

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

MJM
11/3/92

RULE REVIEW CHECKLIST

File No. 1964
DATE RECEIVED 10-29-92
REVIEW DATE ~~11-2-92~~ 11-9-92
DUE DATE 11-12-92
(DIS)APPROVED Nov 10 92
WITHDRAWN _____

Docket No. 05 0007 0836
ADOPTED W/O HEARING _____
EMERGENCY RULE _____
TO REVISOR ON 11-3-92
REVISOR (DIS)APPROVED 11/6/92
FILED W/SEC. OF STATE 11/10/92
RETURNED TO AGENCY 11/10/92

✓ Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion (if applicable)
June 11, 1990 Date published in State Register
_____ Comments

_____ Petition for Adoption of a Rule

_____ Board's Authorizing Resolution
_____ Date adopted

✓ Proposed Rule
_____ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
115A.06 subd 2 Statutory Authority
_____ Small Business Statement
Pottie Pieton Expenditure of public money statement
Signature

✓ Statement of Need and Reasonableness (if applicable)
_____ Small Business Statement
_____ Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
August 6, 1992 Dated 30/25 days before adoption
_____ Notice attached indicates it is attached

✓ Copy of rule or summary attached

✓ Publication in State Register
August 10, 1992 Date 30/25 days before adoption

✓ 180-day deadline from:
_____ Effective date of law requiring rule (14.12) (both rules) amendments don't apply — changing old rules
✓ end of comment period (§ 14.26) (rules without hearing)
_____ effective date of statutory authority (§ 14.29) (emergency rules)

_____ Resolution Adopting
_____ Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
10-27-92 Date

✓ Written Requests, Submissions or Comments

✓ Declaration of Attorney
Beverly Cameron Name of SAAG representing agency

_____ Notice of Submission to Attorney General (if applicable)

_____ Affidavit of Mailing Notice to Attorney General (if applicable)

STATE OF MINNESOTA

Office of the Attorney General

TO : DAVID BENKE
Minnesota Office of Waste Management
1350 Energy Lane
St. Paul

DATE : November 10, 1992

FROM : MARY JO MURRAY
Special Assistant
Attorney General

PHONE : 296-3258

SUBJECT : In the Matter of the Adopted Rule Relating to Solid Waste Planning and Certificate of Need Issuance

The above-referenced rule has been approved as to its legality by the Attorney General on November 10, 1992.

Enclosed is your copy of the approved rule. This office has already filed two copies with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submissions or comments along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of the notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

If you have any questions in this regard, please contact me.

Enclosures
cc: Beverly Conerton
William Brown, Chief Judge
MaryAnn Hruby

MJM:jj.rules.bd2

Office of Waste Management

Adopted Permanent Rules Relating to Solid Waste Planning and Certificate of Need Issuance

Rules as Adopted

GENERALLY

9215.0500 PURPOSE.

The purpose of this chapter is to establish requirements for the preparation and implementation of solid waste management plans, plan updates, and plan amendments by counties and solid waste management districts outside of the seven-county metropolitan area. The plans, plan updates, and plan amendments must be approved by the Office of Waste Management.

9215.0510 DEFINITIONS.

Subpart 1. **Scope.** As used in this chapter, the terms defined in this part have the meanings given them.

Subp. 2. **Ash.** "Ash" means the incombustible material that remains after a fuel, including solid waste, is incinerated.

Subp. 3. **Composting.** "Composting" means the controlled microbial degradation of organic waste to yield a humus-like product.

Subp. 4. **County.** "County" means a county board of commissioners, established outside the metropolitan area.

Subp. 5. **Demolition debris.** "Demolition debris" means solid waste resulting from the demolition of buildings, roads, and other artificial structures including concrete, brick, bituminous concrete, untreated wood, masonry, glass, trees, rock, and plastic building parts. Demolition debris does not include asbestos wastes.

Subp. 6. **Director.** "Director" means the director of the Office of Waste Management.

Subp. 7. **Disposal facility.** "Disposal facility" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 10.

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Subp. 8. **District.** "District" means the Western Lake Superior Sanitary District Board or a board established outside the metropolitan area as a solid waste management district pursuant to Minnesota Statutes, sections 115A.62 to 115A.72.

Subp. 9. **Major appliances.** "Major appliances" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 17a.

Subp. 10. **Metropolitan area.** "Metropolitan area" has the meaning given it in Minnesota Statutes, section 473.121, subdivision 2.

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

Subp. 12. **Office.** "Office" means the Office of Waste Management.

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

Subp. 14. **Plan.** "Plan" means a solid waste management plan prepared under this chapter.

Subp. 15. **Plan amendment.** "Plan amendment" means a document that is submitted to the Office of Waste Management by a county or district when required by this chapter.

Subp. 16. **Plan update.** "Plan update" means the update of the comprehensive solid waste management plan required by Minnesota Statutes, section 115A.46, and this chapter.

Subp. 17. **Recyclable materials.** "Recyclable materials" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 25a.

Subp. 18. **Recycling.** "Recycling" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 25b.

Subp. 19. **Resource recovery.** "Resource recovery" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 27.

Subp. 20. **Solid waste.** "Solid waste" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 31.

Subp. 21. **Solid waste management.** "Solid waste management"

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means activities which are intended to affect or control the generation of solid waste and activities which provide for or control the collection, processing, and disposal of solid waste.

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

Subp. 23. **Waste reduction.** "Waste reduction" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 36a.

Subp. 24. **Yard waste.** "Yard waste" means the garden wastes, leaves, lawn cuttings, weeds, tree and shrub waste, and prunings generated at residential, commercial, industrial, or institutional properties.

9215.0520 APPLICABILITY.

This chapter applies to all counties and districts outside of the metropolitan area.

COUNTY AND DISTRICT PLANS

9215.0530 OBLIGATIONS OF COUNTIES AND DISTRICTS.

Subpart 1. **Implementation.** Each county or district shall maintain and implement a solid waste management plan that has been approved by the office.

Subp. 2. **Sanctions.** A county or district that fails to gain approval and maintain and implement an approved solid waste management plan is in violation of Minnesota Statutes, section 115A.46, and this chapter.

9215.0540 CONTENTS OF PLANS, UPDATES, AND AMENDMENTS.

County and district solid waste management plans, including updates and amendments, when necessary, must describe solid waste management programs for a ten-year period immediately following plan approval and must contain the information required by parts 9215.0550 to 9215.0790.

9215.0550 EXECUTIVE SUMMARY.

A plan must include an executive summary that provides an overview of the county's or district's solid waste management

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system proposed in the plan.

9215.0560 BACKGROUND INFORMATION.

Subpart 1. **Scope.** A plan must contain narrative descriptions and numeric estimates described in this part.

Subp. 2. **Demographic information.** The plan must include demographic information that relates directly to the generation or management of solid waste in the county or district, including current population distribution, population projections for the next ten years, land use, employment, local economic conditions, and median household income.

Subp. 3. **Solid waste collection and generation.** The plan must include the following solid waste collection and generation information:

A. an estimate of the amount of solid waste generated annually in the county;

B. an estimate of the percentages of city and rural residents with solid waste collection service;

C. an estimate of the annual percentage of solid waste disposed of on site by generators;

D. the solid waste collection and disposal rate structure, including the current range of residential collection rates, the current range of commercial/industrial collection rates, and financial incentives for waste reduction and recycling;

E. a description of the composition of the overall solid waste generated in the county or district; and

F. an estimate of the annual percentage of solid waste from residential and commercial/industrial waste generators.

Subp. 4. **Demolition debris.** The plan must include an estimate of the quantity of demolition debris generated annually in the county or district.

Subp. 5. **Major solid waste generators.** The plan must include identification of the major commercial, industrial, and institutional solid waste generators in the county or district,

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including estimates of the volumes and types of solid waste generated annually.

Subp. 6. **Solid waste planning history.** The plan must describe the history of solid waste planning in the county or district for the previous five years and must:

A. include a description of any current local and regional planning activities;

B. include a description of past impediments or barriers to the development of projects on a regional basis; and

C. address the resolution of conflicting, duplicative, or overlapping local solid waste management efforts.

9215.0570 ASSESSMENT OF ALTERNATIVES TO A LANDFILL-BASED DISPOSAL SYSTEM.

Subpart 1. **Content.** The plan shall include a discussion of landfill abatement alternatives according to this part.

Subp. 2. **Currently using resource recovery.** A county or district that is currently using resource recovery to manage the majority of its solid waste by volume shall evaluate its resource recovery programs to identify opportunities for maximizing resource recovery and minimizing land disposal.

Subp. 3. **Proposing resource recovery.** A county or district that is proposing a resource recovery system must identify mixed municipal solid waste processing alternatives that the county or district analyzed before choosing the proposed system. The assessment shall include a financial analysis, discussion of environmental impacts, and plans and schedules for future studies of the most feasible alternatives analyzed. The county or district must explain why any technologies were eliminated from consideration.

Subp. 4. **Landfill-based system.** If the county proposes to manage the majority of its solid waste for the ten-year period through land disposal, the plan must demonstrate in practical and financial terms why alternative recovery options such as mixed municipal solid waste composting or incineration are not the most feasible and prudent alternatives. The plan must

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include an environmental, financial, and technical analysis of the following:

A. existing facilities available for use; and

B. technologies available for use or development including mixed municipal solid waste composting, co-composting, refuse-derived fuel processing, and incineration. In addition, the county or district shall develop ten-year system cost projections for the most feasible of the technologies or facilities that the county or district considered. This analysis shall include a ten-year system cost projection for at least one of the following management systems: solid waste composting, co-composting, refuse-derived fuel processing, or incineration.

9215.0580 SOLID WASTE REDUCTION.

Subpart 1. **Content.** The plan must include the information on solid waste reduction programs and practices in the county or district described in this part.

Subp. 2. **Policies and goals.** The plan must contain a description of the solid waste reduction policies and goals established by the county including the annual amount or quantity of solid waste to be reduced.

Subp. 3. **Existing solid waste reduction practices.** The plan must describe existing public and private sector solid waste reduction programs in place in the county or district.

Subp. 4. **Specific solid waste reduction programs to be developed.** The plan must describe the solid waste reduction programs that the county or district proposes to maintain or implement in the next ten years, including the responsible persons and annual staff time necessary to implement and manage each program.

Subp. 5. **Program budget.** The plan must identify annual costs that will be incurred by the county or district in implementing and managing solid waste reduction programs.

Subp. 6. **Schedule of implementation.** The plan must include a schedule for the implementation of proposed solid

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waste reduction programs described in this part.

9215.0590 SOLID WASTE EDUCATION.

Subpart 1. **Content.** The plan must include the information regarding the solid waste education programs and practices in the county or district described in this part.

Subp. 2. **Policies and goals.** The plan must contain a description of the solid waste education policies and goals that the county or district has established and must describe the promotional program that includes publishing quarterly articles pursuant to Minnesota Statutes, section 115A.552, subdivision 3, paragraph (a).

Subp. 3. **Existing solid waste education practices.** The plan must describe existing public and private sector solid waste education programs including solid waste education providers and annual financial and staff commitment in the county or district.

Subp. 4. **Specific programs to be developed.** The plan must describe the solid waste education programs that the county or district proposes to maintain or implement, including the responsible persons and estimated staff time necessary to implement and manage each program.

Subp. 5. **Program budget.** The plan must include the projected annual costs incurred by the county or district for implementing and managing the solid waste education program, including staff time, advertising or publicity materials, and other associated costs, and annual costs for the next ten years.

Subp. 6. **Schedule of implementation.** The plan must include a schedule for the implementation of proposed solid waste education programs described in this part.

9215.0600 RECYCLING.

Subpart 1. **Content.** The plan must include the information on the recycling programs and practices in the county or district described in this part.

Subp. 2. **Policies and goals.** The plan must contain a description of the recycling goals and policies that the county

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or district has established to meet or exceed the recycling goal requirements in Minnesota Statutes, section 115A.551, subdivision 2, the opportunity to recycle requirements in Minnesota Statutes, section 115A.552, and the organized collection requirements of Minnesota Statutes, section 115A.94.

Subp. 3. **Existing recycling practices.** The plan must:

A. describe the existing public and private sector recycling system in the county or district including collection, processing, and marketing, including the number of haulers operating in the county or district and collection or processing facilities used by haulers in the county or district; and

B. identify the annual recycling tonnages collected, processed, and marketed by sector or program, for the last two years, if available, the county's annual financial and staff commitment, and local market conditions for recyclable materials.

Subp. 4. **Specific programs to be developed.** The plan must describe the recycling programs that the county or district proposes to maintain or implement during the next ten years. The description shall include the responsible persons and estimated annual staff time necessary to implement and manage each program.

Subp. 5. **Program budget.** The plan must estimate the annual costs to be incurred by the county or district in implementing and managing recycling programs over the next ten years, including itemized capital and operating costs such as staff time, land, buildings, equipment, redemption costs, and other associated costs.

Subp. 6. **Schedule of implementation.** The plan must include a schedule for the implementation of proposed recycling programs described in this part.

9215.0610 YARD WASTE PROGRAMS.

Subpart 1. **Content.** The plan must include the information on the yard waste management programs and practices in the county or district described in this part.

Subp. 2. **Policies and goals.** The plan must:

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by Revisor _____

A. contain a description of the yard waste separation and composting goals and policies that the county or district has established;

B. describe methods for identifying the portions of the waste stream such as leaves, grass clippings, tree and plant residue, and paper for use in agricultural practices in accordance with Minnesota Statutes, section 115A.46, subdivision 2, paragraph (d); and

C. recognize the prohibition on disposal of yard waste in the land and at resource recovery facilities in Minnesota Statutes, section 115A.931.

Subp. 3. **Existing yard waste management programs.** The plan must describe existing public and private sector yard waste management programs in the county or district. The plan must also include an estimated level of backyard composting, the yard waste collection system including licensed haulers, if any; number of county, district, and municipal composting sites; tonnages collected for the last two years, if available; the county's or district's financial and staff commitment; and local market conditions for finished yard waste compost.

Subp. 4. **Specific programs to be developed.** The plan must describe the yard waste programs that the county or district proposes to maintain or implement during the next ten years, including the responsible persons and estimated staff time necessary to implement and manage each program.

Subp. 5. **Program budget.** The plan must estimate the annual costs to be incurred by the county or district in implementing and managing yard waste programs over the next ten years, including itemized capital and operating costs.

Subp. 6. **Schedule of implementation.** The plan must include a schedule for the implementation of proposed yard waste programs described in this part.

Subp. 7. **Environmental risks of yard waste management.** The plan must briefly describe any odor problems, leachate generation, or other impacts of yard waste management that have occurred in the county or district.

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9215.0620 MIXED MUNICIPAL SOLID WASTE COMPOSTING.

Subpart 1. **Content.** The plan must include the information in this part on mixed municipal solid waste composting facilities if used or proposed to be used to manage all or a portion of the county's or district's mixed municipal solid waste.

Subp 2. **Policies and goals.** The plan must describe the county's or district's goals and policies on mixed municipal solid waste composting.

Subp. 3. **Existing mixed municipal solid waste composting facilities.** The plan must:

A. describe the mixed municipal solid waste composting facility or facilities where the county's or district's mixed municipal solid waste is managed; and

B. include information on facility operational history and management, removal of problem wastes, volumes managed, and compost marketing.

Subp. 4. **Environmental and public health impacts.** The plan must consider and evaluate known and potential environmental and public health impacts and propose a course of action to alleviate those impacts. The plan must include results of compost testing, results of inspection and monitoring by the appropriate state regulatory agency, and assessment of operational safety at the facility during the past two years.

Subp. 5. **Specific programs to be developed.** The plan must describe the mixed municipal solid waste composting facilities and programs that the county or district proposes to maintain, implement, or participate in during the next ten years, including the responsible persons and estimated staff time necessary to implement or manage each program.

Subp. 6. **Program budget.** The plan must estimate the annual costs to be incurred by the county or district in implementing and maintaining the mixed municipal solid waste composting programs during the next ten years, including itemized capital and operating costs.

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by Revisor _____

Subp. 7. **Implementation timeline.** The plan must include a schedule for the implementation of the proposed mixed municipal solid waste composting programs described in this part.

9215.0630 SOLID WASTE INCINERATION AND ENERGY RECOVERY.

Subpart 1. **Content.** The plan must include the information in this part on solid waste incineration and energy recovery facilities if used or proposed to be used to manage all or a part of the county's or district's mixed municipal solid waste.

Subp. 2. **Policies and goals.** The plan must describe the county's or district's goals and policies on solid waste incineration and energy recovery.

Subp. 3. **Existing solid waste incineration and energy recovery facilities.** The plan must:

A. describe the facility or facilities where the county's or district's mixed municipal solid waste is or will be managed; and

B. include information on the operational history, removal of problem wastes, facility management, volumes managed for the past two years, and energy marketing.

Subp. 4. **Environmental and public health impacts.** The plan must consider and evaluate known and potential environmental and public health impacts and propose a course of action to alleviate those impacts. The plan must include results of ash and emissions testing, results of inspection and monitoring by the appropriate state regulatory agency, and assessment of operational safety at each facility during the past two years. The plan must include the plans and programs for reducing the toxicity and quantity of incinerator ash.

Subp. 5. **Specific programs to be developed.** The plan must describe the energy recovery facilities and programs that the county or district proposes to maintain, implement, or participate in during the next ten years, including the responsible persons and estimated staff time necessary to implement or manage each program.

Subp. 6. **Program budget.** The plan must estimate the

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annual costs to be incurred by the county or district in implementing and maintaining the energy recovery programs during the next ten years, including itemized capital and operating costs.

Subp. 7. **Implementation timeline.** The plan must include a schedule for the implementation of the proposed energy recovery programs described in this part.

9215.0640 LAND DISPOSAL OF MIXED MUNICIPAL SOLID WASTE.

Subpart 1. **Content.** The plan must include the information on land disposal facilities described in this part if they are being used or proposed for use to manage all or part of the county's or district's mixed municipal solid waste.

Subp. 2. **Policies and goals.** The plan must describe the county's or district's goals and policies on land disposal.

Subp. 3. **Existing land disposal facilities.** The plan must:

A. identify and discuss the status of closed landfills within the county or district and whether the county or district is implementing any programs for mitigating the environmental effects of past disposal practices;

B. describe the land disposal facility or facilities where the county's or district's mixed municipal solid waste is managed;

C. include a table indicating the amount received, processed, and disposed during the previous two years; and

D. include information on the operational history, removal of problem wastes, and facility management.

Subp. 4. **Environmental and public health impacts.** The plan must evaluate known and potential environmental and public health impacts of operating and proposed disposal facilities and propose a course of action to alleviate those impacts. The plan must include information summarizing the results of recent inspections by the appropriate state agency, report on the results of ground and surface water monitoring at the facilities, and assess operational safety at each facility during the past two years.

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by Revisor _____

Subp. 5. **Specific programs to be developed.** The plan must describe the land disposal facilities and programs that the county or district proposes to maintain, implement, or participate in during the next ten years, including:

A. the responsible persons and estimated staff time necessary to implement or manage each program; and

B. the following information about mixed municipal solid waste land disposal programs and practices in the county or district:

(1) permitting schedule;

(2) schedule of phase development;

(3) status of financial assurance; and

(4) status of leachate treatment.

Subp. 6. **Program budget.** The plan must estimate the annual costs that will be incurred by the county or district in implementing and managing the land disposal programs during the next ten years, including itemized capital and operating costs.

Subp. 7. **Schedule of implementation.** The plan must include a schedule for the implementation of the proposed land disposal programs described in this part.

9215.0650 WASTE TIRE DISPOSAL AND RECOVERY.

Subpart 1. **Content.** The plan must include the information in this part on waste tire recovery programs and practices in the county or district.

Subp. 2. **Policies and goals.** The plan must contain a description of the waste tire disposal goals and policies that the county or district has established that comply with Minnesota Statutes, section 115A.914, subdivision 3.

Subp. 3. **Existing waste tire practices.** The plan must describe existing public and private sector waste tire disposal programs and practices in place throughout the county or district. The description must include the waste tire management system including permitted storage and processing facilities, location of known unpermitted tire dumps, transportation and disposal system used by local collectors,

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by Revisor _____

current end uses of the waste tires, and status of county solid waste ordinance relative to waste tire management.

Subp. 4. **Specific programs to be developed.** The plan must describe the waste tire programs that the county or district proposes to maintain or implement during the next ten years, including the responsible persons and estimated staff time necessary to implement and manage each program.

Subp. 5. **Program budget.** The plan must estimate the annual costs to be incurred by the county or district in implementing or maintaining the waste tire programs during the next ten years, including itemized capital and operating costs.

Subp. 6. **Schedule of implementation.** The plan must include a schedule for the implementation of the proposed waste tire programs.

9215.0660 MAJOR APPLIANCE MANAGEMENT.

Subpart 1. **Content.** The plan must include the information in this part on major appliance management programs and practices in the county or district.

Subp. 2. **Policies and goals.** The plan must contain a description of the appliance management goals and policies that the county or district has established that comply with Minnesota Statutes, sections 115A.552, subdivision 1, and 115A.9561.

Subp. 3. **Existing appliance management practices.** The plan must describe the existing public and private sector appliance management programs in the county or district. The description must indicate the process used by the county or district to comply with applicable state, federal, and local regulations for disposal of used appliances and capture of hazardous wastes contained in the appliances.

Subp. 4. **Specific programs to be developed.** The plan must describe the appliance management programs that the county or district proposes to maintain or implement during the next ten years, including the responsible persons, estimated staff time, and education campaigns necessary to implement or manage each

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program.

Subp. 5. **Program budget.** The plan must estimate the annual costs to be incurred by the county or district in implementing or managing the appliance management programs for the next ten years, including itemized capital and operating costs.

Subp. 6. **Schedule of implementation.** The plan must include a time schedule for the implementation of the proposed appliance management programs described in this part.

9215.0670 USED MOTOR OIL AND LEAD-ACID AND DRY CELL BATTERIES MANAGEMENT.

Subpart 1. **Content.** The plan must include the information in this part on used motor oil and lead-acid and dry cell battery management programs and practices in the county or district.

Subp. 2. **Policies and goals.** The plan must contain a description of the used motor oil and lead-acid and dry cell battery management goals and policies that the county or district has established that comply with Minnesota Statutes, sections 115A.915, 115A.9155, and 115A.916.

Subp. 3. **Existing used motor oil and lead-acid and dry cell battery programs and practices.** The plan must describe the existing public and private sector used motor oil and lead-acid and dry cell battery management programs and practices in the county or district, including public education, collection options, processing, recycling, and disposal.

Subp. 4. **Specific programs to be developed.** The plan must describe the specific used motor oil and lead-acid and dry cell battery programs that the county or district proposes to maintain or implement during the next ten years, including the responsible persons and estimated staff time necessary to implement and manage each program.

Subp. 5. **Program budget.** The plan must estimate the annual costs to be incurred by the county or district in implementing and maintaining the used motor oil and lead-acid

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and dry cell battery management programs during the next ten years, including itemized capital and operating costs.

Subp. 6. **Schedule of implementation.** The plan must include a schedule for the implementation of the proposed used motor oil and lead-acid and dry cell battery management programs described in this part.

9215.0680 HOUSEHOLD HAZARDOUS WASTE MANAGEMENT.

Subpart 1. **Content.** The plan must include the information in this part on the household hazardous waste management programs and practices in the county or district.

Subp. 2. **Policies and goals.** The plan must contain a description of the household hazardous waste goals and policies established by the county or district that comply with the requirements in Minnesota Statutes, section 115A.96, subdivision 6.

Subp. 3. **Existing programs and practices.** The plan must describe existing household hazardous waste management programs including collection, separation from mixed municipal solid waste, and education and promotion to reduce the use of household hazardous waste.

Subp. 4. **Specific programs to be developed.** The plan must describe the household hazardous waste programs that the county or district proposes to maintain or implement during the next ten years, including the responsible persons and estimated staff time necessary to develop and manage each program. These programs must include a broad-based public education component, a strategy for reduction of household hazardous waste, and a strategy for separation of household hazardous waste from mixed municipal solid waste and the collection, storage, and proper management of that waste.

Subp. 5. **Program budget.** The plan must estimate the annual costs to be incurred by the county or district in implementing and maintaining the household hazardous waste management programs during the next ten years, including itemized capital and operating costs.

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by Revisor _____

Subp. 6. **Schedule of implementation.** The plan must include a schedule for the implementation of the proposed household hazardous waste management programs described in this part.

9215.0690 DEMOLITION DEBRIS.

Subpart 1. **Content.** The plan must include the information in this part on demolition debris management programs and practices in the county or district.

Subp. 2. **Policies and goals.** The plan must contain a description of the demolition debris management goals and policies that the county or district has established.

Subp. 3. **Existing demolition debris practices.** The plan must describe demolition debris practices and programs including private and public sector Pollution Control Agency permitted facilities.

Subp. 4. **Specific programs to be developed.** The plan must describe the demolition debris programs that the county or district proposes to maintain or implement during the next ten years, including the responsible persons and estimated staff time necessary to implement and manage each program.

Subp. 5. **Program budget.** The plan must estimate the annual costs to be incurred by the county or district for demolition debris programs for the next ten years, including itemized capital and operating costs.

Subp. 6. **Schedule of implementation.** The plan must include a schedule for the implementation of the proposed demolition debris programs.

9215.0700 SOLID WASTE ORDINANCE.

Subpart 1. **Content.** The plan must include the information in this part on the solid waste management ordinance in the county or district.

Subp. 2. **Status of solid waste ordinance.** The plan must describe the status of the county's or district's solid waste ordinance. The plan must list any problems with implementing or enforcing the current ordinance. The plan must include a copy

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of the county or district solid waste ordinance as an appendix item in the plan.

Subp. 3. **Ordinance amendments.** The plan must describe any planned amendments to the county solid waste ordinance. The description must include the responsible persons and estimated staff time necessary annually to monitor or enforce the ordinance.

9215.0710 SOLID WASTE STAFF.

Subpart 1. **Content.** The plan must include the information in this part regarding the county or district solid waste staff.

Subp. 2. **Existing county or district solid waste staff.** The plan must describe existing levels of staffing for solid waste programs in place throughout the county or district.

Subp. 3. **Future staffing needs.** The plan must include estimates of staffing needed to implement the programs described in the plan.

9215.0720 SOLID WASTE PROGRAM FUNDING.

Subpart 1. **Content.** The plan must include the information in this part regarding the county or district solid waste program funding.

Subp. 2. **Policies and goals.** The plan must contain a description of the future solid waste program funding goals and policies that the county or district has established.

Subp. 3. **Existing solid waste funding practices.** The plan must include a description of the county's or district's existing solid waste management financing mechanisms. The plan must indicate the current year and future projected amounts and sources of funding for solid waste programs including:

A. tipping fees at solid waste transfer, processing, and disposal facilities; and

B. governmental subsidies of waste management.

9215.0730 PLAN REVIEW AND FIVE-YEAR UPDATE.

The plan must contain a description of the process and timelines for developing the county's or district's five-year

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update.

9215.0740 GOAL-VOLUME TABLE.

The plan must include a numeric presentation of the county's or district's goals and the volumes of solid waste to be managed for a ten-year period immediately following plan approval. It must include the recycling goal as required in Minnesota Statutes, section 115A.551; an estimate of land disposal capacity needed for the ten-year period in acre feet, tons, and cubic yards; and an estimate of remaining capacity at land disposal facilities that will be used. The table must be on a format approved by the director.

9215.0750 ITEMIZED SOLID WASTE BUDGET.

The plan must include a projected ten-year county or district solid waste budget. The budget must include itemized capital and operating costs for each major solid waste program and the annual cost per ton and cost per household. The budget must be in a format approved by the director. A narrative discussion of the financial assumptions used in development of the budget shall be included.

9215.0760 ALTERNATIVES TO PROPOSED SYSTEM.

The plan must include a description of the process that the county or district will use to evaluate, identify, and implement alternatives to the proposed system if the system described in parts 9215.0620 to 9215.0640 is not developed or has major operational difficulties.

9215.0770 ENVIRONMENTAL RISKS.

Subpart 1. **Content.** In addition to the discussion of environmental and public health impacts required in parts 9215.0610 to 9215.0640 the plan must address the county's or district's plans and programs for mitigating the environmental risks associated with each item identified.

Subp. 2. **On-site disposal.** The plan must describe plans and programs for mitigating impacts to air, surface water, and groundwater and avoiding nuisance conditions from the on-site

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disposal of mixed municipal solid waste at farms or households.

Subp. 3. **Illegal disposal.** The plan must describe plans and programs for mitigating impacts to air, surface water, and groundwater from the practice of illegal disposal.

9215.0780 SOLID WASTE FACILITY SITING PROGRAM.

Plans that indicate the development of new or expanded waste facilities must contain a detailed siting procedure and development program to ensure the orderly location, permitting, development, and financing of new or expanded solid waste facilities and services sufficient for the ten-year planning period. The procedure and program must be consistent with applicable rules of the office, the Pollution Control Agency, the Department of Natural Resources, the Environmental Quality Board, and other state agencies. The procedure and program must include siting criteria and a program for public participation.

9215.0790 PUBLIC PARTICIPATION.

Subpart 1. **Documentation.** The plan must explain the methods for documenting public participation during the development and implementation of the solid waste management plan. The plan must include the location of where documentation of public input by interested parties including citizens, public advisory committees, regional authorities, adjacent counties or districts, local units of government, and waste service companies conducting business within the county or district is kept.

Subp. 2. **Ongoing public input.** The county or district shall describe a process to ensure the ongoing involvement of and consultation with persons who are concerned with solid waste management including those listed in subpart 1.

REGIONAL PLANNING

9215.0800 REGIONAL PLANNING.

A joint plan, plan update, or plan amendment may be submitted by a regional planning group formed through a joint powers agreement. It must:

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A. indicate how each county or district in the region will comply with the county or district goals or responsibilities prescribed in statute or rule;

B. be adopted by each participating county and district; and

C. delineate the responsibility of each county or district and the joint powers board with respect to implementation of the joint plan, plan update, or plan amendment.

APPROVAL AND SUBMITTAL OF PLANS, PLAN UPDATES, AND PLAN AMENDMENTS

9215.0810 REQUIREMENTS FOR PLAN, PLAN UPDATE, AND PLAN AMENDMENT APPROVAL.

Subpart 1. **Goals and objectives.** Each solid waste management plan including updates and amendments, when necessary, must provide for the implementation of policies and programs that are designed to achieve the state policy as declared by Minnesota Statutes, section 115A.02, of reducing the need for land disposal of unprocessed mixed municipal solid waste to the maximum extent possible.

Subp. 2. **Ten-year plan.** Each plan must address the county's or district's methods for managing solid waste in the county or district for the ten-year period immediately following adoption of the plan.

Subp. 3. **Land disposal reduction.** Each solid waste management plan must contain an integrated solid waste management system to achieve the most feasible and prudent reduction in the need for and practice of land disposal of mixed municipal solid waste. Plans proposing land disposal as the primary management method must contain technical, financial, and other documentation demonstrating that there are no solid waste management alternatives available to manage the solid waste stream that are more feasible and prudent than the proposed land disposal. Economic considerations alone will not justify the rejection of alternatives to land disposal. In determining feasibility and prudence, the office shall consider the factors

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in items A to C.

A. The plan must include a review of whether the proposed system is based on proven methods and technologies capable of commercial-scale application and whether the technologies can be successfully put into practice. Alternatives that are experimental or theoretical and cannot be put into commercial-scale application will not be considered feasible and prudent.

B. The plan must indicate whether the proposed system can be implemented consistent with projected revenues and budgets for solid waste management as prepared under part 9215.0750.

C. The plan must indicate whether the proposed system promotes solid waste management practices that minimize adverse impacts on natural resources.

9215.0820 SUBMITTAL OF PLANS, PLAN UPDATES, AND PLAN AMENDMENTS FOR APPROVAL.

Subpart 1. **Draft plan.** A county or district seeking approval of a solid waste management plan shall submit its draft plan to the director. The draft plan must contain the information required in parts 9215.0540 to 9215.0790.

