

Minnesota Attorney General: Administrative Rules Proceedings

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RULE REVIEW CHECKLIST

File No. 1770
DATE RECEIVED 12-11-90
REVIEW DATE 12-20-90
DUE DATE 12-25-90
(DIS)APPROVED 12-20-90
WITHDRAWN

Docket No. 05.0009.0838
ADOPTED W/O HEARING
EMERGENCY RULE
TO REVISOR ON 12-13-90
REVISOR (DIS)APPROVED 12-19-90
FILED W/SEC. OF STATE 12-21-90
RETURNED TO AGENCY

✓ Rule as adopted (4 copies)

Notice to Solicit Outside Information/Opinion (if applicable)
___ Date published in State Register
___ Comments

Petition for Adoption of a Rule

✓ Board's Authorizing Resolution
August 28, 1990 Date adopted

✓ Proposed Rule
✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
~~September 24, 1990~~ Statutory Authority 115A.914
___ Small Business Statement
___ Expenditure of public money statement
___ Signature

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

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
September 21, 1990 Dated 30/25 days before adoption
___ Notice attached indicates it is attached
undated Copy of rule or summary attached

✓ Publication in State Register
September 24, 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
November 27, 1990 Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
November 27, 1990 Date

~~Written Requests, Submissions or Comments~~

✓ Declaration of Attorney
Ann Cohen Name of SAAG representing agency

Notice of Submission to Attorney General (if applicable)

Affidavit of Mailing Notice to Attorney General (if

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Grants and Loans for Waste Tire Processing

AGENCY: Pollution Control Agency

MINNESOTA RULES: Chapter 9220

The attached rules are approved for publication in the State Register

Carla M. Riehle
Assistant Revisor

Pollution Control Agency

Proposed Permanent Rules Relating to Grants and Loans for Waste Tire Processing

Rules as Proposed

9220.0800 DEFINITIONS.

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

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

Subp. 3. ~~Chair~~ **Commissioner.** "~~Chair~~ Commissioner" means the ~~chair-and-chief-executive-officer-of-the-board~~ commissioner of the agency or staff designated by the commissioner.

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

Subp. 4a. **Manufacturing process.** "Manufacturing process" means a process that uses the resources contained in waste tires to create a new rubber-based product. Manufacturing process does not include the recovery of energy from waste tires or the use of waste tire shreds for their physical properties.

Subp. 5. **Waste tire ~~recycling-business~~ processing.** "Waste tire ~~recycling-business~~ processing" means ~~a-business-engaged-in~~ methods used to recover resources or energy from waste tires, including cleaning, reducing, or other actions taken to prepare waste tires for recovery ~~or-resource-recovery-from-waste-tires~~ of resources or energy.

Subp. 6. [See Repealer.]

Subp. 7. **Waste tire project.** "Waste tire project" means the waste tire processing operation or manufacturing process that is proposed to be developed using funds provided by the agency.

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Subp. 8. **Tire-derived product.** "Tire-derived product" means the usable materials produced from the chemical or physical processing of a waste tire.

9220.0805 SCOPE.

Parts 9220.0800 to 9220.0835 implement the waste tire ~~recycling~~ processing grant and loan program created in Minnesota Statutes ~~1987 Supplement~~, section ~~116.55~~ 115A.913 by establishing the substantive criteria and procedural conditions under which the ~~board~~ agency may award grants for waste tire ~~recycling project~~ processing studies and loans for waste tire ~~recycling projects~~ processing.

9220.0810 GRANTS.

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

Subp. 2. **Eligible studies.** Grant funds are available to pay costs associated with studies necessary to demonstrate the technical and economic feasibility of:

A. ~~a~~ waste tire ~~recycling project~~ processing methods; or

B. the use of tire-derived products in a manufacturing process.

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

A. the salary of employees or the cost of a consultant employed to research and analyze the technical and economic feasibility of the waste tire ~~recycling project~~ processing or use of tire-derived products in a manufacturing process that is the subject of the study;

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

C. the cost of in-state travel, provided that the ~~primary~~ purpose of ~~which~~ the travel is to gather information needed for the study, ~~in no greater amount than provided in~~ and the costs incurred do not exceed travel expenses paid to state

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employees under the current commissioner's plan adopted by the commissioner of employee relations under Minnesota Statutes, section 43A.18, subdivision 2; and

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

Subp. 4. **Ineligible costs.** The cost of overhead and the cost of developing the grant application submitted to the ~~board~~ agency are not eligible for funding. Only costs incurred after the effective date of the grant agreement required under part 9220.0820 are eligible for funding.

9220.0815 CONTENT, REVIEW, AND EVALUATION OF GRANT APPLICATION.

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

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

B. a description of the waste tire ~~recycling project~~ processing method or use of tire-derived products in a manufacturing process that will be the subject of the study;

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

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

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

F. the total grant funding requested; and

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

Subp. 2. **Determination of eligibility and completeness.** Upon receipt of an application, the ~~chair or a designee~~ commissioner shall determine the eligibility of the

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applicant, the eligibility of the costs identified in the application, the eligibility of the study described in the application, and the completeness of the application. ~~Applicants are encouraged to contact the chair and request a preapplication review of the proposed study.~~

Subp. 3. **Notice of determination of eligibility and completeness.** ~~Within 14 days~~ After receiving the application, the ~~chair~~ commissioner shall notify the applicant of the ~~chair's~~ commissioner's determinations of eligibility and completeness. If the ~~chair~~ commissioner determines that the applicant or the study is ineligible, the ~~chair~~ commissioner shall reject the application, return it to the applicant, and notify the applicant of the reasons for the rejection. If the ~~chair~~ commissioner determines that any part of the study costs is ineligible or that the application is incomplete, the ~~chair~~ commissioner shall notify the applicant of the ineligible portion of the costs or of the deficiency. The applicant has ~~14~~ 60 days after receiving the notice to correct any inadequacies identified by the ~~chair~~ commissioner. If the inadequacies are corrected within the time allowed, the application will be evaluated by the ~~chair~~ commissioner and sent to the ~~board~~ agency for ~~decision~~ approval.

Subp. 4. **~~Board~~ Agency approval.** The ~~board~~ agency shall ~~approve applications and~~ award grants for studies ~~of the technical and economic feasibility of waste tire recycling~~ projects that will result in the generation of information ~~to~~ that will aid the state in developing waste tire ~~recycling alternatives~~ processing methods or uses for tire-derived products in manufacturing processes. The ~~board~~ agency shall give priority to studies that are unlikely to be undertaken without state assistance, or that could lead directly to development of new waste tire ~~recycling capacity~~ processing methods needed in the state or development of a new or expanded use of tire-derived products in a manufacturing process.

9220.0820 GRANT LIMITATIONS; AGREEMENT.

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

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

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

(1) a detailed analysis of the technical and economic feasibility of the waste tire ~~recycling project~~ processing method or manufacturing process that is the subject of the study, including an estimate of the net operating revenue, if any, to be generated by the waste tire ~~recycling project~~ processing method or manufacturing process studied if it ~~was~~ were developed, considering the availability of waste ~~tire supplies~~ tires or demand for tire-derived products and markets for ~~recovered resources from the project~~ products;

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

(3) an analysis of the impact that the waste tire ~~recycling project~~ processing method or manufacturing process studied would have on existing waste tire ~~recycling~~ processing or tire-derived product uses if the ~~project was~~ methods were developed; and

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

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B. provide for staged disbursement of funds as documentation of costs incurred is received from the grant recipient, and for retainage of 15 percent of the funds until the final report is submitted and determined by the ~~chair~~ commissioner to be ~~adequate~~ satisfactory; and

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

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

9220.0825 LOANS.

Subpart 1. **Eligible applicants.** Individuals, partnerships, corporations, municipalities, counties, and associations are eligible for waste tire processing loans if they are engaged ~~in-a-waste-tire-recycling-business,~~ or intending to become engaged in a waste tire ~~recycling~~ processing business~~,-are-eligible-for-waste-tire-recycling-loans~~ or a business that uses tire-derived products in a manufacturing process.

Subp. 2. **Eligible costs.** Loan funds are available to pay costs incurred for capital improvements associated with the ~~development-of-the~~ construction or betterment of a waste tire ~~recycling~~ project, including the cost of land and building acquisition or construction and the cost of equipment purchase and installation. Loan funds are also available for the capital cost of equipment needed to transport waste tires to a waste tire processing facility. Only costs incurred after the loan agreement required under part 9220.0835 has been executed are eligible for funding.

9220.0830 CONTENT, REVIEW, AND EVALUATION OF LOAN APPLICATION.

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

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

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applicant and project manager;

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

C. the total capital cost of the project;

D. the total ~~grant~~ loan eligible cost of the project;

E. the amount of the loan requested; and

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

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

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

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

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

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

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

(3) a description of the method of project facility ~~or~~ development, including equipment procurement;

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

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

(6) an analysis of the quantity and source of the waste tires or tire-derived product that will be processed or that will be used in a manufacturing process.

~~B~~ C. A financial plan that contains:

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

(2) annual operating and maintenance costs;

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

(4) projected tipping fees; and

(5) ~~copies of~~ proposed contracts for the sale of ~~project~~ products that could be produced by the waste tire project. Contracts must specify ~~quantities sold~~ quantity, price per unit ~~sold~~, and the life of the contract ~~and a marketing plan for the waste tire recycling business proposed~~.

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

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

Subp. 4. **Notice of determination of eligibility and completeness.** ~~Within 14 days~~ After receiving the application, the ~~chair~~ commissioner shall notify the applicant of the ~~chair's~~ commissioner's determinations of eligibility and completeness.

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If the ~~chair~~ commissioner determines that the applicant or the project is ineligible, the ~~chair~~ commissioner shall reject the application, return it to the applicant, and notify the applicant of the reasons for the rejection. If the ~~chair~~ commissioner determines that any part of the project ~~costs~~ cost is ineligible or that the application is incomplete, the ~~chair~~ commissioner shall notify the applicant of the ineligible portion of the costs or of the deficiency. The applicant has ~~14~~ 60 days after receiving the notice to correct any inadequacies identified by the ~~chair~~ commissioner. If the inadequacies are corrected within the time allowed, the application will be evaluated by the ~~chair~~ commissioner and sent to the ~~board~~ agency for decision.

Subp. 5. ~~Board~~ Agency approval. The ~~board~~ agency shall approve applications and award loans ~~for-development-or-improvement-of-waste-tire-recycling-facilities-that-will-aid-the-state-in~~ that will result in the development of waste tire processing or uses for tire-derived products in a manufacturing process. If available funds are not adequate to fund all applications before the agency, the agency shall give priority to those applications that would aid the agency in fulfilling waste tire management objectives, such as development of a facility in an area where processing capacity is needed. The agency shall also give priority ~~must-be-given~~ to ~~projects-that-best-meet-the-waste-management-objectives-established-in-Minnesota-Statutes,-section-115A.02~~ applications proposing the development of facilities to recycle material from waste tires. No loan may be ~~approved~~ awarded unless the ~~board~~ agency finds that the proposed project has ~~been-certified-as-technically-feasible-by-the-chair-and-that-the~~ operating revenues that will be sufficient to ensure full repayment of the loan, including interest.

9220.0835 LOAN LIMITATIONS.

Subpart 1. ~~Loan~~ amount. The maximum ~~waste-tire-recycling~~ loan is 90 percent of the eligible capital costs of the project

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or $1,500,000, whichever is less. The agency shall award a loan amount based on what is necessary to facilitate development of a project and shall consider available program funds and the needs of other applicants when determining the loan amount.

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

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

~~A. incorporate by reference the final application submitted to the board under part 9220.0030;~~

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

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

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

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

~~F~~ E. require that the recipient provide periodic reports to the **board** agency on the developmental and operational history of the project so that knowledge and experience

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gained ~~from-the-project~~ may be made available to other ~~communities~~ businesses in the state.

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

REPEALER. Minnesota Rules, parts 9220.0800, subpart 6, is repealed.

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Attachment 2

STATE OF MINNESOTA

POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendments to Rules Governing the Waste Tire Recycling Grant and Loan Program, Minn. Rules pts. 9220.0800-.0835.

STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION

In 1984, the legislature created a program to encourage the development of waste tire recycling projects in the state. Through the then Department of Energy and Economic Development (now Department of Trade and Economic Development), grants were made available for the study of waste tire recycling projects and low-interest loans were made available to implement such projects. In 1987, this program was transferred by Reorganization Order to the Waste Management Board, which adopted Minn. Rules pts. 9220.0800-.0835 to govern its administration. In 1988, the legislature amended the program authority and recodified that authority into Minn. Stat. § 115A.913, subd. 1 (1988). Minn. Stat. § 115A.913, subd. 1 (1988) provides:

> (a) The [agency] may make loans to waste tire processing businesses for the capital costs of land, buildings, equipment, and other capital improvements needed for the construction or betterment of waste tire processing facilities, and for the capital cost of equipment needed to transport waste tires to a waste tire processing facility. The board may also make loans to businesses that use waste tire derived products in manufacturing processes, for the capital costs of land, buildings, and equipment used in the manufacturing process.
>
> (b) The [agency] may make grants for studies necessary to demonstrate the technical and economic feasibility of a proposed waste tire processing project, or of a proposed use for waste tire derived products in a manufacturing process. A grant may not exceed $30,000, and may not exceed 75 percent of the costs of a study.

In 1988, this program was again transferred by Reorganization Order to the Minnesota Pollution Control Agency (MPCA). See Exhibit 1.

II. STATEMENT OF AGENCY'S STATUTORY AUTHORITY

Minn. Stat. § 115A.914, subd. 2 (1988) provides:

> The [agency] shall adopt rules for administration of waste tire collector and processor permits, waste tire nuisance abatement, and waste tire collection.

Although it is likely that the legislature intended that this rulemaking authority extend to all aspects of the waste tire management program, it is not clear from the language that the rulemaking authority extends to the grant and loan program of Minn. Stat. § 115A.913, subd. 1 (1988). However, procedures will be needed to govern administration of this program, to ensure that grants and loans are made in an orderly fashion. Minn. Stat. § 14.06 (1988) provides:

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

Under this statute, the MPCA has the duty to adopt rules if it intends to follow regular procedures in the administration of this program. See Minnesota-Dakotas Retail Hardware Association v. State, 279 N.W.2d 360 (Minn. 1979). The authority to adopt such rules is implied, as is the authority to amend the existing rules.

III. STATEMENT OF NEED

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

The need for the rule and the current amendment is discussed below.

In 1984, the legislature banned the land disposal of waste tires. Minn. Stat. § 115A.904 (1988). This action created a need for the development of waste tire processing in the state. The legislature created the grant and loan program that is the subject of this rulemaking to create incentives for the private sector to meet the waste tire processing needs of the state. The program requires rules for its orderly administration. Recent legislative changes require amendments to the existing rule to ensure that the rule remains consistent with the legislative authority.

IV. STATEMENT OF REASONABLENESS

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

A. Reasonableness of the Amendments as a Whole.

The proposed amendments generally seek to incorporate changes made to the statutory authority for this program in 1988, and to reflect the fact that the MPCA is now charged with administration of the program. This is reasonable to ensure consistency between the statutory authority and the rule interpreting it, and to ensure that applicants are not confused.

B. Reasonableness of Individual Amendments.

Part 9220.0800

Subparts 2 and 3 of this part have been changed to reflect the fact that the program is now administered by the agency. This is reasonable to avoid confusion on the part of the applicants.

Subpart 4 of this part has been been amended to remove "or joint efforts by more than one local government unit." This change was made because "joint efforts by government units" are methods of securing the waste supply, and thus it is redundant to include the reference to government units in the definition.

Subpart 4a adds a definition of "manufacturing process." This definition is needed to reflect a change in the statutory authority for the program, which now allows loans to be made to business that use tire derived products in manufacturing processes. The definition is reasonable because it is clear, consistent with legislative intent, and will aid in interpretation of the rule. In Minn. Stat. § 115A.02, the legislature has indicated that it favors recovery of resources over recovery of energy.

Subpart 5 is amended to reflect statutory change. Under the current statutory authority, loans may be made to waste tire processing businesses. This is reasonable to ensure consistency between the rule and the statute. The definition clarifies that certain pre-processing activities, such as cleaning, qualify as processing.

Subpart 6 is deleted. This change is made because the definition of waste tire processing facility is redundant with the new definition of project.

Subpart 7 defines project. This word is used in the rule to describe the facility, equipment, etc. that the applicant is seeking funding for. This definition is reasonable because it will simplify and clarify the rule.

Subpart 8 adds a definition of tire derived product. This definition is needed to reflect statutory changes, which authorized loans for businesses that use tire derived products in manufacturing processes. This definition is reasonable because it is consistent with other rules governing waste tire management, and is clear and easy to apply.

Part 9220.0805

Changes to this part reflect statutory changes and the change in administering agency, and are therefore reasonable.

Part 9220.0810

Subpart 1 of this part is amended to include municipalities to the list of eligible applicants for grants. This is reasonable because some municipalities have expressed interest in waste tire processing, and because the statute does not restrict eligible applicants for grants in any way.

Subpart 2 of this part is amended to reflect statutory changes and therefore reasonable.

Subpart 3 of this part is amended to reflect statutory changes and to clarify language from the existing rule. Because the changes reflect statutory amendments or clarity language, they are reasonable.

Subpart 4 of this part is amended to emphasize that funding of costs incurred before a finalized grant agreement is not allowed. This amendment is reasonable because it will clarify the fact that applicants cannot expend sums of money in anticipation of receiving a grant which is not awarded.

Part 9220.0815

Subpart 1 is amended to simplify the language by removing a redundancy, and to reflect statutory changes. Because this change will make rule easier to understand and apply, it is reasonable.

Subpart 2 is amended to reflect the change in program administration and to remove language suggesting that applicants contact the MPCA for preapplication review. This is reasonable because, in practice, applications are amended during the process of review and preapplication review is not necessary.

Subpart 3 is amended to reflect the change in program administration and to change the time requirements. The changes in time requirements are reasonable

because experience with the program has shown that the applications demand additional time to review for eligibility and completeness, and because experience has demonstrated that applicants need additional time to address any problems discovered.

Subpart 4 is amended to reflect the change in program administration, statutory changes, and to remove redundant language. Because these changes will make the rule easier to understand and apply, they are reasonable.

Part 9220.0820

The change to subpart 1 of this section clarifies that the MPCA will only pay for costs incurred after the execution of a grant agreement. This is reasonable because it ensures that applicants will not pressure the MPCA into making a grant by expending large sums in anticipation of receiving the grant.

Subpart 2 of this part is amended to reflect statutory changes, and clearly specifies that 15 percent of the grant amount must be retained in anticipation of receipt of a satisfactory final report. Although this retainage amount is higher than other MPCA programs which retain funds, MPCA staff believe it is justified based on our experience with potential grant applicants in the field of waste tire recycling. This is reasonable to remove uncertainty regarding the terms of payment. This part has also been amended to remove the requirement that the grant incorporate by reference the final grant application. This is reasonable because in practice it has proven easier to restate the purpose of the study, rather than to rely on the description provided in the application.

9220.0825

Subpart 1 of this part is amended to clarify the language and reflect statutory change expanding the eligibility for loans to businesses that use tire derived products in manufacturing processes. The amendment also clarifies that local governmental units are eligible for loans under this program. In the past, local government units seeking to enter the waste tire processing business

have received loans, but their authority to do so has not been clear. Because solid waste management project often depends upon successful public private partnerships, extending eligibility to local governmental units will promote the goals of the waste tire management program, and the amendment is reasonable.

Subpart 2 of this part is amended to reflect statutory changes expanding eligible costs (construction or betterment, manufacturing processes, transport equipment), and to make clear that only costs incurred after the execution of the loan agreement are eligible. This latter amendment is reasonable because it ensures that applicants will not pressure the MPCA into making a loan by expending large sums in anticipation of receiving the loan.

9220.0830

Subpart 1 of this part is amended to reflect statutory changes. Because these changes will make the rule easier to understand and apply, they are reasonable. The rule is also amended to correct an erroneous reference to "grant" eligible cost.

Subpart 2 of this part is amended to correct an erroneous reference to "Dunn" and Brandstreet, and to reflect the eligibility of local governmental units, which are required to submit a resolution pledging their full faith and credit toward the repayment of the loan in lieu of credit rating information. This requirement is reasonable because local units of government do not have credit ratings, and should always be able to repay a loan through raising revenues. This subpart is also amended to delete the requirement that the MPCA Commissioner certify the technical feasibility of projects. This change is reasonable because it reflects legislative removal of this requirement. This subpart is also amended to clarify confusing language and to reflect the fact that the program is now administered by the MPCA. These changes are reasonable because they will make the rule easier to read and understand.

Subpart 3 of this part is amended to reflect the change in program administration, and to clarify what the commissioner will consider in making a preliminary decision to process the application. Because eligibility is described in terms of costs and not projects, it was reasonable to remove the requirement that the commissioner consider the eligibility of projects.

Subpart 4 of this part is amended to reflect the change in program administration. Because this change will make the rule easier to understand and apply, it is reasonable.

Subpart 5 of this part is amended to reflect the change in program administration, and to clarify the standards that will be applied when prioritizing loan applications. The standards established in the amendment are reasonable because they will allow the MPCA to distribute program funds to areas of the state where they are needed, and to prioritize projects that promote recycling of resources, such as tire derived fuels or tire derived products used for their physical properties only. These priorities are reasonable because they are consistent with the priorities of the Waste Management Act, Minn. Stat. § 115A.02 (Supp. 1989). Subpart 5 is also amended to reflect the repeal of the statutory requirement that the MPCA "certify" the technical feasibility of projects.

Part 9220.0835

Subpart 1 of this part is amended to reflect statutory changes. Because this change will make the rule easier to understand and apply, it is reasonable. Subpart 1 is also amended to allow the MPCA to award a loan based on need for the funds. This clarifies that the MPCA has the power to reduce a loan from the

amount requested by the applicant. These changes are reasonable because they ensure the the program funds will be spent for the greatest benefit.

Subpart 2 of this part is amended to reflect statutory changes and to clarify when the loan repayment schedule becomes effective. It is reasonable to make the interest due from the effective date of the grant agreement, to avoid having to have many schedules for repayment based on date of disbursement.

Subpart 3 of this part is amended to reflect statutory changes and the change in program administration, to clarify language and to remove a provision that the loan agreement incorporates the final application. This change is reasonable because in practice the application is a "working document" and is not an effective means of clearly stating what will be funded and built. The project and the anticipated costs will instead be separately and specifically described.

Subpart 4 of this part is amended to clarify language, reflect statutory changes, and reflect the change in program administration. Referring to an "amendment" as opposed to a "variance" is reasonable because a variance is a term of art generally applied to creation of exceptions to rules, and this is not what was intended. Because these changes will make the rule easier to understand and apply, they are reasonable.

V. SMALL BUSINESS CONSIDERATIONS IN RULEMAKING

Minn. Stat. § 114.115. subd. 2 (1988) require the MPCA, when proposing rules which may affect small businesses, to consider the various methods for reducing the impact on small businesses. The MPCA finds that the amendments proposed in this rulemaking will not have any negative effect on small businesses, but will instead clarify and expand rules governing a program intended to help small businesses seeking to obtain funding for waste tire processing projects.

VI. CONSIDERATION OF ECONOMIC FACTORS

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

In proposing these amendments, the MPCA is seeking to clarify and expand a rule which will have a beneficial effect on commerce, trade and industry by making that rule consistent with statutory authority and by simplifying its provisions.

VII. CONCLUSION

Based on the foregoing, the proposed amendments Minn. Rules pts. 9220.0800-.0830 are both needed and reasonable.

