

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

MJC
12/4/91

RULE REVIEW CHECKLIST

File No. 1872
DATE RECEIVED 11-26-91
REVIEW DATE 12-5-91
DUE DATE 12-10-91
(DIS)APPROVED 12-10-91 mjc
WITHDRAWN

Docket No. 05 00090835
ADOPTED W/O HEARING
EMERGENCY RULE
TO REVISOR ON 12/4/91
REVISOR (DIS)APPROVED
FILED W/SEC. OF STATE 12/13/91
RETURNED TO AGENCY 12/13/91

✓ 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
- Date adopted

✓ Proposed Rule
- ✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
- 115A.48 subd 5(d) Statutory Authority
- ✓ Small Business Statement
- Expenditure of public money statement
- ~~115A.48 sub 5(d)~~ Signature ~~signed by undated~~ 9-18-91

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

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
- Sept 27, 1991 Dated 30/25 days before adoption
- ✓ Notice attached indicates it is attached
- Copy of rule or summary attached

✓ Publication in State Register
- Sept 30, 1991 Date 30/25 days before adoption
- missing Revised it was published on Sept 30, 1991

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

Resolution Adopting
- Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
- 11-21-91 Date

✓ Written Requests, Submissions or Comments

✓ Declaration of Attorney
- Alan Mitchell Name of SAAG representing agency

Nov 25, 1991 Notice of Submission to Attorney General (if applicable)

Nov 25, 1991 Affidavit of Mailing Notice to Attorney General (if applicable)

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

OFFICE MEMORANDUM

DATE: December 13, 1991

TO: LAURA MILLBERG
Minnesota Office of Waste Management
1350 Energy Lane
St. Paul, MN

FROM: MARTHA J. CASSERLY
Special Assistant
Attorney General

PHONE: 296-6839

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

The above-referenced rule has been approved as to its legality by the Attorney General on December 10, 1991.

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.

MJC:sc

cc: Alan Mitchell
William Brown, Chief Judge
MaryAnn Hruby

Office of Waste Management

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

Rules as Adopted

9210.0620 APPLICATION PROCEDURES.

[For text of subpart 1, see M.R.]

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

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

[For text of items B and C, see M.R.]

[For text of subps 3 to 8, see M.R.]

9210.0630 GRANT AND LOAN AGREEMENTS.

A grant or loan agreement shall:

A. incorporate by reference all or portions of the proposal submitted to the director;

[For text of items B to J, see M.R.]

9210.0635 COUNTY GRANT AND LOAN PROGRAM.

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

Subp. 2. **Eligible applicants.**

A. Eligible applicants are counties that have submitted plans under Minnesota Statutes, section 115A.551, subdivision 6, as amendments to their approved comprehensive solid waste management plans or solid waste master plans.

B. An eligible county may apply for grant funds on behalf of any person, including itself, a group of counties, or a sole proprietorship, partnership, or corporation, but the applicant county shall be a named recipient of the grant award.

C. An eligible county may apply for loan funds on behalf of a sole proprietorship, partnership, or corporation, but the applicant county shall also be a named recipient of the loan award.

[For text of subp 3, see M.R.]

Subp. 4. **Eligible costs.** Eligible costs for grant funds are limited to 25 percent of the capital costs of the project and 75 percent of other project costs. Eligible costs for loan funds are limited to 50 percent of the capital costs of the project.

Subp. 5. **Maximum grant.** The maximum grant award is $100,000, unless the notice provided by the director under part 9210.0620, subpart 1, establishes a lesser maximum grant. The maximum loan award is $500,000, unless the notice provided by the director under part 9210.0620, subpart 1, establishes a lesser maximum loan.

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

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

[For text of items B and C, see M.R.]

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

E. an itemized description of project financing, including applicant contributions, participant contributions, other government contributions, private contributions, and, if applicable, any projected revenues from the project;

[For text of item F, see M.R.]

G. information demonstrating, where applicable, how

the supply of and demand for recyclable material and recycled products will be secured;

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

I. a resolution from each county applying on behalf of a person other than the county that states that the project is important to the county's market development efforts.

