

# MINNESOTA RULES 1989

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## CHAPTER 9205 WASTE MANAGEMENT BOARD HAZARDOUS; INDUSTRIAL WASTE MANAGEMENT

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### HAZARDOUS WASTE PROCESSING FACILITY GRANTS AND LOANS

#### 9205.0100 SCOPE AND AUTHORITY.

Parts 9205.0100 to 9205.0110 govern the administration of development grants for waste processing and collection facilities and services as provided under Minnesota Statutes, section 115A.156, and certification of hazardous waste processing facility loan applications received by the agricultural and economic development board and forwarded to the waste management board for certification under Minnesota Statutes, section 115A.162.

**Statutory Authority:** *MS s 115A.06 subd 2; 115A.156; 115A.162*

**History:** *10 SR 540; 12 SR 1564*

#### 9205.0110 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 9205.0100 and 9205.0110, the following terms have the meanings given them unless the context requires otherwise.

Subp. 2. **Lending authority.** "Lending authority" means the Minnesota Agricultural and Economic Development Board created in Minnesota Statutes, section 41A.02.

Subp. 3. **Board.** "Board" means the Minnesota Waste Management Board established in Minnesota Statutes, section 115A.04.

Subp. 4. **Capital costs.** "Capital costs" means expenditures that meet the requirements of federal industrial development bond law, including:

A. acquisition costs of buildings, equipment, machinery, or any combination of them;

B. site preparation;

C. construction costs;

D. engineering costs;

E. bond issuance costs;

F. underwriting or placement fees;

G. trustee's fees;

H. fee of guarantor, insurer, or financial institution, other than the lending authority, who provides letters of credit, surety bonds, or equivalent security;

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I. lending authority fees, including application and guaranty fees of the lending authority and administrative costs and expenses;

J. certain contingency costs;

K. interest costs during construction;

L. legal fees, including those of the authority's bond counsel; and

M. debt service reserve fund.

**Subp. 5. Chair.** "Chair" means the chair of the Waste Management Board.

**Subp. 6. Collection.** "Collection" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 5.

**Subp. 7. Commercial.** "Commercial" means that the facility or service referred to is established and permitted to sell waste collection or processing services to generators other than the owner and operator of the facility or services.

**Subp. 8. Commissioner.** "Commissioner" means the commissioner of trade and economic development.

**Subp. 9. Generator.** "Generator" means a person who produces an industrial or hazardous waste.

**Subp. 10. Hazardous waste.** "Hazardous waste" means those wastes identified and listed in parts 7045.0100 to 7045.0141.

**Subp. 11. Industrial waste.** "Industrial waste" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 13a.

**Subp. 12. Loan.** "Loan" means a hazardous waste processing facility loan as defined in Minnesota Statutes 1986, section 116M.03, subdivision 15.

**Subp. 13. Person.** "Person" means a natural person or a corporation, association, operation, firm, partnership, trust, or other form of organization.

**Subp. 14. Processing.** "Processing" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 25.

**Subp. 15. Proposal.** "Proposal" means the work that is intended to be conducted with the grant funds.

**Subp. 16. Service.** "Service" means work done or duty performed for others.

**Statutory Authority:** *MS s 115A.06 subd 2; 115A.156; 115A.162*

**History:** *10 SR 540; 12 SR 1564*

**9205.0200 ELIGIBILITY CRITERIA.**

**Subpart 1. Eligible applicants.** Unless eligibility is limited under part 9205.0220, subpart 3, the following are eligible to apply for a development grant:

A. a person who proposes to develop and operate specific commercial collection or processing facilities or services to serve generators of industrial or hazardous waste in the state;

B. an association of two or more Minnesota generators who propose to develop and operate specific commercial collection and processing facilities or services to serve generators of industrial or hazardous waste in the state.

**Subp. 2. Eligible proposals.** Proposals for the following types of work which are preliminary to the development and operation of specific types of commercial facilities and services for collecting or processing industrial or hazardous waste are eligible:

A. market assessment, including generator surveys;

B. conceptual design and preliminary engineering;

C. financial and business planning necessary to address sources of funding, financial security, liability, pricing structure, and related matters required for the development and proper operation of a facility or service;

D. environmental impact and site analysis, preparation of permit applications, and environmental and permit reviews;

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E. analysis of methods to overcome identified technical, institutional, legal, regulatory, market, or other problems in developing or operating a facility or service; and

F. analysis of other factors affecting development, operation, and use of the proposed facility or service.

Subp. 3. **Eligible costs.** Eligible costs are limited to the costs of conducting studies, analyses, or other work consistent with subpart 2.

Subp. 4. **Ineligible costs.** Grant money awarded through this program may not be spent for capital improvements or equipment.

