

1 Pollution Control Agency

2

3 Adopted Rules Relating to Environment; Solid Waste Management

4 Planning and Certificate of Need

5

6 Rules as Adopted

7 COMPREHENSIVE SOLID WASTE MANAGEMENT

8 PLANNING AND CERTIFICATE OF NEED

9 7035.1100 DEFINITIONS.

10 Subpart 1. Scope. As used in parts 7035.1100 to
11 7035.1115, the terms defined in this part have the meanings
12 given them.

13 Subp. 2. Acceptable solid waste management
14 plan. "Acceptable solid waste management plan" means a solid
15 waste management plan that provides planning information
16 consistent with Minnesota Statutes, section 115A.46, and part
17 7035.1105.

18 Subp. 3. Agency. "Agency" means the Pollution Control
19 Agency.

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

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

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

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

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



1 intermediate fuel product.

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

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

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

15 Subp. 12. **Permitted capacity.** "Permitted capacity" means
16 the volume of waste and cover material that a permit allows to
17 be disposed of at a solid waste land disposal facility, measured
18 over the operating life of the facility.

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

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

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

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

34 Subp. 17. **Recycling.** "Recycling" means-a-technique-or
35 process-utilized-to-separate,-process,-modify,-convert,-or
36 otherwise-prepare-solid-waste-so-that-component-materials-or

1 ~~substances may be beneficially used or reused as raw~~
2 ~~materials~~ has the meaning given it in Minnesota Statutes,
3 section 115A.03, subdivision 25b.

4 Subp. 18. **Solid waste management.** "Solid waste management"
5 means a planned program for effectively controlling the
6 generation, storage, collection, transportation, processing and
7 reuse, conversion, or disposal of solid wastes ~~in a safe,~~
8 ~~sanitary, environmentally sound, and economical manner.~~ It
9 includes all administrative, financial, environmental, legal,
10 and planning functions. Solid waste management also includes
11 the operational aspects of solid waste handling and disposal and
12 alternatives to land disposal necessary to achieve established
13 objectives.

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

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

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

27 7035.1101 RESPONSIBILITY FOR DEVELOPMENT OF PLANS.

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

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

34 A. **Counties.**

35 (1) A county that contains either one or more

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1 mixed municipal solid waste land disposal facilities with less
2 than five years permitted capacity as determined by the agency,
3 or one or more priority one open dumps shall complete and submit
4 a draft plan within two years after the effective date of this
5 part.

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

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

14 (4) A county in MPCA Region I - Duluth or Region
15 IV - Marshall that is not covered by subitem (1) shall complete
16 and submit a draft plan within five years after the effective
17 date of this part.

18 B. Solid waste management districts. A county that
19 is seeking to be part of a solid waste management district
20 formed under Minnesota Statutes, sections 115A.62 to
21 115A.72, must-be-included-in shall obtain approval of a plan
22 prepared-by-a-district---When-it-is-formed,-a by the agency
23 prior to formation of the district shall-submit-a-draft-plan-to
24 the-agency as required by Minnesota Statutes, section 115A.63,
25 subdivision 3, ~~or, if applicable, under this subpart.~~

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

31 7035.1102 DIRECTOR NOTIFICATION TO COUNTY AND DISTRICT.

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

35 7035.1103 ACCELERATED PLAN COMPLETION.

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

5 7035.1104 PLAN COMPLIANCE AND COMPATIBILITY.

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

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

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

25 7035.1105 CONTENT OF PLAN.

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

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

34 A. An inventory and description of existing waste
35 facilities and the collection, storage, transportation, and

1 disposal systems used by the political subdivision being
2 studied, including:

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

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

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

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

20 (5) The financing methods used by the waste
21 facilities.

22 (6) Existing and potential environmental effects.

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

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

31 C. An identification of solid waste issues of
32 regional concern, including an assessment of the feasibility of
33 planning and implementing solid waste management systems on a
34 regional basis. The plan must include a process for ensuring
35 the ongoing involvement of and consultation with those who are
36 concerned with solid waste management including regional

1 authorities, adjacent counties or districts and local units of
2 government and waste service companies within a county or
3 district.

