

CHAPTER 115A

WASTE MANAGEMENT

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115A.01 CITATION.

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

History: 1989 c 325 s 1

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.

(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) resource recovery through mixed municipal solid waste composting or incineration; and
- (4) land disposal.

History: 1989 c 325 s 2

115A.03 DEFINITIONS.

[For text of subds 1 and 2, see M.S.1988]

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 *[Repealed, 1989 c 335 art 1 s 270]*

[For text of subds 4 to 8, see M.S.1988]

Subd. 8a. **Director.** "Director" means the director of the office of waste management.

[For text of subds 9 to 22, see M.S.1988]

Subd. 22a. **Office.** "Office" means the office of waste management.

[For text of subds 23 to 36, see M.S.1988]

Subd. 36a. **Waste reduction.** "Waste reduction" means an activity that prevents generation of waste including reusing a product in its original form, increasing the life span of a product, reducing material used in production or packaging, or changing procurement, consumption, or waste generation habits to result in smaller quantities of waste generated.

[For text of subd 37, see M.S.1988]

History: 1989 c 325 s 3; 1989 c 335 art 1 s 128,129

115A.04 [Repealed, 1989 c 335 art 1 s 270]

115A.05 [Repealed, 1989 c 335 art 1 s 270]

115A.055 OFFICE OF WASTE MANAGEMENT.

The office of waste management is an agency in the executive branch headed by a director appointed by the governor, with the advice and consent of the senate, to serve in the unclassified service. The director may appoint two assistant directors in the unclassified service and may appoint other employees, as needed, in the classified service.

History: 1989 c 335 art 1 s 130

115A.06 POWERS OF THE BOARD.

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 [Repealed, 1989 c 335 art 1 s 270]

[For text of subd 2, see M.S.1988]

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 [Repealed, 1989 c 335 art 1 s 270]

[For text of subds 4 to 14, see M.S.1988]

115A.11 HAZARDOUS WASTE MANAGEMENT PLAN.

[For text of subds 1 to 2, see M.S.1988]

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 [Repealed, 1989 c 335 art 1 s 270]

115A.12 ADVISORY COUNCILS.

Subdivision 1. **Solid and hazardous waste management.** (a) The chair of the board shall establish a solid waste management advisory council, a hazardous waste management planning council, and a market development coordinating council, that are broadly representative of the geographic areas and interests of the state. The councils shall have not less than nine nor more than 18 members each.

(b) The membership of the solid waste council shall consist of one-third citizen representatives, one-third representatives from local government units, and one-third representatives from private solid waste management firms. The solid waste council shall contain at least one member experienced in each of the following areas: state and municipal finance; solid waste collection, processing, and disposal; and solid waste reduction and resource recovery.

(c) The membership of the hazardous waste advisory council shall consist of one-third citizen representatives, one-third representatives from local government units, and one-third representatives of hazardous waste generators and private hazardous waste management firms.

(d) The market development coordinating council shall consist of one representative from the department of trade and economic development, the department of administration, the pollution control agency, the Greater Minnesota Corporation, the metropolitan council, and the legislative commission on waste management. The other members shall represent local government units, private recycling markets, and private recycling collectors. The market development coordinating council expires June 30, 1994.

(e) The chairs of the advisory councils shall be appointed by the chair of the board. The chair of the board shall provide administrative and staff services for the advisory councils. The advisory councils shall have such duties as are assigned by law or the chair of the board. The solid waste advisory council shall make recommendations to the board on its solid waste management activities. The hazardous waste advisory council shall make recommendations to the board on its activities under sections 115A.08, 115A.09, 115A.10, 115A.11, 115A.20, 115A.21, and 115A.24. Members of the advisory councils shall serve without compensation but shall be reimbursed for their reasonable expenses as determined by the chair of the board. The solid waste management advisory council and the hazardous waste management planning council expire June 30, 1994.

History: 1989 c 325 s 4

115A.14 LEGISLATIVE COMMISSION ON WASTE MANAGEMENT.

[For text of subd 1, see M.S.1988]

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

[For text of subd 3, see M.S.1988]

Subd. 4. **Powers and duties.** (a) The commission shall oversee the activities of the board under this chapter 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 plan of the board and agency as it 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.

