provided in paragraph (b), a violation of subdivision 1 is subject to enforcement under sections 115.071 and 116.072.

(b) A violation of subdivision 1 by a generator of household hazardous waste, as defined in section 115A.96, is not subject to enforcement under section 115.071, subdivision 3.

(c) An administrative penalty imposed under section 116.072 for a violation of

subdivision 1 by a generator of household hazardous waste, as defined in section 115A.96, may not exceed $700.

History: *1992 c 560 s 1; 1993 c 249 s 19*

115A.935 SOLID WASTE GENERATED OUTSIDE OF MINNESOTA.

No person shall transport into or deposit in this state, for the purpose of processing or disposal, solid waste that was generated in another state, unless the waste:

(1) meets all the solid waste management regulations of the state in which it was generated; and

(2) contains none of the items specifically banned from mixed municipal solid waste in this state, including waste tires, motor and vehicle fluids and filters, waste lead acid batteries, yard waste, major appliances, and any other item specifically banned from the waste stream under this chapter.

History: *1991 c 337 s 45; 1993 c 249 s 61*

ORGANIZED AND MANDATORY COLLECTION

115A.94 ORGANIZED COLLECTION.

Subdivision 1. **Definition.** "Organized collection" means a system for collecting solid waste in which a specified collector, or a member of an organization of collectors, is authorized to collect from a defined geographic service area or areas some or all of the solid waste that is released by generators for collection.

Subd. 2. **Local authority.** A city or town may organize collection, after public notification as required in subdivision 4. A county may organize collection as provided in subdivision 5.

Subd. 3. **General provisions.** (a) The local government unit may organize collection as a municipal service or by ordinance, franchise, license, negotiated or bidded contract, or other means, using one or more collectors or an organization of collectors.

(b) The local government unit may not establish or administer organized collection in a manner that impairs the preservation and development of recycling and markets for recyclable materials. The local government unit shall exempt recyclable materials from organized collection upon a showing by the generator or collector that the materials are or will be separated from mixed municipal solid waste by the generator, separately collected, and delivered for reuse in their original form or for use in a manufacturing process.

(c) The local government unit shall invite and employ the assistance of interested persons, including persons licensed to operate solid waste collection services in the local government unit, in developing plans and proposals for organized collection and in establishing the organized collection system.

(d) Organized collection accomplished by contract or as a municipal service may include a requirement that all or any portion of the solid waste, except (1) recyclable materials and (2) materials that are processed at a resource recovery facility at the capacity in operation at the time that the requirement is imposed, be delivered to a waste facility identified by the local government unit. In a district or county where a resource recovery facility has been designated by ordinance under section 115A.86, organized collection must conform to the requirements of the designation ordinance.

Subd. 4. **Cities and towns; notice; planning.** (a) At least 180 days before implementing an ordinance, franchise, license, contract or other means of organizing collection, a city or town, by resolution of the governing body, shall announce its intent to organize collection and invite the participation of interested persons, including persons licensed to operate solid waste collection services, in planning and establishing the organized collection system.

(b) The resolution of intent must be adopted after a public hearing. The hearing must be held at least two weeks after public notice and mailed notice to persons known

by the city or town to be operating solid waste collection services in the city or town. The failure to give mailed notice to persons or defect in the notice does not invalidate the proceedings, provided a bona fide effort to comply with notice requirements has been made.

(c) During a 90-day period following the resolution of intent, the city or town shall develop or supervise the development of plans or proposals for organized collection. During this 90-day planning period, the city or town shall invite and employ the assistance of persons licensed as of the date of the resolution of intent to operate solid waste collection services in the city or town. Failure of a licensed collector to participate in the 90-day planning period, when the city or town has made a bona fide effort to provide the person the opportunity to participate, does not invalidate the planning process.

