

**Sec. 53. REPEALER.**

Minnesota Statutes 1990, section 349.154, subdivision 3, is repealed.

**Sec. 54. EFFECTIVE DATE.**

(a) Sections 1, 2, 3, 5, 6, 10, 11, 13 to 16, 21 to 24, 26, 28, 30, 35, 36, 38 to 40, 50, 51, the provisions of section 47 that amend Minnesota Statutes 1990, section 609.755, clause (3), 50, 51, and 53 are effective are effective the day following final enactment.

(b) Sections 4, 25, 37, and 41 are effective July 1, 1991.

(c) Sections 18 to 20 are effective August 1, 1991, and apply to licenses and permits issued on and after that date.

(d) Section 32 is effective September 1, 1991, and the manual required by that section must be distributed by that date.

(e) Sections 8, 9, 44, 45, 47 except as provided in paragraph (a), 48, and 49 are effective January 1, 1992.

(f) Sections 12, 29, and 31 are effective March 1, 1992.

(g) Sections 7 and 42 are effective July 1, 1993.

Presented to the governor May 31, 1991

Signed by the governor June 4, 1991, 8:38 p.m.

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**CHAPTER 337—H.F.No. 303**

*An act relating to waste management; making changes to state and local government responsibility and authority for waste management; placing emphasis on waste reduction and recycling; establishing specifications for recycled CFCs; adjusting waste facility siting processes; abolishing the inventory process for solid waste disposal facilities in the metropolitan area; providing for an air quality review; amending Minnesota Statutes 1990, sections 3.195, subdivision 1; 3.887, subdivision 5; 16B.122; 16B.61, subdivision 3a; 115A.02; 115A.03, subdivisions 17a and 21; 115A.06, subdivision 2; 115A.14, subdivision 4; 115A.15, subdivisions 7 and 9; 115A.151; 115A.411, subdivision 1; 115A.46, subdivision 1, and by adding a subdivision; 115A.49; 115A.53; 115A.551, subdivisions 1, 4, and by adding a subdivision; 115A.552, subdivisions 1, 2, and by adding a subdivision; 115A.554; 115A.557, subdivision 4; 115A.64, subdivision 2; 115A.67; 115A.83; 115A.84, subdivision 2, and by adding a subdivision; 115A.86, subdivision 5, and by adding a subdivision; 115A.882; 115A.9162, subdivision 2; 115A.919; 115A.921; 115A.923, subdivisions 1 and 1a; 115A.93, subdivision 3, and by adding a subdivision; 115A.931; 115A.94, subdivision 4; 115A.9561; 115A.96, subdivision 6; 115A.97, subdivision 4; 115B.04, subdivision 4; 115B.22, subdivision 8; 116.07, subdivision 4j;*

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325E.042, subdivision 2; 325E.115, subdivision 1; 325E.1151, subdivision 3; 400.08, subdivision 1; 458D.07, subdivision 5, and by adding a subdivision; 473.149, subdivisions 2e and 4; 473.803, subdivisions 2 and 4; 473.811, subdivisions 1, 1a, 3, 4a, 5, 6, 7, 8, and 9; 473.823, subdivisions 5 and 6; 473.845, subdivisions 3 and 4; 473.848, subdivision 2, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 115A; 116; and 473; repealing Minnesota Statutes 1990, sections 16B.125; 115A.953; 325E.045; 473.149, subdivision 2b; 473.803, subdivision 1a; 473.806; 473.831; 473.833; 473.840; 473.844, subdivision 3; and Laws 1989, chapter 325, section 72, subdivision 2.

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

Section 1. Minnesota Statutes 1990, section 3.195, subdivision 1, is amended to read:

Subdivision 1. **DISTRIBUTION OF REPORTS.** (a) A report to the legislature required of a department or agency shall be made, unless otherwise specifically required by law, by filing one copy with the secretary of the senate, one copy with the chief clerk of the house of representatives, and ~~ten~~ six copies with the legislative reference library. The same distribution procedure shall be followed for other reports and publications unless otherwise requested by a legislator or the legislative reference library.

(b) A public entity as defined in section 16B.122, shall not distribute a report or publication to a member or employee of the legislature, except the secretary of the senate, the chief clerk of the house of representatives, and the legislative reference library, unless the entity has determined that the member or employee wants the reports or publications published by that entity or the member or employee has requested the report or publication. This prohibition applies to both mandatory and voluntary reports and publications. A report or publication may be summarized in an executive summary and distributed as the entity chooses. Distribution of a report to legislative committee or commission members during a committee or commission hearing is not prohibited by this section.

(c) A report or publication produced by a public entity may not be sent to both the home address and the office address of a representative or senator unless mailing to both addresses is requested by the representative or senator.

(d) Reports, publications, periodicals, and summaries under this subdivision must be printed in a manner consistent with section 16B.122.

Sec. 2. Minnesota Statutes 1990, section 3.887, subdivision 5, is amended to read:

Subd. 5. **POWERS AND DUTIES.** (a) The legislative water commission shall review water policy reports and recommendations of the environmental quality board, the biennial report of the board of water and soil resources, and other water-related reports as may be required by law or the legislature.

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(b) The commission shall oversee the activities of the pollution control agency under sections 116.16 to 116.181 relating to water pollution control.

~~(b)~~ (c) The commission may conduct public hearings and otherwise secure data and comments.

~~(e)~~ (d) The commission shall make recommendations as it deems proper to assist the legislature in formulating legislation.

~~(d)~~ (e) Data or information compiled by the legislative water commission or its subcommittees shall be made available to the legislative commission on Minnesota resources and standing and interim committees of the legislature on request of the chair of the respective commission or committee.

Sec. 3. Minnesota Statutes 1990, section 16B.122, is amended to read:

**16B.122 PURCHASE AND USE OF PAPER STOCK; PRINTING.**

Subdivision 1. **DEFINITIONS.** The definitions in this subdivision apply to this section.

(a) "Office paper" means notepads, loose-leaf fillers, tablets, and other paper commonly used in offices.

(b) "Postconsumer material" means a finished material that would normally be discarded as a solid waste, having completed its life cycle as a consumer item.

(c) "Practicable" means capable of being used, consistent with performance, in accordance with applicable specifications, and availability within a reasonable time.

(e) (d) "Printing paper" means paper designed for printing, other than newsprint, such as offset and publication paper.

~~(d)~~ (e) "Public agency entity" means the state, an office, agency, or institution of the state, the metropolitan council, a metropolitan agency, the metropolitan mosquito control district, the legislature, the courts, a county, a statutory or home rule charter city, a town, a school district, another special taxing district, or any contractor acting pursuant to a contract with a public agency entity.

(e) (f) "Soy-based ink" means printing ink made from soy oil.

(g) "Uncoated" means not coated with plastic, clay, or other material used to create a glossy finish.

Subd. 2. ~~PURCHASE REQUIRED PURCHASES; PRINTING.~~ (a) Whenever practicable, a public agency entity shall;

(1) purchase uncoated office paper and printing paper whenever practicable;

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(2) purchase recycled content paper with at least ten percent postconsumer material by weight;

(3) purchase paper which has not been dyed with colors, excluding pastel colors;

(4) purchase recycled content paper that is manufactured using little or no chlorine bleach or chlorine derivatives;

(5) use no more than two colored inks, standard or processed, except in formats where they are necessary to convey meaning;

(6) use reusable binding materials or staples and bind documents by methods that do not use glue;

(7) use soy-based inks; and

(8) produce reports, publications, and periodicals that are readily recyclable within the state resources recovery program.

