

## CHAPTER 115A

### WASTE MANAGEMENT

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#### 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;
- (3) composting of yard waste and food waste;
- (4) resource recovery through mixed municipal solid waste composting or incineration; and
- (5) land disposal.

**History:** 1991 c 337 s 5

#### 115A.03 DEFINITIONS.

*[For text of subs 1 to 17, see M.S.1990]*

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

*[For text of subs 18 to 20, see M.S.1990]*

Subd. 21. **Mixed municipal solid waste.** "Mixed municipal solid waste" means garbage, refuse, and other solid waste from residential, commercial, industrial, and community activities that the generator of the waste aggregates for collection, but does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural wastes, tires, lead acid batteries, used oil, and other materials collected, processed, and disposed of as separate waste streams.

*[For text of subs 22 to 24, see M.S.1990]*

Subd. 24a. **Problem material.** "Problem material" means a material that, when it is processed or disposed of with mixed municipal solid waste, contributes to one or more of the following results:

- (1) the release of a hazardous substance, or pollutant or contaminant, as defined in section 115B.02, subdivisions 8, 13, and 15;
- (2) pollution of water as defined in section 115.01, subdivision 5;
- (3) air pollution as defined in section 116.06, subdivision 3; or
- (4) a significant threat to the safe or efficient operation of a solid waste facility.

*[For text of subs 25 to 37, see M.S.1990]*

**History:** 1991 c 303 s 1; 1991 c 337 s 6,7

#### **115A.06 POWERS OF THE OFFICE.**

Subd. 2. **Rules.** Unless otherwise provided, the director shall promulgate rules in accordance with chapter 14 to govern its activities and implement this chapter.

Subd. 4. **Acquisition of sites for hazardous waste facilities.** The office 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 office pursuant to sections 115A.18 to 115A.30 and 115A.32 to 115A.39. The office may also direct the commissioner of administration to acquire by purchase, lease, gift, or grant, development rights for sites and buffer areas surrounding sites for all or part of the period that the development limitations imposed by section 115A.21, subdivision 3, are in effect. 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.58 and 115A.59. The property shall be leased in accordance with terms determined by the office 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.

*[For text of subds 5 to 11, see M.S.1990]*

**Subd. 12. Insurance.** The director may procure insurance in amounts it deems necessary to insure against liability of the office and employees or both, for personal injury or death and property damage or destruction, with the force and effect stated in chapter 466, and against risks of damage to or destruction of any of its property as it deems necessary.

*[For text of subds 13 and 14, see M.S.1990]*

**History:** 1991 c 199 art 2 s 7; 1991 c 326 s 5; 1991 c 337 s 8

#### **115A.072 PUBLIC EDUCATION ON WASTE MANAGEMENT.**

**Subdivision 1. Waste education coalition.** (a) The office shall provide for the development and implementation of a program of general public education on waste management in cooperation and coordination with the pollution control agency, metropolitan council, department of education, department of agriculture, environmental quality board, environmental education board, educational institutions, other public agencies with responsibility for waste management or public education, and three other persons who represent private industry and who have knowledge of or expertise in recycling and solid waste management issues. The objectives of the program are to: develop increased public awareness of and interest in environmentally sound waste management methods; encourage better informed decisions on waste management issues by business, industry, local governments, and the public; and disseminate practical information about ways in which households and other institutions and organizations can improve the management of waste.

(b) The office shall appoint an advisory task force, to be called the waste education coalition, of up to 18 members to advise the office in carrying out its responsibilities under this section and whose membership represents the agencies and entities listed in this subdivision.

*[For text of subds 2 to 4, see M.S.1990]*

**History:** 1991 c 345 art 2 s 19

#### **115A.14 LEGISLATIVE COMMISSION ON WASTE MANAGEMENT.**

*[For text of subds 1 to 3, see M.S.1990]*

**Subd. 4. Powers and duties.** (a) The commission shall oversee the activities of the office, agency, and metropolitan council relating to solid and hazardous waste management, and direct such changes or additions in the work plan of the office, agency, and council relating to solid and hazardous waste management as the commission deems fit.

(b) The commission shall make recommendations to the standing legislative committees on finance and appropriations for appropriations from the environmental response, compensation, and compliance account in the environmental fund under section 115B.20, subdivision 5.

(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 com-

piled 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:** 1991 c 337 s 9

### 115A.15 STATE GOVERNMENT RESOURCE RECOVERY.

*[For text of subs 1 to 5, see M.S.1990]*

**Subd. 6. Use of funds.** All funds appropriated by the state for the resource recovery program, all revenues resulting from the sale of recyclable and reusable commodities made available for sale as a result of the resource recovery program and all reimbursements to the commissioner of expenses incurred by the commissioner in developing and administering resource recovery systems for state agencies, governmental units, and nonprofit organizations must be deposited in the general fund. The commissioner shall determine the waste disposal cost savings associated with recycling and reuse activities.

**Subd. 7. Waste reduction procurement model.** To reduce the amount of solid waste generated by the state and to provide a model for other public and private procurement systems, the commissioner, in cooperation with the director of the office of waste management, shall develop waste reduction procurement programs, including an expanded life cycle costing system for procurement of durable and repairable items by November 1, 1991. On implementation of the model procurement system, the commissioner, in cooperation with the director, shall develop and distribute informational materials for the purpose of promoting the procurement model to other public and private entities under section 115A.072, subdivision 4.

*[For text of subd 8, see M.S.1990]*

**Subd. 9. Recycling goal.** By December 31, 1993, the commissioner shall recycle at least 40 percent by weight of the solid waste generated by state offices and other state operations located in the metropolitan area. By August 1 of each year the commissioner shall report to the office and the metropolitan council the recycling rates by county for state offices and other state operations in the metropolitan area for the previous fiscal year. The office shall incorporate these figures into the reports submitted by the counties under section 115A.557, subdivision 3, to determine each county's progress toward the goal in section 115A.551, subdivision 2.

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

**Subd. 10. Materials recovery facility; materials collection; waste audits.** (a) The commissioner of the department of administration shall establish a central materials recovery facility to manage recyclable materials collected from state offices and other state operations in the metropolitan area. The facility must be located as close as practicable to the state capitol complex and must be large enough to accommodate temporary storage of recyclable materials collected from state offices and other state operations in the metropolitan area and the processing of those materials for market.

