

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

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repealed and new rules are being set in place in order to update and clarify county planning requirements.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 assistance 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 composting, 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's 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.

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

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 than 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 an 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 its 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 the 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 planning 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.

