



**STATE OF MINNESOTA  
OFFICE OF WASTE MANAGEMENT**

In the Matter of the Proposed Rules  
Governing the Solid Waste Reduction  
Grant and Loan Programs, Minn. Rules,  
Parts 9210.0700 to 9210.0770

STATEMENT OF NEED  
AND REASONABLENESS

I. INTRODUCTION

This Statement of Need and Reasonableness discusses proposed new rules governing a solid waste reduction grant and loan program. The Minnesota legislature established this program in order to encourage and facilitate the development and implementation of solid waste reduction projects. Minn. Stat. §§115A.53 and 115A.55, subd. 3 (2nd 1989 Supp.). The program is to be administered by the Minnesota Office of Waste Management (Office). Id.

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

The proposed rules are intended to fulfill the statutory directives of Minn. Stats. §§115A.53 and 115A.55, subd. 3 (2nd 1989 Supp.) and to further state environmental goals for solid waste management practices.

II. STATEMENT OF OFFICE'S STATUTORY AUTHORITY

Minn. Stat. §§115A.53 and 115A.55, subd. 3 both instruct the Office to provide grants and loans to develop and implement projects for solid waste reduction. The Office's authority to adopt rules for this program is found in Minn. Stat. §115A.55, subd. 3 (d) which expressly authorizes the Office to adopt rules for this grant and loan program, and in Minn. Stat. §115A.06, subd. 2, which authorizes the Office to adopt rules to govern and implement its activities.

### III. STATEMENT OF NEED

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

The proposed rules are needed to specify clearly the eligibility criteria and procedural conditions under which the Office will award grants and loans pursuant to Minn. Statutes §§115A.53 and 115A.55, subd. 3. Minn. Stat. §115A.53 states, in relevant part, that the Office "shall provide grants to develop and implement projects for waste reduction...." Minn. Stat. §115A.55, subd. 3 provides:

- (a) The office shall make loans and grants to any person for the purpose of developing and implementing projects or practices to prevent or reduce the generation of solid waste including those that involve reuse of items in their

original form or in manufacturing processes that do not cause the destruction of recyclable materials in a manner that precludes further use, or involve procuring, using, or producing products with long useful lives. Grants may be used to fund studies needed to determine the technical and financial feasibility of a waste reduction project or practice or for the cost of implementation of a waste reduction project or practice that the office has determined is technically and financially feasible.

(b) In making grants or loans, the office shall give priority to waste reduction projects of practices that have broad application in the state and that have the potential for significant reduction of the amount of waste generated.

(c) All information developed as a result of a grant or loan shall be made available to other solid waste generators through the public information program established in subdivision 2.

(d) The office shall adopt rules for the administration of this program. Office rules must prescribe the level or levels of matching funds required for grants or loans under this subdivision.

As the Office interprets this statutory subdivision, there are two separate activities that may receive assistance from this grant and loan program: (1) developing solid waste reduction projects and (2) implementing solid waste reduction projects. For each of these activities, proposed rules are needed to clarify both the types of projects and the costs that qualify for state financial assistance.

#### IV. STATEMENT OF REASONABLENESS

Minn. Stat. ch. 14 (1988) requires the Office to make an affirmative presentation of facts establishing the reasonableness of the proposed rules. Reasonableness is the opposite of arbitrariness or capriciousness. It means that there is a rational basis for the Office's proposed action. The reasonableness of the proposed rules is discussed below.

A. Reasonableness of the Rules as a Whole

Solid waste reduction can be accomplished through a wide range of activities taken by public or private institutions, as well as individuals. Given this wide range, the Office believes that it can best achieve state solid waste reduction goals by managing the grant program and loan program in parts: (1) public institution grant program; (2) feasibility study grant program; and (3) implementation loan program.