(b) The commissioner shall establish a recyclable materials collection and transportation system for state offices and other state operations in the metropolitan area that will maximize the types and amount of materials collected and the number of state offices and other state operations served, and will minimize barriers to effective and efficient collection, transportation, and marketing of recyclable materials.

(c) The commissioner shall perform regular audits on the solid waste and recyclable materials collected to identify materials upon which to focus waste reduction, reuse, and recycling activities and to measure:

(1) progress made toward the recycling goal in subdivision 9;

- (2) progress made to reduce waste generation; and
- (3) potential for additional waste reduction, reuse, and recycling.
- (d) The commissioner may contract with private entities for the activities required in this subdivision if the commissioner determines that it would be cost-effective to do so.

**History:** 1991 c 304 s 1,2; 1991 c 337 s 10,11

#### **115A.151 STATE AND LOCAL FACILITIES.**

By January 1, 1991, a state agency or local unit of government or school district in the metropolitan area or by January 1, 1993, a state agency or local unit of government or school district outside of the metropolitan area shall:

- (1) ensure that facilities under its control, from which mixed municipal solid waste is collected, have containers for at least three of the following recyclable materials: paper, glass, plastic, and metal; and
- (2) transfer all recyclable materials collected to a recycler.

**History:** 1991 c 337 s 12

#### **115A.31 LOCAL GOVERNMENT DECISIONS; TIMELINES.**

If a county applies for or requests approval of establishment of a solid waste facility within the boundaries of a local government unit, the local government unit shall approve or disapprove the application or request within 120 days following the delivery by the county to the local government unit of the application or request completed in accordance with the requirements of applicable local ordinances.

If the proposed facility is one for which an environmental impact statement or environmental assessment worksheet is required under section 116D.04, the local government unit shall approve or disapprove the application or request within 90 days after the final determination of adequacy of the environmental impact statement or environmental assessment worksheet.

**History:** 1991 c 337 s 13

#### **115A.411 SOLID WASTE MANAGEMENT POLICY; CONSOLIDATED REPORT.**

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

*[For text of subd 2, see M.S.1990]*

**History:** 1991 c 337 s 14

#### **115A.46 REQUIREMENTS.**

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

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

(c) Plans shall address:

- (1) the resolution of conflicting, duplicative, or overlapping local management efforts;
- (2) the establishment of joint powers management programs or waste management districts where appropriate; and

(3) other matters as the rules of the office may require consistent with the purposes of sections 115A.42 to 115A.46.

(d) Political subdivisions preparing plans under sections 115A.42 to 115A.46 shall consult with persons presently providing solid waste collection, processing, and disposal services.

(e) Plans must be submitted to the director, or the metropolitan council pursuant to section 473.803, for approval. When a county board is ready to have a final plan approved, the county board shall submit a resolution requesting review and approval by the director or the metropolitan council. After receiving the resolution, the director or the metropolitan council shall notify the county within 45 days whether the plan as submitted is complete and, if not complete, the specific items that need to be submitted to make the plan complete. Within 90 days after a complete plan has been submitted, the director or the metropolitan council shall approve or disapprove the plan. If the plan is disapproved, reasons for the disapproval must be provided.

(f) After initial approval, each plan must be updated and submitted for approval every five years. The plan must be revised as necessary so that it is not inconsistent with state law.

*[For text of subs 2 and 4, see M.S.1990]*

Subd. 5. **Jurisdiction of plan.** (a) After a county plan has been submitted for approval under subdivision 1, a political subdivision within the county may not enter into a binding agreement governing a solid waste management activity that is inconsistent with the county plan without the consent of the county.

(b) After a county plan has been approved under subdivision 1, the plan governs all solid waste management in the county and a political subdivision within the county may not develop or implement a solid waste management activity, other than an activity to reduce waste generation or reuse waste materials, that is inconsistent with the county plan that the county is actively implementing without the consent of the county.

**History:** 1991 c 337 s 15,16

#### **115A.49 ESTABLISHMENT; PURPOSES AND PRIORITIES.**

There is established a program to encourage and assist cities, counties, solid waste management districts, and sanitary districts in the development and implementation of solid waste management projects and to transfer the knowledge and experience gained from such projects to other communities in the state. The program must be administered to encourage local communities to develop feasible and prudent alternatives to disposal, including waste reduction; waste separation by generators, collectors, and other persons; and waste processing. The director shall administer the program in accordance with the requirements of sections 115A.49 to 115A.54 and rules promulgated under chapter 14. In administering the program, the director shall give priority to projects in the order of preference of the waste management practices listed in section 115A.02. The director shall give special consideration to areas where natural geologic and soil conditions are especially unsuitable for land disposal of solid waste; areas where the capacity of existing solid waste disposal facilities is determined by the director to be less than five years; and projects serving more than one local government unit.

**History:** 1991 c 337 s 17

#### **115A.53 WASTE SEPARATION PROJECTS.**

The director shall provide grants to develop and implement projects for waste separation by generators, collectors, and other persons; and collection systems for separated waste. Activities eligible for assistance under this section include legal, financial, economic, educational, marketing, social, governmental, and administrative activities related to the development and implementation of the project. Preliminary planning and development, feasibility study, and conceptual design costs are eligible activities, but no more than 20 percent of program funds shall be used to fund those activities.

Projects may include the management of household hazardous waste, as defined in section 115A.96. The director shall give priority to innovative methods for waste separation for reuse and recycling. The director shall prescribe by rule the level or levels of local funding required for grants under this section.

**History:** 1991 c 337 s 18

### 115A.551 RECYCLING.

**Subdivision 1. Definition.** (a) For the purposes of this section, "recycling" means, in addition to the meaning given in section 115A.03, subdivision 25b, yard waste composting, and recycling that occurs through mechanical or hand separation of materials that are then delivered for reuse in their original form or for use in manufacturing processes that do not cause the destruction of recyclable materials in a manner that precludes further use.

