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MINNESOTA

STATE GOVERNMENT

ISSUES

SOLID WASTE ISSUES TEAM REPORT

FEBRUARY, 1985

Presented To

ENERGY/ENVIRONMENT/RESOURCES SUBCABINET

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Executive Branch Policy Development Program
1984-1985

SOLID WASTE ISSUES TEAM REPORT

FEBRUARY, 1985

Presented To

ENERGY/ENVIRONMENT/RESOURCES SUBCABINET

SOLID WASTE ISSUES TEAM

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I. EXECUTIVE SUMMARY/RECOMMENDATIONS

Reduction and proper management of solid waste must continue to be a high priority issue for state government. The Waste Management Act, passed in 1980 and amended each year thereafter, has put in place a comprehensive system of responsibilities and programs among various levels of government in order to reduce waste generation, to eliminate indiscriminate dependence on disposal of waste, and to separate and recover materials and energy from waste. The Act addresses the major needs for the management of solid waste, and the Team recommends four actions, consistent with the intent of the Act, to accelerate and assure continued progress on solid waste abatement.

1. Monitor Impact of Previous Initiatives Prior to Proposing Further Statewide Legislation. The certificate of need/planning rules, closure/post-closure rules, and financial assurance rules required by the 1984 amendments to the Waste Management Act will be finalized later this year. The 50 cent per cubic yard fee on land disposal in the metropolitan area has just become effective. Its impact on waste disposal charges and changes is unclear as yet. Experience gained in the implementation of the Metropolitan Council's abatement initiatives should prove valuable in evaluating proposals for statewide abatement alternatives. A state fee on land disposal or some other financial mechanism is needed to fund land disposal alternatives and landfill pollution response actions and should remain under consideration.

2. Metropolitan Initiatives. The Team endorses the Metropolitan Council's initiatives to eliminate the land disposal of unprocessed municipal waste by 1990; to require by 1988 the separation of yard waste and recyclable materials at the source; and to increase financial support for waste recovery and reduction programs.

3. Composting. The Team recommends the issuance of an Executive Order directing state agencies to give preference to compost products in their use of soil amendments.

4. Interagency Coordinating Group. The Team recommends the formation of an interagency group to coordinate and cooperate on state solid waste activities. Such a group should consist of representatives of the Pollution Control Agency, the Waste Management Board, the Department of Energy and Economic Development, State Planning Agency, and the Metropolitan Council.

II. BACKGROUND OF THE SOLID WASTE PROBLEM IN MINNESOTA

The average Minnesota household generates over one ton of solid waste yearly and disposes of almost all of it in sanitary landfills. Minnesota currently has 111 active, permitted sanitary or modified landfills. Recycling activities divert about five percent of the waste stream from land disposal and four incinerators have been built to burn mixed solid waste and recover energy. Less than one percent of the waste is composted.

Because sanitary landfills presently receive 94 percent of the waste, there is a continuing need for more landfill space. At present disposal rates, one third

of all existing landfills will be filled in five years. In the Twin Cities, existing landfill space will be exhausted by 1991. Neighborhood opposition to the siting of new landfills or expanding existing ones is strong. Landfills use valuable land, waste resources that could be recycled or burned to produce energy, and cause pollution, especially of the ground water. The thrust of the Waste Management Act of 1980 and its amendments has been to discourage land disposal of solid waste, and promote alternatives.

Alternatives to landfilling are available and are becoming economically competitive as more stringent regulation of landfills by new rules and upgraded permit requirements raise the cost of land disposal. Although there will always be a need for some landfill space, statewide as much as 20 percent of solid waste could be composted, 20 percent recycled, and 37 percent incinerated.

Solid waste disposal is managed by a number of government authorities. Each level of government, state, regional, county, and local, has designated staff responsible for solid waste management.

Implementation of solid waste practices takes place primarily at the county or regional level. Minnesota Statutes, Chapter 400, requires that the county take the primary governmental role in solid waste management. The counties, or in some cases, regional authorities, must conduct solid waste planning, enforce MPCA rules and county ordinances, issue county permits and implement flow control. In the metropolitan area, the Metropolitan Council is responsible for comprehensive area planning and overview of metropolitan county programs. It has extensive authority for planning, review of permits, the siting of landfills, and promotion of abatement and recycling programs.

Three state agencies have responsibilities in the area of solid waste. The MPCA has primary regulatory and planning responsibility and is the authority for reviewing and approving waste management plans, permitting facilities, developing and enforcing regulations, and providing oversight of abatement and recycling programs. The Waste Management Board has statewide authority for reviewing designation-of-facility (flow control) plans, developing waste management districts, providing supplementary review of solid waste facility siting, and providing grant and loan assistance to local units of government for demonstration solid waste processing facilities. The Department of Energy and Economic Development administers grants and loans for tire processing and energy recovery facilities, and in some cases, recycling programs.

III. CURRENT STATUS OF SOLID WASTE REGULATION

Based on the ground water impacts revealed in monitoring landfills, MPCA is presently undertaking an extensive program development effort in solid waste including rule revisions, permit upgrades, and technical assistance. The rule revision which is ongoing will result in more comprehensive and detailed design and operation requirements for landfills. Future landfills will be required to

have liners and leachate collection systems to minimize ground water contamination. Requirements for better monitoring and improved design are also being incorporated into landfill permits as they are renewed. Technical assistance is being provided to counties in developing solid waste management programs which minimize the amount of waste. Information on waste management alternatives including costs is being developed for counties. New rules for certificate of need, financial assurance, and closure and post-closure care have been drafted and are proceeding through the rulemaking process.

A certificate of need has been required for new landfills in the metropolitan area since 1980, but is a new requirement for new or additional capacity statewide. The legislation requires that a nonmetropolitan county must have an approved solid waste management plan showing how recycling, reuse, and recovery of solid waste material will be accomplished. The plans must show that no prudent or feasible alternative exists or that some residuals will remain before a certificate of need for new or additional landfill capacity may be issued. MPCA rules defining the solid waste management plan and the certificate of need process are projected to be adopted this summer. The Metropolitan Council is also presently revising the policy plan for the metropolitan area which includes establishing criteria for certificate of need.

In the past, landfills have not closed in a manner which adequately protects the environment, and were not properly monitored after closing. MPCA is developing rules for closure and post-closure monitoring which will be finalized this fall. Closely connected to safe closure is the guarantee of adequate funds to finance these programs. Landfill owners generally have not put aside funds to be used at the time of closure for covering, grading, and seeding the site as well as continued monitoring, nor established funds for remedial actions should ground water become contaminated. MPCA rules for financial assurance have been drafted and should be adopted in fall, 1985.

In addition to the rule development and revision by MPCA, the Metropolitan Council has drafted a Solid Waste Management Development Guide and Policy Plan for managing the metropolitan region's waste well past the year 2000. It calls for developing a regional system of composting and recycling services, centralized processing facilities, and transfer stations. The regional system envisioned in the guide is intended to reduce the region's reliance on land disposal by maximizing the recovery of energy and materials from solid waste and reducing wastes at the source as much as possible. It provides for a mix of alternatives from low-tech household abatement efforts to high-tech waste-to-energy projects. A public hearing on this plan was held January 28, 1985. After comments are heard, the Council will vote on accepting the new plan, probably in February.

The 1984 amendments to the Waste Management Act created a surcharge on solid waste going to metropolitan landfills, effective January 1, 1985. One-half of the 50 cents per cubic yard fee is designated to a metropolitan landfill abatement fund, administered by the Metropolitan Council, to provide funds to develop and implement abatement projects, to promote development of markets, and

to provide technical assistance and public education related to abatement. The remaining half of the fee goes to MPCA to establish a landfill contingency fund to fund closure and post-closure care should it prove necessary at metropolitan land disposal facilities. Estimates are that the surcharge could provide up to \$3 million annually, but actual revenues will not be known for some time and a substantial portion will not be available until 1986.

