

# Office of the Revisor of Statutes

## Administrative Rules



**TITLE:** Proposed Permanent Rules Relating to Contaminated Cleanup Grant Program

**AGENCY:** Department of Trade and Economic Development

**MINNESOTA RULES:** Chapter 4309

The attached rules are approved for  
publication in the State Register

A handwritten signature in cursive script, appearing to read "Carla Riehle".

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Carla M. Riehle  
Senior Assistant Revisor

1 Department of Trade and Economic Development  
2  
3 Proposed Permanent Rules Relating to Contaminated Cleanup Grant  
4 Program  
5  
6 Rules as Proposed (all new material)

7 4309.1000 ADDITIONAL INFORMATION.

8 To apply for a contamination cleanup development grant, an  
9 applicant must submit the following information to the  
10 Department of Trade and Economic Development in addition to the  
11 requirements in Minnesota Statutes, section 116J.553,  
12 subdivision 2:

13 A. an estimation of the number of jobs that will be  
14 created after cleanup and development of the site;

15 B. the total project cost;

16 C. the anticipated value of proposed public and  
17 private future developments including the potential tax base  
18 increase of the local taxing jurisdictions;

19 D. the amount and source of the commitment of  
20 municipal or other local resources to pay for the cleanup costs;  
21 and

22 E. the relative financial health of the local taxing  
23 jurisdiction as demonstrated by tax capacity, bonded  
24 indebtedness, and an audit or financial statement if an audit is  
25 not available.

**2010.9916 RECOMMENDED NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING.**

STATE OF MINNESOTA

DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT

In the Matter of the Proposed Adoption

of the Rule of

the State of Minnesota

Governing Contamination Cleanup Development

Grant Program

NOTICE OF

INTENT

TO ADOPT A

RULE

WITHOUT A PUBLIC

HEARING

The Department of Trade and Economic Development intends to adopt a permanent rule without a public hearing following the procedures set forth in the Administrative Procedure Act, Minnesota Statutes, sections 14.22 to 14.28. You have 30 days to submit written comments on the proposed rule and may also submit a written request that a hearing be held on the rule.

**Agency Contact Person.** Comments or questions on the rule and written requests for a public hearing on the rule must be submitted to:

Louis F. Jambois

Minnesota Department of Trade and Economic Development

500 Metro Square  
121 7th Place East  
St. Paul, MN 55101  
612/297-3172 Phone  
612/296-1290 Fax

**Subject of Rule and Statutory Authority.** The proposed rule is about the Contamination Cleanup Development Grant Program which provides grants to cleanup contaminated sites. The statutory authority to adopt this rule is Minnesota Statutes 116J.035, subd. 2. A copy of the proposed rule is published in the State Register and attached to this notice as mailed. A free copy of the rule is also available upon request from the agency contact person listed above.

**Comments.** You have until 4:30 pm, August 10, 1994 to submit written comment in support of or in opposition to the proposed rule and any part or subpart of the rule. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comment should identify the portion of the proposed rule addressed, the reason for comment, and any change proposed.

**Request for hearing.** In addition to submitting comments, you may also request that a hearing be held on the rule. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on August 10, 1994. Your written request for a public hearing must include your name and address. You are encouraged to

identify the portion of the proposed rule which caused your request, the reason for the request, and any changes you want made to the proposed rule. If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If a public hearing is required, the agency will follow the procedures in Minnesota Statutes, section 14.131 to 14.20.

**Modifications.** The proposed rule may be modified as a result of public comment. The modifications must be supported by data and views submitted to the agency and may not result in a substantial change in the proposed rules as (attached and) printed in the State Register. If the proposed rule affects you in any way, you are encouraged to participate in the rulemaking process.

**Statement of Need and Reasonableness.** A statement of need and reasonableness is now available from the agency contact person. This statement describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule.

**Small Business Considerations.** The Department of Trade and Economic Development had considered the small business community and has determined that it is unnecessary to make exceptions in the application or program process for small businesses because this rule does not affect small business since the applicants are a development authority pursuant to Minn. Stat. 116J.552, Subd. 4. Therefore, small business considerations in the rule making process are not applicable.

**Expenditure of Public Money by Local Public Bodies.** The Department of Trade and Economic Development hereby expects that the proposed rule will not impact a local public body upon implementation. However, the statute will financially impact the local public body and the impact may be in excess of \$100,000. Statutory requirements such as Minn. Stat. 116J.554, Subd. 1, and Minn. Stat. 116J.556(a)-(b) are examples of statutory requirements that will financially impact the local public body.