(b) For the purposes of this section, "total solid waste generation" means the total by weight of:

- (1) materials separated for recycling;
- (2) materials separated for yard waste composting;
- (3) mixed municipal solid waste plus yard waste, used oil, tires, lead acid batteries, and major appliances; and
- (4) residential waste materials that would be mixed municipal solid waste but for the fact that they are not collected as such.

*[For text of subd 2, see M.S.1990]*

**Subd. 2a. Supplementary recycling goals.** By July 31, 1996, each county will have as a goal to recycle the following amounts:

- (1) for a county outside of the metropolitan area, 30 percent by weight of total solid waste generation;
- (2) for a metropolitan county, 45 percent by weight of total solid waste generation.

Each county will develop and implement or require political subdivisions within the county to develop and implement programs, practices, or methods designed to meet its recycling goal. Nothing in this section or in any other law may be construed to prohibit a county from establishing a higher recycling goal. For the purposes of this subdivision "total solid waste generation" has the meaning given it in subdivision 1, except that it does not include yard waste.

*[For text of subd 3, see M.S.1990]*

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

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

*[For text of subs 5 to 7, see M.S.1990]*

**History:** 1991 c 337 s 19-21

### 115A.552 OPPORTUNITY TO RECYCLE.

**Subdivision 1. County requirement.** Counties shall ensure that residents, including residents of single and multifamily dwellings, have an opportunity to recycle. At least

one recycling center shall be available in each county. Opportunity to recycle means availability of recycling and curbside pickup or collection centers for recyclable materials at sites that are convenient for persons to use. Counties shall also provide for the recycling of problem materials and major appliances. Counties shall assess the operation of existing and proposed recycling centers and shall give due consideration to those centers in ensuring the opportunity to recycle. To the extent practicable, the costs incurred by a county for collection, storage, transportation, and recycling of major appliances must be collected from persons who discard the major appliances.

**Subd. 2. Recycling opportunities.** An opportunity to recycle must include:

- (1) a local recycling center in the county and sites for collecting recyclable materials that are located in areas convenient for persons to use them;
- (2) curbside pickup, centralized drop-off, or a local recycling center for at least four broad types of recyclable materials in cities with a population of 5,000 or more persons; and
- (3) monthly pickup of at least four broad types of recyclable materials in cities of the first and second class and cities with 5,000 or more population in the metropolitan area.

*[For text of subd 3, see M.S.1990]*

**Subd. 4. Nonresidential recycling.** Each county shall encourage building owners and managers, business owners and managers, and collectors of commercial mixed municipal solid waste to provide appropriate recycling services and opportunities to generators of commercial, industrial, and institutional solid waste in the county.

**History:** 1991 c 337 s 22-24

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

A sanitary district with the authority to regulate solid waste has the authority and duty of counties within the district's boundary for purposes of sections 115A.46, subdivision 4; 115A.48; 115A.551; 115A.552; 115A.553; 115A.919; 115A.93; 115A.96, subdivision 6; 115A.961; 115A.991; 375.18, subdivision 14; and 400.08, subdivision 5.

**History:** 1991 c 337 s 25

#### **115A.555 RECYCLING CENTER DESIGNATION.**

The agency shall designate recycling centers for the purpose of section 173.086. To be designated as a recycling center, a recycling facility must be open a minimum of 12 operating hours each week, 12 months each year, and must accept for recycling:

- (1) at least four different materials such as paper, glass, plastic, and metal; and
- (2) if the recycling center accepts metal, hazard signs, as defined in section 161.242, subdivision 2, paragraph (h), to the same extent that a junk yard dealer must accept hazard signs under section 161.242, subdivision 6a.

**History:** 1991 c 197 s 1

#### **115A.557 COUNTY WASTE REDUCTION AND RECYCLING FUNDING.**

*[For text of subds 1 to 3, see M.S.1990]*

**Subd. 4. Report.** By November 15 of each year, the office shall report on how the money was spent and the resulting statewide improvements in solid waste management to the house of representatives and senate appropriations and finance committees and the legislative commission on waste management. In even-numbered years the report may be included in the solid waste management policy report required under section 115A.411.

**History:** 1991 c 337 s 26



**115A.64 PROCEDURE FOR ESTABLISHMENT AND ALTERATION.**

*[For text of subd 1, see M.S.1990]*

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

- (1) the name of the proposed district;
- (2) a description of the territory and political subdivisions within and the boundaries of the proposed district or alteration thereto, along with a map showing the district or alteration;
- (3) resolutions of support for the district, as proposed to the office, from the governing body of each of the petitioning counties;
- (4) a statement of the reason, necessity, and purpose for the district, plus a general description of the solid waste management improvements and facilities contemplated for the district showing how its activities will accomplish the purpose of the district and the purposes for waste resource districts stated in sections 115A.62 to 115A.72;
- (5) articles of incorporation stating:
  - (i) the powers of the district consistent with sections 115A.62 to 115A.72, including a statement of powers proposed pursuant to sections 115A.70, 115A.71, and 115A.715; and
  - (ii) provisions for representation and election of the board of directors of the district.

(b) After the petition has been filed, no petitioner may withdraw from it except with the written consent of all other petitioners for the district.

*[For text of subs 3 to 6, see M.S.1990]*

**History:** 1991 c 337 s 27

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

**Subdivision 1. Board.** The chair shall be elected from outside the board of directors by majority vote of the board of directors. The first chair shall serve for a term of two years. Members of the board of directors shall be residents of the district.

**Subd. 2. First meeting.** The first meeting of the board of directors shall be held at the call of the chair, after notice, for the purpose of proposing the bylaws, electing officers and for any other business that comes before the meeting. The bylaws of the district, and amendments thereto, shall be adopted by a majority vote of the board of directors unless the certificate of incorporation requires a greater vote.

**Subd. 3. Bylaws.** The bylaws shall state:

- (a) the manner and time of calling regular meetings of the representatives and the board of directors, not less than once annually;
- (b) the title, manner of selection, and term of office of officers of the district;
- (c) the term of office of members of the board of directors, the manner of their removal, and the manner of filling vacancies on the board of directors;
- (d) the powers and duties of the board of directors consistent with the order and articles of incorporation establishing the district;
- (e) the definition of a quorum for meetings of the board of directors, which shall be not less than a majority of the members;
- (f) the compensation and reimbursement for expenses for members of the board of directors, which shall not exceed that provided for in section 15.0575, subdivision 3; and
- (g) such other provisions for regulating the affairs of the district as the board of directors shall determine to be necessary.

