

CHAPTER 7075
MINNESOTA POLLUTION CONTROL AGENCY
WATER QUALITY DIVISION
WATER POLLUTION CONTROL FUND AND
FEDERAL GRANTS

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7075.0100 PURPOSE.

This chapter is herein adopted and promulgated by the Minnesota Pollution Control Agency to implement the provisions of Minnesota Statutes, chapters 115 and 116 and to comply with the Federal Water Pollution Control Act, United States Code, title 33, sections 1251 et seq., and guidelines and regulations pursuant thereto, by the establishment of procedures relating to the federal construction grants and state construction grant and loan programs.

The promulgation of this chapter, in association with the agency's enabling legislation, provides authority for the state of Minnesota, upon approval by the regional administrator of the United States Environmental Protection Agency, to certify applicants for federal construction grants and subsequently, to the extent funds are available, provide state construction grants. The Minnesota Pollution Control Agency is the state agency designated by state law to administer this program. Except as specifically provided herein, this chapter shall apply with equal force to state financial assistance and federal grant funds.

Statutory Authority: *MS s 116.16 subd 5*

7075.0200 DEFINITIONS.

Subpart 1. Scope. The terms specified below shall have the meanings ascribed to them.

Subp. 2. Act. "Act" means the Federal Water Pollution Control Act, United States Code, title 33, sections 1251 et seq.

Subp. 3. Adequate errors and omissions insurance. "Adequate errors and omissions insurance" means a policy of insurance which provides the minimum amount of coverage for the corresponding estimated project construction cost as determined from the following table, which is maintained for a minimum of two years after acceptance of the project by the grantee:

Estimated Project Construction Cost	Minimum Amount of Coverage
less than \$1,000,000	\$ 250,000
\$1,000,000 to \$2,999,999	\$ 500,000
\$3,000,000 to \$9,999,999	\$1,000,000
\$10,000,000 or over	\$2,000,000

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If an engineer has more than one project, the policy must provide for the minimum coverage applicable to the highest estimated project construction cost. Requests for variances from the requirements of this part shall be governed by part 7075.1300, subpart 12.

Subp. 4. Administrator. "Administrator" means the administrator of the United States Environmental Protection Agency.

Subp. 5. Category of project. "Category of project" means the part of the disposal system the municipality intends to construct.

Subp. 6. Construction loan. "Construction loan" means a loan for a step 3 project.

Subp. 7. Contract. "Contract" means a contract between a municipality and an engineer or a contractor for the planning, design, or construction of a disposal system, or part thereof, which will be paid for, in all or in part, by state construction grant funds.

Subp. 8. EPA. "EPA" means the United States Environmental Protection Agency.

Subp. 9. Grantee. "Grantee" means the grantee of a state construction grant.

Subp. 10. Metropolitan area. "Metropolitan area" means Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington counties.

Subp. 11. Need. "Need" means a determination that a new or upgraded disposal system is currently required, or will be required within a five-year period to comply with state water pollution control rules; provided, the situation does not exist primarily due to inadequate operation and maintenance or primarily due to negligence on the part of any person.

Subp. 12. Nonmetropolitan area. "Nonmetropolitan area" means all counties of the state not in the metropolitan area.

Subp. 13. Planning loan. "Planning loan" means a loan for step 1 and/or step 2 projects.

Subp. 14. Primary treatment. "Primary treatment" means any level of treatment of lesser quality than secondary treatment.

Subp. 15. Project. "Project" means the scope of work for which grant assistance is awarded.

Subp. 16. Regional administrator. "Regional administrator" means the EPA regional administrator for the region in which Minnesota is located (now region five).

Subp. 17. Resident inspection. "Resident inspection" means that the consulting engineer or his agent shall be present on-site, during the hours of construction for purposes of inspection. It does not mean the inspector has to be a resident of the community.

Subp. 18. Scope of project. "Scope of project" means step 1, step 2, or step 3 of disposal system construction or segments thereof.

Subp. 19. Secondary treatment. "Secondary treatment" shall have the meaning ascribed to it in or amendments thereto.

Subp. 20. Tertiary treatment. "Tertiary treatment" means any level of treatment of higher quality than secondary treatment.

Subp. 21. Type of project. "Type of project" means its "step":

A. "Step 1" means all necessary preliminary engineering studies for the project.

B. "Step 2" means the preparation of construction plans and specifications for the project.

C. "Step 3" means the construction of the project.

Subp. 22. Statutorily-defined terms. The terms "person," "sewage," "industrial wastes," "other wastes," "treatment works," "sewer system," "disposal system," "waters of the state," "pollution control fund," "municipality,"

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"director," "agency," "pollution of water," "eligible cost," "wastewater treatment facility," as well as any other pertinent terms for which definitions are given in Minnesota Statutes, chapters 115 and 116 shall have the meanings ascribed to them therein.

