

2-18-2008



Minnesota Pollution Control Agency
Duluth Office

February 13, 2008

Legislative Reference Library
645 State Office Building
100 Constitution Avenue
St. Paul, MN 55155

Re: In the Matter of Proposed Amendments to Rules of the Minnesota Pollution Control Agency
Governing the Development, Adoption and Implementation of Solid Waste Management
Plans in greater Minnesota; Administrative Rule Tracking Number # AR 108

Dear Librarian:

The Minnesota Pollution Control Agency intends to adopt proposed amendments to the rules that govern the development, implementation, adoption and implementation of Solid Waste Management Plans in greater Minnesota. We plan to publish a Notice Of Intent to Adopt Rules without a Public Hearing in the State Register on Monday, February 25, 2008.

The Agency has prepared a Statement of Need and Reasonableness. As required by Minnesota Statutes, sections 14.131 and 14.23, the Agency is sending the Library a copy of the Statement of Need and Reasonableness at the same time we are mailing our Notice of Intent to Adopt Rules.

If you have questions, please contact me at 218-529-6265.

Yours very truly,

A handwritten signature in black ink, appearing to read "Hank Fisher".

Hank Fisher
Regional Planner

HF:kk

Enclosures: Notice
Statement of Need and Reasonableness



Minnesota Pollution Control Agency

Municipal Division – Local Government Assistance Unit

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Proposed Amendments to the Rules Governing the Development, Adoption and Implementation of Solid Waste Management Plans in greater Minnesota, *Minnesota Rules*, parts 9215.0500 to 9215.0880, repealing parts 9215.0570 & 9215.0810

Introduction. The Minnesota Pollution Control Agency (MPCA) intends to adopt amendments to rules without a public hearing following the procedures in the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310, and the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28. You may submit written comments on the proposed rules and may also submit a written request that a hearing be held on the rules until 4:30 p.m. on March 26, 2008.

MPCA Contact Person. You must submit comments or questions on the rules and written requests for a public hearing to the agency contact person. The agency contact person is: Hank Fisher at the Minnesota Pollution Control Agency, 525 Lake Avenue South, Suite 400, Duluth, Minnesota, 55802. Telephone: 218-529-6265 or 800-657-3861, FAX: (218) 723-4727, Email: henry.fisher@pca.state.mn.us. TTY users may call the MPCA teletypewriter at 651-282-5332.

Subject of Rules. The proposed amendments are to MPCA rules governing the development, adoption and implementation of solid waste management plans in greater Minnesota. The current solid waste management planning rules were adopted in 1986 and subsequently amended in 1992. Since then, county solid waste management systems have matured, making some of the existing rule requirements obsolete and not as effective as they could be. In 2003, the Legislature revised *Minnesota Statutes* § 115A.46 changing the requirement that counties submit a solid waste management plan at least every 5 years to every 10 years. Another change is the addition of the following language: “[r]ules that regulate plan content under [Minn. Stat. §115A.46] subdivision 2 must reflect demographic, geographic, regional, and solid waste system differences that exist among the counties.” This latter amendment is the principal reason for repealing Minn. Rules pts. 9215.0570 & 9215.0810 because they required the planning entity to analyze and explore alternative technologies to landfilling such as solid waste incineration or mixed municipal solid waste composting regardless of expense and practical application given existing demographic, geographic, regional and solid waste system constraints. As such, the existing rule has been, for some, very burdensome creating an unnecessary step in the planning process.

These proposed rule amendments also reflect current solid waste management practices; eliminate rule requirements that are redundant or no longer needed; encourage regional planning where viable and beneficial to those counties involved; and provide counties more flexibility in choosing waste abatement strategies and integrated solid waste management systems that reflect demographic, geographic, regional and solid waste system differences that exist in greater Minnesota.

Statutory Authority. The MPCA's statutory authority to adopt and implement these rule revisions is set forth in various sections. *Minnesota Statutes* § 115A.42 provides, "The program under sections 115A.42 to 115A.46 is administered by the commissioner pursuant to rules promulgated under chapter 14, except in the metropolitan area where the program is administered by the commissioner pursuant to section 473.149. *Minnesota Statutes* § 115A.06, subd. 2, authorizes the commissioner to "promulgate rules in accordance with chapter 14 to implement this chapter." In addition, *Minnesota Statutes* § 116.07, subd. 4, provides:

Pursuant and subject to the provisions of chapter 14, and the provisions hereof, the Pollution Control Agency may adopt, amend and rescind rules and standards having the force of law relating to any purpose within the provisions of Laws 1969, chapter 1046, for the collection, transportation, storage, processing, and disposal of solid waste and the prevention, abatement, or control of water, air, and land pollution which may be related thereto, and the deposit in or on land of any other material that may tend to cause pollution.

Under these statutes, the MPCA has the necessary authority to adopt the proposed rule amendments (revisions). All statutory authority was adopted and effective before January 1, 1996, therefore *Minnesota Statutes* § 14.125 does not apply.

Rule Availability. The proposed changes to Minnesota Rules, parts 9215.0500 to 9215.0880, are published in the State Register or they can be viewed on the MPCA Web site at <http://www.pca.state.mn.us/oea/lc/rulechange.cfm>. A free copy of the proposed rules is available upon request by contacting Hank Fisher at 218-529-6265 or 800-657-3861, by mail at the address stated above in the MPCA Contact Person section of this Notice, or by Email: henry.fisher@pca.state.mn.us. Only one copy will be sent per request.

Comments. You have until 4:30 p.m. on March 26, 2008 to submit written comments in support of or in opposition to the proposed rules and any part or subpart of the rules. Your comments must be in writing and received by the MPCA contact person by the due date. Comments are encouraged. Your comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rules must also be made during this comment period.

Request for a Hearing. In addition to submitting comments, you may also request that MPCA hold a hearing on the rules. Your request for a public hearing must be in writing and must be received by the MPCA contact person by 4:30 p.m. on March 26, 2008. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules to which you object or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and cannot be counted by the MPCA when determining whether it must hold a public hearing. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

Withdrawal of Requests. If 25 or more persons submit a valid written request for a hearing, the MPCA will hold a public hearing unless a sufficient number withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the agency must give written notice of this to all persons who requested a hearing, explain the actions the agency took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

Alternative Format. Upon request, the MPCA can make this Notice available in an alternative format, such as large print, Braille, or cassette tape. To make such a request, please contact the agency contact person at the address or telephone number listed above.

Modifications. The MPCA may modify the proposed rules as a result of public comment. The modifications must be supported by comments and information submitted to the agency, and the adopted rules may not be substantially different than these proposed rules, unless the agency follows the procedure under *Minnesota Rules*, part 1400.2110. If the proposed rules affect you in any way, the MPCA encourages you to participate in the rulemaking process.

Statement of Need and Reasonableness. The statement of need and reasonableness (SONAR) contains a summary of the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. The SONAR is now available from the MPCA Contact Person, Hank Fisher. You may review or obtain copies of the SONAR at the cost of reproduction by contacting Hank Fisher at the telephone number, mailing address, and Email address listed in the MPCA Contact Person section of this Notice. In addition, the SONAR can be viewed on the MPCA Web site at <http://www.pca.state.mn.us/oea/lc/rulechange.cfm>.

Lobbyist Registration. *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. You should direct questions about this requirement to the Campaign Finance and Public Disclosure Board at: Suite 190, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone 651-296-5148 or 1-800-657-3889.

Request to Have the MPCA Citizens' Board Make the Decision on Adoption of the Rules if No Hearing is Required. If a hearing is required, the MPCA Citizens' Board will make the final decision on whether to adopt the proposed rules. However, even if a hearing is not required, you may submit a request to the MPCA Commissioner or an MPCA Citizens' Board member to have the MPCA Citizens' Board make the decision on whether to adopt the proposed rule amendments. Your request must be in writing, must state to whom it is directed, and must be received by the MPCA contact person by 4:30 p.m. on March 26, 2008. Under *Minnesota Statutes* § 116.02, when a public hearing is not required, the MPCA Citizens' Board will only make the decision on adoption of the rules if the MPCA Commissioner grants your request or if an MPCA Citizens' Board member makes a timely request that the decision be made by the MPCA Citizens' Board.

Adoption and Review of Rules. If no hearing is required, the agency may adopt the rules after the end of the comment period. The agency will then submit the rules and supporting documents to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the Department submits the rules to the office. If you want to be so notified, or want to receive a copy of the adopted rules, or want to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

1/10/08
Date


Brad Moore
Commissioner
Minnesota Pollution Control Agency

Minnesota Pollution Control Agency

STATEMENT OF NEED AND REASONABLENESS

Proposed Revisions to Rules Governing Solid Waste Management Planning Requirements, Minnesota Rules Chapter 9215

DRAFT

1. INTRODUCTION

The subject of this Statement of Need and Reasonableness (SONAR) is the amendments to Minnesota Rules Chapter 9215, parts 9215.0500 through 9215.0880 that govern the development, adoption, and implementation of solid waste management plans by counties or groups of counties in Greater Minnesota. Minn. Stat. §§ 115A.42, 115A.06, subd. 2, and 116.07, subd. 4, authorize the rules and their amendment.

Under Minn. Stat. § 115A.02 it is the policy of the state of Minnesota to protect the state's land, air, water and other natural resources and the public health by improving waste management in the state. Additionally, Minn. Stat. § 115A.46, subd. 1(a), requires solid waste management planning to address the purposes expressed in Minn. Stat. § 115A.02.

The current solid waste planning rules were adopted in 1986 and amended in 1992. Since then, county solid waste management planning has matured, making some of the solid waste management planning rules obsolete and others not as effective as they were when the solid waste management programs were being implemented.

The Minnesota Office of Environmental Assistance (OEA) began working with counties on changes to solid waste management planning in November 2001. During 2002, a "Plan Revival Workgroup" developed a concept paper that recommended changes to plan content requirements, definitions, and frequency of submission.

The Workgroup's efforts led to revisions of Minn. Stat. § 115A.46 by the 2003 Legislature. The revisions included a change in the requirement that counties submit a solid waste management plan from at least every 5 years to at least every 10 years. Minn. Stat. 115A.46, subd. 1(f). Another change requires that, "rules that regulate plan content under subdivision 2 must reflect demographic, geographic, regional and solid waste system differences that exist among the counties." Minn. Stat. § 115A.46, subd. 1(g).

In 2005, the Legislature merged OEA and the Minnesota Pollution Control Agency (MPCA). Act of June 30, 2005, ch. 1, art. 2, § 160 (1st Spec. Session). MPCA has assumed OEA's responsibilities and authority for the rule amendments. Accordingly,

the MPCA is carrying on the work begun by OEA and proposes to amend (revise) the solid waste management planning rule requirements for Greater Minnesota to accomplish the following goals:

1. Update the rules to coincide with current solid waste management practices;
2. Eliminate requirements that are redundant or no longer needed;
3. Encourage regional planning where viable and beneficial to those counties involved;
4. Provide counties more flexibility in choosing waste abatement strategies and integrated solid waste management systems that reflect demographic, geographic, regional and solid waste system differences that exist in Greater Minnesota; and
5. Create a greater sense of ownership in the development and implementation of solid waste management plans by the counties.

II. PROCEDURAL HISTORY

The proposed rule amendments were developed with input from MPCA and former OEA staff in cooperation with interested and affected parties such as the counties, the Minnesota Solid Waste Administrators Association (SWAA), the Solid Waste Association of North America (SWANA), waste haulers, waste facility operators, recyclers and environmental organizations. As noted earlier, a broader discussion on the subject of solid waste management planning occurred from November 2001 to April 2002 that formed the basis for the 2003 statutory amendments requiring specific rule changes. The background work provided initial concepts and/or language changes for the proposed rule amendments. See Exhibits for additional information.

Several methods were used to obtain internal and external input on the proposed revisions. The following is a summary of those activities specific to this amendment process.

1. The OEA held solid waste management planning discussions with county solid waste administrators and others throughout Minnesota from November 2001 to April 2002. During that time, the "Plan Revival Workgroup" consisting of state and county solid waste officials discussed the existing solid waste management plan content requirements and areas that needed revision to make the plans more relevant, accurate and useful. These discussions were held:

- December 10, 2001, Owatonna, MN
- December 19, 2001, Brainerd, MN
- January 1, 2002, St. Paul, MN
- January 24, 2002, Milaca, MN
- January 31, 2002, Redwood Falls, MN
- February 22, 2002, New Ulm, MN
- March 13, 2002, Grand Rapids, MN
- April 15, 2002, St. Cloud, MN

- July 9, 2002, St. Cloud, MN
- July 31, 2002, St. Paul, MN

2. OEA staff presented the recommendations from the aforementioned discussions and proposed statutory changes to Minn. Stat. § 115A.46 to the Minnesota Solid Waste Administrators Annual Conference and the Association of Minnesota Counties (AMC) Environment Policy Committee in September 2002.

3. OEA staff met with Senate and House leadership to discuss the proposed statutory changes regarding solid waste management plan updating and content requirements in the fall of 2002.

4. On April 17, 2003, Governor Pawlenty signed into law S.F. 1001 that amended Minn. Stat. § 115A.46 by amending and adding subdivisions 1(f) and (g) to provide that "each plan must be updated and submitted for approval at least every ten years," and that "rules that regulate plan content under subdivision 2 must reflect demographic, geographic, regional, and solid waste system differences that exist among the counties." The amendment became effective August 1, 2003.

5. In the fall of 2003 a team of OEA regional and St. Paul staff began the process of developing a draft concept of the rule revisions to reflect the input obtained during the solid waste management planning meetings held from November 2001 to April 2002 and the amended Minn. Stat. § 115A.46.

6. On December 27, 2004, the OEA published in the *State Register*, 29 SR 764-65, a notice requesting comments on Planned Amendments to the Rules Governing the Development, Adoption and Implementation of Solid Waste Management Plans in Greater Minnesota: *Minnesota Rules*, Chapter 9215, Parts 9215.0500 to 9215.0880.

7. The notice contained the subject and purpose of the planned rule amendments, persons affected, statutory authority, information on public comment meetings, comment submittal methods, how to find other information regarding the rule on the OEA's web site www.moega.state.mn.us and agency contact person.

8. The OEA mailed copies of the notice to over 600 stakeholders during the week of December 20, 2004. These persons consisted of county solid waste administrators outside the Metropolitan Area, solid waste facility owners and operators, solid waste haulers, recyclers, solid waste engineering and planning consultants and environmental organizations.

9. The OEA mailed copies of the notice to the chairs and ranking minority party members of the legislative policy and budget committees with jurisdiction over solid waste management planning and the proposed rule amendments during the week of December 20, 2004.

10. In addition, the OEA created a specific page on its web site to provide information on the proposed rule changes to include: the need for the revisions; *State Register Notice of Request For Comments*; proposed revisions to *Minnesota Rules*, Chapter 9215, Parts, 9215.0500 to 9215.0880; a tentative schedule for rule revisions; regional informational meetings to facilitate comments and field questions on the proposed rule amendments; an electronic means to submit comments; and agency contact person. This specific page entitled, "Rule Changes: Updating Minnesota's Comprehensive Solid Waste Management Planning Rules" was put into operation during the week of December 20, 2004.