(d) For 90 days after the date ending the planning period required under paragraph (c), the city or town shall discuss possible organized collection arrangements with all licensed collectors operating in the city or town who have expressed interest. If the city or town is unable to agree on an organized collection arrangement with a majority of the licensed collectors who have expressed interest, or upon expiration of the 90 days, the city or town may propose implementation of an alternate method of organizing collection as authorized in subdivision 3.

(e) The city or town shall make specific findings that:

(1) describe in detail the procedures it used to plan and to attempt implementation of organized collection through an arrangement with collectors who expressed interest; and

(2) evaluate the proposed organized collection method in light of at least the following standards: achieving the stated organized collection goals of the city or town; minimizing displacement of collectors; ensuring participation of all interested parties in the decision-making process; and maximizing efficiency in solid waste collection.

(f) Upon request, the city or town shall provide mailed notice of all proceedings on the organization of collection in the city or town.

(g) If the city or town and all the persons licensed to operate mixed municipal solid waste collection services and doing business in the city or town agree on the plan, the city or town may implement the plan without regard to the 180-day period specified in paragraph (a).

Subd. 5. **County organized collection.** (a) A county may by ordinance require cities and towns within the county to organize collection. Organized collection ordinances of counties may:

(1) require cities and towns to require the separation and separate collection of recyclable materials;

(2) specify the material to be separated; and

(3) require cities and towns to meet any performance standards for source separation that are contained in the county solid waste plan.

(b) A county may itself organize collection under subdivision 4 in any city or town that does not comply with a county organized collection ordinance adopted under this subdivision, and the county may implement, as part of its organized collection, the source separation program and performance standards required by its organized collection ordinance.

Subd. 6. **Organized collection not required or prevented.** (a) The authority granted in this section to organize solid waste collection is optional and is in addition to authority to govern solid waste collection granted by other law.

(b) Except as provided in subdivision 5, a city, town, or county is not:

(1) required to organize collection; or

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

(c) Except as provided in subdivision 5, a city, town, or county may exercise any authority granted by any other law, including a home rule charter, to govern collection of solid waste.

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

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

History: *1987 c 348 s 27; 1989 c 325 s 26,27; 1990 c 600 s 1,2; 1991 c 337 s 46; 1993 c 249 s 20,21*

115A.941 SOLID WASTE; REQUIRED COLLECTION.

(a) Except as provided in paragraph (b), each city, and town described in section 368.01, with a population of 1,000 or more, and any other town with a population of 5,000 or more shall ensure that every residential household and business in the city or town has solid waste collection service. To comply with this section, a city or town may organize collection, provide collection, or require by ordinance that every household and business has a contract for collection services. An ordinance adopted under this section must provide for enforcement.

(b) A city or town described in paragraph (a) may exempt a residential household or business in the city or town from the requirement to have solid waste collection service if the household or business ensures that an environmentally sound alternative is used.

(c) To the extent practicable, the costs incurred by a city or town under this section must be incorporated into the collection system or the enforcement mechanisms adopted under this section by the city or town.

History: *1991 c 337 s 47; 1993 c 249 s 22*

VISIBLE COSTS

115A.945 VISIBLE SOLID WASTE MANAGEMENT COSTS.

Any political subdivision that provides or pays for the costs of collection or disposal of solid waste shall, through a billing or other system, make the prorated share of those costs for each solid waste generator visible and obvious to the generator.

History: *1Sp1989 c 1 art 20 s 9*

RECYCLABLE MATERIALS PROHIBITED FROM CERTAIN FACILITIES

115A.95 RECYCLABLE MATERIALS.

A disposal facility or a resource recovery facility that is composting waste, burning waste, or converting waste to energy or to materials for combustion may not accept source-separated recyclable materials, and a solid waste collector or transporter may not deliver source-separated recyclable materials to such a facility, except for recycling or transfer to a recycler, unless the director determines that no other person is willing to accept the recyclable materials.