Subp. 5. **Matching funds.** To be eligible to receive a grant under this program a recipient must agree to provide matching funds as specified in part 9205.0250.

Subp. 6. **Multiple proposals for a facility or service.** Proposals for more than one grant for the same facility or service are eligible only if the proposals concern different aspects of the development or operation of the facility or service.

**Statutory Authority:** *MS s 115A.06 subd 2; 115A.156; 115A.162*

**History:** *10 SR 540; 12 SR 1564*

### 9205.0210 GRANT APPLICATION.

An applicant must submit an application in the form specified by the chair. An application must include the following information:

A. A detailed description of the proposal, including primary tasks, the schedule for completion of the work, and a statement of the amount which the applicant expects to contribute to the cost of the proposal.

B. A description of the applicant's financial, managerial, and technical ability to carry out the work described in the proposal, including the applicant's experience in carrying out similar work, and any work for which the applicant expects to use consultant assistance.

C. A description of the applicant's financial, managerial, and technical ability to develop and operate the proposed facility or service.

D. A statement whether the applicant is planning to apply for future grants under this program, or has applied or is planning to apply for an industrial or hazardous waste processing facility loan administered by the Minnesota Agricultural and Economic Development Board.

E. Information which addresses the evaluation factors in Minnesota Statutes, section 115A.156, subdivision 3, and those factors listed in part 9205.0240 in sufficient detail to enable the board to adequately evaluate the proposal.

**Statutory Authority:** *MS s 115A.06 subd 2; 115A.156; 115A.162*

**History:** *10 SR 540; 12 SR 1564*

### 9205.0220 APPLICATION PROCESS.

Subpart 1. **Deadline.** The board will solicit applications by notification in the State Register or by written notice to eligible applicants if eligibility is limited pursuant to subpart 3. The board may set reasonable deadlines for submission of applications.

Subp. 2. **Limited solicitation of applications.** The board may limit its solicitation of applications to particular types of proposals, facilities, or services based upon:

A. the board's evaluation of the results of previous studies of industrial or hazardous waste processing and reduction proposals and opportunities in Minnesota; and

B. any board determination of the types of processing facilities or services recommended for development in the state.

Subp. 3. **Limitations on eligibility of applicants.** The board may limit eligibili-

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ty for a grant to persons who have responded to a request for proposal issued by the board or chair under Minnesota Statutes, section 115A.158 or 115A.192, for development of a facility or service for collecting or processing industrial or hazardous waste, or who have been selected by the board to develop such a facility under Minnesota Statutes, section 115A.192.

**Statutory Authority:** *MS s 115A.06 subd 2; 115A.156; 115A.162*

**History:** *10 SR 540; 12 SR 1564*

**9205.0230 INITIAL APPLICATION REVIEW.**

**Subpart 1. Application review.** The chair or a designee shall review all applications.

**Subp. 2. Eligibility and documentation review.** The chair or a designee shall review each application to determine the eligibility of the applicant, the eligibility of the costs specified in the application, the eligibility of the proposal specified in the application, and the adequacy of the supporting documentation. Documentation is considered adequate if it enables the board to determine whether:

- A. the proposal is feasible at the costs indicated in the application;
- B. the applicant has the financial, managerial, and technical ability and experience to carry out the proposal;
- C. the applicant has the financial, managerial, and technical ability to develop and operate the proposed facility or service; and
- D. the proposal adequately addresses the evaluation factors listed in part 9205.0240.

**Subp. 3. Notice of determination.** Within 14 days after receiving the application, the chair shall notify each applicant of the chair's determinations. If the chair determines that the applicant, project, and costs are eligible and that the supporting documentation is adequate, the application is considered final and the applicant shall be so notified. The application must then be referred to the board to be evaluated as provided in part 9205.0240. If the chair determines that any costs or any part of the proposal is not eligible or that the documentation in the application is inadequate, the application must be returned with a statement of the reasons for rejecting the application. The applicant has 14 days after receipt of the rejection to correct the inadequacies. If the inadequacies are corrected within the time allowed, the application is considered final and the applicant shall be so notified. The application must then be referred to the board to be evaluated as provided in part 9205.0240.

**Statutory Authority:** *MS s 115A.06 subd 2; 115A.156*

**History:** *10 SR 540*

**9205.0240 EVALUATION OF PROPOSALS.**

**Subpart 1. Evaluation schedule.** Within 60 days after the application is considered final, the board shall evaluate the proposal and set a date for action.

**Subp. 2. Evaluation factors.** In evaluating each proposal the board shall consider the following factors:

- A. The factors listed in Minnesota Statutes, section 115A.156, subdivision 3.
- B. The importance of the proposal to the eventual development and operation of the proposed facility or service.
- C. The likelihood that the proposed facility or service will be developed.
- D. The results of any previous proposal for which the applicant received a grant under this program.
- E. The consistency of the proposal with any board determination of the types of processing facilities or services recommended for development in the state.