Subp. 23. **Other terms.** Other terms and abbreviations used herein which are not specifically defined by law shall be construed in conformance with the context and professional usage.

Statutory Authority: *MS s 116.16 subd 5*

7075.0300 SEVERABILITY.

If any provision of this rule or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions of the rule or application of any other part of this rule which can be given effect without application of the invalid provision. To this end, the provisions of all sections, subsections, or subdivisions herein and the various applications thereof are declared to be severable.

Statutory Authority: *MS s 116.16 subd 5*

7075.0400 PRIORITY OF PROGRAMS.

Minnesota Statutes, sections 116.16 et seq. establish a pollution control fund and authorize grants and loans for the construction of municipal disposal systems. To the extent funds are available and requested, the agency shall disburse funds from the pollution control fund in the following order:

A. grants for projects tendered a 75 percent federal grant under the act and, to the extent authorized by statute, grants for projects utilizing innovative or alternative wastewater treatment processes and techniques which have been tendered an 85 percent federal grant under the act;

B. grants to reduce or eliminate the local contribution of a municipality meeting the criteria set forth in part 7075.1300, subpart 2, item D, subitem (2);

C. grants to municipalities which would qualify for a federal grant but which desire to initiate construction of the project without a federal grant; and

D. loans for the construction of municipal disposal systems.

Statutory Authority: *MS s 116.16 subd 5*

CONSTRUCTION GRANT PROGRAM

7075.0500 SUMMARY OF CONSTRUCTION GRANTS PROGRAM.

Subpart 1. **Three steps.** The construction grants program generally consists of three steps: Step 1: preparation of all necessary preliminary engineering studies; step 2: preparation of construction plans and specifications; and step 3: construction of the disposal system or part thereof.

Subp. 2. **Grant awards.** Grants may be awarded for a step 1, step 2, or step 3 project or, as authorized by the act, for a project which combines steps.

Subp. 3. **Scope of project.** The scope of the project is initially defined by the applicant but may be revised by the agency or by EPA.

Subp. 4. **Priority.** Grants are awarded to municipalities on a priority basis. Priority is determined as follows:

A. The director shall develop a municipal discharge inventory which lists in priority order, pursuant to part 7075.0600, subpart 3, all municipalities which maintain a discharge of effluent, including those municipalities which utilize land application or individual sewage treatment systems. This inventory includes municipalities which have adequate disposal systems as well as those which have a need for a new or upgraded disposal system.

B. The agency shall develop a municipal needs list from the municipal discharge inventory. The municipal needs list shall rank in priority order,

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pursuant to part 7075.0700, subpart 2, item B, all municipalities or projects for which a need exists.

C. A municipal project list shall be developed by the agency from the municipal needs list. The municipal project list shall list in priority order, pursuant to part 7075.0800, subpart 2, all projects which will be funded during the current fiscal year. The municipal project list shall also list any nonproject uses of the state's allotment of federal construction grant funds.

Subp. 5. **Public participation.** Public participation shall be sought by the agency prior to the adoption of the municipal needs list and the municipal project list, pursuant to part 7075.1100.

Subp. 6. **Application.** Each applicant must apply to the agency for each proposed grant in the manner set forth in part 7075.1100.

Subp. 7. **Certification of complete applications.** The agency shall certify applications which have been determined to be complete for a grant of federal funds from EPA.

Subp. 8. **Disbursement of funds.** Funds shall be disbursed to a municipality in the manner set forth in part 7075.1300, subpart 5.

7075.0600 MUNICIPAL DISCHARGE INVENTORY.

Subpart 1. **Municipal discharge inventory list.** The director shall develop and maintain a municipal discharge inventory listing all those municipalities which maintain a discharge of effluent, including those which utilize land application or individual sewage treatment systems.

Subp. 2. **Items on list.** The municipal discharge inventory shall include those municipalities which have adequate disposal systems as well as those which have a need for a new or upgraded disposal system.

Subp. 3. **Points.** Each municipality shall be awarded points pursuant to the criteria set forth in subpart 4. The municipalities shall be listed on the municipal discharge inventory in descending order according to the number of points awarded to each.

Subp. 4. **Criteria.** Criteria:

A. Priority points shall be awarded as set forth below from a determination of the highest single beneficial water use seriously affected, or if no pollution problem currently exists, from a determination of the highest single beneficial water use to be preserved.

