

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

RULE REVIEW CHECKLIST

File No. 1562 Docket No. 05.0009.0838

DATE RECEIVED 1/23/89 ADOPTED W/O HEARING X

REVIEW DATE 2/1/89 EMERGENCY RULE _____

DUE DATE 2/6/89 ~~2/8~~ REVISOR APPROVED _____

APPROVED 2-6-89 mjc REVISOR DISAPPROVED _____

DISAPPROVED _____ FILED W/SEC. OF STATE [redacted] 2/10

WITHDRAWN _____ RETURNED TO AGENCY 2/10

✓ 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
- 1/26/89-signed Date adopted
- 7/28/88-Adopted

✓ Proposed Rule
- yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule
- 115.914 Statutory Authority
- yes Small Business Statement
- n/a 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
- 9/8/88 Date 30/25 days before adoption
- ok Notice attached
- _____ ~~Copy of rule or summary attached~~

✓ Publication in State Register
- 9/12/88 Date 30/25 days before adoption

_____ 180-day deadline from:
- ~~9/12/88~~ Effective date of law requiring rule (14.12) (both rules)
- ~~9/12/88~~ 10/12/88 End of comment period (§ 14.26) (rules without hearing)
- _____ ~~effective date of statutory authority (§ 14.29) (emergency rules)~~

✓ Resolution Adopting
- 12/20/88 Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
- 12/20/88 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)~~

ATTORNEY GENERAL

February 10, 1989

ANN E. COHEN
Special Assistant
Attorney General

MARTHA J. CASSERLY
Special Assistant
Attorney General

6-6839

In the Matter of the Adopted Rule Relating to
Grants for Waste Tire Collection Sites

The above-referenced rule has been approved as to its legality by the Attorney General on February 6, 1989.

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

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

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

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

MJC:rer
Enclosures

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

William Brown
Chief Administrative Law Judge
Office of Administrative Hearings

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

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

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

January 24, 1989

Ms. Christy Eller
Assistant Attorney General
Office of the Minnesota Attorney General
Public Finance Division
John Ireland Blvd.
515 Transportation Bldg.
St. Paul, MN 55155

Re: Rules Govering the Waste Tire Collection Site Grants Program, Minn. Rules pts. 9220.0900 - .0935.

Dear Ms. Eller:

On December 20, 1988, the Minnesota Pollution Control Agency adopted the above-referenced rules governing the Waste Tire Collection Site Grants Program. Enclosed for your review are the following:

1. Certificate of Authorizing Resolution.
2. Copy of rules as Proposed.
3. Notice of Intent to Adopt Rules Without a Public Hearing as mailed.
4. Statement of Need and Reasonableness.
5. Affidavit of Mailing and of List.
6. Notice of Intent to Adopt Rules Without a Public Hearing as published in the State Register (13 S.R. 565, September 12, 1988).
7. Rules as Adopted (original and three copies).
8. Certificate of Resolution Adopting Rules.
9. Findings of Fact, Conclusions and Order Adopting Rules (two copies).
10. Declaration of Counsel.

Sincerely,

ANN E. COHEN
Special Assistant
Attorney General

AEC:raa
Enclosures

A6 Copy

~~Waste-Management-Board~~ Pollution Control Agency

Adopted Permanent Rules Relating to Grants for Waste Tire Collection Sites

Rules as Adopted

9220.0900 SCOPE AND AUTHORITY.

Parts 9220.0900 to 9220.0935 govern the administration of grants for establishing waste tire collection sites under Minnesota Statutes, section 115A.913, subdivision 2.

9220.0905 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 9220.0900 to 9220.0935, the following terms have the meanings given them unless the context requires otherwise.

Subp. 2. **~~Board~~ Agency.** "~~Board~~ Agency" means the Minnesota **~~Waste-Management-Board~~** Pollution Control Agency.

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

Subp. 4. **Collection site.** "Collection site" means a collection site as defined in Minnesota Statutes, section 115A.90, subdivision 3, from which waste tires will be transported to a waste tire processing facility.

Subp. 5. **Waste tire processing facility.** "Waste tire processing facility" means an area where waste tires or tire-derived products are processed. A waste tire processing facility must meet the requirements of parts 9220.0200 to **~~9220.0670~~** 9220.0680.

9220.0910 ELIGIBILITY CRITERIA.

Subpart 1. **Eligible applicants.** Eligible applicants are cities, towns, and counties.

Subp. 2. **Eligible costs.** Eligible costs are limited to the capital costs to be incurred by the applicant for land, structures, and equipment used for the collection site. Capital

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costs include the following:

A. buildings;

B. fencing;

C. landscaping;

D. appropriate and necessary on-site utilities;

E. trailers;

F. on-site material handling equipment; and

G. equipment used to pre-process tires.

Subp. 3. **Ineligible costs.** Ineligible costs include the cost of design and engineering/architectural plans; consulting on the preparation of permit applications; and operation, maintenance, and other administrative costs.