**Impact on Agricultural Land.** The proposed rule will not have a direct and substantial adverse impact on agricultural land in the state.

**Adoption and Review of Rule.** If no hearing is required, after the end of the comment period the agency may adopt the rule. The rule and supporting documents will then be submitted to the attorney general for review as to legality and form to the extent form relates to legality. You may request to be notified of the date the rule is submitted to the attorney general or be notified of the attorney general's decision on the rule. If you wish to be so notified, or wish to receive a copy of the adopted rule, submit your request to the agency contact person listed above.

Dated: 22 June, 1994



E. Peter Gillette, Commissioner

Department of Trade and

Economic Development

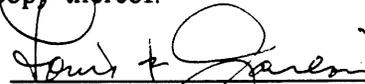
In the Matter of the Proposed Adoption  
of the Rule of the State of Minnesota  
Governing Contamination Cleanup Development  
Grant Program

AFFIDAVIT OF  
MAILING THE  
STATEMENT OF NEED  
AND REASONABLENESS  
TO THE LEGISLATIVE  
COMMISSION TO REVIEW  
ADMINISTRATIVE RULES  
AND THE FEE NOTICE  
TO COMMITTEE CHAIRS

STATE OF MINNESOTA  
COUNTY OF RAMSEY

I, Louis F. Jambois, being sworn says:

That on the 23 day of June, 1994, when the Statement of Need and Reasonableness become available to the public, I mailed the Statement of Need and Reasonableness to the Legislative Commission to Review Administrative Rules by depositing in the United States mail, with postage prepaid a copy thereof.



