

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

RULE REVIEW CHECKLIST

File No. 1451
DATE RECEIVED 2/11/88
REVIEW DATE 2/20/88
DUE DATE 2/25/88

APPROVED V ja 2/25/88
DISAPPROVED
WITHDRAWN

Docket No. 05.0009.0838
ADOPTED W/O HEARING X
EMERGENCY RULE

REVISOR APPROVED ✓
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
✓ Revisor's Certificate
✓ Notice of Intent to Adopt Rule
116.55 Statutory Authority
✓ — Small Business Statement not great
— Expenditure of public money statement
✓ Signature
✓ Statement of Need and Reasonableness
Yes Small Business Statement not great
— Fees - § 16A.128
✓ Affidavit of Mailing Notice of Intent to Adopt Rule
12/15/87 Date (30)/25 days before adoption
✓ Publication in State Register
12/21/87 Date (30)/25 days before adoption
✓ Resolution Adopting
✓ Findings of Fact, Conclusions & Order Adopting
1/28/88 Date
— Written requests, submissions or comments
✓ Declaration of attorney
Ann E. Cohen Name of SAAG representing agency
— Notice of Submission to Attorney General
— Affidavit of Mailing Notice to Attorney General

ATTORNEY GENERAL

March 1, 1988

ANN B. COHEN
Special Assistant
Attorney General

JULIE A. LEPPINK
Special Assistant
Attorney General

6-9422

In the Matter of the Adopted Rule Relating to
Waste Tire REcycling Grant and Loan Program

The above-referenced rule has been approved as to its legality by the Attorney General on February 25, 1988.

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, submissions 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.

MJC;nah
Enclosures

cc: Maryanne Hruby
Duane Harves

Waste Management Board

Adopted Permanent Rules Relating to Waste Tire Recycling Grant and Loan Program

Rules as Adopted

9220.0800 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 9220.0800 to 9220.0835, the following terms have the meaning given them unless the context requires otherwise.

Subp. 2. **Board.** "Board" means the Minnesota Waste Management Board.

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

Subp. 4. **Institutional arrangements.** "Institutional arrangements" means methods of financing, marketing, procurement, securing the waste supply, or joint efforts by more than one local government unit.

Subp. 5. **Waste tire recycling business.** "Waste tire recycling business" means a business engaged in energy recovery or resource recovery from waste tires.

Subp. 6. **Waste tire recycling project.** "Waste tire recycling project" means a mechanism, method, or facility designed to process waste tires to recover energy or resources.

9220.0805 SCOPE.

Parts 9220.0800 to 9220.0835 implement the waste tire recycling grant and loan program created in Minnesota Statutes, section 116.55 by establishing the substantive criteria and procedural conditions under which the board may award grants for waste tire recycling project studies and loans for waste tire recycling projects.

9220.0810 GRANTS.

Subpart 1. **Eligible applicants.** Individuals, partnerships, corporations, and associations are eligible for

Approved by Revisor DSN

grants.

Subp. 2. **Eligible studies.** Grant funds are available to pay costs associated with studies necessary to demonstrate the technical and economic feasibility of a waste tire recycling project.

Subp. 3. **Eligible costs.** Eligible costs are limited to the following:

A. the salary of employees or the cost of a consultant employed to research and analyze the technical and economic feasibility of the waste tire recycling project that is the subject of the study;

B. the cost of drafting, printing, and distributing the final report required under part 9220.0820;

C. the cost of in-state travel, the primary purpose of which is to gather information needed for the study, in no greater amount than provided in the current commissioner's plan adopted by the commissioner of employee relations under Minnesota Statutes, section 43A.18, subdivision 2; and

D. the cost of supplies required for the study, provided the supplies are fully expended during the course of the research or production of the report.

Subp. 4. **Ineligible costs.** The cost of overhead and the cost of developing the application submitted to the board are not eligible for funding.

9220.0815 CONTENT, REVIEW, AND EVALUATION OF GRANT APPLICATION.

Subpart 1. **Contents.** An application for a grant to study the technical and economic feasibility of a proposed waste tire recycling project must include the following information:

A. the name, address, and telephone number of the applicant;

B. a description of the waste tire recycling project that will be the subject of the study;

C. a detailed description of the proposed study, including objectives, tasks, estimated hours for completion of each task, and the estimated cost of completing each task;

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D. a description of the information that will be contained in the final report developed as required by part 9220.0820;

E. the total cost of the study and the eligible cost of the study;

F. the total grant funding requested; and

G. the name, address, and telephone number of the person or persons who will actually perform the research, if known.

Subp. 2. **Determination of eligibility and completeness.** Upon receipt of an application, the chair or a designee shall determine the eligibility of the applicant, the eligibility of the costs identified in the application, the eligibility of the study described in the application, and the completeness of the application. Applicants are encouraged to contact the chair and request a preapplication review of the proposed study.

Subp. 3. **Notice of determination of eligibility and completeness.** Within 14 days after receiving the application, the chair shall notify the applicant of the chair's determinations of eligibility and completeness. If the chair determines that the applicant or the study 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 study costs is ineligible or that the application is incomplete, the chair shall notify the applicant of the ineligible portion of the costs or of the deficiency. The applicant has 14 days after receiving the notice to correct any inadequacies identified by the chair. If the inadequacies are corrected within the time allowed, the application will be evaluated by the chair and sent to the board for decision.

Subp. 4. **Board approval.** The board shall approve applications and award grants for studies of the technical and economic feasibility of waste tire recycling projects that will result in the generation of information to aid the state in developing waste tire recycling alternatives. The board shall

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give priority to studies that are unlikely to be undertaken without state assistance, or that could lead directly to development of new waste tire recycling capacity needed in the state.

9220.0820 GRANT LIMITATIONS; AGREEMENT.

Subpart 1. **Grant amount.** Grants must not exceed 75 percent of the eligible costs of the proposed study. No single grant may exceed $30,000. Grants must not be awarded to cover a cost associated with tasks performed before the grant award or after the expiration of the grant agreement.

Subp. 2. **Grant agreement.** Grant funds must be disbursed only after a grant agreement containing the terms of this subpart has been executed by the board and the recipient of the grant award. The grant agreement must:

A. require the preparation of a final report to be submitted to the board that contains:

(1) a detailed analysis of the technical and economic feasibility of the waste tire recycling project that is the subject of the study, including an estimate of the net operating revenue, if any, to be generated by the waste tire recycling project studied if it was developed, considering the availability of waste tire supplies and markets for recovered resources from the project;

(2) a proposal for developing the waste tire recycling project that was the subject of the study, including financing alternatives, if the study concludes that development is feasible;

(3) an analysis of the impact that the waste tire recycling project studied would have on existing waste tire recycling if the project was developed; and

(4) other information that would be relevant to a future decision by the state or other private or public entities to fund or otherwise support the development of the waste tire recycling project that was studied;

B. provide for staged disbursement of funds as

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documentation of costs incurred is received from the grant recipient, and for retainage of funds until the final report is submitted and determined by the chair to be adequate;

C. incorporate by reference the final grant application submitted to the board under part 9220.0815; and

D. provide that any cost overruns incurred in performing the study and preparing the final report is the sole responsibility of the recipient and that the board shall not consider amendments to the grant agreement requesting that additional funds be awarded to the recipient.

9220.0825 LOANS.

Subpart 1. **Eligible applicants.** Individuals, partnerships, corporations, and associations engaged in a waste tire recycling business, or intending to become engaged in a waste tire recycling business, are eligible for waste tire recycling loans.

Subp. 2. **Eligible costs.** Loan funds are available to pay costs incurred for capital improvements associated with the development of the waste tire recycling project, including the cost of land and building acquisition or construction and the cost of equipment purchase and installation.

9220.0830 CONTENT, REVIEW, AND EVALUATION OF APPLICATION.

Subpart 1. **Contents.** An application for a waste tire recycling project loan must include the following information:

A. the name, address, and telephone number of the applicant and project manager;

B. a description of the waste tire recycling project that is proposed to be funded by the loan;

C. the total capital cost of the project;

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

E. the amount of the loan requested; and

F. the amount and source of all other funding that will be contributed to the project, including the amount of funds to be contributed by the applicant.

Subp. 2. **Supporting documentation.** An application for a

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waste tire recycling project loan must include the following supporting documentation:

A. Credit information sufficient to support a finding that the loan will be repaid. Credit information available from private credit rating agencies such as Standard and Poor's, or Dunn and Bradstreet must be accepted. For waste tire recycling businesses that do not have a credit rating, personal credit information pertaining to individual owners, partners, or shareholders of closely-held corporations must be submitted for evaluation and evaluated. Personal credit information must include personal tax returns, personal credit reports from credit bureaus or other credit reporting agencies if available, and references from personal bankers.

B. A certification from the chair that the proposed project is technically feasible.

C. A conceptual and technical feasibility report that includes at least the following:

(1) a detailed description of the proposed waste tire recycling project and the recycling process proposed;

(2) a description of the institutional arrangements necessary for project implementation and operation;

(3) a description of the method of project facility or equipment procurement;

(4) documentation substantiating that the equipment to be procured has the capability and operating history to perform as proposed;

(5) final design and engineering specifications, including site plans, building plans, and floor plans detailing the equipment layout; and

(6) an analysis of the quantity and source of the waste tires that will be processed.

