

STATE OF MINNESOTA  
OFFICE OF WASTE MANAGEMENT

In the Matter of the Proposed Rule  
Amendments Governing the Solid  
Waste Separation Grant Program, Minn.  
Rules, Parts 9210.0400 to 9210.0460

STATEMENT OF NEED  
AND REASONABLENESS

I. INTRODUCTION

This program was originally created under the Waste Management Act of 1980 (Minn. Laws 1980, ch. 564, art. 6) as the Minnesota Solid Waste Management Demonstration Program for Waste Reduction and Source Separation. The original waste reduction and separation program was administered by the Minnesota Pollution Control Agency and funded the study and demonstration of solid waste reduction and source separation projects. In the 1987 amendments to the Waste Management Act, the legislature changed the focus of the program from the development of waste reduction and separation projects to the implementation of waste reduction and separation projects, and made the Waste Management Board (Board) the agency administering the program.

The Board promulgated Minn. Rules pts. 9200.6900 to 9200.6906 (1987) to implement the program by establishing the substantive criteria and procedural conditions under which the Board awarded grants. The rules were non-controversial and were adopted

without a public hearing, following review by the Board and the Board's Solid Waste Management Advisory Council.

In 1989, the legislature created the Minnesota Office of Waste Management (Office) to manage the solid waste activities of the state, including this program. The Office now proposes to amend the program rules.

## II. STATEMENT OF THE OFFICE'S STATUTORY AUTHORITY

The Office's authority to adopt the rules is set forth in Minn. Stat. §115A.06, subd. 2 (1988), which provides:

Subd. 2. [RULES.] Unless otherwise provided, the board [office] shall promulgate rules in accordance with chapter 15 to govern its activities and implement sections 115A.01 to 115A.72.

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

## 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 rule 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 or 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 Solid Waste Reduction and Separation Grant Program (LOW-TECH) first became effective October 30, 1987. The rules were promulgated to ensure the orderly administration of the program. The Office has administered the program on a first-come, first-serve basis, awarding grants to applicants in the order in which completed applications were received. As more counties develop and implement new solid waste management programs, the Office expects the demand for grant assistance from this program to exceed the funds presently available. These resource limitations require the Office to amend the program rules in order to promote the most effective use of available resources.

In addition, the Office is proposing rule amendments that will shift the focus of the program to facilitate the development of innovative solid waste separation programs. Previous grants awarded under this program have been used to implement conventional curbside recycling programs (some of which included drop-off sites as a component of the program). The Minnesota Waste Reduction and Recycling Act of 1989 (Supp. 1989) authorized the Office to provide financial assistance directly to all

counties for the purpose of recycling. While this assistance will not finance all of the costs of conventional curbside recycling programs, the Office believes a new emphasis on innovative projects is needed to promote effective integrated solid waste management systems throughout the state.

#### IV. STATEMENT OF REASONABLENESS

The Office is required by Minn. Stat. ch. 14 to make an affirmative presentation of facts establishing the reasonableness of the proposed rule 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 rule amendments is discussed below.

##### Part 9210.0400 DEFINITIONS

Part 9210.0400 adds two definitions for clarity and consistency. The substitution of Director (Subp. 3a) and Office (Subp. 5b) for Chair (Subp. 2) reflects the change in administrative responsibilities for the program. This part also adds three definitions by reference to statute (Subparts 6a, 7a, and 7b).

Part 9210.0400, subp. 5a provides a definition of institutional arrangements, which established a term for the organizational policies and practices that may be necessary for implementation of a solid waste separation project. The definition provided is

identical to the definition established in Minn. Rules Part 9210.0100, subp. 8, for the purposes of the Solid Waste Processing Facility Capital Assistance Program.

Part 9210.0400, subp. 12 is repealed for consistency with the change in program purpose and administration, as described in the next section.

