

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

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RULE REVIEW CHECKLIST

File No. 1611 Docket No. 05-0009.0835

DATE RECEIVED 6-28-89 ADOPTED W/O HEARING ✓

REVIEW DATE 7-7-89 EMERGENCY RULE _____

DUE DATE 7-12-89 REVISOR APPROVED _____

APPROVED _____ REVISOR DISAPPROVED _____

DISAPPROVED _____ 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WITHDRAWN _____ RETURNED TO AGENCY _____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
- 6/7/89 Date adopted

✓ Proposed Rule
- yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule
- 115A.06(2) Statutory Authority 115A.06(1) + 14.06
- 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
- 3/10/89 Date (30)/25 days before adoption
- ok Notice attached
- _____ ~~Copy of rule or summary attached~~

✓ Publication in State Register
- 3/13/89 Date (30)/25 days before adoption

_____ 180-day deadline from:
- See notes Effective date of law requiring rule (14.12) (both rules)
- 4/12/89 end of comment period (§ 14.26) (rules without hearing)
- _____ ~~effective date of statutory authority (§ 14.29) (emergency rules)~~

✓ Resolution Adopting
- 6/16/89 Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
- 8/23/89 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)~~

DEPARTMENT : ATTORNEY GENERAL

SF-00006-05 (4/86)

STATE OF MINNESOTA

Office Memorandum

DATE : July 14, 1989

TO : ANN E. COHEN
Special Assistant
Attorney General

FROM : JULIE A. LEPPINK
Special Assistant
Attorney General

PHONE : 6-9422

SUBJECT : In the Matter of the Adopted Rule Relating to Used Oil Processing Equipment Loan Program

The above-referenced rule has been approved as to its legality by the Attorney General on July 14, 1989. Although I had some concerns about the statutory authority to promulgate this rule, Minn. Stat. § 115A.06, subd. 2 does not provide the required authority. However, Minn. Stat. §§ 14.06 and 14.38 provide support for the legality of these rules, as does some Minnesota case law. See Minnesota-Dakotas Retail Hardware Association v. State, 279 N.W.2d 360, 364 (Minn. 1979); McKee v. Likens, 261 N.W.2d 566 (Minn. 1977).

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

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

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

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

JAL:klk
Enclosures

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

William Brown
Chief Administrative Law Judge
Office of Administrative Hearings

Pollution Control Agency

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. **Agency.** "Agency" means the Pollution Control Agency.

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

Subp. 4. **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.

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 agency 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 PROCESS.

Subpart 1. **Availability of funds.** The agency shall not accept applications until the agency has determined the amount of funds available and the type of used oil processing equipment that will be funded and has published a notice requesting the submission of applications following the procedures in subpart 3.

Subp. 2. **Agency determination.** The agency shall determine the amount of funds to be expended and the type of used oil processing equipment that will be funded by considering the type of used oil processing equipment that will best assist the agency in improving the management of used oil in Minnesota and the amount of available funding. The agency shall develop a description of the type of used oil processing equipment that will be funded, including objectives for performance of that equipment.

quite discretionary

Subp. 3. **Notice.** After the agency makes the determination required in subpart 2, the commissioner shall solicit applications by placing a notice in the State Register and by sending written notice to eligible applicants known to the commissioner. The notice shall state when applications must be submitted, the type of equipment that will be funded, and shall incorporate the description developed by the agency under subpart 2.

9205.0604 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 agency loan and all other eligible and ineligible costs not covered by the agency 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 agency. 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 agency. 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 agency to approve applications, when requested by the commissioner.

Discretionary

9205.0605 REVIEW AND EVALUATION OF APPLICATIONS.

Subpart 1. **Determination of eligibility and completeness.** Upon receipt of an application, the commissioner 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 commissioner to arrange for a preapplication review of the proposed equipment.

Subp. 2. **Notice of determination of eligibility and completeness.** The commissioner shall notify the applicant of the commissioner's determinations of eligibility and completeness. If the commissioner determines that the applicant or the equipment is ineligible, the commissioner shall reject the application, return it to the applicant, and notify the

applicant of the reasons for the rejection. If the commissioner determines that any part of the equipment costs is ineligible or that the application is incomplete, the commissioner 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 commissioner. 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. **Agency approval.** The agency shall approve applications and award loans for used oil processing equipment. The agency shall award loans to those applicants whose applications best demonstrate that the used oil processing equipment proposed to be purchased meets the description developed by the agency under part 9205.0603, subpart 2.

