

CHAPTER 9210
MINNESOTA POLLUTION CONTROL AGENCY
SOLID WASTE GRANT AND LOAN PROGRAMS

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CAPITAL ASSISTANCE PROGRAM

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**SOLID WASTE PROCESSING FACILITY
CAPITAL ASSISTANCE PROGRAM**

9210.0100 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 9210.0100 to 9210.0180, the following terms have the meanings given them, unless the context requires otherwise.

Subp. 2. [Repealed, 15 SR 839]

Subp. 3. [Repealed, 15 SR 839]

Subp. 4. **Cities.** "Cities" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 4.

Subp. 5. **Comprehensive solid waste management plan.** "Comprehensive solid waste management plan" means a written plan prepared under Minnesota Statutes, section 115A.46.

Subp. 5a. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Pollution Control Agency.

Subp. 6. **Disposal.** "Disposal" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 9.

Subp. 7. **Final design and engineering/architectural plans.** "Final design and engineering/architectural plans" means those engineering drawings and specifications used to secure bids for construction or equipment.

Subp. 8. **Institutional arrangements.** "Institutional arrangements" means methods of financing, marketing, procurement, or securing the waste supply.

Subp. 9. **Mixed municipal solid waste.** "Mixed municipal solid waste" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 21.

Subp. 9a. **Agency.** "Agency" means the Minnesota Pollution Control Agency.

Subp. 10. **On-site utilities.** "On-site utilities" means gas, electrical, water, and sewer facilities within the geographic boundaries of the waste processing facility site, that are used for facility operations, excluding transmission of energy to markets.

Subp. 11. **Preliminary design and engineering/architectural plans.** "Preliminary design and engineering/architectural plans" means conceptual plans adequate to obtain preconstruction permits and to meet the needs of an environmental assessment.

Subp. 12. **Processing.** "Processing" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 25.

Subp. 13. **Project.** "Project" means a processing facility, together with any transfer stations, transmission facilities, and other related and appurtenant facilities primarily serving the processing facility.

Subp. 14. **Recyclable materials.** "Recyclable materials" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 25a.

Subp. 15. **Recycling.** "Recycling" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 25b.

Subp. 16. **Recipient.** "Recipient" means an applicant who has received a grant under the solid waste processing facilities capital assistance program.

Subp. 17. **Resource recovery.** "Resource recovery" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 27.

Subp. 18. **Resource recovery facility.** "Resource recovery facility" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 28.

Subp. 19. **Solid waste.** "Solid waste" has the meaning given it in Minnesota Statutes, section 116.06, subdivision 22.

Subp. 20. **Solid waste disposal facilities and equipment.** "Solid waste disposal facilities and equipment" means structures, machinery, or devices at a disposal site necessary for efficient land disposal of solid wastes, including machinery or devices designed to move earth during burial of wastes or to increase the density of wastes buried or to be buried, and facilities in which solid waste is temporarily stored and concentrated before transport to a disposal site.

Subp. 21. **Solid waste management district.** "Solid waste management district" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 32.

Subp. 22. **Special waste stream.** "Special waste stream" means materials normally found in the solid waste stream in sufficient quantity to be recovered for subsequent use, if separated from the solid waste stream and processed separately. Examples of special waste streams include waste tires, wood wastes, and agricultural wastes.

Subp. 23. **Transmission facilities.** "Transmission facilities" means any steam, water, or electrical lines that are used to transport energy to markets.

Subp. 24. **Transfer station.** "Transfer station" has the meaning given it in Minnesota Statutes, section 115A.03, subdivision 33.

Subp. 25. **Waste processing equipment.** "Waste processing equipment" means machinery or devices acquired and used as an integral component of a waste processing facility.

Subp. 26. **Waste processing facility.** "Waste processing facility" means structures and equipment, singly or in combination, that are designed, constructed, and used to separate, modify, convert, heat, prepare, or otherwise process solid waste so that materials, substances, or energy contained within the waste may be recovered for subsequent use.

Statutory Authority: *MS s 115A.06; 115A.49 to 115A.54*

History: *11 SR 432; 15 SR 839; L 1999 c 73 s 5; L 2005 1Sp1 art 2 s 161*

Published Electronically: *October 10, 2013*

9210.0110 SOLID WASTE PROCESSING FACILITIES CAPITAL ASSISTANCE PROGRAM.

Parts 9210.0100 to 9210.0180 implement the solid waste processing facilities capital assistance program created and described in Minnesota Statutes, sections 115A.49 to 115A.54, by establishing the substantive criteria and procedural conditions under which the commissioner may award grants for capital costs of solid waste processing facilities.

Statutory Authority: *MS s 115A.06; 115A.49 to 115A.54*

History: *11 SR 432; 15 SR 839; L 2005 1Sp1 art 2 s 161*

Published Electronically: *October 10, 2013*

9210.0120 GRANT APPLICATION PROCEDURES.

Subpart 1. [Repealed, 15 SR 839]

Subp. 2. [Repealed, 15 SR 839]

Subp. 3. [Repealed, 15 SR 839]

Subp. 4. [Repealed, 15 SR 839]

Subp. 5. **Notification by commissioner.** To initiate the process for awarding grants under the capital assistance program, the commissioner shall publish a notice in the State Register. The notice shall advise eligible applicants of the availability of grant funds, inform eligible applicants of the procedure and projected schedule for the application process, and establish a date by which a preliminary grant application must be received by the commissioner.

Subp. 6. **Preliminary grant applications.** Eligible applicants may submit to the commissioner preliminary grant applications containing the information in part 9210.0131. Applications received by the commissioner after the deadline in the State Register notice shall not be considered for funding and shall be returned to the applicants.

Subp. 7. **Invitation by commissioner.** After the date established in the State Register notice, the commissioner shall review the preliminary grant applications. Using the criteria in part 9210.0132, the commissioner shall notify each applicant, in writing, as to whether it is invited to submit a final grant application. Only applicants so invited remain eligible for a grant. The commissioner's invitation shall specify a date by which the final grant application must be received by the agency.

Subp. 8. **Applications accepted.** Eligible applicants that have been invited to submit a final grant application may submit an application to the agency. Final grant applications must contain the information in part 9210.0140. Final grant applications received by the agency after the deadline in the commissioner's invitation shall not be considered for funding and shall be returned to the applicant.

Statutory Authority: *MS s 115A.06; 115A.49 to 115A.54*

History: *11 SR 432; 12 SR 847; 15 SR 839; L 2005 1Sp1 art 2 s 161*

Published Electronically: *October 10, 2013*

9210.0130 ELIGIBILITY CRITERIA.

Subpart 1. **Eligible applicants.** Eligible applicants are limited to cities, counties, and solid waste management districts established under Minnesota Statutes, sections 115A.62 to 115A.72, and sanitary districts as defined in Minnesota Statutes, section 115A.03, subdivision 28b.

