

# **Minnesota Solid Waste History**

## **Major Milestones**

This information brief details the history of waste management policy from the 1960s, when open burning and dumping were common, through the 1980s, when the focus was on regulating the flow of waste and on recycling and reduction, to the current era, where policymakers are considering ways to reform the regulation of Minnesota's waste management system to conform to a reduction in government authority.

This information brief also tracks the implementation and evolution of the state's solid waste fees, charges, and taxes.

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## **The Early Years: Counties Are The Primary Actors, 1960s-1976**

### **1960s – Dumps and Burn Barrels**

- < Open burning and open dumping were the most common forms of waste management for municipal solid waste (MSW).
- < Numerous private and municipal dumps (1,500+)

### **1967 – Metropolitan Council and Minnesota Pollution Control Agency (MPCA) Created**

- < MPCA charged with developing rules and programs to protect air and water quality, and granted authority to oversee waste management.
- < Solid waste management was a charter responsibility of the Met Council.

### **1969-71 – Numerous Solid Waste Management Provisions Enacted and Rules Promulgated**

- < Individual counties (e.g. Blue Earth, Olmsted, and Wright counties) granted authority to manage solid waste within the county.
- < Prohibited open burning of garbage, as a general rule.
- < Established state solid waste permitting process.
- < Landfill requirements upgraded.
- < Sanitary landfill developments encouraged.
  - Open dumps were closed and sanitary landfills were established using county solid waste plans as a tool.
  - MPCA promulgated solid waste rules requiring disposal facilities to obtain permits and meet basic design and operational standards.
  - The landfills were mainly focused on controlling nuisance conditions associated with the operation of open dumps (litter, insects, rodent control).
- < First Metropolitan Regional Solid Waste Plan implemented.
  - Sanitary landfills emphasized.
  - Criteria adopted for selecting new landfill and transfer sites.
  - Thirteen landfills managed 90 percent of the region's municipal solid waste (MSW).
  - By 1973, about 1,500 operating dumps were replaced by 135 permitted sanitary landfills.
- < County Solid Waste Management Act
  - Empowered counties in Greater Minnesota to conduct solid waste management programs. (Metro area counties in 1975.)
  - Provided legal and operational tools for counties.
  - Metro area counties required to plan for solid waste management.
  - Repealed numerous single-county provisions enacted in 1969-1971.

### **1973 – Recycling Legislation Enacted**

- < Established state policy of encouraging waste reduction and waste recycling and resource recovery.
- < Granted authority and responsibility to the MPCA to promote waste reduction, recycling, and resource recovery.

< Established grant programs to promote recycling, conservation, and resource recovery.

### **1976 – Federal Resource Conservation and Recovery Act (RCRA) Enacted**

- < Formed a federal solid waste hierarchy with an emphasis on recycling, resource conservation, and resource recovery.
  - < Subtitle D required solid waste planning and new regulations for landfills.
  - < Federal government offered grants to states for solid waste planning and alternatives to disposal alternatives.

## **Focus Shifts To The Legislature, 1978-Early 1990s**

### **1978-80 – Joint Minnesota Legislative Committee on Solid and Hazardous Waste Formed**

- < Formation of the committee was a response to failed siting processes and a failure to implement recycling and resource recovery programs.
- < Held committee hearings around the state and developed legislation for the 1980 session.
- < Second Metro Region Solid Waste Plan implemented.
  - Hierarchy of waste management established.
  - Resource recovery and recycling emphasized.
  - Counties required to site landfills.
  - Met Council given Environmental Impact Statement (EIS) review responsibilities for waste facilities in region.
  - Served as outline for the 1980 legislation.

### **1980 – Minnesota Waste Management Act Enacted**

- < Established state waste management hierarchy (emphasizing “resource recovery” waste combustion, composting, and recycling over land disposal).
- < Created landfill siting process and solid waste planning responsibilities.
- < Solid waste abatement planning required in metropolitan area waste assurance provided (i.e., designation or flow control).
- < Waste Management Board created and given solid and hazardous waste responsibilities.
- < Provided grants to MPCA for solid waste planning and new technology for resource recovery.
- < Legislative Commission on Waste Management created.

### **1982-1984 – Development of Recycling and Resource Recovery**

- < First resource recovery facility opened (1982). Ultimately 15 mass burn and refuse-derived fuel facilities. (No new facilities in 1990s and five facilities have closed.)
- < Initial development of recycling and public education initiatives
- < Solid waste plans required to contain more information and be approved by the MPCA.

