

STATE OF MINNESOTA

WASTE MANAGEMENT BOARD

In the Matter of the Proposed
Amendments to Rules of the
State Waste Management Board
Governing the Solid Waste Processing
Facility Demonstration Program
Minn. Rules Parts 9200.8100 - 9200.9200

STATEMENT OF NEED
AND REASONABLENESS

I. INTRODUCTION

The subject of this rulemaking proceeding is the amendment of adopted rules governing the award of grants and loans for capital costs of solid waste processing facilities. The Rules for the Waste Management Board (hereinafter "Board"), Minn. Rules Parts 9200.8100 - 9200.9200 were adopted to provide an orderly and predictable method to identify eligible projects and project costs. The rules specify grant and loan application procedures; provide application deadlines; establish project review and evaluation criteria; set limitations on grant and loan awards; and specify the contents of grant and loan agreements.

The present amendments were drafted to change and in some cases add to the adopted rules in order to make them consistent with the 1985 amendments to the statutory provisions governing the Board's Solid Waste Processing Facility Demonstration Program. See Minn. Stat. §§ 115A.49-.54 (Supp. 1985).

These amendments will be adopted following the procedures for non-controversial rule making.

II. NEED FOR THE PROPOSED AMENDMENTS

The Board is required by Minnesota Statutes, §115A.49 (1984) to promulgate rules to govern its activities under the Solid Waste Processing Facility Demonstration Program. These amendments are necessary to make the adopted rules consistent with Minn. Stat. § 115A.54, subd. 2 and 2a, as amended by the 1985 Legislature.

In addition, the rules are being amended to simplify and clarify them, and to make them consistent with the rules of the Board's Solid Waste Processing Facility Capital Assistance Program.

III. REASONABLENESS OF THE PROPOSED AMENDMENTS

Minn. Rules Part 9200.8100 DEFINITIONS

The following definitions are being amended to make them consistent with references elsewhere in the rule, to clarify them, or to respond to statutory changes.

Subp. 5. Comprehensive solid waste management plan. The definition of "comprehensive solid waste management plan" has been amended to clarify that while a plan prepared pursuant to Minn. Stat. §115A.46 is part of the necessary supporting documentation to an application, Pollution Control Agency approval of that plan is not a requirement for purposes of this program.

Subp. 7. Final design and engineering/architectural plans; and Subp. 12. Preliminary design and engineering/architectural plans. These definitions have been changed to be consistent with their use in the rule.

Subp. 9. Institutional Arrangements. This change was made to increase clarity.

Subp. 1. Project.; Subpart 16. Recyclable materials.; and Subp. 17. Recycling. These definitions were changed to correspond to statutory definition of the terms.

Subp. 21. Statewide application or significance. This definition is no longer necessary due to statutory changes.

Minn. Rules Part 9200.8200 SOLID WASTE PROCESSING FACILITIES DEMONSTRATION PROGRAM

This part is modified to reflect changes to Minn. Stat. §§115A.49 through 115A.54. See Minn. Stat. §§115A.49 - .54 (Supp. 1985). These changes removed the requirement that funded projects demonstrate new technologies or new institutional arrangements.

Minn. Rules Part 9200.8300 ELIGIBILITY CRITERIA

Subpart 2. This subpart is modified to reflect changes to Minn. Stat. §§ 115A.49 through 115A.54. See Minn. Stat. §§115A.49-.54 (Supp. 1985). These changes remove the requirement that funded projects demonstrate new technologies or new institutional arrangements.

In addition, Subpart 2 is modified to change the types of projects eligible for assistance. Formerly, six types of projects were eligible for assistance: waste-to-energy; materials recovery; chemical, physical, or biological modifications; transfer stations; special waste streams; and waste incineration with resource recovery. Waste-to-energy; transfer stations; and waste incineration with resource recovery are no longer eligible for assistance under this program. This change is made for the following reasons:

- o The higher capital costs associated with waste incineration facilities combined with the larger grant funding available under the Board's Solid Waste Processing Facility Capital Assistance Program make that program a more appropriate financial assistance program for waste incineration projects. Transfer stations are typically part of waste incineration projects, and should be funded as part of the waste-to-energy project; and
- o The higher percentage financial assistance available in the demonstration program (50% of eligible capital costs as opposed to 25% of eligible capital costs in the Board's Capital Assistance Program) should be saved for waste management projects most in need of assistance. Materials recovery; chemical, physical or biological modifications; and special waste stream processing facilities are less developed in the state than

are waste-to-energy; waste incineration with resource recovery; or transfer station projects, and thus are the most appropriate recipients of the level of financial assistance available under the demonstration program.