Subp. 2. **Eligible project.** For purposes of parts 9210.0100 to 9210.0180, "eligible project" means a waste processing facility that includes resource recovery, together with transfer stations, transmission facilities, or other related and appurtenant facilities primarily serving the waste processing facility. A transfer station that will initially transfer waste to a landfill is an eligible project if the transfer station is part of a resource recovery project proposed in an approved comprehensive solid waste management plan. Examples of eligible projects include waste to energy; materials recovery; chemical, physical, or biological modifications; processing of special waste streams including household hazardous waste; and waste incineration with resource recovery. Eligible projects are limited to those in which the land, buildings, and equipment are publicly owned.

Subp. 3. **Eligible costs.** Eligible costs under parts 9210.0100 to 9210.0180 are limited to the costs of land; waste processing equipment; structures necessary to house the waste processing equipment; transmission facilities; appropriate and necessary on-site utilities; landscaping; on-site roads and parking; structures necessary to concentrate and temporarily store solid waste before transportation to a waste processing facility; trailers, containers, and rolloff boxes necessary to transport wastes from transfer stations to a processing facility, to transport processing facility products to market, or to transport residue from the processing facility to a solid waste land disposal facility; and final design and engineering/architectural plans.

Subp. 4. **Ineligible costs.** Ineligible costs include costs related to solid waste disposal facilities and equipment; structures for housing and maintenance of rolling stock; collection equipment including drop boxes not located on the waste processing facility site; costs related to resource recovery studies, feasibility analyses, or preliminary design and engineering/architectural plans; and costs of leasing equipment.

Statutory Authority: *MS s 115A.06; 115A.49 to 115A.54*

History: *11 SR 432; 12 SR 847; 15 SR 839*

Published Electronically: *October 10, 2013*

9210.0131 PRELIMINARY GRANT APPLICATION.

Subpart 1. **Preliminary grant application.** A preliminary grant application must include the following information:

A. the name of each applicant and the name and qualifications of the project manager, a description of the proposed waste processing facility, a description of the institutional arrangements

necessary for project implementation and operation, a description of the method of facility procurement, and a description of the waste stream for the facility;

B. the status of the comprehensive solid waste management plan for each county to be affected by the proposed project, and an explanation of how the proposed project is consistent with the goals established by those plans;

C. information demonstrating:

(1) whether and to what extent the natural geologic and soil conditions of the counties that would be affected by the proposed project are unsuitable for land disposal of solid waste;

(2) whether and to what extent the area to benefit from the project has existing solid waste disposal capacity of less than five years; and

(3) whether the project serves more than one local government unit and, for projects serving eligible jurisdictions in only a single county, the extent to which cooperation with jurisdictions in other counties is not feasible;

D. a preliminary financial plan that includes:

(1) estimated total capital costs and total grant eligible costs for the project;

(2) estimated annual operating and maintenance costs, including disposal costs of residuals and anticipated equipment replacement costs; and

(3) anticipated sources of funding for the project, including projected tipping fees and revenues from recovered materials and energy;

E. a resolution from each political subdivision participating in the project that demonstrates that, if a grant is awarded, it will implement the project, provide necessary local financing, and accept and exercise the governmental powers necessary to develop and operate the project;

F. a description of the type and quantity of materials to be recovered and the existing and potential markets for those materials; and

G. an implementation plan for the proposed project that specifies the anticipated completion dates for environmental review, Pollution Control Agency permitting, facility construction, and the anticipated date of operation.

Subp. 2. **Completeness.** Applicants shall be notified by the commissioner if their preliminary grant applications are not complete and shall be given 30 days from the notification in which to complete their applications. Extensions shall be granted if requested in a timely manner and good cause exists for the extension. Applications that are not completed and received by the commissioner within the time allowed shall be considered ineligible for funding.

Statutory Authority: *MS s 115A.06*

History: *15 SR 839; L 2005 1Sp1 art 2 s 161*

Published Electronically: *October 10, 2013*

9210.0132 INVITATION TO SUBMIT FINAL GRANT APPLICATION.

Subpart 1. **Criteria.** The commissioner shall evaluate preliminary grant applications to determine which eligible projects will best assist the state in achieving its solid waste management goals. The commissioner shall base this evaluation on the following factors:

A. the consistency of the proposed project with the comprehensive solid waste management plan of each affected county;

B. the consistency of the proposed project with the legislative priorities in Minnesota Statutes, sections 115A.02 and 115A.49;

C. the consistency of the proposed project with regional solid waste management needs;

D. the extent to which the applicant is prepared to implement the proposed project upon receipt of the grant award; and

E. for projects serving eligible jurisdictions in only a single county, the extent to which cooperation with jurisdictions in other counties to develop the proposed project is not feasible.

Subp. 2. **Invitation to submit final grant application.** The commissioner shall invite the eligible applicants that the commissioner determines best meet the criteria in subpart 1 to submit final grant applications. If the commissioner determines that no application will provide sufficient assistance to the state in achieving its solid waste management goals, the commissioner may decide not to award any grant. The commissioner may then reinstate the process for awarding grants or loans by publishing a notice under part 9210.0120, subpart 5.

Statutory Authority: *MS s 115A.06*

History: *15 SR 839; L 2005 1Sp1 art 2 s 161*

Published Electronically: *October 10, 2013*

9210.0140 FINAL GRANT APPLICATION.

Subpart 1. **Final grant applications.** Final grant applications must include the following information as required in the application forms supplied by the commissioner:

A. the name of each applicant making the grant application;

B. the name of each political subdivision affected by the project, located in the area studied in the project, or located in the area in which the project is intended to be implemented;

C. resolutions from each applicant in conformance with Minnesota Statutes, section 115A.54, subdivision 3;

D. the name, qualifications, and address of the project manager;

E. the name and qualifications of the facility operator, if available;

F. the total capital cost of the project;

- G. the total grant-eligible cost of the project;
- H. the amount of grant funding requested;
- I. the amount and sources of all other funding contributions, including the amount of funds to be contributed by the applicant; and
- J. the type of waste processing facility for which the grant application is being submitted: waste to energy; materials recovery; chemical, physical, or biological modification; transfer stations; processing of special waste stream including household hazardous waste; or waste incineration with resource recovery.

Subp. 2. **Project changes.** Before submitting its final grant application, an eligible applicant may change the components of the proposed project as described in the preliminary grant application. If, however, those changes would result in a project that the commissioner determines no longer best meets the criteria in part 9210.0132, subpart 1, the commissioner shall remove the project from further consideration.

