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**STATE OF MINNESOTA
OFFICE OF WASTE MANAGEMENT**

**In the Matter of the Proposed Rules
Governing the Waste Education Grant
Program, Minn. Rules, Parts 9210.1000
to 9210.1060**

**STATEMENT OF NEED
AND REASONABLENESS**

I. INTRODUCTION

This Statement of Need and Reasonableness discusses proposed new rules governing grants for waste education projects. The Minnesota legislature established this grant program in order to encourage and facilitate the development and implementation of waste education projects, Minn. Stat. §115A.072, subd. 3 (1990). 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 program. Specifically, the proposed rules identify projects and costs that may be funded through the program; establish application procedures and timetables; establish criteria for the review of projects and for the award of grants; set limits on the applicant match and award of funds; and specify the content of the grant agreements.

The proposed rules are intended to fulfill the statutory directives of Minn. Stat. §115A.072 subd. 3 (1990).

II. STATEMENT OF OFFICE'S STATUTORY AUTHORITY

Minn. Stat. §115A.072, subd. 3 (1990) instructs the Office to provide grants to develop and implement projects for waste education. The Office's authority to adopt rules is found in Minn. Stat. §115A.06, subd. 2 (1990), which authorizes the Office to adopt rules to govern and implement its activities.

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 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 pursuant to Minn. Stat. §115A.072, subd. 3 (1990), which provides:

- (a) The Office shall provide grants to persons for the purpose of developing and distributing waste education information.
- (b) The Office shall provide grants and technical assistance for formal and informal education facilities to develop and implement a model program to incorporate waste reduction, recycling, litter prevention, and proper management of problem materials into educational operations.
- (c) The Office shall provide grants or awards to formal and informal education facilities to develop or implement ongoing waste reduction, recycling, litter prevention, and proper management of problem materials programs.

As the Office interprets this statute, there are two categories of projects that may receive assistance from this grant program: (1) projects to disseminate or develop and disseminate waste education information in Minnesota and (2) projects to assist education facilities in reducing or recycling the waste they generate. The first set of projects is not facility specific; the second set of projects is directed specifically to waste

education facilities. For each of these categories of projects, proposed rules are needed to implement the grant program.

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 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

Minn. Stat. §115A.072, subd. 3 (1990) establishes the waste education grant program. The statute is separated into three subparts, each of which identify waste education projects entitled to receive grant funds. Subpart 1 refers to projects to disseminate or develop and disseminate waste education information; subpart 2 refers to projects to develop and implement model waste abatement management programs at formal and informal education facilities; and subpart 3 refers to projects to develop and implement ongoing waste abatement management programs at formal and informal education facilities.

The emphasis in the first subpart is on the development and dissemination of information. The emphasis in the second and third subparts is on the waste management practices of education facilities.

The proposed rules of the Office are divided into two sections: one covering waste education information grants and one covering education facilities grants. Dividing the rules into two sections is reasonable for two reasons. First, it gives potential

applicants a clear explanation of the requirements applicable to the type of project the applicant proposes. Second, treating the two sets of projects separately will allow the Office to review grant applications more efficiently since, under the division, only similar projects will be judged against each other. In sum, the Office's decision to manage the program in two parts is reasonable because it promotes efficiency in managing the program.

B. Reasonableness of Individual Rules

Part 9210.1010 DEFINITIONS

This part provides definitions necessary for the rule. All of the terms are defined for clarity and consistency.

Subpart 2 defines the term Director by reference to the statutory definition. Including this reference in the rules is reasonable to assure that applicants know which Director will implement the rules.

Subpart 3 defines formal and informal education facilities. Defining formal and informal education facilities as used in the waste education rules is important because it limits who is eligible to receive grants under the second of the two education grant programs. The definition set forth in the rules identifies a wide range of facilities that are commonly understood to provide recognized and organized instruction. It is reasonable to establish this broad definition because it makes eligible a wide range of facilities. The Office believes that an expansive definition of facilities is preferred since it will best implement the underlying goal of the waste education grant program -- improved waste management practices throughout the State.

