

CHAPTER 115A

WASTE MANAGEMENT

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|---------|--|---------|---|
| 115A.03 | Definitions. | 115A.20 | Evaluation of sites. |
| 115A.05 | Board membership. | 115A.21 | Candidate sites. |
| 115A.06 | Powers of the board. | 115A.22 | Participation by affected localities. |
| 115A.07 | Duties of the board; general. | 115A.23 | Disposal facilities; preliminary design and operating specifications. |
| 115A.08 | Duties of the board; hazardous waste management reports. | 115A.24 | Certification of need. |
| 115A.09 | Duties of the board; inventory of preferred areas for hazardous waste processing facilities. | 115A.26 | Agencies; permit conditions. |
| 115A.11 | Hazardous waste management plan. | 115A.28 | Final action. |
| 115A.12 | Advisory councils. | 115A.33 | Eligibility; request for review. |
| 115A.15 | State government resource recovery. | 115A.34 | Appointment of temporary board members. |
| 115A.19 | Procedure not exclusive. | 115A.37 | Final decision of board. |
| | | 115A.54 | Waste processing facilities. |

115A.03 DEFINITIONS.

[For text of subds 1 to 14, see M.S.1980]

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

[For text of subds 16 to 28, see M.S.1980]

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

[For text of subds 30 to 36, see M.S.1980]

History: 1981 c 352 s 1,2

115A.05 BOARD MEMBERSHIP.

[For text of subds 1 and 2, see M.S.1980]

Subd. 3. **Temporary members.** For the purposes of each project review conducted by the board under sections 115A.18 to 115A.30 and 115A.32 to 115A.39 and for the purpose of preparing and adopting the hazardous waste management plan under section 115A.11 and making decisions on the elements of the certification of need for disposal required under sections 115A.18 to 115A.30, six local representatives shall be added to the board as temporary voting members, as provided in sections 115A.22, subdivision 4, and 115A.34. The provisions of section 15.0575, subdivisions 3 and 4 relating to compensation, removal, and vacancy shall apply to temporary members except that the rate of compensation shall be \$50 per day spent on board activities and that appointments by the governor to fill vacancies shall take effect in the same manner as the original appointment.

History: 1981 c 352 s 3

115A.06 POWERS OF THE BOARD.

[For text of subds 1 to 3, see M.S.1980]

Subd. 4. **Acquisition of sites for hazardous waste facilities.** The board may direct the commissioner of administration to acquire by purchase, lease, condemnation, gift, or grant, any permanent or temporary right, title, and interest in and to real property, including positive and negative easements and water, air, and development rights, for sites and buffer areas surrounding sites for hazardous waste facilities approved by the board pursuant to sections 115A.18 to 115A.30 and 115A.32 to 115A.39. Money for the acquisition of any real property and interest in real property pursuant to this subdivision shall come from the issuance of state waste management bonds in accordance with sections 115A.57 to 115A.59. The property shall be leased to the owner and operator of the hazardous waste facility located thereon at a rate sufficient to pay debt service on the bonds which provided funds used to acquire the property and to evaluate the eligibility of the property for inclusion in the inventory under section 115A.09 or candidacy under sections 115A.18 to 115A.30. Any local government unit and the commissioners of transportation, natural resources, and administration may convey or allow the use of any property for such sites and areas, subject to the rights of the holders of any bonds issued with respect thereto, with or without compensation and without an election or approval by any other government agency. Land owned by the state may be exchanged for land not owned by the state for the purpose of providing a site and buffer area for a commercial hazardous waste facility, in accordance with the provisions of section 94.341 to 94.347 and other law. The commissioner of administration may hold the property for the purposes for which it was acquired, and may lease, rent, or dispose of the property so far as not needed for such purposes, upon the terms and in the manner the commissioner deems advisable. The right to acquire lands and property rights by condemnation shall be exercised in accordance with chapter 117. The commissioner of administration may take possession of any property for which condemnation proceedings have been commenced at any time after the issuance of a court order appointing commissioners for its condemnation. Where the property is acquired through eminent domain proceedings, the land owner's compensation shall be the fair market value of the property. Where the property is acquired by means other than through eminent domain proceedings, as by direct purchase or gift, the land owner's compensation shall be determined by the agreement of the parties involved. An award of compensation in a condemnation proceeding shall not be increased or decreased by reason of any increase or decrease in the value of the property caused by its designation in the inventory of preferred areas under section 115A.09 or as a candidate site under sections 115A.18 to 115A.30 or its selection as a site or buffer area.

