

6 MCAR 4

5-224-82

1 Minnesota Pollution Control Agency

2 Solid and Hazardous Waste Division

3

4 Adopted Rule Regarding the Administration of the Minnesota Solid  
5 Waste Management Planning Assistance Program

6

7 Rule as Adopted

8 6 MCAR S 4.6085 Rule for the administration of the Minnesota  
9 solid waste management planning assistance program.

10 A. Purpose. This rule implements the solid waste management  
11 planning assistance program, created and described in the Waste  
12 Management Act of 1980, Minn. Stat. SS 115A.42-155A.46, by  
13 establishing the substantive criteria and procedural conditions  
14 according to which the agency shall award solid waste management  
15 planning assistance grants.

16 B. Overview of procedures for applying for and receiving a  
17 grant.

18 1. Application for a grant. To be eligible for a grant  
19 under this rule, an applicant shall apply for a grant.

20 a. The procedures the applicant shall follow in  
21 applying for a grant are set out in E.

22 b. The information and documentation the applicant  
23 shall provide in the grant application are set out in F.

24 2. Award of a grant. The agency shall award the  
25 applicant a grant in accordance with the procedures and  
26 limitations set out in G., if the agency determines:

27 a. That the applicant, cost, and project specified in  
28 the grant application are grant eligible;

29 b. That the application deadlines are met; and

30 c. That sufficient funds are available.

31 The criteria the agency shall use in determining the grant  
32 eligibility of the applicant are set out in D.1.; the criteria  
33 the agency shall use in determining the grant eligibility of the  
34 costs are set out in D.2.; the criteria the agency shall use in  
35 determining the grant eligibility of the project are set out in  
36 D.3.; and the criteria the agency shall use in determining

1 compliance with deadlines are set out in E.1., 4., 5., and G.2.

2 C. Definitions.

3 1. "Acceptable plan" means a written report prepared by a  
4 grantee to provide the planning information set out in Minn.  
5 Stat. S 115A.46. To be considered an acceptable plan under this  
6 rule, the written report shall:

7 a. Contain descriptions, estimates, or assessments of  
8 existing and proposed waste practices, including the following:

9 (1) A description of the existing collection,  
10 storage, transportation, processing, and disposal systems used  
11 within the political subdivision being studied by the named  
12 grantee, including schedules of rates and charges, financing  
13 methods, environmental acceptability, and opportunities for  
14 improvements in the systems;

15 (2) An estimate, calculated on the basis of current  
16 and projected waste generation practices, of the land disposal  
17 capacity in acre-feet which will be needed to serve the  
18 political subdivisions being studied by the named grantee  
19 through the year 2000;

20 (3) An assessment of specific opportunities to  
21 reduce the need for land disposal through the use of waste  
22 reduction and resource recovery, as defined in Minn. Stat. S  
23 115A.03, subd. 27, including an assessment of:

24 (a) The alternative degrees of reduction  
25 achievable;

26 (b) The comparative costs of the alternatives,  
27 including capital and operating costs; and

28 (c) The effects of the alternatives on the cost  
29 to generators of the waste.

30 (4) A description of existing and proposed county  
31 and municipal ordinances and license and permit requirements  
32 relating to solid waste management, including a description of  
33 the existing and proposed regulations and enforcement procedures  
34 relevant to those requirements;

35 b. Establish a detailed siting procedure and  
36 development program to assure the orderly location, development,

1 and financing of new or expanded solid waste facilities and  
2 services sufficient for a prospective ten year period, which  
3 procedure and program shall be consistent with all applicable  
4 rules of the agency and shall include:

- 5 (1) Estimated costs and implementation schedules;  
6 (2) Proposed procedures for operation and  
7 maintenance;  
8 (3) Estimated annual costs and gross revenues; and  
9 (4) Feasible proposals for the use of facilities  
10 after they are no longer needed or useable;

11 c. Include an evaluation and recommendation of  
12 specific options, consistent with all applicable rules of the  
13 agency, for the resolution of conflicting, duplicative, or  
14 overlapping local management efforts, including the possible  
15 establishment of joint powers management programs or waste  
16 management districts; and

17 d. Establish a schedule of actions which need to be  
18 undertaken to put the procedures, programs, and resolutions  
19 described in the plan into effect, including a statement of the  
20 appropriate entity to take each action.

