

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

File No. 1522 Docket No. 05-0009-0835

DATE RECEIVED 10/6/88 ADOPTED W/O HEARING ✓

REVIEW DATE 10/19/88 EMERGENCY RULE _____

DUE DATE 10/20/88 REVISOR APPROVED _____

APPROVED _____ REVISOR DISAPPROVED _____

DISAPPROVED 10-20-88 FILED W/SEC. OF STATE _____

WITHDRAWN _____ RETURNED TO AGENCY _____

✓ Rule as adopted (4 copies)

_____ ~~Notice to Solicit Outside Information/Opinion (if applicable)~~

_____ ~~Date published in State Register~~
_____ ~~Comments~~

_____ ~~Petition for Adoption of a Rule (if applicable)~~

✓ Board's Authorizing Resolution

4/28/88 Date adopted

✓ Proposed Rule

yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule

1988 Laws Ch 685 § 18
115A.9162 Statutory Authority
yes Small Business Statement
no Expenditure of public money statement
yes Signature

✓ Statement of Need and Reasonableness (if applicable)

yes Small Business Statement
n/a Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule

5/18/88 Date (30)/25 days before adoption
✓ Notice attached
_____ ~~Copy of rule or summary attached~~

✓ Publication in State Register

5/23/88 Date (30)/25 days before adoption

✓ 180-day deadline from:

6/21/88 end of comment period (§ 14.26) (rules without hearing)
_____ ~~effective date of statutory authority (§ 14.29) (emergency rules)~~

✓ Resolution Adopting

7/28/88 Date adopted

✓ Findings of Fact, Conclusions & Order Adopting

7/28/88 Date

_____ ~~Written requests, submissions or comments~~

✓ Declaration of attorney

Ann Cohen Name of SAAG representing agency

_____ ~~Notice of Submission to Atty. Gen. (if applicable)~~

_____ ~~Aff. of Mailing Notice to Atty. Gen. (if applicable)~~

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

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

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

October 4, 1988

Ms. Christie Eller
Assistant Attorney General
Office of the Minnesota Attorney General
Administrative/Finance Division
515 Transportation Building
John Ireland Blvd.
St. Paul, Minnesota 55155

Re: In the Matter of the Proposed Rules Governing the Used Oil Processing Equipment Loan Program, Minn. Rules Parts 9205.0600 - .0608

Dear Ms. Eller:

On July 28, 1988 the Waste Management Board adopted the above-captioned rules governing the Used Oil Processing Equipment 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. Resolution Adopting Rules.

4. Certificate of Resolution Adopting Rules.

5. Notice of Intent to Adopt Rules Without a Public Hearing.

6. Resolution to Proceed With Adopption Without a Public Hearing.

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

8. Notice of Intent (12 S.R. 2570, May 23, 1988).

9. Rules as Proposed.

10. Statement of Need and Reasonableness.

11. Declaration of Counsel.

Sincerely,

Ann E. Cohen
Special Assistant Attorney General

AEC:jl

Enc.

ATTORNEY GENERAL

October 20, 1988

JOSEPH M. PAVELICH, Chair
Waste Management Board

ATTN: ANN E. COHEN
Special Assistant
Attorney General

MARTHA J. CASSERLY
Special Assistant
Attorney General

296-6839

Waste Management Board Rules relating to Used Oil Processing Equipment Loan Program

The above-captioned rule has not been approved by the Attorney General for the following reasons:

1. The notice of intent to adopt the rule without a public hearing does not contain the citation to the most specific statutory authority for the proposed rule as required by Minn. Stat. § 14.22 and Minn. Rules Pt. 2010.0300 E (1). Instead, the Notice and the Statement of Need and Reasonableness referred to Minn. Laws 1988, Ch. 685, section 18, to be codified as Minn. Stat. § 115A.9162, subd. 1, which provides the Board with the authority to make loans to businesses for the purchase of used oil processing equipment. Nowhere does the referenced statute authorize the board to promulgate rules for this program. As such, the public has not been given sufficient notification of "the most specific statutory authority for the proposed rule" and the rule cannot be approved.

To overcome this deficiency, a new notice of intent to adopt the rule without a public hearing with the "most specific statutory authority for the proposed rule" must be re-published and sent to the interested persons.

Closely related to the notice problem is the serious question concerning the Board's authority to promulgate these rules. In our telephone conversation, you have referred to the Board's general rulemaking authority in Minn. Stat. 115A.06, subd. 2, which provides as follows:

> The Board shall promulgate rules in accordance with chapter 15 to govern its activities and implement sections 115A.01 through 115A.72.

Unfortunately, the used oil processing loan program is not located within sections 115A.01 through 115A.72, but rather is to be located in section 115A.9162. As we discussed, the Board may have statutory authority for its procedural rules for the program

pursuant to Minn. Stat. § 14.06. Furthermore, there is case law which suggests that despite the absence of express statutory authority to adopt interpretive rules, an agency's authority to adopt the rules may be inferred from the agency's authority to enforce or administer the law. Minnesota-Dakotas Retail Hardware Association v. State, 279 N.W.2d, 360, 364 (Minn. 1979). Your agency should keep these points in mind should it re-promulgate these rules.

2. Proposed Minn. Rules Pt. 9205.0605, subp. 3 provides in part that "if applications come before the Board at the same time, priority shall be given to types of recycling equipment." There is no criteria or standard which will guide the Board in prioritizing the applications in the event they arrive at the same time. Furthermore, the public is not notified as to how the Board will handle and fund the applications under these circumstances. To overcome this deficiency, the subpart must set forth a criteria or standard under which the Board will give priority to certain types of equipment under these circumstances.

If you have any questions concerning the issues raised in this memorandum, do not hesitate to call me.

MJC:sc

cc: Chief Adminstrative Law Judge
Office of Administrative Hearings

Executive Director
Legislative Commission to
Review Administrative Rules

Assistant Deputy Revisor for Rules
Revisor of Statutes Office

STATE OF MINNESOTA
WASTE MANAGEMENT BOARD
Resolution: WMB-038-88

In the Matter of the Proposed Rules Governing the Used Oil Processing Equipment Loan Program, Minn. Rules Parts 9205.0600 - 9205.0608

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 July, 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 Minnesota Waste Management Board's intent to adopt the above-entitled rules without a public hearing was published in the State Register on May 23, 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 May 18, 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 proposed rulemaking. The 30-day comment period, as set out in the notice, expired on June 21, 1987.

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 by the Board.

6. During the comment period the Board received no written comments.

7. The Board adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the proposed rules. 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 Minnesota Waste Management 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 statute and rule have been complied with.

ORDER

NOW, THEREFORE, IT IS ORDERED, that the attached Minn. Rules Pts. 9205.0600 - 9205.0608 governing the Used Oil Processing Equipment Loan Program are adopted pursuant to the authority vested in the Minnesota Waste Management Board under Reorganization Order No. 150, (Dept. of Admin. 1987), Minn. Stat. § 115A.9162, Subd. 1, (1988 Minn. Laws ch. 685, Sec. 18), and Minn. Stat. § 115A.06, Subd. 1 and Subd. 2.

MINNESOTA WASTE MANAGEMENT BOARD

Dated: July 28, 1988

Joseph M. Pavelich, Chair
Waste Management Board

STATE OF MINNESOTA
WASTE MANAGEMENT BOARD
Resolution: WMB-038-88

In the Matter of the Proposed Rules Governing the Used Oil Processing Equipment Loan Program, Minn. Rules Parts 9205.0600 - 9205.0608

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MINNESOTA WASTE MANAGEMENT BOARD

Dated: July 28, 1988

Joseph M. Pavelich, Chair
Waste Management Board

Rule Problems -

1. Authority -

-ok 2. pg 4 - lines 2-4 - just info rgd good just

3. pg 4, lines 23-28 - -ok

(A) 4. pg 5 - lines 11-12

(A 5.) pg 5 - lines 15-6 - don't know

6. smallbiz - demurrer

7. pg 7 - variance to rules

STATE OF MINNESOTA
WASTE MANAGEMENT BOARD

IN THE MATTER OF THE PROPOSED RULES GOVERNING THE USED OIL PROCESSING EQUIPMENT LOAN PROGRAM

STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION

In 1987, the legislature created a program to encourage increased recycling of used oil in the state. Through what was then the Department of Energy and Economic Development (DEED), low-interest loans were to be made available for the purchase of used oil processing equipment in order to further the goal of increased used oil recycling.