No application shall be approved for funding unless the agency determines that the applicant has the ability to repay the loan, including all interest.

9205.0606 AWARD OF LOANS.

Subpart 1. **Loan limit.** The maximum loan is 50 percent of the eligible cost of the used oil processing equipment or $500,000, whichever is less.

Subp. 2. **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 agency. The first payment toward the principal 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 agency, whichever is earlier. The agency shall consider the equipment operational at the point where the equipment meets all vendor guaranteed operating specifications.

9205.0607 LOAN AGREEMENT.

The agency shall disburse loan funds only after a loan

agreement containing the terms of this part has been executed by the agency and the recipient of a loan award. A loan agreement must:

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

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;

D. provide that any costs incurred in the acquisition of equipment over the amount of the loan are the sole responsibility of the loan recipient;

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

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

G. provide for procedures to be followed in the event of a default as provided in part 9205.0608 or for failure to make payments of principal and interest.

9205.0608 AMENDMENTS.

If the used oil processing equipment funded by a loan under this part is not installed or operated in accordance with the terms and conditions of the loan agreement, the agency shall determine the reason the equipment was not installed or operated as required. If the agency finds that the recipient could not install or operate the equipment as required due to forces beyond the control of the recipient but that an amendment to the agreement can be negotiated that will allow the purposes of the loan to be fulfilled, the agency shall amend the loan agreement. If an amendment cannot be negotiated that will allow the purposes of the loan to be fulfilled, the agency shall

declare default and require the loan funds to be repaid following the procedures established in the loan agreement.

RECEIVED
JUN 0 8 1989
ATTORNEY GENERAL'S OFFICE
SUITE 200
520 LAFAYETTE ROAD
ST. PAUL, MN 55155

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

JUL 14 1989

Joan Anderson Growe

Secretary of State

3:10 PM

APPROVED AS TO FORM AND LEGALITY

July 14 19 89

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY cbe by CBE

SPECIAL ASSISTANT ATTORNEY GENERAL

CERTIFICATE OF AGENCY'S AUTHORIZING RESOLUTION

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 28th day of February, 1989, 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 Commissioner of the Minnesota Pollution Control Agency (Agency) is hereby granted the authority to sign and to give notice of the Agency's intent to adopt, without a public hearing, the attached rules governing loans for used oil processing equipment, Minn. Rules Parts 9205.0600 to 9205.0608, to all persons who have registered their names with the Agency for that purpose and publish the notice and the rules in the State Register, and to perform any acts incidental thereto, including making any form changes in the rules that the Revisor of Statutes requires the Agency to make in order to obtain the Revisor's certification as required by Minn. Stat. § 14.07, subd. 2 (1988).

BE IT FURTHER RESOLVED, that in the event a public hearing becomes necessary, the Commissioner 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 Agency's representative at all hearings.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 7 day of June, 1989.

Gerald L. Willet

GERALD L. WILLET
Commissioner

Pollution Control Agency

Proposed Permanent Rules Relating to Used Oil Processing Equipment Loan Program

Rules as Proposed (all new material)

9205.0600 DEFINITIONS.

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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.

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(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.

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9205.0605 REVIEW AND EVALUATION OF APPLICATIONS.

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9205.0607 LOAN AGREEMENT.

The agency shall disburse loan funds only after a loan

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by Revisor _____

agreement containing the terms of this part has been executed by the agency and the recipient of a loan award. A loan agreement must:

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

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;

D. provide that any costs incurred in the acquisition of equipment over the amount of the loan are the sole responsibility of the loan recipient;

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

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

G. provide for procedures to be followed in the event of a default as provided in part 9205.0608 or for failure to make payments of principal and interest.

9205.0608 AMENDMENTS.

If the used oil processing equipment funded by a loan under this part is not installed or operated in accordance with the terms and conditions of the loan agreement, the agency shall determine the reason the equipment was not installed or operated as required. If the agency finds that the recipient could not install or operate the equipment as required due to forces beyond the control of the recipient but that an amendment to the agreement can be negotiated that will allow the purposes of the loan to be fulfilled, the agency shall amend the loan agreement. If an amendment cannot be negotiated that will allow the purposes of the loan to be fulfilled, the agency shall

Approved
by Revisor _____

declare default and require the loan funds to be repaid following the procedures established in the loan agreement.