The director may request financial or other information from the applicant or project participants, including a business plan, historical and projected financial statements, and credit information if it is necessary to clarify and evaluate the proposal.

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

[For text of item A, see M.R.]

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

[For text of items C to H, see M.R.]

9210.0640 CAPITAL GRANT AND LOAN PROGRAM.

[For text of subps 1 to 6, see M.R.]

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

[For text of items A to C, see M.R.]

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

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

contributions, private contributions, and projected revenues from the project;

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

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

The director may request financial or other information from the applicant, including a business plan, historical and projected financial statements, and credit information if it is necessary to clarify and evaluate the proposal.

[For text of subp 8, see M.R.]

APPROVED AS TO FORM AND LEGALITY
December 10 1991
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY MJ Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
DEC 13 1991
Joan Anderson Growe
Secretary of State

10:30 AM
PB

STATE OF MINNESOTA
OFFICE OF WASTE MANAGEMENT

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

STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION

This Statement of Need and Reasonableness discusses proposed amendments to the rules governing administration of recyclable material market development grant and loan programs. The Minnesota Legislature established the program to encourage and facilitate the development of markets for recyclable materials. Minn. Stat. §115A.48, subd. 5 (1990). The programs are administered by the Minnesota Office of Waste Management (Office) under Minn. Rules, Parts 9210.0600 to 9210.0645, originally promulgated in 1990.

The proposed amendments revise the criteria and procedures for awarding grants and loans under the Recyclable Materials Market Development Grant and Loan Program. Specifically, the proposed amendments clarify how proposals are to be incorporated into grant and loan agreements, expand the scope of the county grant program to include loan funding, clarify the eligibility requirements for the county program, set limits on the amount of loan funds that can be awarded for the county program, and revise the information required to be submitted with project proposals for the county program and the capital grant and loan program.

II. STATEMENT OF OFFICE'S STATUTORY AUTHORITY

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

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

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

III. STATEMENT OF NEED

Minn. Stat. ch. 14 (1990) requires the Office to make an affirmative presentation of facts establishing the need for and reasonableness of the amendments as proposed. In general terms, this means that the Office must set forth the reasons for its proposal, and the reasons must not be arbitrary and capricious. However, to the extent that need and reasonableness are separate, need has come to mean that a problem exists that requires administrative attention, and reasonableness means that the solution proposed by the Office is appropriate. The need for the proposed rule amendments is discussed below.

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

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

achieve significant land disposal abatement through use of source separation of recyclable materials.

After experience with the first funding rounds, the Office has identified the need to streamline certain procedures. The proposed amendments are intended to accomplish this.

The statute specifies that at least 50 percent of the funds originally appropriated for the program be used to support county market development efforts. Typically, counties do not provide their own end markets but rely on private companies to meet this need. Loan funding will improve the ability of the Office of Waste Management to utilize the county program to support county market development efforts by increasing the number and size of private sector projects eligible for funding. Furthermore, the availability of loan funding through the county program will provide a more appropriate financial assistance option than grant funding to meet the needs of local, private sector end markets that are expected to become profitable, but require financial assistance initially in order to start up or expand operations.

IV. STATEMENT OF REASONABLENESS

Minn. Stat. ch. 14 (1990) requires the Office to make an affirmative presentation of facts establishing the reasonableness of the proposed amendments. Reasonableness is the opposite of arbitrariness or capriciousness. It means that there is a rational basis for

the Office's proposed action. The reasonableness of the proposed amendments is discussed below.

Part 9210.0620 APPLICATION PROCEDURES

Part 9210.0620 is intended to provide potential applicants with a concise description of the application process for the program.

The proposed amendment to subpart 2(A) reflects the Office's proposal to provide loans under the county program established in Part 9210.0635. The reasonableness of the proposed amendment will be discussed under the amendments to that part.

Part 9210.0630 GRANT AND LOAN AGREEMENTS

This part sets out the basic terms of the agreement that a grant or loan recipient must sign to receive funding from the Office.