D. A financial plan that contains:

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

(2) annual operating and maintenance costs;

(3) projections of total project costs and

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revenues over the term of the loan;

(4) projected tipping fees; and

(5) copies of contracts for the sale of project products that specify quantities sold, price per unit sold, the life of the contract and a marketing plan for the waste tire recycling business proposed.

E. A description of how the facility fits the solid waste management objectives of the jurisdiction where the facility will be located.

Subp. 3. **Determination of eligibility and completeness.** Upon receipt of an application, the chair or a designee shall determine the eligibility of the applicant, the eligibility of the costs identified in the application, the eligibility of the project described in the application and the completeness of the application. Applicants are encouraged to contact the chair to arrange for a preapplication review of the proposed project.

Subp. 4. **Notice of determination of eligibility and completeness.** Within 14 days after receiving the application, the chair shall notify the applicant of the chair's determinations of eligibility and completeness. If the chair determines that the applicant or the project is ineligible, the chair shall reject the application, return it to the applicant, and notify the applicant of the reasons for the rejection. If the chair determines that any part of the project costs is ineligible or that the application is incomplete, the chair shall notify the applicant of the ineligible portion of the costs or of the deficiency. The applicant has 14 days after receiving the notice to correct any inadequacies identified by the chair. If the inadequacies are corrected within the time allowed, the application will be evaluated by the chair and sent to the board for decision.

Subp. 5. **Board approval.** The board shall approve applications and award loans for development or improvement of waste tire recycling facilities that will aid the state in fulfilling waste tire management objectives. Priority must be given to projects that best meet the waste management objectives

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established in Minnesota Statutes, section 115A.02. No loan may be approved unless the board finds that the proposed project has been certified as technically feasible by the chair and that the operating revenues will be sufficient to ensure full repayment of loan, including interest.

9220.0835 LOAN LIMITATIONS.

Subpart 1. **Loan amount.** ~~No~~ The maximum waste tire recycling loan ~~may exceed~~ is 90 percent of the eligible capital costs of the project or $1,500,000, whichever is less.

Subp. 2. **Interest rate.** The interest rate of a loan from the waste tire recycling loan program shall not be less than an annual percentage rate of three percent. Interest payments on the loan are due annually and begin to accrue from the date the loan is disbursed by the board. The first repayment of the principal amount of the loan is due one year after the project becomes operational or two years after the date the loan agreement is executed by the board, whichever is earlier. The board shall consider the project operational at the point where the project meets all vendor guaranteed operating specifications.

Subp. 3. **Loan agreement.** Loan funds must be disbursed only after a loan agreement containing the terms of this subpart has been executed by the board and the recipient of a loan award. A grant agreement must:

A. incorporate by reference the final application submitted to the board under part 9220.0830;

B. establish the term of the loan, which is determined by considering the expected life of the project facility or equipment;

C. establish a schedule for repayment of principal and interest, and procedures to be followed in the case of default in repayment;

D. provide that any cost overruns incurred in the development of the proposed project are the sole responsibility of the loan recipient;

E. provide that the board will not accept any

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amendments or supplementary applications requesting that additional loan funds be awarded to the loan recipient; and

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

Subp. 4. **Failure to complete and operate project.** If a project funded by a loan under this part is not completed and operational in accordance with the terms and conditions of the loan agreement, including time schedules, the board shall declare default and require that the entire outstanding balance of the loan be repaid. Before finding a default, the board shall make a determination as to the reason the project was not completed or operated as required. If the board finds that the recipient could not complete or operate the project as required due to forces beyond the control of the recipient, the board shall consider a variance that will allow the original objectives of the project to be accomplished.

Approved by Revisor _____

APPROVED AS TO FORM AND LEGALITY

February 25 19 88

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY _____
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

FEB 29 1988

Joan Anderson Growe
Secretary of State

8:30 am

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of Rules of the Waste Management Board Governing the Waste Tire Recycling Grant and Loan Program

CERTIFICATE OF THE WASTE MANAGEMENT BOARD'S 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 22nd day of October, 1987, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified:

> BE IT RESOLVED, that the Chair of the Waste Management Board (Board) is hereby granted the authority to sign and give notice of the Board's intent to adopt, without a public hearing, the attached rules governing the Waste Tire Recycling Grant and Loan Program to all persons who have registered their names with the Board for that purpose and publish the notice and the rules in the State Register, 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 Chair 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.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 22nd day of October, 1987

Laurence E. Hunter
for Joseph M. Pavelich, Chair
Waste Management Board

Linda Peck
Attested by Board Member

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CERTIFICATE OF RESOLUTION ADOPTING RULES

I, Joseph M. Pavelich, do hereby certify that I am the Chair of the Minnesota Waste Management Board, an agency duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Minnesota Waste Management Board duly and properly called and held on the 28th day of January, 1988, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified:

BE IT RESOLVED, that the Minnesota Waste Management Board (Board) hereby approves and adopts the attached rules governing the Waste Tire Recycling Grant and Loan Program, as amended, pursuant to the authority vested in the Board by Minn. Stat. § 116.55 and Reorganization Order No. 144 (Dept. of Admin. 1987).

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 as required by Minn. Stat. § 14.28 (1986).

BE IT FURTHER RESOLVED, that the Board adopts the attached Findings of Fact, Conclusions, and Order Adopting Rules and that the Chair is hereby authorized to sign the above-mentioned document on behalf of the Board and to perform the acts necessary to provide that the rule shall have the force and effect of law.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 1 day of Feb, 1988.

JOSEPH M. PAVELICH, Chair
Waste Management Board

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Waste Management Board

Proposed Permanent Rules Relating to Waste Tire Recycling Grant and Loan Program

Rules as Proposed (all new material)

9220.0800 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 9220.0800 to 9220.0835, the following terms have the meaning given them unless the context requires otherwise.

Subp. 2. **Board.** "Board" means the Minnesota Waste Management Board.

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

Subp. 4. **Instutional arrangements.** "Institutional arrangements" means methods of financing, marketing, procurement, securing the waste supply, or joint efforts by more than one local government unit.

Subp. 5. **Waste tire recycling business.** "Waste tire recycling business" means a business engaged in energy recovery or resource recovery from waste tires.

Subp. 6. **Waste tire recycling project.** "Waste tire recycling project" means a mechanism, method, or facility designed to process waste tires to recover energy or resources.

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9220.0805 SCOPE.

Parts 9220.0800 to 9220.0835 implement the waste tire recycling grant and loan program created in Minnesota Statutes, section 116.55 by establishing the substantive criteria and procedural conditions under which the board may award grants for waste tire recycling project studies and loans for waste tire recycling projects.

9220.0810 GRANTS.

Subpart 1. **Eligible applicants.** Individuals, partnerships, corporations, and associations are eligible for

Approved by Revisor DSN

grants.

Subp. 2. **Eligible studies.** Grant funds are available to pay costs associated with studies necessary to demonstrate the technical and economic feasibility of a waste tire recycling project.

Subp. 3. **Eligible costs.** Eligible costs are limited to the following:

A. the salary of employees or the cost of a consultant employed to research and analyze the technical and economic feasibility of the waste tire recycling project that is the subject of the study;

B. the cost of drafting, printing, and distributing the final report required under part 9220.0820;

C. the cost of in-state travel, the primary purpose of which is to gather information needed for the study, in no greater amount than provided in the current commissioner's plan adopted by the commissioner of employee relations under Minnesota Statutes, section 43A.18, subdivision 2; and

D. the cost of supplies required for the study, provided the supplies are fully expended during the course of the research or production of the report.

Subp. 4. **Ineligible costs.** The cost of overhead and the cost of developing the application submitted to the board are not eligible for funding.

9220.0815 CONTENT, REVIEW, AND EVALUATION OF GRANT APPLICATION.

Subpart 1. **Contents.** An application for a grant to study the technical and economic feasibility of a proposed waste tire recycling project must include the following information:

A. the name, address, and telephone number of the applicant;

B. a description of the waste tire recycling project that will be the subject of the study;

C. a detailed description of the proposed study, including objectives, tasks, estimated hours for completion of each task, and the estimated cost of completing each task;

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D. a description of the information that will be contained in the final report developed as required by part 9220.0820;

E. the total cost of the study and the eligible cost of the study;

F. the total grant funding requested; and

G. the name, address, and telephone number of the person or persons who will actually perform the research, if known.

Subp. 2. **Determination of eligibility and completeness.** Upon receipt of an application, the chair or a designee shall determine the eligibility of the applicant, the eligibility of the costs identified in the application, the eligibility of the study described in the application, and the completeness of the application. Applicants are encouraged to contact the chair and request a preapplication review of the proposed study.