11. To facilitate comments and answer questions on the proposed rule amendments, the OEA held three (3) regional informational meetings in greater Minnesota. The meetings were held on February 2, 2005, in Mankato; February 9, 2005, in Bemidji; and February 23, 2005, in Elk River. A fourth meeting was held in St. Paul on June 21, 2005 to accommodate stakeholders in that region of the state.

12. At each of the above meetings, OEA staff took notes on the discussion points raised and subsequently posted these notes on the OEA web site. At the close of each meeting, OEA staff also welcomed any invitation to speak at regional solid waste meetings to further discuss the draft rule and obtain input. While there were no invitations to OEA to discuss the rule at the regional meetings, OEA did provide updates on the status of the amendment process at these meetings.

The OEA staff reviewed and openly discussed the comments from all interested parties and made changes to the proposed rules to reflect changes suggested at the aforementioned meetings. The changes were generally agreed upon by both the agency and interested parties.

The MPCA feels the process used for the development of the rule amendments was open and provided many opportunities for those interested in solid waste management planning to participate and provide input.

III. ALTERNATIVE FORMAT

Upon request, this SONAR can be made available in an alternative format, such as large print, Braille, or cassette tape. To make a request, contact Hank Fisher at the MPCA, Local Government Assistance Unit, Municipal Division, 525 Lake Avenue South, Suite 400, Duluth, MN 55804; phone (218) 529-6265 or (800) 657-3843; fax (218) 723-4727; or e-mail: henry.fisher@pca.state.mn.us. TTY users may call the MPCA at (651) 292-5332 or 1-800-657-3864.

IV. MPCA'S STATUTORY AUTHORITY

The MPCA's statutory authority to adopt and implement these rule revisions is set forth in various sections. Minn. Stat. § 115A.42 provides, "The program under sections 115A.42 to 115A.46 is administered by the commissioner pursuant to rules promulgated under chapter 14, except in the metropolitan area where the program is administered by the commissioner pursuant

- (2) solid waste haulers and recyclers;
- (3) solid waste engineering and planning consultants; and
- (4) environmental organizations.

In addition, the MPCA itself will be affected by the changed planning rules.

In general, the MPCA believes that the proposed planning changes will benefit the planning entities (counties, districts or multi-county areas), with no lessening of environmental protections and with no significant increase in cost to the planning entities. These proposed rule changes will enable the planning entities to have more flexibility in choosing waste abatement and solid waste management systems that reflect their particular demographic, geographic, regional and solid waste system differences. It also encourages planning entities, where viable and beneficial, to work together in planning and managing their solid waste. As a result, these cooperative planning activities may lead to possible resource sharing thereby lowering the cost of providing solid waste programs or services throughout the region or multi-county area. While the proposed rule revisions may cause increased attention to local planning processes, the MPCA does not believe that any costs to the planning entities would be significant since currently counties and districts are statutorily required to do solid waste management plans at least every ten years and this will not change. Costs may actually be lessened by the planning entities working together as regions or multi-county areas in solid waste management planning.

The MPCA does not anticipate that proposed planning changes will have either a negative or positive impact on those classes listed above in classes 1 - 4.

2. “[T]he probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.”

The rule revision is intended to streamline the process of plan review and approval. Streamlining will allow the MPCA regional staffs, who review plans, the ability to provide more technical assistance to the planning entities in implementing their solid waste management plans. Decreasing the time MPCA staff spends doing plan review and increasing the time MPCA staff do technical assistance work will enhance the environmental outcomes that are proposed in the solid waste management plans.

The rule revisions should not have a significant impact on state revenues because there are no new fees created or repealed and the planning entities and the MPCA already administer the processes that are being incorporated in this rule revision.

3. “[A] determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule;”

The alternative to the proposed rule revisions is to continue the current rule, under which MPCA staff review and approve each county’s or district’s solid waste management plan

to section 473.149. Minn. Stat. § 115A.06, subd. 2, authorizes the commissioner to “promulgate rules in accordance with chapter 14 to implement this chapter.” In addition, Minn. Stat. § 116.07, subd. 4, provides:

Pursuant and subject to the provisions of chapter 14, and the provisions hereof, the Pollution Control Agency may adopt, amend and rescind rules and standards having the force of law relating to any purpose within the provisions of Laws 1969, chapter 1046, for the collection, transportation, storage, processing, and disposal of solid waste and the prevention, abatement, or control of water, air, and land pollution which may be related thereto, and the deposit in or on land of any other material that may tend to cause pollution.

Under these statutes, the MPCA has the necessary authority to adopt the proposed rule amendments (revisions). All statutory authority was adopted and effective before January 1, 1996, therefore Minn. Stat. § 14.125 does not apply.

(Minnesota Rules, part 1400.2070, subpart 1, item D, provides that if an agency’s statutory authority was granted after January 1, 1996, the agency must include in its SONAR the effective date of the agency’s statutory authority to adopt the rule).

V. REGULATORY ANALYSIS

Minn. Stat. § 14.131, clauses (1) - (6), sets out six factors for a regulatory analysis that must be included in the SONAR. Paragraphs (1) through (6) below address these factors. Paragraphs (7) and (8) address additional requirements listed in Minn. Stat. § 14.131.

In general, the MPCA has chosen to amend Minnesota Rules, Chapter 9215, Parts 9215.0500 to 9215.0880 on solid waste management planning requirements to reflect current solid waste management practices, eliminate requirements that are redundant or no longer needed, encourage regional planning where viable and beneficial to those counties involved, provide counties with more flexibility in choosing waste abatement strategies, and provide for integrated solid waste management systems that reflect demographic, geographic, regional and solid waste system differences that exist in Greater Minnesota.

1. “[A] description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule;”

The class of entities most directly affected by the proposed rule revisions are the counties located outside of the Metropolitan Area that are required to submit a solid waste management plan at least every 10 years to the MPCA for review and approval;

Through the plans, the following classes of persons may be affected by the proposed rule changes:

- (1) solid waste facility owners and operators;

on an at least every five year basis. Although this would avoid the cost of adopting the proposed rule revisions, it would not be consistent with the statutory intent for a longer planning cycle, not carry out the statutory requirement for the rules to reflect the factors specified in Minn. Stat. § 115A.46, subd. 1(g), and not represent any saving to the planning entities. The adoption of the proposed rule revisions would allow planning entities to identify early in the planning process those obstacles that prevent them from achieving greater waste abatement levels. Therefore, it will help eliminate the time debating or reviewing with agency staff the merits of a solid waste management system that is neither feasible nor prudent given the demographic, geographic, regional or solid waste system differences that exist within or outside the planning entities.

Furthermore, each county, district or multi-county area will work more productively in selecting planning goals and objectives and subsequent solid waste management abatement strategies that better fit each planning entity while also creating a better sense of ownership of the solid waste management plan or system.

4. “[A] description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule;”

Because the rule amendments are based on implementing the 2003 statutory changes, MPCA did not consider any alternative method for achieving the purpose of the proposed amendments. Furthermore, no alternative methods were proposed by any interested parties.

5. “[T]he probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals;”

When determining the cost of complying with the proposed rule revisions, it is appropriate to consider the cost of the system currently in place. The MPCA does not expect that complying with the proposed rule will significantly increase costs that are associated with the current solid waste planning rule. The actual planning costs to planning entities would be less since new plans, pursuant to amended Minn. Stat. § 115A.46, would be updated every ten (10) years rather than every five (5) years. There is no change to the plan amendment requirement. An amendment is required if a major modification or change in the planning entity’s solid waste management program were to take place. The planning and implementation costs could also be lowered by entities working and planning together as a multicounty area, which is encouraged in the proposed rules.

The current rules require that the planning entities analyze and explore technologies that abate the land disposal of solid waste such as mixed municipal solid waste composting, solid waste incineration and energy recovery, and/or the production of refuse derived fuel (RDF). These methods of solid waste disposal are expensive and not practical or even possible for many planning entities given their existing demographic, geographic,

regional and solid waste management system constraints. As such, the existing rule has been, for some, very burdensome creating an unnecessary step in the planning process.

The proposed revised rules allow the planning entity to have greater flexibility in selecting those land disposal abatement programs or technologies that are relevant given the constraints and/or opportunities that may exist within the county, district or multi-county area. Some waste abatement program choices include, but are not limited to, waste reduction programs, new or expanded recycling programs (mattresses, construction and demolition debris), new or expanded problem materials programs (electronic waste, mercury switches), source separated organic waste composting (food waste) and improved household hazardous waste (HHW) and very small quantity generator (VSQG) programs for businesses. The proposed rule revisions allow the entities to choose, plan and implement solid waste abatement programs that are both practical and relevant to their situations. Therefore, the revisions should improve overall environmental outcomes and keep economic costs at a level that the planning entity can afford

The MPCA does not anticipate that the proposed rule revisions will increase or decrease costs to businesses or individuals.

6. “[T]he probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals;”

The cost of not adopting the proposed rule revisions is addressed in para. VII, the “consideration of economic factors” portion of this document. The planning entities and the agency should realize actual time and cost saving by adopting the proposed rule revisions. The MPCA does not foresee any costs or consequences to businesses or individuals as a result of adopting the proposed rule revisions.

7. “[A]n assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference.”

Federal rules do not address the planning requirements for solid waste management.

8. “[D]escribe how the agency, in developing the rules, considered and implemented the legislative policy supporting performance-based regulatory systems set forth in section 14.002.”

Minnesota Statutes, section 14.002, states:

the legislature finds that some regulatory rules and programs have become overly prescriptive and inflexible, thereby increasing costs to the state, local governments, and the regulated community and decreasing the effectiveness of the regulatory program. Therefore, whenever feasible, state agencies must develop rules and regulatory programs that emphasize

superior achievement in meeting the agency's regulatory objectives and maximum flexibility for the regulated party and agency in meeting those goals.

The rule revisions as proposed are performance based. They require that the planning entity prepare and submit for approval a solid waste management plan to the MPCA at least once every 10 years. The proposed revisions offer the planning entity greater flexibility in choosing strategies to meet the state's required goals for land disposal abatement. This will allow the planning entity to develop new or innovative practices as part of its total solid waste management program and enable it to find ways to minimize costs.

VI. ADDITIONAL NOTIFICATION

Minn. Stat. § 14.131 requires that an agency include in its SONAR a description of its efforts to provide additional notification to persons or classes of persons who may be affected by the proposed rule or must explain why these efforts were not made.

1. On December 27, 2004, the OEA published in the *State Register*, 29 SR 764-65, a notice requesting comments on Planned Amendments to the Rules Governing the Development, Adoption and Implementation of Solid Waste Management Plans in greater Minnesota: *Minnesota Rules*, Chapter 9215, Parts 9215.0500 to 9215.0880. The same notice, as published in the *State Register*, was also placed on the OEA's web site. In addition, the OEA held three (3) regional informational meetings in greater Minnesota to obtain comments and answer questions on the proposed rule amendments. These meetings were held on February 2, 2005 in Mankato; February 9, 2005 in Bemidji and February 23, 2005 in Elk River. A fourth meeting was held in St. Paul on June 21, 2005 to accommodate stakeholders in that region of the state.

Finally, the OEA mailed copies of the aforementioned notice to over 600 stakeholders during the week of December 20, 2004. These persons consisted of county solid waste administrators outside the Metropolitan Area, solid waste facility owners and operators, solid waste haulers, recyclers, solid waste engineering and planning consultants and environmental organizations.

2. The MPCA intends to send a copy of the Notice of Intent to Adopt the proposed rule revisions to the following people and organizations:

- a) All parties who have registered with the OEA and MPCA for the purpose of receiving notice of rule proceedings as required by Minn. Stat. § 14.14, subd. 1a;
- b) All staff, managers, and supervisors of the MPCA;
- c) All Minnesota County Solid Waste Administrators;
- d) All individuals and representatives of associations that OEA/MPCA had/has on file as interested and affected parties; and

e) The chairs of the Minnesota House of Representatives Environment and Natural Resources Finance Committee and Environment Committee and the Senate Environment, Energy and Natural Resources Budget Division and Environment and Natural Resources Committee as required by Minn. Stat. § 14.116. MPCA will include a copy of the rule amendments and SONAR with the notice to the legislators. This statute also states that if the mailing of the notice is within two years of the effective date of the law granting the agency authority to adopt the proposed rules, the agency must make reasonable efforts to send a copy of the notice and SONAR to all sitting house and senate legislators who were chief authors of the bill granting the rulemaking authority. That provision is not applicable to these rules.

f) In addition, a copy of the notice, proposed rule revisions and SONAR will be posted on the OEA/MPCA Public Notice web site at (www.pca.state.mn.us/news.index.html).

Since the rule amendments do not directly affect any entities other than outstate counties, the MPCA believes its regular means of notice as required by Minn. Stat. §14.14, subd. 1a, including publication in the *State Register* and notice to those who have registered for notice of rule proceedings on the OEA/MPCA Public Notice web page and mailed notice to the outstate counties will adequately notify affected persons of this rule revision. The MPCA will mail a copy of the notice and SONAR to all those who participated (sent comments and/or attended meetings) in the public comment period.

VII. CONSIDERATION OF ECONOMIC FACTORS

Minn. Stat. §116.07, subd. 6, states:

In exercising all its powers the Pollution Control Agency shall give due consideration to the establishment, maintenance, operation and expansion of business, commerce, trade, industry, traffic, and other economic factors and other material matters affecting the feasibility and practicability of any proposed action, including, but not limited to, the burden on a municipality of any tax which may result therefrom, and shall take or provide for such action as may be reasonable, feasible, and practical under the circumstances.

The rule revisions implement the 2003 statutory amendments to the solid waste management planning law affecting outstate counties. The revisions are not expected to have any adverse effect on business, commerce...other economic factors and other material matters referenced in Minn. Stat. § 116.07, subd. 6.

It is not anticipated that the proposed revisions will have negative impacts on the economy of the planning entities. The proposed rule revisions will provide benefits to planning entities by reducing or eliminating unnecessary and/or duplicative steps in the planning process. For example, the current rules do not recognize particular barriers or constraints (demographic, geographic, regional and solid waste system differences) that influence the decision making process in selecting those land disposal abatement

strategies that are both relevant and practical for the planning entity. The proposed revisions recognize these constraints and provide the necessary flexibility to the planning entity in choosing those options that best fit its situation while also improving environmental outcomes. As a result, time and money is not wasted by the planning entity in pursuing programs or technologies that are neither feasible nor prudent.

Another economic benefit provided in the rule revisions is encouragement for planning entities (counties) to work together as a district or multicounty area in identifying and sharing resources in the development and implementation of solid waste management plans.

The proposed rule revisions will also provide an economic benefit to the agency by reducing staff time needed to review individual solid waste management plans. The saved staff time could be used to provide technical assistance to the planning entities in implementing programs from their plans.

In summary, the rule revisions will replace outdated planning requirements with those that reflect mature solid waste management systems while also improving environmental outcomes and saving resources for both the MPCA and the planning entities.

VIII. IMPACT ON FARMING OPERATIONS

Minn. Stat. §14.111 is inapplicable because the proposed rule revision does not affect farming operations.