9220.0915 GRANT APPLICATION.

An applicant shall submit an application in the form specified by the ~~chair~~ commissioner. An application must include the following information:

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

B. the name of the person or persons constructing or procuring the facility and equipment;

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

D. the total cost that the applicant will incur in the development of the collection site;

E. the total grant-eligible cost of the collection site;

F. the total amount of grant funding requested; and

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

9220.0920 SUPPORTING DOCUMENTATION REQUIRED TO BE SUBMITTED WITH GRANT APPLICATION.

Applications for waste tire collection site grants must include the following supporting documentation:

A. a detailed description of the proposed collection

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site, showing the location of the structures, buildings, and equipment;

B. the specifications and design of equipment that will be used at the collection site and for waste tire collection;

C. a detailed description of the operation of the collection site, including the methods of waste tire collection, storage, and shipment to the processing facility;

D. the date the collection site will be operational;

E. the number of tires that will be handled by the collection site annually, where those tires will be collected, and where those tires will be brought for processing;

F. a description of the state and local permits required for the construction and operation of the site, and an estimate of the time when the applications for those permits will be filed;

G. an explanation of how the operation, maintenance, and administrative costs of the collection site will be paid; and

H. what the cost to users of the collection site will be in costs per ton, if applicable.

9220.0925 REVIEW AND EVALUATION OF APPLICATIONS.

Subpart 1. **Determination of eligibility and completeness.** Upon receipt of an application, the ~~chair~~ commissioner shall determine the eligibility of the applicant, the eligibility of the costs identified in the application, and the completeness of the application.

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

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that any part of the costs for which funding is sought is ineligible or that the application is incomplete, the ~~chair~~ commissioner shall notify the applicant of the ineligible portion of the costs or of the deficiency in the application. The applicant has 14 days after receiving the notice to correct any inadequacies identified by the ~~chair~~ commissioner. If the inadequacies are corrected within the time allowed, the application will be further considered.

Subp. 3. **Board Agency approval.** The ~~board~~ agency shall approve applications and award grants for waste tire collection sites. Applications will be considered by the ~~board~~ agency in the order they come before the ~~board~~ agency for decision. In the event that there is not sufficient money to fund fully all approved applications, the ~~board~~ agency shall give priority to applicants proposing collection sites that will best assist the ~~board~~ agency in establishing a statewide waste tire collection and transportation system.

9220.0930 GRANT LIMITATIONS.

Subpart 1. **Maximum grant award.** The maximum grant award for a waste tire collection site under parts 9220.0900 to 9220.0935 is 50 percent of the eligible capital costs. The maximum grant award must not exceed $25,000.

Subp. 2. **Limitations on disbursal of funds.** No grant funds shall be disbursed for any collection site until the ~~board~~ agency has estimated the total capital costs of the site and determined that financing of the costs is assured.

9220.0935 GRANT AGREEMENT.

Subpart 1. **Requirements.** Funds awarded by the ~~board~~ agency must be disbursed in accordance with a written grant agreement. A grant agreement must:

A. incorporate by reference the final grant application submitted to the ~~board~~ agency in accordance with part 9220.0920, and require the grantee to complete development of the collection site in accordance with that application;

B. allow the grantee to enter into contracts to

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complete the work specified in the agreement subject to any ~~board~~ agency approval that may be required in the agreement;

C. provide that any cost overruns incurred in the development of the proposed collection are the sole responsibility of the grantee; and

D. provide that the ~~board~~ agency shall not agree to any amendment increasing the amount of funds awarded to the grantee.

Subp. 2. **Rescission of grant.** If the collection site is not completed and operational in accordance with the terms and conditions of the grant agreement, including the time schedules provided in the agreement, the grant must be rescinded, and the grantee shall repay the entire amount of the grant unless the ~~board~~ agency determines that a variance from the agreement is justified and that the original objectives of the grant will be accomplished.

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

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
FEB 10 1989
Secretary of State

Approved
by Revisor _____

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

FEB 10 1989

Joan Anderson Growe
Secretary of State

10:05 AM

APPROVED AS TO FORM AND LEGALITY

February 6 1989

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY M T Cassely
SPECIAL ASSISTANT ATTORNEY GENERAL

CERTIFICATE OF BOARD'S AUTHORIZING RESOLUTION

I, Joseph M. Pavelich, do hereby certify that I was the Chair of the 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 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 was set forth in the minutes of said meeting and has not been rescinded or modified:

> BE IT RESOLVED, that the Chair of the Waste Management Board (Board) is hereby granted the authority to sign and give notice of the Board's intent to adopt, without a public hearing, the attached rules governing the Waste Tire Collection and Transportation Grant Program to all persons who have registered their names with the Board for that purpose and 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 Minn. Stat. § 14.07, subd. 2 (1986).
>
> BE IT FURTHER RESOLVED, that in the event a public hearing becomes necessary, the Chair is hereby granted the authority and directed to call a hearing for the purpose of promulgating said rules as well as to perform any and all acts incidental thereto, including but not limited to signing an Order for and Notice of Hearing, as well as acting as the Board's representative at all hearings.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 9 day of Jan., 1989.