Subp. 3. **Notice of determination of eligibility and completeness.** Within 14 days after receiving the application, the chair shall notify the applicant of the chair's determinations of eligibility and completeness. If the chair determines that the applicant or the study 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 study costs is ineligible or that the application is incomplete, the chair shall notify the applicant of the ineligible portion of the costs or of the deficiency. The applicant has 14 days after receiving the notice to correct any inadequacies identified by the chair. If the inadequacies are corrected within the time allowed, the application will be evaluated by the chair and sent to the board for decision.

Subp. 4. **Board approval.** The board shall approve applications and award grants for studies of the technical and economic feasibility of waste tire recycling projects that will result in the generation of information to aid the state in developing waste tire recycling alternatives. The board shall

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give priority to studies that are unlikely to be undertaken without state assistance, or that could lead directly to development of new waste tire recycling capacity needed in the state.

9220.0820 GRANT LIMITATIONS; AGREEMENT.

Subpart 1. **Grant amount.** Grants must not exceed 75 percent of the costs of the proposed study. No single grant may exceed $30,000. Grants must not be awarded to cover a cost associated with tasks performed before the grant award or after the expiration of the grant agreement.

Subp. 2. **Grant agreement.** Grant funds must be disbursed only after a grant agreement containing the terms of this subpart has been executed by the board and the recipient of the grant award. The grant agreement must:

A. require the preparation of a final report to be submitted to the board that contains:

(1) a detailed analysis of the technical and economic feasibility of the waste tire recycling project that is the subject of the study, including an estimate of the net operating revenue, if any, to be generated by the waste tire recycling project studied if it was developed, considering the availability of waste tire supplies and markets for recovered resources from the project;

(2) a proposal for developing the waste tire recycling project that was the subject of the study, including financing alternatives, if the study concludes that development is feasible;

(3) an analysis of the impact that the waste tire recycling project studied would have on existing waste tire recycling if the project was developed; and

(4) other information that would be relevant to a future decision by the state or other private or public entities to fund or otherwise support the development of the waste tire recycling project that was studied;

B. provide for staged disbursement of funds as

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documentation of costs incurred is received from the grant recipient, and for retainage of funds until the final report is submitted and determined by the chair to be adequate;

C. incorporate by reference the final grant application submitted to the board under part 9220.0815; and

D. provide that any cost overruns incurred in performing the study and preparing the final report is the sole responsibility of the recipient and that the board shall not consider amendments to the grant agreement requesting that additional funds be awarded to the recipient.

9220.0825 LOANS.

Subpart 1. **Eligible applicants.** Individuals, partnerships, corporations, and associations engaged in a waste tire recycling business, or intending to become engaged in a waste tire recycling business, are eligible for waste tire recycling loans.

Subp. 2. **Eligible costs.** Loan funds are available to pay costs incurred for capital improvements associated with the development of the waste tire recycling project, including the cost of land and building acquisition or construction and the cost of equipment purchase and installation.

9220.0830 CONTENT, REVIEW, AND EVALUATION OF APPLICATION.

Subpart 1. **Contents.** An application for a waste tire recycling project loan must include the following information:

A. the name, address, and telephone number of the applicant and project manager;

B. a description of the waste tire recycling project that is proposed to be funded by the loan;

C. the total capital cost of the project;

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

E. the amount of the loan requested; and

F. the amount and source of all other funding that will be contributed to the project, including the amount of funds to be contributed by the applicant.

Subp. 2. **Supporting documentation.** An application for a

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waste tire recycling project loan must include the following supporting documentation:

A. Credit information sufficient to support a finding that the loan will be repaid. Credit information available from private credit rating agencies such as Standard and Poor's, or Dunn and Bradstreet must be accepted. For waste tire recycling businesses that do not have a credit rating, personal credit information pertaining to individual owners, partners, or shareholders of closely-held corporations must be submitted for evaluation and evaluated. Personal credit information must include personal tax returns, personal credit reports from credit bureaus or other credit reporting agencies if available, and references from personal bankers.

B. A certification from the chair that the proposed project is technically feasible.

C. A conceptual and technical feasibility report that includes at least the following:

(1) a detailed description of the proposed waste tire recycling project and the recycling process proposed;

(2) a description of the institutional arrangements necessary for project implementation and operation;

(3) a description of the method of project facility or equipment procurement;

(4) documentation substantiating that the equipment to be procured has the capability and operating history to perform as proposed;

(5) final design and engineering specifications, including site plans, building plans, and floor plans detailing the equipment layout; and

(6) an analysis of the quantity and source of the waste tires that will be processed.

D. A financial plan that contains:

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

(2) annual operating and maintenance costs;

(3) projections of total project costs and

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revenues over the term of the loan;

(4) projected tipping fees; and

(5) copies of contracts for the sale of project products that specify quantities sold, price per unit sold, the life of the contract and a marketing plan for the waste tire recycling business proposed.

E. A description of how the facility fits the solid waste management objectives of the jurisdiction where the facility will be located.

Subp. 3. **Determination of eligibility and completeness.** Upon receipt of an application, the chair or a designee shall determine the eligibility of the applicant, the eligibility of the costs identified in the application, the eligibility of the project described in the application and the completeness of the application. Applicants are encouraged to contact the chair to arrange for a preapplication review of the proposed project.

Subp. 4. **Notice of determination of eligibility and completeness.** Within 14 days after receiving the application, the chair shall notify the applicant of the chair's determinations of eligibility and completeness. If the chair determines that the applicant or the project is ineligible, the chair shall reject the application, return it to the applicant, and notify the applicant of the reasons for the rejection. If the chair determines that any part of the project costs is ineligible or that the application is incomplete, the chair shall notify the applicant of the ineligible portion of the costs or of the deficiency. The applicant has 14 days after receiving the notice to correct any inadequacies identified by the chair. If the inadequacies are corrected within the time allowed, the application will be evaluated by the chair and sent to the board for decision.

Subp. 5. **Board approval.** The board shall approve applications and award loans for development or improvement of waste tire recycling facilities that will aid the state in fulfilling waste tire management objectives. Priority must be given to projects that best meet the waste management objectives

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established in Minnesota Statutes, section 115A.02. No loan may be approved unless the board finds that the proposed project has been certified as technically feasible by the chair and that the operating revenues will be sufficient to ensure full repayment of loan, including interest.

9220.0835 LOAN LIMITATIONS.

Subpart 1. **Loan amount.** No waste tire recycling loan may exceed 90 percent of the eligible capital costs of the project.

Subp. 2. **Interest rate.** The interest rate of a loan from the waste tire recycling loan program shall not be less than an annual percentage rate of three percent. Interest payments on the loan are due annually and begin to accrue from the date the loan is disbursed by the board. The first repayment of the principal amount of the loan is due one year after the project becomes operational or two years after the date the loan agreement is executed by the board, whichever is earlier. The board shall consider the project operational at the point where the project meets all vendor guaranteed operating specifications.

Subp. 3. **Loan agreement.** Loan funds must be disbursed only after a loan agreement containing the terms of this subpart has been executed by the board and the recipient of a loan award. A grant agreement must:

A. incorporate by reference the final application submitted to the board under part 9220.0830;

B. establish the term of the loan, which is determined by considering the expected life of the project facility or equipment;

C. establish a schedule for repayment of principal and interest, and procedures to be followed in the case of default in repayment;

D. provide that any cost overruns incurred in the development of the proposed project are the sole responsibility of the loan recipient;

E. provide that the board will not accept any amendments or supplementary applications requesting that

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by Revisor _____

additional loan funds be awarded to the loan recipient; and

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

Subp. 4. **Failure to complete and operate project.** If a project funded by a loan under this part is not completed and operational in accordance with the terms and conditions of the loan agreement, including time schedules, the board shall declare default and require that the entire outstanding balance of the loan be repaid. Before finding a default, the board shall make a determination as to the reason the project was not completed or operated as required. If the board finds that the recipient could not complete or operate the project as required due to forces beyond the control of the recipient, the board shall consider a variance that will allow the original objectives of the project to be accomplished.

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Waste Tire Recycling Grant and Loan Program

AGENCY: Waste Management Board

MINNESOTA RULES: Chapter 9220

The attached rules are approved for publication in the State Register

David S. Niss
Assistant Revisor

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of Proposed Rules Governing the Waste Tire Recycling Grant and Loan Program, Minn. Rules Parts	NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Notice is hereby given that the Minnesota Waste Management Board (Board) intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minn. Stat. §§ 14.22 to 14.28 (1986). The Board's authority to adopt the rule is set forth in Minn. Stat. § 116.55, pursuant to Reorganization Order No. 144 (Dept. of Admin. 1987).

All persons have until 4:30 p.m. on Wednesday, January 20, 1988, to submit comments in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the Board will proceed pursuant to Minn. Stat. §§ 14.131 to 14.20 (1986).

Comments or written requests for a public hearing must be submitted to:

Mr. Edward Welsch
Waste Management Board
1350 Energy Lane
St. Paul, Minnesota, 55108
(612) 649-5750

The proposed rule may be modified if the modifications are supported by data and views submitted to the Board and do not result in a substantial change in the proposed rule as noticed.

