

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1147

05-0009-0841

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 9-4
DATE FOR REVIEW EM
DATE DUE 9-18

Adopted w/a hearing
Adopted w/o hearing
~~Temporary~~ Emergency rule ✓

Approved 9/18/85 Disapproved Returned to Agency

Resubmitted Due
Approved Disapproved Returned to Agency

Date filed w/Secretary of State 9-18-85 Revisor approved 9/5/85 disapproved

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✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 8.22.85 Date

N/A Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
N/A date of Hearing

✓ Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
7.19.85 At least ~~30~~ 25 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
7.22.85 At least ~~30/20~~ 25 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 — labeled "authorizing"

N/A Order Approving Incorporation by Reference

Statement of Need and Reasonableness

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-00006-03

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO: ROBERT G. DUNN, Chairperson
Waste Management Board

DATE: 9-18-85

ATTN: PENNY TROOLIN
Special Assistant Attorney General

FROM: J. MICHAEL MILES JMM
Assistant Attorney General

PHONE: 296-6555

SUBJECT: In the Matter of the Adoption of the Proposed Emergency Rules of the Waste Management Board Governing the Solid Waste Processing Facility Capital Assistance Program

The above-referenced rule has been approved as to its legality by the Attorney General on September 18, 1985.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies of the approved rule with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth copy is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

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

JMM:pmf

Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Administrative Rules

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

ST. PAUL 55155

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

September 4, 1985

Mr. Mike Miles
Assistant Attorney General
Office of the Attorney General
Administration Building
St. Paul, MN 55155

RE: Proposed Minnesota Rules Parts 9200.6000 to 9200.6800 [Emergency], Governing the Solid Waste Processing Facility Capital Assistance Program

Dear Mr. Miles:

On August 22, 1985, the Waste Management Board adopted emergency rules governing the Solid Waste Processing Facility Capital Assistance Program. Enclosed for your review are the following:

1. Emergency Rules as adopted (original and three copies).
2. Order Adopting Emergency Rules (two copies).
3. Certificate of Board's Authorizing Resolution adopting Emergency Rules.
4. Order for Publication of Notice of Intent to Adopt Emergency Rules and Proposed Emergency Rules.
5. Certificate of Board's Authorizing Resolution ordering publication of Notice of Intent and Proposed Emergency Rules.
6. Notice of Intent to Adopt Emergency Rules and Emergency Rules as Proposed (10 S.R. 220, July 22, 1985).
7. Written comments received during the comment period from the City of Red Wing, Martin County, and the Minnesota Pollution Control Agency.
8. Affidavit of Mailing, Notice of Intent to Adopt Emergency Rules and Emergency Rules as Proposed, as mailed, and mailing list.
9. Mailing List Certificate.
10. Findings of Fact and Conclusions.

11. Statement of Compliance with Rulemaking Procedures.

12. Affidavit Regarding Notification of Submission to Attorney General.

Please note that the emergency rules as adopted incorporate the modifications suggested by the written comments referenced above, as well as comments from the Waste Management Board's Solid Waste Management Advisory Council, and therefore differ from the emergency rules as proposed. We have considered these modifications and have determined that they do not constitute a substantial change for the following reasons:

(1) The definition of "transmission facilities" was modified to broaden the extent to which they are eligible for grant assistance.

(2) A reference to "used tires" was changed to "waste tires" to maintain consistency with statutory usage.

(3) The provision relating to the acceptance period for grant applications was modified to clarify the deadline beyond which the Board will no longer accept grant applications.

(4) The provision relating to eligible costs was modified to make additional capital costs eligible for grant assistance.

(5) Modifications were made to clarify and improve the required contents of the financial plan, financial feasibility report, and waste supply documentation.

(6) Other modifications were made merely to renumber the emergency rules and to correct grammatical and typographical errors.

Very truly yours,

Penny Troolin

PENNY TROOLIN
Special Assistant
Attorney General

Enclosures

PT/ck

AG copy

Waste Management Board

Adopted Emergency Rules Governing The Solid Waste Processing Facility Capital Assistance Program

Rules as Adopted, Emergency

9200.6000 [Emergency] DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 9200.6000 to 9200.6800 the following terms have the meaning given them, unless the context requires otherwise.

Subp. 2. **Board.** "Board" means the Minnesota Waste Management Board established in Minnesota Statutes, section 115A.04.

Subp. 3. **Chairperson.** "Chairperson" means the chairperson and chief executive officer of the board.

Subp. 4. **Cities.** "Cities" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 4.

Subp. 5. **Comprehensive solid waste management plan.** "Comprehensive solid waste management plan" means a written plan prepared pursuant to Minnesota Statutes, section 115A.46.

Subp. 6. **Disposal.** "Disposal" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 9.

Subp. 7. **Final engineering/architectural plans.** "Final engineering/architectural plans" means those engineering drawings and specifications used to secure bids for construction or equipment.

Subp. 8. **Institutional arrangements.** "Institutional arrangements" means methods of financing, marketing, procurement, securing the waste supply, or joint efforts by more than one local government unit.

Subp. 9. **Mixed municipal solid waste.** "Mixed municipal solid waste" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 21.

~~Subp. 10. On-site transmission facilities. "On-site transmission facilities" means any steam, water, or electrical~~

FF p.2

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~~facilities within the geographic boundaries of the waste processing facility site, which are used to transmit energy to markets.~~

Subp. ~~11.~~ 10. **On-site utilities.** "On-site utilities" means gas, electrical, water, and sewer facilities within the geographic boundaries of the waste processing facility site, which are used for facility operations, excluding transmission of energy to markets.

Subp. ~~12.~~ 11. **Preliminary engineering/architectural plans.** "Preliminary engineering/architectural plans" means conceptual plans adequate to obtain preconstruction permits and to meet the needs of an environmental assessment.

Subp. ~~13.~~ 12. **Processing.** "Processing" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 25.

Subp. ~~14.~~ 13. **Project.** "Project" means a processing facility, together with any transfer stations, transmission facilities, and other related and appurtenant facilities primarily serving the processing facility.

Subp. ~~15.~~ 14. **Recyclable materials.** "Recyclable materials" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 25a.

Subp. ~~16.~~ 15. **Recycling.** "Recycling" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 25b.

Subp. ~~17.~~ 16. **Recipient.** "Recipient" means an applicant who has received a grant under the solid waste processing facilities capital assistance program.

Subp. ~~18.~~ 17. **Resource recovery.** "Resource recovery" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 27.

Subp. ~~19.~~ 18. **Resource recovery facility.** "Resource recovery facility" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 28.

Subp. ~~20.~~ 19. **Solid waste.** "Solid waste" has the meaning given it in Minnesota Statutes, section 116.06, subdivision 10.

Subp. ~~21.~~ 20. **Solid waste disposal facilities and equipment.** "Solid waste disposal facilities and equipment"

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means structures, machinery, or devices at a disposal site necessary for efficient land disposal of solid wastes, including machinery or devices designed to move earth during burial of wastes or to increase the density of wastes buried or to be buried, and facilites in which solid waste is temporarily stored and concentrated prior to transport to a disposal site.

Subp. ~~22.~~ 21. **Solid waste management district.** "Solid waste management district" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 32.

Subp. ~~23.~~ 22. **Special waste stream.** "Special waste stream" means materials normally found in the solid waste stream in sufficient quantity to be recovered for subsequent use, if separated from the solid waste stream and processed separately. Examples of special waste streams include ~~used~~ waste tires, wood wastes, and agricultural wastes.

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Subp. 23. **Transmission facilities.** "Transmission facilities" means any steam, water, or electrical lines which are used to transmit energy to markets.

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Subp. 24. **Transfer station.** "Transfer station" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 33.

Subp. 25. **Waste processing equipment.** "Waste processing equipment" means machinery or devices acquired and used as an integral component of a waste processing facility.

Subp. 26. **Waste processing facility.** "Waste processing facility" means structures and equipment singly or in combination, designed, constructed, and used to separate, modify, convert, heat, prepare, or otherwise process solid waste so that materials, substances, or energy contained within the waste may be recovered for subsequent use.

9200.6100 [Emergency] SOLID WASTE PROCESSING FACILITIES CAPITAL ASSISTANCE PROGRAM.

Parts 9200.6000 to 9200.6800 [Emergency] implement the solid waste processing facilities capital assistance program created and described in Minnesota Statutes, sections 115A.49 to 115A.54 by establishing the substantive criteria and procedural

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conditions under which the board may award grants for capital costs of solid waste processing facilities.

9200.6200 [Emergency] GRANT APPLICATION PROCEDURES.

Subpart 1. **Applications.** An application may be submitted to the board when the applicant has met the information and documentation requirements in parts 9200.6400 [Emergency] and 9200.6500 [Emergency]. The applicant is encouraged to contact the chairperson and request a preapplication review of the proposed project.

Subp. 2. **Review of applications.** Upon receipt of an application, the chairperson or a designee shall conduct an initial review of the application pursuant to part 9200.6600 [Emergency]. The board shall evaluate projects and award grants.

Subp. 3. **Applications accepted.** The board shall accept applications for funds under the solid waste processing facilities capital assistance program until all funds for the program are ~~depleted~~ awarded or until ~~March 30, 1987~~ three months prior to the expiration of the board pursuant to law, whichever occurs first.

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9200.6300 [Emergency] ELIGIBILITY CRITERIA.

Subpart 1. **Eligible applicants.** Eligible applicants are limited to cities, counties, and solid waste management districts established pursuant to Minnesota Statutes, sections 115A.62 to 115A.72.

Subp. 2. **Eligible projects.** Six types of projects are eligible for grants: waste to energy; materials recovery; chemical, physical, or biological modifications; transfer stations; special waste streams; and waste incineration with resource recovery. Eligible projects are limited to those in which the land, buildings, and equipment are publicly owned.

Projects which were awarded assistance by the board pursuant to applications submitted under Minnesota Statutes, sections 115A.49 to 115A.54 before July 1, 1985, are eligible for additional assistance under this program, provided that no project may receive a total amount of grant assistance in excess

of the limits specified in part 9200.6700 [Emergency], subpart 1. Previously funded projects seeking additional funding under this program shall complete the documentation required pursuant part 9200.6500 [Emergency].

Subp. 3. **Eligible costs.** Eligible costs under ~~part~~ parts 9200.6000 to 9200.6800 [Emergency] shall be limited to the costs of waste processing equipment~~,~~; structures necessary to house the waste processing equipment~~, on-site~~; transmission facilities ~~,~~; appropriate and necessary on-site utilities~~,~~; structures necessary to concentrate and temporarily store solid waste prior to transportation to a waste processing facility~~,~~; trailers, containers, and roll-off boxes necessary to transport wastes from transfer stations to a processing facility, to transport processing facility products to market, or to transport residue from the processing facility to a solid waste land disposal facility; and final design and engineering specifications.

Subp. 4. **Ineligible costs.** Ineligible costs include any costs related to acquisition of land, solid waste disposal facilities and equipment, structures for housing and maintenance of rolling stock, or any costs related to resource recovery studies, feasibility analyses, or preliminary design and engineering.

9200.6400 [Emergency] INFORMATION REQUIRED ON GRANT APPLICATION.

Applications for waste processing facilities grants shall include the following information as required in the application forms supplied by the board:

A. the name of each applicant making the grant application;

B. the name of each political subdivision affected by the project, located in the area studied in the project, or located in the area in which the project is intended to be implemented;

C. resolutions from each applicant in conformance with Minnesota Statutes, sections 115A.54, subdivision 2a, clause (1) and 115A.54, subdivision 3;

D. the name, qualifications, and address of the

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project manager;

E. the name and qualifications of the facility operator, if available;

F. the total capital cost of the project;

G. the total grant-eligible cost of the project;

H. the amount of grant funding requested;

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

J. the type of waste processing facility for which the grant application is being submitted: waste to energy; materials recovery; chemical, physical, or biological modification; transfer stations; special waste stream; or waste incineration with resource recovery.

9200.6500 [Emergency] SUPPORTING DOCUMENTATION REQUIRED TO BE SUBMITTED WITH GRANT APPLICATION.

Applications for waste processing facilities grants must include the following supporting documentation:

A. A conceptual and technical feasibility report which includes at least the following: a detailed description of the proposed waste processing facility; a description of the institutional arrangements necessary for project implementation and operation; a description of the method of facility procurement; and an analysis of the waste stream for the facility.

B. A financial plan which contains:

(1) initial capital development costs and the method of financing those costs;

(2) annual operating and maintenance costs;

(3) ~~15-year~~ projections of total facility costs and revenues over 20 years or for the term of the longest debt obligation, whichever is longer; and

(4) total ~~facility~~ capital costs per ton;

~~(5) total facility costs to generator; and~~

~~(6) revenues or funds accruing to the facility through sales, tipping fees, taxes, and subsidies~~ of installed

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daily capacity.

