

473.149 SOLID WASTE COMPREHENSIVE PLANNING.

Subdivision 1. **Policy plan; general requirements.** The commissioner of the Pollution Control Agency may revise the metropolitan long range policy plan for solid waste management adopted and revised by the Metropolitan Council prior to the transfer of powers and duties in Laws 1994, chapter 639, article 5, section 2. The plan shall be followed in the metropolitan area. Until the commissioner revises it, the plan adopted and revised by the council on September 26, 1991, remains in effect. The plan shall address the state policies and purposes expressed in section 115A.02. In revising the plan the commissioner shall follow the procedures in subdivision 3. The plan shall include goals and policies for solid waste management, including recycling consistent with section 115A.551, and household hazardous waste management consistent with section 115A.96, subdivision 6, in the metropolitan area.

The plan shall include criteria and standards for solid waste facilities and solid waste facility sites respecting the following matters: general location; capacity; operation; processing techniques; environmental impact; effect on existing, planned, or proposed collection services and waste facilities; and economic viability. The plan shall, to the extent practicable and consistent with the achievement of other public policies and purposes, encourage ownership and operation of solid waste facilities by private industry. For solid waste facilities owned or operated by public agencies or supported primarily by public funds or obligations issued by a public agency, the plan shall include additional criteria and standards to protect comparable private and public facilities already existing in the area from displacement unless the displacement is required in order to achieve the waste management objectives identified in the plan. In revising the plan, the commissioner shall consider the orderly and economic development, public and private, of the metropolitan area; the preservation and best and most economical use of land and water resources in the metropolitan area; the protection and enhancement of environmental quality; the conservation and reuse of resources and energy; the preservation and promotion of conditions conducive to efficient, competitive, and adaptable systems of waste management; and the orderly resolution of questions concerning changes in systems of waste management. Criteria and standards for solid waste facilities shall be consistent with rules adopted by the Pollution Control Agency pursuant to chapter 116 and shall be at least as stringent as the guidelines, regulations, and standards of the federal Environmental Protection Agency.

Subd. 2. [Repealed, 1995 c 247 art 1 s 67]

Subd. 2a. [Repealed, 1995 c 247 art 1 s 67]

Subd. 2b. [Repealed, 1991 c 337 s 90]

Subd. 2c. [Repealed, 1995 c 247 art 1 s 67]

Subd. 2d. **Land disposal abatement plan.** (a) The commissioner shall include in the policy plan specific and quantifiable metropolitan objectives for abating to the greatest feasible and prudent extent the need for and practice of land disposal of mixed municipal solid waste and of specific components of the solid waste stream, including residuals and ash, either by type of waste or class of generator.

(b) The objectives must be stated in six-year increments for a period of at least 20 years from the date of adoption of policy plan revisions. The plan must include a reduced estimate of the capacity, based on the abatement objectives, needed for the disposal of various types of waste in each six-year increment.

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

(d) The standards must be based upon and implement the metropolitan abatement objectives. The plan must include standards and procedures to be used by the commissioner in determining whether a metropolitan county has implemented the metropolitan land disposal abatement plan and has achieved the objectives for local abatement.

Subd. 2e. **Disposal capacity needs.** After requesting and considering recommendations from the counties, cities, and towns, the commissioner as part of the policy plan shall determine the capacity needed to serve the metropolitan area for disposal of solid waste, including residuals and ash, in six-year increments for a period of at least 20 years from adoption of policy plan revisions. In making the capacity determination, the commissioner must take into account the reduced estimate of disposal capacity needed because of the land disposal abatement plan.

The commissioner's determination must include standards and procedures for certification of need pursuant to section 473.823.

Subd. 2f. [Repealed, 1995 c 247 art 1 s 67]

Subd. 3. **Preparation; adoption; and revision.** (a) The solid waste policy plan shall be prepared, adopted, and revised as necessary in accordance with paragraphs (c) to (e), after consultation with the metropolitan counties.

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

(c) Before beginning preparation of revisions to the policy plan, the commissioner shall publish a predrafting notice in the State Register that includes a statement of the subjects expected to be covered by the revisions, including a summary of the important problems and issues. The

notice must solicit comments from the public and state that the comments must be received by the commissioner within 45 days of publication of the notice. The commissioner shall consider the comments in preparing the revisions.

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

(1) contains a summary of the proposed revisions;

(2) invites public comment;

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

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

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

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

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

(g) The Metropolitan Council or a metropolitan county, local government unit, commission, or person shall not acquire, construct, improve or operate any solid waste facility in the metropolitan area except in accordance with the plan and section 473.823, provided that no solid

waste facility in use when a plan is adopted shall be discontinued solely because it is not located in an area designated in the plan as acceptable for the location of such facilities.

Subd. 4. [Repealed, 1997 c 45 s 3]

Subd. 5. [Repealed, 1995 c 247 art 2 s 55]

Subd. 6. **Report to legislature.** The commissioner shall report on abatement to the Environment and Natural Resources committees of the senate and house of representatives, the Finance Division of the senate Committee on Environment and Natural Resources, and the house of representatives Committee on Environment and Natural Resources Finance by July 1 of each odd-numbered year. The report must include an assessment of whether the objectives of the metropolitan abatement plan have been met and whether each county and each class of city within each county have achieved the objectives set for it in the plan. The report must recommend any legislation that may be required to implement the plan. The report shall be included in the report required by section 115A.411. If in any year the commissioner reports that the objectives of the abatement plan have not been met, the commissioner shall evaluate and report on the need to reassign governmental responsibilities among cities, counties, and metropolitan agencies to assure implementation and achievement of the metropolitan and local abatement plans and objectives.

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

History: 1975 c 13 s 11; 1976 c 179 s 7-9; 1980 c 564 art 10 s 2; 1981 c 352 s 31-34; 1982 c 569 s 22; 1983 c 373 s 46-50; 1984 c 644 s 58,59; 1985 c 248 s 70; 1985 c 274 s 16; 1986 c 460 s 16; 1987 c 348 s 39,40; 1987 c 384 art 2 s 101; 1988 c 685 s 29; 1989 c 325 s 51-53; 1989 c 335 art 1 s 269; 1Sp1989 c 1 art 20 s 27; 1991 c 199 art 2 s 1; 1991 c 337 s 63,64; 1993 c 249 s 39; 1994 c 585 s 40; 1994 c 628 art 3 s 44; 1995 c 186 s 83; 1995 c 247 art 1 s 47-51; art 2 s 24; 1996 c 470 s 27; 1Sp2005 c 1 art 2 s 161