The proposed rule, if adopted, will govern the waste tire recycling grant and loan program established in Minn. Stat. §

116.55 (1986) by establishing the substantive criteria and procedural conditions under which the Board will award grants and loans for waste tire recycling. The proposed rule is enclosed with this notice. One free copy of the rules is available from Mr. Edward Welsch at the address and telephone given above.

A Statement of Need and Reasonableness that describes the need for an reasonableness of each provision of the proposed rule and that identifies the data and information relied upon to support the proposed rule has been prepared and is available from Mr. Edward Welsch upon request.

You hereby advised, pursuant to Minn. Stat. § 14.115 (1986), "Small business considerations in rulemaking," that the proposed rule will have no negative effect on small businesses because businesses are eligible for the grant and loan funds available under this program.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 rule as adopted, must submit a written request to Mr. Edward Welsch.

Dated: 12/11/87

Joseph M. Pavelich, Chair
Waste Management Board

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed Rules Governing the Waste Tire Recycling Grant and Loan Program

STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION

In 1984, the legislature created a program to encourage the development of waste tire recycling projects in the state. Through the then Department of Energy and Economic Development (DEED), grants were made available for the study of waste tire recycling projects and low-interest loans were made available to implement such projects.

Under emergency rules promulgated by DEED, one loan was made to a waste tire recycling project. The emergency rules were not made permanent.

In 1987, the legislature transferred the authority for the program to the Pollution Control Agency in the Act of June 1, 1987, Minn. Laws 1987 ch. 348. On July 1, 1987, the Governor transferred the program from the Pollution Control Agency to the Waste Management Board through Reorganization Order No. 144, (Dept. of Admin. 1987).

The Waste Management Board (Board) now promulgates permanent rules to govern the waste tire recycling grant and loan program. These rules establish the substantive criteria and procedural conditions under which the board will award grants for waste tire recycling project studies and loans for waste tire recycling projects.

II. STATEMENT OF BOARD'S STATUTORY AUTHORITY

The Board's statutory authority to adopt the rule is set forth in Minn. Stat. § 116.55 which provides:

> The [board] may make waste tire recycling loans to businesses. Applications for the loans are not complete unless the waste tire recycling project for which the loan is to be made is certified to be technically feasible by the [chair of the Board]. The authority may make grants from the waste tire recycling account for studies necessary to demonstrate the technical and economic feasibility of a proposed waste tire recycling project. A grant must be less than $30,000 and may not exceed 75 percent of the costs of the study. The [board] shall adopt rules for administration of waste tire recycling grants and loans.

Under this statute, and pursuant to Reorganization Order No. 144, the Board has the necessary authority to adopt this rule. The text of Reorganization Order No. 144 is attached.

III. STATEMENT OF NEED

Minn. Stat. ch. 14 (1986) requires the Board to make an affirmative presentation of facts establishing the need for and reasonableness of the rule as proposed. In general terms, this means that the Board must set forth the reasons for its proposal, and the reasons must not be arbitrary or capricious. However, to the extent that need and reasonableness are separate, need has come to mean that a problem exists which requires administrative attention, and reasonableness means that the solution proposed by the Board is appropriate. The need for the rule is discussed below.

In 1984, the legislature banned the land disposal of waste tires. This action created a need for waste tire processing in the state. The legislature created the grant and loan program

that is the subject of this rulemaking to create incentives for the private sector to meet the waste tire processing needs of the state. The program requires rules to ensure its orderly administration.

IV. STATEMENT OF REASONABLENESS

The Board is required by Minn. Stat. ch. 14 to make an affirmative presentation of facts establishing the reasonableness of the proposed rules. Reasonableness is the opposite of arbitrariness or capriciousness. It means that there is a rational basis for the Board's proposed action. The reasonableness of each part of the proposed rule is discussed below.

9204.XXXX Definitions

The definitions in this part are provided to ensure clarity and consistency in the use of certain terms that are not in common usage.

9204.XXX1 Scope

This section provides an overall description of the rule to alert the reader as to the subjects that the rule addresses.

9204.XXX2 Grants

Subp. 1. Eligible Applicants

The rule provides that grants are to be given to businesses. This is reasonable because the goal of this program is to encourage private sector participation in waste tire recycling. A business may be operated as a corporation, partnership, or association or by an individual. It is reasonable to include all

possible entities that might qualify as "businesses" and reasonable to include this section to ensure that applicants are given notice of their eligibility. Grant applicants are not restricted to those qualifying as "waste tire recycling businesses." This is reasonable because grants for studies should be available to those who are interested in entering the waste tire recycling business but who as yet have not made a commitment to do so.

Subp. 2. Eligible studies

This part reiterates the statutory restriction on the scope of waste tire recycling studies eligible for grants. It is reasonable to reiterate the statutory limitation to alert applicants to the scope of the program.

Subp. 3. Eligible costs.

Item A. The salary of an employee or the cost of a consultant is likely to be the major element of cost of a study and therefore it is reasonable to make this cost eligible. The rule makes both employee salary and the cost of a consultant eligible to allow firms with in-house capacity to perform these types of marketing studies the opportunity to do so.

Item B. The report is required by the board to enable the board to study and disseminate the information generated by the study. Because this is a cost incurred to benefit the state, it is reasonable to make it grant eligible.

Item C. The reasonable cost of travel (limited to the

amount paid to state employees) is made grant eligible to encourage thorough research including visits to potential sites. Because this will provide valuable and needed information, it is reasonable to make the travel costs grant eligible.

Item D. It is reasonable to fund supplies used in the research and preparation of the study report because supplies are a reasonable and necessary expense. Payment is limited to those supplies actually expended during the course of research or preparation of the report to ensure that the grant money is not used to fund the normal operating costs of the business.

Subp. 4. Ineligible costs.

To limit the possibility that grant money is used to fund ordinary business expenses, it is reasonable to make overhead ineligible. The cost of developing the application is also ineligible because the application cost should not be high, and it is fair to require this to be born by potential recipients. This will also ensure that potential recipients do not spend a large amount of money to develop an application that might not be funded.

9200.XXX3 Contents, Review and Evaluation of Applications.

Subp. 1. Contents.

Item A. The name, address and telephone number of the applicant are needed to enable the board to contact the applicant during the application review process.

Item B. It is reasonable to require a description of the waste tire recycling project to enable the board to assess the potential of the study to generate information that will aid the state in the development of waste tire recycling alternatives.

Item C. The information concerning the scope of the proposed study required under Item C is needed to enable the board to evaluate whether the proposed study will be adequate to generate information of use to the state in developing waste tire recycling alternatives. Requiring this information at the application stage is also reasonable because it will ensure that applicants are well organized and prepared to move forward with the research when the grant is awarded.

Item D. It is reasonable to require applicants to describe their final reports to enable the board to evaluate how well the study will generate the information required in the final report and how the study will affect the contents of the final report.

Items E., F. This information is needed to enable the board to set the amount of the grant.

Item G. During the course of evaluation of the grant application, the board may wish to contact the researchers to assess their qualifications. It is thus reasonable to require applicants to supply names and telephone numbers of the persons performing the research, if known.

Subp. 2. Determination of eligibility and completeness.

It is reasonable that the review of the application for completeness and eligibility be done by the chair or staff because the task is essentially ministerial and should not require formal board consideration. This will ensure that only complete applications from eligible applicants are subject to formal board action, conserving administrative resources. Administrative resources will also be conserved by encouraging applicants to contact the board staff to receive guidance before submitting an application.

Subp. 3. Notice of determination of eligibility and completeness.

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--14 days--for initial review is reasonable because it gives adequate time for the review yet will not delay decision. The time period to respond to a finding of deficiency--14 days--is reasonable because the applicant has had notice of what must be submitted and should be able to correct omissions without further delay.

Subp. 4. Board approval.

The purpose of the legislation creating the waste tire recycling grant and loan program was to encourage the development of the waste tire recycling industry in the state. Thus, it is reasonable to fund only studies that will result in the

generation of information that will aid the state in the development of waste tire recycling alternatives. It is reasonable to give priority to studies unlikely to be funded without state assistance to ensure that state funds are spent when truly needed. It is further reasonable to give priority to studies likely to lead directly to the development of new waste tire recycling capacity in the state as this best fulfills the goal of the grant and loan program.

9204.XXX4 Grant Limitations; Agreement.

Subp. 1. Grant amount.

The limits set out on this subpart are reasonable because they are set by law. It is reasonable to fund costs incurred only after the award of the grant and during the time the grant agreement is in effect to insure board control over expenditures funded by the grant.

Subp. 2. Grant agreement.

Item A. It is reasonable to require the execution of a grant agreement so that the board and the recipient can clarify what is to be done during the period the grant is in effect, and to ensure that the state can pursue legal action if the terms of the award are not met.

It is reasonable to require grant recipients to prepare a final report on their study to enable the state to benefit from the information received. Item (A) is needed because market and financial information is essential for future decisions regarding development. Item (B) is needed so that

the board can respond to potential financing schemes if the report concludes development is possible. Item (C) is needed to enable the board to determine whether future development of the studied project would have a negative impact on existing recycling alternatives or a net negative impact on waste tire recycling as a whole. Item (D) ensures that the applicant will include in the final report all relevant information generated.

