

**STATE OF MINNESOTA
WASTE MANAGEMENT BOARD**

In the Matter of the Proposed
Amendments of Rules Governing
Hazardous Waste Processing
Facility Grants and Loans

Statement of Need
and Reasonableness
(SONAR)

I. INTRODUCTION

The subject of this rulemaking procedure is a set of proposed amendments of the adopted rules governing the hazardous waste processing facility grant and the hazardous waste processing facility loan programs. Amendments to the grant rules are authorized by Minnesota Statutes, Section 115A.06, Subd. 2 and Section 115A.156, as amended by Minn. Laws 1987, Chapter 348, Sections 9 to 11. Authority to amend loan rules is contained in Minnesota Statutes, Section 115A.06, Subd. 2 and 115A.162.

The adopted grant and loan rules are proposed to be amended in provisions affecting scope and authority, definitions, eligibility criteria, grant application, application process, evaluation of proposals, award of grant and grant agreement.

II. NEED FOR PROPOSED AMENDMENTS

A. Grant Rules

The Waste Management Board (Board) is authorized by Minnesota Statutes, Section 115A.156 (1986) as amended by Minn. Laws 1987, Ch. 348, Sections 9 to 11 to make grants to eligible recipients to determine the feasibility and method of developing

and operating specific types of commercial facilities and services for collecting and processing industrial waste in addition to hazardous waste.

The rules are proposed to be amended in order to reflect the application of this grant program to industrial waste projects and to improve the administration of the program based upon the experience of the Board since the program began in 1984.

B. Loan Rules

The Board is directed by Minnesota Statutes, Section 115A.162 to review applications for hazardous waste processing facility loans. The authority to make these loans was transferred from Minnesota Energy and Economic Development Authority (MEEDA) to Minnesota Agricultural and Economic Development (MAED) Board under Minnesota Laws 1987, Article 9, Section 20, Subdivision 2. The rules are proposed to be amended to reflect this shift of authority from MEEDA to MAED.

III. REASONABLENESS OF PROPOSED AMENDMENTS

9200.6000 Scope and Authority

An amendment is proposed to change the name of the lending agency under the loan program from energy and economic development authority to agricultural and economic development board. Because the 1987 Minnesota Legislature transferred the authority to make hazardous waste loans from MEEDA to MAED, it is reasonable to reflect this change in the Board's rules governing the loan program.

9200.6001 Definitions

Four amendments are proposed for the section addressing definitions. An amendment is proposed to change "authority" to "lending authority" and its description from Minnesota Energy and Economic Development Authority created

in Minnesota Statutes, Section 116M.06 to Minnesota Agricultural and Economic Development Board created in Minnesota Statutes, Section 41A.02. It is reasonable to reflect this statutory transfer of authority in the Board's rules governing the loan program.

A second amendment is proposed to change the definition of "commissioner" from commissioner of energy and economic development to commissioner of trade and economic development. It is reasonable to reflect this statutory change in agency title in the Board's rules governing the loan program.

A third amendment is proposed to expand the definition of generator to include the waste stream of industrial waste. This amendment is reasonable because it fulfills a statutory obligation of the Board to include the eligibility of industrial waste generators in the Board's grant program.

A fourth amendment is proposed to include the statutory definition of industrial waste. It is necessary to provide a definition of industrial waste because industrial waste generators, collectors and processors will be potentially eligible for grants under the Board's program.

9200.6002 Eligibility Criteria

Four amendments are proposed for the section addressing eligibility criteria. An amendment is proposed under subpart 1 to clearly define the limitations of eligibility as outlined under part 9200.6004, subpart 3. This amendment is reasonable because it alerts potential applicants to the limitations of eligibility as proposed under part 9200.6004, subpart 3.

Three other amendments are proposed to facilitate the inclusion of industrial waste streams into the grant program and thereby fulfill a statutory obligation of the Board. The language of this section is proposed to be amended to include the eligibility of industrial waste generators, collectors and processors in this grant program. These amendments are reasonable because they clarify language in the rules regarding the eligibility of generators, processors and collectors of industrial waste.

