

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

MJC

RULE REVIEW CHECKLIST

File No. 1738
DATE RECEIVED 9/21/90
REVIEW DATE 10/1/90
DUE DATE 10/5/90
(DIS)APPROVED mjc 10.5.90
WITHDRAWN

Docket No. 05.0109.0835
ADOPTED W/O HEARING ✓
EMERGENCY RULE
TO REVISOR ON 9/21/90
REVISOR (DIS)APPROVED
FILED W/SEC. OF STATE
RETURNED TO AGENCY

Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion (if applicable)
April 23, 1990 Date published in State Register
Comments

Petition for Adoption of a Rule

Board's Authorizing Resolution
Date adopted

✓ Proposed Rule
✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
115A.48 subd 5(d) Statutory Authority
NA Small Business Statement
July 9, 1990 Expenditure of public money statement
July 9, 1990 Signature

✓ Statement of Need and Reasonableness (if applicable)
NA Small Business Statement
Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
July 23, 1990 Dated (30/25 days before adoption
Notice attached indicates it is attached
Copy of rule or summary attached

✓ Publication in State Register
July 23, 1990 Date (30/25 days before adoption

180-day deadline from:
Effective date of law requiring rule (14.12) (both rules) amendments don't apply
✓ end of comment period (§ 14.26) (rules without hearing)
effective date of statutory authority (§ 14.29) (emergency rules)

Resolution Adopting
Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
Sept 12, 1990 Date

✓ Written Requests, Submissions or Comments

✓ Declaration of Attorney
Lisa Tegd Name of SAAG representing agency

Notice of Submission to Attorney General (if applicable)

Affidavit of Mailing Notice to Attorney General (if applicable)

MINNESOTA
OFFICE
OF WASTE
MANAGEMENT

1350 Energy Lane
St. Paul, Minnesota 55108
(612) 649-5750
MN Toll Free
1-800-652-9747

September 26, 1990

Ms. Patti Nolte
Office of the Attorney General
525 Park Street, Suite 500
St. Paul, Minnesota 55103

Dear Ms. Nolte:

This letter is written to satisfy the notice requirement established by Minn. Stat. §14.12. That statute requires an agency: (1) to publish a notice of intent to adopt rules within 180 days after the effective date of a law requiring rules to be promulgated unless otherwise specified by law or (2) to notify the legislative commission to review administrative rules, other appropriate committees of the legislature, and the governor of its failure to meet the 180 day deadline and the reasons therefor.

On July 23, 1990, the Office of Waste Management (OWM) published notices of its intent to adopt proposed permanent rules relating to "recyclable material market development grant and loan programs" and "solid waste reduction grant and loan programs." Laws requiring the adoption of these rules became effective on October 4, 1989, 292 days before the notices were published. It took the OWM more than 180 days to publish these rules for the following reasons.

For several months after it was recreated in July 1989, the OWM had fewer staff than it needed to meet all of the statutory time limitations applicable to it and other agencies. Once the OWM had hired necessary staff, it immediately proceeded to fulfill its statutory obligations and mandate.

Second, the OWM sought to resolve public concerns even before publishing notice of the proposed rules. By soliciting comments before publishing its rulemaking notices, the OWM hoped to preserve public finances by avoiding the need for multiple notices or more expensive, controversial rulemaking.

To ensure adequate public comment, the OWM solicited comments from its citizen advisory councils before publishing its rulemaking notices. The OWM believes that these discussions provided for a better rule and assisted the OWM in proceeding

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through noncontroversial rulemaking. In conclusion, the OWM believes that the additional time it took to obtain meaningful community review of the proposed rules was well worth the effort and minor delay.

If you have questions regarding these rules, please call me or Thomas Osdoba of my staff at 649-5750.

Sincerely,

Michael Robertson
Director

MR:rf

cc: The Honorable Rudy Perpich, Governor of Minnesota
The Honorable Bob Lessard, Minnesota State Senator
The Honorable Willard Munger, Minnesota State Representative
Ms. Maryanne V. Hruby, Legislative Commission to Review Administrative Rules

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1-800-652-9747

September 26, 1990

Ms. Maryanne V. Hruby
Legislative Commission to Review
Administrative Rules
55 State Office Building
St. Paul, Minnesota 55155

Dear Ms. Hruby:

This letter is written to satisfy the notice requirement established by Minn. Stat. §14.12. That statute requires an agency: (1) to publish a notice of intent to adopt rules within 180 days after the effective date of a law requiring rules to be promulgated unless otherwise specified by law or (2) to notify the legislative commission to review administrative rules, other appropriate committees of the legislature, and the governor of its failure to meet the 180 day deadline and the reasons therefor.

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Ms. Patti Nolte, Office of the Attorney General
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September 26, 1990

The Honorable Rudy Perpich
Governor of Minnesota
130 Capitol
75 Constitution Avenue
St. Paul, Minnesota 55155

Dear Governor Perpich:

This letter is written to satisfy the notice requirement established by Minn. Stat. §14.12. That statute requires an agency: (1) to publish a notice of intent to adopt rules within 180 days after the effective date of a law requiring rules to be promulgated unless otherwise specified by law or (2) to notify the legislative commission to review administrative rules, other appropriate committees of the legislature, and the governor of its failure to meet the 180 day deadline and the reasons therefor.

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September 26, 1990

The Honorable Bob Lessard
State Senator
111 State Capitol
75 Constitution Avenue
St. Paul, Minnesota 55155

Dear Senator Lessard:

This letter is written to satisfy the notice requirement established by Minn. Stat. §14.12. That statute requires an agency: (1) to publish a notice of intent to adopt rules within 180 days after the effective date of a law requiring rules to be promulgated unless otherwise specified by law or (2) to notify the legislative commission to review administrative rules, other appropriate committees of the legislature, and the governor of its failure to meet the 180 day deadline and the reasons therefor.

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September 26, 1990

The Honorable Willard Munger
State Representative
1121 South 70th Avenue West
Duluth, Minnesota 55807

Dear Representative Munger:

This letter is written to satisfy the notice requirement established by Minn. Stat. §14.12. That statute requires an agency: (1) to publish a notice of intent to adopt rules within 180 days after the effective date of a law requiring rules to be promulgated unless otherwise specified by law or (2) to notify the legislative commission to review administrative rules, other appropriate committees of the legislature, and the governor of its failure to meet the 180 day deadline and the reasons therefor.

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Office of Waste Management

Adopted Permanent Rules Relating to Recyclable Material Market Development Grant and Loan Programs

Rules as Adopted

RECYCLABLE MATERIAL MARKET DEVELOPMENT GRANT AND LOAN PROGRAMS

9210.0600 SCOPE AND AUTHORITY.

Parts 9210.0600 to 9210.0645 implement the recyclable material market development grant and loan programs created and described under Minnesota Statutes, section 115A.48, by establishing the substantive criteria and procedural conditions under which the director may award grants or loans for recyclable material market development projects.

9210.0610 DEFINITIONS.

Subpart 1. **Scope.** The terms defined in this part apply to parts 9210.0600 to 9210.0645. For terms not defined in this part, the definitions in Minnesota Statutes, section 115A.03, apply, unless the context requires otherwise.

Subp. 2. **Director.** "Director" means the director of the Office of Waste Management.

~~Subp. 3. Highest-end-use. "Highest-end-use" means the remanufacture or transformation of a recyclable material into a product most similar to the product from which the recyclable material was derived.~~

Subp. ~~4.~~ 3. **Office.** "Office" means the Minnesota Office of Waste Management established in Minnesota Statutes, section 115A.055.

Subp. ~~5.~~ 4. **Postconsumer material.** "Postconsumer material" means material generated by a business or a consumer that has served its intended end use and has been separated from solid waste for collection and recycling.

Subp. ~~6.~~ 5. **Preconsumer material.** "Preconsumer material" means material generated after completion of a manufacturing

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process that has not been used by a final consumer and would normally be disposed of as solid waste. This definition does not include postconsumer material or residual material generated during a manufacturing process that is commonly reused by the generator.

Subp. ~~7.~~ 6. **Project.** "Project" means all components of an organized undertaking described in a proposal.

Subp. ~~8.~~ 7. **Recipient.** "Recipient" means an applicant selected by the director to receive a grant or loan under parts 9210.0600 to 9210.0645.

Subp. ~~9.~~ 8. **Recyclable material.** "Recyclable material" means preconsumer or postconsumer material that can presently be recycled or that demonstrates potential to be recycled. Refuse-derived fuel or other material that is used as fuel for incineration is not a recyclable material.

Subp. ~~10.~~ 9. **Recycled products.** "Recycled products" means products containing preconsumer or postconsumer material.

Supp. ~~11.~~ 10. **Research institution.** "Research institution" means a public or private nonprofit organization whose activities include directed research and scientific investigations.

Subp. ~~12.~~ 11. **Solid waste.** "Solid waste" has the meaning given it in Minnesota Statutes, section 116.06, subdivision 10.

9210.0615 PURPOSE.

The short-term objective of the program is to increase the demand for and use of recyclable material, thus maximizing land disposal abatement. The long-term objective of the program is to facilitate the development of recycling activities that ~~represent-the-highest-end-use-of-recyclable-material~~ conserve resources.

9210.0620 APPLICATION PROCEDURES.

Subpart 1. **Notification by director.** To initiate the process for awarding grants and loans for recyclable material market development projects, the director shall publish a notice in the State Register advising eligible applicants of the

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availability of market development grants and loans. The notice shall describe the procedure for awarding grants and loans and establish a deadline by which proposals must be submitted. In the notice, the director may also limit the types of projects for which a grant or loan would be awarded in the funding round initiated by the notice and may specify the maximum amount of funding to be awarded to a project.

Subp. 2. **Proposals.** Following the publication of a notice in the State Register, eligible applicants that seek assistance must submit proposals to the director. Proposals must be received by the director by the deadline established in the notice. Upon the request of the applicant, the office shall handle specific information as nonpublic data pursuant to Minnesota Statutes, section 115A.06, subdivision 13.

A. Proposals for grant assistance under part 9210.0635 must contain the information set out in part 9210.0635, subpart 6.

B. Proposals for grant or loan assistance under part 9210.0640 must contain the information set out in part 9210.0640, subpart 7.

C. Proposals for grant assistance under part 9210.0645 must contain the information set out in part 9210.0645, subpart 6.

Subp. 3. **Determination of eligibility and completeness.** For all proposals received by the director by the deadline established in the notice, the director shall determine the eligibility of the applicant, the proposed project, and the costs identified in the proposal and shall determine the completeness of the proposal.

Subp. 4. **Notice of determination of eligibility and completeness.** The director shall notify the applicant of the director's determination of eligibility and completeness of the proposal. If the director determines that the applicant or the project is ineligible, the director shall reject the proposal and notify the applicant. If the director determines that any of the project costs are ineligible or that the proposal is

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incomplete, the director shall notify the applicant of the ineligible portion of the costs or of the deficiency. The applicant has 14 days after receiving the notice to correct any inadequacies identified by the director. Extensions shall be granted if requested in a timely manner and good cause exists for the extension. If the inadequacies are not corrected within the time allowed, the proposal shall be rejected.

Subp. 5. **Evaluation of proposal.** The director shall evaluate each proposal that is determined to be eligible and complete according to items A to C.

A. Proposals for grant assistance under part 9210.0635 shall be evaluated using the criteria set out in part 9210.0635, subpart 7.

B. Proposals for grant or loan assistance under part 9210.0640 shall be evaluated using the criteria set out in part 9210.0640, subpart 8.

C. Proposals for grant assistance under part 9210.0645 shall be evaluated using the criteria set out in part 9210.0645, subpart 7.

Subp. 6. **Award of grants or loans.** The director shall award grants or loans for those projects that the director determines will be the most beneficial in facilitating the development of markets for recyclable material and recycled products. The director shall notify those applicants that do not receive grant or loan awards. An applicant that does not receive an award may resubmit a proposal upon future notice by the director under subpart 1.