IV. TEAM DISCUSSION/CONCLUSIONS

Considering the high level of current governmental activity in the solid waste area, the Team recommends monitoring the impact of previous initiatives prior to proposing further statewide legislation. Major legislation in the area of solid waste has been enacted every year since 1980. Several rules and programs to implement the 1984 amendments to the Waste Management Act are being developed. Time should be allowed to evaluate the impact and effectiveness of these rules prior to further legislative action.

The problem of declining landfill capacity and ground water contamination is most acute in the metropolitan area, and the Team feels that it is here where the implementation of alternatives must begin quickly, and where experience can be gained which will aid in the development of alternatives in the remaining 80 counties. Through the planning and oversight of the Metropolitan Council, strong discouragement of land disposal has existed since 1980, when a certificate of need for new landfill capacity was initiated for the metropolitan area. This requirement was not expanded statewide until 1984. Several metropolitan communities have already begun recycling programs. Yet, despite this strong governmental pressure and policies to separate and recover materials and energy from waste, insufficient progress has been made toward these goals in the area of the state where the problem awareness is high and the need for action critical.

The Team recommends passage of the Metropolitan Council's proposals to restrict the use of landfills in the region only to residual materials remaining after incineration, recycling, or other waste-reuse methods. Their three part proposal to eliminate the land disposal of unprocessed municipal waste by 1990, to require the separation of yard waste and recyclable materials at the source by 1988, and to increase financial support for waste recovery and reduction programs is a necessary action to assure the conversion to alternative waste handling. It would make clear to both public and private groups that the state is committed to a new direction in dealing with solid waste.

The metropolitan area is uniquely suited for materials recovery activities as many large buyers of secondary materials are already established. Although prices do fluctuate, there are markets for paper, glass, aluminum, and ferrous metals. Also, compost and co-compost markets exist but appear to be untapped at present. Recycling in the metropolitan area could generate markets for recycling projects in the other 80 counties. The metropolitan proposals will

provide experience with the operation of alternatives and the cost of programs that will prove valuable for statewide implementation.

In the metropolitan area, the surcharge on waste provides funds for solid waste planning and abatement actions. However, the Council's suggestion that a more sizeable fund be appropriated in 1985 and repaid in future years through the surcharge revenues would accelerate the pace of the switch to alternatives. The extension of the surcharge on land disposal to all counties statewide or some other financial assistance mechanism is an idea that should remain under consideration. There is a need in the other 80 counties for solid waste planning funds, funds to implement alternative disposal projects, and funds for landfill cleanup actions. However, the timing for the extension of such a fee might not be right. In a session where tax cutting is to receive a high priority, the imposition of a statewide landfill surcharge could be viewed as another "tax," and unfavorably received because of this perception. The experience of the implementation of the fee in the metropolitan area must be monitored to determine what impact it has on waste disposal fees and how much revenue it supplies, prior to proposing its extension statewide.

Similar concerns existed on the team about the hazards of a premature proposal concerning statewide recycling program. A statewide recycling act which would require that the opportunity to recycle be provided to every person in the state, including households, business and industry, remains an idea worthy of consideration, but probably not viable legislatively this session. It is an idea that merits further study, in particular the progress the state of Oregon has made in implementing its recycling act should be closely monitored. However, again the experience in the metropolitan area where the programs are becoming available and awareness is high, will aid in adapting the Oregon experience to Minnesota.

A positive action which can be taken now to aid the switch to alternatives is an Executive Order by the Governor, requiring state agencies to give preference to compost products in their use of soil amendments. The creation of this market for a waste product would promote awareness of uses of compost, and be simple to implement. The Team has drafted an Executive Order concerning compost and it is attached to this report. It recommends that the Governor issue the order and notify state agencies as soon as possible.

Lastly, the Team recommends that a solid waste coordinating group be formed among state agencies involved with solid waste management. Members of such a group should include representatives of the Pollution Control Agency, the Waste Management Board, the Department of Energy and Economic Development, the State Planning Agency, and the Metropolitan Council. Although communication has been good among these groups, and several joint meetings have been held, the distribution of solid waste responsibilities among these various governmental groups makes good coordination imperative. Consistent progress in state

management of solid waste and development of alternatives needs agreement on priorities and actions among the agencies. A coordinating council would help to assure such communication and agreement continues to occur.

Attachments: Compost Order
Draft Legislation of Metropolitan Council

DRAFT

EXECUTIVE ORDER NO.

Providing for the state use of compost products.

I, Rudy Perpich, Governor of the State of Minnesota, by virtue of the authority vested in me by the constitution and the applicable statutes, do hereby issue this Executive Order:

WHEREAS, approximately one third of all landfills in the state will be filled in the next five years and siting of new landfills is unpopular with the public when much waste could be composted, and

WHEREAS, it is the goal to improve waste management in Minnesota through a) reduction in waste generated; b) separation and recovery of materials and energy from waste; c) reduction in indiscriminate dependence on disposal of waste; d) coordination of solid waste management among political subdivisions; e) orderly and deliberate development and financial security of waste facilities including disposal facilities, and

WHEREAS, the technology exists for the cost-effective conversion of waste into usable and marketable compost products, and

WHEREAS, compost products can be beneficial to soil structure as a source of organic material thereby increasing tilth and improving moisture and nutrient retention capabilities, and

WHEREAS, there is presently a lack of paying markets and marketing histories in the state for compost products, and

WHEREAS, the use of compost products by state agencies can help to substantiate the worth of the products, and help to encourage the development of markets in the private sector, and

WHEREAS, the use of compost products will help to encourage the construction of compost facilities in the state resulting in the creation of new jobs, increased economic activity, the conversion of waste into new useful products, and the reduction in dependence upon landfills, and

WHEREAS, it is in the public interest to provide consideration for the state use of compost products because these products reduce the need for land disposal facilities and will assist the state in providing new alternatives to the indiscriminate use of landfills, and

WHEREAS, the Legislative Commission on Minnesota's Resources has recommended funding for the University of Minnesota to conduct a compost market research project, and

WHEREAS, there is recognition of the need for staged implementation of composting facilities and compost market development.

NOW, THEREFORE, I order that:

1. All state departments and agencies that use black dirt or soil amendments demonstrate the use of compost under various conditions and using various compost types and mixes, at their earliest convenience, with any necessary research design assistance provided by the University of Minnesota.
2. All state departments and agencies examine their rules and permit requirements to determine if opportunities exist for affecting and expediting the use of compost.
3. All state departments and agencies evaluate their yard waste management practices and employ on-site waste reduction and composting when feasible.
4. The Pollution Control Agency continue to oversee compost processing facilities to ensure that applicable environmental and health standards and rules are complied with.
5. The Department of Agriculture continue to oversee the use of compost products offered for sale to ensure compliance with appropriate rules.

6. Following and conditioned upon successful completion of the above activities, all state departments and agencies revise their procedures and specifications to give preference to compost products, as defined, when they can be substituted for, are available, and cost no more than, regular fertilizer, black dirt, or soil amendment products, if the compost products meet applicable standards and rules.

7. For the purposes of this order, "compost product" means an end-product produced from the controlled microbial degradation of organic waste.

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02.08.85



Metropolitan Council

Suite 300, Metro Square Building, St. Paul, Minnesota 55101

612 291-6359

POSITION PAPER FOR LEGISLATION ON SOLID WASTE MANAGEMENT

The goal of the Metropolitan Council's regional plan for waste management is to eliminate the use of landfills for most solid waste produced in the Twin Cities Region.

