

CHAPTER 9205
ENVIRONMENTAL QUALITY BOARD
HAZARDOUS WASTE PERMIT CLEARANCE

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9205.0500 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 9205.0500 to 9205.0560, the terms defined in this part 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 Environmental Quality 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*

History: *L 1999 c 73 s 5*

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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*

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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*

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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.

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*

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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*

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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.

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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.

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