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F. Whether an applicant is an association of two or more Minnesota generators. In considering this factor, the board may give preference to an association of two or more Minnesota generators if the board determines that the association significantly contributes to cooperation among generators in solving hazardous waste management problems.

**Statutory Authority:** *MS s 115A.06 subd 2; 115A.156*

**History:** *10 SR 540*

### 9205.0250 AWARD OF GRANTS.

**Subpart 1. General procedure.** The board shall award grants for those proposals which in the board's judgment will be the most beneficial in improving industrial or hazardous waste management in the state, based upon its evaluation of the factors identified in part 9205.0240.

**Subp. 2. Amount of grants.** The board shall determine the amount of a grant based on a review of the factors identified in this part and based upon the availability of funds. No grant may exceed \$50,000.

**Subp. 3. Matching funds required.** For hazardous waste, a recipient other than an association of generators in the state shall agree to provide at least 50 percent of the cost of the proposal. An association of two or more generators in the state shall agree to provide at least 20 percent of the cost of the proposal.

For industrial waste, a grant must be matched by money or in-kind services provided by the grantee covering at least 50 percent of the project cost.

**Subp. 4. Multiple grants for same facility or service.** The board may award more than one grant for the development of the same facility or service only if the board finds that results of previous proposals for that facility or service justify additional work on other aspects of its development or operation.

**Statutory Authority:** *MS s 115A.06 subd 2; 115A.156; 115A.162*

**History:** *10 SR 540; 12 SR 1564*

### 9205.0260 GRANT AGREEMENT.

**Subpart 1. Grant contents.** The board and a grant recipient shall enter into a grant agreement. The grant agreement must:

A. Establish the term of the grant. Unless otherwise determined by the board, all grants awarded under this part will have a maximum term of one year.

B. Provide that the recipient is authorized to enter into contracts to complete the work specified in the agreement.

C. Identify the product of the proposal and provide that the results of all studies, analyses, or other work performed under this agreement are made available to the board. The grant agreement may include provisions for classifying certain information provided by the grantee as nonpublic pursuant to the board's authority under Minnesota Statutes, section 115A.06, subdivision 13, and the Minnesota Data Practices Act, Minnesota Statutes, chapter 13.

**Subp. 2. Cancellation of grants.** The grant is subject to cancellation by the board if the board determines that the proposal is no longer feasible or if the proposed work is not completed in accordance with the terms and conditions of the grant agreement, including time schedules, unless the chair determines that variances from the respective agreements are in order.

**Subp. 3. Termination.** The chair may suspend the work under an agreement upon written notice whenever it appears that there are grounds for cancellation of the grant under subpart 2. The chair may negotiate and enter into amendments to the agreement to avoid cancellation if the original purposes of the grant can be accomplished under an amended agreement. Unless amendments to the agreement have been executed, the chair shall recommend cancellation of the grant under subpart 2 within 60 days after suspending any work under the

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agreement. The chair shall promptly notify the board after any suspension of work or grant agreement executed under this subpart.

**Subp. 4. Disbursement.** The chair shall disburse grants in accordance with the payment schedule set out in the grant agreement. At the discretion of the board, this may include a phased disbursement or final hold-back of a percentage of funds.

**Subp. 5. Return of unspent funds.** Upon completion of the work under the grant or cancellation of the grant, the grant recipient shall return the state's share of the unspent funds. The procedure for determining the amount of funds to be returned shall be specified in the grant agreement.

**Statutory Authority:** *MS s 115A.06 subd 2; 115A.156; 115A.162*

**History:** *10 SR 540; 12 SR 1564*

**9205.0270 INITIAL APPLICATION REVIEW.**

**Subpart 1. Transmittal from commissioner.** Upon receipt from the commissioner of a copy of a hazardous waste processing facility loan application, the chair or a designee shall review the application for eligibility and adequacy of documentation.

**Subp. 2. Documentation review.** The chair or a designee shall review each application to determine the adequacy of the supporting documentation. Documentation is considered adequate if it enables the board to make the determination required for certification and if it provides sufficient information to address the certification factors.

**Subp. 3. Notification of adequacy.** Within 14 days after receiving a copy of the application, the chair or designee shall notify the commissioner of the determination of adequacy of documentation. The notice shall state the additional information needed by the board to determine whether the application will be certified.

**Statutory Authority:** *MS s 115A.06 subd 2; 115A.162*

**History:** *10 SR 540*

**9205.0280 EVALUATION OF LOAN APPLICATIONS.**

**Subpart 1. Evaluation schedule.** The board will begin to review the application upon receipt of an application determined by the commissioner to be complete.

