

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 043

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 5-10-82
DATE FOR REVIEW 5-19-82
DATE DUE 5-24-82

Adopted w/a hearing ____
Adopted w/o hearing ✓
Temporary rule ____

Approved 5-24-82 Disapproved ____ Returned to Agency 5-25-82

Resubmitted ____ Due ____
Approved ____ Disapproved ____ Returned to Agency ____

Date filed w/Secretary of State 5-24-82 Revisor approved 5/7/82 disapproved 5/7/82

✓ Rule as Adopted

✓ Rule as Proposed See SR.

✓ Order Adopting 4.27.82 Date

✓ Notice of Intent to Solicit Outside Opinion SR. 6.29.81

✓ Order for rulemaking
N/A date of Hearing

✓ Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
2.16.82 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
2.22.82 At least 30/~~20~~ days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

Chief Hearing Examiner's Report(s)
____ Approving H.E.'s Report
____ Approving agency action

✓ Agency's Findings of Fact

N/A LCRAR Report or agency Affidavit

✓ Certificate of Board's Resolution Adopting Rules

N/A Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

N/A Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

✓ Affidavit of Mailing Notice of Submission to Attorney General

N/A Notice of Submission to the Attorney General

SF-00006-02

DEPARTMENT ATTORNEY GENERAL

STATE OF MINNESOTA
Office Memorandum

TO : LOUIS BREIMHURST
Executive Director, PCA

DATE: 5/24/82

ATTN : LISA R. TIEGEL, Spec. Ass't. Atty. Gen.

FROM : TED A. MARTINEZ
Special Assistant
Attorney General

PHONE: 6-0315

SUBJECT: In the Matter of the Proposed Adoption of a Rule of the State, 6 MCAR § 4.6085, Governing the Administration of the Minnesota Solid Waste Management Planning Assistance Program

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Please note that they have not been filed with the State Register. This must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of stamps of the Attorney General and Secretary of State;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages to the rules in the approved set.

If you have any questions in this regard, please contact me.

TAM:drw
Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

STATE OF MINNESOTA
OFFICE OF THE ATTORNEY GENERAL
ST. PAUL 55155

WARREN SPANNAUS
ATTORNEY GENERAL

May 10, 1982

ADDRESS REPLY TO:
ATTORNEY GENERAL'S OFFICE
POLLUTION CONTROL DIVISION
1935 WEST COUNTY ROAD B-2
ROSEVILLE, MN 55113
TELEPHONE: (612) 296-7342

Mr. Jerry Anderson
Special Assistant Attorney General
Office of the Attorney General
204 Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155

Re: In the matter of the proposed amendment of a rule of the State, 6 MCAR § 4.6085, rule for the administration of the Minnesota solid waste management planning assistance program

Dear Mr. Anderson:

In accordance with Minn. Stat. § 15.0412, subd. h (1980), the above-captioned rule is hereby submitted to you for your review.

The following documents are enclosed:

1. Rule as adopted. (We have only submitted one copy of this document to you. The enclosed copy shows the additional changes made by the Agency following the close of the 30 day notice period. Because the clean copy of the rule will ultimately be printed by the Office of the Revisor and stamped accordingly, we have not submitted a clean copy to you for your review. Note that the Order adopting does indicate the additional changes to the proposed amendments of the rule.)

2. Order Adopting. (Original and three copies.)

3. Certificate of Board's Resolution Adopting a Rule.

4. Notice of Intent to Solicit Outside Opinion.

5. Order for Notice of Intent to Adopt a Rule Without Public Hearing.

6. Certificate of Board's Authorizing Resolution (Ordering Notice).

7. Notice of Intent to Adopt a Rule Without A Public Hearing.

8. Affidavit of Mailing Notice of Intent to Adopt a Rule Without Public Hearing.

9. Mailing List Certificate

10. Rule as Proposed.

11. Findings of Fact and Conclusions.

12. Statement of Need and Reasonableness.

13. Affidavit Regarding Comments Submitted to the Agency.

14. Affidavit Evidencing that No Person Requested Notification of Transmittal of Rules to the Office of the Attorney General.

15. Certificate of Compliance with Rulemaking Procedures.

Unless it is otherwise indicated, I have attached only one copy of the above-referenced documents.

On Monday, May 3, 1982, the staff of the Minnesota Pollution Control Agency submitted a copy of the above-captioned rule, showing all amendments, to the Office of the Revisor for its review and approval.

If you have any questions regarding this rule, please call me at 296-7345.

Very truly yours,

Lisa R. Tiegel
Special Assistant
Attorney General

LRT/lt
Encs.

Paul Marinac
Office of the Revisor

AG copy.
changes from rules as proposed are clerical.

Minnesota Pollution Control Agency
Solid and Hazardous Waste Division

Adopted Rule Regarding the Administration of the Minnesota Solid Waste Management Planning Assistance Program

Rule as Adopted

6 MCAR S 4.6085 Rule for the administration of the Minnesota solid waste management planning assistance program.

A. Purpose. This rule implements the solid waste management planning assistance program, created and described in the Waste Management Act of 1980, Minn. Stat. SS 115A.42-155A.46, by establishing the substantive criteria and procedural conditions according to which the agency shall award solid waste management planning assistance grants.

B. Overview of procedures for applying for and receiving a grant.

1. Application for a grant. To be eligible for a grant under this rule, an applicant shall apply for a grant.

a. The procedures the applicant shall follow in applying for a grant are set out in E.

b. The information and documentation the applicant shall provide in the grant application are set out in F.

2. Award of a grant. The agency shall award the applicant a grant in accordance with the procedures and limitations set out in G., if the agency determines:

a. That the applicant, cost, and project specified in the grant application are grant eligible;

b. That the application deadlines are met; and

c. That sufficient funds are available.

The criteria the agency shall use in determining the grant eligibility of the applicant are set out in D.1.; the criteria the agency shall use in determining the grant eligibility of the costs are set out in D.2.; the criteria the agency shall use in determining the grant eligibility of the project are set out in D.3.; and the criteria the agency shall use in determining

compliance with deadlines are set out in E.1., 4., 5., and G.2.

C. Definitions.

1. "Acceptable plan" means a written report prepared by a grantee to provide the planning information set out in Minn. Stat. S 115A.46. To be considered an acceptable plan under this rule, the written report shall:

a. Contain descriptions, estimates, or assessments of existing and proposed waste practices, including the following:

(1) A description of the existing collection, storage, transportation, processing, and disposal systems used within the political subdivision being studied by the named grantee, including schedules of rates and charges, financing methods, environmental acceptability, and opportunities for improvements in the systems;

(2) An estimate, calculated on the basis of current and projected waste generation practices, of the land disposal capacity in acre-feet which will be needed to serve the political subdivisions being studied by the named grantee through the year 2000;

(3) An assessment of specific opportunities to reduce the need for land disposal through the use of waste reduction and resource recovery, as defined in Minn. Stat. S 115A.03, subd. 27, including an assessment of:

(a) The alternative degrees of reduction achievable;

(b) The comparative costs of the alternatives, including capital and operating costs; and

(c) The effects of the alternatives on the cost to generators of the waste.

(4) A description of existing and proposed county and municipal ordinances and license and permit requirements relating to solid waste management, including a description of the existing and proposed regulations and enforcement procedures relevant to those requirements;

b. Establish a detailed siting procedure and development program to assure the orderly location, development,

and financing of new or expanded solid waste facilities and services sufficient for a prospective ten year period, which procedure and program shall be consistent with all applicable rules of the agency and shall include:

(1) Estimated costs and implementation schedules;

(2) Proposed procedures for operation and maintenance;

(3) Estimated annual costs and gross revenues; and

(4) Feasible proposals for the use of facilities after they are no longer needed or useable;

c. Include an evaluation and recommendation of specific options, consistent with all applicable rules of the agency, for the resolution of conflicting, duplicative, or overlapping local management efforts, including the possible establishment of joint powers management programs or waste management districts; and

d. Establish a schedule of actions which need to be undertaken to put the procedures, programs, and resolutions described in the plan into effect, including a statement of the appropriate entity to take each action.

2. "Agency" means the Minnesota Pollution Control Agency, as constituted pursuant to Minn. Stat. S 116.02, subd. 1.

3. "Director" means the executive director and chief executive officer of the agency or a person expressly designated by the director to discharge a duty or responsibility of the director.

4. "Grant eligible" or "grant eligibility" means meeting the criteria to receive funding assistance under this rule. The fact that an item or person is "grant eligible" under this rule does not automatically assure that a grant will be awarded. A grant shall only be awarded if the grant eligibility criteria are met.

5. "Landfill" means a sanitary landfill or a modified landfill which has a valid permit issued by the agency.

6. "Metropolitan area" has the meaning given it in Minn. Stat. S 115A.03, subd. 18.

7. "Population growth rate" means the rate at which population in a proposed study area either increased or decreased during the decade between 1970 and 1980. The director shall determine the population growth rate of a proposed study area by determining the difference in population in the proposed study area, as reported in the 1970 and 1980 United States Census Bureau data, dividing this difference by the 1970 population of the proposed study area and multiplying this result by 100. The growth rate will thus be expressed as a percentage.

8. "Project manager" means an employee of the grantee who is given the responsibility and the authority to direct and coordinate all aspects of the project as defined in the contractual agreement between the grantee and the agency. The project manager shall assume the responsibility for performing all contract and project management functions.

9. "Political subdivision" has the meaning given it in Minn. Stat. S 115A.03, subd. 24.

10. "Regional development commission" has the meaning given it in Minn. Stat. S 115A.03, subd. 26.

D. Grant eligibility criteria.

1. Eligible applicants. Except for political subdivisions located within the seven county metropolitan area, any political subdivision within the State of Minnesota is grant eligible.

2. Eligible costs.

a. The following costs are grant eligible:

(1) Salaries of staff persons, consultants, and other persons employed to develop and publish an acceptable plan;

(2) Costs associated with the drafting and execution of necessary contracts between the grantee and other units of government or qualified consultants employed to develop or publish an acceptable plan, including reasonable attorney's fees;

(3) Costs associated with holding meetings to inform the public of the development of the plan and to provide an opportunity for the public to participate in and comment on the

development of the plan, including costs associated with providing notices of and recording the meeting;

(4) Costs associated with the printing and distribution of plans and draft plan materials;

(5) Costs of any travel in the state, the primary purpose of which is to attend meetings or gather information needed for the development and publication of an acceptable plan, including reimbursement for mileage consistent with state allowances;

(6) Costs of any necessary supplies required for the development and publication of an acceptable plan. The costs of any commodities, materials, capital expenditures, and equipment which could be used after the plan is completed shall not be considered supplies and are, therefore, not grant eligible under this rule; and

(7) Overhead costs.

b. The amount of the grants available under this rule is limited as follows:

(1) For planning by a regional development commission, joint planning by two or more contiguous counties, or joint planning by political subdivisions located in two or more contiguous counties:

(a) Except as provided in (5), the agency shall award grants to cover 90 percent of the eligible costs specified in the grant application or the percentage of eligible costs requested in the grant application, whichever is less; and

(b) The grantee shall assume the responsibility for the remaining costs of completing the planning efforts.

(2) For all planning efforts other than that described in (1):

(a) Except as provided in (5), the agency shall award grants to cover 50 percent of the eligible costs specified in the grant application or the percentage of eligible costs requested in the grant application, whichever is less; and

(b) The grantee shall assume the responsibility for the remaining costs of completing the planning efforts.

(3) For (1) grants and (2) grants, the maximum amount that a grantee shall be awarded to complete the plan is 90 percent and 50 percent, respectively, of the total project cost detailed by the grantee in its application. Within these maximums, adjustments between funds awarded to cover the costs specified in 2. shall be made if the agency and the grantee determine that the adjustments will result in the development of an acceptable plan in a more efficient manner.

(4) If, while working to complete the grant, a grantee finds that more funds are needed, the grantee shall not be awarded additional funds unless the grantee makes application for an additional grant in accordance with the grant application procedures set out in E. The agency shall treat an application for an additional grant in the same manner as it treats applications for original grants, as provided in G.

(5) If available funds are not adequate to meet the funding requests of all applicants assigned to group number one under G.3.b., the agency shall reduce the state share of the eligible costs sufficiently to enable all applicants assigned to group number one to receive funding, but the size of the grant awards in (1)(a) and (2)(a) shall not be less than 60 percent and 33 percent, respectively. If available funds are not adequate under this reduced funding level to meet the funding requests of all applicants assigned to group number one under G.3.b., grants shall be awarded at the reduced amount in the order established under G.3.c.

c. Grants shall be awarded to cover the eligible costs of only those tasks which are undertaken and completed during the grant period established in the grant agreement. Grants shall not be awarded to cover any cost associated with tasks performed prior to the award of a grant or after the expiration of the grant agreement.

d. The availability of funds is a precondition to the award of any grant by the agency.