**History:** 1991 c 337 s 28

**115A.715 SOLID WASTE AUTHORITY.**

A district has all the authority of a county for solid waste management purposes that is given to counties under this chapter and chapters 400 and 473, except the authority to issue general obligation bonds or to levy property taxes. A district has the authority of a county to issue general obligation bonds and to levy property taxes only if and only to the extent that the governing body of each county that is a member of the district agrees to delegate the authority to the district. The delegation of the authority is irrevocable unless the governing body of each county that is a member of the district agrees to the revocation.

**History:** 1991 c 337 s 29

**115A.83 EXEMPTION.**

The designation may not apply to or include:

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

(2) materials that are processed at a resource recovery facility at the capacity in operation at the time that the designation plan is approved by the reviewing authority; or

(3) materials that are separated at a permitted transfer station located within the boundaries of the designating authority for the purpose of recycling the materials if: (i) the transfer station was in operation on January 1, 1991; or (ii) the materials were not being separated for recycling at the designated facility at the time the transfer station began separation of the materials.

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

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

**History:** 1991 c 337 s 30

**115A.84 DESIGNATION PLAN.**

*[For text of subd 1, see M.S.1990]*

**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 or for one year after the date notice is given, whichever period is shorter.

*[For text of subs 3 and 4, see M.S.1990]*

**Subd. 5. Exclusion of materials separated at certain facilities.** (a) A county or district shall exclude from the designation, subject to approval by the reviewing authority, materials that the county or district determines will be separated for recycling at a transfer station located outside of the area subject to designation if:

(1) the residual materials left after separation of the recyclable materials are delivered to a facility designated by the county or district;

(2) each waste collector who would otherwise be subject to the designation ordinance and who delivers waste to the transfer station has not been found in violation of the designation ordinance in the six months prior to filing for an exclusion;

(3) the materials separated at the transfer station are delivered to a recycler and are actually recycled; and

(4) the owner or operator of the transfer station agrees to report and actually reports to the county or district the quantities of materials, by categories to be specified by the county or district, that are recycled by the facility that otherwise would have been subject to designation.

(b) In order to qualify for the exclusion in this subdivision, the owner of a transfer station shall file with the county or district a written description of the transfer station, its operation, location, and waste supply sources, the quantity of waste delivered to the transfer station by the owner of the transfer station, the market for the materials separated for recycling, where the recyclable materials are delivered for recycling, and other information the county or district may reasonably require. Information received by the county or district is nonpublic data as defined in section 13.02, subdivision 9.

(c) A county or district that grants an exclusion under this subdivision may revoke the exclusion if any of the conditions of paragraph (a) are not being met.

**History:** 1991 c 337 s 31,32

## **115A.86 IMPLEMENTATION OF DESIGNATION.**

*[For text of subs 1 to 4, see M.S.1990]*

**Subd. 5. Amendments.** (a) Except for an amendment authorized under subdivision 6, amendments to a designation ordinance must be submitted to the reviewing authority for approval. The reviewing authority shall approve the amendment if the amend-

ment 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) Except for an amendment authorized under subdivision 6, prior to amending an ordinance to designate solid waste to a disposal facility, a county or district shall submit an amended designation plan to the reviewing authority for approval, and shall follow the procedures outlined in section 115A.85.

**Subd. 6. Penalties.** (a) A county may include in its designation ordinance civil and misdemeanor penalties for violation of the ordinance. Subdivision 5 does not govern a designation ordinance amendment adopted under this paragraph.

(b) A county may by ordinance impose civil and misdemeanor penalties for delivery of mixed municipal solid waste to a processing or disposal facility in the county that is not a facility designated to receive the waste under a designation ordinance adopted by another county under this section.

(c) A civil penalty adopted under paragraph (a) or (b) must be payable to the county and may not exceed a fine of \$10,000 per day of violation plus the cost of mitigating any damages caused by the violation and the attorney fees and court costs incurred by the county to enforce the ordinance.

**History:** 1991 c 337 s 33,34

### 115A.882 RECORDS; INSPECTION.

**Subdivision 1. Definitions.** For the purposes of this section:

(1) "origin" means a general geographical description that at a minimum names the local governmental unit within a county from which waste was collected; and

(2) "type" means a best estimate of the percentage of each truck load that consists of residential, commercial, industrial, construction, or any other general type of waste.

**Subd. 2. Records; collectors; facilities.** Each person who collects solid waste in a county in which a designation ordinance is in effect shall maintain records regarding the volume or weight, type, and origin of waste collected. Each day, a record of the origin, type, and weight of the waste collected that day and the identity of the waste facility at which that day's collected waste is deposited must be kept on the waste collection vehicle. If the waste is measured by volume at the waste facility at which it is deposited, the record may show the volume rather than the weight of the waste.

The owner or operator of a solid waste facility shall maintain records regarding the weight of the waste, or the volume of the waste if the waste is measured by volume; the general type or types of waste; the origin of the waste delivered to the facility; the date and time of delivery; and the name of the waste collector that delivered the waste to the facility.

**Subd. 3. Inspection.** A person authorized by a county in which a designation ordinance is effective may, anywhere in the state:

(1) upon presentation of identification and without a search warrant, inspect or copy the records required to be kept on a waste collection vehicle under subdivision 2 and inspect the waste on the vehicle at the time of deposit of the waste at a facility;

(2) upon presentation of identification and without a search warrant, inspect or copy the records of an owner or operator of a solid waste facility that are required to be maintained under subdivision 2;

(3) request, in writing, copies of records of a solid waste collector that indicate the

type, origin, and weight or, if applicable, the volume of waste collected, the identity of the facility at which the waste was deposited, and the date of deposit at the facility; and

(4) upon presentation of identification and without a search warrant, inspect or copy that portion of the business records of a waste collector necessary to comply with clause (3) at the central record-keeping location of the waste collector only if the collector fails to provide copies of the records within 15 days of receipt of a written request for them.

