



August 29, 2023

Commissioner Katrina Kessler
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155

Dear Commissioner Kessler,

On behalf of the Dakota County Board of Commissioners, thank you for the opportunity to share our comments as part of the process for the Minnesota Pollution Control Agency (MPCA)'s regular update of the Metropolitan Solid Waste Management Policy Plan. The County recognizes the need for robust strategies to meet the current statutory waste management goals and appreciates many aspects of the Draft 2022-2042 Metropolitan Solid Waste Management Policy Plan (Draft Policy Plan), including flexibility in choosing from a list of optional strategies that will best align with Dakota County priorities.

Minnesota Statute §473.803 requires metropolitan county solid waste plans to implement the Policy Plan. Therefore, the content of the Policy Plan is extremely important to the citizens of Dakota County. The Dakota County 2022 Strategic Plan includes "A healthy environment with quality natural areas" as one of four strategic goals. The Dakota County Solid Waste Master Plan is one of the primary tools we use to achieve that goal.

Dakota County offers the following comments for consideration:

Responsible Entities and Accountability: The Draft Policy Plan identifies accountability as a goal that underlies the basis for improving waste in the Twin Cities Metropolitan Area (TCMA) area.

Goal 2 (pg. 9). "Whether private or public, hold all members of the system accountable for meeting the goals of this MPP."

However, the Draft Policy Plan does not specifically address the roles and responsibilities of each stakeholder group, how each group will be held accountable, and who will hold each group accountable. Nor does it identify the mechanisms for establishing the authority to hold other entities accountable for implementing the various strategies identified throughout the Draft Policy Plan.

The final Policy Plan should clearly identify each stakeholder group (e.g., cities, counties, MPCA, waste industry, residents, businesses, schools, non-profits) and the activities each is responsible for completing under this plan, the recommended mechanism to ensure accountability, timelines for completion, methods to measure success, and ramifications if success is not achieved. A table is preferred to show this.

County Board of Commissioners

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Waste Abatement Objectives – Measurement, Capacity and Timeframes: The Draft Policy Plan reflects revised system objectives (pg. 14) for waste reduction (Table 2) and mixed municipal solid waste (MMSW) (Table 3) for how waste needs to be managed in the TCMA. The County appreciates the Draft Policy Plan’s recognition of the difficulty in reaching the statutory goal of a 75 percent recycling rate for traditional recyclable materials and organics by 2030, as required in Minn. Stat. § 115A.551.

- Waste Reduction Objective: Table 2 shows a 2.1% reduction in waste by 2030. Waste reduction is the highest level of the management hierarchy and will require a systematic and consistently applied measurement method. The final Policy Plan should include a proposed measurement model or timelines for the MPCA to develop a measurement approach for use by counties. The MPCA should consider adjustment of anticipated recycling rates if reduction and reuse efforts are successful in reducing the overall amount of waste to manage. Measures should also consider landfill diversion reporting over individual management methods.
- Organics Objective: The MMSW Metro Forecast (Table 14, pg. 87) identifies that an additional 152,260 tons of organics will need to be diverted from 2021 forecast numbers to achieve the 2025 TCMA organics objective in Table 3. Although new source-separated organics capacity is being planned in the region, it is not anticipated to be sufficient to manage this amount of new tonnage by 2025. The regional objectives should be updated to reflect anticipated capacity available to manage organics, which will also require a recalculation of the other TCMA system diversion and disposal objectives.
- Waste-to-Energy Objective: Dakota County has few options to increase waste conversion to energy, primarily due to limited waste processing capacity in the current system. Although some of the tons delivered to resource recovery facilities are generated in Dakota County, there is limited opportunity to significantly contribute to the TCMA objective for resource recovery in Table 3, which will continue to result in higher landfilling rates for Dakota County waste.

The Draft Policy Plan identifies Greenhouse Gas (GHG) reductions as one of the key themes that underlie all elements of the plan (pg. 8).

“GHG emissions reductions can be found throughout the solid waste system.”

The plan notes that achievement of the objectives will reduce GHG emissions, among other benefits, but does not identify anticipated GHG reductions related to the strategies. To assist counties in prioritizing implementation and allocating resources, the revised plan should quantify anticipated GHG reductions for each strategy, taking into account all major stages identified in the Draft Policy Plan’s sustainable material management approach (pg. 12) including *“raw material extraction, product manufacturing, product use, transportation and end-of-life management.”*

Existing Statutes and Authority: Greater recognition of existing authorities and roles, as well as limitations to county solid waste authority, would ground the Draft Policy Plan more strongly. The final Policy Plan should recognize that MPCA is responsible for enforcement of existing statutes to improve recycling and reduce landfilling (i.e., public entity and commercial recycling requirements, hauler reporting compliance, Restrictions on Disposal). The County recommends hauler reporting compliance be state led to provide for a uniform implementation approach. Counties can assist in some efforts, but the Draft Policy Plan should recognize that the MPCA ultimately has enforcement authority.