To achieve that goal, the region needs to develop programs in a timely and dependable way to reduce the amount of waste generated and recover useful materials and energy. Many tools are already in place to support such programs, but additional ones are needed.

To provide these tools, the Council recommends a three-part legislative program that includes: 1) eliminating the land disposal of unprocessed municipal waste by 1990, 2) requiring by 1988 the separation of yard waste and recyclable materials at the source, and 3) increasing financial support for waste recovery and reduction programs.

Eliminating Land Disposal of Unprocessed Municipal Waste by 1990

Proposed Legislation

The Council proposes legislation that will restrict the use of landfills in the region only to residual materials remaining after incineration, recycling or other waste-reuse methods. Disposing of "unprocessed" municipal waste in landfills would not be allowed after 1990. Unprocessed municipal waste includes materials that could be recycled but have not been removed, and wastes that have not been stabilized by incineration or other processing methods (see Figure 1). The legislation would prohibit the direct delivery of municipal waste to landfills. The waste would first have to go to recycling centers or recovery facilities and only the rejected materials or waste left after processing could go to landfills.

Why Action is Needed Now

The Council has authority now to approve applications submitted to the Minnesota Pollution Control Agency for permits to develop and operate waste disposal facilities, including landfills. The Council also has authority to issue certificates of need for new landfills if it determines there are not reasonable alternatives to land disposal.

However, legislation is needed in order for such a limitation to apply to all landfills in the region, both existing as well as new landfills, and to set the date on which the limitation takes effect. Moreover, legislation prohibiting the land disposal of unprocessed municipal waste in the seven-county area would provide state policy direction for the

Council, local government and private industry to accomplish the objective. It would make clear to all groups involved—public and private—that the region must take a new direction in dealing with solid waste. Figure 2 shows where the waste goes now.

Benefits

Prohibition of land disposal of unprocessed waste offers many benefits. They include:

- conserving remaining landfill capacity;
- significantly reducing the number of new landfills needed in the region;
- lessening the environmental risk from wastes that are landfilled;
- lessening the objectionable characteristics of landfills, thereby resolving conflicts with neighboring properties; and
- providing possible economic benefits.

Waste processing can reduce the volume of waste requiring land disposal, thereby reducing the landfill capacity needed in the region to a fraction of that required for landfilling mixed municipal waste. If the region continues to rely on landfills for such waste, nearly all 18 sites identified by the region's counties would be needed. On the other hand, the region would need no more than two or three landfills if alternatives are used.

The homogeneous, stabilized character of processed waste lowers the potential for adverse environmental impacts. The organic content in the waste is minimized, virtually

Figure 1
WHAT IS MUNICIPAL WASTE?

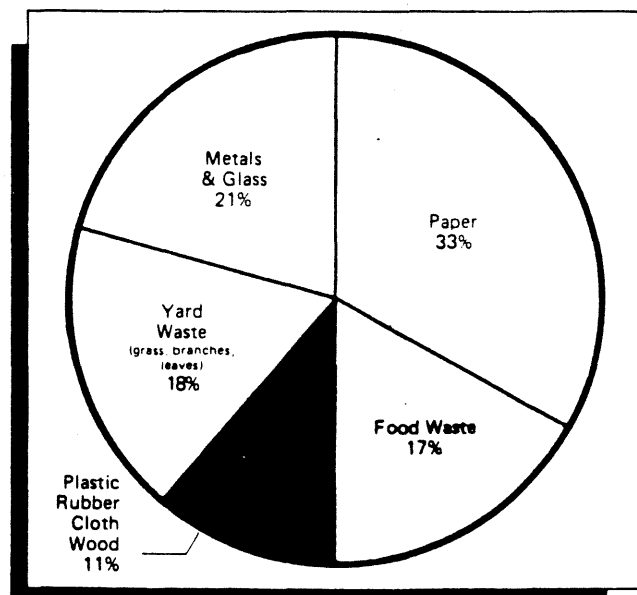
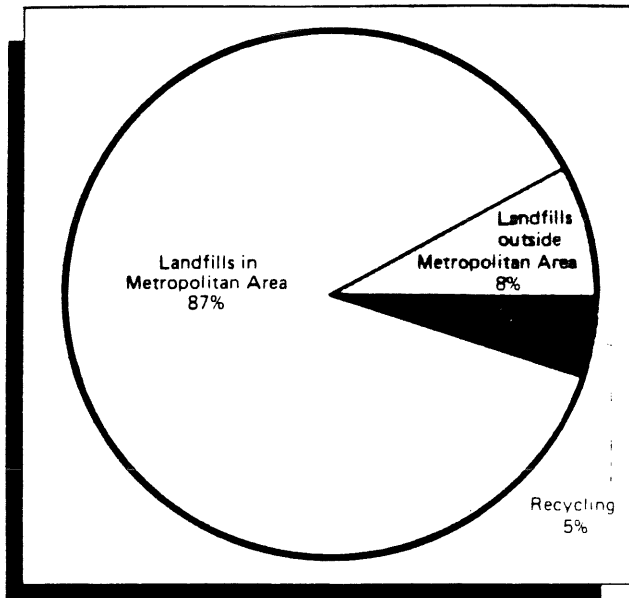


Figure 2
WHERE DOES MUNICIPAL WASTE GO NOW?



eliminating the potential for generating methane gas and dramatically narrowing the range of potential contaminants that could seep into groundwater. This will make it easier to monitor and maintain an environmentally acceptable facility.

Nuisance impacts—odor, noise, dust, litter and traffic—will be less. This benefit, coupled with a lower level of environmental risk, may lessen the potential for decrease in the market values of adjacent properties.

Economic gains may accrue through development of industry to process and utilize waste materials. Use of solid waste as fuel can play a limited role in reducing reliance on fuels imported into the region. The physical stability of processed wastes may make new landfills more amenable to productive uses after they are closed.

What Needs to Be Done

The regional plan now being finalized by the Council will set goals for waste reduction and processing, and a timetable for achieving them. It will also identify how much landfill capacity will be needed for residual materials and establish a schedule for developing land disposal facilities. The Council has held hearings on a draft of the plan, and it is scheduled for adoption by the end of February.

Master plans developed by the counties will identify steps to achieve the goals in the Council's regional plan. Cities, townships and counties will need to develop programs to reduce waste, recover usable materials and process the remainder for energy or other products. Planning and developing large-scale projects, like waste-burning plants, will be done under the counties' direction. Programs such as recycling and composting of leaves, grass clippings or other yard wastes will involve cities and townships as well as the counties.

After 1990, only residuals from waste utilization processes, like ash, or some special wastes, like demolition debris,

would go to landfills. Figure 3 shows how municipal waste would be dealt with in the future.

Requiring the Separation of Yard Waste and Recyclable Materials at the Source by 1988

Proposed Legislation

The Council proposes legislation requiring local governments to adopt ordinances by 1988 that make sure yard wastes (like leaves and grass clippings) and recyclable materials (like glass bottles and newspapers) are not mixed with other solid wastes.