21 2. "Agency" means the Minnesota Pollution Control Agency,  
22 as constituted pursuant to Minn. Stat. S 116.02, subd. 1.

23 3. "Director" means the executive director and chief  
24 executive officer of the agency or a person expressly designated  
25 by the director to discharge a duty or responsibility of the  
26 director.

27 4. "Grant eligible" or "grant eligibility" means meeting  
28 the criteria to receive funding assistance under this rule. The  
29 fact that an item or person is "grant eligible" under this rule  
30 does not automatically assure that a grant will be awarded. A  
31 grant shall only be awarded if the grant eligibility criteria  
32 are met.

33 5. "Landfill" means a sanitary landfill or a modified  
34 landfill which has a valid permit issued by the agency.

35 6. "Metropolitan area" has the meaning given it in Minn.  
36 Stat. S 115A.03, subd. 18.

1           7. "Population growth rate" means the rate at which  
2 population in a proposed study area either increased or  
3 decreased during the decade between 1970 and 1980. The director  
4 shall determine the population growth rate of a proposed study  
5 area by determining the difference in population in the proposed  
6 study area, as reported in the 1970 and 1980 United States  
7 Census Bureau data, dividing this difference by the 1970  
8 population of the proposed study area and multiplying this  
9 result by 100. The growth rate will thus be expressed as a  
10 percentage.

11           8. "Project manager" means an employee of the grantee who  
12 is given the responsibility and the authority to direct and  
13 coordinate all aspects of the project as defined in the  
14 contractual agreement between the grantee and the agency. The  
15 project manager shall assume the responsibility for performing  
16 all contract and project management functions.

17           9. "Political subdivision" has the meaning given it in  
18 Minn. Stat. S 115A.03, subd. 24.

19           10. "Regional development commission" has the meaning  
20 given it in Minn. Stat. S 115A.03, subd. 26.

21       D. Grant eligibility criteria.

22           1. Eligible applicants. Except for political  
23 subdivisions located within the seven county metropolitan area,  
24 any political subdivision within the State of Minnesota is grant  
25 eligible.

26           2. Eligible costs.

27           a. The following costs are grant eligible:

28               (1) Salaries of staff persons, consultants, and  
29 other persons employed to develop and publish an acceptable plan;

30               (2) Costs associated with the drafting and execution  
31 of necessary contracts between the grantee and other units of  
32 government or qualified consultants employed to develop or  
33 publish an acceptable plan, including reasonable attorney's fees;

34               (3) Costs associated with holding meetings to inform  
35 the public of the development of the plan and to provide an  
36 opportunity for the public to participate in and comment on the

1 development of the plan, including costs associated with  
2 providing notices of and recording the meeting;

3 (4) Costs associated with the printing and  
4 distribution of plans and draft plan materials;

5 (5) Costs of any travel in the state, the primary  
6 purpose of which is to attend meetings or gather information  
7 needed for the development and publication of an acceptable  
8 plan, including reimbursement for mileage consistent with state  
9 allowances;

10 (6) Costs of any necessary supplies required for the  
11 development and publication of an acceptable plan. The costs of  
12 any commodities, materials, capital expenditures, and equipment  
13 which could be used after the plan is completed shall not be  
14 considered supplies and are, therefore, not grant eligible under  
15 this rule; and

16 (7) Overhead costs.

17 b. The amount of the grants available under this rule  
18 is limited as follows:

19 (1) For planning by a regional development  
20 commission, joint planning by two or more contiguous counties,  
21 or joint planning by political subdivisions located in two or  
22 more contiguous counties:

23 (a) Except as provided in (5), the agency shall  
24 award grants to cover 90 percent of the eligible costs specified  
25 in the grant application or the percentage of eligible costs  
26 requested in the grant application, whichever is less; and

27 (b) The grantee shall assume the responsibility  
28 for the remaining costs of completing the planning efforts.

29 (2) For all planning efforts other than that  
30 described in (1):

31 (a) Except as provided in (5), the agency shall  
32 award grants to cover 50 percent of the eligible costs specified  
33 in the grant application or the percentage of eligible costs  
34 requested in the grant application, whichever is less; and

35 (b) The grantee shall assume the responsibility  
36 for the remaining costs of completing the planning efforts.

