

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

~~10448~~ 05.0007.0835

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 8-6-86
DATE FOR REVIEW 8-15
DATE DUE 8-20

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

Approved 8/15/86 Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State 8-18-86 Revisor approved 8-6-86 disapproved _____

✓ Rule as Adopted See note

✓ Rule as Proposed See S.R. 6-2-86

✓ Order Adopting 7-24-86 Date

NA Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
NA date of Hearing

✓ Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
5-30-86 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
6-2-86 At least (30)/20 days prior to ~~hearing~~/adoption

NA Hearing Examiner's Report

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

✓ Agency's Findings of Fact

NA LCRAR Report or agency Affidavit

✓ Certificate of Board's Resolution Adopting Rules

NA Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

NA 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

NA Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO: WILLIAM WALKER, CHAIR
Waste Management Board

DATE: 8/18/86

ATTN: ANN E. COHEN
Special Assistant Attorney General

FROM: J. MICHAEL MILES
Assistant Attorney General

PHONE: 296-6555

SUBJECT: In the Matter of the Proposed Adoption of Amendments to Existing Rules of the Waste Management Board Governing the Solid Waste Processing Facility Demonstration Program

The above-referenced rule has been approved as to its legality by the Attorney General on August 15, 1986.

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

RR1298

Waste Management Board

Adopted Rules Relating to Solid Waste Processing Facility Capital Assistance and Demonstration Programs

Rules as Adopted

CAPITAL ASSISTANCE PROGRAM

9200.6000 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. **Chair.** "Chair" means the chair 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 under 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 design and engineering/architectural plans.** "Final design and 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 utilities.** "On-site utilities" means

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gas, electrical, water, and sewer facilities within the geographic boundaries of the waste processing facility site, that are used for facility operations, excluding transmission of energy to markets.

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

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

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

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

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

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

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

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

Subp. 20. **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

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facilities in which solid waste is temporarily stored and concentrated before transport to a disposal site.

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

Subp. 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 waste tires, wood wastes, and agricultural wastes.

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

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, that are 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 SOLID WASTE PROCESSING FACILITIES CAPITAL ASSISTANCE PROGRAM.

Parts 9200.6000 to 9200.6800 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 GRANT APPLICATION PROCEDURES.

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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 and 9200.6500. The applicant is encouraged to contact the chair and request a preapplication review of the proposed project.

Subp. 2. **Review of applications.** Upon receipt of an application, the chair or a designee shall conduct an initial review of the application under part 9200.6600. 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 the funds for the program are awarded or until three months before the expiration of the board pursuant to law, whichever occurs first.

Subp. 4. **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.

9200.6300 ELIGIBILITY CRITERIA.

Subpart 1. **Eligible applicants.** Eligible applicants are limited to cities, counties, and solid waste management districts established under 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 that were awarded assistance by the board pursuant

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to applications submitted under Minnesota Statutes, sections 115A.49 to 115A.54 before July 1, 1985, are eligible for additional assistance under this program, but no project may receive a total amount of grant assistance in excess of the limits in part 9200.6700, subpart 1. Previously funded projects seeking additional funding under this program shall complete the documentation required under part 9200.6500.

Subp. 3. **Eligible costs.** Eligible costs under parts 9200.6000 to 9200.6800 are limited to the costs of land; waste processing equipment; structures necessary to house the waste processing equipment; transmission facilities; appropriate and necessary on-site utilities; structures necessary to concentrate and temporarily store solid waste before 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/architectural plans.

Subp. 4. **Ineligible costs.** Ineligible costs include any costs related to 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/architectural plans.

9200.6400 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;

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C. resolutions from each applicant in conformance with Minnesota Statutes, section 115A.54, subdivision 2a, clause (1) and 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 SUPPORTING DOCUMENTATION REQUIRED TO BE SUBMITTED WITH GRANT APPLICATION.

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

A. A conceptual and technical feasibility report that 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 that contains:

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

(2) annual operating and maintenance costs;

(3) projections of total facility costs and revenues over 20 years or for the term of the longest debt

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obligation, whichever is longer; and

(4) total capital costs per ton of installed 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 project and reasons for selecting the proposed 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, 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 pertinent to a determination of the applicant's financial capacity, including such factors as location, population characteristics, employment base, and other characteristics;

(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 that render state assistance necessary to the financial feasibility of the project.

D. A comprehensive solid waste management plan.

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

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

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

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

I. A report on time frames of project development.

J. Resolutions that comply with Minnesota Statutes, section 115A.54, subdivision 2a, clause (1) and subdivision 3.

K. If the applicant requests priority under Minnesota Statutes, section 115A.49, documentation:

(1) that the natural geologic and soil conditions are unsuitable for land disposal of solid waste;

(2) that the available capacity of existing solid waste disposal facilities is less than five years; or

(3) 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 shall include:

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

(2) a description of changes in major external

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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 that preclude or inhibit cooperation with other counties, such as waste supply, market availability, technology constraints, geographic factors, or factors involving institutional arrangements.

9200.6600 REVIEW AND EVALUATION OF APPLICATIONS.

Subpart 1. **Determination of eligibility and completeness.** Upon receipt of an application, the chair or a designee shall determine the eligibility of the applicant, the eligibility of the costs identified in the application, the eligibility of the project identified 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 chair shall notify the applicant of the chair's determinations of eligibility and completeness. If the chair determines that the applicant or the project is ineligible, the chair shall reject the application, return it to the applicant, and notify the applicant of the reasons for the rejection. If the chair determines that any part of the project costs is ineligible or that the application is incomplete, the chair shall notify the applicant of the ineligible portion of the costs or of the deficiency. The applicant has 14 days after receiving the notice to correct any inadequacies identified by

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the chair. If the inadequacies are corrected within the time allowed, the application will be further considered.

Subp. 3. **Evaluation of need for financial assistance.** In making its evaluation of the application, the board shall first evaluate the information supplied in part 9200.6500, 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 documentation submitted under part 9200.6500, items A, B, and D to M.

Subp. 4. **Evaluation of applications.** If the board determines that the project is in need of state assistance, 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 that 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. **Board determination.** If the board determines that the application satisfies the requirements of subpart 4, the board shall determine the amount of the grant award and the applicant shall be notified. If the board determines that the application fails to satisfy the requirements of subpart 4, the board shall reject the application and the chair shall return the application to the applicant, together with a statement of the reasons for the determination.

Subp. 6. **Consultation with other agencies.** In its evaluation of the application, the board shall consider any recommendations provided by the Pollution Control Agency, the State Planning Agency, and the appropriate regional development commission or the Metropolitan Council.

9200.6700 LIMITATIONS.

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

Subp. 2. **Limitations on grant award.** The amount of the board's grant award shall be limited to an amount needed to complete the project considering all the sources of funding presently available to the applicant.

Grants shall not be awarded to cover any cost associated with tasks performed before the grant award or after the

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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 GRANT AGREEMENT.

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

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

B. incorporate by reference the final grant application submitted to the board under part 9200.6200;

C. allow the recipient to enter into contracts to complete the work specified in the agreement subject to any board approval that 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 recipient;

E. provide that the board will not accept amendments requesting that additional funds be awarded 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;

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 that 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 in subpart 1, item F to the private enterprise; and

H. require that the facility may only be sold to a private enterprise in accordance with the constitution of the state of Minnesota and any applicable Minnesota statutes and rules.

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 in the grant agreement.

Rules as Adopted

DEMONSTRATION PROGRAM

9200.8100 DEFINITIONS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Chair.** "Chair" means the chair and chief executive officer of the board.

Subp. 4. [Unchanged.]

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

Subp. 6. [Unchanged.]

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

Subp. 9. **Institutional arrangements.** "Institutional arrangements" means methods of financing, marketing, procurement, securing the waste supply, or joint efforts by more

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than one local government unit.

Subp. 10. and 11. [Unchanged.]

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

Subp. 13. [Unchanged.]

Subp. 13a. **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. [Unchanged.]

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

Subp. 14b. **Recycling.** "Recycling" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 25b.

Subp. 15. to 19. [Unchanged.]

Subp. 20. **Special waste stream.** "Special waste stream" means materials that are 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 waste tires, wood wastes, and agricultural wastes.

Subp. 21. [See Repealer.]

Subp. 22. to 24. [Unchanged.]

9200.8200 SOLID WASTE PROCESSING FACILITIES DEMONSTRATION PROGRAM.

Parts 9200.8100 to 9200.9200 implement the solid waste processing facilities demonstration 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 and loans for capital costs of waste processing facilities.

9200.8300 ELIGIBILITY CRITERIA.

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Subpart 1. [Unchanged.]

Subp. 2. **Eligible projects.** Only projects that demonstrate feasible and prudent alternatives to disposal are eligible for loans and grants. Three types of projects are eligible for loans and grants: materials recovery; chemical, physical, or biological modifications; and special waste streams. Eligible projects are limited to those in which the land, buildings, and equipment are publicly owned.

Subp. 3. **Eligible costs.** Eligible costs under parts 9200.8100 to 9200.9200 shall be limited to the costs of land, waste processing equipment, structures necessary to house the waste processing equipment, appropriate and necessary on-site utilities, trailers, containers, and roll-off boxes necessary to transport products to market, or to transport residue from the processing facility to a solid waste land disposal facility, and final design and engineering/architectural plans.

Subp. 4. **Ineligible costs.** Ineligible costs include any costs related to 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/architectural plans.

9200.8400 INFORMATION REQUIRED ON APPLICATION.

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

A. the name of each applicant making the 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. the name, qualifications, and address of the project manager;

D. the name and qualifications of the facility

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operator, if available;

E. the total capital cost of the project;

F. the total grant- or loan-eligible cost of the project;

G. the amount of grant, loan, or grant and loan funding requested;

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

I. the type of assistance applied for (grant, loan, or grant and loan together);

J. the type of waste processing facility for which assistance is being requested: materials recovery; chemical, physical, or biological modification; or special waste stream.

9200.8500 SUPPORTING DOCUMENTATION REQUIRED TO BE SUBMITTED WITH APPLICATION.

Applications for grants or loans for waste processing facilities shall include the following supporting documentation:

A. a conceptual and technical feasibility report that 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 that contains:

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

(2) annual operating and maintenance costs;

(3) 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 capital costs per ton of installed daily capacity;

C. a comprehensive solid waste management plan;

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D. preliminary design and engineering/architectural plans and equipment specifications of the proposed waste processing facility;

E. documentation that waste supplies will be committed to the project and that the applicant has the mechanism to commit the wastes;

F. a market analysis of recovered materials/energy, including documentation of market commitments such as letters of intent or contracts;

G. a report on the status of required permits from permitting agencies;

H. a report on time frames of project development;

I. resolutions that comply with Minnesota Statutes, section 115A.54, subdivision 3; and

J. if the applicant requests priority under Minnesota Statutes, section 115A.49, documentation:

(1) that the natural geologic and soil conditions are unsuitable for land disposal of solid waste;

(2) that the available capacity of existing solid waste disposal facilities is less than five years; or

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

9200.8600 GRANT AND LOAN APPLICATION PROCEDURES.

Subp. 1a. **Applications.** An application may be submitted to the board when the applicant has met the information and documentation requirements in parts 9200.8400 and 9200.8500. The applicant is encouraged to contact the chair and request a preapplication review of the proposed project.

Subp. 2a. **Review of applications.** Upon receipt of an application, the chair or a designee shall conduct an initial review of the application under part 9200.8700. The board shall evaluate projects and award grants and loans.

Subp. 4. **Applications accepted.** The board shall accept applications for funds under the solid waste processing facilities demonstration program until all funds for the program

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are awarded or until three months before the expiration of the board pursuant to law, whichever occurs first.

Subp. 5. **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.

9200.8700 REVIEW AND EVALUATION OF APPLICATIONS.

Subpart 1. [See Repealer.]

Subp. 2. **Determination of eligibility and completeness.** Upon receipt of an application, the chair 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. 3. **Notice of determination of eligibility and completeness.** Within 14 days after receiving the application, the chair shall notify the applicant of the chair's determinations of eligibility and completeness. If the chair determines that the applicant or the project is ineligible, the chair shall reject the application, return it to the applicant, and notify the applicant of the reasons for the rejection. If the chair determines that any part of the project costs is ineligible or that the application is incomplete, the chair shall notify the applicant of the ineligible portion of the costs or of the deficiency. The applicant has 14 days after receiving the notice to correct inadequacies identified by the chair. If the inadequacies are corrected within the time allowed, the application will be further considered.

Subp. 4. **Evaluation of applications.** If the applicant, the costs, and the project are determined to be eligible and the

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application is complete, the board shall evaluate the application to determine whether the documentation 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; and

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.

Subp. 5. **Consultation with other agencies.** In its evaluation of the application, the board shall consider any recommendations provided by the Pollution Control Agency, the State Planning Agency, and the appropriate regional development commission or the Metropolitan Council.