IX. COMMISSIONER OF FINANCE REVIEW OF CHARGES

The rules of the Office of Administrative Hearings, part 1400.2700, require the agency to include in its SONAR a discussion of the basis for rules setting, adjusting, or establishing regulatory, licensure, or other charges for goods and services as provided in Minn. Stat. § 16A.1285. The proposed rule revisions do not impose any departmental charges or fees. Therefore, no discussion on this matter is necessary.

X. NOTIFICATION OF THE COMMISSIONER OF TRANSPORTATION

Minn. Stat. § 174.05 requires the MPCA to inform the Commissioner of Transportation of all rulemakings that concern transportation, and requires the Commissioner of Transportation to prepare a written review of the rules. The MPCA believes that the proposed rule revisions will not impact Minnesota Department of Transportation (MNDOT) activities or the state's transportation system; therefore the MPCA did not notify the Commissioner of Transportation of this rule revision.

XI. CONSULT WITH FINANCE ON LOCAL GOVERNMENT IMPACT

Minn. Stat. § 14.131 requires the MPCA to consult with the Commissioner of Finance to help evaluate the fiscal impact and benefits of proposed rules on local governments. In

accordance with the interim process established by the Department of Finance on June 21, 2004, the MPCA provided the Department of Finance with a copy of the proposed rule revisions and SONAR at the same time as they were provided to the Governor's Office. This timing allows the fiscal impacts and fiscal benefits of the proposed rule revisions to be reviewed by the Department of Finance concurrent with the Governor's Office review (up to 21 days).

XII. STATEMENT OF NEED - GENERAL

Minn. Stat. Ch. 14 requires the MPCA to make an affirmative presentation of facts establishing the need for and the reasonableness of the rule revisions as proposed. In general terms, this means that the MPCA 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 MPCA has a rational basis. The need for the rule revision is described below.

The primary need for the rule revisions stems from the fact that the current solid waste planning rules were adopted in 1986 and subsequently amended in 1992. Since then, county solid waste management systems have matured, making some of the existing rule requirements obsolete and not as effective as they were in developing the existing systems. For example, the existing rule requires the planning entity to analyze and explore technologies that are expensive, not practical or even possible for many planning entities given their demographic, geographic, regional and solid waste system constraints. As a result, the rule has been very burdensome for some creating an unnecessary step in the planning process and delays in obtaining solid waste management plan approval.

The Workgroup that addressed rule revisions recognized that statutory changes were needed. The 2003 Legislature changed the statute to allow ten year plans and recognition in the rules of the demographic, geographic, regional, and solid waste system differences that exist among the counties. Accordingly, the proposed revised rule is needed to implement the statutory changes by allowing the planning entity to identify those demographic, geographic, regional and solid waste system constraints and/or opportunities that either restrict or allow the planning entity to pursue other land disposal abatement programs or technologies that are much more relevant within its county, district and multicounty area. As such, this assessment provides the planning entity an important tool or foundation to formulate realistic goals and objectives for the ten year planning period. Under the existing rule, the planning entity did not have this opportunity nor was it a requirement.

Equally important, the proposed rule will also provide the planning entity with greater flexibility in selecting those land disposal abatement programs or technologies that best meet the goals and objectives it has established for the planning period. As such, a greater sense of plan ownership will be created while also increasing the likelihood of improved environmental outcomes.

Since the adoption of the current solid waste planning rules, some technologies that were being tested or implemented during the early 1990's, such as MSW composting, have proven to be financially unsupportable because of the loss of flow control, operating costs and/or the inability to secure stable markets for the end product. Experience in MSW composting has increased the level of knowledge about this technology and its limitations. For example, rather than processing MSW at the point of disposal, it is now recognized and encouraged that organics (e.g. food waste) be separated at the point of generation so that contamination is minimized while compost quality is maximized. The proposed rule reflects these and other experiences by updating and/or incorporating these new or modified land disposal abatement opportunities and their definitions.

Furthermore, the proposed revision recognizes the need to eliminate those requirements that are either redundant or no longer needed. For example, new sections have been developed providing the planning entity the opportunity to explain how its existing system evolved and describe challenges, achievements and opportunities for future expansion. Equally important, the revisions provide an excellent opportunity and flexibility for the planning entity to develop its own goals consistent with State solid waste policy and describe how they will be achieved over time.

XIII. STATEMENT OF REASONABLENESS - GENERAL

Minn. Stat. Ch. 14 requires the MPCA to explain the facts establishing the reasonableness of the proposed rule amendments. "Reasonableness" means, in general, that there is a rational basis for the MPCA's proposed action. The reasonableness of the proposed rule as a whole is explained in this section.

The proposed rule revisions are reasonable on a variety of bases. They eliminate outdated provisions that do not reflect changes that have occurred over the past 14 years (since the last rule amendments) in solid waste management. The revisions provide the needed flexibility to planning entities so they may enhance and sustain their existing programs.

The revisions are anticipated to lead to improved plans by identifying the constraints and/or opportunities that may hinder or help the planning entity in achieving greater land disposal abatement outcomes due to demographic, geographic, regional or solid waste system differences. This knowledge will aid the planning entity and the agency in identifying those waste abatement approaches that are relevant, cost effective and conducive to the greatest environmental outcomes. As a result, the planning process will be streamlined creating a greater sense of plan ownership among planning entities while also making the review and approval time faster allowing the MPCA staff more time to aid the planning entity in the implementation of the solid waste plan.

XIV. THE NEED FOR AND REASONABLENESS OF INDIVIDUAL SECTIONS OF THE RULE AMENDMENTS.

This section addresses the need for and reasonableness of each proposed rule revision and attempts to answer questions about what each revision is intended to do. Some revisions are obvious as far as their need and reasonableness are concerned and therefore are only explained briefly. An example is the change throughout the rule to incorporate the new ten year planning cycle.

Since some of the revisions (new or deleted) are repetitive and found throughout the proposed rule, a list has been created for these repetitive revisions. This list is found in Exhibit 1.

Revisions that add new language will show the new language as underlined. Revisions that delete existing language will show the deleted language as stricken through.

1. Part 9215.0500, PURPOSE.

~~Proposed Change – 9215.0500~~

The purpose of this chapter is to:

A. establish requirements for the preparation and implementation of solid waste management plans, ~~plan updates,~~ and plan amendments by counties and solid waste management districts and multicounty areas outside of the seven-county metropolitan area. The plans, ~~plan updates,~~ and plan amendments must be approved by the Pollution Control Agency;

B. encourage regional planning; and

C. reflect demographic, geographic, regional, and solid waste system differences that exist among the counties.

The 2003 statutory changes to Minn. Stat. § 115A.46, subd. 1, accomplished two ends. First, the amendment to Minn. Stat. § 115A.46, subd. 1(f), changed the solid waste management planning cycle from an interval of at least every five years to one of at least every ten years. Second, the addition of Minn. Stat. § 115A.46, subd. 1(g), requires that the “[r]ules that regulate plan content under [Minn. Stat. § 115A.46] subdivision 2[,] must reflect demographic, geographic, regional and solid waste system differences that exist among the counties.” The MPCA believes that the intent of subdivision 1(g) was to ensure that the rules implementing § 115A.46, subd. 2, regarding plan content contain the flexibility to approve plans that incorporate into those plans the demographic, geographic, regional, and solid waste management system differences of the planning entity.

There are multiple changes in part .0500 serving a variety of purposes. This part has been augmented by adding two purposes and by organizing .0500 into three separate purpose statements. Purpose C is needed and reasonable because it simply incorporates the 2003 statutory amendment in Minn. Stat. § 115A.46, subd. 1(g). The organizing is needed and reasonable because it adds clarity to this part. The change from an at least

every five year planning cycle to an at least every ten year cycle makes each plan, in the MPCA's judgment, more like a new plan rather than an update of an existing plan because of the changes that occur over a ten year period even though Minn. Stat. § 115A.46, subd. 1(f) still refers to each plan being "updated and submitted for approval at least every ten years." (Hereafter this SONAR shall call the new planning cycle a ten year cycle recognizing that it is a cycle that, by statute, requires a plan at least every ten years.) Therefore, it is needed and reasonable to simplify the rule by structuring the planning process as one of a series of new plans completed every ten years without any reference to plan updates. A plan's contents are the same whether it is called a plan or a plan update.

The addition of purpose B and the addition in purpose A of multicounty areas reinforce planning on a regional (or multicounty) basis, where beneficial. The existing rules provide for regional (now multicounty) planning under part 0800. The MPCA believes there are more opportunities for multicounty planning than are being utilized and that the changes are needed and reasonable to try to achieve that type of planning. See Exhibit 1.

2. Part 9215.0510 DEFINITIONS.

(a) Proposed Change - 9215.0510, subp. 3a.

Subp. 3a. Construction debris. "Construction debris" has the meaning given under Minnesota Statutes, section 115A.03, subdivision 7.

The revised rules require the plans to address construction debris along with the existing rules' requirement to address demolition debris. See part 9215.0670. Minn. Stat. § 115A.03, subd. 7, already defines "construction debris." It is needed to have a definition for this type of waste stream since the plans must address it and reasonable to use the existing statutory definition.

(b) Proposed Change - 9215.0510, subp. 5.

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

It is needed and reasonable to delete "artificial" from this definition so it is identical to the definition for "demolition debris" contained in the Solid Waste Rules, 7835.0300, subp. 30.

(c) Proposed Change - 9215.0510, subp. 8a.

Subp. 8a. Electronic products. “Electronic products” means devices containing complex circuitry, circuit boards, or signal processing capabilities for processing or displaying information. Electronic products include, but are not limited to, computer monitors, computers, televisions, photocopiers, facsimile machines, video monitors and equipment, telephones and telecommunications equipment, cordless rechargeable appliances, and audio equipment.

The revised rules require the plans to address electronic products waste, see part 9215.0655, so a definition of electronic products is needed. The proposed definition is reasonable because it is based on the types of products that are typically found in the mixed municipal solid waste stream.

The first sentence of the definition is nearly identical to the definition of electronics (definition 1.21.14) contained in the Minnesota Department of Administration Contract H-90(5) for Hazardous Materials: Electronic and Electronic Component Recycling and Waste Management, November 30, 2006. This is the contract that the State of Minnesota has entered into in order to properly dispose of its own electronic products.

The second sentence of the definition provides examples that are similar but not identical to the non-exclusive list of examples in Administration’s contract definition 1.21.14 adding for example, cordless rechargeable appliances because they contain complex circuitry or circuit boards.

~~(d) Proposed Change – 9215.0510, subp. 8b.~~

Subp. 8b. Feasible. “Feasible” refers to an alternative that is consistent with sound engineering and environmental practices, is economically affordable, is legally possible, and has supportive governance that can be successfully put into practice to accomplish the task.

The current rules do not define feasible. The lack of a definition has made it difficult for planning entities and the MPCA to reach consensus on whether an alternative is feasible. This definition is needed to make the planning process more efficient, clarify the considerations for selecting an alternative, and because the solid waste administrators have asked for it. The definition is needed to implement the requirements found in Minn. Stat. § 115A.46, subs. 2(c) & 2(d), that the “plans shall require the most *feasible and prudent* reduction of the need for and practice of land disposal of mixed municipal solid waste[,]” and “shall include specific and quantifiable objectives, immediately and over specified time periods, . . . for the implementation of *feasible and prudent* reduction, separation, recycling, and other resource recovery options.” It is further needed to complement the 2003 amendment to Minn. Stat. § 115A.46 which added subdivision 1(g). This subdivision requires that: “[r]ules that regulate plan content under subdivision 2 must reflect demographic, geographic, regional and solid waste system differences that exist among the counties.” The subdivision recognizes that what may be feasible for one

planning entity may not be feasible for another because of the differences stated in the statute. There is a need to define "feasible" so that solid waste planners have guidance about including in the plans solid waste management alternatives that are doable and concrete and not just experimental or theoretical. See, e.g., Minn. Stat. § 115A.917, "Alternatives that are speculative or conjectural are not feasible and prudent." The definition was developed with input received from the solid waste administrators during the regional informational meetings held throughout the state from February through June 2005.

Under the current rules, without regard to the statutory amendment, the test of whether a solid waste alternative was feasible was principally determined through an examination of costs and technology. The process did not consider other factors that are unique to the planning entity that may either enhance or inhibit its ability to implement alternatives that achieve greater independence from land disposal. For example, a planning entity may have a genuine desire to implement a technology either alone or with other planning entities that reduces the volume of solid waste sent to a landfill, but it may be financially challenged because its demographic profile reveals an aging population and a shrinking tax base. Or, its geographic location and/or population distribution may affect its decision on whether a technology or program(s) merits consideration. Thus, there are a number of factors that are considered by the planning entity during the decision making process on whether an alternative has a reasonable chance of being implemented and is therefore feasible.

The definition of feasible is reasonable because it directly carries over some of the concepts from part 9215.0810, subp. 3, such as alternatives that are consistent with sound environmental practices, economically affordable, and can be successfully put into practice. Defining feasible as being consistent with sound engineering practices is reasonable because it is based on judicial interpretation such as found in *Lakes Region Legal Defense Fund, Inc. v. Slater*, 986 F. Supp. 1169, 1207 (N.D. Iowa 1997) ("There is no 'feasible alternative' [to using protected parklands for highway purposes] . . . if ["] 'as a matter of sound engineering it would not be feasible to build the highway along any other route.' " (quoting *Committee to Preserve Boomer Lake Park*, 4 F. 3d 1543, 1549 (10th Cir. 1993) quoting *Citizens to Preserve Overton Park, Inc. v. Volpe*, 401 U.S. 402, 411 (1971)). The definition is reasonable because it was formed after consideration of how the term has been used in various statutory and judicial contexts including Minn. Stat. § 115A.51 which addresses whether a waste management project is "conceptually and technically feasible" in terms of whether the affected unit of government is committed to implement the project, provide necessary financing, and accept and exercise the government powers necessary to the project.

~~(c) Proposed Change – 9215.0510, subp. 8c.~~

Subp. 8c. Integrated solid waste management system. "Integrated solid waste management system" means a solid waste management system that is composed of some or all of the preferred solid waste management practices under Minnesota Statutes, section 115A.02.

The phrase "integrated waste management system" is found in Minn. Stat. § 115A.02, subd. 2, and the phrase "integrated and coordinated solid waste management systems" in Minn. Stat. § 115A.62. The existing rules refer to an "integrated solid waste management system" being described in the plan, *see* part 9215.0810, subp. 3, and require a plan amendment when the county or district proposes a substantial change in its "solid waste management system." *See* part 9215.0830, subp. 3A. But none of these phrases are defined.

The revised rules require the plans to describe the existing and proposed integrated solid waste management systems, *see* parts 9215.0575 and 9215.0577, so a definition of integrated solid waste management system is needed. The proposed definition is reasonable because it is based on the legislative declaration of policies, purposes, and practices expressed in Minn. Stat. §§ 115A.02 and 115A.62.

~~(f) Proposed Change - 9215.0510, subp. 11a.~~

Subp. 11a. Motor vehicle fluids. "Motor vehicle fluids" means motor oil, brake fluid, power steering fluid, transmission fluid, or antifreeze.