Item B. It is reasonable to require staged disbursement of funds to ensure that the state earns the interest on funds reserved for the study before they are spent. It is also reasonable to provide for retainage of funds to ensure that the recipient has incentive to finish the final report.

Item C. It is reasonable to incorporate by reference the final grant application to ensure that the recipient performs the study approved by the board.

Item D. It is reasonable to require the recipient to complete the study regardless of cost overruns to encourage applicants to be realistic in budgeting and to ensure that the amount of money approved for a project does not change, interfering with the funding of other studies.

9204.XXX6. Loans.

Subp. 1. Eligible applicants.

It is reasonable to include a provision on eligibility to alert potential applicants as to their ability to apply. By

statute, loans are made to "businesses." It is reasonable to include all forms of business structure, from individuals through corporations. It is also reasonable to ensure that those seeking to become "businesses" can participate, to ensure the broadest participation in the program. Broad participation best fulfills the objective of the program: to create new waste tire recycling enterprises in the state.

Subp. 2. Eligible costs.

It is reasonable to limit eligible costs to capital costs of facility development because those costs are the most easily verified, thus ensuring that the loan funds are spent as intended and that the facility is properly built and equipped.

9204.XXX7. Contents, Review and Evaluation of Applications.

It is reasonable to specify application contents to ensure the orderly evaluation of loan requests. Items A through F of this subpart are basic information that the board will use to obtain an overall picture of the application.

Subp. 2. Supporting documentation.

Item A. Credit information is requested so that the board can ensure that the loan will be repaid. The nature of the credit information is not made firm by the rule, although certain types of credit information are specifically noted as acceptable. This is reasonable to allow applicants flexibility in establishing that they are credit worthy.

Item B. The certification required in this item is required by law.

Item C. The conceptual and technical feasibility report is needed so that the board can evaluate the chances of the project's success. The information required is reasonable so that the board can ensure that the applicant has undertaken all work - technical and political - to ensure smooth project development.

Item D. A financial plan including actual contracts for the products of the facility is required so that the board can be sure that the project will be financially feasible, ensuring repayment of the loan.

Item E. A description of how the facility fits the solid waste management objectives of the jurisdiction where the facility will be located is required to ensure that the applicant's facility will harmonize with local solid waste management planning. It is reasonable to require this information from applicants because coordination with local waste management objectives will be essential for success.

Subp. 3. Determination of eligibility and completeness. It is reasonable for the review of the application with regard to the completness and eligibility to be done by the chair or staff because the task is essentially ministerial and should not require formal board consideration. This will ensure that only complete applications from eligible applicants are subject to formal board action, conserving administrative resources.

Administrative resources will also be conserved by encouraging applicants to contact the board staff to receive guidance before submitting an application.

Subp. 4. Notice of eligibility and completeness.

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 - 14 days - for initial review is reasonable because it gives adequate time for the review yet will not delay decision. The time period to respond to a finding of deficiency - 14 days - is reasonable because the applicant has had notice of what must be submitted and should be able to correct omissions without further delay.

Subp. 5. Board approval.

The goal of this program is to ensure that the state's waste tire management objectives are fulfilled. Thus, it is reasonable to limit the award a loan to those facilities that will meet the state's objectives. It is reasonable to give priority to projects that meet the state's articulated hierarchy of waste management objectives (as found in the Waste Management Act), as projects which emphasize resource recovery are likely to have the fewest negative environmental impacts. It is reasonable to require technical certification before an award is granted because this certification is required by law. It is further reasonable to require the board to find that the loan will be repaid to ensure that the money allocated to this program is not lost.

9204.XXX8 Loan limitations.

Subp. 1. Loan amount.

This provision sets no overall limit on the amount of the loan, but requires that the recipient contribute 10% of the eligible capital costs. It is reasonable to set no overall cap because the cost of development of a waste tire recycling facility cannot adequately be predicted and is likely to be quite high. Ten percent participation on the part of the applicant is reasonable to ensure that the applicant is committed financially to the project, while not precluding an applicant lacking a high level of equity capital from participating.

Subp. 2. Interest rate.

A rate of at least three percent interest is required. This is reasonable because the rate is low enough to ensure that it provides an incentive to the private sector to enter into the business, while giving the state some return on the loan. Yearly payments are reasonable to ensure a minimum of financial administration costs. Repayment is tied to the beginning of operation, or two years after the date of execution of the loan agreement. This is reasonable to ensure that the facility is producing some revenue before repayment is required, while ensuring that repayment is not overly delayed if operation is not achieved in two years.

Subp. 3. Loan agreement.

It is reasonable to require that loan funds be disbursed under the terms of a loan agreement to ensure that the board and applicant understand the terms of the loan, and to ensure that the board can take legal action to recover loan money if the project is not completed or operated or if payments are missed. Item A is reasonable because it ensures that that applicant is required to complete and operate the project described in the application. Items B and C are needed for orderly loan administration. Items D and E ensure that applicants will budget carefully because they will be responsible for cost overruns. Item F is reasonable to ensure that information generated by the development of the facility can be used by the state or others interested in similar projects.

Subp. 4. Failure to complete and operate project

This subpart is needed because it establishes the procedures that will be followed by the board in the event of a default for failure to complete or operate the proposed project. This part is reasonable because although it provides that the board has the power to accelerate repayment of the loan, the board can also grant a variance that will allow the original objectives of the project to be accomplished.

V. SMALL BUSINESS CONSIDERATIONS IN RULEMAKING

Minn. Stat. § 14.115, subd. 2 (1986) requires the board, when proposing rules which may affect small businesses, to consider various methods for reducing the impacts on small

businesses. The board finds that this grant and loan program, because it is available to small businesses and is intended to assist small businesses, will have no negative impact on small businesses and that the rules of the program require no modification to accomodate small businesses.

CONCLUSION

Based on the foregoing, the proposed rules governing the waste tire recycling grant and loan program are both needed and reasonable.

Dated: 11/4/87, 1987

Joseph M. Pavelich, Chair

STATE OF MINNESOTA

Department of Administration

RECEIVED
JUN 1987
WASTE MANAGEMENT BOARD

June 25, 1987

MANAGEMENT ANALYSIS DIVISION

TO: Tom Rulland
State Planning Agency

Richard Svanda
Pollution Control Agency

Tom Johnson
Waste Management Board

Julie Vikmanis
Department of Employee Relations

Ted Spiess
Department of Finance

Martha Watson
Department of Trade and Economic Development

Barbara Kochevar
State Planning Agency

FROM: Terry L. Bock, Director
Management Analysis Division
Department of Administration

RE: Reorganization Order 144

Attached is a draft of Reorganization Order 144. A final draft of the order must be on the Governor's desk for signature by Friday June 26. Could you please review the order and phone me with any comments by noon on Friday. Thanks for your prompt attention.

203 Administration Building
50 Sherburne Avenue
Saint Paul, Minnesota 55155
(612) 296-6887

DRAFT

STATE OF MINNESOTA
DEPARTMENT OF ADMINISTRATION
REORGANIZATION ORDER NO. 144

Pursuant to Minnesota Statutes 1986, Section 16B.37, the following administrative reorganization is made with the prior approval of the Governor.

In order to improve efficiency and avoid duplication in the operation of state government, the Pollution Control Agency's waste tire abatement and permitting duties and its waste tire recycling loan and grant program are transferred to the Waste Management Board.

Consistent with this transfer of duties, the following positions and their incumbents, with all accrued benefits, are transferred from the Pollution Control Agency to the Waste Management Board:

Position Number	Incumbent	Classification
190580	Andrew Ronchak	Pollution Control Specialist, Senior
190590	Shelly Sporer	Pollution Control Specialist, Intermediate
190600	Patrick Carey	Pollution Control Specialist, Intermediate

One additional position, authorized by Laws 1987, Chapter 404, Section 24, but not yet established, shall be transferred from the Pollution Control Agency to the Waste Management Board.

The Motor Vehicle Transfer fund complement of the Pollution Control Agency as provided by Laws 1987, Chapter 404, Section 24, is decreased by four positions; the Motor Vehicle Transfer fund complement of the Waste Management Board as provided by Laws 1987, Chapter 404, Section 25, is increased by four positions.

The Pollution Control Agency shall give to the Waste Management Board all contracts, books, maps, plans, papers, records, equipment, furnishings, and supplies relating to the transferred activities.

Rulemaking authority for the waste tire abatement and permitting programs and the waste tire processor grant program are transferred to the Waste Management Board. All rules adopted by the Pollution Control Agency pursuant to these duties remain in effect and shall be enforced until amended or repealed in accordance with law by the Waste Management Board.

Any proceeding, court action, prosecution, or other business or matter pending on the effective date of the transfer may be conducted and completed by the Waste Management Board in the same manner under the same terms and conditions, and with the same effect, as though it involved or were commenced and conducted or completed prior to the transfer by the Pollution Control Agency.