Subp. 6. **Board determination.** If the board determines that the application satisfies the requirements of subpart 4, the board shall determine the amount of the grant, loan, or grant and loan award and the applicant shall be notified of the grant, loan, or grant and loan awarded. If the board determines that the application fails to satisfy the requirements of subpart 4, the board shall reject the application and the chair shall return the application to the applicant, together with a statement of the reasons for rejection.

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9200.9000 AWARD OF GRANTS AND LOANS.

Subpart 1. to 3. [See Repealer.]

Subp. 4. **Maximum awards.** The maximum loan award shall be 50 percent of the eligible costs specified in the application or ~~$200,000~~ $400,000, whichever is less. The maximum grant award shall be 50 percent of the eligible costs specified in the application or ~~$200,000~~ $400,000, whichever is less. The maximum combined grant and loan award is $400,000.

Subp. 5. **Limitations.** The amount of the board's grant, loan, or grant and loan award shall be limited to an amount needed to complete the project considering all sources of funding presently available to the applicant.

Grants and loans shall not be awarded to cover any cost associated with tasks performed before the award of a grant, loan, or grant and loan or after the expiration of the grant, loan, or grant and loan agreement.

Subp. 6. **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.

9200.9100 GRANT, LOAN, OR GRANT AND LOAN AGREEMENT.

Subpart 1. **Requirements.** A grant, loan, or grant and loan agreement shall:

A. include as attachments the resolutions required under Minnesota Statutes, section 115A.54, subdivision 3;

B. incorporate by reference the final application submitted to the board in accordance with part 9200.8600;

C. establish the term of the grant, loan, or grant and loan. Grants awarded under parts 9200.8100 to 9200.9100 shall have a maximum term of two years. Loans awarded under

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parts 9200.8100 to 9200.9100 shall have a loan life determined by considering facility type, expected life of equipment, capital cost of the project, and loan amount;

D. in the case of a loan agreement, include schedules for the repayment of principal and interest;

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

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

G. provide that the board will not accept amendments requesting that additional funds be awarded to the recipient;

H. require that the recipient provide periodic 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;

I. provide that if the recipient sells the facility to a private enterprise, all outstanding loan obligations to the board shall become due and payable upon sale to the private enterprise;

J. 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 that 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 item H to the private enterprise; and

K. require that the facility may only be sold to a private enterprise in accordance with the constitution of the state of Minnesota and any applicable Minnesota statutes and rules.

Subp. 2. **Rescission of grants and loans.** If projects are not completed and operational in accordance with the terms and

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conditions of the respective agreements, including time schedules, the grants and loans for those projects shall be rescinded, and the entire amount of grants and loans 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 in the grant, loan, or grant and loan agreement.

Subp. 4. **Interest payments.** Interest payments on the loan shall be due annually and shall begin to accrue from the date the loan agreement is signed. The first repayment of the principal amount of the loan shall be due one year after the facility becomes operational or two years after the date the loan agreement is executed, whichever is earlier. The board shall consider the facility operational at the point where the facility meets all vendor guaranteed operating specifications. Subsequent repayments of principal and interest shall be due annually on the anniversary date of the first repayment.

Subp. 5. and 6. [See Repealer.]

REPEALER. Minnesota Rules, parts 9200.8100, subpart 21; 9200.8700, subpart 1; 9200.8800; 9200.9000, subparts 1, 2, and 3; 9200.9100, subparts 5 and 6; and 9200.9200 are repealed.

APPROVED IN THE
REVISOR OF STATUTES
OFFICE BY:

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
AUG 18 1986
Joan Anderson Growe
Secretary of State
10:19AM

APPROVED AS TO FORM AND LEGALITY

8/15 1986

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY _____
ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed Adoption of the Amendments to Existing Rules of the Waste Management Board Governing the Solid Waste Processing Facility Demonstration Program

ORDER ADOPTING RULES

Notice of the Waste Management Board's intent to adopt amendments to the above-entitled rules without a public hearing was published in the State Register on June 2, 1986 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, section 14.14 on May 30, 1986. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than twenty-five written requests for a public hearing within the 30-day comment period, reviewing and considering the comments, and determining the need for and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that the amendments to the rules identified as the Solid Waste Processing Facility Demonstration Program rules are adopted this 24th day of July, 1986, pursuant to authority vested in the Waste Management Board by Minnesota Statutes, section 115A.49 (Supp. 1985), with the following amendement:

The proposed amendment to Minn. Rule Pt. 9200.9000, subp. 4 is changed to read as follows:

Subp. 4. Maximum awards. The maximum loan award shall be 50 percent of the eligible costs specified in the application or ~~$700,000~~ $400,000, whichever is less. The maximum grant award shall be 50 percent of the eligible costs specified in the application or ~~$300,000~~ $400,000, whichever is less. The maximum combined grant and loan award is $400,000.

STATE OF MINNESOTA
WASTE MANAGEMENT BOARD

Dated: July 24, 1986



WILLIAM WALKER
CHAIR

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed Adoption of Amendments to Existing Rules of the Waste Management Board Governing the Solid Waste Processing Facility Demonstration Program	ORDER FOR PUBLICATION

IT IS SO ORDERED this 20th day of May, 1986, that Notice of Intent to Adopt Amendments to Existing Rules Without a Public Hearing in the above-titled matter be given to all persons and associations who have registered their names with the Minnesota Waste Management Board for that purpose and be published in the State Register.

WILLIAM WALKER
Chairperson
Waste Management Board

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed Adoption of the Amendments to Existing Rules of the Waste Management Board Governing the Solid Waste Processing Facility Demonstration Program

CERTIFICATE OF BOARD'S AUTHORIZING RESOLUTION

I, William Walker, do hereby certify that I am a member and the Chair 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 16th day of January, 1986, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

RESOLVED, that the Waste Management Board determines that the adoption of proposed amendments to existing rules governing the Solid Waste Processing Facilities Grant and Loan Program under Minn. Stat. §115A.49 to 115A.54, subd. 2 and 115A.54, subd. 3, will not be controversial in nature and that the Chairperson of the Board is authorized and directed to sign an order in the name of the Board directing the publication and mailing of notice of the Board's intent to adopt without a public hearing amendments to existing rules governing the Solid Waste Processing Facilities Grant and Loan Program. The Chairperson may perform any and all acts incidental to issuing the order. In the event a public hearing on these rule amendments is required, the chairperson is authorized and directed to call a public hearing for this purpose and to perform all acts necessary and incidental to calling the hearing, including signing an order for and notice of public hearing and acting as the representative of the Board at the hearing.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 24th day of July, 1986.

WILLIAM WALKER
CHAIR

Attested by
Waste Management Board Member

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed Adoption of Amendments to Existing Rules of the Waste Management Board Governing the Solid Waste Processing Facility Demonstration Program	NOTICE OF INTENT TO ADOPT AMENDMENTS TO EXISTING RULES WITHOUT A PUBLIC HEARING

Notice is hereby given that the Minnesota Waste Management Board proposes to adopt the above-entitled amendments to existing rules without a public hearing. The Waste Management Board has determined that the proposed adoption of these rules will be non-controversial in nature and has elected to follow the procedures set forth in Minn. Stat. §§ 14.22 - 14.28, as amended by Laws 1984, ch. 640, §§ 12 - 15.

Persons interested in these rules shall have 30 days in which to submit comments in support of or in opposition to the proposed amendments to existing rules. Comment is encouraged. Each comment should identify the portion of the proposed amendment addressed, the reason for the comment, and any change proposed. The proposed amendments to existing rules may be modified if the modifications are supported by the data and views submitted to the Waste Management Board and do not result in a substantial change in the proposed language.

Unless 25 or more persons submit written requests for a public hearing on the proposed amendments within the 30-day comment period, a public hearing will not be held. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed amendment

addressed, the reason for the request, and any change proposed. In the event a public hearing is required, the Waste Management Board will proceed according to the provisions of Minn. Stat. §§ 14.08 - 14.28, as amended by Laws 1984, ch. 640, §§ 4 - 15.

Persons who wish to submit comments or a request for a public hearing should submit such comments or request in writing to:

Waste Management Board
Attention: Ed Welsch
123 Thorson Building
7323 58th Avenue North
Crystal, MN 55428
(612) 536-0816

Authority for the adoption of these rules is contained in Minn. Stat. § 115A.49 (1984). Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed amendments to existing rules and that identifies the data and information relied upon to support the proposed amendments to existing rules has been prepared. A copy may be obtained by contacting the Waste Management Board, Attn: Ed Welsch, 123 Thorson Building, 7323 58th Avenue North, Crystal, MN 55428.

If a hearing is not required, and upon adoption of the final amendments to existing rules without a public hearing, the proposed amendments to existing rules, this Notice, the statement of need and reasonableness, all written comments received, and the final amendments to existing rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who

wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final amendments to existing rules as adopted, should submit a written statement of such request to the Waste Management Board, Attn: Ed Welsch, 123 Thorson Building, 7323 58th Avenue North, Crystal, MN 55428.

A copy of the proposed amendments to the existing rules is attached to this Notice.

Copies of this Notice and the proposed amendments to existing rules are available and may be obtained by contacting the Waste Management Board, Attn: Ed Welsch, 123 Thorson Building, 7323 58th Avenue North, Crystal, MN 55428.

WILLIAM WALKER
Chairperson

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed Adoption of Rules of the Waste Management Board Governing the Solid Waste Processing Facility Capital Assistance Program	NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Notice is hereby given that the Minnesota Waste Management Board proposes to adopt the above-entitled rules without a public hearing. The Waste Management Board has determined that the proposed adoption of these rules will be non-controversial in nature and has elected to follow the procedures set forth in Minn. Stat. §§ 14.22 - 14.28, as amended by Laws 1984, ch. 640, §§ 12 - 15.

Persons interested in these rules shall have 30 days in which to submit comments in support of or in opposition to the proposed rules. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Waste Management Board and do not result in a substantial change in the proposed language.

Unless 25 or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. In the event a public hearing is required, the Waste Management

Board will proceed according to the provisions of Minn. Stat. §§ 14.08 - 14.28, as amended by Laws 1984, ch. 640, §§ 4 - 15.

Persons who wish to submit comments or a request for a public hearing should submit such comments or request in writing to:

Waste Management Board
Attention: Ed Welsch
123 Thorson Building
7323 58th Avenue North
Crystal, MN 55428
(612) 536-0816

Authority for the adoption of these rules is contained in Minnesota Statutes, section 115A.06, subd. 2 (1984) and 115A.49 to 115A.54 (1984), as amended. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules and that identifies the data and information relied upon to support the proposed rules has been prepared. A copy may be obtained by contacting the Waste Management Board, Attn: Ed Welsch, 123 Thorson Building, 7323 58th Avenue North, Crystal, MN 55428.

If a hearing is not required, and upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the statement of need and reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the rules as adopted, should submit a written statement of such request to the Waste Management

Board, Attn: Ed Welsch, 123 Thorson Building, 7323 58th Avenue North, Crystal, MN 55428.

A copy of the proposed rules is attached to this Notice.

Copies of this Notice and the proposed rules are available and may be obtained by contacting the Waste Management Board, Attn: Ed Welsch, 123 Thorson Building, 7323 58th Avenue North, Crystal, MN 55428.

WILLIAM WALKER
Chairperson

Waste Management Board

Proposed Rules Relating to Solid Waste Processing Facility Capital Assistance and Demonstration Programs

Rules as Proposed (all new material)

CAPITAL ASSISTANCE PROGRAM

9200.6000 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. **Chair.** "Chair" means the chair 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 under 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 design and engineering/architectural plans.** "Final design and 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 utilities.** "On-site utilities" means

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gas, electrical, water, and sewer facilities within the geographic boundaries of the waste processing facility site, that are used for facility operations, excluding transmission of energy to markets.

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

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

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

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

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

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

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

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

Subp. 20. **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

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buried, and facilities in which solid waste is temporarily stored and concentrated before transport to a disposal site.

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

Subp. 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 waste tires, wood wastes, and agricultural wastes.

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

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, that are 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 SOLID WASTE PROCESSING FACILITIES CAPITAL ASSISTANCE PROGRAM.

Parts 9200.6000 to 9200.6800 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 GRANT APPLICATION PROCEDURES.

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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 and 9200.6500. The applicant is encouraged to contact the chair and request a preapplication review of the proposed project.

Subp. 2. **Review of applications.** Upon receipt of an application, the chair or a designee shall conduct an initial review of the application under part 9200.6600. 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 the funds for the program are awarded or until three months before the expiration of the board pursuant to law, whichever occurs first.

Subp. 4. **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.

9200.6300 ELIGIBILITY CRITERIA.

Subpart 1. **Eligible applicants.** Eligible applicants are limited to cities, counties, and solid waste management districts established under 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 that were awarded assistance by the board pursuant

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to applications submitted under Minnesota Statutes, sections 115A.49 to 115A.54 before July 1, 1985, are eligible for additional assistance under this program, but no project may receive a total amount of grant assistance in excess of the limits in part 9200.6700, subpart 1. Previously funded projects seeking additional funding under this program shall complete the documentation required under part 9200.6500.