In 1987, the Governor transferred the program from DEED to the Waste Management Board through Reorganization Order No. 150, (Dept. of Admin. 1987). The Waste Management Board (board) now promulgates permanent rules to govern the Used Oil Processing Equipment Loan Program. These Rules establish the substantive criteria and procedural conditions under which the board will award loans for used oil processing equipment.

II. STATEMENT OF BOARD'S STATUTORY AUTHORITY

The board's statutory authority to adopt the rule is established in Minn. Stat. § 115A.9162, subd. 1 which provides:

> The board may make loans to businesses for the purchase of used oil processing equipment.

Under this statute the board has the necessary authority to adopt this rule.

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 the mid - 1980's, decreasing virgin petroleum prices, the imposition of new regulations on burning used oil, and the proposed listing of used oil as a hazardous waste, all threatened to disrupt used oil recycling in Minnesota . In 1987, the legislature banned the disposal of used oil in mixed municipal solid waste after January 1, 1988. These circumstances and actions created a need for increased used oil processing in the state. The legislature created the loan program that is the subject of this rulemaking to create incentives for the private sector to meet the

used oil 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.

9205.0600 DEFINITIONS

Many of the terms defined in Part 9205.0600 are terms defined by statute. The definitions in this part are provided to ensure clarity and consistency in the use of certain terms that are not in common usage.

Subpart 5. **Used oil processing equipment.** "Used oil processing equipment" is broadly defined to provide program flexibility in funding types of equipment not yet developed at the time of rulemaking. Pollution control equipment is included in this definition because it is an integral and inseperable part of used oil processing equipment.

Subp. 6. **Used oil re-refining equipment.** Used oil re-refining equipment is defined to clarify that this type of equipment differs from other used oil processing equipment in that it produces a clean, high-quality lubricating base oil. A definition of used oil re-refining equipment is needed because the rule makes the cost of such equipment eligible for more loan funding than other types of equipment.

9205.0601 SCOPE

This section is needed to provide an overall description of the rule to aid reading the following rule.

9205.0602 ELIGIBILITY CRITERIA

Subpart 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, and to ensure that those seeking to become "businesses" can participate to ensure the broadest participation. Broad participation best fulfills the objective of the program which is to expand used oil processing capacity in the state.

Subd. 2. **Eligible costs.** It is reasonable to include the cost of used oil processing equipment because providing loans to fund this equipment would further the program goal of increased used oil recycling. Making the cost of used oil processing equipment eligible, as defined, also keeps funding options available for types of equipment not yet developed or foreseen.

Subd. 3. **Ineligible costs.** It is reasonable to exclude the cost of installation, operation, preliminary and final design and engineering, overhead, land and buildings because these costs are only indirectly related to the cost of processing

equipment. Program funding is not adequate to cover costs beyond actual processing equipment.

9205.0603 APPLICATION REQUIREMENTS

Subpart 1. **Contents** It is reasonable to specify application contents to ensure the orderly evaluation of loan requests. Items A through D of this subpart are basic information that the board will use to obtain an overall picture of the application.

Subp. 2. **Supporting documentation**

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. This is reasonable to allow applicants flexibility in establishing that they are credit worthy.

B. The conceptual and technical feasibility report is needed so that the board can evaluate the chances that the operation of the used oil processing equipment will be successful. The information required is reasonable so that the board can ensure that the applicant has undertaken all work - technical and political - to ensure smooth installation and operation of the used oil processing equipment.

C. A financial plan for the acquisition and operation of the used oil processing equipment is required so that the board can be sure that purchase of the equipment will be financially feasible, ensuring repayment of the loan.

D. A report on the status of required permits from permitting agencies is needed to ensure that the applicant is aware of all permit responsibilities and to enable the board to ensure that the time frames for equipment installation are reasonable and can be maintained.

E. A report on time frames of equipment installation is required so that the board can measure whether installation is on schedule and when used oil processing capacity will be available.

Subp. 3. **Additional Information.** It is reasonable to require the applicant to submit additional information when required so that the board can thoroughly evaluate the application with regard to any relevant matters inadequately covered in the applicant's initial submittals. It is reasonable to limit the chair's power to request information to information needed by the board in approving applications to ensure that additional information requests are relevant and not burdensome to the applicant.

9205.0604 SPECIAL APPLICATION REQUIREMENTS FOR RE-REFINING EQUIPMENT

Development and siting of a re-refinery will entail a higher level of planning than other used oil processing projects because of the size and complicated nature of re-refining operations. The additional supporting documentation is needed for this category of equipment so that the board can adequately evaluate the re-refinery's potential for successful development and operation.

9205.0605 REVIEW AND EVALUATION OF APPLICATIONS

Subpart 1. **Determination of eligibility and completeness.** It is reasonable for the review of the application with regard to the completeness and eligibility to be done by the 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. 2. **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 - 30 days - is reasonable because the applicant should have adequate time to correct omissions.

Subp. 3. **Board approval**. The goal of this program is to ensure that the state's used oil management objectives are fulfilled. Thus, it is reasonable to limit the award of a loan to those types of processing equipment that will meet the state's objectives. Applications that meet the general criteria will be funded in the order they reach the board for decision. It is reasonable to fund applications in the order they come before the board because the system will ensure that funds are distributed in a fair and orderly manner. If applications come before the board at the same time, it is reasonable to give priority to types of equipment that best meet the state's hierarchy of waste management objectives to insure that program funds have the greatest possible positive environmental impact. Re-refining better meets the State's waste management objectives for used oil than does energy-recovery because it results in the conservation and recovery of a greater part of the used oil resource. It is 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.

9205.0606 LOAN LIMITS

Subpart 1. **Re-refining equipment.** This provision requires that the maximum loan award be 90 percent of the eligible cost or $500,000, whichever is less. 10 percent participation on the part of the applicant is reasonable to ensure that the applicant is committed financially to making profitable use of the equipment, while not precluding applicants lacking a high level of equity from participating. It is reasonable to set the overall limit on the amount of the loan at $500,000 because this is the largest portion of limited program funds that could prudently be allocated for re-refining equipment.

Subp. 2. **Other used oil processing equipment.** This part requires that the maximum loan award be 90 percent of the eligible cost or $200,000, whichever is less. 10 percent participation on the part of the applicant is reasonable for the same reasons as stated above. It is reasonable to place an overall limit on the amount of the loan at $200,000 because other used oil processing equipment is typically less expensive than re-refining equipment and because program funds are limited.

Subp. 3. **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.

9205.0607 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 equipment is not installed or operated as described in the application or if payments are missed. Item A is reasonable because it ensures that applicant is required to complete and operate the equipment 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 installation and operation of the equipment can be used by others interested in similar equipment.

9205.0608 DEFAULT

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 used oil processing equipment. 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 loan 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 accommodate small businesses.

VI. CONCLUSION

Based on the foregoing, the proposed rules governing the used oil processing equipment loan program are both needed and reasonable.

Dated: 4/28, 1988

Joseph M. Pavelich, Chair

Waste Management Board

Adopted Permanent Rules Relating to Used Oil Processing Equipment Loan Program

Rules as Adopted

9205.0600 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 9205.0600 to 9205.0608, the following terms have the meanings given them in this part, unless the context requires otherwise.

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

Subp. 3. **Chair.** "Chair" means the chair of the board, or staff designated by the chair.

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. **Used oil processing equipment.** "Used oil processing equipment" means machinery or devices that are designed, constructed, and used to separate, modify, convert, heat, prepare, re-refine, or otherwise process used oil so that materials, substances, or energy contained within the used oil may be recovered for subsequent use. Used oil processing equipment includes pollution control equipment needed to meet applicable pollution control standards.