C. A report demonstrating that the project is not financially feasible without state assistance, due to the applicant's financial capacity and the problems inherent in waste management in the area. The report shall include the following documentation:

(1) capital financing alternatives and operational cost financing alternatives, both public and private, explored by the applicant for the projects and reasons for selecting the proposed ~~financial plan~~ financing methods;

(2) information on the applicant's financial situation including the applicant's current credit rating on general obligation bonds, the amount of general obligation bonds outstanding, general obligation debt divided by market valuation, and debt service levy divided by total levy. If the applicant has issued general obligation bonds in the past two years, the documentation must include the most recent general purpose financial statements, current year budgets, and official statement on bond issuance;

(3) projected facility tipping fees, product revenues, ~~operating and maintenance costs and debt service on a per capita basis~~ and other project revenues, with and without board assistance~~.~~;

FF p.5,6

(4) impact of proposed project on existing solid waste commitments, obligations and expenditures, and total current solid waste management costs on a per capita and per ton basis;

(5) general information ~~on~~ pertinent to a determination of the applicant's financial capacity, including such factors as location, population characteristics, employment base, and other characteristics ~~pertinent to a discussion of financial capacity~~;

(6) transportation distances and estimated costs, both in waste collection and to markets for recovered resources;

(7) waste supply characteristics;

(8) availability of markets for recovered

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resources; and

(9) other characteristics of waste management in the area which render state assistance necessary to the financial feasibility of the project.

D. A comprehensive solid waste management plan.

E. Preliminary design and engineering/architectual plans and specifications of the proposed waste processing facility and equipment.

F. Documentation that waste supplies will be committed to the project and that the applicant has the ~~authority and~~ mechanism to commit such wastes.

G. A market analysis of recovered materials/energy, including market commitments such as letters of intent or market contracts.

H. A report on the status of required permits from permitting agencies.

I. A report on time frames of project development.

J. Resolutions assuring compliance with the requirements of Minnesota Statutes, sections 115A.54, subdivision 2a, clause (1) and 115A.54, subdivision 3.

K. If the applicant, pursuant to Minnesota Statutes, section 115A.49, requests priority based on any of the following conditions, documentation of the existence of the condition:

(1) the natural geologic and soil conditions which are claimed to be unsuitable for land disposal of solid waste;

(2) the available capacity of existing solid waste disposal facilities are claimed to be less than five years; or

(3) the claim that the proposed project would serve more than one local government unit.

L. If the project has previously received funding from the board under the board's solid waste processing facility demonstration program, documentation of how the project has changed since the previous award and why the project is not financially feasible without additional funding. This

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documentation must include:

(1) a description of changes in the scope or design of the project;

(2) a description of changes in major external factors affecting the project;

(3) an explanation and demonstration of why the project is no longer financially feasible without additional state assistance; and

(4) a revised implementation schedule.

M. If the project serves eligible jurisdictions in only a single county, documentation demonstrating that cooperation with jurisdictions in other counties is not needed or not feasible, including:

(1) a description of past efforts to develop multi-county facilities or waste management programs; and

(2) a description of characteristics of the applicant's individual situation which preclude or inhibit cooperation with other counties, such as waste supply, market availability, technology constraints, geographic factors, or factors involving institutional arrangements.

9200.6600 [Emergency] REVIEW AND EVALUATION OF APPLICATIONS.

Subpart 1. **Determination of eligibility and completeness.** Upon receipt of an application, the chairperson or a designee shall determine the eligibility of the applicant, the eligibility of the costs specified in the application, the eligibility of the project specified in the application, and the completeness of the application.

Subp. 2. **Notice of determination of eligibility and completeness.** Within 14 days after receiving the application, the chairperson shall notify the applicant of the chairperson's determinations of eligibility and completeness. If the chairperson determines that the applicant, the project, any of the costs, or any part of the project is ineligible, or that the application is incomplete, the chairperson may reject the application, return it to the applicant, and notify the applicant of the reasons for the rejection. The applicant shall

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have 14 days after receipt of the rejection of the application to correct any inadequacies identified in the application. If the inadequacies are corrected within the time allowed, the application will be further considered.

Subp. 3. **Legislative priorities.** The board shall give priority to projects located in cities, counties, or districts in which:

A. the natural geologic and soil conditions are unsuitable for land disposal of solid waste;

B. the capacity of existing solid waste disposal facilities is less than five years; or

C. the project serves more than one local government unit.

Subp. 4. **Evaluation of applications.** If the applicant, the costs, and the project are determined to be eligible and the application is complete, the board shall evaluate the application to determine whether the application demonstrates:

A. that the project is conceptually and technically feasible;

B. that affected political subdivisions are committed to implementing the project, providing necessary local financing, and accepting and exercising the government powers necessary for project implementation and operation;

C. that operating revenues from the project, considering the availability and security of sources of solid waste and of markets for recovered resources together with any proposed federal, state, or local financial assistance, will be sufficient to pay all costs over the projected life of the project;

D. that the applicant has evaluated the feasible and prudent alternatives to disposal and has compared and evaluated the costs of the alternatives, including capital and operating costs, the effects of the alternatives on the cost to generators, and the effects of the alternatives on the solid waste management and recycling industry within the project's service area;

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E. that for projects serving eligible jurisdictions in only a single county, cooperation with jurisdictions in other counties to develop the project is not needed or not feasible;

F. that resource recovery facilities which burn waste, convert waste to energy, or convert waste into materials for combustion will not accept recyclable materials except for transfer to a recycler; and

G. that the project is not financially feasible without state assistance, because of the applicant's financial capacity and the problems inherent in the waste management situation in the area, particularily transportation distances and limited waste supply and markets for resources recovered.

Subp. 5. **Evaluation process.** In evaluating the application pursuant to subpart 4, the board shall evaluate applications in two stages. First, the board shall evaluate financial feasibilty documentation submitted by the applicant. Second, the board shall evaluate the remainder of the documentation submitted by the applicant.

Subp. 6. **Evaluation of financial feasibility.** In making a determination of financial feasibility, the board shall evaluate the information supplied in part 9200.6500 [Emergency], item C to determine whether or not board assistance is necessary for facility development. If the board determines that assistance is not necessary, evaluation of the application shall cease and the application shall be returned to the applicant. If the board determines that assistance is necessary, evaluation will proceed to the second stage. During the second stage, the board shall evaluate part 9200.6500 [Emergency], items A, B, and D to M.

Subp. 7. **Board determination.** Following evaluation of the supporting documentation, the board shall determine whether the application demonstrates the requirements of subpart 4. If the board determines that the application demonstrates the requirements of subpart 4, the board shall determine the amount of the grant award and the applicant shall be so notified. If the board determines that the application fails to demonstrate

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the requirements of subpart 4, the board shall reject the application and the chairperson shall return the application to the applicant, together with a statement of the reasons for the determination.

Subp. 8. **Consultation with other agencies.** In its evaluation of the application, the board shall consider any recommendations provided by the Pollution Control Agency, the appropriate regional development commission, the State Planning Agency, and if appropriate, the Metropolitan Council.

9200.6700 [Emergency] LIMITATIONS.

Subpart 1. **Maximum grant award.** The maximum grant award shall be 25 percent of the eligible capital costs of the project or $2,000,000, whichever is less.

Subp. 2. **Limitations on grant award.** No grant shall be awarded for costs for which the applicant has applied and received funds from another source.

Grants shall be awarded to cover the eligible costs of only those tasks which are undertaken and completed during the period established in the grant agreement.

Grants shall not be awarded to cover any cost associated with tasks performed prior to the grant award or after the expiration of the grant agreement.

Subp. 3. **Limitations on disbursal of funds.** No funds shall be disbursed until the board has determined the total estimated capital cost of the project and ascertained that financing of the cost is assured by funds provided by the state, by an agency of the federal government within the amount of funds then appropriated to that agency and allocated by it to projects within the state, by any person, or by the appropriation of proceeds of bonds or other funds of the recipient to a fund for the construction of the project.

9200.6800 [Emergency] GRANT AGREEMENT.

Subpart 1. **Requirements.** A grant agreement shall:

A. include as attachments the resolutions required under Minnesota Statutes, sections 115A.54, subdivision 2a,

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clause (1) and 115A.54, subdivision 3;

B. incorporate by reference the final grant application submitted to the board in accordance with part 9200.6200 [Emergency];

C. allow the recipient to enter into contracts to complete the work specified in the agreement subject to any board approval which may be required in the agreement;

D. provide that any cost overruns incurred in the development of the proposed facility shall be the sole responsibility of the recipients;

E. provide that the board will not approve amendments to the agreement to provide additional grant funds to the recipient;

F. require that the recipient provide periodic written reports to the board on the developmental and operational history of the project so that knowledge and experience gained from the project may be made available to other communities in the state; and

G. require total repayment of the grant if the facility is sold to a private enterprise within three years of the effective date of the grant agreement. Beginning on the third anniversary of the grant, the amount of the grant which must be repaid shall be reduced ten percent each year. The sales agreement between the recipient and the private enterprise shall transfer the responsibilities outlined in subpart 1, item F to the private enterprise.

Subp. 2. **Rescission of grant.** If a project is not completed and operational in accordance with the terms and conditions of the grant agreement, including time schedules, the grant shall be rescinded, and the entire amount of the grant shall be repaid unless the board determines that variances from the respective agreements are justified and that the original objectives of the project will be accomplished.

Subp. 3. **Disbursement.** The board shall disburse grants in accordance with the payment schedule set out in the grant agreement.

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STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
SEP 18 1985
Joan Anderson Growe
Secretary of State
9:41 AM

APPROVED AS TO FORM AND LEGALITY
9/18 1985
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY _____
ASSISTANT ATTORNEY GENERAL

Rules as Proposed (all new material)

9200.6000 [Emergency] DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 9200.6000 to 9200.6800 the following terms have the meaning given them, unless the context requires otherwise.

Subp. 2. **Board.** "Board" means the Minnesota Waste Management Board established in Minnesota Statutes, section 115A.04.

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Subp. 5. **Comprehensive solid waste management plan.** "Comprehensive solid waste management plan" means a written plan prepared pursuant to Minnesota Statutes, section 115A.46.

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Subp. 8. **Institutional arrangements.** "Institutional arrangements" means methods of financing, marketing, procurement, securing the waste supply, or joint efforts by more than one local government unit.

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Subp. 19. **Resource recovery facility.** "Resource recovery facility" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 28.

Subp. 20. **Solid waste.** "Solid waste" has the meaning given it in Minnesota Statutes, section 116.06, subdivision 10.

Subp. 21. **Solid waste disposal facilities and equipment.** "Solid waste disposal facilities and equipment" means structures, machinery, or devices at a disposal site necessary for efficient land disposal of solid wastes, including machinery or devices designed to move earth during burial of wastes or to increase the density of wastes buried or to be buried, and facilites in which solid waste is temporarily stored

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and concentrated prior to transport to a disposal site.

Subp. 22. **Solid waste management district.** "Solid waste management district" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 32.

Subp. 23. **Special waste stream.** "Special waste stream" means materials normally found in the solid waste stream in sufficient quantity to be recovered for subsequent use, if separated from the solid waste stream and processed separately. Examples of special waste streams include used tires, wood wastes, and agricultural wastes.

Subp. 24. **Transfer station.** "Transfer station" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 33.

Subp. 25. **Waste processing equipment.** "Waste processing equipment" means machinery or devices acquired and used as an integral component of a waste processing facility.

Subp. 26. **Waste processing facility.** "Waste processing facility" means structures and equipment singly or in combination, designed, constructed, and used to separate, modify, convert, heat, prepare, or otherwise process solid waste so that materials, substances, or energy contained within the waste may be recovered for subsequent use.

9200.6100 [Emergency] SOLID WASTE PROCESSING FACILITIES CAPITAL ASSISTANCE PROGRAM.

Parts 9200.6000 to 9200.6800 [Emergency] implement the solid waste processing facilities capital assistance program created and described in Minnesota Statutes, sections 115A.49 to 115A.54 by establishing the substantive criteria and procedural conditions under which the board may award grants for capital costs of solid waste processing facilities.

9200.6200 [Emergency] GRANT APPLICATION PROCEDURES.

Subpart 1. **Applications.** An application may be submitted to the board when the applicant has met the information and documentation requirements in parts 9200.6400 [Emergency] and 9200.6500 [Emergency]. The applicant is encouraged to contact

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the chairperson and request a preapplication review of the proposed project.

Subp. 2. **Review of applications.** Upon receipt of an application, the chairperson or a designee shall conduct an initial review of the application pursuant to part 9200.6600 [Emergency]. The board shall evaluate projects and award grants.