Subp. 3. **Eligible costs.** Eligible costs under parts 9200.6000 to 9200.6800 are limited to the costs of land; waste processing equipment; structures necessary to house the waste processing equipment; transmission facilities; appropriate and necessary on-site utilities; structures necessary to concentrate and temporarily store solid waste before 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/architectural plans.

Subp. 4. **Ineligible costs.** Ineligible costs include any costs related to 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/architectural plans.

9200.6400 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;

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C. resolutions from each applicant in conformance with Minnesota Statutes, section 115A.54, subdivision 2a, clause (1) and 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 SUPPORTING DOCUMENTATION REQUIRED TO BE SUBMITTED WITH GRANT APPLICATION.

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

A. A conceptual and technical feasibility report that 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 that contains:

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

(2) annual operating and maintenance costs;

(3) projections of total facility costs and revenues over 20 years or for the term of the longest debt

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obligation, whichever is longer; and

(4) total capital costs per ton of installed 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 project and reasons for selecting the proposed 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, 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 pertinent to a determination of the applicant's financial capacity, including such factors as location, population characteristics, employment base, and other characteristics;

(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 that render state assistance necessary to the financial feasibility of the project.

D. A comprehensive solid waste management plan.

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

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

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

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

I. A report on time frames of project development.

J. Resolutions that comply with Minnesota Statutes, section 115A.54, subdivision 2a, clause (1) and subdivision 3.

K. If the applicant requests priority under Minnesota Statutes, section 115A.49, documentation:

(1) that the natural geologic and soil conditions are unsuitable for land disposal of solid waste;

(2) that the available capacity of existing solid waste disposal facilities is less than five years; or

(3) 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 shall include:

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

(2) a description of changes in major external

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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 that preclude or inhibit cooperation with other counties, such as waste supply, market availability, technology constraints, geographic factors, or factors involving institutional arrangements.

9200.6600 REVIEW AND EVALUATION OF APPLICATIONS.

Subpart 1. **Determination of eligibility and completeness.** Upon receipt of an application, the chair or a designee shall determine the eligibility of the applicant, the eligibility of the costs identified in the application, the eligibility of the project identified 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 chair shall notify the applicant of the chair's determinations of eligibility and completeness. If the chair determines that the applicant or the project is ineligible, the chair shall reject the application, return it to the applicant, and notify the applicant of the reasons for the rejection. If the chair determines that any part of the project costs is ineligible or that the application is incomplete, the chair shall notify the applicant of the ineligible portion of the costs or of the deficiency. The applicant has 14 days after receiving the notice to correct any inadequacies identified by

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the chair. If the inadequacies are corrected within the time allowed, the application will be further considered.

Subp. 3. **Evaluation of need for financial assistance.** In making its evaluation of the application, the board shall first evaluate the information supplied in part 9200.6500, 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 documentation submitted under part 9200.6500, items A, B, and D to M.

Subp. 4. **Evaluation of applications.** If the board determines that the project is in need of state assistance, 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 that 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. **Board determination.** If the board determines that the application satisfies the requirements of subpart 4, the board shall determine the amount of the grant award and the applicant shall be notified. If the board determines that the application fails to satisfy the requirements of subpart 4, the board shall reject the application and the chair shall return the application to the applicant, together with a statement of the reasons for the determination.

Subp. 6. **Consultation with other agencies.** In its evaluation of the application, the board shall consider any recommendations provided by the Pollution Control Agency, the State Planning Agency, and the appropriate regional development commission or the Metropolitan Council.

9200.6700 LIMITATIONS.

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

Subp. 2. **Limitations on grant award.** The amount of the board's grant award shall be limited to an amount needed to complete the project considering all the sources of funding presently available to the applicant.

Grants shall not be awarded to cover any cost associated with tasks performed before the grant award or after the

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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 GRANT AGREEMENT.

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

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

B. incorporate by reference the final grant application submitted to the board under part 9200.6200;

C. allow the recipient to enter into contracts to complete the work specified in the agreement subject to any board approval that 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 recipient;

E. provide that the board will not accept amendments requesting that additional funds be awarded 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;

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 that 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 in subpart 1, item F to the private enterprise; and

H. require that the facility may only be sold to a private enterprise in accordance with the constitution of the state of Minnesota and any applicable Minnesota statutes and rules.

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 in the grant agreement.

Rules as Proposed

DEMONSTRATION PROGRAM

9200.8100 DEFINITIONS.

Subpart 1. and 2. [Unchanged.]

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

Subp. 4. [Unchanged.]

Subp. 5. Comprehensive solid waste management plan. "Comprehensive solid waste management plan" means a written plan ~~conforming to the requirements of~~ prepared under Minnesota Statutes, section 115A.46.

Subp. 6. [Unchanged.]

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

Subp. 9. Institutional arrangements. "Institutional arrangements" means methods of financing, marketing,

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procurement, ~~methods of~~ securing the waste supply, or joint efforts by more than one local government unit.

Subp. 10. and 11. [Unchanged.]

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

Subp. 13. [Unchanged.]

Subp. 13a. **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. [Unchanged.]

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

Subp. 14b. **Recycling.** "Recycling" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 25b.

Subp. 15. to 19. [Unchanged.]

Subp. 20. **Special waste stream.** "Special waste stream" means materials ~~which~~ that are 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.

Subp. 21. [See Repealer.]

Subp. 22. to 24. [Unchanged.]

9200.8200 SOLID WASTE PROCESSING FACILITIES DEMONSTRATION PROGRAM.

Parts 9200.8100 to 9200.9200 implement the solid waste processing facilities demonstration 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 and loans for capital costs of ~~projects which demonstrate the feasibility of waste~~

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~~processing-technology-or-equipment-or-the-feasibility-of institutional-arrangements-in-providing~~ waste processing facilities.

9200.8300 ELIGIBILITY CRITERIA.

Subpart 1. [Unchanged.]

Subp. 2. **Eligible projects.** Only projects ~~which~~ that demonstrate feasible and prudent alternatives to disposal are eligible for loans and grants. ~~To-qualify-as-a-demonstration project,-a-project-must-be-conceptually-and-technically-feasible but-not-now-in-operation-in-the-state-or-not-now-in-operation-in a-geographical-area-of-the-state-with-demonstrably-different characteristics-from-those-of-the-area-where-a-facility-is-now in-operation.--A-conceptually-and-technically-feasible-project may-also-qualify-as-a-demonstration-project-if-it-involves institutional-arrangements-not-previously-utilized-in-the-state, or-not-previously-utilized-in-a-geographical-area-of-the-state with-demonstrably-different-characteristics-from-those-in-the area-where-a-facility-is-now-in-operation.--Six~~ Three types of projects are eligible for loans and grants: ~~waste-to-energy,~~ materials recovery; chemical, physical, or biological modifications; ~~transfer-stations,~~ and 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.

Subp. 3. **Eligible costs.** Eligible costs under parts 9200.8100 to 9200.9200 shall be limited to the costs of land, waste processing equipment, structures necessary to house the waste processing equipment, 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 products to market, or to transport residue from the processing facility to a solid waste land disposal facility, and ~~final design and engineering-specifications~~ engineering/architectural plans.

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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~~ engineering/architectural plans.

9200.8400 INFORMATION REQUIRED ON ~~GRANT AND LOAN~~ APPLICATION.

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

A. the name of each applicant making the ~~grant or loan~~ 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 which demonstrate that the applicant is committed to implementing the project, providing necessary local financing, and accepting and exercising the government powers necessary to the project;~~

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

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

~~F~~ E. the total capital cost of the project;

~~G~~ F. the total grant- or loan-eligible cost of the project;

~~H~~ G. the amount of grant ~~or~~, loan, or grant and loan funding requested;

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

~~J~~ I. the type of assistance applied for (grant, loan, or grant and loan together);

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~~K.~~ J. the type of waste processing facility for which ~~a-grant-or-loan~~ assistance is being ~~applied~~ for requested: ~~waste-to-energy,~~ materials recovery; chemical, physical, or biological modification; ~~transfer-stations,~~ or special waste stream~~,-or-waste-incineration-with-resource recovery~~.

9200.8500 SUPPORTING DOCUMENTATION REQUIRED TO BE SUBMITTED WITH ~~GRANT-AND-LOAN~~ APPLICATION.

Applications for grants or loans for waste processing facilities shall include the following supporting documentation:

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

B. ~~a-financial-feasibility-report-including:--an evaluation-and-analysis-of-all-capital-and-operating-costs-of the-proposed-project,-an-evaluation-and-analysis-of-various financing-mechanisms-available-to-the-applicant,-an-analysis-of the-ability-of-the-community-to-continue-operation-of-the facility-over-the-life-of-the-facility~~ a financial plan that contains:

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

(2) annual operating and maintenance costs;

(3) 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 capital costs per ton of installed daily capacity;

C. a comprehensive solid waste management plan

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~~conforming to Minnesota Statutes, section 115A.46, including consideration of solid waste management alternatives;~~

D. preliminary design and ~~engineering~~ engineering/architectural plans ~~or~~ and equipment specifications of the proposed waste processing facility ~~and equipment~~;

E. documentation that waste supplies will be committed to the project and that the applicant has the ~~authority and~~ mechanism to commit ~~such~~ the wastes;

F. a ~~marketability~~ market analysis of recovered materials/energy, including documentation of market commitments such as letters of intent or ~~market~~ contracts;

~~G. a detailed estimate of annual operating and maintenance costs;~~

~~H. a report on the proposed project's potential for statewide application or significance;~~

~~I.~~ a report on the status of required permits from permitting agencies;

~~J.~~ H. a report on time frames of project development;

~~K.~~ I. resolutions ~~complying~~ that comply with ~~the requirements of~~ Minnesota Statutes, section 115A.54, subdivision 3; and

~~L. if the applicant seeks to qualify a project as demonstrating a technology or institutional arrangements in a geographical area of the state rather than the entire state, a report on how the area is demonstrably different from the characteristics of the area where a facility is now in operation;~~

~~M. if the project application proposes a waste processing facility that demonstrates institutional arrangements, a report which describes the institutional arrangements;~~

~~N.~~ J. if the applicant requests priority ~~based on any of the following conditions~~ under Minnesota Statutes, section 115A.49, documentation ~~of the existence of the condition~~:

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

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

(3) ~~the claim~~ that the proposed project ~~would service an area outside the metropolitan area and~~ would serve more than one local government unit~~, and~~

~~0. if the applicant is seeking a grant, a report discussing the factor or factors in part 9200.9000, subpart 2 upon which the applicant is basing the request for a grant.~~

9200.8600 GRANT AND LOAN APPLICATION PROCEDURES.

Subp. 1a. **Applications.** An application may be submitted to the board when the applicant has met the information and documentation requirements in parts 9200.8400 and 9200.8500. The applicant is encouraged to contact the ~~chairperson~~ chair and request a preapplication review of the proposed project.

Subp. 2a. **Review schedule of applications.** ~~When~~ Upon receipt of an application, the ~~chairperson~~ chair or a designee ~~receives an application, he or she~~ shall ~~initially~~ conduct an initial review of the application under part 9200.8700. The board shall evaluate ~~and select~~ projects and award grants and loans.

Subp. 4. **Applications accepted.** The board shall accept applications for funds under the solid waste processing facilities demonstration program until all funds for the program are awarded or until three months before the expiration of the board pursuant to law, whichever occurs first.

Subp. 5. **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.

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9200.8700 ~~INITIAL~~ REVIEW AND EVALUATION OF APPLICATIONS.

Subpart 1. [See Repealer.]

Subp. 2. **Determination of eligibility and completeness review.** Upon receipt of an application, the ~~chairperson~~ chair 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. 3. **Notice of determination of eligibility and completeness.** Within 14 days after receiving the application, the ~~chairperson~~ chair shall notify ~~each~~ the applicant of the ~~chairperson's~~ chair's determinations of eligibility and completeness. If the ~~chairperson~~ chair determines that the applicant or the project is ~~not eligible, the application shall not be further considered and the applicant shall be notified of the determination. If the chairperson determines that any of the costs or any part of the project is not eligible or that the application is otherwise not complete~~ ineligible, the ~~chairperson~~ chair shall reject the application, return ~~the application together with a statement~~ it to the applicant, and notify the applicant of the reasons for ~~rejecting the application~~ the rejection. ~~The applicant shall have~~ If the chair determines that any part of the project costs is ineligible or that the application is incomplete, the chair shall notify the applicant of the ineligible portion of the costs or of the deficiency. The applicant has 14 days after ~~receipt of the rejection of the application~~ receiving the notice to correct ~~any~~ inadequacies identified ~~in the application~~ by the chair. If the inadequacies are corrected within the time allowed, the application will be further considered.