The term is needed because the revised rule, part 9215.0670, requires the plans to address the management of a larger class of motor vehicle fluids than just used motor oil as is addressed under the existing rule. Although many counties currently manage and describe how these materials are managed in their solid waste management plans, others do not. The proposed definition is reasonable because these are the fluids that must be properly disposed of under Minn. Stat. § 115A.916.

~~(g) Proposed Change - 9215.0510, subp. 11b.~~

Subp. 11b. Multicounty area. "Multicounty area" means a geographical area consisting of two or more counties, all of which are outside the metropolitan area.

The proposed rule uses this term throughout the text so a definition is needed. It is reasonable because it is logical, provides maximum flexibility, and is consistent with the jurisdiction of the rules.

~~(h) Proposed Change - 9215.0510, subp. 15.~~

Subp. 15. Plan amendment. "Plan amendment" means a document that is submitted to the Minnesota Pollution Control Agency by a county or, district, or multicounty area when required by this chapter.

See Exhibit 1.

(i) Proposed Change - 9215.0510, subp. 16.

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

The deletion of the definition for "plan update" is needed and reasonable because the rules no longer provide for plan updates. With the 2003 statutory change contained in Minn. Stat. §115A.46, subd. 1(f), which places planning on an at least every ten year cycle, the ten year revision is, for all practical purposes, a new plan rather than a plan update. Thus, the rules have been revised to treat the ten year revision as a new plan rather than an update. See Exhibit 1.

(j) Proposed Change - 9215.0510, subp. 16a

Subp. 16a. Prudent. "Prudent" refers to an alternative that is selected with care and sound judgment.

The definition is needed because the solid waste planners have asked for it. The current rules do not contain a definition. That has made it difficult for planning entities and the MPCA to reach consensus on whether an alternative is prudent. This definition is needed to make the planning process more efficient and clarify the considerations for selecting an alternative. The term is used throughout the existing rules and the proposed revisions requiring that the alternatives selected for inclusion in a solid waste management plan be both "feasible and prudent". The plans must address the requirements of Minn. Stat. § 115A.46, subs. 2(c) & 2(d), that the plans "require the most *feasible and prudent* reduction of the need for and practice of land disposal of mixed municipal solid waste," and "include specific and quantifiable objectives, immediately and over specified time periods, . . . for the implementation of *feasible and prudent* reduction, separation, recycling, and other resource recovery options."

Much of the need and reasonableness discussion for the definition of "feasible" is applicable to "prudent." Their definitions are based, in part, on the concepts contained in part 9215.0810, subp. 3. The definition is further needed to complement the 2003 amendment to Minn. Stat. § 115A.46 which added subdivision 1(g). This subdivision requires that: "[r]ules that regulate plan content under subdivision 2 must reflect demographic, geographic, regional and solid waste system differences that exist among the counties." The subdivision recognizes that what may be prudent for one planning entity may not be prudent for another because of the differences stated in the statute. There is a need to define "prudent" so that solid waste planners have guidance about including in the plans solid waste management alternatives that are doable and concrete and not just experimental or theoretical. See, e.g., Minn. Stat. § 115A.917, "Alternatives

that are speculative or conjectural are not feasible and prudent.” The definition of prudent is reasonable because it is based on the fifth and seventh meanings of “prudent” stated in The American Heritage Dictionary of the English Language: Fourth Edition, 2000. The fifth meaning is that of being judicious, that is, “[h]aving or exhibiting sound judgment” while the seventh meaning is that of providence, that is, “[c]are or preparation in advance; foresight.” The proposed definition was presented to the Executive Board of the Solid Waste Administrator’s Association at its June 26, 2006 meeting for comment. No comments were received.

(k) Proposed Change - 9215.0510, subp. 21a.

Subp. 21a. Source-separated compostable materials. “Source-separated compostable materials” has the meaning given under Minnesota Statutes, section 115A.03, subdivision 32a.

The definition is needed to assist those planning entities who are maintaining, expanding or implementing a source-separated organic composting program whose plans will discuss such programs. See part 9215.0615. It is reasonable because it is the statutory definition from Minn. Stat. § 115A.03. “Source-separated organic materials” has the same meaning as “source-separated compostable materials” for these rules and is often used interchangeably among solid waste management professionals.

(l) Proposed Change - 9215.0510, subp. 21b.

Subp. 21b. Source-separated organic materials. “Source separated organic materials” has the same meaning as source-separated compostable materials.

The need and reasonableness of this term was addressed in the previous paragraph.

3. Part 9215.0520 APPLICABILITY

Proposed Change - 9215.0520.

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

The need and reasonableness of this change was addressed in section XIV.1. See Exhibit 1.

4. Part 9215.0530 OBLIGATIONS OF COUNTIES AND, DISTRICTS, AND MULTICOUNTY AREAS.

Proposed Change - 9215.0530, subps. 1 and 2.

Subps. 1 and 2. ...county or, district, or multicounty area...

See Exhibit 1 as the addition of multicounty area to the existing rules, along with necessary connecting language and punctuation, is a common change found throughout the proposed rule revisions.

5. Part 9215.0540 CONTENTS OF PLANS, ~~UPDATES,~~ AND AMENDMENTS.

~~Proposed Change - 9215.0540:~~

County ~~and, district, or multi-county area~~ solid waste management plans, including ~~updates and amendments,~~ when necessary, must describe solid waste management programs for a ten-year period immediately following plan approval and must contain the information required by parts 9215.0550 to 9215.0790. A plan must reflect demographic, geographic, regional, and solid waste system differences that exist among the counties.

See Exhibit 1 for the addition of multicounty area and the deletion of updates. The inclusion of the provision that "a plan must reflect demographic, geographic, regional, and solid waste system differences that exist among the counties" is needed and reasonable because the 2003 statutory change to Minn. Stat § 115A.46, subd.1(g) requires that planning entities address these issues within their plans.

6. Part 9215.0560 EXECUTIVE SUMMARY.

~~Proposed Change - 9215.0560:~~

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

See Exhibit 1 regarding the addition of "or multicounty area's." The term "integrated" is needed because the revised rules require that plans describe the existing and proposed integrated solid waste management systems under parts 9215.0575 and 9215.0577. And, it is reasonable because it is based on the legislative declaration of policy, practices, and purposes expressed in Minn. Stat. §§ 115A.02 and 115A.62 which use the terms "integrated waste management system" and "integrated and coordinated solid waste management systems," respectively. MPCA believes these two statutory terms are synonymous with one another and that "integrated solid waste management systems" is synonymous with both.

7. Part 9215.0560 BACKGROUND INFORMATION.

(a) Proposed Change – 9215.0560, subp. 1.

Subpart. 1. **Scope.** A plan must contain narrative descriptions and numeric estimates described in this part that identify demographic, geographic and regional characteristics that exist within each county, district or multicounty area.

The change is needed because Minn. Stat. § 115A.46 subd.1(g) requires planning entities to identify those demographic, geographic, regional, and solid waste system differences that make their situation different from that of other planning entities. This revision is reasonable because it is required by statute and sets the foundation for a realistic assessment of those characteristics that may either help or hinder a planning entity in improving its ability to achieve greater waste abatement goals.

(b) Proposed Change – 9215.0560, subps. 1, 2, 3E, 4, 5, and 6.

Subps. 2, 3E, 4, 5, and 6. ...county or, district, or multicounty area... (or variations).

See Exhibit 1.

(c) Proposed Change – 9215.0560, subp. 2.

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

- A. current population distribution and population projections for the next ten years;
- B. current and projected land use patterns;
- C. current and projected employment and wages;
- D. local and regional economic conditions and median household income; and
- E. a summary of demographic, geographical, and regional constraints and opportunities that either have impacted or may impact the existing or proposed integrated solid waste management system.

Subparts 2A-2D are nearly identical to the existing rules. The changes are needed and reasonable because they incorporate the new statutory changes to Minn. Stat. § 115A.46, subd. 1(g), that specifically require the planning entity to address “geographic and regional” conditions that are now or could (e.g. current and projected) have impact on the generation or management of solid waste over the ten year planning period.

The summary discussion required by subpart 2E is needed and reasonable to provide the planning entity with a chance to set forth demographic, geographic, or regional constraints or opportunities. Identifying these constraints or opportunities will greatly help the planning entity to formulate realistic goals and objectives for the ten year planning period. Under the existing rule, the planning entity did not have this opportunity nor was it required.

(d) Proposed Change – 9215.0560, subp. 3G.

Subps. 3F & 3G. [Solid waste collection and generation.]

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

G. a summary of solid waste collection and generation constraints and opportunities that either have impacted or may impact the existing or proposed integrated solid waste management system.

This proposed addition is needed because it incorporates the new requirement found in Minn. Stat. § 115A.46, subd. 1(g), that the planning entity describe solid waste system differences that exist among the counties. Since solid waste collection and generation information is very important in the development of an integrated solid waste management system, it is reasonable to require the planning entity to describe in summary form those specific collection and generation constraints and opportunities that either have impacted or may impact the existing or proposed system. For example, some counties may not generate a sufficient amount or type of waste that would allow participation in a particular waste abatement program. However, they may find after some consultation with neighboring counties that an opportunity may exist for all to participate provided they consolidate their resources.

(e) Proposed Change – 9215.0560, subp. 4.

Subp. 4. Construction and demolition debris. The plan must include an estimate of the quantity of construction and demolition debris generated annually in the county or, district, or multicounty area.

Construction debris is a significant portion of the solid waste stream. Yet the existing rule, part 9215.0690, did not address it, distinguish it from demolition debris, nor address the need to manage some of its components (e.g. waste paints, sealants, oils, etc.) separately from other material either at the point of generation or disposal. Requiring the plan to include background information on construction debris is a needed and reasonable addition since many planning entities are already exploring new opportunities to maximize construction debris reduction and recovery efforts in a manner that protects the health, safety, and welfare of the public.

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

~~Proposed Change 9215.0570.~~ This part is being deleted in its entirety.

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

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

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

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

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

~~A. existing facilities available for use; and~~

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

The issues addressed by this part are addressed in other sections of the revised rule. Therefore, it is needed and reasonable to delete this part. While it remains state policy that landfilling be minimized, the 2003 statutory amendment contained in Minn. Stat. §115A.46, subd. 1(g), requires the rules to reflect the demographic, geographic, regional and solid waste system differences that exist among the counties. As solid waste

planning has matured, it is recognized by the planning entities and MPCA that these differences mean that resource recovery facilities or other alternatives to landfilling may not be feasible and prudent.

9. Part 9215.0575 EXISTING INTEGRATED SOLID WASTE MANAGEMENT SYSTEM.

Proposed Change - 9215.0575, subps. 1 & 2

Subpart 1. Content. The plan must include an overview described in this part on the existing integrated solid waste management system in the county, district, or multicounty area.

Subp. 2. Existing system. The county, district, or multicounty area shall describe in summary form its existing integrated solid waste management system, to include:

- A. policy and goals;
 - B. the history of the development of the system to the present;
 - C. a description of existing resource recovery programs or facilities presently in use;
 - D. a description of land disposal facilities in use;
 - E. the costs associated with operating and maintaining the system;
- and
- F. a summary of the achievements, opportunities, challenges, or problems with the existing system, including, but not limited to, market and economic conditions, availability of resource recovery programs or facilities, and the availability of local and state funding resources.

This new part and part 9215.0577 replace part 9215.0570 Assessment of Alternatives to a Landfilled-Based Disposal System. This change is needed because county solid waste management systems have matured making part .0570 obsolete and not as effective as the proposed new parts. For example, under the existing rule the planning entity is required to examine a number of alternatives that are not realistic nor reflect the unique conditions (e.g. demographic, geographic, regional and solid waste system differences) present within the county. As a result, many unproductive hours are spent by the MPCA staff and the planning entity debating the merits or appropriateness of an alternative for inclusion in the solid waste management plan.

This new part is reasonable because it provides the planning entity an important opportunity to describe to the agency and others the existing integrated solid waste management system and how it evolved to include a summary of achievements, opportunities, challenges, or problems. It also provides an important bridge or background that will influence the choices made by the planning entity in its proposed integrated solid waste management system. See part 9215.0577.

10. Part 9215.0577 PROPOSED INTEGRATED SOLID WASTE MANAGEMENT SYSTEM.

(a) Proposed Change – 9215.0577, subp. 1.

Subpart 1. Content. The plan or plan amendment must include information described in this part on the proposed integrated solid waste management system that will be developed and implemented in the county, district, or multicounty area. Each system shall be designed to achieve the most feasible and prudent reduction in the need for and practice of land disposal of mixed municipal solid waste.

As previously stated, this part and part .0575 replace the existing part 9215.0570 Assessment of Alternatives to a Landfilled-Based Disposal System. It is needed for the same reasons expressed for the new part 9215.0575 in that solid waste management systems have matured making part .0570 obsolete and very rigid in its application. Therefore, it is reasonable that a new part or template be created to allow planning entities the needed flexibility to establish goals and objectives for their proposed integrated solid waste management systems that reflect the challenges and opportunities unique to their situation.

Furthermore, this new subpart incorporates the sentence, “[e]ach system shall be designed to achieve the most feasible and prudent reduction in the need for and practice of land disposal of mixed municipal solid waste” from the now deleted part 9215.0810. This requirement comes from Minn. Stat. § 115A.46, subd. 2(c). Its relocation to an earlier part emphasizes its importance.

(b) Proposed Change – 9215.0577, subp. 2.

Subp. 2. Goals. The county, district, or multicounty area shall develop and describe the goals of its proposed integrated solid waste management system over the ten-year planning period. The goals shall be consistent with the policy contained in Minnesota Statutes, section 115A.02, paragraph (a).

The current rules address goals in many places. *See, e.g.*, parts 9215.0580, subp. 2 (“The plan must contain a description of the solid waste reduction policies and goals ...”) and 9215.0600, subp. 2 (“The plan must contain a description of the recycling goals and policies that the county or district has established ...”). The existing rules provide for the plans to describe the goals for each type of waste that must be addressed. *See, e.g.*, 9215.0610, subp. 2 (yard waste separation and composting goals and policies), 9215.0650, subp. 2 (waste tire disposal goals and policies), and 9215.0680, subp. 2 (household hazardous waste goals and policies). The revised rules retain these goal provisions for individual waste streams and provide for the planning entity to develop and describe goals for the entire integrated solid waste management system. This rule revision is needed to provide the planning entity an opportunity and the flexibility to

develop and describe its own goals for its entire integrated solid waste management system consistent with state policy, but reflecting the unique opportunities or challenges that may exist during the ten-year planning period. This change is reasonable because goal setting is a recognized and encouraged practice in any formalized planning process. It is anticipated that there will be a greater sense of plan ownership created among planning entities producing improved environmental outcomes.

(c) Proposed Change - 9215.0577, subp. 3.

Subp. 3. Objectives. The county, district, or multicounty area shall describe the specific and quantifiable means, including policies and programs, that will be implemented to achieve the goals developed and described under subpart 2. Means or methods to be used are described in parts 9215.0580 to 9215.0700.

Similar to subpart 2, this change is needed and reasonable to provide the planning entity the opportunity and flexibility to select those quantifiable means or methods that are appropriate for the unique conditions or characteristics that exist within the county, district or multicounty area to help it reach its solid waste system goals identified in subpart 2.