Subp. 3. **Applications accepted.** The board shall accept applications for funds under the waste processing facilities capital assistance program until funds for the program are depleted or until March 30, 1987, whichever occurs first.

9200.6300 [Emergency] ELIGIBILITY CRITERIA.

Subpart 1. **Eligible applicants.** Eligible applicants are limited to cities, counties, and solid waste management districts established pursuant to Minnesota Statutes, sections 115A.62 to 115A.72.

Subp. 2. **Eligible projects.** Six types of projects are eligible for grants: waste to energy; materials recovery; chemical, physical, or biological modifications; transfer stations; special waste streams; and waste incineration with resource recovery. Eligible projects are limited to those in which the land, buildings, and equipment are publicly owned.

Projects which were awarded assistance by the board pursuant to applications submitted under Minnesota Statutes, sections 115A.49 to 115A.54 before July 1, 1985, are eligible for additional assistance under this program, provided that no project may receive a total amount of grant assistance in excess of the limits specified in part 9200.6700 [Emergency], subpart 1. Previously funded projects seeking additional funding under this program shall complete the documentation required pursuant part 9200.6500 [Emergency].

Subp. 3. **Eligible costs.** Eligible costs under part 9200.6000 to 9200.6800 [Emergency] shall be limited to the costs of waste processing equipment, structures necessary to house the waste processing equipment, on-site transmission facilities, appropriate and necessary on-site utilities, structures necessary to concentrate and temporarily store solid waste prior

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to transportation to a waste processing facility, and final design and engineering specifications.

Subp. 4. **Ineligible costs.** Ineligible costs include any costs related to acquisition of land, solid waste disposal facilities and equipment, structures for housing and maintenance of rolling stock, or any costs related to resource recovery studies, feasibility analyses, or preliminary design and engineering.

9200.6400 [Emergency] INFORMATION REQUIRED ON GRANT APPLICATION.

Applications for waste processing facilities grants shall include the following information as required in the application forms supplied by the board:

A. the name of each applicant making the grant application;

B. the name of each political subdivision affected by the project, located in the area studied in the project, or located in the area in which the project is intended to be implemented;

C. resolutions from each applicant in conformance with Minnesota Statutes, sections 115A.54, subdivision 2a, clause (1) and 115A.54, subdivision 3;

D. the name, qualifications, and address of the project manager;

E. the name and qualifications of the facility operator, if available;

F. the total capital cost of the project;

G. the total grant-eligible cost of the project;

H. the amount of grant funding requested;

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

J. the type of waste processing facility for which the grant application is being submitted: waste to energy; materials recovery; chemical, physical, or biological modification; transfer stations; special waste stream; or waste incineration with resource recovery.

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9200.6500 [Emergency] SUPPORTING DOCUMENTATION REQUIRED TO BE SUBMITTED WITH GRANT APPLICATION.

Applications for waste processing facilities grants must include the following supporting documentation:

A. A conceptual and technical feasibility report which includes at least the following: a detailed description of the proposed waste processing facility; a description of the institutional arrangements necessary for project implementation and operation; a description of the method of facility procurement; and an analysis of the waste stream for the facility.

B. A financial plan which contains:

(1) initial capital development costs and the method of financing those costs;

(2) annual operating and maintenance costs;

(3) 15-year projections of total facility costs;

(4) total facility costs per ton;

(5) total facility costs to generator; and

(6) revenues or funds accruing to the facility through sales, tipping fees, taxes, and subsidies.

C. A report demonstrating that the project is not financially feasible without state assistance, due to the applicant's financial capacity and the problems inherent in waste management in the area. The report shall include the following documentation:

(1) financing alternatives, both public and private, explored by the applicant for the projects and reasons for selecting the proposed financial plan;

(2) information on the applicant's financial situation including the applicant's current credit rating on general obligation bonds, the amount of general obligation bonds outstanding, general obligation debt divided by market valuation, and debt service levy divided by total levy. If the applicant has issued general obligation bonds in the past two years, the documentation must include the most recent general purpose financial statements, current year budgets, and official

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statement on bond issuance;

(3) projected facility tipping fees, revenues, operating and maintenance costs and debt service on a per capita basis, with and without board assistance.

(4) impact of proposed project on existing solid waste commitments, obligations and expenditures, and total current solid waste management costs on a per capita basis;

(5) general information on the applicant's location, population characteristics, employment base, and other characteristics pertinent to a discussion of financial capacity;

(6) transportation distances, both in waste collection and to markets for recovered resources;

(7) waste supply characteristics;

(8) availability of markets for recovered resources; and

(9) other characteristics of waste management in the area which render state assistance necessary to the financial feasibility of the project.

D. A comprehensive solid waste management plan.

E. Preliminary design and engineering/architectual plans and specifications of the proposed waste processing facility and equipment.

F. Documentation that waste supplies will be committed to the project and that the applicant has the authority and mechanism to commit such wastes.

G. A market analysis of recovered materials/energy, including market commitments such as letters of intent or market contracts.

H. A report on the status of required permits from permitting agencies.

I. A report on time frames of project development.

J. Resolutions assuring compliance with the requirements of Minnesota Statutes, sections 115A.54, subdivision 2a, clause (1) and 115A.54, subdivision 3.

K. If the applicant, pursuant to Minnesota Statutes, section 115A.49, requests priority based on any of the following

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conditions, documentation of the existence of the condition:

(1) the natural geologic and soil conditions which are claimed to be unsuitable for land disposal of solid waste;

(2) the available capacity of existing solid waste disposal facilities are claimed to be less than five years; or

(3) the claim that the proposed project would serve more than one local government unit.

L. If the project has previously received funding from the board under the board's solid waste processing facility demonstration program, documentation of how the project has changed since the previous award and why the project is not financially feasible without additional funding. This documentation must include:

(1) a description of changes in the scope or design of the project;

(2) a description of changes in major external factors affecting the project;

(3) an explanation and demonstration of why the project is no longer financially feasible without additional state assistance; and

(4) a revised implementation schedule.

M. If the project serves eligible jurisdictions in only a single county, documentation demonstrating that cooperation with jurisdictions in other counties is not needed or not feasible, including:

(1) a description of past efforts to develop multi-county facilities or waste management programs; and

(2) a description of characteristics of the applicant's individual situation which preclude or inhibit cooperation with other counties, such as waste supply, market availability, technology constraints, geographic factors, or factors involving institutional arrangements.

9200.6600 [Emergency] REVIEW AND EVALUATION OF APPLICATIONS.

Subpart 1. **Determination of eligibility and completeness.**

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Upon receipt of an application, the chairperson or a designee shall determine the eligibility of the applicant, the eligibility of the costs specified in the application, the eligibility of the project specified in the application, and the completeness of the application.

Subp. 2. **Notice of determination of eligibility and completeness.** Within 14 days after receiving the application, the chairperson shall notify the applicant of the chairperson's determinations of eligibility and completeness. If the chairperson determines that the applicant, the project, any of the costs, or any part of the project is ineligible, or that the application is incomplete, the chairperson may reject the application, return it to the applicant, and notify the applicant of the reasons for the rejection. The applicant shall have 14 days after receipt of the rejection of the application to correct any inadequacies identified in the application. If the inadequacies are corrected within the time allowed, the application will be further considered.

Subp. 3. **Legislative priorities.** The board shall give priority to projects located in cities, counties, or districts in which:

A. the natural geologic and soil conditions are unsuitable for land disposal of solid waste;

B. the capacity of existing solid waste disposal facilities is less than five years; or

C. the project serves more than one local government unit.

Subp. 4. **Evaluation of applications.** If the applicant, the costs, and the project are determined to be eligible and the application is complete, the board shall evaluate the application to determine whether the application demonstrates:

A. that the project is conceptually and technically feasible;

B. that affected political subdivisions are committed to implementing the project, providing necessary local financing, and accepting and exercising the government powers

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necessary for project implementation and operation;

C. that operating revenues from the project, considering the availability and security of sources of solid waste and of markets for recovered resources together with any proposed federal, state, or local financial assistance, will be sufficient to pay all costs over the projected life of the project;

D. that the applicant has evaluated the feasible and prudent alternatives to disposal and has compared and evaluated the costs of the alternatives, including capital and oeprating costs, the effects of the alternatives on the cost to generators, and the effects of the alternatives on the solid waste management and recycling industry within the project's service area;

E. that for projects serving eligible jurisdictions in only a single county, cooperation with jurisdictions in other counties to develop the project is not needed or not feasible;

F. that resource recovery facilities which burn waste, convert waste to energy, or convert waste into materials for combustion will not accept recyclable materials except for transfer to a recycler; and

G. that the project is not financially feasible without state assistance, because of the applicant's financial capacity and the problems inherent in the waste management situation in the area, particularily transportation distances and limited waste supply and markets for resources recovered.

Subp. 5. **Evaluation process.** In evaluating the application pursuant to subpart 4, the board shall evaluate applications in two stages. First, the board shall evaluate financial feasibilty documentation submitted by the applicant. Second, the board shall evaluate the remainder of the documentation submitted by the applicant.

Subp. 6. **Evaluation of financial feasibility.** In making a determination of financial feasibility, the board shall evaluate the information supplied in part 9200.6500 [Emergency], item C to determine whether or not board assistance is necessary for

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facility development. If the board determines that assistance is not necessary, evaluation of the application shall cease and the application shall be returned to the applicant. If the board determines that assistance is necessary, evaluation will proceed to the second stage. During the second stage, the board shall evaluate part 9200.6500 [Emergency], items A, B, and D to M.

Subp. 7. **Board determination.** Following evaluation of the supporting documentation, the board shall determine whether the application demonstrates the requirements of subpart 4. If the board determines that the application demonstrates the requirements of subpart 4, the board shall determine the amount of the grant award and the applicant shall be so notified. If the board determines that the application fails to demonstrate the requirements of subpart 4, the board shall reject the application and the chairperson shall return the application to the applicant, together with a statement of the reasons for the determination.

Subp. 8. **Consultation with other agencies.** In its evaluation of the application, the board shall consider any recommendations provided by the Pollution Control Agency, the appropriate regional development commission, the State Planning Agency, and if appropriate, the Metropolitan Council.

9200.6700 [Emergency] LIMITATIONS.

Subpart 1. **Maximum grant award.** The maximum grant award shall be 25 percent of the eligible capital costs of the project or $2,000,000, whichever is less.

Subp. 2. **Limitations on grant award.** No grant shall be awarded for costs for which the applicant has applied and received funds from another source.

Grants shall be awarded to cover the eligible costs of only those tasks which are undertaken and completed during the period established in the grant agreement.

Grants shall not be awarded to cover any cost associated with tasks performed prior to the grant award or after the expiration of the grant agreement.

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Subp. 3. **Limitations on disbursal of funds.** No funds shall be disbursed until the board has determined the total estimated capital cost of the project and ascertained that financing of the cost is assured by funds provided by the state, by an agency of the federal government within the amount of funds then appropriated to that agency and allocated by it to projects within the state, by any person, or by the appropriation of proceeds of bonds or other funds of the recipient to a fund for the construction of the project.

9200.6800 [Emergency] GRANT AGREEMENT.

Subpart 1. **Requirements.** A grant agreement shall:

A. include as attachments the resolutions required under Minnesota Statutes, sections 115A.54, subdivision 2a, clause (1) and 115A.54, subdivision 3;

B. incorporate by reference the final grant application submitted to the board in accordance with part 9200.6200 [Emergency];

C. allow the recipient to enter into contracts to complete the work specified in the agreement subject to any board approval which may be required in the agreement;

D. provide that any cost overruns incurred in the development of the proposed facility shall be the sole responsibility of the recipients;

E. provide that the board will not approve amendments to the agreement to provide additional grant funds to the recipient;

F. require that the recipient provide periodic written reports to the board on the developmental and operational history of the project so that knowledge and experience gained from the project may be made available to other communities in the state; and

G. require total repayment of the grant if the facility is sold to a private enterprise within three years of the effective date of the grant agreement. Beginning on the third anniversary of the grant, the amount of the grant which must be repaid shall be reduced ten percent each year. The

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sales agreement between the recipient and the private enterprise shall transfer the responsibilities outlined in subpart 1, item F to the private enterprise.

Subp. 2. **Rescission of grant.** If a project is not completed and operational in accordance with the terms and conditions of the grant agreement, including time schedules, the grant shall be rescinded, and the entire amount of the grant shall be repaid unless the board determines that variances from the respective agreements are justified and that the original objectives of the project will be accomplished.

Subp. 3. **Disbursement.** The board shall disburse grants in accordance with the payment schedule set out in the grant agreement.

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STATE OF MINNESOTA
WASTE MANAGEMENT BOARD

In the Matter of the Adoption of
the Proposed Emergency Rules of the
Waste Management Board Governing the
Solid Waste Processing Facility Capital
Assistance Program, Minnesota Rules,
Parts 9200.6000 to 9200.6800 [Emergency].