1           (3) For (1) grants and (2) grants, the maximum  
2 amount that a grantee shall be awarded to complete the plan is  
3 90 percent and 50 percent, respectively, of the total project  
4 cost detailed by the grantee in its application. Within these  
5 maximums, adjustments between funds awarded to cover the costs  
6 specified in 2. shall be made if the agency and the grantee  
7 determine that the adjustments will result in the development of  
8 an acceptable plan in a more efficient manner.

9           (4) If, while working to complete the grant, a  
10 grantee finds that more funds are needed, the grantee shall not  
11 be awarded additional funds unless the grantee makes application  
12 for an additional grant in accordance with the grant application  
13 procedures set out in E. The agency shall treat an application  
14 for an additional grant in the same manner as it treats  
15 applications for original grants, as provided in G.

16           (5) If available funds are not adequate to meet the  
17 funding requests of all applicants assigned to group number one  
18 under G.3.b., the agency shall reduce the state share of the  
19 eligible costs sufficiently to enable all applicants assigned to  
20 group number one to receive funding, but the size of the grant  
21 awards in (1)(a) and (2)(a) shall not be less than 60 percent  
22 and 33 percent, respectively. If available funds are not  
23 adequate under this reduced funding level to meet the funding  
24 requests of all applicants assigned to group number one under  
25 G.3.b., grants shall be awarded at the reduced amount in the  
26 order established under G.3.c.

27           c. Grants shall be awarded to cover the eligible costs  
28 of only those tasks which are undertaken and completed during  
29 the grant period established in the grant agreement. Grants  
30 shall not be awarded to cover any cost associated with tasks  
31 performed prior to the award of a grant or after the expiration  
32 of the grant agreement.

33           d. The availability of funds is a precondition to the  
34 award of any grant by the agency.

35           3. Eligible projects.

36           a. The agency shall consider grant eligible all

1 projects which are reasonably designed to result in the  
2 development and publication of an acceptable plan, as defined in  
3 C.1. A project shall not be considered eligible if it is  
4 proposed to include a study area for which an acceptable plan  
5 has previously been approved by the agency under this grant  
6 program.

7           b. The director shall determine that a project is  
8 reasonably designed to result in an acceptable plan if the  
9 director finds that the grant application required to be  
10 submitted under E. is complete. The director shall determine  
11 that a grant application is complete if the application contains  
12 all the information and meets all the requirements set out in F.

13       E. Grant application procedures.

14           1. A grant applicant shall submit a grant application to  
15 the agency no later than 4:30 p.m. on the first Monday of August  
16 of each year. The application must be received by the agency by  
17 this deadline or must have a postmark dated no later than the  
18 Friday immediately preceding the deadline in order to qualify as  
19 meeting that deadline.

20           2. The grant application submitted to the agency shall  
21 include all the information and documentation set out in F.

22           3. Upon receiving a grant application, the director shall  
23 promptly review the application and make a determination as to  
24 the eligibility of the applicant, costs, and project specified  
25 in the application.

26           4. Within two weeks after receiving the application, the  
27 director shall notify each applicant of the following:

28           a. If the director determines that the applicant, the  
29 costs, and the project specified in the application are grant  
30 eligible, the application shall be considered final as of the  
31 date it was received and the applicant shall be so notified.  
32 The application shall then be treated in accordance with the  
33 agency review provisions established in G.;

34           b. If the director determines that the applicant is  
35 not grant eligible, the application shall not be further  
36 considered and the applicant shall be so notified;

1           c. If the director determines that any of the costs  
2 described in the application are not grant eligible or that the  
3 application is otherwise incomplete:

4           (1) The director shall note the inadequacies in the  
5 application and shall so notify the applicant;

6           (2) The applicant shall have an opportunity to cure  
7 the inadequacies noted by the director. However, no information  
8 received by the agency after the 42nd day beyond the appropriate  
9 deadline in 1., except as provided in 5., shall be considered by  
10 the agency in determining the grant eligibility of the  
11 applicant, costs, or project.

12           (a) An application which is considered inadequate  
13 under this rule shall not be considered final until the agency  
14 receives the information or documentation which cures the  
15 inadequacies described by the director.

16           (b) An application which is considered inadequate  
17 under this rule shall be considered final on the date all  
18 necessary supplemental information is received by the agency.

19           (c) Once the application is considered final, it  
20 shall be treated in accordance with the agency review provisions  
21 established in G.

22           5. If the agency exceeds the two-week review period in 4.  
23 for an application, the 42-day periods specified in 4.c.(2) and  
24 G.2. shall be extended for only that application by the number  
25 of days equal to the number of review days in excess of two  
26 weeks.