Subp. 6. **Used oil re-refining equipment.** "Used oil re-refining equipment" means machinery or devices to distill, hydrotreat, or otherwise treat used oil with acid, caustic, clay, or other chemicals in order to produce clean, high quality lubricating base oil.

9205.0601 SCOPE.

Parts 9205.0600 to 9205.0608 implement the used oil processing equipment loan program created and described in Minnesota Statutes, section 115A.9162, by establishing the

substantive criteria and procedural conditions under which the board may award loans for used oil processing equipment.

9205.0602 ELIGIBILITY CRITERIA.

Subpart 1. **Eligible applicants.** Individuals, partnerships, corporations, and associations engaged in or intending to become engaged in a business that processes used oil, are eligible for used oil processing equipment loans.

Subp. 2. **Eligible costs.** The cost of used oil processing equipment is eligible for funding under this program. The cost of pollution control equipment is eligible only when that equipment is part of used oil processing equipment funded under this program.

Subp. 3. **Ineligible costs.** The cost of equipment used to install used oil processing equipment, operating cost, preliminary and final design and engineering cost, overhead cost, and the cost of land or buildings is not eligible for funding.

9205.0603 APPLICATION REQUIREMENTS.

Subpart 1. **Contents.** Applications for used oil processing equipment loans must include the following information:

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

B. the total loan eligible used oil processing equipment cost;

C. the amount of the loan requested; and

D. the amount and source of funding that will be used to pay the part of the cost of the used oil processing equipment not covered by the board loan and all other eligible and ineligible costs not covered by the board loan.

Subp. 2. **Supporting documentation.** Applications for used oil processing equipment loans must include the documentation in items A to E.

A. Credit information sufficient to support a finding that the loan will be repaid. If available, credit information from private credit rating agencies should be submitted by the

applicant and evaluated by the board. For applicants that do not have a credit rating, personal credit information pertaining to individual owners or shareholders of closely held corporations shall be submitted by the applicant and evaluated by the board. 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 conceptual and technical feasibility report that includes at least the following:

(1) a detailed description of the proposed used oil processing equipment;

(2) location and description of the facility where the used oil processing equipment will be used;

(3) a description of the method of used oil processing equipment procurement;

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

(5) an analysis of the quantity and source of used oil that will be processed and an explanation of what will be done with the used oil once processed; and

(6) a description of what will be done with the ash, sludge, by-products, or other residue from used oil processing.

C. A financial plan that contains:

(1) the method of financing costs for used oil processing equipment, and all other costs to be incurred by the applicant in procuring, installing, and operating the equipment;

(2) estimated annual operating and maintenance costs; and

(3) projections of total costs and revenues for the applicant's business over the term of the loan.

D. A report on the status of permits required by permitting agencies.

E. An estimate of the time necessary for equipment

installation and operation and when these events will take place.

Subp. 3. **Additional information.** The applicant shall supply additional information needed for the board to approve applications, when requested by the chair.

9205.0604 SPECIAL APPLICATION REQUIREMENTS FOR RE-REFINING EQUIPMENT.

An applicant seeking funding for re-refining equipment shall submit the following information in addition to the information required under part 9205.0603.

A. a conceptual and technical feasibility report that includes a description of the institutional arrangements necessary for implementation and operation of the re-refining facility, and final equipment design and engineering specifications including site plans, building plans, and floor plans detailing the equipment layout;

B. copies of contracts for the sale of re-refined blend stock, or other marketable products of the used oil re-refining operation which specify quantities sold, price per unit sold, and the life of the contract; and

C. a marketing plan for the re-refined oil.

9205.0605 REVIEW AND EVALUATION OF APPLICATIONS.

Subpart 1. **Determination of eligibility and completeness.** Upon receipt of an application, the chair or a designee shall determine the eligibility of the applicant, the eligibility of the costs identified in the application, the eligibility of the equipment 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 equipment.

Subp. 2. **Notice of determination of eligibility and completeness.** Within 14 days after receiving the application, the chair shall notify the applicant of the chair's determinations of eligibility and completeness. If the chair determines that the applicant or the equipment 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 equipment costs are ineligible or that the application is incomplete, the chair shall notify the applicant of the ineligible portion of the costs or of the deficiency. The applicant has 30 days after receiving the notice to correct any inadequacies identified by the chair. If the inadequacies are not corrected within the time allowed, the application is rejected, and the applicant must submit a new application to be considered again.

Subp. 3. **Board approval.** The board shall approve applications and award loans for used oil processing equipment that will aid the state in fulfilling waste management objectives with regard to used oil recycling. Applications will be funded in the order they come before the board for decision. If applications come before the board at the same time, priority shall be given to types of recycling equipment. No loan shall be approved unless the board finds that the operating revenues will be sufficient to ensure full repayment of the loan, including interest.

9205.0606 LOAN LIMITS.

Subpart 1. **Re-refining equipment.** For used oil processing equipment used for re-refining, the maximum loan is 90 percent of the eligible cost or $500,000, whichever is less.

Subp. 2. **Other used oil processing equipment.** For other used oil processing equipment, the maximum loan is 90 percent of the eligible cost or $200,000, whichever is less.

Subp. 3. **Interest rate.** The interest rate of a loan from the used oil processing equipment 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 principle amount of the loan is due one year after the equipment becomes operational or two years after the date the loan agreement is executed by the board, whichever is earlier. The board shall consider the equipment operational at

the point where the equipment meets all vendor guaranteed operating specifications.

9205.0607 LOAN AGREEMENT.

The board shall disburse loan funds only after a loan agreement containing the terms of this part has been executed by the board and the recipient of a loan award. A loan agreement must:

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

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

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 costs incurred in the acquisition of equipment over and above the total loan eligible costs estimated under part 9205.0603, subpart 1, item B, 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

F. require that the recipient provide periodic reports to the board on the developmental and operational history of the equipment so that knowledge and experience gained may be made available to others.

9205.0608 DEFAULT.

If the used oil processing equipment funded by a loan under this part is not operated 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 equipment was not installed or operated as required. If the board finds that the recipient could not install or operate the

equipment 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 loan to be accomplished.

Office of the Revisor of Statutes

Administrative Rules

TITLE: Adopted Permanent Rules Relating to Used Oil Processing Equipment Loan Program

AGENCY: Waste Management Board

MINNESOTA RULES: Chapter 9205

The attached rules are approved for
filing with the Secretary of State

Paul M. Marinac
Assistant Deputy Revisor

STATE OF MINNESOTA
WASTE MANAGEMENT BOARD

IN THE MATTER OF PROPOSED RULES GOVERNING USED OIL PROCESSING EQUIPMENT LOAN PROGRAM, MINN. RULES PARTS 9205.0600 TO 9205.0608

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. Laws 1988, ch. 685, section 18, to be codified as Minn. Stat. § 115A.9162.

All persons have until 4:30 p.m. on Tuesday, June 21, 1988, to submit comments in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules 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 rules addressed, the reason for the request, and any changes 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. Kevin F. O'Donnell
Minnesota Waste Management Board
1350 Energy Lane
St. Paul, MN 55108
(612) 649-5785

The proposed rules 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 rules, if adopted, will govern the Used Oil Processing Equipment Loan Program established in Minn. Stat. § 115A.9162 by establishing the substantive criteria and procedural conditions under which the Board will award loans for used oil processing equipment. A copy of the proposal rules is enclosed. One free copy of the rules is available upon request from Mr. Kevin F. O'Donnell 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 rules and identifies the data and information relied upon to support the proposed rule has been prepared and is available form Mr. Kevin F. O'Donnell upon request.

You are hereby advised, pursuant to Minn. Stat. § 14.115 (1986), "Small business considerations in rulemaking," that the proposed rules will have no negative effect on small businesses because the program is available to small businesses and is intended to assist small businesses."

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 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. Kevin F. O'Donnell.