**Subp. 2. Certification factors.** In addition to determining whether the requirements of part 9205.0290, subpart 1, have been satisfied, the board shall consider the following factors in evaluating whether a loan application will be certified and in determining the share of capital costs that must be provided by the applicant:

A. the types and quantities of hazardous waste that will be handled by the facility or service;

B. the types and quantities of residuals produced by the facility or service and their final disposition;

C. the number of generators that are served by the facility or service;

D. the extent to which the facility will serve the needs of smaller businesses that generate hazardous waste;

E. whether an applicant has received a grant from the board to undertake feasibility studies for the proposal. In considering this factor, the board may give preference to an applicant who has received a grant from the board and successfully, completed the feasibility studies for which the grant was awarded;

F. the applicant's managerial and technical experience for developing and operating the proposed facility or service, including past operating experience with similar facilities and services;

G. the results of previous studies of hazardous waste processing and

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waste reduction proposals and opportunities in Minnesota, including a comparison of the applicant's market assessment with market information previously available to the board;

H. any board determination of the types of processing facilities or services recommended for development in the state;

I. the availability of funds from the lending authority.

Subp. 3. **Request for additional information.** If the board finds that additional information is required to complete its evaluation, the board may request in writing that the applicant provide the necessary information. The board shall notify the commissioner of this request. If the information is not provided within 30 days, the application will be deemed rejected and no longer considered for certification by the board. The board shall notify the commissioner if an application is rejected under this subpart.

**Statutory Authority:** *MS s 115A.06 subd 2; 115A.156; 115A.162*

**History:** *10 SR 540; 12 SR 1564*

### 9205.0290 CERTIFICATION.

Subpart 1. **Conditions for certification.** The board may certify a loan application only if it determines that:

A. the applicant has demonstrated that the proposed facility or service is technically feasible;

B. the applicant has made a reasonable assessment of the market for the services offered by the proposed facility or service;

C. the applicant has agreed to provide funds for the proposed facility in an amount equal to at least 25 percent of the capital cost of the facility excluding land acquisition cost;

D. the applicant has agreed to pay the cost of any land acquisition necessary to develop the facility;

E. the facility will contribute in a significant way to achievement of the policies and objectives of the board's draft hazardous waste management plan, in particular, the reduction of the need for and practice of hazardous waste disposal.

Subp. 2. **Notification to commissioner.** The chair shall notify the applicant and the commissioner in writing of the board's decision regarding certification of the loan application. The board in its notice shall state the basis for its decision including any reason for the decision which is based on a certification factor under part 9205.0280, subpart 2.

**Statutory Authority:** *MS s 115A.06 subd 2; 115A.162*

**History:** *10 SR 540*

## WASTE REDUCTION GRANTS

### 9205.0400 SCOPE AND AUTHORITY.

Parts 9205.0400 to 9205.0480 govern the administration of grants for hazardous waste reduction under Minnesota Statutes, section 115A.154.

**Statutory Authority:** *MS s 115A.154*

**History:** *9 SR 994*

### 9205.0410 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 9205.0400 to 9205.0480, the following terms have the meanings given them unless the context requires otherwise.

Subp. 2. **Abatement.** "Abatement" means the inclusion or substitution of a new element in the existing industrial process in order to eliminate or reduce the quantity of waste produced.

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Subp. 3. **Board.** "Board" means the Minnesota Waste Management Board established in Minnesota Statutes, section 115A.04.

Subp. 4. **Chair.** "Chair" means the chair of the board.

Subp. 5. **Generator.** "Generator" means a person or a local government unit who produces a hazardous or industrial waste in Minnesota.

Subp. 6. **Hazardous waste.** "Hazardous waste" means those wastes identified and listed in the rules of the Minnesota Pollution Control Agency, parts 7045.0100 to 7045.0141.

Subp. 7. **Industrial waste.** "Industrial waste" has the meaning given in Minnesota Statutes, section 115A.03, subdivision 13a.

Subp. 8. **Intrinsic hazard.** "Intrinsic hazard" of a waste means the propensity of the waste to migrate in the environment, and thereby to become exposed to the public, and the significance of the harm or damage likely to result from exposure of natural resources or the public to the waste, as a result of inherent or induced attributes of the waste such as its chemical and physical stability, solubility, bioconcentratability, toxicity, flammability, and corrosivity.

Subp. 9. **Local government unit.** "Local government unit" means a city, town, county, school district, or other political subdivision or public corporation.

Subp. 10. **Minimization.** "Minimization" means a decrease in the quantity of waste through good housekeeping practices or by the application of concentration technology.

Subp. 11. **Person.** "Person" means a natural person or a corporation, association, operation, firm, partnership, trust, or other form of organization.