27           F. Grant application content. Applications for grants shall  
28 include the following information:

29           1. The name of each political subdivision making the  
30 grant application;

31           2. Resolutions from each political subdivision named on  
32 the application which:

33           a. Demonstrate the political subdivision's desire to  
34 make the grant application and interest in the planning efforts  
35 described in the grant application; and

36           b. Demonstrate the political subdivision's commitment



1 to provide the required financial input to complete the planning  
2 efforts described in the grant application;

3 3. In the case of a regional development commission,  
4 resolutions from each of the counties represented by the  
5 regional development commission, which demonstrate the counties'  
6 interest in and support for the planning efforts described in  
7 the grant application;

8 4. The name, address, and qualifications of the project  
9 manager;

10 5. The total project cost;

11 6. The amount of grant funding requested;

12 7. The amount and sources of all other funding  
13 contributions, including the amount of funds to be contributed  
14 by the applicant;

15 8. The regional boundaries of, and the population in, the  
16 area to be considered in the planning study;

17 9. A list of all the landfills which receive solid waste  
18 from each of the counties in the proposed study area and the  
19 percent of each county's refuse which is currently being  
20 disposed at each of the landfills; and

21 10. A work plan which provides the following information  
22 and details:

23 a. A brief description of the problem which the  
24 grantee hopes to address through the planning efforts, including  
25 a statement of any known waste management problems to be  
26 addressed by the grantee and any present support or opposition  
27 to current or proposed solid waste disposal alternatives;

28 b. A breakdown of the specific work tasks to be  
29 completed under the terms of the grant, including each of the  
30 tasks required to be completed by Minn. Stat. S 115A.46;

31 c. A breakdown of the number of work hours needed to  
32 complete each of the tasks specified in b.;

33 d. A breakdown of all the costs associated with  
34 completing each of the tasks specified in b., including an  
35 explanation of how each cost was calculated;

36 e. A breakdown of the staff, consultants, and units of

1 government associated with completing each of the tasks  
2 specified in b.;

3 f. A breakdown of the amount of time needed to  
4 complete each of the tasks specified in b.;

5 g. An overall time schedule for the project showing  
6 estimated dates of completion of the tasks specified in b.; and

7 h. A description of the program to be completed by the  
8 applicant to ensure public participation in the planning efforts.

9 G. Agency review of grant applications and award of grants.

10 1. The agency shall review all applications received  
11 prior to the appropriate deadline specified in E.1., and shall  
12 exclude from consideration all applications received after that  
13 deadline.

14 2. Only grant applications considered final pursuant to  
15 E.4.a. and E.4.c.(2) as of 4:30 p.m. on the 42nd day following  
16 the application deadlines specified in E.1., except as provided  
17 in E.5., shall be eligible for a grant award.

18 3. The agency shall assign a priority ranking to each of  
19 the applications which are eligible for a grant award under 2.  
20 This priority ranking shall be made pursuant to a.-c.

21 a. The agency shall make the lists and determinations  
22 specified in (1)-(5).

23 (1) The agency shall make a list of the counties  
24 proposed to be studied under the grant eligible applications  
25 identified under 2.

26 (2) The agency shall make a list of the landfills  
27 available to and being used by each county identified in (1).

28 (3) The agency shall determine whether the remaining  
29 permitted landfill capacity available to and being used for a  
30 majority of the refuse from each of the counties identified in  
31 (1) is greater than or equal to five years or is less than five  
32 years. An applicant may provide recent, reliable data to the  
33 agency to assist him it in making these determinations.

34 (4) The agency shall determine whether the location  
35 of each of the landfills identified in (2) is environmentally  
36 undesirable. The agency shall determine that a landfill's

1 location is environmentally undesirable if the landfill meets  
2 one or more of the following criteria:

3 (a) The landfill is located less than 1,000 feet  
4 from the normal high water level of a lake, pond, or flowage;

5 (b) The landfill is located less than 300 feet  
6 from a stream;

7 (c) The landfill is located within a 100 year  
8 flood plain;

9 (d) The landfill is located within a wetland; and

10 (e) The landfill is located on Karst bedrock.