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

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

AGENCY: Pollution Control Agency

MINNESOTA RULES: Chapter 9205

The attached rules are approved for publication in the State Register

Carla M. Riehle
Assistant Revisor

STATE OF MINNESOTA

POLLUTION CONTROL AGENCY

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

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Notice is hereby given that the Minnesota Pollution Control Agency (Agency) intends to adopt the above-entitled rules 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 (1988). The Agency's authority to adopt the rules is set forth in Minn. Stat. § 115A.06, subd. 2, Minn. Stat. § 115A.06, subd. 1, and Minn. Stat. § 14.06 (1988). The Agency is authorized to adopt rules pursuant to the authorities stated above under Reorganization Order No. 155 (Dept. of Admin. 1988).

All persons have until 4:30 p.m. on Wednesday, April 12, 1989, 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 change proposed. If a public hearing is required, the Agency will proceed pursuant to Minn. Stat. §§ 14.131 to 14.20 (1988).

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

Mr. Kevin O'Donnell
Minnesota Pollution Control Agency
1350 Energy Lane
St. Paul, Minnesota 55108
(612) 649-5785

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

The proposed rules, if adopted, will govern the administration of a program authorizing loans to businesses for the purchase of used oil processing equipment. A copy of the proposed rules is enclosed. One free copy of the rules is available upon request from Mr. Kevin 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 date and information relied upon to support the proposed rules has been prepared and is available from Mr. Kevin O'Donnell upon request.

You are hereby advised, pursuant to Minn. Stat. § 14.115 (1988), "Small business considerations in rulemaking," that the proposed rules will not effect small businesses, because the low-interest loans for the purchase of used oil processing equipment available under this program may be used by 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 O'Donnell.

Dated: March 13, 1989

GERALD L. WILLET
Commissioner

STATE OF MINNESOTA

POLLUTION CONTROL AGENCY

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). In 1988, the legislature amended the Waste Management Act by creating Minn. Stat. § 115A.9162 to reflect the transfer effected by the Reorganization Order. On October 6, 1988, the Governor transferred the program from the Waste Management Board to the Pollution Control Agency by Reorganization Order No. 155 (Dept. of Admin. 1988).

The Pollution Control Agency (Agency) now proposes permanent rules to govern the Used Oil Processing Equipment Loan Program. These rules establish the substantive criteria and procedural conditions under which the Agency will award loans for used oil processing equipment.

II. AGENCY STATUTORY AUTHORITY

The Agency's statutory authority to administer the used oil

loan program is found in Reorganization Order No. 155 (Dept. of Admin. 1988) which provides:

> The following powers and duties of the Waste Management Board are transferred to the Pollution Control Agency:
>
> [. . .]
>
> 39. To make loans to businesses for the purchase of used oil processing equipment (Section 115A.9162, subd. 1)

Minn. Stat. § 115A.9162 provides:

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

The Agency's statutory authority to adopt the rule is established in Reorganization Order No. 155 (Dept. of Admin 1988) which provides:

> The following powers and duties of the Waste Management Board are transferred to the Pollution Control Agency:
>
> 1. All powers necessary or convenient to discharge the duties transferred pursuant to this Order (Section 115A.06, subd. 1)
>
> 2. To promulgate rules (Section 115A.06, subd. 3).

Minn. Stat. § 115A.06, subd. 1 provides the Agency with the power to promulgate rules if "necessary or convenient to discharge its duties." Because this program cannot be administered without rules, the Agency must have the power to promulgate rules for this program to fulfill its duty to adminster it.

Minn. Stat. § 115A.06, subd. 2, provides the following:

> Unless otherwise provided, the board shall promulgate rules in accordance with chapter 15 (sic) to govern its activities and implement sections 115A.01 to 115A.72. [emphasis supplied.]

Although this section could be read to restrict the power of the Agency to promulgate rules to just the programs found in sections 115A.01 to 115A.72, it would seem obvious that the intent of this provision was to empower the Agency to enact rules through the Administrative Procedure Act for the programs it administers under this chapter-- which at the time this particular provision was drafted ended at section 115A.72. Reading the "and" more disjunctively effectuates legislative intent by rendering section 115A.06, subd. 2 a more general statement of rulemaking authority. Thus, section 115A.06, subd. 2 empowers and commands the Agency to "promulgate rules . . . to govern its activities. . ."