Records or information received, inspected, or copied by a county under this section are classified as nonpublic data as defined in section 13.02, subdivision 9, and may be used by the county solely for enforcement of a designation ordinance. A waste collector or the owner or operator of a waste facility shall maintain business records needed to comply with this section for two years.

**History:** 1991 c 337 s 35

### 115A.9155 DISPOSAL OF CERTAIN DRY CELL BATTERIES.

*[For text of subd 1, see M.S.1990]*

**Subd. 2. Manufacturer responsibility.** (a) A manufacturer of batteries subject to subdivision 1 shall:

(1) ensure that a system for the proper collection, transportation, and processing of waste batteries exists for purchasers in Minnesota; and

(2) clearly inform each final purchaser of the prohibition on disposal of waste batteries and of the system or systems for proper collection, transportation, and processing of waste batteries available to the purchaser.

(b) To ensure that a system for the proper collection, transportation, and processing of waste batteries exists, a manufacturer shall:

(1) identify collectors, transporters, and processors for the waste batteries and contract or otherwise expressly agree with a person or persons for the proper collection, transportation, and processing of the waste batteries; or

(2) accept waste batteries returned to its manufacturing facility.

(c) At the time of sale of a battery subject to subdivision 1, a manufacturer shall provide in a clear and conspicuous manner a telephone number that the final consumer of the battery can call to obtain information on specific procedures to follow in returning the battery for recycling or proper disposal.

The manufacturer may include the telephone number and notice of return procedures on an invoice or other transaction document held by the purchaser. The manufacturer shall provide the telephone number to the commissioner of the agency.

(d) A manufacturer shall ensure that the cost of proper collection, transportation, and processing of the waste batteries is included in the sales transaction or agreement between the manufacturer and any purchaser.

(e) A manufacturer that has complied with this subdivision is not liable under subdivision 1 for improper disposal by a person other than the manufacturer of waste batteries.

**History:** 1991 c 257 s 1

### 115A.9157 RECHARGEABLE BATTERIES AND PRODUCTS.

**Subdivision 1. Definition.** For the purpose of this section "rechargeable battery" means a sealed nickel-cadmium battery, a sealed lead acid battery, or any other rechargeable battery, except a rechargeable battery governed by section 115A.9155 or exempted by the commissioner under subdivision 9.

**Subd. 2. Prohibition.** Effective August 1, 1991, a person may not place in mixed municipal solid waste a rechargeable battery, a rechargeable battery pack, a product with a nonremovable rechargeable battery, or a product powered by rechargeable batteries or rechargeable battery pack, from which all batteries or battery packs have not been removed.

**Subd. 3. Collection and management costs.** A manufacturer of rechargeable batteries or products powered by rechargeable batteries is responsible for the costs of collecting and managing its waste rechargeable batteries and waste products to ensure that the batteries are not part of the solid waste stream.

**Subd. 4. Pilot projects.** By April 15, 1992, manufacturers whose rechargeable batteries or products powered by nonremovable rechargeable batteries are sold in this state shall implement pilot projects for the collection and proper management of all rechargeable batteries and the participating manufacturers' products powered by nonremovable rechargeable batteries. Manufacturers may act as a group or through a representative organization. The pilot projects must run for a minimum of 18 months and be designed to collect sufficient statewide data for the design and implementation of permanent collection and management programs that may be reasonably expected to collect at least 90 percent of waste rechargeable batteries and the participating manufacturers' products powered by rechargeable batteries that are generated in the state.

By December 1, 1991, the manufacturers or their representative organization shall submit plans for the projects to the legislative commission. At least every six months during the pilot projects the manufacturers shall submit progress reports to the commission. The commission shall review the plans and progress reports.

By November 1, 1993, the manufacturers or their representative organization shall report to the legislative commission the final results of the projects and plans for implementation of permanent programs. The commission shall review the final results and plans.

**Subd. 5. Collection and management programs.** By April 15, 1994, the manufacturers or their representative organization shall implement permanent programs, based on the results of the pilot projects required in subdivision 3, that may be reasonably expected to collect 90 percent of the waste rechargeable batteries and the participating manufacturers' products powered by rechargeable batteries that are generated in the state. The batteries and products collected must be recycled or otherwise managed or disposed of properly.

**Subd. 6. List of participants.** A manufacturer or its representative organization shall inform the legislative commission on waste management when they begin participating in the projects and programs and immediately if they withdraw participation. The list of participants shall be available to retailers, distributors, governmental agencies, and other interested persons who provide a self-addressed stamped envelope to the commission.

**Subd. 7. Contracts.** A manufacturer or a representative organization of manufacturers may contract with the state or a political subdivision to provide collection services under this section. The manufacturer or organization shall fully reimburse the state or political subdivision for the value of any contractual services rendered under this subdivision.

**Subd. 8. Anticompetitive conduct.** A manufacturer or organization of manufacturers and its officers, members, employees, and agents who participate in projects or programs to collect and properly manage waste rechargeable batteries or products powered by rechargeable batteries are immune from liability under state law relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or commerce for activities related to the collection and management of batteries and products required under this section.

**Subd. 9. Exemptions.** To ensure that new types of batteries do not add additional hazardous or toxic materials to the mixed municipal solid waste stream, the commissioner of the agency may exempt a new type of rechargeable battery from the requirements of this section if it poses no unreasonable hazard when placed in and processed or disposed of as part of a mixed municipal solid waste.

**History:** 1991 c 257 s 2

**115A.9162 USED OIL LOANS AND GRANTS.**

*[For text of subd 1, see M.S.1990]*

**Subd. 2. Grants.** The office may make grants to local government units for installation of storage tanks to collect used oil. To be eligible for a grant, an applicant must obtain approval from the commissioner of the agency for the type of tank to be used, the location and installation of the tank, and the proposed ongoing maintenance and monitoring of the collection site. A tank may be located on public or private property and must be made available to the public for used oil disposal. A grant for a single tank may not exceed \$2,500 and a local government unit may not receive more than \$5,000 in grants for storage tanks.