History: 1989 c 325 s 5; 1989 c 335 art 4 s 34

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

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

The stabilization and containment facility developed under sections 115A.18 to

115A.30 may be wholly owned by the state or jointly owned by the state and a developer selected by the board under section 115A.192. The board chair may negotiate and the board may enter agreements with a selected developer providing terms and conditions for the development and operation of the facility. If the agreements provide for capital improvements or equipment, or for payment of state money, the agreements may be implemented only if funds are appropriated and available to the board for those purposes.

History: 1989 c 209 art 1 s 9

115A.46 REQUIREMENTS.

[For text of subd 1, see M.S.1988]

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

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

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

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

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

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

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

(h) The plans shall describe existing and proposed county and municipal ordi-

nances and license and permit requirements relating to solid waste management and shall describe existing and proposed regulation and enforcement procedures.

History: 1989 c 131 s 3; 1989 c 325 s 6

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

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

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

[For text of subd 3, see M.S.1988]

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

History: 1989 c 131 s 4-6

115A.54 WASTE PROCESSING FACILITIES.

[For text of subds 1 and 2, see M.S.1988]

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

(b) Except as provided in paragraph (c), a project may receive grant assistance up to 25 percent of the capital cost of the project or \$2,000,000, whichever is less.

(c) A recycling project or a project to compost or co-compost waste may receive grant assistance up to 50 percent of the capital cost of the project or \$2,000,000, whichever is less.

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

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

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

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

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

[For text of subd 3, see M.S.1988]

History: 1989 c 325 s 7

115A.556 MATERIALS USED FOR RECYCLING.

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

History: 1989 c 325 s 8

NOTE: This section is effective August 1, 1990. See Laws 1989, chapter 325, section 79.

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

115A.58 MINNESOTA STATE WASTE MANAGEMENT BONDS.

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

[For text of subd 2, see M.S.1988]

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

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

Subd. 5. Appropriations to debt service account; appropriation from account to pay debt service. The premium and accrued interest received on each issue of Minnesota

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

[For text of subd 6, see M.S.1988]

History: 1989 c 271 s 11-14

115A.59 BOND AUTHORIZATION AND APPROPRIATION OF PROCEEDS.

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

History: 1989 c 271 s 15

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

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

History: 1989 c 325 s 9

115A.81 DEFINITIONS.

[For text of subd 1, see M.S.1988]

Subd. 2. **Designation.** "Designation" means a requirement by a waste management district or county that all or any portion of the mixed municipal solid waste that is generated within its boundaries or any service area thereof be delivered to a processing or disposal facility identified by the district or county.

[For text of subd 3, see M.S.1988]

History: 1989 c 325 s 10

115A.83 EXEMPTION.

The designation may not apply to or include:

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

History: 1989 c 325 s 11

115A.84 DESIGNATION PLAN.

Subdivision 1. Requirement. Before commencing the designation procedure under section 115A.85, the district or county shall adopt a comprehensive solid waste management plan or, under chapter 473, a master plan. The county or district shall then submit a plan for designation to be approved under this section. A county's or district's designation plan must be consistent with its solid waste management plan or master plan and with statewide and regional waste management goals.

Subd. 2. Designation; plan contents. (a) The designation plan must evaluate:

(1) the benefits of the designation, including the public purposes achieved by the conservation and recovery of resources, the furtherance of local and any district or regional waste management plans and policies, and the furtherance of the state policies and purposes expressed in section 115A.02; and

(2) the estimated costs of the designation, including the direct capital, operating, and maintenance costs of the facility designated, the indirect costs, and the long-term effects of the designation.

(b) In particular the designation plan must evaluate:

(1) whether the designation will result in the recovery of resources or energy from materials which would otherwise be wasted;

(2) whether the designation will lessen the demand for and use of indiscriminate land disposal;

(3) whether the designation is necessary for the financial support of the facility;

(4) whether less restrictive methods for ensuring an adequate solid waste supply are available;

(5) other feasible and prudent waste management alternatives for accomplishing the purposes of the proposed designation, the direct and indirect costs of the alternatives, including capital and operating costs, and the effects of the alternatives on the cost to generators; and

(6) whether the designation takes into account and promotes local, regional, and state waste management goals.