Finally, Minn. Stat. § 14.06 empowers the Agency to adopt this rule. Minn. Stat. § 14.06 provides:

> Each agency shall adopt rules, in the form prescribed by the revisor of statutes, setting forth the nature and requirements of all formal and informal procedures related to the administration of official agency duties to the extent that those procedures directly affect the rights of or procedures available to the public.

Because informal procedures to administer the used oil processing equipment loan program would affect the public, under Minn. Stat. § 14.06, the Agency must adopt a rule.

III. STATEMENT OF NEED

Minn. Stat. ch. 14 (1988) requires the Agency to make an affirmative presentation of fact establishing the need for and reasonableness of the rule as proposed. In general terms, this

means that the Agency 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 Agency is appropriate. The need for the rule is discussed below.

In the mid-1980s, 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 needs of the state. The program requires rules to ensure its orderly administration.

IV. STATEMENT OF REASONABLENESS

The Agency is required by Minn. Stat. ch. 14 to make an affirmative presentation of fact 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 Agency's proposed action. The reasonableness of each part of the proposed rule is discussed

below.

9205.0600 Definitions.

The definitions provided in this part are intended to ensure clarity and consistency in the use of certain terms that are not common usage. The definition of "used oil processing equipment" given in subpart 4 is constructed broadly to include all types of "processing" that results in the recovery of "materials, substances, or energy." The definition also clarifies that if pollution control equipment is needed to meet pollution control standards, that equipment will be considered part of the used oil processing equipment. Because this definition is easily understood and applied, it is reasonable.

9205.0601. Scope.

This section is needed to provide an overall description of the rule to aid in interpreting it.

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 for funding. 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.

Subpart 2. Eligible costs. The cost of used oil processing equipment as defined under part 9205.0600 is included as eligible. As stated above in the discussion of the definition of used oil processing equipment, this definition is broad and non-specific. This is reasonable because it would allow the funding of equipment not yet developed. As mentioned above, pollution control equipment related to the used oil processing equipment is eligible. This is reasonable, because the goal of the program is to promote environmentally correct management of used oil.

Subpart 3. Ineligible costs. It is reasonable to exclude the cost of installation, operation, preliminary and final design and engineering, overhead, land and buildings because the legislation specifies that loans are to fund purchase of processing equipment, not related costs.

9205.0603. Application Process.

Subpart 1. Availability of funds. This section is reasonable because it alerts applicants to the process by which the Agency will accept applications.

Subpart 2. Agency determination. This subpart establishes that the Agency will establish how much money will be expended and the type of processing equipment that will be funded. In deciding, the Agency is required to consider what will best improve the management of used oil in Minnesota, and the amount of funding appropriated to the Agency for this program. Allowing

the Agency this control over applications will enable the Agency to ensure that the money is spent in the manner that will result in the greatest environmental benefit, and is thus reasonable. This provision also allows the Agency the flexibility to consider changing technologies and regulatory restrictions. The description is needed to ensure that applicants know the type of equipment that will be funded by the Agency.

Subpart 3. Notice. This section is reasonable because it provides for a procedure for giving notice of the availability of funds that will reach the broadest possible group of interested persons. This notice provision is also reasonable because it will inform potential applicants of limitations on the expenditure of program funds established by the Agency under subpart 2.

9205.0604. Application requirements.

It is reasonable to specify application contents to ensure the orderly evaluation of loan requests. Items A through E of subpart 1 are basic information that the Agency will use to obtain an overall picture of the application.

Subpart 2 contains requirements that the Agency will use to determine whether the proposed use of the equipment is technically and financially feasible:

Item A, credit information, is requested so that the Agency can ensure that the loan will be repaid. The requirement is not specific. This is reasonable to enable applicants some

flexibility in establishing that they are creditworthy.

Item B, a conceptual and technical feasibility report, is needed so that the Agency can evaluate the chances that the proposed use of the equipment will be successful. The information is needed to establish that the applicant has undertaken all work-- technical and administrative-- to ensure smooth installation and operation of the used oil processing equipment.

Item C, a financial plan for the acquisition and operation of the equipment, is required so that the Agency can be sure that purchase and use of the equipment will be financially feasible, helping to ensure repayment of the loan.

Item D, a report on the status of required permits from permitting agencies, is needed to insure that the applicant is aware of all permit responsibilities and that the time frame for equipment installation is reasonable.

Item E, a report on time frames of equipment installation, is required so that the Agency can determine whether installation is on schedule and when the used oil processing capacity will be available.