Subpart 4 defines in-kind contribution. It is reasonable to define this term in order to clarify the rule requirement that applicants contribute cash or in-kind contributions to the project. (See proposed Minn. Rules pt. 9210.1050, subp. 5 and pt. 9210.1060, subp. 5). The definition provided in subpart 4 is reasonable because it provides a clear explanation of the activities that would satisfy the applicants' funding requirements.

Subpart 5 defines person. This term is used in proposed Minn. Rules pt. 9210.1050, subpart 2, which identifies who is eligible to receive funds for waste education information grants. The definition provided in subpart 5 refers to the statutory definition, but also clarifies that state agencies and the Metropolitan Council are not eligible for grant funds under this program. The OWM believes that the legislature only intended to fund through this grant program persons who do not ordinarily receive direct funding from the legislature for their activities. In keeping with this intention, it is reasonable to define person in order to clarify that state agencies and the Metropolitan Council are not eligible for waste education information grants.

Subpart 6 defines problem materials by reference to the statutory definition. Including this reference in the rules is reasonable to assure that applicants know which problem materials are eligible for funding under the waste education facilities grant program. (See proposed Minn. Rules pt. 9210.1060, subpart 3.)

Subpart 7 defines waste by reference to the statutory definition of solid waste. The definition also clarifies that, for purposes of this grant program, projects directed in whole or in part to household hazardous waste are eligible for grant funding. It is

reasonable to include a definition of waste in the rules in order to clarify what projects are entitled to funding. The definition provided in subpart 7 is reasonable because it includes the wastes generated by persons and waste education facilities, but excludes hazardous wastes. It is reasonable to exclude hazardous waste from this grant program since other programs address those concerns.

Subpart 8 defines waste abatement management practices. This term is used in proposed Minn. Rules pt. 9210.1060, subpart 3, which identifies the projects that are eligible to receive funds for waste education information facilities grants. The definition provided in subpart 8 is reasonable because it makes eligible waste practices likely to assist the State in achieving its goal of reducing the amount of waste generated or disposed of in the State.

Part 9210.1020 APPLICATION PROCEDURES

Part 9210.1020 is intended to provide potential applicants with a clear and concise presentation of the application process for the grants that will be awarded under the waste education grant program. To this end, part 9210.1020 is divided into eight subparts which, together, establish the procedures for obtaining a grant for waste education 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 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 waste education grant including the availability of grants, deadlines for submitting a grant 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 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, consistent with eligible projects outlined in Parts 9210.1050 and 9210.1060, the types of eligible 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. Accordingly, the Office will be able to encourage waste education 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 program to suit, as best as possible, the waste education needs of the state.

Subparts 2 through 5 identify the procedures the Director will use in evaluating applications. These procedures are reasonable because they ensure that applications will receive equal and fair treatment and provide administrative certainty to the application process. (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 waste education needs of the state, as measured according to criteria established later in the rules. This is reasonable because it allows the Director to evaluate proposals based upon current waste education needs.

See also further discussion of the criteria later in this Statement of Need and Reasonableness.

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 addressing its waste education needs. The Office believes this subpart is reasonable because it provides a safeguard to ensure that program funds are disbursed only where the objectives of the program will be well-satisfied.

Subpart 8 provides that the Director shall solicit and consider advice provided by the Waste Education Coalition established in Minn. Stat. §115A.072, subd. 1. The Office believes that use of this advisory task force is reasonable because it assures that the Office will consider community concerns in reviewing proposed projects and promotes consistent and comprehensive evaluation of grant applications.

Part 9210.1030 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 for less than the eligible amount requested by an applicant or less than the maximum award

established in the notice under Part 9210.1020 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 funds until the recipient has executed a written grant agreement with the Director. This condition is reasonable because it establishes a safeguard to prevent abuse of funds awarded through these rules. Part 9210.1040 sets out the terms of grant agreements.