Louis F. Jambois

Director

Community Assistance Unit

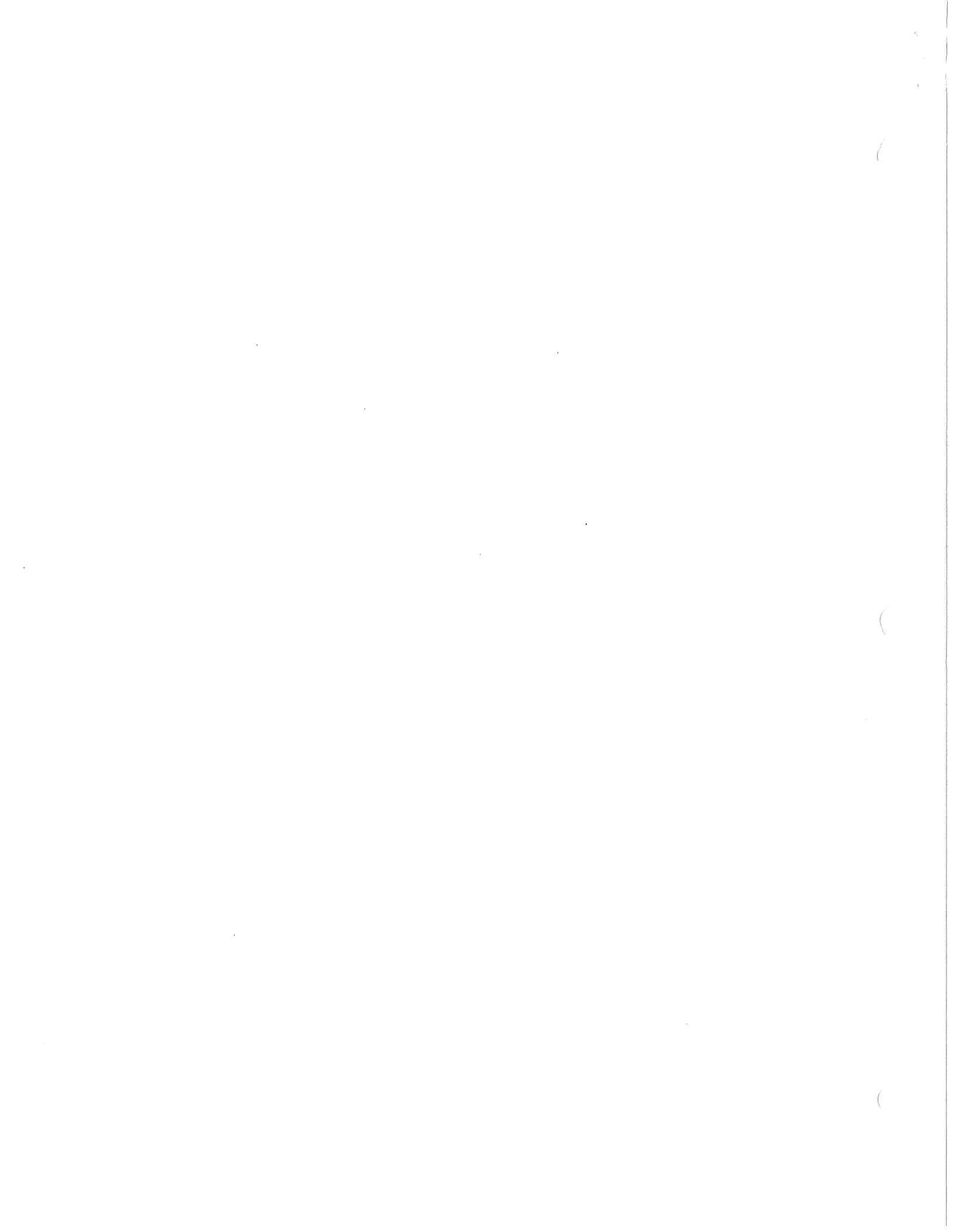
Community Development Division

Subscribed and sworn to before me  
this 23<sup>rd</sup> day of June, 1994.



Notary Public





State of Minnesota  
Department of Trade and Economic Development  
Community Development Unit

Statement of Need and Reasonableness

In the matter of Contamination Cleanup Development Grant Program as written in Minnesota Statute 116J.551 - 116J.557

Introduction:

This Statement of Need and Reasonableness describes the permanent rule of the Commissioner of the Department of Trade and Economic Development to administer the Contamination Cleanup Development Grant Program as provided in Minn. Stat. 116J.551 - 116J.557, and the needs and reasonableness of the rule. This rule is needed to effectively implement Minn. Stat. 116J.551-116J.557. Pursuant to Minn. Stat. 116J.551-116J.557, the Commissioner of the Department of Trade and Economic Development is the administrator of the program awarded by the Minnesota Legislature for contaminated cleanup development grants. He is given the authority to award grants pursuant to the statutory requirements. Pursuant to Minn. Stat. 116J.553, subd. 2(7), the commissioner has the authority to prescribe additional information in application. This rule sets forth the prescriptions. The authority given to the commissioner to adopt rules as necessary to carry out the duties and responsibilities of the commissioner is provided in Minn. Stat. 116J.035, subd. 2. The format used in this statement is as follows: Each rule is given in bold print, followed by a discussion of the necessity of the proposed rule and its reasonableness.

**4309.1000 ADDITIONAL INFORMATION**

**To apply for a contaminated development cleanup grant, the following information must be submitted to the Department of Trade and Economic Development in addition to the statutory requirements contained in Minn. Stat. 116J.553, subd. 2.**

Minn. Stat. 116J.553, Subd. 2(7) allows the commissioner of the Department of Trade and Economic Development to require additional information to be included in the application for a contamination cleanup development grant. The following required information are those additional requirements seen appropriate by the Commissioner. It is reasonable that all listed criteria in this rule be included in the application because Minn. Stat. 116J.555 requires the commissioner to consider certain criteria in setting priorities for awarding grants in the event there are more applications than money available. The additional information is necessary to provide the commissioner with the factual basis for the criteria he is to consider to prioritize applications when there are more applications than available appropriations pursuant to Minn. Stat. 116J.555, Subd. 1, as well as to accurately determine the applicants who will bring the highest public benefit for costs incurred, pursuant to Minn. Stat. 116J.555, Subd. 1(b).

**Subp. A. An estimation of the number of jobs that will be created after cleanup and development of site.**

The number of jobs is needed as a measure which reasonably indicates public benefit which is required as a means of prioritization of applications pursuant to Minn. Stat. 116J.555, Subd 1(b) and also indicates the social value to the community of the cleanup and redevelopment of the site, pursuant to Minn. Stat. 116J.555, Subd. 1(3), which is also required as a means of prioritization of applications pursuant to Minn. Stat. 116J.555, subd. 1(b). Job creation is a major component of economic development and a result of business stimulation. Job creation can be used to measure the economic vitality of a community and is considered a positive benefit that provides opportunities to the public and/or community and contribute to the economic condition of the area. Job creation is a direct indicator of the business climate and economy of the local area. Therefore, requiring the estimated number of jobs that will be created in this rule to determine the public benefit and social value gained from cleaning up contamination is reasonable.

**Subp. B. Total Project Cost.**

Total project cost is necessary to meet the statutory requirement of comparing project cost to cleanup cost under the local match requirement, Minn. Stat. 116J.556(a). Since cleanup cost is required in the application contents pursuant to Minn. Stat. 116J.553, Subd. 1(3) but project cost is not listed in that section but is required in Minn. Stat. 116J.556(a), it is necessary to include it under this rule so that the commissioner can determine the local match requirement as stated in statute by using the said criteria.