Subpart 3 requires the submittal of additional information when requested. This is reasonable because not all relevant information can be anticipated, and the Agency needs to be fully informed before making its funding decision.

9205.0605. Review and evaluation of applications.

Subpart 1. Determination of eligibility and completeness. It is reasonable for staff to review applications for completeness and eligibility because this review is ministerial and involves no judgments, and will ensure that only complete applications are submitted to the Agency for review.

Subpart 2. Notice of determination of eligibility and completeness. This part sets out times within which applicants will receive notice of the Commissioner's determination under subpart 1. The time period to respond to a finding of deficiency--30 days-- is reasonable because the applicant should have adquate time to correct omissions.

Subpart 3. Agency approval. It is reasonable to award loans to those applicants proposing to purchase used oil processing equipment that best meets the Agency's description developed under part 9205.0603, subpart 2, because that description was developed with the objective of funding the purchase of equipment that will best help the Agency to improve the management of used oil in Minnesota. The rule also requires the Agency to determine whether the loan will be repaid. Because this program is restricted to loans, it is reasonable for the Agency to consider whether an applicant is credit-worthy to ensure that the money appropriated for this program is not lost. The requirement that the Agency consider repayment is also reasonable in that it will ensure that loans are given only to those applicants who are proposing financially viable used oil

processing equipment uses. Funding successful uses of used oil processing equipment may help to encourage other businesses to purchase similar equipment, with or without the incentive of low-interest state funding.

9205.0606 Award of loans.

Subpart 1. Loan limit. This section establishes that the maximum loan will be 50 percent of the eligible cost of the used oil processing equipment or $500,000, whichever is less. It is reasonable to establish limits to ensure that program funds are distributed among applicants, enhancing the impact of the program. It is reasonable to set the percentage participation of the applicant at 50 percent because this level will provide an incentive to participate in the program. Requiring that the applicant commit half of the funds needed to purchase the equipment is reasonable to ensure that the applicant feels committed to complete the installation and operation of the equipment. The total available was established at $500,000, because the cost of some used oil processing equipment is quite high. However, it is estimated that $500,000 should cover most costs with applicant participation at 50 percent.

Subpart 2. Interest rate. A rate of at least three percent interest is required. This is reasonable because the rate is low enough to ensure that it provides an incentive to the private sector to enter into the business, while giving the state some return on the loan. Yearly payments are reasonable to ensure a

minimum of administrative 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 Agency and applicant understand the terms of the loan, and to ensure that the Agency can take legal action to recover loan money if the equipment is not installed or operated or if payments are missed. Item A is reasonable because it ensures that the applicant is required to install and to 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 costs overruns. Item F is reasonable to ensure that information generated by the installation and operation of the equipment can be used by the state or others interested in similar equipment. Item G is needed for orderly administration of the loan.

9205.0608. Amendments.

This part is needed because it establishes the procedures that will be followed by the Agency in the event the loan recipient fails to install or operate the used oil processing

equipment as required. This part is reasonable because it provides that the Agency can amend the loan agreement to allow the original objectives of the loan to be accomplished. This part is also reasonable in providing for default if the loan agreement cannot be amended to accomplish the purposes of the loan, because this protects limited program funds.

V. SMAll BUSINESS CONSIDERATIONS IN RULEMAKING

Minn. Stat. § 14.115, subd. 2 (1986) requires the Agency, when proposing rules which may affect small businesses, to consider various methods for reducing the impacts on small businesses. The Agency finds that this loan program, because it is available to small businesses and is intended to assist small businesses, will have no negative impact on small businesses and that the rules of the program require no modification to accomodate small businesses.

VI. CONSIDERATION OF ECONOMIC FACTORS

In exercising its powers, the Agency is required by Minn. Stat. § 116.07, subd. 6 (1988) to give due consideration to economic factors. The statute provides:

> In exercising all its powers the pollution control agency shall give due consideration to the establishment, maintenance, operation and expansion of business, commerce, trade, industry, traffic, and other economic factors and other material matters affecting the feasibility and practicability of any proposed action, including, but not limited to, the burden on a municipality of any tax which may result therefrom, and shall take or provide for such action as may be reasonable, feasible, and practical under the circumstances.

This program is directed toward the private sector and is

intended to help the private sector adjust to the changing regulatory environment. Thus, this program will have a positive impact on commerce in the state.