Subp. 7. **No grant or loan awards.** If the director determines that no proposal will provide sufficient assistance to the state in achieving its market development goals, the director may decide not to award any grant or loan. The director may then reinitiate the process for awarding grants and loans by publishing a notice under subpart 1.

Subp. 8. **Consultation.** In the director's evaluation of a proposal, the director shall solicit and consider any recommendations provided by the Market Development Coordinating

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Council established in Minnesota Statutes, section 115A.12, subdivision 1, paragraph (d).

9210.0625 LIMITATIONS.

Subpart 1. **Reduced grant or loan awards.** The director shall ask an applicant to document the impacts of reduced financial assistance before finalizing an award for less than the eligible amount requested by an applicant or less than the maximum award established in the notice under part 9210.0620, subpart 1. Reduced funds shall be awarded where the director determines:

A. program resources are insufficient to provide full assistance to all applicants to which the director intends to award grants or loans; or

B. the applicant could operate the project at a reduced level and still achieve project objectives.

Subp. 2. **Limitations on disbursal of funds.** No grant or loan funds shall be disbursed until the director has:

A. determined the total estimated cost of the project;

B. ascertained that financing of the project cost is assured by the recipient;

C. received commitments from the recipient to implement the project; and

D. executed a written grant or loan agreement with the recipient and, if applicable, the recipient has submitted final design plans for projects under the Capital Grant and Loan Program in part 9210.0640.

9210.0630 GRANT AND LOAN AGREEMENTS.

A grant or loan agreement shall:

A. incorporate by reference the proposal submitted to the director;

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

C. require that the recipient provide periodic

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written reports to the director on the implementation and results of the project;

D. identify the interest rate and repayment obligations for a loan recipient;

E. authorize the director to rescind the grant and require the grant recipient to repay the grant in full if the director determines that, due to the bad faith of the grant recipient, a project has not been developed and implemented in accordance with the terms and conditions of the grant agreement;

F. authorize the director to determine that the loan recipient is in default and require the loan recipient to immediately repay the loan in full if the director determines that, due to the bad faith of the loan recipient, a project has not been developed and implemented in accordance with the terms and conditions of the loan agreement;

G. authorize the director to cease making further disbursements to the recipient and to recover unspent funds if the director determines that, for reasons other than bad faith, a project has not been developed and implemented in accordance with the terms and conditions of the grant or loan agreement and amendment to the agreement is not justified;

H. require that the recipient perform and complete project activities in accordance with the work schedule in the proposal submitted to the director and incorporated into the grant or loan agreement;

I. require that the recipient maintain detailed records of all expenditures related to the agreement; and

J. establish other conditions or terms needed to manage or implement the grant or loan agreement.

9210.0635 COUNTY GRANT PROGRAM.

Subpart 1. **Scope.** This part establishes the conditions under which the director shall award recyclable material market development program grants to counties.

Subp. 2. **Eligible applicants.** Eligible applicants are counties that have submitted plans under Minnesota Statutes,

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section 115A.551, subdivision 6, as amendments to their approved comprehensive solid waste management plans or solid waste master plans. Eligible counties may apply for funds on behalf of any person, but named recipients shall be the counties.

Subp. 3. **Eligible projects.** Eligible projects are projects in Minnesota that enhance the quality of the supply of recyclable materials, create or expand the capacity to use recyclable materials in a manufacturing process, or increase the demand for recycled products.

Subp. 4. **Eligible costs.** Eligible costs are limited to 25 percent of the capital costs of the project and 75 percent of other project costs.

Subp. 5. **Maximum grant.** The maximum grant award is $100,000, unless the notice provided by the director under part 9210.0620, subpart 1, establishes a lesser maximum grant.

Subp. 6. **Proposal.** An eligible applicant shall submit a proposal in the form specified by the director. A proposal must include the following information:

A. the names, qualifications, and addresses of the applicant and other project participants, including other counties participating in the proposed project;

B. a description of the proposed project, including:

(1) a description of project activities and an implementation schedule;

(2) location of the project;

(3) type, quantity, and source of recyclable material and recycled products relevant to the project; and

(4) current status of the project;

C. information demonstrating that the project will comply with applicable regulations, including a list of permits required for the project;

D. an itemized description of the project costs, including the total estimated cost, total grant eligible cost, and the amount of grant funding requested;

E. an itemized description of project financing, including applicant contributions, other government

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contributions, private contributions, and, if applicable, any projected revenues from the project;

F. information demonstrating, where applicable, the technical feasibility of the project, including preliminary design and engineering plans;

G. information demonstrating, where applicable, how the applicant will secure the supply of and demand for recyclable material and recycled products; and

H. a resolution from each county participating in the project that demonstrates that, if a grant is awarded, it will implement the project, provide necessary local financing, and accept and exercise the governmental powers necessary to develop and operate the project.

The director may request additional information from the applicant if it is necessary to clarify and evaluate the proposal.

Subp. 7. **Evaluation of proposals.** The director shall evaluate each proposal that is determined to be eligible and complete. The director shall base this evaluation on the following factors:

A. the technical and economic feasibility of the proposed project;

B. the applicant's ability and intention to implement the proposed project in a timely manner upon receipt of a grant award;

C. the proposed project's compliance with federal, state, and local regulations;

D. the consistency of the proposed project with state market development priorities;

E. the extent to which the proposed project would benefit the market development efforts of more than one county;

F. the extent to which the applicant has achieved significant land disposal abatement through source separation of recyclable materials;

G. ~~the extent to which the proposed project represents the highest end use for each recyclable material;~~

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H~~.~~ the extent to which the proposed project would use postconsumer material; and

~~I.~~ H. the extent to which the proposed project provides information transferable to other persons throughout the state.

9210.0640 CAPITAL GRANT AND LOAN PROGRAM.

Subpart 1. **Scope.** This part establishes the conditions under which the director shall award recyclable material market development program grants and loans for capital investment projects.

Subp. 2. **Eligible applicants.** Eligible applicants are private organizations.

Subp. 3. **Eligible projects.** Eligible projects are projects in Minnesota that create or expand capacity to use recyclable materials as a feedstock in a manufacturing process or to transform recyclable materials into other usable products.

Subp. 4. **Eligible costs.** Eligible costs are limited to the capital costs of the proposed project.

Subp. 5. **Maximum grant.** A project may receive a grant for up to 25 percent of the total eligible costs of the project or $500,000, whichever is less, unless the notice provided by the director under part 9210.0620, subpart 1, establishes a lesser maximum grant.

Subp. 6. **Maximum loan.** A project may receive a loan for up to 50 percent of the total eligible costs of the project or $2,000,000, whichever is less, unless the notice provided by the director under part 9210.0620, subpart 1, establishes a lesser maximum loan.

Subp. 7. **Proposal.** An eligible applicant shall submit a proposal in the form specified by the director. A proposal must include the following information:

A. the names, qualifications, and addresses of the applicant and other project participants;

B. a description of the proposed project, including:

(1) a list of project activities and an

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implementation schedule;

(2) location of the project;

(3) type, quantity, and source of recyclable material and recycled products relevant to the project; and

(4) current status of the project;

C. information demonstrating that the project will comply with applicable regulations, including a list of permits required for the project;

D. a financial report, including:

(1) a five-year business plan;

(2) an itemized description of the project costs, including the total estimated cost, total eligible cost, and the amount of grant or loan funding requested;

(3) an itemized description of project financing, including applicant contributions, other government contributions, private contributions, and projected revenues from the project;

(4) a credit history of the organization; and

(5) financial statements for the last three years;

E. information demonstrating the technical feasibility of the project, including preliminary design and engineering plans, if applicable; and

F. a market analysis for the proposed project, including information demonstrating that the applicant has secured the supply of and demand for recyclable material and recycled products necessary for sustained market development.

The director may request additional information from the applicant if it is necessary to clarify and evaluate the proposal.

Subp. 8. **Evaluation of proposals.** The director shall evaluate each proposal that is determined to be eligible and complete. The director shall base this evaluation on the following factors:

A. the technical and economic feasibility of the proposed project;

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B. the applicant's financial capacity and managerial ability, and the applicant's intention to implement the project in a timely manner upon receipt of a grant or loan award;

C. the proposed project's compliance with federal, state, and local regulations;

D. the consistency of the proposed project with state market development priorities; and

~~E. the extent to which the proposed project represents the highest end use for each recyclable material; and~~

~~F.~~ E. the extent to which the proposed project would use postconsumer material.

9210.0645 DIRECTED RESEARCH AND FEASIBILITY STUDY GRANT PROGRAM.

Subpart 1. **Scope.** This part establishes the conditions under which the director shall award recyclable material market development program grants for directed research and feasibility study projects.

Subp. 2. **Eligible applicants.** Eligible applicants are research institutions and private organizations.

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

A. development of performance data on recycled products that are or could be manufactured in Minnesota;

B. feasibility studies for the development of manufacturing capacity to use recyclable materials from Minnesota as a feedstock; and

C. directed research on products that could be manufactured using recyclable materials from Minnesota as a feedstock or on manufacturing processes that could use recyclable materials from Minnesota as a feedstock.

Subp. 4. **Eligible costs.** Eligible costs for research institutions are limited to 100 percent of the project costs, including labor and supplies necessary to implement the project. Eligible costs for private organizations are limited to 50 percent of the project costs, including labor and supplies necessary to implement the project.

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Subp. 5. **Maximum grant.** The maximum grant award is $100,000, unless the notice provided by the director under part 9210.0620, subpart 1, establishes a lesser maximum grant.

Subp. 6. **Proposal.** An eligible applicant shall submit a proposal in the form specified by the director. A proposal must include the following information:

A. the names, qualifications, and addresses of the applicant and other project participants;

B. a description of the proposed project, including:

(1) a list of project activities and an implementation schedule;

(2) location of the project;

(3) type, quantity, and source of recyclable material and recycled products relevant to the project; and

(4) description or identification of persons that may benefit from project activities and results;

C. the projected economic viability of implementing project results;

D. an itemized description of the project costs, including the total estimated cost, total grant eligible cost, and the amount of grant funding requested; and

E. an itemized description of the project financing, including applicant contributions, other government contributions, and private contributions.

The director may request additional information from the applicant if it is necessary to clarify and evaluate the proposal.

Subp. 7. **Evaluation of proposals.** The director shall evaluate each proposal that is determined to be eligible and complete. The director shall base this evaluation on the following factors:

A. the technical and economic feasibility of the proposed project;

B. the applicant's ability and intention to implement the project in a timely manner upon receipt of a grant award;

C. the extent to which the proposed project promotes

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by Revisor _____

market development activities for recyclable materials and recycled products;

D. the consistency of the proposed project with state market development priorities;

~~E. the extent to which the proposed project promotes the highest end use for each recyclable material;~~

~~F.~~ the extent to which the proposed project promotes the use of postconsumer material; and

~~G.~~ F. the extent to which the project provides information transferable to other organizations and the absence of available information in the proposed area of study.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

Approved
by Revisor _____

APPROVED AS TO FORM AND LEGALITY

October 5 1990

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY M Casserly
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
OCT 05 1990

Joan Anderson Growe
Secretary of State

3:50 P.M.

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DEPARTMENT: Office of the Attorney General

STATE OF MINNESOTA

OFFICE MEMORANDUM

DATE: October 5, 1990

TO: THOMAS A. OSDOBA
Solid Waste Grants

FROM: MARTHA J. CASSERLY
Special Assistant Attorney General

PHONE: 296-6839

SUBJECT: In the Matter of the Adopted Rule Relating to
Recyclable Material Market Development Grant and Loan Programs

The above-referenced rule has been approved as to its legality by the Attorney General on October 5, 1990.

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

Also enclosed are any petitions, requests, submissions or comments along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of tne notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published 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.

MC:sc

cc: William Brown, Chief Judge
MaryAnn Hruby
Lisa Tiegel

STATE OF MINNESOTA
OFFICE OF WASTE MANAGEMENT

In the Matter of the Proposed Rules Governing the Recyclable Material Market Development Grant and Loan Programs, Minn. Rules, Parts 9210.0600 to 9210.0645

STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION

This Statement of Need and Reasonableness discusses proposed new rules governing a recyclable material market development grant and loan program. The Minnesota legislature established this program to encourage and facilitate the development of markets for recyclable materials. Minn. Stat. §115A.48, subd. 5 (2nd 1989 Supp.). The program is to be administered by the Minnesota Office of Waste Management (Office). Id.

