

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

LE REVIEW CHECKLIST

File No. 1406
DATE RECEIVED 9/29/87
REVIEW DATE 10/7/87
DUE DATE 10/12/87

APPROVED
DISAPPROVED X 10/8/87 ga2
WITHDRAWN

Docket No. 05.0009. ~~F408~~ 0696
ADOPTED W/O HEARING X
EMERGENCY RULE

REVISOR APPROVED X
REVISOR DISAPPROVED
FIELD W/SEC.STATE
RETURNED TO AGENCY

✓ Rule as adopted (4 copies)
✓ ~~Notice to Solicit Outside Information/Opinion~~
~~Date published in State Register~~
~~Comments~~
~~Petition for Adoption of a Rule~~
✓ Board's Authorizing Resolution
✓ Proposed rule
yes Revisor's Certificate
✓ Notice of Intent to Adopt Rule
115A.49-53 Statutory Authority
no Small Business Statement
no Expenditure of public money statement
yes Signature
✓ Statement of Need and Reasonableness
yes Small Business Statement
no Fees - § 16A.128
✓ Affidavit of Mailing Notice of Intent to Adopt Rule
7/28/87 Date (30)/25 days before adoption
✓ Publication in State Register
7/27/87 Date (30)/25 days before adoption
✓ Resolution Adopting
✓ Findings of Fact, Conclusions & Order Adopting
9/10/87 Date
✓ Written requests, submissions or comments
✓ Declaration of attorney
Ann Cohen Name of SAAG representing agency
~~Notice of Submission to Attorney General~~
~~Affidavit of Mailing Notice to Attorney General~~

ATTORNEY GENERAL

October 9, 1987

ANN E. COHEN
Special Assistant
Attorney General

JULIE A. LEPPINK

7-3493

In the Matter of the Adopted Rules Relating to
Solid Waste Reduction and Separation Grand Program

The above-referenced rule has been approved as to its legality by the Attorney General on October 8, 1987.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth 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.

JAL:nah

Enclosures

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

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

AG Copy

Minnesota Waste Management Board

Adopted Permanent Rules Relating to the Solid Waste Reduction and Separation Grant Program

Rules as Adopted

9200.6900 DEFINITIONS.

Subpart 1. **Scope.** The terms defined in Minnesota Statutes, section 115A.03, and in this part apply to parts 9200.6900 to 9200.6906, unless the context requires otherwise.

Subp. 2. **Chair.** "Chair" means the chief executive officer of the board.

Subp. 3. **Comprehensive solid waste management plan.** "Comprehensive solid waste management plan" means a written plan prepared under Minnesota Statutes, section 115A.46.

Subp. 4. **Household hazardous waste.** "Household hazardous waste" has the meaning given it in Minnesota Statutes, section 115A.96, subdivision 1.

Subp. 5. **Household hazardous waste management.** "Household hazardous waste management" means activities that are intended to affect or control the generation of household hazardous waste, and activities that provide for or control the collection, processing, and disposal of household hazardous waste.

Subp. 6. **Person.** "Person" has the meaning given it in Minnesota Statutes, section 116.06, but does not include the board.

Subp. 7. **Project.** "Project" means a solid waste reduction or separation project.

Subp. 8. **Solid waste.** "Solid waste" has the meaning given it in Minnesota Statutes, section 116.06, subdivision 10.

Subp. 9. **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

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or devices designed to move earth during burial of wastes and machinery or devices designed 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. 10. **Waste processing equipment.** "Waste processing equipment" means machinery or devices used as an integral component of a waste processing facility.

Subp. 11. **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.

Subp. 12. **Waste reduction.** "Waste reduction" means decreasing the generation of solid waste at its source either by redesigning products and packaging or by changing procurement, consumption, or waste generation habits.

Subp. 13. **Waste separation.** "Waste separation" means the process of segregation, accumulation, or collection of recyclable or compostable solid wastes.

9200.6901 PURPOSE AND ADMINISTRATION.

Parts 9200.6900 to 9200.6906 implement the solid waste reduction and separation grant program created and described in Minnesota Statutes, sections 115A.49 to 115A.53, by establishing the substantive criteria and procedural conditions under which the board may award grants for the costs of solid waste reduction and separation projects. Applicants for grants under this program are encouraged to contact the chair and request a preapplication review of proposed projects.

9200.6902 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. Eligible applicants may apply for grants on behalf

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of any person who is not an eligible applicant, but the named recipient shall be the city, county, or district.

Subp. 2. **Eligible projects.** Only solid waste reduction projects, solid waste separation projects, and collection systems for separated solid wastes are eligible for grants. To be eligible for funding, a project must be a new project or an expansion of an existing project. A project may include household hazardous waste management, but may not consist solely of household hazardous waste management.

Subp. 3. **Eligible costs.** Grant funding is available for development costs as defined in subpart 4 and implementation costs as defined in subpart 5. Development costs shall be no more than 20 percent of the total grant award.

Subp. 4. **Development costs.** Development costs are the costs incurred in the preparation of the application and documentation required under part 9200.6903.

Subp. 5. **Implementation costs.** Implementation costs are limited to:

A. capital costs of waste reduction and separation equipment such as source separation collection vehicles, collection trailers, drop boxes, curbside collection bins, and other containers used exclusively for the collection or transport of separated wastes or the management of household hazardous waste; and

B. costs of any necessary legal, financial, economic, educational, marketing, social, governmental, and administrative activities required for the implementation of the project.

Subp. 6. **Household hazardous waste disposal costs.** The cost of household hazardous waste disposal is eligible provided no feasible alternative to disposal exists and no funding is available from federal, state, metropolitan, local, or private sources to fund the cost of disposal.

Subp. 7. **Ineligible costs.** Ineligible costs include any costs related to the purchase of real property, waste processing equipment, structures necessary to house waste collection or processing equipment, and costs related to solid waste disposal

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facilities and equipment used exclusively for disposal of solid waste.

9200.6903 INFORMATION AND DOCUMENTATION REQUIRED IN GRANT APPLICATION.

An application for a solid waste reduction and separation project grant shall include the following information, as required in the application form 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. a resolution from each political subdivision participating in the project that demonstrates that it will implement the project, provide necessary local financing, and accept and exercise the government powers necessary to develop and operate the project;

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

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

F. the total estimated cost of the project;

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

H. the amount of grant funding requested;

I. the amount and source of all other money to be used to fund the project, including the amount of money to be contributed by the applicant;

J. a detailed description of the proposed project, including the amounts of each type of waste to be reduced or separated;

K. a comprehensive solid waste management plan developed under Minnesota Statutes, section 115A.46;

L. for waste separation projects, documentation that waste supplies will be committed to the project for the life of

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the project and that the applicant has the mechanism to commit the wastes;

M. for waste separation projects, a preliminary market analysis for recovered materials, including documentation of commitments to market recovered materials, such as letters of intent or contracts;

N. a discussion of the need for an education program to be developed in conjunction with the project and, if such a program is proposed, a description of the program;

O. a detailed description of any proposed household hazardous waste management program and documentation that the applicant has or will obtain the capacity to handle household hazardous waste properly;

P. a discussion of the status of required permits from permitting agencies;

Q. a discussion of any potential adverse environmental effects from the project and how they will be mitigated;

R. a work plan that demonstrates how the applicant will implement the project, including:

(1) the specific tasks to be completed under the grant;

(2) the work hours of staff, consultants, and employees of local government units needed to complete each of the tasks;

(3) the costs of completing each task, including an explanation of how the cost was calculated;

(4) the time schedule needed to complete each task; and

(5) a description of the reports, documents, public education material, market analyses, and other written materials to be developed;

S. documentation of costs incurred by the applicant in preparing the grant application, if the applicant seeks reimbursement for development costs; and

T. if the applicant requests priority under Minnesota

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Statutes, section 115A.49, documentation that:

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

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

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

9200.6904 REVIEW AND EVALUATION OF APPLICATIONS.

Subpart 1. **Determination of eligibility and completeness.** Upon receipt of an application, the chair shall determine the eligibility of the applicant, the eligibility of the project identified in the application, the eligibility of the costs 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 30 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. If the inadequacies are not corrected within the time allowed, the application is rejected, and the applicant must submit a new application to be considered again. If the chair determines that the application is complete and the project is eligible to receive grant funds, the chair shall forward the application to the board for its evaluation.

OK discretion? Perhaps OK because limited by Board? 9200.6904 (4)

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Subp. 3. **Evaluation of applications.** The board shall evaluate the application. In order to receive funding, the application must demonstrate that:

A. the project is conceptually and technically feasible;

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

C. operating revenue from the project, considering the availability and security of sources of solid waste and of markets for recyclable materials together with any proposed federal, state, local, or private financial assistance, will be sufficient to pay all costs; and

D. 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, and the effects of the alternatives on the cost to generators, as required by Minnesota Statutes, section 115A.46.

Subp. 4. **Board determination.** If the board determines that the application satisfies the requirements of subpart 3, the board shall determine the amount of the grant award and the applicant shall be so notified. The board shall fund applications that satisfy the criteria established in subpart 3 in the order that the applications come before the board for decision. If applications come before the board at the same time and program funds are not adequate to fund all applications before the board, the board shall give priority to applications that meet the priority criteria established in Minnesota Statutes, section 115A.49. If the board determines that the application fails to satisfy the requirements of subpart 3, 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. 5. **Consultation with other agencies.** In its evaluation of the application, the board shall consider any

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recommendations provided by the Pollution Control Agency, the State Planning Agency, the appropriate regional development commission, the Metropolitan Council, and other state and regional authorities.

9200.6905 LIMITATIONS.

Subpart 1. **Matching funds required.** A grant awarded under parts 9200.6900 to 9200.6906 must be matched by federal, local, private, or other state grants, loans, or contributions, the total of which must equal the amount of the grant applied for. Local government funding may be in the form of cash or in-kind matching funds.

Subp. 2. **Maximum grant.** The maximum grant award for each eligible project is 50 percent of the total eligible costs, or $50,000 whichever is less.

Subp. 3. **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, whether or not the applicant has applied for funds. 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, other than development costs incurred in the preparation of the grant application.

Subp. 4. **Limitations on disbursal of funds.** No grant money shall be paid to an applicant until the board has determined the total estimated 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 bond proceeds, or other funds of the recipient, to a fund for the development and implementation of the project.

9200.6906 GRANT AGREEMENT.

Subpart 1. **Requirements.** No grant money shall be paid to

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an applicant awarded a grant until that applicant has executed a written grant agreement with the board. The grant agreement shall:

A. incorporate by reference the final grant application submitted to the board in accordance with part 9200.6903;

B. 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;

C. provide that any cost overruns incurred in the development and implementation of the proposed project shall be the sole responsibility of the recipient;

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

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

Subp. 2. **Rescission of grant.** If a project is not developed and implemented 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 a variance from the agreement is justified and that the original objectives of the project will be accomplished.