**Subp. C. The anticipated value of proposed public and private future developments including the potential tax base increase of the local taxing jurisdiction.**

Requiring this information will show the public and private developments that will occur as a result of cleanup. Pursuant to Minn. Stat. 116J.555, Subd. 1(b), the commissioner must make grants for sites that provide the highest return in public benefits in the event that there are more applications than appropriations. Therefore, it is reasonable that item 3. be included in the application so that the commissioner can adequately fulfill the statutory requirement. Requiring this information will fulfill the statutory requirement that the commissioner must look at the social value to the community of the cleanup and redevelopment site, including the importance of redevelopment of the proposed public facilities on each of the sites, pursuant to Minn. Stat. 116J.555, Subd. 1(3). Therefore future development (both public and private) including the potential tax base increase of the local taxing jurisdictions will indicate the social value the cleanup will bring to the community. To clarify this point, most often contaminated land is either abandoned or unutilized due to the contamination on the site. Abandoned or undeveloped properties lower the tax bases of communities. Less development can mean fewer jobs and a less vital local economy. Furthermore, sites with heavy contamination can even lower adjacent property values and leave a stigma on the area. The

economic impact of property that is abandoned or undeveloped because of contamination may be significant given the already depressed economies of some communities in Minnesota. Therefore, cleanup and development would alleviate these problems caused by contamination and would make the social value of the cleanup significant, provide for future developments, an added tax base and obvious public benefits.

**Subp. D. The amount and source of the commitment of the municipal or other local resources to pay for the cleanup costs.**

Requiring this information is reasonable in that the contamination cleanup grant program can only provide 50% of the project costs pursuant to Minn. Stat. 116J.556(a) and therefore funding must come from other local resources to pay for the required local source of 50% of cleanup costs. Furthermore, the jurisdiction must list sources of additional funding due to the limits that are placed on the funding source pursuant to Minn. Stat. 116J.556 (a). If there are adequate local resources to meet the local match requirement pursuant to Minn. Stat. 116J.556 (a) and all other criteria is met, the possibility of receiving a grant award is greater. Furthermore, it is reasonable to require this because it is cited in Minn. Stat. 116J.555, Subd. 1(6) as criteria used in prioritizing grant applications. Furthermore, it's important to include this because if the applicant cannot meet the local match requirement, they are not eligible for a grant pursuant to Minn. Stat. 116J.556(a)

**Subp. E. The relative financial health of the local taxing jurisdiction as demonstrated by tax capacity, bonded indebtedness, and an audit or financial statement if an audit is not available.**

By requiring the above information, the commissioner will be allowed to determine the fiscal needs of the community as asked for in Minn. Stat. 116J.555, Subd. 1(2). It is reasonable that the fiscal needs of the jurisdictions can be derived by examining tax capacity, bonded indebtedness and an audit or financial statement if an audit is not available which is why the commissioner requests this information.

**Statement of Small Business Consideration.**

Pursuant to Minnesota Rules, part 2010.0700, a statement documenting the agency's consideration of methods for reducing the impact of the rule on small businesses and the results pursuant to Minnesota Statutes, section 14.115, subdivision 2 must be included in the statement of need and reasonableness. The Department of Trade and Economic Development has considered the small business community and has determined that it is unnecessary to make exceptions in the application or program process for small businesses because this rule does not affect small business since the applicants are a development authority, pursuant to Minn. Stat. 116J.552, Subd. 4. Therefore, small business considerations in the rule making

process are not applicable. The Department of Trade and Economic Development hereby determines exemption from small business considerations in the rule making process.

**Fiscal Note.**

Pursuant to Minnesota Rules, part 2010.0700, it is necessary to include in the statement of need and reasonableness a fiscal note indicating the agency's consideration of the financial impact to local public bodies pursuant to Minnesota Statutes, section 14.11, subdivision 1. The Department of Trade and Economic Development hereby expects that the proposed rule will not impact a local public body upon implementation. However, the statute will financially impact the local public body and the impact may be in excess of \$100,000. Statutory requirements such as Minn. Stat. 116J.554, Subd. 1, and Minn. Stat. 116J.556(a) - (b) are examples of statutory requirements that will financially impact the local public body.

I, the below signed, hereby authorize the adoption of the rule:

*Peter Gullik*  
signature

*Commissioner, DTED*  
title

*June 22, 1994*  
date