**History:** 1991 c 337 s 36

**115A.919 COUNTY FEE AUTHORITY.**

**Subdivision 1. Fee.** (a) A county may impose a fee, by cubic yard of waste or its equivalent, on operators of facilities for the disposal of mixed municipal solid waste or construction debris located within the county. The revenue from the fees shall be credited to the county general fund and shall be used only for landfill abatement purposes, or costs of closure, postclosure care, and response actions or for purposes of mitigating and compensating for the local risks, costs, and other adverse effects of facilities.

(b) Fees for construction debris facilities may not exceed 50 cents per cubic yard. Revenues from the fees must offset any financial assurances required by the county for a construction debris facility. The maximum revenue that may be collected for a construction debris facility must be determined by multiplying the total permitted capacity of the facility by 15 cents per cubic yard. Once the maximum revenue has been collected for a facility, the fee may no longer be imposed. The limitation on the fees in this paragraph and in section 115A.921, subdivision 2, are not intended to alter the liability of the facility operator or the authority of the agency to impose financial assurance requirements.

**Subd. 2. Additional fee.** A county may impose a fee, by cubic yard or the equivalent of waste collected outside the county, in addition to a fee imposed under subdivision 1, on operators of mixed municipal solid waste disposal facilities located within the county. The fee may not exceed \$7.50 per cubic yard or the equivalent. A person licensed to collect solid waste in a county that designates the waste under sections 115A.80 to 115A.893 who is referred to a disposal facility outside the county due to temporary closure of the designated facility is exempt from the additional fee; the designated facility is responsible for the fee. Revenue generated from the additional fee must be credited to the county general fund and may be used only for the purposes listed in subdivision 1.

**Subd. 3. Exemptions.** (a) Waste residue from recycling facilities at which recyclable materials are separated or processed for the purpose of recycling, or from energy and resource recovery facilities at which solid waste is processed for the purpose of extracting, reducing, converting to energy, or otherwise separating and preparing solid waste for reuse shall be exempt from any fee imposed by a county under this section if there is at least an 85 percent volume reduction in the solid waste processed. Before any fee is reduced, the verification procedures of section 473.843, subdivision 1, paragraph (c), must be followed and submitted to the appropriate county.

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

**History:** 1991 c 337 s 37

**115A.921 CITY OR TOWN FEE AUTHORITY.**

**Subdivision 1. Mixed municipal solid waste.** A city or town may impose a fee, not

to exceed \$1 per cubic yard of waste, or its equivalent, on operators of facilities for the disposal of mixed municipal solid waste located within the city or town. The revenue from the fees must be credited to the city or town general fund. Revenue produced by 25 cents of the fee must be used only for purposes of landfill abatement or for purposes of mitigating and compensating for the local risks, costs, and other adverse effects of facilities. Revenue produced by the balance of the fee may be used for any general fund purpose.

Waste residue from recycling facilities at which recyclable materials are separated or processed for the purpose of recycling, or from energy and resource recovery facilities at which solid waste is processed for the purpose of extracting, reducing, converting to energy, or otherwise separating and preparing solid waste for reuse shall be exempt from the fee imposed by a city or town under this section if there is at least an 85 percent volume reduction in the solid waste processed. Before any fee is reduced, the verification procedures of section 473.843, subdivision 1, paragraph (c), must be followed and submitted to the appropriate city or town.

**Subd. 2. Construction debris.** (a) A city or town may impose a fee, not to exceed 50 cents per cubic yard of waste, or its equivalent, on operators of facilities for the disposal of construction debris located within the city or town. The revenue from the fees must be credited to the city or town general fund. Two-thirds of the revenue must be used only for purposes of landfill abatement or for purposes of mitigating and compensating for the local risks, costs, and other adverse effects resulting from the facilities.

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

(c) Two-thirds of the revenue from fees collected under this subdivision must offset any financial assurances required by the city or town for a construction debris facility.

(d) The maximum revenue that may be collected under this subdivision must be determined by multiplying the total permitted capacity of a facility by 15 cents per cubic yard. Once the maximum revenue has been collected for a facility, the fees in this subdivision may no longer be imposed.

**History:** 1991 c 337 s 38

### 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 charge a fee on solid waste accepted and disposed of at the facility as follows:

(1) a facility that weighs the waste that it accepts must charge a fee of \$2 per cubic yard based on equivalent cubic yards of waste accepted at the entrance of the facility;

(2) a facility that does not weigh the waste but that measures the volume of the waste that it accepts must charge a fee of \$2 per cubic yard of waste accepted at the entrance of the facility; and

(3) waste residue from recycling facilities at which recyclable materials are separated or processed for the purpose of recycling, or from energy and resource recovery facilities at which solid waste is processed for the purpose of extracting, reducing, converting to energy, or otherwise separating and preparing solid waste for reuse is exempt from the fee imposed by this subdivision if there is at least an 85 percent volume reduction in the solid waste processed.

(b) To qualify for exemption under paragraph (a), clause (3), waste residue must be brought to a disposal facility separately. The commissioner of revenue, with the advice and assistance of the agency, shall prescribe procedures for determining the amount of waste residue qualifying for exemption.

**Subd. 1a. Payment of the greater Minnesota landfill cleanup fee.** The operator of a disposal facility in greater Minnesota shall remit the fees collected under subdivision



1 to the county or sanitary district where the facility is located, except that the operator of a facility that is owned by a statutory or home rule city shall remit the fees to the city that owns the facility. The county, city, or sanitary district may use the revenue from the fees only for the purposes specified in section 115A.919.

*[For text of subd 6, see M.S.1990]*

**History:** 1991 c 337 s 39,40

#### **115A.929 FEES; ACCOUNTING.**

Each local government unit that collects a fee under section 115A.919, 115A.921, or 115A.923 shall account for all revenue collected from the fee, together with interest earned on the revenue from the fee, separately from other revenue collected by the local government unit and shall report revenue collected from the fee and use of the revenue separately from other revenue and use of revenue in any required financial report or audit.

**History:** 1991 c 337 s 41

#### **115A.93 LICENSING OF SOLID WASTE COLLECTION.**

*[For text of subds 1 and 2, see M.S.1990]*

**Subd. 3. License requirements.** (a) A licensing authority shall require that charges for collection of mixed municipal solid waste vary with the volume or weight of the waste collected.