Joseph M. Pavelich
Former Chair
Waste Management Board

Attest: Howard A Andersen
Former Member
Waste Management Board

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Grants for Waste Tire Collection Sites

AGENCY: Waste Management Board

MINNESOTA RULES: Chapter 9220

The attached rules are approved for publication in the State Register

David S. Niss
Assistant Revisor

Waste Management Board

Proposed Permanent Rules Relating to Grants for Waste Tire Collection Sites

Rules as Proposed (all new material)

9220.0900 SCOPE AND AUTHORITY.

Parts 9220.0900 to 9220.0935 govern the administration of grants for establishing waste tire collection sites under Minnesota Statutes, section 115A.913, subdivision 2.

9220.0905 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 9220.0900 to 9220.0935, the following terms have the meanings given them 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. **Collection site.** "Collection site" means a collection site as defined in Minnesota Statutes, section 115A.90, subdivision 3, from which waste tires will be transported to a waste tire processing facility.

Subp. 5. **Waste tire processing facility.** "Waste tire processing facility" means an area where waste tires or tire-derived products are processed. ~~A~~ waste tire processing facility must meet the requirements of parts 9220.0200 to 9220.0670.

9220.0910 ELIGIBILITY CRITERIA.

Subpart 1. **Eligible applicants.** Eligible applicants are cities, towns, and counties.

Subp. 2. **Eligible costs.** Eligible costs are limited to the capital costs to be incurred by the applicant for land, structures, and equipment used for the collection site. Capital costs include the following:

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A. buildings;

B. fencing;

C. landscaping;

D. appropriate and necessary on-site utilities;

E. trailers;

F. on-site material handling equipment; and

G. equipment used to pre-process tires.

Subp. 3. **Ineligible costs.** Ineligible costs include the cost of design and engineering/architectural plans; consulting on the preparation of permit applications; and operation, maintenance, and other administrative costs.

9220.0915 GRANT APPLICATION.

An applicant shall submit an application in the form specified by the chair. An application must include the following information:

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

B. the name of the person or persons constructing or procuring the facility and equipment;

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

D. the total cost that the applicant will incur in the development of the collection site;

E. the total grant-eligible cost of the collection site;

F. the total amount of grant funding requested; and

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

9220.0920 SUPPORTING DOCUMENTATION REQUIRED TO BE SUBMITTED WITH GRANT APPLICATION.

Applications for waste tire collection site grants must include the following supporting documentation:

A. a detailed description of the proposed collection site, showing the location of the structures, buildings, and

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equipment;

B. the specifications and design of equipment that will be used at the collection site and for waste tire collection;

C. a detailed description of the operation of the collection site, including the methods of waste tire collection, storage, and shipment to the processing facility;

D. the date the collection site will be operational;

E. the number of tires that will be handled by the collection site annually, where those tires will be collected, and where those tires will be brought for processing;

F. a description of the state and local permits required for the construction and operation of the site, and an estimate of the time when the applications for those permits will be filed;

G. an explanation of how the operation, maintenance, and administrative costs of the collection site will be paid; and

H. what the cost to users of the collection site will be in costs per ton, if applicable.

9220.0925 REVIEW AND EVALUATION OF APPLICATIONS.

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

Subp. 2. **Notice of determination of eligibility and completeness.** Within 14 days after receiving the application, the chair shall notify the applicant of the chair's determinations of eligibility and completeness. If the chair determines that the applicant 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 costs for which funding is sought is ineligible or that the application in incomplete, the

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chair shall notify the applicant of the ineligible portion of the costs or of the deficiency in the application. The applicant has 14 days after receiving the notice to correct any inadequacies identified by the chair. If the inadequacies are corrected within the time allowed, the application will be further considered.

Subp. 3. **Board approval.** The board shall approve applications and award grants for waste tire collection sites. Applications will be considered by the board in the order they come before the board for decision. In the event that there is not sufficient money to fund fully all approved applications, the board shall give priority to applicants proposing collection sites that will best assist the board in establishing a statewide waste tire collection and transportation system.

9220.0930 GRANT LIMITATIONS.

Subpart 1. **Maximum grant award.** The maximum grant award for a waste tire collection site under parts 9220.0900 to 9220.0935 is 50 percent of the eligible capital costs. The maximum grant award must not exceed $25,000.

Subp. 2. **Limitations on disbursal of funds.** No grant funds shall be disbursed for any collection site until the board has estimated the total capital costs of the site and determined that financing of the costs is assured.

9220.0935 GRANT AGREEMENT.

Subpart 1. **Requirements.** Funds awarded by the board must be disbursed in accordance with a written grant agreement. A grant agreement must:

A. incorporate by reference the final grant application submitted to the board in accordance with part 9220.0920, and require the grantee to complete development of the collection site in accordance with that application;

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

C. provide that any cost overruns incurred in the

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development of the proposed collection are the sole responsibility of the grantee; and

D. provide that the board shall not agree to any amendment increasing the amount of funds awarded to the grantee.

Subp. 2. **Rescission of grant.** If the collection site is not completed and operational in accordance with the terms and conditions of the grant agreement, including the time schedules provided in the agreement, the grant must be rescinded, and the grantee shall repay the entire amount of the grant unless the board determines that a variance from the agreement is justified and that the original objectives of the grant will be accomplished.