Subp. 2. **Plan update.** A county or district seeking approval of a plan update shall submit updated information required by parts 9215.0540 to 9215.0790 to the director. In addition, the county or district shall provide in the update:

A. an evaluation of the progress that has been made since approval of the plan to achieve the goals and policies of the programs proposed in the existing plan;

B. a discussion of the problems that have been encountered by the county or district in implementing the existing plan and the solutions established;

C. a discussion of the changes in the updated plan from the existing plan; and

D. information required by new statutes or rules that have been adopted since the existing plan was approved.

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Subp. 3. **Plan amendment.** A county or district seeking approval of a plan amendment shall submit the amendment to the director. The county or district shall include the following information in its amendment:

A. the reasons for the proposed plan amendment;

B. the benefits of the changes proposed in the plan amendment, including: the purposes achieved by the conservation and recovery of resources and the furtherance of any regional waste management programs;

C. the consistency of the amendment with the policies and purposes expressed in Minnesota Statutes, section 115A.02;

D. updated goals and a revised goal-volume table as required in part 9215.0740;

E. an updated itemized solid waste budget for the county or district as required in part 9215.0750;

F. updated implementation information relevant to the changes proposed by the county or district as required in parts 9215.0570 to 9215.0800;

G. updated information on environmental risk as required in part 9215.0770 and updated waste facility siting information as required by part 9215.0780 if new information relating to planned activities has been developed since approval of the plan or plan update; and

H. for amendments that would result in an increase in the previously certified need for land disposal, documentation that the revised system is now the most feasible and prudent for the county or district.

Subp. 4. **Format.** A county or district submitting a plan, plan update, or plan amendment to the director for approval shall submit two copies of the plan and accompanying information. The plan must be in a three-ring binder, single-spaced, and printed on both sides if possible.

9215.0830 TIMING OF SUBMITTAL.

Subpart 1. **Submittal of plan.** A county or district that has not submitted a solid waste management plan by the effective

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date of this chapter shall submit a draft plan to the office within 90 days of that date.

Subp. 2. **Submittal of plan update.** Each county or district shall submit a plan update to the office when six months remains on the approval of the latest plan.

Subp. 3. **Submittal of plan amendment.** Each county or district shall submit a plan amendment according to items A to C.

A. Each county or district shall submit an amendment to the approved plan when the county or district is proposing to make substantial changes in its solid waste management system from what was contained in the approved plan.

B. If the director determines that an amendment to the plan is required due to substantial changes in solid waste management in the county or district, including, but not limited to, an increase in the amount of waste needing land disposal, the director shall notify the county or district in writing of the need to amend its plan. The county or district shall have six months from the receipt of notice to submit an amendment to the director.

C. If changes in statute or rule require plans to be amended on a schedule other than indicated in plan approval, the county or district shall submit a plan amendment in accordance with statutory and rule requirements.

9215.0840 REVIEW BY OFFICE OF WASTE MANAGEMENT.

Subpart 1. **Preliminary review.** On receipt of a draft plan, plan update, or plan amendment, the director shall review the draft and notify the county or district of any part of the submittal that requires redrafting and resubmittal. The office shall complete its review of the draft plan, plan update, or plan amendment within 45 days of receipt.

Subp. 2. **Supplemental information.** If advised by the office that a redraft and resubmittal are necessary, the county or district shall submit its redraft to the director within 90 days of the director's request for a redraft. The redraft shall be reviewed according to the procedures in subpart 1.

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Subp. 3. **Preliminary decision to approve plan.** The director shall make a preliminary decision to approve a plan, plan update, or plan amendment within 90 days of the county's or district's submittal of a draft and all additional information required by the director. When the director makes a preliminary decision to approve a plan, plan update, or plan amendment, the director shall provide public notice of the preliminary decision and an opportunity for public comment in accordance with parts 9215.0850 and 9215.0860.

Subp. 4. **Preliminary decision to disapprove plan.** If the county or district does not resubmit a redraft and other additional information in response to a request by the director for the information, the director shall notify the county or district that the director intends to disapprove the plan, plan update, or plan amendment.

9215.0850 PUBLIC NOTICE AND PUBLIC COMMENT.

Subpart 1. **Public notice.** The director shall prepare and issue a public notice of the director's preliminary decision to approve a plan, plan update, or plan amendment. The public notice must include, at a minimum:

A. the business address and telephone number of the county or district chair, address and telephone number of the office, and a statement that additional information may be obtained at these offices;

B. a brief description of the solid waste management plan or plan update or plan amendment, the duration of the approval, and any conditions of the approval;

C. a brief description of the procedures the office will use to reach a final decision on approval of the plan or plan update or plan amendment, including procedures for requesting that the county or district hold a public informational meeting; and

D. a statement that during the public comment period a person may submit comments to the office on the plan, plan update, or plan amendment, a statement of the dates on which the

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public comment period begins and ends, and a statement of the information a person is required to include in the comments.

Subp. 2. **Distribution of public notice.** The director shall distribute the public notice by:

A. making a copy of the public notice available at the office;

B. mailing a copy of the public notice to the chair of the county or district whose plan is subject to approval and to the Pollution Control Agency; and

C. by posting the notice in a building or buildings used by the general public in the county or district whose plan, plan update, or plan amendment is subject to approval, and by placing an advertisement containing the information required in subpart 1 in one or more newspapers of general circulation in the county or district.

Subp. 3. **Public comments.** The public shall have a minimum of 30 days to comment on the director's preliminary decision to approve a plan, plan update, or plan amendment. All comments shall be submitted in writing. Comments must include the following:

A. a statement of the person's interest in the plan, plan update, or plan amendment;

B. a statement of the action the person wishes the director to take, including specific references to the plan, plan update, or plan amendment that the person believes should be changed; and

C. the reasons for the person's position, stated with sufficient specificity to allow the director to assess the merits of the person's statements.

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

9215.0860 PUBLIC INFORMATIONAL MEETING.

Subpart 1. **Request.** A person may request the director to

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hold a public informational meeting on a plan, plan update, or plan amendment. A person requesting a public informational meeting shall submit the following information as part of the request:

A. a statement why a public informational meeting is necessary;

B. the issues the director should address at the public informational meeting; and

C. a proposed time and place for the public informational meeting.

Subp. 2. **Decision to hold public informational meeting.** If the director determines that a public informational meeting would help clarify and resolve issues regarding the plan or plan update or plan amendment, the director shall hold a public informational meeting. The director may decide to hold a public informational meeting without receiving a request from the public.

Subp. 3. **Location of meeting.** The director must hold the public informational meeting in the geographical area of the county or district included in the plan, plan update, or plan amendment.

Subp. 4. **Notice of public informational meeting.** The director shall prepare a notice of the public informational meeting. The notice must contain a reference to the public notice of the preliminary approval of the plan, plan update, or plan amendment, including the dates of issuance of the public notice; the date, time, and location of the public informational meeting; a concise description of the manner in which the public informational meeting will be conducted; and the issues to be discussed.

Subp. 5. **Distribution of notice.** The director shall publish the notice in a newspaper of general circulation in the geographical area of the plan or plan update or plan amendment, and shall mail a copy of the notice to the county or district and all other persons determined by the director to have an interest in the plan, plan update, or plan amendment.

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Subp. 6. **Joint meeting.** If the director determines that no person would be adversely affected by consolidating two or more plans, plan updates, or plan amendments into one public informational meeting, the director may elect to do so.

9215.0870 FINAL DECISION.

Subpart 1. **Record.** The director shall consider all information submitted by the county or district in seeking approval of its plan, plan update, or plan amendment and all information received from the public during the public comment period and all information submitted during the public informational meeting if one was held in making a final decision on the plan, plan update, or plan amendment.

Subp. 2. **Notification.** The director shall notify the county or district and all persons who submitted public comments or participated in a public informational meeting of the final decision on the plan, plan update, or plan amendment.

Subp. 3. **Approval of plan.** The director shall approve those plans, plan updates, and plan amendments that meet the requirements of parts 9215.0540 to 9215.0790 and 9215.0810. The director's approval shall remain in effect for five years unless the director determines that a shorter period of time is required to ensure that the county or district implements the plan.

Subp. 4. **Approval of amendment.** The approval of a plan amendment shall not change the due date of the county's or district's next plan update unless the director determines in the decision approving the amendment that the amendment eliminates the need to update the plan. If so, the director shall determine when the next update will be required.

Subp. 5. **Resolution.** Before final approval of the plan, plan update, or plan amendment, the director shall request the county or district to submit a certified copy of a resolution, passed by the county or district, that approves the plan, plan update, or plan amendment as the county's or district's solid waste management plan. No approval by the director of a plan,

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plan update, or plan amendment shall be final until a resolution is received by the office.

Subp. 6. **Submittal of final plan.** On final approval of a plan, plan update, or plan amendment, the county or district shall submit two copies of the final plan to the director. The plan must be submitted in a three-ring binder, must be single-spaced, and must be printed on both sides of the page if possible.

9215.0880 REVOCATION OF APPROVAL.

Subpart 1. **Failure to implement.** The director shall require the county or district to amend its plan pursuant to part 9215.0820, subpart 3, if the director determines that a county or district has failed to implement substantial programs contained in the plan as approved.

Subp. 2. **Failure to amend.** The director shall revoke the approval of a plan if the director determines that a county or district has failed to submit a plan amendment within six months of being notified by the director that an amendment is required.

CERTIFICATE OF NEED

9215.0890 CERTIFICATE OF NEED.

Subpart 1. **Scope.** Applicants for permits for existing or proposed disposal facilities located outside of the metropolitan area cannot be issued a permit for new capacity for disposal of unprocessed mixed municipal solid waste without a certificate of need issued by the office. No state or local government body shall issue a permit for disposal of unprocessed mixed municipal solid waste until a certificate of need is issued by the office.

Subp. 2. **Timing.** The office shall review requests for a certificate of need submitted by an applicant of a proposed or existing disposal facility. The request must be submitted before a preliminary permit application is submitted to the Pollution Control Agency. The office shall review the request for a certificate of need within 90 days of submittal of a completed request.

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9215.0900 CONTENT OF CERTIFICATE OF NEED REQUEST.

Subpart 1. **Scope.** The certificate of need request shall contain the information described in this part.

Subp. 2. **Annual solid waste estimates.** The request shall include estimates of the amount and type of solid waste to be managed annually at the facility during its design life.

Subp. 3. **Origin of waste.** The request shall include identification of the origin of the solid waste including estimates of the amount of solid waste to be received annually from each county or district of origin. Information about quantities of solid waste from counties or districts outside the metropolitan area shall be based on information in approved county solid waste management plans. Information about quantities of solid waste from counties or districts within the metropolitan area shall be based on information in approved county or district solid waste master plans. If an approved county or district solid waste management plan or master plan does not state that solid waste from a county or district will be managed at the proposed facility, the request shall include a letter from the county or district board of the county or district generating the solid waste indicating that in the county's or district's best estimate the amount of solid waste in question is available for management at the proposed facility. The letter must be consistent with the approved plan and the plan amendment requirements of part 9215.0810.

Subp. 4. **Alternatives.** The request shall include an analysis of alternatives to the new or expanded disposal capacity if the new capacity has not been included in the approved county solid waste management plan or county master plan.

Subp. 5. **Estimate errors.** If the amount of new capacity needed is greater than the amount identified in the approved plan due to erroneous assumptions concerning the amount of solid waste generated, the application must document the basis for calculating the amount of capacity needed in lieu of an analysis of alternatives.

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9215.0910 PUBLIC INFORMATIONAL MEETING ON CERTIFICATE OF NEED REQUEST.

The office may hold a public informational meeting on its preliminary determination to approve or deny the request for a certificate of need if the director determines that a public informational meeting would help to clarify and resolve issues regarding the certificate of need request.

9215.0920 APPROVAL OF CERTIFICATE OF NEED.

The office shall issue a certificate of need to the owner or operator of a proposed or existing disposal facility outside of the metropolitan area if the office determines that the additional disposal capacity is needed.

9215.0930 FINAL DECISION.

The office shall make a final decision on a request for a certificate of need within 90 days after determining that a request is complete or after holding a public informational meeting.

9215.0940 REVOCATION OF CERTIFICATES OF NEED.

The office shall revoke or revoke and reissue the certificate of need if the director determines that the information contained in the certificate of need is no longer accurate or that the owner or operator of the disposal facility has not fulfilled all applicable state and federal requirements.

9215.0950 REVIEW AND EXPIRATION OF EXISTING CERTIFICATES OF NEED.

Certificates of need issued prior to the effective date of this chapter will be considered to be documentation of the land disposal needs of the county or district and will expire at the time of the county's or district's next plan update. The director shall reissue a certificate of need if the director determines that the certificate of need is required based on the provisions of parts 9215.0890 to 9215.0930.

REPEALER. Minnesota Rules, parts 9215.0100; 9215.0110; 9215.0120; 9215.0130; 9215.0140; 9215.0150; 9215.0160;

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9215.0170; 9215.0180; 9215.0190; 9215.0200; 9215.0210; 9215.9220; 9215.0230; 9215.0240; 9215.0250; 9215.0300; 9215.0310; 9215.0320; 9215.0330; 9215.0340; 9215.0350; 9215.0360; 9215.0370; 9215.0380; 9215.0390; 9215.0400; 9215.0410; and 9215.0420, are repealed.

Approved
by Revisor _____

APPROVED AS TO FORM AND LEGALITY
Nov 10 1992
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
NOV 9 1992
Joan Anderson Growe
Secretary of State

12:30 PM
PB

Stat Authority

Unless otherwise provided, the office shall promulgate rules in accordance with chapter 15 to govern its activities and implement sections 115A.01 to 115A.72.

End of comment period September 14, 1992

repealing old rules changing new rules

Office of the Revisor of Statutes

Administrative Rules

Carla M. Riehle
Assistant Revisor
297-2948 Fax: 296-0569

700 State Office Building
100 Constitution Avenue
St. Paul, MN 55155-1297

October 21, 1992

David Benke
Office of Waste Management
1350 Energy Lane
St. Paul, MN 55108

RE: File No. 1980

Dear Mr. Benke:

Enclosed are four copies of your rule with the modifications you requested.

Please submit the rules to the Attorney General or the Office of Administrative Hearings, as appropriate.

If you have any questions or need further modifications, please call me.

Very truly yours,

Carla M. Riehle

STATE OF MINNESOTA
OFFICE OF WASTE MANAGEMENT

In the Matter of the Proposed Rules Governing Comprehensive Solid Waste Planning and Certificate of Need Issuance, Minnesota Rules Parts 9215.0500 to 9215.0950

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES

The above-entitled matter came for decision before the Director of the Minnesota Office of Waste Management (Office) on the 27th day of October, 1992. After affording all interested persons the opportunity to present written and oral data, statements and arguments to the Office, in accordance with statutory requirements regarding rules adopted without a public hearing, after considering the Statement of Need and Reasonableness, after considering all of the evidence adduced upon the records, files and proceedings herein, the Office, being fully advised in the premises, hereby adopts the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

1. Notice of the Office's intent to adopt the above-entitled rules without a public hearing was published in the State Register on August 10, 1992, and was sent by mail on August 6, 1992 to all persons on the list maintained by the Office pursuant to Minn. Stat. §§14.14, subd. 1a and 14.22.

2. The Statement of Need and Reasonableness was prepared prior to mailing and publication of the notice and was made available to the public.

3. All persons were given the opportunity to submit comments on the rule for 30 days after notice of proposed rulemaking. The 30-day comment period, as set out in the notice, expired on September 14, 1992.

4. Two requests for public hearing were received during the comment period.

5. No requests for notice of submission to the Attorney General were received by the Office.

6. During the comment period the Office received seven written and three oral comments which are summarized in two memorandums to the file, by D. Benke, dated September 11, 1992, and October 23, 1992. On the basis of these comments, the Office finds that the following modification to the proposed rules are justified:

Part 9215.0510, subpart 24 (definition of yard waste) is modified to include the phrase "tree and shrub waste" This modification will make the rule consistent with Minn. Stat. § 115A.931(b) which was amended in 1992 to include tree and shrub waste in the definition of yard waste. The modification is not a substantial change because the rules require solid waste management plans to address yard waste which the statute now defines to include tree and shrub wastes. This modification is reasonable because it makes this definition consistent with the statute.

7. The Office adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the proposed rules. The Office hereby incorporates the Statement of Need and Reasonableness into these findings, except as modified in Finding No. 6 above.

8. The above-captioned rule is needed and reasonable.

CONCLUSIONS

1. The Minnesota Office of Waste Management duly acquired and has jurisdiction over this proceeding.

2. The Office published and served due, timely, and adequate notice of the intent to adopt the rules without a public hearing.

3. The Office has complied with all relevant legal and procedural requirements of statute and rule.

4. The modifications to the proposed rules are supported by the record and do not result in a substantial change in the proposed rules.

ORDER

NOW, THEREFORE, IT IS ORDERED, that the attached Minnesota Rules parts 9215.0500 to 9215.0950, governing Comprehensive Solid Waste Management Planning and Certificate of Need Issuance, are adopted pursuant to the authority vested in the Minnesota Office of Waste Management by Minn. Stat. § 115A.06, subd. 2.

MINNESOTA OFFICE OF WASTE MANAGEMENT

Dottie Rietow

Dated: 10-27-92

Dottie Rietow
Director

STATE OF MINNESOTA
OFFICE OF WASTE MANAGEMENT

In the Matter of the Proposed Rules
Governing Solid Waste Management
Planning and Certificate of Need
Issuance, Minn. Rules Parts 9215.0500 to
9215.0950

DECLARATION OF COUNSEL

I, Beverly Conerton, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rules and the supporting rulemaking record, and that, based on my examination, the Administrative Procedures Act and Minnesota Rules ch. 2010 have been followed. For Attorney General billing purposes, the four-digit docket client code is 0836.

Beverly Conerton

Beverly Conerton 10/27/92
Special Assistant
Attorney General

MINNESOTA
OFFICE
OF WASTE
MANAGEMENT

1350 Energy Lane
St. Paul, Minnesota 55108
(612) 649-5750
MN Toll Free
1-800-652-9747

RECEIVED
OCT 29 1992
Office of the Attorney General
Government Services Section
Capitol Office Bldg. # Suite 500
525 Park Street
St. Paul, MN 5510

October 27, 1992

Ms. Patti Nolte
Office of the Attorney General
525 Park Street, Suite 500
Saint Paul, Minnesota 55103

Dear Ms. Nolte:

Re: In the Matter of Proposed Rules Governing Comprehensive Solid Waste Management Planning and Certificate of Need Issuance, Minn. Rules Parts 9215.0500 to 9215.0950

On October 27, 1992, the Minnesota Office of Waste Management (OWM) adopted the above-captioned rules governing solid waste planning and certificate of need issuance. On behalf of the OWM, I am submitting these rules to you for review under Minn. Stat. section 14.26.

Pursuant to Minn. Rules pt. 2010.0300, I have enclosed the following:

1. The Notice of Intent to Solicit Outside Opinion (14 SR 2896, July 11, 1990);

2. Rules proposed, approved as to form by the Revisor of Statutes;

3. The Statement of Need and Reasonableness;

4. The Notice of Intent to Adopt Rules Without a Public Hearing as published in the State Register (17 SR 271, August 10, 1992);

5. The Notice of Intent to Adopt Rules Without a Public Hearing, as mailed;

6. The Affidavit of Mailing the Notice of Intent to Adopt Rules Without a Public Hearing and Certificate of Mailing List;

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7. All written requests, submissions, and comments on the rules received by the Office, except requests solely for copies of the rules or of the Statement of Need and Reasonableness;

8. The Findings of Fact, Conclusions and Order Adopting the Rules (two copies);

9. Rules as adopted (four copies). All modifications made to the rules as adopted are reflected on the rules and approved as to form by the Revisor of Statutes;

10. The Declaration of Counsel; and

If you have questions regarding these rules, please call me at (612) 649-5773.

Sincerely,

David J. Benke

David J. Benke
Local Government Assistance

DB:ks

Enclosures

Office of Waste Management

Proposed Permanent Rules Relating to Solid Waste Planning and Certificate of Need Issuance

Rules as Proposed (all new material)

GENERALLY

9215.0500 PURPOSE.

The purpose of this chapter is to establish requirements for the preparation and implementation of solid waste management plans, plan updates, and plan amendments by counties and solid waste management districts outside of the seven-county metropolitan area. The plans, plan updates, and plan amendments must be approved by the Office of Waste Management.

9215.0510 DEFINITIONS.

Subpart 1. **Scope.** As used in this chapter, the terms defined in this part have the meanings given them.

Subp. 2. **Ash.** "Ash" means the incombustible material that remains after a fuel, including solid waste, is incinerated.

Subp. 3. **Composting.** "Composting" means the controlled microbial degradation of organic waste to yield a humus-like product.

Subp. 4. **County.** "County" means a county board of commissioners, established outside the metropolitan area.

Subp. 5. **Demolition debris.** "Demolition debris" means solid waste resulting from the demolition of buildings, roads, and other artificial structures including concrete, brick, bituminous concrete, untreated wood, masonry, glass, trees, rock, and plastic building parts. Demolition debris does not include asbestos wastes.

Subp. 6. **Director.** "Director" means the director of the Office of Waste Management.

Subp. 7. **Disposal facility.** "Disposal facility" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 10.

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Subp. 8. **District.** "District" means the Western Lake Superior Sanitary District Board or a board established outside the metropolitan area as a solid waste management district pursuant to Minnesota Statutes, sections 115A.62 to 115A.72.

Subp. 9. **Major appliances.** "Major appliances" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 17a.

Subp. 10. **Metropolitan area.** "Metropolitan area" has the meaning given it in Minnesota Statutes, section 473.121, subdivision 2.

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

Subp. 12. **Office.** "Office" means the Office of Waste Management.

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

Subp. 14. **Plan.** "Plan" means a solid waste management plan prepared under this chapter.

Subp. 15. **Plan amendment.** "Plan amendment" means a document that is submitted to the Office of Waste Management by a county or district when required by this chapter.

Subp. 16. **Plan update.** "Plan update" means the update of the comprehensive solid waste management plan required by Minnesota Statutes, section 115A.46, and this chapter.

Subp. 17. **Recyclable materials.** "Recyclable materials" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 25a.

Subp. 18. **Recycling.** "Recycling" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 25b.

Subp. 19. **Resource recovery.** "Resource recovery" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 27.

Subp. 20. **Solid waste.** "Solid waste" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 31.

Subp. 21. **Solid waste management.** "Solid waste management"

Approved
by Revisor _____

means activities which are intended to affect or control the generation of solid waste and activities which provide for or control the collection, processing, and disposal of solid waste.

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

Subp. 23. **Waste reduction.** "Waste reduction" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 36a.

Subp. 24. **Yard waste.** "Yard waste" means the garden wastes, leaves, lawn cuttings, weeds, and prunings generated at residential, commercial, industrial, or institutional properties.

9215.0520 APPLICABILITY.

This chapter applies to all counties and districts outside of the metropolitan area.

COUNTY AND DISTRICT PLANS

9215.0530 OBLIGATIONS OF COUNTIES AND DISTRICTS.

Subpart 1. **Implementation.** Each county or district shall maintain and implement a solid waste management plan that has been approved by the office.

Subp. 2. **Sanctions.** A county or district that fails to gain approval and maintain and implement an approved solid waste management plan is in violation of Minnesota Statutes, section 115A.46, and this chapter.

9215.0540 CONTENTS OF PLANS, UPDATES, AND AMENDMENTS.

County and district solid waste management plans, including updates and amendments, when necessary, must describe solid waste management programs for a ten-year period immediately following plan approval and must contain the information required by parts 9215.0550 to 9215.0790.

9215.0550 EXECUTIVE SUMMARY.

A plan must include an executive summary that provides an overview of the county's or district's solid waste management system proposed in the plan.

Approved
by Revisor _____

9215.0560 BACKGROUND INFORMATION.

Subpart 1. **Scope.** A plan must contain narrative descriptions and numeric estimates described in this part.

Subp. 2. **Demographic information.** The plan must include demographic information that relates directly to the generation or management of solid waste in the county or district, including current population distribution, population projections for the next ten years, land use, employment, local economic conditions, and median household income.

Subp. 3. **Solid waste collection and generation.** The plan must include the following solid waste collection and generation information:

A. an estimate of the amount of solid waste generated annually in the county;

B. an estimate of the percentages of city and rural residents with solid waste collection service;

C. an estimate of the annual percentage of solid waste disposed of on site by generators;

D. the solid waste collection and disposal rate structure, including the current range of residential collection rates, the current range of commercial/industrial collection rates, and financial incentives for waste reduction and recycling;

E. a description of the composition of the overall solid waste generated in the county or district; and

F. an estimate of the annual percentage of solid waste from residential and commercial/industrial waste generators.

Subp. 4. **Demolition debris.** The plan must include an estimate of the quantity of demolition debris generated annually in the county or district.

Subp. 5. **Major solid waste generators.** The plan must include identification of the major commercial, industrial, and institutional solid waste generators in the county or district, including estimates of the volumes and types of solid waste

Approved
by Revisor _____

generated annually.

Subp. 6. **Solid waste planning history.** The plan must describe the history of solid waste planning in the county or district for the previous five years and must:

A. include a description of any current local and regional planning activities;

B. include a description of past impediments or barriers to the development of projects on a regional basis; and

C. address the resolution of conflicting, duplicative, or overlapping local solid waste management efforts.

9215.0570 ASSESSMENT OF ALTERNATIVES TO A LANDFILL-BASED DISPOSAL SYSTEM.

Subpart 1. **Content.** The plan shall include a discussion of landfill abatement alternatives according to this part.

Subp. 2. **Currently using resource recovery.** A county or district that is currently using resource recovery to manage the majority of its solid waste by volume shall evaluate its resource recovery programs to identify opportunities for maximizing resource recovery and minimizing land disposal.

Subp. 3. **Proposing resource recovery.** A county or district that is proposing a resource recovery system must identify mixed municipal solid waste processing alternatives that the county or district analyzed before choosing the proposed system. The assessment shall include a financial analysis, discussion of environmental impacts, and plans and schedules for future studies of the most feasible alternatives analyzed. The county or district must explain why any technologies were eliminated from consideration.

Subp. 4. **Landfill-based system.** If the county proposes to manage the majority of its solid waste for the ten-year period through land disposal, the plan must demonstrate in practical and financial terms why alternative recovery options such as mixed municipal solid waste composting or incineration are not the most feasible and prudent alternatives. The plan must include an environmental, financial, and technical analysis of

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by Revisor _____

the following:

A. existing facilities available for use; and

B. technologies available for use or development including mixed municipal solid waste composting, co-composting, refuse-derived fuel processing, and incineration. In addition, the county or district shall develop ten-year system cost projections for the most feasible of the technologies or facilities that the county or district considered. This analysis shall include a ten-year system cost projection for at least one of the following management systems: solid waste composting, co-composting, refuse-derived fuel processing, or incineration.

9215.0580 SOLID WASTE REDUCTION.

Subpart 1. **Content.** The plan must include the information on solid waste reduction programs and practices in the county or district described in this part.

Subp. 2. **Policies and goals.** The plan must contain a description of the solid waste reduction policies and goals established by the county including the annual amount or quantity of solid waste to be reduced.

Subp. 3. **Existing solid waste reduction practices.** The plan must describe existing public and private sector solid waste reduction programs in place in the county or district.

Subp. 4. **Specific solid waste reduction programs to be developed.** The plan must describe the solid waste reduction programs that the county or district proposes to maintain or implement in the next ten years, including the responsible persons and annual staff time necessary to implement and manage each program.

Subp. 5. **Program budget.** The plan must identify annual costs that will be incurred by the county or district in implementing and managing solid waste reduction programs.

Subp. 6. **Schedule of implementation.** The plan must include a schedule for the implementation of proposed solid waste reduction programs described in this part.

Approved
by Revisor _____

9215.0590 SOLID WASTE EDUCATION.

Subpart 1. **Content.** The plan must include the information regarding the solid waste education programs and practices in the county or district described in this part.

Subp. 2. **Policies and goals.** The plan must contain a description of the solid waste education policies and goals that the county or district has established and must describe the promotional program that includes publishing quarterly articles pursuant to Minnesota Statutes, section 115A.552, subdivision 3, paragraph (a).

Subp. 3. **Existing solid waste education practices.** The plan must describe existing public and private sector solid waste education programs including solid waste education providers and annual financial and staff commitment in the county or district.

Subp. 4. **Specific programs to be developed.** The plan must describe the solid waste education programs that the county or district proposes to maintain or implement, including the responsible persons and estimated staff time necessary to implement and manage each program.

Subp. 5. **Program budget.** The plan must include the projected annual costs incurred by the county or district for implementing and managing the solid waste education program, including staff time, advertising or publicity materials, and other associated costs, and annual costs for the next ten years.

Subp. 6. **Schedule of implementation.** The plan must include a schedule for the implementation of proposed solid waste education programs described in this part.

9215.0600 RECYCLING.

Subpart 1. **Content.** The plan must include the information on the recycling programs and practices in the county or district described in this part.

Subp. 2. **Policies and goals.** The plan must contain a description of the recycling goals and policies that the county or district has established to meet or exceed the recycling goal

Approved
by Revisor _____

requirements in Minnesota Statutes, section 115A.551, subdivision 2, the opportunity to recycle requirements in Minnesota Statutes, section 115A.552, and the organized collection requirements of Minnesota Statutes, section 115A.94.

Subp. 3. **Existing recycling practices.** The plan must:

A. describe the existing public and private sector recycling system in the county or district including collection, processing, and marketing, including the number of haulers operating in the county or district and collection or processing facilities used by haulers in the county or district; and

B. identify the annual recycling tonnages collected, processed, and marketed by sector or program, for the last two years, if available, the county's annual financial and staff commitment, and local market conditions for recyclable materials.

Subp. 4. **Specific programs to be developed.** The plan must describe the recycling programs that the county or district proposes to maintain or implement during the next ten years. The description shall include the responsible persons and estimated annual staff time necessary to implement and manage each program.

Subp. 5. **Program budget.** The plan must estimate the annual costs to be incurred by the county or district in implementing and managing recycling programs over the next ten years, including itemized capital and operating costs such as staff time, land, buildings, equipment, redemption costs, and other associated costs.

Subp. 6. **Schedule of implementation.** The plan must include a schedule for the implementation of proposed recycling programs described in this part.

9215.0610 YARD WASTE PROGRAMS.

Subpart 1. **Content.** The plan must include the information on the yard waste management programs and practices in the county or district described in this part.

Subp. 2. **Policies and goals.** The plan must:

A. contain a description of the yard waste separation

Approved
by Revisor _____

and composting goals and policies that the county or district has established;

B. describe methods for identifying the portions of the waste stream such as leaves, grass clippings, tree and plant residue, and paper for use in agricultural practices in accordance with Minnesota Statutes, section 115A.46, subdivision 2, paragraph (d); and

C. recognize the prohibition on disposal of yard waste in the land and at resource recovery facilities in Minnesota Statutes, section 115A.931.

Subp. 3. **Existing yard waste management programs.** The plan must describe existing public and private sector yard waste management programs in the county or district. The plan must also include an estimated level of backyard composting, the yard waste collection system including licensed haulers, if any; number of county, district, and municipal composting sites; tonnages collected for the last two years, if available; the county's or district's financial and staff commitment; and local market conditions for finished yard waste compost.

Subp. 4. **Specific programs to be developed.** The plan must describe the yard waste programs that the county or district proposes to maintain or implement during the next ten years, including the responsible persons and estimated staff time necessary to implement and manage each program.

Subp. 5. **Program budget.** The plan must estimate the annual costs to be incurred by the county or district in implementing and managing yard waste programs over the next ten years, including itemized capital and operating costs.

Subp. 6. **Schedule of implementation.** The plan must include a schedule for the implementation of proposed yard waste programs described in this part.

Subp. 7. **Environmental risks of yard waste management.** The plan must briefly describe any odor problems, leachate generation, or other impacts of yard waste management that have occurred in the county or district.