Subp. 4. **Review Evaluation of documentation applications.** If the applicant, the costs, and the project are determined to be eligible and the application is complete, the ~~chairperson~~ board shall, ~~within 45 days after the receipt of the application, review the application to determine whether the~~

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~~supporting-documentation-is-adequate,--In-determining-whether the-documentation-is-adequate,-the-chairperson-shall~~ consider evaluate the application to determine whether the documentation 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; and

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;

~~B,--that-the-applicant-has-completed-a-comprehensive solid-waste-management-plan-conforming-to-the-requirements-of Minnesota-Statutes,-section-115A.46,-including-consideration-of solid-waste-management-alternatives;-and~~

~~F,--that-the-project-demonstrates-a-technology-that-is of-potential-statewide-application-or-significance.~~

Subp. 5. Consultation with other agencies. In ~~determining the-adequacy-of-the-documentation~~ its evaluation of the application, the ~~chairperson~~ board shall consider any recommendations provided by the Pollution Control Agency, ~~the appropriate-regional-development-commission,~~ the State Planning Agency, ~~and,-if-appropriate,~~ the appropriate regional development commission or the Metropolitan Council.

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Subp. 6. Board determination ~~of sufficient documentation.~~ ~~If the chairperson determines that the documentation in the application is adequate, the application shall be considered final and the applicant shall be so notified. The application shall then be referred to the board to be evaluated as provided in part 9200.8000. If the chairperson determines that the documentation in the application is inadequate, the chairperson shall return the application together with a statement of the reasons for rejecting the application. The applicant shall have 14 days after receipt of the rejection of the application to correct the inadequacies in the documentation.~~

~~If the inadequacies in the documentation are corrected within the time allowed, the application shall be considered final and the applicant shall be so notified. The application shall then be referred to the board to be evaluated as provided in part 9200.8000.~~ If the board determines that the application satisfies the requirements of subpart 4, the board shall determine the amount of the grant, loan, or grant and loan award and the applicant shall be notified of the grant, loan, or grant and loan awarded. If the board determines that the application fails to satisfy the requirements of subpart 4, the board shall reject the application and the chair shall return the application to the applicant, together with a statement of the reasons for rejection.

9200.9000 AWARD OF GRANTS AND LOANS.

Subpart 1. to 3. [See Repealer.]

Subp. 4. **Maximum awards.** The maximum loan award shall be 50 percent of the eligible costs specified in the application or ~~$700,000~~ $200,000, whichever is less. The maximum grant award shall be 50 percent of the eligible costs specified in the application or ~~$300,000~~ $200,000, whichever is less. The maximum combined grant and loan award is $400,000.

Subp. 5. **Limitations.** ~~No funds shall be awarded for costs for which the applicant has applied for and received funds from another source.~~

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~~No grant or loan shall be disbursed until the board has determined the total 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.~~

~~Grants and loans shall be awarded to cover the eligible costs of only those tasks which are undertaken and completed during the grant and loan period established in the grant and loan agreement.~~ The amount of the board's grant, loan, or grant and loan award shall be limited to an amount needed to complete the project considering all sources of funding presently available to the applicant.

Grants and loans shall not be awarded to cover any cost associated with tasks performed ~~prior to~~ before the award of a grant, loan, or grant and loan or after the expiration of the grant, loan, or grant and loan agreement.

Subp. 6. **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.

9200.9100 GRANT, LOAN, OR GRANT AND LOAN AGREEMENT.

Subpart 1. **Requirements.** ~~The~~ A grant, loan, or grant and loan ~~agreements must~~ agreement shall:

A. ~~contain~~ include as attachments the resolutions required under Minnesota Statutes, section 115A.54, subdivision 3;

B. incorporate by reference the final ~~grant and loan~~

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application submitted to the board in accordance with part 9200.8600;

C. establish the term of the grant, loan, or grant and loan. ~~All~~ Grants awarded under ~~this rule~~ parts 9200.8100 to 9200.9100 shall have a maximum term of two years. ~~All~~ Loans awarded under ~~this rule~~ parts 9200.8100 to 9200.9100 shall have a loan life determined by considering facility type, expected life of equipment, capital cost of the project, and loan amount;

D. in the case of a loan agreement, include schedules for the repayment of principal and interest;

E. ~~provide that~~ allow the recipient ~~shall be authorized~~ to enter into contracts to complete the work specified in the agreement subject to any board approval that may be required in the agreement;

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

G. provide that the board will not accept amendments requesting that additional ~~grant and loan~~ funds be awarded to the recipient; ~~and~~

H. require that the recipient provide a ~~report~~ periodic 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;

I. provide that if the recipient sells the facility to a private enterprise, all outstanding loan obligations to the board shall become due and payable upon sale to the private enterprise;

J. 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 that 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 item H to the

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private enterprise; and

K. require that the facility may only be sold to a private enterprise in accordance with the constitution of the state of Minnesota and any applicable Minnesota statutes and rules.

Subp. 2. **Rescission of grants and loans.** If projects are not completed and operational in accordance with the terms and conditions of the respective agreements, including time schedules, the grants and loans for those projects shall be rescinded, and the entire amount of grants and loans 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, loan, or grant and loan agreement.

Subp. 4. **Interest payments.** Interest payments on the loan shall be due annually and shall begin to accrue from the date the loan agreement is signed. The first repayment of the principal amount of the loan shall be due one year after the facility becomes operational or two years after the date the loan agreement is executed, whichever is earlier. The board shall consider the facility operational at the point where the facility meets all vendor guaranteed operating specifications. Subsequent repayments of principal and interest shall be due annually on the anniversary date of the first repayment.

Subp. 5. and 6. [See Repealer.]

REPEALER. Minnesota Rules, parts 9200.8100, subpart 21; 9200.8700, subpart 1; 9200.8800; 9200.9000, subparts 1, 2, and 3; 9200.9100, subparts 5 and 6; and 9200.9200 are repealed.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed Adoption of the Amendments to Existing Rules of the Waste Management Board Governing the Solid Waste Processing Facility Demonstration Program

AFFIDAVIT OF MAILING

Norma L. Gilies, being first duly sworn, deposes and says:

That on the 30th day of May, 1986, at the City of Crystal, County of Hennepin, State of Minnesota, he mailed a copy of the attached material to those persons on the attached mailing list by depositing it in the United States mail at said City of Crystal, properly enveloped, with postage prepaid:

Norma L. Gilies

Subscribed and sworn to before me this 30 day of May, 1986.

June J. Seery
Notary Public

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 Amendments to)
Existing Rules of the Waste) CERTIFICATE
Management Board Governing the)
Solid Waste Processing Facility)
Demonstration Program)

I hereby certify that the list of persons and associations who have requested, pursuant to Minn. Stat. § 14.14, that their names be placed on file for the purpose of receiving notice of the proposed adoption of rules by the Waste Management Board, is accurate and complete as of 10 :00 A.m., this 30 day of May, 1986.

T W Tookin

Subscribed and sworn to before me this
30th day of May, 1986.

June J Seery
Notary Public

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

original

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Carlton county Zoning Ofc.
County Courthouse
Carlton MN 55718

Michael Lein/Virginia Harris
Carver County Courthouse
Chaska MN 55318

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County Courthouse
Walker MN 56484

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Preston MN 55965

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Freeborn Co. Envir. Health Ofc
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Gary Danielson
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Willmar, MN 56201

Floyd Sanner
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Hallock, MN 56728

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Madison, MN 56256

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Ivanhoe, MN 56142

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Marshall, MN 56258

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Glencoe, MN 55336

Mark Diekman
County Courthouse
Mahnomen, MN 56557

Charles Cheney
Marshall County Courthouse
Warren, MN 56762

Warren Shuros
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Fairmont, MN 56031

Gordon Regenscheid
County Courthouse
Litchfield, MN 55355

Douglas Lien
County Courthouse
Milaca, MN 56353

Kathy Kendall
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Worthington, MN 56187

Kenneth Benesh
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Ada, MN 56510

Chuck Michaels
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Rochester, MN 55904

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Otter Tail County Courthouse
Fergus Falls, MN 56537

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Thief River Falls, MN 56701

Wayne R. Golly
County Courthouse
Pine City, MN 55063

Dale Taubert
Pipestone County Courthouse
Pipestone, MN 56164

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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
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Brian Bensen
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Richard Frank
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Vern Massie
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[redacted]

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St. Paul MN 55101

Mr. Neal Seldman
Institute for Local Self Reliar
1717 18th St. NW
Washington DC 20009

Waste Management Board

Proposed Rules Governing the Solid Waste Processing Facility Capital Assistance Program

Notice of Intent to Adopt Rules Without a Public Notice

Notice is hereby given that the Minnesota Waste Management Board proposes to adopt the above-entitled rules without a public hearing. The Waste Management Board has determined that the proposed adoption of these rules will be non-controversial in nature and has elected to follow the procedures set forth in Minn. Stat. §§ 14.22-14.28, as amended by Laws 1984, ch. 640, §§ 12-15.

Persons interested in these rules shall have 30 days in which to submit comments in support of or in opposition to the proposed rules. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Waste Management Board and do not result in a substantial change in the proposed language.

Unless 25 or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. In the event a public hearing is required, the Waste Management Board will proceed according to the provisions of Minn. Stat. §§ 14.08-14.28, as amended by Laws 1984, ch. 640, §§ 4-15.

Persons who wish to submit comments or a request for a public hearing should submit such comments or request in writing to:

Waste Management Board
Attention: Ed Welsch
123 Thorson Building
7323 58th Avenue North
Crystal, MN 55428
(612) 536-0816

Authority for the adoption of these rules is contained in Minnesota Statutes, section 115A.06, subd. 2 (1984) and 115A.49 to 115A.54 (1984), as amended. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules and that identifies the data and information relied upon to support the proposed rules has been prepared. A copy may be obtained by contacting the Waste Management Board, Attn: Ed Welsch, 123 Thorson Building, 7323 58th Avenue North, Crystal, MN 55428.

If a hearing is not required, and upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the statement of need and reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the rules as adopted, should submit a written statement of such request to the Waste Management Board, Attn: Ed Welsch, 123 Thorson Building, 7323 58th Avenue North, Crystal, MN 55428.

A copy of the proposed rules is attached to this Notice.

Copies of this Notice and the proposed rules are available and may be obtained by contacting the Waste Management Board, Attn: Ed Welsch, 123 Thorson Building, 7323 58th Avenue North, Crystal, MN 55428.

William Walker
Chairperson

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.

Waste Management Board

Proposed Rules Relating to Solid Waste Processing Facility Capital Assistance and Demonstration Programs

Rules as Proposed (all new material)

CAPITAL ASSISTANCE PROGRAM

9200.6000 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. **Chair.** "Chair" means the chair 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 under 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 design and engineering/architectural plans.** "Final design and 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 utilities.** "On-site utilities" means gas, electrical, water, and sewer facilities within the geographic boundaries of the waste processing facility site, that are used for facility operations, excluding transmission of energy to markets.

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

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

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

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

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

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

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

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

Subp. 20. **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 before transport to a disposal site.

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

Subp. 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 waste tires, wood wastes, and agricultural wastes.

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

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, that are 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 SOLID WASTE PROCESSING FACILITIES CAPITAL ASSISTANCE PROGRAM.

Parts 9200.6000 to 9200.6800 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 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 and 9200.6500. The applicant is encouraged to contact the chair and request a preapplication review of the proposed project.

Subp. 2. **Review of applications.** Upon receipt of an application, the chair or a designee shall conduct an initial review of the application under part 9200.6600. 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 the funds for the program are awarded or until three months before the expiration of the board pursuant to law, whichever occurs first.

Subp. 4. **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.

9200.6300 ELIGIBILITY CRITERIA.

Subpart 1. **Eligible applicants.** Eligible applicants are limited to cities, counties, and solid waste management districts established under 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 that 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, but no project may receive a total amount of grant assistance in excess of the limits in part 9200.6700, subpart 1. Previously funded projects seeking additional funding under this program shall complete the documentation required under part 9200.6500.

Subp. 3. **Eligible costs.** Eligible costs under parts 9200.6000 to 9200.6800 are limited to the costs of land; waste processing equipment; structures necessary to house the waste processing equipment; transmission facilities; appropriate and necessary onsite utilities; structures necessary to concentrate and temporarily store solid waste before 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/architectural plans.

Subp. 4. **Ineligible costs.** Ineligible costs include any costs related to solid waste disposal facilities and equipment, structures

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for housing and maintenance of rolling stock, or any costs related to resource recovery studies, feasibility analyses, or preliminary design and engineering/architectural plans.

9200.6400 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, section 115A.54, subdivision 2a, clause (1) and 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 SUPPORTING DOCUMENTATION REQUIRED TO BE SUBMITTED WITH GRANT APPLICATION.

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

A. A conceptual and technical feasibility report that 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 that contains:

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

(2) annual operating and maintenance costs;

(3) 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 capital costs per ton of installed 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 project and reasons for selecting the proposed 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, 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 pertinent to a determination of the applicant's financial capacity, including such factors as location, population characteristics, employment base, and other characteristics;

(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 that render state assistance necessary to the financial feasibility of the project.