Subpart 3 limits the disbursement of grant funds to cover only those costs incurred following the award of the grant. This provision is reasonable because it prevents abuse of state funds awarded by assuring that those funds will be used only for prospective and Director-approved activity.

Part 9210.1040 GRANT AGREEMENT

This part sets out the basic terms of the agreements that a grantee 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 applicants of the conditions of a grant. The rationale for each condition specified by the rules is provided below.

Item A states that the grant proposal submitted to the Director under Part 9210.1020 subpart 2 will be incorporated into the grant agreement. This incorporation is reasonable because it contractually obligates a grantee to develop and implement the project described in the proposal and thereby establishes criteria against which the

Director may evaluate progress of the grantee.

Item B specifies that the grant agreement will state that no further program funding will be available for cost overruns. This safeguard is reasonable because it ensures effective administration of the program with limited state funds.

Item C specifies that a grantee must provide written reports to the Director. Written reports will allow the Director to assess the performance of a grantee. It will also allow the Office to transfer knowledge and experience gained from a project to persons who may have an interest in this information. Thus, this requirement is reasonable because it will assist the Director in addressing state waste education needs.

Item D provides that the Director may rescind a grant and require a grantee to repay the grant in full if the Director determines that, due to the bad faith of the grantee, a project has not been developed and implemented in accordance with the terms and conditions of the grant agreement. This is reasonable because it ensures that funded projects are implemented properly, and so assists the Director in administering the grant program and preserving state funds.

Item E provides that the Director may cease making further disbursements of grant 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 agreement and amendment to the agreement is not justified. This provision is a companion to Item D which addresses repayment of a grant where there has been bad faith. Like Item D, Item E will assist the Director in administering the grant program and preserving state

funds by assuring that funded projects are implemented properly. Unlike Items D, however, Item E 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 grantee.

Item F states that the grant agreement must require a grantee to perform and complete project activities in accordance with the terms and conditions of the grant agreement. This provision is reasonable because it ensures that a grantee implements a project in the manner agreed upon in the grant agreement upon receipt of a grant award. Thus, this provision will ensure that the state obtains the maximum benefits hoped to be achieved by the grant.

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

Item H requires the grantee to provide the Director with a copy of any waste education information disseminated. This item also prohibits the copyright of any information developed with waste education grant funds. This provision is reasonable because it ensures that waste education products resulting from the grant program are considered to be public information and can be made widely available to all interested parties.

Item I requires the grantee to acknowledge the Office as a funding source on any waste education information disseminated in conjunction with the grant program. This is reasonable because it informs members of the public of the State's interest in waste education programs.

Item J states that all original products resulting from the grant proposal are part of the public domain and cannot be sold for profit. This provision is reasonable because it prohibits persons from charging high fees for waste education information prepared with State funds.

Item K provides that the grant agreement shall establish other conditions or terms needed to implement the agreement. This provision is reasonable because it clarifies that the grant agreement will also contain other conditions needed to ensure orderly administration of the grant.

Part 9210.1050 WASTE EDUCATION INFORMATION GRANT PROGRAM

This part applies only to the grant program for waste education information. It is divided into seven subparts which, together, establish the substantive conditions and criteria under which the Office will provide financial assistance to eligible applicants for waste education information projects. These subparts are: (1) scope; (2) eligible applicants; (3) eligible projects; (4) ineligible projects; (5) eligible costs; (6) proposal; and (7) evaluation of proposals. The first subpart (scope) is self-evident and requires no further explanation. Subparts 2 through 7 are discussed below.

