

CHAPTER 9205
OFFICE OF ENVIRONMENTAL ASSISTANCE
HAZARDOUS; INDUSTRIAL WASTE MANAGEMENT

HAZARDOUS WASTE PERMIT CLEARANCE			
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NOTE: The Waste Management Board was reorganized in Laws 1989, chapter 335, article 1, section 269, as the Office of Waste Management and in Laws 1994, chapter 639, article 5, section 2, as the Office of Environmental Assistance. Some parts of Minnesota Rules do not reflect those changes.

- 9205.0100** [Repealed, 22 SR 23]
- 9205.0110** [Repealed, 22 SR 23]
- 9205.0200** [Repealed, 22 SR 23]
- 9205.0210** [Repealed, 22 SR 23]
- 9205.0220** [Repealed, 22 SR 23]
- 9205.0230** [Repealed, 22 SR 23]
- 9205.0240** [Repealed, 22 SR 23]
- 9205.0250** [Repealed, 22 SR 23]
- 9205.0260** [Repealed, 22 SR 23]
- 9205.0270** [Repealed, 22 SR 23]
- 9205.0280** [Repealed, 22 SR 23]
- 9205.0290** [Repealed, 22 SR 23]
- 9205.0400** [Repealed, 22 SR 23]
- 9205.0410** Subpart 1. [Repealed, 22 SR 23]
 - Subp. 2. [Repealed, 17 SR 353]
 - Subp. 3. [Repealed, 17 SR 353]
 - Subp. 4. [Repealed, 22 SR 23]
 - Subp. 5. [Repealed, 17 SR 353]
 - Subp. 5a. [Repealed, 22 SR 23]
 - Subp. 6. [Repealed, 22 SR 23]
 - Subp. 7. [Repealed, 22 SR 23]
 - Subp. 8. [Repealed, 17 SR 353]
 - Subp. 9. [Repealed, 17 SR 353]
 - Subp. 10. [Repealed, 17 SR 353]
 - Subp. 10a. [Repealed, 22 SR 23]
 - Subp. 11. [Repealed, 22 SR 23]
 - Subp. 12. [Repealed, 17 SR 353]
 - Subp. 13. [Repealed, 17 SR 353]
 - Subp. 14. [Repealed, 17 SR 353]
 - Subp. 15. [Repealed, 17 SR 353]
 - Subp. 16. [Repealed, 22 SR 23]
 - Subp. 17. [Repealed, 22 SR 23]

Subp. 17a. [Repealed, 22 SR 23]

Subp. 18. [Repealed, 22 SR 23]

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9205.0425 [Repealed, 22 SR 23]

9205.0430 Subpart 1. [Repealed, 20 SR 2285]

Subp. 2. [Repealed, 22 SR 23]

Subp. 2a. [Repealed, 22 SR 23]

Subp. 3. [Repealed, 20 SR 2285]

Subp. 4. [Repealed, 20 SR 2285]

Subp. 5. [Repealed, 22 SR 23]

Subp. 6. [Repealed, 22 SR 23]

Subp. 7. [Repealed, 22 SR 23]

Subp. 8. [Repealed, 22 SR 23]

9205.0432 [Repealed, 22 SR 23]

9205.0435 [Repealed, 22 SR 23]

9205.0440 [Repealed, 17 SR 353]

9205.0445 [Repealed, 22 SR 23]

9205.0450 [Repealed, 17 SR 353]

9205.0460 [Repealed, 17 SR 353]

9205.0470 [Repealed, 17 SR 353]

9205.0480 [Repealed, 17 SR 353]

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 11.

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.

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

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.

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.

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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*

9205.0600 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 9205.0600 to 9205.0608, the following terms have the meanings given them in this part, unless the context requires otherwise.

Subp. 2. **Agency.** "Agency" means the Pollution Control Agency.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of the agency, or staff designated by the commissioner.

Subp. 4. **Used oil processing equipment.** "Used oil processing equipment" means machinery or devices that are designed, constructed, and used to separate, modify, convert, heat, prepare, rerefine, or otherwise process used oil so that materials, substances, or energy contained within the used oil may be recovered for subsequent use. Used oil processing equip-

ment includes pollution control equipment needed to meet applicable pollution control standards.