Approved
by Revisor _____

9215.0620 MIXED MUNICIPAL SOLID WASTE COMPOSTING.

Subpart 1. **Content.** The plan must include the information in this part on mixed municipal solid waste composting facilities if used or proposed to be used to manage all or a portion of the county's or district's mixed municipal solid waste.

Subp 2. **Policies and goals.** The plan must describe the county's or district's goals and policies on mixed municipal solid waste composting.

Subp. 3. **Existing mixed municipal solid waste composting facilities.** The plan must:

A. describe the mixed municipal solid waste composting facility or facilities where the county's or district's mixed municipal solid waste is managed; and

B. include information on facility operational history and management, removal of problem wastes, volumes managed, and compost marketing.

Subp. 4. **Environmental and public health impacts.** The plan must consider and evaluate known and potential environmental and public health impacts and propose a course of action to alleviate those impacts. The plan must include results of compost testing, results of inspection and monitoring by the appropriate state regulatory agency, and assessment of operational safety at the facility during the past two years.

Subp. 5. **Specific programs to be developed.** The plan must describe the mixed municipal solid waste composting facilities and programs that the county or district proposes to maintain, implement, or participate in during the next ten years, including the responsible persons and estimated staff time necessary to implement or manage each program.

Subp. 6. **Program budget.** The plan must estimate the annual costs to be incurred by the county or district in implementing and maintaining the mixed municipal solid waste composting programs during the next ten years, including itemized capital and operating costs.

Subp. 7. **Implementation timeline.** The plan must include a

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by Revisor _____

schedule for the implementation of the proposed mixed municipal solid waste composting programs described in this part.

9215.0630 SOLID WASTE INCINERATION AND ENERGY RECOVERY.

Subpart 1. **Content.** The plan must include the information in this part on solid waste incineration and energy recovery facilities if used or proposed to be used to manage all or a part of the county's or district's mixed municipal solid waste.

Subp. 2. **Policies and goals.** The plan must describe the county's or district's goals and policies on solid waste incineration and energy recovery.

Subp. 3. **Existing solid waste incineration and energy recovery facilities.** The plan must:

A. describe the facility or facilities where the county's or district's mixed municipal solid waste is or will be managed; and

B. include information on the operational history, removal of problem wastes, facility management, volumes managed for the past two years, and energy marketing.

Subp. 4. **Environmental and public health impacts.** The plan must consider and evaluate known and potential environmental and public health impacts and propose a course of action to alleviate those impacts. The plan must include results of ash and emissions testing, results of inspection and monitoring by the appropriate state regulatory agency, and assessment of operational safety at each facility during the past two years. The plan must include the plans and programs for reducing the toxicity and quantity of incinerator ash.

Subp. 5. **Specific programs to be developed.** The plan must describe the energy recovery facilities and programs that the county or district proposes to maintain, implement, or participate in during the next ten years, including the responsible persons and estimated staff time necessary to implement or manage each program.

Subp. 6. **Program budget.** The plan must estimate the annual costs to be incurred by the county or district in

Approved
by Revisor _____

implementing and maintaining the energy recovery programs during the next ten years, including itemized capital and operating costs.

Subp. 7. **Implementation timeline.** The plan must include a schedule for the implementation of the proposed energy recovery programs described in this part.

9215.0640 LAND DISPOSAL OF MIXED MUNICIPAL SOLID WASTE.

Subpart 1. **Content.** The plan must include the information on land disposal facilities described in this part if they are being used or proposed for use to manage all or part of the county's or district's mixed municipal solid waste.

Subp. 2. **Policies and goals.** The plan must describe the county's or district's goals and policies on land disposal.

Subp. 3. **Existing land disposal facilities.** The plan must:

A. identify and discuss the status of closed landfills within the county or district and whether the county or district is implementing any programs for mitigating the environmental effects of past disposal practices;

B. describe the land disposal facility or facilities where the county's or district's mixed municipal solid waste is managed;

C. include a table indicating the amount received, processed, and disposed during the previous two years; and

D. include information on the operational history, removal of problem wastes, and facility management.

Subp. 4. **Environmental and public health impacts.** The plan must evaluate known and potential environmental and public health impacts of operating and proposed disposal facilities and propose a course of action to alleviate those impacts. The plan must include information summarizing the results of recent inspections by the appropriate state agency, report on the results of ground and surface water monitoring at the facilities, and assess operational safety at each facility during the past two years.

Subp. 5. **Specific programs to be developed.** The plan must

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by Revisor _____

describe the land disposal facilities and programs that the county or district proposes to maintain, implement, or participate in during the next ten years, including:

A. the responsible persons and estimated staff time necessary to implement or manage each program; and

B. the following information about mixed municipal solid waste land disposal programs and practices in the county or district:

(1) permitting schedule;

(2) schedule of phase development;

(3) status of financial assurance; and

(4) status of leachate treatment.

Subp. 6. **Program budget.** The plan must estimate the annual costs that will be incurred by the county or district in implementing and managing the land disposal programs during the next ten years, including itemized capital and operating costs.

Subp. 7. **Schedule of implementation.** The plan must include a schedule for the implementation of the proposed land disposal programs described in this part.

9215.0650 WASTE TIRE DISPOSAL AND RECOVERY.

Subpart 1. **Content.** The plan must include the information in this part on waste tire recovery programs and practices in the county or district.

Subp. 2. **Policies and goals.** The plan must contain a description of the waste tire disposal goals and policies that the county or district has established that comply with Minnesota Statutes, section 115A.914, subdivision 3.

Subp. 3. **Existing waste tire practices.** The plan must describe existing public and private sector waste tire disposal programs and practices in place throughout the county or district. The description must include the waste tire management system including permitted storage and processing facilities, location of known unpermitted tire dumps, transportation and disposal system used by local collectors, current end uses of the waste tires, and status of county solid

Approved
by Revisor _____

waste ordinance relative to waste tire management.

Subp. 4. **Specific programs to be developed.** The plan must describe the waste tire programs that the county or district proposes to maintain or implement during the next ten years, including the responsible persons and estimated staff time necessary to implement and manage each program.

Subp. 5. **Program budget.** The plan must estimate the annual costs to be incurred by the county or district in implementing or maintaining the waste tire programs during the next ten years, including itemized capital and operating costs.

Subp. 6. **Schedule of implementation.** The plan must include a schedule for the implementation of the proposed waste tire programs.

9215.0660 MAJOR APPLIANCE MANAGEMENT.

Subpart 1. **Content.** The plan must include the information in this part on major appliance management programs and practices in the county or district.

Subp. 2. **Policies and goals.** The plan must contain a description of the appliance management goals and policies that the county or district has established that comply with Minnesota Statutes, sections 115A.552, subdivision 1, and 115A.9561.

Subp. 3. **Existing appliance management practices.** The plan must describe the existing public and private sector appliance management programs in the county or district. The description must indicate the process used by the county or district to comply with applicable state, federal, and local regulations for disposal of used appliances and capture of hazardous wastes contained in the appliances.

Subp. 4. **Specific programs to be developed.** The plan must describe the appliance management programs that the county or district proposes to maintain or implement during the next ten years, including the responsible persons, estimated staff time, and education campaigns necessary to implement or manage each program.

Approved
by Revisor _____

Subp. 5. **Program budget.** The plan must estimate the annual costs to be incurred by the county or district in implementing or managing the appliance management programs for the next ten years, including itemized capital and operating costs.

Subp. 6. **Schedule of implementation.** The plan must include a time schedule for the implementation of the proposed appliance management programs described in this part.

9215.0670 USED MOTOR OIL AND LEAD-ACID AND DRY CELL BATTERIES MANAGEMENT.

Subpart 1. **Content.** The plan must include the information in this part on used motor oil and lead-acid and dry cell battery management programs and practices in the county or district.

Subp. 2. **Policies and goals.** The plan must contain a description of the used motor oil and lead-acid and dry cell battery management goals and policies that the county or district has established that comply with Minnesota Statutes, sections 115A.915, 115A.9155, and 115A.916.

Subp. 3. **Existing used motor oil and lead-acid and dry cell battery programs and practices.** The plan must describe the existing public and private sector used motor oil and lead-acid and dry cell battery management programs and practices in the county or district, including public education, collection options, processing, recycling, and disposal.

Subp. 4. **Specific programs to be developed.** The plan must describe the specific used motor oil and lead-acid and dry cell battery programs that the county or district proposes to maintain or implement during the next ten years, including the responsible persons and estimated staff time necessary to implement and manage each program.

Subp. 5. **Program budget.** The plan must estimate the annual costs to be incurred by the county or district in implementing and maintaining the used motor oil and lead-acid and dry cell battery management programs during the next ten

Approved
by Revisor _____

years, including itemized capital and operating costs.

Subp. 6. **Schedule of implementation.** The plan must include a schedule for the implementation of the proposed used motor oil and lead-acid and dry cell battery management programs described in this part.

9215.0680 HOUSEHOLD HAZARDOUS WASTE MANAGEMENT.

Subpart 1. **Content.** The plan must include the information in this part on the household hazardous waste management programs and practices in the county or district.

Subp. 2. **Policies and goals.** The plan must contain a description of the household hazardous waste goals and policies established by the county or district that comply with the requirements in Minnesota Statutes, section 115A.96, subdivision 6.

Subp. 3. **Existing programs and practices.** The plan must describe existing household hazardous waste management programs including collection, separation from mixed municipal solid waste, and education and promotion to reduce the use of household hazardous waste.

Subp. 4. **Specific programs to be developed.** The plan must describe the household hazardous waste programs that the county or district proposes to maintain or implement during the next ten years, including the responsible persons and estimated staff time necessary to develop and manage each program. These programs must include a broad-based public education component, a strategy for reduction of household hazardous waste, and a strategy for separation of household hazardous waste from mixed municipal solid waste and the collection, storage, and proper management of that waste.

Subp. 5. **Program budget.** The plan must estimate the annual costs to be incurred by the county or district in implementing and maintaining the household hazardous waste management programs during the next ten years, including itemized capital and operating costs.

Subp. 6. **Schedule of implementation.** The plan must

Approved
by Revisor _____

include a schedule for the implementation of the proposed household hazardous waste management programs described in this part.

9215.0690 DEMOLITION DEBRIS.

Subpart 1. **Content.** The plan must include the information in this part on demolition debris management programs and practices in the county or district.

Subp. 2. **Policies and goals.** The plan must contain a description of the demolition debris management goals and policies that the county or district has established.

Subp. 3. **Existing demolition debris practices.** The plan must describe demolition debris practices and programs including private and public sector Pollution Control Agency permitted facilities.

Subp. 4. **Specific programs to be developed.** The plan must describe the demolition debris programs that the county or district proposes to maintain or implement during the next ten years, including the responsible persons and estimated staff time necessary to implement and manage each program.

Subp. 5. **Program budget.** The plan must estimate the annual costs to be incurred by the county or district for demolition debris programs for the next ten years, including itemized capital and operating costs.

Subp. 6. **Schedule of implementation.** The plan must include a schedule for the implementation of the proposed demolition debris programs.

9215.0700 SOLID WASTE ORDINANCE.

Subpart 1. **Content.** The plan must include the information in this part on the solid waste management ordinance in the county or district.

Subp. 2. **Status of solid waste ordinance.** The plan must describe the status of the county's or district's solid waste ordinance. The plan must list any problems with implementing or enforcing the current ordinance. The plan must include a copy of the county or district solid waste ordinance as an appendix

Approved
by Revisor _____

item in the plan.

Subp. 3. **Ordinance amendments.** The plan must describe any planned amendments to the county solid waste ordinance. The description must include the responsible persons and estimated staff time necessary annually to monitor or enforce the ordinance.

9215.0710 SOLID WASTE STAFF.

Subpart 1. **Content.** The plan must include the information in this part regarding the county or district solid waste staff.

Subp. 2. **Existing county or district solid waste staff.** The plan must describe existing levels of staffing for solid waste programs in place throughout the county or district.

Subp. 3. **Future staffing needs.** The plan must include estimates of staffing needed to implement the programs described in the plan.

9215.0720 SOLID WASTE PROGRAM FUNDING.

Subpart 1. **Content.** The plan must include the information in this part regarding the county or district solid waste program funding.

Subp. 2. **Policies and goals.** The plan must contain a description of the future solid waste program funding goals and policies that the county or district has established.

Subp. 3. **Existing solid waste funding practices.** The plan must include a description of the county's or district's existing solid waste management financing mechanisms. The plan must indicate the current year and future projected amounts and sources of funding for solid waste programs including:

A. tipping fees at solid waste transfer, processing, and disposal facilities; and

B. governmental subsidies of waste management.

9215.0730 PLAN REVIEW AND FIVE-YEAR UPDATE.

The plan must contain a description of the process and timelines for developing the county's or district's five-year update.

Approved
by Revisor _____

9215.0740 GOAL-VOLUME TABLE.

The plan must include a numeric presentation of the county's or district's goals and the volumes of solid waste to be managed for a ten-year period immediately following plan approval. It must include the recycling goal as required in Minnesota Statutes, section 115A.551; an estimate of land disposal capacity needed for the ten-year period in acre feet, tons, and cubic yards; and an estimate of remaining capacity at land disposal facilities that will be used. The table must be on a format approved by the director.

9215.0750 ITEMIZED SOLID WASTE BUDGET.

The plan must include a projected ten-year county or district solid waste budget. The budget must include itemized capital and operating costs for each major solid waste program and the annual cost per ton and cost per household. The budget must be in a format approved by the director. A narrative discussion of the financial assumptions used in development of the budget shall be included.

9215.0760 ALTERNATIVES TO PROPOSED SYSTEM.

The plan must include a description of the process that the county or district will use to evaluate, identify, and implement alternatives to the proposed system if the system described in parts 9215.0620 to 9215.0640 is not developed or has major operational difficulties.

9215.0770 ENVIRONMENTAL RISKS.

Subpart 1. **Content.** In addition to the discussion of environmental and public health impacts required in parts 9215.0610 to 9215.0640 the plan must address the county's or district's plans and programs for mitigating the environmental risks associated with each item identified.

Subp. 2. **On-site disposal.** The plan must describe plans and programs for mitigating impacts to air, surface water, and groundwater and avoiding nuisance conditions from the on-site disposal of mixed municipal solid waste at farms or households.

Approved
by Revisor _____

Subp. 3. **Illegal disposal.** The plan must describe plans and programs for mitigating impacts to air, surface water, and groundwater from the practice of illegal disposal.

9215.0780 SOLID WASTE FACILITY SITING PROGRAM.

Plans that indicate the development of new or expanded waste facilities must contain a detailed siting procedure and development program to ensure the orderly location, permitting, development, and financing of new or expanded solid waste facilities and services sufficient for the ten-year planning period. The procedure and program must be consistent with applicable rules of the office, the Pollution Control Agency, the Department of Natural Resources, the Environmental Quality Board, and other state agencies. The procedure and program must include siting criteria and a program for public participation.

9215.0790 PUBLIC PARTICIPATION.

Subpart 1. **Documentation.** The plan must explain the methods for documenting public participation during the development and implementation of the solid waste management plan. The plan must include the location of where documentation of public input by interested parties including citizens, public advisory committees, regional authorities, adjacent counties or districts, local units of government, and waste service companies conducting business within the county or district is kept.

Subp. 2. **Ongoing public input.** The county or district shall describe a process to ensure the ongoing involvement of and consultation with persons who are concerned with solid waste management including those listed in subpart 1.

REGIONAL PLANNING

9215.0800 REGIONAL PLANNING.

A joint plan, plan update, or plan amendment may be submitted by a regional planning group formed through a joint powers agreement. It must:

A. indicate how each county or district in the region

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by Revisor _____

will comply with the county or district goals or responsibilities prescribed in statute or rule;

B. be adopted by each participating county and district; and

C. delineate the responsibility of each county or district and the joint powers board with respect to implementation of the joint plan, plan update, or plan amendment.

APPROVAL AND SUBMITTAL OF PLANS, PLAN UPDATES, AND PLAN AMENDMENTS

9215.0810 REQUIREMENTS FOR PLAN, PLAN UPDATE, AND PLAN AMENDMENT APPROVAL.

Subpart 1. **Goals and objectives.** Each solid waste management plan including updates and amendments, when necessary, must provide for the implementation of policies and programs that are designed to achieve the state policy as declared by Minnesota Statutes, section 115A.02, of reducing the need for land disposal of unprocessed mixed municipal solid waste to the maximum extent possible.

Subp. 2. **Ten-year plan.** Each plan must address the county's or district's methods for managing solid waste in the county or district for the ten-year period immediately following adoption of the plan.

Subp. 3. **Land disposal reduction.** Each solid waste management plan must contain an integrated solid waste management system to achieve the most feasible and prudent reduction in the need for and practice of land disposal of mixed municipal solid waste. Plans proposing land disposal as the primary management method must contain technical, financial, and other documentation demonstrating that there are no solid waste management alternatives available to manage the solid waste stream that are more feasible and prudent than the proposed land disposal. Economic considerations alone will not justify the rejection of alternatives to land disposal. In determining feasibility and prudence, the office shall consider the factors in items A to C.

Approved by Revisor _____

A. The plan must include a review of whether the proposed system is based on proven methods and technologies capable of commercial-scale application and whether the technologies can be successfully put into practice. Alternatives that are experimental or theoretical and cannot be put into commercial-scale application will not be considered feasible and prudent.

B. The plan must indicate whether the proposed system can be implemented consistent with projected revenues and budgets for solid waste management as prepared under part 9215.0750.

C. The plan must indicate whether the proposed system promotes solid waste management practices that minimize adverse impacts on natural resources.

9215.0820 SUBMITTAL OF PLANS, PLAN UPDATES, AND PLAN AMENDMENTS FOR APPROVAL.

Subpart 1. **Draft plan.** A county or district seeking approval of a solid waste management plan shall submit its draft plan to the director. The draft plan must contain the information required in parts 9215.0540 to 9215.0790.

Subp. 2. **Plan update.** A county or district seeking approval of a plan update shall submit updated information required by parts 9215.0540 to 9215.0790 to the director. In addition, the county or district shall provide in the update:

A. an evaluation of the progress that has been made since approval of the plan to achieve the goals and policies of the programs proposed in the existing plan;

B. a discussion of the problems that have been encountered by the county or district in implementing the existing plan and the solutions established;

C. a discussion of the changes in the updated plan from the existing plan; and

D. information required by new statutes or rules that have been adopted since the existing plan was approved.

Subp. 3. **Plan amendment.** A county or district seeking

Approved
by Revisor _____

approval of a plan amendment shall submit the amendment to the director. The county or district shall include the following information in its amendment:

A. the reasons for the proposed plan amendment;

B. the benefits of the changes proposed in the plan amendment, including: the purposes achieved by the conservation and recovery of resources and the furtherance of any regional waste management programs;

C. the consistency of the amendment with the policies and purposes expressed in Minnesota Statutes, section 115A.02;

D. updated goals and a revised goal-volume table as required in part 9215.0740;

E. an updated itemized solid waste budget for the county or district as required in part 9215.0750;

F. updated implementation information relevant to the changes proposed by the county or district as required in parts 9215.0570 to 9215.0800;

G. updated information on environmental risk as required in part 9215.0770 and updated waste facility siting information as required by part 9215.0780 if new information relating to planned activities has been developed since approval of the plan or plan update; and

H. for amendments that would result in an increase in the previously certified need for land disposal, documentation that the revised system is now the most feasible and prudent for the county or district.

Subp. 4. **Format.** A county or district submitting a plan, plan update, or plan amendment to the director for approval shall submit two copies of the plan and accompanying information. The plan must be in a three-ring binder, single-spaced, and printed on both sides if possible.

9215.0830 TIMING OF SUBMITTAL.

Subpart 1. **Submittal of plan.** A county or district that has not submitted a solid waste management plan by the effective date of this chapter shall submit a draft plan to the office

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by Revisor _____

within 90 days of that date.

Subp. 2. **Submittal of plan update.** Each county or district shall submit a plan update to the office when six months remains on the approval of the latest plan.

Subp. 3. **Submittal of plan amendment.** Each county or district shall submit a plan amendment according to items A to C.

A. Each county or district shall submit an amendment to the approved plan when the county or district is proposing to make substantial changes in its solid waste management system from what was contained in the approved plan.

B. If the director determines that an amendment to the plan is required due to substantial changes in solid waste management in the county or district, including, but not limited to, an increase in the amount of waste needing land disposal, the director shall notify the county or district in writing of the need to amend its plan. The county or district shall have six months from the receipt of notice to submit an amendment to the director.

C. If changes in statute or rule require plans to be amended on a schedule other than indicated in plan approval, the county or district shall submit a plan amendment in accordance with statutory and rule requirements.

9215.0840 REVIEW BY OFFICE OF WASTE MANAGEMENT.

Subpart 1. **Preliminary review.** On receipt of a draft plan, plan update, or plan amendment, the director shall review the draft and notify the county or district of any part of the submittal that requires redrafting and resubmittal. The office shall complete its review of the draft plan, plan update, or plan amendment within 45 days of receipt.

Subp. 2. **Supplemental information.** If advised by the office that a redraft and resubmittal are necessary, the county or district shall submit its redraft to the director within 90 days of the director's request for a redraft. The redraft shall be reviewed according to the procedures in subpart 1.

Subp. 3. **Preliminary decision to approve plan.** The

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director shall make a preliminary decision to approve a plan, plan update, or plan amendment within 90 days of the county's or district's submittal of a draft and all additional information required by the director. When the director makes a preliminary decision to approve a plan, plan update, or plan amendment, the director shall provide public notice of the preliminary decision and an opportunity for public comment in accordance with parts 9215.0850 and 9215.0860.

Subp. 4. **Preliminary decision to disapprove plan.** If the county or district does not resubmit a redraft and other additional information in response to a request by the director for the information, the director shall notify the county or district that the director intends to disapprove the plan, plan update, or plan amendment.

9215.0850 PUBLIC NOTICE AND PUBLIC COMMENT.

Subpart 1. **Public notice.** The director shall prepare and issue a public notice of the director's preliminary decision to approve a plan, plan update, or plan amendment. The public notice must include, at a minimum:

A. the business address and telephone number of the county or district chair, address and telephone number of the office, and a statement that additional information may be obtained at these offices;

B. a brief description of the solid waste management plan or plan update or plan amendment, the duration of the approval, and any conditions of the approval;

C. a brief description of the procedures the office will use to reach a final decision on approval of the plan or plan update or plan amendment, including procedures for requesting that the county or district hold a public informational meeting; and

D. a statement that during the public comment period a person may submit comments to the office on the plan, plan update, or plan amendment, a statement of the dates on which the public comment period begins and ends, and a statement of the

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by Revisor _____

information a person is required to include in the comments.

Subp. 2. **Distribution of public notice.** The director shall distribute the public notice by:

A. making a copy of the public notice available at the office;

B. mailing a copy of the public notice to the chair of the county or district whose plan is subject to approval and to the Pollution Control Agency; and

C. by posting the notice in a building or buildings used by the general public in the county or district whose plan, plan update, or plan amendment is subject to approval, and by placing an advertisement containing the information required in subpart 1 in one or more newspapers of general circulation in the county or district.

Subp. 3. **Public comments.** The public shall have a minimum of 30 days to comment on the director's preliminary decision to approve a plan, plan update, or plan amendment. All comments shall be submitted in writing. Comments must include the following:

A. a statement of the person's interest in the plan, plan update, or plan amendment;

B. a statement of the action the person wishes the director to take, including specific references to the plan, plan update, or plan amendment that the person believes should be changed; and

C. the reasons for the person's position, stated with sufficient specificity to allow the director to assess the merits of the person's statements.

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

9215.0860 PUBLIC INFORMATIONAL MEETING.

Subpart 1. **Request.** A person may request the director to hold a public informational meeting on a plan, plan update, or

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plan amendment. A person requesting a public informational meeting shall submit the following information as part of the request:

A. a statement why a public informational meeting is necessary;

B. the issues the director should address at the public informational meeting; and

C. a proposed time and place for the public informational meeting.

Subp. 2. **Decision to hold public informational meeting.** If the director determines that a public informational meeting would help clarify and resolve issues regarding the plan or plan update or plan amendment, the director shall hold a public informational meeting. The director may decide to hold a public informational meeting without receiving a request from the public.

Subp. 3. **Location of meeting.** The director must hold the public informational meeting in the geographical area of the county or district included in the plan, plan update, or plan amendment.

Subp. 4. **Notice of public informational meeting.** The director shall prepare a notice of the public informational meeting. The notice must contain a reference to the public notice of the preliminary approval of the plan, plan update, or plan amendment, including the dates of issuance of the public notice; the date, time, and location of the public informational meeting; a concise description of the manner in which the public informational meeting will be conducted; and the issues to be discussed.

Subp. 5. **Distribution of notice.** The director shall publish the notice in a newspaper of general circulation in the geographical area of the plan or plan update or plan amendment, and shall mail a copy of the notice to the county or district and all other persons determined by the director to have an interest in the plan, plan update, or plan amendment.

Subp. 6. **Joint meeting.** If the director determines that

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by Revisor _____

no person would be adversely affected by consolidating two or more plans, plan updates, or plan amendments into one public informational meeting, the director may elect to do so.

9215.0870 FINAL DECISION.

Subpart 1. **Record.** The director shall consider all information submitted by the county or district in seeking approval of its plan, plan update, or plan amendment and all information received from the public during the public comment period and all information submitted during the public informational meeting if one was held in making a final decision on the plan, plan update, or plan amendment.

Subp. 2. **Notification.** The director shall notify the county or district and all persons who submitted public comments or participated in a public informational meeting of the final decision on the plan, plan update, or plan amendment.

Subp. 3. **Approval of plan.** The director shall approve those plans, plan updates, and plan amendments that meet the requirements of parts 9215.0540 to 9215.0790 and 9215.0810. The director's approval shall remain in effect for five years unless the director determines that a shorter period of time is required to ensure that the county or district implements the plan.

Subp. 4. **Approval of amendment.** The approval of a plan amendment shall not change the due date of the county's or district's next plan update unless the director determines in the decision approving the amendment that the amendment eliminates the need to update the plan. If so, the director shall determine when the next update will be required.

Subp. 5. **Resolution.** Before final approval of the plan, plan update, or plan amendment, the director shall request the county or district to submit a certified copy of a resolution, passed by the county or district, that approves the plan, plan update, or plan amendment as the county's or district's solid waste management plan. No approval by the director of a plan, plan update, or plan amendment shall be final until a resolution

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is received by the office.

Subp. 6. **Submittal of final plan.** On final approval of a plan, plan update, or plan amendment, the county or district shall submit two copies of the final plan to the director. The plan must be submitted in a three-ring binder, must be single-spaced, and must be printed on both sides of the page if possible.

9215.0880 REVOCATION OF APPROVAL.

Subpart 1. **Failure to implement.** The director shall require the county or district to amend its plan pursuant to part 9215.0820, subpart 3, if the director determines that a county or district has failed to implement substantial programs contained in the plan as approved.

Subp. 2. **Failure to amend.** The director shall revoke the approval of a plan if the director determines that a county or district has failed to submit a plan amendment within six months of being notified by the director that an amendment is required.

CERTIFICATE OF NEED

9215.0890 CERTIFICATE OF NEED.

Subpart 1. **Scope.** Applicants for permits for existing or proposed disposal facilities located outside of the metropolitan area cannot be issued a permit for new capacity for disposal of unprocessed mixed municipal solid waste without a certificate of need issued by the office. No state or local government body shall issue a permit for disposal of unprocessed mixed municipal solid waste until a certificate of need is issued by the office.

Subp. 2. **Timing.** The office shall review requests for a certificate of need submitted by an applicant of a proposed or existing disposal facility. The request must be submitted before a preliminary permit application is submitted to the Pollution Control Agency. The office shall review the request for a certificate of need within 90 days of submittal of a completed request.

9215.0900 CONTENT OF CERTIFICATE OF NEED REQUEST.

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Subpart 1. **Scope.** The certificate of need request shall contain the information described in this part.

Subp. 2. **Annual solid waste estimates.** The request shall include estimates of the amount and type of solid waste to be managed annually at the facility during its design life.

Subp. 3. **Origin of waste.** The request shall include identification of the origin of the solid waste including estimates of the amount of solid waste to be received annually from each county or district of origin. Information about quantities of solid waste from counties or districts outside the metropolitan area shall be based on information in approved county solid waste management plans. Information about quantities of solid waste from counties or districts within the metropolitan area shall be based on information in approved county or district solid waste master plans. If an approved county or district solid waste management plan or master plan does not state that solid waste from a county or district will be managed at the proposed facility, the request shall include a letter from the county or district board of the county or district generating the solid waste indicating that in the county's or district's best estimate the amount of solid waste in question is available for management at the proposed facility. The letter must be consistent with the approved plan and the plan amendment requirements of part 9215.0810.

Subp. 4. **Alternatives.** The request shall include an analysis of alternatives to the new or expanded disposal capacity if the new capacity has not been included in the approved county solid waste management plan or county master plan.

Subp. 5. **Estimate errors.** If the amount of new capacity needed is greater than the amount identified in the approved plan due to erroneous assumptions concerning the amount of solid waste generated, the application must document the basis for calculating the amount of capacity needed in lieu of an analysis of alternatives.

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9215.0910 PUBLIC INFORMATIONAL MEETING ON CERTIFICATE OF NEED REQUEST.

The office may hold a public informational meeting on its preliminary determination to approve or deny the request for a certificate of need if the director determines that a public informational meeting would help to clarify and resolve issues regarding the certificate of need request.

9215.0920 APPROVAL OF CERTIFICATE OF NEED.

The office shall issue a certificate of need to the owner or operator of a proposed or existing disposal facility outside of the metropolitan area if the office determines that the additional disposal capacity is needed.

9215.0930 FINAL DECISION.

The office shall make a final decision on a request for a certificate of need within 90 days after determining that a request is complete or after holding a public informational meeting.

9215.0940 REVOCATION OF CERTIFICATES OF NEED.

The office shall revoke or revoke and reissue the certificate of need if the director determines that the information contained in the certificate of need is no longer accurate or that the owner or operator of the disposal facility has not fulfilled all applicable state and federal requirements.

9215.0950 REVIEW AND EXPIRATION OF EXISTING CERTIFICATES OF NEED.

Certificates of need issued prior to the effective date of this chapter will be considered to be documentation of the land disposal needs of the county or district and will expire at the time of the county's or district's next plan update. The director shall reissue a certificate of need if the director determines that the certificate of need is required based on the provisions of parts 9215.0890 to 9215.0930.

REPEALER. Minnesota Rules, parts 9215.0100; 9215.0110; 9215.0120; 9215.0130; 9215.0140; 9215.0150; 9215.0160;

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9215.0170; 9215.0180; 9215.0190; 9215.0200; 9215.0210; 9215.9220; 9215.0230; 9215.0240; 9215.0250; 9215.0300; 9215.0310; 9215.0320; 9215.0330; 9215.0340; 9215.0350; 9215.0360; 9215.0370; 9215.0380; 9215.0390; 9215.0400; 9215.0410; and 9215.0420, are repealed.

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Solid Waste Planning and Certificate of Need Issuance

AGENCY: Office of Waste Management

MINNESOTA RULES: Chapter 9215

The attached rules are approved for publication in the State Register

Carla M. Riehle
Assistant Revisor

The MPCA requests information and comments concerning the subject matter of the standards. Interested persons or groups may submit data or views in writing or orally. All statements should be submitted to:

Robert C. Berg
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155
Telephone: 612/296-7542

Oral comments and inquiries will be received by Mr. Berg during the hours of, 7:30 A.M. to 3:00 P.M., Monday through Friday.

All written or oral statements will be accepted until July 13, 1990. Any written materials received by the MPCA shall become part of the rulemaking record in the event that the rule is amended.

Gerald L. Willet
Commissioner

Minnesota State Retirement System

Board of Directors, Regular Meeting

A meeting of the Board of Directors, Minnesota State Retirement System, will be held on Friday, June 15, 1990 at 9:00 a.m. in the office of the System, 529 Jackson Street, St. Paul, Minnesota.