Statutory Authority: *MS s 115A.06; 115A.49 to 115A.54*

History: *11 SR 432; 15 SR 839; L 2005 1Sp1 art 2 s 161*

Published Electronically: *October 10, 2013*

9210.0150 SUPPORTING DOCUMENTATION REQUIRED TO BE SUBMITTED WITH FINAL GRANT APPLICATION.

Applicants shall submit the following supporting documentation with their final grant application:

- A. A copy of the original preliminary grant application submitted under part 9210.0131.
- B. A financial plan that contains:
 - (1) initial capital development costs and the method of financing those costs;
 - (2) annual operating and maintenance costs, including disposal costs of residuals and anticipated equipment replacement costs;
 - (3) projections of total facility costs and revenues over 20 years or for the term of the longest debt obligation, whichever is longer; and
 - (4) total capital costs per ton of installed daily capacity.
- C. A report demonstrating that the project is not financially prudent without state assistance, due to the applicant's financial capacity and the problems inherent in waste management in the area. The report shall include the following documentation:
 - (1) capital financing alternatives and operational cost financing alternatives, both public and private, explored by the applicant for the project and reasons for selecting the proposed financing methods;

(2) information on the applicant's financial situation including the applicant's current credit rating on general obligation bonds, the amount of general obligation bonds outstanding, general obligation debt divided by market valuation, and debt service levy divided by total levy. If the applicant has issued general obligation bonds in the past two years, the documentation must include the most recent general purpose financial statements, current year budgets, and official statement on bond issuance;

(3) projected facility tipping fees, product revenues, and other project revenues, with and without agency assistance;

(4) impact of proposed project on existing solid waste commitments, obligations and expenditures, and total current solid waste management costs on a per capita and per ton basis;

(5) general information pertinent to a determination of the applicant's financial capacity, including such factors as location, population characteristics, employment base, and other characteristics;

(6) transportation distances and estimated costs, both in waste collection and to markets for recovered resources;

(7) waste supply characteristics;

(8) availability of markets for recovered resources; and

(9) other characteristics of waste management in the area that render agency assistance important to the financial feasibility of the project.

D. For each county affected by the project, a comprehensive solid waste management plan, developed under Minnesota Statutes, section 115A.46 and approved by the commissioner.

E. Preliminary design and engineering/architectural plans and equipment specifications of the proposed waste processing facility, and a description of the management and staffing plans for the proposed project.

F. Documentation explaining how waste supplies will be committed to the project for the life of the project and that the applicant has mechanisms to commit the wastes.

G. A market analysis of recovered materials/energy, including documentation of market commitments such as letters of intent or contracts.

H. A report on the status of required permits from permitting agencies.

I. A report on time frames of project development.

J. Resolutions that comply with Minnesota Statutes, section 115A.54, subdivision 3.

Statutory Authority: *MS s 115A.06; 115A.49 to 115A.54*

History: *11 SR 432; 12 SR 847; 15 SR 839; L 2005 1Sp1 art 2 s 161*

Published Electronically: *October 10, 2013*

9210.0160 REVIEW AND EVALUATION OF FINAL GRANT APPLICATIONS.

Subpart 1. **Determination of eligibility and completeness.** Upon receipt of a final grant application, the commissioner shall confirm the eligibility of the applicant and the eligibility of the project, and shall determine the eligibility of the costs identified in the final grant application and the completeness of the final grant application.

Subp. 2. **Notice of determination of eligibility and completeness.** After receiving the final grant application, the commissioner shall notify the applicant of the commissioner's determinations of eligibility and completeness. If the commissioner determines that the applicant or the project is ineligible, the commissioner shall reject the final grant application, return it to the applicant, and notify the applicant of the reasons for the rejection. If the commissioner determines that any project costs are ineligible or that the final grant application is incomplete, the commissioner shall notify the applicant of the ineligible costs or shall identify the portions of the final grant application that are incomplete. The applicant has 30 days after receiving the notice to correct any inadequacies identified by the commissioner. If the inadequacies are corrected and the corrected application is received by the commissioner within the time allowed, the final grant application will be further considered.

Subp. 3. [Repealed, 15 SR 839]

Subp. 4. **Evaluation of final grant applications.** If the commissioner determines that the final grant application is eligible and complete, the commissioner shall evaluate the final grant application to determine whether the final grant application demonstrates:

- A. that the project is conceptually and technically feasible;
- B. that affected political subdivisions are committed to implementing the project, providing necessary local financing, and accepting and exercising the governmental powers necessary for project implementation and operation;
- C. that operating revenues from the project, considering the availability and security of sources of solid waste and of markets for recovered resources together with any proposed federal, state, or local financial assistance, will be sufficient to pay all costs over the projected life of the project;
- D. that the applicant has evaluated the feasible and prudent alternatives to disposal and has compared and evaluated the costs of the alternatives, including capital and operating costs, the effects of the alternatives on the cost to generators, and the effects of the alternatives on the solid waste management and recycling industry within the project's service area;
- E. that for projects serving eligible jurisdictions in only a single county, cooperation with jurisdictions in other counties to develop the project is not needed or not feasible; and
- F. that the project is not financially prudent without agency assistance, because of the applicant's financial capacity and the problems inherent in the waste management situation in the area, particularly transportation distances and limited waste supply and markets for resources recovered.

Subp. 5. **Award of grants.** If the commissioner determines that the final grant application satisfies the requirements of subpart 4, the commissioner shall determine the amount of the grant award and the applicant shall be notified. If the director determines that the final grant application fails to satisfy the requirements of subpart 4, the commissioner shall reject the final grant application and shall return the final grant application to the applicant, together with a statement of the reasons for the determination. An applicant that does not receive a grant award may resubmit a preliminary grant application upon future notice by the commissioner under part 9210.0120, subpart 5.

Subp. 6. **Consultation with other agencies.** During the evaluation of the final grant application, the commissioner shall consider any recommendations provided by the State Planning Agency and the appropriate regional development commission or the Metropolitan Council.

Statutory Authority: *MS s 115A.06; 115A.49 to 115A.54*

History: *11 SR 432; 12 SR 847; 15 SR 839; L 2005 1Sp1 art 2 s 161*

Published Electronically: *October 10, 2013*

9210.0170 LIMITATIONS.

Subpart 1. **Maximum grant award.** The maximum grant award is 25 percent of the eligible capital costs of the project or \$2,000,000, whichever is less, unless the project is a recycling project or a project to compost or cocompost waste. A recycling project or a project to compost or cocompost waste may receive grant assistance up to 50 percent of the capital cost of the project or \$2,000,000, whichever is less.

Subp. 1a. **Reduced grant award.** The commissioner may award a grant for less than the maximum grant amount. The commissioner shall ask an applicant to document the impacts of reduced grant assistance before reducing the amount of a grant award. The commissioner shall only reduce the amount of a grant award under the following conditions:

A. program resources are insufficient to provide full assistance to all applicants that are awarded grants by the commissioner;

B. the cost figures provided in the final grant application are significantly higher than the cost figures in the preliminary grant application without a change in the project scope approved by the commissioner under part 9210.0140, subpart 2, to justify the higher cost; or

C. the commissioner determines that the applicant has not adequately demonstrated financial need for the full grant amount.

Subp. 2. **Limitations on grant award.** The amount of the commissioner's grant award shall be limited to an amount needed to complete the project considering all the sources of funding presently available to the applicant.

Grants shall not be awarded to cover any cost associated with tasks performed before the execution of the grant agreement or after the expiration of the grant agreement.