D. A comprehensive solid waste management plan.

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

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

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

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

I. A report on time frames of project development.

J. Resolutions that comply with Minnesota Statutes, section 115A.54, subdivision 2a, clause (1) and subdivision 3.

K. If the applicant requests priority under Minnesota Statutes, section 115A.49, documentation:

(1) that the natural geologic and soil conditions are unsuitable for land disposal of solid waste;

(2) that the available capacity of existing solid waste disposal facilities is less than five years; or

(3) 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 shall 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 that preclude or inhibit cooperation with other counties, such as waste supply, market availability, technology constraints, geographic factors, or factors involving institutional arrangements.

9200.6600 REVIEW AND EVALUATION OF APPLICATIONS.

Subpart 1. **Determination of eligibility and completeness.** Upon receipt of an application, the chair or a designee shall determine the eligibility of the applicant, the eligibility of the costs identified in the application, the eligibility of the project identified 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 chair shall notify the applicant of the chair's determinations of eligibility and completeness. If the chair determines that the applicant or the project is ineligible, the chair shall reject the application, return it to the applicant, and notify the applicant of the reasons for the rejection. If the chair determines that any part of the project costs is ineligible or that the application is incomplete, the chair shall notify the applicant of the ineligible portion of the costs or of the deficiency. The applicant has 14 days after receiving the notice to correct any inadequacies identified by the chair. If the inadequacies are corrected within the time allowed, the application will be further considered.

Subp. 3. **Evaluation of need for financial assistance.** In making its evaluation of the application, the board shall first evaluate the information supplied in part 9200.6500, item C to determine whether or not board assistance is necessary for facility development. If

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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 documentation submitted under part 9200.6500, items A, B, and D to M.

Subp. 4. **Evaluation of applications.** If the board determines that the project is in need of state assistance, 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 that 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. **Board determination.** If the board determines that the application satisfies the requirements of subpart 4, the board shall determine the amount of the grant award and the applicant shall be notified. If the board determines that the application fails to satisfy the requirements of subpart 4, the board shall reject the application and the chair shall return the application to the applicant, together with a statement of the reasons for the determination.

Subp. 6. **Consultation with other agencies.** In its evaluation of the application, the board shall consider any recommendations provided by the Pollution Control Agency, the State Planning Agency, and the appropriate regional development commission or the Metropolitan Council.

9200.6700 LIMITATIONS.

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

Subp. 2. **Limitations on grant award.** The amount of the board's grant award shall be limited to an amount needed to complete the project considering all the sources of funding presently available to the applicant.

Grants shall not be awarded to cover any cost associated with tasks performed before 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 GRANT AGREEMENT.

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

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

B. incorporate by reference the final grant application submitted to the board under part 9200.6200;

C. allow the recipient to enter into contracts to complete the work specified in the agreement subject to any board approval that 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 recipient;

E. provide that the board will not accept amendments requesting that additional funds be awarded 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;

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 that must be repaid shall be reduced ten percent each year. The sales agreement between the recipient and the private enterprise shall transfer the responsibilities in subpart 1, item F to the private enterprise; and

H. require that the facility may only be sold to a private enterprise in accordance with the constitution of the state of Minnesota and any applicable Minnesota statutes and rules.

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 in the grant agreement.

Waste Management Board

Proposed Amendments to Rules Governing the Solid Waste Processing Facility Demonstration Program

Notice of Intent to Adopt Amendments to Existing Rules Without a Public Hearing

Notice is hereby given that the Minnesota Waste Management Board proposes to adopt the above-entitled amendments to existing rules without a public hearing. The Waste Management Board has determined that the proposed adoption of these rules will be non-controversial in nature and has elected to follow the procedures set forth in Minn. Stat. §§ 14.22-14.28, as amended by Laws 1984, ch. 640, §§ 12-15.

Persons interested in these rules shall have 30 days in which to submit comments in support of or in opposition to the proposed amendments to existing rules. Comment is encouraged. Each comment should identify the portion of the proposed amendment addressed, the reason for the comment, and any change proposed.

The proposed amendments to existing rules may be modified if the modifications are supported by the data and views submitted to the Waste Management Board and do not result in a substantial change in the proposed language.

Unless 25 or more persons submit written requests for a public hearing on the proposed amendments within the 30-day comment period, a public hearing will not be held. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed amendment addressed, the reason for the request, and any change proposed. In the event a public hearing is required, the Waste Management Board will proceed according to the provisions of Minn. Stat. §§ 14.08-14.28, as amended by Laws 1984, ch. 640, §§ 4-15.

Persons who wish to submit comments or a request for a public hearing should submit such comments or request in writing to:

Waste Management Board
Attention: Ed Welsch
123 Thorson Building
7323 58th Avenue North
Crystal, MN 55428
(612) 536-0816

Authority for the adoption of these rules is contained in Minn. Stat. § 115A.49 (1984). Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed amendments to existing rules and that identifies the data and information relied upon to support the proposed amendments to existing rules has been prepared. A copy may be obtained by contacting the Waste Management Board, Attn: Ed Welsch, 123 Thorson Building, 7323 58th Avenue North, Crystal, MN 55428.

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If a hearing is not required, and upon adoption of the final amendments to existing rules without a public hearing, the proposed amendments to existing rules, this Notice, the statement of need and reasonableness, all written comments received, and the final amendments to existing rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final amendments to existing rules as adopted, should submit a written statement of such request to the Waste Management Board, Attn: Ed Welsch, 123 Thorson Building, 7323 58th Avenue North, Crystal, MN 55428.

A copy of the proposed amendments to the existing rules is attached to this Notice.

Copies of this Notice and the proposed amendments to existing rules are available and may be obtained by contacting the Waste Management Board, Attn: Ed Welsch, 123 Thorson Building, 7323 58th Avenue North, Crystal, MN 55428.

William Walker
Chairperson

Rules as Proposed

DEMONSTRATION PROGRAM

9200.8100 DEFINITIONS.

Subpart 1. and 2. [Unchanged.]

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

Subp. 4. [Unchanged.]

Subp. 5. **Comprehensive solid waste management plan.** "Comprehensive solid waste management plan" means a written plan ~~conforming to the requirements of~~ prepared under Minnesota Statutes, section 115A.46.

Subp. 6. [Unchanged.]

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

Subp. 9. **Institutional arrangements.** "Institutional arrangements" means methods of financing, marketing, procurement, ~~methods of~~ securing the waste supply, or joint efforts by more than one local government unit.

Subp. 10. and 11. [Unchanged.]

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

Subp. 13. [Unchanged.]

Subp. 13a. **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. [Unchanged.]

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

Subp. 14b. **Recycling.** "Recycling" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 25b.

Subp. 15. to 19. [Unchanged.]

Subp. 20. **Special waste stream.** "Special waste stream" means materials ~~which~~ that are 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.

Subp. 21. [See Repealer.]

Subp. 22. to 24. [Unchanged.]

9200.8200 SOLID WASTE PROCESSING FACILITIES DEMONSTRATION PROGRAM.

Parts 9200.8100 to 9200.9200 implement the solid waste processing facilities demonstration 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 and loans for capital costs of ~~projects which demonstrate the feasibility of waste processing technology or equipment or the feasibility of institutional arrangements in providing~~ waste processing facilities.

9200.8300 ELIGIBILITY CRITERIA.

Subpart 1. [Unchanged.]

Subp. 2. **Eligible projects.** Only projects ~~which~~ that demonstrate feasible and prudent alternatives to disposal are eligible for loans and grants. ~~To qualify as a demonstration project, a project must be conceptually and technically feasible but not now in operation in the state or not now in operation in a geographical area of the state with demonstrably different characteristics from those of the area where a facility is now in operation. A conceptually and technically feasible project may also qualify as a demonstration project if it involves institutional arrangements not previously utilized in the state, or not previously utilized in a geographical area of the state with demonstrably different characteristics from those in the area where a facility is now in operation. Six~~ Three types of projects are eligible for loans and grants: ~~waste to energy;~~ materials recovery; chemical, physical, or biological modifications; ~~transfer stations;~~ and 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.

Subp. 3. **Eligible costs.** Eligible costs under parts 9200.8100 to 9200.9200 shall be limited to the costs of land, waste processing equipment, structures necessary to house the waste processing equipment, 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 products to market, or to transport residue from the processing facility to a solid waste land disposal facility, and final design and ~~engineering specifications~~ engineering/architectural plans.

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~~ engineering/architectural plans.

9200.8400 INFORMATION REQUIRED ON GRANT AND LOAN APPLICATION.

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

A. the name of each applicant making the ~~grant or loan~~ 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 which demonstrate that the applicant is committed to implementing the project; providing necessary local financing; and accepting and exercising the government powers necessary to the project;~~

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

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

~~F.~~ E. the total capital cost of the project;

~~G.~~ F. the total grant- or loan-eligible cost of the project;

~~H.~~ G. the amount of grant ~~or~~, loan, or grant and loan funding requested;

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

~~J.~~ I. the type of assistance applied for (grant, loan , or grant and loan together);

~~K.~~ J. the type of waste processing facility for which ~~a grant or loan~~ assistance is being ~~applied for~~ requested: ~~waste to energy;~~ materials recovery; chemical, physical, or biological modification; ~~transfer stations;~~ or special waste stream; ~~or waste incineration with resource recovery~~.

9200.8500 SUPPORTING DOCUMENTATION REQUIRED TO BE SUBMITTED WITH GRANT AND LOAN APPLICATION.

Applications for grants or loans for waste processing facilities shall include the following supporting documentation:

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

B. ~~a financial feasibility report including: an evaluation and analysis of all capital and operating costs of the proposed~~

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~~project, an evaluation and analysis of various financing mechanisms available to the applicant, an analysis of the ability of the community to continue operation of the facility over the life of the facility~~ a financial plan that contains:

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

(2) annual operating and maintenance costs;

(3) 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 capital costs per ton of installed daily capacity;

C. a comprehensive solid waste management plan ~~conforming to Minnesota Statutes, section 115A.46, including consideration of solid waste management alternatives~~;

D. preliminary design and ~~engineering~~ engineering/architectural plans ~~or~~ and equipment specifications of the proposed waste processing facility ~~and equipment~~;

E. documentation that waste supplies will be committed to the project and that the applicant has the ~~authority and~~ mechanism to commit ~~such~~ the wastes;

F. a ~~marketability~~ market analysis of recovered materials/energy, including documentation of market commitments such as letters of intent or ~~market~~ contracts;

G. ~~a detailed estimate of annual operating and maintenance costs;~~

~~H. a report on the proposed project's potential for statewide application or significance;~~

~~I.~~ a report on the status of required permits from permitting agencies;

~~J.~~ H. a report on time frames of project development;

~~K.~~ I. resolutions ~~complying~~ that comply with ~~the requirements of~~ Minnesota Statutes, section 115A.54, subdivision 3; and

~~L. if the applicant seeks to qualify a project as demonstrating a technology or institutional arrangements in a geographical area of the state rather than the entire state, a report on how the area is demonstrably different from the characteristics of the area where a facility is now in operation;~~

~~M. if the project application proposes a waste processing facility that demonstrates institutional arrangements, a report which describes the institutional arrangements;~~

~~N.~~ J. if the applicant requests priority ~~based on any of the following conditions~~ under Minnesota Statutes, section 115A.49, documentation ~~of the existence of the condition~~:

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

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

(3) ~~the claim~~ that the proposed project ~~would service an area outside the metropolitan area and~~ would serve more than one local government unit; ~~and~~

~~O. if the applicant is seeking a grant, a report discussing the factor or factors in part 9200.9000, subpart 2 upon which the applicant is basing the request for a grant.~~

9200.8600 GRANT AND LOAN APPLICATION PROCEDURES.

Subp. 1a. **Applications.** An application may be submitted to the board when the applicant has met the information and documentation requirements in parts 9200.8400 and 9200.8500. The applicant is encouraged to contact the ~~chairperson~~ chair and request a preapplication review of the proposed project.

Subp. 2a. **Review ~~schedule~~ of applications.** ~~When~~ Upon receipt of an application, the ~~chairperson~~ chair or a designee ~~receives an application, he or she~~ shall ~~initially~~ conduct an initial review of the application under part 9200.8700. The board shall evaluate ~~and select~~ projects and award grants and loans.

Subp. 4. **Applications accepted.** The board shall accept applications for funds under the solid waste processing facilities demonstration program until all funds for the program are awarded or until three months before the expiration of the board pursuant to law, whichever occurs first.

Subp. 5. **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.

9200.8700 ~~INITIAL~~ REVIEW AND EVALUATION OF APPLICATIONS.

Subpart 1. [See Repealer.]