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

[For text of subds 6 to 12, see M.S.1980]

Subd. 13. **Private and non-public data.** Any data held by the board which consists of trade secret information as defined by section 15.1673, subdivision 1, clause (b), sales information, or any other information which, if public, would tend to adversely affect the competitive position of the subject of the data, shall be classified as private or non-public data as defined in section 15.162, subdivisions 5a and 5c if the subject of the data has certified that the data qualifies as non-public or private data under this subdivision and the chairman of the waste management board approves the classification in writing. When data is classified private or non-public pursuant to this subdivision the board may:

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

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

The subject of data classified as private or non-public pursuant to this subdivision may authorize the disclosure of some or all of that data by the board.

History: 1981 c 352 s 4-6

115A.07 DUTIES OF THE BOARD; GENERAL.

Subdivision 1. **Interagency coordination.** The chairperson of the board shall inform the commissioner of energy, planning and development of the board's activities in accordance with section 4.191. The chairperson shall keep the agency informed of the board's activities, solicit the advice and recommendations of the agency, and coordinate its work with the regulatory and enforcement activities of the agency.

[For text of subd 2, see M.S.1980]

History: 1981 c 356 s 119

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

[For text of subds 1 to 3, see M.S.1980]

Subd. 4. **Report on hazardous waste management; draft management plan and certification of need.** By August 15, 1982, the board through its chairperson shall report to the legislative commission on hazardous waste management. The report shall include at least:

(a) an evaluation of alternative disposal facilities, disposal facility technologies, and disposal facility design and operating specifications and an explanation of the preliminary design and operating specifications for disposal facilities selected for consideration under section 115A.23;

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

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

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

The report shall analyze the environmental, social, and economic effects of the alternatives and methods by which unavoidable adverse effects could be mitigated. The report shall include a draft hazardous waste management plan, based on the analysis in the report and proposed for adoption pursuant to section 115A.11, and a draft certificate or certificates of need proposed for issuance under section 115A.24.

Subd. 5. Report on mitigation of local effects of hazardous waste facilities. By August 15, 1982, the board through its chairperson shall report and make recommendations to the legislative commission on methods of mitigating and compensating for the local risks, costs, and other adverse effects of various types of hazardous waste facilities and on methods of financing mitigation and compensation measures. The methods of mitigating and compensating to be considered shall include but not be limited to the following: payment outside of levy limitations in lieu of taxes for all property taken off the tax rolls; preference in reviews of applications for federal funds conducted by the metropolitan council and regional development commissions; payment of all costs to service the facilities including the cost of roads, monitoring, inspection, enforcement, police and fire, and litter clean up costs; payment for buffer zone amenities and improvement; local control over buffer zone design; a guarantee against any and all liability that may occur.

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

History: 1981 c 352 s 7-9

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

Subdivision 1. Board responsibility. By January 1, 1982, the board shall prepare an inventory of preferred areas of up to ten square miles in size for commercial hazardous waste processing facilities. No preferred area may extend into more than one statutory or home rule charter city or town, but the board may propose adjoining preferred areas in adjacent cities and towns. The inventory

shall include at least three areas for each of the following categories of processing facilities: (a) a commercial chemical processing facility for hazardous waste, (b) a commercial incineration facility for hazardous waste, and (c) a commercial transfer and storage facility for hazardous waste.