There are no disadvantages to managing the program in these parts since, together, the parts cover essentially all of the solid waste generating community. Moreover, managing the program in these parts has a number of advantages: First, it encourages the solid waste generating community to engage in solid waste reduction activities. Second, it allows the Office to tailor program requirements in a manner that best suits the type of applicants to be addressed by the program. Third, it is both easier to administrate and more equitable for the Office to evaluate similar applications against each other. If the program were not divided into parts, applicants serving different functions would compete against each other for limited grant and loan funds. In sum, the Office's decision to manage the program in three parts is reasonable because it promotes efficiency in managing the program, is fair and implements the statutory mandate.

B. Reasonableness of Individual Rules

Part 9210.0710 DEFINITIONS

This part provides definitions necessary for the rule. Several of the terms defined in this part require definitions for clarity and consistency. Those terms are: Director (Subpart 2); Office (Subpart 3); Program (Subpart 5); and Solid Waste (Subpart 6). The other terms defined in this part are substantive and have special significance as used. The reasonableness of the definitions of these terms is discussed below.

Subpart 7 defines solid waste reduction. The importance of defining solid waste reduction as used in the solid waste reduction rules is self-evident. The definition set forth in the rules is reasonable because it identifies a wide range of activities that are commonly understood to prevent or reduce the generation of solid waste. In addition, the definition set forth in the rules is consistent with and intended to clarify the definition in Minn. Stat. §115A.03, subd. 36a.

Subpart 8 defines useful life. This term is used in the definition of solid waste reduction (subpart 7). The definition of useful life established in the rules is reasonable because it conforms to the common understanding of the persons involved in solid waste reduction efforts.

#### Part 9210.0720 APPLICATION PROCEDURES

Part 9210.0720 is intended to provide potential applicants with a clear and concise presentation of the application process for this program. To this end, part 9210.0720 is divided into eight subparts which, together, establish the procedures for obtaining a grant or loan for solid waste reduction projects. These procedures create a Request for Proposal (RFP) process, a common process for providing financial

assistance. Use of the RFP process is reasonable in that it allows the Office to adjust the grant and loan program to the availability of state funds as they are appropriated by the legislature.

The RFP process is created in subpart 1 which states that funding rounds are initiated when the Director publishes a notice in the STATE REGISTER. This notice will contain basic information of interest to persons who may wish to apply for a solid waste reduction grant or loan, including the availability of grants and loans, deadline for submitting a grant or loan application, and the maximum amount of funds available for a project. Use of the STATE REGISTER to provide notice of the funding program is reasonable because the program is statewide and because the STATE REGISTER is the official publication for state notices. Further, by specifying the maximum amount of funding available, the Office will be able to adjust the grant and loan program to reflect changes in the availability of state funds. Moreover, by providing notice of these adjustments in the STATE REGISTER potential applicants are fully apprised of the availability of funds for projects of interest.

Subpart 1 also states that the Director may use the STATE REGISTER notice to limit the types of projects that will be accepted during a funding round. By limiting a funding round to specific types of projects, the Office will be able to react more effectively to changing solid waste management conditions and advancing technology. Accordingly, the Office will be able to encourage solid waste reduction projects of particular interest and need at any given time. The ability to make this adjustment is reasonable because it will allow the Office to manage the grant and loan program to

suit, as best as possible, the solid waste reduction needs of the state.

Subparts 2 through 5 identify the procedures the Director will use in evaluating applications. These procedures ensure that applications will receive equal and fair treatment.<sup>1</sup> Further, they provide administrative certainty to the application process. Thus, the proposed procedures are reasonable. (Please note that the criteria for evaluating applications are established later in the rules and are discussed later in this Statement of Need and Reasonableness.)

Subpart 6 provides that the Director will award grants and loans to those projects that the Director determines best satisfy the solid waste reduction needs of the state, as measured according to criteria established later in the rules. Because each criterion establishes a preference based on only a specific element or elements of a proposed project, the Director will balance those preferences to identify those projects that satisfy the criteria as a whole. This subpart also allows applicants that do not receive an award to resubmit their application in response to a future notice from the director, published in the STATE REGISTER. This is reasonable because, although the proposed project may be meritorious, proposals will be selected based on which projects best satisfy the evaluation criteria; and it thus may be surpassed by a proposal that is even better.