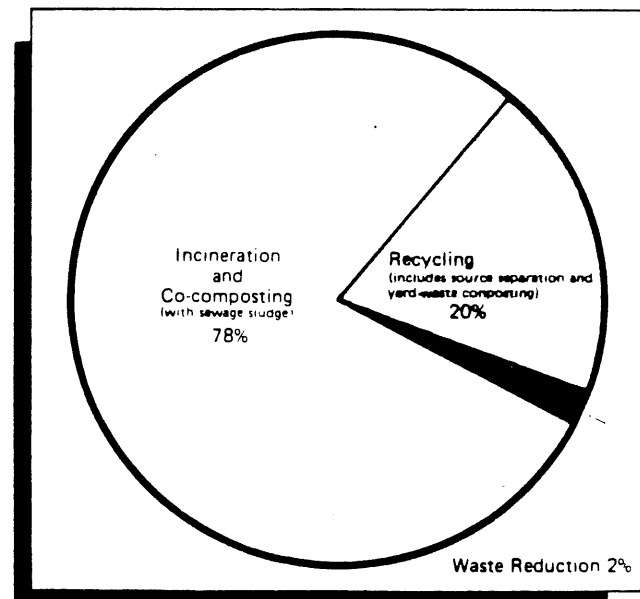
Why Action Is Needed Now

The proposal is needed to support the goal of diverting all unprocessed municipal waste from landfills by 1990. It will also assure local governments and the private sector that these materials will be available—an assurance that is needed before dependable reuse programs can be developed.

Benefits

Glass, newsprint and metals can be recovered and reused. Composting yard waste creates a desirable product for landscaping, gardening and agriculture. Source separation captures a cleaner, higher-quality product and lowers costs of processing the remaining waste material. These materials represent a sizeable portion of the total waste stream—yard waste alone can be 60 percent of a household's waste in summer, perhaps as much as 18 percent over a year's time. By recovering these materials less landfill space is used; existing landfill space will last longer; fewer new landfills will be needed.

Figure 3
HOW COULD MUNICIPAL WASTE BE MANAGED IN THE FUTURE?



Resource recovery and other processing facilities for the remaining waste can be smaller because waste volumes are smaller and the wide seasonal changes in volume are dramatically reduced.

What Needs to Be Done

Local governments would need to pass ordinances:

- requiring homeowners, businesses and others to separate recyclable materials from other wastes; and
- prohibiting disposal of yard wastes with mixed municipal waste.

The requirement will create a modest burden for homeowners and businesses. It means that all wastes could not be placed in the same bag or can for collection. Under the legislation, however, neither the state nor the Metropolitan Council would specify how the requirement would be met—for example, how many bins would be needed for recycling. This approach would permit local governments to tailor the requirement in a way that's responsive to local concerns and keep any burden to a minimum.

How would the prohibition be enforced? Surveys show that the interest in recycling is strong, and similar programs around the country show a high compliance rate. Many people will cooperate voluntarily because it is the law. Many will do so because it is simple and convenient. Such a requirement will also raise people's awareness of recycling's benefits.

Local governments will need to develop programs providing alternative disposal methods for recyclables and yard wastes. But it leaves the decision on the kind of program—public, private or combined effort—where it belongs, with local government.

Increasing Funding for Waste Recovery Efforts

Proposed Legislation

Two legislative proposals would provide additional funding for waste recovery efforts. The first would broaden the Council's existing authority that permits it to sell \$15 million in bonds for new landfills. This proposal would allow funds to be used by local units of government for projects that reduce the amount of waste generated or recover useful materials and energy from waste.

The second proposal is a request to increase, by appropriation, the amount of monies available initially to the Council to assist programs for reuse and recovery of materials, public education, technical assistance, and market development.

Why Action Is Needed Now

Major changes to the solid waste system will not occur without resources to plan for and provide them. Some resources are already available. The Minnesota Pollution Control Agency, state Waste Management Board, Department of Economic Development, the Council, counties and some

cities can provide information or funding for project and program development. The Council has created an assistance team that can provide information and help to local governments and the private sector in developing alternatives. But additional funding is needed.

If waste recovery programs were eligible for funding under the Council's bonding authority, it would help make needed funding available to the governmental units charged with implementing such programs. No increase in bonding authority is being requested. A large share of the existing \$15 million authorization will be available because fewer landfills will be needed than originally thought.

An appropriation would also provide needed support to waste recovery programs. The 1984 amendments to the Waste Management Act created a surcharge on solid waste going to landfills. A portion of this fee will be administered by the Council to fund such programs, but revenues will accrue slowly. Estimates indicate the fund will total slightly over \$1 million annually. However, a substantial portion of this money will not be available until 1986. Lack of adequate funding could contribute to counterproductive competition between county, municipal and private efforts. The Council will request that a somewhat more sizeable fund be appropriated in 1985 that will be repaid in future years through the surcharge revenues.

What Needs to Be Done

Funds raised through the waste surcharge would be directed at supporting low-technology projects, like those for recycling and composting. Funds obtained through the sale of bonds would be available to counties and other local units of government to fund capital costs of such low-technology projects and small-scale, high-technology facilities, like small waste-burning plants. The counties or private project proposers would continue to be responsible for arranging for funding large-scale, high-technology projects, like large waste-burning plants.

Benefits

These proposals would provide needed funding for efforts that will help reduce the region's reliance on landfills—efforts that could falter without such support. They will provide an incentive for counties, cities and townships to develop effective waste recovery programs by easing the costs borne by local governmental units at the crucial, beginning stage of developing these programs.

Certificate-of-Need Standards for Landfills

Proposed Legislation

The Council recommends a change in existing legislation so it can adopt standards for certificates of need for landfills in 1985.

Why Action Is Needed Now

No expansions or new landfills in the Twin Cities Region

can receive a state permit without first obtaining a certificate of need from the Council. The Council cannot issue a certificate unless it is clear that the landfill capacity is needed and that the landfill is the only possible means to dispose of the waste.

Although the Council is required to adopt standards for certificates of need, current legislation does not allow it to do so until at least mid-1986. The delay occurs because new county solid waste plans must first be submitted to the Council. The plans are not due for a year.

The Council believes these standards are needed now, before the counties complete their plans. The standards will clarify what requirements must be met before a certificate can be issued—information the counties and the private waste management industry need for them to plan ahead.

Benefits

Timely adoption of standards will put the Council on record regarding when, where and under what circumstances landfills will be permitted.

The counties' solid waste plans can be more complete, with the need for later revisions possibly avoided. For the private sector, the standards will help clarify the future role of this important part of the waste system.

What Needs to Be Done

Only a minor amendment in the 1980 state Waste Management Act is needed to enable this change in the schedule for adopting certificate-of-need standards.

Alternatives to Sludge Ash Landfills

Proposed Legislation

This legislative proposal would allow the Council to speed up its evaluation of alternatives to a new landfill for sludge ash. Sludge is the solid material remaining after sewage treatment; ash is left over from burning the sludge.

Why Action Is Needed Now

Sewage treatment plants in the Twin Cities Region produce about 600 tons of sludge a day. The Metropolitan Waste Control Commission (MWCC) burns most of it, producing about 70 tons of ash daily. In the 1980 state Waste Management Act, the legislature required the Council to find a site for a landfill to accept the ash. The landfill would be owned and operated by the MWCC.

When the state waste act was adopted in 1980, no one doubted that sludge ash would have to be disposed of in a landfill. However, since that time, projects have seen some success in finding uses for the ash; for example, blending ash with asphalt for paving roads. The question then becomes: If alternative uses can take care of some or a

large amount of the ash, is a landfill solely for sludge ash really necessary?

Answering that question requires a complete analysis of alternatives before a new landfill site is acquired. A change in the state law is needed to make sure such an analysis is done before a decision about a site.

Benefits

The goal is to find as many productive uses for the ash as possible. If some of the ash must go to a landfill, lands now productively farmed would not have to be used if other facilities can take the ash.

Should a new landfill prove to be the only available option, decision-makers and the public will know that this course was chosen only after all possible alternatives were thoroughly explored.

What Needs to Be Done

Before an environmental impact statement is completed on possible landfill sites and before a site is acquired, there needs to be a comprehensive evaluation of alternative uses of sludge ash—which are feasible and how much ash can be used. In other words, the steps required by existing legislation need to be reversed.