Dated: August 16, 1990

Barbara Lindsey Sims
for Gerald L. Willet
Commissioner

CERTIFICATE OF AGENCY'S AUTHORIZATION RESOLUTION

I, Gerald L. Willet, do hereby certify that I am the Commissioner of the Minnesota Pollution Control Agency, an agency duly authorized under the laws of the state of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Minnesota Pollution Control Agency duly and properly called and held on the 28th day of August, 1990, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified:

BE IT RESOLVED, That the Commissioner of the Minnesota Pollution Control Agency is hereby granted the authority to sign and to give notice of the Minnesota Pollution Control Agency's intent to adopt, without a public hearing, the attached rules, Minn. Rules pts. 9220.0800 to 9220.0835 to all persons who have registered their names with the Minnesota Pollution Control Agency for that purpose and to publish the notice and the rules in the State Register, and to perform any acts incidental thereto, including making any form changes in the rules that the Revisor of Statutes requires the Minnesota Pollution Control Agency to make in order to obtain the Revisor's certification as required by Minn. Stat. § 14.07, subd. 2 (1988).

BE IT FURTHER RESOLVED, that in the event a public hearing becomes necessary, the Commissioner is hereby granted the authority and directed to call a hearing for the purpose of promulgating said rules as well as to perform any and all acts incidental thereto, including but not limited to signing an Order and Notice for Hearing, as well as acting as the Minnesota Pollution Control Agency's representative at all hearings.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 28 day of August, 1990

Gerald L. Willet

GERALD L. WILLET
Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Rules Governing Grants and Loans for Waste Tire Processing, Minn. Rules Parts 9220.0800 - .0835

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

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Thomas C. Newman, being duly sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minn. Stat. $$ 14.14, subd. 1a and 14.22 (1986), that their names be placed on the Minnesota Pollution Control Agency's rulemaking mailing list is accurate, complete, and current as of this 21 day of September, 1990.

That on the 21 day of September, 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 or in the United States mail for a first class mailing a copy thereof, with postage prepaid, to all persons and associations on the aforementioned list.

Thomas C. Newman

Subscribed and sworn to before me this 21st day of September 1990.

JOANNE C. JOHNSON
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Commission Expires FEB. 20, 1995

Joanne C. Johnson
Notary Public

Hearings List

Jill Wright
Black & Veatch Engineers
Suite 1240
600 Renaissance Center
Detroit, MI 48243

00019

A. L. Ochs
Braun Environmental Labs
6800 South County Road 18
Post Office Box 35108
Minneapolis, MN 55435-0108

00024

0003
Citizens For a Better Environment
3255 Hennepin Avenue South
Minneapolis, MN 55408

P. D. Brick
Manager Government Relations
Cleveland-Cliffs Incorporated
1100 Superior Avenue
Cleveland, OH 44114

00041

M. J. Duffy
Director
Community Health Services Board
Suite 604
325 Lake Avenue South
Duluth, MN 55802

00042

G. L. Dirks
Manager of Plant Services
Cornelius Company
1 Cornelius Place Highway 10 West
Anoka, MN 55303

0004

T. Lahti
Safety Adminstrator
DNR Bureau Of Field Services
500 Lafayette Road
Box 16
Saint Paul, MN 55155-4016

00061

M. R. Kaster
Dorsey & Whitney Law Firm
2200 1st Bank Place East
Minneapolis, MN 55402

00065

John E. Drawz
1500 Northland Plaza Building
3800 West 80th Street
Minneapolis, MN 55431

0006

Hild Sandstede
Greenpeace
2637 Nicollet Avenue South
Minneapolis, MN 55408

00107

Ellsworth Harpole
727 15th Avenue South East #30
Minneapolis, MN 55414

00110

Patricia Leonard-Mayer
Harstad & Rainbow
268 Cecelia Place
St. Paul, MN 55105

0011

Dr. J. William Haun, PE
6912 East Fish Lake Road
Maple Grove, MN 55369

00113

Harold J. Soderberg
Hessian Mckasy & Soderberg
4700 IDS Center
Minneapolis, MN 55402

00119

Dr. R. Danford
International Research & Eval
21098 Ire Control Center
Eagan, MN 55121

0012

Jay M. Heffern
Metropolitan Council
Mears Park Centre
230 East Fifth Street
Saint Paul, MN 55101

00161

Karen Studders Lampert
Minnegasco Incorporated
Post Office Box 1165
700 West Linden Avenue
Minneapolis, MN 55440-1165

00166

M. J. Ahern
Moss & Barnett
90 South 7th Street #4800
Minneapolis, MN 55402-4129

0018

Dr. Michael Lee
Research Director
MPIRG
2512 Delaware Street South East
Minneapolis, MN 55414

00183

Rebecca Flood
Metropolitan Waste Control Commission
Mears Park Centre
230 East Fifth Street
Saint Paul, MN 55101

00187

M. D. Thompson
General Counsel
Metropolitan Waste Control Commissi
Mears Park Centre
230 East Fifth Street
Saint Paul, MN 55101

0018

Reid A. Miner
NCASI
Western Michigan University
Kalamazoo, MI 49008

00194

G. Crocker
North American Water Office
Post Office Box 174
Lake Elmo, MN 55042-0174

00203

Charles B. Hoffman
Pickands Mather & Company
Suite 811
200 West Superior Street
Duluth, MN 55802

0021

Robert S. Burk
Popham-Haik Law Firm
3300 Piper Jaffray Tower
222 South 9th Street
Minneapolis, MN 55402

00222

G. Robert Johnson
Popham-Haik Law Firm
3300 Piper Jaffray Tower
222 South 9th Street
Minneapolis, MN 55402

00223

Archie D. Chelseth
Potlatch Corporation
Box 510
207 Avenue C
Cloquet, MN 55720

0022

J. Pumarlo
Editor
Red Wing Republican Eagle
Red Wing, MN 55066

00234

W. W. Judkins
Director of Physical Development
Region Nine Development Commission
Post Office Box 3367
410 South 5th Street
Mankato, MN 56001

00236

David B. Miller
Sheldahl Incorporated
Post Office Box 170
North Highway 3
Northfield, MN 55057

0025

Russ Polansky
Saint Paul Fire Department
100 East Eleventh Street
Saint Paul, MN 55101
00287

Ross L. Ohman
Vice-President
MECC
3901 University Avenue Northeast
Minneapolis, MN 55421
00288

Stephanie Schwartz
Senator Leroy Stumpf's Office
Room 306 Capitol
Saint Paul, MN 55155
0029

Julie Ostrow
Thermo King Corp
314 West 90th Street
Minneapolis, MN 55420
00293

R. S. Rahko
Manager
United Power Association
Project Coordination Division
East Highway 10
Elk River, MN 55330
00297

Robert A. Silvagni
University of Minnesota
319 15th Avenue South East
200 Shops Building
Minneapolis, MN 55455
0029

E. G. Van Hoven, Jr.
Van Hoven Company Incorporated
Box 56
South Saint Paul, MN 55075
00302

T. J. Dellenbach
Washington County
Public Health
Post Office Box 6
Stillwater, MN 55082
00305

Walter R. Norkus
Westinghouse Electric Corporation
10 South Riverside Plaza
Chicago, IL 60606
0031

Albert Berglund
83 Hickory Lane
Lincolnshire, IL 60015
00333

David Cera
2325 Sumter Avenue South
Saint Louis Park, MN 55426
00335

Pete Hamlin
Iowa Department of Natural Resource
Wallace Building
900 East Grand
Des Moines, IA 50319
0034

Lance Crombie
Bio-Clean, Inc.
#130G
201 West Burnsville Parkway
Burnsville, MN 55337
00348

Al Baldus
CENEX
Post Office Box 64089
Saint Paul, MN 55164
00350

Leggette Brashears & Graham, Inc.
Northpark Corporate Center
Suite A1211
1210 West County Road E
Saint Paul, MN 55112
0035

R. Eelkema
Legal Counsel
Minnesota Medical Association
Suite 400
2221 University Avenue South East
Minneapolis, MN 55414
00354

Portage Sanitary Landfill Authority
Director
Crane Lake, MN 55725
00356

Richard D. Ragan
Ramsey County
Environmental Health
1910 West County Road B
Roseville, MN 55113
0035

Dan Schoepke
City of Richfield
6700 Portland Avenue South
Richfield, MN 55423
00358

Bob Holmes
Saint Louis County Health Department
1001 East First Street
Duluth, MN 55805
00359

Cindy McComas
Univeristy of Minnesota
MNTAP
Box 197 Mayo Building
420 Delaware Street South East
Minneapolis, MN 55455
0036

Water & Soil Resources Board
First Floor
90 West Plato Boulevard
Saint Paul, MN 55107
00362

Jones Haugh & Smith, Inc.
515 South Washington
Albert Lea, MN 56007
00366

David Marquette
Marsh & McLennan
90 7th Street Suite 3600
Minneapolis, MN 55402
0036

Gary Braun
Dept of Agriculture
Agronomy Services
90 West Plato Boulevard
Saint Paul, MN 55107
00369

Lowell E. Torseth
Board of Architectural Engineering
Land Survey And Landscape Architecture
402 Metro Square
Saint Paul, MN 55101
00370

Attorney General's Office
Antitrust Division
2nd Floor Ford Building
117 University Avenue
Saint Paul, MN 55155
0037

Floyd Erickson
Dept of Education
936 Capitol Square Building
Saint Paul, MN 55101
00372

Abby McKenzie
Dept of Trade & Economic Development
900 American Center Building
150 East Kellogg Boulevard
Saint Paul, MN 55101
00373

Pat Bloomgren
Minnesota Dept of Health
717 Delaware Street South East
Post Office Box 9441
Minneapolis, MN 55440
0037

RULES SONAR

Kim Austrian 00375
Legislative Commission on Waste Mgmt.
Room 85 State Office Building
Saint Paul, MN 55155

Maryanne V. Hruby 00376
Legislative Commission to Review Administrative Rules
Room 55
State Office Building
Saint Paul, MN 55155

Bruce Johnson 0037
ECI Unit
Minnesota Department of Transportat
214 Transportation Building
John Ireland Boulevard
Saint Paul, MN 55155

Charles Schaffer 00379
Minn. Small Business Assistance Office
900 American Center Building
150 East Kellogg Boulevard
Saint Paul, MN 55101

Tom Rulland 00380
State Planning Agency
Environmental Division
300 Centennial Building
658 Cedar Street
Saint Paul, MN 55155

Jean Dawson 0038
Press/Minnesota Government Report
Room B12 Capitol Building
Saint Paul, MN 55155

Mark J. Hanson 00382
Senate Council Office
Room 480
State Office Building
Saint Paul, MN 55155

Michael J. O'Connor 00383
Adhesive & Sealant Council
1627 K Street North West
Suite 1000
Washington, DC 20006

F. A. Heinbaugh 0038
American Crystal Sugar
Manager Environmental Control
101 North Third Street
Moorhead, MN 56560

J. V. Stier 00386
Manager Environmental Affairs
Anheuser-Busch Company, Inc.
One Busch Place
202-4
Saint Louis, MO 63118-1852

Lois Hacker 00387
Anoka County
Community Health & Social Services Dept.
Courthouse 4th Floor
325 East Main Street
Anoka, MN 55303

Robert J. Sherman 0038
Armour & Company
Conagra Center
One Central Park Plaza
Omaha, NE 68102-1679

Richard Hetland 00389
Ashland Petroleum Company
Post Office Box 9
Saint Paul Park, MN 55071

A. C. Meko 00390
Ashland Petroleum Co
Law Dept
Post Office Box 391
Ashland, KY 41114

David Weirens 0039
Physical Dev. Policy Analyst
Association of Minnesota Counties
125 Charles Avenue
Saint Paul, MN 55103

Mary Ayde 00392
1201 North Birch Lake Boulevard
White Bear Lake, MN 55110

Badger Safe Energy Alliance 00393
Box 239
Ellsworth, WI 54011

Dale Wikre 0039
Barr Engineering Company
7803 Glenroy Road
Suite 100
Minneapolis, MN 55435

W. J. Licke 00397
Blandin Paper Company
115 First Street South West
Grand Rapids, MN 55744

Curt R. Firman 00398
Blandin Wood Products Company
502 County Road 63
Grand Rapids, MN 55744

Al Meadows 0039
Boise Cascade Corporation
Environmental Engineer
International Falls, MN 56649