The Draft Policy Plan appears to take a broader view in multiple areas than Dakota County’s solid waste authorities allow for independent implementation. Dakota County has limited solid waste authority for several Draft Policy Plan strategies, including:

- *Wood Waste Required Strategy 41 (pg. 36): “Develop plans to prevent and manage wood waste in each county and throughout the region”* which includes a requirement that the plan “include strategies to educate the public about Emerald Ash Borer (EAB), tree treatment and preservation.” Current solid waste statutes do not give the County solid waste staff authority to deal with living trees, including providing education to the public about tree diseases and treatments. This required strategy should be modified to include only wood waste management and disposal activities, because other agencies have authorities to work on live tree treatment and education. For example, the Minnesota Department of Natural Resources (DNR) has authority to identify infestation zones and to take measures to control an infestation (Minn. Stat. § 89.55), work with and allocate those costs to land owners (Minn. Stat. § 89.56), and collect them by reporting the costs to the county levy authority. In addition, the Minnesota Department of Agriculture (MDA) already has a program that allows landowners to receive funds for environmental conservation efforts. The MPCA should coordinate with these state agencies to expand tree treatment and tree management education activities.
- *Organics Market Development Required Strategy 50 (pg. 38): “Require food-derived compost in county construction and landscaping projects.”* While the county can require food-derived compost in county projects, a more effective and consistent implementation approach is for state agencies to coordinate to modify the Minnesota Department of Transportation (DOT) 3890 construction specifications to require compost use, since municipal public works departments use DOT standard specifications for performing work on construction projects.
- *Sustainable Building and Deconstruction Required Strategy 60 (pg. 45): “Implement the use of Building Materials Management Plan and require that a building material management plan be used for specific non-government projects or for all publicly owned buildings being modified or removed within the jurisdiction.”* Dakota County can develop such a plan for its own facilities but does not have solid waste authority to require use of the plan for non-county projects or other publicly owned buildings.

Additionally, while the county acknowledges the benefits such as conservation of natural resources, supporting the economy, and reduction in greenhouse gas as mentioned in the Draft Policy Plan Vision (pg. 7) from an integrated waste management system, efforts should focus on solid waste management and counties should be not required to implement programs and strategies beyond what is required by Minn. Stat. § 473.149.

With respect to the Draft Policy Plan *wood waste management strategy 44 (pg. 37) to “update ordinances that address wood burning,”* to reduce the open burning of wood waste, the county recommends greater coordination among state agencies. The strategy specifies that counties should update their ordinances to better define and restrict open burning. At the state level, however, the Minnesota Department of Natural Resources (DNR) issues burn permits in rural areas for wood waste management. The county recommends that the MPCA coordinate with the DNR on reducing wood waste burning activities in areas where the DNR has jurisdiction.

Implementation Resources: Dakota County supports the enforcement of existing state solid waste laws by the MPCA. However, achieving the goals and objectives within the Draft Policy Plan will require additional resources. The final Policy Plan should identify which required and optional strategies do or do not contribute to the waste reduction system objectives (Table 2) and MMSW management system objectives (Table 3), including wood waste, construction, demolition, and deconstruction related strategies.

Additionally, the final Policy Plan should identify new resources that will be provided for new required strategies that go beyond current county efforts to achieve compliance with solid waste laws. Below is a short list of additional resources that the MPCA could provide to assist in meeting new required strategies:

- Advocate for increased SCORE funding to counties, or another ongoing secure funding source, to assist with the implementation of required wood waste management plans and sustainable building material management plans.

- Provide funding and state assistance to implement required waste composition studies at waste facilities. The MPCA should consider securing its own contractor to conduct these studies to ensure consistent sorting methods and coordinated implementation, rather than each metropolitan county conducting studies on their own. In addition, the MPCA should curate and proactively share study results with TCMA counties.
- Advocate for and identify funding opportunities from other state or federal agencies and coordinate applications on behalf of counties, or secure funding directly and allocate it to the counties instead of requiring counties to apply for it.

In addition, related to the state's Sustainable Building Guidelines, while the county supports efforts to make buildings more energy efficient, these requirements should come with state funding to help offset the added costs to reduce the financial burden to counties.

New Wood Waste Management Technology: New technologies in solid waste management have arisen that do not fit precisely within the identified waste hierarchy, including biochar for wood waste management (strategy 48, pg. 37). The Policy Plan should provide direction on how biochar will be defined, how it fits into the waste management system objectives (Table 2 and 3), and whether it will count toward the 75% recycling rate goal.