- < Landfill “Certificate of Need” legislation (enacted in 1982 for metro area, 1984 for Greater Minnesota).
  - No new mixed municipal solid waste disposal capacity without a determination that the capacity is needed.
  - Need certified only if there are no feasible and prudent alternatives, including waste reduction, recycling, and resource recovery.

### **1985 – Solid Waste Rules Adopted**

- < MPCA county solid waste planning rules adopted.
- < Also, legislation passed to prohibit unprocessed metro area waste from being disposed in landfills after January 1, 1990. [Minn. Stat. § 473.848](#).

### **Late 1980s – Various Refinements**

- < Waste tires cannot be disposed in the land. [Minn. Stat. § 115A.904](#).
- < Source-separated recyclable materials may not be accepted at public resource recovery facilities. [Minn. Stat. § 115A.95](#).
- < Third Metropolitan Region Solid Waste Plan Implemented
  - Sets waste abatement goals based on hierarchy (80 percent processing; 20 percent reduction/recycling, market development, and public education)

### **1987-1989 – Solid Waste Responsibilities Divided**

- < County solid waste master plans approved (by Metropolitan Council for metropolitan region; Waste Management Board (WMB) for greater Minnesota).
  - < Greater regional awareness of solid waste problems
  - < WMB assumed responsibility for planning and issuing Certificates of Need for landfill capacity.
  - < MPCA promulgated new landfill siting criteria, design standards, closure/post closure, and financial assurance requirements.
    - New rule requirements for liners, leachate collection systems, ground water monitoring, and financial assurance increased operating costs for MSW landfill about 50 percent of operating landfills closed by 1990 (55 still in operation).
    - MPCA streamlined permit-by-rule for recycling, yard waste, transfer, and demolition facilities.

### **1989 – Select Committee on Recycling and the Environment (SCORE)**

- < Set county recycling goals and mandated recycling programs
- < Office of Waste Management (OWM) replaced Waste Management Board.
- < Required development of county household hazardous waste management programs.

### **1989-1992 – Various Items**

- < Pollution Prevention Act
  - Required industries to prepare plans and progress reports for submission to the MPCA and the OWM.
  - Provided for financial and technical assistance from the MPCA and OWM on pollution prevention methods.

- < Swim Club
  - Metro counties created the Solid Waste Management Coordinating Board (SWMCB or “Swim Club”).
- < Fourth Metropolitan Regional Solid Waste Plan Implemented.
  - Established goal of 35 percent recycling by 1993 (50 percent by 2000).
  - Emphasized toxics reduction; reduced dependence on landfilling.
  - Greater responsibility on generators to recycle and reduce waste.
- < Mercury Reduction
  - Required removal and recycling of specific items containing mercury.

### **Enactment of Bans on Various Materials in Municipal Solid Waste**

- < Waste tires (1985)
- < Batteries and motor oil (1988)
- < Yard waste (1990 in metro area; 1992 in greater Minnesota)
- < Major appliances (1990)
- < Certain dry cell batteries (1990)
- < Rechargeable batteries (1991)
- < Various mercury-containing thermostats and equipment (1992)
- < Fluorescent tubes (1993)
- < Additional motor vehicle fluids (1994)
- < Telephone directories (1994)

## **Waste Management without Flow Control, 1990s**

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### **1990s – Federal Court “Flow Control” Decisions**

- < 1992 – Faribault and Martin Counties waste designation (“flow control”) ordinance overturned as unduly interfering with the flow of interstate commerce.
- < 1994 – U.S. Supreme Court *Carbone* decision overturns the general practice of interstate flow control nationally.
  - < 1995 – “Environmentally Inferior Facilities” statute struck down (see description on the next page).
  - < These decisions limited government’s ability to regulate management of waste or to direct waste to resource recovery facilities.
  - < As a result, waste increasingly went to less-expensive out-of-state landfills. Local governments responded by subsidizing tipping fees at public resource recovery facilities to make them more competitive with out-of-state landfills.
  - < Recycling rates plateaued (goals met but additional progress difficult); recycling dependent on subsidies. Some resource recovery capacity lost.

### **1994 – Landfill Cleanup Act**

- < Created Closed Landfill Program, a state program to pay for long-term costs of permitted sanitary landfills that voluntarily closed before the 1994 deadlines.
- < Perpetual custody of 106 landfills transferred to state to reduce liability risks for landfill owner/operators.

- < Of 135 sanitary MSW landfills permitted to operate in Minnesota, only 55 remained by 1990. Another significant portion of landfills closed after passage of Landfill Cleanup Act, leaving only 27 landfills operating in 1994. Twenty-two operating currently (17 public, five private).
- < Paid for through an increase in a garbage fee (the Solid Waste Generator Assessment) imposed on commercial/industrial customers, \$10 million from the Metropolitan Landfill Contingency Action Trust (MLCAT) fund, \$90 million in state general obligation bonds, and the expected recovery from landfill insurance policies.