Minnesota Office of Waste Management

Local Government Assistance Unit

Notice of Intent to Solicit Outside Information Regarding Proposed Amendments to Rules Governing Comprehensive Solid Waste Management Planning and Certificate of Need

NOTICE IS HEREBY GIVEN that the Minnesota Office of Waste Management (Office) is seeking information or opinions from outside sources in preparing to propose amendments to State Rules governing comprehensive county solid waste management planning and certificate of need issuance, *Minnesota Rules* ch. 9215.0100 to 9215.0250. The Office is considering amending the rules to clarify them and incorporate legislative amendments to the Waste Management Act. The amendment of rules is authorized by *Minnesota Statutes* 115A.06, subd. 2 (1988), which allows the Office to promulgate rules to govern its activities and to implement *Minnesota Statutes* 115A.06.

The Office requests information and opinions concerning the subject matter of the rules. Interested persons or groups may submit data or views in writing or orally. Written or oral statements or comments should be directed to:

David Benke
Minnesota Office of Waste Management
1350 Energy Lane
St. Paul, Minnesota 55108
Telephone: (612) 649-5776

Oral statements will be received during regular business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday.

All statements of information and opinion will be accepted until July 11, 1990. Any written materials received by the Office shall become part of the rulemaking record in the event that the rule is amended.

Michael Robertson
Director

Board of Water and Soil Resources

Notice of Meeting of the Board

The Board of Water and Soil Resources will hold their June 27, 1990 meeting at the Holiday Inn-St. Paul-North, 2540 North Cleveland Avenue, Roseville. The meeting will convene at 9:00 a.m.

State of Minnesota

Minnesota Office of Waste Management

Local Government Assistance Unit

Notice of Intent to Solicit Outside Information Regarding Proposed Amendments to Rules Governing Comprehensive Solid Waste Management Planning and Certificate of Need

Notice is hereby given that the Minnesota Office of Waste Management (Office) is seeking information or opinions from outside sources in preparing to propose amendments to State Rules governing comprehensive county solid waste management planning and certificate of need issuance, Minn. Rules ch. 9215.0100 to 9215.0250. The Office is considering amending the rules to clarify them and incorporate legislative amendments to the Waste Management Act. The amendment of rules is authorized by Minn. Stat. 115A.06, subd. 2 (1988), which allows the Office to promulgate rules to govern its activities and to implement Minn. Stat. 115A.06.

The Office requests information and opinions concerning the subject matter of the rules. Interested persons or groups may submit data or views in writing or orally. Written or oral statements or comments should be directed to:

David Benke

Minnesota Office of Waste Management

1350 Energy Lane

St. Paul, Minnesota 55108

Telephone: (612) 649-5776

Oral statements will be received during regular business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday.

All statements of information and opinion will be accepted until July XX, 1990. Any written materials received by the Office shall become part of the rulemaking record in the event that the rule is amended.

Michael Robertson

Director

Rules as Proposed

7660.0010 PURPOSE.

~~Parts 7660.0010 to 7660.0090 establish~~ This chapter establishes the criteria and procedures for granting financial assistance to Minnesota public and private institutions for conducting building energy audits using money allocated to the department from the state's allocation of petroleum violation escrow funds.

7660.0020 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of ~~parts 7660.0010 to 7660.0090~~ this chapter, the following terms have the meanings given them.

[For text of subps 2 to 5, see M.R.]

Subp. 6. **Cost-share maxi-audit manual or manual.** "Cost-share maxi-audit manual" or "manual" means the manual incorporated by reference in part ~~7680.0200~~ 7660.0100.

[For text of subps 7 to 11, see M.R.]

7660.0100 INCORPORATION BY REFERENCE.

The Cost-Share Maxi-Audit Manual (1992), written and published by the Energy Division of the Department of Public Service, is incorporated by reference. The manual is not subject to frequent change and is available from the Department of Public Service and on the Minitex interlibrary loan system from the Minnesota State Law Library.

Office of Waste Management

Proposed Permanent Rules Relating to Solid Waste Planning and Certificate of Need Issuance

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Office of Waste Management (Office) intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes* §§ 14.22 to 14.28. The Office's authority to adopt the rules is set forth in *Minnesota Statutes* § 115A.06, subd. 2, which requires the Office to promulgate rules to govern its activities and implement *Minnesota Statutes* §§ 115A.01 to 115A.72. The Office is required to review and approve county and district solid waste management plans and issue certificates of need for non-metropolitan counties under *Minnesota Statutes* § 115A.46 and 115A.917. Because the content requirements and criteria for review and approval of plans and issuance procedures for certificates of need are rules as defined by *Minnesota Statutes* § 14.02, subd. 4, the Office is required to adopt these requirements as rules under *Minnesota Statutes* Ch. 14.

All persons shall have until 4:30 p.m. on September 14, 1992, to submit comments in support of or in opposition to the proposed rules or any part or subpart of the proposed rules. Comments are encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the proposed rules within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the Office will proceed pursuant to *Minnesota Statutes* §§ 14.131 to 14.28.

Comments or written requests for a public hearing must be submitted to:

David Benke
Minnesota Office of Waste Management
1350 Energy Lane
St. Paul, Minnesota 55108
612-649-5776

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

The proposed rules may be modified if the modifications are supported by data and views submitted to the Office and do not result in a substantial change in the proposed rules as noticed.

The proposed rules, if adopted, will establish the content requirements and review and approval criteria for solid waste management plans and the issuance procedures for certificates of need. The proposed rules are published below. One free copy of the proposed rules is available upon request from the address and telephone number stated above.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from the Office upon request.

You are hereby advised, pursuant to *Minnesota Statutes* § 14.115, "Small business considerations in rulemaking," that the Office does not believe that the proposed rules will have a significant impact on small businesses, as the proposed rules do not affect the ability of small businesses to participate in the county or district planning process.

If no hearing is required, upon adoption of the proposed rules the required supporting documents will be submitted to the Attorney General for review as to the legality and form to the extent the form relates to legality. Any person may request notification of the submission of this material to the Attorney General. Persons who wish to be advised of the date of submission of this material to the Attorney General, or who wish to receive a copy of the rules as adopted, must submit a written request to the name and address stated above.

Dated: 22 July 1992

Dottie Rietow
Director

Rules as Proposed (all new material)

GENERALLY

9215.0500 PURPOSE.

The purpose of this chapter is to establish requirements for the preparation and implementation of solid waste management plans, plan updates, and plan amendments by counties and solid waste management districts outside of the seven-county metropolitan area. The plans, plan updates, and plan amendments must be approved by the Office of Waste Management.

9215.0510 DEFINITIONS.

Subpart 1. **Scope.** As used in this chapter, the terms defined in this part have the meanings given them.

Subp. 2. **Ash.** "Ash" means the incombustible material that remains after a fuel, including solid waste, is incinerated.

Subp. 3. **Composting.** "Composting" means the controlled microbial degradation of organic waste to yield a humus-like product.

Subp. 4. **County.** "County" means a county board of commissioners, established outside the metropolitan area.

Subp. 5. **Demolition debris.** "Demolition debris" means solid waste resulting from the demolition of buildings, roads, and other artificial structures including concrete, brick, bituminous concrete, untreated wood, masonry, glass, trees, rock, and plastic building parts. Demolition debris does not include asbestos wastes.

Subp. 6. **Director.** "Director" means the director of the Office of Waste Management.

Subp. 7. **Disposal facility.** "Disposal facility" has the meaning given it in *Minnesota Statutes*, section 115A.03, subdivision 10.

Subp. 8. **District.** "District" means the Western Lake Superior Sanitary District Board or a board established outside the metropolitan area as a solid waste management district pursuant to *Minnesota Statutes*, sections 115A.62 to 115A.72.

Subp. 9. **Major appliances.** "Major appliances" has the meaning given it in *Minnesota Statutes*, section 115A.03, subdivision 17a.

Subp. 10. **Metropolitan area.** "Metropolitan area" has the meaning given it in *Minnesota Statutes*, section 473.121, subdivision 2.

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

Subp. 12. **Office.** "Office" means the Office of Waste Management.

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

Subp. 14. **Plan.** "Plan" means a solid waste management plan prepared under this chapter.

Subp. 15. **Plan amendment.** "Plan amendment" means a document that is submitted to the Office of Waste Management by a county or district when required by this chapter.

State of Minnesota

Office of Waste Management

Proposed Rules Governing Comprehensive Solid Waste Management Planning and Certificate of Need Issuance, Minn. Rules Parts 9215.0500 to 9215.0950

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Minnesota Office of Waste Management (Office) intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minn. Stat. § § 14.22 to 14.28. The Office's authority to adopt the rules is set forth in Minn. Stat. § 115A.06, subd. 2, which requires the Office to promulgate rules to govern its activities and implement Minn. Stat. § § 115A.01 to 115A.72. The Office is required to review and approve county and district solid waste management plans and issue certificates of need for non-metropolitan counties under Minn. Stat. § 115A.46 and 115A.917. Because the content requirements and criteria for review and approval of plans and issuance procedures for certificates of need are rules as defined by Minn. Stat. § 14.02, subd. 4, the Office is required to adopt these requirements as rules under Minn. Stat. Ch. 14.

All persons shall have until 4:30 p.m. on September 14, 1992, to submit comments in support of or in opposition to the proposed rules or any part or subpart of the proposed rules. Comments are encouraged. Each comment should identify

the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the proposed rules within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the Office will proceed pursuant to Minn. Stat. § § 14.131 to 14.28.

Comments or written requests for a public hearing must be submitted to:

David Benke

Minnesota Office of Waste Management

1350 Energy Lane

St. Paul, Minnesota 55108

612-649-5776

The proposed rules may be modified if the modifications are supported by data and views submitted to the Office and do not result in a substantial change in the proposed rules as noticed.

The proposed rules, if adopted, will establish the content requirements and review and approval criteria for solid waste management plans and the issuance

procedures for certificates of need. The proposed rules are published below. One free copy of the proposed rules is available upon request from the address and telephone number stated above.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from the Office upon request.

You are hereby advised, pursuant to Minn. Stat. § 14.115, "Small business considerations in rulemaking," that the Office does not believe that the proposed rules will have a significant impact on small businesses, as the proposed rules do not affect the ability of small businesses to participate in the county or district planning process.

If no hearing is required, upon adoption of the proposed rules the required supporting documents will be submitted to the Attorney General for review as to the legality and form to the extent the form relates to legality. Any person may request notification of the submission of this material to the Attorney General. Persons who wish to be advised of the date of submission of this material to the Attorney General, or who wish to receive a copy of the rules as adopted, must submit a written request to the name and address stated above.

Date: 7-22-92

Dottie Rietow

DOTTIE RIETOW

Director

State of Minnesota
Office of Waste Management

Proposed Rules Governing Comprehensive Solid Waste Management Planning and Certificate of Need Issuance, Minn. Rules Parts 9215.0500 to 9215.0950

Notice of Intent to Adopt Rules Without a Public Hearing

(1) Notice is hereby given that the Minnesota Office of Waste Management (Office) intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minn. Stat. § § 14.22 to 14.28. The Office's authority to adopt the rules is set forth in Minn. Stat. § 115A.06, subd. 2, which requires the Office to promulgate rules to govern its activities and implement Minn. Stat. § § 115A.01 to 115A.72. The Office is required to review and approve county and district solid waste management plans and issue certificates of need for non-metropolitan counties under Minn. Stat. § 115A.46 and 115A.917. Because the content requirements and criteria for review and approval of plans and issuance procedures for certificates of need are rules as defined by Minn. Stat. § 14.02, subd. 4, the Office is required to adopt these requirements as rules under Minn. Stat. Ch. 14.

(2) All persons shall have until 4:30 p.m. on September 14, 1992, to submit comments in support of or in opposition to the proposed rules or any part or subpart of the proposed rules. Comments are encouraged. (3) Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the proposed rules within the comment period. (4) If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. (5) Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. (7) If a public hearing is required, the Office will proceed pursuant to Minn. Stat. § § 14.131 to 14.28.

(6) Comments or written requests for a public hearing must be submitted to:
David Benke
Minnesota Office of Waste Management
1350 Energy Lane
St. Paul, Minnesota 55108
612-649-5776

(8) The proposed rules may be modified if the modifications are supported by data and views submitted to the Office and do not result in a substantial change in the proposed rules as noticed.

(11) The proposed rules, if adopted, will establish the content requirements and review and approval criteria for solid waste management plans and the issuance procedures for certificates of need. The proposed rules are attached. One additional free copy of the proposed rules is available upon request from the address and telephone number stated above.

(12) A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from the Office upon request.

(14) You are hereby advised, pursuant to Minn. Stat. § 14.115, "Small business considerations in rulemaking," that the Office does not believe that the proposed rules will have a significant impact on small businesses, as the proposed rules do not affect the ability of small businesses to participate in the county or district planning process.

(9) If no hearing is required, upon adoption of the proposed rules the required supporting documents will be submitted to the Attorney General for review as to the legality and form to the extent the form relates to legality. Any person may request notification of the submission of this material to the Attorney General. Persons who wish to be advised of the date of submission of this material to the Attorney General, or who wish to receive a copy of the rules as adopted, must submit a written request to the name and address stated above.

Date: 7-22-92

Dottie Rietow
DOTTIE RIETOW
Director

STATE OF MINNESOTA
OFFICE OF WASTE MANAGEMENT

In the Matter of Proposed Rules Governing Comprehensive Solid Waste Management Planning and Certificate of Need Issuance, Minn. Rules Chapter 9215.

STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION

The Office of Waste Management (hereinafter "Office" or "OWM") proposes to repeal Minnesota Rules Chapter 9215 and promulgate new rules. This Statement of Need and Reasonableness ("SONAR") provides an affirmative statement of the need for the proposed rules and reviews the reasonableness of the county solid waste management planning and procedural requirements outlined in the proposed new rules.

In 1980 the Waste Management Act established requirements for development of solid waste management plans (plans) in non-metropolitan counties. The 1984 Legislature amended the Act to require that the state issue a Certificate of Need before new or expanded landfill capacity is issued, Minn. Stat. § 115A.917. In 1986, the Minnesota Pollution Control Agency (MPCA) promulgated Minn. Rules Chapter 9215 to govern the development of solid waste management plans and issuance of certificates of need for non-metropolitan counties. A public hearing was held on the rules on October 5, 1985. The rules were adopted on April 7, 1986.

In 1987, the Legislature transferred county solid waste management planning oversight responsibilities for non-metropolitan counties from the MPCA to the Minnesota Waste Management Board (WMB). The WMB became the state agency responsible for reviewing and approving county solid waste management plans for counties in Greater Minnesota. In 1988, the WMB was abolished, and duties of the WMB were transferred to the MPCA. The MPCA was responsible for non-metropolitan county solid waste management planning oversight from October 1988 through June 1989.

In May of 1989, the Legislature passed legislation creating the Office, and transferred plan review and approval authority and issuance of certificates of need responsibilities for non-metropolitan county plans from the MPCA to the Office.

Since 1986, Greater Minnesota county solid waste management planning activities have been developed and reviewed under the framework of Minn. Rules Chapter 9215. Those rules are now being

repealed and new rules are being set in place in order to update and clarify county planning requirements.

II. STATEMENT OF THE OFFICE'S STATUTORY AUTHORITY

The Office's authority to adopt the rules is set forth in Minn. Stat. § 115A.06, subd. 2 (Supp. 1991), which provides:

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

Under this statute the Office has the necessary statutory authority to repeal the existing rules and promulgate revised rules.

III. STATEMENT OF NEED

Minn. Stat. ch. 14 requires the Office to make an affirmative presentation of facts establishing the need for and reasonableness of repealing the existing rules and adopting new rules as proposed. In general terms, this means that the Office must set forth the reasons for its proposal, and the reasons must not be arbitrary or capricious. However, to the extent that need and reasonableness are separate, need has come to mean that a problem exists that requires administrative attention, and reasonableness means that the solution proposed by the Office is appropriate.

The need for repealing the existing rules and adopting new rules is briefly discussed in the following section. New rules are being adopted for two reasons: (1) Since development of the original rules, subsequent legislative changes have occurred and augmented county planning requirements; and (2) The existing rules contain deficiencies reducing their effectiveness.

Legislative changes. The existing Comprehensive Solid Waste Management Planning and Certificate of Need Rules were adopted in 1986 and have not been amended since adoption. State law relating to solid waste management has undergone significant amendment during that period. Changes include:

- a requirement for source separation recycling where cost-effective;
- various requirements regarding planning for solid waste reduction and recycling;
- a requirement that counties provide their residents with an opportunity to recycle;
- a requirement that plans address waste tires;
- yard waste management requirements;
- used major appliance management requirements;

- household hazardous waste management planning requirements; and
- a requirement that plans proposing incineration address ash and residuals control measures.

State rules regarding solid waste management have also changed significantly since the original implementation of the county solid waste management planning rules. In particular, the development by the MPCA of comprehensive solid waste management facility regulations has had a profound impact on county solid waste management planning.

As a consequence, the existing rules contain language that is no longer consistent with state statutes or other state rules and that fails to address statutes or rules promulgated after the development of the existing rules. The Office proposes to promulgate new rules that are consistent with current statute and rules.

Problems with the existing rules. While the existing rules were carefully developed and served as an adequate initial basis for plan development and planning oversight, some aspects of those rules have reduced their effectiveness. The existing rules contained some sections where the wording is unclear and difficult to understand, and the Office proposes to promulgate new rules in which the language is clear and concise. In addition, in implementation of the original rules the Office has determined that certain portions of the rules need to be augmented, and other sections need to be changed in order to improve the overall usefulness of the rules. Areas addressed in the new rules include:

- plan amendment and update content requirements and review procedures;
- alternatives analysis procedures;
- identification of backup alternatives;
- requirements for plan approval;
- certificate of need issuance procedures; and
- general organization.

Amendment and update requirements. Changing circumstances can affect the feasibility and/or prudence of programs proposed by counties in their plans. When that occurs, it is important that counties amend their plans to re-analyze alternatives and develop a new proposed course of action. From both the county and state perspective it is important that plans be kept current and accurate. The original rules did recognize that plan amendments might be needed. However, the existing rules did not establish a specific process for review and approval of amendments to county solid waste management plans, and did not sufficiently address the required contents of amendments. The new rules provide additional guidance in those areas.

In addition, the existing rules do not provide adequate guidance concerning the required contents and review procedures for county solid waste management plan updates. Counties are required by law (Minn. Stat. § 115A.46, subd. 1) to update their plans every five years. It is important that adequate standards be in place to provide guidance regarding the required contents and approval process for those plan updates. The Office proposes to promulgate new rules which contain language to explain these requirements and procedures.

Alternatives analysis procedures. Minn. Stat. § 115A.46, subd. 2(c) requires that county solid waste management plans require the most feasible and prudent reduction of the need for and practice of land disposal of mixed municipal solid waste. The state encourages the development of integrated solid waste management systems which utilize a variety of solid waste management techniques (reduction, recycling, composting, incineration, and other methods) to individually address specific components of the solid waste stream. One task in county solid waste management planning is determining the best possible mix of management techniques for a county's individual situation. Factors which must be considered when determining whether the best possible mix has been achieved include economic considerations, environmental acceptability, social acceptability, and legal requirements.

The original rules contain requirements for the use of detailed financial worksheets provided by the Office or the development of elaborate financial analysis of alternative systems, both designed to compare alternative systems and identify the most feasible and prudent system for the county. In most instances, those original worksheets did not prove to be a useful tool for counties to use in reviewing alternatives and selecting better systems. One reason for this is the level of complexity contained in the sample worksheets. The worksheets originally were quite detailed, and many counties found it necessary to contract for private sector assistance to develop them. This led to counties not understanding the basis for the numbers contained in their plans, and not trusting those numbers. The complexity of the worksheets worked to dissuade counties from analyzing additional alternatives, and added significantly to the cost of developing plans for counties without providing a corresponding increase in the quality of alternatives analysis for the county.

The format of the original worksheets also worked to reduce their usefulness from a county perspective. The original worksheets included an "environmental cost adjustment factor" intended to increase the perceived cost of land disposal and encourage the use of disposal abatement options. The intent was to attempt to quantify unknown future costs by adjusting upward the costs of less environmentally desirable alternatives.

Because land disposal is the lowest priority alternative, land disposal-based systems received the greatest upwards adjustment. While the concept of an environmental cost adjustment factor (shadow costing) is, in abstract, one approach to helping determine "feasible and prudent", the concept did not translate into better planning on the local level, and has not worked to promote the development of improved solid waste management systems for Minnesota counties.

Several factors have caused the Office to move away from the concept of shadow costing. First, the cost adjustment for environmental values was originally designed to encourage counties to implement landfill abatement alternatives such as recycling and yard waste composting. In 1989, the legislature adopted Minn. Stat. § 115A.551 requiring counties to recycle 25 percent of the solid waste they generate by the end of 1993. Recycling and yard waste composting are no longer optional. In addition, at the time of rules adoption the cost of land disposal was artificially low. The cost of future closure of a site and possible cleanup of contaminated groundwater was not factored into the cost. Today, the costs of land disposal have risen dramatically as new rule requirements are in effect. The MPCA Solid Waste Management Rules Parts 7001.0010 to 7001.0210; 7001.3000 to 7001.3550; and 7035.0300 to 7035.2875 require that new cells at landfills have liners and leachate collection systems. The rules also require that a financial assurance fund be established for all open landfills. This fund will pay for future costs of closure, post-closure and contingency action cleanup at a landfill site. Because of these changes, additional cost adjustment is not as appropriate as it was at the time of original rules development.

In addition, for a planning tool to be effective and useful it must be able to gain the acceptance of the decision makers relying on the plan for guidance. The environmental cost adjustment factor did not accomplish this, and has not achieved general acceptance as a solid waste management planning tool by Minnesota's counties. The Office does not believe that counties or their consultants have incorporated the adjustment factor in their decision making process, or have treated that adjustment factor as anything other than an arbitrary inflation of "real" costs.

The Office proposes to promulgate new rules which continue to require that counties consider landfill abatement alternatives but which do so in a more useful and relevant fashion. The new rules will continue to require that counties develop worksheets which contain county-specific costs for individual system alternatives. However, greater latitude is provided with regards to the format of those worksheets. The OWM intends to provide technical assistant to counties in alternatives review. The new rules will not contain provisions for an environmental cost

adjustment factor.

Identification of backup alternatives. The original rules contain a requirement for development of a "comparative cost analysis of an alternate solid waste management system that could be used to meet abatement objectives if proposed activities and functions are not undertaken." This requirement is partly in response to the comparative analysis requirements described above and partly in response to a statutory requirement that "plans shall include alternatives which could be used to achieve the abatement objectives if the proposed functions and activities are not established." Minn. Stat. § 115A.46, subd. 2(e).

While the new rules do require a detailed comparative assessment of alternative as part of the alternatives analysis the new rules do not require the identification of a detailed alternate solid waste management system and budget. Such documentation is expensive for counties to prepare, and must be useful if it is to be required. However, the Office believes that in the majority of cases the additional documentation has little benefit. In situations where the primary system proposed by a county is not developed, most counties will need to conduct a re-analysis of alternatives rather than switching to development of a previously prepared system that may be several years out of date. For example, a county may have an incinerator as its proposed system. As its alternative system, it might analyze the cost of building a transfer station and sending its solid waste to a nearby county's MSW compost facility. However, if in three years the county decides not to build the incinerator, the nearby MSW composting facility analyzed in the approved plan may be operating at capacity and no longer be an option for the county. The county would then have to conduct a new review of its options and the costs of those options.

The Office proposes to promulgate new rules which contain a requirement that plans identify general alternative options available if the primary system is not developed, and outline a process the county could use to analyze options in the event a proposed system is not implemented or ceases to be used. If a proposed system is not implemented, a plan amendment will be required. The Office believes that this approach more accurately addresses the statutory directive that plans identify future alternatives that could be used to achieve abatement objectives.

Requirements for plan approval. The original rules contained language directing approval if the plan proposed a feasible and prudent management system, and narrowly defined "feasible" linked to costs as identified in economic analysis worksheets and "prudent" as the least costly solid waste management system as demonstrated by the cost analysis done.

The OWM believes that there are additional factors which

must be considered when determining the feasibility and prudence of a management system, including environmental acceptability and potential for actual development. A solid waste management plan as a whole represents an overall discussion and determination of feasibility and prudence. Therefore, the rules states that the OWM will approve plans if all of the factors required by state law and rules are adequately addressed in the plan. The plan as a whole is used as the justification of feasibility and prudence.

Certificate of Need Process. The rules establish a procedure for: (1) calculation of needed capacity for land disposal of solid waste, and (2) issuance of certificates of need to permit applicants. In the past, certificates of need have been issued by the OWM to counties at the time of solid waste management plan approval. This procedure has not proven to be satisfactory. Problems that arise with issuing certificates of need to counties at the time of plan approval include:

- confusion can arise when more than one county sends solid waste to a landfill, especially if the county plans were approved at different times and certificates of need were issued based upon different timelines;
- certifying capacity at the time of plan approval requires reliance on future landfill abatement projections. When program development timelines are not met or other factors keep the county from meeting abatement projections, the certified need is in error (typically too small);
- this procedure does not correspond to the procedure used by the Metropolitan Council in certifying landfill need for Metropolitan counties;
- this procedure does not correspond to the procedure used by the MPCA to issue permits for land disposal facilities, and does not lead to the OWM providing the MPCA with updated need information at the time of permitting.

The Office proposes to promulgate new rules that include a facility-specific certificate of need procedure that can be used for both planning and permitting purposes. This procedure will include certificate of need issuance at the time of facility permitting rather than at the time of plan approval. It will be consistent with the process the Metropolitan Council uses to certify need in the Metropolitan Area.

General organization. The requirements of the original rules led to plans being organized into three separate sections: (1) a section that describes the existing situation; (2) a section that evaluates alternatives; and (3) a section that describes the proposed system. Most plans received and reviewed by the Office have been organized in this fashion. This organization has encouraged the duplication of information within the plan. It has also led to the development of plans in which information is difficult to locate. The new rules encourages the

development of plans in which all information on one solid waste management method (for example, yard waste composting) can be found in a single section of the plan. The proposed organization will also facilitate a consistent timely review of the plan.

IV. STATEMENT OF REASONABLENESS

Minn. Stat. ch. 14 requires the Office to make an affirmative presentation of facts establishing the need for and reasonableness of repealing the existing rules and adopting new rules as proposed. In general terms, this means that the Office must set forth the reasons for its proposal, and the reasons must not be arbitrary or capricious. Reasonableness is the opposite of arbitrariness or capriciousness. It means that there is a rational basis for the Office's proposed action. The reasonableness of the proposed new rules is discussed below.

It is reasonable to repeal the existing rules and adopt new rules because of legislative changes that have changed and augmented county planning requirements. It is also reasonable to adopt the rules because proposed rules correct deficiencies in the existing rules that have reduced their effectiveness.

PART 9215.0500 PURPOSE.

This part gives an overview of purpose of the rules, specifies who is subject to the rules, and specifies the agency responsible for determining compliance with the rules.

PART 9215.0510 DEFINITIONS.

This part contains the definitions of key words and terms used throughout the planning and certificate of need rules. The definitions are needed to provide persons subject to the rules with the meanings for the terms used in the rules. The definitions are generally self-explanatory.

Many of the definitions are identical to those established in Minn. Stat. § 115A.03 (1990 and Supp. 1991), but are included in the rules to direct the reader to the location of the definition in statute. These include: director, district, disposal facility, major appliances, Metropolitan area, mixed municipal solid waste (MSW), office, person, recyclable materials, recycling, resource recovery, solid waste, waste facility, and waste reduction.

Additionally it is necessary to define terms included in the rules which are not defined elsewhere.

Subp. 2. Ash. The definition of ash is taken from the

definition in Minn. Rule pt. 7035.0300, subp. 5 (1991). The definition is included because the rules requires that information on ash management be submitted if counties propose new or continued solid waste incineration activities.

Subp. 3. Composting. The definition of composting is identical to the definition in Minn. Rule pt. 7035.0300, subp. 20 (1991) and is contained in the existing rules. It is included because the rules require that counties include information in plans addressing mixed municipal solid waste and yard waste composting.

Subp. 4. County. County is defined so that the entity responsible for developing, implementing, and maintaining a solid waste management plan is specified. The definition refers to a county board of commissioners because the county has authority to operate through its board which is the governing body.

Subp. 5. Demolition debris. The definition of demolition debris is identical to the definition in Minn. Rule pt. 7035.0300, subp. 30. It is included because the rules require that information be included in the plan addressing demolition debris management.

Subp. 14. Plan. The definition of "plan" is the same as in the current rules and is included in this part to facilitate references in the rules to the county solid waste management plan document developed and reviewed in accordance with these rules. Use of one word (plan) in place of four words (solid waste management plan) saves space and provides clarity for the reader.

Subp. 15. Plan amendment. A definition for "plan amendment" is included to distinguish a plan amendment from a plan or plan update. Plan amendments are submitted under circumstances that are different from those of plans and plan updates.

Subp. 16. Plan update. The definition of "plan update" is included to distinguish a plan update from a plan or plan amendment.

Subp. 20. Solid waste management. The definition of solid waste management is included to distinguish solid waste management from hazardous waste management, management of sewage sludge, or other solid waste management practices. The definition is consistent with the solid waste management planning activities required of counties in Minn. Stat. § 115A.46.

Subp. 23. Yard waste. The definition of "yard waste" is taken from the definition contained in Minn. Rule pt. 7035.0300, subp. 121, and also includes yard waste from industrial and

institutional properties. The definition is included so that brush and tree waste, which are not typically managed as part of the solid waste stream, are not confused with yard waste for the purposes of planning.

PART 9215.0520 APPLICABILITY.

This part identifies the parties which are required to prepare solid waste management plans pursuant to Minn. Stat. § 115A.46.

PART 9215.0530 OBLIGATIONS OF COUNTIES AND DISTRICTS.

Subpart 1. Implementation. This subpart informs counties and districts that they are required to implement their approved plan. This requirement is reasonable because there is little value in development of a plan if the county does not implement it. Minnesota Statutes require counties to have an approved plan before they are eligible to receive SCORE pass-through funding under Minn. Stat. § 115A.557, expand landfill capacity under Minn. Stat. § 115A.917, and obtain facility permits under Minn. Stat. § 116.07, subd. 4j. If a plan or sections of a plan are not capable of implementation, the plan can be amended according to the procedures in Minn. Rules 9215.0820, subp. 3 of these rules.

Subpart 2. Sanctions. This subpart informs counties and districts that fail to gain approval of or fail to implement a plan will be in violation of these rules and state statute. It is reasonable to include a notice to inform counties and districts of the consequences of non-compliance.

PART 9215.0540 CONTENTS OF PLANS, UPDATES, AND AMENDMENTS.

This part informs counties that a plan must contain the information in parts 9215.0550 to 9215.0790 that follow. This part also specifies that plans must be developed for a ten-year period. This is consistent with requirements outlined in Minn. Stat. § 115A.46, subd. 2(g).

In the rules, the content requirements for a plan are organized into a logical sequence. The rules can serve as a "table of contents" for a county solid waste management plan. To ensure the plan is complete and can be approved, the following sections of the rules describe specifically what is needed in each section of the plan.

PART 9215.0550 EXECUTIVE SUMMARY

The rules require that plans contain an executive summary. Although the information contained in the executive summary will

duplicate information contained elsewhere in the plan, the Office believes that an executive summary is an important tool for conveying information contained in the plan to local citizens, county officials, and others.

PART 9515.0560 BACKGROUND INFORMATION

Subpart 1. Scope. This subpart states that plans must contain narrative descriptions and numerical estimates described in this part.

Subpart 2. Demographic information. This subpart requires the plan to include six types of demographic information that relate directly to the generation or management of solid waste. This information will enable a reader of the plan, including the Office, to better understand local demographics and their potential impact on solid waste management. Information about population, land use practices, employment, local economic conditions, and median household income will help the reader understand the county's or district's solid waste stream and the county's or district's resources for development of its solid waste program.