History: *1985 c 274 s 13; 1987 c 348 s 28; 1994 c 585 s 26*

TELEPHONE DIRECTORIES

115A.951 TELEPHONE DIRECTORIES.

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

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

(1) in solid waste;

(2) in a disposal facility; or

(3) in a resource recovery facility, except a recycling facility.

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

(1) is printed on paper that is recyclable;

(2) is printed with inks that contain no heavy metals or other toxic materials; and

(3) is bound with materials that pose no unreasonable barriers to recycling of the directory.

Subd. 4. **Collection of used directories.** Each publisher or distributor of telephone directories shall:

(1) provide for the collection and delivery to a recycler of waste telephone directories;

(2) inform recipients of directories of the collection system; and

(3) submit a report to the office of waste management by August 1 of each year that specifies the percentage of distributed directories collected as waste directories by distribution area and the locations where the waste directories were delivered for recycling and that verifies that the directories have been recycled.

History: *1992 c 593 art 1 s 29*

PROBLEM MATERIALS

115A.952 RETAIL SALE OF PROBLEM MATERIALS; UNIFORM LABELING AND CONSUMER INFORMATION.

Subdivision 1. **Duties of agency; rules.** The agency may adopt rules to identify products that are used primarily for personal, family, or household purposes and that constitute a problem material or contain a problem material as defined in section 115A.03, subdivision 24a. The rules may also prescribe a uniform label to be affixed by retailers of identified products as provided in subdivision 4. Packaging that is recyclable or made from recycled material shall not constitute a problem material.

Subd. 2. **Duties of commissioner of agriculture.** The commissioner of agriculture may adopt rules to provide consumer information and retail handling practices for pesticides, as defined in section 18B.01, subdivision 18; fertilizers, plant amendments, and soil amendments, as defined in section 18C.005, subdivisions 11, 25, and 33; and wood preservatives.

Subd. 3. **Preparation and supply of materials.** The agency and the commissioner of agriculture shall prepare and the agency shall supply to retailers, without charge to the retailers, the labels and informational materials required to comply with subdivision 4. Informational materials must include specific instructions on environmentally sound ways to use identified products and to handle them when the products or their containers are discarded.

Subd. 4. **Duties of retailers.** A person who sells or offers for sale at retail any product that is identified pursuant to rules of the agency adopted under subdivision 1 or under rules of the commissioner of agriculture under subdivision 2 shall:

(1) affix a uniform label as prescribed by the rules in a prominent location upon

or near the display area of the product. If the adjacent display area is a shelf, the label shall be affixed to the price information for the product on the shelf;

(2) maintain and prominently display informational materials supplied by the agency at the location where identified products covered by the materials are sold or offered for sale; and

(3) comply with the handling practices required under subdivision 2.

History: *1Sp1989 c 1 art 20 s 10*

115A.9523 HAZARDOUS PRODUCTS; LABELING.

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

(b) "Hazardous product" means a product that, as a product or when it becomes a waste, exhibits a hazardous characteristic of ignitability, corrosivity, reactivity, or toxicity, or any combination of these characteristics, as defined and listed under the criteria in Code of Federal Regulations, title 40, sections 261.20 to 261.24. "Hazardous product" does not include:

(1) a pesticide that is registered under chapter 18B;

(2) a product that is required to be labeled for proper waste management under other state or federal law;

(3) a battery that complies with sections 115A.961 and 325E.125 as applicable to the battery; or

(4) a prescription drug.

(c) "Product" means tangible personal property that is manufactured or imported for retail sale or use in this state. "Product" does not include a durable good with an expected useful life of three years or more.

Subd. 2. **Uniform label.** The director shall adopt a rule to establish a uniform label for hazardous products that must include at least a warning that, as waste, the product contains a hazardous material that can harm the environment if not properly managed and information for proper management or disposal of the waste product.