Subp. 3. **Disbursement.** The board shall pay grant money to the recipient in accordance with the payment schedule in the grant agreement.

REPEALER. Minnesota Rules, parts 7035.6500, 7035.6600, 7035.6700, 7035.6800, 7035.6900, 7035.7000, 7035.7100, 7035.7200, 7035.7300, 7035.7400, 7035.7500, and 7035.7600 are repealed.

Approved
by Revisor _____

2:38 PM

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
OCT 8 1987
Joan Anderson Growe
Secretary of State

APPROVED AS TO FORM AND LEGALITY
October 8 1987
HUBERT H. HUMPHREY III
ATTORNEY GENERAL
BY Julie A. Jespersen
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

RESOLUTION WMB-024-87

RESOLVED, that the Waste Management Board determines that the adoption of proposed rules governing the Solid Waste Reduction and Separation Program under Minn. Stat. §§ 115A.49 - .53 (as amended by Act of June 1, 1987, Minn. Laws 1987, ch. 348) will not be controversial in nature and that the Chairperson of the Board is hereby granted the authority to sign an order of the Board directing that notice be given of the Board's intent to adopt, without a public hearing, the attached rules governing applications for assistance under the Solid Waste Reduction and Separation Program, Minn. Rules Parts 9200.6900 - .6903, to sign the Notice thereof, and to perform any acts incidental thereto, including making any form changes in the rules that the Revisor of Statutes requires the Board to make in order to obtain the Revisor's certification as required by Minn. Stat. § 14.07, subd. 2 (1986).

BE IT FURTHER RESOLVED, that in the event a public hearing becomes necessary, the Chairperson is hereby granted the authority and directed to call a hearing for the purpose of promulgating said rules as well as to perform any and all acts incidental thereto, including but not limited to signing an Order for and Notice of Hearing, as well as acting as the Board's representative at all hearings.

Dated: June 25, 1987

Joseph M. Pavelich, Chair
Waste Management Board

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed Adoption of Rules of the Waste Management Board Governing the Solid Waste Reduction and Separation Program

CERTIFICATE OF BOARDS AUTHORIZING RESOLUTION

I, Joseph M. Pavelich, do hereby certify that I am a member and the Chairperson of the Waste Management Board, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Waste Management Board duly and properly called and held on the 25th day of June, 1987, 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 rules governing the Solid Waste Reduction and Separation Program under Minn. Stat. §§ 115A.49 - 53, (as amended by Act of June 1, 1987, Minn. Laws 1987, ch. 348) will not be controversial in nature and that the Chairperson of the Board is hereby granted the authority to sign an order of the Board directing that notice be given of the Board's intent to adopt, without a public hearing, the attached rules governing applications for assistance under the Solid Waste Reduction and Separation Program, Minn. Rules Parts 9200.6900 to .6903, to sign the Notice thereof, and to perform any acts incidental thereto, including making any form changes in the rules that the Revisor of Statutes requires the Board to make in order to obtain the Revisor's certification as required by Minn. Stat. § 14.07, subd. 2 (1986).

BE IT FURTHER RESOLVED, that in the event a public hearing becomes necessary, the Chairperson is hereby granted the authority and directed to call a hearing for the purpose of promulgating said rules as well as to perform any and all acts incidental thereto, including but not limited to signing an Order for the Notice of Hearing, as well as acting as the Board's representative at all hearings.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 25th day of June, 1987.

Attested by
Waste Management Board Member

Joseph M. Pavelich, Chair
Waste Management Board

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Minnesota Waste Management Board

Proposed Permanent Rules Relating to the Solid Waste Reduction and Separation Grant Program

Rules as Proposed (all new material)

9200.6900 DEFINITIONS.

Subpart 1. **Scope.** The terms defined in Minnesota Statutes, section 115A.03, and in this part apply to parts 9200.6900 to 9200.6906, unless the context requires otherwise.

Subp. 2. **Chair.** "Chair" means the chief executive officer of the board.

Subp. 3. **Comprehensive solid waste management plan.** "Comprehensive solid waste management plan" means a written plan prepared under Minnesota Statutes, section 115A.46.

Subp. 4. **Household hazardous waste.** "Household hazardous waste" has the meaning given it in Minnesota Statutes, section 115A.96, subdivision 1.

Subp. 5. **Household hazardous waste management.** "Household hazardous waste management" means activities that are intended to affect or control the generation of household hazardous waste, and activities that provide for or control the collection, processing, and disposal of household hazardous waste.

Subp. 6. **Person.** "Person" has the meaning given it in Minnesota Statutes, section 116.06, but does not include the board.

Subp. 7. **Project.** "Project" means a solid waste reduction or separation project.

Subp. 8. **Solid waste.** "Solid waste" has the meaning given it in Minnesota Statutes, section 116.06, subdivision 10.

Subp. 9. **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

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or devices designed to move earth during burial of wastes and machinery or devices designed 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. 10. **Waste processing equipment.** "Waste processing equipment" means machinery or devices used as an integral component of a waste processing facility.

Subp. 11. **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.

Subp. 12. **Waste reduction.** "Waste reduction" means decreasing the generation of solid waste at its source either by redesigning products and packaging or by changing procurement, consumption, or waste generation habits.

Subp. 13. **Waste separation.** "Waste separation" means the process of segregation, accumulation, or collection of recyclable or compostable solid wastes.

9200.6901 PURPOSE AND ADMINISTRATION.

Parts 9200.6900 to 9200.6906 implement the solid waste reduction and separation grant program created and described in Minnesota Statutes, sections 115A.49 to 115A.53, by establishing the substantive criteria and procedural conditions under which the board may award grants for the costs of solid waste reduction and separation projects. Applicants for grants under this program are encouraged to contact the chair and request a preapplication review of proposed projects.

9200.6902 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. Eligible applicants may apply for grants on behalf

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of any person who is not an eligible applicant, but the named recipient shall be the city, county, or district.

Subp. 2. **Eligible projects.** Only solid waste reduction projects, solid waste separation projects, and collection systems for separated solid wastes are eligible for grants. To be eligible for funding, a project must be a new project or an expansion of an existing project. A project may include household hazardous waste management, but may not consist solely of household hazardous waste management.

Subp. 3. **Eligible costs.** Grant funding is available for development costs as defined in subpart 4 and implementation costs as defined in subpart 5. Development costs shall be no more than 20 percent of the total grant award.

Subp. 4. **Development costs.** Development costs are the costs incurred in the preparation of the application and documentation required under part 9200.6903.

Subp. 5. **Implementation costs.** Implementation costs are limited to:

A. capital costs of waste reduction and separation equipment such as source separation collection vehicles, collection trailers, drop boxes, curbside collection bins, and other containers used exclusively for the collection or transport of separated wastes or the management of household hazardous waste; and

B. costs of any necessary legal, financial, economic, educational, marketing, social, governmental, and administrative activities required for the implementation of the project.

Subp. 6. **Household hazardous waste disposal costs.** The cost of household hazardous waste disposal is eligible provided no feasible alternative to disposal exists and no funding is available from federal, state, metropolitan, local, or private sources to fund the cost of disposal.

Subp. 7. **Ineligible costs.** Ineligible costs include any costs related to the purchase of real property, waste processing equipment, structures necessary to house waste collection or processing equipment, and costs related to solid waste disposal

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facilities and equipment used exclusively for disposal of solid waste.

9200.6903 INFORMATION AND DOCUMENTATION REQUIRED IN GRANT APPLICATION.

An application for a solid waste reduction and separation project grant shall include the following information, as required in the application form 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. a resolution from each political subdivision participating in the project that demonstrates that it will implement the project, provide necessary local financing, and accept and exercise the government powers necessary to develop and operate the project;

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

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

F. the total estimated cost of the project;

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

H. the amount of grant funding requested;

I. the amount and source of all other money to be used to fund the project, including the amount of money to be contributed by the applicant;

J. a detailed description of the proposed project, including the amounts of each type of waste to be reduced or separated;

K. a comprehensive solid waste management plan developed under Minnesota Statutes, section 115A.46;

L. for waste separation projects, documentation that waste supplies will be committed to the project for the life of

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the project and that the applicant has the mechanism to commit the wastes;

M. for waste separation projects, a preliminary market analysis for recovered materials, including documentation of commitments to market recovered materials, such as letters of intent or contracts;

N. a discussion of the need for an education program to be developed in conjunction with the project and, if such a program is proposed, a description of the program;

O. a detailed description of any proposed household hazardous waste management program and documentation that the applicant has or will obtain the capacity to handle household hazardous waste properly;

P. a discussion of the status of required permits from permitting agencies;

Q. a discussion of any potential adverse environmental effects from the project and how they will be mitigated;

R. a work plan that demonstrates how the applicant will implement the project, including:

(1) the specific tasks to be completed under the grant;

(2) the work hours of staff, consultants, and employees of local government units needed to complete each of the tasks;

(3) the costs of completing each task, including an explanation of how the cost was calculated;

(4) the time schedule needed to complete each task; and

(5) a description of the reports, documents, public education material, market analyses, and other written materials to be developed;

S. documentation of costs incurred by the applicant in preparing the grant application, if the applicant seeks reimbursement for development costs; and

T. if the applicant requests priority under Minnesota

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Statutes, section 115A.49, documentation that:

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

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

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

9200.6904 REVIEW AND EVALUATION OF APPLICATIONS.

Subpart 1. **Determination of eligibility and completeness.** Upon receipt of an application, the chair shall determine the eligibility of the applicant, the eligibility of the project identified in the application, the eligibility of the costs 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 30 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. If the inadequacies are not corrected within the time allowed, the application is rejected, and the applicant must submit a new application to be considered again. If the chair determines that the application is complete and the project is eligible to receive grant funds, the chair shall forward the application to the board for its evaluation.

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Subp. 3. **Evaluation of applications.** The board shall evaluate the application. In order to receive funding, the application must demonstrate that:

A. the project is conceptually and technically feasible;

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

C. operating revenue from the project, considering the availability and security of sources of solid waste and of markets for recyclable materials together with any proposed federal, state, local, or private financial assistance, will be sufficient to pay all costs; and

D. 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, and the effects of the alternatives on the cost to generators, as required by Minnesota Statutes, section 115A.46.

Subp. 4. **Board determination.** If the board determines that the application satisfies the requirements of subpart 3, the board shall determine the amount of the grant award and the applicant shall be so notified. The board shall fund applications that satisfy the criteria established in subpart 3 in the order that the applications come before the board for decision. If applications come before the board at the same time and program funds are not adequate to fund all applications before the board, the board shall give priority to applications that meet the priority criteria established in Minnesota Statutes, section 115A.49. If the board determines that the application fails to satisfy the requirements of subpart 3, 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. 5. **Consultation with other agencies.** In its evaluation of the application, the board shall consider any

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recommendations provided by the Pollution Control Agency, the State Planning Agency, the appropriate regional development commission, the Metropolitan Council, and other state and regional authorities.