Robert M. Brown 00400
Bolton & Menk, Inc.
515 North Front Street
Mankato, MN 56001

Diane Heldt 00401
Broeker Geer Fletcher & LaFond Ltd.
8500 Normandale Lake Boulevard
Suite 1510
Bloomington, MN 55437

Mark Wolski 0040
Bureau of National Affairs
2126 Hartford Avenue
Saint Paul, MN 55116

Donald Burger 00403
501 22nd Avenue North East
Minneapolis, MN 55418

Thomas Spence 00404
Burlington Northern
Law Department
Room 600
325 Cedar Street
Saint Paul, MN 55101

Bernard Noonan 0040
Burlington Northern Railroad Compan
Post Office Box 29136
Overland Park, KS 66201-9136

Richard W. Wigger 00406
V P of Environmental Affairs
Champion International Corporation
One Champion Plaza
Stamford, CN 06921

Robert L. Roberts 00407
Chemlawn Services Corporation
8275 North High Street
Columbus, OH 43085

Susan Mudd 0040
Citizens For A Better Environment
Suite 303
647 West Virginia Street
Milwaukee, WI 53204

Michael S. Keckeisen
Color-Ad Packaging, Inc.
3600 Alabama Avenue
Minneapolis, MN 55416

00409

Scott Schuler
Cooperative Power Association
14615 Lone Oak Road
Eden Prairie, MN 55344

00410

0041

Pepin Dayton Herman
150 5th Street South
Suite 2300
Minneapolis, MN 55402

James C. Backstrom
Dakota County Attorney
1560 HigHway 55
Hastings, MN 55033

00412

Ron Spong
Dakota County
Environmental Health
Suite 345
33 East Wentworth
West Saint Paul, MN 55118

00413

Lawrence Annen
Dames & Moore
1900 Silver Lake Road
Suite 302
New Brighton, MN 55112

0041

Steve Holland
Dateline Environmental
4527 Casco Avenue
Minneapolis, MN 55424

00415

David Braslau Associates
#322
1313 5th Street South East
Minneapolis, MN 55414

00416

Jeanne Stebbins
Legal Assistant
Dewitt Sundby Huggett Schumacher Mo
P O Box 2509
Madison, WI 53701

0041

Nancy Carlson
DNR/MEEB
701 Iowa Avenue
Morris, MN 56267

00418

Donohue & Associates, Inc.
Consulting Engineers Division
Suite 200
7200 Hemlock Lane North
Maple Grove, MN 55369

00419

Gregg Fontaine
Dorsey & Whitney
2200 First Bank Place East
Minneapolis, MN 55402

0042

Bill Keppel
Dorsey & Whitney
2200 First Bank Place East
Minneapolis, MN 55402

00421

G. C. LaValley
Mgr Environmental Affaors
Duluth Missabe & Iron Range Railway Co.
329 Second Street
Proctor, MN 55810

00422

Pamela Meitner
E. I. Du Pont de Nemours Company
Legal Department
1007 Market Street
Wilmington, DE 19898

0042

ECRDC
100 South Park Street
Mora, MN 55051

00424

David M Benforado, PE
3M
Environmental Eng & Pollution Control
21-2W-06
900 Bush Avenue
Saint Paul, MN 55144

00425

EPA Region V
Office of Public Affairs
230 South Dearborn Street
Chicago, IL 60604

0042

Dave Ullrich
EPA Region V
5C-TUB-3
230 South Dearborn Street
Chicago, IL 60604

00427

Roy O. Ball
ERN-North Central, Inc.
102 Wilmot
Suite 300
Deerfield, IL 60015

00428

Ewald Consulting Group
26 East Exchange Street
Fifth Floor
Saint Paul, MN 55101

0042

Chairman
Fairmont Area Chamber Of Commerce
Post Office Box 102
101 South Main
Fairmont, MN 56031

00430

Finance & Commerce Daily
Attn Editor News Room
615 South 7th Street
Minneapolis, MN 55415

00431

FMC Corporation
Naval Systems Division
Post Office Box 50943
4800 East River Road
Minneapolis, MN 55059-9943

0043

Frundt Frundt Johnson & Roverud Ltd
117 West 5th Street
Blue Earth, MN 56013

00433

William T. Taylor
General Mills, Inc.
Post Office Box 1113
Minneapolis, MN 55440

00434

Everett Milton
GNB
Post Office Box 64100
Saint Paul, MN 55164-0100

0043

Dean Howarth
Graco, Inc.
Post Office Box 1441
Minneapolis, MN 55440

00437

H. A. Wood
GSX Series, Inc.
Route 11 Box 3
Wathington Industrial Road
Reidsville, NC 27320

00438

G. W. Harries
Hanft, Etc. Law Office
1000 First Bank Place
130 West Superior Street
Duluth, MN 55802-2094

0043

00440
Hardrives, Inc.
9724 10th Avenue North
Plymouth, MN 55441

00441
David K. Weaver
Hennepin Parks
12615 County Road 9
Plymouth, MN 55441

0044
Terri Hoffman
Suite 840
386 North Wabasha
Saint Paul, MN 55102

00443
Knowlton J. Caplan
Industrial Health Engineering Assoc, Inc
5945 Maplewood Lane
Minnetonka, MN 55345

00444
Intern Mineral & Chemical Corporation
Environmental & Safety Operations
421 East Hawley Street
Mundelein, IL 60060

0044
R. J. F. Kramer
International Eco Society
1471 Barclay Street
Saint Paul, MN 55106-1405

00446
Earl Forslund
Interstate Power Company
Post Office Box 769
Dubuque, IA 52004-0769

00447
The Izaak Walton League of America
Minnesota Division
#140
555 Park Street
Saint Paul, MN 55103

0044
Rebecca P. Judge, PhD
Saint Olaf College
Assistant Professor
Department of Economics
Northfield, MN 55057

00449
Lake Superior Industrial Bureau
1408 Alworth Building
Duluth, MN 55802

00450
James A. Bosch
Land O' Lakes
Post Office Box 116
Minneapolis, MN 55440

0045
Joel Jomnik
League of Minnesota Cities
183 University Avenue East
Saint Paul, MN 55101

00452
Tom Lehman
Suite #322
Hall of The States
444 North Capitol Street North West
Washington, DC 20001

00453
Lisa Kalodrich
Bruce A. Liesch Associates
3020 Harbor Lane
Plymouth, MN 55447

0045
Rachel Lord
2323 Talmage Avenue South East
Minneapolis, MN 55414

00456
Thomas Mastalez
5595 Arbutus Court
Greendale, WI 53129

00458
Miggie Cramblit
Senior Attorney
Minnegasco
Legal Division
201 South 7th Street
Minneapolis, MN 55402

0045
The Minnesota Project
2222 Elm Street South East
Minneapolis, MN 55414

00460
Minnesota Agricultural Growth Council
Suite 213
8030 Cedar Avenue South
Bloomington, MN 55425

00461
Kenneth G. Paulson
P E
Minnesota Asphalt Pavement Association
900 Long Lake Road
Suite 202
New Brighton, MN 55112

0046
Minnesota Environmental Quality Boa
Room 300 Centennial Building
658 Cedar Street
Saint Paul, MN 55155

00463
Francis M. Fitzgerald II
Minnesota Retail Merchants Association
Suite 150
Mears Park Place
405 Sibley
Saint Paul, MN 55101

00464
Pete Gates
Mobil Oil Corporation
4N508
3225 Gallows Road
Fairfax, VA 22037

0046
William H. Prokop
National Renderers Assoc Inc
P O Box 602
Deerfield, IL 60015

00467
National Solid Waste Managment Assn.
Waste Recyclers Council
1730 Rhode Island Avenue NW
10th Floor
Washington, DC 20036

00468
Joseph D. Bizzano Jr.
Northern States Power
Law Department
414 Nicollet Mall
Minneapolis, MN 55401

0046
Sam Ruhle
Office of Administrative Hearings C
500 Flour Exchange
310 South 4th Avenue
Minneapolis, MN 55415

00470
James D. Shorey
Oglebay Norton Company
Post Office Box 6508
Cleveland, OH 44101

00471
Phillips Legislative Services
459 Rice Street
Saint Paul, MN 55103

0047
Thomas W. Hayes
Pickands Mather & Company
Suite 811-200 West Superior Street
Duluth, MN 55802

David Fisher
The Pillsbury Company
MS 3726
Pillsbury Center
Minneapolis, MN 55402

00473

Mark F. Teneyck
Popham Haik Law Firm
3300 Piper Jaffray Tower
222 South 9th Street
Minneapolis, MN 55402

00474

John Gleason
Precision Environmental Services
8251 Main Street North East
Minneapolis, MN 55432-1849

0047

R. McGrath
Pulp & Paper
500 Howard Street
San Francisco, CA 94105

00476

Rice County Planning Office
Post Office Box 40
610 North West 20th Street
Faribault, MN 55021

00477

Tim McSweeney
Screen Printing Assoc, Inc
10015 Main Street
Fairfax, VA 22031

0047

Shell Engineering & Association
2503 West Ash Street
Columbia, MO 65203-4609

00479

Peter Kishel
Saint Paul Division of Public Health
555 Cedar
Saint Paul, MN 55101

00480

Robert Snyder
3943 Pleasant Avenue South
Minneapolis, MN 55409

0048

Dean Rebuffoni
Star Tribune
Newsroom
425 Portland Avenue
Minneapolis, MN 55488

00482

Bruce Detlefsen
State Regulation Report
951 Pershing Drive
Silver Springs, MD 20910

00483

Ms. Barbara Thomas
Post Office Box 50
Boise, ID 83728

0048

Dan McConnon
United Power Assoc
Environment & Land Division
17845 East Highway 10
Elk River, MN 55330-0800

00486

Zack Hansen
Washington County
Public Health
Post Office Box 6
14900 North 61st Street
Stillwater, MN 55082

00488

Robert J. Bollant
City of Winona
4th & Lafayette Street
Winona, MN 55987

0049

News Editor
Winona Daily News
Box 147
Winona, MN 55987

00491

Winthrop & Weinstine
1800 Meritor Tower
444 Cedar Street
Saint Paul, MN 55101

00492

Professor Marcia Gelpe
2125 Girard Ave S
Minneapolis, MN 55405

0049

Dr. Daniel D. Foley
1581 Tamberwood Trail
Woodbury, MN 55125

00494

Janet C. Green
1754 Old North Shore Road
Duluth, MN 55804

00495

Van R. Ellig
Post Office Box E
106 East Washington Avenue
Fergus Falls, MN 56537

0049

Ruth Erickson
80 Edison Boulevard
Silver Bay, MN 55614

00499

Milton Radjenovich
Post Office Box 667
604 Jones Avenue
Buhl, MN 55713

00500

Russell W. Domino
23 West Road
Circle Pines, MN 55014

0050

The Honorable Michael O. Freeman
Minnesota State Senator
122 Capitol
Saint Paul, MN 55155

0084696-

Janice Walls
Dir., State Gov't Programs
Institute of Scrap Recycling
1627 K Street Nortwest
Suite 700
Washington, DC 20006

00847

Christine Kneeland
305 Hanover Building
480 Cedar Street
Saint Paul, MN 55101

0085

Frank Hollenback
J. J. Keller and Associates
145 West Wisconsin Avenue
Post Office Box 368
Neenah, WI 54957-0368

00852

William Bryson
Rural Route 2
Box 181
Alden, MN 56009

00853

Warren Barth
ICI Composites, Inc.