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

Approved
by Revisor _____

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of Proposed Permanent Rules Relating to Grants for Waste Tire Collection Sites, Minn. Rules Parts 9220.0900 to 9220.0935.	NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Notice is hereby given that the Minnesota Waste Management Board (Board) intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minn. Stat. § 14.22 to 14.28 (1986). The Board's authority to adopt the rule is set forth in Minn. Stat. § 115.914, subd. 1 (as amended by Minn. Laws 1988, ch. 685, sec. 45).

All persons have until 4:30 p.m. on Wednesday, October 12, 1988, to submit comments in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

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

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

Mr. Don Lindstrom
Waste Management Board
1350 Energy Lane
St. Paul, MN 55108
(612) 649-5780

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

The proposed rule, if adopted, will govern the waste tire collection site grant program established in Minn. Stat. § 115A.913 subd. 2 (Minn. Laws 1988 ch. 685, sec. 15) by establishing the substantive criteria and procedural conditions under which the Board will award grants for waste tire collection sites. The proposed rule is enclosed with this notice. One free copy of the rules is available from Mr. Don Lindstrom upon request.

You are hereby advised, pursuant to Minn. Stat. § 14.115 (1986), "Small business considerations in rulemaking," that the proposed rule will have no negative affect on small businesses because the program will create opportunities for private businesses that desire to operate collection sites for counties, or that seek to transport waste tires to permitted collection sites.

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. Don Lindstrom.

Dated: Sept. 12, 1988

Joseph M. Pavelich, Chair
Waste Management Board

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the matter of the proposed rules governing grants for waste tire collection sites

Statement of Need and Reasonableness

I. Introduction

In 1988, the Legislature created a program to encourage local governments to establish collection sites for waste tires. Establishment of local collection sites will play a part in the development a collection and transportation network for waste tires generated now and in the future in Minnesota.

The Waste Management Board (Board) now promulgates permanent rules to govern the waste tire collection site grant program. These rules establish the substantive criteria and procedural conditions under which the Board will award grants for waste tire collection sites.

II. Statement of Board's Statutory Authority

The Board's statutory authority to establish the program is stated in Minn. Stat. § 115A.913 subd. 2, (1988 Minn. Laws ch. 685, sec. 15) which provides:

> The [Board] may make grants to local government units for the cost of establishing waste tire collection sites. Grants may be used for the capital costs of land, structures and equipment needed to establish waste tire collection sites, and to collect and transport waste tires. A grant may not exceed 50 percent of the cost to a local government unit to establish a waste tire collection site.

The [Board's] statutory authority to adopt rules for this program is established in Minn. Stat. § 115.914 subd. 1, which provides:

> The board shall adopt rules for the administration of waste tire collector and processor permits, waste tire nuisance abatement, and waste tire collection. Until December 31, 1985, the agency may adopt emergency rules for these purposes.

Under this statute the Board has the necessary authority to adopt this rule because the program authorized in Minn. Laws ch. 685, sec. 15 relates to "waste tire collection".

III. Statement of Need

Minn. Stat. ch. 14 (1986) requires the Board to make an affirmative presentation of facts establishing the need for and the 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:

On May 21, 1988, permanent rules took effect relating to permitting of waste tire facilities and regulation of waste tire transportation. All newly generated waste tires will have to be hauled to a permitted processor, or a collection site. Collection sites that are now in existence will have the opportunity to become permitted and serve as transfer stations in their area of the state. However, there is a need for additional transfer stations to provide convenient, inexpensive disposal points open to the public in any area of Minnesota. The legislature created incentives for local governments to meet waste tire disposal needs of the state by authorizing grants to be made to local government units. 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.

9220.0900 Scope and Authority

This section is needed to provide a description of the rule and to state the authority given to the Board to promulgate the rule.

9220.0905 Definitions

The definitions used in the rule are used to promote clarity and consistency of usage. The definition of "collection site" incorporates the statutory definition of collection site, but clarifies the definition by adding the requirement that waste tires

transferred to a processing facility. Because the rules applicable to transfer stations, Minn. Rules Pt. 9220.0460, will require that waste tires be transferred to a processing facility, this clarification is reasonable. A definition of waste tire processing facility is also provided. This definition is reasonable because it follows the definition and requirements governing waste tire processing facilities found in the waste tire facility permit rule.

9220.0910 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, grants are made to "local government units." As defined in Minn. Stat § 115A.03, subd. 17, local government units includes cities, towns, and counties.

Subp. 2. Eligible Costs. It is reasonable to include the costs of land, structures, and equipment incurred in the development of a waste tire collection site because these costs are specifically made eligible by statute.

Subp. 3. Ineligible Costs. It is reasonable to exclude any consulting, engineering, operation or administration costs because the sites are not expected to require technical or architectural plans, and these costs are not capital costs incurred in the development of the site.