Subd. 2. Evaluation of areas. The board shall not be required to promulgate rules pursuant to chapter 15 to govern its evaluation and selection of areas under this section. The board and the chairperson on behalf of the board shall evaluate the areas in consultation with the board's advisory councils, the affected counties and regions, generators of hazardous waste, and prospective facility developers. The evaluation shall consider at least the consistency of areas with state and federal regulations, local land use and land use controls, the protection of agriculture and natural resources, existing and future development patterns, transportation and other services appropriate to the hazardous waste facilities, the quality of other potential areas, and the location of hazardous waste generators. The agency shall prepare a report on the suitability of each proposed area for the use intended.

Subd. 3. Procedures. The board shall propose the inventory of areas by August 1, 1981 by publication in the state register and newspapers of general circulation in the state and by mail to each regional development commission or metropolitan council, and local government unit containing a proposed area. The publications and mailing shall include notice of hearings on the board's proposal. The hearings shall be conducted by the state office of administrative hearings in a manner determined by the hearing examiner to be consistent with the completion of the proceedings and the examiner's report in the time allowed by this section. At the hearing, any local government unit in which an area is proposed for inclusion in the inventory may propose an alternative area or areas within its jurisdiction. The hearing shall afford all interested persons an opportunity to testify and present evidence on the subject of the hearing. The subject of the hearing shall be limited to information submitted by the board and additional information on the proposed area or alternative areas which is relevant to the board's decision on the areas to be included in the inventory. The rulemaking and contested case procedures of chapter 15 shall not apply to this hearing. The hearing examiner may consolidate hearings. The report of the hearing examiner shall contain findings of fact, conclusions, and recommendations on the subject of the hearing. When any area in the inventory becomes unavailable as a hazardous waste facility site, the inventory shall be amended, in the manner of its original adoption, provided, however, that during the period when the inventory is being amended any other area in the inventory may be reviewed and approved under sections 115A.32 to 115A.39. No action of the board shall be held invalid by reason of the board's failure to notify any of the entities listed in this subdivision.

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

History: 1981 c 352 s 10

115A.11 HAZARDOUS WASTE MANAGEMENT PLAN.

Subdivision 1. Contents. By December 15, 1982, the board shall adopt a hazardous waste management plan. The plan shall include at least the following elements:

(a) an estimate of the types and volumes of hazardous waste which will be generated in the state through the year 2000;

(b) specific and quantifiable objectives for reducing to the greatest feasible and prudent extent the need for and practice of disposal, through waste reduction, pretreatment, processing, and resource recovery;

(c) a description of the minimum disposal capacity and capability needed to be developed within the state for use through the year 2000, based on the achievement of the objectives under clause (b).

The plan shall require the establishment of at least one commercial disposal facility in the state. The board may make the implementation of elements of the plan contingent on actions of the legislature which have been recommended in the reports submitted pursuant to section 115A.08.

[For text of subd 2, see M.S.1980]

History: 1981 c 352 s 11

115A.12 ADVISORY COUNCILS.

[For text of subd 1, see M.S.1980]

Subd. 2. Technical advisory council. The chairperson of the board shall establish an interagency technical advisory council to advise the board and the chairperson on matters the board, through its chairperson, deems necessary. The members of the council shall be the commissioner of health; the commissioner of agriculture; the commissioner of natural resources; the director of the pollution control agency; the commissioner of energy, planning and development; other heads of agency the chairperson of the board deems necessary; or their designees. The council shall meet at the call of the chairperson of the board who shall serve as chairperson of the council. The members, collectively and individually shall advise the board and the chairperson on matters within their various areas of expertise and shall provide technical assistance and information as requested by the board through its chairperson.

History: 1981 c 356 s 120

115A.15 STATE GOVERNMENT RESOURCE RECOVERY.