Subd. 3. **Label; required use.** After January 1, 2000, a manufacturer may not knowingly offer a hazardous product for distribution, sale, or use in this state unless the product is labeled, on the product itself or on the container, with the label adopted under subdivision 2. This subdivision is not effective if the federal government adopts and implements uniform labeling of hazardous products by January 1, 2000, and if the label required both warns of the presence of hazardous material and informs of proper management of the product as waste. For the purposes of this subdivision, a retailer or a distributor is not a manufacturer and is not subject to the requirements of this section.

History: *1993 c 249 s 23*

115A.953 [Repealed, 1991 c 337 s 90]

115A.956 SOLID WASTE DISPOSAL PROBLEM MATERIALS.

Subdivision 1. **Problem material processing and disposal plan.** The office shall develop a plan that designates problem materials and available capacity for processing and disposal of problem materials including household hazardous waste that should not be in mixed municipal solid waste. In developing the plan, the office shall consider relevant regional characteristics and the impact of problem materials on specific processing and disposal technologies.

Subd. 2. **Problem material separation and collection plan.** After the office certifies that sufficient processing and disposal capacity is available, but no later than November 15, 1992, the office shall develop a plan for separating problem materials from mixed municipal solid waste, collecting the problem materials, and transporting the problem materials to a processing or disposal facility and may by rule prohibit the placement of the designated problem materials in mixed municipal solid waste.

History: *1Sp1989 c 1 art 20 s 12; 1991 c 303 s 2*

115A.9561 MAJOR APPLIANCES.

Subdivision 1. **Prohibitions.** A person may not:

(1) place major appliances in mixed municipal solid waste; or

(2) dispose of major appliances in or on the land or in a solid waste processing or disposal facility. The agency may enforce this section pursuant to sections 115.071 and 116.072.

Subd. 2. **Recycling required.** Major appliances must be recycled or reused. Each county shall ensure that its households have the opportunity to recycle used major appliances. For the purposes of this section, recycling includes:

(1) the removal of capacitors that may contain PCBs;

(2) the removal of ballasts that may contain PCBs;

(3) the removal of chlorofluorocarbon refrigerant gas; and

(4) the recycling or reuse of the metals, including mercury.

History: *1Sp1989 c 1 art 20 s 13; 1991 c 337 s 48; 1991 c 347 art 1 s 18; 1992 c 560 s 2; 1994 c 585 s 27*

115A.96 HOUSEHOLD HAZARDOUS WASTE MANAGEMENT.

Subdivision 1. **Definitions.** The following definitions apply to this section:

(a) "Household" means a single detached dwelling unit or a single unit of a multiple dwelling unit and appurtenant structures.

(b) "Household hazardous waste" means waste generated from household activity that exhibits the characteristics of or that is listed as hazardous waste under agency rules, but does not include waste from commercial activities that is generated, stored, or present in a household.

(c) "Collection site" means a permanent or temporary designated location with scheduled hours for collection where individuals may bring household hazardous wastes.

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

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

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

(b) The agency shall report on its progress on establishing permanent collection sites to the legislative commission on waste management by November 1, 1991.

Subd. 3. **Other participants.** (a) The agency may establish or operate all or part of the management program or may provide for services by contract or other agreement with public or private entities.

(b) The agency shall allow these programs to accept up to 100 pounds of waste per year from a hazardous waste generator that generates 220 pounds or less of hazardous waste per month.

Subd. 4. **Management.** Any person who establishes or operates all or part of a household hazardous waste management program shall manage collected waste in compliance with standards applicable to a hazardous waste generator. If collected waste must be stored for a time exceeding those standards, the agency or other entity shall obtain the approval of the commissioner of the agency and shall manage the waste in compliance with applicable standards for the use and management of containers, but no facility permit is required. Waste accepted under subdivision 3, paragraph (b), must be managed in accordance with standards applicable to the waste.

Subd. 5. **Other programs.** A person must notify the commissioner of the agency before establishing and operating any part of a household hazardous waste management program.