JOSEPH M. PAVELICH, CHAIR
MINNESOTA WASTE MANAGEMENT BOARD

KFO:cjs
10:07

Office of the Revisor of Statutes
Administrative Rules

Paul M. Marinac
Assistant Deputy Revisor
296-0948

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

October 21, 1988

Kevin O'Donnell
Waste Management Board
7323 58th Avenue North
Crystal, Minnesota 55428

RE: File No. 1310

Dear Mr. O'Donnell:

I have approved your rules adopted without a public hearing, and am enclosing a copy of these rules for your records.

I have also delivered two copies of these rules to the Attorney General for approval. If they are approved, the Attorney General will file two copies of the approved rules with the Secretary of State. The Secretary of State will then notify me of that fact.

After I am notified that the rules are filed with the Secretary of State, I will prepare three copies of a notice of adoption for you.

If you have any questions, please call me.

Very truly yours,

Paul M. Marinac

Waste Management Board

Adopted Permanent Rules Relating to Used Oil Processing Equipment Loan Program

Rules as Adopted

9205.0600 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 9205.0600 to 9205.0608, the following terms have the meanings given them in this part, unless the context requires otherwise.

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

Subp. 3. **Chair.** "Chair" means the chair of the board, or staff designated by the chair.

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. **Used oil processing equipment.** "Used oil processing equipment" means machinery or devices that are designed, constructed, and used to separate, modify, convert, heat, prepare, re-refine, or otherwise process used oil so that materials, substances, or energy contained within the used oil may be recovered for subsequent use. Used oil processing equipment includes pollution control equipment needed to meet applicable pollution control standards.

Subp. 6. **Used oil re-refining equipment.** "Used oil re-refining equipment" means machinery or devices to distill, hydrotreat, or otherwise treat used oil with acid, caustic, clay, or other chemicals in order to produce clean, high quality lubricating base oil.

9205.0601 SCOPE.

Parts 9205.0600 to 9205.0608 implement the used oil processing equipment loan program created and described in Minnesota Statutes, section 115A.9162, by establishing the

substantive criteria and procedural conditions under which the board may award loans for used oil processing equipment.

9205.0602 ELIGIBILITY CRITERIA.

Subpart 1. **Eligible applicants.** Individuals, partnerships, corporations, and associations engaged in or intending to become engaged in a business that processes used oil, are eligible for used oil processing equipment loans.

Subp. 2. **Eligible costs.** The cost of used oil processing equipment is eligible for funding under this program. The cost of pollution control equipment is eligible only when that equipment is part of used oil processing equipment funded under this program.

Subp. 3. **Ineligible costs.** The cost of equipment used to install used oil processing equipment, operating cost, preliminary and final design and engineering cost, overhead cost, and the cost of land or buildings is not eligible for funding.

9205.0603 APPLICATION REQUIREMENTS.

Subpart 1. **Contents.** Applications for used oil processing equipment loans must include the following information:

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

B. the total loan eligible used oil processing equipment cost;

C. the amount of the loan requested; and

D. the amount and source of funding that will be used to pay the part of the cost of the used oil processing equipment not covered by the board loan and all other eligible and ineligible costs not covered by the board loan.

Subp. 2. **Supporting documentation.** Applications for used oil processing equipment loans must include the documentation in items A to E.

A. Credit information sufficient to support a finding that the loan will be repaid. If available, credit information from private credit rating agencies should be submitted by the

applicant and evaluated by the board. For applicants that do not have a credit rating, personal credit information pertaining to individual owners or shareholders of closely held corporations shall be submitted by the applicant and evaluated by the board. 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 conceptual and technical feasibility report that includes at least the following:

(1) a detailed description of the proposed used oil processing equipment;

(2) location and description of the facility where the used oil processing equipment will be used;

(3) a description of the method of used oil processing equipment procurement;

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

(5) an analysis of the quantity and source of used oil that will be processed and an explanation of what will be done with the used oil once processed; and

(6) a description of what will be done with the ash, sludge, by-products, or other residue from used oil processing.

C. A financial plan that contains:

(1) the method of financing costs for used oil processing equipment, and all other costs to be incurred by the applicant in procuring, installing, and operating the equipment;

(2) estimated annual operating and maintenance costs; and

(3) projections of total costs and revenues for the applicant's business over the term of the loan.

D. A report on the status of permits required by permitting agencies.

E. An estimate of the time necessary for equipment

installation and operation and when these events will take place.

Subp. 3. **Additional information.** The applicant shall supply additional information needed for the board to approve applications, when requested by the chair.

9205.0604 SPECIAL APPLICATION REQUIREMENTS FOR RE-REFINING EQUIPMENT.

An applicant seeking funding for re-refining equipment shall submit the following information in addition to the information required under part 9205.0603.

A. a conceptual and technical feasibility report that includes a description of the institutional arrangements necessary for implementation and operation of the re-refining facility, and final equipment design and engineering specifications including site plans, building plans, and floor plans detailing the equipment layout;

B. copies of contracts for the sale of re-refined blend stock, or other marketable products of the used oil re-refining operation which specify quantities sold, price per unit sold, and the life of the contract; and

C. a marketing plan for the re-refined oil.

9205.0605 REVIEW AND EVALUATION OF APPLICATIONS.

Subpart 1. **Determination of eligibility and completeness.** Upon receipt of an application, the chair or a designee shall determine the eligibility of the applicant, the eligibility of the costs identified in the application, the eligibility of the equipment 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 equipment.

Subp. 2. **Notice of determination of eligibility and completeness.** Within 14 days after receiving the application, the chair shall notify the applicant of the chair's determinations of eligibility and completeness. If the chair determines that the applicant or the equipment 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 equipment costs are ineligible or that the application is incomplete, the chair shall notify the applicant of the ineligible portion of the costs or of the deficiency. The applicant has 30 days after receiving the notice to correct any inadequacies identified by the chair. If the inadequacies are not corrected within the time allowed, the application is rejected, and the applicant must submit a new application to be considered again.

Subp. 3. **Board approval.** The board shall approve applications and award loans for used oil processing equipment that will aid the state in fulfilling waste management objectives with regard to used oil recycling. Applications will be funded in the order they come before the board for decision. If applications come before the board at the same time, priority shall be given to types of recycling equipment. No loan shall be approved unless the board finds that the operating revenues will be sufficient to ensure full repayment of the loan, including interest.

9205.0606 LOAN LIMITS.

Subpart 1. **Re-refining equipment.** For used oil processing equipment used for re-refining, the maximum loan is 90 percent of the eligible cost or $500,000, whichever is less.

Subp. 2. **Other used oil processing equipment.** For other used oil processing equipment, the maximum loan is 90 percent of the eligible cost or $200,000, whichever is less.

Subp. 3. **Interest rate.** The interest rate of a loan from the used oil processing equipment 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 principle amount of the loan is due one year after the equipment becomes operational or two years after the date the loan agreement is executed by the board, whichever is earlier. The board shall consider the equipment operational at

the point where the equipment meets all vendor guaranteed operating specifications.

9205.0607 LOAN AGREEMENT.

The board shall disburse loan funds only after a loan agreement containing the terms of this part has been executed by the board and the recipient of a loan award. A loan agreement must:

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

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

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 costs incurred in the acquisition of equipment over and above the total loan eligible costs estimated under part 9205.0603, subpart 1, item B, 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

F. require that the recipient provide periodic reports to the board on the developmental and operational history of the equipment so that knowledge and experience gained may be made available to others.

9205.0608 DEFAULT.

If the used oil processing equipment funded by a loan under this part is not operated 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 equipment was not installed or operated as required. If the board finds that the recipient could not install or operate the

equipment 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 loan to be accomplished.

Office of the Revisor of Statutes

Administrative Rules

TITLE: Adopted Permanent Rules Relating to Used Oil Processing Equipment Loan Program

AGENCY: Waste Management Board

MINNESOTA RULES: Chapter 9205

The attached rules are approved for filing with the Secretary of State

Paul M. Marinac
Assistant Deputy Revisor

Waste Management Board

Adopted Permanent Rules Relating to Used Oil Processing Equipment Loan Program

Rules as Adopted

9205.0600 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 9205.0600 to 9205.0608, the following terms have the meanings given them in this part, unless the context requires otherwise.