Unlike the existing rule where the emphasis has been on technology, this revision recognizes that policies and programmatic approaches are also effective tools in assisting planning entities with reducing the amount and toxicity of materials that are landfilled. For example, a planning entity may choose to place more of its limited resources in collecting problem materials (e.g. electronics, household hazardous waste) that, if not removed from the waste stream, could create financial and environmental problems.

In addition, this change also acknowledges that sizable investments and/or contractual commitments have been made by many counties in developing their integrated solid waste system infrastructure. In some cases only maintenance or program augmentation is needed to maximize disposal abatement, control costs, and keep the system working properly throughout the planning period.

Although the proposed revision provides flexibility in choosing a land disposal abatement strategy from parts 9215.0580 to 9215.0700, it also requires the planning entity to quantify what amount of material will be removed from the mixed municipal solid waste stream during the planning period to include costs and implementation schedule. This requirement is not new. Most, if not all, of the existing rule provisions require the planning entity to quantify and identify the amount, type, cost and schedule for maintaining, expanding or implementing the chosen waste abatement strategy. It is also logical that the planning entity be required to demonstrate how the means or methods selected will meet or surpass its goals over the planning period.

It should be noted that some of the programs and policies found in parts 9215.0580 to 9215.0700 are not options, but statutory requirements (e.g. waste reduction, recycling) which must be addressed in the plans.

(d) Proposed Change – 9215.0577, subp. 4.

Subp. 4. Landfill disposal system. Systems, plans, or plan amendments proposing land disposal as the primary management method must include a description of the technical, financial, demographic, geographic, regional, and solid waste system constraints or barriers that limit the county's, district's, or multicounty area's ability to achieve greater independence from land disposal. The information must demonstrate that there are no solid waste system alternatives that are more feasible and prudent than the proposed land disposal system.

The language in this subpart is needed to implement Minn. Stat. §§115A.46, subd. 2c, and 115A.46, subd. 1(g). The concept underlying this provision is not new as it was contained in the now deleted 9215.0810, Requirements for Plan, Plan Update and Plan Amendment Approval, subp. 3, Land Disposal Reduction. The language is reasonable because it largely quotes Minn. Stat. §115A.46, subd. 2c, which mandates that plans “require the most feasible and prudent reduction of the need for and practice of land disposal of mixed municipal solid waste,” and incorporates the 2003 statutory amendment contained in Minn. Stat. § 115A.46, subd. 1(g), to recognize the important role these factors (demographic, geographic, regional, etc.) play in the development of a proposed integrated solid waste management system that seeks to minimize land disposal.

11. Part 9215.0580 SOLID WASTE REDUCTION.

(a) Proposed Change – 9215.0580, subps. 1, 2, 3, 4, and 5.

Subps. 1, 2, 3, 4 and 5. ...county or, district, or multicounty area...(or variations).

See Exhibit 1.

(b) Proposed Change – 9215.0580, subp. 4.

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

The addition of the terms “any new or existing” and “expand” are needed and reasonable as they clarify what solid waste reduction programs the plan is to address. For example, a new program may mean for some planning entities the expansion of an existing

program into a geographic area that has not had the benefit of the service. It may be new to the residents in that area, but it is still an "expansion" of an "existing" program. Or, it may mean a "new" program or service that has been added to augment other programs already in existence. These new terms complement one another in order to obtain a plan that is as complete as possible. The changes made in this subpart have also been made in the following subparts: 9215.0590, subp. 4; 9215.0600, subp. 4; 9215.0610, subp. 4; 9215.0620, subp. 5; 9215.0630, subp. 5; 9215.0640, subp. 5; 9215.0650, subp. 4; 9215.0660, subp. 4; 9215.0670, subp. 4; 9215.0680, subp. 4; and 9215.0690, subp. 4. The same language is also used in 9215.0615, subp. 5; and 9215.0655, subp. 4. The statement of need and reasonableness provided in this subpart is fully applicable to all of these other subparts.

12. Part 9215.0590 SOLID WASTE EDUCATION.

(a) Proposed Change - 9215.0590, subps. 1, 2, 3, 4, and 5.

Subps. 1, 2, 3, 4 and 5. ...county or, district, or multicounty area...

See Exhibit 1.

(b) Proposed Change - 9215.0590, subp. 4.

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

See the statement of need and reasonableness for 9215.0580, subp. 4, which is fully applicable to the changes in this subpart.

13. Part 9215.0600 RECYCLING.

(a) Proposed Change - 9215.0600, subps. 1, 2, 3A, 4, and 5.

Subps. 1, 2, 3A, 4, and 5. ...county or, district, or multicounty area...

See Exhibit 1.

(b) Proposed Change - 9215.0600, subp. 2.

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

or exceed the recycling requirements in Minnesota Statutes, section 115A.551, subdivision 2, the opportunity to recycle requirements in Minnesota Statutes, section 115A.552, and the organized collection requirements of Minnesota Statutes, section 115A.94, if a county has organized collection.

The addition is needed and reasonable to clarify that organized collection requirements exist only if a planning entity has organized collection.

~~(c) Proposed Change - 9215.0600, subp. 3B.~~

Subp. 3B. [Existing recycling practices.]

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

The change from the last two years to the last five years worth of annual recycling tonnage information is needed because the existing requirement did not provide sufficient data to conduct an adequate analysis to determine program(s) success or failure. For example, a recycling program providing only a two year data base has a fifty percent chance that one year could produce negative results. As such, the data base over this period of time is grossly insufficient to determine any type of trend. Changing to a five year information base is reasonable because five years of information should provide an adequate base to determine whether the planning entity recycling program(s) are having the desired effect to meet state policy over the ten-year planning period or there is a need to re-examine and adjust the program(s).

~~(d) Proposed Change - 9215.0600, subp. 4.~~

Subp. 4. **Specific programs to be developed.** The plan must describe the any new or existing recycling programs that the county or, district, or multicounty area proposes to maintain, expand, or implement during the next ten years. The description shall include the annual recycling tonnages to be collected, processed, and marketed and the responsible persons and estimated annual staff time necessary to implement and manage each program.

For the need and reasonableness of adding the terms "any new or existing" and "expand," see the need and reasonableness explanation for 9215.0580, subp. 4, which is fully applicable to the addition of these terms in this subpart. The change requiring that the plans describe "the annual recycling tonnages to be collected, processed, and marketed..." is needed and reasonable because this data (e.g. tonnages) is an important tool to quantify whether or not the proposed means or methods will have a reasonable

chance to meet the recycling goals identified by the planning entity in the new proposed part 9215.0577, subps. 2 and 3.

14. Part 9215.0610 YARD WASTE PROGRAMS.

(a) Proposed Change – 9215.0610, subps. 1, 2A, 3, 4, 5, and 7.

Subps. 1, 2A, 3, 4, 5, and 7. ... county or, district, or multicounty area... (or variation).

See Exhibit 1.

(b) Proposed Change – 9215.0610, subp. 3.

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

The change requiring that the plan include yard waste tonnages over the last five years instead of over the last two years is needed because the existing requirement did not provide sufficient data to conduct an adequate analysis to determine program(s) success or failure. For example, a yard waste management program providing only a two year data base has a fifty percent chance that one year could produce negative results. As such, the data base over this period of time is grossly insufficient to determine any type of trend. The change is reasonable because five years should provide an adequate base of information to determine whether the planning entity's yard waste management program(s) is having the desired effect to meet state policy over the previous ten-year planning period or if there is a need to re-examine and adjust the program(s).

(c) Proposed Change – 9215.0610, subp. 4.

Subp. 4. **Specific programs to be developed.** The plan must describe the any new or existing yard waste programs that the county or, district, or multicounty area proposes to maintain, expand, or implement during the next ten years, including the annual yard waste tonnage to be collected, processed, and marketed and the responsible persons and estimated staff time necessary to implement and manage each program.

For the need and reasonableness of adding the terms “any new or existing” and “expand,” see the need and reasonableness explanation for 9215.0580, subp. 4, which is fully

applicable to the additions of these terms to this subpart. The change requiring that the plan describe "the annual yard waste tonnage to be collected, processed, and marketed" is needed and reasonable because the data (e.g. tonnages) is an important tool to quantify whether or not the proposed means or methods will have a reasonable chance to meet the yard waste goals as identified by the planning entity in the new proposed part 9215.0577, subps. 2 and 3.

~~(d) Proposed Change - 9215.0610, subp. 7.~~

Subp. 7. Environmental risks impacts of yard waste management.

The term "risks" has been deleted from the title and replaced with the term "impacts" to more appropriately describe the content and meaning of this subpart. The rule itself does not use the term risks. It uses impacts as the general term so it is needed and reasonable to use a conforming term in the title.

**15. Part 9215.0615 SOURCE-SEPARATED ORGANIC MATERIALS
COMPOSTING.**

~~(a) Proposed Change - 9215.0615, subps. 1, 2, 3, 4, 5, 6, and 7.~~

This new part addresses a relatively new land disposal abatement method that planning entities could choose to use. Source-separated organic materials composting is not addressed in the current rule. The method assists planning entities in removing food waste or other organics for composting and subsequent sale. MPCA's experience with mixed municipal solid waste composting is that organics should be separated at the point of generation rather than at the point of disposal so that contamination is minimized while compost quality and sales are maximized. The new part is organized the same as existing parts which address specific components of the waste stream. Subpart 1 is the overview subpart which requires the plan to include information about the planning entity's source-separated organic materials composting programs, existing or proposed, if the entity uses or proposes to use such programs. Subpart 2 provides for a discussion of the planning entity's goals and policies for such programs. Subpart 3 deals with information on existing programs. Subpart 4 deals with environmental and public health impacts. Subpart 5 deals with existing or new programs during the 10 year planning period. Subpart 6 requires a discussion of costs while subpart 7 addresses the schedule of implementation. This subpart is needed because source-separated organic materials composting programs can be a valuable tool for integrated solid waste management. The plans of entities using this tool would be incomplete if such programs were not included. This subpart is reasonable because it requires the plans to follow the same pattern as for management of other types of waste and include the kinds of information as is relevant for this particular management method.

The need and reasonableness for items that are unique to this part are discussed below.

(b) Proposed Change – 9215.0615, subps. 1 and 2.

Subpart 1. Content. Counties, districts, or multicounty areas proposing to develop, implement, or use source-separated organic materials composting programs must include in the plan information on the source-separated organic materials composting programs that are being used or proposed to be used to manage all or a portion of the organic materials generated in the county, district, or multicounty area.

Subp. 2. Policies and goals. The plan must contain a description of the county, district, or multicounty area goals and policies on source-separated organic materials composting.

The need and reasonableness for subparts 1 and 2 is provided in the opening (general) paragraph for this new part, paragraph 15(a).

(c) Proposed Change – 9215.0615, subp. 3.

Subp. 3. Existing source-separated organic materials composting programs. The plan must contain a description of the existing collection system used to collect source-separated organic materials, the amount and types of source-separated organic material collected annually, the generators of the material, the location of the composting facility, composting methods employed, financial and staff commitment, and the finished compost marketing efforts.

Subpart 3 follows the pattern of other parts of the rule requiring the plan to describe the existing system. MPCA has gained knowledge regarding what plans should contain about existing systems from plans addressing yard waste collection and composting, and mixed municipal solid waste composting in addition to learning from entities that have adopted source-separated organic materials composting programs. For example, this subpart follows the yard waste planning rules which also require a description of the collection system for materials and the mixed municipal solid waste composting planning rules which require a description of the composting facilities and compost marketing. The current rules require statistics on quantities collected for every type of waste or management method addressed in the rules. Requiring the plans to describe the types of materials collected annually is similar to the provision in the recycling rules, part 9215.0600, subp. 3B, requiring identification of recyclables by sector. Items that are unique are requiring a description of the generators of the materials and the composting methods employed. All of these information requirements are needed and reasonable because they are the kind of information that a planning entity needs to provide a base or starting point to review and report progress in meeting the entity's goals and help MPCA identify opportunities for improvement in meeting those goals.

(d) Proposed Change - 9215.0615, subp. 4

Subp. 4. Environmental and public health impacts. The plan must consider and evaluate known and potential environmental and public health impacts. The plan must include a proposed course of action to alleviate those impacts. For existing facilities, the results of compost testing must be used to evaluate the quality of the finished compost and propose methods to reduce contaminant levels. The plan must include a history of the results of inspections and monitoring by the appropriate state regulatory agency and an assessment of the operational safety at the facility during the past five years.

This subpart is needed and reasonable as it follows the same or existing rule requirements found in other technologies such as mixed municipal solid waste composting or solid waste incineration and energy recovery to protect the health, safety and welfare of the public. These are not new concepts.

(e) Proposed Change - 9215.0615, subp. 5

Subp. 5. Specific programs to be developed. The plan must describe any new or existing source-separated organic materials composting programs that the county, district, or multicounty area proposes to maintain, expand, or implement in the next ten years, including a description of the proposed collection system used to collect source-separated organic materials, the amount and types of source-separated organic material to be collected annually, the generators of the material, the location of the proposed composting facility, the composting methods to be employed, the finished compost marketing strategy, and the responsible persons and estimated annual staff time necessary to implement and manage the programs.

This subpart logically follows subpart 3. It requires the plan to describe the identical information for the 10 year planning period that is required for existing programs. It is needed and reasonable if the planning entity selects these means or methods (e.g. objectives) to reach the overall goals described within its proposed integrated solid waste management system identified pursuant to part 9215.0577, subps. 2 and 3.

(f) Proposed Change - 9215.0615, subp. 6

Subp. 6. Program budget. The plan must estimate the annual cost to be incurred by the county, district, or multicounty area in implementing and maintaining source-separated organic materials composting programs, including itemized capital, operating, and maintenance cost.

This subpart is virtually identical to the budget information required in the plans for other types of waste and methods. Maintenance is not explicitly stated in other budget

information parts of these rules, but is necessarily included in annual cost estimates. Budget information is needed and reasonable since it is required in the existing rules and plays an important role in determining whether the alternative is feasible and prudent from the planning stages through its implementation, operation and maintenance. This requirement is not a new concept.

~~(g) Proposed Change – 9215.0615, subp. 7.~~

Subp. 7. Schedule of implementation. The plan must include a schedule for implementation of the proposed source-separated organic materials composting programs described in this part.

The schedule requirement is needed and reasonable to determine when the proposed program will be put into operation so progress in meeting the goals of the proposed integrated solid waste management system can be monitored and evaluated over the ten year planning period. It is the same requirement as already exists for plans dealing with other kinds of programs.

16. Part 9215.0620 MIXED MUNICIPAL SOLID WASTE COMPOSTING.

~~(a) Proposed Change – 9215.0620, subp. 1.~~

Subpart 1. Content. The plan must include the information in this part on mixed municipal solid waste composting facilities if used or proposed to be used to manage all or a portion of the county's or district's mixed municipal solid waste. Counties, districts, and multicounty areas proposing to develop, implement, or use mixed municipal solid waste composting must include in the plan information described in this part.

The revisions in this subpart incorporate the multicounty area planning possibility and simplify and clarify the current language. MPCA does not believe there is any substantive change from the current rules other than the multicounty area inclusion. These changes are needed and reasonable because they simplify and clarify existing language and incorporate planning on a multicounty area basis whose need and reasonableness have been discussed previously.