Subp. 3. **Limitations on disbursement of funds.** No grant funds shall be disbursed until the commissioner has:

- A. determined the total estimated cost of the project;
- B. ascertained that financing of the project cost is assured by the recipient; and
- C. received commitments from the recipient to implement the project.

Statutory Authority: *MS s 115A.06; 115A.49 to 115A.54*

History: *11 SR 432; 12 SR 847; 15 SR 839; L 2005 1Sp1 art 2 s 161*

Published Electronically: *October 10, 2013*

9210.0180 GRANT AGREEMENT.

Subpart 1. **Requirements.** A grant agreement shall:

A. include as attachments the resolutions required under Minnesota Statutes, section 115A.54, subdivision 3;

B. incorporate by reference the final grant application submitted to the commissioner under part 9210.0120;

C. allow the recipient to enter into contracts to complete the work specified in the agreement subject to any approval by the commissioner that may be required in the agreement;

D. provide that any cost overruns incurred in the development of the proposed facility shall be the sole responsibility of the recipient;

E. provide that the commissioner will not accept amendments requesting that additional funds be awarded to the recipient;

F. require that the recipient provide periodic written reports to the commissioner on the developmental and operational history of the project so that knowledge and experience gained from the project may be made available to other communities in the state;

G. require total repayment of the grant if the facility is sold to a private enterprise within three years of the effective date of the grant agreement. Beginning on the third anniversary of the grant, the amount of the grant that must be repaid shall be reduced ten percent each year. The sales agreement between the recipient and the private enterprise shall transfer the responsibilities in subpart 1, item F to the private enterprise; and

H. require that the facility may only be sold to a private enterprise in accordance with the Constitution of the state of Minnesota and any applicable Minnesota statutes and rules.

Subp. 2. **Rescission of grant.** If a project is not completed and operational according to the terms and conditions of the grant agreement, including time schedules, the grant shall be rescinded, and the entire amount of the grant shall be repaid unless the commissioner determines that an amendment to the grant agreement is justified. The commissioner shall agree to an amendment if it will allow the original objectives of the project to be accomplished.

Subp. 3. **Disbursement.** The commissioner shall disburse grants according to the payment schedule in the grant agreement.

Statutory Authority: *MS s 115A.06; 115A.49 to 115A.54*

History: *11 SR 432; 12 SR 847; 15 SR 839; L 2005 1Sp1 art 2 s 161*

Published Electronically: *September 10, 2018*

ENVIRONMENTAL TESTING GRANTS

9210.0190 DEFINITIONS.

The definitions in Minnesota Statutes, section 115A.03, and in chapters 9205 and 9210 apply to part 9210.0200 unless the context requires otherwise.

Statutory Authority: *MS s 115A.49 to 115A.54*

History: *12 SR 847*

Published Electronically: *October 10, 2013*

9210.0200 ENVIRONMENTAL TESTING GRANTS.

Subpart 1. **Eligible applicants.** Eligible applicants are limited to those eligible under Minnesota Statutes, section 115A.50.

Subp. 2. **Eligible projects.** Eligible projects are limited to those eligible for funding under Minnesota Statutes, section 115A.54.

Subp. 3. **Eligible costs.** Eligible costs under this part are limited to the costs of tests necessary to determine the appropriate pollution control equipment for the project or the environmental effects of the use of any product or material produced by the project. The cost of routine environmental monitoring is not eligible for funding under this part.

Subp. 4. **Information on grant application.** Applications for environmental testing grants shall include the following information as required in the application forms supplied by the agency:

- A. the name of each applicant making the grant application;
- B. the name of each political subdivision affected by the project;
- C. the name, qualifications, and address of the project manager;
- D. the name, qualifications, and address of the facility operator;
- E. the total costs of testing eligible for funding under this part as documented by a proposal from a testing laboratory to perform the testing setting out the costs of the testing that will be performed;
- F. the amount of grant funding requested;

G. the type of waste processing facility for which the application is being submitted, and the type of testing that is needed for the facility; and

H. a work plan including a detailed description of the type of testing that will be performed, who will be performing the testing, and a time schedule for the testing. Applicants must contact the Pollution Control Agency before developing a work plan to receive assistance in determining the tests that are needed.

Subp. 5. **Review and approval of applications.** The commissioner shall review each application for funding under this part for eligibility and completeness. When the commissioner has determined that the applicant is eligible and that the application is complete, the commissioner shall forward the application to other appropriate regulatory agencies for review.

Subp. 6. **Agency determination.** The agency shall evaluate the application to determine if the proposed testing is necessary to determine the appropriate pollution control equipment for the project or the environmental effects of the use of any product or material produced by the project. In making this determination, the agency shall consider the comments of other regulatory agencies that have reviewed the application. If the agency determines that the proposed testing is necessary, the agency shall determine the amount to be awarded and authorize the commissioner to enter into an agreement with the applicant governing disbursement of funds.

Subp. 7. **Funding level.** The agency shall fund 100 percent of the cost of testing under this part. The maximum grant award per project shall be limited to \$200,000. Grants shall not be awarded to cover any cost associated with tasks performed before the grant award or after the expiration of the grant agreement.

Subp. 8. **Grant agreement.** The grant agreement shall incorporate by reference the final grant application submitted to the agency under this part; provide that any cost overruns incurred by the testing program shall be the sole responsibility of the recipient; provide that the agency will not accept amendments requesting that additional funds be awarded to the recipient unless the agency determines that additional testing is necessary; and require that the recipient make the information developed as a result of the testing available to the state and other persons who request the information.

Statutory Authority: *MS s 115A.49 to 115A.54*

History: *12 SR 847; L 1999 c 73 s 5; L 2005 1Sp1 art 2 s 161*

Published Electronically: *October 10, 2013*

9210.0300 [Repealed, L 2013 c 114 art 4 s 108]

Published Electronically: *October 10, 2013*

9210.0310 [Repealed, L 2013 c 114 art 4 s 108]

Published Electronically: *October 10, 2013*

9210.0320 [Repealed, L 2013 c 114 art 4 s 108]

Published Electronically: *October 10, 2013*

9210.0330 [Repealed, L 2013 c 114 art 4 s 108]

Published Electronically: *October 10, 2013*

9210.0340 [Repealed, L 2013 c 114 art 4 s 108]

Published Electronically: *October 10, 2013*

9210.0350 [Repealed, L 2013 c 114 art 4 s 108]

Published Electronically: *October 10, 2013*

9210.0360 [Repealed, L 2013 c 114 art 4 s 108]

Published Electronically: *October 10, 2013*

9210.0370 [Repealed, L 2013 c 114 art 4 s 108]

Published Electronically: *October 10, 2013*

9210.0380 [Repealed, L 2013 c 114 art 4 s 108]

Published Electronically: *October 10, 2013*

9210.0400 [Repealed, 22 SR 23]

Published Electronically: *October 10, 2013*

9210.0410 [Repealed, 22 SR 23]

Published Electronically: *October 10, 2013*

9210.0420 Subpart 1. [Repealed, 22 SR 23]

Subp. 2. [Repealed, 22 SR 23]