VII. OTHER CONSIDERATIONS

Under Minn. Stat. § 14.11, subd. 1 (1988), the Agency must provide an estimate of the public monies associated with implementing these rules if it is estimated that the total cost to all local public bodies exceeds $100,000 in either of the first two years following adoption of the rules. The Agency does not anticipate that any public money will need to be expended as a result of adoption of these rules. Under Minn. Stat. § 17.83 (1988), the Agency must describe any direct and substancial adverse effects on agricultural land created by these rules. The Agency has determined that these rules will have no such effect.

VIII. CONCLUSION

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

Dated: 2-17-89

for Barbara Lindsey Sims
GERALD L. WILLET
Commissioner

In the Matter of the Proposed
Adoption of Rules of the
Pollution Control Agency
Governing the Used Oil Processing
Equipment Loan Program

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

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

KEVIN O'DONNELL, being sworn, says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minn. Stat. §§ 14.14, subd. 1a and 14.22, that their names be placed on the Minnesota Pollution Control Agency rulemaking mailing list was accurate, complete, and current as of the 10th day of March, 1989.

That on the 10th day of March, 1989, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt Rules Governing the Used Oil Processing Equipment Loan Program Without a Public Hearing by depositing in the United States mail a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

KEVIN O'DONNELL

Subscribed and sworn to before
me this 6 day of June, 1989.

Notary Public

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

If a plastic container is designed so that a code of the size specified in item A cannot be added to it, the manufacturer must use the largest code that can be applied. If a plastic container is designed so that a code cannot be placed on the bottom of the container, the manufacturer must place the code so that it is visible and readable at a glance.

9230.0050 CIVIL PENALTY AND NOTICE OF VIOLATION.

If the commissioner of the agency becomes aware of a violation of parts 9230.0010 to 9230.0050, the commissioner of the agency shall notify the violator of the nature of the violation, and request that the violator comply with the rules.

Each violation of parts 9230.0010 to 9230.0050 is subject to a civil penalty of $50 up to a maximum of $500, as provided in *Minnesota Statutes*, section 325E.044, subdivision 4.

Pollution Control Agency

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 Pollution Control Agency (Agency) intends to adopt the above-entitled rules 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 (1988). The Agency's authority to adopt the rules is set forth in *Minnesota Statutes* § 115A.06, subd. 2, *Minnesota Statutes* § 115A.06, subd. 1, and *Minnesota Statutes* § 14.06 (1988). The Agency is authorized to adopt rules pursuant to the authorities stated above under Reorganization Order No. 155 (Dept. of Admin. 1988).

All persons have until 4:30 p.m. on Wednesday, April 12, 1989, 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 change proposed. If a public hearing is required, the Agency will proceed pursuant to *Minnesota Statutes* §§ 14.131 to 14.20 (1988).

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

Mr. Kevin O'Donell
Minnesota Pollution Control Agency
1350 Energy Lane
St. Paul, Minnesota 55108
(612) 649-5785.

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

The proposed rules, if adopted, will govern the administration of a program authorizing loans to businesses for the purchase of used oil processing equipment. The proposed rules are published below. One free copy of the rules is available upon request from Mr. Kevin 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 date and information relied upon to support the proposed rules has been prepared and is available from Mr. Kevin O'Donnell upon request.

You are hereby advised, pursuant to *Minnesota Statutes* § 14.115 (1988), "Small business considerations in rulemaking," that the proposed rules will not effect small businesses, because the low-interest loans for the purchase of used oil processing equipment available under this program may be used by 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 O'Donnell.

Gerald L. Willet
Commissioner

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. **Agency.** "Agency" means the Pollution Control Agency.

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

Subp. 4. **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.

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 agency 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 PROCESS.

Subpart 1. **Availability of funds.** The agency shall not accept applications until the agency has determined the amount of funds available and the type of used oil processing equipment that will be funded and has published a notice requesting the submission of applications following the procedures in subpart 3.

Subp. 2. **Agency determination.** The agency shall determine the amount of funds to be expended and the type of used oil processing equipment that will be funded by considering the type of used oil processing equipment that will best assist the agency in improving the management of used oil in Minnesota and the amount of available funding. The agency shall develop a description of the type of used oil processing equipment that will be funded, including objectives for performance of that equipment.

Subp. 3. **Notice.** After the agency makes the determination required in subpart 2, the commissioner shall solicit applications by placing a notice in the *State Register* and by sending written notice to eligible applicants known to the commissioner. The notice shall state when applications must be submitted, the type of equipment that will be funded, and shall incorporate the description developed by the agency under subpart 2.