9200.6905 LIMITATIONS.

Subpart 1. **Matching funds required.** A grant awarded under parts 9200.6900 to 9200.6906 must be matched by federal, local, private, or other state grants, loans, or contributions, the total of which must equal the amount of the grant applied for. Local government funding may be in the form of cash or in-kind matching funds.

Subp. 2. **Maximum grant.** The maximum grant award for each eligible project is $50,000.

Subp. 3. **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, whether or not the applicant has applied for funds. 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, other than development costs incurred in the preparation of the grant application.

Subp. 4. **Limitations on disbursal of funds.** No grant money shall be paid to an applicant until the board has determined the total estimated 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 bond proceeds, or other funds of the recipient, to a fund for the development and implementation of the project.

9200.6906 GRANT AGREEMENT.

Subpart 1. **Requirements.** No grant money shall be paid to an applicant awarded a grant until that applicant has executed a

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written grant agreement with the board. The grant agreement shall:

A. incorporate by reference the final grant application submitted to the board in accordance with part 9200.6903;

B. 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;

C. provide that any cost overruns incurred in the development and implementation of the proposed project shall be the sole responsibility of the recipient;

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

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

Subp. 2. **Rescission of grant.** If a project is not developed and implemented 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 a variance from the agreement is justified and that the original objectives of the project will be accomplished.

Subp. 3. **Disbursement.** The board shall pay grant money to the recipient in accordance with the payment schedule in the grant agreement.

REPEALER. Minnesota Rules, parts 7035.6500, 7035.6600, 7035.6700, 7035.6800, 7035.6900, 7035.7000, 7035.7100, 7035.7200, 7035.7300, 7035.7400, 7035.7500, and 7035.7600 are repealed.

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to the Solid Waste Reduction and Separation Grant Program

AGENCY: Waste Management Board

MINNESOTA RULES: Chapters 9200 and 7035

The attached rules are approved for publication
in the State Register

David S. Niss
Assistant Revisor

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

3

In the Matter of the Proposed Adoption of New Rules of the Waste Management Board Governing the Solid Waste Reduction and Separation Program	))))	NOTICE OF INTENT TO ADOPT NEW 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 rules 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-.53 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,323 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, inciuding the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as 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.

JOSEPH M. PAVELICH, CHAIR
Waste Management Board

Minnesota Waste Management Board

Proposed Permanent Rules Relating to the Solid Waste Reduction and Separation Grant Program

Rules as Proposed (all new material)

9200.6900 DEFINITIONS.

Subpart 1. **Scope.** The terms defined in Minnesota Statutes, section 115A.03, and in this part apply to parts 9200.6900 to 9200.6906, unless the context requires otherwise.

Subp. 2. **Chair.** "Chair" means the chief executive officer of the board.

Subp. 3. **Comprehensive solid waste management plan.** "Comprehensive solid waste management plan" means a written plan prepared under Minnesota Statutes, section 115A.46.

Subp. 4. **Household hazardous waste.** "Household hazardous waste" has the meaning given it in Minnesota Statutes, section 115A.96, subdivision 1.

Subp. 5. **Household hazardous waste management.** "Household hazardous waste management" means activities that are intended to affect or control the generation of household hazardous waste, and activities that provide for or control the collection, processing, and disposal of household hazardous waste.

Subp. 6. **Person.** "Person" has the meaning given it in Minnesota Statutes, section 116.06, but does not include the board.

Subp. 7. **Project.** "Project" means a solid waste reduction or separation project.

Subp. 8. **Solid waste.** "Solid waste" has the meaning given it in Minnesota Statutes, section 116.06, subdivision 10.

Subp. 9. **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

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or devices designed to move earth during burial of wastes and machinery or devices designed 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. 10. **Waste processing equipment.** "Waste processing equipment" means machinery or devices used as an integral component of a waste processing facility.

Subp. 11. **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.

Subp. 12. **Waste reduction.** "Waste reduction" means decreasing the generation of solid waste at its source either by redesigning products and packaging or by changing procurement, consumption, or waste generation habits.

Subp. 13. **Waste separation.** "Waste separation" means the process of segregation, accumulation, or collection of recyclable or compostable solid wastes.

9200.6901 PURPOSE AND ADMINISTRATION.

Parts 9200.6900 to 9200.6906 implement the solid waste reduction and separation grant program created and described in Minnesota Statutes, sections 115A.49 to 115A.53, by establishing the substantive criteria and procedural conditions under which the board may award grants for the costs of solid waste reduction and separation projects. Applicants for grants under this program are encouraged to contact the chair and request a preapplication review of proposed projects.

9200.6902 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. Eligible applicants may apply for grants on behalf

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of any person who is not an eligible applicant, but the named recipient shall be the city, county, or district.

Subp. 2. **Eligible projects.** Only solid waste reduction projects, solid waste separation projects, and collection systems for separated solid wastes are eligible for grants. To be eligible for funding, a project must be a new project or an expansion of an existing project. A project may include household hazardous waste management, but may not consist solely of household hazardous waste management.

Subp. 3. **Eligible costs.** Grant funding is available for development costs as defined in subpart 4 and implementation costs as defined in subpart 5. Development costs shall be no more than 20 percent of the total grant award.

Subp. 4. **Development costs.** Development costs are the costs incurred in the preparation of the application and documentation required under part 9200.6903.

Subp. 5. **Implementation costs.** Implementation costs are limited to:

A. capital costs of waste reduction and separation equipment such as source separation collection vehicles, collection trailers, drop boxes, curbside collection bins, and other containers used exclusively for the collection or transport of separated wastes or the management of household hazardous waste; and

B. costs of any necessary legal, financial, economic, educational, marketing, social, governmental, and administrative activities required for the implementation of the project.

Subp. 6. **Household hazardous waste disposal costs.** The cost of household hazardous waste disposal is eligible provided no feasible alternative to disposal exists and no funding is available from federal, state, metropolitan, local, or private sources to fund the cost of disposal.

Subp. 7. **Ineligible costs.** Ineligible costs include any costs related to the purchase of real property, waste processing equipment, structures necessary to house waste collection or processing equipment, and costs related to solid waste disposal

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facilities and equipment used exclusively for disposal of solid waste.

9200.6903 INFORMATION AND DOCUMENTATION REQUIRED IN GRANT APPLICATION.

An application for a solid waste reduction and separation project grant shall include the following information, as required in the application form 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. a resolution from each political subdivision participating in the project that demonstrates that it will implement the project, provide necessary local financing, and accept and exercise the government powers necessary to develop and operate the project;

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

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

F. the total estimated cost of the project;

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

H. the amount of grant funding requested;

I. the amount and source of all other money to be used to fund the project, including the amount of money to be contributed by the applicant;

J. a detailed description of the proposed project, including the amounts of each type of waste to be reduced or separated;

K. a comprehensive solid waste management plan developed under Minnesota Statutes, section 115A.46;

L. for waste separation projects, documentation that waste supplies will be committed to the project for the life of

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the project and that the applicant has the mechanism to commit the wastes;

M. for waste separation projects, a preliminary market analysis for recovered materials, including documentation of commitments to market recovered materials, such as letters of intent or contracts;

N. a discussion of the need for an education program to be developed in conjunction with the project and, if such a program is proposed, a description of the program;

O. a detailed description of any proposed household hazardous waste management program and documentation that the applicant has or will obtain the capacity to handle household hazardous waste properly;

P. a discussion of the status of required permits from permitting agencies;

Q. a discussion of any potential adverse environmental effects from the project and how they will be mitigated;

R. a work plan that demonstrates how the applicant will implement the project, including:

(1) the specific tasks to be completed under the grant;

(2) the work hours of staff, consultants, and employees of local government units needed to complete each of the tasks;

(3) the costs of completing each task, including an explanation of how the cost was calculated;

(4) the time schedule needed to complete each task; and

(5) a description of the reports, documents, public education material, market analyses, and other written materials to be developed;

S. documentation of costs incurred by the applicant in preparing the grant application, if the applicant seeks reimbursement for development costs; and

T. if the applicant requests priority under Minnesota

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Statutes, section 115A.49, documentation that:

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

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

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

9200.6904 REVIEW AND EVALUATION OF APPLICATIONS.

Subpart 1. **Determination of eligibility and completeness.** Upon receipt of an application, the chair shall determine the eligibility of the applicant, the eligibility of the project identified in the application, the eligibility of the costs 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 30 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. If the inadequacies are not corrected within the time allowed, the application is rejected, and the applicant must submit a new application to be considered again. If the chair determines that the application is complete and the project is eligible to receive grant funds, the chair shall forward the application to the board for its evaluation.

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Subp. 3. **Evaluation of applications.** The board shall evaluate the application. In order to receive funding, the application must demonstrate that:

A. the project is conceptually and technically feasible;

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

C. operating revenue from the project, considering the availability and security of sources of solid waste and of markets for recyclable materials together with any proposed federal, state, local, or private financial assistance, will be sufficient to pay all costs; and

D. 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, and the effects of the alternatives on the cost to generators, as required by Minnesota Statutes, section 115A.46.

Subp. 4. **Board determination.** If the board determines that the application satisfies the requirements of subpart 3, the board shall determine the amount of the grant award and the applicant shall be so notified. The board shall fund applications that satisfy the criteria established in subpart 3 in the order that the applications come before the board for decision. If applications come before the board at the same time and program funds are not adequate to fund all applications before the board, the board shall give priority to applications that meet the priority criteria established in Minnesota Statutes, section 115A.49. If the board determines that the application fails to satisfy the requirements of subpart 3, 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. 5. **Consultation with other agencies.** In its evaluation of the application, the board shall consider any

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recommendations provided by the Pollution Control Agency, the State Planning Agency, the appropriate regional development commission, the Metropolitan Council, and other state and regional authorities.

9200.6905 LIMITATIONS.

Subpart 1. **Matching funds required.** A grant awarded under parts 9200.6900 to 9200.6906 must be matched by federal, local, private, or other state grants, loans, or contributions, the total of which must equal the amount of the grant applied for. Local government funding may be in the form of cash or in-kind matching funds.

Subp. 2. **Maximum grant.** The maximum grant award for each eligible project is $50,000.

Subp. 3. **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, whether or not the applicant has applied for funds. 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, other than development costs incurred in the preparation of the grant application.

Subp. 4. **Limitations on disbursal of funds.** No grant money shall be paid to an applicant until the board has determined the total estimated 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 bond proceeds, or other funds of the recipient, to a fund for the development and implementation of the project.

9200.6906 GRANT AGREEMENT.

Subpart 1. **Requirements.** No grant money shall be paid to an applicant awarded a grant until that applicant has executed a

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written grant agreement with the board. The grant agreement shall:

A. incorporate by reference the final grant application submitted to the board in accordance with part 9200.6903;

B. 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;

C. provide that any cost overruns incurred in the development and implementation of the proposed project shall be the sole responsibility of the recipient;

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

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

Subp. 2. Rescission of grant. If a project is not developed and implemented 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 a variance from the agreement is justified and that the original objectives of the project will be accomplished.