(b) Paragraph (a), clause (1), does not apply to coated paper that is made with at least 50 percent fiber that has been recycled after use by a consumer.

(c) A public entity shall print documents on both sides of the paper where commonly accepted publishing practices allow.

Sec. 4. Minnesota Statutes 1990, section 16B.61, subdivision 3a, is amended to read:

Subd. 3a. **RECYCLING SPACE.** The code must require suitable space for the separation, collection, and temporary storage of recyclable materials within or adjacent to new or significantly remodeled structures that contain 1,000 square feet or more. Residential structures with ~~less~~ fewer than ~~12~~ four dwelling units are exempt from this subdivision.

Sec. 5. Minnesota Statutes 1990, section 115A.02, is amended to read:

**115A.02 LEGISLATIVE DECLARATION OF POLICY; PURPOSES.**

(a) It is the goal of this chapter to improve waste management in the state to serve the following purposes:

- (1) Reduction in 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.

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(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. The following waste management practices are in order of preference:

- (1) waste reduction and reuse;
- (2) waste recycling ~~and yard waste composting~~;
- (3) composting of yard waste and food waste;
- (4) resource recovery through mixed municipal solid waste composting or incineration; and
- ~~(4)~~ (5) land disposal.

Sec. 6. Minnesota Statutes 1990, section 115A.03, subdivision 17a, is amended to read:

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

Sec. 7. Minnesota Statutes 1990, section 115A.03, subdivision 21, is amended to read:

Subd. 21. **MIXED MUNICIPAL SOLID WASTE.** "Mixed municipal solid waste" means garbage, refuse, and other solid waste from residential, commercial, industrial, and community activities ~~which is generated and collected in aggregate 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, used oil, and other materials collected, processed, and disposed of as separate waste streams.

Sec. 8. Minnesota Statutes 1990, section 115A.06, subdivision 2, is amended to read:

Subd. 2. **RULES.** Unless otherwise provided, the ~~office~~ director shall promulgate rules in accordance with chapter ~~45 14~~ to govern its activities and implement ~~sections 115A.01 to 115A.72~~ chapter 115A.

Sec. 9. Minnesota Statutes 1990, section 115A.14, subdivision 4, is amended to read:

Subd. 4. **POWERS AND DUTIES.** (a) The commission shall oversee the activities of the office ~~under this chapter, agency, and metropolitan council~~ relating to solid and hazardous waste management, ~~the activities of the agency under sections 116.16 to 116.181 relating to water pollution control, and the activities of the metropolitan council relating to metropolitan waste management under sections 473.801 to 473.848~~, and direct such changes or additions in the work

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plan of the office ~~and~~, agency, and council relating to solid and hazardous waste management as ~~it~~ the commission deems fit.

(b) The commission shall make recommendations to the standing legislative committees on finance and appropriations for appropriations from:

(1) the environmental response, compensation, and compliance account in the environmental fund under section 115B.20, subdivision 5;

~~(2) the metropolitan landfill abatement account under section 473.844; and~~

~~(3) the metropolitan landfill contingency action trust fund under section 473.845.~~

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

Sec. 10. Minnesota Statutes 1990, section 115A.15, subdivision 7, is amended to read:

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.

Sec. 11. Minnesota Statutes 1990, section 115A.15, subdivision 9, is amended to read:

Subd. 9. **RECYCLING GOAL.** By December 31, 1993, the commissioner shall recycle at least 40 percent by weight of the solid waste generated by state offices and other state operations located in the metropolitan area. ~~The commissioner must keep records of the recycling and composting operation and share them annually with the metropolitan council and counties to assist the council and the counties in their data collection efforts.~~ By August 1 of each year the commissioner shall report to the office and the metropolitan council the recycling rates by county for state offices and other state operations in the metropolitan area for the previous fiscal 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.

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

Sec. 12. Minnesota Statutes 1990, section 115A.151, is amended to read:

**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.

Sec. 13. **[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.

Sec. 14. Minnesota Statutes 1990, section 115A.411, subdivision 1, is amended to read:

Subdivision 1. **AUTHORITY; PURPOSE.** ~~The office and director with assistance from the agency commissioner shall jointly prepare and adopt a report on solid waste management policy excluding the metropolitan area. The report must be adopted by November 15 of each even-numbered year beginning in 1988.~~ The report must be submitted by the ~~office and the agency jointly director~~ to the legislative commission on waste management by November 15 of each even-numbered year and may include reports required under sections 115A.551, subdivision 4, and 115A.557, subdivision 4.

Sec. 15. Minnesota Statutes 1990, section 115A.46, subdivision 1, is amended to read:

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

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

(c) Plans shall address:

(1) the resolution of conflicting, duplicative, or overlapping local management efforts: Plans shall address;

(2) the establishment of joint powers management programs or waste management districts where appropriate: Plans shall address; 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 shall must be approved by submitted to the office 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 shall must be updated and submitted for approval every five years and. The plan must be revised as necessary for further approval so that it is not inconsistent with state law.

Sec. 16. Minnesota Statutes 1990, section 115A.46, is amended by adding a subdivision to read:

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

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activity, other than an activity to reduce waste generation or reuse waste materials, that is inconsistent with the county plan that the county is actively implementing without the consent of the county.

Sec. 17. Minnesota Statutes 1990, section 115A.49, is amended to read:

**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 ~~must be administered by the office~~ in accordance with the requirements of sections 115A.49 to 115A.54 and rules promulgated ~~by the office pursuant to~~ under chapter 14. In administering the program, ~~the office~~ 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 office~~ director to be less than five years; and projects serving more than one local government unit.

Sec. 18. Minnesota Statutes 1990, section 115A.53, is amended to read:

**115A.53 WASTE REDUCTION AND SEPARATION PROJECTS.**

~~The office~~ director shall provide grants to develop and implement projects for ~~waste reduction;~~ 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 rules of the office~~ director shall prescribe by rule the level or levels of local funding required for grants under this section.

Sec. 19. Minnesota Statutes 1990, section 115A.551, subdivision 1, is amended to read:

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

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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; ~~and~~

(3) mixed municipal solid waste plus yard waste, used oil, 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.

Sec. 20. Minnesota Statutes 1990, section 115A.551, is amended by adding a subdivision to read:

Subd. 2a. SUPPLEMENTARY RECYCLING GOALS. By July 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 "total solid waste generation" has the meaning given it in subdivision 1, except that it does not include yard waste.

Sec. 21. Minnesota Statutes 1990, section 115A.551, subdivision 4, is amended to read:

Subd. 4. **INTERIM MONITORING.** The office, 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 goal in subdivision 2 and shall report to the legislative commission on waste management on the progress of the counties by November + 15 of each year. If the office or the council finds that a county is not progressing toward the goal in subdivision 2, it shall negotiate with the county to develop and implement solid waste management techniques designed to assist the county in meeting the goal, such as organized collection, curbside collection of source-separated materials, and volume-based pricing.

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In even-numbered years the progress report may be included in the solid waste management policy report required under section 115A.411.