The Commissioner of Finance shall make the necessary financial determinations in accordance with Minnesota Statutes 1986, Section 16B.37, Subdivision 3.

In order to improve efficiency, avoid duplication in the operation of state government, and carry out the provisions of Laws 1987, Chapter 386, Article 4, Section 4, the following position, its duties, and its incumbent are transferred from the State Plannning Agency to the Department of Trade and Economic Development:

Position Number	Incumbent	Classification
953370	Jane Leonard	Planner (temporary)

The incumbent is transferred with all accrued benefits.

The effective date of this order is July 1, 1987. The order is herewith filed with the Secretary of State and shall remain in effect until amended or repealed.

APPROVED:

_____ _____

RUDY PERPICH, GOVERNOR Date

_____ _____

SANDRA J. HALE, COMMISSIONER Date
DEPARTMENT OF ADMINISTRATION

FILED ACCORDING TO LAW:

_____ _____

JOAN ANDERSON GROWE Date
SECRETARY OF STATE

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the matter of the Proposed Rules Governing Waste Tire Recycling Grants and Loans, Minn. Rules pts. 9220.0800 -.0835

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

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Barbara Thoman, being duly 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 (1986) that their names be placed on the Minnesota Waste Management Board's rulemaking mailing list was accurate, complete, and current as of the 15th day of December, 1987.

That on the 15th day of December, 1987, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt Rules Without a Public Hearing by depositing in the United States mail for first class mailing a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Barbara J Thoman

Subscribed and sworn to before me this 1st day of February, 1988.

June J Seery
Notary Public

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

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

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

Written material may be submitted and recorded in the hearing record for five working days after the public hearing ends. This comment period may be extended for a longer period not to exceed twenty calendar days if so ordered by the administrative law judge at the hearing. Comments received during this period shall be available for review at the Office of Administrative Hearings, 500 Flour Exchange Bldg., 310 4th Avenue South, Minneapolis, MN 55415. The Department of Labor & Industry and any interested persons may respond in writing within three business days after the submission period ends to any new information submitted. However, no additional evidence may be submitted during the three-day period.

NOTICE: Any person may request notification of the date on which the administrative law judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the administrative law judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day that the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

Notice is hereby given that a statement of need and reasonableness is now available for review at the agency and at the Office of Administrative Hearings. This statement of need and reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the statement of need and reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

The statement of need and reasonableness addresses the impact the proposed rule might have on small businesses. It may be obtained by contacting the Department of Labor & Industry at 296-2125.

The rule hearing procedure is governed by *Minnesota Statutes*, sections 14.14 to 14.20 and by parts 1400.0200 to 1400.1200 of *Minnesota Rules*. Questions regarding procedure may be directed to the administrative law judge.

The following administrative law judge has been assigned to preside over this hearing:

Peter C. Erickson
Office of Administrative Hearings
500 Flour Exchange Building
310 Fourth Avenue South
Minneapolis, MN 55415
Phone: 341-7608

Dated: 1 December 1987

Ray Bohn
Commissioner of Labor & Industry

Waste Management Board

Proposed Permanent Rules Relating to Waste Tire Recycling Grant and Loan Program

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Minnesota Waste Management Board (Board) intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, §§ 14.22 to 14.28 (1986). The Board's authority to adopt the rule is set forth in *Minnesota Statutes* § 116.55, pursuant to Reorganization Order No. 144 (Dept. of Admin. 1987).

All persons have until 4:30 p.m. on Wednesday, January 20, 1988, to submit comments in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

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

Any person may make a written request for a public hearing on the rule within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the Board will proceed pursuant to *Minnesota Statutes* §§ 14.131 to 14.20 (1986).

Comments or written requests for a public hearing must be submitted to:

Mr. Edward Welsch
Waste Management Board
1350 Energy Lane
St. Paul, Minnesota, 55108
(612) 649-5750

The proposed rule may be modified if the modifications are supported by data and views submitted to the Board and do not result in a substantial change in the proposed rule as noticed.

The proposed rule, if adopted, will govern the waste tire recycling grant and loan program established in *Minnesota Statutes* § 116.55 (1986) by establishing the substantive criteria and procedural conditions under which the Board will award grants and loans for waste tire recycling. The proposed rule is published below. One free copy of the rule is available upon request from Mr. Edward Welsch, at the address and telephone number stated above.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and that identifies the data and information relied upon to support the proposed rule has been prepared and is available from Mr. Edward Welsch upon request.

You are hereby advised, pursuant to *Minnesota Statutes*, § 14.115 (1986), "Small business considerations in rulemaking," that the proposed rule will have no negative effect on small businesses because businesses are eligible for the grant and loan funds available under this program.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submisison of this material to the Attorney General, or who wish to receive a copy of the rule as adopted, must submit a written request to Mr. Edward Welsch.

Joseph M. Pavelich, Chair
Waste Management Board

Rules as Proposed (all new material)

9220.0800 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 9220.0800 to 9220.0835, the following terms have the meaning given them unless the context requires otherwise.

Subp. 2. **Board.** "Board" means the Minnesota Waste Management Board.

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

Subp. 4. **Institutional arrangements.** "Institutional arrangements" means methods of financing, marketing, procurement, securing the waste supply, or joint efforts by more than one local government unit.

Subp. 5. **Waste tire recycling business.** "Waste tire recycling business" means a business engaged in energy recovery or resource recovery from waste tires.

Subp. 6. **Waste tire recycling project.** "Waste tire recycling project" means a mechanism, method, or facility designed to process waste tires to recover energy or resources.

9220.0805 SCOPE.

Parts 9220.0800 to 9220.0835 implement the waste tire recycling grant and loan program created in Minnesota Statutes, section 116.55 by establishing the substantive criteria and procedural conditions under which the board may award grants for waste tire recycling project studies and loans for waste tire recycling projects.

9220.0810 GRANTS.

Subpart 1. **Eligible applicants.** Individuals, partnerships, corporations, and associations are eligible for grants.

Subp. 2. **Eligible studies.** Grant funds are available to pay costs associated with studies necessary to demonstrate the technical and economic feasibility of a waste tire recycling project.

Subp. 3. **Eligible costs.** Eligible costs are limited to the following:

A. the salary of employees or the cost of a consultant employed to research and analyze the technical and economic feasibility of the waste tire recycling project that is the subject of the study;

B. the cost of drafting, printing, and distributing the final report required under part 9220.0820;

C. the cost of in-state travel, the primary purpose of which is to gather information needed for the study, in no greater amount than provided in the current commissioner's plan adopted by the commissioner of employee relations under Minnesota Statutes, section 43A.18, subdivision 2; and

D. the cost of supplies required for the study, provided the supplies are fully expended during the course of the research or production of the report.

Subp. 4. **Ineligible costs.** The cost of overhead and the cost of developing the application submitted to the board are not eligible for funding.

9220.0815 CONTENT, REVIEW, AND EVALUATION OF GRANT APPLICATION.

Subpart 1. **Contents.** An application for a grant to study the technical and economic feasibility of a proposed waste tire recycling project must include the following information:

A. the name, address, and telephone number of the applicant;

B. a description of the waste tire recycling project that will be the subject of the study;

C. a detailed description of the proposed study, including objectives, tasks, estimated hours for completion of each task, and the estimated cost of completing each task;

D. a description of the information that will be contained in the final report developed as required by part 9220.0820;

E. the total cost of the study and the eligible cost of the study;

F. the total grant funding requested; and

G. the name, address, and telephone number of the person or persons who will actually perform the research, if known.

Subp. 2. **Determination of eligibility and completeness.** Upon receipt of an application, the chair or a designee shall determine the eligibility of the applicant, the eligibility of the costs identified in the application, the eligibility of the study described in the application, and the completeness of the application. Applicants are encouraged to contact the chair and request a preapplication review of the proposed study.

Subp. 3. **Notice of determination of eligibility and completeness.** Within 14 days after receiving the application, the chair shall notify the applicant of the chair's determinations of eligibility and completeness. If the chair determines that the applicant or the study 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 study costs is ineligible or that the application is incomplete, the chair shall notify the applicant of the ineligible portion of the costs or of the deficiency. The applicant has 14 days after receiving the notice to correct any inadequacies identified by the chair. If the inadequacies are corrected within the time allowed, the application will be evaluated by the chair and sent to the board for decision.

Subp. 4. **Board approval.** The board shall approve applications and award grants for studies of the technical and economic feasibility of waste tire recycling projects that will result in the generation of information to aid the state in developing waste tire recycling alternatives. The board shall give priority to studies that are unlikely to be undertaken without state assistance, or that could lead directly to development of new waste tire recycling capacity needed in the state.

9220.0820 GRANT LIMITATIONS; AGREEMENT.

Subpart 1. **Grant amount.** Grants must not exceed 75 percent of the costs of the proposed study. No single grant may exceed $30,000. Grants must not be awarded to cover a cost associated with tasks performed before the grant award or after the expiration of the grant agreement.

Subp. 2. **Grant agreement.** Grant funds must be disbursed only after a grant agreement containing the terms of this subpart has been executed by the board and the recipient of the grant award. The grant agreement must:

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.