Subp. 3. Disbursement. The board shall pay grant money to the recipient in accordance with the payment schedule in the grant agreement.

REPEALER. Minnesota Rules, parts 7035.6500, 7035.6600, 7035.6700, 7035.6800, 7035.6900, 7035.7000, 7035.7100, 7035.7200, 7035.7300, 7035.7400, 7035.7500, and 7035.7600 are repealed.

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WASTE MANAGEMENT BOARD SOLID WASTE REDUCTION AND SEPARATION PROGRAM

STATEMENT OF NEED AND REASONABLENESS

4

I. INTRODUCTION

The legislature has established a program to encourage cities, counties, and solid waste management districts in the development and implementation of solid waste management projects and to transfer the knowledge and experience gained from such projects to other communities in the State. Minn. Stat. § 115A.49 (1986). The legislature has instructed that the program be administered to encourage local communities to develop feasible and prudent alternatives to disposal, including waste reduction and waste separation by generators, collectors, and other persons. Id.

In 1987, the legislature instructed the Waste Management Board (Board) to provide technical assistance and grants to projects which demonstrate waste reduction, waste separation by generators, collectors, and others persons, and collection systems for separated waste. Minn. Stat. § 115A.53 as amended by Minn. Laws 1987, ch. 348.

The subject of this rulemaking proceeding is a set of rules to govern the award of grants for waste reduction and separation projects made pursuant to Minn. Stat. § 115A.54 (Program). The proposed rules seek to establish a mechanism to ensure the orderly administration of the Program. The proposed rules identify projects and costs that may be funded through the Program; set up application procedures and

timetables; establish criteria for the review of projects and for the award of grants; set limits on the amount of funds that can be awarded; and specify contents of grant agreements.

The proposed rules seek to fulfill the Board's statutory mandate as set out in Minn. Stat. §§ 115A .49-.53, as amended and to meet the specific goals established for this grant program.

II. HISTORY

This program was originally created under the Waste Management Act of 1980 (Minn. Laws 1980, ch. 564, art. 6) as the Minnesota Solid Waste Management Demonstration Program for Waste Reduction and Source Separation. The original waste reduction and separation program was administered by the Minnesota Pollution Control Agency and funded the study and demonstration of solid waste reduction and source separation projects. In the 1987 amendments to the waste Management Act, the legislature changed the focus of the program from demonstration of new technologies to the implementation of proven waste reduction and separation technologies, and made the Waste Management Board the agency administering the program.

III. NEED FOR THE PROPOSED RULES

The proposed rules are needed to make specific and to clarify the criteria and procedures established by the legislature in Minn. Stat. § 115A.53. That section provides:

> [t] he Board shall provide grants to develop and implement projects for waste reduction; waste separation by generators, collectors, and other persons; and collection systems for separated waste. Activities eligible for assistance under this section include legal, financial, economic, educational, marketing, social,

governmental, and administrative activities related to the development and implementation of the project. Preliminary planning and development, feasibility study, and conceptual design costs are eligible activities, but no more than 20 percent of program funds shall be used to fund those activities. Projects may include the management of household hazardous waste, as defined in section 21 [Minn. Stat. § 115A.96]. The rules of the board shall prescribe the level or levels of local funding required for grants under this section.

In this provision, the legislature has required the Board to use the rulemaking procedures to establish the level of local funding that will be required for grants under this section. In Minn. Stat. § 115A.06 (1986) the Board is given the power to promulgate rules to implement sections 115A.01 to 115A.72. The Board finds that rules are needed to implement Minn. Stat. § 115A.53 properly.

IV. REASONABLENESS OF THE PROPOSED RULES.

9200.6900 DEFINITIONS

Many of the terms defined in 9200.6900 are terms defined by statute or rule and are referenced appropriately. Other definitions are provided for clarity and consistency.

9200.6900 Subp. 7

The definition of comprehensive solid waste management plan is derived from the statutory definition provided at Minn. Stat. § 115A.46 (1986). However, as defined here the plan need not be an approved plan. This definition is needed to ensure that potential applicants understand that they can participate in the Program even if they have not had their solid waste management plan approved.

9200.6900 Subp. 9

To comply with legislative mandate, solid waste disposal facilities and equipment are not eligible for funding. A definition of waste disposal facilities and equipment

is provided in Minn. Rules pt. 9200.6900 to enable applicants to determine whether a project or a piece of equipment would be eligible for funding.

9200.6900 Subp. 10

The definition of household hazardous waste management tracks the definition of waste management given in Minn. Stat. § 115A.03, subd. 36 (1986). Because the definition is accepted and clearly understandable, it is reasonable.

9200.6900 Subp. ~~19~~ 11 and ~~20~~

Other Board programs fund solid waste processing facilities and equipment, and thus this type of equipment is not eligible for funding under this Program. A definition of solid waste processing facilities and equipment is provided in Minn. Rules pt. 9200.6900 to enable applicants to determine whether a project or a piece of equipment would be eligible for funding under this Program.

9200.6900 Subp. ~~21~~ 12

Waste reduction is not defined by statute, and thus a definition is needed to enable potential applicants to determine whether a project would or would not be a "waste reduction" project. The definition provided is similar to definitions used by other state and federal agencies, and thus should be easily understood and applied.

9200.6900 Subp. ~~22~~ 13

Waste separation is not defined by statute, and thus a definition is needed to enable potential applicants to determine whether a project would or would not be a "waste separation" project. The definition provided is similar to definitions used by other state and federal agencies, and thus should be easily understood and applied.

9200.6901 PURPOSE AND ADMINISTRATION

This section establishes the purpose of the Program and gives an overview of the procedures which applicants must follow in submitting applications for grants. The section also sets out the procedures the Board will follow in reviewing applications, and how the Program will terminate.

9200.6902 ELIGIBILITY CRITERIA

In this section, eligible applicants, projects, and costs are identified. In addition, specific costs that are not eligible are identified. This portion of the rule is necessary to ensure that potential applicants know whether or not they qualify as an eligible applicant, whether or not their project qualifies as an eligible project, and which project costs would be eligible for funding.

9200.6902 Subp. 1

This section identifies eligible applicants. Cities, counties and solid waste management districts are eligible and can apply for themselves or on behalf of other persons. Minn. Stat. § 115A.50 (1986).

9200.6902 Subp. 2

This part sets out the types of projects that will be eligible for funding under the Program. Three types of projects are eligible for grants: solid waste reduction; solid waste separation; and collection systems for separated solid wastes. These types of projects are those that the legislature specified as eligible for funding when creating this program. Minn. Stat. § 115A.53.

The proposed rule limits the eligible projects to those that are new or expansions of old projects. This is reasonable because the intent of the program, as found in

Minn. Stat. § 115A.53, is to develop and implement projects, not to fund established projects.

The proposed rule makes clear that household hazardous waste management must be part of a broader waste reduction or separation project. It is reasonable to limit household hazardous waste management projects in this manner because the statutory language indicates that projects may include household hazardous waste management. Minn. Stat. § 115A.53 . The use of the term "include" indicates legislative intent to make household hazardous waste a part of overall solid waste management, but not the focus of projects funded under this section. It is further reasonable to require that household hazardous waste management be confined to a portion of a project to ensure that program funds are primarily spent on solid waste reduction and separation. Household hazardous waste represents a special problem in solid waste management, and this has been recognized in other legislative efforts. See, e.g., Minn. Stat. § 115A.96 (Minn. Laws 1987, ch.348.) . It is therefore proper to make household hazardous waste management a less-emphasized part of this Program, while not excluding it entirely.

9200.6902 Subp. 3

This section divides the costs that can be funded under the Program into two categories: development costs and implementation costs. This is reasonable because the statute distinguishes between the costs of development and the costs of implementation in establishing funding levels. A maximum of 20 percent of program funds may be spent on development costs.

9200.6902 Subp. 4

This subpart defines development costs as costs incurred in the preparation of the application and documentation required in the part of the proposed rule that describes what must be included in an application.

The proposed rule requires that a project be fully planned before an application may be submitted to the Board. The proposed rule requires that conceptual and financial feasibility studies be completed and be made part of the application. The proposed rule has defined the cost of this planning as the cost of development, for which 20 percent level funding will be provided. This is a reasonable method of defining what constitutes the cost of developing a project. It is reasonable because it can be applied accurately and fairly from project to project. This is also a reasonable method of defining eligible costs because it will give potential applicants an incentive to put together a well planned, complete application-- and consequently a well planned, successful project.

9200.6902 Subp. 5

This subpart defines implementation costs as divided into two types of costs: capital and non-capital costs. This division is reasonable because the type of cost documentation will differ significantly depending on whether the cost for which the grant is sought will be a "hard" or "soft" cost.

The capital costs that are eligible for funding include the cost of collection vehicles, collection trailers, drop boxes, curbside collection bins and other containers used exclusively for the collection or transport of separated waste or the management of household hazardous waste. It is reasonable to fund these costs because these items are commonly employed in solid waste reduction or separation projects. It is

reasonable to restrict funding to items used exclusively for the eligible projects to ensure that the limited funds available under this program are not spent on items commonly available or that could be used for other work.

The soft costs that can be funded under the proposed rules include necessary legal, financial, economic, education, marketing, social, governmental and administrative activities required for the implementation of the project. These costs are eligible for funding pursuant to Minn. Stat. § 115A.53 .

9200.6802 Subp. 6

This subpart limits the extent to which the cost of household hazardous waste disposal can be funded under the program. The subpart requires that the applicant first exhaust all feasible alternatives to disposal and means of participation in other programs that provide for household hazardous waste disposal before these costs become eligible for board funding.

It is reasonable to limit the eligibility of the cost of disposal until all feasible alternatives to disposal have been exhausted because the intent of the Waste Management Act is to limit the dependence on disposal for the management of waste. In most instances, there are available alternatives to household hazardous waste disposal, i.e., recycling, waste exchange, and methods of rendering household hazardous waste non-hazardous.

It reasonable to limit the eligibility of the cost of disposal until the applicant has proven that cooperation with other programs is not possible for two reasons. First, the Board seeks to encourage cooperation with ongoing or planned programs primarily dedicated to the collection and management of household hazardous

waste. Second, the resources available for this Program are limited. It is reasonable to encourage cooperation to ensure that the resources in the Program are spent primarily on the solid waste reduction and separation components of projects.

9200.6902 Subp. 7

This subpart describes the costs that will not be eligible for funding under the Program. The items listed under this subpart are items associated with waste processing and waste disposal. Because the intent of the Program is to fund waste reduction and separation projects, not processing and disposal, it is reasonable to make these costs ineligible for funding.

9200.6903 INFORMATION AND DOCUMENTATION REQUIRED IN GRANT APPLICATION

This part describes the information that will be required to be included on an application under the Program. In order to conduct a meaningful review and evaluation of each project proposal, the board must have an adequate level of information about the applicant and the proposed project. Much of this information is required to satisfy the requirements of Minn. Stat. §§ 115A.50 -.53.