Sec. 22. Minnesota Statutes 1990, section 115A.552, subdivision 1, is amended to read:

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.

Sec. 23. Minnesota Statutes 1990, section 115A.552, subdivision 2, is amended to read:

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 ~~kinds~~ 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.

Sec. 24. Minnesota Statutes 1990, section 115A.552, is amended by adding a subdivision to read:

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.

Sec. 25. Minnesota Statutes 1990, section 115A.554, is amended to read:

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

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A sanitary district with the authority to regulate solid waste has the authority and duty 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.93; 115A.96, subdivision 6; 115A.961; 115A.991; 375.18, subdivision 14; and 400.08, subdivision 5.

Sec. 26. Minnesota Statutes 1990, section 115A.557, subdivision 4, is amended to read:

Subd. 4. **REPORT.** By November + 15 of each year, the office 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.

Sec. 27. Minnesota Statutes 1990, section 115A.64, subdivision 2, is amended to read:

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

~~(a)~~ (1) the name of the proposed district;

~~(b)~~ (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;

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

~~(d)~~ (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;

~~(e)~~ (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 ~~and~~, 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 ~~filed with the office for~~ the district.

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Sec. 28. Minnesota Statutes 1990, section 115A.67, is amended to read:

**115A.67 ORGANIZATION OF DISTRICT.**

The governing body of each county wholly or partly within the district shall appoint two persons to serve on the first board of directors of the district, except that in the case of a district having territory within only two counties each county may appoint three persons. At least one person appointed by each county shall be an elected official of a local government unit having territory within the district. The first chair of the board of directors shall be appointed from outside the first board of directors by the director of the office of waste management. The first chair shall serve for a term of two years. Thereafter

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.

Sec. 29. **[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.

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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.

Sec. 30. Minnesota Statutes 1990, section 115A.83, is amended to read:

**115A.83 EXEMPTION.**

The designation may not apply to or include:

(1) materials that are separated from mixed municipal solid waste and recovered for reuse in their original form or for use in manufacturing processes;  
or

(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 reviewing authority; or

(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.

For the purposes of this section, "manufacturing processes" does not include the treatment of waste after collection for the purpose of composting.

The exemptions in this section apply to only those materials separated from mixed municipal solid waste that are managed in a manner that is preferred over the primary management method of the designated facility under section 115A.02, paragraph (b).

Sec. 31. Minnesota Statutes 1990, section 115A.84, subdivision 2, is amended to read:

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.

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(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.

Sec. 32. Minnesota Statutes 1990, section 115A.84, is amended by adding a subdivision to read:

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**Subd. 5. EXCLUSION OF MATERIALS SEPARATED AT CERTAIN FACILITIES.** (a) A county or district shall exclude from the designation, subject to approval by the reviewing authority, 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.

Sec. 33. Minnesota Statutes 1990, section 115A.86, subdivision 5, is amended to read:

**Subd. 5. AMENDMENTS.** (a) Except for an amendment authorized under section 115A.86, subdivision 6, amendments to a designation ordinance must be submitted to the reviewing authority for approval. The reviewing authority 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 reviewing authority finds that the proposed amendment is a substantive change from the existing designation plan, the reviewing authority may require that the county or solid waste management district submit a revised designation plan to the reviewing authority for approval. After receiving approval for the designation plan amendment from the reviewing authority, the county or district shall follow the procedure outlined in section 115A.85 prior to submitting the amended designation ordinance to the reviewing authority for approval. If the

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reviewing authority 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 section 115A.86, 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 reviewing authority for approval, and shall follow the procedures outlined in section 115A.85.

Sec. 34. Minnesota Statutes 1990, section 115A.86, is amended by adding a subdivision to read:

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.

Sec. 35. Minnesota Statutes 1990, section 115A.882, is amended to read:

115A.882 ~~INSPECTION OF 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.

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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, upon presentation of identification and without a search warrant, inspect or copy records of an owner or operator of any waste facility in the state that contain information regarding the volume, type, origin, and weight of the waste received by the facility, and the date and time of weighing. A person who fails to open for inspection and copying the records referred to in this section is guilty of a misdemeanor: 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) 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.

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.

Sec. 36. Minnesota Statutes 1990, section 115A.9162, subdivision 2, is amended to read:

Subd. 2. GRANTS. The office may make grants to counties local government units for installation of storage tanks to collect used oil. To be eligible for a grant, a county 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

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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 county local government unit may not receive more than \$5,000 in grants for storage tanks.

Sec. 37. Minnesota Statutes 1990, section 115A.919, is amended to read:

**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 the 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.

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

Sec. 38. Minnesota Statutes 1990, section 115A.921, is amended to read:

**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.

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.

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(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.

Sec. 39. Minnesota Statutes 1990, section 115A.923, subdivision 1, is amended to read:

Subdivision 1. **AMOUNT OF FEE.** (a) The operator of a mixed municipal solid waste disposal facility outside of the metropolitan area shall pay 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 pay 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 pay 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 of revenue, with the advice and assistance of the agency, shall prescribe procedures for determining the amount of waste residue qualifying for exemption.

Sec. 40. Minnesota Statutes 1990, section 115A.923, subdivision 1a, is amended to read:

Subd. 1a. **PAYMENT OF THE GREATER MINNESOTA LANDFILL CLEANUP FEE.** The operator of a disposal facility in greater Minnesota shall pay remit the ~~fee required~~ 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 pay remit the ~~fee~~ fees to the city that owns the facility. The county, city, or sanitary district may use the revenue from the ~~fee~~ fees only for the purposes specified in section 115A.919.

Sec. 41. **[115A.929] FEES; ACCOUNTING.**

Each local government unit that collects a fee under section 115A.919, 115A.921, or 115A.923 shall account for all revenue collected from the fee, together with interest earned on the revenue from the fee, separately from other

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revenue collected by the local government unit and shall report revenue collected from the fee and use of the revenue separately from other revenue and use of revenue in any required financial report or audit.

Sec. 42. Minnesota Statutes 1990, section 115A.93, subdivision 3, is amended to read:

Subd. 3. **LICENSE REQUIREMENTS.** (a) A licensing authority shall require ~~to the extent possible~~ that charges for collection of mixed municipal solid waste vary 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.

Sec. 43. Minnesota Statutes 1990, section 115A.93, is amended by adding a subdivision to read:

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.

Sec. 44. Minnesota Statutes 1990, section 115A.931, is amended to read:

**115A.931 ~~LAND DISPOSAL OF 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 ~~dispose of~~ 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 composting or co-composting.

(b) Yard waste subject to this subdivision is garden wastes, leaves, lawn cuttings, weeds, and prunings.

Sec. 45. **[115A.935] SOLID WASTE GENERATED OUTSIDE OF MINNESOTA.**

No person shall transport into or deposit in this state, for the purpose of

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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, used motor oil, waste lead acid batteries, yard waste, major appliances, and any other item specifically banned from the waste stream under this chapter.

Sec. 46. Minnesota Statutes 1990, section 115A.94, subdivision 4, is amended to read:

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 imple-

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mentation 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).

**Sec. 47. [115A.941] SOLID WASTE; REQUIRED COLLECTION.**

(a) Except as provided in paragraph (b), each city and 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 with a population of 5,000 or more 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.