Subd. 6. **Household hazardous waste management plans.** (a) Each county shall include in its solid waste management plan required in section 115A.46, or its solid

waste master plan required in section 473.803, a household hazardous waste management plan. The plan must at least:

(1) include a broad based public education component;

(2) include a strategy for reduction of household hazardous waste; and

(3) include a strategy for separation of household hazardous waste from mixed municipal solid waste and the collection, storage, and proper management of that waste.

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

(c) Each county in the state shall implement its household hazardous waste management plan by June 30, 1992.

(d) The office shall review the plans submitted under this subdivision in cooperation with the agency.

History: *1987 c 186 s 15; 1987 c 348 s 29; 1Sp1989 c 1 art 20 s 15,16; 1991 c 303 s 3; 1991 c 337 s 49; 1993 c 172 s 62,63*

115A.961 HOUSEHOLD BATTERIES; COLLECTION, PROCESSING, AND DISPOSAL.

Subdivision 1. **Definition.** For the purposes of this section, "household batteries" means disposable or rechargeable dry cells commonly used as power sources for household or consumer products including, but not limited to, nickel-cadmium, alkaline, mercuric oxide, silver oxide, zinc oxide, lithium, and carbon-zinc batteries, but excluding lead acid batteries.

Subd. 2. **Program.** (a) The director, in consultation with other state agencies, political subdivisions, and representatives of the household battery industry, may develop household battery programs. The director must coordinate the programs with the legislative commission on Minnesota resources study on batteries.

(b) The director shall investigate options and develop guidelines for collection, processing, and disposal of household batteries. The options the director may investigate include:

(1) establishing a grant program for counties to plan and implement household battery collection, processing, and disposal projects;

(2) establishing collection and transportation systems;

(3) developing and disseminating educational materials regarding environmentally sound battery management; and

(4) developing markets for materials recovered from the batteries.

(c) The director may also distribute funds to political subdivisions to develop battery management plans and implement those plans.

Subd. 3. **Participation.** A political subdivision, on its own or in cooperation with others, may implement a program to collect, process, or dispose of household batteries. A political subdivision may provide financial incentives to any person, including public or private civic groups, to collect the batteries.

Subd. 4. **Report.** By November 1, 1991, the director shall report to the legislative commission on waste management on activities under this section with recommendations for legislation necessary to address management of household batteries.

History: *1Sp1989 c 1 art 20 s 14; 1994 c 639 art 5 s 3*

115A.965 PROHIBITIONS ON SELECTED TOXICS IN PACKAGING.

Subdivision 1. **Packaging.** (a) As soon as feasible but not later than August 1, 1993, no manufacturer or distributor may sell or offer for sale or for promotional purposes in this state packaging or a product that is contained in packaging if the packaging itself, or any inks, dyes, pigments, adhesives, stabilizers, or any other additives to the packag-

ing contain any lead, cadmium, mercury, or hexavalent chromium that has been intentionally introduced as an element during manufacture or distribution of the packaging. Intentional introduction does not include the incidental presence of any of the prohibited elements.

(b) For the purposes of this section:

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

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

Subd. 2. **Total toxics concentration levels.** The total concentration level of lead, cadmium, mercury, and hexavalent chromium added together in any packaging must not exceed the following amounts:

(1) 600 parts per million by weight by August 1, 1993;

(2) 250 parts per million by weight by August 1, 1994; and

(3) 100 parts per million by weight by August 1, 1995.

Subd. 3. **Exemptions.** (a) The following packaging is exempt from the requirements of subdivisions 1 and 2:

(1) packaging that has been delivered to a manufacturer or distributor prior to August 1, 1993, or packaging that contains a code or other indication of the date of manufacture and that was manufactured prior to August 1, 1993; and

(2) until August 1, 1997, packaging that would not exceed the total toxics concentration levels under subdivision 2 but for the addition in the packaging of materials that have fulfilled their intended use and have been discarded by consumers.

