

1 Waste Management Board

2

3 Adopted Rules Relating to Development Grants for Waste

4 Processing and Collection Facilities

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6 Rules as Adopted

7 9200.6000 SCOPE AND AUTHORITY.

8 Parts 9200.6000 to 9200.6011 govern the administration of
9 development grants for waste processing and collection
10 facilities and services as provided under Minnesota Statutes,
11 section 115A.156, and certification of hazardous waste
12 processing facility loan applications received by the energy and
13 economic development authority and forwarded to the board for
14 certification under Minnesota Statutes, sections 115A.162 and
15 116M.07, subdivision 9.

16 9200.6001 DEFINITIONS.

17 Subpart 1. Scope. For the purposes of parts 9200.6000 to
18 9200.6011, the following terms have the meanings given them
19 unless the context requires otherwise.

20 Subp. 2. Authority. "Authority" means the Minnesota
21 Energy and Economic Development Authority created in Minnesota
22 Statutes, section 116M.06.

23 Subp. 3. Board. "Board" means the Minnesota Waste
24 Management Board established in Minnesota Statutes, section
25 115A.04.

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

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

31 B. site preparation;

32 C. construction costs;

33 D. engineering costs;

34 E. bond issuance costs;

35 F. underwriting or placement fees;

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- 1 G. trustee's fees;
- 2 H. fee of guarantor, insurer, or financial
- 3 institution, other than the authority, who provides letters of
- 4 credit, surety bonds, or equivalent security;
- 5 I. authority fees, including application and guaranty
- 6 fees of the authority and administrative costs and expenses;
- 7 J. certain contingency costs;
- 8 K. interest costs during construction;
- 9 L. legal fees, including those of the authority's
- 10 bond counsel; and
- 11 M. debt service reserve fund.

12 Subp. 5. Chairperson. "Chairperson" means the chairperson

13 of the board.

14 Subp. 5 6. Collection. "Collection" has the meaning given

15 it in Minnesota Statutes, section 115A.03, subdivision 5.

16 Subp. 6 7. Commercial. "Commercial" means that the

17 facility or service referred to is established and permitted to

18 sell waste collection or processing services to generators other

19 than the owner and operator of the facility or services.

20 Subp. 7 8. Commissioner. "Commissioner" means the

21 commissioner of energy and economic development.

22 Subp. 8 9. Generator. "Generator" means a person who

23 produces a hazardous waste.

24 Subp. 9 10. Hazardous waste. "Hazardous waste" means

25 those wastes identified and listed in parts 7045.0100 to

26 7045.0141.

27 Subp. ~~10~~ 11. Loan. "Loan" means a hazardous waste

28 processing facility loan as defined in Minnesota Statutes,

29 section 116M.03, subdivision 15.

30 Subp. ~~11~~ 12. Person. "Person" means a natural person or a

31 corporation, association, operation, firm, partnership, trust,

32 or other form of organization.

33 Subp. ~~12~~ 13. Processing. "Processing" has the meaning

34 given it in Minnesota Statutes, section 115A.03, subdivision 25.

35 Subp. ~~13~~ 14. Proposal. "Proposal" means the work that is

36 intended to be conducted with the grant funds.

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1 Subp. ~~14~~ 15. Service. "Service" means work done or duty
2 performed for others.

3 HAZARDOUS WASTE PROCESSING FACILITY GRANTS

4 9200.6002 ELIGIBILITY CRITERIA.

5 Subpart 1. Eligible applicants. The following are
6 eligible to apply for a development grant:

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

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

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

19 A. market assessment, including generator surveys;

20 B. conceptual design and preliminary engineering;

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

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

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

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

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

36 Subp. 4. Ineligible costs. Grant money awarded through

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1 this program may not be spent for capital improvements or
2 equipment.

3 Subp. 5. Matching funds. To be eligible to receive a
4 grant under this program a recipient must agree to provide
5 matching funds as specified in part 9200.6007.

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

11 9200.6003 GRANT APPLICATION.

12 An applicant must submit an application in the form
13 specified by the board. An application must include the
14 following information:

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

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

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

27 D. A statement whether the applicant is planning to
28 apply for future grants under this program, or has applied or is
29 planning to apply for a hazardous waste processing facility loan
30 administered by the Minnesota Energy and Economic Development
31 Authority.

32 E. Information which addresses the evaluation factors
33 in Minnesota Statutes, section 115A.156, subdivision 3, and
34 those factors listed in part 9200.6006 in sufficient detail to
35 enable the board to adequately evaluate the proposal.

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1 9200.6004 APPLICATION PROCESS.

2 Subpart 1. **Deadline.** The board will solicit applications
3 by notification in the State Register. The board may set
4 reasonable deadlines for submission of applications.

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

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

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

13 9200.6005 INITIAL APPLICATION REVIEW.

14 Subpart 1. **Application review.** The chairperson or a
15 designee shall review all applications.

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

23 A. the proposal is feasible at the costs indicated in
24 the application;

25 B. the applicant has the financial, managerial, and
26 technical ability and experience to carry out the proposal;

27 C. the applicant has the financial, managerial, and
28 technical ability to develop and operate the proposed facility
29 or service; and

30 D. the proposal adequately addresses the evaluation
31 factors listed in part 9200.6006.

32 Subp. 3. **Notice of determination.** Within 14 days after
33 receiving the application, the chairperson shall notify each
34 applicant of the chairperson's determinations. If the
35 chairperson determines that the applicant, project, and costs
36 are eligible and that the supporting documentation is adequate,

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1 the application is considered final and the applicant shall be
2 so notified. The application must then be referred to the board
3 to be evaluated as provided in part 9200.6006. If the
4 chairperson determines that any costs or any part of the
5 proposal is not eligible or that the documentation in the
6 application is inadequate, the application must be returned with
7 a statement of the reasons for rejecting the application. The
8 applicant has 14 days after receipt of the rejection to correct
9 the inadequacies. If the inadequacies are corrected within the
10 time allowed, the application is considered final and the
11 applicant shall be so notified. The application must then be
12 referred to the board to be evaluated as provided in part
13 9200.6006.