3. Eligible projects.

a. The agency shall consider grant eligible all

projects which are reasonably designed to result in the development and publication of an acceptable plan, as defined in C.1. A project shall not be considered eligible if it is proposed to include a study area for which an acceptable plan has previously been approved by the agency under this grant program.

b. The director shall determine that a project is reasonably designed to result in an acceptable plan if the director finds that the grant application required to be submitted under E. is complete. The director shall determine that a grant application is complete if the application contains all the information and meets all the requirements set out in F.

E. Grant application procedures.

1. A grant applicant shall submit a grant application to the agency no later than 4:30 p.m. on the first Monday of August of each year. The application must be received by the agency by this deadline or must have a postmark dated no later than the Friday immediately preceding the deadline in order to qualify as meeting that deadline.

2. The grant application submitted to the agency shall include all the information and documentation set out in F.

3. Upon receiving a grant application, the director shall promptly review the application and make a determination as to the eligibility of the applicant, costs, and project specified in the application.

4. Within two weeks after receiving the application, the director shall notify each applicant of the following:

a. If the director determines that the applicant, the costs, and the project specified in the application are grant eligible, the application shall be considered final as of the date it was received and the applicant shall be so notified. The application shall then be treated in accordance with the agency review provisions established in G.;

b. If the director determines that the applicant is not grant eligible, the application shall not be further considered and the applicant shall be so notified;

c. If the director determines that any of the costs described in the application are not grant eligible or that the application is otherwise incomplete:

(1) The director shall note the inadequacies in the application and shall so notify the applicant;

(2) The applicant shall have an opportunity to cure the inadequacies noted by the director. However, no information received by the agency after the 42nd day beyond the appropriate deadline in 1., except as provided in 5., shall be considered by the agency in determining the grant eligibility of the applicant, costs, or project.

(a) An application which is considered inadequate under this rule shall not be considered final until the agency receives the information or documentation which cures the inadequacies described by the director.

(b) An application which is considered inadequate under this rule shall be considered final on the date all necessary supplemental information is received by the agency.

(c) Once the application is considered final, it shall be treated in accordance with the agency review provisions established in G.

5. If the agency exceeds the two-week review period in 4. for an application, the 42-day periods specified in 4.c.(2) and G.2. shall be extended for only that application by the number of days equal to the number of review days in excess of two weeks.

F. Grant application content. Applications for grants shall include the following information:

1. The name of each political subdivision making the grant application;

2. Resolutions from each political subdivision named on the application which:

a. Demonstrate the political subdivision's desire to make the grant application and interest in the planning efforts described in the grant application; and

b. Demonstrate the political subdivision's commitment

to provide the required financial input to complete the planning efforts described in the grant application;

3. In the case of a regional development commission, resolutions from each of the counties represented by the regional development commission, which demonstrate the counties' interest in and support for the planning efforts described in the grant application;

4. The name, address, and qualifications of the project manager;

5. The total project cost;

6. The amount of grant funding requested;

7. The amount and sources of all other funding contributions, including the amount of funds to be contributed by the applicant;

8. The regional boundaries of, and the population in, the area to be considered in the planning study;

9. A list of all the landfills which receive solid waste from each of the counties in the proposed study area and the percent of each county's refuse which is currently being disposed at each of the landfills; and

10. A work plan which provides the following information and details:

a. A brief description of the problem which the grantee hopes to address through the planning efforts, including a statement of any known waste management problems to be addressed by the grantee and any present support or opposition to current or proposed solid waste disposal alternatives;

b. A breakdown of the specific work tasks to be completed under the terms of the grant, including each of the tasks required to be completed by Minn. Stat. S 115A.46;

c. A breakdown of the number of work hours needed to complete each of the tasks specified in b.;

d. A breakdown of all the costs associated with completing each of the tasks specified in b., including an explanation of how each cost was calculated;

e. A breakdown of the staff, consultants, and units of

government associated with completing each of the tasks specified in b.;

f. A breakdown of the amount of time needed to complete each of the tasks specified in b.;

g. An overall time schedule for the project showing estimated dates of completion of the tasks specified in b.; and

h. A description of the program to be completed by the applicant to ensure public participation in the planning efforts.

G. Agency review of grant applications and award of grants.

1. The agency shall review all applications received prior to the appropriate deadline specified in E.1., and shall exclude from consideration all applications received after that deadline.

2. Only grant applications considered final pursuant to E.4.a. and E.4.c.(2) as of 4:30 p.m. on the 42nd day following the application deadlines specified in E.1., except as provided in E.5., shall be eligible for a grant award.

3. The agency shall assign a priority ranking to each of the applications which are eligible for a grant award under 2. This priority ranking shall be made pursuant to a.-c.

a. The agency shall make the lists and determinations specified in (1)-(5).

(1) The agency shall make a list of the counties proposed to be studied under the grant eligible applications identified under 2.

(2) The agency shall make a list of the landfills available to and being used by each county identified in (1).

(3) The agency shall determine whether the remaining permitted landfill capacity available to and being used for a majority of the refuse from each of the counties identified in (1) is greater than or equal to five years or is less than five years. An applicant may provide recent, reliable data to the agency to assist ~~him~~ it in making these determinations.

(4) The agency shall determine whether the location of each of the landfills identified in (2) is environmentally undesirable. The agency shall determine that a landfill's

location is environmentally undesirable if the landfill meets one or more of the following criteria:

(a) The landfill is located less than 1,000 feet from the normal high water level of a lake, pond, or flowage;

(b) The landfill is located less than 300 feet from a stream;

(c) The landfill is located within a 100 year flood plain;

(d) The landfill is located within a wetland; and

(e) The landfill is located on Karst bedrock.

An applicant may provide recent, reliable data to the agency to assist ~~him~~ it in making these determinations.

(5) After making the determinations specified in (4), the agency shall determine which counties contribute a majority of their solid wastes to landfills that are considered to be in environmentally undesirable locations. An applicant may provide recent, reliable data to the agency to assist ~~him~~ it in making these determinations.

b. The agency shall divide the grant ~~applicants~~ applications into two groups. All ~~applicants~~ applications whose study areas contain one or more counties that contribute a majority of their solid wastes to landfills having less than five years of permitted landfill capacity remaining, as determined under a.(3), or that contribute a majority of their solid wastes to landfills that are determined to be in environmentally undesirable locations, as determined under a.(5), shall be placed in group number one. All other ~~applicants~~ applications shall be placed in group ~~num~~ number two.

c. The agency shall determine the population growth rate within each ~~applicant's~~ application's proposed study area using 1970 and 1980 United States Census Bureau data. The agency shall assign a priority ranking to ~~applicants~~ applications in groups one and two as provided in (1) and (2).

(1) First, the agency shall divide the ~~applicants~~ applications in group one and in group two into subgroups. Subgroup 1 shall contain the applications for planning by a

Vague incorporation did they mean once by reference growth rate

regional development commission, for joint planning by two or more contiguous counties, and for joint planning by political subdivisions located in two or more contiguous counties. Subgroup 2 shall contain all other applications.

(2) Funds shall be awarded, on a priority basis, in the following order. ~~In all cases~~ Priority shall be determined by growth rate, with the highest priority within each subgroup being given to the applicant with the highest growth rate:

(a) Group 1, subgroup 1;

(b) Group 1, subgroup 2;

(c) Group 2, subgroup 1; and

(d) Group 2, subgroup 2.

4. The agency shall award grants to applicants in the order of the priority ranking in 3.c. No awards shall be made to any applicant in group two until all applicants in group one have been awarded grants.

5. Once the agency has determined which ~~grantees~~ applicants will receive grants, the agency shall proceed as follows:

a. The agency shall provide a complete listing of grant awards and of applicant rankings to each applicant; and

b. Within three weeks of the notification required by a., the agency shall draft a grant agreement for each applicant which is to receive a grant in accordance with the requirements and conditions set out in H.

H. Grant agreement.

1. The grant agreement shall incorporate by reference the final grant application submitted to the agency in accordance with F.~~1.~~

2. The grant agreement shall establish the term of the grant. All grants awarded under this rule shall have a maximum term of one year, unless the agency determines for a specific grantee that a longer term is necessary due to circumstances beyond the control of the grantee in order to produce an acceptable plan. The agency shall then set the term of the grant.

3. ~~Grant~~ Funds for projects not performed or completed in accordance with the terms and conditions of the grant agreement, including time schedules, shall be forfeited unless the agency determines that the variances from the grant requirements are due to factors outside the control of the grantee.

4. The grant agreement shall include a payment schedule. This payment schedule shall provide for reimbursement of stated travel costs in a manner described in the grant agreement and shall require that the last 25 percent of the total grant award, except reimbursable travel costs, be retained by the agency until the director determines that the report submitted under the grant is an acceptable plan. If the director determines that a report is deficient, the director shall notify the grantee of the deficiency. The agency shall pay the withheld 25 percent of the grant as soon as the deficiency is corrected and the director determines that the report is an acceptable plan.

5. The grant agreement shall provide that the grantee is authorized to enter into contracts to complete the work specified in the grant. The grant agreement shall also require that all such contracts name the agency as a third-party beneficiary to that contract.

I. Severability. If any provision of this rule or the application of it to any person or circumstance is held to be invalid, the invalidity shall not affect any other provision or the application of any other part of this rule or any other rule which can be given effect without the invalid provision or application. To this end, the provisions of this rule and the various applications of it are severable.

AR0069-A
May 7, 1982

OFFICE OF THE REVISOR OF STATUTES

Certificate of Approval of Adopted Rules

Agency: Pollution Control Agency

Rule Numbers: 6 MCAR S 4.6085

Rule Title: Adopted Rule Regarding the Administration of the Minnesota Solid Waste Management Planning Assistance Program

Type of Rules: Permanent X

Temporary _____

Documents Incorporated by Reference: NONE

STATE OF MINNESOTA
DEPARTMENT OF STATE
3:25 p.m. FILED
MAY 24 1982
Joan Anderson Growe
Secretary of State

The attached Rules are approved as to form.

Steven C. Cross
Revisor of Statutes

Name: Paul M. Marinac

Title: Assistant Revisor

Phone: 296-0948

APPROVED AS TO LEGALITY
May 21 1982
WARREN SPANNAUS, ATTORNEY GENERAL
BY _____
SPECIAL ASSISTANT ATTORNEY GENERAL

Revisor Disapproved

Minnesota Pollution Control Agency

Solid and Hazardous Waste Division

Adopted Rules Regarding the Administration of the Minnesota Solid Waste Management Planning Assistance Program

Rule as Adopted

6 MCAR S 4.6085 Rule for the administration of the Minnesota solid waste management planning assistance program.

A. Purpose. This rule implements the solid waste management planning assistance program, created and described in the Waste Management Act of 1980, Minn. Stat. SS 115A.42-155A.46, by establishing the substantive criteria and procedural conditions according to which the agency shall award solid waste management planning assistance grants.

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a. That the applicant, cost, and project specified in the grant application are grant eligible;

b. That the application deadlines are met; and

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(1) A description of the existing collection, storage, transportation, processing, and disposal systems used within the political subdivision being studied by the named grantee, including schedules of rates and charges, financing methods, environmental acceptability, and opportunities for improvements in the systems;

(2) An estimate, calculated on the basis of current and projected waste generation practices, of the land disposal capacity in acre-feet which will be needed to serve the political subdivisions being studied by the named grantee through the year 2000;

(3) An assessment of specific opportunities to reduce the need for land disposal through the use of waste reduction and resource recovery, as defined in Minn. Stat. S 115A.03, subd. 27, including an assessment of:

(a) The alternative degrees of reduction achievable;

(b) The comparative costs of the alternatives, including capital and operating costs; and

(c) The effects of the alternatives on the cost to generators of the waste.

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b. Establish a detailed siting procedure and development program to assure the orderly location, development,

and financing of new or expanded solid waste facilities and services sufficient for a prospective ten year period, which procedure and program shall be consistent with all applicable rules of the agency and shall include:

(1) Estimated costs and implementation schedules;

(2) Proposed procedures for operation and maintenance;

(3) Estimated annual costs and gross revenues; and

(4) Feasible proposals for the use of facilities after they are no longer needed or useable;

c. Include an evaluation and recommendation of specific options, consistent with all applicable rules of the agency, for the resolution of conflicting, duplicative, or overlapping local management efforts, including the possible establishment of joint powers management programs or waste management districts; and

d. Establish a schedule of actions which need to be undertaken to put the procedures, programs, and resolutions described in the plan into effect, including a statement of the appropriate entity to take each action.