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<sup>1</sup> They also establish that information developed as a result of a grant or loan shall be made available to the public, although applicants may request that data included in their applications be treated as nonpublic pursuant to Minn. Stat. §115A.06, subd. 13. See part 9210.0720, subp. 2. This provision derives directly from statutory requirements on the availability of information developed under the grant programs and therefore is reasonable. See Minn. Stat. §115A.55, subd. 3(c).

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

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

#### Part 9210.0730 LIMITATIONS

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

Subpart 1 sets out the conditions under which the Director may award a grant or loan for less than the eligible amount requested by an applicant or less than the maximum award established in the notice under Part 9210.0720, subpart 1. Two conditions are set out: (1) insufficient state resources to provide full assistance to all proposed grantees and (2) ability of an applicant to operate the project at a lesser award. These conditions are reasonable in that they allow projects to go forward while at the same time preserving limited state funds.

Subpart 2 provides that the Director will not disburse grant or loan funds until



the recipient has executed a written grant or loan agreement with the Director. This condition establishes a reasonable safeguard to prevent abuse of funds awarded through these rules. Part 9210.0740 sets out the terms of grant and loan agreements.

#### Part 9210.0740 GRANT AGREEMENT

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

Item A states that the grant or loan proposal submitted to the Director under 9210.0720, 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 grant or loan recipient.

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

Item C specifies that a recipient must provide written reports to the Director. Written reports will allow the Director to assess the performance of a recipient and, where applicable, transfer knowledge and experience gained from a project to other persons of the solid waste generating community. Thus, this requirement is reasonable

because it will assist the Director in attaining state solid waste reduction goals.

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

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

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

due to causes unrelated to bad faith on the part of the recipient.

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

Item I provides that all information developed as a result of a grant or loan shall be made available to other persons through the Office's public information program. This is a condition of the statute governing these rules. Minn. Stat. §115A.55, subd. 3(c).

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

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

Part 9210.0750 PUBLIC INSTITUTION GRANT PROGRAM

This part applies only to the grant program for public institutions. It is divided into six subparts which, together, establish the substantive conditions and criteria under which the Office will provide financial assistance to public institutions for solid waste reduction projects. These subparts are: (1) scope; (2) eligible applicants; (3) eligible projects; (4) eligible costs; (5) proposal; and (6) evaluation of proposals. The first subpart (scope) is self-evident and requires no further explanation. Subparts 2 through 6 are discussed below.

Subpart 2 identifies eligible applicants as political subdivisions and other public entities, including state, county, and local agencies; school districts, universities, and hospitals; and solid waste management districts established under Minn. Stat. §§115A.62 to 115A.72. The rule is intended to be broad in scope since the Office would like to encourage all sectors of society to develop and implement solid waste reduction practices. Thus, the Office believes it is reasonable to make virtually any public institution eligible for a grant under this program.

Subpart 2 also allows an eligible applicant to apply for assistance on behalf of another person. This condition is reasonable because it promotes cooperation with the private sector and allows financing of a project that may best address local needs.

Subpart 3 identifies projects that are eligible for assistance under the public institution solid waste reduction grant program. Specifically, eligible projects include both feasibility studies and implementation projects. This definition is intended to be quite broad in order to give potential applicants great leeway in designing solid waste reduction projects. The Office believes such a broad definition encourages the creative

design and implementation of solid waste reduction practices and therefore is reasonable. It also is reasonable to expressly exclude recycling and composting from the definition of eligible projects since those activities are the subject of separate statutory programs.

Subpart 4 identifies costs that are eligible for assistance under the public institution grant program. Specifically, subpart 4 states that eligible costs are limited to 75 percent of the costs of a project, except that only 50 percent of the costs of purchasing and installing equipment are eligible. Minn. Stat. §115A.55, subd. 3(d) instructs the Office "to prescribe the level or levels of matching funds" for grants and loans, and it is the experience of the Office that recipients who are willing to fund a portion of a project themselves are often more serious about the project. The Office believes that a limit of 75 percent of eligible project costs, with the exception of purchase and installation of equipment, is reasonable because it will ensure that a recipient under this program will have a compelling interest in developing and implementing a proposed project. The Office also believes that a limit of 50 percent of costs for purchasing and installing equipment is reasonable, because this larger investment provides the recipient with additional incentive to more wisely purchase equipment and maintain it.