Winona, MN 55987

0085

Barbara Hughes
American Lung Association
of Ramsey County
480 Concordia Avenue
Saint Paul, MN 55103
00856

Christine Olsenius
2327 Lafayette Road
Minnetonka Beach, MN 55391
00866

Brett Robinson
Stout Environmental Inc.
P O Box 599
101 Jessup Road
Thorofare, NJ 08086
0086

Dick Nowlan
Larkin Hoffman Daly & Lindgren Ltd
7900 Xerxes Avenue South
Suite 1500
Bloomington, MN 55431
00872

Andrew Singer
Environmental Manager
799 Broadway
Suite 541
New York City, NY 10003
00873

Rollin M. Dennistoun
Assistant Executive Director
Minnesota Agri-Growth Council
8030 Cedar Avenue South
Suite 213
Bloomington, MN 55425
0087

Mark Dahl
Dahl & Associates
4390 McMenemy Road
St. Paul, MN 55127
00886

Honorable Don Winkelman Sr.
Chairman
Benton County Board
1983 95th Avenue
Sauk Rapids, MN 56379
00891

Honorable Howard Christianson
Chairman
Kandiyohi County Board
809 SW 16th Street
Willmar, MN 56201
0092

Honorable Donald Maher
Chairman
Dakota County Board
C/O Dakota County Gov't Ctr
1560 Highway 55
Hastings, MN 55033
00927

Honorable Dale Smolnisky
Chairman
Meeker County Board
742 East Crescent Lane
Litchfield, MN 55355
00929

Lake County Board
Courthouse
601 3rd Avenue
Two Harbors, MN 55616
0093

Debra Gates
Law Department
P O Box 391
Ashland, KY 41114
00975

Douglas M. Carnival
Attorney at Law
1700 Lincoln Centre
333 South 7th Street
Minneapolis, MN 55402
00977

Mary Sigmundik
Institute for Environmental Assessm
641 East Main Street
Anoka, MN 55303
0097

Chris Nadler
RETEC
23 Old Town Square
Suite 250
Fort Collins, CO 80524
00981

David L. Pates
Vice President
EnviroComm
12123 Red Oak Court South
Burnsville, MN 894-2719
00989

Meghan Malloy
Stateside ASSCA
Courthouse Plaza II
Suite 407
2300 Clarendon Blvd
Arlington, VA 22201
0099

Diane Pacchione
Government Institutes Inc.
966 Hungerford Drive
Unit 24
Rockville, MD 20850
00991

Hon. Dan Erhart
Anoka Co Commissioner
325 E. Main
Anoka, MN 55303
01012

Hon. C. A. Boyer
Becker Co Commissioner
Lake Ave. Box 787
Courthouse
Detroit Lakes, MN 56501
0101

Hon. Gail Skare
Beltrami Co Commissioner
6th & Beltrami
Box 248
Bemidji, MN 56601
01016

Hon. Ronald Larson
Aitkin Co Commissioner
209-2nd St. N.W.
Aitkin, MN 56431
01020

Hon. Luverne Bergemann
Blue Earth Co Commissioner
204 S. 5th St.
Box 8608
Mankato, MN 56002
0103

Hon. Alex Laveau
Carlton Co Commissioner
Courthouse
Carlton, MN 55718
01034

Hon. Delores Baumhofer
Chippewa Co Commissioner
629 N. 11th St.
Montevideo, MN 56265
01039

Hon. Earl Gnan
Carver Co Commissioner
600 E. 4th St.
Chaska, MN 55318
0104

Hon. Erwin Ostlund
Cass Co Commissioner
Box 310
Walker, MN 56484
01048

Hon. Elwood Throndrud
Big Stone Co Commissioner
20 S.E. 2nd St.
Ortonville, MN 56278
01050

Hon. Charles Griebel
Brown Co Commissioner
Courthouse Square
Box 248
New Ulm, MN 56073
0105

Hon. Kenneth Solberg
Clearwater Co Commissioner
Courthouse
Bagley, MN 56621

01065

Hon. Wesley Hedstrom
Cook Co Commissioner
Courthouse
Grand Marais, MN 55604

01066

Hon. Tom Greig
Chisago Co Commissioner
Chisago Co Govt Ctr
Center City, MN 55012

0107

Hon. Charles Brantner
Clay Co Commissioner
807 N. 11th St.
Moorhead, MN 56560

01072

Hon. Marlowe Nelsen
Cottonwood Co Commissioner
Courthouse
Windom, MN 56101

01088

Hon. Howard Peterson
Crow Wing Co Commissioner
326 Laurel St.
Brainerd, MN 56401

0108

Hon. Lance Wilson
Dodge Co Commissioner
Box 38
Courthouse
Mantorville, MN 55955

01092

Hon. Charles Pingry
Faribault Co Commissioner
North Main
Blue Earth, MN 56013

01105

Hon. Bill Collins
Douglas Co Commissioner
305-8th Ave. W.
Alexandria, MN 56308

0111

Hon. Robert Thompson
Fillmore Co Commissioner
Courthouse
Preston, MN 55965

01116

Hon. Arnold Biedermann
Freeborn Co Commissioner
411 S. Broadway
Albert Lea, MN 56007

01117

Hon. Lyle Lexvold
Goodhue Co Commissioner
Courthouse
Red Wing, MN 55066

0112

Hon. Lyle Alvstad
Grant Co Commissioner
Courthouse
Elbow Lake, MN 56531

01121

Hon. Norman Hoscheit
Houston Co Commissioner
304 S. Marshall
Caledonia, MN 55921

01125

Hon. Jeff Spartz
Hennepin Co Commissioner
Hennepin Co Govt Ctr
Minneapolis, MN 55487

0113

Hon. Frank Weisbrod
Isanti Co Commissioner
237 S.W. 2nd Ave.
Cambridge, MN 55008

01139

Hon. Jerome Fuller
Hubbard Co Commissioner
Third & Court Sts.
Park Rapids, MN 56470

01146

Hon. Doug Carpenter
Itasca Co Commissioner
Courthouse
Grand Rapids, MN 55744

0114

Hon. Milford Gentz
Jackson Co Commissioner
Fourth St.
Jackson, MN 56143

01152

Hon. Dan Stevens
Kanabec Co Commissioner
18 N. Vine
Mora, MN 55051

01164

Hon. Randy Swenson
Kittson Co Commissioner
410 S. 5th
Hallock, MN 56728

0116

Hon. Donald Sandbeck
Koochiching Co Commissioner
Courthouse
Int'l Falls, MN 56649

01169

Hon. Robert Culhane
Le Sueur Co Commissioner
88 S. Park Ave.
Le Center, MN 56057

01193

Hon. Carl Hauschild
Lincoln Co Commissioner
Courthouse
Ivanhoe, MN 56142

0119

Hon. Albert Hoffman
Lac Qui Parle Co Commissioner
Courthouse 600-6th
Madison, MN 56256

01197

Hon. Stan Cornelius
Lake-Woods Co Commissioner
Courthouse
Box 808
Baudette, MN 56623

01200

Hon. William Cole
Lyon Co Commissioner
607 W. Main
Marshall, MN 56258

0120

Hon. Richard Larson
Mahnomen Co Commissioner
Courthouse
Mahnomen, MN 56557

01208

Hon. Leonard Stoltman
Marshall Co Commissioner
208 E. Colvin
Warren, MN 56762

01210

Hon. Dorothy Grotte
Martin Co Commissioner
201 Lake Ave
Fairmont, MN 56031

0121

Hon. Melvin Dose
McLeod Co Commissioner
830 E. 11th St.
Glencoe, MN 55336

01212

Hon. David Oberfeld
Mille Lacs Co Commissioner
635-2nd St. S.E.
Milaca, MN 56353

01225

Hon. Duane Kirchner
Murray Co Commissioner
Murray Co Govt Ctr
2500-28th St.
Slayton, MN 56172

0125

Hon. Marvin Baumgard
Nobles Co Commissioner
315-10th St.
Box 757
Worthington, MN 56187

01253

Hon. Melfred Venske
Morrison Co Commissioner
Broadway East
Little Falls, MN 56345

01257

Hon. Robert Shaw
Mower Co Commissioner
201-2nd St. N.E.
Austin, MN 55912

0125

Hon. Kenneth Albrecht
Nicollet Co Commissioner
501 S. Minnesota Ave.
St. Peter, MN 56082

01261

Hon. Herb Mauritson
Norman Co Commissioner
Courthouse
Ada, MN 56510

01266

Hon. Jean Michaels
Olmsted Co Commissioner
515-2nd St. S.W.
Rochester, MN 55902

0127

Hon. Clayton Ihlen
Pipestone Co Commissioner
410 S. Hiawatha
Pipestone, MN 56164

01284

Hon. Sydney Nelson
Otter Tail Co Commissioner
Court & Junius
Fergus Falls, MN 56537

01289

Hon. Bill Penning
Pennington Co Commissioner
1st & Main
Box 616
Thf Rvr Fls, MN 56701

0129

Hon. Glen Danelski
Pine Co Commissioner
Courthouse
Pine City, MN 55063

01292

Hon. Don Bakken
Polk Co Commissioner
617 N. Broadway
Crookston, MN 56716

01295

Hon. Hal Norgard
Ramsey Co Commissioner
Courthouse
15 W. Kellogg
St. Paul, MN 55102

0131

Hon. Granville Walburn
Pope Co Commissioner
Courthouse
Glenwood, MN 56334

01318

Hon. Irving Beyer
Red Lk/Polk/Norm Commissioner
Courthouse
Red Lake Falls, MN 56750

01322

Hon. Joan Miska
Redwood Co. Commissioner
Courthouse
Box 62
Redwood Falls, MN 56283

0132

Hon. Gale Dahlager
Renville Co Commissioner
500 E. DePue
Olivia, MN 56277

01324

Hon. John Gaukerud
Roseau Co Commissioner
216 Center St. W.
Roseau, MN 56751

01330

Hon. Richard Mertz
Scott Co Commissioner
428 S. Holmes
Shakopee, MN 55379

0134

Hon. Lyle Smith
Sherburne Co Commissioner
13880 Hwy. 10
Elk River, MN 55330

01344

Hon. Jerry Pineur
Rice Co Commissioner
218 N.W. 3rd St.
Faribault, MN 55021

01346

Hon. Dennis Roning
Rock Co Commissioner
Courthouse
Box 100
Luverne, MN 56156

0134

Hon. John Bach
Sibley Co Commissioner
400 Court
Gaylord, MN 55334

01354

Hon. Robert Gambrino
Stearns Co Commissioner
Box 548
Courthouse Square
St. Cloud, MN 56302

01359

Hon. Lester Oeltjenbruns
Steele Co Commissioner
111 E. Main
Owatonna, MN 55060

0136

Hon. Herb Kloos
Stevens Co Commissioner
5th & Colorado
Morris, MN 56267

01362

Hon. Gary Doty
St. Louis Co Commissioner
100 N. 5th Ave. W
Duluth, MN 55802-1292

01366

Hon. John Langan
Swift Co Commissioner
301-14th St. N.
Benson, MN 56215

0137

Hon. Donald Dorosh 01385
Todd Co Commissioner
215-1st Ave. S.
Long Prairie, MN 56347

Hon. Calvin Condon 01392
Waseca Co Commissioner
307 N. State St.
Waseca, MN 56093

Hon. Steve Raguse 0139
Traverse Co Commissioner
Courthouse
Wheaton, MN 56296

Hon. Lyle Freer 01400
Wadena Co Commissioner
Jefferson St. S.
Wadena, MN 56482

Hon. James Poncelet 01409
Wabasha Co Commissioner
625 Jefferson
Wabasha, MN 55981

Hon. Sally Evert 0141
Washington Co Commissioner
14900-61st St. N.
Stillwater, MN 55082

Hon. Donald Peterson 01420
Winona Co Commissioner
Community Hlth Bd
R 1 Box 65B
Winona, MN 55987

Hon. Arlyn Nelson 01421
Wright Co Commissioner
10 N.W. 2nd St.
Buffalo, MN 55313

Hon. Lester Reckow 0142
Watonwan Co Commissioner
2nd Ave. S.
St. James, MN 56081

Hon. Stanley Berg 01430
Yellow Med Co Commissioner
415-9th Ave.
Granite Falls, MN 56241

Hon. Kalvin Michels 01433
Wilkin Co Commissioner
S. 5th St.
Breckenridge, MN 56520

Mr. Bob Hutchison (612)422-7068 0144
Anoka County Community Health and S
325 East Main
Anoka, MN 55303

Mr. Bruce E. Benson (218)384-4281 01448
Zoning Administrator
Carlton County Courthouse
Box 220
Carlton, MN 55718

Mr. Jack Wimmer (612)259-3613 01507
Zoning Administrator
Stearns County
Box 604
St. Cloud, MN 56301