Subpart 3. Solid waste collection and generation information. This subpart requires that plans contain specific information on the county or district's solid waste management collection system and the characteristics of the solid waste stream. Description of specific required items follows.

A. An estimate of the amount of solid waste generated annually in the county or district.

The rules require that plans contain an estimate of the amount of solid waste generated annually in the county or district. Detailed solid waste generation estimates will be developed in the goal-volume table required under PART 9215.0740. In this subpart, the county or district is required to summarize information from that goal-volume table and present it in a format more accessible to readers.

B. An estimate of the percentages of city and rural residents with solid waste collection service.

This information will enable the county or district to estimate the number of residents in the area that do not have collection service and either self-haul solid waste to a disposal site or dispose of solid waste on their own property. The county or district can then calculate the approximate amount of solid waste disposed of on-site required by the rules under item (C) below.

C. An estimate of the percentage of solid waste disposed

of on-site by generators.

The rules require that the plan include an estimate of the percentage of solid waste disposed of on-site by generators. Minnesota Stat. § 17.135 allows solid waste to be disposed of by property owners on their residential property under certain conditions. In some counties up to 47 percent of county residents dispose of solid waste in this manner.

It is reasonable for the Office to require that the plan include this estimate. Minn. Stat. § 115A.551, (1990 and Supp. 1991) specifies that solid waste disposed of on-site be included in the calculation of a county's progress toward its recycling rate. In addition, changes in the amount of solid waste disposed of on-site may effect the amount of solid waste received at solid waste processing and disposal facilities used by the county or district. It will also effect the amount of tipping fee revenue available to pay for a county's or district's solid waste management program and the choices of solid waste management alternatives to be implemented. The greater the number of residents disposing on-site, the smaller the amount of tipping fees that will be paid at local solid waste facilities.

D. The solid waste collection and disposal rate structure including the current range of residential collection rates, range of commercial/industrial collection rates, financial incentives for solid waste reduction and recycling.

Minn. Stat. § 115A.46, subd. 2(b) requires plans to describe existing collection, processing, and disposal systems, including schedules of rates and charges. Minn. Stat. § 115A.551, subd. 6(a), requires solid waste management plans to include "mechanisms for providing financial incentives to solid waste generators..." It is reasonable to require that the plan contain information describing the solid waste rate structure and incentives for waste reduction and recycling, both to meet statutory requirements and to accurately reflect the costs of solid waste management.

E. A description of the composition of the overall solid waste generated in the county or district.

Minn. Stat. § 115A.46, subd. 2(b) requires counties or districts to include in the plan information on the characteristics of the county or districts solid waste stream. Solid waste stream composition is a significant factor that must be included in system planning because it will affect the determination of the appropriate solid waste management system. Each county or district's solid waste stream is unique. The presence of large industries, a significant agricultural sector, or a sizable tourist population are just a few of the factors

that effect the composition of solid waste in a county or district. Several counties in Minnesota have done county-specific solid waste composition studies. It is reasonable to ask those counties to include this information in their solid waste plan. These studies provide a solid waste composition estimate for other counties or districts of similar demographics. It is, therefore, reasonable for other counties or districts to include in this solid waste composition information in their plans.

F. An estimate of the annual percentage of solid waste from the residential and commercial/industrial sectors.

By understanding the percentage and amount of residential and commercial/industrial solid waste, assumptions can be made about proper management methods for counties or districts. For example, a county with a large amount of non-compostable industrial solid waste would not want to consider MSW composting for this portion of the solid waste stream.

Subpart 4. Demolition debris. State rules allow demolition materials to be managed separately from mixed municipal solid waste. There is also a separate permitting procedure for demolition waste disposal facilities. If disposed separately from MSW, demolition waste disposal can be less costly than disposal of MSW. For this reason, it is reasonable to require that plans contain an estimate of the amount of demolition waste. It is also reasonable to require that demolition waste management be addressed as part of an integrated solid waste management system.

Subpart 5. Major solid waste generators. In many counties or districts one or more large solid waste generators contribute a significant portion of the solid waste. This solid waste is typically homogenous or at least predictable in its composition. A county or district will be better able to evaluate options for waste reduction, recycling, or resource recovery if it understands the volume and composition of solid waste from its major solid waste generators.

Subpart 6. Solid waste planning history. This subpart requires that plans include the history of solid waste planning in the county or district for the past five years, including:

(1) a description of any current local and regional planning activities;
(2) a description of past impediments or barriers to the development of projects on a regional basis; and
(3) proposals for addressing the resolution of conflicting, or overlapping local solid waste management efforts.

A review of past planning efforts and impediments to

regional planning will provide background for development of the plan. Regional planning offers increased opportunities for development of economically viable solid waste management facilities and programs. The Office believes that technical, budgetary, and legal conditions require counties or districts to make every effort to involve local units of government and adjacent counties in their planning process. This requirement is reasonable because involving other counties and local units of government promotes acceptance of a proposal within the county or district and facilitates intra- and inter-county cooperation.

It is reasonable to require a discussion of the past impediments to regional projects so that those impediments can be addressed and possibly eliminated. Some of the impediments may be county- or region-specific and others may be a result of state programs or policy. It is important for the county or district and the state to understand these impediments.

PART 9215.0570 ASSESSMENT OF ALTERNATIVES TO A LANDFILL-BASED DISPOSAL SYSTEM

In this part of the rules, the planning requirements differ based on the primary solid waste management system used by the county or district developing the plan. Counties or districts that currently utilize a management system incorporating resource recovery for a majority of the county's solid waste do not need to conduct additional primary system alternatives analysis. Counties or districts proposing to develop resource recovery capacity must assess alternatives. Counties or districts that propose to develop new or continue with a landfill-based system must also develop plans containing an assessment of alternatives. All counties or districts are required elsewhere in these rules to provide an itemized 10 year solid waste management budget. This is consistent with statute (Minn. Stat. § 115A.46, subd. 2(e)), which requires county plans to include "a comparison of the costs of the activities to be undertaken, including capital and operating costs,..."

Subpart 1. Content. This subpart states that the plan shall include a discussion of landfill abatement alternatives according to the requirements of this part.

Subpart 2. Currently using resource recovery. This subpart states that a county or district that is currently utilizing resource recovery to manage the majority of its solid waste by volume shall evaluate resource recovery programs to identify opportunities for maximizing resource recovery and minimizing the need for and practice of land disposal.

The Office believes that counties or districts currently

utilizing resource recovery to manage the majority of their solid waste and proposing to continue to do so for the remainder of the planning period must only evaluate resource recovery programs to identify opportunities for maximizing resource recovery and minimizing the need for and practice of land disposal. This is reasonable because counties or districts already using resource recovery to manage the majority of their solid waste have already complied with statutory planning requirements that they pursue landfill abatement and resource recovery. (Minn. Stat. § 115A.46, subd. 2(c)). Typically those counties or districts have made long-term capital and/or legal commitments that will preclude the feasibility of other incineration, MSW composting, or landfill alternatives. It is important to note that this does not mean that those counties or districts will not need to consider ways to maximize landfill abatement at their existing resource recovery facilities. These rules also require that counties or districts conduct additional assessment of their existing management facilities and determine ways to improve those facilities.

In addition, the rules require counties or districts utilizing resource recovery to describe the process that would be used to explore alternatives and amend the plan if the resource recovery system fails. This requirement insures that counties or districts will have a process outlined to begin looking for alternatives if a system is no longer operable or feasible. Loss of a resource recovery alternative would be a modification from what was proposed, as specified in Part 9215.0810 and would be necessary to request a plan amendment in this case.

Subpart 3. Proposing resource recovery. The rules require that a county or district that is proposing a resource recovery system provide an assessment of mixed municipal solid waste processing alternatives the county or district analyzed while choosing the proposed system. The analysis shall include a financial analysis, discussion of environmental impacts, and a schedule for the development of future feasibility studies. The county or district must justify why any technologies were discarded.

Minn. Stat. § 115A.46, subd. 2(d) requires that a county or district plan address waste reduction, separation, recycling, and other resource recovery options. It is reasonable to require that a county or district proposing resource recovery for the first time assess alternatives and justify its decision for several reasons. It is important that the county or district demonstrate that the chosen alternative is the best alternative for the county or district. In addition, if the county or district is building a new facility rather than using an existing facility, it is likely that some type of environmental review will be necessary. The plan should serve as an introduction to that environment review, providing initial justification for rejection

of other options in selection of the chosen option. Completion of feasibility studies is a logical next step in the development or utilization of a resource recovery facility. Thus, review of alternatives is required in the plan.

Subpart 4. Landfill-based system. The rules require that a county or district that proposes to manage the majority of its solid waste for the ten-year period through land disposal must demonstrate in its plan in practical and financial terms why alternative recovery options such as mixed municipal solid waste composting or incineration are not the most feasible and prudent alternatives at the time of plan approval. The plan must include an analysis of the following:

(A) Existing facilities available for use; and
(B) Technologies available for use or development, including mixed municipal solid waste composting, co-composting, refuse-derived fuel processing, and incineration. In addition, the county or district shall develop ten-year cost projections for the most feasible of the technologies or facilities the county or district considered. This shall include a ten-year system cost projection for at least one management system which includes solid waste composing, co-composting, refuse-derived-fuel processing, or incineration and analysis of available solid waste processing facilities.

Counties or districts that proposed a system in their original plan but did not implement it, and counties or districts that propose to continue to rely on land disposal must analyze the financial, environmental, and practical feasibility of MSW composting, energy recovery, and mechanical processing in their plan update. These technologies are the primary methods used in Minnesota to decrease dependence on land disposal. Minnesota law places land disposal of solid waste at the bottom of the waste management hierarchy (See Minn. Stat. § 115A.02(b) (Supp. 1991)). Minn. Stat. § 115A.46, subd. 2(c) requires that the plan include objectives for reducing land disposal of mixed municipal solid waste and for implementing feasible and prudent resource recovery options. To comply with the statutory requirements, plans that propose to manage the majority of their solid waste through land disposal must demonstrate in practical and financial terms why alternative recovery options such as MSW composting, co-composting, or incineration are not feasible or prudent.

When conducting this assessment, the rules require counties or districts to analyze existing facilities available for use, such as nearby facilities that have unused permitted capacity. Further, the rules require the county or district to look at available technologies such as MSW composting, co-composting, incineration, and producing refuse-derived fuel. The county or

district would not be required to conduct a feasibility study for the plan, but would be required to demonstrate that it had reviewed and included relevant studies and annual reports from similar facilities. It is reasonable to require counties and districts to review existing solid waste facilities as alternatives to construction of similar new facilities to determine whether use of existing facilities would eliminate duplication, and reduce costs.

INTRODUCTION TO PARTS 9215.0580 THROUGH 9215.0690.

Parts 9215.0580 through 9215.0690 contain plan requirements addressing twelve solid waste stream management strategies included by counties or districts in their plans. The OWM recommends that counties or districts organize their plans into this sequence with a discrete section for each solid waste stream or management strategy (recycling, incineration, major appliance management, etc.). Within each management area, for example recycling, the rules ask for information on: (1) a county's general policy and goals, (2) existing programs and practices, (3) specific programs to be developed, (4) a program budget, and (5) a schedule of implementation.

Minn. Stat. § 115A.46, subd. 2(a-h) requires plans to include detailed information regarding the specific functions to be performed and activities to be undertaken to achieve the abatement, reduction, separation, recycling, and other resource recovery objectives and to describe the estimated cost, proposed manner of financing, and timing of the functions and activities. The information regarding existing programs and practices is needed to provide a structured analysis of a county's or district' present and future solid waste management needs. This information is needed to implement the requirements of the statute and organize the requirements into five discrete areas. If the plan is organized in this way, the Office and counties or districts will be able to more easily determine if the programs, staffing, budget allocation, and implementation schedule are adequate for a county or district to achieve the goals established by statute.

The budget requirements in parts 9215.0580 through 9215.0690 may appear to duplicate budget requirements found later in the rules at part 9215.0750. However, the budget required under part 9215.0750 is a comprehensive spreadsheet containing all of a county's or district's estimated solid waste expenditures. The material presented in this spreadsheet is likely to be difficult for those unfamiliar with the plan to readily understand. The Office expects that the information within this master budget will be summarized and repeated in a more understandable form under the relevant specific program description. This format will enable the county or district (and the Office and other readers) to clearly review the program description and the

corresponding budget amount.

The following parts also require that the programs proposed by the counties or districts be consistent with the statutory language referenced in the rules.

PART 9215.0580 WASTE REDUCTION.

Minn. Stat. § 115A.46, subd. 2(d) requires plans to address waste reduction. Waste reduction programs can be implemented by the public and private sectors. The Office requires plans to describe activities by both sectors to obtain a complete picture of waste reduction activities in the county or district.

PART 9215.0590 WASTE EDUCATION.

Minn. Stat. § 115A.46, subd. 2(f) requires plans to designate how public education will be accomplished. The Office believes that it is necessary for counties or districts to first evaluate existing waste education programs before describing the future waste education goals and proposed programs as required by statute to determine how existing and future waste educational efforts can be coordinated.

Minn. Stat. § 115A.552, subd. 3(a) requires counties to have a promotional program on recycling information that includes the publication of quarterly articles or advertisements. This requirement is included in the rules to be consistent with the statutory requirements.

PART 9215.0600 RECYCLING.

Minn. Stat. § 115A.46, subd. 2(d) requires plans to address recycling. Minn. Stat. § 115A.551 requires counties or districts to achieve a 25 percent recycling goal by December 31, 1993 and a 30 percent recycling goal by December 31, 1996. Further, counties or districts are required to develop and implement or require political subdivisions within the county or district to develop and implement programs, practices, or methods designed to meet its recycling goal. Minn. Stat. § 115A.552 requires counties or districts to ensure that residents have an opportunity to recycle. "Opportunity to recycle" is defined in the statute.

It is reasonable for the Office to require counties or districts to evaluate both public and private sector recycling efforts including the tonnage of recyclables recovered so that goals can be established and programs developed or improved to meet the recycling goal. Information on the county's or district's financial and staff commitment and the local market conditions for recycled materials are a necessary part of the plan because these factors will impact the county's or district's

ability to meet the goal.

PART 9215.0610 YARD WASTE PROGRAMS.

Minn. Stat. § 115A.931 prohibits persons outside the metropolitan area from disposing of yard waste in the trash or at a land disposal or resource recovery facility after January 1, 1992. It is necessary for plans to address yard waste to ensure that the counties or districts are, or have plans for, complying with this statute.

Minn. Stat. § 115A.46, subd(d) requires plans to describe "methods for identifying the portions of the solid waste stream such as leaves, grass, clippings, tree and plant residue... for application and mixing into the soil and use in agricultural practices." Plans need to describe both backyard composting and government sponsored composting to determine the amount of yard waste that has been diverted from the solid waste stream. This recovered yard waste can be used by counties or districts toward achievement of the recycling goal described in Part 9215.0600.

The plan must list existing and planned yard waste collection sites because the MPCA has operating and locational requirement for all yard waste composting sites (Minn Rules 7035.2835). Information on local market conditions is required to indicate an understanding by the county or district of the need to market yard waste that is collected.

It is reasonable for plans to include a program budget for the yard waste program to evidence a county's or district's financial commitment to yard waste composting. Such expenditures may include the costs of (1) educating the public about the yard waste ban, (2) managing yard waste sites, or (3) promoting backyard composting.

The plan must describe the environmental risks associated with yard waste management including odor and leachate generation. It is reasonable for plans to include a discussion of the environmental risks in order to locate and operate the facilities in a manner that will minimize the risks.

PART 9215.0620 MIXED MUNICIPAL SOLID WASTE COMPOSTING

Minn. Stat. § 115A.46, subd. 2(c) requires plans to include "the most feasible and prudent reduction of the need for and practice of land disposal of mixed municipal solid waste." It is reasonable for the Office to require counties or districts utilizing MSW composting technology to provide information on the amount of solid waste received, processed, disposed, and compost products marketed by existing compost facilities. This information will give the county or district and the Office a measure of the success of the facility in meeting the statutory

requirements.

Information on the existing facility's operational history, removal of problem wastes, and facility management will help the Office understand the reasons for the numbers in the table requested above. It will also help the county or district determine methods and timelines for improvements during this five-year planning period.

This requirement is consistent with Minn. Stat. § 115A.46, subd. 2(a) which requires plans to include a discussion of the "environmental acceptability" of processing and disposal systems.

Municipal solid waste composting has the potential to greatly reduce the amount of solid waste disposed in the land. However, a MSW composting facility, when improperly designed or operated, has the potential to be of significant hazard to human health and the environment and a significant financial drain for the county or district. Thus, it is reasonable to require that a county or district plan evaluate known and potential environmental and public health impacts when evaluating this alternative.

The MPCA has rules that regulate the operation of MSW compost plants (Minn. Rule pt. 7035.2835). The MPCA rules also require personnel training and MSW compost testing. It is reasonable for plans to require counties or districts to propose methods to comply with these rules.

Plans should describe how MSW compost has been or will be marketed. In the past, it has been difficult for facilities to market their solid waste compost and some of it has been land disposed. Since State law encourages alternatives to land disposal, it is reasonable to require counties or districts to include information on compost marketing.

PART 9215.0630 SOLID WASTE INCINERATION AND ENERGY RECOVERY.

As with MSW composting, additional information is needed concerning existing MSW or refuse-derived fuel incineration programs. MSW incineration can potentially reduce the volume of MSW by 90 percent. These plants can, however, have significant human health and environmental impacts if improperly designed or operated.

Information on the facility's operational history, removal of problem wastes, and facility management will help the state understand the reasons for the numbers in the table requested in part 9215.0740. It will also help the county or district determine methods and timelines for improvements during this ten-year planning period.

The MPCA regulates the emissions testing and ash disposal. Minn. Rules Chapter 7035 and Minn. Stat. § 115A.97. The proposed rules require that the plan summarize the results of these tests. This requirement is consistent with Minn. Stat. § 115A.46, subd. 2(a) which requires plans to include a discussion of the "environmental acceptability" of processing and disposal systems.

The rules also require the counties or districts to describe operational safety at facilities. This is important to determine if facility changes or employee training is needed during the planning period.

PART 9215.0640 LAND DISPOSAL OF MIXED MUNICIPAL SOLID WASTE.

Minn. Stat. § 115A.46, subd. 1 requires plans to include plans for the location, establishment, operation, maintenance, and postclosure use of facilities. Minn. Stat. § 115A.46, subd. 2(a) requires the plan to describe existing processing systems including rates and charges, financing methods, environmental acceptability, and opportunities for improvements. The rules requires that plans include a section on land disposal to comply with these statutory requirements.

Information on the facility's operational history, removal of problem wastes, and facility management will help the state understand the reasons for the numbers in the table requested in part 9215.0740. It will also help the county or district determine methods and timelines for improvements during the ten-year planning period.

Environmental and health impacts. The rules require plans to describe results of MPCA inspections, ground water quality monitoring, and operational safety. This requirement is consistent with Minn. Stat. § 115A.46, subd. 2 which requires plans to include a discussion of the "environmental acceptability" of processing and disposal facilities.

The rules require the plan to include a facility's permit status, permitting schedule, schedule of phase development, status of financial assurance, and status of leachate treatment. These requirements are consistent with Minn. Stat. § 115A.46, subd.2 (a) which requires plans to "describe existing...disposal systems, including...environmental acceptability and opportunities for improvement in the system."

PART 9215.0650 WASTE TIRE DISPOSAL AND RECOVERY.

Minn. Stat. § 115A.914, subd. 3 requires counties or districts to include collection and processing of waste tires in their solid waste management plan and in their solid waste ordinance. It is reasonable for plans to include a waste tire

section to comply with the statutory requirements. Waste tire dumps in counties or districts need to be described in the plan so that counties or districts can include a schedule and budget for abatement. Counties or districts should be aware of the transportation system and end use market used by local collectors so that waste tires are not accumulating illegally. Counties or districts should evaluate waste tire management programs so that the plan can propose to continue or improve these programs.

PART 9215.0660 MAJOR APPLIANCE MANAGEMENT.

Minn. Stat. § 115A.9561 (Supp. 1991) prohibits the disposal of major appliances in the trash or at a land disposal or solid waste processing facility. Minn. Stat. § 115A.552 requires counties to provide for the recycling of major appliances. It is reasonable for plans to describe existing and proposed appliance management programs to ascertain compliance with these statutory requirements.

PART 9215.0670 USED MOTOR OIL AND LEAD-ACID AND DRY CELL BATTERIES MANAGEMENT.

Used motor oil and lead acid batteries are banned from disposal with the trash or in or on the land by Minn. Stat. § 115A.915, § 115A.9155, and Minn. Stat. § 115A.916. It is reasonable to require plans to include a section on these problem materials to ensure that counties or districts are complying with the statutory requirements and that residents are being informed of the statute.

PART 9215.0680 HOUSEHOLD HAZARDOUS WASTE MANAGEMENT.

Minn. Stat. § 115A.96, subd. 6 requires plans to contain the three elements outlined in this statute. This requirement is included to comply with the statutory requirements.

PART 9214.0690 DEMOLITION DEBRIS

The definition of solid waste includes demolition waste. MPCA rules allow demolition waste to be managed separately from mixed municipal solid waste. With the rising costs of land disposal, counties or districts are finding that it is cost effective to manage demolition materials in a disposal cell separate from MSW. Rules for disposal of demolition waste disposal are less rigorous.

Many counties or districts have not established a system whereby individuals and farmers inform the county or district when demolition materials are disposed on their own property (a permit-by-rule site). Minn. Rules 7035.2825 includes requirements of permit-by-rule facilities which are those demolition sites that accept less than 15,000 cubic yards of

material annually. Counties or districts should regulate these permit-by-rule facilities so that a record is maintained of the location of the material and occasional inspections can be made. It is reasonable to require that plans evaluate demolition waste management to ensure that counties or districts budget and plan for proper management of demolition materials.

PART 9215.0700 SOLID WASTE ORDINANCE.

The rules require counties or districts to describe their current solid waste ordinance, problems with enforcing the ordinance, plans to amend the ordinance, and the staff time needed annually to amend or enforce the ordinance. Minn. Stat. § 115A.46, subd. 2(h) requires plans to describe existing and proposed county and municipal ordinances and license and permit requirements including regulation and enforcement procedures. This subpart of the rules is consistent with the statutory requirements.

PART 9215.0710 SOLID WASTE STAFF.

The rules require counties and districts to describe existing solid waste staffing levels and future staffing needs. Solid waste management has become much more technical, time intensive, and costly. Based on these new demands, it is reasonable to require counties or districts to describe the staff that will be necessary to implement and manage county or district solid waste programs.

PART 9215.0720 SOLID WASTE PROGRAM FUNDING.

This part requires counties and districts to identify their current and future financing plans for solid waste management expenditures. Financing techniques could include a combination of tipping fees and governmental subsidies. Some counties or districts pay for all solid waste management costs out of tipping fees, while others use a combination of tipping fees, service fees, and general revenue dollars. This subpart of the rules is consistent with the statutory requirements of Minn. Stat. § 115A.46, subd. 2(d) which requires plans to describe the "proposed manner of financing."

PART 9215.0730 PLAN REVIEW AND FIVE-YEAR UPDATE.

This part of the rules require plans to describe the county or district's process and timeline for development of the next five-year update. This requirement encourages counties or districts to think ahead and if necessary, budget for development of the update. Minn. Stat. § 115A.46, subd. 1 requires plans to be updated every five years so this rules requirement is consistent with the statutory requirements.

PART 9215.0740 GOAL-VOLUME TABLE.

The rules require counties or districts to complete a three to four page goal-volume table. This table contains a numerical presentation of a county's or district's current solid waste volumes including: amount of solid waste disposed of on-site by generators; the estimated number and tonnage of tires, appliances, and vehicle batteries generated and collected; the amount of solid waste recycled, incinerated, composted, and landfilled. The table contains the calculation for landfill capacity needed for a ten year period (certificate of need) as required by Minn. Stat. § 115A.917. This table also includes a county's or district's interim recycling goals as required in Minn. Stat. § 115A.551, subd. 3.

The numbers derived in the table assist a county or district in determining the level of financing needed to cover the costs of the solid waste management program. When the projected budget required by part 9215.0750 is compared to the estimated tonnages found in this table, a county or district can determine the approximate tipping fee and/or government subsidy that is needed to pay for its solid waste program.

It is reasonable to require all counties or districts to use the same basic format to ensure that information from different counties or districts can be accurately compared. The goal-volume table is available to counties or districts on computer disk. It can also be developed by Office staff if a county or district does not have access to a computer. Given the legislative requirements described, it is reasonable to require this table.

PART 9215.0750 ITEMIZED SOLID WASTE BUDGET.

Minn. Stat. § 115A.46, subd. 2(e) requires that plans 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." Given the statutory requirement, it is reasonable for the rules to require that plans contain this budget.

Further, it is reasonable for the Office to specify the format to be used in the financial analysis. The Office has experienced problems when counties or districts or their consultants have chosen their own format. Standard assumptions such as the projected inflation rate or the length of time over which items should be amortized are needed.

PART 9215.0760 ALTERNATIVES TO PROPOSED SYSTEM.

Minn. Stat. § 115A.46, subd. 2(e) requires plans to "include alternatives which could be used to achieve the abatement objectives if the proposed functions and activities are not established." The statute anticipates that some facilities may not be viable, have lower recovery rates than anticipated, or they may close or not be available as planned.

This part of the rules clarifies the requirement of statute. Because it may be difficult or even impossible for a county or district to know what its future alternatives are at the time of plan development, it is reasonable for the county or district to identify possible options and the process the county or district will use to evaluate these and other options in the event the need arises.

PART 9215.0770 ENVIRONMENTAL RISKS

This part identifies specific solid waste management practices that have environmental risks. If a county or district or county residents use these practices, the plan must address plans and programs the county or district will use to mitigate the risks associated with the practices.

Minn. Stat. § 115A.46, subd. 1(a) requires plans to describe the environmental acceptability of methods for improving existing solid waste management systems. Proposed rules parts 9215.0610 to 9215.0640 require a county or district to evaluate the environmental risks associated with incineration, MSW composting, and yard waste management and describe plan and program the county or district will use to mitigate the risk associated with those practices. Other solid waste systems such as recycling have environmental impacts, but the impact is minimal and is best addressed by local government regulation.

This part identifies two specific solid waste management practices (on-sight disposal and illegal disposal) that also may create environmental risks. If the county or district or county residents use or have used these practices, the plan must address plans and programs the county or district will use to mitigate the risks associated with these practices.

On-sight disposal of solid waste is a solid waste management practice that may have environmental impacts. Minn. Stat. § 17.135 allows farmers to bury or burn and bury solid waste generated from the farmer's household or as part of the farming operation if (1) solid waste collection service is not available, and (2) the burying is done in a nuisance free, pollution free, and aesthetic manner on land used for farming. There are many items in the solid waste stream that cannot be buried or burned and buried safely. Nevertheless, many farmers and other non-farm rural residents continue to dispose of their solid waste in this manner. Because of the potential effect burning and burying have

on air quality, surface water, and drinking water, the Office believes that plans should include an assessment of the risks of continuing to allow this practice.

Illegal disposal is generally the result of residents and businesses not having or willing to pay for solid waste collection. As indicated above many items in the solid waste stream cannot be burned or buried safely, the same environmental risks exist when illegally disposed too. Nevertheless, many areas of the state are experiencing continued use of disposal of solid waste in this manner. Because of the potential effect illegal disposal may have on air quality, surface water, and drinking water, the Office believes that plans should include an assessment of the extent of illegal disposal and the environmental risk associated with such disposal and methods of mitigating such risks.

PART 9215.0780 SOLID WASTE FACILITY SITING PROGRAM.

Minn. Stat. § 115A.46, subd. 2(g) requires plans to "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." This section of the rules is statutorily required.

Further the rules require the siting section of the plan to be consistent with rules of other state agencies. This requirement is added because the environmental review and permitting processes are governed by rules of other agencies. A county or district that proposes to site a facility should be aware of these requirements.

Public participation is essential to the success of a siting program. Many siting efforts have failed because participation was lacking at the outset of the siting process. It is reasonable for plans to include a program for public participation.

PART 9215.0790 PUBLIC PARTICIPATION.

The rules require that the county or district ensure proper public participation during the development and implementation of the solid waste management plan. Too often, there has not been adequate public participation in the development of county or district solid waste management plans and programs. Inadequate public participation can lead to the failure of county or district initiatives. In response to this, the rules require county or district plans to include documentation on public participation in solid waste planning. The plan must also describe a process to ensure the ongoing involvement of

interested parties in solid waste planning and implementation.

Minn. Stat. § 115A.46, subd. 1 states that "political subdivisions preparing plans... shall consult with persons presently providing solid waste collection, processing, and disposal services." Minn. Stat. § 115A.46, subd. 2(f) requires plans to encourage ownership and operation of solid waste facilities by private industry. It is necessary and reasonable for the rules to require a discussion of solid waste industry participation for this reason.

PART 9215.0800 REGIONAL PLANNING.

Minn. Stat. § 115A.02(a)(4) and (5) states that it is the goal of this chapter to improve solid waste management in the state to serve the following purposes:

(1) coordination of solid waste management among political subdivisions, and

(2) orderly and deliberate development and financial security of solid waste facilities including disposal facilities.

Coordination of solid waste management and deliberate development of solid waste management facilities are the reasons for considering regional planning in solid waste management plans.

PART 9215.0810 REQUIREMENTS FOR PLAN, PLAN UPDATE AND PLAN AMENDMENT APPROVAL

Subpart 1. Goals and objectives. This subpart requires plans to establish goals and objectives that will allow the county or district to achieve the maximum reduction of the need for and practice of land disposal of solid waste. Minn. Stat. § 115A.02(b), states that the goal of the state is to "foster an integrated solid waste management system in a manner appropriate to the characteristics of the solid waste stream." The statute lists the following solid waste management practices 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. As a whole, a plan must foster alternatives to landfilling. This subpart is needed to refer counties or districts to the overriding goal of developing a solid waste management plan.

Subpart 2. Ten-year plan. Minn. Stat. § 115A.46 requires plans to include an estimate of the land disposal capacity needed through the year 2000. The statute also requires plans to be updated every five years. The rules require plans to be for a ten year period. It is understood that there will be less specificity on the county's or district's proposals for years six through ten. At the time of the five-year plan update more

specificity can be given and the county or district can again look ahead ten years. This subpart is consistent with the statutory requirements.

Subpart 3. Land disposal reduction. This subpart requires plans to describe an integrated solid waste management system that minimizes the need for land disposal of solid waste. Minn. Stat. § 115A.46 subd. 2(c) requires analysis of feasible and prudent alternatives to land disposal. The rules inform counties or districts that the Office will evaluate whether the plan contains a reasonable basis for the determination that the chosen technologies are feasible and prudent according to the following factors:

A. The plan must include a review of whether the proposed system is based on proven methods and technologies capable of commercial-scale application and whether the technologies can be successfully put into practice. Alternatives that are experimental or theoretical and cannot be put into commercial-scale application will not be considered feasible and prudent.

Factor A. is reasonable because alternatives that can not be put into full scale commercial application will not assist counties or districts in achieving state goals for solid waste management.

B. The plan must indicate whether the proposed system can be implemented consistent with projected revenues and budgets for solid waste management as prepared under part 9215.0750.

The information required in factor B. is reasonable to determine whether the plan is affordable to county or district residents and at what cost.

C. The plan must indicate whether the proposed system promotes solid waste management practices that minimize adverse impacts on natural resources.

Factor C. is reasonable to determine that the proposed solid waste system presented in the plan will be the alternative with minimal adverse impacts on natural resources.

<u>PART 9215.0820 SUBMITTAL OF PLANS, PLAN UPDATES, AND PLAN AMENDMENTS FOR APPROVAL.</u>

Subpart 1. Draft plan. This subpart provides those submitting plans with information regarding plan submittal procedures.