Subp. 12. **Recipient.** "Recipient" means an applicant who has received a grant under the hazardous and industrial waste reduction grants program.

Subp. 13. **Recycling.** "Recycling" has the meaning given in Minnesota Statutes, section 115A.03, subdivision 25b.

Subp. 14. **Reduction.** "Reduction" means action by a generator that:

A. decreases the total quantity of hazardous or industrial waste generated by the generator through abatement, minimization, reuse, or recycling; or

B. decreases the quantity of one or more types of hazardous or industrial waste that results in a decrease in risk to the public health and safety and the environment, but does not decrease the total quantity of hazardous or industrial wastes generated by the generator.

Subp. 15. **Reuse.** "Reuse" means the reutilization of a waste by the generator either as generated or with very minor modification prior to the reutilization.

**Statutory Authority:** *MS s 115A.06 subd 2; 115A.154*

**History:** *9 SR 994; 10 SR 846; 12 SR 2044*

**9205.0420 ELIGIBILITY CRITERIA.**

Subpart 1. **Eligible applicants.** The following are eligible to apply for a hazardous or industrial waste reduction grant:

A. a generator; or

B. an association that consists of or represents two or more generators generating similar hazardous or industrial wastes in Minnesota.

Subp. 2. **Eligible projects.** Projects designed to determine the feasibility of applying specific methods and technologies to reduce the generation of hazardous or industrial waste are eligible to receive a hazardous or industrial waste reduction grant. Eligible projects include projects to study the specific application of a method or technology already developed and projects to analyze a method or technology for which additional research is necessary to establish the feasibility of the method or technology.

Application or research projects currently under development by the applicant and new projects are eligible.



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Subp. 3. **Eligible costs.** Eligible costs are limited to the costs of conducting studies and analyses consistent with subpart 2.

Subp. 4. **Ineligible costs.** Grant money awarded through this program may not be spent for capital improvements or equipment.

**Statutory Authority:** *MS s 115A.06 subd 2; 115A.154*

**History:** 9 SR 994; 10 SR 846; 12 SR 2044

### 9205.0430 GRANT APPLICATION.

An applicant shall submit an application in the form specified by the chair. An application must include the following information:

A. A description of the applicant's managerial and technical ability to undertake a hazardous or industrial waste reduction feasibility study, including any consultant help that may be anticipated.

B. A statement outlining the method or technology that will be studied by the applicant and the waste reduction that may result from application of the method or technology. This statement must include a discussion of the following items:

(1) a description of the method or technology to be studied;

(2) whether the study involves the application of an existing method or technology, or original or continuing research on a method or technology for which additional research is necessary to determine the feasibility of the method or technology;

(3) a description of the hazardous or industrial waste affected by the proposed project that is generated by the applicant, including the quantity generated in the previous calendar year;

(4) an estimate of the decrease in the quantity of hazardous or industrial waste generated; and

(5) the current method used to manage the hazardous or industrial waste generated by the applicant, and any anticipated change in management occurring after the reduction.

C. A statement of financial feasibility for the project must be included with the application, and must include a discussion of the following items:

(1) the amount of grant funds requested; and

(2) an estimate of the total amount of funds needed to complete the study. This section should include a discussion of any financial support that might be available to the applicant from other sources, including both external and internal sources.

**Statutory Authority:** *MS s 115A.06 subd 2; 115A.154*

**History:** 9 SR 994; 10 SR 846; 12 SR 2044

### 9205.0440 APPLICATION PROCESS.

The board may solicit applications for grants and may establish a deadline for applications by notification in the State Register.

**Statutory Authority:** *MS s 115A.06 subd 2; 115A.154*

**History:** 9 SR 994; 10 SR 846

### 9205.0450 INITIAL APPLICATION REVIEW.

Subpart 1. **Application review.** The chair or a designee shall review all applications. Applications received after the close of business (4:30 p.m.) on the last business day of the application period will be returned to the applicant.

Subp. 2. **Eligibility and documentation review.** The chair or a designee shall review each application to determine the eligibility of the applicant, the eligibility of the costs specified in the application, the eligibility of the proposal specified

in the application, and the adequacy of the supporting documentation. Documentation is considered adequate if it enables the board to determine whether:

- A. the proposal appears to be feasible;
- B. the applicant has the managerial and technical ability and experience to carry out the proposal; and
- C. the proposal meets the evaluation factors listed in part 9205.0460.