#### **1994 – Environmentally Inferior Facilities Act**

- < Placed a varying fee on mixed municipal solid waste.
  - Fee was roughly five times greater if the waste was deposited in a environmentally inferior facility (a facility lower on the waste management hierarchy than the waste management method chosen by the county), than if it was deposited in an environmentally superior facility (a facility at the same level or higher on the waste management hierarchy than the waste management method chosen by the county).
- < The Environmentally Inferior Facilities Act was struck down as unconstitutional.

#### **1994 – Office of Environmental Assistance (OEA) Created**

- < Replaced Office of Waste Management.
- < Assumed Metropolitan Council's solid waste responsibilities.
- < OEA Director appointed by MPCA Commissioner.

#### **1996 – Legislative Commission on Waste Management Abolished**

#### **1997 – Fifth Metropolitan Regional Solid Waste Policy Plan Developed**

- < Focused on sustainability issues, as well as waste and toxicity reduction

### **“Rising from the Ashes:” Planning for the Life After Flow Control**

#### **1996-1998 – Waste Management Act Re-examined by the OEA**

- < Recommendations:
  - Set goal of zero waste.
  - Implement policies to increase product stewardship (defined as “encourag[ing] manufacturers and consumers to make decisions that maximize resource use, emphasizes resource conservation, and recognizes the true economic costs and benefits of product development, consumption and disposal”).
  - Provide stable funding for resource recovery facilities.
  - Maintain county planning for solid waste management.
  - Provide environmental education.

## **2000 – OEA Solid Waste Policy Report**

- < Proposed Strategies:
  - Transition from a waste management system to a resource efficient system.
  - Promote the benefits of an integrated waste system.
  - Increase sense of responsibility for Minnesota’s environment.
  - Provide comprehensive environmental education.
  - Promote public entities and institutions as policy leaders.
- < Proposed policy initiatives:
  - Eliminate landfilling of unprocessed MSW by 2008.
  - Increase product stewardship.
  - Develop markets for recycled content and reusable materials.
  - Educate manufacturers, consumers, and generators.
  - Revise and update SCORE program.
  - Revise county solid waste planning.

## **2001 – OEA/Legislative Task Force Established**

- < Charged with developing recommendations for legislation for the 2002 legislative session.
  - Composed of: (1) consumers; (2) various waste management industry officials, including landfill owners, haulers, and recyclers; (3) local government officials; and (4) House and Senate environment committee members.

## **2002 Policy Issues**

- < “Public Collection” Evaluation
  - Two metropolitan counties (Ramsey and Washington) are investigating and evaluating the possibility of organizing and providing for waste collection countywide.
  - These counties are exploring one of the legal exceptions to flow control law as its been developed by the courts—the potential for government entities to direct the flow of waste as a “market participant” (i.e., providing waste management services) rather than as a government regulator.
- < Waste Management Hierarchy Evaluation
  - The current hierarchy was enacted before the flow control decisions.
  - The key question is whether and how to revise the hierarchy in light of the limitation on government authority and the development of new waste management technologies and processes.
- < Other Issues
  - Ongoing discussion regarding the need for better information regarding the public cost of the current solid waste management system—the total amount of state, county, city and township taxes, fees, service charges, property tax additions.
  - Whether and how to increase recycling rates—recycling rates have plateaued, while the amount of waste produced per capita has increased.
  - Whether and how to amend the landfill certificate of need requirement, or to eliminate it altogether.

- Whether and how to revise the role of counties and other local units of government in solid waste planning and regulation.

## **History of Solid Waste Fees, Charges, and Taxes**

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### **1971 – County Service Charge Authorized**

- < Authorized counties outside the metropolitan area to collect “just and reasonable rates and charges” on the value of property in the county, to pay for solid waste services provided by the county. [Minn. Stat. § 400.08](#).
- < Authorization expanded to metro area counties in 1986. [Minn. Stat. § 473.811](#).

### **1973 – Disposal Fee Imposed** (Minn. Stat. § 116F.072) (Repealed in 1974)

- < Imposed a fee of 15 cents per cubic yard on solid waste materials disposed of at a landfill or at certain incinerators.
- < Proceeds used by MPCA for recycling efforts.