Subp. 3. [Repealed, 22 SR 23]

Subp. 4. [Repealed, 15 SR 695]

Subp. 5. [Repealed, 15 SR 695]

Subp. 6. [Repealed, 22 SR 23]

Subp. 7. [Repealed, 22 SR 23]

Published Electronically: *October 10, 2013*

9210.0425 [Repealed, 22 SR 23]

Published Electronically: *October 10, 2013*

9210.0430 [Repealed, 15 SR 695]

Published Electronically: *October 10, 2013*

9210.0435 [Repealed, 22 SR 23]

Published Electronically: *October 10, 2013*

9210.0440 Subpart 1. [Repealed, 22 SR 23]

Subp. 2. [Repealed, 22 SR 23]

Subp. 3. [Repealed, 15 SR 695]

Subp. 3a. [Repealed, 22 SR 23]

Subp. 4. [Repealed, 15 SR 695]

Subp. 4a. [Repealed, 22 SR 23]

Subp. 5. [Repealed, 22 SR 23]

Published Electronically: *October 10, 2013*

9210.0450 Subpart 1. [Repealed, 15 SR 695]

Subp. 2. [Repealed, 22 SR 23]

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

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

Subp. 3. [Repealed, 22 SR 23]

Subp. 4. [Repealed, 22 SR 23]

Published Electronically: *October 10, 2013*

9210.0460 [Repealed, 22 SR 23]

Published Electronically: *October 10, 2013*

9210.0500 [Repealed, 22 SR 23]

Published Electronically: *October 10, 2013*

9210.0510 [Repealed, 22 SR 23]

Published Electronically: *October 10, 2013*

9210.0520 [Repealed, 22 SR 23]

Published Electronically: *October 10, 2013*

9210.0530 [Repealed, 22 SR 23]

Published Electronically: *October 10, 2013*

9210.0540 [Repealed, 22 SR 23]

Published Electronically: *October 10, 2013*

9210.0550 [Repealed, 22 SR 23]

Published Electronically: *October 10, 2013*

9210.0560 [Repealed, 22 SR 23]

Published Electronically: *October 10, 2013*

9210.0570 [Repealed, 22 SR 23]

Published Electronically: *October 10, 2013*

9210.0600 [Repealed, 22 SR 23]

Published Electronically: *October 10, 2013*

- 9210.0610** [Repealed, 22 SR 23]
Published Electronically: *October 10, 2013*
- 9210.0615** [Repealed, 22 SR 23]
Published Electronically: *October 10, 2013*
- 9210.0620** [Repealed, 22 SR 23]
Published Electronically: *October 10, 2013*
- 9210.0625** [Repealed, 22 SR 23]
Published Electronically: *October 10, 2013*
- 9210.0630** [Repealed, 22 SR 23]
Published Electronically: *October 10, 2013*
- 9210.0635** [Repealed, 22 SR 23]
Published Electronically: *October 10, 2013*
- 9210.0640** [Repealed, 22 SR 23]
Published Electronically: *October 10, 2013*
- 9210.0645** [Repealed, 22 SR 23]
Published Electronically: *October 10, 2013*
- 9210.0700** [Repealed, 22 SR 23]
Published Electronically: *October 10, 2013*
- 9210.0710** Subpart 1. [Repealed, 22 SR 23]
Subp. 2. [Repealed, 22 SR 23]
Subp. 2a. [Repealed, 22 SR 23]
Subp. 3. [Repealed, 22 SR 23]
Subp. 4. [Repealed, 22 SR 23]
Subp. 5. [Repealed, 22 SR 23]
Subp. 6. [Repealed, 22 SR 23]
Subp. 7. [Repealed, 22 SR 23]
Subp. 8. [Repealed, 18 SR 394]
Published Electronically: *October 10, 2013*
- 9210.0720** [Repealed, 22 SR 23]
Published Electronically: *October 10, 2013*
- 9210.0730** [Repealed, 22 SR 23]
Published Electronically: *October 10, 2013*

9210.0740 [Repealed, 22 SR 23]

Published Electronically: *October 10, 2013*

9210.0750 [Repealed, 20 SR 2285]

Published Electronically: *October 10, 2013*

9210.0760 [Repealed, 20 SR 2285]

Published Electronically: *October 10, 2013*

9210.0770 [Repealed, 22 SR 23]

Published Electronically: *October 10, 2013*

ENVIRONMENTAL ASSISTANCE GRANT AND LOAN PROGRAM

9210.0800 SCOPE AND APPLICABILITY.

Parts 9210.0800 to 9210.0855 implement the environmental assistance grant and loan programs created and described under Minnesota Statutes, section 115A.0716, for projects or practices related to the research, development, or implementation of waste collection, processing, recycling, and reuse; resource recovery; source reduction, and prevention of waste, hazardous substances, toxic pollutants, and problem materials; the development or implementation of pollution prevention projects or practices; the collection, recovery, processing, purchasing, or market development of recyclable materials or compost; resource conservation; and for environmental education. Parts 9210.0805 to 9210.0830 apply to grants and loans. Parts 9210.0835 to 9210.0845 apply to the award of grants. Parts 9210.0850 to 9210.0855 apply to the award of loans.

Statutory Authority: *MS s 115A.0716*

History: *22 SR 23*

Published Electronically: *October 10, 2013*

9210.0805 DEFINITIONS.

Subpart 1. **Scope.** The terms defined in this part apply to parts 9210.0800 to 9210.0855. For terms not defined in this part, the definitions in Minnesota Statutes, sections 115A.03 and 115D.03, apply unless the context requires otherwise.

Subp. 2. **Capital costs.** "Capital costs" are:

- A. acquisition of machinery and equipment, including freight and installation; or
- B. leasehold improvements related to item A.

Subp. 3. **Direct loan.** "Direct loan" means a loan made by the Minnesota Pollution Control Agency without the contractual participation of a financial institution or other financial assistance provider.

Subp. 4. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Pollution Control Agency.

Subp. 5. **Environmental assistance.** "Environmental assistance" means projects or practices related to collection, processing, recycling, reuse, resource recovery, source reduction, and prevention of waste, hazardous substances, toxic pollutants, and problem materials; pollution prevention projects or practices; the collection, recovery, processing, purchasing, or market development of recyclable materials or compost; resource conservation; and environmental education.

Subp. 6. **Financial institution.** "Financial institution" means a bank, trust company, mortgage company, credit union, mortgage banker, national banking association, savings bank, savings association, building and loan association, insurance company, financial organization dealing in commercial credit or venture capital, or a lender certified by the secretary of Housing and Urban Development or by the secretary of Veterans Affairs, or approved or certified by the administrator of the Farmers Home Administration or any other financial lending institution, whether organized under federal law or the laws of any state of the United States, and whether located within or without this state.

Subp. 7. **Agency.** "Agency" means the Minnesota Pollution Control Agency.