9200.6903 (A)

The name of each applicant is necessary to allow the Board to identify and contact the applicant.

9200.6903 (B)

It is necessary to identify each affected political subdivision so that they may be contacted to determine the degree to which they support the proposed waste processing facility. Such support is essential for a successful project.

9200.6903 (C)

Under Minn. Stat. § 115A.51, the Board must find that affected political subdivisions are committed to implement the project, to provide local financing, and to accept and exercise the government powers necessary to the project. It is reasonable to require affected political subdivisions to submit resolutions demonstrating their commitment to the project to enable the board to be assured that the project has the degree of local commitment that it needs. Local commitment is especially important when projects are likely to involve the cooperation of many persons on the local level, whether or not the local unit of government is actually implementing the project.

9200.6903(D)

This information is needed so that the Board can evaluate the qualifications of the project manager, and contact the manager during the project evaluation process.

9200.6903(E)

This information is needed so that the Board can evaluate the qualifications of the project operator, and contact the operator during the project evaluation process.

9200.6903(F)

An estimate of the total capital cost of the facility is needed to calculate the amount of grant funds for which the project is potentially eligible.

9200.6903(G)

An estimate of the total grant eligible cost is necessary as this is the number that will be used to determine the final grant amount.

9200.6903 (H)

The amount of grant funding requested is necessary because this amount will be considered by the Board in making the grant award.

9200.6903 (I)

An account of the amount and sources of all other funding contributions, including amount of funds to be contributed by the applicant, is necessary to meet the requirement, specified in Minn. Stat. §115A.51, that before any grant funds are disbursed the Board must find that full funding of the project is assured.

9200.6903 (J)

A detailed description of the project is needed to allow the Board to evaluate the conceptual and technical feasibility of the project, as required by Minn. Stat. § 115A.51 (1986). The information on the amounts of each waste type to be reduced or separated is needed so that the board can evaluate the scope and impact of the proposed project on the waste stream and on generators. Applicants are required to have considered the impact of the project on generators under Minn. Stat. § 115A.51 (1986).

9200.6903 (K)

Adequate planning is required for the successful development and implementation of waste processing facilities. In order to ascertain that an adequate level of planning has been achieved, it is reasonable to require that applicants submit a comprehensive solid waste management plan prepared pursuant to Minn. Stat. §115A.46 (1986).

It is also reasonable for the Board to require that a comprehensive solid waste management plan have been completed to assure that applicants have considered all viable alternatives to disposal, and that the proposed project is the best alternative.

9200.6903 (L)

In order for the Board to accurately assess the technical feasibility of the project, the Board needs information on how the applicant will assure that the project has an adequate waste supply at the time of application and in the future. An adequate waste supply is crucial to the success of the project, both technically and financially.

9200.6903 (M)

In order to ensure that the project will generate revenues adequate to cover operating costs over the life of the project, the Board needs information on the revenue that will be raised through sale of materials generated by the project. By requiring applicants to submit this information with the application, the Board ensures that the applicants have a realistic idea of the amount of revenue that the project will generate.

9200.6903 (N)

Education is an important component of almost any project eligible for funding under this Program, and education is a cost that can be funded under the Program. By requiring applicants to discuss the need for education, the Board can be sure that applicants have considered this critical component.

9200.6903 (0)

Household hazardous waste management may be a part of projects funded under this Program. However, before the Board could find that a project including the

management of household hazardous waste is technically feasible for a given applicant, the Board would need to know that the applicant can handle household hazardous waste properly. This information is therefore required to be submitted with the application.

9200.6903 (P)

Many solid waste projects will need to obtain a variety of permits. Obtaining the required permits is essential to successful implementation. It is reasonable to require applicants to report on their efforts to obtain permits to enable the Board to get a sense of whether the proposed project will be permitted, what conditions will be imposed on its operation, and when the permits will finally be issued. It is also reasonable to require applicants to report on the status of required permits to alert applicants to permitting requirements.

9200.6903(Q)

A project that entails significant negative environmental impacts would not be considered technically feasible, unless those impacts can be mitigated. It is reasonable to require the applicant to include information on potential impacts because the environmental impact of the project can affect the success of the project, its costs and its public support.

9200.6903 (R)

A work plan is necessary to enable to Board to assure that the applicant can successfully implement the project, and has considered all steps necessary for successful implementation. Specifically, the Board finds that adequate planning requires that the applicant consider specific tasks, work hours, costs and time schedules, and work products (such as reports, public education material, etc.).

9200.6903(S)

The cost of preparing the application will be used as the basis for determining the cost of project development, which is eligible for funding under the Program at the 20 percent level. Documentation of these costs if therefore needed for the Board to determine the appropriate amount of the grant.

9200.6903(T)

The Board is required by Minn. Stat. § 115A.49 to give priority to those projects that meet the criteria set out in this item. In order for the Board to evaluate the project relative to these criteria, the Board needs information on the project from the applicant.

9200.6904 REVIEW AND EVALUATION OF APPLICATIONS

This part of the rule sets out the procedures that will be followed by the Board when evaluating applications, and the standards that must be met for an applicant to receive funding.

9200.6904 Subp. 1

This part delegates the responsibility of determing whether an application is complete and whether the applicant, the proposed project, and the costs listed in the application are eligible to the chair of the board. It is reasonable for this duty to be delegated to the chair because these initial determinations are prefunctory.

9200.6904 Subp.2

This part sets out times within which applicants will receive notice of the chair's initial decision on the application, and within which they must respond to any finding of deficiency. The time period allotted for the initial review--14 days-- is

reasonable in that it gives adequate time for the review yet will not delay decision on the project. The time period for response to any finding of deficiency-- 30 days-- is reasonable because the applicant has had notice as to what must be submitted and should be able to correct omissions without further delay.

9200.6904 Subp.3

After the chair determines eligibility and completeness, the Board will proceed to evaluate the project with regard to the factors set out in this subpart. The factors set out are derived from statutory requirements for funding projects under the Solid Waste Management Demonstration Program. It is reasonable to set out these factors in the rule to put applicants on notice as to what the Board must determine in order to give the applicant a grant.

9200.6904 Subp. 4

This part notifies applicants that, if the factors set out in Subpart 3 are met, the Board will move to determine the amount of the grant. If the requirements are not met, this part informs applicants that the Board will provide that applicants with a statement of the reasons a grant was not awarded. Providing this notice is reasonable because it sets out the basis of the Board's decision and allows applicants to evaluate the reasonableness of that decision.

9200.6904 Subp.5

This part notes that the Board will consider recommendations provided by other agencies in making its decision to fund a project. This is required by statute. It is also reasonable because the success of a project will depend in part on whether it is supported by regulatory and planning agencies having jurisdiction over it.

9200.6905 LIMITATIONS

9200.6905 Subp. 1

Minnesota Statutes section 115A.53 requires the Board to establish the level of local funding by rule. The Board has determined that local units of government should match the state funds by contributing an equal amount of federal, local, private or other state contributions for the project. This is reasonable because there should be a significant contribution of local resources to the projects to demonstrate that the applicant or local unit of government is committed. The Board anticipates that many of the projects funded under this Program will become self-supporting. Requiring a 50 percent match will test the ability of the applicant or local unit of government to support the project in the future. Further, 50 percent represents a reasonable sum of money and most applicants or local governmental units should not find it difficult to come up with this level of funding. Much of this match could be found in the "in-kind" costs relevant to the proper implementation of a project.

9200.6905 Subp. 2

The goal of the section of the Waste Management Act under which this Program is established is to encourage communities to develop feasible and prudent alternatives to the disposal of waste. This section of the Waste Management Act also requires that knowledge and experience generated by the program be transferred throughout the state. In order to encourage the greatest number of communities to develop disposal alternatives, and in order to develop the most useful and broad store of knowledge and experience, the Board finds it reasonable to limit the amount of funds a single applicant can obtain under the Program in order to ensure that the money can be distributed to a large number of projects located throughout the state. The Board has determined that a $ 50,000 grant will

be adequate to encourage the development and implementation of projects, while enabling the Board to fund a number of projects.

9200.6905 Subp. 3

The limits set out in this subpart are reasonable to conserve state funds and to prevent applicants from over-financing projects. In this subpart, grants are limited to that amount necessary to complete a project considering the funds presently available to the applicant, whether or not the applicant has applied for such funds. This is reasonable because it will encourage applicants to seek other funds before requesting state funds. The Board is aware that other sources of money are available to certain potential applicants. The Board finds that it would be unreasonable for the Board to expend limited state funds when the project could be funded by the applicant through other means. This will preserve state funds for those truly in need of Board assistance.

This subpart also notes that the grant will not cover tasks performed before the grant is awarded or after the grant agreement has expired, with the exception of development costs which the board will fund up to a 20 percent limit. This is reasonable because it recognizes that the cost of preparing the Board's application will be high, and allows funds to cover those costs. This will encourage applicants to do a complete job on the application. Project funds will be protected, however, because the applicant runs the risk that the project will not be funded. This will encourage applicants to keep development costs to a minimum.

9200.6905 Subp. 4

Although this is not required by statute (compare Minn. Stat. § 115A.54 (1986)) the Board finds that it is reasonable to delay disbursement of awarded funds until local

funding is in place. This will ensure that the funds of the Program will be used immediately, and will not be spent on a project that may not be implemented because other funding failed to materialize.

9200. 6906 GRANT AGREEMENT

This part sets out certain requirements for the agreements that will be executed with grant recipients. These requirements are included to ensure that the grant recipient is aware of the restrictions that will be placed on the grant money awarded.

9200.6906 Subp. 1(A)

This requirement is reasonable because it contractually obligates grant recipients to build and operate the project that was proposed to the Board in the application submitted to the Board. Incorporating the application will aid the Board in determining whether the applicant has fulfilled its obligation or whether the applicant has deviated from the original project funded by the Board.

9200.6906 Subp. 1 (B)

This requirement is ministerial.

9200.6906 Subp. 1 (C)

This requirement re-enforces the obligation of recipients to see that projects are completed, and to again emphasize that no further state funding will be available. This limit is reasonable in that it re-enforces statutory restrictions.

9200.6906 Subp. 1 (D)

This requirement is reasonable in that it puts applicants on notice that the Board will not provide funds beyond the amount given in the grant.

9200.6906 Subp. 1 (E)

This requirement is necessary to allow the Board to fulfill a duty, given by statute, to transfer the knowledge and experience gained from projects to other communities in the state. It is reasonable to require applicants to submit reports on the developmental and implementation history of projects because applicants have the best access to the information needed.

9200.6906 Subp. 2

This part is reasonable because it notifies recipients that the grant will be rescinded if the agreement is not complied with, but that it may be possible to obtain Board approval to deviate from the original proposal if the original objectives of the project will be fulfilled. Allowing minor variations in the projects funded under the program is reasonable given the complexity and novelty of solid waste management projects.