### **1984 – County Solid Waste Fee Authority**

- < Counties authorized to impose a fee on landfills located within the county to provide funding for landfill abatement, postclosure care, and response actions and to mitigate the adverse affects of solid waste facilities. [Minn. Stat. § 115A.919](#).
  - Fee in metro area limited initially to 25 cents per cubic yard (cap removed in 1988).
  - Waste residue from a recycling or resource recovery facility exempt from fee if one can demonstrate an 85 percent weight reduction in solid waste.
- < Amended in 1991 to allow a county to assess an additional fee per cubic yard on waste generated in another county.
  - Authorized a fee per cubic yard on construction debris.

### **1984 – Metropolitan Solid Waste Landfill Fee** ([Minn. Stat. § 473.843](#))

- < Imposed a fee of 50 cents per cubic yard on solid waste disposal in the metropolitan area (fee increased to \$2 per cubic yard in 1989).
  - A portion of the proceeds from the fee is deposited in the Metropolitan Landfill Contingency Action Trust (MLCAT) Fund to pay for closure, postclosure care, and response actions at solid waste facilities in the metropolitan area (initially set at 50 percent, reduced to 25 percent in 1989).
  - The remaining amount deposited in the Landfill Abatement Fund to reduce “to the greatest extent feasible and prudent the need for and practice of land disposal of mixed municipal solid waste in metropolitan area.”
  - Waste residue from a recycling or resource recovery facility exempt from fee if one can demonstrate an 85 percent weight reduction in solid waste.

### **1984 – City or Town Solid Waste Fee Authority** ([Minn. Stat. § 115A.921](#))

- < Cities and towns were authorized to impose a fee on landfills within the city or town.

- Initially, fee was not to exceed 15 cents per cubic yard; increased to 35 cents in 1988, and \$1 in 1989.
- < In 1991, fee authority expanded to include a fee of 50 cents per cubic yard on construction debris.

**1989 – SCORE Sales Tax** (Minn. Stat. § 297A.45 (repealed in 1997))

- < Applied the state sales tax (6 percent) to waste management services, deposited in the general fund. Although the SCORE tax revenues were (and are) not deducted for any particular purpose, the legislature appropriated money from the general fund to the OWM for its solid waste and recycling activities and to make SCORE grants to counties to offset their costs of implementing and administering recycling programs.
- < Amount of the tax increased to 6.5 percent in 1994.
- < Combined with the Solid Waste Generator Assessment in 1997 to create the Solid Waste Management Tax in 1997.

**1989 – Greater Minnesota Landfill Cleanup Fee** (Minn. Stat. § 115A.923)

- < Imposed a fee of \$2 per cubic yard. Initially this was allocated as follows:
- 75 percent goes to the Greater Minnesota Landfill Maintenance Fund; and
  - The remaining 25 percent to the Greater Minnesota Landfill Contingency Action Trust Fund.
- < Amended to require a fee to be paid to the county that hosts a landfill to be used for the same purposes as the county solid waste fee authority.

**1993 – Solid Waste Generator Assessment (SWGA)**

- (Minn. Stat. § 116.07, subd. 10 (repealed in 1997))
- < Transformed a temporary fee for the inspection and evaluation of landfills passed in 1992 (one year, 20 cents per cubic yard) into a permanent fee (\$2 per residential household, 12 cents per loose cubic yard for commercial/industrial customers) for continuation of landfill assessments and to pay for groundwater and solid waste regulatory activities of the MPCA.
- < In 1994, the SWGA was increased to 60 cents per loose cubic yard for commercial/industrial customers to partially pay for the costs of the 1994 Landfill Cleanup Act.
- < SWGA and the SCORE sales tax were eliminated in 1997 and the Solid Waste Management Tax was created.

**1997 – Solid Waste Management Tax** (Minn. Stat., ch. 297H)

- < Created the Solid Waste Management Tax (replacing both SWGA and the SCORE sales tax).
- < Established as a revenue-neutral sales tax of 9.75 percent on residential MSW services and 17 percent on nonresidential MSW services. Non-MSW waste, such as construction and demolition debris, is taxed at 60 cents per loose cubic yard.

- < Tax revenue apportioned:
  - 50 percent of the receipts (or a minimum of \$22 million) into the Solid Waste Fund for landfill cleanup and MPCA groundwater and solid waste activities;
  - 50 percent deposited in the general fund.
- < Legislature appropriates funds to the OEA for the OEA's solid waste activities and provides revenue for the SCORE block grants to counties.
  - < Legislation provided for a one-time authorization to the Commissioner of Revenue to decrease the tax rates if revenues in excess of \$44.5 million were generated; adjustment never made due to timing of when calculation was to be done.
  - < Estimates for the Solid Waste Management Tax for calendar year 2001 are about \$54 million.