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8. "Project manager" means an employee of the grantee who is given the responsibility and the authority to direct and coordinate all aspects of the project as defined in the contractual agreement between the grantee and the agency. The project manager shall assume the responsibility for performing all contract and project management functions.

9. "Political subdivision" has the meaning given it in Minn. Stat. S 115A.03, subd. 24.

10. "Regional development commission" has the meaning given it in Minn. Stat. S 115A.03, subd. 26.

D. Grant eligibility criteria.

1. Eligible applicants. Except for political subdivisions located within the seven county metropolitan area, any political subdivision within the State of Minnesota is grant eligible.

2. Eligible costs.

a. The following costs are grant eligible:

(1) Salaries of staff persons, consultants, and other persons employed to develop and publish an acceptable plan;

(2) Costs associated with the drafting and execution of necessary contracts between the grantee and other units of government or qualified consultants employed to develop or publish an acceptable plan, including reasonable attorney's fees;

(3) Costs associated with holding meetings to inform the public of the development of the plan and to provide an opportunity for the public to participate in and comment on the

development of the plan, including costs associated with providing notices of and recording the meeting;

(4) Costs associated with the printing and distribution of plans and draft plan materials;

(5) Costs of any travel in the state, the primary purpose of which is to attend meetings or gather information needed for the development and publication of an acceptable plan, including reimbursement for mileage consistent with state allowances;

(6) Costs of any necessary supplies required for the development and publication of an acceptable plan. The costs of any commodities, materials, capital expenditures, and equipment which could be used after the plan is completed shall not be considered supplies and are, therefore, not grant eligible under this rule; and

(7) Overhead costs.

b. The amount of the grants available under this rule is limited as follows:

(1) For planning by a regional development commission, joint planning by two or more contiguous counties, or joint planning by political subdivisions located in two or more contiguous counties:

(a) Except as provided in (5), the agency shall award grants to cover 90 percent of the eligible costs specified in the grant application or the percentage of eligible costs requested in the grant application, whichever is less; and

(b) The grantee shall assume the responsibility for the remaining costs of completing the planning efforts.

(2) For all planning efforts other than that described in (1):

(a) Except as provided in (5), the agency shall award grants to cover 50 percent of the eligible costs specified in the grant application or the percentage of eligible costs requested in the grant application, whichever is less; and

(b) The grantee shall assume the responsibility for the remaining costs of completing the planning efforts.

(3) For (1) grants and (2) grants, the maximum amount that a grantee shall be awarded to complete the plan is 90 percent and 50 percent, respectively, of the total project cost detailed by the grantee in its application. Within these maximums, adjustments between funds awarded to cover the costs specified in 2. shall be made if the agency and the grantee determine that the adjustments will result in the development of an acceptable plan in a more efficient manner.

(4) If, while working to complete the grant, a grantee finds that more funds are needed, the grantee shall not be awarded additional funds unless the grantee makes application for an additional grant in accordance with the grant application procedures set out in E. The agency shall treat an application for an additional grant in the same manner as it treats applications for original grants, as provided in G.

(5) If available funds are not adequate to meet the funding requests of all applicants assigned to group number one under G.3.b., the agency shall reduce the state share of the eligible costs sufficiently to enable all applicants assigned to group number one to receive funding, but the size of the grant awards in (1)(a) and (2)(a) shall not be less than 60 percent and 33 percent, respectively. If available funds are not adequate under this reduced funding level to meet the funding requests of all applicants assigned to group number one under G.3.b., grants shall be awarded at the reduced amount in the order established under G.3.c.

c. Grants shall be awarded to cover the eligible costs of only those tasks which are undertaken and completed during the grant period established in the grant agreement. Grants shall not be awarded to cover any cost associated with tasks performed prior to the award of a grant or after the expiration of the grant agreement.

d. The availability of funds is a precondition to the award of any grant by the agency.

3. Eligible projects.

a. The agency shall consider grant eligible all

projects which are reasonably designed to result in the development and publication of an acceptable plan, as defined in C.1. A project shall not be considered eligible if it is proposed to include a study area for which an acceptable plan has previously been approved by the agency under this grant program.

b. The director shall determine that a project is reasonably designed to result in an acceptable plan if the director finds that the grant application required to be submitted under E. is complete. The director shall determine that a grant application is complete if the application contains all the information and meets all the requirements set out in F.

E. Grant application procedures.

1. A grant applicant shall submit a grant application to the agency no later than 4:30 p.m. on the first Monday of August of each year. The application must be received by the agency by this deadline or must have a postmark dated no later than the Friday immediately preceding the deadline in order to qualify as meeting that deadline.

2. The grant application submitted to the agency shall include all the information and documentation set out in F.

3. Upon receiving a grant application, the director shall promptly review the application and make a determination as to the eligibility of the applicant, costs, and project specified in the application.

4. Within two weeks after receiving the application, the director shall notify each applicant of the following:

a. If the director determines that the applicant, the costs, and the project specified in the application are grant eligible, the application shall be considered final as of the date it was received and the applicant shall be so notified. The application shall then be treated in accordance with the agency review provisions established in G.;

b. If the director determines that the applicant is not grant eligible, the application shall not be further considered and the applicant shall be so notified;

c. If the director determines that any of the costs described in the application are not grant eligible or that the application is otherwise incomplete:

(1) The director shall note the inadequacies in the application and shall so notify the applicant;

(2) The applicant shall have an opportunity to cure the inadequacies noted by the director. However, no information received by the agency after the 42nd day beyond the appropriate deadline in 1., except as provided in 5., shall be considered by the agency in determining the grant eligibility of the applicant, costs, or project.

(a) An application which is considered inadequate under this rule shall not be considered final until the agency receives the information or documentation which cures the inadequacies described by the director.

(b) An application which is considered inadequate under this rule shall be considered final on the date all necessary supplemental information is received by the agency.

(c) Once the application is considered final, it shall be treated in accordance with the agency review provisions established in G.

5. If the agency exceeds the two-week review period in 4. for an application, the 42-day periods specified in 4.c.(2) and G.2. shall be extended for only that application by the number of days equal to the number of review days in excess of two weeks.

F. Grant application content. Applications for grants shall include the following information:

1. The name of each political subdivision making the grant application;

2. Resolutions from each political subdivision named on the application which:

a. Demonstrate the political subdivision's desire to make the grant application and interest in the planning efforts described in the grant application; and

b. Demonstrate the political subdivision's commitment

to provide the required financial input to complete the planning efforts described in the grant application;

3. In the case of a regional development commission, resolutions from each of the counties represented by the regional development commission, which demonstrate the counties' interest in and support for the planning efforts described in the grant application;

4. The name, address, and qualifications of the project manager;

5. The total project cost;

6. The amount of grant funding requested;

7. The amount and sources of all other funding contributions, including the amount of funds to be contributed by the applicant;

8. The regional boundaries of, and the population in, the area to be considered in the planning study;

9. A list of all the landfills which receive solid waste from each of the counties in the proposed study area and the percent of each county's refuse which is currently being disposed at each of the landfills; and

10. A work plan which provides the following information and details:

a. A brief description of the problem which the grantee hopes to address through the planning efforts, including a statement of any known waste management problems to be addressed by the grantee and any present support or opposition to current or proposed solid waste disposal alternatives;

b. A breakdown of the specific work tasks to be completed under the terms of the grant, including each of the tasks required to be completed by Minn. Stat. S 115A.46;

c. A breakdown of the number of work hours needed to complete each of the tasks specified in b.;

d. A breakdown of all the costs associated with completing each of the tasks specified in b., including an explanation of how each cost was calculated;

e. A breakdown of the staff, consultants, and units of

government associated with completing each of the tasks specified in b.;

f. A breakdown of the amount of time needed to complete each of the tasks specified in b.;

g. An overall time schedule for the project showing estimated dates of completion of the tasks specified in b.; and

h. A description of the program to be completed by the applicant to ensure public participation in the planning efforts.

G. Agency review of grant applications and award of grants.

1. The agency shall review all applications received prior to the appropriate deadline specified in E.1., and shall exclude from consideration all applications received after that deadline.

2. Only grant applications considered final pursuant to E.4.a. and E.4.c.(2) as of 4:30 p.m. on the 42nd day following the application deadlines specified in E.1., except as provided in E.5., shall be eligible for a grant award.

3. The agency shall assign a priority ranking to each of the applications which are eligible for a grant award under 2. This priority ranking shall be made pursuant to a.-c.

a. The agency shall make the lists and determinations specified in (1)-(5).

(1) The agency shall make a list of the counties proposed to be studied under the grant eligible applications identified under 2.

(2) The agency shall make a list of the landfills available to and being used by each county identified in (1).

(3) The agency shall determine whether the remaining permitted landfill capacity available to and being used for a majority of the refuse from each of the counties identified in (1) is greater than or equal to five years or is less than five years. An applicant may provide recent, reliable data to the agency to assist ~~him~~ it in making these determinations.

(4) The agency shall determine whether the location of each of the landfills identified in (2) is environmentally undesirable. The agency shall determine that a landfill's

location is environmentally undesirable if the landfill meets one or more of the following criteria:

(a) The landfill is located less than 1,000 feet from the normal high water level of a lake, pond, or flowage;

(b) The landfill is located less than 300 feet from a stream;

(c) The landfill is located within a 100 year flood plain;

(d) The landfill is located within a wetland; and

(e) The landfill is located on Karst bedrock.

An applicant may provide recent, reliable data to the agency to assist ~~him~~ it in making these determinations.

(5) After making the determinations specified in (4), the agency shall determine which counties contribute a majority of their solid wastes to landfills that are considered to be in environmentally undesirable locations. An applicant may provide recent, reliable data to the agency to assist ~~him~~ it in making these determinations.

b. The agency shall divide the grant ~~applicants~~ applications into two groups. All ~~applicants~~ applications whose study areas contain one or more counties that contribute a majority of their solid wastes to landfills having less than five years of permitted landfill capacity remaining, as determined under a.(3), or that contribute a majority of their solid wastes to landfills that are determined to be in environmentally undesirable locations, as determined under a.(5), shall be placed in group number one. All other ~~applicants~~ applications shall be placed in group number two.

c. The agency shall determine the population growth rate within each ~~applicant's~~ application's proposed study area using 1970 and 1980 United States Census Bureau data. The agency shall assign a priority ranking to ~~applicants~~ applications in groups one and two as provided in (1) and (2).

(1) First, the agency shall divide the ~~applicants~~ applications in group one and in group two into subgroups. Subgroup 1 shall contain the applications for planning by a

regional development commission, for joint planning by two or more contiguous counties, and for joint planning by political subdivisions located in two or more contiguous counties. Subgroup 2 shall contain all other applications.

(2) Funds shall be awarded, on a priority basis, in the following order. ~~In all cases~~ Priority shall be determined by growth rate, with the highest priority within each subgroup being given to the applicant with the highest growth rate:

(a) Group 1, subgroup 1;

(b) Group 1, subgroup 2;

(c) Group 2, subgroup 1; and

(d) Group 2, subgroup 2.

4. The agency shall award grants to applicants in the order of the priority ranking in 3.c. No awards shall be made to any applicant in group two until all applicants in group one have been awarded grants.

5. Once the agency has determined which ~~grantees~~ applicants will receive grants, the agency shall proceed as follows:

a. The agency shall provide a complete listing of grant awards and of applicant rankings to each applicant; and

b. Within three weeks of the notification required by a., the agency shall draft a grant agreement for each applicant which is to receive a grant in accordance with the requirements and conditions set out in H.

H. Grant agreement.

1. The grant agreement shall incorporate by reference the final grant application submitted to the agency in accordance with F.~~1.~~

2. The grant agreement shall establish the term of the grant. All grants awarded under this rule shall have a maximum term of one year, unless the agency determines for a specific grantee that a longer term is necessary due to circumstances beyond the control of the grantee in order to produce an acceptable plan. The agency shall then set the term of the grant.

3. ~~Grant~~ Funds for projects not performed or completed in accordance with the terms and conditions of the grant agreement, including time schedules, shall be forfeited unless the agency determines that the variances from the grant requirements are due to factors outside the control of the grantee.