Sec. 48. Minnesota Statutes 1990, section 115A.9561, is amended to read:

**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 after July 1, 1990. The agency may enforce this section pursuant to section 115.071.

Subd. 2. RECYCLING REQUIRED. Major appliances must be recycled or reused. Each county shall ensure that its residents have the opportunity to recycle used major appliances. For the purposes of this section, recycling includes:

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- (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.

Sec. 49. Minnesota Statutes 1990, section 115A.96, subdivision 6, is amended to read:

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) address separation of household hazardous waste from mixed municipal solid waste and the collection, storage, and disposal 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.

Sec. 50. **[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 packaging contain any lead, cadmium, mercury, or hexavalent chromium that has been intentionally introduced as an element during manufacture or distribution of the packaging. Intentional introduction does not include the incidental presence of any of the prohibited elements.

(b) For the purposes of this section, "distributor" means a person who imports packaging or causes packaging to be imported into the state.

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:

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- (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

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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. RULES. The commissioner of the pollution control agency, in consultation with the director of the office of waste management, shall adopt rules to implement this section.

**Sec. 51. [115A.9651] TOXICS IN PACKAGING AND PRODUCTS; ENFORCEMENT.**

After July 1, 1994, no person may deliberately introduce lead, cadmium, mercury, or hexavalent chromium into any dye, paint, or fungicide that is intended for use or for sale in this state. This section does not apply to art supplies.

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.

Sec. 52. Minnesota Statutes 1990, section 115A.97, subdivision 4, is amended to read:

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, ~~1991~~ 1992.

(b) As a special waste, incinerator ash must be stored separately from mixed

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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.

Sec. 53. Minnesota Statutes 1990, section 115B.04, subdivision 4, is amended to read:

Subd. 4. **LIABILITY OF POLITICAL SUBDIVISIONS.** (a) The liability of a political subdivision under this section is subject to the limits imposed under section 466.04, subdivision 1, except when the political subdivision is liable under this section as the owner or operator of a disposal facility as defined in section 115A.03, subdivision 10.

(b) When a political subdivision is liable as an owner or operator of a disposal facility, the liability of each political subdivision is limited to \$400,000 at each facility unless the facility was owned or operated under a valid joint powers agreement by three or more political subdivisions, in which case the aggregate liability of all political subdivisions that are parties to the joint powers agreement is limited to \$1,200,000.

(c) The limits on the liability of a political subdivision for ownership or operation of a disposal facility apply to the costs of ~~remedial~~ response action incurred between the date a request for response action is issued by the agency and the date one year after the construction certificate of completion is approved by the commissioner, excluding the costs ~~incurred during~~ of negotiation of a consent order agreement.

(d) When a political subdivision takes ~~remedial~~ response action as the owner or operator of a disposal facility between the dates in paragraph (c), it may receive, after approval by the agency, reimbursement of any amount spent pursuant to an approved work plan that exceeds the applicable liability limit specified in this subdivision.

Sec. 54. Minnesota Statutes 1990, section 115B.22, subdivision 8, is amended to read:

Subd. 8. **REVIEW OF TAX BY LCWM.** ~~After the office of waste management submits the plan required under section 115A.11 to the legislative commission on waste management, The commission shall~~ legislative commission on waste management shall periodically review the taxes and tax rates imposed under this section ~~in light of the objectives and recommendations of the plan;~~ and shall recommend to the standing tax committees of both houses of the legis-

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lature any changes in the taxes or tax rates which are needed to assist or encourage implementation of the strategies adopted by the state for management of hazardous waste.

Sec. 55. Minnesota Statutes 1990, section 116.07, subdivision 4j, is amended to read:

Subd. 4j. **PERMITS; SOLID WASTE FACILITIES.** (a) The agency may not issue a permit for new or additional capacity for a mixed municipal solid waste resource recovery or disposal facility as defined in section 115A.03 unless each county projected in the permit to use the facility has in place a solid waste management plan approved under section 115A.46 or 473.803. The agency shall issue the permit only if the capacity of the facility is consistent with the needs for resource recovery or disposal capacity identified in the approved plan or plans. Consistency must be determined by the metropolitan council for counties in the metropolitan area and by the agency for counties outside the metropolitan area. Plans approved before January 1, 1990, need not be revised if the capacity sought in the permit is consistent with the approved plan or plans.

(b) The agency shall require as part of the permit application for a waste incineration facility identification of preliminary plans for ash management and ash leachate treatment or ash utilization. The permit issued by the agency must include requirements for ash management and ash leachate treatment.

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

Sec. 56. **[116.90] REFUSE DERIVED FUEL.**

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

(b) "Minor modification" means a physical or operational change that does not increase the rated energy production capacity of a solid fuel fired boiler and which does not involve capital costs in excess of 20 percent of a new solid fuel fired boiler having the same rated capacity.

(c) "Refuse derived fuel" means a product resulting from the processing of mixed municipal solid waste in a manner that reduces the quantity of noncombustible material present in the waste, reduces the size of waste components through shredding or other mechanical means, and produces a fuel suitable for combustion in existing or new solid fuel fired boilers.

(d) "Solid fuel fired boiler" means a device that is designed to combust solid fuel, including but not limited to: wood, coal, biomass, or lignite to produce steam or heat water.

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Subd. 2. USE OF REFUSE DERIVED FUEL. (a) Existing or new solid fuel fired boilers may utilize refuse derived fuel in an amount up to 30 percent by weight of the fuel feed stream under the following conditions:

(1) utilization of refuse derived fuel involves no modification or only minor modification to the solid fuel fired boiler;

(2) utilization of refuse derived fuel does not cause a violation of emissions limitations or ambient air quality standards applicable to the solid fuel fired boiler;

(3) the solid fuel fired boiler has a valid permit to operate; and

(4) the refuse derived fuel is produced by a facility for which a permit was issued by the agency before June 1, 1991.

(b) A facility that produces refuse derived fuel that is sold for use in a solid fuel fired boiler may accept waste for processing only from counties that provide for the removal of household hazardous waste from the waste.

Sec. 57. Minnesota Statutes 1990, section 325E.042, subdivision 2, is amended to read:

Subd. 2. NONDEGRADABLE PLASTIC. A person may not sell, offer for sale, or give to consumers beverages or motor oil containers held together by connected rings made of nondegradable plastic material.

Sec. 58. Minnesota Statutes 1990, section 325E.115, subdivision 1, is amended to read:

Subdivision 1. **SURCHARGE; COLLECTION; NOTICE.** (a) A person selling lead acid batteries at retail or offering lead acid batteries for retail sale in this state shall:

(1) accept, at the point of transfer, lead acid batteries from customers;

(2) charge a fee of \$5 per battery sold unless the customer returns a used battery to the retailer; and

(3) post written notice, ~~which must be at least 8-1/2 inches by 11 inches in size and must contain the universal recycling symbol and the following language:~~

(i) ~~"It is illegal to put a motor vehicle battery in the garbage."~~

(ii) ~~"Recycle your used batteries."~~; and

(iii) ~~"State law requires us to accept motor vehicle batteries for recycling."~~  
in accordance with section 325E.1151.

(b) Any person selling lead acid batteries at wholesale or offering lead acid batteries for sale at wholesale must accept, at the point of transfer, lead acid batteries from customers.