(c) When the plan proposes designation to disposal facilities, the designation plan must also evaluate:

(1) whether the disposal facility is part of an integrated waste management system involving a processing facility and the designation is necessary for the financial support of the processing facility;

(2) whether the designation will better serve to protect public health and safety;

(3) the impacts on other disposal facilities inside and outside the area;

(4) whether the designation is necessary to promote regional waste management programs and cooperation; and

(5) the extent to which the design and operation of the disposal facility protects the environment including whether it is permitted under current agency rules and whether any portion of the facility's site is listed under section 115B.17, subdivision 13.

(d) When the plan proposes designation to a disposal facility, mixed municipal solid waste that is subject to a contract between a hauler and a different facility that is in effect on the date notice is given under section 115A.85, subdivision 2, is not subject to the designation during the contract period.

Subd. 3. Plan approval. (a) A district or county planning a designation for waste

generated wholly within the metropolitan area defined in section 473.121 shall submit its designation plan to the metropolitan council for review and approval or disapproval. Other districts or counties shall submit the designation plan to the waste management board for review and approval or disapproval.

(b) The reviewing authority shall complete its review and make its decision within 120 days following submission of the plan for review. The reviewing authority shall approve the designation plan if the plan satisfies the requirements of subdivision 2 and, in the case of designation to disposal facilities, if the reviewing authority finds that the plan has demonstrated that the designation is necessary and is consistent with section 115A.02. The reviewing authority may attach conditions to its approval that relate to matters required in a designation ordinance under section 115A.86, subdivision 1, paragraph (a), clauses (1) to (4), and paragraph (b). Amendments to plans must be submitted for review in accordance with this subdivision.

Subd. 4. Exclusion of certain materials. (a) When the reviewing authority approves the designation plan it shall exclude from the designation materials that the reviewing authority determines will be processed at a resource recovery facility separate from the designated facility if:

(1) the resource recovery facility requesting the exclusion is substantially completed or will be substantially completed within 18 months of the time that the designation plan is approved by the reviewing authority;

(2) the facility requesting the exclusion has or will have contracts for purchases of its product; and

(3) the materials are or will be under contract for delivery to the facility requesting the exclusion at the time that facility is completed.

(b) In order to qualify for the exclusion of materials under this subdivision, the operator or owner of the resource recovery facility requesting the exclusion shall file with the reviewing authority and the district or county or counties a written description of the facility, its intended location, its waste supply sources, purchasers of its products, its design capacity and other information that the reviewing authority and the district or county or counties may reasonably require. The information must be filed as soon as it becomes available but not later than 30 days following the date when the county or district submits its designation plan for approval.

(c) The reviewing authority may revoke the exclusion granted under this subdivision when it approves the designation ordinance under section 115A.86 if in its judgment the excluded materials will not be processed at the other facility.

History: 1989 c 325 s 12

115A.85 PROCEDURE.

[For text of subd 1, see M.S.1988]

Subd. 2. Hearing. (a) The district or county shall hold a public hearing to take testimony on the designation. Notice of the hearing must be:

(1) published in a newspaper of general circulation in the area for two successive weeks ending at least 15 days before the date of the hearing; and

(2) mailed to political subdivisions, processing and disposal facility operators, and licensed solid waste collectors who may be expected to use the facility.

(b) The notification must:

(1) describe the area in which the designation will apply and the plans for the use of the solid waste;

(2) specify the point or points of delivery of the solid waste;

(3) estimate the types and quantities of solid waste subject to the designation; and

(4) estimate the fee to be charged for the use of the facilities and for any products of the facilities.

(c) A designation or contract for use is not invalid by reason of the failure of the district or county to provide written notice to an entity listed in this subdivision.

[For text of subds 3 and 4, see M.S.1988]

History: 1989 c 325 s 13

115A.86 IMPLEMENTATION OF DESIGNATION.

[For text of subds 1 and 2, see M.S.1988]

Subd. 3. Implementation. The designation may not be placed into effect before 60 days after the approval required in subdivision 2. The effective date of the designation must be specified at least 60 days in advance. If the designation is not placed into effect within two years of approval, the designation must be resubmitted to the reviewing authority for approval or disapproval under subdivision 2, unless bonds have been issued to finance the facility to which the designation applies.

[For text of subd 4, see M.S.1988]

Subd. 5. Amendments. (a) 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 reviewing authority does not act within 90 days after receiving the proposed amendment to the designation ordinance, the amendment is approved.

(b) 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.