ORDER ADOPTING
EMERGENCY RULES

Notice of the Waste Management Board's intent to adopt proposed emergency rules for the above-entitled matter was published in the State Register on Monday, July 22, 1985, and was sent by United States mail to all persons on the list maintained by the Waste Management Board on July 19, 1985, pursuant to Minnesota Statutes, sections 14.29 to 14.36. After affording interested and affected persons an opportunity to submit written data and views within 25 days of the publication date, reviewing and considering the data and views, and determining that the above-captioned proposed emergency rules are needed and reasonable,

NOW THEREFORE, IT IS ORDERED that, pursuant to authority vested in the Board by Minnesota Statutes, sections 115A.06, subdivision 2 and 115A.49 to 115A.54 (1984), as amended by Minnesota Special Session Laws 1985, chapter 15, sections 32 to 35, and pursuant to Minnesota Statutes, section 14.29, subdivision 1, these proposed emergency rules, identified as "Proposed Emergency Rules of the Waste Management Board Governing the Solid Waste Processing Facility Capital Assistance Program" as published at 10 State Register 220 to 226 (July 22, 1985), are adopted this 22nd day of August, 1985, with the following modifications:

(1) Proposed emergency rule part 9200.6000, subparts 10 through 23 are amended to read as follows:

Subp. 23 ~~10~~. ~~On-site~~ Transmission facilities. "~~On-site~~ Transmission facilities" means any steam, water, or electrical lines ~~facilities within the geographic boundaries of the waste processing facility site,~~ which are used to transmit energy to markets.

Subp. 10 ~~11~~. On-site utilities. "On-site utilities" means gas, electrical, water, and sewer facilities within the geographic boundaries of the waste processing facility site, which are used for facility operations, excluding transmission of energy to markets.

Subp. 11 ~~12~~. Preliminary engineering/architectural plans. "Preliminary engineering/architectural plans" means conceptual plans adequate to obtain preconstruction permits and to meet the needs of an environmental assessment.

Subp. 12 ~~13~~. Processing. "Processing" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 25.

Subp. 13 ~~14~~. Project. "Project" means a processing facility, together with any transfer stations, transmission facilities, and other related and appurtenant facilities primarily serving the processing facility.

Subp. 14 ~~15~~. Recyclable materials. "Recyclable materials" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 25a.

Subp. 15 ~~16~~. Recycling. "Recycling" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 25b.

Subp. 16 ~~17~~. Recipient. "Recipient" means an applicant who has received a grant under the solid waste processing facilities capital assistance program.

Subp. 17 ~~18~~. Resource recovery. "Resource recovery" has the meaning given

it in Minnesota Statutes, section 115A.03, subdivision 27.

Subp. 18 ~~19~~. Resource recovery facility. "Resource recovery facility" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 28.

Subp. 19 ~~20~~. Solid waste. "Solid waste" has the meaning given it in Minnesota Statutes, section 116.06, subdivision 10.

Subp. 20 ~~21~~. Solid waste disposal facilities and equipment. "Solid waste disposal facilities and equipment" means structures, machinery, or devices at a disposal site necessary for efficient land disposal of solid wastes, including machinery or devices designed to move earth during burial of wastes or to increase the density of wastes buried or to be buried, and facilities in which solid waste is temporarily stored and concentrated prior to transport to a disposal site.

Subp. 21 ~~22~~. Solid waste management district. "Solid waste management district" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 32.

Subp. 22 ~~23~~. Special waste stream. "Special waste stream" means materials normally found in the solid waste stream in sufficient quantity to be recovered for subsequent use, if separated from the solid waste stream and processed separately. Examples of special waste streams include ~~used~~ waste tires, wood wastes, and agricultural wastes.

(2) Proposed emergency rule part 9200.6200, subpart 3 is amended to read as follows:

Subp. 3. Applications accepted. The board shall accept applications for funds under the solid waste processing facilities capital assistance program until all funds for the program are awarded ~~depleted~~ or until ~~March 30, 1987,~~

three months prior to the expiration of the board pursuant to law, whichever occurs first.

(3) Proposed emergency rule part 9200.6300, subpart 3 is amended to read as follows:

Subp. 3. Eligible costs. Eligible costs under parts 9200.6000 to 9200.6800 [Emergency] shall be limited to the costs of waste processing equipment~~,~~; structures necessary to house the waste processing equipment~~,~~; ~~on-site~~ transmission facilities~~,~~; appropriate and necessary on-site utilities~~,~~; structures necessary to concentrate and temporarily store solid waste prior to transportation to a waste processing facility~~,~~; trailers, containers, and roll-off boxes necessary to transport wastes from transfer stations to a processing facility, to transport processing facility products to market, or to transport residue from the processing facility to a solid waste land disposal facility; and final design and engineering specifications.

(4) Proposed emergency rule part 9200.6500, items B and C are amended to read as follows:

B. A financial plan which contains:

(1) initial capital development costs and the method of financing those costs;

(2) annual operating and maintenance costs;

(3) ~~15-year~~ projections of total facility costs and revenues over 20 years or for the term of the longest debt obligation, whichever is longer; and

(4) total ~~facility~~ capital costs per ton~~;~~ of installed daily capacity.

~~(5) total facility costs to generator; and~~

~~(6) revenues or funds accruing to the facility through sales, tipping fees, taxes, and subsidies.~~

C. A report demonstrating that the project is not financially feasible without state assistance, due to the applicant's financial capacity and the problems inherent in waste management in the area. The report shall include the following documentation:

(1) capital financing alternatives and operational cost financing alternatives, both public and private, explored by the applicant for the projects and reasons for selecting the proposed ~~financial plan;~~ financing methods;

(2) information on the applicant's financial situation including the applicant's current credit rating on general obligation bonds, the amount of general obligation bonds outstanding, general obligation debt divided by market valuation, and debt service levy divided by total levy. If the applicant has issued general obligation bonds in the past two years, the documentation must include the most recent general purpose financial statements, current year budgets, and official statement on bond issuance;

(3) projected facility tipping fees, product revenues, and other project revenues, ~~operating and maintenance costs and debt service on a per capita basis,~~ with and without board assistance~~.~~;

(4) impact of proposed project on existing solid waste commitments, obligations and expenditures, and total current solid waste management costs on a per capita and per ton basis;

(5) general information ~~on~~ pertinent to a determination of the applicant's financial capacity, including such factors as location, population

characteristics, employment base, and other characteristics; ~~pertinent to a discussion of financial capacity;~~

(6) transportation distances and estimated costs, both in waste collection and to markets for recovered resources;

(7) waste supply characteristics;

(8) availability of markets for recovered resources; and

(9) other characteristics of waste management in the area which render state assistance necessary to the financial feasibility of the project.

(5) Proposed emergency rule part 9200.6500, item F is amended to read as follows:

F. Documentation that waste supplies will be committed to the project and that the applicant has the ~~authority and~~ mechanism to commit such wastes.

STATE OF MINNESOTA
WASTE MANAGEMENT BOARD

DATED: August 22, 1985

ROBERT G. DUNN
CHAIRPERSON

STATE OF MINNESOTA
WASTE MANAGEMENT BOARD

In the Matter of the Proposed Adoption of the Emergency Rules of the Waste Management Board Governing the Solid Waste Processing Facility Capital Assistance Program	)))))	ORDER FOR PUBLICATION OF EMERGENCY RULES

IT IS ORDERED this 8th day of July, 1985 that a Notice of Intent to Adopt Emergency Rules and the proposed emergency rules in the above-entitled matter be given to all persons and associations who have registered their names with the Waste Management Board for that purpose and be published in the State Register.

STATE OF MINNESOTA

Robert G.Dunn
Chairperson
Waste Management Board

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

Proposed Emergency Rules, Minn. Rules, Parts 9200.XXX1 - 9200.XX11, Minnesota Waste Management Board Solid Waste Processing Facility Capital Assistance Program	)	CERTIFICATE OF BOARD AUTHORIZING RESOLUTION

I, Robert G. Dunn, do hereby certify that I am a member and the Chairperson of the Minnesota Waste Management Board 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 Waste Management Board duly and properly called and held on the 27th day of June, 1985, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified.

> RESOLVED, that the Chairperson of the Minnesota Waste Management Board is hereby granted the authority and directed to sign an order of the Board directing that notice be given of the Board's intent to adopt the attached proposed emergency rules relating to the Minnesota Waste Management Board Solid Waste Processing Facility Capital Assistance Program, to sign the notice thereof, and to perform any acts incidental thereto.
>
> BE IT FURTHER RESOLVED, that prior to publishing the proposed emergency rules in the State Register, the Chairperson is authorized to make any form changes in the emergency rules that the Revisor of Statutes requires the Board to make in order to obtain the Revisor's Certificate of Approval as required by Minn. Stat. § 14.07, subd. 2 (1984).

IN WITNESS WHEREOF, I have hereunto subscribed my name this 27 day of June, 1985.

Robert G. Dunn
ROBERT G. DUNN
Chairperson

Lawrence E. Hunter
Attest by one other Board member

WASTE MANAGEMENT BOARD

Proposed Emergency Rules Governing the Solid Waste Processing Facility Capital Assistance Program.

Notice of Intent to adopt Emergency Rules

Notice is hereby given that the Minnesota Waste Management Board proposes to adopt the above-entitled emergency rules. The Chairman of the Waste Management Board will follow the procedures set forth in Minnesota Statutes, sections 14.29-14.36 in adopting these rules.

Persons interested in these emergency rules shall have 25 days from the date the rules are published in the State Register to submit comments on the proposed rules. Each comment should identify the portion of the proposed rule addressed by the comment, reason for the comment, and any change that is proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Board and do not result in a substantial change in the proposed language.

Persons who wish to submit oral or written comments should submit the comments to:

Ted Troolin
Waste Management Board
123 Thorson Building
7323 - 58th Avenue North
Crystal, MN. 55428
(612) 536-0816

Authority to adopt these rules is contained in Minnesota Statutes, section 115A.06, subd. 2 (1984) and 115A.49 to 115A.54 (1984), as amended. The Board is authorized by these sections to adopt rules for the administration of a solid waste processing facility capital assistance program to provide grants to local units of government to develop solid waste processing facilities which are feasible and prudent alternatives to disposal. Accordingly, the proposed emergency rules include grant application procedures, eligibility criteria, information required on grant applications, supporting documentation required to be submitted with grant application, application review and evaluation procedures, and required contents of grant agreements.

Upon adoption of the emergency rules, the proposed rules, this notice, all written comments received, and the emergency rules as Adopted, will be delivered to the Attorney General for review as to form and legality,including the issue of substantial change.

These emergency rules will be effective for 180 days or until permanent rules are adopted, whichever occurs first.

One free copy of this notice, the proposed emergency rules or notice of the date of submission of the final emergency rules as adopted to the Attorney General may be obtained by contacting Mr. Troolin. Persons who wish to receive a copy of the emergency rules as adopted should also request it from Mr. Troolin.

Dated July 8, 1985.

STATE OF MINNESOTA

ROBERT G. DUNN, CHAIRMAN
Waste Management Board

STATE OF MINNESOTA
WASTE MANAGEMENT BOARD

In the Matter of the Proposed Adoption of the Emergency Rules of the Waste Management Board Governing the Solid Waste Processing Facility Capital Assistance Program

AFFIDAVIT OF MAILING

Theodore W Wolin, being first duly sworn desposes and says:

That on the 19th day of July, 1985, at the City of Crystal, County of Hennepin, State of Minnesota, he mailed the attached material to those persons on the attached mailing list by deposition in the United States mail at said City of Crystal, a copy, thereof, properly enveloped, with postage prepaid:

Ted Wolin

Subscribed and sworn to before me this 19th day of July, 1985.