#### Part 9210.0410 PURPOSE AND ADMINISTRATION

Part 9210.0410 is revised for consistency and to reflect the change in the focus of the program. Waste reduction activities are removed from the objectives of this program because the legislature established a separate program to facilitate solid waste reduction activities under Minn. Stat. §115A.55, subd. 3 (2nd 1989 Supp.).

This part is expanded to specifically encourage applicants to develop innovative solid waste separation projects. The Office believes that this focus is consistent with legislative priorities and is essential for promoting effective solid waste management systems in the state. Further, the Office does not believe that the legislature would have continued to fund this program as a mere supplement to the direct assistance to counties for state-mandated recycling activities. Rather, the Office believes that LOW-TECH funds were intended to be used for projects not otherwise funded through state waste management programs.

### Part 9210.0420 ELIGIBILITY CRITERIA

Part 9210.0420 is revised for clarity and consistency. Part 9210.0420, subp. 1 is expanded to include sanitary districts with the authority to regulate solid waste as an eligible applicant for program assistance. This addition reflects the inclusion of sanitary districts as eligible recipients under Minn. Stat. section 115A.50 (1988).

Part 9210.0420, subp. 2 is revised for consistency and to clarify that a project may include problem materials management as well as household hazardous waste management. The addition of problem materials is necessary to avoid the implicit exclusion of problem materials, which is defined separately in Minn. Stat. §115A.03, subd. 24a.

Part 9210.0420, subp. 3 is revised to describe eligible costs to more closely reflect Minn. Stat. section 115A.54 (1988). As revised, this subpart adds item (A) to replace subp. 4, which included development costs as eligible costs. Subpart 5 is repealed for clarity.

Part 9210.0420, subp. 6 is revised for consistency with subp. 2, and specifies that problem materials disposal costs are eligible to the extent that household hazardous waste disposal costs are eligible under this program.

Part 9210.0420, subp. 7 is revised to clarify that costs related to the lease of property, waste processing equipment, or structures are ineligible costs under this program. Purchase costs are already specifically ineligible.

#### Part 9210.0425 GRANT APPLICATION PROCEDURES

Part 9210.0425, subparts 1 through 3 establish the application process for this program. The process is revised to establish a Request for Proposal process, which is a common process for awarding financial assistance. This process will provide the Office with a mechanism for identifying those projects that will best promote the objectives of the program.

Part 9210.0425, subp. 1 specifies that the director initiate the process through a notice in the STATE REGISTER that includes a projected schedule for the application process and a deadline by which a proposal must be received by the director. By providing this notice, the director will assist applicants in planning for project implementation.

#### Part 9210.0430 INFORMATION AND DOCUMENTATION REQUIRED IN GRANT APPLICATION

This part is repealed and replaced with Part 9210.0435.

### Part 9210.0435 PROPOSAL

This part replaces Part 9210.0430 and describes the information that must be included in a proposal. Unless specified below, the information required under this part does not represent a change in the information requested under Part 9210.0430. This part provides that an applicant must submit a proposal in the form specified by the director. The director will establish the form in the Request for Proposal.

Part 9210.0435 (E) requires an applicant to include a specific item in the workplan and budget for the proposed project for the purpose of preparing a report to the Office on the results of the project. The Office requires this budget item to ensure that a recipient will prepare a report that provides information useful to the Office and to other political subdivisions throughout the state.

Part 9210.0435 (F) requires an applicant to document that a comprehensive solid waste management plan for each affected county has been approved by the director. This change reflects advancement in county planning; nearly all counties will have approved plans by October 1990. In addition, the Office believes that a county that does not have an approved plan should not receive program assistance for solid waste separation activities.

## Part 9210.0440 REVIEW AND EVALUATION OF PROPOSALS

This part governs the process by which the director determines which proposals will receive grant awards. Part 9210.0440, subp. 1 is revised for clarity, and is expanded to specify that the director will determine whether the proposals are complete before proceeding to evaluate them using the criteria set out in subpart 3a. The conditions that must be satisfied for completeness are from Part 9210.0440, subp. 3, which is proposed to be repealed by these amendments, and do not represent a substantive change in the program.