**Subp. 3. Notice of determination.** Within 14 days after receiving the application, the chair shall notify each applicant of the chair's determinations. If the chair determines that the applicant, project, and costs are eligible and that the documentation in the application is adequate, the application is considered final and the applicant shall be so notified. The application must then be referred to the board to be evaluated as provided in part 9205.0460. If the chair determines that any of the costs or any part of the proposals are not eligible or that the documentation in the application is inadequate, the application must be returned with a statement of the reasons for rejecting the application. The applicant has 14 days after receipt of the rejection to correct the inadequacies. If the inadequacies are corrected within the time allowed, the application is considered final and the applicant shall be so notified. The application must then be referred to the board to be evaluated as provided in part 9205.0460.

**Statutory Authority:** *MS s 115A.154*

**History:** 9 SR 994

#### **9205.0460 EVALUATION OF PROPOSALS.**

**Subpart 1. Evaluation schedule.** Within 45 days of the completion of the eligibility and documentation review, the board shall evaluate eligible proposals and set a deadline for action.

**Subp. 2. Evaluation factors.** In evaluating each proposal the board shall consider the following factors:

A. The relationship of the proposed hazardous or industrial waste reduction to the goals and policies of the Waste Management Board.

B. The significance of the proposed waste reduction measured by:

(1) the decrease in total hazardous or industrial waste generated in Minnesota as a result of the waste reduction and the potential future decrease as a result of application of the waste reduction method by other generators; and

(2) the decrease in risk to the public health and safety and the environment resulting from the waste reduction including:

(a) the decrease in the quantity of waste with a high degree of intrinsic hazard;

(b) the decrease in the quantity of untreatable waste requiring land disposal; or

(c) the effect of waste reduction on the subsequent management of any remaining waste, including the need for further processing and disposal steps to properly manage the waste.

C. The merits of the specific method or technology proposed by the applicant which will be based on the following factors:

(1) the percentage decrease in the quantity of hazardous or industrial waste affected by the reduction;

(2) the percentage increase or decrease in the total quantity of hazardous or industrial wastes generated by the applicant;

(3) the general applicability of the hazardous or industrial waste reduction method or technology to other generators located in Minnesota; and

(4) the likelihood of the success of the specific method or technology to reduce hazardous or industrial wastes, the estimated reliability of the proposed

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method or technology, and capital, operating, and maintenance costs required to operate and maintain the proposed method or technology if it is implemented.

### D. Other factors including:

(1) Whether an applicant is an association of two or more generators. In considering this factor, the board may give preference to an association of two or more generators if the board determines that the association significantly contributes to cooperation among generators in reducing hazardous or industrial waste generation.

(2) The recommendations of the board's hazardous waste management planning council.

(3) An evaluation of the feasibility of the project by an independent consultant if such evaluation is requested by the board.

(4) Whether, in the board's view, alternative sources of financial and technical support are available to the applicant and whether, in the board's view, the method or technology will be developed without state financial assistance.

**Statutory Authority:** *MS s 115A.06 subd 2; 115A.154*

**History:** 9 SR 994; 10 SR 846; 12 SR 2044

## 9205.0470 AWARD OF GRANTS.

**Subpart 1. General procedure.** The board shall award grants for those proposals which in the board's judgment best meet the factors in part 9205.0460.

**Subp. 2. Amount of grants.** The board shall determine the amount of a grant based on a review of the factors identified in this part and based upon the availability of funds. Grants are limited to a maximum of \$30,000 per agreement. Multiple awards to a single applicant are allowed.

**Statutory Authority:** *MS s 115A.154*

**History:** 9 SR 994

## 9205.0480 GRANT AGREEMENT.

**Subpart 1. Contents of agreement.** The board and a grant recipient shall enter into a grant agreement. The grant agreement must:

A. Establish the term of the grant. Unless otherwise determined by the board, all grants awarded under this part must have a maximum term of one year.

B. Provide that the recipient is authorized to enter into contracts to complete the work specified in the agreement.

C. Identify the product of the proposal and provide that the results of all studies or analyses performed under this agreement are made available to the board and to the general public. All information and techniques developed through a project assisted by a board grant will be made available to all hazardous and industrial waste generators in the state through the technical assistance program established by the board.

**Subp. 2. Cancellation of grants.** The board shall cancel a grant that is not completed in accordance with the terms and conditions of the respective agreements, including time schedules, unless the board determines that variances from the respective agreements are in order.

**Subp. 3. Termination.** The board may terminate a grant upon 30 days' notice if it determines that the project is not feasible. A request for termination may be initiated by either the board or a grant recipient. If the board gives notice to terminate a grant, the board may also require that no additional grant funds be spent by the applicant effective as of the date of the termination notice.

**Subp. 4. Disbursement.** The board shall disburse grants in accordance with the payment schedule set out in the grant agreement. At the discretion of the board, this may include a phased disbursement or final hold-back of a percentage of funds.