11 An applicant may provide recent, reliable data to the  
12 agency to assist him it in making these determinations.

13 (5) After making the determinations specified in  
14 (4), the agency shall determine which counties contribute a  
15 majority of their solid wastes to landfills that are considered  
16 to be in environmentally undesirable locations. An applicant  
17 may provide recent, reliable data to the agency to assist him it  
18 in making these determinations.

19 b. The agency shall divide the grant applicants  
20 applications into two groups. All applicants applications whose  
21 study areas contain one or more counties that contribute a  
22 majority of their solid wastes to landfills having less than  
23 five years of permitted landfill capacity remaining, as  
24 determined under a.(3), or that contribute a majority of their  
25 solid wastes to landfills that are determined to be in  
26 environmentally undesirable locations, as determined under a.(5)  
27 , shall be placed in group number one. All other applicants  
28 applications shall be placed in group number two.

29 c. The agency shall determine the population growth  
30 rate within each applicant's application's proposed study area  
31 using 1970 and 1980 United States Census Bureau data. The  
32 agency shall assign a priority ranking to applicants  
33 applications in groups one and two as provided in (1) and (2).

34 (1) First, the agency shall divide the applicants  
35 applications in group one and in group two into subgroups.  
36 Subgroup 1 shall contain the applications for planning by a

1 regional development commission, for joint planning by two or  
 2 more contiguous counties, and for joint planning by political  
 3 subdivisions located in two or more contiguous counties.

4 Subgroup 2 shall contain all other applications.

5 (2) Funds shall be awarded, on a priority basis, in  
 6 the following order. ~~In all cases~~ Priority shall be determined  
 7 by growth rate, with the highest priority within each subgroup  
 8 being given to the applicant with the highest growth rate:

- 9 (a) Group 1, subgroup 1;
- 10 (b) Group 1, subgroup 2;
- 11 (c) Group 2, subgroup 1; and
- 12 (d) Group 2, subgroup 2.

13 4. The agency shall award grants to applicants in the  
 14 order of the priority ranking in 3.c. No awards shall be made  
 15 to any applicant in group two until all applicants in group one  
 16 have been awarded grants.

17 5. Once the agency has determined which grantees  
 18 applicants will receive grants, the agency shall proceed as  
 19 follows:

- 20 a. The agency shall provide a complete listing of  
 21 grant awards and of applicant rankings to each applicant; and
- 22 b. Within three weeks of the notification required by  
 23 a., the agency shall draft a grant agreement for each applicant  
 24 which is to receive a grant in accordance with the requirements  
 25 and conditions set out in H.

26 H. Grant agreement.

27 1. The grant agreement shall incorporate by reference the  
 28 final grant application submitted to the agency in accordance  
 29 with F.1-

30 2. The grant agreement shall establish the term of the  
 31 grant. All grants awarded under this rule shall have a maximum  
 32 term of one year, unless the agency determines for a specific  
 33 grantee that a longer term is necessary due to circumstances  
 34 beyond the control of the grantee in order to produce an  
 35 acceptable plan. The agency shall then set the term of the  
 36 grant.

1           3. Grant Funds for projects not performed or completed in  
2           -----  
3 accordance with the terms and conditions of the grant agreement,  
4 including time schedules, shall be forfeited unless the agency  
5 determines that the variances from the grant requirements are  
6 due to factors outside the control of the grantee.

7           4. The grant agreement shall include a payment schedule.  
8 This payment schedule shall provide for reimbursement of stated  
9 travel costs in a manner described in the grant agreement and  
10 shall require that the last 25 percent of the total grant award,  
11 except reimbursable travel costs, be retained by the agency  
12 until the director determines that the report submitted under  
13 the grant is an acceptable plan. If the director determines  
14 that a report is deficient, the director shall notify the  
15 grantee of the deficiency. The agency shall pay the withheld 25  
16 percent of the grant as soon as the deficiency is corrected and  
17 the director determines that the report is an acceptable plan.

18           5. The grant agreement shall provide that the grantee is  
19 authorized to enter into contracts to complete the work  
20 specified in the grant. The grant agreement shall also require  
21 that all such contracts name the agency as a third-party  
22 beneficiary to that contract.

23           I. Severability. If any provision of this rule or the  
24 application of it to any person or circumstance is held to be  
25 invalid, the invalidity shall not affect any other provision or  
26 the application of any other part of this rule or any other rule  
27 which can be given effect without the invalid provision or  
28 application. To this end, the provisions of this rule and the  
various applications of it are severable.