Subpart 2 identifies eligible applicants as persons who propose to disseminate or develop and disseminate waste education information. Examples of eligible applicants

include individuals, political subdivisions (but not state agencies or the Metropolitan Council), schools, school districts, and higher education institutions, hospitals, public libraries, trade or industry organizations, solid waste management districts, private businesses, and non-profit organizations. The rule is intended to be broad in scope since the Office would like to encourage all sectors of society to develop and disseminate waste education information. Thus, the Office believes it is reasonable to make virtually any public or private entity eligible for a grant under this program. Note also that the definition of person in proposed Minn. Rules pt. 9210.1010, subpart 5 makes the Metropolitan Council and state agencies ineligible for waste education information grants. This is reasonable because the waste education information grant program is meant to fund local or regional projects under the Office's jurisdiction, while the Metropolitan Council and state agencies receive funds for programs within their jurisdictions.

Subpart 3 identifies projects that are eligible for assistance under the waste education information grant program. Specifically, eligible projects include both projects that disseminate existing waste education information or develop and disseminate new waste education information. This definition is reasonable because it ensures that any funded project will include dissemination of waste education information. This requirement is necessary and reasonable to ensure that funded projects not only develop information, but also raise public awareness of better waste management practices. Subpart 3 also limits eligible waste education information projects to projects that will assist the state in meeting legislative goals in Minn. Stat. § 115A (1990). This

requirement is reasonable because it ensures that eligible projects will help promote and further the State's waste management priorities.

Subpart 4 declares as ineligible those projects that were eligible but did not apply for funding under the County Waste Reduction and Recycling Grant Program, Minn. Stat. § 115A.557 (1990), or under the Metropolitan Council's Landfill Abatement Account Grant and Loan Program. It also declares as ineligible those projects that receive at least 75 percent of their funds under either of these programs. This is reasonable because it ensures that limited state funds are expended only for waste education information projects that are either not eligible to apply for funding from other applicable programs or do not receive a substantial portion of project funding from these programs.

Subpart 4 also declares as ineligible curriculum development projects for kindergarten through twelfth grade. This is reasonable because the Office is already mandated to develop statewide waste education curriculum for these grades.

Subpart 5 identifies costs that are eligible for assistance under the waste education information grant program. Specifically, subpart 5 states that eligible costs are limited to 75 percent of the total costs of a project. Subpart 5 also makes certain costs ineligible for funding (i.e., capital costs and the cost of operating or maintaining equipment). However, these costs are included in the total cost of the project. The Office believes that a limit of 75 percent of total project costs, together with the list of ineligible items, is reasonable because it will ensure that a recipient under this program will have a compelling interest in developing and implementing a proposed project.

Subpart 6 describes nine 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 7. The rationale for each specific category of information is provided below.¹

Subpart 6 (A) requires the names, qualifications, and addresses of the applicant and other project participants. Requiring that each project participant be identified in the grant application is reasonable because it will allow the Office to assess the skills of the project participants and, therefore, the likely success of the project.

Subpart 6 (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 waste education priorities. Each of these factors will be considered by the Director in deciding which projects to fund. (See discussion regarding subpart 7, below.)

Subpart 6 (C) requires a description of how the project will complement local waste education and solid waste management projects. This requirement is necessary and reasonable because it ensures that waste education information projects considered for funding under this program do not duplicate other local and regional efforts.

¹ Subpart 6 also provides that the Director may request additional information from an applicant if the Director determines that additional information is necessary to clarify and evaluate a proposal. This is reasonable because it allows the Director to obtain sufficient information to fully review and evaluate proposals under the criteria established in subpart 7.

Subpart 6 (D) requires an evaluation of whether the project will duplicate other efforts to disseminate or develop and disseminate waste education information in the area to be served by the project. This is necessary and reasonable because it helps ensure that limited state funds will only be used to fund projects that provide a new approach to providing waste education or reach people who have not benefitted from previous waste education projects.

Subpart 6 (E) requires information demonstrating that a proposed project will comply with applicable regulations. Requiring this information is needed and reasonable because projects must comply with applicable legal requirements if they are to receive grant funds.