[For text of subds 1 to 4, see M.S.1980]

Subd. 5. Reports. By January 1 of each odd-numbered year, the commissioner of administration shall submit a report to the governor and to the legislative commission summarizing past activities and proposed goals of the program for the following biennium. By July 1 of each even-numbered year director of the pollution control agency and the commissioner of energy, planning and development shall submit recommendations to the commissioner regarding the operation of the program.

[For text of subd 6, see M.S.1980]

History: 1981 c 356 s 121

115A.19 PROCEDURE NOT EXCLUSIVE.

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

History: 1981 c 352 s 12

115A.20 EVALUATION OF SITES.

The board shall not be required to promulgate rules pursuant to chapter 15 to govern its evaluation and selection of sites for commercial disposal facilities under sections 115A.18 to 115A.30, nor shall the agency be required to promulgate rules pursuant to chapter 15 on criteria and standards to govern its certification of intrinsic suitability of sites for commercial disposal facilities under sections 115A.18 to 115A.30. In evaluating and selecting sites for disposal facilities, the board shall consider at least the following factors:

- (a) economic feasibility, including proximity to concentrations of generators of the types of hazardous wastes likely to be proposed and permitted for disposal;
- (b) intrinsic suitability of the sites;
- (c) federal and state pollution control and environmental protection rules;
- (d) the risk and effect for local residents, units of government, and the local public health, safety, and welfare, including such dangers as an accidental release of wastes during transportation to a facility or at a facility, water, air, and land pollution, and fire or explosion;
- (e) the consistency of a facility with, and its effect on, existing and planned local land use and development; local laws, ordinances, and permits; and local public facilities and services;
- (f) the adverse effects of a facility at the site on agriculture and natural resources and opportunities to mitigate or eliminate such adverse effects by stipulations, conditions, and requirements respecting the design and operation of a disposal facility at the proposed site.

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

History: 1981 c 352 s 13

115A.21 CANDIDATE SITES.

Subdivision 1. **Selection.** By March 15, 1982, the board shall select six locations in the state, no more than one site per county, as candidate sites for commercial disposal facilities for hazardous waste. No location shall be selected as a candidate site unless the agency certifies its intrinsic suitability for the use intended. The board shall consult with the agency and the private waste management industry in selecting candidate sites. Any sites proposed in applications for permits for disposal facilities being reviewed by the agency may be included by the board as candidate sites, provided the agency certifies the intrinsic suitability of the sites. The agency shall suspend its review of any permit application being reviewed by the board for inclusion as a candidate site until the site is eliminated from consideration as a candidate site.

Subd. 2. **Procedure.** As soon as practicable, the board through its chairperson shall publish a request soliciting proposals and permit applications for hazardous waste disposal facilities from potential developers and operators of such facilities. Notice of the request shall be published in the state register and newspapers of general circulation in the state and shall be transmitted to all regional development commissions, the metropolitan council, and all counties in the state. The board may select conceptual design and operating specifications for a variety of hazardous waste disposal facilities in sufficient detail and extent in the judgment of the board to assist the evaluation of sites and the selection of candidate sites. By November 1, 1980, the board through its chairperson shall notify each regional development commission, or the metropolitan council, and