A. require the preparation of a final report to be submitted to the board that contains:

(1) a detailed analysis of the technical and economic feasibility of the waste tire recycling project that is the subject of the study, including an estimate of the net operating revenue, if any, to be generated by the waste tire recycling project studied if it was developed, considering the availability of waste tire supplies and markets for recovered resources from the project;

(2) a proposal for developing the waste tire recycling project that was the subject of the study, including financing alternatives, if the study concludes that development is feasible;

(3) an analysis of the impact that the waste tire recycling project studied would have on existing waste tire recycling if the project was developed; and

(4) other information that would be relevant to a future decision by the state or other private or public entities to fund or otherwise support the development of the waste tire recycling project that was studied;

B. provide for staged disbursement of funds as documentation of costs incurred is received from the grant recipient, and for retainage of funds until the final report is submitted and determined by the chair to be adequate;

C. incorporate by reference the final grant application submitted to the board under part 9220.0815; and

D. provide that any cost overruns incurred in performing the study and preparing the final report is the sole responsibility of the recipient and that the board shall not consider amendments to the grant agreement requesting that additional funds be awarded to the recipient.

9220.0825 LOANS.

Subpart 1. **Eligible applicants.** Individuals, partnerships, corporations, and associations engaged in a waste tire recycling business, or intending to become engaged in a waste tire recycling business, are eligible for waste tire recycling loans.

Subp. 2. **Eligible costs.** Loan funds are available to pay costs incurred for capital improvements associated with the development of the waste tire recycling project, including the cost of land and building acquisition or construction and the cost of equipment purchase and installation.

9220.0830 CONTENT, REVIEW, AND EVALUATION OF APPLICATION.

Subpart 1. **Contents.** An application for a waste tire recycling project loan must include the following information:

A. the name, address, and telephone number of the applicant and project manager;

B. a description of the waste tire recycling project that is proposed to be funded by the loan;

C. the total capital cost of the project;

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

E. the amount of the loan requested; and

F. the amount and source of all other funding that will be contributed to the project, including the amount of funds to be contributed by the applicant.

Subp. 2. **Supporting documentation.** An application for a waste tire recycling project loan must include the following supporting documentation:

A. Credit information sufficient to support a finding that the loan will be repaid. Credit information available from private credit rating agencies such as Standard and Poor's, or Dunn and Bradstreet must be accepted. For waste tire recycling businesses that do not have a credit rating, personal credit information pertaining to individual owners, partners, or shareholders of closely-held corporations must be submitted for evaluation and evaluated. Personal credit information must include personal tax returns, personal credit reports from credit bureaus or other credit reporting agencies if available, and references from personal bankers.

B. A certification from the chair that the proposed project is technically feasible.

C. A conceptual and technical feasibility report that includes at least the following:

(1) a detailed description of the proposed waste tire recycling project and the recycling process proposed;

(2) a description of the institutional arrangements necessary for project implementation and operation;

(3) a description of the method of project facility or equipment procurement;

(4) documentation substantiating that the equipment to be procured has the capability and operating history to perform as proposed;

(5) final design and engineering specifications, including site plans, building plans, and floor plans detailing the equipment layout; and

(6) an analysis of the quantity and source of the waste tires that will be processed.

D. A financial plan that contains:

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

(2) annual operating and maintenance costs;

(3) projections of total project costs and revenues over the term of the loan;

(4) projected tipping fees; and

(5) copies of contracts for the sale of project products that specify quantities sold, price per unit sold, the life of the contract and a marketing plan for the waste tire recycling business proposed.

E. A description of how the facility fits the solid waste management objectives of the jurisdiction where the facility will be located.

Subp. 3. **Determination of eligibility and completeness.** Upon receipt of an application, the chair or a designee shall determine the eligibility of the applicant, the eligibility of the costs identified in the application, the eligibility of the project described in the application and the completeness of the application. Applicants are encouraged to contact the chair to arrange for a preapplication review of the proposed project.

Subp. 4. **Notice of determination of eligibility and completeness.** Within 14 days after receiving the application, the chair shall notify the applicant of the chair's determinations of eligibility and completeness. If the chair determines that the applicant or the project is ineligible, the chair shall reject the application, return it to the applicant, and notify the applicant of the reasons for the rejection. If the chair determines that any part of the project costs is ineligible or that the application is incomplete, the chair shall notify the applicant of the ineligible portion of the costs or of the deficiency. The applicant has 14 days after receiving the notice to correct any inadequacies identified by the chair. If the inadequacies are corrected within the time allowed, the application will be evaluated by the chair and sent to the board for decision.

Subp. 5. **Board approval.** The board shall approve applications and award loans for development or improvement of waste tire recycling facilities that will aid the state in fulfilling waste tire management objectives. Priority must be given to projects that best meet the waste management objectives established in Minnesota Statutes, section 115A.02. No loan may be approved unless the board finds that the proposed project has been certified as technically feasible by the chair and that the operating revenues will be sufficient to ensure full repayment of loan, including interest.

9220.0835 LOAN LIMITATIONS.

Subpart 1. **Loan amount.** No waste tire recycling loan may exceed 90 percent of the eligible capital costs of the project.

Subp. 2. **Interest rate.** The interest rate of a loan from the waste tire recycling loan program shall not be less than an annual percentage rate of three percent. Interest payments on the loan are due annually and begin to accrue from the date the loan is disbursed by the board. The first repayment of the principal amount of the loan is due one year after the project becomes operational or two years after the date the loan agreement is executed by the board, whichever is earlier. The board shall consider the project operational at the point where the project meets all vendor guaranteed operating specifications.

Subp. 3. **Loan agreement.** Loan funds must be disbursed only after a loan agreement containing the terms of this subpart has been executed by the board and the recipient of a loan award. A grant agreement must:

A. incorporate by reference the final application submitted to the board under part 9220.0830;

B. establish the term of the loan, which is determined by considering the expected life of the project facility or equipment;

C. establish a schedule for repayment of principal and interest, and procedures to be followed in the case of default in repayment;

D. provide that any cost overruns incurred in the development of the proposed project are the sole responsibility of the loan recipient;

E. provide that the board will not accept any amendments or supplementary applications requesting that additional loan funds be awarded to the loan recipient; and

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

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

Subp. 4. **Failure to complete and operate project.** If a project funded by a loan under this part is not completed and operational in accordance with the terms and conditions of the loan agreement, including time schedules, the board shall declare default and require that the entire outstanding balance of the loan be repaid. Before finding a default, the board shall make a determination as to the reason the project was not completed or operated as required. If the board finds that the recipient could not complete or operate the project as required due to forces beyond the control of the recipient, the board shall consider a variance that will allow the original objectives of the project to be accomplished.

Adopted Rules

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

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

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

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

Public Utilities Commission

Adopted Permanent Rules Relating to Telephone Assistance Plan

The rules proposed and published at *State Register*, Volume 12, Number 16, pages 814-818, October 19, 1987 (12 S.R. 814) are adopted with the following modifications:

Rules as Adopted

7817.0300 FUNDING.

Subpart 1. **Uniform statewide monthly surcharge.** The telephone assistance plan must be funded through the assessment of a uniform recurring monthly surcharge applicable to all classes and grades of access lines provided by each telephone company in the state. The initial surcharge must be assessed beginning with the first billing cycle occurring immediately after the effective date of this part. The commission shall determine the level of the surcharge on an annual basis no later than November 30 of each year beginning with the first billing cycle of the calendar year. The surcharge must be calculated based on the following criteria:

Subp. 3. **Statewide surcharge revenue pool.** Excess surcharge revenues remitted by the telephone companies to the commission must be placed in a statewide surcharge revenue pool to be administered by the commission. The commission shall use the surcharge revenue pool funds:

B. to reimburse a telephone company, within 60 days of receipt of the company's quarterly report, reasonable expenses and telephone assistance credits associated with the telephone assistance plan and not covered by the surcharge revenues collected by the telephone company.

7817.0400 ELIGIBILITY FOR TELEPHONE ASSISTANCE CREDITS.

Subpart 1. **Information provided.** On request, the local agency shall offer to a person an application form developed by the Department of Human Services and a brochure that describes the ~~program's~~ telephone assistance plan's eligibility requirements and application process.

Subp. 2. **Application process.** On completing the application stating income within the guidelines, the applicant must return it to the ~~local agency for an eligibility determination~~ telephone company for enrollment in the telephone assistance plan. An application may be made by the subscriber, the subscriber's spouse, or a person authorized by the subscriber to act on the subscriber's behalf.

Subp. 3. **Documenting, verifying, and reviewing eligibility.** A local agency shall verify the income of an applicant and the applicant's spouse ~~at the time of application~~. When a condition of eligibility changes, and at each redetermination of eligibility, the local agency may verify income.

