

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 1400.5010 to 1400.8400 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*

History: *26 SR 391*

Published Electronically: *February 1, 2005*