

**Report on all Minnesota Office of Environmental Assistance Rules
August 1, 2002**

05 - 0206

**Made to the Governor and Legislature
As required by Minnesota Statutes, section 14.3691**

Cost of preparing this report. In compliance with Minnesota Statutes, section 3.197, the cost of preparing this report is approximately \$650.00.

Executive Summary

Requirement to report on all Minnesota Office of Environmental Assistance (MOEA) rules. Minnesota Statutes, section 14.3961, states in pertinent part:

“An entity whose rules are scheduled for review under this section must report to the governor and the appropriate committees of the legislature by August 1 ...

The report must:

- (1) list any rules that the entity recommends for repeal;
- (2) list and briefly describe the rationale for rules that the entity believes should remain in effect; and
- (3) suggest any changes in rules that would improve the agency’s ability to meet the regulatory objectives prescribed by the legislature, while reducing any unnecessary burdens on regulated parties. ...”

Rules recommended for repeal. This is a list of rules we recommend for repeal. The reasons for our recommendations are discussed in the body of this report:

- Parts 9210.0190 to 9210.0200- Environmental testing grants
- Part 9210.0300 to 9210.0380 - Solid waste processing facilities demonstration program.

Rules that should remain in effect. We recommend that the large majority of MOEA rules remain. The rules, along with the rationale for our recommendations, are set forth in the body of this report.

Suggested rule changes. We have not identified any suggested changes the rules we wish to remain in effect at this time.

Organization of this report. This report is organized by MOEA rule chapters with a paragraph or two discussing each rules chapter or section.

Report

Requirement to report on all MOEA rules. Minnesota statutes, section 14.3961, subdivisions 1 and 2 provide in pertinent part:

“14.3691 Rule review and legislative oversight.

Subdivision 1. Reports. An entity whose rules are scheduled for review under this section must report to the governor and the appropriate committees of the legislature by August 1 of the year before the legislative session in which the entity's rules are scheduled for review. The speaker of the house of representatives and the senate committee on rules and administration shall designate the appropriate committees to receive these reports. The report must: (1) list any rules that the entity recommends for repeal; (2) list and briefly describe the rationale for rules that the entity believes should remain in effect; and (3) suggest any changes in rules that would improve the agency's ability to meet the regulatory objectives prescribed by the legislature, while reducing any unnecessary burdens on regulated parties. Any costs of preparing this report must be absorbed within funds otherwise appropriated to the entity.

Subd. 2. Schedule. (b) Rules of the ... environmental assistance office will be reviewed before and during the legislative session in 2003.”

MOEA's rules are contained in Chapter 9200 of Minnesota Rules and cover MOEA's grant and loan program and County Solid Waste Planning.

Chapter 9210 – SOLID WASTE GRANT AND LOAN PROGRAMS

Parts 9210.0100 – 9210.0180 - Solid waste processing facilities capital assistance program (CAP)

The Solid Waste Processing Facilities Capital Assistance Program (CAP) assists local units of government in landfill abatement activities by providing funding for the construction of municipal solid waste processing facilities. CAP is a grant program that replaced the grant and loan program known as the Demonstration Program. The MOEA has awarded grants under CAP rules since 1985. Many of these projects are on going and require on going oversight and management. These rules govern appropriations made to the MOEA in the bonding bill under MN Stat. §§ 115A.49 – 115A.541. **We recommend that these rules remain in effect.**

Parts 9210.0190 – 9210.0200 Environmental testing grants

The Environmental Testing Grants program provided funding to local units of government to conduct necessary tests at existing municipal solid waste processing facilities to determine the appropriate pollution control equipment for the project or the environmental effects of the use of any product or material produced by the project. All eligible projects controlled by this section have been addressed. No grants have been awarded under this section since 1990. **The MOEA, therefore, recommends that these rules be repealed as they are no longer used or needed.**

Parts 9210.0300 – 9210.0380 Solid waste processing facilities demonstration program

This program was a forerunner to the Solid Waste Processing Facilities Capital Assistance Program (CAP). As few applicants applied for loans under the demonstration grant and loan program, the program evolved into all grants. The CAP grant program replaced the demonstration program and no grants or loans have been awarded under the demonstration program since 1991. **The MOEA recommends that these rules be repealed as they are no longer used or needed.**

Parts 9210.0800 - 9210.0855 - Environmental Assistance Grant and Loan program

These sections cover the on going grant and loan programs administered by the MOEA. Through the program financial assistance is provided to Minnesota businesses, public entities, non-profit organizations, schools and others involved in improving Minnesota's environment for over a decade. In 1996, the MOEA was given the legislative authority to create a broad-based grant and loan program designed to fund a diversity of environmental activities. The Environmental Assistance Grant and Loan program replaced most of the former grant and loan programs administered by the MOEA. As a result, Minnesota Rules Parts 9210.0800 - 9210.0855 were re-written to encompass the revised Environmental Grant and Loan Program.

The purpose of the Environmental Assistance Grant and Loan Program is to help organizations move toward more environmentally sustainable practices. The program emphasizes pollution and waste prevention, reuse, source separation, recycling, and resource conservation, which go beyond traditional treatment, control and disposal of waste.

These rules supply the definitions and guidelines for issuing all grants and loans administered by the MOEA. In particular, the rules outline:

- The contents and parameters of all Request for Proposals
- The eligibility criteria;
- Preliminary and final grant and loan application procedures;
- Grant and loan limitations; and
- The format and content of all agreements.

The MOEA recommends that Parts 9210.0800 - 9210.0855 stay in effect since they have served the Grant and Loan Program very well as written.

Chapter 9215 – SOLID WASTE PLANNING; CERTIFICATE OF NEED

Parts 9215.0500 – 9215.0880 – Solid Waste Management Plans

Minnesota Rules, parts 9215.0500 – 9215.0880, establishes requirements for the preparation and implementation of solid waste management plans, plan updates, and plan amendments by counties and solid waste management districts outside the seven county metropolitan area. These plans provide a critical link from the planning stages of an integrated solid waste management system to the implementation of integrated solid waste management systems in each county. **The MOEA recommends that these rules remain in effect.**

Parts 9215.0890 – 9215.0950 – Certificate of Need

Minnesota Statutes requires that no Minnesota Landfill accepting mixed municipal solid waste (MSW) generated in Minnesota be expanded or sited without first obtaining a certificate of need (CON). Minnesota Rules, parts 9215.0890 – 9215.0950, outlines the process for the application and issuance of a CON for existing or proposed disposal facilities located outside of the metropolitan area. A disposal facility cannot be issued a permit for disposal of unprocessed mixed municipal solid waste until a CON is issued by the MOEA. A CON is issued for a 10-year period. The CON process ensures the orderly and deliberate development of solid waste disposal capacity. **The MOEA recommends that these rules remain in effect.**