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

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

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

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

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

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

29 The plan must include a description and comparative cost
30 analysis of the existing system, the proposed system and the
31 alternative system. The description must address the potential
32 environmental effects of those systems. The plan must also
33 include a description of the timing of the specific functions
34 and activities to be undertaken for the proposed system and a
35 description of alternatives, including waste reduction and
36 recycling, for collecting, processing, and disposing of waste

1 tires and bulky items.

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

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

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

21 C. A county or district that chooses to establish its
22 own format for the cost analysis required by item A must submit
23 the format to the director for approval at least six months
24 prior to the required plan completion date established in part
25 7035.1101, subpart 2. The format must contain the following:

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

32 (2) Operating and maintenance costs. Operating
33 and maintenance costs must include labor costs; utilities;
34 maintenance of vehicles, stationary equipment, buildings and
35 roads; water monitoring and analysis; parts and supplies;
36 services; equipment replacement; financial assurance; insurance;

1 licenses and permits; taxes; residue disposal; and debt
2 service. Operating and maintenance costs must be expressed in
3 cost per ton of daily capacity.

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

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

11 (5) Cost adjustment for environmental values.
12 The comparative analysis of alternative waste management systems
13 must also account for the environmental goals established in
14 Minnesota Statutes, chapters 115A and 116D. To accomplish this,
15 the following maximum abatement goals are established for each
16 portion of the solid waste stream. The abatement components
17 are, in order of preference: waste reduction, recycling, yard
18 waste composting, co-composting or energy recovery or both, and
19 land disposal of residuals. Waste reduction has an abatement
20 goal of three percent reduction by weight, of the solid waste
21 stream; recycling has an abatement goal of 25 percent reduction
22 by weight, of the solid waste stream; yard waste composting has
23 an abatement goal of 12 percent reduction by weight, of the
24 solid waste stream; co-composting or energy recovery or both has
25 an abatement goal to process 60 percent, by weight, of the solid
26 waste stream. These abatement goals will result in 20 percent
27 of the waste stream being disposed of in land disposal
28 facilities as residuals. The cost analysis of the waste
29 management systems must be adjusted so it reflects any
30 differences between the solid waste management systems and the
31 abatement goals for co-composting, energy recovery, and land
32 disposal. The adjustment must be made in the following manner:

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

36 $P_i - G_i$, in which i represents waste management components

(e.g., energy recovery, etc.)

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

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

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

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

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

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

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

- A. estimated capital costs and implementation schedules;
- B. proposed procedures for operation and maintenance;
- C. estimated annual costs and gross revenues;

1 D. feasible proposals for the ultimate use of waste
2 facilities upon completion of their original use;

3 E. siting criteria; and

4 F. a program for public participation.

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

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

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

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

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

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

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

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

36 (5) a timetable to implement each element of the

1 plan over the ten-year planning period.

2 7035.1106 SUBMISSION OF PLAN OR REVISION.

3 Subpart 1. Submission of draft plan or revision. A board
4 shall submit for agency review two copies of its draft plan or
5 revision to the director according to the schedule established
6 in part 7035.1101, subpart 2. ~~Upon receipt of the draft plan or~~
7 ~~revision, the director must notify the board by certified letter~~
8 ~~of the proposed schedule for review of the draft plan or~~
9 ~~revision.~~ The director shall review the draft plan within 120
10 days. After reviewing the draft plan or revision, the director
11 shall notify the board of any part of the draft plan or revision
12 that requires redrafting and resubmission. The county or
13 district shall redraft the plan or revision and submit it as the
14 final plan or revision to the director within 90 days.

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

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

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

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

31 A. The plan or revised plan contains each element of
32 an acceptable plan as defined in part 7035.1100, subpart 3 2.

33 B. The plan or revised plan has required the most
34 feasible and prudent reduction of the need for and the practice
35 of land disposal of mixed municipal solid waste. "Feasible"

1 means a known method or technology that can be put successfully
2 into practice ~~to accomplish the abatement~~ in a manner that
3 addresses the potential environmental effects and abates the
4 land disposal of solid waste. An alternative may not be
5 considered feasible if it is experimental, theoretical, or not
6 capable of commercial scale application. "Prudent" means the
7 least costly solid waste management system as demonstrated by
8 the cost analysis done under part 7035.1105, subpart 3.