The proposed rules establish procedures for the orderly administration of the grant and loan program. Specifically, the proposed rules identify projects and costs that may be funded through the program; establish application procedures and timetables; establish criteria for the review of projects and for the award of grants and loans; set limits on the amount of funds that can be awarded; and specify the content of grant and loan agreements.

The proposed rules are intended to fulfill the statutory directives of Minn. Stat. §115A.48, subd. 5 (2nd 1989 Supp.), and to further state environmental goals for solid waste management practices.

II. STATEMENT OF OFFICE'S STATUTORY AUTHORITY

The Office's statutory authority to adopt the rules is set forth in Minn. Stat. §115A.48, subd. 5 (d), which provides:

> (d) The office shall adopt rules for the [recyclable material market development] program.

Under this statute the Office has the necessary authority to adopt the proposed rules.

III. STATEMENT OF NEED

Minn. Stat. ch. 14 (1988) requires the Office to make an affirmative presentation of facts establishing the need for and reasonableness of the rules as proposed. In general terms, this means that the Office must set forth the reasons for its proposal, and the reasons must not be arbitrary and capricious. However, to the extent that need and reasonableness are separate, need has come to mean that a problem exists that requires administrative attention, and reasonableness means that the solution proposed by the Office is appropriate. The need for the proposed rules is discussed below.

The proposed rules are needed to make specific and clarify the eligibility criteria and procedural conditions under which the Office will award grants and loans pursuant to Minnesota Statutes §115A.48, subd. 5 (a). That section provides:

> The office shall make grants and loans and shall provide technical assistance to persons for research and development or for the acquisition and betterment of projects that develop markets or end uses for recyclable materials. At least 50 percent of all funds appropriated under 1989 1st Special Session, Chapter 1, article 24 for market development efforts must be used to support county market development efforts. Grants to counties for market development must be made available to those counties that achieve significant land disposal abatement through use of source separation of recyclable materials.

As the Office interprets this statutory subdivision, there are three separate activities that may receive assistance from this grant and loan program:

1. research and development;

2. the acquisition and betterment of projects that develop markets or end uses; and

3. market development activities in counties that achieve significant land disposal abatement through source separation.

For each of these three activities, proposed rules are needed to clarify both the types of projects and the costs that qualify for state financial assistance.

The statute also specifies that at least 50 percent of the funds originally appropriated for the program be used to support county market development efforts. Proposed rules are needed to clarify the ways in which grants and loans will be awarded to support county market development efforts.

IV. STATEMENT OF REASONABLENESS

Minn. Stat. ch. 14 (1988) requires the Office 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 Office's proposed action. The reasonableness of the proposed rules is discussed below.

A. Reasonableness of the Rules as a Whole

Market development for recyclable materials can include a wide range of activities and participants. For example, a unit of government can improve the supply of recyclable materials by upgrading the quality of the materials and by cooperatively marketing the materials. Or, a unit of government can improve the demand for recyclable materials by purchasing recycled products. Or, a private company can improve the demand for recyclable materials by substituting recyclable materials for virgin materials in a manufacturing process. Or, a research institution can improve the demand for recyclable materials by developing manufacturing processes that utilize recyclable materials to produce other products.

Given this range of activities and participants, the Office believes that it can best promote state market development goals by managing this program in the following parts:

1. County Grant Program;
2. Capital Grant and Loan Program; and
3. Directed Research and Feasibility Study Grant Program.

There are no disadvantages to managing the program in these parts since, together, the parts reach essentially all facets of the recycling industry. Moreover, managing the program in these parts has a number of advantages. First, it encourages a variety of important segments of the recycling industry to engage in market development activities. Second, it addresses both the supply of and demand for recyclable materials. Third, it allows the Office to tailor program requirements, such as eligible applicants, in

a manner that best suits the type of activities to be promoted by the program.[1] Fourth, it is both administratively simpler and more equitable for the Office to evaluate against each other funding applications of similar type. If the program were not divided into parts, applicants serving different functions would compete against each other for limited grant and loan funds. In sum, the Office's decision to manage the program in three parts is reasonable because it promotes efficiency in managing the program, is fair, and implements the statutory mandate.

B. Reasonableness of Individual Rules

Part 9210.0600 DEFINITIONS

This part provides definitions necessary for the rule. Several of the terms defined in this part require definitions for clarity and consistency. Those terms are Director (Subpart 2); Office (Subpart 4); Project (Subpart 7); Recipient (Subpart 8); and Solid Waste (Subpart 12). The other terms defined in this part are substantive and have special significance as used. The reasonableness of the definitions of these terms is discussed below.

Subpart 3 defines highest end use. This term is used in the rules as part of the criteria for evaluating proposals. A project that involves the recycling of a recyclable material into its highest end use would be favored over a project that did not recycle a

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[1] For instance, a governmental unit is not going to develop or acquire manufacturing capacity to utilize recyclable materials and should not be required to compete for grant funds with private applicants who will seek to develop such capacity.

material into its highest end use. The statute does not establish a definition for end use, but this concept is important to recycling because it promotes long-term reduction in solid waste generation. The definition established in the rules is reasonable because it articulates a simple standard commonly accepted in the recycling industry.

Subpart 5 defines post-consumer material. This term is used in the rules as part of the criteria for evaluating proposals. A project that uses post-consumer waste would be favored over one that did not use post-consumer waste. The statute does not establish a definition for post-consumer material, but this concept is important to recycling because it describes a subset of recyclable materials that are more difficult to recycle than pre-consumer material. The definition established in the rules is reasonable because it articulates a simple standard commonly accepted within the recycling community.

Subpart 6 defines pre-consumer material. This term is used in the rules as part of the criteria for evaluating proposals. A project that uses pre-consumer waste would not be favored over one that uses post-consumer waste. The statute does not establish a definition for pre-consumer material, but this concept is important to recycling because it describes a subset of recyclable materials that are readily recycled by industry and do not contribute significantly to the amount of solid waste that currently requires land disposal. The definition established in the rules is reasonable because it articulates a simple standard commonly accepted within the recycling community.

Subpart 9 defines recyclable materials. This term is used in the rules to provide a broad definition of those materials for which grants or loans may be obtained. The

definition established in the rules is reasonable because it articulates a simple standard that includes all materials that demonstrate potential to be recycled.

Subpart 10 defines recycled products. This term is used in the rules to describe products that are produced using recyclable materials as a source material. The definition established in the rules is reasonable because it articulates a simple standard that includes all materials that could be produced using recyclable materials.

Subpart 11 defines research institutions. This term is used in the rules to describe a subset of eligible applicants that may receive a different level of funding than other eligible applicants in the Directed Research and Feasibility Study Grant Program. The statute does not establish a definition for research institution, but this concept is important to recycling because it describes a group that is well-suited to implement projects that would be eligible for assistance under the Directed Research and Feasibility Study Grant Program. The definition established in the rules is reasonable because it articulates a simple standard that is consistent with common usage of the term.

Part 9210.0610 PURPOSE

This part of the rules describes both the short and long-term objectives of the program. This statement of objectives is intended to clarify the purpose of the grant and loan program. This clarification accurately describes the goals of the state's market development grant and loan program, is consistent with statutory directives and is therefore reasonable.

Part 9210.0620 APPLICATION PROCEDURES

Part 9210.0620 is intended to provide potential applicants with a clear and concise presentation of the application process for this program. To this end, part 9210.0620 is divided into six subparts that, together, establish the procedures for obtaining a grant or loan for recyclable material market development projects. These procedures create a Request for Proposal (RFP) process, a common process for providing financial assistance. Use of the RFP process is reasonable in that it allows the Office to adjust the grant and loan program to the availability of state funds as they are appropriated by the legislature.

The RFP process is created in subpart 1, which states that funding rounds are initiated by the Director through publication of a notice in the STATE REGISTER. This notice will contain basic information of interest to persons who may wish to apply for a recyclable material market development grant or loan: (1) availability of grants and loans; (2) procedures for awarding grants and loans; and (3) deadline for submitting a proposal. Use of the STATE REGISTER to provide notice of the funding program is reasonable because the program is statewide and because the STATE REGISTER is the official publication for state notices.

Subpart 1 also states that the Director may use the STATE REGISTER notice to limit the types of projects that will be accepted during a funding round and to specify a maximum amount of funding available for each project. By limiting a funding round to specific types of projects, the Office will be able to react more effectively to changing market conditions and advancing technology. Accordingly, the Office will be able to

encourage development in markets of particular need at any given time. Further, by specifying the maximum amount of funding available, the Office will be able to adjust the grant and loan program to reflect changes in the availability of state funds. The ability to make these adjustments is reasonable in that it will allow the Office to manage the grant and loan program to suit, as best as possible, the recycling needs of the state within fiscal constraints. Moreover, by providing notice of these adjustments in the STATE REGISTER, potential applicants are fully apprised of the availability of funds for needed projects.

Subparts 2 through 5 identify the procedures the Director will use in evaluating applications. These procedures ensure that applications will receive equal and fair treatment. Further, they provide administrative certainty to the application process. Thus, the proposed procedures are reasonable. (Note: the criteria for evaluating applications are established later in the rules and are discussed later in this Statement of Need and Reasonableness.)

Subpart 6 provides that the Director will award grants and loans to those projects that the Director determines will be the most beneficial in facilitating the development of markets for recyclable material and recycled products. In making this determination, the Director will select those proposals that best satisfy the criteria set out for each of the three programs proposed in these rules. Because each criterion establishes a preference based on only a specific element or elements of a proposed project, the Director will balance those preferences to identify those projects that satisfy the criteria as a whole. This subpart also allows applicants that do not receive an

award to resubmit their proposals in response to a future notice from the Director, published in the STATE REGISTER. This is reasonable because, although a proposed project may be worthy, proposals will be selected for awards based on which projects best satisfy the evaluation criteria and, therefore, it may be surpassed by better proposals.

Subpart 7 specifies that the Director may decline awards to any or all of the applicants if the Director determines that the proposals would not provide sufficient assistance to the state in achieving its market development goals. The Office believes this subpart provides a safeguard to ensure that program funds are disbursed to satisfy the objectives of the program.

Subpart 8 provides that the Director shall solicit and consider the recommendations provided by the Market Development Coordinating Council established in Minn. Stat. §115A.12, subd. 11. The Office believes that use of this advisory council is consistent with statutory directives and will promote consistent and comprehensive evaluation of grant and loan applications.

Part 9210.0625 LIMITATIONS

This part sets out the limitations of the program. The rationale for each limitation is provided below.

Subpart 1 sets out the conditions under which the Director may award a grant or loan for less than the eligible amount requested by an applicant or less than the maximum award established in the notice under Part 9210.0620, subpart 1. Two

conditions are set out: (1) insufficient state resources to provide full assistance to all proposed grantees and (2) ability of an applicant to operate the project at a lesser award. These conditions are reasonable in that they allow projects to go forward while at the same time preserving limited state financial resources.

Subpart 2 provides that the Director will not disburse grant or loan funds until the Director has determined the total estimated cost of a project, ascertained that financing of the project is assured by the recipient, and received commitments from the recipient to implement the project. The Office believes this limitation will ensure that program funds will be used immediately and will prevent the funding of a project that may not be implemented because a recipient could not secure funding for project costs not financed through this program. This will ensure that the benefits to be obtained from the project through the use of government funds will be realized as quickly as possible.

Part 9210.0630 GRANT AGREEMENT

This part sets out the basic terms of the agreement that a grant or loan recipient will need to sign to receive funding from the Office. Identifying these terms by rule is reasonable because it provides advance notice to potential grant or loan applicants of the conditions of a grant or loan award. The rationale for each condition specified by the rules is provided below.