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Sec. 59. Minnesota Statutes 1990, section 325E.1151, subdivision 3, is amended to read:

Subd. 3. **RETAILERS MUST POST NOTICES.** (a) A person who sells lead acid batteries at retail must post the notice in paragraph (b) in a manner clearly visible to a consumer making purchasing decisions.

(b) The notice must be at least 8-1/2 inches by 11 inches and contain the universal recycling symbol and state:

“NOTICE: USED BATTERIES

This retailer is required to accept your used lead acid batteries, EVEN IF YOU DO NOT PURCHASE A BATTERY. When you purchase a new battery, you will be charged an additional \$5 unless you return a used battery within 30 days.

~~Improper disposal of a lead acid battery~~ It is a crime to put a motor vehicle battery in the garbage.”

Sec. 60. Minnesota Statutes 1990, section 400.08, subdivision 1, is amended to read:

Subdivision 1. **DEFINITION.** For purposes of this section, “solid waste management services” includes recycling and waste reduction services, collection, processing, and disposal of solid waste, closure and postclosure care of a solid waste facility, and response, as defined in section 115B.02, to releases from a solid waste facility or closed solid waste facility.

Sec. 61. Minnesota Statutes 1990, section 458D.07, subdivision 5, is amended to read:

Subd. 5. **REGULATION OF COLLECTION PROCESS.** Nothing contained in this chapter shall be construed to permit the district to engage in the collection of solid waste. ~~Carlton county and St. Louis county or the local units of government designated by such counties shall continue to have the authority to regulate the collection of solid waste, and nothing in this chapter shall be construed to permit the district to regulate the collection of solid waste, unless such counties or local units of government or any of them shall adopt a resolution authorizing the district to adopt such regulations to be effective within the territory of such county or local governmental units.~~

Sec. 62. Minnesota Statutes 1990, section 458D.07, is amended by adding a subdivision to read:

Subd. 5a. RECYCLING. The district may require recycling and regulate the collection of recyclable materials in the district.

Sec. 63. Minnesota Statutes 1990, section 473.149, subdivision 2e, is amended to read:

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Subd. 2e. **SOLID WASTE DISPOSAL FACILITIES DEVELOPMENT SCHEDULE.** (a) After requesting and considering recommendations from the counties, cities, and towns, the council as part of its policy plan shall determine the number of sites and the capacity of sites ~~to be acquired~~ needed within the metropolitan area for solid waste disposal facilities ~~in accordance with section 473.833.~~

(b) The council shall adopt a schedule of disposal capacity to be developed ~~in each county~~ within the metropolitan area in five-year increments for a period of at least 20 years from adoption of development schedule revisions. The schedule may not allow capacity in excess of the council's reduced estimate of the disposal capacity needed because of the council's land disposal abatement plan; ~~except as the council deems necessary to allow reallocation of capacity as required by this subdivision.~~

(c) The council shall make the implementation of elements of the schedule, ~~including the disposal capacity allocated to each county,~~ contingent on actions of each county in adopting and implementing abatement plans pursuant to section 473.803, subdivision 1b. The council may review the development schedule every year and revise the development schedule ~~and the allocation of disposal capacity required for each county~~ based on the progress made ~~in that county~~ in the implementation of the council's abatement plans and achievement of metropolitan and local abatement objectives. The council shall review and revise, by resolution following public hearing, the development schedule ~~and the allocation of disposal capacity required~~ based on significant changes in the landfill capacity of the metropolitan area. The schedule must include procedures and criteria for making revisions. ~~A site for which an environmental impact statement was being prepared as of January 1, 1989, under section 473.833, subdivision 2a, and that is not selected under section 473.833, subdivision 3, must be eliminated from the inventory of solid waste disposal sites established under section 473.149, subdivision 2b, and may not be considered as a waste disposal site in the future.~~

(d) ~~The schedule may include procedures to be used by counties in selecting sites for acquisition pursuant to section 473.833. The schedule must include standards and procedures for council certification of need pursuant to section 473.823. The schedule must also include a facility closure schedule and plans for postclosure management and disposition; for the use of property after acquisition and before facility development; and for the disposition of property and development rights, as defined in section 473.833, no longer needed for disposal facilities. The schedule must also include a closure schedule and plans for postclosure management for of facilities, including facilities in existence before the adoption of the development schedule.~~

Sec. 64. Minnesota Statutes 1990, section 473.149, subdivision 4, is amended to read:

Subd. 4. **ADVISORY COMMITTEE.** The council shall establish an advisory committee to aid in the preparation of the policy plan, the performance of

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the council's responsibilities under subdivisions 2 to 2e, the review of county master plans and reports and applications for permits for waste facilities, under sections 473.151, 473.801 to 473.823, and 473.831, and 473.833, and other duties determined by the council. The committee shall consist of one-third citizen representatives, one-third representatives from metropolitan counties and municipalities, and one-third representatives from private waste management firms. ~~From at least the date that the council adopts the inventory under subdivision 2b to the date that the council adopts a development schedule under subdivision 2e; for the purpose only of participating in the preparation of the legislative report required by subdivision 2e; the land disposal abatement plan required by subdivision 2d; and the development schedule required by subdivision 2e; additional members shall be included on the advisory committee sufficient to assure that at least one-third of the members of the committee are residents of cities or towns containing eligible solid waste disposal sites included in the council's disposal site inventory; and that counties containing three sites have at least two additional members and counties containing one or two sites have at least one additional member.~~ A representative from the pollution control agency, one from the office of waste management established under section 115A.04, and one from the Minnesota health department shall serve as ex officio members of the committee.

**Sec. 65. [473.8011] METROPOLITAN AGENCY RECYCLING GOAL.**

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

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

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

Sec. 66. Minnesota Statutes 1990, section 473.803, subdivision 2, is amended to read:

Subd. 2. **COUNCIL REVIEW.** The council shall review each master plan or revision thereof to determine whether it is consistent with the council's policy plan. If it is not consistent, the council shall disapprove and return the plan with its comments to the county for revision and resubmittal. The county shall have 90 days to revise and resubmit the plan for council approval. Any county solid

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waste plan or report approved by the council prior to April 9, 1976, shall remain in effect until a new master plan is submitted to and approved by the council in accordance with this section.

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

Sec. 67. Minnesota Statutes 1990, section 473.803, subdivision 4, is amended to read:

Subd. 4. **ADVISORY COMMITTEE.** By July 1, 1984, each county shall establish a solid waste management advisory committee to aid in the preparation of the county master plan, any revisions thereof, and such additional matters as the county deems appropriate. The committee must consist of citizen representatives, representatives from towns and cities within the county, and representatives from private waste management firms. The committee must include residents of towns or cities within the county containing solid waste disposal facilities ~~and eligible solid waste disposal sites included in the council's disposal site inventory.~~ Members of the council's solid waste advisory committee who reside in the county are ex officio members of the county advisory committee. A representative of the metropolitan council is an ex officio member of the committee.