Subpart 2. Plan update. Minn. Stat. § 115A.46, subd. 1 requires plans to "be updated every five years and revised as necessary for further approval." The rules repeat the

requirement of statute. The statute does not specify what is required in a plan update so the Office has established requirements in the rules.

The rules require plan updates to include the information required for a plan in parts 9215.0540 to 9215.0790. In addition, to make the planning update meaningful and current, the update must include an evaluation of program progress, identification of implementation problems that have been encountered, and information required by statutory changes made since the rules were promulgated. If changes are made to statute that effect the development of plan updates, the Office will make this information available to counties or districts.

Subpart 3. Plan amendment. Minn. Stat. § 115A.46, subd. 1 requires plans to be revised as necessary so that they are not inconsistent with state law. This subpart of the rules outlines a process for development of a plan amendment when plan revisions are needed. The rules require the plan amendment to include the reasons for the amendment, benefits of the proposed amendment, consistency with state statute, updated risk information, and updated goal-volume tables, budgets, and implementation information. This information is needed so that the plan or plan update remains consistent with state policy and programs. The solid waste plan has become the basis for issuance of permits, grants, and certificates of need for land disposal capacity.

Subpart 4. Format. The Office requires that plans be submitted in a three-ring binder to make it easier for counties or districts to insert new or modified sections into the plan. Using a three-ring binders enables individual pages or sections to be added or removed with minimal waste of time and paper.

Single-spacing and printing on both sides of the page saves paper. However, the rules allow those counties or districts without the ability to do two-sided copying to submit one-sided copies.

PART 9215.0830 TIMING OF SUBMITTAL.

Subpart 1. Submittal of plan. The rules establish a timeline for submittal of plans and plan updates. The rules require that a draft plan be submitted on the effective date of these rules. This date is reasonable as all counties or districts have already submitted a draft plan.

Subpart 2. Submittal of plan update. Minn. Stat. § 115A.46, subd. 1 requires counties or districts to "update their plans every five years." The rules require counties or districts to submit a draft of their five year plan update four and one-half years after plan approval. This requirement gives counties or districts and the Office a reasonable amount of time to

review, redraft, public notice, and approve the plan update before the previous plan expires.

Subpart 3. Submittal of plan amendment. Minn. Stat. §§ 115A.551, subd. 6, and 115A.96, subd. 6, require solid waste plans to be revised (amended), but the statute does not identify when an amendment is needed. Items A to C of this subpart identify the following instances when an amendment would be required.

A. Each county or district shall submit an amendment to the approved plan when the county or district is proposing to make substantial changes in its solid waste management system from what was contained in the approved plan.

This requirement is reasonable because substantial changes in county or district policies and programs should be reflected in the counties or districts plan so that the plan reflects the current solid waste management activities and requirements. Because the county or district has responsibility for planning activities, it is also reasonable to require counties or districts to make an affirmative obligation to change the solid waste management plan when the county or district proposes substantial changes to the plan.

B. If the director determines that an amendment to the plan is required due to substantial changes in solid waste management in the county or district, including to but not limited to an increase in the amount of waste needing land disposal, the director shall notify the county or district in writing of the need to amend its plan. The county or district shall have six months from receipt of notice to submit an amendment to the director.

It is reasonable for the director to require counties to amend their solid waste plans when substantial changes have occurred because the director has authority to review and approve plans for solid waste management in the state.

The rules specify that counties or districts have six months to prepare amendments after a formal request for an amendment has been made by the Director. This is a reasonable amount of time for counties or districts to prepare an amendment because it may take time to collect data and other pertinent information that will project possible affects of changes in the system, budgets, timelines, etc.

C. If changes in statute or rule require plans to be amended on a schedule other than indicated in the plan approval, the county or district shall submit a plan amendment in accordance with statutory and rule requirements.

It is reasonable to require counties or districts to amend their solid waste management plans as required by changes in statute and rules because these changes represent changes in state solid waste management and planning requirements that must be reflected in local planning activities.

PART 9215.0840 REVIEW BY OFFICE OF WASTE MANAGEMENT.

Subpart 1. Preliminary review. The rule gives the Office 45 days to notify the counties or districts if revisions to a draft plan are needed. This is sufficient time for the Office to review and comment on submittals.

Subpart 2. Supplemental information. The rules require a county or district to redraft a plan, plan update, or plan amendment within 90 days after the county or district receives notification from the Office. It is reasonable to require submission of draft documents and to require redrafting and resubmission of those parts of the draft plan which are incomplete. The Office cannot make a sound decision to approve unless full and complete information is received. It is reasonable to require response within 90 days to continue the approval process and not delay plan implementation.

Subpart 3. Preliminary decision. The rules specify that once a redraft containing all supplemental information, the Director will have 90 days in which to make a preliminary decision on the plan, plan update, or plan amendment. The time period will allow the Office sufficient time to review the supplemental information and determine the plans completeness.

Subpart 4. Preliminary decision to approve plan. This subpart requires that once the Director has given preliminary approval to a plan, plan update, or plan amendment, the document shall be placed on public notice for a 30 day period. It is reasonable to assume that there may be parties interested in commenting on the content of the plan. These parties should be afforded the opportunity.

Subpart 4. Preliminary decision to disapprove plan. This subpart specifies that the Director must notify the county or district that fails to resubmit a draft, that the plan, plan update, or plan amendment will be disapproved. This notification gives the county or district a final opportunity to respond.

PART 9215.0850 PUBLIC NOTICE AND PUBLIC COMMENT.

Subpart 1. Public notice. The rules require the Director to prepare a public notice of the Office's intent to approve the solid waste management plan, plan update or plan amendment. The public notice must state that any person may submit comments during the 30 day comment period. Thirty days has been the

length of the comment period since the rules became effective in 1986. This period has provided a reasonable amount of time for an interested party to become aware of the proposed action, conduct a review, and prepare and submit comments to the Office.

This subpart also specifies what shall be included on the notice including addresses and phone numbers of contact people, description of the plan, identification of the duration of approval, description of the procedures the Office will use to reach a final decision, the procedures for requesting a public informational meeting, and the date the comment period begins and ends. The content requirements are straightforward and reasonable because this is the type of information the public will need to provide as an adequate response to the notice.

Subpart 2. Distribution of public notice. This subpart of the rules describes how the public notice shall be circulated and distributed. The posting and mailing requirements are designed to ensure that the notice is posted in places where it may reasonably be expected to be read. It is also reasonable to mail the notice to persons who have requested to receive the mailing, to persons who may have an interest in the notice, and to advertise the notice to allow as a broad an audience to review the notice as possible.

Subpart 3. Public comments. This subpart specifies that during the comment period any interested person may submit written comments on the plan or plan update or plan amendment. It requires those commenting to state their interest in the document, the action they wish the Office to take, and the reasons for the request. These requirements constitute reasonable assurance that the written comments will help the Office understand what is desired and why.

Subpart 4. Extension of the comment period. This subpart permits the Director to extend the public comment period if necessary to facilitate public comment. This is reasonable because occasionally unforeseen circumstances arise which make extension of the comment period desirable.

PART 9215.0860 PUBLIC INFORMATIONAL MEETING.

This part establishes the administrative process for a public informational meeting. This basis process has been used since 1986 and it worked well in the one instance that a public informational meeting was requested on a plan approval.

Subpart 1. Request. This subpart specifies the required contents of a request for a public informational meeting. The requestor is required to explain why the meeting is being requested and the issues the requestor would like addressed. This requirement is straightforward and reasonable to determine

whether a request for a public informational meeting is directly related to the plan.

Subpart 2. Decision to hold a public informational meeting. This subpart provides that the Office hold a public informational meeting if such a meeting would help clarify and resolve issues regarding the Director's preliminary approval of the solid waste management plan, plan update, or plan amendment. The language is intended to be limiting, because the Office does not want to incur the expense of holding a meeting about issues it has no power to affect. The rules also specifies that the Office can hold a public informational meeting even if one is not requested.

Subpart 3. Location of meeting. This subpart requires holding the public informational meeting in the geographical area covered by the solid waste management plan and certificate of need. This is reasonable because holding the meeting in the area covered by the plan will enable those affected by the plan to participate in the process.

Subpart 4. Notice of public informational meeting. Subpart 4 identifies the information that must be in the notice announcing a public informational meeting. This is reasonable because interested parties need to know the time, date, place of the meeting, and the agenda of the meeting.

Subpart 5. Distribution of notice. This subpart requires the Office to distribute the notice by publication of an announcement in a local newspaper and by other means that enable the Office to reach interested persons.

Subpart 6. Joint meeting. This subpart provides for consolidation of meetings on two or more plans, plan updates, or plan amendments, if that is desirable and does not adversely affect interested persons. This is reasonable because it provides for the economical use of the Office and the public's resources.

PART 9215.0870 FINAL DECISION.

Subpart 1. Record. Subpart 1 states that the Director shall consider all relevant information before making a final decision on the plan. This is straightforward and reasonable.

Subpart 2. Notification. Subpart 2 states that the Director will notify the county or district and all persons who submitted comments on the plan, plan update, or plan amendment as to the Directors final decision. It is reasonable for the Office to notify all those persons who had expressed an interest in the plan to inform them of the decision.

Subpart 3. Approval of plan. Subpart 3 identifies that the

Director will approve plans, plan updates, or plan amendments that meet the requirements of this rule. It also states that the approval period is five years unless otherwise specified. An allowance for an approval period of less that five years is reasonable in some circumstances. In the past, the Office has approved a number of plans for periods of less than five years when counties or districts have not made a decision as to their primary solid waste management system. A shorter approval period gives them time to make this decision and allows them to continue receiving their pass-through funding under Minn. Stat. § 115A.557, and grant funding under Minn. Stat. § 115A.54.

Subpart 4. Approval of amendment. Subpart 4 specifies that the approval of an amendment will not change the due date of the county or district's next plan update unless otherwise specified. This requirement is reasonable since in most cases, amendments will be short documents in which a few sections of a plan or plan update will be modified. An amendment does not eliminate the need for the regular plan update.

Subpart 5. Resolution. The rules require the county or district to pass and submit to the Office a resolution adopting the plan, plan update, or plan amendment before it can be approved by the Director. This is a reasonable requirement as a county or district may make numerous submissions of sections of its plan, plan update, or plan amendment before it is in complete form. It is reasonable then to require the county or district to adopt the final version so that the county or district and the Office both are working from the same version. In addition, the county or district (which is defined in these rules to mean the governing board) can only bind itself through its governing body.

Subpart 6. Submittal of final plan. Subpart 6 requires that two copies of the approved plan, plan update, or plan amendment be submitted to the Office. These copies must be submitted in a three ring binder, single spaced and printed on both sides of the paper where possible. The Office asks for the document to be submitted in a three ring binder so that it can be easily amended if needed during the five year approval period. The document is single-spaced and printed on both sides of the paper to save paper. The Office believes these requirements are reasonable.

PART 9215.0880 REVOCATION OF APPROVAL.

Subpart 1. Failure to implement. This subpart is reasonable because the Office needs to be able to require the county or district to amend its plan if the county or district fails to implement the plan. The Office will use its authority to require the amendment depending on the degree of non-compliance. For example a county or district may decide not to build one of its six yard waste composting sites, a fairly minor

change that would not constitute noncompliance. However, if a county or district did not close its landfill and begin shipping the majority of its solid waste to an MSW composting facility as it had proposed in its plan, this would constitute noncompliance and the Office would require and amendment to the plan or plan update.

Subpart 2. Failure to amend. Subpart 2 provides that the Director can revoke approval of the plan if the county or district has failed to submit a plan amendment as required under Part 9215.0830, subp. 3. This requirement is reasonable because a meaningful tool is necessary to enforce compliance with the rules.

PART 9215.0890 CERTIFICATE OF NEED.

Subpart 1. Scope. Minn. Stat. § 115A.917 specifies that no new capacity for disposal of mixed municipal solid waste may be permitted in non-metropolitan counties without a certificate of need issued by the Office indicating the Office's determination that additional disposal capacity is needed in the county or district. Under the existing rules, certificates of need are issued to counties or districts at the time of plan approval. This system was difficult to utilize because the timing of the permitting and issuance of certificate did not always coincide causing difficulties in making determination of needs from older issued certificates of need.

Under the new certificate of need process outlined in parts 9215.0890 to 9215.0940, a certificate of need will be issued to facility owners and operators at the time of facility permitting rather than to counties or districts at the time of plan approval. If a county or district is the owner or operator of a landfill and is seeking a permit for a new or expanded landfill, the county or district will apply to obtain a certificate of need prior to seeking such a permit. This change is being made because under statute, a certificate of need is only required for purposes of permitting a new landfill or an expansion of an existing landfill and is not required for plan approval. The plan approval under this chapter will still contain an estimate of the county's or district's land disposal needs.

It has been the experience of the Office in evaluating facility disposal needs that it can more accurately verify facility need if the certificate of need is issued on a facility specific basis rather than on a county or district specific basis. By doing it on a facility specific basis a commitment to use the facility must be demonstrated in the plan for the county or district whose land disposal need calculation is the basis for the certificate of need.

Subpart 2. Timing. This subpart requires that a request

for a certificate of need be submitted to the Office before a preliminary request for a permit is submitted to the MPCA. This is reasonable because the MPCA would not want to invest staff time on review of a permit application if the applicant was not going to receive a certificate of need. The rules state that the Office will review a request within 90 days which is an adequate amount of time for the Office to review and comment on the submittals.

PART 9215.0900 CONTENT OF CERTIFICATE OF NEED REQUEST.

Subpart 1. Scope. This subpart identifies that the certificate of need must contain the information described in the remainder of this part.

Subpart 2. Annual solid waste estimates. Information on amount and type of solid waste to be managed annually at the facility is needed for the Office to evaluate whether the proposed facility or facility expansion is needed.

Subpart 3. Origin of solid waste. This subpart requires that certificate of need applicants provide information regarding the origin of the solid waste that will be received annually from each source county or district. The rules state that information on volumes shall come from solid waste management plans, master plans, and letters of intent from counties or districts. Planning documents typically contain the required estimates. The OWM will compare this information with information contained in the approved county or district solid waste management plan for each county or district to determine whether the amounts are consistent with the feasible and prudent need for disposal identified in each plan. If the plan does not document justification for the need for disposal proposed in the certificate of need request, the Office can not certify the need for the additional capacity for the facility.

Subpart 4. Alternatives. The request must also contain a review of alternatives to the new disposal capacity if alternatives have not been discussed in the approved county or district solid waste plan in the county or district where the certificate of need is requested. Part 9215.0570 of these rules require plans to look at alternatives to expanded land disposal. There may be private landfills that propose to expand in counties or districts that do not have a discussion of alternatives in their plan. In these cases, the analysis of alternatives is needed.

Subpart 5. Estimate errors. In some situations county or district plans may generally justify the need for new capacity but contain erroneous assumptions regarding solid waste generation. This subpart requires applicants to address those estimate errors without having to go through a complete plan

amendment.

PART 9215.0910 PUBLIC INFORMATIONAL MEETING ON CERTIFICATE OF NEED REQUEST.

This part specifies that the Office may hold a public informational meeting if it determines that a meeting would help clarify and resolve issues. This is reasonable because it provides a mechanism to allow additional public participation in the plan approval process for the certificate of need. This part informs interested parties that a public informational meeting is an option that can be requested.

PART 9215.920 APPROVAL OF CERTIFICATE OF NEED.

This part identifies that the Office will issue certificates of need to the owner or operator of disposal facilities if the Office determines that the additional disposal capacity is needed. Under Minn. Stat. 115A.917, the Office can not issue a certificate of need unless it determines that additional disposal capacity is needed in the county or district.

PART 9215.930 FINAL DECISION.

This part establishes a time frame under which the Office must make a decision on certificate of need issuance. Such a time frame is important to provide facility owners with assurance that their request for new capacity will be processed in a timely fashion. Ninety days is a reasonable amount of time for the Office to make its determination in light of other responsibilities that the Office has.

PART 9215.0940 REVOCATION OF CERTIFICATE OF NEED.

The Office can revoke the certificate of need in certain circumstances. For example, if a facility was issued a certificate of need based on the assumption that it would handle a minimum amount of unprocessed solid waste from a county or district proposing a MSW composting facility and the composting facility was not built, the Office could revoke the certificate of need. In this example, the certificate of need calculations would no longer be accurate.

State or federal laws or regulations may effect certificate of need issued to a facility owner or operator. It is therefore reasonable for the office to have a means to revoke or revoke and reissue certificates of need that were issued to owners or operators of facilities that are out of compliance with state or federal requirements.

PART 9215.0950 REVIEW AND EXPIRATION OF EXISTING CERTIFICATES OF NEED.

This part provides that the Office will review a county or district's certificate of need, issued under the certificate of need rules before revision, to determine whether the certificate of need is inconsistent with the approved plan. If the certificate of need is not consistent with the approved plan, the Office will either revoke and reissue the certificate of need or require the county or district to amend its plan. The provision is reasonable because the previous process it may be necessary to allow some previously issued certificates to be replaced by new certificates of need issued to the owners and operators of facilities at the time of permitting.

This part also provided that certificates of need issued prior to the effective date of this chapter would be considered to be a documentation of the land disposal needs of the county or district and will expire at the time of the next county or district update of its plan. The director will reissue the certificate if the certificate of need is required to be issued based on the new certificate of need provisions in this chapter.

It is reasonable to have the certificates of need expire at a specific time to allow a planned expiration of the certificates of need issued under the prior rules. Expiration at the time of plan update is reasonable because that is the time when the county or district re-evaluates it land disposal needs and the Office reviews the county's or district's plan. Under the proposed rules, the certificate of need will only be issued to landfill owners and operators at the time of a permit request for new or expanded capacity, a new certificate of need will be issued for the needed capacity. Thus, until the certificate of need expires at the time of plan update, the certificate will function as documentation of the county's or district's land disposal needs as reflected in the county's or district's approved plan.

REPEALER

In adopting this revised rules the Office is repealing in its entirety the existing solid waste planning and certificate of need rules.

V. FISCAL NOTE REQUIREMENTS

Minn. Stat. § 14.11, subd, 1, requires that:

" If the adoption of a rule by an agency will require the expenditure of public money by local public bodies, the appropriate notice of the agency's intent to adopt a rule shall be accompanied by a written statement giving the agency's

reasonable estimate of the total cost to all local public bodies in the state to implement the rule for the two years immediately following adoption of the rule if the estimated total costs exceeds $100,000 in either of the two years. For purpose of this subdivision, local public bodies shall mean officers and governing bodies of the political subdivisions of hte state and other officers and bodies of less than statewide jurisdiction which have the authority to levy taxes."

Current solid waste planning and certificate of need issuance rules (Minn. Rules Ch. 9215) and statute (e.g. Minn. Stat. §§ 115A.42, 115A.46, 115A.551, subds. 6-7, 115A.914, 115A.917, 115A.96, subd. 6, and 115A.97) require counties and districts to prepare solid waste plans and calculate land disposal needs. The current rules and statutes extensively define county planing requirements. The proposed rules have reorganized the rules to make it easier for counties and districts to describe existing waste management systems, evaluate alternatives, and propose new solid waste management systems. In addition, the proposed rules incorporate new statutory requirements for counties or districts to implement or plan development of programs for source separation, recycling, source reduction, opportunity for residential recycling, waste tire management, yard waste management, used appliance management, household hazardous waste management, and toxicity and reduction of ash generation. Consequently, the Office believes that the proposed rules do not impose significant additional financial responsibilities on local public bodies.

Because the Office has determined that implementation of the proposed rules will not require local public bodies to significantly increase the amount of money that local public bodies are required to spend under existing statutes and rules of the Office on planning and certificate of need issuance activities, the Office has not prepared a fiscal note on this rulemaking.

VI. SMALL BUSINESS CONSIDERATIONS

Minn. Stat. § 14.115, subd. 2 (1990) requires state agencies proposing new rules which affect small businesses to consider the following methods for reducing the impact of the rules on small businesses:

(a) the establishment of less stringent compliance or reporting requirements for small businesses;

(b) the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;

(c) the consolidation or simplification of compliance or reporting requirements for small businesses;

(d) the establishment of performance standards for

small businesses to replace design or operational standards required in the rule; and

(e) the exemption of small businesses from any or all requirements of the rule.

The statute requires agencies to incorporate into rules any of the methods listed in subdivision 2 "that it finds to be feasible, unless doing so would be contrary to the statutory objectives that are the basis of the proposed rulemaking." Minn. Stat. § 14.115, subd. 3 (1990).

For the most part, the OWM does not believe that these rules have significant impact on small businesses. The primary purpose of these rules is to provide direction to local units of government concerning county or district solid waste management plan development and approval. In addition, these rules establish procedures for the issuance of certificates of need to publicly and privately owned solid waste disposal facilities.

In some situations, the firms owning solid waste disposal facilities may be included under the category of small businesses addressed under chapter 14. However, the OWM does not believe that the certificate of need application procedures imposed on those businesses are burdensome. Indeed, the type of information required to be submitted with a certificate of need application is consistent with the type of information that businesses would need to develop in any case as a part of prudent management. In any event, the OWM must request the level of detail required in a certificate of need application in order to effectively fulfill its statutory responsibility to require the development of plans promoting all feasible and prudent alternatives to landfills (Minn. Stat. § 115A.46) and to certify need for new land disposal capacity (Minn. Stat. § 115A.917).

Minn. Stat § 115A.46, subd. 2(c) (1990) requires the Office to approve solid waste management plans which "require the most feasible and prudent reduction of the need for and practice of land disposal of mixed municipal solid waste." To the extent that solid waste is diverted from land disposal facilities due to the plan, small businesses could be affected. The statutory requirements are imposed on all counties or districts, and the land disposal facilities within the counties or districts are equally affected whether privately-owned or publicly-owned. Any less stringent requirements for small businesses would be contrary to the Office's mandate under Minn. Stat. § 115A.46.

Minn. Stat. § 115A.917 (1990) requires the Office to certify need for additional land disposal capacity. The Office "shall certify need only to the extent that there are no feasible and prudent alternatives to the additional disposal capacity, including waste reduction, source separation, and resource recovery, that would minimize adverse impact upon natural

resources." The Office may not certify need until the county or district has a plan approved under section 115A.46. The statutory requirement of certifying need for land disposal is required for all counties or districts, and the land disposal facilities are equally affected whether privately or publicly owned. Any less stringent requirements for small businesses would be contrary to the Office's mandate under section 115A.917.

While it does not appear that these rules have significant direct impact on small businesses, some additional discussion of indirect positive impacts on small business may be appropriate. Minn. Stat. § 14.115 assumes that if small businesses are affected by new rules, the impact will be negative. The law requires an Office to mitigate the negative impact if possible. While these rules may have some necessary negative impact, they primarily have a positive impact on small businesses.

Many counties or districts will choose to hire consultants and contract for other technical professional services to assist them in completing and implementing the planning requirements of the rules, resulting in increased activity and opportunities for this portion of the small business sector. This will result in benefits for small businesses. In addition, as counties or districts continue to implement the solid waste management system designed under the planning portion of the rules, increased opportunities for entrepreneurship will be available in construction of new facilities; collection of materials; processing and storage systems for materials; employment of brokers, distributors, and sales professionals; and utilization of transportation services and equipment.

The Office actively sought input from the regulated community during the drafting of the proposed rules. This activity is discussed in Part III of this document.

The Office believes the rules address the concerns of small business to the maximum extent possible without acting contrary to the statutory requirements of Minn. Stat. §§ 115A.46 and 115A.917 (1990) to maximize reduction of land disposal of mixed municipal solid waste.

STATE OF MINNESOTA
OFFICE OF WASTE MANAGEMENT

In the Matter of the Proposed Rules Governing Comprehensive Solid Waste Management Planning and Certificate of Need Issuance, Minn. Rules Parts 9215.0500 to 9215.0950

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

RICHARD L. FIELDS, being duly sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minn. Stat. §§ 14.14, subd. 1a and 14.22 that their names be placed on the Minnesota Office of Waste Management's rulemaking mailing list is accurate, complete, and current as of this sixth day of August, 1992.

That on the sixth day of August, 1992, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt Rules Without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States Mail or in the United States Mail a copy thereof, with postage prepaid, to all persons and associations on the aforementioned list.

Richard L. Fields

Subscribed and sworn to before me
this 6th day of August, 1992.

Helen L. Renner
Notary Public

HELEN L. RENNER
NOTARY PUBLIC-MINNESOTA
WASHINGTON COUNTY
MY COMMISSION EXPIRES MARCH 6, 1994

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Clarkfield, MN 56223

Mr. Bill Henry
Tri-County Solid W. Commission
Box 27, Courthouse
St. Peter, MN 56082

Mr. Jerry Johnson
Tri-County S. W. Commission
601 North 20th AVe.
St. Cloud, MN 56303

Mr. Patrick Story
East Central S.W. Commission
Rural Route 2, Box 103 E
Mora, MN 55051-9802

County Chairs
CNTY-CHA.IRS
XXXJuly 21, 1992,

The Honorable Darrell Bruggman
Aitkin County
HCR 4, Box 38
McGregor, MN 55760

The Honorable Dan Erhart
Anoka County
11659 Eldorado St. N.W.
Coon Rapids, MN 55433

The Honorable Carolyn Engebretson
Becker County
HC10, Box 93
Rochert, MN 56578

The Honorable John Lund
Beltrami County
R 2, Box 171-A
Bemidji, MN 56601

The Honorable Duane Walter
Benton County
7665 Ronneby Rd. N.E.
Foley, MN 56329

The Honorable Larry Rixe
Big Stone County
W. Co. Rd. 6
Clinton, MN 56225

The Honorable Lin Barnes
Blue Earth County
204 S. 5th St., Box 8608
Mankato, MN 56002

The Honorable Charles Guggisberg
Brown County
R 1, Box 32
New Ulm, MN 56073

The Honorable Mel Tan
Carlton County
1609 Selmser Ave.
Cloquet, MN 55720

The Honorable Earl Gnan
Carver County
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Norwood, MN 55368

The Honorable Kenneth Johnson
Cass County
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The Honorable Orville Meints
Chippewa County
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Clara City, MN 56222

The Honorable Bob Anderson
Chisago County
34525 Vista Rd.
Taylor Falls, MN 55084

The Honorable Diane Meyer
Clay County
504 S. 9th St.
Moorhead, MN 56560

The Honorable Clayton Steenerson
Clearwater County
Courthouse
Clearbrook, MN 56634

The Honorable Wesley Hedstrom
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Grand Marais, MN 55604

The Honorable Frank Jungas
Cottonwood County
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Mountain Lake, MN 56159

The Honorable Cheryl Gelbmann
Crow Wing County
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Brainerd, MN 56472

The Honorable Joseph A. Harris
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Hastings, MN 55033

The Honorable Harlan Buck
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The Honorable Ann Malmgren
Douglas County
R 5, Box 165
Alexandria, MN 56308

The Honorable Robert Klingbeil
Faribault County
Bricelyn, MN 56014

The Honorable Donald Boyum
Fillmore County
Courthouse
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The Honorable Robert Berthelsen
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Albert Lea, MN 56007

The Honorable Peder Underdahl
Goodhue County
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Dennison, MN 55018

The Honorable Richard Kastner
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The Honorable John Derus
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The Honorable Kevin Kelleher
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The Honorable Winston Manlove
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R 4
Park Rapids, MN 56470

The Honorable Tom Pagel
Isanti County
Courthouse
Isanti, MN 55040

The Honorable Matthew Huju
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The Honorable Norman Pohlman
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The Honorable Tom Roeschlein
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The Honorable Randy Swenson
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The Honorable Doris Hanson
Koochiching County
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Baudette, MN 56623

The Honorable Jerome Schleis
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The Honorable Donald Prosch
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Lake Benton, MN 56149

The Honorable William Cole
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The Honorable David Siedschlag
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The Honorable Kenneth Price
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Stephen, MN 56757

The Honorable Herbert Baumhoefner
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The Honorable William Block
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R 2
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The Honorable Bob Finbraaten
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The Honorable Rimer Isder
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The Honorable Warren Rodning
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The Honorable Marvin Baumgard
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The Honorable Lloyd Hovelson
Norman County
Gary, MN 56545

The Honorable Paul Stellpflug
Olmsted County
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Rochester, MN 55904

The Honorable Andy Lindquist
Otter Tail County
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Fergus Falls, MN 56537

The Honorable Oliver (Skip) Swanson
Pennington County
R 3
Thief River Falls, MN 56701

The Honorable Donald Lindquist
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Hinckley, MN 55037

The Honorable Allen "Bud" Vis
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The Honorable Lyle Eisert
Polk County
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Crookston, MN 56716

The Honorable Ralph Ranum
Pope County
R 3
Starbuck, MN 56381

The Honorable Hal Norgard
Ramsey County
Courthouse, 15 W. Kellogg
St. Paul, MN 55102

The Honorable Virgil Benoit
Red Lake County
Courthouse
Red Lake Falls, MN 56750

The Honorable Darold Neperman
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Redwood Falls, MN 56283

The Honorable Marcie McLaughlin
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Morton, MN 56270

The Honorable Milton Plaisance
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24330 Bagley Ave.
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The Honorable Ronald Boyenga
Rock County
Ellsworth, MN 56129

The Honorable John Gaukerud
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Badger, Mn 56714

The Honorable Ed Mackie
Scott County
8330 W. 150th St.
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The Honorable Stephanie Klinzing
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The Honorable Don Schwecke
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The Honorable Herbert Lamppa
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The Honorable Mark Sakry
Stearns County
413 S. 10th Ave.
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The Honorable L. R. (Dusty) Rhoades
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Medford, MN 55049

The Honorable Jerry Loher
Stevens County
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The Honorable Orville Rudningen
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The Honorable James Conroy
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The Honorable Russell Kangas
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The Honorable Donald Peterson
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The Honorable Wes Wittkowski
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The Honorable Eugene House
Yellow Medicine County
R 1, Box 57
Wood Lake, MN 56297

The Honorable Ralph Ranum
Pope/Douglas Joint Solid Waste Board
305 Eighth Avenue West
Alexander, MN 56308

April 22, 1991 RULES - INTERESTED PARTIES

Mr. Dave Locey
Recycle Minnesota Resources
2520 Broadway St NE, Suite 102
Minneapolis, MN 55413

Mr. Steve Keefe
Metropolitan Council
Ste 300, Metro Square Bldg.
St. Paul, MN 55101

Mr. Jim Mulder
Association of Mn Counties
525 Park Street, Ste 404
St. Paul, MN 55103

Ms. Bonnie Holtz
Brown-Nicollet Human Service Brd
100 Freeman Drive
St. Peter, MN 56082

Mr. Tony Heinbaugh
American Crystal Sugar Company
101 North 3rd Street
Moorhead, MN 56560

Dr. Raymond Thron
Minnesota Department of Health
717 Delaware St. S.E., Box 9441
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Mr. Michael Moodie
Trinity Engineer
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Golden Valley, MN 55422

Ms. Annette Bair
Southwest Regional Development
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Slayton, MN 56172

Pat Story
Resource Recovery Project
6989 55th St N #c
St. Paul, MN

Mr. Gregory Lie
Hennepin County, Haz. Waste Div.
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Minneapolis, MN 55415

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~~Broeker, Geer, Fletcher & LaFond~~
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Minneapolis, MN 55437

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Popham, Haik, Schnobrich & Kaufman
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Headwaters Reg'l Development Comm.
722 15th St. NW, P.O. Box 906
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Dakota County Attorney's Office
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Minneapolis, MN 55458

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Hill City, MN 55748

Mr. Ivan Jacobs
Mississippi Street Metals
800 Mississippi Str.
St. Paul, MN 55101

Mr. Vern Peterson
Assoc. of Metro. Municipalities
183 University Ave. East
St. Paul, MN 55101

Mr. Joel Jamnick
League of Minnesota Cities
183 University Ave. East
St. Paul, MN 55101

Mr. Bob Orth
Metro Inter-County Assoc.
114 Metro Sq, 7th & Robert Str
St. Paul, MN 55101

Ms. Kim Austrian
Legislative Comm. on Waster Mgt.
Room 85, State Office Bldg.
St. Paul, MN 55155

Mr. Tom Todd
House Research
17 State Capitol Bldg.
St. Paul, MN 55155

~~Ms. Susan Schmidt~~
~~Recycling Association of Minnesota~~
~~2222 Elm Street S.E.~~
~~Minneapolis, MN 55414~~

Mr. Steve Menden
Woodward Clyde Consultants
7710 Computer Avenue, Ste 101
Edina, MN 55435

Is Victoria Reinhardt
Recycling Association of Minnesota
PO Box 292
Circle Pines, MN 55014

Mary, make sure these folks are on Helen's list for the rule

Dave B.