9200.6906 Subp. 3

This section is reasonable because it alerts recipients to the fact that the grant agreement will control the disbursement of funds.

V. IMPACT ON SMALL BUSINESSES.

Minn. Stat. § 14.115 (1986) requires that an agency adopting a rule consider its impacts on small businesses and take steps to mitigate negative impacts. Because

small businesses can participate in this Program through local units of government, this rule should have no negative impact on them.

JOSEPH M. PAVELICH, CHAIRMAN
WASTE MANAGEMENT BOARD

WP/SW/SWR&SP(Sonar)/eh

In the Matter of the Proposed Adoption of Rules of the Waste Management Board Governing the Solid Waste Reduction and Separation Program

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

EDWARD WELSCH, being sworn, says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minn. Stat. §§ 14.14, subd. 1a and 14.22, that their names be placed on the Waste Management Board rulemaking mailing list is accurate, complete, and current as of this 28th day of July, 1987.

That on the 28th day of July, 1987, at the City of Crystal, County of Hennepin, State of Minnesota, I mailed the attached Notice of Intent to Adopt Rules Governing the Solid Waste Reduction and Separation Program Without a Public Hearing by depositing in the United States mail a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Edward Welsch
EDWARD WELSCH

Subscribed and sworn to before me this 10th day of September, 1987

June J. Seery
Notary Public

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

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9200.9100 GRANT, LOAN, OR GRANT AND LOAN AGREEMENT.

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

A. to F. [Unchanged.]

G. provide that the board will not accept amendments requesting that additional funds be awarded to the recipient except as provided in part 9200.8220;

H. to K. [Unchanged.]

Subp. 2. to 4. [Unchanged.]

Minnesota Waste Management Board

Proposed Permanent Rules Relating to the Solid Waste Reduction and Separation Grant Program

Notice of Intent to Adopt New 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 *Minnesota Statutes* § 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 rules 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 *Minnesota Statutes* § 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* § 115A.49-.53. 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 final 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.

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.

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.

Joseph M. Pavelich, Chair
Waste Management Board

Rules as Proposed (all new material)

9200.6900 DEFINITIONS.

Subpart 1. **Scope.** The terms defined in Minnesota Statutes, section 115A.03, and in this part apply to parts 9200.6900 to 9200.6906, unless the context requires otherwise.

Subp. 2. **Chair.** "Chair" means the chief executive officer of the board.

Subp. 3. **Comprehensive solid waste management plan.** "Comprehensive solid waste management plan" means a written plan prepared under Minnesota Statutes, section 115A.46.

Subp. 4. **Household hazardous waste.** "Household hazardous waste" has the meaning given it in Minnesota Statutes, section 115A.96, subdivision 1.

Subp. 5. **Household hazardous waste management.** "Household hazardous waste management" means activities that are intended to affect or control the generation of household hazardous waste, and activities that provide for or control the collection, processing, and disposal of household hazardous waste.

Subp. 6. **Person.** "Person" has the meaning given it in Minnesota Statutes, section 116.06, but does not include the board.

Subp. 7. **Project.** "Project" means a solid waste reduction or separation project.

Subp. 8. **Solid waste.** "Solid waste" has the meaning given it in Minnesota Statutes, section 116.06, subdivision 10.

Subp. 9. **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 and machinery or devices designed 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. 10. **Waste processing equipment.** "Waste processing equipment" means machinery or devices used as an integral component of a waste processing facility.

Subp. 11. **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.

Subp. 12. **Waste reduction.** "Waste reduction" means decreasing the generation of solid waste at its source either by redesigning products and packaging or by changing procurement, consumption, or waste generation habits.

Subp. 13. **Waste separation.** "Waste separation" means the process of segregation, accumulation, or collection of recyclable or compostable solid wastes.

9200.6901 PURPOSE AND ADMINISTRATION.

Parts 9200.6900 to 9200.6906 implement the solid waste reduction and separation grant program created and described in Minnesota Statutes, sections 115A.49 to 115A.53, by establishing the substantive criteria and procedural conditions under which the board may award grants for the costs of solid waste reduction and separation projects. Applicants for grants under this program are encouraged to contact the chair and request a preapplication review of proposed projects.

9200.6902 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. Eligible applicants may apply for grants on behalf of any person who is not an eligible applicant, but the named recipient shall be the city, county, or district.

Subp. 2. **Eligible projects.** Only solid waste reduction projects, solid waste separation projects, and collection systems for separated solid wastes are eligible for grants. To be eligible for funding, a project must be a new project or an expansion of an existing project. A project may include household hazardous waste management, but may not consist solely of household hazardous waste management.

Subp. 3. **Eligible costs.** Grant funding is available for development costs as defined in subpart 4 and implementation costs as defined in subpart 5. Development costs shall be no more than 20 percent of the total grant award.

Subp. 4. **Development costs.** Development costs are the costs incurred in the preparation of the application and documentation required under part 9200.6903.

Subp. 5. **Implementation costs.** Implementation costs are limited to:

A. capital costs of waste reduction and separation equipment such as source separation collection vehicles, collection trailers, drop boxes, curbside collection bins, and other containers used exclusively for the collection or transport of separated wastes or the management of household hazardous waste; and

B. costs of any necessary legal, financial, economic, educational, marketing, social, governmental, and administrative activities required for the implementation of the project.

Subp. 6. **Household hazardous waste disposal costs.** The cost of household hazardous waste disposal is eligible provided no feasible alternative to disposal exists and no funding is available from federal, state, metropolitan, local, or private sources to fund the cost of disposal.

Subp. 7. **Ineligible costs.** Ineligible costs include any costs related to the purchase of real property, waste processing equipment, structures necessary to house waste collection or processing equipment, and costs related to solid waste disposal facilities and equipment used exclusively for disposal of solid waste.

9200.6903 INFORMATION AND DOCUMENTATION REQUIRED IN GRANT APPLICATION.

An application for a solid waste reduction and separation project grant shall include the following information, as required in the application form 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. a resolution from each political subdivision participating in the project that demonstrates that it will implement the project, provide necessary local financing, and accept and exercise the government powers necessary to develop and operate the project;

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

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

F. the total estimated cost of the project;

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

H. the amount of grant funding requested;

I. the amount and source of all other money to be used to fund the project, including the amount of money to be contributed by the applicant;

J. a detailed description of the proposed project, including the amounts of each type of waste to be reduced or separated;

K. a comprehensive solid waste management plan developed under Minnesota Statutes, section 115A.46;

L. for waste separation projects, documentation that waste supplies will be committed to the project for the life of the project and that the applicant has the mechanism to commit the wastes;

M. for waste separation projects, a preliminary market analysis for recovered materials, including documentation of commitments to market recovered materials, such as letters of intent or contracts;

N. a discussion of the need for an education program to be developed in conjunction with the project and, if such a program is proposed, a description of the program;

O. a detailed description of any proposed household hazardous waste management program and documentation that the applicant has or will obtain the capacity to handle household hazardous waste properly;

P. a discussion of the status of required permits from permitting agencies;

Q. a discussion of any potential adverse environmental effects from the project and how they will be mitigated;

R. a work plan that demonstrates how the applicant will implement the project, including:

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(1) the specific tasks to be completed under the grant;

(2) the work hours of staff, consultants, and employees of local government units needed to complete each of the tasks;

(3) the costs of completing each task, including an explanation of how the cost was calculated;

(4) the time schedule needed to complete each task; and

(5) a description of the reports, documents, public education material, market analyses, and other written materials to be developed;

S. documentation of costs incurred by the applicant in preparing the grant application, if the applicant seeks reimbursement for development costs; and

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

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

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

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

9200.6904 REVIEW AND EVALUATION OF APPLICATIONS.

Subpart 1. **Determination of eligibility and completeness.** Upon receipt of an application, the chair shall determine the eligibility of the applicant, the eligibility of the project identified in the application, the eligibility of the costs 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 30 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. If the inadequacies are not corrected within the time allowed, the application is rejected, and the applicant must submit a new application to be considered again. If the chair determines that the application is complete and the project is eligible to receive grant funds, the chair shall forward the application to the board for its evaluation.

Subp. 3. **Evaluation of applications.** The board shall evaluate the application. In order to receive funding, the application must demonstrate that:

A. the project is conceptually and technically feasible;

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

C. operating revenue from the project, considering the availability and security of sources of solid waste and of markets for recyclable materials together with any proposed federal, state, local, or private financial assistance, will be sufficient to pay all costs; and

D. 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, and the effects of the alternatives on the cost to generators, as required by Minnesota Statutes, section 115A.46.

Subp. 4. **Board determination.** If the board determines that the application satisfies the requirements of subpart 3, the board shall determine the amount of the grant award and the applicant shall be so notified. The board shall fund applications that satisfy the criteria established in subpart 3 in the order that the applications come before the board for decision. If applications come before the board at the same time and program funds are not adequate to fund all applications before the board, the board shall give priority to applications that meet the priority criteria established in Minnesota Statutes, section 115A.49. If the board determines that the application fails to satisfy the requirements of subpart 3, 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. 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, the appropriate regional development commission, the Metropolitan Council, and other state and regional authorities.

9200.6905 LIMITATIONS.

Subpart 1. **Matching funds required.** A grant awarded under parts 9200.6900 to 9200.6906 must be matched by federal, local,

private, or other state grants, loans, or contributions, the total of which must equal the amount of the grant applied for. Local government funding may be in the form of cash or in-kind matching funds.

Subp. 2. **Maximum grant.** The maximum grant award for each eligible project is $50,000.

Subp. 3. **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, whether or not the applicant has applied for funds. 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, other than development costs incurred in the preparation of the grant application.

Subp. 4. **Limitations on disbursal of funds.** No grant money shall be paid to an applicant until the board has determined the total estimated 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 bond proceeds, or other funds of the recipient, to a fund for the development and implementation of the project.

9200.6906 GRANT AGREEMENT.

Subpart 1. **Requirements.** No grant money shall be paid to an applicant awarded a grant until that applicant has executed a written grant agreement with the board. The grant agreement shall:

A. incorporate by reference the final grant application submitted to the board in accordance with part 9200.6903;

B. 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;

C. provide that any cost overruns incurred in the development and implementation of the proposed project shall be the sole responsibility of the recipient;

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

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

Subp. 2. **Rescission of grant.** If a project is not developed and implemented 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 a variance from the agreement is justified and that the original objectives of the project will be accomplished.

Subp. 3. **Disbursement.** The board shall pay grant money to the recipient in accordance with the payment schedule in the grant agreement.

REPEALER. Minnesota Rules, parts 7035.6500, 7035.6600, 7035.6700, 7035.6800, 7035.6900, 7035.7000, 7035.7100, 7035.7200, 7035.7300, 7035.7400, 7035.7500, and 7035.7600 are repealed.