Subparts 6 (F) and 6 (G) require financial information. Requiring this information is reasonable because it will allow the Director to assess, in accordance with subpart 7, the 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 F requires an itemized description of project costs. This information is reasonable because it will allow the Director to evaluate the costs of a proposed project and to determine that the applicant will contribute its required share. Item G requires an itemized description of project financing. This information is needed to determine whether an applicant has secured financing for all project costs that would not be paid for with grant funds.

Subpart 6 (H) requires a demonstration of support from each county that may be participating in the project. This requirement is reasonable because it ensures that all participating counties are willing and able to provide the necessary resources to ensure

the success and sustainability of the project. It is also reasonable because the applicant should plan project activities in coordination with participating counties to both reduce duplication of effort and costs and complement the solid waste management plans of participating counties.

Subpart 6 (I) calls for a description of the current status of the project. This is necessary and reasonable because it provides the Office with the information it needs to help determine a project's potential for success. It also provides background which will help the Office determine which project activities will be covered under a grant award and which activities have been completed prior to the award.

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

Subpart 7 (A) requires that the project have strong potential for use and replication in other waste abatement programs or projects in the state. This is reasonable because it allows the State to maximize the benefits to be achieved through each grant award.

Subpart 7 (B) requires the Director to determine the extent to which a proposed project furthers the waste abatement goals established by Minn. Stat. § 115A (1990). This criterion is reasonable because it allows the Office to direct state funds to projects that best satisfy the solid waste management needs of the state.

Subpart 7 (C) requires the Director to determine whether the project has a strong potential to reach and have a lasting impact on the waste management practices of a large number of persons. This provision is reasonable because it ensures that limited

state funds will only be used to fund projects having the greatest benefit to the largest number of people.

Subpart 7 (D) requires that the project not duplicate other efforts to disseminate or develop and disseminate waste education information in the area to be served by the project. This is necessary and reasonable because it helps ensure that limited state funds will only be used to fund projects that provide a new approach to providing waste education or reach people who have not benefitted from previous waste education projects.

Subpart 7 (E) requires the project to complement other local and regional projects. This requirement is reasonable because it ensures that funded projects will not duplicate existing waste education information projects, and will be consistent with the waste management efforts of counties and others.

Subpart 7 (F) 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 7 (G) requires the Director to determine that a proposed project is conceptually and economically feasible. This criterion is reasonable because it ensures that state funds will only be used on projects that present a high potential for success.

Subpart 7 (H) requires the persons identified in the application to have the experience and knowledge to implement the project. This requirement is reasonable because it ensures the prudent use of limited state funds.

Subpart 7 (I) requires the application to include comprehensive and reasonable plans for dissemination of information to a target audience. This is reasonable because effective dissemination is a key factor in ensuring that a waste education information project raises public awareness.

Subpart 7 (J) requires that the research sources used in waste education information projects are accurate and reliable. This requirement is reasonable because it helps ensure that the public will receive well-documented, accurate waste education information as a result of funded projects.

Subpart 7 (K) 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 completion and success over the life of the project.

Subpart 7 (L) requires that a proposed project will comply with federal, state, and local regulations. This criterion is reasonable because it ensures that only projects that meet applicable laws will be funded.

Part 9210.60 EDUCATION FACILITIES GRANT PROGRAM

Part 9210.1060 applies only to the grant program for education facilities. It is divided into seven subparts which, together, establish the substantive conditions and criteria under which the Office will provide financial assistance to eligible applicants for waste education projects. These subparts are: (1) scope; (2) eligible applicants; (3) eligible projects; (4) ineligible projects; (5) eligible costs; (6) proposal; and (7) evaluation of proposals. The first subpart (scope) is self-evident and requires no further

explanation. Subparts 2 through 7 are discussed below.