The existing language in item A states that the grant or loan proposal submitted to the Director under 9210.0620, subpart 2 will be incorporated into the grant or loan agreement. This incorporation contractually obligates a recipient to develop and implement the project described in the proposal and thereby establishes criteria against which the Director may evaluate progress of the grantee or borrower. Because the proposals are often revised by proposers during the evaluation process but prior to a final award, it is reasonable to change this rule language to not require the recipient to comply with all aspects of the original proposal. The proposed amendment allows the

Office to incorporate in the grant and loan agreement only those portions of the proposal which are applicable to the project as finally approved.

Part 9210.0635 COUNTY GRANT PROGRAM

Presently, this part applies only to the county grant program. The title is amended to reference the fact that loan funding is proposed to be included in the program.

This part is divided into seven subparts which, together, establish the substantive conditions and criteria under which the Office will provide grants and loans for market development projects that specifically benefit county market development efforts. Subpart 1 is amended to reference the fact that loan funding is to be included in the program.

Subpart 2 is amended to identify those persons on whose behalf a county may apply for a grant or loan under the program. It is reasonable to be more specific about "persons" because experience with the first funding rounds indicated that this issue of eligibility needed clarification. Under the proposed amendments, a county could apply for a grant or loan on behalf of a sole proprietorship, a partnership, or a corporation. It is reasonable to allow counties to apply for a grant or loan on behalf of these other persons because, typically, counties do not provide their own markets but rely on private companies to meet this need. A county cannot apply for a loan on its own behalf under the proposed amendments because a county is a not-for-profit entity and would more appropriately receive grant funding for a county-run recycling effort. The proposed rule

provides that the county will be a named recipient of the award because the award is intended to further the county's market development efforts. Naming the county as a recipient also will help ensure that the money is indeed used for a county effort. By statute, 50 percent of the funds must support county market development efforts.

Subpart 4 identifies costs that are eligible for assistance under the county grant and loan program. The proposed amendments specify that eligible costs for loan funds are limited to 50 percent of the capital costs of the project. Subpart 4 incorporates the Legislature's decision, set forth in Minn. Stat. §115A.48, subd. 5(b), to limit loan assistance to up to 50 percent of the total eligible capital costs of a project.

Subpart 5 specifies the maximum amount to be awarded. The proposed amendments specify the maximum loan award as $500,000 unless the notice provided by the Director under part 9210.0620, subpart 1 establishes a lesser amount. Establishing an award ceiling for all projects is necessary to effectively administer program resources. The Office believes that a $500,000 maximum for loan funding is a reasonable level of financial assistance for the types of projects that counties are likely to sponsor under this program. Larger private sector projects with statewide significance are intended to be funded under the capital loan program.

Subpart 6 describes the information that an applicant must include in a proposal under this program. The proposed technical amendment to subpart 6(A) clarifies the information on names, qualifications, and addresses that must be submitted. The proposed technical amendment to subpart 6(D) incorporates a reference to loan funding.

Subpart 6(E) requires an itemized description of project financing. The proposed amendment includes participant contributions in the itemized description, since the applicant may be applying on behalf of another person who will finance the remaining costs of the project.

Subpart 6(G) requires information demonstrating, where applicable, how the supply of and demand for recyclable materials and recycled products will be secured. The proposed technical amendment deletes the reference to the applicant securing this information, since the applicant may be applying on behalf of another person who will carry out the project.

A new subpart 6(I) is included that requires each county applying on behalf of a person other than the county to submit a resolution stating that the project is important to the county's market development efforts. This requirement is reasonable because county support for the project will be important to its ultimate success. A resolution by the county will document this support.

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

Subpart 7 specifies the criteria that the Director will use to evaluate proposals. The proposed technical amendment to subpart 7(B) deletes a reference specifically to

the applicant, since the applicant may be applying on behalf of another person who will carry out the project, and incorporates a reference to the potential for loan awards.

Part 9210.0640 CAPITAL GRANT AND LOAN PROGRAM

This part applies only to projects that are proposed directly by private organizations and involve capital expenditures. This part is divided into eight subparts that, together, establish the substantive conditions and criteria under which the Office will provide financial assistance to private organizations for market development projects involving capital expenditures. Only subpart 7 is proposed to be amended.