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STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Adoption of Proposed Rules of the Waste Management Board Governing the Solid Waste Reduction and Separation Program, Minnesota Rules Parts 9200.6900 to 9200.6906

ORDER ADOPTING RULES

Notice of the Waste Management Board's intent to adopt the above-captioned rules without a public hearing was published in the State Register on July 27, 1987 and was sent by United States mail to all persons on the list maintained by the Waste Management Board pursuant to Minnesota Statute, Section 14.14. After affording interested and affected persons an opportunity to submit written data and views for 30 days after the publication date, reviewing and considering the data and views, and determinining that the above-captioned rules are needed and reasonable,

NOW, THEREFORE, IT IS ORDERED THAT, pursuant to authority vested in the Board by Minnesota Statutes, Sections 115A.49 to 115A.53, these rules identified as "Rules of the Waste Management Board Governing the Solid Waste Reduction and Separation Program" as published at 12 State Register 143 to 147 (July 27, 1987) are adopted with the following modification:

Proposed Minn. Rule pt. 9200.9605 subp. 2 (1987) is revised to add language which reads as follows:

> Subp. 2, **Maximum Grant.** The maximum grant award for each eligible project is 50% of the total eligible costs or $50,000, whichever is less.

Dated: September 10, 1987

Joseph M. Pavelich, Chair
~~Waste~~ Management Board

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STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Adoption of Proposed Rules of the Waste Management Board Governing the Solid Waste Reduction and Separation Program, Minnesota Rules Parts 9200.6900 to 9200.6906.

FINDINGS OF FACT AND CONCLUSIONS

The above-entitled matter came on for decision before the Minnesota Waste Management Board on the 10th day of September, 1987 after publication and notice of the proposed rules was provided as required by Minnesota Statutes, Sections 14.22 to 14.28 (1986). After affording all interested persons an opportunity to submit written comment on the proposed rules for 30 days following the publication date, having considered all of the evidence adduced upon the records, files and proceedings herein, the Board makes the following:

FINDINGS OF FACT

1. On June 25, 1987, the Chair of the Board was authorized to publish the proposed rules under authority of Waste Management Board Resolution WMB-024-87 (June 25, 1987).

2. On July 27, 1987 the Statement of Need and Reasonableness for the proposed rules was completed, placed on file and made available for public inspection.

3. On July 27, 1987, the Notice of Intent to Adopt Rules without a Public Hearing was mailed to all persons and associations who had requested that their names be placed on file with the Board

for the purpose of receiving notice of the proposed adoption of rules by the agency.

4. On July 27, 1987, the Notice of Intent to Adopt Rules without a Public Hearing and the Proposed Rules were published at 12 State Register 143 to 147.

5. The notice of the Board's intent to adopt the rules afforded all interested persons 30 days to submit data and views on the proposed rules. The notice was in all respects in compliance with the requirements of Minn. Stat. Section 14.22 (1986).

6. The public comment period of 30 days expired on August 26, 1987.

7. No persons requested a public hearing in this matter.

8. Members of the Waste Management Board staff assigned to administering the Solid Waste Reduction and Separation Grant Program for the Board submitted a comment for consideration within the 30 day comment period (dated August 21, 1987). Staff noted that the section of the rule covering maximum grants needed clarification to make this section complete and consistent with the other solid waste grant/loan programs.

9. The Board finds that the staff comment supports the modification of the proposed rules by the addition of language clarifying maximum grants in proposed Minn. Rule pt. 9200.9605, subp. 2 (1987) as follows:

Subp. 2. Maximum Grant. "The maximum grant award for each eligible project is 50% of the total eligible costs, or $50,000, whichever is less."

This change would not affect the level of funding available. The

change is intended to avoid confusion and clarify grant limits. This approach has worked effectively as a guideline in the Solid Waste Facility Capital Assistance and Demonstration programs. Because this change will not affect the implementation of the program it is not a substantial change.

10. The Board adopts the Statement of Need and Reasonableness, except as modified in finding 9 above, as the factual basis for these rules. The Board hereby incorporates the Statement of Need and Reasonableness into these findings.

CONCLUSIONS

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

B. The Board has statutory authority to adopt the proposed rules.

C. The Board has published and served due, timely and adequate notice of its intent to adopt the above-captioned rules without a public hearing.

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

E. The modification to the proposed rules made by the Board is supported by the data and views submitted to the Board and does not result in substantial change.

Dated: September 10, 1987

Joseph M. Pavelich, Chair.
MINNESOTA WASTE MANAGEMENT BOARD

Ed: for your files

Minnesota Waste Management Board

Adopted Permanent Rules Relating to the Solid Waste Reduction and Separation Grant Program

Rules as Adopted

9200.6900 DEFINITIONS.

Subpart 1. **Scope.** The terms defined in Minnesota Statutes, section 115A.03, and in this part apply to parts 9200.6900 to 9200.6906, unless the context requires otherwise.

Subp. 2. **Chair.** "Chair" means the chief executive officer of the board.

Subp. 3. **Comprehensive solid waste management plan.** "Comprehensive solid waste management plan" means a written plan prepared under Minnesota Statutes, section 115A.46.

Subp. 4. **Household hazardous waste.** "Household hazardous waste" has the meaning given it in Minnesota Statutes, section 115A.96, subdivision 1.

Subp. 5. **Household hazardous waste management.** "Household hazardous waste management" means activities that are intended to affect or control the generation of household hazardous waste, and activities that provide for or control the collection, processing, and disposal of household hazardous waste.

Subp. 6. **Person.** "Person" has the meaning given it in Minnesota Statutes, section 116.06, but does not include the board.

Subp. 7. **Project.** "Project" means a solid waste reduction or separation project.

Subp. 8. **Solid waste.** "Solid waste" has the meaning given it in Minnesota Statutes, section 116.06, subdivision 10.

Subp. 9. **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 and machinery or devices designed 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. 10. **Waste processing equipment.** "Waste processing equipment" means machinery or devices used as an integral component of a waste processing facility.

Subp. 11. **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.

Subp. 12. **Waste reduction.** "Waste reduction" means decreasing the generation of solid waste at its source either by redesigning products and packaging or by changing procurement, consumption, or waste generation habits.

Subp. 13. **Waste separation.** "Waste separation" means the process of segregation, accumulation, or collection of recyclable or compostable solid wastes.

9200.6901 PURPOSE AND ADMINISTRATION.

Parts 9200.6900 to 9200.6906 implement the solid waste reduction and separation grant program created and described in Minnesota Statutes, sections 115A.49 to 115A.53, by establishing the substantive criteria and procedural conditions under which the board may award grants for the costs of solid waste reduction and separation projects. Applicants for grants under this program are encouraged to contact the chair and request a preapplication review of proposed projects.

9200.6902 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. Eligible applicants may apply for grants on behalf

of any person who is not an eligible applicant, but the named recipient shall be the city, county, or district.

Subp. 2. **Eligible projects.** Only solid waste reduction projects, solid waste separation projects, and collection systems for separated solid wastes are eligible for grants. To be eligible for funding, a project must be a new project or an expansion of an existing project. A project may include household hazardous waste management, but may not consist solely of household hazardous waste management.

Subp. 3. **Eligible costs.** Grant funding is available for development costs as defined in subpart 4 and implementation costs as defined in subpart 5. Development costs shall be no more than 20 percent of the total grant award.

Subp. 4. **Development costs.** Development costs are the costs incurred in the preparation of the application and documentation required under part 9200.6903.

Subp. 5. **Implementation costs.** Implementation costs are limited to:

A. capital costs of waste reduction and separation equipment such as source separation collection vehicles, collection trailers, drop boxes, curbside collection bins, and other containers used exclusively for the collection or transport of separated wastes or the management of household hazardous waste; and

B. costs of any necessary legal, financial, economic, educational, marketing, social, governmental, and administrative activities required for the implementation of the project.

Subp. 6. **Household hazardous waste disposal costs.** The cost of household hazardous waste disposal is eligible provided no feasible alternative to disposal exists and no funding is available from federal, state, metropolitan, local, or private sources to fund the cost of disposal.

Subp. 7. **Ineligible costs.** Ineligible costs include any costs related to the purchase of real property, waste processing equipment, structures necessary to house waste collection or processing equipment, and costs related to solid waste disposal

facilities and equipment used exclusively for disposal of solid waste.

9200.6903 INFORMATION AND DOCUMENTATION REQUIRED IN GRANT APPLICATION.

An application for a solid waste reduction and separation project grant shall include the following information, as required in the application form 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. a resolution from each political subdivision participating in the project that demonstrates that it will implement the project, provide necessary local financing, and accept and exercise the government powers necessary to develop and operate the project;

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

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

F. the total estimated cost of the project;

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

H. the amount of grant funding requested;

I. the amount and source of all other money to be used to fund the project, including the amount of money to be contributed by the applicant;

J. a detailed description of the proposed project, including the amounts of each type of waste to be reduced or separated;

K. a comprehensive solid waste management plan developed under Minnesota Statutes, section 115A.46;

L. for waste separation projects, documentation that waste supplies will be committed to the project for the life of

the project and that the applicant has the mechanism to commit the wastes;

M. for waste separation projects, a preliminary market analysis for recovered materials, including documentation of commitments to market recovered materials, such as letters of intent or contracts;

N. a discussion of the need for an education program to be developed in conjunction with the project and, if such a program is proposed, a description of the program;

O. a detailed description of any proposed household hazardous waste management program and documentation that the applicant has or will obtain the capacity to handle household hazardous waste properly;

P. a discussion of the status of required permits from permitting agencies;

Q. a discussion of any potential adverse environmental effects from the project and how they will be mitigated;

R. a work plan that demonstrates how the applicant will implement the project, including:

(1) the specific tasks to be completed under the grant;

(2) the work hours of staff, consultants, and employees of local government units needed to complete each of the tasks;

(3) the costs of completing each task, including an explanation of how the cost was calculated;

(4) the time schedule needed to complete each task; and

(5) a description of the reports, documents, public education material, market analyses, and other written materials to be developed;

S. documentation of costs incurred by the applicant in preparing the grant application, if the applicant seeks reimbursement for development costs; and

T. if the applicant requests priority under Minnesota

Statutes, section 115A.49, documentation that:

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

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

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

9200.6904 REVIEW AND EVALUATION OF APPLICATIONS.

Subpart 1. **Determination of eligibility and completeness.** Upon receipt of an application, the chair shall determine the eligibility of the applicant, the eligibility of the project identified in the application, the eligibility of the costs 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 30 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. If the inadequacies are not corrected within the time allowed, the application is rejected, and the applicant must submit a new application to be considered again. If the chair determines that the application is complete and the project is eligible to receive grant funds, the chair shall forward the application to the board for its evaluation.

Subp. 3. **Evaluation of applications.** The board shall evaluate the application. In order to receive funding, the application must demonstrate that:

A. the project is conceptually and technically feasible;

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

C. operating revenue from the project, considering the availability and security of sources of solid waste and of markets for recyclable materials together with any proposed federal, state, local, or private financial assistance, will be sufficient to pay all costs; and

D. 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, and the effects of the alternatives on the cost to generators, as required by Minnesota Statutes, section 115A.46.