Subpart 2 identifies eligible applicants as formal and informal education facilities. The rule is intended to be broad in scope since the Office would like to encourage all education facilities to develop and implement solid waste abatement management practices. Subpart 2 also assists the state in meeting legislative goals in Minn. Stat. § 115A (1990). Thus, the Office believes it is reasonable to make virtually any education facility eligible for a grant under this program.

Subpart 3 identifies projects that are eligible for assistance under the education facilities grant program. Specifically, eligible projects are those projects that develop a model program to incorporate long-term waste abatement management practices, litter prevention and improved problem materials management practices into the operation of formal and informal education facilities; and projects to incorporate long-term waste abatement management practices, litter prevention and improved problem materials management practices into the operation of formal and informal education facilities. These projects are the ones identified as eligible in Minn. Stat. § 115A.072, subd. 3(b) and (c). Thus, subpart 3 is reasonable.

Subpart 4 declares as ineligible those projects which were eligible but did not apply for funding under the County Waste Reduction and Recycling Grant Program, Minn. Stat. § 115A.557 (1990), or under the Metropolitan Council's Landfill Abatement Account Grant and Loan Program. It also declares as ineligible those projects which receive at least 75 percent of their funds under either of these programs. This is reasonable because it ensures that limited state funds are expended only for education

facilities projects that are either not eligible to apply for funding from other applicable programs or do not receive a substantial portion of project funding from these programs.

Subpart 5 identifies costs that are eligible for assistance under the education facilities grant program. Specifically, subpart 5 states that eligible costs are limited to 75 percent of the total costs of a project. Subpart 5 also makes certain costs ineligible for funding (i.e., the cost of purchasing, constructing or renting real property; and the cost of operating or maintaining equipment). However, these costs are included in the total cost of the project. The Office believes that a limit of 75 percent of total project costs, together with the list of ineligible items, is reasonable because it will ensure that a recipient under this program will have a compelling interest in developing and implementing a proposed project.

Subpart 5 also identifies as ineligible the cost of purchasing, constructing, or renting real property, and the cost of operating or maintaining equipment. It also identifies as ineligible equipment or structures primarily needed for the collection or processing of waste. This provision is reasonable because it ensures that limited state funds will only be used for costs directly associated with the project. However, the cost of equipment or structures for temporary storage of recyclables is considered eligible for grant funds. This is reasonable because these costs may represent an essential component to implementing a comprehensive waste abatement management program at an education facility.

Subpart 6 describes nine 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 7. The rationale for each specific category of information is provided below.²

Subpart 6 (A) requires the names, qualifications, and addresses of the applicant and other project participants. Requiring this information is reasonable because it allows the Director to contact each applicant and to assess the ability and commitment of project participants to complete project activities.

Subpart 6 (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 waste education priorities. Each of these factors will be considered by the Director in deciding which projects to fund. (See discussion regarding subpart 7, below.)

Subpart 6 (C) requires a description of how the project will complement local waste education and solid waste management projects. This requirement is necessary and reasonable because it ensures that projects considered for funding under this program do not duplicate other local and regional efforts.

Subpart 6 (D) requires an evaluation of whether the project will duplicate other efforts to implement waste abatement management practices in the area to be served by

² Subpart 6 also provides that the Director may request additional information from an applicant if the Director determines that additional information is necessary to clarify and evaluate a proposal. This is reasonable because it allows the Director to obtain sufficient information to fully review and evaluate proposals under the criteria established in subpart 7.

the project. This is necessary and reasonable because it helps ensure that limited state funds will only be used to fund projects that either provide a new approach to implementing these practices or implement these practices in an area that has not previously been served.

Subpart 6 (E) requires information demonstrating that a proposed project will comply with applicable regulations. Requiring this information is needed and reasonable because projects must comply with applicable legal requirements if they are to receive grant funds.