9 7035.1107 PRELIMINARY APPROVAL.

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

16 7035.1108 PUBLIC NOTICE AND COMMENTS ON AGENCY'S PRELIMINARY
17 APPROVAL OF PLAN OR REVISION AND INTENT TO ISSUE A CERTIFICATE
18 OF NEED.

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

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

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

32 C. a concise description of the waste management
33 system established by the plan or revision;

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

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1 feet;

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

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

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

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

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

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

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

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

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

1 or district.

2 Subp. 3. Public comments. During the 30-day public
3 comment period, an interested person, including the chair of the
4 board, may submit written comments on the plan or revision and
5 certificate of need. Comments must include the following:

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

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

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

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

24 7035.1109 REQUEST FOR PUBLIC MEETING OR CONTESTED CASE HEARING.

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

32 Subp. 2. Need for public informational meeting. If the
33 director determines that a public informational meeting would
34 help clarify and resolve issues regarding the plan or revision
35 and certificate of need or if the director has received a

1 request under part 7001.0670, subpart 1, the director shall hold
2 a public informational meeting.

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

8 Subp. 4. Notice of public informational meeting. The
9 director shall prepare a notice of the public informational
10 meeting. The notice must contain a reference to the public
11 notice of the preliminary approval of the plan or revision and
12 certificate of need including the dates of issuance of the
13 public notice; the date, time, and location of the public
14 informational meeting; the information described in part
15 7001.0100, subpart 4, items A to F; a concise description of the
16 manner in which the public informational meeting will be
17 conducted; and the issues to be discussed.

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

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

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

34 A. that a person requesting the contested case
35 hearing has raised a material issue of fact or the application
36 of facts to law related to the agency's approval of the plan or

1 revision and certificate of need;

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

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

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

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

22 A. the information required by part 1400.5600 of the
23 rules of the Office of Administrative Hearings;

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

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

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

35 Subp. 10. **Relevant law.** The notice of hearing,
36 distribution of the notice, and the conduct of the contested

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1 case hearing are governed by Minnesota Statutes, sections 14.57
2 to 14.62; the rules of the Office of Administrative Hearings,
3 parts 1400.5100 to 1400.8500; and, if applicable, by part
4 7001.0670, subparts 2, 3, and 4.

5 7035.1110 FINAL APPROVAL OF PLAN OR REVISION AND CERTIFICATE OF
6 NEED.

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

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

14 7035.1111 PLAN AMENDMENTS.

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

20 7035.1112 PLAN REVISIONS.

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

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

32 A. The adequacy of the system evaluation completed in
33 part 7035.1105, subpart 2, item A, including waste generation
34 and projected disposal quantities. Any changes in the system

1 evaluation must describe the effect on net land disposal
2 capacity as computed in part 7035.1105, subpart 4.

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

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

9 D. The implementation schedule required by part
10 7035.1105, subpart 6, item C, subitem (5).

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

13 F. Changes in funding sources required by part
14 7035.1105, subpart 6, item C, subitem (4).

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

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

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

28 7035.1113 REVIEW.

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

35 7035.1114 REVOCATION OF CERTIFICATE OF NEED.

1 If the county or district revises its plan according to
2 part 7035.1112 or the agency finds the county or district has
3 not fulfilled all applicable requirements of Minnesota Statutes,
4 chapter 115A, or the rules adopted under Minnesota Statutes,
5 chapter 115A, including parts 7035.1100 to 7035.1115, this
6 finding constitutes justification for the agency to revoke, or
7 revoke and reissue a certificate of need.

8 7035.1115 NONCOMPLIANCE.

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

19 Subp. 2. **Compliance order.** If the board fails to respond
20 to the notice in subpart 1 or initiate the planning process, the
21 agency may issue an order for compliance with parts 7035.1100 to
22 7035.1114. Issuance of a compliance order does not preclude the
23 agency from taking other actions prescribed by law.