June J. Seery

JUNE J. SEERY
NOTARY PUBLIC — MINNESOTA
HENNEPIN COUNTY
My commission expires Nov. 28, 1990

STATE OF MINNESOTA
WASTE MANAGEMENT BOARD

In the Matter of the Proposed)
Adoption of the Emergency Rules)
of the Waste Management Board) CERTIFICATE
Governing the Solid Waste Processing)
Facility Capital Assistance Program)

I hereby certify that the list of persons and associations who have requested, pursuant to Minn. Stat. Section 14.14, that their names be placed on file with and maintained by the Waste Management Board for the purpose of receiving notice of the proposed adoption of rules by this Board is accurate and complete as of 2:00 P.M., this 19th day of July, 1985

June J. Seery July 19, 1985

JUNE J. SEERY
NOTARY PUBLIC — MINNESOTA
HENNEPIN COUNTY
My commission expires Nov. 20, 1990

Ted Tvolin

General Mills, Inc.
ATTN: Dr. J.W. Haun-45W
P. O. Box 1113
Minneapolis, MN 55440

[redacted]

MN Department of Transporta.
ATTN: Cheryl Heide
Rm 807, Transportation Bldg.
John Ireland Boulevard
St. Paul, MN 55155

Metro Inter-County Assoc.
114 Metro Square Bldg.
7th & Robert Street
St. Paul, MN 55101

[redacted]

Becky A. Comstock
2200 1st Bank Place E.
Minneapolis, MN 55402

[redacted]

Ms. Mary Stanton
Staff Associate/Finance
State University System
407 Capitol Square Building
550 Cedar St.
St. Paul, MN 55101

[redacted]

John A. Knapp
Hessian, McKasy & Soderberg
1500 Midwest Plaza Building
Minneapolis, MN 55402

Governor's Office
Room 130 - State Capitol
St. Paul, MN 55155

G. Robert Johnson
4344 IDS Center
Minneapolis, MN 55402

[redacted]

Robert S. Burk
4344 IDS Center
Minneapolis, MN 55402

Holly Rodin
Minnesota COACT
1216 So. 6th Street
Brainerd, MN 56401

Joseph S. Hensel
Rochester Public Utilities
506 First Ave. NE Box 6057
Rochester, MN 55901

Original 7/19/87

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NOTIFICATION OF RULEMAKING

Joseph D. Bizzano, Jr.
JoAnn McGuire
North. States Power Law Dept.
414 Nicollet Mall
Minneapolis, MN 55401

Dr. Daryl A. Thingvold
Serco Laboratories
1931 West County Road C2
Roseville, MN 55113

[redacted]

Ms. Leslie Smith
Env. Research Group, Inc.
135 State Street
St. Paul, MN 55107

[redacted]

[redacted]

Bernard L. Brommer
Executive Vice President
Minnesota AFL-CIO
175 Aurora Avenue
St. Paul, MN 55103

Scott Schuler
Environmental Specialist
Cooperative Power Assoc.
8020 Mitchell Road
Eden Prairie, MN 55344

[redacted]

Charles A. Schaffer
MN Dept of Economic Dev.
480 Cedar Street
St. Paul, MN 55101

Carol Propotnik
MPIRG
2412 University Avenue S.E.
Minneapolis, MN 55414

[redacted]

[redacted]

Forrest D. Nowlin
Larkin, Hoffman, Daly & Lindgren
1500 Northwestern Financial Cntr
7900 Xerxes Avenue So.
Minneapolis, MN 55431

I. V. Fordyce
Manager Environmental Control
Am. Crystal Sugar Company
101 North Third Street
Moorhead, MN 56560

[redacted]

[redacted]

Kevin C. Jones
George A. Hormel & Co.
P. O. Box 800
Austin, MN 55912

[redacted]

R. G. Kirkham, Exec. Dir.
Minnesota Municipal Utilities
P. O. Box B
10 Central Avenue
Buffalo, MN 55313

Norma Schumacher, Leg. Consul
O'Connor & Hannan
38th Floor - IDS Tower
Minneapolis, MN 55402

Broeker, Hartfeldt, Hedges & Grant
2850 Metro Dr.-Suite 800
Bloomington, MN 55420

[redacted]

Archie D. Chelseth
Manager Public Affairs
Potlatch Corporation
Box 510
Cloquet, MN 55720

[redacted]

Robert R. Distad
Assistant County Attorney
Dakota County Attorney's Office
Dakota County Government Center
1560 West Highway 55
Hastings, MN 55033

[redacted]

[redacted]

Bonnie M. Spencer
Federal-State Reports, Inc.
5203 Leesburg Pike, Suite 1201
Falls Church, Virginia 22041

[redacted]

INTERESTED AGENCIES

DEMO PROGRAM

Original
Original

[redacted]

Steve Knight
West. Lake Sup. Sanit. Dist.
27th Ave. West & the Waterfrnt
Duluth MN 55806

John Stark
Rubber Research Elastomerics, Inc.
824 Ninth Ave. SE
Mpls., Minn. 55414

[redacted]

Dick Reis
Planning Director
City of Moorhead
500 Center Av.
Moorhead, MN 56560

Joel Jamnik
League of Minnesota Cities
300 Hanover Bldg.
480 Cedar
St. Paul, MN 55101

Tom Todd
House Research
17 State Capitol Bldg.
St. Paul, MN 55155

Dean Massett
Box 34
Red Wing, MN 55066

[redacted]

Ken Hopke
Stearns County Planning Dept.
Stearns County Courthouse
St. Cloud, MN 56301

Arthur Persons
Planning Director
Winona County Courthouse
Winona, MN 55987

[redacted]

Mike Robertson
Deputy Director
1935 West County Road B2
Roseville, MN 55113
INTEROFFICE

Rick Person-Dept. of Public
Solid Waste Division Works
600 City Hall Annex
25 West 4th St.
St. Paul, MN 55102

W. L. Hofeling, President
Research, Inc.
10 North 5th Avenue
Hopkins, MN 55343

Viet Ngo, P.E., Vice Pres[illegible]
McCombs-Knutson Associates, I[illegible]
12800 Industrial Park Blvd.
Plymouth, MN 55441

[redacted]

Joan Nelson
Recycling Unlimited
1352 Summit Avenue
St. Paul, MN 55105

[redacted]

[redacted]

Michael Moodie
Trinity Engineering
5615 Woodstock
Golden Valley, MN 55422

Dave Winter
Environment and Energy
Hennepin County BPS
320 Washington Av. So.
Hopkins, MN 55343

[redacted]

Marilyn Lundberg SMRBB
600 American Center Bldg.
150 East Kellogg Blvd.
St. Paul, MN 55101

SOLID WASTE ISSUES MAILING LIST - INTERESTED PARTIES

Original

Mr. Larry Beiderman
State Hospital Complex
St. Peter, MN 56082

Ms. Linda Bruemmer
MN Dept. of Energy, Pl., & Dev.
Rm. 100, Capitol Square Bldg.
St. Paul, MN 55101

Mr. Robert Bystrom
PO Box 5
Centennial Bldg., 658 Cedar St.
St. Pul, MN 55155

Ms. Norma Cameron
MN Dept. of Administration
671 North Robert St.
St. Pual, MN 55101

Ms. Jeanne Crampton
MN League of Women Voters
555 Wabasha, Rm. 212
St. Paul, MN 55102

Mr. Gary Englund
Env. Health Division
717 Delaware St. SW, PO Box 944
Mpls, MN 55440

Ms. Nancy Grimsby
Recycling Association of MN
5932 Wooddale Ave.
Mpls, MN 55424

Ms. Sue Hess
Whitney House
St. Cloud State University
St. Cloud, MN 56301

Mr. Curtis Johnson
Syndicate Bldg.
84 South Sixth Street
Mpls, MN 55402

Mr. Daniel Krivit
Rm. 300, Metro Square Bldg.
7th and Robert Streets
St. Paul, MN 55101

Ken Olson
Pennington County Herald

Mr. David Locey
MN Soft Drink Association
2353 Rice St.
Roseville, MN 55113

Ms. Marilyn Lundberg
600 American Center Bldg.
150 East Kellogg Boulevard
St. Paul, MN 55101

Mr. Paul Parker
National Assoc. of Recycling
Industries
330 Madison Ave.
New York, NY 10017

Mr. Warren Schuras
Tri-County Sanitarian
Courthouse
Fairmont, MN 56031

Mr. Gary Simonsen
W Lake Superior San. District
27th Ave. West & Waterfront
Duluth, MN 55806

Mr. Ray Thron
MN Dept. of Health
717 Delaware St. SE
Mpls, MN 55440

Mr. Lee Williams
Waseca County Sanitarian
Courthouse
Waseca, MN 56093

Bruce Benson
Carlton County E.W.
Carlton, MN

[redacted]c.

Original

Dick Pecar
Resource Management & Assoc.
3 Sibley St., Suite 111
St. Paul, MN 55101

DEMO PROGRAM Original

Charles Smith
Winona County Board
Winona County Courthouse
Winona, MN 55987

Floyd J. Forsberg, P.E.
Henningson, Durham & Richardson
300 Parkdale I Bldg.
5401 Gamble Drive
Minneapolis, Mn 55416

Bill Ritter
MN Chapter, NSWMA
914 W Main
Marshall, MN 56258

Sam VanTassel
Planning Engineer
9401 Fernbrook Lane
Maple Grove, MN 55369

Sharon Bailey
RCM
P.O. Box 130
Hopkins, MN 55343

Morris Anderson
Assoc. of MN Counties
555 Park St., Suite 300
St Paul, MN 55103

Dick Overmier
Environment and Energy
Hennepin County BPS
320 Washington Avenue South
Hopkins, MN 55343

Mr. Neal Seldman
Institute for Local Self Reliance
1717 18th Street NW
Washington, D.C. 20009

Frank Altman
DEED
American Center Bldg, 9th Fl.
150 E. Kellogg Blvd
St Paul, MN 55101

Susan Robertson
LCMM
State Office Building
St. Paul, MN 55155

Brad Jurkovich
Arrowhead RDC
200 Arrowhead Place
Duluth, MN 55802

Paul Smith
Metropolitan Council
300 Metro Square Bldg
7th & Robert
St Paul, MN 55101

Dale Wikre
MPCA
1935 W. County Rd B2
Roseville, MN 55133

Kay Dusenbery
Metropolitan Council
300 Metro Square Building
7th & Robert
St Paul, MN 55101

RDCs

Tom Jorgens
Northwest RDC
425 Woodland Avenue
Crookston, MN 56716

John Ostrem
Headwaters RDC
Mental Health Building
Box 584
Bemidji, MN 56601

David A. Martin
Arrowhead RDC
200 Arrowhead Place
Duluth, MN 55802

Kathy Gaalswyk, Director
Region 5 RDC
611 Iowa Avenue
Staples, MN 56479

Eugene Hippe
Six East RDC
333 West Sixth Street
Lower Level
Willmar, MN 56201

Otto Schmid
Upper Minnesota Valley RDC
323 West Schlieman
Appleton, MN 56208

Michael Sobota
East Central RDC
Mora Professional Building
119 South Lake Street
Mora, MN 55051

Amy Bailey
Southwest RDC
Box 265
Slayton, MN 56172

Terrence Stone
Region Nine RDC
P.O. Box 3367
410 South 5th Street
Mankato, MN 56001

Gerald Isaacs-Metro. Council
300 Metro Square Bldg.
7th & Robert Street
St. Paul, MN 55101

ENVIRONMENTAL COMMITTEES

Greg Lie
Environmentalist
320 Washington Avenue South
Hopkins, MN 55343

Lee Holden
Environ. Health Spec.,Ramsey Co.
1910 W. Co. Rd. B
Roseville, MN 55113

Bob Lockyear
Planning Coordinator
Washington Co. Courthouse
14900 61st Street N.
Stillwater, MN 55082

SOLID WASTE OFFICERS

Original — Aug. 1984

Charles Bonneville
Aitkin County Zoning Office
Aitkin, MN 56431

Bob Hutchinson
Anoka County Health Dept.
County Courthouse
Anoka, MN 55303

Monty Berend
Becker County Engineer
County Courthouse
Detroit Lakes, MN 56501

William Patnaude
Beltrami County Courthouse
Box 248
Bemidji, MN 56601

Al Barthelemy
Benton County Zoning Office
County Courthouse
Foley, MN 56329

James Burgess
Big Stone Co. SW Officer
Courthouse, 20 SE 2nd St.
Ortonville, MN 56278

Herb Wenkel
City Hall
202 E. Jackson St.
Mankato, MN 56001

Charles Enter
Courthouse
New Ulm, MN 56073

Bruce Benson
Carlton County Zoning Officer
County Courthouse
Carlton, MN 55718

Michael Lein/Virginia Harris
Carver County Courthouse
Chaska, MN 55318

Kathy Bergmann
Cass County SW Officer
County Courthouse
Walker, MN 56484

Jerry Einerson
County Courthouse
11th St. & Washington Ave.
Montevideo, MN 56265

Gerald L. Peterson
County Courthouse
Box 202
Center City, MN 55012

John Cousins
Clay County Engineer
1300 15 th Ave. N.
Moorhead, MN 56560

Daniel R. Logelin
County Courthouse
Bagley, MN 56621

Tim Kennedy
Cook County Courthouse
Grand Marais, MN 56604

Merritt C. Petersen
1453 3rd Avenue
Windom, MN 56101

Otto Schalow
County Courthouse
Brainerd, MN 56401

Ron Spong
1600 West Highway 55
Hastings, MN 55033

Cecil Samuelson
County Courthouse
Box 118
Mantorville, MN 55955

John Helgeson
County Courthouse
Alexandria, MN 56308

Hershel L. Koenig, P.E.
County Courthouse
Blue Earth, MN 56013

Wesley C. Kasten
Zoning Administrator
Fillmore County Courthouse
Preston, MN 55965