Class 1 Domestic water supply:

- (1) direct consumption (groundwater), 70;
- (2) consumption after only disinfection by chlorination, 65;
- (3) consumption after moderate water treatment process, 60; and
- (4) consumption after very complete water treatment process, 55.

Class 2 Fisheries and recreation waters:

- (1) propagation and maintenance of cold water fishery and all recreation uses, 60;
- (2) propagation and maintenance of mixed fishery and all recreational uses, 50; and
- (3) propagation and maintenance of rough fishery and noncontract recreational uses, 40.

Class 3 Industrial consumption, except food processing and related uses:

- (1) direct use without chemical treatment, 40;
- (2) use with moderate treatment, 30; and
- (3) use for cooling and material transport, 20.

Class 4 Agriculture and wildlife:

- (1) irrigation and agricultural crops of all kinds, 35; and

(2) watering of livestock and wildlife, 30.

Class 5 Commercial navigation and waste disposal

B. Priority points shall be assigned for each type of project based on the population of the municipality, or population of the municipalities served by such project as determined by the most recent reliable census, as follows:

- (1) municipal population under 250, two;
- (2) municipal population from 251 to 500, four;
- (3) municipal population from 501 to 750, six;
- (4) municipal population from 751 to 1,000, eight;
- (5) municipal population from 1,001 to 1,500, ten;
- (6) municipal population from 1,501 to 3,000, 12;
- (7) municipal population from 3,001 to 5,000, 14;
- (8) municipal population from 5,001 to 10,000, 16;
- (9) municipal population from 10,001 to 20,000, 20;
- (10) municipal population from 20,001 to 50,000, 25;
- (11) municipal population from 50,001 to 450,000, 35; and
- (12) municipal population in excess of 450,000, 50.

C. Pursuant to section 303(e) of the act and guidelines and regulations thereto relating to the state continuing planning process, all waters of the state shall be divided into segments and each segment classified as either water quality or effluent limited. The director shall annually develop a list of segments, and after giving consideration to: severity of pollution problems, population, need for preservation of high quality waters, and national priorities as determined by the administrator, priority points will be established in accordance with criteria approved by the agency and the EPA.

The segment ranked number one shall be awarded priority rating equal to the total number (N) of segments with any subsequent segment receiving a priority rating of $N + 1$ minus the numerical ranking of the segment. Priority points shall be accordingly awarded to a municipality for the type of project located in a segment.

Statutory Authority: *MS s 116.16 subd 5*

7075.0700 MUNICIPAL NEEDS LIST.

Subpart 1. **Development.** The agency shall develop, and update whenever necessary, a municipal needs list listing all municipalities for which a need exists or which desire to construct eligible projects which do not meet the enforceable requirements of the act.

Subp. 2. **Award of points.** Each municipality shall be awarded points in the following manner:

A. points awarded pursuant to part 7075.0600, subpart 4, in the development of the municipal discharge inventory; and

B. points awarded pursuant to the criteria set forth in subpart 3. The municipalities or projects shall be ranked on the municipal needs list according to the number of points awarded to each.

Subp. 3. **Criteria.** Criteria:

A. Priority points shall be allocated on the basis of the single highest disposal system or part thereof, improvement to prevent, control, and abate the source of pollution as follows:

(1) Provision of tertiary treatment. For the purpose of this chapter, treatment works which provide for regulated discharge of effluents in lieu of tertiary treatment shall be construed to provide tertiary treatment, point value 160.

(2) Provision of secondary treatment, point value 150.

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(3) Provision of a new sewer system or portion thereof for a municipality, in existence on October 18, 1972 with sufficient existing or planned capacity to adequately treat such collected sewage or industrial waste, point value ten.

(4) Provision by a municipality of storm water disposal system, including sewer systems to separate existing combined sanitary and storm sewers or treatment works, point value ten.

(5) A municipality having only primary treatment, point value 20.

(6) A municipality or an area part of an area-wide study having a sewer system with no treatment including septic tanks overflowing to a sewer system, point value 30.

(7) Subitem (1) or (2), whichever is applicable, shall also include treatment works and/or any portion of sewer system improvements deemed necessary by the director to insure the integrity and performance of a disposal system.

(8) An interceptor sewer which eliminates any existing treatment works or which, in accordance with an approved basin plan, eliminates the need for construction of new treatment works shall be considered equivalent to tertiary or secondary treatment and allocated the appropriate priority points pursuant to subitem (1) or (2), whichever is applicable.

(9) In the case of a sanitary sewer system being tributary to sewerage facilities which are on the municipal project list for funding but which the EPA will not fund until an infiltration/inflow analysis, and where required, a sewer system evaluation survey has been performed, this sewer system project shall be awarded by the director an equal number of priority points as the project on the municipal project list.