Subp. 4. **Board determination.** If the board determines that the application satisfies the requirements of subpart 3, the board shall determine the amount of the grant award and the applicant shall be so notified. The board shall fund applications that satisfy the criteria established in subpart 3 in the order that the applications come before the board for decision. If applications come before the board at the same time and program funds are not adequate to fund all applications before the board, the board shall give priority to applications that meet the priority criteria established in Minnesota Statutes, section 115A.49. If the board determines that the application fails to satisfy the requirements of subpart 3, 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. 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, the appropriate regional development commission, the Metropolitan Council, and other state and regional authorities.

9200.6905 LIMITATIONS.

Subpart 1. **Matching funds required.** A grant awarded under parts 9200.6900 to 9200.6906 must be matched by federal, local, private, or other state grants, loans, or contributions, the total of which must equal the amount of the grant applied for. Local government funding may be in the form of cash or in-kind matching funds.

Subp. 2. **Maximum grant.** The maximum grant award for each eligible project is $50,000.

Subp. 3. **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, whether or not the applicant has applied for funds. 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, other than development costs incurred in the preparation of the grant application.

Subp. 4. **Limitations on disbursal of funds.** No grant money shall be paid to an applicant until the board has determined the total estimated 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 bond proceeds, or other funds of the recipient, to a fund for the development and implementation of the project.

9200.6906 GRANT AGREEMENT.

Subpart 1. **Requirements.** No grant money shall be paid to an applicant awarded a grant until that applicant has executed a

written grant agreement with the board. The grant agreement shall:

A. incorporate by reference the final grant application submitted to the board in accordance with part 9200.6903;

B. 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;

C. provide that any cost overruns incurred in the development and implementation of the proposed project shall be the sole responsibility of the recipient;

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

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

Subp. 2. **Rescission of grant.** If a project is not developed and implemented 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 a variance from the agreement is justified and that the original objectives of the project will be accomplished.

Subp. 3. **Disbursement.** The board shall pay grant money to the recipient in accordance with the payment schedule in the grant agreement.

REPEALER. Minnesota Rules, parts 7035.6500, 7035.6600, 7035.6700, 7035.6800, 7035.6900, 7035.7000, 7035.7100, 7035.7200, 7035.7300, 7035.7400, 7035.7500, and 7035.7600 are repealed.

Approved as submitted 9/10/87 Ray.

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

RESOLUTION WMB- 032-87

RESOLVED, that the Minnesota Waste Management Board hereby approves and adopts the attached Minnesota Rules Parts 9200.6900 to 9200.6906, Solid Waste Reduction and Separation Program Rules, pursuant to authority vested in the Board by Minnesota Statutes, sections 115A.49 to 115A.53.

BE IT FURTHER RESOLVED, that prior to publishing the rules as adopted in the State Register, the Chair is authorized to make any form changes in 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 rules 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 rules, and to perform any actions incidental thereto.

Dated:

Joseph M. Pavelich, Chair
Waste Management Board

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STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Adoption
of Proposed Rules of the
Waste Management Board Governing
the Solid Waste Reduction and
Separation Program, Minnesota Rules
Parts 9200.6900 to 9200.6906

CERTIFICATE OF RESOLUTION
ADOPTING RULES

I, Joseph M. Pavelich, 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 10th day of September, 1987, 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 Minnesota Waste Management Board hereby approves and adopts the attached Minnesota Rules Parts 9200.6900 to 9200.6906, Solid Waste Reduction and Separation Program Rules, pursuant to authority vested in the Board by Minnesota Statutes, sections 115A.49 to 115A.53.

BE IT FURTHER RESOLVED, that prior to publishing the rules as adopted in the State Register, the Chair is authorized to make any form changes in 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 rules 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 rules, and to perform any actions incidental thereto.

Dated: September 10, 1987

Joseph M. Pavelich, Chair
Waste Management Board

Attested by
Board Member

In the Matter of the Proposed
Adoption of Rules of the
Waste Management Board
Governing the Solid Waste
Reduction and Separation
Program

DECLARATION OF
COUNSEL

I, Ann E. Cohen, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010, have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is F408.

ANN E. COHEN
Special Assistant
Attorney General

Dated: September 23, 1987

Office of the Revisor of Statutes
Administrative Rules

David S. Niss
Assistant Revisor
297-2948

700 State Office Building
100 Constitution Avenue
St. Paul, MN 55155-1297

September 14, 1987.

RECEIVED
SEP 15 1987
ATTORNEY GENERAL'S OFFICE
SUITE 200
520 LAFAYETTE ROAD
ST. PAUL, MN 55155

Ann Cohen
Attorney General
520 Lafayette Road
St. Paul, Minnesota 55155

RE: AR1129 Solid Waste Reduction and Separation Program

Dear Ms. Cohen:

Enclosed are four copies of your rule with the modifications you requested.

Please submit the rules to the Attorney General or the Office of Administrative Hearings, as appropriate.

If you have any questions or need further modifications, please call.

Very truly yours,

David S. Niss

DSN/nm
Encl.

7

ATTACHMENT #3A

TELEPHONE 218-281-3952

POLK COUNTY HIGHWAY DEPARTMENT

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

August 3, 1987

Mr. Ed Welsch
Waste Management Board
123 Thorson Building
7323 58th Avenue North
Crystal, Minnesota 55428

Re: 1. Proposed Rules 9200.6900 - 9200.6905
2. Proposed Rules 9200.6200 - 9200.6800

Dear Mr. Welsch:

1. The Waste Management Board is to be commended for proposing that grant funds be made available for project development costs. I am sure that many governmental agencies involved in Solid Waste Management throughout the State will appreciate this provision.

In addition, the following comments are offered:

9200.6903 Part Q (p. 5, line 16-18)

It may be advantageous to have a regulatory agency, such as MPCA, review this item. In some cases, potential adverse environmental effects are difficult to determine, and possible mitigation of those effects may involve detailed engineering plans. I suggest that this item be eliminated.

9200.6903 Part R (2) and (3), (p. 5, lines 23-27)

Although it is useful to project specific costs for individual tasks, with regard to governmental agencies, it is very difficult to establish accurate estimates. The experience in Polk County is that various individuals from numerous departments participate in planning and implementation, as well as County Commissioners. I believe it is impractical to estimate such work hours, particularly when many departments and levels of staff are involved.

Engineering and consulting costs, on the other hand, are more easily determined, since contracts may stipulate costs for individual tasks. Therefore, I recommend that these items be revised accordingly.

9

2. 9200.8220 Subp. 3 (p. 5, lines 12-22)

It appears that this paragraph may be contradictory. Eligible costs include those incurred while testing for "compliance with applicable standards." On the other hand, monitoring to determine compliance with permit requirements in not eligible. Thus it would appear that if compliance is achieved, costs are not eligible, whereas if compliance is not achieved, the costs are eligible. In effect, this may deter operators from meeting compliance standards using new or modified pollution control equipment.

Furthermore, it is not clear who determines what is meant by "appropriate pollution control equipment." Subpart 5 does not identify a clear procedure for application review, and therefore the decision as to what is or is not appropriate would appear to be one made by the WMB.

Thank you very much for the opportunity to respond to the Proposed Rules.

Sincerely,

Mark H. Bobman
Solid Waste Officer

ATTACHMENT #[redacted]

ADMIN 1000 (Rev. 1/78)

STATE OF MINNESOTA

DEPARTMENT Minnesota Waste Management Board

Office Memorandum

TO : Ed Welsch
Wayne Sames

DATE: August 21, 1987

FROM : Linda Cox

PHONE:

SUBJECT: Staff comments on proposed Solid Waste Reduction and Separation Grants Program Rules

In reviewing the proposed rules for the "Low-Tech" program, Dan Krivit and I noticed that the maximum grant language is inconsistent with that of the CAP and Demo Program rules. That is, WMB funding programs have historically established two options for maximum grant (or loan) awards -- a ceiling amount or a percentage of the total eligible costs. The "Low-Tech" rules establish a maximum amount only. Perhaps it would be clearer to applicants and more consistent with the usual WMB practice to set a "50% or $50,000 whichever is less" standard for Low-Tech, too. We suggest this be a rule revision if staff concur.

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

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

ADDRESS REPLY TO:
SUITE 200
520 LAFAYETTE ROAD
ST. PAUL, MN 55155
TELEPHONE: (612) 297-1075

September 23, 1987

RECEIVED
ATTORNEY GENERAL'S OFFICE
SEP 28 1987
204 ADMINISTRATION BLDG.
50 SHERBURNE AVENUE
ST. PAUL, MN 55155

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

RE: Proposed Rules of the Waste Management Board Governing the Solid Waste Reduction and Separation Program

Dear Mr. Miles:

On September 10, 1987, the Waste Management Board adopted rules governing the Solid Waste Reduction and Separation Program. Enclosed for your review are the following:

1. The resolution of the Waste Management Board's adoption of the proposed rules for publication, and a certification of that resolution.

2. A copy of the proposed rules with a certificate of approval as to form by the revisor of statutes attached.

3. The notice of intent to adopt the rules without a public hearing as mailed.

4. The statement of need and reasonableness in support of the proposed rules.

5. The affidavit of mailing the notice of intent to adopt the rules without a public hearing and certification of the mailing list.

6. A photocopy of the notice of intent to adopt the rules without a public hearing as published in the State Register.

7. Four copies of the rules as adopted, with changes approved as to form by the revisor of statutes.

8. The resolution of the Waste Management Board adopting the rules, and a certification of that resolution.

9. The findings of fact, conclusions and order adopting the rules.

10. All written requests, submissions or comments on the

rules received by the Waste Management Board.

11. The declaration of counsel regarding compliance with the Administrative Procedure Act and chapter 2010.

Please note that no requests for notice of submission to the Attorney General's office were received.

Sincerely,

ANN E. COHEN
Special Assistant
Attorney General

AEC:mti

Rush: Approval Date 10/8/87

Authority 115A.49-.53 ok

Rule: All new material
There is a change from proposed to adopted
p8 line 13-14 subst change? What happens
if someone thought they could get 50,000, but Now,
because the 50% clause, they may only get $25,000.
Substantial Change -
50,000 a discretionary maximum -
an ~~prog~~ applicant could receive less.
This clarifies the § - sets a
minimum as well as a
maximum and lessens agency
discretion

=

Small Business Statement
Strong argument that this fits
under an exception
14.115, subd. 7(b). - indirect
effect on small businesses, - not
direct; while not county or
municipal administration of
a state program the exception
is not limited to that.

=

Fiscal Notice
$ being spent but not funds
which must be raised by the
localities. But there must be matching funds
= ~~[illegible]~~ which could come from a
~~[illegible]~~ locality
No

OK - locality not required to expend
funds - choice

536-0814

p. 9 line 25 "variance" discretion?
no standards ↙