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

Subp. 3. **Chair.** "Chair" means the chair of the board, or staff designated by the chair.

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. **Used oil processing equipment.** "Used oil processing equipment" means machinery or devices that are designed, constructed, and used to separate, modify, convert, heat, prepare, re-refine, or otherwise process used oil so that materials, substances, or energy contained within the used oil may be recovered for subsequent use. Used oil processing equipment includes pollution control equipment needed to meet applicable pollution control standards.

Subp. 6. **Used oil re-refining equipment.** "Used oil re-refining equipment" means machinery or devices to distill, hydrotreat, or otherwise treat used oil with acid, caustic, clay, or other chemicals in order to produce clean, high quality lubricating base oil.

9205.0601 SCOPE.

Parts 9205.0600 to 9205.0608 implement the used oil processing equipment loan program created and described in Minnesota Statutes, section 115A.9162, by establishing the

substantive criteria and procedural conditions under which the board may award loans for used oil processing equipment.

9205.0602 ELIGIBILITY CRITERIA.

Subpart 1. **Eligible applicants.** Individuals, partnerships, corporations, and associations engaged in or intending to become engaged in a business that processes used oil, are eligible for used oil processing equipment loans.

Subp. 2. **Eligible costs.** The cost of used oil processing equipment is eligible for funding under this program. The cost of pollution control equipment is eligible only when that equipment is part of used oil processing equipment funded under this program.

Subp. 3. **Ineligible costs.** The cost of equipment used to install used oil processing equipment, operating cost, preliminary and final design and engineering cost, overhead cost, and the cost of land or buildings is not eligible for funding.

9205.0603 APPLICATION REQUIREMENTS.

Subpart 1. **Contents.** Applications for used oil processing equipment loans must include the following information:

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

B. the total loan eligible used oil processing equipment cost;

C. the amount of the loan requested; and

D. the amount and source of funding that will be used to pay the part of the cost of the used oil processing equipment not covered by the board loan and all other eligible and ineligible costs not covered by the board loan.

Subp. 2. **Supporting documentation.** Applications for used oil processing equipment loans must include the documentation in items A to E.

A. Credit information sufficient to support a finding that the loan will be repaid. If available, credit information from private credit rating agencies should be submitted by the

applicant and evaluated by the board. For applicants that do not have a credit rating, personal credit information pertaining to individual owners or shareholders of closely held corporations shall be submitted by the applicant and evaluated by the board. 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 conceptual and technical feasibility report that includes at least the following:

(1) a detailed description of the proposed used oil processing equipment;

(2) location and description of the facility where the used oil processing equipment will be used;

(3) a description of the method of used oil processing equipment procurement;

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

(5) an analysis of the quantity and source of used oil that will be processed and an explanation of what will be done with the used oil once processed; and

(6) a description of what will be done with the ash, sludge, by-products, or other residue from used oil processing.

C. A financial plan that contains:

(1) the method of financing costs for used oil processing equipment, and all other costs to be incurred by the applicant in procuring, installing, and operating the equipment;

(2) estimated annual operating and maintenance costs; and

(3) projections of total costs and revenues for the applicant's business over the term of the loan.

D. A report on the status of permits required by permitting agencies.

E. An estimate of the time necessary for equipment

installation and operation and when these events will take place.

Subp. 3. **Additional information.** The applicant shall supply additional information needed for the board to approve applications, when requested by the chair.

9205.0604 SPECIAL APPLICATION REQUIREMENTS FOR RE-REFINING EQUIPMENT.

An applicant seeking funding for re-refining equipment shall submit the following information in addition to the information required under part 9205.0603.

A. a conceptual and technical feasibility report that includes a description of the institutional arrangements necessary for implementation and operation of the re-refining facility, and final equipment design and engineering specifications including site plans, building plans, and floor plans detailing the equipment layout;

B. copies of contracts for the sale of re-refined blend stock, or other marketable products of the used oil re-refining operation which specify quantities sold, price per unit sold, and the life of the contract; and

C. a marketing plan for the re-refined oil.

9205.0605 REVIEW AND EVALUATION OF APPLICATIONS.

Subpart 1. **Determination of eligibility and completeness.** Upon receipt of an application, the chair or a designee shall determine the eligibility of the applicant, the eligibility of the costs identified in the application, the eligibility of the equipment 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 equipment.

Subp. 2. **Notice of determination of eligibility and completeness.** Within 14 days after receiving the application, the chair shall notify the applicant of the chair's determinations of eligibility and completeness. If the chair determines that the applicant or the equipment 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 equipment costs are ineligible or that the application is incomplete, the chair shall notify the applicant of the ineligible portion of the costs or of the deficiency. The applicant has 30 days after receiving the notice to correct any inadequacies identified by the chair. If the inadequacies are not corrected within the time allowed, the application is rejected, and the applicant must submit a new application to be considered again.

Subp. 3. **Board approval.** The board shall approve applications and award loans for used oil processing equipment that will aid the state in fulfilling waste management objectives with regard to used oil recycling. Applications will be funded in the order they come before the board for decision. If applications come before the board at the same time, priority shall be given to types of recycling equipment. No loan shall be approved unless the board finds that the operating revenues will be sufficient to ensure full repayment of the loan, including interest.

9205.0606 LOAN LIMITS.

Subpart 1. **Re-refining equipment.** For used oil processing equipment used for re-refining, the maximum loan is 90 percent of the eligible cost or $500,000, whichever is less.

Subp. 2. **Other used oil processing equipment.** For other used oil processing equipment, the maximum loan is 90 percent of the eligible cost or $200,000, whichever is less.

Subp. 3. **Interest rate.** The interest rate of a loan from the used oil processing equipment 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 principle amount of the loan is due one year after the equipment becomes operational or two years after the date the loan agreement is executed by the board, whichever is earlier. The board shall consider the equipment operational at

the point where the equipment meets all vendor guaranteed operating specifications.

9205.0607 LOAN AGREEMENT.

The board shall disburse loan funds only after a loan agreement containing the terms of this part has been executed by the board and the recipient of a loan award. A loan agreement must:

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

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

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 costs incurred in the acquisition of equipment over and above the total loan eligible costs estimated under part 9205.0603, subpart 1, item B, 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

F. require that the recipient provide periodic reports to the board on the developmental and operational history of the equipment so that knowledge and experience gained may be made available to others.

9205.0608 DEFAULT.

If the used oil processing equipment funded by a loan under this part is not operated 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 equipment was not installed or operated as required. If the board finds that the recipient could not install or operate the

equipment 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 loan to be accomplished.

STATE OF MINNESOTA
WASTE MANAGEMENT BOARD

RESOLUTION WMB-023-88

BE IT RESOLVED, that the Chair of the Waste Management Board (Board) is hereby granted the authority to sign and to give notice of the Board's intent to adopt, without a public hearing, the attached rules governing the Used Oil Processing Equipment Loan Program to all persons who have registered their names with the Board for that purpose and to publish the notice and 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 Minns. 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.

DATED: April 28, 1988

JOSEPH M. PAVELICH, Chair

Waste Management Board

Adopted Permanent Rules Relating to Used Oil Processing Equipment Loan Program

Rules as Adopted

9205.0600 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 9205.0600 to 9205.0608, the following terms have the meanings given them in this part, unless the context requires otherwise.

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

Subp. 3. **Chair.** "Chair" means the chair of the board, or staff designated by the chair.

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. **Used oil processing equipment.** "Used oil processing equipment" means machinery or devices that are designed, constructed, and used to separate, modify, convert, heat, prepare, re-refine, or otherwise process used oil so that materials, substances, or energy contained within the used oil may be recovered for subsequent use. Used oil processing equipment includes pollution control equipment needed to meet applicable pollution control standards.

Subp. 6. **Used oil re-refining equipment.** "Used oil re-refining equipment" means machinery or devices to distill, hydrotreat, or otherwise treat used oil with acid, caustic, clay, or other chemicals in order to produce clean, high quality lubricating base oil.