Steve Tuveson
Freeborn County Env. Health Of
County Courthouse
Albert Lea, MN 56007

Chuck Dornack
County Courthouse
Red Wing, MN 55066

Jim Standish
County Courthouse
Elbow Lake, MN 56531

Luther D. Nelson
Hennepin County
A-1603 Government Center
Mpls, MN 55487-0163

Edward Monteleone
Hennepin County
320 Washington Ave. S.
Hopkins, MN 55343

Richard Frank
Houston County SW Officer
County Courthouse
Caledonia, MN 55921

Vern Massie
County Courthouse
Park Rapids, MN 56470

George Rindelaub
County Courthouse
Cambridge, MN 55008

Brian Smith
Box 146
Le Center, MN 56067

William Buckley
County Courthouse
Austin, MN 55912

Schuyler Mitchell
County Courthouse
Grand Rapids, MN 55744

Peter Boomgarden
County Courthouse
Ivanhoe, MN 56142

Claire Jerome
2516 27th Street
Slayton, MN 56172

Dennis Hanselman
PO Box 64
Jackson, MN 56143

Michael Gort
607 West Main
Marshall, MN 56258

Phil R. Lutzi, Sr.
Nicollet County Courthouse
Box 27
St. Peter, MN 56082

Ronald Grace
County Courthouse
Mora, MN 55051

Edwin Homan
County Courthouse
830 11th Street E.
Glencoe, MN 55336

Steve Bloom
PO Box 757
Nobles County Courthouse
Worthington, MN 56187

Gary Danielson
County Courthouse
Willmar, MN 56201

Mark Diekman
County Courthouse
Mahnomen, MN 56557

Kenneth Benesh
County Courthouse
Ada, MN 56510

Floyd Sanner
Kittson County Courthouse
Hallock, MN 56728

Charles Cheney
Marshall County Courthouse
Warren, MN 56762

Chuck Michaels
415 - 4th Street SE
Rochester, MN 55904

Douglas Grindall
County Courthouse
International Falls, MN 56649

Warren Shuros
Security Bldg. - Room 109
Fairmont, MN 56031

Malcolm K. Lee
Otter Tail County Courthouse
Fergus Falls, MN 56537

Marlyn D. Hanson
County Courthouse
Madison, MN 56256

Gordon Regenscheid
County Courthouse
Litchfield, MN 55355

Wayne Olson
County Courthouse, Box 616
Thief River Falls, MN 56701

Alan Goodman
Lake County Courthouse
Box J
Two Harbors, MN 55616

Douglas Lien
County Courthouse
Milaca, MN 56353

Wayne R. Golly
County Courthouse
Pine City, MN 55063

Gary Lockner
County Courthouse
Route 1, Box 272B
Baudette, MN 56623

Kathy Kendall
County Courthouse
Administrations Bldg.
Little Falls, MN 56345

Dale Taubert
Pipestone County Courthouse
Pipestone, MN 56164

Original - August 1984

Bernard Lieder, P.E.
County Courthouse, Box 27
Crookston, MN 56716

Al Frechette
428 South Holmes
Shakopee, MN 55379

Greg J. Kempf
County Courthouse
Wadena, MN 56482

Michael D. Howe
County Courthouse
Glenwood, MN 56334

Brian Bensen
County Administration Building
Elk River, MN 55330

Bob McPartlin
Fairgrounds
Waseca, MN 56093

Richard Ragan/Colleen Halpine
1910 W. County Rd. B-Suite 209
Roseville, MN 55113

Gene Isakson
Box 82
Gaylord, MN 55334

Mike Ayers
2000 Industrial Blvd.
Stillwater, MN 55082

Wes Gjovic, Engineer
Box 190
Red Lake Falls, MN 56750

Michael C. Hanan
510-14 North 25th Avenue
St. Cloud, MN 56302

G.A. Engstrom
PO Box 467
St. James, MN 56081

Gary Zick
Redwood County Courthouse
Box 4
Redwood Falls, MN 56283

Scott Golberg
590 Dunnell Drive, Box 890
Owatonna, MN 55060

Tom Richels
419 Wilkin Avenue
Breckenridge, MN 56520

Kevin Halliday
County Courthouse
Olivia, MN 56277

L.B. Schaub
County Courthouse
Morris, MN 56267

Gene L. Mossing
County Courthouse
Winona, MN 55987

Mert Hoover
County Courthouse
Fairbault, MN 55021

Byron Biese
PO Box 288
Benson, MN 56215

Chuck Davis
County Courthouse
10 - NW Second Street
Buffalo, MN 55313

Arnold Johnson
PO Box 308
Luverne, MN 56156

Albert Steuck
Courthouse Annex
Long Prairie, MN 56347

Jerry Holien
Box 675
Clarkfield, MN 56223

Luke Hagan
County Courthouse
Roseau, MN 56751

Lester M. Deyo
County Courthouse
Wheaton, MN 56296

Dale Schroeder
St. Louis County Health Dept.
504 East Second Street
Duluth, MN 55805

Charles McDonald
County Courthouse
Wabasha, MN 55981

Waste Management Board

Proposed Emergency Rules Governing The Solid Waste Processing Facility Capital Assistance Program

Notice of Intent to Adopt Emergency Rules

Notice is hereby given that the Minnesota Waste Management Board proposes to adopt the above-entitled emergency rules. The Chairman of the Waste Management Board will follow the procedures set forth in Minnesota Statutes, sections 14.29-14.36 in adopting these rules.

Persons interested in these emergency rules shall have 25 days from the date the rules are published in the *State Register* to submit comments on the proposed rules. Each comment should identify the portion of the proposed rule addressed by the comment, reason for the comment, and any change that is proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Board and do not result in a substantial change in the proposed language.

Persons who wish to submit oral or written comments should submit the comments to:

Ted Troolin
Waste Management Board
123 Thorson Building
7323 - 58th Avenue North
Crystal, MN. 55428
(612) 536-0816

Authority to adopt these rules is contained in Minnesota Statutes, section 115A.06, subd. 2 (1984) and 115A.49 to 115A.54 (1984), as amended. The Board is authorized by these sections to adopt rules for the administration of a solid waste processing facility capital assistance program to provide grants to local units of government to develop solid waste processing facilities which are feasible and prudent alternatives to disposal. Accordingly, the proposed emergency rules include grant application procedures, eligibility criteria, information required on grant applications, supporting documentation required to be submitted with grant application, application review and evaluation procedures, and required contents of grant agreements.

Upon adoption of the emergency rules, the proposed rules, this notice, all written comments received, and the emergency rules as adopted, will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change.

These emergency rules will be effective for 180 days or until permanent rules are adopted, whichever occurs first.

One free copy of this notice, the proposed emergency rules or notice of the date of submission of the final emergency rules as adopted to the Attorney General may be obtained by contacting Mr. Troolin. Persons who wish to receive a copy of the emergency rules as adopted should also request it from Mr. Troolin.

July 8, 1985

Robert G. Dunn, Chairman
Waste Management Board

Emergency Rules as Proposed (all new material)

9200.6000 [Emergency] DEFINITIONS.

Subpart 1. Scope. For the purposes of parts 9200.6000 to 9200.6800 the following terms have the meaning given them, unless the context requires otherwise.

Subp. 2. Board. "Board" means the Minnesota Waste Management Board established in Minnesota Statutes, section 115A.04.

Subp. 3. Chairperson. "Chairperson" means the chairperson and chief executive officer of the board.

Subp. 4. Cities. "Cities" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 4.

Subp. 5. Comprehensive solid waste management plan. "Comprehensive solid waste management plan" means a written plan prepared pursuant to Minnesota Statutes, section 115A.46.

Subp. 6. Disposal. "Disposal" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 9.

Subp. 7. Final engineering/architectural plans. "Final engineering architectural plans" means those engineering drawings and specifications used to secure bids for construction or equipment.

Subp. 8. Institutional arrangements. "Institutional arrangements" means methods of financing, marketing, procurement, securing the waste supply, or joint efforts by more than one local government unit.

Subp. 9. Mixed municipal solid waste. "Mixed municipal solid waste" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 21.

Subp. 10. On-site transmission facilities. "On-site transmission facilities" means any steam, water, or electrical facilities within the geographic boundaries of the waste processing facility site, which are used to transmit energy to markets.

Subp. 11. On-site utilities. "On-site utilities" means gas, electrical, water, and sewer facilities within the geographic boundaries of the waste processing facility site, which are used for facility operations, excluding transmission of energy to markets.

Subp. 12. Preliminary engineering/architectural plans. "Preliminary engineering architectural plans" means conceptual plans adequate to obtain preconstruction permits and to meet the needs of an environmental assessment.

Subp. 13. Processing. "Processing" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 25.

Subp. 14. Project. "Project" means a processing facility, together with any transfer stations, transmission facilities, and other related and appurtenant facilities primarily serving the processing facility.

Subp. 15. Recyclable materials. "Recyclable materials" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 25a.

Subp. 16. Recycling. "Recycling" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 25b.

Subp. 17. Recipient. "Recipient" means an applicant who has received a grant under the solid waste processing facilities capital assistance program.

Subp. 18. Resource recovery. "Resource recovery" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 27.

Subp. 19. Resource recovery facility. "Resource recovery facility" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 28.

Subp. 20. Solid waste. "Solid waste" has the meaning given it in Minnesota Statutes, section 116.06, subdivision 10.

Subp. 21. Solid waste disposal facilities and equipment. "Solid waste disposal facilities and equipment" means structures, machinery, or devices at a disposal site necessary for efficient land disposal of solid wastes, including machinery or devices designed to move earth during burial of wastes or to increase the density of wastes buried or to be buried, and facilites in which solid waste is temporarily stored and concentrated prior to transport to a disposal site.

Subp. 22. Solid waste management district. "Solid waste management district" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 32.

Subp. 23. Special waste stream. "Special waste stream" means materials normally found in the solid waste stream in sufficient quantity to be recovered for subsequent use, if separated from the solid waste stream and processed separately. Examples of special waste streams include used tires, wood wastes, and agricultural wastes.

Subp. 24. Transfer station. "Transfer station" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 33.

Subp. 25. Waste processing equipment. "Waste processing equipment" means machinery or devices acquired and used as an integral component of a waste processing facility.

Subp. 26. Waste processing facility. "Waste processing facility" means structures and equipment singly or in combination, designed, constructed, and used to separate, modify, convert, heat, prepare, or otherwise process solid waste so that materials, substances, or energy contained within the waste may be recovered for subsequent use.

9200.6100 [Emergency] SOLID WASTE PROCESSING FACILITIES CAPITAL ASSISTANCE PROGRAM.

Parts 9200.6000 to 9200.6800 [Emergency] implement the solid waste processing facilities capital assistance program created

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.

and described in Minnesota Statutes, sections 115A.49 to 115A.54 by establishing the substantive criteria and procedural conditions under which the board may award grants for capital costs of solid waste processing facilities.

9200.6200 [Emergency] GRANT APPLICATION PROCEDURES.

Subpart 1. Applications. An application may be submitted to the board when the applicant has met the information and documentation requirements in parts 9200.6400 [Emergency] and 9200.6500 [Emergency]. The applicant is encouraged to contact the chairperson and request a preapplication review of the proposed project.

Subp. 2. Review of applications. Upon receipt of an application, the chairperson or a designee shall conduct an initial review of the application pursuant to part 9200.6600 [Emergency]. The board shall evaluate projects and award grants.

Subp. 3. Applications accepted. The board shall accept applications for funds under the waste processing facilities capital assistance program until funds for the program are depleted or until March 30, 1987, whichever occurs first.

9200.6300 [Emergency] ELIGIBILITY CRITERIA.

Subpart 1. Eligible applicants. Eligible applicants are limited to cities, counties, and solid waste management districts established pursuant to Minnesota Statutes, sections 115A.62 to 115A.72.

Subp. 2. Eligible projects. Six types of projects are eligible for grants: waste to energy; materials recovery; chemical, physical, or biological modifications; transfer stations; special waste streams; and waste incineration with resource recovery. Eligible projects are limited to those in which the land, buildings, and equipment are publicly owned.

Projects which were awarded assistance by the board pursuant to applications submitted under Minnesota Statutes, sections 115A.49 to 115A.54 before July 1, 1985, are eligible for additional assistance under this program, provided that no project may receive a total amount of grant assistance in excess of the limits specified in part 9200.6700 [Emergency], subpart 1. Previously funded projects seeking additional funding under this program shall complete the documentation required pursuant part 9200.6500 [Emergency].

