

1 Waste Management Board

2

3 Adopted Rules to Evaluate Applicants for Permits to Operate
4 Hazardous Waste Processing Facilities

5

6 Rules as Adopted

7 6 MCAR S 8.501 Purpose.

8 The purpose of 6 MCAR SS 8.501-8.507 is to establish a
9 procedure to assure that hazardous waste facility operators have
10 the necessary technical and business competence. Rules 6 MCAR
11 SS 8.501-8.507 are not intended to duplicate the review required
12 under pollution control agency permitting authority.

13 6 MCAR S 8.502 Definitions.

14 A. Scope. For the purposes of 6 MCAR SS 8.501-8.507 the
15 terms defined in this rule have the meanings given them.

16 B. Applicant. "Applicant" means a person filing an
17 application.

18 C. Application. "Application" means the information
19 submitted to the board pursuant to 6 MCAR S 8.504.

20 D. Board. "Board" means the Waste Management Board.

21 E. Chairperson. "Chairperson" means the chairperson of the
22 board.

23 F. Clearance. "Clearance" means the board's approval of an
24 application.

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

4-15-83

1 H. Hazardous waste. "Hazardous waste" has the meaning given
2 it in Minnesota Statutes, section 116.06, subdivision 13.

3 I. Person. "Person" means a natural person or a
4 corporation, association, operation, firm, partnership, trust,
5 or other form of organization.

6 6 MCAR S 8.503 Requirements and limitations.

7 A. Clearance required. A person who is required to obtain a
8 pollution control agency permit for a commercial waste
9 processing facility to be located within an area of the board's
10 inventory of preferred areas for hazardous waste processing
11 facilities established under Minnesota Statutes, section
12 115A.09, and which will begin operation after the effective date
13 of 6 MCAR SS 8.501-8.507 must obtain clearance prior to applying
14 for a permit.

15 B. No property right or exclusive privilege. Clearance does
16 not convey property rights of any kind or an exclusive privilege.

17 C. Changed plans. Clearance entitles an applicant to
18 request a pollution control agency permit only for a commercial
19 waste processing facility substantially similar to the facility
20 described in the application. The applicant must supply the
21 most recent plans for facility development available with the
22 understanding that details of the plan may change as development
23 progresses. If plans for the facility or for facility
24 development change substantially prior to application for a
25 pollution control agency permit, the applicant must submit a new
26 application for clearance.

27 D. Acquisition or location of property. Property to be used
28 as the site for the proposed facility need not be acquired or
29 identified by the applicant prior to clearance.

30 6 MCAR S 8.504 Application.

31 A. Applicants. To obtain clearance, a person must complete,
32 sign, and submit an application to the board. The application
33 for clearance for a facility which will be owned by one person
34 and operated by another must be signed by both the owner and the
35 operator.

1 B. General contents. An application must be in the form
2 specified by the board and must contain the following
3 information:

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

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

12 3. the form of the applicant's business indicating the
13 type of business association;

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

18 5. the names and addresses of all officers, partners, or
19 directors of the applicant; and

20 6. the following information concerning any notices,
21 stipulation agreements, administrative orders, license
22 revocations, or permit revocations issued by any state or
23 federal authority citing a violation of any administrative rule,
24 regulation, or statute relating to hazardous waste management
25 against the applicant or against any officer, director, or
26 partner of the applicant within the last ten years, and any
27 judgment or conviction under any state or federal rule,
28 regulation, or statute or local ordinance concerning hazardous
29 waste management entered against the applicant or against any
30 officer, director, or partner of the applicant which has been
31 issued within the last ten years:

32 a. the name and address of the individual or company
33 involved;

34 b. the date and nature of the incident;

35 c. the agency or individual taking the action; and

36 d. the response made by the individual or company to

1 k. first year operation;

2 l. monitoring;

3 m. insurance; and

4 n. contingencies;

5 2. a statement of the total anticipated expenditures for
6 the project and an indication of how those expenditures will be
7 financed;

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

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

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

19 E. Additional information. The chairperson may require an
20 applicant to submit additional information or may undertake
21 additional investigations if the chairperson determines that the
22 information would be necessary in deciding whether clearance
23 should be granted.

24 F. Deficient application. If an application does not
25 conform to this rule, the chairperson shall, within 30 days
26 after receipt of the application, return it to the applicant
27 with a statement identifying the deficiencies in the application.

28 G. Acceptance of application. The chairperson shall accept
29 a completed application on behalf of the board if it conforms to
30 this rule.

31 H. Notification of acceptance. Upon acceptance of a
32 complete application, the chairperson shall promptly notify each
33 political subdivision which contains an area on the board's
34 inventory of preferred areas for processing facilities. The
35 chairperson shall also publish notice of the application in a
36 newspaper of statewide distribution. The notice must provide

1 correct or contest the violation.

2 C. Technical information. An application must contain the
3 following information:

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

9 2. a disclosure of hazardous waste management related
10 business activities which the applicant, its parent corporation,
11 any subsidiary of the applicant, or any other subsidiary of the
12 parent corporation of the applicant is or has been engaged in
13 during the ten years prior to the date of the application, the
14 approximate times during which the activity has been engaged in,
15 and, if the activity involves operation and maintenance of a
16 waste management facility, the location of each facility and a
17 description of the type of facility, the processes used, the
18 facility capacity and approximate amount of waste handled
19 annually, the date the operation began and the date it closed if
20 the facility is no longer operating, any licenses or permits
21 issued for the facility, and the reasons for discontinuing the
22 activity if it has been discontinued.

23 D. Development plan and financial information. An
24 application must contain the following information:

25 1. a statement of the anticipated development plan for
26 the proposed facility including the following:

- 27 a. facility design;
- 28 b. environmental reports;
- 29 c. hearings on permit application;
- 30 d. community relations activities;
- 31 e. marketing;
- 32 f. preparation of permit application;
- 33 g. site acquisition and preparation;
- 34 h. construction;
- 35 i. equipment and materials acquisitions;
- 36 j. operator recruitment and training;

1 that comments on the application may be submitted to the board
2 within 30 days of the date the application was accepted.

3 I. Initial consideration. The board shall initially
4 consider an application not less than 30 nor more than 60 days
5 after its acceptance.

6 6 MCAR S 8.505 Board decision.

7 A. Reasons for disapproval. The board shall grant clearance
8 to an applicant unless it determines that:

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

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

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

23 B. Written decision. The board shall set forth in writing
24 the basis for its decision.

25 C. Appeals. If the board denies clearance, the applicant
26 may request a contested case hearing within 21 calendar days of
27 the board's decision. The board shall order a contested case
28 hearing under Minnesota Statutes, chapter 14 and 9 MCAR SS
29 2.201-2.299 if it receives a request. Following a review of the
30 record of the hearing, the board shall make a final decision
31 granting or denying clearance.

32 6 MCAR S 8.506 Notice of final decision.

33 Notice of the board's final decision granting or denying
34 clearance shall be sent to political subdivisions which contain
35 areas included on the board's inventory of preferred areas for

1 processing facilities and to the applicant.

2 6 MCAR S 8.507 Expiration of clearance.

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