~~(b) Proposed Change – 9215.0620, subps. 2, 3A, 5, and 6.~~

Subps. 2, 3A, 5, and 6. ...county or, district, or multicounty area ... (or possessive form variation).

See Exhibit 1.

~~(c) Proposed Change – 9215.0620, subp. 4.~~

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

The change from two to five years is needed and reasonable because two years is not enough time and data to perform an adequate environmental and public health analysis of the compost by the planning entity and the regulatory agency and provide an adequate assessment of operational safety of the mixed municipal solid waste composting facility. MPCA believes that five years worth of inspection, monitoring, and assessment should be adequate for planning purposes.

~~(d) Proposed Change - 9215.0620, subp. 5~~

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

The need and reasonableness for the addition of the terms "any new or existing" and "expand" is provided in the statement of need and reasonableness for identical revisions to 9215.0580, subp. 4. The change requiring the plan to describe the "annual amount or quantity of waste to be composted" is needed and reasonable because if a planning entity selects this means or method (e.g. objective) to achieve its goals under the proposed integrated solid waste management system, it will need to describe and quantify how its goals will be accomplished. The change from "or" to "and" in the last sentence is needed and reasonable to correct a typographical error in the existing rules and clarify that the plan must address both implementation and management, not just one or the other. The correction makes the requirement consistent with other parts of the existing rule that deal with this topic. *See, e.g., 9215.0590, subp.4.*

17. Part 9215.0630 SOLID WASTE INCINERATION AND ENERGY RECOVERY.

~~(a) Proposed Change - 9215.0630, subp. 1~~

Subpart 1. **Content.** ~~The plan must include the information in this part on solid waste incineration and energy recovery facilities if used or proposed to be used to manage all or a part of the county's or district's mixed municipal solid waste. Counties, districts, and multicounty areas proposing to develop, implement, or use solid waste~~

incineration and energy recovery must include in the plan information described in this part.

The changes proposed for this subpart are identical to the type of change proposed for 9215.0620, subp. 1, except for the specific abatement method. The need and reasonableness for the simplification and clarification and inclusion of multicounty area planning is as provided in the statement of need and reasonableness for 9215.0620, subp. 1.

(b) Proposed Change – 9215.0630, subps. 2, 3A, 5, and 6.

Subps. 2, 3A, 5, and 6. ...county or, district, or multicounty area... (or possessive form variations).

See Exhibit 1.

(c) Proposed Change – 9215.0630, subp. 3B.

Subp. 3B. [**Existing solid waste incineration and energy facilities.**] The plan must:

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

The change to five years of volume data is needed because the existing two year requirement did not provide sufficient data to adequately address the status of the existing system. The change is reasonable because five years should provide an adequate base to determine whether the planning entity's solid waste incineration program is having the desired effect to meet state policy over the previous ten year planning period or if there is a need to re-examine and adjust the program.

(d) Proposed Change – 9215.0630, subp. 4.

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

The change from two to five years is needed and reasonable because two years is not enough time and data to perform an adequate environmental and public health analysis of the ash and emission testing, inspection and monitoring results and operational safety record of a solid waste incineration facility. MPCA believes that five years worth of testing, inspection, monitoring, and assessment should be adequate for planning purposes.

(c) Proposed Change - 9215.0630, subp. 5:

Subp. 5. **Specific programs to be developed.** The plan must describe the any new or existing energy recovery facilities and programs that the county ~~or~~, district, or multicounty area proposes to maintain, expand, implement, or participate in during the next ten years, including the annual amount or quantity of waste to be incinerated, energy and recyclables to be recovered, and the responsible persons and estimated staff time necessary to implement or and manage each program.

The need and reasonableness for the addition of the terms “any new or existing” and “expand” is provided in the statement of need and reasonableness for identical revisions to 9215.0580, subp. 4. In addition, it is also needed and reasonable to add language whereby the plan must quantify the annual amount of waste to be incinerated, and the energy and recyclables to be recovered, should a planning entity select this option, because the planning entity will need to describe and quantify how its goals will be accomplished. The change from “or” to “and” in the last sentence is needed and reasonable to correct a typographical error in the existing rules and clarify that the plan must address both implementation and management, not just one or the other. The correction makes the requirement consistent with other parts of the existing rule that deal with this topic. *See, e.g., 9215.0590, subp.4.*

18. Part 9215.0640 LAND DISPOSAL OF MIXED MUNICIPAL SOLID WASTE.

(a) Proposed Change - 9215.0640, subp. 1:

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

The change made in this subpart is needed and reasonable because it is similar to the changes being made throughout the rule in the plan content subparts for other abatement methods or materials. *See, e.g., 9215.0620, subp. 1.* The change is stylistic and clarifying and does not alter the substance or intent of this subpart.

(b) Proposed Change - 9215.0640, subps. 2, 3A, 3B, 5, 5C, and 6:

Subps. 2, 3A, 3B, 5, 5C, and 6. ...county or, district, or multicounty area... (or possessive variations).

See Exhibit 1.

(c) Proposed Change - 9215.0640, subp. 3C.

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

* * *

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

The change made in this subpart to require the plan to include five years of data on the amount of solid waste received, processed and disposed at the entity's land disposal facilities instead of only two years of data is consistent with the changes made in other subparts which move from a two year to a five year data period. *See, e.g.*, 9215.0610, subp. 3. The change is needed because the existing requirement did not provide sufficient data to conduct an adequate analysis to determine land disposal facility use and trends. It is reasonable because five years provides the minimum amount of time or base to determine whether the planning entity's land disposal facility use reflects existing waste abatement measures, whether such efforts are having the desired effect to meet state policy over the ten-year planning period, or if there is a need to re-examine and adjust the program.

(d) Proposed Change - 9215.0640, subp. 4.

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

The change from two to five years is consistent with the change made for other types of abatement or materials, *see, e.g.*, 9215.0630, subp. 4, and is needed and reasonable because two years is not enough time and data to perform an adequate environmental and public health analysis of ground and surface water monitoring to include an assessment of the operational safety record at land disposal facilities. However, MPCA believes that five years of data should be adequate for the plans.

(e) Proposed Change - 9215.0640, subp. 5.

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

A. the annual amount or quantity of waste to be landfilled;

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

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

- (1) permitting schedule;
- (2) schedule of phase development;
- (3) status of financial assurance; and
- (4) status of leachate treatment.

The need and reasonableness for the addition of the terms “any new or existing” and “expand” is provided in the statement of need and reasonableness for identical revisions to 9215.0580, subp. 4. The addition of “the annual amount or quantity of waste to be landfilled” in subp. 5A is not a new requirement because it is asked for in part 9215.0740. It is needed and reasonable to require this section of a plan to include such information so that related and necessary information is grouped together. The change from “or” to “and” in subp. 5B is needed and reasonable to correct a typographical error in the existing rules and clarify that the plan must address both implementation and management, not just one or the other. The correction makes the requirement consistent with other parts of the existing rule that deal with this topic. . See, e.g., 9215.0590, subp.4.

19. Part 9215.0650 WASTE TIRE DISPOSAL AND RECOVERY.

~~(a) Proposed Change 9215.0650, subps. 1, 2, 3, 4, and 5.~~

Subps. 1, 2, 3, 4, and 5. ...county or, district, or multicounty area...

See Exhibit 1.

~~(b) Proposed Change 9215.0650, subp. 3.~~

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

It is needed and reasonable to require the planning entity to provide the data about the existing recovery amount or quantity of waste tires to provide a base for development of the plan so that the requirements pursuant to parts 9215.0577, subp. 3, and 9215.0650, subp. 4, may be satisfied.

~~(c) Proposed Change 9215.0650, subp. 4.~~

Subp. 4. **Specific programs to be developed.** The plan must describe the any new or existing waste tire programs that the county ~~or~~, district, or multicounty area proposes to maintain, expand, or implement during the next ten years, including the annual amount or quantity of waste tires to be recovered and the responsible persons and estimated staff time necessary to implement and manage each program.

The need and reasonableness for the addition of the terms “any new or existing” and “expand” is provided in the statement of need and reasonableness for identical revisions to 9215.0580, subp. 4. It is needed and reasonable to require the planning entity to provide the data (“annual amount or quantity of waste tires to be recovered”) because the planning entity will need to describe and quantify how its goals will be accomplished.

20. Part 9215.0655 ELECTRONIC PRODUCTS.

~~(a) Proposed Change – 9215.0655, subp. 1.~~

Subpart. 1. Content. The plan must include the information described in this part on electronic products management programs and practices in the county, district, or multicounty area.

This new part is needed in response to Minnesota Statutes, section 115A. 9565, that states “effective July 1, 2006, a person may not place in mixed municipal waste an electronic product containing a cathode-ray tube.” However, the language in this section addresses all electronic products since many planning entities anticipating the July 2006 date opted for implementing management programs which addressed a greater variety of electronic products (e.g. computer printers, key boards, cell phones, etc.) in addition to computer monitors and televisions. For the most part, electronic products contain hazardous materials (e.g. chromium, zinc, lead, copper, etc.) within their complex circuitry that may contaminate groundwater if disposed of in a landfill. So, it is reasonable to include comprehensive language allowing the planning entity to select other electronic products for recovery in order to protect the environment and health, safety and welfare of the public.

~~(b) Proposed Change – 9215.0655, subp. 2.~~

Subp. 2. Policies and goals. The plan must contain a description of the electronic products management goals and policies that the county, district, or multicounty area has established to comply with Minnesota Statutes, section 115A.9565.

This subpart is needed and reasonable as it follows the same format found in other parts of the existing rule addressing the management of materials found in the municipal solid waste stream.

~~(c) Proposed Change - 9215.0655, subp. 3.~~

Subp. 3. Existing electronic products management practices. The plan must describe the existing public and private sector electronic products management programs in the county, district, or multicounty area. The description must indicate the process used by the county, district, or multicounty area to comply with applicable state, federal, and local regulations for disposal of used electronic products and capture of hazardous waste contained in the products. The description must also include the annual amount or quantity of electronic products recovered; public education efforts; and collection options for processing, recycling, and disposal.

The language in this subpart follows the pattern used for other types of materials. It is needed and reasonable for the plan to describe who is currently providing the electronic products collection service to ensure a service exists within the planning entity to collect those products. It also is needed and reasonable to describe: a) how and where these materials will be processed to comply with all environmental laws or regulations to ensure the protection of the environment, and health, safety and welfare of the public, and b) how the public is informed through educational efforts as to where, how and when these products are collected. In addition, language was included, similar to other subparts about existing programs, which is needed and reasonable to quantify the amount of electronic products waste being recovered to establish a base for comparison with any future programs proposed under 9215.0655, subp. 4.

~~(d) Proposed Change - 9215.0655, subp. 4.~~

Subp. 4. Specific programs to be developed. The plan must describe any new or existing electronic products management programs that the county, district, or multicounty area proposes to maintain, expand, or implement during the next ten years, including the annual amount or quantity of electronic products recovered; public education efforts; collection options for processing, recycling, and disposal; and the responsible persons and estimated staff time necessary to implement and manage each program.

The language in this subpart follows the pattern in the existing and revised rules for the type of information required for programs to be maintained, expanded, or implemented

during the next ten years. The language here is needed and reasonable to enable the planning entity to describe and quantify how its goals will be accomplished.

(e) Proposed Change – 9215.0655, subp. 5.

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

The budget information is needed and reasonable for the planning entity to demonstrate the program's financial feasibility from the planning stages through its implementation, operation and maintenance. This requirement is no different from other existing rule parts requesting financial information on how materials found in the municipal solid waste stream will be managed and financed during the planning period.

(f) Proposed Change – 9215.0655, subp. 6.

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

This subpart is needed and reasonable as it follows the same format found in other parts of the existing rule requiring a schedule of implementation for proposed programs addressing the management of materials found in the municipal solid waste stream.

21. Part 9215.0660 MAJOR APPLIANCE MANAGEMENT.

(a) Proposed Change – 9215.0660, subps. 1, 2, 3, 4, and 5.

Subps. 1, 2, 3, 4, and 5. ...county or, district, or multicounty area...

See Exhibit 1.

(b) Proposed Change – 9215.0660, subp. 1.

Subp. 1. Content. The plan must include the information described in this part on major appliance management programs and practices in the county or, district, or multicounty area.

The change made in this subpart is needed and reasonable because it is similar to the changes being made throughout the rule in the plan content subparts for other abatement

methods or materials. See, e.g., 9215.0620, subp. 1. The change is stylistic and clarifying and does not alter the substance or intent of this subpart.

(c) Proposed Change – 9215.0660, subps. 2, 3, 4, 5, and 6.

Subps. 2, 3, 4, 5, and 6. ...major...

The term “major” was added to these subparts for consistency and clarity sake. The existing subp. 1 states that the plan must include information on major appliance management programs. This change does not alter the substance or intent of these subparts.

(d) Proposed Change – 9215.0660, subp. 3.

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

The change requiring that “the description must also include the annual amount or quantity of major appliances recovered” is needed and reasonable to quantify the amount of major appliances being recovered annually to provide a basis for comparison with management efforts over the next ten years.

(e) Proposed Change – 9215.0660, subp. 4.

Subp. 4. Specific programs to be developed. The plan must describe ~~the~~ any new or existing major appliance management programs that the county ~~or~~, district, or multicounty area proposes to maintain, expand, or implement during the next ten years, including the annual amount or quantity of major appliances to be recovered and the responsible persons, estimated staff time, and education campaigns necessary to implement ~~or~~ and manage each program.

The need and reasonableness for the addition of the terms “any new or existing” and “expand” is provided in the statement of need and reasonableness for identical revisions to 9215.0580, subp. 4. It is needed and reasonable to require the planning entity to provide the data (“annual amount or quantity of major appliances to be recovered”) because the planning entity will need to describe and quantify how its goals will be accomplished. The change from “or” to “and” in the last sentence of this subpart is needed and reasonable to correct a typographical error in the existing rules and clarify

that the plan must address both implementation and management, not just one or the other. The correction makes the requirement consistent with other parts of the existing rule that deal with this topic. *See, e.g.*, 9215.0580, subp. 4.

22. Part 9215.0670 USED MOTOR OIL, AUTOMOTIVE MERCURY SWITCHES, MOTOR VEHICLE FLUIDS AND FILTERS, AND LEAD-ACID AND DRY CELL BATTERIES MANAGEMENT.

(a) ~~Proposed Change - 9215.0670, subps. 1, 2, 3, 4, 5, and 6.~~ USED MOTOR OIL, AUTOMOTIVE MERCURY SWITCHES, MOTOR VEHICLE FLUIDS AND FILTERS, AND LEAD-ACID AND DRY CELL BATTERIES MANAGEMENT.

The change adding automotive mercury switches to the title and subparts is needed and reasonable to encourage the recovery of these devices and thereby reduce their potential harm to both the environment and general public. Since mercury is a very toxic contaminant and is found in automotive switches, it is only logical to include it as an elective that could be selected by the planning entity for collection and proper disposal. The replacement of the term "used motor oil" by "motor vehicle fluids and filters" in the title and subparts is needed and reasonable because it represents a larger class of materials and/or fluids (anti-freeze, brake fluid, etc.) outside of used motor oil that are or should be captured for recycling at public and private sector operations.