Subpart 7 describes the information that an applicant must include in a proposal under this program. This is the minimum amount of information needed to ensure that the Director can make an informed evaluation of the proposal under subpart 8.

The proposed amendments to subpart 7(D) and (E) delete the requirement for the company to submit a five-year business plan, credit history, and historical financial statements as part of the initial proposal. Instead, subpart 7 gives the Director discretion to request additional financial information as needed during the evaluation process. The request for a business plan has proven redundant in many cases because this information was required in other sections of the proposal. The requirement for other financial information deterred private companies from applying for assistance because the initial proposal was so burdensome to prepare and companies were concerned about providing confidential information. This proposed amendment will allow the Director to learn a good deal about the applicant and the proposal before determining whether it is even

necessary to request confidential information about the applicant and its financial status. In addition, the information will be more timely and up-to-date if provided later during the evaluation process.

VI. SMALL BUSINESS CONSIDERATIONS

The proposed rule amendments do not limit the ability of small businesses to participate in the program. To the contrary, the proposed amendments lighten the application requirements for financial assistance and create a second loan program well suited to the needs of small businesses.

VI. CONCLUSION

Based on the foregoing, the proposed amendments to Minn. Rules pts. 9210.0600 to 9210.0640 are both needed and reasonable.

Dated: October 8, 1991

Dottie Rietow
Director

Office of Waste Management

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

Rules as Proposed

9210.0620 APPLICATION PROCEDURES.

[For text of subpart 1, see M.R.]

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

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

[For text of items B and C, see M.R.]

[For text of subps 3 to 8, see M.R.]

9210.0630 GRANT AND LOAN AGREEMENTS.

A grant or loan agreement shall:

A. incorporate by reference all or portions of the proposal submitted to the director;

[For text of items B to J, see M.R.]

9210.0635 COUNTY GRANT AND LOAN PROGRAM.

Subpart 1. **Scope.** This part establishes the conditions under which the director shall award recyclable material market development program grants ~~to~~ and loans applied for by counties.

Subp. 2. **Eligible applicants.**

A. Eligible applicants are counties that have submitted plans under Minnesota Statutes, section 115A.551, subdivision 6, as amendments to their approved comprehensive solid waste management plans or solid waste master plans.

Approved by Revisor

B. An eligible ~~counties~~ county may apply for grant funds on behalf of any person, including itself, a group of counties, or a sole proprietorship, partnership, or corporation, but the applicant county shall be a named ~~recipients shall be the county~~ recipient of the grant award.

C. An eligible county may apply for loan funds on behalf of a sole proprietorship, partnership, or corporation, but the applicant county shall also be a named recipient of the loan award.

[For text of subp 3, see M.R.]

Subp. 4. **Eligible costs.** Eligible costs for grant funds are limited to 25 percent of the capital costs of the project and 75 percent of other project costs. Eligible costs for loan funds are limited to 50 percent of the capital costs of the project.

Subp. 5. **Maximum grant.** The maximum grant award is $100,000, unless the notice provided by the director under part 9210.0620, subpart 1, establishes a lesser maximum grant. The maximum loan award is $500,000, unless the notice provided by the director under part 9210.0620, subpart 1, establishes a lesser maximum loan.

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

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

[For text of items B and C, see M.R.]

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

E. an itemized description of project financing, including applicant contributions, participant contributions, other government contributions, private contributions, and, if applicable, any projected revenues from the project;

[For text of item F, see M.R.]

Approved by Revisor _____

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

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

I. a resolution from each county applying on behalf of a person other than the county that states that the project is important to the county's market development efforts.

The director may request ~~additional~~ financial or other information from the applicant or project participants, including a business plan, historical and projected financial statements, and credit information if it is necessary to clarify and evaluate the proposal.

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

[For text of item A, see M.R.]

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

[For text of items C to H, see M.R.]

9210.0640 CAPITAL GRANT AND LOAN PROGRAM.

[For text of subps 1 to 6, see M.R.]