9205.0601 SCOPE.

Parts 9205.0600 to 9205.0608 implement the used oil processing equipment loan program created and described in Minnesota Statutes, section 115A.9162, by establishing the

substantive criteria and procedural conditions under which the board may award loans for used oil processing equipment.

9205.0602 ELIGIBILITY CRITERIA.

Subpart 1. **Eligible applicants.** Individuals, partnerships, corporations, and associations engaged in or intending to become engaged in a business that processes used oil, are eligible for used oil processing equipment loans.

Subp. 2. **Eligible costs.** The cost of used oil processing equipment is eligible for funding under this program. The cost of pollution control equipment is eligible only when that equipment is part of used oil processing equipment funded under this program.

Subp. 3. **Ineligible costs.** The cost of equipment used to install used oil processing equipment, operating cost, preliminary and final design and engineering cost, overhead cost, and the cost of land or buildings is not eligible for funding.

9205.0603 APPLICATION REQUIREMENTS.

Subpart 1. **Contents.** Applications for used oil processing equipment loans must include the following information:

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

B. the total loan eligible used oil processing equipment cost;

C. the amount of the loan requested; and

D. the amount and source of funding that will be used to pay the part of the cost of the used oil processing equipment not covered by the board loan and all other eligible and ineligible costs not covered by the board loan.

Subp. 2. **Supporting documentation.** Applications for used oil processing equipment loans must include the documentation in items A to E.

A. Credit information sufficient to support a finding that the loan will be repaid. If available, credit information from private credit rating agencies should be submitted by the

applicant and evaluated by the board. For applicants that do not have a credit rating, personal credit information pertaining to individual owners or shareholders of closely held corporations shall be submitted by the applicant and evaluated by the board. 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 conceptual and technical feasibility report that includes at least the following:

(1) a detailed description of the proposed used oil processing equipment;

(2) location and description of the facility where the used oil processing equipment will be used;

(3) a description of the method of used oil processing equipment procurement;

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

(5) an analysis of the quantity and source of used oil that will be processed and an explanation of what will be done with the used oil once processed; and

(6) a description of what will be done with the ash, sludge, by-products, or other residue from used oil processing.

C. A financial plan that contains:

(1) the method of financing costs for used oil processing equipment, and all other costs to be incurred by the applicant in procuring, installing, and operating the equipment;

(2) estimated annual operating and maintenance costs; and

(3) projections of total costs and revenues for the applicant's business over the term of the loan.

D. A report on the status of permits required by permitting agencies.

E. An estimate of the time necessary for equipment

installation and operation and when these events will take place.

Subp. 3. **Additional information.** The applicant shall supply additional information needed for the board to approve applications, when requested by the chair.

9205.0604 SPECIAL APPLICATION REQUIREMENTS FOR RE-REFINING EQUIPMENT.

An applicant seeking funding for re-refining equipment shall submit the following information in addition to the information required under part 9205.0603.

A. a conceptual and technical feasibility report that includes a description of the institutional arrangements necessary for implementation and operation of the re-refining facility, and final equipment design and engineering specifications including site plans, building plans, and floor plans detailing the equipment layout;

B. copies of contracts for the sale of re-refined blend stock, or other marketable products of the used oil re-refining operation which specify quantities sold, price per unit sold, and the life of the contract; and

C. a marketing plan for the re-refined oil.

9205.0605 REVIEW AND EVALUATION OF APPLICATIONS.

Subpart 1. **Determination of eligibility and completeness.** Upon receipt of an application, the chair or a designee shall determine the eligibility of the applicant, the eligibility of the costs identified in the application, the eligibility of the equipment 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 equipment.

Subp. 2. **Notice of determination of eligibility and completeness.** Within 14 days after receiving the application, the chair shall notify the applicant of the chair's determinations of eligibility and completeness. If the chair determines that the applicant or the equipment 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 equipment costs are ineligible or that the application is incomplete, the chair shall notify the applicant of the ineligible portion of the costs or of the deficiency. The applicant has 30 days after receiving the notice to correct any inadequacies identified by the chair. If the inadequacies are not corrected within the time allowed, the application is rejected, and the applicant must submit a new application to be considered again.

Subp. 3. **Board approval.** The board shall approve applications and award loans for used oil processing equipment that will aid the state in fulfilling waste management objectives with regard to used oil recycling. Applications will be funded in the order they come before the board for decision. If applications come before the board at the same time, priority shall be given to types of recycling equipment. No loan shall be approved unless the board finds that the operating revenues will be sufficient to ensure full repayment of the loan, including interest.

9205.0606 LOAN LIMITS.

Subpart 1. **Re-refining equipment.** For used oil processing equipment used for re-refining, the maximum loan is 90 percent of the eligible cost or $500,000, whichever is less.

Subp. 2. **Other used oil processing equipment.** For other used oil processing equipment, the maximum loan is 90 percent of the eligible cost or $200,000, whichever is less.

Subp. 3. **Interest rate.** The interest rate of a loan from the used oil processing equipment 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 principle amount of the loan is due one year after the equipment becomes operational or two years after the date the loan agreement is executed by the board, whichever is earlier. The board shall consider the equipment operational at

the point where the equipment meets all vendor guaranteed operating specifications.

9205.0607 LOAN AGREEMENT.

The board shall disburse loan funds only after a loan agreement containing the terms of this part has been executed by the board and the recipient of a loan award. A loan agreement must:

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

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

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 costs incurred in the acquisition of equipment over and above the total loan eligible costs estimated under part 9205.0603, subpart 1, item B, 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

F. require that the recipient provide periodic reports to the board on the developmental and operational history of the equipment so that knowledge and experience gained may be made available to others.

9205.0608 DEFAULT.

If the used oil processing equipment funded by a loan under this part is not operated 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 equipment was not installed or operated as required. If the board finds that the recipient could not install or operate the

equipment 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 loan to be accomplished.

Waste Management Board

Proposed Permanent Rules Relating to Used Oil Processing Equipment Loan Program

Rules as Proposed (all new material)

9205.0600 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 9205.0600 to 9205.0608, the following terms have the meanings given them in this part, unless the context requires otherwise.

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

Subp. 3. **Chair.** "Chair" means the chair of the board, or staff designated by the chair.

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. **Used oil processing equipment.** "Used oil processing equipment" means machinery or devices that are designed, constructed, and used to separate, modify, convert, heat, prepare, re-refine, or otherwise process used oil so that materials, substances, or energy contained within the used oil may be recovered for subsequent use. Used oil processing equipment includes pollution control equipment needed to meet applicable pollution control standards.

Subp. 6. **Used oil re-refining equipment.** "Used oil re-refining equipment" means machinery or devices to distill, hydrotreat, or otherwise treat used oil with acid, caustic, clay, or other chemicals in order to produce clean, high quality lubricating base oil.

9205.0601 SCOPE.

Parts 9205.0600 to 9205.0608 implement the used oil processing equipment loan program created and described in Minnesota Statutes, section 115A.9162, by establishing the

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substantive criteria and procedural conditions under which the board may award loans for used oil processing equipment.

9205.0602 ELIGIBILITY CRITERIA.

Subpart 1. **Eligible applicants.** Individuals, partnerships, corporations, and associations engaged in or intending to become engaged in a business that processes used oil, are eligible for used oil processing equipment loans.

Subp. 2. **Eligible costs.** The cost of used oil processing equipment is eligible for funding under this program. The cost of pollution control equipment is eligible only when that equipment is part of used oil processing equipment funded under this program.

Subp. 3. **Ineligible costs.** The cost of equipment used to install used oil processing equipment, operating cost, preliminary and final design and engineering cost, overhead cost, and the cost of land or buildings is not eligible for funding.

9205.0603 APPLICATION REQUIREMENTS.

Subpart 1. **Contents.** Applications for used oil processing equipment loans must include the following information:

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

B. the total loan eligible used oil processing equipment cost;

C. the amount of the loan requested; and

D. the amount and source of funding that will be used to pay the part of the cost of the used oil processing equipment not covered by the board loan and all other eligible and ineligible costs not covered by the board loan.