In addition, even if some of the ash must go to a landfill, the idea of a new landfill only for sludge ash needs to be rethought. It may well be possible to dispose of sludge ash along with the ash from resource recovery facilities or with fly ash from power plants.

These proposals represent the Metropolitan Council's position as of the publication date shown below. They may change during the 1985 session of the Minnesota Legislature. If you have questions or comments about the proposals, please call the Council's Communications Department at 291-6464.

Feb. 5, 1985
Publication No. 12-84-151

12/27/84

DRAFT LEGISLATION: SOLID WASTE

Minn. Stat. §473.823, subd. 3 (1982) is amended to read as follows:

Subd. 3. SOLID WASTE FACILITIES; REVIEW PROCEDURES. The agency shall request applicants for solid waste facility permits to submit all information deemed relevant by the council to its review, including without limitation information relating to the geographic areas and population served, the need, the effect on existing facilities and services, the anticipated public cost and benefit, the anticipated rates and charges, the manner of financing, the effect on metropolitan plans and development programs, the supply of waste, anticipated markets for any product, and alternative means of disposal or energy production. No permit may be issued for the operation of a solid waste facility in the metropolitan area which is not in accordance with the metropolitan council's solid waste policy plan. The metropolitan council shall determine whether a permit is in accordance with the policy plan. In making its determination, the council shall consider the area-wide need and benefit of the applicant facility and may consider, without limitation, the effect of the applicant facility on existing and planned solid waste facilities described in a waste control commission development program or county report or master plan. If the council determines that a permit is in accordance with its policy plan, the council shall approve the permit. If the council determines that a permit is not in accordance with its policy plan, it shall disapprove the permit. The council's approval of permits may be subject to conditions necessary to satisfy criteria and standards in its policy plan, including conditions respecting the type, character, and quantities of waste to be processed at a solid waste facility used primarily for resource recovery and the geographic territory from which a resource recovery facility or transfer station serving such a facility may draw its waste. For the purpose of this review and approval by the council, the agency shall send a copy of each permit application and any supporting information furnished by the applicant to the metropolitan council within 15 days after receipt of the application and all other information requested from the applicant. Within 60 days after the application and supporting information are received by the council, unless a

time extension is authorized by the agency, the council shall issue to the agency in writing its determination whether the permit is disapproved, approved, or approved with conditions. If the council does not issue its determination to the agency within the 60 day period, unless a time extension is authorized by the agency, the permit shall be deemed to be in accordance with the council's policy plan. No permit shall be issued in the metropolitan area for a solid waste facility used primarily for resource recovery or a transfer station serving such a facility, if the facility or station is owned or operated by a public agency or if the acquisition or betterment of the facility or station is secured by public funds or obligations issued by a public agency, unless the council finds and determines that adequate markets exist for the products recovered and that establishment of the facility is consistent with the criteria and standards in the metropolitan and county plans respecting the protection of existing resource recovery facilities and transfer stations serving such facilities. No permit shall be issued or reissued for facilities located within the metropolitan area which authorizes the disposal of unprocessed mixed municipal solid waste in a solid waste disposal facility after January 1, 1990.

Minn. Stat. §473.801 (1982) is amended by adding the following subdivisions:

Subd. 5. "Unprocessed mixed municipal solid waste" means mixed municipal solid waste from which recoverable materials identified by the metropolitan council have not been excluded and which has not been subject to a resource recovery process identified by the metropolitan council.

Minnesota Statutes Section 473.811, subd. 5 (1982) is amended to read as follows:

Subd. 5. ORDINANCES; SOLID WASTE COLLECTION AND TRANSPORTATION. Each metropolitan county may adopt ordinances governing the collection of solid waste. Each local unit of government within the metropolitan area shall adopt

an ordinance governing the collection of solid waste within its boundaries. Such ordinances shall require, by January 1, 1988, that recoverable materials identified by the metropolitan council be excluded from solid waste collected for land disposal or for delivery to a resource recovery facility. If the county within which it is located has adopted an ordinance, the local unit shall adopt either the county ordinance by reference or a more strict ordinance. Ordinances of counties and local government units may establish reasonable conditions respecting but shall not prevent the transportation of solid waste by a licensed collector through and between counties and local units, except as required for the enforcement of any designation of a facility by the council pursuant to section 473.827. A licensed collector or a metropolitan county or local government unit may request review by the council of an ordinance adopted under this subdivision. The council shall approve or disapprove the ordinance within 60 days of the submission of a request for review. The ordinance shall remain in effect unless it is disapproved. Ordinances of counties and local units of government shall provide for the enforcement of any designation of facilities by the council under section 473.827. Nothing in this subdivision shall be construed to limit the authority of the local government unit to regulate and license collectors of solid waste or to require review or approval by the council for ordinances regulating collection.

Minnesota Statutes Section 473.823, subd. 6 (1984 Supp.), is amended to read as follows:

Subd. 6. COUNCIL; CERTIFICATION OF NEED. No new mixed municipal solid waste disposal facility or capacity shall be permitted in the metropolitan area without a certificate of need issued by the council indicating the council's determination that the additional disposal capacity planned for the facility is needed in the metropolitan area. The council shall amend its policy plan, adopted pursuant to section 473.149, to include standards and procedures for certifying need. The standards and procedures shall be based on the council's disposal abatement plan adopted pursuant to section 473.149, subdivision 2d, and the council's solid waste disposal facilities development schedule adopted under section 473.149, subdivision 2e . ~~and the master plans of counties adopted pursuant to section 473.803, subdivision 1b and approved by the council under section 473.803, subdivision 2.~~ The council shall

certify need only to the extent that there are no feasible and prudent alternatives to the disposal facility, including waste reduction, source separation and resource recovery which would minimize adverse impact upon natural resources. Alternatives that are speculative or conjectural shall not be deemed to be feasible and prudent. Economic considerations alone shall not justify the certification of need or the rejection of alternatives. In its certification the council shall not consider alternatives which have been eliminated from consideration by the adoption of the inventory pursuant to section 473.149, subdivision 2b, or the selection of sites under section 473.833, subdivision 3.

Minnesota Statutes §473.831, subdivision 1 (1984 Supp.), is amended to read as follows:

Subdivision 1. GENERAL OBLIGATION BONDS. The council may by resolution authorize the issuance of general obligation bonds of the council to provide funds for the environmental analysis and acquisition of permanent or temporary right, title, or interest in real property, including easements and development rights, for sites and surrounding buffer areas for solid waste disposal facilities pursuant to this section and sections 473.833 and 473.840 and for the acquisition or betterment of solid waste facilities, other than disposal facilities, related transmission facilities, or property or property rights for the facilities, and to provide funds for refunding obligations issued under this section. The bonds shall be sold, issued, and secured in the manner provided in chapter 475 for general obligation bonds, and the council shall have the same power and duties as a municipality and its governing body in issuing bonds under chapter 475, except as otherwise provided in this chapter. No election shall be required, and the net debt limitations in chapter 475 shall not apply. The council shall have the power to levy ad valorem taxes for debt service of the council's solid waste bonds upon all taxable property within the metropolitan area, without limitation of rate or amount and without affecting the amount of rate of taxes which may be levied by the council for other purposes or by any local government unit in the area. Each of the county auditors shall annually assess and extend upon the tax rolls

in his county the portion of the taxes levied by the council in each year which is certified to him by the council. The principal amount of bonds issued pursuant to this section shall not exceed \$15,000,000.