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

[For text of items A to C, see M.R.]

D. ~~a financial report, including:~~

~~(1) a five-year business plan;~~

~~(2)~~ an itemized description of the project costs, including the total estimated cost, total eligible cost, and the

Approved by Revisor _____

amount of grant or loan funding requested;

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

~~(4) a credit history of the organization; and~~

~~(5) financial statements for the last three years;~~

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

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

The director may request ~~additional~~ financial or other information from the applicant, including a business plan, historical and projected financial statements, and credit information if it is necessary to clarify and evaluate the proposal.

[For text of subp 8, see M.R.]

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

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

AGENCY: Office of Waste Management

MINNESOTA RULES: Chapter 9210

The attached rules are approved for publication in the State Register

Carla M. Riehle
Assistant Revisor

115A.48 subd 5(d)

The office shall make grants and loans and shall provide technical assistance to persons . . .

(d) The office shall adopt rules for the program

end of comment period October 31, 1991

STATE OF MINNESOTA
OFFICE OF WASTE MANAGEMENT

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

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE AMENDMENTS

(1) The above-entitled matter came on for decision before the Director of the Minnesota Office of Waste Management (Office) on the 21 day of November, 1991. After affording all interested persons the opportunity to present written and oral data, statements and arguments to the Office, in accordance with statutory requirements regarding the adoption of noncontroversial rules, after considering the Statement of Need and Reasonableness, after considering all of the evidence adduced upon the records, files and proceedings herein, the Office, being fully advised in the premises, hereby adopts the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

(1) 1. Notice of the Minnesota Office of Waste Management's intent to adopt rule amendments without a public hearing was published in the State Register on September 30, 1991, (16 S.R. 762) and was sent by mail to all persons on the list maintained by the Office pursuant to Minn. Stat., §§14.14, subd. 1a and 14.22 (1990), on September 27, 1991.

2. A Statement of Need and Reasonableness was prepared in advance of the date of publication of the notice and was available on September 30, 1991, although it was not signed by the Director until October 8, 1991.

3. All persons were given the opportunity to submit comments on the proposed rule amendments for at least 30 days after notice was given. The comment period, as set out in the notice, expired on October 31, 1991.

4. Only one request was received for the Statement of Need and Reasonableness during the comment period.

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

6. One request for notice of submission to the Attorney General was received by the Office.

7. During the comment period the Office received no comments and no requests for extension of the comment period.

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

9. The rule amendments are needed and reasonable.

CONCLUSIONS

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

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

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

ORDER

NOW, THEREFORE, IT IS ORDERED, that the proposed amendments to Minnesota Rules parts 9210.0600 to 9210.0645, governing the Recyclable Material Market Development Grant and Loan Program, as published in the State Register on September 30, 1991 (16 S.R. 762-764), are hereby without modification adopted pursuant to the authority vested in the Minnesota Office of Waste Management by Minn. Stat., section 115A.48 (1990).

(9)

MINNESOTA OFFICE OF WASTE MANAGEMENT

Dated: 11/21/91

Dottie Rietow
Director

STATE OF MINNESOTA
OFFICE OF WASTE MANAGEMENT

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

NOTICE OF SUBMISSION OF RULE AMENDMENTS TO THE ATTORNEY GENERAL

Pursuant to your request and in accordance with Minn. Stat. § 14.32 (1990):

PLEASE TAKE NOTICE that the above-captioned rule amendments as adopted without modification have been submitted to the Office of the Attorney General on this date, November 25, 1991, for review as to legality and form to the extent form relates to legality. The rule amendments as proposed, the rule amendments as adopted, all the notices, the one written request received, the Statement of Need and Reasonableness, and other required documents also have been submitted to the Attorney General. No written comments were received by the Office of Waste Management regarding the rule amendments.

The rule amendments must be approved or disapproved by the Attorney General within 14 days following the date of receipt of the rule amendments. You may submit written comments to the Attorney General on the legality of the rule amendments. Any written comments must be submitted within eight calendar days of the date of this notice. Your comments must address only the issue of legality of the rule amendments or the legality of the specific parts of subparts of the rule amendments. The Attorney General

standards for review are set forth in Minnesota Rules, pt. 2010.1000. You may receive a copy of the Attorney General decision upon written request to the Attorney General.