Subp. 2. **Supporting documentation.** Applications for used oil processing equipment loans must include the documentation in items A to E.

A. Credit information sufficient to support a finding that the loan will be repaid. If available, credit information from private credit rating agencies should be submitted by the

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by Revisor _____

applicant and evaluated by the board. For applicants that do not have a credit rating, personal credit information pertaining to individual owners or shareholders of closely held corporations shall be submitted by the applicant and evaluated by the board. 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 conceptual and technical feasibility report that includes at least the following:

(1) a detailed description of the proposed used oil processing equipment;

(2) location and description of the facility where the used oil processing equipment will be used;

(3) a description of the method of used oil processing equipment procurement;

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

(5) an analysis of the quantity and source of used oil that will be processed and an explanation of what will be done with the used oil once processed; and

(6) a description of what will be done with the ash, sludge, by-products, or other residue from used oil processing.

C. A financial plan that contains:

(1) the method of financing costs for used oil processing equipment, and all other costs to be incurred by the applicant in procuring, installing, and operating the equipment;

(2) estimated annual operating and maintenance costs; and

(3) projections of total costs and revenues for the applicant's business over the term of the loan.

D. A report on the status of permits required by permitting agencies.

E. An estimate of the time necessary for equipment

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by Revisor _____

installation and operation and when these events will take place.

Subp. 3. **Additional information.** The applicant shall supply additional information needed for the board to approve applications, when requested by the chair.

9205.0604 SPECIAL APPLICATION REQUIREMENTS FOR RE-REFINING EQUIPMENT.

An applicant seeking funding for re-refining equipment shall submit the following information in addition to the information required under part 9205.0603.

A. a conceptual and technical feasibility report that includes a description of the institutional arrangements necessary for implementation and operation of the re-refining facility, and final equipment design and engineering specifications including site plans, building plans, and floor plans detailing the equipment layout;

B. copies of contracts for the sale of re-refined blend stock, or other marketable products of the used oil re-refining operation which specify quantities sold, price per unit sold, and the life of the contract; and

C. a marketing plan for the re-refined oil.

9205.0605 REVIEW AND EVALUATION OF APPLICATIONS.

Subpart 1. **Determination of eligibility and completeness.** Upon receipt of an application, the chair or a designee shall determine the eligibility of the applicant, the eligibility of the costs identified in the application, the eligibility of the equipment 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 equipment.

Subp. 2. **Notice of determination of eligibility and completeness.** Within 14 days after receiving the application, the chair shall notify the applicant of the chair's determinations of eligibility and completeness. If the chair determines that the applicant or the equipment is ineligible, the chair shall reject the application, return it to the applicant, and notify the applicant of the reasons for the

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rejection. If the chair determines that any part of the equipment costs are ineligible or that the application is incomplete, the chair shall notify the applicant of the ineligible portion of the costs or of the deficiency. The applicant has 30 days after receiving the notice to correct any inadequacies identified by the chair. If the inadequacies are not corrected within the time allowed, the application is rejected, and the applicant must submit a new application to be considered again.

Subp. 3. **Board approval.** The board shall approve applications and award loans for used oil processing equipment that will aid the state in fulfilling waste management objectives with regard to used oil recycling. Applications will be funded in the order they come before the board for decision. If applications come before the board at the same time, priority shall be given to types of recycling equipment. No loan shall be approved unless the board finds that the operating revenues will be sufficient to ensure full repayment of the loan, including interest.

9205.0606 LOAN LIMITS.

Subpart 1. **Re-refining equipment.** For used oil processing equipment used for re-refining, the maximum loan is 90 percent of the eligible cost or $500,000, whichever is less.

Subp. 2. **Other used oil processing equipment.** For other used oil processing equipment, the maximum loan is 90 percent of the eligible cost or $200,000, whichever is less.

Subp. 3. **Interest rate.** The interest rate of a loan from the used oil processing equipment 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 principle amount of the loan is due one year after the equipment becomes operational or two years after the date the loan agreement is executed by the board, whichever is earlier. The board shall consider the equipment operational at

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the point where the equipment meets all vendor guaranteed operating specifications.

9205.0607 LOAN AGREEMENT.

The board shall disburse loan funds only after a loan agreement containing the terms of this part has been executed by the board and the recipient of a loan award. A loan agreement must:

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

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

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 costs incurred in the acquisition of equipment over and above the total loan eligible costs estimated under part 9205.0603, subpart 1, item B, 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

F. require that the recipient provide periodic reports to the board on the developmental and operational history of the equipment so that knowledge and experience gained may be made available to others.

9205.0608 DEFAULT.

If the used oil processing equipment funded by a loan under this part is not operated 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 equipment was not installed or operated as required. If the board finds that the recipient could not install or operate the

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equipment 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 loan to be accomplished.

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by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Used Oil Processing Equipment Loan Program

AGENCY: Waste Management Board

MINNESOTA RULES: Chapter 9205

The attached rules are approved for publication
in the State Register

DSN

David S. Niss
Assistant Revisor

STATE OF MINNESOTA
WASTE MANAGEMENT BOARD

In the Matter of the Proposed Rules Governing Used Oil Processing Equipment Loan Program, Minn. Rules Parts 9205.0600 to 9205.0608

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

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Kevin F. O'Donnell, 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 is accurate, complete, and current as of this 18th day of May, 1988.

That on the 18th day of May, 1988, 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 State of Minnesota Central Mail System for United States Mail or in the United States mail a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

K. F. O'D

Subscribed and sworn to before me this 25th day of August, 1988.

June J. Seery
Notary Public

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

8250.9920 FORM OF PAGE CONTAINING PARTY PREFERENCE INDICATOR.

POLITICAL PARTY PREFERENCE INDICATOR

MINNESOTA ELECTION LAW PERMITS YOU TO VOTE FOR THE CANDIDATES OF ONLY ONE POLITICAL PARTY IN A STATE PARTISAN PRIMARY ELECTION. PLEASE INDICATE THE PRIMARY ELECTION IN WHICH YOU CHOOSE TO VOTE BY PUNCHING THE POSITION NEXT TO THE PARTY NAME, THEN BEGIN VOTING BY TURNING TO THE PAGES INDICATED BELOW.

. . . . . .

. . . . . .

(name of political party) 00

PRIMARY ELECTION

TURN TO THE xxxxx PAGES STARTING ON PAGE nn

. . . . . .

. . . . . .

(name of political party) 00

PRIMARY ELECTION

TURN TO THE xxxxx PAGES STARTING ON PAGE nn

. . . . . .

YOU MAY VOTE FOR CANDIDATES FOR NONPARTISAN OFFICES ON THE WHITE PAGES EVEN IF YOU CHOOSE NOT TO VOTE IN ONE OF THE PARTISAN PRIMARY ELECTIONS.

Waste Management Board

Proposed Permanent Rules Relating to Used Oil Processing Equipment 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 Laws* 1988, ch. 685, section 18, to be codified as *Minnesota Statutes* § 115A.9162.

All persons have until 4:30 p.m. on Tuesday, June 21, 1988, to submit comments in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules 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 rules addressed, the reason for the request, and any changes 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. Kevin F. O'Donnell
Minnesota Waste Management Board
1350 Energy Lane
St. Paul, MN 55108
(612) 649-5785

The proposed rules 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 rules, if adopted, will govern the Used Oil Processing Equipment Loan Program established in *Minnesota Statutes* § 115A.9162 by establishing the substantive criteria and procedural conditions under which the Board will award loans for used oil processing equipment. The proposed rules are published below. One free copy of the rules is available upon request from Mr. Kevin F. O'Donnell 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 rules and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Mr. Kevin F. O'Donnell upon request.

You are hereby advised, pursuant to *Minnesota Statutes* § 14.115 (1986), "Small business considerations in rulemaking," that the proposed rules have no negative effect on small businesses because the program is available to small businesses and the program is intended to assist small businesses.

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 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. Kevin F. O'Donnell.

Joseph M. Pavelich, Chair
Minnesota Waste Management Board

Rules as Proposed (all new material)

9205.0600 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 9205.0600 to 9205.0608, the following terms have the meanings given them in this part, unless the context requires otherwise.