9205.0604 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 agency loan and all other eligible and ineligible costs not covered by the agency 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

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credit rating agencies should be submitted by the applicant and evaluated by the agency. 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 agency. 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 agency to approve applications, when requested by the commissioner.

9205.0605 REVIEW AND EVALUATION OF APPLICATIONS.

Subpart 1. **Determination of eligibility and completeness.** Upon receipt of an application, the commissioner 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 commissioner to arrange for a preapplication review of the proposed equipment.

Subp. 2. **Notice of determination of eligibility and completeness.** The commissioner shall notify the applicant of the commissioner's determinations of eligibility and completeness. If the commissioner determines that the applicant or the equipment is ineligible, the commissioner shall reject the application, return it to the applicant, and notify the applicant of the reasons for the rejection. If the commissioner determines that any part of the equipment costs is ineligible or that the application is incomplete, the commissioner 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 commissioner. 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. **Agency approval.** The agency shall approve applications and award loans for used oil processing equipment. The agency shall award loans to those applicants whose applications best demonstrate that the used oil processing equipment proposed to be purchased meets the description developed by the agency under part 9205.0603, subpart 2.

No application shall be approved for funding unless the agency determines that the applicant has the ability to repay the loan, including all interest.

9205.0606 AWARD OF LOANS.

Subpart 1. **Loan limit.** The maximum loan is 50 percent of the eligible cost of the used oil processing equipment or $500,000, whichever is less.

Subp. 2. **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 agency. The first payment toward the principal 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 agency, whichever is earlier. The agency shall consider the equipment operational at the point where the equipment meets all vendor guaranteed operating specifications.

9205.0607 LOAN AGREEMENT.

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

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

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;

D. provide that any costs incurred in the acquisition of equipment over the amount of the loan are the sole responsibility of the loan recipient;

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

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

G. provide for procedures to be followed in the event of a default as provided in part 9205.0608 or for failure to make payments of principal and interest.

9205.0608 AMENDMENTS.

If the used oil processing equipment funded by a loan under this part is not installed or operated in accordance with the terms and conditions of the loan agreement, the agency shall determine the reason the equipment was not installed or operated as required. If the agency finds that the recipient could not install or operate the equipment as required due to forces beyond the control of the recipient but that an amendment to the agreement can be negotiated that will allow the purposes of the loan to be fulfilled, the agency shall amend the loan agreement. If an amendment cannot be negotiated that will allow the purposes of the loan to be fulfilled, the agency shall declare default and require the loan funds to be repaid following the procedures established in the loan agreement.

Minnesota Board of Peace Officer Standards and Training

Proposed Permanent Rules Relating to Peace Officer Education; Licensing; Police Pursuits

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Board of Peace Officer Standards and Training intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rule is Laws of Minnesota, Chapter 712, *Minnesota Statutes*, section 626.843, subdivision 1, *Minnesota Statutes*, section 626.845, subdivsion 1.

All persons have 30 days in which to submit comment 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 take a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request 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 agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

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

William R. Carter, III
Executive Director
POST Board

333 Sibley Street, Suite 495
St. Paul, MN 55101

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STATE OF MINNESOTA

MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules Governing the Used Oil Processing Equipment Loan Program	FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES

The above-entitled matter came before the Minnesota Pollution Control Agency (Agency) on the 23rd day of May, 1989. 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 non-controversial 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 Agency's intent to adopt the above-entitled rules without a public hearing was published in the State Register on March 13, 1989 and was sent by mail to all persons on the list maintained by the Agency pursuant to Minn. Stat. §§ 14.14, subd. 1a and 14.22 (1988) on March 9, 1989.

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

available to the public.

3. All persons were given the opportunity to submit comments on the rule for 30 days after notice of the proposed rulemaking was given. The 30 day comment period, as set out in the notice, expired on April 12, 1989.

4. During the comment period, the Agency received no comments, requests for a public hearing, or requests to be notified of submission of the rule to the Attorney General.

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

6. The above-captioned amendments are needed and reasonable.

CONCLUSIONS

1. The Minnesota Pollution Control Agency duly acquired and has jurisdiction over this proceeding.

2. The Agency published and served due, timely, and adequate notice of the intent to adopt the rule 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 - .0608 governing the used oil processing equipment loan program are adopted pursuant to the authority vested in the Minnesota Pollution Control Agency by Minn. Stat. §

115A.06 subds. 1 and 2, and Minn. Stat. § 14.06 (1988). The Agency is authorized to adopt rules pursuant to the authorities cited above under Reorganization Order No. 155 (Dept. of Admin. 1988).