In addition, Subpart 2 is amended to clarify that only projects that are wholly publicly owned are eligible for assistance.

Subparts 3 and 4. These subparts are modified to clarify what are eligible and ineligible costs. Land and final engineering/architectural plans have been added to the eligible costs category to increase the potential amount of financial assistance. Land and final engineering/architectural plans are traditionally considered capital costs.

Minn. Rules Part 9200.8400. INFORMATION REQUIRED ON APPLICATION

This part is modified to make it consistent with the rules of the Board's Capital Assistance Program, and to reflect the changes as to what is an eligible project.

Minn. Rules Part 9200.8500. SUPPORTING DOCUMENTATION REQUIRED TO BE SUBMITTED WITH APPLICATION

This part is modified to make it consistent with the rules of the Board's Capital Assistance Program, and to better organize the supporting documentation required to be submitted with an application.

Minn. Rules Part 9200.8600. GRANT AND LOAN APPLICATION PROCEDURES

This part is modified to clarify the initial review schedule, how long the demonstration program will accept applications, and how the Board will fund

projects in view of the legislative priorities specified in Minn. Stat. § 115A.49 (1984). Some of this material was transferred to this part from other parts of the existing rule.

Minn. Rule Part 9200.8700 REVIEW AND EVALUATION OF APPLICATIONS

This part is amended to combine and clarify the evaluation process and to reflect the fact that projects no longer need to demonstrate new technologies or new institutional arrangements.

Minn. Rule Part 9200.8800 EVALUATION OF PROJECTS

This part is repealed because the project evaluation process has been made a part of the preceding part, Minn. Rule Part 9200.8700.

Minn. Rule Part 9200.9000 AWARD OF GRANTS AND LOANS

This part is modified to rearrange and clarify the limits that will be applied to grants and loans awarded under the program, and to reflect that projects may now receive grants, loans, or grants or loans because of amendments to Minn. Stat. Section 115A.54, Subd. 2 (Supp. 1985).

The maximum grant and loan amounts have also been modified to distribute the funds available in the demonstration program to as many projects as possible.

Minn. Rule Part 9200.9100 GRANT, LOAN OR GRANT AND LOAN AGREEMENT

This part is modified to clarify the required contents of grant and/or loan agreements, and to specifically note the constitutional constraints governing the sale of a program funded processing facility to a private entity.

Minn. Rule Part 9200.9200

The contents of this part have been transferred to other parts. In addition, changes in Minn. Stat. 115A.54, Subd. 2 have removed the requirement that at least 70% of the funds allocated to the program be distributed in the form of loans.

Dated: May 30, 1986


Chairman, Waste Management Board

jg/1/001

WASTE MANAGEMENT BOARD SOLID WASTE PROCESSING FACILITY
CAPITAL ASSISTANCE PROGRAM
STATEMENT OF NEED AND REASONABLENESS

INTRODUCTION

The legislature has found that waste processing facilities and transfer stations serving such facilities are needed to manage properly the solid waste generated in the state and to conserve and protect the natural resources in the state and the health, safety, and welfare of its citizens. Minn. Stat. §115A.54, Subd. 1 (1984). The legislature has also determined that a program of capital assistance to political subdivisions is necessary to realize fully the opportunities to create such facilities. Id.

In 1985, the legislature instructed the Board to provide technical and financial assistance for the acquisition and betterment of solid waste management projects. As codified at Minn. Stat. §115A.54, Subd.2a (Supp. 1985), the purpose of the program "is to demonstrate whether an ongoing state capital assistance program to assist local development of feasible and prudent alternatives to disposal is an appropriate and desirable method to further state waste management policies."

The subject of this rulemaking proceeding is a set of rules to govern the award of grants for capital costs of solid waste processing facilities made pursuant to Minn. State §115A.54,

Subd. 2a (Supp. 1985) (Capital Assistance program). The proposed rules seek to establish a mechanism to ensure the orderly administration of the Capital Assistance program. In general, the proposed rules identify those projects and costs that may be funded through the Capital Assistance program; set up application procedures and timetables; establish criteria for the review of projects and for the award of grants; set limits on the amount of funds that can be awarded; and specify contents of grant agreements.

The proposed rules seek to fulfill the Waste Management Board's statutory mandate as set out in Minn. Stat. §§ 115A.49 -.54 (Supp. 1985), and to meet the specific goals established for this grant program.