Minnesota Statutes, §473.831, subdivision 2, (1984 Supp.), is amended to read as follows:

Subd. 2. USE OF PROCEEDS. The proceeds of bonds issued under subdivision 1 shall be used by the council, for the purposes provided in subdivision 1 and to make grants to metropolitan counties to pay the cost of the environmental review of sites, the acquisition of development rights for all or part of the period that the development limitation imposed by section 473.806 is in effect, and the acquisition of all property or interests in property for solid waste disposal sites and surrounding buffer areas required to be acquired by the county, pursuant to sections 473.833 and 473.840, by the council's policy plan and development schedule adopted pursuant to section 473.149, subdivision 2e, and to make grants to metropolitan counties and local governmental units for the purposes provided in subdivision 1. If the council is required by law or regulation to prepare environmental analyses on one or more solid waste disposal sites and surrounding buffer areas, the council may use the proceeds of the bonds issued under subdivision 1 to contract for consultant services in the preparation of such analyses only upon a finding that equivalent expertise is not available among its own staff.

Subdivision 1. AMOUNTS. The following amounts are appropriated from the general fund to the agency for the biennium ending June 30, 1986:

(1) for a grant to the metropolitan council for grants and loans under 473.844, subd. 1,(1), \$ _____ ;

(2) for a grant to the metropolitan council for grants under 473.844, subd. 1 (2), \$ _____ ;

(3) for a grant to the metropolitan council for grants and loans under 473.844, subd. 1 (3), \$ _____ ; and

(4) for a grant to the metropolitan council under 473.844, subd. 1 (4), \$ _____ .

Subd. 2. REIMBURSEMENT. Any amount expended by the agency and metropolitan council from the appropriations in subdivision 1 shall be reimbursed to the general fund, and the amount necessary to make the reimbursement is appropriated from the landfill abatement fund to the commissioner of finance for transfer to the general fund.

RA023B

DRAFT solid waste amendments prepared by Tom Iodd and being circulated for comment by Sue Robertson (Legislative Commission on Waste Management)

1 Section 1. Minnesota Statutes 1984, section 115A.03,
2 subdivision 27, is amended to read:

3 Subd. 27. "Resource recovery" means the reclamation for
4 sale, use, or reuse of materials, substances, energy, or other
5 products contained within or derived from waste.

6 Sec. 2. Minnesota Statutes 1984, section 115A.84,
7 subdivision 3, is amended to read:

8 Subd. 3. [PLAN APPROVAL.] A district or county planning a
9 designation for waste generated wholly within the metropolitan
10 area defined in section 473.121 shall submit its designation
11 plan to the metropolitan council for review and approval or
12 disapproval. Other districts or counties shall submit the
13 designation plan to the waste management board for review and
14 approval or disapproval. The reviewing authority shall complete
15 its review and make its decision within ~~90~~ 120 days following
16 submission of the plan for review. The reviewing authority
17 shall approve the designation plan if the plan satisfies the
18 requirements of subdivision 2.

19 Sec. 3. Minnesota Statutes 1984, section 115A.84,
20 subdivision 4, is amended to read:

21 Subd. 4. [EXCLUSION OF CERTAIN MATERIALS.] When it
22 approves the designation plan, the reviewing authority shall
23 exclude from the designation materials that the reviewing
24 authority determines will be processed at another resource

1 recovery facility if:

2 (1) the other resource recovery facility is substantially
3 completed or will be substantially completed within 18 months of
4 the time that the designation plan is approved by the reviewing
5 authority; and

6 (2) the other facility has or will have contracts for
7 purchases of its product; and

8 (3) the materials are or will be under contract for
9 delivery to the other facility at the time the other facility is
10 completed.

11 In order to qualify for the exclusion of materials under
12 this subdivision, the operator or owner of the other resource
13 recovery facility shall file with the reviewing authority and
14 the district or county or counties a written description of the
15 facility, its intended location, its waste supply sources,
16 purchasers of its products, its design capacity and other
17 information that the reviewing authority and the district or
18 county or counties may reasonably require. The information must
19 be filed as soon as it becomes available but not later than 30
20 days following the date when the county or district submits its
21 designation plan for approval.

22 The reviewing authority may revoke the exclusion granted
23 under this subdivision when it approves the designation
24 ordinance under section 115A.86 if in its judgment the excluded
25 materials will not be processed at the other facility.

26 Sec. 4. Minnesota Statutes 1984, section 473.153,
27 subdivision 1, is amended to read:

28 Subdivision 1. [FACILITIES REQUIRED.] Except as provided
29 in subdivision 7 and section 115A.33, all sewage sludge disposal
30 facilities and facilities for the disposal of solid waste
31 generated by the metropolitan waste control commission shall be
32 established and operated in accordance with this section and
33 section 473.516. The council and the commission shall establish
34 the facilities needed for the disposal of sewage sludge and
35 solid waste generated by the commission. ~~The council and the~~
36 ~~commission shall establish at least one facility.~~

1 Sec. 5. Minnesota Statutes 1984, section 473.153,
2 subdivision 3, is amended to read:

3 Subd. 3. [~~MORATORIUM~~ DEVELOPMENT LIMITATION.] In order to
4 permit the comparative evaluation of sites and the participation
5 of affected localities in decisions about the use of sites, a
6 moratorium metropolitan development limitation is hereby imposed
7 as provided in this subdivision on development within the area
8 of each candidate site and buffer area selected by the council.
9 The moratorium limitation shall extend until six months
10 following the council's decision under subdivision 6 or until
11 January 1, 1987, whichever occurs first. No development shall
12 be allowed to occur within the area of a site or buffer area
13 during the period of the moratorium metropolitan development
14 limitation without the approval of the council. No county,
15 city, or town land use control shall permit development which
16 has not been approved by the council, nor shall any county,
17 city, or town sanction or approve any subdivision, permit,
18 license, or other authorization which would allow development to
19 occur which has not been approved by the council. The council
20 shall not approve actions which would jeopardize the
21 availability of a candidate site for use as a solid waste
22 facility. The council may establish guidelines for reviewing
23 requests for approval under this subdivision. Requests for
24 approval shall be submitted in writing to the chairman of the
25 council and shall be deemed to be approved by the council unless
26 the chairman otherwise notifies the submitter in writing within
27 15 days.

28 Sec. 6. Minnesota Statutes 1984, section 473.153, is
29 amended by adding a subdivision to read:

30 Subd. 3a. [ACQUISITION OF TEMPORARY DEVELOPMENT
31 RIGHTS.] If pursuant to subdivision 3 the council refuses to
32 approve development that is permitted by local development
33 plans, land use classification, and zoning and other official
34 controls applying to the property on February 1, 1983, the land
35 owner may elect to have the metropolitan waste control
36 commission purchase temporary development rights to the property

1 for the period extending from the date when the council selected
2 the site as a candidate site under subdivision 2 until January
3 1, 1988. The election must be made within 30 days of the
4 council's decision to refuse to approve development. The land
5 owner's compensation must be determined by the agreement of the
6 owner, the commission, and the council. If the parties cannot
7 agree within 60 days of the owner's election, the commission
8 shall acquire the temporary development rights through eminent
9 domain proceedings, and the land owner's compensation must be
10 the fair market value of the temporary development rights.

11 Sec. 7. Minnesota Statutes 1984, section 473.153,
12 subdivision 5, is amended to read:

13 Subd. 5. [ENVIRONMENTAL REVIEW.] If the council issues a
14 certificate of need under subdivision 6b, an environmental
15 impact statement must be completed on the environmental effects
16 of the council's decisions required-by under subdivision 6. The
17 council shall begin preparing the environmental impact statement
18 within 30 days of its decision to issue a certificate of need.
19 The statement must be prepared and reviewed in accordance with
20 chapter 116D and the rules issued pursuant thereto, except as
21 otherwise required by this section. The statement must not
22 address or reconsider alternatives eliminated from consideration
23 pursuant to subdivisions 1 and 2 and-must-not-address-the
24 matters-to-be-decided-by-the-council-pursuant-to-subdivision-6b.