Sec. 68. Minnesota Statutes 1990, section 473.811, subdivision 1, is amended to read:

Subdivision 1. **COUNTY ACQUISITION OF FACILITIES.** To accomplish the purpose specified in section 473.803, each metropolitan county may acquire by purchase, lease, gift or condemnation as provided by law, upon such terms and conditions as it shall determine, including contracts for deed and conditional sales contracts, solid waste facilities or properties or easements ~~or development rights, as defined in section 473.823,~~ for solid waste facilities which are in accordance with rules adopted by the agency, the policy plan adopted by the council and the county master plan as approved by the council, and may improve or construct improvements on any property or facility so acquired. No metropolitan city, county or town shall own or operate a hazardous waste facility, except a facility to manage household hazardous waste. Each metropolitan county is authorized to levy a tax in anticipation of need for expenditure for the acquisition and betterment of solid waste facilities. If a tax is levied in anticipation of need, the purpose must be specified in a resolution of the county directing that the levy and the proceeds of the tax may be used only for that purpose. Until so used, the proceeds shall be retained in a separate fund or invested in the same manner as surplus in a sinking fund may be invested under section 475.66. The right of condemnation shall be exercised in accordance with chapter 117.

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

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Sec. 69. Minnesota Statutes 1990, section 473.811, subdivision 1a, is amended to read:

Subd. 1a. **RIGHT OF ACCESS.** Whenever the county ~~or county site selection authority~~ deems it necessary to the evaluation of a waste facility for enforcement purposes ~~or to the evaluation of a site or buffer area for inclusion in the inventory of disposal sites pursuant to section 473.149, subdivision 2b, and section 473.803, subdivision 1a; or for selection or final acquisition under section 473.833,~~ or for the accomplishment of any other purpose under sections 473.149, 473.153, and 473.801 to 473.834, the county, ~~county site selection authority~~ 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.

Sec. 70. Minnesota Statutes 1990, section 473.811, subdivision 3, is amended to read:

Subd. 3. **COUNTY OPERATION OF FACILITIES.** Each metropolitan county may operate and maintain solid waste facilities, and for this purpose may employ all necessary personnel, may adopt regulations governing operation, and may establish and collect reasonable, nondiscriminatory rates and charges, except as authorized under section 115A.919, for the use of the facilities by any local government unit or person, estimated to be sufficient, with any other moneys appropriated for the purpose, to pay all costs of acquisition, operation and maintenance. Each metropolitan county may use itself or sell all or any part of materials or energy recovered from solid waste to private interests or public agencies for consumption or reuse by them. Section 471.345 and Laws 1951, chapter 556, as amended shall not apply to the sale of the materials or energy.

Sec. 71. Minnesota Statutes 1990, section 473.811, subdivision 4a, is amended to read:

Subd. 4a. **ORDINANCES; GENERAL CONDITIONS; RESTRICTIONS; APPLICATION.** Ordinances of counties and local government units related to or affecting waste management shall embody plans, policies, rules, standards and requirements adopted by any state agency authorized to manage or plan for or regulate the management of waste and the waste management plans adopted by the council and shall be consistent with county master plans approved by the council. Except as provided in this subdivision, ~~a metropolitan county may acquire a site and buffer area for a solid waste disposal facility anywhere within the county without complying with local ordinances, if the action is approved by the council as being taken pursuant to the policy plan and the development schedule adopted under section 473.149, subdivision 2e, and the provisions of section 473.833, and the a county may establish and operate or contract for the establishment or operation of a solid waste disposal facility at the site without~~

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complying with local ordinances; if the council certifies need under section 473.823, subdivision 6. With the approval of the council, local government units may impose and enforce reasonable conditions respecting the construction, operation, inspection, monitoring, and maintenance of the disposal facilities. No local government unit shall prevent the establishment or operation of any solid waste facility in accordance with the council's decision under section 473.823, subdivision 5, except that, with the approval of the council, the local government unit may impose reasonable conditions respecting the construction, inspection, monitoring, and maintenance of a facility.

Sec. 72. Minnesota Statutes 1990, section 473.811, subdivision 5, is amended to read:

Subd. 5. **ORDINANCES; SOLID WASTE COLLECTION AND TRANSPORTATION.** Each metropolitan county may adopt ordinances governing the collection of solid waste. A county may adopt, but may not be required to adopt, an ordinance that requires the separation from mixed municipal waste, by generators before collection, of materials that can readily be separated for use or reuse as substitutes for raw materials or for transformation into a usable soil amendment. Each local unit of government within the metropolitan area shall adopt an ordinance governing the collection of solid waste within its boundaries. If the county within which it is located has adopted a collection ordinance, the local unit shall adopt either the county ordinance by reference or a more strict ordinance. If the county within which it is located has adopted a separation ordinance, the ordinance applies in all local units within the county that have failed to meet the local abatement performance standards, as stated in the most recent annual county report. Ordinances of counties and local government units may establish reasonable conditions respecting but shall not prevent the transportation of solid waste by a licensed collector through and between counties and local units, except as required for the enforcement of any designation of a facility by ~~the council pursuant to section 473.827~~ a county under chapter 115A. A licensed collector or a metropolitan county or local government unit may request review by the council of an ordinance adopted under this subdivision. The council shall approve or disapprove the ordinance within 60 days of the submission of a request for review. The ordinance shall remain in effect unless it is disapproved. Ordinances of counties and local units of government shall provide for the enforcement of any designation of facilities by ~~the council under section 473.827~~ counties under chapter 115A. Nothing in this subdivision shall be construed to limit the authority of the local government unit to regulate and license collectors of solid waste or to require review or approval by the council for ordinances regulating collection.

Sec. 73. Minnesota Statutes 1990, section 473.811, subdivision 6, is amended to read:

Subd. 6. **GRANTS AND LOANS TO COUNTIES.** Each metropolitan county may accept gifts, may apply for and accept grants or loans of money or other property from the United States, the state, the metropolitan council, any

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local government unit, or any person, to accomplish the purposes specified in sections 473.149, 473.151, 473.801 to 473.823, 473.831, ~~473.833~~, and 473.834, 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 relating thereto.

Sec. 74. Minnesota Statutes 1990, section 473.811, subdivision 7, is amended to read:

Subd. 7. **JOINT ACTION.** Any local governmental unit or metropolitan agency may act together with any county, city, or town within or without the metropolitan area, or with the pollution control agency or the office of waste management under the provisions of section 471.59 or any other appropriate law providing for joint or cooperative action between government units, to accomplish any purpose specified in sections 473.149, 473.151, 473.801 to 473.823, 473.831, ~~473.833~~, 473.834, 116.05 and 115A.06.

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

Sec. 75. Minnesota Statutes 1990, section 473.811, subdivision 8, is amended to read:

Subd. 8. **COUNTY SALE OR LEASE.** Each metropolitan county may sell or lease any facilities or property or property rights previously used or acquired to accomplish the purposes specified by sections 473.149, 473.151, 473.801 to 473.823, 473.831, ~~473.833~~, and 473.834. Such property may be sold in the manner provided by section 469.065, or may be sold in the manner and on the terms and conditions determined by the county board. Each metropolitan county may convey to or permit the use of any such property by a local government unit, with or without compensation, without submitting the matter to the voters of the county. No real property or property rights acquired pursuant to this section, may be disposed of in any manner unless and until the county shall have submitted to the agency and the metropolitan council for review and comment the terms on and the use for which the property will be disposed of. The agency and the council shall review and comment on the proposed disposition within 60 days after each has received the data relating thereto from the county.