9220.0915 Grant Application

It is reasonable to specify application contents to ensure the orderly evaluation of grant requests. Items A through G of this section are basic information that the Board will use to obtain the general picture of the application.

9220.0920 Supporting Documentation

Supporting documentation is required to be submitted with each grant application.

A. A detailed description of the proposed site is required. This is reasonable because it provides the broad overall concept of the proposal. This description will be used by the Board to determine if the facility is complete and the costs specified in the application are accurate.

B. The specifications and design of equipment that will be used at the collection site and for collection. This is reasonable to require because it will enable the Board to determine whether the equipment that will be used will be adequate for these

purposes.

C. A detailed description of the operation of the site is required in the application. This is reasonable because it will enable the Board to determine whether the waste tires will be handled and organized at the proposed site properly.

D. It is reasonable to require the date that the proposed site will be operational because it provides a time structure for the implementation of the proposed site that can be incorporated into the grant agreement.

E. The number of tires that will be handled annually, and where those tires will be collected and taken for processing is required. This is reasonable because it indicates to the Board that the collection site is adequate to handle the possible number of waste tires it may attract, and that the site has a processing facility available to accept the collected tires.

F. A description of needed permits, and when applications for needed permits will be filed. This is required and reasonable to demonstrate to the Board that any and all required permits will be sufficiently obtained.

G. How the operation, maintenance, and administrative costs associated with the proposed site will be paid is required in the application. It is reasonable to require this so that the Board can determine that the proposed site will be paid for, and that the applicant is aware of and will be able to afford the cost of site operation.

H. It is reasonable to require the costs to users of the collection site so that the Board can assess the impact of disposal costs on potential users, and whether these costs are adequate to cover the needs of the proposed site.

9220.0925 Review and Evaluation of Applications

Subpart 1. 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. This will ensure that only complete applications from eligible applicants are subject to formal action, conserving administrative resources.

Subp. 2. Notice of Determination of Eligibility and Completeness. This part sets out a time frame which applicants will receive notice of the Chair's initial decision on the application, and which they must respond to any finding of deficiency. The time period - 14 days - is reasonable because it gives adequate time for the review, yet will not delay decision. The time period to respond to a finding of deficiency - 14 days -

is reasonable to allow the applicant to correct deficiencies or omissions.

Subp. 3. Board Approval

The goal of this program is to establish a collection and transportation system for waste tires. Thus, it is reasonable to award grants by Board resolution which will contribute to these objectives. Applications that meet the general criteria will be decided on in the order they reach the Board for decision. This is reasonable to ensure funding is distributed in a fair and orderly manner.

9220.0930 Grant Limitations

Subpart 1. Maximum Grant Award

The provision requires that the maximum grant award not be more than 50 percent of the eligible capital costs of the project, not to exceed 25,000 dollars. The percentage is required by statute. The maximum award is set to ensure that site costs do not become inflated, and to preserve program funds.

9220.0935 Grant Agreement

It is reasonable to require that grant funds be disbursed under the terms of a grant agreement to ensure that the Board and applicant understand the terms of the grant, and to provide for enforcement of the terms of the grant.

V. Small Business Considerations in Rulemaking

By statute, participation in this program is restricted to local government units. However, local governmental units are not prevented from contracting with private businesses for the operation of the publicly owned facilities. Thus, this program may create opportunities for small businesses engaged in waste tire collection and transportation.

VI. Based on the foregoing, the proposed Minn. Rules pts. 9220.0900 -.0935 are both needed and reasonable.

Dated: 7/20, 1988.

Joseph M. Pavelich, Chair
Waste Management Board

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules Governing Waste Tire Collection Site Grants, Minn. Rules pts. 9220.0900 - .0935.

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

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Don Lindstrom, being duly sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minn. Stat. §§ 14.14, subd. 1a and 14.22 (1986) that their names be placed on the Minnesota Waste Management Board's rulemaking mailing list was accurate, complete, and current as of the 8th day of September, 1988.

That on the 8th day of September, 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 United States mail for first class mailing a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Don Lindstrom

Subscribed and swern to before me this 23rd day of Jan, 1989.

Jacalyn Stuhl

JACALYN STUHL
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES MAY 18, 1990

5520.0800 TERMINATION OF GRANTS.

Subpart 1. **General.** Grants may be suspended, terminated, or withdrawn, in whole or in part, by the commissioner if funds provided are used in a manner inconsistent with the policies of parts 5520.0100 to 5520.0800, or if it appears that funds are being used in a manner inconsistent with the stated goals and purpose of the grant application or approved amendments. Grants may also be withdrawn if it appears that the applicant is unable or unwilling to fulfill responsibilities set forth in the application.

Subp. 2. **Notice.** In the event the commissioner believes that there is reason to suspend, terminate, or withdraw a grant, the commissioner shall provide written notice to the grant recipient stating the nature of the contemplated action, the anticipated effective date, and the reasons for the action. The grant recipient may submit a written response to the notice within five working days of receipt of the notice from the commissioner. After investigating the situation, including any information provided by the committee in response to the commissioner's notice, the commissioner shall determine final action with regard to suspension, termination, or withdrawal of the grant. The commissioner shall provide written notice of the final determination to all interested parties.