Item A states that the grant or loan proposal submitted to the Director under 9210.0620, subpart 2 will be incorporated into the grant or loan agreement. This

incorporation contractually obligates a recipient to develop and implement the project described in the proposal and thereby establishes criteria against which the Director may evaluate progress of the grantee.

Item B specifies that the grant or loan agreement will state that no further program funding will be available for cost overruns. This safeguard is necessary to ensure effective administration of the program given limited state funds.

Item C specifies that a recipient must provide written reports to the Director. Written reports will allow the Director to assess the performance of a recipient and, where applicable, transfer knowledge and experience gained from a project to other members of the recycling community. Thus, this requirement is reasonable because it will assist the Director in attaining state market development goals.

Item D provides that the Director specify the interest rate and repayment obligations for a loan recipient. This provision will assist a recipient in planning for the repayment of a loan, and will assist the Director in future administration of the program.

Item E provides that the Director may rescind a grant and require a recipient to repay the grant in full if the Director determines that, due to the bad faith of the recipient, a project has not been developed and implemented in accordance with the terms and conditions of the grant agreement. By ensuring that funded projects are implemented properly, this provision will assist the Director in administering the grant program and preserving state funds. Item F establishes a parallel provision for the loan program and is reasonable for the same reasons as Item E.

Item G provides that the Director may cease making further disbursements of grant or loan funds and may recover unspent funds that have been disbursed if the Director determines that, for reasons other than bad faith, a project has not been developed and implemented in accordance with the terms and conditions of the grant or loan agreement and amendment to the agreement is not justified. This provision is a companion to Item E, which addresses repayment of a grant where there has been bad faith. Like Item E, Item G will assist the Director in administering the grant program and preserving state funds by assuring that funded projects are implemented properly. Unlike Item E, however, Item G does not require repayment where the failure of the project is due to causes other than bad faith. The Office believes that it is reasonable to establish different financial repercussions for project failures due to bad faith and those due to other causes that do not reflect on the intentions of the applicant.

Item H states that the grant or loan agreement must require a recipient to perform and complete project activities in accordance with the work schedule in the proposal submitted to the Director and incorporated into the grant or loan agreement. This provision will ensure that a recipient implements a project in timely manner upon receipt of a grant or loan award. Thus, this provision will assure that the state obtains the benefits hoped to be achieved by the grant or loan.

Item I provides that a recipient must maintain detailed records of all expenditures related to the grant or loan agreement. This provision will ensure that program resources received by a recipient are used to finance only project costs. Accordingly, this provision is reasonable because it secures the proper use of state funds.

Item J provides that the Director and a recipient establish other conditions or terms needed to implement the grant or loan agreement. This provision is intended to make clear that the grant or loan agreement will also contain other conditions needed to ensure orderly administration of the grant or loan.

Part 9210.0635 COUNTY GRANT PROGRAM

This part applies only to the County Grant Program. It is divided into seven subparts which, together, establish the substantive conditions and criteria under which the Office will provide grants directly to counties for specific market development projects. These seven subparts are: (1) scope; (2) eligible applicants; (3) eligible projects; (4) eligible costs; (5) maximum grant; (6) proposal; and (7) evaluation of proposals. The first subpart (scope) is self-evident and requires no further explanation. Subparts 2 through 7 are discussed below.

Subpart 2 identifies eligible applicants as each county that has submitted a plan under Minn. Stat. §115A.551, subdivision 6 (2nd 1989 Supp.), as an amendment to its approved comprehensive solid waste management plan or solid waste master plan. Counties are required by Minn. Stat. §115A.551, subd. 6, to develop a plan for implementing recycling efforts and mechanisms for providing financial incentives to solid waste generators for waste reduction and source separation. This requirement follows from the legislative position that government solid waste management efforts will benefit from thoughtful planning of programs to address present and future waste needs of the community. The Office believes it is reasonable to incorporate this

legislative position into the grant and loan program in order to assure consistency with community recycling plans.

Subpart 2 also allows a county to apply for assistance on behalf of another person. This is consistent with other Office grant programs. See, e.g., Minn. Rules Part 9210.0420, subpart 1. Further, it is reasonable because it allows each county to pursue activities and involve persons in ways that best satisfy the county's individual market development needs.

Subpart 3 identifies projects that are eligible for assistance under the County Grant Program. This definition is intended to be quite broad in order to encourage potential applicants to develop a diverse range of market development projects. The Office believes such a broad definition encourages the creative development of recycling markets and therefore is reasonable.

Subpart 4 identifies costs that are eligible for assistance under the County Grant Program. Specifically, subpart 4 states that eligible costs are limited to 25 percent of the capital costs of the project and 75 percent of other project costs. The 25 percent limitation on capital costs was established by the legislature in Minn. Stat. §115A.48, subd. 5 (c) (2nd 1989 Supp.). While that statute does not establish a specific limit on the amount of assistance that can be provided for noncapital costs, it is the experience of the Office that requiring funding recipients to share in the cost of a project serves as a benchmark for determining the seriousness of the applicant and the potential success of the project. The Office believes that a state funding level of 75 percent of the noncapital costs of a project is reasonable in that it both assures sufficient state funds to

provide meaningful financial assistance to counties and establishes a financial incentive for the recipient to successfully complete the project.

Subpart 5 specifies the maximum grant. Specifically, subpart 5 states that the maximum grant award is $100,000 unless the notice provided by the Director under part 9210.0620, subpart 1 establishes a lesser maximum grant. Establishing a grant ceiling for all projects is necessary to effectively administer program resources. The Office believes that a $100,000 maximum is a reasonable level of financial assistance for the types of projects that counties (as compared to private organizations) are likely to develop under this program.

Subpart 6 describes the information that an applicant must include in a proposal under this program. This is the minimum amount of information needed to ensure that the Director can make an informed evaluation of the proposals under subpart 7. The rationale for each specific category of information is provided below.

Subpart 6 (A) requires the names, qualifications, and addresses of an applicant and other project participants, including other counties. This information is needed so that the Director may contact each applicant, assess the ability of project participants to operate a project, and may assess the potential for other counties to participate in a proposed project.

Subpart 6 (B) requires a description of a proposed project, including specified information. This information is needed and reasonable to allow the Director to determine, among other things, the eligibility of a proposed project; the feasibility of a proposed project; the applicant's ability and intention to implement the project in a

timely manner; the consistency of the proposed project with state market development priorities; and the extent to which the proposed project will benefit the market development efforts of more than one county. Each of these factors will be considered by the Director in deciding which projects to fund. (See discussion regarding subpart 7, below.)

Subpart 6 (C) requires information demonstrating that a proposed project will comply with applicable regulations, including a list of permits required for a project. This information is needed and reasonable because it allows the Director to assess whether a proposed project will conform with applicable legal requirements.

Subpart 6 (D) requires an itemized description of project costs. This information is needed to determine whether estimated costs realistically match the scope of a proposed project and whether the eligible costs identified by an applicant are within the range of eligible costs described in subpart 3 of this part.

Subpart 6 (E) requires an itemized description of project financing. This information is needed to determine whether an applicant has secured financing for all project costs that would not be paid for with grant funds.

Subpart 6 (F) requires information demonstrating, where applicable, the technical feasibility of a proposed project, including preliminary design and engineering costs. This Office anticipates that, for the most part, counties are unlikely to submit proposals involving engineering concerns unless they are applying on behalf of another person. In any event, this requirement will assure that only projects that are technically feasible will receive state funding.

Subpart 6 (G) requires information demonstrating, where applicable, how the county will secure the supply of and demand for recyclable materials and recycled products. This information, like that required by subpart 6 (F), is reasonable in that it will allow the Director to eliminate projects that are not technically feasible because they are not assured an adequate supply of or demand for materials needed to sustain the project.

Subpart 6 (H) also requires that each county participating in the project adopt a resolution demonstrating its commitment to the project. This requirement is a reasonable means of assuring that the county intends to go forward with the project if it is awarded state funds.

Subpart 6 also provides that the Director may request additional information from an applicant if the Director determines that additional information is necessary to clarify and evaluate a proposal. This is reasonable because it allows the Director to obtain sufficient information to fully review and evaluate proposals using the criteria established in subpart 7.

Subpart 7 specifies the criteria that the Director will use to evaluate proposals. The rationale for each criterion is set out below.

Subpart 7 (A) requires the Director to determine that a proposed project is technically and economically feasible. This criterion is reasonable because it assures that state funds will only be used on projects having a high likelihood of success.

Subpart 7 (B) requires the Director to determine whether an applicant has the ability and intention to implement a proposed project upon the receipt of a grant

award. This criterion is reasonable in that it assures that the state will benefit, as soon as possible, from a project receiving state funding. Further, the criterion is reasonable because it favors projects that are further along in planning efforts. As discussed earlier, the state encourages comprehensive solid waste management planning, including recycling planning. See Minn. Stat., section 115A.42.

Subpart 7 (C) requires the Director to determine that a proposed project will comply with federal, state, and local regulations. This criterion is reasonable because it assures a coordinated, consistent governmental effort to address legal issues raised by market development activities.

Subpart 7 (D) requires the Director to determine the extent to which a proposed project is consistent with state market development priorities. These priorities may change with developments in technology and changes in the waste management needs of communities and the state as a whole. Using these priorities as a funding criterion will allow the Office to direct state funds to projects that best satisfy the current waste management needs of the state at any given time.

Subpart 7 (E) requires the Director to determine the extent to which a proposed project would benefit the market development efforts of more than one county. The Office believes that projects that address the needs of more than one county will provide greater benefit to the state as a whole. Consequently, it is reasonable to establish a criterion that favors proposed projects benefiting more than one county.

Subpart 7 (F) requires the Director to determine the extent to which an applicant has achieved significant land disposal abatement through source separation of recyclable

materials. This criterion was established by the legislature in Minn. Stat. §115A.48, subdivision 5 (a), and is reasonable because it favors counties that have made serious efforts to establish successful recycling programs.

Subpart 7 (G) requires the Director to determine the extent to which a proposed project represents the highest end use for each recyclable material. The term "highest end use" is defined in part 9210.0610 and refers to the remanufacture or transformation of a recyclable material into a product most similar to the product from which the recyclable material was derived. From a waste management standpoint, it is better to recycle a product into its highest end use rather than into some other product. The recycling of a material into its highest end use allows for a recycling circle to be established in which parts of a product are constantly returned to the manufacturing process to recreate a new product once the old one has become waste. As a result of this circle, at least some parts of the product do not become part of the waste stream. For this reason, it is reasonable for the Office to favor projects involving highest end use.

Subpart 7 (H) requires the Director to determine the extent to which a proposed project would use post-consumer material. This criterion favors proposed projects that use the maximum possible amount of post-consumer material and is consistent with the short-term objective of the program to maximize land disposal abatement.

Subpart 7 (I) requires the Director to determine the extent to which a proposed project would provide information transferable to other persons throughout the state. This criterion favors proposed projects that would address common obstacles to market

development activities and that would represent new strategies for facilitating market development. It is reasonable to establish this criterion because it will provide the most benefit to the state.

Part 9210.0640 CAPITAL GRANT AND LOAN PROGRAM[2]

This part applies only to projects that are proposed by private organizations and involve capital expenditures. This part is divided into eight subparts that, together, establish the substantive conditions and criteria under which the Office will provide financial assistance to private organizations for market development projects involving capital expenditures. These seven subparts are: (1) scope; (2) eligible applicants; (3) eligible projects; (4) eligible costs; (5) maximum grant; (6) maximum loan; (7) proposal; and (8) evaluation of proposals. The first subpart (scope) is self-evident and requires no further explanation. Subparts 2 through 8 are discussed below.

Subpart 2 identifies eligible applicants as private organizations, both profit and nonprofit. This limitation is reasonable because private organizations are best suited, in terms of resources and expertise, to undertake capital projects that create or expand manufacturing capacity to use recyclable materials.

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[2] By these rules, the Office has established a loan program for capital expenditures of the private sector only. No parallel program exists for loans for county programs because of financial considerations. No parallel loan program exists for feasibility studies since the Office perceives feasibility studies to be "seed" money that will hopefully generate new ideas, but may not result in immediate revenue-generating markets able to repay the loan.