History: 1989 c 325 s 14,15

115A.893 PETITION FOR EXCLUSION.

Subdivision 1. Petition for exclusion. Any person proposing to own or operate a processing facility using waste materials subject to a designation ordinance may petition the waste district or county for exclusion of the materials from the designation ordinance. In order to qualify for the exclusion of materials under this section, the petitioner shall submit with the petition a written description of the proposed facility, its intended location, its waste supply sources, purchasers of its products, its design capacity, and other information that the district or county may reasonably require.

Subd. 2. Decision. The district or county, after appropriate notice and hearing, shall issue a written decision with findings of fact and conclusions on all material issues. The district or county shall grant the petition if it determines that:

(1) the materials will be processed at the facility; and

(2) the exclusion can be implemented without impairing the financial viability of the designated facility or impairing contractual obligations or preventing the performance of contracts by the facility owner or operator, the district or county, or users of the facility.

Subd. 3. Appeal of decision. A person aggrieved by the decision of the district or county may appeal to the reviewing authority. The review is confined to the record. The decision of the reviewing authority must be based on the standards stated in this section.

Subd. 4. Conformance of designation ordinance. If the reviewing authority approves the petition, the designation ordinance must be amended in conformance with the

decision of the reviewing authority. The petition may be amended during the proceedings by agreement between the petitioner and the district or county.

History: 1989 c 325 s 16

115A.906 WASTE TIRE NUISANCE; ABATEMENT.

[For text of subds 1 and 2, see M.S.1988]

Subd. 2a. Emergency abatement. (a) The commissioner may take emergency action to abate a waste tire nuisance without following the procedures of subdivision 2 if the commissioner determines that the nuisance constitutes a clear and immediate danger of uncontrollable fire or other hazard requiring immediate action to prevent, minimize, or mitigate damage to the public health and welfare or the environment.

(b) Before taking an action under this subdivision, the commissioner shall make all reasonable efforts, taking into account the urgency of the situation and any historical pattern of responses by the tire collector to any past problems or abatement orders, to follow as much of the procedure in subdivision 2 as is practical.

(c) Emergency action under this subdivision may include all of the activities authorized for an abatement order.

[For text of subds 3 and 4, see M.S.1988]

History: 1989 c 325 s 17

115A.908 MOTOR VEHICLE TRANSFER FEE.

[For text of subd 1, see M.S.1988]

Subd. 2. Deposit of revenue. Revenue collected shall be credited to the environmental fund.

[For text of subd 3, see M.S.1988]

History: 1989 c 335 art 4 s 35

115A.919 COUNTY FEE AUTHORITY.

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 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.

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 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.

History: 1989 c 325 s 18

115A.921 CITY OR TOWN FEE AUTHORITY.

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.

History: 1989 c 325 s 19

115A.922 DEFINITIONS.

Subdivision 1. **Applicability.** The definitions in this section apply to sections 115A.922 to 115A.928.

Subd. 2. **Closure.** "Closure" means actions that will prevent, mitigate, or minimize the threat to public health and the environment posed by a closed solid waste disposal facility including application of final cover; grading and seeding of final cover; installation of an adequate monitoring system, if necessary; and construction of ground and surface water diversion structures.

Subd. 3. **Mixed municipal solid waste disposal facility.** "Mixed municipal solid waste disposal facility" means a waste facility used for the disposal of mixed municipal solid waste.

Subd. 4. **Operator.** "Operator" means:

- (1) the permittee of a mixed municipal solid waste disposal facility that has an agency permit; or
- (2) the person in control of a mixed municipal solid waste disposal facility that does not have an agency permit.

Subd. 5. **Postclosure, postclosure care.** "Postclosure" and "postclosure care" mean actions taken for the care, long-term maintenance, and monitoring of a solid waste disposal facility after closure that will prevent, mitigate, or minimize the threat to public health and environment posed by the closed facility.

Subd. 6. **Response.** "Response" has the meaning given it in section 115B.02, subdivision 18.

Subd. 7. **Solid waste disposal facility.** "Solid waste disposal facility" means a waste facility which is used for the disposal of solid waste.

History: 1989 c 325 s 20

115A.923 GREATER MINNESOTA LANDFILL CLEANUP FEE.

Subdivision 1. **Amount of fee.** (a) The operator of a mixed municipal solid waste disposal facility outside of the metropolitan area shall pay 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 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 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.