(b) ~~Proposed Change - 9215.0670, subps. 1, 2, 3, 4, and 5.~~

Subps. 1, 2, 3, 4, and 5. ...county or, district, or multicounty area...

See Exhibit 1.

(c) ~~Proposed Change - 9215.0670, subp. 3.~~

Subp. 3. Existing used motor oil automotive mercury switch, motor vehicle fluids and filters, and lead-acid and dry cell battery programs and practices. The plan must describe the existing public and private sector ~~used motor oil automotive mercury switch, motor vehicle fluids and filters,~~ and lead-acid and dry cell battery management programs and practices in the county or, district, or multicounty area, including the amount or quantity of materials recovered by type, public education, collection options, processing, recycling, and disposal.

It is needed and reasonable to require the planning entity to provide the data ("annual amount or quantity of materials to be recovered by type") to provide a basis for comparison with management efforts for these materials over the next ten years.

(d) Proposed Change – 9215.0670, subp. 4:

Subp. 4. **Specific programs to be developed.** The plan must describe the ~~specific used motor oil~~ any new or existing automotive mercury switch, motor vehicle fluids and filters, and lead-acid and dry cell battery programs that the county ~~or,~~ district, or multicounty area proposes to maintain, expand, or implement during the next ten years, including the amount or quantity of materials to be recovered by type and the responsible persons and estimated staff time necessary to implement and manage each program.

The need and reasonableness for the addition of the terms “any new or existing” and “expand” is provided in the statement of need and reasonableness for identical revisions to 9215.0580, subp. 4. It is needed and reasonable to require the planning entity to provide the data (“amount or quantity of materials to be recovered by type”) because the planning entity will need to describe and quantify how its goals will be accomplished.

23. Part 9215.0680 HOUSEHOLD HAZARDOUS WASTE MANAGEMENT.

(a) Proposed Change – 9215.0680, subps. 1, 2, 4, and 5:

Subps. 1, 2, 4, and 5. ...county or, district, or multicounty area...

See Exhibit 1. The word “described” was added to subp. 1. It is a needed and reasonable change so that this subpart is consistent with the changes made to the content subparts for other types of materials. There is no substantive change in the requirements on planning entities.

(b) Proposed Change – 9215.0680, subp. 3:

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

It is needed and reasonable to require the planning entity to provide the data (“the amount or quantity of materials recovered”) to provide a basis for comparison with management efforts for these materials over the next ten years.

(c) Proposed Change – 9215.0680, subp. 4:

Subp. 4. **Specific programs to be developed.** The plan must describe the any new or existing household hazardous waste programs that the county ~~or,~~ district, or multicounty area proposes to maintain, expand, or implement during the next ten years,

including the amount or quantity of materials to be recovered and the responsible persons and estimated staff time necessary to develop and manage each program. These programs must include a broad-based public education component, a strategy for reduction of household hazardous waste, and a strategy for separation of household hazardous waste from mixed municipal solid waste and the collection, storage, and proper management of that waste.

The need and reasonableness for the addition of the terms “any new or existing” and “expand” is provided in the statement of need and reasonableness for identical revisions to 9215.0580, subp. 4. It is needed and reasonable to require the planning entity to provide the data (“amount or quantity of materials to be recovered”) because the planning entity will need to describe and quantify how its goals will be accomplished.

24. Part 9215.0690 CONSTRUCTION AND DEMOLITION DEBRIS.

~~(a) Proposed Change – 9215.0690, subps. 1, 2, 3, 4, 5, and 6.~~

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

The term “construction” has been added to the title and subparts to distinguish the difference between the two types of materials, their origin, their amount, and how they are managed to encourage identification, separation, recovery, and proper disposal of these materials. This language change is needed and reasonable since the existing rule did not address these materials (e.g. construction materials) or their management separately. Over the past decade, MPCA and planning entities have seen many technological advances in the types of compounds, laminates, adhesives, and preservatives used in the construction industry. Although these advances may have improved construction processes and lowered costs, they also may have had some negative effect on the environment and public safety, health and welfare. For example, the chemical and home improvement industry has phased out the use of arsenic based preservatives used in pressure-treated wood that was widely used for fences, decks, playground equipment, and boardwalks in homes and on playgrounds. Accordingly, these materials, from a disposal point of view, should be separated and sent to a lined-landfill to prevent contact with ground water resources.

~~(b) Proposed Change – 9215.0690, subps. 1, 2, 4, and 5.~~

Subp. 1, 2, 4, and 5. ...county or, district, or multicounty area...

See Exhibit 1. The word “described” was added to subp. 1. It is a needed and reasonable change so that this subpart is consistent with the changes made to the content subparts for

other portions of the plan. There is no substantive change in the requirements on planning entities.

~~(c) Proposed Change - 9215.0690, subp. 3~~

Subp. 3. **Existing construction and demolition debris practices.** The plan must describe existing construction and demolition debris practices and programs, including the amount or quantity of materials recovered and disposed of and private and public sector Pollution Control Agency permitted facilities.

It is needed and reasonable for the plan to describe existing construction debris practices and quantify "the amount or quantity of materials recovered and disposed of" so that the planning entity has a basis for comparison with management efforts for these materials over the next ten years.

~~(d) Proposed Change - 9215.0690, subp. 4~~

Subp. 4. **Specific programs to be developed.** The plan must describe the any new or existing construction and demolition debris programs that the county or, district, or multicounty area proposes to maintain, expand, or implement during the next ten years, including the amount or quantity of materials to be recovered and disposed of and the responsible persons and estimated staff time necessary to implement and manage each program.

The need and reasonableness for the addition of the terms "any new or existing" and "expand" is provided in the statement of need and reasonableness for identical revisions to 9215.0580, subp. 4. It is needed and reasonable to require the planning entity to provide the data ("amount or quantity of materials to be recovered and disposed of") because the planning entity will need to describe and quantify how its goals will be accomplished.

~~(e) Proposed Change - 9215.0690, subp. 6~~

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

The addition of "described in this part" is needed and reasonable for clarification purposes. There is no substantive change in the requirements on planning entities from this addition.

25. Part 9215.0700 SOLID WASTE ORDINANCE.

(a) Proposed Change – 9215.0700, subps. 1 and 2.

Subps. 1 and 2. ...county ~~or~~, district, or multicounty area...(or possessive variation).

See Exhibit 1. The word “described” was added to subp. 1. It is a needed and reasonable change so that this subpart is consistent with the changes made to the content subparts for other portions of the plan. There is no substantive change in the requirements on planning entities.

(b) Proposed Change – 9215.0700, subp. 3.

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

The addition of “district or multicounty area” is needed and reasonable for clarification that there are planning entities that are not counties.

26. Part 9215.0710 SOLID WASTE STAFF.

Proposed Change – 9215.0710, subps. 1 and 2.

Subps. 1 and 2. ...county ~~or~~, district, or multicounty area...

See Exhibit 1. The word “described” was added to subp. 1. It is a needed and reasonable change so that this subpart is consistent with the changes made to the content subparts for other portions of the plan. There is no substantive change in the requirements on planning entities.

27. Part 9215.0720 SOLID WASTE PROGRAM FUNDING.

Proposed Change – 9215.0720, subps. 1, 2, and 3.

Subps. 1, 2, and 3. ...county ~~or~~, district, or multicounty area...(or possessive variation).

See Exhibit 1. The word “described” was added to subp. 1. It is a needed and reasonable change so that this subpart is consistent with the changes made to the content subparts for other portions of the plan. There is no substantive change in the requirements on planning entities.

28. Part 9215.0730 PLAN REVIEW AND ~~FIVE-YEAR UPDATE~~ TEN-YEAR PLAN.

~~Proposed Change - 9215.0730~~

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

The replacement of the term "five year update" with "ten year plan" in this part and its title is needed and reasonable because the change to the planning cycle from at least every five years to at least every ten years makes each plan, in the MPCA's judgment, more like a new plan rather than an update of an existing plan and it fulfills the legislative intent of amended Minn. Stat. § 115A.46, subd.1(f).

29. Part 9215.0740 GOAL-VOLUME TABLE.

~~Proposed Change - 9215.0740~~ ...county's ~~or~~, district's, or multicounty area's...

See Exhibit 1. The word "on" was replaced with "in" in the last sentence of this subpart. It is a needed and reasonable change made to correct a typographical error in the existing rule.

30. Part 9215.0750 ITEMIZED SOLID WASTE BUDGET.

~~Proposed Change - 9215.0750~~ ...county ~~or~~, district, or multicounty area...

See Exhibit 1.

31. Part 9215.0760 ALTERNATIVES TO PROPOSED SYSTEM.

~~Proposed Change - 9215.0760~~

The plan must include a description of the process that the county ~~or~~, district, or multicounty area will use to evaluate, identify, and implement alternatives to the proposed system if the system described in parts ~~9215.0620~~ 9215.0580 to ~~9215.0640~~ 9215.0700 is not developed or has major operational difficulties.

For the change necessary to include multicounty areas as planning entities, see Exhibit 1.

The existing rule required the planning entities to describe an alternatives' evaluation, identification, and implementation process if the system addressed by the parts of the rule dealing with only three of its components: mixed municipal solid waste (MSW)

composting, solid waste incineration and energy recovery, and MSW land disposal were not developed or had major operational difficulties. Yet the planning entities had to address in their plans solid waste management programs that went beyond those three components. The new rule recognizes that the integrated solid waste management system is more than the three components and that the system is comprised of all the parts referenced. The changes made in this subpart are needed and reasonable to correctly identify the parts that together describe the integrated solid waste management system, present and future.

32. Part 9215.0770 ENVIRONMENTAL RISKS AND PUBLIC HEALTH IMPACTS.

(a) ~~Proposed Change – 9215.0770, subp. 1.~~

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

See Exhibit 1 for the addition of multicounty area to the list of planning entities. The language change eliminating the term "risks" and replacing it with "impacts" and including "public health impacts" is needed and reasonable to more accurately reflect or clarify the intent and meaning of this subpart.

(b) ~~Proposed Change – 9215.0770, subps. 2 and 3.~~

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

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

The inclusion of "land" in these two subparts is needed and reasonable to address illegal dumping and the burning of mixed municipal solid waste. These practices may have significant health, economic and environmental impacts on property and their owners. For example, the practice of backyard burning of garbage is known to release more dioxin into the atmosphere and subsequently into the food chain than conventional waste to energy combustors. By including impacts to land in the plans, the plans will be more comprehensive.

33. Part 9215.0790 PUBLIC PARTICIPATION.

~~Proposed Change – 9215.0770, subps. 1 and 2.~~

Subps. 1 and 2. ...county or, district, or multicounty area...

See Exhibit 1.

34. Part 9215.0800 ~~REGIONAL~~ MULTICOUNTY PLANNING.

~~Proposed Change - 9215.0800, A, B, and C.~~

Multicounty plans prepared by two or more counties are encouraged. A joint plan, plan update, or plan amendment may be submitted by a regional planning group formed through a joint powers agreement multicounty area. It must:

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

B. be adopted by each participating county and, district, or multicounty area; and

C. delineate the responsibility of each county or, district and the ~~Joint Powers Board~~, or multicounty area with respect to implementation of the joint plan, plan update, or plan amendment.

The term "regional" was replaced with "multicounty" to reflect those entities that are responsible for preparing solid waste management plans. Furthermore, any reference and/or requirement of a "joint powers agreement" or "Joint Powers Board" has been deleted as it may represent an obstacle and discourage multicounty planning. Joint powers agreements and boards may still be used, however. The term "or multicounty area" was added to encourage regional planning. See Exhibit 1. The term "plan update" has been removed since new solid waste management plans will be required every ten years. See Exhibit 1. All of these changes implement the changes made in other parts of the rule whose need and reasonableness have been fully addressed.

35. Part ~~9215.0810~~ REQUIREMENTS FOR PLAN, PLAN UPDATE, AND PLAN AMENDMENT APPROVAL.

~~Proposed Change - 9215.0810~~

Part 9215.0810 has been deleted in its entirety.

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

~~Subpart 1. Goals and objectives. Each solid waste management plan including updates and amendments, when necessary, must provide for the implementation of policies and programs that are designed to achieve the state policy as~~

declared by Minnesota Statutes, section ~~115A.02~~, of reducing the need for land disposal of unprocessed mixed municipal solid waste to the maximum extent possible.

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

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

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

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

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

Portions of this section have been either eliminated, or modified and moved to part 9215.0577 Proposed Integrated Solid Waste Management System. These modifications were needed and reasonable to reinforce state policy by moving solid waste system design requirements towards the start of the proposed rule rather than near the end while also recognizing the existence of "other information" that may have a bearing on the proposed system chosen by the county, district or multicounty area. For example, those systems, plans, or plan amendments that propose land disposal as the primary management method must contain technical, financial, demographic, geographic, regional and solid waste system differences that exist among the counties.

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

~~(a) Proposed Change - 9215.0820, subp. 1.~~

Subpart 1. **Draft Plan.** A county or, district, or multicounty area seeking approval of a solid waste management plan shall submit its draft plan to the commissioner. The draft plan must contain the information required in parts 9215.0540 to 9215.0790. The county, district, or multicounty area shall also provide:

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

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

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

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

See Exhibit 1 for the changes accompanying the addition of multicounty area to the planning entities. Language found in requirements A thru D was moved from the now deleted subpart 2 Plan Updates because the phrase "plan update" has been eliminated due to new plans being submitted every ten years. See Exhibit 1. Although the phrase "plan updates" is no longer used in the proposed rule, the requirements (A – D) are still needed and moving them to the new subpart 1 Plan is a logical location.

~~(b) Proposed Change – 9215.0820, subp. 2.~~

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

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

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

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

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

Subpart 2 Plan update has been eliminated. The deletion is needed and reasonable because plan updates are no longer needed or used to describe a new plan that is now submitted every ten years. Also see Exhibit 1. The deletion and relocation of requirements (A-D) to subpart 1 is needed and reasonable because they are relevant in evaluating the progress of an existing plan.

(c) Proposed Change - 9215.0820, subps. 3, 3E, 3F, and 3H.

Subps. 3, 3E, 3F, and 3H. ...county or, district, or multicounty area...

See Exhibit 1.

(d) Proposed Change - 9215.0820, subp. 3F.

Subp. 3F. [**Plan amendment.**] ...The county or, district, or multicounty area shall include the following information in its amendment:

F. updated implementation information relevant to the changes proposed by the county or, district, or multicounty area as required in parts 9215.0570 9215.0575 to 9215.0800;

The reference change in this subpart is needed and reasonable because part 9215.0570 has been deleted in its entirety.

(e) Proposed Change - 9215.0820, subp. 3G.

Subp. 3G. [**Plan amendment.**] ...The county or, district, or multicounty area shall include the following information in its amendment:

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

Language changes replacing the term "risk" with "impacts" and adding "and public health impacts" are needed and reasonable to more accurately reflect the intent and meaning of this subpart and make this subpart consistent with the existing and new language in 9215.0770, subp. 1. The change eliminating the term "update" and replacing it with the word "amendment" is needed and reasonable since there will no longer be plan updates, only plans and plan amendments. The existing rule did not specifically address the situation where the last approved document was a plan amendment as does the revision.

(f) Proposed Change - 9215.0820, subp. 4.