Waste Management Board

Proposed Permanent Rules Relating to Grants for Waste Tire Collection Sites

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Waste Management Board (Board) intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes* § 14.22 to 14.28 (1986). The Board's authority to adopt the rule is set forth in *Minnesota Statutes* § 115.914, subd. 1 (as amended by *Minnesota Laws 1988*, ch. 685, sec. 45).

All persons have until 4:30 p.m. on Wednesday, October 12, 1988, to submit comments in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

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

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

Mr. Don Lindstrom
Waste Management Board
1350 Energy Lane
St. Paul, MN 55108
(612) 649-5780

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

The proposed rule, if adopted, will govern the waste tire collection site grant program established in *Minnesota Statutes* § 115A.913 subd. 2 (*Minnesota Laws 1988* ch. 685, sec. 15) by establishing the substantive criteria and procedural conditions under which the Board will award grants for waste tire collection sites. The proposed rule is enclosed with this notice. One free copy of the rules is available from Mr. Don Lindstorm upon request.

You are hereby advised, pursuant to *Minnesota Statutes* § 14.115 (1986), "Small business considerations in rulemaking," that the proposed rule will have no negative affect on small businesses because the program will create opportunities for private businesses that desire to operate collection sites for counties, or that seek to transport waste tires to permitted collection sites.

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

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.

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. Don Lindstrom.

Dated: 12 September 1988

Joseph M. Pavelich, Chair
Waste Management Board

Rules as Proposed (all new material)

9220.0900 SCOPE AND AUTHORITY.

Parts 9220.0900 to 9220.0935 govern the administration of grants for establishing waste tire collection sites under Minnesota Statutes, section 115A.913, subdivision 2.

9220.0905 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 9220.0900 to 9220.0935, the following terms have the meanings given them 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. **Collection site.** "Collection site" means a collection site as defined in Minnesota Statutes, section 115A.90, subdivision 3, from which waste tires will be transported to a waste tire processing facility.

Subp. 5. **Waste tire processing facility.** "Waste tire processing facility" means an area where waste tires or tire-derived products are processed. A waste tire processing facility must meet the requirements of parts 9220.0200 to 9220.0670.

9220.0910 ELIGIBILITY CRITERIA.

Subpart 1. **Eligible applicants.** Eligible applicants are cities, towns, and counties.

Subp. 2. **Eligible costs.** Eligible costs are limited to the capital costs to be incurred by the applicant for land, structures, and equipment used for the collection site. Capital costs include the following:

A. buildings;

B. fencing;

C. landscaping;

D. appropriate and necessary on-site utilities;

E. trailers;

F. on-site material handling equipment; and

G. equipment used to pre-process tires.

Subp. 3. **Ineligible costs.** Ineligible costs include the cost of design and engineering/architectural plans; consulting on the preparation of permit applications; and operation, maintenance, and other administrative costs.

9220.0915 GRANT APPLICATION.

An applicant shall submit an application in the form specified by the chair. An application must include the following information:

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

B. the name of the person or persons constructing or procuring the facility and equipment;

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

D. the total cost that the applicant will incur in the development of the collection site;

E. the total grant-eligible cost of the collection site;

F. the total amount of grant funding requested; and

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

9220.0920 SUPPORTING DOCUMENTATION REQUIRED TO BE SUBMITTED WITH GRANT APPLICATION.

Applications for waste tire collection site grants must include the following supporting documentation:

A. a detailed description of the proposed collection site, showing the location of the structures, buildings, and equipment;

B. the specifications and design of equipment that will be used at the collection site and for waste tire collection;

C. a detailed description of the operation of the collection site, including the methods of waste tire collection, storage, and shipment to the processing facility;

D. the date the collection site will be operational;

E. the number of tires that will be handled by the collection site annually, where those tires will be collected, and where those tires will be brought for processing;

F. a description of the state and local permits required for the construction and operation of the site, and an estimate of the time when the applications for those permits will be filed;

G. an explanation of how the operation, maintenance, and administrative costs of the collection site will be paid; and

H. what the cost to users of the collection site will be in costs per ton, if applicable.

9220.0925 REVIEW AND EVALUATION OF APPLICATIONS.

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

Subp. 2. **Notice of determination of eligibility and completeness.** Within 14 days after receiving the application, the chair shall notify the applicant of the chair's determinations of eligibility and completeness. If the chair determines that the applicant 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 costs for which funding is sought is ineligible or that the application in incomplete, the chair shall notify the applicant of the ineligible portion of the costs or of the deficiency in the application. The applicant has 14 days after receiving the notice to correct any inadequacies identified by the chair. If the inadequacies are corrected within the time allowed, the application will be further considered.

Subp. 3. **Board approval.** The board shall approve applications and award grants for waste tire collection sites. Applications will be considered by the board in the order they come before the board for decision. In the event that there is not sufficient money to fund fully all approved applications, the board shall give priority to applicants proposing collection sites that will best assist the board in establishing a statewide waste tire collection and transportation system.