4. The grant agreement shall include a payment schedule. This payment schedule shall provide for reimbursement of stated travel costs in a manner described in the grant agreement and shall require that the last 25 percent of the total grant award, except reimbursable travel costs, be retained by the agency until the director determines that the report submitted under the grant is an acceptable plan. If the director determines that a report is deficient, the director shall notify the grantee of the deficiency. The agency shall pay the withheld 25 percent of the grant as soon as the deficiency is corrected and the director determines that the report is an acceptable plan.

5. The grant agreement shall provide that the grantee is authorized to enter into contracts to complete the work specified in the grant. The grant agreement shall also require that all such contracts name the agency as a third-party beneficiary to that contract.

I. Severability. If any provision of this rule or the application of it to any person or circumstance is held to be invalid, the invalidity shall not affect any other provision or the application of any other part of this rule or any other rule which can be given effect without the invalid provision or application. To this end, the provisions of this rule and the various applications of it are severable.

OFFICE OF THE REVISOR OF STATUTES
Disapproval of Form of Rules

AR0069-A
May 7, 1982

__X__ The form of the attached rules is not approved. The revisor requests the changes described below before the rules will be approved.

Page 4, line 33, underscore "including" (it does not appear in the State Register)

Page 11, line 28, after "group" insert "~~num~~" and underscore "number"

Steven C. Cross
Revisor of Statutes

Name: Paul M. Marinac

Title: Assistant Revisor

Phone: 296-0948

- -

_____ The changes requested by the revisor are approved by the agency.

_____ The changes requested by the revisor are not approved by the agency

_____
Agency's Representative

- -

_____ The attorney general agrees that the changes requested by the revisor are form changes, not substantive changes.

_____
Assistant Attorney General

Department of Natural Resources
Soil and Water Conservation Board

Notice of Change of Meeting Date

The Minnesota Soil and Water Conservation Board has changed the date of their regular monthly meeting from July 14, 1981 to July 7, 1981. The Board will resume their regular schedule on August 11, 1981.

Pollution Control Agency
Solid and Hazardous Waste Division

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing Solid Waste Management Planning Assistance Program Grants

Notice is hereby given that the Minnesota Pollution Control Agency is seeking information or opinions from sources outside the agency in preparing to promulgate amendments to 6 MCAR § 4.6085 governing the administration of the solid waste management planning assistance program. The promulgation of these rule amendments is authorized by Minn. Stat. § 115A.42, which requires the agency to administer the solid waste management planning assistance program.

The Minnesota Pollution Control Agency requests information and comments concerning the subject matter of these rule amendments. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Edward R. Meyer
Waste Management Assistance Section
Solid and Hazardous Waste Division
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113

Oral statements will be received during regular business hours over the telephone at 612-297-3362 and in person at the above address.

All statements of information and comment shall be accepted until October 7, 1981. Any written material received by the Minnesota Pollution Control Agency shall become part of the record in the event that the rule amendments are promulgated.

Department of Public Service
Weights and Measures Division

Inspection Fees

Effective July 1, 1981

SCALES

Up to and including 30 lbs capacity	$ 9.00
Over 30 lbs capacity, up to and including 1,000 lbs	15.00
" 1,000 lbs " " " " " 4,000 lbs	30.00
" 4,000 lbs " " " " " 20,000 lbs	75.00
" 20,000 lbs " " " " " 60,000 lbs	110.00
Over 60,000 lbs capacity	150.00
VEHICLE scales and LIVESTOCK scales (minimum)	75.00
LAW ENFORCEMENT scales (minimum)	60.00
JEWELER'S, PHARMACEUTICAL and ANALYTICAL balances (including calibration of weights used in conjunction with balance)	40.00
RAILROAD TRACK scales (minimum)	225.00
GRAIN HOPPER scales (minimum)	150.00

STATE OF MINNESOTA

MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Adoption
of a Rule of the State, 6 MCAR §4.6085,
Governing the Administration of the
Minnesota Solid Waste Management
Planning Assistance Program

ORDER
ADOPTING RULE

Notice of the Agency's intent to adopt the above-entitled rule without a public hearing was published in the State Register on February 22, 1982, (6 S.R.1471 et seq.) and was sent by United States mail to all persons on the list maintained by the Agency pursuant to Minn. Stat. § 15.0412, subd. 4 (1981) on February 16, 1982. After affording interested persons an opportunity to submit comments for more than 30 days after Notice, receiving fewer than seven written requests for a public hearing within the comment period, reviewing and considering the comments, and determining the need for and reasonableness of the above-captioned rule,

NOW, THEREFORE, IT IS ORDERED, that this rule identified as 6 MCAR § 4.6085, a Rule Governing the Administration of the Minnesota Solid Waste Management Planning Assistance Program, as published in the February 22, 1982, State Register, is adopted this 27th day of April, 1982, with the following changes, pursuant to the authority invested in the Agency by Minn. Stat. § 116.07, subd. 4 and subd. 4a (1980):

1. Section C.1.a.(3) (page 2 of the attached rule) is amended as follows:

(3) An assessment...as defined in Minn. Stat. §115A.03, subd. 27, including an assessment of:

2. Section F.9. (page 8 of the attached rule) is amended as follows:

9. A list of all...being disposed at each of the landfills; and

3. Sections G.3.a.(3), G.3.a.(4) and G.3.a.(5) (page 9 of the attached rule) are all amended by changing this sentence as follows:

"An applicant may provide recent, reliable data to the agency to assist ~~him~~ it in making these determinations."

4. Section G.3.b. (page 9 of the attached rule) is amended as follows:

b. The agency shall divide the grant ~~applicants~~ applications into two groups. All ~~applicants~~ applications whose study areas contain one or more counties that contribute a majority of their solid wastes to landfills having less than five years of permitted landfill capacity remaining, as determined under a.(3), or that contribute a majority of their solid wastes to landfills that are determined to be in environmentally undesirable locations, as determined under a.(5),

shall be placed in group number one. All other ~~applicants~~ applications shall be placed in group number two.

5. Section G.3.c. (page 10 of the attached rule) is amended as follows:

c. The agency shall determine the population growth rate within each ~~applicant's~~ application's proposed study area using 1970 and 1980 United States Census Bureau data. The agency shall assign a priority ranking to ~~applicants~~ applications in groups one and two as provided in (1) and (2).

6. Section G.3.c.(1) (page 10 of the attached rule) is amended as follows:

(1) First, the agency shall divide the ~~applicants~~ applications in group one...

[the rest of the section remains unchanged.]

7. Section G.3.c.(2) (page 10 of the attached rule) is amended as follows:

(2) Funds shall be awarded, on a priority basis, in the following order. ~~In all cases,~~ Priority shall be determined by growth rate, with the highest priority within each subgroup being given to the applicant with the highest growth rate:

8. Section G.4. (page 10 of the attached rule) is amended to change "ranking in c." to "ranking in 3.c.".

9. Section G.5. (page 10 of the attached rule) is amended as follows:

5. Once the agency has determined which ~~grantees~~ applicants will receive grants, the agency shall proceed as follows:

10. Section G.5.b. (page 10 of the attached rule) is amended as follows:

b. Within three weeks of the notification required by a., the agency shall draft a grant agreement for each applicant which is to receive a grant in accordance with the requirements and conditions set out in H.

11. Section H.1. (page 10 of the attached rule) is amended as follows:

1. The grant agreement shall incorporate by reference the final grant application submitted to the agency in accordance with F.~~1.~~

12. Section H.3. (page 11 of the attached rule) is amended as follows:

3. ~~Grant~~ Funds for projects not performed...control of the grantee.

13. Four typographical errors in the State Register are corrected as follows:

a. D.2.a.(2): In this section on page 4 of the attached rule, the word "including" appears. The Agency proposed and the Revisor approved a version of the rule which included the word "including". The State Register incorrectly omitted the word "including". The Agency adopts the language it proposed and submitted to the State Register and not the language incorrectly printed by the State Register.

b. E.4.: In this section on page 6 of the attached rule, a ":" appears. The Agency proposed and the Revisor approved a version of the rule which included the ":". The State Register incorrectly deleted the ":". The Agency adopts the language it proposed and submitted to the State Register and not the language incorrectly printed by the Register.

c. G.3.b.: In this section on page 9 of the attached rule, the word "number" appears in the last sentence. The Agency proposed and the Revisor approved a version of the rule which included the word "number". The State Register incorrectly spelled "number". The Agency adopts the language it proposed and

submitted to the State Register and not the language incorrectly printed by the State Register.

MINNESOTA POLLUTION CONTROL AGENCY

Louis Breimhurst

Louis Breimhurst
Executive Director

Dated: 4/27/82

CERTIFICATE OF AGENCY'S AUTHORIZING RESOLUTION

(6)

I, Virgil Herrick, do hereby certify that I am the chairman and a member of the Minnesota Pollution Control Agency, an agency duly authorized under the laws of the State of Minnesota, and that the following is a true, complete and correct copy of a resolution adopted at a meeting of the Minnesota Pollution Control Agency duly and properly called and held on the 2nd day of February, 1982, that a quorum was present at said meeting, that a majority of all the members of the agency voted for the resolution and that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified:

> RESOLVED, that the Minnesota Pollution Control Agency withdraws its proposal to adopt amendments to the Minnesota Solid Waste Management Planning Assistance Rule (6 MCAR §4.6085), proposed in October, 1981; and
>
> RESOLVED, that the Minnesota Pollution Control Agency finds that the attached proposed amendments to 6 MCAR §4.6085 are noncontroversial in nature; and
>
> RESOLVED, that Louis Breimhurst, Executive Director of the Minnesota Pollution Control Agency, be and hereby is granted the authority and directed (1) to sign an Order of the Agency directing that Notice be given of the Agency's intent to adopt without a public hearing the attached rule governing the Agency's Solid Waste Management Planning Assistance Grant Program; (2) to sign the Notice thereof; (3) to make any form changes in the proposed rule that the Revisor of Statutes requires or suggests that the Agency make in order for the Agency to obtain the Revisor's certification as required by law, [Minn. Stat. §15.0412, subd. 2a (1981)]; and, (4) to perform any other acts incidental to the promulgation of said proposed rule. In the event a public hearing becomes necessary, Louis Breimhurst is also hereby granted the authority and directed to call a hearing for the purpose of promulgating said rule as well as perform any and all acts incidental thereto, including without being limited to signing an Order for Hearing and Notice of Hearing as well as acting as the Agency's representative at all hearings.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 30th day of March, 1982.

Virgil Herrick, Chairman

Cynthia C Jessen
Attest by one other Agency member

(5)

STATE OF MINNESOTA

MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendment of a Rule of the State, 6 MCAR §4.6085, Governing the Administration of the Minnesota Solid Waste Management Planning Assistance Program

ORDER FOR NOTICE OF WITHDRAWAL AND INTENT TO ADOPT A RULE WITHOUT PUBLIC HEARING

IT IS ORDERED this 3 day of FEBRUARY, 1982, that Notice of Withdrawal and Intent to Adopt a Rule without Public Hearing in the above-entitled matter be given to all persons who have registered their names with the Minnesota Pollution Control Agency for that purpose and be published in the State Register.

Louis Breimhurst

LOUIS BREIMHURST
Executive Director

Minnesota Pollution Control Agency

(8)

STATE OF MINNESOTA

COUNTY OF RAMSEY

AFFIDAVIT OF MAILING

In the Matter of the Proposed Amendment
of a Rule of the State, 6 MCAR §4.6085,
Governing the Administration of the Minnesota
Solid Waste Management Planning Assistance Program

Dale E. Newton, being first duly sworn, deposes and says:

That on the 16th day of February, 1982, at the City of Roseville, County of Ramsey, State of Minnesota, he served the attached Notice of Withdrawal and Intent to Adopt a Rule Without Public Hearing, together with a copy of the above-referenced proposed rule, on all persons and associations who have requested that their names be placed on file with the Minnesota Pollution Control Agency for the purpose of receiving notice of proposed adoption of rules by this Agency and on all other persons and associations named on the attached mailing list, by depositing in the United States Mail, a copy thereof, properly enveloped, with first-class postage prepaid.

Dale E. Newton

Minnesota Pollution Control Agency

Subscribed and sworn to
before me this 16th
day of February, 1982.

Margaret Frank

MARGARET FRANK
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My Commission Expires Sept 30, 1985

(9)

STATE OF MINNESOTA

COUNTY OF RAMSEY

MAILING LIST CERTIFICATE

In the Matter of the Proposed Amendment
of a Rule of the State, 6 MCAR §4.6085,
Governing the Administration of the Minnesota
Solid Waste Management Planning Assistance Program

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. §15.0412, subd. 4, that their names be placed on file and maintained by the Minnesota Pollution Control Agency for the purpose of receiving notice of the proposed adoption of rules by this Agency is accurate and complete as of 2:00 o'clock P.m., this 16th day of February, 1982.