Subd. 2. Disposition of proceeds. After reimbursement to the department of revenue for costs incurred in administering this section, the proceeds of the fees imposed under this section, including interest and penalties, must be deposited as follows:

(1) three-quarters of the proceeds must be deposited in the greater Minnesota landfill maintenance fund; and

(2) one-quarter of the proceeds must be deposited in the greater Minnesota landfill contingency action fund.

Subd. 3. Payment of fee. On or before the 20th day of each month each operator shall pay the fee due under this section for the previous month, using a form provided by the commissioner of revenue.

Subd. 4. Exchange of information. Notwithstanding the provisions of section 116.075, the agency may provide the commissioner of revenue with the information necessary for the enforcement of this section. Information disclosed in a return filed under this section is public information. Information exchanged between the commissioner and the agency is public unless the information is of the type determined to be for the confidential use of the agency under section 116.075 or is trade secret information classified under section 13.37. Information obtained in the course of an audit by the department of revenue is private or nonpublic data to the extent that it would not be directly divulged in a return.

Subd. 5. Penalties and enforcement. The audit, penalty, and enforcement provisions applicable to taxes imposed under chapter 290 apply to the fees imposed under this section. The commissioner of revenue shall administer and enforce the provisions.

Subd. 6. Rules. The commissioner of revenue may adopt rules necessary to implement this section.

History: 1989 c 325 s 21

115A.924 GREATER MINNESOTA LANDFILL MAINTENANCE FUND.

Subdivision 1. Establishment. The greater Minnesota landfill maintenance fund is established as an account in the state treasury to assist counties and sanitary districts with authority to regulate solid waste with landfill maintenance responsibilities, including closure and postclosure care. The fund consists of revenue deposited in the fund under section 115A.923, subdivision 2, clause (1), and interest earned on investment of money in the fund.

Subd. 2. Use of funds. The money in the greater Minnesota landfill maintenance fund may be spent only for landfill maintenance assistance related to closure and postclosure activities to counties and sanitary districts with authority to regulate solid waste outside of the metropolitan area that:

(1) host, or have hosted, solid waste disposal facilities or are responsible for landfill maintenance expenditures under a joint powers agreement; and

(2) have incurred or will incur expenses relating to closure and postclosure activities.

Subd. 3. Distribution of funds. The commissioner of revenue shall distribute the funds to counties and sanitary districts with authority to regulate solid waste qualifying under subdivision 2. Of the amount in the fund:

(1) 50 percent must be distributed based on a qualifying county's population; and

(2) 50 percent must be distributed based on a qualifying county's share of mixed municipal solid waste disposal facilities.

Subd. 4. County reporting requirement. A county that receives money from the greater Minnesota landfill maintenance fund shall submit to the agency a fiscal report on the county's use of the funds. The fiscal report must be submitted by the end of the

first quarter of each even-numbered year. The fiscal report must describe separately the fiscal activities of the previous two years.

History: 1989 c 325 s 22

115A.925 GREATER MINNESOTA LANDFILL CONTINGENCY ACTION FUND.

Subdivision 1. Establishment. The greater Minnesota landfill contingency action fund is established as an account in the state treasury. The fund consists of:

- (1) revenue deposited in the fund under section 115A.923, subdivision 2, clause (2);
- (2) amounts recovered under subdivision 6; and
- (3) interest earned on investment of money in the fund.

Subd. 2. Expenditures from the fund. Money in the greater Minnesota landfill contingency action 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 outside of 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 outside of the metropolitan area that has been closed for 20 years in compliance with the closure and postclosure rules of the agency.

Subd. 3. Commission recommendation. The legislative commission on waste management shall make recommendations to the standing legislative committees on finance and appropriations about appropriations from the fund.

Subd. 4. Duty to provide information. The operator or owner of a mixed municipal solid waste disposal facility or a solid waste disposal facility shall provide the necessary information to the agency required by sections 115A.922 to 115A.928 or by agency rules.

Subd. 5. Access to information and property. The commissioner of the pollution control agency or a member, employee, or agent of the agency authorized by the agency, upon presentation of credentials, may:

(1) examine and copy any books, papers, records, memoranda, or data of any person who has a duty to provide information to the agency under sections 115A.922 to 115A.928; and

(2) enter upon any property, public or private, for the purpose of taking an action authorized by this section including obtaining information from a person who has a duty to provide the information, conducting surveys or investigations, and taking response action.