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

plan in a format approved by the commissioner may also be submitted with the paper copy.

The deletion of the phrases "in a three-ring binder" and "if possible" are needed and reasonable since the majority of plans submitted today are in a three-ring binder and are printed on both sides of the page to conserve paper so the rule does not need to be as prescriptive as it has been. The change adding "an electronic copy of the plan in a format approved by the commissioner may also be submitted with the paper copy" is not a requirement but a needed and reasonable suggestion so that revisions, if needed, may be made with ease.

36. Part 9215.0830 TIMING OF SUBMITTAL.

~~(a) Proposed Change - 9215.0830, subp. 1~~

~~Subpart 1. **Submittal of plan.** A county or district that has not submitted a solid waste management plan by December 14, 1992, shall submit a draft plan to the agency within 90 days of that date.~~

This subpart was eliminated. The subpart's elimination is needed and reasonable as it was no longer relevant because of the specific dates found within its language.

~~(b) Proposed Change - 9215.0830, subp. 2~~

~~Subp. 2. **Submittal of plan update.** Each county or, district, or multicounty area shall submit a plan update to the agency when six months remains remain on the approval of the latest plan.~~

See Exhibit 1 for the deletion of update in the subpart and title. The change from "remains" to "remain" is needed and reasonable for grammatical reasons.

~~(c) Proposed Change - 9215.0830, subps. 3, 3A, 3B, and 3C. ...county or, district, or multicounty area...~~

See Exhibit 1.

37. Part 9215.0840 REVIEW BY POLLUTION CONTROL AGENCY.

~~(a) Proposed Change - 9215.0840, subps. 1, 2, 3, and 4~~

~~Subps. 1, 2, 3, and 4. ...county or, district, or multicounty area... (or possessive variation).~~

See Exhibit 1.

(b) Proposed Change - 9215.0840, subps. 1, 3, and 4.

Subps. 1, 3, and 4. ...~~plan, plan update,~~ or plan amendment...

See Exhibit 1.

38. Part 9215.0850 PUBLIC NOTICE AND PUBLIC COMMENT.

(a) Proposed Change - 9215.0850, subps. 1, 1B, 1C, 1D, 2C, 3, 3A, and 3B.

Subps. 1, 1B, 1C, 1D, 2C, 3, 3A, and 3B. ...~~plan, plan update,~~ or plan amendment...(or variations).

See Exhibit 1.

(b) Proposed Change - subps. 1C, 2B, and 2C.

Subps. 1C, 2B, and 2C. ...county or, district, or multicounty area...

See Exhibit 1.

(c) Proposed Change - subp. 1A.

Subpart 1. [Public notice.] ...The public notice must include, at a minimum:
A. the business address and telephone number of the county ~~or, district chair,~~ or multicounty area, the address and telephone number of the agency, and a statement that additional information may be obtained at these offices;

It is needed and reasonable to replace the provision that the notice list the business address and telephone number of the chair of the county or district with a provision that the notice list the business address and telephone number of the planning entity because it is more generic, less subject to change, and less subject to error.

(d) Proposed Change - subp. 1C.

Subp. 1C. [Public notice.] ...The public notice must include, at a minimum:

C. a brief description of the procedures the agency commissioner will use to reach a final decision on approval of the ~~plan or plan update~~ or plan amendment,

including procedures for requesting that the ~~county or district~~ commissioner hold a public informational meeting; and

The commissioner is the approving authority for the plans and plan amendments under Minn. Stat. §115A.46, subd. 1(e), so the change from agency to commissioner in the first line of this subpart is needed and reasonable to be consistent with the statute. The change from stating the procedures for requesting that the county or district hold the public informational meeting to the procedures for requesting the commissioner to hold the public informational meeting is needed and reasonable because the existing language was inconsistent with 9215.0860 which authorizes a person to request the commissioner to hold a public informational meeting on a plan or plan amendment before the commissioner's approval is rendered.

~~(e) Proposed Change - 9215.0850, subp. 2B.~~

Subp. 2B. **[Distribution of public notice.]** The commissioner shall distribute the public notice by:

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

It is needed and reasonable to delete the requirement that a copy of the notice be sent to the Pollution Control Agency. This requirement is no longer needed following the merger of the Office of Environmental Assistance with the MPCA.

39. Part 9215.0860 PUBLIC INFORMATIONAL MEETING.

~~(a) Proposed Change - 9215.0860, subps. 1, 2, 3, 4, 5, and 6.~~

Subps. 1, 2, 3, 4, 5, and 6. ...~~plan, plan update, or plan amendment~~...(or variations).

See Exhibit 1.

~~(b) Proposed Change - 9215.0860, subps. 3 and 5.~~

Subps. 3 and 5. ...county or, district, or multicounty area...

See Exhibit 1.

40. Part 9215.0870 FINAL DECISION.

(a) Proposed Change - 9215.0870, subps. 1, 2, 3, 4, 5, and 6.

Subps. 1, 2, 3, 4, 5, and 6. ...county or, district, or multicounty area... (or variations); ...~~plan, plan update,~~ or plan amendment... (or variations).

See Exhibit 1.

(b) Proposed Change - 9215.0870, subp. 3.

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

The change from five to ten years is needed and reasonable because it reflects the new planning cycle provided by the 2003 amendment contained in Minn. Stat. § 115A.46, subd. 1(f). The deletion of the reference to 9215.0810 is needed and reasonable since that part is being deleted.

(c) Proposed Change - 9215.0870, subp. 4.

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

The deletion of the word "update" in the first and last instance is needed and reasonable since there will no longer be plan updates, only plans or plan amendments. See 9215.0730 & 9215.0820, subp. 2. The replacement of "update" with "submit" at the end of the first sentence is needed and reasonable for the sake of consistency to emphasize that the planning process no longer focuses on plan updates.

(d) Proposed Change - 9215.0870, subp. 6.

Subp. 6. **Submittal of final plan.** On final approval of a plan, ~~plan update,~~ or plan amendment, the county or, district, or multicounty area shall submit two copies of the final plan to the commissioner. The plan must be ~~submitted in a three-ring binder,~~ must be single-spaced; and must be printed on both sides of the page ~~if possible.~~ An electronic copy of the plan or plan amendment in a format approved by the commissioner may also be submitted with the paper copy.

The deletions of the phrases "in a three-ring binder" and "if possible" are needed and reasonable since the majority of plans submitted today are in a three-ring binder and are printed on both sides of the page to conserve paper so the rule does not need to be as prescriptive as it has been. The change made by the new last sentence of this subpart to allow an electronic copy of the final plan or plan amendment to be submitted to the commissioner is not a requirement. It is very helpful to the agency to have an electronic copy so that revisions; if needed, may be made with ease. The change is needed and reasonable to inform the planning entity of the possibility to make electronic submissions.

41. Part 9215.0880 REVOCATION OF APPROVAL.

Proposed Change - 9215.0880, subps. 1 and 2.

Subps. 1 and 2. ...county or, district, or multicounty area...

See Exhibit 1.

XV. LIST OF AUTHORS, WITNESSES AND APPENDICES

A. Author

Hank Fisher, Regional Planner, Local Government Assistance Unit, Municipal Division, Minnesota Pollution Control Agency.

B. List of Witnesses

If these rules go to a public hearing, the MPCA anticipates having the following witness testify in support of the need for and reasonableness of the proposed rules:

Hank Fisher, LGA Unit, Municipal Division. Mr. Fisher is the principal author of the SONAR and will testify on the general need for and reasonableness of the proposed rules.

C. Exhibits

In support of the need for and reasonableness of the proposed rules, the MPCA has attached Exhibit 1 to this SONAR. Exhibits 2-28 are available for review at: 520 Lafayette Road North, 2nd Floor, St. Paul, MN and 525 Lake Avenue, S. Suite 400 Duluth, MN.

1. PLAN UPDATE & MULTICOUNTY AREA LIST.
2. "Proposal For Changes To the Minnesota Solid Waste Planning Process", Minnesota 115A. OEA/Greater MN County SW Planning Work Group, April 30, 2002.

3. Minnesota Statutes § 115.46 revised, 2003.
4. Plan Revival Workgroup Meeting Notes, December 10, 2001, Owatonna, MN.
5. Plan Revival Workgroup Meeting Notes, December 19, 2001, Brainerd, MN.
6. Plan Revival Workgroup Meeting Notes, January 11, 2002, St. Paul, MN.
7. Plan Revival Workgroup Meeting Notes, January 24, 2002, Milaca, MN.
8. Plan Revival Workgroup Meeting Notes, January 31, 2002, Redwood Falls, MN.
9. Plan Revival Workgroup Meeting Notes, February 22, 2002, New Ulm, MN.
10. Plan Revival Workgroup Meeting Notes, March 13, 2002, Grand Rapids, MN.
11. Plan Revival Workgroup Meeting Notes, April 15, 2002, St. Cloud, MN.
12. Plan Revival Workgroup Meeting Notes, July 9, 2002, St. Cloud, MN.
13. Plan Revival Workgroup Meeting Notes, July 31, 2002, St. Paul, MN.
14. Request for Comments – State Register, December 27, 2004.
15. Request for Comments – mailed to stakeholders, December 20, 2004.
16. E-mail, OEA-SWA-Link from Anne Gelbmann, Reminder: Meetings for Solid Waste Planning Rule Proposed Change, January 26, 2005.
17. Request for Comments - mailed to Legislative Committee Chairs, December 20, 2004.
18. Notes from Meeting on Proposed Solid Waste Rules, February 2, 2005 in Mankato, MN.
19. Notes from Meeting on Proposed Solid Waste Rules, February 9, 2005 in Bemidji, MN.
20. Notes from Meeting on Proposed Solid Waste Rules, February 23, 2005 in Elk River, MN.
21. Notes from Meeting on Proposed Solid Waste Rules, June 21, 2005 in St. Paul, MN.
22. Comments on draft rule – Doug Morris, Crow Wing County, February 23, 2005.
23. Comments on draft rule – Paul Gardner, Recycling Association of Minnesota, March, 2005.
24. E-mail from Jill Johnson, Winona County on why aren't more meetings scheduled, January 5, 2005.
25. E-mail from Matt Herman, MPCA on the proposed definitions of “construction and demolition debris” and “electronic products” February 2, 2005.
26. Interested parties and affected parties (stakeholders) mailing list(s).
27. Memorandum to Minnesota Solid Waste Administrators Association Executive Board regarding Solid Waste Planning Rule Revisions & Status, June 26, 2006.
28. Memorandum to Solid Waste Administrators & other Stakeholders regarding Solid Waste Planning Rule Revisions & Status, July 6, 2006.

Exhibit 1

PLAN UPDATE & MULTICOUNTY AREA LIST

1. The terms **“plan update(s)”** or **“update(s)”** are proposed for deletion from the following parts or subparts of the Solid Waste Planning Rules – 9215.0500 A; 9215.0540 (including title); 9215.0730; 9215.0800, first para., and provision C; 9215.0820, subps. 3G & 4 (including title), 9215.0830, subp. 2; 9215.0840, subps. 1, 3, & 4; 9215.0850, subps. 1, first para., 1B, 1C, 1D; 2C; 3, first para., 3A, & 3B; 9215.0860, subps. 1, 2, 3, 4, 5, & 6; 9215.0870, subps. 1, 2, 3, 4, 5, & 6. In some cases, this change requires changes in associated punctuation, *see, e. g.* 9215.0500 A, or connectors, *see, e. g.*, 9215.0540.

The deletion of the terms “ plan update(s)” and “update(s)” is needed and reasonable because the change to the planning cycle from at least every five years to at least every ten years that was made by the 2003 amendment to Minn. Stat. §115A.46, subd. 1(f), makes each plan, in the MPCA’s judgment, more like a new plan rather than an update of an existing plan. Also see the need and reasonableness statement for 9215.0820, subp. 2.

2. The term **“multicounty area(s).”** as a planning entity, is proposed for inclusion along with the county or district as a planning entity. In the vast majority of instances where the change is made, the change appears as, “...county or, district, and multicounty areas...” However, there are several variations such as “[c]ounty and, district, or multicounty area...” (*see, e. g.*, 9215.0540), or a possessive form variation such as stated in, for example, 9215.0550, “...county’s or, district’s, or multicounty area’s...” In 9215.0700, subp. 3, regarding solid waste ordinances, the amendment is “...county, district, or multicounty area...”

The following parts of the rule are proposed for this type of revision - 9215.0500 A; 9215.0510, subp. 15, 9215.0520; 9215.0530, subps. 1, & 2 (including title); 9215.0540; 9215.0550; 9215.0560, subps. 2, 3E, 4, 5, & 6; 9215.0580, subps. 1, 2, 3, 4, & 5; 9215.0590, subps. 1, 2, 3, 4, & 5; 9215.0600, subps. 1, 2, 3A, 4, & 5; 9215.0610, subps. 1, 2A, 3, 4, 5, & 7; 9215.0620, subps. 2, 3A, 5, & 6; 9215.0630, subps. 2, 3A, 5, & 6; 9215.0640, subps. 2, 3A, 3B, 5, first para. 5C, & 6; 9215.0650, subps. 1, 2, 3, 4, & 5; 9215.0660, subps. 1, 2, 3, 4, & 5; 9215.0670, subps. 1, 2, 3, 4, & 5; 9215.0680, subps. 1, 2, 4, & 5; 9215.0690, subps. 1, 2, 4, & 5; 9215.0700, subps. 1, 2, & 3; 9215.0710, subps. 1 & 2; 9215.0720, subps. 1, 2, & 3; 9215.0730; 9215.0740; 9215.0750; 9215.0760; 9215.0770, subp. 1; 9215.0790, subps. 1 & 2; 9215.0800, provisions A, B, & C; 9215.0820, subps. 1, 3, first para., 3E, 3F, 3H & 4; 9215.0830, subps. 2, 3, first sentence, 3A, 3B, & 3C; 9215.0840, subps. 1, 2, 3, & 4; 9215.0850, subps. 1A, 1C, 2B, & 2C; 9215.0860, subps. 3 & 5; 9215.0870, subps. 1, 2, 3, 4, 5, & 6; 9215.0880, subps. 1, & 2.

The 2003 amendment to Minn. Stat. §115A.46 which added subd. 1(g) requires these rules to reflect regional differences so it is needed and reasonable to emphasize planning

on a regional or multicounty basis to encourage planning by groups of counties and districts experiencing regional differences affecting integrated solid waste management. The proposed revisions add "multicounty areas" to the listed planning entities. The new phrase appears in over 140 places in these rules. It also appears in those parts of the rule that are totally new such as 9215.0655 regarding electronic products. It is needed and reasonable to use the phrase repetitiously to encourage planning by at least two or more counties and districts. The existing rule addresses regional planning in 9215.0800 when performed by a group formed through a joint powers agreement. The existing rule's references in 9215.0800 to joint powers agreements and joint powers boards are proposed for deletion, but that does not preclude their use by multicounty areas. It is expected that planning on a more than one county at a time basis will achieve economies of scale in integrated solid waste management systems.

XVI. CONCLUSION

Based on the foregoing, the proposed rules are both needed and reasonable.

10/4/07
[Date]

Brad Moore
Brad Moore
Commissioner

AG: #1854650-v3