Subpart 5 describes five categories of 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 effectively evaluate the proposals under subpart 6. The

rationale for each specific category of information is provided below.<sup>2</sup>

Subpart 5 (A) requires the names, qualifications, and addresses of the applicant and other project participants, and letters of resolution from the applicants participating in the proposed project. This information is needed to allow the Director to contact each applicant and to assess the ability and commitment of project participants to complete project activities.

Subpart 5 (B) requires a description of a proposed project, including specific information. This information is needed and reasonable because it allows the Director to determine, among other things, the eligibility of a proposed project; the feasibility of a proposed project; the applicant's ability and intention to implement the project in a timely manner; and the consistency of the proposed project with solid waste reduction priorities. Each of these factors will be considered by the Director in deciding which projects to fund. (See discussion regarding subpart 6, below.)

Subpart 5 (C) requires financial information. Requiring this information is reasonable because it will allow the Director to assess, in accordance with subpart 6, the economic feasibility of the proposed project; the eligibility of project costs; and the ability of the applicant to implement the project in a timely manner. Item C (1) requires an itemized description of project costs. This information is needed to determine whether estimated costs realistically match the scope of a proposed project

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<sup>2</sup> Subpart 5 also provides that the Director may request additional information from an applicant if the Director determines that additional information is necessary to clarify and evaluate a proposal. This is reasonable because it allows the Director to obtain sufficient information to fully review and evaluate proposals under the criteria established in subpart 6.

and whether the eligible costs identified by an applicant are within the range of eligible costs described in subpart 4 of this part. Item C (2) requires an itemized description of project financing. This information is needed to determine whether an applicant has secured financing for all project costs that would not be paid for with grant funds. Item C(3) requires a business plan demonstrating ongoing financial commitment to the project. This is reasonable because it ensures that the project will receive the financial attention needed to make it successful over the life of the project. Item C (4) requires a credit history and financial statements for the past three years if the applicant (a public institution) is applying on behalf of another person. This requirement is reasonable because it allows the Director to assess whether the ultimate beneficiary of grant funds has the financial wherewithal to complete the project successfully.

Subpart 5 (D) requires information demonstrating, where applicable, the technical feasibility of a proposed project, including preliminary design and engineering plans. This information is needed to assess a project's potential for success. For capital expenditures, preliminary design and engineering plans provide a framework for determining a project's technical viability.

Subpart 5 (E) requires information demonstrating that a proposed project will comply with applicable regulations, including a list of permits required for a project. Requiring this information is needed and reasonable because it allows the Director to assess whether a proposed project will conform with applicable legal requirements.

Subpart 6 specifies the criteria that the Director will use to evaluate proposals. The rationale for each criterion is set out below.

Subpart 6 (A) requires the Director to determine that a proposed project is technically and economically feasible. This criterion is reasonable because it assures that state funds will only be used on projects that present a high potential for success.

Subpart 6 (B) requires the Director to determine whether an applicant has the ability and intention to implement a proposed project upon the receipt of a grant award. This criterion is reasonable in that it assures that the state will benefit, as soon as possible, from a project receiving state funding.

Subpart 6 (C) requires the Director to determine the extent to which a proposed project is consistent with state solid waste reduction priorities. These priorities may change with developments in technology and changes in the solid waste management needs of communities and the state as a whole. Using these priorities as a funding criterion will allow the Office to direct state funds to projects that best satisfy the current solid waste management needs of the state at any given time.

Subpart 6 (D) requires that applicants demonstrate the necessary financial commitment for all project costs. This criterion is reasonable because it ensures that state funds will be awarded only to projects that demonstrate the potential for success over the life of the project.