each local government unit within whose jurisdiction the board intends to search for candidate sites. The notification shall explain the selection of the jurisdiction as a search area; shall summarize any conceptual specifications and the evaluation factors, criteria, standards, and procedures the board intends to use in selecting candidate sites; and shall describe the relationship of the candidate site selection process to the other review procedures under sections 115A.18 to 115A.30 and the hazardous waste reports and plans required under sections 115A.04 to 115A.15. The notification shall request recommendations and suggestions from each such commission, the metropolitan council, and local government unit on the criteria, standards, and procedures the board should use in selecting candidate sites within the time allowed. The board through its chairperson shall make a written response to any recommendations, explaining its disposition of the recommendations. The board shall provide to the agency data relating to the intrinsic suitability of the sites to be proposed as candidate sites as soon as available but no later than November 1, 1981. By November 15, 1981, the board shall propose at least six locations as candidate sites, and the director of the agency shall issue a notice indicating which of those sites the director recommends be certified as intrinsically suitable. The board through its chairperson and the director shall publish notice of hearings on the board's proposal and the director's recommendations. Notice shall be published in the state register and newspapers of general circulation in the state and shall be sent by mail to all regional development commissions, or the metropolitan council, and to local government units containing a proposed candidate site. The hearings shall be conducted by the state office of administrative hearings in a manner consistent with the completion of the proceedings and the hearing examiner's report to the agency and board in the time allowed by this section. The hearing shall afford all interested persons an opportunity to testify and present evidence on the subject of the hearing. The subject of the hearing shall be limited to information submitted by the board and additional information on the proposed sites which is relevant to the board's decision on candidate sites and the agency's decision on intrinsic suitability. The rulemaking and contested case procedures of chapter 15 shall not apply to this hearing. The hearing examiner may consolidate hearings. The report of the hearing examiner shall contain findings of fact, conclusions, and recommendations on the subject of the hearing. The agency shall make a final determination as to the intrinsic suitability of each proposed site and shall certify sites accordingly by March 1, 1982. No action of the board or agency shall be held invalid by reason of the board's or agency's failure to notify any of the entities listed in this subdivision.

Subd. 3. Moratorium. In order to permit the comparative evaluation of sites and the participation of affected localities in decisions about the use of sites, a moratorium is hereby imposed as provided in this subdivision on all development within each proposed or candidate site identified pursuant to this section and in a buffer area identified by the board surrounding and at least equal in area to the site. The moratorium on candidate sites and buffer areas shall extend until six months following final action of the board pursuant to sections 115A.18 to 115A.30. No development shall be allowed to occur within a proposed site or buffer area during the period of the moratorium without the approval of the board. No land use control of any political subdivision shall permit development which has not been approved by the board, nor shall any political subdivision sanction or approve any subdivision, permit, license, or other authorization which would allow development to occur which has not been approved by the board. The board shall not approve actions which would jeopardize the availability of a candidate site for use as a hazardous waste facility. The board may establish

guidelines for reviewing requests for approval under this subdivision. The guidelines shall not be subject to the rule-making provisions of chapter 15. Requests for approval shall be submitted in writing to the chairperson of the board and shall be deemed to be approved by the board unless the chairperson otherwise notifies the submitter in writing within 15 days.

History: 1981 c 352 s 14-16

115A.22 PARTICIPATION BY AFFECTED LOCALITIES.

[For text of subds 1 and 2, see M.S.1980]

Subd. 3. Membership on local committees. By April 15, 1982, the governor shall appoint the chairperson and members of each local project review committee, ensuring a balanced representation of all parties with a legitimate and direct interest in the outcome of the project review. The governor shall consult particularly with affected local units of government before selecting members. Members may be added to the local committee from time to time by the governor.

Subd. 4. Appointment of temporary board members. By May 15, 1982, each local committee shall select a temporary board member to be added to the board for the purposes of the reports, certifications, and review conducted under sections 115A.18 to 115A.30. If a local committee fails to appoint a temporary board member within 45 days after the appointment of the committee the governor shall appoint a temporary board member to represent the committee on the board. Temporary board members may be members of the local project review committee, and they shall be residents of the county where the candidate site is located. Temporary board members shall serve for terms lasting until the board has taken final action pursuant to section 115A.28 and, in the case of members representing the site or sites finally chosen for the facility, until the commencement of the operation of the facility at that site.

[For text of subds 5 to 7, see M.S.1980]

History: 1981 c 352 s 17,18

115A.23 DISPOSAL FACILITIES; PRELIMINARY DESIGN AND OPERATING SPECIFICATIONS.