Subp. 3. Eligible costs. Eligible costs under part 9200.6000 to 9200.6800 [Emergency] shall be limited to the costs of waste processing equipment, structures necessary to house the waste processing equipment, on-site transmission facilities, appropriate and necessary on-site utilities, structures necessary to concentrate and temporarily store solid waste prior to transportation to a waste processing facility, and final design and engineering specifications.

Subp. 4. Ineligible costs. Ineligible costs include any costs related to acquisition of land, solid waste disposal facilities and equipment, structures for housing and maintenance of rolling stock, or any costs related to resource recovery studies, feasibility analyses, or preliminary design and engineering.

9200.6400 [Emergency] INFORMATION REQUIRED ON GRANT APPLICATION.

Applications for waste processing facilities grants shall include the following information as required in the application forms supplied by the board:

A. the name of each applicant making the grant application;

B. the name of each political subdivision affected by the project, located in the area studied in the project, or located in the area in which the project is intended to be implemented;

C. resolutions from each applicant in conformance with Minnesota Statutes, sections 115A.54, subdivision 2a, clause (1) and 115A.54, subdivision 3;

D. the name, qualifications, and address of the project manager;

E. the name and qualifications of the facility operator, if available;

F. the total capital cost of the project;

G. the total grant-eligible cost of the project;

H. the amount of grant funding requested;

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

J. the type of waste processing facility for which the grant application is being submitted: waste to energy; materials recovery; chemical, physical, or biological modification; transfer stations; special waste stream; or waste incineration with resource recovery.

9200.6500 [Emergency] SUPPORTING DOCUMENTATION REQUIRED TO BE SUBMITTED WITH GRANT APPLICATION.

Applications for waste processing facilities grants must include the following supporting documentation:

A. A conceptual and technical feasibility report which includes at least the following: a detailed description of the proposed waste processing facility; a description of the institutional arrangements necessary for project implementation and operation; a description of the method of facility procurement; and an analysis of the waste stream for the facility.

B. A financial plan which contains:

(1) initial capital development costs and the method of financing those costs;

(2) annual operating and maintenance costs;

(3) 15-year projections of total facility costs;

(4) total facility costs per ton;

(5) total facility costs to generator; and

(6) revenues or funds accruing to the facility through sales, tipping fees, taxes, and subsidies.

C. A report demonstrating that the project is not financially feasible without state assistance, due to the applicant's financial capacity and the problems inherent in waste management in the area. The report shall include the following documentation:

(1) financing alternatives, both public and private, explored by the applicant for the projects and reasons for selecting the proposed financial plan;

(2) information on the applicant's financial situation including the applicant's current credit rating on general obligation bonds, the amount of general obligation bonds outstanding, general obligation debt divided by market valuation, and debt service levy divided by total levy. If the applicant has issued general obligation bonds in the past two years, the documentation must include the most recent general purpose financial statements, current year budgets, and official statement on bond issuance;

(3) projected facility tipping fees, revenues, operating and maintenance costs and debt service on a per capita basis, with and without board assistance.

(4) impact of proposed project on existing solid waste commitments, obligations and expenditures, and total current solid waste management costs on a per capita basis;

(5) general information on the applicant's location, population characteristics, employment base, and other characteristics pertinent to a discussion of financial capacity;

(6) transportation distances, both in waste collection and to markets for recovered resources;

(7) waste supply characteristics;

(8) availability of markets for recovered resources; and

(9) other characteristics of waste management in the area which render state assistance necessary to the financial feasibility of the project.

D. A comprehensive solid waste management plan.

E. Preliminary design and engineering/architectual plans and specifications of the proposed waste processing facility and equipment.

F. Documentation that waste supplies will be committed to the project and that the applicant has the authority and mechanism to commit such wastes.

G. A market analysis of recovered materials/energy, including market commitments such as letters of intent or market contracts.

H. A report on the status of required permits from permitting agencies.

I. A report on time frames of project development.

J. Resolutions assuring compliance with the requirements of Minnesota Statutes, sections 115A.54, subdivision 2a, clause (1) and 115A.54, subdivision 3.

K. If the applicant, pursuant to Minnesota Statutes, section 115A.49, requests priority based on any of the following conditions, documentation of the existence of the condition:

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(1) the natural geologic and soil conditions which are claimed to be unsuitable for land disposal of solid waste;

(2) the available capacity of existing solid waste disposal facilities are claimed to be less than five years; or

(3) the claim that the proposed project would serve more than one local government unit.

L. If the project has previously received funding from the board under the board's solid waste processing facility demonstration program, documentation of how the project has changed since the previous award and why the project is not financially feasible without additional funding. This documentation must include:

(1) a description of changes in the scope or design of the project;

(2) a description of changes in major external factors affecting the project;

(3) an explanation and demonstration of why the project is no longer financially feasible without additional state assistance; and

(4) a revised implementation schedule.

M. If the project serves eligible jurisdictions in only a single county, documentation demonstrating that cooperation with jurisdictions in other counties is not needed or not feasible, including:

(1) a description of past efforts to develop multi-county facilities or waste management programs; and

(2) a description of characteristics of the applicant's individual situation which preclude or inhibit cooperation with other counties, such as waste supply, market availability, technology constraints, geographic factors, or factors involving institutional arrangements.

9200.6600 [Emergency] REVIEW AND EVALUATION OF APPLICATIONS.

Subpart 1. Determination of eligibility and completeness. Upon receipt of an application, the chairperson or a designee shall determine the eligibility of the applicant, the eligibility of the costs specified in the application, the eligibility of the project specified in the application, and the completeness of the application.

Subp. 2. Notice of determination of eligibility and completeness. Within 14 days after receiving the application, the chairperson shall notify the applicant of the chairperson's determinations of eligibility and completeness. If the chairperson determines that the applicant, the project, any of the costs, or any part of the project is ineligible, or that the application is incomplete, the chairperson may reject the application, return it to the applicant, and notify the applicant of the reasons for the rejection. The applicant shall have 14 days after receipt of the rejection of the application to correct any inadequacies identified in the application. If the inadequacies are corrected within the time allowed, the application will be further considered.

Subp. 3. Legislative priorities. The board shall give priority to projects located in cities, counties, or districts in which:

A. the natural geologic and soil conditions are unsuitable for land disposal of solid waste;

B. the capacity of existing solid waste disposal facilities is less than five years; or

C. the project serves more than one local government unit.

Subp. 4. Evaluation of applications. If the applicant, the costs, and the project are determined to be eligible and the application is complete, the board shall evaluate the application to determine whether the application demonstrates:

A. that the project is conceptually and technically feasible;

B. that affected political subdivisions are committed to implementing the project, providing necessary local financing, and accepting and exercising the government powers necessary for project implementation and operation;

C. that operating revenues from the project, considering the availability and security of sources of solid waste and of markets for recovered resources together with any proposed federal, state, or local financial assistance, will be sufficient to pay all costs over the projected life of the project;

D. that the applicant has evaluated the feasible and prudent alternatives to disposal and has compared and evaluated the costs of the alternatives, including capital and operating costs, the effects of the alternatives on the cost to generators, and the effects of the alternatives on the solid waste management and recycling industry within the project's service area;

E. that for projects serving eligible jurisdictions in only a single county, cooperation with jurisdictions in other counties to develop the project is not needed or not feasible;

F. that resource recovery facilities which burn waste, convert waste to energy, or convert waste into materials for combustion will not accept recyclable materials except for transfer to a recycler; and

G. that the project is not financially feasible without state assistance, because of the applicant's financial capacity and the

problems inherent in the waste management situation in the area, particularly transportation distances and limited waste supply and markets for resources recovered.

Subp. 5. Evaluation process. In evaluating the application pursuant to subpart 4, the board shall evaluate applications in two stages. First, the board shall evaluate financial feasibility documentation submitted by the applicant. Second, the board shall evaluate the remainder of the documentation submitted by the applicant.

Subp. 6. Evaluation of financial feasibility. In making a determination of financial feasibility, the board shall evaluate the information supplied in part 9200.6500 [Emergency], item C to determine whether or not board assistance is necessary for facility development. If the board determines that assistance is not necessary, evaluation of the application shall cease and the application shall be returned to the applicant. If the board determines that assistance is necessary, evaluation will proceed to the second stage. During the second stage, the board shall evaluate part 9200.6500 [Emergency], items A, B, and D to M.

Subp. 7. Board determination. Following evaluation of the supporting documentation, the board shall determine whether the application demonstrates the requirements of subpart 4. If the board determines that the application demonstrates the requirements of subpart 4, the board shall determine the amount of the grant award and the applicant shall be so notified. If the board determines that the application fails to demonstrate the requirements of subpart 4, the board shall reject the application and the chairperson shall return the application to the applicant, together with a statement of the reasons for the determination.

Subp. 8. Consultation with other agencies. In its evaluation of the application, the board shall consider any recommendations provided by the Pollution Control Agency, the appropriate regional development commission, the State Planning Agency, and if appropriate, the Metropolitan Council.

9200.6700 [Emergency] LIMITATIONS.

Subpart 1. Maximum grant award. The maximum grant award shall be 25 percent of the eligible capital costs of the project or $2,000,000, whichever is less.

Subp. 2. Limitations on grant award. No grant shall be awarded for costs for which the applicant has applied and received funds from another source.

Grants shall be awarded to cover the eligible costs of only those tasks which are undertaken and completed during the period established in the grant agreement.

Grants shall not be awarded to cover any cost associated with tasks performed prior to the grant award or after the expiration of the grant agreement.

Subp. 3. Limitations on disbursal of funds. No funds shall be disbursed until the board has determined the total estimated capital cost of the project and ascertained that financing of the cost is assured by funds provided by the state, by an agency of the federal government within the amount of funds then appropriated to that agency and allocated by it to projects within the state, by any person, or by the appropriation of proceeds of bonds or other funds of the recipient to a fund for the construction of the project.

9200.6800 [Emergency] GRANT AGREEMENT.

Subpart 1. Requirements. A grant agreement shall:

A. include as attachments the resolutions required under Minnesota Statutes, sections 115A.54, subdivision 2a, clause (1) and 115A.54, subdivision 3;

B. incorporate by reference the final grant application submitted to the board in accordance with part 9200.6200 [Emergency];

C. allow the recipient to enter into contracts to complete the work specified in the agreement subject to any board approval which may be required in the agreement;

D. provide that any cost overruns incurred in the development of the proposed facility shall be the sole responsibility of the recipients;

E. provide that the board will not approve amendments to the agreement to provide additional grant funds to the recipient;

F. require that the recipient provide periodic written reports to the board on the developmental and operational history of the facility so that knowledge and experience gained from the project may be made available to other communities in the state; and

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.

G. require total repayment of the grant if the facility is sold to a private enterprise within three years of the effective date of the grant agreement. Beginning on the third anniversary of the grant, the amount of the grant which must be repaid shall be reduced ten percent each year. The sales agreement between the recipient and the private enterprise shall transfer the responsibilities outlined in subpart 1, item F to the private enterprise.

Subp. 2. Rescission of grant. If a project is not completed and operational in accordance with the terms and conditions of the grant agreement, including time schedules, the grant shall be rescinded, and the entire amount of the grant shall be repaid unless the board determines that variances from the respective agreements are justified and that the original objectives of the project will be accomplished.

Subp. 3. Disbursement. The board shall disburse grants in accordance with the payment schedule set out in the grant agreement.

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under § 14.18.

Energy and Economic Development Department
Energy and Economic Development Authority

Adopted Emergency Rules Relating to Hazardous Waste; Processing Facility Loans

The emergency rules proposed and published at *State Register*, Volume 9, Number 41, pages 2243-2245, April 8, 1985 (9 S.R. 2243) are adopted with the following modifications:

Rules as Adopted, Emergency

8300.5003 [Emergency] ELIGIBLE PROJECT FOR HAZARDOUS WASTE PROCESSING FACILITY LOAN.

An eligible project must be a hazardous waste processing facility as defined in part ~~8300.5000~~ 8300.5001 [Emergency], subpart 6.

8300.5004 [Emergency] PROCEDURES FOR HAZARDOUS WASTE PROCESSING FACILITY LOAN APPLICATIONS.

Subp. 2. Contents. Applications must comply with part 8300.3012 [Emergency], subparts 2 and 3.

Also, applications must include information necessary for certification by the board under Minnesota Statutes, section 115A.162 and information demonstrating that general casualty and pollution liability insurance is available for the proposed hazardous waste processing facility and the cost of obtaining the insurance must be included in all financial data required to be provided under part 8300.3012 [Emergency], subpart 2, item J.

In addition, the application must contain a certification that the applicant, the officers and directors of the applicant, any shareholder or partner which has a five percent or more ownership of the applicant, and the proposed hazardous waste processing facility, if any, have never been a defendant in any civil or criminal action or the respondent in any administrative consent decree or assurance relating to the collection or processing of hazardous waste as those terms are defined in Minnesota Statutes, section 115A.03, subdivisions 5, 13, and 25.

