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

Subd. 3. **Plan approval.** (a) A district or county planning a designation shall submit the designation plan to the commissioner for review and approval or disapproval.

(b) The commissioner shall complete the review and make a decision within 120 days following submission of the plan for review. The commissioner 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 commissioner finds that the plan has demonstrated that the designation is necessary and is consistent with section 115A.02. The commissioner may attach conditions to the 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. **Excluding certain materials.** (a) When the commissioner approves the designation plan, the commissioner shall exclude from the designation materials that the commissioner 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 commissioner;

(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 commissioner 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 commissioner 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 commissioner may revoke the exclusion granted under this subdivision when the commissioner approves the designation ordinance under section 115A.86 if in the commissioner's judgment the excluded materials will not be processed at the other facility.

Subd. 5. **Excluding materials separated at certain facilities.** (a) A county or district shall exclude from the designation, subject to approval by the commissioner, 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: *1984 c 644 s 39; 1985 c 274 s 7,8; 1989 c 325 s 12; 1989 c 335 art 1 s 269; 1991 c 337 s 31,32; 1994 c 639 art 5 s 3; 1995 c 247 art 2 s 18; 1Sp2005 c 1 art 2 s 161*