B. Priority points shall be awarded by summing up the applicable rating points for the project from tables 1, 2, and 3, in subparts 4, 5, and 6 respectively, relative to per capita project cost, the ratio of municipal bonded debt to adjusted assessed values of municipalities, and per capita buying income.

C. Ten additional points will be awarded to an application which includes planned participation in a sanitary district and/or other multimunicipal disposal system.

Subp. 4. Table I: per capita cost of project.

Per Capita Cost(\$)	Point Rating
0- 280	1
281- 400	3
401- 600	5
601- 800	7
801-1000	9
1001-1300	11
1301-1600	13
over 1600	15

Subp. 5. Table II: ratio of municipal bonded debt to adjusted assessed values of municipalities.

Ratio x 100	Point Rating
0- 3	3
4- 9	5
10-15	7
16-21	9
22-27	11
28-33	13

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over 33

15

Subp. 6. **Table III: per capita buying income.**

Percent of Average

Point Rating

0- 50

15

51- 60

13

61- 70

11

71- 80

9

81- 90

7

91-100

5

101-110

3

over 110

1

Subp. 7. **Petition for inclusion on list.** If a municipality or project is not included on the municipal needs list, the municipality may petition the agency for inclusion on the list. The municipality must document its need in the following manner:

A. **sewered communities:** submission of data regarding concentration of pollutants in existing discharge, volume of discharge, and waters of the state presently or potentially impacted by the discharge;

B. **unsewered communities:** submission of data regarding, type of soil in unsewered area, depth to seasonally high water table, size of all lots in the area, and age and type of existing system.

Following submission of this data, the director will review the material and determine if a need has been shown. If so, the municipality will be added to the municipal needs list, in the manner set forth above. If not, the municipality will be notified of the reasons for the decision of the director.

Subp. 8. **Equal total number of points.** If in the determination of the order of priority on the municipal needs list, two or more municipalities have the same total number of priority points, the municipality in accordance with part 7075.0600, subpart 4, item A, that has the highest single beneficial water use seriously affected or to be preserved shall be ranked higher. If two or more municipalities have the same total number of priority points and the same highest single beneficial water use seriously affected or to be preserved, the municipalities shall be ranked based on population as determined by the most recent federal census in descending order below the municipality with the largest population.

Statutory Authority: *MS s 116.16 subd 5*

7075.0800 MUNICIPAL PROJECT LIST.

Subpart 1. **Preparation.** The agency shall prepare a municipal project list each fiscal year which shall list in order of priority those projects for which federal grant funds will be requested from current allotments. The municipal project list shall also list any nonproject uses of the state's allotment of federal construction grant funds, including but not limited to training grants and costs of administration.

Subp. 2. **Priority.** Projects with the highest priority on the municipal needs list will be placed on the municipal project list in the following manner:

A. Funds shall be allocated between the metropolitan area and the nonmetropolitan area in approximately the same ratio which the population of sewered municipalities of the metropolitan area bears to the sewered population of the nonmetropolitan area.

B. Funds will be set aside for such classifications of projects and in such amounts as is required by the act. Such classifications presently include:

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(1) treatment works utilizing innovative or alternative wastewater treatment processes and techniques for which an 85 percent federal grant may be tendered;

(2) alternatives to conventional sewage treatment works for municipalities having a population of 3,500 or less or for the highly dispersed sections of larger municipalities, as defined by the administrator; and

(3) construction of publicly owned treatment works for major sewer system rehabilitation, new collector sewers and appurtenances, new interceptors and appurtenances, and, correction of combined sewer overflows, if such projects are on the municipal project list for that year and are otherwise eligible for funding in that fiscal year.

These classifications are presently required by sections 205 and 216 of the act. Item B shall, therefore, be read in conjunction with the terms as defined in the act and United States EPA regulations.

C. The agency shall provide for an adequate mixture of step 1, step 2, and step 3 projects so as to permit funding to proceed in an orderly fashion and to fully utilize all allocated funds.

D. Federal grant funds allocated to nonmetropolitan area projects and for which there are not sufficient certifiable nonmetropolitan projects by the end of the fiscal year for which those funds were allotted shall be reallocated by the agency to the metropolitan area. Any such federal grant funds which are reallocated to the metropolitan area shall be recoverable in total for allocation to nonmetropolitan projects in later fiscal years in annual amounts deemed reasonable by the director. Grant funds allocated to the metropolitan area which are unused are subject to similar provisions for reallocation to and recovery from nonmetropolitan projects.

Subp. 3. **Reserve project list.** A reserve project list shall be developed by the agency for the purpose of utilizing grant moneys forfeited by any municipality pursuant to part 7075.1200, subparts 2 and 3.