By August 15, 1982, the board shall select, for further study and consideration, design and operating specifications for a variety of disposal facilities for hazardous waste in sufficient detail and extent in the judgment of the agency to allow the agency to begin preparing an environmental impact statement on the alternative facilities at each of the candidate sites pursuant to section 115A.25. The preliminary design and operating specifications shall not be final and shall not preclude the consideration of other specifications nor foreclose the subsequent addition by the board of other disposal facility alternatives.

History: 1981 c 352 s 19

115A.24 CERTIFICATION OF NEED.

Subdivision 1. Certificate. Except as provided in subdivision 2, by December 15, 1982, on the basis of and consistent with its hazardous waste management plan adopted under section 115A.11, the board shall issue a certificate or certificates of need for disposal facilities for hazardous wastes in the state. The certificate or certificates shall indicate the types and volumes of waste for which disposal facilities are and will be needed through the year 2000 and the number, types, sizes, general design and operating specifications, and function or use of the

disposal facilities needed in the state. The board shall certify need only to the extent that the board has determined that there are no feasible and prudent alternatives including waste reduction, separation, pretreatment, processing, and resource recovery which would minimize adverse impact upon natural resources, provided that the board shall require the establishment of at least one commercial disposal facility in the state. Economic considerations alone shall not justify certification nor the rejection of alternatives. Alternatives that are speculative and conjectural shall not be deemed to be feasible and prudent. The certificate or certificates shall not be subject to the provisions of chapter 15 but shall be the final determination required on the matters decided by the certificate or certificates and shall have the force and effect of law. The certificate or certificates shall not be amended for five years. The board and the permitting agencies, in reviewing and selecting sites, completing environmental impact statements, and issuing approvals and permits for waste disposal facilities described in the certificate or certificates of need, shall not reconsider matters determined in the certification. The board and the permitting agencies shall be required to make a final decision approving the establishment of facilities consistent with the certification. The board and the permitting agencies shall be required to make a final decision approving the establishment of at least one commercial disposal facility for hazardous waste in the state.

Subd. 2. Condition. No certificate or certificates of need for disposal facilities for hazardous waste shall be issued by the board pursuant to subdivision 1 unless legislation is enacted to:

(a) Define the liability of owners and operators of disposal facilities and generators and other persons responsible for the disposal of hazardous waste;

(b) Provide the appropriate units of state or local government with the capability to clean up disposal sites or take other action to mitigate an imminent or substantial danger to public health or welfare or the environment from the disposal of hazardous waste; and

(c) Provide for the payment of the state's share of costs incurred pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Public Law 96-510, as amended, as required by that act as a match to federal moneys.

History: 1981 c 352 s 20

115A.26 AGENCIES; PERMIT CONDITIONS.

Within 60 days following determination of adequacy of the final environmental impact statement, and after consulting with the board, facility developers, affected local government units, and the local project review committees, each permitting state agency shall issue a notice of intent to issue permits, indicating the terms, conditions, and requirements of agency approval for all permits needed at each candidate site for the establishment of the facilities described in the board's certification of need. The agency decisions shall be consistent with the establishment of facilities in accordance with the certification of need.

History: 1981 c 352 s 21

115A.28 FINAL ACTION.

[For text of subd 1, see M.S.1980]

Subd. 2. Board's decision paramount. The board's decision under subdivision 1 shall be final and shall supersede and preempt requirements of state

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

[For text of subd 3, see M.S.1980]

History: 1981 c 352 s 22

115A.33 ELIGIBILITY; REQUEST FOR REVIEW.