Mr. Robert Lockyear (612)439-3201 51
Planning Coordinator
Washington County Courthouse
14900 North 61st Street
Stillwater, MN 55082

Senator Berg
328 Capitol
St. Paul, MN 55155

Senator Bernhagen
113 State Office Bldg.
St. Paul, MN 55155

Senator Brandl
306 Capitol
St. Paul, MN 55155

Senator Dahl
111 Capitol
St. Paul, MN 55155

Senator Davis
G-24 Capitol
St. Paul, MN 55155

Senator Decker
109 State Office Bldg.
St. Paul, MN 55155

Senator D.J. Frederickson
G-24 Capitol
St. Paul, MN 55155

Senator D.R. Frederickson
143 State Office Bldg.
St. Paul, MN 55155

Senator Freeman
122 Capitol
St. Paul, MN 55155

Senator Knaak
149 State Office Bldg.
St. Paul, MN 55155

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St. Paul, MN 55155

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St. Paul, MN 55155

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235 Capitol
St. Paul, MN 55155

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135 State Office Bldg.
St. Paul, MN 55155

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122 Capitol
St. Paul, MN 55155

Senator D.M. Moe
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St. Paul, MN 55155

Senator Morse
309 Capitol
St. Paul, MN 55155

Senator Novak
301 Capitol
St. Paul, MN 55155

Senator Olson
133 State Office Bldg.
St. Paul, MN 55155

Senator Pariseau
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St. Paul, MN 55155

Senator Pehler
G-9 Capitol
St. Paul, MN 55155

Senator R. Peterson
G-9 Capitol
St. Paul, MN 55155

Senator Pogemiller
306 Capitol
St. Paul, MN 55155

Senator Renneke
117 State Office Bldg.
St. Paul, MN 55155

Senator Stumpf
306 Capitol
St. Paul, MN 55155

Senator Taylor
103 State Office Bldg.
St. Paul, MN 55155

Senator Waldorf
124 Capitol
St. Paul, MN 55155

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Rep. B. Anderson
317 State Office Bldg.
St. Paul, MN 55155

Rep. Battaglia
517 State Office Bldg.
St. Paul, MN 55155

Rep. Begich
477 State Office Bldg.
St. Paul, MN 55155

Rep. Bertram
571 State Office Bldg.
St. Paul, MN 55155

Rep. Berger
225 State Office Bldg.
St. Paul, MN 55155

Rep. D. Carlson
203 State Office Bldg.
St. Paul, MN 55155

Rep. Conway
423 State Office Bldg.
St. Paul, MN 55155

Rep. Cooper
507 State Office Bldg.
St. Paul, MN 55155

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371 State Office Bldg.
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Rep. Dille
227 State Office Bldg.
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Rep. Haukoos
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St. Paul, MN 55155

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St. Paul, MN 55155

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St. Paul, MN 55155

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St. Paul, MN 55155

Rep. Jennings
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St. Paul, MN 55155

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St. Paul, MN 55155

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St. Paul, MN 55155

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St. Paul, MN 55155

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St. Paul, MN 55155

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283 State Office Bldg.
St. Paul, MN 55155

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St. Paul, MN 55155

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307 State Office Bldg.
St. Paul, MN 55155

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295 State Office Bldg.
St. Paul, MN 55155

Rep. McGuire
377 State Office Bldg.
St. Paul, MN 55155

Rep. McPherson
243 State Office Bldg.
St. Paul, MN 55155

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479 State Office Bldg.
St. Paul, MN 55155

Rep. Neuenschwander
337 State Office Bldg.
St. Paul, MN 55155

Rep. O'Connor
593 State Office Bldg.
St. Paul, MN 55155

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287 State Office Bldg.
St. Paul, MN 55155

Rep. Pauly
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St. Paul, MN 55155

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501 State Office Bldg.
St. Paul, MN 55155

Rep. Redalen
251 State Office Bldg.
St. Paul, MN 55155

Rep. Reding
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St. Paul, MN 55155

Rep. Runbeck
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St. Paul, MN 55155

Rep. Rukavina
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St. Paul, MN 55155

Rep. Schafer
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St. Paul, MN 55155

Rep. Simoneau
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St. Paul, MN 55155

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409 State Office Bldg.
St. Paul, MN 55155

Rep. Tjornhom
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St. Paul, MN 55155

Rep. Tompkins
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St. Paul, MN 55155

Rep. Trimble
491 State Office Bldg.
St. Paul, MN 55155

Rep. Wagenuis
545 State Office Bldg.
St. Paul, MN 55155

Rep. Waltman
289 State Office Bldg.
St. Paul, MN 55155

Rep. Weaver
241 State Office Bldg.
St. Paul, MN 55155

Rep. Williams
567 State Office Bldg.
St. Paul, MN 55155

Rep. Winter
411 State Office Bldg.
St. Paul, MN 55155

Jim VALERI.

Mr. Z. A. Valeri
VALERI BAND LUG
607 East Howard
Hibbing, MN 55746

VBL, Inc
3596 13th Ave E.
Hibbing, MN 55746

Mr. Virgil Muller
American Recycling Engineers, Inc.
12420 Wyoming Avenue South
Savage, MN 55378

Mr. Daniel Veesenmeyer
1347 North Hazel Street
St. Paul, MN 55119

Mr. Lee Martz
New Age Health Concepts, Inc.
877 Fuller Avenue
St. Paul, MN 55104

Mr. Mark Dannenberg
Ag Products Terminal Co.
P.O.Box 670
Fayette, Iowa 52142

Mr. Larry Severson
Yore Hands Free Products Company
720 2nd Street Northwest
Waseca, MN 56093

Mr. Mark Anderson
Hillstrom and Bale Ltd
Suite 400
607 Marquette Avenue
Minneapolis, MN 55402

Mr. Steve Larson
2404 Fremont Avenue South
Suite 6
Minneapolis, MN 55405

Mr. Jeff Meyer
P.O.Box 93
Albany, MN 56307

Mr. Robert White
538 Grace Street
Excelsior, MN 55331-1823

Bruce G. Nawrocki
Minnesota Association of Urban Counties
Anoka County Government Center
3980 Central Avenue N.E.
Columbia Heights, MN 55421

C. For an individual whose conversion period was 11 months or less, the first annual license fee charged after the conversion period shall be adjusted to credit the excess fee payment made during the conversion period. The credit is calculated based on the difference between the license fee paid during the conversion period and the prorated license fee cost assessed based on the number of months of the individual's conversion period, up to 11 months, at the rate of 1/12 of the annual fee per month rounded upward to the nearest dollar amount.

D. For an individual whose conversion period was 12 months, the first annual license fee charged after the conversion period shall not be adjusted. The individual will be charged the full annual license fee listed in part 5600.2500, item E.

E. For an individual whose conversion period was between 13 and 17 full calendar months, the first annual license fee charged after the conversion period shall be adjusted to add the payment for the number of months in excess of 12 months in the licensee's conversion period that were not paid for initially. The added payment is calculated based on the difference between the fee paid at the start of the conversion period and the prorated license fee cost assessed using the number of months of the individual's conversion period, up to 17 months, at the rate of 1/12 of the annual fee per month rounded upward to the nearest dollar amount. The difference calculated is added to the full fee charged.

F. The second license renewal made after the conversion period for the individual and all subsequent license renewals shall be assessed the annual license fee in part 5600.2500, item E.

Pollution Control Agency

Proposed Permanent Rules Relating to Grants and Loans for Waste Tire Processing

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (Agency) intends to adopt amendments to the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes* §§ 14.22 to 14.28 (1986). The Agency's authority to adopt the rule is set forth in *Minnesota Statutes* § 14.06 (1988) and *Minnesota Statutes* § 115A.914 (1988).

All persons have until 4:30 p.m. on October 24, 1990, to submit comments in support of or in opposition to the proposed amendments or any part or subpart of the amendments. Comment is encouraged. Each comment should identify the portion of the proposed amendments addressed, the reason for the comment, and any changes proposed.

Any person may make a written request for a public hearing on the rules within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed amendments addressed, the reason for the request, and any change proposed. If a public hearing is required, the Agency will proceed pursuant to *Minnesota Statutes* §§ 14.131 to 14.20 (1988).

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

Thomas C. Newman
Waste Tire Management Unit
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155
(612) 296-7170

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

The proposed amendments, if adopted, will incorporate statutory changes made in *Minnesota Laws 1988*, ch. 685, sec. 14 and codified at *Minnesota Statutes* § 115A.913 (1988). The proposed amendments will also change the rule to reflect that this program is now administered by the Agency under Reorganization Order No. 155 and *Minnesota Laws 1989*, ch. 335, Art. 1, secs. 128-131. Certain other proposed amendments are intended to improve the administration of the program. The proposed amendments are published below. One free copy of the rules is available upon request from Thomas C. Newman at the address and telephone number stated above.

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

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Thomas C. Newman upon request.

You are hereby advised, pursuant to *Minnesota Statutes* § 14.115 (1986), "Small business considerations in rulemaking," that the proposed rules will not effect small businesses, which are authorized to participate in the grant and loan program. If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the rule as adopted, must submit a written request to Thomas C. Newman.

Gerald L. Willet
Commissioner

Rules as Proposed

9220.0800 DEFINITIONS.

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

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

Subp. 3. **~~Chair~~ Commissioner.** "~~Chair~~ Commissioner" means the ~~chair and chief executive officer of the board~~ commissioner of the agency or staff designated by the commissioner.

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

Subp. 4a. **Manufacturing process.** "Manufacturing process" means a process that uses the resources contained in waste tires to create a new rubber-based product. Manufacturing process does not include the recovery of energy from waste tires or the use of waste tire shreds for their physical properties.

Subp. 5. **Waste tire ~~recycling business~~ processing.** "Waste tire ~~recycling business~~ processing" means ~~a business engaged in~~ methods used to recover resources or energy from waste tires, including cleaning, reducing, or other actions taken to prepare waste tires for recovery ~~or resource recovery from waste tires~~ of resources or energy.

Subp. 6. [See Repealer.]

Subp. 7. **Waste tire project.** "Waste tire project" means the waste tire processing operation or manufacturing process that is proposed to be developed using funds provided by the agency.

Subp. 8. **Tire-derived product.** "Tire-derived product" means the usable materials produced from the chemical or physical processing of a waste tire.

9220.0805 SCOPE.

Parts 9220.0800 to 9220.0835 implement the waste tire ~~recycling~~ processing grant and loan program created in *Minnesota Statutes* ~~1987 Supplement~~, section ~~116.55~~ 115A.913 by establishing the substantive criteria and procedural conditions under which the ~~board~~ agency may award grants for waste tire ~~recycling project~~ processing studies and loans for waste tire ~~recycling projects~~ processing.

9220.0810 GRANTS.

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

Subp. 2. **Eligible studies.** Grant funds are available to pay costs associated with studies necessary to demonstrate the technical and economic feasibility of:

A. ~~a~~ waste tire ~~recycling project~~ processing methods; or

B. the use of tire-derived products in a manufacturing process.

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

A. the salary of employees or the cost of a consultant employed to research and analyze the technical and economic feasibility of the waste tire ~~recycling project~~ processing or use of tire-derived products in a manufacturing process that is the subject of the study;

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

C. the cost of in-state travel, provided that the ~~primary~~ purpose of ~~which~~ the travel is to gather information needed for the study, ~~in no greater amount than provided in~~ and the costs incurred do not exceed travel expenses paid to state employees under the current commissioner's plan adopted by the commissioner of employee relations under *Minnesota Statutes*, section 43A.18, subdivision 2; and

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

Subp. 4. **Ineligible costs.** The cost of overhead and the cost of developing the grant application submitted to the ~~board~~ agency are not eligible for funding. Only costs incurred after the effective date of the grant agreement required under part 9220.0820 are eligible for funding.