Thanks

Interested Parties List For Public Comment Period

Brian Jones
Le Seur County

Public Notice/Proposed Rule

Jeanine Willenbring
Cal Recovery, Inc.
10800 Lyndale Avenue South
Bloomington, MN 55420

Lynn Bleigh
13201 Ozark Trail North
Stillwater, Minnesota 55082
(612) 649-5776

Brian Golob
DPRA Incorporated
E-1500 First National Bank Building
332 Minnesota Street
St. Paul, Minnesota 55101

Public Notice/Proposed Rule?

All CSWO

Public Notice and Proposed Rule
Mary Winck
Sherburne County Admin.
327 King Avenue 320
Elk River, MN 55330
441-1441

DEPARTMENT : Office of Waste Management

STATE OF MINNESOTA
Office Memorandum

DATE : September 11, 1992

TO : Ted Troolin, Supervisor
Planning Rule File

FROM : David Benke, LGAU

PHONE : 649-5776

SUBJECT : **Comments on Planning and Certificate of Need Rule to Date**

The following comments represent all rule comments received to date via the telephone or in writing. I have attached responses to each of the comments. If you have any questions let me know.

Telephone:

8/10/92

1) Tom Heenan, Hennepin County, " Need to expand yard waste definition to include shrub and tree waste to be consistent with Minn. Stat. 115A.931, subd 3b."

Response A. (attached)

2) Change address for Brickmen etc. to:

Orbovich Law Firm
Library

No response required, updated mailing list.

8/11/92

1) Bruce Jones Le Sueur County:
Three Points:
A. Need consistent Yard Waste Definition.
B. Ten year period in statute but should be reduced due to difficulty of predicting ten years of information.
C. Concern regarding a on page 22, in determining whether a technology is capable of commercial-scale application, theoretical or experimental may be too subjective to reviewer.

Response B. (attached)

8/17/92
Jeff Weaver, Mower County:
One Question:
When is a five-year update due according to proposed rules. The five-year update is due for submission 54 months after the

plan/update approval.

Response C. (attached)

8/18/92

Jim Ziegler, Region II, Detroit Lakes
Jim requested clarification of need for proposed rule changes, which are clarification and inclusion of legislative changes since existing rule promulgation.
Question: Why refer to statutory definition, why not include in text? Reason: Statutory definitions can change, if reference is to statute, change will be automatic rather than requiring an amendment to reflect the changes.

Response D. (attached)

8/31/92

Paul Vernig: Paul requested and over view of the changes to the existing rules and the reason for the Office to repeal the existing rules and promulgate new rules.

Response E. (attached)

Return to Sender Bad Addresses:
8/10/92

Susan Schmidt
R.A.M.
2222 Elm Street S.E.
Minneapolis, Minnesota 55414

No response necessary (mailing list updated)

Bob Orth
Metro Inter-County Association
114 Metro Sq. 7th and Robert Streets
St. Paul, MN 55101

No response necessary (mailing list updated)

Written Comments:

8/13/92

Morrison County: Attached

Response F. (attached)

Crow Wing County: Attached

Response G. (attached)

8/10/92

Winona County: Attached

Response H. (attached)

MINNESOTA
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OF WASTE
MANAGEMENT

1350 Energy Lane
St. Paul, Minnesota 55108
(612) 649-5750
MN Toll Free
1-800-652-9747

September 9, 1992

Mr. Paul Vernig
Meeker County Solid Waste Administrator
Meeker County Coordinators Office
325 North Sibley
Litchfield, MN 55355

Dear Mr. Vernig:

Thank you for taking the time to review the Office of Waste Management's (Office) proposed solid waste planning and certificate of need issuance rules (new rules). In our telephone conversation you requested a clarification of the need for repealing the existing rules and adopting new rules versus traditional amendment methods and an outline of the major areas of change.

The need for repealing the existing rules and adopting new rules is briefly discussed in the following section. New rules are being adopted for two reasons: (1) Since development of the original rules, subsequent legislative changes have occurred and augmented county planning requirements; and (2) The existing rules contain deficiencies reducing their effectiveness.

Legislative changes. The existing comprehensive solid waste management planning and certificate of need rules were adopted in 1986 and have not been amended since adoption. State law relating to solid waste management has undergone significant amendment during that period. Changes include:

- a requirement for source separation recycling where cost-effective;
- various requirements regarding planning for solid waste reduction and recycling;
- a requirement that counties provide their residents with an opportunity to recycle;
- a requirement that plans address waste tires;
- yard waste management requirements;
- used major appliance management requirements;
- household hazardous waste management planning requirements; and
- a requirement that plans proposing incineration address ash and residuals control measures.

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State rules regarding solid waste management have also changed significantly since the original implementation of the county solid waste management planning rules. In particular, the development by the MPCA of comprehensive solid waste management facility regulations has had a profound impact on county solid waste management planning.

As a consequence, the existing rules contain language that is no longer consistent with state statutes or other state rules and that fails to address statutes or rules promulgated after the development of the existing rules. The Office proposes to promulgate new rules that are consistent with current statute and rules.

Problems with the existing rules. While the existing rules were carefully developed and served as an adequate initial basis for plan development and planning oversight, some aspects of those rules have reduced their effectiveness. The Office proposes new language that will replace some sections where the wording is unclear and difficult to understand. In addition, in implementation of the original rules the Office has determined that certain portions of the rules need to be augmented, and other sections need to be changed in order to improve the overall usefulness of the rules. Areas addressed in the new rules include:

- plan amendment and plan update content requirements and review procedures;
- alternative systems analysis procedures;
- identification of backup alternatives;
- requirements for plan approval;
- certificate of need issuance procedures; and
- general organization.

Amendment and update requirements. Changing circumstances can affect the feasibility and/or prudence of programs proposed by counties in their plans. When that occurs, it is important that counties amend their plans to re-analyze alternatives and develop a new proposed course of action. From both the county and state perspective it is important that plans be kept current and accurate. The original rules did recognize that plan amendments might be needed. However, the existing rules did not establish a specific process for review and approval of amendments to county solid waste management plans, and did not sufficiently address the required contents of amendments. The new rules provide additional guidance in those areas.

In addition, the existing rules do not provide adequate guidance concerning the required contents and review procedures for county solid waste management plan updates. Counties are required by law (Minn. Stat. § 115A.46, subd. 1) to update their plans every

five years. It is important that adequate standards be in place to provide guidance regarding the required contents and approval process for those plan updates. The new rules contain language to explain these requirements and procedures.

Alternatives analysis procedures. Minn. Stat. § 115A.46, subd. 2(c) requires that county solid waste management plans require the most feasible and prudent reduction of the need for and practice of land disposal of mixed municipal solid waste. The state encourages the development of integrated solid waste management systems which utilize a variety of solid waste management techniques (reduction, recycling, composting, incineration, and other methods) to individually address specific components of the solid waste stream. One task in county solid waste management planning is determining the best possible mix of management techniques for a county's individual situation. Factors which must be considered when determining whether the best possible mix has been achieved include economic considerations, environmental acceptability, social acceptability, and legal requirements.

The original rules contain requirements for the use of detailed financial worksheets provided by the Office or the development of elaborate financial analysis of alternative systems, both designed to compare alternative systems and identify the most feasible and prudent system for the county. In most instances, those original worksheets did not prove to be a useful tool for counties to use in reviewing alternatives and selecting better systems. One reason for this is the level of complexity contained in the sample worksheets. The worksheets originally were quite detailed, and many counties found it necessary to contract for private sector assistance to develop them. This led to counties not understanding the basis for the numbers contained in their plans, and not trusting those numbers. The complexity of the worksheets worked to dissuade counties from analyzing additional alternatives, and added significantly to the cost of developing plans for counties without providing a corresponding increase in the quality of alternatives analysis for the county.

The format of the original worksheets also worked to reduce their usefulness from a county perspective. The original worksheets included an "environmental cost adjustment factor" intended to increase the perceived cost of land disposal and encourage the use of disposal abatement options. The intent was to attempt to quantify unknown future costs by adjusting upward the costs of less environmentally desirable alternatives. Because land disposal is the lowest priority alternative, land disposal-based systems received the greatest upwards adjustment. While the concept of an environmental cost adjustment factor (shadow costing) is, in abstract, one approach to helping determine

"feasible and prudent", the concept did not translate into better planning on the local level, and has not worked to promote the development of improved solid waste management systems for Minnesota counties.

Several factors have caused the Office to move away from the concept of shadow costing. First, the cost adjustment for environmental values was originally designed to encourage counties to implement landfill abatement alternatives such as recycling and yard waste composting. In 1989, the legislature adopted Minn. Stat. § 115A.551 requiring counties to recycle 25 percent of the solid waste they generate by the end of 1993. Recycling and yard waste composting are no longer optional. In addition, at the time of rules adoption the cost of land disposal was artificially low. The cost of future closure of a site and possible cleanup of contaminated groundwater was not factored into the cost. Today, the costs of land disposal have risen dramatically as new rule requirements are in effect. The MPCA Solid Waste Management Rules Parts 7001.0010 to 7001.0210; 7001.3000 to 7001.3550; and 7035.0300 to 7035.2875 require that new cells at landfills have liners and leachate collection systems. The rules also require that a financial assurance fund be established for all open landfills. This fund will pay for future costs of closure, post-closure and contingency action cleanup at a landfill site. Because of these changes, additional cost adjustment is not as appropriate as it was at the time of original rules development.

In addition, for a planning tool to be effective and useful it must be able to gain the acceptance of the decision makers relying on the plan for guidance. The environmental cost adjustment factor did not accomplish this, and has not achieved general acceptance as a solid waste management planning tool by Minnesota's counties. The Office does not believe that counties or their consultants have incorporated the adjustment factor in their decision making process, or have treated that adjustment factor as anything other than an arbitrary inflation of "real" costs.

The new rules continue to require that counties consider landfill abatement alternatives but do so in a more useful and relevant fashion. The new rules will continue to require that counties develop worksheets which contain county-specific costs for individual system alternatives. However, greater latitude is provided with regards to the format of those worksheets. The OWM intends to provide technical assistant to counties in alternatives review. The new rules will not contain provisions for an environmental cost adjustment factor.

Identification of backup alternatives. The original rules

contain a requirement for development of a "comparative cost analysis of an alternate solid waste management system that could be used to meet abatement objectives if proposed activities and functions are not undertaken." This requirement is partly in response to the comparative analysis requirements described above and partly in response to a statutory requirement that "plans shall include alternatives which could be used to achieve the abatement objectives if the proposed functions and activities are not established." Minn. Stat. § 115A.46, subd. 2(e).

While the new rules do require a detailed comparative assessment of alternative as part of the alternatives analysis the new rules do not require the identification of a detailed alternate solid waste management system and budget. Such documentation is expensive for counties to prepare, and must be useful if it is to be required. However, the Office believes that in the majority of cases the additional documentation has little benefit. In situations where the primary system proposed by a county is not developed, most counties will need to conduct a re-analysis of alternatives rather than switching to development of a previously prepared system that may be several years out of date. For example, a county may have an incinerator as its proposed system. As its alternative system, it might analyze the cost of building a transfer station and sending its solid waste to a nearby county's MSW compost facility. However, if in three years the county decides not to build the incinerator, the nearby MSW composting facility analyzed in the approved plan may be operating at capacity and no longer be an option for the county. The county would then have to conduct a new review of its options and the costs of those options.

The new rules contain a requirement that plans identify general alternative options available if the primary system is not developed, and outline a process the county could use to analyze options in the event a proposed system is not implemented or ceases to be used. If a proposed system is not implemented, a plan amendment will be required. The Office believes that this approach more accurately addresses the statutory directive that plans identify future alternatives that could be used to achieve abatement objectives.

Requirements for plan approval. The original rules contained language directing approval if the plan proposed a feasible and prudent management system, and narrowly defined "feasible" linked to costs as identified in economic analysis worksheets and "prudent" as the least costly solid waste management system as demonstrated by the cost analysis done.

The OWM believes that there are additional factors which must be considered when determining the feasibility and prudence of a

management system, including environmental acceptability and potential for actual development. A solid waste management plan as a whole represents an overall discussion and determination of feasibility and prudence. Therefore, the rules states that the OWM will approve plans if all of the factors required by state law and rules are adequately addressed in the plan. The plan as a whole is used as the justification of feasibility and prudence.

Certificate of Need Process. The rules establish a procedure for: (1) calculation of needed capacity for land disposal of solid waste, and (2) issuance of certificates of need to permit applicants. In the past, certificates of need have been issued by the OWM to counties at the time of solid waste management plan approval. This procedure has not proven to be satisfactory. Problems that arise with issuing certificates of need to counties at the time of plan approval include:

- confusion can arise when more than one county sends solid waste to a landfill, especially if the county plans were approved at different times and certificates of need were issued based upon different timelines;
- certifying capacity at the time of plan approval requires reliance on future landfill abatement projections. When program development timelines are not met or other factors keep the county from meeting abatement projections, the certified need is in error (typically too small);
- this procedure does not correspond to the procedure used by the Metropolitan Council in certifying landfill need for Metropolitan counties;
- this procedure does not correspond to the procedure used by the MPCA to issue permits for land disposal facilities, and does not lead to the OWM providing the MPCA with updated need information at the time of permitting.

The new rules include a facility-specific certificate of need procedure that can be used for both planning and permitting purposes. This procedure will include certificate of need issuance at the time of facility permitting rather than at the time of plan approval. It will be consistent with the process the Metropolitan Council uses to certify need in the Metropolitan Area.

General organization. The requirements of the original rules led to plans being organized into three separate sections: (1) a section that describes the existing situation; (2) a section that evaluates alternatives; and (3) a section that describes the proposed system. Most plans received and reviewed by the Office have been organized in this fashion. This organization has encouraged the duplication of information within the plan. It has also led to the development of plans in which information is

difficult to locate. The new rules encourages the development of plans in which all information on one solid waste management method (for example, yard waste composting) can be found in a single section of the plan. The proposed organization will also facilitate a consistent timely review of the plan.

I hope that this information has answered your questions and clarified the Office's position on repealing the existing rules and proposing new rules. To further assist counties, along with the proposed rules, the Office is currently developing a planning manual similar to the SCORE County Implementation Manual of May, 1990.

If your have any questions or require additional information please contact me at 612-649-5776.

Sincerely,

David Benke
Local Government Assistance Unit

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OF WASTE
MANAGEMENT

1350 Energy Lane
St. Paul, Minnesota 55108
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1-800-652-9747

September 9, 1992

Mr. Bruce Jones
Le Sueur County Solid Waste Administrator
88 South Park
Le Center, MN 56057-1620

Dear Mr. Jones:

Thank you for reviewing the Office of Waste Management's (OWM) proposed rules governing solid waste management planning and certificate of need issuance. The following is a recap of your three major comments and the OWM response to them in our phone conversation of August 11, 1992.

1) Your comment regarding the need for consistency between definitions in rules and statute has been reviewed. The definition in the proposed rules regarding yard waste is not as inclusive as the statutory definition found in Minn. Stat. 115A.931, subd. 3b. The proposed rules definition of yard waste will be expanded to include shrub and tree waste to be consistent with Minn. Stat. 115A.931, subd 3b."

2) Your second comment regarding the length of the planning period (ten years) being too long has been reviewed. As we discussed by phone the ten year planning period is established in Minn. Stat. 115A.46, and therefore would require a change in statute to change the planning period. Although the plans project out ten years for planning purposes the plans are updated on a five year cycle which allows for correction of problems and changes necessary in a county or districts waste management system that could not be anticipated in the ten year plan. Ten year planning is helpful in the initiation of the siting and permitting processes for new facilities.

3) Your final comment regarding the subjectivity of a plan reviewer's determination of whether a technology is theoretical or experimental and capable of commercial-scale application has been reviewed. The reason for the provision is that alternatives that are experimental or theoretical and cannot be put into commercial-scale application not be considered as feasible and prudent because counties and districts will need technologies

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capable of commercial-scale application to meet state goals for solid waste management. Only technologies that can be proven capable of commercial-scale application will be considered feasible and prudent by reviewers. Commercial-scale application is only one factor in the determination of whether a technology is feasible and prudent.

Thanks again for your interest and assistance in the rule-making process. If you have any additional comments or require additional information please contact me at (612) 649-5776.

Sincerely,

David Benke
Local Government Assistance Unit

MINNESOTA
OFFICE
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MANAGEMENT

1350 Energy Lane
St. Paul, Minnesota 55108
(612) 649-5750
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September 9, 1992

Mr. Tom Heenan
Hennepin County Conservation Division
822 South 3rd Street Suite 300
Minneapolis, MN 55415

Dear Mr. Heenan:

Thank you for reviewing the Office of Waste Management's proposed rules governing solid waste management planning and certificate of need issuance.

Your comment regarding the need for consistency between definitions in rules and statute has been examined. The definition in the proposed rules regarding yard waste is, as you commented, not as inclusive as the statutory definition found in Minn. Stat. 115A.931, subd. 3b. The proposed rules definition of yard waste will be expanded to include shrub and tree waste to be consistent with Minn. Stat. 115A.931, subd 3b."

If you have any additional comments or require additional information please contact me at (612) 649-5776.

Sincerely,

David Benke
Local Government Assistance Unit

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MINNESOTA
OFFICE
OF WASTE
MANAGEMENT

1350 Energy Lane
St. Paul, Minnesota 55108
(612) 649-5750
MN Toll Free
1-800-652-9747

September 9, 1992

Mr. Jeff Weaver
Mower County Solid Waste Administrator
Mower County Recycling Center
1111 8th Avenue
Austin, MN 55912

Dear Mr. Weaver:

Thank you for reviewing the Office of Waste Management's (Office) proposed rules governing solid waste management planning and certificate of need issuance. The following is a recap of your comments and the OWM response to them in our phone conversation of August 17, 1992.

During your review of the proposed rules you raised the question, "when is a five-year update due according to the proposed rules?". In the proposed rules 9215.0830, subd 2, counties or districts are required to submit a draft to the Office of Waste Management 54 months after the original plan/update approval. This requirement gives counties or districts and the Office a reasonable amount of time to review, redraft, public notice, and approve the plan update before the previous plan expires.

Thanks again for your interest in the rule-making process. If you have any additional comments or require additional information please contact me at (612) 649-5776.

Sincerely,

David Benke

David Benke
Local Government Assistance Unit

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ROY A. LUUKKONEN ..... AUDITOR
RICHARD D. ROTTSCHAFER, M.D. ..... CORONER
DICK ROSS ..... SHERIFF
JOHN REMINGTON GRAHAM ..... ATTORNEY
LAUREEN E. BORDEN ..... TREASURER
KATHY LUDENIA ..... RECORDER
SIEGFRIED STIER ..... PERSONNEL COORDINATOR
MARTYN SCHMIDT ..... ASSESSOR

DUANE A. BLANCK, P.E. ..... HIGHWAY ENGINEER
ANTHONY E. KERICK ..... SURVEYOR
THOMAS J. COWELL ..... LAND COMMISSIONER
DARRELL PASKE ..... COURT ADMINISTRATOR
CAROL CARLSON ..... COMMUNITY HEALTH ADMINISTRATOR
DENNIS JOHNSON ..... SOCIAL SERVICE DIRECTOR
DAVID NEIMAN ..... PLANNING & ZONING ADMINISTRATOR
KARL FRYKLIND, P.E. ..... SOLID WASTE COORDINATOR

DAVID R. SCHULDHEISZ ..... VETERANS SERVICE & EMERGENCY MANAGEMENT

COUNTY COMMISSIONERS
CHERYL GELBMANN, CHAIR MARY KOEP, VICE CHAIR
JOHN "JINX" FERRARI STEVE D. SIEVEK BARBARA R. UPPGAARD

Solid Waste Coordinator
Crow Wing County
202 Laurel Street
Brainerd, MN 56401-3575

TELEPHONE (218) 828-2971 Fax 828-2972

CROW WING COUNTY

BRAINERD, MINNESOTA 56401

August 11, 1992

RECEIVED
... OFFICE OF
... 1992
WASTE MANAGEMENT

Mr. David Benke
Minnesota Office of Waste Management
1350 Energy Lane
St. Paul, Minnesota 55108

Re: Proposed Rules Governing Solid Waste Management Planning

Dear Mr. Benke:

I appreciated the opportunity to review the proposed rules. In general the rules are straight forward and comprehensive. From a Solid Waste Management Plan development perspective, I will find the rules helpful in preparing plans and updates.

I have only one suggestion. Part 9215.0670 requires planning efforts directed specifically toward dry cell batteries among other things. I do not believe that dry cell batteries warrant individual attention based on (i) their percentage of the waste stream, (ii) their toxicity relative to other components of the waste stream, or (iii) reasonable alternatives for management. For those of us with lined landfills, I would challenge you to present us with a more environmentally sound means of disposal of dry cell batteries other than button batteries. If you know of a better disposal option, let me know.

Sincerely,

Karl J. Fryklind

Karl J. Fryklind, P.E.
Solid Waste Coordinator

AN EQUAL OPPORTUNITY EMPLOYER

MINNESOTA
OFFICE
OF WASTE
MANAGEMENT

1350 Energy Lane
St. Paul, Minnesota 55108
(612) 649-5750
MN Toll Free
1-800-652-9747

September 9, 1992

Mr. Karl J. Fryklind
Crow Wing County Solid Waste Administrator
202 Laurel Street
Brainerd, MN 56401-3575

Dear Mr. Fryklind:

Thank you for reviewing the Office of Waste Management's (OWM) proposed rules governing solid waste management planning and certificate of need issuance.

This letter is in response to your comments regarding dry cell batteries. Specifically your comments stated that "Part 9215.0670 requires planning efforts directed specifically toward dry cell batteries among other things. I do not believe that dry cell batteries warrant individual attention based on (i) their percentage of the waste stream, (ii) their toxicity relative to other components of the waste stream, or (iii) reasonable alternatives for management. For those of use with lined landfills, I would challenge you to present us with a more environmentally sound means of disposal of dry cell batteries other than button batteries. If you know of a better disposal option, let me know."

Inclusion of programs for dry cell batteries in plans is a result of Minnesota Statute 115A.9155. This Statute prohibits disposal of dry cell batteries containing mercuric oxide electrode, silver oxide electrode, nickel-cadmium, or sealed lead acid that were purchased by a government agency, or an industrial, communications, or medical facility, in mixed municipal solid waste. Therefore, disposal options need to be communicated regarding these batteries. Minnesota Statute 115A.9155 also describes the requirements of manufacturers in ensuring that a system exists for the proper collection, transportation, and processing of waste batteries for purchasers in the state. Because of these requirements it is reasonable for county plans to contain this information for communication to government agencies, industrial, communications, or medical facilities.

I hope this will clarify the need for the proposed changes and

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inclusion of specific dry cell battery requirements. If you have any questions or require additional information please contact me at (612) 649-5776 or toll free in greater Minnesota at 1-800-652-9747.

Sincerely,

David Benke

David Benke
Local Government Assistance Unit

MINNESOTA OFFICE OF WASTE MANAGEMENT

1350 Energy Lane
St. Paul. Minnesota 55108
(612) 649-5750
MN Toll Free
1-800-652-9747

September 9, 1992

Mr. James Ziegler
Solid Waste Specialist
MPCA Region III Detroit Lakes
Lake Avenue Plaza
Suite 220
Detroit Lakes, MN 56501

Dear Mr. Ziegler:

This letter is in response to your request for a clarification of the impacts and reasons for the Office of Waste Management's (Office) proposed changes in the solid waste planning and certificate of need issuance rules.

The need for repealing the existing rules and adopting new rules is briefly discussed as follows:

New rules are being adopted for two reasons: (1) Since development of the original rules, subsequent legislative changes have occurred and augmented county planning requirements; and (2) The existing rules contain deficiencies reducing their effectiveness.

Legislative changes. The existing comprehensive solid waste management planning and certificate of need rules were adopted in 1986 and have not been amended since adoption. State law relating to solid waste management has undergone significant amendment during that period. Changes include:

- a requirement for source separation recycling where cost-effective;
- various requirements regarding planning for solid waste reduction and recycling;
- a requirement that counties provide their residents with an opportunity to recycle;
- a requirement that plans address waste tires;
- yard waste management requirements;
- used major appliance management requirements;
- household hazardous waste management planning requirements; and
- a requirement that plans proposing incineration

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address ash and residuals control measures.

State rules regarding solid waste management have also changed significantly since the original implementation of the county solid waste management planning rules. In particular, the development by the Minnesota Pollution Control Agency (MPCA) of comprehensive solid waste management facility regulations has had a profound impact on county solid waste management planning.

As a consequence, the existing rules contain language that is no longer consistent with state statutes or other state rules and that fails to address statutes or rules promulgated after the development of the existing rules. The Office's proposed new rules adds language that is consistent with current statute and rules.

Problems with the existing rules. While the existing rules were carefully developed and served as an adequate initial basis for plan development and planning oversight, some aspects of those rules have reduced their effectiveness. The Office proposes new language that will replace some sections where the wording is unclear and difficult to understand. In addition, in implementation of the original rules the Office has determined that certain portions of the rules need to be augmented, and other sections need to be changed in order to improve the overall usefulness of the rules. Areas addressed in the new rules include:

- plan amendment and plan update content requirements and review procedures;
- alternative systems analysis procedures;
- identification of backup alternatives;
- requirements for plan approval;
- certificate of need issuance procedures; and
- general organization.

You also requested clarification for referencing statutory definitions versus writing them out. Incorporation of definitions by reference avoids the need to amend the rules when statutory definitions change.

I hope this will clarify the need for the proposed changes. If you have any questions or require additional information please contact me at (612) 649-5776.

Sincerely,

David Benke

David Benke
Local Government Assistance Unit

MORRISON COUNTY
"HOME OF LINDBERGH"

Highway Engineer
Public Works Director
STEVEN C. BACKOWSKI
Highway Department
Little Falls, Minnesota 56345-3196

612/632-2941
Ext. 120

August 10, 1992

David Benke
Minnesota Office of Waste Management
1350 Energy Lane
St. Paul, MN 55108

Dear Mr. Benke:

This letter is in regard to the proposed rule change of the Certificate of Need planning and issuance.

I request that the Office of Waste Management hold a Public Hearing allowing the public to better understand the impacts of the proposed changes.

I look forward to attending these public hearings.

Sincerely,

Jeff Meyer
Solid Waste Manager

JM/jb

MINNESOTA
OFFICE
OF WASTE
MANAGEMENT

1350 Energy Lane
St. Paul, Minnesota 55108
(612) 649-5750
MN Toll Free
1-800-652-9747

September 9, 1992

Mr. Jeff Meyer
Morrison County Solid Waste Administrator
Highway Department
Little Falls, MN 56345-3196

Dear Mr. Meyer:

This letter is in response to your request for the Office of Waste Management (Office) to hold a public hearing on the rules to allow the public a better understanding of the impacts of the proposed changes. Although the public is impacted to a certain degree by all solid waste management rules, the impact of the proposed county solid waste management planning and certificate of need rules is not a direct one. However, the proposed county solid waste management planning and certificate of need issuance rules do have a direct impact on County and Districts. The proposed rules affect the content requirements for presenting documentation of solid waste management programs and systems that meet statutory solid waste management goals and objectives. The following is a brief discussion of the need for repealing the existing rules and the changes presented in the proposed rules.

New rules are being adopted for two reasons: (1) Since development of the original rules, subsequent legislative changes have occurred and augmented county planning requirements; and (2) The existing rules contain deficiencies reducing their effectiveness.

Legislative changes. The existing comprehensive solid waste management planning and certificate of need rules were adopted in 1986 and have not been amended since adoption. State law relating to solid waste management has undergone significant amendment during that period. Changes include:

- a requirement for source separation recycling where cost-effective;
- various requirements regarding planning for solid waste reduction and recycling;
- a requirement that counties provide their residents with an opportunity to recycle;
- a requirement that plans address waste tires;

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- yard waste management requirements;
- used major appliance management requirements;
- household hazardous waste management planning requirements; and
- a requirement that plans proposing incineration address ash and residuals control measures.

State rules regarding solid waste management have also changed significantly since the original implementation of the county solid waste management planning rules. In particular, the development by the Minnesota Pollution Control Agency (MPCA) of comprehensive solid waste management facility regulations has had a profound impact on county solid waste management planning.

As a consequence, the existing rules contain language that is no longer consistent with state statutes or other state rules and that fails to address statutes or rules promulgated after the development of the existing rules. The Office proposes to promulgate new rules that are consistent with current statute and rules.

Problems with the existing rules. While the existing rules were carefully developed and served as an adequate initial basis for plan development and planning oversight, some aspects of those rules have reduced their effectiveness. The Office proposes new language that will replace some sections where the wording is unclear and difficult to understand. In addition, in implementation of the original rules the Office has determined that certain portions of the rules need to be augmented, and other sections need to be changed in order to improve the overall usefulness of the rules. Areas addressed in the new rules include:

- plan amendment and plan update content requirements and review procedures;
- alternative systems analysis procedures;
- identification of backup alternatives;
- requirements for plan approval;
- certificate of need issuance procedures; and
- general organization.

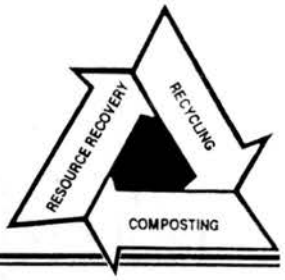
I hope this will clarify the need for the proposed changes. If you have any questions or require additional information please contact me at (612) 649-5776.

Sincerely,

David Benke

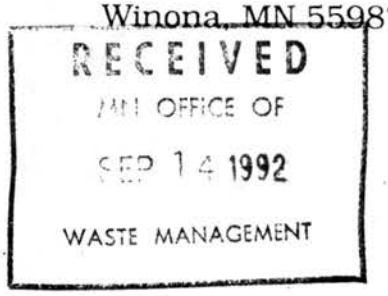
David Benke
Local Government Assistance Unit

SOLID WASTE MANAGEMENT DEPARTMENT
Kevin T. Dixon, Director
(507) 457-6460



Winona County Courthouse
171 West Third Street
Winona, MN 55987

September 10, 1992



David Benke
Minnesota Office of Waste Management
1350 Energy Lane
St. Paul, MN 55108

RE: Request for Public Hearing - Proposed Rules parts 9215.0500 to 9215.0950

Dear Mr. Benke:

Proposed Minnesota Rules parts 9215.0500 to 9215.0950 were discussed at the September 2, 1992 meeting of the Winona County Solid Waste Advisory Committee (SWAC). At the meeting, SWAC reached a consensus that the proposed rules could potentially impose additional planning costs and burdens to Winona County.

With this letter, SWAC requests a public hearing on the proposed rules governing comprehensive solid waste management planning pursuant to Minnesota Statutes 14.22 to 14.28. The Winona County Board of Commissioners will consider adoption of a resolution in support of this request on September 15, 1992. This letter is being forwarded to you to meet the September 14, 1992 submittal deadline.