Statutory Authority: *MS s 115A.06 subs 1,2*

History: *14 SR 617*

9205.0601 SCOPE.

Parts 9205.0600 to 9205.0608 implement the used oil processing equipment loan program created and described in Minnesota Statutes, section 115A.9162, by establishing the substantive criteria and procedural conditions under which the agency may award loans for used oil processing equipment.

Statutory Authority: *MS s 115A.06 subs 1,2*

History: *14 SR 617*

9205.0602 ELIGIBILITY CRITERIA.

Subpart 1. **Eligible applicants.** Individuals, partnerships, corporations, and associations engaged in or intending to become engaged in a business that processes used oil, are eligible for used oil processing equipment loans.

Subp. 2. **Eligible costs.** The cost of used oil processing equipment is eligible for funding under this program. The cost of pollution control equipment is eligible only when that equipment is part of used oil processing equipment funded under this program.

Subp. 3. **Ineligible costs.** The cost of equipment used to install used oil processing equipment, operating cost, preliminary and final design and engineering cost, overhead cost, and the cost of land or buildings is not eligible for funding.

Statutory Authority: *MS s 115A.06 subs 1,2*

History: *14 SR 617*

9205.0603 APPLICATION PROCESS.

Subpart 1. **Availability of funds.** The agency shall not accept applications until the agency has determined the amount of funds available and the type of used oil processing equipment that will be funded and has published a notice requesting the submission of applications following the procedures in subpart 3.

Subp. 2. **Agency determination.** The agency shall determine the amount of funds to be expended and the type of used oil processing equipment that will be funded by considering the type of used oil processing equipment that will best assist the agency in improving the management of used oil in Minnesota and the amount of available funding. The agency shall develop a description of the type of used oil processing equipment that will be funded, including objectives for performance of that equipment.

Subp. 3. **Notice.** After the agency makes the determination required in subpart 2, the commissioner shall solicit applications by placing a notice in the State Register and by sending written notice to eligible applicants known to the commissioner. The notice shall state when applications must be submitted, the type of equipment that will be funded, and shall incorporate the description developed by the agency under subpart 2.

Statutory Authority: *MS s 115A.06 subs 1,2*

History: *14 SR 617*

9205.0604 APPLICATION REQUIREMENTS.

Subpart 1. **Contents.** Applications for used oil processing equipment loans must include the following information:

- A. the name, address, and telephone number of the applicant and a contact person;
- B. the total loan eligible used oil processing equipment cost;
- C. the amount of the loan requested; and

D. the amount and source of funding that will be used to pay the part of the cost of the used oil processing equipment not covered by the agency loan and all other eligible and ineligible costs not covered by the agency loan.

Subp. 2. **Supporting documentation.** Applications for used oil processing equipment loans must include the documentation in items A to E.

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A. Credit information sufficient to support a finding that the loan will be repaid. If available, credit information from private credit rating agencies should be submitted by the applicant and evaluated by the agency. For applicants that do not have a credit rating, personal credit information pertaining to individual owners or shareholders of closely held corporations shall be submitted by the applicant and evaluated by the agency. Personal credit information must include personal tax returns, personal credit reports from credit bureaus or other credit reporting agencies if available, and references from personal bankers.

B. A conceptual and technical feasibility report that includes at least the following:

- (1) a detailed description of the proposed used oil processing equipment;
- (2) location and description of the facility where the used oil processing equipment will be used;
- (3) a description of the method of used oil processing equipment procurement;
- (4) documentation substantiating that the used oil processing equipment to be procured has the capability and operating history to perform as proposed;
- (5) an analysis of the quantity and source of used oil that will be processed and an explanation of what will be done with the used oil once processed; and
- (6) a description of what will be done with the ash, sludge, by-products, or other residue from used oil processing.

C. A financial plan that contains:

- (1) the method of financing costs for used oil processing equipment, and all other costs to be incurred by the applicant in procuring, installing, and operating the equipment;
- (2) estimated annual operating and maintenance costs; and
- (3) projections of total costs and revenues for the applicant's business over the term of the loan.