II. HISTORY

On August 22, 1985, the Waste Management Board adopted emergency rules to govern the Capital Assistance program. These rules were codified as Minn. Rules Parts 9200.6000 to 9200.6800 [Emergency]. On February 27, 1986, the Capital Assistance program emergency rules were continued in effect for 180 days or until permanent rules were enacted. Because funds remain available for use in the Capital Assistance program, the Waste Management Board now seeks to enact the rules that are the subject of this rulemaking proceeding.

As required by Minn. Stat. §115A.12 (1984), the Waste Management Board consulted the Solid Waste Management Advisory Council concerning the proposed rules. After receiving Council and Board approval, a Notice of Intent to Adopt Rules Without A Hearing and a copy of the proposed rules were published in the State Register on June 2, 1986. 10 S.R. 2405 (1986).

III. NEED FOR THE PROPOSED RULES

The Waste Management Board is required by Minn. Stat. §115A.54, Subd.2a(2) (Supp. 1985) to promulgate rules to govern the award of grants through the solid waste processing facility capital assistance program. In addition, the Waste Management Board is required to adopt rules to govern the solid waste management demonstration program, Minn. Stat. §§115A.49 - .54 (1984), of which the Capital Assistance program is a part.

The presently proposed rules are needed to fulfill this statutory obligation. Moreover, the rules are needed to provide a coordinated and consistent process to review and select grant recipients.

IV. REASONABLENESS OF THE PROPOSED RULES

9200.6000 DEFINITIONS

Many of the terms defined in 9200.6000 are terms defined by statute. Other definitions are provided simply for clarity and

consistency. The definitions in 9200.6000 that fall into these categories include the definition of Board (Subp. 2); Chair (Subp. 3); Cities (Subp. 4); Disposal (Subp. 6); Mixed municipal solid waste (Subp. 9); Processing (Subp. 12); Recyclable materials (Subp. 14); Recycling (Subp. 15); Recipient (Subp. 16); Resource Recovery (Subp. 17); Resource recovery facility (Subp. 18); Solid waste (Subp. 19); Solid waste management district (Subp. 20); and Transfer station (Subp. 24).

Other terms defined in the proposed rules are substantive and have special significance as used. The reasonableness of the definitions of these terms is set forth below.

9200.6000 Subp. 5

The definition of comprehensive solid waste management plan is derived from the statutory definition provided at Minn. Stat. §115A.46. However, as defined here the plan need not be an approved plan.

9200.6000 Subp. 7

Because what constitutes final design and engineering/architectural plans may be subject to varied interpretation, a definition has been provided. This definition provides a simple standard to determine which plans are "final" and thus is reasonable.

9200.6000 Subp. 8

A definition of "institutional arrangements" is provided

because, as used in the rules, this term is a term of art and is not in common useage.

9200.6000 Subp. 10

A definition of on-site utilities is necessary because this term may be subject to varied interpretation. Facilities used for the transmission of energy to markets are excluded because such facilities are not considered to be a part of the processing facility.

9200.6000 Subp. 11

A definition of preliminary design and engineering/architectural plans is provided for the same reason as stated in 9200.6000 Subp. 7 above.

9200.6000 Subp. 20

To comply with legislative mandate, solid waste facilities and equipment are not eligible for funding. A definition of solid waste facilities and equipment is provided to enable applicants to determine whether a project or a piece of equipment would be eligible for funding.

9200.6000 Subp. 22

Projects which process special waste streams are eligible for funding under the Capital Assistance program. Because "special waste stream" is not a term in common usage, a

definition is supplied. This definition is made more clear through the use of examples.

9200.6200 GRANT APPLICATION PROCEDURES

This section gives an overview of the procedures which applicants must follow in submitting application for grants. The section also sets out the procedures the Board will follow in reviewing applications, and how the program will terminate.

The termination of the program occurs when funds are exhausted, or three months before the expiration of the authority of the Waste Management Board, whichever comes first. This termination point is reasonable in that the program can not function without funds or an administering authority.

This section also notes that projects meeting the priorities set out at Minn. Stat. §115A.49 (1984) will be given priority in funding. This restriction is necessary to comply with the statute.

9200.6300 ELIGIBILITY CRITERIA

In this section, eligible applicants, projects, and costs are identified. In addition, specific costs that are not eligible are identified. This portion of the rule is necessary to ensure that potential applicants know whether or not they qualify as an eligible applicant, whether or not their project qualifies as an eligible project, and which project costs would be eligible for funding.