Diana Farrell

Minnesota Pollution Control Agency

DATED: 2/16/82

and the future operation of the system: base load heating plant; peaking plants; large boiler plants in existing buildings; mobile boilers; accumulators; and future heat sources such as solid waste, solar, and industrial waste heat.

C. Market study. The comprehensive business plan must include a market study of customers who represent 90 percent of the proposed thermal load of the district heating system defined by the business plan. This study must show detailed information on present fuel consumption or heating demand and the present heating system in each building.

D. Preliminary expansion plan. A preliminary expansion plan must show how the system could be expanded to serve other parts of the community.

E. Preliminary economic analysis. A preliminary economic analysis must include a preliminary financing and development plan for the district heating system and cash flow, income, and balance sheets for a 20-year planning period. This analysis must also contain a cost estimate and expenditure schedule for all transmission and distribution piping; heat source conversion, purchase, or rental; operating and maintenance costs excluding fuel costs; and building heating conversion costs.

F. Letters of intent to purchase heat. The applicant shall submit copies of letters of intent to purchase heat supplied by the project, from major customers representing at least 50 percent of the thermal load.

G. Letter of intent to furnish heat. The applicant shall submit a copy of a letter of intent to furnish heat, from the owner of the heat source or the proposed system owner or operator.

H. Engineering opinion. The business plan requires an opinion by a registered professional engineer that the system described by the preliminary designs is technically feasible and that the preliminary engineering design and cost estimate is within standard engineering practice.

6 MCAR § 2.4016 Application review criteria. The commissioner shall review each application as it is received according to the eligibility and priority criteria of Minn. Stat. §. 116H.31; the sophistication and reasonableness of the technical approach as detailed in the application; the experience and qualifications of the applicant as they relate to the project; the project organization and personnel assignment; and the estimated cost of the project.

6 MCAR § 2.4017 Expenditures not required. Rules 6 MCAR §§ 2.4011-2.4017 do not require expenditure of money not available.

Minnesota Pollution Control Agency
Solid and Hazardous Waste Division

Proposed Rules Regarding the Administration of the Minnesota Solid Waste Management Planning Assistance Program

Notice of Withdrawal of Previous Proposed Amendments and Intent to Adopt a Rule without a Public Hearing

Notice is hereby given that the Minnesota Pollution Control Agency (hereinafter "agency") withdraws its previously proposed amendments to the rule published at page 630 of the October 12, 1981, *State Register* (6 S.R. 630) and identified as "6 MCAR § 4.6085 Rule for the administration of the Minnesota solid waste management planning assistance program" at page 631 of that *State Register*.

Notice is hereby given that the Minnesota Pollution Control Agency intends to adopt revised amendments to the above-entitled rule without a public hearing. The agency has determined that the proposed adoption of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. § 15.0412, subd. 4h.

The proposed amendments will enable the agency to administer the Minnesota Solid Waste Management Planning Assistance Program in the current and future bienniums. Authority for the adoption of this rule is contained in Minn. Stat. § 115A.42.

The agency has prepared a statement of need and reasonableness that describes the agency's reasons for each provision of the proposed amendments and identifies the data and information relied upon by the agency to support the proposed rule. Copies of the statement of need and reasonableness and the proposed amendments are available and may be obtained by contacting:

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Mr. Edward R. Meyer
Division of Solid and Hazardous Waste
Minnesota Pollution Control Agency
1935 West County Road B2
Roseville, Minnesota 55113
Telephone: (612) 297-3362

All interested or affected persons have until March 24, 1982 to submit written comments on the proposed amendments. The proposed rule may be modified if the data and views submitted to the agency in writing warrant modifications and the modifications do not result in a substantial change in the proposed language.

If, during the comment period, seven or more persons submit to the agency a written request for a hearing on the proposed amendments, the agency shall proceed to schedule a public hearing before adopting the proposed rule. In the event a public hearing is required, the agency will proceed according to the provisions of Minn. Stat. § 15.0412, subds. 4-4f.

Persons who wish to submit comments or to request a public hearing should submit such comments or requests to Mr. Edward Meyer at the address given above. The agency requests that if a person desires a public hearing, that when submitting a written request for a hearing, the person identify the particular provisions objected to, the suggested modifications to the proposed language, and the reasons and data relied on to support the suggested modifications.

In the event a hearing is required, a new notice of hearing will be mailed out and published in the *State Register*. If no hearing is requested, the agency will consider the adoption of the proposed amendments at the April, 1982, agency meeting or as soon thereafter as possible. Persons who wish to receive a copy of the final rule as proposed for adoption by the agency should submit a written statement of such desire to Mr. Meyer.

After adoption of the final rule by the agency, without a public hearing, the proposed rule, this notice, the statement of need and reasonableness, all written comments received, and the final rule as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Mr. Edward Meyer.

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. 10A.01, subd. 11 as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

February 3, 1982

Louis J. Breimhurst, Executive Director
Minnesota Pollution Control Agency

Rule as Proposed

6 MCAR § 4.6085 Rule for the administration of the Minnesota solid waste management planning assistance program.

A. Purpose. This rule implements the solid waste management planning assistance program, created and described in ~~Article V of~~ the Waste Management Act of 1980, Minn. Stat. §§ 115A.42 ~~through~~ 115A.46 ~~(1980)~~, by establishing the substantive criteria and procedural conditions according to which the agency shall award solid waste management planning assistance grants.

B. Overview of procedures for applying for and receiving a grant.

1. Application for a grant. To be eligible for a grant under ~~these rules~~ this rule, an applicant shall ~~make an application~~ apply for a grant.

a. The procedures the applicant shall follow in applying for a grant are set out in ~~Part~~ E. ~~of this rule.~~

b. The information and documentation the applicant shall provide in the grant application are set out in ~~Part~~ F. ~~of this rule.~~

Mr. Edward R. Meyer
Division of Solid and Hazardous Waste
Minnesota Pollution Control Agency
1935 West County Road B2
Roseville, Minnesota 55113
Telephone: (612) 297-3362

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If, during the comment period, seven or more persons submit to the agency a written request for a hearing on the proposed amendments, the agency shall proceed to schedule a public hearing before adopting the proposed rule. In the event a public hearing is required, the agency will proceed according to the provisions of Minn. Stat. § 15.0412, subds. 4-4f.

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a. The procedures the applicant shall follow in applying for a grant are set out in ~~Part~~ E. ~~of this rule.~~

b. The information and documentation the applicant shall provide in the grant application are set out in ~~Part~~ F. ~~of this rule.~~

2. Award of a grant. The agency shall award the applicant a grant~~,~~ in accordance with the procedures and limitations set out in ~~Part~~ G. ~~of this rule~~, if the agency determines:

a. That the applicant, cost, and project specified in the grant application ~~is~~ are grant eligible;

b. ~~That the costs specified in the grant application are grant eligible; and,~~ That the application deadlines are met; and

c. ~~That the project specified in the grant application is grant eligible.~~ That sufficient funds are available.

The criteria the agency shall use in determining the grant eligibility of the applicant ~~is~~ are set out in ~~section~~ D.1. ~~of this rule~~; the criteria the agency shall use in determining the grant eligibility of the costs ~~is~~ are set out in ~~section~~ D.2. ~~of this rule; and,~~ the criteria the agency shall use in determining the grant eligibility of the project ~~is~~ are set out in ~~section~~ D.3. ~~of this rule~~; and the criteria the agency shall use in determining compliance with deadlines are set out in E.1., 4., 5., and G.2.

C. Definitions.

1. "Acceptable plan" means a written report prepared by a grantee to ~~determine and~~ provide the planning information set out in Minn. Stat. § 115A.46 ~~(1980)~~. To be considered an acceptable plan under ~~these rules~~ this rule, the written report shall:

a. Contain descriptions, estimates, or assessments of existing and proposed waste practices, including the following:

(1) A description of the existing collection, storage, transportation, processing, and disposal systems used ~~by~~ within the political ~~subdivision(s)~~ subdivision being studied by the named grantee, including schedules of rates and charges, financing methods, environmental acceptability, and ~~opportunity~~ opportunities for improvements in the systems;

(2) An estimate, calculated on the basis of current and projected waste generation practices, of the land disposal capacity in acre-feet which will be needed to serve the political subdivisions being studied by the named grantee ~~shall need~~ through the year 2000;

(3) An assessment of specific opportunities to reduce the need for land disposal through the use of waste reduction and resource recovery ~~(~~, as defined in Minn. Stat. § 115A.03, subd. 27 ~~(1980))~~, including ~~and~~ an assessment of:

(a) The alternative degrees of reduction achievable~~,~~;

(b) The comparative costs of the alternatives ~~(~~, including capital and operating costs~~),~~; and

(c) The effects of the alternatives on the cost to generators of the waste.

(4) A description of existing and proposed county and municipal ordinances and license and permit requirements relating to solid waste management, including a description of the existing and proposed regulations and enforcement procedures relevant to those requirements; ~~and,~~

b. Establish a detailed siting procedure and development program to assure the orderly location, development, and financing of new or expanded solid waste facilities and services sufficient for a prospective ten year period, ~~including~~ which procedure and program shall be consistent with all applicable rules of the agency and shall include:

(1) Estimated costs and implementation schedules~~,~~;

(2) Proposed procedures for operation and maintenance~~,~~;

(3) Estimated annual costs and gross revenues; and

(4) Feasible proposals for the use of facilities after they are no longer needed or useable; ~~and,~~

c. ~~Address~~ Include an evaluation and recommendation of specific options, consistent with all applicable rules of the agency, for the resolution of conflicting, duplicative, or overlapping local management efforts, including the possible establishment of joint powers management programs or waste management districts; and~~,~~

d. Establish a schedule of actions which need to be undertaken to put the procedures, programs, and resolutions described in the plan into effect, including a statement of the appropriate entity to take each action.

2. "Agency" means the Minnesota Pollution Control Agency, as constituted pursuant to Minn. Stat. § 116.02, subd. 1 ~~(1980)~~.

3. "Director" means the executive director and chief executive officer of the agency or a person expressly designated by the director to discharge a duty or responsibility of the director.

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4. "Grant eligible" or "grant eligibility" means ~~meets~~ meeting the criteria to receive funding assistance under ~~these rules~~ this rule. The fact that an item or person is "grant eligible" under ~~these rules~~ this rule does not automatically assure that a grant ~~shall~~ will be awarded. A grant shall only be awarded if the grant eligibility criteria are met ~~and if sufficient funds are available to cover the grant~~.

5. "Landfill" means a sanitary landfill or a modified landfill which has a valid permit issued by the agency.

6. "Metropolitan area" has the meaning given it in Minn. Stat. § 115A.03, subd. 18 ~~(1980)~~.

7. "Population growth rate" means the rate at which population in a proposed study area either increased or decreased during the decade between 1970 and 1980. The director shall determine the population growth rate of a proposed study area by determining the difference in population in the proposed study area, as reported in the 1970 and 1980 United States Census Bureau data, dividing this difference by the 1970 population of the proposed study area and multiplying this result by 100. The growth rate will thus be expressed as a percentage.

8. "Project manager" means an employee of the grantee who is given the responsibility and the authority to direct and coordinate all aspects of the project as defined in the contractual agreement between the grantee and the agency. The project manager shall assume the responsibility for performing all contract and project management functions.

~~6.~~ 9. "Political subdivision" has the meaning given it in Minn. Stat. § 115A.03, subd. 24 ~~(1980)~~.

~~7.~~ 10. "Regional development commission" has the meaning given it in Minn. Stat. § 115A.03, subd. 26 ~~(1980)~~.

D. Grant eligibility criteria.

1. Eligible applicants. Except for political subdivisions located within the seven county metropolitan area, any political subdivision within the State of Minnesota is grant eligible.