Subpart 6 (E) requires the applicant to demonstrate that it has the support of all public entities involved in the project. This is reasonable because all project participants must demonstrate support in order for the project to be successfully completed.

Subpart 6 (F) requires the Director to determine that a proposed project will



comply with federal, state, and local regulations. This criterion is reasonable because it assures a coordinated, consistent effort to address legal issues raised by solid waste reduction efforts.

In addition, subpart 6 requires the Director to give priority to solid waste reduction projects that have broad application throughout the state and that have the greatest potential to significantly reduce the generation of solid waste. This criterion is a condition of the statute [Minn. Stat. §115A.55, subd. 3(b)] and favors proposed projects that have the greatest ability to achieve state solid waste reduction goals and be duplicated by other organizations or areas in the state.

#### Part 9210.0760 FEASIBILITY STUDY GRANT PROGRAM

Part 9210.0760 applies only to feasibility study projects that are proposed by private organizations. (Implementation projects are governed by part 9210.0770.)

Part 9210.0760 is divided into six subparts which, together, establish the substantive conditions and criteria under which the Office will provide financial assistance to private organizations for solid waste reduction feasibility studies. These six subparts are: (1) scope; (2) eligible applicants; (3) eligible projects; (4) eligible costs; (5) proposal; and (6) evaluation of proposals. The first subpart (scope) is self-evident and requires no further explanation. Subparts 2 through 6 are discussed below.

Subpart 2 identifies eligible applicants as private organizations, both for-profit and non-profit. Public institutions may obtain grant funds for feasibility studies under part 9210.0750. Thus, it is reasonable to limit eligibility under this rule to private

organizations alone.

Subpart 3 identifies projects that are eligible for assistance under the feasibility study grant program. Essentially, any study of the technical and economic feasibility of a solid waste reduction project that may be implemented by an applicant is eligible for funding. The Office believes such a broad definition encourages the creative design of solid waste reduction practices and therefore is reasonable. It also is reasonable to expressly exclude recycling and composting from the definition of eligible projects since those activities are the subject of separate statutory programs.

Subpart 4 identifies costs that are eligible for assistance under the feasibility study grant program. Specifically, subpart 4 states that eligible costs are limited to 50 percent of the costs of the study, up to the maximum established by the notice under part 9210.0720, subpart 1. Minn. Stat. §115A.55, subd. 3 (d) instructs the Office "to prescribe the level or levels of matching funds" for grants and loans, and it is the experience of the Office that recipients who are willing to fund a portion of a project themselves are often more serious about the project. The Office believes that requiring a recipient to provide a 50 percent match is reasonable for feasibility studies because it will ensure that a recipient under this program will have a compelling interest in developing and implementing a proposed project.

Subpart 5 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 effectively evaluate the proposals under subpart 6. Subparts 5 (A) through (D) require essentially the same information as required for feasibility studies

under part 9210.0750. It is reasonable to require this information for private institutions seeking assistance for feasibility studies for the same reasons as stated for the public institutions program. (See discussion, above, regarding subpart 5 of the public institution grant program.)

Subpart 6 establishes criteria that the Director will use in determining which projects should be awarded state funds. These criteria are essentially the same as the criteria established in the public institution grant program. (That program also includes one other criterion not applicable to the private sector.) These criteria are needed and reasonable for the same reasons as they are needed and reasonable in the public institution grant program. (See discussion, above, regarding subpart 6 of the public institution grant program.)

#### Part 9210.0770 IMPLEMENTATION LOAN PROGRAM

Part 9210.0770 establishes the conditions under which the Office will make loans to private organizations for implementation projects. (Feasibility projects are governed by part 9210.0760.)

Part 9210.0770 is divided into six subparts which, together, establish the substantive conditions and criteria under which the Office will provide financial assistance to private organizations for solid waste reduction implementation projects. These six subparts are: (1) scope; (2) eligible applicants; (3) eligible projects; (4) eligible costs; (5) proposal; and (6) evaluation of proposals. The first subpart (scope) is self-evident and requires no further explanation. Subparts 2 through 6 are discussed

below.