(b) A licensing authority may impose requirements that are consistent with the county's solid waste policies as a condition of receiving and maintaining a license.

(c) A licensing authority shall prohibit mixed municipal solid waste collectors from imposing a greater charge on residents who recycle than on residents who do not recycle.

**Subd. 4. Date certain.** By January 1, 1993, each county shall ensure that each city or town within the county requires each mixed municipal solid waste collector that provides curbside collection service in the city or town to obtain a license under this section or the county shall directly require and issue the licenses. No person may collect mixed municipal solid waste after January 1, 1993, without a license.

**History:** 1991 c 337 s 42,43

#### **115A.931 YARD WASTE PROHIBITION.**

(a) Except as authorized by the agency, in the metropolitan area after January 1, 1990, and outside the metropolitan area after January 1, 1992, a person may not place yard waste:

(1) in mixed municipal solid waste;

(2) in a disposal facility; or

(3) in a resource recovery facility except for the purposes of composting or co-composting.

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

**History:** 1991 c 337 s 44

#### **115A.935 SOLID WASTE GENERATED OUTSIDE OF MINNESOTA.**

No person shall transport into or deposit in this state, for the purpose of processing or disposal, solid waste that was generated in another state, unless the waste:

(1) meets all the solid waste management regulations of the state in which it was generated; and

(2) contains none of the items specifically banned from mixed municipal solid

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

**History:** 1991 c 337 s 45

#### 115A.94 ORGANIZED COLLECTION.

*[For text of subs 1 to 3, see M.S.1990]*

**Subd. 4. Cities and towns; notice; planning.** (a) At least 180 days before implementing an ordinance, franchise, license, contract or other means of organizing collection, a city or town, by resolution of the governing body, shall announce its intent to organize collection and invite the participation of interested persons, including persons licensed to operate solid waste collection services, in planning and establishing the organized collection system.

(b) The resolution of intent must be adopted after a public hearing. The hearing must be held at least two weeks after public notice and mailed notice to persons known by the city or town to be operating solid waste collection services in the city or town. The failure to give mailed notice to persons or defect in the notice does not invalidate the proceedings, provided a bona fide effort to comply with notice requirements has been made.

(c) During a 90-day period following the resolution of intent, the city or town shall develop or supervise the development of plans or proposals for organized collection. During this 90-day planning period, the city or town shall invite and employ the assistance of persons licensed as of the date of the resolution of intent to operate solid waste collection services in the city or town. Failure of a licensed collector to participate in the 90-day planning period, when the city or town has made a bona fide effort to provide the person the opportunity to participate, does not invalidate the planning process.

(d) For 90 days after the date ending the planning period required under paragraph (c), the city or town shall discuss possible organized collection arrangements with all licensed collectors operating in the city or town who have expressed interest. If the city or town is unable to agree on an organized collection arrangement with a majority of the licensed collectors who have expressed interest, or upon expiration of the 90 days, the city or town may propose implementation of an alternate method of organizing collection as authorized in subdivision 3.

(e) The city or town shall make specific findings that:

(1) describe in detail the procedures it used to plan and to attempt implementation of organized collection through an arrangement with collectors who expressed interest; and

(2) evaluate the proposed organized collection method in light of at least the following standards: achieving the stated organized collection goals of the city or town; minimizing displacement of collectors; ensuring participation of all interested parties in the decision-making process; and maximizing efficiency in solid waste collection.

(f) Upon request, the city or town shall provide mailed notice of all proceedings on the organization of collection in the city or town.

(g) If the city or town and all the persons licensed to operate mixed municipal solid waste collection services and doing business in the city or town agree on the plan, the city or town may implement the plan without regard to the 180-day period specified in paragraph (a).

*[For text of subs 5 to 7, see M.S.1990]*

**History:** 1991 c 337 s 46

#### 115A.941 SOLID WASTE; REQUIRED COLLECTION.

(a) Except as provided in paragraph (b), each city and town with a population of 5,000 or more shall ensure that every residential household and business in the city or

town has solid waste collection service. To comply with this section, a city or town may organize collection, provide collection, or require by ordinance that every household and business has a contract for collection services. An ordinance adopted under this section must provide for enforcement.

(b) A city or town with a population of 5,000 or more may exempt a residential household or business in the city or town from the requirement to have solid waste collection service if the household or business ensures that an environmentally sound alternative is used.

(c) To the extent practicable, the costs incurred by a city or town under this section must be incorporated into the collection system or the enforcement mechanisms adopted under this section by the city or town.

**History:** 1991 c 337 s 47

**NOTE:** This section, as added by Laws 1991, chapter 337, section 47, is effective July 1, 1992. See Laws 1991, chapter 337, section 91.

**115A.953** [Repealed, 1991 c 337 s 90]

### **115A.956 SOLID WASTE DISPOSAL PROBLEM MATERIALS.**

**Subdivision 1. Problem material processing and disposal plan.** The office shall develop a plan that designates problem materials and available capacity for processing and disposal of problem materials including household hazardous waste that should not be in mixed municipal solid waste. In developing the plan, the office shall consider relevant regional characteristics and the impact of problem materials on specific processing and disposal technologies.

**Subd. 2. Problem material separation and collection plan.** After the office certifies that sufficient processing and disposal capacity is available, but no later than November 15, 1992, the office shall develop a plan for separating problem materials from mixed municipal solid waste, collecting the problem materials, and transporting the problem materials to a processing or disposal facility and may by rule prohibit the placement of the designated problem materials in mixed municipal solid waste.

**History:** 1991 c 303 s 2

### **115A.9561 MAJOR APPLIANCES.**

**Subdivision 1. Prohibitions.** A person may not:

- (1) place major appliances in mixed municipal solid waste; or
- (2) dispose of major appliances in or on the land or in a solid waste processing or disposal facility. The agency may enforce this section pursuant to section 115.071.

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

- (1) the removal of capacitors that may contain PCBs;
- (2) the removal of ballasts that may contain PCBs;
- (3) the removal of chlorofluorocarbon refrigerant gas; and
- (4) the recycling or reuse of the metals.