Subpart 3 identifies projects that are eligible for assistance under the capital grant and loan program. This definition is intended to be quite broad in order to encourage potential applicants to develop a diverse range of market development projects. The Office believes such a broad definition encourages the creative development of recycling markets and therefore is reasonable.

Subpart 4 identifies costs that are eligible for assistance under the capital grant and loan program. Specifically, subpart 4 states that eligible costs are limited to the capital costs of the project. Subpart 5 states that a project may receive a grant for up to 25 percent of the total eligible capital costs, or $500,000, whichever is less. These two subparts reflect the legislature's decision to limit the state's funding of capital costs to 25 percent of the total eligible costs of a project. Further, these subparts are reasonable because they establish a significant maximum funding level for that portion of private sector projects (i.e., capital expenditures) that is likely to be costly and that, once paid, will allow the project to proceed without the need for further governmental funding.

Subpart 6 is a companion to subpart 5 and establishes the maximum loan amount that may be awarded to applicants under the program. Specifically, subpart 6 incorporates the legislature's decision, set forth in Minn. Stat. §115A.48, subd. 5 (b), to limit loan assistance to up to 50 percent of the total eligible capital costs of a project, or $2,000,000, whichever is less. As with grant awards, the Director may specify in the notice issued under Part 9210.0620, subpart 1 a maximum loan award that is less than this statutory ceiling. The Office believes this is reasonable because it will allow the

Office to effectively administer the program under conditions in which limited funding is available.

Subpart 7 describes the information that an applicant must include in a proposal under this program. This is the minimum amount of information needed to ensure that the Director can make an informed evaluation of the proposals under subpart 8. The rationale for each specific category of information is provided below.

Subparts 7 (A) through (C) and (E) require essentially the same information as required for proposals in the county grant program. It is reasonable to require this information for the capital grant and loan program for the same reasons it is reasonable to require it for the county grant program.

Subpart 7 (D) requires a financial report for a proposed project, including a five-year business plan, an itemized description of project costs and financing, a credit history of the organization, and financial statements for the last three years. This information is needed and reasonable in that it allows the Director to determine whether a project is economically viable and to assess the financial capacity of an applicant to implement a project.

Subpart 7 (F) requires a market analysis for a proposed project, including information demonstrating that an applicant has secured the supply of and demand for recyclable materials and recycled products. This subpart is parallel to subpart 6 (G) of the county grant program and is reasonable for the same reasons as the county requirement. Further, it is reasonable to require the private sector to conduct a market

analysis as a condition to receiving capital assistance grants since that analysis will provide information on which the potential success of a project may be determined.

Subpart 7 also provides that the Director may request additional information from an applicant if the Director determines that additional information is necessary to clarify and evaluate a proposal. This is reasonable because it allows the Director to obtain sufficient information to fully review and evaluate proposals using the criteria established in subpart 8.

Subpart 8 establishes six criteria that the Director will use in determining which projects should be awarded state funds. These criteria are essentially the same as the criteria established in the county grant program. (The county grant program also includes three other criteria not applicable to the private sector.) These criteria are needed and reasonable for the same reasons as they are needed and reasonable in the county grant program. (See discussion, above, regarding subpart 7 of the county grant program.)

Part 9210.0645 DIRECTED RESEARCH AND FEASIBILITY STUDY GRANT PROGRAM

This part applies only to feasibility studies proposed by private organizations or research institutions. This part is divided into seven subparts that, together, establish the substantive conditions and criteria under which the Office will provide financial assistance to research institutions and private organizations for market development projects involving directed research and feasibility studies. These seven subparts are: (1) scope; (2) eligible applicants; (3) eligible projects; (4) eligible costs; (5) maximum

grant; (6) proposal; and (7) evaluation of proposals. The first subpart (scope) is self-evident and requires no further explanation. Subparts 2 through 8 are discussed below.

Subpart 2 identifies eligible applicants as research institutions and private organizations. This limitation is reasonable because research institutions and private organizations are well suited, in terms of resources and expertise, to undertake directed research and feasibility study projects that support market development for recyclable materials.

Subpart 3 identifies eligible projects as: the development of performance data on recycled products that are or could be manufactured in Minnesota; feasibility studies for the development of manufacturing capacity to use recyclable materials from Minnesota as a feedstock; and directed research on products that could be manufactured using recyclable materials from Minnesota as a feedstock or on manufacturing processes that could use recyclable materials from Minnesota as a feedstock. These projects describe studies that will provide information needed for the development of markets for recycled materials. Thus, the Office believes this categorization of eligible products is reasonable.

Subpart 4 identifies eligible costs. Eligible costs for research institutions are 100 percent of the project costs; eligible costs for private organizations are 50 percent of the project costs. The Office believes this funding allocation is reasonable because it encourages organizations to conduct feasibility studies, while reflecting the different financial needs and profit interests of potential grant applicants.

Subpart 5 specifies the maximum grant award, which is $100,000 unless the notice provided by the Director under part 9210.0620, subpart 1 establishes a lesser amount. Establishing a grant ceiling for all projects is necessary to effectively administer program resources. The Office believes that a $100,000 maximum is a reasonable level of financial assistance to complete research or feasibility studies likely to be proposed under this program.

Subpart 6 describes the information that an applicant must include in a proposal under this program. This is the minimum amount of information needed to ensure that the Director can make an informed evaluation of the proposals under subpart 7. The rationale for each specific category of information is provided below.

Subparts 6 (A) through (E) require essentially the same information as required for proposals in the county grant program and the capital grant and loan program. It is reasonable to require this information for the research and feasibility study program for the same reasons it is reasonable to require it for the other two programs.

Subpart 6 (B) (4) also requires a description or identification of persons that may benefit from the project and subpart 6 (C) requires information on the projected economic viability of the project. Both of these requirements are reasonable because they provide additional information that will allow the Director to determine whether the study is likely to result in information that will promote the development of recycling markets in the state.

Subpart 6 also provides that the Director may request additional information from an applicant if the Director determines that additional information is necessary to

clarify and evaluate a proposal. This is reasonable because it allows the Director to obtain sufficient information to fully review and evaluate proposals using the criteria established in subpart 7.

Subpart 7 establishes seven criteria that the Director will use in determining which projects should be awarded state funds. Six of these criteria are essentially the same as the criteria established in the capital assistance grant and loan program. These criteria are needed and reasonable for the same reasons as they are needed and reasonable in the capital assistance grant and loan program. (See discussion, above, regarding subpart 7 of the capital grant and loan grant program.) The seventh criterion, the extent to which the project provides information transferable to other organizations and the absence of available information in the proposed area of the study, is reasonable because it assures that state funds will be used to fund projects having the widest impact in the state, without being duplicative of previous efforts.

VI. SMALL BUSINESS CONSIDERATIONS

Minn. Stat. section 14.155 (1988) requires state agencies proposing rules that affect small businesses to consider the following methods for reducing the impact of the rules on small businesses:

> (a) the establishment of less stringent compliance or reporting requirements for small businesses;
>
> (b) the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;

(c) the consolidation or simplification of compliance or reporting requirements for small businesses;

(d) the establishment of performance standards for small businesses to replace design or operational standards required in the rule; and

(e) the exemption of small businesses from any or all requirements of the rule.

The statute requires agencies to incorporate into proposed rules any of the methods listed in subdivision 2 "that it finds to be feasible, unless doing so would be contrary to the statutory objectives that are the basis of the proposed rulemaking." Minn. Stat. §14.115, subd. 3 (1988).

The proposed rules establish the criteria and procedures by which the Office provides financial assistance for recyclable material market development projects. The requirements of Minn. Stat. §14.115 do not apply to these proposed rules because this program does not place any direct regulatory burden on small businesses. To the contrary, the proposed rules establish three programs to promote market development activities. Each of the three programs provide for the participation of small businesses, either directly or indirectly. In sum, the proposed rules do not limit the ability of small businesses to participate in the program.

VI. CONCLUSION

Based on the foregoing, Minn. Rules pts. 9210.0500 to 9210.0570, as proposed, are both needed and reasonable.

Dated: July 20, 1990

Michael Robertson
Director

115A.48, sub5(d)

1st Special Session (Fall 1989)

eff date after enactment effective Oct 4

Stat Authority
Chapter 1, Art 18, Sec 11 subd 5
The office shall make grants and loans and shall provide technical assistance to persons for research . . .

(d) The office shall adopt rules for this program.

Are effective the day following final enactment
1989 First Special Session Laws of MN
Enacted at the 1989 First Special Session Sept 27 to 29, 1989

end of comment period August 23, 1990 stated in the Notice of Intent

Comment period was extended to Aug 30, 1970
180 deadline
This is new material and they did not ~~[illegible]~~ make the 180 deadline, but I know you talked to Lisa Tugel about this and the other rules were O.K.

Comment period was extended to August 30, 1990 in order to give people 30 days to comment. The extension was published in the State Register on August 13, 1990

*. 180 day requirement (14.12)
I know Mary talked to Lisa Vigil about this the last rules Waste Management submitted. Lets talk about this so I know - I don't think they have made the 180 day limit.

MINNESOTA OFFICE OF WASTE MANAGEMENT

1350 Energy Lane
St. Paul, Minnesota 55108
(612) 649-5750
MN Toll Free
1-800-652-9747

September 14, 1990

Ms. Patti Nolte
Office of the Attorney General
Suite 500
525 Park Street
St. Paul, MN 55103

Re: In the Matter of Proposed Rules Governing Recyclable Material Market Development Grants and Loans, Minn. Rules Parts 9210.0600 to 9210.0645

Dear Ms. Nolte:

On September 12, 1990, the Minnesota Office of Waste Management (Office) adopted the above-captioned rules governing the Recyclable Material Market Development Grant and Loan Program. On behalf of the Office, I am submitting these rules to you for review under Minn. Stat., section 14.26.

Pursuant to Minn. Rules pt. 2010.0300, I have enclosed the following:

1. the Notice of Intent to Solicit Outside Opinion (14 SR 2508, April 23, 1990);

2. the proposed rules, approved as to form by the Revisor of Statutes;

3. the Statement of Need and Reasonableness;

4. the Notice of Intent to Adopt Rules Without a Public Hearing as published in the State Register (15 SR 184, July 23, 1990);

5. the Notice of Extension of the Public Comment Period, as published in the State Register (15 SR 336, August 6, 1990);

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

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

8. all written requests, submissions, and comments on the rules received by the Office, except requests solely for copies of the rules or of the Statement of Need and Reasonableness;

9. the Findings of Fact, Conclusions and Order Adopting the Rules;

10. four copies of the rules as adopted. All modifications made to the rules as adopted are reflected on the rules and approved as to form by the Revisor of Statutes;

11. the Declaration of Counsel; and

12. the Affidavit Regarding Notice of Submission of Rules Adopted Without a Public Hearing to the Attorney General.

If you have questions regarding these rules, please call me at 649-5773.

Very truly yours,

Thomas A. Osdoba

Thomas A. Osdoba
Solid Waste Grants

Enclosures

Minnesota Office of Waste Management

Solid Waste Grants and Market Development Unit

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing Recycling Market Development Grant and Loan Programs

Notice is hereby given that the Minnesota Office of Waste Management (Office) is seeking information or opinions from outside sources as it prepares to propose the adoption of rules governing the Office's issuance of grants and loans, to public, non-profit, and private organizations, for projects that develop markets or end uses for recyclable materials. The rules will establish criteria and procedures for awarding recycling market development grants and loans. Adoption of the rules is authorized by Minn. Stat. § 115A.48, subd. 5.(d) (1989), which directs the Office to adopt rules for administering recycling market development grant and loan programs.

The Office requests information and opinions concerning the subject matter of the rules. Interested persons or groups may submit data or views in writing or orally. Written or oral statements or comments should be directed to:

Cristine Leavitt

Minnesota Office of Waste Management

1350 Energy Lane

St. Paul, MN 55108

Telephone: (612) 649-5771 or

1-800-652-9747

Oral statements will be received during regular business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday.