14 9200.6006 EVALUATION OF PROPOSALS.

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

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

20 A. The factors listed in Minnesota Statutes, section
21 115A.156, subdivision 3.

22 B. The importance of the proposal to the eventual
23 development and operation of the proposed facility or service.

24 C. The likelihood that the proposed facility or
25 service will be developed.

26 D. The results of any previous proposal for which the
27 applicant received a grant under this program.

28 E. The consistency of the proposal with any board
29 determination of the types of processing facilities or services
30 recommended for development in the state.

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

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1 9200.6007 AWARD OF GRANTS.

2 Subpart 1. General procedure. The board shall award
3 grants for those proposals which in the board's judgment will be
4 the most beneficial in improving hazardous waste management in
5 the state, based upon its evaluation of the factors identified
6 in part 9200.6006.

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

11 Subp. 3. Matching funds required. A recipient other than
12 an association of generators in the state shall agree to provide
13 at least 50 percent of the cost of the proposal. An association
14 of two or more generators in the state shall agree to provide at
15 least 20 percent of the cost of the proposal.

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

22 9200.6008 GRANT AGREEMENT.

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

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

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

31 C. Identify the product of the proposal and provide
32 that the results of all studies, analyses, or other work
33 performed under this agreement are made available to the board.
34 The grant agreement may include provisions for classifying
35 certain information provided by the grantee as nonpublic

1 pursuant to the board's authority under Minnesota Statutes,
 2 section 115A.06, subdivision 13, and the Minnesota Data
 3 Practices Act, Minnesota Statutes, chapter 13.

4 Subp. 2. Cancellation of grants. The grant is subject to
 5 cancellation by the board if the proposed work is not completed
 6 in accordance with the terms and conditions of the grant
 7 agreement, including time schedules, unless the chairperson
 8 determines that variances from the respective agreements are in
 9 order.

10 Subp. 3. Termination. The board may terminate the work
 11 under an agreement upon 30 days notice if it determines that the
 12 proposal is no longer feasible. A request for termination may
 13 be initiated by either the board or a grant recipient. The
 14 procedure for determining that a proposal is not feasible shall
 15 be specified in the grant agreement.

16 Subp. 4. Disbursement. The board shall disburse grants in
 17 accordance with the payment schedule set out in the grant
 18 agreement. At the discretion of the board, this may include a
 19 phased disbursement or final holdback of a percentage of funds.

20 Subp. 5. Return of unspent funds. Upon completion of the
 21 proposal, cancellation of the grant, or termination of the work
 22 under a grant agreement the grant recipient shall return the
 23 state's share of the unspent funds. The procedure for
 24 determining the amount of funds to be returned shall be
 25 specified in the grant agreement.

26 HAZARDOUS WASTE PROCESSING FACILITY LOANS

27 9200.6009 INITIAL APPLICATION REVIEW.

28 Subpart 1. Transmittal from commissioner. Upon receipt
 29 from the commissioner of a copy of a hazardous waste processing
 30 facility loan application, the chairperson or a designee shall
 31 review the application for eligibility and adequacy of
 32 documentation.

33 Subp. 2. ~~Eligibility~~ and Documentation review. The
 34 chairperson or a designee shall review each application to
 35 determine the adequacy of the supporting documentation.

36 Documentation is considered adequate if it enables the board to

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1 make the determination required for certification and if it
2 provides sufficient information to address the certification
3 factors.

4 Subp. 3. Notification of eligibility adequacy. Within 14
5 days after receiving a copy of the application, the chairperson
6 or designee shall notify the commissioner of the determination
7 of ~~eligibility~~ and adequacy of documentation. The notice shall
8 state the additional information needed by the board to
9 determine whether the application will be certified.

10 9200.6010 EVALUATION OF LOAN APPLICATIONS.

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

14 Subp. 2. Certification factors. In addition to
15 determining whether the requirements of part 9200.6011, subpart
16 2, have been satisfied, the board shall consider the following
17 factors in evaluating whether a loan application will be
18 certified and in determining the share of capital costs that
19 must be provided by the applicant:

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

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

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

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

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

34 F. the applicant's managerial and technical
35 experience for developing and operating the proposed facility or
36 service, including past operating experience with similar

1 facilities and services;

2 G. the results of previous studies of hazardous waste
3 processing and waste reduction proposals and opportunities in
4 Minnesota, including a comparison of the applicant's market
5 assessment with market information previously available to the
6 board;

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

9 I. the availability of funds from the authority or
10 other-funding-sources.

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

20 9200.6011 CERTIFICATION.

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

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

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

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

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

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

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1 disposal.

2 Subp. 2. ~~Matching funds.--As a condition of its~~
3 ~~certification and based on its consideration of the~~
4 ~~certification factors, the board may require an applicant to~~
5 ~~agree to provide funds in excess of 25 percent of the capital~~
6 ~~cost of the facility excluding land acquisition cost.~~

7 Subp. 3. Notification to commissioner. The chairperson
8 shall notify the applicant and the commissioner in writing of
9 the board's decision regarding certification of the loan
10 application, ~~and the percentage of matching funds required if~~
11 ~~more than 25 percent.~~ The board in its notice shall state the
12 basis for its decision including any reason for the decision
13 which is based on a certification factor under part 9200.6010,
14 subpart 2.

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