MINNESOTA POLLUTION CONTROL AGENCY

Dated: May 23, 1989

Gerald L. Willet

Gerald L. Willet
Commissioner

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 23rd day of May, 1989, 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 the Used Oil Processing Equipment Loan Program pursuant to the authority vested in the Agency by Minn. Stat. § 115A.06, subd. 2, Minn. Stat. § 115A.06, subd. 1 and Minn. Stat. § 14.06 (1988). The Agency is authorized to adopt rules pursuant to the authorities stated above under 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 acts necessary to provide that the rule shall have the force and effect of law.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 16 day of June, 1989.

Gerald L. Willet

Gerald L. Willet
Commissioner

STATE OF MINNESOTA

MINNESOTA POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules Governing the Used Oil Processing Equipment Loan Program	FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES

The above-entitled matter came before the Minnesota Pollution Control Agency (Agency) on the 23rd day of May, 1989. 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 non-controversial 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 Agency's intent to adopt the above-entitled rules without a public hearing was published in the State Register on March 13, 1989 and was sent by mail to all persons on the list maintained by the Agency pursuant to Minn. Stat. §§ 14.14, subd. 1a and 14.22 (1988) on March 9, 1989.

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

available to the public.

3. All persons were given the opportunity to submit comments on the rule for 30 days after notice of the proposed rulemaking was given. The 30 day comment period, as set out in the notice, expired on April 12, 1989.

4. During the comment period, the Agency received no comments, requests for a public hearing, or requests to be notified of submission of the rule to the Attorney General.

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

6. The above-captioned amendments are needed and reasonable.

CONCLUSIONS

1. The Minnesota Pollution Control Agency duly acquired and has jurisdiction over this proceeding.

2. The Agency published and served due, timely, and adequate notice of the intent to adopt the rule 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 - .0608 governing the used oil processing equipment loan program are adopted pursuant to the authority vested in the Minnesota Pollution Control Agency by Minn. Stat. §

115A.06 subds. 1 and 2, and Minn. Stat. § 14.06 (1988). The Agency is authorized to adopt rules pursuant to the authorities cited above under Reorganization Order No. 155 (Dept. of Admin. 1988).

MINNESOTA POLLUTION CONTROL AGENCY

Dated: May 23, 1989

Gerald L. Willet

Gerald L. Willet
Commissioner

STATE OF MINNESOTA

POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules
Governing the Used Oil Processing
Equipment Loan Program

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

ANN E. COHEN
Special Assistant
Attorney General

645.07

Waste Mgmt legislation

Authority

115A.06 Subd 2

Unless otherwise provided, the brd shall promulgate rules in accordance w/ Ch. 15 (16?) to govern its activities + implement §§ 115A.01 to 115A.72.

This rule concerns Used Oil Processing Equipment Loan Program - Mn Stat § 115A.9162

This section was added to the Statutes in 1988 - effective date would have been Aug 1, 1988

180 days exp ≈ 2/1/89.

115A.06 Subd 1 - No

14.06 - Possibly?

Comments - See AG Copy

The order Adopting was signed prior to the Brd's Resolution Adopting.

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

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

June 26, 1989

Re: In the Matter of Proposed Rules Governing the Used Oil Processing Equipment Loan Program

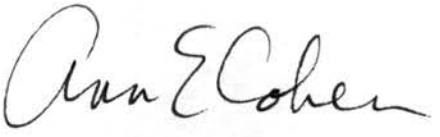
Dear Ms. Eller,

On May 23, 1989, the Minnesota Pollution Control Agency adopted the above-captioned rules governing the used oil processing equipment loan program. Enclosed for your review are the following:

1. Certificate of Agency's Authorizing Resolution.
2. 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 the Notice of Intent to Adopt Rules Without a Public Hearing and Certificate of Mailing List.
6. Notice of Intent to Adopt Rules Without a Public Hearing and rules as proposed (13 S.R. 2198, March 13, 1989).
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.

The Minnesota Pollution Control Agency did not receive any comments on the proposed rule, or requests for notification of the submission of the rule to the Attorney General.

Very truly yours,



ANN E. COHEN
Special Assistant
Attorney General