9220.0815 CONTENT, REVIEW, AND EVALUATION OF GRANT APPLICATION.

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

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

B. a description of the waste tire ~~recycling project~~ processing method or use of tire-derived products in a manufacturing process that will be the subject of the study;

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

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

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

F. the total grant funding requested; and

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

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

Subp. 3. **Notice of determination of eligibility and completeness.** ~~Within 14 days~~ After receiving the application, the ~~chair~~ commissioner shall notify the applicant of the ~~chair's~~ commissioner's determinations of eligibility and completeness. If the ~~chair~~ commissioner determines that the applicant or the study is ineligible, the ~~chair~~ commissioner shall reject the application, return it to the applicant, and notify the applicant of the reasons for the rejection. If the ~~chair~~ commissioner determines that any part of the study costs is ineligible or that the application is incomplete, the ~~chair~~ commissioner shall notify the applicant of the ineligible portion of the costs or of the deficiency. The applicant has ~~14~~ 60 days after receiving the notice to correct any inadequacies identified by the ~~chair~~ commissioner. If the inadequacies are corrected within the time allowed, the application will be evaluated by the ~~chair~~ commissioner and sent to the ~~board~~ agency for ~~decision~~ approval.

Subp. 4. **~~Board~~ Agency approval.** The ~~board~~ agency shall ~~approve applications and~~ award grants for studies ~~of the technical and economic feasibility of waste tire recycling projects~~ that will result in the generation of information ~~to~~ that will aid the state in developing waste tire ~~recycling alternatives~~ processing methods or uses for tire-derived products in manufacturing processes. The ~~board~~ agency shall give priority to studies that are unlikely to be undertaken without state assistance, or that could lead directly to development of new waste tire ~~recycling capacity~~ processing methods needed in the state or development of a new or expanded use of tire-derived products in a manufacturing process.

9220.0820 GRANT LIMITATIONS; AGREEMENT.

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

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

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

(1) a detailed analysis of the technical and economic feasibility of the waste tire ~~recycling project~~ processing method or manufacturing process that is the subject of the study, including an estimate of the net operating revenue, if any, to be generated by the waste tire ~~recycling project~~ processing method or manufacturing process studied if it ~~was~~ were developed, considering the

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availability of waste ~~tire supplies~~ tires or demand for tire-derived products and markets for ~~recovered resources from the project~~ products;

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

(3) an analysis of the impact that the waste tire ~~recycling project~~ processing method or manufacturing process studied would have on existing waste tire ~~recycling~~ processing or tire-derived product uses if the ~~project was~~ methods were developed; and

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

B. provide for staged disbursement of funds as documentation of costs incurred is received from the grant recipient, and for retainage of 15 percent of the funds until the final report is submitted and determined by the ~~chair~~ commissioner to be ~~adequate~~ satisfactory; and

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

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

9220.0825 LOANS.

Subpart 1. **Eligible applicants.** Individuals, partnerships, corporations, municipalities, counties, and associations are eligible for waste tire processing loans if they are engaged ~~in a waste tire recycling business,~~ or intending to become engaged in a waste tire ~~recycling~~ processing business~~, are eligible for waste tire recycling loans~~ or a business that uses tire-derived products in a manufacturing process.

Subp. 2. **Eligible costs.** Loan funds are available to pay costs incurred for capital improvements associated with the ~~development of the~~ construction or betterment of a waste tire ~~recycling~~ project, including the cost of land and building acquisition or construction and the cost of equipment purchase and installation. Loan funds are also available for the capital cost of equipment needed to transport waste tires to a waste tire processing facility. Only costs incurred after the loan agreement required under part 9220.0835 has been executed are eligible for funding.

9220.0830 CONTENT, REVIEW, AND EVALUATION OF LOAN APPLICATION.

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

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

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

C. the total capital cost of the project;

D. the total ~~grant~~ loan eligible cost of the project;

E. the amount of the loan requested; and

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

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

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

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

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

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

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

(3) a description of the method of project facility ~~or~~ development, including equipment procurement;

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

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

(6) an analysis of the quantity and source of the waste tires or tire-derived product that will be processed or that will be used in a manufacturing process.

~~D~~ C. A financial plan that contains:

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

(2) annual operating and maintenance costs;

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

(4) projected tipping fees; and

(5) ~~copies of~~ proposed contracts for the sale of ~~project~~ products that could be produced by the waste tire project. Contracts must specify ~~quantities sold~~ quantity, price per unit ~~sold~~, and the life of the contract ~~and a marketing plan for the waste tire recycling business proposed~~.

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

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

Subp. 4. **Notice of determination of eligibility and completeness.** ~~Within 14 days~~ After receiving the application, the ~~chair~~ commissioner shall notify the applicant of the ~~chair's~~ commissioner's determinations of eligibility and completeness. If the ~~chair~~ commissioner determines that the applicant or the project is ineligible, the ~~chair~~ commissioner shall reject the application, return it to the applicant, and notify the applicant of the reasons for the rejection. If the ~~chair~~ commissioner determines that any part of the project ~~costs~~ cost is ineligible or that the application is incomplete, the ~~chair~~ commissioner shall notify the applicant of the ineligible portion of the costs or of the deficiency. The applicant has ~~14~~ 60 days after receiving the notice to correct any inadequacies identified by the ~~chair~~ commissioner. If the inadequacies are corrected within the time allowed, the application will be evaluated by the ~~chair~~ commissioner and sent to the ~~board~~ agency for decision.

Subp. 5. **~~Board~~ Agency approval.** The ~~board~~ agency shall approve applications and award loans ~~for development or improvement of waste tire recycling facilities that will aid the state in~~ that will result in the development of waste tire processing or uses for tire-derived products in a manufacturing process. If available funds are not adequate to fund all applications before the agency, the agency shall give priority to those applications that would aid the agency in fulfilling waste tire management objectives, such as development of a facility in an area where processing capacity is needed. The agency shall also give priority ~~must be given~~ to ~~projects that best meet the waste management objectives established in *Minnesota Statutes*, section 115A.02~~ applications proposing the development of facilities to recycle material from waste tires. No loan may be ~~approved~~ awarded unless the ~~board~~ agency finds that the proposed project has ~~been certified as technically feasible by the chair and that the~~ operating revenues that will be sufficient to ensure full repayment of the loan, including interest.

9220.0835 LOAN LIMITATIONS.

Subpart 1. **Loan amount.** The maximum ~~waste tire recycling~~ loan is 90 percent of the eligible capital costs of the project or $1,500,000, whichever is less. The agency shall award a loan amount based on what is necessary to facilitate development of a project and shall consider available program funds and the needs of other applicants when determining the loan amount.

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

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

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

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

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

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

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

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

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

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

REPEALER. *Minnesota Rules*, parts 9220.0800, subpart 6, is repealed.

Adopted Rules

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

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

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

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

Department of Health

Adopted Permanent Rules Relating to Registration Fees for Sources of Ionizing Radiation

The rule proposed and published at *State Register*, Volume 15, Number 2, pages 41-44, July 9, 1990 (15 SR 41) is adopted as proposed.

Department of Labor and Industry

Adopted Permanent Rules Relating to Medical Fee Schedule

Notice of Amendment of the Permanent Rules Relating to Workers' Compensation, Fees for Medical Services

NOTICE IS HEREBY GIVEN that the Workers' Compensation Medical Fee Schedule, *Minnesota Rules*, parts 5221.0100 to 5221.3500, is amended as set forth below in accordance with *Minnesota Statutes*, Section § 176.136, Subd. 5 (Supp. 1989). These amendments are effective for health care services rendered on or after October 1, 1990.

Dated: 7 September 1990

Ken Peterson
Commissioner

Pollution Control Agency

Adopted Permanent Rules Relating to Grants and Loans for Waste Tire Processing

Rules as Adopted

9220.0800 DEFINITIONS.

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

Subp. 2. **Agency.** "Agency" means the Minnesota Pollution Control Agency.

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

Subp. 4. **Institutional arrangements.** "Institutional arrangements" means methods of financing, marketing, procurement, or securing the waste tire or tire-derived product supply.

Subp. 4a. **Manufacturing process.** "Manufacturing process" means a process that uses the resources contained in waste tires to create a new rubber-based product. Manufacturing process does not include the recovery of energy from waste tires or the use of waste tire shreds for their physical properties.

Subp. 5. **Waste tire processing.** "Waste tire processing" means methods used to recover resources or energy from waste tires, including cleaning, reducing, or other actions taken to prepare waste tires for recovery of resources or energy.

Subp. 6. [See Repealer.]

Subp. 7. **Waste tire project.** "Waste tire project" means the waste tire processing operation or manufacturing process that is proposed to be developed using funds provided by the agency.

Subp. 8. **Tire-derived product.** "Tire-derived product" means the usable materials produced from the chemical or

physical processing of a waste tire.

9220.0805 SCOPE.

Parts 9220.0800 to 9220.0835 implement the waste tire processing grant and loan program created in Minnesota Statutes, section 115A.913 by establishing the substantive criteria and procedural conditions under which the agency may award grants for waste tire processing studies and loans for waste tire processing.

9220.0810 GRANTS.

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

Subp. 2. **Eligible studies.** Grant funds are available to pay costs associated with studies necessary to demonstrate the technical and economic feasibility of:

A. waste tire processing methods; or

B. the use of tire-derived products in a manufacturing process.

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

A. the salary of employees or the cost of a consultant employed to research and analyze the technical and economic feasibility of the waste tire processing or use of tire-derived products in a manufacturing process that is the subject of the study;

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

C. the cost of in-state travel, provided that the purpose of the travel is to gather information needed for the study, and the costs incurred do not exceed travel expenses paid to state employees under the current commissioner's plan adopted by the commissioner of employee relations under Minnesota Statutes, section 43A.18, subdivision 2; and

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

the research or production of the report.

Subp. 4. **Ineligible costs.** The cost of overhead and the cost of developing the grant application submitted to the agency are not eligible for funding. Only costs incurred after the effective date of the grant agreement required under part 9220.0820 are eligible for funding.

9220.0815 CONTENT, REVIEW, AND EVALUATION OF GRANT APPLICATION.

Subpart 1. **Contents.** An application for a grant must include the following information:

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

B. a description of the waste tire processing method or use of tire-derived products in a manufacturing process that will be the subject of the study;

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

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

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

F. the total grant funding requested; and

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

Subp. 2. **Determination of eligibility and completeness.** Upon receipt of an application, the commissioner shall determine the eligibility of the applicant, the eligibility of the costs identified in the application, the eligibility of the study described in the application, and the completeness of the application.

Subp. 3. **Notice of determination of eligibility and completeness.** After receiving the application, the commissioner shall notify the applicant of the commissioner's determinations

of eligibility and completeness. If the commissioner determines that the applicant or the study is ineligible, the commissioner shall reject the application, return it to the applicant, and notify the applicant of the reasons for the rejection. If the commissioner determines that any part of the study costs is ineligible or that the application is incomplete, the commissioner shall notify the applicant of the ineligible portion of the costs or of the deficiency. The applicant has 60 days after receiving the notice to correct any inadequacies identified by the commissioner. If the inadequacies are corrected within the time allowed, the application will be evaluated by the commissioner and sent to the agency for approval.

Subp. 4. **Agency approval.** The agency shall award grants for studies that will result in the generation of information that will aid the state in developing waste tire processing methods or uses for tire-derived products in manufacturing processes. The agency shall give priority to studies that are unlikely to be undertaken without state assistance, or that could lead directly to development of new waste tire processing methods needed in the state or development of a new or expanded use of tire-derived products in a manufacturing process.

9220.0820 GRANT LIMITATIONS; AGREEMENT.

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

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

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

(1) a detailed analysis of the technical and

economic feasibility of the waste tire processing method or manufacturing process that is the subject of the study, including an estimate of the net operating revenue, if any, to be generated by the waste tire processing method or manufacturing process studied if it were developed, considering the availability of waste tires or demand for tire-derived products and markets for products;

(2) a proposal for developing the waste tire processing method or manufacturing process that was the subject of the study, including a proposal for financing, if the study concludes that development is feasible;

(3) an analysis of the impact that the waste tire processing method or manufacturing process studied would have on existing waste tire processing or tire-derived product uses if the methods were developed; and

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

B. provide for staged disbursement of funds as documentation of costs incurred is received from the grant recipient, and for retainage of 15 percent of the funds until the final report is submitted and determined by the commissioner to be satisfactory; and

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

9220.0825 LOANS.

Subpart 1. **Eligible applicants.** Individuals, partnerships, corporations, municipalities, counties, and associations are eligible for waste tire processing loans if they are engaged or intending to become engaged in a waste tire processing business or a business that uses tire-derived

products in a manufacturing process.