Subp. 8. **Participation loan.** "Participation loan" means a loan, made to an eligible applicant by a financial institution or other financial assistance provider, in which the Minnesota Pollution Control Agency purchases a share of the financial institution or provider's loan to the eligible applicant by means of a participation agreement.

Subp. 9. **Person.** "Person" means any human being, any municipality or other governmental or political subdivision or other public agency, any public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing, or any other legal entity, but does not include the Pollution Control Agency.

Subp. 10. **Provider.** "Provider" means financial assistance providers other than financial institutions, such as governmental agencies and nonprofit organizations.

Subp. 11. **Real property.** "Real property" means fixed or stationary property, such as buildings or land.

Statutory Authority: *MS s 115A.0716*

History: *22 SR 23; L 2005 1Sp1 art 2 s 161*

Published Electronically: *October 10, 2013*

9210.0810 REQUEST FOR PROPOSALS.

Subpart 1. **All requests for proposal.** To initiate a process for awarding environmental assistance grants or loans, the commissioner shall publish a notice in the State Register advising eligible applicants of the availability of environmental assistance grants and loans and of a request for proposals (RFP) that describes the process by which applicants may apply for a grant or a loan. In the RFP, the commissioner shall:

- A. describe the process for awarding grants and loans and shall establish a deadline by which applications must be submitted;
- B. specify the maximum amount of funding to be awarded to a project;
- C. establish the minimum percentage of total project funds that an applicant must contribute to the project, and restrictions, if any, on the applicant's use of other state funds for the applicant's contribution; and
- D. for loans, specify the maximum interest rate and the maximum term of the loan.

Subp. 2. **Additional limitations.** If the commissioner intends that a grant or loan round also be limited in any of the following ways, the condition shall be included in the RFP:

- A. limits on certain eligible costs to a percentage of the total cost of the project;
- B. limits on or prioritizing of the types of projects and, accordingly, the eligible applicants for which a grant or loan would be awarded in the funding round initiated by the RFP;
- C. application information requirements, loan conditions, and evaluation criteria that relate to the grant or loan priorities or the funding round initiated by the RFP; or
- D. a requirement that applicants submit preliminary applications as described in part 9210.0820, subpart 1.

Statutory Authority: *MS s 115A.0716*

History: *22 SR 23; L 2005 1Sp1 art 2 s 161*

Published Electronically: *October 10, 2013*

9210.0815 ELIGIBILITY CRITERIA.

Subpart 1. **Eligible applicants.** Eligible applicants are persons as defined in part 9210.0805, subpart 9.

Subp. 2. **Eligible grant projects.** Eligible grant projects are projects that:

- A. research, develop, and/or implement environmental assistance projects or practices in Minnesota;
- B. enable persons to receive loans from financial institutions for environmental assistance projects or practices in Minnesota; or
- C. reduce interest payments on loans made by financial institutions for environmental assistance projects or practices in Minnesota.

Subp. 3. **Eligible loan projects.** Eligible loan projects are projects that research, develop, and/or implement environmental assistance projects or practices in Minnesota.

Subp. 4. **Eligible grant costs.** Eligible grant costs are limited to the costs of researching, developing, or implementing environmental assistance projects or practices in Minnesota, or reducing the interest payable on loans under subpart 2, item C.

Subp. 5. **Eligible loan costs.** Eligible loan costs are limited to the capital costs of researching, developing, or implementing environmental assistance projects or practices in Minnesota.

Subp. 6. **Ineligible costs.** The following costs are ineligible for grant or loan funds:

A. costs incurred before or after the term of the grant or loan agreement, including the applicant's cost to prepare the grant or loan application; and

B. the purchase of real property.

Statutory Authority: *MS s 115A.0716*

History: *22 SR 23*

Published Electronically: *October 10, 2013*

9210.0820 PRELIMINARY GRANT AND LOAN APPLICATION PROCEDURES.

Subpart 1. **Contents.** A preliminary application must include the following information:

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

B. a summary of the project;

C. anticipated project outcomes;

D. anticipated project costs; and

E. other information as established by the commissioner in the RFP required by part 9210.0810, subpart 2, item C.

Subp. 2. **Evaluation of preliminary application.** The commissioner shall evaluate each preliminary application to determine whether the project is eligible for funding. The commissioner shall further evaluate those preliminary applications that are eligible using the following criteria:

A. consistency of the project with the goals in Minnesota Statutes, sections 115A.02 and 115D.02;

B. potential of the project to accomplish the priorities in the RFP required by part 9210.0810;

C. the likelihood that the project will achieve the expected project outcomes identified in the preliminary application; and

D. for direct loans, the likelihood that no sufficient source of financing other than a direct loan by the agency can be obtained to conduct the project.

Subp. 3. **Invitation by commissioner.** The commissioner shall invite applicants whose preliminary applications best meet the criteria in subpart 2 to submit final applications. Only invited applicants remain eligible for grants or loans. For direct loans, applicants that are not invited to

submit final applications for direct loans because they do not meet the criteria in subpart 2, item D, but that best meet the other criteria in subpart 2, shall be invited to submit final applications for participation loans in lieu of direct loans.

Statutory Authority: *MS s 115A.0716*

History: *22 SR 23; L 2005 1Sp1 art 2 s 161*

Published Electronically: *October 10, 2013*

9210.0825 FINAL GRANT AND LOAN APPLICATION PROCEDURES.

Subpart 1. **Final applications.** Eligible applicants must submit an application to the agency in the format specified by the commissioner. Applications for a participation loan must be submitted in coordination with a financial institution or provider. Applications received by the commissioner after the deadline in the RFP will not be considered for funding. Final applications must include the following information:

A. the names, addresses, and qualifications of the applicant and other project participants, and a brief summary of the organization's history;

B. a description of the opportunity, problem, issue, or need the project will address;

C. project information, including:

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

(2) the anticipated project outcomes;

(3) if applicable, a discussion of the economic or social benefits to be achieved by the project; and

(4) a discussion of the technical and financial feasibility of the proposed project;

D. a project budget that:

(1) provides an itemized description of the project costs, including the total estimated cost, total eligible costs, and the amount of funding requested; and

(2) provides an itemized description of project financing, including applicant contributions, participant contributions, other government contributions, other private contributions, and, if applicable, any projected revenues from the project;

E. for all loans, financial information demonstrating creditworthiness and ability to repay the loan;

F. for participation loans, a copy of the financial institution's or provider's file on the applicant's loan and a letter containing the financial institution or provider's assessment of the risks associated with the loan and the creditworthiness of the applicant;

G. evidence that affected counties, regions, or districts have been notified of the proposed projects;

H. a statement of the current status of the project;

I. a description of how the project's impacts will be quantified and evaluated, including the criteria for a successful project; and

J. additional information as established by the commissioner in the RFP required in part 9210.0810, subpart 2, item C.

Subp. 2. **Nonpublic data.** The agency shall treat specific data in the application that meets the definition in Minnesota Statutes, section 13.37, subdivision 1, paragraph (b), or is sales information, as the data is required to be treated by Minnesota Statutes, section 115A.06, subdivision 13; however, the recipient of an environmental assistance grant or loan shall provide to the agency, for public distribution, complete and thorough reports about the results of the project in a way that does not disclose proprietary information.