D. A report on the status of permits required by permitting agencies.

E. An estimate of the time necessary for equipment installation and operation and when these events will take place.

Subp. 3. **Additional information.** The applicant shall supply additional information needed for the agency to approve applications, when requested by the commissioner.

Statutory Authority: *MS s 115A.06 subds 1,2*

History: *14 SR 617*

9205.0605 REVIEW AND EVALUATION OF APPLICATIONS.

Subpart 1. **Determination of eligibility and completeness.** Upon receipt of an application, the commissioner or a designee shall determine the eligibility of the applicant, the eligibility of the costs identified in the application, the eligibility of the equipment described in the application, and the completeness of the application. Applicants are encouraged to contact the commissioner to arrange for a preapplication review of the proposed equipment.

Subp. 2. **Notice of determination of eligibility and completeness.** The commissioner shall notify the applicant of the commissioner's determinations of eligibility and completeness. If the commissioner determines that the applicant or the equipment is ineligible, the commissioner shall reject the application, return it to the applicant, and notify the applicant of the reasons for the rejection. If the commissioner determines that any part of the equipment costs is ineligible or that the application is incomplete, the commissioner shall notify the applicant of the ineligible portion of the costs or of the deficiency. The applicant has 30 days after receiving the notice to correct any inadequacies identified by the commissioner. If the inadequacies are not corrected within the time allowed, the application is rejected, and the applicant must submit a new application to be considered again.

Subp. 3. **Agency approval.** The agency shall approve applications and award loans for used oil processing equipment. The agency shall award loans to those applicants whose applications best demonstrate that the used oil processing equipment proposed to be purchased meets the description developed by the agency under part 9205.0603, subpart 2.

No application shall be approved for funding unless the agency determines that the applicant has the ability to repay the loan, including all interest.

Statutory Authority: *MS s 115A.06 subs 1,2*

History: *14 SR 617*

9205.0606 AWARD OF LOANS.

Subpart 1. **Loan limit.** The maximum loan is 50 percent of the eligible cost of the used oil processing equipment or \$500,000, whichever is less.

Subp. 2. **Interest rate.** The interest rate of a loan from the used oil processing equipment loan program shall not be less than an annual percentage rate of three percent. Interest payments on the loan are due annually and begin to accrue from the date the loan is disbursed by the agency. The first payment toward the principal amount of the loan is due one year after the equipment becomes operational or two years after the date the loan agreement is executed by the agency, whichever is earlier. The agency shall consider the equipment operational at the point where the equipment meets all vendor guaranteed operating specifications.

Statutory Authority: *MS s 115A.06 subs 1,2*

History: *14 SR 617*

9205.0607 LOAN AGREEMENT.

The agency shall disburse loan funds only after a loan agreement containing the terms of this part has been executed by the agency and the recipient of a loan award. A loan agreement must:

- A. incorporate by reference the final application submitted to the agency;
- B. establish the term of the loan, which is determined by considering the expected life of the equipment funded;
- C. establish a schedule for repayment of principal and interest;
- D. provide that any costs incurred in the acquisition of equipment over the amount of the loan are the sole responsibility of the loan recipient;
- E. provide that the agency will not accept any amendments or supplementary applications requesting that additional loan funds be awarded to the loan recipient;
- F. require that the recipient provide periodic reports to the agency on the developmental and operational history of the equipment so that knowledge and experience gained may be made available to others; and
- G. provide for procedures to be followed in the event of a default as provided in part 9205.0608 or for failure to make payments of principal and interest.

Statutory Authority: *MS s 115A.06 subs 1,2*

History: *14 SR 617*

9205.0608 AMENDMENTS.

If the used oil processing equipment funded by a loan under this part is not installed or operated in accordance with the terms and conditions of the loan agreement, the agency shall determine the reason the equipment was not installed or operated as required. If the agency finds that the recipient could not install or operate the equipment as required due to forces beyond the control of the recipient but that an amendment to the agreement can be negotiated that will allow the purposes of the loan to be fulfilled, the agency shall amend the loan agreement. If an amendment cannot be negotiated that will allow the purposes of the loan to be fulfilled, the agency shall declare default and require the loan funds to be repaid following the procedures established in the loan agreement.

Statutory Authority: *MS s 115A.06 subs 1,2*

History: *14 SR 617*