

1 Office of Environmental Assistance

2

3 Adopted Permanent Rules Relating to the Pollution Prevention

4 Grant Program

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6 Rules as Adopted

7 9205.0400 SCOPE AND AUTHORITY.

8 Parts 9205.0400 to 9205.0445 implement the pollution
9 prevention grant program created and described under Minnesota
10 Statutes, sections 115A.154, 115A.55, and 115D.05, by
11 establishing the substantive criteria and procedural conditions
12 under which the director may award grants for waste source
13 reduction and pollution prevention projects.

14 9205.0410 DEFINITIONS.

15 Subpart 1. Scope. The terms defined in this part apply to
16 parts 9205.0400 to 9205.0445. For terms not defined in this
17 part, the definitions in Minnesota Statutes, sections 115A.03
18 and 115D.03, apply, unless the context requires otherwise.

19 Subp. 4. Director. "Director" means the director of the
20 Office of Environmental Assistance.

21 [For text of subps 5a to 7, see M.R.]

22 Subp. 10a. Office. "Office" means the Office of
23 Environmental Assistance established in Minnesota Statutes,
24 section 115A.055.

25 Subp. 11. Person. "Person" has the meaning given it in
26 Minnesota Statutes, section 115A.03, subdivision 23.

27 Subp. 16. Pollution prevention, prevent pollution, or
28 source reduction. "Pollution prevention," "prevent pollution,"
29 or "source reduction" means eliminating or reducing at the
30 source the quantity or ~~toxicity~~ intrinsic hazard of toxic
31 pollutants, hazardous substances, hazardous wastes, solid
32 wastes, or industrial wastes used, generated, or released.

33 Subp. 17. Release. "Release" has the meaning given it in
34 Minnesota Statutes, section 115D.03, subdivision 10.

35 Subp. 17a. Solid waste. "Solid waste" has the meaning

1 given it in Minnesota Statutes, section 116.06, subdivision 22.

2 [For text of subp 18, see M.R.]

3 9205.0420 ELIGIBILITY CRITERIA.

4 Subpart 1. Eligible applicants. Eligible applicants are
5 persons who use, generate, or release toxic pollutants,
6 hazardous substances, hazardous wastes, solid wastes, or
7 industrial wastes in Minnesota, or individuals or organizations
8 in Minnesota that provide assistance to such persons and/or to
9 other persons affected by the generation of such pollutants or
10 wastes in Minnesota.

11 Subp. 2. Eligible projects. Eligible projects are
12 projects that primarily develop or implement pollution
13 prevention projects or practices.

14 Projects currently under development by the applicant and
15 new projects are eligible; however, grant funds shall only be
16 awarded for costs incurred after the effective date of the grant
17 agreement.

18 Subp. 3. Eligible costs. Eligible costs are limited to
19 the costs of developing or implementing pollution prevention
20 projects or practices consistent with subpart 2. Eligible costs
21 are limited to a maximum of three-quarters of the total cost of
22 the project. The director may restrict the use of grant funds
23 for capital improvements or the purchase of equipment to a
24 percentage of the grant, if all such restrictions appear in the
25 Request for Proposals required by part 9205.0425 for the grant
26 round to which they apply.

27 9205.0425 REQUEST FOR PROPOSALS.

28 To initiate the process for awarding a pollution prevention
29 grant, the director shall publish a Request for Proposals (RFP)
30 notice in the State Register advising eligible applicants of the
31 availability of pollution prevention grants. The RFP shall
32 describe the procedure for awarding grants and establish a
33 deadline by which applications must be submitted. In the RFP,
34 the director may limit or prioritize the types of projects for
35 which a grant would be awarded in the funding round initiated by

1 the RFP, may specify the maximum amount of funding to be awarded
 2 to a project, and may set limitations on eligible costs as
 3 described in part 9205.0420, subpart 3. In the RFP, the
 4 director may establish application information requirements and
 5 evaluation criteria that correlate to specific grant program
 6 targets, in addition to the requirements of part 9205.0430,
 7 subparts 2 and 5.