Subp. 3. **Evaluation of final proposal.** In order to determine which projects should receive environmental assistance funding, the commissioner shall evaluate each application using the following criteria:

A. clarity and completeness of application;

B. qualifications of the individuals who will perform the work described in the project;

C. anticipated outcomes of the project;

D. cost-effectiveness of the proposed project;

E. for all loans, assets, and resources available to the applicant to repay the loan;

F. assets and resources available to the applicant to conduct the project;

G. project utilization of innovative technologies, methods, or techniques;

H. applicability of the proposed project and future dissemination of project results to other persons or organizations in the state;

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

J. additional criteria specified in the RFP required by part 9210.0810, subpart 2, item C.

The commissioner shall request additional information from the applicant during the evaluation process if needed to clarify the information provided pursuant to subpart 1.

Subp. 4. **Consultation.** In the commissioner's evaluation of an application, the commissioner may solicit and shall consider any recommendations provided by the Pollution Control Agency, advisory councils, task forces, citizen groups, other Minnesota state agencies, or any independent consultant hired by the commissioner to assist in the review of applications.

Subp. 5. **Award.** The commissioner shall award grants or loans to those projects that best meet the evaluation criteria in subpart 3. The commissioner shall promptly notify all applicants as to whether they have been awarded a grant or loan. Awards are contingent upon the commissioner and the grant recipient or borrower successfully entering into an agreement as specified respectively in part 9210.0845 or 9210.0850, and, if applicable, a contract and participation agreement as specified in part 9210.0855.

Subp. 6. **No awards.** If no proposed project has sufficient potential to implement environmental assistance in Minnesota, the commissioner shall not award any grants or loans. The commissioner may then reinstate the process for awarding either grants or loans by publishing the notice under part 9210.0810, subpart 1.

Statutory Authority: *MS s 115A.0716*

History: *22 SR 23; L 2005 1Sp1 art 2 s 161*

Published Electronically: *October 10, 2013*

9210.0830 LIMITATIONS.

Subpart 1. **Reduced awards.** The commissioner shall ask an applicant to document the impacts of reduced financial assistance before finalizing an award for less than the eligible amount requested by an applicant or less than the maximum award established in the RFP under part 9210.0820. Reduced funds may be awarded where the commissioner determines:

A. grant or loan programs resources are insufficient to provide full assistance to all applicants to which the commissioner intends to make awards; or

B. the applicant could undertake the project at a reduced level and still achieve project objectives.

Subp. 2. **Changes in work plan or budget.** If the work plan and/or budget are not complete, the commissioner shall request the applicant to modify them. If the applicant does not comply, the commissioner shall exclude the application from further consideration.

Subp. 3. **Limit on disbursement of grant funds.** No grant funds shall be disbursed until the commissioner has:

A. determined the total estimated cost of the project;

B. determined that the required matching funds are ensured by the recipient; and

C. executed a written grant agreement with the recipient meeting the requirements in part 9210.0845.

Subp. 4. **Limit on disbursement of loan funds.** No loan funds shall be disbursed until the commissioner has:

A. determined the total estimated cost of the project;

B. determined that the necessary financing for the project, including the required matching funds, is ensured by the borrower;

C. for a direct loan, executed a written loan agreement with the borrower meeting the requirements in part 9210.0850;

D. for a participation loan, executed a written participation agreement with the financial institution or provider meeting the requirements in part 9210.0855; and

E. for a participation loan, executed a written loan agreement with the borrower meeting the requirements of part 9210.0850.

Statutory Authority: *MS s 115A.0716*

History: *22 SR 23; L 2005 1Sp1 art 2 s 161*

Published Electronically: *October 10, 2013*

9210.0835 FEDERAL MATCH GRANTS.

The commissioner may award grants as a match to obtain federal grants without issuing an RFP under part 9210.0810 if the following conditions are met:

A. the applicant is eligible under part 9210.0815, subpart 1;

B. the project is eligible under part 9210.0815, subpart 2;

C. a proposal is submitted to the commissioner by the applicant containing all of the elements described in part 9210.0825, subpart 1;

D. the proposed project meets the criteria in part 9210.0825, subpart 3;

E. the project is consistent with the goals in Minnesota Statutes, sections 115A.02 and 115D.02; and

F. the grant awarded under this part makes up no more than 25 percent of the total federal grant award.

A match grant will not be finalized until the applicant has notified the commissioner in writing that the federal grant has been officially awarded. The notification must disclose the total dollar amount of the federal grant award and must include information verifying the existence of the federal grant award. Grant awards are contingent upon the commissioner and the grant recipient successfully entering into a grant agreement as specified in part 9210.0845.

Statutory Authority: *MS s 115A.0716*

History: *22 SR 23; L 2005 1Sp1 art 2 s 161*

Published Electronically: *October 10, 2013*

9210.0840 TIME-SENSITIVE GRANTS.

Subpart 1. **Availability.** The commissioner may award grants of less than \$10,000 for time-sensitive projects. The commissioner will not issue an RFP for time-sensitive grants, but shall designate priority funding areas for which funds under this part will be available. Eligible applicants may apply for time-sensitive grant funds at any time during the year. The commissioner shall at any time provide upon request:

- A. the total amount of funds budgeted for time-sensitive grants; and
- B. information on specific priority areas or projects for which a grant would be awarded.

Subp. 2. **Eligibility.** To be eligible, projects must meet the following criteria:

- A. the project is time sensitive in nature such that the applicant cannot reasonably apply during the process described in parts 9210.0810, 9210.0820, and 9210.0825;
- B. the applicant is eligible under part 9210.0815, subpart 1;
- C. the project is eligible under part 9210.0815, subpart 2;
- D. the project costs are eligible under 9210.0815, subpart 4;
- E. the grant request does not exceed 75 percent of total project costs;
- F. the total grant request is less than \$10,000; and
- G. in the previous 12 months, the applicant has not received funding under this part from the commissioner.

Subp. 3. **Application requirements.** Eligible applicants must submit an application to the commissioner, in the format specified by the commissioner, containing the following information:

- A. the names, qualifications, and addresses of the applicant and other project participants;
- B. a summary of the project;
- C. a project budget that:
 - (1) provides an itemized description of the project costs, including the total estimated cost, total grant-eligible costs, and the amount of grant funding requested; and
 - (2) provides an itemized description of project financing, including applicant contributions, participant contributions, other government contributions, private contributions, and, if applicable, any projected revenues from the project;
- D. a work plan that includes a list of each project activity or task, an implementation schedule with specific timelines, and persons involved;
- E. a justification for the commissioner's consideration of the project as a time-sensitive project;

F. anticipated project outcomes; and

G. any additional information that the commissioner requests as necessary to clarify the application.

Subp. 4. **Submittal information.** Information and applications for funding under this part are available at the following address: Time-Sensitive Grant Program, Minnesota Pollution Control Agency, 520 Lafayette Road, St. Paul, MN 55155-4100.