25 Sec. 8. Minnesota Statutes 1984, section 473.153,
26 subdivision 6b, is amended to read:

27 Subd. 6b. [CERTIFICATION OF NEED.] No new facility for
28 disposing of ash and other waste generated by the commission
29 shall be permitted in the metropolitan area without a
30 certification of need issued by the council indicating the
31 council's determination:

32 (a) that the disposal of waste with concentrations of
33 hazardous materials is necessary; and

34 (b) that the additional ash disposal capacity planned for
35 the facility is needed.

36 The council shall certify need only to the extent that

1 there are no feasible and prudent methods of reducing the
2 concentrations of hazardous materials in the waste and no
3 feasible and prudent alternatives to the ash disposal facility,
4 including large-scale composting and co-composting of sludge,
5 which would minimize adverse impact upon natural resources.
6 Methods and alternatives that are speculative or conjectural
7 shall not be deemed to be feasible and prudent. Economic
8 considerations alone shall not justify the certification of need
9 or the rejection of methods or alternatives, including
10 large-scale composting and co-composting of sludge as an
11 alternative to incineration. In its certification the council
12 shall not consider alternatives which have been eliminated from
13 consideration by the selection of sites pursuant to subdivisions
14 subdivision 2 and-6. The council shall determine whether to
15 issue a certificate of need by January 1, 1987.

16 Sec. 9. Minnesota Statutes 1984, section 473.153,
17 subdivision 7, is amended to read:

18 Subd. 7. [EXEMPTIONS.] Nothing in this section shall be
19 construed to preclude the commission from continuing to use
20 existing sewage sludge disposal facilities. In addition, to the
21 same extent and upon the same conditions as sewage sludge may be
22 applied on private property pursuant to section 473.516,
23 subdivisions 3 and 4, the commission may use any site consisting
24 of less than 500 acres owned and currently used by the
25 commission for the purpose of landspreading sewage sludge for-a
26 ~~period-no-longer-than-four-years--Any-property-currently-used~~
27 ~~by-the-commission-and-permitted-by-the-agency-for-disposing-of~~
28 ~~the-commission's-solid-waste-may-continue-to-be-used-for-that~~
29 ~~purpose-by-the-commission-as-permitted-by-the-agency-for-a~~
30 ~~period-not-to-exceed-four-years.~~

31 Sec. 10. Minnesota Statutes 1984, section 473.823,
32 subdivision 6, is amended to read:

33 Subd. 6. [COUNCIL; CERTIFICATION OF NEED.] No new mixed
34 municipal solid waste disposal facility or capacity shall be
35 permitted in the metropolitan area without a certificate of need
36 issued by the council indicating the council's determination

1 that the additional disposal capacity planned for the facility
2 is needed in the metropolitan area. The council shall amend its
3 policy plan, adopted pursuant to section 473.149, to include
4 standards and procedures for certifying need. The standards and
5 procedures shall be based on the council's disposal abatement
6 plan adopted pursuant to section 473.149, subdivision 2d, and
7 the council's solid waste disposal facilities development
8 schedule adopted under section 473.149, subdivision 2e-and-the
9 ~~master-plans-of-counties-adopted-pursuant-to-section-473.803,~~
10 ~~subdivision-1b-and-approved-by-the-council-under-section~~
11 ~~473.803,-subdivision-2.~~ The council shall certify need only to
12 the extent that there are no feasible and prudent alternatives
13 to the disposal facility, including waste reduction, source
14 separation and resource recovery which would minimize adverse
15 impact upon natural resources. Alternatives that are
16 speculative or conjectural shall not be deemed to be feasible
17 and prudent. Economic considerations alone shall not justify
18 the certification of need or the rejection of alternatives. In
19 its certification the council shall not consider alternatives
20 which have been eliminated from consideration by the adoption of
21 the inventory pursuant to section 473.149, subdivision 2b, or
22 the selection of sites under section 473.833, subdivision 3.

23 Sec. 11. Minnesota Statutes 1984, section 473.823, is
24 amended by adding a subdivision to read:

25 Subd. 7. [RESTRICTION ON DISPOSAL.] After January 1, 1990,
26 waste facilities located in the metropolitan area may not accept
27 mixed municipal solid waste for disposal unless the waste has
28 been transferred to the disposal facility from a resource
29 recovery facility identified by the council. The council shall
30 notify each permitted disposal facility in the metropolitan area
31 of all resource recovery facilities identified for this purpose.

32 Sec. 12. Minnesota Statutes 1984, section 473.831, is
33 amended to read:

34 473.831 [DEBT OBLIGATIONS; SOLID WASTE DISPOSAL.]

35 Subdivision 1. [GENERAL OBLIGATION BONDS.] The council may
36 by resolution authorize the issuance of general obligation bonds

1 of the council to provide funds for the environmental-analysis
2 and-acquisition-of-permanent-or-temporary-right,-title,-or
3 interest-in-real-property,-including-easements-and-development
4 rights,-for-sites-and-surrounding-buffer-areas-for-solid-waste
5 disposal-facilities-pursuant-to-this-section-and-sections
6 473.833-and-473.840 purposes specified in subdivision 2 and to
7 provide-funds for refunding obligations issued under this
8 section. The bonds shall be sold, issued, and secured in the
9 manner provided in chapter 475 for general obligation bonds, and
10 the council shall have the same power and duties as a
11 municipality and its governing body in issuing bonds under
12 chapter 475, except as otherwise provided in this chapter. No
13 election shall be required, and the net debt limitations in
14 chapter 475 shall not apply. The council shall have the power
15 levy ad valorem taxes for debt service of the council's solid
16 waste bonds upon all taxable property within the metropolitan
17 area, without limitation of rate or amount and without affecting
18 the amount or rate of taxes which may be levied by the council
19 for other purposes or by any local government unit in the area.
20 Each of the county auditors shall annually assess and extend
21 upon the tax rolls in his county the portion of the taxes levied
22 by the council in each year which is certified to him by the
23 council. The principal amount of bonds issued pursuant to this
24 section shall not exceed \$15,000,000.

25 Subd. 2. [USE OF PROCEEDS.] The proceeds of bonds issued
26 under subdivision 1 shall be used by the council,-for-the
27 purposes-provided-in-subdivision-1-and to provide funds for the
28 environmental analysis of solid waste disposal sites and to make
29 grants to metropolitan counties to pay the cost of the
30 environmental review of sites, the acquisition of development
31 rights for all or part of the period that the development
32 limitation imposed by section 473.806 is in effect, and the
33 acquisition of all-property-or permanent or temporary right,
34 title, or interests in property, including easements and
35 development rights, for solid waste disposal sites and
36 surrounding buffer areas required to be acquired by the county,

1 pursuant to sections 473.833 and 473.840, by the council's
2 policy plan and development schedule adopted pursuant to section
3 473.149, subdivision 2e, and the acquisition or betterment of
4 resource recovery facilities. If the council is required by law
5 or regulation to prepare environmental analyses on one or more
6 solid waste disposal sites and surrounding buffer areas, the
7 council may use the proceeds of the bonds issued under
8 subdivision 1 to contract for consultant services in the
9 preparation of such analyses only upon a finding that equivalent
10 expertise is not available among its own staff.