**History:** 1991 c 337 s 48

### **115A.96 HOUSEHOLD HAZARDOUS WASTE MANAGEMENT.**

*[For text of subs 1 to 5, see M.S.1990]*

**Subd. 6. Household hazardous waste management plans.** (a) Each county shall include in its solid waste management plan required in section 115A.46, or its solid waste master plan required in section 473.803, a household hazardous waste management plan. The plan must at least:

- (1) include a broad based public education component;

(2) include a strategy for reduction of household hazardous waste; and

(3) include a strategy for separation of household hazardous waste from mixed municipal solid waste and the collection, storage, and proper management of that waste.

(b) Each county required to submit its plan to the office under section 115A.46 shall amend its plan to comply with this subdivision within one year after October 4, 1989.

(c) Each county in the state shall implement its household hazardous waste management plan by June 30, 1992.

(d) The office shall review the plans submitted under this subdivision in cooperation with the agency.

**History:** 1991 c 303 s 3; 1991 c 337 s 49

### 115A.965 PROHIBITIONS ON SELECTED TOXICS IN PACKAGING.

**Subdivision 1. Packaging.** (a) As soon as feasible but not later than August 1, 1993, no manufacturer or distributor may sell or offer for sale or for promotional purposes in this state packaging or a product that is contained in packaging if the packaging itself, or any inks, dyes, pigments, adhesives, stabilizers, or any other additives to the packaging contain any lead, cadmium, mercury, or hexavalent chromium that has been intentionally introduced as an element during manufacture or distribution of the packaging. Intentional introduction does not include the incidental presence of any of the prohibited elements.

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

**Subd. 2. Total toxics concentration levels.** The total concentration level of lead, cadmium, mercury, and hexavalent chromium added together in any packaging must not exceed the following amounts:

- (1) 600 parts per million by weight by August 1, 1993;
- (2) 250 parts per million by weight by August 1, 1994; and
- (3) 100 parts per million by weight by August 1, 1995.

**Subd. 3. Exemptions.** (a) The following packaging is exempt from the requirements of subdivisions 1 and 2:

(1) packaging that has been delivered to a manufacturer or distributor prior to August 1, 1993, or packaging that contains a code or other indication of the date of manufacture and that was manufactured prior to August 1, 1993; and

(2) until August 1, 1997, packaging that would not exceed the total toxics concentration levels under subdivision 2 but for the addition in the packaging of materials that have fulfilled their intended use and have been discarded by consumers.

(b) Packaging to which lead, cadmium, mercury, or hexavalent chromium has been intentionally introduced in the manufacturing process may be exempted from the requirements of subdivisions 1 and 2 by the commissioner of the pollution control agency if:

(1) the use of the toxic element in the packaging is required by federal or state health or safety laws; or

(2) there is no feasible alternative for the packaging because the toxic element used is essential to the protection, safe handling, or function of the contents of the package.

The commissioner may grant an exemption under this paragraph for a period not to exceed two years upon application by the packaging manufacturer that includes documentation showing that the criteria for an exemption are met. Exemptions granted by the commissioner may be renewed upon reapplication every two years.

**Subd. 4. Certificate of compliance.** (a) Beginning August 1, 1993, each manufacturer and distributor of packaging for sale or other distribution in this state shall certify to each of their purchasers or receivers that the packaging purchased or received com-

plies with this section. The certificate of compliance must be in writing and must be signed by an official of the manufacturer or distributor. For packaging that has received an exemption under subdivision 3, the certificate of compliance must list the amount of total toxics concentration in the packaging, the specific toxics present, and the basis for the exemption.

(b) The manufacturer or distributor shall keep on file a copy of the certificate of compliance for each type of packaging manufactured or distributed and shall make copies available to the commissioner of the pollution control agency or the attorney general on request, or to any member of the public within 60 days of receipt of a written request that specifies the type of packaging for which the information is requested.

(c) Each purchaser or receiver, except a retailer, of packaging shall retain the certificate of compliance for as long as the packaging is in use.

(d) If a manufacturer or distributor of packaging reformulates the packaging or creates new packaging, the manufacturer or distributor shall provide an amended or new certificate of compliance to purchasers and receivers for the reformulated or new packaging.

**Subd. 5. Enforcement.** This section may be enforced under sections 115.071 and 116.072. A person who fails to comply with this section is subject to a civil fine of up to \$5,000 per day of violation, court costs and attorney fees, and all costs associated with the separate collection, storage, transfer, and appropriate processing or disposal of nonconforming packaging, to be determined by the true cost of those activities per ton times the approximate actual tonnage of nonconforming packaging sold or otherwise distributed in the state.

**Subd. 6. Rules.** The commissioner of the pollution control agency, in consultation with the director of the office of waste management, shall adopt rules to implement this section.

**History:** 1991 c 337 s 50

#### **115A.9651 TOXICS IN PRODUCTS; ENFORCEMENT.**

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

This section may be enforced under sections 115.071 and 116.072. The attorney general or the commissioner of the agency shall coordinate enforcement of this section with the director of the office.

**History:** 1991 c 337 s 51

#### **115A.97 SPECIAL WASTE; INCINERATOR ASH.**

*[For text of subs 1 to 3, see M.S.1990]*

**Subd. 4. Interim program.** (a) Incinerator ash is considered special waste for an interim period which expires on the occurrence of the earliest of the following events:

(1) The United States Environmental Protection Agency establishes testing and disposal requirements for incinerator ash;

(2) The agency adopts the rules required in subdivision 3; or

(3) June 30, 1992.

(b) As a special waste, incinerator ash must be stored separately from mixed municipal solid waste with adequate controls to protect the environment as provided in agency permits. For the interim period, the agency, in cooperation with generators of incinerator ash and other interested parties, shall establish a temporary program to test, monitor, and store incinerator ash. The program must include separate testing of fly ash, bottom ash, and combined ash unless the agency determines that because of physical constraints at the facility separate samples of fly ash and bottom ash cannot be reasonably obtained in which case only combined ash must be tested. Incinerator

ash stored during the interim is subject to the rules adopted pursuant to subdivision 3 and to the provisions of chapter 115B.

*[For text of subs 5 and 6, see M.S.1990]*

**History:** 1991 c 337 s 52