9200.6300 Subp. 1

This section identifies eligible applicants. Only cities, counties and solid waste management districts are eligible. This restriction is dictated by Minn. Stat. §115A.50 (1984).

9200.6300 Subp. 2

This part set out six types of projects which will be eligible for funding under the Capital Assistance program. Five of these project types are derived directly from the statutory definition of "processing". This definition is given at Minn. Stat. §115A.03 Subd. 25 (1984). Special waste stream projects form the final category of eligible projects. The inclusion of special waste stream projects is reasonable because these projects meet the general definition of processing, in that they treat the special waste stream after collection and before disposal. These projects also qualify as solid waste management projects, in that the management of the special waste streams is a necessary part of solid waste management.

This part also acknowledges that projects that were awarded assistance by the Board pursuant to applications submitted under Minn. Stat. §115A.49 -.54 (1984) (the Demonstration Program) are eligible for additional funding under the Capital Assistance program. Applicants are asked to submit the documentation required of new applicants for Capital Assistance program funding. This is reasonable due to the differing requirements of the two programs.

9200.6300 Subp. 3

Minnesota Statutes Section 115A.54 limits grant assistance to 25% of the capital cost of the waste management project, or \$2,000,000, whichever is less. This subpart sets out those costs that will be considered capital costs eligible for funding within the statutory limit. This part defines as capital costs those items which traditionally are considered "hard costs." These include waste processing equipment, structures to house the equipment, associated on-site utilities, land, and final design work. These costs are easily priced and verifiable.

9200.6300 Subp. 4

The cost of solid waste disposal facilities and equipment, though part of the overall capital cost of some projects, is made ineligible for funding by this part. These capital costs are ineligible because the purpose of the Capital Assistance program is to fund alternatives to traditional disposal facilities. Costs that are not easily ascertainable ("soft costs") and costs for items not directly related to the waste processing equipment (such as structures for housing and maintenance of rolling stock) are also made ineligible. This exclusion is reasonable to alleviate administrative difficulty and to reserve the funds available under the program to meet its goal of funding waste processing facilities.

9200.6400 INFORMATION REQUIRED ON GRANT APPLICATIONS

This part describes the information that must be provided by the grant applicant. In order to conduct a meaningful review and evaluation of each project proposal, the Board must have an adequate level of information about the applicant and the proposed facility. Much of this information is required to satisfy requirements set out at Minn. Stat. §115A.51 -.54 (1984).

The specific justification for each type of information required is set out below.

9200.6400(A)

The name(s) of the (each) applicant(s) is (are) necessary to allow the Board to identify and contact the applicant(s).

9200.6400(B)

It is necessary to identify each affected political subdivision so that they may be contacted to determine the degree to which they support the proposed waste processing facility. Such support is essential for a successful project.

9200.6400(C)

These resolutions are necessary to meet the statutory requirements specified in Minn. Stat. §115A.54, subd.2a(1) (Supp. 1985) and Minn. Stat. §115A.54 subd. 3 (1984).

9200.6400 (D)

This information is required so that the Board can evaluate

the qualifications of the project manager, and contact the manager during the project evaluation process.

9200.6400(E)

As stated above, this information is needed during the evaluation process. This information is not required unless it is available at the time the application is submitted.

9200.6400(F)

An estimate of the total capital cost of the facility is needed to calculate the amount of grant funds for which the project is potentially eligible.

9200.6400(g)

An estimate of the total grant eligible cost is necessary as this is the number that will be used to determine the final grant amount.

9200.6400(h)

The amount of grant funding requested is necessary because this amount will be considered by the Board in making the grant award.

9200.6400(i)

An account of the amount and sources of all other funding contributions, including the amount of funds to be contributed by the applicant, is necessary to meet the requirement, specified in

Minn. Stat. §115A.54, subd. 2, that before any grant funds are disbursed the Board must find that full funding of the project is assured.

9200.6400(j)

Information on the type of waste processing facility proposed is necessary to ascertain whether the project is eligible for assistance.

9200.6500 SUPPORTING DOCUMENTATION REQUIRED TO BE SUBMITTED WITH
GRANT APPLICATION

This section describes the supporting documentation that must be provided by the applicant. This documentation is necessary to meet the requirements set out in Minn. Stat. §115A.51 (1984).

9200.6500(A)

The submission of a conceptual and technical feasibility report that includes the information required in this part is necessary to aid the Board to find, as required by statute, that the project is conceptually and technically feasible. To make the required finding, the Board needs to know what is proposed to be built, how it will be implemented and operated, how the technology will be obtained, and what waste will be processed.