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Subp. 5. **Audit.** Since this program involves the expenditure of public funds, the books, records, documents, and accounting procedures and practices of the recipient of grant funds that are only relevant to this program are subject to examination at any time by the chair of the board and other appropriate state officials. Any audit exceptions identified by the board must be reimbursed at the board's discretion.

Subp. 6. **Return of unspent funds.** Upon completion of the project, cancellation of the grant, or termination of the project the applicant shall return the state's share of the unspent funds. The procedure for determining the amount of funds returned must be specified in the grant agreement.

**Statutory Authority:** *MS s 115A.06 subd 2; 115A.154*

**History:** 9 SR 994; 10 SR 846; 12 SR 2044

### HAZARDOUS WASTE PERMIT CLEARANCE

#### 9205.0500 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 9205.0500 to 9205.0560 the terms defined in this rule have the meanings given them.

Subp. 2. **Applicant.** "Applicant" means a person filing an application.

Subp. 3. **Application.** "Application" means the information submitted to the board pursuant to part 9205.0530.

Subp. 4. **Board.** "Board" means the Waste Management Board.

Subp. 5. **Chair.** "Chair" means the chair of the board.

Subp. 6. **Clearance.** "Clearance" means the board's approval of an application.

Subp. 7. **Commercial waste processing facility.** "Commercial waste processing facility" means a facility established and permitted to sell hazardous waste processing services to generators other than the owner and operator of the facility and located within an area in the board's inventory of preferred areas for hazardous waste processing facilities. For purposes of this definition processing means the treatment of waste after collection and before disposal and includes, but is not limited to, incineration, reduction, storage, separation, exchange, resource recovery, physical, chemical, or biological modification, and transfer from one waste facility to another.

Subp. 8. **Hazardous waste.** "Hazardous waste" has the meaning given it in Minnesota Statutes, section 116.06, subdivision 13.

Subp. 9. **Person.** "Person" means a natural person or a corporation, association, operation, firm, partnership, trust, or other form of organization.

**Statutory Authority:** *MS s 115A.10*

#### 9205.0510 PURPOSE.

The purpose of parts 9205.0500 to 9205.0560 is to establish a procedure to assure that hazardous waste facility operators have the necessary technical and business competence. Parts 9205.0500 to 9205.0560 are not intended to duplicate the review required under pollution control agency permitting authority.

**Statutory Authority:** *MS s 115A.10*

#### 9205.0520 REQUIREMENTS AND LIMITATIONS.

Subpart 1. **Clearance required.** A person who is required to obtain a pollution control agency permit for a commercial waste processing facility to be located within an area of the board's inventory of preferred areas for hazardous waste processing facilities established under Minnesota Statutes, section 115A.09, and which will begin operation after May 9, 1983, must obtain clearance prior to applying for a permit.

Subp. 2. **No property right or exclusive privilege.** Clearance does not convey property rights of any kind or an exclusive privilege.

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Subp. 3. **Changed plans.** Clearance entitles an applicant to request a pollution control agency permit only for a commercial waste processing facility substantially similar to the facility described in the application. The applicant must supply the most recent plans for facility development available with the understanding that details of the plan may change as development progresses. If plans for the facility or for facility development change substantially prior to application for a pollution control agency permit, the applicant must submit a new application for clearance.

Subp. 4. **Acquisition or location of property.** Property to be used as the site for the proposed facility need not be acquired or identified by the applicant prior to clearance.

**Statutory Authority:** *MS s 115A.10*

### 9205.0530 APPLICATION.

Subpart 1. **Applicants.** To obtain clearance, a person must complete, sign, and submit an application to the board. The application for clearance for a facility which will be owned by one person and operated by another must be signed by both the owner and the operator.

Subp. 2. **General contents.** An application must be in the form specified by the board and must contain the following information:

A. the complete name of the applicant, all other names under which the applicant has done business during the ten years prior to the application, and the approximate times during which those names were used;

B. the principal business address of the applicant, all other addresses from which the applicant has done business during the ten years prior to the application, and the approximate times during which those addresses were used;

C. the form of the applicant's business indicating the type of business association;

D. a general description of the types and amounts of hazardous waste the facility would be capable of handling and a general description of the proposed operation including methods of accepting, storing, and processing hazardous waste;

E. the names and addresses of all officers, partners, or directors of the applicant; and

F. the following information concerning any notices, stipulation agreements, administrative orders, license revocations, or permit revocations issued by any state or federal authority citing a violation of any administrative rule, regulation, or statute relating to hazardous waste management against the applicant or against any officer, director, or partner of the applicant within the last ten years, and any judgment or conviction under any state or federal rule, regulation, or statute or local ordinance concerning hazardous waste management entered against the applicant or against any officer, director, or partner of the applicant which has been issued within the last ten years:

(1) the name and address of the individual or company involved;

(2) the date and nature of the incident;

(3) the agency or individual taking the action; and

(4) the response made by the individual or company to correct or contest the violation.