Subp. 2. **Determination of eligibility and completeness ~~review.~~** Upon receipt of an application, the ~~chairperson~~ chair 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. 3. **Notice of determination of eligibility and completeness.** Within 14 days after receiving the application, the ~~chairperson~~ chair shall notify ~~each~~ the applicant of the ~~chairperson's~~ chair's determinations of eligibility and completeness. If the ~~chairperson~~ chair determines that the applicant or the project is ~~not eligible, the application shall not be further considered and the applicant shall be notified of the determination. If the chairperson determines that any of the costs or any part of the project is not eligible or that the application is otherwise not complete~~ ineligible, the ~~chairperson~~ chair shall reject the application, return ~~the application together with a statement~~ it to the applicant, and notify the applicant of the reasons for ~~rejecting the application~~ the rejection. ~~The applicant shall have~~ If the chair determines that any part of the project costs is ineligible or that the application is incomplete, the chair shall notify the applicant of the ineligible portion of the costs or of the deficiency. The applicant has 14 days after ~~receipt of the rejection of the application~~ receiving the notice to correct ~~any~~ inadequacies identified ~~in the application~~ by the chair. If the inadequacies are corrected within the time allowed, the application will be further considered.

Subp. 4. **~~Review~~ Evaluation of ~~documentation~~ applications.** If the applicant, the costs, and the project are determined to be eligible and the application is complete, the ~~chairperson~~ board shall~~, within 45 days after the receipt of the application, review the application to determine whether the supporting documentation is adequate. In determining whether the documentation is adequate, the chairperson shall consider~~ evaluate the application to determine whether the documentation 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; and

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 the applicant has completed a comprehensive solid waste management plan conforming to the requirements of Minnesota Statutes, section 115A.46, including consideration of solid waste management alternatives; and~~

~~F. that the project demonstrates a technology that is of potential statewide application or significance~~.

Subp. 5. **Consultation with other agencies.** In ~~determining the adequacy of the documentation~~ its evaluation of the application, the ~~chairperson~~ board shall consider any recommendations provided by the Pollution Control Agency, ~~the appropriate regional development commission,~~ the State Planning Agency, and~~, if appropriate,~~ the appropriate regional development commission or the Metropolitan Council.

Subp. 6. **Board determination ~~of sufficient documentation.~~** ~~If the chairperson determines that the documentation in the application is adequate, the application shall be considered final and the applicant shall be so notified. The application shall then be referred to the board to be evaluated as provided in part 9200.8800. If the chairperson determines that the documentation in the application is inadequate, the chairperson shall return the application together with a statement of the reasons for rejecting the application. The applicant shall have 14 days after receipt of the rejection of the application to correct the inadequacies in the documentation.~~

~~If the inadequacies in the documentation are corrected within the time allowed, the application shall be considered final and the applicant shall be so notified. The application shall then be referred to the board to be evaluated as provided in part 9200.8800.~~ If the board determines that the application satisfies the requirements of subpart 4, the board shall determine the amount of the grant, loan, or grant and loan award and the applicant shall be notified of the grant, loan, or grant and loan awarded. If the board determines that the application fails to satisfy the requirements of subpart 4, the board shall reject the application and the chair shall return the application to the applicant, together with a statement of the reasons for rejection.

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9200.9000 AWARD OF GRANTS AND LOANS.

Subpart 1. to 3. [See Repealer.]

Subp. 4. **Maximum awards.** The maximum loan award shall be 50 percent of the eligible costs specified in the application or ~~$700,000~~ $200,000, whichever is less. The maximum grant award shall be 50 percent of the eligible costs specified in the application or ~~$300,000~~ $200,000, whichever is less. The maximum combined grant and loan award is $400,000.

Subp. 5. **Limitations.** ~~No funds shall be awarded for costs for which the applicant has applied for and received funds from another source.~~

~~No grant or loan shall be disbursed until the board has determined the total 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.~~

~~Grants and loans shall be awarded to cover the eligible costs of only those tasks which are undertaken and completed during the grant and loan period established in the grant and loan agreement.~~ The amount of the board's grant, loan, or grant and loan award shall be limited to an amount needed to complete the project considering all sources of funding presently available to the applicant.

Grants and loans shall not be awarded to cover any cost associated with tasks performed ~~prior to~~ before the award of a grant, loan, or grant and loan or after the expiration of the grant, loan, or grant and loan agreement.

Subp. 6. **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.

9200.9100 GRANT, LOAN, OR GRANT AND LOAN AGREEMENT.

Subpart 1. **Requirements.** ~~The~~ A grant, loan, or grant and loan ~~agreements must~~ agreement shall:

A. ~~contain~~ include as attachments the resolutions required under Minnesota Statutes, section 115A.54, subdivision 3;

B. incorporate by reference the final ~~grant and loan~~ application submitted to the board in accordance with part 9200.8600;

C. establish the term of the grant, loan, or grant and loan. ~~All~~ Grants awarded under ~~this rule~~ parts 9200.8100 to 9200.9100 shall have a maximum term of two years. ~~All~~ Loans awarded under ~~this rule~~ parts 9200.8100 to 9200.9100 shall have a loan life determined by considering facility type, expected life of equipment, capital cost of the project, and loan amount;

D. in the case of a loan agreement, include schedules for the repayment of principal and interest;

E. ~~provide that~~ allow the recipient ~~shall be authorized~~ to enter into contracts to complete the work specified in the agreement subject to any board approval that may be required in the agreement;

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

G. provide that the board will not accept amendments requesting that additional ~~grant and loan~~ funds be awarded to the recipient; ~~and~~

H. require that the recipient provide ~~a report~~ periodic 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;

I. provide that if the recipient sells the facility to a private enterprise, all outstanding loan obligations to the board shall become due and payable upon sale to the private enterprise;

J. 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 that 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 item H to the private enterprise; and

K. require that the facility may only be sold to a private enterprise in accordance with the constitution of the state of Minnesota and any applicable Minnesota statutes and rules.

Subp. 2. **Rescission of grants and loans.** If projects are not completed and operational in accordance with the terms and conditions of the respective agreements, including time schedules, the grants and loans for those projects shall be rescinded, and the entire amount of grants and loans 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, loan, or grant and loan agreement.

Subp. 4. **Interest payments.** Interest payments on the loan shall be due annually and shall begin to accrue from the date the loan agreement is signed. The first repayment of the principal amount of the loan shall be due one year after the facility becomes operational or two years after the date the loan agreement is executed, whichever is earlier. The board shall consider the facility operational at the point where the facility meets all vendor guaranteed operating specifications. Subsequent repayments of principal and interest shall be due annually on the anniversary date of the first repayment.

Subp. 5. and 6. [See Repealer.]

REPEALER. Minnesota Rules, parts 9200.8100, subpart 21; 9200.8700, subpart 1; 9200.8800; 9200.9000, subparts 1, 2, and 3; 9200.9100, subparts 5 and 6; and 9200.9200 are repealed.

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 Authority

Adopted Rules Relating to Tourism Loan Program

The rules proposed and published at *State Register*, Volume 10, Number 39, pages 1961-1965, March 24, 1986 (10 S.R. 1961) are adopted as proposed.

Higher Education Coordinating Board

Adopted Rules Relating to Part-time Student Grants

The rules proposed and published at *State Register*, Volume 10, Number 33, pages 1654-1656, February 10, 1986 (10 S.R. 1654) are adopted as proposed.

Department of Human Services

Adopted Rule Relating to Medical Assistance Reimbursement to Day Service Providers

The rule proposed and published at *State Register*, Volume 10, Number 34, pages 1708-1709, February 17, 1986 (10 S.R. 1708) is adopted as proposed.

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.

Department of Labor and Industry

Occupational Safety and Health Division

Adopted Revisions to the Occupational Safety and Health Standards

Pursuant to Minn. Stat. § 182.655 (1984) notice was duly published in the *State Register*, Volume 10, Number 42, dated April 14, 1986 [10 S.R. 2157] specifying the modification of certain Occupational Safety and Health Standards; specifically, the revisions to Occupational Exposure to Cotton Dust standard (29 CFR 1910.1043).

No objections, comments or written requests for public hearing have been received; therefore, this Occupational Safety and Health Standard is adopted and is identical in every respect to its proposed form.

Steve Keefe
Commissioner of Labor and Industry

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Office of Administrative Hearings

Outside Opinion Sought Concerning Rules to Implement the Equal Access to Justice Act

Pursuant to the provisions of Minnesota Statutes, § 14.10, notice is hereby given that the Minnesota Office of Administrative Hearings will be seeking information or opinions in preparing to propose the adoption of amendments to the procedural rules for contested case hearings.

The primary reason for the solicitation of information is to determine whether it is necessary or appropriate to adopt additional rules to implement the provisions of the Equal Access to Justice Act, Minnesota Laws 1976, Chapter 377. However, interested persons should feel free to submit their thoughts and ideas relating to any other parts of the contested case rules which may be in need of amendment, especially if there are amendments which would aid in making the contested case hearings move more expeditiously and at less costs to all participants.

A very brief set of procedural rules to implement the Equal Access to Justice Act is being proposed in this same issue of the *State Register*. However, the office believes it may be appropriate to adopt additional interpretive rules to establish standards and criteria for determinations of attorney's fees, to further define terms such as "prevailing party" and "substantially justified". The office is looking at rules adopted by Federal agencies such as the Department of Labor, the Department of Transportation, the Federal Communications Commission and the Environmental Protection Agency for guidance.

Persons interested in submitting any information, ideas, opinions or thoughts should submit them, in writing, by July 3, 1986. The submissions are to be sent to:

Duane R. Harves
Chief Administrative Law Judge
Minnesota Office of Administrative Hearings
400 Summit Bank Building
310 - 4th Avenue South
Minneapolis, Minnesota 55415
612/341-7640

All written submissions received shall become part of the rulemaking record in the event amendments are proposed.

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

RESOLUTION WMB-017-86

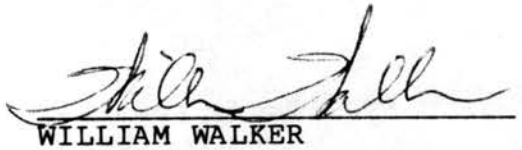
BE IT RESOLVED, that the Waste Management Board hereby approves and adopts the attached proposed amendments to Minnesota Rules Parts 9200.8100 to 9200.9100 (1985), rules governing the Solid Waste Processing Facility Demonstration Program, pursuant to the authority vested in the Board by Minnesota Statutes Section 115A.49 (Supp. 1985);

BE IT FURTHER RESOLVED, that prior to publishing the amendments to the rules governing the Solid Waste Processing Facility Demonstration Program as adopted in the State Register, the Chair is authorized to make any form changes in the amendments to the 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 rule amendments and authorizes the Chair to execute the attached Findings of Fact and Conclusions on behalf of the Board;

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

Dated: July 24, 1986



WILLIAM WALKER
Chair

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed Adoption of Amendments to Existing Rules of of the Waste Management Board Governing the Solid Waste Processing Facility Demonstration Program.

FINDINGS OF FACT AND CONCLUSIONS

The above-entitled matter came on for decision before the Minnesota Waste Management Board on the 24th day of July, 1986, after publication and notice of the proposed amendments was provided as required by Minnesota Statutes, section 14.22 (1984). Having afforded all interested persons an opportunity to submit written comments on the proposed amendments for 30 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 Demonstration Program pursuant to Minnesota Statutes § 115A.49 (Supp. 1985).

2. Following the passage of the Waste Management Act of 1980, the Board developed rules to administer the Solid Waste Processing Facility Demonstration Program.

3. The 1985 amendments to the Waste Management Act at Minnesota Statutes § 115A.54 made amendment of the existing

demonstration program rules necessary in order to continue to administer the program.

4. On January 16, 1986, the Board authorized the Chair to begin the process of enacting amended rules to govern the Solid Waste Processing Facility Demonstration Program through the non-controversial rulemaking process.

5. On May 20, 1986, the Order for Publication authorizing publication and mailing of the amended rules was executed by the Chair of the Board under authority of Waste Management Board Resolution WMB-002-86, dated January 16, 1986.

6. On May 30, 1986, the Notice of Intent to Adopt Amendments to Existing Rules Without a Public Hearing and a copy of the proposed amended rules were 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.

7. On June 2, 1986, the Notice of Intent to Adopt Amendments to Existing Rules Without a Public Hearing and the proposed amended rules were published at 10 State Register 2411 to 2417.

8. The Board's Notice of Intent to Adopt Amendments to Existing Rules Without a Public Hearing afforded all interested parties 30 days to submit comments on the proposed amendments. The Notice was in all respects in compliance with the requirements of Minnesota Statutes, sections 14.22-.28, as amended.

9. The public comment period expired July 1, 1986.

10. Written comments were received during the comment period from representatives of Polk, Mahnomen, and Fillmore Counties.

11. The Board has reviewed the comments received on the proposed amendments and makes the following modification to the proposed amended rules based on those comments:

9200.9000 AWARD OF GRANTS AND LOANS

Subp. 4 Maximum awards. The maximum loan award shall be 50 percent of the eligible costs specified in the application or ~~$200,000~~ $400,000, whichever is less. The maximum grant award shall be 50 percent of the eligible costs specified in the application or ~~$200,000~~ $400,000, whichever is less. The maximum combined grant and loan award is $400,000.