2. Eligible costs.

a. The following costs are grant eligible:

(1) Salaries of staff persons, consultants, and other persons employed to develop and publish an acceptable plan;

(2) Costs associated with the drafting and execution of necessary contracts between the grantee and other units of government or qualified consultants employed to develop or publish an acceptable plan~~;~~, ~~but not limited to,~~ reasonable ~~attorneys~~ attorney's fees;

(3) Costs associated with holding meetings to inform the public of the development of the plan and to provide an opportunity for the public to participate in and comment on the development of the plan~~;~~, including~~,~~ ~~but not limited to,~~ costs associated with ~~noticing~~ providing notices of and recording the meeting;

(4) Costs associated with the printing and distribution of plans and draft plan materials;

(5) Costs of any ~~in-state~~ travel in the state, the primary purpose of which is to attend meetings or gather information needed for the development and publication of an acceptable plan~~;~~, including~~,~~ ~~but not limited to,~~ reimbursement for mileage consistent with state allowances;

(6) Costs of any necessary supplies required for the development and publication of an acceptable plan. ~~(~~The costs of any commodities, materials, capital expenditures, and equipment which could be used after the plan is completed shall not be considered supplies and are, therefore, not grant eligible under ~~these rules),~~ this rule; and~~,~~

(7) Overhead costs.

b. The amount of the grants available under this rule is limited as follows:

(1) For planning by a regional development commission, joint planning by two or more contiguous counties, or joint planning by political subdivisions located in two or more contiguous counties:

(a) Except as provided in (5), the agency shall award grants to cover 90 percent of the eligible costs specified in the grant application or the percentage of eligible costs requested in the grant application, whichever is less; and~~,~~

(b) The grantee shall ~~fund~~ assume the responsibility for the remaining costs of completing the planning efforts.

(2) For all planning efforts other than that described in ~~paragraph~~ ~~D.2.b.~~(1):

(a) Except as provided in (5), the agency shall award grants to cover 50 percent of the eligible costs specified in the grant application or the percentage of eligible costs requested in the grant application, whichever is less; and~~,~~

(b) The grantee shall ~~fund~~ assume the responsibility for the remaining costs of completing the planning efforts.

(3) For ~~section D.2.b.~~(1) grants and ~~D.2.b.~~(2) grants, the maximum amount that a grantee shall be awarded to complete the plan is 90 percent and 50 percent, respectively, of the total ~~requested~~ project cost detailed by the grantee in its application. Within these maximums, adjustments between funds awarded to cover the costs specified in ~~section~~ D.2. shall be made if the agency and the grantee determine that ~~such~~ the adjustments ~~shall~~ will result in the development of an acceptable plan in a more efficient manner.

(4) If, while working to complete the grant, a grantee finds that more funds are needed, the grantee shall not be awarded additional funds unless the grantee makes application for an additional grant in accordance with the grant application procedures set out in ~~Part~~ E. ~~of this rule.~~ The agency shall treat an application for an additional grant in the same manner as it treats applications for original grants, as provided in ~~Part~~ G. ~~of this rule.~~

(5) If available funds are not adequate to meet the funding requests of all applicants assigned to group number one under G.3.b., the agency shall reduce the state share of the eligible costs sufficiently to enable all applicants assigned to group number one to receive funding, but the size of the grant awards in (1)(a) and (2)(a) shall not be less than 60 percent and 33 percent, respectively. If available funds are not adequate under this reduced funding level to meet the funding requests of all applicants assigned to group number one under G.3.b., grants shall be awarded at the reduced amount in the order established under G.3.c.

c. Grants shall be awarded to cover the eligible costs of only those tasks which are undertaken and completed during the grant period established in the grant agreement. Grants shall not be awarded to cover any cost associated with tasks performed prior to the award of a grant or after the expiration of the grant agreement.

d. The availability of funds is a precondition to the award of any grant by the agency.

3. Eligible projects.

a. The agency shall consider grant eligible all projects which are reasonably designed to result in the development and publication of an acceptable plan, as defined in ~~section~~ C.1. ~~of this rule~~ A project shall not be considered eligible if it is proposed to include a study area for which an acceptable plan has previously been approved by the agency under this grant program.

b. The ~~agency~~ director shall determine that a project is reasonably designed to result in an acceptable plan if the ~~agency~~ director finds that the grant application required to be submitted under ~~Part~~ E. ~~of this rule~~ is complete. The ~~agency~~ director shall determine that a grant application is complete if the application contains all the information and meets all the requirements set out in ~~Part~~ F.

E. Grant application procedures.

1. ~~For grants to be awarded during the fiscal year ending June 30, 1981:~~

~~a. As soon as possible and no later than April 15, 1981,~~ A grant applicant shall submit a grant application to the agency no later than 4:30 p.m. on the first Monday of August of each year. The application must be received by the agency by this deadline or must have a postmark dated no later than the Friday immediately preceding the deadline in order to qualify as meeting that deadline.

~~b.~~ 2. The grant application ~~to be~~ submitted to the agency shall include all the information and documentation set out in ~~Part~~ F. ~~of this rule.~~

~~c.~~ 3. Upon receiving a grant application, the director shall promptly review the application and ~~shall~~ make a determination as to

~~(1)~~ the eligibility of the applicant, costs, and project specified in the ~~preliminary~~ application~~;~~.

~~(2) The eligibility of the costs specified in the preliminary application; and,~~

~~(3) The eligibility of the project specified in the preliminary application.~~

~~d.~~ 4. Within two weeks after receiving the application, the director shall notify each applicant ~~as to the director's determinations~~ of the following:

~~(1)~~ a. If the director determines that the applicant, the costs, and the project specified in the application are grant eligible, the application shall be considered final as of the date it was received and the applicant shall be so notified. The application shall then be treated in accordance with the agency review provisions established in ~~Part~~ G. ~~of this rule.~~;

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~~(2)~~ b. If the director determines that the applicant is not grant eligible, the application shall not be further considered and the applicant shall be so notified~~.~~;

~~(3)~~ c. If the director determines that any of the costs described in the application are not grant eligible or that the application is otherwise incomplete:

~~(a)~~ (1) The director shall note the inadequacies in the application and shall so notify the applicant;

~~(b)~~ (2) The applicant shall have an opportunity to cure the inadequacies noted by the director~~;~~ ~~except that,~~. However, no information received by the agency after ~~May 1, 1981,~~ the 42nd day beyond the appropriate deadline in 1., except as provided in 5., shall be considered by the ~~director~~ agency in determining the grant eligibility of the applicant, costs, or project.

~~(i)~~ (a) An application which is considered inadequate under this ~~section~~ rule shall not be considered final until the agency receives the information or documentation which cures the inadequacies described by the director.

~~(ii)~~ (b) An application which is considered inadequate under this ~~section~~ rule shall be considered final on the date all necessary supplemental information is received by the agency.

~~(iii)~~ (c) Once the application is considered final, it shall be treated in accordance with the agency review provisions established in ~~Part~~ G. ~~of this rule.~~

~~2. For grants to be awarded during all fiscal years other than that described in paragraph E.1.:~~

~~a. Preliminary grant applications. [reserved].~~

~~b. Final grant applications. [reserved].~~

5. If the agency exceeds the two-week review period in 4. for an application, the 42-day periods specified in 4.c.(2) and G.2. shall be extended for only that application by the number of days equal to the number of review days in excess of two weeks.

F. Grant application content.

~~1.~~ Applications for grants ~~to be awarded during the fiscal year ending June 30, 1981~~ shall include the following information:

~~a.~~ 1. The ~~name(s)~~ name of each political ~~subdivision(s)~~ subdivision making the grant application;

~~b.~~ 2. Resolutions from each political subdivision named on the application which:

~~(1)~~ a. Demonstrate the political subdivision's desire to make the grant application and interest in the planning efforts described in the grant application; and~~,~~

~~(2)~~ b. Demonstrate the political subdivision's commitment to provide the required financial input to complete the planning efforts described in the grant application;

~~c.~~ 3. In the case of a regional development commission, resolutions from each of the counties represented by the regional development commission, which demonstrate the counties' interest in and support for the planning efforts described in the grant application;

~~d.~~ 4. The ~~name(s) and address(es)~~ name, address, and qualifications of the project ~~manager(s)~~ manager;

~~e.~~ 5. The total project cost;

~~f.~~ 6. The amount of grant funding requested;

~~g.~~ 7. The amount and sources of all other funding contributions, including the amount of funds to be contributed by the applicant;

~~h.~~ 8. The regional boundaries of, and the population in, the area to be considered in the planning study;

9. A list of all the landfills which receive solid waste from each of the counties in the proposed study area and the percent of each county's refuse which is currently being disposed at each of the landfills;

~~i.~~ 10. A work plan which provides the following information and details:

~~(1)~~ a. A brief description of the problem which the grantee hopes to address through the planning efforts~~;~~, including~~,~~ a statement of any known waste management problems to be addressed by the grantee and any present support or opposition to current or proposed solid waste disposal alternatives;

~~(2)~~ b. A breakdown of the specific work tasks to be completed under the terms of the grant~~;~~, including~~,~~ ~~but not limited to,~~ each of the tasks required to be completed by Minn. Stat. § 115A.46 ~~(1980)~~;

~~(3)~~ c. A breakdown of the number of work hours needed to complete each of the tasks specified in ~~paragraph (i)(2)~~b.;

~~(4)~~ d. A breakdown of all the costs associated with completing each of the tasks specified in ~~paragraph (i)(2)~~b., including an explanation of how each cost was calculated;

~~(5)~~ e. A breakdown of the staff, consultants, and units of government associated with completing each of the tasks specified in ~~paragraph (i)(2)~~b.;

~~(6)~~ f. A breakdown of the amount of time needed to complete each of the tasks specified in ~~paragraph (i)(2)~~b.; ~~and,~~

g. An overall time schedule for the project showing estimated dates of completion of the tasks specified in b.; and

~~(7)~~ h. A description of the program to be completed by the applicant to ensure public participation in the planning efforts.

~~2. Applications for grants to be awarded during all fiscal years other than the one described in paragraph F.1. [reserved].~~

G. Agency review of grant applications and award of grants.

~~1. Review and award of grants to be awarded during the fiscal year ending June 30, 1981.~~

~~a. Grants shall be awarded to eligible grantees, to the extent funding is available, on a first come, first serve basis.~~

~~b. The agency shall make these first come, first serve determinations as follows:~~

~~(1) The director shall mark each and every application and supplemental submittal the agency receives with a notation of the date the application and submittal is received. The date the agency shall use in determining the rank of the application is the date that the application is considered final.~~

~~(a) For applications which are complete on the day they are submitted, the application shall be considered final on the date the application is received by the agency.~~

~~(b) For applications which require the submission of supplemental information to be complete, the application shall be considered final on the date all necessary supplemental information is received by the agency.~~

~~(c) In those instances in which more than one application is received by the agency during any one day, the priority status of the applications shall be determined by lottery.~~

~~(2) Once the grant application is considered final [as provided in Part E.1.d.(1) and (3)(b)], the director shall proceed as follows:~~

~~(a) Within four weeks after notifying the applicant that the application is considered final, the director shall draft a grant for the applicant, in accordance with the requirements and conditions set out in Part H. of this rule.~~

~~(b) At the next regularly scheduled meeting the agency holds after the grant is drafted, the director shall present the grant to the agency for its consideration and review.~~

~~(c) The agency shall review the director's determinations as to applicant, cost and project eligibility, and, if it agrees with these determinations, shall award the grant.~~

~~(d) The agency is authorized to delegate to the director the authority to issue grants under this program. If the agency delegates such authority to the director, the agency review provisions set out in b.(2)(b) and (c) are waived.~~

~~2. Review and award of grants to be awarded during all fiscal years other than the one described in paragraph C.1. [reserved].~~

1. The agency shall review all applications received prior to the appropriate deadline specified in E.1., and shall exclude from consideration all applications received after that deadline.

2. Only grant applications considered final pursuant to E.4.a. and E.4.c.(2) as of 4:30 p.m. on the 42nd day following the application deadlines specified in E.1., except as provided in E.5., shall be eligible for a grant award.

3. The agency shall assign a priority ranking to each of the applications which are eligible for a grant award under 2. This priority ranking shall be made pursuant to a.-c.

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a. The agency shall make the lists and determinations specified in (1)-(5).

(1) The agency shall make a list of the counties proposed to be studied under the grant eligible applications identified under 2.

(2) The agency shall make a list of the landfills available to and being used by each county identified in (1).

(3) The agency shall determine whether the remaining permitted landfill capacity available to and being used for a majority of the refuse from each of the counties identified in (1) is greater than or equal to five years or is less than five years. An applicant may provide recent, reliable data to the agency to assist him in making these determinations.

(4) The agency shall determine whether the location of each of the landfills identified in (2) is environmentally undesirable. The agency shall determine that a landfill's location is environmentally undesirable if the landfill meets one or more of the following criteria:

(a) The landfill is located less than 1,000 feet from the normal high water level of a lake, pond, or flowage;

(b) The landfill is located less than 300 feet from a stream;

(c) The landfill is located within a 100 year flood plain;

(d) The landfill is located within a wetland; and

(e) The landfill is located on Karst bedrock.