Subp. 5. **Evaluation and approval of applications.** The commissioner shall evaluate eligible proposals using the criteria listed in part 9210.0825, subpart 3, items A to I. In addition, the commissioner will consider the time sensitivity of a proposed project in deciding if the project warrants funding outside of the process described in parts 9210.0810, 9210.0820, and 9210.0825. Grant awards are contingent upon the commissioner and the grant recipient successfully entering into a grant agreement as specified in part 9210.0845.

Statutory Authority: *MS s 115A.0716*

History: *22 SR 23; L 2005 1Sp1 art 2 s 161*

Published Electronically: *October 10, 2013*

9210.0845 GRANT AGREEMENT.

Subpart 1. **Contents.** A grant agreement shall:

- A. incorporate a work plan and budget as approved by the commissioner;
- B. require that the recipient perform and complete project activities to meet anticipated project outcomes as defined in the work plan;
- C. provide that any cost overruns incurred in the implementation of the proposed project shall be the sole responsibility of the recipient;
- D. require that the recipient provide periodic written and/or oral reports to the commissioner on the progress and results of the project, and an executive project summary, as part of a final report submitted at the conclusion of the project, in a format specified by the commissioner;
- E. authorize the commissioner to rescind the grant and require the grant recipient to repay the grant if the project has not been conducted according to terms and conditions of the grant agreement;
- F. require that a percentage of funds not be paid to the recipient until the commissioner approves the recipient's final report;
- G. require that the recipient maintain records of all expenditures related to the agreement for a minimum period of five years after the grant agreement is executed and give the agency access to the records upon request; and
- H. establish other conditions or terms needed to manage or implement the grant agreement.

Subp. 2. Grants of less than \$1,000.

A. Recipients of grants that are less than \$1,000 are exempt from the requirement in subpart 1 to enter into a grant agreement with the agency if they prepare and submit, to the satisfaction of the commissioner, the following:

(1) a work plan, budget, and anticipated project outcomes, in a format approved by the commissioner; and

(2) a letter or resolution, as appropriate, signed by the appropriate authority, stating that the required matching funds are ensured by the recipient and committing the grant recipient to compliance with item B, subitems (1) to (8).

B. All recipients of grants that are less than \$1,000 and who are exempt from the requirement to enter into a grant agreement pursuant to item A must:

(1) perform and complete activities according to a work plan, budget, and anticipated outcomes, as approved by the commissioner;

(2) assume sole responsibility for any cost overruns incurred in the implementation of the proposed project;

(3) ensure that sufficient financing is available to the project to ensure its satisfactory completion;

(4) use grant funds solely for eligible costs as defined in part 9210.0815, subpart 4;

(5) provide a final report in a format specified by the commissioner, to the commissioner, on the results of the project, within 45 days after completion of project tasks;

(6) maintain records of all expenditures related to the project for a period of five years after the grant agreement is executed, and give the agency access to the records upon request;

(7) comply with the Minnesota Data Practices Act; and

(8) comply, if applicable, with the Americans with Disabilities Act of 1990, Public Law 100-336, as amended; Minnesota Statutes, chapter 363, the Minnesota Human Rights Act; Minnesota Statutes, section 181.59; and all applicable rules adopted under those laws.

Statutory Authority: *MS s 115A.0716*

History: *22 SR 23; L 2005 1Sp1 art 2 s 161*

Published Electronically: *October 10, 2013*

9210.0850 LOAN AGREEMENT.

A loan agreement shall:

A. incorporate a work plan and budget as approved by the commissioner;

B. require that the borrower perform and complete project activities to meet anticipated project outcomes as defined in the work plan;

C. provide that any cost overruns incurred in the implementation of the proposed project shall be the sole responsibility of the borrower;

D. require that the borrower provide periodic written and/or oral reports to the commissioner on the progress and results of the project in a format specified by the commissioner;

E. require that the borrower maintain records of all expenditures related to the agreement for a minimum period of three years after the loan is repaid, and give the agency access to the records upon request;

F. for direct loans, identify the interest rate and repayment obligations for the borrower;

G. for direct loans, identify the procedure for disbursing loan funds to the borrower;

H. for direct loans, authorize the commissioner to determine that the borrower is in default and require that the borrower immediately repay the loan in full if the project has not been conducted according to the terms and conditions of the loan agreement;

I. for direct loans, identify the collateral which will secure the loan; and

J. establish other conditions or terms needed to manage or implement the loan agreement.

Statutory Authority: *MS s 115A.0716*

History: *22 SR 23; L 2005 1Sp1 art 2 s 161*

Published Electronically: *October 10, 2013*

9210.0855 PARTICIPATION AGREEMENT.

Subpart 1. **Participation agreement.** In cases where a participation loan is awarded, a participation agreement shall be signed by the financial institution or provider and the agency.

Subp. 2. **Security requirements.** All participation loans must be secured by collateral. The financial institution or provider and the agency shall take interests in collateral acceptable to the financial institution or provider and the agency.

Subp. 3. **Loan servicing.** The participation agreement shall also:

A. require that loan payments be made according to an amortization schedule, established by the financial institution or provider, that has first been reviewed and approved by the agency;

B. require that the financial institution or provider collect payments according to the payment schedule outlined in the promissory note and remit to the state the agency's pro rata share of a payment within 15 days of receipt or, if applicable, in accordance with Minnesota Statutes, section 16A.275. Prior to executing the participation agreement, the financial institution or provider shall negotiate with the agency the amount or percentage of interest to be retained by the financial

institution or provider after collection as payment for duties performed by it under the contract; and

C. require the financial institution or provider to notify the agency within 30 days after a determination by the financial institution or provider of a default. The financial institution or provider must pursue all reasonable means to collect the defaulted loan from the borrower and must apply and exhaust the loan security as necessary to effect payment of the loan. The financial institution or provider must remit to the agency its pro rata share of any amounts collected after subtracting reasonable costs to collect upon the defaulted loan. In lieu of foreclosure, either before or after declaring a default, the financial institution or provider and the agency may agree to refinance or renegotiate the loan when doing so will enhance the possibility of recovery of the debt.

Statutory Authority: *MS s 115A.0716*

History: *22 SR 23; L 2005 1Sp1 art 2 s 161*

Published Electronically: *October 10, 2013*

9210.1000 [Repealed, 22 SR 23]

Published Electronically: *October 10, 2013*

9210.1010 [Repealed, 22 SR 23]

Published Electronically: *October 10, 2013*

9210.1020 [Repealed, 22 SR 23]

Published Electronically: *October 10, 2013*

9210.1030 [Repealed, 22 SR 23]

Published Electronically: *October 10, 2013*

9210.1040 [Repealed, 22 SR 23]

Published Electronically: *October 10, 2013*

9210.1050 [Repealed, 22 SR 23]

Published Electronically: *October 10, 2013*

9210.1060 [Repealed, 22 SR 23]

Published Electronically: *October 10, 2013*