JUSTIFICATION:

The proposed amendment changed the original maximum grant award from $300,000 to $200,000, and the original maximum loan award from $700,000 to $200,000. Fillmore County commented that the types of projects funded under the demonstration program were less proven than other waste management technologies and represented a greater financial risk to implementing entities. Fillmore County also noted that many rural units of government in Minnesota are experiencing financial difficulty, and thus in great need of financial assistance in developing solid waste alternatives. As a solution, Fillmore County suggested raising the maximum grant per project to $400,000.

Upon review, the Board agrees and therefore modifies the proposed amendment to increase the maximum grant and loan amounts per project to $400,000. The Board does retain the maximum combined grant and loan amount per project at $400,000 in order to provide assistance to as many projects as possible.

In addition to the modification described above, the Board modifies the proposed 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 Board has published and served due, timely and adequate notice of its intent to adopt the proposed amended rules.

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

D. The modification to the proposed amended rules is supported by the data and views submitted to the Board, and does not result in a substantial change.

Dated: July 24, 1986.

MINNESOTA WASTE MANAGEMENT BOARD

William Walker
Chair

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed Adoption of Amendments to Existing Rules of the Waste Management Board Governing the Solid Waste Processing Facility Demonstration Program

CERTIFICATE OF RESOLUTION ADOPTING RULES

I, William Walker, do hereby certify that I am a member and the Chair 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 24th day of July, 1986, that a quorum was present at said meeting, that a majority of those present voted for the resolution, and that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

BE IT RESOLVED, that the Waste Management Board hereby approves and adopts the attached proposed amendments to Minnesota Rules Parts 9200.8100 to 9200.9100 (1985), rules governing the Solid Waste Processing Facility Demonstration Program, pursuant to the authority vested in the Board by Minnesota Statutes Section 115A.49 (Supp. 1985);

BE IT FURTHER RESOLVED, that prior to publishing the amendments to the rules governing the Solid Waste Processing Facility Demonstration Program as adopted in the State Register, the Chair is authorized to make any form changes in the amendments to the 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 rule amendments and authorizes the Chair to execute the attached Findings of Fact and Conclusions on behalf of the Board;

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

Dated: July 24, 1986

WILLIAM WALKER
Chair

Attested by
Board Member

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed
Amendments to Rules of the
State Waste Management Board
Governing the Solid Waste Processing
Facility Demonstration Program
Minn. Rules Parts 9200.8100 - 9200.9200

STATEMENT OF NEED
AND REASONABLENESS

I. INTRODUCTION

The subject of this rulemaking proceeding is the amendment of adopted rules governing the award of grants and loans for capital costs of solid waste processing facilities. The Rules for the Waste Management Board (hereinafter "Board"), Minn. Rules Parts 9200.8100 - 9200.9200 were adopted to provide an orderly and predictable method to identify eligible projects and project costs. The rules specify grant and loan application procedures; provide application deadlines; establish project review and evaluation criteria; set limitations on grant and loan awards; and specify the contents of grant and loan agreements.

The present amendments were drafted to change and in some cases add to the adopted rules in order to make them consistent with the 1985 amendments to the statutory provisions governing the Board's Solid Waste Processing Facility Demonstration Program. See Minn. Stat. §§ 115A.49-.54 (Supp. 1985).

These amendments will be adopted following the procedures for non-controversial rule making.

II. NEED FOR THE PROPOSED AMENDMENTS

The Board is required by Minnesota Statutes, §115A.49 (1984) to promulgate rules to govern its activities under the Solid Waste Processing Facility Demonstration Program. These amendments are necessary to make the adopted rules consistent with Minn. Stat. § 115A.54, subd. 2 and 2a, as amended by the 1985 Legislature.

In addition, the rules are being amended to simplify and clarify them, and to make them consistent with the rules of the Board's Solid Waste Processing Facility Capital Assistance Program.

III. REASONABLENESS OF THE PROPOSED AMENDMENTS

Minn. Rules Part 9200.8100 DEFINITIONS

The following definitions are being amended to make them consistent with references elsewhere in the rule, to clarify them, or to respond to statutory changes.

Subp. 5. Comprehensive solid waste management plan. The definition of "comprehensive solid waste management plan" has been amended to clarify that while a plan prepared pursuant to Minn. Stat. §115A.46 is part of the necessary supporting documentation to an application, Pollution Control Agency approval of that plan is not a requirement for purposes of this program.

Subp. 7. Final design and engineering/architectural plans; and Subp. 12. Preliminary design and engineering/architectural plans. These definitions have been changed to be consistent with their use in the rule.

Subp. 9. Institutional Arrangements. This change was made to increase clarity.

Subp. 1. Project.; Subpart 16. Recyclable materials.; and Subp. 17. Recycling. These definitions were changed to correspond to statutory definition of the terms.

Subp. 21. Statewide application or significance. This definition is no longer necessary due to statutory changes.

Minn. Rules Part 9200.8200 SOLID WASTE PROCESSING FACILITIES DEMONSTRATION PROGRAM

This part is modified to reflect changes to Minn. Stat. §§115A.49 through 115A.54. See Minn. Stat. §§115A.49 - .54 (Supp. 1985). These changes removed the requirement that funded projects demonstrate new technologies or new institutional arrangements.

Minn. Rules Part 9200.8300 ELIGIBILITY CRITERIA

Subpart 2. This subpart is modified to reflect changes to Minn. Stat. §§ 115A.49 through 115A.54. See Minn. Stat. §§115A.49-.54 (Supp. 1985). These changes remove the requirement that funded projects demonstrate new technologies or new institutional arrangements.

In addition, Subpart 2 is modified to change the types of projects eligible for assistance. Formerly, six types of projects were eligible for assistance: waste-to-energy; materials recovery; chemical, physical, or biological modifications; transfer stations; special waste streams; and waste incineration with resource recovery. Waste-to-energy; transfer stations; and waste incineration with resource recovery are no longer eligible for assistance under this program. This change is made for the following reasons:

- o The higher capital costs associated with waste incineration facilities combined with the larger grant funding available under the Board's Solid Waste Processing Facility Capital Assistance Program make that program a more appropriate financial assistance program for waste incineration projects. Transfer stations are typically part of waste incineration projects, and should be funded as part of the waste-to-energy project; and
- o The higher percentage financial assistance available in the demonstration program (50% of eligible capital costs as opposed to 25% of eligible capital costs in the Board's Capital Assistance Program) should be saved for waste management projects most in need of assistance. Materials recovery; chemical, physical or biological modifications; and special waste stream processing facilities are less developed in the state than

are waste-to-energy; waste incineration with resource recovery; or transfer station projects, and thus are the most appropriate recipients of the level of financial assistance available under the demonstration program.

In addition, Subpart 2 is amended to clarify that only projects that are wholly publicly owned are eligible for assistance.

Subparts 3 and 4. These subparts are modified to clarify what are eligible and ineligible costs. Land and final engineering/architectural plans have been added to the eligible costs category to increase the potential amount of financial assistance. Land and final engineering/architectural plans are traditionally considered capital costs.

Minn. Rules Part 9200.8400. INFORMATION REQUIRED ON APPLICATION

This part is modified to make it consistent with the rules of the Board's Capital Assistance Program, and to reflect the changes as to what is an eligible project.

Minn. Rules Part 9200.8500. SUPPORTING DOCUMENTATION REQUIRED TO BE SUBMITTED WITH APPLICATION

This part is modified to make it consistent with the rules of the Board's Capital Assistance Program, and to better organize the supporting documentation required to be submitted with an application.

Minn. Rules Part 9200.8600. GRANT AND LOAN APPLICATION PROCEDURES

This part is modified to clarify the initial review schedule, how long the demonstration program will accept applications, and how the Board will fund

projects in view of the legislative priorities specified in Minn. Stat. § 115A.49 (1984). Some of this material was transferred to this part from other parts of the existing rule.

Minn. Rule Part 9200.8700 REVIEW AND EVALUATION OF APPLICATIONS

This part is amended to combine and clarify the evaluation process and to reflect the fact that projects no longer need to demonstrate new technologies or new institutional arrangements.

Minn. Rule Part 9200.8800 EVALUATION OF PROJECTS

This part is repealed because the project evaluation process has been made a part of the preceding part, Minn. Rule Part 9200.8700.

Minn. Rule Part 9200.9000 AWARD OF GRANTS AND LOANS

This part is modified to rearrange and clarify the limits that will be applied to grants and loans awarded under the program, and to reflect that projects may now receive grants, loans, or grants or loans because of amendments to Minn. Stat. Section 115A.54, Subd. 2 (Supp. 1985).

The maximum grant and loan amounts have also been modified to distribute the funds available in the demonstration program to as many projects as possible.

Minn. Rule Part 9200.9100 GRANT, LOAN OR GRANT AND LOAN AGREEMENT

This part is modified to clarify the required contents of grant and/or loan agreements, and to specifically note the constitutional constraints governing the sale of a program funded processing facility to a private entity.

Minn. Rule Part 9200.9200

The contents of this part have been transferred to other parts. In addition, changes in Minn. Stat. 115A.54, Subd. 2 have removed the requirement that at least 70% of the funds allocated to the program be distributed in the form of loans.

Dated: May 30, 1986



Chairman, Waste Management Board

jg/1/001



Zoning and Sanitation

Mahnomen, Minnesota 56557

June 27, 1986

RECEIVED

JUL 1 1986

WASTE MANAGEMENT
BOARD

Waste Management Board
Attention: Mr. Ed Welsch
123 Thorson Building
Crystal, MN 55428

Dear Sirs,

This is in regard to your notice of intent to adopt amendments to existing rules without a public hearing. I am addressing in this letter some of my concerns regarding a proposed rule change by your agency.

My concern addresses the proposed dropping of transfer stations as eligible projects from the Solid Waste Processing Facility Demonstration Program. While transfer stations in and of themselves do not provide an alternative to environmentally dangerous disposal practices; it is my belief that precluding transfer stations from eligibility from the Demonstration Program will compromise the effectiveness and participation in an otherwise feasible project. My specific concern is the detrimental effect such a rule change would have on the City of Fosston-Polk County, Solid Waste Fueled Incineration Plant, which Mahnomen County is participating in at the current time. It is my hope that the Waste Management Board will reconsider and not eliminate transfer stations from the Demonstration Program.

Sincerely,

Mark Diekman
Zoning and Sanitation Office

TELEPHONE 218-281-3952

POLK COUNTY

HIGHWAY DEPARTMENT

TH 75 AND CR 233
P.O. BOX 27
CROOKSTON, MINNESOTA 56716

RECEIVED
JUN 18 1986
WASTE MANAGEMENT BOARD

June 16, 1986

Waste Management Board
Attention: Mr. Ed Welsch
123 Thorson Building
7323 58th Ave. No.
Crystal, Minnesota 55428

Re: Notice of Intent to Adopt Amendments to Existing Rules Without a Public Hearing

Dear Sirs:

We have reviewed the proposed amendments to the existing rules of the Waste Management Board governing the Solid Waste Processing Facility Demonstration Program and support them subject to the following comments:

1) 9200.8300 ELIGIBILITY CRITERIA (Subp.2)

Recommended Changes:

a. (Page 15, Line 18)
change three to four

b. (Page 15, Line 21)
transfer stations should not be eliminated as eligible projects as proposed but should be included as the rules now exist.

Reasons for Recommendations:

We agree that transfer stations by themselves do not offer an alternative to disposal. However, they may be necessary as an integral component of a waste processing facility that may demonstrate a feasible and prudent alternative to disposal and as such should be included as an eligible project or as a portion of such a project. This is alluded to in your proposed rules under 9200.8100, Subp. 13a. definitions.

2) 9200.8300 ELIGIBILITY CRITERIA (Subp. 3)

Recommended Changes:

a. (Page 15, Lines 29,30, and 31)
Structures necessary to concentrate and temporarily store solid waste prior to transportation to a waste processing facility - this should not be eliminated as proposed but should be included as the rules now exist.

b. (Page 15, Line 33)
processing facility to a solid waste ~~land~~ disposal facility, and - should be to any facility.

Reasons for Recommendations:

a. (Page 15, Lines 29,30, and 31) Same reasons as stated in #1 above.
We feel that transfer stations may be an integral part of some eligible projects and should be included as such.

b. (Line 33) We do not feel that all wastes necessarily have to go to land disposal facilities. Some may be better disposed of at other processing facilities. This restriction should be eliminated to allow for more creative action and environmentally acceptable alternatives.

3. 9200.8400 INFORMATION REQUIRED ON APPLICATION

Recommended Changes:

J. (Page 17, Line 4) - Transfer Station should be included and not eliminated as proposed.

Reasons for Recommendations:

Same as stated previously.

To summarize, we feel that transfer stations should not be eliminated from the Demonstration Program as you have proposed because they may serve as an integral component in a feasible project and should, therefore, be included as such.