11 Sec. 13. Minnesota Statutes 1984, section 473.840,
12 subdivision 2, is amended to read:

13 Subd. 2. [DEFINITIONS.] (a) "Qualifying property" is a
14 parcel of real property any part of which is located within the
15 site or buffer area of a candidate site selected under section
16 473.153, subdivision 2, ~~for purposes of environmental review~~
17 ~~under subdivision 5 of that section,~~ or a site included in the
18 metropolitan inventory adopted under section 473.149,
19 subdivision 2b, for the purposes of environmental review under
20 section 473.833, subdivision 2a.

21 (b) An "eligible owner" is a person who: (1) owns the
22 entire parcel of qualifying property; (2) owned the entire
23 parcel of property at the time the site was selected as a
24 candidate site or included in the metropolitan inventory; (3)
25 since the site was selected or included in the inventory, has
26 for at least six months offered to sell the entire parcel on the
27 open market through a licensed real estate agent; and (4) has
28 not previously entered a contract under subdivision 4 for the
29 sale of any or all of the parcel.

30 Sec. 14. Minnesota Statutes 1984, section 473.840,
31 subdivision 3, is amended to read:

32 Subd. 3. [CONTRACT REQUEST.] An eligible owner of property
33 qualifying under section 473.153 may request in writing that the
34 waste control commission and the metropolitan council enter a
35 contract for the purchase of the property as provided in
36 subdivision 4. An eligible owner of property qualifying under

1 sections 473.149 and 473.833 may request in writing that the
2 county in which the property is located and the metropolitan
3 council enter a contract for the purchase of property as
4 provided in subdivision 4. A contract may not be executed under
5 subdivision 4 if the council has determined not to issue a
6 certificate of need under section 473.153 or after the
7 determination of adequacy of the environmental impact
8 statement. Environmental review commences on the day of
9 publication of the environmental impact statement preparation
10 notice.

11 Sec. 15. Minnesota Statutes 1984, section 473.840,
12 subdivision 4, is amended to read:

13 Subd. 4. [CONTRACT; TERMS AND REQUIREMENTS.] The council
14 and the county or commission shall enter a contract as provided
15 in this subdivision with an eligible owner of qualifying
16 property who requests the council and the county or commission
17 to enter the contract as provided in subdivision 3. The council
18 and the county or commission have 90 days to act on a request
19 submitted under subdivision 3. The contract must include at
20 least the following terms:

21 (a) The owner must offer to sell the entire parcel of
22 property on the open market through a licensed real estate agent
23 approved by the council for at least a six-month period
24 beginning within one month after the appraised market value of
25 the property is determined as provided in paragraph (b). The
26 offer to sell must be made at no more than the appraised market
27 value.

28 (b) The appraised market value of the property must be
29 determined by an appraiser selected by the council. If the
30 owner disagrees with the appraisal the owner shall select an
31 appraiser to make a second appraisal. If a second appraisal is
32 made, the council and the owner may agree on an appraised market
33 value equal to either the first or second appraisal or any
34 amount between those appraisals. If the council and owner do
35 not agree on an appraised market value the two appraisers shall
36 select a third appraiser, and the appraised market value must be

1 determined by a majority of the three appraisers. Appraisers
2 must be selected from the approved list of real property
3 appraisers of the state commissioner of administration.
4 Appraisers shall take an oath that they have no interest in any
5 of the property to be appraised or in the purchase thereof.
6 Each party shall pay the cost of the appraiser selected by that
7 party and shall share equally in the cost of a third appraiser
8 selected under this paragraph. The appraised market value of
9 the property may not be increased or decreased by reason of its
10 selection as a candidate or inventoried site or buffer area.

11 (c) The county or commission must purchase the entire
12 parcel of property at the appraised market value determined
13 under paragraph (b) if: (1) the council determines, based upon
14 affidavits provided by the owner and the real estate agent and
15 other evidence the council may require, that the owner has made
16 a good faith effort to sell the property as provided in
17 paragraph (a) and has been unable to sell the property at the
18 appraised market value; (2) the council determines that the
19 owner will be subject to undue hardship as a result of failure
20 to sell; (3) the county or commission determines that the owner
21 has marketable title to the property and that the owner has
22 cured any defects in the title within a reasonable time as
23 specified in the contract; and (4) the owner conveys the
24 property by warranty deed in a form acceptable to the county or
25 commission.

26 (d) The owner may not assign or transfer any rights under
27 the contract to another person.

28 (e) The contract expires and the obligations of the parties
29 under the contract cease when the property is sold or is either
30 selected or eliminated from consideration by a final decision of
31 the council under section 473.153, subdivision 6, section
32 473.153, subdivision 6b, or by a final decision of the county
33 site selection authority or council under section 473.833,
34 subdivision 3.

35 (f) The council and the commission or county may require
36 other terms of contract that are consistent with the purposes of

1 this section and necessary to protect the interests of the
2 parties.

3 Sec. 16. Minnesota Statutes 1984, section 473.842, is
4 amended by adding a subdivision to read:

5 Subd. 1a. [CLOSURE.] "Closure" means actions that will
6 prevent, mitigate, or minimize the threat to public health and
7 the environment posed by a closed solid waste disposal facility
8 including application of final cover; grading and seeding of
9 final cover; installation of an adequate monitoring system, if
10 necessary; and construction of ground and surface water
11 diversion structures.

12 Sec. 17. Minnesota Statutes 1984, section 473.842, is
13 amended by adding a subdivision to read:

14 Subd. 4a. [POSTCLOSURE, POSTCLOSURE CARE.] "Postclosure,"
15 and "postclosure care" mean actions taken for the care,
16 maintenance, and monitoring of a solid waste disposal facility
17 after closure that will prevent, mitigate, or minimize the
18 threat to public health and environment posed by the closed
19 facility.

20 Sec. 18. Minnesota Statutes 1984, section 473.844,
21 subdivision 5, is amended to read:

22 Subd. 5. [LANDFILL ABATEMENT COST RECOVERY.] By January
23 31, 1986, and each January 31 afterwards, the director-of-the
24 agency council shall pay each statutory and home rule charter
25 city and town in the metropolitan area an amount not to exceed
26 50 cents per household, as defined in section 477A.011,
27 subdivision 3a, for qualifying landfill abatement and resource
28 recovery expenses incurred in the previous calendar year. To
29 qualify under this subdivision, the landfill abatement and
30 resource recovery must be included in the applicable county
31 master plan or approved by the metropolitan council and
32 the statutory or home rule charter city or town must certify
33 expenses for the landfill abatement and resource recovery. The
34 amounts necessary to make these payments are appropriated from
35 the metropolitan landfill abatement fund to the director-of-the
36 agency council.

1 Sec. 19. [APPROPRIATION.]

2 Subdivision 1. [AMOUNTS.] The following amounts are
3 appropriated from the general fund to the agency for the
4 biennium ending June 30, 1987:

5 (1) for a grant to the metropolitan council for expenditure
6 under section 473.844, subdivision 1, clause (1), \$.;

7 (2) for a grant to the metropolitan council for expenditure
8 under section 473.844, subdivision 1, clause (2), \$.;

9 (3) for a grant to the metropolitan council for expenditure
10 under section 473.844, subdivision 1, clause (3), \$.; and

11 (4) for a grant to the metropolitan council for expenditure
12 under section 473.844, subdivision 1, clause (4), \$.

13 Subd. 2. [REIMBURSEMENT.] Any amount expended by the
14 agency and metropolitan council from the appropriations in
15 subdivision 1 must be reimbursed to the general fund. In
16 addition to the appropriation for reimbursement in Laws 1984,
17 chapter 644, section 81, subdivision 2, the amount necessary to
18 make the reimbursement is appropriated from the landfill
19 abatement fund to the commissioner of finance for transfer to
20 the general fund.