An applicant may provide recent, reliable data to the agency to assist him in making these determinations.

(5) After making the determinations specified in (4), the agency shall determine which counties contribute a majority of their solid wastes to landfills that are considered to be in environmentally undesirable locations. An applicant may provide recent, reliable data to the agency to assist him in making these determinations.

b. The agency shall divide the grant applicants into two groups. All applicants whose study areas contain one or more counties that contribute a majority of their solid wastes to landfills having less than five years of permitted landfill capacity remaining, as determined under a.(3), or that contribute a majority of their solid wastes to landfills that are determined to be in environmentally undesirable locations, as determined under a.(5) shall be placed in group number one. All other applicants shall be placed in group num two.

c. The agency shall determine the population growth rate within each applicant's proposed study area using 1970 and 1980 United States Census Bureau data. The agency shall assign a priority ranking to applicants in groups one and two as provided in (1) and (2).

(1) First, the agency shall divide the applicants in group one and in group two into subgroups. Subgroup 1 shall contain the applications for planning by a regional development commission, for joint planning by two or more contiguous counties, and for joint planning by political subdivisions located in two or more contiguous counties. Subgroup 2 shall contain all other applications.

(2) Funds shall be awarded, on a priority basis, in the following order. In all cases priority shall be determined by growth rate, with the highest priority within each subgroup being given to the applicant with the highest growth rate:

(a) Group 1, subgroup 1;

(b) Group 1, subgroup 2;

(c) Group 2, subgroup 1; and

(d) Group 2, subgroup 2.

4. The agency shall award grants to applicants in the order of the priority ranking in c. No awards shall be made to any applicant in group two until all applicants in group one have been awarded grants.

5. Once the agency has determined which grantees will receive grants, the agency shall proceed as follows:

a. The agency shall provide a complete listing of grant awards and of applicant rankings to each applicant; and

b. Within three weeks of the notification required by a., the agency shall draft a grant for each applicant which is to receive a grant in accordance with the requirements and conditions set out in H.

H. Grant agreement.

1. The grant agreement shall incorporate by reference the final grant application submitted to the agency in accordance with ~~section~~ F.1. ~~of this rule.~~

2. The grant agreement shall establish the term of the grant. All grants awarded under this rule shall have a maximum term of one year, unless the agency determines for a specific grantee that a longer term is necessary due to circumstances beyond the control of the grantee in order to produce an acceptable plan. The agency shall then set the term of the grant.

3. ~~Grants~~ Grant projects not ~~being~~ performed or completed in accordance with the terms and conditions of the grant agreement, including time schedules, shall be forfeited unless the agency determines that the variances from the grant requirements are due to factors outside the control of the grantee.

4. The grant agreement shall include a payment schedule. This payment schedule shall provide for reimbursement of stated travel costs in a manner described in the grant agreement and shall require that ~~ten~~ the last 25 percent of ~~each payment made under the grant agreement~~ ~~(~~the total grant award, except reimbursable travel costs~~)~~, be retained by the agency until the director determines that the report submitted under the grant is an acceptable plan. If the director determines that a report is deficient, the director shall notify the grantee of the deficiency. The agency shall pay the withheld ~~ten~~ 25 percent of the grant as soon as the deficiency is corrected and the director determines that the report is an acceptable plan.

5. The grant agreement shall provide that the grantee ~~shall be~~ is authorized to enter into contracts to complete the work specified in the grant. The grant agreement shall ~~further~~ also require that all such contracts name the agency as a third-party beneficiary to that contract.

I. ~~Apportionment~~

~~1. For grants to be awarded during the fiscal year ending June 30, 1981, the agency shall apportion funds allocated to it by the legislature for the grant programs set out in Articles V and VI of the Waste Management Act, Minn. Stat. §§ 115A.42 through 115A.54 (1980), as follows:~~

~~a. Article V grants (grants awarded under these rules): forty percent of the amount appropriated to the agency; and~~

~~b. Article VI grants (grants awarded under other rules): sixty percent of the amount appropriated to the agency.~~

~~c. If the agency receives more eligible requests for grant assistance under Article V than the agency has funds available and the agency receives less eligible requests for grant assistance under Article VI than it has funds available, the agency shall adjust the apportionment described in this part. Similarly, if the agency receives less eligible requests for grant assistance under Article V than the agency has funds available and more eligible requests for grant assistance under Article VI than it has funds available, the agency shall adjust the apportionment described in this part. No such adjustment shall be made until the last date that final grant applications are permitted to be submitted to the agency under this rule and the rule developed to implement Article VI of the Waste Management Act.~~

~~2. For grants to be awarded during all fiscal years other than that described in paragraph 1.1., the agency shall apportion funds allocated to it by the legislature for the grant programs set out in Articles V and VI of the Waste Management Act. Minn. Stat. § 115A.42 through 115A.54 (1980), as follows: [reserved].~~

~~J.~~ Severability. If any provision of this rule or the application ~~thereof~~ of it to any person or circumstance is held to be invalid, ~~such~~ the invalidity shall not affect any other provision or the application of any other part of this rule or any other rule which can be given effect without the invalid provision or application~~, and~~. To this end, the provisions of this rule and the various applications ~~thereof~~ of it are ~~declared to be~~ severable.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION

CONTROL AGENCY

In the Matter of the Proposed Adoption of a Rule of the State, 6 MCAR § 4.6085, Governing the Administration of the Minnesota Solid Waste Management Planning Assistant Program

FINDINGS OF FACT AND CONCLUSIONS

The above-entitled matter came on for decision before the Minnesota Pollution Control Agency (hereinafter, "Agency") on the 27th day of April, 1982. After affording all interested persons an opportunity to present written and oral data, statements and arguments to the Agency, in accordance with the statutory requirements regarding the adoption of noncontroversial rules, after considering the Statement of Need and Reasonableness and the written comments submitted to the Agency, and after considering all the evidence adduced upon the records, files and proceedings herein, the Agency, being fully advised in the premises, hereby accepts and adopts the following Finding of Fact and Conclusions.

FINDINGS OF FACT

1. The Agency adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the rule. The Agency hereby incorporates the Statement of Need and Reasonableness into these Findings.

2. The Agency finds that it received no written comments on the proposed rule, in response to the Notice of Intent to Solicit Outside Opinion, and two written comments in response to the Notice of Intent to Adopt a Rule Without a Hearing. After considering these comments, the Agency makes the following findings:

A. A letter from Linda Bruemmer, Senior Hydrologist, Minnesota Water Planning Board, March 23, 1982.

Ms. Bruemmer made three comments. Those comments are attached along with a response to each prepared by Edward Meyer of the Waste Management Assistance Section of the Solid and Hazardous Waste Divison of the Agency. This March 23, 1982, letter and the response are hereby incorporated into these findings. In considering and responding to Ms. Bruemmer's comments, the Agency finds that one change in three places in the language of the proposed rule is both needed and reasonable. These changes amend section G.3.a. (page 9 of the attached rule) to make the sentences grammatically correct.

B. A letter from William Maher, Blue Earth County Commissioner, March 16, 1982.

Mr. Maher made one request to amend the rule in the attached letter. He requested that the rule be modified to give first priority during the August, 1982, funding period to applicants who applied for, but did not receive, grant awards in the spring of 1981. The rationale for funding priorities established in the rule is to give the highest priority to applicants with

the greatest need from an environmental point of view. The Agency continues to believe that the priorities it has proposed are preferable to the one suggested by Mr. Maher. In considering and responding to Mr. Maher's comments, the Agency therefore makes no change to the language of the rule.

3. The Agency finds that it received no request for a hearing on the proposed rule and that, therefore, no hearing is required to be held prior to the adoption of the rule.

4. Agency staff recommend that the following changes be made to the rule. These are simply grammatical changes and are, therefore, necessary and reasonable. These grammatical changes will serve to provide correct punctuation and clarify existing language. Consequently, these are nonsubstantive changes.

A. Section C.1.a.(3) on page 2 of the attached rule. The "," preceding "including" should not have been deleted. It should be reinserted for proper punctuation.

B. Section F.9. on page 8 of the attached rule. Following the ";", the word "and" should be added to properly tie together the requirements of sections F.1. through F.10.

C. Section G.3.b. on page 9 of the rule. Insert a "," after "a.(5)" for proper punctuation.

D. Section G.3.b. on page 9 of the attached rule. "Applicants" should be changed to "applications" in all three places.

E. Section G.3.c. on page 10 of the attached rule. "Applicants" should be changed to "applications" in both places.

F. Section G.3.c.(1) on page 10 of the attached rule. "Applicants" should be changed to "applications".

G. Section G.3.c.(2) on page 10 of the attached rule. The recommended language change in the second sentence is desirable to remove a possible source of confusion regarding priorities. It must be clear that population growth rate will be used to establish priorities only within a subgroup and not across subgroup boundaries.

H. Section G.4. on page 10 of the attached rule. For the sake of clarity, the first sentence should end with "3.c." and not merely "c."

I. Section G.5. on page 10 of the attached rule. In the interest of accuracy, "applicants" should be substituted for "grantees."

J. Section G.5.b. on page 10 of the attached rule. Again, for accuracy, "agreement" should be added after the first "grant."

K. Section H.1. on page 10 of the attached rule. The reference to "F.1." should be changed to "F." to be correct.

L. Section H.3. on page 11 of the attached rule. The indicated change is desired to properly state that "grants", and not "grant projects", shall be forfeited.

5. The record in this rulemaking consists of the Statement of Need and Reasonableness, the documents referred to in that Statement, these Findings of Fact and Conclusions, the documents incorporated into these Findings, and all jurisdictional documents required to be included in the record by statute or rule.

CONCLUSIONS

1. The Agency duly acquired and has jurisdiction over this proceeding.

2. The Agency published and served due, timely and adequate notice of the adoption of the rule without a hearing.

3. The Agency has statutory authority to promulgate and adopt the proposed rule, as finally amended and adopted by the Agency.

4. All relevant legal and procedural requirements of statutes and rules have been properly complied with.

5. The changes discussed in Findings 2 and 4 are not substantial changes and may, therefore, be included within the adopted rule without additional procedural requirements.

DATED THIS 27th DAY OF APRIL, 1982.

MINNESOTA POLLUTION CONTROL AGENCY

Virgil Herrick
Chairman

Louis Breimhurst
Executive Director

(3)

CERTIFICATE OF AGENCY's
RESOLUTION ADOPTING RULES

I, Virgil Herrick, do hereby certify that I am the Chairman and a member of the Minnesota Pollution Control Agency, an agency duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Agency, duly and properly called and held on the 27th day of April, 1982, that a quorum was present at said meeting, that a majority of the Agency members voted for the resolution, and that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

RESOLVED, that the Minnesota Pollution Control Agency adopts the attached Findings of Fact and Conclusions and the Order Adopting 6 MCAR § 4.6085, a rule for the administration of the Minnesota Solid Waste Management Planning Assistance Program; and,

RESOLVED, that the rule for the administration of the Minnesota Solid Waste Management Planning Assistance Program be and hereby is approved and adopted, pursuant to authority vested in us by Minnesota Statutes § 116.07, subd. 4 and subd. 4a (1980) and that the Executive Director of the Agency be and hereby is authorized to sign the order adopting these rules and further is authorized to perform the necessary acts to provide that these rules shall have the force and effect of law.

RESOLVED, that the Executive Director of the Agency, be and hereby is further authorized to make any grammatical, form or other nonsubstantive changes in the language of the adopted rule that the Revisor of Statutes or Attorney General require the Agency to make prior to approving the rule as required by law, Minn. Stat. § 15.0412, subd. 4e and 4g (1981).

IN WITNESS WHEREOF, I have hereunto subscribed my name this 27th day of April, 1982.

MINNESOTA POLLUTION CONTROL AGENCY

Virgil Herrick
Chairman

Cynthia C Jepsen
Attest by one other Agency member

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION

CONTROL AGENCY

In the Matter of the Proposed Amendments to a Rule for the Administration of the Minnesota Solid Waste Management Planning Assistance Program, Minn. Rule 6 MCAR §4.6085

STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION

On February 2, 1982, the Minnesota Pollution Control Agency ("Agency") authorized the initiation of rulemaking proceedings on amendments to Minn. Rule 6 MCAR §4.6085, a rule for the administration of the Minnesota Solid Waste Management Planning Assistance Program ("the rule"). At the same time, the Agency found that the proposed adoption of the rule amendments is non-controversial in nature and directed that the rulemaking proceedings on the adoption of the rule amendments be conducted in accordance with the statutory provisions regarding the adoption of non-controversial rules, Minn. Stat. §15.0412, subd. 4h. Accordingly, the rulemaking proceedings on the proposed adoption of the rule amendments are governed by that statute and no hearing will be conducted on the adoption of the rule amendments unless, prior to March 24, 1982, seven or more persons submit to the Agency a written request for a such a hearing.