Subp. 3. **Technical information.** An application must contain the following information:

A. the duties and responsibilities of subcontractors and the anticipated operating staff, including job descriptions and qualifications of technical management, supervisory, and operating employees, and an organizational chart of the applicant for operation of the proposed facility; and

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B. a disclosure of hazardous waste management related business activities which the applicant, its parent corporation, any subsidiary of the applicant, or any other subsidiary of the parent corporation of the applicant is or has been engaged in during the ten years prior to the date of the application, including:

(1) the approximate times during which the activity has been engaged in; and

(2) if the activity involves operation and maintenance of a waste management facility:

(a) the location of each facility and a description of the type of facility;

(b) the processes used;

(c) the facility capacity and approximate amount of waste handled annually;

(d) the date the operation began and the date it closed if the facility is no longer operating;

(e) any licenses or permits issued for the facility; and

(f) the reasons for discontinuing the activity if it has been discontinued.

**Subp. 4. Development plan and financial information.** An application must contain the following information:

A. a statement of the anticipated development plan for the proposed facility including the following:

(1) facility design;

(2) environmental reports;

(3) hearings on permit application;

(4) community relations activities;

(5) marketing;

(6) preparation of permit application;

(7) site acquisition and preparation;

(8) construction;

(9) equipment and materials acquisitions;

(10) operator recruitment and training;

(11) first year operation;

(12) monitoring;

(13) insurance; and

(14) contingencies;

B. a statement of the total anticipated expenditures for the project and an indication of how those expenditures will be financed;

C. for each of the items in the development plan, when applicable, whether the activity will be carried out by personnel currently employed by the applicant, by personnel who will be employed by the applicant in the future, or by independent contractors;

D. a description of potential or contingent liabilities which could materially alter the applicant's future financial position; and

E. a disclosure of any petition filed by the applicant or its parent corporation within the last five years under the Federal Bankruptcy Act or any state insolvency law.

**Subp. 5. Additional information.** The chair may require an applicant to submit additional information or may undertake additional investigations if the chair determines that the information would be necessary in deciding whether clearance should be granted.

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Subp. 6. **Deficient application.** If an application does not conform to this part, the chair shall, within 30 days after receipt of the application, return it to the applicant with a statement identifying the deficiencies in the application.

Subp. 7. **Acceptance of application.** The chair shall accept a completed application on behalf of the board if it conforms to this rule.

Subp. 8. **Notification of acceptance.** Upon acceptance of a complete application, the chair shall promptly notify each political subdivision which contains an area on the board's inventory of preferred areas for processing facilities. The chair shall also publish notice of the application in a newspaper of statewide distribution. The notice must provide that comments on the application may be submitted to the board within 30 days of the date the application was accepted.

Subp. 9. **Initial consideration.** The board shall initially consider an application not less than 30 nor more than 60 days after its acceptance.

**Statutory Authority:** *MS s 115A.10*

### 9205.0540 BOARD DECISION.

Subpart 1. **Reasons for disapproval.** The board shall grant clearance to an applicant unless it determines that:

A. the applicant's development plan is not sufficient to adequately operate and maintain the facility in a manner that will assure protection of the health and welfare of citizens of the state;

B. the applicant or its anticipated operating staff lacks the technical competence necessary to adequately operate and maintain the facility in a manner that will assure protection of the health and welfare of citizens of the state; or

C. the nature of past violations of state or federal environmental statutes or regulations and the applicant's response to these violations indicate an applicant could not be reasonably expected to operate and maintain the facility in a manner that will assure protection of the health and welfare of citizens of the state.

Subp. 2. **Written decision.** The board shall set forth in writing the basis for its decision.

Subp. 3. **Appeals.** If the board denies clearance, the applicant may request a contested case hearing within 21 calendar days of the board's decision. The board shall order a contested case hearing under Minnesota Statutes, chapter 14 and parts 1400.5200 to 1400.8500 if it receives a request. Following a review of the record of the hearing, the board shall make a final decision granting or denying clearance.

**Statutory Authority:** *MS s 115A.10*

### 9205.0550 NOTICE OF FINAL DECISION.

Notice of the board's final decision granting or denying clearance shall be sent to political subdivisions which contain areas included on the board's inventory of preferred areas for processing facilities and to the applicant.

**Statutory Authority:** *MS s 115A.10*

### 9205.0560 EXPIRATION OF CLEARANCE.

Clearance of an applicant expires 18 months after it is granted by the board if the applicant has not formally requested a pollution control agency permit during that period. An applicant whose clearance has expired may apply for clearance again without penalty or prejudice.

**Statutory Authority:** *MS s 115A.10*