We appreciate this opportunity to comment and hope our recommendations prove helpful in your review procedure. We will provided additional explanation or documentation if you so desire.

If a public hearing is held please notify us. Also, please forward a copy of the final amendments to existing rules as adopted to our office.

Sincerely,

Michael P. Rardin

Michael P. Rardin
Polk County Solid Waste Officer

FILLMORE COUNTY

ZONING OFFICE • SOLID WASTE • AG INSPECTOR

Norman L. Craig, ADMINISTRATOR

Box 155
Preston, MN 55965

Telephone
(507) 765-3325

RECEIVED

JUL 7 1986

WASTE MANAGEMENT BOARD

July 3, 1986

Mr. Bill Walker
Director, Minnesota Waste Management Board
7323 58th Ave. North
Crystal, Minnesota 55428

Dear Mr. Walker;

I am writing on the proposed rules relating to Solid Waste Processing Facility Capital Assistance and Demonstration Programs. I would like to comment in particular on Section 9200.9000 (Award of Grants and Loans).

Fillmore County has been looking very seriously into the process of Composting our Municipal Solid Waste (MSW). From the research of literature on Composting and the completion of the Fillmore County Feasibility Study on Composting, we believe that the Composting of MSW will work well in Fillmore County.

The just completed Feasibility Study of Composting MSW in Fillmore County proposes a facility for a total cost of $ 680,000. With a MWMB Grant of $ 200,000 and a loan of $ 200,000 the County would need to pay the difference of $ 280,000.

The people of Fillmore County are suffering through a very severe agricultural crisis. Many farmers have been forced off their farms, large numbers of stores sit empty in the Towns and tax collections are further behind than ever before. This makes it virtually impossible for the Fillmore County Commissioners to raise the taxes.

Also, the process of Composting is new to the Mid West and many people are very cautious about engaging in such a practice. Being one of the first counties to engage in the Composting of MSW in the State does present some risk. Although we have worked extensively at ironing out the problems we can see with the process, it is those unforeseen problems that may be the most unsettling.

The relative newness of composting MSW and the extreme rural crisis that we are going through, puts us in a unique situation of desperately needing this process and yet not being able to do so.

FILLMORE COUNTY

ZONING OFFICE • SOLID WASTE • AG INSPECTOR

Norman L. Craig, ADMINISTRATOR

Box 155
Preston, MN 55965

Telephone
(507) 765-3325

The Fillmore County Commissioners would feel much more at ease with the Composting process if they could see a similar sized facility in operation and if the grant portion of the financial assistance from the MWMB could be modified.

We would like to see the amount of grant money raised from the present $ 200,000 limit to $ 400,000 or 50% of the eligible cost, whichever would be less.

This, in Fillmore County's situation, would raise the grant portion to $ 340,000 and a loan of $ 200,000 would leave the County with $ 120,000 for its portion.

This would still be a large sum for the County to come up with but it would present a much more saleable picture for the public in light of the bad economic times we are enduring.

We are very grateful to the Waste Management Board for all the help we are receiving but the economy dictates that we ask for more. With our deepest regards we Thank you.

Respectfully,

Norman L. Craig

Norman L. Craig
Fillmore County Solid Waste Officer

NLC/kd

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT Waste Management Board

Office Memorandum

TO : Waste Management Board Members

DATE: July 11, 1986

FROM : Ted Troolin

PHONE:

SUBJECT: SOLID WASTE PROCESSING FACILITY DEMONSTRATION PROGRAM RULES

Background

The 1985 amendments to the Waste Management Act of 1980 that created the Board's capital assistance program also modified the existing demonstration program. Before funds in the demonstration program can be made available to local units of government, the demonstration program rules must be modified to reflect current law. In January, 1986 the Board directed the staff to amend the rules. Since then, draft amendments have been prepared and published, and public comments on those rules solicited.

At the July 24 Board meeting, the Board is scheduled to discuss the demonstration program amendments, consider the public comment received, and adopt final amended rules.

Public Comments on Amendments

On June 2, 1986 the Board published the proposed amended rules in the State Register (10 S.R. 2411) and solicited public comment on those rules. Comments were received from three counties:

- o Polk County;
- o Mahnomen County; and
- o Fillmore County

Polk County

Comment #1 - Transfer stations should not be eliminated from the demonstration program because they serve as an integral component in a feasible project and should, therefore, be included as such.

Response - Transfer stations have been proposed for removal from the types of projects eligible for assistance for several reasons:

1. Transfer stations are still eligible for assistance under the Capital Assistance Program (CAP). In addition, any transfer station associated with an incinerator or co-compost project funded under the CAP program will be subject to the 25% funding limits of the CAP program (Minn. Stat.§ 115A.54, Subd.2a). There is a perceived inequity in being able to offer some communities 50%

grant funding for transfer station development while other communities are only eligible for 25% funding. Transfer stations are an integral component of a feasible project, and may receive funding as part of that project. The most appropriate funding vehicle is the CAP program rather than the demonstration program.

2. The higher percentage financial assistance available in the demonstration program (50% of eligible capital costs as opposed to 25% of eligible capital costs in the Board's Capital Assistance Program) should be saved for waste management projects most in need of assistance. Materials recovery, chemical, physical or biological modifications, and special waste stream processing facilities are less developed in the state than are waste-to-energy, waste incineration with resource recovery, or transfer station projects, and thus are the most appropriate recipients of the greater level of financial assistance available under the demonstration program.

Comment #2
As proposed, the eligible costs include trailers, containers, and roll-off boxes necessary to transport products to market, or to transport residue from the processing facility to a solid waste land disposal facility. Polk County suggests amending this to include trailers, containers, or roll-off boxes necessary to ship residue from the processing facility to other types of waste management facilities than simply disposal facility. Also, Polk County suggests changing the wording from "solid waste land disposal facility" to "solid waste disposal facility".

Response - Staff feels that the rules as drafted already provide this latitude. The "solid waste land disposal facility" is used to conform to the definitions contained earlier in the rules.

Mahnomen County

Comment - Mahnomen County also recommends that transfer stations remain eligible under the program.
Response - Same as to Polk County.

Fillmore County

Comment - Fillmore County recommends that the maximum level of grant funding in the revised demonstration program be $400,000 per project rather than $200,000 per project.

Response: - The funds remaining in the demonstration program are limited and are unlikely to be renewed. The WMB staff has received a number of inquiries and expressions of interest regarding the funds. The level of funding included in the published rules was chosen in order to most equitably distribute the available funds to as many projects as possible while still providing financially significant levels of assistance.

An option the Board may wish to consider is retaining the maximum level of total

funding offered under the program ($400,000), but increasing the maximum grant or loan awards. The rules as published read:

> "Maximum awards. The maximum loan award shall be 50 percent of the eligible costs specified in the application or $200,000, whichever is less. The maximum grant award shall be 50 percent of the eligible costs specified in the application or $200,000, whichever is less. The maximum combined grant and loan award is $400,000."

Changing the maximum grant and loan awards to $400,000 would result in the following:

> Maximum awards. The maximum loan award shall be 50 percent of the eligible costs specified in the application or $400,000, whichever is less. The maximum grant award shall be 50 percent of the eligible costs specified in the application or $400,000, whichever is less. The maximum combined grant and loan award is $400,000.

Through this change, the Board would maintain the maximum total award and the ability to fund a number of projects, yet still increase the level of grant assistance available to individual projects.

Attached are the letters of comment and the amended rules as proposed. Board members with questions or concerns about these rules are encouraged to contact Ed Welsch or myself.

STATE OF MINNESOTA
WASTE MANAGEMENT BOARD
123 THORSON COMMUNITY CENTER
7323 58TH AVENUE NORTH
CRYSTAL, MINNESOTA 55428

METRO AREA (612) 536-0816
MN TOLL FREE 1-800-652-9747

July 15, 1986

Mark Diekman
Zoning and Sanitation Office
Mahnomen County
Mahnomen, Minnesota 56557

SUBJECT: WMB SOLID WASTE DEMONSTRATION PROGRAM RULES

Dear Mr. Diekman:

On July 24, 1986 the Waste Management Board is scheduled to discuss and adopt amendments to existing rules governing the Solid Waste Processing Facility Demonstration Program. Enclosed is an agenda for the Board meeting, which will be held in Rochester. Also enclosed is the WMB staff memo to the Board on the action.

The WMB will entertain public testimony on the proposed action. You are encouraged to attend the Rochester meeting if you wish to discuss your suggestions with the Board.

Sincerely,

Ted Troolin

Ted Troolin
Waste Management Planner

Enc: July 24, 1986 WMB Meeting Agenda
July 11, 1986 WMB Staff Memo

TT:jg:047

STATE OF MINNESOTA
WASTE MANAGEMENT BOARD
123 THORSON COMMUNITY CENTER
7323 58TH AVENUE NORTH
CRYSTAL, MINNESOTA 55428

METRO AREA (612) 536-0816
MN TOLL FREE 1-800-652-9747

July 15, 1986

Norman L. Craig, Administrator
Fillmore County
Box 155
Preston, Minnesota 55965

SUBJECT: WMB SOLID WASTE DEMONSTRATION PROGRAM RULES

Dear Mr. Craig:

On July 24, 1986 the Waste Management Board is scheduled to discuss and adopt amendments to existing rules governing the Solid Waste Processing Facility Demonstration Program. Enclosed is an agenda for the Board meeting, which will be held in Rochester. Also enclosed is the WMB staff memo to the Board on the action.

The WMB will entertain public testimony on the proposed action. You are encouraged to attend the Rochester meeting if you wish to discuss your suggestions with the Board.

Sincerely,

Ted Troolin

Ted Troolin
Waste Management Planner

Enc: July 24, 1986 WMB Meeting Agenda
July 11, 1986 WMB Staff Memo

TT:jg:047

STATE OF MINNESOTA
WASTE MANAGEMENT BOARD
123 THORSON COMMUNITY CENTER
7323 58TH AVENUE NORTH
CRYSTAL, MINNESOTA 55428

METRO AREA (612) 536-0816
MN TOLL FREE, 1-800-652-9747

July 15, 1986

Michael P. Rardin
Polk County Highway Department
TH 75 and CR 233
P.O. Box 27
Crookston, Minnesota 56716

SUBJECT: WMB SOLID WASTE DEMONSTRATION PROGRAM RULES

Dear Mr. Rardin:

On July 24, 1986 the Waste Management Board is scheduled to discuss and adopt amendments to existing rules governing the Solid Waste Processing Facility Demonstration Program. Enclosed is an agenda for the Board meeting, which will be held in Rochester. Also enclosed is the WMB staff memo to the Board on the action.

The WMB will entertain public testimony on the proposed action. You are encouraged to attend the Rochester meeting if you wish to discuss your suggestions with the Board.

Sincerely,

Ted Troolin

Ted Troolin
Waste Management Planner

Enc: July 24, 1986 WMB Meeting Agenda
July 11, 1986 WMB Staff Memo

TT:jg:047

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed Adoption of Amendments to Existing Rules of the Waste Management Board Governing the Solid Waste Processing Facility Demonstration Program

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Special Assistant Attorney General Ann E. Cohen, do hereby declare that I have examined the 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.

ANN E. COHEN
Special Assistant
Attorney General

Dated: August 5, 1986

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

August 5, 1986

RECEIVED
AUG 06 1986
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

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

RE: Proposed Adoption of Amendments to Existing Rules of the Waste Management Board Governing the Solid Waste Processing Facility Demonstration Program

Dear Mr. Miles:

On July 24, 1986, the Waste Management Board adopted amendments to existing rules governing the Solid Waste Processing Facility Demonstration Program. Enclosed for your review are the following:

1. Amended Rules as adopted (original and three copies).
2. Order Adopting Amended Rules.
3. Certificate of Board's Authorizing Resolution Adopting Amended Rules.
4. Order for Publication of Notice of Intent to Adopt Amendments to Existing Rules and Proposed Amended Rules.
5. Certificate of Board's Authorizing Resolution ordering publication of Notice of Intent and Proposed Amended Rules.
6. Notice of Intent to Adopt Amended Rules and Amended Rules as Proposed, 10 State Register 2412, June 2, 1986.
7. Written comments received during the comment period from Polk County, Mahnomen County, and Fillmore County.
8. Affidavit of Mailing; Notice of Intent to Adopt Amended Rules and Proposed Amended Rules as mailed.
9. Mailing List Certificate and mailing list.
10. Findings of Fact and Conclusions.
11. Statement of Compliance with Rulemaking Procedures.

12. Statement of Need and Reasonableness.

Please note that there was one modification to the amended rules as published. This modification, which increased the amount of grant funding available under the rule, was based on a comment from Fillmore County. Because the modification does not change the eligibility of applicants or projects or the total amount of funding available per project, it should not be found to be a substantial change. Please also note that no-one requested to be notified of the submission of the amended rules to the Attorney General.

Sincerely,

Ann E. Cohen

Ann E. Cohen
Special Assistant
Attorney General