Part 9210.0440, subp. 2 is revised for consistency and to specify that the director will evaluate complete proposals under subpart 3a. Part 9210.0440, subp. 3 is repealed because the director will determine whether a proposal satisfies these conditions under subpart 1 of this part. —

Part 9210.0440, subp. 3a describes the criteria by which the director will evaluate complete proposals. The rationale for each criterion is set out below.

Part 9210.0440, subp. 3a (A) requires the director to determine that a proposed project is consistent with the comprehensive solid waste management plan of each affected county. This criterion promotes the planning process as an integral part of project development.

Part 9210.0440, subp. 3a (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 favors applicants that are further along in their plans to develop and implement a proposed project.

Part 9210.0440, subp. 3a (C) requires the director to determine the extent to which a proposed project represents an innovative approach to solid waste separation activities. This criterion favors projects consisting of new or untried methods of waste separation that may promote long-term, beneficial changes in solid waste separation activities.

Part 9210.0440, subp. 3a (D) requires the director to determine the extent to which an applicant has considered and encouraged the involvement of private companies in the financing and operation of a proposed project. This criterion favors projects that are privately-owned or privately-operated.

Part 9210.0440, subp. 3a (E) requires the director to determine whether a proposed project would provide information useful to other political subdivisions throughout the state. This criterion favors projects consisting of new or untried methods of waste separation that address state or regional barriers to waste separation activities.

Part 9210.0440, subp. 4 is repealed and is replaced by subpart 4a. Subpart 4a provides that the director will award grants to those applicants that best meet the criteria set out in subpart 3a. Because each criterion establishes a preference based on only a specific element or elements of a proposed project, the Office will balance those preferences to identify those projects that best satisfy the criteria as a whole. This subpart also provides that an applicant that does not receive a grant award remains eligible for future consideration under this program.

#### Part 9210.0450 LIMITATIONS

This part sets out the limitations on the amount of a grant award and the actual disbursement of grant funds. The proposed changes are for clarity and to set out conditions in which the director may award a grant for less than the maximum grant eligible amount, as described below.

Part 9210.0450, subp. 1 is repealed for clarity. A grant from the Office cannot exceed 50 percent of the total eligible costs, as defined in Part 9210.0420, subp. 3, or \$50,000, whichever is less. Subpart 1 was redundant because it did not provide any specific limitations on the method of financing the other project costs.

Part 9210.0450, subp. 2a is added to allow the director to award grants for amounts less than the maximum eligible amount. The condition in which the director may

reduce the amount is set out to allow the director to effectively manage the total program resources.

Part 9210.0450, subp. 2b is added to allow the director to decline grant awards to any or all of the applicants if the director determines that the proposed projects would not provide sufficient assistance to the state in achieving its solid waste management goals. The Office believes this subpart provides a safeguard to ensure that grant funds are disbursed to satisfy the objectives of the program.

Part 9210.0450, subp. 3 is revised for clarity and to specify that a grant will not be awarded to cover costs incurred prior to the execution of a grant agreement rather than prior to the grant award. This change is appropriate because of the delay between the date a grant is awarded and the date a grant agreement is executed. The Office should not provide assistance for costs incurred before the legal conditions of that assistance are set out in a grant agreement.

Part 9210.0450, subp. 4 is revised for clarity.

#### Part 9210.0450 GRANT AGREEMENT

Part 9210.0460, subparts 1 through 3 are revised for clarity and consistency.

## V. SMALL BUSINESS CONSIDERATIONS

Minn. Stat. section 14.155 (1988) requires state agencies proposing rule amendments that affect small businesses to consider the following methods for reducing the impact of the rule amendments 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 rule amendments 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 rule amendments revise the criteria and procedures by which the Office provides financial assistance in the form of grants to cities, counties, solid waste management districts, and sanitary districts. The requirements of Minn. Stat. section

14.115 do not appear to apply to these proposed rule amendments because this program does not place any direct regulatory burden on small businesses.