Subp. 4. **Modification of list.** The municipal project list may be modified, in accordance with EPA regulations, to give higher priority to step 2 or combined step 2 and step 3 projects utilizing innovative or alternative wastewater treatment processes and techniques to the extent necessary to comply with the set-asides required by the act.

Statutory Authority: *MS s 116.16 subd 5*

7075.0900 PROJECT ELIGIBILITY.

Subpart 1. **Projects not eligible for federal grants.** Projects which are not eligible for federal grants shall not be eligible for state grant funds except as provided in part 7075.1300.

Subp. 2. **Construction before grant is awarded.** A project is not eligible for a grant if the construction has been initiated prior to the award of the grant, except as provided in part 7075.1300, subpart 2.

Subp. 3. **Eligibility of items.** Items are not grant eligible unless the director determines that they are necessary to the cost effective functioning of an otherwise grant eligible disposal system.

Statutory Authority: *MS s 116.16 subd 5*

7075.1000 ADJUSTMENTS.

Notwithstanding any other provision in this chapter including, but not limited to, parts 7075.0600, subpart 4; 7075.0700, subpart 3; and this part, to the contrary, the director may, as necessary to establish criteria for determining priority for applications for federal and state construction grants under the act, and regulations and guidelines of the EPA promulgated pursuant thereto, and Minnesota Statutes, chapters 115 and 116, establish such criteria for determining priority upon a basis other than that provided herein, to the extent required to

comply with the act, and guidelines and regulations thereto or resulting therefrom.

Statutory Authority: *MS s 116.16 subd 5*

7075.1100 PUBLIC PARTICIPATION.

Prior to the adoption of the municipal needs list and the municipal project list by the agency, public participation shall be sought in the following manner:

A. Notice of the agency board meeting at which the municipal needs list and the municipal project list will be adopted shall be given to all affected municipalities at least 30 days prior to such meeting.

B. A free copy of the proposed municipal needs list and the proposed municipal project list will be mailed to any interested person upon request.

C. Prior to the agency board meeting, public informational meetings will be conducted at such locations as the director deems appropriate. Notice of such meetings shall be given to all affected municipalities.

D. All interested persons shall have the opportunity to present oral or written statements to the board in regard to the proposed municipal needs list or the proposed municipal project list if a request is submitted to the board. Such request should be submitted 14 days prior to the meeting to facilitate agenda preparation and must be submitted at least three days prior to the meeting. If such request is made during the board meeting, interested persons may be afforded the opportunity to participate within such limits of time and manner as the board may establish under the circumstances.

Statutory Authority: *MS s 116.16 subd 5*

7075.1200 APPLICATIONS.

Subpart 1. **Form.** Unless otherwise specified by the director, the state construction grant application form shall be the federal construction grant application form of the EPA.

Subp. 2. **Time to file.** Within 90 days for a step 1, 150 days for a step 2, and 150 days for a step 3 after notification in writing from the director, a municipality shall file a completed construction grant application or submit such information as the director determines to be necessary to complete a previously submitted application. The director may extend the date of filing or submission of any information subject to the municipality providing adequate justification therefor. Failure to comply with this schedule may cause forfeiture of grant moneys for the step grant involved and the municipality may be required to complete the work for that step without grant moneys.

Subp. 3. **Specific schedule.** A specific schedule for completing the particular step of the project will be contained in each grant offer tendered. The municipality's National Pollutant Discharge Elimination System (NPDES) permit may be modified, pursuant to agency rule, to include such schedule. Failure to comply with this schedule may cause forfeiture of grant moneys for the step grant involved and the municipality may be required to complete the work for that step without grant moneys. Prior to the forfeiture of grant moneys or the required completion of work without grant moneys pursuant to subpart 2 or 3, the municipality shall have the right to a hearing, if it so requests.

Subp. 4. **Application for step 1 project.** The construction grant application for a step 1 project shall include the following attachments and such other attachments as the EPA may require:

A. resolution of governing body of the municipality authorizing the filing of the application and designating the municipal official authorized to sign the application;

B. if more than one municipality is involved, resolutions from the governing body of all municipalities agreeing to cost sharing and agreeing to proceed to step 2 and step 3 if cost-effective;

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C. proposed subagreements, or an explanation of the intended method of awarding subagreements for substantial portions of the project work;

D. statement by the consulting engineer indicating the effluent limitations for which the disposal system is being designed;

E. a resolution by the governing body of the municipality to the effect that the sewage collection system will, at the appropriate time, be constructed concurrently with the sewage treatment works;

F. a resolution by the governing body of the municipality as to the methods for financing the construction of the collection system; and