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

Subp. 3. **Chair.** "Chair" means the chair of the board, or staff designated by the chair.

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. **Used oil processing equipment.** "Used oil processing equipment" means machinery or devices that are designed, constructed, and used to separate, modify, convert, heat, prepare, re-refine, or otherwise process used oil so that materials, substances, or energy contained within the used oil may be recovered for subsequent use. Used oil processing equipment includes pollution control equipment needed to meet applicable pollution control standards.

Subp. 6. **Used oil re-refining equipment.** "Used oil re-refining equipment" means machinery or devices to distill, hydrotreat, or otherwise treat used oil with acid, caustic, clay, or other chemicals in order to produce clean, high quality lubricating base oil.

9205.0601 SCOPE.

Parts 9205.0600 to 9205.0608 implement the used oil processing equipment loan program created and described in Minnesota Statutes, section 115A.9162, by establishing the substantive criteria and procedural conditions under which the board may award loans for used oil processing equipment.

9205.0602 ELIGIBILITY CRITERIA.

Subpart 1. **Eligible applicants.** Individuals, partnerships, corporations, and associations engaged in or intending to become engaged in a business that processes used oil, are eligible for used oil processing equipment loans.

Subp. 2. **Eligible costs.** The cost of used oil processing equipment is eligible for funding under this program. The cost of pollution control equipment is eligible only when that equipment is part of used oil processing equipment funded under this program.

Subp. 3. **Ineligible costs.** The cost of equipment used to install used oil processing equipment, operating cost, preliminary and final design and engineering cost, overhead cost, and the cost of land or buildings is not eligible for funding.

9205.0603 APPLICATION REQUIREMENTS.

Subpart 1. **Contents.** Applications for used oil processing equipment loans must include the following information:

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

B. the total loan eligible used oil processing equipment cost;

C. the amount of the loan requested; 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.

D. the amount and source of funding that will be used to pay the part of the cost of the used oil processing equipment not covered by the board loan and all other eligible and ineligible costs not covered by the board loan.

Subp. 2. **Supporting documentation.** Applications for used oil processing equipment loans must include the documentation in items A to E.

A. Credit information sufficient to support a finding that the loan will be repaid. If available, credit information from private credit rating agencies should be submitted by the applicant and evaluated by the board. For applicants that do not have a credit rating, personal credit information pertaining to individual owners or shareholders of closely held corporations shall be submitted by the applicant and evaluated by the board. 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 conceptual and technical feasibility report that includes at least the following:

(1) a detailed description of the proposed used oil processing equipment;

(2) location and description of the facility where the used oil processing equipment will be used;

(3) a description of the method of used oil processing equipment procurement;

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

(5) an analysis of the quantity and source of used oil that will be processed and an explanation of what will be done with the used oil once processed; and

(6) a description of what will be done with the ash, sludge, by-products, or other residue from used oil processing.

C. A financial plan that contains:

(1) the method of financing costs for used oil processing equipment, and all other costs to be incurred by the applicant in procuring, installing, and operating the equipment;

(2) estimated annual operating and maintenance costs; and

(3) projections of total costs and revenues for the applicant's business over the term of the loan.

D. A report on the status of permits required by permitting agencies.

E. An estimate of the time necessary for equipment installation and operation and when these events will take place.

Subp. 3. **Additional information.** The applicant shall supply additional information needed for the board to approve applications, when requested by the chair.

9205.0604 SPECIAL APPLICATION REQUIREMENTS FOR RE-REFINING EQUIPMENT.

An applicant seeking funding for re-refining equipment shall submit the following information in addition to the information required under part 9205.0603.

A. a conceptual and technical feasibility report that includes a description of the institutional arrangements necessary for implementation and operation of the re-refining facility, and final equipment design and engineering specifications including site plans, building plans, and floor plans detailing the equipment layout;

B. copies of contracts for the sale of re-refined blend stock, or other marketable products of the used oil re-refining operation which specify quantities sold, price per unit sold, and the life of the contract; and

C. a marketing plan for the re-refined oil.

9205.0605 REVIEW AND EVALUATION OF APPLICATIONS.

Subpart 1. **Determination of eligibility and completeness.** Upon receipt of an application, the chair or a designee shall determine the eligibility of the applicant, the eligibility of the costs identified in the application, the eligibility of the equipment 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 equipment.

Subp. 2. **Notice of determination of eligibility and completeness.** Within 14 days after receiving the application, the chair shall notify the applicant of the chair's determinations of eligibility and completeness. If the chair determines that the applicant or the equipment 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 equipment costs are ineligible or that the application is incomplete, the chair shall notify the applicant of the ineligible portion of the costs or of the deficiency. The applicant has 30 days after receiving the notice to correct any inadequacies identified by the chair. If the inadequacies are not corrected within the time allowed, the application is rejected, and the applicant must submit a new application to be considered again.

Subp. 3. **Board approval.** The board shall approve applications and award loans for used oil processing equipment that will aid the state in fulfilling waste management objectives with regard to used oil recycling. Applications will be funded in the order they come before the board for decision. If applications come before the board at the same time, priority shall be given to types of recycling equipment. No loan shall be approved unless the board finds that the operating revenues will be sufficient to ensure full repayment of the loan, including interest.

9205.0606 LOAN LIMITS.

Subpart 1. **Re-refining equipment.** For used oil processing equipment used for re-refining, the maximum loan is 90 percent of the eligible cost or $500,000, whichever is less.

Subp. 2. **Other used oil processing equipment.** For other used oil processing equipment, the maximum loan is 90 percent of the eligible cost or $200,000, whichever is less.

Subp. 3. **Interest rate.** The interest rate of a loan from the used oil processing equipment 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 principle amount of the loan is due one year after the equipment becomes operational or two years after the date the loan agreement is executed by the board, whichever is earlier. The board shall consider the equipment operational at the point where the equipment meets all vendor guaranteed operating specifications.

9205.0607 LOAN AGREEMENT.

The board shall disburse loan funds only after a loan agreement containing the terms of this part has been executed by the board and the recipient of a loan award. A loan agreement must:

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

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

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 costs incurred in the acquisition of equipment over and above the total loan eligible costs estimated under part 9205.0603, subpart 1, item B, 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

F. require that the recipient provide periodic reports to the board on the developmental and operational history of the equipment so that knowledge and experience gained may be made available to others.

9205.0608 DEFAULT.

If the used oil processing equipment funded by a loan under this part is not operated 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 equipment was not installed or operated as required. If the board finds that the recipient could not install or operate the equipment 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 loan to be accomplished.

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

STATE OF MINNESOTA
WASTE MANAGEMENT BOARD
Resolution: WMB-038-88

RESOLUTION ADOPTING RULES

BE IT RESOLVED, that the Minnesota Waste Management Board hereby approves and adopts the rules governing the Used Oil Processing Equipment Loan Program pursuant to the authority vested in the Board under Reorganization Order No. 150, (Dept. of Admin. 1987), Minn. Stat. § 115A.9162, Subd. 1, (1988 Minn. Laws ch. 685, Sec. 18), and Minn. Stat. § 115A.06, Subd. 1 and Subd. 2.

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 necessary acts to provide that the rule shall have the force and effect of law.

Joseph M. Pavelich, Chair
Waste Management Board

Date: 7/28/88

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 July, 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 rules governing the Used Oil Processing Equipment Loan Program pursuant to the authority vested in the Board under Reorganization Order No. 150, (Dept. of Admin. 1987), Minn. Stat. 115A.9162, Subd. 1, (1988 Minn. Laws ch. 685, Sec. 18), and Minn. Stat § 115A.06, Subd. 1 and Subd. 2.
>
> 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 necessary acts to provide that the rule shall have the force and effect of law.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 28th day of July, 1988.

Joseph M. Pavelich, Chair
Waste Management Board

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules
Governing the Used Oil Processing
Equipment Loan Program,
Rules Parts 9205.0600 - .0608

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 0835.

Ann E. Cohen
Special Assistant
Attorney General