This program limits eligible applicants to the local units of government listed above. These local government units may apply on behalf of any individual, group, or organization. The existing program rules do not limit the participation of small businesses beyond the restriction on applicants. The proposed rule amendments would not have any direct impact on small business participation.

The Office believes that the proposed rule amendments will have some benefits for small businesses. By establishing criteria that assess the extent to which a proposed project represents an innovative project and the extent to which an applicant has evaluated opportunities for private involvement in a project, the Office is promoting the participation of small businesses and entrepreneurs in the development of solid waste separation programs.

## VI. CONCLUSION

Based on the foregoing, the proposed amendments to Minn. Rules pts. 9210.0400 to 9210.0460 are both needed and reasonable.

Dated: June 1, 1990

  
Michael Robertson  
Director

STATE OF MINNESOTA  
OFFICE OF WASTE MANAGEMENT

In the Matter of the Proposed Rules  
Governing the Litter Prevention, Control,  
and Abatement Grant Program, Minn.  
Rules, Parts 9210.0500 to 9210.0570

STATEMENT OF NEED  
AND REASONABLENESS

I. INTRODUCTION

The legislature has established a program to assist counties in the development and implementation of programs to prevent, control, or abate litter. Minn. Stat. section 115A.991 (2nd 1989 Supp.). The legislature has instructed the Minnesota Office of Waste Management (Office) to provide financial assistance to each county that has included programs to prevent, control, or abate litter in its solid waste plan required under Minn. Stat. section 115A.46 (1988) or its solid waste master plan required under Minn. Stat. section 473.803 (1988).

This subject of this rulemaking proceeding is a set of rules to govern the award of grants for litter prevention, control, and abatement projects made pursuant to Minn. Stat. section 115A.991 (2nd 1989 Supp.). The proposed rules establish a mechanism to ensure the orderly administration of the program. 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 of the amount of funds that can be awarded; and specify content of grant agreements.

The proposed rules seek to fulfill the Office's statutory mandate as set out in Minn. Stat. section 115A.991 (2nd 1989 Supp.), and to meet the specific goals established for this grant program.

## II. STATEMENT OF OFFICE'S STATUTORY AUTHORITY

The Office's statutory authority to adopt the rules is set forth in Minn. Stat. section 14.06 (1988). The Office is required to establish eligibility criteria for grants made under Minn. Stat. section 115A.991 (2nd 1989 Supp.). Because such criteria are rules as defined by Minn. Stat. §14.02, subd. 4 (Supp. 1989), the Office is required to adopt the criteria as rules under Minn. Stat. section 14.06 (1988).

## 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 or 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 rules is discussed below.

The proposed rules are needed to make specific and to clarify the eligibility criteria and procedural conditions under which the Office will award grants pursuant to Minn.

Stat. section 115A.991. That section provides:

[t]he office may make grants to each county that has included in its solid waste plan required in section 115A.46, or its solid waste master plan required in section 473.803, programs to prevent, control, or abate litter. The office shall establish eligibility criteria for grants including the required level of matching funds from applicants.

The Office believes that the rules are needed to properly implement Minn. Stat. section 115A.991.

#### IV. STATEMENT OF REASONABLENESS

The Office is required by Minn. Stat. ch. 14 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.

### Part 9210.0500 DEFINITIONS

This part provides definitions necessary for the rule. Many of the definitions used for this program are identical to the definitions established in Minn. Rules Parts 9210.0100 and 9210.0400, as part of the Office's other solid waste grants programs. The definitions discussed in this part are necessary for clarity and consistency.

Part 9210.0500, subp. 4 defines litter for the purpose of this program. The definition reflects common usage of the term, and should be easily understood and applied.

Part 9210.0500, subp. 5 describes the range of activities that are intended by this program. This definition is descriptive and is not limiting, and should be easily understood and applied.

### Part 9210.0510 PURPOSE AND ADMINISTRATION

This part establishes the purpose of the Program and gives a general description of the content of the proposed rules.