Sincerely,

Kevin T. Dixon
Director

105/clo

cc: Winona County Board of Commissioners
Maureen Dolan, Assistant County Attorney

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COMPREHENSIVE SOLID WASTE MANAGEMENT
PLANNING: PROPOSED RULES RESOLUTION

BOARD OF COUNTY COMMISSIONERS

WINONA COUNTY, MINNESOTA

Date September 15, 1992 Resolution No. #92-71

Motion by Commissioner Ladewig Seconded by Commissioner Brand

WHEREAS, Counties are responsible for Solid Waste Management in Minnesota, including the planning and implementation of Solid Waste Management Services;

WHEREAS, Counties seek to perform these functions in as cost-effective manner as possible;

WHEREAS, the Winona County Board of Commissioners believes that the Proposed Rules Governing Comprehensive Solid Waste Management Planning represent changes which may add additional responsibilities and costs to local governments in the planning and implementation of Solid Waste Management Services;

WHEREAS, any additional planning requirements could potentially require revision of an existing Solid Waste Management Plan and impose additional costs and burdens upon the County;

NOW THEREFORE, IT IS HEREBY RESOLVED That the County Board of Winona County hereby requests a public hearing on the proposed Rules Governing Comprehensive Solid Waste Management Planning pursuant to Minnesota Statutes 14.22 to 14.28.

	YES	NO
BRAND	X	
LADEWIG	X	
DELANO	X	
McCAULEY	X	
PETERSON	X	

Attest:
Patricia Blaisdell
County Coordinator

Donald Peterson
Chairman of County Board

MINNESOTA
OFFICE
OF WASTE
MANAGEMENT

1350 Energy Lane
St. Paul, Minnesota 55108
(612) 649-5750
MN Toll Free
1-800-652-9747

September 11, 1992

Mr. Kevin Dixon
Solid Waste Administrator
Winona County Courthouse
171 West Third Street
Winona, MN 55987

Dear Mr. Dixon:

This letter is in response to your request for the Office of Waste Management (Office) to hold a public hearing on the Office's proposed rules governing comprehensive solid waste management planning and certificate of need issuance. Your letter stated that the Winona County Solid Waste Advisory Committee reached the consensus that the proposed rules could potentially impose additional planning costs and burdens on Winona County.

Current solid waste planning and certificate of need issuance rules (Minn. Rules Ch. 9215) and statute (e.g. Minn. Stat. §§ 115A.42, 115A.46, 115A.551, subds. 6-7, 115A.914, 115A.917, 115A.96, subd. 6, and 115A.97) require counties and districts to prepare solid waste plans and calculate land disposal needs. The current rules and statutes extensively define county planing requirements. The proposed rules have reorganized and clarified the requirements in the existing rules to make it easier for counties and districts to describe existing waste management systems, evaluate alternatives, and propose new solid waste management systems. In addition, the proposed rules incorporate new statutory requirements for counties or districts regarding plan development for source separation, recycling, source reduction, opportunity for residential recycling, waste tire management, yard waste management, used appliance management, household hazardous waste management, and toxicity and reduction of ash generation. Consequently, the Office believes that the proposed rules incorporate existing statutory planning requirements, both new and old, and do not impose significant additional financial responsibilities on local public bodies for solid waste planning.

The proposed rules affect the content requirements for presenting

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documentation of solid waste management programs and systems that meet statutory solid waste management goals and objectives. The following is a brief discussion of the need for repealing the existing rules and the changes presented in the proposed rules.

New rules are being adopted for two reasons: (1) Since development of the original rules, subsequent legislative changes have occurred and augmented county planning requirements; and (2) The existing rules contain deficiencies reducing their effectiveness.

Legislative changes. The existing comprehensive solid waste management planning and certificate of need rules were adopted in 1986 and have not been amended since adoption. State law relating to solid waste management has undergone significant amendment during that period. Changes include:

- a requirement for source separation recycling where cost-effective;
- various requirements regarding planning for solid waste reduction and recycling;
- a requirement that counties provide their residents with an opportunity to recycle;
- a requirement that plans address waste tires;
- yard waste management requirements;
- used major appliance management requirements;
- household hazardous waste management planning requirements; and
- a requirement that plans proposing incineration address ash and residuals control measures.

State rules regarding solid waste management have also changed significantly since the original implementation of the county solid waste management planning rules. In particular, the development by the Minnesota Pollution Control Agency (MPCA) of comprehensive solid waste management facility regulations has had a profound impact on county solid waste management planning.

As a consequence, the existing rules contain language that is no longer consistent with state statutes or other state rules and that fails to address statutes or rules promulgated after the development of the existing rules. The Office proposes to promulgate new rules that are consistent with current statute and rules.

Problems with the existing rules. While the existing rules were carefully developed and served as an adequate initial basis for plan development and planning oversight, some aspects of those rules have reduced their effectiveness. The Office proposes new language that will replace some sections where the wording is unclear and difficult to understand. In addition, in

implementation of the original rules the Office has determined that certain portions of the rules need to be augmented, and other sections need to be changed in order to improve the overall usefulness of the rules. Areas addressed in the new rules include:

- plan amendment and plan update content requirements and review procedures;
- alternative systems analysis procedures;
- identification of backup alternatives;
- requirements for plan approval;
- certificate of need issuance procedures; and
- general organization.

Thank you for your interest and assistance in the rule-making process. I hope this will clarify the need for the proposed changes, and their effect on Winona County. If you have any questions or require additional information please contact me at (612) 649-5776.

Sincerely,

David Benke
Local Government Assistance Unit

SOLID WASTE MANAGEMENT DEPARTMENT
Kevin T. Dixon, Director
(507) 457-6460

Winona County Courthouse
171 West Third Street
Winona, MN 55987

September 16, 1992

Dave Benke
Minnesota Office of Waste Management
1350 Energy Lane
St. Paul, MN 55108

Dear Mr. Benke:

Thank you for the response to the Winona County Solid Waste Advisory Committee's request for a public hearing regarding the proposed planning rules. It is my understanding that your agency may consider holding several public meetings in Minnesota to explain the proposed rules to county representatives. If you agree to hold such meetings, I request that one of them be conducted in Winona County. I would be happy to assist you with the arrangements.

I have also enclosed, for your records, a copy of Winona County Resolution #92-71 that requests a public hearing for the proposed rules.

Sincerely,

Kevin T. Dixon
Director

105/clo

Enclosure: Resolution #92-71

cc: Winona County Board of Commissioners

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MANAGEMENT

1350 Energy Lane
St. Paul, Minnesota 55108
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1-800-652-9747

October 20, 1992

Mr. Kevin Dixon
Solid Waste Administrator
Winona County Courthouse
171 West Third Street
Winona, Minnesota 55987

Dear Mr. Dixon:

Subject: **Proposed County Solid Waste Planning Rules**

Thank you for reviewing the Office of Waste Management's (OWM) proposed rules governing solid waste management planning and certificate of need issuance. Your letter of September 16, 1992 requests that the OWM conduct public meetings to discuss the rules with county commissioners and staff including a meeting to be held in Winona.

As you are aware the proposed rules are being adopted for two reasons: (1) since development of the original rules, subsequent legislative changes have occurred and augmented county planning requirements; and (2) the existing rules contain deficiencies reducing their effectiveness.

The OWM staff has begun conducting meetings with solid waste staff and county commissioners throughout the state regarding the rules. The meetings have prompted discussion on the proposed rules and the OWM staff has addressed concerns counties may have on the rules and presented the technical assistance available from the OWM to reduce county planning difficulties and costs. The OWM intends on meeting with solid waste staff and commissioners from each of the eight OWM regions throughout the next six months.

As you are aware, the OWM staff has met with you and your county commissioners regarding the rules. In addition to that meeting the OWM staff has met with a group of solid waste administrators in Olivia, Minnesota. A third meeting has been scheduled for Thursday October 22, 1992 in St. Cloud, Minnesota.

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The OWM staff has recommended that the rule adoption process continue at the same time as the regional meetings and not be delayed. I hope the approach the OWM is taking will satisfy your request. Thanks again for your interest and assistance in the rule-making process. If you have any additional comments or require additional information please contact me at (612) 649-5776.

Sincerely,

David Benke
Local Government Assistance

DB:rf

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BROWNING-FERRIS INDUSTRIES

MIDWEST REGION

RECEIVED
MN OFFICE OF
SEP 14 1992
WASTE MANAGEMENT

September 11, 1992

Mr. David Benke
Minnesota Office of Waste Management
1350 Energy Lane
St. Paul, Minnesota 55108

Re: Proposed Minnesota Rules Park 9215.0500 to 9215.0950

Dear Mr. Benke:

Browning-Ferris Industries, Inc. (BFI) has reviewed the above referenced proposed rules and the Office's Statement of Need and Reasonableness in support of the proposed rules. In addition, BFI has had an opportunity to review the recent public draft of OWM's Solid Waste Policy Report.

As you may be aware, OWM's Policy Report raises substantial questions and issues about many of the State's current solid waste programs, policies and systems for non-metro counties and, by implication or direct reference, metro counties. BFI views the overall content and tone of the draft report as suggesting strongly that OWM from a broad perspective believes changes are warranted in many aspects of the State's current solid waste management systems and policies. Given the clear message of the Report, it seems inappropriate for OWM to go forward with its work on the proposed rules at this time. Finalization of the proposed rules will merely serve to validate the existing systems which OWM apparently does not in fact endorse. Furthermore, if BFI's general impression of the Report's overall message is correct, such that legislative action changing much of the existing systems is likely, it seems a waste of OWM, local government, and private resources to go forward with work on rules that will be rendered meaningless in a matter of months.

BFI therefore requests OWM suspend work on the proposed rules unless and until the Office, after consideration of all comments received on the Policy Report, takes the position that the statutory programs addressed by the rule should remain intact. Since it is clear from the draft Policy report that this is an unlikely outcome, it is inappropriate to conduct further work on the rule.

P.O. BOX 1375 • MINNEAPOLIS, MINNESOTA 55440 • (612) 921-8505 • FAX: (612) 921-8558
8500 NORMANDALE LAKE BOULEVARD, SUITE 850 • BLOOMINGTON, MINNESOTA 55437

BFI appreciates the Office's consideration of these comments. Please feel free to contact me if you have any questions about BFI's comments.

Sincerely,

William R. Uffelman
DVP, Government Affairs

WRU/njo

MINNESOTA
OFFICE
OF WASTE
MANAGEMENT

1350 Energy Lane
St. Paul, Minnesota 55108
(612) 649-5750
MN Toll Free
1-800-652-9747

October 19, 1992

Mr. William R. Uffelman
DVP, Government Affairs
Browning-Ferris Industries
P.O. Box 1375
Minneapolis, Minneapolis 55440

Dear Mr. Uffelman:

Subject: **Proposed Minnesota Rules 9215.0500 to 9215.0950**

Thank you for reviewing the Office of Waste Management's (OWM) proposed rules governing solid waste management planning and certificate of need issuance, the statement of need and reasonableness, and the OWM draft Policy Report. Your letter of September 11, 1992 requests that the OWM suspend work on the proposed rules unless and until the OWM, after consideration of all comments received on the Policy report, takes the position that the statutory programs addressed by the rule should remain intact.

The OWM in its draft Policy Report is not proposing that wholesale changes are needed in the State's current solid waste management systems and policies. The Policy Report's three main themes of waste reduction, integrated waste management, and education are all reflected in the solid waste management planning and certificate of need issuance rules by the process of identifying, analyzing and implementing the management programs necessary to protect human health and the environment.

The statement of need and reasonableness for the proposed rules reviews reasons why the OWM believes the proposed rules are needed. The proposed rules are being adopted for two reasons: (1) since development of the original rules, subsequent legislative changes have occurred and augmented county planning requirements; and (2) the existing rules contain deficiencies reducing their effectiveness.

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Legislative changes. The existing Comprehensive Solid Waste Management Planning and Certificate of Need Rules were adopted in 1986 and have not been amended since adoption. State law relating to solid waste management has undergone significant amendment during that period. Changes include:

- a requirement for source separation recycling where cost-effective;
- various requirements regarding planning for solid waste reduction and recycling;
- a requirement that counties provide their residents with an opportunity to recycle;
- a requirement that plans address waste tires;
- yard waste management requirements;
- used major appliance management requirements;
- household hazardous waste management planning requirements; and
- a requirement that plans proposing incineration address ash and residuals control measures.

State rules regarding solid waste management have also changed significantly since the original implementation of the county solid waste management planning rules. In particular, the development by the Minnesota Pollution Control Agency (MPCA) of comprehensive solid waste management facility regulations has had a profound impact on county solid waste management planning.

As a consequence, the existing rules contain language that is no longer consistent with state statutes or other state rules and that fails to address statutes or rules promulgated after the development of the existing rules. The OWM's proposed rules are consistent with current statute and rules.

Problems with the existing rules. While the existing rules were carefully developed and served as an adequate initial basis for plan development and planning oversight, some aspects of those rules have reduced their effectiveness. The existing rules contained some sections where the wording is unclear and difficult to understand, and the OWM's proposed rules contain language that is clear and concise. In addition, in implementation of the original rules the OWM has determined that certain portions of the rules need to be augmented, and other sections need to be changed in order to improve the overall usefulness of the rules. Areas addressed in the proposed rules include:

- plan amendment and update content requirements and review procedures;
- alternatives analysis procedures;
- identification of backup alternatives;
- requirements for plan approval;
- certificate of need issuance procedures; and
- general organization.

Delaying the adoption of the proposed rules would only serve to increase the confusion between requirements in existing rules and statute. Therefore, the OWM staff will recommend that the rule adoption process not be delayed.

Thanks again for your interest and assistance in the rule-making process. If you have any additional comments or require additional information please contact me at (612) 649-5776.

Sincerely,

David Benke
Local Government Assistance

DB:rf

NSWMA Midwest Region
850 East Diehl Road
Suite 125
Naperville, IL 60563
(708) 505-7757
FAX (708) 505-7761

David Benke
Minnesota Office of Waste Management
1350 Energy Lane
St. Paul, MN 55108

September 14, 1992

Dear Mr. Benke:

On behalf of the Minnesota Chapter of the National Solid Wastes Management Association (NSWMA), I submit for your consideration comments regarding the proposed Minnesota Rules Part 9215.0500 to 9215.0950 and the Office's Statement of Need and Reasonableness in support of the proposed rules.

NSWMA is a trade group representing more than 2,500 private waste service companies in the United States and Canada, including approximately 90 companies operating in Minnesota. Members include transporters of solid, hazardous and medical waste, waste recyclers, waste-to-energy companies, solid waste landfill operators, manufacturers and distributors of waste management equipment, and firms providing legal, financial and consulting services to the waste management industry.

Many of our members have considerable concerns with various issues raised in the Report. I believe some of our concerns were well articulated at our last Steering Committee Meeting of Tuesday, September 8, 1992 when we were fortunate to have met with Director Dottie Rietow, and staff members Mary Vandenbosch, Kevin Johnson and Kirk Rosenberg.

We recommend that the Office of Waste Management defer further work on the proposed rules until the Policy Report proves to be in favor of maintaining current statute. We hope you can appreciate the confusion created when the Office simultaneously proposes rules addressing the solid waste management statute and proposes wide sweeping changes to the same solid waste management policies and statute from which the proposed rule is based.

Your consideration is greatly appreciated.

Sincerely,

Jean Furlan

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MINNESOTA
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OF WASTE
MANAGEMENT

1350 Energy Lane
St. Paul, Minnesota 55108
(612) 649-5750
MN Toll Free
1-800-652-9747

October 20, 1992

Ms. Jean Furlan
National Solid Wastes Management Association (NSWMA)
Midwest Region
850 East Diehl Road
Suite 125
Naperville, Illinois 60563

Subject: **Proposed Minnesota Rules 9215.0500 to 9215.0950**

Dear Ms. Furlan:

Thank you for reviewing the Office of Waste Management's (OWM) proposed rules governing solid waste management planning and certificate of need issuance and the OWM draft Policy Report. Your letter of September 14, 1992 recommends that the OWM defer further work on the rules until the Policy Report proves to be in favor of maintaining current statute.

The OWM in the draft Policy Report has not proposed wide sweeping changes of the State's current solid waste management systems and policies. The Policy Report's three main themes of waste reduction, integrated waste management, and education are all reflected in the solid waste management planning and certificate of need issuance rules by the process of identifying, analyzing and implementing the management programs necessary to protect human health and the environment.

As described in the statement of need and reasonableness for the proposed rules reviews reasons why the OWM believes the proposed rules are needed. The proposed rules are being adopted for two reasons: (1) since development of the original rules, subsequent legislative changes have occurred and augmented county planning requirements; and (2) the existing rules contain deficiencies reducing their effectiveness.

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Legislative changes. The existing Comprehensive Solid Waste Management Planning and Certificate of Need Rules were adopted in 1986 and have not been amended since adoption. State law relating to solid waste management has undergone significant amendment during that period. Changes include:

- a requirement for source separation recycling where cost-effective;
- various requirements regarding planning for solid waste reduction and recycling;
- a requirement that counties provide their residents with an opportunity to recycle;
- a requirement that plans address waste tires;
- yard waste management requirements;
- used major appliance management requirements;
- household hazardous waste management planning requirements; and
- a requirement that plans proposing incineration address ash and residuals control measures.

State rules regarding solid waste management have also changed significantly since the original implementation of the county solid waste management planning rules. In particular, the development by the Minnesota Pollution Control Agency (MPCA) of comprehensive solid waste management facility regulations has had a profound impact on county solid waste management planning.

As a consequence, the existing rules contain language that is no longer consistent with state statutes or other state rules and fails to address statutes or rules promulgated after the development of the existing rules. The OWM's proposed rules are consistent with current statute and rules.

Problems with the existing rules. While the existing rules were carefully developed and served as an adequate initial basis for plan development and planning oversight, some aspects of those rules have reduced their effectiveness. The existing rules contained some sections where the wording is unclear and difficult to understand, and the OWM's proposed rules contain language that is clear and concise. In addition, in implementation of the original rules the OWM has determined that certain portions of the rules need to be augmented, and other sections need to be changed in order to improve the overall usefulness of the rules. Areas addressed in the proposed rules include:

- plan amendment and update content requirements and review procedures;
- alternatives analysis procedures;
- identification of backup alternatives;
- requirements for plan approval;
- certificate of need issuance procedures; and
- general organization.

Delaying the adoption of the proposed rules would only serve to increase the confusion between requirements in existing rules and statute. Therefore, the OWM staff will recommend that the rule adoption process not be delayed.

Thanks again for your interest and assistance in the rule-making process. If you have any additional comments or require additional information please contact me at (612) 649-5776.

Sincerely,

David Benke
Local Government Assistance

DB:rf

ASSOCIATION OF
AMC
MINNESOTA COUNTIES

Dave Beneke
Pollution Control Specialist
Office of Waste Managment
1350 Energy Lane
St. Paul, MN 55108

September 14, 1992

Re: County Solid Waste Planning Rules

Dear Dave:

At the September 11, 1992 meeting of the Association of Minnesota Counties' Environmental and Natural Resources Policy Committee (ENRPC), some concerns were raised regarding the proposed OWM's county solid waste managment planning rules.

I am writing to request that the OWM hold two public meetings (one in the northern part of the state and one in the southern part of the state) to review the proposed rules with county commissioners and staff prior to formally adopting the rules. I believe the public meetings would provide an opportunity for the OWM to explain the rules and address any concerns counties may have on the proposed rules.

I appreciate your consideration of this request. Please call me if you have any questions.

Sincerely,

Barbara J. Johnson
Policy Analyst/General Counsel

125 CHARLES AVENUE ST. PAUL MINNESOTA 55103-2108 612-224-3344 FAX 612-224-6540

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October 20, 1992

Ms. Barbara Johnson
Policy Analyst/General Counsel
Association of Minnesota Counties
125 Charles Avenue
St. Paul, Minnesota 55103-2108

Dear Ms. Johnson:

Subject: **Proposed County Solid Waste Planning Rules**

Thank you for reviewing the Office of Waste Management's (OWM) proposed rules governing solid waste management planning and certificate of need issuance. Your letter of September 14, 1992 requests that the OWM suspend work on the proposed rules until two public meetings are held to discuss the rules with county commissioners and staff.

As you are aware the proposed rules are being adopted for two reasons: (1) since development of the original rules, subsequent legislative changes have occurred and augmented county planning requirements; and (2) the existing rules contain deficiencies reducing their effectiveness.

The OWM staff has begun conducting meetings with solid waste staff and county commissioners throughout the state. The meetings have prompted discussion on the proposed rules and the OWM staff has addressed concerns counties may have on the rules and presented the technical assistance available from the OWM to reduce county planning difficulties and costs. The OWM intends on meeting with solid waste staff and commissioners from each of the eight OWM regions throughout the next six months. For your information, to date, two meetings have been held, one in Winona and one in Olivia with a third scheduled for Thursday October 22, in St. Cloud.

The OWM staff has recommended that the rule adoption process continue at the same time as the regional meetings and not be delayed. I hope the approach the OWM is taking will satisfy your request. Thanks again for your interest and assistance in the rule-making process. If you have any additional comments or require additional information please contact me at (612) 649-5776.

Sincerely,

David Benke
Local Government Assistance

DB:rf

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METROPOLITAN COUNCIL
Mears Park Centre, 230 East Fifth Street, St. Paul, MN 55101

DATE: September 14, 1992

TO: David Benke

FROM: Jan Gustafson, 291-6384

SUBJECT: Staff Comments on Proposed Rules Governing Comprehensive Solid Waste Management Planning and Certificate of Need Issuance, Minn. Rules Parts 921.0500 to 925.0950

This memo reflects comments received from several Metropolitan Council solid waste staff who reviewed the draft rules. The comments reflect only the opinion of staff and not an official position of the Metropolitan Council. The comments are offered for Office of Waste Management staff's consideration and do not represent a request for a public hearing.

--For any certificate of need issued to a facility that will accept waste from the metropolitan area, it would be appropriate to include language in the review and approval process stating that the Metropolitan Council will be requested to review and comment on such issues as accuracy of metropolitan area dated provided by the applicant, consistency with the Council's Solid Waste Development Guide/Policy Plan, need for capacity, ... etc.

--The review and approval process for county or district plans of counties bordering the metropolitan area, using facilities in the metropolitan area as significant elements of their plans, or planning to provide waste management services and/or facility(s) capacity in their counties or districts to metro counties for the management of metropolitan area wastes should include a statement that such plans will be sent to the Metropolitan Council for review and comment.

--To the extent that the rules focus on a county-based planning and/or certificate of need process, they work against efforts of the OWM to urge regionalization of the solid waste management system.

Thank you for the opportunity to comment. If you'd like to discuss our comments further, please call.

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1-800-652-9747

October 22, 1992

Ms. Jan Gustafson
Metropolitan Council
Mears Park Centre
230 East Fifth Street
St. Paul, Minnesota 55101

Dear Mr. Gustafson:

Subject: **Comments on Proposed Rules Governing Comprehensive Solid Waste Management Planning and Certificate of Need Rules Parts. 9215.0500 to 9215.0950**

Thank you for reviewing the Office of Waste Management's (OWM) proposed rules governing solid waste management planning and certificate of need issuance. I will address your concerns in the order they were written in your memo dated September 14, 1992. Review of your memo indicates that the Metropolitan Council solid waste staff have the following concerns:

> *... For any certificate of need issued to a facility that will accept waste from the metropolitan area, it would be appropriate to include language in the review and approval process stating that the Metropolitan Council will be requested to review and comment on such issues as accuracy of metropolitan area data provided by the applicant, consistency with the Council's Solid Waste Development Guide/Policy Plan, need for capacity, ... etc.*

The proposed certificate of need issuance language is contained in Part 9215.0900 CONTENT OF CERTIFICATE OF NEED REQUEST., subp 3. **Origin of waste.**, requires information about quantities of solid waste from counties or districts within the metropolitan area has to be based on information in approved county or district solid waste master plans. Although not directly stated, verification of this information will require consultation with the Metropolitan Council, during the review process.

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> *... The review and approval process for county or district plans of counties bordering the metropolitan area, using facilities in the metropolitan area as significant elements of their plans or planning to provide waste management services and/or facility(s) capacity in their counties or districts to metro counties for management of metropolitan area wastes should include a statement that such plans will be sent to the Metropolitan Council for review and comment.*

The OWM is in agreement with the Metropolitan Council staff regarding the need to coordinate the review and approval of solid waste plans, particularly those that share facilities with the metropolitan area in one way on another. As with the certificate of need issuance process the OWM staff will include in its review process verification of information with the appropriate parties and agencies, thereby, providing an opportunity for review and comment on plans of mutual interest.

> *... To the extent that the rules focus on a county-based planning and /or certificate of need process, they work against efforts of the OWM to urge regionalization of the solid waste management system.*

The proposed rules have included provisions in Part 9215.0800 Regional Planning., to encourage regional cooperation by providing regional planning groups the option of submitting a joint plan. In addition throughout the rules a county or district is recognized as planning entities. The certificate of need process has also changed from one of issuance to counties to one of issuance to facilities permit applicants. Although the proposed rules may recognize counties as the primary planning entity the proposed rules have provided incentives for regional cooperation.

Thanks again for your interest and assistance in the rule-making process. If you have any additional comments or require additional information please contact me at (612) 649-5776.

Sincerely,

David Benke
Local Government Assistance Unit

DB:rf

Minnesota Department of Health
Division of Environmental Health
925 Delaware Street Southeast
P.O. Box 59040
Minneapolis, MN 55459-0040
(612) 627-5100

RECEIVED
MN OFFICE OF
SEP 23 1992
WASTE MANAGEMENT

September 18, 1992

Mr. David Benke
Minnesota Office of Waste Management
1350 Energy Lane
St. Paul, Minnesota 55108

Dear Mr. Benke:

Subject: Proposed Rules Governing Comprehensive Solid Waste Management Planning and Certificate of Need Issuance, Minnesota Rules, Parts 9215.050-9215.0950

We have reviewed the notice of intent to adopt rules without a public hearing for the above-referenced subject. This department is not requesting a public hearing provided adequate attention is given to the protection of ground-water quality.

The rules indicate a preference to landfill disposal only as a last resort; however, the rules do not preclude the use of landfills. Should landfills be required for solid waste disposal, the rules should provide language to assure that the landfill will not contaminate ground water and include provisions for monitoring ground-water quality and, if contaminated, actions for ground-water quality remediation.

The management plan should include language to address all previous disposal methods that have or may contaminate ground water, including monitoring and remediation.

With the adoption of these recommendations, the rules appear to be sufficiently comprehensive to address the solid waste problem at the present time.

Sincerely,

Darrell Anderson for CEE

Christine Everson, Interim Director
Division of Environmental Health

CE:EHR:tvs

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October 22, 1992

Mr. Darrell Anderson
Division of Environmental Health
925 Delaware Street Southeast
P.O. Box 59040
Minneapolis, Minnesota 55459-0040

Dear Mr. Anderson:

Subject: **Proposed Rules Governing Comprehensive Solid Waste Management Planning and Certificate of Need Issuance, Minn. Rules Parts 9215.0500 to 9215.0950**

The Office of Waste Management (OWM) received your letter regarding the proposed solid waste planning and certificate of need issuance rules dated September 18, 1992 on September 23, 1992. The public comment period ended on Monday September 14, 1992. However, the OWM reviewed your comments. The following is a response to your recommendation that the rules should provide language to assure that landfills will not contaminate ground water and include provisions for monitoring ground-water quality and, if contaminated, actions for ground-water quality remediation.

The proposed rules require counties or districts to address ground water protection at land disposal facilities (past, present, and future) in their plans as follows:

9214.0640 LAND DISPOSAL OF MIXED MUNICIPAL SOLID WASTE.

Subp. 3. **Existing land disposal facilities.** The plan must:

A. identify and discuss the status of closed landfills within the county or district and whether the county or district is implementing any programs for mitigating the environmental effects of past disposal practices;
B. describe the land disposal facility or facilities where the county's or district's mixed municipal solid waste is managed;
C. include a table indicating the amount received, processed, and disposed during the previous two years; and

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D. include information on the operational history, removal of problem wastes, and facility management.

Subp. 4. **Environmental and public health impacts.**

The plan must evaluate known and potential environmental and public health impacts of operating and proposed disposal facilities and propose a course of action to alleviate those impacts. The plan must include information summarizing the results of recent inspections by the appropriate state agency, report on the results of ground and surface waste monitoring at the facilities, and assess operational safety at each facility during the past two years.

Thank you for your interest and assistance in the rule-making process. I believe this should address your recommendation of planning for ground and surface water protection. If you have any questions or require additional information please contact me at (612) 649-5776.

Sincerely,

David Benke
Local Government Assistance Unit

DB:rf

cc: Christine Everson, Interim Director, Minnesota Department of Health, Division of Environmental Health

RECEIVED
MN OFFICE OF
JUN 18 1990
WASTE MANAGEM

320 Jefferson St. S.
P.O. Box 26
Wadena, MN 56482

June 15, 1990

Mr. David Benke
Minnesota Office of Waste Management
1350 Energy Lane
St. Paul, MN 55108

Dear Mr. Benke:

Re: Solid Waste Planning Rules and Certificate of Need

These rules have served some purpose and have resulted in the general education of County Boards regarding solid waste management.

Enforcement: The rules remain somewhat of a joke because of the inconsistent enforcement. Here are some examples:

-Ottertail County got a certificate of need for incinerator ash based on its plan. However, the ash is being generated by many counties involved in the Quadrant and Fergus Falls incinerators. When Quadrant was in the planning stages, Willis Mattson said in response to a question at a public meeting that all counties involved would have to complete their plans and request certificates of need in order to get the ash capacity. This seems logical under the rules, but it was never enforced.

-Wadena County completed its solid waste plan in April, 1989. The plan stated that it would support and expand its recycling center. The ink was barely dry in June when the operator came in requesting a subsidy increase (due to the "crash" of the recyclables market). The County immediately forgot its commitment to a recycling center. The problem was eventually resolved because of the infusion of SCORE money, not because of the County's willingness to follow its plan.

Planning Worksheets: The numerical worksheets in the planning manual have no impact on the County's decisions to select a processing technology. The worksheets should be scrapped, or the format should be made flexible so that the County can show its actual analysis (without requesting a variance).

Goal Measurement: The goals in the rules are impossible to measure.

MSW Quantity: Many rural counties do not capture all of the waste stream. However, as recycling comes on line, the amount of waste captured by the County system is increased because of the public education associated with recycling. This is particularly obvious when looking at Wadena County and Hubbard County waste

volumes at Quadrant. So the total MSW waste stream is difficult to quantify.

Recyclables Quantity: Many recyclables are handled through private recyclers and these firms have no obligation to tell the County how much they receive, which County they receive recyclables from or where they are sold. The measurement of recycled quantities may be impossible to measure.

Yard Waste Quantity: In rural areas, yard waste is traditionally landspread or composted. This waste has never entered the County system, so it is difficult to get a measurement of the waste currently diverted. Secondly, the amount of yard waste in most County systems has never been separated and measured.

Technology Bias: The biggest problem in the rules is that it assumes that incineration and composting are environmentally preferable to landfilling. We know more about landfilling, so we understand its risks. As we have learned about incineration, people have become more wary of it. This process is soon to occur with composting. There is nothing wonderful about the leachate from compost. In fact, landfilling with a double liner may be safer than composting or incineration. The rules should force the Counties to document why they have selected a particular technology but should not imply that one is better than another in the absence of real data.

Co-composting: The word "co-composting" should be replaced with "MSW composting" since the MPCA solid waste rules virtually outlaw co-composting.

Yard Waste Composting: The word "yard waste composting" should be replaced with "yard waste composting or landspreading." There's no need to compost grass or leaves before spreading on an agricultural field.

Planning Manual: The planning manual (not the rules) fails to acknowledge that a County may have a perfectly satisfactory waste disposal system that is in need of small changes only.

Mathematical Formulas: Counties that go through the planning process will decide what solid waste management method they wish to use. The mathematical formulas showing the environmental factors and the worksheets in the planning manual are not likely to enter their decisions. They are forms to be filled out after decisions are made. If the State wants Counties to focus on key issues, this is not the way !!!

Key Issues: The SCORE amendments did a good job of bringing to the focus several key issues: recycling and household hazardous waste. An important issue not in the plan is the estimate of how

much waste we transfer to other parts of the environment through incineration (air pollution), composting (soil and groundwater pollution), and waste transportation (air pollution.)

Sincerely,

Barb Ranson

Barbara B. Ranson