G. documentation by the engineer(s) that they carry adequate errors and omissions insurance.

Subp. 5. Application for step 2 project. The construction grant application form for a step 2 project shall include the following attachments and such other attachments as the EPA may require:

A. any of the items listed in subpart 4 or 5 which were not previously submitted or which require updating;

B. resolution of the governing body of the municipality authorizing the application and designating the municipal official authorized to sign the application;

C. if more than one municipality is involved, resolutions from the governing bodies of all municipalities agreeing to cost sharing and agreeing to proceed to step 3 when so instructed by the agency;

D. a design summary based on the plans and specifications to be submitted when the plans and specifications are complete; and

E. documentation by the engineer(s) that they carry adequate errors and omissions insurance.

Subp. 6. Application for step 3 project. The construction grant application form for a step 3 project shall be supported by the following attachments and such other attachments as the EPA may require:

A. Any of the items listed in subpart 4 or 5 which were not submitted or which require updating;

B. Resolution of the governing body of the municipality authorizing the application and designating the municipal official authorized to sign the application;

C. If any items are deleted from project eligibility after initial submittal of the plans and specifications, the cost of such items must be set out;

D. Signature and registration number of the consulting engineer accompanying the following certification statement:

The treatment works described in this grant application have been designed with full knowledge of the effluent limitations required by the Minnesota Pollution Control Agency as set forth in NPDES Permit No. _____ dated _____. It is my judgment and carefully considered opinion that these treatment works are capable of consistently producing the required effluent quality, provided that the facility is operated in conformance with the approved operation and maintenance manual and that the volume and characteristics of raw wastewater are within the limits of "Design Data" stated on page ____ of the plans or as follows:

E. Executed engineering contract, including, unless otherwise approved by the director, full-time qualified resident inspection by the consulting engineer or his agent during construction. After project initiation, reports are to be submitted outlining type of construction inspected and time; and

F. Documentation by the engineer(s) that they carry adequate errors and omissions insurance.

Subp. 7. Complete applications required. All construction grant application forms and attachments shall be submitted in triplicate to the agency at the address specified by the director. Unless adequately justified in writing, failure to submit all the necessary documents by the date specified shall constitute grounds for rejection of the application. Substantial deficiencies in the application and/or supporting documents or failure to conform with applicable requirements such as those set forth in the current agency water pollution control program plan or the applicable basin, regional, or area water quality management plan also shall be grounds for rejection. Any application shall be rejected at the discretion of the agency if it does not include an engineering report acceptable to the director, or does not include an adequate commitment for support of operation and maintenance of the project or is not consistent with applicable statutes, or does not contribute to the overall objective of the effective water quality management.

Statutory Authority: *MS s 116.16 subd 5*

7075.1300 ADMINISTRATION.

Subpart 1. Certification. Accepted applications of municipalities on the municipal project list shall be certified to the EPA for a grant. Such certification shall in any fiscal year be withheld or withdrawn by the director if the project is not or cannot be implemented according to an acceptable schedule or otherwise poses a substantial likelihood of causing a loss of federal funds to the state.

Subp. 2. Tender of grant. After the EPA has determined the eligibility of the application and tendered a federal grant, the agency shall make a similar grant offer to the municipality in an amount not less than that required by federal law and regulation as a condition for the grant of federal funds or in an amount not less than that allowed by state statutes where not required by federal law.

In the case of a project for which the applicant has solicited and received contracts which exceed the costs estimated in the application, the director may, after consideration of available federal funds and in accordance with EPA regulations, recommend a grant increase. A reasonable amount shall be reserved by the agency from each allotment of funds for such increases.

The agency may tender a grant of state funds to a municipality that would otherwise qualify for a federal grant but desires to initiate construction of a project without a federal grant.

The agency may tender a grant of state funds to a municipality for what would otherwise be the local share of the cost if:

A. the municipality is unable to finance the local share and attain a minimal point rating of 40 under the criteria of part 7075.0700, subpart 3, item B;

B. application is made prior to the initiation of construction; and

C. the prevention, control, and abatement of water pollution and the public health of the state require the construction of the project.

Subp. 3. Change orders. Any proposed changes in the contract which result in cost increases greater than that of the base contract plus contingencies as stated in the project summary or other proposed changes regardless of cost which substantially alter the type of treatment process, or its efficiency, versatility or reliability, shall be submitted to the director for prior approval, except where the work is agreed by the director to be of an emergency nature. Change orders not requiring prior approval of the director shall be submitted within one month after the date on which the change is ordered by the applicant, its engineer or other authorized agent for review and approval.