8 9205.0430 GRANT APPLICATION.

9 Subpart 1. [See repealer.]

10 Subp. 2. Applications. Following the publication of the
 11 RFP in the State Register, applicants that seek assistance must
 12 submit applications in the form specified by the director.
 13 Applications must be received by the director by the deadline
 14 established in the RFP. Each application must include the
 15 following:

16 A. the names, qualifications, and addresses of the
 17 applicant and other project participants;

18 B. a description of the proposed project;

19 C. project information, including:

20 (1) a work plan that includes a list of each
 21 project activity or task, an implementation schedule with
 22 specific timelines, and persons involved in completing each
 23 activity or task;

24 (2) the location of the proposed project;

25 (3) the type and source of pollution prevention
 26 to be ~~eliminated-or-reduced~~ achieved by the proposed project;

27 (4) a discussion of whether implementation of the
 28 proposed project is likely to minimize the transfer of pollution
 29 from one environmental medium to another;

30 (5) a description or identification of the
 31 potential applicability of the proposed project activities and
 32 results to other persons or organizations in Minnesota;

33 (6) a description of the statewide significance
 34 of the project; and

35 (7) a statement of the current status of the

1 proposed project;

2 D. if relevant, information demonstrating that the
3 project will comply with applicable regulations, including a
4 list of permits required for the project;

5 E. a project budget that:

6 (1) identifies the total cost of the proposed
7 project and identifies each of the expenditures that make up
8 this cost; and

9 (2) states the amount of grant funds being
10 requested and the amount of matching funds being supplied by the
11 applicant or others. If a person other than the applicant is
12 providing matching funds, the application must identify the
13 sources of the additional funds; and

14 F. for projects addressing solid waste, evidence that
15 affected counties, regions, or districts have been notified of
16 the proposed projects; and

17 G. additional program-specific information as
18 established by the director in the RFP required in part
19 9205.0425.

20 Subp. 2a. Nonpublic data. Sales information or specific
21 data in the grant application that meets the definition in
22 Minnesota Statutes, section 13.37, subdivision 1, paragraph (b),
23 shall be handled as provided by Minnesota Statutes, section
24 115A.06, subdivision 13; however, all information developed as a
25 result of a pollution prevention grant shall be public data.

26 Subp. 3. [See repealer.]

27 Subp. 4. [See repealer.]

28 Subp. 5. Evaluation of proposal. In order to determine
29 which projects should receive a pollution prevention grant, the
30 director shall evaluate each application using the following
31 criteria:

32 A. clarity and completeness of application;

33 B. potential of proposed project to prevent
34 pollution;

35 C. qualifications of the individuals who will perform
36 the work described in the project;

1 D. potential of the proposed project to minimize the
2 transfer of pollution from one environmental medium to another;

3 E. if applicable, compliance of the proposed project
4 with regulatory requirements;

5 F. emphasis of the proposed project on ~~prevention-of~~
6 pollution prevention over other methods of management;

7 G. cost-effectiveness of the proposed project;

8 H. assets and resources available to the applicant to
9 conduct the project;

10 I. innovativeness of the proposed project;

11 J. applicability of the proposed project and future
12 dissemination of project results to other persons or
13 organizations in the state;

14 K. consistency of the proposed project with the
15 legislative goals and policies in Minnesota Statutes, sections
16 115A.02 and 115D.02; and

17 L. additional criteria specified in the RFP required
18 by part 9205.0425.

19 The director may request additional information from the
20 applicant by letter or interview during the evaluation process
21 to clarify the information provided pursuant to subpart 1.

22 [For text of subp 6, see M.R.]

23 Subp. 7. **No grant awards.** If the director determines that
24 no proposed project has sufficient potential to prevent
25 pollution in Minnesota, the director shall not award any
26 grants. The director may then reinitiate the process for
27 awarding grants by publishing the RFP under subpart 1.