(b) Packaging to which lead, cadmium, mercury, or hexavalent chromium has been intentionally introduced in the manufacturing process may be exempted from the requirements of subdivisions 1 and 2 by the commissioner of the pollution control agency if:

(1) the use of the toxic element in the packaging is required by federal or state health or safety laws; or

(2) there is no feasible alternative for the packaging because the toxic element used is essential to the protection, safe handling, or function of the contents of the package.

The commissioner may grant an exemption under this paragraph for a period not to exceed two years upon application by the packaging manufacturer that includes documentation showing that the criteria for an exemption are met. Exemptions granted by the commissioner may be renewed upon reapplication every two years.

Subd. 4. **Certificate of compliance.** (a) Beginning August 1, 1993, each manufacturer and distributor of packaging for sale or other distribution in this state shall certify to each of their purchasers or receivers that the packaging purchased or received complies with this section. The certificate of compliance must be in writing and must be signed by an official of the manufacturer or distributor. For packaging that has received an exemption under subdivision 3, the certificate of compliance must list the amount of total toxics concentration in the packaging, the specific toxics present, and the basis for the exemption.

(b) The manufacturer or distributor shall keep on file a copy of the certificate of compliance for each type of packaging manufactured or distributed and shall make copies available to the commissioner of the pollution control agency or the attorney general on request, or to any member of the public within 60 days of receipt of a written request that specifies the type of packaging for which the information is requested.

(c) Each purchaser or receiver, except a retailer, of packaging shall retain the certificate of compliance for as long as the packaging is in use.

(d) If a manufacturer or distributor of packaging reformulates the packaging or creates new packaging, the manufacturer or distributor shall provide an amended or new certificate of compliance to purchasers and receivers for the reformulated or new packaging.

Subd. 5. **Enforcement.** This section may be enforced under sections 115.071 and 116.072. A person who fails to comply with this section is subject to a civil fine of up to $5,000 per day of violation, court costs and attorney fees, and all costs associated with the separate collection, storage, transfer, and appropriate processing or disposal of nonconforming packaging, to be determined by the true cost of those activities per ton times the approximate actual tonnage of nonconforming packaging sold or otherwise distributed in the state.

Subd. 6. **Implementation; dispute resolution.** In lieu of adopting rules to implement this section, the commissioner of the pollution control agency shall seek membership in the toxics in packaging clearinghouse administered by the source reduction task force of the Coalition of Northeastern Governors for the purposes of implementation of this section and resolving issues and disputes that arise in connection with it. The commissioner shall seek a recommendation from the clearinghouse prior to making a decision on an issue or dispute of first impression and shall implement the recommendation unless the commissioner specifically finds that the recommended determination is not in the state's best interest. A package for which a request for exemption has been submitted to the commissioner is not subject to enforcement action pending the commissioner's determination.

Subd. 7. **Report.** By September 1 of each odd-numbered year, the commissioner shall prepare and submit to the legislative commission a report to include:

(1) enforcement actions taken by the commissioner under this section for the reporting period; and

(2) issues and disputes that have arisen under this section, the recommendations made by the toxics in packaging clearinghouse for resolution of those issues and disputes, and how those issues and disputes were finally resolved by the commissioner.

History: *1991 c 337 s 50; 1993 c 249 s 24; 1994 c 585 s 28,29*

115A.9651 TOXICS IN SPECIFIED PRODUCTS; ENFORCEMENT.

Subdivision 1. **Prohibition.** (a) No person may distribute for sale or use in this state any ink, dye, pigment, paint, or fungicide manufactured after September 1, 1994, into which lead, cadmium, mercury, or hexavalent chromium has been intentionally introduced.

(b) For the purposes of this subdivision, "intentionally introduce" means to deliberately use a metal listed in paragraph (a) as an element during manufacture or distribution of an item listed in paragraph (a). Intentional introduction does not include the incidental presence of any of the prohibited elements.