### Part 9210.0520 ELIGIBILITY CRITERIA

This part describes eligible applicants, projects, and costs. This part is necessary to ensure that potential applicants are able to determine their eligibility and the eligibility of their projects and project costs.

Part 9210.0520, subp. 1 identifies eligible applicants, which are limited by Minn. Stat. section 115A.991 to counties that have included programs to prevent, control, or abate litter in a solid waste plan prepared under Minn. Stat. section 115A.46 (1988) or a solid waste master plan prepared under Minn. Stat. section 473.803 (1988).

Counties can apply for grant assistance for themselves or on behalf of other persons.

Part 9210.0520, subp. 2 identifies eligible projects, which are limited to programs developed for the prevention, control, or abatement of litter.

Part 9210.0520, subp. 3 identifies costs that are eligible for funding under this program. This subpart limits eligible costs to implementation costs. This limit is reasonable because the costs involved in planning a project eligible under this program should be minimal. In addition, Part 9210.0560, subp. 4 specifies that grants will not be awarded to cover costs incurred before the date of the execution of a grant agreement. The Office believes that all costs of planning a project will be incurred before execution of a grant agreement.

This subpart specifies four general categories of costs that are appropriate for this program. The costs identified in items A through C are integral to activities to prevent, control, or abate litter. The Office believes that these costs are essential to the most basic projects that would be considered for program assistance.

Item D specifies costs the Office believes will contribute to the most successful projects funded through this program. Projects that include educational and promotional efforts, especially by providing financial incentives to organizations that participate in activities to prevent, control, or abate litter, will provide the greatest contribution to the state in addressing litter. By encouraging an applicant to include these activities in a project, the Office is promoting waste education and citizen participation. This approach promotes litter prevention in conjunction with activities to control and abate litter.

Part 9210.0520, subp. 4 specifies that costs related to the purchase or lease of real property and equipment are ineligible under this program. The Office believes that the purchase or lease of real property or equipment is not essential to successful litter projects. This subpart encourages counties to utilize existing property and equipment to clean up litter and to seek out citizen participation.

#### Part 9210.0530 GRANT APPLICATION PROCEDURES

This part establishes the application process for this program. The process will provide the Office with a mechanism for identifying those projects that will best promote the objectives of the program.

Part 9210.0530, subp. 1 specifies that the director initiate the process through a notice in the STATE REGISTER that includes a projected schedule for the application

process and a deadline by which a proposal must be received by the director. By providing the notice, the director will assist applicants in planning for project implementation.

Part 9210.0530, subp. 2 specifies that an eligible applicant seeking program assistance must submit an application within the time period set out in the notice and that an application must include the information set out in Part 9210.0540. The rationale for the information that must be included in a grant application is set out in the next section.

Part 9210.0530, subp. 3 specifies that the director will consider only those applications received prior to the deadline established in the notice, and that the director will evaluate the applications using the criteria set out in Part 9210.0550. This subpart also specifies that grants will be awarded through a grant agreement.

#### Part 9210.0540 INFORMATION AND DOCUMENTATION REQUIRED IN GRANT APPLICATION

This part describes the information that will be required on a grant application. The Office believes that this part sets out the minimum amount of information needed to ensure that the director can make an informed evaluation of the applications. The rationale for each specific category of information is provided below.

Part 9210.0540 (A) requires the name of each applicant for the purpose of identifying and contacting each applicant.

Part 9210.0540 (B) requires the name of each political subdivision affected by the proposed project. This information is needed to identify the political subdivisions that will be affected by a project and to assess the potential for their participation in a project.

Part 9210.0540 (C) requires the name, address, and qualifications of the project manager. This information is needed to assess the ability of the project manager to operate a project and to contact the manager during the evaluation process.

Part 9210.0540 (D) requires an itemized description of the project costs. This information is needed to determine whether estimated costs realistically match the scope of a project and whether the eligible costs identified by an applicant are within the range of eligible costs described in Part 9210.0520, subp. 3.