9220.0930 GRANT LIMITATIONS.

Subpart 1. **Maximum grant award.** The maximum grant award for a waste tire collection site under parts 9220.0900 to 9220.0935 is 50 percent of the eligible capital costs. The maximum grant award must not exceed $25,000.

Subp. 2. **Limitations on disbursal of funds.** No grant funds shall be disbursed for any collection site until the board has estimated the total capital costs of the site and determined that financing of the costs is assured.

9220.0935 GRANT AGREEMENT.

Subpart 1. **Requirements.** Funds awarded by the board must be disbursed in accordance with a written grant agreement. A grant agreement must:

A. incorporate by reference the final grant application submitted to the board in accordance with part 9220.0920, and require the grantee to complete development of the collection site in accordance with that application;

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

C. provide that any cost overruns incurred in the development of the proposed collection are the sole responsibility of the grantee; and

D. provide that the board shall not agree to any amendment increasing the amount of funds awarded to the grantee.

Subp. 2. **Rescission of grant.** If the collection site is not completed and operational in accordance with the terms and conditions of the grant agreement, including the time schedules provided in the agreement, the grant must be rescinded, and the grantee shall repay the entire amount of the grant unless the board determines that a variance from the agreement is justified and that the original objectives of the grant will be accomplished.

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

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.

CERTIFICATE OF RESOLUTION ADOPTING RULES

I, Gerald L. Willet, do hereby certify that I am the Commissioner of the Minnesota Pollution Control Agency, 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 Pollution Control Agency duly and properly called and held on the 20th day of December, 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 Pollution Control Agency (Agency) hereby approves and adopts the rules governing grants for waste tire collection sites pursuant to the authority vested in the Agency by Minn. Stat. § 115A.914, subd. 1 and Reorganization Order No. 155 (Dept. of Admin. 1988).

BE IT FURTHER RESOLVED, that prior to publishing the rules as adopted in the State Register, the Commissioner is authorized to make any form changes in the rules that the Revisor of Statutes requires the Agency to make in order to obtain the Revisor's Certificate as required by Minn. Stat. § 14.28 (1986).

BE IT FURTHER RESOLVED, that the Agency adopts the attached Findings of Fact, Conclusions, and Order Adopting Rules and that the Commissioner is hereby authorized to sign the above-mentioned document on behalf of the Agency 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 20th day of December, 1988.

Gerald L. Willet

GERALD L. WILLET
Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules Governing Grants for Waste Tire Collection Sites, Minn. Rules Parts 9220.0900 to .0935.

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES

The above-entitled matter came on for decision before the Minnesota Pollution Control Agency (Agency) on the 20th day of December, 1988. After affording all interested persons the opportunity to present written and oral data, statements and arguments to the Agency, 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 Agency, being fully advised in the premises, hereby adopts the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

1. Notice of the Waste Management Board's intent to adopt the above-entitled rules without a public hearing was published in the State Register on September 12, 1988, and was sent by mail to all persons on the list maintained by the Waste Management Board pursuant to Minn. Stat. § 14.14, subd. 1a and 14.22 (1986) on September 8, 1988.

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 of the rule for 30 days after notice of proposed rulemaking. The 30 day comment period, as set out in the notice, expired on Wednesday, October 12, 1988.

4. On October 6, 1988, the authority to administer the waste tire collection site grant program was transferred from the Waste Management Board to the Pollution Control Agency by Reorganization Order No. 155 (Dept. of Admin. 1988).

5. Due to the change in administering agency effected by the Reorganization Order, the Agency finds that the rule should be modified by changing "chair" to "commissioner" and "board" to "agency." This is reasonable to prevent confusion. This is not a substantial change because it does not change the procedure or standards established in the rule in any manner.

6. Due to a typographical error, the Agency finds that the rule should be modified by changing the reference in part 9220.0905, subpart 5 from 9220.0670 to 9220.0680. This is reasonable because the reference was intended to encompass all parts of the waste tire facility permit rule. The change is not a substantial change because the last section of the waste tire facility permit rule has no special impact on this rule.

7. During the comment period, the Board and the Agency received no comments on the rule.

8. No requests for public hearing were received.

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

10. The Agency adopts the Statement of Need and Reasonableness in its entirety, except as modified by Findings 5 and 6, as the factual basis for the proposed rules. The Agency hereby incorporates the Statement of Need and Reasonableness into these findings.

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

CONCLUSIONS

1. The Minnesota Pollution Control Agency duly acquired and has jurisdiction over this proceeding as the successor in interest to the Waste Management Board under Reorganization Order No. 155 (Dept. of Admin. 1988).

2. The Waste Management 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. 9220.0900 - .0935 governing grants for establishment of waste tire collection sites are adopted pursuant to the authority vested in the Minnesota Pollution Control Agency by Minn. Stat. § 115A.914, subd. 1 and Reorganization Order No. 155 (Dept. of Admin. 1988).

Dated: December 20, 1988

Gerald L. Willet

GERALD L. WILLET
Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules Governing Grants for Waste Tire Collection Sites, Minn. Rules Parts 9220.0900 to .0935.