8300.5005 [Emergency] PROCEDURES FOR APPLICATION PROCESSING.

Subpart 1. In general. Processing of applications must comply with ~~part~~ parts 8300.3013 and 8300.3014 [Emergency], subparts 2 to 7 and 9 to 11.

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Adoption
of the Proposed Emergency Rules of
the Waste Management Board Governing
the Solid Waste Processing Facility
Capital Assistance Program, Minnesota Rules,
Parts 9200.6000 to 9200.6800 [Emergency].

FINDINGS OF FACT
AND CONCLUSIONS

The above-entitled matter came on for decision before the Minnesota Waste Management Board on the 22nd day of August, 1985, after publication and notice of the proposed emergency rules was provided as required by Minnesota Statutes, section 14.30 (1984). Having afforded all interested persons an opportunity to submit written comments on the proposed emergency rules for 25 days following the publication date, having considered the written comments submitted to the Board, and having considered all of the evidence adduced upon the records, files and proceedings herein, the Board makes the following:

FINDINGS OF FACT

1. The Board has the authority to adopt rules for the Solid Waste Processing Facility Capital Assistance Program pursuant to Minnesota Special Session Laws 1985, chapter 15, section 34.

2. Minnesota Special Session Laws 1985, chapter 15, section 34 requires the Board to adopt rules for this program by July 1, 1985.

3. On July 8, 1985, the Order for Publication authorizing publication and mailing of the proposed emergency rules was executed by the Chairperson of the Board under authority of Waste Management Board Resolution WMB-029-85, dated June 27, 1985.

4. On July 19, 1985, the Notice of Intent to Adopt Emergency Rules was mailed to all persons and associations who had requested that their names be

placed on file with the Board for the purpose of receiving notice of the proposed adoption of rules by the Board.

5. On July 22, 1985, the Notice of Intent to Adopt Emergency Rules and the Proposed Emergency Rules were published at 10 State Register 220 to 226.

6. The Board's Notice of Intent to Adopt Emergency Rules afforded all interested persons 25 days to submit data and views on the proposed emergency rules. The notice was in all respects in compliance with the requirements of Minnesota Statutes, section 14.30 (1984).

7. The public comment period of 25 days after publication of the proposed emergency rules expired August 15, 1985.

8. Written comments were received during the comment period from the City of Red Wing, Martin County, and the Minnesota Pollution Control Agency. In addition, the Waste Management Board's Solid Waste Management Advisory Council reviewed and discussed the rules at their July 26 and August 9, 1985 meetings.

9. The Board has reviewed the comments received on the proposed emergency rules and makes the following modifications to the proposed emergency rules based on those comments.

9200.6000 [Emergency] DEFINITIONS.

MODIFICATION:

Subp. 23. ~~10.~~ ~~On-site~~ Transmission facilities. "~~On-site~~ Transmission facilities" means any steam, water, or electrical lines ~~facilities within the geographic boundaries of the waste processing facility site,~~ which are used to transmit energy to markets.

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JUSTIFICATION:

A definition of transmission facilities is included in the emergency rules to clarify which capital costs are eligible for funding under the capital assistance program. Originally, the emergency rules were written to include only transmission facilities within the physical boundaries of the processing facility site as eligible for funding. Comments from the Solid Waste Management Advisory Council and from Martin County suggested that limiting eligible costs to transmission facilities within the geographic boundaries of the processing facility was unnecessarily restrictive. Upon review, the Board agrees and therefore modifies the definition to include as eligible costs transmission facilities from the processing facility to the market for the recovered energy.

MODIFICATION:

Subp. 22 ~~23~~. Special waste stream. "Special waste stream" means materials normally found in the solid waste stream in sufficient quantity to be recovered for subsequent use, if separated from the solid waste stream and processed separately. Examples of special waste streams include ~~used~~ waste tires, wood wastes, and agricultural wastes.

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JUSTIFICATION:

Based on a comment from the Minnesota Pollution Control Agency that the general statutory term for "used tires" is "waste tires," the Board modifies its reference from "used" to "waste" in this subpart.

9200.6200 [Emergency] GRANT APPLICATION PROCEDURES.

MODIFICATION:

Subp. 3. Applications accepted. The board shall accept applications for funds under the solid waste processing facilities capital

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assistance program until all funds for the program are awarded ~~depleted~~ or until ~~March 30, 1987,~~ three months prior to the expiration of the board pursuant to law, whichever occurs first.

JUSTIFICATION:

The Board modifies subpart 3 to clarify the deadline beyond which the Board will no longer accept grant applications under the Capital Assistance Program.

9200.6300 [Emergency] ELIGIBILITY CRITERIA.

MODIFICATION:

Subp. 3. Eligible costs. Eligible costs under parts 9200.6000 to 9200.6800 [Emergency] shall be limited to the costs of waste processing equipment~~,~~; structures necessary to house the waste processing equipment~~,~~; ~~on-site~~ transmission facilities~~,~~; appropriate and necessary on-site utilities~~,~~; structures necessary to concentrate and temporarily store solid waste prior to transportation to a waste processing facility~~,~~; trailers, containers, and roll-off boxes necessary to transport wastes from transfer stations to a processing facility, to transport processing facility products to market, or to transport residue from the processing facility to a solid waste land disposal facility; and final design and engineering specifications.

JUSTIFICATION:

The Board modifies subpart 3 to reflect the definition change from "on-site transmission facilities" to "transmission facilities" in part 9200.6000, and to reflect a Solid Waste Management Advisory Council suggestion that trailers, containers, and roll-off boxes are part of the capital cost of a project and should be eligible for assistance under the Capital Assistance Program.

9200.6500 [Emergency] SUPPORTING DOCUMENTATION REQUIRED TO BE SUBMITTED WITH GRANT APPLICATION

MODIFICATION:

B. A financial plan which contains:

(1) initial capital development costs and the method of financing those costs;

(2) annual operating and maintenance costs;

(3) ~~15 year~~ projections of total facility costs and revenues over 20 years or for the term of the longest debt obligation, whichever is longer; and

(4) total ~~facility~~ capital costs per ton~~;~~ of installed daily capacity.

~~(5) total facility costs to generator; and~~

~~(6) revenues or funds accruing to the facility through sales, tipping fees, taxes, and subsidies.~~

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JUSTIFICATION:

Part 9200.6500 B. describes the financial plan applicants must submit with an application. The Solid Waste Management Advisory Council recommended, and the Board agrees, that the above modifications be made to clarify and improve the required contents of the financial plan.

MODIFICATION

C. A report demonstrating that the project is not financially feasible without state assistance, due to the applicant's financial capacity and the problems inherent in waste management in the area. The report shall include the following documentation:

(1) capital financing alternatives and operational cost financing

alternatives, both public and private, explored by the applicant for the projects and reasons for selecting the proposed ~~financial plan;~~ financing methods;

(2) information on the applicant's financial situation including the applicant's current credit rating on general obligation bonds, the amount of general obligation bonds outstanding, general obligation debt divided by market valuation, and debt service levy divided by total levy. If the applicant has issued general obligation bonds in the past two years, the documentation must include the most recent general purpose financial statements, current year budgets, and official statement on bond issuance;

(3) projected facility tipping fees, product revenues, and other project revenues, ~~operating and maintenance costs and debt service on a per capita basis,~~ with and without board assistance~~.~~;

(4) impact of proposed project on existing solid waste commitments, obligations and expenditures, and total current solid waste management costs on a per capita and per ton basis;

(5) general information ~~on~~ pertinent to a determination of the applicant's financial capacity, including such factors as location, population characteristics, employment base, and other characteristics; ~~pertinent to a discussion of financial capacity;~~

(6) transportation distances and estimated costs, both in waste collection and to markets for recovered resources;

(7) waste supply characteristics;

(8) availability of markets for recovered resources; and

(9) other characteristics of waste management in the area which render state assistance necessary to the financial feasibility of the project.

JUSTIFICATION:

Part 9200.6500 C. describes the financial feasibility report applicants must submit with an application. The Solid Waste Management Advisory Council recommended, and the Board agrees, that the above modifications be made to clarify and improve the required contents of the financial feasibility report.

MODIFICATION

F. Documentation that waste supplies will be committed to the project and that the applicant has the ~~authority and~~ mechanism to commit such wastes.

JUSTIFICATION:

Part 9200.6500 F. describes the waste supply documentation applicants must submit with an application. The Solid Waste Management Advisory Council recommended, and the Board agrees, that the above modification be made to clarify and improve the required contents of the waste supply documentation.

MODIFICATION:

In addition to the modifications described above, the Board modifies the proposed emergency rules as necessary to renumber the rules and to correct grammatical and typographical errors.

CONCLUSIONS

A. The Board has duly acquired and has jurisdiction over this matter.

B. The statutory requirement that the Board adopt rules for this program by July 1, 1985 does not allow for compliance with controversial or non-controversial rulemaking procedures; therefore, pursuant to Minnesota Statutes, section 14.29, subdivision 1, the Board has statutory authority to adopt the proposed emergency rules.

C. The Board has published and served due, timely and adequate notice of its intent to adopt the proposed emergency rules.

D. The Board has complied with all relevant substantive and procedural requirements of Minnesota statutes and rules.

E. All of the modifications to the proposed emergency rules are supported by the data and views submitted to the Board.

Dated: August 22, 1985

MINNESOTA WASTE MANAGEMENT BOARD

ROBERT G. DUNN
CHAIRPERSON

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed Adoption of the Emergency Rules of the Waste Management Board Governing the Solid Waste Processing Facility Capital Assistance Program	CERTIFICATE OF BOARD'S AUTHORIZING RESOLUTION

I, Robert G. Dunn, do hereby certify that I am a member and the Chairperson of the Waste Management Board, a board 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 Waste Management Board duly and properly called and held on the 22nd day of August, 1985, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified:

> BE IT RESOLVED, that the Minnesota Waste Management Board hereby approves and adopts the attached proposed Minnesota Rules, Parts 9200.6000 to 9200.6800 [Emergency], governing the Solid Waste Processing Facility Capital Assistance Program, pursuant to the authority vested in the Board by Minnesota Statutes Sections 115A.06, subdivision 2, and 115A.49 to 115A.54 (1984), as amended by Minnesota Special Session Laws 1985, chapter 15, sections 32 to 35, and pursuant to Minnesota Statutes Section 14.29, subdivision 1.
>
> BE IT FURTHER RESOLVED, that prior to publishing the emergency rules as adopted in the State Register, the Chairperson is authorized to make any form changes in the emergency rules that the Revisor of Statutes requires the Board to make in order to obtain the Revisor's Certificate of Approval as required by Minnesota Statutes Section 14.28.

BE IT FURTHER RESOLVED, that the Board hereby adopts the attached Findings of Fact and Conclusions relating to the above-named emergency rules and authorizes the Chairperson to execute the attached Findings of Fact and Conclusions on behalf of the Board.

BE IT FURTHER RESOLVED, that the Chairperson is hereby authorized to sign an order of the Board adopting the above-named emergency rules in whole or in part, and to perform any acts incidental thereto.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 22 day August, 1985.

ROBERT G. DUNN
Chairperson

Attest by one other Board member

STATE OF MINNESOTA
WASTE MANAGEMENT BOARD

In the Matter of the Adoption of the Proposed Emergency Rules of the Waste Management Board Governing the Solid Waste Processing Facility Capital Assistance Program	STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Special Assistant Attorney General Penny Troolin, do hereby declare that I have examined the proposed emergency rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed.

Penny Troolin

PENNY TROOLIN
Special Assistant
Attorney General

Dated: September 3, 1985

STATE OF MINNESOTA
WASTE MANAGEMENT BOARD

In the Matter of the Adoption of the Proposed Emergency Rules of the Waste Management Board Governing the Solid Waste Processing Facility Capital Assistance Program	AFFIDAVIT REGARDING NOTIFICATION OF SUBMISSION TO ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Ted Troolin, being duly sworn on oath deposes and says:

1. That he is the person named in the Notice of Intent to Adopt Emergency Rules as published in the State Register (10 S.R. 220, July 22, 1985) and as mailed to interested persons on July 19, 1985, as the person to receive requests for notification on the date the Board submits the above-entitled emergency rules to the Attorney General for review.

2. That no person requested to be notified of the date the Board submits the emergency rules to the Attorney General for review.

Ted Troolin
TED TROOLIN

Subscribed and sworn to before me
this 3rd day of September, 1985

Cindy L. Sjoblom
Notary Public

CINDY L. SJOBLOM
NOTARY PUBLIC — MINNESOTA
HENNEPIN COUNTY
My Commission Expires Mar. 3, 1987