Your comments or request for the decision must be directed to:

The Office of the Attorney General
525 Park, Suite 500
St. Paul, Minnesota 55103

Any written comments submitted to the Attorney General must also be submitted to:

Laura Millberg
Minnesota Office of Waste Management
1350 Energy Lane
St. Paul, Minnesota 55108

Dated: 11/22/91

Dottie Rietow
Director

STATE OF MINNESOTA
OFFICE OF WASTE MANAGEMENT

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

AFFIDAVIT OF MAILING THE NOTICE OF SUBMISSION OF RULE AMENDMENTS TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Craig W. Peterson, being duly sworn says:

That on the 25th day of November, 1991, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Submission of Rule Amendments to the Attorney General by depositing in the United States Mail for first class mailing, with postage prepaid, to the following person at the address listed.

Dennis B. Dickey
4350 Fourth Ave. So.
Minneapolis, Minnesota 55409-2116

Craig W. Peterson

Subscribed and sworn to before me
this 25th day of Nov., 1991.

Helen L. Renner
Notary Public

HELEN L. RENNER
NOTARY PUBLIC-MINNESOTA
WASHINGTON COUNTY
MY COMMISSION EXPIRES MARCH 6, 1994

MINNESOTA
OFFICE
OF WASTE
MANAGEMENT

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

September 27, 1991

Dear Interested Party:

As you know, the Minnesota Office of Waste Management (OWM) has financial assistance programs to further the goal of recycling market development. The first funding round for the Recyclable Material Market Development Grant and Loan Program was completed last June. That funding round demonstrated the need to revise some of the criteria and procedures for administering the grant and loan program.

Enclosed please find a copy of the Notice of Intent to Adopt Rule Amendments Without a Public Hearing. The OWM is publishing the proposed amendments in the State Register on September 30, 1991, and is accepting public comments through October 31, 1991.

The proposed rule amendments expand the County Grant Program to a County Grant and Loan Program, so that counties may apply on behalf of private companies for market development loans. In addition, the amendments eliminate the requirement that companies provide extensive financial information as part of the initial proposal, and instead permit the OWM to request such information as needed during the evaluation process.

If you have any questions or would like to receive a copy of the proposed amendments, please call Laura Millberg of my staff at (612) 649-5762.

Sincerely,

Dottie Rietow

Dottie Rietow
Director

Enclosure

Printed on Recycled Paper

Equal Opportunity Employer

STATE OF MINNESOTA
OFFICE OF WASTE MANAGEMENT

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

NOTICE OF INTENT TO ADOPT RULE AMENDMENTS WITHOUT A PUBLIC HEARING

Notice is hereby given that the Minnesota Office of Waste Management (Office) intends to adopt amendments to the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in Minn. Stat. §§14.22 to 14.28 (1990). The Office's authority to adopt the rules is set forth in Minn. Stat. §115A.48, subd. 5 (d) (1990).

All persons have until 4:30 p.m. on October 31, 1991, to submit comments in support of or in opposition to the proposed amendments or any part or subpart of the proposed amendments. Comment is encouraged. Each comment should identify the portion of the proposed amendments addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the proposed amendments 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 Office will proceed pursuant to Minn. Stat. §§14.131 to 14.20 (1990).

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

Laura Millberg
Minnesota Office of Waste Management
1350 Energy Lane
St. Paul, Minnesota 55108
612-649-5762
1-800-652-9747 (Minnesota Toll-Free)

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

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

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

You are hereby advised, pursuant to Minn. Stat. §14.115 (1990), "Small business considerations in rulemaking," that the proposed amendments will have no negative effect on small businesses, as the amendments do not limit the ability of small businesses to participate in this program.