All statements of information and opinion will be accepted until May 23, 1990. Any written materials received by the Office shall become part of the rulemaking record in the event that the rule is adopted.

Michael Robertson

Director

STATE OF MINNESOTA
OFFICE OF WASTE MANAGEMENT

In the Matter of the Proposed Rules Governing the Recyclable Material Market Development Grant and Loan Program, Minn. Rules Parts 9210.0600 to 9210.0645

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)

Jeff Stuhr, 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 (1988) that their names be placed on the Minnesota Office of Waste Management's rulemaking mailing list is accurate, complete, and current as of this twentieth day of July, 1990.

That on the twentieth day of July, 1990, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt Rules Without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States Mail or in the United States Mail a copy thereof, with postage prepaid, to all persons and associations on the aforementioned list.

Jeff Stuhr

Subscribed and sworn to before me
this 20th day of July, 1990.

June J. Seery
Notary Public

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

Office of Waste Management

Proposed Permanent Rules Relating to Recyclable Material Market Development Grant and Loan Programs

Rules as Proposed (all new material)

RECYCLABLE MATERIAL MARKET DEVELOPMENT GRANT AND LOAN PROGRAMS

9210.0600 SCOPE AND AUTHORITY.

Parts 9210.0600 to 9210.0645 implement the recyclable material market development grant and loan programs created and described under Minnesota Statutes, section 115A.48, by establishing the substantive criteria and procedural conditions under which the director may award grants or loans for recyclable material market development projects.

9210.0610 DEFINITIONS.

Subpart 1. **Scope.** The terms defined in this part apply to parts 9210.0600 to 9210.0645. For terms not defined in this part, the definitions in Minnesota Statutes, section 115A.03, apply, unless the context requires otherwise.

Subp. 2. **Director.** "Director" means the director of the Office of Waste Management.

Subp. 3. **Highest end use.** "Highest end use" means the remanufacture or transformation of a recyclable material into a product most similar to the product from which the recyclable material was derived.

Subp. 4. **Office.** "Office" means the Minnesota Office of Waste Management established in Minnesota Statutes, section 115A.055.

Subp. 5. **Postconsumer material.** "Postconsumer material" means material generated by a business or a consumer that has served its intended end use and has been separated from solid waste for collection and recycling.

Subp. 6. **Preconsumer material.** "Preconsumer material" means material generated after completion of a manufacturing

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process that has not been used by a final consumer and would normally be disposed of as solid waste. This definition does not include postconsumer material or residual material generated during a manufacturing process that is commonly reused by the generator.

Subp. 7. **Project.** "Project" means all components of an organized undertaking described in a proposal.

Subp. 8. **Recipient.** "Recipient" means an applicant selected by the director to receive a grant or loan under parts 9210.0600 to 9210.0645.

Subp. 9. **Recyclable material.** "Recyclable material" means preconsumer or postconsumer material that can presently be recycled or that demonstrates potential to be recycled. Refuse-derived fuel or other material that is used as fuel for incineration is not a recyclable material.

Subp. 10. **Recycled products.** "Recycled products" means products containing preconsumer or postconsumer material.

Supp. 11. **Research institution.** "Research institution" means a public or private nonprofit organization whose activities include directed research and scientific investigations.

Subp. 12. **Solid waste.** "Solid waste" has the meaning given it in Minnesota Statutes, section 116.06, subdivision 10.

9210.0615 PURPOSE.

The short-term objective of the program is to increase the demand for and use of recyclable material, thus maximizing land disposal abatement. The long-term objective of the program is to facilitate the development of recycling activities that represent the highest end use of recyclable material.

9210.0620 APPLICATION PROCEDURES.

Subpart 1. **Notification by director.** To initiate the process for awarding grants and loans for recyclable material market development projects, the director shall publish a notice in the State Register advising eligible applicants of the availability of market development grants and loans. The notice

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shall describe the procedure for awarding grants and loans and establish a deadline by which proposals must be submitted. In the notice, the director may also limit the types of projects for which a grant or loan would be awarded in the funding round initiated by the notice and may specify the maximum amount of funding to be awarded to a project.

Subp. 2. **Proposals.** Following the publication of a notice in the State Register, eligible applicants that seek assistance must submit proposals to the director. Proposals must be received by the director by the deadline established in the notice. Upon the request of the applicant, the office shall handle specific information as nonpublic data pursuant to Minnesota Statutes, section 115A.06, subdivision 13.

A. Proposals for grant assistance under part 9210.0635 must contain the information set out in part 9210.0635, subpart 6.

B. Proposals for grant or loan assistance under part 9210.0640 must contain the information set out in part 9210.0640, subpart 7.

C. Proposals for grant assistance under part 9210.0645 must contain the information set out in part 9210.0645, subpart 6.

Subp. 3. **Determination of eligibility and completeness.** For all proposals received by the director by the deadline established in the notice, the director shall determine the eligibility of the applicant, the proposed project, and the costs identified in the proposal and shall determine the completeness of the proposal.

Subp. 4. **Notice of determination of eligibility and completeness.** The director shall notify the applicant of the director's determination of eligibility and completeness of the proposal. If the director determines that the applicant or the project is ineligible, the director shall reject the proposal and notify the applicant. If the director determines that any of the project costs are ineligible or that the proposal is incomplete, the director shall notify the applicant of the

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ineligible portion of the costs or of the deficiency. The applicant has 14 days after receiving the notice to correct any inadequacies identified by the director. Extensions shall be granted if requested in a timely manner and good cause exists for the extension. If the inadequacies are not corrected within the time allowed, the proposal shall be rejected.

Subp. 5. **Evaluation of proposal.** The director shall evaluate each proposal that is determined to be eligible and complete according to items A to C.

A. Proposals for grant assistance under part 9210.0635 shall be evaluated using the criteria set out in part 9210.0635, subpart 7.

B. Proposals for grant or loan assistance under part 9210.0640 shall be evaluated using the criteria set out in part 9210.0640, subpart 8.

C. Proposals for grant assistance under part 9210.0645 shall be evaluated using the criteria set out in part 9210.0645, subpart 7.

Subp. 6. **Award of grants or loans.** The director shall award grants or loans for those projects that the director determines will be the most beneficial in facilitating the development of markets for recyclable material and recycled products. The director shall notify those applicants that do not receive grant or loan awards. An applicant that does not receive an award may resubmit a proposal upon future notice by the director under subpart 1.

Subp. 7. **No grant or loan awards.** If the director determines that no proposal will provide sufficient assistance to the state in achieving its market development goals, the director may decide not to award any grant or loan. The director may then reinitiate the process for awarding grants and loans by publishing a notice under subpart 1.

Subp. 8. **Consultation.** In the director's evaluation of a proposal, the director shall solicit and consider any recommendations provided by the Market Development Coordinating Council established in Minnesota Statutes, section 115A.12,

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subdivision 1, paragraph (d).

9210.0625 LIMITATIONS.

Subpart 1. **Reduced grant or loan awards.** The director shall ask an applicant to document the impacts of reduced financial assistance before finalizing an award for less than the eligible amount requested by an applicant or less than the maximum award established in the notice under part 9210.0620, subpart 1. Reduced funds shall be awarded where the director determines:

A. program resources are insufficient to provide full assistance to all applicants to which the director intends to award grants or loans; or

B. the applicant could operate the project at a reduced level and still achieve project objectives.

Subp. 2. **Limitations on disbursal of funds.** No grant or loan funds shall be disbursed until the director has:

A. determined the total estimated cost of the project;

B. ascertained that financing of the project cost is assured by the recipient;

C. received commitments from the recipient to implement the project; and

D. executed a written grant or loan agreement with the recipient and, if applicable, the recipient has submitted final design plans for projects under the Capital Grant and Loan Program in part 9210.0640.

9210.0630 GRANT AND LOAN AGREEMENTS.

A grant or loan agreement shall:

A. incorporate by reference the proposal submitted to the director;

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

C. require that the recipient provide periodic written reports to the director on the implementation and

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results of the project;

D. identify the interest rate and repayment obligations for a loan recipient;

E. authorize the director to rescind the grant and require the grant recipient to repay the grant in full if the director determines that, due to the bad faith of the grant recipient, a project has not been developed and implemented in accordance with the terms and conditions of the grant agreement;

F. authorize the director to determine that the loan recipient is in default and require the loan recipient to immediately repay the loan in full if the director determines that, due to the bad faith of the loan recipient, a project has not been developed and implemented in accordance with the terms and conditions of the loan agreement;

G. authorize the director to cease making further disbursements to the recipient and to recover unspent funds if the director determines that, for reasons other than bad faith, a project has not been developed and implemented in accordance with the terms and conditions of the grant or loan agreement and amendment to the agreement is not justified;

H. require that the recipient perform and complete project activities in accordance with the work schedule in the proposal submitted to the director and incorporated into the grant or loan agreement;

I. require that the recipient maintain detailed records of all expenditures related to the agreement; and

J. establish other conditions or terms needed to manage or implement the grant or loan agreement.

9210.0635 COUNTY GRANT PROGRAM.

Subpart 1. **Scope.** This part establishes the conditions under which the director shall award recyclable material market development program grants to counties.

Subp. 2. **Eligible applicants.** Eligible applicants are counties that have submitted plans under Minnesota Statutes, section 115A.551, subdivision 6, as amendments to their approved

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comprehensive solid waste management plans or solid waste master plans. Eligible counties may apply for funds on behalf of any person, but named recipients shall be the counties.

Subp. 3. **Eligible projects.** Eligible projects are projects in Minnesota that enhance the quality of the supply of recyclable materials, create or expand the capacity to use recyclable materials in a manufacturing process, or increase the demand for recycled products.

Subp. 4. **Eligible costs.** Eligible costs are limited to 25 percent of the capital costs of the project and 75 percent of other project costs.

Subp. 5. **Maximum grant.** The maximum grant award is $100,000, unless the notice provided by the director under part 9210.0620, subpart 1, establishes a lesser maximum grant.

Subp. 6. **Proposal.** An eligible applicant shall submit a proposal in the form specified by the director. A proposal must include the following information:

A. the names, qualifications, and addresses of the applicant and other project participants, including other counties participating in the proposed project;

B. a description of the proposed project, including:

(1) a description of project activities and an implementation schedule;

(2) location of the project;

(3) type, quantity, and source of recyclable material and recycled products relevant to the project; and

(4) current status of the project;

C. information demonstrating that the project will comply with applicable regulations, including a list of permits required for the project;

D. an itemized description of the project costs, including the total estimated cost, total grant eligible cost, and the amount of grant funding requested;

E. an itemized description of project financing, including applicant contributions, other government contributions, private contributions, and, if applicable, any

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projected revenues from the project;

F. information demonstrating, where applicable, the technical feasibility of the project, including preliminary design and engineering plans;

G. information demonstrating, where applicable, how the applicant will secure the supply of and demand for recyclable material and recycled products; and

H. a resolution from each county participating in the project that demonstrates that, if a grant is awarded, it will implement the project, provide necessary local financing, and accept and exercise the governmental powers necessary to develop and operate the project.

The director may request additional information from the applicant if it is necessary to clarify and evaluate the proposal.

Subp. 7. **Evaluation of proposals.** The director shall evaluate each proposal that is determined to be eligible and complete. The director shall base this evaluation on the following factors:

A. the technical and economic feasibility of the proposed project;

B. the applicant's ability and intention to implement the proposed project in a timely manner upon receipt of a grant award;

C. the proposed project's compliance with federal, state, and local regulations;

D. the consistency of the proposed project with state market development priorities;

E. the extent to which the proposed project would benefit the market development efforts of more than one county;

F. the extent to which the applicant has achieved significant land disposal abatement through source separation of recyclable materials;

G. the extent to which the proposed project represents the highest end use for each recyclable material;

H. the extent to which the proposed project would use

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postconsumer material; and

I. the extent to which the proposed project provides information transferable to other persons throughout the state.

9210.0640 CAPITAL GRANT AND LOAN PROGRAM.

Subpart 1. **Scope.** This part establishes the conditions under which the director shall award recyclable material market development program grants and loans for capital investment projects.