Subp. 2. **Eligible costs.** Loan funds are available to pay costs incurred for capital improvements associated with the construction or betterment of a waste tire project, including the cost of land and building acquisition or construction and the cost of equipment purchase and installation. Loan funds are also available for the capital cost of equipment needed to transport waste tires to a waste tire processing facility. Only costs incurred after the loan agreement required under part 9220.0835 has been executed are eligible for funding.

9220.0830 CONTENT, REVIEW, AND EVALUATION OF LOAN APPLICATION.

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

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

B. a description of the waste tire project;

C. the total capital cost of the project;

D. the total loan eligible cost of the project;

E. the amount of the loan requested; and

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

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

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

that the municipality or county pledges its full faith and credit to repay the loan is required.

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

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

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

(3) a description of the method of project facility development, including equipment procurement;

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

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

(6) an analysis of the quantity and source of the waste tires or tire-derived product that will be processed or that will be used in a manufacturing process.

C. A financial plan that contains:

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

(2) annual operating and maintenance costs;

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

(4) projected tipping fees; and

(5) proposed contracts for the sale of products that could be produced by the waste tire project. Contracts must specify quantity, price per unit, and the life of the contract.

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

Subp. 3. **Determination of eligibility and completeness.** Upon receipt of an application, the commissioner shall determine the eligibility of the applicant and the eligibility of the

costs identified in the application, and the completeness of the application.

Subp. 4. **Notice of determination of eligibility and completeness.** After receiving the application, the commissioner shall notify the applicant of the commissioner's determinations of eligibility and completeness. If the commissioner determines that the applicant or the project is ineligible, the commissioner shall reject the application, return it to the applicant, and notify the applicant of the reasons for the rejection. If the commissioner determines that any part of the project cost is ineligible or that the application is incomplete, the commissioner shall notify the applicant of the ineligible portion of the costs or of the deficiency. The applicant has 60 days after receiving the notice to correct any inadequacies identified by the commissioner. If the inadequacies are corrected within the time allowed, the application will be evaluated by the commissioner and sent to the agency for decision.

Subp. 5. **Agency approval.** The agency shall approve applications and award loans that will result in the development of waste tire processing or uses for tire-derived products in a manufacturing process. If available funds are not adequate to fund all applications before the agency, the agency shall give priority to those applications that would aid the agency in fulfilling waste tire management objectives, such as development of a facility in an area where processing capacity is needed. The agency shall also give priority to applications proposing the development of facilities to recycle material from waste tires. No loan may be awarded unless the agency finds that the proposed project has operating revenues that will be sufficient to ensure full repayment of the loan, including interest.

9220.0835 LOAN LIMITATIONS.

Subpart 1. **Loan amount.** The maximum loan is 90 percent of the eligible capital costs of the project or $1,500,000, whichever is less. The agency shall award a loan amount based

on what is necessary to facilitate development of a project and shall consider available program funds and the needs of other applicants when determining the loan amount.

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

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

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

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

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

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

E. require that the recipient provide periodic reports to the agency on the developmental and operational history of the project so that knowledge and experience gained may be made available to other businesses in the state.

Subp. 4. **Failure to complete and operate project.** If a project funded by a loan under this part is not operational in accordance with the terms and conditions of the loan agreement,

including time schedules, the agency shall declare default and require that the entire outstanding balance of the loan be repaid. Before finding a default, the agency shall make a determination as to the reason the project was not completed and operated as required. If the agency finds that the recipient could not complete or operate the project as required due to forces beyond the control of the recipient, the agency shall consider an amendment to the loan agreement that will allow the original objectives of the loan to be accomplished.

REPEALER. Minnesota Rules, parts 9220.0800, subpart 6, is repealed.

APPROVED AS TO LEGALITY

December 20, 1990

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Charlene H. Hatcher
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
DEC 21 1990
Joan Anderson Growe
Secretary of State
11:06 A.M.

Minnesota Pollution Control Agency
520 Lafayette Road, Saint Paul, Minnesota 55155-3898
Telephone (612) 296-6300

Celebrate MINNESOTA 1990

To Whom It May Concern:

RE: Proposed Rules Governing Grants and Loans for Waste Tire Processing, Minn. Rules Parts 9220.0800-.0835

Notice of Intent to Adopt Rules Without a Public Hearing

(1) Notice is hereby given that the Minnesota Pollution Control Agency (MPCA) intends to adopt amendments to the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minn. Stat. §§ 14.22 to 14.28 (1986). The MPCA's authority to adopt the rule is set forth in Minn. Stat. § 14.06 (1988) and Minn. Stat. § 115A.914 (1988).

(2) All persons have until 4:30 p.m. on October 24, 1990, to submit comments in support of or in opposition to the proposed amendments or any part or subpart of the amendments. Comment is encouraged. (3) Each comment should identify the portion of the proposed amendments addressed, the reason for the comment, and any changes proposed.

Any person may make a written request for a public hearing on the rules within the comment period. (4) 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. (6) Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed amendments addressed, the reason for the request, and any change proposed. (7) If a public hearing is required, the MPCA will proceed pursuant to Minn. Stat. §§ 14.131 to 14.20 (1988).

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

(5) Thomas C. Newman
Waste Tire Management Unit
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155
(612) 296-7170

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

(11) The proposed amendments, if adopted, will incorporate statutory changes made in Minn. Laws 1988, ch. 685, sec. 14 and codified at Minn. Stat. § 115A.913 (1988). The proposed amendments will also change the rule to reflect that this program is now administered by the Agency under Reorganization Order No. 155 and Minn. Laws 1989, ch. 335, Art. 1, secs. 128-131. Certain other proposed amendments are intended to improve the administration of the program. One free copy of the rules is available upon request from Thomas C. Newman at the address and telephone number stated above.

(12) A statement of Need and Reasonableness that describes the need for and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Thomas C. Newman upon request.

(14) You are hereby advised, pursuant to Minn. Stat. § 14.115 (1986), "Small business considerations in rulemaking," that the proposed rules will not effect small businesses, which are authorized to participate in the grant and loan program.

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

Sincerely,

Gerald L. Willet

Gerald L. Willet
Commissioner

GLW/jmp

STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

December 10, 1990

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

PUBLIC RESOURCES SECTION
SUITE 200
520 LAFAYETTE ROAD
ST. PAUL, MN 55155
TELEPHONE: (612) 297-1075
FACSIMILE: (612) 297-4139

Patricia Nolte
Legal Assistant
Office of the Attorney General
4th Floor, 525 Park
St. Paul, MN 55155

Rec 12-11-90

Re: In the Matter of Proposed Amendments to Rules Governing Grants and Loans for Waste Tire Processing, Minn. Rules Parts 9220.0800-.0835

Dear Ms. Nolte:

On November 27, 1990, the Minnesota Pollution Control Agency adopted the above-captioned rules governing grants and loans for waste tire processing. Enclosed for your review are the following:

1. Rules as adopted (original and three copies).
2. Findings of Fact, Conclusions, and Order Adopting Rules (two copies).
3. Certificate of Resolution Adopting Rules.
4. Certificate of Authorizing Resolution.
5. Notice of Intent to Adopt Rules Without a Public Hearing and rules as proposed (15 S.R. 733, September 24, 1990).
6. Notice of Intent to Adopt Rules Without a Public Hearing, as mailed.
7. Affidavit of Mailing the Notice of Intent to Adopt Rule Without a Public Hearing and Certificate of Mailing List.
8. Rules as proposed.
9. Statement of Need and Reasonableness.
10. Declaration of Counsel

No comments or requests for notice of submission of these rules to the Attorney General's Office were received.

Very truly yours,

Ann E Cohen

ANN E. COHEN
Special Assistant
Attorney General

AEC:mah:AX9
Enc.

Equal Opportunity Employer

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115A-914

The office shall adopt rules for administration of ~~waste~~ waste tire collector and processor permits, waste tire ~~o~~ ~~waste~~ nuisance abatement, and waste tire collection.

end of comment period stated on Notice of Intent - October 24, 1990 - published in State Register September 24, 1990

CERTIFICATE OF RESOLUTION ADOPTING RULES

I, Gerald L. Willet, do hereby certify that I am the Commissioner of the Minnesota Pollution Control Agency (MPCA), an agency duly authorized under the laws of the state of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the MPCA duly and properly called and held on the 27 day of November, 1990, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified:

> BE IT RESOLVED, that the MPCA hereby approves and adopts the amendments to Minn. Rules pts. 9220.0800-.0835 governing grants and loans for waste tire processing pursuant to the authority vested in the MPCA by Minn. Stat. § 14.06 (1988) and Minn. Stat. § 115A.914 (1988).
>
> BE IT FURTHER RESOLVED, that prior to publishing the rules as adopted in the State Register, the Commissioner is authorized to make any form changes in the rules that the Revisor of Statutes requires the MPCA to make in order to obtain the Revisor's Certificate as required by Minn. Stat. § 14.28 (1988).
>
> BE IT FURTHER RESOLVED, that the MPCA adopts the attached Findings of Fact, Conclusions, and Order Adopting Amendments to Minn. Rules pts. 9220.0800-.0835 and that the Commissioner is hereby authorized to sign the above-mentioned document on behalf of the MPCA and to perform the necessary acts to provide that the rules shall have the force and effect of law.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 27 day of Nov, 1990.

Gerald L. Willet

Gerald L. Willet
Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendments to Rules Governing Grants and Loans for Waste Tire Processing, Minn. Rules Parts 9220.0800-.0835.

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING AMENDMENTS TO RULES

The above-entitled matter came on for decision before the Minnesota Pollution Control Agency (MPCA) on the 27 day of November, 1990. After affording all interested persons the opportunity to present written and oral data, statements and arguments to the MPCA, in accordance with statutory requirement 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 MPCA, being fully advised in the premises, hereby adopts the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

1. Notice of the MPCA's intent to adopt the above-entitled rules without a public hearing was published in the State Register on September 24, 1990, and was sent by mail to all persons on the list maintained by the MPCA pursuant to Minn. Stat. §§ 14.14, subd. 1a and 14.22 (1988) on September 21, 1990.

2. The Statement of Need and Reasonableness was prepared prior to mailing and publication of the notice and was made available to the public and the Legislative Commission to Review Administrative Rules.

3. All persons were given the opportunity to submit comments on the rule for 30 days after notice of proposed rulemaking. The 30 day comment period, as set out in the notice, expired on October 24, 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 MPCA.

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

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

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

CONCLUSIONS

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

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

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

ORDER

NOW, THEREFORE, IT IS ORDERED, that the attached amendments to Minn. Rules pts. 9220.0800-.0835 governing grants and loans for waste tire processing are adopted pursuant to the authority vested in the Minnesota Pollution Control Agency (MPCA) by Minn. Stat. § 14.06 (1988) and Minn. Stat. § 115A.914 (1988).

Dated: 11/27/90

Minnesota Pollution Control Agency

Gerald L. Willet

Gerald L. Willet
Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendments to Rules Governing Grants and Loans for Waste Tire Processing, Minn. Rules Parts 9220.0800-.0835

DECLARATION OF COUNSEL

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

Ann E Cohen

ANN E. COHEN
Special Assistant
Attorney General

DEPARTMENT: Office of the Attorney General **STATE OF MINNESOTA**

OFFICE MEMORANDUM

DATE: December 21, 1990

TO: THOMAS C. NEWMAN
Waste Tire Management Unit
MPCA

FROM: CHARLENE HATCHER
Special Assistant Attorney General
525 Park Street, Suite 500 (55103)

PHONE: 296-9422

SUBJECT: In the Matter of the Adopted Rule Relating to Grants and Loans for Waste Tire Processing

The above-referenced rule has been approved as to its legality by the Attorney General on December 20, 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 the 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.

CH:sc
Enclosures
cc: William Brown, Chief Judge
MaryAnn Hruby
Ann Cohen