Subparts 6 (F) and 6 (G) require financial information. Requiring this information is reasonable because it will allow the Director to assess, in accordance with subpart 7, the financial 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 F requires an itemized description of project costs. This information is reasonable because it will allow the Director to evaluate the costs of a proposed project and to determine that the applicant will contribute its required share. Item G requires an itemized description of project financing. This information is needed to determine whether an applicant has secured financing for all project costs that would not be paid for with grant funds.

Subpart 6 (H) requires a demonstration of support from each county that may be participating in the project. This requirement is reasonable because it ensures that all participating counties are willing and able to provide the necessary resources to ensure the success and sustainability of the project. It is also reasonable because the applicant

should plan project activities in coordination with participating counties to both reduce duplication of effort and costs and complement the solid waste management plans of participating counties.

Subpart 6 (I) is a description of the current status of the project. This is reasonable because limited state funds can not be used for work completed on the project before award of the funds. This requirement is also necessary for the Office to assess the potential for successful completion of the project.

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

Subpart 7 (A) requires that the project have strong potential for use and replication on other waste abatement programs or projects in the state. This is reasonable because it allows the State to maximize the benefits to be achieved through each grant award.

Subpart 7 (B) requires the Director to determine whether a proposed project has a strong likelihood of resulting in the implementation of successful and sustained waste abatement, litter prevention, and problem materials practices at the location of the project. This requirement is reasonable because it allows the Office to direct state funds to projects that are likely to best satisfy the solid waste management needs of the state.

Subpart 7 (C) requires the Director to determine whether the project has a strong potential to reach and have a lasting impact on the waste management practices of a large number of persons. This provision is reasonable because it ensures that limited state funds will only be used to fund projects having the greatest benefit to the largest

number of people.

Subpart 7 (D) requires that the project not duplicate other efforts to implement waste abatement management practices in the area to be served by the project. This is necessary and reasonable because it helps ensure that limited state funds will only be used to fund projects that either provide a new approach to implementing these practices or implement these practices in an area that has not previously been served.

Subpart 7 (E) requires the project to complement other local and regional projects. This requirement is reasonable because it ensures that funded projects will not duplicate existing education facilities projects.

Subpart 7 (F) 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 7 (G) requires the Director to determine that a proposed project is technically, conceptually and economically feasible. This criterion is reasonable because it ensures that state funds will only be used on projects that present a high potential for success.

Subpart 7 (H) requires the persons identified in the application to have the experience and knowledge to implement the project. This requirement is reasonable because it ensures the prudent use of limited state funds.

Subpart 7 (I) 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 7 (J) requires that the project involve a new or innovative approach to waste abatement, litter prevention or problem materials management practices, or that it involve application of an existing approach which has not been previously applied to an education facility. This requirement is reasonable because it ensures that limited state funds will be used to help stimulate new ideas having practical applications to education facilities throughout the state.

Subpart 7 (K) requires the proposed project to provide a substantial educational benefit by enlisting student involvement or other hands-on experience in the project. This requirement is reasonable because research has demonstrated that involving students in education projects make the projects more likely to succeed. Providing a hands-on learning experience for students at the facility and involving them in the project also gives students a feeling of ownership for the success of the project.

Subpart 7 (L) requires that a proposed project will comply with federal, state, and local regulations. This criterion is reasonable because it ensures that only projects that meet applicable laws will be funded.

V. SMALL BUSINESS CONSIDERATIONS

Minn. Stat. §14.155 (1990) requires state agencies proposing rules that affect small businesses to consider methods for reducing the impact of the rules on small businesses.

The proposed rules establish the criteria and procedures by which the Office provides financial assistance for waste education projects. The requirements of Minn. Stat. §14.115 do not apply to these proposed rules because this program does not place

any adverse regulatory burden on small businesses.

To the contrary, the proposed rules establish two programs to promote waste education activities. Both of the 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. 9210.1000 to 9210.1060, are needed and reasonable.

12/10/90
Date


Michael Robertson
Director