Subp. 2. **Eligible applicants.** Eligible applicants are private organizations.

Subp. 3. **Eligible projects.** Eligible projects are projects in Minnesota that create or expand capacity to use recyclable materials as a feedstock in a manufacturing process or to transform recyclable materials into other usable products.

Subp. 4. **Eligible costs.** Eligible costs are limited to the capital costs of the proposed project.

Subp. 5. **Maximum grant.** A project may receive a grant for up to 25 percent of the total eligible costs of the project or $500,000, whichever is less, unless the notice provided by the director under part 9210.0620, subpart 1, establishes a lesser maximum grant.

Subp. 6. **Maximum loan.** A project may receive a loan for up to 50 percent of the total eligible costs of the project or $2,000,000, whichever is less, unless the notice provided by the director under part 9210.0620, subpart 1, establishes a lesser maximum loan.

Subp. 7. **Proposal.** An eligible applicant shall submit a proposal in the form specified by the director. A proposal must include the following information:

A. the names, qualifications, and addresses of the applicant and other project participants;

B. a description of the proposed project, including:

(1) a list of project activities and an implementation schedule;

(2) location of the project;

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(3) type, quantity, and source of recyclable material and recycled products relevant to the project; and

(4) current status of the project;

C. information demonstrating that the project will comply with applicable regulations, including a list of permits required for the project;

D. a financial report, including:

(1) a five-year business plan;

(2) an itemized description of the project costs, including the total estimated cost, total eligible cost, and the amount of grant or loan funding requested;

(3) an itemized description of project financing, including applicant contributions, other government contributions, private contributions, and projected revenues from the project;

(4) a credit history of the organization; and

(5) financial statements for the last three years;

E. information demonstrating the technical feasibility of the project, including preliminary design and engineering plans, if applicable; and

F. a market analysis for the proposed project, including information demonstrating that the applicant has secured the supply of and demand for recyclable material and recycled products necessary for sustained market development.

The director may request additional information from the applicant if it is necessary to clarify and evaluate the proposal.

Subp. 8. **Evaluation of proposals.** The director shall evaluate each proposal that is determined to be eligible and complete. The director shall base this evaluation on the following factors:

A. the technical and economic feasibility of the proposed project;

B. the applicant's financial capacity and managerial ability, and the applicant's intention to implement the project

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in a timely manner upon receipt of a grant or loan award;

C. the proposed project's compliance with federal, state, and local regulations;

D. the consistency of the proposed project with state market development priorities;

E. the extent to which the proposed project represents the highest end use for each recyclable material; and

F. the extent to which the proposed project would use postconsumer material.

9210.0645 DIRECTED RESEARCH AND FEASIBILITY STUDY GRANT PROGRAM.

Subpart 1. **Scope.** This part establishes the conditions under which the director shall award recyclable material market development program grants for directed research and feasibility study projects.

Subp. 2. **Eligible applicants.** Eligible applicants are research institutions and private organizations.

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

A. development of performance data on recycled products that are or could be manufactured in Minnesota;

B. feasibility studies for the development of manufacturing capacity to use recyclable materials from Minnesota as a feedstock; and

C. directed research on products that could be manufactured using recyclable materials from Minnesota as a feedstock or on manufacturing processes that could use recyclable materials from Minnesota as a feedstock.

Subp. 4. **Eligible costs.** Eligible costs for research institutions are limited to 100 percent of the project costs, including labor and supplies necessary to implement the project. Eligible costs for private organizations are limited to 50 percent of the project costs, including labor and supplies necessary to implement the project.

Subp. 5. **Maximum grant.** The maximum grant award is $100,000, unless the notice provided by the director under part

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9210.0620, subpart 1, establishes a lesser maximum grant.

Subp. 6. **Proposal.** An eligible applicant shall submit a proposal in the form specified by the director. A proposal must include the following information:

A. the names, qualifications, and addresses of the applicant and other project participants;

B. a description of the proposed project, including:

(1) a list of project activities and an implementation schedule;

(2) location of the project;

(3) type, quantity, and source of recyclable material and recycled products relevant to the project; and

(4) description or identification of persons that may benefit from project activities and results;

C. the projected economic viability of implementing project results;

D. an itemized description of the project costs, including the total estimated cost, total grant eligible cost, and the amount of grant funding requested; and

E. an itemized description of the project financing, including applicant contributions, other government contributions, and private contributions.

The director may request additional information from the applicant if it is necessary to clarify and evaluate the proposal.

Subp. 7. **Evaluation of proposals.** The director shall evaluate each proposal that is determined to be eligible and complete. The director shall base this evaluation on the following factors:

A. the technical and economic feasibility of the proposed project;

B. the applicant's ability and intention to implement the project in a timely manner upon receipt of a grant award;

C. the extent to which the proposed project promotes market development activities for recyclable materials and recycled products;

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D. the consistency of the proposed project with state market development priorities;

E. the extent to which the proposed project promotes the highest end use for each recyclable material;

F. the extent to which the proposed project promotes the use of postconsumer material; and

G. the extent to which the project provides information transferable to other organizations and the absence of available information in the proposed area of study.

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by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Recyclable Material Market Development Grant and Loan Programs

AGENCY: Office of Waste Management

MINNESOTA RULES: Chapter 9210

The attached rules are approved for publication in the State Register

Carla M. Riehle
Assistant Revisor

STATE OF MINNESOTA
OFFICE OF WASTE MANAGEMENT

In the Matter of the Proposed Rules Governing the Recyclable Material Market Development Grant and Loan Program, Minn. Rules Parts 9210.0600 to 9210.0645

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Notice is hereby given that the Minnesota Office of Waste Management (Office) intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in Minn. Stat. §§14.22 to 14.28 (1988). The Office's authority to adopt the rules is set forth in Minn. Stat. §115A.48, subd. 5 (d) (2nd 1989 Supp.).

All persons have until 4:30 p.m. on August 23, 1990, to submit comments in support of or in opposition to the proposed rules or any part or subpart of the proposed 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 proposed 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 Office will proceed pursuant to Minn. Stat. §§14.131 to 14.20 (1988).

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

Thomas Osdoba
Minnesota Office of Waste Management
1350 Energy Lane
St. Paul, Minnesota 55108
612-649-5773
1-800-652-9747 (Minnesota Toll-Free)

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

(11) The proposed rules, if adopted, will establish the criteria and procedures for awarding grants and loans under the Office's Recyclable Material Market Development Grant and Loan Program. One free copy of the proposed rules is available upon request from the address and telephone number stated above.

(12) A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from the Office upon request.

(14) You are hereby advised, pursuant to Minn. Stat. §14.115 (1988), "Small business considerations in rulemaking," that the proposed rules will have no negative effect on small businesses, as the rules do not limit the ability of small businesses to participate in this program.

(9) If no hearing is required, upon adoption of the rules, the rules 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 rules as adopted, must submit a written request to the name and address stated above.

Dated: 7-9-90

Michael Roberts

MICHAEL ROBERTSON
Director

The written examination fee in item B will be determined by the professional examination service approved by the Association for Marriage and Family Therapy Regulatory Boards administering the examination.

The initial license fee in item E will be prorated accordingly, depending on the month in which the applicant is approved for licensure.

Office of Waste Management

Proposed Permanent Rules Relating to Recyclable Material Market Development Grant and Loan Programs

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Office of Waste Management (Office) intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in *Minnesota Statutes* §§ 14.22 to 14.28 (1988). The Office's authority to adopt the rules is set forth in *Minnesota Statutes* § 115A.48, subd. 5 (d) (2nd 1989 Supp.).

All persons have until 4:30 p.m. on August 23, 1990, to submit comments in support of or in opposition to the proposed rules or any part or subpart of the proposed 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 proposed 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 Office will proceed pursuant to *Minnesota Statutes* §§ 14.131 to 14.20 (1988).

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

Thomas Osdoba
Minnesota Office of Waste Management
1350 Energy Lane
St. Paul, Minnesota 55108
612-649-5773
1-800-652-9747 (Minnesota Toll-Free)

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

The proposed rules, if adopted, will establish the criteria and procedures for awarding grants and loans under the Office's Recyclable Material Market Development Grant and Loan Program. The proposed rules are published below. One free copy of the proposed rules is available upon request from the address and telephone number stated above.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from the Office upon request.

You are hereby advised, pursuant to *Minnesota Statutes* § 14.115 (1988), "Small business considerations in rulemaking," that the proposed rules will have no negative effect on small businesses, as the rules do not limit the ability of small businesses to participate in this program.

If no hearing is required, upon adoption of the rules, the rules 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 rules as adopted, must submit a written request to the name and address stated above.

Michael Robertson
Director

Minnesota Office of Waste Management

Proposed Rules Governing Recyclable Material Market Development Grant and Loan Program,
Minn. Rules Parts 9210.0600 to 9210.0645

Notice of Extension of Public Comment Period

Notice is hereby given that the Minnesota Office of Waste Management (Office) is extending the public comment period for the proposed rules to govern the Recyclable Material Market Development Grant and Loan Program. A Notice of Intent to Adopt Rules Without a Public Hearing and the proposed rules were published in the State Register on July 23, 1990 (15 S.R. 184). All persons were informed that the Office will accept written comments on the proposed rules until 5:00 p.m., August 23, 1990. The Office is now extending the public comment period until 5:00 p.m., August 30, 1990. Comments or questions relating to the proposed rules should be directed to:

Thomas Osdoba
Minnesota Office of Waste Management
1350 Energy Lane
St. Paul, MN 55108
612-649-5773 or 1-800-652-9747 (Minnesota Toll-Free)

Michael Robertson
Director

Le Sueur County

SOLID WASTE OFFICE

Le Sueur County Courthouse
88 S. Park Avenue
LE CENTER, MN 56057-1620

July 27, 1990

RECEIVED
MN OFFICE OF
JUL 30 1990
WASTE MANAGEMENT

Thomas Osdoba
Solid Waste Grants
MN Office of Waste Management
1350 Energy Lane
St. Paul, MN 55108

RE: Proposed Rules Chapter 9210

Dear Mr. Osdoba:

I again want to thank you for providing me with copies of the Proposed Rules Parts 9210.600 to 9210.0645 and Parts 9210.700 to 9210.770. I have reviewed them and feel that in general, the rules appear to be functional.

I did, however, notice one problem in the Solid Waste Reduction Grant and Loan Program (9210.0700). In Sections 9210.0720, Subp. 2, A., (Proposals) and Subp. 5. A. (Evaluation of Proposal) reference is made to the information/criteria in "part 9210.0740, subpart 6." In the copy sent to me, there is not a Subpart 6, or 1-5, in the referenced Section 9210.0740.

I reading the Proposed Rules, and in light of the fact that the counties must, by legislative mandate, have programs running by October 1, 1990, and that it appears most likely that these Rules will not be finalized until after that date, there should be provision for paying expenses which qualify for funding retroactively.

Assume the two following:

> County A, looking at the state mandate to have the recycling programs up and running by the October 1, 1990 deadline, and not wanting to be in violation of the state laws, plans and implements programs for waste reduction and marketing. The County is not eligible for any additional funding through the SCORE grants and loan program because the Rules necessary for the distribution have not been completed. As a result, they expend all of the SCORE funds passed through the them plus a large amount of funds from the general revenue. The result, the county has no or reduces funds to accomplish other recycling programs that may not be eligible for funds, but are worth while.

Thomas Osdoba
Proposed Rules 9210
July 27, 1990

County B, looking at the state mandate, decides that they will wait until funds are available to assist them in developing their waste reduction and marketing programs. At the same time, they see what county A has accomplished, and decide to use the same programs, but, county B can now apply and receive funds under the grant and loan programs. The result, the county has additional funds to accomplish other recycling programs without the necessity of increasing taxes.