The following persons shall be eligible to request supplementary review by the board pursuant to sections 115A.32 to 115A.39: (a) a generator of sewage sludge within the state who has been issued permits by the agency for a facility to dispose of sewage sludge or solid waste resulting from sewage treatment; (b) a political subdivision which has been issued permits by the agency, or a political subdivision acting on behalf of a person who has been issued permits by the agency, for a solid waste facility which is no larger than 250 acres, not including any proposed buffer area, and located outside the metropolitan area; (c) a generator of hazardous waste within the state who has been issued permits by the agency for a hazardous waste facility to be owned and operated by the generator, on property owned by the generator, and to be used by the generator for managing the hazardous wastes produced by the generator only; (d) a person who has been issued permits by the agency for a commercial hazardous waste processing facility at a site included in the board's inventory of preferred sites for such facilities adopted pursuant to section 115A.09; (e) a person who has been issued permits by the agency for a disposal facility for the nonhazardous sludge, ash, or other solid waste generated by a permitted hazardous waste processing facility operated by the person. The metropolitan waste control commission shall not be eligible to request review under clause (a) for a sewage sludge disposal facility. The metropolitan waste control commission shall not be eligible to request review under clause (a) for a solid waste facility with a proposed permitted life of longer than four years. The board may require completion of a plan conforming to the requirements of section 115A.46, before granting review under clause (b). A request for supplementary review shall show that the required permits for the facility have been issued by the agency and that a political subdivision has refused to approve the establishment or operation of the facility.

History: 1981 c 352 s 23

115A.34 APPOINTMENT OF TEMPORARY BOARD MEMBERS.

Within 45 days of the submission of a request determined by the board to satisfy the requirements for review under sections 115A.32 to 115A.39, temporary board members shall be added to the board for the purpose of the supplementary review. Three members shall be selected by the governing body of the city or town in which the chairperson of the waste management board determines the facility would be principally located, and three members shall be selected by the governing body of the county in which the chairperson of the waste management

board determines the proposed facility would be principally located. If the proposed facility is located in unorganized territory, all six members shall be selected by the governing board of the county. Temporary members shall be residents of the county in which the proposed facility would be located and shall be selected to represent broadly the local interests that would be directly affected by the proposed facility. At least one member appointed by the city or town shall live within one mile of the proposed facility, and at least one member appointed by the county shall be a resident of a city or town in which the proposed facility would be located. If the appointing authority fails to appoint temporary board members in the period allowed, the governor shall appoint the temporary members to represent the local interests in accordance with this section. Temporary board members shall serve for terms lasting until the board has taken final action on the facility.

History: 1981 c 352 s 24

115A.37 FINAL DECISION OF BOARD.

[For text of subd 1, see M.S.1980]

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

[For text of subd 3, see M.S.1980]

History: 1981 c 352 s 25

115A.54 WASTE PROCESSING FACILITIES.

[For text of subds 1 and 2, see M.S.1980]

Subd. 3. **Obligations of recipient.** No grant or loan for any project shall be disbursed until the governing body of the recipient has made an irrevocable undertaking, by resolution, to use all funds made available exclusively for the capital cost of the project and to pay any additional amount by which the cost of the project exceeds the estimate by appropriation to the construction fund of additional funds or proceeds of additional bonds of the recipient. The resolution shall also indicate that any subsequent withdrawal of allocated or additional funds of the recipient will impair the obligation of contract between the state of Minnesota, the recipient, and the bondholders. The resolution shall pledge payment to the debt service account of all revenues of the project to the extent that they exceed costs and shall also obligate the recipient to levy a tax sufficient to make timely payments under the loan agreement, if a deficiency occurs in the amount of user charges, taxes, special assessments, or other moneys pledged for payment under the loan agreement. Each loan made to a recipient shall be secured by resolutions adopted by the board and the governing body of the

recipient, obligating the recipient to repay the loan to the state treasurer in annual installments including both principal and interest. Installments shall be in an amount sufficient to pay the principal amount within the period required by the board. The interest on the loan shall be calculated on the declining balance at a rate not less than the average annual interest rate on the state bonds of the issue from which proceeds of the loan were made. The resolution shall obligate the recipient to provide money for the repayment from user charges, taxes, special assessments or any other funds available to it.

History: 1981 c 352 s 26