Subpart 2 identifies eligible applicants as private organizations, both for-profit and non-profit. Through separate programs under these rules, the Office will make grants to both private and public organizations to conduct feasibility studies. The Office has decided to make loans, but not grants, to private organizations interested in implementing (as distinguished from studying the feasibility of) solid waste reduction projects. The Office believes that the use of loans, but not grants, for this program is reasonable because it provides the most efficient and equitable distribution of government funds to private organizations seeking to make capital expenditures for solid waste reduction projects.

Subpart 3 identifies projects that are eligible for assistance under the implementation loan program. This definition is intended to be quite broad in order to give potential applicants great leeway in designing solid waste reduction implementation projects. The Office believes such a broad definition encourages the creative design and implementation of solid waste reduction practices and therefore is reasonable. It also is reasonable to expressly exclude recycling and composting from the definition of eligible projects since those activities are the subject of separate statutory programs.

Subpart 4 identifies costs that are eligible for assistance under the implementation loan program. Specifically, subpart 4 states that eligible costs are limited to 50 percent of the costs of the project, except that only 20 percent of the loan may be awarded for final design and engineering. Minn. Stat. §115A.55, subd. 3(d)

instructs the Office "to prescribe the level or levels of matching funds" for grants and loans, and it is the experience of the Office that funding recipients who are willing to fund a portion of a project themselves are often more serious about the project. The Office believes that requiring a loan recipient to provide a 50 percent match is reasonable for implementing projects because it will ensure that a loan recipient under this program will have a compelling interest in implementing a proposed project. The Office also believes that it is reasonable to limit final design and engineering plan costs to 20 percent in order to ensure that state funds are being spent on actual project implementation rather than development. In addition, it is reasonable to exclude operational costs from eligible costs of implementing a solid waste reduction project, because the Office does not wish to fund projects that cannot become self sustaining after the loan funds are exhausted. Also, it is reasonable to exclude the costs of real property because the Office does not wish to fund the high cost of land, which is not closely tied to promoting the reduction of solid waste and achieving solid waste reduction goals.

Subpart 5 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 effectively evaluate the proposals under subpart 6. Subparts 5 (A) through (E) require essentially the same information as required for implementation projects under part 9210.0750. It is reasonable to require this information for private organizations seeking assistance for implementation of projects for the same reasons as stated for the public institution grant program. (See discussion, above, regarding

subpart 5 of the public institution grant program.)

Subpart 6 establishes criteria that the Director will use in determining which projects should be awarded state funds. These criteria are essentially the same as the criteria established in the public institution grant program. (That program also includes one other criterion not applicable to the private sector.) These criteria are needed and reasonable for the same reasons as they are needed and reasonable in the public institution grant program. (See discussion, above, regarding subpart 6 of the public institution grant program.)

#### VI. SMALL BUSINESS CONSIDERATIONS

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

- (a) the establishment of less stringent compliance or reporting requirements for small businesses;
- (b) the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- (c) the consolidation or simplification of compliance or reporting requirements for small businesses;
- (d) the establishment of performance standards for small businesses to replace design or operational standards required in the rule; and
- (e) the exemption of small businesses from any or all requirements of the rule.

The statute requires agencies to incorporate into proposed rules any of the methods listed in subdivision 2 "that it finds to be feasible, unless doing so would be

contrary to the statutory objectives that are the basis of the proposed rulemaking."

Minn. Stat. §14.115, subd. 3 (1988).

The proposed rules establish the criteria and procedures by which the Office provides financial assistance for solid waste reduction projects. The requirements of Minn. Stat. §14.115 do not apply to these proposed rules because this program does not place any direct regulatory burden on small businesses.

The proposed rules establish three programs to promote solid waste reduction activities. Each of the three programs provide for the participation of small businesses, either directly or indirectly. The proposed rules do not limit the ability of small businesses to participate in the program.

## VI. CONCLUSION

Based on the foregoing, proposed Minn. Rules pts. 9210.0700 to 9210.0770, are needed and reasonable.

Dated: July 20, 1990



Michael Robertson  
Director