9200.6003 Grant Application

Three amendments are proposed for the section addressing grant application. An amendment is proposed to transfer grant application responsibilities from the Board to the chairperson. This amendment is reasonable because it affects administrative duties that are more appropriately performed by the chairperson than the Board.

A second amendment is proposed to change the name of the lending agency under the loan program from Energy and Economic Development Authority to Agricultural and Economic Development Board. This change reflects the statutory transfer of authority for the loan program from MEEDA to MAED referred to in Part II.B of this Statement of Need and Reasonableness.

A third amendment is proposed to change the language of this section to include the eligibility of industrial waste generators, collectors and processors in the loan program to reflect the expanded purpose of this program as provided in 1987 Amendments to Minn. Stat. Section 115A.156.

9200.6004 Application Process

Two amendments are proposed for the section addressing application process. An amendment is proposed to allow written notices as a means by which the board may solicit grant applications, if eligibility is limited pursuant to new subpart 3. This is a reasonable and efficient means to solicit grant applications from persons if eligibility is limited under new subpart 3 because of the relatively low number of potential applicants.

A second amendment for this section enables the Waste Management Board to direct assistance under the matching grant program to persons who respond to the Board's Request for Proposal (RFP) for development of a stabilization and containment, or the developer selected to develop the facility under Minnesota Statutes 115A.192. The RFP was issued in June, 1987 for development of the facility. It is anticipated that the developer will be selected in late 1987. Assistance may also be directed to persons responding to other RFPs which the Board may issue under its authority in Minnesota Statutes, Section 115A.158. It is reasonable for the Board to have the authority to limit grant funds to applicants who are actively seeking to develop specific types of facilities desired by the Board as evidenced by the applicant's response to RFP's issued by the Board or by Board selection of the applicant as a developer of the stabilization and containment facility authorized by statute.

9200.6006 Evaluation of Proposals

No amendments are proposed for the section addressing evaluation of proposals.

9200.6007 Award of Grants

Two amendments are proposed for the section addressing award of grants. An amendment is proposed to distinguish the matching funds requirement for hazardous waste generators, collectors and processors from that of industrial waste generators, collectors and processors. For hazardous waste, a recipient other than an association of generators in the state shall agree to provide at least 50 percent of the cost of the proposal. An association of two or more hazardous waste generators in the state shall agree to provide at least 20 percent of the cost of the proposal.

A second amendment is proposed to clearly define the matching funds requirement for industrial waste generators. For industrial waste a grant must be matched by money or in-kind services provided by the grantee covering at least 50 percent of the project cost.

Both amendments to 9200.6007 are reasonable because Minnesota Laws 1987 115A.156 Subd. 5 requires hazardous and industrial waste grant recipients to provide matching funds at the stated percentages for each waste stream.

9200.6008 Grant Agreement

Amendments proposed for this section to revise and improve the grant agreement termination process based upon the Waste Management Board's previous experience in implementing this grant program. The amendments are reasonable because they enable the chairperson to negotiate amendments to grant agreements to resolve matters that would otherwise require cancellation of the agreements. These changes will allow flexibility in modifying grant agreements where the original purposes of the grant can still be accomplished, while setting a 60-day period for resolution of the matter so that there is adequate incentive to

reach a resolution. A provision of the proposed amendments directs the chairperson to promptly notify Board members after any suspension of work or grant amendment executed under this part. It is reasonable to provide the Board with current information regarding the status of grant agreements executed under this grant program.

IV. EFFECT OF PROPOSED AMENDMENTS ON SMALL BUSINESS

The proposed amendments do not directly affect small businesses and therefore do not require the Board to address the requirements of Minnesota Statutes Section 14.115. The rules or amendments do not impose any requirements or standards on the operation of small businesses. The programs which these amendments are designed to modify will provide grants and loans to persons seeking to develop and operate industrial and/or hazardous waste collection and processing facilities and services. Availability of these facilities and services to small businesses generating industrial and/or hazardous waste is an important goal of the Board.

WP/IHG/HWPFR/KM