(c) The concentration of a listed metal in an item listed in paragraph (a) may not exceed 100 parts per million.

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

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

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

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

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

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

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

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

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

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

(d) By October 1, 1994, and annually thereafter if requests are received under paragraph (c), the commissioner shall submit to the legislative commission on waste management a list of manufacturers and persons that have requested an exemption under this subdivision and the items for which exemptions were sought, along with copies of the requests.

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

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

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

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

Subd. 3. **Application; enforcement.** (a) This section does not apply to art supplies.

(b) This section may be enforced under sections 115.071 and 116.072. The attorney general or the commissioner of the agency shall coordinate enforcement of this section with the director of the office.

History: *1991 c 337 s 51; 1993 c 249 s 25; 1993 c 366 s 7; 1994 c 585 s 30*

115A.97 SPECIAL WASTE; INCINERATOR ASH.

Subdivision 1. **Policy; goals.** It is the policy of the legislature that mixed municipal solid waste incinerators be planned and managed to achieve to the maximum extent feasible and prudent:

(1) reduction of the toxicity of incinerator ash;

(2) reduction of the quantity of the incinerator ash; and

(3) reduction of the quantity of waste processing residuals that require disposal.

The purpose of this section is to establish temporary and permanent programs to achieve these reduction goals.

Subd. 2. **Definitions.** For the purposes of this section the following terms have the meanings given them.

"Incinerator ash" means ash resulting from the combustion of mixed municipal solid waste and ash resulting from the combustion of refuse-derived fuel.

"Noncombustible fraction" means constituents of mixed municipal solid waste, including glass, ferrous metals, nonferrous metals and other inorganics, that, when burned, disproportionately add to the quantity of incinerator ash.

Subd. 3. **Rules.** The agency shall adopt rules to establish techniques to measure the noncombustible fraction of mixed municipal solid waste prior to incineration or processing into refuse-derived fuel and for at least the testing, management, and disposal of incinerator ash. The rules must be designed to meet the goals in subdivision 1.

Subd. 4. **Interim program.** (a) Incinerator ash is considered special waste for an interim period which expires on the occurrence of the earliest of the following events:

(1) The United States Environmental Protection Agency establishes testing and disposal requirements for incinerator ash;

(2) The agency adopts the rules required in subdivision 3; or

(3) June 30, 1992.

(b) As a special waste, incinerator ash must be stored separately from mixed municipal solid waste with adequate controls to protect the environment as provided in agency permits. For the interim period, the agency, in cooperation with generators of incinerator ash and other interested parties, shall establish a temporary program to test, monitor, and store incinerator ash. The program must include separate testing of fly ash, bottom ash, and combined ash unless the agency determines that because of physical constraints at the facility separate samples of fly ash and bottom ash cannot be reasonably obtained in which case only combined ash must be tested. Incinerator ash stored during the interim is subject to the rules adopted pursuant to subdivision 3 and to the provisions of chapter 115B.

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

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

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

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

History: *1988 c 685 s 13; 1989 c 335 art 1 s 269; 1990 c 469 s 1; 1991 c 337 s 52; 1994 c 639 art 5 s 3*

FINANCIAL REPORTING BY SOLID WASTE DISPOSAL FACILITIES

115A.98 [Repealed, 1989 c 325 s 77]

115A.981 SOLID WASTE MANAGEMENT; ECONOMIC STATUS AND OUTLOOK.

Subdivision 1. **Record keeping requirements.** The owner or operator of a solid waste

facility must maintain the records necessary to comply with the requirements of subdivision 2.