Part 9210.0540 (E) requires the amount and source of all other money to be used to fund a proposed project, including the amount to be contributed by an applicant. This information is needed to determine whether an applicant has secured necessary financing for all costs that would not be paid for with grant funds.

Part 9210.0540 (F) requires a detailed description of a proposed project, including a list of organizations that intend to participate in a project. This information is needed to assess a proposed project's contribution to state goals for litter, and to determine the level of citizen participation in a project.

Part 9210.0540 (G) requires an applicant to document that a comprehensive solid waste management plan has been approved by the director. This information is needed to determine whether an applicant has included programs to prevent, control, or abate litter in its plan, and that a proposed project is consistent with the programs identified in the plan.

Part 9210.0540 (H) requires a resolution from each political subdivision participating in a proposed project demonstrating that it will provide the financing and governmental powers necessary to implement a project. This information is necessary to ensure that participating political subdivisions are committed to a project.

Part 9210.0540 (I) requires a description of the promotion and education program to be developed in conjunction with a proposed project. This information is needed to determine whether an applicant has adequately developed necessary promotional and educational activities as part of a proposed project.

Part 9210.0540 (J) requires a discussion of any potential environmental impacts from a proposed project. This information is needed to determine whether a project will have any harmful impacts, either direct or indirect, on the environment.

Part 9210.0540 (K) requires a detailed work plan that describes how an applicant will implement a proposed project. This information is needed to determine that an applicant is prepared to implement a project upon receipt of a grant award.

#### Part 9210.0550 REVIEW AND EVALUATION OF APPLICATIONS

This part describes the criteria and procedures by which the director will determine which applications will receive grant awards.

Part 9210.0550, subp. 1 provides that the director will determine the eligibility of an applicant, a project, and costs, and will determine the completeness of an application. These determinations should be made prior to the evaluation of applications.

Part 9210.0550, subp. 2 specifies that the director will notify an applicant of the eligibility and completeness, and provides that an applicant will have an opportunity to correct any inadequacies identified at this stage. This subpart provides applicants with an opportunity to remain in consideration for a grant award if changes are needed to provide the director with a complete and correct application.

Part 9210.0550, subp. 3 specifies the criteria that the director will use to evaluate applications. The rationale for each criterion is set out below.

Part 9210.0550, subp. 3 (A) requires the director to determine that a proposed project is conceptually and technically feasible. This criterion promotes the logical development of practical projects.

Part 9210.0550, subp. 3 (B) requires the director to determine that a proposed project is consistent with the comprehensive solid waste management plan of each affected county, including the programs to prevent, control, or abate litter. This criterion promotes the planning process as an integral part of project development.

Part 9210.0550, subp. 3 (C) requires the director to determine the extent to which an applicant has secured the support and participation of other affected political subdivisions. This criterion favors projects that include the participation of other local units of government.

Part 9210.0550, subp. 3 (D) 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 favors applicants that are further along in their plans to develop and implement a proposed project.

Part 9210.0550, subp. 3 (E) requires the director to assess the extent to which an applicant has encouraged citizen participation in a proposed project. This criterion favors projects that include the participation of organizations in litter prevention, control, and abatement activities.

Part 9210.0550, subp. 3 (F) requires the director to determine whether a proposed project would provide information useful to other political subdivisions throughout the state. This criterion favors projects that address common barriers to litter prevention, control, and abatement.

Part 9210.0550, subp. 4 provides that the director will award grants to those applicants that best meet the criteria set out in subpart 3. 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 best satisfy the criteria as a whole. This subpart also provides that an applicant that does not receive a grant award remains eligible for future consideration under this program.

#### Part 9210.0560 LIMITATIONS

This part sets out the limitations on the amount of a grant award, the conditions in which the director may award a grant for less than the maximum eligible amount, and the actual disbursement of grant funds.