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Subp. 4. **Reimbursement grants.** If a project is eligible for a federal reimbursement grant, the agency may provide a state grant or grant increase for such project.

Subp. 5. **Payment of grant funds.** Steps:

A. Step 1 grants. The agency shall pay 50 percent of the grant when an adequate facilities plan has been received by the director. The balance shall be paid upon agency and EPA approval of the facilities plan.

B. Step 2 grants. The agency shall pay 50 percent of the grant when adequate plans and specifications have been received by the director. The balance shall be paid upon agency and EPA approval of the plans and specifications.

C. Step 3 grants. Installment payments may be requested from the agency when 25 percent, 50 percent, and 75 percent of the eligible construction, as measured by its cost, has been completed, or in accordance with a schedule and conditions agreed upon between the grantee, EPA, and the director. The director shall authorize such proportional installment payment upon notification from the EPA that a federal installment payment has been authorized in a given amount.

Installment payments at the 50 percent level shall not be made until the applicant has in its employ for the operation of the project treatment works, a waste-water treatment works operator having a valid state certificate or one who is capable of obtaining such a certificate for operation of the designated class of treatment works within a reasonable period of time. State installment payments at the 75 percent level, and beyond the 75 percent level, shall be based on an assessment of the applicant's development of and progress towards completion of an acceptable manual for operation and maintenance of the disposal system and the establishment of adequate pretreatment requirements and facilities. Final payment shall not be made until final inspection of the project by the agency.

The proportional installment payment to be made by the agency shall not be in excess of the overall federal-state project cost ratio as authorized by the agency and director.

Subp. 6. **Retained payment.** The agency may withhold step 3 grant payments in the following circumstances:

A. If the director determines that a project does not substantially conform to approved plans and specifications and/or there has been a major breach of a condition in the grant agreement, the agency may withhold all unpaid funds and may request EPA to do likewise.

B. If the director determines that a project does not conform to approved plans and specifications, but such nonconformity is not substantial, and/or there has been a minor breach of a condition in the grant agreement, the agency may withhold up to ten percent of unpaid funds and may request EPA to do likewise.

C. If the director determines that a project has any other deficiency, the agency may withhold up to ten percent of the unpaid funds.

D. If funds are withheld pursuant to item A, B, or C and the condition causing such action has been corrected to the satisfaction of the director, then all retained funds shall be released to the municipality, unless otherwise agreed to by the director and the municipality.

Subp. 7. **Funds recovery.** In addition to any other remedies, the agency may seek to recover any or all funds tendered or disbursed for a project which is improperly designed, improperly constructed, or improperly operated and maintained.

Subp. 8. **Contract assignment.** The grantee shall retain the right to assign its contract with a contractor or engineer, and any or all rights pursuant thereto, to the agency.

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Subp. 9. Contract beneficiary. The contract between the engineer or contractor and the grantee shall provide that the agency is a third party beneficiary to their contract.

Subp. 10. Cost of administration. The agency may use federal funds from the state's allotment, in such amount as authorized by the act, for administration of the construction grants program.

Subp. 11. Procedural rules and appeals. All requests for hearing, appeals, and other procedural matters not specifically provided for herein shall be governed by the agency rules of procedure, the rules of the office of administrative hearings and other applicable law.

Subp. 12. Variances. Any person may apply for a variance from any requirement of these parts. Such variance shall be applied for and acted upon by the agency in accordance with Minnesota Statutes, section 116.07, subdivision 5, and other applicable statutes and rules.

Statutory Authority: *MS s 116.16 subd 5*

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CONSTRUCTION LOAN PROGRAM

7075.2000 APPLICATION.

Subpart 1. **Form.** The application form shall be of the type set forth below:

MINNESOTA POLLUTION CONTROL AGENCY Division of Water Quality

Application for Disposal System Planning and/or Construction Loan	To be filled in by the State
	Date Received
	Project Number
	Loan Request

Legal Name of Applicant

Address, Zip Code

Hereby Makes Application to the Pollution Control Agency of the State of Minnesota for a Loan of Funds for the Planning and/or Construction of:

Financial Aspects:

Estimated Project Cost	\$	
State Loan Funds		
Local Funds		
Other Funds		

Project Schedule:

Project Starting Date

Time to Complete Project

Name and Title of Official	Signature of Official	Date
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Subp. 2. **Attachments to planning loan application.** The planning loan application form shall be supported by the following attachments:

A. resolution of the governing body authorizing the filing of the application and designating the municipal official authorized to sign the application;

B. resolution of the governing body of the municipality obligating the municipality to repay the loan to the state treasurer in annual installments including both principal and interest, each in an amount sufficient to pay the amount due within five years from user charges, taxes, special assessments, or other funds available to it;