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

Dated: 9/18/91

Dottie Rietow

DOTTIE RIETOW
Director

STATE OF MINNESOTA
OFFICE OF WASTE MANAGEMENT

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

DECLARATION OF COUNSEL

DECLARATION OF COUNSEL

I, Alan Mitchell, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule amendments and the supporting rulemaking record, and that, based on my examination, the Administrative Procedures Act and Minnesota Rules ch. 2010 have been followed. For Attorney General billing purposes, the four-digit docket client code is 0835.

Alan Mitchell
Special Assistant
Attorney General

November 21, 1991

State of Minnesota

Office of Waste Management

Proposed Amendments Governing Recyclable Material Market Development Grant and Loan Program,

Minn. Rules Parts 9210.0600 to 9210.0645

Notice of Intent to Adopt Rule Amendments Without a Public Hearing

(1) Notice is hereby given that the Minnesota Office of Waste Management (Office) intends to adopt amendments to the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedures Act for adopting rules without a public hearing in Minn. Stat. §§14.22 to 14.28 (1990). The Office's authority to adopt the rules is set forth in Minn. Stat. §115A.48, subd. 5 (d) (1990).

(2) All persons have until 4:30 p.m. on October 31, 1991, to submit comments in support of or in opposition to the proposed amendments or any part or subpart of the proposed amendments. Comment is encouraged. (3) Each comment should identify the portion of the proposed amendments addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the proposed amendments 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. If a public hearing is required, the Office will proceed pursuant to Minn. Stat. §§14.131 to 14.20 (1990).

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

Laura Millberg

Minnesota Office of Waste Management

1350 Energy Lane

St. Paul, Minnesota 55108

612-649-5762

1-800-652-9747 (Minnesota Toll-Free)

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

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

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed amendments and identifies the data

and information relied upon to support the proposed amendments has been prepared and is available from the Office upon request.

(13) You are hereby advised, pursuant to Minn. Stat. §14.115 (1990), "Small business considerations in rulemaking," that the proposed amendments will have no negative effect on small businesses, as the amendments do not limit the ability of small businesses to participate in this program.

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

Dottie Rietow

DOTTIE RIETOW
Director

STATE OF MINNESOTA
OFFICE OF WASTE MANAGEMENT

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

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

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Helen L. Renner, 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 (1990) that their names be placed on the Minnesota Office of Waste Management's rulemaking mailing list is accurate, complete, and current as of this twenty-seventh day of September, 1991.

That on the twenty-seventh day of September, 1991, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt Rule Amendments Without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States Mail or in the United States Mail a copy thereof, with postage prepaid, to all persons and associations on the aforementioned list.

Helen L. Renner

Subscribed and sworn to before me
this 27 day of Sept, 1991.

Marilyn J. Wegwart
Notary Public

MARILYN J. WEGWART
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My commission expires 4-19-96

DENNIS B. DICKEY
4350 FOURTH AVE.SO.
MINNEAPOLIS, MN
55409-2116 U.S.A.
TEL: 612-827-1621
FAX: 612-866-7546 U.S.A.
"PHONE MR. DICKEY"
TELEX: 151294557 U.S.A.
(AT&T System)
TO: CHINAHANDMN AT&T

RECEIVED
MN OFFICE OF
OCT 04 1991
WASTE MANAGEMENT

September 29, 1991

Office of Ms. Laura Millberg
Minn. Office Waste Mgm't.
1350 Energy Lane
St. Paul, MN 55108

SUBJ: Placement On List: Request For Copies,
In Keeping With 27SEP91 D. Rietow Notice

Dear Ms. Millberg,

We thank Director Rietow for subject Notice regarding Revision Of Criteria and Procedures for Administering the Grant and Loan Program.

Please place us on the mailing lists for the following:

1.) One free copy of the proposed amendments, which will address the matter of "...expanding the County Grant Program to a County Grant and Loan Program";

2.) One copy of the directly pertinent: "Statement Of Need and Reasonableness";

3.) Notice of Date Of Submission of amendments to the Attorney General;

4.) One copy of the eventual Amendments as Adopted.

Let us thank you, in advance, for prompt mailing of these informational materials.

Sincerely,

Dennis B. Dickey
Executive Vice President

DBD/lax

c: Sharon Sayles-Belton