9200.6500(B)

The submission of a financial plan that includes the

information required in this part is necessary to aid the Board to find, as required by statute, that the operating revenues of the project will be sufficient to cover the costs over the projected life of the project. The Board is required to consider the availability and security of sources of solid waste and of markets for recovered resources, and federal state and local financial assistance.

9200.6500(C)

The submission of a report on the applicant's need for financial assistance is also necessary to enable to the Board to find, as required by statute, that such assistance is needed. This requirement is found in Minn. Stat. §115A.54, subd.2a(2) (Supp. 1985). That statute requires the Board to consider the applicant's financial capacity and the problems inherent in the waste management situation in the area, particularly transportation distances and limited waste supply and markets for resources recovered. The items required to be in the report required in this portion of the rule will enable the Board to make the required evaluation, and thus are reasonable.

9200.6500(D)

Adequate planning is required for the successful development and implementation of waste processing facilities. In order to ascertain that an adequate level of planning has been achieved,

it is reasonable to require that applicants submit a comprehensive solid waste management plan prepared pursuant to Minn. Stat. §115A.46 (1984). Further, the Board is specifically authorized to require the completion of such a plan by Minn. Stat. §115A.51 (1984).

It is also reasonable for the Board to require that a comprehensive solid waste management plan have been completed to assure that applicants have considered all viable alternatives to disposal, and that the proposed project is the best alternative.

9200.6500(E)

To adequately assess the technical feasibility of the proposed project, it is reasonable to require that applicants submit preliminary design and engineering/architectural plans for Board review. Requiring the submission of such plans also enables the Board to ascertain that an applicant has a sufficient grasp of what will be required in building and operating the project, and that projected costs are accurate.

9200.6500(F)

Requiring applicants to submit documentation of how waste will be supplied to the proposed facility is reasonable because an adequate waste stream is essential to the success and feasibility of a project.

9200.6500(G)

Information on the markets for recovered resources (materials and energy) is essential to evaluate the financial viability of the project. It is reasonable to require applicants to submit such information with the application because the Board must find that the project is financially feasible.

9200.6500(H)

Many solid waste projects will need to obtain a variety of permits. Obtaining the required permits is essential to successful operation. It is reasonable to require applicants to report on their efforts to obtain permits to enable the Board to get a sense of whether the proposed project will be permitted, what conditions will be imposed on its operation, and when the permits will finally be issued. It is also reasonable to require applicants to report on the status of required permits to alert applicants to permitting requirements.

9200.6500(I)

It is reasonable to require applicants to submit a time frame for project development in order to give the Board a sense of when a proposed project will be operating, and whether that projected date is realistic.

9200.6500(J)

It is reasonable to require applicants to submit the

required resolutions with the application to ensure that the applicants are serious about proceeding with the proposed project, and are committed to it.

9200.6500(K)

If an applicant is requesting priority pursuant to Minn. Stat. §115A.49 (1984), it is reasonable to require that applicant to submit documentation of the existence of those conditions set out in the statute.

9200.6500(L)

If an applicant who has received funding under the demonstration program is requesting additional funding, it is reasonable to require the applicant to submit the information required in this part. Because a grant or loan under the demonstration program was given under the condition that full funding of the project was assured, it is necessary that the applicant for more funding document why that condition no longer exists.

9200.6500(M)

The documentation required under this part of the rule is reasonable because such information is necessary to enable the Board to fund a project serving a single county. To fund such a project, the Board must find that cooperation with other jurisdictions is not needed or not feasible. Minn. Stat. §115A.54, subd. 2a (Supp. 1985).

9200.6600 REVIEW AND EVALUATION OF APPLICATIONS

This part of the rule sets out the procedures that will be followed by the Board when evaluating applications, and the standards that must be met for an applicant to receive funding.

9200.6600 Subp. 1

This part delegates the responsibility of determining whether an application is complete and whether the applicant, the proposed project, and the costs listed in the application are eligible to the chair of the Board. It is reasonable for this duty to be delegated to the chair because these initial determinations are prefatory.

9200.6600 Subp. 2

This part sets out times within which applicants will receive notice of the chair's initial decision on the application, and within which they must respond to any finding of deficiency. The time period allotted for the initial review-- 14 days-- is reasonable in that it gives adequate time for the review yet will not delay decision on the project. The time period for response to any finding of deficiency-- also 14 days-- is reasonable because the applicant has had notice as to what must be submitted and should be able to correct omissions without further delay.