28 Subp. 8. **Consultation.** In the director's evaluation of an
29 application, the director may solicit and consider any
30 recommendations provided by Office of Environmental Assistance
31 advisory councils, task forces, citizen groups, or any
32 independent consultant hired by the director to assist in the
33 review of applications.

34 9205.0432 FEDERAL GRANT MATCHES.

35 The director may award grants as a match to obtain federal

1 pollution prevention grants without issuing a RFP under part
2 9205.0425, if the following conditions are met:

3 A. the applicant is eligible under part 9205.0420,
4 subpart 1;

5 B. the project is eligible under part 9205.0420,
6 subpart 2;

7 C. a proposal is submitted to the director by the
8 applicant containing all of the elements described in part
9 9205.0430, subpart 2;

10 D. the proposed project meets the criteria outlined
11 in part 9205.0430, subpart 5; and

12 E. the grant awarded under this part makes up no more
13 than 25 percent of the total project costs.

14 9205.0435 LIMITATIONS.

15 Subpart 1. Reduced grant awards. The director may ask an
16 applicant to document the impacts of reduced financial
17 assistance before finalizing an award for less than the eligible
18 amount requested by an applicant or less than the maximum award
19 established in the RFP under part 9205.0425. Reduced funds
20 shall be awarded where the director determines:

21 A. program resources are insufficient to provide full
22 assistance to all applicant to which the director intends to
23 award grants or loans; or

24 B. the applicant could operate the project at a
25 reduced level and still achieve project objectives.

26 [For text of subp 2, see M.R.]

27 9205.0445 GRANT AGREEMENT.

28 A grant agreement shall:

29 [For text of items A and B, see M.R.]

30 C. require that the recipient provide periodic
31 written and oral reports to the director on the progress and
32 results of the project, and a one-page project summary at the
33 conclusion of the project, in a format specified by the
34 director;

35 [For text of items D and E, see M.R.]

1 F. provide that the results of the project performed
2 under this agreement are public data;

3 [For text of items G to I, see M.R.]

4 SOLID WASTE REDUCTION LOAN PROGRAM

5 9210.0700 SCOPE AND AUTHORITY.

6 Parts 9210.0700 to 9210.0770 implement the solid waste
7 source reduction loan program created and described under
8 Minnesota Statutes, section 115A.55, by establishing the
9 substantive criteria and procedural conditions under which the
10 director may award loans for solid waste source reduction
11 projects.

12 9210.0710 DEFINITIONS.

13 [For text of subpart 1, see M.R.]

14 Subp. 2. Director. "Director" means the director of the
15 Office of Environmental Assistance.

16 [For text of subp 2a, see M.R.]

17 Subp. 3. Office. "Office" means the Minnesota Office of
18 Environmental Assistance established in Minnesota Statutes,
19 section 115A.055.

20 [For text of subp 4, see M.R.]

21 Subp. 5. Program. "Program" means the Solid Waste Source
22 Reduction Loan Program.

23 [For text of subps 6 and 7, see M.R.]

24 9210.0720 APPLICATION PROCEDURES.

25 Subpart 1. Notification by director. To initiate the
26 process for awarding loans for solid waste source reduction
27 projects, the director shall publish a notice in the State
28 Register advising eligible applicants of the availability of
29 solid waste source reduction loans. The notice shall describe
30 the maximum amount of funding available for a project, and
31 establish a deadline by which proposals must be submitted. In
32 the notice, the director may also limit the types of projects
33 for which a loan would be awarded in the funding round initiated
34 by the notice.

1 Subp. 2. **Proposals.** Following the publication of a notice
2 in the State Register, eligible applicants that seek assistance
3 must submit proposals to the director. Proposals must be
4 received by the director by the deadline established in the
5 notice. Upon the request of the applicant, the office shall
6 handle specific information as nonpublic data pursuant to
7 Minnesota Statutes, section 115A.06, subdivision 13; however,
8 all information developed as a result of a loan shall be made
9 available to persons through the office's public information
10 program. Proposals for loans under part 9210.0770 shall contain
11 the information in part 9210.0770, subpart 5.