Subd. 6. Recovery of expenses. If the agency incurs expenses for response actions at a facility, the agency is subrogated to any right of action that the operator or owner of the facility may have against any other person for the recovery of the expenses. The attorney general may bring an action to recover amounts spent by the agency under this section from persons who may be liable for them. Amounts recovered, including money paid under any agreement, stipulation, or settlement must be credited to the greater Minnesota landfill contingency action fund.

Subd. 7. Civil penalties. A person who violates this section is subject to the civil penalties of section 115.071. All money recovered by the state under any statute or rule related to the regulation of solid waste outside of the metropolitan area, including civil penalties and money paid under any agreement, stipulation, or settlement, shall be credited to the greater Minnesota landfill contingency action fund.

History: 1989 c 325 s 23

115A.927 REPORT TO THE LEGISLATURE.

By July 1 of each even-numbered year, the agency shall report to the legislative

commission on waste management, the house of representatives appropriations committee, and the senate finance committee on the activities for which money from the greater Minnesota landfill maintenance fund and the greater Minnesota landfill contingency action fund has been spent during the previous two years.

History: 1989 c 325 s 24

115A.928 OPERATOR OR OWNER LIABILITY FOR RESPONSE EXPENSES.

The operator or owner of a mixed municipal solid waste disposal facility is not liable under any other law for response costs incurred by the agency at that facility under section 115A.925, if the facility has been closed for 20 years in compliance with the closure and postclosure rules of the agency. A provision of this section that relieves the operator or owner of a facility from liability for the payment of the agency's response costs must not be construed to affect the liability of any other person who may be liable for those costs.

History: 1989 c 325 s 25

115A.94 ORGANIZED COLLECTION.

[For text of subs 1 to 5, see M.S.1988]

Subd. 6. **Organized collection not required or prevented.** Except as provided in subdivision 5, a city, town, or county is not:

- (1) required to organize collection; or
- (2) prevented from organizing collection of solid waste or recyclable material.

Subd. 7. **Anticompetitive conduct.** (a) A political subdivision that organizes collection under this section is authorized to engage in anticompetitive conduct to the extent necessary to plan and implement its chosen organized collection system and is immune from liability under state laws relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or commerce.

(b) An organization of solid waste collectors, an individual collector, and their officers, members, employees, and agents who cooperate with a political subdivision that organizes collection under this section are authorized to engage in anticompetitive conduct to the extent necessary to plan and implement the organized collection system, provided that the political subdivision actively supervises the participation of each entity. An organization, entity, or person covered by this paragraph is immune from liability under state law relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or commerce.

History: 1989 c 325 s 26,27

115A.98 [Repealed, 1989 c 325 s 77]

115A.981 SOLID WASTE DISPOSAL FACILITIES ANNUAL REPORTING.

Subdivision 1. **Recordkeeping requirements.** The owner or operator of a solid waste disposal facility must maintain the records necessary to comply with the requirements of subdivision 2.

Subd. 2. **Annual reporting.** (a) The owner or operator of a solid waste disposal facility must:

- (1) submit an annual report to the agency under section 115A.32;
- (2) annually certify that it has established financial assurance for closure, postclosure care, and corrective action at the facility by using one or more of the financial assurance mechanisms specified by rule; and
- (3) file a fee schedule with the agency with the annual report.

(b) The fee schedule must list all tipping fees, rates, charges, surcharges, and any other fees charged by each classification of customer. The agency may suspend the operation of a disposal facility whose permittee fails to file the information required

under this subdivision. The owner or operator of a facility may not increase fees until 30 days after the owner or operator has submitted a fee schedule amendment to the agency.

Subd. 3. Agency report. The agency shall report to the legislative commission on waste management by July 1 of each year on the viability of the state's waste processing and disposal capability, the status of competitive forces in the market including recycling, composting, waste reduction and incineration, the extent to which existing fees for services are sufficient for facility development, engineering, environmental and safety factors, the progress of the industry in meeting the state's waste management goals, and recommendations for regulations to ensure protection of human health and the environment. In preparing the report, the agency shall consider information received under subdivision 2.

History: 1989 c 325 s 28