9200.6600 Subp. 3

This part requires the Board to make a determination as to whether Board assistance is necessary before proceeding to evaluate the merits of the project. This is a reasonable first step in the process of evaluating applications in that there is no point in reviewing the merits of a project only to find that state assistance is not necessary.

9200.6600 Subp. 4

After the Board has determined that the applicant needs state assistance to complete the project proposed, the Board will proceed to evaluate the project with regard to the factors set out in this subpart. The factors set out are derived from statutory requirements for funding projects under the Capital Assistance program. It is reasonable to set out these factors in the rule to put applicants on notice as to what the Board must determine in order to give the applicant a grant.

9200.6600 Subp. 5

This part sets notifies applicants that, if the factors set out in Subpart 4 are met, the Board will move to determine the amount of the grant. If the requirements are not met, this part informs applicants that the Board will provide the applicants with a statement of the reasons a grant was not given. Providing this notice is reasonable because it sets out the basis of the

Board's decision and allows applicants to evaluate the reasonableness of that decision.

9200.6600 Subp. 6

This part notes that the Board will consider recommendations provided by other agencies in making its decision to fund a project. This is required by statute. It is also reasonable because the success of a project will depend in part on whether it is supported by regulatory and planning agencies having jurisdiction over it.

9200.6700 LIMITATIONS

9200.6700 Subp. 1

This part references the statutory limits on the amount of grants awarded under this program.

9200.6700 Subp. 2

The limits set out in this part are reasonable to conserve state funds and to prevent applicants from over-financing projects.

In this section, grants are limited to that amount necessary to complete a project considering the funds presently available to the applicant. This is reasonable in that it does not limit Board funds based on the mere potential that an applicant will obtain funds from another source. It is also

reasonable in that it does not allow an applicant to obtain state funds for portions of the project which could be funded by the applicant through other means.

This section also notes that the grant will not cover tasks performed before the grant is awarded or after the grant agreement has expired. This is reasonable because it discourages applicants from making commitments before funding is assured, and limits state responsibility to the funding of just those costs incurred during the construction of the project.

9200.6800 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 money received.

9200.6800 Subp. 1(A)

This requirement is reasonable because it contractually obligates grant recipients to comply with the resolutions required by statute. A contractual obligation is easier to enforce.

9200.6800 Subp. 1(B)

This requirement is reasonable because it contractually obligates grant recipients to build and operate the project that

was proposed to the Board in the application submitted to the Board. Incorporating the application will aid the Board in determining whether the applicant has fulfilled its obligation or whether the applicant has deviated from what was intended.

9200.6800 Subp. 1(C)

This requirement is ministerial.

9200.6800 Subp. 1(D)

This requirement re-enforces the obligation of recipients to see that projects are completed, and to again emphasize that no further state funding will be available. This limit is reasonable in that it re-enforces statutory restrictions.

9200.6800 Subp. 1(E)

This requirement is reasonable in that it puts applicants on notice that the Board will not provide funds beyond the amount given in the grant.

9200.6800 Subp. 1(F)

This requirement is necessary to allow the Board to fulfill a duty, given by statute, to transfer the knowledge and experience gained from projects to other communities in the state. It is reasonable to require applicants to submit reports on the developmental and operation history of projects because applicants have the best access to the information needed.

9200.6800 Subp. 1(G)

This requirement is reasonable because it is the intent of the legislature that the projects funded under this program be publically owned and operated. Repayment or partial repayment of the grant money is reasonable to encourage recipients to maintain public ownership, while not entirely forbidding the sale to private entities. The requirement that the sale agreement transfer the requirement that reports on the project be submitted is reasonable in that it is necessary to enable the Board to fulfill its statutory duties.

9200.6800 Subp. 1(H)

This requirement is reasonable in that it alerts grant recipients to the fact that there may be constitutional or statutory restrictions on the sale of facilities funded under this program to private enterprises.

9200.6800 Subp. 2

This part is reasonable because it notifies recipients that the grant will be rescinded if the agreement is not complied with, but that it may be possible to obtain Board approval to deviate from the original proposal if the original objectives of the project will be fulfilled. Allowing minor variations in the projects funded under the program is reasonable given the complexity and novelty of solid waste management projects.

9200.6800 Subp. 3

This section is reasonable because it alerts recipients to the fact that the grant agreement will control the disbursement of funds.

Dated: May 30, 1986

A handwritten signature in cursive script, appearing to read "Bill Keel", written over a horizontal line.

Chairman, Waste Management Board