12 [For text of subps 3 and 4, see M.R.]

13 Subp. 5. **Evaluation of proposal.** The director shall
14 evaluate each proposal that is determined to be eligible and
15 complete using the criteria in part 9210.0770, subpart 6.

16 Subp. 6. **Award of loans.** The director shall award loans
17 for those projects that the director determines best satisfy the
18 criteria applicable to the program under which the applicant is
19 requesting financial assistance. The director shall notify
20 those applicants that do not receive loan awards. An applicant
21 that does not receive an award may resubmit a proposal upon
22 future notice by the director under subpart 1.

23 Subp. 7. **No loan awards.** If the director determines that
24 no proposal will provide sufficient assistance to the state in
25 achieving its solid waste source reduction goals, the director
26 may decide not to award any loan. The director may then
27 reinstate the process for awarding loans by publishing a notice
28 under subpart 1.

29 Subp. 8. **Consultation.** In the director's evaluation of
30 the proposal, the director shall consider recommendations
31 provided by advisory councils to the office.

32 9210.0730 LIMITATIONS.

33 Subpart 1. **Reduced loan awards.** The director shall ask an
34 applicant to document the impacts of reduced financial
35 assistance before awarding funds less than the eligible amount

1 requested by the applicant or less than the maximum award
2 established in the notice under part 9210.0720, subpart 1.
3 Reduced funds shall be awarded where the director determines
4 that:

5 A. program resources are insufficient to provide full
6 assistance to all applicants to which the director intends to
7 award loans; or

8 B. the applicant could operate the project at a
9 reduced level and still achieve project objectives.

10 Subp. 2. Limitations on disbursement of funds. No loan funds
11 shall be disbursed until the recipient has executed a written
12 loan agreement with the director.

13 9210.0740 LOAN AGREEMENTS.

14 A loan agreement shall:

15 A. incorporate by reference the proposal submitted to
16 the director;

17 B. provide that any cost overruns incurred in the
18 development and implementation of the proposed project shall be
19 the sole responsibility of the recipient;

20 C. require that the recipient provide periodic
21 written reports to the director on the implementation and
22 results of the project;

23 D. identify the interest rate and repayment
24 obligations for the loan recipient;

25 E. authorize the director to determine that the loan
26 recipient is in default and require that loan recipient
27 immediately repay the loan in full if the director determines
28 that, due to the bad faith of the loan recipient, a project has
29 not been developed and implemented according to the terms and
30 conditions of the loan agreement;

31 F. authorize the director to cease making further
32 disbursements to the loan recipient and to recover the unspent
33 funds if the director determines that, for reasons other than
34 bad faith, a project has not been developed and implemented
35 according to the terms and conditions of the loan agreement and

1 amendment of the agreement is not justified;

2 G. require that the recipient perform and complete
3 project activities according to the work plan in the proposal
4 submitted to the director and incorporated into the loan
5 agreement;

6 H. require that the recipient provide objective,
7 detailed information in its final report listing the solid waste
8 source reduction achieved during the project in terms of:

9 (1) changes in disposed volume when measured
10 under uncompacted conditions;

11 (2) changes in disposed weight;

12 (3) cost changes in purchase and handling of
13 materials;

14 (4) cost changes in solid waste disposal; and

15 (5) changes in toxicity, if any;

16 I. require that all information developed as a result
17 of a loan shall be made available to other persons through the
18 office's public information program;

19 J. require that the recipient maintain detailed
20 records of all expenditures related to the project; and

21 K. establish other conditions or terms needed to
22 manage or implement the loan agreement.

23 REPEALER. Minnesota Rules, parts 9205.0430, subparts 1, 3, and
24 4; 9210.0750; and 9210.0760, are repealed.