

STATE OF MINNESOTA
WASTE MANAGEMENT BOARD

In the Matter of the Proposed Amendments to
Existing Rules Governing the Hazardous Waste
Reduction Grants Program

State of Need and
Reasonableness

I. INTRODUCTION

The subject of this rulemaking procedure is proposed amendments to an existing set of rules governing the hazardous waste reduction grants program. The Waste Management Board (Board) is authorized to adopt rules for awarding grants under this program by Minnesota Statutes, sections 115A.06, subdivision 2 and 115A.154 (1984).

The existing rules contain guidelines for applicants who wish to apply for hazardous waste reduction grants. Items covered by the rules also include eligibility criteria, procedures and criteria to evaluate grant applications, and provisions related to the award of a grant. The amendments to existing rules proposed for adoption relate to the following matters: (1) the type of projects eligible under the grant program; and (2) the types and amount of information required on the grant application.

II. NEED FOR THE PROPOSED AMENDMENTS TO EXISTING RULES

The Waste Management Board is directed by Minnesota Statutes, section 115A.154, subdivision 1, to make grants to generators of hazardous waste for studies to determine the feasibility of applying specific methods and technologies to reduce the generation of hazardous waste.

The Board has gained valuable experience in the administration of hazardous waste reduction grants during the first year of the program. Seven grant applications

were received by the Board; six of the applicants were awarded waste reduction grants. In addition, a survey questionnaire was distributed to companies which had requested a copy of the application form, but did not apply for a grant. Information on the reasons these companies decided not to apply and program changes which might increase the number of applications was obtained through the survey.

The amendments to the existing rules proposed for adoption are needed to broaden the criteria for establishing project eligibility, and to reduce the amount of information required on an application. Adoption of the proposed amendments would reduce the burden on generators, particularly small businesses, in preparing grant applications, and would be likely to increase participation in the program.

III. REASONABLENESS OF THE PROPOSED AMENDMENTS TO EXISTING RULES

9200.9500 Scope and Authority

This part is unchanged.

9200.9501 Definitions

The changes in terms used in Part 9200.9501 affect only the definition of "reduction." Waste "reduction" has been revised to include the "abatement, minimization, reuse or recycling" of hazardous waste which causes a decrease in the total quantity of hazardous waste generated by the generator.

Under the revised definition of "reduction," actions which could be undertaken by a generator include changes in manufacturing or production processes as well as in-plant actions to decrease the quantity of waste shipped off-site for treatment or disposal. This broadened definition of "reduction" will expand the scope of projects eligible under the program, thereby assisting the Board in

meeting one of its primary policy objectives, which is reducing the amount of hazardous waste generated in Minnesota.

9200.9502 Eligibility Criteria

The changes in this part are to simplify the language regarding eligible projects by changing sentence structure and deleting examples.

9200.9503 Grant Application

This part identifies the types of information that must be provided by the applicant. Part 9200.9503A. remains unchanged.

Part 9200.9503B. has been revised substantially by deleting portions of this part. Based on the Board's experience with grant applications received, a number of the requirements included in the existing rules are not necessary to review and evaluate grant applications.

The applicability of the method or technology to other generators of similar wastes can better be addressed by the Board than by grant applicants. Since generators are not aware of the total amount of hazardous waste generated in the state and the types of industries which generate the most waste, the responses to this requirement in the first round of grant applications were not useful.

Only current year data on waste generation are needed to estimate potential waste reduction. Historic data on waste reduction are often not available; projections of waste generation in the future are difficult to calculate. As a result, the only waste generation information needed to evaluate a grant application is the quantity generated in the previous calendar year.

Based on the responses received in the first round of grant applications, the requirement that the applicant discuss the importance of achieving waste reduction is

unnecessary. The responses which were provided were generally self-evident. Applicants provided no information which was useful in evaluating applications; therefore, the requirement is unnecessary.

The relationship between the applicant's expected waste reduction and the Board's policies and plans as reflected in the Board's Hazardous Waste Management Report and Draft Certificate of Need is an issue that can best be addressed by the Board in its evaluation of the grant applications. Therefore, it is not necessary to require grant applicants to comment on this issue.

Part 9200.9503C. is revised by deleting two elements of the existing rules. The requirements that an applicant include a statement explaining the need for the grant and a description of previous requests for funds from other sources are both considered unnecessary.

The need for state assistance is apparent due to the high risk (i.e. uncertain results) associated with the types of studies funded under the grants program. Information on previous requests for funds from other sources is not considered to be necessary information to evaluate a grant application.

9200.9504 Application Process

This part delete the requirement that an applicant submit a Letter of Intent prior to submission of a full application. This provision was included in the existing rules to provide the Board with some indication of the number of applications that may be submitted. Since the Letter of Intent was not mandatory, and in light of the Board's experience with the program, the Letter of Intent is not considered necessary.

The application process has been revised to provide greater flexibility with

respect to the application deadline and additional funding rounds, in order to better accommodate the needs of generators in preparing a grant application.

9200.9505 Initial Application Review

This part is unchanged.

9200.9506 Evaluation of Proposals

The primary change in this part is to correct language in the existing rules. In evaluating proposals, the Board considers both the reduction in the quantity of waste generated and the reduction in risk to the public health and safety and the environment. The language change is needed to reflect the evaluation process as it is conducted.

9200.9507 Award of Grants

This part is unchanged.

9200.9508 Grant Agreement

The change in this part deletes unnecessary language. The issue of project feasibility is considered under Part 9200.9506, Evaluation of Proposals.

IV. EFFECT OF PROPOSED AMENDMENTS TO EXISTING RULES ON SMALL BUSINESS

Participation in the Hazardous Waste Reduction Grants Program is open to all businesses which meet the eligibility requirements of the rules. This would include companies considered "small businesses" under Minnesota Statutes, section 14.115.

Since participation is strictly voluntary, the proposed amendments to the existing rules do not directly affect small business and therefore do not require the Board to address the requirements of Minnesota Statutes, section 14.115. The rules do not impose any requirements or standards on the operation

of small businesses.

The proposed amendments are designed to encourage voluntary participation in the program by small businesses by broadening the types of projects eligible for a grant and by reducing the amount of information required in a grant application. These proposed changes are being made in response to concerns raised by interested parties, including small businesses, with respect to the existing program. By adopting the proposed amendments, the Board wishes to assure that small businesses which generate hazardous waste have a reasonable opportunity to qualify for and receive grants under this program, and that the grant rules do not unnecessarily deter small businesses from pursuing and utilizing hazardous waste reduction grants.

V. CONCLUSION

Based on the foregoing, the proposed amendments to existing rules are both needed and reasonable.