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed Rules Governing Waste Tire Recycling Grants and Loans, Minn. Rules pts. 9220.0800 -.0835.	FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES

The above-entitled matter came on for decision before the Minnesota Waste Management Board (Board) on the 28th day of February, 1988. After affording all interested persons the opportunity to present written and oral data, statements and arguments to the Board, in accordance with statutory requirements regarding the adoption of noncontroversial rules, after considering the Statement of Need and Reasonableness, after considering all of the evidence adduced upon the records, files and proceedings herein, the Board, being fully advised in the premises, hereby adopts the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

1. Notice of the Board's intent to adopt the above-entitled rules without a public hearing was published in the State Register on December 21, 1987, and was sent by mail to all persons on the list maintained by the Board pursuant to Minn. Stat. §§ 14.14, subd. 1a and 14.22 (1986) on December 15, 1987.

2. The Statement of Need and Reasonableness was prepared prior to mailing and publication of the notice and was made available to the public.

3. All persons were given the opportunity to submit comments

on the rule for 30 days after notice of the proposed rulemaking. The 30 day comment period, as set out in the notice, expired on Wednesday, January 20, 1988.

4. No requests for public hearing were received during the comment period.

5. No requests for notice of submission to the Attorney General were received.

6. During the comment period the Board received two written comments from Board staff.

Comment 1. Board staff suggested that part 9220.0820 (Grant limitations; Agreement) be clarified to specify that a grant will not exceed 75 percent of the eligible costs of the proposed study, as follows:

Subpart 1. Grant Amount. Grants must not exceed 75 percent of the eligible costs of the proposed study. . . .

The eligible costs allowed in the rule cover all the costs of the study that can be controlled and verified. Thus, it is reasonable to restrict the grant to 75 percent of eligible costs to ensure that the intent of the statutory restriction is met. Because this modification clarifies the rule and should not significantly impact potential applicant, it is not a substantial change.

Comment 2. Board staff suggested that part 9220.0835, subpart 1 of the rule be modified to provide a limit on the total grant amount of 1.5 million dollars, as follows:

Subpart 1. Loan amount. ~~No~~ The maximum waste tire recycling loan ~~may exceed~~ shall be 90 percent of the eligible capital costs of the project~~.~~ or $1.5 million, whichever is less.

This change is needed to clarify that the funds available to projects funded under this program are not unlimited. The limit proposed is reasonable because it will allow most projected projects to be funded at the 90 percent level. The change is not a substantial change because the amount of program funds available are limited, and even without the rule change not all projects would have been able to receive full 90 percent funding. Thus, this change represents a clarification of the existing situation.

7. The Board adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the proposed rules, except as amended in finding 6 above. The Board hereby incorporates the Statement of Need and Reasonableness into these findings.

8. The above-captioned rule is needed and reasonable.

CONCLUSIONS

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

2. The Board published and served due, timely, and adequate notice of the intent to adopt the rules without a public hearing.

3. All relevant legal and procedural requirements of the statute and rule have been complied with.

4. The modifications to the proposed rule are supported by the record and do not result in a substantial change in the proposed rule.

ORDER

NOW, THEREFORE, IT IS ORDERED, that the attached Minn. Rules pts. 9220.0800-.0835 governing Waste Tire Recycling Grants and Loans are adopted pursuant to the authority vested in the Board by Minn. Stat. § 116.55 and Reorganization Order No. 144 (Dept. of Admin. 1987).

MINNESOTA WASTE MANAGEMENT BOARD

JOSEPH M. PAVELICH, CHAIR

Dated: January 28, 1988

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed Rules Governing Waste Tire Recycling Grants and Loans, Minn. Rules pts. 9220.0800 -.0835.	FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES

The above-entitled matter came on for decision before the Minnesota Waste Management Board (Board) on the 28th day of February, 1988. After affording all interested persons the opportunity to present written and oral data, statements and arguments to the Board, in accordance with statutory requirements regarding the adoption of noncontroversial rules, after considering the Statement of Need and Reasonableness, after considering all of the evidence adduced upon the records, files and proceedings herein, the Board, being fully advised in the premises, hereby adopts the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

1. Notice of the Board's intent to adopt the above-entitled rules without a public hearing was published in the State Register on December 21, 1987, and was sent by mail to all persons on the list maintained by the Board pursuant to Minn. Stat. §§ 14.14, subd. 1a and 14.22 (1986) on December 15, 1987.

2. The Statement of Need and Reasonableness was prepared prior to mailing and publication of the notice and was made available to the public.

3. All persons were given the opportunity to submit comments

on the rule for 30 days after notice of the proposed rulemaking. The 30 day comment period, as set out in the notice, expired on Wednesday, January 20, 1988.

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6. During the comment period the Board received two written comments from Board staff.

Comment 1. Board staff suggested that part 9220.0820 (Grant limitations; Agreement) be clarified to specify that a grant will not exceed 75 percent of the eligible costs of the proposed study, as follows:

Subpart 1. Grant Amount. Grants must not exceed 75 percent of the eligible costs of the proposed study. . . .

The eligible costs allowed in the rule cover all the costs of the study that can be controlled and verified. Thus, it is reasonable to restrict the grant to 75 percent of eligible costs to ensure that the intent of the statutory restriction is met. Because this modification clarifies the rule and should not significantly impact potential applicant, it is not a substantial change.

Comment 2. Board staff suggested that part 9220.0835, subpart 1 of the rule be modified to provide a limit on the total grant amount of 1.5 million dollars, as follows:

Subpart 1. Loan amount. ~~No~~ The maximum waste tire recycling loan ~~may exceed~~ shall be 90 percent of the eligible capital costs of the project~~.~~ or $1.5 million, whichever is less.

This change is needed to clarify that the funds available to projects funded under this program are not unlimited. The limit proposed is reasonable because it will allow most projected projects to be funded at the 90 percent level. The change is not a substantial change because the amount of program funds available are limited, and even without the rule change not all projects would have been able to receive full 90 percent funding. Thus, this change represents a clarification of the existing situation.

7. The Board adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the proposed rules, except as amended in finding 6 above. The Board hereby incorporates the Statement of Need and Reasonableness into these findings.

8. The above-captioned rule is needed and reasonable.

CONCLUSIONS

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

2. The Board published and served due, timely, and adequate notice of the intent to adopt the rules without a public hearing.

3. All relevant legal and procedural requirements of the statute and rule have been complied with.

4. The modifications to the proposed rule are supported by the record and do not result in a substantial change in the proposed rule.

ORDER

NOW, THEREFORE, IT IS ORDERED, that the attached Minn. Rules pts. 9220.0800-.0835 governing Waste Tire Recycling Grants and Loans are adopted pursuant to the authority vested in the Board by Minn. Stat. § 116.55 and Reorganization Order No. 144 (Dept. of Admin. 1987).

MINNESOTA WASTE MANAGEMENT BOARD

JOSEPH M. PAVELICH, CHAIR

Dated: January 28, 1988

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed Rules
Governing Waste Tire Recycling Grants
and Loans, Minn. Rules pts. 9220.0800
-.0835.

DECLARATION OF COUNSEL

I, Ann E. Cohen, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rules and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules ch. 2010 have been followed. For Attorney General billing purposes, the four-digit docket client code is 0838.

ANN E. COHEN
Special Assistant
Attorney General

WASTE MANAGEMENT BOARD

Waste Tire Recycling Grant and Loan Program

February 9, 1988

1. Rules as Adopted.
2. Findings of Fact, Conclusions and Order Adopting Rules.
3. Certificate of Resolution Adopting Rules.
4. Certificate of Authorizing Resolution.
5. Notice of Intent to Adopt New Rules Without a Public Hearing and Rules as Proposed.
6. Notice of Intent to Adopt Rules Without a Public Hearing as Mailed.
7. Affidavit of Mailing the Notice of Intent to Adopt Rules Without a Public Hearing and Certificate of Mailing List.
8. Rules as Proposed.
9. SONAR
10. Declaration of Counsel.

1451

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

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

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

February 9, 1988

2/11/88
P. 22

Ms. Christie Eller
Assistant Attorney General
Office of the Attorney General
515 Transportation Building
St. Paul, Minnesota 55155

Re: In the Matter of Proposed Rules Governing the Waste Tire Recycling Grant and Loan Program, Minn. Rules Parts 9220.0800-.0835.

Dear Ms. Eller:

On January 28, 1988, the Minnesota Waste Management Board adopted the above-captioned rules governing the waste tire recycling grant and loan program. Enclosed for your review are the following:

1. Rules as adopted (original and three copies).

2. Findings of Fact, Conclusions, and Order Adopting Rules (two copies).

3. Certificate of Resolution Adopting Rules.

4. Certificate of Authorizing Resolution.

5. Notice of Intent to Adopt Rules Without a Public Hearing and rules as proposed (12 S.R. 1251, Monday, December 21, 1987).

6. Notice of Intent to Adopt Rules Without a Public Hearing, as mailed.

7. Affidavit of Mailing the Notice of Intent to Adopt Rules Without a Public Hearing and Certificate of Mailing List.

8. Rules as proposed.

9. Statement of Need and Reasonableness.

10. Declaration of Counsel.

Very truly yours,

Ann E Cohen

ANN E. COHEN
Special Assistant
Attorney General