Subd. 2. **Annual reporting.** (a) The owner or operator of a solid waste disposal facility shall submit an annual report to the commissioner that includes:

(1) a certification that the owner or operator has established financial assurance for closure, postclosure care, and corrective action at the facility by using one or more of the financial assurance mechanisms specified by rule and specification of the financial assurance mechanism used, including the amount paid in or assured during the past year and the total amount of financial assurance accumulated to date; and

(2) a schedule of fees charged at the facility for waste management, including all tipping fees, rates, charges, surcharges, and any other fees charged to each classification of customer.

(b) The owner or operator of a solid waste facility, other than a private recycling facility, that is not a disposal facility and that is not governed by paragraph (c) shall submit an annual report to the commissioner that includes a schedule of fees charged at the facility for waste management, including all tipping fees, rates, charges, surcharges, and any other fees charged to each classification of customers.

(c) The owner or operator of a solid waste facility whose construction or operation was or is wholly or partially publicly financed, except when the public financing consists entirely of a grant for less than 15 percent of the cost of construction or consists solely of the sale of revenue bonds, and a local government unit that is the owner or operator of a solid waste facility shall submit an annual report to the commissioner that includes:

(1) a schedule of fees charged at the facility for waste management, including all tipping fees, rates, charges, surcharges, and any other fees charged to each classification of customers;

(2) a description of the amounts and sources of capital financing for the facility, including current debt and principal and interest payments made on the debt to date;

(3) an accounting of the costs of administration and operation of the facility;

(4) identification of the source and amount of any additional financing for the administration or operation of the facility not included in the fees reported under clause (1); and

(5) identification of the purposes of expenditure of any fees reported under clause (1) that are not expended for servicing or repaying debt on the facility or for administration and operation of the facility.

(d) The agency may suspend the operation of a facility whose permittee fails to file the information required under this subdivision. The owner or operator of a facility may not increase fees until 30 days after the owner or operator has submitted a fee schedule amendment to the commissioner.

Subd. 3. **Report.** (a) The commissioner shall report to the legislative commission on waste management by July 1 of each odd-numbered year on the economic status and outlook of the state's solid waste management sector including an estimate of the extent to which prices for solid waste management paid by consumers reflect costs related to environmental and public health protection, including a discussion of how prices are publicly and privately subsidized and how identified costs of waste management are not reflected in the prices.

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

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

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

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

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

(c) The report must also include:

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

(2) statewide and facility by facility requirements for proof of financial responsibility under section 116.07, subdivision 4h, and how each facility is meeting those requirements.

History: *1989 c 325 s 28; 1990 c 604 art 10 s 5; 1992 c 593 art 1 s 30; 1993 c 249 s 26; 1994 c 585 s 31*

LITTER

115A.99 LITTER PENALTIES AND DAMAGES.

Subdivision 1. **Civil penalty.** (a) A person who unlawfully places any portion of solid waste in or on public or private lands, shorelands, roadways, or waters is subject to a civil penalty of not less than twice nor more than five times the costs incurred by a state agency or political subdivision to remove, process, and dispose of the waste.

(b) A state agency or political subdivision that incurs costs as described in this section may bring an action to recover the civil penalty, related legal, administrative, and court costs, and damages for injury to or pollution of the lands, shorelands, roadways, or waters where the waste was placed if owned or managed by the entity bringing the action.

Subd. 2. **Deposit of penalties and damages.** Civil penalties and damages collected under subdivision 1 must be collected and distributed as required in section 487.33.

Subd. 3. **Joinder; private action for damages.** A private person may join an action by the state or a political subdivision to recover a civil penalty under subdivision 1 to allow the person to recover damages for waste unlawfully placed on the person's property.

History: *1Sp1989 c 1 art 20 s 17; 1994 c 412 s 2*

115A.991 LITTER GRANTS.

The director may make grants to each county that has included in its solid waste plan required in section 115A.46, or its solid waste master plan required in section 473.803, programs to prevent, control, or abate litter. The director shall establish eligibility criteria for grants including the required level of matching funds from applicants.

History: *1Sp1989 c 1 art 20 s 18; 1994 c 639 art 5 s 3*