Part 9210.0560, subp. 1 specifies that the maximum grant award for an eligible project is 50 percent or the total eligible costs, as defined in Part 9210.0520, subp. 3, or \$20,000, whichever is less. In order to encourage the greatest number of counties to develop programs to address litter and to develop the most useful knowledge and experience, the Office finds it reasonable to limit the amount of funds a single applicant can obtain through the program. The Office believes that this maximum grant amount represents an appropriate limit on the cost of projects to prevent, control, or abate litter.

Part 9210.0560, subp. 2 specifies that the director may award grants for less than the maximum eligible amount. The conditions in which the director may reduce the amount of a grant award are set out to allow the director to effectively manage program resources.

Part 9210.0560, subp. 3 specifies that the director may decide not to award a grant to any of the applicants if the director determines that the projects would not provide assistance to the state in achieving its solid waste management goals. The Office believes this subpart provides a safeguard to ensure that grant funds are awarded to satisfy the legislative intent of the program.

Part 9210.0560, subp. 4 specifies that the Office will limit grants to the amount necessary to complete a project considering all sources of funding presently available

to an applicant. This limitation is reasonable to conserve state funds by encouraging applicants to seek out alternative sources of financing. This subpart also specifies that a grant will not be awarded to cover any costs incurred prior to the execution of a grant agreement. The Office believes that grant funds should not provide assistance to costs incurred before the legal conditions of that assistance are set out in a grant agreement.

Part 9210.0560, subp. 5 provides that the Office will not disburse grant funds until the director has determined the total estimated cost of a project, ascertained that financing of the project is assured by the recipient, and received commitments from the recipient to implement the project. The Office believes this will ensure that program funds will be used immediately, and will not be spent on a project that may not be implemented because other funding failed to materialize.

#### Part 9210.0570 GRANT AGREEMENT

This part sets out certain requirements for the agreements that will be executed with grant recipients. These requirements are included to ensure that the grant recipient is aware of the restrictions that will be placed on the grant funds.

Part 9210.0570, subp. 1 (A) incorporates an application submitted to the Office under Part 9210.0530 subp. 2 into the grant agreement. This incorporation contractually obligates a grant recipient to build and operate the project that was proposed in the

application submitted to the Office, and will assist the Office in determining whether recipient has fulfilled its obligation.

Part 9210.0570, subp. 1 (B) is ministerial.

Part 9210.0570, subp. 1 (C) specifies that no further state funding will be available for a project for cost overruns. This safeguard is necessary to ensure effective administration of the program.

Part 9210.0570, subp. 1(D) specifies that the director will not accept amendments to a grant agreement requesting additional funds for a project. This safeguard also promotes effective administration of the program.

Part 9210.0570, subp. 1 (E) specifies that a recipient must provide reports to the director for the purpose of transferring the knowledge and experience gained from a project to other communities. This requirement assists the Office in attaining its goals for litter prevention, control, and abatement throughout the state.

Part 9210.0570, subp. 2 provides that a recipient will have to repay a grant if the a project is not developed and implemented in accordance with the terms of a grant agreement, unless the director agrees to an amendment to that agreement. This

subpart assists the director in administering the program by ensuring that projects that receive program assistance are implemented.

Part 9210.0570, subp. 3 provides that a payment schedule will be included in a grant agreement. This safeguard promotes effective program administration.

## VI. SMALL BUSINESS CONSIDERATIONS

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

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

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

the statutory objectives that are the basis of the proposed rulemaking." Minn. Stat. §14.115, subd. 3 (1988).

The proposed rules establish the criteria and procedures by which the Office provides financial assistance in the form of grants to counties. The requirements of Minn. Stat. section 14.115 do not appear to apply to these proposed rules because this program does not place any direct regulatory burden on small businesses.

This program limits eligible applicants to counties. Counties are encouraged to include the participation of organizations, which may include small businesses. The proposed rules do not limit the participation of small businesses beyond the restriction on applicants set out in Minn. Stat. section 115A.991.

## VI. CONCLUSION

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

Dated: June 1, 1990

A handwritten signature in black ink that reads "Michael Robertson". The signature is written in a cursive style with a horizontal line underneath the name.

Michael Robertson  
Director