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES

The above-entitled matter came on for decision before the Minnesota Pollution Control Agency (Agency) on the 20th day of December, 1988. After affording all interested persons the opportunity to present written and oral data, statements and arguments to the Agency, 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 Agency, being fully advised in the premises, hereby adopts the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

1. Notice of the Waste Management Board's intent to adopt the above-entitled rules without a public hearing was published in the State Register on September 12, 1988, and was sent by mail to all persons on the list maintained by the Waste Management Board pursuant to Minn. Stat. § 14.14, subd. 1a and 14.22 (1986) on September 8, 1988.

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 of the rule for 30 days after notice of proposed rulemaking. The 30 day comment period, as set out in the notice, expired on Wednesday, October 12, 1988.

4. On October 6, 1988, the authority to administer the waste tire collection site grant program was transferred from the Waste Management Board to the Pollution Control Agency by Reorganization Order No. 155 (Dept. of Admin. 1988).

5. Due to the change in administering agency effected by the Reorganization Order, the Agency finds that the rule should be modified by changing "chair" to "commissioner" and "board" to "agency." This is reasonable to prevent confusion. This is not a substantial change because it does not change the procedure or standards established in the rule in any manner.

6. Due to a typographical error, the Agency finds that the rule should be modified by changing the reference in part 9220.0905, subpart 5 from 9220.0670 to 9220.0680. This is reasonable because the reference was intended to encompass all parts of the waste tire facility permit rule. The change is not a substantial change because the last section of the waste tire facility permit rule has no special impact on this rule.

7. During the comment period, the Board and the Agency received no comments on the rule.

8. No requests for public hearing were received.

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

10. The Agency adopts the Statement of Need and Reasonableness in its entirety, except as modified by Findings 5 and 6, as the factual basis for the proposed rules. The Agency hereby incorporates the Statement of Need and Reasonableness into these findings.

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

CONCLUSIONS

1. The Minnesota Pollution Control Agency duly acquired and has jurisdiction over this proceeding as the successor in interest to the Waste Management Board under Reorganization Order No. 155 (Dept. of Admin. 1988).

2. The Waste Management 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. 9220.0900 - .0935 governing grants for establishment of waste tire collection sites are adopted pursuant to the authority vested in the Minnesota Pollution Control Agency by Minn. Stat. § 115A.914, subd. 1 and Reorganization Order No. 155 (Dept. of Admin. 1988).

Dated: December 20, 1988

Gerald L. Willet

GERALD L. WILLET
Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules
Governing the Waste Tire Collection
Site Grant Program, Minn. Rules pts.
9220.0900 - .0935.

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, with the following exception.

Through a typographical error in the Notice of the Intent to Adopt the Rules, reference was made to Minn. Stat. § 115.914, subd. 1 as the source of the Waste Management Board's authority to adopt the proposed rule. The correct citation would be to Minn. Stat. § 115A.914, subd. 1.

This error should not affect the validity of the Notice for the following reasons:

1. The reference in the notice was to Minn. Stat. § 115.914 (as amended by Minn. Laws 1988, ch. 685, sec. 45.) The 1988 amendment references Minn. Stat. §§ 115A.90-914. Thus, individuals interested in the authority of the Waste Management Board to adopt the proposed rule would be referred to the correct statutory section by the 1988 amendment referenced in the Notice.

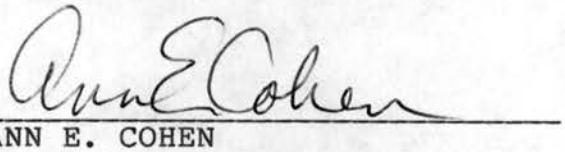
2. There is no Minn. Stat. § 115.914, subd. 2. Thus,

individuals interested in the authority of the Waste Management Board to adopt the proposed rule would have immediately known that the published reference was in error. Because the Waste Management Board's authority is wholly found in Minn. Stat. ch. 115A, interested persons familiar with the Waste Management Board would easily find the correct citation.

3. The authority for the waste tire management program is wholly codified within Minn. Stat. ch. 115A. The index to Minnesota Statutes directs persons to Minn. Stat. § 115A.914 with regard to rulemaking authority for waste tires.

4. The Notice indicates that the proposed rule would govern the waste tire collection site grant program established in Minn. Stat. § 115A.913, subd. 2 (Minn. Laws 1988, ch. 685, sec. 15). This reference to Minn. Stat. ch. 115A would alert interested persons that the correct reference to the Waste Management Board's authority to adopt the proposed rule would be found in Minn. Stat. ch. 115A.

For Attorney General billing purposes, the four-digit docket client code is 0838.



ANN E. COHEN
Special Assistant
Attorney General

Office of the Revisor of Statutes
Administrative Rules

Carla M. Riehle
Assistant Revisor
297-2948

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

February 1, 1989

Don Lindstrom
Pollution Control Agency
1350 Energy Lane
St. Paul, MN 55108

RE: File No. 1366

Dear Mr. Lindstrom:

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,

Carla M. Riehle