In accordance with the requirements of the non-controversial rulemaking statutory provisions, this document, the Statement of Need and Reasonableness ("Statement"), was prepared before the date that the

rule was noticed. Id. The Statement is divided into the following Parts: Part II, Need and Reasonableness Requirement; Part III. Need for the Rule; Part IV. Reasonableness of the Rule; Part V. Summary; and, Part VI. Exhibit List.

II. NEED AND REASONABLENESS REQUIREMENT

Minn. Stat. §15.0412, subd. 4 requires that, in order for an agency to adopt a rule, the agency must make an affirmative presentation of facts establishing the need for and reasonableness of that rule. To establish the need for a proposed rule (or rule amendment), an agency presents facts which demonstrate the existence of a problem that requires administrative attention. To establish the reasonableness of that rule, an agency presents facts which demonstrate that the solution proposed by the agency to resolve the identified problem (that is, the rule itself) is reasonably designed to remedy the problem.

The Agency's statement and explanation of the reasons its proposed rule amendments are needed are set out in Part III. Its statement of the facts which make its proposed rule amendments reasonable is set out in Part IV.

III. NEED FOR THE RULE AMENDMENT

A. The need for the rule amendments flows from both the statutory requirement that the Agency shall administer the solid waste management planning assistance program and from the language contained in the existing rule, 6 MCAR §4.6085.

Minn. Stat. §115A.42 requires the Agency to administer the solid waste management planning assistance program. The existing rule 6 MCAR §4.6085 provides for the administration of this program only in fiscal year (FY) 1981. In order for the Agency to administer this program in FY 1982 and beyond, the rule must be amended to specify how the program shall be administered.

B. Those rule amendments which are of minor significance or are changes in form are needed to satisfy the Office of the Revisor and to clarify the rule.

Numerous changes in form have been proposed by the Agency in response to recommendations of the Office of the Revisor. Also, a number of minor changes have been made which are intended to streamline the administration of the grant program. None of these changes are of great enough significance by themselves to warrant initiating a rule amendment process. Rather, these changes are made as a matter of convenience now that amendments referred to in paragraph A above have necessitated the rule amendment process.

IV. REASONABLENESS OF THE RULE

The following discussion provides an explanation and justification of the amendments to the individual provisions of the rule. The purpose of this section is to demonstrate that the amendments provide a reasonable approach to the function of each rule provision.

As a general matter, it may be useful to note, at the outset, that the existing rule includes both general provisions (applicable to all

fiscal years), provisions specific to FY 1981, and provisions specific to all fiscal years other than 1981. The provisions specific to FY 1981 essentially provide for the award of a grant on a "first-come, first-served" basis. The provisions specific to all other fiscal years are marked "reserved".

This approach and treatment of FY 1981 as distinct from other fiscal years was taken because of the short time period available to the Agency to promulgate rules, solicit and review applications and award grants with monies made available for FY 1981 (which ended June 30, 1981). In the Statement of Need and Reasonableness prepared in 1980 for the existing rule, the Agency stated it would reevaluate during 1981 the utility and wisdom of the "first-come, first-served" approach established in the rule for FY 1981. Having completed that revision, the Agency has decided to amend the rule to provide a different approach for all other fiscal years. The rule amendments are intended to make the rule applicable in all succeeding fiscal years.

Sections A. and J. Amendments to these sections are changes in form and not substance. These changes have been recommended by the Office of the Revisor.

Section B. Most amendments to this section are changes in form.

The two references to application deadlines are reasonable in order to clarify that only applications received on time will be considered for a grant.

Section C. Several self-explanatory changes have been made to the definition of an acceptable plan. These are reasonable because they serve to clarify the definition and thereby enable prospective applicants to more clearly understand the level of effort necessary for them to produce an acceptable written report. It is reasonable to add a definition of project manager which mandates a minimum level of competence so that a high quality plan is produced and a good administrative accountability of grant funds is assured. It is also reasonable to add a definition of a landfill in order to clarify the numerous references to landfills in Section G.

Section D.2.b.(1)(a) and (2)(a). The amendments to these paragraphs will enable the Agency to approve applications which request less than the maximum grant amounts. Several applicants in FY 1981 requested grants which totaled a few percentage points below the appropriate maximum. These amendments clarify the rule to state that an applicant may apply for and accept less than the maximum award allowed under the rule.

Section D.2.b.(5). In order to make grant funds available to the greatest number of governmental units in the wake of significant statewide, and Agency, budget cuts, it is necessary and reasonable to establish a sliding scale for the size of the state share of a planning grant. The minimum state shares of 60 and 33 percent were chosen as a reasonable compromise between providing a significant level of financial support for grantees and providing grant funds to the largest possible number of applicants.

Section D.3.a. It is equitable, and therefore reasonable, to prevent grant funds from being used to produce more than one comprehensive solid waste management plan for the same geographical area. This amendment does not prevent a grantee from applying for additional grant funds to complete a planning study which has not yet been completed.

Section E.1. The application procedure is changed from a first-come, first-served method to a priority system with a series of specific application deadlines. Administratively, it will be quicker and easier for Agency staff to review and process applications as a group than individually, as occured in early 1981. This change will also make it possible to award grants on the basis of urgency and need for solid waste management planning. Further, all grant awards will be made simultaneously, enabling all projects to follow similar timetables. Grantees will then be able to discuss mutual problems and successes among themselves throughout the course of their projects. For these reasons, the new application procedure will benefit the grantees and the Agency, and is a reasonable change.

Section E.4.c.(2). A six-week review period following each application deadline is a reasonable period of time during which any necessary additional information can be furnished by applicants in order that their applications can be considered as final applications.

Section E.5. This extension of the six-week review period is a fair and reasonable method to safeguard an applicant's eligibility

against any administrative reviewing delays over which an applicant has no control.

Section F.9.g. It is reasonable to require an applicant to estimate dates of completion, particularly since the grant period cannot exceed one year except under special circumstances.

Section G. This entire section has been changed to make the application review and grant award process consistent with the change from a first-come, first-served method to a priority system of administering the grant program.

Section G.1. and G.2. These paragraphs establish basic criteria for including or excluding applications from further review.

Section G.3. This section establishes a method to prioritize all applications which meet the criteria of G.1. and G.2. Two primary methods and two secondary methods are intended to give a higher funding priority to those applicants having the greatest urgency to do solid waste management planning.

The two prioritizing methods involve determining whether a landfill receiving at least half the refuse from one or more of an applicant's counties (1) has less than five years of remaining permitted capacity or (2) is presently in an environmentally undesirable location. An applicant who meets either of these criteria will be placed in group number one, and will be given a higher priority for available funds than applicants who are not in group one.

The two primary prioritizing methods were chosen using criteria contained in Minn. Stat. §115A.49. The Legislature specified for the Solid Waste Management Demonstration Program that priority be given to areas where natural geologic and soil conditions are unsuitable for land disposal of solid waste and to areas where the capacity of existing solid waste disposal facilities is less than five years. Even though these priorities are assigned to the demonstration grant program, it is appropriate and reasonable to adopt these same priorities for the planning assistance program.

The two secondary prioritizing methods will rank applicants within each of groups one and two. Within each group, multi-county applicants will be placed in subgroup number one and single county applicants in subgroup two. Subgroup one applicants will receive a higher priority. Within each subgroup, applicants with the higher population growth rates between 1970 and 1980 will receive the higher priorities.

Minn. Stat. §115A.49 specifies that priority consideration be given to projects serving more than one local governmental unit. Even though this priority is assigned to the demonstration grant program, it is appropriate and reasonable to adopt this same priority for the planning assistance program. The other secondary prioritizing method was chosen using the rationale that geographical areas with higher rates of population growth are more likely to experience greater future solid waste handling and disposal problems. This is a reasonable expectation since it is well known that quantities of solid

waste needing disposal are directly proportional to the population of an area. Agency staff have observed that many landfills which were constructed in the early 1970's have filled up much faster than originally anticipated. A number of landfill owners and county boards of commissioners have been caught by surprise after discovering that a new landfill will be needed, for example, five years sooner than expected. This is very disruptive to long range solid waste management planning as well as to financial planning. For these reasons and since the rate of population growth can be readily determined, population growth rate is a reasonable secondary prioritizing method.

Section G.4. Specifying the order in which grants will be awarded is a necessary and reasonable part of a process to allocate limited grant funds.

Section G.5. It is reasonable to specifiy the manner in which the Agency shall provide information to applicants relevant to grant determination. Setting a maximum length time period for the Agency to draft a grant will assist grantees in beginning their projects expeditiously.

Section H.2. If extenuating circumstances occur, it may be in the best interests of the Agency and the grantee to extend the grant term beyond one year. This will be possible, though, only if the Agency determines that circumstances beyond the grantee's control make a time extension necessary. It is a good administrative practice, and therefore reasonable, to provide this flexibility.

Section H.4. The method of retaining funds has been changed in response to suggestions from organizations outside of the Agency. Retaining the last 25 percent is a reasonable incentive to ensure that grantees develop acceptable plans, while at the same time making financial bookkeeping less complicated for the grantee and the Agency.

Section I. The apportionment section has been deleted because the apportioning of funds has been done by the Legislature.

Lastly, in considering the reasonableness of the rule amendments, some mention should be given to the overall economic impact or effect of the rule amendment. The rule is a grant rule and it imposes no duty on any persons to spend monies. Rather, it encourages communities to do waste management planning and provides financial assistance for this planning. In encouraging political subdivisions of the state to plan for their waste management, the rule amendments are reasonable in all respects.

V. SUMMARY

In accordance with Minn. Stat. §15.0412, subd. 4, the Agency has, in this statement, set out an affirmative presentation of facts establishing the need for and reasonableness of its rule amendments. As stated earlier, the purpose of the rule amendment is to enable the Agency to administer the planning assistance program in FY 1982 and beyond, and to improve the administrative procedures needed to operate the program. The rule amendments are needed and reasonable in that

they provide a coherent and equitable mechanism through which the Agency shall provide financial assistance to encourage and support needed solid waste planning. The provisions of this rule are reasonably designed to accomplish their intended functions in implementing the solid waste management planning assistance program.

February 19, 1982

Minnesota Pollution
Control Agency

Louis J. Breimhurst
Executive Director

(15)

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION

CONTROL AGENCY

In the matter of the proposed amendment of a rule of the State, 6 MCAR § 4.6085, rule for the administration of the Minnesota solid waste management planning assistance program

CERTIFICATE OF COMPLAINCE WITH RULEMAKING PROCEDURES

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I, Special Assistant Attorney General Lisa R. Tiegel, do hereby declare that I have examined the proposed rule and all related documents and that, based on them and my personal familiarity with the applicable requirements, all rulemaking procedures required by statute and rule have been followed.

Lisa R. Tiegel
Special Assistant Attorney General

Dated: May 7, 1982

STATE OF MINNESOTA

COUNTY OF RAMSEY

MINNESOTA POLLUTION

CONTROL AGENCY

In the matter of the proposed amendment of a rule of the State, 6 MCAR § 4.6085, rule for the administration of the Minnesota solid waste management planning assistance program

AFFIDAVIT OF NOTIFICATION OF TRANSMITTAL

Edward R. Meyer, being duly sworn on oath, deposes and says:

1. That he is an employee of the Solid and Hazardous Waste Division, Minnesota Pollution Control Agency, State of Minnesota;

2. That he was named in the Notice of Intent to Solicit Outside Opinion, 5 S.R. 2134 (June 29, 1981), and in the Notice of Withdrawal of Previous Proposed Amendments and Intent to Adopt a Rule Without a Public Hearing, 6 S.R. 1471 (February 22, 1982), as the person to be contacted as to comments on the above-referenced amendments;

3. That no person requested, either orally or in writing, that he or she be notified of the transmittal by the Minnesota Pollution Control Agency of the above-referenced rule to the Office of the Attorney General; and,

4. That, accordingly, no such notice need be made.

FURTHER AFFIANT SAYETH NOT.

Edward R. Meyer

Edward R. Meyer

Subscribed to and Sworn to before me this 7th day of May, 1982.

Margaret Frank

Notary Public

MARGARET FRANK
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My Commission Expires Sept 2[illegible] 19[illegible]5