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Sec. 76. Minnesota Statutes 1990, section 473.811, subdivision 9, is amended to read:

Subd. 9. **SOLID AND HAZARDOUS WASTE FUND.** All money received by any metropolitan county from any source specified in sections 473.149, 473.151, 473.801 to 473.823, 473.831, ~~473.833~~, and 473.834 shall be paid into the county treasury, placed in a special fund designated as the county solid and hazardous waste fund, and used only for the purposes authorized in those sections, as appropriated by the county board, subject to any lawful restrictions, conditions, or pledges applicable thereto.

Sec. 77. Minnesota Statutes 1990, section 473.823, subdivision 5, is amended to read:

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

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

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

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

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

(c) The council shall conduct at least one public hearing in the city or town within which the proposed facility would be located. Notice of the hearing shall be published in a newspaper or newspapers of general circulation in the area for two successive weeks ending at least 15 days before the date of the hearing. The notice shall describe the proposed facility, its location, the proposed permits,

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and the council's scope ~~and~~, procedure, and criteria for review. The notice shall identify a location or locations within the local government unit and county where the permit applications and the council's scope ~~and~~, procedure, and criteria for review are available for review and where copies may be obtained.

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

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

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

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

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

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

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

(e) In its final decision in the review, the council may either approve or disapprove the proposed facility at the proposed site. The council's approval shall embody all terms, conditions, and requirements of the permitting state agencies, provided that the council may require more stringent permit terms, conditions, and requirements respecting the design, construction, operation, inspection, monitoring, and maintenance of the proposed facility at the proposed site.

Sec. 78. Minnesota Statutes 1990, section 473.823, subdivision 6, is amended to read:

Subd. 6. **COUNCIL; CERTIFICATION OF NEED.** No new mixed municipal solid waste disposal facility or capacity shall be permitted in the metropolitan area without a certificate of need issued by the council indicating the council's determination that the additional disposal capacity planned for the facility is needed in the metropolitan area. The council shall amend its policy plan, adopted pursuant to section 473.149, to include standards and procedures for certifying need that conform to the certification standards stated in this subdivision. The standards and procedures shall be based on the council's disposal abatement plan adopted pursuant to section 473.149, subdivision 2d, the council's solid waste disposal facilities development schedule adopted under section

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473.149, subdivision 2e, and the provisions of any master plans of counties that have been approved by the council under section 473.803, subdivision 2, and that are consistent with the council's abatement plan and development schedule. The council shall certify need only to the extent that there are no feasible and prudent alternatives to the disposal facility, including waste reduction, source separation and resource recovery which would minimize adverse impact upon natural resources. Alternatives that are speculative or conjectural shall not be deemed to be feasible and prudent. Economic considerations alone shall not justify the certification of need or the rejection of alternatives. ~~In its certification the council shall not consider alternatives which have been eliminated from consideration by the adoption of the inventory pursuant to section 473.149, subdivision 2b, or the selection of sites under section 473.833, subdivision 3.~~

Sec. 79. Minnesota Statutes 1990, section 473.845, subdivision 3, is amended to read:

Subd. 3. **EXPENDITURES FROM THE FUND.** Money in the fund may only be appropriated to the agency for expenditure for:

(1) reasonable and necessary expenses for closure and postclosure care of a mixed municipal solid waste disposal facility in the metropolitan area for a 20-year period after closure, if the agency determines that the operator or owner will not take the necessary actions requested by the agency for closure and postclosure in the manner and within the time requested; and

(2) reasonable and necessary response and postclosure costs at a mixed municipal solid waste disposal facility in the metropolitan area that has been closed for 20 years in compliance with the closure and postclosure rules of the agency; ~~or~~

~~(3) reasonable and necessary response costs resulting from county actions required under section 473.833, subdivision 2a; when those actions are done under the supervision of the agency.~~

Sec. 80. Minnesota Statutes 1990, section 473.845, subdivision 4, is amended to read:

Subd. 4. **EXPENDITURE NOTIFICATION AND COMMISSION RECOMMENDATION.** (a) The commissioner shall notify the chair and the director of the legislative commission on waste management before making expenditures from the fund.

~~(b) The legislative commission on waste management shall make recommendations to the standing legislative committees on finance and appropriations about appropriations from the fund.~~

Sec. 81. Minnesota Statutes 1990, section 473.848, subdivision 2, is amended to read:

Subd. 2. **COUNTY CERTIFICATION; COUNCIL APPROVAL.** (a) Each county ~~that has not implemented designation of all or a portion of its mixed~~

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~~municipal solid waste to a resource recovery facility~~ shall submit a semiannual certification report to the council detailing:

- (1) the quantity of waste generated in the county that was not processed prior to transfer to a disposal facility during the six months preceding the report;
- (2) the reasons the waste was not processed;
- (3) a strategy for development of techniques to ensure processing of waste including a specific timeline for implementation of those techniques; and
- (4) any progress made by the county in reducing the amount of unprocessed waste.

(b) The council shall approve a county's report if it determines that the county is reducing and will continue to reduce the amount of unprocessed waste, based on the report and the county's progress in development and implementation of techniques to reduce the amount of unprocessed waste transferred to disposal facilities. If the council does not approve a county's report, it shall negotiate with the county to develop and implement specific techniques to reduce unprocessed waste. If the council does not approve three or more consecutive reports from any one county, the council shall develop specific reduction techniques that are designed for the particular needs of the county. The county shall implement those techniques by specific dates to be determined by the council.

Sec. 82. Minnesota Statutes 1990, section 473.848, is amended by adding a subdivision to read:

Subd. 5. DEFINITION. 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.

**Sec. 83. [473.849] PROHIBITION; SOLID WASTE DISPOSAL.**

No person may place processed or unprocessed mixed municipal solid waste that is generated in the metropolitan area in a disposal facility that does not comply with the minimum requirements for design, construction, and operation of a new mixed municipal solid waste disposal facility under Minnesota Rules in effect on January 1, 1991. Each metropolitan county shall, and each county in which is located a disposal facility may, enforce this prohibition and may impose penalties and recover attorney fees and court costs to the same extent as for enforcement of a designation ordinance under section 115A.86, subdivision 6. The commissioner of the pollution control agency may enforce this section under section 115.071 or 116.072.

**Sec. 84. METROPOLITAN DISPOSAL SITES; MORATORIUM; REPLACEMENT SITING PROCESS; DISPOSAL PROHIBITION ENFORCEMENT PLAN; STATEWIDE FACILITY SITING PROCEDURES.**

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Subdivision 1. MORATORIUM. The metropolitan council and each of the metropolitan counties shall discontinue all activities under Minnesota Statutes, sections 473.149, subdivision 2b; 473.803, subdivision 1a; 473.806; 473.831; 473.833; and 473.840 related to the siting of mixed municipal solid waste disposal facilities, except activities governed by sections 85 to 87.