C. resolution of the governing body of the municipality obligating the municipality to establish rates and charges or the execution of contracts sufficient to produce the revenues pledged if required by the agency;

D. proposed method of loan repayment;

E. proposed contracts for engineering, legal, planning, and other consulting services.

Subp. 3. **Attachments to construction loan application.** The construction loan application form shall be supported by:

A. the attachments of subpart 2, items A, C, and D and the items of part 7075.1200, subpart 6. The director for just cause may waive or defer the submission of any items required pursuant to part 7075.1200, subpart 6, if such items are EPA requirements;

B. resolution of the governing body of the municipality obligating the municipality to repay the loan to the state treasurer in annual installments including both principal and interest, each in an amount sufficient to pay the principal amount within 20 years or lesser time interval if the amount of the annual payment will not justify the administrative expenses of processing the payment, from user charges, taxes, special assessments, or other funds available to it.

Subp. 4. **Submission of completed applications.** The loan application form and attachments shall be submitted in duplicate to the agency at the address specified by the director. Substantial deficiencies in the application and supporting documents or failure to conform with applicable requirements such as those set forth in the current agency water pollution control program plan or the applicable basin, regional, or area water quality management plan shall be grounds for rejection. Any construction loan application shall be rejected at the discretion of the agency if it does not include an engineering report acceptable to the director, or does not include an adequate commitment for support of operation and maintenance of the project, or does not conform to the intent of the applicable statutes, or does not contribute to the overall objectives of effective water quality management, or is not considered to be in the best interests of the state.

Subp. 5. **Restrictions to applications.** Applications must be restricted to those projects or portions thereof for which service contracts or construction contracts can be awarded by June 1, except in cases of advance approval by the director, of the state fiscal year in which the loan is applied for.

Statutory Authority: *MS s 116.16 subd 5*

7075.2100 ADMINISTRATION.

Subpart 1. **Allocation of state funds; priority rating points.** The allocation of state funds shall be established in accordance with part 7075.0800, subpart 2, item A, and priority rating points assignable to loan applications shall be established in accordance with part 7075.2200. Funds allocable to loans shall be determined each fiscal year by the agency on the basis of total availability and demand for grants listed in part 7075.0400, items A, B, and C.

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5689 WATER POLLUTION CONTROL FUND AND FEDERAL 7075.2200

Subp. 2. Tender of planning loan. Those planning applications which receive a priority rating sufficiently high in relation to available funds shall be tendered a state planning loan. Within 60 days after the acceptance of the offer and award of contracts, for engineering, legal, and other consulting services the state payment shall be made.

Subp. 3. Tender of construction loan. Those construction loan applications which receive a priority rating sufficiently high in relation to available funds shall be tendered a state construction loan. Within 30 days after acceptance of the offer and award of the construction contract for the project, the state payment shall be made.

Subp. 4. Repayment of loan. Principal and interest, each in an amount sufficient to pay the principal amount within the loan period, shall be paid in equal annual installments to the state treasurer. Interest shall be calculated on the declining balance at the average annual interest rate on state bonds of issue from the proceeds of which the loan was made.

Subp. 5. Priority ratings. Priority ratings shall be established each fiscal year for those loan applications filed on or before the end of the state fiscal year. Applications postmarked or hand delivered after that day shall be rejected.

Statutory Authority: *MS s 116.16 subd 5*

7075.2200 CRITERIA FOR DETERMINING LOAN PRIORITY.

Subpart 1. Ratio of funds allocated. The loan funds set aside in any fiscal year shall be allocated in the ratio of 25 percent for planning and 75 percent for construction.

Subp. 2. Determination of order of priority for planning loans. The determination of the order of priority for planning loan applications shall be in accordance with:

A. the criteria set forth in parts 7075.0600, subpart 4; 7075.0700, subpart 3; and item B;

B. technological feasibility. Priority points shall be assigned based on the completion of the planning studies as set forth below:

Point rating.

(1) sewer system evaluation which shall demonstrate to the satisfaction of the director and regional administrator that each sewer system discharging into such treatment works is not subject to excessive infiltration/inflow, through an infiltration/inflow analyses and, where appropriate and authorized by the regional administrator, a sewer system evaluation survey, 50;

(2) report on wastewater disposal concepts, 40;

(3) regionalization evaluations, 30; and

(4) other planning activities including assimilation studies, 20.

Subp. 3. Determination of order of priority for construction loans. The determination of the order of priority for construction loan applications shall be in accordance with parts 7075.0600, subpart 4, and 7075.0700, subpart 3.

Statutory Authority: *MS s 116.16 subd 5*