In looking at both counties, while county A followed the letter of the law, the affect has put them at a disadvantage with county B. While they both have the same programs, county B had help funding theirs, allowing them to do more without having to do what all county commissioners hate, raise taxes. On the other hand county A has had to raise taxes to continue their programs. For this reason, I feel that there should be some retro-active provision for certain expenses which were generated as a result of complying with the SCORE mandate, yet were incurred before the grant/loan programs were established.

If you have any questions, please feel free to contact me at (612) 357-2251 ext. 211.

Sincerely,

Bruce L. Jones

Bruce L. Jones
Solid Waste Officer

MINNESOTA
OFFICE
OF WASTE
MANAGEMENT

1350 Energy Lane
St. Paul, Minnesota 55108
(612) 649-5750
MN Toll Free
1-800-652-9747

September 5, 1990

Mr. Bruce L. Jones
Solid Waste Officer
LeSueur County Courthouse
88 S. Park Avenue
LeCenter, Minnesota 56057-1620

Dear Mr. Jones:

Thank you for your July 27 letter on the proposed rules governing the Minnesota Office of Waste Management's (OWM's) Solid Waste Reduction and Recyclable Material Market Development Grant and Loan Programs.

In response to your comment regarding a reference error in the rules governing the Solid Waste Reduction Grant and Loan Program, the following corrections have been made:

Minn. Rules pts. 9210.0720, subp. 2. Items A, B, and C are corrected to read:

A. Proposals for grants under part 9210.0750 shall contain the information in part 9210.0750, subpart 5.
B. Proposals for grants under part 9210.0760 shall contain the information in part 9210.0760, subpart 5.
C. Proposals for loans under part 9210.0770 shall contain the information in part 9210.0770, subpart 5.

Minn. Rules pts. 9210.0720, subp. 5. Items A, B, and C are corrected to read:

A. Proposals for grants under part 9210.0750 shall be evaluated using the criteria in part 9210.0750, subpart 6.
B. Proposals for grants under part 9210.0760 shall be evaluated using the criteria in part 9210.0760, subpart 6.
C. Proposals for grants under part 9210.0770 shall be evaluated using the criteria in part 9210.0770, subpart 6.

In your letter, you also urged the OWM to provide grant and loan funds retroactively for county projects. Although we understand your concern on this issue, the OWM cannot legally bind the State of Minnesota to pay for eligible expenses already incurred by a recipient prior to the making of a formal grant or loan agreement between the State and the recipient.

Celebrate
MINNESOTA 1990

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Equal Opportunity Employer

We hope this letter clarifies your concerns regarding the proposed rules. Please call us at 612-649-5750 if you have additional questions.

Sincerely,

Thomas A. Osdoba
Solid Waste Grants

Cristine Leavitt
Solid Waste Reduction

Enclosure

Saint Louis County

Health Department • 1001 E. 1st Street, Duluth, Minnesota 55805-2242 (218) 727-8661

Harold B. Leppink M.D., M.P.H.
Executive Officer

August 17, 1990

St. Louis County
AUG 20 1990
Attorneys Office

TO: Joan Christensen
Assistant County Attorney DMS

FROM: Dale Schroeder
Environmental Services Director

RE: **COMMENT ON PROPOSED OWM RECYCLING GRANT RULES**

I have reviewed the above rules and offer the following comment:

Part 9210.0600 Subpart 3 defines "highest end use" as the remanufacture or transformation of a recyclable material into a product most similar to the product from which the recyclable material was derived. Part 9210.0635 Subpart 7(G) then follows by requiring the Director to evaluate proposals according to, among other factors, the extent to which the proposed project represents the highest end use for each recyclable material.

Use of this "highest end use" concept appears to be unnecessary. First, I question whether it is "a simple standard commonly accepted in the industry" as the statement of need and reasonableness indicates. It is definitely not "simple" in that it requires the Director to make an arbitrary comparison e.g. is a project that recycles office paper into newspaper better than one that makes aluminum foil out of aluminum cans? Secondly, I doubt that it is "commonly accepted in the recycling industry." Recycling is market-driven and is directed at reducing the waste stream. "Highest end use", although a good concept, should not be used to eliminate other worthwhile projects. It would seem that other factors such as degree of permanence of the final product (using waste tires to make asphalt) or reducing reliance on natural resources (using recycled paper as a substitute for trees) may be more realistic as evaluation factors.

DS/ml

Recycled Paper

ALAN L. MITCHELL
ST. LOUIS COUNTY ATTORNEY
100 N. 5TH AVENUE W., #501
DULUTH, MINNESOTA 55802-1298
TELEPHONE (218)726-2323

RECEIVED
MN OFFICE OF
AUG 21 1990
WASTE MANAGEMENT

REPLY TO:
☐ 300 S. 5TH AVE., ROOM 222
VIRGINIA, MINNESOTA 55792-2666
TELEPHONE: (218)749-7101

☐ ROOM 107D, COURT HOUSE
1810 12TH AVE. E.
HIBBING, MINNESOTA 55746-1680
TELEPHONE: (218)262-4841

☐ ROOM 403, GOVERNMENT SERVICES CENTER
320 W. 2ND ST.
DULUTH, MINNESOTA 55802-1495
TELEPHONE: (218)726-2034

August 20, 1990

Mr. Thomas Osdoba
Minnesota Office of Waste Management
1350 Energy Lane
St. Paul, MN 55108

RE: Proposed Rules Governing the Recyclable Material Development Grant and Loan Program, Minn. Rules Parts 9210.0600 to 9210.0645

Dear Mr. Osdoba:

Pursuant to the Notice of Intent to Adopt Rules Without a Public Hearing, enclosed please find St. Louis County's comments to the above-referenced rules.

Very truly yours,

ST. LOUIS COUNTY ATTORNEY

BY: Joan M. Christensen
JOAN M. CHRISTENSEN
Assistant County Attorney

JMC/blm
Enc.
cc: Liz Prebich
Chairperson, St. Louis County
Board of Commissioners

MN. OFFICE OF WASTE MANAGEMENT
1350 Energy Lane, St. Paul, MN 55108

State of Minnesota
OFFICE MEMORANDUM

DATE: August 4, 1990

TO: Administrative Record

FROM: Thomas A. Osdoba TAO
Grants and Market Development Unit
Phone - 612-649-5773

SUBJECT: **Proposed Rules to Govern Recyclable Material Market Development Grant and Loan Program**

I. Purpose

This memo summarizes a comment received from the Minnesota Office of Waste Management's (OWM's) Market Development Coordinating Council (MDCC), which pertains to the proposed rules OWM's Recyclable Material Market Development Grant and Loan Program, which were published in the State Register for public comment on July 23, 1990.

II. Summary of Comment

Minnesota Rules, Part 9210.0600, subpart 3 should be revised to define "highest end use" as "the remanufacture or transformation of a recyclable material into a useful product."

cc: Kevin Johnson
Tim Nolan

STATE OF MINNESOTA
OFFICE OF WASTE MANAGEMENT

In the Matter of the Proposed Rules Governing the Recyclable Material Market Development Grant and Loan Program, Minn. Rules Parts 9210.0600 to 9210.0645

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES

(1) The above-entitled matter came for decision before the Director of the Minnesota Office of Waste Management (Office) on the 12th day of September, 1990. After affording all interested persons the opportunity to present written and oral data, statements and arguments to the Office, 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 Office, being fully advised in the premises, hereby adopts the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

(1) 1. Notice of the Minnesota Office of Waste Management's intent to adopt the above-entitled rules without a public hearing was published in the State Register on July 23, 1990, and was sent by mail to all persons on the list maintained by the Office pursuant to Minn. Stat., §§14.14, subd. 1a and 14.22 (1988), on July 20, 1990.

(2) 2. The Statement of Need and Reasonableness was prepared prior to publication and mailing of the notice. However, it was not signed until July 26, 1990. (The typed date on the back of the Statement of Need and Reasonableness is in error.)

3. In order to provide a thirty-day comment period after the Statement of Need and Reasonableness was signed, the comment period was extended until August 30, 1990. Notice of extension of the comment period was published in the State Register on August 13, 1990, and was sent to all persons who requested copies of the rules or Statement of Need and Reasonableness. Thus, all persons were given the opportunity to submit comments on the rule for 37 days after July 23, 1990, notice of proposed rulemaking. The 37-day comment period expired on August 30, 1990.

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

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

6. During the comment period the Office received three comments. The Office responded by letter to one of the comments, a July 27 letter from Bruce L. Jones. A copy of the comment and Office's response are incorporated as part of these Findings of Fact.

7. The second comment, an August 17 letter from Joan M. Christensen, and the third comment, an oral comment from the Market Development Coordinating Council set forth in an August 4 memorandum to file, are the basis for the following modifications to the proposed rules:

a. Part 9210.0610, subpart 3 is deleted for clarity. This modification reduces the potential for confusion among members of the recycling community. The commenters believed that the proposed definition of "highest end use" was excessively narrow. This modification is reasonable because it provides manufacturers that use

recyclable materials with greater flexibility to develop processes that maximize the use of recyclable materials. This modification is not substantive because it continues to promote program objectives without a negative impact on the procedures or parties involved in the program.

b. Part 9210.0615 is revised to replace "represent the highest end use for each recyclable material" with "conserve resources." This modification is reasonable because it replaces a confusing phrase with one that is clear and accepted within the recycling community.

c. Parts 9210.0635, subpart 7 (G), 9210.0640, subpart 8 (E), and 9210.0645, subpart 7 (E) are deleted for consistency to reflect the deletion of the "highest end use" definition. To the extent this criterion was applicable, it overlapped with another criterion set forth in the proposed rules, Parts 9210.0635, subpart 7 (D), 9210.0640, subpart 8 (D), and 9210.0645, subpart 7 (D), respectively. The Office believes this modification is reasonable because it removes redundancy and thereby avoids confusion as to the meaning of the rules. This modification is not substantial because it does not change the program.

8. The Office adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the proposed rules. The Office hereby incorporates the Statement of Need and Reasonableness into these findings, except as modified in Finding No. 7 above.

(8) 9. The above-captioned rule is needed and reasonable.

CONCLUSIONS

1. The Minnesota Office of Waste Management duly acquired and has jurisdiction over this proceeding.

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

3. The Office has complied with all relevant legal and procedural requirements of statute and rule.

4. The modification to the proposed rules is supported by the record and does not result in a substantial change in the proposed rules.

ORDER

NOW, THEREFORE, IT IS ORDERED, that the attached Minnesota Rules parts 9210.0600 to 9210.0645, governing the Recyclable Material Market Development Grant and Loan Program are adopted pursuant to the authority vested in the Minnesota Office of Waste Management by Minn. Stat., section 115A.48 (1990).

(9)

MINNESOTA OFFICE OF WASTE MANAGEMENT

Dated: 9/12/90

Michael Robertson
Director

STATE OF MINNESOTA
OFFICE OF WASTE MANAGEMENT

In the Matter of the Proposed Rules Governing the Recyclable Material Market Development Grant and Loan Program, Minn. Rules Parts 9210.0600 to 9210.0645

DECLARATION OF COUNSEL

DECLARATION OF COUNSEL

I, Lisa Tiegel, 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 Procedures Act and Minnesota Rules ch. 2010 have been followed. For Attorney General billing purposes, the four-digit docket client code is 0835

Lisa Tiegel
Special Assistant
Attorney General

STATE OF MINNESOTA
OFFICE OF WASTE MANAGEMENT

In the Matter of the Proposed Rules Governing the Recyclable Material Market Development Grant and Loan Program, Minn. Rules Parts 9210.0600 to 9210.0645

AFFIDAVIT REGARDING NOTICE OF SUBMISSION OF RULES ADOPTED WITHOUT A PUBLIC HEARING TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Thomas Osdoba, being duly sworn says:

I hereby certify that no persons or associations have requested notice that the rules in the above-entitled matter have been submitted to the Attorney General. Therefore, the Minnesota Office of Waste Management is not mailing a Notice of Submission of Rules Adopted Without a Public Hearing to the Attorney General.

Thomas A. Osdoba

Subscribed and sworn to before me
this 13th day of September, 1990.

June J. Seery
Notary Public

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