Subd. 2. REPLACEMENT SITING PROCESS. The seven metropolitan counties, in consultation with the metropolitan council and the office of waste management, shall develop a specific process for siting and developing a disposal facility within the metropolitan area to accommodate all of the ash produced or projected to be produced by facilities in operation or planned to be in operation by August 1, 1996 that process or will process mixed municipal solid waste generated in the metropolitan area, and for siting and developing a mixed municipal solid waste disposal facility within the metropolitan area unless each county and the council agrees that a mixed municipal solid waste facility will not be needed within the next 15 years to adequately manage metropolitan waste. The counties shall design the siting process to avoid siting facilities where those facilities could have relatively strong negative impacts on aquifers. The counties shall report the proposed process to the legislative commission on waste management by December 1, 1991, including any necessary recommendations for legislation to implement the process. The report shall also include descriptions of how the counties will share the costs and liabilities of new and existing waste facilities and how the counties intend to share the waste stream to ensure that each portion of the waste is most appropriately managed. The report must also include a detailed description of how each county plans to enforce the disposal prohibition in section 83, with copies of any enforcement ordinances adopted.

Subd. 3. STATEWIDE WASTE FACILITY SITING PROCEDURES. The legislative commission on waste management shall study statewide solid waste management facility siting procedures and shall recommend legislation by January 1, 1992, to ensure that environmental and public review of potential sites and technologies occur early enough in the process to adequately address environmental and social concerns related to siting and operation of the facilities.

Subd. 4. COMMISSION RECOMMENDATION. After hearing the report and plans required under subdivision 2, the legislative commission on waste management shall make a formal recommendation to either allow the repeal of the existing metropolitan landfill siting process to take effect as scheduled or to reinstate that process. The commission shall recommend allowing the repeal to take effect if it finds that:

(1) the metropolitan counties have designed a workable replacement process that includes adequate sharing of costs, liabilities, and waste streams;

(2) each county has an adequate plan and has adopted adequate ordinances to enforce the disposal prohibition in section 83; and

(3) each county has implemented a household hazardous waste collection program required under Minnesota Statutes, section 473.804, notwithstanding the effective date in that section.

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The commission shall also work with the metropolitan counties, the metropolitan council, and the office of waste management to recommend legislation to implement a replacement process for siting and developing facilities in the metropolitan area for the disposal of mixed municipal solid waste and ash produced by that waste. The recommended replacement siting process must be designed to avoid, to the greatest extent possible, siting facilities in locations where the facilities could have relatively strong negative impacts on aquifers.

#### Sec. 85. TEMPORARY DEVELOPMENT RIGHTS.

If temporary development rights have been purchased by a county under Minnesota Statutes, section 473.806, subdivision 2, the landowner may elect to repurchase the development rights from the county for a price equal to the compensation paid by the county prorated over the remaining period of the development rights.

#### Sec. 86. CONTINUED LEVY AUTHORITY OF METROPOLITAN COUNCIL.

The metropolitan council may continue to levy ad valorem taxes for debt service of the council's solid waste bonds issued before the effective date of section 90, paragraph (b), in accordance with Minnesota Statutes 1990, section 473.831, subdivision 1.

#### Sec. 87. USE OF BOND PROCEEDS.

Until December 1, 1992, with the approval of the metropolitan council, counties engaged in environmental analysis of solid waste disposal sites as of January 1, 1989, under Minnesota Statutes, section 473.833, subdivision 2a, may use proceeds of the council's solid waste bonds issued before the effective date of section 90, paragraph (b), for sealing of monitoring wells and other measures to restore the candidate sites for productive use.

#### Sec. 88. ADDITION TO REPORT.

The director of the office of waste management shall include in the 1992 solid waste management policy report required under Minnesota Statutes, section 115A.411, an analysis of progress made toward the implementation of nationwide labeling of products and packaging to address environmental concerns. Unless implementation of a nationwide uniform labeling system is imminent at that time, the director shall recommend a statewide product and packaging environmental labeling system that is as consistent as possible with proposed or existing labeling programs in other states.

#### Sec. 89. AIR QUALITY ADVISORY TASK FORCE.

Subdivision 1. CREATION. (a) The air quality advisory task force consists of 24 members. The speaker of the house of representatives and the majority leader of the senate shall each appoint four members from their respective bodies. The commissioner of the pollution control agency shall serve as the chair of the task force. The governor shall appoint the 15 other members as follows:

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(1) a representative of a major industrial facility holding an air emission permit issued by the pollution control agency;

(2) a representative of a mining facility holding an air emission permit issued by the pollution control agency;

(3) a representative of a petroleum refining facility holding an air emission permit issued by the pollution control agency;

(4) a representative of a manufacturing facility holding an air emission permit issued by the pollution control agency;

(5) a representative of a fossil fuel combustion facility holding an air emission permit issued by the pollution control agency;

(6) a representative of forest products manufacturing facilities holding air emissions permits issued by the pollution control agency;

(7) three representatives of environmental and natural resource groups;

(8) three members of the public;

(9) the commissioner of the department of health or the commissioner's designee;

(10) the commissioner of the department of transportation or the commissioner's designee; and

(11) the commissioner of the department of natural resources or the commissioner's designee.

(b) The task force terminates on January 1, 1993.

Subd. 2. DUTIES. (a) The task force shall conduct a comprehensive review of the state's air quality. In conducting the review the task force shall:

(1) identify the air pollution issues of importance to the state; the past, present, and projected changes in pollution levels by source category; and the results of existing pollution prevention and control programs; and

(2) examine all federal and state laws and regulations related to the identified air quality issues, including the state's strategies to implement the federal Clean Air Act, the Minnesota acid deposition control act, the Minnesota toxic pollution prevention act, and other relevant laws and regulations, and resources required to implement these programs.

(b) The task force shall report to the legislature on the results of the review required in paragraph (a) and shall include recommendations on how best to address the identified air quality issues, including ways to improve implementa-

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tion of existing programs. The recommendations must be based on sound scientific principles and cost-effective approaches to pollution prevention and reduction.

(c) The task force shall submit an interim report to the legislature by January 31, 1992, and a final report by January 1, 1993. The commissioner shall ensure that staff resources devoted to the task force do not impair the permitting, enforcement, or rulemaking activities of the air quality division of the agency.

Sec. 90. **REPEALER.**

(a) Minnesota Statutes 1990, sections 16B.125; 115A.953; 325E.045; and 473.844, subdivision 3, are repealed. Laws 1989, chapter 325, section 71, subdivision 2, is repealed.

(b) Minnesota Statutes 1990, sections 473.149, subdivision 2b; 473.803, subdivision 1a; 473.806; 473.831; 473.833; and 473.840, are repealed.

Sec. 91. **EFFECTIVE DATES.**

Sections 2, 8, 10, 15, 19, 25, 31, 33, 34, 36, 46, 49, 56, 57, 60, 61, 62, 66, 84, and 86 are effective the day following final enactment.

Section 13 is effective the day following final enactment and applies to applications or requests received by a local government unit on or after the effective date of that section.

Sections 37, subdivision 1, and 38 are effective October 1, 1991.

Section 47 is effective July 1, 1992.

Section 52 is effective June 30, 1991.

Section 53 is effective June 2, 1989, and applies to all response actions initiated or pending on or after that date.

Sections 63, 64, 67, 69, 71, 73 to 76, 78, 79, 85, 87, and 90, paragraph (b), are effective August 1, 1992.

Section 83 is effective January 1, 1992 for disposal facilities located outside the metropolitan area, as defined in section 473.121, and January 1, 1995 for all disposal facilities regardless of location.

Section 79 does not affect appropriations for response costs resulting from county actions taken before the effective date of this act.

Presented to the governor May 31, 1991

Signed by the governor June 4, 1991, 8:42 p.m.

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