Alternative Strategies: The final Policy Plan should allow more flexibility in required and optional strategies and identify the process for point calculation for counties to include alternative strategies that meet the intent of the Policy Plan's strategies. For example, the MPCA should allow an alternative strategy for counties that are planning to build a second permanent HHW facility in place of *Household Hazardous Waste (HHW) Optional Strategy 59 (pg. 44): "Host monthly drop-off sites in locations other than a permanent HHW site."* A permanent location is a more cost-efficient use of public funds, provides access to more people over time than intermittent events do, and increases capacity for counties to properly manage waste.

Additional Comments and Request for Clarifications:

- Improving the Reliability of Data Required Strategy 1 (pg. 20): "Increase compliance with hauler reporting per Minn. State. 115A.93."* This strategy requires counties to implement best practices to promote hauler compliance with state reporting requirements and provides Dakota County as an example of achieving better compliance than other TCMA counties. Please note that MPCA determined Dakota County's hauler reporting compliance as 68%, while County staff data indicates a higher level of compliance, close to 100%, for haulers that are required to report.
- Regional Solutions Required Strategy 9 (pg. 22): "Participate in annual joint commissioner/staff meeting on solid waste."* The county recommends that the MPCA convenes and facilitates these meetings and works with counties to develop meeting topics that focus on waste policy issues.
- Regional Solutions Required Strategy 10 (pg. 22): "Commit to standardized outreach and education."* The strategy specifies that TCMA counties should utilize Recycling Education Committee (REC) materials, and that any deviation requires all TCMA counties to agree. Dakota County supports coordinated messaging and participates in REC but recognizes that REC is a statewide group of solid waste representatives that voluntarily meet and develop messages that may not be specific to market conditions in the TCMA area. Dakota County ordinance already mandates haulers, cities, and commercial waste generators annually deliver standardized recycling messages published on the county's website. Please clarify the governing entity that will have authority to review county materials and the variance procedure for counties to follow if messaging deviates from REC materials.

- d) *Collection Best Practices Required Strategy 28 (pg. 29): "Collect recycling weekly by 2025."* MPCA staff stated at the July 11, 2023, in-person public meeting that "recycling" for this strategy includes both traditional recyclables (i.e., paper, cardboard, metal, glass, plastic) and organics (i.e., food scraps).
- As it relates to collection of traditional recyclables: Dakota County implemented a hauler requirement to provide weekly recycling collection, effective in 2022. Haulers have requested a variance to this requirement in dispersed rural populations. The county is evaluating variance options and considering additional requirements for increased capacity and hauler education to address the intent of our ordinance. Dakota County recommends that the MPCA consider a similar allowance for this strategy in low population areas and, for further consistency, that it match the population threshold in *Organics Management Required Strategy 37, "Make residential organics collection available in cities with a population greater than 5,000."*
 - As it relates to collection of organics: The timeline is not feasible. Residential organics curbside collection does not currently exist in Dakota County. Increased organics collection activities in the region are anticipated to maximize current regional organics management capacity, including Dakota County's phased-in commercial organics collection requirements which fully go into effect in 2024. The final Policy Plan should include an effective date, such as by 2030, that accurately reflects the time needed to develop and implement requirements and to permit and construct new infrastructure such as composting facilities and collection capacity in the waste industry, and that also includes factors such as capacity limitations.
- e) *Recycling Management Required Strategy 34 (pg. 31): "Establish mandatory pre-processing of waste at resource recovery facilities and landfills by 2025"* provides an unreasonable timeframe. The final Policy Plan is not anticipated to be adopted until late 2023 and county solid waste plans not approved until late summer 2024, allowing only months to implement this required strategy. Implementation of this strategy will require extensive planning, implementation, and financial considerations. Additionally, any such requirement should be a state requirement, rather than a county requirement, for consistency in implementation and enforcement.
- f) *Organics Management Optional Strategy 39 (pg. 34): "Require management of organics from large food generators by 2030."* Please clarify if this strategy includes two separate components, i.e., prevention requirements and management of organics. The MPCA should also specify what is intended by "local policies should first require adoption of policies that support prevention and rescue initiatives at large generators."
- g) *Waste to Energy, Page 41 (pg. 36):* For accuracy, please add language to the third paragraph so it reads, "Designation in Goodhue County has stabilized the base amount that Red Wing receives, and tonnage is supplemented with contract waste from two cities in Dakota County and Dakota County operations." This revision is needed to reflect that MMSW from county operations is going to Red Wing for processing.

Thank you for your consideration. We appreciate your attention to these comments and look forward to working with you towards a final version of the Metropolitan Solid Waste Policy Plan that will best serve the diverse needs of the Twin Cities region through 2042.

Sincerely,



Liz Workman, Chair
Dakota County Board of Commissioners

Cc: Dakota County Board of Commissioners
Matt Smith, Dakota County Manager